



FEDERAL ELECTION COMMISSION
 WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Greitens for Missouri, *et al.*)

) MUR 7422
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STATEMENT OF REASONS OF COMMISSIONER ELLEN L. WEINTRAUB

This matter involved an alleged multimillion-dollar contribution-in-the-name-of-another scheme designed to conceal the identity of specific donors who sought to use federal political committees to evade state disclosure requirements. The scheme funneled funds to two federal super PACs with an understanding that the federal super PACs involved would use the funds to support Eric Greitens in his 2016 campaign for Missouri governor.¹

The scheme was clearly designed to avoid the transparency federal law requires. Donors allegedly made over \$6 million in contributions through two 501(c)(4) nonprofit organizations, American Policy Coalition and Freedom Frontier, to two super PACs, SEALs for Truth (“SFT”) and LG PAC.² Since contributing directly to the super PACs would have led to disclosing the names of the donors, impermissibly using the nonprofit organizations as conduits allowed the names of the donors to be withheld from public disclosure. The record shows two primary transactions by the nonprofit organizations: \$2 million provided to SFT and a series of nine contributions to LG PAC totaling \$4.395 million.³ The FEC’s nonpartisan Office of General Counsel (“OGC”) convincingly argued that the nonprofit organizations were not the true sources of the contributions.⁴

¹ Eric Greitens is currently a candidate for a Missouri U.S. Senate seat. *See* FEC Form 2, [202108139466260269.pdf](https://www.fec.gov/disclosure/202108139466260269.pdf) ([fec.gov](https://www.fec.gov)).

² Suppl. to First Gen. Counsel’s Rept., at 1, MUR 7422 (Greitens for Missouri, *et al.*) (May 12, 2020).

³ First Gen. Counsel’s Rept., at 22, MUR 7422 (Greitens for Missouri, *et al.*) (Nov. 22, 2019).

⁴ *See id.* at 14, 18.

MUR 7422 (Greitens for Missouri, *et al.*)

Statement of Reasons

Page 2 of 4

After reviewing the detailed record,⁵ OGC recommended finding reason to believe that contributions in the name of another were made, received, and that such contributions were improperly reported. I agreed with the recommendations.⁶ As OGC pointed out, the respondents elected to use federal super PACs to advance this scheme, which meant that they were required to report according to the rules applicable to federal super PACs.⁷ Having funneled the money through two 501(c)(4) organizations and two federal political committees, apparently to avoid state disclosure requirements, respondents' argument that they should not have had to disclose the true source of the *federal* contributions because they were really trying to influence a state election rings hollow.

The Commission's core mission is to promote disclosure to ensure an informed electorate and deter and detect illegal activity. Testimony collected by the Missouri State House of Representatives Special Investigative Committee on Oversight suggested that the goal of the scheme was to hide the identities of the true donors, in part because their donations may have been illegal under state and federal law.⁸ Some of these contributions may have violated the Federal Election Campaign Act's foreign national political spending ban,⁹ a violation the Commission purports to prioritize. But because we could not muster a fourth vote, the names of the true donors and the existence of any other potential violations will remain hidden from public view.

OGC sought to further investigate the allegations, attempting to establish the true sources of funds provided as part of the two primary transactions, as well as the relevant parties' knowledge at the time regarding the identities of the true contributors.¹⁰ OGC already had substantial information from the state legislative and Missouri Ethics Commission investigations. It was well-positioned to timely determine the true source of the funds.

⁵ The available record before the Commission was atypically comprehensive for this stage of the proceedings. The record includes the factual allegations contained in the Complaint, a state investigation conducted by the Missouri House of Representatives Special Investigative Committee on Oversight, and the findings of a Joint Stipulation of Facts and a Consent Order setting forth uncontested facts and violations of Missouri law by Greitens for Missouri, the campaign committee of former governor Greitens.

⁶ So too did one of my former Republican colleagues. The motion to adopt OGC's recommendations failed on an unusual 3-0 vote, with one commissioner abstaining (at a time when only four Commissioners were serving). *See* Certification ¶ 4, MUR 7422 (Greitens for Missouri, *et al.*) (June 25, 2020).

⁷ First Gen. Counsel's Rept., at 15 ("SFT's federal registration and its reported receipt of a \$2 million federal contribution from APC appear to have allowed it to avoid registering as a state political committee and reporting the APC donation under Missouri law, but, by the same token, SFT *opted into the Act's federal regulatory regime*, under which the funds it received and reported as federal contributions are treated as such.") (emphasis added).

⁸ *See id.*, footnotes 21 and 22 and accompanying text.

⁹ 52 U.S.C. § 30121.

¹⁰ First Gen. Counsel's Rept., at 22.

MUR 7422 (Greitens for Missouri, *et al.*)

Statement of Reasons

Page 3 of 4

Two of my colleagues wrote statements laying out their reasons for not moving forward in this matter.¹¹ Their explanations of why we should not enforce the law notably lack *any* discussion of the merits of the matter.

One Commissioner argues that the Commission should have dismissed the Complaint in an exercise of its prosecutorial discretion because he had “doubts as to whether there would have been sufficient time left to complete OGC’s proposed investigation,” and due to the agency’s enforcement backlog, investigating this matter might not be the “best use of agency resources.”¹² I emphatically disagree. At the time the first votes on this matter took place, a full eleven months remained before the *earliest* date that any conduct covered by the statute of limitations would have expired and nearly *sixteen months* remained before the five-year statute of limitations would have touched our ability to pursue monetary penalties on all the violations alleged.¹³ Not only did this colleague effectively shorten the limitations period by well over a year, he ignored the Commission’s well-established equitable remedies, which are particularly important in a matter where the true identity of contributors has been misrepresented.

Another colleague asserts his intent to abstain from casting substantive votes on matters that remain before the Commission but where previous substantive votes have already occurred.¹⁴ Unsurprisingly, he cites no statutory authority (or any authority at all) for that practice. There is none. The Commission frequently holds multiple substantive votes on matters, which can occur over multiple meeting days, including matters in which my colleague has participated and joined in successful efforts to find consensus.¹⁵ And it was a curious choice to emphasize this argument in this matter in which he did indeed cast a substantive vote long after previous substantive votes had already occurred.¹⁶ I disagreed with the substance of his vote, but he was 100% within his rights to cast it. A case remains open until it is closed by a successful motion to do so (which typically requires four votes), and motions remain in order until that happens.

My colleague approvingly quotes this statement by a former Commissioner: “Congress established the FEC to prevent single-party control, with every significant decision requiring bipartisan approval.”¹⁷ Here, we are in agreement. Dismissing a case is a significant decision and

¹¹ Stmt. of Reasons of Chairman Dickerson, MUR 7422 (Greitens for Missouri, *et al.*) (May 13, 2022); Stmt. of Reasons of Chairman Trainor, MUR 7422 (Greitens for Missouri, *et al.*) (Aug. 28, 2020).

¹² Stmt. of Reasons of Chairman Trainor at 5, MUR 7422 (Greitens for Missouri, *et al.*) (Aug. 28, 2020).

¹³ *Compare* Certification ¶ 4, MUR 7422 (Greitens for Missouri, *et al.*) (June 25, 2020) with First Gen. Counsel’s Rept., at 1 (calculating the expiration of the statute of limitations as, “June 1, 2021 (earliest) – October 5, 2021 (latest).”). See 28 U.S.C. § 2462.

¹⁴ Stmt. of Reasons of Chairman Dickerson at 1, MUR 7422 (Greitens for Missouri, *et al.*) (May 13, 2022).

¹⁵ See, e.g., Certification ¶¶ 1, 2, MUR 7613 (Zekelman Industries, Inc., *et al.*) (July 15, 2021), Certification ¶ 1, MUR 7613 (Zekelman Industries, Inc., *et al.*) (July 29, 2021).

¹⁶ See Certification, MUR 7422 (Greitens for Missouri, *et al.*) (Jan. 14, 2021).

¹⁷ Stmt. of Reasons of Chairman Dickerson at 3 n. 15 (citing Resignation Letter of Comm’r Caroline C. Hunter (June 26, 2020)).

MUR 7422 (Greitens for Missouri, *et al.*)

Statement of Reasons

Page 4 of 4

does not happen by virtue of a partisan 3-3 vote on a motion that fails. There are no magical or automatic dismissals.

Time after time, my colleagues claim we should not use our resources to pursue investigations. But this agency was created to “follow the money” and is charged with enforcing the law. The comprehensive record before the Commission demonstrating a multimillion-dollar contribution-in-the-name-of-another scheme is exactly the sort of matter for which Congress appropriates funds to the FEC to enable us to investigate.

The allegations in this matter were credible, with a factual record well-developed by thorough investigations by both a state legislative committee and a state ethics commission. Our lawyers had plenty of time to build on the record of those investigations and enforce the law in this matter. We should have authorized them to do so.

July 8, 2022



Ellen L. Weintraub
Ellen L. Weintraub
Commissioner