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June 3, 2016

Via E-Mail

Jeff S. Jordan, Esq.
Supervisory Attorney
Federal Election Commission
999 E Street, N.W.
Washington D.C. 20463

Re: MUR 7038

Dear Mr. Jordan:

I serve as counsel to Progressive Kick Independent Expenditure Committee, and Joshua Grossman, in his official capacity as Treasurer (hereinafter collectively referred to as "PKIE"). I write to respond to a complaint filed by The American Democracy Legal Fund. As discussed below, the complaint is riddled with factual inaccuracies and the activities that are the subject of this complaint were not undertaken by PKIE. Therefore, this matter must be dismissed.

By way of background, PKIE was formed by Joshua Grossman in January 2011. Mr. Grossman serves as PKIE's Treasurer and is its only officer. PKIE does not have a Board of Directors. Mr. Grossman also serves as President of Progressive Kick, a 527 organization that was established in July 2003 (hereinafter referred to as "PK"). Mr. Grossman is the sole officer of PK. PK is not a federal political committee and files regular disclosure reports with the Internal Revenue Service in accordance with 26 U.S.C. § 527(j).

Much of the complaint appears to be based upon a January 27, 2016 news story in the Washington Post. The article was intended to identify those persons and organizations that were behind some of the online grassroots support for Bernie Sanders, a candidate for the Democratic nomination for President of the United States. One of the entities identified by the article is a grassroots organization called "People for Bernie" which appears to be a website and social media pages organized by volunteers supporting Mr. Sanders. The article states that the National Nurses Union ("NNU") had given \$45,000 to PKIE to "administer" online ads by People for Bernie. However, this is not an accurate depiction of PKIE's role with respect to these funds or the ultimate purpose. Based upon this vague description, complainant paints a false and

inaccurate description of PKIE's role in connection with the People for Bernie's website and social media pages.

First, complainant incorrectly alleges that "People for Bernie is a project of Progressive Kick." Complaint at p.4. This allegation is untrue. While it is true that that NNU donated \$45,000 to PK in order to facilitate some online work with Feel the Bern, PKIE did not have any role in this process. Attached as Exhibit A, are the 2015 Year-End and 2016 April Quarterly Reports filed by PK with the Internal Revenue Service that show the receipt of \$45,000 from the National Nurses Union and three donations for a total of \$45,000 to a group called "Feel the Bern."¹ These donations, which were made by an organization that was not a political committee were donated with the explicit proviso that they were to be used for online advertising that did not contain any express advocacy as defined by Commission regulations at 11 C.F.R. § 100.22. Therefore, the sole purpose of the PK donations was to disseminate issue advocacy ads that were outside of the scope of the Federal Election Campaign Act and the Commission's regulations. In addition, the funds donated by PK were not intended to pay for any work associated with the People for Bernie website or its associated social media pages. The Washington Post article's assertion that the funds given to PKIE were to "administer" the People for Bernie website and social media pages is not correct, and as explained above, were earmarked for issue advocacy efforts. Neither PK, PKIE nor Joshua Grossman played any direct role in the administration of Feel the Bern or the People for Bernie and its connected social media pages.

Based upon the incorrect assumptions in this initial part of the complaint, all other factual and legal allegations in the complaint that flow from this mistaken assumption are also clearly erroneous as it pertains to PK or PKIE. Specifically, the complaint alleges that PKIE had coordinated its activities the Sanders campaign based upon a July 2015 article in Bloomberg Politics. See Complaint at p.5, fn. 27. The article referred to by complainant clearly identifies Charles Lenchner as the founder of People for Bernie and does not identify Joshua Grossman or PKIE as the founders of People for Bernie or Feel the Bern or identify PKIE or Joshua Grossman in any way.

It is clear why complainant wants to connect People for Bernie with PKIE. By doing so, it has its only hook to make the false legal allegations contained in its complaint. By ignoring the facts, it had to contrive false facts to allege violations of federal law. It has simply ignored the fact the People for Bernie website and associated social media pages were formed by individual volunteers, presumably in accordance with 11 C.F.R. §§ 100.94 & 100.155, which dictates that the FECA expressly exempts websites and social media activity of volunteers from the Act. A cursory review by the complainant of the Bios of the founders of People for Bernie would have revealed that neither PK, PKIE nor Joshua Grossman were formally associated with People for Bernie. Attached as Exhibit B are the Bios found in the "Who We Are" section of the People for Bernie website.²

¹ Although we are not specifically aware of the incorporation or tax status of Feel the Bern, it is our understanding that it is owned and controlled by Charles Lenchner who is identified by the Washington Post article as the founder of People for Bernie.

² <http://www.peopleforbernie.com/about>, accessed on April 27, 2016.

It also follows that all of the other allegations leveled upon PKIE in the complaint are false. First, neither PKIE nor People for Bernie violated 11 C.F.R. § 102.14 since People for Bernie is not operated by a federal political committee. Only political committees are prohibited from using the name of a candidate or its websites or projects. Second, websites and social media created in accordance with 11 C.F.R. § 100.94 are not subject to the disclaimer requirements of 52 U.S.C. § 30120(a) and 11 C.F.R. § 110.11. See Statement of Reasons of Chairman Lee E. Goodman, MUR 6578, at p.3-4. Third, facts alleging coordination between PKIE and the Sanders campaign were clearly not related to Joshua Grossman or anyone else associated with PKIE. The facts relied upon by the complainant were clearly referring to an individual other than Mr. Grossman. To be sure, PKIE itself has done very limited independent expenditures on behalf of Bernie Sanders and neither PKIE nor Mr. Grossman has coordinated any of its campaign activities with the Sanders campaign or its agents.³

Complainant in this matter has filed a sworn, notarized complaint with the Commission that either negligently or deliberately misstated the materials facts in a deliberate effort to embarrass Mr. Sanders and his associates on the heels of important primaries that Mr. Sanders was competing in. The Commission should immediately dismiss this complaint and admonish complainant that any future complaints filed with the Commission are subject to strict rules regarding its allegations and their veracity.

Respectfully submitted,

Neil Reiff

Counsel for Progressive Kick Independent
Expenditure Committee, and Joshua
Grossman, in his official capacity as
Treasurer

³ In November of 2015, PKIE disseminated a total of \$2,885.51 in independent expenditures on behalf of Bernie Sanders.

EXHIBIT A

Form **8872**
(November 2002)Department of the Treasury
Internal Revenue Service**Political Organization
Report of Contributions and Expenditures**

OMB No. 1545-1696

▶ See separate instructions.

A For the period beginning 07/01/2015 and ending 12/31/2015**B** Check applicable box: Initial report Change of address Amended report Final report**1** Name of organization
Progressive Kick
Employer identification number
73 - 1673869**2** Mailing address (P.O. box or number, street, and room or suite number)
1904 Franklin Street Suite 725**City or town, state, and ZIP code**
Oakland, CA 94612**3** E-mail address of organization:
joshua@progressivekick.org
4 Date organization was formed:
07/21/2003**5a** Name of custodian of records
Joshua Grossman
5b Custodian's address
1904 Franklin Street Suite 725
Oakland, CA 94612**6a** Name of contact person
Joshua Grossman
6b Contact person's address
1904 Franklin Street Suite 725
Oakland, CA 94612**7** Business address of organization (if different from mailing address shown above). Number, street, and room or suite number
1904 Franklin Street Suite 725**City or town, state, and ZIP code**
Oakland, CA 94612**8** Type of report (check only one box)

- First quarterly report (due by April 15)
- Second quarterly report (due by July 15)
- Third quarterly report (due by October 15)
- Year-end report (due by January 31)
- Mid-year report (Non-election year only-due by July 31)
- Monthly report for the month of: (due by the 20th day following the month shown above, except the December report, which is due by January 31)
- Pre-election report (due by the 12th or 15th day before the election)
- (1) Type of election:
- (2) Date of election:
- (3) For the state of:
- Post-general election report (due by the 30th day after general election)
- (1) Date of election:
- (2) For the state of:

9 Total amount of reported contributions (total from all attached Schedules A) **9.** \$ 60000**10** Total amount of reported expenditures (total from all attached Schedules B) **10.** \$ 29218

Under penalties of perjury, I declare that I have examined this report, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Terri Carver

01/29/2016

**Sign
Here**

Signature of authorized official

Date

Form 8872 (11-2002)

Schedule A Itemized Contributions		Schedule A
Contributor's name, mailing address and ZIP code National Nurses United 8630 Fenton St. Silver Springs, MD 20910 -	Name of contributor's employer NA Contributor's occupation NA Aggregate contributions year-to-date \$ 45000	Amount of contribution \$ 45000 Date of contribution 10/10/2015
Contributor's name, mailing address and ZIP code California Nurses Association 770 L Street Sacramento, CA 95814 -	Name of contributor's employer NA Contributor's occupation NA Aggregate contributions year-to-date \$ 10000	Amount of contribution \$ 10000 Date of contribution 10/28/2015
Contributor's name, mailing address and ZIP code Deborah Sagner 210 Central Park South Apt 15B New York, NY 10019 -	Name of contributor's employer Sagner Companies and Sagner Foundation Contributor's occupation Social Worker Aggregate contributions year-to-date \$ 5000	Amount of contribution \$ 5000 Date of contribution 07/29/2015

Form 8872 (11-2002)

Schedule B		Itemized Expenditures	Schedule B
Recipient's name, mailing address and ZIP code		Name of recipient's employer	Amount of Expenditure
Feel The Bern 901 Grand St. #5B Brooklyn, NY 11211 -		NA Recipients's occupation NA	\$ 9000 Date of expenditure 12/18/2015
Purpose of expenditure social media campaign			
Recipient's name, mailing address and ZIP code		Name of recipient's employer	Amount of Expenditure
Charles Lenchner 901 Grand St. #5B Brooklyn, NY 11211 -		NA Recipients's occupation Consultant	\$ 5000 Date of expenditure 09/08/2015
Purpose of expenditure Consulting			
Recipient's name, mailing address and ZIP code		Name of recipient's employer	Amount of Expenditure
Aggregate Below Threshold 1904 Franklin Street Sulte 725 Oakland, CA 94612 -		NA Recipients's occupation NA	\$ 218 Date of expenditure 12/31/2015
Purpose of expenditure bank service charges, parking, meals			
Recipient's name, mailing address and ZIP code		Name of recipient's employer	Amount of Expenditure
Feel The Bern 901 Grand St. #5B Brooklyn, NY 11211 -		NA Recipients's occupation NA	\$ 15000 Date of expenditure 10/21/2015
Purpose of expenditure social media campaign			

Form **8872**
(November 2002)
Department of the Treasury
Internal Revenue Service

**Political Organization
Report of Contributions and Expenditures**

OMB No. 1545-1696

▶ See separate instructions.

A For the period beginning 01/01/2016 **and ending** 03/31/2016

B Check applicable box: Initial report Change of address Amended report Final report

1 Name of organization Progressive Kick **Employer identification number** 73 - 1673869

2 Mailing address (P.O. box or number, street, and room or suite number)
1904 Franklin Street Suite 725

City or town, state, and ZIP code
Oakland, CA 94612

3 E-mail address of organization: joshua@progressivekick.org **4 Date organization was formed:** 07/21/2003

5a Name of custodian of records Joshua Grossman **5b Custodian's address**
1904 Franklin Street Suite 725
Oakland, CA 94612

6a Name of contact person Joshua Grossman **6b Contact person's address**
1904 Franklin Street Suite 725
Oakland, CA 94612

7 Business address of organization (if different from mailing address shown above). Number, street, and room or suite number
1904 Franklin Street Suite 725

City or town, state, and ZIP code
Oakland, CA 94612

8 Type of report (check only one box)

- First quarterly report (due by April 15) Monthly report for the month of: (due by the 20th day following the month shown above, except the December report, which is due by January 31)
- Second quarterly report (due by July 15) Pre-election report (due by the 12th or 15th day before the election)
- Third quarterly report (due by October 15) (1) Type of election:
- Year-end report (due by January 31) (2) Date of election:
- Mid-year report (Non-election year only-due by July 31) (3) For the state of:
- Post-general election report (due by the 30th day after general election)
- (1) Date of election:
- (2) For the state of:

9 Total amount of reported contributions (total from all attached Schedules A)..... 9. \$ 0

10 Total amount of reported expenditures (total from all attached Schedules B)..... 10. \$ 21783

Under penalties of perjury, I declare that I have examined this report, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Terri Carver

04/26/2016

**Sign
Here** ▶

Signature of authorized official

▶ Date

Form 8872 (11-2002)

Schedule A **Itemized Contributions**

Schedule A

Form 8872 (11-2002)

Schedule B Itemized Expenditures		Schedule B
Recipient's name, mailing address and ZIP code Bend The Arc 330 7th Ave #1401 New York, NY 10001 -	Name of recipient's employer NA Recipients's occupation NA	Amount of Expenditure \$ 425 Date of expenditure 03/10/2016
Purpose of expenditure Conference		
Recipient's name, mailing address and ZIP code Feel The Bern c/o Charles Lenchner 901 Grand Ave. #5B Brooklyn, NY 11211 -	Name of recipient's employer NA Recipients's occupation NA	Amount of Expenditure \$ 21000 Date of expenditure 02/18/2016
Purpose of expenditure Social Media Campaign		
Recipient's name, mailing address and ZIP code Aggregate Below Threshold 1904 Franklin St. Suite 725 Oakland, CA 94512 -	Name of recipient's employer NA Recipients's occupation NA	Amount of Expenditure \$ 358 Date of expenditure 03/31/2016
Purpose of expenditure bank service charges, parking, meals, hotel, transportation		

EXHIBIT B

[People for Bernie Sanders \(/\)](#)

[Who We Are \(/about\)](#)

[Connect \(/connect\)](#)

[Volunteer \(/volunteer\)](#)

[News \(/blog\)](#)



GET ORGANIZED

People for Bernie constituent groups:

[Women For Bernie](#)

[\(http://www.women4bernie.us/\)](http://www.women4bernie.us/)

[African Americans For Bernie](#)

[\(https://www.facebook.com/AfricanAmericansForBernie/\)](https://www.facebook.com/AfricanAmericansForBernie/)

[Millenials For Bernie](#)

[\(https://www.facebook.com/youngberners/\)](https://www.facebook.com/youngberners/)

[Vets For Bernie](#)

[\(http://vetsforbernie.org/\)](http://vetsforbernie.org/)

[Labor For Bernie](#)

[\(http://www.laborforbernie.org/\)](http://www.laborforbernie.org/)

[Jews for Bernie](#)

[\(http://www.peopleforbernie.com/\)](http://www.peopleforbernie.com/)

[Socialists for Bernie](#)

[\(http://www.peopleforbernie.com/\)](http://www.peopleforbernie.com/)

[Latinos for Bernie](#)

[\(https://www.facebook.com/LatinosForBernie/\)](https://www.facebook.com/LatinosForBernie/)

SOLIDARITY IS A VERB

Meet our allies.

[Occupy Wall Street](#)

[\(https://www.facebook.com/OccupyWallStreet/\)](https://www.facebook.com/OccupyWallStreet/)

[To Fight](#)

[\(http://readytofight.org/\)](http://readytofight.org/) Act.TV

[\(http://act.tv/\)](http://act.tv/) Overpass.Light

[Brigade](#)

[\(http://overpasslightbrigade.org/\)](http://overpasslightbrigade.org/) Films

[For Action](#)

[\(http://www.filmsforaction.org/\)](http://www.filmsforaction.org/) We

[Want Bernie](#)

[\(https://www.facebook.com/wewantbernieSanders/\)](https://www.facebook.com/wewantbernieSanders/) Art

[Not War](#)

[\(http://artnotwar.com/\)](http://artnotwar.com/) National

[Nurses United](#)

[\(http://www.nationalnursesunited.org/\)](http://www.nationalnursesunited.org/) RobinGiri

[Hood Tax USA](#)

[\(http://www.robinhoodtax.org/\)](http://www.robinhoodtax.org/) Flood

[The System](#)

[\(https://floodthesystem.net/\)](https://floodthesystem.net/) Rising

[Tide](#)

[\(https://risingtidenorthamerica.org/\)](https://risingtidenorthamerica.org/) Fight

[\(http://fightfor15.org/\)](http://fightfor15.org/) Fight

[For The Future](#)

[\(https://www.fightforthefuture.org/\)](https://www.fightforthefuture.org/)

[\(https://www.facebook.com/TheOther99/\)](https://www.facebook.com/TheOther99/)

WHO WE ARE

The human beings who make it all happen.

[Charles Lenchner](#)

<http://www.peopleforbernie.com/about/charle>

[Readyg](#)

<http://www.peopleforbernie.com/about/winnie>

[Brezler](#)

<http://www.peopleforbernie.com/about/kather>

<http://www.peopleforbernie.com/about/brett>

[Moumita Ahmed](#)

<http://www.peopleforbernie.com/about/moum>

[Williams](#)

http://www.peopleforbernie.com/about/stan_v

[Art](#)

<http://www.peopleforbernie.com/about/maxim>

[Manker](#)

<http://www.peopleforbernie.com/about/tyson>

[RobinGiri](#)

<http://www.peopleforbernie.com/about/jenni>

[Downs](#)

http://www.peopleforbernie.com/about/pat_d

[Boulger](#)

<http://www.peopleforbernie.com/about/portia>

[Michael Files](#)

<http://www.peopleforbernie.com/about/caleb>

[Brooks](#)

<http://www.peopleforbernie.com/about/patrici>

[Newlin](#)

http://www.peopleforbernie.com/about/joe_ne

TECH PARTNERS

 State

[\(http://bernie.state.com/\)](http://bernie.state.com/)



Rally (<http://www.gorally.co/>)

BIOS



Charles Lenchner

Co-Founder (People For Bernie)

Charles Lenchner is a political and digital marketing consultant and the Executive Director of Organizing 2.0. He is co-founder of People for Bernie, an independent effort in support of Bernie Sanders that began in April 2015. Previously, he was a founder of Ready for Warren, digital director for the Zephyr Teachout campaign, and digital director of the Working Families Party. Charles lives in Brooklyn with his partner and two sectarian communist cats.



Winnie Wong

Co-Founder and Internet MOM of #FeelTheBern (People For Bernie)

Winnie Wong is a radical media maker, internet activist and founding organizer of Occupy Wall Street and Occupy Sandy.

In the Spring of 2014, she helped to launch Ready For Warren. In the Spring of 2015, she co-founded People For Bernie 2016, and created the viral political hashtag: #FeelTheBern. As a professional concern troll, she is never NOT theorizing the cultural hegemony.



Katherine Brezler

National Digital Director (People For Bernie)

For the last decade she has been working on education policy improvement projects. Most recently she was part of nation wide organizing for the opt out movement. From early anti-war demonstrations to single payer health care organizing Katherine has worked tirelessly to advocate for the 99% and she joins this team's leadership to organize a nation wide movement both online and offline.



Portia Boulger

Organizer (Women For Bernie)

Portia A. Boulger is a grassroots activist who has fought for unions, women's and human rights for over 40 years. She is active in national and statewide politics and serves on the Ross County Democratic Party executive committee. Portia is a team member of Women for Bernie Sanders and runs their Twitter account.



Pat Downs

Co-Founder (Women For Bernie)

Pat Downs is a retired librarian who's spent the last 20 years leveraging resources and building community in libraries. She's created award-winning jobs and volunteer programs for foster youth and teens. A writer and trainer, Pat is a co-founder of Women for Bernie Sanders and is currently serving as their main FB administrator.



Moumita Ahmed

National Organizer (Millennials For Bernie, People For Bernie)

Moumita is a 25 year old political activist, community organizer, nature lover, and dirt-worshiper. She has experience in field organizing and volunteer coordinating for Campaigns throughout NY State and worked on Zephyr Teachout's campaign for Governor. Moumita is the lead organizer for Millennials for Bernie and is also the National Grassroots Coordinator for People For Bernie.



Caleb-Michael Files

(Digital Organizer, People For Bernie)

Caleb-Michael is a strategist working on Social and Digital Strategy. Caleb-Michael resides in Astoria, New York by way of Knob Noster, Missouri. A Socialist at heart he is stoked to be able to give back by working to elect Bernie.



Tyson Manker

Vets For Bernie, Director

Tyson Manker is an attorney, adjunct professor, social activist, and former Marine Corps infantryman combat veteran of Iraq.

Earlier this year, Tyson created the pro-Sanders group 'Vets For Bernie' (vetsforbernie.org) as a way for veterans and active-duty service members to connect and get involved in the election. He then worked with the campaign to craft an online letter for military men and women to pledge their support. Several thousand veterans have already signed on.

Beyond organizing, VFB works to give veterans a voice by amplifying their support for Senator Sanders. For that purpose, VFB maintains a streamlined media presence across Facebook, Twitter, Instagram, Reddit, and Pinterest, which is administered by dozens of veteran and civilian volunteers. Soon, Bernie2016TV will begin broadcasting a regular 'Vets For Bernie' program.

Tyson can be reached at tyson@vetsforbernie.org (mailto:tyson@vetsforbernie.org).



Jenni Siri

Co-Founder (Women For Bernie)

Jenni Siri is a freelance graphic artist with a BFA in Visual Communications. She is a political activist with primary interests in women's rights, environmentalism and getting money out of politics. Jenni is a co-founder, organizer and artistic director for Women for Bernie Sanders.



Maximilian Cotterill

Organizer (People For Bernie)

Max is a rising senior at the University of California, San Diego (UCSD) majoring in Political Science- Public Policy and History. He began his activist career during high school joining Mark Takano's 1st successful campaign in Congress. Since then, Max has engaged in advancing progress through a variety of means; serving as a Delegate to the CA Democratic Party, member of the San Diego Central Committee, founder of a youth-centric Super PAC, and grassroots organizing of students against the creeping privatization of public education. Max aims to continue CCD's long legacy of electing Democrats across the state-- but more importantly aims to effectively advocate and ensure that elected Democrats stay true to our progressive values.



Stan Williams

Lead Organizer, African Americans For Bernie, People For Bernie

Stan Williams is a organizing director for the Organization of Staff Analyst Union in New York City. He is a logistics and support specialist, providing assistance to many movements notably Occupy Wall Street and Millions March NYC, the largest Civil Rights action this decade. You can reach him at stan@peopleforbernie.com or on Twitter at [@stanwilliams](https://twitter.com/stanwilliams) (<https://www.twitter.com/stanwilliams>).



Patricia Brooks

Media Consultant, People for Bernie

Patricia Brooks has been pitching the media on progressive issues on a daily-basis for over twelve years. During her career, she has earned coverage in nearly every major national print, television, radio and online outlet, and she has facilitated front page articles for multiple clients in the New York Times, Washington Post and USA Today. She has worked on over 100 media relations campaigns and offered strategic communications consultancy for dozens of non-profit clients

Including ActionAid USA, The Wilderness Society, and Potomac Conservancy. She focuses on issues such as economic justice, criminal justice system reform, access to mental health care, climate change, food security, and racial and gender equality.

She lives in Washington DC with her husband, Stefan, but grew up in Avon Lake, Ohio, the daughter/ granddaughter of United Auto Workers Employees at the local Ford Motor Company.



Joe Newlin

Technology Director, People for Bernie

Joe Newlin is a digital strategist and online organizer, and the founder and principal of vsbly, a boutique strategic communications agency in Los Angeles. He helps labor unions, political campaigns, and nonprofits organize through social media, he writes code for experimental art & music, and he can't remember how many Twitter accounts he has.



(/home)

Sign in with Facebook (https://peopleforbernie.nationbuilder.com/users/facebook/connect?page_id=595&scope=public_profile%2Cemail),
Twitter ([/users/twitter/connect?page_id=595](https://users/twitter/connect?page_id=595)) or email ([/login](#)).

Designed by VSBLV (<http://www.vsbly.org>) on NationBuilder (<http://nationbuilder.com/>)