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September 14, 2004

VIA FACSIMILE and  
U.S. MAIL

Jeff S. Jordan, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

**Re: MUR 5490**

Dear Mr. Jordan:

On behalf of Friends of Schumer and Steven D. Goldenkranz, as treasurer, (the "Committee") this letter is in response to a complaint filed by Alexander F. Treadwell in the above-captioned Matter Under Review. The Committee denies that any violation of the Federal Election Campaign Act of 1971, as amended, (the "Act") or of the Commission's regulations has occurred.

The complaint is without merit, fails to allege violations of the Act, and should be dismissed. The complainant incorrectly alleges that travel expenses for mixed-purpose trips (official and non-official) that were paid for using funds authorized and appropriated by the Federal Government results in a violation of the Act's reporting requirements at 434(b). This allegation is wrong on the law and the facts.

#### **The Law**

In the event that funds authorized and appropriated by the Federal Government were used to pay for a candidate's travel expenses it would not be a violation of the Act. In 2002, the Commission issued an Interpretation of Allocation of Candidate Travel Expenses which concluded that:

Because 2 U.S.C. 431(11) specifically excludes the Federal Government from its definition of a "person," the Commission acknowledges that a candidate's travel expenses that are paid for using funds authorized and appropriated by the Federal Government are not paid for by a "person" for the purposes of the Act. Therefore, the Commission believes that the allocation and

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2004 SEP 20 A 9:28

reporting requirements of 11 CFR 106.3(b) are not applicable to the extent that a candidate pays for travel expenses using funds authorized and appropriated by the Federal government.

67 Fed. Reg. 5445

In this matter, the use of Federal funds is governed by general appropriations law, the Standing Rules of the Senate, and the U.S. Senate Select Committee on Ethics.

### The Facts

Committee funds were, in fact, used to pay for the allocable share of non-official travel expenses on mixed purpose trips and were properly reported pursuant to Section 431(b). The Senate office recently reviewed its procedures for allocating Senator Schumer's travel expenses and subsequently directed the Committee to provide payment for its share of non-official travel expenses that had not yet been paid. In June 2004, the Committee made payments for its share of non-official travel expenses pursuant to the Senate Rules. On the Committee's July 15, 2004 Quarterly Report, the June 23, 2004 payments to Air Charter Express and the U.S. Senate Federal Credit Union were properly reported. We believe it is also important to note that this report disclosing the Committee's travel payments was filed with the Secretary of the Senate and placed on the public record before the complaint was signed by Mr. Treadwell and filed with the Commission on July 22, 2004.

### Conclusion

The complainant failed to allege a violation of the Act. Furthermore, the facts in this matter demonstrate that the Committee fully complied with the Act when it paid for its allocable share of non-official travel expenses for mixed-purpose trips. For these reasons, the Commission should find no reason to believe that a violation of the Act occurred and promptly dismiss this complaint.

Sincerely,



Lyn Utrecht  
Counsel  
Friends of Schumer