



FEDERAL ELECTION COMMISSION
Washington, DC

November 17, 2021

VIA CERTIFIED
RETURN RECEIPT REQUESTED

Donald E. Hill

Dallas, TX75218

RE: MUR 7693

Dear Mr. Hill:

This is in reference to the complaint you filed with the Federal Election Commission on February 10, 2020, alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On November 9, 2021, the Commission dismissed the allegations in your complaint. Accordingly, the Commission closed its file in this matter. A copy of the Factual and Legal Analysis, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016. The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

Roy Q. Luckett

BY: Roy Q. Luckett
Acting Assistant General Counsel

Enclosure:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**1
2
3
4
5
6

RESPONDENTS: Lance Gooden for Congress Committee MUR 7693
and Leigh Pool in her official capacity as treasurer
Lance Gooden

7 The Complaint alleges that Lance Gooden’s authorized committee, Lance Gooden for
8 Congress Committee and Leigh Pool in her official capacity as treasurer (collectively, the
9 “Committee”), violated the Federal Election Campaign Act of 1971, as amended (the “Act”), by
10 failing to provide any information about the purpose of certain expense reimbursement
11 disbursements to Gooden. The Complaint further alleges that the lack of explanation indicates
12 that the Committee and Gooden converted campaign funds to personal use. The Committee
13 asserts that its expense reimbursements have been “clean,” and there was no personal use of
14 campaign funds.

15 As explained below, although some of the disbursements lacked required memo entries,
16 the Commission exercises its prosecutorial discretion and dismisses the allegations that the
17 Committee violated 52 U.S.C. § 30104(b) because of the amount at issue, the memo entry
18 information disclosed in the Committee’s original 2019 April Quarterly Report, and the lack of
19 available information suggesting that additional memo entries were required for certain other
20 expense reimbursements. Further, because the available information does not provide reason to
21 believe that Gooden converted campaign funds to personal use, the Commission dismisses the
22 allegations that the Committee and Gooden violated 52 U.S.C. § 30114(b).

1 **I. FACTUAL ANALYSIS**

2 The Committee made 34 disbursements to Gooden between January 7, 2019, and May
3 13, 2020, which collectively totaled \$147,954.21.¹ Of those disbursements, 24 were expense
4 reimbursements that were itemized in memo entries identifying the ultimate payee in the
5 Committee's reports.² The total of the itemized entries for each disbursement was lower than the
6 total amount of the disbursement to Gooden for 22 of the 24 itemized disbursements.³
7 Specifically, for the 24 itemized disbursements to Gooden, the total reimbursements exceeded
8 the memo entries by over \$21,000. In addition, the disbursements to Gooden between January 7,
9 2019, and March 31, 2019, were itemized in the Committee's original 2019 April Quarterly
10 Report, but were not itemized in the Committee's Third Amended 2019 April Quarterly Report.⁴

11 There were also 10 disbursements to Gooden between January 22, 2019, and March 27,
12 2019, that were not itemized in memo entries.⁵ The Committee described these disbursements,

¹ See Lance Gooden for Congress, 2019 April Quarterly Report at 32-46 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 40-45 (Sept. 19, 2019); Lance Gooden for Congress, Am. 2019 July Quarterly Report at 70-86 (Nov. 15, 2019); Lance Gooden for Congress, 2019 October Quarterly Report at 51-65 (Nov. 15, 2019); Lance Gooden for Congress, 2019 Year-End Report at 61-75 (Jan. 31, 2020); Lance Gooden for Congress, 2020 July Quarterly Report at 22-23 (July 15, 2020).

² See Lance Gooden for Congress, 2019 April Quarterly Report at 32-46 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 40-45 (Sept. 19, 2019); Lance Gooden for Congress, Am. 2019 July Quarterly Report at 70-86 (Nov. 15, 2019); Lance Gooden for Congress, 2019 October Quarterly Report at 51-65 (Nov. 15, 2019); Lance Gooden for Congress, 2019 Year-End Report at 61-75 (Jan. 31, 2020); Lance Gooden for Congress, 2020 July Quarterly Report at 22-23 (July 15, 2020).

³ See Lance Gooden for Congress, 2019 April Quarterly Report at 32-46 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 40-45 (Sept. 19, 2019); Lance Gooden for Congress, Am. 2019 July Quarterly Report at 70-86 (Nov. 15, 2019); Lance Gooden for Congress, 2019 October Quarterly Report at 51-65 (Nov. 15, 2019); Lance Gooden for Congress, 2019 Year-End Report at 61-75 (Jan. 31, 2020); Lance Gooden for Congress, 2020 July Quarterly Report at 22-23 (July 15, 2020).

⁴ Compare Lance Gooden for Congress, 2019 April Quarterly Report at 32-46 (Apr. 15, 2019) with Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 40-45 (Sept. 19, 2019).

⁵ See Lance Gooden for Congress, 2019 April Quarterly Report at 32-55 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 40-45 (Sept. 19, 2019).

1 which totaled \$5,350.02, as office supplies, meals, travel, Google ads, email services, phone, and
2 printing.⁶

3 The Complaint focuses on 23 “Expense Reimbursement” disbursements to Gooden in
4 2019, alleging that the Committee failed to provide any explanation for the payments or describe
5 the nature of the expenses.⁷ The Complaint further notes that most of the disbursements are in
6 round numbers, and there is no explanation why Gooden advanced such large amounts instead of
7 having the Committee pay such expenses directly.⁸ The Complaint asserts that Respondents
8 converted campaign contributions to personal use because the amounts are “grossly excessive
9 when compared to other members of Texas’s congressional delegation.”⁹

10 The Committee responds that its “expense reimbursements have been clean and never
11 questioned by the FEC.”¹⁰ In addressing the 2019 October Quarterly Report, the Committee
12 asserts that its reimbursement reporting “complies 100%” with the regulations, as its reports have
13 38 itemized memo entries tied to expense reimbursements that provide the required information
14 regarding vendors, costs, dates, and expense explanations.¹¹ Respondents further assert that the
15 itemized memo entries make clear that the expenses are not personal use.¹²

⁶ See Lance Gooden for Congress, 2019 April Quarterly Report at 32-55 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 40-45 (Sept. 19, 2019).

⁷ Compl. at 1 (Feb. 10, 2020). Based on the exhibits attached to the complaint, it appears that the Complainant may be unaware that additional information is contained in memo entries in the Committee’s reports. *Id.* at Ex. A-D.

⁸ *Id.* at 1.

⁹ *Id.* at 1-2.

¹⁰ Resp. at 1 (Mar. 2, 2020).

¹¹ *Id.*

¹² *Id.*

1 **II. LEGAL ANALYSIS**

2 **A. The Commission Dismisses the Allegation that the Committee Failed to Provide**
3 **Memo Entries for all Expense Reimbursements.**

4 The Act and Commission regulations provide that an authorized committee must itemize
5 and report the name and address of each person to whom it makes expenditures or other
6 disbursements that aggregate more than \$200 per election cycle, together with the date, amount,
7 and purpose of each expenditure.¹³ When the expenditure is made to reimburse an individual
8 who advanced personal funds to pay committee expenses, the Commission requires “a memo
9 entry [identifying the ultimate payee] ... for any reimbursement of expense other than travel and
10 subsistence expenses if the individual’s payments to the vendor on behalf of the committee
11 aggregate more than \$200” in an election cycle for an authorized committee.¹⁴ “When the
12 reimbursement is for travel and subsistence advances that exceed \$500, a memo entry is required
13 for each payment to a specific vendor by that individual on behalf of the political committee if
14 total payments to that vendor by the political committee or by that individual on behalf of the
15 committee aggregate more than \$200” in an election cycle for an authorized committee.¹⁵ “Each
16 memo entry must include the name and address of the vendor, as well as the date, amount, and
17 purpose of the payment.”¹⁶

18 On their face, three of the Committee’s reimbursements, collectively totaling \$3,056.07,
19 did not contain any memo entries identifying the ultimate payee, but appear to require such

¹³ 52 U.S.C. §30104(b)(5)(A); 11 C.F.R. §§ 104.3(b)(4)(i), 104.9(a).

¹⁴ Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40625, 40626 (Jul. 8, 2013) (“Ultimate Payee Reporting Rule”).

¹⁵ *Id.*

¹⁶ *Id.*

1 memo entries. First, Gooden received a reimbursement of \$300.00 with the description of
2 “Phone Expense” on January 22, 2019, but the Committee did not provide a memo entry
3 containing the name and address of the vendor or the date of the payment.¹⁷ Second, Gooden
4 received a reimbursement of \$1,088.35 with the description of “Anthem Printing Expense” on
5 January 28, 2019, but the Committee did not provide a memo entry containing the address of the
6 vendor or the date of the payment.¹⁸ Third, Gooden received a reimbursement of \$1,667.72 with
7 the description of “Southwest Airlines Travel Expense” on March 27, 2019, but the Committee
8 did not provide any memo entries containing the address of the vendor or the date of the
9 payment.¹⁹

10 In addition, there are other expense reimbursements for which it is unclear whether
11 additional memo entries were required. First, Gooden received a reimbursement of \$1,198.76
12 with the description of “meals expense” on March 27, 2019, and available information does not
13 make clear whether the Committee was required to identify the ultimate payee for any of the
14 expenses included in this reimbursement.²⁰ Second, it is unclear whether additional itemized
15 memo entries were required for the 22 expense reimbursements for which the total amounts
16 reimbursed were greater than the sum of the amounts paid to the ultimate payees the Committee
17 identified in its reports by about \$21,000.²¹ Specifically, it is unclear whether Gooden advanced

¹⁷ Lance Gooden for Congress, 2019 April Quarterly Report at 36 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 41 (Sept. 19, 2019).

¹⁸ Lance Gooden for Congress, 2019 April Quarterly Report at 39 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 42 (Sept. 19, 2019).

¹⁹ Lance Gooden for Congress, 2019 April Quarterly Report at 51 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 44 (Sept. 19, 2019).

²⁰ Lance Gooden for Congress, 2019 April Quarterly Report at 51 (Apr. 15, 2019); Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 44 (Sept. 19, 2019).

²¹ *See* Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 40-45 (Sept. 19, 2019); Lance Gooden for Congress, Am. 2019 July Quarterly Report at 70-86 (Nov. 15, 2019); Lance Gooden for Congress, 2019

1 more than \$500 to a single vendor for meals during the election cycle, thus requiring a memo
2 entry. As to the approximately \$21,000 in reimbursements, it is similarly unclear whether a
3 single vendor received more than \$200 directly from Gooden during the election cycle, thus
4 requiring memo entries. Further, the Committee’s original 2019 April Quarterly Report
5 contained memo entries for some expense reimbursements to Gooden, but those memo entries
6 were not included in the Committee’s 2019 Third Amended April Quarterly Report.²² Although
7 the Committee responds that its “expense reimbursements have been clean,” it did not
8 specifically address the discrepancies noted above.²³

9 An investigation would be needed to clarify the record as to some of the reimbursements,
10 which does not appear to be a prudent use of the Commission’s resources given the amounts at
11 issue.²⁴ Therefore, despite these discrepancies, the Commission exercises its prosecutorial
12 discretion and dismisses the allegations that the Committee violated 52 U.S.C. § 30104(b).²⁵
13 Further, because the Committee asserts that its reimbursement reporting “complies 100%” with
14 this requirement but it failed to provide memo entries identifying the ultimate payee for three
15 expense reimbursements that appear to require them, the Commission cautions the Committee
16 that 52 U.S.C. §30104(b)(5)(A) requires it to provide memo entries in its reports.

October Quarterly Report at 51-65 (Nov. 15, 2019); Lance Gooden for Congress, 2019 Year-End Report at 61-75 (Jan. 31, 2020); Lance Gooden for Congress, 2020 July Quarterly Report at 22-23 (July 15, 2020).

²² Compare Lance Gooden for Congress, 2019 April Quarterly Report at 32-46 (Apr. 15, 2019) with Lance Gooden for Congress, Third Am. 2019 April Quarterly Report at 40-45 (Sept. 19, 2019).

²³ Resp. at 1 (Mar. 2, 2020).

²⁴ As discussed above, the Committee’s reports show that three disbursement to Gooden (totaling \$3,056.07) required, but did not contain, any memo entries.

²⁵ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

1 **B. The Commission Dismisses the Allegation that the Committee and Gooden**
2 **Violated 52 U.S.C. § 30114(b) by Converting Campaign Funds to Personal Use.**

3 The Act and Commission regulations provide that funds in a campaign account may be
4 used for expenditures arising from a candidate’s campaign for federal office or a federal
5 officeholder’s official duties, as well as “for any other lawful purpose.”²⁶ The Act and
6 Commission regulations further provide that campaign funds “shall not be converted by any
7 person to personal use,” and defines personal use as using funds “to fulfill any commitment,
8 obligation, or expense of a person that would exist irrespective of the candidate’s election
9 campaign or individual’s duties as a holder of Federal office.”²⁷

10 The Act and Commission regulations enumerate certain types of disbursements that are
11 *per se* personal use.²⁸ These include, but are not limited to, household food items or supplies;
12 mortgage, rent, or utility payments for any part of a personal residence of the candidate;
13 admission to a sporting event or other form of entertainment unless part of a specific campaign
14 or officeholder activity; and dues, fees, or gratuities at a recreational facility unless they are part
15 of the costs of a specific fundraising event.²⁹ For all other disbursements, the regulation
16 provides that the Commission shall determine on a case-by-case basis, whether a given
17 disbursement is personal use by applying the “irrespective test” formulated in the statute.³⁰

²⁶ 52 U.S.C. § 30114(a); 11 C.F.R. § 113.2.

²⁷ 52 U.S.C. § 30114(b)(1); 11 C.F.R. § 113.1(g).

²⁸ 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1).

²⁹ 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1).

³⁰ 11 C.F.R. § 113.1(g)(1)(ii).

1 Meals, travel, and vehicle expenses are examples of disbursements that may be determined to be
2 personal use after applying the irrespective test.³¹

3 The Complaint’s personal use allegations are based on the expense reimbursement
4 disbursements from the Committee to Gooden and a comparison of such reimbursements to
5 those paid to all other members of Texas’s congressional delegation for the same period.³² As
6 discussed above, the Committee’s reports fail to provide itemized memo entries for at least three
7 reimbursements to Gooden for which they were required, and it is unknown from the available
8 information whether additional itemized memo entries identifying the ultimate payee were
9 required for over \$21,000 in other expense reimbursements. The Committee’s Response does
10 not specifically address these deficiencies, or why many of the expense reimbursements were in
11 round numbers, or why the reimbursements to Gooden were significantly higher than those paid
12 to all other members of Texas’s congressional delegation over the same period.

13 In addressing the apparent disparity of expense reimbursements of one committee versus
14 another, the Commission previously dismissed a somewhat analogous matter in which the
15 complaint alleged that certain expenditures had to be personal use because they were larger in
16 comparison to those of other committees.³³ The Commission noted that “there is nothing

³¹ *Id.*

³² Compl. at 1-2. The Committee’s reimbursements to Gooden were more than twelve times larger than those paid to all other members of the Texas congressional delegation in 2019 and are more than 8 times larger than those paid to all other members of the Texas congressional delegation during the 2020 election cycle through July 2020.

³³ Factual & Legal Analysis at 7-8, MUR 7494 (John Culberson, *et al.*) (dismissing personal use allegation regarding purportedly excessive expenditures for books and reference materials).

1 inherently suggestive about the fact that the Committee reported spending more on [disputed
2 expenditures] than other committees.”³⁴

3 On balance, the information is insufficient to create a credible allegation that a significant
4 violation may have occurred.³⁵ Without additional specificity regarding the nature of the
5 potential personal use, the Complaint’s comparative analysis does not provide reason to believe
6 that Committee funds were converted to personal use. Additionally, the available information is
7 less probative than cases in which the Commission has pursued personal use violations.³⁶
8 Accordingly, the Commission dismisses the allegations that Lance Gooden for Congress
9 Committee and Leigh Pool in her official capacity as Treasurer and Lance Gooden violated 52
10 U.S.C. § 30114(b).

³⁴ *Id.* at 7.

³⁵ The Commission’s stated policy regarding matters at the initial stage in the enforcement process is that a reason to believe finding is appropriate “when a complaint credibly alleges that a significant violation may have occurred.” *See* Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007).

³⁶ *See, e.g.*, Factual and Legal Analysis at 10-11, MUR 7292 (Clifford “Cliff” B. Stearns) (finding reason to believe that respondents violated 52 U.S.C. § 30114(b) when the committee paid for the former officeholder to attend and eat meals at an annual conference, paid his membership fees and expenses for a political interest club, and paid for his lodging so he could present a contribution to an elementary school); Factual and Legal Analysis at 5-11, MUR 7068 (Mowrer for Iowa) (finding reason to believe that respondents violated 52 U.S.C. § 30114(b) when the committee paid the candidate a salary after the election and reimbursed the candidate for health insurance expenses).