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MUR # 7421

June 25, 2018

VIA FEDERAL EXPRESS PRIORITY DELIVERY

Office of General Counsel
Federal Election Commission
1050 First Street NE
Washington, D.C., 20463

2018 JUN 27 AM 10:15
OFFICE OF
GENERAL COUNSEL

**Re: Federal Election Commission (FEC) Complaint;
*David Clark Thompson v. Representative Kevin Cramer, et. al.***

Dear Counsel:

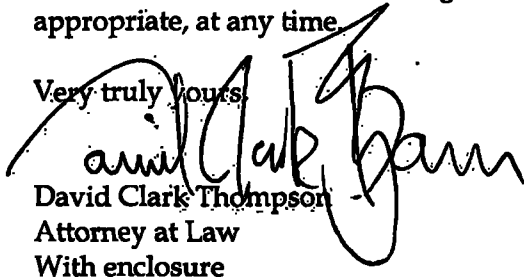
Forwarded for filing with the Federal Election Commission (FEC) is the enclosed original Complaint filed pursuant to 52 U.S.C. § 30109(a)(1) against United States Representative Kevin Cramer, Cramer for Senate, and that campaign committee's treasurer, Christopher M. Martson, in his official capacity (termed the "Respondents" in the Complaint), for their apparent violations of the Federal Election Campaign Act of 1971.

Specifically, Representative Cramer appears to have used his campaign funds for his and his wife's personal expenses in violation of federal law, while failing to report these expenditures as required, possibly for the purpose of obscuring the true nature of the payments. Whatever the actual use of the campaign funds, however, it appears that the Cramer for Senate campaign committee reimbursed Representative Cramer and his family in a prohibited way, outside of the permissible window for reimbursement, while further failing to report funds advances as contributions until reimbursed.

Within the text of the enclosed Complaint, I request that the FEC immediately investigate and take appropriate action against the Cramer respondents.

If you or FEC staff in the Office General Counsel should have any questions or require any additional information with regard to the enclosed filing, I stand available to respond, as appropriate, at any time.

Very truly yours,


David Clark Thompson
Attorney at Law
With enclosure

**BEFORE THE
FEDERAL ELECTION COMMISSION**

David Clark Thompson
Attorney at Law
DAVID C. THOMPSON, P.C.
P.O. Box 5235
321 Kittson Avenue
Grand Forks, ND, 58206-5235

MUR # 7421

Complainant,

v.

Representative Kevin Cramer
P.O. Box 396
Bismarck, ND 58502

Cramer for Senate and Christopher M. Martson, Treasurer
P.O. Box 396
Bismarck, ND 58502

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Representative Kevin Cramer; Cramer for Senate; and its treasurer, Christopher M. Martson, in his official capacity (collectively "Respondents") for apparently violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission (the "Commission") regulations. Representative Cramer appears to have used his campaign funds for his and his wife's personal expenses in violation of federal law and then failed to report the expenditures as required by the Commission, possibly to obscure the true nature of the payments. Whatever the actual use of the campaign funds, it appears that the campaign reimbursed Representative Kevin Cramer and his family in a prohibited way, outside of the permissible window for reimbursement, and failed to

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report advances as contributions until reimbursed. The Commission should immediately investigate and take appropriate remedial action against Respondents.

FACTS

Representative Kevin Cramer is the Congressman from North Dakota's at-large district. He is also running for United States Senate.¹ His principal campaign committee is Cramer for Senate (the "Campaign").²

On May 31, 2018, the Campaign filed its 12-day pre-election report with the Commission disclosing large reimbursements allegedly for meals and campaign-related travel to Representative Cramer and to Kris Cramer, Representative Cramer's wife, for the first quarter of 2018.³ The Campaign reported a disbursement of \$1,152.75 on April 23, 2018 to Representative Cramer for "2018 Q1 Mileage Reimbursement."⁴ The Campaign reported another disbursement for \$253.00 on April 23, 2018 to Representative Cramer for "2018 Q1 Per Diem (16 meals)."⁵ The Campaign then reported a disbursement made on April 12, 2018 for \$531.38 to Kris Cramer for "Mileage Reimbursement."⁶ No additional information was provided. Despite the Campaign listing the expenditures as reimbursements to Representative Cramer and his wife for first quarter costs, the

¹ Kevin Cramer, FEC Form 2, Statement of Candidacy (amended May 16, 2018), <http://docquery.fec.gov/pdf/233/201805160200367233/201805160200367233.pdf>.

² Cramer for Senate, FEC Form 1, Statement of Organization (amended May 16, 2018), <http://docquery.fec.gov/pdf/224/201805160200367224/201805160200367224.pdf>.

³ Cramer for Senate, FEC Form 3, Pre-Primary Report, Report of Receipts and Reimbursement (May 31, 2018), <http://docquery.fec.gov/pdf/622/201805310200396622/201805310200396622.pdf>; see also Kevin Robillard, *Paying Family with Campaign Funds Could Dog Cramer in Senate Bid*, (Jan. 3, 2018), <https://www.politicopro.com/campaigns/article/2018/01/paying-family-with-campaign-funds-could-dog-cramer-in-senate-bid-262807> (stating that Kris Cramer is Representative Cramer's wife).

⁴ Cramer for Senate, FEC Form 3, Pre-Primary Report, Report of Receipts and Reimbursement at 153 (May 31, 2018), <http://docquery.fec.gov/pdf/622/201805310200396622/201805310200396622.pdf>.

⁵ *Id.*

⁶ *Id.* at 156.

Campaign reported no in-kind contributions received from Representative Cramer in its first quarter 2018 report filed with the Commission.⁷

LEGAL DISCUSSION

The Act prohibits a candidate or any other person from converting “[a] contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office,” for “personal use.”⁸ Personal use includes “fulfilling any commitment, obligation, or expense of a person that would exist irrespective of the candidate’s election campaign or individual duties as a holder of Federal office.”⁹

The Act and regulations specify several types of expenses that constitute personal use, noting that any payments for “[m]eal expenses” and “[t]ravel expenses” may be prohibited and would need to be determined on a case-by-case basis.¹⁰ For example, a candidate may not use campaign funds to take his or her family out to dinner.¹¹ Nor can campaign funds be used to reimburse a candidate for a vehicle used for any personal use that is more than *de minimis*.¹² Candidate committees must maintain logs of the expenses to help the Commission determine on a case-by-case basis what portion was for personal use rather than for campaign-related activity or officeholder duties.¹³ Additionally, anything amounting to salary payments to a candidate who is a federal officeholder is also prohibited.¹⁴

⁷ See Cramer for Senate, FEC Form 3, April Quarterly 2018 Report, Report of Receipts and Disbursements (Apr. 18, 2018), <http://docquery.fec.gov/pdf/137/201804200200345137/201804200200345137.pdf>.

⁸ 52 U.S.C. § 30114(a), (b)(1); 11 C.F.R. § 113.2.

⁹ 52 U.S.C. § 30114(b)(2).

¹⁰ 11 C.F.R. § 113.1(g)(1)(ii)(B), (C).

¹¹ See *Congressional Candidates and Committees* at 55, Federal Election Comm’n, (June 2014), <https://www.fec.gov/resources/cms-content/documents/candgui.pdf>.

¹² *Id.*; 11 C.F.R. § 113.1(g)(1)(ii)(D).

¹³ *Id.* § 113.1(g)(8); see also Adv. Op. 2001-03 (Meeks).

¹⁴ 11 C.F.R. § 113.1(g)(1)(i)(I).

When a candidate advances personal funds to pay for a campaign expense, including travel expenses, the campaign committee must also reimburse the individual within the following time limits:

- If the expense was paid with cash or a personal check, within 30 days from the date the expense was incurred.
- If the expense was paid with a credit card, within 60 days of the closing date on the credit card billing statement where the charge first appears.

Outside of these time limits, the advances are in-kind contributions.¹⁵ Additionally, advances made to a campaign committee must be reported as a memo entry contribution on Schedule A.¹⁶

First, the Campaign's reimbursement of \$1,152.75 to Representative Cramer and \$531.38 to Kris Cramer for first quarter mileage expenses is suspect and highly unusual. Using the Internal Revenue Service's mileage rate of 54.5 cents per mile,¹⁷ Representative Cramer would have had to have driven more than 2,115 miles during the months of January, February, and March of 2018 for the reimbursement to be valid as a campaign-related expense, and Representative Cramer's wife would have had to have driven almost 1,000 miles during the months of January, February, and March of 2018. It is highly unlikely that Representative Cramer and his wife drove more than 3,115 miles in the first quarter of 2018 for campaign purposes. 3,115 miles represents a distance further than the driving distance from Bismarck, North Dakota to Corpus Christi, Texas and back. Such a distance is especially unusual for Representative Cramer, given that Congress was in

¹⁵ *Id.* § 116.5(b); see also *Travel*, Federal Election Comm'n, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/travel/> (last visited June 13, 2018).

¹⁶ 11 C.F.R. § 116.5; see also *Congressional Candidates and Committees* at 99, Federal Election Comm'n, (June 2014), <https://www.fec.gov/resources/cms-content/documents/candgui.pdf>.

¹⁷ See Adv. Op. 2001-03 at 2 (Meeks) (using the IRS standard mileage rate to calculate reimbursement rates); see also Internal Revenue Service, *Standard Mileage Rates for 2018 Up From Rates for 2017*, <https://www.irs.gov/newsroom/standard-mileage-rates-for-2018-up-from-rates-for-2017> (rev. Dec. 14, 2017).

session the overwhelming majority of days during the first quarter of 2018 and given Representative Cramer's obligation to attend to his official duties in Washington D.C.¹⁸

Second, as a federal officeholder, Representative Cramer is prohibited from receiving any salary or stipend from the Campaign. The Campaign reimbursed him \$253.00 for "per diem" meals. The per diem notation suggests that the reimbursement was not for the actual cost of any meals actually paid for, but rather a stipend. This is impermissible.

To ensure that the money raised for political campaigns is not misused, campaign finance law clearly forbids spending campaign funds on the personal expenses of a candidate. The payments for per diem expenses (whether for meals for the candidate or not) and mileage appear to be payments above and beyond routine reimbursements for campaign expenses. In so doing, Respondents flout well-established campaign finance rules. These rules exist to ensure candidates are not using their campaigns as a vehicle for self-enrichment. Respondents' practices beg further scrutiny.

The Campaign also cannot reimburse Representative Cramer as reported for mileage and meal costs. Commission regulations and guidance require the Campaign to reimburse Representative Cramer either: 1) within 30 days if the payment was made by cash or check; or 2) within 60 days of the closing date on the credit card billing statement in which the expenses were made. But the Campaign reports reimbursements for "Q1", which includes the months of January, February, and March and is therefore 90 days long. Accordingly, at least some of the meal and mileage expenses were no longer reimbursable even if they were indeed campaign-related expenses and should have been treated as in-kind contributions. Instead, the Campaign ignored the Commission's regulations and guidance, opting to reimburse Representative Cramer for at

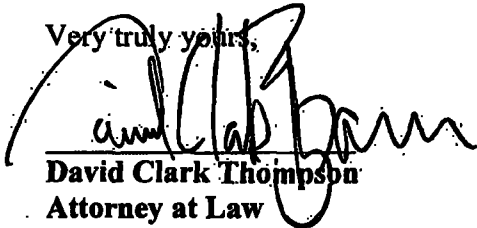
¹⁸ See [Congress.gov](https://www.congress.gov/days-in-session), *Days in Session of the U.S. Congress: 115th Congress, 2nd Session*, <https://www.congress.gov/days-in-session> (last visited June 13, 2018).

least some costs that likely should have been reported and reimbursed on earlier reports, such as any reimbursements related to cash or check advances for January expenses. Furthermore, the Campaign should have reported costs advanced by Representative Cramer as contributions until it made reimbursements. It did not do so. Determining the full extent to which Respondents have engaged in activity that violates federal law and regulations merits further investigation.

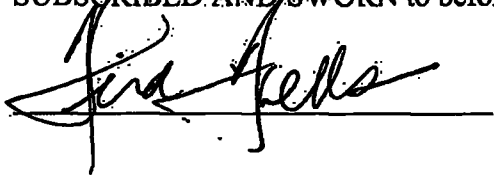
REQUESTED ACTION

As we have shown, Respondents appear to have violated the Act and Commission regulations by using campaign funds for personal use, or, in the alternative, by reimbursing Representative Cramer and his wife outside of the permissible time allotted for reimbursement and failing to properly report advances. As such, we respectfully request that the Commission immediately investigate these violations and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

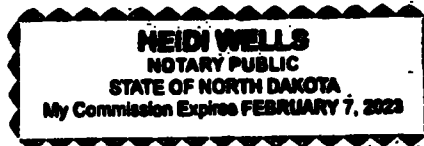
Very truly yours,


David Clark Thompson
Attorney at Law

SUBSCRIBED AND SWORN to before me this 25th day of June 2018.



Notary Public



My Commission Expires: Feb 7, 2023