

## **The Committee to Hold Jack Evans Accountable**

2448 Massachusetts Ave., NW

Washington, D.C. 20008

Phone: 202-733-4640

Website: [www.Ward2CitizensRecall.org](http://www.Ward2CitizensRecall.org)

February 3, 2020

Ms. Cecily Collier-Montgomery

Office of Campaign Finance

1015 Half Street SE, Suite 775

Washington, DC 20003

Dear Ms. Collier-Montgomery:

This letter is a formal complaint alleging multiple violations of District of Columbia laws and regulations regarding the unlawful use of a legal defense committee by former Councilmember Jack Evans, Don Dinan, Franklin Wilds, and the *D.C. Legal Defense Committee for Jack Evans* to oppose a recall campaign against Evans.

### **Background**

The District of Columbia Home Rule Act and subsequently enacted statutes provide citizens the right to recall elected officials from the DC Council. After numerous news reports surfaced in late 2018 and thereafter indicating that then-Councilmember Jack Evans had likely used his elected position for private gain, violating the public trust citizens place in their elected officials, the *Committee to Hold Jack Evans Accountable* (“the recall campaign”) was registered at the Office of Campaign Finance.

The explicit purpose of the Committee was conducting a recall campaign to remove former Councilmember Jack Evans from the DC Council. In April 2019, Don Dinan, acting as counsel to former Councilmember Evans, unsuccessfully challenged the residency of the recall campaign’s chairman in order to prevent the recall campaign from allowing Ward 2 voters the opportunity to notify the DC Board of Elections of their desire to recall former Councilmember Jack Evans from the DC Council.

Former Councilmember Jack Evans had been a member of the DC Council in December 2018 when the Council amended the definition of “Legal Defense Committee” in the Campaign Finance Reform Amendment Act of 2018 (D.C. Law 22-250), reforming and limiting the use of such committees. Former Councilmember Jack Evans was present at final reading and voted for the legislation. This revised definition became effective on March 13, 2019, and is codified at D.C. Code § 1-1161.01(30).

On September 23, 2019, former Councilmember Jack Evans, Treasurer Don Dinan, and Chairman Franklin Wilds, created the *D.C. Legal Defense Committee for Jack Evans*, the first legal defense committee registered with the District of Columbia Office of Campaign Finance, at the co-working space located at 1325 G Street NW, Suite 500, Washington, DC 20005.

Between September and December 2019, the *D.C. Legal Defense Committee for Jack Evans* received donations greater than \$500 from Committee Chairman Franklin Wilds, Michael Kain, John Davies, Kay Kendall, Herbert Miller, Patrice Miller, Barbara Kahlow, Corbett Price, and Samuel Gerstenfeld. On October 29, 2019, the Committee filed its First Report of Receipts and Expenditures, showing that on October 15, 2019 it paid \$6,069 to the Ankura Consulting Group. The purpose of that expenditure was listed simply as “Consultant.”

On November 18, 2019, the recall campaign submitted over 5,627 signatures on 628 petitions to the DC Board of Elections. On November 29, 2019, Don Dinan submitted a challenge to the petitions and reached out to local journalists. On December 18, 2019, the DC Board of Elections issued Order No. 19-043 concerning the challenge to the Recall Petition Filed Against Jack Evans. On January 20, 2020, the *D.C. Legal Defense Committee for Jack Evans* filed their amended Third Report to the Office of Campaign Finance showing that on two dates in December 2019, Capitol Inquiry, Inc. of Bethesda was paid a total of \$4,200 as a “Consultant.”

From its initial filing on September 23, 2019 to the amended Third Report to the Office of Campaign Finance filed on January 20, 2020, the *D.C. Legal Defense Committee for Jack Evans* has made a total of 3 expenditures to two entities listed as “Consultants” and received no in-kind contributions from lawyers or businesses.

## **Complaint**

Former Councilmember Jack Evans, Don Dinan, and Franklin Wilds used the *D.C. Legal Defense Committee for Jack Evans* to run what amounted to an unregistered, illegal, shadow political committee, as defined in D.C. Code § 1-1161.01(44), to oppose the recall of Councilmember Jack Evans. Furthermore, we suspect the *D.C. Legal Defense*

*Committee for Jack Evans* may have illegally used legal defense funds to pay for a private investigator, Ankura Consulting Group, in a fruitless effort to disqualify the recall campaign's chairman and discredit my personal reputation in the process. It has been publicly reported that Capitol Inquiry Inc. was paid by the *D.C. Legal Defense Committee for Jack Evans* to assist in a petition challenge in opposition to the recall measure, and this was an illegal expenditure for a political consultant. And the *D.C. Legal Defense Committee for Jack Evans* appears to have received an unrecorded in-kind campaign donation or made an unrecorded expenditure in relation to the use of the Washington, DC *Carr Workspace*.

### **Relevant Sections of the Code and Regulations**

**DC Code § 1-1161.01(15)** "Election" means a primary, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to public office, or for the purpose of electing a candidate to public office, or for the purpose of deciding an initiative, referendum, **or recall measure**, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.

**DC Code § 1-1161.01(30)** "Legal defense committee" means a person or group of persons organized for the purpose of soliciting, accepting, and expending funds to defray the professional fees and costs for a public official's **legal defense** to one or more civil, criminal, or administrative **proceedings arising directly** out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties.

**DC Code § 1-1161.01(44)** "Political committee" means an [*sic*] committee, club, association, organization, or other group of individuals that is: (A) Organized for the purpose of promoting or opposing: ... (iii) Any initiative, referendum, or recall; ... and (C) Controlled by or coordinated with any public official or agent of a public official.

**DC Code § 1-1163.28 (a)(1)** One legal defense committee and one legal defense checking account shall be established and maintained for the purpose of soliciting, accepting, and spending legal defense funds, which funds may be spent **to defray attorney's fees and other related costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties**. No committee, fund, entity, or trust may be established to defray professional fees and costs except pursuant to this section.

**DC Code § 1–1163.28 (a)(2)** Attorney’s fees and other related legal costs shall not include, **for example**, expenses for fundraising, media or **political consulting fees**, mass mailing or other advertising, or a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

**DC Code § 1–1163.29 (e)(1)** No person shall make any contribution to or for a legal defense committee which, when aggregated with all other contributions to or for the legal defense committee received from the person, exceeds **\$2,000** in an aggregate amount; provided, that the \$2,000 limitation shall not apply to contributions made by a public official for the purpose of funding his or her own legal defense committee within the District of Columbia.

**DC Code § 1–1163.33(5)** In the case of a contribution in support of a candidate for member of the State Board of Education elected at-large or for member of the Council elected from a ward or for the recall of a member of the State Board of Education elected at-large or **for the recall of a member of the Council elected from a ward, \$500;**

**DC Code § 1–204.111** [DC Charter provision] “Recall” defined. The term “recall” means the process by which the qualified electors of the District of Columbia may **call for the holding of an election to remove** or retain an elected official of the District of Columbia (except the Delegate to Congress for the District of Columbia) prior to the expiration of his or her term. [NOTE: DC Code § 1001.02(12) provides an identical definition for purposes of the District’s election laws and the recall process set forth in § 1-1001.17.]

**DC Code § 1–1163.11(B)** Any other individual, if any, whom the committee is supporting for election to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party; or, if the committee is supporting or opposing any initiative or referendum, the summary statement and short title of the initiative or referendum, prepared in accordance with [§ 1-1001.16](#); or, if the committee is supporting or **opposing any recall measure**, the name and office of the public official whose recall is sought or opposed in accordance with [§ 1-1001.17](#);

**DC Code § 1–1163.17 (b)** In the case of reports filed by a political committee on behalf of initiative, referendum, or **recall measures** under this section, the reports shall be filed on the dates as the Elections Board may by rule prescribe, but in no event shall more than 4 separate reports be required during the consideration of a particular initiative, referendum, or recall measure by any political committee or committees collecting signatures, or supporting or **opposing** the measures.

## **Allegation #1 – Legal Defense Committee Or Political Committee? The Evans Team Secretly and Unlawfully Used Its Legal Defense Committee to Engage in Political Committee Activities**

The recall campaign was first alerted that former Councilmember Jack Evans may have been operating an unregistered political committee in April 2019, when it became evident that a third party, acting on the former Councilmember's behalf, was conducting extensive research into the recall my residency status as the chairman of the recall campaign committee.

It is unclear how former Councilmember Jack Evans' personal attorney Don Dinan collected and paid for the research provided to the DC Board of Elections in opposition to the recall measure, particularly with respect to my Ward 2 residency. It seems unlikely, however, that the vast amount of time invested in gathering that material was provided entirely on a pro-bono basis or by Dinan himself.

Indeed, an examination of the website of Ankura Consulting Group, <https://ankura.com/collection/expertise/> -- the only outside vendor paid by the *D.C. Legal Defense Committee for Jack Evans* prior to the submission of recall petition signatures -- leads one to this question: What exactly was Ankura paid \$6,069 to do in the mere 22 days between the establishment of the legal defense fund on September 23 and payment on October 15 -- presumably pursuant to a rendered invoice? Was Ankura's Washington, DC "Investigations" unit (<https://ankura.com/collection/expertise/investigations-accounting-advisory/>) perhaps hired to conduct the residency investigation?

The *D.C. Legal Defense Committee for Jack Evans* was not created until 5 months after any work done for or invoices received concerning the recall campaign initiated in April. If in fact Ankura performed services during that 5-month period intended to help oppose the recall campaign, then those responsible for engaging and later paying Ankura -- at a minimum, Evans, Dinan, and Wilds -- were operating not a legal defense committee, but a political committee, as defined by DC Code § 1-1161.01(44), and doing so in the shadows, without registering, filing the required disclosures, or limiting maximum contributions as discussed further below.

On November 29, 2019, in opposition to the recall measure, Don Dinan submitted a challenge to the petitions to the DC Board of Elections. After doing so, he reached out to numerous journalists by email and stated "*our* challenge," implying that the petition challenge in opposition to the recall measure was not made solely as Don Dinan, the private attorney, but on behalf of others, namely former Councilmember Jack Evans [See Attachment A -- journalist name withheld].

In the complaint Dinan identified himself as the Agent and used his home office address (221 9<sup>th</sup> St. SE, DC, Washington, DC 20005) [See Attachment B], not the official address for the legal defense committee (1325 G Street NW, Suite 500, Washington, DC 20005) on file at the Office of Campaign Finance in the challenge [See Attachment C].

At no point was it clearly disclosed for whom Dinan was serving as an Agent, and whether he was providing an “in kind” contribution to the legal defense committee or working as the private attorney for then-Councilmember Jack Evans. But by using his home office address, Dinan indicated to the Board of Elections that he was acting as an attorney for Evans in his capacity as a Councilmember threatened with a recall election, not on behalf of the *D.C. Legal Defense Committee for Jack Evans*, for which he later served as treasurer – and still does.

When the recall campaign received Dinan’s petition challenge, recall campaign volunteers counted at least 4 different handwriting styles on the petition challenge sheets and were alerted to allegations that one or more third parties were likely paid to work on the petition challenge in opposition to the recall. It only came to light in January 2020 that the *D.C. Legal Defense Committee for Jack Evans* paid Capitol Inquiry, Inc. for these services [Attachment D].

Legal defense committees were created by the DC Council while Jack Evans was a Councilmember. As noted above, the Council amended these provisions, reforming and limiting the use of such committees, while Evans himself had just been implicated in multiple scandals. The legislative intent of these committees was to enable elected officials to protect themselves from the spurious lawsuits and other legal challenges they often face while conducting their official business; these committees could solicit and use funds for limited purposes.

Specifically, legal defense committees are to be used to “defray attorney’s fees and other related costs for a public official’s legal defense to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of a campaign, the election process, or the performance of the public official’s governmental activities.” [**DC Code § 1-1163.28 (a)(1)**] The emphasis here is on a “legal defense to . . . proceedings” – not a campaign against a recall, which is an “election” as defined for campaign finance purposes in D.C. Code § 1-116.01(15).

Moreover, page 23 of the Committee Report [See Attachment E] on B22-0107, “Campaign Finance Reform Amendment Act of 2017,” which amended the definition of legal defense committees, makes clear that the aim here was to reform and limit the use of such funds, not to encourage their abuse. The Committee Report states that “The Print thus clarifies that these committees may only be used for the public official’s legal

defense in actions that are directly related to the public official's status as a public official. This is in keeping with best practices in a number of states.”

The recall campaign did not sue Jack Evans for his work on behalf of Ward 2 residents while serving as a member of the DC Council. The recall campaign did not seek an investigation concerning Jack Evans’ questionable activities on the DC Council either. Rather, the recall campaign exercised its First Amendment rights, and its rights under the DC Charter and DC election law, to seek the opinion of Ward 2 voters on Mr. Evans’ continued fitness for office. The recall campaign duly submitted its petitions to the Board of Elections, as provided by law. If there were any “administrative proceedings” at issue here, they were initiated by the Board of Elections itself or by Mr. Evans and his political team pursuant to the District’s election laws. They did not require a “legal defense” within the meaning or intent of the “legal defense committee” statute.

The law is clear that if a Councilmember or member of the public wish to spend money in opposition to a recall measure, they must create a political committee with the Office of Campaign Finance in opposition to the recall [DC Code § 1–1163.11(B)]. Jack Evans failed to do so. Instead, it appears that he, Don Dinan, and Franklin Wilds colluded to run an unlawful shadow campaign in opposition to the recall effort under the guise of a legal defense committee.

### **Allegation #2 – The Financial Disadvantage: By Unlawfully Using the Legal Defense Committee Subterfuge, the Evans Team Circumvented the Ward-Level Contribution Limits Placed on Political Committees**

Recall campaigns for Ward-level Councilmembers, either in favor or opposed to the recall, have a maximum contribution limit of \$500 [DC Code § 1–1163.33(5)]. Legal defense committees have a maximum contribution limit of \$2,000 [DC Code § 1–1163.29 (e)(1)], which was lowered from \$10,000 while Jack Evans was a Councilmember in the Campaign Finance Reform Amendment Act of 2018 (D.C. Law 22-250). By using the legal defense committee to finance its opposition to the recall, former Councilmember Jack Evans, Treasurer Don Dinan, and Chairman Franklin Wilds placed *The Committee to Hold Jack Evans Accountable* at a competitive disadvantage. Wealthy members of the public like Michael Kain, John Davies, Kay Kendall, Herbert Miller, Patrice Miller, Barbara Kahlow, Corbett Price, and Samuel Gerstenfeld, who all donated \$2,000 each, had an outsized influence over any donor to the recall campaign who could only legally give one-fourth that amount. The recall campaign could have hired more petitioners, paid for advertising, or funded other campaign activities, if the donation maximum was \$2,000.

### **Allegation #3 –Even If the Evans Team Could Have Used Legal Defense Committee Funds for Some Recall Purposes, Its Expenditures Here Were Impermissible**

The use of legal defense committee funds are strictly limited to paying for attorneys' fees and "other related costs." But the prohibitions on their use are considerably broader. DC Code § 1-1163.28(a)(2) provides that they "shall not include, *for example*, expenses for fundraising, media or political consulting fees, mass mailing or other advertising . . ." The use of the phrase "for example" and the specific items spelled out in the statute make clear the Council's intention that these legal defense committees not become a slush fund for essentially political expenditures. And yet this is exactly what the *D.C. Legal Defense Committee for Jack Evans* did.

According to the amended Third Report of the *D.C. Legal Defense Committee for Jack Evans* filed on January 20, 2020 with the Office of Campaign Finance, the *Committee* paid Capitol Inquiry Inc., for the stated purpose of being a "consultant," a total of \$4,200 in two payments -- on December 2, 2019 (\$1,500) and on December 15, 2019 (\$2,700). It has been reported this political consulting fee was paid for purpose of working in opposition to the recall campaign by drafting a challenge to the recall petitions. [See Attachment D]

As discussed above, the \$6,069 payment to Ankura also raises serious questions. In fact it turns out upon investigation that Ankura was paid by the *D.C. Legal Defense Committee for Jack Evans* to spy on the residential bona fides of a citizen who seeks to initiate a recall against an elected official – and moreover, if Ankura was paid in October for services it rendered several months prior to the establishment of the legal defense committee itself – such a payment would not only fall outside the bounds of permissible "related costs" under section DC Code § 1-1163.28(a)(1) but would warrant the most severe sanctions available under law. In addition, the Office of Campaign Finance should inquire whether Ankura was paid for any other purpose related to opposing the recall effort, and should determine whether any such payment fell properly within the bounds of the legal defense committee statute.

#### **Allegation #4 – The *D.C. Legal Defense Committee For Jack Evans* may have received an undisclosed campaign contribution or expenditure**

The mailing address for the *D.C. Legal Defense Committee For Jack Evans* on file with the Office of Campaign Finance is a co-working space located at 1325 G Street NW, Suite 500, Washington, DC 20005, founded by Oliver T. Carr. With branches in Boston, Chicago, Los Angeles, New York, San Francisco, as well as Washington, DC, the *Carr Workspaces* offer office space, virtual offices, co-working space, office suites, and meeting rooms. These spaces are not free for the general public to use. Rates range from \$25 for a day pass to \$80 a month for a virtual office (a mailing address akin to a P.O. Box) to \$750 a month or more for full time office [See Attachment F]. With the *D.C. Legal Defense Committee For Jack Evans* phone number on file with the Office of Campaign finance being a known phone number operated by committee treasurer Don Dinan, it is likely the committee used the Washington, DC Carr Workspace as a mailing



address for the *D.C. Legal Defense Committee For Jack Evans*. This was either an undisclosed expenditure or an undisclosed in-kind contribution made to utilize this service for four months.

Moreover, considering that Capitol Inquiry, Inc. is headquartered in Bethesda, it is also possible that its review of petition signatures took place at the Carr Workspace (or at some other office location in the District) for which a fair market rent should have been paid. In light of the other potential irregularities alleged above, this question also warrants further investigation by the Office of Campaign Finance.

### **Conclusion**

On the basis of the above discussion, I am requesting the Office of Campaign Finance to investigate whether former Councilmember Jack Evans, Don Dinan, Franklin Wilds, and the *D.C. Legal Defense Committee for Jack Evans* violated the election and campaign finance laws and regulations of the District of Columbia — including whether a legal defense committee can be used in lieu of a political committee to oppose a recall effort, whether paying a consultant to assist in a petition challenge in opposition to a recall measure is a lawful use of legal defense committee funds, whether paying a private investigator or similar consultant to investigate the legal residence of a recall campaign's organizer is a lawful use of legal defense committee funds, whether recall campaigns are placed at a fundraising disadvantage if legal defense committees can legally raise more money for the purpose of opposing a recall measure, and whether the committee received an undisclosed campaign gift or made an undisclosed expenditure for use of the committee's mailing address or office space.

Sincerely yours,

Adam Eiding  
Chairman, Committee to Hold Jack Evans Accountable  
2448 Massachusetts Ave., NW  
Washington, D.C. 20008

cc:

Mr. Michael Bennett, Chairman, DC Board of Elections

Mr. Mike Gill, DC Board of Elections

Ms. Karyn Greenfield, DC Board of Elections

Ms. Alice Miller, Executive Director, DC Board of Elections

Ms. Terri Stroud, General Counsel, DC Board of Elections

# ATTACHMENT A

**From:** "[dondinan@gmail.com](mailto:dondinan@gmail.com)" <[dondinan@gmail.com](mailto:dondinan@gmail.com)>

**Date:** Friday, November 29, 2019 at [REDACTED]

**To:** [REDACTED]

**Subject:** Statement of Complaint, EVANS.docx

[REDACTED]

Please see attached the statement that accompanied our challenge to Eidenger's Petition to Recall. Please call with any questions. Don Dinan. 202-997-3453



DISTRICT OF COLUMBIA  
BOARD OF ELECTIONS  
WASHINGTON, D.C. 20003



**ATTACHMENT B**



CONSENT TO ELECTRONIC SERVICE OF PAPER

The proceeding party consent to electronic service of all notices and documents in the above-captioned matter before the District of Columbia Board of Elections.

Candidate or Agent (Name or Address):

Donald R. Dinan  
221 9th St SE  
Washington, DC 20003

Telephone No.:

202-547-1888  
202-997-3453 mobile

E-Mail Address:

dandinan@gmail.com

Fax No. (optional)

Donald R. Dinan  
(TYPE OR PRINT NAME)

Donald R. Dinan  
(SIGNATURE OF CANDIDATE OR AGENT)

November, 2019  
(DATE)

# ATTACHMENT C

## City Center

1325 G Street NW

Suite 500

Washington, D.C. 20005

(202) 845-7543

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## Jack Evans Paid the Firm of Former Loose Lips Columnist \$4,200 Out of Legal Defense Fund

*Former City Paper politics writer Ken Cummins is a longtime private eye. The money was used to pay interns to review recall petitions.*

BY MITCH RYALS — JAN 6, 2020 10 AM



DARROW MONTGOMERY

Ward 2 Councilmember **Jack Evans** used a chunk of his legal defense fund to pay the private investigations firm started by *City Paper's* first Loose Lips columnist, **Ken Cummins**, according to Evans' most recent [legal defense committee filing](#).

Cummins says **Don Dinan**, the treasurer for Evans legal defense fund, hired his firm to review petitions submitted to the Board of Elections in an effort to recall Evans from office. The \$4,200 that it cost to pay interns working at Cummins' firm turned out to be some of the best money Evans has

spent. The BOE determined that the recall effort fell short of the 5,000 signatures needed and threw out the petition. But Evans will likely be forced off the Council by a vote of his fellow lawmakers later this month anyway, unless he resigns first.

The payment to Cummins' firm, along with the \$6,000 Evans paid Ankura Consulting Group, is the sum total of expenditures from Evans' legal defense fund. Evans' attorney, **Mark Tuohey**, previously declined to tell LL what the \$6,000 paid for.

Evans has taken in a total of \$18,200 to help with his legal bills since September, when he opened the legal defense committee. He has just under \$8,000 in the bank.

Attorneys Tuohey and **Abbe Lowell** have represented Evans during the D.C. Council's investigation into the lawmaker's private business dealings. Lawyers with the firm O'Melveny and Myers concluded that Evans repeatedly violated ethics rules through his private consulting work. Evans has disputed the firm's conclusions.

Evans is also under investigation by the U.S. Attorney's Office. He has not been charged with a crime.

Evans' most recent legal defense fund report, which covers Dec. 2, 2019, through Jan. 1, 2020, shows contributions totaling \$4,200, including \$2,000 from **Corbett Price**.

Price is the former Washington Metropolitan Area Transit Authority board member who attempted to help Evans cover up the Ward 2 rep's ethics violations while he served as chair of the Metro board. The Metro investigation is separate from the Council's ethics investigation.

Both Evans and Price falsely claimed the Metro board's ethics committee had cleared Evans of wrongdoing. Evans resigned from his position as Metro board chairman in June. Price resigned from the board in August.

Also chipping in to help pay Evans' legal bills last month was "bombastic and bigoted" former Shaw neighborhood commissioner, **Leroy Thorpe Jr.**, along with his wife, **Aissatou Drame**. They each kicked in \$100, and both signed onto a letter supporting Evans entitled, "The Jack We Know."

**Samuel Jon Gerstenfeld**, CEO of SJG Properties gave \$2,000.

Evans' wealthy friends, developers, business types, and one former congressman previously contributed to his legal defense, according to the committee's September report. Dupont Circle Business Improvement District founder and CEO of a real estate firm **Michael Kain** gave \$2,000. Chair of the DC Commission on Arts and Humanities **Kay Kendall**, and her husband, Monumental Sports partner **Jack Davis**, each gave \$2,000. Real estate developer **Herb Miller** and his wife **Patrice** also contributed \$2,000 a piece. And former Tennessee congressman **Barton Gordon** gave \$200.

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**ATTACHMENT D**

# ATTACHMENT E

Several cities also impose restrictions: in Houston, Texas, a candidate cannot be reimbursed for personal loans to their campaign in excess of \$75,000 for Mayor or city-wide offices, or \$50,000 for a district council office.<sup>89</sup> In Berkeley, California, candidate-controlled committees may receive contributions designated for a prior cumulative period only to help retire a campaign debt,<sup>90</sup> and the contributor must not have contributed the maximum of \$250 during that earlier period. Candidate-controlled committees may only receive such contributions until the end of the second semi-annual filing period (*i.e.*, December 31) in the next even-numbered year after the prior election.<sup>91</sup> For example, where a candidate-controlled committee has campaign debts remaining from the November 2014 election, it is prohibited from accepting contributions to retire this debt after December 31, 2016.<sup>92</sup> In New York City, loans from the candidate or from anyone else have to be repaid by the date of the election or they become contributions, subject to contribution limits.<sup>93</sup> Candidates who participate in the city's public financing program are allowed to contribute three times the contribution limit to their own campaign.<sup>94</sup>

### iii. *Reforming Legal Defense Committees*

A legal defense committee is “a person or group of persons organized for the purpose of soliciting, accepting, and spending funds to defray the professional fees and costs for a public official’s legal defense to one or more civil, criminal, or administrative proceedings.”<sup>95</sup> To the Committee’s knowledge, such a committee has never been created in the District. The Committee Print makes a minor amendment by allowing public officials to maintain legal defense committees only for the purpose of defraying attorney’s fees and other related costs for the official’s legal defense to one or more civil, criminal, or administrative proceedings *arising directly out of the conduct of a campaign, the election process, or the performance of the public official’s governmental activities and duties*. The Print thus clarifies that these committees may only be used for the public official’s legal defense in actions that are directly related to the public official’s status as a public official. This is in keeping with best practices in a number of states, including Connecticut, Massachusetts, Michigan, Nevada, North Carolina, Oregon, and Wisconsin.<sup>96</sup> Los Angeles, San Diego, and San Jose also provide for legal defense committees.<sup>97</sup>

### iv. *Limiting Contributions to Inaugural and Legal Defense Committees*

Current law sets the limits for individual contributions to inaugural<sup>98</sup> and legal defense committees<sup>99</sup> at \$10,000 per individual. These limits are significantly higher than the limits to

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<sup>89</sup> Houston Ord. § 18-37.

<sup>90</sup> FCPC Reg. R2.12.415.2(a).

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> New York City Admin. Code §§ 3-710, 3-711.

<sup>94</sup> *Id.*

<sup>95</sup> D.C. Official Code § 1-1161.01(30).

<sup>96</sup> Michael Halberstam and Susan Lerner, *Policy Proposal for the Regulation of Legal Defense Funds under New York City Laws*, New York Common Cause, at 5 (July 6, 2017), available at <https://www.commoncause.org/wp-content/uploads/legacy/states/new-york/research-and-reports/policy-proposal-for-the-regulation-of-legal-defense-funds-under-nyc-laws.pdf>.

<sup>97</sup> *Id.*

<sup>98</sup> D.C. Official Code § 1-1163.22.

<sup>99</sup> D.C. Official Code § 1-1163.29(e)(1).

**ATTACHMENT F**

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