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April 18, 2018

VIA ELECTRONIC AND FIRST-CLASS MAIL

Mr. Jeff S. Jordan
Assistant General Counsel
Federal Election Commission
Attn: Christal Dennis, Paralegal
1050 First Street, NE
Washington, DC 20463

Re: **RR 17L-49—Response of Freedom for All Americans (Paul Kilgore -
Treasurer)**

Dear Mr. Jordan:

I write on behalf of my client, Freedom for All Americans (f.k.a. Rand Paul for President), to respond to a recent Reports Analysis Division Referral. The Committee already addressed these matters in its response to Matter Under Review 7191, noting that all general-election contributions were previously remedied through refund or redesignation, but it will do so again here.

The Referral asserts that a total of \$257,658.65 in general-election contributions “were not refunded or redesignated within the permissible timeframe.”¹ This amount total is incorrect, since it is based on an assumption that the Committee was required to begin refunding or redesignating general-election contributions as of February 3, 2016.² In fact, the Committee was not required to begin refunding or redesignating general-election contributions until July 19, 2016.

Commission rules require “all contributions made for the general election” to be returned or refunded to the contributors or redesignated “if the candidate is not a candidate in the general election.”³ A candidate has 60 days to issue refunds and redesignations from the date he “fail[s] to qualify for the general election,”⁴ which occurs when the candidate’s opponent receives their party’s general election nomination.⁵ In 2016, Donald Trump received the Republican Party’s presidential nomination for the general election on July 19th, which means that Rand Paul failed

¹ Referral at 1.

² Referral at 2.

³ 11 C.F.R. §§ 110.2(b)(3)(i), 110.1(b)(3)(i), 102.9(e)(3).

⁴ FEC Adv. Op. 2007-03 at 4. *See also* FEC Adv. Op. 2003-18 at n.3.

⁵ FEC Adv. Op. 2007-03 at 3. *See also* FEC Adv. Op. 1992-15.

to qualify for the general election on July 19th and was therefore required to begin issuing refunds and redesignations on that date.⁶

Without citing any facts or offering any rationale, the Referral summarily declares that refunds and redesignations were required to begin on February 3, 2016 because the Reports Analysis Division believes that Rand Paul “announced his withdrawal” from the presidential race on that date.⁷ Although the Commission has indeed opined in the past that the 60-day period to issue refunds and redesignations can be triggered by a candidate’s formal withdrawal, the specific factual circumstances in those cases are different than those presented here. Christopher Dodd, for example, formally announced in early 2008 that he was “withdrawing from the Presidential race.”⁸ Thaddeus McCotter similarly made a formal announcement that he had “ended his campaign” in a “decision that is final” after he failed to gather enough signatures to qualify for the primary ballot.⁹ Both candidates, in these instances, had unambiguously “failed to qualify for the general election” by formally withdrawing their candidacies and/or falling short of legal requirements for their party’s nomination. Here, though, Rand Paul did not formally withdraw his candidacy on February 3, 2016. Instead, Mr. Paul expressly and intentionally stated that he was only “suspending” active campaign activities.¹⁰ This is not a difference in mere semantics. After this “suspension” announcement, Mr. Paul appeared on presidential primary ballots and received votes,¹¹ spent funds through his presidential campaign committee,¹² and received votes at the 2016 Republican National Convention.¹³ Mr. Paul also periodically considered “un-suspending” his active campaign activities.¹⁴ The announcement of a mere suspension of campaign activities rather than a full withdrawal was intentional, given the election cycle’s notable unpredictability and the strong possibility of a contested Republican National Convention.¹⁵ Mr. Paul’s “suspension” announcement cannot be considered the equivalent of the formal withdrawals by Messrs. Dodd and McCotter. The Committee was

⁶ John McCormick, *Trump Formally Seals Republican Presidential Nomination*, Bloomberg (July 19, 2016), available at <https://www.bloomberg.com/news/articles/2016-07-19/trump-formally-nominated-as-republican-presidential-candidate>.

⁷ See, e.g., Referral at 2.

⁸ *Chris Dodd's Caucus Speech*, NY Times (Jan. 3, 2008), available at <https://www.nytimes.com/2008/01/03/us/politics/03dodd-transcript.html>. See also FEC Adv. Op. 2008-04.

⁹ FEC Matter Under Review 6887, First General Counsel’s Report at 2. See also Tim Mal, *McCotter Ends Write-In Campaign*, Politico (June 2, 2012), available at <https://www.politico.com/story/2012/06/mccotter-ends-write-in-campaign-076981>.

¹⁰ Associated Press, *Sen. Rand Paul Suspends Presidential Campaign* (Feb. 3, 2008), available at <https://www.youtube.com/watch?v=DaH6QDu0NIA>.

¹¹ See, e.g., West Virginia Republican Presidential Ballot for May 2016 Primary, available at <https://services.sos.wv.gov/apps/elections/results/results.aspx?year=2016&eid=22&county=Statewide>.

¹² FEC disclosure reports indicate that over \$1 million was spent through Rand Paul for President after the February 3, 2016 “suspension” announcement.

¹³ CNN.com, *Republican National Convention Roll Call*, available at <http://www.cnn.com/interactive/2016/politics/republican-convention-delegate-count/>.

¹⁴ See, e.g., Rebecca Savransky, *Rand Paul Pledges to ‘Un-Suspend’ Campaign if NH Paper Endorses Him*, The Hill (March 1, 2016), available at <http://thehill.com/blogs/ballot-box/presidential-races/271279-rand-paul-pledges-to-un-suspend-campaign-if-nh-paper>.

¹⁵ Fox News, *Sen. Rand Paul Predicts a Contested GOP Convention* (Apr. 12, 2016), available at https://www.youtube.com/watch?v=hYD1nF_QI50.

therefore required to begin refunding or redesignating general-election contributions only on July 19th, when Mr. Paul failed to qualify for the general election, which makes many contributions listed in the Referral timely remedied.

Any other general-election contributions were refunded or redesignated prior to the issuance of the Referral. No interest is served by dedicating additional resources to an issue that has already been resolved by the Committee itself.¹⁶ In light of this, the Committee respectfully suggests that the Commission exercise its discretion and dismiss this matter.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal line extending to the right.

Matthew T. Sanderson
Member
Caplin & Drysdale, Chartered

¹⁶ See, e.g., FEC Matter Under Review 6811, *First General Counsel's Report* (recommending dismissal when the respondent had already remedied issue with general-election contributions).