

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Tiffany Muller
End Citizens United
PO Box 66005
Washington, DC 20035

Complainant,

v.

Kirkmeyer for Congress and Paul Kilgore, in his official capacity as treasurer
PO Box 468
Fort Lupton, CO 80621

Barbara Kirkmeyer
6200 County Road 4
Brighton, CO 80603

The Committee to Elect Barb Kirkmeyer to State Senate
6100 County Road 4
Brighton, CO 80603

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Barbara Kirkmeyer, Kirkmeyer for Congress and Paul Kilgore in his official capacity as treasurer, and the Committee to Elect Barbara Kirkmeyer to State Senate (collectively “Respondents”) for violating the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “FEC” or “Commission”) regulations. Kirkmeyer made two transfers of funds from her state committee to her federal committee, in clear violation of the Act’s prohibition on the use of “soft money” in federal elections. The Commission should immediately take appropriate remedial action against Respondents for these violations.

FACTS

Barbara Kirkmeyer was elected to a four-year term as a Colorado State Senator in 2020. The Committee to Elect Barb Kirkmeyer to State Senate (the “State Committee”) is her state campaign committee.¹ On November 16, 2021, Barbara Kirkmeyer filed a Statement of Candidacy for U.S. House in Colorado’s 8th Congressional District.² She designated Kirkmeyer for Congress (the “Federal Committee”) as her principal campaign committee.³

On December 10, 2021, Kirkmeyer transferred \$1,000 to her Federal Committee.⁴ Less than a month later, on January 18, 2022, she made another transfer of \$1,000 to the Federal Committee.⁵ The State Committee disclosed this transfer as “Gifts.”⁶ On its reports, the Federal Committee disclosed both transfers as contributions with the description “verified permissible funds.”⁷

LEGAL DISCUSSION

The Act prohibits federal candidates, their agents, and entities established, financed, maintained, or controlled by federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with any federal election, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act.⁸ The Commission has concluded

¹ Candidate Committee Information, Committee to Elect Barbara Kirkmeyer to State Senate, <https://tracer.sos.colorado.gov/publicsite/searchpages/CandidateDetail.aspx?OrgID=36481&Type=CO>.

² Barbara Kirkmeyer, Statement of Candidacy (Nov. 16, 2021), <https://docquery.fec.gov/pdf/674/202111169468501674/202111169468501674.pdf>.

³ *Id.*

⁴ Committee to Elect Barbara Kirkmeyer to State Senate, January 18, 2022 – Report of Contributions and Expenditures, <https://tracer.sos.colorado.gov/publicsite/searchpages/FilingDetail.aspx?FilingID=311236>.

⁵ Committee to Elect Barbara Kirkmeyer to State Senate, April 15, 2022 – Report of Contributions and Expenditures, <https://tracer.sos.colorado.gov/publicsite/searchpages/FilingDetail.aspx?FilingID=339029>.

⁶ *Id.*

⁷ Kirkmeyer for Congress, 2021 Year-End Report at 65, <https://docquery.fec.gov/pdf/207/202201269475166207/202201269475166207.pdf> (Jan. 26, 2022); Kirkmeyer for Congress, Amended April 2022 Quarterly Report at 55 (May 4, 2022), <https://docquery.fec.gov/pdf/392/202205049502577392/202205049502577392.pdf>.

⁸ 52 U.S.C. § 30125(e)(1); 11 C.F.R. § 300.61.

that the state committee of a federal candidate is established, financed, maintained, or controlled by a federal candidate within the meaning of the Act.⁹

Commission regulations also explicitly prohibit “[t]ransfers of funds or assets from a candidate’s campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election.”¹⁰ This blanket prohibition on all transfers from a dual candidate’s state committee to the candidate’s federal committee was intended to prevent a federal committee’s indirect use of soft money.¹¹ There are no exceptions in the regulation for use of federally permissible funds.

In direct violation of this regulation, Kirkmeyer’s State Committee made two transfers of \$1,000 to the Federal Committee on December 11, 2021, and January 16, 2022, respectively. That the Federal Committee reported these contributions as coming from funds that are permissible under the Act is completely irrelevant. Section 110.3(d) establishes a categorical ban on all transfers from a federal candidate’s state committee to the candidate’s federal committee regardless of whether the funds are permissible under the Act.¹²

REQUESTED ACTION

As demonstrated above, the Respondents have violated the Act and the Commission’s regulation by receiving, transferring, and spending soft money funds in connection with a federal election. Specifically, Kirkmeyer’s State Committee transferred funds to her Federal Committee in plain violation of the Commission’s regulation. Therefore, we respectfully request that the

⁹ Advisory Op. 2007-26 (Schock) at 4; Advisory Op. 2006-38 (Casey State Committee) at 4.

¹⁰ 11 C.F.R. § 110.3(d).

¹¹ See Transfers of Funds from State to Federal Campaigns, 58 Fed. Reg. 3,474, 3,474-3,475 (Jan. 8, 1993).

¹² See Factual & Legal Analysis at 8, MUR 5722 (Friends for Lauzen) (“Section 110.3(d) of the Commission’s regulations prohibits all transfers from the nonfederal [campaign] to a federal campaign of the same individual regardless of whether the funds used are permissible under the Act.”); MUR 5406 (finding reason to believe that a dual candidate’s federal committee violated 110.3(d) by accepting a direct contribution candidate’s state committee and requiring disgorgement of contribution to U.S. Treasury).

Commission immediately investigate these violations, fine Respondents the maximum amount permitted by law, require the Federal Committee to refund or disgorge the unlawful funds it received from the State Committee, and enjoin Respondents from further violations of the law.

Sincerely,



Tiffany Muller
End Citizens United
PO Box 66005
Washington, DC 20035

SUBSCRIBED AND SWORN to before me this 5th day of October, 2022.



Notary Public

My Commission Expires:

MARK ANDREWS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires July 14, 2024

