



1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS: Bernie 2016 and Susan Jackson**  
6 **in her official capacity as treasurer**

MUR 7040

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8 **I. INTRODUCTION**

9 The Complainant alleges that Bernie 2016 and Susan Jackson in her official capacity as  
10 treasurer ("Committee"), the principal campaign committee of Senator Bernard "Bernie"  
11 Sanders, a candidate for the Democratic nomination for President in 2016, accepted excessive  
12 contributions.<sup>1</sup> The Complaint is based upon information from the Commission's Requests for  
13 Additional Information ("RFAs") to the Committee regarding excessive contributions disclosed  
14 on the Committee's 2015 October Quarterly Report and 2015 Year-End Report. The Committee  
15 responds that it timely refunded or reattributed all excessive contributions disclosed on those  
16 reports. Although the Committee did not timely refund or reattribute all the excessive  
17 contributions at issue, the untimely portion is small and almost all of it was cured within 120  
18 days. Under these circumstances, the Commission dismisses the allegation that the Committee  
19 violated 52 U.S.C. § 30116(f).

20 **II. FACTUAL AND LEGAL ANALYSIS**

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22 The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits a  
23 candidate or political committee from knowingly accepting contributions in violation of the  
24 contribution limits set forth in the Act.<sup>2</sup> For the 2016 election cycle, no person was permitted to

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<sup>1</sup> On June 17, 2016, the Commission received a letter from the Complainant stating that it was withdrawing its complaint. On the same day, the Commission sent a letter to the Complainant stating that its request to withdraw the Complaint will not prevent the Commission from taking appropriate action on the Complaint under the Act. See 52 U.S.C. § 30109.

<sup>2</sup> 52 U.S.C. § 30116(f).

1 make contributions to a candidate for federal office or his authorized political committee which  
2 in the aggregate exceeded \$2,700 for each election.<sup>3</sup>

3 Contributions which on their face exceed this limit and contributions which do not appear  
4 to be excessive on their face, but which exceed the limit when aggregated with contributions  
5 from the same contributor, may either be deposited into a campaign depository under  
6 11 C.F.R. §103.3(a) or returned to the contributor.<sup>4</sup> If any such contribution is deposited, the  
7 treasurer may request redesignation or reattribution of the contribution by the contributor in  
8 accordance with 11 C.F.R. § 110.1(b) or (k) as appropriate.<sup>5</sup> If a redesignation or reattribution is  
9 not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution,  
10 refund the contribution to the contributor.<sup>6</sup>

11 The Committee disclosed \$97,985 in excessive contributions on its 2015 October  
12 Quarterly Report and \$49,325 in excessive contributions on its 2015 Year-End Report, as  
13 identified in the Commission's RFAIs addressed to the Committee.<sup>7</sup> While the Committee  
14 asserts that it timely refunded or reattributed all of the excessive contributions reported on those  
15 two reports,<sup>8</sup> the Committee's disclosure reports indicate that excessive contributions from ten  
16 contributors totaling \$5,487 on the 2015 October Quarterly Report and excessive contributions  
17 totaling \$1,975 from six contributors on the 2015 Year-End Report were not refunded or

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<sup>3</sup> See 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b).

<sup>4</sup> See 11 C.F.R. § 103.3(b)(3).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See RFAI on the Committee's 2015 October Quarterly Report (Nov. 3, 2015) and RFAI on the Committee's 2015 Year-End Report (Feb. 11, 2016). The RFAIs include lists of the contributors who made excessive contributions by date and amount.

<sup>8</sup> Committee Resp. at 2-3. The Committee made no mention of any redesignated contributions.

1 reattributed timely under 11 C.F.R. § 103.3(b)(3). Therefore, the Committee accepted excessive  
2 contributions totaling \$7,462.<sup>9</sup>

3       This amount, both in gross and as a percentage of the tens of millions of dollars in  
4 contributions the Committee received during the reporting periods at issue, is small.<sup>10</sup> Further,  
5 the great majority of the excessive contributions were refunded or reattributed within 120 days.<sup>11</sup>  
6 Under these particular circumstances, the Commission exercises its prosecutorial discretion and  
7 dismisses the allegation that the Committee violated 52 U.S.C. § 30116(f).<sup>12</sup>

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<sup>9</sup> See 52 U.S.C. §§ 30116(a)(1)(A), 30116(f).

<sup>10</sup> The Committee reported receiving \$26.2 million in contributions on its 2015 October Quarterly Report and \$33.5 million in contributions on its 2015 Year-End Report. And of the total amount of \$147,310 in excessive contributions that the Committee disclosed on the two disclosure reports, the \$7,462 refunded or reattributed untimely represents only five percent of the excessive contributions received.

<sup>11</sup> Of the \$7,462 in untimely refunds or reattributions, \$5,597 was refunded or reattributed within 120 days of receipt.

<sup>12</sup> See *Heckler v. Chaney*, 470 U.S. 821 (1985).

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