

VIA USPS and Electronic Mail

Office of General Counsel  
Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463  
EnfComplaint@fec.gov

## COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Dave Williams, Dave Williams for Colorado (the “Williams Campaign”), and the Colorado Republican Committee (the “State Party”) for apparent violations of the Federal Election Campaign Act of 1971 (“FECA”) and Federal Election Commission (“FEC”) regulations. Based on public reporting and documentary evidence, there is strong reason to believe that Williams is using the State Party as a slush fund to benefit the Williams Campaign, resulting in unreported and impermissible contributions from the State Party to the Williams Campaign.

## FACTUAL BACKGROUND

Dave Williams is the chairman of the Colorado Republican Committee.<sup>1</sup> Williams is also a candidate for Congress in Colorado’s Fifth District.<sup>2</sup> Dave Williams for Colorado is Williams’s authorized committee.<sup>3</sup>

On January 8, 2024, Williams sent an email from his State Party email account to the State Party’s contact list announcing his candidacy for Congress and included a press release announcement from the Williams Campaign.<sup>4</sup> As part of the email, Williams stated that he would continue in his role as chairman.

On February 26 and 27, 2024, Williams again used the State Party email list to send two identical emails (collectively, the “Emails”) attacking one of his primary opponents, Jeff Crank.<sup>5</sup> Although poorly veiled as an attack on Nikki Haley, the bulk of the content focused on negatively attacking Crank and Americans for Prosperity. Not surprisingly, this email was sent only four days after Americans for Prosperity’s political arm, AFP Action, publicly endorsed Crank.<sup>6</sup>

On February 26, 2024, the State Party paid for and distributed a mailer (the “Mailer”) with similar messaging to Williams’s Emails. This time, the State Party, with Williams still as its chair, took aim not

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<sup>1</sup> <https://www.cologop.org/officers/>

<sup>2</sup> <https://www.daveforcolorado.com/>

<sup>3</sup> <https://docquery.fec.gov/pdf/065/202401109600022065/202401109600022065.pdf>

<sup>4</sup> Exhibit 1.

<sup>5</sup> <https://us4.campaign-archive.com/home/?u=27121325a99aaafc5838ea407&id=b6f610e756>

<sup>6</sup> <https://afpaction.com/afp-action-endorses-jeff-crank-for-congress/>

just at Haley and Crank, but also attacked The Gazette, a daily newspaper based in Colorado Springs, and its owner, Phil Anschutz.<sup>7</sup> Only a few weeks earlier, The Gazette's editorial board endorsed Crank.<sup>8</sup>

Based on public reporting, and despite being only a week before Colorado's statewide Republican presidential primary, the Mailer appears to have only been sent to voters in El Paso County, Colorado. The bulk of El Paso County falls within Colorado's Fifth District, where Williams is running.<sup>9</sup> When asked about the Mailer and the attack on Crank, Williams defended and took credit for it.<sup>10</sup>

## LEGAL ANALYSIS

### a. Williams is using the State Party to pay for his campaign's expenses.

The facts above show a troubling pattern of Williams using the State Party to pay for campaign expenses, in violation of FEC rules. Expenses for core functions of a campaign, including drafting and distributing candidacy announcements, press releases, and communications attacking primary opponents, should be paid for with campaign funds. Here, however, Williams used the State Party to perform those functions, offsetting his own campaign expenses.

### b. The Mailer was a Coordinated Communication.

Under FEC rules, when a committee pays for a communication that is coordinated with a campaign or a candidate, the communication is either an in-kind contribution or, in some limited cases, a coordinated party expenditure by a party committee. Coordinated party expenditures can only be made in connection with a general election, so they are not applicable to the present matter.

FEC regulations provide for a three-part test to determine whether a communication is considered coordinated. A communication must satisfy all three prongs of the test to be considered a coordinated communication. As demonstrated below, all three prongs of the test are met with respect to the State Party's Mailer and Williams.

The payment prong is satisfied when the communication is paid for, in whole or in part, by a person other than a candidate or their authorized committee. Here payment prong is satisfied, as the Mailer states that it was paid for by the State Party.

The content prong is satisfied when it meets one of five standards set forth in FEC regulations. One such standard is a public communication that refers to a clearly identified presidential candidate and is public distributed in a jurisdiction during the period starting 120 days before the primary election in that jurisdiction. Here the Mailer is a public communication because it is a mass mailing. It therefore satisfies the content prong because it is a public communication that refers to two (at the time) candidates, Donald Trump and Nikki Haley, and was distributed in El Paso County, Colorado, in the days leading up to Colorado's presidential primary.

Finally, the conduct prong is satisfied when certain types of interactions take place between the entity paying for the communication and the candidate or campaign. One category of interaction, material

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<sup>7</sup> [https://www.coloradopolitics.com/elections/2024/republicans-rip-colorado-gop-chair-dave-williams-over-use-of-party-resources-to-attack-primary-rival/article\\_4d3c8b66-d8d4-11ee-a0d4-e35da78f56ea.html](https://www.coloradopolitics.com/elections/2024/republicans-rip-colorado-gop-chair-dave-williams-over-use-of-party-resources-to-attack-primary-rival/article_4d3c8b66-d8d4-11ee-a0d4-e35da78f56ea.html)

<sup>8</sup> [https://gazette.com/opinion/editorial-nominate-jeff-crank-for-cd-5/article\\_44fc28b4-bc99-11ee-ba6a-0b7c49c3aed8.html](https://gazette.com/opinion/editorial-nominate-jeff-crank-for-cd-5/article_44fc28b4-bc99-11ee-ba6a-0b7c49c3aed8.html)

<sup>9</sup> [https://www.coloradopolitics.com/elections/2024/republicans-rip-colorado-gop-chair-dave-williams-over-use-of-party-resources-to-attack-primary-rival/article\\_4d3c8b66-d8d4-11ee-a0d4-e35da78f56ea.html](https://www.coloradopolitics.com/elections/2024/republicans-rip-colorado-gop-chair-dave-williams-over-use-of-party-resources-to-attack-primary-rival/article_4d3c8b66-d8d4-11ee-a0d4-e35da78f56ea.html)

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

involvement, is satisfied if a candidate was materially involved in decisions regarding the content, intended audience, means, mode, media outlet used, timing, or frequency of a public communication. Here, when questioned about the Mailer, instead of distancing himself from it, Williams made clear that he was involved in creating and sending it. As a result, Williams, a congressional candidate, was materially involved in the Mailer, and the conduct prong is satisfied.<sup>11</sup>

**c. The Coordinated Communication was not reported as an in-kind contribution.**

As discussed, coordinated communications are in-kind contributions to the candidate or campaign with which the communication was coordinated. Here, despite coordinating the Mailer with the Williams Campaign, the State Party did not report it as an in-kind contribution to the Williams Campaign, in violation of FEC rules and regulations.

**d. The Mailer and Email disclaimers were insufficient under FEC rules.**

If a communication is authorized by a candidate but paid for by a party committee, the communication must identify the party that paid for it and state that it was authorized by the candidate. Here, despite Williams's authorization of the Mailer and Emails as a result of his role at the State Party, they did not include the authorization disclaimer. This is a violation of FEC rules and regulations.

**e. Other unreported in-kind contributions.**

The FEC defines a contribution to include any gift, subscription, loan, advantage, deposit of money, or anything of value made for the purpose of influencing a federal election. The above facts show several things of value that the State Party provided to the Williams Campaign that have not been reported as in-kind contributions, including but not limited to the State Party's email list and staff time used to create and circulate the Mailer and the Emails. These unreported in-kind contributions again violate FEC rules.

### **REQUESTED ACTION**

As shown above, Williams is using his position as chair of the State Party to provide unreported in-kind contributions to his campaign. The magnitude of the unreported contributions suggests that they likely exceed the limit a state party can contribute to a candidate committee. Accordingly, there is strong reason to believe that federal law has been violated, and the FEC should authorize an investigation to determine the severity and extent of the violations.

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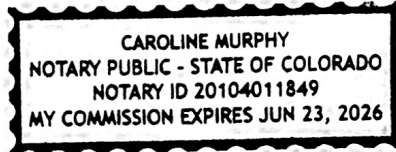
<sup>11</sup> Other conduct standards are likely also satisfied, including request or suggestion and substantial discussion.

Respectfully submitted,

Kelly Mahoe Falk

Signed and sworn before me under penalty of perjury this 4<sup>th</sup> day of April 2024.

[Signature]



Notary

Adams County, Colorado