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January 16, 2018

BY EMAIL

Ms. Lisa J. Stevenson
 Acting General Counsel
 Federal Election Commission
 999 E Street, N.W.
 Washington, DC 20463

Re: MUR 7299 - Response of Wexton for Congress and Joan Kowalski, in her capacity as Treasurer; Wexton for State Senate and Thomas Rock, in his capacity as Treasurer; and Virginia State Senator Jennifer Wexton

Dear Ms. Stevenson:

This response is submitted on behalf of the above-referenced respondents in response to the Commission's letters dated December 7, 2017, notifying each respondents of a complaint filed by Mr. John Findlay, Executive Director of the Republican Party of Virginia, designated by the Commission as MUR 7299.¹

Mr. Findlay is correct on the facts – Jennifer Wexton is currently a candidate, both as a challenger in the 2018 election for a seat in the United States House of Representatives (VA-10) and as an incumbent in the 2019 election for the Virginia State Senate. However, Mr. Findlay could not be more wrong on the law.

¹ This response is filed timely pursuant to extensions granted by Commission staff.



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Sections of both the Federal Election Campaign Act of 1971, 52 U.S.C. 30125(e)(2) (the “Act”),² and the Commission’s regulations, 11 C.F.R. § 300.63,³ explicitly allow so-called “dual” candidates – candidates who are running simultaneously for both a federal and a nonfederal office – to raise funds outside the federal limits and prohibitions in connection with the candidate’s nonfederal campaign so long as (1) any nonfederal solicitation refers only to the candidate and any opponents for that same state or local office and (2) the solicitation is permitted under state law.⁴

All of the respondents have fully complied with the requirements specified in sections 30125(e)(2) of the Act and 300.63 of the Commission’s rules – and Mr. Findlay has not alleged anything to the contrary. Rather, Mr. Findlay simply has either misread or misunderstood the law.

Accordingly, pursuant to 52 U.S.C. § 30109, this matter should be dismissed.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'Brad Deutsch', with a long horizontal flourish extending to the right.

Brad Deutsch
*Counsel to Wexton for Congress,
 Wexton for State Senate,
 and Jennifer Wexton*

GSB:9189835.1

² “Paragraph (1) [of 30125(e) specifying that the Act’s limits, prohibitions and reporting requirements apply to Federal candidates and officeholders] **does not apply** to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.” 52 U.S.C. 30125(e)(2) (emphasis added).

³ “Section 300.62 [of the Commission’s rules specifying that the Act’s limits and prohibitions apply generally to Federal candidates and officeholders in connection with a non-Federal election] **shall not apply** to a Federal candidate or individual holding Federal office who is a candidate for State or local office, if the solicitation, receipt or spending of funds is permitted under State law; and refers only to that State or local candidate, to any other candidate for that same State or local office, or both. If an individual is simultaneously running for both Federal and State or local office, the individual must raise, accept, and spend only Federal funds for the Federal election.” 11 C.F.R. § 300.63 (emphasis added).

⁴ See also Advisory Opinions 2007-01 (McCaskill), 2005-12 (Fattah), 2005-05 (LaHood), 2005-02 (Corzine), and 2003-32 (Tanenbaum); FEC Record, Fundraising by Federal Candidates and Officeholders for Other Candidates and Committees, available at <https://www.fec.gov/updates/fundraising-federal-candidates-and-officeholders-other-candidates-and-committees-2017/> (Nov. 28, 2017).