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FEDERAL ELECTION COMMISSION

FEBRUARY 8, 2021 4:15 PM

**OFFICE OF GENERAL COUNSEL****FEDERAL ELECTION COMMISSION**

In the matter of:

Representative Lauren Boebert  
120 E 3<sup>rd</sup> Street  
Unit B  
Rifle, CO 81650

Lauren Boebert for Congress  
120 E 3<sup>rd</sup> Street  
Unit B  
Rifle, CO 81650

**MUR No.: 7876**

Mike McCauley as Treasurer for Lauren  
Boebert for Congress  
370 East South Temple  
Suite 580  
Salt Lake City, UT 84111

**COMPLAINT**

1. Campaign for Accountability ("CfA") and Michelle Kuppersmith bring this complaint before the Federal Election Commission ("FEC" or "Commission") seeking an immediate investigation and enforcement action against Representative Lauren Boebert; her principal campaign committee, Lauren Boebert for Congress; and its Treasurer, Mike McCauley, for direct and serious violations of the Federal Election Campaign Act ("FECA" or "the Act") and Commission regulations. Evidence strongly suggests that Representative Boebert converted campaign funds to personal use by obtaining reimbursement for noncampaign-related automobile expenses and that Lauren Boebert for Congress and Mike McCauley, in his capacity as Treasurer, failed to keep adequate records of campaign expenditures in violation of the FECA and Commission regulations. The Commission should immediately investigate Representative Boebert, Lauren Boebert for Congress and Mike McCauley, in his capacity as Treasurer, to determine whether the respondents violated the FECA and Commission regulations and, if so, whether such violations were knowing and willful.

### Complainants

2. Complainant CfA is a Section 501(c)(3) organization dedicated to ensuring accountability of public officials and compliance with federal laws. Toward this end, CfA seeks to protect and advance the right of citizens to be informed about the activities of government officials and to ensure the integrity of government officials and the government decision-making process by exposing unethical and illegal conduct of those involved in government. CfA uses research, litigation, and communications to advance its mission.

3. In furtherance of its mission, CfA also monitors campaign finance activities of those who finance federal elections and publicizes information regarding those who violate federal campaign finance laws. In order to assess whether an individual or entity is complying with federal campaign finance laws, CfA needs the information contained in disclosure reports political committees must file pursuant to FECA, 52 U.S.C. § 30104(a)&(b); 11 C.F.R. §§ 104.1, 104.3. CfA is hindered in its programmatic activity when an individual or entity fails to disclose campaign finance information in reports required by the FECA.

4. CfA relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CfA can use to determine if an individual or entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly and timely filed with the FEC. CfA is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

5. Complainant Michelle Kuppersmith is Executive Director of Campaign for Accountability, a citizen of the United States, and a registered voter and resident of the State of New York. As a registered voter, Ms. Kuppersmith is entitled to receive information contained in disclosure reports required by the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.2, 104.3. Ms. Kuppersmith is harmed when an individual, candidate, political committee, or other entity fails to report campaign finance activity as required by the

FECA. See *FEC v. Akins*, 524 U.S. 11, 19 (1998), quoting *Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (“[P]olitical committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support.”). Ms. Koppersmith is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting her ability to review campaign finance information.

### Respondents

6. Representative Lauren Boebert, FEC Identification Number HOC003165, is a current Member of Congress representing the Third Congressional District of Colorado.<sup>1</sup>

7. Lauren Boebert for Congress, FEC Identification Number C00728238, is her principal campaign committee.<sup>2</sup>

8. Mike McCauley became the Treasurer of Lauren Boebert for Congress on September 1, 2020.<sup>3</sup>

### **FACTUAL BACKGROUND**

9. On March 31, 2020 – four months into her campaign to represent the Third Congressional District of Colorado – Lauren Boebert for Congress reimbursed Lauren Boebert \$1,059.03 for mileage for campaign-related travel using her personal vehicle.<sup>4</sup> On November 11, 2020 – only seven months later – Lauren Boebert for Congress reimbursed Lauren Boebert again for campaign-related travel, only this time she was paid the staggering sum of \$21,199.52 for mileage.<sup>5</sup> At the standard reimbursement rate of 57.5

<sup>1</sup> Lauren Boebert, FEC Form 2 Statement of Candidacy (filed November December 9, 2019) <https://docquery.fec.gov/pdf/860/201912090300302860/201912090300302860.pdf>

<sup>2</sup> Lauren Boebert for Congress, FEC Form 1 Statement of Organization (filed November 21, 2019) <https://docquery.fec.gov/pdf/287/201911219166074287/201911219166074287.pdf>

<sup>3</sup> Lauren Boebert for Congress, FEC Form 2 Amended Statement of Organization (filed September 1, 2020) <https://docquery.fec.gov/pdf/588/202009019267074588/202009019267074588.pdf>

<sup>4</sup> Lauren Boebert for Congress, FEC Form 3 April 15 Quarterly Report (filed April 15, 2020) <https://docquery.fec.gov/pdf/026/202004159216733026/202004159216733026.pdf>

<sup>5</sup> Lauren Boebert for Congress, FEC Form 3 30-Day Post-Election Report for the General Election (filed December 3, 2020) <https://docquery.fec.gov/pdf/020/202012039351877020/202012039351877020.pdf>

cents per mile, that would mean that in that seven-month period Lauren Boebert drove 36,868 miles in her personal vehicle conducting campaign business.

10. The Third Congressional District of Colorado is large. It encompasses the western third of the state as well as a significant portion of the south-central section of Colorado – approximately 50,000 square miles.<sup>6</sup> But it strains credulity well beyond the breaking point to believe that Lauren Boebert could have driven 36,868 miles on campaign-related travel in a seven-month period. The *Denver Post* catalogued all 80 public events Lauren Boebert hosted in the Third Congressional District of Colorado last year and “used global positioning software to calculate the distance driven to, from, and between them – assuming Boebert attended every event on the schedule and began and ended each day at her home in Silt.”<sup>7</sup> Even using those generous assumptions, the *Denver Post* calculated that Lauren Boebert could have driven a maximum of 17,623 miles on campaign travel for all of 2020 – less than half the number of miles that she claimed to have driven on campaign-related travel in just seven months.<sup>8</sup> “Boebert’s former campaign manager and her finance director declined to comment or provide evidence Boebert drove nearly 39,000 miles last year.”<sup>9</sup>

### LEGAL ANALYSIS

11. FECA prohibits the conversion of campaign funds to personal use.<sup>10</sup> The prohibition includes using campaign funds to “fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate’s election campaign . . . including a noncampaign-related automobile expense.”<sup>11</sup> FEC regulations state that the Commission will determine on a case-by-case basis whether the use of campaign funds to pay an expense that would exist irrespective of a candidate’s campaign

<sup>6</sup> U.S. Census Bureau, 113<sup>th</sup> Congress of the United States, Colorado – Congressional District 3 (available at [https://www2.census.gov/geo/maps/cong\\_dist/cd113/cd\\_based/ST08/CD113\\_CO03.pdf](https://www2.census.gov/geo/maps/cong_dist/cd113/cd_based/ST08/CD113_CO03.pdf))

<sup>7</sup> Justin Wingerter, Rep. Lauren Boebert’s mileage reimbursement “raises red flags,” ethics experts say, *Denver Post* (February 2, 2020) (available at <https://www.denverpost.com/2021/02/02/lauren-boebert-colorado-congress-campaign-finance>)

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> 52 U.S.C. § 30114(b)(1).

<sup>11</sup> 52 U.S.C. § 30114(b)(2)(C).

constitutes personal use. Examples of the personal use include the candidate's use of campaign funds "to pay expenses associated with travel that involves both personal activities and campaign activities" and, if so, the "incremental expenses that result from the personal activities are personal use" unless the candidate reimburses the campaign within thirty days.<sup>12</sup> More importantly, FEC regulations state specifically that when a candidate uses campaign funds "to pay expenses associated with a vehicle that is used for both personal activities beyond a *de minimis* amount and campaign . . . activities, the portion of the vehicle expenses associated with the personal activities is personal use" unless the candidate reimburses the campaign within thirty days.<sup>13</sup> Lauren Boebert did not reimburse Lauren Boebert for Congress for any vehicle expenses associated with her personal activities during 2020. Accordingly, it appears that Lauren Boebert violated both FECA and FEC regulations by having Lauren Boebert for Congress reimburse her for the personal use of her vehicle during her 2020 campaign.<sup>14</sup>

12. The FECA imposes extensive record-keeping requirements on campaign committees. The treasurer of a campaign committee is required to keep an account of the "name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement . . . including a receipt, invoice, or canceled check for each disbursement in excess of \$200."<sup>15</sup> The treasurer must keep these records for three years after the report is filed.<sup>16</sup> FEC regulations go further and require the treasurer of a campaign committee to maintain records supporting disbursements required to be reported, "including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness."<sup>17</sup> The Commission has held that when a vehicle is used for both campaign and non-campaign purposes, the candidate must keep "a mileage log that is updated with each use of the car" in order to satisfy the record-keeping requirements of 11 C.F.R. §

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<sup>12</sup> 11 C.F.R. § 113.1(g)(1)(ii)(C).

<sup>13</sup> 11 C.F.R. § 113.1(g)(1)(ii)(D).

<sup>14</sup> 52 U.S.C. § 30114(b)(2)(C); 11 C.F.R. § 113.1(g)(1)(ii)(C)&(D).

<sup>15</sup> 52 U.S.C. § 30102(c)(5).

<sup>16</sup> 52 U.S.C. § 30102(d).

<sup>17</sup> 11 C.F.R. § 104.14(b)(1).

104.14(b).<sup>18</sup> The treasurer of the campaign committee must retain the mileage log as part of the committee's accounting records.<sup>19</sup> Accordingly, if Lauren Boebert did not keep a mileage log that documented the campaign and non-campaign uses of her personal vehicle during the 2020 campaign she violated the FECA and FEC record-keeping requirements.<sup>20</sup> Similarly, if Lauren Boebert for Congress, and Mike McCauley, in his capacity as treasurer, paid Lauren Boebert \$21,119.52 for mileage reimbursement without first receiving and reviewing the mileage log to justify that disbursement Lauren Boebert for Congress and Mike McCauley violated the FECA and FEC record-keeping requirements.<sup>21</sup>

### CONCLUSION

WHEREFORE, Campaign for Accountability and Michelle Kuppersmith respectfully request that the Commission immediately investigate whether respondents violated the FECA and FEC regulations, declare the respondents to have violated the FECA and Commission regulations, impose sanctions for these violations, and take such further steps as may be appropriate, pursuant to the Act.

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<sup>18</sup> Advisory Opinion 2001-03 (Gregory W. Meeks).

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

<sup>20</sup> 52 U.S.C. § 30102(c); 11 C.F.R. § 104.14(b).

<sup>21</sup> 52 U.S.C. § 30102(c)&(d); 11 C.F.R. § 104.14(b).

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**ON BEHALF OF COMPLAINANTS**

Michelle Koppersmith  
Executive Director  
Campaign for Accountability  
611 Pennsylvania Avenue, S.E.  
#337  
Washington, D.C. 20003  
(202) 780-5750

**Verification**

Campaign for Accountability and Michelle Kuppersmith hereby verify that the statements made in the attached Complaint are, upon information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.



Michelle Kuppersmith

District of Columbia:SS

SUBSCRIBED AND SWORN to before me on this 8<sup>th</sup> day of February, 2021.



**MIRIAM MANBER**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
**No. 02MA6346452**  
**Qualified in New York County**  
**My Commission Expires 08-15-2024**