

BEFORE THE FEDERAL ELECTION COMMISSION

Foundation for Accountability and Civic Trust
1717 K Street NW
Suite 900
Washington, D.C. 20006

v.

MURNo. **7773**

Eugene DePasquale
DEPASQUALE FOR PA 10
FEC ID#: C00710533
PO BOX 1822
York, PA 17405

COMPLAINT

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. This complaint is submitted, upon information and belief, that Eugene DePasquale and his campaign committee have illegally used state campaign funds for his federal congressional race.¹ DePasquale is currently Pennsylvania's Auditor General, and is running for the U.S. House of Representatives in Pennsylvania's Tenth Congressional District. In 2019, DePasquale used his state campaign account to pay for expenses that clearly appear to be for his federal campaign. This type of activity violates federal election laws, including contribution limits and reporting requirements. We request the Federal Election Commission (FEC) investigate and take appropriate enforcement actions.²

I. Facts.

Eugene DePasquale is currently Pennsylvania's Auditor General. As a former candidate for this state office, DePasquale continues to have a non-federal account organized under Pennsylvania law, for

¹ This complaint is submitted pursuant to 52 U.S.C. § 30109(a)(1).

² "If the Commission, upon receiving a complaint ... has reason to believe that a person has committed, or is about to commit, a violation of [Act] ... [t]he Commission shall make an investigation of such alleged violation." 52 U.S.C. § 30109(a)(2); *see also* 11 C.F.R. § 111.4(a).


which he is required to file state campaign finance reports.³ DePasquale's term as Auditor General will end in January 2021 and state term-limit laws prevent him from running for reelection.

On March 26, 2019, it was reported that DePasquale was "strongly considering" running for federal congressional office⁴ and the following day, DePasquale confirmed the reports.⁵ Around this time, DePasquale's state campaign website had been shut down, presumably because he was not running for any state office again.⁶ However, DePasquale began using both his state campaign social media and campaign finance accounts apparently for his federal congressional campaign.

Although a "review of DePasquale's campaign finance records since his 2016 reelection show[ed] no Facebook advertising expenses," DePasquale began running ads with his state campaign Facebook account spending nearly \$24,000 in April and May 2019.⁷ Some of the ads specifically targeted a "key portion of the sprawling 10th district."⁸ Those ads "play[ed] up his advocacy on

³ DePasquale's state campaign committee is "DePasquale For Pennsylvania."

⁴ Alex Clearfield, Twitter, Mar. 26, 2019.



Alex Clearfield
@AlexClearfield

SCOOP: Per three sources, Pennsylvania state Auditor General Eugene DePasquale (D) is strongly considering challenging Rep. Scott Perry (R) in [#PA10](#). DePasquale, who passed on a run in 2018, had previously been thought to be waiting for a statewide run in 2022.

5:21 PM • Mar 26, 2019 • [Twitter Web Client](#)

57 Retweets and comments **102** Likes

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Relevant people

Alex Clearfield
@AlexClearfield [\(Follow\)](#)

Associate Editor @NationalJournal and @NJHotline. South Jerseyan. Full of hot takes.

⁵ John Cole, *DePasquale Mulls Next Step, Possibly Congress*, PoliticsPA, Mar. 27, 2019, available at: <https://www.politicspa.com/depasquale-mulls-next-step-possibly-congress/90769/>.

⁶ According to the Internet Archive's Wayback Machine, DePasquale appears to have shut down his state auditor website, eugene4pa.com, in early March 2019. Available at https://web.archive.org/web/2019*/eugene4pa.com, Accessed via the Internet Archive's Wayback Machine on July 30, 2020.

⁷ Stephen Caruso, *Ahead Of Rumored Run For Congress, DePasquale Drops Campaign Cash On Facebook Ads*, Pennsylvania Capital-Star, June 2, 2019, available at <https://www.penncapital-star.com/government-politics/ahead-of-rumored-run-for-congress-depasquale-drops-campaign-cash-on-facebook-ads/>.

⁸ *Id.*

prescription drug pricing and success in cutting down on unanswered child abuse hotline calls."9 Other ads sought to collect supporters' information.10

9 Id.

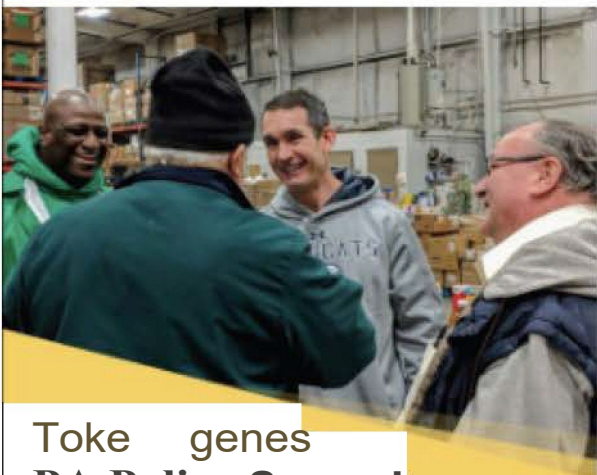
10 Facebook Ad Library, Available at [https://www.facebook.com/ads/library/?active_status=all&ad_category=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&disclaimer_texts\[0\]=DePasquale%20for%20Pennsylvania&q=Eugene%20A.%20DePasquale&sort_data\[direction\]=desc&sort_data\[mode\]=relevancy_monthly_grouped](https://www.facebook.com/ads/library/?active_status=all&ad_category=political_and_issue_ads&country=US&impression_search_field=has_impressions_lifetime&disclaimer_texts[0]=DePasquale%20for%20Pennsylvania&q=Eugene%20A.%20DePasquale&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped), accessed July 30, 2020. For example, the following ads ask for supporters' email addresses:

• **Active**
 Started running on May 2, 2019
 ID: 244457926249&61

About social issues, elections or politics

Eugene A. DePasquale
 Sponsor; Paid for by DePasquale for Pennsylvania

Eugene DePasquale is fighting to make sure that Pennsylvania's government works for us. As Auditor General, he has increased transparency, exposed corruption, and kept our families safe. Now he joins the fight to keep our families safe. Sign on to help Eugene's policy survey today: <https://bit.ly/2HAIx4q>



Take Eugene's PA Policy Survey!

TAKE THE SURVEY!

Share your thoughts with Eugene >>>

[See Ad Details](#)

• **Inactive**
 Started running on Apr 2, 2019
 ID: 651324791964271

About social issues, elections or politics

Eugene A. DePasquale
 Sponsor; Paid for by DePasquale for Pennsylvania

Before Eugene DePasquale took office, 58,000 calls to Pennsylvania's child abuse hotline went unanswered. By fixing ChildLine, Eugene joined the fight to keep our kids safe from abuse. Sign on today with Eugene DePasquale and protect PA children! <http://bit.ly/2VcNYos>



Stand with Eugene DePasquale to Protect Pennsylvania's Children from Abuse

SIGN THE PETITION

Defend Pennsylvania's Children
 Eugene DePasquale is a champion for our kids.

[See Ad Details](#)

DePasquale also made several expenditures from his state campaign account, which again appear to be for his federal campaign.¹¹ From March to May 2019, DePasquale's state campaign made thirteen expenditures as shown in the following table:¹²

Date	Recipient	Amount	Description
3/5/19	Rising Tide Interactive	\$6,000	Retainer
3/5/19	Think Big Campaigns	\$2,000	Website
3/13/19	Stanford Campaigns	\$5,000	Research
3/22/19	Rising Tide	\$6,000	Retainer
4/1/19	Rising Tide	\$23,000	Media
4/1/19	Standford (sic) Campaigns	\$5,000	Research
4/1/19	Jackson Media Group	\$22,000	Media Production/Consulting
4/1/19	Think Go Big (sic)	\$2,000	Website
4/11/19	EveryAction Inc.	\$4,050	Software
4/22/19	Rising Tide Interactive	\$23,000	Media
5/10/19	Think Big Campaigns	\$2,000	Website
5/10/19	Jackson Media Group	\$11,000	Video Production
5/13/19	Think Big	\$2,000	Website

On June 25, 2019, DePasquale reportedly was "telling fellow Democrats that he's going to run for Congress" and "would announce his candidacy in July."¹³ On June 30, 2019, DePasquale announced he was in fact running for U.S House of Representatives from Pennsylvania's 10th Congressional

¹¹ Eugene DePasquale For Pennsylvania, Pennsylvania Campaign Finance Report, Filed Oct. 25, 2019, available at <https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=314045&isStatement=0&is24Hour=0>.

¹² *Jd.*

¹³ Marc Levy, *Pa. Auditor General Plans Run for Congress, Democrats Say*, Penn Live, Jun. 25, 2019, available at <https://www.pennlive.com/news/2019/06/pa-auditor-general-plans-run-for-congress-democrats-say.html>.

District, and planned to file the required paperwork July 1.¹⁴ After formally launching his federal campaign, DePasquale did not make any additional expenditures from his state campaign account to campaign firms.^{ts}

II. Law.

Federal law prohibits federal candidates from soliciting, receiving, directing, transferring, or spending funds in connection with an election for federal office unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act.¹⁶ For instance, funds raised for a state campaign are not subject to federal contribution limitations or federal reporting requirements for contributions and expenditures, and these "non-federal" funds cannot be used for a federal election.¹⁷

Additionally, federal candidates may only accept contributions that do not violate the limit and source prohibitions of federal law.^{ts} Contributions are broadly defined to include monetary donations, gifts, and loans, but also "anything of value ... for the purpose of influencing any election for Federal office."¹⁹ In addition to this broad definition, the regulations also specify that federal candidate campaign committees are prohibited from accepting contributions from a nonfederal candidate

¹⁴ Charles Thompson, *Pa. Auditor General Eugene DePasquale Is Running for Congress, and Heres Why*, Penn Live, June 30, 2019, available at <https://www.pennlive.com/news/2019/06/pas-auditor-general-eugene-de-pasquale-has-decided-on-his-next-race-its-con-ess-and-heres-wh.html>; Andy Palumbo, *Auditor General Eugene DePasquale is Running for Congress*, WNEP, July 1, 2019, available at: <https://www.wnep.com/article/news/local/bradford-county/auditor-general-depasquale-is-running-for-congress/523-9a5579f3-06f4-42c4-a980-7dl781229bfc>.

¹⁵ The only expenditures reported were to other candidates and political committees and for bank fees. DePasquale for Pennsylvania, Campaign Finance Report, 2019 Annual Report, available at <https://www.campaignfinanceonline.org/asset/show-report.aspx?reportID=320088&statement=0&is24Hour=0>.

¹⁶ 52 U.S.C. § 30116; *see also* 11 C.F.R. § 300.63 ("If an individual is simultaneously running for both Federal and State or local office, the individual must raise, accept, and spend only Federal funds for the Federal election.").

¹⁷ 52 U.S.C. §§ 30104, 30116, 30118. Even in the case where a candidate is simultaneously running for both federal and state office, the candidate may only solicit, receive, or spend non-federal funds if its (1) "solely in connection with such election for State or local office" (2) "refers only" to him or her, to other candidates for that same state or local office, or both; and (3) is permitted under state law. 52 U.S.C. § 30125(e)(2); 11 C.F.R. 300.63; Federal Election Advisory Opinion AO 2016-25 (Jan. 25, 2017).

^{ts} 52 U.S.C. §§ 30101, 30118.

¹⁹ 52 U.S.C. § 30101(8)(A).

campaign committee: "Transfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election are prohibited."²⁰

These laws apply before the candidate announces a federal campaign while in the "testing the waters" phase, as well as after.²¹

III. Cause of Action

In the present case, DePasquale's state campaign account is not subject to the limitations, prohibitions, and reporting requirements of federal law. Thus, before announcing his federal campaign as well as after, DePasquale is (1) not permitted to spend any state campaign funds for his federal election and (2) not permitted to transfer any funds or assets from his state campaign committee to his federal campaign committee. However, the facts surrounding DePasquale's use of his state campaign fund demonstrates he did exactly that. In March 2019, DePasquale could not run for reelection for his current state office and shut down his state campaign website, demonstrating he was not running for any state office. Yet, in April 2019, DePasquale began running ads on his state campaign Facebook account. Even though he had not run any ads with his state campaign Facebook account since being re-elected to office in 2016, DePasquale spent nearly \$24,000 on ads in the months before he formally announced he was running for federal office. Moreover, the content of the ads were designed to promote him and to collect supporters information.

²⁰ 11 CFR § 110.3(d).

²¹ Funds raised or spent during the "testing the waters" phase prior to announcing a federal candidacy are also subject to federal law. 11 CFR § 100.72 (stating only funds permissible under the Act may be used for testing the waters activities, and if the individual becomes a candidate all funds received are contributions subject to the reporting requirements of the Act).

Additionally, from March to May 2019, DePasquale made expenditures in the amount of \$113,050 from his state campaign bank account that appear to be directly related to his federal campaign. These expenditures were made to five separate entities:

(A) \$58,000 to Rising Tide Interactive for a "Retainer" and "Media."²² DePasquale had not previously made payments to Rising Tide Interactive (a "full-service digital marketing agency"³ from his state campaign account, and combined with the fact that part of the payments were characterized as a "retainer," this indicates he recently hired this company.²⁴ However, because he was not running for state office, DePasquale had no reason to hire and pay a company for media related to his state office. Moreover, the close proximity to the formal announcement of his federal campaign shows this is the likely the purpose of hiring this new company. In fact, and proving the point, DePasquale's federal campaign has continued to pay Rising Tide Interactive as a vendor in his congressional race, further demonstrating the prior state payments were for this federal campaign.²⁵

(B) \$8,000 to Think Big Campaigns for "Website." Because DePasquale was not running for state office and had shut down his state campaign website, there was no reason for his state campaign to pay Think Big Campaigns (a firm providing "digital and field advocacy" services⁶ for expenses related

²² Eugene DePasquale For Pennsylvania, Pennsylvania Campaign Finance Report, Filed Oct. 25, 2019, available at <https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=314045&isStatement=0&is24Hour=0>.

²³ Rising Tide Interactive, "About Rising Tide," Available at <https://www.risingtideinteractive.com/who-we-are/>, Accessed Jul. 30, 2020.

²⁴ *Jd.*; Pennsylvania Campaign Finance Search, Available at <https://www.campaignfinanceonline.pa.gov/Pages/CFReportSearch.aspx>, Accessed July 30, 2020.

²⁵ DePasquale For PA 10 has paid Rising Tide Interactive a total of \$37,335.81. Federal Election Commission Disbursements Search, Available at https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00710533&recipient_name=rising+tide&two_year_transactionPeriod=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2020, Accessed Jul. 30, 2020.

²⁶ Think Big Campaigns, "About," Available at <https://thinkgobig.com/about/>, Accessed July 30, 2020.

to a "website."²⁷ However, DePasquale launched a new website for his federal campaign, which was active when he announced his federal campaign on June 30, 2019.²⁸ DePasquale's federal campaign committee continued to made expenditures to Think Big Campaigns for "web services" and "site rental."²⁹ DePasquale had not previously made payments to Think Big Campaigns from his state campaign account.³⁰

(C) \$10,000 to Stanford Campaigns for "Research." Again, because DePasquale was not running for any state office, there was no reason for his state campaign to pay the research firm Stanford Campaigns for their services.³¹ DePasquale had not previously made payments to Stanford Campaigns from his state campaign account.³²

(D) \$33,000 to Jackson Media Group for "Media Production/Consulting" and "Video Production." DePasquale's inactive state campaign did not have any need for media and video production. However, DePasquale's federal campaign did. Days after announcing his federal campaign,

²⁷ Eugene DePasquale For Pennsylvania, Pennsylvania Campaign Finance Report, Filed Oct. 25, 2019, available at <https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=314045&isStatement:=0&is24Hour=0>. According to the Internet Archive's Wayback Machine, DePasquale appears to have shut down his state auditor website, eugene4pa.com, in early March 2019. Available at https://web.archive.org/web/2019*/eugene4pa.com, Accessed via the Internet Archive's Wayback Machine on July 30, 2020.

²⁸ EugeneForCongress.com. Available at https://web.archive.org/web/2019*/eugene4pa.com, Accessed via the Internet Archive's Wayback Machine on June 30, 2019. DePasquale announced his congressional campaign on June 30, 2019; Charles Thompson, *Pa. Auditor General Eugene DePasquale Is Running for Congress, and Here's Why*, Penn Live, June 30, 2019, available at <https://www.enlive.com/news/2019/06/auditor-general-eugene-depasquale-has-decided-on-his-next-race-its-congress-and-heres-why.html>.

²⁹ DePasquale For PA 10 has paid Think Big Campaigns a total of \$15,443.58. Federal Election Commission Disbursement Search, Available at https://www.fec.gov/data/disbursements/?data_processed&committee_id=C00710533&recipient_name=think+bi+two+ear+transaction+period=2020&min_date=01%2F01%2F2019&max_date=12%2F31%2F2020, Accessed July 30, 2020.

³⁰ Pennsylvania Campaign Finance Search, Available at <https://www.campaignfinanceonline.pa.gov/Pages/CFReportSearch.aspx>, Accessed July 30, 2020.

³¹ Stanford Campaigns, "Our Story," Available at <https://oppresearch.com/our-story>, Accessed July 30, 2020.

³² Pennsylvania Campaign Finance Search. Available at <https://www.campaignfinanceonline.pa.gov/Pages/CFReportSearch.aspx>, Accessed July 30, 2020.

on July 8, 2019, DePasquale posted a campaign video ad to his social media pages, including his federal campaign YouTube page.³³ The video was also posted by Jackson Media Group, a "strategic communication" and "multiscreen messaging" firm, on its webpage.³⁴ DePasquale's federal campaign has continued to pay Jackson Media Group for "media production."³⁵ DePasquale had not previously made payments to Jackson Media Group from his state campaign account.³⁶

(E) \$4,050 to Everyaction Inc. for "Software." Everyaction is a company that provides "digital, fundraising, and organizing tools."³⁷ Prior to this payment, DePasquale had not previously made any payments to this company from his state campaign account.³⁸ Because he was not running a state campaign, there would be no reason to fundraise. However his federal campaign would be in need of such services.

³³ Eugene DePasquale for PA, YouTube, July 8, 2019, available at <https://www.youtube.com/watch?v=RBM7qpiv40E>; Eugene A. DePasquale, Facebook, July 9, 2019, available at <https://www.facebook.com/105821344592/posts/10157290832409593/?vh=e&d=n>.

³⁴ Jackson Media Group, available at <https://www.jacksongroupmedia.com/>, accessed July 30, 2020.



³⁵ DePasquale For PA 10 has paid Jackson Media Group a total of \$2,085. Federal Election Commission Disbursements Search, Available at https://www.fec.gov/data/disbursements/?data_e-processed&committee_id=C00710533&recipient_name=:ackson+media&two_ear_transaction_eno_d=2020&rnin_date=01%2F01%2F2019&max_date=12%2F31%2F2020, Accessed July 30, 2020.

³⁶ Pennsylvania Campaign Finance Search, Available at <https://www.campaignfinanceonline.pa.gov/Pages/CFReportSearch.aspx>, Accessed July 30, 2020.

³⁷ Everyaction, "About Us", available at <https://www.everyaction.com/about>, last accessed July 29, 2020.

³⁸ Pennsylvania Campaign Finance Search, <https://www.campaignfinanceonline.pa.gov/Pages/CFReportSearch.aspx>, Accessed July 30, 2020.

III. Conclusion

The facts surrounding DePasquale's use of his non-federal account clearly demonstrate he made expenditures for his federal campaign with non-federal funds. Even though he wasn't running for state office. DePasquale used his state account to hire and pay several political campaign vendors for services including a campaign video, website, research, and social media ads. Directly after that, DePasquale did in fact launch a federal congressional campaign that apparently used or benefited from these services. Further proving the point, in previous years DePasquale's state campaign had not used any of these vendors, but his federal campaign continued to do so.

Moreover, because the payments indicate some of the expenses were for list building or other assets, the federal campaign may have accepted an illegal contribution from the state campaign. Even if the campaign purchased assets from the state campaign, it should be investigated to determine whether fair market value was paid given the facts above. We find the evidence here overwhelming and request the Commission immediately investigate DePasquale and DePasquale for PA IO to assess if they violated federal law and, if so, assess appropriate penalties.

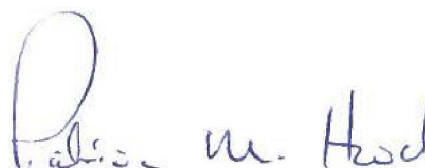
Respectfully submitted,



Kendra Arnold, Executive Director
Foundation for Accountability & Civic Trust
1717 K Street NW, Suite 900
Washington, D.C. 20006

STATE OF IOWA)
) ss.
COUNTY OF POLK)

Subscribed and sworn to before me on August 13, 2020.



Notary Public in and for the State of Iowa

