

OFFICE OF  
GENERAL COUNSELBEFORE THE  
FEDERAL ELECTION COMMISSION

2022 SEP 28 AM 11:10

Tiffany Muller  
End Citizens United  
PO Box 66005  
Washington, DC 20035

MUR # 8072

Complainant,

v.

Thomas Barrett  
P.O. Box 15221  
Lansing, MI 48901, and

Tom Barrett for Congress and Daniel Wholihan, Treasurer  
P.O. Box 15221  
Lansing, MI 48901  
info@tombarrettforcongress.com

Respondents.

**COMPLAINT**

This complaint is filed under 11 C.F.R. § 110.3(d) against Tom Barrett; Tom Barrett for Congress and Daniel Wholihan, its Treasurer (collectively, “Respondents”), for violating the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “FEC” or “Commission”) regulations. In short, there is compelling evidence that Respondents have violated FEC regulations by improperly using assets from Mr. Barrett’s nonfederal campaign committee to support Mr. Barrett’s federal campaign, in violation of the Act and Commission regulations. We urge the Commission to immediately investigate these violations and levy appropriate sanctions against Respondents for their failure to comply with basic requirements of the Act and Commission regulations.

## FACTUAL BACKGROUND

Thomas Barrett is a member of the Michigan State Senate and is a candidate for election to the U.S. House of Representatives from Michigan's 7th Congressional District.<sup>1</sup> He formed his state candidate committee, Friends of Tom Barrett, for his 2018 state campaign for Michigan's 24th Senate District on September 13, 2017.<sup>2</sup> His principal campaign committee for his congressional campaign, Tom Barrett for Congress, registered with the Commission on November 10, 2021.<sup>3</sup> On November 15, 2021 Barrett announced his congressional campaign to the public,<sup>4</sup> and two days later, on November 17, 2021, Barrett filed his Statement of Candidacy with the FEC in which he declared his intention to run for Congress.<sup>5</sup>

The timeline of Michigan's redistricting process is critical to understanding the allegations of this complaint. In November 2018, Michigan voters passed a ballot proposal that created the Michigan Independent Citizens Redistricting Commission (MICRC) to draw district lines for Michigan's members of the State Legislature and Congress.<sup>6</sup> MICRC drafted initial maps for state and congressional districts from August 20 to September 30, 2021, and from September 30 to November 5, 2021 these maps were approved for display and feedback in public hearings.<sup>7</sup> On November 5, 2021, MICRC's approved maps were published and such maps

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<sup>1</sup> Tom Barrett for Congress, Statement of Candidacy (Nov. 17, 2021), available at <https://docquery.fec.gov/cgi-bin/forms/H2MI07123/1548639/>.

<sup>2</sup> Tom Barrett for Congress, Recipient Committee Statement of Organization Form, *available at* <https://cfrsearch.nictusa.com/committees/518267>.

<sup>3</sup> See Tom Barrett for Congress, Statement of Organization (Nov. 10, 2021), available at See Laxalt for Senate, Statement of Organization (Aug. 15, 2021), available at <https://docquery.fec.gov/cgi-bin/forms/C00787135/1534763/>.

<sup>4</sup> Twitter (Nov. 15, 2021), available at <https://twitter.com/barrettbrigade1/status/1460205833057357826>.

<sup>5</sup> Tom Barrett for Congress, Statement of Candidacy (Nov. 17, 2021), available at <https://docquery.fec.gov/cgi-bin/forms/H2MI07123/1548639/>.

<sup>6</sup> Michigan Independent Citizens Redistricting Commission, Frequently Asked Questions, at <https://www.michigan.gov/micrc/about/faq> (last visited Sept. 13, 2022).

<sup>7</sup> Michigan Independent Citizens Redistricting Commission, Mapping Process and Procedures (Dec. 28, 2021), available at <https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC5/Mapping-Process-and-Procedures-v12-28.pdf?rev=e000555a38b44160a3136fe658446d24&hash=7ADEA22A21EC81FEF9E5EC21B82C2E59>

entered a 45-day public comment period. MICRC approved a final map for state and congressional districts on December 28, 2021.<sup>8</sup>

This complaint pertains to payments by Barrett's state campaign to a consulting firm, Roe Strategic, during the same time frame that Barrett announced his congressional campaign. Roe Strategic is a political consulting firm led by Jason Cabel Roe, a nationally recognized campaign strategist.<sup>9</sup> Roe Strategic provided consulting services for Barrett's federal congressional committee as recently as June 2022,<sup>10</sup> and Jason Roe has publicly been identified as a senior advisor for Barrett's congressional campaign.<sup>11</sup> For example, on April 13, 2022, Roe publicly commented on Barrett's fundraising progress in his congressional race against opposing candidate Elissa Slotkin, asserting "We're very happy with the progress, given Elissa Slotkin has been in this race for over a year and Sen. Barrett jumped into the race not even knowing what [district] lines are,"<sup>12</sup>

Barrett's state committee had never paid Roe Strategic for any consulting services until the two weeks prior to Barrett registering his federal committee with the Commission and his subsequent announcement of his congressional candidacy. On October 28, 2021, just 13 days before Barrett registered his principal federal committee with the FEC, and less than three weeks before formally announcing his candidacy, Barrett's state committee made a first-time payment

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<sup>8</sup> Michigan redistricting commission adopts final Congressional map, *Michigan Live* (Dec. 29, 2021), available at <https://www.mlive.com/public-interest/2021/12/michigan-redistricting-commission-adopts-final-congressional-map.html>.

<sup>9</sup> Roe Strategic, About, at <https://www.roestrategic.com/> (last visited Sept. 13, 2022).

<sup>10</sup> Federal Election Commission, Disbursements, at [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00793976&recipient\\_name=roe](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00793976&recipient_name=roe) (last visited Sept. 13, 2022).

<sup>11</sup> Democratic Rep. Slotkin draws big campaign cash in bed for Michigan toss-up seat, *Washington Examiner* (April 13, 2022), available at <https://www.washingtonexaminer.com/news/democratic-rep-slotkin-draws-big-campaign-cash-in-bid-for-michigan-toss-up-seat>.

<sup>12</sup> *Id.*

of \$10,000 to Roe Strategic for “redistricting consulting.”<sup>13</sup> On November 10, 2021, on the exact same day that Barrett’s principal campaign committee filed with the FEC, Barrett’s state committee again made a \$10,000 payment to Roe Strategic asserting again that the payment was for “redistricting consulting.”<sup>14</sup> After Barrett formally announced his candidacy on November 15, 2021, Barrett’s state committee proceeded to give two additional payments of \$10,000 to Roe Strategic for “redistricting consulting” on November 29, 2021, and December 15, 2021.<sup>15</sup> In total, Barrett’s state campaign committee paid Roe Strategic \$40,000 in four \$10,000 segments, with the first of these payments coming less than three weeks before Barrett announced his candidacy, and the remaining three payments coming on the same day or after Barrett’s federal campaign committee registered with the Commission.<sup>16</sup>

Nine days after Barrett’s state campaign committee made its December 15th “redistricting consulting” payment to Roe Strategic, Barrett’s congressional campaign committee began making payments to Roe Strategic for “strategic consulting.”<sup>17</sup> Tom Barrett for Congress first paid Roe Strategic \$28,637.48 on December 24, 2021, and subsequently made payments on \$8,480.49 on January 31, 2022, \$3,134.15 on February 11, 2022, and \$7,343.90 on February 11, 2022.<sup>18</sup> Barrett for Congress continued to make payments to Roe Strategic until June of 2022, and according to Commission records, Tom Barrett for Congress has paid Roe Strategic a total of \$114,304.62 in strategic consulting fees.<sup>19</sup>

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<sup>13</sup> Michigan Secretary of State, Michigan Committees Statement Expenditures, at [https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=\\*&changes=0&page=1](https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=*&changes=0&page=1) (last visited Sept. 13, 2022).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Federal Election Commission, Disbursements, at [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00793976&recipient\\_name=roe](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00793976&recipient_name=roe) (last visited Sept. 13, 2022).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

## LEGAL ANALYSIS

### **I. Applicable Law**

The Act and Commission regulations prohibit federal candidates from soliciting, receiving, directing, transferring or spending funds in connection with a federal campaign unless the funds are in amounts and from sources permitted by the Act.<sup>20</sup> Specifically, to ensure that federal campaigns are funded with federally permissible funds, a federal candidate is prohibited from transferring funds or assets from the candidate's nonfederal campaign committee to their federal campaign committee.<sup>21</sup> Moreover, Commission regulations provide that individuals simultaneously running for federal and state office "must raise, accept, and spend only Federal funds for the Federal election."<sup>22</sup>

### **II. Respondent's state campaign committee payments to Roe Strategic constitute an impermissible transfer of nonfederal campaign committee funds to a federal committee in violation of 11 C.F.R. § 110.3(d).**

The facts suggest that Respondent's state committee payments to Roe Strategic for "redistricting consulting" were to impermissible support his federal congressional campaign, in violation of Commission regulations. This is indicated by several factors.

#### **a. The timing of Respondent's state and federal campaign committee payments to Roe Strategic.**

The timing of Barrett's state committee payments to Roe Strategic immediately prior to Barrett announcing his congressional campaign and the subsequent payments from Barrett's federal committee to Roe Strategic, cannot be considered a coincidence and should be investigated. First, the lack of a prior existing relationship between Barrett's state campaign

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<sup>20</sup> 52 U.S.C. § 30125(e)(1); 11 C.F.R. § 300.61.

<sup>21</sup> 11 C.F.R. § 110.3(d).

<sup>22</sup> 11 C.F.R. § 300.63.

committee in conjunction with Barrett's announcement of his congressional candidacy on November 15, 2021, creates a reasonable inference that these payments were for consulting services for Barrett's congressional campaign. Barrett's state committee had not paid Roe Strategic for any consulting services until the two weeks prior to Barrett registering his federal committee with the Commission and his subsequent announcement of his congressional candidacy. Additionally, the payments from Barrett's state committee were not simply a onetime payment. Rather, Barrett's state committee continued to pay Roe Strategic even after Barrett announced his congressional campaign.<sup>23</sup> Specifically, three of the four payments made from Barrett's state committee to Roe Strategic occurred on or after Barrett registered his principal federal committee with the FEC, and two of the four payments occurred after Barrett announced his candidacy on Twitter.<sup>24</sup>

*Second*, the payments from Barrett's state campaign committee were not only correlated with Barrett announcing his congressional campaign, but with the immediate use of Roe Strategic by Barrett's *federal* committee. Specifically, Barrett's congressional committee began paying Roe Strategic for consulting associated with his federal campaign *just nine days after* Barrett's state committee's last payment to Roe Strategic on December 15<sup>th</sup>.<sup>25</sup> Barrett's state committee payments to Roe Strategic considered alongside both Barrett's announcement of his

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<sup>23</sup> Michigan Secretary of State, Michigan Committees Statement Expenditures, at [https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=\\*&changes=0&page=1](https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=*&changes=0&page=1) (last visited Sept. 13, 2022).

<sup>24</sup> *Id.*; Tom Barrett for Congress, Statement of Organization (Nov. 10, 2021), available at *See Laxalt for Senate*, Statement of Organization (Aug. 15, 2021), available at <https://docquery.fec.gov/cgi-bin/forms/C00787135/1534763/>; Twitter (Nov. 15, 2021), available at <https://twitter.com/barrettbrigade1/status/1460205833057357826>.

<sup>25</sup> Michigan Secretary of State, Michigan Committees Statement Expenditures, at [https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=\\*&changes=0&page=1](https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=*&changes=0&page=1) (last visited Sept. 13, 2022); Federal Election Commission, Disbursements, at [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00793976&recipient\\_name=roe](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00793976&recipient_name=roe) (last visited Sept. 13, 2022).

congressional candidacy and subsequent federal committee payments to Roe Strategic is uncanny, and casts significant doubt as to whether the payments from Barrett's state committee to Roe Strategic were for "redistricting consulting."

**b. The nature of services provided by Roe Strategic and ongoing relationship between Barrett's congressional campaign and Jason Roe.**

Barrett's state committee payments to the specific entity of Roe Strategic, further indicates that the payments from Barrett's state committee to Roe Strategic were an impermissible transfer to Barrett's congressional campaign. First, Jason Roe is well known as a political strategist for large scale federal campaign.<sup>26</sup> While Roe does advise on state and local campaigns, he has a significant history of working on large scale congressional campaigns such as advising the Congressional Leadership Fund in 2018, and the congressional campaigns of Tom DeLay, Peter Roskam, and James Rogan.<sup>27</sup> Additionally, Roe Strategics' website extensively discusses Roe's experience with congressional campaigns yet does not include a single mention of "redistricting."<sup>28</sup>

Second, Jason Roe's key role in Barrett's congressional campaign further suggests that the initial payments by Barrett's state committee were simply a guise for supporting Barrett's federal campaign. After Barrett announced his candidacy, Barrett's congressional committee has repeatedly paid Roe Strategic for consulting services and has paid a total of \$114,304.62 in

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<sup>26</sup> Roe Strategic, About, at <https://www.roestrategic.com/> (last visited Sept. 13, 2022).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

strategic consulting fees to Roe Strategic.<sup>29</sup> Additionally, Jason Roe was publicly identified as a senior advisor for Barrett's congressional campaign in April of 2022.<sup>30</sup>

**c. Barrett's influx of payment for “redistricting consulting” is highly unusual considering the presence of Michigan’s MICRC and the timeline of the redistricting process.**

While the payments made from Barrett's state campaign committee to Roe Strategic identify that they are for “redistricting consulting” an analysis of the timeline of MICRC’s redistricting process indicates that spending significant amounts of money on redistricting consulting in November and December of 2021 was highly unusual and indicative of an ulterior purpose. The redistricting process was approaching the end of the redistricting timeline by the time Barrett claims to have retained Roe for redistricting consulting. MICRC considered public comment starting on May 6, 2021,<sup>31</sup> the initial and alternative maps were drafted by MICRC starting on August 20, 2021, and maps were approved for display and feedback during public hearings starting on September 30, 2021.<sup>32</sup> Yet nonetheless, Barrett’s state campaign committee made payments for redistricting consulting on October 28, November 10, November 29, and December 15 of 2021.<sup>33</sup>

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<sup>29</sup> Federal Election Commission, Disbursements, at [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00793976&recipient\\_name=roe](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00793976&recipient_name=roe) (last visited Sept. 13, 2022).

<sup>30</sup> Democratic Rep. Slotkin draws big campaign cash in bed for Michigan toss-up seat, *Washington Examiner* (April 13, 2022), available at <https://www.washingtonexaminer.com/news/democratic-rep-slotkin-draws-big-campaign-cash-in-bid-for-michigan-toss-up-seat>.

<sup>31</sup> Michigan Independent Citizens Redistricting Commission, at <https://www.michigan.gov/micrc> (last visited Sept. 13, 2022).

<sup>32</sup> Michigan Independent Citizens Redistricting Commission, Mapping Process and Procedures (Dec. 28, 2021), available at <https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC5/Mapping-Process-and-Procedures-v12-28.pdf?rev=e000555a38b44160a3136fe658446d24&hash=7ADEA22A21EC81FEF9E5EC21B82C2E59>.

<sup>33</sup> Michigan Secretary of State, Michigan Committees Statement Expenditures, at [https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=\\*&changes=0&page=1](https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=*&changes=0&page=1) (last visited Sept. 13, 2022).

Second, it is unclear what legitimate services Roe Strategic could have provided to Barrett's state campaign committee. In Michigan, it is specifically the responsibility of a redistricting commission, MICRC, to engage in redistricting, so Barrett had no legitimate need for a redistricting consultant in connection with his official duties. Moreover, the public record does not indicate that Roe Strategic actually engaged in any advocacy on behalf of Barrett's state committee. The Michigan constitution provides that “[t]he commission, its members, staff, attorneys, and consultants shall not discuss redistricting matters with members of the public outside of an open meeting of the commission, except that a commissioner may communicate about redistricting matters with members of the public to gain information relevant to the performance of his or her duties if such communication occurs (a) in writing or (b) at a previously publicly noticed forum or town hall open to the general public.”<sup>34</sup> However, the database of public comments made available by the MICRC does not identify any correspondence received from either Roe or Senator Barrett.<sup>35</sup>

In summary, the facts suggest that significant expenditures for redistricting consulting at the very end of the redistricting process in a state where redistricting is not the responsibility of state senators appears indicative of an ulterior goal. This strange timing, in conjunction with Barrett's announcement of his congressional candidacy and subsequent payments to Roe Strategic as discussed above, is highly out of the ordinary and must be investigated to determine if such state committee payments were used to support Barrett's congressional campaign.

### **REQUESTED ACTION**

As shown, Respondents appear to have repeatedly violated the Act and Commission regulations using his state campaign committee to pay for consulting for his federal

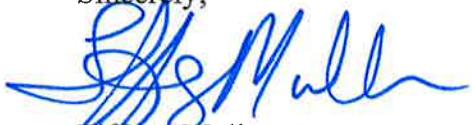
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<sup>34</sup> Mich. Const. Art. IV § 6(11).

<sup>35</sup> See MI Redistricting Public Comment Portal, at <https://www.michigan-mapping.org/search>.

congressional campaign. Accordingly, we respectfully request that the Commission immediately investigate these violations, fine Respondents the maximum amount permitted by law, and enjoin Respondents from further violations of the law.

Sincerely,



Tiffany Muller  
End Citizens United  
PO Box 66005  
Washington, DC 20035

SUBSCRIBED AND SWORN to before me this 21<sup>st</sup> day of September 2022.



Notary Public

My Commission Expires:

MARK ANDREWS  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires July 14, 2024

