



SENATOR BERNIE SANDERS )  
U.S. Senate )  
332 Dirksen Building )  
Washington, D.C. 20510 )  
BERNIE 2020 )  
P.O. Box 391 )  
Burlington, VT 05402 )  
Lora Haggard, Treasurer )  
FEC ID# C00696948 )  
*Respondents.* )  
\_\_\_\_\_ )

**VERIFIED COMPLAINT**

**INTRODUCTION**

In a recent Advisory Opinion, *Ready for Ron*, A.O. 2022-12 (Sept. 28, 2022), the Federal Election Commission (“FEC” or “Commission”) concluded, under its longstanding interpretation of the Federal Election Campaign Act (“FECA”), when an unauthorized, non-connected political committee solicits, collects, and transmits to a candidate contact information such as phone numbers and e-mail addresses for that candidate’s supporters, it constitutes an in-kind contribution subject to FECA’s limits. In *Ready for Ron*, it applied that principle to a political committee seeking to collect such contact information from people engaging in pure political speech by signing an electronic petition to encourage a person to become a candidate for federal office. That reasoning is equally applicable to a political committee which seeks such contact information from people making online political contributions to a candidate.

ActBlue is an unauthorized, non-connected, non-qualified *Carey* PAC that operates an online platform through which it solicits and accepts contributions to progressive Democratic candidates for office and other recipients. Under FECA’s rules for conduits, it is not required to solicit, report, or transmit to the recipient candidate personal contact information from that

candidate's contributors, such as an e-mail address or phone number. ActBlue nevertheless chooses to solicit, accept, and aggregate such information from each candidate's contributors, and then gratuitously provide that information to the candidate. ActBlue's aggregations of data concerning each candidate's supporters, whether labeled contributor lists, supporter lists, distribution lists, or mailing lists, constitute "things of value" for purposes of FECA's contribution limits.

Over the course of the 2020 and 2022 election cycles, ActBlue has solicited, accepted, compiled, and transmitted contact information, including e-mail addresses and phone numbers, for tens of millions of contributors to scores of Democratic candidates. While A.O. 2022-12 relied on the Requestors' payment of \$0.05 per record as a valuation for raw email or phone records, the value of a known donor is substantially greater, ranging from \$1.00 - \$2.50 per record (depending on numerous variables not relevant here). ActBlue, having made more than \$1.5 billion in conduit contributions from tens of millions of individual donors, has easily provided tens of thousands—and sometimes hundreds of thousands—of dollars' worth of information to candidates that receive contributions through its online platform. If federal contribution limits restrict a political committee's ability to transmit contact information for a candidate's (or potential candidate's) supporters collected while obtaining signatures on a petition to that person, then contribution limits must likewise restrict a political committee's ability to transmit contact information for a candidate's supporters collected while obtaining contributions for that candidate.

### **PARTIES**

1. Complainant COMMITTEE TO DEFEAT THE PRESIDENT is an unauthorized, non-connected, multi-candidate *Carey*<sup>1</sup> PAC headquartered in Alexandria, Virginia.

---

<sup>1</sup> *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011).

2. Respondent ACTBLUE is a non-qualified hybrid political committee based in Somerville, Massachusetts. Its treasurer is Erin Hill.

3. Respondent RAFAEL WARNOCK is U.S. Senator representing the State of Georgia. He is the Democratic candidate for U.S. Senate in the 2022 election cycle.

4. Respondent WARNOCK FOR GEORGIA is Rafael Warnock's principal authorized candidate committee in the 2022 election cycle. It is headquartered in Atlanta, Georgia, and its Treasurer is Christopher Koob.

5. Respondent JOHN FETTERMAN is Lieutenant Governor of Pennsylvania and the Democratic candidate for U.S. Senate from Pennsylvania in the 2022 election cycle.

6. Respondent FETTERMAN FOR PA is John Fetterman's principal authorized candidate committee in the 2022 election cycle. It is headquartered in Pittsburgh, Pennsylvania, and its Treasurer is Victoria Perrone.

7. Respondent JOSEPH R. BIDEN is President of the United States. He was the Democratic candidate for the office of President in the 2020 election cycle.

8. Respondent BIDEN FOR PRESIDENT was Joseph R. Biden's principal authorized candidate committee for President in the 2020 election cycle. It is headquartered in Philadelphia, Pennsylvania, and its Treasurer is Keana Spencer.

9. Respondent BERNIE SANDERS is U.S. Senator representing the State of Vermont. He was a candidate for the Democratic nomination for the office of President in the 2020 election cycle.

10. Respondent BERNIE 2020 was Bernie Sanders' principal authorized candidate committee for President in the 2020 election cycle. It is headquartered in Burlington, Vermont, and its Treasurer is Lora Haggard.

## APPLICABLE LAW

11. Candidates must file disclosure reports—52 U.S.C. § 30104(a)(2), (a)(3) and 11 C.F.R. § 104.5(a), (b) require all federal candidates to file disclosure reports with the FEC.

12. Disclosure reports must identify contributors in disclosure reports—52 U.S.C. § 30104(b)(3)(A) and 11 C.F.R. § 104.3(a)(4)(i) require such reports to disclose the “identification” of “each person, other than a political committee,” who makes one or more contributions to the recipient committee in excess of \$200 per election. Each such disclosure must contain:

- a. the full name of the contributor;
- b. the date the contribution was received; and
- c. the amount of the contribution(s).

52 U.S.C. § 30104(b)(3)(A); *accord* 11 C.F.R. § 104.3(a)(4)(i). In addition, for each such contributor, the definition of “identification” further requires the recipient committee to disclose:

- d. the contributor’s mailing address;
- e. the contributor’s occupation; and
- f. the name of the contributor’s employer.

52 U.S.C. § 30101(13)(A); *accord* 11 C.F.R. § 100.12.

13. Political committees must disclose all contributions they receive, including in-kind contributions, from other political committees—A political committee (including a candidate committee) must report the total amount of contributions it has received from other political committees, 52 U.S.C. § 30104(b)(2)(D); 11 C.F.R. § 104.3(a)(3)(iv), and identify every other “political committee which makes a contribution to [it],” along with the date and amount of each such contribution, 52 U.S.C. § 30104(b)(3)(B); 11 C.F.R. § 104.3(a)(4)(ii).

14. Unauthorized political committees’ disclosure reports must report contributions to candidate committees—An unauthorized political committee must report each contribution it makes to another political committee, along with the date and amount of each such contribution. 52 U.S.C. § 30104(b)(6)(B)(i); 11 C.F.R. § 104.3(b)(3)(v).

15. Limits on contributions from non-qualified political committees to candidates—A person, including a non-qualified political committee, *see* 52 U.S.C. § 30101(11) (defining “person” to include “committee”); *accord* 11 C.F.R. § 100.10, may contribute no more than \$2,900 per election to a candidate. *See* 52 U.S.C. § 30116(a)(1)(A); *accord* 11 C.F.R. § 110.1(b)(1); *see also* Fed. Election Comm’n, *Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold*, 86 Fed. Reg. 7867, 7869 (Feb. 2, 2021) (adjusting statutory limits for inflation).

16. In-kind contributions—The term “contribution” includes “gift[s]” of not just money, but also “anything of value made by any person for the purpose of influencing” any federal election. 52 U.S.C. § 30101(a)(8)(A)(i); *accord* 11 C.F.R. § 100.52(a).

a. The term “anything of value” includes in-kind contributions. 11 C.F.R. § 100.52(d)(1).

b. The “provision of goods and services without charge or at a charge that is less than the usual and normal charge for such goods and services is a contribution. Examples of such goods include . . . membership lists, and mailing lists.” *Id.*

17. Conduit contributions—Any contribution a person makes directly or indirectly on behalf of a candidate, “including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate,” are treated as contributions from the person to such candidate. 52 U.S.C. § 30116(a)(8); *accord* 11 C.F.R. § 110.6(a).

18. Reporting conduit contributions—“The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.” 52 U.S.C. § 30116(a)(8); *accord* 11 C.F.R. § 110.6(c)(1)(i).

19. Transmitting information about conduit contributions—A conduit who receives a contribution exceeding \$50 for a political committee must forward it to the committee within 10 days. 52 U.S.C. § 30102(b)(1); *accord* 11 C.F.R. § 102.8(b)(2), (c). In addition, the conduit must provide to the recipient committee:

- a. the contributor’s name and address;
- b. the date of the contribution; and,
- c. if the contribution exceeds \$200, “identification” information for the contributor, including the contributor’s occupation and employer name. *Id.*; *see also* 52 U.S.C. § 30101(13)(A); *accord* 11 C.F.R. § 100.12.

**ActBlue’s System for Illegally Funneling Tens of Millions of Dollars’ Worth of Excessive, Unreported In-Kind Contributions to Democratic Candidates**

20. ActBlue provides an online fundraising platform for Democratic candidates and progressive groups. Its website is <http://secure.actblue.com>.

21. ActBlue serves as a conduit through which billions of dollars from millions of individual contributors flow to hundreds of Democratic candidates for federal office.

22. ActBlue actively works to shield its operations from public scrutiny. Its website directs “every candidate or organization using our platform” to obey certain prohibitions, including: “Do not refer to an ActBlue ‘error,’ ‘problem,’ or ‘issue,’” even if “there is a legitimate issue with our platform.” *Guidelines for Using ActBlue’s Name*, ACTBLUE (last referenced Oct. 2, 2022), <https://support.actblue.com/campaigns/faq/guidelines-for-using-actblues-name/>.

ActBlue's users are likewise forbidden from "using phrases such as 'issue with ActBlue.'" *Id.* ActBlue warns, "If we see groups repeatedly breaking these guidelines, we will reach out directly to them." *Id.* Thus, ActBlue itself bars the Democratic candidates and far-left radical groups that depend on it for their fundraising from publicly mentioning any concerns about improper or illegal conduct by ActBlue.

23. A user on ActBlue's website may type the name of any Democratic candidate into the searchbar. The website will display a list of candidates with that name who have fundraising pages on ActBlue. A user may click "Contribute" to be brought to the desired candidate's contribution page.

24. Each candidate may specify the message and/or picture to be included on their contribution page. Each page typically contains buttons to press to contribute various amounts of money, as well as a separate button to allow a person to automatically make contributions on a monthly basis.

25. The bottom of the contributor page for most candidates, including the "Reverend Raphael Warnock U.S. Senate" page, contains a button stating, "Pay With Card." [https://secure.actblue.com/donate/wfg\\_ads\\_gs-a](https://secure.actblue.com/donate/wfg_ads_gs-a).

26. If a person clicks the "Pay With Card" button, a subsequent page is displayed requesting the person's e-mail address, first and last names, address, cell phone number and, if the person is employed, their occupation and employer. This page also repeats the message from the preceding page: "You agree to the terms & privacy policy for recurring campaign & donation autodialed marketing messages from Raphael Warnock to the phone number you provide." *Id.*

27. In this manner, ActBlue solicits and collects conduit contributions for Democratic federal candidates and other progressive federal political committees.



28. ActBlue passes along to each candidate both the contributions it receives on the candidate's behalf, as well as the legally required information concerning each contribution and contributor, including the contributor's full name, mailing address, and occupation; the date and amount of the contribution; and the name of the contributor's employer. 52 U.S.C. §§ 30101(13)(A), 30102(b)(1); *accord* 11 C.F.R. §§ 100.12, 102.8(b)(2), (c).

29. ActBlue also collects, aggregates, and provides to each candidate information about each of that candidate's contributors which is not legally required. ActBlue admits on its website, in addition to information "[r]equired by federal law," it *also* "pass[es] along [each contributor's] email address, as well as [each contributor's] phone number," if the contributor "choose[s] to provide it," so the recipient of the contribution "can stay in touch." *Does ActBlue Share My Personal Information, Including Email Address and Phone Number?*, ACTBLUE (last referenced Sept. 26, 2022), <https://support.actblue.com/donors/about-actblue/does-actblue-share-my-personal-information-including-email-address-and-phone-number/>.

**The Commission Concluded Soliciting, Aggregating, and Providing a Candidate with Contact Information for a Substantial Number of that Candidate's Supporters Constitutes an In-Kind Contribution**

30. In *Ready for Ron*, A.O 2022-12, at 1, 4 (Sept. 28, 2022), the Commission concluded a political committee may not solicit, aggregate, and provide contact information (i.e., e-mail address and/or phone number) for a candidate's supporters to a candidate.

31. *Ready for Ron* holds a list of a candidate's supporters, along with their contact information (i.e., e-mail address and/or phone number), constitutes a "thing of value" for purposes of the definition of "contribution." *Id.* at 5. The Commission and binding precedent had previously likewise concluded that lists of a candidate's contributors constituted a "thing of value." *See FEC v. Int'l Funding Institute*, 969 F.2d 1110, 1116 (D.C. Cir. 1992) (en banc); *Federal Election*

*Commission's Former Employees Committee*, A.O. 1979-18, at 2 (June 5, 1979); *see also* 11 C.F.R. § 100.52(d)(1) (specifying “membership lists” and “mailing lists” are things of value that can constitute “in-kind contribution[s]”).

32. Applying this principle, *Ready for Ron* declares if a political committee amasses a list of a candidate’s supporters with their contact information, and the number of people on that list is sufficient for the list to have a fair market value of more than \$2,900, then providing that list with contact information to the candidate would be an illegal excessive contribution. A.O. 2022-12, at 6.

33. A minimum estimate of the fair-market value of the name and contact information (either e-mail address or phone number) for a supporter of a particular candidate is at least \$0.05. At that rate, aggregating and providing more than 58,000 names with contact information of a candidate’s supporters to a candidate over the course of an election period would constitute an illegal excessive contribution from a non-qualified political committee to a candidate. Five cents per name far underestimates the fair market value of the information ActBlue provides to candidates, however. The fair-market value of *recently obtained* contact information (either e-mail address or phone number) for an actual *contributor* to a particular candidate is generally worth at least a dollar per name. At that higher rate, aggregating and providing more than 2,900 recently obtained contributor names with contact information to a candidate would violate federal contribution limits.

### **ActBlue’s Illegal Excessive In-Kind Contributions**

34. ActBlue made in-kind contributions to each candidate it supports by soliciting, aggregating, and providing contact information—including e-mail address and/or phone number—for each person who provided a contribution to that candidate through ActBlue. ActBlue was not

legally required to solicit, collect, provide, or report that information to either the recipient candidates or the Commission.

35. For some candidates, ActBlue solicited, collected, and provided names and accompanying contact information for hundreds of thousands of contributors. The fair market value of these contributor lists substantially exceeded contribution limits of \$2,900 per election.

36. ActBlue did not report the solicitation, aggregation, and provision of phone numbers and e-mail addresses for each candidate's supporters as an in-kind contribution to that candidate.

37. Among the most extreme examples of ActBlue's excessive in-kind contributions:

a. In the 2020 election cycle, ActBlue processed 15,672,773 contributions totaling \$647,286,951 to Democratic candidate for President Joe Biden alone. It gave Biden not only those funds, along with the legally required information about each contributor and contribution, but also highly valuable personal contact information for each contributor that was not legally required. *Vendor/Recipient: BIDEN FOR PRESIDENT*, OPEN SECRETS (Oct. 4, 2022), <https://www.opensecrets.org/campaign-expenditures/vendor?cycle=2020&vendor=BIDEN+FOR+PRESIDENT>. Even if only two percent (2%) of these contributions (313,455) came from distinct contributors, the fair market value of the contact information contained within that contributor list would be, at a minimum, approximately \$313,455. To the extent this contributor list included repeat or high dollar donors, the value of each name would likely be substantially more. Even at the inapplicably low rate of only 0.05 cents for each name with accompanying contact information, the in-kind contribution would have a fair-market value of \$15,672.75.

b. In the 2020 election cycle, ActBlue processed 10,048,652 contributions totaling \$186,780,034 to Bernie 2020, the authorized candidate committee of Bernie Sanders for President. ActBlue gave Sanders not only those funds, but both the legally required information about each contributor and contribution, as well as identifying information for each contributor that was not legally required. *Vendor/Recipient: Bernie 2020* (Oct. 4, 2020), <https://www.opensecrets.org/campaign-expenditures/vendor?cycle=2020&vendor=Bernie+2020>. Even if only two out of every hundred of those contributions (200,972) came from distinct contributors, the fair market value of the contact information contained within that contributor list would be \$10,049 at a rate of \$0.05 per contributor, and over \$200,000 at the much more accurate estimated price of \$1.00 per contributor.

c. In the 2022 election cycle, ActBlue has so far processed 1,003,699 contributions totaling \$29,971,033 to Democratic Senate candidate Raphael Warnock. It gave Warnock not only those funds, but both the legally required information about each contributor and contribution, as well as identifying information for each contributor that was not legally required. *Vendor/Recipient: Raphael Warnock for Senate*, OPEN SECRETS (Oct. 4, 2022), <https://www.opensecrets.org/campaign-expenditures/vendor?cycle=2022&vendor=Warnock+for+Georgia>. Even if only a quarter of those contributions (250,925) came from distinct contributors, the fair market value of the contact information contained within that contributor list would be, at a minimum, approximately \$12,546.24 (assuming the absolute minimum fair market value of \$0.05 per name), and more likely in excess of a quarter million dollars (based on the far more accurate fair market value of \$1.00 per name for recent contributors).

d. In the 2022 election cycle, ActBlue has so far processed 537,290 contributions totaling \$13,477,615 to Democratic Senate Candidate John Fetterman. It gave Fetterman not only those funds, but both the legally required information about each contributor and contribution, as well as identifying information for each contributor that was not legally required. *Vendor/Recipient: Fetterman for Pennsylvania*, OPEN SECRETS (Oct. 21, 2022), <https://www.opensecrets.org/campaign-expenditures/vendor?cycle=2022&vendor=Fetterman+for+Pennsylvania>. Even if only a quarter of those contributions (134,322) came from distinct contributors, the fair market value of the contact information contained within that contributor list would be, at a minimum, approximately \$6,716.10 (assuming the absolute minimum fair market value of \$0.05 per name), and more likely \$134,322 (based on the far more accurate fair market value of \$1.00 per name for recent contributors).

#### **ActBlue's Illegal Scheme Was Not Authorized by FEC Advisory Opinions**

38. The Commission has issued advisory opinions approving various aspects of the activities of ActBlue and other online payment processing platforms. None of these advisory opinions, however, expressed addressed the issue of whether ActBlue may solicit, collect, and provide to candidates the phone numbers and e-mail addresses of their contributors, and the Commission never approved such conduct. *See ActBlue*, A.O. 2014-19 (Jan. 15, 2015) (authoring ActBlue to establish draft funds to support female candidates); *ActBlue*, A.O. 2006-30 (Nov. 9, 2006) (authorizing ActBlue to collect funds on behalf of individuals who have not yet become federal candidates); *see also* A.O. 2014-13 (Sept. 19, 2014) (authorizing ActBlue to include a button on its website allowing a contributor to split their contribution among multiple candidates); *ActBlue*, A.O. 2007-27 (Dec. 17, 2007) (authorizing password-protected pages to solicit

contributions from the restricted classes of separate segregated funds); *cf. Crowdpac*, A.O. 2014-07 (Aug. 14, 2014) (authorizing online service for helping contributors identify candidates to support and processing their contributions); *Skimmerhat*, A.O. 2012-22 (Aug. 2, 2012) (authorizing online service for helping contributors identify candidates to support and processing their contributions).

39. To the contrary, the Commission has approved the transmission only of legally required information about contributors and contributions. In *ActBlue*, A.O. 2007-27, at 7 (Dec. 17, 2007) (emphasis added), for example, the Commission concluded:

Here, ActBlue plans to forward all contributions and ***the information required by the Act and Commission regulations*** to the intended SSF recipients within ten days of receipt of each contribution. . . . Accordingly, the Commission concludes that this aspect of ActBlue’s proposed Program 2 is consistent with the Act and Commission regulations.

40. Moreover, the Commission has repeatedly addressed the information ActBlue may collect and transmit to candidates and other recipient committees:

a. In *ActBlue*, A.O. 2006-30, at 6-7, in which ActBlue sought to act as a conduit for contributions to prospective federal candidates and the DNC, ActBlue inquired, “What information should ActBlue provide to contributors, Prospective Candidates, and the DNC?” The Commission responded:

Upon forwarding each earmarked contribution to a candidate, ActBlue would have to provide a report to the candidate containing the ***contributor’s name and mailing address; the amount of the contribution; the date the contribution*** was received by ActBlue; the name of the designated recipient; the date the contribution was forwarded; and whether the earmarked contribution was forwarded in cash, by contributor’s check, or by ActBlue’s check. For each earmarked contribution in excess of \$200, ActBlue would also have to provide the ***contributor’s occupation and the name of the contributor’s employer***.

In addition, ActBlue would have to provide contributor information to the DNC when it forwards a contribution to the DNC in excess of \$50. The information would have to include the ***name and address of the contributor, and the date of receipt*** of the contribution. If the contribution exceeds \$200, then ActBlue would also have to provide the ***contributor's occupation and employer***.

*Id.* (citations omitted and emphasis added).

b. In *ActBlue*, A.O. 2007-27, at 7 (citations omitted), the Commission

reiterated:

The receipt and forwarding of contributions designated for an unauthorized committee are subject to 2 U.S.C. 432(b)(2)(B) and 11 CFR 102.8(b), which concern the receipt by any person of contributions for a political committee. *Id.* Under [those provisions], any person, including any political committee, that receives a contribution in excess of \$50 designated for an unauthorized committee must forward the contribution, ***as well as the contributor's name, address, and receipt date***, to the treasurer of the recipient political committee no later than ten days after receipt. If the contribution exceeds \$200, ***information about the contributor's employer and occupation*** must also be forwarded. Contributions of \$50 or less to unauthorized committees must be forwarded within 30 days.

41. In *Ready for Ron*, the Commission prohibited a political committee from operating a website through which it solicited and collected names and contact information from Governor DeSantis' supporters to add to a petition to encourage him to seek the Republican nomination for President in the 2024 election. The Commission may not allow ActBlue to do so where such information is not being collected in association with pure political speech, and instead is collected only from those willing to make monetary contributions.

42. Thus, ActBlue's solicitation, collection, and aggregation of the phone numbers and e-mail addresses for each candidate's contributors, and its transmission of that information to each candidate is not required by the FECA, was not authorized by prior Commission opinions, is

directly contrary to the Commission’s ruling in *Ready for Ron*, A.O. 2022-12; and constitutes an illegal in-kind contribution to thousands of Democratic federal candidates.

### **CAUSES OF ACTION**

#### **COUNT I – MAKING/ACCEPTING ILLEGAL EXCESSIVE IN-KIND CONTRIBUTIONS IN VIOLATION OF 52 U.S.C. § 30116(a)(1)(A) AND 11 C.F.R. § 110.1(b)(1) Against All Respondents**

43. Complainants reallege the foregoing allegations as if set forth fully herein.

44. Respondent ActBlue made illegal excessive in-kind contributions to scores of Democratic candidates throughout the 2020 and 2022 election cycles by soliciting and collecting phone numbers and e-mail addresses from each candidate’s contributors; compiling that information; and providing it to each candidate.

45. A non-authorized, non-qualified political committee may contribute no more than \$2,900 per election to a candidate. 52 U.S.C. § 30116(a)(1)(A); *accord* 11 C.F.R. § 110.1(b)(1); *see also* 86 Fed Reg. at 7869.

46. The Commission has repeatedly held mailing, contributor, supporter, and distribution lists are “things of value” which qualify as “in-kind contributions.” *See Ready for Ron*, A.O. 2022-12 (Sept. 28, 2022); *FEC v. Int’l Funding Institute*, 969 F.2d 1110, 1116 (D.C. Cir. 1992) (en banc); *Federal Election Commission’s Former Employees Committee*, A.O. 1979-18, at 2 (June 5, 1979); *see also* 11 C.F.R. § 100.52(d)(1).

47. ActBlue is not required to provide phone numbers or e-mail addresses of contributors to the candidates to whom those people made conduit contributions through ActBlue. *See* 52 U.S.C. §§ 30101(13)(A), 30102(b)(1), 30104(b)(3)(A); *accord* 11 C.F.R. §§ 100.12, 102.8(b)(2), (c), 104.3(a)(4)(i); *see also ActBlue*, A.O. 2007-27, at 7; *ActBlue* A.O. 2006-30, at 6-7.



48. The minimum approximate commercial value of recently obtained contact information for a candidate's supporters is \$0.05. A distribution, mailing, contributor, or supporter list containing 58,000 names would therefore be worth at least \$2,900.

49. Throughout the 2020 and 2022 election cycles, ActBlue provided lists of contributors' contact information, including e-mail addresses and phone numbers, to the respective candidates to whom those people made contributions. A substantial number of these lists contained the contact information for more than 2,900 contributors (in many cases, hundreds of thousands of contributors) and were therefore worth in excess of \$2,900 each.

50. Among the examples of ActBlue's illegal in-kind contributions:

a. Phone number and/or e-mail address information for up to 1,003,699 contributors to Raphael Warnock (Raphael Warnock for Senate) in the 2022 election cycle, worth up to approximately \$1,003,699, and likely between \$12,546.24 and \$250,925 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(c);

b. Phone number and/or e-mail address information for up to 537,290 contributors to John Fetterman (Fetterman for PA) in the 2022 election cycle, worth up to approximately \$537,290, and likely between \$6,716.10 and \$134,322 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(d);

c. Phone number and/or e-mail address information for up to 15,672,773 contributors to Joe Biden (Biden for President) in the 2020 election cycle, worth up to approximately \$15,672,773, and likely between \$15,672.75 and \$313,455 (depending on the

number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(a); and

d. Phone number and/or e-mail address information for up to 10,048,652 contributors to Bernie Sanders (Bernie 2020) in the 2020 election cycle, worth up to approximately \$10,048,652, and likely between \$10,049 and \$200,972 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(b).

51. The Respondent candidates identified in Paragraph 50 along with their principal authorized campaign committees, knowingly accepted such illegal excessive contributions.

WHEREFORE the Commission should conclude Respondents ActBlue, Rafael Warnock, Warnock for Georgia, John Karl Fetterman, Fetterman for PA, Joseph R. Biden, Biden for President, Bernie Sanders, and Bernie 2020 violated 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b)(1) and institute a civil action for relief in the U.S. District Court for the District of Columbia.

**COUNT II – FAILURE TO REPORT MAKING  
IN-KIND CONTRIBUTIONS IN VIOLATION OF  
52 U.S.C. § 30104(b)(6)(B)(i) AND 11 C.F.R. § 104.3(b)(3)(v)  
Against Respondent ActBlue**

52. Complainants reallege the foregoing allegations as if set forth fully herein.

53. Respondent ActBlue made illegal excessive in-kind contributions to scores of Democratic candidates throughout the 2020 and 2022 election cycles by soliciting and collecting phone numbers and e-mail addresses from each candidate’s contributors; compiling that information; and providing it to each candidate.

54. An unauthorized political committee must report each contribution it makes to another political committee, along with the date and amount of each such contribution. 52 U.S.C. § 30104(b)(6)(B)(i); 11 C.F.R. § 104.3(b)(3)(v).

55. Throughout the 2020 and 2022 election cycles, ActBlue provided lists of contributors' contact information, including e-mail addresses and phone numbers, to the respective candidates to whom those contributions were made through ActBlue.

56. ActBlue was not required to provide such information to the recipients' committees. *See* 52 U.S.C. §§ 30101(13)(A), 30102(b)(1), 30104(b)(3)(A); *accord* 11 C.F.R. §§ 100.12, 102.8(b)(2), (c), 104.3(a)(4)(i); *see also ActBlue*, A.O. 2007-27, at 7; *ActBlue* A.O. 2006-30, at 6-7.

57. These contact lists constituted “things of value” and therefore amounted to in-kind contributions for purposes of the FECA’s reporting requirements. *See Ready for Ron*, A.O. 2022-12 (Sept. 28, 2022); *FEC v. Int’l Funding Institute*, 969 F.2d 1110, 1116 (D.C. Cir. 1992) (en banc); *Federal Election Commission’s Former Employees Committee*, A.O. 1979-18, at 2 (June 5, 1979); *see also* 11 C.F.R. § 100.52(d)(1).

58. ActBlue did not report any of these in-kind contributions of contributors' phone numbers and e-mail addresses to any candidates on any of its 2020 or 2022 reports.

59. Among the examples of the in-kind contributions ActBlue failed to report:

a. Phone number and/or e-mail address information for up to 1,003,699 contributors to Raphael Warnock (Raphael Warnock for Senate) in the 2022 election cycle, worth up to approximately \$1,003,699, and likely between \$12,546.24 and \$250,925 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(c);

b. Phone number and/or e-mail address information for up to 537,290 contributors to John Fetterman (Fetterman for PA) in the 2022 election cycle, worth up to approximately \$537,290, and likely between \$6,716.10 and \$134,322 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(d);

c. Phone number and/or e-mail address information for up to 15,672,773 contributors to Joe Biden (Biden for President) in the 2020 election cycle, worth up to approximately \$15,672,773, and likely between \$15,672.75 and \$313,455 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(a); and

d. Phone number and/or e-mail address information for up to 10,048,652 contributors to Bernie Sanders (Bernie 2020) in the 2020 election cycle, worth up to approximately \$10,048,652, and likely between \$10,049 and \$200,972 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(b).

60. ActBlue has engaged in repeated, systematic violations of federal disclosure laws over a period of years concerning in-kind contributions with a collective total value of tens of millions of dollars.

WHEREFORE the Commission should conclude Respondent ActBlue violated 52 U.S.C. § 30104(b)(6)(B)(i) and 11 C.F.R. § 104.3(b)(3)(v) and institute a civil action for relief in the U.S. District Court for the District of Columbia.

**COUNT III – FAILURE TO REPORT RECEIVING  
IN-KIND CONTRIBUTIONS IN VIOLATION OF  
52 U.S.C. § 30104(b)(2)(D), (b)(3)(B) AND 11 C.F.R. § 104.3(a)(3)(iv), (a)(4)(ii)  
Against Respondents Rafael Warnock, Warnock for Georgia, John Karl Fetterman,  
Fetterman for PA, Joseph R. Biden, Biden for President, Bernie Sanders, and Bernie 2020**

61. Complainants reallege the foregoing allegations as if set forth fully herein.

62. Throughout the 2020 election cycle, Respondent ActBlue made illegal excessive in-kind contributions to scores of Democratic candidates, including but not limited to soliciting, collecting, and providing:

a. Phone number and/or e-mail address information for up to 15,672,773 contributors to Joe Biden through his principal campaign committee Biden for President, worth up to approximately \$15,672,773, and likely between \$15,672.75 and \$313,455 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(a); and

b. Phone number and/or e-mail address information for up to 10,048,652 contributors to Bernie Sanders through his principal campaign committee Bernie 2020, worth up to approximately \$10,048,652, and likely between \$10,049 and \$200,972 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(b).

63. Throughout the 2022 election cycle, Respondent ActBlue has made and continues to make illegal excessive in-kind contributions to scores of Democratic candidates, including but not limited to soliciting, collecting, and providing phone number and/or e-mail address information for up to 1,003,699 contributors to Raphael Warnock, through his principal campaign committee Raphael Warnock for Senate, worth up to approximately \$50,184.95.

a. Phone number and/or e-mail address information for up to 1,003,699 contributors to Raphael Warnock through his principal campaign committee, Raphael Warnock for Senate worth up to approximately \$1,003,699, and likely between \$12,546.24 and \$250,925 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(c); and

b. Phone number and/or e-mail address information for up to 537,290 contributors to John Fetterman through his principal campaign committee, Fetterman for PA worth up to approximately \$537,290, and likely between \$6,716.10 and \$134,322 (depending on the number of distinct contributor names provided with contact information, as well as the fair market value of each such record), *see supra* note 37(d).

64. None of those Respondents reported these in-kind contributions on any of their statutorily required disclosure reports to the FEC.

65. Over a period of several years, Respondents have systematically failed to disclose tens of thousands—if not hundreds of thousands—of dollars’ worth of in-kind contributions, depriving the American public of vital information about their funding sources the American people is entitled to know.

WHEREFORE the Commission should conclude Respondents Rafael Warnock, Warnock for Georgia, John Karl Fetterman, Fetterman for PA, Joseph R. Biden, Biden for President, Bernie Sanders, and Bernie 2020 violated 52 U.S.C. § 30104(b)(2)(D), (b)(3)(B) and 11 C.F.R. § 104.3(a)(3)(iv), (a)(4)(ii) and institute a civil action for relief in the U.S. District Court for the District of Columbia.

CONCLUSION

For these reasons, Complainants respectfully requests the Federal Election Commission commence enforcement proceedings against Respondents.

VERIFICATION

I declare under penalty of perjury the foregoing is true and correct to the best of my personal knowledge.

Dated February 21, 2023

Respectfully submitted,



**Moses K. Ayala, Member**  
Chalmers, Adams, Backer & Kaufman LLC  
1032 15th St. NW, #374  
Washington, DC 20005  
(716) 245-4880  
mayala@chalmersadams.com  
*Counsel for Committee to Defeat the President*

COMPLETED BEFORE A NOTARY PUBLIC

State of Nevada

City of Las Vegas

County of Clark

Subscribed and sworn to before me on this 21 day of February, 2023.

My Commission expires on 4/8/2024.

