

OFFICE OF
GENERAL COUNSEL

Office of the General Counsel
Federal Election Commission
1050 First Street, NE
Washington, DC 20463

March 15, 2019

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Complaint re. Campaign Finance Improprieties
Trahan Campaign, 2018 Democratic Primary
Third Congressional District, Massachusetts

Dear Office of the General Counsel:

MUR # 7585

Overview of Complaint

This Complaint cites diverse investigative reports from sources which have not appeared together in one document, and provides additional factual information with sourced citations. I respectfully request FEC OGC investigate apparent campaign finance violations by the Lori Trahan Campaign in the Democratic Primary Election of September 2018, Third Congressional District, Massachusetts.

About 85,000 votes were cast in the Democratic primary. After a dead heat in the election, a recount was conducted and Ms. Trahan narrowly defeated Mr. Dan Koh by about 140 votes. Due to the predominance of Democrats in this District, the winner of the Democratic Primary has gone on to win the General Election for more than 20 years. And in fact, Ms. Trahan handily defeated the Republican candidate in the November General Election.

In mid-August 2018, just 3 weeks before the Primary, a UMass-Lowell poll showed Ms. Trahan in fourth place, far behind Mr. Koh. She then launched a last-minute advertising blitz which had a reported cost of \$371,000. The ad campaign unquestionably was successful in swinging enough votes in her direction to narrowly win the recount.

However, Ms. Trahan's FEC filings reveal that she did not have nearly the funds to pay for this crucial advertising blitz. Upon questioning from several media investigators, Ms. Trahan has provided no clarity. Her FEC filings have been repeatedly amended. It appears that the funds used to pay for the critical advertising blitz did not comply with FEC campaign finance rules. Further, it is apparent that Ms. Trahan knowingly used the ill-gotten funds to barely win the Democratic Primary. But not just the primary...since Democrats have historically determined the winner of the general election in this District, the campaign finance violations directly resulted in Ms. Trahan becoming the Representative from the Third Congressional District.

Detailed Information Supporting this Complaint

1.0 The Third Congressional District lies north of Boston and includes the large cities of Lowell, Lawrence and Haverhill along with smaller cities and towns (https://en.wikipedia.org/wiki/Massachusetts%27s_3rd_congressional_district). Prior to 2002 it was known as the Fifth Congressional District. The Representative from this District has been a Democrat since 1975, with the victory of Mr. Paul Tsongas

(https://en.wikipedia.org/wiki/Massachusetts%27s_5th_congressional_district). Recent Representatives include Mr. Marty Meehan (1993-2006) and Ms. Niki Tsongas (2013-2019).

The Democratic Primary featured about 10 candidates. The election was held on September 4, 2018 with about 85,000 votes cast. Ms. Lori Trahan and Mr. Dan Koh finished in a dead heat. A recount was held and Ms. Trahan won by about 140 votes. Ms. Trahan went on to handily defeat the Republican candidate in the general election, in keeping with the tradition of Democrats winning this seat.

2.0 Ms. Trahan's win was a significant upset. UMass-Lowell published a poll only 3 weeks before the Primary election showing Mr. Koh in the lead at 18% and Ms. Trahan trailing in 4th place with just 8%. The poll had a margin of error of 5% (<https://www.uml.edu/News/press-releases/2018/Aug2018-3rd-district-poll-release.aspx>). Possibly this information was the basis for follow-up investigative reporting by Massachusetts news organizations, described below.

3.0 Improprieties in the Trahan campaign were the subject of investigative reporting in the Boston Globe before the Primary election. On June 4, 2018, correspondent Matt Stout (Matt.Stout@Globe.com) found that Ms. Trahan portrayed herself as "co-founder" of *Concire Leadership Institute*, a woman-owned small business specializing in management and leadership consulting (<https://www.bostonglobe.com/metro/2018/06/04/district-trahan-says-she-founded-business-but-complicated/feYBpRslCIFDEFWqhMCThK/story.html>), (<https://www.crowdpac.com/campaigns/343136/lori-trahan>).

This claim was broadly featured in Ms. Trahan's campaign messaging. But through communication with the actual founders, Ms. Frances X. Frei and Ms. Anne Morriss, Mr. Stout learned that was founded in 2007. Ms. Trahan joined in 2012. When questioned by Mr. Stout, Ms. Trahan indicated that she would correct the co-founder error in her campaign messaging – but she didn't, and her erroneous claim was repeated in endorsement statements broadcast throughout the Third Congressional District in the run-up to the Primary election, such as one by the Boston Herald (<https://loritrahans.com/boston-herald-endorses-lori-trahan-for-congress/>). The Trahan campaign continues to misrepresent Ms. Trahan as a *Concire* co-founder. On March 11, 2019, in an article by Christian Wade (cwade@cnhi.com), in the Newburyport Daily News, Ms. Trahan's campaign spokeswoman, Ms. Gretchen Grosky, referred to *Concire* as "...a business that she founded, owned and grew." (www.newburyportnews.com/news/trahan-s-congressional-campaign-funding-questioned/article_690bd85a-e98c-567e-9041-127fcfc9f68d.html)

Ms. Trahan ultimately acquired *Concire* from the founders, moved the office from Cambridge, MA to her home in Westford, MA, and is now the owner and apparent sole full-time employee. The *Concire Leadership Institute* is, or was, a management consultant operation where leadership advisory services were provided to businesses. It once had the website www.concire.com. The website has been taken down. *Concire* may have closed after Ms. Trahan won the general election.

4.0 A second case of investigative reporting of the Trahan Campaign before the Primary occurred on August 15, 2018. Chris Lisinski (clisinski@lowellsun.com) of the Lowell Sun reported that Ms. Trahan had submitted an updated FEC form (apparently earlier in the summer

of 2018) declaring her ownership of *Concire Leadership Institute*, after her initial FEC disclosure did not do so (www.lowellsun.com/todayheadlines/ci_32071792/litalien-discloses-account-uses-help-fund-campaign).

It is concerning that Ms. Trahan omitted her ownership of *Concire* from her initial FEC filing. Ms. Trahan was CEO of *Concire* at the time of her initial filing, and *Concire* provided the primary source of her personal income. Through recently-released financial reporting (reported below), Ms. Trahan made very significant income from *Concire*. And during her campaign, Ms. Trahan frequently cited her leadership at *Concire* as a credential of her candidacy.

5.0 After the General Election in November, serious concerns appeared in the Boston Globe in a front-page investigative report on March 4, 2019, by Andrea Estes (andrea.estes@Globe.com). The Globe endorsed Ms. Trahan in the Primary (<https://www.bostonglobe.com/opinion/editorials/2018/08/28/endorsement-lori-trahan-best-choice-for-third-district-democrats/ckiHek6NZLABGpiyq3tCgI/story.html>).

The Globe reported that shortly after the above-mentioned UMass-Lowell poll, Ms. Trahan launched a last-minute advertising blitz. The Globe reported that the ad campaign cost \$371,000. It also reported that Ms. Trahan's FEC filings showed she had nowhere near sufficient funds, through savings, personal or joint accounts, or loans, to cover this expense.

The Globe questioned Ms. Trahan on the apparent shortage of funds to pay for the advertising campaign. Ms. Trahan did not respond in person, but written responses were provided. The Globe reported that Ms. Trahan has amended her initial FEC filing four times. Each re-filing was an apparent effort to demonstrate sufficient personal resources to pay for the ad campaign. However, the re-filing "math" did not add up even after 4 re-filings.

The Globe engaged a third-party consultant, Mr. Adav Noti, to review the FEC filings. FEC OGC is familiar with Mr. Noti's 10 year career with OGC, including five years in the Litigation Division where he was involved in campaign finance issues. I refer OGC to the above-cited Boston Globe article of March 4, 2019 which describes Mr. Noti's significant concerns with Ms. Trahan's re-filings.

6.0 On March 5, 2019, the website MassLive (www.masslive.com/politics/2019/03/rep-lori-trahan-questioned-about-371000-in-campaign-funds-spent-in-final-days-before-election.html) reported that Ms. Trahan may have spent even more, or \$481,000, on television advertising in the month of August 2018 – far outpacing her spending in prior months. It also reported that Ms. Trahan claimed to have loaned the campaign all of the \$371,000 for the pivotal last-minute ad campaign. In the article, Trahan spokeswoman Gretchen Grosky said, "*While she grew up in a working class family, Rep. Trahan founded a highly successful consulting company that generated more than \$900,000 in personal income between 2015 and 2017.*"

Here in March 2019, Ms. Grosky continued to repeat the falsehood that the Globe first reported in June 2018, that Ms. Trahan founded *Concire Leadership Institute*. Ms. Grosky appears to imply that by founding *Concire*, Ms. Trahan could not have violated campaign finance law.

7.0 In a March 11, 2019 article by Christian Wade (cwade@cnhi.com) in the Newburyport Daily News (www.newburyportnews.com/news/trahan-s-congressional-campaign-funding-questioned/article_690bd85a-e98c-567e-9041-127fcfc9f68d.html), Ms. Grosky provided a letter from the accountant Saba, Coleman and Hunt, PC, of Tewksbury, MA, signed by Ms. Catherine Coleman, CPA. It showed Ms. Trahan's recent income earnings from *Concire*:

2015: \$287,759.23 2016: \$258,219.04 2017: \$361,088.43 2018: \$265,360.48

Although Ms. Grosky claimed in her statement to MassLive (cited above) that these data showed Ms. Trahan had adequate resources on-hand to cover the cost of the last-ditch advertising campaign, this claim is without merit. Of course, the reported income is taxable and not directly available as savings. Also, there is no way to determine the savings associated with these earnings without bank statements and tax records. The earnings data are simply pulled from the income line of a tax filing - income is no measure of savings. Ms. Trahan's initial FEC filing provided no evidence of significant savings from the earnings cited above – her initial filing may have listed her savings as \$15,000.

The March 4, 2018 Globe report indicated that even if Ms. Trahan collected all of the assets listed on her amended FEC forms and donated them to her campaign, she still didn't have sufficient funds to cover the pivotal ad campaign. But it's hard to imagine a candidate in fourth place in an opinion poll would, with three weeks remaining in her campaign, collect all her savings and sink them into her campaign.

8.0 Adding confusion to Ms. Trahan's earnings from *Concire* is a \$71,000 home equity loan mentioned in the March 4, 2019 Globe investigative report. Ms. Trahan's FEC re-filings include this loan. If Ms. Trahan's savings from her *Concire* earnings were so substantial, why was home equity loan taken out?

9.0 The *Concire* earnings data provided by Ms. Trahan's accountant provide no answers but raise two more concerns.

First, the 2018 earnings appear to be way out of line. It is remarkable that Ms. Trahan claimed any significant earnings in 2018. For instance, Mr. Dan Koh (second in the Primary) left his job as Chief of Staff to the Mayor of Boston in 2017 and campaigned full-time. Ms. Barbara L'Italien (third in the Primary) gave up her job as a Massachusetts State Senator to devote all of 2018 to campaign. Ms. Juana Matias (fourth in the Primary) decided not to stand for re-election for her State Representative seat and instead devoted herself fully to the campaign.

Ms. Trahan also campaigned non-stop in 2018. But the data from her accountant show that 2018 was a normal year of earnings from *Concire*. How could her business, which had a single full-time employee (Ms. Trahan) provide normal earnings when she was committed full-time to her campaign? Ms. Trahan apparently contends that she campaigned full-time, worked full-time, and simultaneously helped raise her two young children.

Second, the substantial amount of 2017 earnings (a 40% increase from 2016) is concerning since Ms. Trahan was well into her campaign by August 2017

(http://www.lowellsun.com/todaysheadlines/ci_31312992/westfords-trahan-eyes-3rd-district-u-s-rep). Since Ms. Trahan campaigned most of the second half of 2017, how is it possible that she as the sole full-time employee of *Concire*, could generate such a substantial increase in revenues?

The 2017 and 2018 earnings reported by the accountant raise concerns as to the sources and amounts of funds deposited to *Concire* which were reported as earnings by Ms. Trahan. Ms. Trahan might be asked to provide bank records of client deposits, client invoicing, and evidence of work performed for these clients.

10.0 Ms. Trahan was declared the winner of the Democratic Primary recount on Monday, September 18, 2018. Her behavior immediately thereafter raised another campaign finance concern (<https://www.bloomberg.com/news/articles/2018-09-17/after-recount-koh-concedes-democratic-house-primary>). The State Democratic Party hosted a party unity fundraiser at the UMass-Lowell Inn and Conference Center on Friday, September 21, 2018. The Boston Globe reported that this was a “rally in support of Lori Trahan”, intended to bring together the Primary candidates and their supporters for unification in the coming general election (www.bostonglobe.com/metro/2018/09/21/the-rally-support-lori-trahan-was-missing-one-thing-lori-trahan/UaNYDXKKWg1y1M8CreGMJP/story.html). As reported by Max Stout (mstout@globe.com), Senator Warren and most of Trahan’s Democratic rivals attended; but not Ms. Trahan. Ms. Trahan’s campaign reported that she had a long-scheduled “personal conflict” and had also scheduled fundraising meetings in New York.

Ms. Trahan was conducting campaign fundraising activities in New York? What entities in New York would support Ms. Trahan’s general election campaign in the Third Congressional District, located north of Boston?

Closing

As a citizen of the Third Congressional District of Massachusetts who voted in the 2018 Democratic Primary and General Election, I respectfully request that FEC OGC investigate the Trahan campaign’s finances, with a special focus on the source of funds used to pay for the pivotal advertising campaign which led to Ms. Trahan being named Representative. Should your investigations determine willful campaign finance violations, I request that her election victory be nullified and the Representative seat be vacated.

I would be pleased to speak with you, my points of contact are below. It is my understanding from your website that this Complaint will be considered Confidential.

Sincerely yours,


Gene Blake

Andover, MA 01810

On this day of the 18th of March, 2019, before me, the undersigned notary public, signed and sworn to before me,

Eugene T. Blake,

proved to me through satisfactory evidence of identification, which was his Massachusetts Driver's License,

to be the person whose name is signed on the attached document and acknowledged to me that he signed it voluntarily for its stated purpose.

Angela Jean Selfridge Angela Jean Selfridge

NOTARY PUBLIC

