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September 7, 2016Mr. Jeff S. Jordan  
Assistant General Counsel  
Office of Complaints Examination  
and Legal Administration  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 7125

Dear Mr. Jordan:

This letter responds on behalf of Kate Houghton to the Commission's notification that it received a complaint (the "Complaint") that indicates she may have violated the Federal Election Campaign Act of 1971 (the "Act"). As described below, based upon the facts of the Complaint and other information available, there is no reason to believe that Ms. Houghton has violated the Act or any of the Commission's regulations.

This Complaint was filed with the Commission by Tim Canova, then-Democratic candidate for Florida's 23<sup>rd</sup> congressional district ("Complainant"). At the time of the Complaint, Complainant was challenging Debbie Wasserman Schultz for her position as the U.S. Representative for Florida's 23<sup>rd</sup> congressional district; Ms. Wasserman Schultz is also the former chairperson of the Democratic National Committee ("DNC").

The Complaint alleges that the following violations of the Act and Commission regulations occurred:

- **Reporting requirements** – specifically under the Act, the requirement that a treasurer of a political committee files reports of receipts and disbursements, and that each report discloses "contributions from political party committees." 52 U.S.C. § 30104, (a)(1), (b)(2)(c) and 11 CFR 104.3.
- **Fraudulent misrepresentation of campaign activity** - the cited provisions are directed at a "person who is a candidate for Federal office or an employee or agent of such candidate" and prohibit the fraudulent misrepresentation of that person or any committee or organization he controls in a way that would be damaging to another candidate, political party, employee, etc, or to "willfully and knowingly participate in or conspire to participate in any [such] plan, scheme, or design. . . ." U.S.C. § 30124(a)(1) and 52 U.S.C. § 30124(a)(2).

- **Reporting requirements for national and congressional political committees** – this provision specifically provides that “[t]he national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.” 52 U.S.C. § 30104(e)(1).
- **Requirements for “[e]xpenditures by national committee, State committee, or subordinate committee of State committee in connection with general election campaign of candidates for Federal office.”** 52 U.S.C. § 30116(d).

Ms. Houghton is listed as a party in the Complaint as “an agent of the [DNC].”<sup>1</sup> In the factual allegations, Ms. Houghton is only referenced in two footnotes as the recipient of certain emails.<sup>2</sup> The Complaint ultimately alleges that Ms. Houghton “willfully and knowingly participated or conspired to participate [sic] this plan to undermine Tim Canova’s congressional campaign.”<sup>3</sup> ***To be sure, none of the allegations in the Complaint regarding the Florida election and Tim Canova’s campaign give any indication that Ms. Houghton has or could have violated any campaign finance laws; any reference or information related to Ms. Houghton only support the conclusion that there is no reason to believe that she violated the Act.*** Moreover, there is certainly nothing in the Complaint to show that she “willfully and knowingly” did anything illegal, or even that she did something improper or inappropriate with regard to the Florida election and Complainant’s campaign.

The Complaint includes Exhibits with email correspondences where Ms. Houghton’s name appears as having received some messages and having sent a few herself – none of these messages give any indication that she was trying to undermine Complainant’s campaign, nor do any of them give a reasonable inference that she has or will violate any campaign finance laws. For instance, one email chain is about publicly-available logistical information surrounding the Alaska Democratic Convention and an “anti-convention event” occurring at essentially the same time on the second day of the convention, and approximately 0.2-0.3 miles away; while Ms. Wasserman Schultz was scheduled as a keynote speaker on May 14 at the established convention, Complainant was scheduled to speak that same evening at the anti-convention.<sup>4</sup> As

<sup>1</sup> Complaint at 3.

<sup>2</sup> Complaint at 6, n. 5, n. 6.

<sup>3</sup> Complaint at 9-10.

<sup>4</sup> See Exhibit 1, GOOGLE MAPS, Directions from William A. Egan Civic & Convention Center, 555 West 5th Avenue, Anchorage, AK 99501 to Dena’ina Civic and Convention Center, 600 West 7th Avenue, Anchorage, AK 99501 (showing the distance to be approximately 0.2-0.3 miles); Exhibit 2, ALASKA DISPATCH NEWS, “Riled Sanders fans rise up as state Democratic convention begins,” May 13, 2016, updated July 7, 2016, [available at](http://www.adn.com/politics/article/riled-bernie-fans-divide-state-democratic-party-convention-begins/2016/05/14/) <http://www.adn.com/politics/article/riled-bernie-fans-divide-state-democratic-party-convention-begins/2016/05/14/> (last accessed August 31, 2016) (reporting that the Democratic Party Convention would take place at the Dena’ina Civic and Convention Center, with a reception planned to start at 6:00 PM on May 14, and the anti-convention event was scheduled to take

a DNC staffer and assistant to Ms. Wasserman Schultz, it is logical that Ms. Houghton would be included in an email chain surrounding the logistics of the convention and the nearby counter event that could have caused security concerns. It is hard to imagine how an email chain about these logistics and a couple of messages from Ms. Houghton amounting to little more than, “Where [sic] the info about Canova? I just heard about it from Tracie. What’s the deal?” could possibly lead to an allegation that a campaign finance law has been violated.<sup>5</sup>

Other emails attached to the Complaint involving Ms. Houghton are related to a question the Alaska Democratic Party had received from the press asking whether the “chairwoman” was “blocking Tim Canova from using the [Florida] voter file.”<sup>6</sup> As this had nothing to do with the Alaska Democratic Party, staff from the Florida Democratic Party and the DNC were looped in to an email to provide information to help respond to the press inquiry. As the emails make certain, *Complainant actually convinced the Florida Democratic Party to reverse its policy and provide him access to the voter files.* The emails in the Complaint’s Exhibits also make clear that Complainant had acknowledged this before and therefore this was not confidential information. In an email, Ms. Houghton stated that “. . . we had no involvement in this,” and in another email sent from Scott Arceneaux of the Florida Democratic Party, he also stated that “Debbie [Wasserman Schultz] was never involved in any way, shape, or form.”<sup>7</sup> Given her role as an assistant to Ms. Wasserman Schultz, it is appropriate, reasonable, and likely her responsibility to clarify that her boss was not involved and that the inquiry included false information. ***To be clear, Ms. Houghton’s involvement in this email was not related the Florida election but rather it was to clarify the actions of her boss in response to a press inquiry.***

Another email chain including Ms. Houghton in the Exhibits appears to derive from an email Complainant sent asking individuals to sign a petition against Ms. Wasserman Schultz; this was forwarded to Ms. Houghton.<sup>8</sup> Complainant sent an email to an unknown number of individuals with a critical narrative of Ms. Wasserman Schultz and a statement above it saying: “Sign our petition now asking Wasserman Schultz to return every penny the Democratic National Committee has taken from Republicans and anti-Obamacare lobbyists.”<sup>9</sup> The Exhibit

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place at the William A. Egan Civic & Convention Center starting at 6:30 PM on May 14.); Exhibit 3, ALASKA DEMOCRATS, “Alaska Democrats Concluded Successful Convention,” May 16, 2016, available at <http://www.alaskademocrats.org/press-releases/2016/5/16/alaska-democrats-concluded-successful-convention> (last accessed September 1, 2016) (reporting that “[a]ttendees heard from DNC Chair Congresswoman Debbie Wasserman Schultz” at the Alaska Democratic Convention”). See Complaint at Exhibit 6.

<sup>5</sup> See Complaint at Exhibit 6.

<sup>6</sup> See Complaint at Exhibits 8, 9.

<sup>7</sup> See Complaint at Exhibits 8.

<sup>8</sup> See Complaint at Exhibit 10.

<sup>9</sup> Complaint at Exhibit 10.

Complainant provided does not show anything further with regard to Ms. Houghton; in fact, the only comment this Exhibit shows from anyone forwarding Complainant's email states simply: "Adding April because this is *convention related* as well."<sup>10</sup>

As the Commission has explained in other matters, "the Commission may find there is 'reason to believe' that a violation of the Act occurred if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the [Act]."<sup>11</sup> Further, "[c]omplaints not based upon personal knowledge should identify a source of information that reasonably gives rise to a belief in the truth of the allegations presented."<sup>12</sup> Here, the Commission should find that there is no reason to believe that Ms. Houghton has violated the Act because *there is no "reasonable inference that a violation has occurred," and moreover, "even if the allegations [in this Complaint] were true, [they] would not constitute a violation of the law."*<sup>13</sup>

As the evidence presented in the Complaint demonstrates, there is no reason to believe that Ms. Houghton has violated the Act. *To be certain, there is no information provided in the factual allegations or in the Exhibits to show Ms. Houghton had anything to do with the Florida election or Ms. Wasserman Schultz's status as a candidate.* Instead, these emails were all appropriate and reasonable for Ms. Houghton to have received and sent given her role as assistant to Ms. Wasserman Schultz in her capacity as DNC chairwoman. In fact, it is especially unimaginable how an email from Complainant criticizing and asking others to sign a petition to join forces against Ms. Wasserman Schultz could possibly implicate that Ms. Houghton had violated campaign finance laws based upon the fact that it was forwarded to her; this does not in

<sup>10</sup> Complaint at Exhibit 10 (emphasis added).

<sup>11</sup> MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.), Statement of Reasons of Commissioners David M. Mason, Karl J. Sandstrom, Bradley A. Smith, and Scott E. Thomas at 1-2) citing 11 CFR 111.4(a), (d).

<sup>12</sup> MUR 4960 (Hillary Rodham Clinton for U.S. Senate Exploratory Committee, Inc.), Statement of Reasons of Commissioners Mason, Sandstrom, Smith, and Thomas at 1-2, citing 11 CFR 111.4(d)(2); April 11, 2000 First General Counsel's Report in MUR 4545 (Clinton/Gore '96 Primary Comm./Amtrak) ("While the available evidence is inadequate to determine whether the costs of the Train Trip were properly paid, the complainant's allegations are not sufficient to support a finding of reason to believe . . ."); Statement of Reasons (SOR) in MUR 3534 (Bibleway Church of Atlas Road) ("[T]here was a lack of evidence indicating the literature was distributed on behalf of the [Respondent] or at its expense," among reasons for dismissal.). See also MUR 6540 ("Instead of presenting facts, the complaint seems to rely on the 'when there's smoke, there's fire' speculation that the Commission has already determined is insufficient to justify an investigation.") citing MUR 4960, Statement of Reasons of Commissioners Mason, Sandstrom, Smith, and Thomas at 1-2, FEC v. Machinists Non-Partisan Political League, 655 F.2d 380, 388 (D.C. Cir. 1981) ("[M]ere 'official curiosity' will not suffice as the basis for FEC investigation. . .").

<sup>13</sup> Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 FR 12545-01.

any way demonstrate that she had “willfully and knowingly” participated or conspired to participate in any plan to undermine Complainant’s congressional campaign.

As the Commission’s “Guidebook for Complainants and Respondents on the FEC Enforcement Process” provides, a “‘respondent’ is a person or entity who is the subject of a complaint or a referral (or who files a sua sponte submission) that alleges that the person or entity may have violated one or more of the federal campaign finance laws within the FEC’s jurisdiction.”<sup>14</sup> ***Even if assumed as true, there are no facts in the Complaint that could possibly lead to a conclusion that Ms. Houghton could have violated any provision of the Act or the Commission’s regulations. Therefore, it is incomprehensible as to why she has been included as a respondent in this matter, which required her to take the time and expense to retain counsel to respond.***

Based upon the above, the Commission should immediately dismiss this matter as it pertains to Ms. Houghton. If you have any questions regarding this Response, my daytime number is (202) 479-1111. My email address is [reiff@sandlerreiff.com](mailto:reiff@sandlerreiff.com).

Sincerely,



Neil P. Reiff

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<sup>14</sup> Federal Election Commission, “Guidebook for Complainants and Respondents on the FEC Enforcement Process” May 2012 at 9, [available at http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf) (last accessed September 1, 2016).

# Exhibit 1

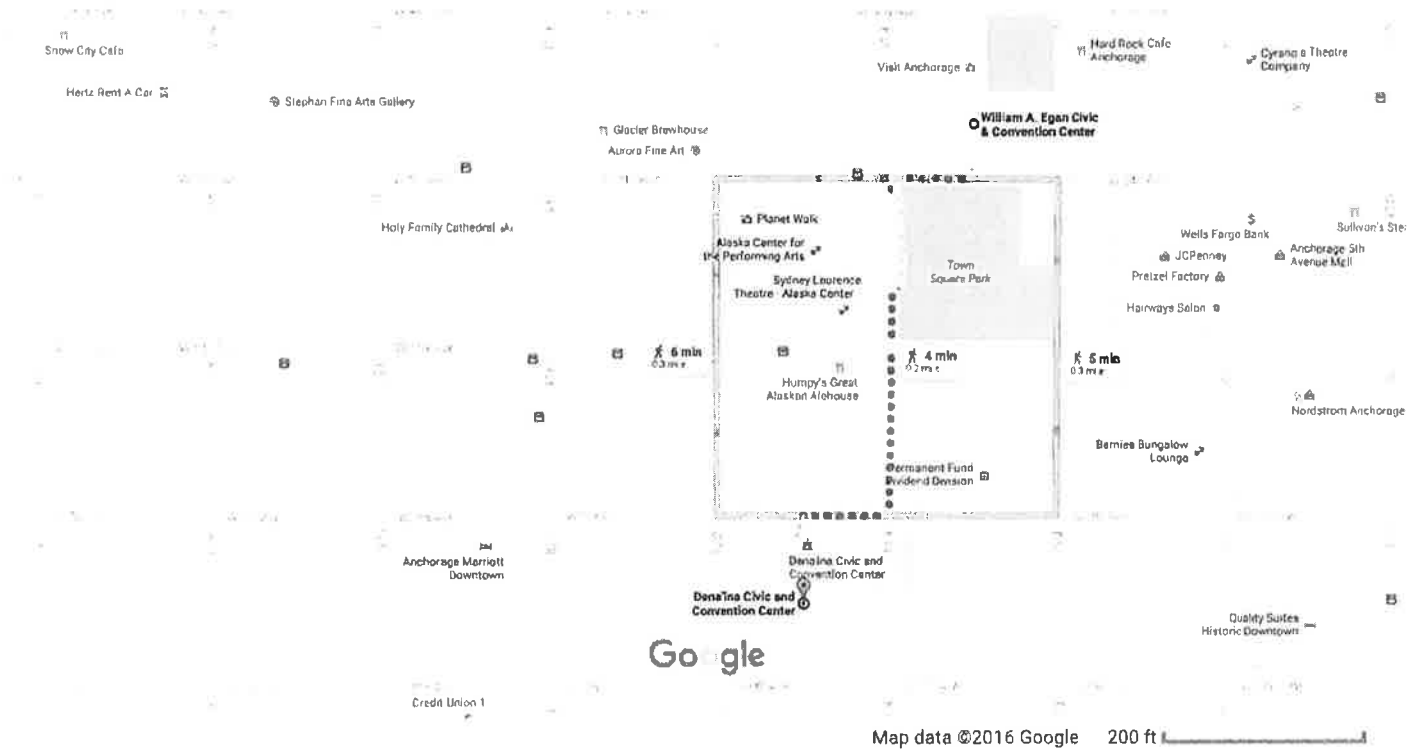
9/1/2016

William A. Egan Civic & Convention Center to Dena'ina Civic and Convention Center, 600 West 7th Avenue - Google Maps



### William A. Egan Civic & Convention Center to Dena'ina Civic and Convention Center, 600 West 7th Avenue

Walk 0.2 mile, 4 min



via F St

4 min

0.2 mile



via E St and W 7th Ave

5 min

0.3 mile



via W 5th Ave and G St

6 min

0.3 mile

## Exhibit 2



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## Politics

# Riled Sanders fans rise up as state Democratic convention begins

 Author: Alex DeMarban  Updated: July 7  Published May 13

Internal strife rocked the Alaska Democratic Party on Friday as it headed into its three-day state convention, with some members of the party that heavily favor Bernie Sanders over Hillary Clinton protesting the convention by planning an alternative event Saturday night.

"Alaska voters are an independent people and they don't want to be told what to do," said Ed Cullinane, a member of the state central committee from an Anchorage House district.

Cullinane helped organize the protest to the convention, where Democrats on Saturday will choose delegates to cast votes at the Democratic National Convention in Philadelphia in July.

Though Clinton appears poised for victory in the hard-fought race, Sanders supporters say he can still claim a win though it would take a surge of delegates.

***[Earlier coverage: Landslide victory for Sanders in packed Alaska Democratic caucuses]***

The anti-convention event at the Egan Civic and Convention Center comes because Florida congresswoman and Democratic National Committee chair Debbie Wasserman Schultz plans to give the keynote speech at the convention in Anchorage Saturday, Cullinane said.

Alaskan Democrats gave Sanders 81.6 percent of their support in the March caucus. Many believe Wasserman Schultz has limited debates and unfairly allocated resources to give Clinton a boost, he said.

"A lot of us feel that Debbie Wasserman Schultz has displayed very unethical behavior," he said.

9/5/2016

Riled Sanders fans rise up as state Democratic convention begins - Alaska Dispatch News

At the state convention on Friday afternoon at the UAA Student Union, during an opening day filled with discussions on matters such as Medicaid expansion and climate change, supporters of both Sanders and Clinton said it was important for Alaska Democrats to unite as the national convention approaches.

"We all need to be respectful and find common ground," said Shauna Thornton, a state delegate and "Bernie fan" who hopes to be selected as a national delegate from Alaska on Saturday.

***[Inside the GOP effort to draft an independent candidate to derail Trump]***



Thornton, who is running for a state House seat on the Kenai Peninsula, said she's not angry Wasserman Schultz is speaking.

"She was asked to come over a year ago, so what do you do? So I'll attend and ask questions about her positions," Thornton said.

Cullinane also launched a petition at MoveOn.org asking the Alaska party to "un-invite" Wasserman Schultz. It had 64 signatures Friday afternoon.

He said the anti-convention, which has no official name, will feature a teleconferenced appearance from Tim Canova, Schultz' Democratic primary opponent in Florida. Plans also include a prerecorded presentation by Jane Sanders' and a dunk tank with political activist Ray Metcalfe in the wet seat. The event will be held in Summit Hall at the Egan, starting at 6:30 p.m.

Wasserman's speech is planned for 8 p.m. Saturday at the Dena'ina Civic and Convention Center. She's also scheduled to attend a reception there at 6 p.m.

People need to put aside the "divisiveness" said Jennifer Smith, a state convention delegate from a Juneau district who supports Clinton because she's "cool under fire" and well-versed on critical national issues.

"If you want to have an alternative convention then fine, but if you really want to have change in the party structure you should directly address it to (Wasserman Schultz), and not do it through protests," she said.

# Exhibit 3



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## Alaska Democrats Concluded Successful Convention

May 16, 2016

### **FOR IMMEDIATE RELEASE**

CONTACT: Jake Hamburg (907) 258-3077

*Sanders wins 13, Clinton 3 Alaska Delegates to National  
Convention*

ANCHORAGE: The Alaska Democratic Party concluded its biennial state convention Sunday with the election of party officers, the adoption of changes to the party plan and the passage of a resolution aimed at ending the use Unpledged Delegates.

“The state convention was an exciting time for the Alaska Democratic Party. From new Democrats participating in the party for the first time to lifelong Democrats, the enthusiastic involvement and contribution of new ideas we saw was a win for Alaska,” said Casey Steinau, Chair of the Alaska Democratic Party.

9/5/2016

Alaska Democrats Concluded Successful Convention — Alaska Democratic Party

“The record turnout and great work conducted throughout the weekend shows Alaska Democrats are engaged and committed to building a better future for everyone.”

More than 550 Democrats from all 40 state house districts attended the state convention.

Larry Murakami of Fairbanks was elected as the party's State Treasurer, Julianne Baltar of Dillingham was elected State Secretary, Sheila Selkregg of Anchorage was elected National Committeewoman, and Ed Wesley of Anchorage was elected National Committeeman.

Attendees heard from DNC Chair Congresswoman Debbie Wasserman Schultz, Lieutenant Governor Byron Mallott, Vic Fischer, Democratic and Independent candidates running for office, party leaders and other distinguished guests.

Convention attendees also participated in a variety of committee meetings and workshops. Alaska Democrats took an important step toward expanding access and participation in the presidential nomination process with discussion about the caucus and possible reforms. The Party Plan Committee and Platform Committee worked for many hours Friday to update the party rules and shape its principles.

### **Election of Delegates to Democratic National Convention**

Sen. Sanders won 13 of Alaska's Delegates to the Democratic National Convention that were elected Saturday. Former Secretary of State Hillary Clinton received 3 delegates. When combined with the state's four unpledged delegates selected earlier, the state's 20 delegates to the national convention are currently 14 for Sanders, 4 for Clinton, and 2 remain uncommitted.

“We are pleased to have a diverse group of Alaskans representing our state in Philadelphia this summer,” said Steinau. “Alaskans will join other Democrats from across the nation, and we will unite behind our Democratic nominee and help them defeat presumptive Republican Nominee Donald Trump this November.”

9/5/2016

Alaska Democrats Concluded Successful Convention — Alaska Democratic Party

Abiding by the rules set by the Democratic National Committee and Alaska's Delegate Selection Plan, the award of delegates was based on a presidential fan out in which 523 state convention delegates participated. Sanders received 426 (81.5%) and Clinton received 97 of the state convention delegates (18.5%).

**The Pledged Delegates are:**

- Mikki King Barker of Fairbanks
- Katrina Domnick of Bethel
- Olivia Garrett of Fairbanks
- Traci George of Eagle River
- Edward Alexander of Fort Yukon
- Gregory Jones of Wasilla
- Nathan Sidell of Palmer
- George Wesley Sooklayak of Anchorage
- Jill Yordy of Fairbanks
- Taz Tally of Homer
- Genevieve Mina of Anchorage
- Peter Andrew of Dillingham
- Diana Carbonell of Fritz Creek
- Rep. Andy Josephson of Anchorage
- Tamara Kleiner of Anchorage
- W. James Smallwood of Anchorage

**Alternates are:**

- Gavin Hudson of Metlakatla
- D'Arcy Hutchings of Anchorage
- Charles Degnan of Unalakleet

9/5/2016

Alaska Democrats Concluded Successful Convention — Alaska Democratic Party

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