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SANDLER REIFF

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March 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 7573

Ms. Dennis:

The undersigned serves as counsel to:

- Congresswoman Alexandria Ocasio-Cortez, her authorized committee Alexandria Ocasio-Cortez for Congress, with Frank Llewellyn in his capacity as Treasurer (“AOC”);¹
- Riley Roberts;
- Saikat Chakrabarti;
- Brand New Congress PAC, with Amy Vilela in her capacity as Treasurer (“BNC PAC”); and
- Brand New Congress LLC (previously known as “Brand New Campaign LLC”), a vendor that provided services to AOC and BNC PAC, formed as a Limited Liability Company in Delaware, whose sole member is Saikat Chakrabarti (collectively, the “Parties”).²

¹ AOC objects to the notice that Frank Llewellyn has been named in his individual capacity. Mr. Llewellyn was not Treasurer at the time of the activities described in the Complaint – August and September of 2017, and did not become Treasurer of Alexandria Ocasio-Cortez for Congress until March of 2018 (<http://docquery.fec.gov/cgi-bin/forms/C00639591/1215849/>). As a general matter, vague and unsubstantiated assertions that a Treasurer knew of activity described in a complaint should not give rise to them being named in their individual capacity.

² Isra Allison, the listed Treasurer of BNC PAC, has since left the organization.

This letter responds on behalf of the Parties to the Commission’s notification of a complaint from the Coolidge-Reagan Foundation (the “Foundation”, the “Complaint”) alleging that the Parties violated the Federal Election Campaign Act (the “Act”) and Federal Election Commission (the “Commission”) regulations.³

As described below, based on the facts of the Complaint and other information available, there is no reason to believe that the Parties have violated the Act or any of the Commission’s regulations. The Complaint has been filed purely for political purposes – to create an additional press story against Congresswoman Ocasio-Cortez, many of which have become increasingly personal in nature.⁴

All payments cited in the Complaint were made in compliance with the Act and Commission regulations, as described below (along with the attached contract and affidavit). Mr. Roberts provided bona fide services to BNC PAC under a contract, attached to this response as Attachment A. Accordingly, we request that the FEC close the file on this complaint, and take no further enforcement action against the Parties.

1. Payments made from BNC PAC to Mr. Roberts were for *bona fide* services.

The Complaint alleges that AOC “laundered” funds through BNC PAC to pay her partner, Mr. Riley Roberts, and “masked” those payments by reporting them as for services rendered to the PAC. *This could not be further from the truth.*⁵

³ While the Complaint states that the “Coo[o]ldidge-Reagan Foundation is a non-connected hybrid political committee registered with the Federal Election Commission”, the Foundation does not appear in the Commission’s records. According to its website, <https://www.coolidgereagan.org/donate>, the Foundation is a “not for profit, charitable organization formed under Section 501(c)3 of the Internal Revenue Code.” Setting aside that Mr. Backer signed the Complaint under the penalties of perjury on behalf of the Foundation, the partisan language and nature of the Complaint calls its charitable purpose into question.

⁴ The Complaint itself was announced as a part of an article on Fox News. Fox News, “Payments to Ocasio-Cortez boyfriend spur FEC complaint from Republican group” (February 27, 2019), [available at https://www.foxnews.com/politics/payments-to-ocasio-cortez-boyfriend-spur-fec-complaint](https://www.foxnews.com/politics/payments-to-ocasio-cortez-boyfriend-spur-fec-complaint); see also PJ Media, “Did Alexandria Ocasio-Cortez Put Her Boyfriend on the Public Payroll? Rumors Swirl” (February 15, 2019), [available at https://pjmedia.com/trending/did-alexandria-ocasio-cortez-put-her-boyfriend-on-the-public-payroll-rumors-swirl/](https://pjmedia.com/trending/did-alexandria-ocasio-cortez-put-her-boyfriend-on-the-public-payroll-rumors-swirl/); Luke Thompson, “The Congresswoman Loves the Swamp Her Wealthy Chief of Staff used a PAC to Pay Her Boyfriend” (February 20, 2019), [at https://medium.com/@lthomps/the-congresswoman-loves-the-swamp-d33296ec251e](https://medium.com/@lthomps/the-congresswoman-loves-the-swamp-d33296ec251e), Washington Examiner, “Alexandria Ocasio-Cortez’s office sure looks swampy” (February 20, 2019), [at https://www.washingtonexaminer.com/opinion/alexandria-ocasio-cortezs-office-sure-looks-swampy](https://www.washingtonexaminer.com/opinion/alexandria-ocasio-cortezs-office-sure-looks-swampy) (last accessed March 12, 2019).

⁵ The Parties wish to note that the incendiary language used in the Complaint (“laundered”, “funneled”) – beyond being indicative of the political nature of the Complaint – is an accusation of a very serious crime.

A public news search of the Complainant – Mr. Backer – call the veracity of the Complaint into question in general. See, POLITICO, “The rise of ‘scam PACs’” (January 26, 2015), [available at https://www.politico.com/story/2015/01/super-pac-scams-114581](https://www.politico.com/story/2015/01/super-pac-scams-114581); POLITICO, “Trump backers face

In actuality, BNC PAC entered into a written agreement with Mr. Roberts dated August 3, 2017 – Attachment A – for the following services:

- *FB/Instagram Campaign Strategy for the BNC Page*
- *Numerous Demographic/Interest-Based Target Audiences*
- *Conversion Funnel FB/Instagram Campaign Setup*
- *Cornerstone Ad Creative to Start Campaign*
- *Ongoing Campaign Management & Optimization*
- *Monthly/Weekly Performance Metrics Reports*
- *Consistent Slack/Email Communication w/ Designated Contact Person*
- *4 Hours of Calls Split Between Comms, Social Media, Admin, etc*

Mr. Roberts is a professional digital marketing and growth consultant who specializes in social media presence and subscriber engagement. Mr. Roberts was selected by BNC PAC based on his experience managing successful advertising and social media campaigns.

These services, provided for two months between August 3rd and the end of September of 2017, were actually performed, and included specific metrics and projections commensurate with a marketing agreement of this nature. The price charged – \$3,000 per month – would in no way exceed the fair market value of these services.

The services performed by Mr. Roberts were unrelated to AOC, and were on behalf of BNC PAC, which supported many different candidates. An affidavit from BNC PAC Chairperson Cory Archibald – Attachment B – describes the relationship and the services provided by Mr. Roberts.

The Complaint attempts to conflate Brand New Congress LLC and Brand New Congress PAC as the same entity. Brand New Congress LLC **is not the same entity as BNC PAC**. Brand New Congress LLC was a for-profit venture that provided services to BNC PAC, AOC, and other candidates and committees. While Brand New Congress LLC was paid by AOC for services rendered, **no funds passed from Brand New Congress LLC to BNC PAC** (in fact, the opposite is true, as a payment for services provided), and no funds passed from AOC to BNC PAC. AOC paid Brand New Congress LLC for professional services unrelated to BNC PAC, and Mr. Roberts did not provide services to Brand New Congress LLC.

From this, AOC did not “launder” money through BNC PAC to “provide campaign funds to her boyfriend.” The Complaint is spurious and false. AOC paid Brand New Congress LLC

'scam PAC' charges” (May 16, 2016), at <https://www.politico.com/story/2016/05/scammers-feast-of-trump-fundraising-disarray-223141>; Milwaukee-Wisconsin Journal Sentinel, “Master of 'scam PACs' now targeting 'establishment' Paul Ryan (July 14, 2016), at <http://archive.jsonline.com/watchdog/noquarter/conservative-consultant-finds-big-money-attacking-establishment-b99761774z1-386833931.html/>; BuzzFeed, “This Hyperpartisan Conservative Site Is Connected To Several Pro-Trump PACs” (June 15, 2017) at <https://www.buzzfeednews.com/article/craigsilverman/how-a-dc-lawyer-uses-hyperpartisan-websites-to-raise-money#.rcq7Xl4Qzg> (last accessed March 12, 2019).

for services provided to the campaign, while BNC PAC *separately* paid Mr. Roberts for services provided *directly to BNC PAC*. There were no payments made from Brand New Congress LLC to BNC PAC.

2. AOC did not make any payments to Mr. Roberts.

In addition to the above, it must be noted that AOC did not make any disbursements to Mr. Roberts. In 2018 (long after his work for BNC PAC), Mr. Roberts provided in-kind contributions to AOC. Mr. Roberts – as a marketing consultant – provided in-kind contributions of his time for “Digital Marketing Services” of \$250 on March 31, 2018, and \$1,500 on June 6, 2018 to AOC, which was disclosed as a primary election contribution on AOC’s campaign finance reports.

These in-kind contributions were reported out of an abundance of caution, with a recognition of the value of Mr. Roberts’ services. In addition, Mr. Roberts volunteered countless hours to AOC during the course of the campaign.

3. 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. Despite the smokescreen that the Complaint and right-wing media attempt to create, the facts alleged fail to show that any violation occurred. The accusation in the Complaint is based on a misrepresentation of fact.⁶ This accusation is clearly rebutted, as Mr. Roberts provided *bona fide* services to BNC PAC.

Accordingly, we request that the FEC close the file on the Complaint, and take no further enforcement action against the Parties.

[Signature page follows]

⁶ Although the FEC is not bound by the Federal Rules of Evidence, the Administrative Procedure Act allows for an administrative adjudicator to exclude “. . .irrelevant, immaterial, or unduly repetitious evidence.” 5 U.S.C. § 556(d); Federal Election Commission MUR 5878, Statement of Reasons of Vice Chairman Donald F. McGahn and Commissioners Caroline C. Hunter and Matthew S. Peterson at 5- 6 (“[Reason to believe] requires some assessment by the Commission of the facts and their credibility as well as the law before finding reason to believe. The Commission cannot find reason to believe unless it considers a properly submitted response, and the Commission cannot investigate alleged violations until it makes this finding. Together, these requirements provide procedural safeguards that protect respondents from frivolous complaints meant to harass, prevent unwarranted or premature discovery, and streamline enforcement by excluding innocuous respondents while allowing the Commission to better focus its resources”).

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:

Congresswoman Alexandria Ocasio-Cortez,
her authorized committee Alexandria
Ocasio-Cortez for Congress, Frank
Llewellyn, Treasurer,

Riley Roberts,

Saikat Chakrabarti,

Brand New Congress, Amy Vilela,
Treasurer, and

Brand New Congress LLC.

SUBCONTRACTOR AGREEMENT

This Agreement, made and entered into as of the **3 August 2017**, by and between **Brand New Congress (“BNC”)** and **Riley Roberts (“Subcontractor”)**, witnesseth:

In consideration of the mutual covenants contained in this Agreement, it is agreed as follows:

1. Services to be Performed

- 1.1 During the term of this Agreement scheduled to begin at or before August 7th, 2017, Subcontractor agrees to perform the following services for BNC:

Retainer

The Retainer fee is \$3000, which includes:

- It is estimated to take 2 weeks to launch all upfront campaign components
- FB/Instagram Campaign Strategy for the BNC Page
- Numerous Demographic/Interest-Based Target Audiences
- Conversion Funnel FB/Instagram Campaign Setup
- Cornerstone Ad Creative to Start Campaign
- Ongoing Campaign Management & Optimization
- Monthly/Weekly Performance Metrics Reports
- Consistent Slack/Email Communication w/ Designated Contact Person
- 4 Hours of Calls Split Between Comms, Social Media, Admin, etc
- BNC is responsible for reviewing and providing feedback of all deliverables and questions within three business days of submission.

Campaign Projection Metrics

Here are preliminary projections for a \$2000/mo starting campaign spend:

- 400,000 Post Impressions at \$5 Per 1000 Impressions
- 6000 Post Engagements at \$.33 Per Engagement
- 2000 Page Likes at \$1 Per Like
- 1000 Email Subscriptions at \$2 Per Signup
- 400 Donations at \$5.00 each

Projections for Higher Monthly Campaign Spends:

Result:	Impressions	Post Engagement	Page Likes	Donations	Avg Donation
Avg Cost Per Acquisition:	\$5 per 1000	\$0.33	\$1.00	\$5.00	\$17.00
Mo Ad Spend:					
\$2,000.00	400,000	6,061	2,000	400	\$6,800.00
\$5,000.00	1,000,000	15,152	5,000	1,000	\$17,000.00
\$10,000.00	2,000,000	30,303	10,000	2,000	\$34,000.00
\$25,000.00	5,000,000	75,758	25,000	5,000	\$85,000.00
\$100,000.00	20,000,000	303,030	100,000	20,000	\$340,000.00
\$500,000.00	100,000,000	1,515,152	500,000	100,000	\$1,700,000.00

Projection Disclaimers:

These outcomes could vary significantly depending on a number of variables including content engagement rates and the Facebook Ads algorithm. Content creative is a huge contributor to conversions, so it's possible that BNC can earn much better results than this if the content produced by the social media team is able to highly engage the targeted audiences. Overall, unengaging posts are more expensive to convert.

A 30-day trial period is too short to accurately measure people moving through the funnel from being completely unaware of BNC, to engaging with the content, to following BNC on FB/Instagram or email, and, finally, to donating to the cause. Also, one month donation revenue and return on investment are not good metrics to measure performance because they don't take into consideration audience growth and average lifetime donor value.

Marketing campaigns are most effective and best measured when consistently distributed over many months. Also, one of the major advantages of digital advertising is that you can much more accurately track campaign performance when compared to the traditional political alternatives of TV/radio ads, print ads, mailers, press, etc.

- 1.2 Subcontractor will devote such time to the services to be performed under this Agreement as will be reasonably necessary to ensure timely and satisfactory performance of said services.
- 1.3 All services under this Agreement will be performed in a manner consistent with the professional standards ordinarily followed within Subcontractor's industry.

2. Compensation and Expenses

- 2.1. The Retainer is scheduled to renew on September 18th, and will renew on the 18th of each subsequent month. Invoice for the the monthly Retainer fee must be paid in full at the beginning of each period. BNC may upgrade, downgrade, or cancel its monthly Retainer at the beginning of any period. BNC can avail itself of a 10% discount on the ongoing months by paying in advance for a block of three months.
- 2.2. (a) BNC will reimburse Subcontractor for reasonable out of pocket expenses actually and reasonably incurred in the performance of this Agreement, including: fees to government agencies for access to documents; reasonable costs for research materials; freight and postage; and lodging, food and transportation for travel by Subcontractor incurred in the performance of services under this Agreement, provided that such travel, and the estimated costs thereof, have been approved by BNC in advance of any costs being incurred for such travel.

(b) Subcontractor will provide to BNC on or after the first day of each month, but no later than the 15th of each month, occurring during the term of this Agreement, a written invoice setting forth the monthly fee along with, item by item, its expenses incurred during the preceding month pursuant to this section, together with receipts for all individual expenses in excess of \$25.

3. **Assistance With Government Inquiry**

- 3.1. Subcontractor will provide, in a timely manner, to BNC, at no additional charge, all documents, services, and personnel necessary to assist in connection with any audit, inquiry or investigation of BNC by the Federal Election Commission, or the Internal Revenue Service. Such obligations of BNC will survive the termination of this Agreement.

4. **Conflict of Interest**

- 4.1. Subcontractor agrees that it will not convey to, or use in connection with any work for, any other client of Subcontractor, any information whatsoever about the strategy, plans, projects, activities or needs of BNC, or any other information obtained from and/or used in connection with providing services to BNC under this Agreement. The foregoing covenant will survive termination of this Agreement.

5. **Indemnification and Hold Harmless**

- 5.1. Subcontractor agrees to indemnify and hold BNC harmless from and against any and all damages, fines, costs, liabilities, causes of action, suits, judgments and expenses (including reasonable attorney's fees, disbursements, and actual costs), losses and court costs suffered by BNC, directly or indirectly, solely to the extent based on or arising out of Subcontractor's gross negligence, or knowing violation of known applicable federal, state, or local laws.
- 5.2. BNC agrees to indemnify and hold Subcontractor harmless from and against any and all damages, fines, costs, liabilities, causes of action, suits, judgments and expenses (including reasonable attorney's fees, disbursements and actual costs), losses and court costs suffered by the Subcontractor, including but not limited to any civil penalties levied by any governmental entity or agency against Subcontractor, its employees or agents and their firms, solely to the extent based on or arising out of BNC's gross negligence, or knowing violation of known applicable federal, state, or local laws.

6. **Confidentiality**

- 6.1. Subcontractor agrees that he will not at any time, in any fashion, form or manner, either directly or indirectly, disclose or communicate to any person or entity, any non-public or proprietary information concerning BNC or its operations or programs, or any other information deemed confidential by BNC.
- 6.2. Without limiting the generality of the foregoing, Subcontractor agrees that Subcontractor will not communicate with the media on any matter whatsoever related to BNC without the express consent of BNC.

7. **Ownership of Work Product and Release**

- 7.1. Subcontractor agrees that any and all advertising copy, writings and materials, all sound recordings, all graphic, pictorial and audiovisual works, and all other works, in any form whatsoever, whether written, electronic or otherwise, created or produced by Subcontractor in the course of its performance of services under this Agreement will become and remain the exclusive property of BNC, and will be deemed works for hire for purposes of the Copyright Law of 1976; and all copyright and any other rights in and to such writings and materials will belong to the receiving party.
- 7.2. Subcontractor agrees to execute and deliver any instrument of conveyance or any other instrument or document necessary to transfer all such rights to BNC as appropriate.

8. **Relationship Between the Parties**

- 8.1. It is understood and agreed that Subcontractor is an independent contractor and will have no authority whatsoever to incur any liability or expense on behalf of BNC except in accordance with the terms of this Agreement.

9. **Term and Termination**

- 9.1. This Agreement will come into effect as of the date first above written and will continue in effect, unless this Agreement is terminated pursuant to the provisions of this Section 9.
- 9.2. The provisions of sections 2, 3, 4, 5, 6 and 7 of this Agreement will survive termination of this Agreement and will continue in effect until both parties have fulfilled all of their obligations under those provisions.
- 9.3. Either party may terminate this Agreement for any reason, provided that fifteen (15) days' notice is given by the other party. The fifteenth day after notice is provided is considered the effective date of the termination.

- 9.4. In the event of termination, BNC will pay Subcontractor the fee specified in section 2.1 on a daily pro rata basis until and including the effective date of termination; and will pay Subcontractor for all reimbursable out of pocket expenses incurred prior to the date of notice of termination.

10. **Miscellaneous**

- 10.1 Neither party to this Agreement may delegate its obligations or assign its rights under this Agreement to any other person or entity without the prior written consent of the other, except that BNC may assign its rights or delegate its obligations, in whole or in part, to any of its affiliated companies.

- 10.2 This Agreement will be governed by and construed in accordance with the laws of the District of Columbia without regard to the District of Columbia's choice of law rules. Any action whatsoever to enforce any right under this Agreement shall be brought only in the courts of the District of Columbia.

- 10.3 Any notice required or desired to be given under this Agreement will be deemed sufficient if sent by electronic mail, notice of receipt requested, or by facsimile, to the address set forth below, or to such other address as either party may designate by like notice:

- (i) If to BNC, addressed to:

Brand New Congress
Name: Isra Allison
Email: isra@brandnewcongress.org

- (ii) If to Subcontractor, addressed to:

Riley Roberts
rileysroberts@gmail.com

- 10.4 This Agreement constitutes the entire agreement of the parties relating to the subject matter contained in this Agreement, supersedes all prior written and oral agreements and understandings relating to such subject matter and cannot be modified or amended except by a written instrument executed by both parties to this Agreement.

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

Brand New Congress

Isra Allison _____

Name: Isra Allison

Title: Secretary, Board of Directors

Subcontractor

Riley Roberts _____

Name: Riley Roberts

**BEFORE THE
FEDERAL ELECTION COMMISSION**

MUR 7573)
)
Alexandria Ocasio-Cortez for Congress)
Brand New Congress)
Brand New Congress LLC)
)
)
)

DECLARATION OF CORY ARCHIBALD

1. In August of 2017, I was the Chairperson of Brand New Congress, a political action committee registered with the Federal Election Commission (the “Committee”).
2. I currently hold that same position with the Committee.
3. In August of 2017, the Committee wished to retain a consultant to assist with its advertising and social media campaigns. The committee needed a short-term consultant to assist in the expansion of its online audiences.
4. The Committee retained Mr. Riley Roberts to provide those services, who is as a professional digital marketing and growth consultant specializing in social media presence and subscriber engagement.
5. The Committee and Mr. Roberts entered into a consulting agreement effective between August 3rd and September 30th, 2017.
6. Mr. Roberts performed the services under that consulting agreement and provided consistent metrics to judge his performance. Brand New Congress PAC was fully satisfied with the services provided by Mr. Riley.
7. The price charged by Mr. Roberts – \$3,000 per month – was reasonable given the services provided under the consulting agreement.

8. The services provided to Brand New Congress PAC were unrelated to any programs or activities undertaken by Brand New Congress PAC on behalf of any federal candidate.

9. I declare, under penalty of perjury, that the foregoing is true and correct to the best of my present knowledge, information and belief.

Dated **March 15, 2019:**


