



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Timothy A. McKeever, Esq.
Stacey Stone, Esq.
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701 West 8th Avenue, Suite 700
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SEP 10 2019

RE: MURs 7190 & 7208
Senator Lisa Murkowski
Lisa Murkowski for U.S. Senate
and Catherine Straub as Treasurer

Dear Mr. McKeever and Ms. Stone:

The Federal Election Commission (the "Commission") notified your clients, Senator Lisa Murkowski and Lisa Murkowski for U.S. Senate and Catherine Straub, in her official capacity as treasurer (the "Murkowski Committee"), of two separate complaints (MURs 7190 and 7208) on November 10, 2016 and January 10, 2017, alleging violations of the Federal Election Campaign Act of 1971, as amended. A copy of each Complaint was forwarded to your clients.

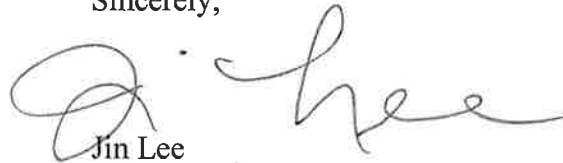
After reviewing the allegations contained in the complaint, your clients' response, and publicly available information, the Commission, on August 20, 2019, found no reason to believe that the Murkowski Committee violated 52 U.S.C. § 30104(b) regarding reporting of transfers made to the Alaska Republican Party ("ARP"). Further, the Commission was equally divided on whether to make a finding as to allegations that your clients received unreported, excessive in-kind contributions from ARP. The Factual and Legal Analysis, explaining the Commission's findings, is enclosed.

You are advised that the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the file is closed.

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If you have any questions, please contact Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jin Lee".

Jin Lee
Acting Assistant General Counsel

Enclosure:
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENT: Lisa Murkowski for U.S. Senate MURs 7190 & 7208
4 and Catherine Straub in her official
5 capacity as treasurer
6

7 **I. INTRODUCTION**

8 In the months leading up to the 2016 general election, Lisa Murkowski for U.S. Senate
9 and Catherine Straub in her official capacity as treasurer (the “Murkowski Committee”), the
10 principal campaign committee of Senator Lisa Murkowski, made a series of transfers totaling
11 \$354,007 to the Alaska Republican Party. The Complaints allege that these transfers were not
12 properly disclosed.¹

13 The Murkowski Committee asserts that the Federal Election Campaign Act of 1971, as
14 amended (the “Act”) allows a candidate to make unlimited transfers to a state political party and
15 that the transfers were properly disclosed in reports filed with the Commission. Based upon the
16 available information, the Commission finds no reason to believe that the Murkowski Committee
17 violated 52 U.S.C. § 30104(b) by failing to properly report the making of transfers to ARP.

18 **II. FACTUAL & LEGAL ANALYSIS**
19

20 ARP is a state party committee that is registered and files reports with the Commission.
21 Lisa Murkowski is the current U.S. Senator from Alaska and was the Republican candidate in the
22 general election for U.S. Senate in Alaska on November 8, 2016. The Murkowski Committee is
23 Senator Murkowski’s principal campaign committee.²

¹ MUR 7190 Compl. at 1-2 (Nov. 7, 2016); MUR 7208 Compl. (Jan. 5, 2017).

² Murkowski Committee Amended Statement of Organization (May 8, 2017); *available at* <http://docquery.fec.gov/pdf/672/201705080200147672/201705080200147672.pdf>.

1 The Murkowski Committee made eight transfers totaling \$354,007 to the ARP between
2 September 20, 2016, and October 26, 2016.³ In its disclosure reports, the Murkowski Committee
3 did not specify a purpose for the transfers. ARP, in its own disclosure reports, described the
4 receipts as “surplus campaign funds” in memo entries.⁴

5 The Complaint in MUR 7190 alleges that the Murkowski Committee misreported the
6 transfers by mischaracterizing the purpose of the transfers in its disclosure reports; the
7 Murkowski Committee failed to specify any purpose whatsoever.⁵ The Complainant, citing to
8 his own experience, states that surplus funds are not transferred to a state party until the
9 campaign is over, especially in a competitive race.⁶

10 The Act and Commission regulations enumerate a number of permissible non-campaign
11 uses of funds in a campaign account.⁷ For example, a candidate’s principal campaign committee
12 may transfer any contributions received “without limitation, to a national, State, or local
13 committee of a political party.”⁸ So long as the transfer is made for a lawful purpose and not
14 converted to personal use,⁹ the Commission has determined that “[t]hese provisions do not limit

³ See Murkowski Committee disclosure reports: 2016 October Quarterly Report at 253, 254; 2016 12-Day Pre-General Report at 91; 2016 30-Day Post-General Report at 149.

⁴ MUR 7190 Compl. at 1-2 (citing Murkowski Committee 2016 October Quarterly Report); *see also*, ARP disclosure reports: 2016 October Monthly Report at 54; 2016 12-Day Pre-General Report at 27, 28; and 2016 30-Day Post-General Report at 38, 39.

⁵ MUR 7190 Compl. at 1-2.

⁶ *Id.* at 2.

⁷ See 52 U.S.C. § 30114(a); 11 C.F.R. § 113.2 (identifying “Permissible non-campaign use of funds”); *see also* Disclaimers, Fraudulent Solicitation, Civil Penalties and Personal Use of Campaign Funds, 67 Fed. Reg. 76962, 76964 (Dec. 13, 2002) (explaining that section 113.2 “sets forth the permissible non-campaign uses of funds in a campaign account”).

⁸ 52 U.S.C. § 30114(a)(4); *see also* 11 C.F.R. § 113.2(c).

⁹ See 52 U.S.C. § 30114(a)(6); 11 C.F.R. § 113.2(e).

1 the purposes that any transferred funds may be put to, nor do they restrict the amount that may be
2 transferred in any specific period of time.”¹⁰ Although both authorized and state party
3 committees must report the making and acceptance of such a transfer,¹¹ neither the Act nor
4 Commission regulations require an authorized committee to identify the purpose of a transfer to
5 a party committee.

6 Consequently, the Murkowski Committee was free to transfer the campaign funds in
7 question for any lawful purpose, other than personal use, and was not required to disclose the
8 purpose of the transfers. Moreover, neither the Act nor Commission regulations define the
9 meaning of “surplus campaign funds,” or specifies that any such funds can only exist after the
10 conclusion of the election. Accordingly, the Commission finds no reason to believe that the
11 Murkowski Committee violated 52 U.S.C. § 30104(b) by failing to properly report the making of
12 the transfers of funds.

¹⁰ Advisory Op. 2004-22 (Bereuter) at 1-2.

¹¹ See 52 U.S.C. § 30104(b)(2)(F), (4); 11 C.F.R. § 104.3(a)(4)(iii), (b)(2).