



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 1, 2022

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kendra Arnold, Executive Director
Foundation for Accountability and Civic Trust
1717 K Street NW, Suite 900
Washington, DC 20006
klma@factdc.org

RE: MUR 7929

Dear Ms. Arnold:

The Federal Election Commission has considered the allegations contained in your complaint dated October 4, 2021. On August 30, 2022, based upon the information provided in the complaint and information provided by the respondents, the Commission voted to: find no reason to believe that Sean Patrick Maloney and DCCC and Timothy Persico in his official capacity as treasurer violated 52 U.S.C. § 30114(b); find no reason to believe that DCCC and Timothy Persico in his official capacity as treasurer violated 52 U.S.C. § 30104(a)-(b) and 11 C.F.R. § 104.3(b); and close the file. 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 Federal Election Campaign 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 Aaron Rabinowitz, the attorney assigned to this matter, at (202) 694-1476.

Sincerely,
Lisa J. Stevenson
Acting General Counsel

Peter G. Blumberg

BY: Peter G. Blumberg
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: DCCC and Timothy Perisco in his
Official capacity as treasurer
Sean Patrick Maloney MUR 7929

I. INTRODUCTION

12 This matter was generated by a Complaint filed with the Federal Election Commission
13 (the “Commission”), which alleges that DCCC and Timothy Persico in his official capacity as
14 treasurer (“DCCC”) and DCCC’s Chair, Sean Patrick Maloney, violated the prohibition on the
15 conversion of campaign funds to personal use at 52 U.S.C. § 30114(b) of the Federal Election
16 Campaign Act of 1971, as amended (the “Act”) by purportedly purchasing an airline ticket for
17 Maloney to travel for a personal vacation. It also alleges that DCCC failed to properly report the
18 disbursement because DCCC did not disclose that the disbursement was for Maloney’s personal
19 vacation, in violation of 52 U.S.C. § 30104(a), (b) and 11 C.F.R. § 104.3(b).

20 The Commission finds no reason to believe that DCCC or Maloney violated the personal
21 use prohibition. There is no available information to indicate that DCCC paid for Maloney's
22 personal travel. Further, the Commission notes that the personal use prohibition does not apply
23 to the non-campaign funds of a national party committee like DCCC. Finally, the Commission
24 also finds no reason to believe that DCCC failed to properly disclose the disbursement.

1 **II. FACTUAL BACKGROUND**

2 DCCC is a national committee of the Democratic Party; its treasurer is Timothy Persico.¹
 3 New York Representative Sean Patrick Maloney is its Chair.² The Complaint, citing to a New
 4 York Post article, alleges that DCCC improperly paid Maloney's airfare to vacation in Europe.³
 5 In its disclosure reports filed with the Commission, DCCC reported paying \$813 for an Air
 6 France ticket on June 21, 2021, and Maloney's social media posts show him vacationing in
 7 France and Italy three weeks later. The Complaint also contends that "DCCC's answer [given
 8 for the Post Article] was 'cryptic' and vague, and did not provide facts or properly address the
 9 concerns of personal use."⁴ The Complaint and the article speculate that the airline ticket was
 10 purchased for Maloney's vacation, and is therefore a violation of the Act.⁵ The Complaint also
 11 appears to allege that DCCC did not properly report the purchase of the ticket by failing to
 12 provide an adequate purpose description.⁶

13 In their joint Response, DCCC and Maloney deny that the airline ticket was purchased
 14 for Maloney's travel. Instead, the Response represents that DCCC purchased the ticket for
 15 another individual to "travel to Europe to participate in DCCC fundraising events and meetings."⁷
 16 Further, the Response asserts that the personal use restrictions do not apply because a national

¹ DCCC, Amended Statement of Organization (June 24, 2021).

² Alex Rogers, *House Democrats elect Sean Patrick Maloney as DCCC chairman*, CNNPOLITICS (Dec. 3, 2020), <https://www.cnn.com/2020/12/03/politics/sean-patrick-maloney-dccc-chair-elected/index.html>.

³ Compl. at 1 (Oct. 4, 2021) (citing Jon Levine, *DCCC Buys Flight Ticket Just Weeks Before Boss' Vacation to France*, NEW YORK POST (Sept. 18, 2021), <https://nypost.com/2021/09/18/dccc-buys-flight-ticket-weeks-before-boss-vacation/> ("Post Article").)

⁴ Compl. at 3.

⁵ *Id.* at 1-2; *see also* DCCC, Amended August 2021 Monthly Report (Oct. 5, 2021).

⁶ *Id.*

1 party committee's funds are not campaign funds subject to the personal use restriction.⁷ Finally,
 2 the Response states that DCCC properly reported the purpose of the \$813 disbursement as
 3 "travel."

4 **III. LEGAL ANALYSIS**

5 **A. The Commission Finds No Reason to Believe that DCCC or Maloney
 6 Violated the Personal Use Restriction**

7 Candidates and their authorized committees are permitted to use campaign funds for a
 8 variety of specific purposes, including otherwise-authorized expenditures in connection with the
 9 candidate's campaign for federal office, ordinary and necessary expenses incurred in connection
 10 with the duties of a federal officeholder, and "any other lawful purpose," but the Act prohibits
 11 any person from converting campaign funds to "personal use."⁸ Conversion to personal use
 12 occurs when campaign funds are used to fulfill any commitment, obligation, or expense of any
 13 person "that would exist irrespective of the candidate's election campaign or individual's duties
 14 as a holder of Federal office."⁹ The Act and Commission regulations provide a non-exhaustive
 15 list of uses of campaign funds that are *per se* personal use, including "a vacation or other
 16 noncampaign-related trip."¹⁰

17 However, the prohibition on the conversion to personal use applies to "a contribution
 18 accepted by a candidate, and any other donation received by an individual as support for

⁷ Resp. at 2-3 (Nov. 22, 2021).

⁸ 52 U.S.C. § 30114(a)-(b); 11 C.F.R. §§ 113.1(g), 113.2; *see also* Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7,862, 7,867 (Feb. 9, 1995) (explaining that "candidates have wide discretion over the use of campaign funds").

⁹ 52 U.S.C. § 30114(b)(2); *see* 11 C.F.R. § 113.1(g).

¹⁰ 52 U.S.C. § 30114(b)(2)(A)-(I); 11 C.F.R. § 113.1(g)(1)(i)(A)-(J). .

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1 activities of the individual as a holder of Federal office.”¹¹ Thus, the Commission has previously
 2 recognized that the personal use provisions do not apply to the funds of national party
 3 committees like DCCC.¹² There is no information indicating that DCCC paid for Maloney’s
 4 travel, or that DCCC paid for the ticket with campaign funds. The Complaint therefore does not
 5 allege facts that would, if true, establish a violation of the Act. Accordingly, the Commission
 6 finds no reason to believe that DCCC or Maloney violated 52 U.S.C. § 30114(b).

7 **B. The Commission Finds No Reason to Believe that DCCC Failed to**
 8 **Adequately Disclose the Airfare Purchase**

9 The Complaint also alleges that DCCC did not adequately disclose the airfare purchase.¹³
 10 Commission regulations define “purpose” as a “brief statement or description of why the
 11 disbursement was made.”¹⁴ “The ‘purpose of disbursement’ entry, when considered along with
 12 the identity of the disbursement recipient, must be sufficiently specific to make the purpose of
 13 the disbursement clear.”¹⁵ The Commission has determined that the description of the purpose
 14 should be sufficient to allow “a person not associated with the committee [to] easily discern why
 15 the disbursement was made when reading the name of the recipient and the purpose.”¹⁶
 16 Examples of sufficient statements of purpose include, but are not limited to, dinner expenses,
 17 media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense

¹¹ 52 U.S.C. § 30114(a).

¹² See Factual & Legal Analysis at 2, MUR 6105 (Republican National Committee).

¹³ Compl. at 2-3 (citing 11 C.F.R. § 104.3).

¹⁴ 11 C.F.R. § 104.3(b)(3)(i)(A).

¹⁵ Statement of Policy: “Purpose of Disbursement” Entries for Filings with the Commission, 72 Fed. Reg. 887, 887 (Jan. 9, 2007) (“Purpose Statement of Policy”) (citing 11 C.F.R. § 104.3(b)(3)(i)(B), (4)(i)(A)).

¹⁶ *Id.* at 888.

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1 reimbursement, and catering costs.¹⁷ DCCC disclosed the purpose of the disbursement as
2 “travel,” which “meet[s] the requirements of” 11 C.F.R. § 104.3(b)(3).¹⁸ Accordingly, the
3 Commission finds no reason to believe that DCCC violated 52 U.S.C. § 30104(a)-(b) and
4 11 C.F.R. § 104.3(b) by providing an inadequate purpose description when reporting the airfare
5 purchase.

¹⁷ 11 C.F.R. § 104.3(b)(3)(i)(B).

¹⁸ *Id.*; see also *Purposes of Disbursement*, FEC, <https://www.fec.gov/help-candidates-and-committees/purposes-disbursements/> (last visited May 27, 2022) (listing “travel” as an “adequate purpose[] of disbursement”).