



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Claire Barnett
Claire Barnett Campaign
P.O. Box 780381
San Antonio, TX 78278

DEC 21 2018

RE: MUR 7444

Dear Ms. Barnett:

The Federal Election Commission reviewed the allegations in your complaint received on July 30, 2018. On December 17, 2018, based upon the information provided in the complaint, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to unknown respondent, and close its file in this matter. Accordingly, the Commission closed its file in this matter on December 17, 2018. A copy of the Factual and Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan".

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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3 RESPONDENTS: Unknown Respondent MURs 7430, 7444, and 7445
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6 There matter was generated by a Complaints filed with the Federal Election Commission
7 (the "Commission"). The three complaints allege that an unknown foreign national made
8 contributions to candidates running for local and state office in Bexar County, Texas. Given the
9 very small amounts at issue and the difficulties posed by a potential investigation to identify the
10 unknown respondents, the Commission dismisses the matters in an exercise of its prosecutorial
11 discretion.¹

12 I. FACTUAL BACKGROUND

13 Complainants are candidates for local and state office in Bexar County, Texas.² They
14 allege that unknown respondents³ attempted to make small online contributions from Italy to
15 each Complainant's campaign using pre-paid credit cards. The contributions were in the
16 following amounts: two contributions totaling \$26 to Vasquez's committee;⁴ two contributions

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

² Complainant Veronica Vesquez is a candidate for Judge of Probate Court #2 in Bexar County, Texas. Compl. at 1, MUR 7430 (July 17, 2018). Complainant Claire Barnett is a candidate for Texas State Representative for District 122, which represents part of Bexar County. Compl. at 1, MUR 7444 (July 30, 2018); see also Texas Government: Who Represents Me?, available at <https://fyi.capitol.texas.gov/County.aspx> (last visited September 20, 2018). Complainant Joe D. Gonzales is a candidate for District Attorney of Bexar County, Texas. Compl. at 1, MUR 7445 (July 30, 2018).

³ Although the pattern of behavior was identical in each matter, it is not possible to verify whether the contributions were made by one or more individuals or entities. The contributor "names" shown on the online payment processing forms attached to the Complaints are a series of unintelligible letters, and each contributor "name" was different. For example, the "name" associated with the contribution in MUR 7430 is "sdgdsd sdgdsd." Compl. Ex. at 2, MUR 7430.

⁴ Compl. at 1, MUR 7430. The two contributions were made within minutes of each other, and the first was for \$25 and the second for \$1. *Id.* at Ex. 1

1 totaling \$3 to Barnett's committee;⁵ and one contribution totaling \$1 to Gonzalez's committee.⁶

2 In each case, the contributors appeared to use fictitious names and addresses, and the

3 Complainants cancelled the transactions and refunded the contributions.⁷ The payment

4 processing forms attached to each Complaint state that the contributions came from Italy.⁸

5 III. LEGAL ANALYSIS

6 The Federal Election Campaign Act of 1971, as amended ("Act"), and Commission
7 regulations prohibit any "foreign national" from "directly or indirectly" making a contribution or
8 donation of money or any other thing of value in connection with a Federal, State, or local
9 election.⁹ A "foreign national" is an individual who "is not a citizen of the United States or a
10 national of the United States . . . and who is not lawfully admitted for permanent residence[.]"¹⁰

11 The available information would support a reasonable inference that Unknown
12 Respondents violated the Act's prohibition against making foreign national contributions. The
13 receipt from the payment processing software indicates that the contributions came from Italy,
14 although we cannot be certain that the contributor was, in fact, a foreign national. Given the
15 limited information before the Commission, it would be very difficult to verify the contributors'
16 citizenship. Accordingly, given the amounts in violation and the difficulty posed by a potential

⁵ Compl. at 1, MUR 7444. The two contributions were made within hours of each other, and the first was for \$2 and the second for \$1. *Id.* at Ex. 1. Based on the information provided by Complainant, it appears that the same fake name was used on Complainant Barnett's website for both contributions but that different fake names and addresses were used on the payment processing software for each of the two contributions to Barnett. *Id.*

⁶ Compl. at 1, MUR 7445. Although the Complaint alleges that the contribution was made using a pre-paid MasterCard, the attached exhibit identifies the card at issue as a pre-paid Visa card. *Id.* at Ex. 1.

⁷ Compl. at 1, MUR 7430; Compl. at 1, MUR 7444; Compl. at 1, MUR 7445.

⁸ Compl. at Ex. 1, MUR 7430; Compl. at Ex. 1, MUR 7444; Compl. at Ex. 1, MUR 7445.

⁹ 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b).

¹⁰ 52 U.S.C. § 30121(b); 11 C.F.R. § 110.20(a)(3).

- 1 investigation of the violations, the Commission dismisses the Complaints as a matter of
- 2 prosecutorial discretion.

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