

APR 16 2009

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR: 6105

DATE COMPLAINT FILED: October 23, 2008

LAST RESPONSE RECEIVED: December 15,
2008

DATE ACTIVATED: January 21, 2009

EXPIRATION OF STATUTE OF LIMITATIONS:
September 10, 2013 / November 4, 2013

COMPLAINANT:

Citizens for Ethics and Responsibility in
Washington

RESPONDENTS:

Republican National Committee and Tim Morgan,
in his official capacity as treasurer
Governor Sarah Palin¹

RELEVANT STATUTES
AND REGULATIONS:

2 U.S.C. § 439a(b)
2 U.S.C. § 441a(d)(1)
11 C.F.R. § 113.1(g)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

L. INTRODUCTION

The complaint alleges that the Republican National Committee and Tim Morgan, in his official capacity as treasurer, ("RNC") and Governor Sarah Palin violated the personal use prohibitions of 2 U.S.C. § 439a(b) and 11 C.F.R. § 113.1(g), in connection with the RNC's purchase of clothing and accessories for Governor Palin and her family following her nomination

¹ Jeff Larson, Lisa Kline and the McIntosh Company were also named in the complaint, but they were not notified as respondents because their involvement was limited to their respective roles as agents of the RNC, and they had no separate or individual potential liability apart from the RNC.

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1 as the Republican vice-presidential candidate. The complaint itself lists purchases of \$144,731
2 and attaches a chart created by the complainant entitled "RNC 'Campaign Accessory'
3 Expenditures" showing purchases of \$145,914, and a copy of the RNC's Schedule F filed in
4 October 2008, which appears to show all of its coordinated party expenditures on behalf of the
5 Republican presidential campaign, not just the items in question. The complaint also attaches a
6 news article reporting that the purchases cost over \$150,000.

7 Both the RNC and Governor Palin responded that the personal use prohibitions were not
8 violated because the RNC used its own funds and not campaign funds of a candidate to purchase
9 the items, and that the purchases, instead, constituted coordinated party expenditures by the
10 RNC. We agree with the respondents. Accordingly, as set forth in more detail below, we
11 recommend that the Commission find no reason to believe that the RNC and Governor Palin
12 violated 2 U.S.C. § 439a(b)(2)(B) and 11 C.F.R. § 113.1(g).

13 **II. DISCUSSION**

14 A contribution accepted by a candidate may be used by the candidate for otherwise
15 authorized expenditures in connection with the campaign for federal office of the candidate.
16 See 2 U.S.C. § 439a(a)(1). However, a contribution or donation described in 2 U.S.C.
17 § 439a(a) shall not be converted by any person to personal use. 2 U.S.C. § 439a(b)(1).
18 "Personal use" means any use of funds in a campaign account of a present or future candidate to
19 fulfill a commitment, obligation, or expense of any person that would exist irrespective of the
20 candidate's campaign . . . [and] includes, but is not limited to the use of funds in a campaign
21 account for. . . [c]lothing, other than items of *de minimis* value that are used in the campaign."
22 11 C.F.R. § 113.1(g)(1)(i)(c); see also 2 U.S.C. § 439a(b)(2)(B).

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1 **The RNC and Governor Palin state that the RNC used its own funds to make the**
2 **expenditures for the clothing and accessories, and not the funds in the campaign account of any**
3 **candidate, which is required for Section 439a to apply. We have no information to the contrary.**
4 **As such, we conclude that no candidate funds were converted to "personal use" within the**
5 **meaning of 2 U.S.C. § 439a and 11 C.F.R. § 113.1(g) through the RNC's purchase of clothing**
6 **for Governor Palin and her family.**

7 **Moreover, both responses assert that these expenditures were appropriate coordinated**
8 **party expenditures. The RNC, a national party committee, is permitted to make "coordinated**
9 **party expenditures," that is, to spend general election funds on behalf of and in coordination with**
10 **their presidential candidates' campaigns. 2 U.S.C. § 441a(d). Coordinated party expenditures**
11 **are limited in amount and may not consist of funds given directly to the campaigns to use at their**
12 **own discretion. 2 U.S.C. §§ 441a(d)(2), (d)(4)(C). The Act provides that "[n]otwithstanding any**
13 **other provision of law with respect to limitations on expenditures or limitations on contributions,**
14 **the national committee of a political party . . . may make expenditures in connection with the**
15 **general election campaign of a candidate for federal office." 2 U.S.C. § 441a(d)(1).**

16 **In this instance, according to the RNC, it paid for the Palin and family campaign-related**
17 **clothing and accessories on behalf of and in coordination with the campaign. The RNC reported**
18 **the purchases in question as coordinated party expenditures to the Commission on its 2008**
19 **October Monthly report on Schedule F. At that time, it does not appear that the RNC exceeded**
20 **its coordinated party expenditure limit of \$19,151,200 for the 2008 general election. See**
21 **2 U.S.C. § 441a(d)(2) and 11 C.F.R. § 109.32.**

22 **Based on the above, we recommend that the Commission find no reason to believe that**
23 **the Republican National Committee and Tim Morgan, in his official capacity as treasurer, or**

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1 Governor Sarah Palin violated 2 U.S.C. § 439a(b)(2)(B) and 11 C.F.R. § 113.1(g), and close the
2 file as to all respondents.

3 **III. RECOMMENDATIONS**

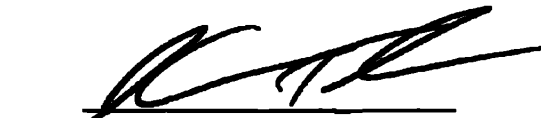
- 4 1. Find no reason to believe that the Republican National Committee and Tim
5 Morgan, in his official capacity as treasurer, and Governor Sarah Palin violated
6 2 U.S.C. § 439a(b)(2)(B) and 11 C.F.R. § 113.1(g).
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8 2. Approve the appropriate letters.
9 3. Close the file as to all respondents.

10 Thomasenia P. Duncan
11 General Counsel

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15 4/16/09
16 Date

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20 BY: 
21 Ann Marie Terzaken
22 Associate General Counsel
23 for Enforcement

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27 Susan L. Lebeaux
28 Assistant General Counsel

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32 J. Cameron Thurber
33 Attorney
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