FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matters of	)	
	)	
Aaron Schock, *et al.*	)	MUR 6918
	)	&
Soules for U.S. Congress, *et al.*	)	MUR 7217
	)	

STATEMENT OF REASONS OF CHAIR ELLEN L. WEINTRAUB

In both of the above captioned matters, the Commission agreed that there was reason to believe that House candidates – then-Representative Aaron Schock and candidate Merrie Lee Soules – and their committees violated the Honest Leadership and Open Government Act of 2007 ("HLOGA")[1] and Commission regulations by flying on non-commercial aircrafts for campaign business.[2] However, after conducting an investigation into the cost of the flights, the Office of General Counsel recommended that the Commission take no further action. Its analysis discussed the low dollar amount of the flights at issue.[3] Although it is appropriate to consider the amount in violation when determining the agency's enforcement priorities, there is no *de minimis* violation when a House candidate violates HLOGA – an absolute prohibition under campaign finance law.[4]

[1] 52 U.S.C. § 30114(c)(2). HLOGA and Commission regulations prohibit House candidates and their authorized committees or leadership PACs from making expenditures for non-commercial aircraft travel in connection with a federal election. The Commission's regulations provide that House candidates are prohibited from campaigning using non-commercial air travel, 11 C.F.R. § 100.93(c)(2), and from making an expenditure for or accepting in-kind contributions in the form of such travel. 11 C.F.R. § 113.5(b). The prohibition applies to "any [House] candidate traveling in connection with an election for Federal office . . . ." 11 C.F.R. § 100.93(a)(3)(i)(A). There are two exceptions to the ban on non-commercial aircraft travel by House candidates that are not relevant here: travel on government-operated aircraft and aircraft owned by the candidate or members of the candidate's immediate family. *See* 11 C.F.R. §§ 100.93(e) and (g), 113.5(b)(2) and (c).

[2] *See* Certification in MUR 6918 (Schock), dated July 12, 2016; Certification in MUR 7217 (Soules), dated April 24, 2018.

[3] *See* MUR 7217 (Soules), Second General Counsel's Report at 7; MUR 6918 (Schock), Second General Counsel's Report at n. 32 (comparing the current case with MUR 6394 (Pingree) in which the Commission negotiated a penalty where the cost of the non-commercial flights was more than that at issue in Schock). In MUR 6918 (Schock), the Office of General Counsel also noted the "activity occurred over five years ago and any conciliation would be limited to remedial measures and injunctive relief." *Id. (citing* 26 U.S.C. 2462).

[4] *See also* Statement of Reasons of Chair Ellen L. Weintraub and Commissioner Steven T. Walther in MUR 6421 (Benishek for Congress).

The law is clear. If a House candidate flies on a non-commercial aircraft for campaign purposes, then the candidate and his or her authorized committee violate the law. Indeed, the entire purpose of this provision of HLOGA is to prohibit non-commercial air travel *entirely* for House candidates. Payment cannot cure the violation. And the cost of the prohibited flight should not be relevant to the Commission's resolution of the matter. This absolute *prohibition* would be rendered meaningless if the Commission were to excuse HLOGA violations in cases where the ultimate cost of the flights are of low value.

Ellen L. Weintraub

April 19, 2019

Ellen L. Weintraub
Chair