



FEDERAL ELECTION COMMISSION
 WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
William Figlesthler for Congress)	MUR 7759
and Steven Martin in his official capacity as treasurer)	
William M. Figlesthler)	
Matthew Hurley)	
Collin Osborne)	
Rachael Schaaf)	
Landslyde Media Group, LLC)	
Southern Strategies, LLC)	

STATEMENT OF REASONS OF CHAIRMAN ALLEN J. DICKERSON AND COMMISSIONERS SEAN J. COOKSEY AND JAMES E. “TREY” TRAINOR, III

The Complaint in this Matter alleged that the congressional campaign committee of Dr. William Figlesthler violated the Federal Election Campaign Act of 1971, as amended (the “Act”) by improperly concealing disbursements ostensibly intended for a political consultant named Mathew Hurley and instead routing those disbursements through two limited liability companies, Landslyde Media Group, LLC (“Landslyde”) and Southeastern Strategies, LLC (“Southeastern”). The Complainant characterized these payments as an effort by Respondents to “secretly launder campaign funds through corporate shells in order to assist Hurley to [*sic*] to evade his legitimate creditors” resulting from state court judgments against him.¹

Respondents denied the allegations. The Figlesthler campaign asserted that it had duly retained and paid both Landslyde and Southeastern for media buying and consulting services and reported those payments in accordance with the Act, and that Hurley only served in a volunteer capacity with the campaign.² Landslyde and Southeastern, through an individual named Rachel Schaaf, confirmed the campaign’s account and provided information indicating that Schaaf, rather than Hurley, provided the services in question for which the campaign paid Landslyde and Southeastern.³

The Office of General Counsel (“OGC”) nonetheless recommended that we find reason to believe that the Figlesthler campaign failed to properly report the disbursements at issue. Based

¹ Compl. at 1, MUR 7759.
² Figlesthler Resp. at 2–3, MUR 7759.
³ Schaaf Resp., MUR 7759.

on the evidence available, however, we did not believe there was sufficient legal justification to open an investigation, or that an investigation would be a prudent use of agency resources. Both the Complaint and OGC’s recommendation to pursue the Figlesthaller campaign rely on a series of bootstrapped inferences and general speculation in reaching their conclusion that the Figlesthaller campaign failed to fulfill its reporting obligations with the Commission—but inferences alone are not adequate, in our view, to reach a finding of reason to believe and open an investigation. As such, we voted to dismiss this Matter pursuant to our prosecutorial discretion.⁴ Pursuant to governing law, we provide this statement to explain the reasoning for our votes in this Matter.⁵

I. FACTUAL BACKGROUND

Dr. William M. Figlesthaller was a 2020 candidate for Florida’s 19th Congressional District. Dr. Figlesthaller’s authorized campaign committee, William Figlesthaller for Congress, and Steven Martin, in his official capacity as treasurer (“the Committee”) reported payments to Landslyde Media Group, LLC, and Southeastern Strategies, LLC. Specifically, between November 2019 and November 2, 2020, the Committee made a total of \$2.1 million in disbursements to Landslyde advertising services, and \$79,616 in disbursements to Southeastern for “strategic campaign consulting.”

Records from Florida’s state Division of Corporations show that Landslyde Media Group LLC, was formed on November 12, 2019, and appears to be a going concern.⁶ Southeastern Strategies LLC was also formed on November 12, 2019.⁷ It, too, appears to be a going concern.

⁴ See *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

⁵ See *Dem. Cong. Campaign Comm. v. Fed. Election Comm’n*, 831 F.2d 1131, 1135 (D.C. Cir. 1987) (“DCCC”) (establishing requirement that “[t]he Commission or the individual Commissioners” must provide a statement of reasons why the agency “rejected or failed to follow the General Counsel’s recommendation”); *Common Cause v. Fed. Election Comm’n*, 842 F.2d 436, 453 (D.C. Cir. 1988) (“A statement of reasons...is necessary to allow meaningful judicial review of the Commission’s decision not to proceed”); see also *id.* at 451 (R.B. Ginsburg, J., dissenting in part and concurring in part) (“I concur in part III of the court’s opinion holding the DCCC rule applicable, prospectively, to all Commission dismissal orders based on tie votes when the dismissal is contrary to the recommendation of the FEC General Counsel”); *Nat’l Republican Senatorial Comm. v. Fed. Election Comm’n*, 966 F.2d 1471, 1476 (D.C. Cir. 1992) (“We further held that, to make judicial review a meaningful exercise, the three Commissioners who voted to dismiss must provide a statement of their reasons for so voting. Since those Commissioners constitute a controlling group for purposes of the decision, their rationale necessarily states the agency’s reasons for acting as it did”) (citation omitted); *Campaign Legal Ctr. & Democracy 21 v. Fed. Election Comm’n*, 952 F.3d 352, 355 (D.C. Cir. 2020).

⁶ DETAIL BY ENTITY NAME: LANDSLYDE MEDIA GROUP LLC, FLA. DEP’T OF STATE DIV. OF CORP., available at <https://search.sunbiz.org> (last accessed Aug. 23, 2022). Landslyde Media Group LLC’s last annual report was filed in April 2022, and it is listed as “active” with the state.

⁷ DETAIL BY ENTITY NAME: SOUTHEASTERN STRATEGIES LLC, FLA. DEP’T OF STATE DIV. OF CORP., available at <https://search.sunbiz.org> (last accessed Aug. 23, 2022). Southeastern Strategies LLC’s last annual report was filed in April 2022, and it is listed as “active” with the state.

Mathew Hurley is a businessman and political consultant. He is not, and has never been, listed on the corporate documents of the respondent LLCs.

II. LEGAL ANALYSIS

The Act requires authorized committees to report the name and address of each “person” to whom they make disbursements aggregating more than \$200 per election cycle, together with the date and amount of any such disbursement.⁸ The Act and Commission regulations are silent with respect to any definition or description of the meaning of “the person” to whom an expenditure is made. Moreover, they do not address the concepts of ultimate payees, vendors, agents, contractors, or subcontractors.

The Complaint asserted that Mr. Hurley was a “main consultant” for the Committee and generally played a central and active role in the campaign, and speculates that Landslyde and Southern Strategies were “shell companies” formed by Hurley to get paid while “avoid[ing] collection” of certain state court judgments against him, and that by making the disbursements to Landslyde and Southern Strategies rather than to Mr. Hurley, the Committee violated the Act’s reporting requirements by obscuring the ultimate payee of the disbursements. OGC, taking this assertion at face value, argued that “[t]he available information supports an inference that the committee routed payments to Hurley through Landslyde and Southeastern, apparently in an effort to shield Hurley’s assets from the outstanding judgments against him,”⁹ and upon that basis recommended the Commission find reason to believe that the Committee violated the Act and Commission regulations when it reported the payments to Landslyde and Southeastern.

We agreed with OGC that the “complaint alleges no conduct that would constitute a violation” as to William M. Figlesthler, Matthew Hurley, Collin Osborne, Rachael Schaaf, Landslyde Media Group, LLC, and Southeastern Strategies, LLC,¹⁰ and accordingly voted to find no reason to believe as to those Respondents.¹¹ However, for the reasons set out below, we supported dismissing the allegations against the Committee as a matter of prosecutorial discretion.¹²

⁸ 52 U.S.C. § 30104(b)(6); *see also* 11 C.F.R. § 104.3(b) (requiring authorized committee to report, *inter alia*, the full name of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the election cycle is made by the reporting authorized committee).

⁹ First Gen. Counsel’s Rep. at 12, MUR 7759.

¹⁰ First Gen. Counsel’s Rep. at 19 (“As the Committee is the only respondent with reporting obligations under the Act, and because the Complaint alleges no conduct that would constitute a violation by Figlesthler, Hurley, Osborne, Schaaf, Landslyde, or Southeastern, we recommend the Commission find no reason to believe that these respondents violated the Act or Commission regulations.”).

¹¹ Certification, MUR 7759 (June 9, 2022).

¹² *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

First, as the Committee correctly noted in its Response,¹³ even assuming that Mr. Hurley was being compensated for his services through Landslyde and Southeastern—an inference that the factual record before the Commission does not support—there is nothing *per se* impermissible about such an arrangement. Political consultants and other individuals who provide services to federal campaign committees (such as event planners, fundraisers, media buyers, bookkeepers, and IT service providers) regularly set up legal entities through which they provide services to campaign committees and are compensated by those committees for the provision of those services. The legality under the Act of such arrangements does not turn on the involvement of the principal in the provision of the services by the entity to the campaign.

OGC also suggested that Mr. Hurley's use of common business practices, such as the use of a registered agent to establish a business entity, evidenced a "a pattern of using the identities of his associates to hide his political work,"¹⁴ which supported an inference that the payments to Landslyde and Southeastern were intended to obscure Mr. Hurley as the ultimate payee of the payments. Of course, the use of a registered agent and registered agent's address for a business is an entirely legal and common practice—not evidence of intent to commit fraud or violate the Act.

The Complaint spills much ink detailing the work that Mr. Hurley apparently did on behalf of the campaign and argues that the payments to Landslyde and Southeastern must have actually been payment for these services. The Committee's Response explains that as a factual matter, Mr. Hurley's involvement with the campaign was "in a volunteer capacity,"¹⁵ which is not inconsistent with the description of Mr. Hurley's participation with the campaign described by the Complainant, and for which no reporting is required under the Act and Commission regulations.

Moreover, OGC's analysis, in our view, did not give adequate weight to Ms. Schaaf's response and draws a series of unfounded assumptions about her and the services she provided to the campaign through Landslyde and Southeastern. The Complaint alleges that Ms. Schaaf was used "as a front person" in the formation and operation of Landslyde and Southeastern, and that she could not possibly have performed services for the campaign and that the work was performed by Mr. Hurley. But in her Response, Ms. Schaaf provided copies of email correspondence and other documents demonstrating the work she did on behalf of the committee, which is consistent with how the committee reported the disbursements to Landslyde and Southeastern. Additionally, there is nothing in the record to support the totally unfounded allegation in the Complaint that, "[Mr. Hurley] is using [Ms. Schaaf]'s digital signature" to make advertising purchases for the Committee."¹⁶

In sum, we were unpersuaded by OGC's assertion that "the available information supports an inference that the Committee routed payments to Hurley through Landslyde and Southeastern,

¹³ Faglesthaler Resp. at 2.

¹⁴ First Gen. Counsel's Rep. at 12.

¹⁵ Faglesthaler Resp. at 2

¹⁶ Compl. at 2 n.2.

apparently in an effort to shield Hurley’s assets from the outstanding judgments against him.”¹⁷ As OGC concedes, “the Committee’s reasons for agreeing to the scheme alleged in the complaint “are unknown.”¹⁸ Given these evidentiary issues, we did not believe that proceeding with enforcement in this matter would be likely to succeed, or, moreover, that an enforcement action would accord with the Commission’s overall priorities. Accordingly, we voted to dismiss the allegations as to the Committee as an exercise of prosecutorial discretion, and to close the file as to all Respondents.¹⁹

9/16/2022

Date

Allen Dickerson
Chairman

9/16/2022

Date

Sean J. Cooksey
Commissioner

9/16/2022

Date

James E. “Trey” Trainor, III
Commissioner

¹⁷ First Gen. Counsel’s Rep. at 12.

¹⁸ *Id.* at 11.

¹⁹ Certification, MUR 7759 (June 9, 2022).