April 13, 2015

Honorable Eric H. Holder, Jr.
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

As detailed in the attached complaint filed April 13, 2015 with the Federal Election Commission (FEC), the Campaign Legal Center and Democracy 21 have reason to believe, based on published reports, including admissions by one of the respondents, that Pras Michel, SPM Holdings LLC, Black Men Vote and its Treasurer, William Kirk Jr., have violated 52 U.S.C. § 30122, which prohibits contributions "in the name of another."

We are writing to urge the Department of Justice to exercise its authority to conduct criminal investigations of these potential violations of federal law by Pras Michel, SPM Holdings LLC, Black Men Vote and its Treasurer, William Kirk Jr. and, if warranted, to bring criminal proceedings to enforce federal campaign finance laws as they apply to these individuals and groups.

Although the FEC has exclusive jurisdiction over civil enforcement of the Federal Election Campaign Act (FECA), 52 U.S.C. § 30101 *et seq.*, the Department of Justice has its own independent and exclusive jurisdiction to bring criminal enforcement proceedings for violations of these laws. Specifically, FECA provides for criminal sanctions, enforced by the Department of Justice, in the case of "knowing and willful" violations of FECA that exceed specified monetary thresholds, which vary according to the specific statutory provision violated. *See* 52 U.S.C. § 30109(d)(1)(D).[1]

The Department of Justice is responsible for ensuring that potential "knowing and willful" violations of FECA are investigated and that actual "knowing and willful" violations are prosecuted and punished—the integrity of U.S. elections depends on it.

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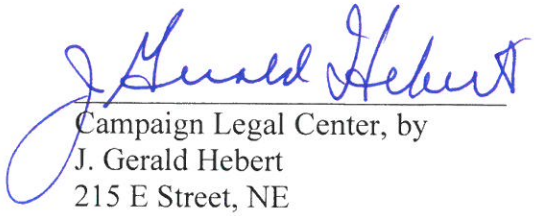
[1] As explained in the Department of Justice handbook FEDERAL PROSECUTION OF ELECTION OFFENSES 198-99 (7th Ed. 2007):

> The Federal Election Commission has exclusive authority to enforce FECA's noncriminal penalties. . . . FECA violations that are committed knowingly and willfully and involve aggregate values that satisfy the monetary thresholds in the Act's criminal provision, 2 U.S.C. § 437g(d), are also federal crimes. These cases are prosecuted by the Department of Justice.
>
> . . . .
>
> In view of the enhanced criminal penalties for FECA crimes and the legislative history supporting their enactment, it is the Justice Department's position that all knowing and willful FECA violations that exceed the applicable jurisdictional floor specified in the Act's criminal provision should be considered for federal prosecution under one or more of the prosecutive theories presented above.

Sincerely,



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Copy to: Ms. Leslie R. Caldwell, Assistant Attorney General, Criminal Division
Mr. Raymond Hulser, Acting Chief, Public Integrity Section

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BEFORE THE UNITED STATES
FEDERAL ELECTION COMMISSION

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v. MUR No. _____

Prakazrel "Pras" Michel
2404 Fiddle Leaf Avenue
Coconut Creek, FL 33063

SPM Holdings LLC / SPM 2012 Holdings LLC
3601 PGA Boulevard
Suite 220
Palm Beach Gardens, FL 33410-2712

Black Men Vote
6301 Chaucer Lane
Alexandria, VA 22304

William Kirk Jr., Treasurer
Black Men Vote
6301 Chaucer Lane
Alexandria, VA 22304

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information providing reason to believe that Prakazrel "Pras" Michel, SPM Holdings LLC/SPM 2012 Holdings LLC,[1] Black Men Vote and its Treasurer, William Kirk Jr., have violated

[1] Although Black Men Vote reported receipt of two contributions totaling $875,000 from SPM Holdings LLC, Florida real estate records reportedly show a company named "SPM 2012 Holdings LLC" at the same Florida address that the Black Men Vote listed for SPM Holdings LLC in its campaign finance filing. *See* Michael Beckel, *Rapper-backed group illustrates blind spot in political transparency*, CENTER FOR PUBLIC INTEGRITY, Mar. 31,

provisions of the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101 *et seq.*, and Commission regulations.

2. Specifically, based on published reports, including admissions by one of the respondents, complainants have reason to believe that Pras Michel, SPM Holdings LLC, Black Men Vote and its Treasurer, William Kirk Jr., have violated 52 U.S.C. § 30122, which prohibits contributions "in the name of another."

3. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] . . . [t]he Commission shall make an investigation of such alleged violation . . . ." 52 U.S.C. § 30109(a)(2); *see also* 11 C.F.R. § 111.4(a) (emphasis added).

FACTS

4. On September 14, 2012, Black Men Vote (FEC ID# C00528950) filed a Statement of Organization with the Commission, registering as a political committee that intends to make only independent expenditures.[2]

5. According to its FEC reports, Black Men Vote reported receiving a total of $1.325 million in itemized individual contributions in the 2012 election cycle.[3] These contributions were reported as coming from only three donors, SPM Holdings ($875,000 total — $400,000 on November 12, 2012[4] and $475,000 on November 24, 2012[5]), Pras

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2015, http://www.publicintegrity.org/2015/03/31/16944/rapper-backed-group-illustrates-blind-spot-political-transparency.

[2] Black Men Vote, Statement of Organization, Sept. 5, 2012, *available at* http://docquery.fec.gov/cgi-bin/fecimg/?_12030883569%200.

[3] Black Men Vote, 2012 Year-End Report, Jan. 30, 2013, *available at* http://docquery.fec.gov/pdf/109/13960568109/13960568109.pdf.

[4] Black Men Vote, 12 Day-Pre General Report, Oct. 17, 2012, *available at* http://docquery.fec.gov/pdf/143/12940488143/12940488143.pdf.

[5] Black Men Vote, Amended Post-General Election Report, Jan. 30, 2013, *available at* http://docquery.fec.gov/pdf/649/13960565649/13960565649.pdf.

Michel ($350,000 total — $250,000 on September 7, 2012[6] and $100,000 on October 5. 2012[7]) and Earl Stafford ($100,000 on October 4, 2012[8]).

6. On March 31, 2015, the Center for Public Integrity published a report detailing the $875,000 in contributions Black Men Vote reported having received from SPM Holdings LLC in 2012.[9]

7. According to the report:

> It was less than a month before the 2012 election when [Jeff Johnson,] a spokesman for Black Men Vote, a political group backed by hip-hop musicians including Common and Pras Michel, publicly announced: "I want a $500,000 donor."
>
> Three days later, his wish was all but granted.
>
> That's when a cool $400,000 landed in the bank account of Black Men Vote, a super PAC whose goal was mobilizing young black men to support President Barack Obama's re-election. . . .
>
> The source of the money? An obscure limited liability company identified as "SPM Holdings LLC" with an address in Palm Beach Gardens, Florida.
>
> By Election Day, SPM Holdings would double down and make an additional six-figure contribution, bringing its total financial support of Black Men Vote to $875,000.[10]

8. According to the Center for Public Integrity report, between 2012 and publication of the report on March 31, 2015, the donor "behind SPM Holdings would remain . . . a mystery."[11]

9. The Center for Public Integrity reported that, while Florida state business registration records do not show any company named "SPM Holdings LLC," Florida real estate

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6 Black Men Vote, October Quarterly Report, Oct. 15, 2012, *available at* http://docquery.fec.gov/pdf/315/12972563315/12972563315.pdf.

7 Black Men Vote, 12 Day-Pre General Report, Oct. 17, 2012, *available at* http://docquery.fec.gov/pdf/143/12940488143/12940488143.pdf.

8 *Id.*

9 *See* Beckel, *supra* note 1.

10 *Id.*

11 *Id.*

records do show a company named "SPM 2012 Holdings LLC" at the same Florida address that Black Men Vote listed for SPM Holdings LLC in its disclosure report filed with the Commission.[12] SPM 2012 Holdings LLC is "registered in Delaware, where records list only a registered agent: Dover, Delaware-based Registered Agent Solutions Inc., a for-profit company that boasts of being 'an innovative leader in the registered agent and transactional service industry.'"[13]

10. According to the Center for Public Integrity, Pras Michel "confirmed that SPM Holdings LLC — which is officially called SPM 2012 Holdings LLC — was his, adding that it was 'just a holding company to do my everyday business through.'"[14] This acknowledgment means that Pras Michel provided $1.225 million in total to Black Men Vote — $350,000 in his own name and $875,000 in the name of SPM Holdings LLC.

11. According to the Center for Public Integrity, "William Kirk, the founder and treasurer of Black Men Vote, said he was grateful for the resources provided by Pras and the super PAC's other supporters."[15]

12. According to Commission records, Black Men Vote filed a mid-year report on August 3, 2013, but has failed to file any further required reports.[16] According to the last report filed, Black Men Vote reported Cash on Hand of $37,559.35 and Debts and Obligations of $10,005.49.[17]

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12 *Id.*
13 *Id.*
14 *Id.*
15 *Id.*
16 The Commission has sent Black Men Vote "RFAI — Failure to File" letters on February 26, 2014, May 2, 2014, August 4, 2014, November 3, 2014, December 19, 2014 and February 20, 2015. *See* Details for Committee ID C00528950. http://www.fec.gov/fecviewer/CandidateCommitteeDetail.do.
17 http://docquery.fec.gov/pdf/189/13964495189/13964495189.pdf

SUMMARY OF THE LAW

I. PROHIBITION ON CONTRIBUTIONS IN THE NAME OF ANOTHER

13. FECA provides that "[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another person." 52 U.S.C. § 30122.

14. The Commission regulation implementing the statutory prohibition on "contributions in the name of another" provides the following examples of "contributions in the name of another":

- "Giving money or anything of value, all or part of which was provided to the contributor by another person (the true contributor) without disclosing the source of money or the thing of value to the recipient candidate or committee at the time the contribution is made." 11 C.F.R. § 110.4(b)(2)(i).
- "Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source." 11 C.F.R. § 110.4(b)(2)(ii).

II. POLITICAL COMMITTEE REPORTING REQUIREMENTS

15. FECA requires the treasurer of a political committee to sign and file periodic disclosure reports of receipts and disbursements, *see* 52 U.S.C. § 30104(a)(1), pursuant to the schedule set forth in the statute, *see* 52 U.S.C. § 30104(a)(4).

16. Such political committee disclosure reports must include, *inter alia*, the "identification of each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year . . . [.]" 52 U.S.C. § 30104(b)(3)(A).

III. CONTRIBUTIONS BY LIMITED LIABILITY COMPANIES

17. Commission regulations provide that limited liability companies (LLC) are treated as either partnerships or corporations for FECA purposes, consistent with the tax treatment they elect under the Internal Revenue Code. 11 C.F.R. § 110.1(g).

18. A contribution by an LLC that elects to be treated as a partnership by the Internal Revenue Service (IRS), or does not elect treatment as either a partnership or a corporation, is considered a contribution from a partnership and attributed to each partner. 11 C.F.R. § 110.1(e) and (g)(2).

19. An LLC that elects to be treated as a corporation by the IRS is considered a corporation for the purposes of FECA. 11 C.F.R. § 110.1(g)(3).

20. A contribution by an LLC with a single natural person member that does not elect to be treated as a corporation by IRS is attributed only to that single member. 11 C.F.R. § 110.1(g)(4); *see also* Advisory Opinion 2009-2 (True Patriot Network) (treating expenditures by a single member LLC, like contributions, as attributable solely to the LLC's single member).

21. An LLC that is treated as a partnership, or that has a single natural person member and does not elect treatment as a corporation, that makes a contribution shall, at the time it makes the contribution, "provide information to the recipient committee as to how the contribution is to be attributed, and affirm to the recipient committee that it is eligible to make the contribution." 11 C.F.R. § 110.1(g)(5).

CAUSES OF ACTION

COUNT I:
There is reason to believe that Pras Michel made contributions to Black Men Vote in the name of SPM Holdings LLC in violation of 52 U.S.C. § 30122.

22. Based on the published report detailed above and disclosure reports filed with the Commission, complainants have reason to believe that Pras Michel made two separate contributions totaling $875,000 — $400,000 on November 12, 2012 and $475,000 on November 24, 2012 — to Black Men Vote in the name of SPM Holdings LLC in violation of 52 U.S.C. § 30122.

COUNT II:
There is reason to believe that SPM Holdings LLC knowingly permitted its name to be used by Pras Michel for making contributions to Black Men Vote in violation of 52 U.S.C. § 30122.

23. Based on the published report detailed above and disclosure reports filed with the Commission, complainants have reason to believe that SPM Holdings LLC knowingly permitted its name to be used by Pras Michel for making two separate contributions totaling $875,000 — $400,000 on November 12, 2012 and $475,000 on November 24, 2012 — to Black Men Vote in violation of 52 U.S.C. § 30122.

COUNT III:
There is reason to believe that Black Men Vote, and William Kirk Jr., Treasurer, knowingly accepted contributions made by Pras Michel in the name of SPM Holdings LLC in violation of 52 U.S.C. § 30122.

24. Based on the published report detailed above and disclosure reports filed with the Commission, complainants have reason to believe that Black Men Vote, and William Kirk Jr., its Treasurer, knowingly accepted two separate contributions totaling $875,000 — $400,000 on November 12, 2012 and $475,000 on November 24, 2012 — that were made by Pras Michel in the name of SPM Holdings LLC in violation of 52 U.S.C. § 30122.

COUNT IV:
There is reason to believe that Black Men Vote, and William Kirk Jr., Treasurer, knowingly reported SPM Holdings LLC as the contributor of contributions actually made by Pras Michel in violation of 52 U.S.C. § 30104.

25. Based on the published report detailed above and disclosure reports filed with the Commission, complainants have reason to believe that Black Men Vote, and William Kirk Jr., its Treasurer, knowingly reported SPM Holdings LLC as the contributor of two separate contributions totaling $875,000 — $400,000 on November 12, 2012 and $475,000 on November 24, 2012 — that were actually made by Pras Michel in the name of SPM Holdings LLC in violation of 52 U.S.C. § 30104.

COUNT V:
There is reason to believe that Pras Michel and Black Men Vote, and William Kirk Jr., Treasurer, attributed contributions from Pras Michel to Black Men Vote to SPM Holdings LLC in violation of 11 C.F.R. § 110.1(g).

26. Based on the published report detailed above and disclosure reports filed with the Commission, complainants have reason to believe that Pras Michel and Black Men Vote, and William Kirk Jr., its Treasurer, attributed two separate contributions totaling $875,000 — $400,000 on November 12, 2012 and $475,000 on November 24, 2012 — to SPM Holdings LLC, which were instead required to be attributed to Pras Michel, in violation of 11 C.F.R. § 110.1(g).

COUNT VI:
There is reason to believe that Black Men Vote, and William Kirk Jr., Treasurer, have failed since January 2014 to file the periodic disclosure reports required by FECA in violation of 52 U.S.C. § 30104.

27. Based on RFAI — Failure to File letters issued by the Commission, complainants have reason to believe that Black Men Vote, and William Kirk Jr., its Treasurer, have failed since January 2014 to file the periodic reports of receipts and disbursements required by FECA in violation of 52 U.S.C. § 30104.

PRAYER FOR RELIEF

28. Wherefore, the Commission should find reason to believe that Pras Michel, SPM Holdings LLC, Black Men Vote, and its Treasurer William Kirk Jr. have violated 52 U.S.C. § 30101 *et seq.*, including 52 U.S.C. §§ 30104 and 30122, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondents from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

April 9, 2015

Respectfully submitted,

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Counsel to Democracy 21

VERIFICATION

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

Sworn to pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center

J. Gerald Hebert

Sworn to and subscribed before me this 9th day of April, 2015.

Notary Public

JEANNE G. KATZ
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 1, 2018

For Complainant Democracy 21

Fred Wertheimer

Sworn to and subscribed before me this 9th day of April, 2015.

Notary Public

JEANNE G. KATZ
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 1, 2018