



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

April 14, 2025

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tiffany Muller
End Citizens United
P.O. Box 66005
Washington, D.C. 20035

RE: MUR 8072
Tom Barrett for Congress,
et al.

Dear Ms. Muller:

On March 13, 2025, the Federal Election Commission reviewed the allegations in your Complaint dated September 28, 2022, and on the basis of information in your Complaint and information provided by Respondents, dismissed the allegations that Thomas Barrett, Tom Barrett for Congress and Daniel Wholihan in his official capacity as treasurer, and Friends of Tom Barrett violated 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R. §§ 110.3(d) and 300.61. Accordingly, on March 13, 2025, the Commission voted to close the file in this matter effective April 14, 2025.

Documents related to the case will be placed on the public record today. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Any applicable Factual and Legal Analysis or Statements of Reasons available at the time of this letter's transmittal are enclosed.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action within 60 days of the dismissal, which became effective today. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in black ink, appearing to read "A.B. Robinson", is written over a horizontal line.

By: Anne B. Robinson
Assistant General Counsel

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Tom Barrett for Congress and Daniel Wholihan **MUR 8072**
4 in his official capacity as treasurer
5 Friends of Tom Barrett
6 Thomas M. Barrett

7 **I. INTRODUCTION**

8 The Complaint alleges that Thomas M. Barrett, currently the representative for
9 Michigan's Seventh Congressional District and a former Michigan State Senator, in his bid for
10 the 2022 general election, used nonfederal funds from his state committee, Friends of Tom
11 Barrett (the "State Committee"), to pay certain consulting expenses of his federal committee,
12 Tom Barrett for Congress and Daniel Wholihan in his official capacity as treasurer (the "Federal
13 Committee"), in violation of the Federal Election Campaign Act of 1971, as amended (the
14 "Act"). Specifically, the Complaint alleges that the State Committee paid \$40,000 of nonfederal
15 funds to Roe Strategic, a consulting firm, on behalf of the Federal Committee. Respondents
16 deny the allegation, asserting that the State Committee's payments were for services provided by
17 Roe Strategic to the State Committee and that these services were separate from any services
18 provided by Roe Strategic to the Federal Committee.

19 For the reasons set forth below, the Commission dismisses the allegation that Barrett, the
20 State Committee, and the Federal Committee violated 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R.
21 §§ 110.3(d) and 300.61 by spending and receiving funds in connection with a federal election not
22 subject to the limitations, prohibitions, and reporting requirements of the Act.

II. FACTUAL BACKGROUND

Thomas Barrett is currently the representative for Michigan's Seventh Congressional District and was a candidate for the same position during the 2022 election cycle.¹ He previously served in the Michigan Senate and Michigan House of Representatives.² The State Committee was registered in Michigan in 2017 to support Barrett's campaign for State Senator in Michigan's 24th District.³ The Federal Committee filed its initial Statement of Organization with the Commission on November 10, 2021.⁴ Five days later, on November 15, 2021, Barrett announced his candidacy for Michigan's Seventh Congressional District.⁵ On November 17, 2021, Barrett filed his Statement of Candidacy with the Commission.⁶

From November 2018 until December 2021, while Barrett was a Michigan state senator, a redistricting effort led by the Michigan Independent Citizens Redistricting Commission (the "Redistricting Committee") was underway.⁷ Maps approved by the Redistricting Committee

¹ U.S. CONGRESSMAN TOM BARRETT, <https://barrett.house.gov/> (last visited Jan. 27, 2025).

² Resp. at 1 (Nov. 18, 2022).

³ Compl. at 2 (Sept. 21, 2022); Friends of Tom Barrett, Michigan Committee Statement of Organization (Sept. 13, 2017), <https://cfrsearch.nictusa.com/committees/518267>.

⁴ Compl. at 2; Tom Barrett for Congress, Statement of Organization (Nov. 10, 2021), <https://docquery.fec.gov/pdf/186/202111109468483186/202111109468483186.pdf>.

⁵ Compl. at 2; Tom Barrett (@tombarrettm7), X (Nov. 15, 2021), <https://twitter.com/barrettbrigade1/status/1460205833057357826> ("I'm excited to announce that I am a candidate for United States Congress.").

⁶ Compl. at 2; Thomas More Barrett, Statement of Candidacy (Nov. 17, 2021), <https://docquery.fec.gov/pdf/892/202111179468565892/202111179468565892.pdf>. Barrett lost the November 8, 2022 general election. *2022 Michigan Election Results*, MICHIGAN.GOV, (Dec. 22, 2022), https://mielections.us/election/results/2022GEN_CENR.html.

⁷ Compl. at 2-3 (citing MICH. INDEP. CITIZENS REDISTRICTING COMM'N, MAPPING PROCESS AND PROCEDURES (Dec. 28, 2021) <https://www.michigan.gov/micrc/-/media/Project/Websites/MiCRC/MISC5/Mapping-Process-and-Procedures-v12-28.pdf?rev=26eb8bd714f547bb97c429d3adeb6322&hash=8B2165B9F64D7DDA0CD2FE4300EBAF2D>).

were published and a 45-day public comment period began on November 5, 2021.⁸ These maps were ultimately finalized on December 28, 2021.⁹

Roe Strategic is a consulting firm that, among other services, “provides general consulting for candidates, ballot initiatives, and independent expenditures,” and its principal is Jason Cabel Roe, a “political and communications strategist.”¹⁰ The State Committee made four \$10,000 payments, totaling \$40,000, to Roe Strategic on October 28, November 10, November 29, and December 15, 2021; all were reported with a stated purpose of “redistricting consulting.”¹¹ On December 24, 2021, the Federal Committee made its first payment to Roe Strategic for “consulting” in the amount of \$28,637.48.¹² The Federal Committee made further payments totaling \$236,464.69 to Roe Strategic with the final disbursements for the 2022 election dated November 7, 2022.¹³

The Complaint alleges that Barrett’s State Committee used nonfederal funds to pay for a portion of the consulting expenses paid to Roe Strategic on behalf of the Federal Committee.¹⁴

⁸ *Id.*

⁹ *Id.* (citing to Lauren Gibbons, *Michigan Redistricting Commission Adopts Final Congressional Map*, MICH. LIVE (Dec. 28, 2021), <https://www.mlive.com/public-interest/2021/12/michigan-redistricting-commission-adopts-final-congressional-map.html>).

¹⁰ *Id.* at 3; *Home*, ROE STRATEGIC CAMPAIGNS, <https://roestrategic.llc> (last visited Jan. 27, 2025).

¹¹ *See* Compl. at 3-4; Friends of Tom Barrett, Michigan Committee Statement Expenditures for 2022, https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=*&changes=0&page=1 (last visited Jan. 27, 2025).

¹² *Id.* at 4; Tom Barrett for Congress, 2021 Year-End Report, Sched. B at 107 (Jan. 31, 2022), <https://docquery.fec.gov/pdf/978/202201319486002978/202201319486002978.pdf>. The State Committee’s last payment to Roe Strategic was on December 15, 2021. Friends of Tom Barrett, Michigan Committee Statement Expenditures for 2022, https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=*&changes=0&page=1 (last visited Jan. 27, 2025).

¹³ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?committee_id=C00793976&two_year_transaction_period=2022&recipient_name=ROE+STRATEGIC&data_type=processed (last visited Jan. 27, 2025) (reflecting disbursements by the Federal Committee to Roe Strategic during the 2022 election cycle).

¹⁴ Compl. at 1.

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1 The Complaint bases this allegation in part on the timing of the State Committee’s payments,
 2 several of which were made following Barrett’s announcement of his federal candidacy.¹⁵
 3 Specifically, the Complaint notes that the October 28 payment was made only 13 days before the
 4 Federal Committee registered with the Commission and that the subsequent payments were made
 5 on the exact date or after the Federal Committee filed its Statement of Organization.¹⁶ At the
 6 time that the State Committee was making payments to Roe Strategic, the State Committee
 7 reported a beginning balance of \$75,488.40,¹⁷ while the Federal Committee did not report any
 8 cash on hand until Barrett publicly announced his candidacy for Congress.¹⁸ The Complaint
 9 claims that it is unlikely the State Committee would hire Roe Strategic to consult on redistricting
 10 as the final maps were approved on December 28, 2021, shortly after Roe Strategic was hired.¹⁹
 11 The Complaint also notes that Jason Roe “is well known as a political strategist for large scale
 12 federal campaign[s]” and asserts that his website emphasizes this type of work while there is no
 13 mention of his redistricting consulting.²⁰

14 Respondents filed a joint Response wherein they assert that the payments made by the
 15 State Committee were solely for State Committee purposes and that Roe Strategic was

¹⁵ *Id.* at 5-7.

¹⁶ *Id.* at 3-4.

¹⁷ *Michigan Committee Statement Summary Page: Friends of Tom Barrett*, MICHIGAN.GOV, <https://cfr.search.nictusa.com/documents/519714/details/filing/summary?changes=0> (last visited Jan. 27, 2025) (covering the statement period of Oct. 21, 2021 to December 31, 2021, with an ending balance of \$43,726.44).

¹⁸ *Tom Barrett for Congress: Raising 2021-2022*, FEC.GOV, <https://www.fec.gov/data/committee/C00793976/?tab=raising&cycle=2022> (last visited Jan. 27, 2025) (reflecting that the first contributions to the Federal Committee were received on November 15, 2021).

¹⁹ Compl. at 2-3; *see* MAP MICH.’S FUTURE FOR FAIR ELECTIONS, TIMELINE: MICHIGAN INDEPENDENT CITIZENS REDISTRICTING COMMISSION FOR FAIR ELECTIONS, <https://www.michigan.gov/-/media/Project/Websites/MiCRC/MISC1/Redistricting-Commission-Selection-Timeline.pdf?rev=e0806b4a84ba47ba971ec48ae6275d39> (last visited Jan. 27, 2025) [hereinafter MAP MICH.’S FUTURE]; Gibbons, *supra* note 9.

²⁰ Compl. at 7-8.

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specifically hired to offer advice regarding redistricting by the Redistricting Committee.²¹ Respondents further state that Barrett was considering running for the Michigan State Senate and for Congress simultaneously, and he “did not decide to abandon any potential [state] Senate seat until it was clear that the Redistricting Committee’s final maps would make it impossible for Senator Barrett to win a seat.”²² The Redistricting Committee was tasked “to assure Michigan’s Congressional, State Senate, and State House district lines are drawn fairly in a citizen-led, transparent process, meeting Constitutional mandates.”²³ and approved final maps for congressional districts on December 28, 2021.²⁴ Respondents state that Roe Strategic was hired to assist the State Committee “from October 2021 until December 2021” and was then hired by the Federal Committee in December 2021.²⁵

The Response includes a declaration signed by Jason Cabel Roe, principal of Roe Strategic, describing his involvement with the State and Federal Committees.²⁶ In his declaration, Roe states that “[f]rom October 2021 until December 2021, [he] provided redistricting consulting for Friends of Tom Barrett and other center-right stakeholders.”²⁷ Roe

²¹ Resp. at 1-3.

²² *Id.* at 3.

²³ *About Us*, MICH. INDEP. CITIZENS REDISTRICTING COMM’N, <https://www.michigan.gov/micrc/about> (last visited Jan. 27, 2025).

²⁴ Resp. at 2; Compl. at 2-3; *see* Gibbons, *supra* note 9 (“Michigan’s independent redistricting commission has approved a final Congressional political district map for the next decade of elections”); MAP MICH.’S FUTURE (“In November 2018, Michigan voters decisively supported a constitutional amendment that makes a commission . . . responsible for drawing fair and representative election districts for the Michigan Legislature and U.S. Congress.”).

²⁵ Resp. at 1.

²⁶ *Id.*, Attach. (Jason Cabel Roe Decl.) [hereinafter Roe Decl.]. Roe’s Declaration is not notarized, nor does it affirm Roe’s information under penalty of perjury. *Id.* The Response does not provide any additional documents, such as Roe’s contracts with the Federal and State Committees, nor does it provide declarations or affidavits from any of the Respondents.

²⁷ *Id.* ¶ 6.

1 states that he used his “prior experience overseeing California’s redistricting process and being
 2 Executive Director of the [Michigan Republican Party]” to “consult Tom Barrett on how the
 3 redistricting process would work in Michigan.”²⁸ Roe further states that at the time he was hired,
 4 Barrett was unsure whether he would run for state or federal office, and that even after Barrett
 5 announced his candidacy for federal office, he was still considering his candidacy for the State
 6 Senate.²⁹ Roe states that “Barrett ruled out re-election for the State Senate” after the redistricting
 7 maps were finalized in December 2021.³⁰ Roe further states that “[o]nce Tom Barrett made the
 8 decision to pursue federal office, [Roe] no longer worked for Friends for Tom Barrett, and began
 9 working for Tom Barrett for Congress as a political consultant.”³¹ Roe notes that “[a]s
 10 redistricting consultant for Friends of Tom Barrett,” Roe was not paid by the State Committee
 11 for services for the Federal Committee.³²

12 **III. LEGAL ANALYSIS**

13 The Act and Commission regulations prohibit candidates, individuals holding Federal
 14 office, agents of a candidate or an individual holding Federal office, or an entity directly or
 15 indirectly *established, financed, maintained, or controlled* (“EFMC’d”) by or acting on behalf of
 16 one or more candidates or individuals holding Federal office from “solicit[ing], receiv[ing],
 17 direct[ing], transfer[ing], or spend[ing] funds in connection with an election for Federal office,

²⁸ *Id.* ¶ 7.

²⁹ *Id.* ¶¶ 8-9.

³⁰ *Id.* ¶ 10.

³¹ *Id.* ¶ 11.

³² *Id.* ¶ 12.

including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.”³³

The Commission has determined that a state campaign committee of a federal candidate is, as a matter of law, EFMC’d by the federal candidate and is acting on that candidate’s behalf.³⁴ Accordingly, when Barrett became a federal candidate, the State Committee became subject to the soft money provisions of the Act.

Federal candidates are prohibited from transferring funds from their state campaign committees to their federal committees.³⁵ The Commission has explained that this prohibition is intended to prevent a federal committee’s indirect use of impermissible funds in federal elections.³⁶ The prohibition on transferring funds applies broadly and includes payment by the state committee for services to the federal committee.³⁷

Barrett, a federal candidate, EFMC’d the State Committee within the meaning of 52 U.S.C. § 30125(e)(1).³⁸ Therefore, any funds the State Committee solicited, received, directed, transferred, or spent in connection with a federal election after Barrett became a federal

³³ 52 U.S.C § 30125(e)(1)(A); *accord* 11 C.F.R. § 300.61.

³⁴ *See, e.g.*, Factual & Legal Analysis (“F&LA”) at 7-8, MUR 8091 (Beth Harwell, *et al.*); F&LA at 11-12, MUR 8006 (Russell Fry, *et al.*); F&LA at 7, MUR 7954 (Kevin Mullin for Congress, *et al.*); F&LA at 8, MUR 7853 (Lance Harris, *et al.*); F&LA at 6, MUR 7337 (Debbie Lesko, *et al.*); Advisory Opinion (“AO”) 2009-26 at 5 (Coulson); AO 2007-26 at 4 (Schock); AO 2007-01 at 3 (McCaskill).

³⁵ 11 C.F.R. § 110.3(d).

³⁶ Explanation and Justification, Transfers of Funds from State to Federal Campaigns, 58 Fed. Reg. 3474, 3475 (Jan. 8, 1993).

³⁷ *See id.*; *see, e.g.*, Conciliation Agreement ¶ IV.7, V.1, MUR 7076 (Richard Tisei, *et al.*) (finding that federal committee received non-federal funds when state committee paid for polling, fundraising data, and staff work performed for candidate’s federal testing the waters activity); F&LA at 4-5, MUR 6267 (Paton For Senate, *et al.*) (finding reason to believe that candidate’s federal committee violated now 52 U.S.C. § 30125(e) and 11 C.F.R. § 110.3(d) when the candidate’s state committee paid for survey and polling that benefitted the candidate’s testing the waters phase of his federal election); Conciliation Agreement ¶ IV.11, V.1-2, F&LA at 12-16, MUR 5646 (Cohen for N.H.) (finding that candidate’s federal committee received prohibited transfer of funds when he used state campaign funds to pay for federal campaign expenses).

³⁸ *See* 52 U.S.C. § 30125(e)(1) (applying to entities EFMC’d by federal candidates and officeholders).

1 candidate were required to be federally permissible.³⁹ Here, the State Committee may have
 2 received contributions that were permissible under Michigan law⁴⁰ but would have been in
 3 excess of the Act’s limitations or from prohibited sources.⁴¹ Nor are the State Committee funds
 4 subject to the Act’s reporting requirements.⁴²

5 Here, the State Committee made four disbursements to Roe Strategic totaling \$40,000 for
 6 redistricting consulting, the first of which was paid 13 days before the Federal Committee was
 7 registered with the Commission, with the three other payments made on or after the date the
 8 Federal Committee registered with the Commission.⁴³ Prior to October 28, 2021, the State
 9 Committee did not make any disbursements to Roe Strategic.⁴⁴ The Federal Committee made its
 10 first disbursement to Roe Strategic on December 24, 2021, in the amount of \$28,637.48 for
 11 “strategic consulting”⁴⁵ and continued to make payments through November 7, 2022.⁴⁶

³⁹ See, e.g., F&LA at 4, MUR 6253 (Trey Gowdy for Congress, *et al.*).

⁴⁰ *State Level Office/Supreme Court Contribution Limits*, MICH. DEP’T STATE (Dec. 2022), <https://www.michigan.gov/sos/elections/disclosure/cfr/contribution-limits/state-level-office-supreme-court-contribution-limits> (permitting contributions of \$24,500 from district or county political party committee); see Mich. Comp. Laws Ann. § 169.252 (“[A] person . . . shall not make contributions to a candidate committee of a candidate for elective office that, with respect to an election cycle, are more than the following: (a) \$6,800.00 for a candidate for state elective office other than the office of state legislator . . .”).

⁴¹ See 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61.

⁴² See 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61.

⁴³ Friends of Tom Barrett, Michigan Committee Statement Expenditures, MICHIGAN.GOV, https://cfrsearch.nictusa.com/documents/519714/details/filing/expenditures?schedule=*%&changes=0&page=1 (last visited Mar. 10, 2025). Roe states in his declaration that he was employed by both the State and Federal Committees. See Roe Decl. ¶¶ 6, 11.

⁴⁴ *Id.*

⁴⁵ Tom Barrett for Congress, 2021 Year-End Report, Sched. B at 107 (Jan. 31. 2022), <https://docquery.fec.gov/pdf/978/202201319486002978/202201319486002978.pdf>.

⁴⁶ *FEC Disbursements: Filtered Results*, FEC.GOV, https://www.fec.gov/data/disbursements/?committee_id=C00793976&two_year_transaction_period=2022&recipient_name=ROE+STRATEGIC&data_type=processed (last visited Jan. 27, 2025) (reflecting disbursements by the Federal Committee to Roe Strategic during the 2022 election cycle).

1 The available information does not indicate that the State Committee made disbursements
 2 to Roe Strategic on behalf of the Federal Committee. The Complaint rests its allegations on the
 3 timing of payments to Roe from both the State and Federal Committees, the type of services
 4 provided by Roe and his continued work for the Federal Committee, and Barrett’s inability to
 5 impact Michigan’s redistricting process at the point of Roe Strategic’s hire.⁴⁷ However, the
 6 hiring of the same vendor for a local and federal campaign is not, in it of itself, a violation.⁴⁸

7 Moreover, it is plausible that Roe Strategic worked for the State Committee, and
 8 provided consulting concerning the implications of the nearly-final redistricting maps as it
 9 pertained to Barrett seeking state office.⁴⁹ In his declaration, Roe explained that when “the final
 10 maps were released by the Redistricting Commission,” in December, “Tom Barrett ruled out re-
 11 election for the State Senate, as there was no winnable seat for him” and then “made the decision
 12 to pursue federal office.”⁵⁰ It was at this point that Roe states that he began working for Tom
 13 Barrett for Congress as a political consultant” and asserts that he “was never paid by Friends of
 14 Tom Barrett to perform any services on behalf of Tom Barrett for Congress.”⁵¹

⁴⁷ Compl. at 5-9.

⁴⁸ See, e.g., F&LA at 13-14, MUR 8083 (Tom Patti for Congress, *et al.*) (finding no reason to believe state committee of federal candidate paid for federal campaign expenses to vendors that served both campaigns do not violate the Act’s soft money prohibition since, *inter alia*, respondent contends that the nonfederal committee paid the vendor “only for appropriate nonfederal work” and so finding that “Respondents have thus plausibly shown that [the nonfederal committee] used nonfederal funds for appropriate nonfederal expenses, and the Complaint has not provided evidence to displace this showing”); AO 2009-26 at 5-6 (Coulson); First Gen. Counsel’s Rpt. at 5, MUR 5416 (Wayne Christian, *et al.*) (fact that candidate’s state committee had paid vendors before and after his federal candidacy suggested that the expenditures “were all related to his state office, which he continued to hold throughout th[e] time period”) & Cert. (Nov. 8, 2004) (finding no reason to believe).

⁴⁹ See Resp. at 3 (“[D]espite announcing his intent to run for federal office, Barrett did not abandon the possibility of running for State Senate. . . until it was clear that the Redistricting Committee’s final maps would make it impossible for Senator Barrett to win a seat.”); Roe Decl. ¶¶ 8-9 (“Tom Barrett was unsure whether he wanted to run for re-election for State Senate or run for federal office . . . [i]n November 2021, Tom Barrett announced he was running for federal office and filed campaign paperwork. However, he was still contemplating running for re-election for the State Senate.”).

⁵⁰ Roe Decl. ¶¶ 10-11.

⁵¹ *Id.* ¶¶ 11-12.

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1 Although Roe ultimately provided services to the Federal Committee, the available
2 information does not suggest that these services were paid for by the State Committee. As such,
3 there is insufficient information to support finding reason to believe that the State Committee
4 paid disbursements totaling \$40,000 to Roe Strategic on behalf of the Federal Committee.⁵²
5 Therefore, the Commission dismisses the allegation that Barrett, the State Committee, and the
6 Federal Committee violated 52 U.S.C. § 30125(e)(1)(A) and 11 C.F.R. §§ 110.3(d) and 300.61.

⁵² *See generally* F&LA at 19, MUR 8006 (Russell Fry, *et al.*) (dismissing the allegation that the candidate's state committee paid for the candidate's federal campaign expenses since the available information did not support a reason-to-believe finding).