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COMMISSION

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OFFICE OF GENERAL
COUNSEL

Arthur Z. Schwartz
Principal Attorney

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October 20, 2016

By UPS Overnight and Email

Roy Lockett, Esq.
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463
cela@fec.gov

Re: Complaint of American Democracy Legal Fund
MUR #7038

Dear Mr. Lockett:

This office has been retained (to the extent an amorphous group of people can retain counsel) by “People for Bernie,” and by Charles Lenchner, whose name appeared on FEC’s notice. The reason I preface this letter this way is that “People for Bernie” exists only as the name of a website and a Facebook page. It is not an organization (incorporated or unincorporated), it has no members, it has no bank account, it has never collected money (look at its website at www.peopleforbernie.com and you will not see a “contribute” tab), and it has no steering committee. I was asked to appear on its behalf by Charles Lenchner, a Brooklyn, New York resident who holds the Nationbuilder account associated with the peopleforbernie.com website and is one of the people who had administrative access to the “People for Bernie” Facebook page.

I should note, as well, that the American Democracy Legal Fund has not named “People for Bernie” as a Respondent. Although we are responding today, we request an extension of time until November 15, 2016 to supplement this response. Part of our problem flows from the fact that for all of its length and 58 footnotes, the entire basis for the complaint against People for Bernie goes back to footnote 13, which references footnote 5, which references a January 27, 2016 article by Matea Gold in the Washington Post, titled “Inside the Pro-Sanders Groups Taking on Clinton’s Powerhouse Allies.” That article states that Mr. Lenchner and a friend, Winnie Wong, started People for Bernie in April 2015, which, it says, “helped supporters organize house

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parties and quickly established social-media profiles for a collection of constituency groups... .” The article quotes Wong as saying, “we’re curating the news, supporting the grass roots, getting them information.” The article then states that “the project” received \$45,000 (in late 2015) from the National Nurses Union, channeled through Progressive Kick. The article states that Joshua Grossman, who is identified as President of Progressive Kick, “confirmed the arrangement.” (It does not describe “the arrangement.”) That is the sum total of the evidence, other than a disconnected discussion about a Gay Pride march in June 2015.

Problem is, as we stated above, People for Bernie has no bank account or tax i.d. number, and as an entity never received a penny from Progressive Kick or anyone else. To be sure, we checked Progressive Kick’s FEC filings and found nothing. We found a limited number of checks written to Lenchner and Wong, but nothing to “People for Bernie.”

People for Bernie is not an entity subject to FEC reporting rules. It is not a “political committee.” It is a website and a Facebook page maintained by an amorphous group of individuals, as are its offshoots, like Jews for Bernie and Socialists for Bernie. In fact, different people determined the content of each of those websites/Facebook pages. In essence, the sites and the pages were simply an electronic media expression of the opinions of a small group of people that became a national phenomenon, with tens of thousands of views per day and hundreds of Facebook responses. There were others who occasionally paid Facebook (not People for Bernie) to put ads on the People for Bernie Facebook page -- usually about issues like climate change. People for Bernie did not place ads on its own page. Since no particular ad seems to be complained about, we cannot provide a specific response.

The only other mention of a People for Bernie activity in the complaint is the fact that some individuals associated with People for Bernie, wearing Bernie Sanders campaign paraphernalia, marched in the June 2015 Gay Pride Parade in New York City. We cannot understand what connection these actions by people as individuals, seven months before the alleged Progressive Kick contribution, have with an FEC violation.

In sum, People for Bernie is not a “political committee” as that term is defined at 52 U.S.C. § 30101(4). It received no contributions and its expenditures only involved the annual cost of a web domain, or perhaps, if the complaint is viewed liberally against my client (which it should not be, U.S. v. Hankin, 607 F.2d 611 (3d Cir. 1979)), a series of domains. The work of Mr. Lenchner and other volunteers were not contributions under 501 U.S.C. § 30101(8)(B). The links to news stories on People for Bernie’s Facebook page were not “expenditures” as that term is defined at 52 U.S.C. § 3101(9)(B)(i). People for Bernie, given these facts, is exempt from FEC regulation under 11 CFR §§ 100.94 and 100.155.

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Given these facts, there is no basis for a complaint against "People for Bernie" or Mr. Lenchner as one of its founders.

We reserve the right to amend the response and again request an extension until November 15, 2016 to supplement this letter.

Very truly yours,



Arthur Z. Schwartz

AZS:dr

cc: Charles Lenchner



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Statement of Designation of Counsel

Provide one form for each Respondent/Witness
FAX 202-219-3923

CASE #: MUR # 7038

Name of Counsel: ARTHUR SCHWARTZ

Firm: Advocates For Justice Chartered Attorneys

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NY, NY 10007

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E-mail: aschwartz@afjlaw.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

10/20/16
Date

Clark Rubin
Signature

Self
Title

RESPONDENT: People for Bernie
(Committee Name/Company Name/Individual Named In Notification Letter)

MAILING ADDRESS:

Telephone: (H): _____ (W): _____

Email: _____

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person receiving the notification or the person with respect to whom the investigation is made.