



Mr. Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

September 22, 2022

By electronic mail (IRS.Commissioner@IRS.gov) and First Class mail

Re: Complaint Against (1) Mark Zuckerberg and (2) Priscilla Chan for Improper Charitable Contribution Deduction(s) Because Recipient Organizations Destroyed Their Tax-Exempt Status as 501(c)(3) Organizations Due to Unlawful Electioneering Activity

Dear Commissioner Rettig:

The Center for Renewing America (“CRA”),¹ a recognized tax-exempt 501(c)(3) charity, hereby respectfully requests that the Internal Revenue Service (“IRS”) immediately investigate Mark Zuckerberg and Priscilla Chan for unlawful personal income tax deduction(s) tracing to non-exempt Section 501(c)(3) activity.

On information and belief (since, inherently, we cannot see and review the personal income tax returns of these two individuals), CRA as Complainant alleges that improper tax deductions were taken directly or through intermediaries such as the Silicon Valley Foundation by Mr. Zuckerberg and/or Ms. Chan based on more than \$400 million channeled, directly or indirectly, to one or more of the following three entities: the (1) Center for Tech & Civic Life, (2) National Vote at Home Institute, and (3) Center for Election Innovation & Research. This Complaint incorporates by reference our separate Complaint filed today against those same three entities (and *vice versa*).

These organizations engaged in conduct prohibited by the Internal Revenue Code in the 2020 election cycle. While the relevant donations were made to organizations on the Publication 78 Data List, both donors were responsible for and

¹ CRA submit this letter in lieu of Form 3949-A.

aware of actions taken by those two organizations constituting prohibited electioneering activity for a Section 501(c)(3) entity under the Code. We leave to the Service to determine whether there is enough evidence to sustain a criminal investigation into Chan or Zuckerberg for tax fraud. Nevertheless, at the very least, it is incumbent upon the IRS to recoup what is likely a false tax deduction on a roughly hundred million-dollar order of magnitude: an unlawful taxpayer subsidy running to support Democrat electioneering purposes.

I. Chan and Zuckerberg Made Certain Donations and Likely Took Deductions.

The two organizations which clearly received funding from Chan and Zuckerberg in 2020, channeled through the Silicon Valley Community Foundation (EIN 20-5205488), are the Center for Election Innovation and Research (“CEIR”) and Center for Tech and Civic Life (“CTCL”), two nonprofit corporations currently exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code. *See* Silicon Valley Community Foundation (“SVCF”), Form 990, Schedule I, Part II, rows 2 & 3 (2020), *available at* [Silicon-Valley-Community-Foundation-2020-Form-990.pdf \(influencewatch.org\)](https://www.influencewatch.org/Silicon-Valley-Community-Foundation-2020-Form-990.pdf) (last visited Sept. 22, 2022) (\$328 million to CTCL + \$69.5 million to CEIR).

These two organizations have engaged in a pattern of political campaign activity prohibited by the IRC, as outlined in a separate, related complaint filed with the IRS today (“Complaint Against (1) Center for Tech & Civic Life, (2) National Vote at Home Institute, and (3) Center for Election Innovation & Research for Revocation of Tax-Exempt Status as 501(c)(3) Organizations Due to Unlawful Electioneering Activity”) (hereafter “Entities Complaint”).

Based on the points made in the Entities Complaint (incorporated herein by reference), CRA believes it is a matter of public record that Chan and Zuckerberg (via one or more intermediaries or by some other means) made substantial contributions to these three organizations or that they were part of a unified electioneering scheme operated during the 2020 fiscal year of the organizations.² This includes \$350 million sent to CTCL during the 2020 election year, and roughly \$69.5 million sent to CEIR during that same election year. (NVAHI’s interlocking activities are discussed in the Entities Complaint.) Under the Code, individual taxpayers may deduct from their taxable income amounts that are donated in that tax year to qualified charitable

² CEIR is delinquent in filing its Form 990 for 2020, by at least one year. The Service should investigate that issue, force filing of the return, and then depending on what the return reveals, proceed against CEIR as well.

organizations, but only pursuant to regulations established by the Secretary of the Treasury. *See id.*

As a rule, individuals donating to organizations may deduct contributions if the organizations appear on the successor to the “Publication 78 Data List” (now known as the Bulk Data Downloads), *available at* <https://www.irs.gov/charities-non-profits/tax-exempt-organization-search-bulk-data-downloads> (last visited Sept. 22, 2022). If an organization appears on that list at the time of a donation, subject to certain limitations, a grantor may lawfully deduct that donation, even if the organization’s tax-exempt status is later revoked. However, there is an exception. If the grantor or contributor “was responsible for, or aware of, the act or failure to act that resulted in the organization’s loss of classification under section 170(b)(1)(A)(vi),” 26 C.F.R. § 1.170A-9(f)(5)(ii) & (iii), then the grantor or contributor is not entitled to rely upon any advance ruling or determination letter of tax-exempt status, and is therefore not entitled to deduct from his or her personal income tax any such contribution.

While the personal income taxes of Mark Zuckerberg and Priscilla Chan are non-public, they did donate to the SVCF and public statements reflect that they advised SVCF to make donations to CTCL and CEIR.³ Additionally, CTCL and CEIR do appear on the successor to the Publication 78 Data List, and these organizations do hold themselves out to be Section 501(c)(3) charities under the Code. Furthermore, the two organizations themselves, in announcing the grants, described the funds as “donations.” It thus stands to reason that the two individuals did deduct these contributions from their income. While there is some ambiguity about the precise method for this donation, Form 990s for both organizations list the relevant donations

³ *See* Center for Tech and Civic Life, Press Release, *CTCL Receives Additional \$100M Contribution to Support Critical Work of Election Officials: Priscilla Chan and Mark Zuckerberg Commit Additional \$100 Million for Safe and Reliable Voting to Meet Overwhelming Demand; Additional Funds Build On \$300 Million Commitment, Will Meet Requests For Support From Local Election Jurisdictions That Surpassed Initial Commitment* (Oct. 13, 2020), *available at* <https://www.techandciviclelife.org/100m/> (last visited Sept. 22, 2022); *See also* Silicon Valley Community Foundation, *Philanthropy and Civic Participation: Lessons from the 2020 Election*, *available at* <https://www.siliconvalleycf.org/blog/philanthropy/philanthropy-and-civic-participation-lessons-2020-election> (Dec. 17, 2020) (last visited Sept. 22, 2022) (“SVCF invested in and helped donors contribute to organizations involved in civic engagement efforts both before and after the election, and we are grateful to our many partners across sectors for sharing our ongoing efforts to support civic participation.”); *id.* (“The question is now, how do we transition from the sort of triage mode that we’ve had to be in in 2020, given that we were in essentially an emergency response situation, to tap into this new possibility of the ways that we’ve come together and sustain that?” Epps-Johnson [founder of CTCL] said.”); *id.* (“I think we’d all agree that Plan A is that the government provides enough resources to support our democracy, but the government did not step up and do it this year,” Becker [founder of CEIR] said.”).

as made by “persons.” And while some public reporting suggests the funds might have been passed through the “Chan Zuckerberg Initiative,” that organization is set up as a California limited liability company, effectively allowing pass-through tax benefits to its owners, the two individuals.

II. The Recipient Organizations Engaged in Prohibited Activity, Which Chan and Zuckerberg Knew About and Intended.

Moreover, the seriousness of the conduct of the two recipient organizations should give the IRS urgent reason to investigate these donations, as described in the Entities Complaint. Crucially, that conduct was not only known to both Zuckerberg and Chan, but was affirmatively intended by them, and, in fact, was the principal purpose of their donations. Clearly, Mark Zuckerberg and Priscilla Chan knew exactly what they were doing when they hired David Plouffe, a former Barack Obama presidential campaign operative, to serve as their advisor for expenditures to be made by their charitable entity. *See* Nolan D. McCaskill, *Plouffe to Lead Chan Zuckerberg Initiative’s Work on Policy, Advocacy*, POLITICO (Jan. 10, 2017), available at <https://www.politico.com/story/2017/01/plouffe-zuckerberg-facebook-233430> (last visited Sept. 22, 2022).

Plouffe spent the years leading up to the 2020 election designing a public campaign to defeat Donald Trump, including appearing in multiple media programs and videos explaining exactly how this goal was to be accomplished. Indeed, he repeatedly stressed that he was acting in his capacity as the top strategist for the Chan Zuckerberg Initiative. Commonwealth Club of California, *Interview with David Plouffe: How to Defeat Donald Trump* (May 18, 2020), available at <https://www.youtube.com/watch?v=4DPTyiEzkNQ> (last visited Sept. 22, 2022).

Plouffe is also the author of *A Citizen’s Guide to Defeating Donald Trump*, which outlines a strategy for the Democrat Party to target specific areas of the country to maximize the chances of its partisan victory in the 2020 election. That strategy matches exactly the pattern of expenditures by CTCL and CEIR in the 2020 election. Indeed, Mr. Plouffe is on record noting that the areas where Chan and Zuckerberg donations were spent were precisely the areas needed for a Democrat victory in the upcoming presidential election. *See* Mollie Hemingway, *RIGGED 212* (2021). Additionally, the boards of both CTCL and CEIR skew heavily toward the Democrat party, including former Obama administration officials, while apparently not including a single registered Republican.

Both Chan and Zuckerberg are known Democrat donors, and their public statements about their donations raise serious concerns. Not only did Mark Zuckerberg

publicly ban Donald Trump from his proprietary platforms Facebook and Instagram in 2021, but in the run up to the 2020 election, 83% of Facebook PAC donations, much of which came from Zuckerberg himself, went to Democrat candidates, with Joe Biden being the largest recipient, taking in almost \$650,000. *See* Chris Field, *FEC Data Reveals 83% of Facebook 2020 Election Donations Have Gone to Democrats. Joe Biden Is by Far the No. 1 Recipient*, THE BLAZE, available at <https://www.theblaze.com/news/fec-facebook-2020-election-donations-democrats> (Oct. 15, 2020), last visited (Sept. 22, 2022).

The money donated to CTCL and CEIR was advertised by those organizations as intended to ensure “safe and secure” or “safe and reliable” elections in the wake of the COVID-19 pandemic. Money was disbursed to state and local jurisdictions, and the heavily lawyered press releases from both organizations note that “every qualified” jurisdiction would receive support. Nevertheless, as noted by numerous oversight groups, and multiple in-depth analyses since the 2020 election, the overwhelming majority of the Zuckerberg-Chan money was granted to heavily Democratic jurisdictions in key battleground States. *See* Entities Complaint. And indeed, various state oversight officials have already noted that the COVID-19 justification for grants appears to have been *pretextual*—a “bait and switch” belying email trails that demonstrate no concern on the part of CTCL for safety, and limited intent to actually provide protective equipment or training to local election offices. Office of the Special Counsel, “Second Interim Investigative Report On the Apparatus & Procedures of the Wisconsin Elections System.” <https://www.wpr.org/sites/default/files/osc-second-interim-report.pdf> at 57 (last visited Sept. 22, 2022) (hereafter “Gableman Report”) (“The projects that CTCL’s partners promoted had nothing to do with Covid-19 safety.”).⁴

⁴ This letter was initially drafted to link to the Gableman Report at the official legislative address it was posted to. That link has since gone dead (<https://legis.wisconsin.gov/assembly/22/brandtjen/media/1552/osc-second-interim-report.pdf>). Hence, we link above to the Wisconsin Public Radio preservation of the report.

See also Todd Shepherd, *Democratic-Leaning Counties Selectively Invited to Apply for Election Grants, Emails Show*, BROAD + LIBERTY (Oct. 13, 2021), available at <https://broadandliberty.com/2021/10/13/network-of-dark-money-groups-implemented-selective-election-grant-process-favoring-democratic-leaning-counties-emails-show/> (last visited Sept. 22, 2022) (“‘These grants were not about COVID-19 — they were about influencing the outcome of elections,’ said Nick Stehle, vice president of communications for FGA [Foundation for Government Accountability]); Susie Moore, *EXCLUSIVE: MO AG’s Office Subpoenas Records From Non-Profit That Doled out ‘Zucker Bucks’*, RED STATE, available at <https://redstate.com/smoosieq/2022/06/03/exclusive-mo-ags-office-subpoenas-records-from-non-profit-that-doled-out-zucker-bucks-n574404> (last visited Sept. 22, 2022) (“The Missouri Attorney General’s office

What publicly available grant documents there are demonstrate that what “qualified” a jurisdiction for CTCL or CEIR grant also had a partisan valence: contracts with some local jurisdictions included reporting and clawback provisions binding local officials to maximize voter outreach (“Get Out the Vote”—a traditionally partisan endeavor conducted by candidates and political parties) to voters who can be counted upon to vote overwhelmingly Democrat. *See, e.g.,* Gableman Report at 41-43 (“Chapter 2: The Motive for These Grants Was Impermissible and Partisan Get-Out-the-Vote Effort (GOTV)”).

A strong case can be made that municipalities contracting with private corporations to maximize their outreach to non-English-speaking voters and “voters of color” are violating constitutional guarantees of equal protection. *See Bush v. Gore*, 531 U.S. 98 (2000) (different vote-counting standards varying from table to table violated the Equal Protection Clause). But quite apart from that question of federal constitutional law, this Complaint makes as its subject the separate question—falling squarely within the IRS’s bailiwick—of whether the purpose and effect of such racially targeted voter outreach has such a clear partisan tendency that the IRS should step in to put an end to it and prevent taxpayers from subsidizing such conduct with tax deductibility⁵. We urge the Service to recognize that the disparate impact of these donations is enough to evince a clear intent by Zuckerberg-Chan and their agent, Plouffe, to channel their donations for prohibited electioneering purposes: something that IRS guidance clearly prohibits. Indeed, the Internal Revenue Code has banned the deductibility of such activities on pain of losing tax-exempt status since 1954. *See* 26 U.S.C. § 501(c)(3) (as amended by the so-called Johnson Amendment (100 Cong. Rec. (daily ed. July 2, 1954), as itself amended in 1987).⁶ Voter registration that is focused on one political party or candidate is specifically prohibited. *See IRS, Political Campaigns and Charities: The Ban on Political*

confirms that, on Friday, they issued a Civil Investigative Demand (CID) (essentially, a subpoena) to CTCL requesting information and documentation which will assist in determining why it appears that a majority of this money went to Democratic strongholds and swing states and counties in particular. Was this an effort to drive turnout and influence the 2020 elections under the guise of ‘safety’?”).

⁵ This Complaint and its companion, the Entities Complaint, express no view herein on the consistency of the Johnson Amendment with the First Amendment, as applied to advocacy by churches and other religious organizations taking advantage of Section 501(c)(3). It may be difficult to separate religious/moral-inspired advocacy, which is First Amendment-protected, from political advocacy, at least in some situations. But the Zuckerbucks Program run by Zuckerberg, Chan, and Plouffe is not even remotely classifiable as religious speech.

⁶ *See* John R. Vile, *Johnson Amendment*, THE FIRST AMENDMENT ENCYCLOPEDIA, available at <https://www.mtsu.edu/first-amendment/article/1744/johnson-amendment> (last visited Sept. 22, 2022).

Campaign Intervention Course, available at https://www.stayexempt.irs.gov/se/files/downloads/PoliticalCampaigns_Print.pdf (last visited Sept. 22, 2022) (banned activity includes use of a charity’s “resources to influence an election”). It logically follows that partisan and racially discriminatory grantmaking is unlawful when paid for with charitable dollars, as was the case with the Zuckerberg-Chan funding of their national program led by Mr. Plouffe to defeat Donald Trump and elect Democrat Joe Biden.

In addition to these contracts, CTCL provided income supplements to local officials — “bounties” that facially violate statutes against election bribery that exist in all fifty States. The public press release of CTCL makes clear that the supplemental pay, as well as “temporary staffing support,” were specifically intended by the donations of Chan and Zuckerberg. While grants to municipalities may, under certain limited circumstances, be lawfully made under the Code, the permissibility is very limited, and exists only to the extent such grants are lawful and not contrary to fundamental public policy. *See* 26 U.S.C. § 170(c)(1) (“For purposes of this section, the term ‘charitable contribution’ means a contribution or gift to or for the use of—(1)A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, *but only if the contribution or gift is made for exclusively public purposes.*”). Zuckerbucks grants were not made exclusively for public purposes but for the very private and partisan purpose of influencing the outcome of the 2020 election. Hence, deductibility is disallowed. *See also* IRS, Governmental Information Letter, *available at* <https://www.irs.gov/government-entities/federal-state-local-governments/governmental-information-letter> (last visited Sept. 22, 2022).

At federal law, limitations on voluntarism and donations to federal agencies abound. *See, e.g.* 31 U.S.C. §§ 1341-1342 (part of the Antideficiency Act). This is a legacy of merits-based civil service bureaucracies as established in the Progressive Era: the neutrality and expertise of public servants is called into question when their salaries are reliant upon outside money, or when public functions are delegated to private entities. As a result, outside money has to be restricted to guarantee civil service neutrality. This is especially true in the election law context, because perceived bias in election administration undermines the foundations of our democracy. In fact, that very issue was addressed by the United States Supreme Court in *Bush v. Gore* involving a recount process occurring in Florida attended by bias and arbitrariness was invalidated under the Equal Protection Clause.

CONCLUSION

Mark Zuckerberg and Priscilla Chan set about in 2017 to remedy the perception among the Hillary Clinton Democrats and leftists across the country that, somehow, Facebook and Zuckerberg were culpable for the election of Donald Trump in 2016. They hired David Plouffe, the Obama campaign strategist, to develop a concrete plan of action that would redeem Zuckerberg in the minds of the left by defeating Donald Trump in 2020.

David Plouffe developed the plan, literally wrote the book, and appeared in videos describing how his and other Democrats' aims could and must be achieved.

Then, Zuckerberg and Chan gave nearly half a *billion* dollars to implement the plan through CTCL and CEIR, coupled with reinforcing activities of the NVAHI, by funding local election offices, with the emphasis on funneling new monies into the election offices in heavily Democratic jurisdictions in particular. As covered in the incorporated Entities Complaint, multiple studies have been conducted since the 2020 election which document the disparate treatment of the election offices who received the greatest amounts of funding—and the specific programs the local election offices were required by CTCL and CEIR to implement.

When Zuckerberg and Chan provided funding to programs that they knew were for a political (and thus unlawful) purpose, they should not be permitted to benefit from the charitable deduction related to those contributions. The same activities could and should have been carried out by a political organization—a 527 political organization that exists for the purpose of making political expenditures.

Zuckerberg and Chan could have contributed to a super PAC that would have been legally eligible to engage in the voter registration and voter turnout activities that the supported election offices engaged in during the 2020 election. But then they would not have been able to claim the charitable deduction for their contributions. All that this Complaint asks is that Zuckerberg and Chan should be stripped of the benefit of such deductions now for funding unlawful political activities by the entities that implemented the Plouffe program that partisan political strategists designed to defeat Donald Trump.

The IRS should thoroughly investigate the Zuckerbucks scheme by which these married billionaires deliberately sought to and did influence the outcome of the 2020 presidential election, abusing the charitable deduction in the process. Whatever excise tax, civil, or criminal penalties are appropriate should be imposed on them, the relevant corporate agents, on the Zuckerberg-Chan Initiative, and on any other entity that has violated the federal law that prohibits charities from making partisan campaign expenditures.

The most immediate and obvious consequence, however, which does not require any assessment of moral culpability as penalties tend to do, is to disallow the tax deduction for these individual contributors by virtue of the fact that those contributors were not entitled to rely upon the Publication 78 Data List. Public statements by the recipient organizations, as well as the partisan nature of the donors and boards, the pattern of grantmaking by the recipients, and the public statements of the Zuckerberg-Chan's agent David Plouffe make it clear that both Chan and Zuckerberg have long known, and intended, that their donations be used for activities by the recipient organizations that were prohibited as electioneering, unlawful under state law, and otherwise run contrary to public policy. Further support for such a conclusion appears in the accompanying Entities Complaint, which is incorporated herein by reference.

Accordingly, Complainant respectfully requests an investigation be opened into Priscilla Chan and Mark Zuckerberg for falsely claiming charitable deductions, and that all applicable fines and penalties be assessed against those individuals. We also ask that we be kept apprised of the IRS's progress in investigating this matter.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "R. Vought", with a long horizontal stroke extending to the right.

Russell T. Vought

Center for Renewing America