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FEC MAIL CENTER

December 21, 2010

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ATTORNEYS AT LAW
WASHINGTON HARBOUR
3000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20007-5109
202.672.5300 TEL
202.672.5399 FAX
foley.com

WRITER'S DIRECT LINE
202.295.4081
cmitchell@foley.com EMAIL

CLIENT/MATTER NUMBER
999100-0130

VIA HAND DELIVERY
VIA FACSIMILE

Mr. Christopher Huey, Esq.
Acting General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 6426 – Joe Miller for US Senate

Dear Mr. Huey:

The undersigned serves as counsel to the Respondent in the above-referenced MUR, Joe Miller for US Senate, the principal authorized committee of Joe Miller, Republican nominee for the United States Senate from Alaska in the 2010 General Election ("the Committee" or "Joe Miller Campaign").

The complaint in this MUR alleges that the Committee did not properly account for flights by the candidate for campaign travel aboard an airplane owned by an individual. After reconstructing the flights taken, the valuation of each flight and the payments from the Committee to the owner of the aircraft, it does appear that there was not sufficient reimbursement to the aircraft's owner to fully comply with the regulations of the Federal Election Commission ("the Commission").

There were a number of challenges faced by the Committee regarding the valuation and reporting of the value of the air travel.

1. One of the campaign workers called the FEC to ask how to value the flights. Attached hereto is an email relating the conversation, dated August 10, 2010, which provided in pertinent part: "I just spoke to the FEC and the pilot can do an in kind contribution for his services up to \$2400, \$4800 if married. He can also give in advance for the general election the same amounts, but if we were not to win the primary he would have to be refunded...". See Exhibit 1, August 10, 2010 email from Randy DeSoto regarding conversation with FEC.

2. The airplane is owned 100% by Tom Wickwire, an individual. Mr. Wickwire initially refused to accept payment for the value of the flights, based on the regulations of the Federal Aviation Administration ("FAA") prohibiting non-commercial pilots from charging fees for such services. See Exhibit 2, FAA regulations and Exhibit 3, August 9, 2010 Letter from Tom Wickwire.

BOSTON
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ORLANDO
SACRAMENTO

SAN DIEGO
SAN DIEGO/DEL MAR
SAN FRANCISCO
SHANGHAI

SILICON VALLEY
TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.

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FEDERAL ELECTION
COMMISSION
2010 DEC 22 PM 12:23
OFFICE OF GENERAL
COUNSEL

Mr. Christopher Huey, Esq.

December 21, 2010

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3. After being advised that there are other sections of federal law *requiring* payment for such flights, Mr. Wickwire determined that he would contribute the maximum allowable as an in-kind contribution. Mr. Wickwire has now calculated the flight hours and, by comparing the type of aircraft, has established that a commercially reasonable rate for comparable aircraft is \$260 p/hour. See Exhibit 4, December 15, 2010 Letter from Tom Wickwire.

4. Mr. Wickwire has indicated that he wishes to donate \$2400 for the value of the flights during the primary and \$2400 for the flights during the general election campaign. The Committee paid Mr. Wickwire \$550 for fuel for one or more flight(s) during the primary, which was reported on the July 2010 Quarterly Report. An in-kind contribution of \$900 was reported on the same FEC report. See Exhibit 5, Pages 41 and 88 (showing \$900 in-kind from Tom Wickwire) and p. 89, reporting payment of \$550 to Mr. Wickwire for fuel.

5. The Committee owes Mr. Wickwire a balance of \$3030, the difference between the permissible \$2400 in-kind contribution for the primary 2010 from Mr. Wickwire for travel aboard his airplane. A check payable to Mr. Wickwire was sent contemporaneously with the filing of this Response. See Exhibit 6, Check from the Committee to Mr. Wickwire for \$3030.

6. The Committee did not report the remaining \$1500 in-kind contribution from Mr. Wickwire for the primary election 2010 nor did the Committee report the \$1170 permissible in-kind contribution from Mr. Wickwire for the general election.

The Committee regrets the error and will amend its FEC reports to properly reflect the value of Mr. Wickwire's in-kind contributions to both the primary and general election campaigns and has sent a check to Mr. Wickwire for \$3030 as payment for the difference between the contribution limit and the value of the flights during the primary 2010.

The error was not intentional and was a result of lack of sophistication and knowledge regarding the manner in which private air travel must be paid by Senate candidates.

Please contact me at (202) 295-4081 if you have questions regarding this Response. Thank you.



FOLEY & LARDNER LLP

Mr. Christopher Huey, Esq.
December 21, 2010
Page 3

Sincerely,

/s/ Cleta Mitchell

Cleta Mitchell, Esq., Counsel
Joe Miller for US Senate

Attachments

cc: Bernadette Koppy, Treasurer

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EXHIBIT 1

From: **Randy DeSoto** <randy@joemiller.us>
Date: Tue, Aug 10, 2010 at 12:32 PM
To: Bernadette Koppy <bck@joemiller.us>
Cc: Joe Miller <joe@joemiller.us>, chris <chris@cmbphotography.com>, "Paul A. Bauer Jr." <pbauer@alaska.com>

I just spoke to the FEC and the pilot can do an in kind contribution for his services up to \$2400, \$4800 if married. He can also give in advance for the general election the same amounts, but if we were not to win the primary he would have to be refunded. Are we still needing flight hours, etc? I know that Chris had been in touch with the pilot regarding that. I did not receive the # of hours. We should work with \$360 per flight hour. First hour on ground free, then half rate for other ground time. That seems to be pretty standard.

Randy

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EXHIBIT 2

§91.321 Carriage of candidates in elections.

(a) As an aircraft operator, you may receive payment for carrying a candidate, agent of a candidate, or person traveling on behalf of a candidate, running for Federal, State, or local election, without having to comply with the rules in parts 121, 125 or 135 of this chapter, under the following conditions:

(1) Your primary business is not as an air carrier or commercial operator;

(2) You carry the candidate, agent, or person traveling on behalf of a candidate, under the rules of part 91; and

(3) By Federal, state or local law, you are required to receive payment for carrying the candidate, agent, or person traveling on behalf of a candidate. For federal elections, the payment may not exceed the amount required by the Federal Election Commission. For a state or local election, the payment may not exceed the amount required under the applicable state or local law.

(b) For the purposes of this section, for Federal elections, the terms candidate and election have the same meaning as set forth in the regulations

§91.323

of the Federal Election Commission. For State or local elections, the terms candidate and election have the same meaning as provided by the applicable State or local law and those terms relate to candidates for election to public office in State and local government elections.

[Docket No. FAA-2005-20168, 70 FR 4982, Jan. 31, 2005]

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EXHIBIT 3

THOMAS R. WICKWIRE
2775 Hanson Road, Suite 1
Fairbanks, Alaska 99709
tel:907-474-0068
fax:907-474-0069
tom@twickwire.com

August 9, 2010

Joe Miller Campaign
6244 Eastwood Court
Anchorage, Alaska 99504

Attn: Campaign Manager
Re: Flights with Joe Miller

Dear Sir:

I flew Joe Miller on three occasions from Fairbanks to Palmer to Bradley Field and return, Fairbanks to Bethel, then Anchorage and return and Fairbanks to Cordova, Gulkana, Tok, Delta Junction and return. My offer was the Joe Miller Campaign pays for fuel, I donate the rest. His Campaign has paid that in full.

Total flight times, (block-to-block) taken from my logbook, for all trips was 23.0 hrs. _____

I understand the federal agency that regulates campaign funding has taken the position that the Joe Miller Company must pay going charter rates for similar aircraft. If this is the case, I will accept whatever additional sum is required to comply with the law, but only if the FAA knows and approves of this, as these were all FAR Part 91 flights. I do not have a Part 135 Certificate, am not a Part 135 Certified Pilot and do not comply with all other requirements of Part 135 operators.

It has always been my understanding that on Part 91 flights, the pilot may charge only part of the actual flight costs.

Thomas R. Wickwire
Thomas Wickwire

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EXHIBIT 4

THOMAS R. WICKWIRE
2775 Hanson Road, Suite 1
Fairbanks, Alaska 99709
tel:907 474 0068
fax:907 474 0069
tom@twickwire.com

December 15, 2010

Cleta Mitchell, Esq.
Foley & Lardner, LLP
3000 K Street, NW #600
Washington, DC 20007

Re: Flights with Joe Miller

Dear Ms Mitchell:

Here is my estimate of the charter rates for my aircraft, if there were one like it in the charter service here. It is a 1959 Cessna 180, highly modified, so there are no planes like it in current use by charter operators here. The closest rates I got were \$360 per flight hour for a Cessna 206 (slightly larger and newer, same speed) and \$382/hr for a Cessna 185(same size, a little more power and weight carrying capacity, but same speed as mine).

Invoice

At charter rate, estimated for my aircraft, for Joe Miller campaign flights.

During Primary

Date	to/from	flt hours	rate	total
6-12-10	FAI-Palmer- N. Pole (Bradley Fld)- FAI	5.0	\$260/hr	\$1,300
6-22-10	FAI-Bethel-Anc (Merrill fld)-FAI	10.0	260 Less payment received	2,600 <u>-550</u>
7-20-10	FAI-Cordova-Gulkana- Tok-Delta Jct.-FAI	8.0	260	2,080

Total for Primary: \$5,430.00

During General

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10-24-10	FAI-N. Pole (Bradley fld)- Anc (Merril Fld)- FAI	4.5	260	\$1,170
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I want to donate \$2,400 for the Primary flights and \$2,400 for the General.

Joe Miller bought fuel twice, as I recall, paying directly with credit card. These amounts should be deducted as the charter rates assume with fuel.

Thomas R. Wickwire

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EXHIBIT 5

SCHEDULE A (FEC Form 3)
ITEMIZED RECEIPTS

Use separate schedule(s)
for each category of the
Detailed Summary Page

FOR LINE NUMBER:		PAGE 41 / 95	
(check only one)			
<input checked="" type="checkbox"/> 11a	<input type="checkbox"/> 11b	<input type="checkbox"/> 11c	<input type="checkbox"/> 11d
<input type="checkbox"/> 12	<input type="checkbox"/> 13a	<input type="checkbox"/> 13b	<input type="checkbox"/> 14 <input type="checkbox"/> 15

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

Joe Miller for U.S. Senate

A.

Full Name (Last, First, Middle Initial)

Tom Wickwire

Mailing Address 2775 Hanson Road
Suite 1

City Fairbanks State AK Zip Code 99709-3955

FEC ID number of contributing federal political committee. C

Name of Employer Occupation

Receipt For: 2010
X Primary General
Other (specify) ▼

Election Cycle-to-Date ▼
900.00

Date of Receipt

M M / D D / Y Y Y Y
06 12 2010

Transaction ID: A-1707

Amount of Each Receipt this Period
900.00

Inkind: Aviation gas 6/12
& 6/22

B.

Full Name (Last, First, Middle Initial)

Jack Wildenmaier

Mailing Address 2731 N Dayton Street

City Chicago State IL Zip Code 60614-1409

FEC ID number of contributing federal political committee. C

Name of Employer Occupation
Harris Associates Investment Management

Receipt For: 2010
X Primary General
Other (specify) ▼

Election Cycle-to-Date ▼
500.00

Date of Receipt

M M / D D / Y Y Y Y
06 02 2010

Transaction ID: A-C133

Amount of Each Receipt this Period
500.00

C.

Full Name (Last, First, Middle Initial)

Robert R Wiseman

Mailing Address PO Box 1135

City Soldotna State AK Zip Code 99669-1135

FEC ID number of contributing federal political committee. C

Name of Employer Occupation
Retired Retired

Receipt For: 2010
X Primary General
Other (specify) ▼

Election Cycle-to-Date ▼
500.00

Date of Receipt

M M / D D / Y Y Y Y
05 28 2010

Transaction ID: A-C108

Amount of Each Receipt this Period
250.00

SUBTOTAL of Receipts This Page (optional) ►

1650.00

TOTAL This Period (last page this line number only) ►

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SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS

Use separate schedule(s)
for each category of the
Detailed Summary Page

FOR LINE NUMBER:
(check only one)

PAGE 88 / 95

<input checked="" type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 19a	<input type="checkbox"/> 19b
<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21

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NAME OF COMMITTEE (In Full)
Joe Miller for U.S. Senate

A.

Full Name (Last, First, Middle Initial)

Richard J Vanderkolk

Transaction ID: B-E-131

Date of Disbursement

05 / 01 / 2010

Mailing Address 1466 Redmond Avenue

City
North Pole

State
AK

Zip Code
99705-5336

Amount of Each Disbursement this Period

2000.00

Purpose of Disbursement
Fundraising: Consult fee

003

Category/
Type

Candidate Name

Office Sought: House
Senate
President
State: District:

Disbursement For: 2010
X Primary General
Other (specify) ▼

B.

Full Name (Last, First, Middle Initial)

Richard J Vanderkolk

Transaction ID: B-E-242

Date of Disbursement

05 / 20 / 2010

Mailing Address 1466 Redmond Avenue

City
North Pole

State
AK

Zip Code
99705-5336

Amount of Each Disbursement this Period

86.57

Purpose of Disbursement
Reimburse for beverages & ice

003

Category/
Type

Candidate Name

Office Sought: House
Senate
President
State: District:

Disbursement For: 2010
X Primary General
Other (specify) ▼

C.

Full Name (Last, First, Middle Initial)

Tom Wickwire

Transaction ID: B-I-707

Date of Disbursement

06 / 12 / 2010

Mailing Address 2775 Hanson Road
Suite 1

City
Fairbanks

State
AK

Zip Code
99709-3955

Amount of Each Disbursement this Period

900.00

Purpose of Disbursement
Inkind: Aviation gas 6/12 & 6/22

Category/
Type

Candidate Name

Office Sought: House
Senate
President
State: District:

Disbursement For: 2010
X Primary General
Other (specify) ▼

SUBTOTAL of Disbursements This Page (optional) ▶

2986.57

TOTAL This Period (last page this line number only) ▶

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SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS

Use separate schedule(s)
for each category of the
Detailed Summary Page

FOR LINE NUMBER:
(check only one)

PAGE 89 / 95

<input checked="" type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 19a	<input type="checkbox"/> 19b
<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (In Full)
Joe Miller for U.S. Senate

A.

Full Name (Last, First, Middle Initial)
Tom Wickwire

Transaction ID: B-E-267
Date of Disbursement

Mailing Address 2775 Hanson Road
Suite 1

06 / 17 / 2010

City Fairbanks State AK Zip Code 99709-3955

Amount of Each Disbursement this Period

Purpose of Disbursement
Travel: Av Gas to Bethel etc

002
Category/
Type

550.00

Candidate Name

Office Sought: House Senate President
Disbursement For: 2010
X Primary General
Other (specify) ▼

State: District:

B.

Full Name (Last, First, Middle Initial)
Sandra K Wilson

Transaction ID: B-E-243
Date of Disbursement

Mailing Address 889 Esro Road

05 / 20 / 2010

City Fairbanks State AK Zip Code 99712-2802

Amount of Each Disbursement this Period

Purpose of Disbursement
consult fee

001
Category/
Type

500.00

Candidate Name

Office Sought: House Senate President
Disbursement For: 2010
X Primary General
Other (specify) ▼

State: District:

C.

Full Name (Last, First, Middle Initial)
Sandra K Wilson

Transaction ID: B-E-261
Date of Disbursement

Mailing Address 889 Esro Road

06 / 14 / 2010

City Fairbanks State AK Zip Code 99712-2802

Amount of Each Disbursement this Period

Purpose of Disbursement
Fundraising: consult fee

003
Category/
Type

750.00

Candidate Name

Office Sought: House Senate President
Disbursement For: 2010
X Primary General
Other (specify) ▼

State: District:

SUBTOTAL of Disbursements This Page (optional) ►

1800.00

TOTAL This Period (last page this line number only) ►

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EXHIBIT 6

JOE MILLER FOR U.S. SENATE
PO BOX 72838
FAIRBANKS, AK 99707

88-7128/3252

713

DATE 12-20-2010

PAY TO THE
ORDER OF

Tom Wickwire

\$ 3030⁰⁰

Three thousand thirty and no/100

DOLLARS

A

100



Mt. McKinley Bank

800 - 4th Avenue (907) 482-1751

Fairbanks, Alaska 99701



www.mtmckinleybank.com

Payment for flight during Primary 2010

[Signature]

00713

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 UNITED STATES POSTAL SERVICE® Click-N-Ship®		P
USPS PRIORITY MAIL®		usps.com 9405 5036 9930 0450 3176 03 0047 5000 0418 971 \$4.75 US POSTAGE Flat Rate Env 12/20/10 0 lb 4 oz Mailed from 99701 071V005S2025 Commercial Base Pricing
BERNADETTE C KOPPY, TREASURER Ref: Ck No 713 0006 JOE MILLER FOR US SENATE PO BOX 72838 FAIRBANKS AK 99707-2838		
SHIP TO: TOM WICKWIRE TO: 2775 HANSON RD STE 1 FAIRBANKS AK 99709-3955		
ZIP - e/ USPS DELIVERY CONFIRMATION™  420 99709 9405 5036 9930 0450 3176 03		
Electronic Rate Approved #038555749		

USPS - Print Order Summary

Page 1 of 1



< Back

Print >

Printed Domestic Labels

Transaction #: 185980340
 Charged to: VISA *****7456
 Labels Included: 1
 Print Date/Time: 12/20/10 8:41:43 PM CST

1 of 1	 TOM WICKWIRE 2775 HANSON RD STE 1 FAIRBANKS, AK 99709-3955 Ref: Ck No 713	 Ship Date: 12/20/10 Weight: 0lbs 4oz From: 99701	 Priority Mail Flat Rate Env Delivery Confirm. Label Total	 \$4.75 \$0.00 \$4.75
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Delivery Confirmation™ Label Number: 9405 5036 9930 0450 3176 03

Domestic Order Total: \$4.75

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