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March 8, 2018

Attorney AnnaLou Tirol
Acting Chief, Public Integrity Section
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Attorney Scott W. Murray
United States Attorney
The U.S. Attorney's Office for the
District of New Hampshire
53 Pleasant Street, 4th Floor
Concord, NH 03301

Re: Request for Investigation of Election Offenses of the Australian Labor Party, Sen. Bernie Sanders
2016 Presidential Campaign and others.

Dear Attorneys Tirol and Murray:

The purpose of this letter is two-fold. First, I wish to bring to your attention a finding by the Federal Election Commission (FEC) of the knowing and willful payment and receipt of illegal foreign in-kind contributions to Senator Bernie Sanders's 2016 presidential campaign by the Australian Labor Party and, potentially, the Australian federal government. In addition, I am requesting that your department investigate additional potential criminal violations stemming from an apparent conspiracy to defraud the U.S. government by those two respondents to the FEC investigation.

The facts and law underlying this request are as follows:

The Federal Election Campaign Act (FECA) broadly prohibits and sanctions foreign national activity in connection with elections in the United States. See generally 52 USC § 30121; 11 CFR 110.20. Foreign nationals are prohibited from contributing to election campaigns and making any independent and other expenditure or disbursement of money or anything of value in connection with a U.S. election. Moreover, “[p]ersons who knowingly and willfully engage in these activities may be subject to an FEC enforcement action, criminal prosecution or both.” Quoting <https://www.fec.gov/updates/foreign-nationals/> (accessed March 3, 2018). See also 52 U.S.C. § 30101(8)(A)(ii); 11 CFR § 100.54.

Among individuals and organizations considered to be “foreign nationals” for the purposes of this prohibition are foreign citizens who are not dual U.S. citizens, foreign governments, and foreign political parties. See 52 U.S.C. § 30121(b)(1), referencing 22 U.S.C. § 611(b)(1). Thus, foreign citizens, foreign political parties, and foreign governments may not contribute to a U.S. election campaign or make any disbursement or expenditure, independent or otherwise, in connection with an election in our country. A contribution includes the “*payment by any person of compensation for the personal services of another*

person which are rendered to a political committee without charge for any purpose.” 52 U.S.C. § 30101(8)(A)(ii). See also 11 CFR § 100.54. Furthermore, such persons or groups are subject to criminal prosecution for knowingly and willfully violating this prohibition.

On February 14, 2018, based on a complaint that I brought and in the same matter, the FEC entered into two conciliation agreements. One was with the Australian Labor Party (ALP), a foreign political party. The other was with the FEC-registered and principal 2016 presidential campaign committee of Sen. Bernie Sanders (Bernie 2016), and the Treasurer of that committee (Susan Jackson). See Matter Under Review 7035 (“In the Matter of Bernie 2016”), Conciliation Agreement, available at: <https://htv-prodmedia.s3.amazonaws.com/files/sanders-fec-agreement-1519771765.pdf>.

Underlying these agreements was a determination by the FEC that the prohibition on foreign nationals being involved in U.S. elections had been knowingly and willfully violated by ALP and Bernie 2016. These violations occurred when ALP paid the travel expenses and compensation for at least seven Australian citizens* to travel to the United States and work for Bernie 2016 under arrangements agreed to by ALP and Bernie 2016.

The ALP flew its workers to the U.S. and paid them to work for Bernie 2016 on at least four early presidential primary or caucus state delegate selection events, including the New Hampshire “First in the Nation” Presidential Primary.† There the ALP campaign workers embedded in Bernie 2016 provided campaign services, such as voter canvassing and contacts, campaign worker recruitment, and event planning. See Conciliation Agreement at 2.

The FECA violations, as determined by the FEC, resulted in at least \$24,422‡ in prohibited in-kind foreign national contributions. These contributions were received by Bernie 2016 in violation of 52 U.S.C. § 30121(a)(2) and were made by the Australian Labor Party in violation of 52 U.S.C. § 30121(a)(1).

The illegal foreign in-kind contributions consisted of \$16,140 in travel expenses and \$8,282 in compensation (stipends) to the Australian citizens provided by ALPS to Bernie 2016 as campaign workers. The FEC found that Bernie 2016 “*was aware that the [ALP campaign workers] were receiving a stipend from ALP.*” Conciliation Agreement at 2. Because of this, the FEC determined that the violations were knowing and willful.§

* See Bernie 2016 February 28, 2018 statement at <http://www.wmur.com/article/in-agreements-with-fec-sanders-campaign-australian-labor-party-fined-for-prohibited-contributions/18916317> (accessed March 3, 2018).

† Although not stated in the FEC’s conciliation agreement findings, it appears that some of the campaign workers sent to the Sanders’ campaign were full-time employees of ALP. See <https://www.washingtontimes.com/news/2016/feb/25/australians-say-they-were-paid-labor-party-work-sa/> (accessed March 3, 2018)

‡ In their calculations of the illegal contributions, the FEC appears to have missed the payments by ALP of the campaign worker’s accommodations, in addition to their airfare and daily compensation. Statement of Rebecca Doyle, an ALP campaign worker assigned to the Bernie 2016 New Hampshire office. *Id.*

§ The FEC required both ALP and Bernie 2016 to pay a civil penalty of \$14,500 each or a total of \$29,000 as a consequence of these violations. These civil penalties are in excess of \$4000 greater than the contribution or expenditure it determined was involved in such violation. The FEC can only exceed the illegal contribution or expenditure “[i]f the Commission believes that a knowing and willful violation” occurred. Quoting 52 U.S.C. § 30109(a)(5)(B). Compare subparts A and B of that provision of the FECA.

Project Veritas Action Fund (PVA) filmed an undercover exposé that gave rise to the complaint. *See Australian Labor Party Assisting Democratic US Campaigns in Violation of Campaign Finance Laws*, Feb. 25, 2016, available at: <https://www.youtube.com/watch?v=p7kPtWAZvU4>. This video includes additional facts supporting an investigation here.

The actions administratively addressed by the FEC constituted crimes and those crimes are within the jurisdiction of your offices. The crimes of ALP and Bernie 2016, and potentially some of their officials, that are encompassed by the FEC's findings are apparent: "*Any person who knowingly and willfully commits a violation of any provision of [FECA] which involves the making, receiving, or reporting of any contribution, donation, or expenditure—aggregating \$25,000 or more during a calendar year shall be fined under title 18, or imprisoned for not more than 5 years, or both; or aggregating \$2000 or more (but less than \$25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.*" 52 USC 30109(d)(1)(A). Other crimes are suggested by what has been learned and claimed since the FEC issued its findings.

We have learned through press reports that the Australian federal government may have provided the funds used by ALP to finance this illegal scheme. The claim has been made that those government funds were for educational purposes. Perhaps that is so. Nonetheless, it would be a serious loss of the electoral integrity of our presidential selection process if funds coming from a foreign government, no matter how it seeks to identify those funds, could end up directly or as an in-kind contribution in a presidential campaign without there being disclosure and an appropriate investigation and sanctions when the scheme becomes known.

Bernie 2016 has stated that the ALP campaign workers in controversy were volunteers and that "[d]uring the course of the campaign thousands and thousands of young people from every state and many other countries volunteered." See <http://www.wmur.com/article/in-agreements-with-fec-sanders-campaign-australian-labor-party-fined-for-prohibited-contributions/18916317> (accessed March 3, 2018)

Given that Bernie 2016 and ALP's definition of "volunteers" included paid campaign workers revealed in the conciliation agreements, there is a strong likelihood that not just these seven, foreign and improperly contributed workers were among those thousands and thousands of individuals, but many more were similarly provided and compensated by foreign contributors. What has been discovered to date appears, by the most recent admissions of the officials at Bernie 2016 and ALP, to have been only a tip of an iceberg of widespread FECA violations by Bernie 2016 involving prohibited foreign contributions and workers.

That Bernie 2016 and ALP would engage in so widespread a conspiracy to hide the participation of foreign nationals and their contributions from the federal government is troubling. This also gives rise to concerns that both parties may have violated federal laws prohibiting false information being presented to the federal government or to disrupt its functions. See, e.g., 18 U.S.C. § 371; 18 U.S.C. § 1001; 18 U.S.C. § 1505. Both parties coordinated their actions to obstruct the lawful functions of the United States government through fraud and deceit, including by making contributions and expenditures in connection with the 2016 U.S. presidential election without proper regulatory disclosure and failing to register as foreign agents carrying out political activities within the United States.

The Foreign Agents Registration Act (FARA) requires that anyone regulated under it register and report so that the federal government may evaluate the statements and information issued by foreign actors. Requirements under FARA may be triggered when a foreign actor asks an agent to engage in "political activities" affecting the domestic or foreign policies of the United States. See 22 U.S.C. § 611 (p). Here, ALP-funded workers were embedded in the campaign of Bernie Sanders—a candidate for President of the United States seeking to change domestic and foreign policy. As both the FEC

Conciliation Agreements and the PVA video demonstrate, these workers had the sole purpose of influencing the presidential election of 2016. Without proper registration and reporting under the FARA, this is a criminal offense.

This scheme was a fraud on the lawful functions of the federal government. Most seriously, it was a fraud on the voters in each presidential primary and caucus in which Sen. Sanders participated. They were not told that his presidential campaign was being brought to them in part by foreign persons and agents. All of that was being hidden from all of us.

Under 18 U.S.C. § 1001, it is illegal to make materially false, fictitious, or fraudulent statements to the U.S. government. To carry out their conspiracy to influence American elections without detection, the ALP did not register as a foreign agent under FARA and violated the ban on foreign nationals contributing to U.S. elections. Because of these concealments, a violation of Section 1001 is likely present.

All of these facts support a finding that a conspiracy to defraud the United States government occurred under 18 U.S.C. § 371. The parties in question concocted a complex, international scheme to embed members of a foreign socialist party into a leading presidential candidate's campaign. This scheme deprived the American people of the lawful functions of their government—to prevent foreign influence in elections and to provide for its appropriate disclosure. Without this, the public is left uninformed of the true sources of foreign influence on U.S. public opinion and the electoral process.

Your acknowledgement of this request and confirmation that the matter is proceeding forward would be much appreciated. Please contact the undersigned if you need any assistance or information that I might provide in proceeding forward with this matter.

Sincerely,

William L. O'Brien