



FEDERAL ELECTION COMMISSION
Washington, DC 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DEC 13 2016

Lori Van Hamersveld
4461 Ashton Drive
Sacramento, CA 95864

RE: MUR 7072
Amerish "Ami" Bera
Ami Bera for Congress and Jennifer May in
her official capacity as treasurer
Babulal Bera
Kanta Bera

Dear Ms. Van Hamersveld:

This is in reference to the complaint you filed with the Federal Election Commission on May 23, 2016, concerning an allegation that Amerish "Ami" Bera and other persons violated the Federal Election Campaign Act of 1971, as amended (the "Act"). After considering all the circumstances, the Commission determined to dismiss this matter and closed the file on December 6, 2016. At the same time, the Commission admonished Babulal Bera for violations of 52 U.S.C. §§ 30116(a)(1)(A) and 30122, provisions of the Act, for which he pleaded guilty in federal court. The Factual and Legal Analyses, which more fully explains the basis for the Commission's decision, are enclosed.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016).

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

Lori Van Hamersveld
Page 2

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel



BY: Mark Allen
Assistant General Counsel

Enclosure
Factual and Legal Analyses

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1 Factual Basis for Pleas, Babulal Bera reimbursed approximately 90 contributors who made more
2 than 130 contributions to the Committee.⁵

3 The Factual Basis for Pleas states that, during the 2010 election cycle, Babulal Bera made
4 the maximum allowable contribution to the Committee for the primary and general elections —
5 then a total of \$4,800 — between April 4, 2009, and May 4, 2009.⁶ He then “directly and
6 indirectly solicited relatives, friends and acquaintances to make the maximum allowable federal
7 campaign contribution [to the Committee], with the understanding that he would reimburse them
8 in whole or in part.”⁷ From approximately May 11, 2009, through at least August 20, 2010,
9 these individuals contributed a total of approximately \$225,326 to the Committee.⁸ Babulal Bera
10 provided full or partial refunds to these individuals totaling more than \$220,000.⁹

11 According to the Factual Basis for Pleas, Babulal Bera conducted a similar scheme
12 during the 2012 election cycle.¹⁰ On approximately January 5, 2011, Babulal Bera contributed
13 the maximum allowable amount for the primary and general elections — then \$5,000 — to the
14 Committee. Babulal Bera again solicited family, friends, and acquaintances to make the
15 maximum allowable contribution to the Committee with the understanding that he would
16 reimburse the conduits for their donations.¹¹ The plea agreement indicates that from at least
17 January 31, 2011, through at least December 5, 2011, these individuals contributed a total of

⁵ Plea Agmt. Ex. A (Factual Basis for Pleas).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

1 approximately \$43,400 to the Committee.¹² Between April 26, 2011, and at least June 9, 2012,
2 these individuals received full reimbursements for their contributions from Babulal Bera, which
3 were delivered either by Babulal Bera himself or through third parties working at his behest.¹³
4 The Factual Basis for Pleas indicates that at least some of the reimbursement checks were drawn
5 on Bera's business accounts.¹⁴

6 In his Response, Babulal Bera acknowledges his plea agreement, but argues that in light
7 of his taking "full responsibility for his conduct," the Commission should dismiss the Complaint
8 as a matter of prosecutorial discretion.¹⁵ He contends that his "acceptance of responsibility,
9 remorse, age, and health issues, along with his lack of prior experience making political
10 contributions" support dismissal.¹⁶

11 On August 18, 2016, Babulal Bera was sentenced to a prison term of one year and one
12 day, supervised release for a term of 36 months, and a criminal fine of \$100,000.¹⁷

13 III. LEGAL ANALYSIS

14 In the 2010 election cycle, the Act prohibited an individual from making contributions to
15 a candidate which, in the aggregate, exceeded \$2,400 per election.¹⁸ In the 2012 cycle, the
16 contribution limit was \$2,500 per election.¹⁹ The Act further provides that no person shall make
17 a contribution in the name of another or knowingly permit his name to be used to effect such a

¹² *Id.*

¹³ Information ¶13, *United States v. Babulal Bera*, No. 2:16-cr-00097 (E.D. Cal. May 9, 2016) ("Information").

¹⁴ Plea Agmt. Ex. A.

¹⁵ Bera Supp. Resp. at 1.

¹⁶ *Id.* The Response notes that Babulal Bera is 83 years old. *Id.*

¹⁷ Judgment, *United States v. Babulal Bera*, No. 2:16-cr-00097 (E.D. Cal. Aug. 18, 2016).

¹⁸ 52 U.S.C. § 30116(a)(1)(A).

¹⁹ *Id.* See 11 C.F.R. § 110.1(b)(1).

1 contribution, and that no person shall knowingly accept a contribution in the name of another.²⁰

2 This provision proscribes both “false name” contributions and “straw donor” or “conduit”
3 contributions.²¹

4 Babulal Bera admits in his plea agreement that he knowingly and willfully engaged in a
5 scheme to make excessive contributions in the names of others to his son’s campaign committee
6 during two successive election cycles.²² Specifically, he admits that after he reached his
7 individual contribution limit to the Committee for the 2010 and 2012 election cycles, he “directly
8 and indirectly” solicited approximately 90 other individuals to make contributions to the
9 Committee in their own names, with the promise that he would reimburse them for their
10 donations.²³ Bera also admits that he reimbursed his conduits, in whole or in part. In total, he
11 reimbursed more than \$220,000 in contributions to the Committee during the 2010 election cycle
12 and \$43,400 in contributions to the Committee during the 2012 election cycle. Accordingly,
13 Babulal Bera knowingly and willfully violated 52 U.S.C. §§ 30116(a)(1)(A) and 30122 by
14 making excessive contributions in the names of others.

15 Although Bera acknowledges his guilt, he argues that the Commission should dismiss
16 these allegations as a matter of prosecutorial discretion, on the grounds of his age and that he has
17 “taken full responsibility for his conduct” and his contributions “were made out of a desire to
18 support his son’s congressional campaign, rather than with the corrupt purpose of obtaining a
19 quid pro quo benefit.”²⁴

²⁰ 52 U.S.C. § 30122.

²¹ 11 C.F.R. § 110.4(b); *United States v. O'Donnell*, 608 F.3d 546, 549, 553 (9th Cir. 2010).

²² See generally Information; Plea Agmt. Ex. A.

²³ *Id.*

²⁴ Bera Supp. Resp. at 1.

1 Babulal Bera has pleaded guilty to the same violation of the Act which the Commission
2 could pursue in civil enforcement. The Commission has at times elected to exercise its parallel
3 jurisdiction,²⁵ and it has also at times dismissed matters against respondents who have already
4 been found criminally liable for the same conduct.²⁶ The Commission pursued and conciliated
5 violations of a similar scope in MUR 6143 (Danielczyk), which involved \$198,691 in
6 contributions in the name of another.²⁷

7 The Commission recognizes the seriousness of Babulal Bera's violations of the Act in
8 this matter. Indeed, his contribution scheme appears to be among the largest considered by the
9 Commission.²⁸ Bera used approximately 90 conduits from all over the country who made
10 roughly 130 contributions totaling more than a quarter of a million dollars to one political
11 committee. This scheme lasted three years, spanning two separate election cycles. Furthermore,
12 Bera's overall record of contributions belies the Response's characterization of him as a
13 "political novice."²⁹ Since 2009, Babulal Bera has contributed \$106,300 to candidate
14 committees (excluding the contributions made through conduits), \$50,400 to joint fundraising
15 committees, and \$70,000 to independent expenditure-only committees.³⁰

²⁵ See, e.g., Conciliation Agreement, MUR 6465 (Junker); Conciliation Agreement, MUR 6162 (Sohn); Conciliation Agreement, MUR 6143 (Danielczyk); Conciliation Agreement, MUR 5758 (O'Donnell); Joint Conciliation Agreement, MUR 5666 (Wade).

²⁶ See Bera Supp. Resp. at 5-6 (citing MUR 6233 (Hsu); MUR 6232 (Gill); MUR 6231 (Marshall)).

²⁷ See Factual & Legal Analysis, MUR 6143.

²⁸ Lower dollar matters in which the Commission pursued respondents who had been criminally prosecuted include MUR 5758 (O'Donnell) (\$32,000) and MUR 5666 (Wade) (\$78,000).

²⁹ See Bera Supp. Resp. at 7.

³⁰ Search results for Babulal Bera's Individual Contributions, FEC, <http://docquery.fec.gov/cgi-bin/qind/>. Further, Bera's \$70,000 in contributions to super PACs — including \$50,000 to a super PAC in June 2012 — undermines his assertion that he was unsophisticated and uninformed about "alternative, lawful vehicles for providing unlimited support for his son's campaign." Bera Supp. Resp. at 7. And as to Bera's assertion that his conduct had no corrupting effect, the U.S. Supreme Court concluded in *Buckley v. Valeo* that large contributions from family members are not without risk. *Id.* at 7-8; *Buckley v. Valeo*, 424 U.S. 1, 51 n.59 (1976) ("Although the

1 The Commission, however, finds that these factors are outweighed by other
2 circumstances in this matter, namely, Babulal Bera's guilty plea, his one-year prison sentence
3 and \$100,000 criminal fine, and his advanced age. In addition, the statute of limitations on most
4 of the activity here has run.³¹ Under these circumstances, the Commission dismisses this case as
5 a matter of prosecutorial discretion under *Heckler v. Chaney*.³² Finally, the Commission
6 admonishes Babulal Bera for his knowing and willful violations of the Act's contribution limits
7 and prohibition on making contributions in the name of another. See 52 U.S.C. §§ 30116(a) and
8 30122.

risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily contributors.").

³¹ The statute of limitations has run on the entire \$220,000 in violation during the 2010 election cycle. As for the \$43,400 in violation from the 2012 election cycle, the plea materials provide a general range of dates and do not identify specific contributions, but it appears that a substantial portion of that activity is now also beyond the statute of limitations.

³² 470 U.S. 821 (1985).

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

4
5 RESPONDENT: Kanta Bera

MUR: 7072

6
7 **I. INTRODUCTION**

8
9 The Complaint in this matter is based on a guilty plea filed in Federal District Court by
10 Babulal Bera, father of U.S. Representative Amerish "Ami" Bera ("Rep. Bera"), in which
11 Babulal Bera admitted making approximately \$270,000 in contributions in the names of about 90
12 other individuals to Ami Bera for Congress (the "Committee") during the 2010 and 2012 election
13 cycles.¹ Kanta Bera is Babulal Bera's wife and the mother of Rep. Bera.

14 For the reasons set forth below, the Commission dismisses the Complaint as to Kanta
15 Bera.²

16 **II. FACTUAL BACKGROUND**

17 Representative Ami Bera (CA-7) ran unsuccessfully for Congress in 2010, won his seat
18 in 2012, and was re-elected in 2014 and 2016. On May 10, 2016, Babulal Bera pleaded guilty to
19 violating 52 U.S.C. §§ 30116(a)(1)(A) and 30122 by making contributions in the names of others
20 and making excessive contributions during the 2010 and 2012 election cycles.³ According to the
21 Factual Basis for Pleas, Babulal Bera reimbursed approximately 90 contributors who made more
22 than 130 contributions to the Committee.⁴

¹ Compl. At 1, Ex. A (May 23, 2016). Ami Bera for Congress is Ami Bera's principal campaign committee.

² See *Heckler v. Chaney*, 470 U.S. 821 (1985).

³ Plea Agreement, *United States v. Bera*, No. 2:16-cr-00097 (E.D. Cal. May 10, 2016) ("Plea Agmt."). On August 18, 2016, Babulal Bera was sentenced to a prison term of one year and one day, supervised release for a term of 36 months, and a criminal fine of \$100,000. Judgment, *United States v. Babulal Bera*, No. 2:16-cr-00097 (E.D. Cal. Aug. 18, 2016).

⁴ Plea Agmt. Ex. A (Factual Basis for Pleas).

1 The Factual Basis for Pleas states that, during the 2010 election cycle, Babulal and Kanta
2 Bera each made the maximum allowable contribution to the Committee for the primary and
3 general elections — then a total of \$4,800 — between April 4, 2009, and May 4, 2009.⁵ Babulal
4 Bera then “directly and indirectly solicited relatives, friends and acquaintances to make the
5 maximum allowable federal campaign contribution [to the Committee], with the understanding
6 that he would reimburse them in whole or in part.”⁶ From approximately May 11, 2009, through
7 at least August 20, 2010, these individuals contributed a total of approximately \$225,326 to the
8 Committee.⁷ Babulal Bera provided full or partial refunds to these individuals totaling more than
9 \$220,000.⁸

10 According to the Factual Basis for Pleas, Babulal Bera conducted a similar scheme
11 during the 2012 election cycle.⁹ On approximately January 5, 2011, Babulal and Kanta Bera
12 each contributed the maximum allowable amount for the primary and general elections — then
13 \$5,000 — to the Committee. Babulal Bera again solicited family, friends, and acquaintances to
14 make the maximum allowable contribution to the Committee with the understanding that he
15 would reimburse the conduits for their donations.¹⁰ The plea agreement indicates that from at
16 least January 31, 2011, through at least December 5, 2011, these individuals contributed a total
17 of approximately \$43,400 to the Committee.¹¹ Between April 26, 2011, and at least June 9,
18 2012, these individuals received full reimbursements for their contributions from Babulal Bera,

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

1 which were delivered either by Babulal Bera himself or through third parties working at his
2 behest.¹²

3 In the joint Response of Kanta and Babulal Bera, they acknowledge Babulal's plea
4 agreement, but argue that in light of his taking "full responsibility for his conduct," the
5 Commission should dismiss the Complaint as a matter of prosecutorial discretion.¹³ They
6 contend that "Mr. Bera's acceptance of responsibility, remorse, age, and health issues, along with
7 his lack of prior experience making political contributions" support dismissal.¹⁴ They ask that
8 the Complaint's allegations against Kanta Bera also be dismissed on the grounds that the cited
9 news articles suggesting her involvement in the scheme are "devoid of any facts that suggest
10 Mrs. Bera violated the Act."¹⁵

11 According to press accounts, DOJ announced on September 16, 2016, that no other
12 charges would be sought in the Babulal Bera matter.¹⁶

13 III. LEGAL ANALYSIS

14 In the 2010 election cycle, the Act prohibited an individual from making contributions to
15 a candidate which, in the aggregate, exceeded \$2,400 per election.¹⁷ In the 2012 cycle, the
16 contribution limit was \$2,500 per election.¹⁸ The Act further provides that no person shall make
17 a contribution in the name of another or knowingly permit his name to be used to effect such a

¹² Information ¶13, *United States v. Babulal Bera*, No. 2:16-cr-00097 (E.D. Cal. May 9, 2016) ("Information").

¹³ Bera Supp. Resp. at 1.

¹⁴ *Id.* The Response notes that Babulal and Kanta Bera are 83 and 82 years old, respectively. *Id.*

¹⁵ *Id.* at 8.

¹⁶ See Denny Walsh, *No Election Fraud Charges Against Ami Bera, Says U.S. Justice Department*, SACRAMENTO BEE, Sept. 16, 2016, available at <http://www.sacbee.com/news/local/crime/article102224787.html>.

¹⁷ 52 U.S.C. § 30116(a)(1)(A).

¹⁸ *Id.* See 11 C.F.R. § 110.1(b)(1).

1 contribution, and that no person shall knowingly accept a contribution in the name of another.¹⁹

2 It also constitutes a violation of the Act to help or assist any person in making a contribution in
3 the name of another.²⁰

4 Babulal Bera admits in his plea agreement that he knowingly and willfully engaged in a
5 scheme to make excessive contributions in the names of others to his son's campaign committee
6 during two successive election cycles.²¹ Specifically, he admits that after he reached his
7 individual contribution limit to the Committee for the 2010 and 2012 election cycles, he "directly
8 and indirectly" solicited approximately 90 other individuals to make contributions to the
9 Committee in their own names, with the promise that he would reimburse them for their
10 donations.²² Bera also admits that he reimbursed his conduits, in whole or in part. In total, he
11 reimbursed more than \$220,000 in contributions to the Committee during the 2010 election cycle
12 and \$43,400 in contributions to the Committee during the 2012 election cycle.

13 In stating that he solicited conduits "directly and indirectly," Babulal Bera's plea
14 agreement suggests that, in addition to the conduits themselves, others may have helped or
15 assisted in his scheme.²³ In that agreement, the Department of Justice ("DOJ") stated that it "did
16 not intend to prosecute the defendant's wife, Kanta Bera."²⁴ As noted, DOJ reportedly closed the
17 investigation without charging any other person.

¹⁹ 52 U.S.C. § 30122.

²⁰ 11 C.F.R. § 110.4(b)(1)(iii).

²¹ See generally Information; Plea Agmt. Ex. A.

²² *Id.*

²³ Plea Agreement, *United States v. Bera*, No. 2:16-cr-00097 (E.D. Cal. May 10, 2016) ("Plea Agmt.") Ex. A (Factual Basis for Pleas).

²⁴ Plea Agmt at 6.

1 The Commission has determined as a matter of prosecutorial discretion to dismiss the
2 allegations against Kanta Bera in view of the lack of information directly suggesting that she
3 helped or assisted Babulal Bera make contributions in the name of another, her advanced age,
4 and Babulal Bera's guilty plea, prison sentence, and criminal fine. In addition, the statute of
5 limitations on most of the activity here has run.²⁵ Under these circumstances, the Commission
6 dismisses the Complaint as to Kanta Bera. *See Heckler v. Chaney*.²⁶

²⁵ The statute of limitations has run on the entire \$220,000 in violation during the 2010 election cycle. As for the \$43,400 in violation from the 2012 election cycle, the plea materials provide a general range of dates and do not identify specific contributions, but it appears that a substantial portion of that activity is now also beyond the statute of limitations.

²⁶ 470 U.S. 821 (1985).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Amerish "Ami" Bera
Ami Bera for Congress and Jennifer May
in her official capacity as treasurer

MUR: 7072

I. INTRODUCTION

The Complaint in this matter is based on a guilty plea filed in Federal District Court by Babulal Bera, father of U.S. Representative Amerish "Ami" Bera ("Rep. Bera"), in which Babulal Bera admitted making approximately \$270,000 in contributions in the names of about 90 other individuals to Ami Bera for Congress (the "Committee") during the 2010 and 2012 election cycles.¹ Based on this plea, the Complaint alleges that Rep. Bera and the Committee accepted illegal contributions by failing to timely refund the contributions to their original source.² Rep. Bera and the Committee state that they had no knowledge of Babulal Bera's illegal contributions at the time they were made and assert that the Committee properly disgorged the total amount on the same day as Babulal Bera's guilty plea.

As set forth below, under the circumstances here, the Commission dismisses the Complaint as to Rep. Bera and the Committee. *See Heckler v. Chaney*.³

II. FACTUAL BACKGROUND

Representative Ami Bera (CA-7) ran unsuccessfully for Congress in 2010, won his seat in 2012, and was re-elected in 2014 and 2016. On May 10, 2016, Babulal Bera pleaded guilty to violating 52 U.S.C. §§ 30116(a)(1)(A) and 30122 by making contributions in the names of others

¹ Compl. at 1, Ex. A (May 23, 2016). Ami Bera for Congress is Ami Bera's principal campaign committee.

² *Id.* at 1.

³ 470 U.S. 821 (1985).

1 and making excessive contributions during the 2010 and 2012 election cycles.⁴ According to the
2 Factual Basis for Pleas, Babulal Bera reimbursed approximately 90 contributors who made more
3 than 130 contributions to the Committee.⁵

4 The Factual Basis for Pleas states that, during the 2010 election cycle, Babulal and Kanta
5 Bera each made the maximum allowable contribution to the Committee for the primary and
6 general elections — then a total of \$4,800 — between April 4, 2009, and May 4, 2009.⁶ Babulal
7 Bera then “directly and indirectly solicited relatives, friends and acquaintances to make the
8 maximum allowable federal campaign contribution [to the Committee], with the understanding
9 that he would reimburse them in whole or in part.”⁷ From approximately May 11, 2009, through
10 at least August 20, 2010, these individuals contributed a total of approximately \$225,326 to the
11 Committee.⁸ Babulal Bera provided full or partial refunds to these individuals totaling more than
12 \$220,000.⁹

13 According to the Factual Basis for Pleas, Babulal Bera conducted a similar scheme
14 during the 2012 election cycle.¹⁰ On approximately January 5, 2011, Babulal and Kanta Bera
15 each contributed the maximum allowable amount for the primary and general elections — then
16 \$5,000 — to the Committee. Babulal Bera again solicited family, friends, and acquaintances to
17 make the maximum allowable contribution to the Committee with the understanding that he

⁴ Plea Agreement, *United States v. Bera*, No. 2:16-cr-00097 (E.D. Cal. May 10, 2016) (“Plea Agmt.”). On August 18, 2016, Babulal Bera was sentenced to a prison term of one year and one day, supervised release for a term of 36 months, and a criminal fine of \$100,000. Judgment, *United States v. Babulal Bera*, No. 2:16-cr-00097 (E.D. Cal. Aug. 18, 2016).

⁵ Plea Agmt. Ex. A (Factual Basis for Pleas).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

1 would reimburse the conduits for their donations.¹¹ The plea agreement indicates that from at
2 least January 31, 2011, through at least December 5, 2011, these individuals contributed a total
3 of approximately \$43,400 to the Committee.¹² Between April 26, 2011, and at least June 9,
4 2012, these individuals received full reimbursements for their contributions from Babulal Bera,
5 which were delivered either by Babulal Bera himself or through third parties working at his
6 behest.¹³ The Factual Basis for Pleas indicates that at least some of the reimbursement checks
7 were drawn on Babulal Bera's business accounts.¹⁴

8 On May 10, 2016, the same day as Babulal Bera's guilty plea, the Committee paid
9 \$268,726 to the United States Treasury to disgorge the illegal contributions.¹⁵ The same day,
10 Rep. Bera issued a statement through the Committee, asserting that "[n]either I, nor anyone
11 involved with my campaign, was aware of my father's activities until we learned about them
12 from the U.S. Attorney's Office."¹⁶

13 The Complaint contends that Rep. Bera became aware of the investigation in October
14 2015 when DOJ interviewed him about his father's fundraising activities.¹⁷ Complainant asserts
15 that Rep. Bera and his Committee had an obligation under the Act to refund the illegal

¹¹ *Id.*

¹² *Id.*

¹³ Information ¶13, *United States v. Babulal Bera*, No. 2:16-cr-00097 (E.D. Cal. May 9, 2016) ("Information").

¹⁴ Plea Agmt. Ex. A.

¹⁵ See 2016 Pre-Primary Report at 432, *Ami Bera for Congress* (June 7, 2016).

¹⁶ Press Release by Ami Bera for Congress, *Rep. Bera Statement on Campaign Finance Violation* (May 10, 2016), <http://www.beraforcongress.com/press/rep-bera-statement-campaign-finance-violation>.

¹⁷ Compl. at 1-2.

1 contributions to the original source of the funds as soon as it learned of the investigation against
2 Rep. Bera's parents.¹⁸

3 In a joint response, Rep. Bera and the Committee assert that they were unaware of the
4 illegal conduct at the time it occurred and "only learned of the specific violations when the
5 Information was issued" on May 9, 2016.¹⁹ Rep. Bera and the Committee acknowledge that DOJ
6 interviewed Rep. Bera in October 2015, but state that during the interview, DOJ asked only
7 about Babulal Bera's fundraising activities for the campaign and "as is typically the case with
8 criminal investigations, the Department of Justice did not disclose the full details of its
9 investigation."²⁰ The Response also asserts that DOJ did not provide Rep. Bera or the
10 Committee with "any actionable information about Babulal Bera's activities that would have
11 allowed them to immediately disgorge the illicit contributions" and that Rep. Bera has not been
12 given a list of specific contributors whose contributions were allegedly reimbursed or the
13 amounts or dates of those contributions.²¹

14 According to press accounts, DOJ announced on September 16, 2016, that no other
15 charges would be sought in the Babulal Bera matter.²²

16 III. LEGAL ANALYSIS

17 In the 2010 election cycle, the Act prohibited an individual from making contributions to
18 a candidate which, in the aggregate, exceeded \$2,400 per election.²³ In the 2012 cycle, the

¹⁸ *Id.* at 1.

¹⁹ Committee Resp. at 2.

²⁰ *Id.*

²¹ *Id.*

²² See Denny Walsh, *No Election Fraud Charges Against Ami Bera, Says U.S. Justice Department*,
SACRAMENTO BEE, Sept. 16, 2016, available at <http://www.sacbee.com/news/local/crime/article102224787.html>.

²³ 52 U.S.C. § 30116(a)(1)(A).

1 contribution limit was \$2,500 per election.²⁴ The Act further provides that no person shall make
2 a contribution in the name of another or knowingly permit his name to be used to effect such a
3 contribution, and that no person shall knowingly accept a contribution in the name of another.²⁵

4 The Complaint alleges that Rep. Bera and the Committee violated the Act by failing to
5 timely refund the illegal contributions to their original source, resulting in the receipt of an
6 excessive contribution.²⁶

7 The Commission has determined as a matter of prosecutorial discretion not to further
8 pursue this matter in view of the lack of information directly suggesting that Respondents had
9 knowledge of Babulal Bera's contributions in the name of another prior to his guilty plea, the
10 Committee's \$268,726 disgorgement on the same day as the plea, and that the statute of
11 limitations on most of the activity here has run.²⁷ Under these circumstances, the Commission
12 dismisses the Complaint as to Rep. Bera and the Committee. *See Heckler v. Chaney*.²⁸

²⁴ *Id.* See 11 C.F.R. 110.1(b)(1).

²⁵ 52 U.S.C. § 30122.

²⁶ Compl. at 1. Commission regulations provide that if a political committee accepts contributions, which at the time did not appear to be made in the name of another, but which it later discovers are illegal based on new evidence not available to the committee at the time of receipt and deposit, the committee shall refund the contribution to the contributor within thirty days of the date on which the illegality is discovered. 11 C.F.R. § 103.3(b)(2).

²⁷ The statute of limitations has run on the entire \$220,000 in violation during the 2010 election cycle. As for the \$43,400 in violation from the 2012 election cycle, the plea materials provide a general range of dates and do not identify specific contributions, but it appears that a substantial portion of that activity is now also beyond the statute of limitations.

²⁸ 470 U.S. 821 (1985).