

OFFICE OF  
GENERAL COUNSEL  
Before the Federal Election Commission

2018 AUG 27 AM 10:33

Rodney J. Strange

Elmira, NY 14904

v.

MUR no.

7488

Tracy Mitrano

Ithaca, NY 14850

Friends of Tracy Mitrano Committee

Penn Yan, NY 14527

**Complaint**

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a) and is based on information providing reason to believe that Tracy Mitrano's campaign for U.S. House of Representatives the Friends of Tracy Mitrano Committee (C00654525), Centerway Commerce Building LLC, and/or unknown persons ("John Doe") violated reporting requirements and contribution limits and restrictions of the Federal Election Campaign Act ("FECA), 52 U.S.C. § 30101, *et seq.*, and commission regulations.
2. Specifically, based on publicly available data and published reports Friends of Tracy Mitrano Committee has operated an office at 5 E. Market Street in a building owned by Centerway Commerce Building LLC in the City of Corning, New York that was not reported as an in-kind contribution to Friends of Tracy

Mitrano for Congress and was not reported as an expenditure by the committee. See 52 U.S.C. §§ 30101(8)(A) (defining "contribution") and 30101(9)(A) (defining "expenditure"); see also 52 U.S.C. § 30104(b) (requiring reporting of "contributions" and "expenditures" by political committees).

3. Regardless of the source of the funds to pay for the office space at 5 E. Market Street (including, e.g., if Tracy Mitrano provided the funds), complainant has reason to believe that Friends of Tracy Mitrano Committee failed to report its receipt of this in-kind contribution and failed to report its disbursement to Centerway Commerce Building LLC in violation of 52 U.S.C. § 30104(b).
4. Complainant has reason to believe that Centerway Commerce Building LLC made, and Friends of Tracy Mitrano Committee received, an excessive in-kind contribution in violation of 52 U.S.C. § 30116(a)(1)(A) or a corporate contribution in violation of 52 U.S.C. § 30118(a).
5. "If the Commission, upon receiving a complaint ... has reason to believe that a person has committed, or is about to commit, a violation of the Act ... the Commission shall make an investigation of such alleged violation" 52 U.S.C. § 30109(a)(2); see also 11 C.F.R. § 111.4(a).
6. "A 'reason to believe' finding followed by an investigation would be appropriate when a complaint credibly alleges that a significant violation may have occurred, but further investigation is required to determine whether a violation in fact occurred, and, if so, its exact scope." FEC, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545 (March 16, 2007).

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## Facts

7. Friends of Tracy Mitrano Committee publicly announced the opening of their campaign office at 5 E. Market Street in the City of Corning, New York on June 1<sup>st</sup>, 2018.<sup>1</sup>
8. Centerway Commerce Building LLC owns 5 E. Market Street in the City of Corning, New York.<sup>2</sup>
9. Centerway Commerce Building LCC was neither disclosed as the recipient of a disbursement by Friends of Tracy Mitrano Committee, nor was it reported as the payee of an in-kind contribution to the Friends of Tracy Mitrano Committee in reports to the Committee.
10. Friends of Tracy Mitrano Committee did not disclose any expenditure for the rent or office space in any of their filings with the Committee and did not disclose any outstanding debt for office space despite operating the office through two Commission reporting periods.
11. Centerway ExecuCenter a tenant of Centerway Commerce Building LLC rents office space for \$40 an hour in the same building that Friends for Tracy Mitrano Committee currently occupy.<sup>3</sup>
12. At the prevailing rate charged for smaller, lower visibility, and temporary office space in the same building, Friends of Tracy Mitrano Committee would have

<sup>1</sup> Tracy Mitrano for Congress, "Grand Opening of Tracy Mitrano Campaign Office in Corning," Facebook, June 1, 2018, available at <https://www.facebook.com/events/166602024010827/>

<sup>2</sup> "Ownership Information," Steuben County (New York) Real Property, accessed July 20, 2018, available at [http://cityofcorning.sdgny.com/propdetail.aspx?swis=460300&printkey=3180370001045000+\\*\\*\\*](http://cityofcorning.sdgny.com/propdetail.aspx?swis=460300&printkey=3180370001045000+***)

<sup>3</sup> "Book Now," Centerway ExecuCenter, accessed July 20, 2018, available at <http://centerwayec.com/book-now-online/>

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failed to report at least a \$28,800 expenditure for their permanent and use of this larger, high visibility office space.

### **Summary of the Law**

13. The term "contribution" is defined in the FECA to mean "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office." 52 U.S.C. § 30101(8)(A)(i).
14. As used in the definition of "contribution," the phrase "anything of value" includes "all in-kind contributions." The "provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution." 11 C.F.R. § 100.52(d)(1).
15. The term "expenditure" is defined in FECA to mean "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for federal office." 11 C.F.R. §§ 100.110-100.114.
16. As used in the definition of "expenditure," the phrase "anything of value" includes "all in-kind contributions." The "provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is an expenditure." 11 C.F.R. § 100.111(e)(1).
17. The authorized committee of a candidate for federal office must report to the Commission the identification of each person who makes a contribution to the committee or to whom an expenditure is made by the committee in aggregate of \$200 within the calendar year. 52 U.S.C. §§ 30104(b)(3)(A) and (b)(5)(A).

## **Causes of Action**

### **Count I:**

#### **Friends of Tracy Mitrano Committee Failed to Accurately Report Disbursement**

18. FECA and Commission regulations require that committees itemize each disbursement in excess of \$200, together with the "purpose" of the disbursement. 52 U.S.C. § 30104(b)(5), (b)(6)(B)(v); 11 C.F.C. § 104.3(b)(3)(i), (b)(4)(i), "Purpose" is defined as "a brief statement or description of why the disbursement was made," 11 C.F.C. § 104.3(b)(3)(i)(A), (b)(4)(i)(A).
19. Friends of Tracy Mitrano Committee opened their campaign office in Corning on June 1, 2018 and continue to occupy the space at the time of this complaint. The campaign did not disclose in their Pre-Primary Report or July Quarterly Report any disbursement for office space. Furthermore, they did not disclose any disbursement to Centerway Commerce Building LLC, the owner of the building they are occupying.
20. Friends of Tracy Mitrano Committee's failure to report this disbursement clearly failed the Commission's requirements for disclosing a disbursement and its purpose.

### **Count II:**

#### **Centerway Commerce Building LLC Made, and Friends of Tracy Mitrano Committee Received an Excessive or Corporate Contribution in Violation of the Federal Elections Campaign Act**

21. FECA and Commission regulations prohibit individuals for making contributions to federal candidates in excess of \$2700 per election. The fair market value of

office space at 5 E. Market Street, Corning, NY according to promotional materials produced by Centerway ExecuCenter is well in excess of the contribution limit. The building is owned by Centerway Commerce Building LLC and occupied by the Friends of Tracy Mitrano Committee. 52 U.S.C. § 30116(a)(1)(A).

22. If Centerway Commerce Building LLC did not charge rent to Friends of Tracy Mitrano Committee it would be for the purpose of influencing a federal election and therefore be considered an "expenditure" and constitute an in-kind "contribution" according to federal law. 52 U.S.C. §§ 30101(8)(A) (defining "contribution") and 30101(9)(A) (defining "expenditure").

23. Centerway Commerce Building LLC is a corporation and federal law prohibits corporations from making contributions to federal candidates. 52 U.S.C. § 30118(a).

#### **Prayer for Relief**

24. Wherefore the Commission should find reason to believe that Friends of Tracy Mitrano Committee, Centerway Commerce Building LLC, and/or John Doe have violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondents from any and all violations in the future, and should impose additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Respectfully submitted,



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Rodney J. Strange

Elmira, NY 14904  
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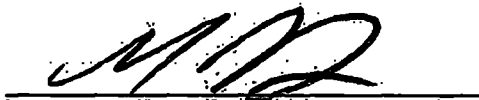
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Verification

The complainant listed below hereby verifies that the statement made in the attached Complaint are, upon their information and belief, true.

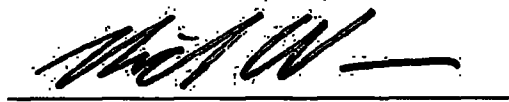
Shown pursuant to 18 U.S.C. § 1001.

For Complainant Rodney J. Strange



Rodney J. Strange

Sworn to and subscribed before me this 25 day of July 2018.



Notary Public

