



October 6, 2021

Chairman Mike Barnes  
Co-Chairman Paul Vinovich  
Office of Congressional Ethics  
425 3rd Street, SW Suite 1110  
Washington, DC 20024

*Sent via email (oce@mail.house.gov)*

Dear Chairman Barnes and Co-Chairman Vinovich:

Campaign Legal Center (“CLC”) respectfully requests that the Office of Congressional Ethics (“OCE”) investigate whether Rep. Seth Moulton violated House rules. Evidence from the Federal Election Commission (“FEC”) indicates that Rep. Moulton used tens of thousands of dollars in leadership PAC funds for travel, lodging, and meals,<sup>1</sup> possibly violating the personal use ban if these expenses were used other than for proper campaign purposes as outlined in the House Rules. OCE should investigate whether Rep. Moulton improperly converted campaign funds to personal use in violation of House rules.

Members of Congress are clearly prohibited by House rules from using leadership PACs as personal slush funds. When elected officials use campaign contributions to enrich themselves, they undermine the public’s trust in their elected officials and the campaign finance system. House rules require Rep. Moulton and other members to verify that leadership PAC expenses are legitimate campaign expenses. Based on Rep. Moulton’s remarkably small leadership PAC expenses on political contributions and

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<sup>1</sup> Serve America PAC - Restricted (C00656439) and SERVE AMERICA PAC (C00571174), Disbursements, 2019-20, FEC.gov, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00571174&committee\\_id=C00656439&two\\_year\\_transaction\\_period=2020&min\\_date=01%2F01%2F2019&max\\_date=12%2F31%2F2020](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00571174&committee_id=C00656439&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2020) (last visited Oct. 5, 2021).

significant amount spent on travel, lodging, and meals, the OCE should require him to verify that he has complied with House rules.

## **House Rules Prohibit Members from Converting Leadership PAC Funds to Personal Use**

Pursuant to House rules, members “may not convert campaign funds to personal use.”<sup>2</sup> As the House Ethics Manual states, “Campaign funds are **not** to be used to enhance a Member’s lifestyle, or to pay a Member’s personal obligations.”<sup>3</sup>

“[T]he term ‘campaign funds’ includes funds of any political committee under the Federal Election Campaign Act of 1971 [(“FECA”)], without regard to whether the committee is an authorized committee of the Member.”<sup>4</sup> Under House rules, the personal use ban applies to leadership PAC funds, which are “political committees” under FECA.<sup>5</sup>

The House Ethics Manual refers members to Federal Election Commission (“FEC”) regulations for guidance on what constitutes prohibited “personal use.”<sup>6</sup> Those FEC regulations provide a non-exhaustive list of uses of campaign funds that are *per se* personal use, which includes “vacation” and “[a]dmission to a sporting event” or other forms of entertainment.<sup>7</sup>

Uses of campaign funds not on this list, such as meal and travel expenses, are evaluated for illegal personal use on a case-by-case basis.<sup>8</sup> FEC regulations mandate that “incremental expenses” that are “associated with travel [] involv[ing] both personal activities and campaign or officeholder-related activities” be deemed personal use, “unless the person(s) benefitting from this use reimburse(s) the campaign account within thirty days for the amount of the incremental expenses.”<sup>9</sup>

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<sup>2</sup> RULES OF THE HOUSE OF REPRESENTATIVES OF THE U.S. 117<sup>TH</sup> CONG. (2021), House Rule 23, cl. 6(b); COMM. ON STANDARDS OF OFFICIAL CONDUCT, 110<sup>TH</sup> CONG., HOUSE ETHICS MANUAL (2008) at 63-64, available at [https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008\\_House\\_Ethics\\_Manual.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf) (emphasis in original).

<sup>3</sup> House Ethics Manual, *supra* note 2, at 173 (emphasis in original).

<sup>4</sup> House Rule 23 cl. 15(d)(1), *supra* note 2.

<sup>5</sup> *Id.*; 52 U.S.C. § 30101(4); 11 C.F.R. § 100.5(e)(6). *See also* House Ethics Manual, *supra* note 2, at 118, note 37 (“The term ‘campaign funds’ is defined broadly to include ‘leadership PAC’ funds.”).

<sup>6</sup> *See id.* at 153-154, 172.

<sup>7</sup> *See* 11 C.F.R. § 113.1(g)(1)(i).

<sup>8</sup> *See id.* § 113.1(g)(1)(ii).

<sup>9</sup> *See id.* § 113.1(g)(1)(ii)(C).

“Members have wide discretion in determining what constitutes a bona fide campaign or political purpose to which campaign funds and resources may be devoted,” but members “have no discretion whatsoever to convert campaign funds to personal use.”<sup>10</sup> Furthermore, House rules require that Members be able to verify that campaign funds have not been used for personal purposes.<sup>11</sup> “[T]he verification requirement imposed by the House rules is separate from, and in addition to, whatever recordkeeping requirements are imposed by the Federal Election Commission on federal candidates generally.”<sup>12</sup>

### **Rep. Moulton Used Leadership PAC Funds to Pay for Travel, Lodging, and Meals**

The tens of thousands of dollars spent by Rep. Moulton’s leadership PAC on luxury hotels, dining, and travel raise questions as to whether these funds have been converted to Rep. Moulton’s personal use.

Rep. Moulton’s leadership PACs spent approximately \$20,000 on meals, food, and catering during the 2019-20 cycle.<sup>13</sup> This included \$3,200 in March 2020 at the East Pole, an upscale farm-to-table restaurant in New York City,<sup>14</sup> and \$350 at Proxi in January 2019, a high-end small plates restaurant in Chicago.<sup>15</sup>

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<sup>10</sup> HOUSE ETHICS MANUAL, *supra* note 2, at 173.

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

<sup>12</sup> *Id.* at 165.

<sup>13</sup> Serve America PAC - Restricted (C00656439) and Serve America PAC (C00571174), Disbursements for “meals,” “food,” or “catering,” 2019-20, FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00571174&two\\_year\\_transaction\\_period=2020&disbursement\\_description=catering&disbursement\\_description=food&disbursement\\_description=meal&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00571174&two_year_transaction_period=2020&disbursement_description=catering&disbursement_description=food&disbursement_description=meal&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>14</sup> Serve America PAC (C00571174), Disbursements for “The East Pole,” 2019-20, FEC.GOV, [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00571174&recipient\\_name=east+pole&two\\_year\\_transaction\\_period=2020&min\\_date=01%2F01%2F2019&max\\_date=12%2F31%2F2022](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00571174&recipient_name=east+pole&two_year_transaction_period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2022) (last visited Oct. 4, 2021) (showing two payments to The East Pole in March 2020, totaling approximately \$3,200); *see also* THE EAST POLE, <https://theeastpolenyc.com/> (last visited Oct. 5, 2021).

<sup>15</sup> Serve America PAC (C00571174), July 2019 Mid-Year Report, FEC Form 3X at 88 (filed July 31, 2019), <https://docquery.fec.gov/cgi-bin/fecimg/?201907319161255962>; *see also* PROXI, <https://www.proxichicago.com/> (last visited Oct. 5, 2021).

Rep. Moulton’s leadership PACs also spent \$10,400 on travel expenses, including \$9,200 on airfare<sup>16</sup> and \$1,200 on Uber rides.<sup>17</sup> Additionally, Rep. Moulton reported spending \$6,800 on lodging,<sup>18</sup> including roughly \$400 at Canopy by Hilton, a luxury four-star hotel in Washington’s District Wharf.<sup>19</sup>

### **There is a Reasonable Basis to Believe that the Leadership PAC Expenses Were for Personal Use**

Pursuant to Rule 7 of the OCE Rules for the Conduct of Investigations, the “Board shall authorize a preliminary review of any allegation(s) when it determines there is a reasonable basis to believe the allegation(s) based on all the information then known to the Board.”<sup>20</sup> “A reasonable basis to believe the allegation(s) exists when there is a reasonable and articulable basis for believing the allegation(s).”<sup>21</sup> The available facts provide a reasonable basis to believe that Rep. Moulton’s leadership PAC expenses were for personal use, warranting an investigation, for the following reasons.

First, FEC regulations, to which the House Ethics Manual refers, make clear that leadership PAC spending on vacations is per se personal

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<sup>16</sup> Serve America PAC - Restricted (C00656439) and Serve America PAC (C00571174), Disbursements for “American Airlines,” “Frontier Airlines,” “Southwest Airlines,” “United Airlines,” or “Delta,” 2019-20, FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00571174&recipient\\_name=AMERICAN+AIRLINES&recipient\\_name=FRONTIER+AIRLINES&recipient\\_name=SOUTHWEST+AIRLINES&recipient\\_name=UNITED+AIRLINES&recipient\\_name=delta&two\\_year](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00571174&recipient_name=AMERICAN+AIRLINES&recipient_name=FRONTIER+AIRLINES&recipient_name=SOUTHWEST+AIRLINES&recipient_name=UNITED+AIRLINES&recipient_name=delta&two_year) (last visited Oct. 5, 2021).

<sup>17</sup> Serve America PAC - Restricted (C00656439) and Serve America PAC (C00571174), Disbursements for “Uber,” Described as “ride,” 2019-20, FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00571174&recipient\\_name=uber&two\\_year\\_transaction\\_period=2020&disbursement\\_description=ride&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00571174&recipient_name=uber&two_year_transaction_period=2020&disbursement_description=ride&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>18</sup> Serve America PAC - Restricted (C00656439) and Serve America PAC (C00571174), Disbursements for “Egencia LLC,” “Fairmont Copley Plaza,” “Holiday Inn,” “Airbnb,” or “Hilton,” 2019-20, FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00571174&committee\\_id=C00656439&recipient\\_name=EGENCIA+LLC&recipient\\_name=FAIRMONT+COPLY+PLAZA&recipient\\_name=HOLIDAY+INN&recipient\\_name=airbnb&recipient\\_name=hilton&two\\_year\\_transaction\\_period=2020&disbursement\\_description=lodging&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00571174&committee_id=C00656439&recipient_name=EGENCIA+LLC&recipient_name=FAIRMONT+COPLY+PLAZA&recipient_name=HOLIDAY+INN&recipient_name=airbnb&recipient_name=hilton&two_year_transaction_period=2020&disbursement_description=lodging&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>19</sup> Serve America PAC (C00571174), July 2019 Mid-Year Report, *supra* note 15 at 50; *see also* “Canopy by Hilton Washington DC The Wharf,” CANOPY BY HILTON, <https://www.hilton.com/en/hotels/dcacupy-canopy-washington-dc-the-wharf/> (last visited Oct. 5, 2021).

<sup>20</sup> OFF. OF CONG. ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS, Rule 7(A), available at [https://oce.house.gov/sites/congressioalethics.house.gov/files/OCE\\_Rules\\_Conduct\\_Investigations.pdf](https://oce.house.gov/sites/congressioalethics.house.gov/files/OCE_Rules_Conduct_Investigations.pdf) (last visited Oct. 5, 2021).

<sup>21</sup> *Id.*

use.<sup>22</sup> Rep. Moulton's leadership PAC spent money on travel at hotels that appear to be vacations. As a result, these expenses are considered personal use unless Rep. Moulton provides verification that these were bona fide campaign or political expenses.

Second, the law is clear that the mere fact that a member's travel may be partly for campaign-related purposes does not give that member carte blanche to use leadership PAC funds on personal activities during such travel.<sup>23</sup>

Finally, Rep. Moulton's leadership PAC does not operate as a standard leadership PAC. The purpose of leadership PACs is to enable lawmakers to raise and spend campaign funds for their colleagues running in competitive House and Senate districts. Rep. Moulton's leadership PAC does not appear to prioritize spending on such political expenses because only 8% of the roughly \$1.7 million spent by Rep. Moulton's leadership PAC from 2019 to 2020 went toward other candidates and political parties and groups.<sup>24</sup> As a result, OCE should investigate Rep. Moulton's leadership PAC spending on travel, lodging, and meals, to determine whether there was a proper campaign purpose for the expenses.

## Conclusion

OCE is aware of the problem of misuse of campaign funds, and has investigated members for converting leadership PAC funds to personal use, including former Representatives John J. Duncan, Jr. and Robert Andrews.<sup>25</sup>

CLC respectfully requests that OCE continue to enforce House rules restricting use of leadership PAC funds and review whether Rep. Moulton converted campaign funds to personal use. Therefore, even if limited campaign activity occurred at the resort or during other travel, Rep. Moulton is still obligated to verify that other related expenses were for bona fide campaign and political use.

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<sup>22</sup> See 11 C.F.R. § 113.1(g)(1)(i).

<sup>23</sup> See *id.* § 113.1(g)(1)(ii).

<sup>24</sup> Serve America PAC, Disbursements, *supra* note 1.

<sup>25</sup> OFF. OF CONG. ETHICS, Report of the Office of Congressional Ethics Regarding Rep. John J. Duncan Jr., [https://oce.house.gov/sites/congressionaethics.house.gov/files/documents/OCE%20Rev.%2017-2646 Referral Final.pdf](https://oce.house.gov/sites/congressionaethics.house.gov/files/documents/OCE%20Rev.%2017-2646%20Referral%20Final.pdf); OFF. OF CONG. ETHICS, Report of the Office of Congressional Ethics Regarding Rep. Robert E. Andrews, [https://oce.house.gov/sites/congressionaethics.house.gov/files/migrated/disclosures/Review\\_N\\_o\\_11-3260 Referral.pdf](https://oce.house.gov/sites/congressionaethics.house.gov/files/migrated/disclosures/Review_N_o_11-3260_Referral.pdf).

We acknowledge that 18 U.S.C. § 1001 applies to the information provided.

Sincerely,

\_\_\_\_\_/s/\_\_\_\_\_  
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