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CEEA September 7, 2016

Mr. 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 Kay Brown 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. Brown 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 23rd 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 23rd congressional district; Ms. Wasserman Schultz is also the former chairperson of the Democratic National Committee.

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. Brown is not listed as a party in the Complaint, and her inclusion in the Complaint and Exhibits is minimal. ***To be sure, none of the allegations in the Complaint regarding the Florida election and Tim Canova’s campaign give any indication that Ms. Brown has or could have violated any campaign finance laws; any reference or information related to Ms. Brown only support the conclusion that there is no reason to believe that she violated the Act.*** Specifically, Ms. Brown is only named in the Complaint in a footnote to allege that she received an email from “DNC Director of Scheduling . . . concerning Tim Canova's speech at the Alaska Convention.”¹

Email correspondences in the Exhibits that include Ms. Brown are largely regarding the Alaska Democratic Convention and an “anti-convention event.”² The Democratic Convention was scheduled to take place from May 13-15, with a reception at 6:00 PM on May 14, and the anti-convention was scheduled to start at 6:30 PM on May 14, approximately 0.2-0.3 miles away.³ Ms. Wasserman Schultz was scheduled to give a keynote speech on May 14 at the Alaska Democratic Convention in her capacity as then-Democratic National Committee Chairperson, and Complainant was scheduled to speak at the anti-convention event that evening.⁴ Given the

¹ Complaint at 6, n. 5.

² See Exhibit 1, 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).

³ See Exhibit 2, 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 1, ALASKA DISPATCH NEWS “Riled Sanders fans rise up as state Democratic convention begins,” May 13, 2016, updated July 7, 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 place at the William A. Egan Civic & Convention Center starting at 6:30 PM on May 14); Exhibit 3, “Party w/the 82% Egan Center;” Exhibit 4, “Party with the 82%” Event Flyer.

⁴ See Exhibit 1, ALASKA DISPATCH NEWS, “Riled Sanders fans rise up as state Democratic convention begins,” May 13, 2016, updated July 7, 2016; Exhibit 5, ALASKA DEMOCRATS,

anti-convention event's closeness in time and geographical proximity to the Alaska Democratic Convention, Ms. Brown was concerned about safety and paid for additional security for the banquet held at the Alaska Democratic Convention on May 14.⁵ Of course, these communications had absolutely no relationship to the primary election between Mr. Canova and Ms. Wasserman Schultz.

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].”⁶ 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.”⁷ Here, the Commission should find that there is no reason to believe that Ms. Brown 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.”*⁸

“Alaska Democrats Concluded Successful Convention,” May 16, 2016, [available at](http://www.alaskademocrats.org/press-releases/2016/5/16/alaska-democrats-concluded-successful-convention) <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”).

⁵ See Exhibit 6, Invoice from Northern Event Security LLC to Alaska Democratic Party, May 16, 2016.

⁶ 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).

⁷ 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. . . .”).

⁸ Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 FR 12545-01.

Based upon the facts of the Complaint and other information available, there is no reason to believe that Ms. Brown has violated the Act. References to Ms. Brown within the Exhibits only demonstrate that her knowledge of the anti-convention event was limited to publicly available information, and there is no reference to her using this information in any way that might be illegal, improper, or even unreasonable.⁹ Given her position as Executive Director of the Alaska Democratic Party, Ms. Brown had security concerns about the anti-convention event and correspondences regarding logistics are both reasonable and appropriate under the circumstances, and in no way imply a violation of the Act.¹⁰

It should be further noted that it appears the Commission has violated its own guidance for naming respondents in this matter. As the Commission's own "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."¹¹ *Even if assumed as true, there are no facts in the complaint that could possibly lead to a conclusion that Ms. Brown could have violated any provision of the Act or the Commission's regulations. Therefore, it is incomprehensible as to why Ms. Brown has even received notification from the Commission that she may have violated campaign finance laws and has been named as an additional party to this Complaint which required her to take the time and expense to retain counsel to respond to this complaint.*

⁹ See Complaint at Exhibit 6 ("I literally just got off the phone with Kay and she again said she doesn't know how many people are going to attend the counter event, who's actually going to Skype in, speaking order etc. Seems her knowledge of the counter event was based on Facebook Intel."). Respondent's name appears in additional emails in the Complaint's Exhibits as a result of a press inquiry she received, which had nothing to do with the Alaska Democratic Party and does not in any way demonstrate that she could have possibly violated campaign finance laws. See Complaint at Exhibits 8, 9.

¹⁰ See Exhibit 1, ALASKA DISPATCH NEWS "Riled Sanders fans rise up as state Democratic convention begins," May 13, 2016, updated July 7, 2016 (reporting on the "anti-convention" that would take place during the Democratic convention in Alaska).

¹¹ 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 (last accessed September 1, 2016).

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Neil P. Reiff', written in a cursive style.

Neil P. Reiff

Exhibit 1

J.CREW ^{ONLINE ONLY} 30% OFF \$200+ or 25% OFF \$125+

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 2

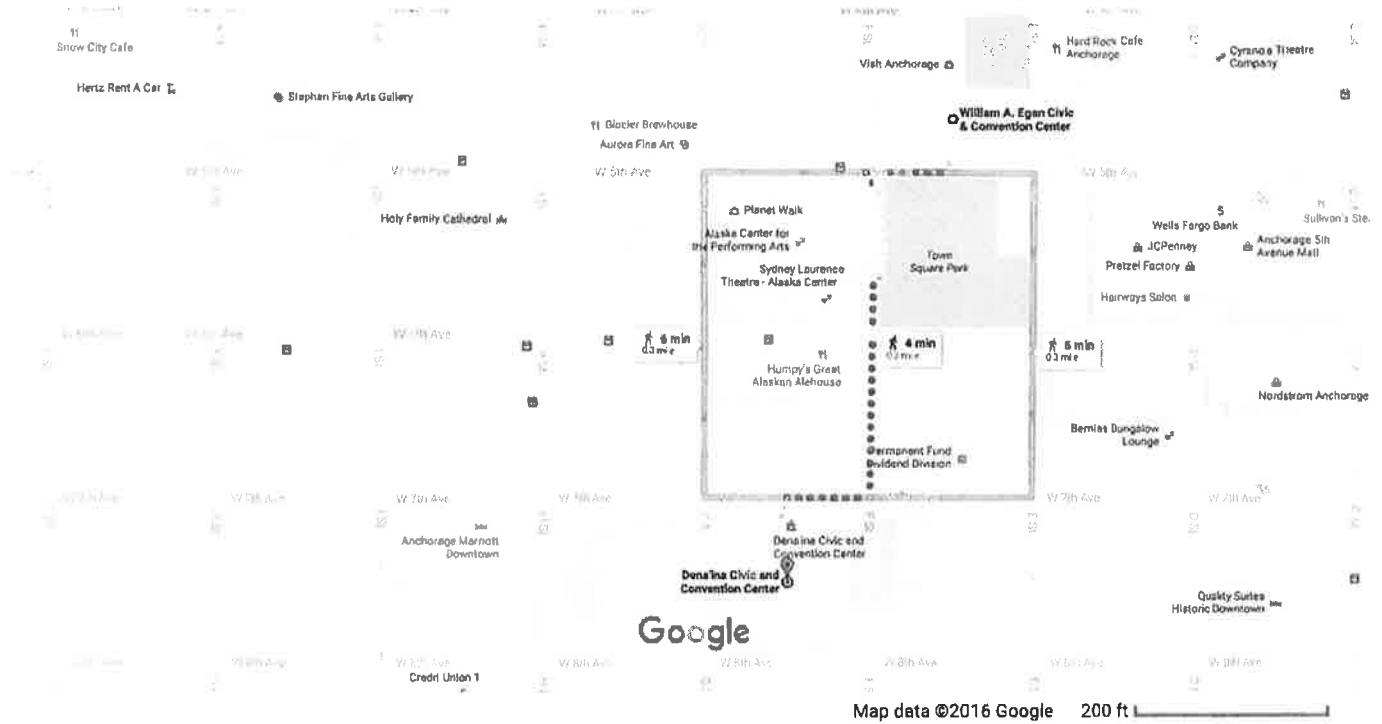
9/1/2016

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

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

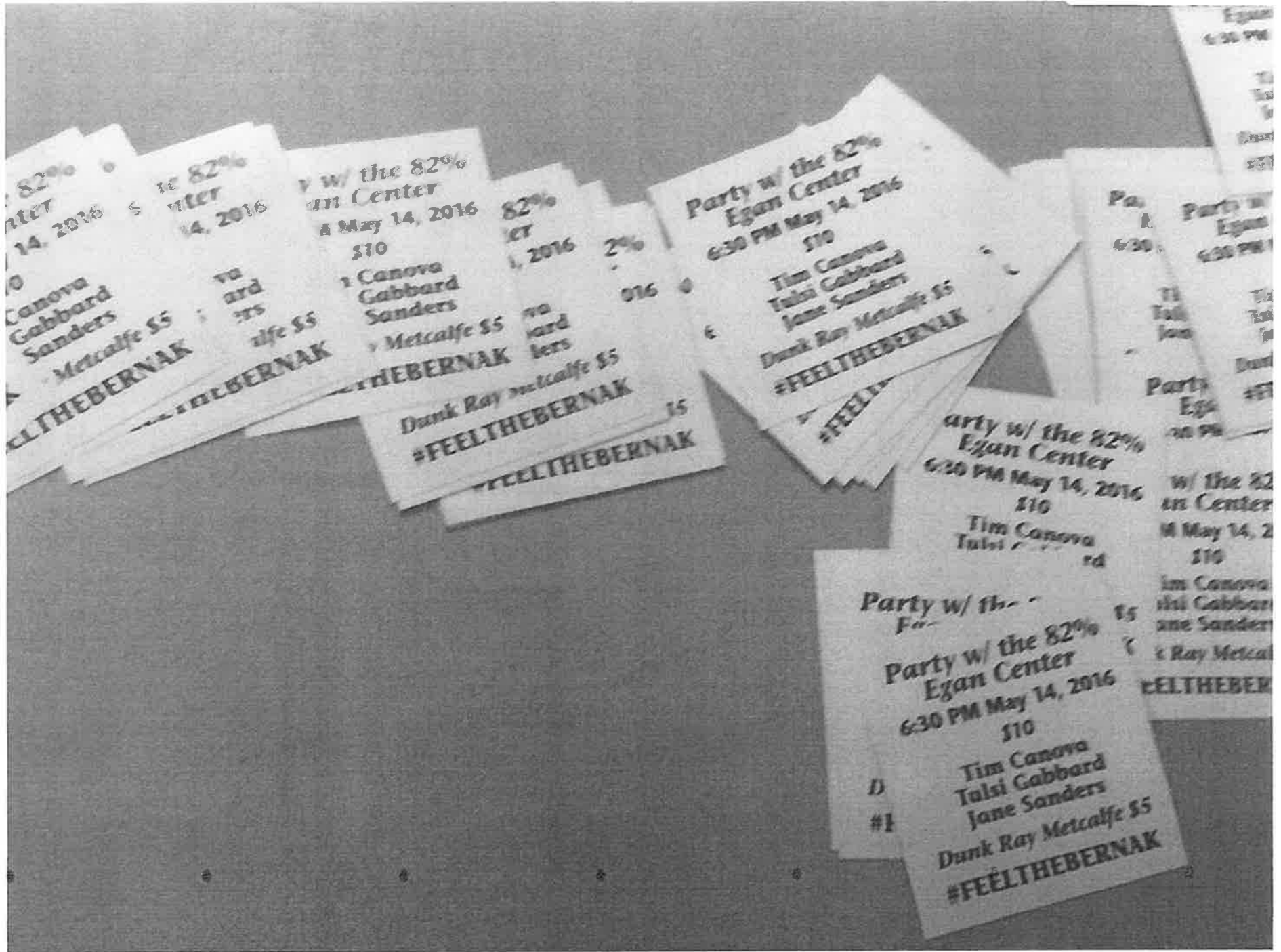
5 min
0.3 mile



via W 5th Ave and G St

6 min
0.3 mile

Exhibit 3



82%
ter
14, 2016
Canova
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#FEELTHEBERNAK

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Sanders
Metcalfe \$5
#FEELTHEBERNAK

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#FEELTHEBERNAK

Party w/ the 82%
Egan Center
6:30 PM May 14, 2016
\$10
Tim Canova
Tulsi Gabbard
Jane Sanders
Dunk Ray Metcalfe \$5
#FEELTHEBERNAK

Party w/ the 82%
Egan Center
6:30 PM May 14, 2016
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Tim Canova
Tulsi Gabbard

Party w/ the 82%
Egan Center
6:30 PM May 14, 2016
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Tim Canova
Tulsi Gabbard
Jane Sanders
Dunk Ray Metcalfe \$5
#FEELTHEBERNAK

Party w/ the 82%
Egan Center
6:30 PM
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Tim Canova
Tulsi Gabbard
Jane Sanders
Dunk Ray Metcalfe \$5
#FEELTHEBERNAK

Party w/ the 82%
Egan Center
6:30 PM May 14, 2016
\$10
Tim Canova
Tulsi Gabbard
Jane Sanders
Dunk Ray Metcalfe \$5
#FEELTHEBERNAK

Exhibit 4



**PARTY WITH
THE 82%**

EGAN CENTER

DOWNTOWN ANCHORAGE ALASKA

6:30 PM, MAY 14, 2016

TEN DOLLAR SUGGESTED ENTRY



SPECIAL STREAMING FROM

Tim Canova
Tulsi Gabbard
Jane Sanders

Dunk Ray Metcalfe
for five bucks

Cash Bar

find us on Facebook:

#FeelTheBernAK

We just wanna party with you.
Bern up the night responsibly.

Exhibit 5

9/5/2016

Alaska Democrats Concluded Successful Convention — Alaska Democratic Party



HOME OUR PARTY
CAUCUS RESULTS VOTE
2016 CANDIDATES PRESS
EVENTS GET INVOLVED
DONATE

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 of 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 Klelner 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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phone 907.258.3050 | info@alaskademocrats.org | www.alaskademocrats.org

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Exhibit 6



Northern Event Security, LLC.

3203 Iowa Street
Anchorage AK 99517**Invoice**

Date	Invoice #
5/16/2016	549

Bill To
Alaska Democratic Party 2602 Fairbanks Street Anchorage, AK 99503

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
	Security for the Democratic Convention at the Dena'ina on May 14, 2016		
4.5	Security Fees - 1 guard from 5:30pm to 10:00pm	20.00	90.00
7	Security Fees - 2 guards from 5:30pm to 9:00pm	20.00	140.00
Thank you for your business.		Total	\$230.00