



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 23, 2022

VIA ELECTRONIC MAIL ONLY

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Neil Reiff, Esq.
David Mitrani, Esq.
Sandler Reiff Lamb Rosenstein
& Birkenstock, P.C.
1090 Vermont Avenue, NW
Suite 750
Washington, DC 20005

RE: MURs 7575, 7580, 7592, & 7626
Brand New Congress and Hosseh Enad
in his official capacity as treasurer;
Brand New Congress, LLC;
Justice Democrats and Natalie Trent in
her official capacity as treasurer;
Alexandria Ocasio-Cortez;
Kamilka Malwatte,
Saikat Chakrabarti;
Adrienne Bell 2018 and Andret Rayford
in her official capacity as treasurer;
Alexandria Ocasio-Cortez for Congress
and Frank Llewellyn in his official
capacity as treasurer;
Chardo Richardson for Congress and
Chardo Richardson in his official
capacity as treasurer;
Cori Bush for Congress and Ami Vilela
in her official capacity as treasurer;
Hector Morales for Congress and Hector
Morales in his official capacity as
treasurer;
Letitia Plummer 2018 and Letitia
Plummer in her official capacity as
treasurer;

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Paula Swearengin 2018 and Paula Swearengin in her official capacity as treasurer;
Perry for Pennsylvania and Paul-David Perry, II, in his official capacity as treasurer;
Robert Ryerse 2018 and Robert Ryerse in his official capacity as treasurer; and
Sarah Smith 2018 and Andy Lo in his official capacity as treasurer

Dear Messrs. Reiff and Mitrani:

On March 7, March 21, April 11, and August 2, 2019, the Federal Election Commission notified your clients of complaints alleging violations of the Federal Election Campaign Act of 1971, as amended. Copies of the complaints were forwarded to your clients at that time.

Upon further review of the allegations contained in the complaints and information supplied by you, the Commission, on January 27, 2022, voted to (1) dismiss the allegations that Alexandria Ocasio-Cortez for Congress, Adrienne Bell 2018, Chardo Richardson for Congress, Hector Morales 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 allegation that Kamilka Malwatte 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 Kamilka Malwatte.

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, Chardo Richardson for Congress, Cori Bush for Congress, Hector Morales 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 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

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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 these matters.

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 Analysis, which more fully explains the Commission's decision as to Kamilka Malwatte, is enclosed for your information. A Statement of Reasons providing a basis for the Commission's decision regarding the other respondents will follow.

If you have any questions, please contact Thaddeus H. Ewald, the attorney assigned to these matters, at (202) 694-1650 or tewald@fec.gov.

Sincerely,

Mark Shonkwiler

Mark Shonkwiler
Assistant General Counsel

Enclosure:

Factual and Legal Analysis for Kamilka Malwatte

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.¹

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.² The
14 Complaint asserts that Malwatte contributed \$5,500 to JD in 2018, exceeding the applicable
15 \$5,000 annual limit.³ Malwatte states that JD refunded the excessive contribution, which is
16 reflected in the relevant report.⁴

17 Under the Act, an individual may not make a contribution to a multicandidate committee
18 during any calendar year in excess of \$5,000.⁵ The Complaint alleges, and Commission reports

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

² 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”).

³ Compl. at 45-46.

⁴ 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].

⁵ 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.⁶ However, Commission reports reflect that JD
3 has refunded the excessive portion of Malwatte’s contributions: \$500 on May 5, 2019.⁷ In light
4 of the limited nature of Malwatte’s excessive contribution, and the subsequent reimbursement of
5 that amount,⁸ 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.⁹

⁶ 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.

⁷ JD 2019 Mid-Year Report at 1536.

⁸ 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).

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