



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

March 11, 2011

**VIA ELECTRONIC ATTACHMENT**

Cleta Mitchell, Esq.  
Foley & Lardner LLP  
3000 K Street NW, Suite 600  
Washington, DC 20007

Re: ADR 562 (MUR 6426)  
Joe Miller for US Senate and Bernadette C. Kopy, Treasurer

Dear Ms. Mitchell:

The Federal Election Commission (FEC or Commission) referred an enforcement issue to the FEC's Alternative Dispute Resolution Office (ADR Office) for processing. The referral by the Office of General Counsel (OGC) was based on a complaint filed by Andrée McLeod which alleges a violation of the Federal Election Campaign Act of 1971, as amended, by Joe Miller for US Senate, *et al.*

The FEC established the ADR Program to provide an informal means for resolving matters that come before the Commission and to facilitate negotiations directly with counsel for Joe Miller for US Senate and Bernadette C. Kopy, Treasurer (the Committee). The ADR Program provides Respondents with an opportunity to negotiate settlement of a matter that is mutually agreeable. The negotiations occur prior to any Commission consideration of whether there is reason to believe a violation has occurred. If negotiations are successful, the resulting settlement would conclude the matter.

The Commission, in referring the matter to the ADR Office, determined that the case is eligible for processing in the ADR program. If Respondents decide to participate in the ADR Program, you must: 1) indicate in writing a willingness to have your case submitted for ADR processing; 2) agree to participate in the bilateral interest based negotiations; and 3) waive the statute of limitations while the matter is being processed under the FEC's ADR program.

The issues referred to the ADRO, and the focus of our subsequent negotiations are summarized as follows:

**SUMMARY:** OGC referred MUR 6426 in which the complaint alleges that Joe Miller for Senate and Bernadette C. Kopy, Treasurer (the Committee) and Thomas Wickwire (Respondent Wickwire) did not properly disclose transactions associated with campaign flights in which the Committee used a private plane owned Respondent Wickwire in violation of the FECA. The complaint further alleges that the reports filed by the

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Committee failed to disclose, or disclosed inaccurately, expenditures for flights during the campaign.

The Committee contends that while it may not have reimbursed Respondent Wickwire sufficiently to fully comply with the regulations based on an incorrect understanding of the law following a discussion with the FEC, it did, after consulting with counsel, reimburse Respondent Wickwire \$3,030 and file amended reports. The amount of the reimbursement was based on a commercially reasonable rate of \$260 per hour for a comparable aircraft, less payments made for fuel by the Committee during the campaign and the amount of Respondent Wickwire's in-kind contributions of \$2,400 for the Primary Election and \$2,400 for the General Election. Respondents further contend that the misunderstanding was compounded, in part, due to a Federal Aviation Administration (FAA) regulation prohibiting non-commercial pilots, like Respondent Wickwire, from charging fees for such services.

Respondent Wickwire contends that he understood the FAA regulation to be that he could not charge charter rates because he did not have a Part 135 Certificate. After the complaint was filed, Respondent Wickwire contacted the FAA and learned from them that not only could he charge a candidate or an agent of a candidate a reasonably comparable rate to a commercial charter flight, he was required to under federal law.

If after reviewing this letter and the enclosed ADR Frequently Asked Questions, which describe the ADR program, Respondents would like this case selected for ADR processing, you need to affirmatively indicate that on the enclosed Commitment to Submit Matter to ADR form. **Failure to respond affirmatively within fifteen (15) business days of receipt of this letter will be taken as a notice of disinterest in the program and your case will be dropped from further consideration for ADR.** In that event, your case will be sent back to the FEC's Office of General Counsel for further processing, and the likelihood that the Committee will be audited during the next election cycle will increase.

This matter has been designated as **ADR 562**. Please refer to this number in future correspondence with the FEC. If you have questions about the ADR Program, please contact the ADRO at my direct dial as indicated below

Sincerely,

*Lynn M. Fraser*

Lynn M. Fraser, Director  
Alternative Dispute Resolution Office  
202-694-1665

Enclosures: ADR Frequently Asked Questions  
Commitment to Submit Matter to ADR  
Designation of Representative/Counsel