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FEDERAL ELECTION COMMISSION

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OFFICE OF GENERAL COUNSEL

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Lavora Barnes, Chair
Michigan Democratic Party
606 Townsend Street
Lansing, MI 48933

MUR 7976

Complainant,

v.

John James
PO Box 2969
Farmington Hills, MI 48333

John James for Senate, Inc. and Bradley Crate in his official capacity as Treasurer
PO Box 2969
Farmington Hills, MI 48333

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against John James, John James for Senate, Inc. (the “Committee”), and Bradley Crate in his official capacity as treasurer (collectively, “Respondents”), for apparently violating the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “FEC” or “Commission”) regulations. John James was a candidate for U.S. Senate in Michigan during the 2020 general election. On November 24, 2020, he conceded that he had lost that race. Just recently, on January 31, 2022, James announced his candidacy for Michigan’s tenth congressional district, and again became a candidate for federal office.¹ Yet, according to public records, the Committee paid for over \$11,500 worth of apparently personal expenses from January 2021 through December 2021, when James was no longer a candidate for Senate and before he declared his candidacy for House. These expenses include flights, inflight Wi-Fi, luxury hotels, ride-shares, parking, private

¹ David Eggert, John James announces run for Michigan congressional seat,” ABC NEWS (Jan. 31, 2022), <https://abcnews.go.com/Politics/wireStory/john-james-announces-run-michigan-congressional-seat-82576797>.

events, meals, mobile phone services, and more. The facts strongly suggest that John James has used excess campaign funds for personal use by spending thousands of dollars of excess campaign funds on travel and meal expenses around the country, including at a luxury hotel on Amelia Island in Florida, when he was no longer a federal candidate.

These expenditures raise serious questions about James and the Committee's use of its excess campaign funds and strongly suggest that James may have violated the Act's prohibition on converting campaign funds for personal use. The FEC should immediately investigate the facts and potential violations and take all appropriate remedial action against Respondents.

LEGAL STANDARDS

Under the Act, a candidate is “an individual who seeks nomination for election, or election, to Federal office” and has raised or disbursed, directly or indirectly, over \$5,000 in connection with their election.² Once an individual ceases to be a federal candidate, there are only a few permissible uses for surplus campaign funds. For example, surplus funds may be: used to cover the “costs of winding down the office of a former Federal officeholder”;³ “transferred without limitation to any national, State, or local committee of any political party”;⁴ “used to repay outstanding loans;⁵ used to make gifts of nominal value;⁶ and, “used for any other lawful purpose, unless such use is personal use.”⁷ The personal use prohibition applies to the funds in a campaign account of a “present or former candidate.”⁸ In other words, a former candidate may not use funds to defray personal expenses simply because he lost the election.

² 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a).

³ 11 C.F.R. § 113.2(a)(2).

⁴ *Id.* § 113.2(c).

⁵ See *id.* § 116.2(a).

⁶ *Id.* § 113.1(g)(4).

⁷ *Id.* § 113.2(c) (emphasis added).

⁸ *Id.* § 113.1(g) (emphasis added).

The Commission defines “personal use” as any use of funds in a campaign account “to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate’s campaign or duties as a Federal officeholder.”⁹ Commission regulations include a list of expenses which are considered to be *per se* personal use.¹⁰ Specifically, the Commission considers vacation expenses to be *per se* personal use.¹¹ For expenses other than those defined as *per se* personal use, the Commission evaluates on a case-by-case basis whether the expense would have existed irrespective of the candidate’s campaign.¹² Examples of the types of expenses the Commission considers on a case-by-case basis include meal expenses and travel expenses.¹³

FACTUAL BACKGROUND

John James ran for U.S. Senate in Michigan in 2020. He established the Committee as his principal campaign committee for that race.¹⁴ On November 3, 2020, James lost his campaign for U.S. Senate, and on November 24, 2020, he conceded.¹⁵ Just recently, on January 31, 2022, James announced his candidacy for Michigan’s tenth congressional district, and again became a candidate for federal office.¹⁶ He has since registered John James for Congress, Inc., a new campaign committee for the upcoming 2022 election.¹⁷ During the 14-month period after James’s 2020 campaign for Senate ended but before he launched his 2022 campaign for Congress, the

⁹ *Id.* § 113.1(g).

¹⁰ *Id.* § 113.1(g)(1)(i).

¹¹ *Id.* § 113.1(g)(1)(i)(J).

¹² *Id.* § 113.1(g)(1)(ii).

¹³ *Id.* § 113.1(g)(1)(ii)(C). “If a committee uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign or officeholder-related activities, the incremental expenses that result from the personal activities are personal use, unless the person(s) benefiting from this use reimburse(s) the campaign account within thirty days for the amount of the incremental expenses.” *Id.*

¹⁴ John James for Senate, Inc., FEC Form 1, Statement of Organization (June 6, 2019).

<https://docquery.fec.gov/pdf/548/201906069149951548/201906069149951548.pdf>.

¹⁵ Tal Axelrod, “Republican John James concedes in Michigan Senate race,” THE HILL (Nov. 24, 2020), <https://thehill.com/homenews/campaign/527480-republican-john-james-concedes-in-michigan-senate-race>.

¹⁶ David Eggert, John James announces run for Michigan congressional seat,” ABC NEWS (Jan. 31, 2022), <https://abcnews.go.com/Politics/wireStory/john-james-announces-run-michigan-congressional-seat-82576797>.

¹⁷ John James for Congress, Inc., FEC Form 1, Statement of Organization (Feb. 2, 2022), <https://docquery.fec.gov/pdf/759/202202029491475759/202202029491475759.pdf>.

Committee continued spending tens of thousands of dollars, much of which appears to be for personal use.

According to public records, the Committee spent the following aggregate amounts on expenses from January 2021 to December 2021 while James was not a candidate for any federal office:

- \$499.50 Inflight Wi-Fi
- \$517.80 Airfare
- \$6,225.47 Private Events
- \$247.53 Chauffeur Services
- \$1,823.12 Hotels
- \$1,151.80 Meals
- \$350.68 Mobile Phone Services
- \$166.00 Parking
- \$553.88 Ride-Shares

Specifically, the Committee made the following individual expenditures when James was no longer a candidate:¹⁸

Date	Amount	Recipient	Purpose
1/3/2021	\$31.88	Verizon	Mobile Phone Expense
1/24/2021	\$49.95	GogoAir.com	Subscriptions
1/24/2021	\$31.88	Verizon	Mobile Phone Expense
2/3/2021	\$31.88	Verizon	Mobile Phone Expense
2/6/2021	\$130.47	Trattoria da Luigi	Meeting Expense: Meals
2/16/2021	\$1.47	Lyft	Travel: Ground Transportation
2/24/2021	\$49.95	GogoAir.com	Subscriptions
2/24/2021	\$31.88	Verizon	Mobile Phone Expense
3/1/2021	\$350.00	Andiamo Italia	Meeting Expense: Meals
3/3/2021	\$31.88	Verizon	Mobile Phone Expense
3/17/2021	\$62.00	McNamara Parking Garage	Travel: Parking Fees

¹⁸ John James for Senate, Inc. April Quarterly Report (Apr. 15, 2021), <https://docquery.fec.gov/pdf/599/202104159443601599/202104159443601599.pdf>; John James for Senate, Inc. July Quarterly Report (July 15, 2021), <https://docquery.fec.gov/pdf/161/202107159451652161/202107159451652161.pdf>; John James for Senate, Inc. October Quarterly Report (Oct. 15, 2021), <https://docquery.fec.gov/pdf/428/202110159467473428/202110159467473428.pdf>; John James for Senate, Inc. Year-End Report (Jan. 31, 2022), <https://docquery.fec.gov/pdf/883/202201319485618883/202201319485618883.pdf>.

3/20/2021	\$28.52	Uber	Travel: Ground Transportation
3/24/2021	\$49.95	GogoAir.com	Subscriptions
3/24/2021	\$149.02	Seasons 22	Meeting Expense: Meals
3/24/2021	\$31.88	Verizon	Mobile Phone Expense
4/3/2021	\$31.88	Verizon	Mobile Phone Expense
4/24/2021	\$123.91	DT Metro Sedan Inc.	Travel: Ground Transportation
4/24/2021	\$49.95	GogoAir.com	Subscriptions
4/24/2021	\$35.65	Lyft	Travel: Ground Transportation
4/24/2021	\$21.00	Shula's Burger Bar	Meeting Expense: Meals
4/24/2021	\$144.44	Shula's Burger Bar	Meeting Expense: Meals
4/24/2021	\$661.31	The Ritz-Carlton	Travel: Lodging
4/24/2021	\$31.88	Verizon	Mobile Phone Expense
4/26/2021	\$185.15	Uber	Travel: Ground Transportation
5/3/2021	\$31.88	Verizon	Mobile Phone Expense
5/24/2021	\$49.95	GogoAir.com	Subscriptions
5/24/2021	\$31.88	Verizon	Mobile Phone Expense
5/28/2021	\$31.71	Lyft	Travel: Ground Transportation
6/3/2021	\$31.88	Verizon	Mobile Phone Expense
6/24/2021	\$49.95	GogoAir.com	Travel: Internet Service
6/27/2021	\$120.48	The Rooftop Bar at the Vendue	Meeting Expense: Meals
6/28/2021	\$272.47	Ansonborough Inn	Travel: Lodging
6/28/2021	\$100.77	Soby's New South Cuisine	Meeting Expense: Meals
6/28/2021	\$85.76	Uber	Travel: Ground Transportation
6/29/2021	\$104.00	Metro Airport Parking	Parking Expense
6/29/2021	\$135.62	Tupelo Honey Cafe	Meeting Expense: Meals
7/6/2021	\$196.25	Aloft Greenville	Travel: Lodging
7/22/2021	\$43.24	Uber	Travel: Ground Transportation
7/24/2021	\$49.95	GogoAir.com	Travel: Internet Service
7/30/2021	\$250.00	Amway Grand Plaza Hotel	Event Expense: Food & Beverage
8/16/2021	\$3,414.28	Joe Muer Bloomfield	Event Expense: Food & Beverage
8/19/2021	\$517.80	Delta Air Lines	Travel: Air
8/20/2021	\$2,561.19	Amway Grand Plaza Hotel	Event Expense: Food & Beverage
8/20/2021	\$20.77	Uber	Travel: Ground Transportation
8/24/2021	\$49.95	GogoAir.com	Travel: Internet Service
8/28/2021	\$232.88	Autograph Hotel	Travel: Lodging
9/13/2021	\$123.62	Blacklane	Travel: Ground Transportation
9/15/2021	\$11.71	Uber	Travel: Ground Transportation

9/15/2021	\$18.92	Uber	Travel: Ground Transportation
9/15/2021	\$41.65	Uber	Travel: Ground Transportation
9/16/2021	\$460.21	Hilton Hotels	Travel: Lodging
9/24/2021	\$49.95	GogoAir.com	Broadband Services
10/13/2021	\$8.33	Uber	Travel: Ground Transportation
10/13/2021	\$41.00	Uber	Travel: Ground Transportation
10/24/2021	\$49.95	GogoAir.com	Broadband Services
11/24/2021	\$49.95	GogoAir.com	Broadband Services
Total:	\$11,585.73		

LEGAL ANALYSIS

The Act prohibits individuals, including candidates, from converting campaign funds to personal use.¹⁹ This prohibition does not end once an individual is no longer a candidate.²⁰ From the time James lost the November 2020 general election until he announced his candidacy for the upcoming 2022 election—from November 4, 2020 to January 31, 2022—James was not a candidate for federal office.²¹ Yet, during that period, as the chart above indicates, his Committee used its excess campaign funds to regularly pay for travel-related expenses, meals, and private events that would not be for any bona fide campaign or winding down purpose, given that he lost the election and was not a candidate at the time of the expenditures. Although the law allows excess campaign funds to be “used for any … lawful purpose,” such use may not be “personal use.”²² As noted above, use of campaign funds for travel is evaluated on a case-by-case basis.²³

¹⁹ 52 U.S.C. § 30114(b)(1).

²⁰ See 11 C.F.R. § 113.1(g).

²¹ See *id.* § 100.3(b). To the extent James was a federal candidate and the expenses cited herein were for his now-declared House campaign, then he would have violated federal law by failing to file a statement of candidacy by August 31, 2021 (based solely on the expenditures identified in this complaint). Under federal law, an individual becomes a “candidate” upon receiving contributions or making expenditures in excess of \$5,000 to influence their election for federal office. See 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3. Individuals must file a statement of candidacy with the Commission within fifteen days of meeting the threshold for becoming a “candidate.” 52 U.S.C. 30102(c)(1); 11 C.F.R. § 101.1(a). If James’s August 16, 2021 and August 20, 2021 events were to support his 2022 congressional campaign, then federal law would have required James to file a statement of candidacy no later than September 4, 2021. The Committee’s expenses were either for James’s personal use, in which case James violated the prohibition on converting campaign funds to personal use, or they were in support of James’s recently announced House campaign, in which case James violated federal law by failing to timely file a statement of candidacy.

The nature, timing, and regularity of the expenses strongly suggest that James and the Committee converted campaign funds for personal use.

For example, during a three-day span in April 2021 – more than five months after James lost his bid for the U.S. Senate and ceased to be a candidate for federal office – the Committee paid for travel to Amelia Island, a Florida vacation destination.²⁴ James’s expenses included: \$185 for an Uber ride; \$123 for a chauffeur service²⁵; \$661 for a stay at the Ritz Carlton on Amelia Island; \$165 at an airport bar near Amelia Island, and \$35 for a Lyft ride.²⁶ These expenses definitely would have existed irrespective of James’s candidacy, given that his candidacy was over at the time of this luxurious trip. By definition, the trip occurred irrespective of his failed candidacy. These expenditures seem to be clear personal use.

Again, during a three-day span in late June 2021 – seven months after James was no longer a federal candidate – the Committee paid: \$272 for a hotel in Charleston, South Carolina; \$120 at a rooftop bar in Charleston; \$100 at a restaurant in Charleston; \$135 at a café in Charleston; \$85 for an Uber ride; and \$104 for airport parking.²⁷ Again, given that his candidacy was over, by definition the trip occurred irrespective of his failed candidacy. Thus, these expenses have no relation to James’s candidacy and constitute prohibited personal use.

In August 2021, nine months after James lost his election for U.S. Senate, the Committee paid over \$6,000 for two events at a luxury hotel and a seafood restaurant.²⁸ In September 2021, the Committee paid \$460 for a Chicago hotel; \$123 for a chauffeur service; and \$72 in Uber

²² *Id.* § 113.2(c).

²³ *Id.* § 113.1(g)(1)(ii)(C).

²⁴ See Amelia Island Tourism Website, <https://www.ameliaisland.com/>.

²⁵ DT Metro Sedan advertises itself as a “chauffeured transportation company.” DT Metro Sedan, <https://www.detroitairportlimoservice.com> (accessed Feb. 27, 2022).

²⁶ See John James for Senate, Inc. July Quarterly Report (July 15, 2021), <https://docquery.fec.gov/pdf/161/202107159451652161/202107159451652161.pdf>.

²⁷ See *id.*; John James for Senate, Inc. October Quarterly Report (Oct. 15, 2021), <https://docquery.fec.gov/pdf/428/202110159467473428/202110159467473428.pdf>.

²⁸ See *id.*

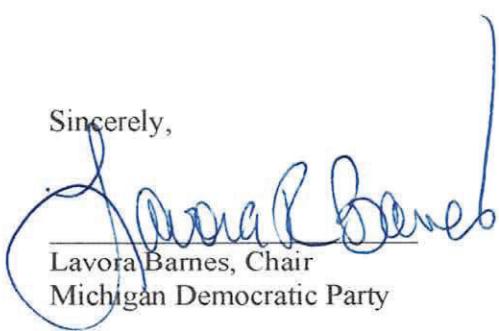
rides.²⁹ According to its latest filing, the Committee was still paying for inflight Wi-Fi services in November 2021 – a full year after James was no longer a candidate for federal office.³⁰ And the list goes on. These travel and meal expenses have no relation to James’s 2020 candidacy and were necessarily incurred for non-campaign related reasons. They appear to be textbook personal use of excess campaign funds.

John James and his Committee are flagrantly violating federal law by using campaign funds leftover from James’s failed Senate bid to defray personal expenses. The personal use prohibition in the Act and Commission regulations is intended to ban precisely this type of misuse of donors’ funds for personal gain.

REQUESTED ACTION

John James and the Committee appear to have violated the Act and Commission regulations by using campaign funds to pay for personal expenses that are not for campaign-related activities because they were made during a 14-month period when James was not a candidate for any federal office. As such, we respectfully request that the Commission immediately investigate these violations, take all appropriate remedial measures, and enjoin Respondents from further violating the law.

Sincerely,



Lavora Barnes, Chair
Michigan Democratic Party

²⁹ See John James for Senate, Inc. Year-End Report (Jan. 31, 2022), <https://docquery.fec.gov/pdf/883/202201319485618883/202201319485618883.pdf>.

³⁰ *Id.*

606 Townsend Street
Lansing, MI 48933

SUBSCRIBED AND SWORN to before me this 6 day of April, 2022.



Notary Public

My Commission Expires:

2/18/28

