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March 5, 2018

VIA EMAIL CELA@fec.gov

Federal Election Commission
Office of Complaints Examination
and legal Administration
ATTN: Christal Dennis, Paralegal
999 E Street, NW
Washington, DC 20463

RE: MUR 7323
Walters for Congress
Rep. Mimi Walters
Jen Slater, Treasurer

MUR 7323 involves a complaint erroneously alleging illegal use of state campaign funds to aid a federal campaign. No action should be taken against Walters for Congress, Rep. Mimi Walters or Jen Slater, Treasurer, in the above-referenced matter, because all of the payments described in the complaint made from Rep. Walters' state committees were lawful under both the Federal Election Campaign Act and the California Political Reform Act (Cal. Gov. Code §§ 81000 et seq.).

Section 30125 of Title 52 of the United States Code provides in pertinent part:

(e) Federal candidates

(1) In general

A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not--

(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds--

(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 30116(a) of this title; and

(ii) are not from sources prohibited by this Act from making contributions in connection with an election for Federal office.

(2) State law

Paragraph (1) 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.

...

(f) State candidates

(1) In general

A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 30101(20)(A)(iii) of this title unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

(2) Exception for certain communications

Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other candidate for the State or local office held or sought by such individual, or both.

(emphasis added)

All of the payments referenced in the complaint were explicitly authorized by Section 30125 because they were solely related to the state office Rep. Walters held at the time, and for a short period, to a local office she was campaigning for.

From January 2013 until July 2013, Rep. Walters was pursuing a position on the Orange County Board of Supervisors and established a campaign committee, Friends of Mimi Walters for Supervisor 2014 ("State Committee 3", registered 01/15/13, terminated 06/30/14), to raise funds for that purpose. When Rep. John Campbell announced his decision not to seek re-election, Rep. Walters decided to pursue that elective office rather than the Board of Supervisors, and began winding down State Committee 3. Beginning in July 2013, State Committee 3 began issuing refunds to recent donors, and made payments to vendors for services incurred prior to the decision to seek election to the House of Representatives. The single payment from State Committee 3 referenced in the complaint in the amount of \$938.34 to Keena Thomas Communications was actually payment of an "accrued expense (unpaid bill)" incurred in an earlier reporting period (incurred during the period 01/01/13-06/30/13, paid during the period 07/01/13-12/31/13), and directly related to seeking the local office for which State Committee 3 was established.¹ This was the final payment to Keena Thomas Communications from State Committee 3 for a \$925 monthly retainer for services rendered in the month of June 2013 and a \$13.34 postage expense.

¹ The expense was first reported on California Form 460 for the period 01/01/13-06/30/13, on Schedule F "Accrued Expenses (Unpaid Bills)" (page 45): <http://cal-access.sos.ca.gov/PDFGen/pdfgen.prg?filingid=1782629&amendid=0>. The expense was next reported on California Form 460 for the period 07/01/13-12/31/13, on Schedule F (page 16) where it is shown as both "outstanding balance beginning of this period" and "amount paid this period", and also reported as required on Schedule E (page 13) for payments made during the period: <http://cal-access.sos.ca.gov/PDFGen/pdfgen.prg?filingid=1817778&amendid=0>

Despite being a candidate for federal office beginning in July 2013, Senator Walters continued to serve her State Senate constituents for another 18 months, and accordingly incurred non-state-reimbursed expenses. State law generally prohibits receipt of contributions after an election, unless the committee has debt outstanding from that election. (Cal. Gov. Code § 85316(a).) Following the November 2012 election, Rep. Walters had no debt owed by Friends of Mimi Walters for Senate 2012² ("State Committee 1", registered 01/13/09, terminated 12/31/14), and therefore was not allowed to raise any additional funds into State Committee 1, despite having a four-year State Senate term ahead of her. However, state law permits an elected state officer to establish a separate committee to raise funds specifically for the purpose of paying expenses associated with holding the elected office. (Cal. Gov. Code § 85316(b).) Officeholder committees are expressly prohibited from using the funds to make contributions or transfers to another state or local committee or for any "campaign expenses" associated with *running* for office. (2 Cal. Code Regs. § 18531.62.) Senator Mimi Walters 2012 Officeholder Account³ ("State Committee 2," registered 01/30/13, terminated 07/22/14) was therefore established and operated pursuant to this authority.

Both State Committee 1 and State Committee 2 were authorized by law to make expenditures for purposes related "to the incumbent term of office" and could be used interchangeably for such payments. (2 Cal. Code Regs. § 18525.) Kate Keena and Barb Thomas were principals in "Keena Thomas Communications, LLC." The principals parted ways sometime around October or November 2013, and Barb Thomas established "Thomas Communications Group" sometime prior to December 2013 (companies collectively referred to as "Thomas"). Thomas was paid by State Committee 1 or State Committee 2 solely for services related to State Senate constituent outreach – a fixed monthly retainer in the amount of \$159 to maintain the contacts database, and an hourly rate for drafting content, designing and distributing a regular newsletter and other constituent correspondence, and planning and holding district events – all to keep constituents in the State Senate district informed on legislative news coming from the State Capitol and within the district. None of the communications or events had any nexus whatsoever to Rep. Walters' candidacy for House of Representatives. The reason for payments coming from both committees at various times resulted from the availability of funds in one committee or the other – from June 2013 until September 2013, State Committee 1 paid for these expenses. State Committee 2 took over payment of these expenses from December 2013 until May 2014. At that point, State Committee 2 had exhausted its funds and terminated shortly thereafter, and State Committee 1 resumed paying for these expenses from June 2014 until November 2014, when Rep. Walters vacated her State Senate seat to join the House of Representatives.

² Electronically filed campaign statements for the relevant period available on Secretary of State, Cal-Access: <http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1314311&view=electronic&session=2013>

³ Electronically filed campaign statements for the relevant period available on Secretary of State, Cal-Access: <http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1355246&session=2013&view=electronic>

RE: MUR 7323, Walters for Congress, Rep. Mimi Walters, Jen Slater, Treasurer
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The payments made were as follows:

<u>Date Paid</u>	<u>Amount</u>	<u>Committee</u>
07/31/13	\$125.00	State Committee 1
09/06/13	\$737.50	State Committee 1
09/06/13	\$1,045.40	State Committee 1
12/03/13	\$1,362.50	State Committee 2
12/09/13	\$311.50	State Committee 2
01/20/14	\$832.87	State Committee 2
02/06/14	\$608.23	State Committee 2
03/11/14	\$309.00	State Committee 2
04/07/14	\$459.00	State Committee 2
05/06/14	\$159.00	State Committee 2
06/04/14	\$234.00	State Committee 1
07/03/14	\$209.00	State Committee 1
08/08/14	\$246.50	State Committee 1
09/12/14	\$184.00	State Committee 1
10/06/14	\$184.00	State Committee 1
11/10/14	\$309.00	State Committee 1

The handful of relatively nominal payments from the state committees during 2013 and 2014 as Senator Walters wrapped up her service in the California State Senate and explored future opportunities are neither suspicious nor unusual, but were instead quite ordinary and modest, and directly related to holding state elective office or briefly pursuing a local elective office. There being no basis whatsoever to find Rep. Walters in violation of the Federal Election Campaign Act, Commission staff should take no action on the complaint and dismiss this matter immediately.

Respectfully submitted,



Ashlee Titus
Counsel for Respondents



FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

EMAIL cela@fec.gov

FAX 202-219-3923

MUR # 7323

Name of Counsel: Ashlee Titus

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Sacramento, CA 95814

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The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

02/28/18
Date

Mimi Walters
Signature (Respondent/Agent)

Congresswoman
Title

RESPONDENT: Walters for Congress; Rep. Mimi Walters

(Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address: 9070 Irvine Center Drive #150
(Please Print)

Irvine, CA 92618

Telephone (H): _____ (W): (949) 858-7448

E-mail: jeneve@campaign-compliance.com

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.



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MUR # 7323

Name of Counsel: Ashlee Titus

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E-mail: atitus@bmhlaw.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

02/28/18
Date

Jen Slater
Signature (Respondent/Agent)

Treasurer
Title

RESPONDENT: Walters for Congress; Jen Slater, Treasurer
(Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address: 9070 Irvine Center Drive #150
(Please Print)

Irvine, CA 92618

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