



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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AGENDA DOCUMENT NO. 17-29-A
AGENDA ITEM
For meeting of July 13, 2017

MEMORANDUM

TO: The Commission

FROM: Steven T. Walther *STW*
Chairman

RE: Request by the Sergeant at Arms of the United States House of Representatives Regarding the Possible Use of Campaign Funds for Residential Security Systems

DATE: June 28, 2017

Attached are two documents: (1) A letter sent by Paul D. Irving, Sergeant at Arms of the United States House of Representatives, dated June 21, 2017; and (2) my response to that letter dated June 27, 2017. I request that the issues raised in those letters be discussed by the Commission at the Open Meeting scheduled for July 13, 2017.

Attachments

Office of the Sergeant at Arms
U.S. House of Representatives
Washington, DC 20515-6634

June 21, 2017

Steven T. Walther, Chairman
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Dear Chairman Walther:

I write to request guidance and clarification from the Federal Election Commission (FEC) regarding the use of campaign funds by Members of the U.S. House of Representatives for residential security systems. The FEC has issued three advisory opinions allowing Members of Congress to use campaign funds for residential security systems: *Gallegly* 2009-08 (May 7, 2009), *Terry* 2011-05 (April 1, 2011) and *Giffords* 2011-17 (September 1, 2011). Each of these cases dealt with threats and/or violence against elected, current Members of Congress or a family member.

As Sergeant at Arms for the House of Representatives, I am the chief law enforcement official for the institution and therefore intimately familiar with the day-to-day threats that all Members receive due to their status as elected officials. Over the course of the last five years, Members have had their home addresses and likenesses published in documents and on internet postings, both on the traditional web and dark web. Members receive threatening communications on a daily basis via the internet, telephone and mail in Washington, D.C., at their Congressional district offices, and at their residences. The increased use of social media has created a new avenue for individuals with ill intent to publish threatening communications directed toward Members of the House of Representatives. The anonymous nature of these postings makes it particularly challenging for the United States Capitol Police (USCP), and it is imperative that we do everything possible to protect our elected representatives.

As you know, this vitriol has culminated in the tragic events of June 14, 2017 where Representative Steve Scalise and three other individuals were seriously wounded by a gunman whose acts were prompted because they were Members of Congress. Without the USCP whose presence was coincidental, the results would have been far more catastrophic.

This year alone (from January 1 of 2017 to date), the USCP have investigated approximately 950 threatening communication messages aimed at Members because of their profile as elected representatives or Members of Congress. This number has surpassed the approximately 902 threatening communications that the USCP investigated in calendar year 2016 and constitutes the new daily threat environment faced by Member of Congress.

In each of the above noted advisory opinions, the FEC held that Members who have been threatened could use campaign funds for non-structural security upgrades to their residences.

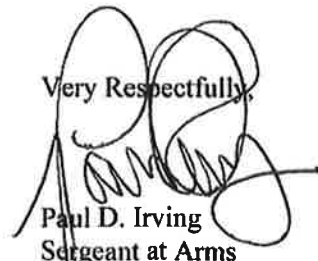
The advisory opinions have addressed six categories of permissible uses of contributions accepted by a Federal candidate. Of importance in this matter are the provisions that the ordinary and necessary expenses incurred are in connection with the duties of the individual as a holder of Federal office and that the use is lawful and not prohibited by 2 U.S.C. 439a(b).¹ See 52 U.S.C. 30114(a)(2) and (6).

52 U.S.C. 30114(b)(2) lists those expenditures of campaign funds that would constitute conversion. Residential security systems are not among those items specifically prohibited. Further, the FEC has stated that if a candidate "can reasonably show that the expenses at issue resulted from campaign or officeholder activities, the Commission will not consider the use to be personal use." AO 2011-08 at 3, citing 60 FR 7862, 7867 (Feb. 9, 1995).

It seems clear that the FEC has held that if a Member of Congress receives a threatening communication, based on the fact that they are a Member of Congress, campaign funds can be used for residential security systems. However, it is unclear whether other Members of the House may rely on these advisory opinions to procure residential security systems with campaign funds pursuant to 52 U.S.C. 30108.

Therefore, as this is an urgent matter, I am respectfully requesting a Letter of Guidance from the Federal Election Commission within the next 7 business days as to whether a Member of Congress may use campaign funds to install residential security systems that do not constitute structural improvements. It is my position that Members of the U.S. House of Representatives require a residential security system due to the threat environment.

Please feel free to contact me at (202) 225-2456, or by email at pirving@mail.house.gov should you wish to discuss this matter further.

Very Respectfully,

Paul D. Irving
Sergeant at Arms
United States House of Representatives

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Nancy Pelosi, Democratic Leader
Robert Knop, Esq., Office of the General Counsel, FEC

¹ 2 U.S.C. 439a has been redesignated as 52 U.S.C. 30114.



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 27, 2017

The Honorable Paul D. Irving
Sergeant at Arms
United States House of Representatives
Washington, DC 20515-6634

Dear Sergeant at Arms Irving:

I acknowledge receipt of your letter, dated June 21, 2017, requesting guidance and clarification from the Federal Election Commission regarding the use of campaign funds by Members of the U.S. House of Representatives for residential security systems.

The Commission and its staff are currently reviewing this issue, which we understand you consider to be an urgent priority. As Chairman, I intend to request that this issue be tentatively discussed at the Commission's next scheduled public meeting on July 13, 2017, unless circumstances require otherwise. Please feel free to provide any further relevant information prior to the meeting.

Sincerely,

A handwritten signature in cursive script that reads "Steven T. Walther".

Steven T. Walther
Chairman

cc: Vice Chair Caroline C. Hunter
Commissioner Lee E. Goodman
Commissioner Matthew S. Petersen
Commissioner Ellen L. Weintraub