

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AUSTIN SANCTUARY NETWORK FREE  
IMMIGRATION PROJECT, *et al.*,  
Plaintiffs,

No. 20-cv-1686

v.

UNITED STATES IMMIGRATION  
AND CUSTOMS ENFORCEMENT, *et al.*,  
Defendants.

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**DECLARATION OF DAVID BENNION IN SUPPORT OF PLAINTIFFS' CROSS-  
MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT**

I, David Bennion, hereby declare under the penalty of perjury that the following is true and correct to the best of my knowledge:

1. I am David Bennion, executive director of Free Migration Project, an immigrant rights nonprofit organization in Philadelphia, Pennsylvania.
2. Since 2016, Free Migration Project has been working to advance immigrant rights, defend immigrant communities from anti-immigrant policies, and educate the public about these issues.
3. As part of our work, we have worked closely with members of the National Sanctuary Collective to support the work of the sanctuary movement, a movement led by mostly asylum-seeking women who have taken refuge, or sanctuary, in houses of worship across the United States.
4. In 2019, U.S. Immigration and Customs Enforcement under the Trump Administration fined several leaders of the National Sanctuary Collective hundreds of thousands of dollars each for “failure to depart” the United States. From Executive Order No. 13768, we know

that President Donald J. Trump ordered federal immigration officials to implement a civil fines policy. We also know, based in part to the instant Freedom of Information Act request and another, unrelated Freedom of Information Act request, that several top Trump advisors and associates were somehow involved in the rollout of this policy. To this day, however, we do not know which officials either inside or outside of the Trump Administration made the decision to use this policy to target the leaders of the sanctuary movement.

5. I submit this declaration to provide background information regarding some of the individuals whose names have surfaced in documents and communications regarding the Trump Administration’s civil fines policy. These people named in these documents—specifically, Stephen Miller, Jon Feere, and Gene Hamilton—have been associated with some of the most aggressive immigration policies during the Trump Administration. In this declaration, I describe their reported roles and known associates. I also describe their continuing influence and the need for more information about their involvement in this civil fines policy.

### **Senior Immigration Policymakers During the Trump Administration**

6. President Donald J. Trump made immigration broadly, and attacks against so-called “sanctuary jurisdictions” specifically, a signature issue of his administration.<sup>1</sup>
7. Stephen Miller:
  - a. White House Senior Adviser Stephen Miller was one of President Donald Trump’s most influential aides. He was also the architect of many of the previous

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<sup>1</sup> Exec. Order No. 13768, 82 Fed. Reg. 8799 (Jan. 30, 2017) (justifying the targeting of sanctuary jurisdictions because these “jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States”).

administration’s most hardline immigration policies, including the Muslim-country travel ban, the forced family separation plan at the US-Mexico border,<sup>2</sup> low refugee admissions caps, and the rule that would allow the government to deny green cards to immigrants considered likely to use public assistance.<sup>3</sup>

- b. Miller went so far as to handpick appointees with the same hardline immigration views and place them throughout the Trump administration. An August 2018 *Vanity Fair* article said that he installed appointees who were “high up enough that they would know everything but not high up enough that they would be in the public spotlight or need Senate confirmation.”<sup>4</sup>
- c. During his time in the White House, Miller corresponded with anti-immigrant groups such as the Center for Immigration Studies (“CIS”)—which has been designated as a hate group by the Southern Poverty Law Center (“SPLC”)<sup>5</sup>—to shape immigration policy.<sup>6</sup>

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<sup>2</sup> Julie Hirschfeld Davis & Michael D. Shear, *How Trump Came to Enforce a Practice of Separating Migrant Families*, N.Y. TIMES (June 16, 2018), <https://www.nytimes.com/2018/06/16/us/politics/family-separation-trump.html>.

<sup>3</sup> Elaina Plott, *The New Stephen Miller*, ATLANTIC (Aug. 14, 2019), <https://www.theatlantic.com/politics/archive/2019/08/who-is-ken-cuccinelli/596083/>.

<sup>4</sup> Abigail Tracy, “*There Won’t Even Be a Paper Trail*”: *Has Stephen Miller Become a Shadow Master at the State Department?*, VANITY FAIR (Aug. 12, 2018), <https://www.vanityfair.com/news/2018/08/stephen-miller-refugees-state-department>.

<sup>5</sup> *Center for Immigration Studies*, S. POVERTY L. CTR., <https://www.splcenter.org/fighting-hate/extremist-files/group/center-immigration-studies> (last visited Jan. 31, 2022) (“[W]hat precipitated listing CIS as an anti-immigrant hate group for 2016 was its repeated circulation of white nationalist and antisemitic writers in its weekly newsletter and the commissioning of a policy analyst who had previously been pushed out of the conservative Heritage Foundation for his embrace of racist pseudoscience. These developments, its historical associations, and its record of publishing reports that hype the criminality of immigrants, are why CIS is labeled an anti-immigrant hate group.”).

<sup>6</sup> Jason DeParle, *How Stephen Miller Seized the Moment to Battle Immigration*, N.Y. TIMES (Aug. 17, 2019), <https://www.nytimes.com/2019/08/17/us/politics/stephen-miller-immigration-trump.html>.

- d. In November of 2019, SPLC released its first installment of a report examining over 900 emails Stephen Miller sent to Breitbart editors, an anti-immigrant media outlet, between March 2015 and June 2016.<sup>7</sup> In January 2020, SPLC released the fifth report of this series, where they reported that “Miller said DACA recipients would contribute to altering the country’s demographics by replacing Americans born in the United States.”<sup>8</sup> DACA refers to Deferred Action for Childhood Arrivals, a program that provides temporary reprieves from deportation for individuals who meet certain criteria.
- e. Furthermore, Miller has shown active hostility towards the sanctuary movement, as evidenced by various email communications with other individuals in the Trump administration. In a March 2017 email, Jody Hunt, then-Chief of Staff for Jeff Sessions, asked a group of Justice Department officials to meet to discuss “marching orders” he had received from Miller and Steven Bannon regarding sanctuary cities.<sup>9</sup> Later that month, Miller sent corrections to a draft of remarks Sessions was set to deliver regarding the withholding of federal funding from sanctuary cities.<sup>10</sup>

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<sup>7</sup> Michael Edison Hayden, *Stephen Miller’s Affinity for White Nationalism Revealed in Leaked Emails*, S. POVERTY L. CTR. (Nov. 12, 2019), <https://www.splcenter.org/hatewatch/2019/11/12/stephen-millers-affinity-white-nationalism-revealed-leaked-emails>.

<sup>8</sup> Michael Edison Hayden, *Miller Dismisses DACA in Emails, Mirroring Anti-Immigrant Extremists’ Views*, S. POVERTY L. CTR. (Jan. 12, 2020), <https://www.splcenter.org/hatewatch/2020/01/14/miller-dismisses-daca-emails-mirroring-anti-immigrant-extremists-views>.

<sup>9</sup> *Stephen Miller’s Influence on Immigration Policy—And Throughout the Administration*, AM OVERSIGHT (Jan. 27, 2021), <https://www.americanoversight.org/investigation/stephen-millers-influence-on-immigration-policy-and-throughout-the-administration>.

<sup>10</sup> *Id.*

- f. Miller and Gene Hamilton (see below) also exchanged emails in March 2018 about using revenue generated by civil fines to pay for construction of a border wall, with Miller writing to Hamilton on March 27, 2018 “[s]o the fines and penalties can PAY for wall construction?”<sup>11</sup>
8. Jon Feere:
- a. ICE Chief of Staff and Senior Advisor to ICE Director Jon Feere, who appears across several documents produced to Plaintiffs, began his career at CIS, an organization that played a great role in influencing immigration policies outside of the administration.<sup>12</sup> Before joining the Trump administration in 2017, Feere routinely circulated extremist content on Twitter and once went as far as to grant an interview to an openly anti-Semitic tabloid.<sup>13</sup>
- b. Feere is one of a number of CIS employees that took positions within the Trump Administration.<sup>14</sup> He served as an advisor to Acting ICE Director Thomas Homan during the time when Homan recommended the family separation policy, which the United Nations Human Rights Council said “may amount to torture.”<sup>15</sup>

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<sup>11</sup> *In the Documents: Stephen Miller Emails with Justice Department Official About Anti-Immigration Measures*, American Oversight, July 23, 2020, <https://www.americanoversight.org/in-the-documents-stephen-miller-emails-with-justice-department-official-about-anti-immigration-measures> (citing documents obtained via FOIA litigation).

<sup>12</sup> Nicholas Kulish & Mike McIntire, *See Why an Heiress Spent Her Fortune Trying to Keep Immigrants Out*, N.Y. TIMES (Aug. 14, 2019), <https://www.nytimes.com/2019/08/14/us/anti-immigration-cordelia-scaife-may.html>.

<sup>13</sup> Stephen Piggott, *Report: Another Anti-Immigrant Extremist to Join the Trump Administration*, S. POVERTY L. CTR. (Jan. 27, 2017), <https://www.splcenter.org/hatewatch/2017/01/27/report-another-anti-immigrant-extremist-join-trump-administration>.

<sup>14</sup> DeParle, *supra* note 6.

<sup>15</sup> *UN Experts to US: “Release Migrant Children From Detention and Stop Using Them to Deter Irregular Migration,”* UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R (June 22, 2018), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23245&LangID=E>.

- c. In a blog for CIS, Feere also suggested that deporting the parents of DACA beneficiaries should be a prerequisite in any deal which provided them legal status.<sup>16</sup> *The New York Times* also reported that Feere advocated for “less immigration,” so that there would be less Latinx individuals.<sup>17</sup>

9. Gene Hamilton:

- a. Gene Hamilton, former aide to then-Attorney General Jeff Sessions, was also an influential player in the Trump administration’s immigration policies, where he laid the groundwork for President Trump’s Muslim bans, changes to refugee policies, and immigration enforcement measures.<sup>18</sup> As noted above, he appears to have communicated with Miller about the civil fines.
- b. Hamilton was instrumental in setting refugee caps at historic lows and in ending Temporary Protected Status (“TPS”) for multiple countries.<sup>19</sup> Moreover, documents made public as part of ongoing TPS litigation show that Hamilton made last minute revisions to TPS assessment memos, attempting to remove references to human rights violations.<sup>20</sup> Additionally, according to transcripts from an October 2017 deposition, Hamilton acknowledged that he had been the author of the

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<sup>16</sup> Nicholas Kulish, *With Ally in Oval Office, Immigration Hard-Liners Ascend to Power*, N.Y. TIMES (Apr. 24, 2017), <https://www.nytimes.com/2017/04/24/us/with-ally-in-oval-office-immigration-hard-liners-ascend-to-power.html>.

<sup>17</sup> DeParle, *supra* note 6.

<sup>18</sup> See Jonathan Blitzer, *How Stephen Miller Single-Handedly Got the U.S. to Accept Fewer Refugees*, NEW YORKER (Oct. 13, 2017), <https://www.newyorker.com/news/news-desk/how-stephen-miller-single-handedly-got-the-us-to-accept-fewer-refugees>; Jonathan Blitzer, *A Trump Official Behind the End of DACA Explains Himself*, New Yorker (Nov. 10, 2017), <https://www.newyorker.com/news/news-desk/trump-official-behind-the-end-of-daca-explains-himself>,

<sup>19</sup> Rachel Treisman, *Court Rules Government Can End Humanitarian Protections For Some 300,000 Immigrants*, NPR (Sept. 14, 2020), <https://www.npr.org/2020/09/14/912900167/court-rules-government-can-end-humanitarian-protections-for-some-300-000-immigra>.

<sup>20</sup> *Id.*

Department of Homeland Security (“DHS”) memo that formally terminated Deferred Action for Childhood Arrivals.<sup>21</sup>

- c. While he was working in the Trump administration, Hamilton maintained contact with many anti-immigrant groups, organizing meetings and discussing high-level policy within the administration. For example, Hamilton’s connections with CIS resulted in alterations to major federal immigration policies.<sup>22</sup>

10. Other individuals and organizations:

- a. Journalists and civil watch groups have reported that Miller, Feere, and Hamilton were associated with numerous other individuals and organizations advocating for restrictions on immigrants and immigration, including but not limited to individuals such as Mark Krikorian, Jessica Vaughn, Stephen Camarota, John Miano, and organizations such as CIS, Immigration Reform Law Institute (“IRLI”), Numbers USA, Federation for American Immigration Reform (“FAIR”), and others.<sup>23</sup>
- b. Given the limited search and heavily redactions, it is unclear whether these individuals and organizations shared their views on civil fines with senior ICE

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<sup>21</sup> Blitzer, *A Trump Official Behind the End of DACA*, *supra* note 18.

<sup>22</sup> *Former Trump Administration Official Gene Hamilton’s Contacts With Far-Right Anti-Immigration Groups*, AM. OVERSIGHT (May 6, 2021), <https://www.americanoversight.org/former-trump-administration-official-gene-hamiltons-contacts-with-far-right-anti-immigration-groups> (“In July 2017, Camarota emailed Hamilton and asked if the administration could ‘delay’ an announcement regarding a temporary increase in new H-2B temporary worker visas so that CIS could ‘put some stuff out’ to argue that there was ‘no need’ for the expansion. The government appears to have adopted the group’s desired timing on the announcement, allowing CIS to publish materials referencing a policy change that was coming ‘any day.’”)

<sup>23</sup> See *Former Trump Administration Official Gene Hamilton’s Contacts*, *supra* note 22; Michael Edison Hayden, *Emails Detail Miller’s Ties to Group That Touted White Nationalist Writers*, S. POVERTY L. CTR. (Nov. 14, 2019), <https://www.splcenter.org/hatewatch/2019/11/14/emails-detail-millers-ties-group-touted-white-nationalist-writers>; DeParle, *supra* note 6.

leadership, but they are known to have lobbied the Trump Administration extensively, focusing on high-level leadership.

### **Continuing Influence and Public Interest in These Former Trump Administration Officials and Their Associates**

11. *Bloomberg News* has recently described Miller and his associates as part of “the former president’s inner circle seeking to rouse his movement as he weighs a possible 2024 run to return to the White House.”<sup>24</sup>
12. Stephen Miller currently works with Gene Hamilton at America First Legal, a group that news outlets have characterized as an attempt to regain an anti-immigrant presidential administration in 2024.<sup>25</sup> *Rolling Stone* notes that Miller is part of a circle of former Trump associates that are “positioning themselves to bring back Trump-era policies back to the White House, “whether it be through the media, fundraising operations, or even an effort to carry the torch of Trumpism back into the Oval Office.”<sup>26</sup>
13. Jon Feere is currently the Director of Investigations of CIS.<sup>27</sup> Feere’s and Miller’s policies have long outlasted the Trump administration, with the Biden administration retaining many of the same frameworks they created.<sup>28</sup> For example, the Victims of Immigration Crime Engagement office, known as VOICE—which was created by Feere and Miller to

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<sup>24</sup> Erik Larson, *Stephen Miller Brings His Trumpist Crusade to the Courts*, BLOOMBERG NEWS (Oct. 12, 2021), <https://www.bloomberg.com/news/articles/2021-10-12/stephen-miller-s-trumpist-organization-afl-sues-biden-administration>.

<sup>25</sup> *Id.*

<sup>26</sup> Andy Kroll & Ryan Bort, *A Guide to What the Trump Administration’s Most Notorious Figures Are Doing Now*, ROLLING STONE (Mar. 30, 2021), <https://www.rollingstone.com/politics/politics-features/trump-administration-where-are-they-now-1148481/>.

<sup>27</sup> DeParle, *supra* note 6

<sup>28</sup> Vera Bergengruen, *Exclusive: Trump Created an Office That Highlighted Immigrant Crime. Biden’s DHS Plans to Keep It*, TIME (May 14, 2021), <https://time.com/6048445/donald-trump-victims-of-immigrant-crime-office-joe Biden/>.



position immigrants as linked to crime—has remained open under the Biden administration.<sup>29</sup>

14. Gene Hamilton has also been involved in the creation of America First Legal, which has organized anti-immigrant attorneys general to mount legal challenges to selected policies of the Biden administration.<sup>30</sup> Hamilton spearheads the group’s legal efforts, which have included lawsuits attempting to prevent DHS from softening border restrictions.<sup>31</sup>

15. There are numerous other individuals whose names repeatedly appear, unredacted, in the materials associated with civil fines, including Matthew Albence, Thomas Blank, Tracey A. Valerio, Daniel H. Ragsdale, Barbara M. Gonzalez, Raymond Kovacic, Liz Johnson, Debbie Seguin, Timothy Robbins, Enrique (“Henry”) Lucero, Rebecca Adducci, Robert Culley, Daniel Bible, Diane L. Witte, John Tsoukaris, Gregory Archambeault, Thomas Decker, Simona L. Flores-Lund, Nathalie Asher, David A. Marin, Derek N. Benner, Staci Barrera, Mike P. Davis, Tracy Short, Adam V. Loiacono, Kenneth Padilla, Jo Ann McLane, Wen-Ting Cheng, Karen Lundgren, Nelson Perez, Sandra Anderson, Nicole Guzman, Michael J. Davidson, and George Fishman. While some of these individuals are known to have left federal government, others are known to have remained in their posts or similar positions under the Biden Administration. Their potential if not likely involvement in the fines and the choice to target leaders of the sanctuary movement thus also remains of significant interest, particularly since the fines against the sanctuary leaders have not yet been cancelled.

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> AM. LEGAL FIRST, <https://www.aflegal.org/about> (last visited Jan. 31, 2022)

Dated: Philadelphia, Pennsylvania  
February 4, 2022



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David Bennion