



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**BY E-MAIL, FAX & FIRST CLASS MAIL**

**SEP 11 2013**

Rick L. Yabor, Esq.  
Law Office of Rick Yabor, P.A.  
9990 S.W. 77th Avenue  
Penthouse 9  
Miami, FL 33156  
E-mail: rick.yabor@yaborlaw.com  
Fax: 305-779-5902

RE: MUR 6655  
Justin Lamar Sternad  
Lamar Sternad for Congress and Justin Lamar  
Sternad in his official capacity as treasurer

Dear Mr. Yabor:

On October 10, 2012, the Federal Election Commission notified your clients, Justin Lamar Sternad individually and Lamar Sternad for Congress and Justin Lamar Sternad in his official capacity as treasurer (the "Sternad Committee"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint was provided to your clients at that time.

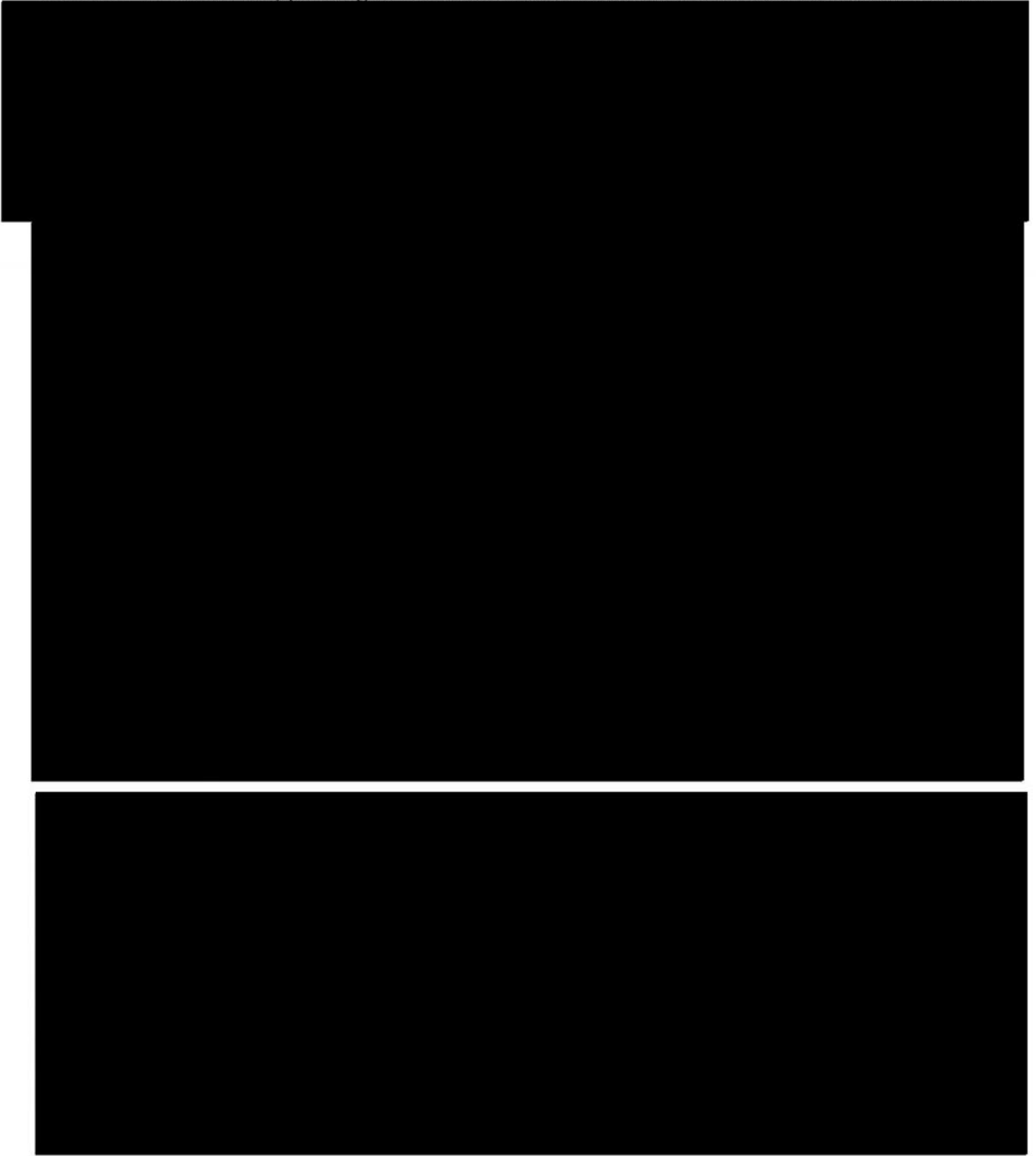
On September 10, 2013, after further review of the allegations contained in the complaint as well as information supplied by your clients, the Commission found reason to believe that Sternad and the Sternad Committee knowingly and willfully violated four provisions of the Act and Commission regulations — specifically, 2 U.S.C. §§ 434(b), 441a(f), 441f, and 11 C.F.R. § 110.4(c)(1) — by accepting contributions in the name of another, accepting excessive individual contributions, accepting and failing to refund excessive currency contributions, and filing inaccurate disclosures. The Commission also exercised its prosecutorial discretion to dismiss a possible violation of the Act's prohibition on commingling committee and personal funds. *See* 2 U.S.C. § 432(b)(3). I have enclosed the Factual and Legal Analysis that sets forth the basis for the Commission's determinations.

To expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations in an attempt to settle this matter through a conciliation agreement before the Commission makes a determination as to whether there is probable cause to believe that Sternad and the Sternad Committee violated the Act. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary

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step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage.

The Commission is aware of the proceedings in *United States v. Justin Lamar Sternad*, Case No. 13-20106-CR, pending in the U.S. District Court for the Southern District of Florida.



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If you are interested in engaging in pre-probable cause conciliation, please contact Leonard Evans, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, as soon as possible, but no later than five days from receipt of this letter.


During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. No action by the Commission or any person and no information derived in connection with any conciliation attempt by the Commission may be made public by the Commission without the written consent of the respondent and the Commission. 2 U.S.C. § 437g(a)(4)(B).

The Commission may proceed to the next step in the enforcement process if your clients are not interested in pre-probable cause conciliation or a mutually acceptable conciliation agreement cannot be reached within 60 days. *See* 2 U.S.C. § 437g(a); 11 C.F.R. Part 111 (Subpart A). Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding. If you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that your clients each have a legal obligation to preserve all documents, records, and materials relating to this matter until notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

We look forward to your response.

On behalf of the Commission,



Ellen L. Weintraub  
Chair

Enclosures  
Factual and Legal Analysis



1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2 In the Matter of: )  
 3 )  
 4 Justin Lamar Sternad and ) MUR 6655  
 5 Lamar Sternad for Congress and )  
 6 Justin Lamar Sternad in his )  
 7 official capacity as treasurer, )  
 8 )  
 9 *Respondents.* )  
 10 \_\_\_\_\_ )

11 **FACTUAL AND LEGAL ANALYSIS**<sup>1</sup>

12 This matter concerns a scheme to fund a Congressional candidate's primary campaign  
 13 almost exclusively with contributions secretly funneled to him by co-conspirators. In 2012,  
 14 Justin Lamar Sternad ran in the Democratic primary to represent Florida's 26th district in the  
 15 U.S. House of Representatives. To pay for the campaign, Sternad received ten contributions —  
 16 mostly in cash and totaling \$81,486.20 — from one or more co-conspirators. To conceal these  
 17 contributions, Sternad falsely reported to the Commission that he was funding his campaign with  
 18 personal loans.

19 The available record — including the statement of facts supporting Sternad's guilty plea  
 20 in a criminal prosecution concerning this scheme — provides substantial evidence that Sternad  
 21 and his campaign committee knowingly and willfully violated the false-name contribution,  
 22 excessive-individual contribution, excessive-currency contribution, and disclosure provisions of  
 23 the Federal Election Campaign Act of 1971, as amended (the "Act"). The Commission therefore  
 24 finds reason to believe that Sternad and his campaign committee violated the Act.

<sup>1</sup> This matter was initiated based on a signed, sworn, and notarized complaint filed with the Commission by Roland Sanchez-Medina Jr. on October 3, 2012. See 2 U.S.C. § 437g(a)(1).

**I. FACTUAL SUMMARY**

On May 16, 2012, Sternad filed with the Commission a Statement of Candidacy, declaring his intention to seek office as a Democrat representing Florida's newly drawn 26th District in the U.S. House of Representatives.<sup>2</sup> He designated "Justin Sternad for Congress" as his principal campaign committee, but in July 2012 renamed his committee "Lamar Sternad for Congress" (collectively the "Sternad Committee").<sup>3</sup> Sternad was the treasurer of record for the Sternad Committee at all relevant times. The Democratic Party primary was held on August 14, 2012, and Sternad finished third, garnering approximately 11% of the vote.<sup>4</sup> The winner of that primary, Joe Garcia, went on to face incumbent Congressman David Rivera in the general election.<sup>5</sup>

The day after the primary, the *Miami Herald* reported that Sternad's campaign "may have violated federal campaign-finance laws after spending at least \$24,000 in cash on mailers without disclosing the source of the funds."<sup>6</sup> The article also reported that other candidates in

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<sup>2</sup> See FEC Form 2, Statement of Candidacy (May 16, 2012), <http://query.nictusa.com/pdf/113/12030813113/12030813113.pdf#navpanes=0>. This was Sternad's second Statement of Candidacy. His first was filed November 8, 2011, before Florida completed its redistricting process, in which Sternad expressed his intention to seek office in the 25th Congressional District. See FEC Form 2, Statement of Candidacy (Nov. 8, 2011), <http://images.nictusa.com/pdf/610/11030684610/11030684610.pdf>.

<sup>3</sup> See FEC Form 2, Statement of Candidacy (July 14, 2012), <http://query.nictusa.com/pdf/121/12030851121/12030851121.pdf#navpanes=0>.

<sup>4</sup> See Compl., Ex. A, at 3 (Aug. 23, 2012).

<sup>5</sup> Garcia later defeated Rivera in the general election. See Patricia Mazzei & Amy Sherman, *In South Florida Congressional Races, David Rivera Loses to Joe Garcia, Allen West Appears to Fall to Patrick Murphy*, MIAMI HERALD (Nov. 7, 2012), available at <http://www.miamiherald.com/2012/11/07/v-fullstory/3085399/in-south-florida-congressional.html>.

<sup>6</sup> Compl., Ex. A.

the Democratic primary “claimed Sternad was a plant from the campaign of Republican Rep. David Rivera.”<sup>7</sup> But Rivera and Sternad each reportedly “denied that he is a ringer.”<sup>8</sup>

A week later, on August 22, 2012, the *Miami Herald* reported that federal and local law enforcement agencies were investigating the Sternad campaign’s finances: “Sternad spent about \$43,000 in unreported cash and checks on mail services, a witness told the *Herald* and authorities. Some of the money was stuffed in envelopes bulging with \$100 bills.”<sup>9</sup> The article also reported that “Rivera, investigators suspect, was behind the sophisticated mail campaign run by Sternad, who was an unknown political newcomer and hotel night auditor.”<sup>10</sup>

**A. Complaint and Responses**

On October 3, 2012, the Commission received a Complaint alleging that Sternad violated the Act by making at least \$24,000 in expenditures to a direct mail vendor using cash obtained from illegal campaign contributions and then failed to report either the contributions or the expenditures.<sup>11</sup> In support of the allegations, the Complainant enclosed as exhibits the August 15 and August 22 *Miami Herald* articles described above.<sup>12</sup> In a Response submitted on October 26, 2012, Sternad asserted his Fifth Amendment privilege against self-incrimination.<sup>13</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Compl., Ex. B.

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

<sup>11</sup> See Compl. at 1.

<sup>12</sup> *Id.*

<sup>13</sup> Sternad Resp. (Oct. 19, 2012).

On April 19, 2013, Sternad, through counsel, filed a supplemental response explaining that “circumstances have now changed.”<sup>14</sup> Sternad had entered a guilty plea on March 15, 2013, to criminal charges related to the misconduct outlined in the Complaint.<sup>15</sup> The Factual Basis supporting Sternad’s guilty plea, which “provid[es] details of the events related to [the] [C]omplaint,” was enclosed with the supplemental response.<sup>16</sup> The Factual Basis describes how Sternad and his co-conspirators engaged in a conspiracy to provide prohibited contributions to Sternad’s campaign and to conceal the true source of those funds.<sup>17</sup>

**B. Scheme to Secretly Finance Sternad’s Campaign**

According to the Factual Basis, the scheme began when Sternad was approached by a co-conspirator.<sup>18</sup> He and the co-conspirator spoke on or about April 24, 2012, about “providing funding for Sternad’s campaign.”<sup>19</sup> During the discussion, the co-conspirator offered to secretly provide contributions to Sternad’s campaign.<sup>20</sup> Sternad agreed.<sup>21</sup>

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<sup>14</sup> Sternad Supp. Resp. (Apr. 19, 2013).

<sup>15</sup> *Id.* at 1. In *United States v. Justin Lamar Sternad*, Case No. 1:13-CR-20108 (S.D. Fla.), Sternad pleaded guilty to conspiracy in violation of 18 U.S.C. § 371, false statements in violation of 18 U.S.C. § 1001, and accepting excessive contributions in violation of 2 U.S.C. § 441a(f). *See* Sternad Supp. Resp. at 1, Attach.

<sup>16</sup> Sternad Supp. Resp. at 1, Attach. Sternad signed the Factual Basis in the presence of his attorney. *See id.*, Attach. at 9. The Factual Basis was prepared to factually support Sternad’s guilty plea as required by Federal Rule of Criminal Procedure 11(b)(3). *See id.*, Attach. at 8.

<sup>17</sup> *Id.*, Attach. at 3.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

1           The Factual Basis details ten payments totaling \$81,486.20 made to Sternad, the Sternad  
2   Committee, or vendors providing services for the Sternad Committee.<sup>22</sup> As shown in the  
3   following chart, these transactions occurred between May and August 2012, and, of the ten, nine  
4   were in cash — in amounts greater than \$100 — while only one was in the form of a check:

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<sup>22</sup>*Id.*, Attach. at 4-7.

Approximate Date (all in 2012)	Contribution Amount	Form of Payment	Contribution Type	Means and Purpose
May 25	\$500	Currency	Direct	Co-conspirator hand-delivered to Sternad and \$300 of the amount was later deposited into the Sternad Committee account
June 7	\$5,000	Currency	Direct	Deposited into Sternad Committee account
June 8	\$5,500	Currency	Direct	Co-conspirator deposited into Sternad Committee account; June 7 and 8 contributions, totaling \$10,500, apparently covered the cost of the filing fee, because on June 8, a check in the amount of \$10,440, drawn on the Sternad Committee account, was sent to the Florida Division of Elections with the notation "Qualifying Fee 2012"
July 2	\$1,060	Currency	Direct	Deposited into Sternad's personal account; Apparently covered the cost of a rental car, because on that same date, Sternad rented a car to use for campaigning. <sup>23</sup>
July 14-15	\$2,600	Currency	In-Kind	Co-conspirator hand-delivered to graphic designer to develop Sternad campaign flyers
July 23	\$10,000	Currency	In-Kind	Co-conspirator hand-delivered to Inkpressions, Inc., d/b/a Expert Printing & Graphics ("Expert Printing"), for printing services related to Sternad campaign flyers
July 17-24	\$15,901.35	Currency	In-Kind	Delivered to Rapid Mail & Computer Service, Inc. ("Rapid Mail") for mailing services related to Sternad campaign flyers
August 2	\$5,000	Currency	In-Kind	Co-conspirator provided to Expert Printing for printing services related to Sternad campaign flyers
August 2-8	\$22,100	Currency	In-Kind	Delivered to Rapid Mail for mailing services related to Sternad campaign flyers
August 9	\$13,824.85	Check (payable to Expert Printing)	In-Kind	Co-conspirator hand-delivered to Expert Printing; On same date, at the request of a co-conspirator, Expert Printing issued a check for \$9,000 to Rapid Mail, and that check then was delivered to Rapid Mail; These payments apparently covered the vendors' performance of printing and mailing services related to Sternad campaign flyers
<b>Total</b>	<b>\$81,486.20</b>			

<sup>23</sup> This deposit of Sternad Committee funds into Sternad's personal account appears to violate the Act's prohibition on commingling political committee funds with personal funds. See 2 U.S.C. § 432(b)(3). But in light of the *de minimis* amount associated with this violation as well as the other circumstances in this case, the Commission exercises its prosecutorial discretion to dismiss it. See *Heckler v. Chaney*, 470 U.S. 821 (1985).

1 To conceal the scheme and the true sources of funds for the Sternad campaign, the  
2 Sternad Committee omitted all of the contributions listed above from its disclosure reports filed  
3 with the Commission.<sup>24</sup> Instead, the Sternad Committee falsely reported that Sternad made  
4 personal loans to his campaign totaling \$63,801.70.<sup>25</sup> Aside from these amounts reported as  
5 personal loans, Sternad reported receiving only \$505 in contributions during the 2011-2012  
6 cycle.<sup>26</sup>

7 The Sternad Committee also failed to disclose any of the expenditures to Expert Printing  
8 or Rapid Mail until it filed an amended 12-Day Pre-Primary report on August 21, 2012 — a  
9 week after the election. In its amended report, the Sternad Committee disclosed \$46,973.10 in  
10 expenditures to Rapid Mail (the actual total was \$47,001.35) and \$6,000 in expenditures to  
11 Expert Printing (the actual total was \$19,824.85).<sup>27</sup>

## 12 II. LEGAL ANALYSIS

13 Sternad has admitted that he and his co-conspirators participated in a plan to conceal the  
14 sources of funds for Sternad's campaign, and by doing so, to circumvent contribution limits  
15 under the Act. Sternad and his co-conspirators hid the true sources of funds for Sternad's  
16 campaign by making contributions in the name of another and filing false disclosure reports with  
17 the Commission. And under this cloak of secrecy, Sternad and his co-conspirators exceeded the

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<sup>24</sup> Sternad Supp. Resp., Attach. at 5-7.

<sup>25</sup> *Id.*, Attach. at 7-8.

<sup>26</sup> See FEC Form 3, Report of Receipts & Disbursements (Jan. 25, 2012), <http://images.nictusa.com/pdf/543/12030713543/12030713543.pdf> (showing a single \$500 contribution); See FEC Form 3, Report of Receipts & Disbursements (Apr. 17, 2012), <http://images.nictusa.com/pdf/557/12030782557/12030782557.pdf> (showing a single \$5 contribution).

<sup>27</sup> See FEC Form 3, Report of Receipts & Disbursements (Aug. 21, 2012), <http://query.nictusa.com/pdf/268/12030880268/12030880268.pdf#navpanes=0>.

Act's individual and currency contribution limits. The result of this scheme was a candidacy funded almost exclusively by hidden contributions.

**A. The Sternad Committee Accepted False-name Contributions from Sternad and His Co-conspirators**

The Act and Commission regulations prohibit a person from making a contribution in the name of another; knowingly permitting his or her name to be used by another to effect such a contribution; or knowingly assisting any person in making such a contribution.<sup>28</sup> This includes “those who initiate or instigate or have some significant participation in a plan or scheme to make a contribution in the name of another.”<sup>29</sup> And just as one may not make a contribution in the name of another, the Act and Commission regulations also prohibit a person from knowingly accepting a contribution made by one person in the name of another person.<sup>30</sup> Thus, schemes to conceal the true source of campaign contributions by funneling funds through straw donors or using false names are prohibited.<sup>31</sup>

<sup>28</sup> 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1)(i)-(iii). A “contribution” includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(A). Since under the Act it is a contribution to give money to a committee so that it can in turn pay vendors to perform campaign-related services, such as mail services, it would be an in-kind contribution under the Act for a third party to pay those vendors directly for those same services. *See, e.g.*, MUR 5408 (Sharpton) (2009) (accepting conciliation agreement with candidate and committee after determining that third party’s direct payments to campaign vendors and consultants were in-kind contributions); *see also generally* MUR 6718 (Ensign) (2013) (accepting conciliation agreement with candidate and committees after determining that third party’s direct payment of severance to committees’ employee was an in-kind contribution). Applying those principles here, all the payments at issue were contributions under the Act.

<sup>29</sup> Affiliated Committees, Transfers, Prohibited Contributions, Annual Contribution Limitations and Earmarked Contributions, 54 Fed. Reg. 34,098, 35,105 (Aug. 17, 1989) (explanation and justification).

<sup>30</sup> 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1)(iv).

<sup>31</sup> *See, e.g.*, *United States v. Boender*, 649 F.3d 650, 661 (7th Cir. 2011) (concluding § 441f “unambiguously criminalized both straw man and false name contributions”); *United States v. O'Donnell*, 608 F.3d 546 (9th Cir. 2010) (same); *Mariani v. United States*, 212 F.3d 761, 775 (3d Cir. 2000) (concluding “[p]roscription of conduit contributions (with the concomitant requirement that the true source of contributions be disclosed) would seem to be at the very core of the [Buckley] Court’s analysis” and therefore upholding § 441f); *see also United States v. Danielczyk*, 788 F. Supp. 2d 472, 478-85 (E.D. Va. 2011), *rev’d on other grounds*, 683 F.3d 611 (4th Cir. 2012).

1           The scheme in this case presents a plain example of false-name contributions. Sternad's  
 2 co-conspirators, at least one functioning as the true source and another as an intermediary, made  
 3 direct and in-kind contributions to the Sternad campaign totaling \$81,486.20. Sternad and the  
 4 Sternad Committee then accepted and falsely reported the contributions as personal loans made  
 5 by Sternad to his committee. Thus, the Commission finds reason to believe that Sternad violated  
 6 the Act by permitting his name to be used falsely as the source of the contributions.<sup>32</sup> The  
 7 Commission also finds reason to believe that Sternad and the Sternad Committee violated the  
 8 Act by accepting the false-name contributions.

9           **B.     The Sternad Committee Accepted Excessive Individual Contributions Made**  
 10           **by Sternad's Co-conspirators**

11           Under the Act, no person may make a contribution to any candidate and his or her  
 12 authorized political committee, such as the Sternad Committee, exceeding \$2,000 (adjusted for  
 13 inflation).<sup>33</sup> During the 2011-2012 election cycle, the limit on these individual contributions to  
 14 candidates was \$2,500 per person.<sup>34</sup> Just as a person may not make excessive contributions, the  
 15 Act prohibits committees from knowingly accepting them.<sup>35</sup>

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(Section 441f prohibits "pass-through contributions"); *United States v. Hsu*, 643 F. Supp. 2d 574, 576 (S.D.N.Y. 2009) (evidence sufficient to support conviction in "unlawful straw donor scheme").

<sup>32</sup> See 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(2)(ii) ("Making a contribution of money or anything of value and attributing as the source of the money or thing of value another person when in fact the contributor is the source" is an example of a section 441f violation).

<sup>33</sup> 2 U.S.C. § 441a(a)(1)(A).

<sup>34</sup> See FEC News Release, *FEC Announces 2011-2012 Campaign Cycle Contribution Limits* (Feb. 3, 2011), <http://www.fec.gov/press/20110203newlimits.shtml>.

<sup>35</sup> 2 U.S.C. § 441a(f).

1 Here, as Sternad now has admitted, he and the Sternad Committee knowingly accepted  
2 excessive contributions from his co-conspirators.<sup>36</sup> The Commission therefore finds reason to  
3 believe Sternad and the Sternad Committee violated the Act.

4 **C. The Sternad Committee Accepted Excessive Currency Contributions Made**  
5 **by Sternad's Co-conspirators**

6 The Act and Commission regulations prohibit contributors from using currency to make  
7 contributions of more than \$100 to a candidate, or for the benefit of a candidate, campaigning for  
8 federal office.<sup>37</sup> And any committee that receives an excessive cash contribution must "promptly  
9 return the amount over \$100 to the contributor."<sup>38</sup>

10 Here, as part of their conspiracy to conceal the sources of funds for Sternad's campaign,  
11 Sternad's co-conspirators made nine cash contributions, each of which exceeded the \$100 cash-  
12 contribution limit and totaled \$67,661.35. Four of these cash contributions were made directly to  
13 Sternad, while the other five were given to vendors for the benefit of Sternad's campaign. And  
14 as Sternad now has acknowledged, the Sternad Committee accepted all of these cash  
15 contributions without promptly returning the amounts that exceeded the \$100 limit. The  
16 Commission therefore finds reason to believe Sternad and the Sternad Committee violated  
17 Commission regulations.

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<sup>36</sup> See Sternad Supp. Resp., Attach. at 8.

<sup>37</sup> 2 U.S.C. § 441g; 11 C.F.R. § 110.4(c)(1).

<sup>38</sup> 11 C.F.R. § 110.4(c)(2).

**D. The Sternad Committee Failed to Disclose the Contributions and Expenditures**

Candidates' authorized committees are required to disclose all the contributions they receive, including in-kind contributions, as well as all the disbursements they make.<sup>39</sup> The Act also requires committees to disclose itemized breakdowns of receipts and disbursements, including the name and address of each person who has made any contributions or received any disbursements in an aggregate amount or value greater than \$200 within the calendar year, together with the date and amount of any such contribution or disbursement.<sup>40</sup> And when a committee receives an in-kind contribution, it is treated as an expenditure by the committee benefiting from it, which requires the committee to disclose it as an expenditure as well as a contribution.<sup>41</sup>

The Sternad Committee received \$81,486.20 in direct and in-kind contributions from Sternad's co-conspirators and was required to disclose them in its reports filed with the Commission. It failed to do so. Indeed, as Sternad now has admitted, as part of the conspiracy to conceal the sources of funds for Sternad's campaign, the Sternad Committee actively concealed the true sources of its funds. It did this by falsely stating that Sternad had made personal loans to his campaign totaling \$63,801.70.

The Sternad Committee also hid its expenditures to Rapid Mail and Expert Printing until after the election, and even then, provided inaccurate disclosure. Even though those vendors had been providing services to the Sternad Committee — and receiving payments for that work —

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<sup>39</sup> 2 U.S.C. § 434(b); 11 C.F.R. §§ 104.3, 104.13(a)(1).

<sup>40</sup> See 2 U.S.C. § 434(b)(2)-(6); 11 C.F.R. § 104.3(a)(3)-(4), (b)(2), (b)(4).

<sup>41</sup> 11 C.F.R. § 104.13(a)(2).

1 since July, a month before the August 14 election, the Sternad Committee omitted any disclosure  
2 until it filed an amended 12-Day Pre-Primary report a week after the primary.<sup>42</sup> And when it  
3 finally disclosed the expenditures, its figures were inaccurate. The report disclosed only \$6,000  
4 in expenditures to Rapid Mail, when the actual figure, \$19,824.85, was more than triple that  
5 amount.<sup>43</sup> Moreover, the Sternad Committee continued to hide the fact that these vendors were  
6 paid through in-kind contributions, which would have revealed Sternad's co-conspirators'  
7 involvement. So the Commission finds reason to believe that, to conceal the conspiracy, Sternad  
8 and the Sternad Committee not only failed to disclose the sources of the direct and in-kind  
9 contributions, but also failed to timely and accurately disclose the related expenditures, in  
10 violation of the Act.

11 **E. The Misconduct Was Knowing and Willful**

12 A violation of the Act is knowing and willful if the "acts were committed with full  
13 knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>44</sup> But  
14 this does not require proving knowledge of the specific statute or regulation the respondent  
15 allegedly violated.<sup>45</sup> Instead, it is sufficient to demonstrate that a respondent "acted voluntarily  
16 and was aware that his conduct was unlawful."<sup>46</sup> This may be shown by circumstantial evidence

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<sup>42</sup> See *supra* n.27.

<sup>43</sup> See *id.*

<sup>44</sup> 122 Cong. Rec. H3778 (daily ed. May 3, 1976) (statement of Rep. Hays), reprinted in *FEC, Legis. History of Fed. Election Campaign Act Amends. of 1976*, at 1078 (1977).

<sup>45</sup> *United States v. Danielczyk*, \_\_\_ F. Supp. 2d \_\_\_, 2013 WL 124119, \*5 (E.D. Va. Jan. 9, 2013) (citing *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

<sup>46</sup> *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

1 from which the respondents' unlawful intent reasonably may be inferred.<sup>47</sup> For example, an  
2 awareness that an action is prohibited may be inferred "from the elaborate scheme for disguising  
3 . . . political contributions . . . ."<sup>48</sup>

4 Sternad has pled guilty in federal court to conspiracy, filing false statements, and  
5 accepting excessive contributions. The Factual Basis sets forth the agreement with his co-  
6 conspirators to conceal the sources of funds for his campaign; his acceptance of contributions  
7 through means designed to conceal their source and amount — specifically, using cash and third-  
8 party checks frequently hand-delivered by a go-between directly to third parties — and his filing  
9 of false disclosure reports. The Commission therefore finds reason to believe that his  
10 misconduct was knowing and willful.

### 11 **III. CONCLUSION**

12 Because there is substantial credible evidence supporting the Complainant's allegations  
13 of serious violations, the Commission finds reason to believe that Sternad and the Sternad  
14 Committee committed knowing and willful violations of the excessive individual contribution,  
15 excessive currency contribution, false-name contribution, and disclosure provisions of the Act  
16 and Commission regulations.

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<sup>47</sup> Cf. *United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (citing *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>48</sup> *Hopkins*, 916 F.2d at 214-15. As the *Hopkins* court noted, "It has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).