



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**VIA CERTIFIED AND ELECTRONIC MAIL**  
**RETURN RECEIPT REQUESTED**  
[dbacker@ChalmersAdams.com](mailto:dbacker@ChalmersAdams.com)

February 23, 2022

Dan Backer, Esq.  
Coolidge Reagan Foundation  
1629 K Street, Suite 300  
Washington, DC 20006

RE: MUR 7592

Dear Mr. Backer:

This is in reference to the complaint you filed with the Federal Election Commission on April 4, 2019. On January 27, 2022, the Commission considered the allegations raised in your complaint and voted to (1) dismiss the allegations that Alexandria Ocasio-Cortez for Congress, Adrienne Bell 2018, Anthony Clark 2018, Chardo Richardson for Congress, Committee to Elect Ryan Stone, Hector Morales for Congress, Hepburn for Congress, Letitia Plummer 2018, Perry for Pennsylvania, Robert Ryerse 2018, and Sarah Smith 2018 violated 52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3(b)(3) and (b)(4) by failing to include sufficient descriptions showing the purposes for, and misreporting the payee of, disbursements to Brand New Congress, LLC; (2) dismiss the allegations that Arden Buck, Kamilka Malwatte, and Natalie Elsberg violated 52 U.S.C. § 30116(a) by making excessive contributions; (3) dismiss the allegations that Alexandria Ocasio-Cortez for Congress and Justice Democrats PAC violated 52 U.S.C. § 30116(f) for knowingly accepting excessive contributions from Arden Buck, Kamilka Malwatte, and Natalie Elsberg; and (4) close the file as to Arden Buck, Kamilka Malwatte, and Natalie Elsberg.

Additionally, on January 27, 2022, the Commission was equally divided on (1) whether to find reason to believe, and whether to dismiss pursuant to *Heckler v. Chaney*, the allegations that Justice Democrats PAC, Brand New Congress, Brand New Congress, LLC, and Saikat Chakrabarti violated 52 U.S.C. § 30116(a) by making excessive in-kind contributions to the Respondent candidate committees; (2) whether to take no action at this time, and whether to dismiss pursuant to *Heckler v. Chaney*, the allegations that Alexandria Ocasio-Cortez, Alexandria Ocasio-Cortez for Congress, Adrienne Bell 2018, Anthony Clark 2018, Chardo Richardson for Congress, Committee to Elect Ryan Stone, Cori Bush for Congress, Hector Morales for Congress, Hepburn for Congress, Letitia Plummer 2018, Paula Swearengin 2018, Perry for Pennsylvania, Robert Ryerse 2018, and Sarah Smith 2018 violated 52 U.S.C. § 30116(f) by knowingly accepting excessive in-kind contributions from Justice Democrats

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PAC, Brand New Congress, Brand New Congress, LLC, or Saikat Chakrabarti; (3) whether to take no action at this time, and whether to dismiss, the allegations that Brand New Congress, LLC, violated 52 U.S.C. §§ 30102, 30103, and 30104 by failing to register and report as a political committee, and that Alexandria Ocasio-Cortez or Justice Democrats PAC violated the Act by Justice Democrats PAC's failure to register and report as an authorized committee or leadership PAC; and (4) whether to find reason to believe, and whether to dismiss, the allegations that Brand New Congress, Justice Democrats PAC, Cori Bush for Congress, and Paula Swearengin 2018 violated 52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3(b)(3) and (b)(4) by failing to include sufficient descriptions showing the purposes for and misreporting the payee of, disbursements to Brand New Congress, LLC. Accordingly, on February 15, 2022, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analyses, which more fully explain the Commission's decision as to Arden Buck, Kamilka Malwatte, and Natalie Elsberg, are enclosed for your information. A Statement of Reasons providing a basis for the Commission's decision regarding the other respondents will follow.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Thaddeus H. Ewald, the attorney assigned to this matter, at (202) 694-1650 or [tewald@fec.gov](mailto:tewald@fec.gov).

Sincerely,

Lisa Stevenson  
Acting General Counsel

*Mark Shonkwiler*

BY: Mark Shonkwiler  
Assistant General Counsel

Enclosures:

1. Factual and Legal Analysis for Arden Buck
2. Factual and Legal Analysis for Kamilka Malwatte
3. Factual and Legal Analysis for Natalie Elsberg

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Arden Buck

MUR 7592

**I. INTRODUCTION**

The Complaint alleges that Arden Buck made an excessive contribution to Justice Democrats PAC (“JD”) in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). Buck contributed \$7,500 to JD in 2018 — \$2,500 in excess of the applicable \$5,000 annual limit. For the reasons discussed below, the Commission exercises its prosecutorial discretion and dismisses the allegation that Buck made an excessive contribution to JD.<sup>1</sup>

**II. FACTUAL BACKGROUND AND ANALYSIS**

Justice Democrats PAC filed its Statement of Organization with the Commission on January 9, 2017, and was a multicandidate political committee in the 2018 election cycle.<sup>2</sup> The Complaint asserts that Buck contributed \$7,500 to JD in 2018, exceeding the applicable \$5,000 annual limit.<sup>3</sup> Buck did not submit a Response to the Complaint.

Under the Act, an individual may not make a contribution to a multicandidate committee during any calendar year in excess of \$5,000.<sup>4</sup> The Complaint alleges, and Commission reports reflect, that Buck made an excessive contribution to JD. Buck contributed \$7,500 to JD in 2018,

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<sup>1</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

<sup>2</sup> Justice Democrats, Statement of Organization (Jan. 9, 2017); *Justice Democrats: About This Committee*, FEC.GOV, <https://www.fec.gov/data/committee/C00630665/?tab=about-committee&cycle=2018> (last visited Nov. 23, 2021) (describing JD as a qualified PAC); *see also* Compl. at 4 (Apr. 4, 2019) (describing JD as a “nonqualified political committee”).

<sup>3</sup> Compl. at 45-46.

<sup>4</sup> 52 U.S.C. § 30116(a)(1)(C); 11 C.F.R. § 110.1(d).

1 \$2,500 in excess of the applicable limit.<sup>5</sup> However, Commission reports reflect that JD has  
2 refunded the excessive portion of Buck's contributions: \$2,500 on May 5, 2019.<sup>6</sup> In light of the  
3 limited nature of Buck's excessive contribution, and the subsequent reimbursement of that  
4 amount,<sup>7</sup> the Commission exercises its prosecutorial discretion and dismisses the allegation that  
5 Arden Buck violated 52 U.S.C. § 30116(a) by making an excessive contribution to JD.<sup>8</sup>

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<sup>5</sup> Justice Democrats PAC, Amended 2018 April Quarterly Report at 20, 21 (Sept. 27, 2018) (\$1,000 contribution on Jan. 24, 2018, \$4,000 contribution on Mar. 7, 2018, and \$2,500 contribution on Mar. 30, 2018); Compl. at 45.

<sup>6</sup> Justice Democrats PAC, 2019 Mid-Year Report at 1534 (July 31, 2019).

<sup>7</sup> Cf. Factual & Legal Analysis ("F&LA") at 3-4, MUR 7066 (Hillary for America, *et al.*) (exercising prosecutorial discretion to dismiss \$845 in excessive contributions from one individual not timely refunded); F&LA at 7-8, MUR 6438 (Art Robinson for Congress, *et al.*) (exercising prosecutorial discretion to dismiss one \$2,400 and one \$600 excessive contributions that were refunded).

<sup>8</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENT: Kamilka Malwatte

MUR 7592

4 **I. INTRODUCTION**

5 The Complaint alleges that Kamilka Malwatte made an excessive contribution to Justice  
6 Democrats PAC (“JD”) in violation of the Federal Election Campaign Act of 1971, as amended  
7 (the “Act”). Malwatte contributed \$5,500 to JD in 2018 — \$500 in excess of the applicable  
8 \$5,000 annual limit. For the reasons discussed below, the Commission exercises its  
9 prosecutorial discretion and dismisses the allegation that Malwatte made an excessive  
10 contribution to JD.<sup>1</sup>

11 **II. FACTUAL BACKGROUND AND ANALYSIS**

12 Justice Democrats PAC filed its Statement of Organization with the Commission on  
13 January 9, 2017, and was a multicandidate political committee in the 2018 election cycle.<sup>2</sup> The  
14 Complaint asserts that Malwatte contributed \$5,500 to JD in 2018, exceeding the applicable  
15 \$5,000 annual limit.<sup>3</sup> Malwatte states that JD refunded the excessive contribution, which is  
16 reflected in the relevant report.<sup>4</sup>

17 Under the Act, an individual may not make a contribution to a multicandidate committee  
18 during any calendar year in excess of \$5,000.<sup>5</sup> The Complaint alleges, and Commission reports

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<sup>1</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

<sup>2</sup> Justice Democrats, Statement of Organization (Jan. 9, 2017); *Justice Democrats: About This Committee*, FEC.GOV, <https://www.fec.gov/data/committee/C00630665/?tab=about-committee&cycle=2018> (last visited Nov. 23, 2021) (describing JD as a qualified PAC); *see also* Compl. at 4 (Apr. 4, 2019) (describing JD as a “nonqualified political committee”).

<sup>3</sup> Compl. at 45-46.

<sup>4</sup> Kamilka Malwatte Resp. (Aug. 28, 2019) (joining Joint Resp. in MUR 7592); *see also* Justice Democrats PAC, 2019 Mid-Year Report at 1536 (July 31, 2019) [hereinafter JD 2019 Mid-Year Report].

<sup>5</sup> 52 U.S.C. § 30116(a)(1)(C); 11 C.F.R. § 110.1(d).

1 reflect, that Malwatte made an excessive contribution to JD. Malwatte contributed \$5,500 to JD  
2 in 2018, \$500 in excess of the applicable limit.<sup>6</sup> However, Commission reports reflect that JD  
3 has refunded the excessive portion of Malwatte’s contributions: \$500 on May 5, 2019.<sup>7</sup> In light  
4 of the limited nature of Malwatte’s excessive contribution, and the subsequent reimbursement of  
5 that amount,<sup>8</sup> the Commission exercises its prosecutorial discretion and dismisses the allegation  
6 that Kamilka Malwatte violated 52 U.S.C. § 30116(a) by making an excessive contribution to  
7 JD.<sup>9</sup>

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<sup>6</sup> Justice Democrats PAC, Amended 2018 April Quarterly Report at 99 (Sept. 27, 2018) (\$5,000 contribution on Feb. 27, 2018); Justice Democrats PAC, Amended 2018 October Quarterly Report at 770 (Jan. 10, 2019) (\$500 contribution on Aug. 30, 2018); Compl. at 45-46.

<sup>7</sup> JD 2019 Mid-Year Report at 1536.

<sup>8</sup> Cf. Factual & Legal Analysis (“F&LA”) at 3-4, MUR 7066 (Hillary for America, *et al.*) (exercising prosecutorial discretion to dismiss \$845 in excessive contributions from one individual not timely refunded); F&LA at 7-8, MUR 6438 (Art Robinson for Congress, *et al.*) (exercising prosecutorial discretion to dismiss one \$2,400 and one \$600 excessive contributions that were refunded).

<sup>9</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Natalie Elsberg

MUR 7592

**I. INTRODUCTION**

The Complaint alleges that Natalie Elsberg made an excessive contribution to Alexandria Ocasio-Cortez for Congress (“Ocasio-Cortez for Congress”) in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). Elsberg contributed \$5,650 to Ocasio-Cortez for Congress in 2018 — \$250 in excess of the applicable \$5,400 total per-election limit. For the reasons discussed below, the Commission exercises its prosecutorial discretion and dismisses the allegation that Elsberg made an excessive contribution to Ocasio-Cortez for Congress.<sup>1</sup>

**II. FACTUAL BACKGROUND AND ANALYSIS**

Ocasio-Cortez for Congress is the authorized committee for now-U.S. Representative Alexandria Ocasio-Cortez that filed its Statement of Organization with the Commission on May 5, 2017.<sup>2</sup> The Complaint asserts that Elsberg contributed \$5,650 to Ocasio-Cortez for Congress in 2018, exceeding the applicable \$5,400 total per-election limit, including both the primary and general elections.<sup>3</sup> Elsberg states that the excessive contribution was inadvertent

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<sup>1</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

<sup>2</sup> Alexandria Ocasio-Cortez, Statement of Organization (May 5, 2017); Compl. at 3 (Apr. 4, 2019).

<sup>3</sup> Compl. at 46-47.

1 and Ocasio-Cortez for Congress refunded the excessive contribution, which is reflected in the  
2 relevant report.<sup>4</sup>

3 Under the Act, an individual may not make a contribution to a candidate with respect to  
4 any election in excess of the legal limit, which was \$2,700 per election during the 2018 cycle.<sup>5</sup>  
5 The Complaint alleges, and Commission reports reflect, that Elsberg made an excessive  
6 contribution to Ocasio-Cortez for Congress. Elsberg contributed a total of \$5,650 to Ocasio-  
7 Cortez for Congress during the 2017-2018 cycle, \$250 in excess of the applicable per-election  
8 limits.<sup>6</sup> However, Elsberg responds and Commission reports reflect that Ocasio-Cortez for  
9 Congress has refunded the excessive portion of Elsberg's contribution: \$250 on January 30,  
10 2019.<sup>7</sup> In light of the limited nature of Elsberg's excessive contribution, and the subsequent  
11 reimbursement of that amount,<sup>8</sup> the Commission exercises its prosecutorial discretion and  
12 dismisses the allegation that Natalie Elsberg violated 52 U.S.C. § 30116(a) by making an  
13 excessive contribution to Ocasio-Cortez for Congress.<sup>9</sup>

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<sup>4</sup> Natalie Elsberg Resp. (May 2, 2019); *see also* Alexandria Ocasio-Cortez for Congress, Amended 2019 April Quarterly Report at 570 (June 16, 2019) [hereinafter Ocasio-Cortez for Congress April 2019 Quarterly Report].

<sup>5</sup> 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 82 Fed. Reg. 10,904, 10,906 (Feb. 16, 2017).

<sup>6</sup> Alexandria Ocasio-Cortez 2018, Amended 2018 April Quarterly Report at 27 (Aug. 21, 2018) (\$2,700 primary election contribution on Mar. 23, 2018); Alexandria Ocasio-Cortez for Congress, Amended 2018 October Quarterly Report at 296 (June 7, 2019) (\$2,700 general election contribution on July 12, 2018); *id.* at 297 (\$250 general election contribution on Sept. 12, 2018); Natalie Elsberg Resp.; Compl. at 46-47.

<sup>7</sup> Ocasio-Cortez for Congress April 2019 Quarterly Report at 570.

<sup>8</sup> *Cf.* Factual & Legal Analysis ("F&LA") at 3-4, MUR 7066 (Hillary for America, *et al.*) (exercising prosecutorial discretion to dismiss \$845 in excessive contributions from one individual not timely refunded); F&LA at 7-8, MUR 6438 (Art Robinson for Congress, *et al.*) (exercising prosecutorial discretion to dismiss one \$2,400 and one \$600 excessive contributions that were refunded).

<sup>9</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).