

OFFICE OF
GENERAL COUNSEL
BEFORE THE
FEDERAL ELECTION COMMISSION

2018 SEP 10 AM 9:57

Daniel J. Cohen

Houston, TX 77057

MUR # 7494

Complainant,

v.

Representative John Culberson
P.O. Box 41964
Houston, TX 77241

Culberson for Congress and its Treasurer, Jennifer Naedler, in her official capacity
P.O. Box 41962
Houston, TX 77241

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Representative John Culberson and his principal campaign committee, Culberson for Congress and its Treasurer, Jennifer Naedler, in her official capacity, for apparently violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission (the "Commission") regulations by using campaign funds to pay for membership in a non-political organization. The Commission should also immediately launch an investigation to determine whether approximately \$17,000 in payments for civil war memorabilia and almost \$33,000 in payments disclosed for "research purposes" violated the prohibition on using campaign funds for personal use.

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FACTUAL BACKGROUND

Representative John Culberson currently represents Texas's Seventh Congressional District and is running for re-election in 2018.¹ Culberson for Congress is his official campaign committee.² Representative Culberson first ran for Congress in 2000 and has run for re-election in every election cycle since then.³ Numerous expenses on reports filed by Culberson for Congress since that time raise questions about personal use of campaign funds.

Specifically, in 2009, Culberson for Congress reported a \$375 expense for a "membership fee" to the Texas State Rifle Association.⁴ In 2012, Culberson for Congress spent \$309 at the Black Hills Institute, a museum which sells and rents fossils.⁵ This expense was reportedly for "research materials."⁶

Additionally, separate from his job as a Member of Congress, Representative Culberson appears to have an outside business where he collects and sells military collectibles. He has reported selling as much as \$1.35 million worth of "Military Collectibles" since 2010.⁷ In addition to his personal business selling antiques, Culberson for Congress has reported spending

¹ John Culberson, Biography, <https://culberson.house.gov/>; FEC, Statement of Candidacy, (filed March 11, 2018) <http://docquery.fec.gov/pdf/510/201803119096531510/201803119096531510.pdf>.

² Culberson for Congress, Statement of Organization, (filed March 11, 2018) <http://docquery.fec.gov/pdf/512/201803119096531512/201803119096531512.pdf>.

³ See John Culberson, Statement of Candidacy (filed Dec. 5, 2000) <http://docquery.fec.gov/pdf/887/20036523887/20036523887.pdf>.

⁴ Culberson for Congress, October Quarterly 2009 65, <http://docquery.fec.gov/pdf/423/10930350423/10930350423.pdf>.

⁵ FEC, Culberson for Congress, October Quarterly 2012 78, <http://docquery.fec.gov/pdf/457/12972549457/12972549457.pdf>.

⁶ *Id.*

⁷ U.S. House of Representatives, John Abney Culberson, 2010 Financial Disclosure Statement, http://clerk.house.gov/public_disc/financial-pdfs/2011/8202514.pdf; 2014 Financial Disclosure Statement, http://clerk.house.gov/public_disc/financial-pdfs/2014/9106987.pdf; 2015 Financial Disclosure Statement, http://clerk.house.gov/public_disc/financial-pdfs/2015/9109106.pdf; 2016 Financial Disclosure Statement, http://clerk.house.gov/public_disc/financial-pdfs/2016/9111040.pdf;

over \$17,000 on “donor gifts,” including for antiques and military collectibles, since 2004.⁸

These expenditures include over \$5,000 for civil war memorabilia in 2010 alone.⁹

Representative Culberson’s campaign committee has also spent a total of \$32,981 on expenses reported as “Books” and “Research Materials” since 2009 to assorted vendors, such as Amazon.com, Borders, and Barnes & Noble.¹⁰ These expenditures are highly suggestive of an improper use of campaign funds given how much is being spent in relation to other congressional campaigns. For example, in the 2013-2014 campaign cycle, Culberson for Congress spent \$6,384.64 at Amazon.com alone on “Research Materials.”¹¹ In stark contrast, only one other Congressional campaign committee spent money for “research” at Amazon in that

⁸ Culberson for Congress, FEC Disbursements 2005-2006

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2006&data_type=processed&committee_id=C00343236&min_date=01%2F01%2F2005&max_date=12%2F31%2F2006&disbursement_description=collectible&disbursement_description=currency&disbursement_description=stamp+cover&disbursement_description=republi+of+texas&disbursement_description=prints&disbursement_description=coin&disbursement_description=star; FEC Disbursements 2009-2010,

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2010&data_type=processed&committee_id=C00343236&recipient_name=civil+war&min_date=01%2F01%2F2009&max_date=12%2F31%2F2010; FEC Disbursements 2011-2012

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2012&data_type=processed&committee_id=C00343236&min_date=01%2F01%2F2011&max_date=12%2F31%2F2012&disbursement_description=star; FEC Disbursements 2013-2014

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2014&data_type=processed&committee_id=C00343236&min_date=01%2F01%2F2013&max_date=12%2F31%2F2014&disbursement_description=coin.

⁹ FEC Disbursements 2009-2010,

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2010&data_type=processed&committee_id=C00343236&recipient_name=civil+war&min_date=01%2F01%2F2009&max_date=12%2F31%2F2010; FEC.

¹⁰ Culberson for Congress, FEC Disbursements 2015-2016,

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00343236&min_date=01%2F01%2F2015&max_date=12%2F31%2F2016&disbursement_description=research+materials (hereinafter “2016 Research Expenses”); FEC Disbursements 2013-2014;

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2014&data_type=processed&committee_id=C00343236&min_date=01%2F01%2F2013&max_date=12%2F31%2F2014&disbursement_description=research+materials (hereinafter “2014 Research Expenses”); FEC Disbursements 2011-2012;

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2012&data_type=processed&committee_id=C00343236&min_date=01%2F01%2F2011&max_date=12%2F31%2F2012&disbursement_description=books&disbursement_description=research+materials; FEC Disbursements 2009-2010;

https://www.fec.gov/data/disbursements/?two_year_transaction_period=2010&data_type=processed&committee_id=C00343236&min_date=01%2F01%2F2009&max_date=12%2F31%2F2010&disbursement_description=books+for+research&disbursement_description=book.

¹¹ See 2014 Research Expenses, *supra* note 7.

election cycle; and that committee spent just \$542.84.¹² Similarly, in the 2015-2016 cycle, Culberson for Congress spent \$4,493 at Amazon.com for “Research.”¹³ Five other Congressional campaign committees expended funds for research at Amazon.com that election cycle, but these five committees spent just \$520.27 *combined*.¹⁴ So far in the 2017-2018 cycle, all congressional committees have spent \$2,180.86 at Amazon.com for research, and \$1,545.48 of that amount has been spent by Culberson for Congress alone; the remaining three committees have spent just \$635.38 *combined*.¹⁵

LEGAL ANALYSIS

The Act prohibits a candidate or any other person from converting “[a] contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office,” for “personal use.”¹⁶ Personal use means any use of funds in a campaign account “to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder.”¹⁷ Commission regulations include a list of expenses which are considered to be *per se* personal use. It is considered *per se* personal use to use campaign funds to pay dues, fees, or gratuities at a country club, health club, recreational facility, or other nonpolitical organization

¹² Federal Election Commission, All Disbursements 2013-2014, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2014&data_type=processed&recipient_name=amazon&min_date=01%2F01%2F2013&max_date=12%2F31%2F2014&disbursement_description=research.

¹³ See 2016 Research Expenses, *supra* note 7.

¹⁴ Federal Election Commission, All Disbursements 2015-2016, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&recipient_name=amazon&min_date=01%2F01%2F2015&max_date=12%2F31%2F2016&disbursement_description=research.

¹⁵ Federal Election Commission, All Disbursements 2017-2018, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&recipient_name=amazon&min_date=01%2F01%2F2017&max_date=06%2F07%2F2018&disbursement_description=research.

¹⁶ 52 U.S.C. § 30114(a), (b)(1); 11 C.F.R. § 113.2.

¹⁷ 11 C.F.R. § 113.1(g)

unless part of a specific fundraising event.¹⁸ For expenses other than those defined as *per se* personal use, the Commission evaluates on a case-by-case basis whether the expense would have existed irrespective of the candidate's campaign.¹⁹

Rep. Culberson and his campaign, Culberson for Congress, appear to have engaged in a pattern of using campaign funds for personal use for many years. In 2009, Rep. Culberson used campaign funds for membership to the Texas Rifle Association. This expenditure was a clear violation of the prohibition on using campaign funds for dues or fees in a nonpolitical organization.²⁰ Further, Culberson for Congress's expenses at the Black Hills Institute for "research materials" do not appear to be expenses that would exist irrespective of Rep. Culberson's campaign as it is very unlikely that a congressional campaign committee needs to buy or rent fossils to win a federal election. Thus, these expenditures also appear to be personal use of campaign funds.

Similarly, the expenditures Rep. Culberson's campaign made since 2004 totaling over \$17,000 on antiques and military collectibles for "donor gifts" raise questions of whether Rep. Culberson in fact purchased these items for personal profit, rather than as expenditures for his campaign or duties as a federal officeholder. In 2010 alone, Culberson for Congress spent over \$5,000 for civil war memorabilia. Obviously, expenditures for civil war memorabilia in connection with Rep. Culberson's personal hobby of collecting antiques, or to support his business are expenses that would exist irrespective of his duties as a federal officeholder or candidate. Thus, if he used campaign funds for these purposes he would have converted campaign funds to personal use in violation of federal law and regulations.

¹⁸ *Id.* § 113.1(g)(1)(i)(G).

¹⁹ *Id.* § 113.1(g)(1)(ii).

²⁰ *See id.* § 113.1(g)(1)(i)(G).

Lastly, the excessive amount of campaign funds Culberson for Congress has recently spent at Amazon.com and other vendors for "research," which far exceed the expenditures of any other Congressional committee, suggest that Culberson for Congress may be using campaign funds for purposes unrelated to the campaign, and thus for personal use, warranting an investigation by the Commission.

REQUESTED ACTION

Public records strongly indicate that Respondents may have violated the Act and Commission regulations by using campaign funds for personal use to further Representative Culberson's personal interests. As such, I respectfully request that the Commission immediately investigate these violations and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,

Daniel J. Cohen

Houston, TX 77057

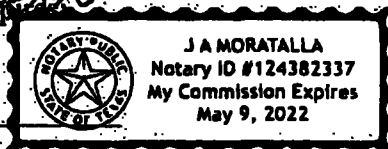
SUBSCRIBED AND SWORN to before me this 29th day of August, 2018.

Daniel J. Cohen

Notary Public

My Commission Expires

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