

# SANDLER REIFF

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August 19, 2019

Federal Election Commission  
Office of Complaints Examination and Legal Administration  
Attn: Christal Dennis, Paralegal  
1050 First Street, NE  
Washington, D.C. 20463

Re: MUR 7626

Ms. Dennis:

The undersigned serves as counsel to:

- Brand New Congress, C00613810, with Amy Vilela in her capacity as Treasurer (“BNC PAC”), and
- Justice Democrats, C00630665, with Natalie Trent in her capacity as Treasurer (“JD”, collectively the “Parties”),

This letter responds on behalf of the Parties to the Commission’s notification of a complaint from Ms. Michelle Clay (the “Complaint”) alleging that the Parties violated the Federal Election Campaign Act (the “Act”) and Federal Election Commission (the “Commission”) regulations.

As described below, there is no reason to believe that the Parties have violated the Act or any of the Commission’s regulations. The Complaint was filed purely for political purposes – to create a press story against the Ms. Clay’s brother’s political opponent in the Democratic primary for Missouri’s First Congressional District, Cori Bush.

The Complaint cumberingly attempts to paint the Parties in the worst possible light. In actuality – the work of JD and BNC PAC has been and is structured to comply with the Act and Commission regulations. There was simply no attempt to subsidize the Bush campaign’s work. ***The allegations made in the Complaint are baseless and not supported by any facts whatsoever.***<sup>1</sup> The Commission should find no reason to believe and close the file.

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<sup>1</sup> See 11 C.F.R. § 100.7(a)(1)(iii)(A) (standard for a proper complaint).

## 1. Activities of JD and BNC PAC were structured to comply with the Act and Commission regulations.

The Complaint fails to state any facts that give rise to any violations of the Act or the FEC's regulations. The Complaint makes one core allegation – that JD and BNC PAC paid expenses on behalf of Cori Bush's campaign without attributing those as in-kind contributions.<sup>2</sup> This allegation is false. Neither JD nor BNC PAC paid for the radio commercials that Ms. Clay cites, nor did they incur expenses for the campaign without reimbursement.

In fact, there *was* a contractual arrangement between JD and Ms. Bush's campaign – the campaign paid JD for services rendered in February of 2018. While it is unclear what Ms. Clay means by the accusation that “private companies receiving reported payments for ‘Political Strategies’”, JD does provide limited services to candidates under a “fee-for-service” model, where it charges and invoices candidates for services of its staff at-cost, such that no contribution results.<sup>3</sup>

On February 14, 2018, Ms. Bush's campaign made a \$786.90 payment to JD for services rendered.<sup>4</sup> Brand New Congress PAC did not provide similar services to Cori Bush 2018.

Additionally, to the Complaint's allegation that Justice Democrats made coordinated expenditures (stated in the Complaint as “coordinated campaigning actions”) to Ms. Bush's campaign, *JD and BNC PACs intentionally did not engage in any independent expenditures.*<sup>5</sup>

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<sup>2</sup> The Complaint's core allegation is below –

*“I believe private companies receiving reported payments for “Political Strategies” from the PACs were payments made to further the candidacy of the Cori Bush 2018 campaign in the form of expenditures for radio commercials, messaging, preparations, speechwriting and coaching, facility and set design, Act Blue, Nation builder, bank accounts and post office boxes set ups; attending social and political meetings, arranging travel, GOTV rallies; and completed endorsement applications on the candidates behalf, as well as FEC reporting compliance and other administrative functions paid for by the fundraising efforts of Brand New Congress PAC and Justice Democrats PAC constituting a contribution exceeding the FEC PAC cash and in-kind limits.”*

<sup>3</sup> Justice Democrats, “About” (“The FEC requires that we charge campaigns money for any direct campaign services we do (otherwise, the service would count as a donation to the campaign), so we do these services at-cost to us, making no profit. By creating a scalable infrastructure that candidates can use to run their campaigns, we are able to start creating a party-like infrastructure that not only endorses and fundraises for candidates, but also provides them with the tools and people necessary to run a successful campaign.”), available at <https://www.justicedemocrats.com/about> (last accessed August 12, 2019).

<sup>4</sup> See Search of Cori Bush 2018's disbursements, <https://www.fec.gov/data/committee/C00638767/?cycle=2018&tab=spending> (last accessed August 12, 2019).

<sup>5</sup> A simple search of Justice Democrats' and Brand New Congress' records on the FEC's website would show this to be the case: <https://www.fec.gov/data/committee/C00630665/?tab=spending&cycle=2018>,

Therefore, any allegation of coordination – or work conducted outside of the contribution limits – is completely false and unsubstantiated.

## 2. The Commission should dismiss the Complaint and close the file.

A complaint is required to allege facts that give rise to a violation of the Act or Commission regulations. This Complaint does no such thing, and only speculates on allegations that the Parties refute in this response.<sup>6</sup> Given this, we request that the Commission determine that there is no reason to believe that any violation alleged in the Complaint has occurred and close the file in this matter.

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<https://www.fec.gov/data/committee/C00613810/?cycle=2018&tab=spending> (last accessed August 12, 2019).

<sup>6</sup> See FEC MUR 7135 (Donald J. Trump for President, et. al.), Statement of Reasons of Commissions Hunter and Petersen at fn 31 (September 6, 2018, spacing for clarity , citing MURs 6296, 6056, 5467 (“We have on multiple occasions shown that the reason to believe standard found at 52 U.S.C. § 30109(a)(2) means more than merely a reason to suspect.

See, e.g., MUR 6296 (Buck for Colorado), Statement of Reasons of Vice-Chair Caroline C. Hunter and Commissioners Donald F. McGahn and Matthew S. Petersen at 7 (“[T]he Act’s complaint requirements and limits on Commission investigative authority serve no purpose if the Commission proceeds anytime it can imagine a scenario under which a violation may have occurred.”);

MUR 6056 Protect Colorado Jobs, Inc.), Statement of Reasons of Chairman Matthew S. Petersen and Commissioners Caroline C. Hunter and Donald F. McGahn at 6 n.12 (“[T]he RTB standard is not met if the Commission simply did not have ... sufficient information to find no reason to believe' .... The Commission must have more than ... unanswered questions before it can vote to find RTB and thereby commence an investigation.”);

MUR 5467 Michael Moore), First Gen. Counsel's Rpt. at 5 (“Purely speculative charges, especially when accompanied by a direct refutation, do not form an adequate basis to find reason to believe that a violation of the [Act] has occurred.”); see also FEC v. Machinists Non-Partisan Political League, 655 F.2d 380,388 (D.C. Cir. 1981) “[M]ere official curiosity will not suffice as the basis for FEC investigations”; id. at 387 distinguishing the Commission from other administrative agencies that are “vested with broad duties to gather and compile information and to conduct periodic investigations concerning business practices .... the FEC has no such roving statutory functions”), available at [https://eqs.fec.gov/eqsdocsMUR/7135\\_2.pdf](https://eqs.fec.gov/eqsdocsMUR/7135_2.pdf) (last accessed August 12, 2019).

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil Reiff".

Neil Reiff

A handwritten signature in blue ink, appearing to read "David Mitrani".

David Mitrani

Counsel for:

Brand New Congress, Amy Vilela,  
Treasurer, and

Justice Democrats, Natalie Trent, Treasurer.