



FEDERAL ELECTION COMMISSION
Washington, DC

1 **MEMORANDUM**

2 **TO:** The Commission

3 **FROM:** Lisa J. Stevenson
4 Acting General Counsel

5 **BY:** Charles Kitcher *CK*
6 Acting Associate General Counsel for Enforcement

7 Stephen Gura *SJ*
8 Deputy Associate General Counsel for Enforcement

9 Mark Allen *MA*
10 Assistant General Counsel

11 Laura Conley *LC*
12 Attorney

13 **SUBJECT:** MUR 7310 (Mark Takai for Congress, *et al.*)

14 **RE:** Circulation of Discovery Documents — Orders and Subpoenas to Mark Takai for
15 Congress and Dylan Beesley and Lanakila Strategies, LLC

16 Attached for the Commission's approval are: (1) an Order to Submit Written Answers
17 and Subpoena to Produce Documents directed to Mark Takai for Congress and Dylan Beesley in
18 his official capacity as treasurer (the "Committee"); and (2) an Order to Submit Written Answers
19 and Subpoena to Produce Documents directed to Dylan Beesley and Lanakila Strategies, LLC
20 ("Lanakila").

21 On June 4, 2019, the Commission voted to find reason to believe that the Committee,
22 Beesley in his personal capacity, and his company, Lanakila, violated 52 U.S.C. § 30114(b) by
23 converting funds to personal use.¹ The Office of General Counsel ("OGC") opened an
24 investigation and now seeks the Orders and Subpoenas in order to complete its work and finalize
25 recommendations for the Commission's review.

1 Certification, MUR 7310 (Mark Takai for Congress, *et al.*) (June 5, 2019).

1 **I. Background**
2

3 The Committee hired Beesley and Lanakila to provide political consulting services
4 during the 2016 election cycle.² In May 2016, Congressman Takai announced that he was no
5 longer seeking reelection due to a diagnosis of pancreatic cancer, and he and Beesley agreed that
6 Lanakila would oversee the Committee's wind down and continue receiving payment at a rate of
7 \$5,500 per month.³ Congressman Takai passed away in July 2016, and the Committee contends
8 that Beesley and Lanakila were then engaged in tasks such as thanking Takai's supporters,
9 responding to press inquiries, disposing of the Committee's surplus funds, meeting its filing
10 obligations with the Commission, coordinating the wind down of Takai's congressional office,
11 and developing ideas for a charitable foundation.⁴ Beesley became the Committee's treasurer in
12 September 2016.⁵

13
14 The Commission's personal use regulations provide departing federal officeholders with
15 a six-month period in which the costs of winding down their offices are considered ordinary and
16 necessary expenses that may be paid with funds from a campaign account.⁶ The Commission
17 has applied this six-month safe harbor to candidates' campaign and congressional offices,⁷ and
18 has explained that it "does not preclude a former officeholder who can demonstrate that he or she
19 has incurred ordinary and necessary winding down expenses more than six months after leaving
20 office from using campaign funds to pay those expenses."⁸

21
22 Documents obtained by OGC during its investigation indicate that, while Beesley was
23 initially engaged in winding down the Committee's operations, by early 2017, that work had
24 largely concluded. For example, he informed one of the Committee's last remaining vendors in
25 January 2017 that "[w]e are thinking shutdown of the main committee by March 31," noted that
26 a contemplated nonprofit organization "hadn't been set up yet," and said that he had "a few small
27 outstanding things I need to finish on refunds and the recordkeeping."⁹ Beesley does not appear
28 to have had significant involvement in establishing the nonprofit organization.¹⁰ And despite his
29 representation of having only a "few small outstanding things" to finish, Beesley continued to
30 invoice the Committee and receive payment at the rate of \$5,500 per month for another eleven

² Factual & Legal Analysis at 2 (Mark Takai for Congress) ("Committee F&LA").

³ *Id.* at 3.

⁴ Committee Resp. at 2, 5 (Mar. 14, 2018).

⁵ Committee F&LA at 3.

⁶ 11 C.F.R. § 113.2(a)(2); Committee F&LA at 7.

⁷ See Advisory Op. 2013-05 (Gallegly) at 3; Committee F&LA at 8 n.41.

⁸ Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7,862, 7,873. (Feb. 9, 1995); Committee F&LA at 7-8.

⁹ Email from Dylan Beesley, Lanakila, to Allison Murray, CFO Compliance (Jan. 13, 2017), Joint Document Production of Respondents ("Joint Production") at 03258.

¹⁰ Email from Gary Kai, Hawaii Business Roundtable, to Dylan Beesley, Lanakila (May 4, 2017), Joint Production at 03360 (showing Kai, Congressman Takai's father-in-law, informing Beesley that "we are in the process of creating" a 501(c)(3) organization "which could be done in a few days" (emphasis added)).

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1 months, all while the Committee was paying another vendor to file its disclosure reports with the
2 Commission.¹¹

3
4 In January 2018, the *Honolulu Star Advertiser* published an article calling attention to the
5 continued payments to Beesley and Lanakila nearly a year and a half after Takai's death.¹²
6 Thereafter, the Committee ceased the \$5,500 payments to Lanakila, and in March 2018, Beesley
7 and the Committee's newly named deputy treasurer, Gary Kai, negotiated a new rate. In an
8 email exchange produced to the Commission and included here as Attachment 1, Beesley first
9 proposed that the Committee pay Lanakila \$2,500 per month.¹³ Kai expressed reservations and
10 asked how many hours per week Beesley was working, but Beesley did not provide an
11 estimate.¹⁴ Instead, he responded to Kai that, "the FEC says the campaign has to pay me at fair
12 market value," and then proposed a fee of \$750 per month, which Kai approved.¹⁵ The
13 Committee reported two final payments to Lanakila, one for \$1,500 (which may have covered
14 multiple months) on the same day as the Beesley-Kai email exchange, and one \$750 payment the
15 following month.¹⁶

16

17 II. Orders and Subpoenas

18

19 Following the Commission's reason-to-believe finding, OGC issued informal requests to
20 Respondents for documents and written responses relating to the payments to and work
21 performed by Beesley and Lanakila. Although Respondents produced over 4,000 pages to OGC,
22 the production is notably incomplete in that it appears to be limited to Beesley's documents and
23 does not contain, for example, documents from Gary Kai, who negotiated the lower rate of
24 compensation for Lanakila.¹⁷ Respondents' written responses provide little additional detail and
25 largely refer OGC to the document production and the Committee's response to the Complaint.¹⁸
26 OGC informally requested that the Committee supplement the production, but the Committee
27 refused to do so.¹⁹ As a result, in June 2020, OGC circulated to the Commission a proposed

¹¹ Committee F&LA at 4-5 (listing Committee's payments to Lanakila).

¹² Nanea Kalani, *Payments by Takai's Campaign Questioned*, HONOLULU STAR ADVERTISER (Jan. 12, 2018), <http://www.staradvertiser.com/2018/01/12/hawaii-news/payments-by-takais-campaign-questioned/?HSA=fb85ecef2b3e2007cf7beb6d65870a735433a8b>.

¹³ Emails between Dylan Beesley, Lanakila, and Gary Kai, Deputy Treasurer of the Committee (Mar. 30, 2018), Joint Production at 00032.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Mark Takai for Congress, Disbursements, https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00548131&recipient_name=lanakila&two_year_transaction_period=2018 (filtered to 2017-2018 disbursements to Lanakila).

¹⁷ See Joint Production.

¹⁸ See Respondents' Resp. to Requests for Written Answers and Production of Documents (Aug. 15, 2019).

¹⁹ Letter to Brian G. Svoboda and Shanna Reulbach, Counsel for Mark Takai for Congress, from Anne B. Robinson, FEC (Dec. 18, 2019); Letter to Mark Allen and Anne Robinson, FEC, from Brian G. Svoboda and Shanna Reulbach, Counsel for Mark Takai for Congress (Feb. 11, 2020).

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1 order and subpoena to the Committee, but the Commission did not approve the documents before
2 losing a quorum.²⁰

3
4 OGC now recommends that the Commission issue the revised and more narrowly drawn
5 Orders and Subpoenas in order to complete its investigation in this matter and prepare its
6 recommendations for the Commission. In light of the Committee's unwillingness to voluntarily
7 supplement its discovery responses and the impending statute of limitations, which we estimate
8 will begin to expire early next year, compulsory process is necessary.

9
10 The attached Orders and Subpoenas are limited to collecting additional information about
11 the email exchange in which Kai and Beesley reduced Lanakila's monthly fee after the payments
12 began to draw public attention. Specifically, they request that the Committee, Beesley, and
13 Lanakila produce the full email exchange between Beesley and Kai, as the version produced to
14 OGC appears to be missing one or more of the initial emails in the chain.²¹ They also request
15 that the Committee produce documents that were attached to or referenced in the email
16 exchange. We expect that the requested documents will allow us to complete our assessment of
17 the work Beesley and Lanakila agreed to perform for the Committee and the basis for the
18 compensation they received after the six-month winding-down period had expired.

19
20 Attachments:

21 1. Emails between Gary Kai, Deputy Treasurer of the Committee, and Dylan Beesley,
22 Treasurer of the Committee, Re: Mark Takai for Congress Invoice (Mar. 30-31, 2018)

23
24
25
26

²⁰ See MUR 7310 Memorandum to the Commission, Circulation of Discovery Documents – Order and Subpoena to Mark Takai for Congress (June 30, 2020).

²¹ See Attach. 1.

Dylan Beesley <dylan@lanakilastrategies.com>

Mark Takai for Congress invoice

Gary KaiTo: Dylan Beesley <dylan@lanakilastrategies.com>

Sat, Mar 31, 2018 at 4:29 PM

We're OK with the \$750.

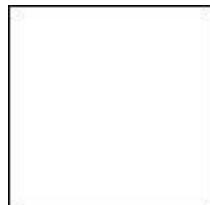
Gary K. Kai

From: Dylan Beesley <dylan@lanakilastrategies.com>**Sent:** Saturday, March 31, 2018 3:08 PM**To:** Gary Kai**Subject:** Re: Mark Takai for Congress invoice

Hi Gary - any additional feedback for me?

DYLAN BEESLEY

Founder, Lanakila Strategies LLC

A 2662 Namauu Drive, Honolulu, HI 96817O (808) 298-0615 E dylan@lanakilastrategies.com W
www.lanakilastrategies.com

On Sat, Mar 31, 2018 5:49 AM, Dylan Beesley dylan@lanakilastrategies.com wrote:

00031

Attachment 1

I would prefer not to take anything – or be in this position – but the FEC says the campaign has to pay me at fair market value. I've updated the attached document to reflect a \$750 monthly fee. That puts me just a little ahead of the accountants at \$500 per month. We should get on the phone ASAP today if this is not something you can support.

Thanks,

Dylan

DYLAN BEESLEY

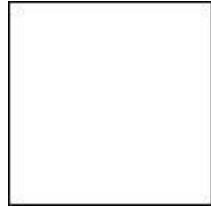
Founder, Lanakila Strategies LLC

A 2662 Namaau Drive, Honolulu, HI 96817

O (808) 298-0615 M

E dylan@lanakilastrategies.com W

www.lanakilastrategies.com



On Fri, Mar 30, 2018 10:20 PM, Gary Kai

wrote:

I am not sure that I could recommend that to Sami. Could you tell me how many hours you spend currently per week?

Gary K. Kai

From: Dylan Beesley <dylan@lanakilastrategies.com>
Sent: Friday, March 30, 2018 4:54 PM
To: Gary Kai
Subject: Re: Mark Takai for Congress invoice

I thought a little less than half of my current \$5759. In the document I prepared, I sugged \$2,500 / month. Does that sound ok?

DYLAN BEESLEY

Founder, Lanakila Strategies LLC

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