



October 20, 2017

The Honorable Johnny Isakson, Chair
The Honorable Christopher A. Coons, Vice Chair
Select Committee on Ethics
United States Senate
Room 220 Senate Hart Office Building
Washington, D.C. 20530

Re: Supplemental Request for Investigation of U.S. Senate Candidate Roy Moore

Dear Chairman Isakson and Vice Chairman Coons:

The Campaign Legal Center ("CLC") writes to supplement its October 2, 2017 complaint asking for an investigation into Alabama U.S. Senate candidate Roy Moore for failing to disclose certain income and assets on his financial disclosure report, in violation of federal law and Senate rules.

Following CLC's complaint, Moore amended his financial disclosure report on October 11.¹ However, a *Washington Post* story published the same day as Moore's amended report indicates that Moore continues to mislead both the Senate Ethics Committee and the public about the true nature of his income and assets.

The *Post* reported that the Foundation for Moral Law ("FML"), a 501(c)(3) charity founded by Moore, guaranteed Moore an annual salary of \$180,000 during his tenure as

¹ Mr. Roy S. Moore, Senate Candidate Financial Disclosure Form (Amendment 1), October 11, 2017 ("Amended Report"). <https://efdsearch.senate.gov/search/view/annual/4d0473b0-1f74-4801-9d8d-d11bec7f0a43/>. The instructions state that the reporting period for honoraria, income, assets and liabilities is the preceding calendar year and the current calendar year, up to the date of filing the report; in Moore's case, this means the relevant reporting period is January 1, 2016 through October 11, 2017. See Public Financial Disclosure Report for the United States Senate eFD Instructions ("Instructions") at p.5, https://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=D8A43EB3-CF5B-479A-81F6-0C9CE4E2F03F.

president from 2007 to 2012, and because it could not meet those payments each year, gave Moore a \$540,000 mortgage-backed promissory note.²

FML officials told the *Post* that Moore still holds the promissory note. However, this note was not disclosed as an asset on Moore's financial disclosure report.

According to the *Post*, Moore's \$180,000 annual salary was established in 2007, when Moore became the charity's president, and that:

[The FML board] agreed to pay him in an unusual way. Moore would be paid whatever speaking fees and donations to the charity he could generate through what was called "Project Jeremiah," the group's ministry to pastors and preachers. But he was guaranteed \$180,000 a year under the agreement, with the charity making up the difference if Project Jeremiah revenue fell short. If the charity did not have the cash in a given year, the debt to Moore would accumulate.³

FML "created a separate bank account and earmarked donations to 'Project Jeremiah' specifically for Moore," the *Post* reported, and the debt to Moore did indeed accumulate:

On Feb. 17 [2011], documents show, the [FML] board convened for an annual meeting in Gadsden, Alabama. There was only one item on the agenda: how to pay Moore for "arrearages of salary during the past four (4) years," according to the board's record of the meeting.

Lacking the ability to pay him cash, the board agreed to give Moore a promissory note worth \$393,000 that Moore could cash in on demand, documents show. The board backed up its promise with a second mortgage on the charity's historic building. In effect, the board was giving him the opportunity to foreclose on its headquarters to collect what he was owed. It also authorized [Board Chair John] Bentley to increase the amount owed to Moore as needed.⁴

Minutes from that 2011 meeting were filed with the Montgomery County Probate Court. CLC has obtained those minutes, which are attached as Exhibit A. The minutes include a copy of the promissory note from Moore to FML, dated February 17, 2011, which states that "The entire principal balance will be due and payable on demand."⁵ Those minutes also include the second mortgage, dated February 17, 2011, listing Moore as the mortgagee.⁶

² Shawn Boburg and Robert O'Harrow Jr., *Undisclosed deal guaranteed Roy Moore \$180,000 a year for part-time work at charity*, WASH. POST (Oct. 11, 2017), https://www.washingtonpost.com/investigations/undisclosed-deal-guaranteed-roy-moore-180000-a-year-for-part-time-work-at-charity/2017/10/11/5f56679e-a9de-11e7-850e-2bdd1236be5d_story.html?utm_term=.3ead4dd7ebde.

³ *Id.*

⁴ *Id.*

⁵ Exhibit A at 4-5.

⁶ *Id.* at 6-10.

On December 19, 2011, FML Chair Bentley increased FML's debt owed to Moore to \$498,000, and filed an "Amended and Restated Promissory Note" and "Amended and Restated Second Real Estate Mortgage" with the Montgomery County Probate Office. Those records are attached as Exhibit B.⁷

The next year, on December 28, 2012, Bentley again increased the indebtedness to Moore to \$540,000, according to records filed with the Montgomery County Probate Office and attached as Exhibit C.

Those 2012 records include an "Amended and Restated Promissory Note" dated December 28, 2012 and stating that FML "promises and agrees to pay unto Roy Moore" \$540,000, and that "[t]he entire principal balance will be due and payable on demand," and that "[t]his note and its terms shall constitute the full and complete agreement between the parties hereto."⁸ Those records also include an "Amended and Restated Second Real Estate Mortgage," dated December 28, 2012, that states FML "is justly indebted to Roy S. Moore . . . in the sum of . . . \$540,000 . . . evidenced by its Amended and Restated Promissory Note."⁹

Moore's amended Senate financial disclosure report states under Part 3, "Assets," that he owns a "Second Mortgage Interest – Office Building located at One Dexter" in Montgomery, Alabama, valued between \$500,001 and \$1,000,000.¹⁰ This listing presumably reflects the mortgage that serves as financial backing for FML's promissory note.

However, Moore's financial disclosure report does not include any disclosure of the promissory note itself, which guarantees Moore \$540,000 in deferred compensation, with the "entire principal balance . . . due in full and payable on demand," and which by its very terms "constitute[s] the full and complete agreement" between the parties.¹¹

The note must be disclosed separately because it is a distinct asset from the mortgage that backs it. For example, depending on the value of the FML building in an ever-fluctuating housing market, and depending on the outstanding amount of the building's first mortgage—which, as of 2014, was valued at \$500,000¹²—it is possible that the second mortgage alone will fail to net Moore its full value.¹³ However, the promissory

⁷ The *Post* notes that "The back-pay arrangement was not disclosed to the IRS on annual tax filings until Nov. 14, 2012, one week after Moore won an election to return to Alabama's Supreme Court. The tax filing, covering 2011, said he had been paid \$393,000 in "retirement or other deferred compensation," reflecting the amount in the original note, although mortgage records show the higher figure." Boburg and O'Harrow Jr., *supra* note 2.

⁸ Exhibit C at 7-8.

⁹ *Id.* at 1-6. The *Post* also reported that "On tax filings for [2012], the charity said [Moore] was paid \$138,000 in "reportable" compensation and \$42,000 in "other" pay — for the first time reflecting the \$180,000 total he was to receive each year under the agreement." Boburg and O'Harrow Jr., *supra* note 2.

¹⁰ Amended Financial Disclosure report at 3.

¹¹ Exhibit C at 8.

¹² As of January 2014, FML's first mortgage was \$500,000, owed to Sterling Bank. See Foundation for Moral Law, Mortgage Modification Agreement (Jan. 6, 2014), attached as Exhibit D.

¹³ FML claimed on its most recent IRS Form 990, for calendar year 2014, that the building was worth just \$633,441. See Foundation for Moral Law, 2014 Form 990 at 11, 21 (excerpted and

note nonetheless guarantees that Moore is entitled to the entire \$540,000 from FML, regardless of the underlying value of the mortgage.

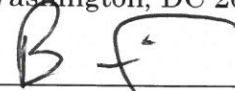
Moreover, the purpose of the financial disclosure report is to give voters and the public basic information about the sources and nature of a Senate candidate's income and assets. Failing to disclose a \$540,000 promissory note for deferred compensation for part-time work for a charity deprives voters of the information necessary to hold candidates and officials accountable. Moore should have disclosed FML's promissory note itself, and noted that the mortgage was backing it.¹⁴

CLC respectfully requests that the Select Committee on Ethics immediately commence an investigation into Moore's failure to disclose income, liabilities, and potential conflicts of interest, and to assess appropriate penalties.

Respectfully submitted,



Adav Noti
Senior Director, Trial Litigation and Strategy
Campaign Legal Center
1411 K Street, NW, Suite 1400
Washington, DC 20005



Brendan M. Fischer
Director, Federal and FEC Reform Program
Campaign Legal Center
1411 K Street, NW, Suite 1400
Washington, DC 20005

Attachments

attached as Exhibit E). FML claimed under penalty of perjury that its investment in the building was \$807,318, but the accumulated depreciation was \$173,877, bringing the "book value" to \$644,441. *Id.* at 21. However, FML reportedly put the building on the market this year for nearly \$1.9 million, although it has not sold for the past seven months. Robert O' Harrow Jr. and Shawn Boburg, *Charity Once Led By Roy Moore Has Listed its Headquarters for Sale, a Move That Could Bring Him \$540,000 Windfall*, WASH. POST (Oct. 12, 2017),

https://www.washingtonpost.com/investigations/charity-once-led-by-roy-moore-lists-headquarters-for-sale-a-move-that-could-bring-him-540000-windfall/2017/10/12/58fb7a5e-af85-11e7-99c6-46bdf7f6f8ba_story.html?utm_term=.8d5b7bb3e2ce.

¹⁴ Additionally, in Part 10 of the Senate financial disclosure report, "compensation," Moore was obligated to include all sources of compensation exceeding \$5,000 for work performed in 2015, 2016, and 2017, and a description of the nature of the services provided. *See* Instructions at 6. However, Moore declared that he did not earn any compensation during this period, despite disclosing compensation in the preceding sections.