



FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

MEMORANDUM

TO: The Commission

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SUBJECT: MUR 6997 (Americans Socially United, *et al.*)

RE: Circulation of Discovery Documents –
Subpoenas to Bank of Guam, U.S. Bank National Association, FirstBank,
Authorize.net, First Data, Square, Inc. and Namesilo, LLC

In April, the Commission found reason to believe that Americans Socially United and Cary Peterson¹ in his official capacity as treasurer (“ASU”) violated 52 U.S.C. §§ 30102(c)(3), 30104(b)(3)(A), and 30124(b)(1) by soliciting and accepting contributions through various websites that fraudulently misrepresented that ASU was acting for or on behalf of former presidential candidate Bernie Sanders.² The Commission authorized the use of compulsory

¹ Peterson also recently faced criminal charges for securities fraud. *See* First Gen. Counsel’s Rpt. at 3, n. 4, MUR 6997. Peterson’s trial on those charges ended May 23, 2018; he was convicted “for orchestrating a multi-million securities fraud scheme.” *See Microcap Company CEO Convicted of Securities Fraud for Falsely Claiming Millions in Revenue From Contracts with Foreign Countries*, DOJ Press Release (May 24, 2018), <https://www.justice.gov/usao-nj/pr/microcap-company-ceo-convicted-securities-fraud-falsely-claiming-millions-revenue>. A sentencing date has been set for September 26, 2018.

² Certification ¶¶ 1, 3 (April 25, 2018). On May 8, 2018, the Commission notified ASU and Peterson of the Commission’s findings. *See* Ltr. from Caroline C. Hunter, Chair, FEC, to Cary L. Peterson (May 8, 2018) (attaching Factual and Legal Analysis). To date, neither ASU nor Peterson have submitted a response to the notification.

process for use in the investigation,³ and we now recommend that the Commission approve the seven attached subpoenas, which seek information necessary to determine the scope of the violations, including: (1) the number and amount of contributions that ASU accepted; (2) the number and amount of contribution refunds; (3) whether any funds were used for disbursements to support Sanders's candidacy; and (4) documents relating to communications with contributors.

The first two subpoenas are directed to the Bank of Guam and U.S. Bank National Association, the banks listed on ASU's Statements of Organization.⁴ ASU's treasurer, Cary Peterson, has asserted that he does not have access to the committee's records.⁵ Therefore, we must obtain ASU's financial records directly from its banks. Additionally, contributors listed on ASU's 2015 Mid-Year Report that we have spoken with so far have stated that they were not familiar with ASU or Peterson, but they did recall making contributions to Bernie Sanders's campaign. Therefore, ASU's financial records will confirm both the accuracy of its disclosure report filed with the Commission and the amount of contributions it actually received.

The third subpoena is directed to FirstBank. We learned from counsel for Bernie 2016, Inc. that FirstBank contacted the campaign when Peterson attempted to open a bank account representing himself as part of the Sanders's campaign.⁶ Although it appears that FirstBank rejected the account application, we have learned from a FirstBank representative that Peterson held personal accounts and they detected what appeared to be business deposits being made into the personal accounts. Therefore, the FirstBank subpoena seeks information regarding Peterson's personal bank accounts as well as his application for a business account on behalf of ASU. Because this subpoena seeks information regarding personal accounts, we intend to take the appropriate steps to comply with the requirements of the Right to Financial Privacy Act in connection with this subpoena.

Three additional subpoenas are directed to ASU's contribution and payment processing vendors: Authorize.net, First Data, and Square, Inc.⁷ Because these vendors likely made lump

³ Certification ¶ 3 (April 25, 2018).

⁴ Statement of Organization (Feb. 11, 2015), Ready for Bernie Sanders 2016; Amended Statement of Organization, (April 30, 2015), Bet on Bernie 2016; Amended Statement of Organization (June 18, 2015), Americans Socially United.

⁵ See Factual and Legal Analysis ("F&LA") at 3, MUR 6997.

⁶ We reached out to Bernie 2016, Inc. in connection with a cease and desist letter that the campaign sent to Peterson in June 2015. *Id.* at 6.

⁷ ASU used different payment processing vendors during different time periods. We learned from counsel for Bernie 2016, Inc. that in May 2015, Square, Inc. alerted the Sanders campaign of suspicious accounts that Peterson held with them using Sanders's name. We understand that Square, Inc. shut down Peterson's accounts, and then Peterson moved on to use payment processing services through BluePay. A number of contributors we contacted have provided us copies of the e-mail receipts they received from a BluePay e-mail address after making their contributions. BluePay has since been acquired by First Data. At the time that we reviewed ASU's website in 2016 and 2017, the committee was utilizing Authorize net's payment processing services.

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1 sum deposits into ASU's bank accounts, their records will be necessary to provide complete
2 information regarding individual contributor information and contribution amounts.
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4 The final subpoena is directed to ASU's website domain company, Namesilo, LLC. As
5 discussed in the Factual and Legal Analysis for this matter, ASU used a number of different
6 websites to solicit funds.⁸ We therefore recommend that the Commission subpoena Namesilo,
7 LLC for any records it maintained regarding ASU's various website addresses. This subpoena
8 also seeks to determine whether ASU or Peterson operated any other websites that purported to
9 act on behalf of Sanders for the purpose of soliciting funds.
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11 Accordingly, we request that the Commission approve the attached subpoenas.
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⁸ See F&LA at 4-5 (noting that ASU operated the websites www.voteberniesanders2016.com, <http://vote4bernie.net>, betonbernie.com, pledgesanders2016.com, and sociallyunited.org).