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August 28, 2017

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463
VIA FACSIMILE: (202) 219-3923

Re: MUR 7251 – Response to Complaint from Buddy Carter, Buddy Carter for Congress and Friends of Buddy Carter for Senate

Dear Mr. Jordan:

On behalf of Buddy Carter, Buddy Carter for Congress and Friends of Buddy Carter for Senate, this responds to your letter dated June 5, 2017, concerning a complaint filed against Congressman Barry Loudermilk, Loudermilk for Congress, and Loudermilk for State Senate, as well as other state political committees and candidates from Georgia (collectively "Respondents"). The Complaint erroneously suggests that the Respondents have engaged in "conduit contribution scheme" whereby Congressman Loudermilk made contributions using his former state senate campaign to a handful of other state campaign committees, who then made reciprocal contributions to Loudermilk's federal campaign.

As it relates to Rep. Carter and his state and federal committees, the Complaint cites to a \$1,000 contribution made by Buddy Carter for Senate to Loudermilk for Congress on June 21, 2013, and a subsequent \$1,000 contribution from Loudermilk for State Senate to Buddy Carter for Congress on June 25, 2013. In citing these contributions, it appears Complainant is inferring that Loudermilk for State Senate made an earmarked contribution to Loudermilk for Congress through Buddy Carter for Congress pursuant to 52 U.S.C. § 30116(a)(8) and 11 CFR § 110.6(b)(1). However, Buddy Carter for Congress never contributed to Loudermilk for Congress, so is it unclear how this could be construed as an earmarked contribution or could result in an illegal transfer from Loudermilk's state committee to his federal committee, in violation of 11 CFR § 110.3(d).

Under Commission regulations, a contribution is earmarked when there is "a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which results in all or any part of a contribution or expenditure being made to, or expended on behalf of, a clearly identified candidate or a candidate's authorized committee." 11 CFR § 110.6(b). In the past, the Commission has determined that contributions were earmarked where there was clear documentary evidence demonstrating a designation or instruction by the donor. *See* MURs 4831/5274 (Nixon) (finding contributions were earmarked where checks contained express designations on memo lines); *see also*, MUR 5732 (Matt Brown for U.S. Senate), MUR 5520 (Republican Party of Louisiana/Tauzin), MUR 5445 (Davis), MUR 4643 (Democratic Party of New Mexico) (rejecting earmarking allegations where there was no evidence of a clear designation, instruction, or encumbrance by the donor), and MUR 5125 (Perry) (finding no earmarking because the complaint contained only bare allegations of earmarking, but showed no designation, instruction or encumbrance). The Commission has rejected earmarking claims even where the timing of the contributions at issue appeared to be a significant factor, but the contributions lacked a clear designation or instruction. *See* MUR 5445 (Davis) and MUR 4643 (Democratic Party of New Mexico).


In this case, the Complaint provides no support or evidence that Loudermilk for State Senate made any "designations, instructions and encumbrances" required for a violation of 52 U.S.C. § 30116(a)(8) and 11 CFR § 110.6(b)(1), when making its contribution to Buddy Carter for Congress. Loudermilk for State Senate's contribution check to the Buddy Carter for Congress did not contain any designations or instructions, and was not accompanied by any sort of documentation indicating how the contribution should be used. Moreover, Loudermilk for State Senate did not make any other express or implied, or written or oral instructions or designations to the Committee when making its contribution. Finally, Buddy Carter for Congress never contributed to Loudermilk for Congress; therefore, Complainant's argument that Loudermilk for State Senate transferred funds to Loudermilk for Congress via Buddy Carter for Congress is meritless.

In reality, it is common for likeminded federal and state candidates and officeholders to make contributions to each other's campaigns, and the Supreme Court has made clear that "government regulation may not target the general gratitude a candidate may feel toward those who support him or his allies." *McCutcheon v. Federal Election Comm'n*, 134 S.Ct. 1434, 1441 (2014) (citing *Citizens United v. Federal Election Comm'n*, 558 U. S. 310, 360 (2010)). In this case, it is hardly suspicious and certainly not illegal for two former colleagues in the Georgia legislature to support each other's campaigns.

In presenting politically-motivated and factually and legally unsubstantiated arguments, the Complaint has failed to demonstrate that Rep. Carter or the Committees violated any provision of the Act or the Commission's regulations. The Complaint is based on malicious speculation and frivolous legal theories. We therefore respectfully request that the Commission recognize the legal and factual insufficiency of the Complaint on its face and immediately dismiss it.

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Sincerely yours,

A handwritten signature in cursive script, appearing to read "Elizabeth Beacham White".

Elizabeth Beacham White

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