



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10, 2011

Via first class mail and electronic mail

Email: tmckeever@hwb-law.com

Timothy A. McKeever, Esq.
Holmes Weddle & Barcott
999 Third Avenue, Suite 2600
Seattle, WA 98104-4011

RE: MUR 6403
Senator Lisa Murkowski and
Lisa Murkowski for U.S. Senate Committee

Dear Mr. McKeever:

On October 28, 2010, the Federal Election Commission notified your clients, Senator Lisa Murkowski and Lisa Murkowski for U.S. Senate Committee and Joseph M. Schierhorn, in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time. On November 1, 2011, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe Senator Lisa Murkowski and Lisa Murkowski for U.S. Senate Committee and Joseph M. Schierhorn, in his official capacity as treasurer, violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Christine C. Gallagher the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Susan L. Lebeaux
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Lisa Murkowski for U.S. Senate and **MUR 6403**
Joseph M. Schierhorn, in his official capacity as treasurer
Senator Lisa Murkowski

I. BACKGROUND

This matter was generated by a complaint filed with the Federal Election Commission by the Joe Miller for U.S. Senate campaign, by Linda Johnson, Member. See 2 U.S.C. § 437g(a)(1). Complainant alleges that Alaskans Standing Together and Barbara Donatelli, in her official capacity as treasurer ("AST"), a political action committee that has made independent expenditures regarding the 2010 U.S. Senate general election in Alaska, and AST's spokesperson, Jason Moore, knowingly and willfully violated 2 U.S.C. § 441c(a)(2) by soliciting and accepting \$805,000 in contributions from the Respondent corporations, which the Complainant alleges are government contractors.¹ The Complainant further alleges that Lisa Murkowski for U.S. Senate and Joseph M. Schierhorn, in his official capacity as treasurer ("the Murkowski Committee") and Alaska Senator Lisa Murkowski knowingly and willfully violated the Federal Election Campaign Act of 1971, as amended ("the Act"), because Senator Murkowski was "the direct beneficiary of these illegally donated funds..." and AST "g[a]ve federal money to fund Lisa Murkowski's senatorial campaign." Respondents Senator Lisa Murkowski, and the Murkowski Committee, deny the allegations of the complaint.

¹ The Respondent corporations are: Ahtna, Inc., Aleut Corporation, Arctic Slope Regional Corporation, Bering Straits Native Corporation, Bristol Bay Native Corporation, Calista Corporation, Chugach Alaska Corporation, Cook Inlet Region, Inc., Doyon, Limited, Koniag, Inc., NANA Regional Corporation, Inc., and Sealaska Corporation.

For the reasons set forth below, the Commission has determined to find no reason to believe that Lisa Murkowski for U.S. Senate and Joseph M. Schierhorn, in his official capacity as treasurer, and Senator Lisa Murkowski violated the Act or the Commission's regulations.

II. FACTUAL AND LEGAL ANALYSIS

AST, an independent-expenditure-only political committee, registered with the Commission on September 23, 2010. According to AST's Statement of Organization, it is a political action committee that supports/opposes more than one Federal candidate and is not a separate segregated fund or party committee.

The complaint alleges that AST knowingly and willfully solicited and accepted \$805,000 in contributions from government contractors in violation of 2 U.S.C. § 441c(a)(2) for the purpose of funding independent expenditures that supported Lisa Murkowski and opposed Joe Miller's candidacy in Alaska's 2010 U.S. Senate general election.² Joe Miller won the Republican nomination for Alaska's 2010 Senate seat in the primary election, but lost the general election to incumbent Republican Senator Lisa Murkowski, who ran as a write-in candidate. The complaint alleges that AST is a "front group" for Senator Murkowski, and that the alleged government contractors that made contributions to AST obtained federal contracts through "earmarks" from Senator Murkowski.

² The entities alleged to be government contractors in MUR 6403 are all corporations; the constitutionality of 2 U.S.C. § 441c as applied to individuals is currently the subject of litigation. See *Wagner v. FEC*, No. 11-CV-1841 (D. D.C. filed Oct. 19, 2011).

1 Senator Murkowski and her committee submitted a joint response denying any
2 connection to AST or that any of AST's funds were donated to or received by her
3 principal campaign committee.

4 There is no available information to support the complaint's general allegations
5 that AST is a "front group" for Senator Murkowski or that the alleged government
6 contractors received contracts that were the result of "earmarks" from her. The
7 Murkowski Response specifically denies these allegations. Further, the screenshot of
8 AST's "About Us" page from its website, which Complainant attaches to the complaint,
9 specifically states AST "is not affiliated in any way with the Lisa Murkowski Campaign."
10 According to the disclosure reports the Murkowski Committee filed with the
11 Commission, that committee did not receive any contributions from AST. Moreover,
12 there is no available information indicating that AST's expenditures in connection with
13 the 2010 general election for Alaska's Senate seat were coordinated with Senator
14 Murkowski or her committee.

15 Therefore, there is no reason to believe that Lisa Murkowski for U.S. Senate and
16 Joseph M. Schierhorn, in his official capacity as treasurer, and Senator Lisa Murkowski,
17 violated the Act.

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