



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail

Robert Bauer
Graham Wilson
Perkins Coie LLP
700 13th Street, NW, Suite 600
Washington, DC 20005

MAR - 1 2016

RE: MUR 6946

Dear Counsel:

On July 1, 2015, the Federal Election Commission notified your clients, the Democratic National Committee and Andrew Tobias in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On February 23, 2016, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe the Democratic National Committee and Andrew Tobias in his official capacity as treasurer violated 52 U.S.C. § 30121(a). Accordingly, the Commission closed its file in this matter.

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. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Tanya Senanayake, the attorney assigned to this matter, at (202) 694-1571.

Sincerely,

A handwritten signature in black ink that reads "Stephen A. Gura". The signature is fluid and cursive.

Stephen A. Gura
Deputy Associate General Counsel
for Enforcement

Enclosure
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2
3 RESPONDENTS: Democratic National Committee
4 President Barack Obama
5 Nara Lokesh
6

MUR 6946

7 **FACTUAL AND LEGAL ANALYSIS**

8 **I. INTRODUCTION**

9 The Complaint in this matter alleges that a foreign national, Nara Lokesh, made a prohibited
10 contribution to the Democratic National Committee ("DNC") by paying for a ticket to attend a DNC
11 fundraising event at which President Barack Obama appeared, and that the DNC received the
12 contribution from Lokesh, in violation of the Federal Election Campaign Act of 1971, as amended
13 (the "Act").

14 The available information demonstrates that a U.S. citizen paid for the ticket and Lokesh
15 attended the event as his guest. Thus, the Commission finds no reason to believe that Lokesh made
16 or that the DNC or President Obama accepted a prohibited foreign national contribution in violation
17 of 52 U.S.C. § 30121(a).

18 **II. FACTUAL AND LEGAL ANALYSIS**

19 **A. Factual Summary**

20 On May 7, 2015, the DNC organized a fundraising event in Portland, Oregon, for the
21 2016 White House Victory Fund.¹ President Obama attended the event, and tickets ranged from
22 \$500 to \$10,000.² According to the Complaint, Nara Lokesh, a foreign national who is a
23 politician in India, attended the event and had his photograph taken with President Obama.³

¹ Compl. at 1; *see also* DNC Resp. at 1.

² *Id.*

³ *Id.*

1-604380703

1 Based on these facts, the Complaint alleges that Lokesh or another person paid \$10,000 to the
2 DNC to allow Lokesh to attend the event, and that this payment violated the Act's prohibition on
3 foreign national contributions.⁴

4 The Response for the DNC affirms that the DNC hosted a fundraising event in Portland
5 featuring President Obama.⁵ The DNC's Response states that Lokesh attended the event as a
6 guest of Raju Indukuri, a U.S. citizen who had paid \$20,000 for tickets to the DNC event.⁶ As
7 explained in the DNC's Response, Indukuri purchased the tickets through the DNC's online
8 contribution page, which required him to affirm that the funds that he was donating were not
9 provided to him by another person or entity for the purpose of making the contribution and that
10 he was a United States citizen or permanent resident.⁷ President Obama's Response notes the
11 DNC's direct response to the allegations and further contends that the Complaint presents no
12 facts that describe a violation of the Act or Commission regulations by President Obama.⁸

13 Lokesh's Response asserts that he is, in fact, a foreign national, but that he attended the
14 DNC event as a personal guest of Indukuri.⁹ The Response also states that Indukuri used his
15 personal credit card to make the \$20,000 donation, that he paid the credit card bill from his own

⁴ *Id.*

⁵ DNC Resp. at 1.

⁶ *Id.*; see also DNC Resp. App. A (copy of U.S. passport for Raju Indukuri).

⁷ *Id.* at 1-2; see Advisory Op. 2011-13 (Democratic Senatorial Campaign Committee) (finding that similar affirmations required of contributors on a committee's webpage provides a sufficient safeguard at the time of solicitation for the committee to ensure that it is not accepting prohibited contributions, such as contributions from a foreign national or a contribution in the name of another). The Commission notes that Lokesh's Response includes a copy of a paper DNC contribution card completed by Indukuri. Regardless, both the paper and online contribution forms required Indukuri to affirm that the funds that he was donating were not provided to him by another person or entity for the purpose of making the contribution and that he was a United States citizen or permanent resident.

⁸ Obama Resp. at 1.

⁹ Lokesh Resp. at 1.

1 funds and was not reimbursed by any person, and that the payment was not made on behalf of
2 anyone except for Indukuri himself.¹⁰ The Response states that Indukuri took Lokesh and
3 another friend, a U.S. citizen, to the DNC event, and that the three men had the opportunity to
4 have their photograph taken with President Obama.¹¹ Finally, Lokesh's Response notes that the
5 contribution was reported by the DNC on its May 2015 Monthly Report to the Commission.¹²

6 **B. Legal Analysis**

7 **1. Applicable Law**

8 The Act prohibits a foreign national, directly or indirectly, from making a contribution or
9 donation of money or other thing of value in connection with a Federal, State, or local election,
10 or to a committee of a political party.¹³ Correspondingly, the Act prohibits persons from
11 soliciting, accepting, or receiving a contribution or donation, as described in
12 Section 30121(a)(1)(A) and (B), from a foreign national.¹⁴ A "foreign national" is an individual
13 who is not a citizen of the United States or a national of the United States and who is not
14 lawfully admitted for permanent residence.¹⁵ A "contribution" includes any gift, subscription,
15 loan, advance, or deposit of money or "anything of value" made for the purpose of influencing

¹⁰ *Id.*; see also Lokesh Resp. Exh. B (copy of DNC contribution card indicating that Indukuri used his personal credit card to make a contribution to the DNC).

¹¹ Lokesh Resp. at 1.

¹² *Id.*

¹³ 52 U.S.C. § 30121(a)(1)(A), (B); 11 C.F.R. § 110.20(b) and (c).

¹⁴ See 2 U.S.C. § 30121(a)(2); 11 C.F.R. § 110.20(g). A person knowingly accepts a prohibited contribution 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 source of the funds solicited is a foreign national, or is aware of facts that would lead a reasonable person to inquire whether the source of funds is from a foreign national but failed to conduct a reasonable inquiry. See 11 C.F.R. § 110.20(a)(4).

¹⁵ 52 U.S.C. § 30121(b)(2).

1 any election for Federal office.¹⁶ Provided that a foreign national does not make a contribution
2 of personal funds to attend a fundraising event, the Act does not prohibit a foreign national from
3 attending such an event.¹⁷

4 2. There Is No Reason to Believe Respondents Accepted a Prohibited
5 Contribution

6 The Responses credibly demonstrate that Indukuri, a U.S. citizen, made a contribution to
7 the DNC to obtain tickets to the event, that this contribution was not reimbursed by nor made on
8 behalf of Lokesh, and that Lokesh attended the event as a personal guest of Indukuri. Thus, there
9 is no reasonable basis to conclude that Lokesh made a prohibited foreign national contribution to
10 the DNC, or that the DNC accepted any contributions from Lokesh, in violation of the Act.

11 Accordingly, the Commission finds no reason to believe that Lokesh made, or that the
12 DNC and Obama accepted, a prohibited contribution in violation of 52 U.S.C. § 30121(a).

¹⁶ 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a). Additionally, a foreign national may not directly or indirectly make an expenditure, an independent expenditure, or a disbursement in connection with a Federal, State, or local election. 52 U.S.C. § 30121(a)(1)(C); 11 C.F.R. § 110.20(f).

¹⁷ See 52 U.S.C. § 30121(a)(1)(B); Advisory Op. 2004-26 (Weller) (finding that a foreign national may "attend fundraising and campaign events . . . provided she does not make a contribution of her personal funds in order to attend.").