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General Counsel  
Federal Election Commission  
999 E. Street, NW, 6<sup>th</sup> Floor  
Washington, D.C. 20463

*Via Facsimile & 1<sup>st</sup> Class Mail*

Re: MUR 5537  
Request for Sanctions

Dear Mr. Norton:

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2004 OCT 21 A 11:20

REQUEST FOR SANCTIONS

Pursuant to 2 U.S.C. §437(g)(a)(12) and 11 C.F.R. 111.21 and .24, the Respondents in the referenced case request that sanctions be imposed on Complainant Jean Paal. The Paal complaint was filed against Respondents The Voice of the Times (the Times Publishing Co., also known as the Anchorage Times, hereinafter referred to as the "Times"), VECO Corporation ("VECO") and the Publisher of the Times, Bill Allen. The Respondents received a copy of the complaint on October 4, 2004, and on October 19, 2004, the Respondents filed a timely answer to the complaint.

2 U.S.C. §437(g)(a)(12)(A) and 11 C.F.R. 111.21 prohibit Ms. Paal from disclosing the complaint or the filing of the complaint and any facts relating to any investigation undertaken by the Commission or the Commission Staff without the consent of the Respondents. 2 U.S.C. §437(g)(a)(12)(B) and 11 C.F.R. 111.24 provide that a person who violates the confidentiality requirements of the Act may be penalized up to \$5,500. In this case, Ms. Paal knowingly and wilfully violated the confidentiality provisions by providing a copy of the complaint to various newspaper reporters without the consent of any of the Respondents.

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Lawrence Norton, Esq.  
October 20, 2004  
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Attached hereto as Exhibit A is the Affidavit of the Undersigned, counsel for the Respondents in this matter. The affidavit confirms the following facts. On the morning of October 18, 2004, Bill Allen, the Publisher of the Times, received a phone message from Nicole Doran, a reporter with the newspaper Roll Call. The phone message indicated that Ms. Doran wanted to discuss a complaint filed with the Federal Election Commission ("FEC") against the Times. Because the Paal complaint is the only FEC complaint ever filed against the Times, it was obvious that the phone call from Ms. Doran could only refer to the Paal complaint. At approximately 10:15 a.m. (Alaska time) on October 18, 2004, the Undersigned contacted Ms. Doran at (202)824-6840, in response to Ms. Doran's call to Mr. Allen. Ms. Doran answered the phone and identified herself as a reporter for Roll Call. During the conversation with the Undersigned, Ms. Doran disclosed that she had received a copy of the Paal complaint from the Complainant, Jean Paal. Ms. Doran also advised the Undersigned that at the time she received the complaint from Ms. Paal, Ms. Paal had advised Ms. Doran that the Democratic Party had helped Ms. Paal with the drafting and filing of the complaint. I advised Ms. Doran that Ms. Paal's disclosure of the complaint violated the confidentiality provisions of FEC statutes and that neither the Times nor the other Respondents had waived their right to confidentiality.

On October 19, 2004, Roll Call ran an article by Ms. Doran regarding the Paal complaint. A copy of the article is attached hereto as Exhibit B.

On October 19, 2004, Mr. Allen received a phone message from Mary Pemberton, a reporter with the Associated Press. As set forth in Exhibit A, the Undersigned contacted Ms. Pemberton in response to her phone call to Mr. Allen. During the phone conversation, Ms. Pemberton disclosed that she had received a copy of the Paal complaint from Ms. Paal. Ms. Pemberton also disclosed that Ms. Paal had told Ms. Pemberton that Ms. Paal had help from the Democratic Party with the drafting and filing of the complaint. On October 20, 2004, an article written by Ms. Pemberton appeared on the front page of the Alaska Section of the Anchorage Daily News. A copy of the article is attached hereto as Exhibit C.

Exhibit A also confirms that, at no time, did the Times, VECO Corporation or Bill Allen waive their right to confidentiality pursuant to 2 U.S.C. §437(g)(a)(12) and 11 C.F.R. 111.21. Furthermore, at no time did Ms. Paal contact either the Times, VECO Corporation or Mr. Allen asking them to consent to her disclosure of the complaint.

It is the understanding of the Respondents that Ms. Paal was advised of the confidentiality provisions of the Act and applicable regulations at the time she filed her complaint. Additionally, there can be no question that the Democratic Party is fully

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aware of the confidentiality provisions of the Act. Because Ms. Paal was essentially working as the agent for the Democratic Party when she filed the complaint, the Democratic Party's knowledge of the confidentiality provisions must be imputed to Ms. Paal. As a result, there can be no question that Ms. Paal's violations of 2 U.S.C. §437(g)(a)(12) and 11 C.F.R. 111.21 were knowing and wilful.

The importance of the confidentiality provisions are well established. Both the Act and the applicable regulations "create an extraordinarily strong privacy interest" and there are no exceptions to the prohibition against disclosure of a complaint without the consent of the Respondent. See, In Re: Sealed Case, 237 F.3d 657, 666-667 (D.C. Cir. 2001). The legislative history of the confidentiality provisions also emphasize their importance. The provisions are intended to prevent unfair publicity for a respondent based simply on the fact that a complaint has been filed. The provisions are also intended to prevent complainants or others from using the complaint or the Commission's consideration of a complaint as a weapon in a political campaign. See, American Federation of Labor Congress of Industrial Organizations v. Federal Election Commission, 333 F.3d 168, 174 (D.C. Cir. 2003); see also Federal Election Commission v. Illinois Medical Political Action Committee, 503 F.Supp. 45 (N.D. Ill. 1980).

In this case, there can be no question that Ms. Paal knowingly and wilfully violated the confidentiality provisions of the Act and applicable regulations by providing a copy of the complaint to the Press. There can also be no question that both the filing of the complaint and the wrongful disclosure of the complaint were politically motivated. Neither Ms. Paal, nor the Democratic Party were interested in having the Commission give fair consideration to the issues raised in the complaint and the answer filed by the Respondents. Instead, Ms. Paal and the Democratic Party disclosed the complaint to the Press in an effort to use the complaint and the complaint process as a weapon against Senator Lisa Murkowski and to help Democratic Candidate Tony Knowles in his campaign for Senator Murkowski's Senate seat. That conduct flies in the face of the express terms, the intent and the spirit of the Federal Elections Campaign Act. That is, the Commission is charged with upholding the integrity of political campaigns. Complainant should be allowed to use either the Commission or the Act to accomplish the opposite result.

Under the circumstances, there is simply no question that Ms. Paal and the Democratic Party intentionally violated the confidentiality provisions of the Act and applicable regulations based on the worst possible motives. As a result, the Respondents respectfully request that Ms. Paal be given the maximum penalty permitted by law. If the Commission determines that Ms. Paal was acting as the agent for the Democratic Party in

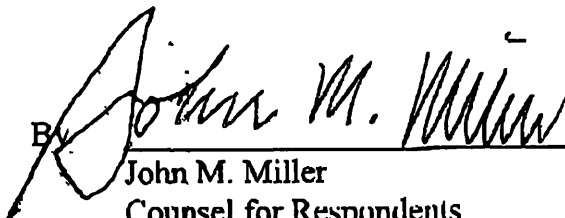
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filing her complaint or in wrongfully disclosing the complaint to the Press, the Respondents request that the penalty be imposed jointly on Ms. Paal and the Democratic Party.

Dated this 20 day of October, 2004.

EIDE, MILLER & PATE

By  John M. Miller

John M. Miller  
Counsel for Respondents  
Times Publishing Co.,  
VECO Corporation and  
Bill Allen

Enclosures

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STATE OF ALASKA                    )  
   : ss  
 THIRD JUDICIAL DISTRICT        )

AFFIDAVIT OF JOHN M. MILLER

I, JOHN M. MILLER, being first duly sworn upon oath, depose and state as follows:

1. I am the attorney for the Times Publishing Co., (also known as the Anchorage Times and the Voice of the Times hereinafter referred to as the "Times"), VECO Corporation ("VECO") and Bill Allen relating to MUR 5537. This affidavit is filed in support of Respondents' request for civil penalties against Complainant Jean M. Paal.

2. On the morning of October 18, 2004, Bill Allen, the Publisher of the Times received a phone message from Nicole Doran, a reporter with Roll Call. The phone message indicated that Ms. Doran wanted to discuss a complaint filed with the Federal Election Commission ("FEC") against the Times.

3. Recently, a complaint was filed with the FEC by Jean Paal. This is the only FEC complaint ever filed against the Times, so it was obvious that the

Affidavit of John M. Miller

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 of 4

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phone call from Ms. Doran could only refer to the Paal complaint. Pursuant to 2 U.S.C. §437 (g)(a)(12) and 11 C.F.R. 111.21, complainants such as Ms. Paal are required to maintain the confidentiality of the complaint and related proceedings unless the Respondent waives its right to confidentiality. Relating to the Paal complaint, neither the Times nor the other Respondents waived their right to confidentiality. Because of concerns regarding a violation of the confidentiality requirements, I returned Ms. Doran's call for Mr. Allen.

4. At approximately 10:15 a.m. (Alaska time) on October 18, 2004, I contacted Ms. Doran at (202) 824-6840. Ms. Doran answered the phone and identified herself as a reporter for Roll Call. During our conversation, Ms. Doran disclosed that she had received a copy of the Paal complaint from the complainant, Jean Paal. Mr. Doran also advised me that at the time she received the complaint from Ms. Paal, Ms. Paal had advised Ms. Doran that the Democratic Party organization had helped Ms. Paal with drafting and filing of the complaint. I advised Ms. Doran that disclosure of the complaint by Ms. Paal violated the confidentiality provisions of FEC statutes and regulations and that neither the Times nor the other Respondents had waived their right to confidentiality.

Affidavit of John M. Miller

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5. Ms. Doran advised me that she was researching a story regarding the Paal complaint. As a result, I advised her that the allegations in the complaint were nonsensical; that the Times has been published in Alaska since 1915; that the Alaska Public Offices Commission ("APOC") had considered and dismissed a similar complaint by the Alaska Democratic Party in 2001; and the Respondents were filing an appropriate answer to the complaint with the FEC. At Ms. Doran's request, I faxed her a copy of the APOC staff recommended decision and the final Commission decision relating to the APOC complaint filed by the Alaska Democratic Party.

6. On October 19, 2004, Roll Call ran an article by Ms. Doran regarding the Paal complaint.

7. On October 19, 2004, Mr. Allen received a phone message from Mary Pemberton, a reporter with the Associated Press. In the middle of the afternoon (Alaska time) I called Ms. Pemberton at Ms. Pemberton answered the phone and identified herself as a reporter for the Associated Press. During our phone conversation, Ms. Pemberton disclosed that she had received a copy of the Paal complaint from Ms. Paal. Ms. Pemberton also advised me that Ms. Paul had told Ms. Pemberton that Ms. Paul had help from the

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Democratic Party with the drafting and filing of her FEC complaint. On October 20, 2004, an article written by Ms. Pemberton appeared on the front page of the Alaska Section of the Anchorage Daily News. A true and correct copy of the article is attached as Exhibit C to the Request for Sanctions filed by the Respondents in this matter.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated at Anchorage, Alaska this 20 day of October, 2004.

  
John M. Miller

SUBSCRIBED AND SWORN TO before me this 20<sup>th</sup> day of  
October, 2004.

  
Notary Public in and for Alaska

My Commission Expires: 5/20/06

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Attestavit of John M. Miller

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Tue, Oct 19, 2004 8:20 AM

## Complaint on Pro-Murkowski Columns Filed

By Nicole Duran

<<http://www.rollicall.com/cgi-bin/udt/lm.author.contact.view?client.id=rollicall&story.id=7138&title=Complaint%20on%20Pro%20Murkowski%20Columns%20Filed&author=Nicole%20Duran&address=http%3A//www.rollicall.com/issues/50%5F43/politics/7138%2D1.h>>  
Roll Call Staff

October 19, 2004

An elderly Anchorage resident, with the help of the Alaska Democratic Party, has filed a complaint with the Federal Election Commission charging that a prominent Anchorage businessman and publisher is illegally contributing to the election campaign of Sen. Lisa Murkowski (R-Alaska).

In the complaint, Jean Paul, a 54-year resident of Anchorage, accuses the businessman, Bill Allen, and his company of making illegal corporate contributions to Murkowski's campaign by publishing pro-Murkowski editorials in the Voice of the Times, an opinion page that appears daily in the Anchorage Daily News.

The complaint is unlikely to be considered by the election agency until well after the election.

Allen is chairman of Veco Corp., an Anchorage-based energy services company, and is also publisher of the conservative Voice of the Times.

Allen was publisher of the now-defunct Anchorage Times, a daily newspaper that folded and was absorbed by the larger Daily News in 1992. The Daily News continues to publish the separate editorial page of the defunct paper — in addition to its own — through a unique arrangement with Allen as a way to preserve the Times' conservative editorial voice, a Daily News spokesman has explained.

Allen has personally contributed \$3,000 to Murkowski's campaign this cycle, according to the nonpartisan PoliticalMoneyLine. He has also donated \$1,000 to her political action committee, Denali PAC. And he has contributed to the leadership PACs of both Sen. Ted Stevens (R-Alaska) and Rep. Don Young (R-Alaska), which in turn have each donated \$10,000 to Murkowski's election campaign.

Furthermore, Allen hosted a fundraiser at his home for Murkowski in May, and Veco employees collectively are the second-largest donor to Murkowski's campaign, according to the Center for Responsive Politics, a political watchdog group.

Some of Murkowski's opponents have argued that each editorial in the Voice of the Times promoting her candidacy, of which there have been many, should be considered a political contribution.

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"These contributions are either a corporate contribution barred by [law] or an independent expenditure required to be reported by" law, the complaint filed late last month with the FEC reads. In an interview, Paal said she believes the columns are "like free advertising."

An attorney for the Voice of the Times said that the state election division dismissed a similar suit in 2000. The state agency's staff determined that the Voice of the Times is a press entity exempt from corporate contribution laws and recommended that the complaint be dropped. That is a central argument in the FEC complaint. The complaint seeks to prevent Allen from invoking First Amendment protection by arguing that the Voice of the Times is not a news organization and therefore should not enjoy traditional First Amendment protection.

Usually news stories and commentaries cannot be considered political expenditures, but the complaint notes that the Voice of the Times is not a press entity and therefore is not entitled to such an exemption.

"The complaint is nonsense and we're filing an appropriate answer with the FEC," Jack Miller, Allen's attorney said.

The Murkowski campaign declined to comment.

A spokesman for the Federal Election Commission said earlier this year that while the situation with the Voice of Alaska is unusual, someone would have to prove cooperation between Allen and the Murkowski campaign before the agency could determine that there had been a violation of the law.

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**adn.com**

Anchorage Daily News

**FEC complaint filed over editorials****VOICE OF THE TIMES: Democrat says the opinion page is like advertising.**

By MARY PEMBERTON

The Associated Press

*(Published: October 20, 2004)*

A Democrat filed a complaint with the Federal Election Commission over editorials published in the state's largest newspaper supporting Republican Sen. Lisa Murkowski's campaign.

Jean Paal, 77, alleges that businessman Bill Allen is making illegal contributions to the Murkowski campaign by publishing pro-Murkowski editorials in the Voice of the Times, an opinion page that appears each day in the Daily News. The newspaper has a weekday circulation of more than 71,700.

"Since Mr. Allen is a donor to the Murkowski campaign, there certainly would be some question that what he pays to the News for this space would be paid advertising," Paal said Tuesday.

Murkowski, who was picked by her father to finish his term after he became governor in 2002, is in a tight race against Democrat Tony Knowles to keep her seat in the U.S. Senate.

Paal, with the help of the Alaska Democratic Party, filed the complaint with the FEC on Sept. 20. She said she took the action after finding 81 pro-Murkowski and 65 anti-Knowles Voice of the Times editorials in the newspaper since Jan. 1, 2003.

"It began to occur to me ... that the section of the paper was acting more like paid advertising," she said.

Paal describes herself as an "active Democrat" who has contributed \$175 to the Knowles campaign.

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Allen was publisher of The Anchorage Times, a daily newspaper that folded and was bought by the Daily News in 1992. He is chairman of Veco Corp., an Anchorage-based energy services company with just over 1,700 employees.

Allen has contributed \$3,000 to the Murkowski campaign and \$1,000 to her political action committee, according to a story Tuesday in the Capitol Hill newspaper Roll Call. Allen also has donated to PACs for both Sen. Ted Stevens, R-Alaska, and Rep. Don Young, R-Alaska, which have each donated \$10,000 to Murkowski's election campaign. Veco employees also are the second-largest group of donors to the Murkowski campaign.

"This is all nonsense," said Jack Miller, a lawyer for The Anchorage Times Publishing Co. who is representing Allen. The Alaska Democratic Party filed the same complaint a few years ago, and it was dismissed, he said.

Paal is violating FEC statutes by even talking about the matter, Miller said. Complaints are to be kept confidential until the commission has had a chance to determine whether they have merit, he said.

Going public on an old issue so close to the Nov. 2 general election speaks for itself, Miller said.

"I think it is absolutely politically motivated," he said.

Miller said a response to the complaint would be filed by the deadline Tuesday. It says that the Voice of the Times is a press entity that under FEC statutes is exempt from laws governing corporate contributions.

"In this case, I am extremely confident the general counsel office will conclude The Times is a press entity and dismiss the complaint," Miller said. "It is still a newspaper and still falls within the First Amendment protection for the free press."

Miller said the agreement between the two newspapers went back to 1992, when the Daily News purchased the principal assets of The Anchorage Times. The Times paid nothing to publish its editorial comment in the Daily News for the first five years. Since then, The

Times has paid the Daily News for the actual cost of publishing its editorial page.

"I don't think there is any problem with this myself," said Mike Sexton, publisher of the Daily News. "I don't think we have violated any election law. We have done this for over a decade."



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