

**FEDERAL ELECTION COMMISSION**

Washington, DC 20463

February 11, 2022

VIA CERTIFIED
RETURN RECEIPT REQUESTED

Robert Burns, Campaign Manager
Jim Kennedy for Congress
5829 Duskywing Drive
Rockledge, FL 32955

RE: MUR 7707
Friends of Bill Posey, *et al.*

Dear Mr. Burns:

On January 27, 2022, the Federal Election Commission reviewed the allegations contained in the complaint filed by you on February 20, 2020. The Commission dismissed, as a matter of prosecutorial discretion, the allegations that: (1) American Muscle Car Museum, Inc. made and Mark Judson Pieloch consented to the making of a prohibited contribution in violation of 52 U.S.C. § 30118; (2) Bill Posey accepted a prohibited in-kind contribution in violation of 52 U.S.C. § 30118(a); (3) Friends of Bill Posey and Nancy H. Watkins in her official capacity as treasurer (the “Committee”) accepted and failed to report prohibited and excessive contributions in violation of 52 U.S.C. §§ 30116(f), 30118(a) and 30104(b); and (4) Mark Judson Pieloch and Tetiana Pieloch made, and Bill Posey received, excessive in-kind contributions in violation of 52 U.S.C. § 30116(a) and (f). The Commission also found no reason to believe that the Committee failed to report contributions received and expenditures made at the relevant campaign events in violation of 52 U.S.C. § 30104(b). Accordingly, the Commission closed its file in this matter.

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 Factual and Legal Analysis, which explains the Commission’s findings, is enclosed for your information.

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Robert Burns
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The Federal Election Campaign Act of 1971, as amended, 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 Dominique Dillenseger, the attorney assigned to this matter, at (202) 694-1650 or ddillenseger@fec.gov.

Sincerely,

Lisa Stevenson
Acting General Counsel

A handwritten signature in cursive script that reads "Jin Lee".

BY: Jin Lee
Acting Assistant General Counsel

Enclosure:
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Friends of Bill Posey and Nancy H. Watkins **MUR: 7707**
 4 in her official capacity as treasurer
 5 Bill Posey
 6 American Muscle Car Museum, Inc.
 7 Mark Judson Pieloch
 8 Tetiana Pieloch
 9

10 **I. INTRODUCTION**

11 The Complaint alleges that Bill Posey and his principal campaign committee, Friends of
 12 Bill Posey (the “Posey Committee”), accepted prohibited and excessive contributions from the
 13 American Muscle Car Museum, Inc. (the “Museum”), Mark Pieloch, the President and owner of
 14 the Museum, and his wife, Tetiana Pieloch, in connection with campaign events the Posey
 15 Committee held at the Museum in 2018 and 2019.¹ The Complaint further alleges that the
 16 Museum denied a request from a representative for Jim Kennedy for Congress, Posey’s
 17 opponent, to host a similar fundraiser.² Finally, the Complaint alleges that the Posey Committee
 18 failed to report contributions received and expenditures made at those events.³

19 Respondents deny the allegations and contend that the Posey Committee’s use of the
 20 Museum was exempt as a contribution under the Federal Election Campaign Act of 1971, as
 21 amended (the “Act”) and Commission regulations. They claim that Pieloch personally owns the
 22 venue at which the events took place; neither Pieloch nor the Museum charge fees for use of the
 23 venue, which is made available to other civic and non-profit organizations on similar terms; and

¹ Compl. ¶¶ 2, 3, 5 (Feb. 20, 2020).

² *Id.* ¶ 6.

³ *Id.* ¶ 4.

1 Pieloch frequently volunteers his time for civil and charitable events held at the Museum.⁴
2 Further, Respondents argue that even if a contribution resulted from the use of the venue, the
3 monetary value was likely *de minimis*, and the Commission should dismiss the matter in the
4 exercise of its prosecutorial discretion.⁵

5 As explained below, the Commission dismisses the allegations that the Posey campaign's
6 use of the Museum resulted in excessive or prohibited contributions from American Muscle Car
7 Museum, Inc. or Mark and Tetiana Pieloch, in violation of 52 U.S.C. §§ 30116(a) and (f) and
8 30118(a); and that the Posey Committee failed to report the contributions in violation of 52
9 U.S.C. § 30104(b).⁶ Finally, because the available information does not indicate that the Posey
10 Committee failed to report contributions raised or expenditures made in connection with these
11 events, the Commission finds no reason to believe that the Posey Committee violated 52 U.S.C.
12 § 30104(b).

13 **II. FACTUAL BACKGROUND**

14 Friends of Bill Posey is the principal campaign committee of U.S. Representative Bill
15 Posey, who represents Florida's Eighth Congressional District. Nancy Watkins is the Posey
16 Committee's treasurer. Jim Kennedy was Posey's opponent in the 2020 general election.

17 The Museum, a section 501(c)(3) organization established under the Internal Revenue

⁴ The Museum and the Pielochs submitted a joint response, which includes a Declaration by Andrew Mackey, the Event and Media Coordinator for the Museum. *See* Museum Resp. (Apr. 18, 2020), Exhibit A, Andrew Mackey Decl. (Apr. 15, 2020) ("Mackey Decl."). The Posey Committee's response includes a Declaration by Amber Steigerwald, finance director for the Committee. *See* Posey Resp. (Apr. 18, 2020), Exhibit A, Amber Steigerwald Decl. (Apr. 17, 2020) ("Steigerwald Decl.").

⁵ Museum Resp. at 4; Posey Resp. at 1.

⁶ *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

1 Code,⁷ is a private automobile museum located in Melbourne, Florida.⁸ Mark Pieloch, a Florida
 2 businessman, is the President and Curator of the museum and owns the real estate where the
 3 Museum is located.⁹ Records for Pieloch’s property describe the property as a “Permanent
 4 Exhibit” consisting of one “commercial unit” and “0” residential units.¹⁰ Pieloch also owns
 5 nearly all of the more than 300 automobiles displayed at the Museum.¹¹ Mark and Tetiana
 6 Pieloch are supporters of Posey, each having made maximum contributions to Posey’s 2018 and
 7 2020 campaigns.¹²

8 In 2016, Pieloch established the Museum to make the property and automobiles available
 9 for tours and use by civic and charitable organizations.¹³ The Museum does not lease the
 10 premises or the vehicles, nor is it open for general public admission.¹⁴ The Museum states that it
 11 never charges any fee for activities held at the venue,¹⁵ and that Pieloch volunteers his time to

⁷ See Museum website, <https://www.americanmusclecarmuseum.com/> Screenshot of American Muscle Car Museum, Inc. (last accessed July 23, 2020).

⁸ Museum Resp. at 2 (Apr. 18, 2020).

⁹ <https://www.americanmusclecarmuseum.com/> (last accessed July 23, 2020).

¹⁰ See Property Record for 3500 Sarno Road, Melbourne, Florida, <https://www.bcpao.us/PropertySearch/#/account/2745421>. The Museum does not appear to be co-located with Pieloch’s residence.

¹¹ Museum Resp. at 2; Mackey Decl. ¶ 2

¹² See Posey 2017 Year-End Report at 13 (reporting \$2,700 contributions from Tetiana and Mark Pieloch); Posey 2018 April Quarterly at 30 (reporting \$2,700 contributions from Tetiana and Mark Pieloch).

¹³ Museum Resp. at 2.

¹⁴ *Id.*; Mackey Decl. ¶¶ 2-3. According to the Museum’s website, the private museum is a 123,000 square foot complex, located on 42 acres in Melbourne, Florida, which includes 90,000 square feet of vehicle display area, an 18,000 square feet showroom, and an adjacent 15,000 square feet maintenance and restoration collection.

¹⁵ Museum Resp. at 2. The Museum states that Complaint’s assertion that the Museum maintains a “regular entry price to the museum [that] is and has been \$100 per person” and “discount[ed] the admission price by 95% for attendees of the Posey Committee’s event,” is mistaken. Museum Resp. at 2, n.8. Each organization that uses the

1 welcome attendees and give free tours of his automobiles.¹⁶

2 The Posey Committee held three campaign events at the museum: two campaign
3 fundraising events on February 19, 2018 and September 11, 2018, and a campaign rally for
4 supporters and their families on September 7, 2019.¹⁷ According to its disclosure reports filed
5 with the Commission, the Posey Committee disclosed no itemized contributions made on the
6 date of the first fundraiser held on February 19, 2018; seven itemized contributions totaling
7 \$3,950 made on the date of the second fundraiser held on September 11, 2018; and three
8 itemized contributions totaling \$1,255 made on the date of the campaign rally/fundraiser held on
9 September 7, 2019.¹⁸ The Posey Committee also disclosed disbursements for food and catering
10 around the time of the events.¹⁹

11 The Complaint alleges that on an unidentified date, the Kennedy campaign formally
12 requested to use the Museum to hold a fundraising event but was told that the Museum did not

venue decides whether to request contributions, and how much to request, in connection with their events, and each organization handles their own contributions without involvement of the Museum. Mackey Decl. ¶¶ 5, 7.

¹⁶ Museum Resp. at 2; Mackey Decl. ¶ 9.

¹⁷ Steigerwald Decl. ¶¶ 3, 5, 6. Included with the Complaint are screenshots of flyers for the September 7, 2019 and September 11, 2018 events. The flyer for the September 7, 2019, event displays a banner headline “Posey Victory Team 2020,” and an invitation “to join Bill & Katie Posey for a day of fun at American Muscle Car Museum.” The event date is posted as “Saturday, September 7th 10 AM – 1 PM” and states “\$5 per Person and \$20 per Family.” The invitation to the Posey fundraising event held at the Museum on September 11, 2018, states: “Please join Former Race Car Driver Congressman Bill Posey For a Special Event to Benefit the Friends of Bill Posey Committee Florida District 8.” It displays the name “American Muscle Car Museum,” the time 6-8 pm, \$100 general attendee admission, half price for military personnel, police, and firefighters and a “\$1,000 –VIP Attendee” ticket, which includes “VIP Reception and private tour with Congressman Posey and American Muscle Car Museum owner, Mark Pieloch.”

¹⁸ See Posey 2018 October Quarterly Report (contributions dated Sept. 11, 2018); 2019 October Quarterly Report (contributions dated Sept. 7, 2019).

¹⁹ See Posey 2018 April Quarterly Report (disbursements for flowers and office supplies on Feb. 19, 2018); Posey 2018 October Quarterly (disbursements for flowers, event membership, and advertisements on Sept. 11, 2018); Posey 2019 October Quarterly (disbursements for pizza, office supplies, and Panera Bread on Sept. 7, 2019).

1 participate in political campaigns “but made an exception for Mr. Posey.”²⁰ The Museum denies
2 this allegation. According to Andrew Mackey, the Museum’s Event and Media Coordinator, the
3 Museum’s availability is limited as the venue is closed on major holidays, for maintenance and
4 cleaning, and whenever Pieloch is away on travel.²¹ He further avers that due to high demand,
5 the venue became fully booked through 2020 by late 2018, and the Museum began declining
6 requests for new bookings at that time.²² Mackey states that in October 2018, the Museum
7 posted a message on its website that stated:²³

8 WE ARE NOT ACCEPTING ANY NEW CHARITY FUNDRAISERS AT THIS
9 TIME! Please do not contact us to host any new future charity fundraisers since
10 we currently have over 200 charities on our waiting lists.
11

12 Mackey acknowledges that after the Posey campaign event in September 2019, he
13 received a call from an individual who apparently represented the Kennedy campaign and
14 requested to hold an event at the Museum.²⁴ Mackey states that he advised the Kennedy
15 representative, as he did other requestors, that the venue was fully booked through 2020.²⁵
16 Mackey stated that “the call ended there” and that he did not tell the Kennedy agent that the
17 Posey event in September 2019 was an “exception.”²⁶ He also avers that he declined the
18 Kennedy request solely due to the scheduling backlog and not because of the Kennedy “group’s

²⁰ Compl. ¶ 6.

²¹ Mackey Decl. ¶ 10.

²² *Id.* ¶ 11.

²³ *Id.*

²⁴ *Id.* ¶ 15.

²⁵ *Id.*

²⁶ *Id.* ¶¶ 15, 16.

1 partisanship.”²⁷ Mackey states that the Museum is now closed due to the coronavirus pandemic
 2 and the events scheduled for 2020 have been postponed or cancelled.²⁸

3 According to Amber Steigerwald, the Posey Committee’s finance director, the success of
 4 the Posey Committee’s first fundraising event at the Museum spurred it to hold two more events
 5 there.²⁹ She states that she “may have seen Mr. Pieloch at a social event later in 2018 or early
 6 2019 and discussed again that the [Posey] Committee would hold another event at the museum in
 7 2019,” “ultimately scheduling the event for September 7, 2019.”³⁰ She asserts that “[t]he
 8 Committee understood and believed that the Museum customarily made its event space available
 9 to groups in the Melbourne area to host private events at no charge on a first-come, first-served,
 10 space-available basis.”³¹

11 **III. LEGAL ANALYSIS**

12

13 **A. Legal Standard**

14

15 The Act defines the term “contribution” to include “any direct or indirect payment,
 16 distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to
 17 any candidate [or] campaign committee . . . in connection with any election”³² The term

²⁷ *Id.* ¶ 15.

²⁸ *Id.* ¶ 12.

²⁹ Steigerwald Decl. ¶¶ 4, 5.

³⁰ *Id.* Steigerwald’s statement that she “discussed again” with Pieloch in “late 2018 or early 2019” about holding another Posey event in 2019, does not necessarily contradict Mackey’s statement that the Museum issued a moratorium against new bookings by October 2018. As noted above, Mackey averred that the Museum had made a commitment to the Posey campaign about holding a third event and Steigerwald’s statement suggests there were prior discussions about that event before her “late 2018 and early 2019” discussion with Pieloch. In any event, any discussions about the third event preceded the timeframe of Kennedy’s request.

³¹ *Id.* ¶ 7.

³² 52 U.S.C. § 30101(8)(a).

1 “anything of value” includes all in-kind contributions.³³ In-kind contributions include, among
 2 other things, “the provision of any goods or services without charge or at a charge that is less
 3 than the usual and normal charge for such goods or services.”³⁴

4 The term “contribution,” however, does not include “the use of real or personal property,
 5 including a church or community room used on a regular basis by members of a community for
 6 noncommercial purposes.”³⁵ Under Commission regulations, no contribution results where an
 7 individual, in the course of volunteering personal services on his residential premises to a
 8 candidate, provides the use of his real or personal property for candidate-related activity.³⁶ In
 9 addition, Commission regulations exempt a volunteer’s use of a church or community room,
 10 provided that such a church or community room be “used on a regular basis by members of the
 11 community for non-commercial purposes and the room is available for use by members of the
 12 community without regard to political affiliation.”³⁷

13 A treasurer of a political committee must file reports of receipts and disbursements in
 14 accordance with the provisions of 52 U.S.C. § 30104(b) and 11 C.F.R. §§ 104.1 and 104.3.³⁸
 15 Reports must itemize contributions aggregating more than \$200 from a contributor during a

³³ 11 C.F.R. § 100.52(d)(1).

³⁴ *Id.*

³⁵ 52 U.S.C. § 30101(8)(B)(ii). The statute also exempts from the definition of “contribution” the “cost of invitations, food, and beverages” provided by the volunteer in connection with the event. 52 U.S.C. § 30101(8)(B)(ii). That provision is not relevant here because the Posey Committee paid for its own invitations, food, and beverages. Steigerwald Decl. ¶¶ 4, 5; Mackey Decl. ¶ 14.

³⁶ 11 C.F.R. § 100.75.

³⁷ 11 C.F.R. § 100.76

³⁸ 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

1 calendar year³⁹ by providing the name, address, and occupation of the contributor and the date
2 and amount of receipt of the contribution.⁴⁰

3 Corporations are prohibited from making a contribution to a federal candidate or his or
4 her authorized campaign committee,⁴¹ and an officer or director of a corporation may not consent
5 to such contribution.⁴² Further, the Act prohibits any person from making excessive
6 contributions.⁴³ Candidates and political committees may not knowingly accept prohibited or
7 excessive contributions.⁴⁴

8 **B. The Factual Record Does Not Support Finding Reason to Believe that**
9 **Respondents Made Excessive or Prohibited Contributions to Posey and the**
10 **Posey Committee**

11
12 The Complaint alleges that the Museum or Pieloch (or both) made excessive or
13 prohibited in-kind contributions to Posey and the Posey Committee by allowing them to hold
14 campaign events at the Museum free of charge. Respondents contend, *inter alia*, that providing
15 the free use of the Museum is exempt as a contribution under the Act and Commission
16 regulations.

³⁹ See 52 U.S.C. § 30104(b)(3), (5).

⁴⁰ 11 C.F.R. § 104.8(b). A campaign may not accept more than \$100 in cash from a particular source, 11 C.F.R. § 110.4 (c), and an anonymous contribution of cash is limited to \$50.

⁴¹ 52 U.S.C. § 30118(a).

⁴² *Id.*

⁴³ 52 U.S.C. §§ 30116(a), 30118(a); 11 C.F.R. §§ 110.1(b)(1), 110.9, 114.2(b). For the 2020 election cycle, the Act limits contributions by persons to any candidate and his or her authorized political committees to \$2,800 per election. 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1)(i); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 84 Fed. Reg. 2504, 2506 (Feb. 7, 2019). For the 2018 election cycle, the individual contribution limit was \$2,700. Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 82 Fed. Reg. 10904 (Feb. 16, 2017).

⁴⁴ 52 U.S.C. §§ 30116(f), 30118(a).

1 The record suggests that the exemption for use of a church or community room applies to
2 the Posey Committee’s free use of Pieloch’s property, provided that the Museum was “used on a
3 regular basis by members of the community for non-commercial purposes” and was “available
4 for use by members of the community without regard to political affiliation.”⁴⁵ The Complaint
5 acknowledges that the Museum “holds numerous fundraisers . . . for many different
6 organizations in the community.”⁴⁶ The Museum and Pieloch submitted a sworn declaration by
7 Mackey, the Museum’s Event and Media Coordinator, attesting that the Museum makes
8 Pieloch’s property available on a regular basis to members of the community for noncommercial
9 purposes,⁴⁷ and that Pieloch volunteered his time to attend events, welcome guests, and give
10 tours of the Museum.⁴⁸ The Commission is not aware of any facts indicating otherwise.

11 In order to qualify for this exemption, however, the Museum must be made available
12 “without regard to political affiliation.” The Complainant alleges that the Museum refused to
13 host a similar fundraiser for Kennedy, Posey’s general election opponent, and both Pieloch and
14 his wife, Tetiana Pieloch, are supporters of Posey, each having made maximum contributions to
15 Posey’s 2018 and 2020 Congressional campaigns.⁴⁹

16 The Museum denies that any partisan considerations played a role in declining Kennedy’s
17 request and has submitted a sworn declaration by Mackey, the Museum’s Event and Media

⁴⁵ 11 C.F.R. § 100.76

⁴⁶ Compl. ¶ 2.

⁴⁷ Mackey Decl. ¶ 4; *see* American Muscle Car Museum Past Event at <https://www.americanmusclecarmuseum.com/muscle-car-past-events.html>. (last accessed Jul. 20, 2020).

⁴⁸ Mackey Decl. ¶ 9; Museum Resp. at 2. Pieloch’s unpaid services at the events appear to qualify for the exemption from the definition of “contribution” for the value of uncompensated services provided by any individual who volunteers on behalf of a candidate or political committee (52 U.S.C. § 30101(8)(B)(ii)).

⁴⁹ Compl. ¶ 6.

1 Coordinator, averring it was unable to schedule the event during the requested period because the
2 Museum was fully booked.⁵⁰ Mackey provides specific facts detailing how the Museum allowed
3 the Posey campaign to hold its events on February and September 2018, before the Museum
4 posted its policy on the backlog on the Museum website in October 2018.⁵¹ With respect to the
5 September 2019 event, he further avers the Museum had made a commitment to the Posey
6 Committee in September 2018.⁵² Furthermore, based on firsthand knowledge, Mackey admits
7 that he spoke to a representative from Kennedy’s campaign and provides details of the particular
8 conversation, stating that he rejected the Kennedy campaign’s request because the Museum’s
9 schedule was full beginning in October 2018.⁵³ Mackey avers that he declined the Kennedy
10 request solely due to the scheduling backlog and not because of the Kennedy “group’s
11 partisanship.”⁵⁴

12 Although the Commission cannot conclusively determine whether the Museum denied
13 the Kennedy campaign’s request on a non-partisan basis, the circumstances in this matter do not
14 warrant the further expenditure of Commission resources. The Complaint alleges that the
15 Museum denied its request to hold an event there, claiming “[i]t was stated that they do not
16 participate in political campaigns but made an exception for Mr. Posey.”⁵⁵ But the Complaint
17 does not provide any other facts indicating who was speaking, when the conversation occurred,

⁵⁰ Mackey Decl. ¶¶ 15, 16.

⁵¹ *Id.* ¶ 13.

⁵² *Id.*

⁵³ *Id.* ¶¶ 15, 16.

⁵⁴ *Id.* ¶ 15.

⁵⁵ Compl. ¶ 6.

1 or what was exactly discussed. And as described above, the Museum has provided a sworn
2 declaration attesting that it declined the request without regard to partisanship.

3 Moreover, the dollar value of the potential violation does not appear to be significant.
4 First, Respondents do not appear to charge a fee for the use of the Museum to any organization.
5 Second, Commission reports appear to confirm that the Posey Committee paid for the other
6 expenses related to holding the campaign events in question. These factors appear to counsel
7 against the Commission using its limited resources to conduct an investigation to resolve the
8 factual disputes in this matter.

9 Accordingly, the Commission dismisses the allegations that the use of the venue resulted
10 in excessive or prohibited contributions from the Museum or Pielochs to Posey and the Posey
11 Committee, in violation of 52 U.S.C. §§ 30116(a) and (f) and 30118(a); and that the Posey
12 Committee failed to report these contributions in violation of 52 U.S.C. § 30104(b).

13 **D. The Commission Finds No Reason to Believe that the Committee Failed to**
14 **Report Contributions Received and Expenditures Made at the Campaign**
15 **Events**

16
17 The Complaint alleges that the Posey Committee failed to disclose contributions from
18 donors who attended the Posey Committee's campaign events held at the Museum and
19 expenditures made at the campaign events at issue. The Posey Committee states that it paid all
20 expenses for and reported all contributions received and expenditures made in connection with
21 the event as required by the Act, and the low ticket price may have resulted in many
22 contributions falling below the itemization threshold.⁵⁶ Posey Committee disclosure reports

⁵⁶ Steigerwald avers that for all three events: 1) the Museum did not charge the Posey Committee for the use of its event space and neither the Museum nor Pieloch expended any funds in connection with the events; 2) the Posey Committee set ticket prices for each of the events (\$100 as the lowest price for the February 19th and September 11th events) and a lowest ticket price of \$5 per person and \$20 per family for the September 7th event,

1 reflect receipt of contributions made on the dates of two of the fundraising events and
2 disbursements for catering, food, and beverage around the time of these events.⁵⁷ The
3 Commission has no information that the Posey Committee failed to report any contributions or
4 expenditures in connection with these events. Accordingly, the Commission finds no reason to
5 believe that the Posey Committee violated 52 U.S.C. § 30104(b) by failing to report
6 contributions raised and expenditures made in connection with these events.

kept the funds received from each event, and reported all receipts and disbursements collected or made in connection with each event, in disclosure reports to the Commission; 3) the Posey Committee's staff and volunteers ran the event, including keeping the event schedule, setting up the food, checking in guests and collecting contributions and donor forms; and 4) the Posey Committee paid the vendor directly, using its own funds, for all the costs of the events, such as invitations, name tags, refreshments and event supplies. Steigerwald Decl. ¶ 8.

⁵⁷ See *supra* pp. 4-5.