FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
Cliff Stearns, et al.	)	MUR 7292
	)	

STATEMENT OF REASONS OF CHAIR ELLEN L. WEINTRAUB

Cliff Stearns, a former member of the U.S. House of Representatives from Florida's 6th Congressional District from 1989-2013, converted campaign funds to personal use in violation of the Federal Election Campaign Act (the "Act").[1] The Act prohibits using funds in a campaign account "to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office."[2] The Commission found that Stearns used almost $10,000 in campaign funds to pay club memberships, conference attendance fees, travel, and meals from 2014 through 2017.[3] Having lost his primary in August 2012, Stearns was neither a candidate nor a Federal officeholder at this time, and these expenses would have existed irrespective of Stearns' election campaign or duties as a holder of federal office.

While it should be newsworthy that the routinely deadlocked Commission found a violation of the law and assessed a penalty, this is not the whole story.

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[1] The Commission found reason to believe that Clifford "Cliff" B. Stearns and, and his campaign committee, Friends of Cliff Stearns and Joan Stearns in her official capacity as treasurer, violated 52 U.S.C. § 30114(b). *See* Certification (March 19, 2019), MUR 7292 (Stearns).

[2] *See* 52 U.S.C. § 30114(b)(2); *see also* 11 C.F.R. § 113.1(g). The Act and Commission regulations set forth certain uses of campaign funds that constitute *per se* conversion to personal use, including utility payments, non-campaign-related automobile expenses, and dues and fees for health clubs, recreational facilities or other nonpolitical organizations unless they are part of the costs of a specific fundraising event taking place on those premises. 52 U.S.C. § 30114(b)(2)(A)-(I); 11 C.F.R. § 113.1(g)(1)(i). For all other disbursements, the Commission determines on a case-by-case basis whether a given campaign fund disbursement fulfills a commitment, obligation, or expense that would exist irrespective of the candidate's campaign or duties as a federal officeholder. 11 C.F.R. § 113.1(g)(1)(ii).

[3] Conciliation Agreement, MUR 7292 (Stearns).

The Complaint actually alleged, and the Office of General Counsel concluded, that Stearns used committee funds to further his lobbying career and subsidize his family by paying for a variety of expenses to the tune of over $26,000 – not just the almost $10,000 that the Commission could agree was a violation of the law.[4] Without good reason, my colleagues excused Stearns' use of campaign funds to pay roughly:

- $5,000 for monthly cell phone bills;
- $5,000 to Stearns' spouse, Joan, for "administrative support" – a service she provided for free as a campaign volunteer during Stearns' years in office;[5]
- $6,000 for use of a storage facility well beyond the Commission-sanctioned period;[6] and
- $400 for holiday cards.

In 1989, Congress amended the Act to ensure that the personal use prohibition would apply to all current and former members of Congress.[7] The Ethics Reform Act of 1989 clarified that it would be impermissible for a former member to use his or her campaign funds as "an illegal pension fund."[8] Given Congress' specific interest in prohibiting the conversion of campaign funds to personal use by former officeholders after they have retired, been defeated, or died, the Commission should vigorously pursue allegations that a former elected official used his campaign account as a personal checking account. It is frustrating that, in order to secure Republican votes to move forward in this case, both the charges and the penalty had to be slashed. The Commission should take a strong stand against these "zombie campaigns" where individuals long out of office continue to draw upon leftover campaign funds for personal expenses.

Ellen L. Weintraub

August 14, 2019

Ellen L. Weintraub
Chair

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4 First Gen. Counsel's Rpt. at 10-15.

5 Compl. at 5-6.

6 Commission regulations allow the use of campaign funds to pay the ordinary and necessary expenses of holding office, including the costs of winding down the office of a former federal officeholder, for a period of six months after the officeholder leaves office. 11 C.F.R. § 113.2(a)(2); Personal Use E&J, 60 Fed. Reg. at 7873. *See* Advisory Opinion 2013-05 (Gallegly) (concluding that a United States Representative who was retiring after 26 years in office could permissibly spend campaign funds for up to a year to archive and store his congressional materials as an expense necessary to wind down his office after his "extensive tenure").

7 *See* Ethics Reform Act of 1989, Public Law 101-194, § 504, 103 Stat. 1716, 1755 (repealing previous grandfather provision that had exempted from personal use rules the use of excess campaign funds by members elected to office prior to 1980).

8 *See* 135 Cong. Rec. S15969-70 (daily ed. Nov. 17, 1989) (statement of Sen. Shelby); *id*. at S15968-69 (statement of Sen. Nickles).