



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 18, 2021

VIA EMAIL

Natalie Elsberg

New York, NY 10024

RE: MUR 7592

Dear Ms. Elsberg:

On April 11, 2019, the Federal Election Commission notified you of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time. On May 1, 2019, the Commission received your response.

As a result of an administrative oversight, the Commission recently learned two exhibits referred to in the complaint were not included in the original submission. The Commission recently received "Exhibit 1" to the complaint, which is attached. The exhibit referred to as "Exhibit 2" is available at <https://justicedems.freshdesk.com/support/solutions/articles/33000223353-when-i-look-at-the-fec-report-for-justice-democrats-in-2017-why-are-there-so-many-expenditures-to-b>, as noted in the original submission of the complaint.

If you have any questions, please contact Kathryn Ross at (202) 694-1539.

Sincerely,

Roy Q. Lockett

Roy Q. Lockett
Acting Assistant General Counsel
Complaints Examination &
Legal Administration

Enclosures:

1. Complaint "Exhibit 1"

EXHIBIT 1

*Statement of David Mitrani, Attorney
Sandler, Reiff, Lamb, Rosenstein & Birkenstock PC, Washington D.C.*

Our law firm serves as counsel to Alexandria Ocasio-Cortez for Congress, Justice Democrats, Brand New Congress PAC, and Brand New Congress LLC.

The activities of Brand New Congress PAC, Brand New Congress LLC, Justice Democrats, and Alexandria Ocasio-Cortez for Congress have at all times been conducted fully in compliance with the federal campaign finance laws. The implications in recent press accounts that these entities in any way operated with less than full transparency or in some way to skirt to law, are absolutely and unequivocally false. The factual details are as follows:

1. In April of 2016, Brand New Congress PAC was formed as a federal political committee, with the goal of recruiting progressive candidates, and running an integrated national campaign – primarily online. Brand New Congress PAC was dormant until January 2017, when it was initially registered with the Federal Election Commission.¹
2. Justice Democrats was registered as a federal political committee, with the Federal Election Commission in January 2017.²
3. Given that there was shared control between the entities, Justice Democrats and Brand New Congress PAC were properly disclosed as “affiliated” committees to the Federal Election Commission.
4. Justice Democrats and Brand New Congress PAC sought to implement a national program to recruit non-traditional candidates for United States House of Representatives and Senate, and to support them with an infrastructure to effectively run their campaigns as an integrated, national effort – so that candidates could focus on being candidates that could best represent their communities, opposed to solely focused on high-dollar fundraising and national endorsement to drive electoral success.

Given the almost-daily stories about how difficult life as a candidate for federal office is – especially high-dollar donor prospecting and fundraising – these two political committees sought to create a model which could permissibly assist candidates with no name-recognition become bastions of the progressive movement.

5. Based on this concept, Brand New Campaign LLC – eventually renamed as Brand New Congress LLC – was formed to serve as a “campaign in a box”, a one-stop vendor for communications, field, online organizing, fundraising and the like, specifically for the

¹ <http://docquery.fec.gov/cgi-bin/forms/C00613810/1139431/>

² <http://docquery.fec.gov/cgi-bin/forms/C00630665/1137733/>

purpose of providing those services for Brand New Congress PAC, Justice Democrats PAC, and the various candidates that those committees supported. Mr. Chakrabarti was the sole member – that is, owner – of Brand New Congress LLC.

6. Brand New Congress LLC received guidance from the Federal Election Commission as to how payments from the PACs and the various candidates to Brand New Congress LLC would need to be reported. Consistent with FEC regulations, precedent and practice, the , and FEC’s Reports and Analysis Division confirmed that payments by the PACs and candidates to this vendor, Brand New Congress LLC, did not need to be broken out by subcategories of service, nor would subvendors need to be itemized.
7. The functioning of these entities was as follows:

The PACs:

- a. Brand New Congress PAC and Justice Democrats engaged in policy development, recruiting candidates for office, growing a national email list, and training candidates on the basics of campaigning.
- b. Justice Democrats would only support Democratic candidates, while Brand New Congress PAC was free to support Democratic or Republican candidates.
- c. Justice Democrats and Brand New Congress PAC would send emails to their lists soliciting contributions directly to candidates, in accordance with FEC rules.

Brand New Congress LLC:

- d. Brand New Congress LLC would provide services as a vendor to Brand New Congress PAC, Justice Democrats, as well as to the candidates those committees supported.
- e. Brand New Congress LLC would enter into an agreement with each of those entities separately, and each would pay a fee based on multiple metrics, including fundraising, use of Brand New Congress LLC staff, and the like.
- f. Each agreement would explicitly set out costs that the LLC would and would not pay for the PACs or campaigns – any discrete campaign costs would be paid for by the PACs and the candidates (respectively), ***and not by the LLC***. An example of such a contract is attached.
- g. The agreement was similar to other vendor agreements commonly in use in the political community.

- h. Brand New Congress LLC hired talent from around the progressive communities – from operations support, to field, communications, digital marketing, and the like. From there, the LLC’s staff was tasked with working on specific campaigns, as is commonplace for political vendors.
8. Mr. Chakrabarti did not receive any compensation – by way of salary, profit or otherwise – from Brand New Congress LLC, Brand New Congress PAC, Justice Democrats, or from Alexandria Ocasio-Cortez for Congress. Since he was the sole member of the LLC, Federal Election Commission rules on a corporation (which is prohibited from contributing) extending credit were inapplicable.
9. The LLC operated under the structure described above through August of 2017, when it determined that its efforts to provide services for a national campaign were not sustainable. From there, Justice Democrats and Brand New Congress PAC severed ties with one another, (and amended their FEC registrations to disclose the disaffiliation) and severed ties with Brand New Congress LLC, and Brand New Congress LLC ceased operations.
10. After August of 2017, Justice Democrats and Brand New Congress PAC began to operate more as traditional political action committees. Justice Democrats provides limited services to candidates as “fee-for-service”, where it charges and invoices for services of its staff at-cost, such that no contribution results.
11. Alexandria Ocasio-Cortez for Congress (then Alexandria Ocasio-Cortez 2018) was one of the candidates that paid Brand New Congress LLC for services.

With that factual background, it is clear that a number of the assertions in recent press accounts are demonstrably false:

1. **New York Post, March 2, 2019 (<https://nypost.com/2019/03/02/ocasio-cortezs-chief-of-staff-might-have-broken-campaign-finance-laws/>)**
 - a. The statement that “*PACs are not vendors and cannot provide more than \$5,000 a year worth of services for any single candidate, according to FEC regulations. If candidates go above this amount, they need to seek advice directly from the FEC*” is false. The article by Fox News cited below correctly states that this assertion is incorrect.

2. Washington Examiner, March 4, 2019

<https://www.washingtonexaminer.com/politics/ocasio-cortezs-chief-of-staff-ran-1m-slush-fund-by-diverting-campaign-cash-to-his-own-companies>)

- a. The statement that “*AOC’s chief of staff ran \$1M slush fund by diverting campaign cash to his own companies*” is false. Brand New Congress LLC was a legitimate campaign vendor which provided *bona fide* services to candidates and committees. Mr. Chakrabarti – the sole member of the LLC – did not take a salary from the LLC, nor did he earn any other income from the entity.
- b. The statement that “*Chakrabarti’s companies appear to have been set up for the sole purpose of obscuring how the political donations were used.*” is false. The Federal Election Commission’s Reports and Analysis Division gave guidance that underlying payments made by the LLC using revenue paid from services provided to candidates and committees ***was not required.***

If the PACs and campaigns were required to provide additional information on subvendor payments made by Brand New Congress LLC, it would have done so.

- c. The article quotes Adav Noti of the Campaign Legal Center as “*Noti said it would be simpler to set up a consulting company and work directly with campaigns to provide services for a fee rather than creating a federal PAC and sending the money to a company controlled by the same person.*” In actuality, this is precisely what Brand New Congress LLC was intended to do – to provide services to specific campaigns. As explained above, it became necessary to change the model such that Justice Democrats primarily made its own staff available to candidates, once Brand New Congress LLC ceased operations.

3. Daily Caller, March 4, 2019 (<https://dailycaller.com/2019/03/04/ocasio-cortez-justice-democrats/>)

- a. The statement that “*Rep. Alexandria Ocasio-Cortez and a top aide appear to control an outside PAC credited with being the central force behind her June 2018 primary victory.*” is false. Congresswoman Ocasio-Cortez left the board of directors of Justice Democrats on June 30, 2018. Mr. Chakrabarti left the board of directors of Justice Democrats on January 11, 2019. ***Accordingly, neither individual currently “controls” Justice Democrats.***
- b. Justice Democrats and Alexandria Ocasio-Cortez for Congress are not “affiliated” committees under the Federal Election Campaign Act (as the campaign did not and does not “establish, finance, maintain, or control” Justice Democrats). It is not a violation of federal campaign finance law for a candidate to be on the board of directors of a PAC, especially a committee that solely accepts individual contributions limited to \$5,000 per calendar year like Justice Democrats.

Even while Congresswoman Ocasio-Cortez was a director of Justice Democrats, she had no control over expenditures or day-to-day activities.

- c. While records filed with the District of Columbia Department of Consumer and Regulatory Affairs show Congresswoman Ocasio Cortez and Mr. Chakrabarti as directors of Justice Democrats, they no longer are on the board. Justice Democrats' last corporate report to the District of Columbia was filed in March of 2018, with the next due in April of 2020.

Accordingly, the statement “*but the PAC hasn't filed documents to Washington, D.C. where it's incorporated reflecting the change, meaning that Ocasio-Cortez and Chakrabarti currently retain majority control of Justice Democrats on paper.*” is not correct.

4. Fox News, March 4, 2019 (<https://www.foxnews.com/politics/ocasio-cortez-millionaire-chief-of-staff-violated-fec-rules-to-hide-885g-fec-complaint-alleges>)

- a. The statements that “*Ocasio-Cortez, chief of staff illegally moved \$885G in campaign contributions 'off the books,'*” and that “*Rep. Alexandria Ocasio-Cortez and Saikat Chakrabarti. . . apparently violated campaign finance law by funneling nearly \$1 million in contributions from political action committees Chakrabarti established to private companies that he also controlled*” are false. Brand New Congress LLC was a legitimate campaign vendor which provided *bona fide* services to candidates and committees. Mr. Chakrabarti – the sole member of the LLC – did not take a salary from the LLC, nor did he earn any other income from the entity.

The PACs are proud of the work they carried out in the 2018 elections, including their assistance in electing Congresswoman Ocasio-Cortez. Their work, the campaign's activities, and the operations of the vendor, Brand New Congress LLC, all fully complied with the law and the highest ethical standards.