



FEDERAL ELECTION COMMISSION
Washington, DC 20463

February 23, 2022

VIA ELECTRONIC MAIL ONLY

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. Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on January 27, 2022, voted to dismiss the allegation that you violated 52 U.S.C. § 30116(a) by making excessive contributions and close the file. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

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).

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

Sincerely,

Mark Shonkwiler

Mark Shonkwiler
Assistant General Counsel

Enclosure:
Factual and Legal Analysis

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.¹

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, 2017.² 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.³ Elsberg states that the excessive contribution was inadvertent

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

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

³ Compl. at 46-47.

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

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.⁵
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.⁶ 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 2019.⁷ In light of the limited nature of Elsberg's excessive contribution, and the subsequent
11 reimbursement of that amount,⁸ 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.⁹

⁴ 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].

⁵ 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).

⁶ 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.

⁷ Ocasio-Cortez for Congress April 2019 Quarterly Report at 570.

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).