

BEFORE THE FEDERAL ELECTION COMMISSION

Anthony Constantino
PO Box 109
Fonda, NY 12068

v.

Robert Smullen,
Robert Smullen for Congress,
and Taylor Moose, in her official capacity as Treasurer.
P.O. Box 1
Gloversville, NY 12078

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Robert Smullen, Robert Smullen for Congress, and Taylor Moose, in her official capacity as Treasurer. As set forth in more detail below, Mr. Smullen impermissibly used funds from his state campaign committee for New York State Assembly in furtherance of his federal campaign for the U.S. House of Representatives in violation of 52 U.S.C. § 30125(e)(1) and 11 C.F.R. §§ 100.72, 100.131, 101.3, and 110.3(d).

1. Mr. Smullen is a candidate for the U.S. House of Representatives in New York's 21st Congressional District for the 2026 election cycle. He filed his FEC Statement of Candidacy on November 20, 2025.¹

2. However, Mr. Smullen expressed an interest in running for the U.S. House seat as early as June 2025 and began conducting activities to evaluate the viability of a potential candidacy, including touring the district to “get around to all of the upstate area” and develop “a really good sense of what's going on and what the people need.”²

3. From June 2025, when Mr. Smullen publicly stated that he was eyeing a run for federal office, to when he announced his U.S. House candidacy on November 20, 2025, his State Assembly campaign committee—Friends of Robert Smullen 2026 (New York State Board of Elections (“NYSBOE”) Filer ID 527997)—spent almost \$80,000 on out-of-state campaign,

¹ <https://docquery.fec.gov/pdf/824/202511209792728824/202511209792728824.pdf>

² Lucy Hodgman, *Smullen signals interest in Stefanik's congressional seat*, ALBANY TIMES-UNION (Jun. 18, 2025), attached as Exh. A (“Smullen, 56, is considering a bid for Stefanik's congressional seat if she steps down ahead of the 2026 election cycle, he told the Times Union on Wednesday.”).

media, and fundraising consultants.³ As indicated on FEC reports,⁴ all of those payees are also consultants to Smullen's federal campaign.

Specifically, the following consultants have been paid by both the state committee during the period in question and subsequently by the federal committee:

3.1. Peakland Strategies

Peakland Strategies⁵ is a Virginia-based Republican political consulting firm whose typical orientation appears geared toward federal or statewide races. The only apparent work performed by Peakland Strategies in connection with New York State elections occurred during the four-month period between Smullen's interest in running for Congress became public and his formal candidacy announcement. Smullen has not previously retained the firm in prior cycles.

Committee	Date	Amount	Purpose
State Committee	2025-07-28	\$5,000.00	Campaign Consultant
State Committee	2025-08-26	\$5,000.00	Campaign Consultant
State Committee	2025-09-17	\$5,964.70	Campaign Consultant
State Committee	2025-09-19	\$11,500.00	Campaign Consultant
State Committee	2025-10-20	\$5,000.00	Campaign Consultant
State Committee	2025-11-25 <i>(5 days after Smullen announces for Congress)</i>	\$5,024.18	Campaign Consultant
State Committee Total		\$37,488.88	
Federal Committee	2025-12-15	\$7,447.67	Communications Consulting/Web Service/Travel
Federal Committee	2026-01-16	\$5,564.12	Communications Consulting/Web Service
Federal Committee	2026-02-27	\$5,167.73	Communications Consulting/Web Service

³ Smullen's State Assembly campaign spending is available at <https://publicreporting.elections.ny.gov/CandidateCommitteeDisclosure/CandidateCommitteeDisclosure>. The NYSBOE website does not allow for URLs to be generated that directly show itemized spending.

⁴ <https://docquery.fec.gov/pdf/951/202601319808496951/202601319808496951.pdf> and <https://docquery.fec.gov/pdf/084/202604159862586084/202604159862586084.pdf>

⁵ <https://www.peaklandstrategies.com/political-consulting>. State committee payments to Peakland Strategies are attached as Exh. B.

Federal Committee	2026-03-20	\$5,656.00	Communications Consulting/Web Service
Federal Committee Total		\$23,835.52	

3.2. Strategic Partners & Media

Strategic Partners & Media⁶ is a San Diego based Republican full-service advertising agency with clients including presidential, gubernatorial, and congressional campaigns. Smullen has not previously retained the firm in prior cycles.

Committee	Date	Amount	Purpose
State Committee	2025-08-22	\$5,000.00	Campaign Consultant
State Committee	2025-09-10	\$5,000.00	Campaign Consultant
State Committee	2025-10-29	\$5,000.00	Campaign Consultant
State Committee	2025-11-19 <i>(1 day before Smullen announces for Congress)</i>	\$5,000.00	Campaign Consultant
State Committee Total		\$20,000.00	
Federal Committee	2026-01-06	\$10,500.00	Strategic/Digital Consulting
Federal Committee	2026-02-02	\$10,500.00	Strategic/Digital Consulting
Federal Committee Total		\$21,000	

3.3. CSC Capital

CSC Capital LLC⁷ is a New York based political fundraising consulting firm. Smullen has not previously retained the firm in prior cycles.

Committee	Date	Amount	Purpose
State Committee	2025-06-16	\$3,500.00	Campaign Consultant
State Committee	2025-07-24	\$3,500.00	Fundraising
State Committee	2025-09-05	\$3,500.00	Fundraising
State Committee	2025-10-10	\$3,500.00	Fundraising
State Committee	2025-11-18 <i>(2 days before Smullen</i>	\$3,500.00	Fundraising

⁶ <https://strategicpartnersmedia.com/>. State committee payments to Strategic Partners & Media are attached as Exh. C.

⁷ State committee payments to CSC Capital LLC are attached as Exh. D.

	<i>announces for Congress)</i>		
State Committee	2025-12-22	\$3,500.00	Fundraising
State Committee Total		\$21,000.00	
Federal Committee	2026-01-28	\$7,000.00	Fundraising Consulting
Federal Committee Total		\$7,000.00	

4. The Federal Election Campaign Act (the “Act”) prohibits candidates for federal office from spending funds in connection with a federal election unless those funds are subject to the Act’s contribution limits, source prohibitions, and reporting requirements. 52 U.S.C. § 30125(e)(1)(A). As a member of the New York State Assembly, Mr. Smullen is permitted to accept contributions from sources—such as corporations and labor organizations—that are prohibited from making federal contributions.⁸ **Mr. Smullen’s state campaign account did, in fact, accept contributions from such sources.** Accordingly, to the extent the funds in Mr. Smullen’s State Assembly campaign committee were used to test the waters for a potential congressional run or further his campaign after he qualified as a federal candidate, he violated § 30125(e)(1).

5. Federal Election Commission (“FEC”) regulations permit individuals who would otherwise meet the definition of a “candidate”—by receiving contributions or making expenditures exceeding \$5,000⁹—to engage in activities to evaluate whether to run for federal office (i.e., “test the waters”) without triggering registration requirements and without treating funds raised or spent for those activities as “contributions” or “expenditures.”¹⁰ Examples of testing-the-waters activities include “conducting a poll, telephone calls, and *travel*.”¹¹ Funds used for testing the waters are nevertheless subject to federal contribution limits and source prohibitions.¹² If the individual ultimately becomes a candidate, all funds raised and spent during the testing-the-waters period must be reported on the first disclosure report filed with the FEC.¹³

6. Here, Mr. Smullen disclosed no contributions received or expenditures made during the testing-the-waters period on his initial FEC report. That omission strains credulity. Mr. Smullen publicly declared his interest in running for Congress months before his formal announcement and began engaging in activities squarely within the FEC’s testing-the-waters regulation, including travel. Moreover, Mr. Smullen retained the team of advisers and consultants discussed above during that period. It is implausible that neither Mr. Smullen nor his advisers and

⁸ N.Y. Election Law § 14-116; 52 U.S.C. § 30118.

⁹ 52 U.S.C. § 30101(2).

¹⁰ 11 C.F.R. §§ 100.72, 100.131.

¹¹ *Id.* §§ 100.72(a), 100.131(a).

¹² *Id.*

¹³ *Id.* § 101.3

consultants incurred any costs evaluating the viability of a federal candidacy or engaging in activities anticipating his announcement.

7. At a minimum, payments to advisers and consultants who now work for Mr. Smullen's federal campaign should have been allocated between the state campaign and federally permissible funds used for pre-candidacy activity. Any portion of those payments attributable to testing-the-waters activity should have been reported as disbursements on Mr. Smullen's first report filed with the FEC. The failure to allocate and report those amounts violates the FEC's testing-the-waters regulations.

8. In addition, FEC regulations prohibit the transfer of funds or assets from a nonfederal campaign committee to a federal campaign committee for the same individual.¹⁴ The FEC has clarified that "funds spent by a state candidate's campaign committee for the purpose of exploring a federal candidacy [constitutes] a transfer from the state committee to the subsequent candidate's eventual federal committee."¹⁵

9. Mr. Smullen was reelected to his State Assembly district in 2024 with 99.1% of the vote and he is not seeking reelection to that seat in 2026.¹⁶ There is no plausible reason for why he would have spent nearly \$80,000 in state campaign funds, beginning in June 2025, on out-of-state political consultants he had never previously retained.

10. The only reasonable explanation for Mr. Smullen's spending on federal and statewide-tier consultants from his State Assembly campaign committee was to retain services in furtherance of his campaign for federal office or for testing the waters for a federal campaign.

11. By failing to allocate payments to advisers and consultants between Mr. Smullen's state campaign committee and federally permissible funds, Mr. Smullen necessarily financed testing-the-waters activity with impermissible funds—namely, his state campaign account—in violation of 52 U.S.C. § 30125(e)(1) and 11 C.F.R. § 110.3(d).

12. Furthermore, by failing to report the portion of those payments that are attributable to testing-the-waters activity, Mr. Smullen's federal campaign committee violated 11 C.F.R. §§ 100.72, 100.131, and 101.3.

Sincerely,

Anthony Constantino

May 11, 2026

¹⁴ *Id.* § 110.3(d).


¹⁵ First Gen. Counsel's Report at 27, Matter Under Review 7773 (DePasquale for PA 10) (citations omitted).

¹⁶ https://ballotpedia.org/New_York_State_Assembly_District_118

VERIFICATION

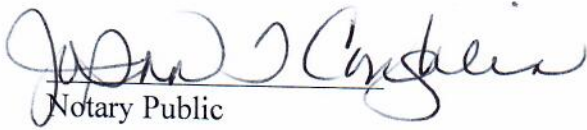
The complainant listed below hereby verifies that the statements made in the attached Complaint are, upon his information and belief, true.

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



Anthony Constantino

Sworn to and subscribed before me this 11th day of May, 2026.



Notary Public

JOANN T. COUGHLIN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CO6375795
Qualified in Montgomery County
My Commission Expires 05-29-2030

EXHIBIT A

Attached to the Complaint of Anthony Constantino
Before the Federal Election Commission

Lucy Hodgman, *Smullen signals interest in Stefanik's congressional seat*, Albany
Times-Union (June 18, 2025).

<https://www.timesunion.com/state/article/smullen-signals-interest-stefanik-s-20383052.php>

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NEW YORK

Smullen signals interest in Stefanik’s congressional seat

Incumbent U.S. Rep. Elise Stefanik has been teasing a departure from Congress to run for governor in 2026.

By Lucy Hodgman, Staff Writer
June 18, 2025

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Assemblyman Robert Smullen, 56, is considering a bid for U.S. Rep. Elise Stefanik’s congressional seat if she steps down to pursue a gubernatorial bid, he told the Times Union on Wednesday.
Jim Franco/Times Union

ALBANY — U.S. Rep. Elise Stefanik will open a political void upstate if she decides to run for governor. Republican Assemblyman Robert Smullen thinks he could be the right person to fill it.

Smullen, 56, is considering a bid for Stefanik’s congressional seat if she steps down ahead of the 2026 election cycle, he told the Times Union on Wednesday. The news comes as Stefanik inches closer to announcing a formal campaign to challenge Gov. Kathy Hochul, and has been touring the state and recently formed a new political action committee called “Save New York.”

The sprawling 15-county congressional district that Stefanik represents encompasses the Mohawk Valley and much of the Adirondacks.

The once-purple district has decisively elected Stefanik six times. But if she runs for governor, the avenues for her to hold onto the seat are very limited. A spokeswoman for the state Board of Elections said earlier this spring that the offices were “incompatible” because the primary and general elections will be held on the same days in 2026. (That hasn’t always been the case — in 2018, for example, New York had separate primaries

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for state and federal offices and former U.S. Rep. Sean Patrick Maloney was able to run for state attorney general without giving up his congressional seat.)

Smullen stressed that he's not running for Congress yet, and that he won't unless Stefanik steps down. But he said he'd be a "substantive, serious candidate" if the position is vacated.



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"I'm going to take the time to get around to all of the upstate area and all of my district and make sure that I have a really good sense of what's going on and what the people need," Smullen said. "I just think when the moment comes, somebody like myself, a tough Marine who's ready for a fight, is always a good, safe bet."

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Although Smullen declined to say whether he had spoken to Stefanik directly about his plans, he's endorsed the congresswoman for reelection multiple times and stood alongside her during an appearance [at the state Capitol](#) last week. Smullen said he also had "encouraging" conversations with his constituents about the vacancy: five of the counties in the Mohawk Valley legislative district he's represented since 2019 fall within the borders of Stefanik's NY-21 district.

"I'm from here. I live one mile from where I grew up, in the little hamlet of Meco," Smullen said. "When I go to the store in Meco, I see my cousin there getting coffee. And I feel that I have a really good sense of what the people in our area really want and need."

After graduating from The Citadel, a military college, Smullen served 24 years with the U.S. Marine Corps before retiring at the rank of colonel in 2015. He made three combat tours to Afghanistan during that time and later served as a military strategist at the Pentagon. Smullen also worked in George W. Bush's Department of Energy and led the Hudson River-Black River Regulating District, a state authority focused on flood control.

Smullen said he hopes to bring his military experience to Congress, returning his attention to national security. He also said serving on the state Assembly's Ways and Means Committee has given him the sense that the state "spends money we don't have on things we don't need" — if elected, he'd like to help curb what he sees as similarly wasteful government spending on the federal level.

It's not the first time that Smullen has signaled his interest in the congressional seat. Late last year, he joined a [long list](#) of candidates that were in contention to try to succeed Stefanik after she was tapped by President Donald J. Trump to serve as ambassador to the United Nations. Stefanik's nomination was ultimately [withdrawn](#) before state Republicans named a candidate for the special election anticipated to replace her, but Smullen said the process was still a valuable experience.

"What that taught me was that I directly reflect the values of the people of the district," Smullen said. "They're very good people. They're very conservative from a fiscal standpoint. But they're also very compassionate people, just like the people where I grew up."

The winter's special election process also produced a Democratic candidate, Lisbon dairy farmer Blake Gendebien. Party leaders selected the political newcomer to run in the special election in February. After it was called off, Gendebien committed to [remain](#) in the race until 2026, when Stefanik would be up for reelection. He's been actively

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campaigning since December and has already raised more than \$3.4 million, according to a campaign spokeswoman.

"No matter who I'm running against, I'm confident that our message will resonate and voters will send a farmer to Congress," Gendebien said.



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June 18, 2025



Lucy Hodgman
STAFF WRITER



Lucy Hodgman is a Hearst Fellow on the Climate Team at the San Francisco Chronicle, covering seismic building issues, homeowners insurance and breaking energy and environment news. She previously covered politics for the Times Union, in Albany, New York, and breaking news for Politico and the Sacramento Bee.

Originally from Brooklyn, Lucy graduated from Yale University with a degree in English. Reach her at lucy.hodgman@hearst.com.

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EXHIBIT B

Attached to the Complaint of Anthony Constantino
Before the Federal Election Commission

Itemized Expenditures of *Friends of Robert Smullen 2026* (NYSBOE Filer ID 527997)
to Peakland Strategies.

Source: New York State Board of Elections, Search Expenditures (retrieved
May 10, 2026).

Referenced in ¶ 3.1 of the Complaint

<https://publicreporting.elections.ny.gov/ExpenditureByExpender/ExpenditureByExpender>



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Robert J. Smullen - Member of Assembly - 27898

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Note: If searching for expenditure data for the current election cycle, enter the day after the most recent General Election day for that particular office in the Date From field when filtering search results. Leave the Date To field blank to include data through present day (or through the most recent submitted disclosure report, as required). Dates of General Elections can be viewed in the applicable year's Filing Calendar.

Total Expenditures: **\$362,432.29**

CSV Expenditures

Show 10 entries

Search: Peakland Search

Expand	Filer Type	Election Year	Recipient Name	Amount	Expense Code	Date	Disburser	Disclosure Report	Schedule	Filer Office	Filer District	Filer County
+	State	2026	Peakland Strategies 403 5th Street Lynchburg VA 24504 United States	\$5,000.00	Campaign Consultant	07/28/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Peakland Strategies 403 5th Street Lynchburg VA 24504 United States	\$5,000.00	Campaign Consultant	08/26/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Peakland Strategies 403 5th Street Lynchburg VA 24504 United States	\$5,000.00	Campaign Consultant	10/20/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Peakland Strategies 403 5th Street Lynchburg VA 24504 United States	\$5,024.18	Campaign Consultant	11/25/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Peakland Strategies 403 5th Street Lynchburg VA 24504 United States	\$5,964.70	Campaign Consultant	09/17/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Peakland Strategies 403 5th Street Lynchburg VA 24504 United States	\$11,500.00	Campaign Consultant	09/19/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			

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EXHIBIT C

Attached to the Complaint of Anthony Constantino
Before the Federal Election Commission

Itemized Expenditures of *Friends of Robert Smullen 2026* (NYSBOE Filer ID 527997)
to Strategic Partners & Media.

Source: New York State Board of Elections, Search Expenditures (retrieved
May 10, 2026).

Referenced in ¶ 3.2 of the Complaint

<https://publicreporting.elections.ny.gov/ExpenditureByExpender/ExpenditureByExpender>



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Robert J. Smullen - Member of Assembly - 27898

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Total Expenditures: **\$362,432.29**

CSV Expenditures

Show 10 entries

Search: Strategic Search

Expand	Filer Type	Election Year	Recipient Name	Amount	Expense Code	Date	Disburser	Disclosure Report	Schedule	Filer Office	Filer District	Filer County	Filer Municipality
+	State	2026	Strategic Partners Media 1851A McGuckian St Suite 103 San Diego CA 92116 United States	\$5,000.00	Campaign Consultant	08/22/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments				
+	State	2026	Strategic Partners Media 1851A McGuckian St Suite 103 San Diego CA 92116 United States	\$5,000.00	Campaign Consultant	09/10/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments				
+	State	2026	Strategic Partners Media 1851A McGuckian St Suite 103 San Diego CA 92116 United States	\$5,000.00	Campaign Consultant	10/29/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments				
+	State	2026	Strategic Partners Media 1851A McGuckian St Suite 103 San Diego CA 92116 United States	\$5,000.00	Campaign Consultant	11/19/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments				

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EXHIBIT D

Attached to the Complaint of Anthony Constantino
Before the Federal Election Commission

Itemized Expenditures of *Friends of Robert Smullen 2026* (NYSBOE Filer ID 527997)
to CSC Capital LLC.

Source: New York State Board of Elections, Search Expenditures (retrieved
May 10, 2026).

Referenced in ¶ 3.3 of the Complaint

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Robert J. Smullen - Member of Assembly - 27898

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Total Expenditures: \$362,432.29

CSV Expenditures

Show 10 entries

Search: CSC Search

Expand	Filer Type	Election Year	Recipient Name	Amount	Expense Code	Date	Disburser	Disclosure Report	Schedule	Filer Office	Filer District	Filer County
+	State	2026	Csc Capital 38 Condon Rd Stillwater NY 12170 United States	\$3,500.00	Fundraising	07/24/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Csc Capital 38 Condon Rd Stillwater NY 12170 United States	\$3,500.00	Fundraising	09/05/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Csc Capital 38 Condon Rd Stillwater NY 12170 United States	\$3,500.00	Fundraising	10/10/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Csc Capital 38 Condon Rd Stillwater NY 12170 United States	\$3,500.00	Fundraising	11/18/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Csc Capital 38 Condon Rd Stillwater NY 12170 United States	\$3,500.00	Fundraising	12/22/2025	Friends of Robert Smullen 2026 - ID# 527997	2026 - State/Local - January Periodic	F - Expenditures/ Payments			
+	State	2026	Csc Capital Po Box 4393 Saratoga Springs NY 12866 United States	\$3,500.00	Campaign Consultant	06/16/2025	Friends of Robert Smullen 2026 - ID# 527997	2025 - State/Local - July Periodic	F - Expenditures/ Payments			

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