



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	
Michael R. Bloomberg	)	MURs 7722 and 7723
Mike Bloomberg 2020, Inc. and Hayden	)	
Horowitz as treasurer	)	
DNC Services Corporation/Democratic	)	
National Committee and Virginia	)	
McGregor as treasurer	)	
Unknown State Party Committees	)	

**STATEMENT OF REASONS  
COMMISSIONER ELLEN L. WEINTRAUB**

Michael Bloomberg permissibly self-funded his 2020 Presidential campaign, spending more than \$1.1 billion of his own money on this effort.<sup>1</sup> When he suspended his campaign after Super Tuesday, millions remained in his campaign account.<sup>2</sup> In March 2020, his campaign committee transferred \$18 million in excess campaign funds to the DNC. Bloomberg’s committee also transferred tens of thousands of dollars in office space and equipment to each of nine Democratic state party committees throughout the country, totalling more than \$1.1 million.<sup>3</sup>

The Federal Election Campaign Act (“FECA” or the “Act”) limits the amount an individual can contribute to party committees in a calendar year.<sup>4</sup> In 2020, individual contributions were capped at \$35,500 to a national party committee such as the DNC and \$10,000 to each committee of a state political party.<sup>5</sup> The Act contains measures to ensure that

<sup>1</sup> First Gen. Counsel’s Rpt. (“FGCR”) at 6 (May 4, 2023) (citing *Mike Bloomberg 2020, Inc., FEC Financial Summary*, FEC.GOV, <https://www.fec.gov/data/committee/C00728154/?tab=summary&cycle=2020> (showing candidate contributions from Bloomberg to the Committee of \$1,089,255,532.11)). The Supreme Court established a constitutional right of federal candidates to make “unlimited expenditures from personal funds” in support of their own campaigns and the Commission codified that right in its regulations. *Buckley v. Valeo*, 424 U.S. at 52 (1976); 11 C.F.R. § 110.10; *see also* H.R. DOC. NO. 95-44, at 70 (1977) (noting that this regulation was intended to “comport[] . . . with the Supreme Court decision in *Buckley*”).

<sup>2</sup> *Mike Bloomberg 2020, Inc., FEC Financial Summary*, FEC.GOV, <https://www.fec.gov/data/committee/C00728154/?tab=summary&cycle=2020> (showing \$1,102,765,253.53 in operating expenditures).

<sup>3</sup> FGCR at 8-9.

<sup>4</sup> 52 U.S.C. § 30116(a)(1)(B),(D).

<sup>5</sup> *Id.*; 11 C.F.R. § 110.1(c)(5).

donors do not skirt these contribution limits. Section 30122 of the Act prohibits making contributions in the name of another, and section 30116(a)(8) requires specific reporting so that any donor who contributes through an intermediary does not exceed the contribution limits.<sup>6</sup>

In contrast, a different provision of the Act allows a candidate's committee to make unlimited transfers to party committees. Section 30114 of the Act states that "[a] contribution accepted by a candidate...may be used by the candidate...for transfers, without limitation, to a nation, State, or local committee of a political party."<sup>7</sup>

These various provisions of the law appear to lead to opposite conclusions. The money in Bloomberg's campaign account came from Bloomberg. Had Bloomberg personally contributed the same amount of money directly to the party committees, that would have plainly violated the Act's individual contribution limits. Yet because the funds came from the campaign account of a bona fide candidate, the donations appear to be legal under the transfer provision of the Act and Commission regulations.

When presented with this conundrum in a case involving a different candidate, the District Court of the District of Columbia did not see an obvious answer:

The Court acknowledges that there appears to be some tension between FECA's provision for unlimited transfers from a campaign committee to a party committee on the one hand, and its safeguards against circumvention of contribution limits through conduits on the other. In the case of a totally self-funded candidate . . . , it is indeed difficult to distinguish on principle a transfer of funds from his now-inactive campaign to a party committee from an individual contribution subject to statutory limits imposed to mitigate actual or apparent corruption in the campaign finance. In any event, under existing law, it is far from clear where the FEC—or a court deciding the question on the merits—would come down.<sup>8</sup>

I agree with the court that there is inherent tension in the law. I also agree with my colleagues that there is no indication that Bloomberg was intentionally trying to circumvent the contribution limits.<sup>9</sup> Bloomberg ran a short but fervent campaign. While \$18 million is an eye-catching amount to transfer to the party committees, it was a tiny fraction of the more than \$1 billion that Bloomberg invested in his campaign. Moreover, in March 2020, when the transfers took place, the Commission had been without a quorum and thus unable to issue advisory opinions for six months, with no end in sight.<sup>10</sup> There was no way for someone in

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<sup>6</sup> 52 U.S.C. §§ 30116(a)(8), 30122.

<sup>7</sup> 52 U.S.C. § 30114(a)(4).

<sup>8</sup> *McCutcheon II v. FEC*, 496 F.Supp.3d 318, 335 (2020).

<sup>9</sup> See Statement of Reasons of Chair Lindenbaum, Vice Chairman Cooksey, and Commissioners Broussard, Dickerson, and Trainor ("Lindenbaum, *et al.* SOR") at 4, MURs 7722 & 7733 (Michael R. Bloomberg, *et al.*).

<sup>10</sup> The Commission regained its quorum for a few short weeks in June but otherwise remained without a quorum until December 2020.


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Bloomberg's unique situation to obtain definitive guidance. While I believe the tension between the various statutory provisions discussed above created some ambiguity, under these circumstances, Bloomberg's reliance on the transfer provision of the Act was not unreasonable. Thus, I voted to dismiss these allegations as a matter of prosecutorial discretion.<sup>11</sup>

I appreciate and agree with my colleagues' view that a different conclusion would be appropriate if a candidate "contributed funds to his campaign for the express purpose of funding transfers . . . or if [a] campaign otherwise appeared to be a conduit for transfers" to a party committee.<sup>12</sup> No one should read this case as a green light for circumventing the contribution limits.

The facts in this matter did not suggest circumvention, but ambiguous situations could arise in the future. It is likely that multimillion-dollar transfers from self-funded candidate committees were not what Congress envisioned when writing the transfer provision. Fortunately, through legislative recommendations and rulemaking, the Commission can advocate for and adopt stronger provisions to prevent potential abuses of ambiguities in the Act and its implementing regulations. I look forward to working with my colleagues to support such provisions.

July 5, 2023

  
Ellen L. Weintraub  
Commissioner

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<sup>11</sup> Certification ¶ 2 (May 31, 2023); *Heckler v. Chaney*, 470 U.S. 821 (1985).

<sup>12</sup> *Lindenbaum, et al.* SOR at 4.