

## United States Senate

SELECT COMMITTEE ON ETHICS  
HART SENATE OFFICE BUILDING, ROOM 220  
SECOND AND CONSTITUTION AVENUE, NE  
WASHINGTON, DC 20510 6425

September 3, 2013

Robert L. Walker  
Brandis L. Zehr  
Wiley Rein LLP  
1776 K Street NW  
Washington, DC 20006

Dear Mr. Walker and Ms. Zehr:

This responds to your recent correspondence to the Committee seeking confirmation that a proposed employment arrangement by Senator Mark Kirk and his principal campaign committee, Kirk for Senate, complies with the Senate Code of Official Conduct. Provided the guidance below is followed, it appears that the arrangement described in your correspondence would be permissible.

### Background

Based on your correspondence and additional information you provided to the Committee, the background in this matter appears to be as follows. Senator Kirk intends to use personal funds to hire an individual to serve on a part-time basis as a live-in domestic service employee to provide limited assistance as a caregiver. Senator Kirk would compensate the individual at a commercially reasonable rate and on an hourly basis in accordance with applicable federal employment and tax laws. When Senator Kirk resides in Washington, D.C., the individual would provide approximately 2 to 4 hours of caregiver services daily from Sunday evening through Friday evening. The individual would reside in Senator Kirk's Washington, D.C. home and be available overnight in case Senator Kirk requires assistance. The individual would not be compensated for personal time but would receive compensation for any time spent providing services to Senator Kirk during scheduled off-duty time. The individual would travel with Senator Kirk to Illinois and maintain the same schedule for part-time caregiver services in residence at Senator Kirk's Illinois home.

Because the individual will not be employed by the Senate, the individual will provide only *de minimis* assistance, not to exceed eight hours a week, to facilitate Senator Kirk's ability to perform his official responsibilities. Services the individual may provide would include reading or typing email correspondence by Senator Kirk. The individual will not provide any direct services to the Senate office.

Additionally, Kirk for Senate intends to hire the same individual as a full-time employee, working a standard 40-hour work week, with occasional weekend work and travel as required.

The individual would be paid an annual salary of approximately \$40,000. The individual would work primarily with Kirk for Senate's national finance director on fundraising-related activities and would accompany Senator Kirk at campaign meetings and events in Washington, DC and Illinois. The individual would perform campaign duties from Senator Kirk's home and would not accompany Senator Kirk to any official events in Illinois or work from any official offices in the state.

Senator Kirk and Kirk for Senate will enter into separate employment agreements with the individual and will maintain appropriate records as required by federal employment and tax laws. Based on the individual's work schedule and hours, Senator Kirk and Kirk for Senate plan to make the necessary adjustments to the dual employment arrangement. Both Senator Kirk and Kirk for Senate intend to pay for the individual's travel expenses in accordance with well-established Senate Ethics and Federal Election Commission rules concerning mixed-purpose travel and personal use of campaign funds.

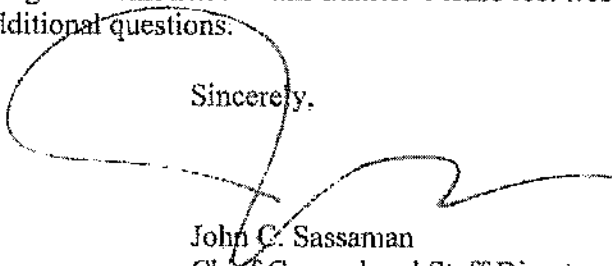
#### **Discussion**

As described to the Committee, there appears to be no Senate Rule that would prohibit the type of employment arrangement proposed by Senator Kirk and Kirk for Senate. Because the individual will not be employed by Senator Kirk's Senate office, the individual will not be a Senate employee subject to the Senate Code of Official Conduct and other rules and regulations that apply to Senate employees.

Nevertheless, Senator Kirk should take care that the individual should only provide personal assistance to the Senator to facilitate the performance of his official Senate duties, and that the individual should not perform any Senate services. Accordingly, the individual may not handle any tasks that should be undertaken by paid Senate staff and may not supervise or direct the work of any Senate employees. Senator Kirk and Kirk for Senate should continually monitor the individual's time to make sure that the individual is compensated from the appropriate source of funds for the services the individual is providing.

Thank you for contacting the Committee in this matter. Please feel free to contact the Committee if you have any additional questions.

Sincerely,



John C. Sassaman  
Chief Counsel and Staff Director