



## FEDERAL ELECTION COMMISSION

Washington, D.C. 20463

**MEMORANDUM**

**TO:** The Commission

**FROM:** Lisa J. Stevenson  
Acting General Counsel

Charles Kitcher  
Associate General Counsel for Enforcement

Claudio J. Pavia  
Deputy Associate General Counsel for Enforcement

BY: Mark Allen *MA*  
Assistant General Counsel

Christine C. Gallagher      *CG*  
Attorney

**SUBJECT:** MUR 7380 (McSally for Senate, Inc.)  
Pre-Probable Cause Conciliation

On May 20, 2021, the Commission found reason to believe that McSally for Senate, Inc. (the “Senate Committee”), and McSally for Congress (the “House Committee”) and Paul Kilgore in his official capacity as treasurer of both committees (collectively, “Respondents”) violated 52 U.S.C. § 30116(a)(5)(C) by impermissibly transferring funds from the House Committee to the Senate Committee while Martha McSally was actively seeking both nominations.<sup>1</sup> The Commission further found reason to believe that the Senate Committee violated 52 U.S.C. § 30116(f) by receiving excessive individual contributions created by the transfers as well as excessive contributions disclosed in the Senate Committee’s 2018 12-Day Pre-General and 30-Day Post-General Reports.<sup>2</sup> In addition, the Commission authorized pre-probable cause to believe conciliation and approved a conciliation agreement

In response to the Commission's findings, Respondents provided a declaration from Martha McSally in which she avers that she was not "actively seeking" election to both offices when the House to Senate Committee transfers were made.

For the reasons stated below, we recommend that the Commission take no further action on its

<sup>1</sup> Certification (“Cert.”) ¶ 2.d, e (June 1, 2021); *see* Factual and Legal Analysis (“F&LA”) at 4-6, 8-15.

<sup>2</sup> Cert. ¶ 2.c; *see* F&LA at 13-15, 23.

MUR 7380 (McSally for Senate, Inc.)

Memorandum to the Commission

Page 2 of 5

1 reason-to-believe finding that the Senate and House Committees violated 52 U.S.C.

2 § 30116(a)(5)(C)

3 that the Commission

We further recommend

approve a new offer

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MUR 7380 (McSally for Senate, Inc.)

Memorandum to the Commission

Page 3 of 5

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MUR 7380 (McSally for Senate, Inc.)

Memorandum to the Commission

Page 4 of 5

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11 **II. Office of the General Counsel's Proposal**

12       Attached is a proposed revised offer to the Senate Committee deleting the 52 U.S.C.  
13 § 30116(a)(5)(C) violation

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23       Accordingly, we recommend that the Commission approve the attached proposed  
24 new offer.

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26 **RECOMMENDATIONS:**

27       1. Take no further action with respect to the reason-to-believe findings that McSally for  
28 Senate, Inc. and Paul Kilgore in his official capacity as treasurer and McSally for

MUR 7380 (McSally for Senate, Inc.)

## Memorandum to the Commission

Page 5 of 5

Congress and Paul Kilgore in his official capacity as treasurer violated 52 U.S.C. § 30116(a)(5)(C) by impermissibly transferring funds from McSally's House Committee to her Senate Committee while she was actively seeking both nominations;

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5       3. Approve the attached proposed Conciliation Agreement; and

6 4. Approve the appropriate letter.

## 7 Attachments

8        1. Martha E. McSally Declaration

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## **BEFORE THE FEDERAL ELECTION COMMISSION**

**DECLARATION OF MARTHA E. MCSALLY**

I, Martha E. McSally, declare:

1. I served as a Member of Congress representing Arizona's Second Congressional District from 2015 to 2019. My principal campaign committee for the U.S. House was McSally for Congress.
2. On January 11, 2018, I filed a Statement of Candidacy for U.S. Senate to fill the seat of retiring U.S. Senator Jeff Flake. I filed a Statement of Organization for my U.S. Senate campaign committee, McSally for Senate, Inc., the same day.
3. On January 12, 2018, I publicly announced my candidacy for U.S. Senate in a video posted on YouTube and at a campaign kickoff event in Tucson, AZ.
4. Following my announcement of my Senate candidacy on January 12, 2018 and prior to my U.S. House campaign committee first transferring funds to my U.S. Senate campaign committee on January 22, 2018, I publicly announced my intention to not run for reelection to my U.S. House seat to supporters, donors and other Arizona voters on numerous occasions along the campaign trail. This included public announcements and conversations with supporters in both smaller settings and at larger campaign events and fundraisers.
5. After my Senate candidacy announcement on January 12, 2018, I ceased to conduct campaign activities with respect to my reelection to the U.S. House, but my House campaign committee was unable to terminate due to outstanding FEC enforcement matters.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of November, 2021

  
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Martha E. McSally