



**FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463**

VIA EMAIL TO

August 9, 2022

Brad Deutsch, Esq.
Foster Garvey PC
1000 Potomac Street, N.W.
Washington, D.C. 20007

brad.deutsch@foster.com

RE: MUR 7587
Bernard Sanders, Bernie 2016, and Bernie
2020

Dear Mr. Deutsch:

On August 8, 2022, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of a violation of 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) and (i), provisions of the Federal Election Campaign Act of 1971, as amended, and Commission regulations. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1548.

Sincerely,

Elena Paoli

Elena Paoli
Attorney

Enclosure: Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Bernard Sanders)	MUR 7587
Bernie 2016 and Susan Jackson in her official)	
capacity as treasurer)	
Bernie 2020 and Lora Haggard in her official)	
capacity as treasurer)	

CONCILIATION AGREEMENT

This matter was initiated by signed, sworn, and notarized complaints by the Coolidge-Reagan Foundation and Richard Turner. The Federal Election Commission (“Commission”) found reason to believe that Senator Bernard Sanders, Bernie 2016 and Susan Jackson in her official capacity as treasurer (“Bernie 2016”), and Bernie 2020 and Lora Haggard in her official capacity as treasurer (“Bernie 2020”) (collectively “Respondents”)¹ violated 52 U.S.C. § 30121(a)(2) and 11 C.F.R. § 110.20(g) and (i).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C.

§ 30109(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

¹ Bernie 2016 and Bernie 2020 are collectively referred to as the “Committees.”

1. Senator Bernard Sanders was a presidential candidate in the 2016 and 2020 elections.
2. Bernie 2016 was Sanders's principal campaign committee in the 2016 election and is a political committee within the meaning of 52 U.S.C. § 30102(e). Susan Jackson is the treasurer of Bernie 2016.
3. Bernie 2020 was Sanders's principal campaign committee in the 2020 election and is a political committee within the meaning of 52 U.S.C. § 30102(e). Lora Haggard is the treasurer of Bernie 2020.
4. In late 2015, Bernie 2016 knowingly hired three individuals as paid staffers who were not United States citizens and who were not lawfully admitted for permanent residence to serve as advisers to his 2016 campaign. Two of the individuals were born in Mexico and one was born in Argentina. All three employees qualified for and were registered as participants in the Deferred Action for Childhood Arrivals ("DACA") program.²

² "The following criteria should be satisfied before an individual is considered for an exercise of prosecutorial discretion [*i.e.*, DACA] pursuant to this memorandum:

- came to the United States under the age of sixteen;
- has continuously resided in the United States for a least five years preceding the date of this memorandum and is present in the United States on the date of this memorandum;
- is currently in school, has graduated from high school, has obtained a general education development certificate, or is an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;
- has not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise poses a threat to national security or public safety; and
- is not above the age of thirty."

5. In February 2019, Bernie 2020 hired the individual born in Argentina to serve as a paid staff adviser to his 2020 campaign.

6. The three individuals were employed by the Bernie 2016 and Bernie 2020 campaigns under the job titles, “Latino Press Secretary,” “National Latino Outreach Strategist,” and “Press Secretary for Latino Outreach.” They were tasked with planning and executing events intended to mobilize the Spanish-speaking and Latino communities to support Sanders and serving as contacts for Latino media outlets. The employees worked to help craft and deliver campaign policy on the issue of immigration and other issues of interest to the Latino community.

7. The Federal Election Campaign Act of 1971, as amended (“Act”) provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A).

8. The Act prohibits any “foreign national” from directly or indirectly making a contribution or donation of money or other thing of value, or an expenditure, in connection with a federal, state, or local election. 52 U.S.C. § 30121(a)(1); *see also* 11 C.F.R. § 110.20(b), (c), (e), (f). The Act’s definition of “foreign national” includes an individual who is not a citizen or national of the United States and who is not lawfully admitted for permanent residence, as well as a “foreign principal” as defined at 22 U.S.C. § 611(b). 52 U.S.C. § 30121(b); 22 U.S.C. § 611(b)(3); *see also* 11 C.F.R. § 110.20(a)(3).

9. Commission regulations implementing the Act’s foreign national prohibition provide:

A foreign national shall not direct, dictate, control, or directly or indirectly participate in the decision-making process of any person, such as a corporation, labor organization, political committee, or political organization with regard to such person’s Federal or non-Federal election-related activities, such as decisions concerning the making of contributions,

donations, expenditures, or disbursements. . . or decisions concerning the administration of a political committee.

11 C.F.R. § 110.20(i).

10. The Act further prohibits persons from soliciting, accepting, or receiving a contribution or donation from a foreign national. 52 U.S.C. § 30121(a)(2). The Commission's regulations employ a "knowingly" standard here. 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited foreign national contribution or donation if that person has actual knowledge that funds originated from a foreign national, is aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the funds originated from a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the funds originated from a foreign national but failed to conduct a reasonable inquiry. 11 C.F.R. § 110.20(a)(4).

11. Under the DACA policy of 2012, the three foreign national employees were granted a reprieve from the enforcement of immigration laws in an exercise of prosecutorial discretion, thus allowing them to be lawfully present in the United States. DACA status, however, does not confer citizenship, lawful permanent residence, or any other immigration status.³ Thus, the Respondents acknowledge that the Commission has determined that at the time of their employment by the Committees, the three employees were "foreign nationals" under the Act.

12. As Latino leaders and faces of the Sanders campaign, these employees were in a position to participate in making decisions about targeting voters and messaging, helping to shape the Committees' election-related spending decisions and administration. By advising the campaign on its targeting and messaging, and then implementing the campaign's outreach to

³ See Janet Napolitano Memo.

Latino voters by planning and attending events, the three employees participated in the decision-making processes of the Sanders committees in connection with election-related activities.

13. Respondents contend that the Act’s foreign national prohibition was adopted before the DACA program was implemented, and that each of the three individuals was a qualified and registered participant in the DACA program (“DACA Recipient”) — such that their status is akin to being lawfully admitted for permanent residence (commonly referred to as “Green Card” holders). Respondents further contend that, by definition, DACA Recipients have been brought into the United States as children and, lacking any legal status, have never been able to freely return to their birth countries. Respondents contend that DACA Recipients have grown up in the United States with no other home and, that unlike Green Card holders (a category of persons that are not “foreign nationals” under the Act), DACA Recipients owe no other allegiance to any nation besides the United States.

14. In 2018, Bernie 2016 entered into a conciliation agreement with the Commission promising to cease and desist from violating 52 U.S.C. § 30121(a)(2). *See* Conciliation Agreement ¶ VI.2, MUR 7035 (Bernie 2016, *et al.*) (Feb. 14, 2018).

V. Solely for the purpose of settling this matter expeditiously and to avoid the expense of litigation, without admitting liability as to any other proceeding:

1. Respondents agree not to further contest the Commission’s finding in this matter that these three individuals, who were born outside the United States and are not U.S. citizens or legal permanent residents, are “foreign nationals” under the Act.
2. Respondents accordingly admit that by knowingly hiring these three individuals as paid staffers to participate in the Committees’ decision-making processes

regarding election-related spending or administration, they violated 52 U.S.C.

§ 30121(a)(2) and 11 C.F.R. § 110.20(g) and (i).

VI. 1. The Committees will cease and desist from violating 52 U.S.C.

§ 30121(a)(2) and 11 C.F.R. § 110.20(g) and (i).

2. Respondents will pay a civil penalty to the Commission in the amount of Fifteen Thousand dollars (\$15,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

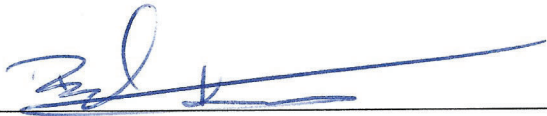
Lisa J. Stevenson
Acting General Counsel

BY: **Charles Kitcher**
Charles Kitcher
Associate General Counsel for Enforcement

Digitally signed by
Charles Kitcher
Date: 2022.08.09
14:35:49 -04'00'

8/9/22
Date

FOR THE RESPONDENTS:


Brad Deutsch
Counsel

1/14/2022
Date