



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA CERTIFIED MAIL
AND ELECTRONIC MAIL
compliance@endcitizensunited.org

August 12, 2020

RETURN RECEIPT REQUESTED

Tiffany Muller
End Citizens United
P.O. Box 66005
Washington, DC 20035

RE: MUR 7665
McSally for Senate, Inc.
and Paul Kilgore, as treasurer

Dear Ms. Muller:

The Federal Election Commission has considered the allegations contained in your complaint dated February 16, 2020. On August 6, 2020, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to McSally for Senate, Inc. and Paul Kilgore, in his official capacity as treasurer, and closed its file in this matter. The General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016.

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in blue ink, appearing to read "Jeff S. Jordan".

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
General Counsel's Report

1 **BEFORE THE FEDERAL ELECTION COMMISSION**
2
3 **ENFORCEMENT PRIORITY SYSTEM**
4 **DISMISSAL REPORT**
5

6 **MUR:** 7665

7 **Respondent:** McSally for Senate, Inc.
8 and Paul Kilgore, as treasurer
9 (the “Committee”)

10 **Complaint Receipt Date:** November 26, 2019

11 **Response Date:** December 19, 2019

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15 **Alleged Statutory/
16 Regulatory Violations:**

15 **52 U.S.C. §§ 30102(i), 30104(b)(3)(A)
16 11 C.F.R. §§ 104.3(a)(3), 104.7(b)**

17
18 The Complaint alleges that Respondents violated the Act’s reporting requirements by failing
19 to disclose employer and occupation information for at least 627 contributors on the Committee's
20 2019 October Quarterly Report.¹ The Response asserts that the Committee included appropriate
21 “best efforts” notices and provides space for contributors to write in occupation and employer name
22 information in its solicitations.² Furthermore, Respondents state that when the Committee receives
23 a contribution and the contributor has not provided employer and occupation information, the
24 Committee sends a letter to the contributor within 30 days asking for that information.³

25 Based on its experience and expertise, the Commission has established an Enforcement
26 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
27 assess whether particular matters warrant further administrative enforcement proceedings. These
28 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
29 and the amount in violation; (2) the apparent impact the alleged violation may have had on the

¹ Compl. at 1-2 (Nov. 26, 2019). The Complaint alleges that a total of \$284,488 in contributions lack required contributor information. *Id.*, Ex A.

² Resp. at 2 (Dec. 19, 2019).

³ *Id.* at 2-3.

1 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
2 potential violations and other developments in the law. This matter is rated as low priority for
3 Commission action after application of these pre-established criteria.⁴ Given that low rating and the
4 steps taken by the Respondents to obtain information, we recommend that the Commission dismiss
5 the Complaint consistent with the Commission's prosecutorial discretion to determine the proper
6 ordering of its priorities and use of agency resources.⁵ We also recommend that the Commission
7 close the file as to all respondents and send the appropriate letters.

8
9 Lisa J. Stevenson
10 Acting General Counsel

11
12 Charles Kitcher
13 Acting Associate General Counsel

14
15 03.27.20

16 Date

17 BY:



18 Stephen Gura
19 Deputy Associate General Counsel



20 Jeff S. Jordan
21 Assistant General Counsel



22 Donald E. Campbell
23 Attorney
24
25

⁴ These allegations do not meet Standard 8 of the Report Analysis Division's Review and Referral Procedures for the 2019-2020 Election Cycle for referral to the Office of General Counsel or Alternative Dispute Resolution Office

⁵ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).