



January 16, 2020

Federal Election Commission  
Lisa J. Stevenson, Acting General Counsel  
Office of the General Counsel  
1050 First Street, NE  
Washington, DC 20463

**Re: MUR 7588 — Supplement to Complaint**

Dear Ms. Stevenson:

The Campaign Legal Center writes to supplement our March 28, 2019, complaint (MUR 7588) against the Lori Trahan for Congress Committee.

CLC's original complaint detailed available facts establishing reason to believe Trahan for Congress accepted contributions in excess of federal limits and violated FECA's reporting requirements by reporting \$300,000 in "personal loans" from the candidate which exceeded Rep. Trahan's known assets reported on her financial disclosure reports.

The Office of Congressional Ethics (OCE) reviewed similar allegations and gathered financial records, and on September 13, 2019, submitted a report and recommendation to the House Committee on Ethics finding there is "substantial reason to believe" Rep. Trahan's campaign committee accepted excessive contributions and omitted required information from FEC reports and candidate financial disclosure reports.<sup>1</sup> On December 17, 2019, the House Committee published OCE's report as it continues its review.<sup>2</sup>

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<sup>1</sup> Office of Congressional Ethics, Report Review No. 19-5449 (Sept. 13, 2019), [https://ethics.house.gov/sites/ethics.house.gov/files/Review%20No.%2019-5449\\_Referral.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/Review%20No.%2019-5449_Referral.pdf) ("OCE Report").

<sup>2</sup> See Press Release, House Committee on Ethics, *Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Lori Trahan* (Dec. 17, 2019), <https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-lori-0>.

## I. OCE's Investigation

OCE's investigation examined banking and other financial records, and found that "[o]n three occasions in 2018, Rep. Trahan may have loaned money to her campaign committee that originated from her husband's personal funds. While these loans do not appear to have originated from Rep. Trahan's personal funds, the campaign committee repeatedly reported them as personal loans."<sup>3</sup>

Those three transactions include:

***March 31, 2018, \$50,000 "Candidate Loan."*** According to OCE's report, on March 31, 2018, Rep. Trahan wrote a \$50,000 check to Trahan for Congress from a checking account held jointly with her husband, yet "[o]n this date, the joint checking account only had a balance of \$55.13."<sup>4</sup> On its report filed with the Commission, Trahan for Congress reported receiving a \$50,000 candidate loan on that same date.<sup>5</sup>

Approximately one week later, on April 7, 2018, Rep. Trahan's husband, David Trahan, wrote himself a check for \$50,000 from his personal bank account, and that same amount was deposited into the joint account on April 9, 2018.<sup>6</sup> That same day—and nine days after reporting receipt of the candidate loan—Trahan for Congress deposited the \$50,000 check from Rep. Trahan's joint account.<sup>7</sup>

***June 30, 2018, \$50,000 "Candidate Loan."*** According to OCE's report, "[o]n June 30, 2018, Rep. Trahan wrote a check from the joint checking account to her campaign committee for \$50,000. On this date, the joint checking account only had a balance of \$625.59."<sup>8</sup> Trahan for Congress reported receiving a \$50,000 candidate loan on that same date.<sup>9</sup>

Nine days later, on July 9, 2018, David Trahan wrote a \$55,000 check to himself from one of his business accounts, and on that same day, the same amount was deposited into the joint account.<sup>10</sup> On July 10, Trahan for Congress deposited Rep. Trahan's \$50,000 check, once

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<sup>3</sup> OCE Report at 8.

<sup>4</sup> *Id.* at 9.

<sup>5</sup> Lori Trahan for Congress Committee, April 2018 Quarterly Report, FEC Form 3 at 102 (amended Aug. 7, 2018), <https://docquery.fec.gov/pdf/513/201808089119378513/201808089119378513.pdf>.

<sup>6</sup> OCE Report at 10.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 11.

<sup>9</sup> Lori Trahan for Congress Committee, July 2018 Quarterly Report FEC Form 3 at 235 (filed Jul. 15, 2018), <https://docquery.fec.gov/pdf/862/201807159115639862/201807159115639862.pdf>.

<sup>10</sup> OCE Report at 11.

again delaying deposit until after the candidate's husband apparently deposited the necessary funds into the joint account.<sup>11</sup>

**August 22, 2018, \$200,000 “Candidate Loan:”** OCE's report found that on August 22, 2018, Rep. Trahan wrote a \$200,000 check from the joint account to Trahan for Congress,<sup>12</sup> and the committee reported receiving a \$200,000 candidate loan on that same date.<sup>13</sup> However, one day earlier, “David Trahan initiated an internal bank transfer of \$200,000, transferring money from his personal bank account into the joint checking account,” according to the OCE report.<sup>14</sup> Before that transfer, the joint account had a balance of \$2,769.54.<sup>15</sup>

## **II. OCE Found Reason to Believe Trahan for Congress Violated the Law, As Should the Commission**

In light of this evidence, OCE found substantial reason to believe Trahan for Congress had violated the law, given that “Rep. Trahan's campaign committee reported the \$300,000 in contributions as personal loans from Rep. Trahan when they appear to have been funds derived from David Trahan's personal accounts. Consistent with FEC guidance, spousal funds are subject to contribution limits. The process of transferring these funds from David Trahan's accounts to a joint account did not transform these funds into Rep. Trahan's assets, or even jointly owned assets.”<sup>16</sup>

For the same reasons, the Commission should find reason to believe Trahan for Congress violated FECA's reporting requirements at 52 U.S.C. § 30104(b)(2)-(3) and violated FECA's prohibition on accepting individual contributions in excess of \$2,700, *see* 52 U.S.C. § 30116(a)(1), by reporting at least \$300,000 in “candidate loans” that in fact came from the candidate's spouse.

Such a finding would be entirely consistent with Commission precedent. Recently, in MUR 6848, the Commission found reason to believe that a candidate violated FECA's contribution limits and reporting requirements based on substantially similar evidence:

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<sup>11</sup> *Id.* at 12.

<sup>12</sup> *Id.* at 13.

<sup>13</sup> Lori Trahan for Congress Committee, October 2018 Quarterly Report, FEC Form 3 at 102, 158 (amended Dec. 15, 2018), <https://docquery.fec.gov/pdf/443/201812159143522443/201812159143522443.pdf>.

<sup>14</sup> OCE Report at 12.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 13. OCE referred the matter for further investigation by the House Ethics Committee, given that financial records and other evidence provided “substantial reason to believe” that Trahan for Congress “may have accepted excessive contributions reported as personal loans and contributions from the candidate, that may not have been sourced from Rep. Trahan's personal funds,” and failed to properly report those contributions. *Id.* at 3.

that a candidate used spousal funds, transferred to a joint account, to fund what his campaign committee reported as a candidate loan.<sup>17</sup>

In that case, two Commissioners ultimately declined to find probable cause to believe that FECA had been violated, because they believed there was insufficient evidence that the candidate had decided to run for office at the time the spousal funds were transferred into the joint account.<sup>18</sup> Yet there are no such timing questions here. Trahan was clearly a candidate, and in the final stretch of a highly competitive primary campaign, when David Trahan transferred a total of \$300,000 into the joint account—funds which were then deposited immediately by Trahan for Congress.<sup>19</sup>

Notably, the Office of General Counsel emphasized in MUR 6848 that “[t]he Commission has rejected the view that all funds deposited into a jointly held account after a candidate declares his candidacy become the candidate’s personal funds.”<sup>20</sup> The Commission should similarly reject Rep. Trahan’s claim that her spouse’s assets became her “personal funds” simply because they were deposited into a joint account before being contributed to Trahan for Congress.<sup>21</sup>

MUR 6860 is another example of the Commission finding that spousal funds deposited into a candidate-controlled account to cover contributions of the candidate are subject to FECA’s contribution limits and disclosure requirements.<sup>22</sup> In that matter, the Commission found reason to believe, and entered into a conciliation agreement, with a candidate who made loans to her campaign from her personal bank account, using spousal funds transferred into the account for that purpose.<sup>23</sup>

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<sup>17</sup> Notification with Factual & Legal Analysis, MUR 6848 (Demos) (July 25, 2018), <https://www.fec.gov/files/legal/murs/6848/18044454457.pdf>; *see also* Statement of Reasons of Vice Chairman Peterson and Commissioner Hunter at 1-2, MUR 6848 (Demos) (Aug. 30, 2019), [https://www.fec.gov/files/legal/murs/6848/6848\\_2.pdf](https://www.fec.gov/files/legal/murs/6848/6848_2.pdf).

<sup>18</sup> Statement of Reasons of Vice Chairman Peterson and Commissioner Hunter at 3-4, MUR 6848 (Demos).

<sup>19</sup> Rep. Trahan’s response to OCE’s report and referral dismisses and mischaracterizes MUR 6860, writing only that “the FEC did not find a violation after a candidate made a loan from a joint account that had been funded with her spouse’s income.” Letter from Kate Sawyer Keane et al. to The Honorable Theodore E. Deutch et al., OCE Review No. 19-5449, at 5 (Oct. 28, 2019), <https://ethics.house.gov/sites/ethics.house.gov/files/Ethics%20Response%2020191028.pdf> (“Trahan Resp.”). The response fails to mention that the Commission’s 2-2 deadlock stemmed from a factual question about candidacy not present in this case.

<sup>20</sup> First General Counsel’s Report at 13, MUR 6848 (Demos) (Mar. 4, 2015), <https://www.fec.gov/files/legal/murs/6848/18044454359.pdf>; *see also* First General Counsel’s Report at 10-11, MUR 6860/Pre-MUR 577 (Land) (Feb. 26, 2015), <https://www.fec.gov/files/legal/murs/6860/18044446327.pdf>; *see also* Notification with Factual & Legal Analysis, at 6, MUR 6417 (Huffman) (Aug. 11, 2011), <https://www.fec.gov/files/legal/murs/6417/12044312037.pdf>.

<sup>21</sup> *See* Trahan Resp. at 5.

<sup>22</sup> First General Counsel’s Report at 10-11, MUR 6860/Pre-MUR 577 (Land).

<sup>23</sup> Conciliation Agreement, at 2, MUR 6860 (Land) (June 3, 2018), <https://www.fec.gov/files/legal/murs/6860/18044446407.pdf>; General Counsel’s Notice to the

Just as it was irrelevant in MUR 6860 that the spouse's funds passed through the candidate's personal account before being contributed to her committee, it is irrelevant here that the funds from Trahan's spouse passed through a joint account before being contributed to Trahan for Congress. Both transactions violated FECA because funds that were reported as candidate loans had actually originated from the candidate's spouse.

### III. Representative Trahan's Response Is Meritless

In opposition to OCE's report, Rep. Trahan submitted a response purporting to address her "First Amendment right . . . to spend *her personal funds* in support of her own campaign."<sup>24</sup> But merely asserting that funds in a bank account owned solely by another person were actually Rep. Trahan's "personal funds" does not make them so.

The main factual claim in Rep. Trahan's response is that she and her husband had a prenuptial agreement under which, she states, income earned by either spouse during the marriage was the couple's joint property.<sup>25</sup> There are three problems with this claim.

First, despite repeatedly asserting that any income David Trahan earned during their marriage was joint property under the prenuptial agreement, Rep. Trahan's response never even states — much less provides evidence — that the funds transferred to the campaign were earned by David Trahan during the marriage. That conspicuous omission speaks volumes. Because there is no evidence that the money at issue was actually marital property under the prenuptial agreement, the response's entire discussion of that agreement is irrelevant.

Second, if the funds in David Trahan's accounts were genuinely Rep. Trahan's, the response fails to explain why David Trahan went through the trouble of funneling the money through a joint bank account instead of having it sent straight from his account to the campaign. The taking of this intermediate step implies Rep. Trahan did *not* consider herself to have ownership or title of the money, but rather felt the need to launder it through a joint account to give it the appearance of being her personal funds. Attempting to make lemonade out of inconvenient facts, the response suggests David Trahan routed the money through an intermediary account because the Trahans "share[d] their finances."<sup>26</sup> This appears to be true, in the sense that David Trahan put hundreds of thousands of dollars of his own money into an account that Rep. Trahan then used to bankroll her campaign. That is also what makes the transaction unlawful, just as if any other person had transferred hundreds of thousands of dollars to Rep. Trahan's bank account for her to spend on her election.

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Commission Following the Submission of Probable Cause Brief, at 3-4, MUR 6860 (Land) (Feb. 22, 2018), <https://www.fec.gov/files/legal/murs/6860/18044446395.pdf>.

<sup>24</sup> Trahan Resp. at 1 (emphasis added).

<sup>25</sup> *Id.* at 3-4.

<sup>26</sup> *See id.* at 5.

Third, the response contradicts Rep. Trahan's financial disclosure statements, in which she explicitly denoted the relevant accounts as her husband's, not as joint accounts.<sup>27</sup> It is particularly notable that Rep. Trahan affirmatively labeled the money in these accounts as her spouse's assets, given that the disclosure form does not require filers to distinguish between spousal and joint accounts.<sup>28</sup> Admittedly, just because Rep. Trahan submitted a filing to the government under penalty of perjury does not mean the facts she asserted in that filing are true. But her voluntary designation of the accounts as spousal is also consistent with the evidence uncovered by OCE's investigation, so the personal financial disclosures are far more probative evidence than the conflicting, unsworn, after-the-fact claims submitted by Rep. Trahan's counsel, particularly in light of her refusal to participate in OCE's investigation.<sup>29</sup>

Ultimately, Rep. Trahan attempts to characterize her false statements on her personal financial disclosures as routine paperwork errors.<sup>30</sup> In other words, Rep. Trahan would have the Commission believe she just happened to make a lengthy and repeated series of sequential mistakes on numerous official government filings, with all of those mistakes coincidentally serving to cover up where she got the money she used to finance her campaign for federal office.

The evidence undermines any claim that these were merely innocent errors. Instead, the available facts provide reason to believe Rep. Trahan intentionally misled voters about her campaign financing at the height of the election, knowingly depriving those voters of information to which they are entitled by law. The voters who went to the polls on September 4, 2018, to decide an extremely close race had a legal right to know that Rep. Trahan had funded her campaign with David Trahan's resources and in excess of the legal limits. Rep. Trahan's false FEC filings violated that right.

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<sup>27</sup> Rep. Trahan's shifting financial disclosures are detailed at paragraph 14 of CLC's original complaint.

<sup>28</sup> U.S. House of Representatives, Ethics in Government Act Financial Disclosure Statement at 4 (2018) ("*If you so choose, you may indicate that an asset or income source is that of your spouse . . . or jointly held with anyone . . . , in the optional column . . .*") (emphases added).

<sup>29</sup> See *La Botz v. FEC*, 889 F. Supp. 2d 51, 62-63 (D.D.C. 2012) (holding FEC acted contrary to law in crediting "post hoc" justifications offered by respondent that were "contradicted by contemporaneous written evidence"). Rep. Trahan has displayed a consistent lack of veracity in this matter. For example, she initially stated that the funds at issue derived in substantial part from her business income. See Andrea Estes, *Questions raised about source of late funds that helped carry Rep. Lori Trahan to victory*, Boston Globe, Mar. 3, 2019, <https://www.bostonglobe.com/metro/2019/03/03/questions-raised-about-source-late-funds-that-helped-carry-rep-lori-trahan-victory/oGjvhDF9tbmV9FWt5zgQfJ/story.html>. OCE's investigation conclusively proved this statement to be untrue, and her response now appears to abandon it. The response also states that Rep. Trahan's amendments to her FEC reports and personal financial disclosures were conducted "voluntarily." Trahan Resp. at 9. That is highly misleading; Rep. Trahan did not amend her reports until media inquiries put her on notice that her initial characterizations of the sources of the money were being questioned. See Estes, *supra*. Such misstatements, when combined with the others described in this supplement and in the original complaint, demonstrate a pattern of falsity that should give the Commission pause as to affording any weight to Rep. Trahan's factual assertions.

<sup>30</sup> See Trahan Resp. at 8-9.

For these reasons and the reasons stated in our original complaint, the Commission should find reason to believe the respondent knowingly and willfully violated the Federal Election Campaign Act. We will transmit this supplement, along with the original administrative complaint and the OCE report, to the Department of Justice for its consideration under 52 U.S.C. § 30109(d).

Respectfully submitted,

/s/ Adav Noti

Adav Noti

Campaign Legal Center

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(202) 736-2200

*Counsel to Complainants*

January 16, 2020

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.



For Complainant Richard A. Graham

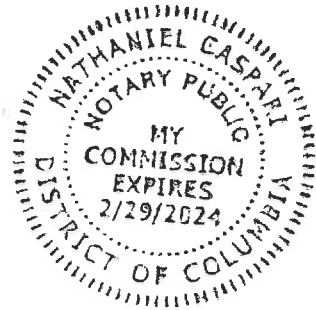
A handwritten signature of Richard A. Graham in black ink, written over a horizontal line.

Richard A. Graham

Sworn to and subscribed before me this 15 day of January 2020.

A handwritten signature of the Notary Public in black ink, written over a horizontal line.

Notary Public



For Complainant Campaign Legal Center

A handwritten signature of Adav Noti in black ink, written over a horizontal line.

Adav Noti

Sworn to and subscribed before me this 15 day of January 2020.

A handwritten signature of the Notary Public in black ink, written over a horizontal line.

Notary Public