BEFORE THE FEDERAL ELECTION COMMISSION

CAMPAIGN LEGAL CENTER
1101 14th Street NW, Suite 400
Washington, DC 20005
(202) 736-2200

v. MUR No. _____

DONALD J. TRUMP
c/o Make America Great Again PAC
(f/k/a) Donald J. Trump for President, Inc.
P.O. BOX 13570
Arlington, VA 22219

SAVE AMERICA and BRADLEY T.
CRATE in his official capacity as treasurer
P.O. Box 13570
Arlington, VA 22219

COMPLAINT

1. Former president Donald J. Trump, who has repeatedly acknowledged his intent to run for president in 2024, has violated federal campaign finance laws by directing or transferring $20 million from Save America, his leadership PAC, to Make America Great Again, Inc., a super PAC that has already spent over $11.9 million to support or oppose candidates during the 2022 election, and is reportedly planning to support Trump's 2024 presidential campaign. For nearly twenty years, the Federal Election Campaign Act ("FECA") has prohibited federal candidates and officeholders, as well as their agents and affiliated entities, from spending "soft money" — including, *e.g.*, funds that exceed federal contribution limits — in connection with a federal election. Trump's transfer of this colossal sum from his leadership PAC to a super PAC that intends to spend millions influencing federal elections, *including Trump's own campaign*, is a brazen attempt to

circumvent the fundraising restrictions that apply to federal candidates, which are crucial to preventing corruption and its appearance.

2. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Trump and Save America have violated the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101, *et seq.* If the Commission, "upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall make an investigation* of such alleged violation."[1]

FACTUAL BACKGROUND

3. Save America is a leadership PAC that registered with the Commission on November 9, 2020 — six days after the 2020 election — and its treasurer is Bradley T. Crate.[2]

4. Save America is sponsored by the Trump Make America Great Again Committee ("MAGA JFC"),[3] a joint fundraising committee that raises funds for Save America, Make America Great Again PAC ("MAGA PAC") — formerly Donald J. Trump for President, Inc., which was Trump's authorized campaign committee for the 2016 and 2020 presidential elections and is now a multicandidate committee — and the Republican National Committee ("RNC"), the national party committee of the Republican Party.[4]

5. Make America Great Again, Inc. ("MAGA Inc.") is an independent-expenditure only political committee ("IEOPC") — commonly referred to as a "super PAC" — that registered with the Commission on September 23, 2022. Its treasurer is Charles Gantt.[5]

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[1] 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).
[2] Save America, Statement of Org. at 1 (Nov. 9, 2020).
[3] *Id.* at 3.
[4] Trump Make America Great Again Comm., Amend. Statement of Org. at 2 (Mar. 4, 2021).
[5] MAGA, Inc., Statement of Org. at 1 (Sept. 23, 2022).

6. News reports indicate that MAGA, Inc. has been "sanctioned" by Trump and that the committee "will become the primary vehicle for Trump's operation to engage in political activity in 2022."[6] Moreover, "those in the former president's orbit say" that MAGA Inc. "offers a preview into what the structure of a 2024 campaign could look like."[7] MAGA Inc.'s senior staff includes numerous officials who worked for or in support of Trump's previous presidential campaigns.[8]

7. Donald J. Trump is a 2024 presidential candidate. Although Trump has not filed a Statement of Candidacy or designated a principal authorized campaign committee, publicly available information confirms that Trump is, in fact, a federal candidate.[9]

8. Trump's public and private statements indicate that he decided long ago to run for president in 2024. He has, on multiple occasions and to varying degrees, explicitly and implicitly signaled his intention to run in 2024, while also explicitly stating that he was hesitating to make a public announcement of his candidacy to avoid triggering campaign finance rules applicable to federal candidates — rules that Trump is aware of and has, in fact, openly derided.

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[6] Alex Isenstadt, *Trump to unleash millions in the midterms in possible prelude to 2024*, Politico (Sept. 23, 2022), https://www.politico.com/news/2022/09/23/trump-midterms-2024-pac-00058515.

[7] Isenstadt (Sept. 23, 2022), *supra*.

[8] *See* Isenstadt (Sept. 23, 2022), *supra* ("MAGA, Inc. will be overseen by [Taylor] Budowich, who's been serving as the former president's communications director and was previously a senior adviser on his 2020 reelection campaign. Chris LaCivita, a veteran Republican operative who in 2020 ran the biggest-spending pro-Trump super PAC, will be the vehicle's chief strategist. Tony Fabrizio, a longtime Trump pollster who worked on his 2016 and 2020 campaigns, will oversee polling. Running the finance team will be veteran GOP fundraiser Meredith O'Rourke, who has worked for Trump. The communications department will be staffed by Steven Cheung, who worked on Trump's 2016 and 2020 campaigns and worked in his administration, and Alex Pfeiffer, a conservative media strategist and former producer for Fox News host Tucker Carlson.").

[9] Indeed, a delay suit was recently filed in connection with an administrative complaint alleging that Trump has violated FECA by failing to register as a candidate and designate a principal campaign committee. *See* Compl. for Decl. and Injunctive Relief ¶¶ 45-48, *AB PAC v. FEC*, No. 1:22-cv-02139 (D.D.C. July 20, 2022), https://www.fec.gov/resources/cms-content/documents/abpac_pls_compl_07-20-2022.pdf.

a. For example, in July 2021, during a televised interview on Fox News, Trump was asked "Have you made up your mind?" with regard to running for president in 2024, and he unequivocally responded, "Yes."[10] In another Fox News interview a month later, in August 2021, Trump was again asked if he would run, and he responded that he was "actually not allowed to answer that question" because "it makes it very difficult if I do," further adding that "campaign finance laws are extremely complicated and unbelievably stupid."[11]

b. During a public appearance in New York City on September 11, 2021, Trump was asked "Are you going to run again, Mr. President?" and he responded: "I know what I'm going to do, but we're not supposed to be talking about it yet, from the standpoint of campaign finance laws, which frankly are ridiculous . . . but I think you're going to be happy, let me put it that way. I think you're going to be very happy."[12]

c. In a January 2022 video recording of Trump playing golf, which was posted on Instagram, the person recording the video referred to Trump as "the 45th President of the United States," and Trump immediately corrected him by saying "the 45th and 47th."[13]

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[10] Fox News, *Trump says he made up his mind about running in 2024 during 'Hannity' exclusive*, https://youtu.be/k0-HOCbRMDQ?t=44 (last viewed Oct. 3, 2022).

[11] Greg Evans, *Trump claims he is 'not allowed to say' if he will be running for president in 2024*, Indy100 (Aug. 18, 2021) https://www.indy100.com/news/trump-president-2024-interview-hannity-b1904465.

[12] C-SPAN, *Former President Trump Visits New York City on September 11* (Sept. 11, 2021), https://www.c-span.org/video/?c4976508/president-trump-visits-york-city-september-11.

[13] Business Insider, *Trump drops the biggest hint yet that he'll be running in 2024, calling himself the '45th and 47th President' in a video* (Jan. 26, 2022), https://www.businessinsider.com/trump-drops-hint-about-2024-run-calling-himself-47th-president-2022-1.

d. During a speech at the Conservative Political Action Conference (CPAC) in February 2022, Trump said, in apparent reference to his political opponents, "They are going to find out the hard way starting on November 8, and then again even more so [in] November 2024," and further stated, in a clear reference to launching another presidential campaign: "We did it twice, and we will do it again. We are going to be doing it again a third time."[14]

e. In a July 2022 interview, Trump clearly reaffirmed that he has decided to run for president and is merely weighing when to publicly announce his intentions:

> 'Well, in my own mind, I've already made that decision, so nothing factors in anymore. In my own mind, I've already made that decision,' [Trump] said. He wouldn't disclose what he'd decided. Not at first. But then he couldn't help himself. 'I would say my big decision will be whether I go before or after,' he said. 'You understand what that means?' His tone was conspiratorial. Was he referring to the midterm elections? He repeated after me: 'Midterms.' Suddenly, he relaxed, as though my speaking the word had somehow set it free for discussion. 'Do I go before or after? That will be my big decision,' he said.[15]

f. Most recently, on November 7, 2022, on the eve of the 2022 midterm elections, Trump told the crowd at a rally in Ohio, "I'm going to be making a very big announcement on Tuesday, Nov. 15 at Mar-a-Lago in Palm Beach, Florida."[16]

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[14] C-SPAN, Former President Trump Speaks at Conservative Political Action Conference (Feb. 26, 2022), https://www.c-span.org/video/?518150-1/pres-trump-criticizes-nato-nations-amid-russian-invasion-ukraine.

[15] Olivia Nuzzi, *Donald Trump on 2024: 'I've Already Made That Decision'*, New York Magazine (July 14, 2022), https://nymag.com/intelligencer/article/donald-trump-2024-decision.html.

[16] Kathryn Watson, Trump says he'll make a "very big announcement" Nov. 15, CBS News (Nov. 7, 2022), https://www.cbsnews.com/news/trump-announcement-november-15-mar-a-lago/.

9. As set forth below, since January 20, 2021, when Trump officially relinquished federal office, he has raised well over $125 million through a network of fundraising vehicles and affiliated political committees, including Save America and MAGA JFC.

10. Specifically, during the 2022 election cycle, as of October 4, 2022, the joint fundraising committee MAGA JFC, which sponsors and raises funds for Save America, has raised over $5.8 million for MAGA PAC (formerly Donald J. Trump for President, Inc.), and over $53.8 million for Save America.[17]

11. In total, between January 1, 2021, through October 19, 2022, Save America has raised over $107 million,[18] and MAGA PAC has raised over $32 million — including $20 million that it received from Save America.[19]

12. Moreover, Trump has spent far more than $5,000, through Save America, to advance his 2024 presidential candidacy. For example, reports indicate that Trump convened multiple private dinner gatherings "hosted by Save America, Trump's leadership PAC," to meet with prominent donors and supporters and discuss his presidential campaign plans.[20]

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[17] Trump Make America Great Again Comm., Disbursements, Transfers to Affiliated Committees, 2021-2022, https://www.fec.gov/data/disbursements/?committee_id=C00618371&two_year_transaction_period=2022&cycle=2022&line_number=F3X-22&data_type=processed (last viewed Oct. 28, 2022).

[18] Save America, Receipts, 2021-2022, https://www.fec.gov/data/receipts/?two_year_transaction_period=2022&committee_id=C00762591&data_type=processed (last viewed Oct. 28, 2022).

[19] Make America Great Again PAC, Receipts, 2021-2022, https://www.fec.gov/data/receipts/?committee_id=C00580100&two_year_transaction_period=2022&data_type=processed (last viewed Oct. 28, 2022).

[20] Alex Isenstadt, *Trump discussing 2024 plans at secret donor dinners*, Politico (July 13, 2022), https://www.politico.com/news/2022/07/13/trump-2024-secret-donor-dinners-00045665 ("Donald Trump has quietly convened some of his wealthiest and highest-profile supporters for intimate dinners in recent weeks, where the groups have talked about the former president's 2024 election plans — and debated when he should make his expected comeback bid official. . . . The previously unreported dinners, which were described by four attendees, provide a window into Trump's deliberations and show how he has quietly begun to reassemble the political network that he cultivated in the White House").

13. On October 3, 2022, Save America contributed $20 million to MAGA, Inc.[21] As of October 19, 2022, Save America reports a remaining cash on hand balance of $69.7 million.[22]

14. MAGA, Inc. began using these funds in connection with a federal election almost immediately: Between October 4, 2022 and October 28, 2022, it spent over $11.9 million on independent expenditures supporting or opposing federal candidates.[23]

SUMMARY OF THE LAW

15. Under FECA, a "candidate" is defined as "an individual who seeks nomination for election, or election, to Federal office" and crosses the statutory threshold of receiving aggregate contributions, or making aggregate expenditures, in excess of $5,000.[24]

16. Federal candidates must file a written statement designating a principal campaign committee within fifteen days of becoming a candidate.[25]

17. FECA requires that the funds federal candidates and officeholders raise and spend in connection with federal elections comply with federal campaign finance laws. The Bipartisan Campaign Reform Act of 2002 ("BCRA") amended FECA to prohibit federal candidates and officeholders, their agents, and any entities that they directly or indirectly establish, finance, maintain or control from raising or spending funds in connection with

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[21] Make America Great Again, Inc., 2022 Pre-General Election Report at 9 (Oct. 27, 2022); *see* Save America, 2022 Pre-General Election Report at 65 (Oct. 27, 2022) (disclosing $20 million disbursement to MAGA, Inc.).

[22] Save America, 2022 Pre-General Election Report at 2 (Oct. 27, 2022).

[23] *See* Make America Great Again, Inc., Independent Expenditures, 2021-2022, https://www.fec.gov/data/independent-expenditures/?data_type=processed&most_recent=true&q_spender=C00825851&is_notice=true (last viewed Oct. 31, 2022).

[24] 52 U.S.C. § 30101(2); *see* 11 C.F.R. § 100.3.

[25] 52 U.S.C. § 30102(e)(1); *see* 11 C.F.R. § 101.1(a).

a federal election outside of FECA's contribution limits, source prohibitions, and reporting requirements — *i.e.*, so-called "soft money."[26]

18. Specifically, FECA provides, in relevant part:

> A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not — (A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.[27]

19. FECA prohibits any "person" — a term that includes political committees[28] — from making aggregate contributions in excess of $5,000 per year to any political committee that is not a candidate's authorized campaign committee or a national or state political party committee (authorized campaign committees and political party committees are subject to different limits).[29]

20. Accordingly, for example, a state officeholder running for federal office cannot lawfully transfer funds held in a state PAC, which they had previously established to support their election to state office, to a federal committee — including an IEOPC — because the state PAC's funds are "soft money" that is not subject to FECA's source prohibitions, amount limitations, or reporting requirements. Likewise, a federal committee established, financed, maintained, or controlled by a federal candidate or officeholder — *e.g.*, a leadership PAC or qualified multicandidate committee — cannot transfer more than

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[26] *See generally* 52 U.S.C. § 30125; 11 C.F.R. part 300.

[27] 52 U.S.C. § 30125(e)(1); *see* 11 C.F.R. § 300.61.

[28] 52 U.S.C. § 30101(11) ("The term 'person' includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.").

[29] 52 U.S.C. § 30116(a)(1)(C).

$5,000 to another federal committee, as doing so would exceed FECA's limit on contributions to a PAC.

21. Although federal court decisions have invalidated some of FECA's source prohibitions and amount limitations as applied to IEOPCs,[30] those decisions left intact BCRA's statutory amendments mandating that federal candidates and officeholders cannot "solicit, receive, direct, transfer, or spend" soft money in connection with federal elections, and those requirements thus remain in effect, as the Commission itself has clearly recognized.

22. In Advisory Opinion 2011-12 (Majority PAC), the Commission explicitly reaffirmed that BCRA, codified at 52 U.S.C. § 30125 *et seq.*, "remains valid" after *Citizens United* and *SpeechNow*: "[BCRA] was enacted by Congress long after [FECA's] contribution limits and source prohibitions. It was upheld by the Supreme Court in *McConnell v. FEC*, 540 U.S. 93, 181-184 (2003), and remains valid since it was not disturbed by either *Citizens United* or *SpeechNow*."[31] In that advisory opinion, the Commission stated that federal candidates cannot lawfully solicit funds on an IEOPC's behalf that are beyond FECA's contribution limits, source prohibitions, and reporting requirements.[32]

23. Accordingly, even after *Citizens United* and *SpeechNow*, FECA clearly prohibits federal candidates and officeholders, their agents, and any other entities that they directly or indirectly establish, finance, maintain or control — including, *e.g.*, a leadership PAC that a federal candidate or officeholder has sponsored — from directing or transferring contributions aggregating more than $5,000 per year to an IEOPC.[33]

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[30] *SpeechNow v. FEC*, 599 F.3d 686, 689 (D.C. Cir. 2010); *see also Citizens United v. FEC*, 558 U.S. 310 (2010).

[31] Advisory Op. 2011-12 (Majority PAC) at 4.

[32] *Id.* at 3-4.

[33] *See* 52 U.S.C. §§ 30116(a)(1)(C); 30125(e)(1)(A).

CAUSE OF ACTION

COUNT I:
TRUMP AND SAVE AMERICA VIOLATED 52 U.S.C. § 30125(E)(1)(A) BY DIRECTING OR TRANSFERRING $20 MILLION TO MAGA INC.

24. The available information supports finding reason to believe that Trump, a federal candidate, violated FECA by directing or transferring $20 million from Save America, a leadership PAC that he "directly or indirectly established, financed, maintained or controlled," to MAGA, Inc., an IEOPC.

25. There is ample public information, including repeated public statements by Trump himself, indicating that Trump has decided to run for president in 2024 and raised or spent well in excess of the $5,000 threshold amount to qualify as a "candidate" under FECA. His failure to announce his candidacy does not alter his status as a candidate, or his legal obligations under FECA.

26. On multiple occasions, Trump has publicly, directly, and unequivocally indicated that he has decided to run for president in 2024. For example, Trump has stated, in reference to campaigning for president: "We did it twice" — a clear reference to his 2016 and 2020 presidential campaigns — "and we will do it again. We are going to be doing it again a third time."[34] He has also privately referred to himself as the "45th and 47th" U.S. president,[35] and acknowledged in a press interview that he had already decided on whether to run but that his "big decision" would be, with regard to the 2022 midterm congressional elections, "Do I go before or after?"[36] Finally, on November 7, 2022, Trump specifically stated that he would make "a very big announcement" on November

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[34] C-SPAN (Feb. 26, 2022), *supra*.
[35] Business Insider (Jan. 26, 2022), *supra*.
[36] Nuzzi (July 14, 2022), *supra*.

15, clearly demonstrating that he had decided to run for president, but had determined not to announce that decision until a later date.[37]

27. Despite these repeated acknowledgments of his decision to run for president, Trump has also indicated that he is avoiding officially announcing that decision because of his preference to avoid complying with campaign finance laws. But even Trump's admitted goal of avoiding campaign finance laws is itself confirmation of his decision to run for president, because those rules and requirements would only be implicated if Trump's decision *was to run* for federal office.[38]

28. Viewed as a whole, Trump's repeated public statements establish that he has decided to run for president in 2024. That determination — not a public announcement of candidacy — is what ultimately controls whether someone is a "candidate" under FECA. As the Commission has previously made clear, when "an individual who has raised or spent more than $5,000 . . . makes a private determination that he or she will run for federal office," they are a federal candidate.[39]

29. Disclosure reports filed with the Commission show that Trump has raised or spent far more than FECA's threshold amount of $5,000 to support his 2024 candidacy. Indeed, since his departure from the White House, Trump has collectively raised over $125 million, and while much of that money has been used to support other federal candidates, Trump has clearly raised far more than $5,000 in contributions that he plans to use to support his own presidential campaign. Indeed, the transaction at issue here — the

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[37] Watson (Nov. 7, 2022), *supra*.

[38] *See* Evans (Aug. 18, 2021), *supra*; C-SPAN (Sept. 11, 2021), *supra*.

[39] Advisory Op. 2015-09 (Senate Majority PAC) at 5; *see also* 11 C.F.R. § 100.72(b) (indicating that the testing the waters "exemption does not apply to funds received for activities indicating that *an individual has decided to become a candidate for a particular office* or for activities relevant to conducting a campaign") (emphasis added).

transfer of funds from Save America to MAGA Inc. — is itself obviously intended to fund support for Trump's 2024 presidential candidacy.

30. Moreover, Trump reportedly convened multiple dinner gatherings "hosted by Save America, Trump's leadership PAC," to meet with prominent donors and supporters and discuss his presidential campaign plans.[40] Convening these gatherings clearly involved spending far more than $5,000 in support of Trump's presidential campaign.

31. Because Trump has both decided to run for federal office and raised or spent more than $5,000 in contributions or expenditures, he is a federal candidate and must abide by FECA's restrictions on federal candidates raising or spending "soft money" in connection with federal elections.[41]

32. Save America is a leadership PAC sponsored by the MAGA JFC, a joint fundraising committee that raises money for Save America as well as MAGA PAC, a multicandidate committee that was established as Trump's principal authorized campaign committee during the 2016 and 2020 election cycles, before it converted to a multicandidate committee. Save America is therefore "an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates"[42] — namely, Trump.

33. On October 3, 2022, Save America directed or transferred $20 million to MAGA, Inc., an IEOPC.[43] MAGA, Inc. immediately began spending those funds in connection with a federal election: between October 4, 2022, and October 28, 2022, the IEOPC spent nearly

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[40] Isenstadt (July 13, 2022), *supra*.

[41] *See* 52 U.S.C. § 30125(e).

[42] 52 U.S.C. § 30125(e)(1).

[43] Make America Great Again, Inc., 2022 Pre-General Election Report at 9 (Oct. 27, 2022).

$12 million on independent expenditures supporting or opposing multiple candidates for the U.S. Senate in the 2022 election.[44]

34. As of October 19, 2022, Save America has a reported cash on hand balance of over $69 million,[45] and there is a strong likelihood that Trump has made or will make additional transfers or contributions from Save America to MAGA, Inc. to support his 2024 presidential candidacy, which would result in additional violations of FECA.

35. Based on the foregoing, there is reason to believe that Trump and Save America violated 52 U.S.C. § 30125(e)(1)(A) when Trump directed or transferred $20 million, far in excess of FECA's aggregate contribution limit of $5,000 per year, from Save America to MAGA, Inc.

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[44] *See* Make America Great Again, Inc., Independent Expenditures, 2021-2022, https://www.fec.gov/data/independent-expenditures/?data_type=processed&most_recent=true&q_spender=C00825851&is_notice=true (last viewed Oct. 31, 2022).

[45] Save America, 2022 Pre-General Election Report at 2 (Oct. 27, 2022).

PRAYER FOR RELIEF

36. Wherefore, the Commission should find reason to believe that Trump and Save America violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).

37. Further, the Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations, injunctive relief to remedy these violations and prohibit any and all future violations, and such additional remedies as are necessary and appropriate to ensure compliance with FECA.

Respectfully submitted,

/s/ Saurav Ghosh

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November 14, 2022

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center

Saurav Ghosh, Esq.

Sworn to and subscribed before me this 14th day of November 2022.

Notary Public

City/County of McLean
Commonwealth of Virginia
The foregoing instrument was acknowledged before me
this 14th day of November 2022
by Saurav Ghosh
Notary Public
My commission expires 11/30/2025

ALFRED ENRIQUE PEREZ CRUZ
NOTARY PUBLIC
REG # 7913547
COMMISSION EXPIRES 11/30/2025
COMMONWEALTH OF VIRGINIA