

OFFICE OF  
GENERAL COUNSELBEFORE THE  
FEDERAL ELECTION COMMISSION

1014 FEB 12 AM 10:30

Brad Woodhouse  
 American Democracy Legal Fund  
 455 Massachusetts Avenue, NW  
 Washington, DC 20001

MUR # 7566

Complainant,

v.

Senator Martha McSally  
 P.O. Box 19128  
 Tucson, AZ 85710

McSally for Senate, Inc. and Paul Kilgore, Treasurer  
 824 S. Milledge Ave.  
 Athens, GA 20605

Respondents.

**COMPLAINT**

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Senator Martha McSally (R-AZ), McSally for Senate, Inc. (the “Committee”), and Paul Kilgore, in his official capacity as Treasurer (collectively “Respondents”) for violating the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “Commission”) regulations, as described below. Publicly available reports indicate that Senator McSally’s Senate campaign accepted hundreds of thousands of dollars’ worth of contributions in excess of the Act’s contribution limits. Due to Respondents’ long history of disregarding campaign finance laws, we respectfully request that the Commission investigate these violations, enjoin Respondents from committing any further violations, and fine Respondents the maximum amount permitted by law.

## I. FACTS AND LEGAL DISCUSSION

In 2018, Representative Martha McSally was the Republican nominee for a U.S. Senate seat in Arizona.<sup>1</sup> McSally for Senate, Inc. was her principal campaign committee.<sup>2</sup> Although she lost the Senate election to her Democratic opponent, Kyrsten Sinema, Arizona Governor Doug Ducey appointed her to fill Arizona's other Senate seat, previously held by the late Senator John McCain, and she was sworn into office on January 3, 2019.<sup>3</sup>

The Federal Election Campaign Act and its regulations limit the amount of money that any person may contribute to federal candidates, including candidates for U.S. Senate.<sup>4</sup> It is illegal for anybody to contribute—and for any candidate to receive or accept—contributions to a candidate in excess of \$2,700 per election.<sup>5</sup> If a campaign receives an excessive contribution from any person, it has 60 days to remedy the situation by either redesignating or reattributing the contribution, or if that is not possible, by refunding it.<sup>6</sup>

Despite these clear limitations, throughout the 2018 U.S. Senate campaign, Senator McSally's campaign accepted hundreds of thousands of dollars in excessive, and therefore illegal, campaign donations. Indeed, recent reports indicate that the Committee accepted more than \$270,000 in excessive campaign contributions from over 60 donors.<sup>7</sup> The Commission has

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<sup>1</sup> Martha McSally, FEC Form 2, Statement of Candidacy (Jan. 11, 2018), <http://docquery.fec.gov/pdf/290/201801120200001290/201801120200001290.pdf>.

<sup>2</sup> McSally for Senate, Inc., FEC Form 1, Statement of Organization (Jan. 11, 2018), <http://docquery.fec.gov/pdf/294/201801120200001294/201801120200001294.pdf>.

<sup>3</sup> Ronald J. Hansen, Kyrsten Sinema, Martha McSally make history, face familiar problems, Arizona Republic (Jan. 3, 2019), <https://www.azcentral.com/story/news/politics/arizona/2019/01/03/kyrsten-sinema-martha-mcsally-sworn-us-senate/2472241002/>.

<sup>4</sup> 52 U.S.C. § 30116(a); 11 C.F.R. § 110.1.

<sup>5</sup> *See id.* at § 30116(a)(1)(A), (c)(1)(C).

<sup>6</sup> 11 C.F.R. § 103.3(b)(3).

<sup>7</sup> Brian Slodysko, *FEC flags Arizona senator for excessive campaign donations*, AP (Jan. 31, 2019), <https://apnews.com/41d63f30a1da4fedb9b5d8a4118e0a10>.

given the Committee until early March to refund the money and correct its campaign finance filings.<sup>8</sup>

This is not the first time that Senator McSally's federal campaign committee has committed serious campaign finance violations, or indeed even accepted hundreds of thousands of dollars in excessive campaign contributions. In 2015, an Arizona newspaper uncovered the fact that the McSally congressional campaign's campaign finance reports had "overstated her fundraising by nearly \$3.3 million" and was "failing to collect all of the information required for a majority of her itemized donors," 674 out of 956.<sup>9</sup> These severe violations occurred while Respondent Paul Kilgore served as treasurer to her congressional campaign.<sup>10</sup>

The violations from Senator McSally's 2014 congressional campaign were so vast and egregious that in 2018 the Commission unanimously voted to adopt the findings of an audit of the campaign that found that the campaign had:

1. Received 153 contributions, totaling \$319,212, that were above the limit for campaign donations from individuals.
2. Overstated campaign fundraising by \$94,528, and campaign spending by \$85,472.
3. Failed to disclose employer and occupation information on 1,266 contributions totaling \$687,572.
4. Failed to file, or filed late, required 48-hour notices for 33 contributions totaling \$99,853.

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<sup>8</sup> Fed. Election Comm'n, Request for Additional Information, ID No. C00666040 (Feb. 5, 2019), <http://docquery.fec.gov/pdf/217/201902050300030217/201902050300030217.pdf>; Fed. Election Comm'n, Request for Additional Information, ID No. C00666040 (Jan. 28, 2019), <http://docquery.fec.gov/pdf/763/201901280300029763/201901280300029763.pdf>.

<sup>9</sup> Dylan Smith, *Errors in McSally campaign reports add up to millions*, TUCSON SENTINEL (July 17, 2015), [http://www.tucsonsentinel.com/local/report/071715\\_mcsally/errors-mcsally-campaign-reports-add-up-millions/](http://www.tucsonsentinel.com/local/report/071715_mcsally/errors-mcsally-campaign-reports-add-up-millions/).

<sup>10</sup> *Id.*

5. Failed to correctly itemize \$32,750 in 15 contributions from other political committees.<sup>11</sup>

Given this new revelation regarding the \$270,000 in excessive contributions, it would appear that despite clear warning from the Commission in early 2018 that the Committee's accounting methods were inadequate and leading to systemic misreporting and the acceptance of hundreds of thousands of dollars in illegal contributions, Respondents have refused to change their ways. Without swift and firm action from the Commission, Respondents will likely continue to systemically violate the Act when Senator McSally is up for reelection in 2020.

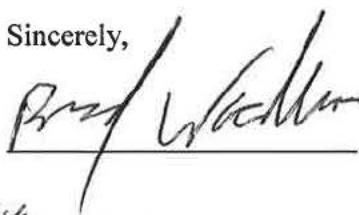
## II. REQUESTED ACTION

As we have shown, Respondents have violated the Act by accepting excessive contributions for years. These repeated violations, which continued after clear warning from the Commission, indicate that Respondents have not taken steps to ensure that excessive contributions are not accepted. Respondents' actions also suggest that prior actions the Commission has taken were not forceful enough to inspire Respondents to alter their illegal behaviors. As such, we respectfully request that the Commission take more significant administrative action than an audit by investigating these violations further, enjoining Respondents from further violations in order to prevent such illegality from spreading into Arizona's special election for U.S. Senate in 2020, and fining Respondents the maximum amount permitted by law.

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<sup>11</sup> Dylan Smith, *FEC audit: McSally campaign misstated finances, didn't disclose donors' jobs*, TUCSON SENTINEL (Apr. 26, 2018), [http://www.tucsonsentinel.com/local/report/042618\\_mcsally\\_fec/fec-audit-mcsally-campaign-misstated-finances-didnt-disclose-donors-jobs/](http://www.tucsonsentinel.com/local/report/042618_mcsally_fec/fec-audit-mcsally-campaign-misstated-finances-didnt-disclose-donors-jobs/).

Sincerely,



SUBSCRIBED AND SWORN to before me this 8<sup>th</sup> day of February, 2019.



GREGORY SENGING  
Notary Public

My Commission Expires:

07-14-2021