



otherwise using campaign funds for purposes that existed irrespective of his campaign or former duties as a Member of Congress, in violation of 52 U.S.C. § 30114(b)(1).

3. “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation . . . .” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

#### FACTS

4. Until March 1, 2017, Ryan Zinke was Montana’s sole Representative in the U.S. House of Representatives. Zinke for Congress is his principal campaign committee.<sup>1</sup> Zinke won a second term in the U.S. House of Representatives on November 8, 2016.<sup>2</sup>
- a. Zinke’s joint fundraising committee*
5. Zinke Victory Fund (“ZVF”) was a joint fundraising committee between Zinke for Congress, the Supporting Electing American Leaders (“SEAL”) PAC, the National Republican Congressional Committee (“NRCC”), and the Montana Republican State Central Committee.<sup>3</sup>
6. On November 28, 2016, ZVF reported a “transfer of net JFC funds” to Zinke for Congress in the amount of \$14,921, and ZVF also transferred funds to two of the other participating

<sup>1</sup> Zinke for Congress, Statement of Organization, FEC Form 1 at 1-2 (last amended Dec. 2, 2016), <http://docquery.fec.gov/pdf/825/201612029037602825/201612029037602825.pdf>.

<sup>2</sup> Rob Chaney and Chelsea Davis, *Zinke re-elected to House*, BILLINGS GAZETTE (Nov. 9, 2016), [http://billingsgazette.com/news/government-and-politics/zinke-re-elected-to-house/article\\_985c86f4-f549-586b-a85f-9d7ffd1a8932.html](http://billingsgazette.com/news/government-and-politics/zinke-re-elected-to-house/article_985c86f4-f549-586b-a85f-9d7ffd1a8932.html).

<sup>3</sup> Zinke Victory Fund, Statement of Organization, FEC Form 1 at 2 (filed May 27, 2015), <http://docquery.fec.gov/pdf/821/15971086821/15971086821.pdf>.

committees.<sup>4</sup> However, Zinke for Congress did not report the receipt of these funds on its amended Post-General Election Report<sup>5</sup> or its amended Year-End Report.<sup>6</sup>

7. Following the November 28 transfer, ZVF raised \$14,485 in December from seven donors.<sup>7</sup> On ZVF's April Quarterly Report, filed April 11, 2017, ZVF reported transferring almost the entirety of those funds, \$13,997.65, to Zinke for Congress on February 14, 2017.<sup>8</sup> ZVF did not report transferring funds to any of the other participating committees.<sup>9</sup> ZVF then filed a termination report on May 1, 2017.<sup>10</sup>
8. Zinke for Congress reported the receipt of this \$13,997.65 transfer on its April Quarterly report, where it is dated February 17, 2017.<sup>11</sup> However, Zinke for Congress' report does not list the individual contributions contained in the transfer-in from ZVF.<sup>12</sup> The report does reflect one itemized contribution, dated February 17 with the "Memo Item" box checked,

<sup>4</sup> Zinke Victory Fund, 30-Day Post-General Election Report of Receipts and Disbursements, FEC Form 3X at 10 (filed Dec. 6, 2016), <http://docquery.fec.gov/pdf/199/201612069037662199/201612069037662199.pdf>. ZVF also transferred \$10,300 to SEAL PAC and \$25,222 to the Montana Republican State Central Committee on that same day. *Id.*

<sup>5</sup> Zinke for Congress, Amended 30-Day Post-General Election Report of Receipts and Disbursements, FEC Form 3X (filed July 6, 2017), <http://docquery.fec.gov/pdf/230/201707069066560230/201707069066560230.pdf>

<sup>6</sup> Zinke for Congress, Amended Year-End Report of Receipts and Disbursements, FEC Form 3X (filed July 10, 2017), <http://docquery.fec.gov/pdf/824/201707109066576824/201707109066576824.pdf>.

<sup>7</sup> Zinke Victory Fund, Year-End Report of Receipts and Disbursements, FEC Form 3X (filed Jan. 25, 2016), <http://docquery.fec.gov/pdf/046/201701259041475046/201701259041475046.pdf>. One of those donors, who gave \$385, was listed as "anonymous." *Id.* at 6. The address given for this anonymous contribution — 824 S. Milledge Ave., Athens, GA — is associated with the ZVF's treasurer, Paul Kilgore. *See* Abraham Lincoln PAC, Statement of Organization, FEC Form 1 (Jan. 16, 2017). The Commission should, at a minimum, send an RFAI to ZVF regarding this contribution.

<sup>8</sup> Zinke Victory Fund, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3X at 7 (filed Apr. 11, 2017), <http://docquery.fec.gov/pdf/507/201704119052068507/201704119052068507.pdf>.

<sup>9</sup> *Id.* at 2.

<sup>10</sup> Zinke Victory Fund, Termination Report, FEC Form 3X (filed May 1, 2017), <http://docquery.fec.gov/pdf/847/201705019053487847/201705019053487847.pdf>.

<sup>11</sup> Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 7 (filed July 10, 2017), <http://docquery.fec.gov/pdf/884/201707109066576884/201707109066576884.pdf>.

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

suggesting it may reflect a contribution transferred from ZVF: \$2,700 attributed to Frank Haughton, Jr.,<sup>13</sup> who gave ZVF \$5,400 on December 9, 2016.<sup>14</sup> However, it appears that the entirety of Haughton's \$5,400 contribution would have been transferred to Zinke for Congress, because ZVF did not transfer funds to any other committee after November 28, 2016.

9. Zinke for Congress' April Quarterly report also reflects a separate receipt from ZVF in the amount of \$14,921.26, dated February 17, 2017.<sup>15</sup> This receipt matches the amount ZVF reported transferring to Zinke for Congress on November 28, 2016.<sup>16</sup> Zinke for Congress failed to itemize any of the individual contributors whose contributions were transferred.<sup>17</sup>

*b. Zinke's personal use of campaign funds*

10. On December 15, 2016, then-President-Elect Donald Trump announced that he intended to nominate Zinke as Secretary of the U.S. Department of the Interior.<sup>18</sup>
11. On December 31, 2016, two weeks after Trump announced Zinke's nomination, Zinke for Congress reported a \$22,744.32 payment to First Bankcard,<sup>19</sup> and itemized multiple underlying transactions to hotels, lodges, and restaurants, yet dated each transaction as

<sup>13</sup> *Id.*

<sup>14</sup> Zinke Victory Fund, January 31 Year-End Report of Receipts and Disbursements, FEC Form 3X at 7 (filed Jan. 25, 2017),

<http://docquery.fec.gov/pdf/046/201701259041475046/201701259041475046.pdf>.

<sup>15</sup> Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 7 (filed July 10, 2017), <http://docquery.fec.gov/pdf/884/201707109066576884/201707109066576884.pdf>.

<sup>16</sup> Zinke Victory Fund, 30-Day Post-General Election Report of Receipts and Disbursements, FEC Form 3X at 10 (filed Dec. 6, 2016),

<http://docquery.fec.gov/pdf/199/201612069037662199/201612069037662199.pdf>.

<sup>17</sup> Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 7 (filed July 10, 2017), <http://docquery.fec.gov/pdf/884/201707109066576884/201707109066576884.pdf>.

<sup>18</sup> Timothy Gardner, *Trump taps Montana Congressman Zinke to lead Interior Department*, REUTERS (Dec. 15, 2016), <http://www.reuters.com/article/us-usa-trump-interior/trump-taps-montana-congressman-zinke-to-lead-interior-department-idUSKBN1441YG>.

<sup>19</sup> Zinke for Congress, Amended January 31 Year-End Report of Receipts and Disbursements, FEC Form 3X at 33 (filed July 10, 2017),

<http://docquery.fec.gov/pdf/824/201707109066576824/201707109066576824.pdf>.

December 31.<sup>20</sup> These included \$522.74 for lodging at the Lime Inn in the U.S. Virgin Islands,<sup>21</sup> \$3,294 to Lavagna in Washington D.C. for “event catering;”<sup>22</sup> and over \$8,000 in meals and lodging in Montana. The same day, December 31, Zinke for Congress reported a separate \$2,220.76 payment to First Bankcard,<sup>23</sup> and itemized transactions such as \$696.18 to The Westhouse in New York City for lodging<sup>24</sup> and \$480 to Amtrak for train fare.<sup>25</sup> These transactions were also dated December 31.

12. Also on December 31, 2016, Zinke for Congress reimbursed Ryan Zinke \$1,357.53,<sup>26</sup> which included \$218 for meals at Bernaise in Washington, D.C.<sup>27</sup> and \$314.36 for a “Campaign Dinner” at Vons in Santa Barbara, California.<sup>28</sup> These transactions were also dated December 31.
13. After January 5, 2017, Zinke stopped casting votes in Congress.<sup>29</sup>
14. On February 8, 2017, ZFC reimbursed Evan Wilson for \$6,510.80 worth of expenses incurred in Montana, including car rentals, fuel, and lodging, and dated all of the underlying

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<sup>20</sup> Zinke for Congress, January 31 Year-End Report of Receipts and Disbursements, FEC Form 3X at 23-51 (filed July 10, 2017),

<http://docquery.fec.gov/pdf/824/201707109066576824/201707109066576824.pdf>.

<sup>21</sup> *Id.* at 39.

<sup>22</sup> *Id.* at 44.

<sup>23</sup> *Id.* at 28.

<sup>24</sup> *Id.* at 29.

<sup>25</sup> *Id.* at 30.

<sup>26</sup> *Id.* at 26.

<sup>27</sup> *Id.* at 27.

<sup>28</sup> *Id.* at 28.

<sup>29</sup> Kim Briggeman, *Zinke's a no-show in U.S. House while waiting for cabinet confirmation*, MISSOULIAN (Feb. 19, 2017), [http://missoulian.com/news/government-and-politics/zinke-s-a-no-show-in-u-s-house-while/article\\_5a8e3d5e-6044-5e7c-9295-323acc313d9b.html](http://missoulian.com/news/government-and-politics/zinke-s-a-no-show-in-u-s-house-while/article_5a8e3d5e-6044-5e7c-9295-323acc313d9b.html).

transactions as February 8.<sup>30</sup> Also on February 8, ZFC directly paid the Lodge at Whitefish Lake in Montana \$2,816.73 for “Event Catering and Room Rental.”<sup>31</sup>

15. On March 1, 2017, the U.S. Senate confirmed Zinke as Interior Secretary.<sup>32</sup>
16. On March 12, 2017, ZFC paid \$2,315.52 to the Capitol Hill Club, at the address 300 1<sup>st</sup> St. SE in Washington D.C., for “Event Catering.”<sup>33</sup>
17. Between December 31, 2016 and June 19, 2017, ZFC reported paying “Senate Catering,” at the same address as the Capitol Hill Club (at the address 300 1<sup>st</sup> St. SE) a total of \$2,691.99.<sup>34</sup>
18. Additionally, between April 2016 and June 2017, ZFC made a series of disbursements related to the purchase, maintenance, and sale of a Recreational Vehicle (“RV”) originally owned by Zinke’s wife:
  - i. On April 7, 2016, Zinke for Congress reported purchasing an RV from Lolita Zinke, Zinke’s wife, for \$51,900.<sup>35</sup> The next month, Zinke for Congress paid Lolita Zinke an

<sup>30</sup> Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 21-31 (filed July 10, 2017),

<http://docquery.fec.gov/pdf/884/201707109066576884/201707109066576884.pdf>.

<sup>31</sup> *Id.* at 12.

<sup>32</sup> 115<sup>th</sup> Cong., *Roll Call Vote: On the Nomination (Confirmation Ryan Zinke, of Montana, to be Secretary of the Interior)* (Mar. 1, 2017),

[https://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=115&session=1&vote=00075](https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=115&session=1&vote=00075).

<sup>33</sup> This payment was reported as a “Memo Item” and appears to be an itemization related to a March 12 payment to First Bankcard. Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 19, 20 (filed July 10, 2017),

<http://docquery.fec.gov/pdf/884/201707109066576884/201707109066576884.pdf>.

<sup>34</sup> Zinke for Congress, Amended January 31 Year End Report of Receipts and Disbursements, FEC Form 3 at 45 (filed July 10, 2017), Zinke for Congress, “Disbursements to ‘Senate Catering’ 2016-2017,” [https://www.fec.gov/data/disbursements/?two\\_year\\_transaction\\_period=2018&data\\_type=processed&committee\\_id=C00550871&recipient\\_name=senate+catering&min\\_date=01%2F01%2F2017&max\\_date=12%2F31%2F2018](https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00550871&recipient_name=senate+catering&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018) (last visited Oct. 27, 2017).

<sup>35</sup> Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 392 (filed June 16, 2016),

<http://docquery.fec.gov/pdf/313/201606169018412313/201606169018412313.pdf>.

additional \$7,200 for “Remainder of RV Balance for Fair Market Value”—meaning in total, Zinke for Congress paid Lolita Zinke \$59,100 total for the “Fair Market Value” of the RV.<sup>36</sup>

- ii. Between August and December 2016, Zinke for Congress made a series of disbursements related to RV maintenance. On August 10, ZFC paid Bretz RV \$553.60 for “Auto Repair.”<sup>37</sup> On October 17, Zinke for Congress paid Lisacs Tires in Montana \$289 for “Tires.”<sup>38</sup> On October 31, Zinke for Congress bought \$33.50 worth of “RV Supply” at a Target in Billings, Montana.<sup>39</sup> On November 6, Zinke for Congress made a \$258.80 payment to Les Charles Schwab, which is listed with a California address, for “Tires.”<sup>40</sup> Five days later, on November 11, Zinke for Congress made three more payments to Les Charles Schwab for “Tires:” \$1000,<sup>41</sup> \$900,<sup>42</sup> and \$2100.<sup>43</sup> On November 28, Zinke for Congress paid Montana Peterbuilt \$770.31 for “RV Maintenance.”<sup>44</sup> On December 31, Zinke for Congress paid Bretz RV \$242.08 for “Auto Maintenance.”<sup>45</sup>

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<sup>36</sup> *Id.* at 410.

<sup>37</sup> Zinke for Congress, October 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 1775 (filed July 5, 2017), <http://docquery.fec.gov/pdf/738/201707059066526738/201707059066526738.pdf>.

<sup>38</sup> Zinke for Congress, 12-Day Pre-General Election Report, FEC Form 3 at 475 (filed July 5, 2017), <http://docquery.fec.gov/pdf/060/201707059066529060/201707059066529060.pdf>.

<sup>39</sup> Zinke for Congress, 30-Day Post-General Election Report of Receipts and Disbursements, FEC Form 3X at 599, (filed July 6, 2017), <http://docquery.fec.gov/pdf/230/201707069066560230/201707069066560230.pdf>

<sup>40</sup> *Id.* at 601.

<sup>41</sup> *Id.* at 610.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 611.

<sup>44</sup> *Id.* at 591.

<sup>45</sup> Zinke for Congress, January 31 Year-End Report of Receipts and Disbursements, FEC Form 3X at 37 (filed July 10, 2017), <http://docquery.fec.gov/pdf/824/201707109066576824/201707109066576824.pdf>.

iii. On June 9, 2017, Zinke for Congress received \$25,000 in "Proceeds from 2004 RV Sale" from F. Edward Buttrey.<sup>46</sup>

19. The *Associated Press* reported that the RV's purchaser, Buttrey, is an "old friend" of Zinke's who was "in the final vetting stages for a key post in Zinke's Interior Department" at the time of the sale.<sup>47</sup> The report also noted that NADA Guides, an online valuation services, listed the average price of the RV at the time of sale as \$49,300, with the low valuation at \$40,900.<sup>48</sup>

#### SUMMARY OF THE LAW

20. Federal law limits to \$2,700 the amount of a contribution that a Congressional candidate or his authorized campaign committee may accept from an individual donor. 52 U.S.C § 30116(a)(1).

#### I. Joint Fundraising Committees

21. Joint fundraising is fundraising conducted jointly by two or more participating committees. Participants in a joint fundraising effort must enter into a written agreement establishing a formula for allocating proceeds and expenses, 11 C.F.R. § 102.17(c)(1), and must create or select a committee to act as joint fundraising representative, *id.* § 102.17(a)(1)(i), which shall create a separate depository account for the receipt and disbursement of the joint fundraising proceeds, *id.* § 102.17(a)(3). A federal candidate participating in a joint fundraising effort must designate the joint fundraising representative as an authorized committee. *Id.* § 102.17(a)(1)(i).

<sup>46</sup> Zinke for Congress, July 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 6 (filed July 11, 2017), <http://docquery.fec.gov/pdf/900/201707149066651900/201707149066651900.pdf>.

<sup>47</sup> Associated Press, *Sale of Interior Secretary's Motor Home Raises \$25K Question* (Aug. 28, 2017), <https://www.cbsnews.com/news/sale-of-interior-secretarys-motor-home-raises-25k-question/>.

<sup>48</sup> *Id.*



22. The joint fundraising committee must collect and forward information from each individual contributor (such as the contributor's name and address), *id.* § 102.17(c)(6), and screen contributions to ensure they do not exceed contribution limits when transferred to participating committees, *id.* § 102.17(c)(4)(i), (c)(6), and allocate gross proceeds to each committee according to the agreed-upon formula, *id.* § 102.17(c)(6).
23. Each participating committee must report its share of net proceeds received as a transfer-in from the joint fundraising representative, and must itemize the underlying receipts as contributions from the original contributors, along with information such as the contributor's name and address. *Id.* § 102.17(c)(8)(i)(B). The recipient committee must report the date of receipt for each contributor's contribution as the date it was received by the joint fundraising representative. *Id.* § 102.17(c)(3).
24. Contributions transferred through a joint fundraising committee, when aggregated with other contributions to the recipient committee, may not exceed contribution limits. *Id.* § 102.17(c)(5).

## II. Personal Use Prohibition

25. FECA provides that contributions accepted by a candidate may be used by the candidate for, *inter alia*, "otherwise authorized expenditures in connection with the campaign for Federal office of the candidate," 52 U.S.C. § 30114(a)(1), and that such contributions shall not be converted to the personal use of the candidate or any other person, *id.* § 30114(b); *see also* 11 C.F.R. § 113.1(g), 113.2(g).
26. FECA and Commission regulations provide a non-exhaustive list of uses of campaign funds that are *per se* personal use. 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i). For uses of

campaign funds not on this list, the Commission determines, on a case-by-case basis, whether they constitute personal use. 11 C.F.R. § 113.1(g)(1)(ii).

27. Campaign funds are considered to have been converted to “personal use” if the funds 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). Commission regulations similarly define “personal use” as the use of funds in a campaign account “to fulfill any commitment, obligation, or expense of any person that would exist irrespective of the candidate’s *election campaign* or duties as a *Federal officeholder*.” 11 C.F.R. § 113.1(g) (*emphasis added*).<sup>49</sup>
28. As used in section 113.1, “Federal officeholder” only applies to *elective* Federal office: President or Vice President, or a Senator or Representative in Congress, or a Delegate or Resident Commissioner to Congress. *Id.* § 113.1(c); *see also* Advisory Opinion 1993-06 (Panetta) at 3.
29. Separately, the Hatch Act prohibits an executive branch employee—including the Secretary of the Interior—from being a candidate “for election to a partisan political office.” 5 U.S.C. § 7323(a)(3).

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<sup>49</sup> The Commission has explained the “irrespective” test as follows:

If campaign funds are used for a financial obligation that is caused by campaign activity or the activities of an officeholder, that use is not personal use. However, if the obligation would exist even in the absence of the candidacy or even if the officeholder were not in office, then the use of funds for that obligation generally would be personal use.

*Expenditures; Reports by Political Committees; Personal Use of Campaign Funds*, 60 Fed. Reg. 7862, 7863–64 (Feb. 9, 1995).

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30. The Commission has permitted candidate committees to purchase goods or services from a candidate or their family, provided that the payments were at normal and usual charge for such goods or services. However, if the payments represent more than the usual and normal charge for the goods or services, the amount in excess would violate the personal use ban. *See, e.g.* AO 1994-22 at n.1; AO 1994-8; AO 1993-1; AO 1988-13. Transfer of campaign assets may constitute personal use if the transfer is not for fair market value. 11 C.F.R. § 113.1(g)(3).

### III. Reporting Requirements

31. FECA requires each treasurer of a political committee to file reports of receipts and disbursements with the Commission. 52 U.S.C. § 30104(a)(1).
32. For an authorized committee, such reports must include the total amount of all contributions from individuals, 52 U.S.C. § 30104(b)(2)(A), and contributions transferred from other authorized committees, 52 U.S.C. § 30104(b)(2)(E), as well as the identification of each individual contributor that makes a contribution during the reporting period, together with the date and amount of such contribution, 52 U.S.C. § 30104(b)(3)(B); *see also* 11 C.F.R. § 102.17(c)(8)(i)(B), (c)(3).
33. For operating expenditures charged on a credit card, a committee not only must itemize a payment to a credit card company that exceeds \$200, but also itemize (as a memo entry) any specific transaction if the payment to the vendor exceeds \$200. *See* FEC, *Campaign Guide for Congressional Candidates* (June 2014) at 105. The date for the itemized vendor disbursement is the date the transaction actually occurred. *See* FEC, *Interpretative Rule on Reporting Ultimate Payees of Political Committee Disbursements*, 78 Fed. Reg. 40625 (July 8, 2013).

**CAUSES OF ACTION**

**Count I: Zinke for Congress Failed to Report Contributions Received, and May Have Accepted Contributions in Excess of Federal Limits**

34. Reports filed with the Commission indicate that Zinke for Congress failed to report tens of thousands of dollars of contributions, in violation of 52 U.S.C § 30104(b), and may have accepted contributions in excess of federal limits, in violation of 52 U.S.C § 30116(a)(1).
35. Federal law requires candidates to report and disclose all contributions received, and to identify each individual contributor who makes a contribution during the reporting period. *See* 52 U.S.C. § 30104(b). Committees participating in a joint fundraising effort must report funds transferred-in from the joint fundraising representative as a transfer-in on Line 12 (Transfers in from Other Authorized Committees) and itemize the transfer. 11 C.F.R. § 102.17(c)(8)(i)(B); FEC, *Campaign Guide for Congressional Candidates* (June 2014) at 144. The committee must also itemize the underlying receipts as contributions from the original donors on a memo entry Schedule A. *Id.* The committee must itemize each underlying contribution's date of receipt as the date the joint fundraising representative received the contribution. 11 C.F.R. § 102.17(c)(3)(iii), (c)(8). Contributions transferred through a joint fundraising committee are aggregated with other contributions to the recipient committee for purposes of contribution limits. *Id.* § 102.17(c)(5). A Congressional candidate or his authorized campaign committee may accept contributions only up to \$2,700 per election from an individual donor. 52 U.S.C § 30116(a)(1).
36. ZVF, the joint fundraising committee between Zinke for Congress, SEAL PAC, the NRCC, and the Montana Republican State Central Committee, reported a "transfer of net JFC funds".

to Zinke for Congress on November 28, 2016 in the amount of \$14,921.<sup>50</sup> However, Zinke for Congress did not report the receipt of these funds, nor did it report any of the underlying contributors, on its amended Post-General Election Report<sup>51</sup> or its amended Year-End Report.<sup>52</sup> It was not until Zinke for Congress' April Quarterly report that it reported a receipt from ZVF in the amount of \$14,921.26, but dated February 17, 2017.<sup>53</sup> This receipt matches the amount ZVF reported transferring to Zinke for Congress on November 28, 2016.<sup>54</sup> Yet Zinke for Congress also failed to itemize any of the individual contributors whose contributions were transferred.<sup>55</sup>

37. This anonymized transfer of funds may disguise individual contributions that exceed federal limits. For example, Stephen R. Langlas contributed \$10,000 to ZVF on November 8, 2016 (the same day Zinke won reelection),<sup>56</sup> but his name and the amount of his contribution transferred from ZVF were not disclosed on Zinke for Congress' report. If more than \$2,700 of Langlas' \$10,000 contribution to ZVF was transferred to Zinke for Congress, Zinke for Congress would have accepted a contribution in excess of federal limits.

<sup>50</sup> Zinke Victory Fund, 30-Day Post-General Election Report of Receipts and Disbursements, FEC Form 3X at 10 (filed Dec. 6, 2016),

<http://docquery.fec.gov/pdf/199/201612069037662199/201612069037662199.pdf>.

<sup>51</sup> Zinke for Congress, 30-Day Post-General Election Report of Receipts and Disbursements, FEC Form 3X (filed July 6, 2017),

<http://docquery.fec.gov/pdf/230/201707069066560230/201707069066560230.pdf>

<sup>52</sup> Zinke for Congress, January 31 Year-End Report of Receipts and Disbursements, FEC Form 3X (filed July 10, 2017), <http://docquery.fec.gov/pdf/824/201707109066576824/201707109066576824.pdf>.

<sup>53</sup> Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 7 (filed July 10, 2017), <http://docquery.fec.gov/pdf/884/201707109066576884/201707109066576884.pdf>.

<sup>54</sup> Zinke Victory Fund, 30-Day Post-General Election Report of Receipts and Disbursements, FEC Form 3X at 10 (filed Dec. 6, 2016),

<http://docquery.fec.gov/pdf/199/201612069037662199/201612069037662199.pdf>.

<sup>55</sup> Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 7 (filed July 10, 2017), <http://docquery.fec.gov/pdf/884/201707109066576884/201707109066576884.pdf>.

<sup>56</sup> Zinke Victory Fund, 30-Day Post-General Election Report of Receipts and Disbursements, FEC Form 3X at 7 (filed Dec. 6, 2016),

<http://docquery.fec.gov/pdf/199/201612069037662199/201612069037662199.pdf>.

38. Following ZVF's November 28, 2016 transfer, ZVF raised \$14,435 from seven individual contributors, and on February 14, 2017, ZVF reported transferring \$13,997.65 to Zinke for Congress; ZVF did not transfer funds to any of the other committees participating in the joint fundraising effort.<sup>57</sup> Therefore, it appears that almost the entirety of the funds ZVF raised after November 28, 2016 were transferred to Zinke for Congress. Zinke for Congress reported the receipt of this \$13,997.65 ZVF transfer on its April Quarterly report, where it is dated February 17, 2017.<sup>58</sup> However, Zinke for Congress' report does not list the individual, underlying contributions contained in the transfer-in from ZVF.<sup>59</sup>
39. The report does reflect one contribution dated February 17 with the "Memo Item" box checked, which might reflect an underlying contribution transferred from ZVF: \$2,700 attributed to Frank Haughton, Jr.,<sup>60</sup> who gave ZVF \$5,400 on December 9, 2016.<sup>61</sup> However, because all funds raised by ZVF after November 28, 2016 (minus administrative costs) were transferred to Zinke for Congress, it appears that the entirety of Haughton Jr.'s \$5,400 contribution would have been transferred to Zinke for Congress as part of the \$13,997.65 transfer. Because the entirety of the transferred funds were attributed to the 2018 primary, this may have resulted in Zinke for Congress accepting a contribution in excess of federal

<sup>57</sup> Zinke Victory Fund, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3X at 7 (filed Apr. 11, 2017),

<http://docquery.fec.gov/pdf/507/201704119052068507/201704119052068507.pdf>. One of the seven individual contributors, who gave \$385, was listed as "anonymous." See *supra* n.7.

<sup>58</sup> Zinke for Congress, April 15 Quarterly Report of Receipts and Disbursements, FEC Form 3 at 7 (filed July 10, 2017), <http://docquery.fec.gov/pdf/884/201707109066576884/201707109066576884.pdf>.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Zinke for Congress, January 31 Year-End Report of Receipts and Disbursements, FEC Form 3X at 7 (filed July 10, 2017),

<http://docquery.fec.gov/pdf/824/201707109066576824/201707109066576824.pdf>. However, a recipient committee is supposed to report the date of a contribution as the date it is contributed to the joint fundraising representative. See 11 C.F.R. § 102.17(c)(3)(iii), (c)(8).

limits.<sup>62</sup> Zinke for Congress would have accepted contributions in excess of limits to an even greater degree if Haughton Jr. gave \$5,400 to ZVF on December 9, and separately gave \$2,700 to Zinke for Congress on February 17.

40. Zinke for Congress' failure to report the identities of the individuals whose contributions to ZVF were transferred would make it nearly impossible to ascertain whether those individuals would exceed federal limits with additional contributions to Zinke for Congress.
41. Accordingly, there is reason to believe that Zinke for Congress failed to report contributions received, in violation of 52 U.S.C. § 30104(b)(3)(B) and 11 C.F.R. § 102.17(c)(8)(i)(B), and may have accepted contributions in excess of federal limits, in violation of 52 U.S.C § 30116(a)(1).

**Count II: Zinke for Congress' Purchase and/or Sale of the RV Violated the Personal Use Ban**

42. A candidate or officeholder may not convert campaign funds to the personal use of the candidate or any other person. 52 U.S.C. § 30114(b)(1). The Commission has advised that if a candidate's campaign committee purchases goods or services from a candidate or their family at more than the usual and normal charge for the goods or services, the amount in excess would constitute personal use. *See, e.g.* AO 1994-22 at n.1; AO 1994-8; AO 1993-1; AO 1988-13. Commission regulations also state that the transfer of campaign assets constitutes personal use if the transfer is not for fair market value. 11 C.F.R. § 113.1(g)(3).

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<sup>62</sup> Zinke for Congress could redesignate \$2,700 of Haughton Jr.'s contribution to the 2018 general election, but if Zinke does not run or loses in the primary, such contribution would have to be returned. 11 C.F.R. §§ 110.1(b)(3), 110.2(b)(5). In either case, the need for the contribution to be redesignated or refunded can be identified only if the transferred contributions are reported, as required by law.





campaign funds to the personal use of Buttrey, 11 C.F.R. § 113.1(g)(3), in violation of 52 U.S.C. § 30114(b)(1).

**Count III: Zinke Illegally Converted Campaign Funds to Personal Use**

47. "Personal use" is also defined as any expense that would exist "irrespective of the candidate's campaign or duties as a Federal officeholder," 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g), meaning one's duties as a Member of Congress, *see id.* § 113.1(c) (defining "Federal officeholder" as an individual elected to or serving in the office of President or Vice President, or a Senator or Representative in Congress). Executive branch officials are prohibited under the Hatch Act from being a candidate "for election to a partisan political office." 5 U.S.C. § 7323(a)(3).
48. After Zinke was confirmed as Interior Secretary on March 1, 2017, he was no longer a Member of Congress. And as Interior Secretary, he is prohibited under the Hatch Act from being a candidate for office. As a result, many of Zinke for Congress' expenditures after March 1 likely violated the personal use ban. These expenditures include \$2,315.52 paid to the Capitol Hill Club on March 12, 2017 for "Event Catering," and a total of \$1,750 paid to "Senate Catering," at the same address as the Capitol Hill Club, between March 12 and June 19, 2017.<sup>68</sup>
49. Earlier disbursements may also constitute personal use. On December 31, 2016 and February 8, 2017, Zinke for Congress reported tens of thousands of dollars of payments to credit card companies and reimbursements to Zinke and campaign staff, and itemized thousands of dollars in transactions for lodging and meals, such as \$522.74 for lodging at the Lime Inn in

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<sup>68</sup> Some of these payments might have been for events that predated Zinke's nomination or confirmation, but nothing on the face of the relevant reports indicates this.

the U.S. Virgin Islands and \$696.18 to a five-star hotel in New York City.<sup>69</sup> Zinke for Congress should have listed the date for each itemized transaction as the date it actually occurred, rather than the date the credit card was paid.<sup>70</sup> By listing all of these transactions as having occurred on the same date, Zinke for Congress disguised their true timing, and therefore obscured their relationship — if any — to Zinke's duties as a candidate or officeholder.<sup>71</sup> In the absence of a connection to those duties, there is reason to believe the payments for hotel rooms, travel expenses and meals in locales such as the Virgin Islands, New York City, and California may have constituted personal use of campaign funds.

50. Accordingly, based on published reports and the committee's reports filed with the Commission, there is reason to believe that Zinke for Congress converted campaign funds to personal use, in violation of 52 U.S.C. § 30114(b)(1).

#### PRAYER FOR RELIEF

51. Wherefore, the Commission should find reason to believe that Zinke for Congress has violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
52. Further, the Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations and an injunction prohibiting the respondents from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

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<sup>69</sup> See sources cited ¶¶ 11-12, 14.

<sup>70</sup> See FEC, *Interpretative Rule on Reporting Ultimate Payees of Political Committee Disbursements*, 78 Fed. Reg. 40625 (July 8, 2013).

<sup>71</sup> For example, if the thousands of dollars of disbursements for lodging and meals near Trump Tower in New York City occurred in late December, there is reason to believe those expenses were primarily connected to Zinke's nomination as Interior Secretary and thus existed irrespective of Zinke's duties as a candidate or Member of Congress.



