

BEFORE THE FEDERAL ELECTION COMMISSION OF THE UNITED STATES OF  
AMERICA

In the Matter of:  
Hansjörg Wyss  
Wyss Foundation  
Berger Action Fund  
New Venture Fund  
(including its trademark “Hub Project”)  
Sixteen Thirty Fund

MUR No. \_\_\_\_\_

**COMPLAINT**

1. Complainant brings this complaint before the Federal Election Commission (“FEC” or “Commission”) seeking an immediate investigation and enforcement action against Hansjörg Wyss, Wyss Foundation, New Venture Fund (including its trademark “Hub Project”), Sixteen Thirty Fund, and Berger Action Fund for violations of the Federal Election Campaign Act (“FECA” or “Act”).
2. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information providing reason to believe that:
3. Mr. Wyss indirectly funded federal electoral advocacy through his nonprofit organizations, the Wyss Foundation and the Berger Action Fund. The intended recipient of these funds was ultimately a variety of organizations whose primary purpose is to engage in electoral advocacy, including Sixteen Thirty Fund, New Venture Fund, the Hub Project, Change Now, and affiliated groups.
4. Mr. Wyss, the Wyss Foundation, the Berger Action Fund, New Venture Fund, Sixteen Thirty Fund, and the Hub Project failed to ensure that contributions were not made in violation of 52 U.S.C. § 30121 and 11 C.F.R. § 110.20; 52 U.S.C. § 30122 and 11 C.F.R. § 110.4.
5. Mr. Wyss apparently made illegal direct federal campaign contributions during and before 2003 before recent information casting doubt on his citizenship came to light in violation of 52 U.S.C. § 30121 and 11 C.F.R. § 110.20. Since that time, he has made indirect contributions and expenditures by means of an intricate network of organizations in a scheme to obscure his role as the source of these funds.
6. Mr. Wyss, the Wyss Foundation, the Berger Action Fund, New Venture Fund, Sixteen Thirty Fund, and the Hub Project failed to file as a political committee in violation of 52 U.S.C. § 30103(a) and 11 C.F.R. § 102.1(d);
7. Mr. Wyss, the Wyss Foundation, the Berger Action Fund, New Venture Fund, Sixteen Thirty Fund, and the Hub Project failed to properly report contributions and expenditures as required pursuant to 52 U.S.C. § 30104 and 11 C.F.R. § 104.3;

**STATEMENT OF THE LAW**

8. The law prohibits foreign nationals from making contributions to political committees whether directly or indirectly. 52 U.S.C. § 30121 and 11 C.F.R. § 110.20 further prohibit

foreign nationals from providing any substantial assistance in making any expenditure or independent expenditure or participating in any decision making. Expenditures and contributions made in the name of another are prohibited by 52 U.S.C. § 30122 and 11 C.F.R. § 110.4.

9. 52 U.S.C. § 30103(a) and 11 C.F.R. § 102.1(d) require political committees to file a Statement of Organization no later than ten days after becoming a political committee.
10. 11 C.F.R. § 100.5(a) defines a political committee as any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 or which makes expenditures aggregating in excess of \$1,000 during a calendar year.
11. Pursuant to 52 U.S.C. § 30104 and 11 C.F.R. § 104.3, a political committee is required to file a report containing all receipts and expenditures, including the itemization of each.

### STATEMENT OF FACTS

12. Hansjörg Wyss is a Swiss billionaire who donates to a variety of causes and organizations through an established foundation, the Wyss Foundation, a 501(c)(3) organization, and the Berger Action Fund, a 501(c)(4) organization, which shares facilities and staff with the Wyss Foundation.<sup>1</sup> “At the center of the effort is an opaquely named Democratic organization, the Hub Project, which is on track to spend nearly \$30 million since 2017, pressuring members of Congress in their districts. The great bulk of its funding has come from so-called dark money — funds from donors who are not legally required to reveal their names.”<sup>2</sup>
13. Mr. Wyss is a Swiss-born resident in the United States and when asked about his residency and citizenship status has stated that he “carried only a Swiss passport and did not have a U.S. green card.”<sup>3</sup> His attorney confirmed that “HJW is lawfully in the U.S. pursuant to an ‘E-2VISA’ and ‘is not a permanent resident of the US under a ‘green card.’”<sup>4</sup>
14. Mr. Wyss, through his foundation, started the Hub Project in 2015, “for groups backing Democrats and their causes...[i]t created more than a dozen groups with anodyne-sounding names that planned to spend \$30 million attacking Republican congressional candidates before the 2018 election.”<sup>5</sup> As explained in paragraph 18, the Hub Project is a trademark of New Venture Fund.
15. The Hub Project is intended to “shape media coverage to help Democratic causes” through organizing advertising campaigns criticizing Republican congressional candidates and organizing marches that demanded the release of President Trump’s tax returns in 2017. Additionally, the Hub Project hosts a podcast, “Made to Fail” which criticizes conservative policies.<sup>6</sup>
16. According to the Hub Project’s business plan, prepared for the Wyss Foundation in 2015, it “recommended that the group ‘be solely funded by the Wyss Foundation at the outset’ and that it would work behind the scenes to ‘dramatically shift the public debate and policy

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<sup>1</sup> Kenneth P. Vogel, *Swiss Billionaire Quietly Becomes Influential Force Among Democrats*, [The New York Times](#) (May 3, 2021).

<sup>2</sup> Alexander Burns, *With \$30 Million, Obscure Democratic Group Floods the Zone in House Races*, [New York Times](#) (Oct. 31, 2018).

<sup>3</sup> Kenneth P. Vogel and Katie Robertson, *Top Bidder for Tribune Newspapers Is an Influential Liberal Donor*, [The New York Times](#) (Apr. 13, 2021).

<sup>4</sup> Richard Pollock, “Foreign Clinton Donor Made Donations To US Campaigns,” [The Daily Caller](#), (Feb. 28, 2016).

<sup>5</sup> Vogel and Robertson, *supra* note 3; Vogel, *supra* note 1.

<sup>6</sup> Vogel and Robertson, *supra* note 3.

positions of core decision makers.” The plan added that The Hub Project “is not intended to be the public face of campaigns.”<sup>7</sup>

17. Currently, the Hub Project employs 60 staffers, including political organizers, researchers, and communications specialists.<sup>8</sup> It is run by former Obama official, Leslie Dach, and Arkadi Gerney, a former political strategist for Center for American Progress.<sup>9</sup>
18. The Hub Project is not a stand-alone entity but a registered trademark of the New Venture Fund, a 501(c)(3) organization.<sup>10</sup> Since 2007, the Wyss Foundation has given approximately \$56.5 million to New Venture Fund.<sup>11</sup> The Sixteen Thirty Fund is a 501(c)(4) organization and both are part of the Arabella Advisors managed nonprofits.<sup>12</sup> Additionally, “Mr. Gerney confirmed that the Hub Project controls the money flowing from the Sixteen Thirty Fund into the state-level groups, but the larger nonprofit does not have to disclose its funding sources.”<sup>13</sup>
19. The Berger Action Fund gave over \$135 million to the Sixteen Thirty Fund between 2016 and 2020. The Sixteen Thirty Fund is considered to be “among the leading dark money spenders on the left” including a vast array of organizations engaged in electoral advocacy as their primary purpose.<sup>14</sup> Contributions from the Sixteen Thirty Fund were used to fund political activities of the state affiliates under the Hub Project.<sup>15</sup>
20. Mr. Arkadi described the Hub Project’s operation as “unfolding in stages, first targeting five congressional districts in the summer of 2017, then expanding to a map of 19 seats over the next 11 months. In some districts, the Hub Project’s state affiliates were running paid advertising months before other outside groups got involved — and before members of Congress mobilized to defend themselves.”<sup>16</sup> One of the groups, Not One Penny, ran an independent expenditure in opposition to congressional candidate Rick Saccone. Floridians for a Fair Shake reported an independent expenditure for \$7,541.09 in opposition to Vern Buchanan.<sup>17</sup>
21. “Mr. Gerney also confirmed that the Hub Project controls a super PAC of its own, Change Now, which has been funding advertising this fall against a smaller list of Republican-held districts that includes some of the same targets. The group has filed a report with the Federal Election Commission showing it received \$1.75 million in funding from the League of Conservation Voters, the influential environmental group, and several people involved with the effort said future reports were expected to show contributions from national labor unions.”<sup>18</sup> In 2018, the group Change Now “emerged as a large spender seemingly out of nowhere” and spent \$7.9 million for House Democrats.<sup>19</sup> During that election cycle, the super PAC spent a total of \$752,382 for Democrats and \$7,160,047 against Republicans.<sup>20</sup>

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<sup>7</sup> Vogel and Robertson, *supra* note 3.

<sup>8</sup> *Id.*

<sup>9</sup> The Hub Project [Website](#).

<sup>10</sup> United States Patent and Trademark Office, Trademarks, [The Hub Project](#).

<sup>11</sup> Vogel and Robertson, *supra* note 3.

<sup>12</sup> Arabella Advisors, [Fiscal Sponsorship](#).

<sup>13</sup> Burns, *supra* note 2.

<sup>14</sup> Vogel, *supra* note 1.

<sup>15</sup> Burns, *supra* note 2.

<sup>16</sup> *Id.*

<sup>17</sup> Federal Election Commission, Itemized Independent Expenditures, Sixteen Thirty Fund/Not One Penny, [Schedule 5-E Report](#); Federal Election Commission, Itemized Independent Expenditures, Sixteen Thirty Fund/Floridians for a Fair Shake, [Schedule 5-E Report](#).

<sup>18</sup> Burns, *supra* note 2.

<sup>19</sup> Karl Evers-Hillstrom, “Dark money’ groups funneled millions to powerful super PACs during 2018 midterms,” [Center for Responsive Politics](#) (Jan. 3, 2019).

<sup>20</sup> Center for Responsive Politics, Open Secrets, Change Now PAC, [Independent Expenditures](#).

## CAUSES OF ACTION

### AGAINST RESPONDENTS MR. WYSS, WYSS FOUNDATION, BERGER ACTION FUND, NEW VENTURE FUND (INCLUDING ITS TRADEMARK “HUB PROJECT”), AND SIXTEEN THIRTY FUND

#### Prohibited Contributions in Violation of the Foreign National Ban 52 U.S.C. § 30121 and 11 C.F.R. § 110.20; Prohibited Conduit Contributions 52 U.S.C. § 30122 and 11 C.F.R. § 110.4

22. Foreign nationals are prohibited from making contributions or expenditures *directly or indirectly*. Commissioner Weintraub made it abundantly clear in her draft interpretive rule that, “Indeed, the Commission has recognized the ‘broad scope’ of the foreign national contribution prohibition and found that even where the value of a good or service ‘may be nominal or difficult to ascertain,’ such contributions are nevertheless banned.”<sup>21</sup>
23. Mr. Wyss publicly stated that he does not possess a U.S. green card, making him a lawful permanent resident, but still maintains his Swiss passport.<sup>22</sup> His attorney verified that Mr. Wyss is in the country on an E-2VISA.<sup>23</sup> As a foreign national, Mr. Wyss is strictly prohibited from making direct contributions to political committees; yet, from 1990 to 2003, Mr. Wyss made direct contributions to federal candidates totaling nearly \$70,000.<sup>24</sup> Since that time, Mr. Wyss’ contributions have not decreased, but rather he continues to make sizeable contributions indirectly. By giving over \$190 million to Arabella Advisor’s New Venture Fund and Sixteen Thirty Fund to operate the Hub Project, its super PAC, Change Now, and the affiliated trade groups, Mr. Wyss has obscured his connection to these contributions.<sup>25</sup> Mr. Wyss has also given to various other Democratic supporting groups and causes, including \$1 million from the Berger Action Fund to former Attorney General Eric Holder’s effort to flip statehouses to benefit congressional Democrats in state redistricting efforts.<sup>26</sup>
24. However, the most glaring crack in the armor of this elaborate scheme to utilize a foreign national’s funds to indirectly make contributions and expenditures is the admission by Hub Project Executive Director, Arkadi Gerney “that the Hub Project controls a super PAC of its own, Change Now” to run advertisements against Republicans.”<sup>27</sup>
25. Further, foreign nationals are prohibited from providing any substantial assistance in making any expenditure or independent expenditure or participating in any decision-making regarding election related activities.<sup>28</sup> However, Mr. Wyss and his foundations “created a sophisticated political operation to advance progressive policy initiatives and the Democrats who support them” in setting up the Hub Project as a conduit to influence the 2018 congressional races.<sup>29</sup> The elaborate structure of Mr. Wyss’ contributions demonstrates a scheme to conceal the true source of these funds and the evade the prohibitions on foreign nationals.

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<sup>21</sup> Ellen L. Weintraub (@EllenL.Weintraub), [Twitter](#) (Sept. 26, 2019).

<sup>22</sup> Vogel and Robertson, *supra* note 3.

<sup>23</sup> *Id.*

<sup>24</sup> Richard Pollock, *supra* note 4.

<sup>25</sup> Vogel, *supra* note 1.

<sup>26</sup> Vogel, *supra* note 1; Vogel and Robertson, *supra* note 3.

<sup>27</sup> Melissa Klein, *Swiss Billionaire Uses His Fortune To Help Sway US Elections*, [New York Post](#) (May 10, 2021).

<sup>28</sup> Burns, *supra* note 2.

<sup>29</sup> 11 C.F.R. § 110.20.

<sup>30</sup> Vogel and Robertson, *supra* note 3.

26. Federal law is clear that contributions made in the name of another are strictly prohibited.<sup>30</sup> The Hub Project has served as a vehicle for the political spending of Mr. Wyss. This is demonstrated by the fact that Mr. Wyss has not publicly disclosed his role in founding the Hub Project. Neither his influence nor his financial support can be found anywhere on the group's website. Rather, information regarding his involvement with the Hub Project was the result of "interviews with five people with knowledge of The Hub Project, an internal memo from another liberal group that was obtained by The New York Times."<sup>31</sup>
27. Mr. Wyss did not establish the Hub Project through one of his two foundations; rather he structured the project to be overseen by another entity, the New Venture Fund, which received \$56.5 million from the Wyss Foundation with additional funds of \$135 million made available through the Berger Action Fund to the Sixteen Thirty Fund.<sup>32</sup> This financial arrangement enabled Mr. Wyss to avoid any connection with the sizeable election activities carried out by the Hub Project and Change Now.<sup>33</sup> Merely because the scheme developed by Mr. Wyss has made his contributions difficult to ascertain does not mean that they should be free from being treated as though they were made directly.

**Failing to Register with the FEC as Required by 52 U.S.C. § 30103(a) and 11 C.F.R. § 102.1(d)**

28. Neither the Wyss Foundation, the Berger Action Fund, nor New Venture Fund (and its trademark "Hub Project") have filed a statement of organization with the FEC. Any organization which receives contributions in excess of \$1,000 or makes expenditures exceeding \$1,000 in a calendar year is considered a political committee for the major purpose of influencing elections.<sup>34</sup>
29. In 2015, Mr. Wyss set up the Hub Project to operate under the New Venture Fund for the purpose of helping Democratic causes.<sup>35</sup> Since 2007, the Wyss Foundation has contributed at least \$56.5 million to the nonprofit housing the Hub Project.<sup>36</sup> Additionally, Mr. Wyss made contributions of \$135 million from his (c)(4) organization, Berger Action Fund, to the Sixteen Thirty Fund, made available for spending by the Hub Project.<sup>37</sup>
30. To achieve the Hub Project's purpose of helping Democratic causes, the group oversaw a \$30 million spending campaign in the 2018 congressional cycle to support Democrats and oppose Republicans in congressional races across the country through its affiliated trade groups and through its super PAC, Change Now, thereby triggering classification as a political committee.<sup>38</sup> The law makes clear that a political committee must register with the FEC within ten days of meeting the requirements of this classification.<sup>39</sup> Operating since 2015 without the requisite FEC filing, the Hub Project has been immune to any oversight and accountability despite significant spending in federal elections.

**Failing to Properly File Reports and Disclosing Contributions and Expenditures in Violation of 52 U.S.C. § 30104 and 11 C.F.R. § 104.3**

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<sup>30</sup> 52 U.S.C. § 30122; 11 C.F.R. § 110.4.

<sup>31</sup> Vogel and Robertson, *supra* note 3.

<sup>32</sup> Vogel, *supra* note 1; Vogel and Robertson, *supra* note 3.

<sup>33</sup> Vogel, *supra* note 1; Vogel and Robertson, *supra* note 3; Burns, *supra* note 2.

<sup>34</sup> 11 C.F.R. § 100.5(a); *Buckle v. Valeo*, 424 U.S. 1, 80 (1976).

<sup>35</sup> Vogel and Robertson, *supra* note 3.

<sup>36</sup> Vogel and Robertson, *supra* note 3.

<sup>37</sup> Vogel, *supra* note 1; Vogel and Robertson, *supra* note 3.

<sup>38</sup> 11 C.F.R. § 100.5(a); Vogel, *supra* note 1.

<sup>39</sup> 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(d).

31. As a political committee, the Hub Project would be subject to reporting requirements under FECA.<sup>40</sup> The Hub Project is a beneficiary of over \$190 million dollars from its financial backer, Mr. Wyss, contributed through the Wyss Foundation and the Berger Action Fund to Arabella Advisors' network of nonprofits.<sup>41</sup> Despite these significant contributions and potentially other sizeable contributions, the Hub Project has failed to properly file the source of the contributions.<sup>42</sup>
32. With these contributions, the group oversaw political spending, including at least two known independent expenditures against Republican congressional candidates and operated Change Now, a super PAC that spent \$7.9 million supporting Democrats and opposing Republicans.<sup>43</sup> According to the executive director, Arkadi Gerney, the expenditures were coordinated to target five congressional districts in 2017 followed by expanding efforts to target 19 congressional districts.<sup>44</sup> The Hub Project exerts significant and coordinated influence into elections around the country but fails to provide any transparency in doing so.<sup>45</sup> Yet, other registered entities with the FEC, influencing the very same districts, are required to adhere to the reporting requirements under FECA.<sup>46</sup> The absence of properly filed reports removes necessary safeguards and fails to give an accurate picture of the extent of their influence.

### **PRAYER FOR RELIEF**

33. Wherefore, the Commission should find reason to believe that Mr. Wyss, the Wyss Foundation, the Berger Action Fund, New Venture Fund, Sixteen Thirty Fund, and the Hub Project have violated fundamental compliance and transparency rules with prohibited contributions by a foreign national pursuant to 52 U.S.C. § 30121 and 11 C.F.R. § 110.20, prohibited conduit contributions under 52 U.S.C. § 30122 and 11 C.F.R. § 110.4, failing to register with the FEC pursuant to 52 U.S.C. § 30103(a) and 11 C.F.R. § 102.1(d), and failing to report contributions and expenditures required by 52 U.S.C. § 30104 and 11 C.F.R. § 104.3. The Commission should conduct an immediate investigation under 52 U.S.C. § 30109(a)(2) and determine and impose appropriate sanctions for any and all violations. Further, the Commission should enjoin respondent from any future violations, and impose any necessary and appropriate remedies to ensure respondent future compliance with FECA.

May 14, 2021

Respectfully Submitted,

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Caitlin Sutherland, Executive Director  
Americans for Public Trust  
107 South West Street, Suite 442  
Alexandria, VA 22314

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<sup>40</sup> 52 U.S.C. § 30104 and 11 C.F.R. § 104.3.

<sup>41</sup> Vogel and Robertson, *supra* note 3; Vogel, *supra* note 1.

<sup>42</sup> 52 U.S.C. § 30104 and 11 C.F.R. § 104.3.

<sup>43</sup> Federal Election Commission, Itemized Independent Expenditures, Sixteen Thirty Fund/Not One Penny, [Schedule 5-E Report](#); Federal Election Commission, Itemized Independent Expenditures, Sixteen Thirty Fund/Floridians for a Fair Shake, [Schedule 5-E Report](#); Karl Evers-Hillstrom, *supra* note 12.

<sup>44</sup> Burns, *supra* note 2.

<sup>45</sup> Vogel, *supra* note 1.

<sup>46</sup> 52 U.S.C. § 30104 and 11 C.F.R. § 104.3.

VERIFICATION

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

For Complainant "Americans for Public Trust"

\_\_\_\_\_  
Caitlin Sutherland

City of Arlington  
Commonwealth of Virginia

The foregoing instrument was subscribed and sworn to before me this 14th day of May 2021 by Caitlin Sutherland.

\_\_\_\_\_  
Notary Public

Notary registration number: \_\_\_\_\_

My commission expires: \_\_\_\_\_