



March 1, 2024

Lisa J. Stevenson  
Acting General Counsel  
Office of General Counsel  
Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463

## Re: Failure to Report Loans and Loan Repayments

Dear Ms. Stevenson:

The DNC Services Corp./Democratic National Committee (hereinafter the “DNC”) hereby files this Complaint against American Values 2024 (or “American Values” or “the PAC”) because it has failed to meet its reporting obligations in connection with loans from, and loan repayments to, Gavin de Becker, in violation of federal law.<sup>1</sup>

American Values, originally registered with the Federal Election Commission (“FEC” or the “Commission”) in 2022 as “People’s Pharma Movement,”<sup>2</sup> is a “Hybrid PAC” that maintains segregated accounts for independent expenditures and for direct candidate contributions.<sup>3</sup> People’s Pharma Movement amended its FEC registration in April of 2023 to reflect that it had changed its name to “American Values 2024.”<sup>4</sup> Gavin de Becker is the Founder of Gavin de Becker & Associates, a security and consulting firm based in California.<sup>5</sup>

As a political committee registered with the FEC, American Values must comply with the Commission’s initial and continuing reporting requirements related to, among other things, the receipt and repayment of loans. It failed to do so in connection with the \$10 million it received from Mr. de Becker, and the \$9.65 million it disbursed to him, in 2023. The PAC did not characterize the associated transactions as loans and loan repayments, nor did it disclose the terms associated with the funding. Further, absent action by the Commission, we believe these violations may be ongoing.<sup>6</sup>

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<sup>1</sup> This Complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and 11 C.F.R. § 111.4.

<sup>2</sup> Statement of Organization (filed July 26, 2022),

<https://docquery.fec.gov/pdf/467/202207269525065467/202207269525065467.pdf>.

<sup>3</sup> *Registering as a Hybrid PAC*, FEC (last visited Mar. 1, 2024), <https://www.fec.gov/help-candidates-and-committees/filing-pac-reports/registering-hybrid-pac/>.

<sup>4</sup> Amended Statement of Organization (filed Apr. 11, 2023),

<https://docquery.fec.gov/pdf/903/202304129579869903/202304129579869903.pdf>.

<sup>5</sup> GAVIN DE BECKER & ASSOCIATES, <https://gdba.com/> (last visited Mar. 1, 2024).

<sup>6</sup> Ben Kamisar & Katherine Koretski, *Kennedy’s Presidential Campaign Spent More Than it Raised Last Quarter and Left \$5.4M in the Bank*, NBC NEWS (Jan. 31, 2024, 8:12 PM), <https://www.nbcnews.com/politics/2024-election/kennedy-jrs-presidential-campaign-spent-raised-last-quarter-left-54m-b-rcna136500> (quoting American Values spokesperson as saying: “[Mr. de Becker] continues to provide bridge funding, for example, \$4 million he is donating on February 15.”).

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American Values' failure to accurately report required details about its receipts and disbursements limits the public's ability to understand the PAC's reasons for engaging in certain activities. Put simply, a lender has power over a borrower in a way that a contributor does not. If a loan is due by a specific date, then the borrower must raise the funds to repay it by that time or request an extension. Or, a loan might allow the borrower to demand repayment at *any* time, leaving the borrower to operate under the lender's thumb at *all* times. American Values and Mr. de Becker themselves have told press outlets that Mr. de Becker can ask for his funds back "*at his own discretion* [emphasis added] if the money has not yet been spent."<sup>7</sup>

Further, American Values' lack of transparency carries a risk of misleading the public. Fundraising totals influence the public's perception of the strength of a committee and its public support. The PAC had the responsibility to inform the public in a timely manner that, of the \$28.3 million it received in 2023, at least one-third of it was a loan. This is especially true considering American Values published at least two press releases about its fundraising totals in 2023<sup>8</sup> — one of which included a quote from Mr. de Becker. The press releases potentially benefited the PAC financially by attracting donors while evading public scrutiny for months because of the lag associated with the FEC's reporting deadlines.

And finally, while Mr. de Becker's loans to American Values have recently come to light, the public still does not know whether the loans were guaranteed or endorsed by third parties (and if so, by whom). It is also unclear whether any other contributors have similar arrangements with American Values. This is especially important here, where American Values relies disproportionately on a very small number of very large donors.

American Values' failure to meet its loan-reporting obligations is yet another violation of campaign finance law by a committee that does not believe it has to play by the same rules as everyone else. To be clear, the failure to report these loans serves one purpose: to obscure the fact that the principal Super PAC supporting Robert F. Kennedy, Jr.'s campaign is being financed almost entirely by one of Donald Trump's largest donors.<sup>9</sup>

Reporting requirements are central to the purpose of the Federal Election Campaign Act of 1971, as amended, ("the Act") and the mission of the FEC: protect the integrity of the federal campaign finance process by promoting transparency.<sup>10</sup> The FEC has emphasized the importance of loan-reporting requirements for nonconnected

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<sup>7</sup> Brittany Gibson, *RFK Jr.'s PAC Returned Millions to a Donor. Campaign Experts Say That's Highly Unusual*, POLITICO (Feb. 13, 2024), <https://www.politico.com/news/2024/02/13/bridge-funding-rfk-jr-super-pac-00141260>.

<sup>8</sup> See Press Release, American Values 2024, Financial Support for Robert F. Kennedy, Jr. Surges as SuperPAC Raises More than \$16M (July 31, 2023), <https://www.globenewswire.com/news-release/2023/07/31/2715259/0/en/financial-support-for-robert-f-kennedy-jr-surges-as-superpac-raises-more-than-16m.html>; Press Release, American Values 2024, Super PAC Receives \$11,280,000 in Donations Immediately After Kennedy Announces He is Running as Independent (Oct. 10, 2023), <https://www.prnewswire.com/news-releases/super-pac-receives-11-280-000-in-donations-immediately-after-kennedy-announces-he-is-running-as-independent-301952747.html>.

<sup>9</sup> Ewan Palmer, *Donald Trump and RFK Jr Have the Same Largest Donor*, NEWSWEEK (Feb. 22, 2024), <https://www.newsweek.com/donald-trump-rfk-donations-timothy-mellon-fec-1872315>.

<sup>10</sup> See *Mission and History*, FEC, <https://www.fec.gov/about/mission-and-history/> (last visited Mar. 1, 2024).

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committees specifically.<sup>11</sup> It has entered into conciliation agreements with such committees it found reason to believe did not comply.<sup>12</sup> American Values' actions are inconsistent with FEC principles and constitute a violation of the Act.

## Legal Analysis

The Act and the Commission's regulations require nonconnected political committees to file reports using FEC Form 3X in accordance with the procedures detailed in 11 C.F.R. part 104.<sup>13</sup> These reports must disclose, among other things, "the total amount of receipts"<sup>14</sup> for each reporting period<sup>15</sup> and for the calendar year.<sup>16</sup> "All loans" to nonconnected political committees are included within the definition of receipts<sup>17</sup> and are subject to heightened reporting requirements. Specifically, loans must be itemized, and the committee must report "[e]ach person who makes a loan to the reporting committee or to the candidate acting as an agent of the committee, during the reporting period, together with the identification of any endorser or guarantor of such loan, the date such loan was made and the amount or value of such loan."<sup>18</sup> The FEC's *Campaign Guide for Nonconnected Committees* provides guidance on how to itemize.<sup>19</sup> It notes that committees must "[i]temize the receipt of a loan, regardless of amount, on a separate Schedule A for Line 13 ('Loans Received')."<sup>20</sup>

The FEC imposes similar reporting obligations for loan repayments. These reports must disclose "the total amount of all disbursements," which includes "[r]epayment of all loans" for each reporting period and for the calendar year.<sup>21</sup> Loan repayments must be itemized, and the committee must report "[e]ach person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment."<sup>22</sup> According to the aforementioned FEC guide, "[p]ayments to reduce the principal

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<sup>11</sup> See, e.g., Factual and Legal Analysis, MUR 6823 (Mississippi Conservatives, et al.) at 11, <https://www.fec.gov/files/legal/murs/6823/16044402684.pdf> ("The Commission's regulations . . . impose a duty on committees to file accurate Schedule C-Is with properly reviewed lender's certifications.").

<sup>12</sup> See, e.g., Pre-Probable Cause Conciliation, MUR 6823 (Mississippi Conservatives, et al.), <https://www.fec.gov/files/legal/murs/6823/16044402709.pdf>.

<sup>13</sup> 11 C.F.R. § 104.1; 11 C.F.R. § 104.2(e)(3).

<sup>14</sup> 11 C.F.R. § 104.3(a).

<sup>15</sup> In non-election years, nonconnected political committees are required to file semi-annual reports. 11 C.F.R. § 104.5(c)(2). The first report, which must be filed no later than July 31, covers January 1 through June 30. *Id.* The second report covers July 1 through December 31, and must be filed no later than January 31 of the following year. *Id.*

<sup>16</sup> 11 C.F.R. § 104.3(a).

<sup>17</sup> 11 C.F.R. § 104.3(a)(2)(vi).

<sup>18</sup> 11 C.F.R. § 104.3(a)(4)(iv).

<sup>19</sup> FEC, CAMPAIGN GUIDE FOR NONCONNECTED COMMITTEES at 74 (May 2008), <https://www.fec.gov/resources/cms-content/documents/policy-guidance/nongui.pdf>.

<sup>20</sup> *Id.*

<sup>21</sup> 11 C.F.R. § 104.3(b)(1)(iii).

<sup>22</sup> 11 C.F.R. § 104.3(b)(3)(iii).

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must be itemized, regardless of amount, on a separate Schedule B for Line 26 ('Loan Repayments Made').<sup>23</sup> And, committees must "[r]eport the interest paid on a loan as an operating expenditure, itemizing the payment on a Schedule B for Line 21(b) ('Operating Expenditures') once interest payments to the payee aggregate over \$200 in a calendar year."<sup>24</sup>

Further, nonconnected committees have "continuous reporting" obligations for loans and loan repayments.<sup>25</sup> Specifically, they must "report both the original loan and payments made to repay the loan on Schedule C each reporting period until the loan is fully repaid."<sup>26</sup> Schedule C requires committees to disclose relevant terms of the loan, including the origination date; the date the loan is due or the amortization schedule; and the rate of interest charged.<sup>27</sup> It also requires committees to identify the endorser or guarantor, and the amount of the endorsement or guarantee.<sup>28</sup> Under the Commission's regulations, each endorser or guarantor is deemed to have contributed the amount for which he agreed to be liable for.<sup>29</sup>

American Values did not comply with the applicable procedures in 11 C.F.R. part 104 regarding the funds it received from, and repaid to, Mr. de Becker in 2023. According to its FEC Form 3X filings, the PAC received \$10 million from Mr. de Becker across three separate transactions in 2023: \$200,000 on April 17, 2023;<sup>30</sup> \$4.3 million on June 29, 2023;<sup>31</sup> and \$5.5 million on October 10, 2023.<sup>32</sup> The PAC repaid de Becker \$9.65 million across four separate transactions: \$1.75 million on July 11, 2023 for "[p]artial refund of 6/29 contribution";<sup>33</sup> \$2 million on July 28, 2023 for "[r]efund of 6/29 contribution";<sup>34</sup> \$4.9 million on November 2, 2023 for "[p]artial

<sup>23</sup> FEC, CAMPAIGN GUIDE FOR NONCONNECTED COMMITTEES at 74 (May 2008), <https://www.fec.gov/resources/cms-content/documents/policy-guidance/nongui.pdf>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* See also 11 C.F.R. § 104.3(d) ("Each report filed under 11 CFR 104.1 shall, on Schedule C or D, as appropriate, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee."); 11 C.F.R. § 104.11(a) ("Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished."). Note: A committee that obtains a loan from a bank must also file a Schedule C-1. FEC, CAMPAIGN GUIDE FOR NONCONNECTED COMMITTEES at 75 (May 2008), <https://www.fec.gov/resources/cms-content/documents/policy-guidance/nongui.pdf>; 11 C.F.R. § 104.3(d)(1).

<sup>27</sup> FEC, INSTRUCTIONS FOR FEC FORM 3X AND RELATED SCHEDULES at 16 (May 2016), <https://www.fec.gov/resources/cms-content/documents/policy-guidance/fecfrm3xi.pdf>.

<sup>28</sup> *Id.*

<sup>29</sup> 11 C.F.R. § 100.52(b)(3).

<sup>30</sup> FEC, American Values 2024, Form 3X, Schedule A at 10 (filed July 31, 2023), <https://docquery.fec.gov/pdf/036/202307319584255036/202307319584255036.pdf>; FEC, American Values 2024, Amended Form 3X, Schedule A at 10 (filed Oct. 18, 2023), <https://docquery.fec.gov/pdf/360/202310189598506360/202310189598506360.pdf>.

<sup>31</sup> FEC, American Values 2024, Form 3X, Schedule A at 10 (filed July 31, 2023), <https://docquery.fec.gov/pdf/036/202307319584255036/202307319584255036.pdf>; FEC, American Values 2024, Amended Form 3X, Schedule A at 10 (filed Oct. 18, 2023), <https://docquery.fec.gov/pdf/360/202310189598506360/202310189598506360.pdf>.

<sup>32</sup> FEC, American Values 2024, Form 3X, Schedule A at 14 (filed Jan. 31, 2024), <https://docquery.fec.gov/pdf/199/202401319607875199/202401319607875199.pdf>.

<sup>33</sup> FEC, American Values 2024, Form 3X, Schedule B at 72 (filed Jan. 31, 2024), <https://docquery.fec.gov/pdf/199/202401319607875199/202401319607875199.pdf>.

<sup>34</sup> *Id.* at 101.

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refund of 10/10 contribution”;<sup>35</sup> and \$1 million on December 4, 2023 for “[p]artial refund of 6/29 and 10/10 contributions.”<sup>36</sup>

The PAC did not account for “All Loans Received” in Line 13 or “Loan Repayments Made” in Line 26 of the summary pages of FEC Form 3X for either of its semi-annual filings.<sup>37</sup> The PAC also did not file a Schedule C in these filings, which is a required component of both initial and continuing reporting obligations. As a result, there is no information about the terms of the loans, or whether it was endorsed or guaranteed.

American Values may argue that it did not receive any loans from Mr. de Becker, and that the \$9.65 million it disbursed to him was not a repayment for a loan. In public statements, both American Values and Mr. de Becker have sought to characterize these transactions as “bridge funding.”<sup>38</sup> Such semantic creativity does not change the substance of these transactions. Mr. de Becker extended funds to American Values with an agreement that they would be repaid later under terms that American Values 2024 has yet to disclose. Several months later, the PAC repaid him consistent with that agreement. In fact, repayments to Mr. de Becker made up approximately 70% of American Values’ total disbursements in 2023.<sup>39</sup> These transactions collectively constituted one or more loans.<sup>40</sup>

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<sup>35</sup> *Id.* at 113.

<sup>36</sup> *Id.* at 42.

<sup>37</sup> American Values filed an amended Form 3X on October 18, 2023, which also failed to comply with the reporting requirements.

<sup>38</sup> See, e.g., Brittany Gibson, *RFK Jr.’s PAC Returned Millions to a Donor. Campaign Experts Say That’s Highly Unusual*, POLITICO (Feb. 13, 2024), <https://www.politico.com/news/2024/02/13/bridge-funding-rfk-jr-super-pac-00141260> (“Both de Becker and Tony Lyons, co-founder of [American Values 2024], said there was no sleight of hand in the arrangement. They both called it ‘bridge funding’ in separate responses to questions from POLITICO.”); Rebecca Davis O’Brien, *Meet the Woman Who Helped Pay for That R.F.K. Super Bowl Ad*, N.Y. TIMES (Feb. 12, 2024), <https://www.nytimes.com/2024/02/12/us/politics/nicole-shanahan-rfk-super-bowl-ad.html> (“[American Values 2024] has said that the funds from Mr. de Becker . . . were ‘important bridge funding donations,’ . . .”).

<sup>39</sup> Brittany Gibson, *RFK Jr.’s PAC Returned Millions to a Donor. Campaign Experts Say That’s Highly Unusual*, POLITICO (Feb. 13, 2024), <https://www.politico.com/news/2024/02/13/bridge-funding-rfk-jr-super-pac-00141260>.

<sup>40</sup> See, e.g., *Loan*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/loan> (last visited Mar. 1, 2024) (“[A] transfer or delivery of money from one party to another with the express or implied agreement that the sum will be repaid regardless of contingency and usually with interest.”).

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## Conclusion

While American Values, like any other non-connected political committee, is permitted to accept loans, it must also meet its reporting obligations in connection with loans from, and loan repayments to, Gavin de Becker.

American Values' actions run afoul of the transparency principle that underlies the Act. For the reasons stated above, the Federal Election Commission should conclude that there is reason to believe that American Values has violated the Federal Campaign Act of 1971, as amended, and seek such monetary and other relief as necessary to remedy these violations.

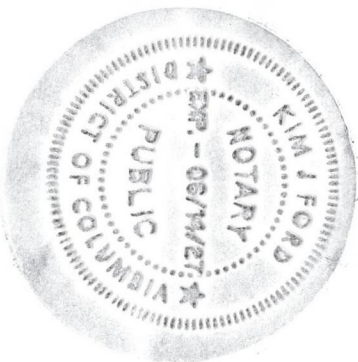
Sincerely,

Monica Guardiola  
Chief Operations Officer  
Democratic National Committee  
430 South Capitol Street SE  
Washington, DC 20003

Signed and sworn to before me, under penalty of perjury.

Notary Public

March 1, 2024



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