FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matters of	)	
	)	MURs 7575, 7580, 7592 & 7626
Brand New Congress, *et al*.	)	
	)	

STATEMENT OF REASONS OF CHAIRMAN ALLEN DICKERSON AND COMMISSIONERS SEAN J. COOKSEY AND JAMES E. "TREY" TRAINOR, III

These matters concern two political committees—Brand New Congress ("BNC") and Justice Democrats PAC ("JD")—and an affiliated limited liability company—Brand New Congress, LLC ("the LLC")—that provided campaign-related services to 13 Democratic candidates during the 2018 election cycle as part of an "integrated, national effort" to recruit and support first-time candidates for Congress.[1] The Complaints broadly assert that BNC, JD, and the LLC violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by making excessive in-kind contributions to the Respondent candidates and their authorized committees, and that those candidate committees knowingly accepted the excessive in-kind contributions. The Complaints also allege that certain Respondents failed to sufficiently describe the purpose of disbursements to the LLC and misreported payees, among other allegations.[2]

By the time the Commission could consider these matters, however, the relevant conduct had already begun to fall outside of the five-year statute of limitations. Because this severely limited the Commission's ability to complete a full investigation of these complex and dated claims—which primarily involve activities and transactions from 2017—we voted to dismiss the allegations that Respondents made or accepted excessive in-kind contributions, pursuant to our prosecutorial discretion under *Heckler v. Chaney*.[3] Similarly, due to the timing and resource constraints that weigh against launching an investigation at this late stage, and to the weakness of the underlying theories in support of enforcement, we voted to dismiss the alleged reporting

[1] First General Counsel's Report at 5 (Nov. 23, 2021), MURs 7575, 7580, 7592 & 7626 (Brand New Congress, *et al.*) ("FGCR").

[2] In addition, the Complaints included allegations that Brand New Congress, LLC failed to register and report as a federal political committee; that JD was either an unregistered authorized committee or leadership PAC of Rep. Alexandria Ocasio-Cortez; and that three individuals had made excessive contributions to JD and Ocasio-Cortez's campaign committee. FGCR at 28–33, 51. The Commission unanimously voted to dismiss the allegations regarding the three individuals' excessive contributions. Certification (Feb. 3, 2022), MURs 7575, 7580, 7592 & 7626 (Brand New Congress, *et al.*).

[3] 470 U.S. 821 (1985).

infractions and other allegations in the Complaints. In accordance with applicable law, we issue this Statement of Reasons to explain our decision.[4]

I. Factual Background

BNC is a non-multicandidate political committee that filed its Statement of Organization on April 5, 2016, and JD is a multicandidate committee that registered with the Commission on January 9, 2017.[5] The two committees share several co-founders, including Saikat Chakrabarti, who also was JD's Executive Director from January 2017 to June 2018.[6] Both committees "sought to implement a national program to recruit non-traditional, first-time candidates for United States House of Representatives and Senate, and to support them with an infrastructure to effectively run their campaigns as an integrated, national effort."[7]

Brand New Congress, LLC was created as a single-member limited liability company in May 2016, with Mr. Chakrabarti as its sole member.[8] Respondents intended the LLC to operate as a "campaign in a box" that could "run the full campaigns" of BNC and JD's favored candidates.[9] With its innovative business model, the LLC could provide a broad assortment of campaign-related services, including communications, field work, and online fundraising, "'while still satisfying the FEC's requirement [to] charg[e] something reasonable.'"[10] BNC reportedly moved staff over to the LLC, and both BNC and JD repeatedly used the company as a vendor.[11]

Together, BNC and JD made aggregate disbursements of $867,014.30 to the LLC during the 2017-2018 cycle.[12] Nearly three-quarters of those disbursements ($643,258.87) occurred between January and May 2017, when the LLC was paid on retainers to engage in candidate recruitment on behalf of BNC and JD.[13] Subsequently, the Respondent candidate committees collectively made disbursements totaling $175,801.92 to the LLC between June and August 2017.The LLC charged the candidate committees using a complex "hybrid" billing model that covered the entire array of services that a campaign might need. The payment structure included flat fees and hourly charges, depending on the services involved, as well as percentage-based

---

4 *See, e.g., Dem. Cong. Campaign Comm. v. FEC*, 831 F.2d 1131, 1135 (D.C. Cir. 1987) (holding that "[t]he Commission or the individual Commissioners" must provide a statement of reasons why the agency "rejected or failed to follow the General Counsel's recommendation").

5 FGCR at 6, 14–15.

6 *Id.* at 5, 9.

7 Joint Response of Rep. Alexandria Ocasio-Cortez, *et al*., at 7 (May 29, 2019), MUR 7592 (Brand New Congress, *et al.*).

8 FGCR at 7.

9 *Id.* at 6, 7.

10 *Id.* at 6 (quoting *When I Look at the FEC Report for Justice Democrats in 2017, Why Are There so Many Expenditures to "Brand New Congress"?*, JUSTICE DEMOCRATS (May 8, 2018)).

11 *Id.*

12 *Id.* at 8.

13 *Id.* at 11–12.

commissions for online fundraising.[14] In August 2017, the LLC ceased operations after determining its business model was unsustainable.[15]

The four Complaints in these matters were filed in 2019.[16] They variously allege that BNC, JD, and the LLC violated the Act by making excessive in-kind contributions to the Respondent candidate committees by subsidizing the LLC's campaign services and providing them at less than the usual and normal charge, and that the candidates and their authorized committees knowingly accepted the excessive in-kind contributions. The Complaints also assert that BNC, JD, and various Respondent candidate committees failed to accurately report the purpose and recipients of their disbursements. They further allege that the LLC failed to register and report as a political committee, that JD failed to register as an authorized committee or leadership PAC of Rep. Alexandria Ocasio-Cortez, and that several individuals gave excessive contributions to JD and Rep. Ocasio-Cortez's authorized committee.

II. The Law

The Act prohibits a person from making contributions to a candidate or authorized candidate committee that exceed the limits at 52 U.S.C. § 30116(a), and a candidate or authorized committee from knowingly accepting excessive contributions.[17] The Act defines a "contribution," in part, as "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."[18] The Commission's regulations specify that "anything of value" encompasses in-kind contributions, including "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."[19]

Under the regulations, the "usual and normal charge" for services is "the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered."[20] The Commission has previously advised that a committee may determine the "usual and normal charge" for goods or services by looking to the "fair market

---

14 *Id.* at 12; *see also* Joint Response of Rep. Alexandria Ocasio-Cortez, *et al*., at 26–27 (May 29, 2019), MUR 7592 (Brand New Congress, *et al*).

15 FGCR at 8.

16 Complaint (Mar. 4, 2019), MUR 7575 (Brand New Congress, *et al.*); Complaint (Mar. 18, 2019), MUR 7580 (Brand New Congress, *et al.*); Complaint (Apr. 4, 2019), MUR 7592 (Brand New Congress, *et al.*); Complaint (July 29, 2019), MUR 7626 (Brand New Congress, *et al.*).

17 52 U.S.C. § 30116(a), (f).

18 52 U.S.C. § 30101(8)(A)(i). *See also* 11 C.F.R. § 100.52(a).

19 11 C.F.R. § 100.52(d)(1). The regulations further state that, "[i]f goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the goods or services at the time of the contributions and the amount charged the political committee." *Id.*

20 11 C.F.R. § 100.52(d)(2).

value" of those goods or services, relevant "commercial considerations," and the fee paid by "any similarly situated member of the general public."[21]

The Commission's regulations exempt from the meaning of "contribution" certain testing-the-waters activities "conducted to determine whether an individual should become a candidate," including payments for polling and travel.[22] If the individual subsequently decides to become a federal candidate, however, any funds raised or payments made for testing-the-waters activities must be disclosed as contributions or expenditures on the first FEC report filed by the candidate's authorized committee.[23] In Advisory Opinion 1991-32 (CEC, Inc.), for example, the Commission concluded that a consulting firm's expenses for recruiting candidates as business clients would *not* constitute a prohibited corporate contribution if the candidates had already decided to run for office "and [were] no longer in the process of determining whether to become a candidate."[24] The Commission declined to say whether the consulting firm would run afoul of the prohibition on corporate contributions if it spent its funds to evaluate whether a prospective client should decide to become a candidate "[w]ithout further information as to the written or oral communications taking place in the recruitment process."[25]

Regarding the reporting of disbursements, the Act and Commission regulations require a political committee to disclose the identity of each recipient of an expenditure in excess of $200, along with the date, amount, and purpose of the expenditure.[26] The Commission's regulations define "purpose" as "a brief statement or description of why the disbursement was made."[27] In guidance materials, the Commission has clarified that the "'purpose of disbursement' entry, when considered along with the identity of the disbursement recipient, must be sufficiently specific to make the purpose of the disbursement clear."[28] The regulations give a number of generalized and capacious examples of acceptable statements of purpose, such as "media," "polling," and "travel,"[29] and the FEC's website lists "Strategy Consulting" as a sufficient description of disbursements for consultant services.[30]

---

21 *See, e.g.*, Advisory Op. 2014-09 at 4 n.6 (REED Marketing); Advisory Op. 2012-31 at 4 (AT&T, Inc.); Advisory Op. 2004-06 at 4 (Meetup).

22 11 C.F.R. § 100.72(a).

23 11 C.F.R. § 100.72(a).

24 Advisory Op. 1991-32 (CEC, Inc.) at 8.

25 *Id.*

26 52 U.S.C. § 30104(b)(5)(A); 11 C.F.R. § 104.3(b)(3)(i).

27 11 C.F.R. § 104.3(b)(3)(i)(A).

28 Statement of Policy: "Purpose of Disbursement" Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007) ("Purpose Statement of Policy") (citing 11 C.F.R. §104.3(b)(3)(i)(B), (4)(i)(A)).

29 11 C.F.R. § 104.3(b)(3)(i)(B).

30 *Purposes of Disbursement*, FEC.gov, *available at* https://www.fec.gov/help-candidates-and-committees/purposes-disbursement (last updated Aug. 21, 2018); *see also* Purpose Statement of Policy, 72 Fed. Reg. at 888 (indicating that additional guidance will be posted on the FEC Site).

Further, the Act and Commission regulations do not specifically mandate the reporting of the ultimate payee for an itemized expenditure.[31] The Commission has promulgated an Ultimate Payee Interpretive Rule to clarify the requirements for committees to report ultimate payees in three specific circumstances, but the Interpretive Rule does not address the reporting of sub-vendors.[32] Thus, the Commission has repeatedly declined to find reason to believe that committees violated § 30104(b) by failing to itemize their campaign vendors' payments to sub-vendors for goods or services used in the performance of the vendors' contracts with the committees.[33] By contrast, the Commission has found reason to believe reporting violations occurred where committees reported making disbursements to an intermediary payee that served merely as a stand-in or conduit to conceal the "true, intended recipient of the disbursements."[34]

III. Legal Analysis

A. *Heckler* Dismissal of Allegations that Respondents Made and Accepted Excessive In-kind Contributions

In the exercise of its prosecutorial discretion, the Commission must "not only assess whether a violation has occurred, but whether agency resources are best spent on this violation or another, whether the agency is likely to succeed if it acts, [and] whether the particular enforcement action requested best fits the agency's overall policies," among other considerations.[35]

These matters are yet another instance when the Commission's ability to properly adjudicate Complaints was hampered by delay on the part of the Complainants and the Office of General Counsel ("OGC"). The initial Complaint that generated these matters was filed with the Commission in March 2019, and by that time, some of the transactions at issue were already more than two years old, dating back to January 2017.[36] After a prolonged period without a working quorum, the Commission then did not receive the First General Counsel's Report for these matters

---

31 *See, e.g.*, Factual & Legal Analysis at 11–12 (July 16, 2013), MUR 6510 (Kirk for Senate) ("[N]either the Act nor Commission regulations require authorized committees to report expenditures or disbursements to their vendors' sub-vendors."); Advisory Op. 1983-25 (Mondale for President) at 2 (concluding that "[c]onsultants payments to other persons, which are made to purchase services or products used in performance of Consultants' contract with the Committee, do not have to be separately reported").

32 *See* Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40,625, 40,626–27 (July 8, 2013).

33 *See* Factual & Legal Analysis at 1–2 (Oct. 29, 2015), MUR 6894 (Steve Russell for Congress) (finding no reason to believe a committee failed to properly report disbursements where its media vendor had paid TV stations for media buys); Factual & Legal Analysis at 12–13 (July 16, 2013), MUR 6510 (Kirk for Senate) (finding no reason to believe that a committee failed to adequately report disbursements where a media vendor paid sub-vendor for media and communications consulting). *See also* Statement of Reasons of Chair Peterson and Commissioners Hunter and Goodman at 3–4 (Dec. 5, 2016), MUR 6698 (United Ballot PAC).

34 Factual & Legal Analysis at 10–11 (Aug. 2, 2016), MUR 6724 (Bachmann for President); *see also* Conciliation Agreement at 2–4 (Feb. 15, 2002), MUR 4872 (Jenkins for Senate 1996, *et al.*).

35 *Heckler*, 470 U.S. at 831; *see also CREW v. FEC*, 892 F.3d 434, 438 (D.C. Cir. 2018).

36 *See* Complaint (Mar. 4, 2019), MUR 7575 (Brand New Congress, *et al.*); FGCR at 11 (detailing payments made by BNC and JD to the LLC beginning in January 2017).

until November 23, 2021—nearly 1,000 days after the first of the four Complaints was filed. In OGC's 57-page report, it made 22 different recommendations, involving 21 Respondents and including multiple reason-to-believe findings on thorny legal issues that would necessitate a lengthy proposed investigation.[37] The Commission was able to begin to deliberate on OGC's recommendations only in late January 2022.[38] By that time, the five-year statute of limitations had already expired on the earliest alleged violations, while many of the remaining claims would become time-barred over the coming months.[39]

To put it plainly, there was simply not enough time remaining to proceed with enforcement as proposed by OGC, and attempting to do so would likely result in a significant waste of Commission resources. At the first stage in the enforcement process—that is, whether to find reason to believe—certain amounts of relevant conduct were already outside of the Commission's enforcement authority because of the statute of limitations.[40] And by following OGC's recommendations to launch a protracted and resource-intensive investigation, much more time would elapse on the limitations period before the Commission could proceed with any subsequent steps in the enforcement process. By the time the Commission might reasonably be expected to complete that process—which might require forgoing important periods of deliberation—the statute of limitations would likely have lapsed on much or all the conduct at issue.

At the same time, the costs of the proposed investigation would be significant. For example, the First General Counsel's Report notes that an investigation would be necessary for the Commission to determine whether any of BNC's or JD's payments to the LLC were in fact used to finance testing-the-waters activities by the Respondent candidate committees, and if so, what portion of the $643,258.87 in disbursements paid by BNC and JD to the LLC for candidate recruitment was attributable to each of those 13 candidates' campaigns.[41] Additionally, only after an investigation could the Commission fully discern whether BNC and JD used the LLC as a legitimate vendor or as a mere pass-through entity for transferring on its funds. Many of the other

---

37 FGCR at 53–57.

38 *See* Certification (Feb. 3, 2022), MURs 7575, 7580, 7592 & 7626 (Brand New Congress, *et al.*).

39 *See* FGCR at 1–4.

40 *See* Statement of Reasons of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor at 2 n.7 (May 10, 2021), MURs 7265 & 7266 (Donald J. Trump for President, *et al.*):

> After finding reason to believe a violation has occurred, the Commission must undertake additional investigatory and deliberative steps before it can bring an enforcement action in federal court in a matter. After any attempt to conciliate with Respondents fails, OGC would then need to draft probable-cause briefs recommending that the Commission pursue enforcement. Respondents would be given fifteen days to respond to those briefs, as well as the right to request a probable-cause hearing. Following any hearing, the Commission would need to deliberate again over whether to find probable cause to believe Respondents violated the law. If the Commission found probable cause, under the Federal Election Campaign Act, it must then attempt to conciliate with respondents again for no less than thirty days. *See* 52 U.S.C. § 30109(a)(6). Only after that effort would the Commission consider whether to file a civil enforcement suit. Completing these steps within the remaining statute of limitations in these matters was a practical impossibility.

41 *See* FGCR at 22–23.

allegations in these matters present intensive factual questions that would require significant staff time to investigate.[42] In our view, OGC's proposed investigation therefore amounted to little more than a costly fool's errand to chase an unwinnable case.

Our decision to dismiss as a matter of prosecutorial discretion is further bolstered by uncertainties regarding the Respondents' allegedly excessive contributions. As an initial matter, we see no basis for OGC's assertion that "[t]he available information indicates that BNC and JD's retainer payments to the LLC for candidate recruitment may have paid for unreported testing-the-waters activities for the Respondent candidate committees."[43] The facts here are simply too slight to create a reasonable inference that BNC and JD made disbursements to the LLC for testing-the-waters activities on behalf of the Respondent candidates; the record does not clearly establish that the LLC provided anything of value to potential candidates in the process of "interviewing, vetting, evaluating, and researching" them, and the Respondents maintain that they only recruited individuals who had already decided to run for office.[44] The Act and Commission regulations bring little clarity to whether, or to what extent, the LLC's candidate recruitment could have crossed the line into testing-the-waters activities subject to the Act's limits and reporting duties.[45] As was true thirty years ago in Advisory Opinion 1991-32 (CEC, Inc.), we cannot readily determine the permissibility of BNC, JD, and the LLC's recruitment activities "[w]ithout further information as to the written or oral communications taking place in the recruitment process."[46]

The First General Counsel's Report separately cites to extraneous FEC filings, which were not incorporated in the Complaints, to support the conclusion that the LLC provided below-market rates for its services to the Respondent candidate committees, because "reported disbursements by all committees from the 2018 election cycle provide, at this stage of the matter, a credible basis for assessing that the LLC charged fees materially lower than consultants offering similar services."[47]

But there is little reason to believe that these *other* committees' disbursements for *other* vendors' services represent the correct market pricing for the various campaign-related services provided by the LLC, especially as a new venture operating a unique business model. As OGC acknowledges, while there is a "lack of available information to conclusively determine that the LLC charged less than the usual and normal rate for the services it provided,"[48] other information

---

42 *See id.* at 52–53 (outlining proposed investigation of various allegations).

43 *Id*. at 19.

44 *Id.* at 20; Joint Response of Rep. Alexandria Ocasio-Cortez, *et al*., at 10 n.12 (May 29, 2019), MUR 7592 (Brand New Congress, *et al.*).

45 *See* 11 C.F.R. § 100.72.

46 Advisory Op. 1991-32 (CEC, Inc.) at 8.

47 FGCR at 25. *But see* Statement of Reasons of Chairman Petersen and Commissioners Hunter and Goodman at 7 n.29 (Mar. 30, 2016), MURs 6470, 6482 & 6484 (Free and Strong America PAC) ("As a general evidentiary matter, we decline to open investigations based solely upon hearsay reports …, particularly where, as here, the speculation is rebutted by record evidence.").

48 FGCR at 26.

indicates that it did charge fair market rates under the circumstances.[49] Along with its work for BNC and JD, the LLC contracted with numerous campaigns, and Respondent candidate committees indisputably paid the LLC significant sums for its services: the 13 Respondent campaigns collectively reported 37 total disbursements, aggregating more than $175,000, to the LLC over the course of three months.[50] The LLC also employed a fixed "hybrid" model for billing its candidate clients for different services, as shown by the exemplar consulting agreement included in the Joint Response in MUR 7592.[51] OGC makes much of the prices for specific services included as part of those contracts, but the Commission must look at the pricing structure and contracts as a whole, not just at individual services provided as one piece of the larger contract.[52] We must further consider these prices in light of the nature of the LLC as a start-up venture attempting to build a novel and multifaceted business model for political consultancies by offering "campaign in a box" services and assisting with "nearly every facet of a political campaign."[53] Taken together, these factors belie OGC's confidence that the LLC likely charged Respondent candidate committees less than the "usual and normal" rate for its services.

Moreover, even if we were to conclude that the LLC charged below-market rates, we have significant doubts about OGC's ability to appraise "with any reasonable level of certainty" the fair market value of the bundled services that the LLC provided to the Respondent committees.[54] The Commission has previously exercised its prosecutorial discretion and dismissed matters that presented similar difficulties in assessing fair market prices. In MUR 7395 (Heller for Senate), for example, the Commission dismissed allegations that a vendor had made excessive in-kind contributions to a candidate committee in the form of discounted services for social media consulting.[55] Both Republican and Democratic Commissioners raised questions in that matter about whether the FEC could determine the appropriate market rate for social media services even

---

[49] OGC seeks to minimize the similarities between these matters and MUR 6916 (DNC, *et al.*), where the Commission found no reason to believe a data services firm had made in-kind contributions, in the form of discounted services, to political committees. FGCR at 23–25. Among other similarities, the complaint in MUR 6916 likewise did not include any information establishing that the respondent firm charged below the "usual and normal rate" for its services. Factual & Legal Analysis at 4 (Mar. 22, 2016), MUR 6916 (DNC, *et al.*).

[50] FGCR at 9.

[51] *See* Joint Response of Rep. Alexandria Ocasio-Cortez, *et al*., Ex. B (May 29, 2019), MUR 7592 (Brand New Congress, *et al.*).

[52] *See, e.g.*, FGCR at 26 ("[D]isbursement records indicate that the $500 fixed price for 'Campaign Launch' services would be unlikely to cover what other committees reported paying for even two of the more than nine services included in that package.").

[53] Joint Response of Rep. Alexandria Ocasio-Cortez, *et al*., at 8, 39 (May 29, 2019), MUR 7592 (Brand New Congress, *et al.*).

[54] Statement of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor at 2 n.9 (Apr. 27, 2021), MUR 7395 (Heller for Senate).

[55] Certification (Apr. 9, 2021), MUR 7395 (Heller for Senate).

after completing a full investigation, given the lack of "fixed and advertised prices" available for those services.[56]

In sum, given the impending expiration of the statute of limitations, the costs of the proposed investigation, and the ambiguities concerning the alleged violations of 52 U.S.C. § 30116, we concluded that the Commission's time and resources were better directed to cases with a stronger likelihood of success. Accordingly, we exercised our prosecutorial discretion under *Heckler* and voted to dismiss.[57]

B. Dismissal of Allegations that Various Respondents Did Not Adequately Report the Purpose and Payees of Disbursements

For many of the same reasons outlined above, we voted to dismiss the allegations that BNC, JD, and various Respondent candidate committees violated 52 U.S.C. § 30104(b)(3) and (4) and 11 C.F.R. § 104.3(b)(3) and (4) by failing to properly report the purposes and recipients of their disbursements.

First, the statute of limitations for several allegations had already expired, and additional allegations would become time-barred in the following months. The likelihood of completing a full investigation to determine the specific purposes and ultimate payees of a handful of relatively dated disbursements before the statute of limitations lapsed was low, and we concluded that the Commission's limited resources were better allocated toward other enforcement priorities.

Second, the available information did not support finding reason to believe the Respondents violated reporting requirements in the Act or Commission regulations. On their reports, the Respondents listed the purpose of their disbursements to the LLC as "strategic consulting," and there is no information suggesting that was an inaccurate purpose description for the services provided by the LLC, all of which related to campaign strategy. Moreover, the Commission has highlighted nearly indistinguishable purpose descriptions (*e.g.*, "Strategy Consulting"), and even more general language, in regulations and guidance materials.[58] Indeed, that purpose description is commonly used among the regulated community for just the type of services that the LLC offered in these matters.

Likewise, neither the Act nor Commission regulations expressly require the reporting of sub-vendors, and the Commission has interpreted the Act only to require the reporting of ultimate

---

[56] Statement of Reasons of Vice Chair Dickerson and Commissioners Cooksey and Trainor at 2 n.9 (Apr. 27, 2021), MUR 7395 (Heller for Senate); *see also* Statement of Reasons of Chair Broussard and Commissioner Weintraub at 2 (May 7, 2021), MUR 7395 (Heller for Senate) ("Given [respondent's] lack of experience, it might have been difficult to determine the exact fair market rate even with an investigation.").

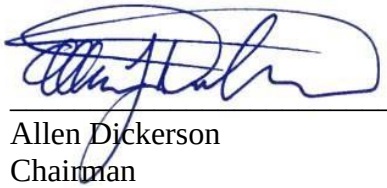
[57] *See Heckler*, 470 U.S. at 831.

[58] *See* 11 C.F.R. § 104.3(b)(3)(i)(B) ("Examples of statements or descriptions which meet the requirements of 11 CFR 104.3(b)(3) include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs."); *Purposes of Disbursement*, FEC.gov, *available at* https://www.fec.gov/help-candidates-and-committees/purposes-disbursement (last updated Aug. 21, 2018) (listing "Strategy Consulting" and "Political Strategy Consulting" as examples of "adequate" purposes of disbursements for consulting services).

payees in limited circumstances.[59] Here, the Respondents did not disclose payments made to sub-vendors that, like the LLC, were also providing services that fit within the umbrella of "strategic consulting." It is also worth repeating that these reporting issues were by all appearances not intended to obscure the identity of any recipients, another factor that weighed in favor of dismissal of the allegations.[60]

* * *

In conclusion, we disagreed with OGC's recommendations to find reason to believe that Respondents violated the Act. Rather than committing the Commission's limited resources to investigating allegations that lacked significant factual support and were imperiled by the statute of limitations, we voted to dismiss.

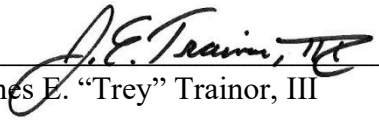


Allen Dickerson
Chairman

March 22, 2022
Date

Sean J. Cooksey
Commissioner

March 22, 2022
Date



James E. "Trey" Trainor, III

March 22, 2022
Date

59 *See* Statement of Reasons of Chairman Petersen and Commissioners Hunter and Goodman at 3 (Dec. 5, 2016), MUR 6698 (United Ballot PAC) ("[C]ommittees are required to disclose the ultimate payee only in certain, limited contexts.").

60 We also voted to dismiss, for similar reasons as described in this statement, the allegations that the LLC failed to register and report as a political committee, and that Rep. Alexandria Ocasio-Cortez or JD violated the Act by failing to register and report JD as Ocasio-Cortez's authorized committee or leadership PAC. *See* Certification (Feb. 3, 2022), MURs 7575, 7580, 7592 & 7626 (Brand New Congress, *et al.*).