



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEB 11 2013

Charles R. Spies
James E. Tyrrell, III
Clark Hill
1250 Bye Street, N.W.
Suite 900
Washington, D.C. 20005

RE: MUR 6421
Benishek for Congress and
Trent J. Benishek in his official
capacity as Treasurer
Dan Benishek

Dear Messrs Spies and Tyrrell:

On June 21, 2011, your clients, Benishek for Congress and Trent J. Benishek in his official capacity as Treasurer (the "Committee") and Dan Benishek were notified that the Federal Election Commission found reason to believe that the Committee violated 2 U.S.C. §§ 439a(c)(2), 441b, and 11 C.F.R. § 113.5(b) and that Benishek violated 2 U.S.C. §§ 439a(c)(2), 441b, and 11 C.F.R. §§ 100.93(c)(2) and 113.5(b) in connection with a non-commercial aircraft flight Benishek took during his 2010 campaign for the House. On July 7, July 21, August 15, August 29, September 1, and October 12, 2011, and June 18, 2012, you submitted responses to the Commission's reason to believe findings. After considering the circumstances of the matter, the Commission determined on February 5, 2013, to take no further action as to your clients and closed the file in this matter.

The Honest Leadership and Open Government Act of 2007 ("HLOGA") amended the Federal Election Campaign Act of 1971 (the "Act") to prohibit House candidates from making expenditures for non-commercial aircraft travel. 2 U.S.C. § 439a(c)(2). The Commission promulgated implementing regulations that became effective Jan. 6, 2010. *See* Explanation and Justification, 74 Fed. Reg. 63,951 (Dec. 7, 2009). Commission regulations provide that House candidates are prohibited from non-commercial air travel while campaigning, 11 C.F.R. § 100.93(c)(2), and from accepting in-kind contributions in the form of non-commercial air travel. *Id.* § 113.5(b). The prohibition applies to a House candidate who is a "campaign traveler," which includes, "any candidate traveling in connection with an election for Federal office." *Id.* § 100.93(a)(3)(i)(A).

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Further, the Act prohibits corporations from making any contribution in connection with a federal election, and correspondingly prohibits candidates and committees from knowingly accepting such contributions. 2 U.S.C. § 441b.

The Commission cautions the Committee and Benishek to take steps to ensure that their conduct is in compliance with the Act and the Commission's Regulations.

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).

If you have any questions, please contact me at (202) 694-1548.

Sincerely,



Elena Paoli
Attorney

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