

**RECEIVED**

By OGC/CELA at 9:44 am, Sep 09, 2024

**Response FEC Complaint - MUR 8302**

To the Commission:

This letter is in response to the complaint and supplement submitted to the Federal Election Commission (FEC) on August 16 and August 27, 2024, by Andrew Walden, which contains several inaccuracies and false accusations regarding the financial activities of the Hawaii Republican Party (HRP) (ID: C00085506).

The Commission should dismiss the complaint as failing to allege a violation of the Federal Election Campaign Act (FECA) as to the most significant allegations and as involving insignificant and now corrected clerical errors as to others.

We are not designating counsel at this time but reserve the right to do so later.

**Alleged Failure to Report Proceeds from Sale of Headquarters**

Contrary to the allegations, the sale of HRP's 50% undivided interest in its headquarters condominium and the proceeds from the sale, amounting to \$549,839.41 after closing costs, have been handled in accordance with FEC regulations. The proceeds were not reported on Form 3X because the building fund account is a non-federal account. See 11 CFR 300.35, FEC Advisory Opinion 2004-28, and <https://www.fec.gov/help-candidates-and-committees/taking-receipts-political-party/building-fund-donations-party/>. The funds are currently held in a checking account, to be used for purposes permissible under state law.

This element of the complaint should be dismissed because it fails to state a violation of the FECA.

**Alleged Failure to Report Non-existent Tax Debt from HQ Sale**

Taxes may be due on the headquarters sale proceeds but no debt for such taxes has been reported on Form 3X a) because the building fund account is a non-federal account and b) because no taxes are due until the return filing due date for the 1120POL (April 15, 2025).

This element of the complaint should be dismissed because it fails to state a violation of the FECA.

**Address Misreporting**The block contains a handwritten signature in blue ink, which appears to be "AW". To the left of the signature is a small "DS" mark, and to the right is a small "TM" mark. The signature is enclosed within a faint blue rectangular border.



Amidst the disruption caused by the sale of and move from our long time headquarters the Party neglected to timely file a Form 1 updating our address. We have now filed a correctly updated Form 1 and future reports will reflect our new address. We apologize for this error and request that this element of the complaint be dismissed as involving a minor error that has now been rectified.

### **Expense Reporting and Reimbursements**

Expenses reported on the June Monthly report were all for legitimate, official party business, including travel expenses (gasoline). The airline flight expenses included in the July Monthly report and paid to the HRP Chair, Tamara McKay, and her husband, Barry McKay, were legitimate and approved by the state committee as part of the budget. The reimbursement to Barry McKay was because he initially paid the State Chair's travel expenses on his credit card. These payments and reimbursements were made in full compliance with FEC guidelines. It is important to note that these expenses were scrutinized and approved by the Party executive committee as necessary for party activities. The State chair is a member of the Republican National Committee and traveled to Milwaukee for the RNC annual meeting. The complaint on this issue is based entirely on speculation and the complainant does not even say he believes these expenses were personal in nature, much less, provide any evidence that they were personal in nature, suggesting only that the expenses complained of "may be personal in nature." More than unfounded speculation is required to trigger the machinery of an FEC investigation for an ill-founded fishing expedition. MUR 4960, *Statement of Reasons of Commissioners Mason, Sandstrom, Smith, and Thomas*. While the reported expenses are legitimate and authorized expenses of the party, we also observe that the "personal use" prohibition applies to campaigns and not to other types of political committees. 52 U.S.C. § 30114; see also FEC Legislative Recommendations 2023.

This element of the complaint should be dismissed as failing to state a violation of the FECA and alternatively as constituting unfounded speculation.

### **Copying Machine Lease**

The complaint alleges that a copying machine lease expense was improperly reported after the lease had been terminated. This claim is inaccurate. The copy machine was indeed removed from party headquarters, but the unfavorable lease entered by prior party management requires continuing lease payments and those payments are deducted from our federal bank account each month. We are attempting to secure a favorable termination of the copier lease but in the meantime are reporting the

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[Signature] DS  
TM



disbursements as they occur from the federal account as required by the FECA and FEC regulations.

### **Allegations of Evasiveness and Abuse**

The interactions between the HRP officials and the complainant have been professional and focused on providing accurate information. Any claims of evasiveness or abusive behavior are unfounded and are a mischaracterization of the situation. Furthermore, the financial advisor mentioned, Dan Turner of Akamai Wealth Management LLC, is a legitimate advisor, and any insinuation of misconduct is without basis, and indeed the complaint does not suggest any basis for believing Mr. Turner is guilty of misconduct. Even if the FEC were to accept Mr. Walden's complaints of unresponsiveness at face value HRP is not obligated to respond to outside agitators and the alleged failure to do so does not constitute or provide evidence of a violation of the FECA. See SOR in MUR 4960.

The allegations of evasiveness and abuse do not state a violation of the FECA.

### **Belief of Embezzlement**

The Complainant has no right of access to HRP's financial information other than to HRP's required FEC reports, which do not, as noted above, include activity in a building fund account. HRP's failure to open its financial books to a person who has no right to access them does not give rise to an inference of embezzlement. The proceeds of the headquarters sale are in a bank account titled to the Hawaii Republican Party and reserved for permissible non-federal uses. The account is under the control of the Treasurer and statements and account activity are regularly reviewed by governing bodies of the Party. The complaint compiles a list of alleged misdeeds which are either not violations of the FECA, are without factual or other foundation, or constitute minor reporting violations which have been remedied. None of those allegations give rise to an inference of embezzlement. While we absolutely deny that embezzlement is occurring, even if it were, embezzlement from a non-federal account would not be a matter within the jurisdiction of the FEC.

This element of the complaint should be dismissed as being based on unfounded speculation and as not stating a violation of the FECA.

### **Supplement to the Complaint**



HRP has filed an updated Form 1 designating David Buehler as Treasurer. The remaining claims regarding Mr. Buehler have nothing to do with the Hawaii Republican party and do not constitute or suggest a violation of the FECA. To the extent that the supplement is read as alleging a failure to timely file an FEC Form 1, that claim should be dismissed as a minor reporting violations that has been rectified.

## Conclusion

All financial activities of the Hawaii Republican Party have been conducted with transparency and, with the exception of minor reporting issues that have been rectified, in full compliance with FEC requirements. The accusations of embezzlement are entirely baseless. The entire complaint should be dismissed for the reasons stated above.

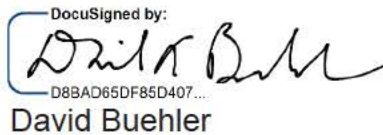
If there are any further questions or clarifications needed, please do not hesitate to contact us.

Sincerely,

DocuSigned by:  
  
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TAMARA MCKAY

State Chair, Hawaii Republican Party

9/7/2024

DocuSigned by:  
  
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David Buehler

Treasurer, Hawaii Republican Party

9/7/2024