

*"The A, B, Cs: What every company should know  
about criminal investigations"*

Presented to



December 14, 2021

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

IN THE MATTER OF THE APPLICATION  
OF THE UNITED STATES OF AMERICA  
FOR AN ORDER AUTHORIZING THE  
INTERCEPTION OF WIRE  
COMMUNICATIONS TO AND FROM  
CELLULAR TELEPHONE NUMBERS  
[REDACTED] AND  
[REDACTED] AND WIRE AND ELECTRONIC  
COMMUNICATIONS TO AND FROM  
CELLULAR TELEPHONE NUMBERS  
[REDACTED]

No. 1:17-mc-25

TO: THE ADDRESSEE HERETO  
PLEASE TAKE NOTICE OF THE FOLLOWING:

1. Between August 28, 2017 and March 8, 2018, the Honorable [REDACTED] issued orders authorizing the interception of wire communications and/or electronic communications and acquisition of location data in the above-captioned matter, which resulted in the interception of communications between August 28, 2017 and April 6, 2018, as follows:
  - a. Interceptions and location data related to [REDACTED] were authorized on August 28, 2017, September 26, 2017, October 25, 2017, and November 28, 2017.
  - b. Interceptions and location data related to [REDACTED] were authorized on November 28, 2017, January 8, 2018, February 7, 2018, and March 8, 2018.
  - c. Interceptions and location data related to [REDACTED] were authorized on November 28, 2017, January 8, 2018, February 7, 2018.
  - d. Interceptions and location data related to [REDACTED] were authorized on January 8, 2018, February 7, 2018, and March 8, 2018.
  - e. Interceptions and location data related to [REDACTED], were authorized on February 7, 2018, and March 8, 2018.
2. All original recordings related to the above-captioned matter were sealed by order of this Court.
3. During the period of authorized interception, wire and/or electronic communications to or from your telephone were intercepted.
4. Please direct all inquiries to Special Agent [REDACTED], FBI, by calling [REDACTED].

Dated: December 2, 2020

*[Signature]*

# UNITED STATES DISTRICT COURT

for the  
Southern District of Ohio

10/14/22 01:41:27

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

[REDACTED]

)  
)  
)  
)  
)  
)

Case No.

[REDACTED]

## SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the Southern District of Ohio  
(identify the person or describe the property to be searched and give its location):

See Attachment A

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (identify the person or describe the property to be seized):

See Attachment B

**YOU ARE COMMANDED** to execute this warrant on or before June 5, 2018 (not to exceed 14 days)  
☒ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to \_\_\_\_\_

(U)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)

☐ for \_\_\_\_\_ days (not to exceed 30) ☐ until, the facts justifying, the later specific date of \_\_\_\_\_

Date and time issued: 5/22/18 @ 4:23 p.m.

[REDACTED]

City and state: Cincinnati, Ohio

Hon. Karen L. Litkovitz, U.S. Magistrate Judge  
Printed name and title

**Return**

Case No.:

Date and time warrant executed:

Copy of warrant and inventory left with:

Inventory made in the presence of:

Inventory of the property taken and name of any person(s) seized:

**Certification**

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Executing officer's signature*\_\_\_\_\_  
*Printed name and title*

## ATTACHMENT A

### *Property to Be Searched*

The property to be searched is: [REDACTED] is a single story, light tan colored siding, single family residence. There is one single front door in the front, with a glass door preceding it. The residence includes a two car garage and blacktop driveway.

**ATTACHMENT B**

*Property to be seized*

1. Any iPad, laptop, electronic storage device, and cellular telephone used by [REDACTED] which relate to or contain records related to violations [REDACTED] in violation of 18 U.S.C. § [REDACTED]; [REDACTED], in violation of 18 U.S.C. § [REDACTED],<sup>1</sup> and [REDACTED], [REDACTED], in violation of 18 U.S.C. § 371, those violations involving [REDACTED] and others, and occurring after December 1, 2016, including:

- (a) Records and information containing or referring to communications between or among [REDACTED] and others, including communications or information concerning: [REDACTED]; evidence of [REDACTED]; [REDACTED]; [REDACTED] interactions or relationships with [REDACTED], or any other individual or entity regarding the aforementioned violations; any evidence regarding attempts to [REDACTED] [REDACTED] or other unlawful conduct; and any evidence of

---

<sup>1</sup> With respect to violations of the Travel Act, 18 U.S.C. § [REDACTED], there is probable cause to believe that the **TARGETS** identified below have used facilities of interstate commerce to promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of unlawful activity [REDACTED].

official acts taken by [REDACTED] connected with benefits received from [REDACTED] and others yet unknown.

(b) Records and information relating to communications between or among individuals and entities that helped fund, sponsor, or plan [REDACTED] either directly or indirectly.

(c) Records and information relating to [REDACTED].

(d) Records and information relating to payments or reimbursements for [REDACTED]

(e) Records and information relating to official action taken by [REDACTED] or at the direction of [REDACTED] relating to individuals or entities that helped fund, sponsor, or plan [REDACTED] travel, either directly or indirectly.

2. For any computer or storage medium whose seizure is otherwise authorized by this warrant, and any computer or storage medium that contains or in which is stored records or information that is otherwise called for by this warrant (hereinafter, "COMPUTER"):

(a) evidence of who used, owned, or controlled the COMPUTER at the time the things described in this warrant were created, edited, or deleted, such as logs, registry entries, configuration files, saved usernames and passwords, documents, browsing history, user profiles, email, email contacts, "chat," instant messaging logs, photographs, and correspondence;

(b) evidence of software that would allow others to control the COMPUTER, such as viruses, Trojan horses, and other forms of malicious software, as well

as evidence of the presence or absence of security software designed to detect malicious software;

(c) evidence of the lack of such malicious software;

(d) evidence indicating how and when the computer was accessed or used to determine the chronological context of computer access, use, and events relating to crime under investigation and to the computer user;

(e) evidence indicating the computer user's state of mind as it relates to the crime under investigation;

(f) evidence of the attachment to the COMPUTER of other storage devices or similar containers for electronic evidence;

(g) evidence of counter-forensic programs (and associated data) that are designed to eliminate data from the COMPUTER;

(h) evidence of the times the COMPUTER was used;

(i) passwords, encryption keys, and other access devices that may be necessary to access the COMPUTER;

(j) documentation and manuals that may be necessary to access the COMPUTER or to conduct a forensic examination of the COMPUTER;

(k) records of or information about Internet Protocol addresses used by the COMPUTER;

(l) records of or information about the COMPUTER's Internet activity, including firewall logs, caches, browser history and cookies, "bookmarked" or "favorite" web pages, search terms that the user entered into any Internet search engine, and records of user-typed web addresses;

(m) contextual information necessary to understand the evidence described in this attachment.

As used above, the terms “records” and “information” includes all forms of creation or storage, including any form of computer or electronic storage (such as hard disks or other media that can store data); any handmade form (such as writing); any mechanical form (such as printing or typing); and any photographic form (such as microfilm, microfiche, prints, slides, negatives, videotapes, motion pictures, or photocopies).

The term “computer” includes all types of electronic, magnetic, optical, electrochemical, or other high speed data processing devices performing logical, arithmetic, or storage functions, including desktop computers, notebook computers, mobile phones, tablets, server computers, and network hardware.

The term “storage medium” includes any physical object upon which computer data can be recorded. Examples include hard disks, RAM, floppy disks, flash memory, CD-ROMs, and other magnetic or optical media.

During the execution of the search of the property described in Attachment A, law enforcement personnel are authorized to press the fingers (including thumbs) of [REDACTED] [REDACTED] to the Touch ID sensor of the Apple brand device(s), such as an iPhone or iPad, found at the property for the purpose of attempting to unlock the device via Touch ID in order to search the contents as authorized by this warrant.

889 F.Supp. 296  
United States District Court,  
S.D. Ohio,  
Eastern Division.

In re SEARCH WARRANTS  
ISSUED AUGUST 29, 1994.

No. MS-2-95-9.

|  
Feb. 28, 1995.

|  
Memorandum Denying  
Reconsideration July 5, 1995.

**Synopsis**

Persons whose premises had been searched moved to unseal search warrant papers and subpoenaed certain Customs Service agents, and the United States moved to quash the subpoenas. Magistrate judge granted motion to quash and denied motion to unseal, and persons whose premises had been searched filed objections. The District Court, [Holschuh](#), Chief Judge, held that: (1) Fourth Amendment right to be free of unreasonable searches and seizures includes right to examine affidavit that supports warrant, after search has been conducted and return has been filed with clerk of court, unless compelling government interest requires materials to be kept under seal and there is no less restrictive means available, and (2) government failed to demonstrate legitimate basis on which to maintain materials under seal.

Motion to enforce subpoenas denied, motion to unseal granted with direction, motion for reconsideration denied, and motion for stay granted.

**Attorneys and Law Firms**

\***297** [David F. Axelrod](#), [Kevin G. Matthews](#), Vorys, Sater, Seymour and Pease, Columbus, OH, [Harry R. Reinhart](#), Columbus, OH, [John J. McDermott](#), O'Connor, Hannan, Washington, DC, for movants.

Edmond A. Sargus, Atty. Gen., [Randall E. Yontz](#), Asst. Atty. Gen., Columbus, OH, for Government.

**MEMORANDUM AND ORDER**

[HOLSCHUH](#), Chief Judge.

This matter is before the Court on the January 17, 1995 objections of Afshein, Inc., Elham Abrishami, Mohsen Abrishami, Parvi Denesjhoo, and Pavi Danesjhoo (hereinafter collectively "movants") to the January 6, 1995 order of the Magistrate Judge which refused to unseal certain search warrant materials and quashed certain subpoenas. For reasons set forth below, the Court concludes that the subpoenas were properly quashed, but that the search warrant materials are being improperly kept under seal.

**I.**

On August 29, 1994, Peter Decensi, Special Agent of the United States Customs Service, applied for, and received from the magistrate judge, a search warrant to search the office of Afshein, Inc. located at 271 Monsarrat Drive, Dublin, Ohio. The Monsarrat Drive address is also the residence of Mohsen and Elham Abrishami, who are husband and wife. Afshein, Inc. was incorporated in 1991 and engages in the export business. Until it was suspended in September 1994 by the Department of Commerce, Afshein held a valid license to export certain electronic equipment to Iran.

Upon the government's motion, the search warrant and supporting affidavit were sealed by the magistrate judge who issued the warrant. Pursuant to the warrant, a search of Afshein's office (and the Abrishami residence) was conducted on August 31, 1994.<sup>1</sup> According to the inventory filed by Special Agent Decensi, various business records of Afshein and computer equipment were seized during the search. Copies of the business records have been provided by the government to Afshein.

On October 24, 1994, movants filed a motion to unseal and for an expedited hearing seeking an order to unseal all search warrant papers relating to the searches of 271 Monsarrat Drive, Dublin, Ohio and 1691 Ladera Trail, Dayton, Ohio.<sup>2</sup> In anticipation of the hearing to be held on their motion, movants served subpoenas upon Special Agent Decensi, Senior Special Agent Nedra Darnell of Customs Service and Linda Powers-Oldenbutter, an Export Administration Specialist in the Department of Commerce. On December 12, and December 13, 1994 the United States moved to quash these subpoenas. Oral argument was heard before the magistrate judge on December 13, 1994.

On January 6, 1995 the magistrate judge issued an order which granted the government's motion to quash subpoenas issued to Special Agent Donnell and Ms. Powers—Oldenbutter.<sup>3</sup> The January 6 order also denied \*298 movant's motion to unseal, relying principally on *Baltimore Sun v. Goetz*, 886 F.2d 60 (4th Cir.1989) and *Times Mirror Co. v. United States*, 873 F.2d 1210 (9th Cir.1989). The magistrate judge concluded, after reviewing the affidavit in support of the search warrant, that the government's interest in continuing its criminal investigation required that the affidavit remain sealed.

Movants timely filed objections to the January 6 order on January 17, 1995. The government filed a memorandum contra on January 26, 1995. Movants filed a reply memorandum on February 2, 1995.

## II.

Both the Magistrates Act and the Federal Rules of Civil Procedure provide for reconsideration of an order issued by a magistrate judge by a district judge. 28 U.S.C. § 636(b)(1)(A) and Fed.R.Civ.P. 72(a); see also Eastern Division Order No. 93–1, pt. E., 5. The proper procedure for obtaining review is set forth in Rule 72(a), which provides, in relevant part:

Within 10 days after being served with a copy of the magistrate judge's order, a party may serve and file objections to the order; a party may not thereafter assign as error a defect in the magistrate judge's order to which objection was not timely made. The district judge to whom the case is assigned shall consider such objections and shall modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.

Review under Rule 72(a) provides “considerable deference to the determinations of magistrates.” 7 *Moore's Federal Practice* ¶ 72.03 [7.–3]. A finding is clearly erroneous only when the reviewing court is left with a definite and firm conviction that a mistake has been committed. *Heights Community Congress v. Hilltop Realty, Inc.*, 774 F.2d 135, 140 (6th Cir.1985), cert. denied, 475 U.S. 1019, 106 S.Ct. 1206, 89 L.Ed.2d 318 (1986); *Shivers v. Grubbs*, 747 F.Supp. 434 (S.D.Ohio 1990).

## III.

The Fourth Amendment to the Constitution of the United States provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The bulwark of the Fourth Amendment protection is the Warrant Clause, requiring that, absent certain carefully delineated exceptions, police obtain a warrant from a neutral and detached magistrate before embarking upon a search and that no warrant shall issue but upon probable cause, supported by oath or affirmation. This case presents the question of whether the documents which were relied upon to establish probable cause for the issuance of a search warrant must be disclosed to the person whose residence was the subject of a search, after the search has been completed.

The cases relied upon by the magistrate judge, and the parties, however, present a different question—one the Court finds is not directly on point. Cases such as *Baltimore Sun* and *Times Mirror* deal with the alleged right of the media or the public to access sealed search warrant documents. For example, in *Times Mirror* the media (two newspapers and a television station) sought “search warrant materials associated with Operation Illwind, a nationwide FBI investigation of corruption and fraud in the procurement of military weapons systems.” 873 F.2d at 1211. The media claimed they were entitled to access based on the First Amendment, the common law, and Fed.R.Crim.P. 41(g). *Id.* The Court of Appeals for the Ninth Circuit rejected each of the arguments advanced by the media and held that there is no right of access by the media to sealed search warrant materials prior to an indictment being returned by the grand jury. *Id.* at 1221. The Court of Appeals for the Fourth Circuit in *Baltimore Sun* reached a \*299 similar result. 886 F.2d at 64–65. The Court of Appeals for the Eighth Circuit, however, has acknowledged a qualified right of access by the media based on First Amendment grounds, but found, under the facts before it that the government had demonstrated a compelling interest, an on-going criminal investigation, in maintaining the documents under seal. *In re Search Warrant for Secretarial Area*, 855 F.2d 569, 574 (8th Cir.1988).

In this case, movants argue that they are entitled to see the affidavit underlying the search warrant because the government has failed to articulate a compelling reason to maintain the seal under the First Amendment or the common law. The government, on the other hand, asserts that the January 6 order correctly states the applicable law and that the magistrate judge reached the proper decision under the facts of this case. In the Court's view the parties and the magistrate judge failed to address the dispositive issue presented in this case.

For the reasons set forth below, the Court finds that the cases dealing with the alleged right of the media or the public to access sealed warrant documents do not control the outcome of this case. This case does not involve any right of the media or the public to see sealed search warrant documents under the First Amendment or the common law. Instead, this case involves the right of the person whose home has been searched to see the documents which were used to obtain the search warrant and directly involves his rights under the Fourth Amendment. This distinction is clearly shown by the fact that courts, in denying any First Amendment right of public access, have considered that the privacy interest of the person whose home has been searched would be jeopardized if the public had access to the records. *See, e.g., Times Mirror*, 873 F.2d at 1218. Here, it is that very interest that is being asserted by movants—the right to privacy of their home free from searches conducted without a warrant supported by probable cause.

The Court believes that the Fourth Amendment right to be free of unreasonable searches and seizures includes the right to examine the affidavit that supports a warrant after the search has been conducted and a return has been filed with the Clerk of Court pursuant to *Fed.R.Crim.P.* 41. It is not, however, an unqualified right. As is true with other constitutional rights it may be overridden when it is shown that precluding access is “essential to preserve higher values and is narrowly tailored to serve that interest.” *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 510, 104 S.Ct. 819, 824, 78 L.Ed.2d 629 (1984). Thus, the right of access may be denied only where the government shows (1) that a compelling governmental interest requires the materials be kept under seal and (2) there is no less restrictive means, such as redaction, available. Clearly, the fact that there is an on-going criminal investigation could provide a compelling governmental interest. *Cf. Baltimore Sun*, 886 F.2d at 64. Other examples of compelling governmental interests which

might, in an appropriate case, justify the extraordinary act of sealing warrant materials after the underlying search has been conducted include the presence of information in a supporting affidavit gleaned from a court ordered wire-tap that has yet to be terminated, or information that could reveal the identity of confidential informants whose lives would be endangered. Sealing may be appropriate under such circumstances if redaction is not feasible.

In this case, however, the magistrate judge simply found that “revealing the United States Custom Service's knowledge and sources of information could well jeopardize the service's continuing criminal investigation. Further, there is no practical way to redact the affidavit.” January 6 Order at 4. The Court disagrees. The Court's review of the affidavit reveals the following: that this is not an investigation in the preliminary stages, but rather the investigation of movants has been underway for almost three years—since March 1992; that the investigation in this district is not a part of some broader investigation involving other participants in other districts (*compare, Times Mirror*, “a nationwide FBI investigation of corruption and fraud in the procurement of military weapons systems,” 873 F.2d at 1211, \*300 and *In re Search Warrant for Secretarial Area*, “a nationwide investigation conducted by the Federal Bureau of Investigation and the Naval Investigation Service of alleged fraud and bribery in the Department of Defense and in the defense industry,” 855 F.2d at 570); that there are no wiretaps that have not been terminated; that there are no informants whose lives would be endangered;<sup>4</sup> and that there are no other compelling government interests that would overcome movants' right to inspect the affidavit which was the foundation for the warrant used to search their residence and place of business. In short, the Court finds that the government has failed to demonstrate a legitimate basis upon which to maintain these materials under seal some six months after the search.

Movants' motion to enforce subpoenas issued to Nedra Darnell and Linda Powers—Oldenbutter is **DENIED**. The magistrate judge correctly determined that these persons are not within the subpoena power of this Court. *Fed.R.Civ.P.* 45.

For the reasons set out above, the Court holds that movants' objections related to the sealing of the search warrant materials are well-taken. Accordingly, movants' motion to unseal is **GRANTED**. The Clerk of Court is **DIRECTED** to unseal all search warrant materials in case number MS–2–95–09. This order, however, is stayed for ten days to permit

the government to submit to the Court, *in camera*, a redacted version of the August 29, 1994 affidavit of Special Agent Decensi if the government believes in good faith that the identity of any confidential informant may be compromised.

### IT IS SO ORDERED.

### MEMORANDUM AND ORDER ON RECONSIDERATION

This matter is before the Court on the March 9, 1995 motion of the United States for reconsideration of this Court's February 28, 1995 memorandum and order granting the motion of Afshein, Inc., Elham and Mohsen Arishami, and Parvi and Pari Danesjhoo ("movants") to unseal materials submitted in support of a search warrant issued August 29, 1994. The search warrant was executed upon movants' residence, which is also their place of business, on August 30, 1994. The government's motion also seeks a stay pending a possible appeal. Movants filed a memorandum in opposition on March 13, 1995. The government has not filed a reply memorandum.

On August 29, 1994, Peter Decensi, Special Agent of the United States Customs Service, applied for, and received from the magistrate judge, a search warrant to search the office of Afshein, Inc. located at 271 Monsarrat Drive, Dublin, Ohio. The Monsarrat Drive address is also the residence of Mohsen and Elham Abrishami, who are husband and wife. Until it was suspended in September 1994 by the Department of Commerce, Afshein, Inc. held a valid license to export certain electronic equipment to Iran.

On October 24, 1994, movants filed a motion to unseal all search warrant papers relating to the search of their residence and business premises. Following oral argument, the magistrate judge denied movant's motion to unseal, relying principally on *Baltimore Sun v. Goetz*, 886 F.2d 60 (4th Cir.1989) and *Times Mirror Co. v. United States*, 873 F.2d 1210 (9th Cir.1989). The magistrate judge concluded, after reviewing the affidavit in support of the search warrant, that the government's interest in continuing its criminal investigation required that the affidavit remain sealed. The magistrate judge further concluded that redaction of the affidavit was not possible.

Movants timely filed objections to the order issued by the magistrate judge. This Court, in an order dated February 28, 1995, sustained movants' objections and ordered the materials

underlying the search warrant unsealed. The order was stayed for a period of ten days, however, to allow the "government to submit to the Court, *in camera*, a redacted version of the August 29, 1994 affidavit of Special Agent Decensi if the government believes in good faith that the identity \*301 of any confidential informant may be compromised." Prior to the expiration of the stay, the government filed its motion for reconsideration.

The government's principal objection to the February 28 order is that unsealing the search warrant would allegedly comprise an ongoing criminal investigation prior to indictment. "The government submits that such compromise of an ongoing investigation is a valid reason, not fully explained to the Court before, for reconsidering the order to unseal." Government's Memorandum in Support at 1. In support of its argument, the government submitted, *in camera*,<sup>1</sup> a second affidavit from Special Agent Decensi which identifies some specific paragraphs of the forty-three paragraph original affidavit in which the identities of confidential informants or investigative techniques would be revealed if the affidavit is unsealed. The affidavit, however, in no way suggests that the safety of the individuals who provided information to the government will be placed in jeopardy. Nor does the government respond to the movants' statement in their brief that the identities of some of the individuals are already known to movants.

The government further asserts that because the Fourth Amendment does not require the subjects of a search be notified of the search itself, citing *Dalia v. United States*, 441 U.S. 238, 248, 99 S.Ct. 1682, 1688, 60 L.Ed.2d 177 (1979), and *United States v. Pangburn*, 983 F.2d 449, 453 (2d Cir.1993), there is no constitutional requirement that the materials underlying a search warrant be disclosed. These cases, however, are inapplicable to the matter now under consideration. They deal generally with the question of whether the Fourth Amendment requires that notice of the search warrant be given to the person whose premises are being searched, a question that can arise when law enforcement officers are authorized to covertly install judicially authorized electronic eavesdropping equipment, as in *Dalia*. Although [Rule 41 of the Federal Rules of Criminal Procedure](#) does require notice of the execution of a search warrant, no such requirement is found in the Fourth Amendment. *Pangburn*. The present case, however, does not involve any question of the right of a citizen to be notified that a search warrant has been issued. Indeed, it appears that movants were so advised and that the requirements of [Rule](#)

41 were met. This case involves an entirely different issue; whether, once the search has been executed, the person whose premises were searched has a right to see the affidavit which formed the basis for the Fourth Amendment's mandate that "no warrants shall issue, but upon probable cause, supported by oath or affirmation."

It remains the view of this Court that if citizens are guaranteed by the Fourth Amendment the right "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," it is inherently a part of that right that they be allowed to know whether the Fourth Amendment's mandate of probable cause, supported by oath or affirmation, has been satisfied. While it is not an unqualified right, it is nevertheless a right which should be carefully preserved.

In the February 28 order, this Court found that "the Fourth Amendment right to be free of unreasonable searches and seizures includes the right to examine the affidavit that supports a warrant after the search has been conducted and a return has been filed with the Court pursuant to [Fed.R.Crim.P. 41](#)." Memorandum and Order at 299. This Court recognized, however, that the right of access was qualified and, borrowing from First Amendment jurisprudence, observed that the right of access "may be overridden when it is shown that precluding access is 'essential to preserve higher values and is narrowly tailored to serve that interest.'" *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501, 510 [104 S.Ct. 819, 824, 78 L.Ed.2d 629] (1984). Thus, the right of access may be denied where the government shows (1) that a compelling governmental interest requires that the materials be kept under seal and (2) \*302 there is no less restrictive means, such as redaction, available." *Id.* at 299.

The government, in its motion for reconsideration, addresses its argument to only the first prong of the test set forth

above. However, the affidavit of Special Agent Decensi reveals that redaction of the original affidavit is feasible and would meet the government's concerns regarding any ongoing criminal investigation. After reviewing the record in this case, including the two affidavits of Special Agent Decensi, the Court concludes that the government has failed to articulate a sufficient basis to maintain the subject materials in their entirety under seal. Accordingly, the Court reaffirms its February 28, 1995 order and **DENIES** the motion of the United States for reconsideration.

The government has further moved, in the event its motion for reconsideration is denied, for a stay of the order directing the unsealing of the search warrant materials for ten (10) days "to allow for a possible appeal." This aspect of the government's motion is **GRANTED**. The government is hereby ordered to provide a redacted version of Special Agent Decensi's August 29, 1994 affidavit to the movants *or* file its notice of appeal within ten (10) days of the date of this order. If the government chooses to provide the affidavit to the movants, any such redaction must be limited to the identity of confidential informants and investigative procedures that are still being employed by the government as a part of a continuing investigation. The Court further directs that the government submit a copy of the redacted affidavit to the Court. If the government chooses to appeal the Court's February 28, 1995 order and this order denying the government's motion for reconsideration and files its notice of appeal within ten (10) days of the date of this order, the orders of this Court will be stayed pending the appeal.

#### IT IS SO ORDERED.

#### All Citations

889 F.Supp. 296

#### Footnotes

- 1 Also on August 31, 1994 a search warrant was executed for the Dayton, Ohio residence of Parvi and Pavi Denesjhoo under similar circumstances. That search, however, is not the subject of the pending objections.
- 2 As noted above, see page 297 n. 1, the search in Dayton is not the subject of the challenge raised herein.
- 3 There is no indication of the disposition of the subpoena issued to Special Agent Decensi. It appears, however, that no evidentiary hearing was in fact held before the magistrate judge.
- 4 To the extent that any informants are identified, their names and identifying information may be easily redacted.
- 1 Movants take some umbrage with the government's practice of filing its papers under seal. The Court has taken into account that movants cannot respond to factual assertions of which they are not aware.

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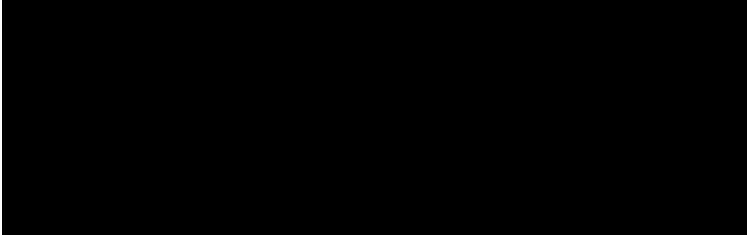


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Suite 400  
Cincinnati, Ohio 45202

Telephone: 513-684-3711  
Fax: 513-684-6385

April 9, 2018



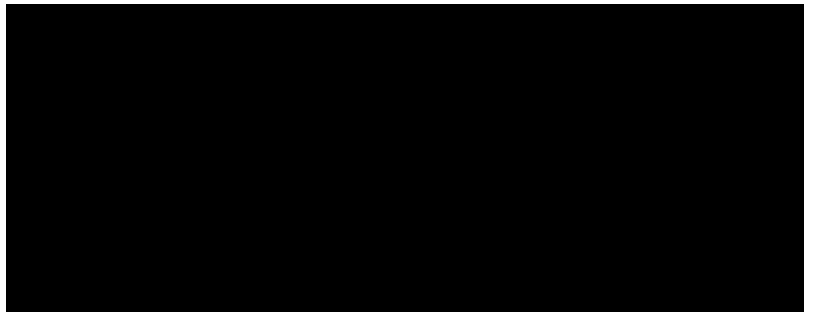
Dear Sir/Madam:

Pursuant to an official criminal investigation being conducted by the Department of Justice of a suspected felony, it is requested that your company furnish the information requested in the attached subpoena. If you wish, you may comply with the demands in the attached subpoena by making the records called for therein available to the Agent who serves the subpoena. If you choose to follow this course of action, it will not be necessary for you to physically appear before the Federal Grand Jury in Cincinnati on the subpoena date.

**You are requested not to disclose the existence of this request. Any such disclosure could impede the investigation being conducted and thereby interfere with the enforcement of the law.**

Thank you for your assistance in this matter.

Very truly yours,



MCS/lks

Enclosures



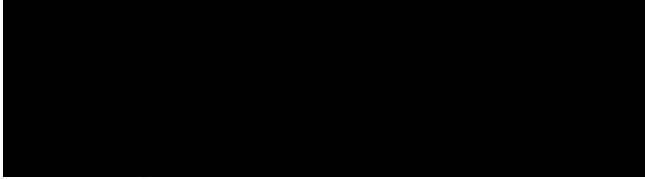
UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To:



**YOU ARE COMMANDED** to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: POTTER STEWART U.S. COURTHOUSE  
100 E. FIFTH STREET, ROOM 740  
CINCINNATI, OHIO 45202

Date and Time:



You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

**[PLEASE SEE ATTACHED FOR REQUESTED DOCUMENTS]**

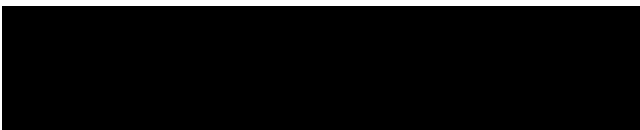
**Compliance with this subpoena may be achieved by providing  
the requested documents to the requesting Agent.**

Date: 4/9/2018



Signature of Clerk or Deputy Clerk

The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:



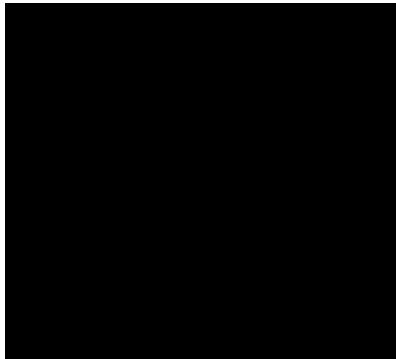
**Records Requested**

From 1/01/2015 to present:

All records related to any [REDACTED] [REDACTED] [REDACTED] [REDACTED] r.

All records related to any public records requests made to your office regarding the [REDACTED] [REDACTED]  
[REDACTED]

The response should include but not be limited to the following items:

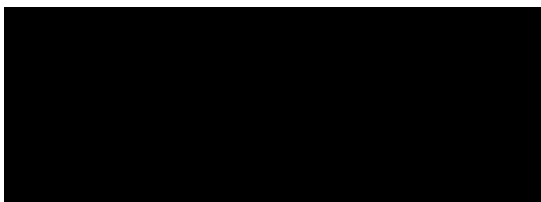


\*Once the documents requested above are reviewed, additional documentation may be requested.

\*Where available please provide the records in electronic format.

Questions may be directed to [REDACTED]  
[REDACTED] [REDACTED]

**Response to this subpoena should be sent to:**



**CERTIFICATE OF AUTHENTICITY OF DOMESTIC BUSINESS  
RECORDS PURSUANT TO FEDERAL RULE OF EVIDENCE 902(11)**

I, \_\_\_\_\_, attest under penalties of perjury of criminal punishment for false statement or false attestation pursuant to 28 U.S.C. § 1746, that the information contained in this declaration is true and correct.

I am employed by \_\_\_\_\_, and my official title is \_\_\_\_\_. I am/was the custodian of records of \_\_\_\_\_ from the time period of \_\_\_\_\_ through \_\_\_\_\_.

I certify that the documents provided in response to subpoena of account(s) ending in \_\_\_\_\_ in the name(s) of \_\_\_\_\_ are true and exact copies of the originals as held in the ordinary course of business. I have reviewed the attached records. I certify that these records are the original or duplicate copies of the original records in the custody of \_\_\_\_\_, as held in the ordinary course of business.

I further state that:

- a. all records provided were made at or near the time of the occurrence of the matter set forth, by, or from information transmitted by, a person with knowledge of those matters;
- b. such records were kept in the ordinary course of a regularly conducted business activity of;
- c. such records were made by as a regular practice; and
- d. if such records is not the original, such record is a duplicate of the original.

I further state that this certification is intended to satisfy Rule 902(11) of the Federal Rules of Evidence.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE



**PROOF OF SERVICE**

This subpoena for *(name of individual or organization)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



DAVID F. AXELROD  
614.628.4427  
daxelrod@slk-law.com

May 6, 2021

**VIA FEDEX**

[REDACTED]  
[REDACTED]  
[REDACTED] 1

Re: Investigation of [REDACTED] [REDACTED]

Dear [REDACTED]:

This letter will memorialize our agreement with respect to confidential services you will provide to assist in our representation of our client, [REDACTED] [REDACTED] [REDACTED], in connection with an investigation of [REDACTED] currently being conducted by the United States Attorney's Office for the Southern District of Ohio.<sup>1</sup>

We have been retained by [REDACTED] to provide legal services in connection with the above-described matter. In connection with that engagement, we have express authority to and are engaging you to assist in our representation of [REDACTED] [REDACTED], to work under our direction and report directly to me. Your work includes services of a character and quality that are necessarily adjunct to our services to [REDACTED] [REDACTED] in rendering legal advice and services as [REDACTED] attorneys. Pursuant to this agreement, all communications between you and [REDACTED], or you and me, shall be confidential, and shall be made solely for the purpose of assisting us in our representation of [REDACTED]

You agree not to disclose to anyone, without our explicit permission, the existence, nature, or content of any oral or written communications related in any manner to the subject matter of our representation of [REDACTED]. Other than as provided above, you agree not to disclose to anyone any information you gain from the inspection of any record or document or other material submitted to you, including without limitation information obtained from records, photographs, video recordings,

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<sup>1</sup> For purposes of this letter, all references to "me," "us" and similar words include all members, partners, associates, employees, agents and other representatives of Shumaker, Loop & Kendrick, LLP. All references to "you" and similar words include all members, partners, associates, employees, agents and other representatives of your firm.

[REDACTED]  
May 6, 2021

Page 2

audio recordings, witness statements, memoranda, forms, reports, subpoenas, correspondence, analyses, work papers or other documents (collectively, "defense-related material") coming into your possession, during the performance of your services under this agreement. You will not acknowledge the existence of, or permit inspection of, any such defense-related material without explicit permission from us in advance.

All defense-related material, regardless of its nature and the source from which it emanates, shall be held by you solely for our convenience and subject to our unqualified right to instruct you with respect to possession and control. All documents prepared by you or anyone working with or under you or on your behalf will belong to this law firm.

Under this agreement, you will immediately notify us of any of the following events:

1. The exhibition or surrender by you, or anyone working under your control or at your direction, of any defense-related material, regardless of their nature and the source from which that material emanates in a manner not expressly authorized by us;
2. A request to you, or anyone working under your control or at your direction, by anyone besides us to examine, inspect or copy defense-related material;
3. Any attempt to serve, or the actual service of, any court order, judicial or administrative subpoena, or judicial or administrative summons upon you that requires a production of any defense-related material.

You will immediately return all defense-related material to us at our request. You agree that "defense-related material" includes all material regardless of the form or medium on which it is kept, including all forms of electronic media.

You understand that you have not been retained to render advice or services of any nature directly to [REDACTED] with respect to any matters related to our representation of, and our providing legal services to him. You agree to keep accurate and complete records of all work performed by you within the scope of this agreement.

Please indicate your acceptance of the terms of this agreement by signing the enclosed copy of this letter and returning it to me. Thank you for your prompt attention to

[REDACTED]

May 6, 2021  
Page 3

this matter.

Sincerely yours,



David F. Axelrod

AGREED:

[REDACTED]

\_\_\_\_\_  
Dated

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**FIRSTENERGY CORP.,**

**Defendant.**

**CASE NO.** 1:21-cr-86

**JUDGE BLACK**

**DEFERRED PROSECUTION  
AGREEMENT**

The United States Attorney's Office for the Southern District of Ohio ("USAO-SDOH" or "government") and the Defendant, FirstEnergy Corp., by its undersigned representative and counsel, pursuant to the authority granted by the Board of Directors, agree as follows:

1. **Criminal Information and Acceptance of Responsibility:** FirstEnergy Corp. acknowledges and agrees that the government will file the accompanying Information in the United States District Court for the Southern District of Ohio charging FirstEnergy Corp. with conspiracy to commit honest services wire fraud in violation of Title 18, United States Code, Sections 1343, 1346, 1349. FirstEnergy Corp. knowingly waives any right to indictment on this charge, as well as all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and Federal Rule of Criminal Procedure 48(b), and agrees to the filing of a joint motion to toll Section 3161 upon the filing of this Agreement.

FirstEnergy Corp. admits, accepts, and acknowledges that it is responsible under United States law for the acts of its current and former officers, employees, and agents. FirstEnergy Corp. admits, accepts, and acknowledges that it is responsible under United States law for the acts as charged in the Information and as set forth in the Statement of Facts, attached as Attachment A and incorporated by reference into this Agreement, and that the facts alleged in the Information and described in the Statement of Facts are true and accurate.

Should the USAO-SDOH pursue the prosecution that is deferred by this Agreement, FirstEnergy Corp. agrees that it will neither contest the admissibility of nor contradict the Statement of Facts in any such proceeding, including any trial, guilty plea, or sentencing proceeding. Neither this Agreement nor the criminal Information is a final adjudication of the matters addressed in such documents.

2. **Elements of the Offense:** The elements of the offense set forth in the Information, to which the Defendant agrees are established by the Statement of Facts, attached as Attachment A, are as follows:

**Count One, Conspiracy to Commit Honest Services Wire Fraud**

- A. That two or more persons conspired or agreed to devise a scheme:
1. to defraud the public of its right to the honest services of a public official through bribery or kickbacks;
  2. that included a material misrepresentation or concealment of a material fact;
  3. with the intent to defraud;
  4. that used wire communications in interstate commerce in furtherance of the scheme;
- B. That the Defendant knowingly and voluntarily joined the conspiracy to defraud;
- C. That the Defendant intentionally participated in the conspiracy to defraud;
- D. That some or all of the acts alleged in the Information occurred in the Southern District of Ohio, on or about the dates alleged in the Information.
3. **Term of the Agreement:** This Agreement shall have a term of three (3) years from the date on which the fully-executed Agreement is filed with the Court (the “Term”), except for specific provisions that specify a longer period as described below. FirstEnergy Corp. agrees, however, that in the event the government determines, in its sole discretion, that FirstEnergy Corp. has knowingly violated any provision of this Agreement or has failed to completely perform or fulfill each of its obligations under this Agreement, an extension or extensions of the Term may be imposed by the government, in its sole discretion, for up to a total additional time period of one year, without prejudice to the government’s right to proceed as provided in the breach provisions of this Agreement below. Any extension of the Agreement extends all terms of this Agreement, including the terms of the reporting requirement in Attachment C, for an equivalent period. Conversely, in the event the government finds, in its sole discretion, that there exists a change in circumstances sufficient to eliminate the need for the reporting requirement in Attachment C, the Agreement may be terminated early. In such event, FirstEnergy Corp.’s cooperation obligations described below shall survive until the date upon which all such investigations and prosecutions are concluded, as determined by the USAO-SDOH.
4. **Relevant Considerations:** The government enters into this Agreement based on the individual facts and circumstances presented by this case, including, FirstEnergy Corp.’s acceptance of responsibility; early self-reporting in the investigation of the conduct of the company and its former officers, directors, employees, agents, lobbyists, and consultants, described more fully below; its implementation of remedial measures, described more fully below; the payment of a monetary penalty; and the collateral consequences of prosecution, among others.

5. **Defendant's Obligations:** Pursuant to this Agreement, FirstEnergy Corp. shall do the following:

- A. **Cooperation.** To date, FirstEnergy Corp. has provided substantial cooperation, including: conducting a thorough internal investigation; proactively identifying issues and facts that would likely be of interest to the government; making regular factual presentations to the government; sharing information that would not have been otherwise available to the government; and making such material available to the government on an expedited basis.

This agreement is contingent upon FirstEnergy Corp.'s continued, full cooperation with the USAO-SDOH in all matters relating to the conduct described in this Agreement and other conduct under investigation by the government, until the later of the date the Term ends or the date upon which all investigations and prosecutions arising out of such conduct are concluded, as determined by the government.

FirstEnergy Corp. agrees that its cooperation shall include, but not be limited to, the following:

- 1) Continued full, complete, and truthful cooperation in any matter in which it is called upon to cooperate by a representative of the USAO-SDOH;
- 2) Timely disclosure of all factual information with respect to its activities, those of its subsidiaries and affiliates, and those of its present and former directors, officers, employees, agents, lobbyists and consultants, including any evidence or allegations and internal or external investigations, about which the government may inquire;
- 3) Disclosure of any information, items, records, databases, or data in FirstEnergy Corp.'s possession, custody, or control or in the possession or control of any subsidiary or affiliate, wherever located, requested by the government in connection with the investigation or prosecution relating to any current or former officers, directors, employees, agents, lobbyists, and consultants;
- 4) Use of good faith efforts to make available, at FirstEnergy Corp.'s cost, current and former officers, directors, employees, agents, lobbyists, and consultants, when requested by the government, to provide additional information and materials concerning any and all investigations; to testify, including providing sworn testimony before a grand jury or in a judicial proceeding; and to be interviewed by law enforcement authorities. Cooperation under this paragraph includes identification of witnesses who, to the knowledge of FirstEnergy Corp., may have material information regarding these matters;
- 5) Disclosure of information, materials, and testimony, at FirstEnergy Corp.'s cost, as necessary or as requested by the USAO-SDOH to

establish authenticity, or other basis for the admission into evidence in any criminal or judicial proceeding;

- 6) With respect to any information, testimony, documents, records or other tangible evidence provided to the government pursuant to this Agreement, FirstEnergy Corp. consents to any and all disclosures to other governmental authorities of such materials as the government, in its sole discretion, shall deem appropriate.
- 7) Promptly report any evidence or allegation of a violation of U.S. criminal law by FirstEnergy Corp. to the USAO-SDOH. On the date that the Term expires, FirstEnergy Corp., by its Chief Executive Officer and Chief Financial Officer, will certify to the government that FirstEnergy Corp. has met its disclosure obligations pursuant to this Agreement. Each certification will be deemed a material statement and representation by FirstEnergy Corp. to the executive branch of the United States for purposes of 18 U.S.C. § 1001.

FirstEnergy Corp.'s cooperation pursuant to this paragraph is subject to applicable law and regulations, as well as valid claims of attorney-client privilege, settlement privilege, or attorney work product doctrine; however, FirstEnergy Corp. must provide to the government a log of any information or cooperation that is not provided based on an assertion of law, regulation, privilege, or attorney work product, and FirstEnergy Corp. bears the burden of establishing the validity of any such assertion.

Failure to provide full, complete, and truthful cooperation as described above will constitute a violation of this Agreement. The parties agree that the USAO-SDOH, in its sole discretion, will determine if FirstEnergy Corp. has violated this Agreement by failing to provide full, complete, and truthful cooperation.

- B. Payment of a Monetary Penalty.** FirstEnergy Corp. agrees to pay a criminal monetary penalty totaling \$230,000,000. This amount reflects 1) a discount for FirstEnergy Corp.'s substantial remediation, self-reporting, and cooperation as set forth in this Agreement; 2) the collateral consequences of imposition of a greater penalty; 3) and the difficulty of quantifying with precision the benefits resulting from some official action.

Within sixty (60) days of the filing of this Agreement, FirstEnergy Corp. shall pay \$115,000,000 to the United States Treasury.

Within sixty (60) days of the filing of this Agreement, FirstEnergy Corp. shall pay \$115,000,000 to the Ohio Development Service Agency's Percentage of Income Payment Plan Plus program for the benefit of Ohio electric-utility customers. If the Ohio Development Service Agency's Percentage of Income Payment Plan Plus program is unable or unwilling to accept the funds, FirstEnergy Corp. shall pay the

\$115,000,000 to the United States Treasury after consultation with the USAO-SDOH.

Nothing in the Agreement shall be deemed an agreement regarding a maximum penalty that may be imposed in any future prosecution, and the government is not precluded from arguing in any future prosecution that the Court should impose a higher fine, disgorgement, or civil or criminal forfeiture, although the government agrees that under those circumstances, it will recommend to the Court that any amount paid under this Agreement should be offset against any fine imposed as part of a future judgment. FirstEnergy Corp. agrees that no tax deduction may be sought in connection with the payment of any part of the monetary penalty, and FirstEnergy Corp. may not seek to recover any portion of the monetary penalty from customers, directly or indirectly. Without the prior approval of the USAO-SDOH, FirstEnergy Corp. shall not seek or accept directly or indirectly reimbursement or indemnification from any source with regard to the monetary penalty amount or any other amount it pays pursuant to any other agreement entered into with an enforcement authority or regulator concerning the facts set forth in the Statement of Facts.

The USAO-SDOH agrees, except as provided in this Agreement, that it will not bring any criminal or civil case (except for tax cases, as to which the government does not make any agreement) against FirstEnergy Corp. or any of its present subsidiaries or affiliates relating to any of the conduct described in the attached Statement of Facts, or to conduct self-reported to the USAO-SDOH by FirstEnergy Corp. in the investigation. The government, however, may use any information related to the conduct described in the attached Statement of Facts against FirstEnergy Corp.: (a) in a prosecution for perjury or obstruction of justice; (b) in a prosecution for making a false statement; or (c) in a prosecution or other proceeding relating to a violation of any provision of Title 26 of the United States Code. This Agreement does not provide any protection against prosecution for any future conduct by FirstEnergy Corp. or any of its present or former parents or subsidiaries. In addition, this Agreement does not provide any protection against prosecution of any individuals, regardless of their affiliation with FirstEnergy Corp. or with any of its present or former parents or subsidiaries.

**C. Forfeiture.** The USAO-SDOH has determined that it could institute a criminal or civil forfeiture proceeding against the following funds that passed through accounts controlled by FirstEnergy Corp. (the “subject property”):

- Contents of PNC Bank, Account No. ending in 5348, in the name of Partners for Progress Inc. in the amount of \$6,366,476.29; and
- Contents of PNC Bank, Account No. ending in 3639, in the name of Partners for Progress Inc. in the amount of \$108,960.32.

FirstEnergy Corp. hereby acknowledges that the subject property constitutes or is derived from proceeds traceable to conspiracy to commit honest services wire fraud, in violation of Title 18, United States Code, Sections 1343, 1346, and 1349, as charged in the Information and set forth in the Statement of Facts; therefore, the subject property is forfeitable to the United States pursuant to Title 18, United States Code, Section 981. FirstEnergy Corp. hereby agrees to settle and does settle all civil and criminal forfeiture claims presently held by the USAO-SDOH against the subject property. FirstEnergy Corp. agrees that the subject property shall be forfeited to the United States pursuant to Title 18, United States Code, Section 981; releases all claims it may have to such property; waives any right to notice of forfeiture it may have under the law; and waives any right it may have to seek remission or mitigation of the forfeiture.

**D. Transparency in Corporate Contributions.** Within 30 days of the execution of this Agreement, FirstEnergy Corp. shall publish a list of (1) all payments, if any, made in 2021 to entities incorporated under 26 U.S.C. § 501(c)(4) (“501(c)(4)” entities) and (2) all payments, if any, made in 2021 to entities known by FirstEnergy Corp. to be operating for the benefit of a public official, either directly or indirectly. FirstEnergy Corp. shall update the list on a quarterly basis for the Term of this Agreement. The list shall include the following information: the entity’s name and address, date of contribution, amount of contribution, and purpose of contribution. The list shall be labeled “Corporate Contributions” and accessible on FirstEnergy’s webpage ([www.firstenergycorp.com](http://www.firstenergycorp.com)). The accessibility of the list is subject to the prior approval of undersigned government counsel.

**E. Issuance of Public Statement.** FirstEnergy Corp. shall publish a press release for broad public distribution and posting on FirstEnergy Corp.’s website, which includes the following statement:

*Central to FirstEnergy’s Corp.’s effort to influence the legislative process in Ohio was the use of 501(c)(4) corporate entities. FirstEnergy Corp. used the 501(c)(4) corporate form as a mechanism to conceal payments for the benefit of public officials and in return for official action. FirstEnergy Corp. used 501(c)(4) entities in this way because the law does not require disclosure of donors to a 501(c)(4) and there is no ceiling that limits the amount of expenditures that can be paid to a 501(c)(4) entity for the purpose of influencing the legislative process. This effort would not have been possible, both in the nature and volume of money provided, without the use of a 501(c)(4) entity.*

**F. Remediation, Corporate Compliance Program, and Reporting.** FirstEnergy Corp. represents that it has implemented and will continue to implement a compliance and ethics program designed, implemented, and enforced to prevent and detect violations of the U.S. laws throughout its operations, including those of its subsidiaries, affiliates, agents, and joint ventures, and those of its contractors and subcontractors whose responsibilities include accounting, financial reporting,

lobbying, government relations, consulting, and interactions with candidates for public office, public officials, and governmental agencies including, but not limited to, the minimum elements set forth in Attachment B.

FirstEnergy Corp. further represents that it has implemented four broad categories of remedial measures, including: (1) employment consequences for executives and employees who engaged in misconduct, (2) enhancements to Company's compliance program, (3) improvements to the Company's policies and procedures, and (4) monetary remediation to ratepayers. The specific changes implemented include, but are not limited to, the following:

- Establishing an Executive Director role for the Board of Directors, which supports the development of enhanced controls and governance policies and procedures;
- Hiring a new Chief Legal Officer, who oversees the Company's Legal and Internal Audit departments;
- Separating the Chief Legal Officer and Chief Ethics/Compliance Officer functions, and hiring a new Chief Ethics and Compliance Officer, who reports directly to the Audit Committee of the Board and administratively to the Chief Legal Officer;
- Working to establishing a culture of ethics, integrity, and accountability at every level of the organization;
- Creating a Compliance Oversight Subcommittee of the Audit Committee to implement compliance recommendations received from outside counsel and enhanced compliance trainings; and
- Reviewing and revising political activity and lobbying/consulting policies, including requiring robust disclosures about lobbying activities.

In order to address any deficiencies in its internal controls, policies, and procedures, FirstEnergy Corp. represents that it will continue to undertake in the future, in a manner consistent with all of its obligations under this Agreement, a review of its internal controls, policies, and procedures regarding compliance with U.S. law. Where necessary and appropriate, FirstEnergy Corp. agrees to adopt a new compliance program, or to modify its existing one, to ensure that it maintains a system of internal controls designed to effectively detect and deter violations of U.S. law. The compliance program will include, but not be limited to, the minimum elements set forth in Attachment B.

- G. Public Statements by the Company.** FirstEnergy Corp. agrees that if it or any of its affiliates or subsidiaries issues a press release or holds any press conference in

connection with this Agreement, FirstEnergy Corp. shall first consult the government to determine (1) whether the text of the release or proposed statements at the press conference are true and accurate with respect to matters relating to this Agreement; and (2) whether the government has any objection to the release on those grounds.

FirstEnergy Corp. expressly agrees that it shall not, through present or future attorneys, officers, directors, employees, agents or any other person authorized to speak for FirstEnergy Corp., make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility by FirstEnergy Corp. set forth above or the facts described in the attached Statement of Facts. Any such contradictory statement shall, subject to cure rights described below, constitute a violation of this Agreement, and FirstEnergy Corp. thereafter shall be subject to prosecution as set forth below in paragraph 7.

The decision as to whether any public statement contradicting a fact contained in the Statement of Facts will be imputed to FirstEnergy Corp. for the purpose of determining whether it has violated this Agreement shall be at the sole discretion of the USAO-SDOH. If USAO-SDOH determines that a public statement contradicted in whole or in part a statement contained in the Statement of Facts, USAO-SDOH shall so notify FirstEnergy Corp., and FirstEnergy Corp. may avoid a breach of this Agreement by publicly repudiating such statement(s) within five (5) business after notification.

This Agreement does not prohibit FirstEnergy Corp. from raising defenses or asserting affirmative claims in civil litigation or regulatory proceedings relating to the matters set forth in the Statement of Facts, provided that such defenses and claims do not contradict in whole or in part, a statement contained in the Statement of Facts.

This Agreement does not apply to any statement made by any present or former officer, director, employee, or agent of FirstEnergy Corp. in the course of any criminal, regulatory, or civil case initiated against such individual, unless such individual is speaking on behalf of FirstEnergy Corp.

- H. Changes in Corporate Form.** Except as may otherwise be agreed by the USAO-SDOH and FirstEnergy Corp. in connection with a particular transaction, FirstEnergy Corp. agrees that in the event that, during the term of any of its obligations under this Agreement, it undertakes any change in corporate form, including applying for bankruptcy protection or if it sells, merges, or transfers business operations that are material to FirstEnergy Corp. as they exist as of the date of this Agreement, whether such transaction is structured as a sale, asset sale, merger, transfer, or other change in corporate form, it shall include in any contract for sale, merger, transfer, or other change in corporate form a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement. The purchaser or successor in interest must also agree in writing that the USAO-SDOH's ability to determine there has been a breach under this

Agreement is applicable in full force to that entity. FirstEnergy Corp. agrees that the failure to include this Agreement's violation provisions in the transaction will make any such transaction null and void.

FirstEnergy Corp. shall provide notice to the USAO-SDOH at least sixty (60) days prior to the consummation of any such sale, merger, transfer, or other change in corporate form. The USAO-SDOH shall notify FirstEnergy Corp. at least fifteen (15) days prior to the consummation of such transaction (or series of transactions) if it determines that the transaction(s) will have the effect of circumventing or frustrating the enforcement purposes of this Agreement. If at any time during the Term FirstEnergy Corp. engages in a transaction(s) that has the effect of circumventing or frustrating the enforcement purposes of this Agreement, the USAO-SDOH may deem it a violation of this Agreement pursuant to the violation provisions of this Agreement. Nothing herein shall restrict FirstEnergy Corp. from indemnifying (or otherwise holding harmless) the purchaser or successor in interest for penalties or other costs arising from any conduct that may have occurred prior to the date of the transaction, so long as such indemnification does not have the effect of circumventing or frustrating the enforcement purposes of this Agreement, as determined by the USAO-SDOH.

6. **Obligations of the USAO (Deferred Prosecution):** In consideration of: (a) FirstEnergy Corp.'s past and future cooperation as described above; (b) FirstEnergy Corp.'s payment of a monetary penalty of \$230,000,000; (c) FirstEnergy Corp.'s adoption and maintenance of remedial measures, and review and audit of such measures, including the compliance undertakings described in Attachment B; and (d) other obligations specified in this Agreement, the USAO-SDOH agrees to request that the United States District Court for the Southern District of Ohio defer proceedings on the charge in the Information pursuant to Title 18, United States Code, Section 3161(h)(2), for the Term of this Agreement.

The USAO-SDOH further agrees that if FirstEnergy Corp. fully complies with all of its obligations under this Agreement, the government will not continue the criminal prosecution against FirstEnergy Corp. described in Paragraph 1. Within thirty (30) days of the successful completion of the Term, FirstEnergy's obligations pursuant to paragraphs 5 (B), (C) (E) and (F) will end. FirstEnergy's remaining obligations under paragraph 5 will continue until the completion of any investigation, criminal prosecution, or civil proceeding brought by the USAO-SDOH related to any conduct set forth in the Statement of Facts. Within 30 days of the completion of any related investigation, criminal prosecution, and civil proceeding, the USAO-SDOH shall seek dismissal of the Information filed against FirstEnergy Corp., which will terminate the remainder of FirstEnergy Corp.'s obligations under this Agreement.

The USAO-SDOH further agrees, if requested to do so, to bring to the attention of governmental and other authorities the facts and circumstances relating to the nature of the conduct underlying this Agreement, and the nature and quality of FirstEnergy's cooperation and remediation. By agreeing to provide this information, if requested to do so, the USAO-SDOH is not agreeing to advocate on behalf of the FirstEnergy Corp., but rather is agreeing to provide facts to be evaluated independently by other authorities.

7. **Violation of the Agreement:** If the USAO-SDOH determines that FirstEnergy Corp. (a) committed any crime under U.S. law during the Term of this Agreement; (b) at any time, provided in connection with this Agreement deliberately false, incomplete, or misleading information, including in connection with a disclosure of information about individual culpability – even if the USAO-SDOH becomes aware of such conduct after the Term of this Agreement; or (c) otherwise violated its obligations under this Agreement – even if the USAO-SDOH becomes aware of the violation after the Term of this Agreement, at the USAO-SDOH's discretion, FirstEnergy Corp. shall thereafter be subject to prosecution for any federal criminal violation of which the USAO-SDOH has knowledge, including the charges in the Information described in Paragraph 1. Any such prosecution may be premised on information provided by FirstEnergy Corp. prior or subsequent to the signing of this Agreement. In addition, the parties agree as follows:

**A. Determination of Violation.** The parties agree that the USAO-SDOH has the sole discretion to determine whether FirstEnergy Corp. has violated this Agreement.

**B. Statute of Limitations.** Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against FirstEnergy Corp. notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the expiration of the period described above in Paragraph 3 plus one year. Thus, by signing this Agreement, FirstEnergy Corp. agrees that the statute of limitations with respect to any such prosecution that is not time-barred on the date of the signing of this Agreement shall be tolled for the period described in Paragraph 3 plus one year.

In addition, FirstEnergy Corp. agrees that the statute of limitations as to any violation of U.S. law that occurs during the Term will be tolled from the date upon which the violation occurs until the earlier of the date upon which the government is made aware of the violation or the duration of the Term plus five years, and that this period shall be excluded from any calculation of time for purposes of the application of the statute of limitations.

**C. Written Notice.** In the event the government determines that FirstEnergy Corp. has breached this Agreement, the government agrees to provide FirstEnergy Corp. with written notice of such breach prior to instituting any prosecution resulting from such breach. Within thirty (30) days of receipt of such notice, FirstEnergy Corp. shall have the opportunity to respond to the government in writing to explain the nature and circumstances of such breach, as well as the actions FirstEnergy Corp. has taken to address and remediate the situation, which explanation the government shall consider in determining whether to pursue prosecution of FirstEnergy Corp.

**D. Admissibility of Statements.** In the event that the government determines that FirstEnergy Corp. has breached this Agreement: (1) all statements made by or on behalf of FirstEnergy Corp. or its affiliates or subsidiaries to the government or to the Court, including the attached Statement of Facts, and any testimony given before a grand jury, a court, or any tribunal, or at any legislative hearings, and any leads or evidence derived from such statements or testimony, shall be admissible in evidence in

- any criminal proceeding brought by the government against FirstEnergy Corp. or its affiliates or subsidiaries; and (b) FirstEnergy Corp. or its affiliates or subsidiaries shall not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that any such statements or testimony made by or on behalf of FirstEnergy Corp. or its affiliates or subsidiaries prior or subsequent to this Agreement, or any leads or evidence derived therefrom, should be suppressed or are otherwise inadmissible. The decision whether conduct or statements of any current director, officer or employee, or any person acting on behalf of, or at the direction of, FirstEnergy Corp. or its affiliates or subsidiaries, will be imputed to FirstEnergy Corp. for the purpose of determining whether FirstEnergy Corp. has violated any provision of this Agreement shall be in the sole discretion of the government.
8. **Limitations of Agreement:** This agreement is binding upon FirstEnergy Corp. and the USAO-SDOH and does not bind (a) other components of the Department of Justice, (b) other federal agencies, (c) any state or local law enforcement or regulatory agency. However, the USAO-SDOH will bring the cooperation of FirstEnergy Corp. and its compliance with its obligations under this Agreement to the attention of any such authorities or agencies if requested to do so by FirstEnergy Corp.
9. **Notice:** Any notice to the government under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, addressed to the United States Attorney's Office for the Southern District of Ohio, 221 East Fourth Street, Suite 400, Cincinnati, OH 45213. Any notice to FirstEnergy Corp. shall be given by personal delivery, overnight delivery by a recognized delivery service, addressed to Chief Executive Officer, FirstEnergy Corp., 76 South Main Street, Akron, OH 44308, with Copy to the Chief Legal Officer, FirstEnergy Corp., 76 South Main Street, Akron, OH 44308.
10. **Entire Agreement:** This agreement, along with any attachment(s), is the complete agreement between the parties. It supersedes all other promises, representations, understandings, and agreements between the parties. No amendments, modifications, or additions to this Agreement shall be valid unless they are in writing and signed by the government, the attorneys for FirstEnergy Corp., and a duly authorized representative of FirstEnergy Corp.

VIPAL J. PATEL  
Acting United States Attorney

*Emily N. Glatfelter / Matthew C. Singer*  
EMILY N. GLATFELTER  
MATTHEW C. SINGER  
Assistant United States Attorneys

**CORPORATE OFFICER'S CERTIFICATE**

I have read this Agreement and carefully reviewed every part of it with outside counsel for FirstEnergy Corp. I understand it, I voluntarily agree to it, on behalf of FirstEnergy Corp. Before signing this Agreement, I consulted outside counsel for FirstEnergy Corp. Counsel fully advised me of the rights of FirstEnergy Corp., of possible defenses, of the applicable Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

I also carefully reviewed the terms of this Agreement with the FirstEnergy Corp. Board of Directors. I have advised and caused outside counsel for FirstEnergy Corp. to advise the Board of Directors fully of the rights of FirstEnergy Corp., of possible defenses, of the applicable Sentencing Guidelines' provisions, and of the consequences of entering into the Agreement. I acknowledge, on behalf of FirstEnergy Corp., that I am completely satisfied with the representation of counsel.

By signing below, I certify that no promises or inducements have been made other than those contained in this Agreement. Furthermore, no one has threatened or forced me, or any other person authorized this Agreement on behalf of FirstEnergy Corp., in any way to enter into this Agreement. I also certify that I am an officer of FirstEnergy Corp. and that I have been duly authorized by FirstEnergy Corp. to execute this Agreement on behalf.

July 20, 2021

Date

A handwritten signature in black ink, appearing to read "Steven E. Strah", is written over a horizontal line.

Steven E. Strah, President & CEO  
FIRSTENERGY CORP.

**CERTIFICATE OF COUNSEL**

We are counsel for FirstEnergy Corp. in the matter covered by this Agreement. In connection with such representation, we have examined carefully the relevant FirstEnergy Corp. records and have discussed the terms of this Agreement with Steven E. Strah, President & Chief Executive Officer, and the FirstEnergy Corp. Board of Directors. Based upon our review of the foregoing matters and discussions with FirstEnergy Corp. and its Board of Directors, we are of the opinion that the representative of FirstEnergy Corp. has been duly authorized to enter into this Agreement on behalf of FirstEnergy Corp. and that this Agreement has been duly and validly authorized, executed, and delivered on behalf of FirstEnergy Corp. and is a valid and binding obligation of FirstEnergy Corp.. Further, we have carefully reviewed the terms of this Agreement with the FirstEnergy Corp. Board of Directors and the Chief Executive Officer of FirstEnergy Corp. We have fully advised them of the rights of FirstEnergy Corp., of possible defenses, of the Sentencing Guidelines' provisions and of the consequences of entering into this Agreement. To our knowledge, the decision of FirstEnergy Corp. to enter into this Agreement, based on the authorization of its Board of Directors, is an informed and voluntary one.

July 20, 2021  
Date

  
\_\_\_\_\_  
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*Attorneys for FirstEnergy Corp.*

**ATTACHMENT A:**  
**STATEMENT OF FACTS**

*The United States and FirstEnergy Corp. stipulate and agree that if this case proceeded to trial, the United States would prove the facts set forth below beyond a reasonable doubt. They further stipulate and agree that these are not all of the facts that the United States would prove if this case had proceeded to trial.*

The following Statement of Facts is incorporated by reference as part of the Deferred Prosecution Agreement (the “Agreement”) between the United States Attorney’s Office for the Southern District of Ohio and FirstEnergy Corp. FirstEnergy Corp. hereby agrees and stipulates that the following information is true and accurate. FirstEnergy Corp. admits, accepts, and acknowledges that it is responsible for the acts of its current and former officers, directors, employees, and agents. FirstEnergy Corp. admits, accepts, and acknowledges that it is responsible for the conduct set forth below.

FirstEnergy Corp. is an Akron, Ohio–based public utility holding company. During the relevant period (2016 until in or about February 2020), FirstEnergy Corp. was the parent company to entities involved in energy generation, including the entity formerly known as FirstEnergy Solutions (“FES”). As of November 16, 2016, FES had a separate and independent Board of Directors from FirstEnergy Corp., and on March 31, 2018, FES filed for Chapter 11 bankruptcy protections. FirstEnergy Corp. also serves as the parent company for FirstEnergy Service Company (“FirstEnergy Service”), which provided financial and other corporate support services to FirstEnergy Corp. and its subsidiaries.

FirstEnergy Corp. and its subsidiaries are subject to civil enforcement by the Securities and Exchange Commission (“SEC”), and are regulated directly by the Federal Energy Regulatory Commission (“FERC”), which is an independent agency within the United States Department of Energy (“DOE”). FirstEnergy Corp.’s Ohio utility subsidiaries are regulated directly by the Public Utilities Commission of Ohio (“PUCO”).

**I. Relevant Entities and Individuals**

Executive 1 served in senior executive positions for FirstEnergy Corp. and FirstEnergy Service from approximately 2015 to October 2020.

Executive 2 served in a senior executive position from approximately 2011 until October 2020.

Partners for Progress, Inc. was incorporated in Delaware on or about February 6, 2017, weeks after certain FirstEnergy Corp. senior executives traveled with Public Official A on the FirstEnergy Corp. jet to the presidential inauguration in January 2017. On or about February 8, 2017, Partners for Progress registered as a foreign nonprofit corporation in Ohio, specifically as a 501(c)(4) entity “to engage in activities consistent with those permitted of an organization exempt from tax under Section 501(c)(4) of the Internal Revenue Code....”

Although Partners for Progress appeared to be an independent 501(c)(4) on paper, in reality, it was controlled in part by certain former FirstEnergy Corp. executives, who funded it and directed its payments to entities associated with public officials. For example, FirstEnergy Corp. executives directed the formation of Partners for Progress and decided to incorporate the entity in Delaware, rather than Ohio, because Delaware law made it more difficult for third parties to learn background information about the entity. Certain FirstEnergy Corp. executives were also involved in choosing the three directors of Partners for Progress, two of whom were FirstEnergy Corp. lobbyists. Before Partners for Progress was formally organized, Executive 2 directed that \$5 million be designated for an unnamed 501(c)(4) in December 2016.

FirstEnergy Corp. exclusively funded Partners for Progress through payments from FirstEnergy Service, which totaled approximately \$25 million between 2017 and 2019, approximately \$15 million of which was paid to Generation Now. Certain former FirstEnergy

Corp. executives directed Partners for Progress to make payments in 2018, 2019, and 2020, including payments to Generation Now, which helped conceal FirstEnergy Corp. as the source of the payments from the public.

Public Official A represented the State of Ohio's 72 District in the Ohio House of Representatives since January 2017. Public Official A served as the Speaker of the Ohio House of Representatives from January 7, 2019 to July 30, 2020.

Between 2017 and March 2020, FirstEnergy Service paid more than \$59 million (\$16,904,330.86 attributed to FirstEnergy Corp. and \$43,092,505 attributed to FES) to Generation Now – a purported 501(c)(4), which FirstEnergy Corp. knew was operated for the benefit of and controlled by Public Official A, upon its inception in early 2017. For example, on March 7, 2017, Individual A emailed wiring instructions for Generation Now to Executive 2, noting that “[t]his is the organization that [Executive 1] and [Public Official A] discussed.” In response, Executive 2 forwarded the email internally, and carbon copied Individual A, stating, “Let’s do \$250,000 asap and we will do \$1M by year-end 2017.” Similarly, on August 1, 2017, Executive 2 asked, “Are we at \$500k for the c(4) now?” to which Individual A replied, “Yes.”

Public Official B was the Chairman of the Public Utilities Commission of Ohio (“PUCO”) from April 2019 until November 21, 2020, when he resigned. PUCO regulates FirstEnergy Corp.’s Ohio utility subsidiaries. Prior to serving as the Chairman of PUCO, Public Official B worked for a private law firm and served as the general counsel for an industrial group of energy users whose interests often conflicted with FirstEnergy Corp.’s interests. Public Official B also was the sole owner of Company 1 and Company 2, both of which entered a contract with FirstEnergy Corp. in 2010. Public Official B, through Company 1, also entered into a consulting services agreement with FirstEnergy Corp., through FirstEnergy Service, in 2013. Between 2010 and January 2, 2019,

FirstEnergy Corp. paid the Company 1 and Company 2 over \$22 million, including \$4,333,333, which was wired on or about January 2, 2019, through FirstEnergy Service to Company 1 for Public Official B's benefit.

## **II. Conduct**

FirstEnergy Corp., through the acts of its officers, employees, and agents, conspired with public officials and other individuals and entities to pay millions of dollars to and for the benefit of public officials in exchange for specific official action for FirstEnergy Corp.'s benefit.

FirstEnergy Corp. paid millions of dollars to Public Official A through his 501(c)(4), Generation Now, in return for Public Official A pursuing nuclear legislation for FirstEnergy Corp.'s benefit in his capacity as a public official. Use of 501(c)(4) entities was central to the scheme because it allowed certain FirstEnergy Corp. executives and co-conspirators to conceal from the public the nature, source, and control of payments to and for the benefit of Public Official A.

FirstEnergy Corp. paid \$4.3 million dollars to Public Official B through his consulting company in return for Public Official B performing official action in his capacity as PUCO Chairman to further FirstEnergy Corp.'s interests relating to passage of nuclear legislation and other specific FirstEnergy Corp. legislative and regulatory priorities, as requested and as opportunities arose.

Primary among FirstEnergy Corp.'s priorities was the passage of nuclear legislation. FirstEnergy Corp. sought official action from Public Official A and Public Official B in the form of helping draft nuclear legislation that would further the interests of FirstEnergy Corp. and FES and by pressuring and advising public officials to support nuclear legislation for FirstEnergy Corp.'s and FES's benefit. FirstEnergy Corp. prioritized nuclear legislation in part because of the

“decoupling” provision in House Bill 6 that was pursued by FirstEnergy Corp., along with FirstEnergy Corp.’s interest in bailing out the Ohio nuclear plants. The decoupling provision allowed FirstEnergy Corp.’s Ohio electric distribution subsidiaries to receive a fixed amount of distribution-related revenue from residential and commercial customers based on the 2018 collection period, which was a year of high electricity sales for FirstEnergy Corp. In addition, the decoupling provision enacted by House Bill 6 allowed FirstEnergy Corp. to continue to recover lost distribution revenue (“LDR”) in a fixed amount based on its 2018 LDR recovery, despite the elimination of energy efficiency programs in House Bill 6. Decoupling therefore would guarantee FirstEnergy Corp.’s Ohio electric distribution subsidiaries a fixed amount of revenue by tying its distribution revenue to the 2018 level and continued collection of LDR.

FirstEnergy Corp. also relied on Public Official B to help FirstEnergy Corp. address its concern that the future earning power of its Ohio utility subsidiaries would be negatively impacted by the rate distribution case scheduled for 2024. The electric security plan (“ESP”) that FirstEnergy Corp. and its relevant entities were operating under—ESP IV—was set to terminate in 2024, at which time FirstEnergy Corp. would be required to file a new rate case. FirstEnergy Corp. believed that the expiration of ESP IV and filing of the new rate case in 2024 would result in decreased revenue and negatively impact FirstEnergy Corp.’s financial outlook, and therefore, sought a *“fix for the Ohio hole.”* In November 2019, under Public Official B’s leadership, PUCO terminated the requirement of FirstEnergy Corp.’s Ohio electric distribution subsidiaries to file a new rate case in 2024.

#### **A. Relevant Background**

In 2016, FirstEnergy Corp. reported a bleak outlook with respect to its energy generation business. In its November 2016 Form 10-Q, FirstEnergy Corp. reported a weak energy market,

poor forecast demands, and hundreds of millions of dollars in losses, particularly from its nuclear energy affiliate, FES. FirstEnergy Corp. announced future options for its generation portfolio as follows: legislative and regulatory solutions for generation assets; asset sales and plant deactivations; restructuring debt; and/or seeking protection under U.S. bankruptcy laws for its affiliates involved in nuclear generation. FirstEnergy Corp. repeated these options in its 10-K filed on February 21, 2017 and reported a “*substantial uncertainty as to FES’ ability to continue as a going concern and substantial risk that it may be necessary for FES, and possibly FENOC, to seek protection under U.S. bankruptcy laws, which would have a material adverse impact on FirstEnergy’s and FES’ business, financial condition, results of operations and cash flows.*” FirstEnergy Corp. further noted that,

*[b]ased upon continued depressed prices in the wholesale energy and capacity markets, weak demand for electricity and anemic demand forecasts, FES’ cash flow from operations may be insufficient to repay its indebtedness or trade payables in the long- term. Although management is exploring capital and other cost reductions, asset sales, and other options to improve cash flow as well as continuing with legislative efforts to explore a regulatory type solution, the obligations and their impact to liquidity raise substantial doubt about FES’ ability to meet its obligations as they come due over the next twelve months and, as such, its ability to continue as a going concern.*

During FirstEnergy Corp.’s fourth-quarter 2016 earnings conference call on February 22, 2017, Executive 1 focused on legislative and regulatory efforts:

*In Ohio, we have had meaningful dialogue with our fellow utilities and with legislators on solutions that can help ensure Ohio’s future energy security. Our top priority is the preservation of our two nuclear plants in the state and legislation for a zero emission nuclear program is expected to be introduced soon. The ZEN program is intended to give state lawmakers greater control and flexibility to preserve valuable nuclear generation. We believe this legislation would preserve not only zero emission assets but jobs, economic growth, fuel diversity, price stability, and reliability and grid security for the region.*

*We are advocating for Ohio's support for its two nuclear plants, even though the likely outcome is that FirstEnergy won't be the long- term owner of these assets. We are optimistic, given these discussions we have had so far and we will keep you posted as this process unfolds.*

In 2017 and 2018, FirstEnergy Corp. attempted to seek relief for its nuclear power generation facilities through a federal solution for its energy generation business. To further a federal solution, certain FirstEnergy Corp. executives met with federal officials and hired consultants with close connections to federal officials to lobby and assist in securing official action to subsidize the nuclear and coal plants through DOE action and the FERC rulemaking process. FirstEnergy Service also approved a \$5,000,000 wire to a 501(c)(4) entity connected to federal official(s), on or about May 1, 2017, shortly after hiring a consultant with close connections to those federal official(s).

By the fall of 2018, FirstEnergy Corp. believed the federal government may not take FirstEnergy Corp.'s requested action. Accordingly, while FirstEnergy Corp. continued conversations about a potential federal solution, they focused on a state solution to save the Ohio nuclear power plants.

## **B. Public Official A**

### ***The State Solution for the Nuclear Plants***

At the same time FirstEnergy Corp. had been pursuing a federal solution for its Ohio nuclear power plants, FirstEnergy Corp. was pursuing state legislation in Ohio to save the power plants through help from Public Official A, including the ZEN (Zero-Emissions Nuclear Resource Program) energy proposals outlined in House Bill 178, Senate Bill 128, and House Bill 381 in 2017, which failed to gain the support necessary for passage before Public Official A became Speaker in 2019. For example, on or about November 5, 2016, Executive 1 told Individual B,

*“Pass on to [Public Official A]. When we were talking on Weds I told him there was gonna be a sense of urgency but couldn’t tell him all the details. If we don’t move on some type of supplant in first half of 2017 it will be too late. These plants will be shut, sold, or bankrupt. I don’t have any contact info for him.”*

Central to FirstEnergy Corp.’s state solution strategy was payments for Public Official A’s benefit to Generation Now, which was Public Official A’s 501(c)(4), as Public Official A pursued the Ohio House Speakership. The FirstEnergy Corp. payments began in 2017, as Public Official A began executing his strategy to regain the Speakership. This was consistent with the strategy that Executive 2 had outlined in an internal presentation, explaining that 2017 political contributions are *“strictly money spent to influence issues of key importance to FirstEnergy in 2017, such as saving our baseload generation”* and that FirstEnergy Corp.’s *“preferred manner of giving is through section 501(c) groups, as these are considered ‘dark money’ because they are not required to disclose where the donations come from.”* The presentation noted that *“the bulk of our contribution decisions are to c(4)s.”*

In furtherance of its strategy, in 2017, FirstEnergy Corp., through FirstEnergy Service, wired \$1,000,000 to Generation Now consisting of four quarterly payments for Public Official A’s benefit, following Public Official A’s trip to Washington D.C. with certain FirstEnergy Corp. executives for the inauguration. These payments were intended to contribute to Public Official A’s power and visibility for the speakership and allowed him to support other candidates who would in turn support his speakership.

In return, FirstEnergy Corp. expected and intended that Public Official A and his team would further FirstEnergy Corp.’s efforts to save the power plants. Throughout 2017, FirstEnergy Corp. executives discussed with members of the Public Official A team ways in which Public

Official A could assist with FirstEnergy Corp.'s efforts to save the nuclear power plants.

FirstEnergy Corp. continued to contribute to Generation Now to assist Public Official A in winning the speakership but changed its method of payment in 2018. Rather than send the money directly from FirstEnergy Service to Generation Now, the FirstEnergy Corp. payments came from Partners for Progress, which had been fully funded by FirstEnergy Corp. On or about March 15, 2018 – two weeks before FirstEnergy Corp. subsidiaries filed for bankruptcy protection and FirstEnergy Corp. requested emergency action from the Department of Energy – FirstEnergy Corp. wired \$300,000 from Partners for Progress to Generation Now for Public Official A's benefit. Four days before the payment, Executive 1 met with Public Official A to “[d]iscuss Speaker race and votes needed.” Likewise, certain FirstEnergy Corp. executives wired \$100,000 from Partners for Progress to Generation Now on or about May 4, 2018, four days before the Ohio primary election.

FirstEnergy Corp. also sent approximately \$400,000 for Public Official A's benefit, at Public Official A's request, through another 501(c)(4) in late April 2018, which through a series of transactions ultimately paid approximately \$400,000 for media benefiting Public Official A before the May 2018 primary.

FirstEnergy Corp. continued to fund Public Official A's campaign for Speaker leading up to the fall 2018 election. On August 5, 2018, Executive 1 asked Executive 2, “[Is] [Public Official A] looking for more money?” to which Executive 2 responded, “You know the answer to the [Public Official A] question, but I don't know for how much he'll ask. I'll get a list from [Ohio Director of State Affairs] as to the House races he's most interested in winning and I'll have something for you as to what fepac is doing in those races. He'll want hard money first and then C(4) money for sure. I'll be back to you today.” Later that day, Executive 2 followed up and said, “[Public Official A] wants to hear about us – status of company, what's important to us this year

*and next year. Money will come up – help with key races and C(4).*” Following a meeting involving Executive 1 and Public Official A, on or about August 16, 2018, FirstEnergy Corp. wired \$500,000 from Partners for Progress to Generation Now for Public Official A’s benefit.

A few weeks later, on or about August 24, 2018, Executive 1 and Executive 2 arranged for Public Official A to attend a presidential roundtable, during which Public Official A would ask whether Federal Official 1 intended to fix FirstEnergy Corp.’s issues at the federal level. Public Official A told Ohio Director of State Affairs, *“I simply said [Federal Official 1], I’m [Public Official A] former Ohio Speaker and I was planning on discussing this in the Roundtable but the acoustics were horrible. He said yes they were – I couldn’t really hear much of anything – I then stated that his support in replacing the CPP was beneficial to Ohio but we need more in order for our zero emissions nuclear plants and coal fired facilities to remain an important part of our overall energy solution. He then stated that he had put a plug in it and now plans to fix it.”* Public Official A reported the same information to Executive 1, explaining that *“I opted to talk to him during the photo opt one on one”* and that *“He said they plan on fixing it.”* The following exchange then occurred:

Executive 1: *“Got it. Thanks for the help!”*

Public Official A: *“Thank you for your help.”*

Executive 1: *“We are rooting for you and your team!”*

Public Official A: *“I’m rooting for you as well . . . we are on the same team”*

In October 2018, FES paid Generation Now another \$500,000 for Public Official A’s benefit – \$400,000 of which was hand-delivered to Public Official A during an in-person meeting on or about October 10, 2018. On October 2, 2018, about a week before the payment, Executive 2 told Executive 1, *“I know you know this, but this is where companies and people get in political*

*trouble – everyone is in a rush and they all need a ton of hel\$\$. Let me gather everything. I'll bring it to you and you/we can decide.*” On October 10, 2018, the day of the meeting, Executive 1 texted Executive 2, *“FES meeting with Public Official A today. I told him to be nice but listen to us.”* Executive 2 replied, *“He'll learn about the \$400k at this mtg.”* Executive 1 then responded, *“They better get it done quick or he won't be able to spend it.”* Following the meeting, Public Official A thanked Executive 1 via text for the money from FES, stating, *“\$400k... thank you.”*

In addition to the \$500,000 directly from FES to Generation Now in October 2018, FirstEnergy Corp. made a \$500,000 electronic transfer of funds to Dark Money Group 1 for Public Official A's benefit on October 29, 2018, a few days before the November election. This funds transfer occurred after Public Official A traveled to Akron to meet with Executive 1 on October 23, 2018.

Following the October 23, 2018 meeting, FirstEnergy Corp., through Executive 1 and Executive 2, also persuaded other energy-interested companies to send payments to Dark Money Group 1 to support Public Official A. For example, following the meeting with Public Official A, Executive 2 texted Executive 1, *“I talked to [Company Executive C]. He's going to contribute \$100k to our effort with [Dark Money Group 1]. As for your [ ] Friday morning message to [CEO of Company B]: . . . I met with [Public Official A] a few days ago. We believe in [Public Official A] and think he can and will be Ohio's next Speaker. That's important to all of us. He has a need for a final push. We've committed \$700k to the effort and I'd like to ask for your help with \$100k.”* A few days later, on October 26, 2018, Executive 2 asked Executive 1 if he could call CEO of Company B *“on the [Public Official A] \$100k matter?”* Executive 1 responded, *“I'm on it.”* Executive 2 texted Executive 1 later the same day indicating that Company B is going to do *“\$100k.”* Executive 1 responded that *“[Company B Executive]”* should *“take credit with Public*

*Official A too*” and later that day indicated that *“the money has already been wired.”* In total, following Public Official A’s October 23, 2018 trip to Akron to meet with Executive 1, the following payments were made to Dark Money Group 1:

October 26, 2018	\$100,000	wire	Company B
October 29, 2018	\$500,000	EFT	FirstEnergy Service
October 29, 2018	\$100,000	check	CEO of Company C

The day before the November 2018 general election, Executive 1 texted Public Official A, asking, *“24 hours left. How’s it looking?”* Public Official A responded, *“I am encouraged by the House races. Unless this blue wave shows up in the some races – I think we look great.”*

On November 7, 2018, the day after the election, Executive 1 texted Public Official A and asked, *“How did your candidates do?”* Public Official A responded that *“we were a net -4.”* Public Official A told Executive 1 that *“I literally need 1 more vote for Speaker.”* Executive 1 asked if Public Official A was *“counting [Representative 11] or not?”* and stated that, *“I’ll make sure it happens.”* Later that day, Public Official A asked Executive 1 *“if you would just ask [Individual C] to set up a meeting w me and engage in getting this Spkrs race worked out [sic] so the way we want it. That would be perfect. Need him to focus.”* Executive 1 responded, *“On it.”*

FirstEnergy Corp.’s plan to fund Public Official A-approved House races through payments to Generation Now to help get Public Official A elected Speaker in return for introducing nuclear legislation was successful. On January 7, 2019, the Ohio House of Representatives selected Public Official A as Speaker. The day of his election, Public Official A texted Executive 1: *“[t]hank you for everything it was historical.”* In a separate text exchange that day, Individual C texted Executive 1, Executive 2, and two FE lobbyists, *“Congrats [Executive 1] and [Executive 2]. Big win in Ohio Speaker vote,”* and then, *“2019 could be FE’s year.”* Executive 1 responded,

*“Hate to say this but we still need to get DOE help for plants so we can use Ohio to help the parent.”*

### ***Passage of House Bill 6***

Following Public Official A’s election as Speaker, FirstEnergy Corp. executives and representatives worked directly with Public Official A in drafting the nuclear legislation leading up to House Bill 6’s introduction in the House. FirstEnergy Corp. sought the nuclear legislation both for the interests of its subsidiaries, including FES, and to further the interests of the FirstEnergy Corp. parent company.

From when House Bill 6 was introduced in April 2019 to October 2019, FirstEnergy Corp. worked directly with FES to support Public Official A through payments to Generation Now with the intent and for the purpose that, in return, Public Official A would take specific official action relating to the passage of House Bill 6 and the defeat of the ballot referendum initiative to overturn House Bill 6. FirstEnergy Corp. paid the money to Public Official A through Generation Now intending to influence and reward Public Official A in connection with passage of House Bill 6 and defeating the ballot referendum.

During that period, FES paid over \$40 million through wire transfers to Generation Now for Public Official A’s benefit, while FES was involved in bankruptcy proceedings. In addition, FirstEnergy Corp. paid over \$13 million through wire transfers from Partners for Progress to Generation Now during this period.

Money paid from FirstEnergy Corp. to Generation Now in April 2019 through October 2019 was intended to benefit Public Official A; was intended to help Public Official A in his campaign to pressure and advise public officials to support passage of House Bill 6; and was intended to help Public Official A’s efforts to defeat the ballot referendum, which included a plan

to pass alternate legislation if the proponents of the ballot referendum gained enough signatures to put the repeal of House Bill 6 on the ballot for a referendum. Certain FirstEnergy Corp. executives knew that the money paid to Generation Now was controlled by Public Official A and was for Public Official A's benefit to use as he directed. Public Official A and his team instructed how much money to pay into Generation Now to further their efforts to pass House Bill 6 and to defeat the ballot referendum. A purpose of the Generation Now ads was to provide legislators with the necessary cover to support House Bill 6.

For example, following opponent testimony in a House subcommittee that challenged House Bill 6 on April 23, 2019, Executive 2 told Executive 1, "*Today was opponent testimony. Went long. Expected stuff. Tell [Public Official A] to put his big boy pants on. Ha.*" Later that day, Executive 1 forwarded Executive 2 the content of a message from Public Official A that read, "*I hope FES is ready for a fight because the first shot was fired at us tonight. Nobody screws with my members ... my name ain't [Representative 10] or [Representative 1]. I asked [Individual D] to make ads this morning.*" Executive 1 then texted Executive 2, "*FES Needs [sic] to pay for these ads,*" explaining, "*they can spend some money on the real fight.*" Executive 1 later texted Public Official A, "*I will be pushing FES to engage,*" and then followed up, "*I'll talk to FES tomorrow about paying for [the ads.] What kind of budget.*" Public Official A responded, "*I'll find out – I'd like to blister Columbus and eastern Ohio where the shale play is.*"

The next day, Executive 1 texted Public Official A, "*Spoke to FES creditor rep. They will step in and help.*" Public Official A responded that he is having breakfast with Individual A to discuss and will call Executive 1 after they meet. Public Official A responded to Executive 1, "*I may want to run things past [Individual A] to make sure [Individual D] doesn't overcharge. I'm cheap.*" Executive 1 replied to Public Official A, "*OK. I would say you are a bargain – not cheap.*"

On May 1, 2019, FES Executive A texted Executive 2, *“Can someone change the Generation Now website so it looks more like our positive commercial? Less conventional power plants, more blue skies, fields and some wind turbines.”* Executive 2 responded, *“[FES Executive A] – don’t disagree, but remember, you’re just the bank for these spots. They’re not yours if you know what I mean. You change them, and they’re yours – along with the criticism and results.”*

Specific official action by Public Official A relating to the passage of House Bill 6 included helping draft the nuclear bailout legislation at FirstEnergy Corp.’s and FES’s direction and pressuring and advising other public officials to take official action to support the nuclear legislation. While House Bill 6 was pending, FirstEnergy Corp. sought from Public Official A specific official action in the form of pressuring and advising other officials to support the “decoupling” provision supported by FirstEnergy Corp. and to support an extension of the term of the nuclear subsidy duration to ten years.

For example, on April 15, 2019, three days after Public Official A introduced House Bill 6, Executive 2 emailed Executive 1 and several other FirstEnergy Corp. executives and employees about *“talking points”* for *“educating legislators”* relating to the *“decoupling language which we proposed be included in the recently-introduced Ohio Clean Energy Bill (House Bill 6).”* In the same email chain, Executive 2 made clear that the decoupling language in House Bill 6 was the result of coordination with the Speaker’s office.

In a May 4, 2019 text message, Public Official A told Executive 1 he needed information about FirstEnergy Corp. *“[a]s I begin to enter into the ‘all out war’ part of the HB 6 debate,”* so that Executive 1 could help Public Official A *“shap[e] an argument”* in gaining support for House Bill 6.

On June 27, 2019, while House Bill 6 was pending in the Senate, Public Official A texted Executive 1 that “*House / Senate negotiations are occurring.*” Executive 1 responded, “*Negotiate hard. 10 years and decoupling back in!*” Public Official A then replied, “*10 years?*”; “[*FES Executive B*] told me \$148M for 6yrs was what was necessary.” Executive 1 then responded, “*I was told you knew about it. They fucked up. You’ll be fighting this same issue in 5 years because they will not be able to take it public without more years.*” Executive 1 later told Public Official A, “*You don’t want to have to deal with this twice as Speaker.*”

On July 13, 2019, Executive 1 texted Executive 2 and FES Executive A that he told Public Official A “*why 10 years is a must*” and Public Official A is “*on board with pushing HB6 to 10 if he can.*”

On July 16, 2019, FES Executive A texted Executive 1 and Executive 2, “*Speaker is saying he needs at least a little help from Governor to get our years increased.*” The next day, FES Executive A again texted Executive 1, “*House doesn’t have quite enough votes,*” to which Executive 1 responded, “[*Public Official A*] is negotiating. I’m in the loop.” Later that day, Executive 1 texted Executive 2, “*Some big concessions by the speaker on the budget. Hopefully he did a little horse trading along the way.*” That day, Executive 2 texted Executive 1 and FES Executive A, “*HB 6 passed Committee (with decoupling). 9-4 vote. No additional years for FES – 7 years.*” HB 6 then went back to the House for a vote on the Senate’s amendments to the bill, and Executive 2 texted Executive 1, “*Now I’m hearing the Speaker is scrambling for one vote.*”

On July 17, 2019, FES Executive A pleaded to Executive 1 that, “*If we only end up w the 7 years I will do exactly as you say, which is say thank you and go back to my nose on the grindstone,*” but, FES Executive A continued, “[*t*]hat said, is there anything we can do to get another year or 2? If that is not feasible and all hope is lost, can we get a 2 or 3 year extension

*option at year 7? We could base it on some type of test of whether FERC has given subsidies etc.”*

Executive 1 responded FES Executive A: “[State Official 2], [Public Official B], [Company C Executive] and [Official Aide 1] are fighting to the end and we’ve been talking to them all day. Conference on budget is ongoing and Speakers [sic] delegation is gonna try to negotiate budget movement for tenure on HB6. Everything that can be done is being done. If we don’t get it, we work to pass an addendum as soon as [Senator 3] is out.”

On July 23, 2019, the day that House Bill 6 was signed into law with the decoupling provision included, Executive 2 texted Executive 1 a screenshot showing House Bill 6 passing with 51-38 votes, and the following conversation occurred:

Executive 2: *Boom! Congrats. This doesn’t happen without ceo leadership.*

Executive 2: [Image of House vote]

Executive 1: *We made a bbbiiiiiiig bet and it paid off. Actually, 2 big bets. Congrats to you and the entire team! See if [name] has any Pappy and we’ll all head to Columbus tonight.*

Executive 2: *Huge bet and we played it all right on the budget and HB 6 – so we can go back for more!*

Executive 2: *No party tonight. We are going to plan one with the Speaker later.*

Executive 2: *You should call the Speaker today.*

Executive 1: *Already texted him...*

### ***Defeating the Ballot Referendum***

FirstEnergy Corp. and FES agreed to pay millions of dollars to Public Official A through payments to Generation Now in return for and in connection with Public Official A’s efforts to defeat the ballot referendum, which included specific official action by Public Official A. Specific official action agreed to included efforts by Public Official A to have House Bill 6 interpreted as a “tax” such that it could not be challenged through a ballot referendum under law; and, if the ballot initiative gained enough signatures to put the referendum of House Bill 6 on the ballot, to

advance alternate legislation by Public Official A, to include making clear that House Bill 6 was a tax and thus could not be challenged through a ballot referendum.

For example, on July 16, 2019, prior to passage of House Bill 6, Executive 2 texted Official Aide 1 that he “[j]ust remembered some language added late to House version to help make it harder to challenge via referendum. Speaker worked with fes on it. Senate probably took it out and now folks want it back in.”

On July 24, 2019, FES Executive A texted to Executive 2: “[Individual H], [FES Executive C] and myself are point on referendum. He has a mtg w [sic] Speaker on it tomorrow. I am talking to Speaker later today . . .” Executive 2 later responded, “I’m very concerned about the referendum.” FES Executive A replied, “We are taking [Public Official A’s] lead on fighting the referendum.” FES Executive A replied further, “Am I supposed to go against what [Public Official A] is telling us to do?” Two days later, Executive 2 texted FES Executive A, “I had a good conversation with [Public Official A] today re: the referendum issue. I think you’re in excellent hands. I know more about his personal involvement and engagement. We should all be following his lead. I know you/fes are and we will as well.”

On September 4, 2019, Executive 2 told Executive 1 he intended to take steps to convince another Ohio public official to publicly state that House Bill 6 was a tax because, under Ohio law, a tax would not be subject to a ballot referendum. In response, Executive 1 texted Executive 2, “We should check with [Public Official A] to make sure he’s on board with this before we step in. He seemed pretty confident in his referendum strategy and plans to pass it as a tax in a new bill if they get enough signatures. Just want to make sure he agrees.”

To further the scheme, FirstEnergy Corp. used Partners for Progress, a 501(c)(4) controlled

by and operating for the benefit of FirstEnergy Corp., to conceal payments to Public Official A. In October 2019, FirstEnergy Corp. paid \$10 million (October 10, 2019) and \$3 million (October 22, 2019) to Generation Now for Public Official A's benefit by first wiring the money through Partners for Progress rather than paying the money to Generation Now directly. FirstEnergy Corp. paid the \$13 million at Public Official A's and FES's request, knowing and with the intent that the money was in return for Public Official A's efforts to defeat the ballot referendum and ensure House Bill 6 became law, to include specific official action for alternate legislation if the ballot referendum received enough signatures to get on the ballot.

For example, on October 9, 2019, Executive 1 texted FES Executive A, *"Just got word the \$ is being wired today. \$10M."* Executive 1 told Executive 2, *"I did speak with Public Official A and he says they need it and will spend it. Talked to him about future and he says the future is now. He understands it's not our issue and truly appreciates the support."* In exchange for Executive 1's agreement to wire the \$10 million to Public Official A, FES Executive A promised Executive 1 that FES would pay additional funds in connection with the transfer of real estate to FirstEnergy Corp. after FES's bankruptcy.

On October 19, 2019, a few days before the ballot referendum's signatures were due, Executive 1 texted Executive 2 and FES Executive B, *"Just spoke to the big guy. He's got the 'tax' bill ready to go and believes he's got [Senator 3] on board...."* FES Executive B responded, *"That is good news. Having both [Public Official A and Senator 3] on board and ready is critical for us next week to be ready to deal with the outcome of the signatures and the court."* Executive 2 also texted Executive 1, *"I wish we had this state and federal team in place when we first started our generation push. Darn it."*

On October 23, 2019, Executive 1 texted FES Executive A: *"You are a worrier but then*

*it's a pretty big deal. For what it's worth [State Official 3] and [Public Official A] think it's game over. But that's private conversation unless they've told you the same thing. And [Public Official A] has a 'quick fix' anyway."* Executive 1 went on, *"he and I have been chatting too. More about raising him \$\$\$\$."*

***Public Official A's Term Limit Ballot Initiative***

In February 2020, Public Official A and his team approached FirstEnergy Corp. about funding a ballot initiative championed by Public Official A, which would change Ohio law to increase term limits for Ohio public officials. The term limit initiative would allow Public Official A to potentially remain in power as Speaker for up to sixteen additional years, which would give Public Official A additional time as Speaker to further FirstEnergy Corp.'s interests through official action.

For example, on February 28, 2020, Executive 1 and Individual B had the following conversation:

Executive 1: . . . . *Talked to Speaker today. He's an expensive friend* 😂

Individual B: *I did not know what he wanted to talk to you about.* 😐

Executive 1: *His term limit initiative. 16 years lifetime max in legislature starting when it passes. No need to switch houses. But after 16 your [sic] done for good.*

Individual B: *I think it's a great idea especially if he stays there*

Executive 1: *He told me he'll retire from there but get [sic] a lot done in 16 more years.*

Individual B: *Probably more than five previous Speakers combined*

Individual B: *He will make Ohio great again*

Executive 1: *Yep*

The next day, Executive 1 texted Public Official A, “*Work with [Individual A] on ballot initiative? You coming up for Home Opener?*” Public Official A responded, “*Yes. I haven’t thought much about Opening Day yet.*” Executive 1 later texted Public Official A, “*[Executive 2] is contacting [Individual A] to do 2 early next week,*” to which Public Official A responded, “*Very much appreciated.*” In text message exchanges the next day, Executive 2 stated, “*On Monday/Tuesday of next week, we are hoping to do a \$2M contribution from our C(4) to Generation Now*”; and “*[w]e are going to make a significant contribution to Generation Now from Partners for Progress next Monday/Tuesday.*” Executive 2 stated in a subsequent message that Public Official A’s term limit initiative “*extends and stabilizes existing leadership – good for the home team.*”

On March 2, 2020, FirstEnergy Corp. paid \$2 million to Public Official A by wiring the money from FirstEnergy Corp.’s 501(c)(4), Partners for Progress, to Public Official A’s 501(c)(4), Generation Now, to advance Public Official A’s term limits initiative.

### **C. Public Official B**

#### ***FirstEnergy Corp.’s Consulting Agreement with Public Official B***

Prior to December 2018, FirstEnergy Corp. made payments to Public Official B pursuant to agreements with Public Official B through Company 1. The payments were made from FirstEnergy Service to Company 1’s bank account, in part, for Public Official B’s benefit.

A 2013 consulting agreement was subsequently amended in 2015. The 2015 amendment coincided with and was made in exchange for Public Official B’s industrial group withdrawing its opposition to a 2014 PUCO Electric Security Plan settlement package involving FirstEnergy Corp.’s Ohio electric distribution subsidiaries. The amended agreement called for an increase in

Public Official B's retainer and supplemental payments through 2024. Although the amended agreement does not appear to have been executed, from 2015 through June 2018, FirstEnergy Corp. paid into the Company 1 account pursuant to the terms of the agreement with Public Official B. Invoices from Company 1 were structured to bypass FirstEnergy Corp.'s Level of Signature Authority levels for purposes of internal approval of the payments.

In January 2019, Public Official B received a payment of \$4,333,333, which represented the remaining payment amounts designated in the amended consulting agreement from 2019 through 2024. FirstEnergy Corp. was under no legal obligation to make the payment at that time.

***Public Official B as PUCO Chairman***

FirstEnergy Corp. paid the entire \$4,333,333 to Company 1 for Public Official B's benefit with the intent and for the purpose that, in return, Public Official B would perform official action in his capacity as PUCO Chairman to further FirstEnergy Corp.'s interests relating to passage of nuclear legislation and other specific FirstEnergy Corp. legislative and regulatory priorities, as requested and as opportunities arose.

In December 2018, Public Official B discussed the \$4,333,333 payment with Executive 1 and Executive 2. For example, on December 17, 2018, Public Official B emailed Executive 2 and others the announcement stating that PUCO was seeking applications for a commissioner. The next day, on December 18, 2018, Executive 1 and Executive 2 met with Public Official B at Public Official B's condominium. During the meeting at Public Official B's condominium, Executive 1, Executive 2, and Public Official B discussed the remaining payments under the consulting agreement and Public Official B's candidacy for the open PUCO chair position.

The next day, Public Official B texted Executive 1 and Executive 2 detailing the remaining payments under his consulting agreement with FirstEnergy Corp. from 2019 to 2024. The

payments totaled \$4,333,333. Public Official B added, *“Thanks for the visit. Good to see both of you,”* to which Executive 2 responded immediately, *“ Got it, [Public Official B]. Good to see you as well. Thanks for the hospitality. Cool condo.”*

Later that day, Executive 1 texted Public Official B and Executive 2, *“We’re gonna get this handled this year, paid in full, no discount. Don’t forget about us or Hurricane [Executive 1] may show up on your doorstep! Of course, no guarantee he won’t show up anyway.”* Executive 1 then attached an image of a venomous snake protruding from a hurricane. Public Official B replied, *“Made me laugh – you guys are welcome anytime and any whereI [sic] can open the door. Let me know how you want me to structure the invoices. Thanks.”* Public Official B then added, *“I think I said this last night but just in case – if asked by the administration to go for the Chair spot, I would say yes.”*

After meeting with Public Official B in December 2018 to discuss the payout and Public Official B’s candidacy for PUCO Chairman, certain FirstEnergy Corp. executives pushed to have Public Official B appointed as the PUCO Chairman. Under Ohio law, PUCO consists of five public utilities commissioners appointed by the governor with the advice and consent of the senate. The governor must designate one commissioner to be chairperson of PUCO, who serves at the governor’s pleasure. PUCO commissioners are selected from a list of individuals submitted to the governor by the public utilities commission nominating council. FirstEnergy Corp. executives’ efforts to have Public Official B appointed as PUCO Chairman included working directly to advance the appointment of Public Official B as PUCO Chairman so that Public Official B could further FirstEnergy Corp.’s interests in that role through official action. FirstEnergy Corp.’s plan was for Public Official B to be appointed to the open seat as PUCO Chair and another individual appointed to a second projected opening on PUCO.

On January 2, 2019, FirstEnergy Service wired the \$4,333,333 to Public Official B's Company 1 bank account. That same day, Executive 2 texted Executive 1:

*[Executive 1] - this text came to me this morning from [Public Official B]. His mtg with Gov.-elect is this Friday and I suspect, absent any problem, things will go down as we've discussed, with [Individual E] getting [PUCO Official 1]'s seat as soon as [PUCO Official 1] leaves. In any event, pls see [Public Official B]'s mssg re: meeting with us soon in Akron.*

*[Executive 2], I would like to come to Akron on 1/10, 1 /11, 1/14 or 1/15 to get a better understanding of the "hole" (size, shape, life expectancy and so on). Also, I would like to discuss a couple concepts that I landed on after our recent meeting. If [Executive 1] is available to discuss concepts, that would be a plus. If none of the above days work, get me a couple that do, please.*

Executive 1 responded with a date and time for meeting Public Official B, then stated: "So you're saying [Public Official B] as Chair and [Individual E] on later?" Executive 2 replied, "That's their plan, but nothing certain until [Public Official B]'s meeting. Four people in [State Official 1] world, you, [Public Official B] and I know about this."

Later that day, Executive 2 and Executive 1 discussed the upcoming meeting between Executive 1, Executive 2, and Public Official B further. Executive 2 asked Executive 1, "Is there anyone internally you'd like to include? I'll ask him about his location preference. My guess is that he's on point to figure out what we need and to report back as to how it should be/could be fixed." Executive 1 replied, "I think just you and me. Don't want too many on the inside right now. That's probably his preference also." Executive 2 then forwarded a text from Public Official B: "From [Public Official B]. Probably best if it is you and [Executive 1]. If more is required, I can follow up. I don't think that we will get into the weeds. That can come once we get comfortable with a conceptual framework."

On January 14, 2019, Executive 2 texted Executive 1 about the "Ohio hole," "extending

*our ESP,” among other things. Executive 2 then texted Executive 1 about the timing of what would become House Bill 6: “[Public Official B] was talking about the number of weeks needed for him to coalesce parties on the broad construct of an energy bill. Before introduction.” According to Executive 2, Public Official B estimated “the 6 to 8 week time frame to pull together (not necessarily pass) the legislative component assumes that the new administration makes the appointment ASAP and runs from the date of the appointment.”*

On January 18, 2019, Executive 1 texted Executive 2, “...Once [Public Official B] is announced, we need him to help with [Individual E]. Sounds like he already did but will need more.” Executive 2 responded, “[Individual F] told me that once [Public Official B] is in, [State Official I] will lean on him on everything including who should be the next commissioner.”

On January 28, 2019, at the same time certain FirstEnergy Corp. executives were lobbying to have Public Official B appointed PUCO Chair, Executive 2 texted Executive 1 about a solution to the Ohio “hole” and an update on Public Official B’s nomination: “[Executive I] – [Individual G] and I just finished a good meeting with [Public Official B] on the way to solve the 2024 issue. No one internal knows we met with him.” Executive 1 responded, “Any word on his status?” Executive 2’s reply indicated he spoke with State Official 2 and, “no decision but that he had a great conversation with Gov this morning.”

Days later, Executive 2 and Executive 1 became concerned that Public Official B would need to pull out of the PUCO selection process because a disclosure in connection with an FES bankruptcy filing indicated that Company 1 had received payments from FES. In response to the news, Executive 1 lamented in a text message to Executive 2 on January 31, 2019, “Great. Now we have none on the list.” Executive 2 responded, “This is awful.” Executive 1 then texted, “Back to legislative fix for Ohio hole.”

Later that day, however, their concern dissipated as Public Official B cleared the selection process. Executive 2 texted Executive 1, *“Nominating Council has been delayed and is now in Executive Session.”* Executive 2 later texted Executive 1, *“That bullet grazed the temple.”* Executive 1 responded, *“Forced [State Official 1]/[State Official 2] to perform battlefield triage. It’s a rough game.”* Minutes later, Executive 2 forwarded an email that read, *“[Public Official B] got the most votes.”* Executive 1 texted Public Official B the next day, *“Most of the media coverage is very fair. There will be some shots take but that’s inevitable. Hang in there til it’s done and it will quiet quickly.”*

The plan to get Public Official B appointed PUCO chairman was successful. On February 4, 2019, Public Official B’s selection as the Chairman of PUCO was announced. That day Executive 1 texted Company C Executive, *“Now work on the [Public Official B]/[Individual E] parlay. Once [Public Official B] is in he’ll help with [Individual E] and my Speaker friend will too.”* The next day, Executive 1 texted Public Official B, *“Congratulations!”* Public Official B responded, *“Thanks, [Executive 1] – the last four days have been tuff.”* Public Official B went on, *“Thanks goes to some great good friends.”*

The day Public Official B’s confirmation as PUCO became public, Company C Executive texted Executive 1: *“Let’s try not to fuck this up,”* while attaching an article announcing Public Official B was selected as the next PUCO Chair.

On or about February 13, 2019, Executive 2 told Public Official B, *“[Executive 1] is meeting with [Public Official A] today”* and asked him, *“Anything you think [Executive 1] should raise?”* Public Official B responded that *“We need coordination between executive and legislative branches to get sensible stuff over the goal line. Absent that, the current polarization will pull everything under.”*

***Official Action by Public Official B***

After his appointment as PUCO Chairman, Public Official B performed official action, including acts related to House Bill 6 and the elimination of FirstEnergy Corp.'s requirement to file a new base rate case in 2024, furthering FirstEnergy Corp.'s specific legislative and regulatory interests at the direction of and in coordination with certain FirstEnergy Corp. executives, as FirstEnergy Corp. requested and as opportunities arose.

For example, with respect to House Bill 6, on June 28, 2019, Executive 2 texted Executive 1, *"Just heard from [Public Official B].. [sic] decoupling looks good."* Executive 2 explained to FES Executive A on July 10, 2019, that Public Official B told Executive 2 regarding the *"audit issue"*: *"I am engaged and hope I can help."* Executive 2 went on, *"Having [Public Official B] engaged is key. He doesn't use the word lightly."*

On July 11, 2019, Executive 2 texted Executive 1: *"[Executive 1] – I had a long talk with [Public Official B] last night about audit language. He is mtg today with [Senator 4] and Senate Counsel. We have a good plan to help. Just wanted u to know your team is engaged and helping – and we will get it if we can keep fes from negotiating against themselves."*

On July 13, 2019, Executive 2 texted Executive 1 that he heard from Public Official B regarding *"the audit"* language, explaining, *"[Public Official B] thinks he has it nailed and the language works. Confidentially, [FES Executive B] agrees."*

On July 16, 2019, Executive 2 and Executive 1 texted relating to the status of House Bill 6 and the budget. The conversation went as follows:

*Executive 2: Budget conferees are meeting now - so the budget looks to be good to go (or they wouldn't be meeting). Our SEET language is in the bill. Still awaiting word on HB6 but our intel is that [Official Aide 1], [State Official 2] and [Public Official B]*

*are still trying to get fes some more years.*

Executive 1: *Decoupling?*

Executive 2: *Will be offered tomorrow by [Senator 5] with help from [Senator 6]. Stupid they're making her offer it, but we are convinced there's no monkey business. It's greased.*

About a week later, on July 23, 2019, House Bill 6 passed the legislature with the decoupling provision advocated by FirstEnergy Corp. That day, Executive 1 sent to Public Official B a photo-shopped image of Mount Rushmore with the face of Public Official B, alongside Executive 2, Ohio Director of State Affairs, and Company C Executive, imposed over the four presidential faces with the caption, “*HB 6 FUCK ANYBODY WHO AINT US.*” Public Official B commented that his picture was smaller than the others and then responded, “*funny.*”

In addition, at FirstEnergy Corp.’s request and direction, Public Official B performed official action to fix FirstEnergy Corp.’s “Ohio hole” through a PUCO opinion eliminating the requirement that FirstEnergy Corp.’s Ohio electric distribution subsidiaries file a new base rate case when ESP IV ended in 2024.

For example, on November 5, 2019, Executive 1 texted to Executive 2 an article published that day, in which Morgan Stanley projected low growth for FirstEnergy Corp. because of “*a rate case review in 2024.*” In his note accompanying the article, Executive 1 told Executive 2, “*Here’s the MS down grade due to the ‘Ohio hole.’*”

On November 10, 2019, Executive 1 texted Company C Executive, “*And, the FE rescue project is not over. At EEI financial conference. Stock is gonna get hit with Ohio 2024. Need [Public Official B] to get rid of the ‘Ohio 2024’ hole.*” A few days later, on November 15, 2019, Executive 2 texted Executive 1, “*I spoke with [Public Official B] today. Told me 2024 issue will be handled next Thursday (November 21).*” Executive 2 later texted, “*he’s going to make the*

*requirement to file go away, but I do not know specifically how he plans to do it.”*

On November 21, 2019, Executive 2 texted Executive 1, *“Today is our day for action on the 2024 issue.”* Executive 1 suggested that Public Official B make a *“public statement”* about the ruling, to which Executive 2 responded, *“On it.”* Later that day, PUCO issued a ruling that FirstEnergy Corp.’s Ohio electric distribution subsidiaries were no longer required to file a new rate distribution case in 2024. Executive 2 later texted Executive 1 the PUCO decision, which highlighted the following language from the Opinion and Order: *“we find that it is no longer necessary or appropriate for the Companies to be required to file a new distribution rate case at the conclusion of the Companies’ current ESP.”*

Pursuant to House Bill 6, part of FirstEnergy Corp.’s revenue would have been decoupled at least until its next base distribution rate case, which was scheduled for 2024. The November 21, 2019 decision by PUCO eliminated FirstEnergy Corp.’s Ohio electric distribution subsidiaries’ requirement to file its new rate distribution case at the conclusion of ESP IV in 2024. The November 21, 2019 PUCO decision addressed the 2024 “Ohio hole” by extending the time before the FirstEnergy Ohio utility subsidiaries were required to file a base rate case.

On November 22, 2019, approximately a day after PUCO’s rate case policy change benefitting the energy company, and the day after news of the decoupling rider application became public, Executive 1 thanked Public Official B via text message. Specifically, Executive 1 texted Public Official B an image showing FirstEnergy Corp.’s stock increase with a note that stated, *“Thank you!!”* Public Official B responded, *“Ha – as you know, what goes up may come down. [Name] helped. Thanks for the note. Spoke to [name] last night.”* Executive 1 replied, *“Every little bit helps. Those guys are good but it wouldn’t happen without you. My Mom taught me to say Thank you,”* to which Public Official B replied, *“Thanks.”*

On January 15, 2020, a few months later, it appeared that another commissioner would be appointed to PUCO in 2020. Public Official A texted Executive 1, “*Who do you like for this PUCO board appointment.*” That evening, Executive 1 texted Public Official A’s message to Executive 2: “*Who do you like for this PUCO board appointment*”; Executive 1 followed up, “*Got this from [Public Official A] a little while ago.*” Executive 1 then texted, “*But I think [Public Official B] wants the incumbent D re-upped because he’s very cooperative with [Public Official B].*” Executive 1 later told Executive 2, “*Tell [Public Official B] [Public Official A] asked me I [sic] my response was whoever [Public Official B] wants.*”

Executive 1 then texted Public Official A back as follows: “*[PUCO Official 2] is the commissioner who’s up this April. [Public Official B] likes [PUCO Official 2]. [Public Official B] has been outstanding. Approved our decoupling filing today and got a 5-0 vote including [PUCO Official 2], even though Staff bureaucrats wanted to modify HB 6 language.*” Public Official A responded, “*Very good.*” Public Official A then stated, “*I need to have my appointee to make recommendation for Gov. I will take care of it tomorrow.*”

In a March 4, 2020 text message exchange about possible future favorable action by Public Official B, Executive 1 summarized official action already performed by Public Official B at the request of FirstEnergy and stated: “*He will get it done for us but cannot just jettison all process.*” After describing certain acts taken by Public Official B, Executive 1 explained that there is “*a lot of talk going on in the halls of PUCO about does he work there or for us? He’ll move it as fast as he can. Better come up with a short term work around.*”

As set forth in the Corporate Officer's Certificate, I am duly authorized to execute this Agreement on behalf of FirstEnergy Corp. I have read the Statement of Facts and have carefully reviewed it with counsel for FirstEnergy Corp. and FirstEnergy Corp.'s Board of Directors. On behalf of FirstEnergy Corp., I acknowledge that the Statement of Facts is true and correct.

July 20, 2021

Date



Steven E. Strah, President & CEO  
FIRSTENERGY CORP.

July 20, 2021

Date



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**ATTACHMENT B:**  
**CORPORATE COMPLIANCE PROGRAM**

Recognizing the remedial measures undertaken by FirstEnergy Corp. set forth in the Deferred-Prosecution Agreement, FirstEnergy Corp. agrees to continue to conduct, in a manner consistent with all of its obligations under this Agreement, appropriate reviews of its existing internal controls, policies, and procedures and to address any deficiencies in its internal controls, compliance code, policies, and procedures regarding compliance with U.S. law.

Where necessary and appropriate, FirstEnergy Corp. agrees to modify its compliance program, including internal controls, compliance policies, and procedures to ensure that it maintains an effective system of internal accounting controls designed to ensure the making and keeping of fair and accurate books, records, and accounts, as well as policies and procedures designed to effectively detect and deter violations of U.S. law. At a minimum, this should include, but not be limited to, the following elements to the extent they are not already part of FirstEnergy Corp.'s existing internal controls, compliance code, policies, and procedures:

*High-Level Commitment*

1. FirstEnergy Corp. will ensure that its directors and senior management provide strong, explicit, and visible support and commitment to its corporate policy against violations of U.S. law and its compliance code.

*Policies and Procedures*

2. FirstEnergy Corp. will develop and promulgate a clearly articulated and visible corporate policy against violations of U.S. law, which policy shall be memorialized in a written compliance code.
3. FirstEnergy Corp. will develop and promulgate compliance policies and procedures designed to reduce the prospect of violations of U.S. law and FirstEnergy Corp.'s compliance code, and FirstEnergy Corp. will take appropriate measures to encourage and support the observance of ethics and compliance policies and procedures against violation of U.S. law by personnel at all levels of FirstEnergy Corp. These policies and procedures shall apply to all directors, officers, and employees and, where necessary and appropriate, outside parties including consultants and lobbyists acting on behalf of FirstEnergy Corp. FirstEnergy Corp. shall notify all employees that compliance with the policies and procedures is the duty of individuals at all levels of the company.
4. FirstEnergy Corp. will ensure that it has a system of financial and accounting procedures, including a system of internal controls, reasonably designed to ensure the maintenance of fair and accurate books, records, and accounts. This system should be designed to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and to maintain accountability for assets.

5. FirstEnergy Corp. will ensure that all contributions made to entities incorporated under 26 U.S.C. § 501(c)(4) (“501(c)(4)” entities) and all payments to entities operating for the benefit of a public official, either directly or indirectly, are reviewed and approved by a compliance officer trained to ensure such payments comport with company policy and U.S. law. In addition, the amount, beneficiary, and purpose of all such contributions and payments must be reported to the Board on a quarterly basis.

6. FirstEnergy Corp. will ensure that lobbying and consultant contracts are reviewed and approved by a compliance officer trained to evaluate whether the purpose of the contracts and payments made pursuant to the contracts comport with company policy and U.S. law.

7. FirstEnergy Corp. will ensure that its written compliance code prohibits billing and payment practices used to subvert internal controls.

#### *Periodic Risk-Based Review*

8. FirstEnergy Corp. will develop these compliance policies and procedures on the basis of a periodic risk assessment addressing the individual circumstances of FirstEnergy Corp. FirstEnergy Corp. shall review these policies and procedures no less than annually and update them as appropriate to ensure their continued effectiveness, taking into account relevant developments in the field and evolving international and industry standards.

#### *Proper Oversight and Independence*

9. FirstEnergy Corp. will assign responsibility to one or more senior corporate executives of FirstEnergy Corp. for the implementation and oversight of FirstEnergy Corp. compliance code, policies, and procedures. Such corporate official(s) shall have the authority to report directly to independent monitoring bodies, including internal audit, FirstEnergy Corp.’s Board of Directors, or any appropriate committee of the Board of Directors, and shall have an adequate level of autonomy from management as well as sufficient resources and authority to maintain such autonomy.

#### *Training and Guidance*

10. FirstEnergy Corp. will implement mechanisms designed to ensure that its compliance code, policies, and procedures are effectively communicated to all directors, officers, employees, and, where appropriate, agents and business partners including consultants and lobbyists. These mechanisms shall include: (a) periodic training for all directors and officers, all employees in positions of leadership or trust, positions that require such training (e.g., internal audit, sales, legal, compliance, finance, and government relations), and, where appropriate, agents and business partners including consultants and lobbyists; and (b) corresponding certifications by all such directors, officers, employees, agents, and business partners certifying compliance with the training requirements.

11. FirstEnergy Corp. will maintain, or where necessary establish, an effective

system for providing guidance and advice to directors, officers, employees, and, where necessary and appropriate, agents and business partners including consultants and lobbyists, on complying with FirstEnergy Corp.'s compliance code, policies, and procedures, including when they need advice on an urgent basis.

#### *Internal Reporting and Investigation*

12. FirstEnergy Corp. will maintain, or where necessary establish, an effective system for internal and, where possible, confidential reporting by, and protection of, directors, officers, employees, and, where appropriate, agents and business partners including consultants and lobbyists concerning violations of U.S. law or FirstEnergy Corp.'s compliance code, policies, and procedures.

13. FirstEnergy Corp. will maintain, or where necessary establish, an effective and reliable process with sufficient resources for responding to, investigating, and documenting allegations of violations of U.S. law or FirstEnergy Corp.'s compliance code, policies, and procedures.

#### *Enforcement and Discipline*

14. FirstEnergy Corp. will implement mechanisms designed to effectively enforce its compliance code, policies, and procedures, including appropriately incentivizing compliance and disciplining violations.

15. FirstEnergy Corp. will institute appropriate disciplinary procedures to address, among other things, violations of U.S. law and FirstEnergy Corp. compliance code, policies, and procedures by FirstEnergy Corp.'s directors, officers, and employees. Such procedures should be applied consistently and fairly, regardless of the position held by, or perceived importance of, the director, officer, or employee. FirstEnergy Corp. shall implement procedures to ensure that where misconduct is discovered, reasonable steps are taken to remedy the harm resulting from such misconduct, and to ensure that appropriate steps are taken to prevent further similar misconduct, including assessing the internal controls, compliance code, policies, and procedures and making modifications necessary to ensure the overall compliance program is effective.

#### *Mergers and Acquisitions*

16. FirstEnergy Corp. will develop and implement policies and procedures for mergers and acquisitions requiring that FirstEnergy Corp. conduct appropriate risk-based due diligence on potential new business entities.

17. FirstEnergy Corp. will ensure that FirstEnergy Corp. compliance code, policies, and procedures regarding U.S. law apply as quickly as is practicable to newly acquired businesses or entities merged with FirstEnergy Corp. and will promptly train the directors, officers, employees, agents, and business partners consistent with Paragraph 5 of the Deferred Prosecution Agreement on FirstEnergy Corp.'s compliance code, policies, and procedures.

*Periodic Reviews and Testing*

18. FirstEnergy Corp. will conduct periodic reviews and testing of its compliance code, policies, and procedures designed to evaluate and improve their effectiveness in preventing and detecting violations of U.S. law and FirstEnergy Corp.'s code, policies, and procedures, taking into account relevant developments in the field and evolving industry standards.

**ATTACHMENT C:  
REPORTING REQUIREMENTS**

FirstEnergy Corp. agrees that it will report to the U.S. Attorney's Office for the Southern District of Ohio (the "government") periodically, at no less than twelve-month intervals during a three-year term, regarding remediation and implementation of the compliance program and internal controls, policies, and procedures described in Attachment B. During this three-year period, FirstEnergy Corp. shall: (1) conduct an initial review and submit an initial report, and (2) conduct and prepare at least two follow-up reviews and reports, as described below:

a. By no later than one year from the date this Agreement is executed, FirstEnergy Corp. shall submit to the government a written report setting forth a complete description of its remediation efforts to date, its proposals reasonably designed to improve its internal controls, policies, and procedures for ensuring compliance with U.S. law, and the proposed scope of the subsequent reviews. The report shall be transmitted to the following representatives of the government, unless other instructions are provided by the government:

Assistant U.S. Attorneys Emily N. Glatfelter and Matthew C. Singer  
U.S. Attorney's Office for the Southern District of Ohio  
221 East Fourth Street, Suite 400  
Cincinnati, OH 45213

FirstEnergy Corp. may extend the time period for issuance of the report with prior written approval of the government.

b. FirstEnergy Corp. shall undertake at least two follow-up reviews and reports, incorporating the views of the government on its prior reviews and reports, to further monitor and assess whether its policies and procedures are reasonably designed to detect and prevent violations of U.S. law.

c. The first follow-up review and report shall be completed by no later than one year after the initial report is submitted to the government. The second follow-up review and report shall be completed and delivered to the government no later than thirty days before the end of the Term.

d. The reports will likely include proprietary, financial, confidential, and competitive business information. Moreover, public disclosure of the reports could discourage cooperation, impede pending or potential government investigations and thus undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except as otherwise agreed to by the parties in writing, or except to the extent that the government determines in its sole discretion that disclosure would be in furtherance of the government's discharge of its duties and responsibilities or is otherwise required by law.

e. FirstEnergy Corp. may extend the time period for submission of any of the follow-up reports with prior written approval of the government.



U.S. Department of Justice

Office of the Deputy Attorney General


The Deputy Attorney General

Washington, D.C. 20530

September 9, 2015

MEMORANDUM FOR THE ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION  
THE ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION  
THE ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION  
THE ASSISTANT ATTORNEY GENERAL, ENVIRONMENT AND  
NATURAL RESOURCES DIVISION  
THE ASSISTANT ATTORNEY GENERAL, NATIONAL  
SECURITY DIVISION  
THE ASSISTANT ATTORNEY GENERAL, TAX DIVISION  
THE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION  
THE DIRECTOR, EXECUTIVE OFFICE FOR UNITED STATES  
TRUSTEES  
ALL UNITED STATES ATTORNEYS

FROM:

Sally Quillian Yates   
Deputy Attorney General

SUBJECT:

Individual Accountability for Corporate Wrongdoing

Fighting corporate fraud and other misconduct is a top priority of the Department of Justice. Our nation's economy depends on effective enforcement of the civil and criminal laws that protect our financial system and, by extension, all our citizens. These are principles that the Department lives and breathes—as evidenced by the many attorneys, agents, and support staff who have worked tirelessly on corporate investigations, particularly in the aftermath of the financial crisis.

One of the most effective ways to combat corporate misconduct is by seeking accountability from the individuals who perpetrated the wrongdoing. Such accountability is important for several reasons: it deters future illegal activity, it incentivizes changes in corporate behavior, it ensures that the proper parties are held responsible for their actions, and it promotes the public's confidence in our justice system.

There are, however, many substantial challenges unique to pursuing individuals for corporate misdeeds. In large corporations, where responsibility can be diffuse and decisions are made at various levels, it can be difficult to determine if someone possessed the knowledge and criminal intent necessary to establish their guilt beyond a reasonable doubt. This is particularly true when determining the culpability of high-level executives, who may be insulated from the day-to-day activity in which the misconduct occurs. As a result, investigators often must reconstruct what happened based on a painstaking review of corporate documents, which can number in the millions, and which may be difficult to collect due to legal restrictions.

These challenges make it all the more important that the Department fully leverage its resources to identify culpable individuals at all levels in corporate cases. To address these challenges, the Department convened a working group of senior attorneys from Department components and the United States Attorney community with significant experience in this area. The working group examined how the Department approaches corporate investigations, and identified areas in which it can amend its policies and practices in order to most effectively pursue the individuals responsible for corporate wrongs. This memo is a product of the working group's discussions.

The measures described in this memo are steps that should be taken in any investigation of corporate misconduct. Some of these measures are new, while others reflect best practices that are already employed by many federal prosecutors. Fundamentally, this memo is designed to ensure that all attorneys across the Department are consistent in our best efforts to hold to account the individuals responsible for illegal corporate conduct.

The guidance in this memo will also apply to civil corporate matters. In addition to recovering assets, civil enforcement actions serve to redress misconduct and deter future wrongdoing. Thus, civil attorneys investigating corporate wrongdoing should maintain a focus on the responsible individuals, recognizing that holding them to account is an important part of protecting the public fisc in the long term.

The guidance in this memo reflects six key steps to strengthen our pursuit of individual corporate wrongdoing, some of which reflect policy shifts and each of which is described in greater detail below: (1) in order to qualify for any cooperation credit, corporations must provide to the Department all relevant facts relating to the individuals responsible for the misconduct; (2) criminal and civil corporate investigations should focus on individuals from the inception of the investigation; (3) criminal and civil attorneys handling corporate investigations should be in routine communication with one another; (4) absent extraordinary circumstances or approved departmental policy, the Department will not release culpable individuals from civil or criminal liability when resolving a matter with a corporation; (5) Department attorneys should not resolve matters with a corporation without a clear plan to resolve related individual cases, and should

memorialize any declinations as to individuals in such cases; and (6) civil attorneys should consistently focus on individuals as well as the company and evaluate whether to bring suit against an individual based on considerations beyond that individual's ability to pay.<sup>1</sup>

I have directed that certain criminal and civil provisions in the United States Attorney's Manual, more specifically the Principles of Federal Prosecution of Business Organizations (USAM 9-28.000 *et seq.*) and the commercial litigation provisions in Title 4 (USAM 4-4.000 *et seq.*), be revised to reflect these changes. The guidance in this memo will apply to all future investigations of corporate wrongdoing. It will also apply to those matters pending as of the date of this memo, to the extent it is practicable to do so.

**1. To be eligible for any cooperation credit, corporations must provide to the Department all relevant facts about the individuals involved in corporate misconduct.**

In order for a company to receive any consideration for cooperation under the Principles of Federal Prosecution of Business Organizations, the company must completely disclose to the Department all relevant facts about individual misconduct. Companies cannot pick and choose what facts to disclose. That is, to be eligible for any credit for cooperation, the company must identify all individuals involved in or responsible for the misconduct at issue, regardless of their position, status or seniority, and provide to the Department all facts relating to that misconduct. If a company seeking cooperation credit declines to learn of such facts or to provide the Department with complete factual information about individual wrongdoers, its cooperation will not be considered a mitigating factor pursuant to USAM 9-28.700 *et seq.*<sup>2</sup> Once a company meets the threshold requirement of providing all relevant facts with respect to individuals, it will be eligible for consideration for cooperation credit. The extent of that cooperation credit will depend on all the various factors that have traditionally applied in making this assessment (*e.g.*, the timeliness of the cooperation, the diligence, thoroughness, and speed of the internal investigation, the proactive nature of the cooperation, etc.).

This condition of cooperation applies equally to corporations seeking to cooperate in civil matters; a company under civil investigation must provide to the Department all relevant facts about individual misconduct in order to receive any consideration in the negotiation. For

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<sup>1</sup> The measures laid out in this memo are intended solely to guide attorneys for the government in accordance with their statutory responsibilities and federal law. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party to litigation with the United States.

<sup>2</sup> Nor, if a company is prosecuted, will it support a cooperation-related reduction at sentencing. See U.S.S.G. USSG § 8C2.5(g), Application Note 13 ("A prime test of whether the organization has disclosed all pertinent information" necessary to receive a cooperation-related reduction in its offense level calculation "is whether the information is sufficient ... to identify ... the individual(s) responsible for the criminal conduct").

example, the Department's position on "full cooperation" under the False Claims Act, 31 U.S.C. § 3729(a)(2), will be that, at a minimum, all relevant facts about responsible individuals must be provided.

The requirement that companies cooperate completely as to individuals, within the bounds of the law and legal privileges, *see* USAM 9-28.700 to 9-28.760, does not mean that Department attorneys should wait for the company to deliver the information about individual wrongdoers and then merely accept what companies provide. To the contrary, Department attorneys should be proactively investigating individuals at every step of the process – before, during, and after any corporate cooperation. Department attorneys should vigorously review any information provided by companies and compare it to the results of their own investigation, in order to best ensure that the information provided is indeed complete and does not seek to minimize the behavior or role of any individual or group of individuals.

Department attorneys should strive to obtain from the company as much information as possible about responsible individuals before resolving the corporate case. But there may be instances where the company's continued cooperation with respect to individuals will be necessary post-resolution. In these circumstances, the plea or settlement agreement should include a provision that requires the company to provide information about all culpable individuals and that is explicit enough so that a failure to provide the information results in specific consequences, such as stipulated penalties and/or a material breach.

**2. Both criminal and civil corporate investigations should focus on individuals from the inception of the investigation.**

Both criminal and civil attorneys should focus on individual wrongdoing from the very beginning of any investigation of corporate misconduct. By focusing on building cases against individual wrongdoers from the inception of an investigation, we accomplish multiple goals. First, we maximize our ability to ferret out the full extent of corporate misconduct. Because a corporation only acts through individuals, investigating the conduct of individuals is the most efficient and effective way to determine the facts and extent of any corporate misconduct. Second, by focusing our investigation on individuals, we can increase the likelihood that individuals with knowledge of the corporate misconduct will cooperate with the investigation and provide information against individuals higher up the corporate hierarchy. Third, by focusing on individuals from the very beginning of an investigation, we maximize the chances that the final resolution of an investigation uncovering the misconduct will include civil or criminal charges against not just the corporation but against culpable individuals as well.

**3. Criminal and civil attorneys handling corporate investigations should be in routine communication with one another.**

Early and regular communication between civil attorneys and criminal prosecutors handling corporate investigations can be crucial to our ability to effectively pursue individuals in

these matters. Consultation between the Department's civil and criminal attorneys, together with agency attorneys, permits consideration of the full range of the government's potential remedies (including incarceration, fines, penalties, damages, restitution to victims, asset seizure, civil and criminal forfeiture, and exclusion, suspension and debarment) and promotes the most thorough and appropriate resolution in every case. That is why the Department has long recognized the importance of parallel development of civil and criminal proceedings. *See* USAM 1-12.000.

Criminal attorneys handling corporate investigations should notify civil attorneys as early as permissible of conduct that might give rise to potential individual civil liability, even if criminal liability continues to be sought. Further, if there is a decision not to pursue a criminal action against an individual – due to questions of intent or burden of proof, for example – criminal attorneys should confer with their civil counterparts so that they may make an assessment under applicable civil statutes and consistent with this guidance. Likewise, if civil attorneys believe that an individual identified in the course of their corporate investigation should be subject to a criminal inquiry, that matter should promptly be referred to criminal prosecutors, regardless of the current status of the civil corporate investigation.

Department attorneys should be alert for circumstances where concurrent criminal and civil investigations of individual misconduct should be pursued. Coordination in this regard should happen early, even if it is not certain that a civil or criminal disposition will be the end result for the individuals or the company.

#### **4. Absent extraordinary circumstances, no corporate resolution will provide protection from criminal or civil liability for any individuals.**

There may be instances where the Department reaches a resolution with the company before resolving matters with responsible individuals. In these circumstances, Department attorneys should take care to preserve the ability to pursue these individuals. Because of the importance of holding responsible individuals to account, absent extraordinary circumstances or approved departmental policy such as the Antitrust Division's Corporate Leniency Policy, Department lawyers should not agree to a corporate resolution that includes an agreement to dismiss charges against, or provide immunity for, individual officers or employees. The same principle holds true in civil corporate matters; absent extraordinary circumstances, the United States should not release claims related to the liability of individuals based on corporate settlement releases. Any such release of criminal or civil liability due to extraordinary circumstances must be personally approved in writing by the relevant Assistant Attorney General or United States Attorney.

**5. Corporate cases should not be resolved without a clear plan to resolve related individual cases before the statute of limitations expires and declinations as to individuals in such cases must be memorialized.**

If the investigation of individual misconduct has not concluded by the time authorization is sought to resolve the case against the corporation, the prosecution or corporate authorization memorandum should include a discussion of the potentially liable individuals, a description of the current status of the investigation regarding their conduct and the investigative work that remains to be done, and an investigative plan to bring the matter to resolution prior to the end of any statute of limitations period. If a decision is made at the conclusion of the investigation not to bring civil claims or criminal charges against the individuals who committed the misconduct, the reasons for that determination must be memorialized and approved by the United States Attorney or Assistant Attorney General whose office handled the investigation, or their designees.

Delays in the corporate investigation should not affect the Department's ability to pursue potentially culpable individuals. While every effort should be made to resolve a corporate matter within the statutorily allotted time, and tolling agreements should be the rare exception, in situations where it is anticipated that a tolling agreement is nevertheless unavoidable and necessary, all efforts should be made either to resolve the matter against culpable individuals before the limitations period expires or to preserve the ability to charge individuals by tolling the limitations period by agreement or court order.

**6. Civil attorneys should consistently focus on individuals as well as the company and evaluate whether to bring suit against an individual based on considerations beyond that individual's ability to pay.**

The Department's civil enforcement efforts are designed not only to return government money to the public fisc, but also to hold the wrongdoers accountable and to deter future wrongdoing. These twin aims – of recovering as much money as possible, on the one hand, and of accountability for and deterrence of individual misconduct, on the other – are equally important. In certain circumstances, though, these dual goals can be in apparent tension with one another, for example, when it comes to the question of whether to pursue civil actions against individual corporate wrongdoers who may not have the necessary financial resources to pay a significant judgment.

Pursuit of civil actions against culpable individuals should not be governed solely by those individuals' ability to pay. In other words, the fact that an individual may not have sufficient resources to satisfy a significant judgment should not control the decision on whether to bring suit. Rather, in deciding whether to file a civil action against an individual, Department attorneys should consider factors such as whether the person's misconduct was serious, whether

it is actionable, whether the admissible evidence will probably be sufficient to obtain and sustain a judgment, and whether pursuing the action reflects an important federal interest. Just as our prosecutors do when making charging decisions, civil attorneys should make individualized assessments in deciding whether to bring a case, taking into account numerous factors, such as the individual's misconduct and past history and the circumstances relating to the commission of the misconduct, the needs of the communities we serve, and federal resources and priorities.

Although in the short term certain cases against individuals may not provide as robust a monetary return on the Department's investment, pursuing individual actions in civil corporate matters will result in significant long-term deterrence. Only by seeking to hold individuals accountable in view of all of the factors above can the Department ensure that it is doing everything in its power to minimize corporate fraud, and, over the course of time, minimize losses to the public fisc through fraud.

### **Conclusion**

The Department makes these changes recognizing the challenges they may present. But we are making these changes because we believe they will maximize our ability to deter misconduct and to hold those who engage in it accountable.

In the months ahead, the Department will be working with components to turn these policies into everyday practice. On September 16, 2015, for example, the Department will be hosting a training conference in Washington, D.C., on this subject, and I look forward to further addressing the topic with some of you then.

### **§8B2.1. Effective Compliance and Ethics Program**

(a) To have an effective compliance and ethics program, for purposes of subsection (f) of §8C2.5 (Culpability Score) and subsection (b)(1) of §8D1.4 (Recommended Conditions of Probation - Organizations), an organization shall—

- (1) exercise due diligence to prevent and detect criminal conduct; and
- (2) otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

Such compliance and ethics program shall be reasonably designed, implemented, and enforced so that the program is generally effective in preventing and detecting criminal conduct. The failure to prevent or detect the instant offense does not necessarily mean that the program is not generally effective in preventing and detecting criminal conduct.

(b) Due diligence and the promotion of an organizational culture that encourages ethical conduct and a commitment to compliance with the law within the meaning of subsection (a) minimally require the following:

(1) The organization shall establish standards and procedures to prevent and detect criminal conduct.

(2) (A) The organization's governing authority shall be knowledgeable about the content and operation of the compliance and ethics program and shall exercise reasonable oversight with respect to the implementation and effectiveness of the compliance and ethics program.

(B) High-level personnel of the organization shall ensure that the organization has an effective compliance and ethics program, as described in this guideline. Specific individual(s) within high-level personnel shall be assigned overall responsibility for the compliance and ethics program.

(C) Specific individual(s) within the organization shall be delegated day-to-day operational responsibility for the compliance and ethics program. Individual(s) with operational responsibility shall report periodically to high-level personnel and, as appropriate, to the governing authority, or an appropriate subgroup of the governing authority, on the effectiveness of the compliance and ethics program. To carry out such operational responsibility, such individual(s) shall be given adequate resources, appropriate authority, and direct access to the governing authority or an appropriate subgroup of the governing authority.

(3) The organization shall use reasonable efforts not to include within the substantial authority personnel of the organization any individual whom the organization knew, or should have known through the exercise of due diligence, has engaged in illegal activities or other conduct inconsistent with an effective compliance and ethics program.

(4) (A) The organization shall take reasonable steps to communicate periodically and in a practical manner its standards and procedures, and other aspects of the compliance and ethics program, to the individuals referred to in subparagraph (B) by conducting effective training programs and otherwise disseminating information appropriate to such individuals' respective roles and responsibilities.

(B) The individuals referred to in subparagraph (A) are the members of the governing authority, high-level personnel, substantial authority personnel, the organization's employees, and, as appropriate, the organization's agents.

(5) The organization shall take reasonable steps—

(A) to ensure that the organization's compliance and ethics program is followed, including monitoring and auditing to detect criminal conduct;

(B) to evaluate periodically the effectiveness of the organization's compliance and ethics program; and

(C) to have and publicize a system, which may include mechanisms that allow for anonymity or confidentiality, whereby the organization's employees and agents may report or seek guidance regarding potential or actual criminal conduct without fear of retaliation.

(6) The organization's compliance and ethics program shall be promoted and enforced consistently throughout the organization through (A) appropriate incentives to perform in accordance with the compliance and ethics program; and (B) appropriate disciplinary measures for engaging in criminal conduct and for failing to take reasonable steps to prevent or detect criminal conduct.

(7) After criminal conduct has been detected, the organization shall take reasonable steps to respond appropriately to the criminal conduct and to prevent further similar criminal conduct, including making any necessary modifications to the organization's compliance and ethics program.

(c) In implementing subsection (b), the organization shall periodically assess the risk of criminal conduct and shall take appropriate steps to design, implement, or modify each requirement set forth in subsection (b) to reduce the risk of criminal conduct identified through this process.

## UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

United States of America

v.

Larry Householder

Case No. **1:20-MJ-00525***Defendant(s)*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 16, 2020 in the county of Hamilton in the  
Southern District of Ohio, the defendant(s) violated:

*Code Section*

18 U.S.C. § 1962(d)

*Offense Description*

Conspiracy to Participate, Directly or Indirectly, in the Conduct of an Enterprise's Affairs through a Pattern of Racketeering Activity

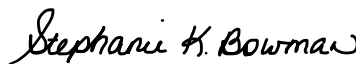
This criminal complaint is based on these facts:

See Affidavit

☒ Continued on the attached sheet.

*Complainant's signature*

Blane J. Wetzel, Special Agent, FBI

*Printed name and title*Sworn to before me and signed in my presence. **via Facetime Video.**Date: Jul 17, 2020

*Judge's signature*City and state: Cincinnati, Ohio

Hon. Stephanie K. Bowman, U.S. Magistrate Judge

*Printed name and title*

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO

UNITED STATES

V.

**LARRY HOUSEHOLDER,  
JEFFREY LONGSTRETH,  
NEIL CLARK,  
MATTHEW BORGES,  
JUAN CESPEDES, and  
GENERATION NOW**

**Case No. 1:20-MJ-00525**

**Filed Under Seal**

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

I, Blane J. Wetzel, being first duly sworn, hereby depose and state as follows:

1. I make this affidavit in support of a criminal complaint against defendants **LARRY HOUSEHOLDER, JEFFREY LONGSTRETH, NEIL CLARK, MATTHEW BORGES, JUAN CESPEDES, and GENERATION NOW.**

2. I am a Special Agent with the Federal Bureau of Investigation, and have been since August 21, 2016. I am assigned to the Public Corruption Squad of the Cincinnati Division Columbus Resident Agency. In my capacity as a Special Agent, I work on the Southern Ohio Public Corruption Task Force - comprised of various state and federal agencies, and am responsible for investigating violations of federal law, including, but not limited to, public corruption, extortion, bribery, and theft from programs receiving federal funds. I have conducted and participated in public corruption investigations that involved the use of advanced investigative techniques such as the use of: Title III interceptions; confidential human sources; consensually-monitored meetings; execution of search warrants on computers, emails, other electronic communication devices and physical structures; pen register and trap/trace devices; financial record analysis; and physical surveillance. During these investigations, which included bribery, extortion, and efforts to defraud the government, I have participated in monitoring court authorized wire interceptions, conducted consensually recorded conversations, conducted witness interviews, analyzed telephone toll data, and analyzed documents such as legislation and financial records.

3. By virtue of my training and experience, through conversations with and review of reports from other experienced agents who have conducted numerous public corruption investigations, I have become familiar with how some public officials improperly solicit or accept benefits or other things of value from a private citizen with intent to be influenced or rewarded in connection with the business or transaction of the governmental agency for which they work. I also investigated public officials and their associates who employ various deceptive means to further corrupt activity to include orally and electronically communicating in coded conversation, using a middleman to distance oneself from corrupt activity, and providing false exculpatory

information as an attempt to disguise the nature of their corrupt activity. I have had the opportunity to assist in multiple public corruption wiretap investigations, including monitoring and reviewing transcripts of court authorized intercepted communications involving bribery and extortion.

4. Prior to joining the FBI, I worked as policy director for a member of the Michigan House of Representatives. I performed duties such as: drafting legislation, managing constituent relations, managing legislative issues, and providing strategic political advice to my employer. In addition to working in an official capacity for the State of Michigan, I was also employed by that same legislator as a member of his campaign team. Working on the campaign, I became familiar with the rules, regulations, practices, and norms of campaign finance.

5. The information set forth in this affidavit was obtained during the course of my employment with the FBI, through personal observations, the statements of witnesses/cooperators, and recordings of conversations. Since this affidavit is being submitted for the limited purpose of obtaining a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only the facts necessary to establish probable cause that federal crimes have been committed.

6. As set forth in this affidavit, there is probable cause to believe that, beginning in or about 2016 and continuing to the present, in the Southern District of Ohio and elsewhere, the Defendants, **LARRY HOUSEHOLDER, JEFFREY LONGSTRETH, NEIL CLARK, MATTHEW BORGES, JUAN CESPEDES, and GENERATION NOW**, and others known and unknown, being persons employed by and associated with an enterprise, which engaged in, and the activities of which affected interstate commerce, did knowingly and intentionally conspire with each other and others known and unknown to violate Title 18 United States Code, Section 1962(c), that is, to conduct and participate directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity, as that term is defined in 18 U.S.C. §§ 1961(1) and 1961(5), consisting of multiple acts indictable under 18 U.S.C. §§ 1343, 1346 (relating to honest services wire fraud); 18 U.S.C. § 1951 (relating to interference with commerce, robbery, or extortion); 18 U.S.C. § 1952 (relating to racketeering, including multiple acts of bribery under Ohio Revised Code § 3517.22(a)(2)); 18 U.S.C. § 1956 (relating to the laundering of monetary instruments); 18 U.S.C. § 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity); and multiple acts involving bribery, chargeable under Ohio Revised Code § 2921.02. It was part of the conspiracy that each Defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise, all in violation of 18 U.S.C. § 1962(d).

### **GENERAL STATEMENT OF THE LAW**

7. Title 18, United States Code, Section 1962(c) and (d) provides as follows:

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities which affect, interstate or foreign commerce, to conduct or participate, directly or

indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity . . . .

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection . . . . (c) of this section.

Section 1961 in turn, defines the terms "enterprise" and "pattern of racketeering activity" as used in Section 1962 as follows:

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any term of imprisonment) after the commission of a prior act of racketeering activity.

Section 1961(1) defines "racketeering activity," in relevant part, as follows:

(A) [A]ny act or threat involving . . . bribery[,] . . . which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under . . . title 18, United States Code: . . . section 1343 (relating to wire fraud) . . . section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering) . . . section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity) . . . .

### **PROBABLE CAUSE**

8. Defendants **LARRY HOUSEHOLDER, JEFFREY LONGSTRETH, NEIL CLARK, MATTHEW BORGES, JUAN CESPEDES, and GENERATION NOW**, and others known and unknown, constituted an "Enterprise," (hereinafter "Householder's Enterprise") as that term is defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals and entities associated in fact. Householder's Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise, and the enterprise engaged in, and its activities affected, interstate commerce. As described below, there is probable cause to believe that the named defendants conspired to conduct and participate in the conduct of the affairs of Householder's Enterprise through a pattern of racketeering activity.

9. To summarize, from March 2017 to March 2020, Householder's Enterprise received approximately \$60 million from Company A<sup>1</sup> entities,<sup>2</sup> paid through Generation Now and controlled by Householder and the Enterprise. In exchange for payments from Company A, Householder's Enterprise helped pass House Bill 6, legislation described by an Enterprise member as a billion-dollar "bailout" that saved from closure two failing nuclear power plants in Ohio affiliated with Company A. The Enterprise then worked to corruptly ensure that HB 6 went into effect by defeating a ballot initiative. To achieve these ends, and to conceal the scheme, Householder's Enterprise passed money received from Company A Corp. affiliates through multiple entities that it controlled. Householder's Enterprise then used the bribe payments to further the goals of the Enterprise, which include: (1) obtaining, preserving, and expanding Householder's political power in the State of Ohio through the receipt and use of secret payments; (2) enriching and benefitting the enterprise, its members, and associates; and (3) promoting, concealing, and protecting purposes (1) and (2) from public exposure and possible criminal prosecution.

## I. Background

10. In 2016, Company A Corp.'s nuclear generation future looked grim. (Company A Corp. is described further below.) In its November 2016 Annual Report to Shareholders, Ohio-based Company A Corp. and its affiliates reported a weak energy market, poor forecast demands, and hundreds of millions of dollars in losses, particularly from its nuclear energy affiliate, Company A-1. Given this backdrop, Company A announced future options for its generation portfolio as follows: "legislative and regulatory solutions for generation assets"; asset sales and plant deactivations; restructuring debt; and/or seeking protection under U.S. bankruptcy laws for its affiliates involved in nuclear generation.

11. Consistent with this forecast, Company A actively sought a "legislative solution" for its two, affiliated nuclear power plants in Ohio. For example, during Company A's fourth-quarter 2016 earnings conference call, Company A Corp. President and CEO stated:

*In Ohio, we have had meaningful dialogue with our fellow utilities and with legislators on solutions that can help ensure Ohio's future energy security. Our top priority is the preservation of our two nuclear plants in the state and legislation for a zero emission nuclear program is expected to be introduced soon. The ZEN program is intended to give state lawmakers greater control and flexibility to preserve valuable nuclear generation. We believe this*

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<sup>1</sup> I have used pseudonyms for all people and entities except for the Defendants, and the entities registered by the Defendants or for which they are signatories on bank accounts.

<sup>2</sup> As described in this affidavit, "Company A" refers collectively to Company A Corp., Company A-1, and Company A Service Co., all of which are defined below. Prior to February 2020, Company A-1 and Company A Service Co. were both wholly-owned subsidiaries of Company A Corp. Company A-1 and its affiliates filed for bankruptcy in 2018 and were divested from Company A Corp. in February 2020. Notably, all three entities share a common first name, and Enterprise members and associates often just referred generically to the "company" or used the common first name in communications, as quoted below.

*legislation would preserve not only zero emission assets but jobs, economic growth, fuel diversity, price stability, and reliability and grid security for the region.*

*We are advocating for Ohio's support for its two nuclear plants, even though the likely outcome is that [Company A] won't be the long-term owner of these assets. We are optimistic, given these discussions we have had so far and we will keep you posted as this process unfolds.*

12. However, attempts to obtain a legislative solution had failed to pass, including the ZEN (Zero-Emissions Nuclear Resource Program) energy proposals outlined in House Bill 178, Senate Bill 128, and House Bill 381 in 2017.

13. While Company A was in search of a solution to its nuclear energy problem, Householder was re-entering politics, winning back his State House seat in Perry County, Ohio, with the goal of winning back the Speakership in January 2019. Following his January 2017 trip on Company A's private jet, in March 2017, Householder began receiving quarterly \$250,000 payments from Company A into a bank account in the name of a 501(c)(4) entity secretly controlled by Householder called Generation Now. In 2017 and 2018, Householder's Enterprise received into Generation Now, and the entities it controlled, over \$2.9 million from Company A. Members of Householder's Enterprise used Company A's payments for their own personal benefit and to gain support for Householder's political bid to become Speaker. In the spring and fall of 2018, the Enterprise spent millions in Company A money to support House candidates involved in primary and general elections whom the Enterprise believed both would vote for Householder as Speaker and, ultimately, would follow his lead as Speaker and vote for bailout legislation for Company A.

14. The investigation shows that the plan worked. Householder-backed candidates that benefitted from Company A money received by Generation Now (described throughout this affidavit as, "Company A-to-Generation-Now" payments<sup>3</sup>) helped elect Householder as the Ohio Speaker of the House in January 2019. And Householder fulfilled his end of the corrupt bargain shortly thereafter. Three months into his term as Speaker, HB 6 was introduced to save from closure Company A-1's two failing nuclear power plants. Specifically, HB 6 subsidized nuclear energy operations in Ohio through a monthly charge on all Ohioan's energy bills. Neil Clark described the legislation as a "bailout" for Company A's nuclear assets, worth \$1.3 billion to Company A.

15. After the introduction of the bailout legislation, Company A began increasing its payments into Generation Now for the benefit of the Enterprise. On April 30, 2019, roughly two weeks after introduction of the legislation, Company A wired \$1.5 million to Generation Now. In the month of May 2019, while the controversial legislation was pending before lawmakers, Company A wired four additional payments totaling \$8 million. The Enterprise used some of that

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<sup>3</sup> "Company A-to-Generation-Now" payments is an inclusive label describing payments from accounts controlled by Company A Service Co., Company A-1, and Energy Pass-Through, which, as set forth below, is funded solely by wires from Company A Service Co.

money for mailers and media advertisements to pressure members to support the legislation; the Enterprise also used Company A money for their personal benefit, as described below. In the same month that the Enterprise received \$8 million from Company A, Householder and other Enterprise members pressured House members to vote for HB 6, and instructed at least one representative to destroy text messages from Householder after Householder attempt to gain support for HB 6 from the representative.

16. On May 29, 2019, HB 6 passed the House, and after Enterprise members exerted pressure on the Senate, the legislation was passed and was signed into law by the Governor. That process took about two months. However, the law would not go into effect until October 22, 2019. Shortly after the Governor signed the legislation, a campaign began to organize a statewide ballot-initiative referendum (“Ballot Campaign”) to overturn the legislation. This required Ballot Campaign organizers to collect the signatures of registered voters in order to put the referendum of HB 6 on the 2020 ballot. And so, Company A’s and the Enterprise’s fight continued.

17. In response, from July 24 to October 22, 2019, Company A-controlled accounts wired over \$38 million into Generation Now to defeat the ballot initiative so HB 6 would go into effect. The Enterprise funneled the money to various accounts and entities controlled by the Enterprise to purchase media ads and mailers against the ballot initiative, to conflict out signature-collection firms, and to pay off and bribe signature collectors supporting the referendum. The members and associates of the Enterprise also used the Company A money to enrich themselves and further their personal interests.

18. Company A entities paid Householder’s Enterprise \$60,886,835.86 in secret payments<sup>4</sup> over the approximately three-year period in exchange for the billion-dollar-bailout. The Enterprise concealed the payments by using a 501(c)(4) to receive the bribe money, and then transferring the payments internally to a web of related entities and accounts. The millions paid into the entity are akin to bags of cash—unlike campaign or PAC contributions, they were not regulated, not reported, not subject to public scrutiny—and the Enterprise freely spent the bribe payments to further the Enterprise’s political interests and to enrich themselves. As Defendant Neil Clark stated in a 2019 recorded conversation,<sup>5</sup> Company A operated as the Enterprise’s “Bank”—Clark explained, “*Generation Now is the Speaker’s (c)(4),*” and Company A’s “*deep pockets,*” and the money to the Enterprise through Generation Now was “*unlimited.*” Defendant Matthew Borges similarly described Company A’s payments to the Enterprise as “*Monopoly money.*”

19. The Enterprise used some of the Company A money to help enact the bailout legislation. Additionally, the Enterprise used millions of dollars of Company A bribe money to further Householder’s political ambitions by funding his own campaign, and the campaigns of members and candidates who would eventually support Householder’s election for Speaker. The Company A payments funded the operating costs of the Enterprise and paid for Householder’s political and campaign staff. The Defendants also paid themselves personally millions of dollars

<sup>4</sup> This includes Company A payments into Generation Now and other Enterprise-controlled entities.

<sup>5</sup>

in Company A bribe payments, funneled through Generation Now and other entities controlled by the Enterprise. This includes allowing for the payment of at least \$500,000 in what appears to be personal benefits to Householder that was passed through Longstreth controlled accounts. In addition, the Enterprise had over \$8 million of Company A money in their controlled accounts at the end of 2019, which represents further profit to Enterprise members.

#### **A. The Defendants and Householder's Enterprise**

20. **Larry Householder** is the current Speaker of the Ohio House of Representatives. He previously served as a House member representing Ohio's 72nd District from 1997 to 2004, including as Ohio Speaker of the House from 2001 to 2004. In 2004, Householder resigned from office after reports of alleged corrupt activity surfaced in the media and were publically referred to the FBI. He was never charged. Householder won his House seat back in the fall of 2016. He was elected Speaker again in January 2019, after what the media described as a bitter leadership battle that lasted nearly a year.

21. Householder's path to Speakership was unusual. Householder and then-House-member Representative 1, both of whom are Republicans, were both candidates to be Speaker of the House of Representatives for the 133<sup>rd</sup> General Assembly. After the then-Speaker's resignation in May 2018, a protracted conflict lasting eight weeks began to select a Speaker for the remainder of the 132<sup>nd</sup> General Assembly. Ultimately, Representative 1 became Speaker pending the upcoming 2018 election, after the unprecedented conflict that was resolved using a House rule that could only be employed after ten failed attempts to select a Speaker. Despite Representative 1's selection in mid-2018 for the remainder of the 132<sup>nd</sup> General Assembly, Householder aggressively sought support for his candidacy for Speaker. He did so in a number of ways, including by providing financial support, paid for in large part by Company A, for certain candidates running for House seats in the spring 2018 primary and the November 2018 general election. In the end, his strategy was successful, as he won the Speakership despite Representative 1 serving in that role prior to the election.

22. Householder's Enterprise has several purposes, one of which is to increase Householder's political power through corrupt means. In his role, Householder solicited and accepted payments from Company A into his 501(c)(4) account; he used the bribe payments to further his political interests, enrich himself and other members and associates of the Enterprise, and to assist in passing and preserving the bailout legislation; and, in return for the benefits received, he coordinated passage of HB 6 and attempted to influence legislators to support the bailout, among other things.

23. Householder benefitted personally through the Enterprise. For example, while funded by Company A-to-Generation-Now bribe money, at least \$300,000 passed through and funded accounts controlled by Jeff Longstreth, which the Enterprise used to pay legal fees and settle a lawsuit against Householder. Over \$100,000 of the Company A-to-Generation-Now bribe money was passed through Longstreth-controlled accounts and used to pay costs associated with Householder's Florida home. In addition, at least \$97,000 of the Company A-to-Generation-Now bribe money was used to pay expenses for Householder's 2018 House campaign.

24. **Jeff Longstreth** is Householder's longtime campaign and political strategist. Neil Clark identified Longstreth as Householder's "*political guy*," his "*implementer*," and one of his "*closest advisors*," who was instrumental to the Enterprise's efforts to pass HB 6.

25. The investigation corroborates Clark's statements. Although Longstreth is not employed by the State of Ohio, he is Householder's chief political strategist. Longstreth runs Householder's political campaign, and the investigation shows that he and his staff managed the 2018 campaigns for the Enterprise-backed candidates (at times internally referred to by the Enterprise as "Team Householder" candidates). Householder and Longstreth even shared office space, rented from their Political Advertising Agency. In addition, Longstreth led the messaging efforts both in the campaign to pass HB 6 and to defeat the referendum, and was a point of contact for Company A. Phone records show that Householder and Longstreth have communicated on a regular basis for years.

26. Longstreth also plays a critical role with respect to the Enterprise's finances. He is a signatory on both of the Generation Now bank accounts and the person who transfers money out of the accounts to other entities to further the Enterprise. Longstreth also controls entities that receive Company A-through-Generation-Now payments to further the Enterprise. Among these, Longstreth owns and operates JPL & Associates. Throughout the relevant period, Longstreth transferred over \$10.5 million of Company A's bribe payments directly from Generation Now's primary bank account to JPL & Associates' primary bank account. In addition, Longstreth received indirectly another \$4.4 million, which was transferred from the Generation Now account through another entity (Front Company, described below) and then into accounts that he controlled. Longstreth then used Company A payments funneled through Generation Now to further Householder's and Company A's interests and to pay personal benefits to members and associates of the Enterprise. Longstreth benefitted personally through the conspiracy's actions, receiving over \$5 million in Company A-to-Generation-Now money during the relevant period, including at least \$1 million, which he transferred to his brokerage account in January 2020.

27. **Neil Clark** owns and operates Grant Street Consultants, an Ohio-based lobbying firm that focuses on legislative, regulatory, and procurement lobbying at the Ohio Statehouse. Prior to becoming a lobbyist, Clark served as a budget director for the Ohio Senate Republican Caucus. During the relevant period, Clark worked as a lobbyist for various interest groups.

28. Along with Longstreth, Clark is, in his own words, one of Householder's "*closest advisors*." According to Clark during recorded conversations in 2019, Clark served as Householder's "*proxy*" in the Enterprise's efforts to further the enactment of HB 6 and ensure HB 6 went into effect in October 2019 by defeating the subsequent ballot-initiative challenge. Clark also communicated directly with House members to further the Enterprise. In 2019, Clark described himself in recorded communications as Householder's "*hit man*" who will do the "*dirty shit*." Clark stated, "*when [Householder's] busy, I get complete say. When we're working on stuff, if he says, 'I'm busy,' everyone knows, Neil has the final say, not Jeff. Jeff is his implementer.*" Borges confirmed Clark's role, and similarly described Clark as Householder's "*proxy*" relating to Company A's matters in a recorded conversation with CHS 1. Clark benefitted personally from Company A's payments to the Enterprise, receiving at least \$290,000 in Company A-to-Generation-Now money.

29. **Matthew Borges** is a registered lobbyist for Company A-1, a subsidiary of Company A. As described below, the investigation has shown that Borges was a key middleman and was at the center of the effort to thwart the referendum to stop HB 6 from taking effect through a ballot-initiative drive. On August 5, 2019, shortly after the Ballot Campaign was announced, Borges incorporated 17 Consulting Group. Two days later, Borges opened a bank account for 17 Consulting Group, and that same day Generation Now wired \$400,000 into the account. Over the next few months Generation Now wired a total of \$1.62 million into the account.

30. There is probable cause to believe that, approximately a month after Generation Now began wiring money into Borges' 17 Consulting account, Borges paid \$15,000 to CHS 1 in exchange for inside information about the Ballot Campaign, which Borges would use to help defeat the Ballot Campaign. Bank account records show that the \$15,000 paid to CHS 1 came from the 17 Consulting Group account, which was funded by Generation Now wires. Borges also paid another co-conspirator Juan Cespedes, \$600,000 of Generation Now money from his account. With the money wired from Generation Now, Borges also paid a private investigator during this period, which, as described below, is consistent with the Enterprise's strategy of investigating the signature collectors that worked for the Ballot Campaign.

31. Toll records show Borges had contact with Householder in January 2019 and April 2019—key time-periods, as described below, involving official action by Householder. Borges benefitted directly from the \$1.62 million from Generation Now wires. Specifically, he paid himself over \$350,000 from Company A-to-Generation-Now proceeds.

32. **Juan Cespedes** served as a key middleman, participating in strategy meetings and communicating with Enterprise members and associates regarding strategic decisions. Cespedes is a multi-client lobbyist, whose services were retained by Company A-1. He was central to Company A-1's efforts to get the bailout legislation passed in Ohio. As explained below, a contract between Company A-1 and Cespedes's lobbying company, the Oxley Group, shows Company A-1 hired Cespedes to pursue the bailout legislation starting in the spring of 2018. Consistent with this, records show that Cespedes was the "lead consultant" relating to Company A-1's attempts to pursue legislation that would save its failing nuclear power plants. In internal documents, Cespedes tracked "Householder camp" candidates who later received Company A-to-Generation-Now money, and he advised that if Householder becomes Speaker, the nuclear energy bailout "will likely be led from his Chamber."

33. He was paid by both, receiving approximately \$600,000 from the Enterprise<sup>6</sup> and \$227,000 from Company A in 2019. He also was in regular contact with both Company A and Enterprise members during the relevant period. As set forth below, Cespedes and Longstreth communicated regularly through text messages discussing the coordination of millions of dollars in Company A payments to the Enterprise, attaining public officials' support for the bailout, sending media and mailers supporting the bailout legislation, and hiring signature firms to defeat the ballot campaign, among other things. In one telling exchange, which is supported by toll

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<sup>6</sup> The \$600,000 paid to Cespedes was passed through the 17 Consulting Group bank account, which was funded exclusively by Generation Now.

records and search warrant returns, Cespedes coordinated the timely payment of \$15 million from Company A to Generation Now.

34. **Generation Now, Inc.**, received approximately \$60 million from Company A entities during the relevant period. As set forth more fully below, Generation Now registered with the IRS as a 501(c)(4), which is an IRS designation for a tax-exempt, social welfare organization. Pursuant to federal law, the names and addresses of contributors to 501(c)(4)s are not made available for public inspection. The Enterprise concealed the bribery scheme by funneling the money through Generation Now, which hid the payments and the scheme from public scrutiny. Generation Now's accounts had a combined balance of approximately \$1.67 million as of January 1, 2020, money that is a direct benefit to the Enterprise. As described below, after making wire transfers to Coalition in early 2020, the Generation Now accounts were replenished by a \$2 million wire from Energy Pass-Through in March 2020, bringing the combined balance of the accounts to approximately \$2.29 million, again, money that is a direct benefit to the Enterprise.

## **B. Related Entities Controlled by the Enterprise**

35. The Enterprise used and relied on a number of different entities to further the conspiracy. The following entities were controlled by, worked directly with, or funneled payments for the benefit of the Enterprise:

a. **JPL & Associates LLC** is controlled by Longstreth. Longstreth is the signor on five different bank accounts that have received money directly from Generation Now, including two JPL business accounts, one personal account, and two accounts named "Constant Content." Bank records show numerous internal money transfers of Generation Now money among Longstreth-controlled accounts. In total, JPL's main business account received over \$10.5 million in Company A-to-Generation-Now wires during the relevant period, which Longstreth then transferred internally to his other accounts. Longstreth also received indirectly \$4.4 million, which had been funneled from Generation Now, through another entity, ("Front Company," discussed below) and into Longstreth's Constant Content accounts. Analysis of the accounts shows that the money was used to pay benefits directly to Enterprise members and to further the Enterprise's interests by paying campaign staff for preferred Householder candidates, among other things. After the ballot initiative campaign failed and HB 6 became law for the benefit of Company A, Longstreth consolidated most of the Enterprise funding into JPL-controlled accounts. As of January 1, 2020 that total balances within JPL-controlled accounts exceeded \$6.5 million. This money is a direct benefit to the Enterprise.

b. **"PAC"** is a federal PAC through which Generation Now funneled Company A payments in furtherance of the conspiracy. The Enterprise primarily used the PAC during the May 2018 primary as a way to conceal the source of media buys for Team Householder candidates. The attorney who is listed as the treasurer for Generation Now and who is a signor on the Generation Now accounts along with Longstreth, is the treasurer and a signor of the PAC.

c. Although Longstreth was not a signor on the PAC bank account, documents obtained via a search warrant, , confirm Longstreth's control over the PAC. For example, a Word document titled "Client Information Request Form," last modified by Longstreth in October 2016,

listed Longstreth as the “Executive Director or President” of the PAC.<sup>7</sup> In addition, Longstreth’s resume, created by Longstreth in November 2016, states that Longstreth oversees political activities for the PAC. Contribution forms for the PAC list Longstreth as the “Contact” and include Longstreth’s email and phone number. Toll records corroborate Longstreth’s role, showing frequent contact with the attorney when Generation Now needed to move money to and from PAC.

d. In early 2018, the PAC bank account was funded almost entirely by a \$250,000 wire and a \$750,000 wire from Generation Now, on April 2 and April 12, 2018, respectively.<sup>8</sup> By April 30, 2018, nearly all of the million dollars was paid to two media services firms, which spent the money on media buys and other efforts to benefit Householder candidates, including Householder himself, in advance of the May 8, 2018 Ohio primary election.

e. The account was unused until Generation Now wired an additional \$50,000 to the account in September 2018, in advance of the fall 2018 election. Close to \$40,000 of that wire was paid to a political strategy group within weeks of the wire. Aside from payments to the attorney’s law firm, the balance remained in the account.

f. The account remained largely inactive from October 2018 until January-February 2020, when the Enterprise wired \$1,010,000 of money from Company A to the “Coalition,” (described below), which passed through to PAC roughly the same amount of money over the next two months. Expenditures from the PAC in FEC filings, along with media purchased by PAC, show that the Enterprise used the Company A money funneled to the PAC to benefit Team Householder candidates for the 2020 primary election.

g. **“Coalition”** is another 501(c)(4) non-profit entity for which the attorney who is treasurer and signor for the PAC is the signor on the Coalition’s bank account. The attorney incorporated the Coalition in Delaware one day after he incorporated PAC. Longstreth’s resume states that he oversees political activities for the Coalition. Search warrant returns indicate that Longstreth possessed a copy of the W-9 taxpayer identification form for the Coalition. He also saved Word documents characterized as “scripts” to use when soliciting money from donors to the Coalition.

h. For calendar years 2017 through 2019 the Coalition was funded almost exclusively through: A) \$90,000 from Company A, B) \$300,000 from “Energy Pass-Through” (a Company A pass-through, as set forth below), and C) \$200,000 from an interest group that was funded exclusively by \$13 million from another energy company that supported HB 6 and separately paid \$150,000 to Generation Now during the relevant period. Outgoing payments from the Coalition account were over \$100,000 in two wires to JPL & Associates; \$54,000 wired to Generation Now; \$191,000 wired to Media Placement Company 1; and \$200,000 wired to a public relations firm.

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<sup>7</sup> [REDACTED]

<sup>8</sup> Prior to the wire transfers from Generation Now, the PAC’s bank account had a balance of \$2,703.20.

i. The Coalition account was largely unused from August 2018 until January 2020 when, as described directly above, the Enterprise used the Coalition as a pass-through for Company A-to-Generation-Now money to PAC, which the Enterprise then used to support Householder-backed candidates in the 2020 primary election. The benefit of passing the money through the Coalition first, was that the PAC listed the Coalition as the source of the \$1,010,000 million in FEC filings, not Generation Now. The Enterprise sought to conceal Generation Now as the source of PAC funds in 2020 for numerous reasons, including, as explained below, Generation Now had generated negative media publicity in 2019 and candidates expressed concern to Householder about their association with it.

j. Thus, this account is a mechanism for Generation Now to spend secret money for the benefit of Householder and the Enterprise.

k. **“Dark Money Group 1”** is an entity used by the Enterprise to conceal the source of media buys during the 2018 general election, similar to the way the Enterprise used PAC for the primaries in 2018 and 2020. An Ohio lobbyist incorporated Dark Money Group 1 in Ohio on September 21, 2018 and opened its bank account on September 25, 2018.

l. The majority of activity in the account occurred roughly a month later, between October 2018 and Election Day on November 6, 2018. From October 19 to October 29, 2018, Generation Now wired \$670,000 into the account; Company A wired \$500,000 into the account; and other corporate interests wired \$300,000 into the account, totaling \$1,470,000. From October 22 to November 2, 2018, Media Placement Company 2 then spent \$1,438,510 on media buys for ads paid for by Dark Money Group 1 that generally targeted rivals of candidates aligned with Householder. Since Election Day in 2018, the account has been largely unused.

m. **“Front Company”** is a pass-through entity used by the Enterprise to fund the campaign against the referendum in furtherance of the conspiracy. The for-profit entity was organized in Ohio on July 30, 2019, just days after the Ballot Campaign to overturn HB 6 began. “Associate 1” and “Associate 4” of Longstreth and Householder are signers on its bank account.

n. From August 1, 2019 through October 2019, Company A-controlled accounts wired Generation Now \$38 million; Generation Now then wired \$23 million from those payments to Front Company, the vast majority of which was used to pay signature collection firms to fight against the Ballot Campaign and to pay for media opposing the Ballot Campaign. Generation Now was the sole source of money deposited into the Front Company account. By November 2019, less than \$5,000 remained in the Front Company account.

### C. Company A and Its Affiliates

36. **Company A Corp.** Incorporated in Ohio, Company A Corp. is a public utility holding company for its subsidiaries. As a holding company, Company A Corp. directs and controls the various subsidiary entities within Company A Corp. Per United States Securities and Exchange Commission documents, Company A Service Co. is a principle subsidiary, and

Company A-1 is a wholly-owned subsidiary of Company A Corp. Company A Corp. and its subsidiaries are involved in the generation, transmission, and distribution of electricity.

37. **Company A Service Co.** “provides legal, financial and other corporate support services at cost, in accordance with its cost allocation manual, to affiliated [Company A] companies.” Company A Service Co. is under the management of Company A Corp.’s leadership team. The Service Co. does not have its own CEO or board of directors. Among the shared services Company A Service Co. provides to Company A’s affiliated companies, including Company A-1, are “external affairs,” including “corporate contributions”; “Federal/State/Local Regulatory Affairs”; and “advocacy at the Federal, State, and Local levels.” According to Company A’s SEC Form 10-K, Company A Service Co. provided: \$112 million in shared services for Company A-1 and other debtors from April 1, 2018 to December 31, 2018; and \$152 million in shared services to these entities from January 1, 2019 to December 31, 2019. Pursuant to Company A-1’s governmental affairs contract with Cespedes relating to its efforts to pass legislation to save Company A’s failing nuclear power plants, explained in detail below, Company A Service Co. acted as *“the authorized agent of [Company A-1] for purposes of executing and administering this Agreement and is acting in each such case solely in its capacity as authorized agent.”* As set forth below, Company A Service Co. was the Company A affiliated entity that wired the bulk of the millions of dollars to Generation Now for the benefit of Company A-1.

38. **Company A-1** “provides energy-related products and services to retail and wholesale customers.” Company A-1 owns and operates nuclear generating facilities through affiliates, one of which owns two nuclear power plants in Ohio and sells the entire output from these plants to Company A-1. Another affiliate, by agreement, operates the nuclear generation plants. During most of the relevant period, Company A Corp. was the parent company for each of these entities.

39. On March 28, 2018, Company A-1 announced that Company A-1 was closing the two power plants by 2021. Three days later, Company A-1 and other Company A affiliates, filed Chapter 11 bankruptcy. Company A Corp. and Company A Service Co. did not seek bankruptcy protection. Pursuant to the bankruptcy plan, Company A Corp. proposed separating from Company A-1, its nuclear generation arm.<sup>9</sup>

40. Records obtained by the FBI indicate that, on June 4, 2018, a few months after filing Chapter 11 bankruptcy, Company A-1 entered a contract with Oxley Group LLC, which listed Cespedes as the “supplier contact.”<sup>10</sup> The term of the contract was from May 1, 2018 to April 30, 2019. Under scope of services, Cespedes was contracted to perform “Government Relations” for Company A-1, which included *“assist[ing] [Company A-1] in attaining necessary funding through government action to allow for the financial stability/sustainability of its two nuclear power plants.”* In other words, Cespedes’s job was to help Company A-1 attain

<sup>9</sup> In February 2020, Company A-1 emerged from bankruptcy under a new name and Company A Corp. divested its ownership interest in the company.

<sup>10</sup>

government funding—*i.e.*, legislative help—to save its two nuclear power plants from closure. Pursuant to the contract, among other things, Company A-1 was actively seeking specific legislative help to save the two nuclear plants, including “*getting a resolution*” passed, “*making our issue a campaign priority for incoming elected officials to achieve a solution in the first quarter of 2019,*” and receiving “*consistent updates on the pending House Speaker race,*” a reference to the Speakership race between Householder and Representative 1.

41. These priorities became reality. As described below, on April 12, 2019, just three months after Householder became Speaker with the help of Company A bribe payments, HB 6 was introduced by two freshman, “Team Householder,” representatives. HB 6 created a new Ohio Clean Air program to subsidize power plants fueled by nuclear and solar power, which had the effect of saving Company A’s nuclear plants from closure with over \$1 billion in subsidies for nuclear energy.

42. “**Energy Pass-Through**” is a non-profit 501(c)(4) that was incorporated in Ohio on February 8, 2017—two days after Generation Now was incorporated in Delaware. A week later, on February 16, 2017, Company A wired \$5 million into the Energy Pass-Through bank account—the first transaction in the account. The account was thus funded solely by the initial \$5 million wire from Company A. The Energy Pass-Through account then made the following transactions:

- \$300,000 wire to Generation Now on March 15, 2018 (weeks before Company A filed for bankruptcy);
- \$300,000 wire to Coalition on May 1, 2018;
- \$100,000 wire to Generation Now on May 4, 2018; and
- \$500,000 wire to Generation Now on August 16, 2018.

43. Aside from the initial \$5 million seed money, the account received no other deposits until October 10, 2019. On that date, Company A wired \$10 million to its Energy Pass-Through account. That same day, Energy Pass-Through wired \$10 million to Generation Now. Similarly, on October 18, 2019, Company A wired another \$10 million to Energy Pass-Through. On October 22, 2019, the day the ballot initiative failed and HB 6 officially became law, Energy Pass-Through wired \$3 million to Generation Now, and wrote a \$4,330.86 cashier’s check to Generation Now. On March 3, 2020, Energy Pass-Through wired another \$2 million to Generation Now. Based on my training and experience, there is probable cause to believe that this account was used as a pass-through from Company A to the Enterprise.

## **II. Enterprise Creates and Uses Generation Now to Receive Bribe Payments**

### **A. Creation of Generation Now**

44. On or about February 6, 2017, Generation Now, Inc. was incorporated in Delaware, and two bank accounts were opened at Fifth Third Bank (x3310 and x6847). Subpoenaed bank records show that an attorney and Jeff Longstreth were signatories on both accounts. On or about

July 26, 2017, Generation Now registered with the Ohio Secretary of State as a foreign nonprofit corporation “organized exclusively for the promotion of social welfare and economic development purposes within the meaning of Section 501(c)(4) of the Internal Revenue Code (‘the Code’), or the corresponding section of any future federal tax code.” The attorney, signed the application as the treasurer of Generation Now.

45. Although Householder was not listed on registration documents or in account records for Generation Now, the Enterprise used Generation Now to receive secret payments for Householder. Recorded conversations indicate that the Enterprise intended to use Generation Now, a 501(c)(4), in this way. For example, in a recorded call, Clark discussed with Householder, the use of a 501(c)(4), controlled by Householder, to receive payments: “*what’s interesting is that there’s a newer solution that didn’t occur in, 13 years ago, is that they can give as much or more to the (c)(4) and nobody would ever know. So you don’t have to be afraid of anyone because there’s a mechanism to change it.*” Clark believed that Householder should utilize his 501(c)(4) to gain political support in his campaign for Speaker against Representative 1 because reportable-hard dollars will cause industry groups to give to both sides, the implication being that Householder would obtain larger amounts of cash through a (c)(4).<sup>11</sup>

46. Similarly, in a recorded conversation in mid-2019, Clark summed up the benefit of 501(c)(4)s to Householder as follows: “*it’s secret, a (c)(4) is secret. Nobody knows the money goes to the Speaker’s account, it is controlled by his people, one of his people, and it’s not recorded. A (c)(4) is non-recorded.*”<sup>12</sup>

#### **B. Use of Generation Now to Receive Millions in Secret Payments from Company A**

47. At the time it was aggressively lobbying for legislative action to save its two nuclear power plants, Company A was paying millions in secret payments to the Enterprise through Generation Now. Table 1 lists each Company A payment received by Generation Now during the relevant period, starting from March 2017 (shortly after Company A started its ZEN energy legislative campaign and Householder won his House seat back) until March 2020:

Table 1: Company A Payments to Generation Now Bank Account x3310

Date	Amount	Method	Source
3/16/2017	\$250,000	Wire	Company A Service Co.
5/17/2017	\$250,000	Wire	Company A Service Co.
8/10/2017	\$250,000	Wire	Company A Service Co.
12/8/2017	\$250,000	Wire	Company A Service Co.
3/15/2018	\$300,000	Wire	Energy Pass-Through
5/4/2018	\$100,000	Wire	Energy Pass-Through
8/16/2018	\$500,000	Wire	Energy Pass-Through

<sup>11</sup>

<sup>12</sup>

Date	Amount	Method	Source
10/16/2018	\$400,000	Check	Company A Service Co.
10/29/2018	\$100,000	Check	Company A Service Co.
4/30/2019	\$1,500,000	Wire	Company A Service Co.
5/7/2019	\$1,500,000	Wire	Company A Service Co.
5/15/2019	\$2,500,000	Wire	Company A Service Co.
5/22/2019	\$2,500,000	Wire	Company A Service Co.
5/29/2019	\$1,500,000	Wire	Company A Service Co.
6/5/2019	\$2,000,000	Wire	Company A Service Co.
6/13/2019	\$1,361,899	Wire	Company A Service Co.
6/20/2019	\$2,116,899	Wire	Company A Service Co.
7/5/2019	\$1,879,457	Wire	Company A-1 Corp.
8/2/2019	\$734,250	Wire	Company A Service Co.
8/7/2019	\$4,390,000	Wire	Company A Service Co.
8/22/2019	\$653,000	Wire	Company A Service Co.
8/29/2019	\$2,003,000	Wire	Company A Service Co.
9/5/2019	\$2,403,000	Wire	Company A Service Co.
9/12/2019	\$2,403,000	Wire	Company A Service Co.
9/19/2019	\$4,695,000	Wire	Company A Service Co.
9/26/2019	\$2,445,000	Wire	Company A Service Co.
10/3/2019	\$4,160,000	Wire	Company A Service Co.
10/8/2019	\$1,600,000	Wire	Company A Service Co.
10/10/2019	\$10,000,000	Wire	Energy Pass-Through
10/17/2019	\$248,000	Wire	Company A Service Co.
10/22/2019	\$3,000,000	Wire	
	\$4,330.86	Cashier Check	Energy Pass-Through
3/3/2020	\$2,000,000	Wire	Energy Pass-Through
<b>Total: \$59,996,835.86</b>			

48. In addition to the \$59,996,835.86 that Company A paid directly to Generation Now, Company A made \$890,000 in other timely payments to the Enterprise, to include: Company A payments of \$500,000 to Dark Money Group 1 and \$90,000 to Coalition, and an Energy Pass-Through payment of \$300,000 to Coalition, all of which are detailed below. These payments bring the total amount of direct payments from Company A to the Enterprise during the relevant period as \$60,886,835.86. During the time of the conspiracy, other entities besides Company A deposited money into Generation Now; the amounts of those deposits, however, are dwarfed by the Company A payments.

Generation Now Deposits (2017-2020)		
Funding Entity	Total	Percentage
Company A & Energy Pass-Through	\$59,996,835.86	93%
Energy Interested Parties	\$1,500,000.00	2%
Other	\$2,853,319.82	5%
<b>Total</b>	<b>\$64,350,155.68</b>	

### C. Householder's Control of Generation Now

49. Although Householder's name is not on Generation Now's paperwork, Householder's statements, Clark's statements, and a review of documentation obtained pursuant to search warrants and grand jury subpoenas shows that Householder controls Generation Now to further the Enterprise's goals.

50. Clark stated expressly in multiple recorded conversations in 2019 that Generation Now is Householder's entity.<sup>13</sup> In a 2019 recorded meeting, Clark discussed making "soft money" payments to Householder relating to the passage of unrelated legislation. Clark stated that the Speaker would have to see the check before it goes to Generation Now. Clark explained that they could write a check—a "*noticeable number . . . \$15-20-25,000*"—to "*Gen Now and hand deliver the check to the Speaker*." Clark then made clear: "*Generation Now is the Speaker's (c)(4), that's the one I work for.*"

51. The next day, Clark again referenced "*Gen Now*" as a (c)(4) that works like a PAC but there's "*no reporting*." Clark stated that he was "*not on any documents*" connected to Generation Now, but they call him "*the overseer*" of Generation Now, explaining further, "*I'm the Speaker's appointed guy to do that. Okay, so, it's like having him in the room.*" Clark then explained an upcoming Generation Now meeting that will be attended by Householder:

*When I, so like, we have a meeting on Friday, he's going to be in the room, so I'll be just like everyone else, I'll be, I'll be another fucking staffer. When he's out of the room, I'm the guy.*

Later in the conversation, Clark indicated again that "*Gen Now*" "*is the Speaker's (c)(4)*," that Householder created for himself. Clark stated that he spent \$450,000 out of the Generation Now account that very day; and Clark further stated that he "*spent close to \$20 million in the last eight weeks*." Bank records corroborate both statements. When asked how much money was in Generation Now, Clark said, "*it's unlimited.*"

<sup>13</sup> [REDACTED]

52. Later that day, Clark explained that the \$450,000 paid out of Generation Now went to pay off fifteen signature collection firms nationwide so that they would be conflicted out from working on behalf of the Ballot Campaign, which bank records confirm, as described below.

53. In subsequent recorded calls and meetings, Clark discussed Householder's connection to Generation Now. For example, in a recorded call on August 8, 2019, Clark stated that Jeff Longstreth was Householder's "*political guy*" who "*could influence the Speaker.*" He similarly explained later in the call, Longstreth is Householder's "*political guy, he's the guy that does, remember that Committee I work for, Generation Now, I've been talking about.*"

54. Clark also discussed the individuals making a payment to Householder into Generation Now.<sup>14</sup> During a call on August 19, 2019, Clark discussed taking a trip with Householder or his advisors to further the unrelated legislation. During the call, Clark stated, "[Longstreth] and I are the two principal advisors to the Speaker." According to Clark, "*Jeff actually runs all the races and selects people, etc.*" Clark also stated that the individuals "*might write a check to the (c)(4)*" of the Speaker totaling \$50,000. Clark said it would be ideal if they could hand the check to Householder personally—as Clark explained, "*it's his (c)(4)*"—though Clark explained that typically the (c)(4) money is wired into the account. Bank records corroborate Clark's assertion that money into Generation Now is usually wired into the account.

55. Recorded statements by Borges to CHS 1 also show Householder's use of Generation Now, and further confirm Clark's statements. As explained fully below, in August 2019, Borges received \$1.62 million in wire transfers from Generation Now and then used a portion of that money to attempt to bribe CHS 1 to help defeat the ballot initiative. On September 10, 2019, during a recorded conversation, Borges discussed the divide between the ballot initiative supporters (to include the CHS 1) and the supporters of HB 6 and stated, "*The only people on my side is this fucking company,*" which Borges confirmed was "[Company A]." Borges described the relationship between Company A and Householder to CHS 1 as follows:

*And, and Larry also, you know, so it's this unholy alliance between Larry and [Company A] and [Borges' firm]. . . . [Borges' firm] doesn't care about Larry; he's helping with the issue our single largest client cares a lot about and [] unless you are somehow affiliated directly to [Company A] or work for one of their interests or you just want to suck up to Larry, you're on your side (as to whether to overturn HB 6).*

56. Borges also discussed Householder's direct involvement in managing Generation Now. Specifically, on September 13, 2019, he stated the following about Associate 3, who is Generation Now's public relations spokesperson:

*Like [Associate 3] who has to, who has to, answer to the press obviously, he wants to quit so bad 'cause he's like "this is my*

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<sup>14</sup> [REDACTED]

*reputation now” you know . . . but he can’t because the Speaker won’t let him, but he god he hates this shit.*

57. When CHS 1 asked whether Householder was “*putting the squeeze on [Associate 3],*” Borges responded that, “*Larry thinks that this stuff is good for us.*” When CHS 1 asked Borges why Householder does not just retire, Borges responded, “*No. That’s just not how he’s wired.*” Borges indicated he was not aware of what Householder was making off the relationship with Company A, but Borges stated it was “*insane*” what “*Jeff and those guys*” are making off the relationship.

58. Borges also reinforced Clark’s role in the Enterprise, specifically his role as Householder’s proxy to Generation Now: “*Neil sits in meetings and he’ll say ‘I’m the proxy for the Speaker in this meeting . . . so anything you tell me’ and you kind of think it’s typical Neil bullshit stuff except it is not; he’s really acting as his proxy.*” This corroborates Clark’s own statements that he was acting as Householder’s proxy for purposes of passage of HB 6 and the effort to defeat the ballot initiative through the use of Generation Now.

59. Householder’s admissions confirm Clark’s and Borges’ statements that Householder controls Generation Now. In a January 10, 2018 recorded call<sup>15</sup> with Clark, Householder discussed financial contributions from various industries, including payday lenders and nursing homes, two industries for which Clark is a lobbyist. During the call, the following conversation occurred:

LH: “*Now switching gears. So we are looking at the payday lenders. And we are expecting big things in (c)(4) money from payday lenders....*”

NC: *Right. Right.*

LH: “*So far, I think we are what, fifty? I think* [speaking to someone else in the room]

NC: *Are you, you’re checking now with Jeff right?*

LH: *Right.*

NC: *You should have gotten twenty-five or fifty from [owner of firm], correct?*

LH: *Yes.*

. . . .

LH: [After confirming with someone in the background] *Twenty five total . . . Twenty-five total is what we’ve got.”*

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<sup>15</sup> [REDACTED]

60. Generation Now's bank records match the description of the checks discussed during [REDACTED]. Subpoenaed bank records from Generation Now's account show, indeed, that at the time of the call, a check for \$25,000 from payday lending company (written on October 18, 2017) had been deposited into the Generation Now account. Clark's reference to "[the owner of the firm]" was a reference to president of the company, which wrote the \$25,000 check. The reference to "Jeff" during the [REDACTED] is likely a reference to Jeff Longstreth. During another portion of the same [REDACTED], Householder and Clark discussed another industry's "501(c)(4)." Householder confirmed to Clark during the call that this entity gave 30,000 to "the (c)(4)." Again, Generation Now's bank account revealed a \$30,000 check (written on October 19, 2017) from the entity that was deposited into the Generation Now account prior to the [REDACTED]

61. Householder's connection to Generation Now was further clarified during a call on February 5, 2018 between Householder and Clark, during which Householder again inquired about "(c)(4) money." Specifically, Householder stated, *"I'm sitting here with [Associate 2] . . . we're talking about (c)(4) money, and we're trying to figure out where the payday lenders were going to be at. Can you help me with that?"* Associate 2 is the Finance Director for Householder's campaign; text communications show that he/she solicited and collected money for Generation Now, and he/she was paid out of the Generation Now account. This call is consistent with the January 10, 2018 call with Clark where Householder was seeking 501(c)(4) money from Clark's clients.

62. Text message communications between Householder and Longstreth also show that Householder controlled Generation Now. For example, in a June 12, 2019 text message, Householder asked Longstreth, *"When does the Gen Now TV message change? I think it is burnt in - well burnt in."* Longstreth responded, *"They are working on a draft now. Polling shows it's working."* Similarly, on June 23, 2019, Householder texted to Longstreth that *"Gen Now has had issues,"* explaining that *"I've had several members - including members of House leadership come in privately and discuss their concern over next years [sic] House campaigns based on HB 6 messaging, mail, TV and radio."* In addition, Householder sent messages to Longstreth asking about *"running positive radio"* for a member, explaining, *"[g]ot to protect the troops - especially make sure they believe we are protecting them."* These text messages show that Householder is involved in Generation Now media buys to further HB 6. They also show that the pressure the Enterprise was putting on House members through Generation Now media efforts to further HB 6 created political problems for some House members, and those members went directly to Householder to voice their "concern" about Generation Now's activities.

63. Finally, search warrant returns also confirm that Householder is involved directly in Generation Now. For example, a Word document originally created by Longstreth on February 5, 2017 and titled "Friends of LH Meeting Template," listed a meeting agenda for the Friends of Larry Householder campaign, and on the same page of the Word document and directly below, a meeting agenda for Generation Now. According to the template, the Friends of Householder campaign listed Associate 1, Householder, and Staffer<sup>16</sup> as "Attendees" of a Monday meeting that lasted from "11-12:00pm" (highlights in original)<sup>17</sup>:

<sup>16</sup> [REDACTED]

<sup>17</sup> The investigation indicates that Enterprise members refer to Householder in writing as "SLH."

**Friends of LH Staff Meeting Template**

11-12:00 PM on Mondays at 25. Attendees- [REDACTED], SLH

Goal – recap the previous week and set goals and expectations for the following week.

64. The meeting involved discussion about fundraising and member recruitment, among other things. The Generation Now meeting—detailed directly below on the same, two-page Word document—listed Householder, Longstreth, and Associate 1 as “Attendees” of that meeting, which was scheduled one hour later from “12:00-1:00”:

**Generation Now- Monday Staff Meeting**

12:00-1:00 Mondays at 25

Lunch will be served promptly at noon.

Attendees- SLH, JPL, [REDACTED]

Goal: recap the previous week and set goals and expectations for the following week.

65. The format of the Generation Now meeting was the same as the Friends of Householder<sup>18</sup> meeting and involved discussion about fundraising, messaging, budget, and campaigns, among other things. This document shows that, immediately after he met with his campaign staff, Householder met personally with his Enterprise members and associates about their collective efforts involving Generation Now, further showing Householder’s direct involvement and connection with Generation Now.

### **III. Enterprise Used Company A Payments to Increase Householder’s Political Power**

66. The Householder’s Enterprise benefitted from Company A’s money by spending Company A-to-Generation Now funds to back Householder-selected candidates who would help elect Householder as Speaker. The Enterprise also used the money to pay for part of Householder’s own campaign.

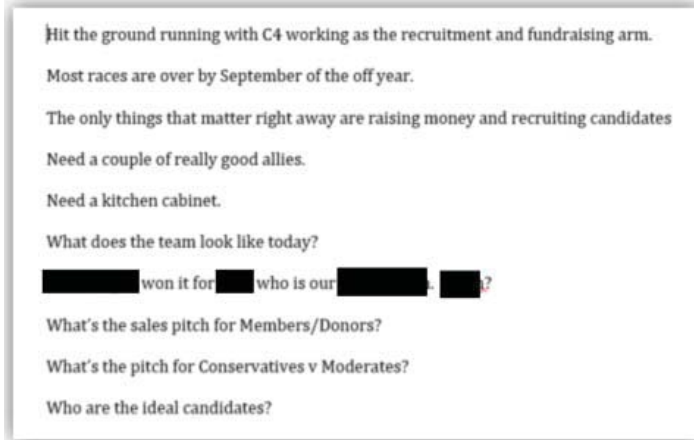
#### **A. Building Team Householder**

67. Members of the Ohio House of Representatives serve two-year terms, and are limited to four, consecutive, two-year elected terms. At the end of 2018, the then-current Speaker would be term-limited and the legislature would elect a new Speaker to begin the 2019 legislative session. The investigation shows that by the end of 2016, the Enterprise implemented a strategy for Householder to take over the Speakership in 2019.

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<sup>18</sup> “Friends of Householder” is the name of Householder’s public campaign committee.

68. The Enterprise's strategy included raising money through a "C4" and recruiting candidates who, if elected, would support Householder for Speaker. Documents such as "Game plan 2018," possessed by Longstreth illustrate this point:



69. That this document was created in October 2016, a few months before Longstreth opened the Generation Now account in February 2017, shows that the Enterprise followed this strategy and its level of commitment in so doing. The question "who is our [redacted]" is a reference to the wealthy, financial backer of the then-current Speaker; and thus, the Enterprise is asking in its "Game plan 2018" document, "who will be our financial backer?" Longstreth's proposed option, "[redacted]" is the CEO of Company C, which is a company whose interests align with Company A.

70. To implement the two-fold strategy of recruitment and fundraising, the Enterprise needed to recruit a team of electable candidates who would support Householder's bid for speakership. A combination of financial records, documents recovered from search warrants, media reports, legislative records, and witness interviews show that the Enterprise selected a group of candidates to run for open seats in the primary against supporters of Householder's rival, Representative 1, who was backed by the then-current Speaker. The Enterprise managed the selected candidates' campaigns, paid to staff them, and designed and paid for their mailers and commercials. The Enterprise spent Generation Now money on approximately 21 different candidates – 15 (including Householder) in the primary, and six additional candidates in the general election.<sup>19</sup> Most of these candidates won the 2018 general election. All who won voted for Householder as Speaker; and all but two, voted for the legislative bailout for Company A.<sup>20</sup>

<sup>19</sup> Some of the candidates supported in the primary election were not supported in the general election, which based on my training and experience is likely because the candidates were in safe districts and would prevail without spending resources on the campaign.

<sup>20</sup> [redacted]

71. Additionally, Householder's political campaign benefited from Company A-to-Generation Now money directly in two ways. First, Company A-to-Generation Now money was used to pay for staff, which would otherwise have been paid by Householder's candidate committee, Friends of Larry Householder. Not having to pay staff salaries using campaign dollars gave Householder a competitive advantage against his opponents. Secondly, Householder benefited because Company A-to-Generation Now money, which passed through the PAC, purchased advertisements for Householder's race for the 72<sup>nd</sup> district. In total, at least \$97,000 was spent by the Enterprise on Ohio house district 72 between April 16<sup>th</sup> and April 25<sup>th</sup> to purchase direct mail and radio advertisements.

72. Documents recovered from Longstreth show the Enterprise's planning and preparation in building Team Householder. For example, a document entitled "Team Skills," which was last modified in February 2018, proposed a list of individuals for a leadership team for 2019, including Speaker of the House, Speaker Pro Tempore, Majority Floor Leader, Assistant Majority Leader, Majority Whip, and Assistant Majority Whip. After Householder was elected Speaker in 2019, all of the individuals, except for one, became part of Householder's leadership team. (The exception was a representative who did not support Householder for Speaker).

73. In terms of the actual candidates selected to be part of Householder's team, agents recovered numerous documents from Longstreth, which listed largely the same select group of candidates, such as one entitled "2018 Official Primary Matchups," that provide evidence of the recruitment and vetting process. Agents recovered dozens of similar documents, which referred to this group of candidates as "recruitment updates," "our team," or "Team Householder." Regardless of the name, however, it is clear the Enterprise considered the election of these candidates an integral part of its strategy for a Householder Speakership.

74. Notably, Longstreth's list mirrored House members that Company A intended to support in the 2018 election. For example, a Word document in Cespedes' possession, titled "Householder" and created May 8, 2018 at 10:49pm—after polls closed the night of the Ohio Primary—listed the Householder candidates versus the Representative 1 candidates.

## **B. Funding "Team Householder"**

75. Based on my training and experience, I know that in order to execute its strategy of electing Team Householder candidates, the Enterprise needed to raise a substantial amount of money. The House's then-current Speaker had picked Representative 1, not Householder, to be his successor. As Cespedes explained in a document created March 18, 2018, "[Redacted] is a lame duck Speaker but is heavily involved in the campaign to elect [Representative 1] as the next Ohio Speaker." This meant that the war chest of the then-current Speaker had accumulated through the Ohio House Republican Organizational Committee (OHROC) would be spent on Speaker/Representative 1-backed candidates.<sup>21</sup> Based on my training, experience, and the

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<sup>21</sup> Media reports indicate that the then-current Speaker controlled OHROC and determined how funds were dispersed. *E.g.* <https://www.dispatch.com/news/2018051/O/householder-flexes-muscles-within-ohio-house-gop>. Bank records show funds controlled by representatives were deposited into OHROC and that corporate contributions also were deposited into the fund.

investigation, to beat the OHROC-backed candidates in the primaries, the Enterprise needed to out-fundraise them and execute successful campaign messaging for the “Team Householder” candidates.

76. An excel spreadsheet recovered from Longstreth, titled “Campaign Budget 2017-18” and last edited in September 2017, shows that the Enterprise estimated the amount needed to implement its strategy was more than \$2 million:

Position	Salary	Team Lead	FT/PT/IND	Overhead factor	Employment factor	Total Cost to employ
Driver	\$ 10,000.00		IND	1	1	\$ 10,000.00
Research/Content	\$ 108,000.00		FT	1.7	1.25	\$ 229,500.00
Finance Team	\$ 72,000.00		IND	1	1	\$ 72,000.00
Political Team	\$ 65,000.00		FT	1.7	1.25	\$ 138,125.00
Communications Team	\$ 150,000.00		FT	1.7	1.25	\$ 318,750.00
Creative Team	\$ 72,000.00		IND	1	1	\$ 72,000.00
Field/Grassroots Direct	\$ 80,000.00		FT	1.7	1.25	\$ 170,000.00
Digital Media Team	\$ 300,000.00		FT	1.7	1.25	\$ 637,500.00
Administrative	\$ 42,000.00		FT	1.7	1.25	\$ 89,250.00
Executive Director	\$ 120,000.00	Jeff	IND	1	1	\$ 120,000.00
Transportation		\$ 24,000.00				
Rent		\$ 91,000.00				
Office Supplies		\$ 12,000.00				
Legal		\$ 36,000.00				
Misc.		\$ 36,000.00				
i360 Data		\$ 48,000.00				
	\$ 1,019,000.00	\$ 247,000.00	#####			\$ 1,857,125.00

77. Similarly, during a January 10, 2018 recorded conversation, Clark and Householder discussed their plan to “orchestrate (c)(4) checks” to help Householder fund campaigns for his benefit. Specifically, Clark estimated that Householder would “need a hundred and twenty thousand per race,” to which Householder responded, “I’d say one fifty, but yeah, you’re in the ballpark.” They then discussed how to raise the amount they need in 501(c)(4) checks to fund candidate campaigns. Clark also mentioned that, “some people decided to help [Representative I]” for Speaker, to which Householder responded, “yeah, we can fuck them over later.”

78. Ultimately, the Enterprise funded approximately twenty-one candidate campaigns, which, using the metric discussed by Clark and Householder in the January 2018 call, meant that Householder would need to raise between roughly \$2.5 million and \$3.0 million to fund the campaigns.

### C. Volume and Timing of Company A Payments to Enterprise during 2018 Election Cycle

79. At the same time the Enterprise worked on a “game plan” to secure Householder’s ascension to Speakership, Company A needed a solution for its Ohio nuclear plants. The investigation shows that the Enterprise and Company A formed, what Company A-1 lobbyist

Borges called, “an unholy alliance.” Company A funded Householder’s Speakership bid in exchange for a legislative fix for its nuclear power plants.

80. The volume of Company A’s payments, the timing of these payments, communications and coordination amongst co-conspirators and Company A, the official action taken by Householder, and the actions to maintain the official action, show the corrupt arrangement was Company A funding Householder’s speakership bid in exchange for a legislative fix.

81. As described above, the vehicle to collect the vast amounts of money needed for Householder’s Speakership bid was Generation Now. From the time the Generation Now bank accounts were opened in 2017 through the November 2018 general election, the Enterprise received approximately \$4.6 million into Generation Now. More than half of that money came from Company A or the Energy Pass-Through, fully funded by Company A. More than a half million of the remaining money came from energy-related entities that either had a relationship with Company A or an interest in the bailout legislation. The remaining amount of money (approximately \$1.6 million) came from approximately 31 other interest groups.

82. The investigation shows Company A made regular, quarterly payments of \$250,000 into Generation Now’s main bank account almost immediately after Longstreth opened it in 2017. But, in March 2018, approximately two weeks before Company A’s Corp. affiliates filed for bankruptcy, Company A began funneling payments to Generation Now through Energy Pass-Through. The payments wired from Company A Service Co. into the Energy Pass-Through originated from account x6496, the same account used to wire payments directly from Company A Service Co into Generation Now. In the final month before the 2018 general election, Company A dropped another \$500,000 into the Generation Now account. This time the money was paid by check from account x4788.<sup>22</sup> The payments from Company A from 2017-2018 are summarized below.

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<sup>22</sup> Bank records indicate that x4788 is also a Company A Service Co. account. For example, the checks to Generation Now from x4788 were signed by the Senior VP and CFO for Company A Service Co, who is now the President of Company A Corp.

March 16, 2017	\$250,000	wire	Company A Service Co (x6496)
May 17, 2017	\$250,000	wire	Company A Service Co (x6496)
August 10, 2017	\$250,000	wire	Company A Service Co (x6496)
December 8, 2017	\$250,000	wire	Company A Service Co (x6496)
March 15, 2018	\$300,000	wire	Energy Pass-Through (originally from Co. A Service Co. x6496)
May 4, 2018	\$100,000	wire	Energy Pass-Through (originally from Co. A Service Co. x6496)
August 8, 2018	\$54,000	wire	Coalition (originally from Co. A Service Co. x6496 through Energy Pass-Through)
August 16, 2018	\$500,000	wire	Energy Pass-Through (originally from Co. A Service Co. x6496)
October 9, 2018	\$400,000	check	Company A Service Co. (x4788)
<u>October 29, 2018</u>	<u>\$100,000</u>	<u>check</u>	<u>Company A Service Co. (x4788)</u>
<b>Total:</b>	<b>\$2,454,000</b>		

83. In addition, Company A Service Co. paid the Enterprise an additional \$500,000 to Dark Money Group 1 on October 29, 2018, bringing the total that Company A paid to the Enterprise through Generation Now in 2017-2018 as \$2,954,000.<sup>23</sup>

84. Toll records corroborate the close coordination between the Enterprise and Company A during the 2018 primary, even though the payments were sent via Energy Pass-Through. For example, several days before a \$300,000 payment through Energy Pass-Through on March 15, 2018, multiple communications between Householder and Company A occurred:

Date	Time	Caller	Called Party	Duration
March 12, 2018	14:03	Householder	Sr. VP of External Affairs for Company A Service Co.	24 seconds
March 12, 2018	15:06	Sr. VP of External Affairs for Company A Service Co.	Householder	3:03 minutes
March 12, 2018	15:11	Sr. VP of External Affairs for Company A Service Co.	Householder	9 seconds
March 12, 2018	16:59	Householder	Ohio Director of State Affairs, Company A Corp. <sup>24</sup>	11:34 minutes

<sup>23</sup> This number does not include \$90,000 that Company A paid to the Coalition on March 21, 2017 and \$300,000 that Company A paid to the Coalition on May 1, 2018 (through Energy Pass-Through).

<sup>24</sup>

Date	Time	Caller	Called Party	Duration
March 12, 2018	17:45	Ohio Director of State Affairs, Company A Corp.	Householder	0 seconds
March 12, 2018	17:45	Ohio Director of State Affairs, Company A Corp.	Householder	13 seconds
March 12, 2018	19:55	Householder	Ohio Director of State Affairs, Company A Corp.	11:17 minutes
March 13, 2018	17:22	Sr. VP of External Affairs for Company A Service Co.	Householder	1:32 minutes
March 13, 2018	17:24	Sr. VP of External Affairs for Company A Service Co.	Householder	56 seconds
March 15, 2018	Energy Pass-Through Payment for \$300,000			

85. A similar pattern occurred with respect to the May 4, 2018 payment of \$100,000 through Energy Pass-Through, just days before the May primary, this time between Longstreth and Company A:

Date	Time	Caller	Called Party	Duration
April 27, 2018	10:49	Sr. VP of External Affairs for Company A Service Co.	Longstreth	0 seconds
April 27, 2018	10:49	Sr. VP of External Affairs for Company A Service Co.	Longstreth	3 seconds
April 27, 2018	10:55	Longstreth	Sr. VP of External Affairs for Company A Service Co.	2:47 minutes
April 27, 2018	13:37	Longstreth	Sr. VP of External Affairs for Company A Service Co.	2:56 minutes
April 28, 2018	10:38	Sr. VP of External Affairs for Company A Service Co.	Longstreth	1:30 minutes
April 28, 2018	11:40	Longstreth	Sr. VP of External Affairs for Company A Service Co.	2:14 minutes
April 30, 2018	9:11	Longstreth	Sr. VP of External Affairs for Company A Service Co.	2:11 minutes

Date	Time	Caller	Called Party	Duration
May 1, 2018	18:41	Ohio Director of State Affairs, Company A Corp.	Longstreth	15:49 minutes
May 3, 2018	22:09	Ohio Director of State Affairs, Company A Corp.	Longstreth	Text
May 4, 2018	6:10	Longstreth	Ohio Director of State Affairs, Company A Corp.	Text
May 4, 2018	6:18	Ohio Director of State Affairs, Company A Corp.	Longstreth	Text
May 4, 2018	6:25	Longstreth	Ohio Director of State Affairs, Company A Corp.	14:12 minutes
May 4, 2018	Energy Pass-Through Payment for \$100,000			

86. Toll records around this period do not otherwise show regular contact between Householder and Company A employees or Longstreth and Company A employees, further demonstrating the significance of these calls.

#### **D. Enterprise Spending Company A Money on Spring 2018 Election**

87. Not only was the volume of the Company A payments critical to the Enterprise's efforts, but the timing was also significant. As noted above, during the 2018 election, the then-current Speaker was a lame duck Speaker, who had picked Representative 1 to be his successor. Thus, the Enterprise needed a substantial amount of money to beat the Representative 1 candidates in the May primary election. Company A came through, paying the Enterprise \$1.4 million before the May 8, 2018 primary date.

88. But the Enterprise's ability to capitalize on an unexpected opportunity that arose a month before the primary election date also demonstrates how critical the volume and timing of payments from Company A was. On April 12, 2018, about a month before the primary, the then-current Speaker abruptly resigned. The Enterprise seized upon this opportunity.

89. Because of the money accumulated in the Generation Now war chest, the majority of which came from Company A, the Enterprise was able to move close to \$1 million in the three weeks before the primary. In fact, the same day that the Speaker resigned, bank records reveal that the Enterprise wired \$750,000 to the PAC. (That wire followed a \$250,000 wire Generation Now sent to the PAC in early April.) The majority of the \$1 million from Generation Now was wired to a media services company and a political strategy firm for media buys and mailers for Team Householder candidates. In addition, Generation Now wired \$234,450 to JPL in three increments between April 12 and May 7, adding to the already \$775,054 it wired to JPL in the first quarter of 2018. This money also was mostly spent on the campaign to elect Team Householder

candidates. The disbursements from Generation Now and their relative distribution dates to the PAC and JPL leading up to the primary were as follows:

Jan. 29, 2018	Generation Now	\$109,513 wire	JPL
Jan. 30, 2018	Generation Now	\$14,514 wire	JPL
Feb. 21, 2018	Generation Now	\$109,513 wire	JPL
Mar. 12, 2018	Generation Now	\$132,000 wire	JPL
Mar. 22, 2018	Generation Now	\$200,000 wire	JPL
April 2, 2018	Generation Now	\$250,000 wire	PAC
April 5, 2018	Generation Now	\$209,513 wire	JPL
<b>April 12, 2018</b>	<b>Speaker resigns</b>		
April 12, 2018	Generation Now	\$750,000 wire	PAC
April 12, 2018	Generation Now	\$109,513 wire	JPL
April 19, 2018	Generation Now	\$71,337 wire	JPL
May 7, 2018	Generation Now	\$53,600 wire	JPL
<b>May 8, 2018</b>	<b>Ohio primary</b>		

**Total: over \$2 million**

90. Phone records corroborate the fact that the Speaker's resignation marked a significant moment of mobilization for the Enterprise, which was made possible because of the payments from Company A. On the day of the Speaker's resignation, Householder and Longstreth had a 31-minute call. Shortly thereafter, they both began making the rounds. Householder contacted Company A Service Co.'s Sr. Vice President of External Affairs, and proceeded to have a 5-minute phone call. Longstreth communicated with Company A Corp.'s Ohio Director of State Affairs, and followed immediately with a call to the attorney for the PAC and then communication with an executive of Political Strategy Firm 1. Longstreth and Householder then communicated with many Team Householder candidates throughout the day.

91. All told, Generation Now spent more than \$1.8 million on the Spring 2018 primary races—largely by funneling the Company A-to-Generation-Now money through the PAC.<sup>25</sup> The specific use of the money is confirmed by subpoenaed records. For example, nearly all of the Generation Now money wired into the PAC was sent to either to Media Services Company 1 or the Political Strategy Firm 1. Checks were issued from Media Services Company 1 to various radio stations for media buys. Many of these checks note the House district race related to the buy, and the district races denoted on those checks correspond with Longstreth's lists of Team Householder candidates.

92. Not only did Generation Now spend \$1.8 million on Team Householder candidates, but at least \$90,000 of that money funded campaign expenses for Householder's own campaign, thus benefitting him personally, outside the context of his public campaign fund.

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<sup>25</sup> This figure excludes payments to Associate 2 for salary and Generation Now rent payments to the Political Advertising Agency during the same time frame.

93. In addition to bank records, the PAC filed an FEC mid-year report in 2018, outlining its expenditures in the primary. Although the report failed to list candidates by name—and those candidates did not report in-kind gifts or contributions from the PAC—the report did list expenditures in connection with certain Ohio House districts. And, those House Districts again corresponded with the Enterprise’s candidates. The amounts listed in the PAC’s FEC report, which correspond to particular House Districts, total more than \$800,000.

94. While the investigations shows that the PAC paid Media Services Company 1 and Political Strategy Firm 1 nearly the entire million dollars it had received before the Spring 2018 primary, bank records from JPL x9192 show that Longstreth also dispersed approximately \$1 million of the money he received from Generation Now to media, communication, and strategy consulting companies, in support of the Enterprise’s primary efforts from January to May 2018.

95. The timing of these payments also evidence money laundering by the Enterprise in furtherance of its purposes with the payments from Company A. For example, on March 12, 2018, Generation Now wired the JPL x9192 account \$132,200 for “advertising.” The next day, JPL x9192 wired \$132,240 to Election Marketing Company 1. Between April 5 and 12, 2018, Generation Now wired a total of \$319,026 to JPL x9192, which then wired Direct Mail Company 1 \$250,000 between April 6 and April 13, 2018. The evidence of money laundering is even stronger considering that Longstreth is a signatory on the Generation Now and x9192 accounts, demonstrating that he used the JPL account as a pass-through to pay the companies.

96. Ultimately, the Enterprise’s efforts were successful, with most Team Householder candidates winning their primaries. On or about July 24, 2018, a few months after the primaries, \$215,000 was wired from Longstreth-controlled accounts to settle a personal lawsuit against Householder. On August 1, 2018, the same day that Householder was meeting with Company A executives in Columbus, according to documents in Cespedes’ possession, a court filing in Franklin County Court “released and forever discharged” the judgment against Householder and Householder Ltd. The main JPL account was funded with wire transfers from Generation Now, which was funded in large part by Company A wires. In addition, bank records show that JPL’s main account also paid Householder’s attorneys involved in the lawsuit in May 2017 via two checks totaling \$60,000. At the time JPL made those payments, it had received more than \$78,000 from Generation Now, which had been funded solely by a \$250,000 wire from Company A, a \$25,000 deposit from the CEO of Company C, and \$200 deposit from Longstreth on the date he opened the account.<sup>26</sup> JPL also paid the same law firm additional fees totaling \$25,308.43 in 2018.

## **E. Fall 2018 Election**

97. The investigation shows that, after the primaries, the Enterprise refocused its efforts on ensuring the Team Householder candidates won the general election in November. As set forth below, the Enterprise used a new corporate entity (Dark Money Group 1) to further its purposes, which was funded by Company A, Generation Now (as funded by Company A), and related interests, and then used almost all of those funds to further the campaigns of Team Householder candidates.

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<sup>26</sup> As set forth above, Company C has interests aligned with Company A.

98. First, for its part, from August to October 2018, Company A paid an additional \$1.5 million into the Generation Now war chest. As detailed in the chart above, the payments from Company A came in the form of checks or via Energy Pass-Through. Prior to these payments, the Enterprise needed money—Generation Now had less than \$4,000 in its account just prior to an Energy Pass-Through \$500,000 wire in August 2018. Just like in the primary season, Generation Now funneled a substantial amount of its Company A money through a separate entity—this time Dark Money Group 1—to run negative ads against Team Householder opponents.

99. Within days of its incorporation in September 2018, Dark Money Group 1 opened a bank account at Huntington Bank, the same bank used by Longstreth. A few weeks later, Generation Now wired a total of \$670,000. Bank records show that the only deposits in the account were as follows:

October 19, 2018	\$400,000	wire	Generation Now
October 24, 2018	\$150,000	wire	Generation Now
October 26, 2018	\$100,000	wire	Company B <sup>27</sup>
October 29, 2018	\$500,000	EFT	Company A Service
October 29, 2018	\$120,000	wire	Generation Now
October 29, 2018	\$100,000	check	CEO of Company C <sup>28</sup>
October 30, 2018	\$100,000	check	Individual 3 <sup>29</sup>
<b>Total:</b>	<b>\$1.47 million</b>		

100. No other money was paid into Dark Money Group 1's account. Again, the volume and timing of the payments from Company A proved crucial to the Enterprise's success. Funneled through Energy Pass-Through to Generation Now, Company A infused over a million dollars into Dark Money Group 1 in the fall of 2018 alone, which allowed the Enterprise to flood the airways with negative ads against its opponents in the final days before the election.

101. Specifically, bank records show that out of the \$1.47 million deposited into the Dark Money Group 1 account, Dark Money Group 1 paid more than \$1.438 million to Media Placement Company 2, a firm that bought television and radio ads in Dark Money Group 1's name. Federal Communications Commission (FCC) records confirm the expenditures. Specifically, public documents filed with the FCC show Media Placement Company 2 purchased more than \$1.3 million worth of advertisements for Dark Money Group 1 in the ten days before the election. Based on the television and radio stations targeted, the bulk of the media buys were spent on ads in the districts of Team Householder candidates in tight races.

102. The strategy worked. The clearest example comes from one highly contested House District race. Although the Enterprise initially backed Candidate 1 in the primary, Candidate 1 lost in the Spring 2018 primary, beat by Representative 2. In the general election, Representative 2 faced a tight race against the opposing party's candidate. However,

<sup>27</sup> Company B is an energy company with interests aligned with Company A.

<sup>28</sup> Company C has interests aligned with Company A.

<sup>29</sup> Individual 3 does not appear to be related to Company A or have aligning interests.

Representative 2 ultimately prevailed by 137 votes. Representative 2's victory was credited to a negative ad run by Dark Money Group 1, which showed the opposing candidate taking a field sobriety test, yet only receiving a speeding ticket. The ad essentially accused the candidate of misusing his authority. Although the candidate and the police union condemned the ad, the damage was done—the opposing candidate, who reportedly had a 10-point lead before the ad aired, lost the election. Media reports credited the Dark Money Group 1 ad with tipping the scales.

103. After the election, Householder took credit for the ad against the opposing candidate, remarking to Individual 1, that he (Householder) had put \$500,000 into that race in the final weeks. Householder's comment was made during a meeting after the election in November 2018, where Individual 1, who was a prospective Team Householder candidate for the 2020 election, was being interviewed by Householder. Based on this discussion, Individual 1 understood from Householder that if he/she were selected, he/she would have Householder's financial backing, just like Representative 2. This showed Householder's control over Dark Money Group 1 funds. Individual 1 has provided other information relevant to the investigation that has been independently corroborated.

104. A copy of the video ad run against the opposing candidate was recovered by agents from Longstreth. Notably, the video in Longstreth's possession appears to be a "draft" or "rough cut" of the Dark Money Group 1 ad, evidenced by the file name of the video, which appears in the left-hand corner of the recovered video. The fact that this video was recovered from Longstreth also demonstrates the Enterprise's control over Dark Money Group 1, and how the payments from Company A were spent.

105. Representative 2's race exemplifies the benefit Company A provided to the Enterprise by way of its timely payments during election seasons. However, the benefit to the Enterprise was not limited to the cash infused to Dark Money Group 1. Generation Now paid Longstreth another \$809,000 between the time of the May primary and November election. Through JPL, Longstreth paid himself, his associates, and a number of campaign managers working on the campaigns of Team Householder candidates. Indeed, CHS 1, who has provided reliable and credible information corroborated by the investigation, advised that he/she was working on the campaign of a Team Householder candidate during the fall 2018 general election, but that CHS 1 was paid by Longstreth. (Subpoenaed records confirm the main JPL account, which had received money from Generation Now, paid the CHS.) This shows that Company A-to-Generation-Now money was used by the Enterprise to benefit Team Householder candidates—thus, providing a benefit to Householder himself. Longstreth also paid several media, communications, strategy and direct mail groups. Besides Dark Money Group 1 and JPL, Generation Now also paid rent to Political Advertising Agency and \$10,000 a month to Associate 2 for "fundraising."

106. Ultimately, the Enterprise's "Game plan 2018" worked. By coordinating and financially backing the Team Householder candidates using Company A money, the Enterprise helped elect a group of representatives loyal to Householder. All of the candidates who were financially supported by the Enterprise and won in the 2018 general election voted to make Householder, instead of Representative 1, Speaker. With their votes, Householder secured the

Speakership in 2019. And, as described in the next section, two of the Team Householder candidates carried the Company A legislative bailout for him.

## **II. The Bailout: Enterprise Passes Legislation for Company A**

107. Having secured Householder's power as Speaker, the Enterprise transitioned quickly to fulfilling its end of the corrupt bargain with Company A—passing nuclear bailout legislation. In fact, on January 7, 2019, the day he was elected Speaker, Householder pledged to create a standing subcommittee on energy generation.<sup>30</sup> Householder then followed through shortly after his election as Speaker by passing the HB 6 legislation and defending the bill against the ballot initiative challenge.

108. The Enterprise's efforts to pass the legislation and preserve it against the Ballot Campaign challenge were funded entirely by Company A, through payments to Generation Now. While HB 6 was pending in the House, Company A wired Generation Now \$9,500,000. When the bill was pending in the Senate, Company A wired Generation Now \$7,358,255. And, to fund its efforts to defeat the Ballot Campaign, Company A wired an additional \$38,000,000 to Generation Now. The volume and frequency of these payments provide further evidence of the Enterprise's corrupt arrangement with Company A. These facts, including the Enterprise's passage of HB 6, its efforts to defeat the subsequent Ballot Campaign, and Company A's involvement and coordination funding these efforts, are set forth fully below.

### **A. House Bill 6**

109. Consistent with their agreement, the Enterprise implemented a strategy to pass a legislative fix for Company A shortly after Householder was selected Speaker. The strategy involved ramming a sweeping piece of legislation—HB 6—through the House and pushing the Senate to agree. First, Householder picked freshman representatives, which Householder helped elect by using Company A-to-Generation-Now dollars for their benefit in the 2018 election, to sponsor the bill that he helped draft. Second, Householder created a new subcommittee to hear the bill, which was comprised mostly of Householder supporters. Third, the Enterprise engaged in an expensive media blitz, funded by Company A-to-Generation-Now payments, to pressure public officials to support the bill. Fourth, Householder strong-armed House members, particularly opponents of the bill. Finally, Householder and the Enterprise pressured Senators to pass the legislation. The expediency and funding of this legislative effort and the tactics used by the Enterprise—along with timely communications between Enterprise members and agents of Company A—are further evidence of the agreement between Householder and Company A.

110. This is precisely what Enterprise-member-and-Company A-lobbyist Juan Cespedes planned. In a Word document agents recovered from Cespedes titled "Ohio Legislator Background" and authored May 3, 2018, Cespedes referenced Householder as a "*current*

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<sup>30</sup> <https://www.daytondailynews.com/news/state--regional-govt--politics/larry-householder-elected-new-ohio-house-speaker/a3ltKxDAm3jT5HTd7vrDWK/>

*candidate for Ohio Speaker,” and noted that, “he is willing to work on energy legislation. Traditionally close to Company A.” In another document titled “Ohio Fundraising Suggestions” and created on September 6, 2018, Cespedes suggested that Company A should continue to support the “Larry Householder Caucus” financially because “Householder has a history of favorably rewarding those who provide both early and late money into his efforts.” Cespedes mentioned in the document that Company A’s CEO had a conversation with Householder “where [CEO] suggested that we would/should independently support him as Company A-1.” Cespedes also laid out Company A’s aspirations for the bailout legislation in a document titled “[Company A-1] Ohio 1st Draft Timeline” and authored by Cespedes on November 20, 2018. In this document, Cespedes wrote that although the next Speaker remains unclear, there should be “Speaker’s race clarity mid-December” 2018, and “[i]f Householder is successful, the effort will likely be led from his Chamber,” with “potential legislative introduction” for [Company A-1] in early 2019.*

### **i. House Bill 6 Background**

111. On April 12, 2019, roughly three months after Householder became Speaker, HB 6 was introduced. Although titled “Ohio Clean Air Program,” the investigation shows that HB 6 essentially was created to prevent the shutdown of Company A’s nuclear plants. HB 6 creates the Ohio Clean Air Program, which allows nuclear or solar clean air resources to apply to be certified clean air resources, and therefore, eligible for a subsidy of \$9 per megawatt hour produced. In order to pay for the subsidy, the Ohio Air Quality Development Authority, which is tasked with administering the Ohio Clean Air Program, will institute and collect a monthly fixed charge to all residential, commercial, industrial, and large consumers. The fixed fee is projected to produce \$140 million annually for the first year, then \$200 million annually thereafter.

112. Ohio currently has six solar facilities over 50 megawatts of nameplate capacity, which serves as the minimum threshold necessary to apply to receive the subsidy. They produce a combined 1,095 megawatts of power. For comparison, the Company A-1 nuclear plants produced a combined 18,315,007 megawatts in 2018. Given the power produced, Company A-1 would collect approximately 94% of the subsidy, which total more than \$160 million annually. Newspaper reporting throughout the state characterized HB 6 as a “bailout” for the benefit of Company A-1 specifically.<sup>31</sup> Clark also characterized HB 6 as a bailout for Company A.

113. Under HB 6, the subsidy will be dispersed at the direction of the Ohio Air Quality Development Authority. As passed, HB 6 will add six new members to the Ohio Air Quality Development Authority, increasing the total from seven to thirteen. Pursuant to HB 6, three of those new appointees will be selected by the Speaker of the House.

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<sup>31</sup> See <https://www.cincinnati.com/story/news/politics/2019/05/29/ohio-house-passes-nuclear-plant-bailout/1270558001/>; <https://www.toledoblade.com/local/environment/2019/06/03/Protesters-oppose-House-Bill-6/stories/20190603170>.

## ii. Householder “Crafts” HB 6 and Creates Subcommittee for HB 6

114. Freshman representatives, Representatives 3 and 4, who were elected in November 2018, sponsored HB 6. Both were “Householder” candidates and Generation Now spent money supporting both by paying for advertising, campaign strategy, and staffing.<sup>32</sup> Although Householder was not a listed sponsor of the legislation, on the day of the introduction, he publically supported the legislation and gave a press conference to explain how it would affect Ohio. During the recorded press conference, Householder characterized HB 6 as “*the mysterious energy bill we’ve been working on for quite a while in the House of Representatives.*”

115. Householder further admitted during the April 12, 2019 press conference that he “*crafted*” the legislation with the freshman representatives. Specifically, when Householder was asked where the amount of the subsidy came from, Householder responded, “*it’s based on our brains. For me, I look back, for two years I’ve had this in my head, and I’ve had various versions on that white board over the last several months. And as I talked with [the freshman representatives], we were able to define it even closer.*” As described above, Householder received his first \$250,000 payment from Company A in March 2017, roughly two years prior to introduction of the bill.

116. HB 6 was referred to the House Energy and Natural Resources Committee after introduction. But during the Committee’s first meeting, HB 6 was then referred to a newly created subcommittee, the House Energy and Natural Resources Subcommittee on Energy Generation (the “Energy Generation Subcommittee”). Householder publically announced that he would form a subcommittee on energy generation on February 6, 2019 in conjunction with a press release about House rules for the 133rd General Assembly. Two days later, Householder formalized the Energy Generation Subcommittee in a press release announcing the committee assignments of House members. Since its inception, the subcommittee only has been assigned one bill—HB 6. At the April 12, 2019 press conference, Householder admitted that HB 6 “*is why that Subcommittee was created.*”

117. Eight House members were assigned to the Energy Generation Subcommittee. Six of the eight members had voted for Householder for Speaker. The two members who did not record votes for Householder signed on to be co-sponsors of HB 6. In the end, all but two members of the subcommittee voted to pass HB 6.

118. The subcommittee held four meetings on the legislation, before referring the bill back to the full House Energy and Natural Resources Committee on May 2, 2019 with a substitution. HB 6 then had multiple committee meetings within the House Energy and Natural Resources Committee, and was amended further before being referred back to the House floor less than a month later on or about May 23, 2019.

119. After HB 6 was referred from committee on May 23, 2019, it was subsequently referred to another committee for a substitution—the Rules and Reference Committee, which is run by Householder. Generally every bill going from a substantive committee to a floor vote

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<sup>32</sup> Representative 3 also received \$18,700 in direct contributions to his campaign account from Company A.

passes through the House Rules and Reference Committee to receive a date for a floor vote. However, it is unusual for a bill to be amended during such passage. Based upon my training and experience, once a bill has been vetted by committee and recommended for passage, it is uncommon for it be amended in another committee. For context, the House Energy and Natural Resources Committee and Energy Generation Subcommittee held ten committee meetings and heard testimony from dozens of stakeholder groups before amending the legislation, a process lasting just under sixty days. But, on May 28, 2019, HB 6 was referred to the Rules and Reference committee, and was amended through the introduction of a substitute bill.

120. Among other things, the substitute bill added a provision permitting an electric company with taxable property that is fueled by nuclear power (a company such as Company A) to file a petition for a reduction in taxable property value. This provision was an added benefit to Company A Corp.

121. After its final set of substitutions, HB 6 returned to the House floor—the same day that HB 6 was amended by the Rules and Reference House Committee chaired by Householder—where it was scheduled to be voted out on May 29, 2019. When a vote was called, the House elected to informally pass, which based on my training and experience, I know is a procedure used by Speakers to reschedule legislation that would have failed to pass if a vote were taken at the time of roll call. When an informal pass is taken, further negotiations and compromises are necessary for the Speaker to acquire the necessary votes for the bill to pass. After the informal pass was taken, the House stood at recess. Based on my training and experience, this shows that Householder did not have support for passage of the bill in the House at that time.

122. The Speaker gained support for passage later that day, likely through the pressure tactics described below. Upon returning from the aforementioned pass, HB 6 was amended four additional times. After those amendments, HB 6 was called to vote by the Speaker and passed 53-43.

### **iii. Generation Now Media Blitz to Provide “Cover”**

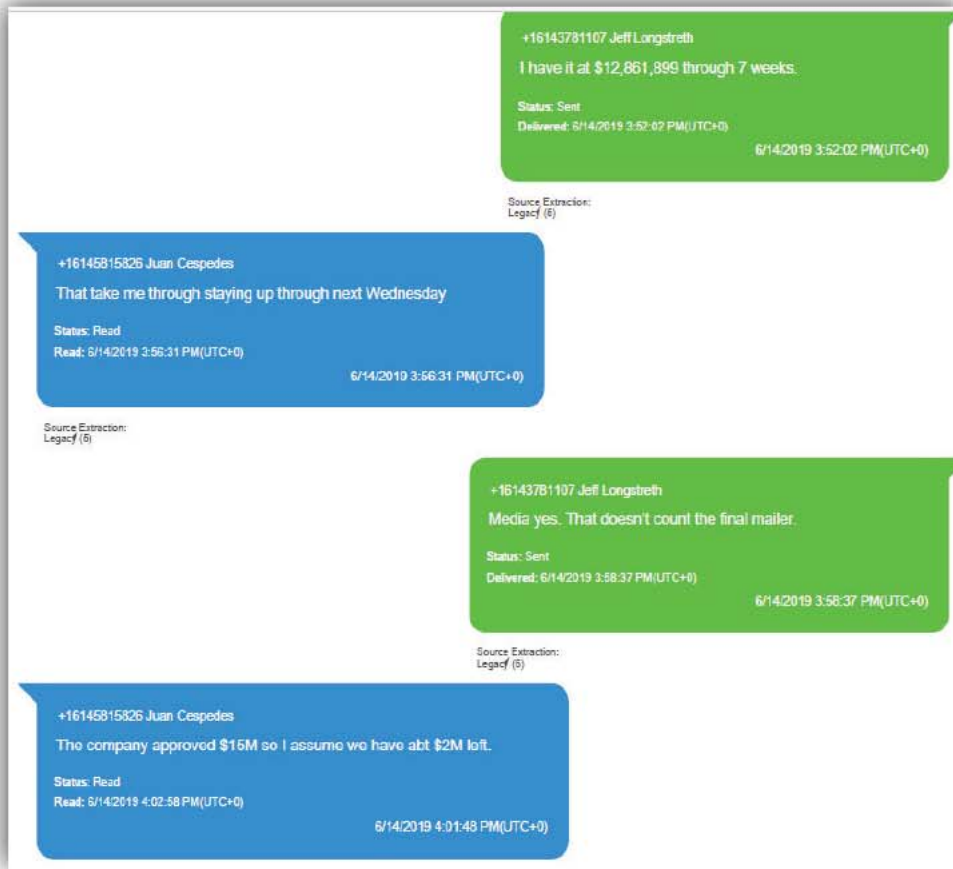
123. The uncertain path to passage is significant. To members of the Enterprise, there was a real possibility, up until the final vote, that HB 6 would not pass. The investigation shows that, during this time, the Enterprise created a media campaign costing approximately \$15 million dollars.

124. The Enterprise’s media campaign demonstrates the significance of HB 6 to the Enterprise, and thus, provides further evidence of the corrupt arrangement with Company A. Documents possessed by Longstreth show that the Enterprise had budgeted for an 8-week campaign, where the “overall budget would be \$15-16m for a full burn.” The media campaign was designed to pressure legislators to vote for HB 6 by targeting their constituents. The media campaign urged Ohioans to contact their representatives to save jobs in Ohio and protect their communities from “big oil.” The campaign provided cover for those representatives who were voting for HB 6 and applied constituent pressure to unsupportive House members and those who were undecided.

125. Bank records and text messages between Longstreth and Cespedes show that Company A funded the entire campaign. For just the House portion of the media blitz, Company A wired approximately \$9.5 million into the main Generation Now account between April and May 2019:

April 30, 2019	\$1,500,000	wire	Company A Service Co
May 7, 2019	\$1,500,000	wire	Company A Service Co
May 15, 2019	\$2,500,000	wire	Company A Service Co
May 22, 2019	\$2,500,000	wire	Company A Service Co
May 29, 2019	<u>\$1,500,000</u>	wire	Company A Service Co
<b>Total:</b>	<b>\$9,500,000</b>		

126. Text messages recovered from Longstreth show communications with Cespedes about the \$15 million budget:



127. The money from Company A funded a media blitz—television ads, radio ads, mailers, and digital media—with all of the Company A money running through the Enterprise, which got paid for the work.

128. Based on my training and experience, the fact that Generation Now, the Speaker's 501(c)(4) entity, conducted the media campaign is significant. First, it is further evidence of the corrupt relationship with Company A—the Enterprise likely would not be spending millions of dollars from Company A that was passed through a 501(c)(4) account for the benefit of Company A's main legislative priority absent an agreement with Company A. Second, it allowed the Enterprise to control the messaging in a way that would benefit the Enterprise and provided the autonomy to spend the money how it deemed appropriate. Third, based on my training and experience, it solidified Householder's political power by showing members the strength and reach of his political operation. Finally, the members of the Enterprise financially benefited from this arrangement.

129. The messaging of the media campaign focused on the loss of jobs if HB 6 did not pass, and urged constituents to contact their representatives to support HB 6. The media campaign also claimed that not passing HB 6 would allow "big oil" to harm constituents' communities. In the search warrant return from Longstreth's possession, the FBI recovered a draft script for a Generation Now HB 6 commercial to run in the districts of two representatives from the Cincinnati area (highlights in original):

Radio Copy:	60 Seconds	
For:	Generation Now	
Title:	"Protect What's Precious - [REDACTED]"	
ISCI:	RIOHGN1906	
Date:	05.15.19	Air Date: TBD
Word Count:	148	

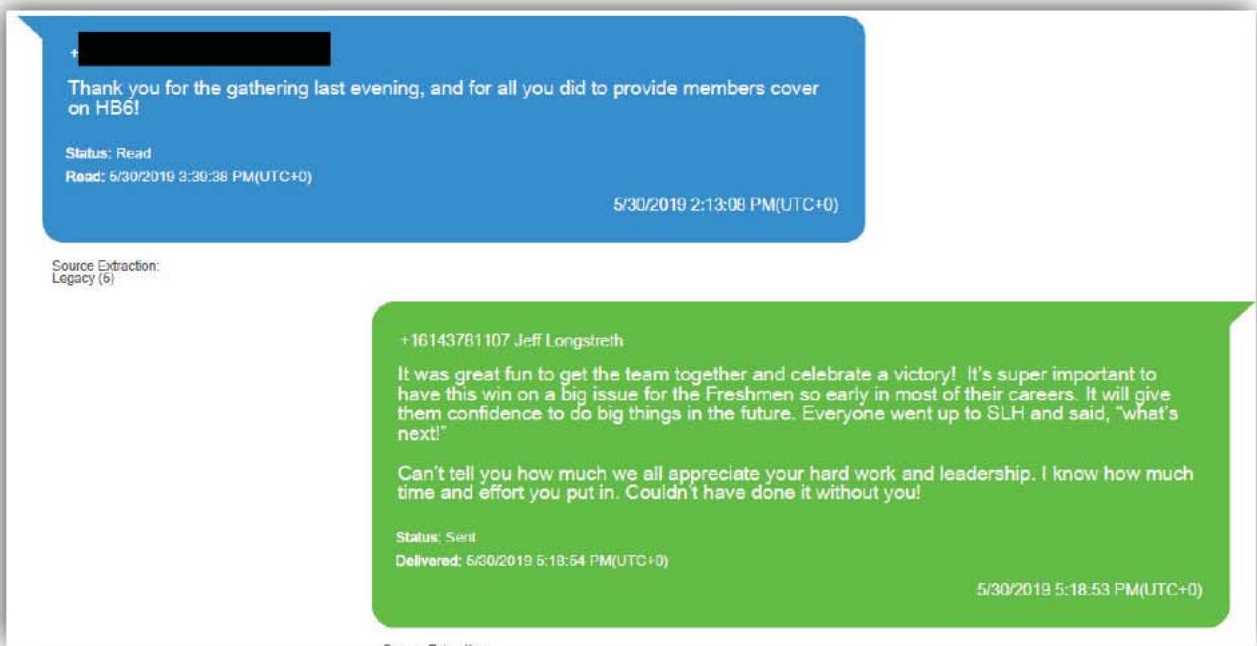
  

Audio
<i>(Soft, gentle acoustic guitar and nature sound effects – think Blackbird by the Beatles)</i>
<b>Female Voiceover:</b>
We can give our children a strong economy and a clean environment.
The future is in our hands...
...fair and responsible energy reform for today and tomorrow.
House Bill Six ensures more clean energy... generated in Ohio... for Ohio, Right Now
By modernizing our environmental goals... we encourage the growth of Ohio- made energy from wind, solar, and other sources that reduce carbon dioxide in our air.
And by investing at home, <i>not in other states</i> , we will create new jobs and a better economy... helping Ohio families and entrepreneurs.
House Bill Six, improves our environment... creates jobs... and lowers what you pay for electricity
Call Representatives [REDACTED] at one- eight hundred, two- eight- two, zero- two- five- three and thank them for taking a courageous stand to reform Ohio's energy goals and protect what's precious
Paid for by Generation Now, Inc.

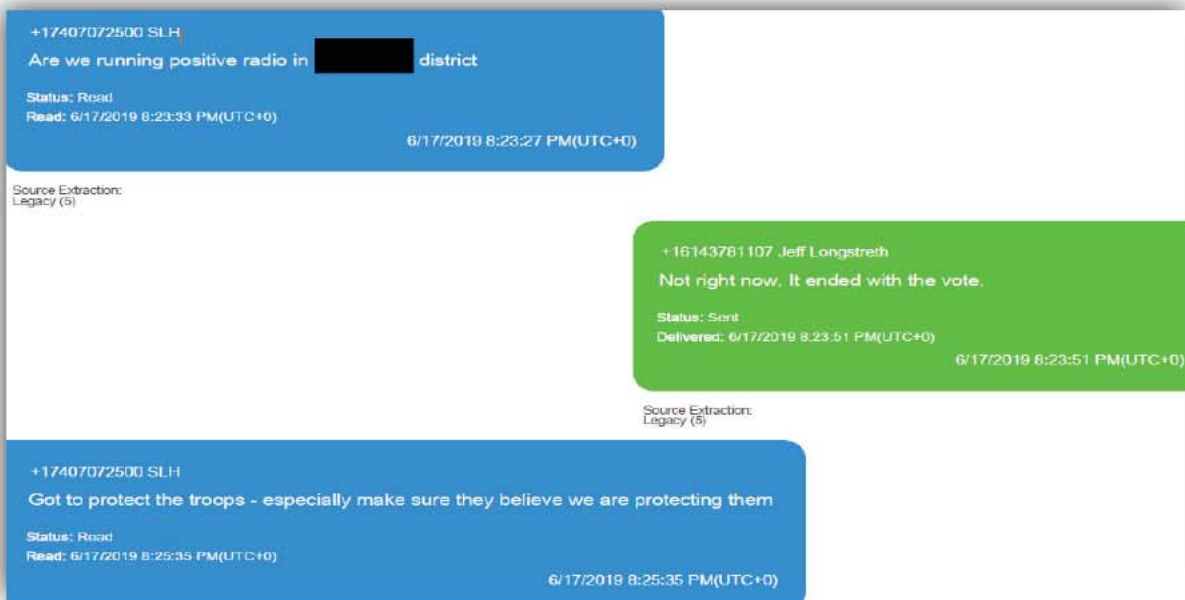
130. The draft transcript was written on the letterhead of Political Advertising Agency 1, which is consistent with publicly filed FCC documents, showing television ad time purchased

by the Political Advertising Agency or its sister company, Media Placement Company 1 during this timeframe. For example, Media Placement Company 1 purchased \$63,105 of airtime on Generation Now's behalf, from WKRC Channel 12 in Cincinnati, beginning on May 24, 2019. WKRC airs in the representatives' districts. The content shows Householder and the Enterprise influencing public officials through the ad buys.

131. The media campaign was successful and provided "cover" for Householder supporters to vote in favor of a bailout they otherwise may not support. In fact, Representative 3, a freshman sponsor of the bill, texted Longstreth after the vote and celebration about "the cover":



132. Likewise, Householder himself acknowledged the importance of "protecting" the representatives who had voted in favor of HB 6. A little more than two weeks following HB 6's passage from the House, Householder texted Longstreth to inquire as to whether "we" were running positive advertisements for Representative 5, who had voted "yes":



133. The exchange about the representative is particularly interesting given that Representative 5 voted against Householder for Speaker, but supported HB 6. Thus, Householder's message appears to convey a newfound allegiance for a representative who voted for HB 6, thus showing HB 6's significance to Householder. The exchange also showed Householder's direct involvement in the Enterprise's messaging and media campaign and Householder's understanding that public officials know that Householder is behind Generation Now messaging.

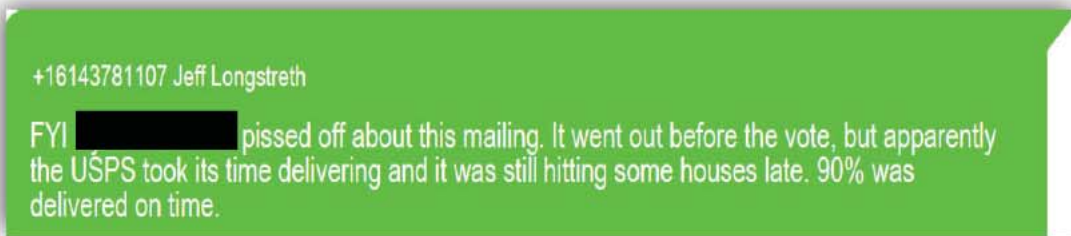
134. The media campaign was effective in using constituents to pressure the targeted representative. For example, even mailers that unexpectedly arrived after the vote prompted constituents of "no" voters to call and complain. For example, Representative 6, angrily contacted Longstreth about a mailer that arrived in his district after the vote, urging Representative 6 to have the "courage" to save jobs and vote for HB 6.





135. The text exchange also shows that Representative 6 knew exactly who to contact about the Generation Now ads. The same day, after receiving Representative 6's angry texts,

Longstreth texted Householder to warn him about what had happened in Representative 6's district.



This further shows Householder's involvement in using Generation Now money for mailers targeting public officials to support HB 6.

#### **iv. Householder Attempts to Gain Votes for Bailout**

136. The investigation provides probable cause to believe that Householder and the Enterprise attempted to influence and provide advice to legislators in an effort to pass HB 6 after receiving millions of dollars from Company A.

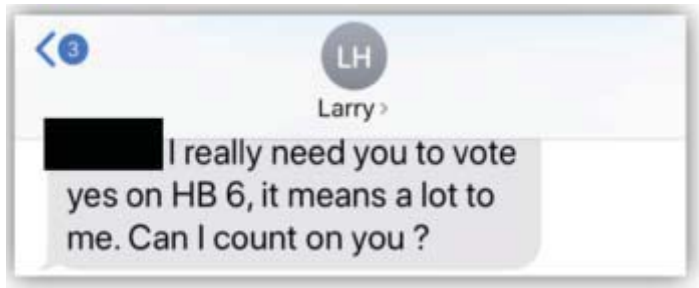
137. Representative 7 was one such legislator who was contacted directly by Householder to gain support for HB 6. On or about Tuesday, May 28, 2019—the same day that HB 6 was sent to the Rules and Reference House Committee chaired by Householder—I interviewed Representative 7, a current member of the Ohio House of Representatives. Representative 7 advised that HB 6 had been handled unlike any legislation that Representative 7 had seen before. Representative 7 advised that Householder had been attempting to secure yes votes for HB 6 for several weeks. According to Representative 7, despite his efforts, Householder did not have enough votes to pass HB 6. Representative 7 was aware of fourteen Republican Caucus members who had committed to be no votes and was aware of only two Democratic members who would vote yes. Representative 7 felt the bill would not pass unless something drastic changed.

138. Representative 7 also explained that he was in frequent contact with Clark, at the direction of Householder. Representative 7 explained that Clark is a close advisor of Householder, and was working with Representative 7 extensively on a piece of legislation unrelated to HB 6. Representative 7 felt it was unusual and odd that Clark was assigned by Householder to work with a member on legislation, instead of House policy staff, but complied with Householder's request. Clark and Representative 7 had daily contact, and Representative 7 felt that they had become friends.

139. On the day before the meeting with Representative 7, Clark had spoken with Representative 7. According to Representative 7, Clark warned him not to vote against HB 6. Clark told Representative 7 that people who vote against Householder lose a lot, including committee chairmanships, caucus financial aid, and that their legislation may not continue to legislatively progress. Representative 7 relayed that he was unsure if the information from Clark

was meant to be a threat from Householder, passed to him via Clark, or if it was a warning from a friend.

140. During the interview, Representative 7 received a text message from Householder, which said:



Representative 7 showed FBI Agents, including me, the message when it was received. Representative 7 then responded to the text, addressing Representative 7 by his title, politely reiterating Representative 7's contrary position. Householder immediately responded, "*I just want you to remember – when I needed you – you weren't there. twice.*" These messages show that Householder was attempting to gain legislative support vote for HB 6.

141. Representative 7, later provided screen shots of the aforementioned text message exchange with Householder. The screen shots matched the messages Representative 7 showed FBI agents during the interview. In addition, Representative 7 provided a screen shot of the stored contact information for the sender of the text messages, Householder. That contact information contains Householder's name and phone number.

142. The day after I interviewed Representative 7, HB 6 passed.

143. Representative 7's statements about Householder's active interest in HB 6 were corroborated by a recorded conversation involving Clark referenced above, on or about May 31, 2019. During the call, Clark first confirmed that the "clean air bill" was really "a nuclear plant bailout." Clark then mentioned Representative 7 by name, stating that Householder had called Representative 7 three or four times about the vote and that Clark then had to meet with Representative 7 about the vote. Clark relayed that he told Representative 7 that Householder would not let Representative 7 carry separate legislation unless he voted for the energy bill. Clark then stated that Representative 7 decided to vote against the bill and Householder was very angry.

144. In a subsequent recorded call, Clark elaborated about Representative 7. Clark stated that Householder had told him (Clark) that Clark was going to have to get Representative 7's vote on HB 6. Clark then called Representative 7, who told Clark he could not vote for HB 6. When Representative 7 tried to explain why, Clark told him, "No one cares about your opinion." Clark further explained that Representative 7 tried to call Householder a few days later and tried to negotiate with him. Householder asked Clark what he should do and Clark told Householder to kill Representative 7's bill.

145. On May 31, 2019, Representative 7 contacted me and indicated that he had been instructed to delete certain messages sent to him by Householder. This message was delivered to Representative 7 through a third party, [REDACTED] Individual 2, who communicated a message from Jeff Longstreth. Representative 7 told me that Longstreth was charged with managing Householder's campaign operations. That included both his individual campaign, and the campaigns of all Republican candidates throughout the state. This is corroborated by the Enterprise's use of Generation Now to support House member campaigns.

146. Specifically, Individual 2 told Representative 7 that he (Individual 2) had spoken to Longstreth earlier that day. During their conversation, Longstreth reportedly told Individual 2 to instruct Representative 7 to delete the text messages that he received about HB 6 from Householder. If Representative 7 complied with this instruction, all would be forgiven in terms of his vote against HB 6. Individual 2 then relayed the message to Representative 7. Upon receiving the message from Individual 2, Representative 7 was immediately concerned and contacted me. Representative 7 relayed the message delivered by Individual 2.

147. Toll records corroborate the instruction that Representative 7 received to delete his messages. Specifically, toll records show that Longstreth contacted Individual 2 at 8:29AM, 11:21AM and 8:14PM. The 8:14PM call lasted for 6 minutes and 53 seconds, immediately after which, Individual 2 contacted Representative 7. That call lasted for nearly 10 minutes. Immediately after the call with Individual 2 ended, Representative 7 contacted me.

148. For context, Householder maintained control of the Enterprise and OHROC, which Householder renamed the House Republican Campaign Committee (HRCC). As outlined in this affidavit, Householder's Enterprise selects political candidates and supports their election efforts. That support comes in a variety of forms, including individual campaign contributions, money and staffing from HRCC, and dark money resources provided by the Enterprise. Overwhelmingly, the candidates selected by the Enterprise are successful in their election or reelection efforts. Therefore, based on my training and experience, not complying with a command from Householder, and as a result losing your support or worse having an opponent supported, would decrease the chances of reelection.

#### **v. The Enterprise Pressures Senators to Pass HB 6**

149. HB 6 passed the House on May 29, 2019. In reference to HB 6, Company A-1 released a statement on May 29, 2019: *"This bill provides an effective legislative solution to keep [Company A-1's] nuclear power plants open for many years to come, while preserving 4,300 highly-skilled jobs and an important revenue source."* The statement went on, *"Until the Senate vote, [Company A-1] will continue to engage in a constructive dialogue with legislators about the need to protect 90% of the state's zero-emissions electricity and provide the majority of Ohioans considerable savings on their electricity bills."*

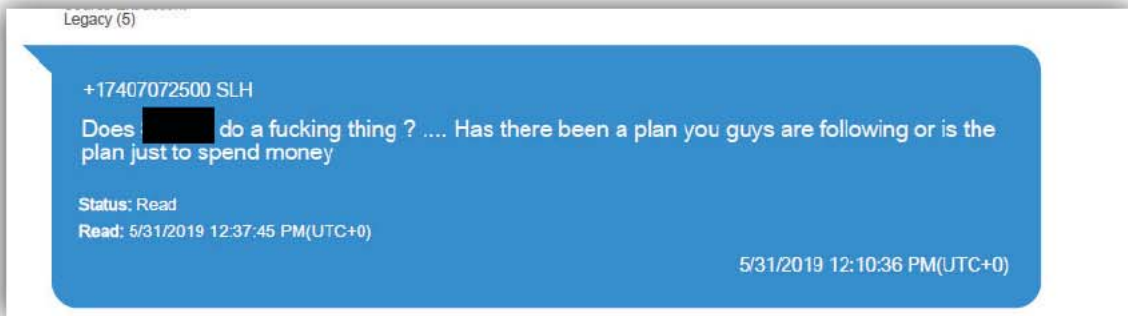
150. The day after Company A-1's press release, HB 6 was introduced to the Ohio Senate. Although HB 6 passing the House helped the Enterprise maintain its agreement with Company A, it did not fulfill the agreement. Rather, the Enterprise needed to ensure HB 6 passed the Senate and was signed into law.

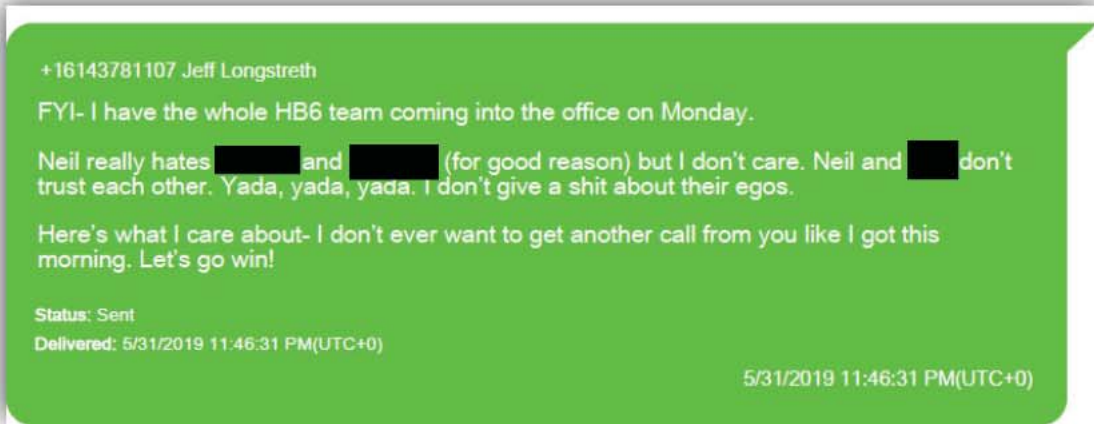
151. Shortly after the bill was introduced in the Senate, the Enterprise began pressuring for Senate passage. To fund the effort, Company A wired more than \$7 million into Generation Now, which records show used the money, in part, for polls, media buys, and mailers:

June 5, 2019	\$2,000,000	wire from Company A Service Co.
June 13, 2019	\$1,361,899	wire from Company A Service Co.
June 20, 2019	\$2,116,899	wire from Company A Service Co.
July 5, 2019	<u>\$1,879,457</u>	wire from Company A-1.
<b>Total:</b>	<b>\$7,358,255</b>	

152. Text messages from Longstreth recovered during the investigation show that Company A had budgeted for, and was paying for the costs associated with the campaign to pass HB 6 through Senate.

153. The Enterprise's efforts regarding the Senate began a few days after HB 6's House passage. On June 3, 2019, Longstreth pulled the "whole HB 6 team" together for a strategy session. This meeting appears to have been partially prompted by Householder's response to the negative press the passage of HB received.





154. Following the above message and phone call from Householder, Longstreth texted Company A-1 lobbyist Cespedes: *“Speaker has asked me to pull together the whole HB 6 team on Monday. Are you available?”* Longstreth added, the *“Speaker is on a rampage.”* Cespedes responded, *“Understood. Just let me know what I should be prepared for. I want to make sure I have answers and do not want the speaker’s rage directed at me lol.”* After Longstreth stated that Householder *“was pissed”* about a newspaper article, Cespedes replied, *“Aw fuck. Sorry to hear that. I’ve got your back. You have been great. Let’s just regroup and get the rest of the deal done.”* Consistent with the investigation, the context of these messages indicates that the Longstreth and Householder’s “win” is the same “deal” referenced by Company A-lobbyist Cespedes—successful passage of HB 6.

155. Based on text messages recovered during the investigation, the meeting went forward as planned, and Associate 1 drafted meeting minutes, which were sent to Longstreth and were recovered by agents. Portions of the minutes are excerpted below.



**Generation Now, Inc. Meeting  
Monday, June 3, 2019**

- I. Recap HB 6 strategy for House
  - A. Member feedback: what worked, what didn't
    - 1. What didn't work: our calls, the TV was weak (didn't mention the members' names) – new strategy needs to be targeted cable mentioning the names.
    - 2. What didn't work: the bill repeatedly changing, which meant the message repeatedly changed.
    - 3. What did work: calls for “on the fence” members ( [REDACTED] relayed she was feeling the heat from calls, talked to [REDACTED] and he was feeling an influence by proxy).
    - 4. What did work: their names. Anything that mentioned their names, they got lots of feedback from friends, family, district people: radio, mail.

- II. Senate strategy
  - A. Senator-by-Senator game plan: hyper local
  - B. Change in media/ digital approach
  - C. Timeline
    - 1. **Hard stop June 30 (based off refueling for the Nukes)**

Need to develop a 10-day plan to decide what we're doing going forward. If we're not successful in the next 10 days, the Nukes need to be stripped out and put into the budget. Have 10 days to run through a media strategy and see where we are.

- Sub bill introduced June 10-11
- Conference committee will begin June 15

Run through a direct mail piece (named), direct cable (named), direct radio (named), continue our broadcast strategy

156. These meeting minutes not only outline the Senate campaign, but confirm what Generation Now did during the House's consideration of the bill. The investigation showed that the Enterprise followed the steps outlined in the notes, and that Householder remained engaged during the process. For example, the same day as the June 3, 2019 meeting, Householder and Longstreth had the following exchange:

+17407072500 SLH  
What did you guys come up with today regarding HB6 ?  
Status: Read  
Read: 6/3/2019 9:51:42 PM(UTC+0)  
6/3/2019 9:51:41 PM(UTC+0)

Source Extraction:  
Legacy (5)

+16143781107 Jeff Longstreth  
Met with all the HB6 team from 1:30-4:30. It was good to get them all at 1 table.  
Standby by for several texts to follow...  
Status: Sent  
Delivered: 6/3/2019 9:52:51 PM(UTC+0)  
6/3/2019 9:52:49 PM(UTC+0)

+17407072500 SLH  
You can call if you want  
Status: Read  
Read: 6/3/2019 9:53:13 PM(UTC+0)  
6/3/2019 9:53:09 PM(UTC+0)

157. Longstreth attempted to call Householder directly after these text messages. The next morning at 8:04 a.m., Householder and Longstreth had a call lasting 34 minutes and 39 seconds.

158. Householder then followed up with Neil Clark regarding the June 3 meeting that same day:

+16142046703 Neil Clark  
I have talked to 7 members so far.  
Status: Read  
Read: 6/4/2019 4:29:12 PM(UTC+0)  
6/4/2019 4:28:13 PM(UTC+0)

Source Extraction:  
Legacy (6)

+17407072500 SLH  
Are you doing any good ?  
Status: Read  
Read: 6/4/2019 5:13:40 PM(UTC+0)  
6/4/2019 5:06:10 PM(UTC+0)

Source Extraction:  
Legacy (6)

+16142046703 Neil Clark  
Yes  
Status: Read  
Read: 6/4/2019 5:13:40 PM(UTC+0)  
6/4/2019 5:06:27 PM(UTC+0)

Source Extraction:  
Legacy (6)

+16142046703 Neil Clark  
Out of 7 calls I got 6 yes votes and 1 no vote  
Status: Read  
Read: 6/4/2019 5:13:40 PM(UTC+0)  
6/4/2019 5:08:33 PM(UTC+0)

159. These exchanges show Householder directly involved in the Enterprise's efforts to persuade Ohio senators to pass HB 6.

160. The messages also show that Householder was chief decision maker regarding Generation Now, even providing direction with respect to the Generation Now ads. On June 12, 2019, about a week after the HB 6 team meeting, Householder reached out to Longstreth regarding the Generation Now television ads, essentially telling Longstreth to change them. Moreover, Longstreth acquiesced to Householder, indicating that he would change them the following week, thus demonstrating that Householder had the final word as to Generation Now messaging:

+17407072500 SLH

When does the Gen Now TV message change ?

Status: Read

Read: 6/12/2019 10:14:37 AM(UTC+0)

6/12/2019 10:14:25 AM(UTC+0)

Source Extraction:  
Legacy (5)

+17407072500 SLH

I think it is burnt in - well burnt in

Status: Read

Read: 6/12/2019 10:15:03 AM(UTC+0)

6/12/2019 10:15:02 AM(UTC+0)

Source Extraction:  
Legacy (5)

+16143781107 Jeff Longstreth

They are working on a draft now. Polling shows it's working.

Status: Sent

Delivered: 6/12/2019 10:15:20 AM(UTC+0)

6/12/2019 10:15:19 AM(UTC+0)

Source Extraction:

+17407072500 SLH

I agree - it's funny though - in district the number one question is - just what the hell is this House Bill 6 ?

Status: Read

Read: 6/12/2019 10:16:38 AM(UTC+0)

6/12/2019 10:16:31 AM(UTC+0)

Source Extraction:  
Legacy (5)

+17407072500 SLH

Nobody knows what it is or what it does including the Senate

Status: Read

Read: 6/12/2019 10:17:02 AM(UTC+0)

6/12/2019 10:17:01 AM(UTC+0)

Source Extraction:  
Legacy (6)

+16143781107 Jeff Longstreth

Polling shows the more we explain it, the worse it does.

Status: Sent

Delivered: 6/12/2019 10:17:16 AM(UTC+0)

6/12/2019 10:17:16 AM(UTC+0)

+17407072500 SLH  
Of course.  
Status: Read  
Read: 6/12/2019 10:19:56 AM(UTC+0)  
6/12/2019 10:19:43 AM(UTC+0)

Source Extraction:  
Legacy (5)

+17407072500 SLH  
I'm just sick of seeing that poor sum bitch drive that pickup truck down the road and cry about losing his job. Which means it's burnt in  
Status: Read  
Read: 6/12/2019 10:21:03 AM(UTC+0)  
6/12/2019 10:20:46 AM(UTC+0)

Source Extraction:  
Legacy (5)

+16143781107 Jeff Longstreth  
Yeah, it'll change out later this week.  
Status: Sent  
Delivered: 6/12/2019 10:21:43 AM(UTC+0)  
6/12/2019 10:21:41 AM(UTC+0)

Source Extraction:  
Legacy (5)

161. Householder's mention of the "*poor sum bitch*" driving his pickup truck and crying about losing his job is likely a reference to an HB 6 advertisement paid for by Generation Now, which depicts an employee at one of Company A-1's nuclear power plants describing job losses if the plant closes, while he drives his pickup truck down a road. This further shows Householder's involvement in the Generation Now media buys supporting the Company A bailout.

162. Consistent with the strategy outlined in the June 3 team meeting, numerous commercials "*paid for by Generation Now*" began airing while HB 6 was in the Senate under consideration. These commercials featured the same actors depicted in the May commercials, however, consistent with the June 3rd meeting notes, the commercials targeted particular senators and urged voters to call the particular senator and urge them to support HB 6 so thousands of Ohioans will not lose their jobs. For example, one ad targeted Senator 1, The ad states in part, "*Senator [1] can save our jobs in Ohio for Ohio . . . Senator [1], Ohio families need your help before June 30... ask Senator [1] to pass HB 6 before summer break . . . more jobs, lower bills, for Ohio.*" The commercial ends with "*Paid for by Generation Now, Inc.*"

163. A document recovered by agents from Longstreth's possession appears to be a draft script, complete with redlining and highlights, for a set of commercials targeting senators, including Senator 1. The text is similar to the commercial described above. Senator 1, and the

other senators on the draft transcript, were the same senators identified in the June 3rd meeting minutes as senators to target with messaging. Direct mail pieces were recovered from Longstreth's possession that targeted other senators identified in the June 3rd meeting minutes. For example, Senator 2 was identified as a senator to target with a message of saving jobs and money and to convey a sense of urgency. Messages recovered from Longstreth state that the Enterprise was spending \$68,000 per week in Senator 2's district.

164. Mock mailers targeting Senator 2's district were also recovered from Longstreth's possession, consistent with the messages discussed at the meeting:

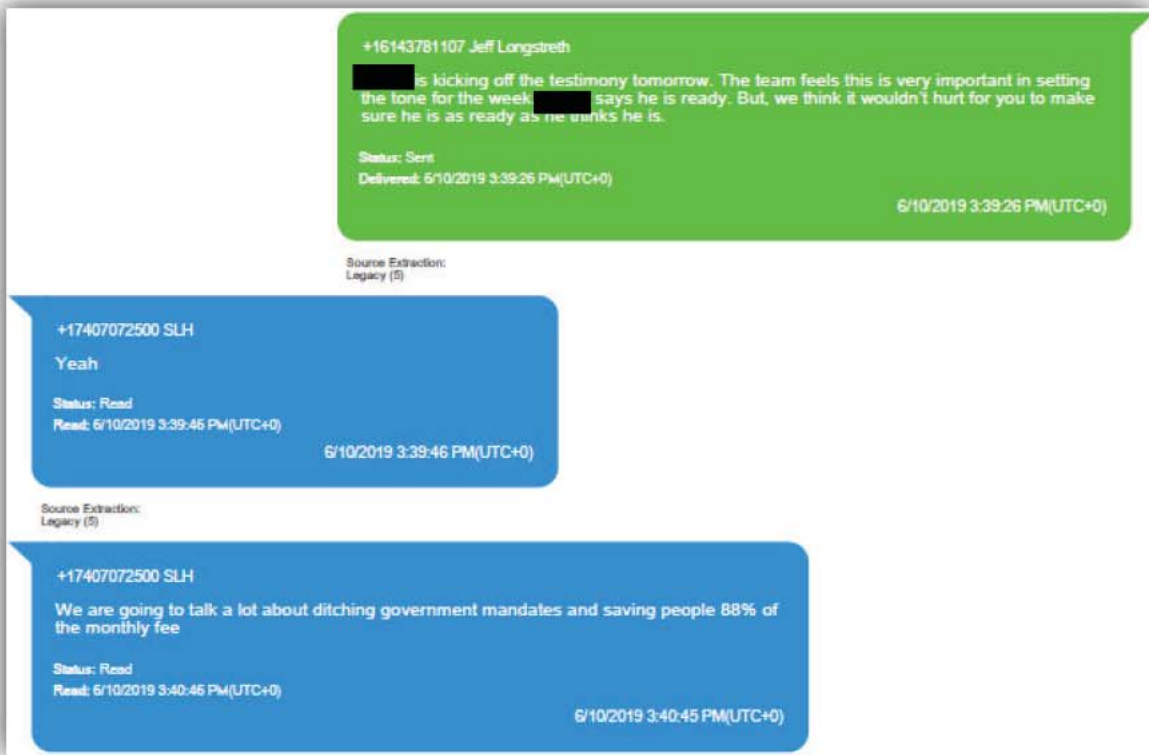


165. In addition to the draft mailers copied above, budget documents recovered from Longstreth that track Generation Now's spending per week of 20 senators, including Senator 2, corroborate Longstreth's statement that he was spending \$68,000 in Senator 2's district. For example, the following excel spreadsheet entitled "HB 6 Paid Media Week 6 June 2019" (copied below), shows that the Enterprise spent approximately \$45,780 on radio, social, and mail advertisements during that week. The \$45,780 does not include the amount spent on television ads, which the spreadsheet depicts as \$500,000 for all 20 senators. If that \$500,000 amount were divided equally amongst the 20 senators, \$25,000 would be added to Senator 2's amount, totaling \$70,780—which is close to what Longstreth approximated in his text message.

Week 6 June 7-14								
DIST	LAST	FIRST	CALLS	CABLE	RADIO	SOCIAL	MAIL	NOTES
			See Separate Sheet		\$ 7,177	\$ 5,500	\$ 30,000	
					\$ 16,279	\$ 5,500	\$ 30,000	
					\$ 12,805	\$ 5,500	\$ 30,000	
					\$ 10,525	\$ 5,500	\$ 30,000	
					\$ 16,304	\$ 5,500	\$ 30,000	
					\$ 16,304	\$ 5,500	\$ 30,000	
					\$ 7,425	\$ 5,500	\$ 30,000	
					\$ 8,260	\$ 5,500	\$ 30,000	
					\$ 13,127	\$ 5,500	\$ 30,000	
					\$ 10,280	\$ 5,500	\$ 30,000	
					\$ 18,417	\$ 5,500	\$ 30,000	
					\$ 7,400	\$ 5,500	\$ 30,000	
					\$ 19,417	\$ 5,500	\$ 30,000	
					\$ 19,318	\$ 5,500	\$ 30,000	
					\$ 9,081	\$ 5,500	\$ 30,000	
					\$ 7,870	\$ 5,500	\$ 30,000	
					\$ 7,212	\$ 5,500	\$ 30,000	
					\$ 8,938	\$ 5,500	\$ 30,000	
					\$ 7,600	\$ 5,500	\$ 30,000	
					\$ 9,800	\$ 5,500	\$ 30,000	
				\$ 66,160	\$ 500,000	\$ 233,539	\$ 110,000	\$ 600,000
		Survey	\$0					
Cincinnati	\$122,500							
Columbus	\$134,400							
Cleveland	\$195,300							
TOTAL	\$452,200							
				GRAND TOTAL:	\$ 1,961,899			

166. Like the media campaign during the House's consideration of HB 6, the costly media campaign targeting Senators provides further evidence of the corrupt arrangement.

167. In addition to a media blitz, Householder continued to use his Team-Householder-candidate-turned-sponsor-of-HB 6, Representative 3, to support the bill through the Senate. On June 10, 2019, Longstreth and Householder had the following exchange:



168. Consistent with this exchange, Representative 3 testified before the Senate Energy and Public Utilities Committee as a proponent of HB 6 the next day. This shows Householder working with “the team” to coordinate support for passage of HB 6 by using Team Householder candidates to influence public officials in the Senate.

169. While in the Senate, HB 6 was further amended. Those amendments included a provision that gave an electric distribution utility, such as Company A Corp., the ability to decouple its energy rates. Decoupling is the dissociation of annual revenue from volume of energy sales. The decoupling mechanism was based upon the baseline revenue the company received in 2018. Therefore, if a given year’s annual revenue is less than it was in 2018, the company may charge retail customers a rider, or surcharge, to compensate for the lost revenue. Company A Corp.’s CEO referred to this provision, in a call with investors on November 4 2019, as addressing company risk. In response to an investor question, the CEO stated “[*decoupling*] fixes our base revenues and essentially it takes about one-third of our company and I think makes it somewhat recession-proof. So, I get a question a lot about where I’m worried about a future recession. It’s 2 million customers in Ohio that this is going to help make sure that that doesn’t impact us.” This addition was a further benefit to Company A Corp., and, based on my training, experience, and the investigation in this matter, likely came as a result of the successful influence campaign waged by Company A and the Enterprise.

170. The Enterprise’s strategy, funded by Company A, worked. The Senate passed HB 6 approximately a month and half after it was introduced. The House, which concurred in the Senate’s amendments, adopted the Senate’s version of HB 6 on July 23, 2019. It was signed by the governor later that same day (July 23, 2019).

171. In a press release the next day, Company A-1 stated that it “*applauded the enactment of House Bill 6 into law, a monumental step in helping to avoid the premature closure of the company’s two nuclear plants in Ohio.*” Company A-1 CEO commended the legislature for “*drafting a bill that preserves the state’s nuclear assets,*” and stated specifically that Company A-1 was “*thankful for the support and commitment by Speaker Householder and Senate President [Redacted].*”

172. As explained in detail below, a campaign to overturn the legislation through a ballot initiative began immediately after passage and continued until the campaign to overturn HB 6 failed on October 21, 2019, at which point the bailout legislation became law, saving the two nuclear power plants from closure.

#### **vi. The Enterprise and Company A’s Coordination**

173. Enterprise members and associates coordinated with Company A executives and lobbyists while it was receiving millions of secret dollars from Company A and pressuring public officials to support the bailout.

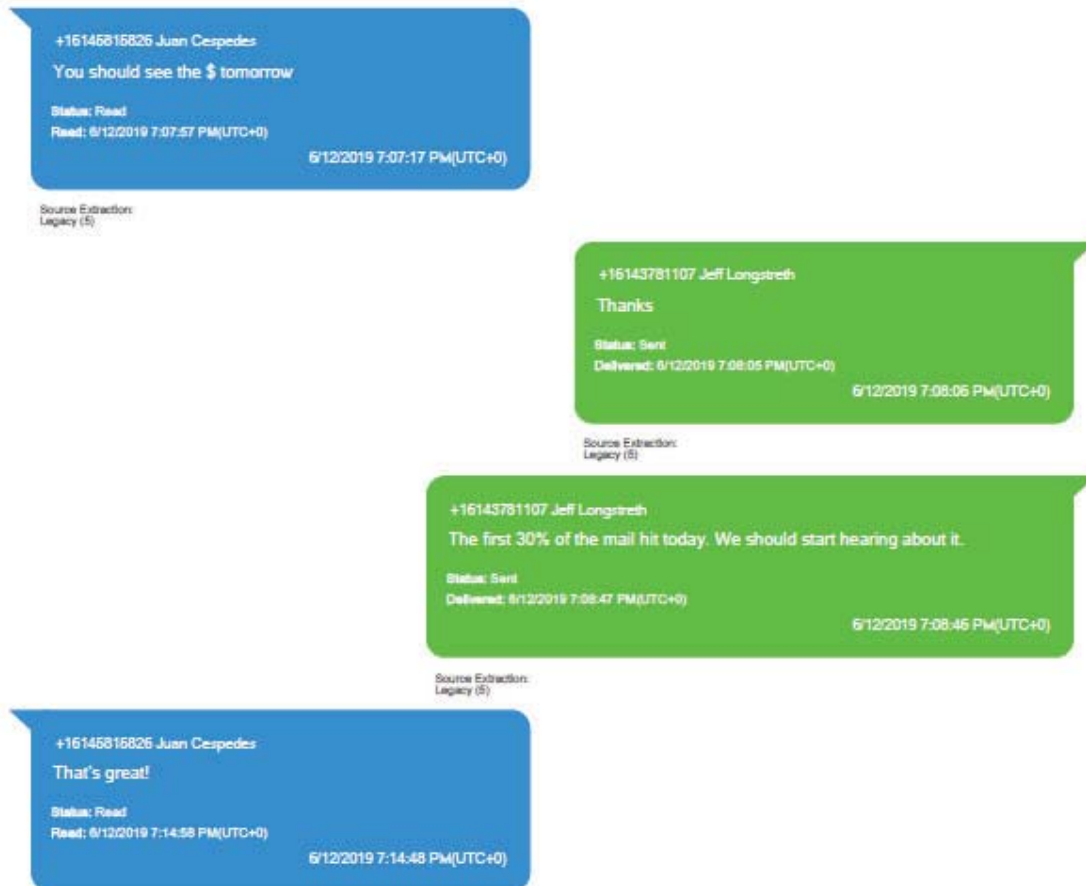
174. According to a review of text messages and toll records, Cespedes was in regular contact with Company A and served as a conduit between Company A and other members and associates of the Enterprise while the Enterprise pushed for passage of HB 6. For example, the aforementioned exchange between Cespedes and Longstreth, where, in the context of planning an HB 6 team meeting, Cespedes told Longstreth “*Let’s just regroup and get the rest of the deal done[,]*” illustrates this point. These messages, which were premised on the Speaker’s “*rampage*” also show Householder’s direct involvement in Company A’s and Generation Now’s efforts to get the “*the rest of the deal done*”—specifically, passage of HB 6.

175. Longstreth and Cespedes also discussed Generation Now mailers supporting HB 6. On June 3, 2019, Cespedes texted “*gen now mail is still dropping. We are getting reports that’s [sic] it’s been hitting late,*” to which Longstreth responded that “*90% was delivered by the vote*” and “*Members like seeing the mail because voters don’t know when the vote was.*” Several days later, Cespedes told Longstreth, “*Mail and radio looks good to me.*” These communications show that Company A—through Cespedes—was involved directly in Generation Now’s media strategy to promote member support of HB 6.

176. In addition, Longstreth and Cespedes discussed coordinating Company A payments to Generation Now. On June 4, 2019, Cespedes texted to Longstreth, “*Text me the # I need an invoice for \$2M*”; Longstreth responded, “*working on it now.*” On June 10, 2019, Cespedes texted, “*Make sure I get the invoice for this week as early as possible, please. Thanks.*” Longstreth

responded, “*Yeah, I’m thinking it will be lower this week. Probably 1.3 ish.*” Cespedes replied, “*Ok, thanks. I appreciate everything that you are doing. Let’s keeping pushing this group.*”

177. On June 12, Cespedes and Longstreth had the following exchange:



178. Two days later, Cespedes followed up:



179. One minute later, Longstreth texted the Chief Operating Officer of Political Advertising Company, to check on Company A's media spend, as requested by Cespedes:



180. After sending the message to COO, Longstreth immediately resumed his text exchange with Cespedes:

+16143781107 Jeff Longstreth

Yes, I'll have [REDACTED] send me everything they've done and I'll compile the mail info.

Status: Sent

Delivered: 6/14/2019 3:00:02 PM(UTC+0)

6/14/2019 3:00:02 PM(UTC+0)

Source Extraction:  
Legacy (5)

+16146815826 Juan Cespedes

Thanks

Status: Read

Read: 6/14/2019 3:00:29 PM(UTC+0)

6/14/2019 3:00:24 PM(UTC+0)

Source Extraction:  
Legacy (5)

+16146815826 Juan Cespedes

Also, what have we given you spend so far. I've lost track. Trying to subtract against \$15M budget to see how much room I have left

Status: Read

Read: 6/14/2019 3:04:47 PM(UTC+0)

6/14/2019 3:01:11 PM(UTC+0)

Source Extraction:  
Legacy (5)

+16143781107 Jeff Longstreth

I'll get that. I think we are pretty close to on budget.

Status: Sent

Delivered: 6/14/2019 3:05:17 PM(UTC+0)

6/14/2019 3:05:16 PM(UTC+0)

Source Extraction:  
Legacy (5)

+16146815826 Juan Cespedes

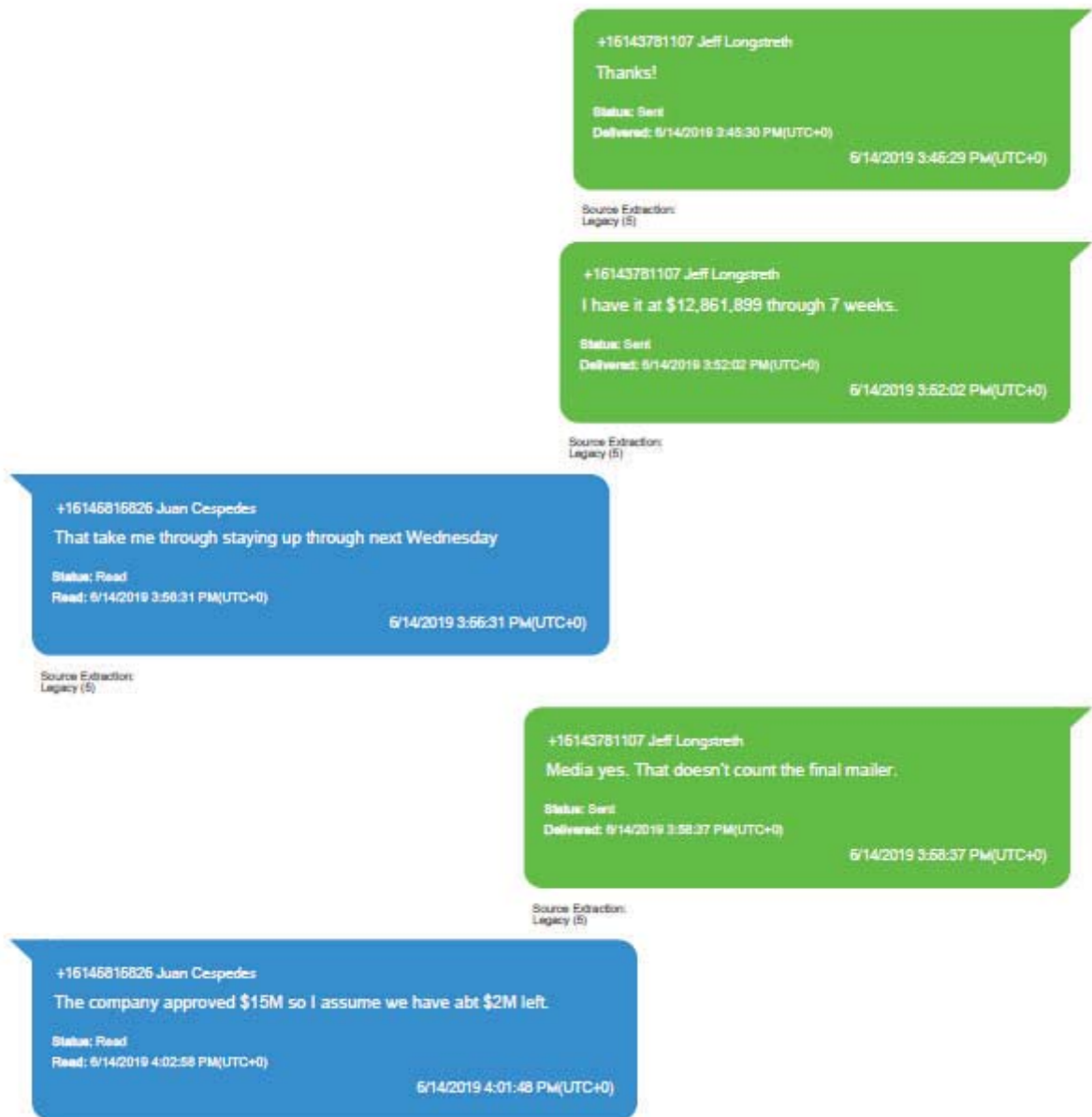
Yes, you are doing a great job managing budget.

Status: Read

Read: 6/14/2019 3:45:21 PM(UTC+0)

6/14/2019 3:17:49 PM(UTC+0)

Source Extraction:  
Legacy (5)



181. After further discussion between Cespedes and Longstreth in the following days about coordinating payment, public officials' support for the bailout, hiring signature firms to defeat the Ballot Campaign, and media and mailers, Longstreth and Cespedes again discussed Company A payments to Generation Now. For example, on June 18, 2019, Cespedes to Longstreth, "*I think we have to shave off the 33k, but I'll check,*" and "*Just confirmed to round down to \$16M even.*"

182. The combination of phone records, bank records, and text messages paint a clear picture of the partnership between the Enterprise and Company A in working towards their agreement. Indeed, key Enterprise members had regular and timely phone contact with Company A executives as Householder was taking official action on Company A's behalf while the Enterprise received millions from Company A. For example, toll records show that Householder had 30 phone contacts with Company A Corp.'s CEO from January 2019 to July 2019—the period from when Householder became Speaker until HB 6 was introduced and signed into law. This includes a phone call on January 7, 2019, the day Householder was elected Speaker; and multiple, lengthy phone calls in the weeks leading up to introduction of HB 6 and shortly after passage of the bill. Indeed, over the period from February 2017 to July 2019, Householder had 84 phone contacts with the Company A Corp.'s CEO, 14 phone contacts with Company A Service Co.'s VP of External Affairs, and 188 contacts with Company A Corp.'s Ohio Director of State Affairs. Similarly, Longstreth had timely phone contact in the first half of 2019 with Company A Service Co.'s VP of External Affairs and Company A-1's VP of Government Affairs. Longstreth's contact with Company A exceeded even Householder's over the course of the conspiracy, to include significant phone contacts with Company A executives during the period from February 2017 to October 2019.<sup>33</sup>

183. Clark described Householder's corrupt arrangement with Company A during a recorded meeting in June 2019.<sup>34</sup> Clark first described how another Ohio public official received money from Company A into that public official's 501(c)(4) but did not come through for Company A when they needed help passing HB 6. Clark stated, when that public official "*knew that Larry did not have his votes, ran away from him.*" Clark then stated that Householder, on the other hand, took millions from Company A "*but he went to war for them.*" Clark concluded that he wanted to be around politicians like Householder who "*will go to the wall, but those guys that go to the wall can only do it once a year because if they do it all the time everybody knows they're pay to play.*" Clark explained that the way politicians get exposed for "pay to play" is through "stupidity" or "people who get aggrieved leak it."

184. Householder admitted his official action for the benefit of Company A in text messages with Longstreth. In a June 10, 2019 exchange, Longstreth told Householder that one of the "*biggest issues we've heard from the Senate*" was "*Does [Company A-1] really need the money?*"; Householder responded, for the Company A-1 "subsidy": "*we only put in what they need*"—showing Householder and the Enterprise drafted the bill for Company A's benefit and with Company A's specific interests in mind. Similarly, in a June 25, 2019 exchange, after Longstreth referenced the potential ballot referendum that could overturn HB 6, Householder stated, "*Stay on the good side of [Company A-1] and we'll do the defend*" of the referendum, exactly what the Enterprise did.

185. Because Company A appeared to provide whatever the Enterprise needed to achieve its goals, the Enterprise members referred to Company A as their "Bank" for the benefit

<sup>33</sup> These toll records likely underrepresent the total volume of phone contacts between the Enterprise and Company A because messages from iPhone to iPhone are not captured in toll records due to end-to-end encryption. For example, most text messages between Cespedes and Longstreth, the content of which are captured in search warrant returns, are not contained in toll records because they are both iPhone users.

<sup>34</sup> [REDACTED]

of the Enterprise. As Clark stated in a recorded conversation<sup>35</sup> in July 2019: “*We call Company A ‘the Bank’ because they can do, they can do, they can fund these things for 20 years if they want to. . . . They’ve got too much money, too much power.*” Later in the conversation, Clark discussed the individuals giving a \$15,000 to \$25,000 check to Householder’s 501(c)(4), relative to other contributions into Generation Now, specifically payments by Company A. Clark stated, “*you’ll walk in with your check and you’ll be respectful, and they’ll remember it as that number. Remember, he gets checks from ‘the Bank’; remember, I told you what the ‘the Bank’ is, you know, \$1.5 million dollars, \$2 million dollars.*”<sup>36</sup>

186. Indeed, according to Clark, the amount of money from Company A to the Enterprise was “*unlimited.*” As he later explained, “*on HB 6, Company got \$1.3 billion in subsidies, free payments, . . . so what do they care about putting in \$20 million a year for this thing, they don’t give a shit.*” Clark went on: “*[Company A] is deep pockets.*” Clark explained: “*I did this campaign. All we cared about was getting the subsidy.*” In other words, Company A paid the Enterprise millions of dollars in exchange for the Enterprise’s efforts to pass HB 6 because it received “*\$1.3 billion in subsidies*” in return—the essence of the corrupt exchange.

### **III. The Enterprise Fights the Ballot Campaign to Ensure HB 6 Goes Into Effect**

187. Immediately after passage of HB 6, “Ballot Campaign” mobilized to repeal HB 6 through a ballot referendum. Under Ohio law, in order to place a referendum on the ballot, a group must collect 1,000 certified signatures and submit proposed ballot language to the Ohio Attorney General for approval.<sup>37</sup> The approval ensures that the description of the referendum meets the “fair and truthful” standard outlined in the Ohio Revised Code.

188. After the Ohio Attorney General approves the language, and the Ohio Secretary of State certifies the signatures collected, the proponents of the ballot referendum must collect signatures from registered voters totaling six percent of the voters who participated in the last gubernatorial election. In this case, six percent equals approximately 265,000 signatures. Those signatures also must be validated by the Ohio Secretary of State. If the requisite number of signatures are collected and validated, the referendum appears on the ballot for a popular vote by the residents of Ohio.

#### **A. The Enterprise Fights Back**

189. Ballot Campaign’s original ballot proposal language was submitted on July 29, 2019 and rejected by the Ohio Attorney General on August 12, 2019. A revised petition was filed on August 16, 2019, and subsequently approved by the Ohio Attorney General on August 29, 2019. After approval, the Ballot Campaign had until October 21, 2019 to collect the requisite number of signatures.

<sup>35</sup> [REDACTED]

<sup>36</sup> [REDACTED]

<sup>37</sup> See Ohio Rev. Code § 3519.01.

190. Even before the Governor signed HB 6 into law, and the Ballot Campaign organized, the Enterprise was mobilizing to defeat a ballot initiative in June 2019. On June 19, 2019, Cespedes wrote to Longstreth, *“Borges mentioned this morning that the opposition has engaged signature gatherers. Not sure who or if it’s real. Just want u to be aware.”* Longstreth responded, “Thanks for letting me know.” Then, on June 27, 2019, Cespedes wrote Longstreth, *“Let’s just get all of the signature firms hired tomorrow.”* Longstreth responded, *“We can hire the good ones. We can’t hire them all.”* To which Cespedes replied, *“Yeah, let’s get all the good ones? If I need to up the budget, I will.”* Cespedes later texted his intent with regards to the ballot initiative, *“I was hoping that we could take out all the big players and limit their chances. It’s impossible to referendum proof imo. We can make it tougher.”* This shows Company A actively working with the Enterprise to preserve the HB 6 bailout.

191. But the investigation indicates that the Enterprise was concerned that a ballot initiative would block HB 6 from taking effect. For example, on July 22, 2019, the day before the bill passed the Senate, Clark discussed a potential referendum during a recorded conversation.<sup>38</sup> He explained that it would *“piss off the Speaker,”* and if the opposition succeeded in getting it on the ballot in 2021, the bill would be “stayed” until then. Clark further explained that he was in charge of the effort to kill the signature collection effort for the Speaker, and estimated that it had a 20% success rate.

## **B. Generation Now Takes Heat in the Media for Funding HB 6 Ads**

192. At the same time discussion of a ballot initiative was ramping up, the media was reporting that Generation Now was the source of dark money behind the passage of HB 6.<sup>39</sup> The Cincinnati Enquirer and Dayton Daily News reported that millions of dollars in dark money from Generation Now flooded the airways with television and radio ads supporting HB 6. Although some articles tied Generation Now to Jeff Longstreth, none made the link to Householder or understood that Company A was funding Generation Now. In fact, the news reports at that time attributed Company A as funding an alliance, which had spent about \$275,000 on HB 6 ads. In what appears to be an effort to deflect attention, Householder was quoted in the media as saying:

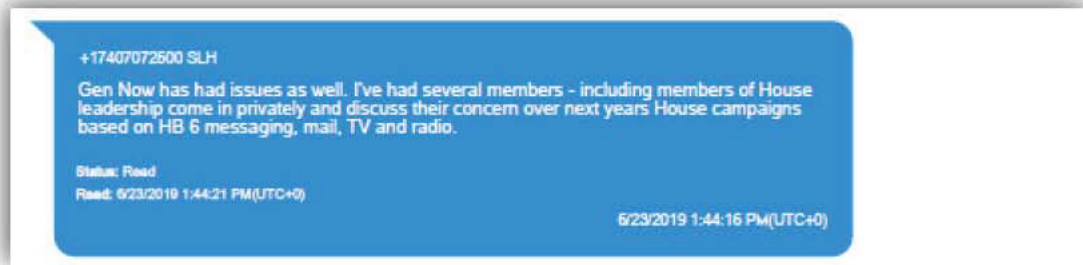
*It's a priority bill for me because I've always cared about the energy in the state of Ohio. I'll tell you who's paying for these ads: it's working men and women from Ohio, who want to save their jobs and it's Ohio corporations, headquartered in Ohio, that want to stay here. That's who's paying for it.*<sup>40</sup>

193. Householder was also receiving pressure from House members about his use of Generation Now to further HB 6, as Householder told Longstreth in a text exchange:

<sup>38</sup> [REDACTED]

<sup>39</sup> Who paid for all the nuclear bailout ads raining on Ohio?, 2019 WLNR 21024343 (July 2, 2019).

<sup>40</sup> Who paid for all the nuclear bailout ads raining on Ohio?, 2019 WLNR 21024343.



194. In addition to showing Householder's knowledge that Generation Now was taking a hit in the media, the message also shows that some public officials knew that Householder was behind the Generation Now campaign to pressure members to support HB 6, particularly relevant given the millions of dollars Householder's Enterprise spent on media buys and ads urging Ohio citizens to pressure public officials to support House Bill 6.

195. In the wake of the negative press and pressure from House leadership relating to Generation Now media buys supporting HB 6, the Enterprise used "Front Company," which was controlled by the Enterprise, to conceal their efforts to combat the referendum. As described below, the Enterprise pumped \$23,000,000 of Company A-to-Generation-Now money into Front Company and used the organization to fund criminal acts to defeat the referendum.

### C. The Enterprise Used Front Company to Defeat Ballot Campaign

196. HB 6 was important to the Householder's Enterprise because it received millions of dollars into Generation Now from Company A in exchange for enactment of the bailout legislation. And, thus, the repeal of HB 6, which would prevent HB 6 from taking effect in October 2019, was viewed as a threat to Householder's Enterprise. But, the Enterprise also viewed the Ballot Campaign as a threat to its power and territory generally.

197. For example, at the dinner club meeting on September 23, 2019, in the context of a discussion about the Ballot Campaign, Householder told Clark in a recorded meeting<sup>41</sup>: *"It is so important, it is so important, that they are not successful, because when the legislature votes on something it needs to stay law."* Staffer followed up, *"it's the beginning of your Speakership; it sets a bad precedent for the next six years, what we need to make them realize is that you (Householder) can't be fucked with."* Clark then agreed, *"it sends the message to everyone else . . . if you attack a member, we're going to fucking rip your dick off."* Enterprise members thus made clear that preserving their legislative victory was necessary to proving the strength of the Enterprise going forward.

198. As set forth above, Front Company—organized and registered under Ohio law on July 30, 2019, less than a week after the bill was signed by the governor—is a pass-through entity through which the Enterprise funneled Company A-to-Generation-Now money to further the conspiracy. Associate 1, along with Associate 4—who had hundreds of phone contacts with Enterprise members from July to October 2019, including regular calls with Clark, Longstreth,

41 [REDACTED]

and Borges—opened the Fifth-Third Bank checking account for the Front Company on August 12, 2019. Between August 1, 2019 and October 31, 2019, over \$23 million was deposited into Front Company’s account. Subpoenaed bank records show that *every penny of that \$23 million came from Generation Now via Company A entities—specifically, Company A Service Co. and Energy Pass-Through—wired approximately \$38 million to Generation Now.*

199. The Enterprise funneled the Company A payments through the Front Company account to defeat the Ballot Campaign. One of the clearest examples, again, comes from Longstreth. On September 26, 2019, Company A wired \$2,445,000 to Generation Now (Longstreth-controlled), which wired a total of \$2.1 million to Front Company (Associate 1-controlled) (over the next several days), which wired \$2.2 million on September 30, 2019 to Constant Content (Longstreth-controlled), which wired \$1.22 million to Direct Mail Company the same day. The Enterprise passed the remaining \$21 million through Front Company to pay Media Placement Company 1 and the Political Advertising Agency for television commercials<sup>42</sup> (approximately \$6.9 million), Petition Signature Services Co 1 (approximately \$11 million) and Petition Signature Services Co 2 (\$688,000) for ballot petition signature services, Billboard Co for billboards (\$150,000), and approximately \$3,500 for t-shirts. Front Company also funneled another \$2.2 million to a different Constant Content account controlled by Longstreth.

200. In terms of commercials and fliers, the Company A money wired from Generation Now to Front Company funded a media blitz of commercials and fliers orchestrated by the Enterprise. Again, the media campaign against the ballot initiative is indicative of the corrupt exchange with Company A.

201. These advertisements intended to invoke fear by asserting that China was invading Ohio’s energy grid, and that signing the petition equated with ceding control of Ohio energy to China. For example, Front Company mailed the following fliers to hundreds of thousands of Ohioans:



<sup>42</sup> Public filings on the FCC website show that Media Placement Company 1 bought television ads for Front Company between August 2019 and October 2019.



These above fliers were mailed to voters throughout the state of Ohio.

202. During the September 23, 2019 recorded dinner-party, in which Householder also was present, Clark relayed the story behind the second flier, which Clark and Householder thought was hilarious. Through laughter, Clark described what he termed “*the direct mail piece*” as “*so fucking cold-blooded*.” He stated that Jeff designed it. He explained that because 15 out of the 150 signature collectors hired by the opposition had prior arrests, they were technically criminals under the law. When Representative 8 (another representative of the Ohio House of Representatives, who is not known to be part of the Enterprise asked how they knew the signature collectors had prior arrests, Householder explained, “*they have to sign up and when they sign up, we run a background check.*”<sup>43</sup> Clark went on to explain, “[*s*]o Jeff, of course, designs a piece going ‘*they’re coming to your house, criminals . . . don’t answer the door . . . decline to sign.*’” As Clark explained, he later had to explain the direct mail piece to Associate 4—that they were mailing 4.9 million pieces explaining that the people coming to your house for signatures are criminals, and Associate 4 refused to put his name on it. Clark played hardball with Associate 4, and told him that he (Clark) had to get off the phone now and tell his boss (presumably Householder) that Associate 4 didn’t want to do it. Clark explained that eventually, Associate 4 agreed on a softer piece.

203. The investigation later revealed that payment for the postage on these same fliers was ultimately paid for by Generation Now, but had been funneled through at least three bank accounts. Specifically, the fliers were sent “presorted standard US Postage PAID Columbus OH Permit 6871.” According to U.S. Postal records, a Digital & Print Marketing Group is the account holder of Permit 6871, and the customer reference ID lists a company related to Direct Mail Company 2. Subpoenaed bank records show that the Digital & Print Marketing Group received approximately \$3.5 million from Direct Mail Group 2 in October 2019, which received approximately \$3.6 million combined from Longstreth’s Constant Content bank accounts, which received a combined \$4.4 million from Front Company—all of which originally came from

<sup>43</sup> Householder was likely referring to Ohio Secretary of State Form 15, which Ohio law requires to be filed by people working being compensated for working on behalf of a statewide ballot petition. See Ohio Rev. Code 3501.381.

Company A through Generation Now. In other words, the Enterprise funneled Company A money through three different Enterprise-controlled accounts before purchasing the fliers through third parties. The efforts made by Enterprise members in this regard are further evidence of their intent and the corrupt exchange with Company A.

204. Generation Now money also funded television commercials purportedly sponsored by Front Company, which continued the same theme from the fliers. These ads asserted that China was taking over Ohio's energy, igniting fear that the Chinese government is behind the drive to repeal HB 6 and wanting to take Ohio energy jobs.<sup>44</sup> The ads proposition Ohioans to choose between supporting HB 6 or handing over Ohio's energy to the Chinese Government.

For example, one ad aired in Cincinnati claimed:

*They took our manufacturing jobs. They shuttered our factories. Now they are coming for our energy jobs. The Chinese government is quietly invading the American electric grid, intertwining them financially in our energy infrastructure. Now a special interest group boosting Chinese financial interests is targeting Ohio energy, taking Ohio money, exporting Ohio jobs, even risking our national security. They are meddling in our elections. In the coming weeks you may be approached on the street or at your door to sign a petition to defund U.S. jobs and energy. They will ask for your name, your address, your signature. Tell them no. Don't sign your name to a plan that kills Ohio jobs, harms Ohio communities, and endangers our energy independence. China turned off the power on Ohio manufacturing. Don't let them do it to you. Don't sign the petition allowing China to control Ohio's power.*

During the commercial, images of the Chinese government and leadership were displayed:



<sup>44</sup><https://www.cincinnati.com/story/news/politics/2019/09/30/ads-claim-foreign-entities-are-invading-ohios-energy-grid/2423655001/>.



The ad ended with a plea to not sign the petition, because doing so would allow China to take control over Ohio's power:

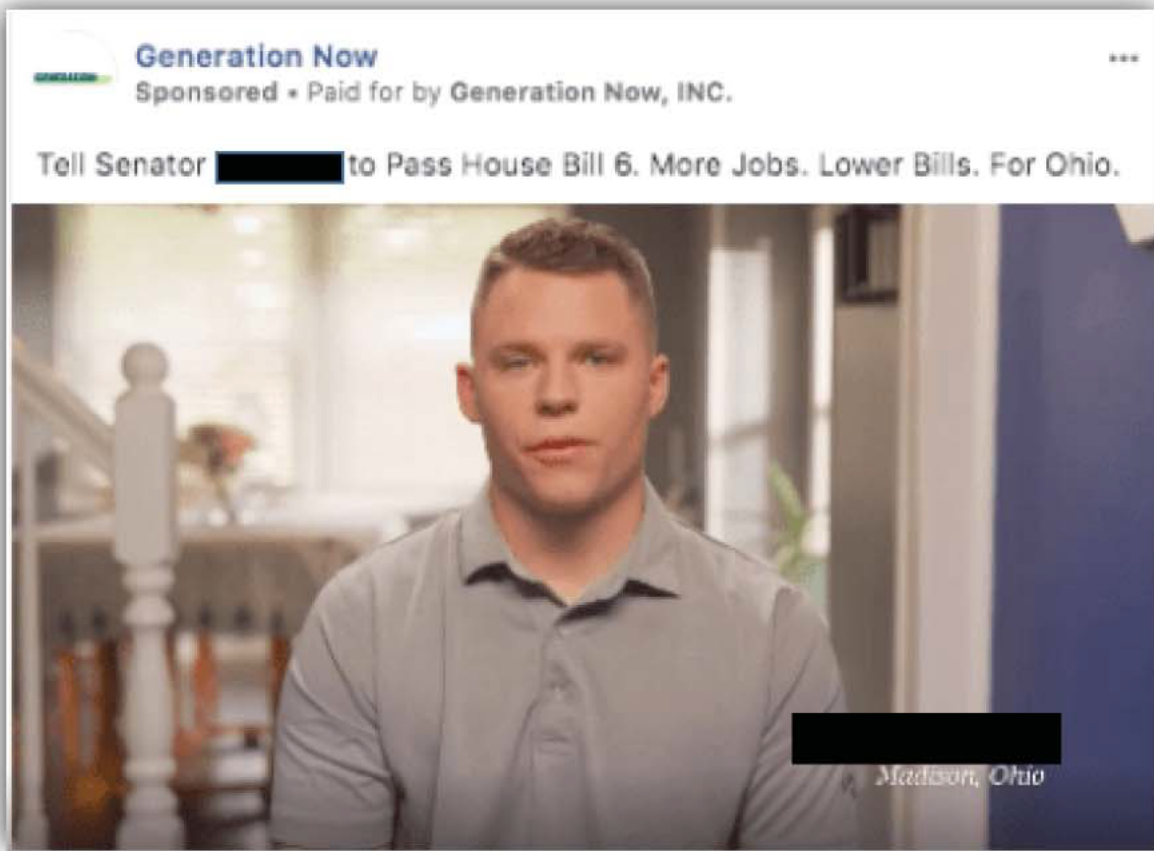


205. Thus, although the fliers and ads claimed they were paid for by Front Company, in reality, the Enterprise paid for them and concealed that fact by wiring money from Generation Now to Front Company. By using Front Company for the media campaign, the Enterprise further concealed its corrupt arrangement with Company A

206. Other evidence demonstrates that the Enterprise used Front Company as a front for Generation Now. For example, public filings on the FCC website show that Media Placement Company 1, which received approximately \$6.9 million from Front Company bank account, bought television airtime between August 2019 and October 2019 across Ohio for Front Company. For instance, for the week of September 5, 2019 to September 9, 2019, records show that Media Placement Company 1 bought approximately \$66,300 in television spots from WKRC Cincinnati for Front Company. (Media Placement Company 1 had purchased airtime slots for Generation Now in the past, including advertisements that supported candidates associated with Householder during the 2018 election cycle.)

207. The FCC filings also match the commercials' content. In one disclosure statement that was filed with the FCC, Front Company stated that the issue addressed by the advertisements was "Chinese influence of Ohio Energy." This description ties both the fliers and commercial content back to Front Company. Additionally, the content of the commercials themselves contain a clue as to their origin and funding source, tying the Enterprise to Front Company. Specifically, M.M., pictured below, who served as project manager at one of the Company A-1 nuclear power plants, appeared both in Generation Now advertisements in support of the passage of HB 6 in the

spring of 2019, as well as the aforementioned commercial by Front Company opposing the referendum, which aired in the fall of 2019.



208. The Generation Now money also was used to buy t-shirts for Front Company. Bank records, subpoena returns, and photos from social media provide the confirmation.

#### **D. The Enterprise Conflicts Out Signature Firms**

209. Besides paying for advertisements, mailers and t-shirts, Generation Now subverted the Ballot Campaign by hiring signature collection firms in an effort to conflict them from working for the Ballot Campaign. Bank records show that between July 23, 2019 and July 30, 2019, Generation Now spent over \$549,250 retaining the services of national signature collection firms to defeat the ballot initiative. The retention of signature collection firms is in keeping with practices outlined by Clark in multiple recorded conversations. In those instances, Clark advised his clients that if they would retain as many of the signature collection firms as possible, then those firms could not work for their opposition, which would decrease the likelihood that the referendum would collect the requisite number of signatures for a ballot initiative.

210. For example, in a meeting on July 24, 2019, which was recorded,<sup>45</sup> Clark stated that he wired about \$450,000 today hiring signature collections people to not work. He repeated that

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<sup>45</sup> [REDACTED]

he had “*hired them not to work.*” Clark continued, explaining that he had hired 15 companies nationwide—nine of the biggest ones—and sent them all checks ranging \$50,000 to \$100,000 to not to work, and \$10,000 payments to the smaller firms. Clark stated that these people on the phone, “*they are all full of shit. I have been a lobbyist for 39 years, been around a long time. It always goes circular to someone going well we’ll give you a kickback.*” Clark later confirmed, during the same conversation, that the \$450,000 used to pay the collection firms came from Generation Now.

211. A spreadsheet tracking the hiring and payment of signature firms in July 2019 was recovered from Cespedes’ possession. The document’s properties reveal that Associate 1 created the spreadsheet on July 26, 2019—two days after Clark’s statements detailed directly above. (That it was recovered from Cespedes’ possession demonstrates the close coordination between members and associates of the Enterprise and Company A.) The document shows the signature firms that the Enterprise retained, whether the firms are under contract, the contract price, and the status of payments, which reflected payments of \$431,750 by July 29, 2019.

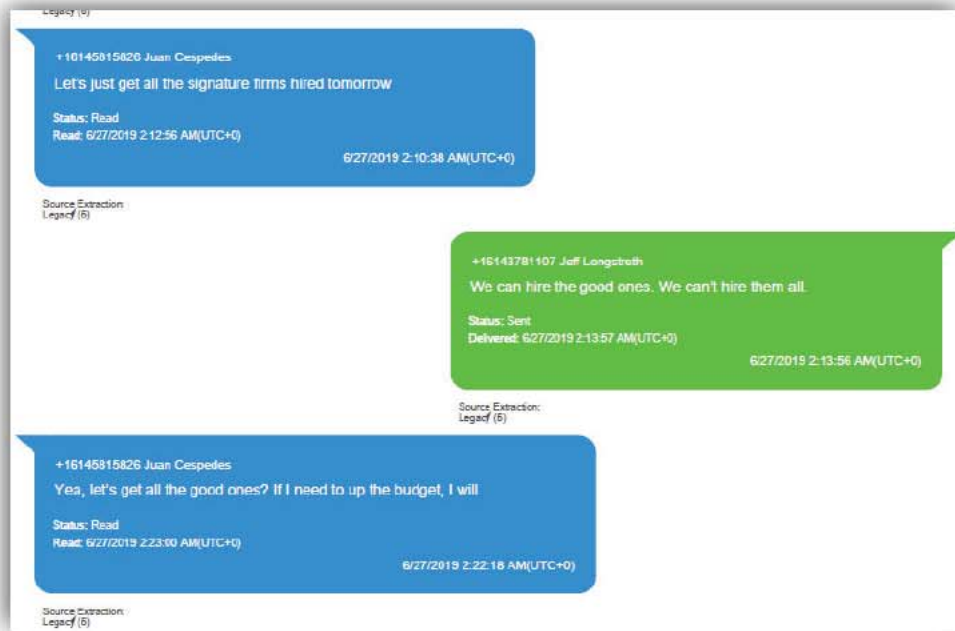
212. A review of Generation Now’s subpoenaed bank records and Clark’s toll records corroborate his statements and the contents of the spreadsheet. Generation Now bank records confirm that payments were made from the Generation Now bank accounts. The records further show that some of these firms, along with other petition firms, received additional payments in the fall of 2019.

213. Further, Clark’s toll records show contact with some of these firms around the same time period. For example, on July 23, 2019, the same day that Generation Now wired one firm \$75,000, Clark’s toll records show he had multiple contacts with a founding member of the firm. Similarly, Clark placed calls to an executive of Petitioner Signature Services Co 3 on July 22 and 29, 2019, in close proximity to Generation Now’s wire of \$50,000.<sup>46</sup>

214. These wires also are consistent with text message exchanges recovered during the investigation. On June 19, 2019, while HB 6 was still pending in the Ohio Senate, Cespedes told Longstreth that “*Borges mentioned this morning that opposition has engaged signature gathers. Not sure who or if it’s real. Just want you to be aware.*” As explained above, about a week later, on June 26, 2019, while HB6 was still pending in the Senate, Cespedes and Longstreth discussed the need to hire signature firms and that Cespedes would “up” the budget if necessary:

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<sup>46</sup> Petition Signature Services Co 3 received approximately \$6,205,154 from Generation Now between July 2019 and October 2019. Phone records also show Jeff Longstreth had phone contact with the same executive during the same time period.



215. Less than an hour later, Clark sent Longstreth a message stating, “*I have a new list to send you.*” Clark then texted Longstreth an excel spreadsheet listing various petition gathering firms, which included firms that received wires from Generation Now a month later as indicated by Clark on the recording.

#### **E. The Enterprise Bribes an Employee of Ballot Initiative for Inside Information**

216. Based on my training, experience, and the investigation in this case, in order defeat the Ballot Campaign and ensure HB 6 went into effect in October 2019, the Enterprise would benefit from real-time information about how successful the signature collection effort was in order to best allocate their resources. However, the investigation revealed that the Enterprise’s own daily, internal estimates about the signature collection were not adding up to the numbers claimed by the ballot initiative proponents.

217. Indeed, during the September 23, 2019 recorded dinner party, Clark explained, in the presence of Householder, how the Enterprise was addressing the ballot campaign:

*Every day we send out a crew of 235 people and we survey about 2600 sites . . . and we stay there to see if they have people there . . . so then we do every day do a report estimating how many signatures they’ve done . . . [they now have about 80 people collecting signatures] . . . how many signatures do you think you can collect in an hour; how many can you collect in a shift; they were working in the first few weeks 10 hours shifts, most people just working 6; so in all the math that was done, they weren’t getting where they were, so we kept saying it wasn’t right, until last week they started advertising they needed more people; they went to some of our subs, they couldn’t get any of our A class subs . . .*

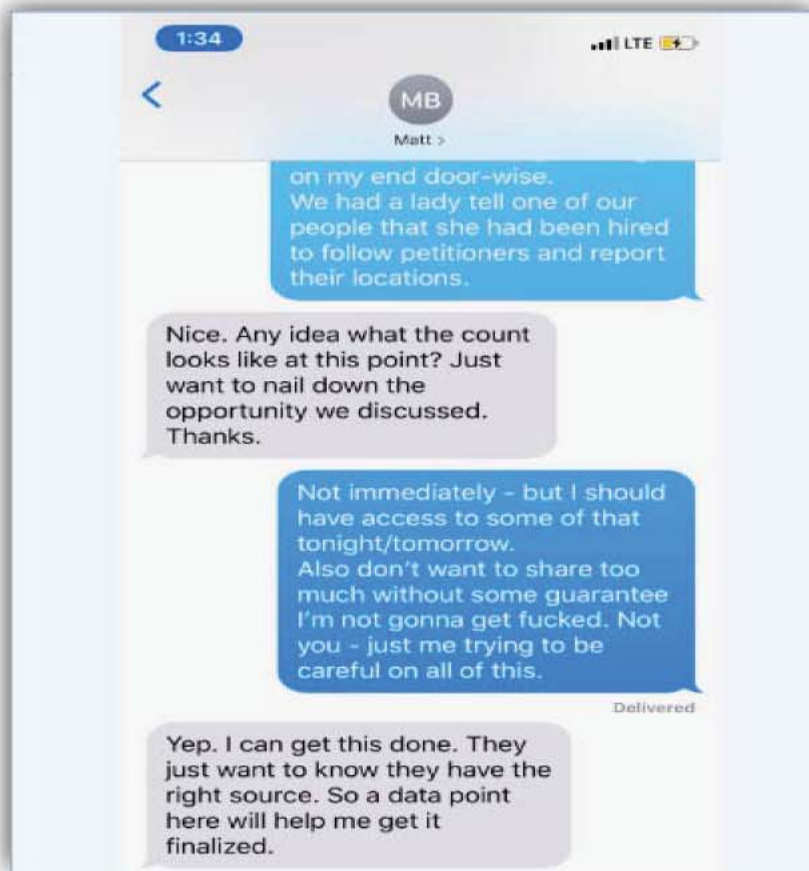
As this conversation shows, until the previous week, the Enterprise could not determine the reason for the discrepancy between their numbers and the numbers claimed by the signature gatherers. Thus, they needed inside information about the ballot initiative.

218. The Enterprise attempted to obtain such information by utilizing Borges to bribe CHS 1, who was associated with the Ballot Campaign. CHS 1 was employed by Ballot Campaign in its efforts to repeal HB 6 through a ballot initiative. CHS 1 has provided reliable information proven credible through multiple sources. CHS 1 managed signature collectors. As described below, Borges offered to and did pay CHS 1 to provide inside information about the Ballot Campaign such as the number of signatures collected, the number of collectors, and geographic focus of collection efforts. CHS 1 was upset about Borges' solicitation and contacted the FBI after meeting with Borges in early September. Thereafter, CHS 1 recorded his conversations with Borges, including Borges' payment of \$15,000 to him.

219. On or about September 1, 2019, Borges contacted CHS 1 and, during a meeting the next day, offered a substantial amount of money for inside information that Borges would use for his client to defeat the referendum campaign. Specifically, according to CHS 1, Borges offered that if CHS 1 provided inside information, Borges would provide CHS 1 with monetary payments, a job, or agree to pay CHS's debts. Borges further indicated that others are getting "fat" off the HB 6 issue, so they might as well benefit, too. Then Borges asked CHS 1 to think about the offer and get back to him. Borges initially reached out to CHS 1 just two days after the Ohio Attorney General approved the ballot language and just weeks after Generation Now wired over a million dollars of Company A money to Borges' LLC, 17 Consulting.

220. In a text message following the meeting, CHS 1 told Borges he could not accept the bribe payment. These text messages were provided to me. Specifically, CHS 1 told Borges, *"I've thought about it. I don't need overnight."* CHS 1 went on: *"At the beginning of this I thought I could walk my information into Larry's office and sell it for enough to retire on."* CHS 1 continued, he *"would LOVE to have those wiped out, to be debt free, and not to have to worry... but, I can't put a price tag on my integrity or my word."* CHS 1 explained that he could not *"sell this team down the river,"* concluding: *"So. It may not land me in the car, house, job, or financial situation I want to be in – but I couldn't face myself if I did anything but work for this and do it honestly."* Borges responded that he understood, but made clear his intent: *"No matter what – don't ever tell anyone about our conversation from earlier."*

221. At the direction of the FBI, CHS 1 reconnected with Borges and expressed interest in Borges' offer. During telephonic contact between the two, Borges advised CHS 1 that he would need to evaluate how to move forward. Borges followed up asking for CHS's employment contract and stating, *"I'll make an offer to buy you out. It will be substantial."* Operating at the direction of agents, CHS 1 responded, *"What will a buyout entail? Like. . . what would I be doing, work-wise?"* Borges responded simply, *"Give me a day or two to figure this out."* Borges then started soliciting CHS 1 for inside information about Ballot Campaign. For example, Borges texted: *"Have you guys started door to door?"* Borges and CHS 1 then had the following exchange:



CHS 1 then provided a limited amount of inside information—the “ballpark” vote count for one region in the state. Borges responded, *“Got it. I’ll get this done.”*

222. These messages indicate that the *substantial* “buy out” Borges previously offered was tied to sensitive information the CHS 1 would provide about the Ballot Campaign. Borges made clear that he was working on behalf of a group of individuals, and that Borges needed inside information—the signature count, for example—to “*nail down the opportunity*” because “*they just want to know they have the right source.*”

223. A series of text message exchanges followed, during which Borges and CHS 1 set a time to meet in person. In one of those messages Borges stated, *“I’ve gotten more clarity. Protects you.”* In another, Borges texted, *“I promise this will be worth your while.”*

224. CHS 1 eventually met with Borges on September 10, 2019 to discuss the deal. The meeting was recorded. Borges framed the exchange as a private transaction between the two of them that no one would know—despite the prior solicitation and text messages, which made clear that Borges was working on behalf of others. But Borges’ true motivations became clear, and demonstrate how much Borges and the Enterprise wanted inside information about the Ballot Campaign. For example, when CHS 1 asked how the deal would work, Borges told CHS 1 that it would help to know locations in advance and they “*really need to know how many signatures you have.*” Borges then asked CHS 1 whether he had access to the statewide numbers or only his region. Borges also stated that he and his firm were working for Company A on the ballot project, and that Householder, Company A, and Borges’ firm formed an “*unholy alliance.*”

225. On September 13, 2019, during a consensually recorded meeting, Borges gave CHS 1 a \$15,000 check, funded entirely by Company A-to-Generation-Now money. Although in initial conversations Borges had indicated that the money was an advance for insider information to defeat Ballot Campaign, when Borges handed the check to CHS 1, he said that it was Borges's own money, that no one knew about the transaction, and that it was for the CHS 1's help in planning a reunion amongst former staffers. This contradicted what Borges had previously stated. Showing his corrupt intent, Borges also told the CHS that if this transaction came to light, it would be bad for both CHS 1 and Borges—in fact, Borges told CHS 1 he would “blow up” the CHS's house if the information got out, a threat that CHS 1 treated as a joke. Borges then proceeded to ask CHS 1 about the number of signature collectors working on behalf of the ballot campaign. Borges also made numerous statements about the Enterprise, including identifying Householder, Clark, and Longstreth as being involved. For example, Borges stated, “*Larry was putting the squeeze*” on Associate 3, Generation Now's spokesperson, and would not allow Associate 3 to quit; Clark was serving as Householder's proxy; and that it was “*insane*” how much Enterprise members were making off Company A. Borges also described being present when Enterprise members met with Company A executives to look at advertisements, and driving the Company A CEO to see signature collectors who were working on behalf of the Ballot Campaign.

226. On multiple occasions following the meeting, Borges reached out in recorded phone calls and text messages to CHS 1 to receive the same type of insider information relating to signature collection to repeal HB 6 that Borges offered payment for during their conversation on September 1. For example, Borges sent CHS 1 the following messages, among others:



And, despite repeatedly asking for inside information after paying the CHS 1 \$15,000 in Company A-to-Generation-Now money, Borges never again mentioned CHS 1 performing any specific work unrelated to the Ballot Campaign.

227. Other evidence corroborates that Borges' actions were in furtherance of the Enterprise's efforts to defeat the Ballot Campaign. Significantly, around the same time that Borges was in contact with the CHS 1, Borges was in contact with Cespedes. Specifically, on September 1, 2019, Borges' cellphone contacted Cespedes' cellphone around 5:14PM. That call lasted for approximately 28 minutes. Less than ten minutes after that call, Borges called CHS 1 and spoke to the CHS for nine minutes. Within one minute of the completion of the call with CHS 1, Borges attempted to call Cespedes, who did not answer. They eventually connected 10 minutes later and toll records show the call lasted for 25 minutes and 30 seconds. Within one minute of the

completion of that call, Borges then called Associate 4, of Front Company.<sup>47</sup> Toll records also show that Borges was in regular contact with Clark, Longstreth, and Cepedes during this period.

228. Moreover, as set forth above, bank records obtained via grand jury subpoena show that the \$15,000 came from Generation Now, by way of an account Borges opened in August 2019 under the name of 17 Consulting Group LLC. Borges registered “17 Consulting Group LLC” with the Ohio Secretary of State on August 5, 2019. Two days later, Borges opened a bank account under the name “17 Consulting Group LLC.” Bank records indicated that Borges is the only signatory on the account and opened the account as President/Owner/CEO of 17 Consulting Group LLC. A day after Borges opened the account, Generation Now wired \$400,000 into the account. In fact, Generation Now wired a total of \$1.15 million into the account between August 8, 2019, the day the account was opened, and September 13, 2019, the day CHS 1 was given the aforementioned \$15,000 check. During that period, aside from \$100 Borges deposited when he opened the account, Generation Now was the sole source of deposits. In addition to the \$15,000 check to CHS 1, the bank records show that, on September 16, 2019, three days after the \$15,000 check was given to CHS 1, a check for \$100,000 was written to 614 solutions LLC, which is an Ohio business registered to Juan P. Cespedes.

#### **F. The Enterprise Bribes Signature Collectors**

229. In addition to attempting to bribe CHS 1, the Enterprise tried to subvert the Ballot Campaign’s efforts by bribing signature collectors working on behalf of the Ballot Campaign . Specifically, through intermediaries, the Enterprise offered Ballot Campaign signature collectors approximately \$2500 and plane fare to stop collecting signatures and provide inside information relating to the Ballot Campaign’s HB 6 referendum efforts. The payment was split into two segments—half upon signing a contract with Front Company and half upon proof the plane fare was used to fly home, away from Ohio. The Enterprise believed that if it could reduce the number of people collecting signatures for the Ballot Campaign, they could ensure the Ballot Campaign would fail to collect the requisite number of signatures.

230. Clark outlined this very strategy during the recorded dinner conversation on September 23, 2019. Concerned that the Ballot Campaign would collect enough signatures, Clark explained, “*so we have to go out on the corners and buy out their people every day. We started doing that today and everybody’s having a fucking shit fit.*” When questioned about the logistics of the operation, Clark was very coy, but explained that they have 235 spotters in the field and that the spotters call and say people are here and then others go buy them off. Clark continued, “*if we knock off 25 people, collecting signatures, it virtually wipes them out in next 20 days; this ends the whole fucking thing, ends in, that’s how hard it is, in addition to the TV, the direct mail, and everything else. . . .*” It was at this point in the conversation, when Householder interrupted, as explained above, and said, “*It is so important, it is so important, that they are not successful, because when the legislature votes on something it needs to stay law.*”

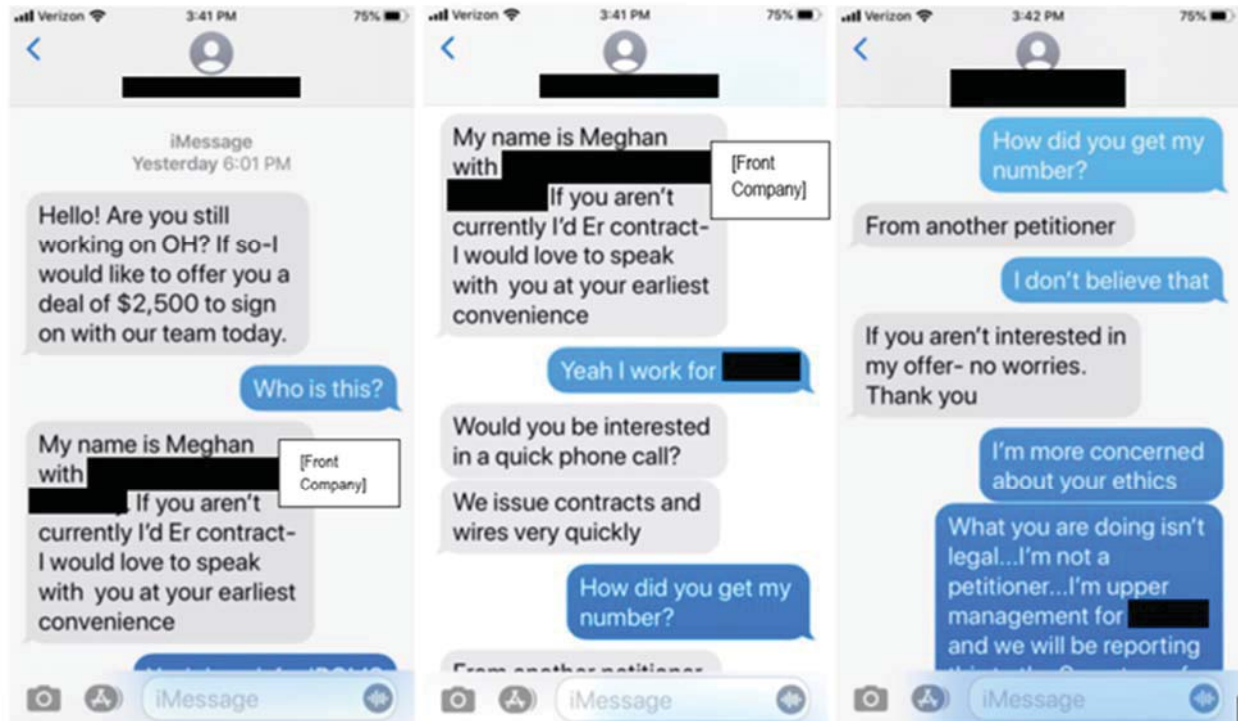
231. Toll records show that Clark was not exaggerating during the dinner. Following the dinner, Clark had 45 contacts with Contractor 1, a principal of Petition Signature Services Co 2, who markets himself/herself as a leading expert in ballot initiative access and strategy. The

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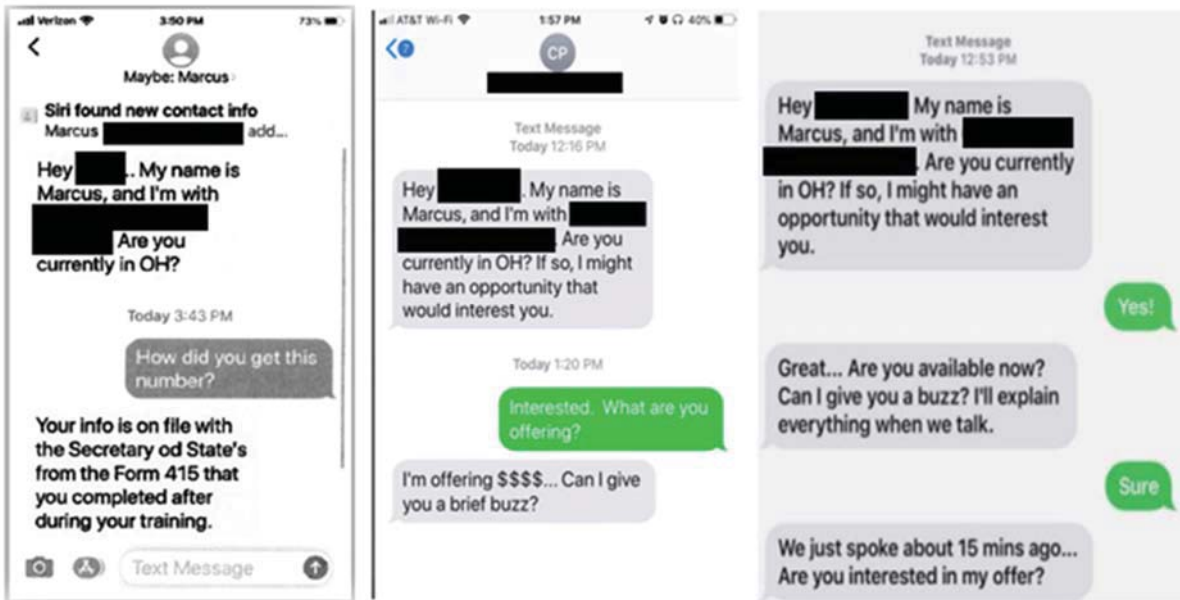
<sup>47</sup> <https://www.dispatch.com/news/20190828/nuclear-bailout-supporters-cry-chinese-conspiracy-but-get-funding-from-same-bank>.

contacts occurred in October 2019, when as, explained below, “Meghan” and “Marcus” were contacting and trying to bribe signature collectors working for the ballot initiative.

232. With the money wired from Generation Now to Front Company, the Enterprise paid the Petition Signature Services Co 2 over \$600,000 in October 2019. The same day as the first wire transfer from Front Company to the Petition Signature Services Co 2, Signature Collector 1 for the Ballot Campaign received the following unsolicited text message from “Meghan,” which toll records identify as Contractor 1:



233. The following day, “Marcus” purportedly from Front Company, contacted Signature Collector 1, Signature Collector 2, and Signature Collector 3, via text (copied below) and several other signature collectors. The subscriber records for “Marcus’s” telephone number show contact with these signature collectors on the date and time in question. Moreover, “Marcus” had contact with Contractor 1 around the same time



234. The text messages copied above were attached as exhibits to the sworn statements of Signature Collectors 1, 2, and 3 in a lawsuit filed by proponents of the Ballot Campaign, claiming among other things, interference by Front Company. While working for the Ballot Campaign, Signature Collector 2 explained in his/her affidavit that after he/she received the text message, he/she spoke to “Marcus” briefly but hung up before he gave the details of the offer. Signature Collector 3’s sworn affidavit states that after he/she received the text, “Marcus” called him/her and offered him/her a plane ticket home and \$2500 split into two parts. Three other affidavits were filed in support of the lawsuit, demonstrating similar communications with “Marcus” who identified himself as working on behalf of Front Company, one of which was accompanied by a recording of the call, described the same offer as Signature Collector 3, and included a proposed contract (described below) that “Marcus” sent.

235. The contract attached to one of the affidavits described the “services” to be provided as follows: *“provide statewide ballot issue advice and expert consultation on Ohio statewide ballot measures and the associated petition circulation and signature collection matters related to the referendum of HB 6 related issues, which occurs within a 90 day period upon enactment HB 6.”* This shows that the Enterprise was again paying agents of the ballot campaign for inside information relating to the Ballot Campaign to hurt the campaign’s efforts.

236. Each affidavit disclosed that the signature gatherer had completed an Ohio Secretary of State “Form 15” as required by Ohio law, which included their name and telephone number. These forms were filed with the Ohio Secretary of State. Significantly, the investigation shows that the Enterprise likely had access to those forms. During the recorded conversation on September 23, 2019, which preceded the above text messages from “Meghan” and “Marcus,” Clark and Householder referred the forms. In the context of explaining the mailer, which alleged the signature gatherers were criminals, Representative 8 asked, *“how do you know they have arrests?”* Householder responded that *“they have to sign up and when they sign up we run a background check.”* Based on my training and experience and the investigation to date, “sign up” is likely a reference to the Form 15.

237. The Enterprise having access to the Form 15s is consistent with subpoenaed records. Bank records for Borges' 17 Consulting account show that he paid a private investigations firm, over \$177,880 between September 13 and October 15, 2019. The last check Borges paid to the investigation firm indicated that it was for "10/8/19," which is the same date of Contractor 1's texts to one of the above signature collectors. This information is consistent with what Householder's statements on September 23, 2019.

238. Moreover, any ambiguity as to Marcus' affiliation when he attempted to bribe the signature collectors is resolved by one of the affidavits filed in federal court, which included a copy of the contract sent by "Marcus" to the signature collectors. The contract confirmed that the contracting party was Front Company and confirmed the cash buyout in the affidavits: \$2500, split into two payments: One half (50%) immediately upon execution of this Agreement and One half (50%) *immediately following the fulfillment of initial instructions shared with you through additional conversations with a representative from [Front Company]...*" The contract was signed by Longstreth on behalf of Front Company and further required that notices be sent to:

Generation Now  
c/o Jeff Longstreth  
Columbus, OH  
[jefflongstreth@gmail.com](mailto:jefflongstreth@gmail.com)

239. The contract further had a confidentiality requirement aimed at concealing both Generation Now and the agreement itself, showing the Enterprise's role in bribing the signature collectors. The confidentiality provision prohibited the signature collector from disclosing: "(a) *the identity of GenNow*; (b) that [name] has been engaged by the [Front Company] to perform the Services described herein, or (c) the existence, terms, provisions, or conditions of this Agreement or the agreement with [Front Company]."<sup>48</sup> Again, the "Services" included providing inside information relating to the campaign to overturn HB 6.

240. Like the Enterprise's efforts to pass HB 6, the Enterprise was working closely with Company A to defeat the ballot initiative. For example, in September 2019, while the Enterprise was spending millions trying to defeat the Ballot Campaign, Enterprise-Member-and-Company A-1-Lobbyist Borges referenced a meeting between members of the Enterprise and Company A executives, including "the CEO of the company", a few days earlier:

*I was driving those guys back to the airport and they were like we want to stop and see somebody (a signature gatherer). Well . . . I know for sure there will be one at the Worthington library because there's one there every day. So we stopped and for sure there was one there . . . the guy wants to get out and talk to him. . . . It was the CEO of the company . . .*

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<sup>48</sup> Emphasis added.

241. Later during the conversation, Borges again referenced the meeting with Company A, stating, *“I had the Company brass there – and they were up at [redacted] looking at ads, I mean, Dispatch calls our ads a lie today.”* Again, as set forth above, in a prior conversation, Borges described Householder’s interest in the bailout and his firm’s relationship with Company A as *“an unholy alliance.”* This shows the Enterprise working with Company A to discuss strategy for defeating the ballot initiative, to include bribing and paying off employees and signature collectors for the ballot campaign.

242. Toll records also show frequent and close contact between the Enterprise and Company A during this period in which, Company A paid the Enterprise over \$38 million. For example, on October 10, 2019, Longstreth had multiple phone contacts with a person associated with Energy Pass-Through, the same day that Company A Service Co. wired \$10 million to Energy Pass-Through, which then wired \$10 million to Generation Now.

243. The Enterprise’s efforts were a success: on October 21, 2019, the Ballot Campaign failed to collect enough signatures, and HB 6 went into effect. Householder celebrated enactment of the law through an October 21, 2019 press release, in which he noted expressly that the new law would bailout Company A’s failed nuclear power plants. Specifically, Householder stated: *“I am pleased that House Bill 6 will go into effect at midnight tonight and am confident it will produce positive results for Ohio.”* Among the benefits of the bill, Householder highlighted, *“First, HB 6 will save the operation of two Ohio nuclear power plants.”* (Emphasis added.)

244. The next day, Energy Pass-Through wired \$3 million to Generation Now, which wired \$2,921,000 to JPL’s main account two days later. That money and some of the Company A-to-Generation Now money remaining in other accounts were consolidated into Longstreth-controlled accounts, which personally benefitted Longstreth and Householder. For example, on or about January 13, 2020, Longstreth wired \$1 million to his brokerage account. After the transfer, over \$5 million remained in Longstreth-controlled accounts.

245. Similarly, between September and December, Householder used \$101,825 in Company A-to-Generation Now payments funneled through Longstreth-controlled accounts to pay for costs associated with his residence in Florida. This was in addition to payments made to settle Householder’s personal lawsuit in 2017 and 2018, and to pay off approximately \$20,000 in credit card debt owed by Householder in 2020.

246. On January 22, 2020 and February 6, 2020, Generation Now wired to the Coalition a total of \$1,010,000, which then transferred the money to PAC. According to FEC filings, PAC spent \$1,039,131.11 between February and March on legal services, bank fees, polling, research, direct mail services, advertising via TV, radio and digital, and media production.

247. Additionally, bank records show that on February 13, 2020, Generation Now wired the Coalition an additional \$250,000. Subsequent to that transfer, Generation Now’s funds were replenished by a \$2,000,000 wire transfer from Energy Pass-Through on March 3, 2020. This occurred shortly after Company A-1 was divested from Company A Corp. as a result of the bankruptcy proceedings, which was premised in part on the financial solvency of Company A-1 due to HB 6. In May 2020, Company A-1 announced a \$300 million buyback plan, whereby

Company A-1 would spend \$300 million repurchasing shares from shareholders thereby boosting stock prices.<sup>49</sup>

### **CONCLUSION**

248. The above facts establish probable cause that Householder's Enterprise is an association-in-fact enterprise affecting interstate commerce, and the Defendants conspired to participate in the conduct of the affairs of the enterprise by agreeing that a co-conspirator would commit a pattern of racketeering activity. To summarize, while operating together—and functioning as Householder's "team"—the Defendants enriched themselves and increased Householder's political power by: engaging in a scheme to defraud the public of the honest services of Householder, involving the receipt of millions of dollars in secret bribe payments through Householder's 501(c)(4) account in return for Householder taking official action to help pass a legislative bailout for two nuclear power plants; bribing and attempting to bribe individuals working on behalf of the Ballot Campaign in an attempt to receive inside information and defeat the Ballot Campaign; and concealing the scheme, their illegal activity, and the source of the funds by transferring the Company A-to-Generation-Now payments through other controlled entities and knowingly engaging in monetary transactions with the proceeds.

249. Based on the forgoing, I request that the Court issue the proposed criminal complaint, and arrest warrants for the individuals listed below, as there is probable cause to believe **LARRY HOUSEHOLDER, JEFFREY LONGSTRETH, NEIL CLARK, MATTHEW BORGES, JUAN CESPEDES, and GENERATION NOW** have violated 18 U.S.C. § 1962(d) (Conspiracy to Participate, Directly or Indirectly, in the Conduct of an Enterprise's Affairs through a Pattern of Racketeering Activity).


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<sup>49</sup> Ohio nuclear bailout beneficiary OKs extra stock buybacks: Capitol Letter, 2020 WLNR 13486449 (May 13, 2020); <https://www.cleveland.com/open/2020/05/with-ohio-bailout-law-secured-firstenergy-solutions-successor-moves-to-increase-share-buybacks-by-300-million.html>.

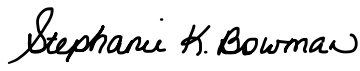
**REQUEST FOR SEALING**

250. I further request that the Court order that all papers related to this application, including the affidavit, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Respectfully submitted,

  
Blane J. Wetzel  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me on July 17, 2020 **via Facetime Video.**

  
STEPHANIE K. BOWMAN  
UNITED STATES MAGISTRATE JUDGE



FILED  
RICHARD W. WAGEL  
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

2016 MAY 13 PM 1:37  
U.S. DISTRICT COURT  
SOUTHERN DIST. OHIO  
EAST. DIV. COLUMBUS

UNITED STATES OF AMERICA,

v.

Case  
Judge

UNDER SEAL

PLEA AGREEMENT

Plaintiff United States of America ("United States") and the Defendant [REDACTED] INC. ("Defendant") hereby enter into the following Plea Agreement ("Agreement") pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure:

1. Defendant will enter a plea of guilty to Count 1 of the Information herein which charges it with one count of conspiracy to violate United States' laws relating to customs and importation of goods in violation of 18 U.S.C. § 371; Count 2 of the Information herein which charges it with one count of entry of goods by means of a false statement in violation of 18 U.S.C. § 542; and Count 3 of the Information herein which charges it with conspiracy to commit money laundering in violation of 18 U.S.C. §§ 1956(h) and 1956(a)(1)(A)(i).

2. Defendant understands that except as otherwise provided herein, the maximum penalty which may be imposed pursuant to its pleas of guilty to each of Counts 1, 2 and 3 of the Information is a fine of \$500,000.00, or twice the value of the funds involved.

3. Prior to or at the time of sentencing, Defendant will pay a special assessment of \$400.00 per count for Counts 1 through 3 as required in 18 U.S.C. § 3013. This payment shall be made to the United States District Court, at the Clerk's Office, 85 Marconi Boulevard,

Columbus, Ohio 43215. Defendant will furnish to the government a receipt or other evidence of payment at the time of sentencing.

4. Defendant understands that the Court may accept or reject this Agreement. The Defendant understands that, if the Court accepts this Agreement, the Court will advise Defendant that the Court will impose the sentence in paragraph 9, below, which has been agreed to by the parties. Defendant further understands that, if the Court rejects the Plea Agreement, (a) the Court will advise Defendant personally on the record that it has rejected the Plea Agreement and that the Court will not be bound by the Plea Agreement; (b) the Court will give Defendant the opportunity to withdraw the plea; (c) the Court will advise Defendant that, if it persists in its pleas of guilty, the Court may impose a sentence less favorable to Defendant than that agreed to in the Plea Agreement; and (d) the United States will not be bound by any of the provisions of the Plea Agreement, may dismiss the Information and seek identical and additional charges.

5. Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the United States and Defendant agree that the specific sentence outlined in Paragraph 9 of this Agreement is the appropriate disposition of this case, and that this recommendation shall bind the Court once this Agreement is accepted by the Court.

6. If such a guilty plea is entered, and not withdrawn, and Defendant acts in accordance with all other terms of this Agreement, the United States Attorney for the Southern District of Ohio and the United States Department of Justice will not pursue additional criminal charges (beyond the companion case against [REDACTED]), will not pursue additional criminal fines (beyond the fine identified in Paragraph 9b, below), and releases Defendant from any criminal forfeiture, against Defendant, its current and former owners, officers, directors, and employees, and the successors and assigns of any of them arising out of or based upon its

activities charged in the Information and the manufacture, shipment, purchase and importation of [REDACTED] from [REDACTED] in [REDACTED] and/or [REDACTED] in [REDACTED] between November 2006 and December 31, 2012, and will conclude their investigation of Defendant in connection with such activities and conduct.

7. Should Defendant fail to comply fully with the terms and conditions set forth herein, this Agreement is voidable at the election of the United States Attorney for the Southern District of Ohio, and Defendant may be subject to prosecution as if the Agreement had never been made.

8. Defendant agrees to the factual allegations and the factual basis for its plea of guilty as set forth in the Statement of Facts attached as Exhibit 1 to this Plea Agreement. The United States and Defendant further agree that Defendant was not the Importer of Record for the shipments from [REDACTED] in [REDACTED] identified in Exhibit 4 (attached). Further, 19 C.F.R. § 141.1(b)(1) states that "[t]he liability for duties, both regular and additional, attaching on importation, constitutes a personal debt due from the importer to the United States which can be discharged only by payment in full of all duties legally accruing, unless relieved by law or regulation."

9. Sentence. The United States and Defendant agree that the following specific sentence is the appropriate disposition of this case:

- a. Defendant shall serve a term of Probation of 3 years.
- b. Fine. Defendant shall pay a fine of two hundred fifty thousand dollars (\$250,000), payable within thirty (30) days after the entry of judgment herein.

[REDACTED]

c. Restitution. Defendant shall pay restitution to United States Customs and Border Protection ("Customs") in the amount of two million, two hundred fifty thousand dollars (\$2,250,000) (the "Restitution Amount"), with simple interest of 3%, payable in equal monthly payments in accordance with the restitution payment schedule to be provided by Defendant's U.S. Probation Officer before the sentencing hearing. Restitution payments shall be made monthly and no later than the last day of the months in which they are due. Defendant shall have the right to make the required payments due under this sub-paragraph earlier than the date on which they are due and, upon complete payment of the Restitution Amount, the Statute of Limitations Tolling Agreement between the United States and A [REDACTED] attached as Exhibit 2), executed by the parties simultaneously herewith, shall terminate. No additional restitution to the United States shall be due, with respect to the activities charged in the Information, upon full payment of the Restitution Amount, and timely full payment of said amount settles all charges and claims set forth in paragraph 10, below, that could have been brought by Customs as further provided in paragraph 10 of this Agreement.

d. Defendant has donated 2.765 gallons of [REDACTED] to the Ministry of [REDACTED].

e. Once Defendant completes the sentencing conditions as set forth above, Defendant shall deliver to its U.S. Probation Officer and the undersigned counsel for the United States an affidavit of an officer stating that the conditions have been completed. Upon verification (by the United States and Defendant's Probation Officer) of Defendant's completion of all of the requirements under this Plea Agreement, and if there have been no violations of the terms of the Plea Agreement nor the terms of probation, and Defendant has completed in excess

[REDACTED]

of 1 year of probation, the United States will not oppose a motion by Defendant for termination of the remaining term of probation.

10. Conditioned upon the full payment of the Restitution Amount to Customs, with interest, the United States releases Defendant, together with its current and former owners, officers, directors, and employees, and the successors and assigns of any of them, from all civil and administrative monetary claims the United States may have against them under the Tariff Act of 1930, as amended, relating to the 94 entries of [REDACTED] imported by or on behalf of Defendant from [REDACTED] in [REDACTED] between December 22, 2006 and September 12, 2011. (See Exhibit 3). Also conditioned upon the full payment of the Restitution Amount to Customs, with interest, the United States releases Defendant, together with its current and former owners, officers, directors, and employees, and the successors and assigns of any of them, from all civil and administrative monetary claims under the Tariff Act of 1930, as amended, for the scheme described in the attached Statement of Facts as it relates to the 56 entries of TCCA imported on behalf of Defendant from [REDACTED] in [REDACTED] between November 27, 2008 and May 11, 2012. (See Exhibit 4). If Defendant defaults on its payments, it will be liable for the full amount of a fraud penalty under 19 U.S.C. § 1592 for the false statements on the entry documents for those 21 specific entries identified in the Statement of Facts and will be in violation of this agreement.

11. It is agreed that if the Court refuses to accept any provision of this Plea Agreement, neither party is bound by any of its provisions, Defendant may withdraw its guilty plea, and the United States Attorney for the Southern District of Ohio may proceed with prosecution pursuant to the Information or any additional charges as if the Plea Agreement had never been made.

12. Defendant is aware that the Court generally has jurisdiction and authority to impose any sentence within the statutory maximum set forth for the offense to which Defendant pleads guilty, although, pursuant to this Agreement, such authority is limited by Federal Rule of Criminal Procedure 11(c)(1)(C). Defendant is aware that the Court has not yet determined a sentence.

13. Defendant understands and acknowledges that it is entering into this Plea Agreement and is pleading guilty freely and voluntarily because it is guilty. Defendant further acknowledges that it is entering into this Agreement without reliance on any representations or discussions not contained in this Agreement and that there have been no threats, coercion, or intimidation of any kind. Defendant acknowledges complete satisfaction with the representation of its counsel and the advice it has received in connection with this Agreement.

14. Defendant acknowledges having been advised by counsel of Defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. Defendant expressly waives those rights, except as reserved below. Defendant reserves the right to appeal any punishment in excess of the statutory maximum. Nothing in this paragraph shall act as a bar to the Defendant perfecting any legal remedies the Defendant may otherwise have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

15. By virtue of Defendant pleading guilty to Counts 1, 2, and 3 of the Information, Defendant understands that it is not a prevailing party as defined in 18 U.S.C. § 3006A (statutory note captioned "Attorney Fees and Litigation Expenses to Defense").

16. Corporate Authorization. Defendant will provide to the United States written evidence in the form of a notarized resolution of the Board of Directors of Defendant, in compliance with all applicable laws, certifying that Defendant is authorized to plead guilty to the charges as set forth in the Information, and to enter into and comply with all provisions of this Agreement. The resolution shall further certify that the President of Defendant and his designees are authorized to take these actions and that all corporate formalities have been observed. Defendant agrees that the President of Defendant shall appear on behalf of Defendant to enter the guilty plea and shall also appear for imposition of the sentence.

[REDACTED]

17. No additional promises, agreements, or conditions have been made relative to this matter other than those expressly set forth herein and none will be made unless in writing and signed by all parties.

5/6/2016  
DATE

5/17/2016  
DATE

5/4/16  
DATE

5-4-16  
DATE

[REDACTED]

FILED  
RICHARD W. NAGEL  
CLERK OF COURT

2020 JUL 30 AM 8:31

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

**1:20CR077**  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WEST DIV CINCINNATI

UNITED STATES OF AMERICA,

CASE NO.

Plaintiff,

JUDGE **JUDGE BLACK**

v.

INDICTMENT

LARRY HOUSEHOLDER,  
JEFFREY LONGSTRETH,  
NEIL CLARK,  
MATTHEW BORGES,  
JUAN CESPEDES, and  
GENERATION NOW,

18 U.S.C. § 1962(d)

FORFEITURE ALLEGATION

Defendants.

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THE GRAND JURY CHARGES:

COUNT ONE  
(RICO CONSPIRACY)

At times relevant to this Indictment:

THE ENTERPRISE

1. Defendants **LARRY HOUSEHOLDER, JEFFREY LONGSTRETH, NEIL CLARK, MATTHEW BORGES, JUAN CESPEDES, and GENERATION NOW**, and others known and unknown to the Grand Jury constituted an "Enterprise," (hereinafter "**Householder's Enterprise**") as that term is defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals and entities associated in fact. **Householder's Enterprise** constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of

achieving the objectives of the enterprise, and the enterprise engaged in, and its activities affected, interstate commerce.

### **Roles of the Conspirators**

2. Defendant **LARRY HOUSEHOLDER** represents the State of Ohio's 72 District in the Ohio House of Representatives and has done so since January 2017. He also is the current Speaker of the Ohio House of Representatives and has served in that capacity since January 7, 2019.

3. Defendant **GENERATION NOW** was a self-titled 501(c)(4), organized under the laws of Delaware, registered in Ohio, and purported to be organized primarily for a social welfare purpose under the Internal Revenue Code. The Internal Revenue Code, Title 26, United States Code, Section 501(c)(4), provides for tax exempt status for social welfare organizations. A "501(c)(4)" social welfare organization may "not [be] organized for profit but operated exclusively for the promotion of social welfare[.]" 26 U.S.C. § 501(c)(4)(A). An entity may not qualify for tax-exempt 501(c)(4) status "unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual." 26 U.S.C. § 501(c)(4)(B). A 501(c)(4) entity must notify the IRS of its intent to operate as a 501(c)(4) organization. 26 U.S.C. § 506. The names and addresses of contributors to 501(c)(4)s are not made available for public inspection.

4. **GENERATION NOW** maintained offices in Columbus, Ohio, within the Southern District of Ohio. Although registered as a 501(c)(4), in reality, **GENERATION NOW** operated as **HOUSEHOLDER**'s slush fund for the benefit of **HOUSEHOLDER** and his coconspirators. From 2017 to present, **GENERATION NOW** received more than \$59 million from "Company A Service Co.," "Company A-1," and "Energy Pass-Through."

5. Defendant **JEFFREY LONGSTRETH** was **HOUSEHOLDER**'s campaign and political strategist since at least in or about 2016. **LONGSTRETH** opened and is a signor on the **GENERATION NOW** bank accounts. **LONGSTRETH** also owns and operates JPL & Associates LLC and Constant Content Co., in Columbus, Ohio, in the Southern District of Ohio. From 2017 through 2020, JPL & Associates received approximately \$10.5 million directly from **GENERATION NOW**, and another \$4.4 million indirectly through Front Company (described below). **LONGSTRETH** transferred \$1,000,000 of the **GENERATION NOW** money to his brokerage account in 2020.

6. Defendant **NEIL CLARK** owned and operated Grant Street Consultants, a Columbus, Ohio-based lobbying firm that focuses on legislative, regulatory, and procurement lobbying at the Ohio Statehouse. Prior to starting Grant Street Consultants, **CLARK** served as budget director for the Ohio Senate Republican Caucus. Along with **LONGSTRETH**, **CLARK** served as one of **HOUSEHOLDER**'s closest advisors and was **HOUSEHOLDER**'s "proxy" in meetings with **Householder's Enterprise** members and associates relating to House Bill 6 (described below) when **HOUSEHOLDER** was unavailable. In 2019, **CLARK** received approximately \$290,000 from **GENERATION NOW**, which had been laundered through other accounts.

7. Defendant **MATTHEW BORGES** was a Columbus-based, lobbyist for Company A-1 (defined below). On or about August 5, 2019, **BORGES** registered with the Ohio Secretary of State, "17 Consulting Group LLC" (hereinafter "17 Consulting") as a for-profit limited liability company. Two days later, on or about August 7, 2019, **BORGES** opened a bank account for 17 Consulting Group LLC. **BORGES** listed himself as the President/Owner/CEO of 17 Consulting Group LLC and as the sole signatory on the account. The day after **BORGES** opened the account,

**GENERATION NOW** wired \$400,000 into the account. Between in or about August 2019 and October 21, 2019, **Householder's Enterprise** funded the 17 Consulting account with \$1.62 million in wire transfers from **GENERATION NOW**. **BORGES** used the bank account to pay himself, pay **CESPEDES**, attempt to bribe an employee and agent of the Ballot Campaign (described below), and pay for other expenses incurred by the Enterprise in defeating the Ballot Campaign.

8. Defendant **JUAN CESPEDES** was an outside lobbyist for Company A-1 who was central to Company A-1's efforts and **Householder's Enterprise** to get the bailout legislation passed in Ohio. **CESPEDES** was paid both by **Householder's Enterprise** and Company A's Service Co. for his efforts and often served as a key middleman. In 2019, **CESPEDES** received \$600,000 from **GENERATION NOW** via **BORGES'** account.

#### **Other Individuals and Entities**

9. "Company A Corp." was an Akron-based public utility holding company. Throughout the start of the relevant period until in or around February 2020, Company A Corp. was the parent company to entities involved in nuclear energy generation, including Company A-1. Company A Service Co. is a principle subsidiary of Company A Corp. According to its 2019 annual report, the President and Chief Executive Officer of Company A Corp. also served as the President and Chief Executive Officer of Company A Service. Co.

10. "Company A Service Co." was a principle subsidiary of Company A Corp., and operated as Company A's service company, providing legal, financial, and other corporate support services to Company A and its affiliates, including Company A-1. Services provided by Company A Service Co. included corporate contributions and advocacy on behalf of Company A and its affiliates at the federal, state, and local levels, among other services. The President and Chief

Executive Officer of Company A Corp., also serves as the President and Chief Executive Officer of Company A Service Co. Company A Service Co. provides services to Company A-1, as described below, including “external affairs,” “corporate contributions,” “Federal/State/Local Regulatory Affairs,” and “advocacy at the Federal, State, and Local levels.” From in or about March 2017 to October 22, 2019, Company A Service Co. wired millions of dollars to **GENERATION NOW**.

11. “Company A-1” was a wholly-owned subsidiary of Company A Corp. involved in nuclear energy generation. Through subsidiaries, Company A-1 owned and operated two nuclear plants in Ohio, “Nuclear Plant 1” and “Nuclear Plant 2” (together, the “Nuclear Plants”). In March 2018, Company A-1 filed for Chapter 11 bankruptcy. As a result of the bankruptcy proceedings, Company A-1 separated from Company A Corp. in or around February 2020.

12. “Energy Pass-Through” was registered as a 501(c)(4) entity in Ohio approximately two days after **GENERATION NOW** registered in Delaware. During the period from its inception in or around February 2017 to October 2019, Energy Pass-Through was funded exclusively by \$25 million from Company A Service Co. **GENERATION NOW** then received more than \$15 million from Energy Pass-Through between in or around February 2017 through in or around March 2020.

13. “Company A” refers collectively to Company A Corp., Company A Service Co., and Company A-1. Prior to February 2020, both Company A Service Co. and Company A-1 were subsidiaries of Company A Corp. Until February 2020, all three entities shared a common first name, and members and associates often referred generically to the “company” or to the common first name (“Company A”) in communications.

14. “Company-A-to-**GENERATION-NOW** payments” refers to money from Company A Corp, Company A-1, Company A Service Co., and Energy Pass-Through that was deposited into **GENERATION NOW**’s bank account.

15. “PAC” was a federal Political Action Committee. During the 2018 election cycle, **Householder’s Enterprise** laundered at least \$1,000,000 from **GENERATION NOW** through PAC to pay for media buys in PAC’s name to help elect candidates loyal to defendant **HOUSEHOLDER**. During the 2020 primary election, **Householder’s Enterprise** laundered over \$1,000,000 from **GENERATION NOW** to PAC, via Coalition, to pay for media buys in PAC’s name to help elect candidates supported by **HOUSEHOLDER**.

16. “Coalition” was a purported 501(c)(4) entity. In 2020, **Householder’s Enterprise** wired over \$1,000,000 from **GENERATION NOW** to Coalition, which was then wired to PAC to for media buys in PAC’s name to help elect candidates supported by **HOUSEHOLDER**. According to **LONGSTRETH**, he oversees political activities for Coalition.

17. “Dark Money Group 1” was incorporated on or about September 21, 2018, less than two months before the 2018 general election. In the weeks before the 2018 general election, **GENERATION NOW** wired \$670,000 to Dark Money Group 1, while Energy Pass-Through wired \$500,000. Between on or about October 20, 2018 and November 1, 2018, Dark Money Group 1 spent all of this money to pay for television, radio and print advertisements (“media buys”) targeting the rivals of **HOUSEHOLDER**’s candidates in the name of Dark Money Group 1.

18. **Householder’s Enterprise** employed numerous individuals in various capacities, (designated herein as “Associates”), whom **Householder’s Enterprise** paid either through **GENERATION NOW** or by funneling **GENERATION NOW** money through **LONGSTRETH**’s accounts.

### **The Ohio Legislature**

19. The Ohio House of Representatives is an elected body of the Ohio General Assembly. Members of the Ohio House of Representatives serve two-year terms and are limited to four consecutive two-year terms. House members propose, advance, and vote on legislation.

20. The Speaker of Ohio is the leader of the Ohio House of Representatives. The Speaker guides the agenda of the chamber, presides over the House session, and provides direction to House members and staff. The Speaker also decides when bills reach the House floor for a vote and who serves in leadership positions in the Speaker's caucus. The Speaker names all committees and subcommittees, and appoints all members and chairs to committees and subcommittees.

21. The Speaker is elected at the beginning of every General Assembly, which convenes its first regular session on the first Monday of January in odd-numbered years. To choose a Speaker, representatives-elect of the majority caucus in the House nominate and vote for a candidate for Speaker. The Speaker candidate who receives an absolute majority of those votes is then voted on by all House members during the first session day of the General Assembly.

### **Company A's Bail Out**

22. Beginning in and around 2016, Company A Corp. reported to shareholders billions of dollars in losses, including financial losses by Company A-1 and its nuclear-generating assets. By in and around 2017, Company A Corp. announced publicly that, absent a legislative solution, Company A-1's strategic options were limited to bankruptcy, plant deactivations, and/or restructuring debt.

23. In or around March 2018, Company A-1 and other nuclear-generation-related affiliates of Company A Corp. filed Chapter 11 bankruptcy. Under Company A-1's proposed

restructuring plan, Company A Corp. would divest its interest in Company A-1 and its other nuclear generation assets.

24. Also in or around March 2018, Company A-1 announced that it would close the Nuclear Plants absent legislative action. Specifically, Company A-1 stated that it would deactivate Nuclear Plant 1 and Nuclear Plant 2 in the next three years but would continue normal operations of the facilities until then. Company A-1 also announced that it was seeking a legislative solution as an alternative to deactivation of the Nuclear Plants.

25. House Bill 6 (“HB 6”) was proposed legislation introduced in the Ohio House of Representatives on or about April 12, 2019, roughly three months after **HOUSEHOLDER** became Speaker of the Ohio House of Representatives. Titled the “Ohio Clean Air Program,” HB 6 was referred to the House Energy and Natural Resources Committee, which assigned the bill to a newly created subcommittee, the House Energy and Natural Resources Subcommittee on Energy Generation (“Subcommittee on Energy Generation”). HB 6 allowed nuclear or solar resources to apply to be “qualifying” resources, which would make them eligible for a state subsidy of \$9 per megawatt hour produced. The legislation provided for the collection of a monthly-fixed charge to all residential, commercial, industrial, and large consumers to pay for the subsidy. Under the legislation, the subsidy is dispersed at the Direction of the Ohio Air Quality Development Authority. As passed, HB 6 added six new members to the Ohio Air Quality Development Authority, increasing the total from seven to thirteen, three of which are selected by the Speaker of the House. As passed, HB 6 also included a provision that gave an electric distribution utility, such as Company A Corp, the ability to decouple energy rates, which would allow a company to bill retail customers for a surcharge if the company’s annual revenue fell below a baseline revenue.

HB 6 passed the House on or about May 29, 2019. The bill passed the Senate and, on or about July 23, 2019, the Governor signed the legislation into law.

26. “Ballot Campaign,” was a ballot issue political action committee formed to repeal HB 6 through a ballot referendum. On or about July 29, 2019, Ballot Campaign submitted to the Ohio Attorney General its petition to repeal the legislation through a ballot referendum.

27. The next day, on or about July 30, 2019, “Front Company” was formed to defeat the Ballot Campaign. “Front Company,” operated as a pass-through entity. According to required disclosures, Front Company paid for millions of dollars in direct mailers and television advertisements. However, **Householder’s Enterprise** fully funded Front Company through Company-A-to-**GENERATION-NOW** payments. Specifically, between August 2019 and November 2019, **Householder’s Enterprise** received over \$38 million into **GENERATION NOW** from Company A and then transferred approximately \$23 million from **GENERATION NOW** to Front Company.

28. On or about August 29, 2019, the Ohio Attorney General approved the Ballot Campaign’s second proposed summary of its referendum petition. The Ohio Secretary of State validated its initial submission of signatures the next day, meaning that the Ballot Campaign had until on or about October 22, 2019, the effective date of HB 6, to circulate its petition and collect the requisite signatures for a ballot referendum. If the Ballot Campaign was successful, the implementation of HB 6 would be stayed until the following year’s general election.

29. “CHS-1” was employed by and was an agent of the Ballot Campaign as a supervisor, who, among other things, managed signature collectors. After receiving a bribery solicitation in or about September 2019, CHS-1 contacted the Federal Bureau of Investigation (“FBI”), assisted the FBI in its investigation, and acted at FBI’s direction.

30. Signature collectors were employees and agents of the Ballot Campaign, whose duties included collecting signatures in favor of the referendum. Between in or about September 2019 through October 21, 2019, agents of Front Company attempted to bribe signature collectors.

31. The Ballot Campaign failed to collect enough signatures to put the issue on the ballot for a vote by Ohio citizens, and HB 6 became law effective on or about October 22, 2019.

### **THE PURPOSES OF THE ENTERPRISE**

32. The primary purposes of **Householder's Enterprise** included:

- A. Obtaining, preserving, and expanding **HOUSEHOLDER's** political power in the State of Ohio through the receipt and use of secret payments;
- B. Enriching and benefitting the enterprise, its members, and associates; and
- C. Promoting, concealing, and protecting purposes (A) and (B) from public exposure and possible criminal prosecution.

### **THE RACKETEERING CONSPIRACY**

33. Beginning in or about 2016 and continuing to the present, the exact date being unknown to the Grand Jury, in the Southern District of Ohio and elsewhere, the Defendants, **LARRY HOUSEHOLDER, JEFFREY LONGSTRETH, NEIL CLARK, MATTHEW BORGES, JUAN CESPEDES, and GENERATION NOW**, and others known and unknown to the Grand Jury, being persons employed by and associated with **Householder's Enterprise**, an enterprise, engaged in, and the activities of which affected interstate commerce, did knowingly and intentionally conspire with each other and others known and unknown to the Grand Jury to violate Title 18 United States Code, Section 1962(c), that is, to conduct and participate directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity, as that term is defined in 18 U.S.C. §§ 1961(1) and 1961(5), consisting of multiple acts

indictable under 18 U.S.C. §§ 1343, 1346 (relating to honest services wire fraud); 18 U.S.C. § 1951 (relating to interference with commerce, robbery, or extortion); 18 U.S.C. § 1952 (relating to racketeering, including multiple acts of bribery under Ohio Revised Code § 3517.22(a)(2)); 18 U.S.C. § 1956 (relating to the laundering of monetary instruments); 18 U.S.C. § 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity); and multiple acts involving bribery, chargeable under Ohio Revised Code § 2921.02. It was part of the conspiracy that each Defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

#### **MANNER AND MEANS OF THE CONSPIRACY**

34. It was part of the conspiracy that since at least 2016, members and associates of **Householder's Enterprise** planned for **HOUSEHOLDER's** election as the Speaker of the House for the State of Ohio.

35. It was part of the conspiracy that **Householder's Enterprise** created an entity called **GENERATION NOW** to solicit, receive, and disburse money obtained in furtherance of its purposes.

36. It was part of the conspiracy that **HOUSEHOLDER** controlled and directed **GENERATION NOW**, with **LONGSTRETH** and others operating **GENERATION NOW** for the benefit of **Householder's Enterprise** and at **HOUSEHOLDER's** direction. However, **Householder's Enterprise** concealed **HOUSEHOLDER's** connection to **GENERATION NOW** and its true purpose on documents **Householder's Enterprise** submitted to financial institutions, the State of Ohio, and the IRS, which concealed its criminal activities.

37. It was part of the conspiracy that, although **GENERATION NOW** claimed to operate as a nonprofit, 501(c)(4) social welfare entity, **Householder's Enterprise** used

**GENERATION NOW** as a mechanism to receive and conceal bribe payments for the benefit of **Householder's Enterprise** members, **Householder's Enterprise** associates, and others, both directly and indirectly.

38. It was part of the conspiracy that **Householder's Enterprise** and its associates solicited and received contributions to **HOUSEHOLDER** through **GENERATION NOW** because the contributions were concealed from public scrutiny and not subject to reporting requirements.

39. It was part of the conspiracy that **Householder's Enterprise** used **GENERATION NOW** as a vehicle to receive "secret" money because **HOUSEHOLDER's** connection to **GENERATION NOW** and the names of contributors to **GENERATION NOW**, as a purported 501(c)(4), were not made public.

40. It was part of the conspiracy that **HOUSEHOLDER** and other **Householder's Enterprise** members and associates solicited and received money from individuals and entities into **GENERATION NOW** with the intent that the profit from **GENERATION NOW** would benefit directly **HOUSEHOLDER** and **Householder's Enterprise** members, **Householder's Enterprise** associates, and other private individuals. To conceal the benefits to **Householder's Enterprise** members and associates, **Householder's Enterprise** funneled payments to **GENERATION NOW** through other entities controlled by **Householder's Enterprise** before paying the benefits to **Householder's Enterprise** members and associates.

41. It was part of the conspiracy that, between on or about March 2017 and March 2020, **Householder's Enterprise** agreed to receive and accept millions of dollars in bribe payments from Company A, including bribe payments paid through **GENERATION NOW**, in return for **HOUSEHOLDER** taking specific official action for the benefit of Company A, namely,

to help enact into law legislation that would go into effect and save the operation of the Nuclear Plants. Examples of **HOUSEHOLDER's** specific official action of helping enact into law legislation that would go into effect and save the operation of the Nuclear Plants include: assisting in crafting the legislation; creating a House subcommittee for the legislation and appointing members to the House subcommittee; using his position as Speaker to pressure and advise public officials to take official action to further the legislation and to further efforts to ensure the legislation took effect; scheduling and arranging for votes to ensure passage of the legislation; and voting in favor of the legislation.

42. It was further part of the conspiracy that **HOUSEHOLDER** and **Householder's Enterprise** received and accepted payments from Company A corruptly with the intent that **HOUSEHOLDER** would be influenced and rewarded in connection with the legislation that would save the operation of the Nuclear Plants. These payments included millions of dollars in payments from Company A that passed through Energy Pass-Through before being transferred to **Householder's Enterprise** through **GENERATION NOW** and other entities controlled by **Householder's Enterprise** and its associates.

43. It was part of the conspiracy that **Householder's Enterprise** used the Company-A-to-**GENERATION-NOW** payments to further **Householder's Enterprise's** purposes, including by enriching and benefitting **Householder's Enterprise** members and associates by paying the operating costs of **Householder's Enterprise** (such as wages, rent and legal fees); to advance **HOUSEHOLDER** politically by, for example, paying for media buys and campaign staff for **HOUSEHOLDER's** candidates and for himself; to pressure public officials to support HB 6; and to enrich and benefit members and associates of **Householder's Enterprise**. In so doing,

**Householder's Enterprise** laundered Company-A-to-**GENERATION-NOW** payments through other entities controlled by **Householder's Enterprise**.

44. It was part of the conspiracy that **Householder's Enterprise** used Company-A-to-**GENERATION-NOW** payments to further **Householder's Enterprise's** purposes including obtaining, preserving, and expanding **HOUSEHOLDER's** political power and enriching and benefitting **Householder's Enterprise**, its members and associates.

45. It was part of the conspiracy that **Householder's Enterprise** used payments into **GENERATION NOW**, including bribe payments from Company A Service Co. and Company A-1, to support candidates for House seats in the 2018 primary and general elections, who would vote for **HOUSEHOLDER** for Speaker, and would later support HB 6. It was further part of the conspiracy that **Householder's Enterprise** used payments into **GENERATION NOW**, including bribe payments from Company A Service Co. and Company A-1, to support candidates for House seats in the 2020 primary elections. **Householder's Enterprise**, at times, characterized candidates supported by the Enterprise as a member of the "team" and "Team Householder" candidates.

46. It was part of the conspiracy that during the 2018 election cycle and the 2020 primary season, **Householder's Enterprise** laundered payments into **GENERATION NOW**, including Company-A-to-**GENERATION-NOW** bribe payments, through different accounts to further **Householder's Enterprise's** purposes and to enrich and benefit its members and associates.

47. It was part of the conspiracy that, after his election as Speaker in 2019, **HOUSEHOLDER** promised to perform and performed specific official action on behalf of **Householder's Enterprise** by helping enact into law HB 6 in return for payments from Company A.

48. It was part of the conspiracy that **Householder's Enterprise** received and accepted millions of dollars in bribe payments into **GENERATION NOW** from Company A while HB 6 was pending before Ohio public officials, which **Householder's Enterprise** used to further the purposes of **Householder's Enterprise** and pass HB 6.

49. It was part of the conspiracy that **Householder's Enterprise** coordinated with agents of Company A relating to payments into **GENERATION NOW** and the passage of HB 6.

50. It was part of the conspiracy that, after the passage of HB 6, **Householder's Enterprise** worked to defeat the Ballot Campaign.

51. It was part of the conspiracy that to conceal the origin of the attacks on the Ballot Campaign, **Householder's Enterprise** created Front Company, which served as a front organization for **Householder's Enterprise**, and through which **Householder's Enterprise** laundered payments from Company A.

52. It was part of the conspiracy that **Householder's Enterprise** bribed and attempted to bribe employees and agents of the Ballot Campaign to improperly discharge their campaign duties and to obtain information about the Ballot Campaign's organization in order to defeat the Ballot Campaign, and did so by laundering money through various entities, including Front Company.

53. It was part of the conspiracy that, after the Ballot Campaign failed, **Householder's Enterprise**, its members and associates, used the Company-A-to-**GENERATION-NOW** payments to further **Householder's Enterprise's** purposes, including enriching and benefitting themselves, by laundering the money through various accounts controlled by the **Enterprise**.

**ACTS IN FURTHERANCE OF THE CONSPIRACY**

54. In furtherance of the conspiracy and to achieve the objectives thereof, the conspirators performed and caused to be performed the following acts, among others:

**Formation of Generation Now**

55. Between 2016 and 2017, **Householder's Enterprise** developed a strategy for **HOUSEHOLDER's** bid to become the Ohio Speaker of the House in 2019. The "Game Plan 2018," which **Householder's Enterprise** committed to writing, included *"hit[ting] the ground running with a C4 working as the recruitment and fundraising arm"* and noted that *"[t]he only things that matter right away are raising money and recruiting candidates."*

56. On or about February 6, 2017, **GENERATION NOW** was incorporated in Delaware. On or about February 6, 2017, **Householder's Enterprise** opened two bank accounts for **GENERATION NOW**, with **LONGSTRETH** as a signor on both accounts. **Householder's Enterprise** listed **GENERATION NOW** as a "non profit corp" in the bank filings for both accounts.

57. On or about July 26, 2017, **GENERATION NOW** registered with the Ohio Secretary of State as a foreign nonprofit corporation. Publicly available registration documents filed with the Ohio Secretary of State falsely described **GENERATION NOW's** purpose as being "organized exclusively for the promotion of social welfare and economic development purposes within the meaning of Section 501(c)(4) of the Internal Revenue Code." The filings contain a certification from the Delaware Secretary of State stating that **GENERATION NOW** is an "Exempt Corporation."

58. **Householder's Enterprise** did not include **HOUSEHOLDER's** name on the state filings, bank account, or IRS filings.

59. **GENERATION NOW**'s publicly available website listed Seniors, Energy, Health Care, and Financial Security as its "Issues."

60. On November 13, 2019, **LONGSTRETH** signed under penalty of perjury an IRS Form 990 for the tax year 2017, which was filed with IRS on November 19, 2019, declaring that **GENERATION NOW** was a 501(c)(4). According to the publicly available filing, **GENERATION NOW** described its mission as "promot[ing] energy independence and economic development opportunities throughout the United States." **GENERATION NOW** indicated that it had "delegated control over management duties" to "JPL & Associates," which was also **GENERATION NOW**'s sole "voting member." Further, **GENERATION NOW** reported that out of \$1,332,103 in contributions into **GENERATION NOW** in 2017—of which bank records show, \$1,000,000 came from Company A during that year—it paid JPL & Associates \$580,833 as "Management Fees," and \$639,213 remained in the **GENERATION NOW** account as "assets." **GENERATION NOW** also claimed that it had paid no benefits to or for members and paid no salaries, other compensation, or employee benefits. **GENERATION NOW**'s 990 Form for tax year 2017 also stated that it raised all of its funds through "mail solicitations" and "internet and email solicitations."

61. Contribution forms for **GENERATION NOW**'s donors, created by and at the direction of Enterprise members and associates, stated that **GENERATION NOW** was an "independent, nonprofit organization exempt from federal taxation under Section 501 (c)(4) of the Internal Revenue Code." The Contribution Forms further stated:

I would like to contribute to Generation Now, Inc., a nonprofit organization under §501 of the Internal Revenue Code promoting energy independence and economic development opportunities throughout the United States. Generation Now is not registered or acting as a political committee under federal election law or any state or local election law. It may in limited cases engage in political

activity consistent with applicable laws and IRS regulations by making independent expenditures and/or electioneering communications, but not to the extent such activity could be considered its primary purposed [sic].

62. **Householder's Enterprise** entered a grant agreement on behalf of **GENERATION NOW** with another entity, in which **GENERATION NOW** received funds from the other entity by asserting that it was a "tax-exempt, not for profit organization that operates in accordance with the Internal Revenue Code Section 501(c)(4)." **GENERATION NOW** further agreed, "grant funds will be used by Generation Now Inc. in furtherance of its primary tax exempt purpose, and exclusively in connection with programs, efforts, and activities that promote the social welfare." **GENERATION NOW** certified that "[f]unds provided by [grantee] to Generation Now Inc. may not be used in furtherance of any political or campaign intervention activities (as those terms are currently defined by the IRS)." Despite these representations, **Householder's Enterprise** used **GENERATION NOW** funds provided by the grantor to benefit **Householder's Enterprise** members personally and to support political campaigns in furtherance of **Householder's Enterprise's** interests after laundering the funds through related entities.

**"GENERATION NOW is the Speaker's (c)(4)"**

63. Although **Householder's Enterprise** represented that **GENERATION NOW** was a nonprofit 501(c)(4) organized for a social welfare purpose consistent with IRS regulations, **HOUSEHOLDER** controlled **GENERATION NOW**, and **Householder's Enterprise** used funds into **GENERATION NOW** to benefit **HOUSEHOLDER** and **Householder's Enterprise** members and associates personally. As **CLARK** made clear during a recorded meeting in or around July 2019: "*Generation Now is the Speaker's (c)(4)*, that's the one I work for."

64. On or about July 24, 2019, in regards to **Householder's Enterprise** HB 6 efforts, **CLARK** told individuals he was **HOUSEHOLDER's** "*proxy*" when **HOUSEHOLDER** was

unavailable. **CLARK** referenced “*Gen Now*” as a (c)(4) that works like a PAC but there’s “*no reporting.*” **CLARK** stated that he was “*not on any documents*” connected to **GENERATION NOW**, but they call him “*the overseer*” of **GENERATION NOW**, explaining further, “*I’m the Speaker’s appointed guy to do that. Okay, so, it’s like having him in the room.*” **CLARK** then explained an upcoming **GENERATION NOW** meeting that would be attended by **HOUSEHOLDER** as: “*When I, so like, we have a meeting on Friday, he’s going to be in the room, so I’ll be just like everyone else, I’ll be, I’ll be another fucking staffer. When he’s out of the room, I’m the guy.*”

65. In a recorded meeting on or about September 13, 2019, **BORGES** similarly described **CLARK** as **HOUSEHOLDER**’s “proxy”: “*Neil sits in meetings and he’ll say ‘I’m the proxy for the Speaker in this meeting . . . so anything you tell me,’ and you kind of think it’s typical Neil bullshit stuff except it is not; he’s really acting as his proxy.*”

66. **CLARK** indicated in recorded conversations that funds into **GENERATION NOW** were really payments to **HOUSEHOLDER**. For example, in advising individuals to contribute to **GENERATION NOW** on or about July 23, 2019, **CLARK** explained that the individuals could write a check—a “*noticeable number . . . \$15-20-25,000*”—to “*Gen Now and hand deliver the check to the Speaker.*” **CLARK** did not disclose in the meeting that, earlier in July 2019, he had received through his company account \$100,000 from **GENERATION NOW** via a **LONGSTRETH**-controlled account.

67. Similarly, on or about September 13, 2019, in a recorded conversation, **BORGES** confirmed **HOUSEHOLDER**’s management of **GENERATION NOW**, explaining, “*Like [Associate 3] who has to, who has to, answer to the press obviously, he wants to quit so bad ‘cause*

*he's like 'this is my reputation now' you know . . . but he can't because the Speaker won't let him, but he, god, he hates this shit.* Associate 3 is a paid spokesperson for **GENERATION NOW**.

68. During the conspiracy, **HOUSEHOLDER** personally solicited money for **GENERATION NOW**. The following conversation between **HOUSEHOLDER** and **CLARK** during a recorded call in January 2018 showed **HOUSEHOLDER**'s role with respect to soliciting money into **GENERATION NOW**:

**HOUSEHOLDER:** *Now switching gears. So we are looking at the payday lenders. And we are expecting big things in (c)(4) money from payday lenders....*

**CLARK:** *Right. Right.*

**HOUSEHOLDER:** *So far, I think we are what, fifty? I think* [speaking to someone else in the room]

**CLARK:** *Are you, you're checking now with Jeff right?*

**HOUSEHOLDER:** *Right.*

**CLARK:** *You should have gotten twenty-five or fifty from* [name redacted], *correct?*

**HOUSEHOLDER:** *Yes.*

....

**HOUSEHOLDER:** [After confirming with someone in the background] *Twenty five total . . . Twenty-five total is what we've got.*

At the time of the call, **Householder's Enterprise** had received a check for \$25,000 into a **GENERATION NOW** account that matched the payor described during the call.

69. During the same conversation, **HOUSEHOLDER** confirmed to **CLARK** that another corporate entity gave \$30,000 to "the (c)(4)." Bank records show a \$30,000 "contribution"

from that corporate entity was deposited into the **GENERATION NOW** account on or about October 19, 2017.

70. During a recorded conversation between **HOUSEHOLDER** and **CLARK** on or about February 5, 2018, **HOUSEHOLDER** again inquired about “(c)(4) money.” Specifically, **HOUSEHOLDER** stated, *“I’m sitting here with [Associate 2]. . . . We’re talking about (c)(4) money, and we’re trying to figure out where the payday lenders were going to be at. Can you help me with that?”* **Householder’s Enterprise** listed Associate 2 on a **GENERATION NOW** Contribution Form as a contact for donors.

71. During the conspiracy, **HOUSEHOLDER’s** actions also show that **GENERATION NOW** was **HOUSEHOLDER’s** 501(c)(4). For example, on or about June 12, 2019, **HOUSEHOLDER** and **LONGSTRETH** communicated about the **GENERATION NOW** commercials airing on television. **HOUSEHOLDER** told **LONGSTRETH** that he was *“sick of seeing that poor sum bitch drive that pickup truck down the road and cry about losing his job,”* a reference to their **GENERATION NOW** television ad about HB 6 featuring an employee of one of the Nuclear Plants describing job loss if the plant closes. **LONGSTRETH** responded that *“it’ll change out later this week.”* During the conspiracy, other actions taken by **HOUSEHOLDER** show his control and management of **GENERATION NOW**, including:

- A. **HOUSEHOLDER** participated in **GENERATION NOW** meetings with **LONGSTRETH** and other **Householder’s Enterprise** members;
- B. **HOUSEHOLDER** maintained an office, along with **LONGSTRETH**, within **GENERATION NOW’s** headquarters;

- C. **HOUSEHOLDER's** campaign staff and associates were paid directly through **GENERATION NOW** and by **GENERATION NOW** money passed through **LONGSTRETH's** accounts.
- D. **HOUSEHOLDER** controlled who was associated with and/or employed by **GENERATION NOW**.
- E. **HOUSEHOLDER** directed **GENERATION NOW's** messaging.
- F. Complaints about **GENERATION NOW** from other public officials were made directly to **HOUSEHOLDER** and were referred to **HOUSEHOLDER**.

**GENERATION NOW is HOUSEHOLDER's Vehicle for Receiving "Secret" Payments**

72. **CLARK** and **HOUSEHOLDER** discussed the benefits of using a 501(c)(4) to collect money on or about January 25, 2018, in a recorded call: *"what's interesting is that there's a newer solution that didn't occur in, 13 years ago, is that they can give as much or more to the (c)(4) and nobody would ever know."*

73. Similarly, on or about May 1, 2019, **CLARK** described **GENERATION NOW** during a recorded conversation as **HOUSEHOLDER's** "secret" (c)(4): *"it's secret, a (c)(4) is secret. Nobody knows the money goes to the Speaker's account, it is controlled by his people, one of his people, and it's not recorded. A (c)(4) is non-recorded."*

74. Consistent with this, **GENERATION NOW** contribution forms soliciting donations into **GENERATION NOW** stated that the IRS does not make contribution information public and that *"Generation Now, Inc. 's policy is not to disclose its donors to the general public."*

**Householder's Enterprise Received Millions in Bribe Payments from Company A**

75. Between in or around March 2017 and March 2020, **HOUSEHOLDER** and **Householder's Enterprise** received over \$64 million in secret payments into **GENERATION NOW**, the vast majority of which—approximately 93%—came from Company A-1, Company A Service Co., and Energy Pass-Through.

76. Between in or around March 2017 and March 2020, **Householder's Enterprise** received from Company A-1, Company A Service Co., and Energy Pass-Through over \$59.9 million into **GENERATION NOW** in return for legislation that would save the operation of the Nuclear Plants.

77. During the period of the conspiracy, **Householder's Enterprise** began referring to Company A as their “bank” because of the volume of money paid to **HOUSEHOLDER** into **GENERATION NOW**. As **CLARK** explained during a recorded conversation in July 2019: “We call [Company A] ‘the Bank’ because they can do, they can do, they can fund these things for 20 years if they want to. . . . They’ve got too much money, too much power.” **CLARK** remarked that the amount of money from Company A into **GENERATION NOW** was “unlimited.” **CLARK** further stated that **HOUSEHOLDER** “gets checks from ‘the Bank’; remember, I told you what the ‘the Bank’ is, you know, \$1.5 million dollars, \$2 million dollars.”

**Householder's Enterprise Used Company-A-to-GENERATION-NOW Payments to Benefit and Enrich the Enterprise, and its Members and Associates**

78. Between on or about February 6, 2017 and to on or about April 28, 2020, **Householder's Enterprise** used the Company-A-to-**GENERATION-NOW** payments to fund the operating costs of **Householder's Enterprise**, including rent for office space, wages to associates and other individuals employed by **Householder's Enterprise**, lodging, meals, and parking.

79. Between on or about February 6, 2017 and to on or about April 28, 2020, **Householder's Enterprise** transferred at least \$14.9 million in Company-A-to-**GENERATION-NOW** payments to other **LONGSTRETH**-controlled accounts. (Approximately \$4.4 million of that total passed through Front Company before being deposited into **LONGSTRETH's** accounts.) **Householder's Enterprise** then used the money transferred into **LONGSTRETH's** accounts to pay additional operating costs of **Householder's Enterprise**, pay third parties, and pay benefits to members and associates of **Householder's Enterprise**.

80. **Householder's Enterprise** funneled payments from **GENERATION NOW** to **LONGSTRETH**-controlled accounts to conceal personal benefits paid to **HOUSEHOLDER**, which **Householder's Enterprise** disguised in the IRS 990 Form for tax year 2017 as "Management Fees" paid to JPL & Associates. For example, in 2017, after transferring money from **GENERATION NOW's** bank account to a JPL & Associates' bank account for what **Householder's Enterprise** characterized to the IRS as "Management Fees," **Householder's Enterprise** paid approximately \$60,000 to a law firm that was then representing **HOUSEHOLDER** in a civil lawsuit. Because of JPL & Associate's low bank account balance at the time, **Householder's Enterprise's** \$60,000 transfer to the law firm was only possible because of **GENERATION NOW's** infusion of money into the JPL & Associates account.

81. As the payments into **GENERATION NOW** increased, **Householder's Enterprise's** subsequent money transfers from **GENERATION NOW** to JPL & Associates—which, according to the 2017 990 Form, controlled the "Management" of **GENERATION NOW** and was the sole voting member—also increased. For example, in 2018, **GENERATION NOW** received over \$3.2 into its bank account and then paid over \$1.8 to a JPL & Associates account.

In 2019, **GENERATION NOW** received over \$57.3 million into its bank account and then paid over \$7.9 a JPL & Associates account.

82. Between on or about February 6, 2017 and to on or about April 28, 2020, **Householder's Enterprise** used more than \$400,000 in **GENERATION NOW** payments, that account being funded by Company A, which were funneled through **LONGSTRETH**-controlled accounts to benefit **HOUSEHOLDER** personally, including:

- A. Approximately \$300,000 paid through multiple **LONGSTRETH**-controlled accounts, to settle a lawsuit (mentioned above) and pay legal fees related to a civil judgment against **HOUSEHOLDER** for more than a million dollars;
- B. More than \$100,000 passed through a **LONGSTRETH**-controlled account to pay for repairs and costs associated with **HOUSEHOLDER's** Florida home;
- C. Approximately \$20,000 passed through a **LONGSTRETH**-controlled account to pay credit card debt held by **HOUSEHOLDER**; and
- D. At least \$97,000 spent on campaign expenses for **HOUSEHOLDER** during his 2018 campaign.

83. Between on or about February 6, 2017 and to on or about April 28, 2020, **LONGSTRETH** used for his own benefit at least \$2 million in Company-A-to-**GENERATION-NOW** payments that were transferred to accounts that he controlled, including a wire of \$1,000,000 to his brokerage account and hundreds of thousands of dollars spent on mortgage payments, car payments, and credit card payments.

84. Between on or about February 6, 2017 and to on or about April 28, 2020, **CLARK** received at least \$290,000 in Company-A-to-**GENERATION-NOW** payments, which passed through at least one other account controlled by **Householder's Enterprise** before reaching **CLARK's** bank account.

85. Between on or about February 6, 2017 and to on or about April 28, 2020, **BORGES** received at least \$350,000 in Company-A-to-**GENERATION-NOW** payments, which were transferred to him through the 17 Consulting bank account.

86. Between on or about February 6, 2017 and to on or about April 28, 2020, **CESPEDES** received at least \$600,000 in Company-A-to-**GENERATION-NOW** payments, which passed through the 17 Consulting bank account before reaching his bank account.

87. Between on or about February 6, 2017 and to on or about April 28, 2020, **Householder's Enterprise** paid Associates 1, 3, 4, and 5 a total of at least \$725,000 in Company-A-to-**GENERATION-NOW** payments, many of which passed through at least one other account controlled by **Householder's Enterprise** before reaching the associate's bank account.

88. On or about November 13, 2019, **LONGSTRETH** signed under penalty of perjury the IRS Form 990 for the tax year 2017, claiming **GENERATION NOW** was a 501(c)(4). According to the filing, **GENERATION NOW's** largest program service accomplishment, measured by expenditures, was \$500 spent on building "a grassroots infrastructure and online campaign to educate the public about the need for clean, reliable energy generation in Ohio."

**The Enterprise Also used Company-A-to-GENERATION-NOW Payments to Obtain, Preserve, and Expand HOUSEHOLDER's Political Power**

89. Throughout the conspiracy, **Householder's Enterprise** used **GENERATION NOW** money to increase **HOUSEHOLDER's** political power by helping **HOUSEHOLDER** become the Ohio Speaker and develop a loyal group of representatives. **CLARK** and

**HOUSEHOLDER** discussed this strategy during a recorded call in or about January 2018. Specifically, **CLARK** and **HOUSEHOLDER** discussed the budget in the context of their plan to “orchestrate (c)(4) checks” to help **HOUSEHOLDER** fund campaigns for House members. **CLARK** estimated that **HOUSEHOLDER** would “*need a hundred and twenty thousand per race,*” to which **HOUSEHOLDER** responded, “*I’d say one fifty, but yeah, you’re in the ballpark.*” They then discussed how to raise the amount they needed in 501(c)(4) checks to fund candidate campaigns. **CLARK** mentioned that, “*some people decided to help [Speaker Candidate 1]*” for Speaker, to which **HOUSEHOLDER** responded, “*yeah, we can fuck them over later.*”

90. In 2017, as **Householder’s Enterprise** began receiving wires from Company A Service Co., **Householder’s Enterprise** built a list of candidates for the 2018 elections—candidates who, at times, **Householder’s Enterprise** referred to as “Team Householder,” and who **Householder’s Enterprise** used **GENERATION NOW** funds to help elect.

91. In or around April 2018, after having received approximately \$1.3 million in Company-A-to-**GENERATION-NOW** payments between on or about March 15, 2017 and March 15, 2018, **Householder’s Enterprise** sent wires totaling \$1 million from **GENERATION NOW** to PAC, which purchased in PAC’s name, advertisements benefiting **HOUSEHOLDER** and **Householder’s Enterprise** candidates for the May 8, 2018 Ohio primary election.

92. On or about May 8, 2018, **Householder’s Enterprise** successfully executed their primary election strategy, as the majority of the candidates supported by **Householder’s Enterprise** won their primary elections.

93. Between on or about August 1, 2018 and on or about October 29, 2018, **Householder’s Enterprise** received \$1 million in Company-A-to-**GENERATION-NOW** payments. Between on or about October 19, 2018 and October 29, 2018, **GENERATION NOW**

wired \$670,000 to Dark Money Group 1, which also had received a \$500,000 wire directly from Energy Pass-Through. With this money, **Householder's Enterprise** used Dark Money Group 1 to purchase over \$1 million in advertisements in the name of Dark Money Group 1 that benefited **Householder's Enterprise's** candidates in the final weeks before the November 2018 general election.

94. Between in or about March 2017 and November 2018, after receiving Company-A-to-**GENERATION-NOW** payments, **Householder's Enterprise** wired and electronically transferred money from **GENERATION NOW** to a **LONGSTRETH**-controlled bank account, which made payments to benefit **Householder's Enterprise** and enrich and benefit its members and associates.

95. On or about November 8, 2018, **Householder's Enterprise** successfully executed its strategy, demonstrated by the election of the majority of the "Team Householder" candidates.

96. On or about January 7, 2019, **HOUSEHOLDER** was elected Speaker, in part, by receiving votes from representatives whose races were supported by **GENERATION NOW**.

97. Between on or about January 22, 2020 and on or about February 7, 2020, after having received approximately \$38.7 million in Company-A-to-**GENERATION-NOW** payments between on or about August 2, 2019 and on or about October 22, 2019, **Householder's Enterprise** wired \$1,010,000 from **GENERATION NOW** to Coalition, which then wired roughly the same amount to PAC, which then purchased advertisements in PAC's name before the scheduled May 2020 primary. The advertisements purchased by PAC benefitted **Householder's Enterprise** and its candidates.

**Householder's Enterprise Pushes Legislation in Return for Payments**

98. In or about 2019, **Householder's Enterprise**, through **HOUSEHOLDER**, delivered a legislative solution for the Nuclear Plants in the form of HB 6. In a recorded conversation on or about May 31, 2019, **CLARK** characterized HB 6 as a "nuclear power plant bailout."

99. In a text message exchange on or about June 10, 2019, while HB 6 was pending in the Ohio Senate, **HOUSEHOLDER** revealed his intent with regards to HB 6 and his official action for the benefit of the Company A Nuclear Plants. In the exchange, **LONGSTRETH** told **HOUSEHOLDER** that one of the "biggest issues we've heard from the Senate" was "Does [Company A-1] really need the money?" After referencing the "subsidy" for "[Company A-1,]" **HOUSEHOLDER** responded: "*we only put in what they need.*"

100. **CLARK** described **Householder's Enterprise's** corrupt arrangement with Company A in recorded conversations on or about July 23 and 24, 2019. **CLARK** stated: "*on HB 6, [Company A] got \$1.3 billion in subsidies, free payments, . . . so what do they care about putting in \$20 million a year for this thing, they don't give a shit.*" (At the time **CLARK** made this statement, **Householder's Enterprise** had received approximately \$20 million from Company A Service Co., Company A-1, and Energy Pass-Through into **GENERATION NOW**.) **CLARK** stated on: "*[Company A] is deep pockets.*" **CLARK** explained: "*I did this campaign. All we cared about was getting the subsidy.*"

101. In a recorded conversation on or about June 6, 2019, in the context of discussing contributing to **HOUSEHOLDER** through **GENERATION NOW**, **CLARK** referenced **HOUSEHOLDER's** corrupt exchange with Company A, explaining that **HOUSEHOLDER** took millions from Company A and "*he went to war for them.*" **CLARK** concluded that he wanted to

be around politicians like **HOUSEHOLDER** who “*will go to the wall, but those guys that go to the wall can only do it once a year because if they do it all the time everybody knows they’re pay to play*.” **CLARK** explained that the way politicians get exposed for “*pay to play*” is through “*stupidity*” or “*people who get aggrieved leak it.*”

102. Similarly, during a September 2019 recorded conversation about the Ballot Campaign’s effort to repeal HB 6 with CHS-1(who was an employee/agent for the Ballot Campaign), **BORGES** characterized the corrupt relationship between **HOUSEHOLDER** and Company A as follows:

*And, and Larry also, you know, so it’s this unholy alliance between Larry and [Company A] and [Borges’ firm]. . . . [Borges’ firm] doesn’t care about Larry; he’s helping with the issue our single largest client cares a lot about and . . . so unless you are somehow affiliated directly to [Company A] or work for one of their interests or you just want to suck up to Larry, you’re on your side.*

103. Company A-1 lobbyist **CESPEDES** planned the timeline for **HOUSEHOLDER** to take the official action for Company A’s benefit even before **HOUSEHOLDER** became Speaker. On or about November 20, 2018, weeks after the 2018 general election, **CESPEDES** drafted a document titled “[Company A-1] Ohio 1st Draft Timeline.” In this document, **CESPEDES** wrote that although the next Speaker remained unclear at that time, there would be “Speaker’s race clarity mid-December” 2018, and “[i]f Householder is successful, *the effort will likely be led from his Chamber,*” with “potential legislative introduction” for Company A-1 in early 2019.

104. Consistent with **Householder’s Enterprise’s** strategy, **HOUSEHOLDER** became Speaker of the Ohio House of Representatives on or about January 7, 2019, with the “Team Householder” candidates who won their campaigns—aided by **Householder’s Enterprise**,

through payments from Company A—voting in favor of **HOUSEHOLDER**. On that day, **HOUSEHOLDER** pledged to create a standing committee on energy generation.

105. On or about February 6, 2019, weeks after his election as Speaker, **HOUSEHOLDER** announced the creation of a subcommittee of the House Energy and Natural Resources Committee—the Energy Generation Subcommittee. **HOUSEHOLDER** later stated that the Energy Generation Subcommittee was created for HB 6.

106. On or about April 12, 2019, the House introduced HB 6—roughly three months after **HOUSEHOLDER** became Speaker. That day, **HOUSEHOLDER** held a press conference, during which he stated he “*crafted*” the legislation with two other representatives (both of whom **Householder’s Enterprise** supported with **GENERATION NOW** funds in 2018). When asked where the amount of the subsidy contained in the proposed legislation came from, **HOUSEHOLDER** responded, “*it’s based on our brains. For me, I look back, for two years I’ve had this in my head, and I’ve had various versions on that white board over the last several months.*” **Householder’s Enterprise** received its first \$250,000 payment from Company A Service Co. in March 2017, roughly two years prior to introduction of HB 6.

107. Between in or around April 2019 to July 2019, while HB 6 was pending before the Ohio House of Representatives and the Ohio Senate, **Householder’s Enterprise** received into **GENERATION NOW** approximately \$16.8 million from Company A Service Co. and Company A-1. With this money, **Householder’s Enterprise** paid for direct mail and radio and television advertisements supporting HB 6, paid the operating costs of **Householder’s Enterprise**, and laundered the money through **LONGSTRETH’s** bank account to pay members and associates of **Householder’s Enterprise** and third parties.

108. While HB 6 was pending before lawmakers, **LONGSTRETH** and **CESPEDES** coordinated Company A payments to **GENERATION NOW**. For example, on June 4, 2019, **CESPEDES** texted to **LONGSTRETH**, *"Text me the # I need an invoice for \$2M"*; **LONGSTRETH** responded, *"working on it now."* On June 10, 2019, **CESPEDES** texted, *"Make sure I get the invoice for this week as early as possible, please. Thanks."* **LONGSTRETH** responded, *"Yeah, I'm thinking it will be lower this week. Probably 1.3 ish."* **CESPEDES** replied, *"Ok, thanks. I appreciate everything that you are doing. Let's keep pushing this group."*

109. Through the advertisements, paid for by **GENERATION NOW**, **Householder's Enterprise** provided "cover" and "protect[ed]" legislators who planned to vote in favor of HB 6 and applied pressure to unsupportive legislators and those who were undecided. **Householder's Enterprise** planned and designed the advertisements, as evidenced by direct mail pieces, budgets, drafts transcripts for advertisements, and communications with **LONGSTRETH**.

110. **HOUSEHOLDER** acknowledged the importance of "protecting" the representatives who voted in favor of HB 6 in the following text message thread on or about June 16, 2019:

**HOUSEHOLDER:** *Are we running positive radio in [redacted]'s district?*

**LONGSTRETH:** *Not right now. It ended with the vote.*

**HOUSEHOLDER:** *Got to protect the troops – especially make sure they believe we are protecting them.*

111. In or around May 2019, **HOUSEHOLDER's** proxy, **CLARK**, advised a representative of the consequences from **HOUSEHOLDER** if the representative did not vote for HB 6, which included, loss of committee assignments and stalling of his/her legislation. **HOUSEHOLDER** personally attempted to pressure and advise the same representative through a text messages that stated: *"[Representative], I really need you to vote yes on HB 6, it means a lot*

to me. *Can I count on you?*” After the representative responded by indicating the representative would vote against HB 6, **HOUSEHOLDER** replied by texting: *“I just want you to remember – when I needed you – you weren’t there. twice.”*

112. On or about May 29, 2019, **Householder’s Enterprise**, its members and associates, celebrated the Ohio House of Representatives’ passage of HB 6. Text message communications among Enterprise members and associates indicate that **HOUSEHOLDER**, **LONGSTRETH**, **CESPEDES**, a Company A Corp. lobbyist, and “*10-12 Reps . . . All yes votes*” were in the “*back room*” of a Columbus restaurant having dinner the night after HB 6 passed the Ohio House.

113. On or about May 31, 2019, after receiving negative publicity about HB 6’s passage in the Ohio House and while HB 6 was pending in the Ohio Senate, **HOUSEHOLDER** asked **LONGSTRETH**, *“Does [Associate 3] do a fucking thing? Has there been a plan you guys are following or is the plan just to spend money.”* Following a phone call from **HOUSEHOLDER**, **LONGSTRETH** sent a follow up text message to **HOUSEHOLDER** later that day that explained, *“the whole HB6 team [is] coming into the office on Monday . . . I don’t ever want to get another call from you like I got this morning. Let’s go win!”*

114. The same day, following the initial text message and follow-up call from **HOUSEHOLDER**, **LONGSTRETH** texted Company A-1 lobbyist **CESPEDES**: *“Speaker has asked me to pull together the whole HB 6 team on Monday. Are you available?”* **LONGSTRETH** added, the *“Speaker is on a rampage.”* **CESPEDES** responded, *“Understood. Just let me know what I should be prepared for. I want to make sure I have answers and do not want the speaker’s rage directed at me lol.”* After **LONGSTRETH** stated that **HOUSEHOLDER** “*was pissed*” about a newspaper article, **CESPEDES** replied, *“Aw fuck. Sorry*

*to hear that. I've got your back. You have been great. Let's just regroup and get the rest of the deal done."*

115. Consistent with these text messages between **LONGSTRETH** and **CESPEDES**, on or about June 3, 2019, **Householder's Enterprise** members and associates met regarding the strategy to pass HB 6 in the Senate. The members and associates discussed a targeted media campaign including direct mail, direct cable, and direct radio that mentioned the senators by name. **Householder's Enterprise** members and associates also discussed a contingency plan, by which "*the Nukes*" would be "*stripped out and put into the budget.*"

116. As it did when HB 6 was pending before the Ohio House of Representatives, **Householder's Enterprise** crafted and paid for advertisements, in the name of **GENERATION NOW** while the legislation was pending in the Ohio Senate in or about June and July 2019. **Householder's Enterprise** documented its strategy and budget in this regard. **Householder's Enterprise** members and associates determined that the television commercials needed to reference the senators by name. They also discussed that "*on the fence*" legislators had reported "*feeling the heat*" from constituent calls, presumably prompted by targeted advertisements urging constituents to call their legislator. The new television commercials conveyed a sense of urgency, imploring constituents to contact their respective senators and ask him/her "to pass HB 6 before summer break" to save jobs. **Householder's Enterprise's** media campaign was funded by the more than \$7 million that Company A Service Co. and Company A-1 paid to the **GENERATION NOW** account from on or about June 5, 2019 through July 5, 2019, while HB 6 was pending before the Ohio Senate.

117. **HOUSEHOLDER** also pressured and advised Ohio senators to pass legislation through his proxy. On or about June 4, 2019, **CLARK** and **HOUSEHOLDER** had the following exchange:

**CLARK:** *I have talked to 7 members so far.*

**HOUSEHOLDER:** *Are you doing any good?*

**CLARK:** *Yes*

**CLARK:** *Out of 7 calls I got 6 yes votes and 1 no vote*

118. As a lobbyist for Company A-1, **CESPEDES** operated as a middleman between Company A-1 and **Householder's Enterprise's** efforts to enact into law HB 6. On or about June 3, 2019, **CESPEDES** texted "*gen now mail is still dropping. We are getting reports that's [sic] it's been hitting late,*" to which **LONGSTRETH** responded that "*90% was delivered by the vote*" and "*Members like seeing the mail because voters don't know when the vote was.*" Several days later, **CESPEDES** texted **LONGSTRETH**, "*Mail and radio looks good to me.*"

#### **Defeating the HB 6 Ballot Campaign**

119. On or about, July 23, 2019, when the Senate passed HB 6, the House concurred in amendments and the Governor signed HB 6, **Householder's Enterprise** began executing its strategy to defeat a reported Ballot Campaign so that HB 6 would become effective on or about October 22, 2019.

120. On or about July 30, 2019—the day after the Ballot Campaign submitted proposed ballot language to the Ohio Attorney General—**Householder's Enterprise** caused Front Company to register as a for-profit limited liability company with the Secretary of State of Ohio. A law firm, which received payments both from **GENERATION NOW** and Front Company, filed the documents on behalf of Ohioans for Energy Security. The creation of Front Company came after

media reports began connecting **GENERATION NOW** to HB 6, and after **HOUSEHOLDER** told **LONGSTRETH** in a text message that members have had issues with **GENERATION NOW**: *“Gen Now has had issues as well. I’ve had several members – including members of House leadership come in privately and discuss their concern over next year’s House campaigns based on HB 6 messages, mail, TV and radio.”*

121. Two weeks later, on or about August 12, 2019, **Householder’s Enterprise** caused Front Company to open a bank account at the bank used by **GENERATION NOW**.

122. Between on or about August 2, 2019 and October 21, 2019, **Householder’s Enterprise** received approximately \$35.7 million in wires from Company A Service Co. and Energy Pass-Through into **GENERATION NOW**. During that same timeframe, **Householder’s Enterprise** laundered approximately \$23 million of the \$35.7 million received by **GENERATION NOW** through Front Company, before paying for direct mail, media ads, and other services to defeat the Ballot Campaign.

123. During the fall of 2019, among other things, **Householder’s Enterprise** used the Company-A-to-**GENERATION-NOW** money paid through Front Company to bribe and attempt to bribe signature collectors working for the Ballot Campaign, via Petition Services Co. 2.

124. **Householder’s Enterprise** discussed the tactic of bribing the signature collectors to defeat the Ballot Campaign during recorded conversations. On or about September 23, 2019, **CLARK** explained, with **HOUSEHOLDER** present, *“so we have to go out on the corners and buy out their people every day. We started doing that today and everybody’s having a fucking shit fit.”* **CLARK** continued, *“if we knock off 25 people, collecting signatures, it virtually wipes them out in next 20 days; this ends the whole fucking thing, ends in, that’s how hard it is, in addition to the TV, the direct mail, and everything else. . . .”* It was at this point in the conversation, when

**HOUSEHOLDER** interrupted, and added, *"It is so important, it is so important, that they are not successful, because when the legislature votes on something it needs to stay law."* After this recording, **CLARK** went on to have over 40 telephone contacts with an individual from Petition Services Co. 2, who was contacting the Ballot Campaign's signature collectors.

125. Householder's Enterprise also laundered money through **BORGES'** 17 Consulting Group bank account to defeat the Ballot Campaign. Between on or about August 2, 2019 and on or about October 21, 2019, **Householder's Enterprise** laundered approximately \$1.6 million in payments received by **GENERATION NOW** from Energy Pass-Through and Company A Service Co. through **BORGES'** 17 Consulting bank account to pay for services to defeat the Ballot Campaign, including a bribe payment to a Ballot Campaign insider for information and multiple payments to a private investigations firm. The 17 Consulting Group account also made payments to **BORGES** and **CESPEDES** during this time period.

126. On or about September 2, 2019, **BORGES** offered CHS-1, an employee and/or agent of the Ballot Campaign, bribe money for inside information about the Ballot Campaign to further **Householder's Enterprise's** efforts. **BORGES** made this offer approximately two days after the Ohio Attorney General approved the ballot language submitted by supporters of the Ballot Campaign.

127. On or about September 13, 2019, using funds from the 17 Consulting account, which was funded solely by wires from **GENERATION NOW**, **BORGES** paid CHS-1 \$15,000 for inside information about the Ballot Campaign. Following the exchange, **BORGES** asked the employee/or agent on a number of occasions for the number of total signatures the Ballot Campaign had collected so **Householder's Enterprise** knew whether it needed to enhance its efforts to defeat the Ballot Campaign. For example, on or about September 20, 2019, **BORGES**

texted CHS-1: *"We were told you guys had 120,000 signatures. Any idea if that's right?"* On or about September 27, 2019, **BORGES** texted CHS-1: *"Any idea how many total signatures you guys have? We were told 80,000 today."* **Householder's Enterprise** documented its strategy in notes, stating: "→[CHS-1's name] →**BORGES**"; and "Employ – 25K – pend" for 17 Consulting expenditures, which was an original bribery offer to CHS-1 from **BORGES**.

128. **Householder's Enterprise** also laundered money through **LONGSTRETH's** bank accounts to defeat the Ballot Campaign and benefit **Householder's Enterprise**. Between on or about August 2, 2019 and October 21, 2019, **Householder's Enterprise** laundered approximately \$1.15 million in payments received by **GENERATION NOW** from Energy Pass-Through and Company A Service Co. through **LONGSTRETH's** x9192 account, which **Householder's Enterprise** members and associates used to benefit themselves personally during the same period, including over \$42,000 for costs associated with **HOUSEHOLDER's** Florida home, \$50,000 to **LONGSTRETH's** brokerage account, and \$45,000 to **CLARK** during the same time period. **LONGSTRETH's** account also was used to pay for direct mailers.

129. When the Ballot Campaign failed to collect the requisite number of signatures, **HOUSEHOLDER** celebrated enactment of the law through an October 21, 2019 press release, in which he noted expressly that the new law would bail out Company A-1's failed nuclear power plants. Specifically, **HOUSEHOLDER** stated: *"I am pleased that House Bill 6 will go into effect at midnight tonight and am confident it will produce positive results for Ohio."* Among the benefits of the bill, **HOUSEHOLDER** highlighted, *"First, HB 6 will save the operation of two Ohio nuclear power plants."*

**Continued Benefits to Householder's Enterprise**

130. On or about October 22, 2019, the day after the Ballot Campaign failed and HB 6 officially became law, **Householder's Enterprise** received a \$3 million wire and a \$4,330.86 cashier's check into **GENERATION NOW** from Company A Service Co. by way of Energy Pass-Through.

131. On or about October 24, 2019, **Householder's Enterprise** wired from the **GENERATION NOW** account \$2,921,000 to **LONGSTRETH's** x9192 account, which only contained approximately \$28,000 at the time. Thereafter, **Householder's Enterprise** transferred the Company-A-to-**GENERATION-NOW** money from the x9192 account to various **LONGSTRETH**-controlled accounts and then paid to various members and associates of **Householder's Enterprise**:

- A. On or about October 25, 2019, **Householder's Enterprise** paid \$50,000 each to Associate 1 and Associate 5 from a **LONGSTRETH**-controlled account. In or around January 2020, **Householder's Enterprise** paid Associate 1 and Associate 5 another \$25,000 and \$100,000, respectively, from a **LONGSTRETH**-controlled account.
- B. Between on or about October 24, 2019 and January 13, 2020, **Householder's Enterprise** paid **CLARK** \$45,000 from a **LONGSTRETH**-controlled account.
- C. In or around December 2019, **Householder's Enterprise** paid \$59,050 in costs associated with **HOUSEHOLDER's** Florida house from a **LONGSTRETH**-controlled account.

- D. On or about October 22, 2019, after the Ballot Campaign failed, **BORGES'** 17 Consulting account contained approximately \$975,000. **Householder's Enterprise** used the vast majority of the remaining money to pay **CESPEDES** and **BORGES**. Specifically, **Householder's Enterprise** paid **CESPEDES** \$500,000 and **BORGES** approximately \$188,000. **BORGES** then spent the account down to approximately \$12.20 by on or about January 27, 2020, largely through personal expenditures.
- E. In or around December 2019 and January 2020, **Householder's Enterprise** paid **LONGSTRETH** \$1.1 million in the form of a wire to **LONGSTRETH's** brokerage account from a **LONGSTRETH**-controlled account.

132. Between January 2020 and April 28, 2020, after having received Company-A-to **GENERATION-NOW** payments, **Householder's Enterprise** wired and electronically transferred money from **GENERATION NOW** to **LONGSTRETH's** x9192 account, which made payments to third parties to benefit **Householder's Enterprise** candidates and to enrich **Householder's Enterprise** members and associates.

**In violation of Title 18, United States Code, Section 1962(d).**

#### **FORFEITURE ALLEGATION**

133. The allegations contained in Count One of this Indictment are hereby incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 1963.

134. Upon conviction of the offense set forth in Count One of this Indictment, the defendants, **LARRY HOUSEHOLDER, JEFFREY LONGSTRETH, NEIL CLARK,**

**MATTHEW BORGES, JUAN CESPEDES, and GENERATION NOW**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 1963:

- a. any interest acquired or maintained in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1);
- b. any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which the defendants established, operated, controlled, conducted, or participated in the conduct of, in violation of Title 18, United States Code, Section 1962, which interests, securities, claims, and rights are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(2);  
and
- c. any property constituting, or derived from, any proceeds obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of Title 18, United States Code, Section 1962, which property is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3).

The property subject to forfeiture to the United States, pursuant to Title 18, United States Code, Section 1963(a)(1), (a)(2), and (a)(3) includes, but is not limited to, the following property:

- a. At least \$59,996,835.86, said amount being the total of interests acquired and the gross proceeds obtained through the violation of Title 18, United States Code, Section 1962;
- b. Contents of Fifth Third Bank Account No. 7284503310 in the name of

Generation Now Inc.;

- c. Contents of Fifth Third Bank Account No. 7903726847 in the name of Generation Now Inc.;
- d. Contents of Charles Schwab Account No. 5429-8830 in the name of Exchange Investment Realty, LLC; and
- e. Contents of Charles Schwab Account No. 8974-9238 in the name of Jeffrey Philip Longstreth.

**SUBSTITUTE ASSETS**

135. If any of the property described above, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. as been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

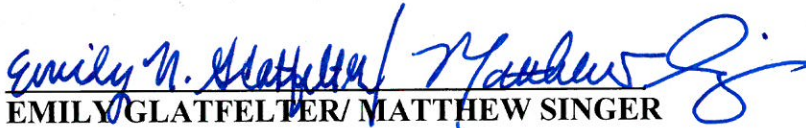
it is the intent of the United States, pursuant to Title 18, United States Code, Section 1963(m), to seek forfeiture of any other property of the defendants, up to the value of the property described above.

**All pursuant to Title 18, United States Code, Section 1963(a) and (m) and Rule 32.2(a) of the Federal Rules of Criminal Procedure.**

A TRUE BILL

  
\_\_\_\_\_  
GRAND JURY FOREPERSON

DAVID M. DEVILLERS  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
EMILY GLATFELTER/ MATTHEW SINGER  
ASSISTANT UNITED STATES ATTORNEYS

## Southern District of Ohio at Columbus

Defendant

## Date:

2/1/17

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FILED  
RICHARD W. MAGEL  
CLERK OF COURT  
2016 MAY 13 PM 1:36

UNITED STATES OF AMERICA,

Plaintiff,

v.

Defendant.

JUDGE

UNDER SEAL

INFORMATION

18 U.S.C. § 371

18 U.S.C. § 542

18 U.S.C. §§ 1956(h), (a)(1)(A)(i)

THE ACTING UNITED STATES ATTORNEY CHARGES:

At all times relevant to this Information:

INTRODUCTION

*Parties and Entities*

1. Defendant [REDACTED] ("Defendant") was a [REDACTED] corporation formed on [REDACTED] with a principal executive office address in [REDACTED]. Defendant specialized in [REDACTED].

2. [REDACTED] was the President of Defendant.

3. [REDACTED] ("[REDACTED]") was an [REDACTED] corporation formed on [REDACTED] and located in [REDACTED] which was incorporated by [REDACTED]. [REDACTED] had a close relationship with Defendant.

4. [REDACTED] resided in Columbus, Ohio, within the Southern District of Ohio.

5. [REDACTED] was an Ohio corporation formed on [REDACTED].

[REDACTED]

6. [REDACTED] was an Ohio corporation formed on [REDACTED] and dissolved on March 29, 2012. The corporate address was a residential apartment building where [REDACTED] lived in Columbus, Ohio. [REDACTED] was the manager for [REDACTED]

7. [REDACTED] was an Ohio corporation formed on [REDACTED] and dissolved on [REDACTED] who was listed as having the following address in the Ohio Secretary of State files: [REDACTED]

[REDACTED] The statutory agent for [REDACTED]

8. [REDACTED] was formed in Vietnam on August 22, 2006. Located in [REDACTED] [REDACTED] exported

[REDACTED] to the United States. [REDACTED] was owned by [REDACTED]

[REDACTED] from [REDACTED].

9. [REDACTED] was a Columbus, Ohio corporation formed on March 29, 2011, at the direction of [REDACTED] which owned 89 percent of the company.

10. [REDACTED] was a type of [REDACTED] used primarily as a [REDACTED]. The raw materials for [REDACTED] production are [REDACTED]

11. From approximately November 2006 through May 2008, Defendant served as the Importer of Record for and the purchaser of shipments of [REDACTED] During this time, [REDACTED] served as a liaison between Defendant and the representatives of the [REDACTED] factory.

[REDACTED]

12. From on or about October 2009, to on or about September 2011, [REDACTED] served as the Importer of Record for shipments of [REDACTED]. The purchaser of the vast majority of the [REDACTED] from [REDACTED] continued to be Defendant.

13. [REDACTED] was formed in July of 2000, and located in [REDACTED]. [REDACTED] was one of the largest [REDACTED] manufacturers in [REDACTED] and was an export-oriented company, with 95% of its products sold worldwide, including Europe, Australia, the Americas, Africa and Southeast Asia.

14. [REDACTED] was a [REDACTED] corporation, located in [REDACTED], [REDACTED].

***Department of Commerce Antidumping Order for Chinese TCCA***

15. Antidumping duties are intended to ensure fair competition between United States' industries and foreign industries, and to counter international price discrimination that causes injury to United States' industries from "dumping." Dumping occurs when foreign merchandise is sold in the United States at less than fair value.

16. On June 24, 2005, the Department of Commerce published its "Notice of Antidumping Duty Order: [REDACTED]

[REDACTED]. The Antidumping Order was the culmination of an investigation that had been conducted by the Department after it was notified by the International Trade Commission (ITC) "that the industry in the United States producing [REDACTED] is materially injured by reason of less-than-fair-value imports of subject merchandise from the [REDACTED]."

The Antidumping Order assessed antidumping duties "equal to the amount by which the normal value of the merchandise exceeds the export price of the merchandise for all relevant entries of

[REDACTED]” and further designated a “weighted-average dumping margin[]” of 285.63%. *Id.*

***CBP’s Examination and Clearance of [REDACTED] into the United States***

17. The United States Department of Homeland Security, Customs and Border Protection (“CBP”), was responsible for, among other things, the examination of merchandise entering the United States to ensure that it was admissible under and in compliance with United States’ laws, and the assessment and collection of taxes, fees, and duties on imported merchandise, including antidumping duties.

18. An “Importer of Record” (also referred to as “importer”) or the importer’s authorized agent, such as a customhouse broker, must file entry documents with the CBP for goods to be imported into the United States. 19 U.S.C. § 1484. The importer is required to use “reasonable care” in making entry. *Id.* The importer is also responsible for duties. 19 C.F.R. §§ 141.1 and 101.1 (defining importer). Goods intended for import into the United States cannot legally enter the country until the shipment arrives at the port of entry and delivery is authorized by the CBP.

19. CBP entry forms, including the Entry Summary Form (Customs Form 7501) and Entry/Immediate Delivery Form (Customs Form 3461), required importers to provide specific and truthful information relating to imported merchandise, including a description of the merchandise and the merchandise’s manufacturer, value, and country of origin. A customhouse broker or agent normally handles the process of entering goods into the United States on behalf of an importer, which includes filing entry documents with CBP based on information provided by the importer.

### ***Requirements Relating to Declared Value and Commercial Invoices***

20. The law requires that customs documents accurately and truthfully reflect the value and price of merchandise being imported into the United States. An Importer of Record must file with the CBP “the declared value, classification and rate of duty applicable to merchandise” and other information that enables the CBP to properly assess duties and collect accurate statistics. 19 U.S.C. § 1484(a)(1)(B). The regulations specify requirements regarding invoices, including the general mandate that “[a] commercial invoice shall be presented for each shipment of merchandise at the time the entry is filed, subject to the conditions set forth in these regulations.” 19 C.F.R. § 141.81.

21. An invoice must set forth “[a]ll rebates . . . separately itemized, allowed upon the exportation of the merchandise.” 19 C.F.R. § 141.86(a)(9). Further, the declaration (Box 36) on the entry summary form (Customs Form 7501) includes an assertion that:

the statements in the documents herein filed *fully disclose* to the best of my knowledge and belief that the *true prices, values*, quantities, *rebates*, drawbacks, fees, commissions and royalties are true and correct, and that all goods or services provided to the seller of the merchandise either free or at *reduced cost* are *fully disclosed*. I will immediately furnish to the appropriate CBP officer any information showing a different statement of facts. (Emphasis added).

22. Sale prices play a role in antidumping duty assessments and sale prices are one of the fundamental reasons antidumping duties are imposed.

### **COUNT 1 (Conspiracy 18 U.S.C. § 371)**

#### ***General Allegations and Basis for Conspiracy***

23. The factual allegations contained in Paragraphs 1 through 22 of this Information are realleged and incorporated herein as if copied verbatim.

*Objects of the Conspiracy*

24. Beginning in or about November 2006 and continuing until in or about October 2011, within the Southern District of Ohio and elsewhere, Defendant [REDACTED] and [REDACTED] did agree and conspired together with others, both known and unknown, to commit offenses against the United States, to wit:

- a. To knowingly and willfully enter and introduce, and attempt to enter and introduce, into the commerce of the United States, imported merchandise, that is, [REDACTED] by means of a false and fraudulent declaration, which falsely and fraudulently stated that the packages to which they were annexed contained [REDACTED] valued at a certain price, whereas, in truth and fact, as defendant, [REDACTED] well knew, said packages contained [REDACTED] valued at lesser amounts, the difference of which a subsidiary of [REDACTED] received in the form of a rebate, in violation of Title 18, United States Code, Section 542; and
- b. To knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, in matters within the jurisdiction of the United States Customs and Border Protection, within the Department of Homeland Security as well as a matter within the jurisdiction of the Department of Commerce, all of which are agencies of the executive branch of the Government of the United States, in violation of 18 U.S.C. § 1001.

25. The purpose of the conspiracy was financial enrichment and for Defendant [REDACTED] to obtain a competitive business advantage by violating various customs and other laws, and to perpetuate the conspiracy through deception and misrepresentations.

*The Manner and Means of the Conspiracy*

26. It was part of the conspiracy that, [REDACTED], and other coconspirators misrepresented the value and prices of imported [REDACTED] in order to avoid the appearance of a dumping price, which in turn could have led to antidumping duties.

27. It was further part of the conspiracy that [REDACTED] and other coconspirators misrepresented the value and prices of imported [REDACTED] from [REDACTED] in order to avoid the appearance of a dumping price, which in turn could have led to increased antidumping duties.

28. It was further part of the conspiracy that [REDACTED] and other coconspirators implemented a rebate scheme to hide the true price of the [REDACTED] from the government. The difference in the represented price and the true price of the [REDACTED] would be wired electronically by [REDACTED] in Columbus, Ohio, to [REDACTED] for the benefit of [REDACTED] and its officers/employees, including [REDACTED]. This return of proceeds to [REDACTED] was disguised as a "consulting fee," despite its only purpose being to mislead the government as to the actual price of the [REDACTED].

29. It was further part of the conspiracy that [REDACTED] and others utilized [REDACTED] bank accounts # [REDACTED] in the name of [REDACTED] Account # [REDACTED], in the name of [REDACTED]; and Account # [REDACTED] in the name of [REDACTED] maintained by [REDACTED] to deposit [REDACTED] payments for [REDACTED] from both [REDACTED] and [REDACTED], which included funds to account for the inflated price, and issue wire transfers of the excess payment for the purchase of [REDACTED] to [REDACTED] at least a portion of which, after the first receipt and sale of [REDACTED], involved the proceeds of [REDACTED].

30. It was further part of the conspiracy that [REDACTED] and its coconspirators used the proceeds to further promote the scheme by engaging in financial transactions, which included the continued electronic transfer of funds from [REDACTED] in [REDACTED] to [REDACTED] in Columbus, Ohio, (the total of which was represented to the government as the actual price of [REDACTED] and then the electronic transfer of a portion of those same funds from Columbus, Ohio, to [REDACTED] as part of the rebate scheme.

31. It was further part of the conspiracy that [REDACTED] and other conspirators implemented a product discount scheme to hide the true price of the [REDACTED] from the government.

***Overt Acts***

32. In furtherance of the conspiracy and in order to affect the objects thereof, Defendant [REDACTED] and its coconspirators committed the following overt acts, among others, in the Southern District of Ohio and elsewhere:

*Rebate Scheme for [REDACTED]*

- a. Overt Act Number 1: [REDACTED] sent an email to [REDACTED] on September 1, 2005, proposing that they “set a nominal FOB price, acceptable to both exporter and importer, which will show on all export papers and will be presented for the review. The difference between nominal FOB price and actual cost will go back to importer under a different name and form to cover the importer’s loss, which can be discussed between the two sides.”
- b. Overt Act Number 2: [REDACTED] sent an email to [REDACTED] on March 20, 2006, expressing concern that U.S. manufacturers would “launch another wave of

- [antidumping] investigation” and asking [REDACTED] “How can we raise no or less attention from them?”
- c. Overt Act Number 3: [REDACTED] sent an email to [REDACTED] on March 20, 2006, stating that they can raise “less attention” by implementing the following procedure: “we can pay a higher price and then receive a rebate or a sales commission.”
- d. Overt Act Number 4: [REDACTED] sent an email to [REDACTED] on April 19, 2006, stating in part, “[w]ill also request that you invoice at [REDACTED] and rebate difference to [REDACTED],”
- e. Overt Act Number 5: [REDACTED] sent [REDACTED] an email on April 20, 2006, entitled [REDACTED] and stating: “I will arrange secured rebate of difference according to your request. I can guarantee on that.”
- f. Overt Act Number 6: At [REDACTED] direction, [REDACTED] created a document on November 5, 2006, stating to [REDACTED] in part, that the “Total rebate amount for this shipment of 36 mt: \$6,274.40 (\$5,780 + 490 + \$4.4), among which \$6,000 was as ‘consulting fee’ and \$274.40 was as ‘sales samples’ as you advised.”
- g. Overt Act Number 7: On or about December 3, 2006, [REDACTED] issued a check to [REDACTED] in the amount of \$6,274.40 -- purporting to be for a “consulting fee” and “sales samples” -- but in reality was a rebate designed to inflate the price of [REDACTED] from [REDACTED] in order to avoid the appearance of dumping.
- h. Overt Act Number 8: [REDACTED] sent an email to [REDACTED] on December 6, 2006, stating in part that that: “I think it would be best if the rebate checks are marked

‘consulting fee.’ No mention of containers or rebate.” In the same email [REDACTED]

[REDACTED] directed [REDACTED] to mail him “two replacement checks: One check for \$6,000.00 for ‘consulting fee’ and one check for \$274.40 for ‘sales samples.’”

- i. Overt Act Number 9: On or about January 14, 2007, at [REDACTED] direction, [REDACTED] issued Check # [REDACTED] from the [REDACTED] to [REDACTED] in the amount of \$6,000. The Memo line on the check listed “Consulting Fee.”
- j. Overt Act Number 10: Also on or about January 14, 2007, at [REDACTED] direction, [REDACTED] issued Check # [REDACTED] from the [REDACTED], account #\*\*\*\*\*[REDACTED] to [REDACTED] in the amount of \$274.40. The Memo line on the check listed “Sales Samples.”

Rebate and Product Discount Scheme for [REDACTED]

- k. Overt Act Number 11: On or about September 12, 2008, [REDACTED] informed [REDACTED] that the rebate process for [REDACTED] purchased from [REDACTED] would be identical to the process in place regarding the [REDACTED]
- l. Overt Act Number 12: On or about January 6, 2010, [REDACTED] sent an email to [REDACTED] stating that if the actual price is used, [REDACTED] would not be able to get a good antidumping duty rate, and suggesting that a higher price be “shown on paper” with the difference between the actual price and the stated price returned back to [REDACTED] “in a round about refund way.”
- m. Overt Act Number 13: On or about January 18, 2010, [REDACTED] sent an email to [REDACTED] regarding shipments from [REDACTED] describing a refund of \$200 per metric ton to [REDACTED] “in the name of [a] consulting fee” and

[REDACTED]

adding that the "lawyer is confident that [REDACTED] rate can get down to around 10% at end of this year."

- n. Overt Act Number 14: On or about May 3, 2010, [REDACTED] sent an email to [REDACTED] stating in part "for [REDACTED] products, \$11,400 (\$200x57 mt) will soon be wired to [REDACTED] new account below. Please advise the name to be used for this wire, Consulting fee or some other name?"
- o. Overt Act Number 15: Starting on or about January 11, 2011, and continuing up to and including March 21, 2012, [REDACTED] accepted product discounts from [REDACTED] totaling \$25,800 on five transactions, which constituted rebate payments for previous purchases of [REDACTED] by [REDACTED]

**All in violation of 18 U.S.C. § 371.**

### **COUNT TWO**

#### **(Entry of Goods By Means of False Statement 18 U.S.C. § 542)**

33. The factual allegations contained in Paragraphs 1 through 22 of this Information are realleged and incorporated herein as if copied verbatim.

34. On or about March 17, 2010, within the Southern District of Ohio and elsewhere, Defendant [REDACTED], aiding and abetting others known and unknown, willfully and knowingly did enter and introduce, and attempt to enter and introduce, into the commerce of the United States, imported merchandise, that is approximately 34 Metric Tons of [REDACTED] by means of false and fraudulent invoices, declarations, affidavits and certain other papers, that is, U.S. Customs and Border Protection, Form 7501, which falsely and fraudulently stated that the package to which it was annexed contained said merchandise valued at \$87,788, whereas, in truth and fact, as defendant, [REDACTED] well knew, the said package contained

[REDACTED]

approximately 34 Metric Tons of [REDACTED] with a value of at least \$200 per Metric Ton less than the stated value.

**All in violation of 18 U.S.C. §§ 542 and 2.**

**COUNT THREE**

**(Conspiracy to Commit Money Laundering 18 U.S.C. §§ 1956(h) and 1956(a)(1)(A)(i))**

35. The factual allegations contained in Paragraphs 1 through 22 of this Information are realleged and incorporated herein as if copied verbatim.

36. Beginning on or about January 14, 2007, and continuing up to and including July 23, 2010, within the Southern District of Ohio, and elsewhere, Defendant [REDACTED] INC., did knowingly combine, conspire and agree with others to knowingly transfer and transmit funds from a domestic financial institution located in Columbus, Ohio, to Central National Bank, a domestic financial institution located in Enid, Oklahoma, for the purpose of concealing the nature of payments to Defendant [REDACTED] and with the intent to promote the carrying on of specified unlawful activity, that is, the entry of goods by means of a false statement (18 U.S.C. § 542), in violation of 18 U.S.C. §§ 1956(h) and 1956(a)(1)(A)(i).

***Manner and Means***

37. As part of the conspiracy, and in order to further its objectives, Defendant [REDACTED] and its coconspirators utilized Account [REDACTED], with [REDACTED] [REDACTED], located in [REDACTED], to transfer funds to Columbus, Ohio, [REDACTED] bank accounts held by [REDACTED] including the following: [REDACTED] in the name of [REDACTED] [REDACTED] in the name of [REDACTED] and [REDACTED], in the name of [REDACTED]

38. Beginning in or about on or about January 14, 2007, and continuing up to and including July 23, 2010, within the Southern District of Ohio, and elsewhere, Defendant, [REDACTED] did knowingly combine, conspire and agree with others to knowingly transfer and transmit funds from [REDACTED] bank account [REDACTED] a domestic financial institution located in Columbus, Ohio in the name of [REDACTED] to [REDACTED] account [REDACTED], a domestic financial institution located in Enid, Oklahoma for the purpose of concealing the nature of "rebate" payments to [REDACTED] INC., and with the intent to promote the carrying on of specified unlawful activity, that is, the entry of goods by means of a false statement (18 U.S.C. § 542), in violation of 18 U.S.C. § 1956(a)(1)(A)(i).

39. More specifically, from on or about January 14, 2007 through on or about July 23, 2010, [REDACTED] directed and otherwise caused approximately \$216,750 to be transferred, by check and electronic funds transfer, from [REDACTED] [REDACTED] in the name of [REDACTED] located in Columbus, Ohio, to [REDACTED] account [REDACTED] in the name of [REDACTED] for the purpose of concealing the nature of the payments and promoting the scheme to illegally receive [REDACTED] into the United States from [REDACTED].

[REDACTED]

40. In addition, beginning on or about January 11, 2011, and continuing up to and including on or about March 21, 2012, within the Southern District of Ohio, and elsewhere, Defendant, [REDACTED] did knowingly combine, conspire and agree with others to accept product discounts from [REDACTED] totaling \$25,800 for five purchases of [REDACTED] by Defendant [REDACTED] in lieu of a "consulting fee" payment on three purchases of [REDACTED] that had taken place in or about September of 2010. The invoices for these three purchases did not reflect the product discounts.

**All in violation of 18 U.S.C. §§ 1956(h) and 1956(a)(1)(A)(i).**

Respectfully submitted,

[REDACTED]

## Speaker Biographies

*David F. Axelrod*

*Ashley A. Futrell*

*Christopher Kim*

## David F. Axelrod

Partner



### CONTACT

614.628.4427

daxelrod@shumaker.com

Columbus, OH

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### EDUCATION

J.D., American University Washington College of Law, 1978

Law Review, Staff Member, American University Washington College of Law, 1976-1977

Law Review, Senior Editor, American University Washington College of Law, 1977-1978

B.A., with honors, Political Science, University of Cincinnati, 1975

### SERVICE LINES

Litigation and Disputes

Appellate

Corporate Compliance

Federal Court Litigation

White Collar Defense and Investigations

### BUSINESS SECTORS

Cannabis Law and Policy

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David's practice concentrates on responding to his clients' most difficult legal challenges, which may include:

- Civil and criminal tax controversies
- Other financial and white collar crimes
- Public corruption
- Regulatory enforcement matters
- Business litigation

He also regularly advises clients throughout the country on matters, including the Foreign Corrupt Practices Act, corporate compliance programs, internal investigations, the False Claims Act, and health care fraud.

David was formerly a director in Deloitte Forensic and Dispute Services, where he co-led and led multi-disciplinary investigative teams in two European countries in what was then the largest Foreign Corrupt Practices Act investigation in history. Prior to Deloitte, he was a partner in another major law firm where he handled both U.S.-based and international matters. As a special prosecutor for the State of Ohio, he prosecuted the largest Blue Sky securities case in the state's history, culminating in a jury trial lasting almost six months. In addition, as an Assistant



United States Attorney for the Southern District of Florida and Trial Attorney for the Tax Division of the United States Department of Justice, David investigated and prosecuted a variety of white collar, narcotics, and other criminal cases. Upon graduation from law school, he was a law clerk for United States District Judge David Porter, in Cincinnati, Ohio.

#### **BAR AND COURT ADMISSIONS**

- Ohio
- New Jersey
- New York
- United States Tax Court
- United States Court of Appeals, Sixth Circuit
- United States Court of Appeals, Second Circuit
- United States Court of Appeals, Eleventh Circuit
- United States District Court, Southern and Eastern Districts of New York
- United States District Court, Southern District of Ohio
- United States District Court, District of New Jersey
- United States Supreme Court

#### **PROFESSIONAL AND COMMUNITY AFFILIATIONS**

- American Bar Association
- Columbus Bar Association
- Columbus Bar Association, Chair, Audit Committee (member, 2008 - present)
- American Bar Foundation, Fellow
- Liaison between American Bar Association Criminal Justice Section and White Collar Crime Project of the National Association of Criminal Defense Lawyers
- COSI, Community Board, 2014 - 2016
- Jewish Family Services, Counsel to the Board, 2013 - present
- Temple Israel, Board of Trustees, 2009 - 2015
- Life Member, Judicial Conference of the U.S. Court of Appeals for the 6th Circuit
- Jewish Family Services, Board of Trustees, 2009 - 2013
- Columbus Jewish Day School, Board of Trustees, 2003 - 2010
- Member, United States Sentencing Commission Practitioners Advisory Group, 1992 - 2006
- Adjunct Professor, The Ohio State University Moritz College of Law, Winter 2005 - 2006
- Chair, Committee on Civil and Criminal Tax Penalties, American Bar Association Tax Section, 1999 - 2001 (presently co-chair, Subcommittee on Money Laundering and Asset Forfeiture)
- Charity Newsies, 2004 - present
- Big Brothers and Big Sisters of America, 2018 - present

#### **HONORS**

- AV<sup>®</sup> Preeminent Peer Review Rated by Martindale-Hubbell
- Best Lawyers in America, 2015 - 2022



- Ohio Super Lawyer by *Super Lawyers* magazine, 2004 - 2006, 2010 - 2021; Top 100 Ohio and Top 50 Columbus, 2015, 2017
- Who's Who in American Law (9th Edition)

## Ashley A. Futrell

Associate



### CONTACT

419.321.1270

afutrell@shumaker.com

Toledo, OH

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### EDUCATION

J.D., Howard University School of Law

M.A., *cum laude*, Johns Hopkins University

B.A., Law and Society, American University

### SERVICE LINES

Labor, Employment  
and Benefits

Labor and  
Employment

Litigation and Disputes

Commercial Litigation

Federal Court  
Litigation

White Collar Defense  
and Investigations

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An established litigator and counselor, Ashley represents clients of all sizes on complex litigation, labor and employment, and white collar matters.

Ashley is a former Assistant United States Attorney in the Criminal Division of the United States Attorney's Office for the Northern District of Ohio, where she investigated and prosecuted federal crimes, including public corruption and white collar cases. She served as a point of contact for federal and state agencies on federal crimes.

Ashley began her law career as an Assistant District Attorney in the Manhattan District Attorney's Office, where she investigated and prosecuted all phases of misdemeanor and felony cases and represented New York County in criminal hearings and trials. Before law school, Ashley served as a senior staff member on Capitol Hill in Washington, D.C., where she advised several Members of Congress on a wide variety of legislative issues. She also worked to secure federal funding for urban parks and conservation and built national coalitions for national conservation organizations.

Ashley is a leader in her community. In 2019, she was the recipient of Toledo's 20 Under 40 Leadership Recognition Award. She serves on the Board of Directors for the Toledo Bar Association, the Toledo Opera, United Way of Greater Toledo's Women's Initiative, Leadership Toledo, and the Toledo Alliance for the Performing Arts (a merger of the Toledo Symphony and Toledo Ballet), as well as a former board member of Junior League of Toledo. Ashley is



also a member of the Toledo Chapter of The Links, Incorporated and the International Women's Forum.

#### **BAR AND COURT ADMISSIONS**

- New York

#### **PROFESSIONAL AND COMMUNITY AFFILIATIONS**

- Toledo Bar Association Board of Directors, Member
- Toledo Alliance for the Performing Arts Board of Trustees, Member
- Leadership Toledo Board of Trustees, Member
- United Way Women's Initiative Board of Directors, Member
- Junior League of Toledo, Past Board Member
- Toledo Opera Board of Directors, Member
- Toledo Chapter of The Links, Incorporated, Member
- Thurgood Marshall Law Association, Member



## CHRISTOPHER KIM

### SENIOR MANAGING DIRECTOR

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## OVERVIEW

Christopher R. Kim is a senior managing director in our Washington, DC, office, focusing on investigations, due diligence, monitorships, and compliance. He brings over 23 years of investigative and/or legal experience in U.S. criminal cases, multilateral development banks sanctions cases, and internal corporate cases with an emphasis on Asia.

Mr. Kim's consulting practice is focused on engagements involving multilateral development bank sanctions matters, e.g. World Bank Group, internal corporate investigations, due diligence, regulatory compliance and monitorships associated with multilateral development banks and U.S. regulatory agencies.

Prior to his private practice, Mr. Kim was a senior investigator at the World Bank Group, where he planned, managed and directed multi-disciplinary teams in the audits of multi-national corporations alleged to have been involved in fraud, corruption and/or collusion. He also led due diligence efforts involved with the World Bank International Finance Corporation on pre-investment transactions. His investigations have led to over twenty-five (25) entities being sanctioned by the World Bank Group. He has a wealth of experience involving the World Bank Group's sanctions process, i.e. investigations, settlement, litigation, and sanctions board. He led collaborations with multiple national authorities including the United Kingdom, the Netherlands, Switzerland, South Korea and Indonesia in parallel investigations. In addition, he coordinated cases with other multilateral development banks including the Asian Development Bank, InterAmerican Development Bank, European Bank for Reconstruction & Development, European Investment Bank and the African Development Bank.

Mr. Kim started his career at the Federal Bureau of Investigation (FBI), where he spent 14 years as a Special Agent, Associate Division Counsel (FBI-New York) and Supervisory Special Agent (International Operations Division). In these

different roles, he led major investigations and/or advised on legal/policy matters involving transnational organized crime, public corruption, U.S. export-controlled technology, cyber security and national security issues. He led and/or worked on task forces with numerous federal agencies, including the U.S. Department of Commerce Bureau of Industry Security, Immigration & Customs Enforcement, IRS and ATF. He also worked on international matters in South Korea as the Acting FBI Legal Attaché.

## SOLUTIONS

Investigations + Business Intelligence  
Monitorships  
Risk + Compliance  
National Security Services  
Corporate Integrity Monitoring  
Banking + Financial Monitorships  
Corporate  
Litigation Support  
Due Diligence + Business Intelligence  
Trade Compliance

## EXPERIENCE

- World Bank compliance advisor for debarred Canadian company
- World Bank sanctions investigation advisor for a Chinese law firm
- Lead investigator for a complex FCPA matter covering numerous countries/jurisdictions in Asia

## EDUCATION

- Juris Doctor, Temple University Beasley School of Law
- Bachelor of Arts, English, Tufts University