



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC MAIL

jtorchinsky@hvjt.law

jmbayes@hvjt.law

August 12, 2020

Jason Torchinsky
Michael Bayes
Holtzman Vogel Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

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

Dear Mr. Torchinsky and Mr. Bayes:

On December 2, 2019, the Federal Election Commission (“Commission”) notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the “Act”) and Commission regulations. A copy of the complaint was forwarded to your clients at that time. On August 6, 2020, based upon the information contained in the complaint and information provided by respondents, the Commission voted to dismiss allegations that McSally for Senate, Inc. and Paul Kilgore, in his official capacity as treasurer, violated provisions of the Act. The Commission then closed its file in this matter. A copy of 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 Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel’s Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

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

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
12
13
14

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

**52 U.S.C. §§ 30102(i), 30104(b)(3)(A)
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.

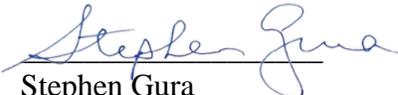
1 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
2 potential violations and other developments in the law. This matter is rated as low priority for
3 Commission action after application of these pre-established criteria.⁴ Given that low rating 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.

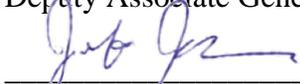
8
9 Lisa J. Stevenson
10 Acting General Counsel

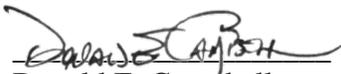
11 Charles Kitcher
12 Acting Associate General Counsel

13
14
15 03.27.20
16 Date

BY:


17 Stephen Gura
18 Deputy Associate General Counsel


19 Jeff S. Jordan
20 Assistant General Counsel


21 Donald E. Campbell
22 Attorney

23
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).