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House Calendar No. 83

116TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
116–451

IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE LORI TRAHAN

R E P O R T

OF THE

COMMITTEE ON ETHICS

JULY 16, 2020.—Referred to the House Calendar and ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

99–006

WASHINGTON : 2020

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LETTER OF TRANSMITTAL

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ETHICS,
Washington, DC, July 16, 2020.

Hon. CHERYL JOHNSON,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. JOHNSON: Pursuant to clauses 3(a)(2) and 3(b) of Rule XI of the Rules of the House of Representatives, we herewith transmit the attached report, "In the Matter of Allegations Relating to Representative Lori Trahan."

Sincerely,

THEODORE E. DEUTCH,
Chairman.
KENNY MARCHANT,
Ranking Member.

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JULY 16, 2020.—Ordered to be printed

Mr. DEUTCH, from the Committee on Ethics, submitted the following

R E P O R T

In accordance with House Rule XI, clauses 3(a)(2) and 3(b), the Committee on Ethics (Committee) hereby submits the following Report to the House of Representatives:

I. INTRODUCTION

On September 18, 2019, the Board of the Office of Congressional Ethics (OCE) forwarded to the Committee a Report and Findings (OCE's Referral) regarding Representative Lori Trahan. OCE recommended the Committee review allegations that (1) personal loans Representative Trahan made to her principal campaign committee, Lori Trahan for Congress (Campaign), were excessive contributions from her husband because they were sourced from her husband's personal funds; and (2) Representative Trahan omitted required information related to the personal loans from her congressional candidate Financial Disclosure Statements and from the Campaign's reports to the Federal Election Commission (FEC).

The Committee reviewed the allegations referred by OCE pursuant to Committee Rule 18(a). Following its review, the Committee found that the funds used to source Representative Trahan's personal loans to the Campaign were marital property to which Representative Trahan had a legal right of access and control. Accordingly, the loans were sourced from Representative Trahan's personal funds, not excessive contributions from her husband. For this reason, the Committee did not find that Representative Trahan acted in violation of House Rules, laws, regulations, or other standards of conduct with respect to campaign contribution limits.

As to the alleged disclosure omissions and errors on her Financial Disclosure Statements and the Campaign's FEC reports, the Committee found no evidence that they were knowing and willful. Specifically, the Committee considered allegations that Representa-

tive Trahan may not have properly reported a line of credit that she used to make an additional loan to her campaign. Because there was not a clear legal standard articulated by the FEC in their public guidance, the Committee determined the FEC was best qualified to determine whether Representative Trahan's campaign properly complied with the relevant reporting requirements and directs Representative Trahan to have the Campaign contact the FEC to ensure accurate disclosure.

For these reasons, the Committee did not find that Representative Trahan acted in violation of House Rules, laws, regulations or other standards of conduct. Accordingly, the Committee unanimously voted to dismiss this matter, adopt this Report and take no further action. Upon publication of this report the Committee considers the matter closed.

II. PROCEDURAL BACKGROUND

OCE commenced a preliminary review of this matter on May 11, 2019. On June 10, 2019, OCE initiated a second-phase review. OCE voted on September 13, 2019 to refer this matter to the Committee. On September 18, 2019, the Committee received OCE's Referral recommending further review of allegations that Representative Trahan's Campaign accepted personal loans and contributions that exceeded campaign contribution limits and that Representative Trahan failed to disclose required information on her Financial Disclosure Statements and the Campaign reports to the FEC.

Following OCE's recommendation that the Committee further review the matter, the Committee began an investigation pursuant to Rule 18(a). The Committee reviewed all of the materials provided to it by OCE. The Committee requested and received additional information from Representative Trahan, including statements subject to the penalty of perjury and the False Statements Act. In total, the Committee reviewed more than 12,800 pages of materials.

On July 15, 2020, the Committee unanimously voted to adopt this Report and take no further action with respect to Representative Trahan.

III. HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT

A. EXCESSIVE CONTRIBUTIONS

The Federal Election Campaign Act (FECA) prohibits any person from making, and a candidate and the candidate's authorized campaign committee from accepting, contributions exceeding the contribution limits set by the FEC in an election cycle.[1] In the 2018 election cycle, the limit was $2,700.[2] A contribution is any "gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."[3] Contributions from spouses are subject to

[1] 52 U.S.C. §§ 30116(a)(1)(A); 30116(f).

[2] 82 Fed. Reg. 10904, 10906 (Feb. 16, 2017) (adjusting the contribution limit for the 2018 election cycle to $2,700 for each election the candidate participates in).

[3] 52 U.S.C. § 30101(8)(A); 11 C.F.R. § 100.52(a). The term "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.52(d)(1).

the contribution limitations.[4] Contributions from candidates are not, so long as they are made from a candidate's personal funds.[5]

FECA and the implementing regulations promulgated by the FEC define what constitutes a candidate's personal funds.[6] Personal funds include (1) any asset that the candidate had legal right of access to or control over under applicable State law at the time the individual became a candidate, and with respect to which the candidate had "legal and rightful title" or an "equitable interest"; (2) the candidate's income received during the current election cycle; and (3) a portion of assets that are jointly owned by the candidate and the candidate's spouse either "equal to the candidate's share of the asset under the instrument of conveyance or ownership," or if nothing is specified, one-half the value of the jointly owned asset.[7]

A candidate may also use funds from a loan drawn on a home equity line of credit in excess of the contribution limits to fund that candidate's campaign if the loan is (1) obtained in accordance with applicable laws and under commercially reasonable terms, and (2) is made by an entity that provides lines of credit in the normal course of business.[8] Under FEC regulations, if a candidate's spouse is the endorser or co-signer for a home equity line of credit, the spouse is not deemed to have made a contribution to the campaign if the value of the candidate's share of the property used as collateral equals or exceeds the amount of the loan that is used for the candidate's campaign.[9]

B. DISCLOSURES

1. House Financial Disclosure Statements

The Ethics in Government Act (EIGA) provides that candidates for the House must file a public Financial Disclosure Statement with the Clerk of the House.[10] Once elected, Members are required under EIGA and House Rules to file annual Financial Disclosure Statements.[11] Financial disclosures summarize financial information concerning the filer, their spouse and dependent children.[12] If a filer knowingly and willfully falsifies or fails to file or to report any required information, the Committee may take appropriate ac-

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[4] *Buckley* v. *Valeo,* 424 U.S. 1, 51, n. 59 (1976) ("Although the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily contributions."); *see also* FEC Campaign Guide, Congressional Candidates and Committees (June 2014) (hereinafter *FEC Campaign Guide*) at 28 ("Contributions from members of the candidate's family are subject to the same limits that apply to any other individual. For example, a candidate's parent or spouse may not contribute more than $2,700, per election to the candidate.").

[5] 11 C.F.R. § 110.10.

[6] 52 U.S.C. § 30101(26);11 C.F.R. § 100.33(a), (b).

[7] *Id.*

[8] 11 C.F.R. § 100.83. Home equity lines of credit are excluded from the definition of contribution. *Id.* § 100.71.

[9] *Id.* 100.83(b)(1).

[10] 5 U.S.C. app. §§ 101(c), 103(h)(1)(A)(i)(I). An individual becomes a "candidate" for purposes of EIGA when the individual meets the definition of "candidate" as codified in 52 U.S.C. § 30101 ("if such individual has received contributions aggregating in excess of $5,000 or has made expenditures aggregating in excess of $5,000").

[11] 5 U.S.C. app. § 101(f); House Rule XXVI, cl.2 (EIGA Title I "shall be considered Rules of the House as they pertain to Members, Delegates, the Resident Commissioner, officers, and employees of the House.").

[12] 5 U.S.C. app. § 102(e)(1); *House Ethics Manual* (2008) at 247 (hereinafter *Ethics Manual*).

tion.[13] The EIGA also authorizes the Attorney General to seek a civil penalty.[14] Federal criminal law may be implicated.[15]

2. FEC Reports

FECA requires a campaign committee to disclose all receipts in an election cycle, including any contributions or loans, on the campaign committee's reports to the FEC.[16] The amounts and nature of any outstanding debts and obligations, including loans, must also be disclosed.[17] When a candidate obtains a home equity line of credit to loan funds to the campaign committee, the candidate must also disclose the following on FEC Form 3, Schedule C–1: (1) the date, amount and interest rate of the loan; (2) the name and address of the lending institution; and (3) the types and value of collateral or other sources of repayment that secured the line of credit, if any.[18]

A contribution is considered to be received by the campaign committee on the day the contributor relinquishes control, or delivers it to the committee.[19] A campaign committee's treasurer must make all deposits of receipts within ten days of receipt.[20] A knowing and willful violation of FECA's reporting provisions also involves criminal penalties.[21]

C. CODES OF CONDUCT

Violations of FECA and the laws governing House Financial Disclosure Statements may also implicate House Rule XXIII, clauses 1 and 2, which state, "[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House," and "shall adhere to the spirit and the letter of the Rules of the House." FECA violations are also inconsistent with paragraph 2 of the Code of Ethics for Government Service, which provides that government officials should uphold the laws and regulations of the United States "and never be a party to their evasion." [22]

IV. BACKGROUND

On September 21, 2017, Representative Trahan became a candidate for the House to represent the Third Congressional District of Massachusetts.[23] Representative Trahan was successful in her

[13] 5 U.S.C. app. § 104(c); *Ethics Manual* at 265.
[14] 5 U.S.C. app. § 104(a); *Ethics Manual* at 265.
[15] 18 U.S.C. § 1001; *Ethics Manual* at 265.
[16] 52 U.S.C. § 30104(b)(2); 11 C.F.R. 104.3(a)(3). For contributions that exceed $200 in an election cycle, the campaign must disclose the name of the person who made the contribution, and the date and amount of the contribution. 52 U.S.C. § 30104(b)(3). In-kind contributions from a candidate's personal funds that exceed $200 in an election cycle must be disclosed as both a contribution and expenditure, and the ultimate payee or vendor must also be disclosed. Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40625, 40627 (July 8, 2013). *See also FEC Campaign Guide* at 95–96.
[17] 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d). *See also FEC Campaign Guide* at 91, 108–109 (providing guidance on reporting loans from a candidate's personal funds).
[18] 11 C.F.R. 104.3(d)(4)(i)–(iii). *See also FEC Campaign Guide* at 110–111 (providing guidance on reporting a candidate's loan derived from a line of credit).
[19] 11 C.F.R. § 110.1(b)(6).
[20] 11 C.F.R. § 103.3. *See also FEC Campaign Guide* at 23 ("While all contributions must be deposited within 10 days, the date of deposit is not used for reporting . . .").
[21] 52 U.S.C. § 30109(d)(1); *FEC* v. *John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986) (holding that to establish a knowing and willful violation, there must be knowledge that one is violating the law).
[22] *See Ethics Manual* at 20.
[23] Lori Trahan, Statement of Candidacy (Sept. 21, 2017).

candidacy and was sworn in as Member of the House on January 3, 2019.

Representative Trahan has been married to David Trahan since November 17, 2007. Prior to their marriage, Representative Trahan and Mr. Trahan executed a prenuptial agreement to "define their respective rights in the property of the other during marriage."[24] Massachusetts permits couples like the Trahans to enter into prenuptial agreements prior to marriage to define their rights and obligations during their marriage.[25] The Trahans' prenuptial agreement defines "marital property" and "separate property."[26] Per the agreement, marital property is defined as follows:

> During the course of the marriage the Parties shall make equal periodic contributions to a fund for the maintenance of their household and the care and support of the children of the marriage, if any. All property purchased with the proceeds of this fund shall be deemed marital property. All wages, salary, and income of each party earned or received during marriage, together with all property purchased with such wages, salary and income, shall also be marital property. Each party shall have equal rights in regard to the management of and disposition of all marital property.[27]

The prenuptial agreement also provides that any real property purchased in joint title by the Trahans reflects the intent of the parties to have a joint interest in that property.[28]

The prenuptial agreement states that each party gave the other a full and complete disclosure of the assets, income, and other property of the party or the party's estate.[29] A list of those assets, income and property are included in the prenuptial agreement as Exhibits A (Mr. Trahan) and B (Representative Trahan), which are incorporated in the agreement by reference.[30] The prenuptial agreement defined separate property as the assets, income and property of the Trahans specifically listed in Exhibits A and B, along with all income and increases in value arising from that separate property during marriage.[31] Separate property also includes any property acquired by gift or inheritance by either spouse and any bonuses received by either spouse.[32]

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[24] Exhibit 1. On Nov. 16, 2019, Representative Trahan provided the Committee, through counsel, the antenuptial agreement.

[25] Mass. Gen. Laws ch. 209, § 25(2019), ("At any time before marriage, the parties may make a written contract providing that, after the marriage is solemnized, the whole or any designated part of the real or personal property or any right of action, of which either party may be seized or possessed at the time of the marriage, shall remain or become the property of the husband or wife, according to the terms of the contract."); *Osborne* v. *Osborne*, 429 N.E. 2d 810, 816 (1981) ("[A]n antenuptial contract settling the alimony or property rights of the parties upon divorce is not per se against public policy and may be specifically enforced."); *DeMatteo* v. *DeMatteo*, 762 N.E. 2d 797, 809 (2002) ("It is only where the contesting party is essentially stripped of substantially all marital interests that a judge may determine that an antenuptial agreement is not 'fair and reasonable' and therefore not valid.").

[26] There is no evidence in the record to suggest that Representative Trahan's antenuptial agreement did not meet the "fair and reasonable" standard under Massachusetts case law at the time of execution and would be deemed invalid.

[27] Exhibit 1 ¶11.

[28] *Id.* ¶10.

[29] Id. ¶ 6.

[30] Id. ¶ 6, Exhibits A and B.

[31] Id. ¶ 8, Exhibit A.

[32] Id. ¶ 8.

On July 30, 2008, Representative Trahan and Mr. Trahan established a joint checking account at Enterprise Bank.[33] The Trahans also jointly own a home in Westford, Massachusetts.[34]

A. LOANS FROM PERSONAL FUNDS

During her candidacy, Representative Trahan loaned funds to the Campaign. In each instance, the Campaign reported those loans as from her personal funds on the Campaign's FEC Reports. Representative Trahan made the loans to the Campaign by check from the Trahans' joint checking account. The joint checking account received funds to cover the loans from Mr. Trahan's business accounts, either directly or through Mr. Trahan's personal account.[35] The specific loans are described in further detail below.

11. March 31, 2018 Loan

On March 31, 2018, Representative Trahan wrote a $50,000 check to the Campaign from the joint checking account she holds with Mr. Trahan.[36] The memo on the check states, "donation."[37] Representative Trahan, through her counsel, explained that she intended the check to be a loan to the Campaign, but at the time she wrote it, she did not know how to properly characterize a loan on the memo line of the check.[38] On that date, the joint checking account did not have sufficient funds to cover the check.[39]

On April 2, 2018, Mass Eagle Development, LLC (Eagle Development) deposited $100,000 into Mr. Trahan's personal checking account.[40] Eagle Development is a residential property development founded in 2010.[41] Mr. Trahan has a 33 percent ownership interest in the company.[42] Mr. Trahan deposited checks in varying amounts from Eagle Development in his personal checking account prior to, during and after Representative Trahan's candidacy for the House.[43] Representative Trahan reported the funds Mr. Trahan received from Eagle Development as S Corporation income on her Financial Disclosure Statements.[44] Eagle Development is not listed as separate property in the Trahans' prenuptial agreement.[45]

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[33] Exhibit 2; *see also* Representative Trahan's Financial Disclosure Statement for Jan. 1, 2018–May 15, 2019 (filed May 15, 2019) (hereinafter *New Member FD*) at 1.

[34] *New Member FD* at 5 (disclosing the Westford, Massachusetts residential property has a joint mortgage of between $50,001 and $100,000). Representative Trahan's counsel confirmed that Representative Trahan owns one-half interest in the home. Representative Trahan's submission to the Committee (Appendix B) at 7.

[35] In Representative Trahan's submission to the Committee in response to OCE's Referral, she explained through counsel, "Rather than taking steady salaries, both [Representative Trahan and Mr. Trahan] regularly transferred funds from their respective business accounts into their joint checking account to pay for household expenses. That practice continued after Representative Trahan became a candidate in 2017. In addition, both spouses also had individual checking accounts that were used interchangeably to pay for joint expenses like credit card and tuition payments, as well as health and child care costs." Appendix B at 4.

[36] OCE's Referral, Exhibit 1.

[37] OCE's Referral, Exhibit 1. Although the memo on the check stated "donation," the Campaign reported the check as a loan from Representative Trahan.

[38] Appendix C at 2.

[39] OCE's Referral, Exhibit 2.

[40] Exhibit 3.

[41] Eagle Development, Certificate of Organization, Commonwealth of Mass. (Oct. 28, 2010) (hereinafter *Eagle Development Certificate*).

[42] *New Member FD* at 1; *Eagle Development Certificate*.

[43] Exhibit 4.

[44] *New Member FD* at 1.

[45] *See* Exhibit 1, Exhibit A (Eagle Development is not listed among the enumerated "separate property" assets in the agreement).

On April 7, 2018, Mr. Trahan wrote himself a check for $50,000 from his personal checking account.[46] On April 9, 2018, Mr. Trahan deposited the check in the couple's joint checking account.[47] Mr. Trahan's $50,000 deposit in the joint checking account provided sufficient funds to cover Representative Trahan's March 31, 2018, $50,000 check to the Campaign.[48] On April 9, 2018, the Campaign deposited the $50,000, nine days after it received the check.[49]

The Campaign reported the $50,000 as a loan from Representative Trahan, received on March 31, 2018, on the last day of the FEC reporting period for the first quarter of 2018.[50] The loan was reported as from Representative Trahan's personal funds.[51]

2. June 30, 2018 Loan

On June 30, 2018, Representative Trahan wrote another check for $50,000 from the joint checking account to the Campaign.[52] The memo on this check states, "loan."[53] Again, the joint checking account did not have sufficient funds to cover her $50,000 check on the date she wrote it.[54]

On July 9, 2018, Mr. Trahan wrote a check to himself for $55,000 from DCT Development, Inc. (DCT Development).[55] DCT Development is a general contracting corporation Mr. Trahan formed in 1992.[56] Mr. Trahan owns 100 percent of the company.[57] DCT Development is not listed in the Trahans' prenuptial agreement, despite being owned by Mr. Trahan at the time of the agreement.[58] Representative Trahan informed the Committee that DCT Development was not disclosed in the prenuptial agreement because it did not normally have substantial assets besides cash, but instead served as a Subchapter S corporation through which he could receive income in connection with various construction projects.[59] According to Representative Trahan, she and Mr. Trahan intended DCT Development and income he received from it to be marital property under the agreement, and Mr. Trahan treated the income as such.[60]

Representative Trahan stated that she and Mr. Trahan considered the $55,000 check from DCT Development on July 9, 2018 to

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[46] OCE's Referral, Exhibit 3. When Mr. Trahan wrote himself the $50,000 check on Apr. 7, 2018, his personal checking account had a balance of over $250,000. Exhibit 5.

[47] OCE's Referral, Exhibit 3; *see also* Exhibit 6.

[48] Exhibit 6.

[49] OCE's Referral, Exhibit 1. The check has a date stamp of both Apr. 9, 2018 and Apr. 10, 2018 from Lowell Five Cent Savings Bank where the Campaign cashed the check. The check did not clear until Apr. 11, 2018.

[50] Lori Trahan for Congress, Amended Apr. 2018 Quarterly Report of Receipts and Disbursements, at 145–146 (May 14, 2018).

[51] *Id.*

[52] OCE's Referral, Exhibit 4.

[53] *Id.*

[54] OCE's Referral, Exhibit 5.

[55] OCE's Referral, Exhibit 6.

[56] New Bud Builders Inc., Articles of Organization, Commonwealth of Mass. (Mar. 2, 1992); DCT Development, Articles of Amendment, Commonwealth of Mass. (Nov. 15, 2000) (changing the name from New Bud Builders, Inc. to DCT Development, Inc.).

[57] *New Member FD* at 1; DCT Development, Annual Report, Commonwealth of Mass. (Feb. 24, 2019).

[58] *See* Exhibit 1, Exhibit A (DCT Development is not listed in Exhibit A, the assets, income, and property disclosed by Mr. Trahan that are "separate property" in the agreement).

[59] Appendix C at 1.

[60] *Id.* Representative Trahan informed the Committee that two other assets owned by Mr. Trahan prior to the prenuptial agreement, Granite Rock Management and Granite Rock Construction, were also not listed in Exhibit A because, like DCT Development, they did not normally have substantial assets besides cash. Mr. Trahan also treated those assets and income he received from them as marital property. *Id.*

be income Mr. Trahan earned from DCT Development.[61] He treated it as income for tax purposes.[62] Representative Trahan specifically told the Committee the disbursement was not returned capital.[63] On the date of the disbursement, DCT Development had a cash balance of $112,861.37, which represented DCT Development's value at that time.[64] Because Representative Trahan and Mr. Trahan treated the disbursement as Mr. Trahan's income, they also treated it as marital property under the agreement.[65]

Mr. Trahan frequently deposited checks from DCT Development into his personal account and sometimes into the Trahans' joint checking account in varying amounts, prior to, during and after Representative Trahan's candidacy for the House.[66] In this instance, on July 9, 2018 when Mr. Trahan wrote the $55,000 check to himself from DCT Development, Mr. Trahan deposited the check into the couple's joint checking account.[67] Mr. Trahan's $55,000 deposit in the joint checking account provided sufficient funds to cover Representative Trahan's June 30, 2018, $50,000 check to the Campaign. On July 10, 2018, the Campaign deposited Representative Trahan's check for $50,000, ten days after receipt.[68]

Representative Trahan's Campaign reported the $50,000 as a loan from Representative Trahan received on June 30, 2018, the last day of the FEC reporting period for the second quarter of 2018.[69] Like the previous loan, the Campaign reported it as from Representative Trahan's personal funds.[70]

3. August 22, 2018 Loan

On August 21, 2018, Mr. Trahan initiated a transfer of funds from his personal checking account to the Trahans' joint checking account for $200,000.[71] Mr. Trahan had deposited $180,900 from Middlesex Land Holdings, LLC (Middlesex) and $110,000 from Poplar Hill Development LLC (Poplar Hill) in his personal checking account on July 31, 2018, which provided sufficient funds to cover the $200,000 transfer to the Trahans' joint checking account on August 21, 2018.[72]

Created in 2015, Middlesex is a company that holds vacant land for future development.[73] Mr. Trahan and a business partner own the company.[74] Mr. Trahan made deposits in varying amounts from Middlesex from December 2017 to January 2019 in his personal checking account, totaling $316,848.[75] Representative Trahan reported the funds Mr. Trahan received from Middlesex as partnership income on her Financial Disclosure Statements.[76] Middlesex is

[61] *Id.* at 1–2.
[62] *Id.*
[63] *Id.*
[64] *Id.* at 2.
[65] *Id.*
[66] Exhibit 4.
[67] OCE's Referral, Exhibit 6.
[68] OCE's Referral, Exhibit 4.
[69] Lori Trahan for Congress, July 2018 Quarterly Report of Receipts and Disbursements, at 282–283 (July 15, 2018).
[70] *Id.*
[71] OCE's Referral, Exhibit 8.
[72] Exhibit 7; Exhibit 8; Exhibit 9.
[73] Middlesex, Certificate of Organization, Commonwealth of Mass. (Feb. 26, 2015) (hereinafter *Middlesex Certificate*).
[74] *Middlesex Certificate; New Member FD* at 2.
[75] Exhibit 4.
[76] *New Member FD* at 2.

not listed in the Trahans' prenuptial agreement as separate property.[77]

Poplar Hill is a residential home building company created in 2014.[78] Like Middlesex, Mr. Trahan and a business partner own the company.[79] Mr. Trahan made deposits in varying amounts from Poplar Hill from March 2018 to July 2018 in his personal checking account, totaling $295,000.[80] On her Financial Disclosure Statements, Representative Trahan reported the funds Mr. Trahan received from Poplar Hill as partnership income.[81] Poplar Hill is not listed in the Trahans' prenuptial agreement as separate property.[82]

Prior to Mr. Trahan's $200,000 transfer, the Trahans' joint checking account had a balance of $2,769.54.[83] On August 22, 2018, Representative Trahan wrote a check from the joint checking account to her Campaign for $200,000.[84] The memo on the check states, "loan."[85] The same day, the Campaign deposited her $200,000 check.[86] The Campaign reported the $200,000 as a loan from Representative Trahan, received on August 23, 2018 from her personal funds.[87] Representative Trahan forgave $50,000 of this loan on September 24, 2018.[88]

B. LOAN FROM REVOLVING LINE OF CREDIT

On October 15, 2010, the Trahans entered into a Revolving Credit Agreement and Note (Credit Agreement) with Washington Savings Bank which allowed them to borrow up to $200,000 secured by their jointly owned home in Westford, Massachusetts.[89] The Credit Agreement provides for an adjustable interest rate.[90]

On September 4, 2018, Representative Trahan wrote a check from the Trahans' revolving credit account for $71,000 to her Campaign.[91] The memo on the check states, "loan."[92] On October 2, 2018, the Campaign cashed Representative Trahan's $71,000 check.[93] The bank records for the revolving credit account did not reflect a withdrawal of funds to cover the $71,000 check until October 3, 2018, when the Trahans withdrew $76,400 from the revolving credit account.[94] As discussed further below, Representative Trahan also wrote a check to the Campaign for the remaining

[77] *See* Exhibit 1, Exhibit A (providing Middlesex is not listed among the enumerated "separate property" assets in the agreement).
[78] Poplar Hill, Certificate of Organization, Commonwealth of Mass. (Mar. 3, 2014) (hereinafter *Poplar Hill Certificate*).
[79] *Poplar Hill Certificate; New Member FD* at 2 (Mr. Trahan owns a 50 percent interest in Poplar Hill).
[80] Exhibit 4.
[81] *New Member FD* at 2.
[82] *See* Exhibit 1, Exhibit A (Poplar Hill is not listed among the enumerated "separate property" assets in the agreement).
[83] OCE's Referral, Exhibit 7.
[84] OCE's Referral, Exhibit 9.
[85] *Id.*
[86] *Id.*
[87] Lori Trahan for Congress, Second Amended Oct. 2018 Quarterly Report of Receipts and Disbursements, at 158 (Dec. 15, 2018).
[88] *Id.* at 144, 158.
[89] OCE's Referral, Exhibit 10; *New Member FD* at 5.
[90] OCE's Referral, Exhibit 10.
[91] OCE's Referral, Exhibit 11.
[92] *Id.*
[93] *Id.* 10.
[94] OCE's Referral, Exhibit 12.

$5,400 withdrawn from the line of credit, for the Campaign's recount fund.[95]

> The Campaign initially reported the $71,000 check as a loan from Representative Trahan's personal funds received on September 4, 2018, but did not complete a Schedule C–1 to disclose that the loan originated with the revolving credit account.[96] In its second amendment to its FEC report on December 15, 2018, the Campaign completed the Schedule C–1.[97] It disclosed that the loan was incurred or established on September 4, 2018 and was due on October 20, 2030.[98] It also disclosed Washington Savings Bank as the lending institution, a 5.25 percent interest rate, and collateral of real property valued at $950,000.[99]

The Campaign repaid the $71,000 loan to Representative Trahan on November 20, 2018.[100] Representative Trahan deposited the check into the couple's joint checking account on December 3, 2018.[101]

C. CONTRIBUTIONS FROM THE TRAHANS

Representative Trahan and Mr. Trahan made several contributions to the Campaign during the 2018 election cycle. Mr. Trahan made a $2,700 contribution on September 29, 2017, designated for the primary election.[102] The following day, on September 30, 2017, he made a contribution for $2,700 designated for the general election.[103] Both of his contributions were made by check from his personal checking account.[104]

Representative Trahan and Mr. Trahan also wrote a $5,400 check on October 2, 2018 to the Campaign.[105] The memo on the check states, "Dave $2700/Lori $2700."[106] The Campaign reported the check as a $2,700 contribution from each of them for the election recount.[107] The Trahans made the contribution from the couple's revolving credit account utilizing the remaining funds from the October 3, 2018 withdrawal that also funded Representative Trahan's $71,000 loan to the Campaign.[108]

In addition to the monetary contributions, Representative Trahan made numerous in-kind contributions to her Campaign

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[95] OCE's Referral, Exhibit 13.

[96] Lori Trahan for Congress, Oct. 2018 Quarterly Report of Receipts and Disbursements, at 155 (Oct. 15, 2018).

[97] Lori Trahan for Congress, Second Amended Oct. 2018 Quarterly Report of Receipts and Disbursements, at 160 (Dec. 15, 2018).

[98] *Id.*

[99] *Id.*

[100] Lori Trahan for Congress, 2018 Amended Post General Report of Receipts and Disbursements, at 279, 289 (Dec. 15, 2018).

[101] Exhibit 10. OCE's Referral notes that Mr. Trahan repaid the $76,400 withdrawn from the Trahans' revolving line of credit plus interest to Washington Savings Bank from his personal bank account on Oct. 11, 2018. OCE's Referral 42. The Committee is not aware of any regulations prohibiting Mr. Trahan's repayment from his personal account. Further, the Campaign was not required to report any repayments by Representative Trahan to the lending institution. *FEC Campaign Guide* at 110–111.

[102] LoriTrahan for Congress, Oct. 2017 Quarterly Report of Receipts and Disbursements, at 32 (Oct. 15, 2017). *See also* Exhibit 11.

[103] *Id.* at 27. *See also* Exhibit 12.

[104] Exhibit 11; Exhibit 12; Exhibit 13.

[105] OCE's Referral, Exhibit 13.

[106] *Id.*

[107] Lori Trahan for Congress, Second Amended 2018 Pre-General Report of Receipts and Disbursements, at 123–124 (Dec. 15, 2018).

[108] OCE's Referral, Exhibit 12–13.

throughout the election cycle for items like advertising, ground transportation, lodging, supplies and airfare, among other things.[109] The in-kind contributions were reported by the Campaign on its FEC Reports.[110]

D. FINANCIAL DISCLOSURE STATEMENTS

Representative Trahan filed Financial Disclosure Statements with the Clerk of the House as a candidate on March 26, 2018 and May 21, 2018 and as a Member on May 15, 2019.[111] Representative Trahan filed four amendments to each of her candidate financial disclosures on June 4, 2018, November 16, 2018, February 19, 2019 and March 21, 2019.[112] While the amendments were made by Representative Trahan on her own initiative, public reporting suggests that least some of the amendments may have been prompted by questions from the media.[113] The amendments included:

- Adding Representative Trahan's ownership of and unearned income from Concire LLC to Schedule A: Assets and "Unearned" Income;[114]
- Adding Representative Trahan's joint bank account she holds with Mr. Trahan at Enterprise Bank to Schedule A: Assets and "Unearned" Income;[115]
- Adding Representative Trahan's ownership interest in Stella Connect to Schedule A: Assets and "Unearned" Income;[116]
- Updating Representative Trahan's earned income from Concire LLC on Schedule C: Earned Income;[117] and

[109] *See e.g.*, Lori Trahan for Congress, Second Amended Oct. 2018 Quarterly Report of Receipts and Disbursements, at 98–100, 143–144 (Dec. 15, 2018).

[110] *Id*. The Campaign reported the in-kind contributions as both receipts and disbursements on Schedules A and B of FEC form. The Campaign did not include information about the ultimate payees, such as the vendor that Representative Trahan paid, in a memo entry.

[111] Representative Trahan's Financial Disclosure Statement for Jan. 1, 2016–Dec. 31, 2017 (filed Mar. 26, 2018) (hereinafter 2017 FD); Representative Trahan's Financial Disclosure Statement for Jan. 1, 2017–May 15, 2018 (filed May 21, 2018) (hereinafter 2018 FD); *New Member FD*. If an individual qualifies as a candidate during a non-election year, they must file a Financial Disclosure Statement within 30 days of becoming a candidate or May 15 of that year, whichever is later. Candidates must then file a second statement on May 15 of the following year. See 5 U.S.C. app. 101(c). Representative Trahan's 2017 FD was due on Oct. 23, 2017. She requested and received an extension from the Committee. Representative Trahan's 2018 FD was due on May 15, 2018. She filed it on May 21, 2018, within the 30-day grace period afforded to all filers.

[112] Representative Trahan's Amended Financial Disclosure Statement for Jan. 1, 2016–Dec. 31, 2017 (filed June 4, 2018) (hereinafter *First Amended 2017 FD*); Representative Trahan's Amended Financial Disclosure Statement for Jan. 1, 2016–Dec. 31, 2017 (filed Nov. 16, 2017) (hereinafter *Second Amended 2017 FD*); Representative Trahan's Amended Financial Disclosure Statement for Jan. 1, 2016–Dec. 31, 2017 (filed Feb. 19, 2019) (hereinafter *Third Amended 2017 FD*); Representative Trahan's Amended Financial Disclosure Statement for Jan. 1, 2016–Dec. 31, 2017 (filed Mar. 21, 2019) (hereinafter *Fourth Amended 2017 FD*); Representative Trahan's Amended Financial Disclosure Statement for Jan. 1, 2017–May 15, 2018 (filed June 4, 2018) (hereinafter *First Amended 2018 FD*); Representative Trahan's Amended Financial Disclosure Statement for Jan. 1, 2017–May 15, 2018 (filed Nov. 16, 2018) (hereinafter *Second Amended 2018 FD*); Representative Trahan's Amended Financial Disclosure Statement for Jan. 1, 2017–May 15, 2018 (filed Feb. 19, 2019) (hereinafter *Third Amended 2018 FD*); Representative Trahan's Amended Financial Disclosure Statement for Jan. 1, 2017–May 15, 2018 (filed Mar. 21, 2019) (hereinafter *Fourth Amended 2018 FD*).

[113] *See* Andrea Estes, *Questions raised about source of late funds that helped carry Rep. Lori Trahan to victory*, Boston Globe (Mar. 3, 2019), https://www.bostonglobe.com/metro/2019/03/03/questions-raised-about-source-late-funds-that-helped-carry-rep-lori-trahan-victory/oGjvhDF9tbmV9FWt5zgQfJ/story.html ("After the November election, when the Globe began asking questions, [Representative Trahan] amended her financial reports four times . . .") (hereinafter *Boston Globe Article*).

[114] *First Amended 2017 FD* at 1; *First Amended 2018 FD* at 1.

[115] *Second Amended 2017 FD* at 1; *Second Amended 2018 FD* at 1.

[116] *Third Amended 2017 FD* at 3; *Third Amended 2018 FD* at 3.

[117] *Second Amended 2017 FD* at 4; *Second Amended 2018 FD* at 3.

• Adding "confidential" clients to Schedule J: Compensation in Excess of $5,000 Paid by One Source.[118]

V. FINDINGS

A. EXCESSIVE CONTRIBUTIONS

1. Loans from Personal Funds

Contributions, including loans, made from a candidate's personal funds are not subject to the contribution limits in FECA.[119] A candidate's "personal funds" are any asset that, under applicable State law, the candidate had legal right of access to or control over, and with respect to which the candidate had "legal and rightful title" or an "equitable interest," at the time the individual became a candidate.[120] Personal funds also include a portion of assets that are jointly owned by the candidate and the candidate's spouse either "equal to the candidate's share of the asset under the instrument of conveyance or ownership," or if nothing is specified, one-half the value of the jointly owned asset.[121] Unlike a candidate, a candidate's spouse is subject to FECA's contribution limits, which in the 2018 election cycle were $2,700 per election.[122]

The Committee considered whether three loans Representative Trahan made to the Campaign, totaling $300,000, were excessive contributions from Mr. Trahan. In doing so, the Committee reviewed the Trahans' prenuptial agreement and the transactions through which Mr. Trahan deposited funds into the Trahans' joint checking account which were then used for Representative Trahan's loans to the Campaign. The prenuptial agreement went into effect on November 17, 2007 in accordance with Massachusetts law, long before Representative Trahan became a candidate for the House.[123] The prenuptial agreement defines marital property as "all wages, salary and income" of Representative Trahan and Mr. Trahan during their marriage.[124] It provides the Trahans' with "equal rights in regard to the management of and disposition of all marital property."[125] The agreement carves out certain specific assets disclosed in Exhibit A (and resulting income) that are designated as "separate property," and therefore not considered marital property.[126] Mr. Trahan's assets listed in the agreement as separate property (Exhibit A) are not owned by Representative Trahan.

As described in detail above, the funds Mr. Trahan transferred to the Trahans' joint checking account originated from businesses Mr. Trahan owns and that provide Mr. Trahan with a salary, investment income or both. None of the businesses are included in the list of assets in Exhibit A that were deemed separate property in the prenuptial agreement. Three of the businesses—Eagle Development, Poplar Hill and Middlesex—were created after the Trahans entered into the prenuptial agreement and thus, were not

[118] *Fourth Amended 2017 FD* at 5; *Fourth Amended 2018 FD* at 5.
[119] 11 C.F.R. § 110.10.
[120] 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33(a), (b).
[121] *Id.*
[122] *See FEC Campaign Guide at* 28.
[123] Exhibit 1 at 1.
[124] *Id.*¶ 11.
[125] *Id.*
[126] *Id.*¶ 8.

and could not have been disclosed on Exhibit A. As a result, the funds from these businesses that were the source for Representative Trahan's loans were not separate property, but instead considered to be the Trahans' joint marital property under the agreement.

Unlike the other businesses, DCT Development did exist prior to the Trahans' prenuptial agreement. Paragraph six of the prenuptial agreement states that Representative Trahan and Mr. Trahan had given each other a "full and complete disclosure of the assets, income, and other property" which were listed in the exhibits to the prenuptial agreement.[127] However, Mr. Trahan's disclosures on Exhibit A did not include DCT Development.[128] This omission is notable because it appears to be inconsistent with the disclosure requirements in paragraph six of the agreement.

Representative Trahan was able to address the omission of DCT Development from the agreement. She informed the Committee that Mr. Trahan did not include DCT Development because "it did not normally have substantial assets besides cash, but instead served as a Subchapter S corporation through which he could receive income in connection with various construction projects."[129] Representative Trahan also said that two other businesses owned by Mr. Trahan at the time they entered into the agreement—Granite Rock Management and Granite Rock Construction (collectively Granite Rock Businesses)—were similarly excluded from the agreement for the same reason.[130] According to Representative Trahan, she and Mr. Trahan intended DCT Development, Granite Rock Businesses and the income he received from those entities to be marital property under the agreement.[131] Representative Trahan did not provide the Committee with any documentary evidence to support her explanation. While the Committee questions whether the omission of DCT Development and Granite Rock Businesses was in accordance with accounting principles at the time the Trahans entered into the agreement, it did not find evidence to contradict Representative Trahan's explanation that the Trahans intended DCT Development and Granite Rock Businesses to be marital property under the agreement, and therefore all resulting income to be marital property. As such, DCT Development and any income from it was joint marital property under the agreement.

As to the $55,000 disbursement on July 9, 2018 from DCT Development to Mr. Trahan at issue here, Representative Trahan specifically asserted that she and Mr. Trahan considered it income earned or received by Mr. Trahan during their marriage, and thus marital property under the agreement.[132] Likewise, it was treated as income for tax purposes.[133] Representative Trahan also told the Committee the disbursement was not returned capital from DCT Development.[134] On the date of the disbursement, DCT Development had a cash balance of $112,861.37, which represented DCT Devel-

[127] *Id.*¶ 6.
[128] *Id.*, Exhibit A.
[129] Appendix C at 1.
[130] *Id.*
[131] *Id.*
[132] *Id.* at 2.
[133] *Id.*
[134] *Id.*

opment's value at that time.[135] Her assertions are in accordance with her previous representations to the Committee in her Financial Disclosure Statements and in her submission in response to OCE's Referral, that funds Mr. Trahan received from DCT Development were his salary or income.[136] Based on Representative Trahan's assertions to the Committee, the $55,000 disbursement was marital property.

As discussed above, Mr. Trahan deposited his salary and income from Eagle Development, Poplar Hill and Middlesex exclusively in his personal checking account and his income from DCT Development into his personal account and the couple's joint account—all of which was marital property under the prenuptial agreement.[137] Paragraph eleven of the prenuptial agreement, which discusses the couple's marital property, does not specify any particular bank account where the Trahans would deposit their "wages, salary, and income" that constitute martial property, but it does contemplate the couple making periodic contributions to a fund for the maintenance of their household.[138] Representative Trahan explained to the Committee the couple's practices with their incomes from their businesses:

> Rather than taking steady salaries, both [Representative Trahan and Mr. Trahan] regularly transferred funds from their respective business accounts into their joint checking account to pay for household expenses. That practice continued after Representative Trahan became a candidate in 2017. In addition, both spouses also had individual checking accounts that were used interchangeably to pay for joint expenses like credit card and tuition payments, as well as health and child care costs. While Mr. Trahan has historically had a larger income and has thus historically contributed more to the joint checking account and paid for more expenses than Representative Trahan has done, that practice, too, both preceded and post-dated Representative Trahan's candidacy.[139]

It appears that, in accordance with the agreement, the Trahans' incomes that were martial property were held in their personal and joint checking accounts, which were used interchangeably by the couple. The prenuptial agreement allows Representative Trahan to manage and dispose of all marital property, regardless of the bank account it was held in.[140] In this instance, Representative Trahan exercised her right to manage and dispose of her marital property by loaning the funds from the couple's joint account to the Campaign. Moreover, Massachusetts Law allows either party to a joint

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[135] *Id.*
[136] New Member FD at 1–2; Appendix B at 4.
[137] Exhibit 4.
[138] Exhibit 1¶ 11.
[139] Appendix B at 4.
[140] The FEC has been inconsistent on whether it deems funds from a candidate's joint checking account shared with a spouse as "personal funds" of the candidate. *See e.g.*, FEC Matter Under Review (MUR) Jim Huffman for Senate, *et al*. (MUR6417) (finding reason to believe the spouse's funds from a trust account transferred to a joint account and subsequently loaned to the candidate's campaign were excessive contributions from the candidate's spouse); Terri Lynn Land for Senate, *et al*. (MUR 6860) (deadlocking on finding a reason to believe spouse's income transferred to a joint checking account and subsequently loaned to the candidate's campaign were excessive contributions from the candidate's spouse). Because of the Trahans' antenuptial agreement, the Committee need not make a determination regarding funds in the Trahans' joint checking account.

account to withdraw, assign or transfer "any part or all of the deposits and interest" in a joint account.[141] As such, Representative Trahan was able to execute her transaction under the relevant Massachusetts law.

Because Massachusetts law allows for prenuptial agreements like the Trahans', and the prenuptial agreement provided Representative Trahan, long before she was a candidate, equal rights to manage and dispose of Mr. Trahan's salary and income, the Committee found Mr. Trahan's salary and income satisfied the definition of a candidate's personal funds under FECA. As such, the loans Representative Trahan made using Mr. Trahan's salary and income were her personal funds and not excessive contributions from Mr. Trahan. As a candidate, Representative Trahan was allowed to use her personal funds, irrespective of contribution limits, for the Campaign.[142] Therefore, the Committee found the three loans Representative Trahan made to the Campaign from funds transferred to her joint checking account by her husband, totaling $300,000, did not violate any House Rules, laws, regulations or other standards of conduct.[143]

2. Loan from Revolving Line of Credit

A candidate may use funds from a home equity line of credit to make loans to the candidate's own campaign as long as the loan was obtained in accordance with all laws and under commercially reasonable terms.[144] Under FEC regulations, if a candidate's spouse is an endorser or co-signer for a home equity line of credit, the spouse is not deemed to have made a contribution to the campaign if the value of the candidate's share of the property used as collateral equals or exceeds the amount of the loan that is used for the candidate's campaign.[145] A candidate's share of a jointly owned asset is either the share of the asset under an instrument of ownership or, if no share is indicated, the value of one-half the property.[146]

The Committee considered whether the $71,000 loan from the revolving line of credit established under the Credit Agreement with Washington Savings Bank resulted in an excessive contribution from Mr. Trahan to the Campaign.[147] As discussed above, Rep-

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[141] Mass. Gen.Laws ch. 167D § 3(a)(2015) ("Any bank or federally-chartered bank may receive deposits in the name of 2 or more persons as joint tenants, payable to 2 or more persons or the survivor or survivors of them, and any part or all of the deposits and interest represented by joint accounts may be withdrawn, assigned or transferred in whole or in part by any of the individual parties. Payments to any of the parties to a joint account while all of them are living shall discharge the liability of the bank or federally chartered bank to all persons and, in the event of the death of any of them, the bank or federally chartered bank shall be liable only to the survivor or survivors and the payment to any of the survivors shall discharge the liability of the bank or federally chartered bank to all persons.").

[142] 11 C.F.R. 110.10.

[143] OCE's Referral states that Representative Trahan and Mr. Trahan did not cooperate with OCE's review and OCE does not cite to the Trahans' prenuptial agreement. OCE was not provided with a copy of that agreement and therefore could not analyze its impact on the allegations.

[144] 11 C.F.R. 100.83. Home equity lines of credit are excluded from the definition of contribution. 11 C.F.R. 100.71.

[145] 11 C.F.R. 100.83(b)(1). See also FEC Advisory Opinion (AO) Hochberg (AO1991–10) (finding the candidate's equity in a home owned with spouse is calculated as one half the tax valuation of the home minus outstanding mortgage).

[146] 11 C.F.R. 100.33(c).

[147] § While not at issue in this matter, the Committee found the Credit Agreement was obtained in accordance with all laws and under commercially reasonable terms, as required under 11 C.F.R. § 100.83.

resentative Trahan and Mr. Trahan executed the Credit Agreement with Washington Savings Bank on October 15, 2010, many years before Representative Trahan's candidacy.[148] The Credit Agreement allowed the Trahans to borrow up to $200,000 secured by their home in Westford, Massachusetts.[149]

In 2018, the Trahans' Westford home was valued at $1,242,800.[150] On her New Member Financial Disclosure Statement, Representative Trahan disclosed the couple has a mortgage on their Westford home valued at between $50,001 and $100,000.[151] Subtracted from the value of the home, the Trahans' equity in their home in 2018 was between $1,142,800 and $1,192,799. Representative Trahan owns a one-half interest in the Westford home.[152] Representative Trahan's share of their home is one half the value of the equity, totaling between $571,400 and $596,399.50 in 2018.

While Mr. Trahan was jointly liable for the funds borrowed under the Credit Agreement, Representative Trahan's $71,000 loan to her Campaign funded by the revolving line of credit was well below her share in the collateral (between $571,400 and $596,399.50). In fact, the $71,000 loan is less than half the $200,000 available to the couple through the line of credit. Because Representative Trahan's share of the property used as collateral equaled or exceeded the amount of the loan, Mr. Trahan did not make a contribution to the Campaign as the co-signer of the Credit Agreement. Therefore, the Committee found the $71,000 loan did not result in an excessive contribution from Mr. Trahan to the Campaign. As such, Representative Trahan's loan to the Campaign from her home equity line of credit did not violate any House Rules, laws, regulations or other standards of conduct.

B. DISCLOSURES

1. Financial Disclosure Statements

Candidates for the House and Members are required to file Financial Disclosure Statements with the Clerk of the House under the EIGA and House Rules.[153] If a filer knowingly and willfully falsifies or fails to file or to report any required information, the Committee may take action or the filer may be subject to civil and criminal penalties.[154] Absent evidence that errors or omissions on financial disclosures are knowing and willful, the Committee's general practice is to notify the filer of the error and require that the filer submit an amendment.[155] Once the amendment is properly submitted, the Committee typically takes no further action.[156] A filer may also amend a Financial Disclosure Statement on the fil-

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[148] OCE's Referral, Exhibit 10.

[149] *Id.; New Member FD* at 5.

[150] Town of Westford, Massachusetts,Property Assessment for 9 Weetamoo Way, http://westford.patriotproperties.com/Summary.asp?AccountNumber=10321 (follow "previous assessment" hyperlink) (last visited July 10, 2020); Appendix B at 7.

[151] New Member FD at 5.

[152] Appendix B at 7. Exhibit 1¶ 10 (providing that any real property purchased in joint title by the Trahans reflects the intent of the parties to have a joint interest in that property).

[153] 5 U.S.C. app. §§ 101(c), (f), 103(h)(1)(A)(i)(I); House Rule XXVI, cl.2.

[154] 5 U.S.C. app. § 104(a)(1), (2) and (c); see also Ethics Manual at 265.

[155] Comm. on Ethics Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports at 8; *see also* Comm. on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, H. Rept. 112–588, 112th Cong. 2d Sess. 5 (2012) (hereinafter *Buchanan*).

[156] *Id.*

er's own initiative. Such amendments are normally given a presumption of good faith by the Committee if submitted before the end of the year in which the report was originally filed.[157]

Representative Trahan filed Financial Disclosure Statements as a candidate and as new Member. As discussed above, Representative Trahan voluntarily amended her candidate Financial Disclosure Statements on four occasions to include previously omitted and additional information about her ownership, unearned income, earned income and client payments from Concire LLC, her joint bank account at Enterprise Bank with Mr. Trahan and her ownership interest in Stella Connect.[158] Each of those amendments was made within a year of the Statement's original filing.

Representative Trahan's amendments to her Financial Disclosure Statements are not uncommon. In fact, between 20 percent and 30 percent of all Financial Disclosure Statements reviewed by the Committee each year contain errors or require a corrected statement. It is also not uncommon for filers to become aware of errors in their Financial Disclosure Statements by members of the media or outside groups who review the statements and other public records.[159] The Committee found no evidence that Representative Trahan's omissions on her Financial Disclosure Statements were knowing or willful. To the contrary, her amendments show her good faith effort to comply with the disclosure requirements. The Committee has previously encouraged filers to promptly file amendments whenever they learn of errors or omissions to avoid a knowing and willful violation, which is what Representative Trahan did.[160] Because Representative Trahan has already amended her Financial Disclosure Statements to provide corrected information, the Committee concluded that no further action is necessary.

2. FEC Reports

Campaigns must disclose all receipts, including any contributions, in-kind contributions, or loans, on reports to the FEC.[161] For reporting purposes, a receipt is recorded by a campaign when it is actually received by the campaign.[162] A campaign has ten days after receiving funds to deposit them.[163] Loans are also reported as an outstanding debt.[164] Certain loans, like a home equity line of credit, require additional reporting on Schedule C–1, including disclosing (1) the date, amount and interest rate of the loan; (2) the name and address of the lending institution; and (3) the types and

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[157] *Ethics Manual* at 264.

[158] *First Amended 2017 FD; First Amended 2018 FD; Second Amended 2017 FD; Second Amended 2018 FD; Third Amended 2017 FD; Third Amended 2018 FD.*

[159] Buchanan at 5.

[160] *See Id.* at 5, 6.

[161] 52 U.S.C. § 30104(b)(2), 11 C.F.R. § 104.3(a)(3). For contributions that exceed $200 in an election cycle, the campaign committee must disclose the name of the person who made the contribution, the date and amount of the contribution. 52 U.S.C. § 30104(b)(3). In-kind contributions from a candidate's personal funds that exceed $200 in an election cycle must also be disclosed. *FEC Campaign Guide* at 95–96.

[162] 11 C.F.R. § 110.1(b)(6).

[163] *Id.* § 103.3. *See also FEC Campaign Guide* at 23 ("While all contributions must be deposited within 10 days, the date of deposit is not used for reporting . . .").

[164] 52 U.S.C. § 30104(b)(8), 11 C.F.R. 104.3(d). *See also* FEC Campaign Guide at 91, 108–109 (reporting guidance for loans from a candidate's personal funds).

value of collateral.[165] If a campaign intentionally misreports information to the FEC, it may be subject to criminal penalties.[166]

i.) Personal Loans

The Campaign reported to the FEC each of the personal loans Representative Trahan made to her Campaign by check on March 31, 2018, June 30, 2018,and August 22, 2018. As discussed above, the Committee found those loans were made with her personal funds and thus, the Committee did not find the Campaign misreported the source of the funds.[167] The Committee also examined whether the Campaign misreported the date it received the March 31, 2018 and June 30, 2018 loans. As to the March 31, 2018 loan, the Campaign reported it received the loan on the date of the check, but did not cash the check until April 9, 2018, nine days later. For the June 30, 2018 loan, the Campaign also reported it was received on the date of the check, but did not cash the check until July 10, 2018, ten days later. As discussed above, the date Representative Trahan wrote each of the checks coincided with the last day of the FEC reporting period for that quarter. The date the Campaign deposited each of the checks corresponded with the date Mr. Trahan transferred funds to the couple's joint checking account to provide sufficient funds for the loan checks. Both checks were cashed within 10 days of receipt, as is required under FEC regulations.[168] Thus, it does not appear the Campaign's reporting of the loans violated any House Rules, laws, regulations or other standards of conduct.

The Committee notes, however, the dates of receipt and deposit raise questions about whether Representative Trahan intentionally reported the loans in advance of making the transfers in order to increase her cash-on-hand numbers at the close of the relevant quarterly reporting periods. Even though such conduct may be permissible under FEC regulations, the Committee cautions Representative Trahan that, as a Member of the House, she is expected to act in a manner that reflects creditably upon the House and should ensure accuracy and transparency in her campaign activities.[169]

ii.) Loan from Revolving Line of Credit

The Campaign first reported the $71,000 loan from Representative Trahan's revolving line of credit on its October 2018 Quarterly

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[165] 11 C.F.R. § 104.3(d)(4)(i)-(iii). *See also FEC Campaign Guide* at 110–111 (reporting guidance for a candidate's loan derived from a line of credit).

[166] 52 U.S.C. 30109(d)(1).

[167] The FEC sent the Campaign a Request for Additional Information (RFAI) following the Campaign's submission of its Apr. 2018 Quarterly Report of Receipts and Disbursements where the Campaign first disclosed Representative Trahan's Mar. 31, 2018 loan. The RFAI requested additional information about the source of the funds for the loan and referenced the FEC's definition of "personal funds." Letter from FEC Analyst Chris Jones to Martha Howe, Treasurer, Lori Trahan for Congress Committee (May 7, 2018). Following receipt of the RFAI, on May 15, 2018 the Campaign amended its Apr. 2018 Quarterly Report to include additional notations that Representative Trahan's loan was from personal funds. Lori Trahan for Congress, Amended Apr. 2018 Quarterly Report of Receipts and Disbursements, at 145–146 (May 14, 2018).

[168] 11 C.F.R. § 103.3. *See also FEC Campaign Guide* at 23 ("While all contributions must be deposited within 10 days, the date of deposit is not used for reporting . . .").

[169] While Representative Trahan was not a Member of the House at the time the loans were made and reported, the Committee has long held it has jurisdiction over misconduct relating to a successful campaign for the House. Comm. on Ethics, *In the Matter of Allegations Relating to Representative Ruben Kihuen*, H. Rept. 115–1041, 115th Cong. 2d Sess. 5 (2018); Comm. on Standards of Official Conduct, In the Matter of Representative Jay Kim, H. Rept. 105–797, 105th Cong. 2d Sess. 6 (1998).

Report, filed on October 15, 2018. At that time, it disclosed the loan was made on September 4, 2018, from Representative Trahan's personal funds, but did not disclose that it was a line of credit. Further, the Campaign did not file a Schedule C–1 to disclose additional requisite information about the date "incurred or established," the due date, the source, and collateral for the revolving line of credit. On December 15, 2018, the Campaign amended its October 2018 Quarterly Report, including filing Schedule C–1 for the $71,000 loan which disclosed additional information about the line of credit.[170]

The Committee encourages Members' campaigns to voluntarily amend FEC Reports to comply with FEC reporting regulations. Voluntarily amending FEC Reports, like voluntarily amending Financial Disclosure Reports, shows a good faith effort to comply with disclosure requirements. However, it is not clear that the line of credit was property reported on the amended filing. For example, in its December 15, 2018 amended Report on Schedule C–1, the Campaign reported the line of credit was "incurred or established" on September 4, 2018, the date Representative Trahan wrote the check from the line of credit account to the Campaign. But, the line of credit was originally established on October 15, 2010. Further, the Trahans did not withdraw funds from the line of credit to cover Representative Trahan's check to the Campaign until October 3, 2018. It is not clear from available FEC guidance which date should have been disclosed as the date "incurred or established."[171] Additionally, the Campaign reported the valuation of the collateral as $950,000, even though it appears that the total value of Representative Trahan's home at the time of the draw for the Campaign was more than that amount (between $1,142,800 and $1,192,799), and her share would have been less that amount (between $571,400 and $596,399.50). FEC guidance also does not address valuation of a home used as collateral for a line of credit, which was initially established prior to candidacy.[172]

The Committee has a long history of undertaking investigations and, when appropriate, imposing sanctions or directing remedial measures where a Member or candidate in a successful election to the House is found by the Committee to have violated a clear standard of campaign finance laws or regulations. The Committee notes, however, that publicly available FEC guidance regarding reporting home equity lines of credit under these circumstances where a candidate and spouse establish a line of credit prior to candidacy is limited.[173] Given the lack of a clear legal standard on the

[170] The Campaign did not receive an RFAI from the FEC related to the $71,000 loan, which would have required a response from the Campaign on the public record. The Campaign's amendment may have been prompted by media inquiries. See also Boston Globe Article.

[171] Instructions for Schedule C–1, Loans and Lines of Credit from Lending Institutions (FEC Form 3) at 17 (May 2016) (no discussion of lines of credit established prior to candidacy); *FEC Campaign Guide* at 111 (no discussion of lines of credit established prior to candidacy); *cf.* Cunningham (AO 1994–26) (advising a candidate that lines of credit not obtained for campaign purposes need not be disclosed until the first draw for campaign purposes; after a draw for the campaign, candidate must disclose the source of the line of credit and information, including date of the granting of the line and first campaign draw and "explain that this line was taken out well in advance of the campaign (as is evidenced by the date of the granting of the line) and was not granted or altered in anticipation of its use for or during any political campaign").

[172] *Id.*

[173] *See e.g.*, Instructions for Schedule C–1, Loans and Lines of Credit from Lending Institutions (FEC Form 3) at 17 (May 2016) (no discussion of lines of credit established prior to candidacy); FEC Campaign Guide at 111 (no discussion of lines of credit established prior to can-

Continued

relevant reporting requirements and the Campaign's efforts to amend its disclosures, there is no evidence that any omissions or errors were knowing and willful. To the extent that the Campaign did not properly report information, the FEC (not the Committee) is best suited to make that determination. As such, the Committee directs Representative Trahan and the Campaign to contact the FEC to ensure they have properly disclosed the details of the revolving line of credit.[174]

VI. CONCLUSION

Representative Trahan's prenuptial agreement with her husband established clear delineations as to the couple's income and assets and rights to their income and assets during their marriage. Based on the prenuptial agreement, the Committee found that Representative Trahan's loans to the Campaign were from her personal funds, not excessive contributions from her husband, and therefore did not violate House Rules, laws, regulations or other standards of conduct. The Committee also found no evidence that Representative Trahan's omissions of required information or errors on her Financial Disclosure Statements and FEC reports were knowing and willful, and accordingly, did not merit further action. In fact, Representative Trahan's amendments to her disclosures on her own initiative show her good faith effort to comply with the relevant disclosure requirements.

To the extent that there may have been errors in reporting information to the FEC, the Committee found that the FEC was best qualified to make that determination and directs Representative Trahan and the Campaign to contact the FEC to ensure accurate disclosure.

The Committee notes that the disclosure requirements in FECA were created to provide voters with information about where political campaign money comes from and how it is spent so they may adequately evaluate those who seek federal office.[175] Similarly, the public disclosure of assets, financial interests, and investments required under EIGA and House Rule XXVI are intended to provide the information necessary to allow Members' constituencies to judge their official conduct in light of possible financial conflicts of interest.[176] Members should strive to ensure accuracy and transparency in their campaigns and Financial Disclosure Statements in furtherance of these objectives.

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didacy); cf. AO 1994–26 (advising a candidate that lines of credit not obtained for campaign purposes need not be disclosed until the first draw for campaign purposes; after a draw for the campaign, candidate must disclose the source of the line of credit and information, including date of the granting of the line and first campaign draw and "explain that this line was taken out well in advance of the campaign (as is evidenced by the date of the granting of the line) and was not granted or altered in anticipation of its use for or during any political campaign").

[174] Similarly, the Committee directs the Campaign to consult the FEC regarding its disclosure of Representative Trahan's in-kind contributions. The Campaign appears to have appropriately reported the in-kind contributions as both receipts and disbursements, as is required to avoid inflating cash on hand. However, based on the FEC's Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements, unreimbursed disbursements by a candidate for that candidate's own campaign also require an additional memo entry itemizing the ultimate payee if the aggregate amount to that vendor exceeds $200 for the election cycle. Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40625, 40627 (July 8, 2013). *See also FEC Campaign Guide* at 95–96.

[175] *Buckley* v. *Valeo*, 424 U.S. 66–67 (citing H.R. Rept. No. 92–564, p. 4 (1971)).

[176] *Ethics Manual* at 251.

VI. STATEMENT UNDER HOUSE RULE XIII, CLAUSE 3(C)

The Committee made no special oversight findings in this Report. No budget statement is submitted. No funding is authorized by any measure in this Report.

APPENDIX A

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 19-5449

The Board of the Office of Congressional Ethics (hereafter "the Board"), by a vote of no less than four members, on September 13, 2019, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives (hereafter "the Committee").

SUBJECT: Representative Lori Trahan

NATURE OF THE ALLEGED VIOLATION: Rep. Lori Trahan's campaign committee, Lori Trahan for Congress Committee, may have accepted excessive contributions reported as personal loans and contributions from the candidate, that may not have been sourced from Rep. Trahan's personal funds. If Rep. Trahan's campaign committee accepted personal loans and contributions that exceeded campaign contribution limits, then Rep. Trahan may have violated federal law, House rules, and standards of conduct.

Rep. Trahan may have omitted required information from her congressional candidate financial disclosure reports and Federal Election Commission ("FEC") campaign committee reports. If Rep. Trahan failed to disclose required information in her congressional candidate financial disclosure reports or FEC campaign committee filings, then she may have violated House rules, standards of conduct, and federal law.

RECOMMENDATION: The Board recommends that the Committee further review the above allegation because there is substantial reason to believe that Rep. Trahan's campaign committee accepted personal loans and contributions that exceeded campaign contribution limits.

The Board recommends that the Committee further review the above allegation because there is substantial reason to believe that Rep. Trahan failed to disclose required information in her congressional candidate financial disclosure reports or FEC campaign committee filings.

VOTES IN THE AFFIRMATIVE: 5

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 1

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE: Omar S. Ashmawy, Staff Director & Chief Counsel.

FINDINGS OF FACT AND CITATIONS TO LAW

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OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 19-5449

On September 13, 2019, the Board of the Office of Congressional Ethics (hereafter "the Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. Rep. Lori Trahan's campaign committee, Lori Trahan for Congress Committee (the "campaign committee"), may have accepted excessive contributions reported as personal loans and contributions from the candidate, that may not have been sourced from Rep. Trahan's personal funds. If Rep. Trahan's campaign committee accepted personal loans and contributions that exceeded campaign contribution limits, then Rep. Trahan may have violated federal law, House rules, and standards of conduct.

2. Rep. Trahan may have omitted required information from her congressional candidate financial disclosure reports and Federal Election Commission ("FEC") campaign committee reports. If Rep. Trahan failed to disclose required information in her congressional candidate financial disclosure reports or FEC campaign committee filings, then she may have violated House rules, standards of conduct, and federal law.

3. The Board recommends that the Committee further review the above allegation because there is substantial reason to believe that Rep. Trahan's campaign committee accepted personal loans and contributions that exceeded campaign contribution limits.

4. The Board recommends that the Committee further review the above allegation because there is substantial reason to believe that Rep. Trahan failed to disclose required information in her congressional candidate financial disclosure reports or FEC campaign committee filings.

B. Jurisdiction Statement

5. The allegations that were the subject of this review concern Rep. Lori Trahan, a Member of the United States House of Representatives from the 3rd District of Massachusetts. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics ("OCE") directs that, "[n]o review shall be undertaken ... by the [B]oard of any alleged violation that occurred before the date of adoption of this resolution."[1] The House adopted this Resolution on March 11, 2008. Because the conduct under review

[1] H. Res. 895 of the 110th Congress § 1(e) (2008) (as amended) (hereafter "the Resolution").

occurred after March 11, 2008, review by the Board is in accordance with the Resolution. Because some of the conduct at issue occurred as a part of a successful campaign for election to the United States House of Representatives, review by the Board is in accordance with the Resolution and House precedent.[2]

C. Procedural History

6. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on May 10, 2019. The preliminary review commenced on May 11, 2019.[3] The preliminary review was scheduled to end on June 9, 2019.

7. On May 14, 2019, the OCE notified Rep. Trahan of the initiation of the preliminary review, provided her with a statement of the nature of the review, notified her of her right to be represented by counsel in this matter, and notified her that invoking her right to counsel would not be held negatively against her.

8. At least three members of the Board voted to initiate a second-phase review in this matter on June 9, 2019. The second-phase review commenced on June 10, 2019.[4] The second-phase review was scheduled to end on July 24, 2019.

9. On June 10, 2019, the OCE notified Rep. Trahan of the initiation of the second-phase review in this matter, and again notified her of her right to be represented by counsel in this matter, and that invoking that right would not be held negatively against her.

10. The Board voted to extend the second-phase review by an additional period of fourteen days on July 12, 2019. The additional period ended on August 7, 2019.

11. The Board voted to refer the matter to the Committee on Ethics for further review and adopted these findings on September 13, 2019.

12. The report and its findings in this matter were transmitted to the Committee on Ethics on September 18, 2019.

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[2] *See e.g.*, *In the Matter of Allegations Relating to Representative Ruben Kihuen*, H.R. REP. NO. 115-1041, at 5, n. 24 (2d Sess. 2018) ("[T]he Committee has repeatedly noted it has jurisdiction over 'misconduct relating to a successful campaign for election to the House'").

[3] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is received by the OCE on a date certain. According to the Resolution, the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[4] According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase commences the day after the preliminary review ends.

D. Summary of Investigative Activity

13. The OCE requested documentary and/or testimonial information from the following sources:

(1) Rep. Trahan;
(2) The Lori Trahan for Congress Committee;
(3) David Trahan;
(4) Enterprise Bancorp, Inc.;
(5) Bank of America; and
(6) Washington Savings Bank.

14. The following individuals and entities refused to cooperate with the OCE's review:

(1) Rep. Trahan;
(2) Lori Trahan for Congress; and
(3) David Trahan.

I. REP. TRAHAN MAY HAVE ACCEPTED IMPERMISSIBLE CAMPAIGN CONTRIBUTIONS AND THEN IMPROPERLY REPORTED THEM

A. Applicable Law, Rules, and Standards of Conduct

15. Federal Law

52 U.S.C. § 30116(a)(1) states, ". . . no person shall make contributions—
(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $2,000 . . . ."[5]

52 U.S.C. § 30104 (b)(3)(A) states that "each report under this section shall disclose – the identification of each – person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution . . . ."

52 U.S.C. § 30109(d) states that "[a]ny person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure-
(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, or imprisoned for not more than 5 years, or both; or
(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.

[5] Limits are increased each year according to federal law. 52 U.S.C. § 30116(c). *See infra*, footnote 9.

18 U.S.C. § 1519 states that "[w]hoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both."

16. FEC Regulations

11 C.F.R. § 110.10 states, "candidates for Federal office may make unlimited expenditures from personal funds as defined in 11 CFR 100.33."

11 C.F.R. § 100.33 states, "Personal funds of a candidate means the sum of all of the following:

Assets. Amounts derived from any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had -
(1) Legal and rightful title; or
(2) An equitable interest . . .

Income. Income received during the current election cycle, of the candidate, including:
(1) A salary and other earned income that the candidate earns from bona fide employment;
(2) Income from the candidate's stocks or other investments including interest, dividends, or proceeds from the sale or liquidation of such stocks or investments . . .

Jointly owned assets. Amounts derived from a portion of assets that are owned jointly by the candidate and the candidate's spouse as follows:
(1) The portion of assets that is equal to the candidate's share of the asset under the instrument of conveyance or ownership; provided, however,
(2) If no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property."[6]

11 C.F.R. § 110.1(b) states, "[n]o person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office

[6] *See In the Matter of Jim Huffman for Senate*, Conciliation Agreement, MUR 6417 (FEC Dec. 19, 2011) (imposing a civil penalty on a campaign committee when the candidate's spouse transferred funds from her trust account to a joint bank account with the candidate, which were then impermissibly designated as personal loans from the candidate to the campaign committee. The candidate and his spouse also improperly reported the source of the reported personal loans and did not file a Schedule C-1 with the FEC.).

that, in the aggregate, exceed $2,000."[7] *This limit applies to family members, including spouses.*[8]

The 2018 limit on individual contributions to a candidate committee was $2,700 per individual, per election.[9]

11 C.F.R. § 104.3 (a)(3)(vii) states that reports shall include:

> *"(A) All loans to the committee, except loans made, guaranteed, or endorsed by a candidate to his or her authorized committee;*
> *(B) Loans made, guaranteed, or endorsed by a candidate to his or her authorized committee including loans derived from a bank loan to the candidate or from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other lines of credit described in 11 CFR 100.83 and 100.143; and*
> *(C) Total loans . . . ."*

11 C.F.R. § 104.3 (d)(4) states that, "[w]hen a candidate obtains a bank loan or loan of money derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit described in 11 CFR 100.83 and 100.143 for use in connection with the candidate's campaign, the candidate's principal campaign committee shall disclose in the report covering the period when the loan was obtained, the following information on Schedule C-1 or C-P-1:

> *(i) The date, amount, and interest rate of the loan, advance, or line of credit;*
> *(ii) The name and address of the lending institution; and*
> *(iii) The types and value of collateral or other sources of repayment that secure the loan, advance, or line of credit, if any."*

11 C.F.R. § 100.83(b) states that "[e]ach endorser, guarantor, or co-signer shall be deemed to have contributed that portion of the total amount of the loan derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, for which he or she agreed to be liable in a written agreement . . ."

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[7] This limit applies to each election the candidate participates in (*e.g.*, primary, general, run-off, etc.) and is adjusted for inflation every two years. *See* 11 C.F.R. § 110.1(b).

[8] The FEC Campaign Guide states, "Contributions from members of the candidate's family are subject to the same limits that apply to any other individual. For example, a candidate's parent or spouse may not contribute more than $2,700, per election, to the candidate." FEC Campaign Guide for Congressional Candidates and Committees (June 2014) at 28. The FEC Campaign Guide further states, "A candidate may also use, as personal funds, his or her portion of assets owned jointly with a spouse (for example, a checking account or jointly owned stock). If the candidate's financial interest in an asset is not specified, then the candidate's share is deemed to be half the value." *Id.* at 29.

[9] FEC Contribution Limits Chart 2017-2018 Election Cycle, available at https://transition.fec.gov/pages/brochures/contriblimitschart.htm.

17. House Ethics Manual

The House Ethics Manual states that "a Member or employee must take reasonable steps to ensure that any outside organization over which he or she exercises control – including the individual's own authorized campaign committee or, for example, a 'leadership PAC' – operates in compliance with applicable law."[10]

The House Ethics Manual further states that "[w]hile [the Federal Election Campaign Act ("FECA")] and other statutes on campaign activity are not rules of the House, Members and employees must also bear in mind that the House Rules require that they conduct themselves 'at all times in a manner that shall reflect creditably on the House' (House Rule 23, clause 1). In addition, the Code of Ethics for Government Service, which applies to House Members and staff, provides in ¶ 2 that government officials should '[u]phold the Constitution, laws and legal regulations of the United States and of all governments therein and never be a party to their evasion.' Accordingly, in violating FECA or another provision of statutory law, a Member or employee may also violate these provisions of the House rules and standards of conduct."[11]

B. Rep. Trahan's Spouse Deposited Funds Into a Joint Checking Account Throughout 2018 Which Rep. Trahan Used to Make $300,000 in "Personal Loans" to Her Campaign Committee

18. On three occasions in 2018, Rep. Trahan may have loaned money to her campaign committee that originated from her husband's personal funds. While these loans do not appear to have originated from Rep. Trahan's personal funds, the campaign committee repeatedly reported them as personal loans. Additionally, Rep. Trahan's campaign committee appears to have intentionally misreported the dates on which two of the loans were received.

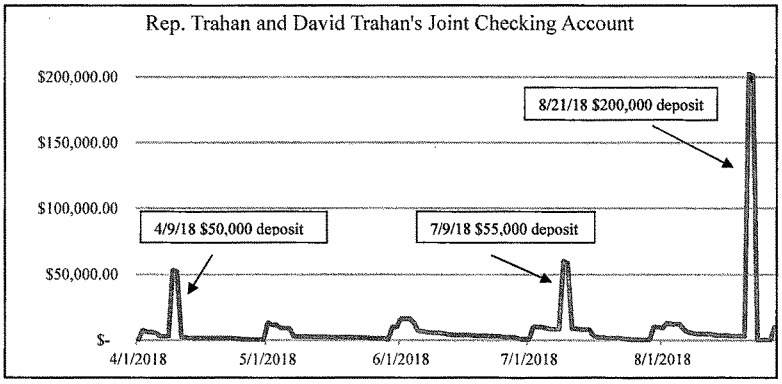
19. Rep. Trahan made the loans to her campaign committee using checks from a joint checking account she shared with her husband, David Trahan (the "joint checking account"). On two occasions, Rep. Trahan dated the checks on the last day of the FEC quarter – the date when her campaign committee reported how much money it had on hand, and reported them to the FEC as personal loans obtained on that date. However, on those two occasions,[12] the joint checking account had insufficient funds to cover the amounts. Shortly after the date appearing on the checks, David Trahan then transferred money to the joint checking account, several days into a new FEC reporting period.

20. David Trahan made the transfers from his personal or business accounts, either through a check written to himself or through an internal bank transfer. Once David Trahan's personal funds were placed in the joint checking account, the campaign committee then deposited the earlier dated check from Rep. Trahan.

[10] House Ethics Manual (2008) at 123.
[11] *Id.* at 122 (footnote omitted).
[12] In August 2018, the funds from David Trahan came in to the joint checking account the day before Rep. Trahan signed the check to her campaign committee. *See infra*, paragraph 32.

21. Rep. Trahan and David Trahan did not cooperate with the OCE's review. Because of this lack of cooperation, the OCE could not determine whether there were any additional underlying circumstances for the money transfers.

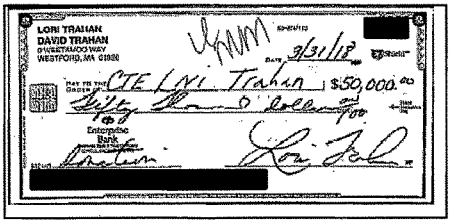
22. The graph below shows the joint checking account balance during the timeframe of the three personal loans disclosed by Rep. Trahan. During this time, three large deposits were made to the joint checking account. Funds were then sent to the campaign committee. As described below, David Trahan's personal funds supplied the cash for each of these deposits.



23. Rep. Trahan also made an additional loan to the campaign committee using funds from a revolving line of credit, secured by a home owned by both Rep. Trahan and David Trahan. Although David Trahan paid off the cash withdrawal made on the account with his personal funds, Rep. Trahan had access to half of the maximum draw amount.

i. <u>March 31, 2018 Reported Loan of $50,000 to the Campaign Committee</u>

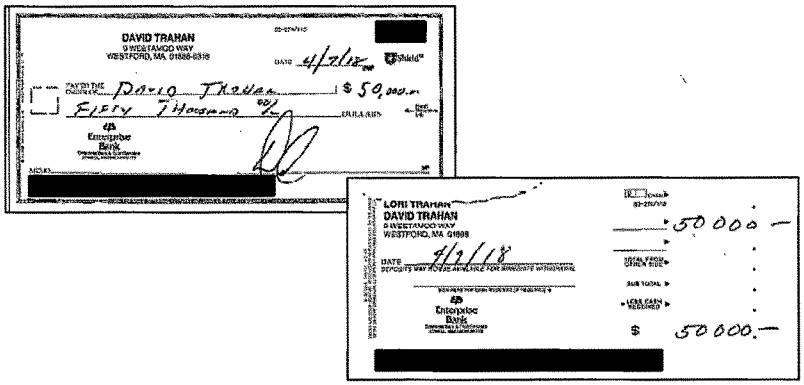
24. On March 31, 2018, Rep. Trahan wrote a check from the joint checking account to her campaign committee for $50,000.[13] On this date, the joint checking account only had a balance of $55.13.[14]



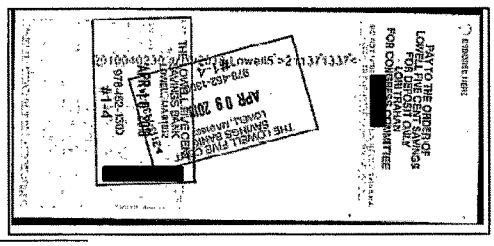
[13] Joint Checking Account Debits (Exhibit 1 at 19-5449_002).
[14] Joint Checking Account Statement (Exhibit 2 at 19-5449_004).

25. The campaign committee disclosed, in its FEC Quarterly Report, the $50,000 as a personal loan from Rep. Trahan obtained on March 31, 2018.[15] However, on that date, the joint checking account had insufficient funds to cover the amount.

26. As shown below, on April 7, 2018, about a week after Rep. Trahan wrote the check above, David Trahan wrote a check to himself for $50,000 from his personal bank account.[16] The same amount was deposited into the joint checking account on April 9, 2018.[17]



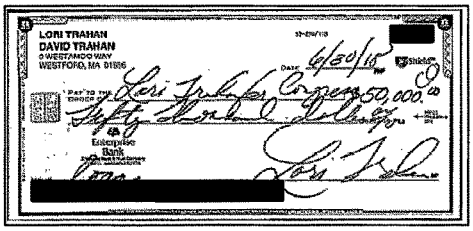
27. The same day, and nine days after the campaign committee reported receipt of the loan, on April 9, 2018, Rep. Trahan's campaign committee deposited the $50,000 check when the joint checking account had enough funds.[18] The documents obtained by the OCE establish that Rep. Trahan and her campaign committee may have intentionally misreported the date on which the March 31, 2018 loan was obtained because the joint checking account had insufficient funds at the time.



[15] Lori Trahan for Congress Committee, Amended April 2018 Quarterly Report of Receipts and Disbursements, filed Aug. 7, 2018 at 102.
[16] Joint Checking Account Credits (Exhibit 3 at 19-5449_006).
[17] *Id.*
[18] Joint Checking Account Debits (Exhibit 1 at 19-5449_002). The check also shows an April 10, 2018 receipt stamp from the campaign committee's bank.

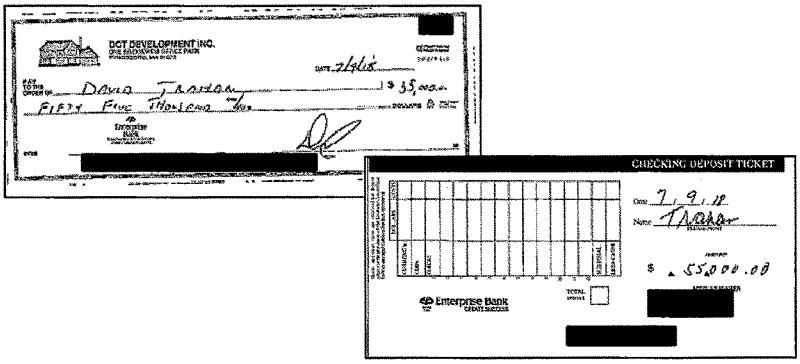
ii. June 30, 2018 Reported Loan of $50,000 to the Campaign Committee

28. On June 30, 2018, Rep. Trahan wrote a check from the joint checking account to her campaign committee for $50,000.[19] On this date, the joint checking account only had a balance of $625.59.[20]



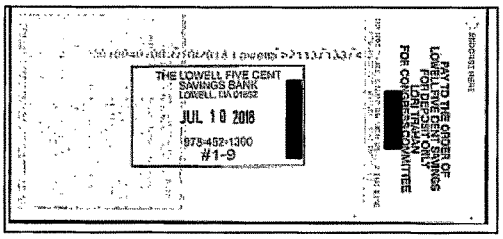
29. The campaign committee disclosed, in its FEC Quarterly Report, the $50,000 as a personal loan from Rep. Trahan obtained on June 30, 2018.[21] However, on that date, the joint checking account had insufficient funds to cover the amount.

30. As shown below, on July 9, 2018, about nine days after Rep. Trahan wrote the check above, David Trahan wrote another check to himself for $55,000, from DCT Development, Inc., one of his business accounts.[22] The same amount was deposited into the joint checking account on the same day.[23]



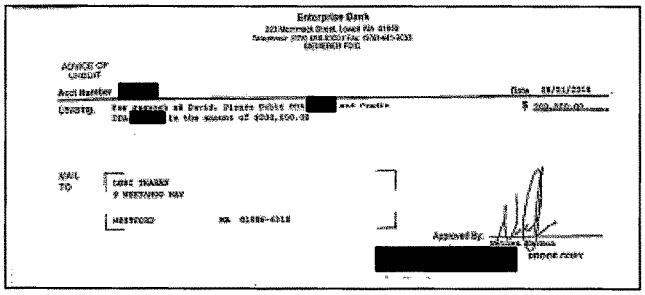
[19] Joint Checking Account Debits (Exhibit 4 at 19-5449_008).
[20] Joint Checking Account Statement (Exhibit 5 at 19-5449_010).
[21] Lori Trahan for Congress Committee, July 2018 Quarterly Report of Receipts and Disbursements, filed Jul. 15, 2018 at 235.
[22] Joint Checking Account Credits (Exhibit 6 at 19-5449_012).
[23] *Id.*

31. The next day, and ten days after the campaign committee reported receipt of the loan, on July 10, 2018, Rep. Trahan's campaign committee deposited a $50,000 check when the joint checking account had enough funds.[24] The documents obtained by the OCE establish that Rep. Trahan and her campaign committee may have intentionally misreported the date on which the June 30, 2018 loan was obtained because the joint checking account had insufficient funds at the time.



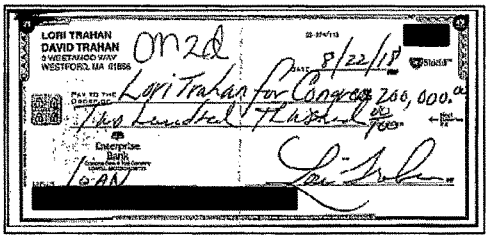
iii. <u>August 22, 2018 Reported Loan of $200,000 to the Campaign Committee</u>

32. On August 20, 2018, the joint checking account had a balance of $2,769.54.[25] The next day, on August 21, 2018, David Trahan initiated an internal bank transfer of $200,000, transferring money from his personal bank account into the joint checking account.[26] A note on the transfer document states "[p]er request of David, Please Debit DDA [David Trahan personal account number] and Credit DDA [joint checking account number] in the amount of $200,000.00."[27]



[24] Joint Checking Account Debits (Exhibit 4 at 19-5449_008).
[25] Joint Checking Account Statement (Exhibit 7 at 19-5449_014).
[26] Joint Checking Account Credits (Exhibit 8 at 19-5449_016).
[27] *Id.*

33. The next day, on August 22, 2018, Rep. Trahan wrote a check from the joint checking account to her campaign committee for $200,000.[28]



34. The campaign committee disclosed, in its FEC Quarterly Report, the $200,000 as a personal loan obtained on August 22, 2018.[29] On August 22, 2018, Rep. Trahan's campaign committee deposited the check.[30]

35. According to FEC reports, to date, the campaign committee has repaid $50,000 of the original $200,000.[31]

36. As explained above, Rep. Trahan's campaign committee reported the $300,000 in contributions as personal loans from Rep. Trahan when they appear to have been funds derived from David Trahan's personal accounts. Consistent with FEC guidance, spousal funds are subject to contribution limits. The process of transferring these funds from David Trahan's accounts to a joint account did not transform these funds into Rep. Trahan's assets, or even jointly owned assets.

37. The Board notes that in 2018, Rep. Trahan publicly disclosed $274,535 in personal income from Concire, LLC, a consulting business.[32] However, even though Rep. Trahan disclosed this income, and stated publicly that she possessed enough personal income to cover the loans made to the campaign committee,[33] the OCE found that David Trahan's funds were the true source of the loans.

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[28] Joint Checking Account Debits (Exhibit 9 at 19-5449_018).
[29] Lori Trahan for Congress Committee, First Amended October 2018 Quarterly Report of Receipts and Disbursements, filed Dec. 6, 2018 at 102, 158.
[30] Joint Checking Account Debits (Exhibit 9 at 19-5449_018).
[31] Lori Trahan for Congress Committee, July 2019 Quarterly Report of Receipts and Disbursements, filed Jul. 15, 2019 at 236.
[32] Rep. Trahan's 2018 House Financial Disclosure Report, filed May 15, 2019. Rep. Trahan provided the OCE with two IRS form 1040 Schedule Cs for 2017 and 2018, showing profits from Concire, LLC. With no further cooperation or explanation, the OCE could not determine why Rep. Trahan's purported personal income from Concire did not contribute to the loans made to her campaign committee.
[33] Rep. Trahan's accountant also stated publicly that Rep. Trahan's net personal income from Concire, LLC was "$361,088.43" and "$265,360.48 (preliminary)" in 2017 and 2018, respectively. *See* Letter from Catherine M. Colman to Rep. Trahan, dated Mar. 4, 2019, https://www.documentcloud.org/documents/5758429-Trahan-Income-1.html#document/p1 (last accessed Sept. 18, 2019).

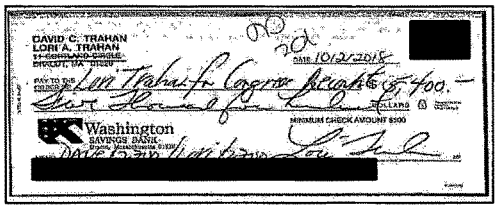
iv. September 4, 2018 Reported Loan of $71,000 to the Campaign Committee

38. Using their jointly owned house as collateral, on October 15, 2010, Rep. Trahan and her husband opened a "revolving credit mortgage," for which they are jointly liable. [34] This revolving credit line from Washington Savings Bank had a maximum draw of $200,000.[35]

39. On September 4, 2018, Rep. Trahan wrote her campaign committee a check for $71,000 from the revolving line of credit.[36] The check included the Memo note "loan."[37] The campaign committee disclosed, in its FEC reports, a $71,000 personal loan obtained on September 4, 2018.[38]

40. On October 3, 2018, the Trahans drew $76,400 from the revolving line of credit account.[39] The OCE could not determine why Rep. Trahan dated the September 4, 2018 check nearly one month before the October 3, 2018 withdrawal of funds, however, on October 2, 2018, the campaign committee deposited the September 4, 2018 check noted above.[40]

41. The remaining $5,400 was contributed to the campaign committee via check from the revolving line of credit, dated October 2, 2018.[41] The check's memo line states: "Dave $2700 / Lori $2700" – indicating their proportional contributions.[42] FEC reports show that this contribution was made in connection with an election recount.[43]



[redacted]

[34] Revolving Credit and Agreement Notice (Exhibit 10 at 19-5449_020).
[35] *Id.*
[36] Sept. 4, 2018 Check from Washington Savings Bank line of credit to the Lori Trahan Congress Committee (Exhibit 11 at 19-5449_022).
[37] *Id.*
[38] Lori Trahan for Congress Committee, First Amended October 2018 Quarterly Report of Receipts and Disbursements, filed Dec. 6, 2018 at 102, 158.
[39] Washington Savings Bank Transaction Ledger (Exhibit 12 at 19-5449_024).
[40] Sept. 4, 2018 Check from Washington Savings Bank line of credit to the Lori Trahan Congress Committee (Exhibit 11 at 19-5449_022).
[41] Oct. 2, 2018 Check from Washington Savings Bank line of credit to the Lori Trahan Congress Committee (Exhibit 13 at 19-5449_026).
[42] *Id.*
[43] Lori Trahan for Congress Committee, Second Amended Pre-general 2018 Quarterly Report of Receipts and Disbursements, filed Dec. 15, 2018 at 124. Contributions to "recount funds" are not "contributions" and are not aggregated with contributions to the candidate for the general election. *See* FEC, Recounts and Contested Elections, available at https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/recounts-and-contested-elections/.

42. On October 11, 2018, David Trahan paid back the $76,400 plus interest ($76,486.34 total) to Washington Savings Bank from his personal bank account.[44] On November 20, 2018, the campaign committee paid back the loan to Rep. Trahan who deposited the check into the joint checking account on December 3, 2018.[45]

43. Rep. Trahan had a joint interest in the property and the revolving line of credit used to fund the loan, and therefore could draw up to $100,000 as her personal funds, half of the maximum draw. However, the Board notes that David Trahan paid off the loan using his personal funds.

44. In addition to the October 2, 2018 recount contribution described above,[46] FEC reports show that David Trahan made two more contributions to the campaign committee, on back-to-back days in 2017. On September 29, 2017, David Trahan contributed $2,700 to the campaign committee for the primary election.[47] The next day, September 30, 2017, David Trahan contributed another $2,700 for the general election.[48] The Board notes that the Trahans demonstrated an awareness of the FEC contribution limits during the 2017-2018 election cycle.[49]

45. The maximum contribution limit for the 2017-2018 election cycle was $5,400. By September 2017, David Trahan had already met the individual contribution limit.[50] The $300,000 in "personal loans" reported by the campaign committee but sourced from David Trahan's personal funds, exceeded federal campaign contribution limits.

C. <u>The Campaign Committee's Reporting of the Loans</u>

46. In FEC reports, Rep. Trahan reported the loans to her campaign committee as personal loans originating from her own personal funds to comport with federal law. However, as discussed above, Rep. Trahan's spouse, David Trahan, was the source of the $300,000 contributed to her campaign committee throughout 2018, in excess of federal contribution limits.

47. With regard to the $71,000 revolving line of credit, Rep. Trahan first reported this as a personal loan from the candidate without mentioning that it was a revolving line of credit derived from an advance on her joint Washington Saving Bank loan.[51] In that FEC Quarterly Report, Rep. Trahan listed no interest rate or lending institution, and provided no explanation

[44] David Trahan Personal Account Debits (Exhibit 14 at 19-5449_028); Washington Savings Bank Transaction Ledger (Exhibit 12 at 19-5449_024).
[45] Joint Checking Account Credits (Exhibit 15 at 19-5449_030).
[46] Lori Trahan for Congress Committee, Pre-General Report of Receipts and Disbursements, filed Dec. 15, 2018 at 124.
[47] Lori Trahan for Congress Committee, October 2017 Quarterly Report of Receipts and Disbursements, filed Sept. 30, 2017 at 32.
[48] *Id.* at 27.
[49] The campaign committee also reported multiple "in-kind" contributions in 2018. These contributions may have also originated from the joint checking account and paid for via David Trahan's personal funds.
[50] The Oct. 2, 2018 contribution from David Trahan is not aggregated with his Sept. 2017 contributions.
[51] Lori Trahan for Congress Committee, October 2018 Quarterly Report of Receipts and Disbursements, filed Oct. 15, 2018 at 100, 155.

of the source of the money.[52] The details of the loan remained unchanged through a first amendment of the FEC October Quarterly Report filed on December 6, 2018.[53]

48. On the second amendment to the FEC October Quarterly Report, filed on December 15, 2018, Rep. Trahan completed Schedule C-1 and disclosed that the $71,000 originated from Washington Savings Bank with a 5.25% APR.[54] However, Rep. Trahan specifically indicated that no other parties were secondarily liable for the loan, when in fact she held the loan with David Trahan using jointly held real estate as collateral.[55]

III. CONCLUSION

49. For the reasons stated above, the Board recommends that the Committee further review the above allegations because there is substantial reason to believe that Rep. Trahan's campaign committee accepted personal loans and contributions that exceeded campaign contribution limits.

50. Further, the Board recommends that the Committee further review the above allegations because there is substantial reason to believe that Rep. Trahan failed to disclose required information in her congressional candidate financial disclosure reports or FEC candidate committee filings.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS

51. The following witnesses and entities did not cooperate with the OCE's review. The OCE recommends that the Committee issue subpoenas to the following witnesses and entities:

    (1) Rep. Trahan;
    (2) Lori Trahan for Congress; and
    (3) David Trahan.

[52] *Id.*
[53] Lori Trahan for Congress Committee, First Amended October 2018 Quarterly Report of Receipts and Disbursements, filed Dec. 6, 2018 at 155.
[54] Lori Trahan for Congress Committee, Second Amended October 2018 Quarterly Report of Receipts and Disbursements, filed Dec. 15, 2018 at 160.
[55] *Id.*

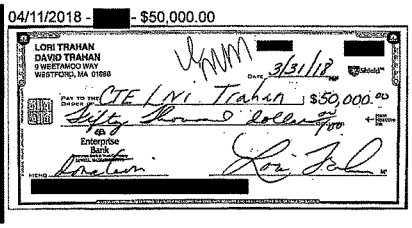
Exhibit 1

[redacted]

[redacted]

[redacted]

04/11/2018 - [redacted] - $50,000.00


LORI TRAHAN
DAVID TRAHAN
9 WESTMOOD WAY
WESTFORD, MA 01886

Date 3/31/18

PAY TO THE ORDER OF CTE Lori Trahan $50,000.00

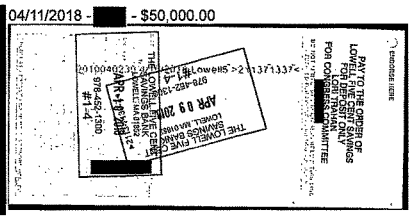
Fifty Thousand Dollars 00

Enterprise Bank

MEMO [redacted]

[redacted]

04/11/2018 - [redacted] - $50,000.00


PAY TO THE ORDER OF
LOWELL FIRE CEN SAVINGS
FOR DEPOSIT ONLY
LORI TRAHAN
FOR CONGRESS COMMITTEE

THE LOWELL FIRE CENTRAL SAVINGS BANK
LOWELL, MA 01852
978-452-1300
#1-4

APR 09 2018

⑆011000230⑆ 978-452-1300 #1-4 ⑈Lowell⑈ >2 1371337<

[redacted]

19-5449_002

EBTC_0342

Exhibit 2

ACCOUNT: [redacted]

PAGE: 1
04/18/2018

LORI TRAHAN
DAVID TRAHAN
9 WEETAMOO WAY
WESTFORD MA 01886-6318

18-0
2
7

Gold Checking ACCOUNT [redacted]

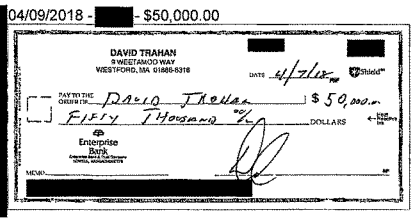
DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			03/16/18	322.26
			03/19/18	250.56
			03/19/18	141.39
			03/20/18	55.13
			04/02/18	7,555.13
			04/03/18	7,547.16
			04/03/18	7,531.68
			04/03/18	7,491.17
			04/03/18	7,229.17
			04/03/18	6,821.17
			04/03/18	6,259.17
			04/04/18	6,214.17
			04/05/18	6,169.65
			04/05/18	6,041.65
			04/05/18	5,760.65
			04/06/18	5,721.80
			04/06/18	5,655.76
			04/06/18	5,515.22
			04/06/18	5,415.68
			04/06/18	4,990.34

* * * C O N T I N U E D * * *

Exhibit 3

[redacted]

04/09/2018 - [redacted] - $50,000.00


DAVID TRAHAN
9 WEETAMOO WAY
WESTFORD, MA 01886-5316

[redacted]

DATE 4/7/18

PAY TO THE ORDER OF DAVID TRAHAN $ 50,000.00

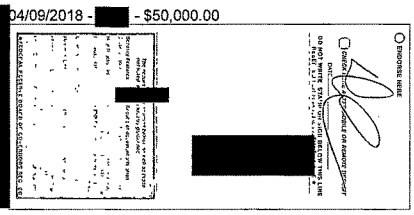
FIFTY THOUSAND 00/100 DOLLARS

Enterprise Bank

MEMO [redacted]

[redacted]

04/09/2018 - [redacted] - $50,000.00

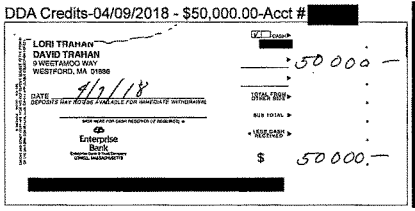

ENDORSE HERE

CHECK HERE IF DEPOSIT ON REMOTE DEVICE

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

[redacted]

DDA Credits-04/09/2018 - $50,000.00-Acct # [redacted]


LORI TRAHAN
DAVID TRAHAN
9 WEETAMOO WAY
WESTFORD, MA 01886

DATE 4/7/18

DEPOSITS MAY NOT BE MADE AVAILABLE FOR IMMEDIATE WITHDRAWAL

SIGN HERE FOR CASH RECEIVED (IF REQUIRED)

Enterprise Bank

CASH 50000.—

LESS CASH BACK

SUB TOTAL

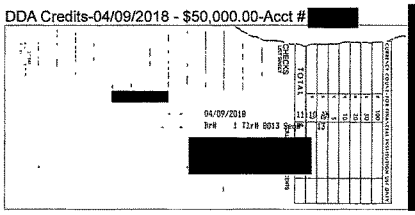
LESS BANK RECEIVED

$ 50000.—

[redacted]

[redacted]

DDA Credits-04/09/2018 - $50,000.00-Acct # [redacted]


04/09/2018
Brn# 1 T2rN B013 Sq#

CHECKS

TOTAL

11 10 09 12 13 14 15 16 17 18

CURRENCY COUNT FOR TRANSITION OF ASSET

[redacted]

[redacted]

19-5449_006

EBTC_0284

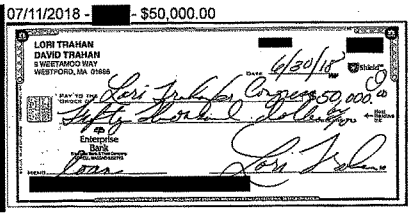
Exhibit 4

[redacted]

[redacted]

[redacted]

07/11/2018 - [redacted] - $50,000.00


LORI TRAHAN
DAVID TRAHAN
9 WEETAMOO WAY
WESTFORD, MA 01886

[redacted]

6/20/18

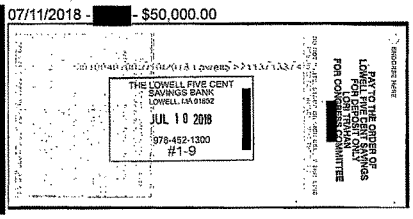
PAY TO THE ORDER OF Lori Trahan for Congress $50,000.00

Enterprise Bank

MEMO [redacted]

[redacted]

07/11/2018 - [redacted] - $50,000.00


THE LOWELL FIVE CENT SAVINGS BANK
LOWELL, MA 01852

JUL 10 2018

978-452-1300

#1-9

[redacted]

PAY TO THE ORDER OF
LOWELL FIVE CENT SAVINGS
FOR DEPOSIT ONLY
FOR CONGRESS COMMITTEE

[redacted]

19-5449_008

EBTC_0334

Exhibit 5

ACCOUNT: [redacted]

PAGE: 1
07/18/2018

LORI TRAHAN
DAVID TRAHAN
9 WEETAMOO WAY
WESTFORD MA 01886-6318

18-0
2
11

Gold Checking ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			06/18/18	3,500.19
			06/19/18	3,429.87
			06/20/18	3,269.87
			06/21/18	3,179.04
			06/22/18	3,079.04
			06/25/18	3,075.54
			06/25/18	3,053.09
			06/25/18	2,653.09
			06/25/18	2,253.09
			06/28/18	2,028.09
			06/29/18	2,025.59
			06/29/18	1,625.59
			06/29/18	625.59
			07/02/18	10,724.92
			07/02/18	10,652.32
			07/02/18	10,252.32
			07/03/18	10,133.13
			07/05/18	9,974.85
			07/05/18	9,577.85

* * * C O N T I N U E D * * *

Exhibit 6

[redacted]

DDA Credits-07/09/2018 - $55,000.00-Acct # [redacted]

CHECKING DEPOSIT TICKET

Date 7-9-18

Name [redacted]

PLEASE PRINT

CASH

CURRENCY

COINS

SUBTOTAL

LESS CASH

AMOUNT

$ 55,000.00

TOTAL ITEMS

Enterprise Bank

CREATE SUCCESS

ACCOUNT NUMBER

[redacted]

[redacted]

[redacted]

DDA Credits-07/09/2018 - $55,000.00-Acct # [redacted]

[redacted]

[redacted]

[redacted]

07/09/2018 - [redacted] - $55,000.00

[redacted]

DCT DEVELOPMENT INC.

[redacted]

DATE 7/9/18

PAY TO THE ORDER OF DAVID THOMAS $ 55,000.00

FIFTY FIVE THOUSAND DOLLARS

Enterprise Bank

FOR [redacted]

[redacted]

[redacted]

07/09/2018 - [redacted] - $55,000.00

[redacted]

[redacted]

[redacted]

19-5449_012

EBTC_0277

Exhibit 7

ACCOUNT: [redacted]

PAGE: 1
09/18/2018

LORI TRAHAN
DAVID TRAHAN
9 WEETAMOO WAY
WESTFORD MA 01886-6318

18-0
2
13

Gold Checking ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			08/17/18	3,233.37
			08/20/18	3,230.37
			08/20/18	2,830.37
			08/20/18	2,769.54
			08/21/18	202,769.54
			08/21/18	202,766.54
			08/21/18	202,657.13
			08/21/18	202,257.13
			08/22/18	200,857.13
			08/23/18	200,790.73
			08/23/18	200,390.73
			08/23/18	390.73
			08/23/18	205.73
			08/23/18	105.73
			08/27/18	10,105.73
			08/27/18	9,905.73
			08/29/18	9,505.73
			08/31/18	9,503.23
			08/31/18	9,103.23
			09/04/18	9,100.23
			09/04/18	9,096.73

* * * C O N T I N U E D * * *

Exhibit 8

DDA Credits-08/21/2018 - $200,000.00-Acct #[redacted]

Enterprise Bank

ADVICE OF CREDIT

Acct Number [redacted] Date 08/21/2018

Covering: [redacted] $ 200,000.00

MAIL TO

Approved By:

PROOF COPY

DDA Credits-08/21/2018 - $200,000.00-Acct #[redacted]

08/21/2018 - 0 - $200,000.00

Enterprise Bank

ADVICE OF DEBIT

Acct Number [redacted] Date 08/21/2018

Covering: [redacted] $ 200,000.00

MAIL TO

Approved By:

PROOF COPY

08/21/2018 - 0 - $200,000.00

[redacted]

19-5449_016

EBTC_0278

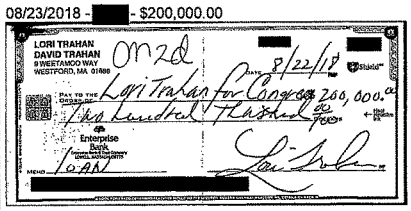
Exhibit 9

[redacted]

[redacted]

[redacted]

08/23/2018 - [redacted] - $200,000.00


LORI TRAHAN
DAVID TRAHAN
9 WESTAMOO WAY
WESTFORD, MA 01886

[redacted]

Shield

DATE 8/22/18

PAY TO THE ORDER OF Lori Trahan for Congress $200,000.00

Two Hundred Thousand 00/100 DOLLARS

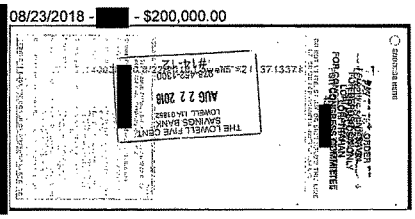
Enterprise Bank
WESTFORD, MA
CHECKING ACCOUNTS

MEMO LOAN

[redacted]

[redacted]

08/23/2018 - [redacted] - $200,000.00


THE LOWELL FIVE CENT SAVINGS BANK
LOWELL, MA 01852
AUG 22 2018

[redacted]

PAY TO THE ORDER OF

LORI TRAHAN

FOR DEPOSIT ONLY

[redacted]

[redacted]

19-5449_018

EBTC_0330

Exhibit 10

Washington SAVINGS BANK
30 Middlesex Street, Lowell, MA 01852

Loan #[redacted]

Revolving Credit Agreement and Note

Agreement and Note (herein called "Agreement") dated as of October 15, 2010, between the above named Lender ("Lender") having its principal place of business at 30 Middlesex Street, Lowell, MA 01852 and David C. Trahan and Lori A. Trahan 9 Weetamoo Way, Westford, MA 01886 (the "Borrower(s)") of 200,000.00 Credit Limit: $

Revolving Credit. The Lender agrees, on the terms of this Agreement, to make loans to the Borrower in an aggregate principal amount at any one time outstanding not exceeding the Credit Limit shown above. The loans made to the Borrower pursuant to this Agreement shall constitute the Revolving Credit Account ("Account") of the Borrower. Within the Credit Limit, and subject to the terms hereof, the Borrower may borrow, repay and reborrow from the fourth business day after the date of this Agreement to the close of business on the **10th** anniversary of the date hereof, or the termination of the Lender's obligation to loan in accordance with this Agreement, whichever is earlier. As used in this Section, close of business shall mean 3 p.m. E.S.T. or E.D.T., as the case may be.

SECURITY. To secure payment of the Account, the Borrower is giving the Lender a mortgage on real property located at 9 Weetamoo Way, Westford, MA 01886

In the event that the fair market value of the mortgaged property declines significantly below the property's appraised value for the purposes of this plan, Lender may, without limiting any of its other remedies, immediately reduce the Credit Limit and/or refuse to honor any further borrowings under this Agreement. Borrower will be given notice of such action. In the event that the Borrower exceeds the Credit Limit shown above, the property described above shall not secure payment of the loans in excess of said Credit Limit and any amount which exceeds the Credit Limit shall be due and payable immediately.

Collateral securing other loans with Lender (whether such loans are now in existence or arise hereafter) may also secure this loan.

Please refer to the mortgage for additional information. In addition, if any part or all of the Account is past due and the Borrower fails to pay the Lender as agreed, the Lender may, to the extent permitted by law without prior notice, take the outstanding balance out of any accounts that the Borrower has with the Lender.

BORROWING. Each loan will be in an amount of **$500.00** or more, except when the amount remaining to be borrowed under the Credit Limit shall be less than such amount, in which event, the loan will be in an amount equal to said amount remaining to be borrowed.

Method of Borrowing. Borrowings hereunder shall be made by using any credit instrument or method that has been approved by the Lender.

Note. This Agreement shall constitute both a credit agreement and a promissory note. The Borrower hereby authorizes the Lender to record the amount of each loan evidenced by this document and each payment in repayment of the obligations evidenced by this document in such records of the Lender as it shall from time to time establish rather than to make physical notations thereof on this document.

FINANCE CHARGE. The Borrower shall pay to the Lender interest on the unpaid principal sum of the loans computed by applying a daily periodic rate of .0089% (3.24% **ANNUAL PERCENTAGE RATE**), subject to adjustment as hereinafter set forth, to the Average Daily Balance of the principal amount of loans hereunder. The Average Daily Balance is calculated as follows. First the daily balance is computed by taking the beginning principal balance of said loans each day, adding any new loans, and subtracting any principal payments or credits. All Daily Balances for a billing cycle are added together and the sum is then divided by the total number of days in the billing cycle, and the result is the "Average Daily Balance". The product of the Average Daily Balance and the Daily Periodic Rate is then multiplied by the number of days in the billing cycle to determine the Finance Charge for the billing cycle. Loans are subject to interest from the date that the proceeds are advanced until the date that they are paid in full. There is no free period during which a loan may be repaid without incurring a finance charge. The Annual Percentage Rate includes only interest and not other costs.

A minimum **FINANCE CHARGE** of **$0.50** will be charged for any month for which a finance charge is assessed.

ADJUSTMENT OF ANNUAL PERCENTAGE RATE. The Annual Percentage Rate will be adjusted by Lender at the beginning of each monthly billing cycle to be equal to a rate not exceeding the value of the "Prime Rate" as most recently published in the Money Rates section of The Wall Street Journal before the beginning of each billing cycle (if more than one Prime Rate is published, the higher rate shall be used.) (the "Index") and a margin of N/A percentage points ("Margin"). If the Index is no longer published, the holder of this Note may select a substitute Index having similar characteristics, and the Borrower shall be notified of such substitution. In no event shall the annual percentage rate as so adjusted at any time be in excess of the maximum rate permitted under applicable law in effect at such time. An increase in the annual percentage rate will increase the amount of finance charge Borrower must pay and will cause the minimum payment to increase. If allowed by law, the annual percentage rate will never be more than **9.99%** per year, other than the initial discounted rate, the Annual Percentage Rate will never be lower than **4.00%**.

DISCOUNTED ANNUAL PERCENTAGE RATE. (Check ☐, if applicable). The initial daily periodic rate of .0089% (3.24% Annual Percentage Rate) is a discounted rate. The initial discounted rate shall remain in effect until the beginning of the 13th monthly billing cycle under this Agreement. If the amount of the discount is _____ percentage points, 2.25 if the rate had not been discounted, the initial daily periodic rate would have been _____% and the Annual Percentage Rate would have been _____%.

PAYMENTS. Prior to the **10th** anniversary date hereof or to an earlier termination of the revolving credit, the Borrower shall pay to the Lender a minimum payment on or before the 20th day after the closing date of the billing cycle as provided in the invoice for such payment which Lender shall mail monthly to Borrower. The billing cycle is a period established monthly by the Lender in its written invoice to Borrower of amounts due. The minimum payment is an amount equal to all accrued interest as of the closing date of the billing cycle plus **1/360th** of the outstanding balance of principal on the closing date of the billing cycle; provided the principal payment shall not be less than **$50.00**, plus any amounts past due.

Following the 10th anniversary hereof, no further loan shall be made to Borrower hereunder and Borrower agrees to pay, monthly commencing on the 20th day after the closing date of the billing cycle following such anniversary, all interest accrued through the last day of the prior month and 1/120th of the principal outstanding on said anniversary (but in no event shall the principal payment be less than $50.00 monthly).

In any event all sums due hereunder shall be paid in full no later than the 20th anniversary hereof. During the payment period following the 10th anniversary hereof, interest shall continue to be adjusted periodically as provided above unless a greater adjustment period is required by law.

LATE CHARGE. In the event that any payment due hereunder is not paid in full within 15 days of its due date, Borrower must pay to Lender a late charge equal to the lesser of $10 or 3.0% of such principal and interest portion of the unpaid payment.

PROPERTY INSURANCE. The Borrower agrees to maintain property insurance in amounts as may be required by the Lender and to name it as loss payee. The Borrower will maintain flood insurance if required by the Lender. The Borrower shall provide the Lender evidence of Insurance. Borrower may obtain such insurance from any company which is reasonably acceptable to the Lender.

ANNUAL FEE. The annual fee shall be $ 40.00

CLOSING COSTS. The Borrower may be required to pay the following closing costs:

Appraisal Fee	$ 175.00	Title Insurance Policy	$
Recording Fee	$		$
Title Examination Fee	$		$ 175.00
Preparation of Legal Documents	$	TOTAL AMOUNT DUE	$

*P.O.C. By Washington Savings Bank
**P.O.C. By Borrowers

Note. With respect to those closing costs which have been checked above, Lender will waive the payment of such costs by Borrower; provided, however, if Borrower terminates this Agreement and requests a discharge of the mortgage within _____ months from the date of this Agreement. Borrower shall then be obligated to pay Lender the full amount of the waived costs.

Amending this Agreement. To the extent permitted by law, the Lender may amend this Agreement by sending notice of the amendment to the Borrower in writing at least fifteen (15) days before the beginning of the statement period in which the amendment will take place. Any amendment will apply both to any new credit extended as well as to the outstanding balance in effect at the time the Agreement is amended.

By signing below, the Borrower(s) agrees to all of the terms and certifies having received a completed copy of this Agreement and two (2) copies of a Notice of Right to Cancel this Agreement on the date shown below. Agreed to and executed as a sealed instrument on _____

Witness _____ Signature David C. Trahan

Witness _____ Signature Lori A. Trahan

19-5449_020

See reverse side for additional Terms and Conditions.

White - Original - Yellow - Borrower Copy - Pink - File Copy

©2008 Bankers Forms Purchasing, Waltham, MA 02453 (800)391-17604

Exhibit 11

DAVID C. TRAHAN
LORI A. TRAHAN
~~11 CORTLAND CIRCLE~~
~~DRACUT, MA 01826~~

DATE: 9/4/18

PAY TO THE ORDER OF: Lori Trahan for Congress $ 71,000.-

Seventy one Thousand Dollars

Washington SAVINGS BANK
Dracut, Massachusetts 01826

MINIMUM CHECK AMOUNT $500

MEMO: loan

Account Number	[redacted]	Routing Number	[redacted]
Amount	$71,000.00	OFB	[redacted]
Post Date	20181003	Serial Number	[redacted]
Sequence Number	[redacted]	Tran	[redacted]

THE LOWELL FIVE CENT
SAVINGS BANK
LOWELL, MA 01852
OCT. 02 2018
978-452-1300
#14-7

[redacted] [redacted]

Lori Trahan for Con

Exhibit 12

PLEASE RETAIN FOR TAX RECORDS

WASHINGTON SAVINGS BANK
PO BOX 840
DRACUT, MA 01826-0840
TAX ID #: [redacted]

[redacted]

Date 12/31/18

Account Number: [redacted]

FOR STATEMENT INQUIRIES
PLEASE CALL 978-275-6003

Interest Paid 2018	1,306.45
Interest Reportable 2018	1,306.45

DAVID TRAHAN
LORI A TRAHAN
9 WEETAMOO WAY
WESTFORD MA 01886

Transaction

Date	Amount	Description	Principal Amount	Escrow Amount	Interest	Late Charges	Other Charges	Balance Last Statement Principal .00
1/08	40,000.00	Inc Prin	40,000.00	.00	.00			40,000.00
2/05	10,000.00	Inc Prin	10,000.00	.00	.00			50,000.00
2/07	40.00	Reg Pymt		.00	.00		40.00-	50,000.00
2/26	30,000.00	Inc Prin	30,000.00	.00	.00			80,000.00
3/03	294.21	Reg Pymt	151.20-	.00	143.01			79,848.80
4/05	425.34	Reg Pymt	221.97-	.00	203.37			79,626.83
5/03	526.51	Reg Pymt	221.36-	.00	305.15			79,405.47
5/31	79,974.05	Interim Pyof	79,405.47-	.00	568.58			.00
10/03	76,400.00	Inc Prin	76,400.00	.00	.00			76,400.00
10/11	76,486.34	Interim Pyof	76,400.00-	.00	86.34			.00
12/31		MAINT FEE					40.00	
2018		<TOTALS>	.00	.00	1,306.45	.00		.00

INTEREST STATED ABOVE MAY NOT BE DEDUCTIBLE - CONSULT YOUR TAX ADVISOR FOR DETAILS

Exhibit 13

DAVID C. TRAHAN
LORI A. TRAHAN
11 CORTLAND CIRCLE
DRACUT, MA 01826

DATE 10/2/2018

PAY TO THE ORDER OF Lori Trahan for Congress Recount $ 5,400.-

Lori Trahan for Congress

DOLLARS

Washington SAVINGS BANK
Dracut, Massachusetts 01826

MINIMUM CHECK AMOUNT $500

MEMO DAVE 12700 / LORI 12700

Lori Trahan

Account Number	[redacted]	Routing Number	[redacted]
Amount	$5,400.00	OF6	[redacted]
Post Date	20181003	Serial Number	[redacted]
Sequence Number	[redacted]	Tran	[redacted]

THE LOWELL FIVE CENT SAVINGS BANK
LOWELL, MA 01852
OCT 02 2018
978-452-1300
#1447

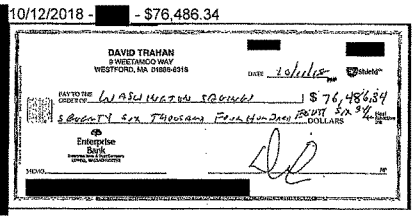
[redacted] 3/28/2019

19-5449_026

Exhibit 14

[redacted]

10/12/2018 - [redacted] - $76,486.34


DAVID TRAHAN
9 WEETAMOO WAY
WESTFORD, MA 01886-5315

[redacted]

DATE 10/12/18

Shield

PAY TO THE ORDER OF WASHINGTON STATE $ 76,486.34

SEVENTY SIX THOUSAND FOUR HUNDRED EIGHT SIX 34/100 DOLLARS

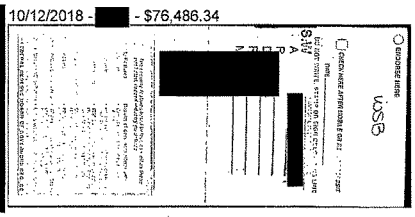
Enterprise Bank

MEMO [redacted]

[redacted]

[redacted]

10/12/2018 - [redacted] - $76,486.34


ENDORSE HERE

WSB

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

19-5449_028

EBTC_0069

Exhibit 15

[redacted]

12/03/2018 - [redacted] - $71,000.00

Lori Trahan for Congress
PO Box 1761
Lowell, MA 01853
781-466-9100

[redacted]

Lowell Five
34 John St.
Lowell, MA 01852

[redacted]

DATE 11/20/2018

PAY TO THE ORDER OF Lori Trahan $ **71,000.00

SEVENTY-ONE-THOUSAND AND 00/100********** DOLLARS

Lori Trahan
9 Weetamoo Way
Westford, MA 01886

MEMO campaign effort support

[redacted]

[redacted]

12/03/2018 - [redacted] - $71,000.00

[redacted]

DDA Credits-12/03/2018 - $71,000.00-Acct # [redacted]

LORI TRAHAN
DAVID TRAHAN
9 WEETAMOO WAY
WESTFORD, MA 01886

[redacted]

DATE 12/1/18

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

TOTAL FROM OTHER SIDE

SUB TOTAL

LESS CASH RECEIVED

Enterprise Bank

$ 71,000.00

[redacted]

[redacted]

DDA Credits-12/03/2018 - $71,000.00-Acct # [redacted]

[redacted]

12/03/2018 10:56 AM
DDA 20 TLFR 3770 Sec 28
Account [redacted]
DDA Deposit 71,000.00
Approved Note Business Days

CHECKS ON REVERSE

TOTAL $

[redacted]

[redacted]

19-5449_030

EBTC_0274

APPENDIX B

PERKINSCOIE

700 13th Street, NW
Suite 600
Washington, DC 20005-3960

+1.202.654.6200
+1.202.654.6211
perkinscoie.com

October 28, 2019

The Honorable Theodore E. Deutch, Chairman
The Honorable Kenny Marchant, Ranking Member
Committee on Ethics
United States House of Representatives
Washington, DC 20515

Re: OCE Review No. 19-5449

Dear Chairman Deutch and Ranking Member Marchant:

On behalf of Representative Lori Trahan, we write in response to the Report and Findings of the Office of Congressional Ethics ("OCE") in Review No. 19-5449. We respectfully request that the Committee on Ethics (the "Committee") dismiss OCE's referral and take no further action.

INTRODUCTION

At the heart of this matter is Representative Trahan's First Amendment right, as a first-time candidate in 2018, to spend her personal funds in support of her own campaign. The referral shows that Representative Trahan loaned funds to the campaign from a joint account and a home equity line of credit, and thus spent her personal funds under Federal Election Commission ("FEC") rules, even while she had other, independent means to fund her campaign.

Through this referral, OCE seeks to draw the Committee into the personal financial relationship between a Member and her spouse. It asks the Committee to investigate whether the funds she loaned were really hers, or her husband's. While the Committee does not normally consider questions of mutual spousal support, because Members may receive unlimited gifts from their spouses and need not disclose them,[1] OCE would have the Committee review and determine a highly technical question of campaign finance law—whether the funds in the joint account were Representative Trahan's "personal funds"—a question over which OCE has now arrogated "independent and parallel authority."[2] OCE's referral fails to present correctly the governing law, which supports the treatment of the loans as made from Representative Trahan's "personal funds." While OCE alleges that her spouse's deposits into the joint account caused Representative Trahan's loans to become contributions from him instead, the funds were, in fact, her "personal funds" *before* they were transferred to her joint account. OCE fails to acknowledge the FEC's persistent refusal to find potential violations on closely analogous facts involving joint accounts. OCE would also have the Committee investigate the amendments that Representative Trahan voluntarily made to her campaign finance reports and her personal financial disclosure reports in connection with her first-time candidacy, even though she acted in good faith to complete the public record.

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[1] *See* House R. 25, clause 5(a)(3)(C); 5 U.S.C. app. 4 § 102(a)(2)(A). *See also* House Ethics Manual at 259.
[2] Letter from Omar S. Ashmawy to Rep. Lori Trahan (June 10, 2019).

The referral represents a reckless exercise of what has become OCE's effectively untrammeled authority. Under its own rules, OCE lacked jurisdiction to investigate Representative Trahan's campaign, which is why she did not cooperate with that aspect of its review. By plunging heedlessly into a hypertechnical area of campaign finance law involving core First Amendment freedoms, where the law supports Representative Trahan's position, OCE disregarded this Committee's guidance and House rules that protect Members' rights. By carelessly obtaining the Trahans' private bank documents without subpoena or notice and putting images of those same documents into a deliverable intended for public release, OCE egregiously violated the privacy of Representative Trahan and her spouse.

Because Representative Trahan complied with the laws, rules, and standards of conduct in her previous campaign, because she has made the necessary corrections to her reports on her own initiative, and because OCE's referral, if allowed to stand, would encourage that office to investigate other Members and candidates over the full range of disputed FEC issues that inevitably arise from the conduct of their campaigns, the Committee should dismiss the referral in Review No. 19-5449 and take no further action.

ARGUMENT

I. OCE'S FINDING THAT REPRESENTATIVE TRAHAN MAY NOT HAVE PROVIDED PERSONAL FUNDS TO HER CAMPAIGN UNDER FEC RULES WAS PLAINLY ERRONEOUS

In *Buckley v. Valeo,* the Supreme Court held that a candidate has a clear First Amendment right to advocate her own election, and that the Constitution bars limits on the expenditures she may make from personal funds.[3] Using personal funds "reduces the candidate's dependence on outside contributions and thereby counteracts the coercive pressures and attendant risks of abuse to which ... contribution limits are directed."[4] FEC regulations accordingly permit a candidate to "make unlimited expenditures from personal funds."[5] The FEC's regulations define "personal funds" to include "[a]mounts derived from any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had – (1) [l]egal and rightful title; or (2) [a]n equitable interest."[6] The FEC regulation comes directly from *Buckley*, where the Supreme Court, citing legislative history, noted that "[i]f a candidate ... already is in a position to exercise control over funds of a member of his immediate family before he becomes a candidate, then he could draw upon these funds" as his own "personal funds."[7]

Relying on *Buckley*, the FEC has consistently found that spousal income qualifies as the candidate's "personal funds" and is eligible for use in the campaign, provided that the candidate has an equal right to manage and dispose of the income under applicable state law, *even when the*

[3] *Buckley v. Valeo*, 424 U.S. 1, 52-54 (1976). *See also Davis v. FEC,* 554 U.S. 724 (2008) (invalidating indirect yet effective limits on candidate personal spending).
[4] *Buckley*, 424 U.S. at 53.
[5] 11 C.F.R. § 110.10 (2018).
[6] *Id.* § 100.33(a).
[7] *Buckley*, 424 U.S. at 51 (1976), *quoting* S. Conf. Rep. No. 93-1237, p. 58 (1974).

funds originate from a bank account maintained by the candidate's spouse. For example, in a 1976 enforcement action involving actress Jane Fonda and her then-husband, Tom Hayden, the FEC found no violation when Ms. Fonda transferred $64,050 from a bank account maintained solely in her name and $250,000 from loan proceeds she secured from her employers, Twentieth Century Fox Corporation and United Artists Corporation, directly to Mr. Hayden's campaign committee.[8] Five years later, the FEC declined to find that Elizabeth Dole's $25,000 loan to then-Senator Bob Dole's presidential campaign violated the law.[9]

In both matters, the FEC concluded that the funds in question were the candidates' "personal funds," notwithstanding their origin in their spouses' bank accounts. In the Fonda/Hayden matter, the FEC pointed to California being a "community property" state and noted that, under state law, either spouse has "management and control of the community personal property, with the absolute power of disposition ... as he has of his separate estate."[10] As further proof of Mr. Hayden's legal right to access or control the funds pre-candidacy, the FEC acknowledged the "pattern or practice of using the money from the accounts in question, for communal matters."[11] Likewise, in recommending dismissal of the Dole matter, the FEC's General Counsel found that Mrs. Dole had acquired the funds in question during the Doles' marriage and, under Kansas law at the time, "property acquired by a person during marriage [was] subject to the disposal of his or her spouse" and such property "shall be marital property in which each spouse has a common ownership regardless of whether title is held individually or by the spouse in some form of co-ownership ...."[12] Because the candidates had an equal right to manage and dispose of their spouses' assets, they had an equitable interest in and legal right to access those assets under applicable state law. That made the funds in the spouses' accounts the candidates' "personal funds" under FEC regulations.

For the same reason, the funds that Representative Trahan loaned to her campaign qualify as her "personal funds." Massachusetts law provides that "[a]t any time before marriage, the parties may make a written contract providing that, after the marriage is solemnized, the whole or any designated part of the real or personal property or any right of action, of which either party may be seized or possessed at the time of the marriage, shall remain or become the property of the husband or wife, according to the terms of the contract."[13] As noted in the attached opinion letter, Massachusetts law "has a strong policy in favor of enforcing such prenuptial agreements."[14] Pursuant to Massachusetts law, Representative Trahan and her husband, David, signed a pre-marital agreement (the "Agreement"), which remains in effect today.[15] Through the

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[8] FEC Matter Under Review 149 (Jane Fonda and the Hayden for Senate Committee), Interim Conciliation Report (June 3, 1977).
[9] FEC Matter Under Review 1257 (Dole for President), General Counsel's Report (Oct. 27, 1981).
[10] FEC Matter Under Review 149 (Jane Fonda and the Hayden for Senate Committee), Interim Conciliation Report (June 3, 1977), *citing* to Cal. Civil Code § 5125.
[11] *Id.*
[12] FEC Matter Under Review 1257 (Dole for President), General Counsel's Report (Oct. 27, 1981).
[13] M.G.L.A. 209 § 25.
[14] Ex. A (Blake Opinion Letter) at 2.
[15] *Id.*

Agreement, the Trahans specifically stated their "inten[t] to define their respective rights in the property of the other ***during marriage*** ...."[16]

Significantly, the Agreement provides that ***"[e]ach party shall have equal rights in regard to the management of and disposition of all marital property."***[17] And the Agreement broadly defines "marital property" to include:

- All property purchased with proceeds of a fund for the maintenance of their household and the care of their children, to which each spouse would make equal periodic contributions; *and*

- All wages, salary, and income of each party earned or received during marriage, together with property purchased with these funds.[18]

Put simply, the Agreement provided Representative Trahan and her husband equal rights to manage and dispose of *all* income that each spouse earned or received during their marriage. And, both before and after she became a candidate, Representative Trahan and her husband fully exercised these rights. The Trahans each owned their own businesses; Representative Trahan earned $361,000 in 2017 and $274,000 in 2018. Rather than taking steady salaries, both regularly transferred funds from their respective business accounts into their joint checking account to pay for household expenses. That practice continued after Representative Trahan became a candidate in 2017. In addition, both spouses also had individual checking accounts that were used interchangeably to pay for joint expenses like credit card and tuition payments, as well as health and child care costs. While Mr. Trahan has historically had a larger income and has thus historically contributed more to the joint checking account and paid for more expenses than Representative Trahan has done, that practice, too, both preceded and post-dated Representative Trahan's candidacy.

It was under this longstanding practice, with each spouse exercising equal rights to manage and dispose of marital income, that Mr. Trahan transferred income into the joint checking account, and Representative Trahan loaned funds from that account to her campaign. As the FEC recognized with Mr. Hayden, the "pattern or practice of using the money from the accounts in question, for communal matters" prior to Representative Trahan's candidacy underscores her legal right of access to the funds in question.[19] At the time she became a candidate, and as a direct result of the Agreement, Representative Trahan had an equitable interest in and legal right to access her husband's income under Massachusetts law.[20] Accordingly, the funds she used to make a loan to her campaign were her "personal funds" under 11 C.F.R. § 100.33(a).[21]

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[16] *Id.* (emphasis added). Section 11 of the Agreement defines each spouse's rights in marital property during her marriage. A separate provision, section 12, governs each spouse's rights in marital property in the event of divorce.
[17] *Id.* at 3 (emphasis added).
[18] *Id.* at 2.
[19] FEC Matter Under Review 149 (Jane Fonda and the Hayden for Senate Committee), Interim Conciliation Report (June 3, 1977).
[20] Ex. A (Blake Opinion Letter) at 2.
[21] 11 C.F.R. § 100.33(a).

The fact that the funds were transferred from a joint checking account to the campaign further bolsters Representative Trahan's claim that the funds at issue were her "personal funds." As the FEC has repeatedly explained, a candidate may use the full value of her share of assets jointly owned with a spouse. That value is assessed at either the candidate's ownership under a written agreement, or, if there is no agreement, the FEC considers the candidate to own 50% of joint assets. This is true in both community property states and noncommunity property states.[22] When both parties have access to and control over the entire account, "it is presumed that all funds in the joint account are the candidate's 'personal funds.'"[23] The questions of access and control depend on state law.[24] Under Massachusetts law, which controls here, "any part or all of the deposits and interest represented by joint accounts may be withdrawn, assigned or transferred in whole or in part by any of the individual parties."[25] The FEC's treatment of marital assets recognizes the reality that spouses, when sharing their lives, share their finances as well. To treat funds deposited by Representative Trahan's husband into the joint account as political contributions has no basis in FEC rules or the reality of the Trahans' shared life.

Thus, even if there had been no pre-marital agreement, Representative Trahan *still* could have withdrawn all the funds deposited into a joint account, and past FEC actions would presume those funds to be her personal funds—a fact acknowledged nowhere in OCE's referral.[26] For example, FEC Matter Under Review 6860 involved a 2014 Senate candidate who made $1.45 million in loans to her campaign from a joint checking account maintained with her spouse, who stated that he had deposited his income into the joint account during the election cycle, and the factual record established that nearly all of the funds in the joint account came from him.[27] The FEC did not find reason to believe that the candidate's use of these joint account funds to finance her campaign violated campaign finance law.[28] In another enforcement action arising from the 2014 election cycle, the FEC again did not find a violation when a candidate used $2.5 million in funds transferred by his spouse into a joint account to finance his campaign.[29]

While OCE claims "independent and parallel authority" to investigate the application of campaign finance law,[30] its referral omits an astonishing range of the controlling authority. It does not mention the Fonda/Hayden matter or the Dole matter, in which the FEC permitted a spouse even to transfer funds directly to the candidate's campaign, when the candidate had a

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[22] *See* Candidate's Use of Property In Which Spouse Has an Interest, 48 Fed. Reg. 19019, 19020 (April 27, 1983).
[23] FEC Matter Under Review 3505/3560/3569 (Klink), General Counsel's Report (March 2, 1995) at 23.
[24] *See, e.g.*, OGC Addendum to Legal Analysis to Proposed Interim Audit Report on Friends for Menor (LRA 732) - Contributions from Personal Funds in Jointly Held Bank Accounts (July 2, 2008) at 2.
[25] M.G.L.A. 167D § 3.
[26] OCE presumably did not know of the Trahans' pre-marital agreement: as discussed above, Representative Trahan did not cooperate in the review of the campaign finance allegation, because of OCE's lack of jurisdiction, and the inescapable conclusion that she had been selected improperly for investigation. Still, the FEC's general treatment of spousal joint accounts ought to have alerted OCE to the lack of clear legal basis for referral on this issue.
[27] FEC Matter Under Review 6860 (Land), First General Counsel's Report (Feb. 26, 2015) at 10.
[28] *See* FEC Matter Under Review 6860 (Land), Notification to Land Committee (Sept. 23, 2016) at 1. The candidate and her spouse settled separately with the FEC, without admission, on other funds that the spouse provided not to a joint account, but to "a personal account held solely in her name." FEC Matter Under Review 6860 (Land), Conciliation Agreement (June 13, 2018) at 2.
[29] *See* Matter Under Review 6848 (Demos), Certification (Nov. 15, 2018).
[30] Letter from Omar S. Ashmawy to Rep. Lori Trahan (June 10, 2019).

legal right of access to and control over those funds under state law.[31] In fact, OCE mentions none of the cases in which the FEC has allowed candidates to treat the *entire* amount of funds in a joint account as "personal funds."[32] Ignoring more than 40 years of inconvenient FEC precedents, OCE cherry-picks a single FEC enforcement action for the proposition that a spouse's deposits into a joint account are treated as contributions from the spouse to the campaign.[33] But the enforcement action cited by OCE is entirely distinguishable. Unlike in this matter—or the Fonda/Hayden or Dole matters—the spouses in the enforcement action cited by OCE did not argue that the candidate had a legal right of access to or control over the funds that were loaned to the campaign. Moreover, OCE fails to acknowledge the two 2014 matters discussed above—decided *after* the case it cites—where the FEC did not find a violation after a candidate made a loan from a joint account that had been funded with her spouse's income.[34]

OCE also fails to acknowledge the FEC's longstanding, general struggle with the treatment of interfamilial transfers, which reflects the *Buckley* Court's acknowledgment that "the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members ...."[35] As Commissioners Matthew S. Petersen and Caroline C. Hunter put it in one Statement of Reasons, when the FEC deadlocked over a mother's gift to her candidate son: "The Commission's past handling of enforcement matters involving monetary gifts from family members has been inconsistent, to put it charitably."[36] The Commissioners said that, even if they agreed that the gift represented a contribution, proceeding with enforcement "would have been manifestly unfair. The Commission's contradictory approaches in past matters involving family gifts provide inadequate notice to the regulated community about what is permitted and what is not."[37] The Commissioners contended that "due process and fundamental fairness" required additional rules or policy statements "before pursuing enforcement actions in this area."[38] Such

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[31] *See, e.g.*, FEC Matter Under Review 149 (Jane Fonda and the Hayden for Senate Committee), Interim Conciliation Report (June 3, 1977).
[32] *See, e.g.*, FEC Matters Under Review 2292 (Stein) and 3505/3560/3569 (Klink).
[33] *See* OCE Findings ¶ 16 n.6 (citing FEC Matter Under Review 6417).
[34] FEC Matter Under Review 6860 (Land), First General Counsel's Report (Feb. 26, 2015) at 10.
[35] *Buckley*, 424 U.S. at 53 n.59.
[36] Vice Chairman Matthew S. Petersen and Commissioner Caroline C. Hunter, Statement of Reasons, FEC Matter Under Review 5724 (Dec.11, 2009) at 1.
[37] *Id.* at 2. Concerns on the part of FEC Commissioners over enforcement practices surrounding interfamilial transfers increased after the agency's 2003 settlement with a then-sitting Member of Congress over funds he received from his parents during the campaign in which he was elected to the House. *See* FEC Matter Under Review 5138 (Ferguson for Congress), Conciliation Agreement (June 13, 2003). Two Commissioners dissented from the agency's imposition of a civil penalty because they saw the penalty as "grossly disproportionate to the offense," citing *Buckley's* dicta on interfamilial transfers. Vice Chair Bradley A. Smith and Commissioner Michael E. Toner, Statement of Reasons, FEC Matters Under Review 5138 (June 12, 2003) at 1, 2.
[38] Vice Chairman Matthew S. Petersen and Commissioner Caroline C. Hunter, Statement of Reasons, FEC Matter Under Review 5724 (Dec. 11, 2009) at 2. *See generally* Chair Ellen L. Weintraub, Vice Chairman Matthew S. Petersen, and Commissioners Caroline C. Hunter and Steven T. Walther, Statement of Reasons, FEC Matters Under Review 7263 and 7264 (June 20, 2019) at 3 (full Commission choosing not to investigate an allegation based in part on "lack of explicit guidance" on the underlying area of the law at issue in that matter); Chair Caroline C. Hunter and Commissioner Matthew S. Petersen, Statement of Reasons, FEC Matters Under Review 6969, 7031, and 7034 (Sept. 13, 2018) at 6 (noting that fair notice concerns carry "special weight" in the Commission's enforcement decisions and are "particularly acute where First Amendment rights are at stake").

was the state of the law when Representative Trahan, a first-time candidate, made loans to her campaign from her joint account.[39]

Representative Trahan also loaned funds to her campaign from a home equity line of credit, complying clearly with the separate FEC rules that govern loans secured by real property. In the case of real property owned by two spouses, the candidate's "personal funds" include either the candidate's share of the asset under the controlling documents, or—if no such share is indicated—the value of one-half the property.[40] Under that test, the $71,000 that Representative Trahan used from her and her spouse's home equity line of credit clearly constituted her personal funds. Representative Trahan owns a one-half interest in her house. Before her candidacy, she and her spouse took out two home equity lines of credit worth up to $700,000 in total.[41] Under FEC rules, up to $350,000 of these lines of credit constituted Representative Trahan's personal funds, and she only used $71,000 to finance her loan to the Committee, thus complying with the FEC's regulations.

II. OCE ERRED IN FINDING THAT A FIRST-TIME CANDIDATE'S GOOD-FAITH AMENDMENTS TO HER DISCLOSURE REPORTS WARRANT COMMITTEE INVESTIGATION

A. Representative Trahan Complied in Good Faith with Her FEC Reporting Obligations, Filing the Necessary Amendments to Complete the Public Record.

Representative Trahan's campaign properly reported the candidate herself as the source of the loans from the joint account. Regarding the $71,000 transaction, the referral notes that Representative Trahan first reported the line of credit as a personal loan without reporting it as a revolving line of credit. However, the campaign timely reported the $71,000 loan amount on October 15, 2018 in its original 2018 FEC October Quarterly Report. When it discovered that it had not reported the loan as being sourced from a line of credit, it immediately amended its

[39] The FEC's repeated refusal to pursue enforcement in closely analogous situations utterly contradicts OCE's baseless suggestion that the supposed "violations" were somehow knowing and willful. *See* OCE Findings ¶ 15. OCE further misreads FEC rules to make the inflammatory and unsupported insinuation that the campaign intentionally misreported the date it received the March 31, 2018 and June 30, 2018 checks from the joint account. *See id.* ¶¶ 18, 27, 31. OCE fails to say that FEC regulations require committees to report the date on which a check is received – which is the date on which the committee obtains possession of the contribution, no matter when deposited. *See* 11 C.F.R. § 102.8(a). The FEC specifically tells campaigns: "Under FEC regulations, the date of receipt is used for reporting purposes and that date is considered to be the date when that initial recipient … receives the contribution." https://www.fec.gov/updates/date-of-receipt-is-the-date-for-reporting/. OCE also fails to say that FEC rules give campaigns up to ten days after the date of receipt to deposit a check. *Id.* § 103.3. Thus, the reporting of the March 31 and June 30 checks was entirely consistent with FEC rules. The documents and public reports show the candidate issuing the checks on those dates, they show the campaign receiving them on those same dates—OCE offers no evidence whatsoever to the contrary—and they show the campaign depositing the checks later, within the ten-day window, as the rules expressly allowed the campaign to do.

[40] 11 C.F.R. § 100.33(c).

[41] Amounts derived from a home equity line are not "contributions." *Id.* § 100.83(a).

reports to provide the additional details.[42] While the initial reporting was incomplete, it was a *de minimis* mistake of the sort common among first-time campaigns. The public still knew that the candidate had loaned funds to the campaign, and it knew the underlying details about the line of credit once the Committee amended its reports. Representative Trahan's amendments and good-faith self-correction remove the need for any further action on this matter.

B. Representative Trahan Substantially Complied with the Personal Financial Disclosure Rules Under Committee Precedent.

The Ethics in Government Act requires candidates to file financial disclosure statements with the Clerk of the House of Representatives.[43] Once a financial disclosure statement has been filed with the clerk, the Committee has a general policy of accepting amendments filed in good faith.[44] As the Committee recently explained:

> Where the Committee's review indicated that a filed Statement or PTR was deficient, the Committee requested an amendment from the filer. ***Such amendments are routine and, without evidence of a knowing or willful violation, the Committee will usually take no further action after the amendment has been filed.*** Amendments are made publicly available in the same manner as other financial disclosure filings.[45]

The Committee has noted that there are

> hundreds or thousands of errors and omissions corrected by amendment at the requirement of the Committee every year. Such errors and omissions occur frequently but rarely result in Committee action other than requests for amendments which will be publicly filed, and, in certain cases, late fees when the amendments are not timely filed after notification . . . In fact, between 30% and 50% of all Financial Disclosure Statements reviewed by the Committee each year contain errors or require a corrected statement. For over 95% of these inaccurate Financial Disclosure Statements, the filer appears to be unaware of the errors until they are notified by the Committee. Some filers also appear to become aware of errors after being notified by members of the media or outside groups who review the statements and other public records. Generally, unless there is some evidence that errors or omissions are knowing or willful, or appear to be significantly related to other potential violations, the Committee notifies the filer of the error and requires that he or she submit an amendment, which is then publicly filed.

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[42] *See* Lori Trahan for Congress Committee, 2018 October Quarterly Report (amended Dec. 15, 2018). The referral claims that Representative Trahan should have reported her spouse as secondarily liable for the loan. *See* OCE Findings ¶ 48. But the FEC specifically instructs committees to identify only endorsers and guarantors as secondarily liable parties. *See* Federal Election Commission Campaign Guide, Congressional Candidates and Committees (2014) at 111.

[43] *See* 5 U.S.C. app. § 101.

[44] *See* Policy Regarding Amendments to Financial Disclosure Statements, Committee on Standards of Official Conduct (April 23, 1986).

[45] *See* House Committee on Ethics, *Summary of Activities of the One Hundred Fifteenth Congress,* H.R. Rep. 115-1125, at 12 (January 2, 2019) (emphasis added). *See also* House Committee on Ethics, *In the Matter of Allegations Relating to Rep. Vernon G. Buchanan,* H.R. Rep. 112-588 (July 10, 2012) (acknowledging inconsistency in personal financial disclosure report found by OCE in referral but taking no further action).

> Once the amendment is properly submitted, the Committee takes no further action. Accordingly, errors and omissions in Financial Disclosure Statements are an ordinary part of the process for many filers, and in the normal course of review and amendment of Financial Disclosure Statements, the fact of errors and omissions are typically not the subject of an investigation or Report by the Committee, but rather are disclosed publicly by the filing of the amendment itself.[46]

With Representative Trahan—a first-time candidate—having been required to file two financial disclosure reports during the middle of her first campaign, and having also had substantial financial resources, it is not surprising that her initial filings needed to be amended. Immediately upon identifying inadvertent or technical errors in the original Candidate Reports, Representative Trahan voluntarily filed a series of amendments:

- On June 4, 2018, she amended the Candidate Reports to include her ownership interest in Concire LLC on Schedule A. Because she had already disclosed her earned income from Concire LLC on Schedule C, she did not realize at the time the Candidate Reports were initially filed that she also needed to list the same company as an asset on Schedule C. As soon as she became aware of this requirement, she amended the Candidate Reports to disclose her ownership interest in the company.

- On November 16, 2018, she amended the Candidate Reports to separately disclose a joint checking account she holds with her husband at Enterprise Bank. Although she had disclosed Enterprise Bank on the original Candidate Reports as a spousal asset, she had not separately itemized their joint account in the same bank. In the same amendments, Representative Trahan adjusted the amount of her earned income from Concire LLC on Schedule C to match her interest in the business's net profits.

- On February 19, 2019, she amended her Candidate Reports to disclose her ownership interest in Stella Connect, a software company. Because she had not earned any income from the company, the investment was inadvertently omitted from her original Candidate Reports.

- On March 21, 2019, Representative Trahan amended her Candidate Reports to specify on Schedule J that she had not listed individual clients of Concire LLC as sources of compensation due to the confidentiality provisions in Concire LLC's agreements with its clients.

None of these errors or omissions was knowing or willful, all were voluntarily corrected, and none warrants further action under Committee precedent.

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[46] House Committee on Ethics, *In the Matter of Allegations Relating to Rep. Vernon G. Buchanan,* H.R. Rep. 112-588 (July 10, 2012). at 2, 5. *See also* House Committee on Ethics, *In the Matter of Allegations Relating to Rep. Gregory Meeks,* H.R. Rep. 112-709 (Dec. 20, 2012); House Committee on Ethics, *In the Matter of Allegations Relating to Gregory Hill,* H.R. Rep. 112-194 (August 5, 2011); House Committee on Ethics, *In the Matter of Allegations Relating to Rep. Jean Schmidt,* H.R. Rep. 112-195 (Aug. 5, 2011).

III. OCE'S REFERRAL REPEATEDLY DISREGARDED HOUSE RULES AND COMMITTEE PRECEDENT

A. OCE Lacked Jurisdiction to Initiate a Review of Representative Trahan's Conduct Before She Became a Member.

OCE's review of Representative Trahan was an unprecedented audit of a newly-arrived Member's first-time campaign. Under H. Res. 895, OCE may only "undertake a preliminary review of any alleged violation by a Member, officer, or employee of the House of any law, rule, regulation, or other standard of conduct *applicable to the conduct of such Member, officer, or employee in the furtherance of his duties or the discharge of his responsibilities[.]*"[47] OCE's own rules are even more explicit on this point: The Office may only investigate alleged violations of standards *"in effect at the time the conduct occurred and applicable to the subject in the performance of his or her duties or the discharge of his or her responsibilities."*[48] At the time of the conduct under review, Representative Trahan was not yet a Member, and therefore not subject to OCE's jurisdiction.

OCE claims authority to conduct this audit nonetheless, citing this Committee's jurisdiction over allegations of supposed "misconduct relating to a successful campaign for election to the House."[49] This statement confuses OCE's jurisdiction with the Committee's. However broad the Committee's authority may be, nothing indicates that the House meant to turn OCE loose on newly arrived Members over the conduct of their first campaigns. Until this Congress, during its eleven-year history, OCE appears never to have claimed that authority.[50] This review represents a radical sea-change in the OCE process.

In its turn, while this Committee indeed reserves the right to review potential violations of law which occurred during an initial campaign for the House, it has only rarely done so, and then only on aggravated facts.[51] Initially, the Committee appeared to disclaim jurisdiction over newly-elected Members' campaigns altogether. In 1968, Representative Melvin Price, its chairman, explained: "In the case . . . involving a candidate for office . . . we felt we did not have the jurisdiction on that."[52] However, the Committee ultimately reserved the right to "deal with any given act, or accumulation of acts which, in the judgement of the committee, *are severe enough to reflect discredit on the Congress*."[53] Thus, the Committee has investigated pre-Member candidate conduct when the issues involved were severe enough potentially to reflect discredit

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[47] H. Res 895, 110th Cong. § 1(c)(1)(A) (2008) (emphasis added).
[48] Office of Congressional Ethics, Rules for the Conduct of Investigations, Rule 1(3).
[49] *E.g.*, OCE ¶ 5, n.2 (citing *In the Matter of Allegations Relating to Representative Ruben Kihuen,* H.R. Rep. No. 115-1041, at 5, n.24 (2d Sess. 2018)).
[50] *See* Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Michael Grimm (Nov. 26, 2012), https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-2 (reversing OCE's recommendation of dismissal for want of jurisdiction).
[51] *See id.*
[52] *See* 114 Cong. Rec. 8779 (1968).
[53] *See id.*

on the House, and not as a general matter.[54] The allegations here, involving a first-time candidate's use of her own personal funds to finance activity protected by the First Amendment, does not in any way approach the type of pre-Member candidate conduct the Committee has investigated.

Indeed, in past instances where the FEC affirmatively found that a pre-Member candidate's interfamilial transfers resulted in apparent campaign finance violations, this Committee did not exercise its jurisdiction over the underlying conduct—a strong demonstration of the Committee's exacting approach to pre-Member campaign allegations. For example, when a sitting Member agreed to a six-figure penalty imposed by the FEC over funds he received from his parents during the campaign in which he was elected, there was no record of any Committee investigation or adverse action.[55] Likewise, when the FEC concluded that another Member accepted excessive contributions from his parents during his campaign, there was no record that OCE referred those allegations to the Committee—even after receiving a public complaint requesting that it do so.[56] Unlike this case, these were settled FEC matters where the agency conclusively determined that a campaign finance violation had occurred. And still, the public record shows no sign that these matters were addressed through the ethics process.

B. By Opening a Review on a Muddled Question of FEC Rules, OCE Breached Committee Guidance and House Rules.

The Committee says that "FECA is enforced primarily by the Federal Election Commission[.]"[57] OCE claims that it "has an independent and parallel authority to investigate potential violations of the Federal Election Campaign Act."[58] OCE's position means that there is no effective limit on the sort of FEC allegations—which arise in virtually every campaign—which the Committee may have to review. OCE would become a shadow FEC, with no standards to identify the cases to consider, and the cases to decline. The ethics process would become grossly politicized, and OCE would become the preferred destination for campaign finance complaints of any partisan

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[54] *See In the Matter of Allegations Relating to Representative Ruben Kihuen*, Committee on Ethics, 115th Congress, 2d Session (2018) (involving a pattern of unwanted sexual advances that continued into Congressional service); *In the Matter of Representative Earl F. Hilliard*, Committee on Ethics, 107th Congress, 1st Session (2001) (involving a sustained pattern and practice of personal use extending into Congressional service); *In the Matter of Representative Jay Kim*, Committee on Ethics, 105th Congress, Second Session (1998) (involving aggravated crimes to which the Member had already pled guilty). *See also* Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Michael Grimm (Nov. 26, 2012), https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-2. As a general matter, the Committee has recognized that some types of campaign conduct are inappropriate for the full investigative process: for example, alleged violations of House Rule V, which restricts the use of House floor footage during campaigns. *See In the Matter of Allegations Relating to Representative Ben Ray Lujan*, Committee on Ethics, 115th Congress, 1st Session (2017).

[55] FEC Matter Under Review 5138 (Ferguson for Congress), Conciliation Agreement (June 13, 2003).

[56] *See* FEC Matter Under Review 6440 (Guinta), Conciliation Agreement (May 6, 2015); Letter from Noah Bookbinder to Omar Ashmawy (June 16, 2015), *available at* https://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2016/07/20021949/6-16-15_Guinta_OCE_Complaint.pdf.

[57] House Ethics Manual at 122 (2008).

[58] Letter from Omar S. Ashmawy to Rep. Lori Trahan (June 10, 2019).

motivation, seriousness or stripe. H. Res. 895's mandatory review and release processes would place the Committee entirely at the sufferance of OCE's "judgment."

OCE's position presents a specific problem in Representative Trahan's case. Under House rules, neither OCE nor the Committee may "take any action that would deny any person any right or protection provided under the Constitution of the United States."[59] However, as discussed above, a candidate's financing of her own campaign is a right guaranteed by the First Amendment, and FEC Commissioners have said that enforcement against interfamilial transfers under the current, muddled legal framework presents due process concerns.[60] If experts charged with exclusive civil jurisdiction for interpreting and enforcing FECA have said that due process requires further rulemaking before enforcement can occur, then it is hard to see how OCE has followed the due process obligations to which House rules bind it.

C. By Taking the Trahans' Personal Financial Information Without Their Consent and Putting It into a Document Created for Public Release, OCE Abused Its Authority.

H. Res. 895 authorizes OCE to seek documents solely through voluntary requests. The resolution provides that OCE may transmit a report, findings and "supporting documentation" to the Committee upon the conclusion of the review,[61] and that the Committee would release the report and findings—but not the "supporting documentation."[62] OCE regularly plays fast-and-loose with these rules, scanning images of documents into its findings to sensationalize its claims against the Member, and bootstrapping those same documents into compelled public release. In some cases, this has resulted in prima facie breaches of OCE's obligation to avoid disclosing the identities of cooperative witnesses—where the findings refer to them by pseudonyms, but the images identify them by name.[63]

In this case, OCE's longstanding practice of seeking and publishing documents resulted in a clear breach of the Trahan family's privacy. Without notice to the Trahans, OCE appears to have gone directly to their financial institutions and gotten copies of their personal checks, deposit slips, bank statements and other private financial information.[64] Following its long-standing but still dubious practice, OCE then scanned these documents into the findings and sent them to the Committee for public release—making some redactions, but keeping the Trahans' addresses and images of their signatures in the documents.[65]

Obtaining and transmitting these documents in this way presents issues of compliance with federal privacy laws. Under the Right to Financial Privacy Act (RFPA), a federal government authority generally may not access personal bank records unless: the customer authorizes access;

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[59] H. Res. 6, 116th Cong. § 104(c)(7) (2019); House Rule 11, cl. 3(s).
[60] *See* Vice Chairman Matthew S. Petersen and Commissioner Caroline C. Hunter, Statement of Reasons, FEC Matter Under Review 5724 (Dec. 11, 2009) at 2.
[61] H. Res. 895, 110th Cong. § 1(c)(2)(C)(i) (2008).
[62] *See* House Rule XI, cl. 3(b)(8).
[63] *See* H. Res. 895, 110th Cong. § 1(c)(2)(C)(i).
[64] *See* OCE Findings ¶¶ 22, 24, 26, 27, 28, 30, 31, 32, 33, 41.
[65] *See id.* ¶ 24, 26, 28, 32, 33.

the access is pursuant to an administrative subpoena, search warrant, or judicial subpoena; or the government authority has requested the records in writing and the customer has been provided with notice and an opportunity to object.[66] The RFPA provides exceptions to this prohibition—but none that would appear to apply to OCE in this review.[67] OCE's treatment of the Trahans' bank records is characteristic of the cavalier way in which it approached a first-time candidate and her spouse, who tried in good faith to comply with the complex rules affecting her core First Amendment right to spend in support of her own election.

CONCLUSION

For the reasons set forth above, Representative Trahan respectfully requests the Committee on Ethics dismiss Review 19-5449.

Very truly yours,

Kate Sawyer Keane
Brian G. Svoboda
Jonathan S. Berkon
Counsel to Representative Lori Trahan

[66] *See* 12 U.S.C. § 3402.
[67] *See id.* §§ 3408, 3413.

Exhibit A

ATWOOD | CHERNY P.C.
COUNSELLORS AT LAW

DAVID E. CHERNY
MARK T. SMITH
ERIN M. SHAPIRO
MARY BETH L. SWEENEY
DAWN E. YOUNG
CATHARINE V. BLAKE
RACHAEL M. SOUN

THOMAS D. RITTER
GRETEL M. DUFRESNE
JOANA L. STATHI
CASSANDRA P. KENT

JACOB M. ATWOOD
(1933-2008)

October 28, 2019

The Honorable Theodore E. Deutch, Chairman
The Honorable Kenny Marchant, Ranking Member
Committee on Ethics
United States House of Representatives
Washington, DC 20515

Re: Congresswoman Lori Trahan

Dear Chairman Deutch and Ranking Member Marchant:

I am an attorney in good standing and licensed to practice law in Massachusetts and New Hampshire. I am a partner with the law firm of Atwood & Cherny, P.C. The vast majority of my practice is devoted to domestic relations/matrimonial law. I routinely draft prenuptial agreements and also litigate the enforceability of prenuptial agreements at the time of enforcement (i.e., divorce).

Massachusetts is an equitable distribution state, meaning that all assets, regardless of how title is held and regardless of how assets were acquired, is includible in the marital estate. See: Rice v. Rice, 372 Mass. 398 (1977). However, Massachusetts law permits couples, prior to marriage, to enter into contracts (prenuptial agreements) to define their rights and obligations as to the marital estate. M.G.L. c. 209, § 25 specifically provides that "[a]t any time before marriage, the parties may make a written contract providing that, after the marriage is solemnized, the whole or any designated part of the real or personal property or any right of

action, of which either party may be seized or possessed at the time of the marriage, shall remain or become the property of the husband or wife, according to the terms of the contract.

Enforceability and interpretation of prenuptial agreements are governed by state law. Massachusetts has a strong policy in favor of enforcing prenuptial agreements. The Massachusetts Supreme Judicial Court has ruled that people who enter into marriage should have the "freedom to settle their rights in the event their marriage should prove unsuccessful . . . " Osborne v. Osborne, 384 Mass. 591, 598 (1981). It was the Osborne Court that held that prenuptial agreements which settle alimony and property rights in the event of a divorce are "not per se against public policy and may be specifically enforced . . ." Id. at 598-599. The Massachusetts Supreme Judicial Court has held that a prenuptial agreement is a contract and must "comport with the rules governing the formation of all contracts . . ." DeMatteo v. DeMatteo, 436 Mass. 18, 26 (2002).

In 2007, prior to their marriage, the Trahans executed a prenuptial agreement (hereinafter the "Agreement"). The Agreement is a contract that remains valid today. In entering into the Agreement, the Trahans specifically stated that they "intend to define their respective rights in the property of the other **during marriage** . . ." See: Section 1, page 1 (**emphasis added**).

The Agreement defines "Marital Property" as follows:

(1) All property purchased with proceeds of a fund (e.g. joint account) to which equal periodic contributions are made.

(2) All wages, salary, and income of each party earned or received during the marriage, together with property purchased with these funds.

See: Section 11, page 4.

The Agreement also specifically provides that "[e]ach party **shall have equal rights** in regard to the **management of and disposition of all marital property**." See: Section 11, page 4 (**emphasis added**). This is an equitable interest under Massachusetts law. Congresswoman Trahan had (and continues to have) an equitable interest in the wages, salary, and income earned and received by her husband during their marriage. Congresswoman Trahan enjoyed this equitable interest during the marriage, pursuant to Section 11 of the Agreement. Notably, there is a separation section in the Agreement (Section 12), which deals separately with the disposition of marital property in the event of divorce. Inherent in Congresswoman Trahan's right to **manage and dispose** of the marital property is the legal right to **access** the marital property.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Catharine V. Blake

CVB/ir

APPENDIX C

BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON ETHICS

IN THE MATTER OF REPRESENTATIVE LORI TRAHAN

RESPONSES TO QUESTIONS FOR REPRESENTATIVE LORI TRAHAN

1. In the November 7, 2007 prenuptial agreement (Agreement) you entered into with David Trahan, paragraph 6 states, "Each party to this Agreement has given the other a full and complete disclosure of the assets, income, and other property of the party or the party's estate. A list of the assets, income and property of Husband and his estate is attached as Exhibit A and incorporated by reference."

a. Why was DCT Development, Inc. (DCT Development) not included in Exhibit A?

Answer: Mr. Trahan did not include DCT Development on Exhibit A because it did not normally have substantial assets besides cash, but instead served as a Subchapter S corporation through which he could receive income in connection with various construction projects. Moreover, Exhibit A lists assets that were intended to be treated as Mr. Trahan's separate property, and Mr. Trahan treated DCT Development and the income he received from it as marital property.

b. Did you and Mr. Trahan intend for DCT Development, and any income and increases in value arising from it, to be marital property under the Agreement?

Answer: Yes.

c. Were any other assets owned by Mr. Trahan excluded from Exhibit A to the Agreement? If so, what were those assets, why were they excluded, and were they separate or marital property?

Answer: Mr. Trahan did not include Granite Rock Management and Granite Rock Construction on Exhibit A because, like DCT Development, they did not normally have substantial assets besides cash. Exhibit A lists assets that were intended to be treated as Mr. Trahan's separate property, and Mr. Trahan treated Granite Rock Management, Granite Rock Construction and the income he received from them as marital property.

2. For the $55,000 disbursement that Mr. Trahan received from DCT Development on July 9, 2018, please state the following:

a. Whether the disbursement was considered wages, salary or income under the Agreement, and why;

Answer: Representative Trahan and Mr. Trahan considered the disbursement to be income earned or received by Mr. Trahan during marriage, and thus as marital property under the Agreement, because it was treated as income to Mr. Trahan for tax purposes.

b. Whether the disbursement was returned capital;

Answer: The disbursement was not returned capital.

c. How the disbursement was classified for tax purposes; and

Answer: DCT Development and Mr. Trahan classified the disbursement as income to Mr. Trahan for tax purposes.

d. The value of DCT Development on the date of the disbursement.

You may provide any documents you wish to support or explain the characterization, valuation and tax treatment of the relevant amounts.

Answer: On the date of the disbursement, DCT Development had a cash balance of $112,861.37, which represented DCT Development's value at that time.

3. You wrote a check to your campaign committee, Lori Trahan for Congress (Campaign) on March 31, 2018 for $50,000. The memo on the check stated, "donation." The Campaign reported the check on its Federal Election Commission (FEC) disclosures as a personal loan from you. Why did you write "donation" on the check?

Answer: While Representative Trahan consistently intended for the check to be treated as a loan to her campaign, she was a first-time candidate for federal office and did not know how to characterize the disbursement in the memo line of the check. Because Representative Trahan intended when she issued the check that the funds would be reimbursed to her, if feasible, the Campaign correctly reported the check as a personal loan from her.

4. Please provide any additional information related to the Committee's investigation that you believe the Committee should be aware of and which you have not yet provided.

Answer: Representative Trahan respectfully submits that the information she has voluntarily provided to the Committee is sufficient to establish that no further action is warranted in this matter.

Questions for Representative Lori Trahan

June 4, 2020

Instructions

- The House of Representatives Committee on Ethics (Committee) is investigating allegations concerning you. The Committee has not made any conclusions about these allegations, and you should not take any of the written questions to imply that the Committee has made any judgment or conclusions about the allegations. The questions below are designed to help the Committee build a complete and thorough record.
- There are four (4) questions. Review each question and each sub-question carefully and provide your answer in writing.
- If you do not know the answer to a question (for example, if you do not have personal knowledge or have not otherwise been made aware of an answer to any of the questions), indicate in writing that you do not know.
- You may use estimates if you do not know exact amounts or figures; however, please indicate that your answer contains an estimation.
- There is no limit on how long your answers to any of the questions may be. You may provide any additional facts that you believe are relevant to the question or that you believe the Committee should be made aware of.
- If you do not understand any of the questions below, please let the Committee know through your attorneys.
- This is a voluntary questionnaire; you are not required to answer any of the questions below. However, if you choose not to answer any of the questions below, the Committee may note your missing responses in a public report, if one is issued in this matter. To the extent you refuse to answer any question based on attorney-client privilege or any other protection or privilege, state the nature of the claimed privilege.
- Your answers and statements may be considered by the Committee in its deliberations and official business. Therefore, if you make any intentionally false statements or intentionally attempt to mislead the Committee through your answers, that could be a crime, such as making false statements under 18 U.S.C. § 1001 or obstruction of Congress under 18 U.S.C. § 1505.
- The Committee requests that you provide your answers no later than June 18, 2020.

I, Lori Trahan,
(Print Name)

Certify that I have fully read and understand the instructions above and that, to the best of my knowledge and belief, all of the written answers included in my response are true, accurate and complete.

Lori Trahan 6/10/20
(Signature) (Date)

Questions:

1. In the November 7, 2007 prenuptial agreement (Agreement) you entered into with David Trahan, paragraph 6 states, "Each party to this Agreement has given the other a full and complete disclosure of the assets, income, and other property of the party or the party's estate. A list of the assets, income and property of Husband and his estate is attached as Exhibit A and incorporated by reference."
    a. Why was DCT Development, Inc. (DCT Development) not included in Exhibit A?
    b. Did you and Mr. Trahan intend for DCT Development, and any income and increases in value arising from it, to be marital property under the Agreement?
    c. Were any other assets owned by Mr. Trahan excluded from Exhibit A to the Agreement? If so, what were those assets, why were they excluded, and were they separate or marital property?
2. For the $55,000 disbursement that Mr. Trahan received from DCT Development on July 9, 2018, please state the following:
    a. Whether the disbursement was considered wages, salary or income under the Agreement, and why;
    b. Whether the disbursement was returned capital;
    c. How the disbursement was classified for tax purposes; and
    d. The value of DCT Development on the date of the disbursement.

    You may provide any documents you wish to support or explain the characterization, valuation and tax treatment of the relevant amounts.
3. You wrote a check to your campaign committee, Lori Trahan for Congress (Campaign) on March 31, 2018 for $50,000. The memo on the check stated, "donation." The Campaign reported the check on its Federal Election Commission (FEC) disclosures as a personal loan from you. Why did you write "donation" on the check?
4. Please provide any additional information related to the Committee's investigation that you believe the Committee should be aware of and which you have not yet provided.

APPENDIX D

EXHIBIT 1

ANTENUPTIAL AGREEMENT

This Agreement is entered into on November 17th, 2007 between David C. Trahan (hereinafter the "Husband") residing at [redacted], Massachusetts, Middlesex County, and Lori Loureiro (hereinafter the "Wife"), residing at 11 Courtland Circle in Dracut, Massachusetts, Middlesex County. These individuals are collectively referred to as the "Parties." The Parties intend to be married on November 17, 2007. This Agreement will be effective on November 17, 2007.

INTENT TO DEFINE PROPERTY RIGHTS

1. The Parties to this Agreement intend to define their respective rights in the property of the other during marriage, and to avoid interests that they might acquire in the property of the other as incidents of their marriage relationship if it were not for the operation of this Agreement.

INTENT TO ESTABLISH RIGHTS ON DEATH

2. The Parties desire to establish the rights of each to inherit from the other in the event of the death of either.

INTENT TO ESTABLISH PROPERTY RIGHTS ON TERMINATION

3. The Parties enter into this Agreement and into marriage with the intention that their marriage shall endure until death. However, in recognition of the reality that due to circumstances unforeseen or unknown at this time that the marriage could be terminated by divorce or permanent separation, the Parties intend by this Agreement to establish their respective rights in all property if the marriage is terminated. The Parties intend to set forth criteria by which property may be classified as separate property or as marital property, recognizing that these criteria are in variance from those likely to be applied by a court of law in absence of this Agreement. The Parties do this with the intention of removing property that would otherwise be divisible from the application of equitable distribution in the event of termination of the marriage.

INTENT TO ESTABLISH SUPPORT RIGHTS ON TERMINATION

4. In further recognition of the possible but unforeseen termination of the marriage, the Parties intend to determine the obligation of each to support the other on divorce or permanent separation. Each party will enter the marriage fully capable of providing for his or her own support. Each possesses significant separate economic resources and has significant income-earning potential. Neither anticipates that during the course of the marriage there will be any change in the capacity of either to provide completely for his, or her, own support. For these reasons, the Parties intend by this Agreement to permanently waive the right to seek support in any form from the other in the event the marriage is terminated.

REPRESENTATION BY INDEPENDENT COUNSEL

5. Husband and Wife acknowledge that each has been represented by or had the opportunity to be represented by independent counsel in the negotiation of this Agreement; that counsel representing each party was of the party's own choosing; that each party has read the Agreement and has had the meaning and legal consequences of the Agreement explained by his or her counsel; and that each party elects, on advice of his or her independent counsel, to enter into this legally binding contract.

DISCLOSURE OF PROPERTY

6. Each party to this Agreement has given the other a full and complete disclosure of the assets, income, and other property of the party or the party's estate. A list of the assets, income, and property of Husband and his estate is attached as Exhibit A and incorporated by reference. A list of the assets, income, and property of the Wife and her estate is attached as Exhibit B and incorporated by reference.

It is understood that the figures and amounts contained in Exhibit A and Exhibit B are approximately correct and not necessarily exact.

DCT

The estimated gross value of the assets and property of the Husband is approximately $ [redacted], not including household goods, automobiles, and miscellaneous items not to exceed $ [redacted], and the total indebtedness of Husband is approximately $ [redacted] leaving an estimated net value of $ [redacted]

DCT

The estimated gross value of the assets and property of Wife is approximately $ [redacted] not including household goods, automobiles, and miscellaneous items not to exceed $ [redacted] and the total indebtedness of Wife is negligible, leaving an estimated net value of $ [redacted]

CONSIDERATION

7. This Agreement is made in consideration of the marriage, and in consideration of the mutual promises granting to each party the right to acquire separate property during marriage, the right to dispose of his or her estate free from claims from the other party, and the right to be free from claims for an equitable division of property and for support in the event of the termination of the marriage.

ESTABLISHMENT OF SEPARATE PROPERTY

8. Except as otherwise provided in this Agreement, the assets, income, and property of the Parties listed in this Agreement as Exhibits A and B, together with all income and increases in value arising from that property during marriage regardless of the reason for the income or increase, shall be owned as the separate property of that party during marriage. All property that either party may acquire by way of gift or inheritance, whether under a will or by intestate distribution, is similarly the separate property of the owner-party. Further, if either the Husband or Wife receives any bonus such will be considered his or her separate property.

TREATMENT OF SEPARATE PROPERTY

9. Each party shall have the absolute and unrestricted right to manage, control, dispose of, or otherwise deal with his or her separate property free from any claim that may be made by the other party by reason of their marriage, arid with the same effect as if no marriage had been consummated between them. By this Agreement, each party waives, discharges, and releases all right, title, and interest in and to the separate property that the other party now owns or acquires after the execution of this Agreement, or acquires from the proceeds of any separate property now owned, including but not limited to any real property which either party may acquire with funds derived from the proceeds of his or her own separate property.

EFFECT OF TAKING JOINT TITLE

10. The Parties retain the right and option to purchase, obtain or receive title to any real property in joint title, as tenants by the entirety or in any other form of joint ownership, notwithstanding any other provision of this agreement. The parties further agree and stipulate that the taking of any such real property in such joint title and ownership shall reflect the intent of the parties to have a joint interest in such property. In the event of a divorce terminating the marriage of the parties, each party shall have a one-half interest in such jointly held property as

tenants in common, and in the event such property is sold the net proceeds from the sale of the same shall be equally divided unless the parties agree otherwise by written contract between them.

MARITAL PROPERTY

11. During the course of the marriage the Parties shall make equal periodic contributions to a fund for the maintenance of their household and the care and support of the children of the marriage, if any. All property purchased with the proceeds of this fund shall be deemed marital property. All wages, salary, and income of each party earned or received during marriage, together with all property purchased with such wages, salary, and income, shall also be marital property. Each party shall have equal rights in regard to the management of and disposition of all marital property.

DISPOSITION OF PROPERTY ON TERMINATION OF MARRIAGE

12. If the marriage should terminate for any reason other than the death of a party, and without regard to the fault of either party in causing the termination, all property as set forth in Exhibits A and B to this Agreement, and all separate property as set forth in Paragraph 8 of this Agreement, shall remain the separate property of the respective Parties, and neither shall claim or have any right to compel the equitable distribution of any separate property. All marital property shall be subject to a just and equitable distribution between the Parties.

SUPPORT OF PARTIES ON TERMINATION OF MARRIAGE

13. If the marriage should terminate for any reason, and without regard to the fault of either party in causing the termination, each party agrees to be solely responsible for his or her own future support after termination, regardless of any unforeseen change in circumstances or economic condition or well-being.

By this provision, the Parties intend to permanently waive all rights to Alimony, spousal support, and/or maintenance including but not by way of limitation provisions for medical insurance coverage and the like, or post-divorce payments of any kind from one party for the support of the other. Notwithstanding this mutual waiver, Husband agrees to pay Wife alimony for a period not to exceed twenty-four months if at the time of initiation of divorce proceedings, Wife is unemployed in a monthly amount equal to twenty percent (20%) of the average monthly salary earned by Husband but in no event more than forty thousand dollars per annum. Nothing in this provision is intended to in any way affect the rights of any minor children of the marriage to the support of both Parties.

INHERITANCE

14. Except as set forth in this Paragraph, each party waives and renounces any right to inherit from the other, whether by intestacy, or pursuant to statute or rule of law.

RELEASE OF EACH PARTY FROM ALL OTHER CLAIMS AND LIABILITIES

15. Each party agrees to release the other party from all claims and liabilities, except as specified in this Agreement Neither of the parties to this Agreement shall be responsible for the debts of the other party that have accumulated up to the time of the signing of this Agreement, and neither of the Parties shall be responsible for any debts contracted after the signing of this Agreement unless both Parties have agreed to assume these debts.

AGREEMENT TO JOIN IN EXECUTION OF OTHER INSTRUMENTS

16. Both Parties covenant that they shall willingly, at the request of either party or his or her successor or assigns execute, deliver, and properly acknowledge whatever additional instruments may be required to carry out the intention of this Agreement, and shall execute, deliver, and properly acknowledge any deeds or other documents so that good and marketable title to any property can be conveyed by one party free from any claim of the other party.

AGREEMENT CONDITIONED ON MARRIAGE

17. This Agreement is entered into assuming that the Parties are to be married, and its effectiveness is expressly conditioned on the marriage between the Parties actually taking place. If, for any reason, the marriage is not consummated, the Agreement will be of no force or effect.

DUTY TO SUPPORT CHILDREN OF THIS MARRIAGE

18. Nothing contained in this Agreement shall affect or preclude either party from seeking temporary, pendente lite, final or permanent relief, order or judgment from any court of competent jurisdiction relating to the care, custody, visitation, support, maintenance, education, or welfare of any child or children who shall hereafter be conceived, born or adopted by both parties during their marriage.

ENTIRETY

19. This Agreement contains the entire understanding of the parties, and no representations or promises have been made except as contained in this Agreement.

SEVERABILITY

20. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

EFFECT OF DIVORCE OR SEPARATION

21. Each of the Parties by the execution of this Agreement intends that the provisions of this Agreement shall be binding on each of them and their heirs in the event of a divorce or separation by and between the parties.

NO LIMITATION ON INTER VIVOS TRANSFERS

22. Nothing in this Agreement shall affect the right of either party voluntarily to transfer real or personal property to the other party, or the right to receive property transferred by the other party, during their lifetime.

NO LIMITATION ON TESTAMENTARY TRANSFERS

23. Nothing in this Agreement shall affect the right of either party to devise or bequeath property to the other party in excess of that required by this Agreement. Nothing in this Agreement shall be construed as a waiver or renunciation of the right of either party to take under the last Will of the other.

TERMINATION OF THIS AGREEMENT

24. This agreement shall terminate twenty-five (25) years from the date that the parties hereto

enter into the marriage relationship with each other, after which, it shall have no legal significance.

PERSONS BOUND

25. The Parties and their respective heirs, devises, legatees, personal representatives, guardians, successors in interest, and assigns shall be bound by the provisions of this Agreement.

WAIVER OF BREACH AND SUBSEQUENT BREACHES

26. Waiver of any breach of this Agreement does not constitute approval or waiver of subsequent breaches.

AMENDMENTS AND MODIFICATIONS

27. Amendments and modifications of this Agreement must be written and executed in the same manner as this Agreement.

AGREEMENT GOVERNED BY LAWS OF MASSACHUSETTS

28. This Agreement is to be governed by the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the 9 day of November, 2007.

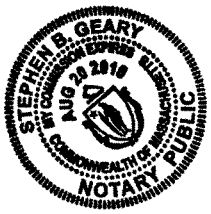
David C. Trahan

Lori Loureiro

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

I certify that on this 9th day of November, 2007, David C. Trahan personally appeared before me, personally known to me, and acknowledged under oath, to my satisfaction, that he is the person named in this Agreement and the person who executed this agreement and signed it voluntarily for its stated purposes.

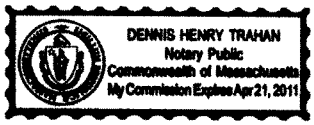


Notary Public
My Commission Expires: 8/20/10

COMMONWEALTH OF MASSACHUSETTS

County of Middlesex

I certify that on this 9th day of November, 2007, Lori Loureiro, personally appeared before me, personally known to me, and acknowledged under oath, to my satisfaction, that she is the person named in this Agreement and the person who executed this agreement and signed it voluntarily for its stated purpose.



Notary Public
My Commission Expires: April 21, 2011

EXHIBIT A

[redacted]

1. Lowell Building Associates LLC
2. Rental Associates Realty Trust I and II and III
3. Roper Realty Trust
4. DKD Realty Trust
5. Tyngs Crossing LLC
6. Albion Realty Trust
7. Upham Realty Trust
8. Lyman Realty Trust
9. Tulane Realty Trust
10. Tyngsboro Landing LLC
11. Concord Place LLC
12. Cornell Realty Trust
13. Villa Realty Trust
14. Riverside Affordable Housing Realty Trust
15. Merrimac Landing Realty Trust
16. Merrimac Crossing Realty Trust
17. Groton West LLC
18. Meridian Realty Trust
19. BW Rental Associates Realty Trust
20. Franklin Realty Trust
21. West Meadow Estates LLC.
22. Centennial Realty Trust
23. Silva Rental Realty Trust
24. Thorndike Place LLC
25. Picariello Realty Trust
26. The Villages at Merrimac Landing LLC
27. 267 Nashua LLC
28. Lincoln Financial Partners LLC
29. DMP Mortgage

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Exhibit B – Assets, income & property of Lori Loureiro

[redacted]

EXHIBIT 2

Signature Card Date: 07/30/2008

Institution Name & Address

ENTERPRISE BANK AND TRUST CO.
222 MERRIMACK STREET
LOWELL, MASSACHUSETTS 01852

Account Number: [redacted]

Existing Customer: ✓ New Customer: _____

IMPORTANT ACCOUNT OPENING INFORMATION: Federal law requires us to obtain sufficient information to verify your identity. You may be asked several questions and to provide one or more forms of identification to fulfill this requirement. In some instances we may use outside sources to confirm the information. The information you provide is protected by our privacy policy and federal law.

Enter Non-Individual Owner Information on page 2. There is additional Owner/Signer Information space on page 2.

Owner/Signer Information 1

Name	Lori Trahan
Address	[redacted]
Mailing Address	
Home Phone / Work Phone	[redacted]
Mobile Phone	
E-Mail	[redacted]
Birth Date	
SSN/TIN	
Drivers License#	
State Issued By	Massachusetts
Drivers License Expiration Date	[redacted]
Other ID (Description)	
Employer & Address	[redacted]
eFunds#	

Owner/Signer Information 2

Name	David C. Trahan
Address	[redacted]
Mailing Address	
Home Phone / Work Phone	[redacted]
Mobile Phone	
E-Mail	
Birth Date	[redacted]
SSN/TIN	
Driver's License#	
State Issued	MA
Drivers License Expiration Date	[redacted]
Other ID (Description)	
Employer & Address	[redacted]
eFunds#	

Internal Use

Account Title & Address

Lori A. Trahan
David C. Trahan
[redacted]

Ownership of Account

_Individual
X Joint
_MUTMA (Custodian)
_Trust-Separate Agreement Dated: _____
_Corporation For Profit
_Corporation. Nonprofit
_Partnership
_Sole Proprietorship
_Limited Liability Company

Beneficiary Designation

(Check appropriate ownership above.)

Revocable Trust

Beneficiary Name(s), Address(es), and SSN(s)

(Check appropriate beneficiary designation above.)

REVIEWED BY
DEPOSIT SERVICING

Signature(s)

The undersigned authorize the financial institution to investigate credit and employment history and obtain reports from consumer reporting agency(ies) on them as individuals. Except as otherwise provided by law or other documents, each of the undersigned is authorized to make withdrawals from the account(s), provided the required number of signatures indicated above is satisfied. The undersigned personally and as, or on behalf of, the account owner(s) agree to the terms of, and acknowledge receipt of copy(ies) of, this document and the following:

Important Information about Your Deposit Accounts
Privacy
Fee Schedule

[x ✓ Lori A Trahan]
[x ✓]
[x]
[x]

EXHIBIT 3

DDA Credits-04/02/2018 - $100,000.00-Acct #[redacted]

CHECKING DEPOSIT TICKET

Date 4.2.18

Name DAVID TRAHAN

AMOUNT

$ 100,000.00

Enterprise Bank

ACCOUNT NUMBER

[redacted]

DDA Credits-04/02/2018 - $100,000.00-Acct #[redacted]

04/02/2018 - [redacted] $100,000.00

Eagle Development LLC

4/2/2018

David C. Trahan

$ **100,000.00

One Hundred Thousand and 00/100

DOLLARS

David C. Trahan

MEMO

[redacted]

04/02/2018 - [redacted] $100,000.00

[redacted]

EBTC_0031.31

COE.TRAHAN.002190

EXHIBIT 4

DAVID TRAHAN BUSINESS CHECK DEPOSITS			
DATE ON CHECK	**COMPANY**	**AMOUNT**	**ACCOUNT**
04/06/17	DCT Development Inc	$ 8,000.00	Personal
04/18/17	DCT Development Inc	$ 50,000.00	Personal
04/27/17	DCT Development Inc	$ 10,000.00	Personal
05/01/17	DCT Development Inc	$ 10,000.00	Personal
05/02/17	DCT Development Inc	$ 10,000.00	Personal
05/03/17	DCT Development Inc	$ 10,000.00	Personal
06/02/17	DCT Development Inc	$ 11,000.00	Personal
06/27/17	DCT Development Inc	$ 22,000.00	Personal
07/10/17	DCT Development Inc	$ 10,000.00	Personal
07/31/17	DCT Development Inc	$ 3,922.17	Joint
09/19/17	DCT Development Inc	$ 10,000.00	Personal
09/27/17	DCT Development Inc	$ 4,000.00	Personal
10/03/17	DCT Development Inc	$ 2,500.00	Personal
10/11/17	DCT Development Inc	$ 2,500.00	Personal
10/30/17	DCT Development Inc	$ 22,000.00	Personal
11/06/17	DCT Development Inc	$ 10,000.00	Personal
12/08/17	DCT Development Inc	$ 10,000.00	Personal
01/30/18	DCT Development Inc	$ 10,000.00	Personal
03/10/18	DCT Development Inc	$ 10,000.00	Personal
03/30/18	DCT Development Inc	$ 35,000.00	Personal
04/14/18	DCT Development Inc	$ 20,000.00	Personal
05/30/18	DCT Development Inc	$ 10,000.00	Joint
07/08/18	DCT Development Inc	$ 10,000.00	Joint
07/09/18	DCT Development Inc	$ 55,000.00	Joint
07/19/18	DCT Development Inc	$ 75,000.00	Personal
08/02/18	DCT Development Inc	$ 5,000.00	Joint
12/26/18	DCT Development Inc	$ 160,000.00	Personal
01/07/19	DCT Development Inc	$ 40,000.00	Personal
01/08/19	DCT Development Inc	$ 20,000.00	Personal
01/24/19	DCT Development Inc	$ 50,000.00	Personal
01/29/19	DCT Development Inc	$ 100,000.00	Personal
03/01/19	DCT Development Inc	$ 3,659.32	Joint
04/12/19	DCT Development Inc	$ 60,000.00	Personal
04/26/19	DCT Development Inc	$ 10,000.00	Personal
04/01/19	DCT Development Inc	$ 12,000.00	Joint
	TOTAL	**$ 891,581.49**	
05/01/17	Eagle Development LLC	$ 25,000.00	Personal
04/02/18	Eagle Development LLC	$ 100,000.00	Personal
08/27/18	Eagle Development LLC	$ 82,030.66	Personal
10/03/18	Eagle Development LLC	$ 6,953.34	Personal
10/03/18	Eagle Development LLC	$ 100,000.00	Personal

12/10/18	Eagle Development LLC	$	4,680.82	Personal
12/26/18	Eagle Development LLC	$	300,000.00	Personal
04/10/19	Eagle Development LLC	$	200,000.00	Personal
06/03/19	Eagle Development LLC	$	50,000.00	Personal
	TOTAL	**$**	**868,664.82**	
12/22/17	Middlesex Land Holdings LLC	$	4,640.50	Personal
07/31/18	Middlesex Land Holdings LLC	$	180,900.00	Personal
12/06/18	Middlesex Land Holdings LLC	$	31,307.85	Personal
01/29/19	Middlesex Land Holdings LLC	$	100,000.00	Personal
	TOTAL	**$**	**316,848.35**	
03/20/18	Poplar Hill Development LLC	$	60,000.00	Personal
05/30/18	Poplar Hill Development LLC	$	75,000.00	Personal
06/04/18	Poplar Hill Development LLC	$	50,000.00	Personal
07/31/18	Poplar Hill Development LLC	$	110,000.00	Personal
	TOTAL	**$**	**295,000.00**	
	ALL DEPOSITS	**$**	**2,372,094.66**	

EXHIBIT 5

ACCOUNT: [redacted]

PAGE: 1
04/11/2018

DAVID TRAHAN
C/O REMAX
[redacted]

11-0
5
8

Emerald Checking ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			03/09/18	4,807.08
			03/12/18	14,807.08
			03/12/18	9,407.65
			03/14/18	4,407.65
DEPOSIT		50,000.00	03/20/18	54,407.65
[redacted]			03/21/18	53,389.13
			03/21/18	47,024.51
			03/22/18	40,524.51
			03/26/18	145,040.09
			03/26/18	140,235.09
			03/26/18	137,530.48
			03/27/18	137,355.48
			03/29/18	134,728.72
			03/30/18	176,057.26
			03/30/18	175,982.72
			04/02/18	275,982.72
			04/02/18	265,482.72
			04/02/18	263,964.49
			04/02/18	258,464.49
			04/03/18	258,242.60
			04/04/18	257,842.60
			04/06/18	254,655.68
			04/09/18	251,788.48
CHECK # 2009	50,000.00		04/09/18	201,788.48

* * * C O N T I N U E D * * *

EXHIBIT 6

ACCOUNT: [redacted]

LORI TRAHAN
DAVID TRAHAN

Gold Checking ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			04/06/18	3,072.34
DEPOSIT		50,000.00	04/09/18	53,072.34
[redacted]			04/09/18	53,043.48
			04/09/18	53,001.57
			04/09/18	52,926.57
			04/09/18	52,710.77
			04/09/18	52,610.77
			04/10/18	52,607.77
			04/10/18	52,307.77
CHECK # 1154	50,000.00		04/11/18	2,307.77
[redacted]			04/12/18	2,179.47
			04/13/18	2,151.85
			04/13/18	2,074.94
			04/13/18	1,528.61
			04/16/18	1,493.75
			04/18/18	1,496.75
			04/18/18	1,496.83
			04/18/18	1,496.83

[redacted]

EXHIBIT 7

ACCOUNT: [redacted] PAGE: 1
08/10/2018

DAVID TRAHAN
C/O REMAX
[redacted]

11-0
4
6

Emerald Checking ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			07/11/18	29,553.62
			07/19/18	104,553.62
			07/19/18	4,553.62
			07/20/18	3,983.64
			07/23/18	19,983.64
			07/24/18	5,529.09
			07/24/18	5,356.32
			07/26/18	4,856.32
			07/30/18	4,356.32
DEPOSIT		290,900.00	07/31/18	295,256.32
[redacted]			07/31/18	292,905.83
			08/06/18	299,231.66
			08/06/18	295,551.75
			08/06/18	276,524.75
			08/09/18	276,373.51
			08/10/18	276,375.32
			08/10/18	276,375.32

[redacted]

EXHIBIT 8

ACCOUNT: [redacted]

PAGE: 1
09/11/2018

DAVID TRAHAN
C/O REMAX
[redacted]

11-0
1
6

Emerald Checking ACCOUNT [redacted]

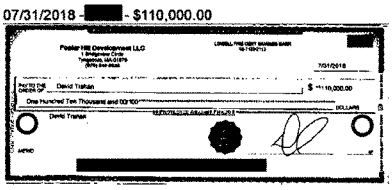
DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			08/10/18	276,375.32
			08/13/18	276,282.90
			08/17/18	274,782.96
			08/17/18	273,737.96
			08/20/18	272,444.01
Advice of Debit	200,000.00		08/21/18	72,444.01
[redacted]			08/27/18	154,474.67
			08/28/18	154,335.73
			08/29/18	149,013.53
			08/30/18	148,744.53
			09/11/18	145,503.37
			09/11/18	145,506.42
			09/11/18	145,506.42

[redacted]

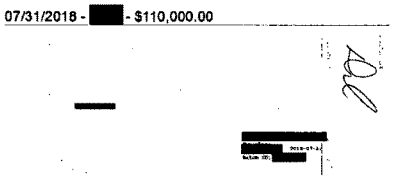
EBTC_0029.40

EXHIBIT 9

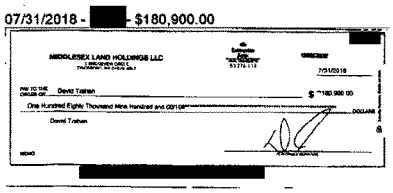
07/31/2018 - [redacted] - $110,000.00



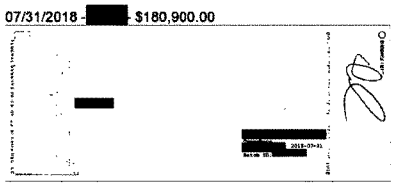
07/31/2018 - [redacted] - $110,000.00



07/31/2018 - [redacted] - $180,900.00



07/31/2018 - [redacted] - $180,900.00



[redacted]

EBTC_0031.11

EXHIBIT 10

PAGE: 1
ACCOUNT: [redacted] 12/18/2018

LORI TRAHAN
DAVID TRAHAN
[redacted]

18-0
3
13

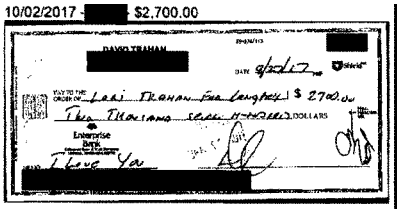
Gold Checking ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			11/16/18	2,732.16
			11/19/18	2,729.66
			11/19/18	2,329.66
			11/19/18	2,029.66
			11/20/18	1,779.66
			11/21/18	1,758.88
			11/21/18	1,708.88
			11/21/18	1,479.13
			11/23/18	1,439.13
			11/26/18	1,435.63
			11/26/18	1,407.73
			11/26/18	1,308.02
			11/26/18	1,202.98
			11/26/18	802.98
			11/26/18	502.98
			11/27/18	479.65
			12/03/18	12,479.65
DEPOSIT		71,000.00	12/03/18	83,479.65
[redacted]			12/03/18	108,479.65
			12/03/18	108,455.18
			12/03/18	108,295.31

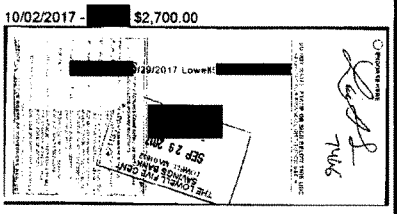
* * * C O N T I N U E D * * *

EXHIBIT 11

10/02/2017 - [redacted] $2,700.00



10/02/2017 - [redacted] $2,700.00

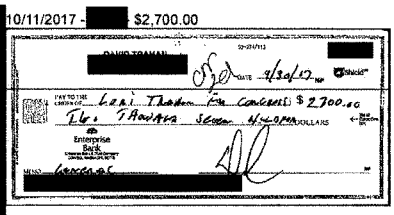


[redacted]

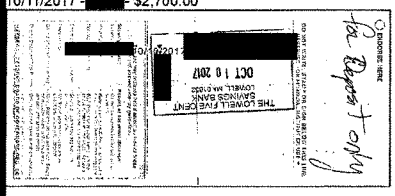
EBTC_0030.33

EXHIBIT 12

10/11/2017 - [redacted] - $2,700.00



10/11/2017 - [redacted] - $2,700.00



EBTC_0030.31

COE.TRAHAN.002125

EXHIBIT 13

ACCOUNT: [redacted]

PAGE: 1
10/11/2017

DAVID TRAHAN
C/O REMAX
[redacted]

11-0
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16

Emerald Checking ACCOUNT [redacted]

DESCRIPTION	DEBITS	CREDITS	DATE	BALANCE
[redacted]			09/11/17	2,571.11
			09/15/17	2,071.11
			09/19/17	12,071.11
			09/25/17	11,911.11
			09/25/17	11,798.55
			09/26/17	10,448.55
			09/26/17	10,305.88
			09/26/17	8,305.88
			09/26/17	2,278.45
			09/27/17	6,278.45
			09/27/17	2,930.95
			10/02/17	9,008.78
			10/02/17	8,758.78
			10/02/17	6,058.78
			10/02/17	58.78
			10/03/17	5,058.78
			10/03/17	3,226.67
			10/06/17	3,155.66
			10/06/17	2,635.66
			10/10/17	2,420.37
			10/11/17	4,920.37
			10/11/17	3,420.37
CHECK # 1774	2,700.00		10/11/17	720.37
[redacted]			10/11/17	695.37
			10/11/17	695.37

[redacted]

EBTC_0029.18

COE.TRAHAN.002051