

OFFICE OF
GENERAL COUNSEL

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May 18, 2018

MUR # 7389

Lisa J. Stevenson
Acting General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

Dear Ms. Stevenson:

This complaint is filed pursuant to 52 U.S.C. 30109(a)(1) against Kyrsten Sinema, Sinema for Arizona, and Cynthia Leigh Applebaum, in her official capacity as Treasurer (collectively, "Sinema"), for violating provisions of the Federal Election Campaign Act of 1971 (the "Act") and the Federal Election Commission's (the "Commission") regulations.

Sinema has engaged in a prolonged pattern of violations of federal election laws. In fact, since she began her campaign for Senate in September 2017, Sinema has not only run afoul of the most basic "best efforts" reporting requirements under the Act and the Commission's regulations,¹ but it also appears that she has knowingly filed fraudulent reports with the Commission as a means to camouflage such incompetence. In failing to abide by the law and knowingly orchestrating a system by which false information is submitted to the Commission, Sinema has subjected herself and her campaign to potential criminal liability. In doing so, she has also denied the people of Arizona the honesty and transparency to which they are entitled under the law.

As described more fully below, Sinema's inability to comply with even the most minimal reporting requirements, and her campaign's submission of false reports to compensate for such failures, is at best careless, and at worst a knowing and willful violation. I therefore respectfully request that the Commission open an immediate investigation into Sinema and her campaign and impose sanctions for any and all violations.

"Best Efforts" Requirement

Under the Act and the Commission's regulations, a principal campaign committee must make best efforts to obtain and maintain (and ultimately report) the information required by law with respect to itemized receipts and disbursements. When reporting information is incomplete, the committee and the treasurer will be in compliance with the law if they can demonstrate that they used "best efforts" in trying to obtain, maintain and report the needed information. 52 U.S.C. § 30102(i); 11 CFR §§ 102.9(d) and 104.7(a).

¹ See 52 U.S.C. § 30102(i); 11 CFR § 104.7.

If an individual who has contributed more than \$200 during the election cycle fails to provide the required recordkeeping information (i.e., name, mailing address, occupation and employer), a committee must be able to show that it exhibited “best efforts” to obtain, maintain and report that information. To demonstrate “best efforts,” the committee must be able to show that it requested the information—first, in the solicitation materials that prompted the contribution and, second, if the information is not obtained, in a follow-up request. 11 CFR §§ 104.7(b)(1) and (2).

Factual and Legal Analysis

Kyrsten Sinema is a candidate for U.S. Senate in Arizona. She filed her Form 2 Statement of Candidacy with the Commission on September 29, 2017. Her principal campaign committee for her Senate campaign is Sinema for Arizona, which she designated the same day by filing the committee’s Form 1 Statement of Organization. Since Sinema’s Senate campaign announcement, Sinema for Arizona has filed three (3) reports with the Commission: (1) 2017 October Quarterly Report; (2) 2017 Year-End Report; and, (3) 2018 April Quarterly Report. In all of these reports, Sinema fails to provide the required occupation and employer information for over twenty percent of her donors. Instead, the committee repeatedly lists “N/A” in the “Employer” field and “NOT EMPLOYED” in the “Occupation” field. This is despite the fact that many of these donors have made contributions to her campaigns in the past and are some of the most consistent and well-known donors in Arizona and national Democrat fundraising circles with established careers and jobs. In short, it is impossible to argue that Sinema has exhibited “best efforts” when such a large swath of recurring and institutional Democrat donors are reflected in her reports as “NOT EMPLOYED.”

There are literally hundreds of instances throughout Sinema’s reports where perennial Democrat donors are falsely listed as “NOT EMPLOYED,” but one glaring example is George Krupp, a major Democrat donor from Chestnut Hill, Massachusetts who contributed the maximum amount to Sinema’s campaign on November 22, 2017. Like countless other entries on her reports, Mr. Krupp’s employer is listed as “N/A” and his occupation is reflected as “NOT EMPLOYED.” A quick search for Mr. Krupp’s donor history on OpenSecrets.org reveals that he is one of the most prolific donors in Democrat politics with 274 donation records to Democrat candidates and party committees.² Virtually all of the candidate and party committee recipients accurately reflected Mr. Krupp’s occupation and employer information—including Sinema herself in the 2014 election cycle.³ (emphasis added). Likewise, a simple Google search of “George Krupp” returns countless websites confirming his role as “Co-founder and Chairman” of the Berkshire Group, a real estate investment management company that manages \$7.2 billion in real estate assets worldwide.⁴ The people of Arizona would be hard pressed to believe that such a prolific donor who is listed as a “Co-founder and Chairman” of a multi-billion dollar company all over the internet and in other candidates’ and committees’ reports, including her

² See OpenSecrets.org, George Krupp donation history, <https://www.opensecrets.org/donor-lookup/results?name=George+krupp>.

³ See OpenSecrets.org, George Krupp donation history to Kyrsten Sinema, <https://www.opensecrets.org/donor-lookup/results?name=George+krupp&cycle=&state=&zip=&employ=&cand=sinema>; see also Kyrsten Sinema for Congress, Post-General 2014 Report, at 75, <http://docquery.fec.gov/cgi-bin/fecimg/?15950079313>.

⁴ See Berkshire Group website, <http://www.bpadv.com/our-company/board-of-directors/>.

own in 2014, is somehow "NOT EMPLOYED." Of course, Mr. Krupp's contribution is just one of hundreds of examples of Sinema's failure to provide accurate occupation and employer information in her reports.

It is also critical to note that Sinema's reports do not use words like "Information Requested" or "Best Efforts Attempted" in the employer and occupation fields, which is typical language used by committees when they are meeting their "best efforts" obligations but have been unsuccessful in obtaining that information despite exercising "best efforts." Instead, Sinema affirmatively asserts that these individuals are "NOT EMPLOYED," and maintains that the donors' employer information is "N/A". By categorizing these donors as "NOT EMPLOYED," she is also not maintaining that they are retired, as there are numerous instances throughout her reports where donors are actually, and seemingly properly, listed as "RETIRED." In reality, Sinema's contention that over twenty percent (20%) of her contributions came from donors who are "NOT EMPLOYED" is not only beyond the pale and in violation of her "best efforts" obligations, but more significantly, amounts to the knowing and willful filing of fraudulent reports, which subjects Sinema to both civil and criminal liability under to 52 U.S.C. 30109(a)⁵ and 52 U.S.C. § 30107(a)(9).

Knowing and willful violations of federal campaign finance laws are not taken lightly by the Commission, and if the Commission determines that there is probable cause to believe that a knowing and willful violation has occurred in this case with respect to Sinema's filing of fraudulent reports, we request that it refer such violations to the U.S. Department of Justice for criminal prosecution. 52 U.S.C. § 30107(a)(9).

Conclusion

Kyrsten Sinema's reports show a lack of respect for rules and regulations enacted to ensure fairness and accuracy in the election process. Arizona voters deserve a candidate who recognizes the importance of transparency and who takes pride in her campaign obligations—especially when those obligations involve accurately disclosing her campaign's financial activity to the public. Sinema has a legal and ethical obligation to comply with these most basic of campaign finance rules, and the record reflects she has not done so.

In light of the foregoing, I respectfully request that the Commission take steps to immediately investigate Sinema's violations outlined above. If the facts are as they appear to be from her FEC reports, then the Commission should find reason to believe that Sinema and her campaign have violated the Act and the Commission's regulations. In addition, the Commission should promptly determine and impose sanctions for these violations, and enjoin Sinema and her campaign from any and all campaign finance violations in the future. We also ask that the Commission impose such additional remedies as are necessary and appropriate to ensure compliance and send a message to campaigns that the rules must be followed in order to provide transparency for the voting public.

⁵ FEC Form 3, the form used by principal campaign committees to disclose their financial activity, makes clear on the first page of the form that "Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 52 U.S.C. §30109." See FEC Form 3, <https://www.fec.gov/resources/cms-content/documents/fecfrm3.pdf>.

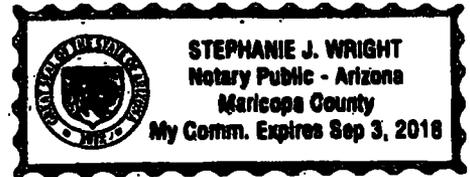
The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully submitted,



Matthew Anderson

Signed and sworn before me this 18th day of May, 2018




NOTARY PUBLIC

Please use the address below for correspondence about my complaint.

Matthew Anderson

Mesa, AZ 85201

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10-100M-1001-101