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December 16, 2016

**VIA EMAIL AND U.S. MAIL**

Office of Complaints Examination and Legal Administration  
Attn: Mary Beth de Beau, Paralegal  
Federal Election Commission  
999 E Street, NW  
Washington DC 20463  
Email: [CELA@fec.gov](mailto:CELA@fec.gov)

**Re: MUR 7190**  
**Our File No. 4079-28128**

Dear Sir or Madam:

We represent the Lisa Murkowski for U.S. Senate Committee and Catherine Straub, its Treasurer (hereinafter collectively referred to as "Murkowski campaign") in connection with the above-referenced matter.

The campaign and the treasurer have never received copies of the complaint that were allegedly mailed to them by the commission. The only copy of the complaint was provided when we entered an appearance on behalf of the Murkowski campaign so we could ask the commission staff if copies had actually been served on the campaign committee and the treasurer. In response to our question, commission staff provided our firm with a copy of the complaint. Therefore we contend that the Murkowski campaign was never properly served with the complaint and the FEC should not take any action with respect to the campaign for that reason alone.

The complaint alleges the Murkowski campaign: 1) failed to disclose coordinated party expenditures ("CPE") made on its behalf by the Alaska Republican Party ("ARP"); 2) failed to correctly and adequately describe the purposes of transfers of funds from a candidate committee; and 3) was the beneficiary of excess CPE. The complaint is based only on the claim that five mailers distributed by the party were problematic, i.e. one absentee ballot application distributed by the ARP and four mailers critical of Joe Miller, a Libertarian party candidate for the U.S. Senate in the 2016 election in Alaska..

Office of Complaints Examination & Legal Administration

December 16, 2016

Page 2

The complaint is completely without foundation and the commission should determine the complaint does not set forth any reason to believe that any violations of the Federal Election Campaign Act of 1971 as amended has or will occur and close the matter.

**1) The absentee ballot mailer was not a CPE and not subject to the CPE limit.**

The absentee ballot mailer distributed by the ARP attached to the complaint was by law not a contribution to any of the candidates or campaigns referenced therein and was not a coordinated expenditure. That mailer urged the recipients to obtain an absentee ballot so they could vote for four or five Republican candidates for four or five offices.<sup>1</sup> The copy of the absentee ballot mailer mentioned four candidates by name and the seats they were running for and included a drawing or photo for each of the three federal candidates. It did not otherwise discuss their campaigns, their opponents, the issues in the campaigns, or their positions on the issues.

The mailer was consistent with 52 USC 30101(8)(B)(v) and 52 USC 30101(9)(B)(iv) and is neither a contribution to any candidate named or an expenditure (coordinated or otherwise) by the party. It is not subject to the contribution limits applicable to political parties contributing to candidates.

By law, the absentee voter mailer was not a contribution or a party expenditure. The allegation that it was somehow improper is without merit and should not be entertained by the commission.

**2) The transfers of surplus funds by the Murkowski campaign were consistent with the law and regulations.**

The complaint alleges that somehow the transfers of surplus campaign funds from the Murkowski committee to the State party committee were illegal. Pursuant to 52 USC §30114(a)(4) such transfers can be made by a candidate “without limitation” to a State political party. This issue was addressed in FEC Advisory Opinion 2004-22.<sup>2</sup> In that opinion, the FEC found that the legal provisions of the Act do not limit the ways a State political party can use the surplus funds received from a candidate’s committee, nor do they restrict the amount transferred in any specific period of time. Notwithstanding the claimed “experience” of the complainant the transfer of excess campaign funds were consistent with the law and regulations.

The respective FEC reports of the RPA and the Murkowski campaign committee show that all transfers made by the campaign were reported as received by the RPA within a few days of the transfers.

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<sup>1</sup> In Alaska in 2016, voters could vote for candidates for up to five positions: U. S. President, U.S. Senator., U. S. House, State Senate (in one-half the State Senate Districts), and State House. Alaska has 20 State Senators, but in 2016 only 10 of those seats were up for election. The copy of the absentee mailer included in the complaint was addressed to a voter in a state senate district where no state senate race occurred, i.e. only four races were on the ballot in that state senate district.

<sup>2</sup> <http://www.fec.gov/pdf/record/2004/sep04.pdf#page=6>

Office of Complaints Examination &amp; Legal Administration

December 16, 2016

Page 3

Date Transfer	Amount	Report Page No.	Date Received	Report Page No.
10/07/2016	\$35,300.00	Pre-Gen'l P. 91	10/10/2016	Pre-Gen'l p. 20
10/18/2016	\$64,000.00	Pre-Gen'l P. 91	10/18/2016	Pre-Gen'l p21
9/17/2016	\$50,000.00	3 <sup>rd</sup> Qtr P. 253	9/20/2016	Oct 20 p. 46
9/27/2016	\$7,000.00	3 <sup>rd</sup> Qtr P.253	9/30/2016	Pre-Gen'l p. 20
9/30/2016	\$25,500.00	3 <sup>rd</sup> Qtr P. 253	10/7/2016	Oct 20 p. 47
9/22/2016	\$67,800.00	3 <sup>rd</sup> Qtr P. 254	9/23/2016	Oct 20 p. 46
7/12/2016	\$32,517.95	2 <sup>nd</sup> Qtr P. 116	7/13/2016	Aug 20 p. 32

Therefore, the transfers from the candidate's committee to the RPA were properly made and reported and this allegation is without merit.

**3) The ARP's coordinated party expenditures were not required to be disclosed by the Murkowski campaign on its reports.**

The Campaign Guide for Political Party Committees is very explicit that the party and not the candidate is responsible for reporting CPEs: "Coordinated party expenditures are reported by the party committee only..."<sup>3</sup> Therefore, the Murkowski campaign is not required to report such expenditures made by the ARP.<sup>4</sup>

**4) The four Miller mailers were CPE and the total cost did not exceed the CPE limit.**

The affidavit and documents previously filed by the ARP establish that the total cost of the production and mailing of the four Miller mailers was \$56,111.60. The ARP has now reported that amount as "coordinated party expenditures" on its post-general election report. By law, the allowable limit for coordinated party expenditures is \$96,100. Since the cost of the Miller mailings was substantially less than that limit, there is no basis for the allegation that the Murkowski campaign was the beneficiary of CPEs from the Alaska Republican Party which exceeded the limit of such expenditures. Thus, this allegation must be rejected.

In summary, the complaint does not provide any evidence to support any reason to believe that any violations have occurred. The complaint is without merit and the matter should be closed.

Sincerely,



Timothy A. McKeever

<sup>3</sup> See FEC Campaign Guide for Political Party Committees, (August 2103) at p.48.

<sup>4</sup> As noted in the response of the Alaska Republican Party, it was not required to report these expenditures at the time the complaint was filed as they were reportable only on the post general election report. That report has now been timely filed by the party.