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BEFORE THE FEDERAL ELECTION COMMISSION

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v.

MUR No. 7588

LORI TRAHAN FOR CONGRESS COMMITTEE
Martha E. Howe, Treasurer
P.O. Box 1161
Lowell, MA 01853

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COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Lori Trahan for Congress Committee (ID C00655647) has violated the reporting requirements of the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101, *et seq.*
2. Specifically, based on published reports, the candidate's personal financial disclosure reports filed with the U.S. House of Representatives, and the campaign committee's filings with the Commission, there is reason to believe Trahan for Congress (1) failed to timely disclose bank loans obtained in connection with an election, (2) violated FECA's reporting requirements by reporting \$300,000 in "personal loans" from the candidate which exceed Representative Trahan's known assets, and (3) accepted contributions in excess of federal limits.
3. The failure by Trahan for Congress to timely and fully report loans obtained and used to influence her campaign deprived complainants and members of the public information required by law to be disclosed about the sources and amounts of money used to influence a

federal election, thus causing informational injury to complainants, voters, and other members of the public.

4. “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation . . .” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

STATEMENT OF FACTS

5. Lori Trahan was a successful candidate for House in Massachusetts’ 3rd Congressional District in the 2018 election.¹ Trahan for Congress is her principal campaign committee.²
6. On August 23, 2018, Trahan for Congress filed its pre-primary report with the Commission, disclosing that candidate Trahan had made personal loans totaling \$100,000 to the committee in 2018: \$50,000 on March 31 and \$50,000 on June 30.³ The committee was required to file a Form 3 Schedule C for each loan and a Form 3 Schedule C-1 for each loan from a lending institution.⁴ On the Schedule C for each loan, the committee selected the “Personal Funds of the Candidate” box,⁵ and included accompanying notes stating that the funds were a “Personal loan.”⁶
7. On September 4, 2018, Trahan won the Democratic primary for Massachusetts’s 3rd Congressional District, beating the second-place finisher by 145 votes.⁷

¹ Trahan for Congress, Statement of Candidacy (Amended), FEC Form 2 (filed Oct. 3, 2018), <http://docquery.fec.gov/pdf/022/201810039124279022/201810039124279022.pdf>.

² Trahan for Congress, Statement of Organization (Amended), FEC Form 1 (filed Oct. 1, 2018), <http://docquery.fec.gov/pdf/460/201810019124268460/201810019124268460.pdf>.

³ Trahan for Congress, 2018 Pre-Primary Report (Original), FEC Form 3 at 88-91 (filed Aug. 23, 2018), <http://docquery.fec.gov/pdf/894/201808239121515894/201808239121515894.pdf>.

⁴ FEC, INSTRUCTIONS FOR FEC FORM 3 AND RELATED SCHEDULES 14-19, <https://www.fec.gov/resources/cms-content/documents/fecfrm3i.pdf>.

⁵ *Id.* at 150, 152.

⁶ *Id.* at 151, 153.

⁷ Fred Thys, *Trahan Declared Victor Over Koh In 3rd Congressional Race*, WBUR (Sept. 18, 2018),

8. On October 15, 2018, Trahan for Congress filed its October 2018 quarterly report with the Commission disclosing a total of \$371,000 in outstanding loans.⁸ In addition to the \$100,000 in personal loans from the candidate previously reported on the committee's pre-primary report,⁹ the October quarterly disclosed a \$200,000 loan incurred on August 23,¹⁰ and a \$71,000 loan on September 4 (the date of the primary election).¹¹ Candidate Trahan was reported as the source of the \$271,000 in loans, but in contrast with the earlier loans, the "Personal Funds of the Candidate" box was not marked on the Schedule C for either of these two newly reported loans, and there were no accompanying notes describing either of the loans as a "Personal loan."¹² The Schedule C for each of these two loans stated that these loans were unsecured, had no due dates, and had 0% interest rates.¹³ On each of the Schedule C filings, the field for "Endorsers or Guarantors (if any) to Loan Source" was left blank.¹⁴
9. On October 25, 2018, Trahan for Congress filed its pre-general report with the Commission.¹⁵ It disclosed the same \$371,000 in loans from the same combination of four loans that were disclosed in the committee's October 2018 quarterly report.¹⁶ No further details were provided about the source of the \$200,000 and \$71,000 loans.¹⁷
10. On November 6, 2018, Trahan won the election for Massachusetts's 3rd Congressional District.

<https://www.wbur.org/news/2018/09/18/lori-trahan-wins-third-district>. The race for the Democratic nomination was highly contested and Trahan's victory followed a recount of the primary ballots. *Id.*

⁸ Trahan for Congress, 2018 October Quarterly Report (Original), FEC Form 3 (filed Oct. 15, 2018), <http://docquery.fec.gov/pdf/947/201810159125493947/201810159125493947.pdf>.

⁹ *Id.* at 150-53.

¹⁰ *Id.* at 154.

¹¹ *Id.* at 155.

¹² Compare *id.* at 150-53 with *id.* at 154-55.

¹³ *Id.* at 154-55.

¹⁴ *Id.*

¹⁵ Trahan for Congress, 2018 Pre-General Report (Original), FEC Form 3 (filed Oct. 17, 2018), <http://docquery.fec.gov/pdf/634/201810259133384634/201810259133384634.pdf>.

¹⁶ *Id.* at 139-44.

¹⁷ *Id.* at 143-44.

11. One month after the election, on December 6, 2018, Trahan for Congress amended two of its pre-election reports that had been filed with the Commission:

- a. The committee filed an amended October 2018 quarterly report,¹⁸ with the “Personal Funds of the Candidate” box now selected on the Schedule C filings for both the \$200,000 and the \$71,000 loans.¹⁹ The Schedule C filing for the \$200,000 loan was also amended to disclose that \$50,000 of Trahan’s \$200,000 loan had been repaid during the reporting period,²⁰ and the corresponding Schedule B was amended to disclose a \$50,000 disbursement to Trahan for “loan forgiveness” dated September 24, 2018.²¹ The report did not amend any information about the two earlier \$50,000 personal loans from Trahan to the committee.²²
- b. The committee also filed an amended pre-general report amending the same loan information as amended on the October 2018 quarterly report.²³
- c. The committee also filed its post-general report and included the same candidate loan information as on its amended October quarterly and pre-general reports.²⁴ The post-general report also disclosed a \$71,000 disbursement to Trahan for “Candidate loan repayment” on November 20, 2018,²⁵ and reported on the

¹⁸ Trahan for Congress, 2018 October Quarterly Report (Amended), FEC Form 3 (filed Dec. 6, 2018), <http://docquery.fec.gov/pdf/305/201812069135007305/201812069135007305.pdf>.

¹⁹ *Id.* at 158-159.

²⁰ *Id.* at 158.

²¹ *Id.* at 144. The “Detailed Summary Page,” however, was not amended to reflect any repayments of candidate loans. *Id.* at 4.

²² *Id.* at 154-57.

²³ Trahan for Congress, 2018 Pre-General Report (Amended), FEC Form 3 at 145-46 (filed Dec. 6, 2018), <http://docquery.fec.gov/pdf/521/201812069135010521/201812069135010521.pdf>

²⁴ Trahan for Congress, 2018 Post-General Report (Original), FEC Form 3 at 284-89 (filed Dec. 6, 2018), <http://docquery.fec.gov/pdf/181/201812069135018181/201812069135018181.pdf>

²⁵ *Id.* at 279.

corresponding Schedule C that the \$71,000 loan had been repaid.²⁶ The Schedule C still stated that this loan was from the “Personal Funds of the Candidate,” unsecured, had no due date, and had a 0% interest rate.²⁷

12. On December 15, 2018, the committee again amended three of its reports filed with the Commission:

- a. The committee amended its October 2018 quarterly report for a second time, disclosing that the \$71,000 loan was not an unsecured, 0% interest loan from the personal funds of the candidate, as the committee had previously reported; instead, the funds had been loaned by Washington Savings Bank at a 5.25% interest rate, with a due date of October 20, 2030, and the loan was secured by “real estate” valued at \$950,000.²⁸ The Schedule C additionally stated that the \$71,000 secured loan had been incurred on September 4, 2018, the date of the primary election.²⁹ It did not amend any information about Trahan’s two \$50,000 personal loans or about the \$200,000 loan that it had disclosed as a personal loan on the December 6, 2018 amendment.
- b. The committee also filed an amended pre-general report to similarly disclose that the \$71,000 loan was not from the candidate’s personal funds, and in fact was secured and had a due date and interest rate, but omitted the Schedule C-1 disclosing that the funds had been loaned by Washington Savings Bank and secured by real estate.³⁰

²⁶ *Id.* at 289; see also *id.* at 5 (disclosing a \$71,000 candidate loan repayment in the “Detailed Summary Page”).

²⁷ *Id.* at 289.

²⁸ Trahan for Congress, 2018 October Quarterly Report (Amended), FEC Form 3 at 159-60 (filed Dec. 15, 2018), <http://docquery.fec.gov/pdf/443/201812159143522443/201812159143522443.pdf>.

²⁹ *Id.*

³⁰ Trahan for Congress, 2018 Pre-General Report (Amended), FEC Form 3 at 147 (filed Dec. 15, 2018),

- c. The committee also amended its post-general report to similarly disclose that that the \$71,000 loan was not from the candidate's personal funds, was secured, and had a due date and interest rate, but as with the pre-general report, omitted the Schedule C-1 disclosing that Washington Savings Bank had provided the loan.³¹ The other three loans, all reportedly from the personal funds of the candidate, remained outstanding.³²

13. As a candidate for the U.S. House of Representatives, Trahan was required to file a Personal Financial Disclosure ("PFD") report disclosing her and her spouse's income, assets, and liabilities.³³ The reporting period for candidates is January 1 of the prior calendar year through 30 days before the date of filing.³⁴ Schedule A of the PFD requires candidates to report any assets that were valued in excess of \$1,000 at the close of the reporting period or that generated unearned income in excess of \$200 during the reporting period. Reportable assets include bank accounts, ownership interests in privately held companies, and real property, among other things.³⁵ Each disclosed asset must indicate (within certain ranges) the category of its period-end value.³⁶ Candidates may choose to indicate which assets are owned by a spouse (SP), dependent child (DC), or are jointly owned (JT), as long as those designations are consistent across filings.³⁷ Income earned by the candidate must be reported

<http://docquery.fec.gov/pdf/603/201812159143522603/201812159143522603.pdf>.

³¹ Trahan for Congress, 2018 Post-General Report (Amended), FEC Form 3 at 289 (filed Dec. 15, 2018), <http://docquery.fec.gov/pdf/407/201812159143523407/201812159143523407.pdf>.

³² *Id.* at 284-88.

³³ U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON ETHICS, INSTRUCTION GUIDE: FINANCIAL DISCLOSURE STATEMENTS AND PERIODIC TRANSACTION REPORTS, CALENDAR YEAR 2017 3, <https://bit.ly/2QsiNmv> ("Personal Financial Disclosure Reporting Instructions"). Elected representatives are also required to file personal financial disclosure reports annually. *Id.* at 2.

³⁴ *Id.* at 6.

³⁵ *Id.* at 16.

³⁶ *Id.*

³⁷ *Id.* at 26.

on Schedule C,³⁸ and the names of the candidate's business clients and customers must be reported on Schedule J.³⁹

14. Trahan amended her 2017-18 PFD four times. Each time, it disclosed different assets.
 - a. On May 21, 2018, candidate Trahan filed her original PFD for 2017-18.⁴⁰ On Schedule A, all but two of the listed assets were designated as her spouse's.⁴¹ The two exceptions were (i) a joint bank account at Sage Bank that was valued at \$1,001-\$15,000; and (ii) a thrift savings plan valued at \$50,001-\$100,000.⁴² On Schedule C, Trahan disclosed having earned \$75,000 in 2018 from her consulting business, Concire LLC, and having earned \$398,263 in salary income from Concire LLC in 2017.⁴³ On Schedule J, Trahan did not disclose any clients that paid her or her business in excess of \$5,000 during the reporting period.⁴⁴
 - b. On June 4, 2018, candidate Trahan amended her 2017-18 PFD for the first time.⁴⁵ Schedule A of the amended PFD added Trahan's consulting business, "Concire LLC," as an asset in which she held "100% Interest."⁴⁶ This asset was valued at \$1,001-\$15,000.⁴⁷ The income type from this asset was denoted "LLC Income."⁴⁸

³⁸ *Id.* at 30-32.

³⁹ *Id.* at 39-40 ("If you were employed in a position in which you personally performed services for clients in either of the two preceding calendar years that generated fees for your employer in excess of \$5,000, you must identify each of those clients. This requirement applies only if you have an ownership interest in the employer.").

⁴⁰ Lori Trahan, U.S. House of Representatives 2018 Financial Disclosure Report (Original) (filed May 21, 2018), http://clerk.house.gov/public_disc/financial-pdfs/2018/10023399.pdf.

⁴¹ *Id.* at 1-3.

⁴² *Id.* at 3.

⁴³ *Id.* at 4.

⁴⁴ *Id.* at 5.

⁴⁵ Lori Trahan, U.S. House of Representatives 2017-18 Financial Disclosure Report (Amended) (filed June 4, 2018) http://clerk.house.gov/public_disc/financial-pdfs/2018/10023866.pdf. This amended filing appears to have followed inquiries from the *Boston Globe* about Trahan not having listed her ownership interest in Concire LLC on her initial financial disclosure report for 2018. Matt Stout, *In 3rd District, Trahan says she founded a business—but it's complicated*, BOSTON GLOBE (June 4, 2018), <https://www.bostonglobe.com/metro/2018/06/04/district-trahan-says-she-founded-business-but-complicated/feYBpRslCIFDEFWqhMCThK/story.html>.

⁴⁶ Trahan, Amended Financial Disclosure Report (June 4, 2018), *supra* note 42, at 1.

⁴⁷ *Id.*

⁴⁸ *Id.*

The asset's income for the year 2018 to date was disclosed as falling within the \$100,001-\$1,000,000 range; the asset's income for the preceding calendar year was disclosed as falling within the same range.⁴⁹ Schedule C remained the same, and continued to disclose \$75,000 in income from Concire LLC in 2018.⁵⁰

Schedule J also remained the same, identifying no clients that paid Trahan or her business in excess of \$5,000 for her services.⁵¹

- c. On November 16, 2018, Representative-elect Trahan again amended her 2017-18 PFD.⁵² Schedule A of the second amended PFD made two additional changes to assets not designated as solely belonging to her spouse. First, Trahan increased the value of the Concire LLC asset to \$15,001-\$50,000, and added a comment stating, "Sole asset is Bank of America checking account. Value fluctuates. Highest range of value in 2018 was \$250,001-\$500,000."⁵³ Second, Representative-elect Trahan for the first time listed a joint bank account at Enterprise Bank that was valued at \$15,001-\$50,000.⁵⁴ The Enterprise Bank entry included a comment stating, "Value fluctuates. Highest range of value in 2018 was \$100,001-\$250,000."⁵⁵ Schedule C was amended to reflect that her income

⁴⁹ *Id.*

⁵⁰ *Id.* at 4.

⁵¹ *Id.* at 5.

⁵² Lori Trahan, U.S. House of Representatives 2017-18 Financial Disclosure Report (Amended) (filed Nov. 16, 2018), http://clerk.house.gov/public_disc/financial-pdfs/2018/10024942.pdf.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 2.

from Concire LLC in the previous year was \$361,089.⁵⁶ Schedule J still did not identify any clients that paid Trahan or her company for her services.⁵⁷

- d. On February 19, 2019, Representative Trahan again amended her 2017-18 PFD.⁵⁸

Schedule A of the third amended PFD reflected one change to assets not designated as solely belonging to her spouse: it listed a new asset, “Stella Connect,” described as a “Software platform company,” valued at \$1,001-\$15,000.⁵⁹ No further details were provided about this asset, which had not been disclosed on any of Representative Trahan’s previous financial disclosures for 2017-18. Schedule C of the financial disclosure report remained the same as in the previous version of the report.

- e. On March 21, 2019, Representative Trahan again amended her 2017-18 PFD.⁶⁰

Under Schedule J, the fourth amended PFD now listed “Confidential” clients located in Westford, Massachusetts, with the following comment: “Certain clients are not disclosed due to confidentiality agreements entered into at the time filer’s services were retained.”⁶¹

⁵⁶ *Id.* at 4. On the same day, Trahan amended her financial disclosure report for 2016-17 to add the same comment to the entry for the Concire LLC “LLC Income” asset, but did not amend the value of the asset such that the 2017 disclosure continued to indicate its 2017 value as falling within \$1,001 and \$15,000. Lori Trahan, U.S. House of Representatives 2016-17 Financial Disclosure Report (Amended) (filed Nov. 16, 2018), http://clerk.house.gov/public_disc/financial-pdfs/2017/10024943.pdf.

⁵⁷ Lori Trahan, U.S. House of Representatives 2017-18 Financial Disclosure Report (Amended) (filed Nov. 16, 2018), *supra* note 52, at 5.

⁵⁸ Hon. Lori Trahan, U.S. House of Representatives 2017-18 Financial Disclosure Report (Amended) (filed Feb. 19, 2019), http://clerk.house.gov/public_disc/financial-pdfs/2018/10025157.pdf.

⁵⁹ *Id.* at 3.

⁶⁰ Hon. Lori Trahan, U.S. House of Representatives 2017-18 Financial Disclosure Report (Amended) (filed Mar. 21, 2019), http://clerk.house.gov/public_disc/financial-pdfs/2018/10025368.pdf.

⁶¹ *Id.* at 5.

15. On March 3, 2019, the *Boston Globe* reported that Trahan's personal financial disclosure reports filed with the House suggested that Trahan did not have the funds necessary to cover the personal campaign loans that she reported to the Commission.⁶² According to the *Globe*:

[Representative Trahan's] spokeswoman said the money Trahan loaned her campaign came from three sources: joint bank accounts with her husband, the home equity loan, and "additional income" from her consulting firm.

But Trahan did not appear to have \$371,000 available from these sources to loan her campaign. In her amended financial disclosures, she reported two joint bank accounts with a combined maximum possible balance of \$265,000 as well as \$71,000 borrowed from her home equity line. Even if she gave all of it to her campaign, it's still \$35,000 less than the \$371,000 she claims to have loaned herself.

She also reported in November that she had a checking account from her consulting company, called Concire. But her campaign spokeswoman said she used other accounts to fund the campaign, not the Concire account.

Representative Trahan's campaign "wouldn't say whether any money came from [Trahan's husband]," the *Globe* reported.⁶³

SUMMARY OF LAW

16. A political committee must file reports of receipts and disbursements in accordance with the provisions of 52 U.S.C. § 30104(a)(1); *see also* 11 C.F.R. § 104.3(a).
17. Such reports must include all loans made to the committee by, or guaranteed by, the candidate, as well as the identification of any endorser or guarantor of such loan. 52 U.S.C. § 30104(b)(2)(G), (b)(3)(E). Such reports must also include any disbursement by the committee for repayment of loans made by or guaranteed by the candidate and for the repayment of all other loans, as well as the name and address of any person who receives a loan repayment from the reporting committee, together with the date and amount of such

⁶² 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>.

⁶³ *Id.*

loan repayment. *Id.* § 30104(b)(4)(D)-(E), (b)(5)(D). Political committees must report all payments to reduce or extinguish debts or obligations on Schedule D (“Debts and Obligations”) and itemize the date, amount, and purpose of each such disbursement on Schedule B (“Itemized Disbursements”).⁶⁴

18. Each report must disclose, on Schedule C, the “amount and nature” of outstanding debts and obligations owed by the reporting committee. 11 C.F.R. § 104.3(d).

When a candidate obtains a bank loan or loan of money derived from an advance on the candidate’s brokerage account, credit card, home equity line of credit, or other line of credit . . . for use in connection with the candidate’s campaign, the candidate’s principal campaign committee shall disclose in the report covering the period when the loan was obtained, the following information on Schedule C-1 or C-P-1:

- (i) The date, amount, and interest rate of the loan, advance, or line of credit;
- (ii) The name and address of the lending institution; and
- (iii) The types and value of collateral or other sources of repayment that secure the loan, advance, or line of credit, if any.

Id. § 104.3(d)(4).

19. “[A]ny loan of money derived from an advance on a candidate’s brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate” must be made “in accordance with applicable law and under commercially reasonable terms.” *Id.* § 100.83(a)(1). “Loans derived from an advance on a candidate’s brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate shall be reported by the candidate’s principal campaign committee in accordance with 11 CFR part 104.” *Id.* § 100.83(e).

⁶⁴ FEC, INSTRUCTIONS FOR FEC FORM 3 AND RELATED SCHEDULES: REPORT OF RECEIPTS AND DISBURSEMENTS FOR AN AUTHORIZED COMMITTEE (FEC FORM 3) 12-13, 20, <https://www.fec.gov/resources/cms-content/documents/fecfrm3i.pdf>.

20. A political committee's report of receipts and disbursements must include the total amount of contributions received and identify each person or political committee who made a contribution in excess of \$200 during the reporting period, together with the date and amount of such contribution. 52 U.S.C. § 30104(b)(2)(A), (b)(3)(A)-(B).
21. A "contribution" includes "any gift, subscription, *loan*, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." *Id.* § 30101(8)(A)(i) (emphasis added).
22. Commission regulations similarly define a "contribution" to include any "loan," 11 C.F.R. § 100.52(a), and specify that a loan includes a "guarantee, endorsement, and any other form of security," *id.* § 100.52(b). A loan is a contribution at the time it is made, and a loan that exceeds contribution limits is unlawful, whether or not it is repaid. *Id.* § 100.52(b)(1)-(2).
23. A candidate may make contributions, including loans, from his or her personal funds without limit to their campaign. 11 C.F.R. § 110.10. A candidate's personal funds include his or her portion of assets owned jointly with a spouse. *Id.* § 100.33(c). If no specific share of the jointly held asset is specified as owned by the candidate, the value of one-half of the property is considered the candidate's personal funds. *Id.* § 100.33(c)(2).
24. Contributions from a candidate's spouse's funds, including loans from the spouse, are subject to the individual contribution limits. For the 2018 election, the limit on an individual's contributions was \$2,700 per election.⁶⁵

CAUSES OF ACTION

I. **There Is Reason to Believe Trahan for Congress Failed to Timely Report a Bank Loan**

⁶⁵ FEC, CONTRIBUTION LIMITS FOR THE 2018-2018 FEDERAL ELECTIONS, <https://transition.fec.gov/info/contriblimitschart1718.pdf>.

25. FECA and Commission regulations make clear that bank loans, including home equity lines of credit, obtained by a congressional candidate for the purpose of influencing his or her election must be disclosed on Schedule C and Schedule C-1 filings with the Commission. There is reason to believe Trahan failed to timely disclose one or more bank loans that she obtained for the purpose of influencing her election.
26. After Trahan won the primary, Trahan for Congress filed an October quarterly report on October 15, 2018 disclosing that the candidate had made a \$71,000, 0% interest loan on September 4, 2018. On December 6, 2018, the committee amended the October quarterly to mark the “Personal Funds of the Candidate” box for the \$71,000 loan. Then, on December 15, 2018, the committee again amended its October quarterly report, disclosing for the first time that the \$71,000 loan had not come from Trahan’s personal funds, but instead was a loan from Washington Savings Bank secured by real estate, and with a 5.25% interest rate. The *Globe* later reported it as a home equity loan.⁶⁶ This information had not been included in any of the committee’s previous filings, even though the loan was incurred on September 4, 2018 — the date of the primary election — and the committee had submitted five reports to the commission between the date of the loan and December 15, 2018.
27. Therefore, there is reason to believe that Trahan for Congress failed to timely disclose this bank loan in reports filed with the Commission in advance of the election, in violation of 52 U.S.C. § 30104(a)(1), (b)(2)(G), (b)(3)(E), (b)(4)(D)-(E), and (b)(5)(D), as well as 11 C.F.R. §§ 104.3(a), (d), 100.82(a)-(b), 100.83(a)(1) and (e).

II. **There Is Reason to Believe Trahan for Congress Violated FECA’s Reporting Requirements and Accepted Contributions in Excess of Federal Limits**

⁶⁶ Estes, *supra* note 62.

28. The 2018 race for Massachusetts's 3rd Congressional District featured a highly competitive Democratic primary, with ten candidates vying for the party nomination, including Trahan. According to the *Boston Globe*, two weeks before the September 4, 2018 primary, Trahan was polling in fourth place. At that point,

Trahan poured hundreds of thousands of dollars of new money into her campaign, dramatically increasing her TV advertising from previous weeks. In the closing days of the race, she overtook her rivals, beating second-place finisher Dan Koh by just 122 votes, then going on to easily defeat the Republican candidate in November.⁶⁷

The *Globe* reported that "Trahan's ad blitz in the final days of August and early September fueled a late surge that helped turn the race around."⁶⁸ According to a contemporaneous report in the *Lowell Sun*, the Democratic primary was "one of the most expensive primaries in the country and possibly the most expensive for a House seat in the state's history," with candidates having spent a \$5.8 million total in the race by August 25, 2018 and Trahan and two others "each spending hundreds of thousands of dollars on television ads."⁶⁹

29. There is reason to believe Trahan for Congress materially misreported this critical, last-minute infusion of funds. Through a series of reports and amended reports filed with the Commission, Trahan for Congress disclosed that the candidate had used personal funds to lend \$300,000 to the committee: \$50,000 on March 31,⁷⁰ \$50,000 on June 30,⁷¹ and \$200,000 on August 23.⁷² (As described in Count I, Trahan for Congress originally reported

⁶⁷ Estes, *supra* note 62.

⁶⁸ *Id.*

⁶⁹ Chris Lisinski, *Late spending flurry likely in 3rd District race*, LOWELL SUN (Aug. 25, 2018), http://www.lowellsun.com/news/ci_32094686/late-spending-flurry-likely-3rd-district-race.

⁷⁰ Trahan for Congress, 2018 Pre-Primary Report (Original), FEC Form 3 (filed Aug. 23, 2018), *supra* note 3, at 88-91.

⁷¹ *Id.*

⁷² Trahan for Congress, 2018 October Quarterly Report (Original), FEC Form 3 (filed Oct. 15, 2018), *supra* note 8, at 154. That report was later amended to disclose that \$50,000 of that loan had been repaid or forgiven on September 24, 2018. Trahan for Congress, 2018 October Quarterly Report (Amended), FEC Form 3 (filed Dec. 6, 2018), *supra* note 18, at 144.

that the candidate had used personal funds for an additional \$71,000 loan, but later amended the reports to disclose it was a loan from Washington Savings Bank secured by real estate.)

30. Aside from the \$71,000 home equity loan, Trahan's spokesperson told the *Globe* that the money used for the \$300,000 in loans came from joint bank accounts with her husband and "additional income" from her consulting firm.⁷³ Yet according to Trahan's personal financial disclosure reports filed with the U.S. House of Representatives, it is not clear that Trahan had sufficient personal assets to lend \$300,000 to Trahan for Congress.

- a. Trahan's financial disclosure reports filed May 21, 2018 and amended June 4, 2018 only disclosed one bank account valued over \$1,000: a joint Sage Bank account valued at \$1,001-\$15,000. On its own, the Sage Bank account would have been insufficient to support any one of the loans Trahan made to her campaign committee. It was not until after the election, apparently following the *Globe*'s initial inquiries about the funds underlying the candidate's personal loans, that Trahan filed another amended financial disclosure report on November 16, 2018 to list a second joint account: an Enterprise Bank account valued at \$15,001-\$50,000, with a note stating "Value fluctuates. Highest range of value in 2018 was \$100,001-\$250,000."⁷⁴ It is not clear why a joint Enterprise Bank account that was reported as having held up to \$250,000 was omitted from all disclosures until after the election. Indeed, it strains credulity that a candidate who possesses exactly two joint bank accounts remembered to disclose the account that held a

⁷³ Estes, *supra* note 62.

⁷⁴ *Id.*

few thousand dollars but somehow forgot — repeatedly — to disclose the account that held hundreds of thousands of dollars.⁷⁵

- b. Trahan's campaign stated that the remainder of the candidate's personal loans came from "additional income" from her consulting firm, but it is not clear how Trahan could have earned sufficient additional income — more than \$150,000 — between May 15, 2018 (the close of books for the financial disclosure report) and August 23, 2018 (when the \$200,000 loan was incurred), given that this was the same time period that she was campaigning for her highly contested primary. It does not appear that Trahan's consulting firm had substantial accounts receivable for work completed prior to her candidacy, given that the firm was valued at only \$15,001-\$50,000. And Trahan repeatedly filed PFDs attesting that she had no clients who paid her or her business more than \$5,000 for her services, casting even more doubt on the assertion that she made the campaign loans using her business income.⁷⁶

31. Trahan's spokesperson has stated that Trahan did not make loans to the campaign using the Concire LLC checking account held with Bank of America.⁷⁷
32. Trahan for Congress has declined to state whether any of the money came from Trahan's spouse.⁷⁸

⁷⁵ Furthermore, because these were joint accounts, the candidate could treat only her portion of the assets in those accounts as personal funds. 11 C.F.R. § 100.33(c). If no specific share of the jointly held asset is specified as owned by the candidate, the value of one-half of the property is considered the candidate's personal funds. *Id.* § 100.33(c)(2). As a result, the candidate may only have been able to treat as personal funds \$125,000 of the Enterprise Bank account (at its "highest value" in 2018) and \$7,500 of the Sage Bank account at its period-end value.

⁷⁶ Trahan did not disclose any clients on her financial disclosure reports until filing an Amended report on March 21, 2019, and even then claimed that all of those clients were "confidential." Hon. Lori Trahan, U.S. House of Representatives 2018 Financial Disclosure Report (Amended) (filed Mar. 21, 2019), *supra* note 60, at 5.

⁷⁷ Estes, *supra* note 62

⁷⁸ *Id.*

33. Based on Representative Trahan's Financial Disclosure Reports, Trahan for Congress's reports filed with the Commission, and published reports, it appears highly questionable that all of the funds reported as "personal loans" to the Commission in fact came from Trahan's own funds, given that the total amount of the "personal loans" greatly exceeds Trahan's known assets. Taken together, this evidence suggests that some portion of the \$300,000 that Trahan for Congress reported as having come from Trahan's personal funds in fact came from other sources. As a result, there is reason to believe that 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).

PRAYER FOR RELIEF

34. Wherefore, the Commission should find reason to believe that Trahan for Congress violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondent from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with FECA.

Respectfully submitted,



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March 27, 2019

VERIFICATION

The complainant 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



Richard A. Graham

Sworn to and subscribed before me this 27 day of March 2019.



Notary Public



For Complainant Campaign Legal Center



Adav Noti

Sworn to and subscribed before me this 27 day of March 2019.



Notary Public

