

FEDERAL ELECTION COMMISSION

FIRST GENERAL COUNSEL'S REPORT

MUR 8221

DATE COMPLAINT FILED: February 26, 2024

DATE OF NOTIFICATIONS: February 29, 2024

LAST RESPONSE RECEIVED: April 15, 2024

DATE ACTIVATED: May 17, 2024

STATUTE OF LIMITATIONS: January 3, 2027 –
December 29, 2028

ELECTION CYCLES: 2022, 2024

COMPLAINANT:

John Padora

RESPONDENTS:

McCorkle for Colorado and Brian Keith Izzolena in
his official capacity as treasurer
Isaac Ian McCorkle

**RELEVANT STATUTE(S)
AND REGULATION(S):**

52 U.S.C. § 30114(b)

11 C.F.R. § 113.1(g)

11 C.F.R. § 113.2 (e)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint in this matter alleges that Isaac Ian McCorkle, a candidate for Colorado's 4th Congressional District, and his principal campaign committee, McCorkle for Colorado and Brian Izzolena in his official capacity as treasurer (the "Committee"), violated provisions of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations by converting contributions to personal use with respect to various vehicle, meal, and home office expenses that the Committee disclosed in its regular reports.

Respondents deny the allegations. The Response from the Committee contends that McCorkle accrued vehicle expenses while traveling across a large congressional district for campaign activities and provides a mileage log for McCorkle's travel. It further represents that

1 the campaign purchased furniture and pest control services to make the campaign office at
2 McCorkle's home presentable for meetings and provides receipts for the furniture. Finally, the
3 Response states that food and meal expenses were for events attended by McCorkle or related to
4 travel while campaigning.

5 As explained below, based on the information provided by the Respondents and the lack
6 of specific information substantiating the allegations of personal use, we recommend that the
7 Commission dismiss the allegations that Isaac Ian McCorkle and McCorkle for Colorado and
8 Brian Izzolena in his official capacity as treasurer violated 52 U.S.C. § 30114(b) and 11 C.F.R.
9 § 113.2(e) by converting campaign funds into personal use.

10 II. FACTUAL BACKGROUND

11 Isaac Ian McCorkle was a candidate for Colorado's 4th Congressional District in 2024.¹
12 Additionally, McCorkle was a candidate in 2020 and 2022 for the same district.² McCorkle for
13 Colorado and Brian Izzolena in his official capacity as treasurer is McCorkle's authorized
14 committee.³

15 The Complaint alleges that McCorkle impermissibly used campaign funds for various
16 personal expenses, identifying 72 transactions totaling \$12,946.04, during the 2022 and 2024
17 election cycles.⁴ Specifically, the Complaint points to \$7,703.60 in expenses related to car
18 repairs that the Complaint alleges were too frequent and gas expenses that the Complaint alleges

¹ Isaac Ian McCorkle, Statement of Candidacy at 1 (Mar. 1, 2023),
<https://docquery.fec.gov/pdf/186/202303019578757186/202303019578757186.pdf>.

² McCorkle, Statement of Candidacy at 1 (Feb. 22, 2019),
<https://docquery.fec.gov/pdf/587/201902229145579587/201902229145579587.pdf>; McCorkle, Statement of
Candidacy at 1 (Feb. 2, 2021), <https://docquery.fec.gov/pdf/932/202102029424921932/202102029424921932.pdf>.

³ McCorkle for Colorado, Amended Statement of Organization at 1 (Apr. 14, 2021),
<https://docquery.fec.gov/pdf/300/202104149443330300/202104149443330300.pdf>.

⁴ Compl. at 1-4 (Feb. 26, 2024).

were on days that the Campaign did not have scheduled events.⁵ The Complaint claims that the Committee reported food-related expenditures in McCorkle's hometown on days he did not have public events.⁶ The Complaint also alleges that four meal-related expenditures coincided with social media posts indicating that McCorkle's family was also at the specific restaurant – although the Complaint does not provide support for this allegation.⁷ The Complaint further alleges that McCorkle works out of his home and yet the Committee reports payments for pest control and office furniture.⁸ The Complaint claims that some of the alleged personal use expenditures occurred while McCorkle's campaign was suspended between June and November of 2023, but it does not provide documentation to support this allegation.⁹

The Response from the Committee denies that the expenses at issue were for personal use.¹⁰ It contends that "the candidate is fully retired and does not use the vehicle for a personal

⁵ *Id.* at 1-4. The vehicle expenses consisted of "Auto Repairs," "car maintenance," "gas Parker-food and gas," "maintenance on car," "Parker- food and gas," "Parker-new tires," and "Parking." *Id.* See also McCorkle for Colorado, Amended 2022 April Quarterly Report (June 21, 2024); McCorkle for Colorado, Amended 2022 12 Day Pre-Primary Report (June 21, 2024); McCorkle for Colorado, Amended 2022 July Quarterly Report (June 21, 2024); McCorkle for Colorado, Amended 2022 October Quarterly Report (June 21, 2024); McCorkle for Colorado, Amended 2022 12 Day Pre-General Report (June 21, 2024); McCorkle for Colorado, 2022 Amended 30 Day Post-General Report (June 21, 2024); McCorkle for Colorado, Amended 2023 April Quarterly Report (June 21, 2024); McCorkle for Colorado, Amended 2023 July Quarterly Report (June 21, 2024); McCorkle for Colorado, Amended 2023 October Quarterly Report (June 21, 2024); McCorkle for Colorado, Amended Year-End Report (June 21, 2024).

⁶ Compl. at 1-4. See also *supra* note 5.

⁷ Compl. at 2-4. We have not located social media posts supporting this allegation through searches of publicly available information. See also *supra* note 5.

⁸ Compl. at 2-4. See also *supra* note 5.

⁹ Compl. at 4. Although the Complaint alleges that McCorkle announced the suspension of his campaign on Facebook, such an announcement does not appear on McCorkle's official Facebook Page. *Ike McCorkle for Colorado*, FACEBOOK, <https://www.facebook.com/IkeMcCorkle/> (last visited July 18, 2024). There appear to be few Facebook messages from the campaign during this time period, but there is no statement that the campaign is being suspended. *Id.* The Response does not address the claim that McCorkle suspended his campaign during this period.

¹⁰ Resp. at 3 (Apr. 15, 2024). The Committee's treasurer submitted the Response on behalf of the Committee and does not purport to respond on behalf of McCorkle personally, although he was separately notified.

commute or work-related purposes unrelated to campaign operations.”¹¹ Additionally, the Response states that McCorkle “used his personal vehicle for campaign activities across Colorado’s largest district.”¹² The Response represents that “meals were for both the candidate and staff during travel to and from campaign events, candidate appearances, field operations, and other operational use.”¹³ As to the office furniture, the Response maintains that it used campaign funds for office furniture for McCorkle’s home office and represents that “[n]on-expendable equipment has not been disbursed by the campaign and continues to be maintained as campaign assets.”¹⁴

III. LEGAL ANALYSIS

The Act affords federal candidates and their campaign committees wide discretion in the disposition of their campaign funds and provides that contributions accepted by a candidate may be used by the candidate “for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate” and “for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office.”¹⁵ The Act prohibits the conversion of campaign funds by any person to “personal use.”¹⁶ “Personal use” is the use of

¹¹ *Id.* at 2.

¹² *Id.* at 1. Colorado’s 3rd Congressional District is larger in terms of size at 49,731.77 square miles than the 4th Congressional District at 38,102.74 square miles. *Colorado Congressional Districts by Urban and Rural Population and Land Area*, U.S. CENSUS BUREAU, https://www2.census.gov/geo/relfiles/cdslld18/08/ur_cd_08.txt (last accessed June 3, 2024). The Response also provides a spreadsheet documenting over 13,000 miles of travel by McCorkle during the relevant time period. Resp., Attach.

¹³ Resp. at 1.

¹⁴ *Id.* at 2.

¹⁵ 52 U.S.C. § 30114(a)(1).

¹⁶ *Id.* § 30114(b); 11 C.F.R. § 113.2.

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.”¹⁷

The Act and Commission regulations list certain uses of campaign funds that constitute *per se* conversion to personal use, including home mortgage, rent, utility payments, non-campaign-related automobile expenses, and other non-campaign-related trips.¹⁸ For other payments, the “Commission will determine, on a case-by-case basis, whether other uses” of campaign funds constitute personal use by applying the “irrespective test,” that is, whether the payment fulfills a commitment, obligation, or expense that would exist irrespective of the candidate’s campaign or duties as a federal officeholder.¹⁹ Commission regulations specify that meal, travel, and vehicle expenses are evaluated on a case-by-case basis.²⁰ Such expenses are not personal use “[i]f the candidate can reasonably show that the expenses at issue resulted from campaign or officeholder activities.”²¹

The disbursement entries for travel, food, and office expenses do not appear on their face to violate the prohibition on the conversion of campaign funds to personal use. The Complaint primarily argues that the amounts of these expenditures seem excessive to the complainant, but provides no substantive support beyond that assertion.²² The Complaint claims that some of the travel expenses occurred while McCorkle’s campaign was suspended and that his family was

¹⁷ 11 C.F.R. § 113.1(g).

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

¹⁹ 11 C.F.R. § 113.1(g)(1)(ii).

²⁰ *Id.* § 113.1(g)(1)(ii)(C)-(D).

²¹ Explanation and Justification for Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7862, 7868 (Feb. 9, 1995).

²² Compl. at 1-4.

1 with him when his campaign paid for food at certain restaurants.²³ But it does not provide
 2 support for those allegations, and we have been unable to independently corroborate them
 3 through searches of publicly available information.²⁴

4 Not only are the allegations in the Complaint unsubstantiated, but the Response also
 5 provides fulsome information and representations to show that these payments were for
 6 legitimate campaign expenses. The Response provides a mileage log disclosing over 13,000
 7 miles driven by McCorkle related to his campaigns.²⁵ It represents that the office equipment and
 8 pest control expenses were used for McCorkle's home office for campaign purposes and
 9 provides receipts.²⁶ It also claims that "meals were for both the candidate and staff during travel
 10 to and from campaign events, candidate appearances, field operations, and other operational
 11 use," and provides dates and descriptions for these campaign events.²⁷ The Commission has
 12 previously voted to dismiss allegations in similar circumstances involving claims of personal use
 13 based on the amounts and frequency of travel and meal expenses reported by a campaign
 14 committee.²⁸

23 *Id.*

24 *Supra* note 9.

25 Resp., Attach. The Commission has stated in the context of candidate use of a committee-owned vehicle that a regularly updated mileage log would satisfy these recordkeeping requirements. *See* Advisory Opinion 2001-03 (Meeks); Conciliation Agreement ¶ IV.9, MUR 6585 (Edolphus Towns, *et al.*) (noting that the Townses "did not keep a mileage log or other record to document the use of their committee-owned vehicle for campaign and non-campaign activities, as required by 11 C.F.R. § 113.1(g)(8)").

26 Resp. at 2.

27 Resp. at 2. Moreover, even if McCorkle posted photos of him eating with his family, which the Complaint claims without support, his family could have joined him at campaign events where the Committee paid for staff meals.

28 *E.g.*, Factual & Legal Analysis at 4-6, MUR 7421 (Cramer for Senate, *et al.*).

In conclusion, we recommend that the Commission dismiss the allegation that the Committee and McCorkle violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.2(e) by converting campaign funds to personal use.

IV. RECOMMENDATIONS


1. Dismiss the allegation that Isaac Ian McCorkle and McCorkle for Colorado and Brian Izzolena in his official capacity as treasurer violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.2(e) by converting campaign funds into personal use;
2. Approve the attached Factual and Legal Analysis;
3. Approve the appropriate letters; and
4. Close the file effective 30 days from the date the certification of this vote is signed (or on the next business day after the 30th day, if the 30th day falls on a weekend or holiday).

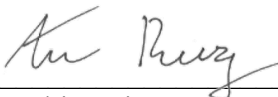
Lisa J. Stevenson
Acting General Counsel

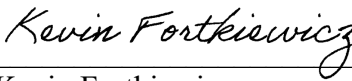
Charles Kitcher
Associate General Counsel
for Enforcement

September 5, 2024

Date


Adrienne Baranowicz
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