

February 6, 2023

Federal Election Commission
Office of Complaints Examination & Legal Administration
Attn: Trace Keeye, Paralegal
1050 First St NE
Washington, DC 20463

Re: MUR 8106 (Complaint against Respondent John Duarte for Congress)

To whom it may concern:

I am writing in my capacity as treasurer of John Duarte for Congress to provide additional facts and a response to an alleged violation against John Duarte, his campaign committee, and myself as treasurer.

Introduction:

The Complainant alleges that Mr. Duarte deliberately bribed opponents, Matt Stoll and Elizabeth Heng in violation of federal law. These allegations are false and without merit.

Facts:

On March 09, 2022, Mr. Duarte filed his candidacy with the Federal Election Commission for House District 13 in California (CA-13). With the addition of Mr. Duarte's candidacy, the Republican Primary for CA-13 became a heavily crowded and contentious election. Mr. Duarte's campaign committee filed an April Quarterly Report with a closing cash on hand of \$449,491 on April 15, 2022, and a Pre-Primary Report with the FEC on March 26, 2022, with a closing cash on hand of \$305,989.03. These closing cash on hand totals of Mr. Duarte's campaign committee were substantially higher than the two opponents listed in the complaint. Mr. Stoll's campaign committee filed a Pre-Primary Report with a closing cash on hand of \$18,079.25 and Mrs. Heng filed an April Quarterly Report with a closing cash on hand of \$61,510.43. As a result, some candidates elected to drop out and re-file their candidacy in other districts, presumably for a higher likelihood of success.

On January 24, 2023, the committee received a complaint from Kelly Dickson and the Federal Election Commission alleging baseless violations to 18 U.S.C. §201(b) and 18 U.S.C §597 as well as referencing unsubstantiated investigations by the Federal Bureau of Investigation.

Law:

As stated by 18 U.S.C. §201(b), Whoever – (1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent – (A) to influence any official act; or (B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or (C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person.

As stated by 18 U.S.C §597, Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote.

The Federal Election Commission enacted contribution limits for the 2021-2022 election cycle at \$2,900 per candidate per election for individuals and non-multicandidate committees.

Analysis:

Mr. Duarte, his campaign committee, or I as treasurer, did not knowingly, intentionally, or otherwise violate any of the above stated U.S. statutes as alleged.

It is well understood and accepted that candidates for political office will drop out of a race and re-file in a new district without providing much commentary as to their reasoning. Given the crowded primary election taking place in CA-13, it is beyond likely that Mr. Stoll, without nefarious intention or reason, had a reasonable notion to exit the race and re-file in a less crowded primary election for a better chance at success.

Mr. Duarte is within his legal right under 18 U.S.C. §597, to give donations within the contribution limits set forth by the Federal Election Commission, to any candidate for federal office. Mr. Duarte, donated to Mr. Stoll's campaign committee in the amount of \$2,900 on March 25, 2022, as legally permissible under before stated contribution limits. Under 18 U.S.C. §597 one must provide funds to another person to change their vote in their official capacity as an elected official. In this fact pattern, Mr. Duarte contributed within the contribution limits a properly disclosed contribution to Mr. Stoll who was not in any position to vote or withhold any type of vote. This contribution to Mr. Stoll's campaign does not, in any way, violate 18 U.S.C. §597, as alleged in the complaint but instead is a normal contribution in compliance with all laws and regulations.

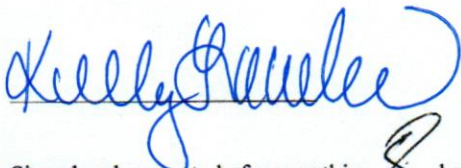
The complaint additionally makes a baseless allegation against Mr. Duarte in regard to his opponent Mrs. Heng. Mr. Duarte, did not, in any capacity, offer a bribe to Mrs. Heng or her campaign committee in exchange for any action, as required by 18 U.S.C. §201(b). The committee does not have reason to suspect that Mrs. Heng dropped out of the election for any reason but her own accord without outside influence due to no action taken by this committee, or Mr. Duarte to influence Mrs. Heng. Furthermore, Mrs Heng was not a public official as defined by the laws and regulations in question. This contribution to Mrs. Heng also does not, in any way, violate 18 U.S.C. §201(b) as alleged in the complaint but instead is a normal contribution, in compliance with all laws and regulations.

Lastly, the allegations continue to reference alleged Federal Bureau of Investigation activity but provide no information or facts of any investigations that give this Committee necessary information to believe there is any infraction or violation of Federal Election Commission laws and regulations and there is nothing further the committee can address in this matter.


Conclusion:

Complaints submitted such as this do nothing but discourage participation in the election process for both candidates and contributors. For all these reasons, I urge the Commission to exercise its prosecutorial discretion, dismiss this baseless complaint, and close the file in this MUR accordingly.

Sincerely,



Signed and sworn to before me this 8 day of February 2023



Signature of Notary Public

ROBERT A. PHILLIPS III, Attorney At Law
NOTARY PUBLIC - STATE OF OHIO
My commission has no expiration date
Sec. 147.03 R.C.

