

**FEDERAL ELECTION COMMISSION**

**FIRST GENERAL COUNSEL'S REPORT**

**MUR 8274**

DATE COMPLAINT FILED: June 11, 2024

DATE OF NOTIFICATIONS: June 18, 2024

LAST RESPONSE RECEIVED: August 2, 2024

DATE ACTIVATED: October 30, 2024

STATUTE OF LIMITATIONS: April 4, 2028-  
June 20, 2029

ELECTION CYCLE: 2024

**COMPLAINANTS:**

Juli Z. Haller

America First Legal Foundation

**RESPONDENTS:**

Alvin L. Bragg, Jr.

Joseph R. Biden, Jr.

Harris for President f/k/a Biden for President and

Keana Spencer in her official capacity as treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30104(b)

52 U.S.C. § 30116(a)(1)(A), (f)

11 C.F.R. § 104.3(b)

11 C.F.R. § 110.1(b)

11 C.F.R. § 110.9

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

**I. INTRODUCTION**

The Complaint alleges that Manhattan District Attorney Alvin L. Bragg, Jr. coordinated the prosecution of President Donald J. Trump with President Joseph R. Biden, Jr. and Biden's principal campaign committee, Harris for President (f/k/a Biden for President) and Keana Spencer in her official capacity as treasurer (the "Biden Committee"), in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, the Complaint alleges that Bragg's purported coordination with Biden and the Biden Committee (collectively, the "Biden Respondents") resulted in an excessive and unreported in-kind contribution from Bragg

1 to the Biden Committee. The Biden Respondents argue that the allegations in the Complaint do  
2 not indicate that the prosecution of Trump was a coordinated expenditure. Bragg did not submit  
3 a response.

4 As explained below, the available information does not indicate that there was any  
5 coordination between Bragg and the Biden Respondents concerning the prosecution of Trump.  
6 Therefore, we recommend that the Commission dismiss the allegations that Bragg violated  
7 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b) by making excessive contributions, and  
8 that the Biden Respondents violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by knowingly  
9 accepting excessive contributions. We also recommend that the Commission dismiss the  
10 allegation that the Biden Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a) by  
11 failing to report excessive in-kind contributions.

## 12 **II. FACTUAL BACKGROUND**

13 Alvin L. Bragg, Jr. is the District Attorney of New York County, New York (a/k/a  
14 Manhattan).<sup>1</sup> Joseph R. Biden, Jr. was a presidential candidate during the 2024 election cycle.<sup>2</sup>  
15 Biden withdrew his candidacy on July 21, 2024;<sup>3</sup> during his candidacy, the Biden Committee

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<sup>1</sup> *Meet Alvin Bragg*, MANHATTAN DIST. ATT'Y'S OFF., <https://manhattanda.org/meet-alvin-bragg/> (last visited Feb. 28, 2025). Bragg has served as the Manhattan District Attorney since his election to the position in 2022. *See* Press Release, Manhattan Dist. Att'y's Off., Alvin Bragg Sworn in as District Attorney of New York County (Jan. 1, 2022), <https://manhattanda.org/alvin-bragg-sworn-in-as-district-attorney-of-new-york-county/>.

<sup>2</sup> *See* Joseph R. Biden, Jr., Amended Statement of Candidacy (Apr. 25, 2023), <https://docquery.fec.gov/pdf/792/202304259581293792/202304259581293792.pdf>.

<sup>3</sup> *See* Joe Biden (@JoeBiden), X (July 21, 2024, 1:46 PM), <https://x.com/joebiden/status/1815080881981190320?s=46&t=B30ldupgCeikfMK6RJ4RrQ>.

was Biden's principal campaign committee.<sup>4</sup> Donald J. Trump was also a presidential candidate during the 2024 election cycle.<sup>5</sup>

On April 4, 2023, the Manhattan District Attorney's Office announced a 34-count felony indictment of Trump "for falsifying New York business records in order to conceal damaging information and unlawful activity from American voters before and after the 2016 election."<sup>6</sup>

On May 30, 2024, a Manhattan jury found Trump guilty on all counts.<sup>7</sup> Trump won the 2024 Presidential General Election held on November 5, 2024.<sup>8</sup> On January 10, 2025, Trump was sentenced to an unconditional discharge;<sup>9</sup> he has since appealed his conviction.<sup>10</sup>

The Complaint alleges that Bragg prosecuted Trump in coordination with Biden and the Biden Committee to influence the 2024 presidential election.<sup>11</sup> Specifically, the Complaint

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<sup>4</sup> Biden for President, Amended Statement of Organization (Sept. 5, 2023), <https://docquery.fec.gov/pdf/444/202309059596987444/202309059596987444.pdf>. After Biden withdrew from the 2024 presidential race, the Biden Committee became the principal campaign committee of then Vice President Kamala D. Harris and was renamed Harris for President. See Harris for President, Amended Statement of Organization (July 21, 2024), <https://docquery.fec.gov/pdf/297/202407219665705297/202407219665705297.pdf>.

<sup>5</sup> See Donald J. Trump, Amended Statement of Candidacy (Nov. 15, 2022), <https://docquery.fec.gov/pdf/249/202211159546802249/202211159546802249.pdf>.

<sup>6</sup> Press Release, Manhattan Dist. Att'y's Off., District Attorney Bragg Announces 34-Count Felony Indictment of Former President Donald J. Trump (Apr. 4, 2023), <https://manhattanda.org/district-attorney-bragg-announces-34-count-felony-indictment-of-former-president-donald-j-trump/> (cited in Compl. ¶ 21 n.27 (June 11, 2024)).

<sup>7</sup> See Verdict Sheet, *People v. Trump*, No. IND-71543-23 (N.Y. Sup. Ct. May 30, 2024), <https://www.ny.courts.gov/LegacyPDFS/press/PDFs/Trump-Verdict-Sheet.pdf>.

<sup>8</sup> See, e.g., PUB. RECS. BRANCH, PUB. DISCLOSURE & MEDIA RELATIONS DIV., OFF. OF COMMC'NS, FEC, OFFICIAL 2024 PRESIDENTIAL GENERAL ELECTION RESULTS (Jan. 16, 2025), <https://www.fec.gov/resources/cms-content/documents/2024presgeresults.pdf>.

<sup>9</sup> Michael R. Sisak et al., *Trump Gets No-Penalty Sentence in His Hush Money Case, While Calling It 'Despicable'*, ASSOCIATED PRESS, <https://apnews.com/article/trump-hush-money-sentencing-stormy-daniels-33e070bd3c1acb609bba13f23d784a3a> (last updated Jan. 10, 2025, 5:15 PM EST); see Decision and Order, *People v. Trump*, No. IND-71543-23, 2025 WL 78389, at \*12 (N.Y. Sup. Ct. Jan. 3, 2025).

<sup>10</sup> See, e.g., Michael R. Sisak & Jennifer Peltz, *President Donald Trump Appeals His New York Hush Money Conviction*, ASSOCIATED PRESS, <https://apnews.com/article/trump-hush-money-appeal-stormy-daniels-249a77a70cab97137595f000fbd49307> (last updated Jan. 29, 2025, 11:53 AM EST).

<sup>11</sup> Compl. ¶¶ 2-3, 13-14, 27-28, 33-34, 38, 41 (June 11, 2024).

alleges that certain public statements made and actions taken by Bragg, the Biden Respondents, and other officials and actors indicate a coordinated effort to prosecute Trump.<sup>12</sup> These statements and actions include the following:

- Biden's November 9, 2022 statement that "if [Trump] does run[,] I'm making sure he, under legitimate efforts of our Constitution, does not become the next President again";<sup>13</sup>
- Bragg's statement as a candidate for Manhattan District Attorney that he had sued the Trump administration "more than a hundred times";<sup>14</sup>
- Bragg's receipt of contributions from individuals who would later serve in the Biden administration;<sup>15</sup>
- Bragg's prosecution of Trump based on a novel legal theory;<sup>16</sup>
- Bragg's hiring of a former U.S. Department of Justice ("DOJ") and New York Attorney General's Office ("NYAG") official who worked on their respective investigations into Trump;<sup>17</sup>

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<sup>12</sup> Compl. ¶¶ 13-25.

<sup>13</sup> *Remarks by President Biden in Press Conference*, WHITE HOUSE (Nov. 9, 2022), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/11/09/remarks-by-president-biden-in-press-conference-8/> [<https://perma.cc/YZ39-QP2Z>] (alterations added) (quoted in Compl. ¶¶ 2, 13).

<sup>14</sup> Jonah E. Bromwich, *et al.*, *2 Leading Manhattan D.A. Candidates Face the Trump Question*, N.Y. TIMES, <https://www.nytimes.com/2021/06/02/nyregion/manhattan-district-attorney-trump.html?smid=url-share> (last updated June 22, 2021) (quoted in Compl. ¶ 17); *see also* Kim Barker *et al.*, *The Inside Story of Alvin Bragg's Case Against Trump*, N.Y. TIMES, <https://www.nytimes.com/2024/04/09/magazine/alvin-bragg-donald-trump-trial.html> (last updated Apr. 15, 2024) (stating that "[a] review of [news releases] and court filings found 30 cases in which the New York attorney general's office had sued Trump or his federal agencies during Bragg's time there – nearly always alongside other states." (alteration added)); All In for Alvin (@AlvinBraggNYC), X (June 22, 2021, 9:48 AM), <https://x.com/AlvinBraggNYC/status/1407334798369202187> ("As Chief Deputy Attorney General of NY State, . . . I didn't just sue Donald Trump and the Trump Foundation – I won.").

<sup>15</sup> Compl. ¶ 18 ("One day after Bragg announced his primary campaign against his predecessor, Bragg received a contribution from Chiraag Bains, who would later become a Deputy Assistant to the President in the Biden White House. On June 29, 2019, Bragg received a contribution from Adam Hickey, who would later serve as a senior official in Biden's Department of Justice." (citations omitted)).

<sup>16</sup> *See id.* ¶¶ 3, 14, 17, 24; STAFF OF H. COMM. ON THE JUDICIARY, 118TH CONG., AN ANATOMY OF A POLITICAL PROSECUTION: THE MANHATTAN DISTRICT ATTORNEY'S OFFICE'S VENDETTA AGAINST PRESIDENT DONALD J. TRUMP (Apr. 25, 2024) (cited in Compl. ¶ 3 n.2). For further discussion of the legal theory of the Manhattan District Attorney's prosecution of Trump, *see, for example*, Kate Christobek, *How Prosecutors Made the Case Against Trump*, N.Y. TIMES (May 30, 2024), <https://www.nytimes.com/2024/05/30/nyregion/prosecutors-case-against-trump.html>, and Erica Orden, *How a Hush Money Scandal Turned into a Criminal Case: The Whirlwind History of People v. Trump*, POLITICO (Apr. 15, 2024), <https://www.politico.com/news/2024/04/15/trump-hush-money-case-history-00152172> (cited in Comp. ¶ 3 n.2, ¶ 14 n.5).

<sup>17</sup> Jonah E. Bromwich, *Manhattan D.A. Hires Ex-D.O.J. Official to Help Lead Trump Investigation*, N.Y. TIMES (Dec. 5, 2022), <https://www.nytimes.com/2022/12/05/nyregion/alvin-bragg-trump-investigation.html>

- 1 • Then-U.S. Attorney General Merrick Garland's initial refusal to commit to provide
- 2 the U.S. House Judiciary Committee with communications between DOJ and the
- 3 Manhattan District Attorney's Office during a Congressional hearing;<sup>18</sup>
- 4 • A Biden Committee press conference held outside the Manhattan Criminal
- 5 Courthouse on the final day of Trump's trial;<sup>19</sup> and
- 6 • A Biden Committee statement issued after the verdict stating, "[i]n New York today,
- 7 we saw that no one is above the law. . . . Convicted felon or not, Trump will be the
- 8 Republican nominee for president. The threat Trump poses to our democracy has
- 9 never been greater."<sup>20</sup>

10 The Complaint argues that the above information provides "strong circumstantial  
 11 indications" that Bragg coordinated his prosecution of Trump with the Biden Respondents for  
 12 purposes of "harm[ing] Trump's candidacy and that charges would not have been brought but for  
 13 Trump's status as a presidential candidate."<sup>21</sup> The Complaint thus asserts that Bragg's  
 14 prosecution of Trump is a coordinated expenditure "resulting in an in-kind contribution by Bragg

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[<https://perma.cc/NF8F-B8RK>] (quoted in Compl. ¶ 20); *see* Letter from James D. Jordan, Chairman, H. Comm. on the Judiciary, to Matthew B. Colangelo, Senior Couns., N.Y. Cty. Dist. Att'y Off. (Apr. 7, 2023), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-04-07-jdj-to-colangelo.pdf> [<https://perma.cc/L6VM-3LU8>] (cited in Compl. ¶ 20 n.24).

<sup>18</sup> *See* Press Release, Rep. Matt Gaetz, Congressman Gaetz Slams AG Garland on Alleging the DOJ Communicating with State Prosecutors Against President Trump is a 'Conspiracy Theory' (June 4, 2024) [<https://perma.cc/D85Z-2K4R>] (cited in Compl. ¶ 20 n.26). *But see* Letter from Carlos Felipe Uriarte, Assistant Att'y Gen., Off. of Legis. Affs., U.S. Dep't of Justice, to James D. Jordan, Chairman, H. Comm. on the Judiciary (June 10, 2024) ("Letter"), <https://www.politico.com/f/?id=00000190-075b-d29e-a9f3-677bfc9e0000> (cited in Resp. at 3 n.10 (Aug. 2, 2024)) ("The Department has conducted a comprehensive search for email communications since January 20, 2021, through the date of the verdict, between any officials in Department leadership, including all political appointees in those offices, and the District Attorney's office regarding any investigation or prosecution of the former President. We found none.").

<sup>19</sup> *See* Colleen Long & Zeke Miller, *Biden Campaign Sends Allies De Niro and First Responders to Trump's NY Trial to Put Focus on Jan. 6*, ASSOCIATED PRESS (May 28, 2024), <https://www.ap.org/news-highlights/elections/2024/biden-campaign-sends-allies-de-niro-and-first-responders-to-trumps-ny-trial-to-put-focus-on-jan-6/> (cited in Compl. ¶ 22 n.30).

<sup>20</sup> Kamala HQ (@KamalaHQ), X (May 30, 2024, 5:44 PM), <https://x.com/KamalaHQ/status/1796296637133853110> (quoted in Compl. ¶ 22).

<sup>21</sup> Compl. ¶¶ 28, 33; *see also id.* ¶ 17 ("Bragg would not have prosecuted Trump but for Trump's candidacy.").

to Biden for President”<sup>22</sup> that violates the Act’s prohibition on excessive contributions and its reporting requirements.<sup>23</sup>

The Response denies the allegations as speculative and insufficient to show a violation of the Act. Specifically, the Response contends that the alleged statements and activities do not support a claim of coordination between Bragg and the Biden Respondents.<sup>24</sup> The Response also argues that, because the allegations do not indicate that Bragg prosecuted Trump for the purpose of influencing a federal election, the prosecution was not an expenditure under the Act.<sup>25</sup>

### III. LEGAL ANALYSIS

The Act and Commission regulations provide that no person may make, and no candidate or candidate’s authorized political committee may knowingly accept, any contribution that violates the Act’s contribution limits.<sup>26</sup> During the 2024 election cycle, contributions made by any person (other than a multicandidate committee) to any candidate or candidate’s committee were limited to \$3,300 per election.<sup>27</sup> A candidate’s committee must report the identity of any person who makes a contribution to the committee during the reporting period and whose

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<sup>22</sup> *Id.* ¶ 34.

<sup>23</sup> *Id.* ¶¶ 26-45.

<sup>24</sup> Resp. at 2-3.

<sup>25</sup> *Id.* at 3-5.

<sup>26</sup> 52 U.S.C. § 30116(a)(1)(A), (f); 11 C.F.R. §§ 110.1(b), 110.9.

<sup>27</sup> See 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 88 Fed. Reg. 7,088, 7,090 (Feb. 2, 2023).

1 contribution or contributions have an aggregate amount or value in excess of \$200 within the  
 2 election cycle.<sup>28</sup>

3 Under the Act, a “contribution” includes “any gift, subscription, loan, advance, or deposit  
 4 of money or anything of value made by any person for the purpose of influencing any election  
 5 for Federal office.”<sup>29</sup> The phrase “anything of value” includes “*all* in-kind contributions” and  
 6 “the provision of *any* goods or services without charge or at a charge that is less than the usual  
 7 and normal charge for such goods or services.”<sup>30</sup> In-kind contributions include “coordinated  
 8 expenditures,” which are “expenditures made by any person in cooperation, consultation, or  
 9 concert, with, or at the request or suggestion of, a candidate, his [or her] authorized political  
 10 committees, or their agents.”<sup>31</sup>

11 An “expenditure” includes “any purchase, payment, distribution, loan, advance, deposit,  
 12 or gift of money or anything of value, made by any person for the purpose of influencing any  
 13 election for Federal office.”<sup>32</sup> Under the Commission’s regulations, expenditures that are  
 14 “coordinated” with a candidate, but are not made for a coordinated communication or party-  
 15 coordinated communication, constitute in-kind contributions to that candidate.<sup>33</sup> In this context,

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<sup>28</sup> 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4)(i).

<sup>29</sup> 52 U.S.C. § 30101(8)(A); *accord* 11 C.F.R. § 100.52.

<sup>30</sup> 11 C.F.R. § 100.52(d)(1) (emphases added).

<sup>31</sup> 52 U.S.C. § 30116(a)(7)(B); *accord* 11 C.F.R. § 109.20.

<sup>32</sup> 52 U.S.C. § 30101(9)(A)(i); *accord* 11 C.F.R. § 100.111(a).

<sup>33</sup> 11 C.F.R. § 109.20(b); *see also* 11 C.F.R. § 100.52(d)(1) (providing that “in-kind contributions” may be a contribution under the Act); *id.* § 100.111(e)(1) (providing that “in-kind contributions” may be an expenditure under the Act).

1 “[c]oordinated means made in cooperation, consultation or concert with, or at the request or  
2 suggestion of, a candidate, [or] a candidate’s authorized committee.”<sup>34</sup>

3 Having the “purpose of influencing a federal election” is a necessary element in defining  
4 whether a payment is a “contribution” or “expenditure” under the Act and Commission  
5 regulations.<sup>35</sup> In analyzing whether a payment made by a third party is a “contribution” or  
6 “expenditure,” the Commission has concluded that “the question under the Act is whether” the  
7 donation, payment, or service was “provided for the purpose of influencing a federal election  
8 [and] not whether [it] provided a benefit to [a federal candidate’s] campaign.”<sup>36</sup> As such, the  
9 Commission has previously found that activity lacking the requisite purpose of influencing a  
10 federal election — including, for example, activity to fulfill the obligations of holding federal  
11 office<sup>37</sup> — does not result in a “contribution” or “expenditure,” even if it confers a benefit on a  
12 candidate or otherwise affects a federal election. The electoral purpose of a payment may be  
13 clear on its face, as in payments to solicit contributions or for communications that expressly  
14 advocate for the election or defeat of a specific candidate, or inferred from the surrounding  
15 circumstances.<sup>38</sup>

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34 11 C.F.R. § 109.20(a).

35 *See* 52 U.S.C. § 30101(8)(A)(i), (9)(A)(i).

36 Factual & Legal Analysis (“F&LA”) at 6, MUR 7024 (Van Hollen for Senate, *et al.*).

37 *See e.g.*, Advisory Opinion 1981-37 at 2 (Gephardt) (“AO 1981-37”) (federal candidate did not receive a contribution by appearing at a series of “public affairs forums” paid for by a corporation because “the purpose of the activity is not to influence the nomination or election of a candidate for Federal office but rather in connection with the duties of a Federal officeholder” and although “involvement in the public affairs programs may indirectly benefit future campaigns, . . . the major purpose of the activity contemplated . . . would not be the nomination or election of you or any other candidate to Federal office”).

38 *See, e.g.*, AO 2000-08 at 1, 3 (Harvey) (concluding private individual’s \$10,000 “gift” to federal candidate would be a contribution because “the proposed gift would not be made but for the recipient’s status as a Federal candidate”); AO 1990-05 at 4 (Mueller) (explaining that solicitations and express advocacy communications are for the purpose of influencing an election and concluding, after examining circumstances of the proposed activity, that federal candidate’s company newsletter featuring discussion of campaign resulted in contributions); AO 1988-22 at 5 (San Joaquin Valley Republican Assocs.) (concluding third party newspaper publishing comments regarding



Even if Bragg's prosecution of Trump is a thing "of value," there is insufficient information to indicate that the purpose of Bragg's prosecution was to influence a federal election. The Commission has explained that an electoral purpose is not established simply by a thing of value benefitting a federal campaign.<sup>39</sup> The Manhattan District Attorney's Office has stated that it prosecuted Trump to enforce "one of New York's basic and fundamental business laws" and "ensure that everyone stands equal before the law."<sup>40</sup> Although the outcome of this case may have affected Trump's 2024 presidential campaign, "the Commission has consistently held that no contribution or expenditure results under the Act" where the activity at issue is "in connection with the duties of a Federal officeholder."<sup>41</sup> Here by comparison, Bragg's prosecution of Trump was in connection with his duties as a county officeholder and appears to be consistent with his official duties.

The available information also does not indicate that the prosecution was coordinated between the Respondents. The Complaint alleges that there are "strong circumstantial indications that Bragg coordinated with Biden,"<sup>42</sup> including: Bragg's hiring of a former DOJ and NYAG official,<sup>43</sup> Garland's initial refusal to disclose communications between the Department

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federal candidates, coordinated with those candidates or their agents, thereby made contributions because "the financing of a communication to the general public, not within the 'press exemption,' that discusses or mentions a candidate in an election-related context and is undertaken in coordination with the candidate or his campaign is 'for the purpose of influencing a federal election'; F&LA at 17-20, MURs 4568, 4633, 4634 (Triad Mgmt. Servs., Inc.) (finding reason to believe corporation and related nonprofit organizations made contributions by providing federal candidates with "uncompensated fundraising and campaign management assistance" and "advertising assistance[.]" including spending "several million dollars" on coordinated advertisements).

<sup>39</sup> F&LA at 15, MURs 7854, 7946 (Center for Tech and Civic Life, *et al.*) (citing F&LA at 6, MUR 7024 (Van Hollen for Senate, *et al.*)).

<sup>40</sup> *Supra* note 6.

<sup>41</sup> AO 1981-37 at 2.

<sup>42</sup> Compl. ¶ 28.

<sup>43</sup> *Supra* note 17 and accompanying text.

1 of Justice and the Manhattan District Attorney's Office,<sup>44</sup> and the Biden Committee's events and  
2 statements related to Trump's trial and conviction.<sup>45</sup> Yet this "circumstantial" information does  
3 not indicate any interaction between Bragg and the Biden Respondents, nor does it support a  
4 finding that there is reason to believe Bragg prosecuted Trump in cooperation, consultation, or in  
5 concert, with, or at the request or suggestion of, the Biden Respondents.

6 The Complaint alleges a "link" between Bragg and the Biden Respondents through  
7 Bragg's hiring of a former DOJ and NYAG official involved in previous investigations of  
8 Trump;<sup>46</sup> but this prior employment relationship is insufficient to support an allegation of  
9 coordination between the Respondents. Additionally, the available information indicates that  
10 there was no communication between Bragg and the Biden Respondents concerning the  
11 prosecution of Trump. To the contrary, DOJ has denied the existence of any email  
12 communications between its leadership and the Manhattan District Attorney's Office concerning  
13 any investigation or prosecution of Trump.<sup>47</sup> The Biden Respondents' statements and actions  
14 related to Trump's trial as alleged in the Complaint are also insufficient to infer coordination  
15 between Bragg and the Biden Respondents.

16 Because the available information is speculative and does not indicate that there was any  
17 contact between Bragg and the Biden Respondents, the prosecution of Trump does not appear to  
18 have been an in-kind contribution. Accordingly, we recommend that the Commission dismiss  
19 the allegations that Bragg violated 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b) by  
20 making excessive contributions, and that the Biden Respondents violated 52 U.S.C. § 30116(f)

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<sup>44</sup> *Supra* note 18 and accompanying text.

<sup>45</sup> *Supra* notes 19-20 and accompanying text.

<sup>46</sup> Compl. ¶ 28.

<sup>47</sup> *See* Letter, *supra* note 18.

and 11 C.F.R. § 110.9 by knowingly accepting excessive contributions. We also recommend that the Commission dismiss the allegation that the Biden Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a) by failing to report such contributions.

#### **IV. RECOMMENDATIONS**

1. Dismiss the allegation that Alvin L. Bragg, Jr. violated 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b) by making excessive contributions;
2. Dismiss the allegation that Joseph R. Biden, Jr. and Harris for President f/k/a Biden for President and Keana Spencer in her official capacity as treasurer violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by knowingly accepting excessive contributions;
3. Dismiss the allegation that Harris for President f/k/a Biden for President and Keana Spencer in her official capacity as treasurer violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a) by failing to report contributions;
4. Approve the attached Factual and Legal Analysis;
5. Approve the appropriate letters; and

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- 1           6.       Close the file effective 30 days after the date the certification of this vote is signed  
2                   (or on the next business day after the 30th day, if the 30th day falls on a weekend  
3                   or holiday).

4                               Lisa J. Stevenson  
5                               Acting General Counsel

6    02/28/2025  
7    Date

*Adrienne C. Baranowicz*  
                              Adrienne C. Baranowicz  
                              Deputy Associate General Counsel for Enforcement

10                            *A.B.R.*  
11                            Anne B. Robinson  
12                            Assistant General Counsel  
13

14                            *Allen H. Coon*  
15                            Allen H. Coon  
16                            Attorney

17   Attachment:  
18       Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Alvin L. Bragg, Jr. **MUR 8274**  
Joseph R. Biden, Jr.  
Harris for President f/k/a Biden for President and  
Keana Spencer in her official capacity as treasurer

**I. INTRODUCTION**

The Complaint alleges that Manhattan District Attorney Alvin L. Bragg, Jr. coordinated the prosecution of President Donald J. Trump with President Joseph R. Biden, Jr. and Biden's principal campaign committee, Harris for President (f/k/a Biden for President) and Keana Spencer in her official capacity as treasurer (the "Biden Committee"), in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). Specifically, the Complaint alleges that Bragg's purported coordination with Biden and the Biden Committee (collectively, the "Biden Respondents") resulted in an excessive and unreported in-kind contribution from Bragg to the Biden Committee. The Biden Respondents argue that the allegations in the Complaint do not indicate that the prosecution of Trump was a coordinated expenditure. Bragg did not submit a response.

As explained below, the available information does not indicate that there was any coordination between Bragg and the Biden Respondents concerning the prosecution of Trump. Therefore, the Commission dismisses the allegations that Bragg violated 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b) by making excessive contributions, and that the Biden Respondents violated 52 U.S.C. § 30116(f) and 11 C.F.R. § 110.9 by knowingly accepting excessive contributions. The Commission also dismisses the allegation that the Biden Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a) by failing to report excessive in-kind contributions.

## II. FACTUAL BACKGROUND

Alvin L. Bragg, Jr. is the District Attorney of New York County, New York (a/k/a Manhattan).<sup>1</sup> Joseph R. Biden, Jr. was a presidential candidate during the 2024 election cycle.<sup>2</sup> Biden withdrew his candidacy on July 21, 2024;<sup>3</sup> during his candidacy, the Biden Committee was Biden's principal campaign committee.<sup>4</sup> Donald J. Trump was also a presidential candidate during the 2024 election cycle.<sup>5</sup>

On April 4, 2023, the Manhattan District Attorney's Office announced a 34-count felony indictment of Trump "for falsifying New York business records in order to conceal damaging information and unlawful activity from American voters before and after the 2016 election."<sup>6</sup> On May 30, 2024, a Manhattan jury found Trump guilty on all counts.<sup>7</sup> Trump won the 2024

<sup>1</sup> *Meet Alvin Bragg*, MANHATTAN DIST. ATT'Y'S OFF., <https://manhattanda.org/meet-alvin-bragg/> (last visited Feb. 28, 2025). Bragg has served as the Manhattan District Attorney since his election to the position in 2022. *See* Press Release, Manhattan Dist. Att'y's Off., Alvin Bragg Sworn in as District Attorney of New York County (Jan. 1, 2022), <https://manhattanda.org/alvin-bragg-sworn-in-as-district-attorney-of-new-york-county/>.

<sup>2</sup> *See* Joseph R. Biden, Jr., Amended Statement of Candidacy (Apr. 25, 2023), <https://docquery.fec.gov/pdf/792/202304259581293792/202304259581293792.pdf>.

<sup>3</sup> *See* Joe Biden (@JoeBiden), X (July 21, 2024, 1:46 PM), <https://x.com/joebiden/status/1815080881981190320?s=46&t=B30ldupgCeIKfMK6RJ4RrQ>.

<sup>4</sup> Biden for President, Amended Statement of Organization (Sept. 5, 2023), <https://docquery.fec.gov/pdf/444/202309059596987444/202309059596987444.pdf>. After Biden withdrew from the 2024 presidential race, the Biden Committee became the principal campaign committee of then Vice President Kamala D. Harris and was renamed Harris for President. *See* Harris for President, Amended Statement of Organization (July 21, 2024), <https://docquery.fec.gov/pdf/297/202407219665705297/202407219665705297.pdf>.

<sup>5</sup> *See* Donald J. Trump, Amended Statement of Candidacy (Nov. 15, 2022), <https://docquery.fec.gov/pdf/249/202211159546802249/202211159546802249.pdf>.

<sup>6</sup> Press Release, Manhattan Dist. Att'y's Off., District Attorney Bragg Announces 34-Count Felony Indictment of Former President Donald J. Trump (Apr. 4, 2023), <https://manhattanda.org/district-attorney-bragg-announces-34-count-felony-indictment-of-former-president-donald-j-trump/> (cited in Compl. ¶ 21 n.27 (June 11, 2024)).

<sup>7</sup> *See* Verdict Sheet, *People v. Trump*, No. IND-71543-23 (N.Y. Sup. Ct. May 30, 2024), <https://www.ny.courts.gov/LegacyPDFS/press/PDFs/Trump-Verdict-Sheet.pdf>.

1 Presidential General Election held on November 5, 2024.<sup>8</sup> On January 10, 2025, Trump was  
 2 sentenced to an unconditional discharge;<sup>9</sup> he has since appealed his conviction.<sup>10</sup>

3 The Complaint alleges that Bragg prosecuted Trump in coordination with Biden and the  
 4 Biden Committee to influence the 2024 presidential election.<sup>11</sup> Specifically, the Complaint  
 5 alleges that certain public statements made and actions taken by Bragg, the Biden Respondents,  
 6 and other officials and actors indicate a coordinated effort to prosecute Trump.<sup>12</sup> These  
 7 statements and actions include the following:

- 8 • Biden’s November 9, 2022 statement that “if [Trump] does run[,] I’m making sure he,  
 9 under legitimate efforts of our Constitution, does not become the next President  
 10 again”;<sup>13</sup>
- 11 • Bragg’s statement as a candidate for Manhattan District Attorney that he had sued the  
 12 Trump administration “more than a hundred times”;<sup>14</sup>

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<sup>8</sup> See, e.g., PUB. RECS. BRANCH, PUB. DISCLOSURE & MEDIA RELATIONS DIV., OFF. OF COMMC’NS, FEC, OFFICIAL 2024 PRESIDENTIAL GENERAL ELECTION RESULTS (Jan. 16, 2025), <https://www.fec.gov/resources/cms-content/documents/2024presgeresults.pdf>.

<sup>9</sup> Michael R. Sisak et al., *Trump Gets No-Penalty Sentence in His Hush Money Case, While Calling It ‘Despicable’*, ASSOCIATED PRESS, <https://apnews.com/article/trump-hush-money-sentencing-stormy-daniels-33e070bd3c1acb609bba13f23d784a3a> (last updated Jan. 10, 2025, 5:15 PM EST); see Decision and Order, *People v. Trump*, No. IND-71543-23, 2025 WL 78389, at \*12 (N.Y. Sup. Ct. Jan. 3, 2025).

<sup>10</sup> See, e.g., Michael R. Sisak & Jennifer Peltz, *President Donald Trump Appeals His New York Hush Money Conviction*, ASSOCIATED PRESS, <https://apnews.com/article/trump-hush-money-appeal-stormy-daniels-249a77a70ca b97137595f000fbd49307> (last updated Jan. 29, 2025, 11:53 AM EST).

<sup>11</sup> Compl. ¶¶ 2-3, 13-14, 27-28, 33-34, 38, 41 (June 11, 2024).

<sup>12</sup> Compl. ¶¶ 13-25.

<sup>13</sup> *Remarks by President Biden in Press Conference*, WHITE HOUSE (Nov. 9, 2022), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/11/09/remarks-by-president-biden-in-press-conference-8/> [<https://perma.cc/YZ39-QP2Z>] (alterations added) (quoted in Compl. ¶¶ 2, 13).

<sup>14</sup> Jonah E. Bromwich, *et al.*, *2 Leading Manhattan D.A. Candidates Face the Trump Question*, N.Y. TIMES, <https://www.nytimes.com/2021/06/02/nyregion/manhattan-district-attorney-trump.html?smid=url-share> (last updated June 22, 2021) (quoted in Compl. ¶ 17); see also Kim Barker et al., *The Inside Story of Alvin Bragg’s Case Against Trump*, N.Y. TIMES, <https://www.nytimes.com/2024/04/09/magazine/alvin-bragg-donald-trump-trial.html> (last updated Apr. 15, 2024) (stating that “[a] review of [news releases] and court filings found 30 cases in which the New York attorney general’s office had sued Trump or his federal agencies during Bragg’s time there – nearly always alongside other states.” (alteration added)); All In for Alvin (@AlvinBraggNYC), X (June 22, 2021, 9:48 AM), <https://x.com/AlvinBraggNYC/status/1407334798369202187> (“As Chief Deputy Attorney General of NY State, . . . I didn’t just sue Donald Trump and the Trump Foundation – I won.”).

- 1 • Bragg’s receipt of contributions from individuals who would later serve in the Biden  
 2 administration;<sup>15</sup>
- 3 • Bragg’s prosecution of Trump based on a novel legal theory;<sup>16</sup>
- 4 • Bragg’s hiring of a former U.S. Department of Justice (“DOJ”) and New York  
 5 Attorney General’s Office (“NYAG”) official who worked on their respective  
 6 investigations into Trump;<sup>17</sup>
- 7 • Then-U.S. Attorney General Merrick Garland’s initial refusal to commit to provide  
 8 the U.S. House Judiciary Committee with communications between DOJ and the  
 9 Manhattan District Attorney’s Office during a Congressional hearing;<sup>18</sup>
- 10 • A Biden Committee press conference held outside the Manhattan Criminal  
 11 Courthouse on the final day of Trump’s trial;<sup>19</sup> and
- 12 • A Biden Committee statement issued after the verdict stating, “[i]n New York today,  
 13 we saw that no one is above the law. . . . Convicted felon or not, Trump will be the

<sup>15</sup> Compl. ¶ 18 (“One day after Bragg announced his primary campaign against his predecessor, Bragg received a contribution from Chiraag Bains, who would later become a Deputy Assistant to the President in the Biden White House. On June 29, 2019, Bragg received a contribution from Adam Hickey, who would later serve as a senior official in Biden’s Department of Justice.” (citations omitted)).

<sup>16</sup> See *id.* ¶¶ 3, 14, 17, 24; STAFF OF H. COMM. ON THE JUDICIARY, 118TH CONG., AN ANATOMY OF A POLITICAL PROSECUTION: THE MANHATTAN DISTRICT ATTORNEY’S OFFICE’S VENDETTA AGAINST PRESIDENT DONALD J. TRUMP (Apr. 25, 2024) (cited in Compl. ¶ 3 n.2). For further discussion of the legal theory of the Manhattan District Attorney’s prosecution of Trump, see, for example, Kate Christobek, *How Prosecutors Made the Case Against Trump*, N.Y. TIMES (May 30, 2024), <https://www.nytimes.com/2024/05/30/nyregion/prosecutors-case-against-trump.html>, and Erica Orden, *How a Hush Money Scandal Turned into a Criminal Case: The Whirlwind History of People v. Trump*, POLITICO (Apr. 15, 2024), <https://www.politico.com/news/2024/04/15/trump-hush-money-case-history-00152172> (cited in Comp. ¶ 3 n.2, ¶ 14 n.5).

<sup>17</sup> Jonah E. Bromwich, *Manhattan D.A. Hires Ex-D.O.J. Official to Help Lead Trump Investigation*, N.Y. TIMES (Dec. 5, 2022), <https://www.nytimes.com/2022/12/05/nyregion/alvin-bragg-trump-investigation.html> [<https://perma.cc/NF8F-B8RK>] (quoted in Compl. ¶ 20); see Letter from James D. Jordan, Chairman, H. Comm. on the Judiciary, to Matthew B. Colangelo, Senior Couns., N.Y. Cty. Dist. Att’y Off. (Apr. 7, 2023), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-04-07-jdj-to-colangelo.pdf> [<https://perma.cc/L6VM-3LU8>] (cited in Compl. ¶ 20 n.24).

<sup>18</sup> See Press Release, Rep. Matt Gaetz, Congressman Gaetz Slams AG Garland on Alleging the DOJ Communicating with State Prosecutors Against President Trump is a ‘Conspiracy Theory’ (June 4, 2024) [<https://perma.cc/D85Z-2K4R>] (cited in Compl. ¶ 20 n.26). But see Letter from Carlos Felipe Uriarte, Assistant Att’y Gen., Off. of Legis. Affs., U.S. Dep’t of Justice, to James D. Jordan, Chairman, H. Comm. on the Judiciary (June 10, 2024) (“Letter”), <https://www.politico.com/f/?id=00000190-075b-d29e-a9f3-677bfc9e0000> (cited in Resp. at 3 n.10 (Aug. 2, 2024)) (“The Department has conducted a comprehensive search for email communications since January 20, 2021, through the date of the verdict, between any officials in Department leadership, including all political appointees in those offices, and the District Attorney’s office regarding any investigation or prosecution of the former President. We found none.”).

<sup>19</sup> See Colleen Long & Zeke Miller, *Biden Campaign Sends Allies De Niro and First Responders to Trump’s NY Trial to Put Focus on Jan. 6*, ASSOCIATED PRESS (May 28, 2024), <https://www.ap.org/news-highlights/elections/2024/biden-campaign-sends-allies-de-niro-and-first-responders-to-trumps-ny-trial-to-put-focus-on-jan-6/> (cited in Compl. ¶ 22 n.30).



Republican nominee for president. The threat Trump poses to our democracy has never been greater.”<sup>20</sup>

The Complaint argues that the above information provides “strong circumstantial indications” that Bragg coordinated his prosecution of Trump with the Biden Respondents for purposes of “harm[ing] Trump’s candidacy and that charges would not have been brought but for Trump’s status as a presidential candidate.”<sup>21</sup> The Complaint thus asserts that Bragg’s prosecution of Trump is a coordinated expenditure “resulting in an in-kind contribution by Bragg to Biden for President”<sup>22</sup> that violates the Act’s prohibition on excessive contributions and its reporting requirements.<sup>23</sup>

The Response denies the allegations as speculative and insufficient to show a violation of the Act. Specifically, the Response contends that the alleged statements and activities do not support a claim of coordination between Bragg and the Biden Respondents.<sup>24</sup> The Response also argues that, because the allegations do not indicate that Bragg prosecuted Trump for the purpose of influencing a federal election, the prosecution was not an expenditure under the Act.<sup>25</sup>

### III. LEGAL ANALYSIS

The Act and Commission regulations provide that no person may make, and no candidate or candidate’s authorized political committee may knowingly accept, any contribution that

<sup>20</sup> Kamala HQ (@KamalaHQ), X (May 30, 2024, 5:44 PM), <https://x.com/KamalaHQ/status/1796296637133853110> (quoted in Compl. ¶ 22).

<sup>21</sup> Compl. ¶¶ 28, 33; *see also id.* ¶ 17 (“Bragg would not have prosecuted Trump but for Trump’s candidacy.”).

<sup>22</sup> *Id.* ¶ 34.

<sup>23</sup> *Id.* ¶¶ 26-45.

<sup>24</sup> Resp. at 2-3.

<sup>25</sup> *Id.* at 3-5.

violates the Act’s contribution limits.<sup>26</sup> During the 2024 election cycle, contributions made by any person (other than a multicandidate committee) to any candidate or candidate’s committee were limited to \$3,300 per election.<sup>27</sup> A candidate’s committee must report the identity of any person who makes a contribution to the committee during the reporting period and whose contribution or contributions have an aggregate amount or value in excess of \$200 within the election cycle.<sup>28</sup>

Under the Act, 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.”<sup>29</sup> The phrase “anything of value” includes “*all* in-kind contributions” and “the provision of *any* goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.”<sup>30</sup> In-kind contributions include “coordinated expenditures,” which are “expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his [or her] authorized political committees, or their agents.”<sup>31</sup>

An “expenditure” includes “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.”<sup>32</sup> Under the Commission’s regulations, expenditures that are

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<sup>26</sup> 52 U.S.C. § 30116(a)(1)(A), (f); 11 C.F.R. §§ 110.1(b), 110.9.

<sup>27</sup> See 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 88 Fed. Reg. 7,088, 7,090 (Feb. 2, 2023).

<sup>28</sup> 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. § 104.3(a)(4)(i).

<sup>29</sup> 52 U.S.C. § 30101(8)(A); *accord* 11 C.F.R. § 100.52.

<sup>30</sup> 11 C.F.R. § 100.52(d)(1) (emphases added).

<sup>31</sup> 52 U.S.C. § 30116(a)(7)(B); *accord* 11 C.F.R. § 109.20.

<sup>32</sup> 52 U.S.C. § 30101(9)(A)(i); *accord* 11 C.F.R. § 100.111(a).

1 “coordinated” with a candidate, but are not made for a coordinated communication or party-  
 2 coordinated communication, constitute in-kind contributions to that candidate.<sup>33</sup> In this context,  
 3 “[c]oordinated means made in cooperation, consultation or concert with, or at the request or  
 4 suggestion of, a candidate, [or] a candidate’s authorized committee.”<sup>34</sup>

5 Having the “purpose of influencing a federal election” is a necessary element in defining  
 6 whether a payment is a “contribution” or “expenditure” under the Act and Commission  
 7 regulations.<sup>35</sup> In analyzing whether a payment made by a third party is a “contribution” or  
 8 “expenditure,” the Commission has concluded that “the question under the Act is whether” the  
 9 donation, payment, or service was “provided for the purpose of influencing a federal election  
 10 [and] not whether [it] provided a benefit to [a federal candidate’s] campaign.”<sup>36</sup> As such, the  
 11 Commission has previously found that activity lacking the requisite purpose of influencing a  
 12 federal election — including, for example, activity to fulfill the obligations of holding federal  
 13 office<sup>37</sup> — does not result in a “contribution” or “expenditure,” even if it confers a benefit on a  
 14 candidate or otherwise affects a federal election. The electoral purpose of a payment may be  
 15 clear on its face, as in payments to solicit contributions or for communications that expressly

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<sup>33</sup> 11 C.F.R. § 109.20(b); *see also* 11 C.F.R. § 100.52(d)(1) (providing that “in-kind contributions” may be a contribution under the Act); *id.* § 100.111(e)(1) (providing that “in-kind contributions” may be an expenditure under the Act).

<sup>34</sup> 11 C.F.R. § 109.20(a).

<sup>35</sup> *See* 52 U.S.C. § 30101(8)(A)(i), (9)(A)(i).

<sup>36</sup> Factual & Legal Analysis (“F&LA”) at 6, MUR 7024 (Van Hollen for Senate, *et al.*).

<sup>37</sup> *See e.g.*, Advisory Opinion 1981-37 at 2 (Gephardt) (“AO 1981-37”) (federal candidate did not receive a contribution by appearing at a series of “public affairs forums” paid for by a corporation because “the purpose of the activity is not to influence the nomination or election of a candidate for Federal office but rather in connection with the duties of a Federal officeholder” and although “involvement in the public affairs programs may indirectly benefit future campaigns, . . . the major purpose of the activity contemplated . . . would not be the nomination or election of you or any other candidate to Federal office”).

1 advocate for the election or defeat of a specific candidate, or inferred from the surrounding  
2 circumstances.<sup>38</sup>

3 Even if Bragg’s prosecution of Trump is a thing “of value,” there is insufficient  
4 information to indicate that the purpose of Bragg’s prosecution was to influence a federal  
5 election. The Commission has explained that an electoral purpose is not established simply by a  
6 thing of value benefitting a federal campaign.<sup>39</sup> The Manhattan District Attorney’s Office has  
7 stated that it prosecuted Trump to enforce “one of New York’s basic and fundamental business  
8 laws” and “ensure that everyone stands equal before the law.”<sup>40</sup> Although the outcome of this  
9 case may have affected Trump’s 2024 presidential campaign, “the Commission has consistently  
10 held that no contribution or expenditure results under the Act” where the activity at issue is “in  
11 connection with the duties of a Federal officeholder.”<sup>41</sup> Here by comparison, Bragg’s

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<sup>38</sup> See, e.g., AO 2000-08 at 1, 3 (Harvey) (concluding private individual’s \$10,000 “gift” to federal candidate would be a contribution because “the proposed gift would not be made but for the recipient’s status as a Federal candidate”); AO 1990-05 at 4 (Mueller) (explaining that solicitations and express advocacy communications are for the purpose of influencing an election and concluding, after examining circumstances of the proposed activity, that federal candidate’s company newsletter featuring discussion of campaign resulted in contributions); AO 1988-22 at 5 (San Joaquin Valley Republican Assocs.) (concluding third party newspaper publishing comments regarding federal candidates, coordinated with those candidates or their agents, thereby made contributions because “the financing of a communication to the general public, not within the ‘press exemption,’ that discusses or mentions a candidate in an election-related context and is undertaken in coordination with the candidate or his campaign is ‘for the purpose of influencing a federal election’); F&LA at 17-20, MURs 4568, 4633, 4634 (Triad Mgmt. Servs., Inc.) (finding reason to believe corporation and related nonprofit organizations made contributions by providing federal candidates with “uncompensated fundraising and campaign management assistance” and “advertising assistance[.]” including spending “several million dollars” on coordinated advertisements).

<sup>39</sup> F&LA at 15, MURs 7854, 7946 (Center for Tech and Civic Life, *et al.*) (citing F&LA at 6, MUR 7024 (Van Hollen for Senate, *et al.*)).

<sup>40</sup> *Supra* note 6.

<sup>41</sup> AO 1981-37 at 2.

1 prosecution of Trump was in connection with his duties as a county officeholder and appears to  
2 be consistent with his official duties.

3 The available information also does not indicate that the prosecution was coordinated  
4 between the Respondents. The Complaint alleges that there are “strong circumstantial  
5 indications that Bragg coordinated with Biden,”<sup>42</sup> including: Bragg’s hiring of a former DOJ and  
6 NYAG official,<sup>43</sup> Garland’s initial refusal to disclose communications between the Department  
7 of Justice and the Manhattan District Attorney’s Office,<sup>44</sup> and the Biden Committee’s events and  
8 statements related to Trump’s trial and conviction.<sup>45</sup> Yet this “circumstantial” information does  
9 not indicate any interaction between Bragg and the Biden Respondents, nor does it support a  
10 finding that there is reason to believe Bragg prosecuted Trump in cooperation, consultation, or in  
11 concert, with, or at the request or suggestion of, the Biden Respondents.

12 The Complaint alleges a “link” between Bragg and the Biden Respondents through  
13 Bragg’s hiring of a former DOJ and NYAG official involved in previous investigations of  
14 Trump;<sup>46</sup> but this prior employment relationship is insufficient to support an allegation of  
15 coordination between the Respondents. Additionally, the available information indicates that  
16 there was no communication between Bragg and the Biden Respondents concerning the  
17 prosecution of Trump. To the contrary, DOJ has denied the existence of any email  
18 communications between its leadership and the Manhattan District Attorney’s Office concerning

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<sup>42</sup> Compl. ¶ 28.

<sup>43</sup> *Supra* note 17 and accompanying text.

<sup>44</sup> *Supra* note 18 and accompanying text.

<sup>45</sup> *Supra* notes 19-20 and accompanying text.

<sup>46</sup> Compl. ¶ 28.

1 any investigation or prosecution of Trump.<sup>47</sup> The Biden Respondents' statements and actions  
2 related to Trump's trial as alleged in the Complaint are also insufficient to infer coordination  
3 between Bragg and the Biden Respondents.

4 Because the available information is speculative and does not indicate that there was any  
5 contact between Bragg and the Biden Respondents, the prosecution of Trump does not appear to  
6 have been an in-kind contribution. Accordingly, the Commission dismisses the allegations that  
7 Bragg violated 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b) by making excessive  
8 contributions, and that the Biden Respondents violated 52 U.S.C. § 30116(f) and 11 C.F.R.  
9 § 110.9 by knowingly accepting excessive contributions. The Commission also dismisses the  
10 allegation that the Biden Committee violated 52 U.S.C. § 30104(b) and 11 C.F.R. § 104.3(a) by  
11 failing to report such contributions.

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<sup>47</sup>

*See* Letter, *supra* note 18.