

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

**MUR: 7430**  
DATE COMPLAINT FILED: July 17, 2018  
DATE OF NOTIFICATION: Not Applicable  
RESPONSE RECEIVED: Not Applicable  
DATE ACTIVATED: September 4, 2018

EXPIRATION OF SOL: May 18, 2023  
ELECTION CYCLE: 2018

**COMPLAINANT:** Veronica Vasquez

**RESPONDENT:** Unknown Respondent

**MUR: 7444**  
DATE COMPLAINT FILED: July 30, 2018  
DATE OF NOTIFICATION: Not Applicable  
RESPONSE RECEIVED: Not Applicable  
DATE ACTIVATED: September 4, 2018

EXPIRATION OF SOL: June 18, 2023  
ELECTION CYCLE: 2018

**COMPLAINANT:** Claire Barnett

**RESPONDENT:** Unknown Respondent

**MUR: 7445**  
DATE COMPLAINT FILED: July 30, 2018  
DATE OF NOTIFICATION: Not Applicable  
RESPONSE RECEIVED: Not Applicable  
DATE ACTIVATED: September 4, 2018

EXPIRATION OF SOL: July 7, 2023  
ELECTION CYCLE: 2018

**COMPLAINANT:** Joe D. Gonzalez

**RESPONDENT:** Unknown Respondent

**RELEVANT STATUTES AND REGULATIONS:**  
52 U.S.C. § 30107(a)(9)  
52 U.S.C. § 30121  
11 C.F.R. § 110.20

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2 **INTERNAL REPORTS CHECKED:** None

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4 **FEDERAL AGENCIES CHECKED:** None

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6 **I. INTRODUCTION**

7 These three complaints allege that an unknown foreign national made contributions to  
8 candidates running for local and state office in Bexar County, Texas. Given the very small  
9 amounts at issue and the difficulties posed by a potential investigation to identify the unknown  
10 respondents, we recommend that the Commission dismiss the matters in an exercise of its  
11 prosecutorial discretion.<sup>1</sup>

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14 **II. FACTUAL BACKGROUND**

15 Complainants are candidates for local and state office in Bexar County, Texas.<sup>2</sup> They  
16 allege that unknown respondents<sup>3</sup> attempted to make small online contributions from Italy to  
17 each Complainant's campaign using pre-paid credit cards. The contributions were in the  
18 following amounts: two contributions totaling \$26 to Vasquez's committee;<sup>4</sup> two contributions

<sup>1</sup> See *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

<sup>2</sup> Complainant Veronica Vasquez is a candidate for Judge of Probate Court #2 in Bexar County, Texas. Compl. at 1, MUR 7430 (July 17, 2018). Complainant Claire Barnett is a candidate for Texas State Representative for District 122, which represents part of Bexar County. Compl. at 1, MUR 7444 (July 30, 2018); see also Texas Government: Who Represents Me?, available at <https://fyi.capitol.texas.gov/County.aspx> (last visited September 20, 2018). Complainant Joe D. Gonzales is a candidate for District Attorney of Bexar County, Texas. Compl. at 1, MUR 7445 (July 30, 2018).

<sup>3</sup> Although the pattern of behavior was identical in each matter, we cannot tell whether the contributions were made by one or more individuals or entities. The contributor "names" shown on the online payment processing forms attached to the Complaints are a series of unintelligible letters, and each contributor "name" was different. For example, the "name" associated with the contribution in MUR 7430 is "sdgdsd sdgdsd." Compl. Ex. at 2, MUR 7430.

<sup>4</sup> Compl. at 1, MUR 7430. The two contributions were made within minutes of each other, and the first was for \$25 and the second for \$1. *Id.* at Ex. 1

1 totaling \$3 to Barnett's committee;<sup>5</sup> and one contribution of \$1 to Gonzalez's committee.<sup>6</sup> In  
2 each case, the contributors appeared to use fictitious names and addresses, and the Complainants  
3 cancelled the transactions and refunded the contributions.<sup>7</sup> The payment processing forms  
4 attached to each Complaint state that the contributions came from Italy.<sup>8</sup>

### 5 III. LEGAL ANALYSIS

6 The Federal Election Campaign Act of 1971, as amended ("Act"), and Commission  
7 regulations prohibit any "foreign national" from "directly or indirectly" making a contribution or  
8 donation of money or any other thing of value in connection with a Federal, State, or local  
9 election.<sup>9</sup> A "foreign national" is an individual who "is not a citizen of the United States or a  
10 national of the United States . . . and who is not lawfully admitted for permanent residence[.]"<sup>10</sup>

11 The available information would support a reasonable inference that Unknown  
12 Respondents violated the Act's prohibition against making foreign national contributions. The  
13 receipt from the payment processing software indicates that the contributions came from Italy,

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<sup>5</sup> Compl. at 1, MUR 7444. The two contributions were made within hours of each other, and the first was for \$2 and the second for \$1. *Id.* at Ex. 1. Based on the information provided by Complainant, it appears that the same fake name was used on Complainant Barnett's website for both contributions but that different fake names and addresses were used on the payment processing software for each of the two contributions to Barnett. *Id.*

<sup>6</sup> Compl. at 1, MUR 7445. Although the Complaint alleges that the contribution was made using a pre-paid MasterCard, the attached exhibit identifies the card at issue as a pre-paid Visa card. *Id.* at Ex. 1.

<sup>7</sup> Compl. at 1, MUR 7430; Compl. at 1, MUR 7444; Compl. at 1, MUR 7445.

<sup>8</sup> Compl. at Ex. 1, MUR 7430; Compl. at Ex. 1, MUR 7444; Compl. at Ex. 1, MUR 7445.

<sup>9</sup> 52 U.S.C. § 30121(a)(1); 11 C.F.R. § 110.20(b).

<sup>10</sup> 52 U.S.C. § 30121(b); 11 C.F.R. § 110.20(a)(3).

1 although we cannot be certain that the contributor was, in fact, a foreign national.<sup>11</sup> Given the  
2 limited information before the Commission, it would be very difficult to verify the contributors'  
3 citizenship. Accordingly, given the amounts in violation and the difficulty posed by a potential  
4 investigation of the violations, we recommend the Commission dismiss the Complaints as a  
5 matter of prosecutorial discretion.<sup>12</sup>

6 Even so, the pattern of similar, low-dollar contributions from a foreign country,  
7 combined with the use of fictitious names and addresses, suggests a larger scheme of illegal  
8 behavior. For example, it is conceivable the Respondents, in addition to violating the Act's  
9 foreign national prohibition, may have been fraudulently using the Committees' payment  
10 processing software to see if the pre-paid credit cards were valid.<sup>13</sup>

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<sup>11</sup> We do not know whether the payment processing software identified the place of origin based on information provided by the contributor, the location of the IP address used to make the contributions, or by other means. The Commission has previously indicated that information that a contribution is received from a foreign address, foreign bank, or in a currency other than U.S. dollars might serve as pertinent information in examining a contribution. Factual & Legal Analysis (Obama for America) at 14, 18, MURs 6078, etc. (Obama for America, *et al.*) (Dismissing allegations because potential foreign national contributions were limited in scope and amount, and there was insufficient information that the Committee acted irresponsibly).

<sup>12</sup> *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). The Commission has dismissed other cases involving foreign national contributions of \$100 or less. See Factual & Legal Analysis at 8, MURs 6962 and 6982 (Hillary for America, *et al.*; Project Veritas, *et al.*) (Dismissing foreign national contribution violation in the range of \$35 to \$45); Factual & Legal Analysis at 3, MUR 6944 (Jose A. Farias, *et al.*) (Dismissing \$100 foreign national contributions to candidates for Mayor and City Commissioner in Texas). Recently, the Commission could not agree and closed the file in other matters involving somewhat larger foreign national contributions. See EPS Dismissal Report at 2, Pre-MUR 610 (Salman Bhojani, *et al.*) (\$500 foreign national contribution); First General Counsel's Report at 7, MUR 6976 (Johnny W. Streets, Jr., City Council Committee, *et al.*) (\$3,000 in potential foreign national contributions).

<sup>13</sup> See Daniel Bukszpan, *How Credit Card Companies Detect Fraud*, CNBC (Mar. 30, 2012) <https://www.cnbc.com/id/46907307> (Noting that large purchases following small purchases are often an indication of credit card fraud).

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**IV. RECOMMENDATIONS**

1. Dismiss the allegations that Unknown Respondents violated the Act and Commission regulations in MURs 7430, 7444, and 7445 pursuant to the Commission's prosecutorial discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985);
- 2.
4. Approve the attached Factual and Legal Analysis and the appropriate letters; and
5. Close the file as to all Respondents.

Lisa J. Stevenson  
Acting General Counsel

Kathleen M. Guith  
Associate General Counsel for Enforcement

10.25.18  
Date

BY: Stephen Gura  
Stephen A. Gura  
Deputy Associate General Counsel

Jeff Jordan  
Jeff S. Jordan  
Assistant General Counsel

Kristina Portner  
Kristina M. Portner  
Attorney

Attachment:  
Factual and Legal Analysis

1604446200

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

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3 RESPONDENTS: Unknown Respondent MURs 7430, 7444, and 7445  
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6 There matter was generated by a Complaints filed with the Federal Election Commission  
7 (the "Commission"). The three complaints allege that an unknown foreign national made  
8 contributions to candidates running for local and state office in Bexar County, Texas. Given the  
9 very small amounts at issue and the difficulties posed by a potential investigation to identify the  
10 unknown respondents, the Commission dismisses the matters in an exercise of its prosecutorial  
11 discretion.<sup>1</sup>

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<sup>10</sup> 52 U.S.C. § 30121(b); 11 C.F.R. § 110.20(a)(3).

- 1 investigation of the violations, the Commission dismisses the Complaints as a matter of
- 2 prosecutorial discretion.

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