



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 1, 2022

VIA ELECTRONIC MAIL

Marc E. Elias
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RE: MUR 7929

Dear Mr. Elias and Ms. Jacobs:

On October 8, 2021, the Federal Election Commission ("Commission") notified your clients, DCCC and Timothy Persico in his official capacity as treasurer and Sean Patrick Maloney, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to your clients at that time. On August 30, 2022, based upon the information contained in the complaint and information provided by you, 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. 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 Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and *Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record*, 74 Fed. Reg. 66,132 (Dec. 14, 2009). 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 MUR 7929
Official capacity as treasurer
Sean Patrick Maloney

I. INTRODUCTION

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

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

II. FACTUAL BACKGROUND

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

In their joint Response, DCCC and Maloney deny that the airline ticket was purchased for Maloney’s travel. Instead, the Response represents that DCCC purchased the ticket for another individual to “travel to Europe to participate in DCCC fundraising events and meetings.” 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.*

party committee’s funds are not campaign funds subject to the personal use restriction.⁷ Finally, the Response states that DCCC properly reported the purpose of the \$813 disbursement as “travel.”

III. LEGAL ANALYSIS

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

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

However, the prohibition on the conversion to personal use applies to “a contribution 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). .

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

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

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

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”).