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**EXECUTIVE DIRECTOR**

July 6, 2022

**MUR 8033**

Ms. Lisa Stevenson  
 Acting General Counsel  
 Federal Election Commission  
 1050 First Street, NE  
 Washington, D.C. 20463

**Re: Complaint against Sen. Raphael Warnock and Warnock for Georgia for Illegal Personal Use of Campaign Funds**

Dear Ms. Stevenson:

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Sen. Raphael Warnock and Warnock for Georgia have violated 52 U.S.C. § 30114(b), which prohibits the use of federal campaign funds to pay for personal expenses.

As recently reported by *Politico*, Sen. Warnock used campaign funds to pay for litigation arising from events dating back to 2005 – almost 15 years before Warnock ever held or sought federal office. Because these allegations long predate Warnock’s seeking of federal office, the legal claims exist irrespective of his status as an officeholder and federal candidate. Thus, the Commission should find reason to believe that Warnock is in violation of federal law by using campaign funds for personal gain.

**Warnock illegally used campaign contributions to pay for personal litigation expenses**

Federal law states that “a contribution or donation [under the Federal Election Campaign Act]... shall not be converted by any person to personal use.”<sup>1</sup> Specifically, “a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of Federal office.”<sup>2</sup> In other words, a federal candidate is prohibited from using campaign funds to cover personal expenses that would exist *whether or not* the person was a federal candidate. In Federal Election Commission (“FEC” or the “Commission”) shorthand, this is referred to as the “irrespective” test. This “irrespective” test is well-settled law, both by the Commission and the U.S. Court of Appeals for the D.C. Circuit.<sup>3</sup>

<sup>1</sup> 52 U.S.C. § 30114(b)(1).

<sup>2</sup> *Id.* § 30114(b)(2).

<sup>3</sup> See Personal Use of Campaign Funds, 60 Fed. Reg. 7862, 7868 (Feb. 9, 1995); FEC Adv. Ops. 2018-09 (Clements), 2018-03 (Gilmore), 2011-07 (Fleischmann), 2009-20 (Visclosky), 2009-12 (Coleman), 2008-07 (Vitter), 2006-35 (Kolbe), 2005-11 (Cunningham), 2003-17 (Treffinger); 1997-27 (Boehner); see also *FEC v. Craig for U.S. Senate*, 816 F.3d 829 (D.C. Cir. 2016).

Raphael Warnock is both a current officeholder and a candidate for federal office, seeking reelection to one of Georgia's U.S. Senate seats in November 2022, and funds raised for his campaign committee, Warnock for Georgia, are therefore subject to the personal use ban. Warnock first became a federal candidate on January 30, 2020, when he announced his run for the U.S. Senate seat being vacated by then-Senator Johnny Isakson, who retired at the end of 2020.<sup>4</sup>

As *Politico* reported on July 6, 2022, Warnock is currently the subject of a federal lawsuit relating to his time as a pastor at Ebenezer Baptist Church.<sup>5</sup> The lawsuit alleges unlawful conduct by Warnock dating back to 2005 – nearly 15 years before Warnock ever became a federal candidate.<sup>6</sup> In fact, counsel for Warnock previously acknowledged – in briefs filed in federal court – that the conduct giving rise to this lawsuit occurred prior to his candidacy or officeholder duties. In their own words, counsel argued that the claims against Warnock should be dismissed because they “relate to” actions purportedly taken in 2005 and 2008, when he was not a federal employee.”<sup>7</sup>

Furthermore, the lawsuit itself was first filed in 2019 – which is also prior to Warnock becoming a candidate or officeholder.<sup>8</sup> The initial version of the lawsuit was dismissed without any of the defendants being served, and the plaintiff thus re-filed the suit in 2021, allegedly serving Warnock at an address that is now publicly available information: his official Senate office.<sup>9</sup> Warnock's campaign counsel, the Elias Law Group, contends that this fact alone warrants the use of campaign funds to pay Warnock's litigation expenses.<sup>10</sup> But no FEC or court precedent has ever determined – nor could it – that the *location of service* for a lawsuit determines whether campaign funds may be used to pay for its legal expenses. Such an argument is patently absurd: it suggests, for example, that then-Senator Larry Craig could have used campaign funds to fight criminal charges in state trial court, *if only* he'd technically been arrested or served with papers while standing inside his Senate office.<sup>11</sup> But the location of service (or arrest) is simply not a relevant issue; it's a red herring. The “central question” in a personal use case is very clear: whether the legal expenses “would exist ‘irrespective’ of [the candidate's] election campaign or official duties.”<sup>12</sup> Here, whether the plaintiff served process on Warnock at home or in his Senate office, the question is whether the *legal claims* against him would exist irrespective of his election campaign or officeholder duties.

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<sup>4</sup> Alex Rogers, *Rev. Raphael Warnock enters US Senate race in Georgia*, CNN, January 30, 2020, <https://www.cnn.com/2020/01/30/politics/raphael-warnock-democrat-running-georgia-senate/index.html>; FEC Statement of Candidacy, filed January 30, 2020, <https://docquery.fec.gov/cgi-bin/forms/S0GA00559/1375157/>.

<sup>5</sup> Natalie Allison, *Questions arise over Warnock's use of campaign funds to fight lawsuit*, Politico, July 6, 2022, <https://www.politico.com/news/2022/07/06/warnock-used-campaign-funds-to-fight-personal-lawsuit-00044148>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* (emphasis added).

<sup>8</sup> Shannon McCaffrey, *Republicans: Warnock violated campaign finance law*, Atlanta Journal-Constitution, July 7, 2022, <https://www.ajc.com/politics/election/republicans-warnock-violated-campaign-finance-law/KAU2TFBFTREVZC3URAQGV3NKZ4/>

<sup>9</sup> Politico, *see supra* note 5.

<sup>10</sup> *Id.*

<sup>11</sup> There are very good policy reasons why “location of service” is not the test for personal use. One could imagine, for example, an individual with personal legal troubles who might be incentivized to run for federal office in the hope that he or she could use campaign funds to pay for personal legal expenses as long as the candidate could induce the government or plaintiff to serve process at official premises.

<sup>12</sup> *FEC v. Craig for U.S. Senate*, 816 F.3d 829.

The legal claims in the suit relate to Warnock's conduct many years prior to his candidacy and officeholder status, and it is thus clear that these claims would exist irrespective of whether Warnock had ever decided to seek federal office.

In sum, because the conduct that gave rise to the lawsuit occurred 15 years before Warnock ever sought or held federal office, the legal claims have nothing to do with Warnock's now-status as a candidate and officeholder. These claims and the related expenses would, therefore, exist irrespective of Warnock's election campaign or officeholder duties. And Warnock therefore *may not use* funds raised for his campaign – which donors contributed in good faith that their money would be used to help elect Warnock to office – to cover his personal costs for legal claims that ripened long before his candidacy.

### REQUEST FOR RELIEF

Upon information and belief, there is reason to believe that Raphael Warnock and Warnock for Georgia have illegally converted campaign funds to personal use. The Commission should therefore conduct an immediate investigation into whether Warnock violated 52 U.S.C. § 30114(b) and pursue the appropriate penalties and remedial action.

Respectfully submitted

A. Louisa Brooks

Deputy General Counsel, NRSC

STATE OF Virginia

)  
) ss.

COUNTY OF Fairfax

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Subscribed and sworn to before me on July 7, 2022.

Jaan Porter

Notary Public in and for the State of: Virginia  
My Commission Expires On: 08/31/2023

