

OFFICE OF  
GENERAL COUNSEL

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January 27, 2020

Lisa J. Stevenson, Esq.  
Acting General Counsel  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

## Re: Advisory Opinion Request

Dear Ms. Stevenson:

My name is Nabilah Islam, and I am a candidate for Congress in Georgia's Seventh House District. My campaign committee is Nabilah for Georgia. I am writing today to request an advisory opinion on the use of campaign funds to pay for my health insurance.

Prior to beginning my campaign for Congress in February of last year, I worked as an activist and organizer, which covered my health insurance costs. When I decided to run for Congress, I originally hoped to continue to work part-time but ultimately realized, in order to be able to have a real chance at winning, I needed to campaign full time. Without an income, I have had to put more than \$30,000 in student loans in forbearance in order to get by. In addition, in November of last year, I made the difficult decision to cancel my health insurance for 2020 in order to pay for my day-to-day living expenses. I am asking the Commission for permission to use campaign funds to pay for health insurance, a cost oftentimes borne by an employer, during the remainder of my candidacy in 2020.

Running for Congress is an expensive endeavor and often cost prohibitive for working Americans. In fact, Members of Congress are, on average, significantly wealthier than the people they represent; our Congress Members have five times the net worth of the average American household.<sup>1</sup> Nearly 40% of our Members of Congress are millionaires.<sup>2</sup> Running for office while working — even part-time — severely limits your ability to campaign effectively. People with financial security are better positioned to campaign full-time while living on their savings.<sup>3</sup> Because of the financial impediments, many working people choose not to run for office, and

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<sup>1</sup> ROLL CALL, Wealth of Congress: Richer Than Ever, but Mostly at the Very Top, David Hawkings, 02/27/18.

<sup>2</sup> *Id.*

<sup>3</sup> HuffPost, Running For Office Is Really Hard If You're Not A Millionaire, Amanda Terkel, 10/03/18.

women and people of color are at an even greater disadvantage due to wage and wealth gaps.<sup>4</sup> The 116<sup>th</sup> Congress, which is the most diverse in American history, is still only comprised of 22% people of color and 23% women, despite the fact that people of color make up 39% and women over 50% of the population.<sup>5</sup>

To compound the problem, the cost of healthcare in the U.S. is rising, creating another major structural barrier to working class Americans considering a run for office.<sup>6</sup> In 2019, the average annual costs for single coverage were over \$7,000.<sup>7</sup> In order to launch a successful campaign, most people must forgo full-time employment — the source of some or all of health insurance payments for nearly most non-elderly Americans.<sup>8</sup> And in Georgia, the accessibility of healthcare for working class folks is especially dire, with 17% of people in my own district not having health insurance.<sup>9</sup> The ability to use campaign funds to pay for health insurance would be a small step towards lowering the barriers for working class people who are considering running for office.

### Question Presented

May my Campaign pay for my health insurance during the remainder of my candidacy?

### Analysis

The Federal Election Campaign Act and Commission regulations permit the use of campaign funds for “otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual,” so long as those expenditures are not “converted to personal use.”<sup>10</sup> The law and regulations also list several expenditures that are considered to be “automatic” personal use of campaign funds. Health insurance is not on that list. I am asking the

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<sup>4</sup> Slate, Building Women’s Wealth Is Key to Economic Security, Kilolo Kijakazi and Heather McCulloch, 05/29/18.

<sup>5</sup> Pew, For the fifth time in a row, the new Congress is the most racially and ethnically diverse ever, Kristen Bialik, 02/08/19; *see also* Census QuickFacts available at <https://www.census.gov/quickfacts/fact/table/US/PST045219> (last accessed January 14, 2020).

<sup>6</sup> CNBC, Americans now spend twice as much on health care as they did in the 1980s, Megan Leonhardt, 10/09/19; *see also* The New York Times, Tiffany Cabán Was the Next Progressive Hope. Now What?, Jan Ransom and Jeffrey C. Mays, 08/13/19.

<sup>7</sup> CNBC, Health insurance premiums increased more than wages this year, Alicia Adamczyk, 09/26/19.

<sup>8</sup> Peterson-KFF, Health System Tracker, Matthew Rae, Gary Claxton, Larry Lefitt, Daniel McDermott, 01/30/2019.

<sup>9</sup> U.S. Census Bureau, American Community Survey “Socio-Economic” <https://www.census.gov/mycd/?st=13&cd=07>

<sup>10</sup> 52 U.S.C. § 30114(a), (b); 11 C.F.R. § 113.1(g)(1).

Commission to consider whether payment of a candidate's health insurance is a permissible campaign expenditure.<sup>11</sup>

A campaign disbursement is considered "personal use" when campaign funds are used to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign ..."<sup>12</sup> For the expenses not listed as *per se* personal use, the Commission is called to examine the expense on a case-by-case basis.

Prior to running for Congress, I paid my health insurance with earnings from my business, and prior to that my employer covered my health insurance. Due to the full-time nature of campaigning, I have been unable to continue working, even part-time, and I can no longer afford the cost of my health insurance. Under the current rules, I have also been unable to take a salary from my campaign, due to the limited time frame specified in the law. While the candidate salary provisions enacted by the Commission were a good first step, limiting the start of salary payments until the ballot access deadline is too late in many cases. Candidates are beginning to campaign earlier each cycle and must go without the option of a salary for a year or more in many cases. I began my campaign in February 2019 — 15 months before Election Day — and am not eligible to begin receiving salary payments until March of this year — just 3 months before Election Day. After nine months without pay, my savings have fully disappeared paying for routine living expenses like rent and food. I am now more than \$40,000 in debt and have no spouse or family wealth to lean on. This past November, I made the difficult decision to cancel my health insurance for the next year. That decision to cancel my insurance was made so I could continue to campaign for federal office full time and would not have existed irrespective of my campaign. My inability to cover the cost of health insurance is a direct result of my full time campaign for office and payment of those costs by my campaign should not be considered "personal use."

The prohibitions on personal use exist to prevent potential abuse by candidates misusing campaign funds. Allowing a candidate to use campaign funds to pay her own health insurance does not give rise to any such concern for abuse — there is no risk of enriching a candidate where the payments would either be paid directly to the health insurance provider or through a reimbursement to the candidate of the monthly fee, and those payments would be fully disclosed to the public. The Commission should improve upon its first step permitting limited salary payments to candidates and allow for the payment of health insurance under the same logic they used when enacting that regulation: that the necessity of the expense would not exist irrespective of the candidacy.<sup>13</sup> Allowing campaign funds to be used for health insurance would be another small step towards removing the obstacles facing working people running for office and is permissible under the current law.

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<sup>11</sup> It is worth noting that the Commission has found it permissible for *corporations* to continue to pay for a candidate's health insurance premiums during a leave of absence without creating an illegal corporate contribution. *See*, Advisory Op. 2014-15 (Bratt); Advisory Op. 2014-14 (Trammel).

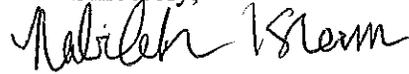
<sup>12</sup> *Id.*

<sup>13</sup> *See*, 2002 Personal Use E&J, 67 FR at 76,972.

For these reasons and the public policy reasons discussed above, I ask the Commission to permit me to use campaign funds for health insurance during the pendency of my campaign.

If you have any questions or need additional information in connection with this Advisory Opinion Request, please contact my counsel, Neil Reiff, at (202) 479-1111.

Sincerely,

A handwritten signature in cursive script that reads "Nabilah Islam".

Nabilah Islam  
Candidate for Congress  
Georgia House District 7

**From:** [Neil P. Reiff](#)  
**To:** [Kevin Paulsen](#)  
**Subject:** FW: FW: Pre-AOR 463 (Nabilah for GA) - Request for Additional Information  
**Date:** Monday, February 10, 2020 3:34:31 PM

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Kevin, the answers to your questions are below. The committee will agree to the extension as you requested.

1. Does Ms. Islam intend to draw a campaign salary once she is eligible to do so? If so, does she intend to continue to receive reimbursement for/payment of her health insurance premiums in addition to that campaign salary for the duration of the campaign?

-- She will only draw funds for health insurance premiums.

2. Please provide a timeline of Ms. Islam's health insurance coverage prior to her candidacy, including:

- a. The date that her health insurance coverage terminated;

November 2019

- b. The time period that she was purchasing her own insurance "with earnings from her business" and how that coverage was acquired;

January 1st 2019 - November 30th 2019, through a broker

- c. The time period that her employer-provided her health insurance, presumably as a benefit of her employment

Dec 2013 - Nov 2014; March 2015 - Dec 2016; January 2017 - December 2018

Neil P. Reiff

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