



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
)
Donald J. Trump for President, Inc.) MUR 7100
and Bradley T. Crate in his official)
capacity as treasurer)
Donald J. Trump)
The Trump Organization)
Mar-a-Lago Club, LLC)

**STATEMENT OF REASONS
OF VICE CHAIR ELLEN L. WEINTRAUB**

Trump hotels, Trump steaks, Trump water, Trump golf courses, Trump wine. The Complaint in this matter cites to an unprecedented catalog of candidate-branded products and properties used along the 2016 campaign trail. According to the Complaint, Donald J. Trump, his campaign committee, and his businesses used campaign funds and campaign events to promote the candidate’s businesses and enrich Trump’s personal interests, in violation of the law’s prohibition on converting campaign funds to personal use.¹

The Complaint alleges serious violations that merited investigation. For example, on September 16, 2016, Trump held a press conference at his newly opened hotel that was ostensibly a campaign event, but, the Complaint alleges, appeared more like an infomercial for his personal business venture.² The Complaint contends that this campaign event, and several others, may have been used to promote Trump’s financial interests, suggesting a potential conversion of campaign funds to personal use.

¹ See Compl. (July 6, 2016), Supp. Compl. A (Oct. 14, 2016), Supp. Compl. B (Oct. 14, 2016); 52 U.S.C. § 30114(b)(1). Campaign funds are converted to personal use if they are “used 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.” 52 U.S.C. § 30114(b)(2). I agreed with my colleagues that allegations relating to reimbursements to members of Trump’s family for travel expenses did not warrant investigation. See Certification in MUR 7100 (Donald J. Trump for President, Inc., *et al.*), dated May 10, 2018.

² See Supp. Compl. B at 3-4. Leading up to the event, the campaign promised a “major announcement” on an alleged campaign issue. The Complaint states that Trump instead began the event by extolling the virtues of the hotel, his praise eventually culminating in him inviting camera operators on a tour of the property. *Id.*

Further, the Complaint contends that Respondents may have inappropriately used campaign funds to directly pay (and potentially overpay) Trump's own businesses. Candidates who pay themselves and their businesses with campaign money walk a fine line. As former Republican Commissioner Trevor Potter wrote more than twenty years ago, these candidates are required to "receive exactly market value . . . no more, and no less" and put themselves in "legal jeopardy if their fair market value estimate is inaccurate."³ Payments over the market rate risk illegally converting campaign funds to personal use, while payments below market rate result in reportable and potentially impermissible corporate in-kind contributions to the campaign.⁴

One critical question here is whether Respondents struck the right balance. For example, the Complaint alleges that the campaign paid Trump-owned Mar-a-Lago over \$400,000 for hosting campaign events, while other renters paid only a fraction of that cost.⁵ The Complaint points to a number of other disbursements from the Trump campaign to Trump-owned entities and alleges an unusually high percentage of campaign funds "were expenditures for the use of properties owned by Mr. Trump or a member of his family."⁶

Notably, while Respondents make conclusory assertions that the campaign paid fair market value for Trump Organization services and facilities, they do not provide the Commission with specific information on how they assessed the fair market value of the many campaign payments made to Trump businesses. I voted to find reason to believe that Respondents violated the personal use provisions or, alternatively, made and accepted prohibited in-kind contributions, so that the Office of the General Counsel could investigate whether the Trump campaign's payments to Trump-owned entities complied with all relevant law and regulations.

The Federal Election Campaign Act of 1971, as amended (the "Act") requires that the Commission find "reason to believe that a person has committed, or is about to commit" a violation of the Act as a predicate to opening an investigation into the alleged violation.⁷ "Reason to believe" is a threshold determination that does not itself establish that the law has been violated. On the contrary, the Commission has stated that it will find reason to believe "in cases where the available evidence in the matter is at least sufficient to warrant conducting an investigation, and where the seriousness of the alleged violation warrants either further investigation or immediate conciliation."⁸

³ See Concurring Opinion in Advisory Op. 1995-08 (Stupak) of Commissioner Trevor Potter.

⁴ Campaign finance law imposes certain limitations and reporting requirements on "contributions," which include anything of value "made by any person for the purpose of influencing" a federal election. 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a). "Anything of value" includes in-kind contributions, such as the provision of services without charge or at a charge that is less than the usual and normal charge for such services. 11 C.F.R. § 100.52(d)(1).

⁵ See Compl. Supp. A at 3-4.

⁶ Compl. at 10.

⁷ See 52 U.S.C. § 30109(a)(2).

⁸ See 72 F.R. 12545, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process (Mar. 16, 2007).

I have long been an advocate of robust enforcement of the personal use prohibition.⁹ The ban on personal use “reduces corruption and promotes public confidence in the campaign finance and political system.”¹⁰ Here, a reason to believe finding would have allowed the Commission to investigate the significant personal use violations alleged in the sworn Complaint. Only then could the Commission assure the American public that no impermissible intermingling of campaign and business or personal interests occurred.

June 15, 2018

Date



Ellen L. Weintraub
Vice Chair

⁹ See, e.g., Statement of Reasons of Commissioner Ellen L. Weintraub in MUR 6511 (Andrews, *et al.*), dated June 23, 2014; Certification in MUR 6498 (Lynch for Congress, *et al.*), dated Dec. 14, 2015; Certification in MUR 5895 (Meeks for Congress, *et al.*), dated Jan. 10, 2007.

¹⁰ *Federal Election Commission v. O'Donnell*, 209 F. Supp. 3d 727, 740 (D. Del. 2016).