

BEFORE THE FEDERAL ELECTION COMMISSION OF THE UNITED STATES OF
AMERICA

In the Matter of:

Cal Cunningham
Cal for NC
Steven Mele, Treasurer

MUR No. **7819**

COMPLAINT

1. Complainant brings this complaint before the Federal Election Commission ("FEC" or "Commission") seeking an immediate investigation and enforcement action against Cal Cunningham, his campaign committee, Cal for NC, and Steven Mele as Treasurer ("Committee"), for personal use of campaign funds in violation of the Federal Election Campaign Act ("FECA" or "Act").
2. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information providing reason to believe that:
3. Respondents violated 52 U.S.C. § 30114 and 11 C.F.R. § 113.1(g) prohibiting the use of campaign funds for personal use.

STATEMENT OF THE LAW

4. 52 U.S.C. § 30114 permits the use of contributions for any authorized expenditures in connection with a campaign for federal office; however, the use of any funds for personal use are strictly prohibited.
5. According to 52 U.S.C. § 30114 and 11 C.F.R. § 113.1(g), personal uses are considered any obligations or expenses that would exist irrespective of the candidate's campaign.
6. Pursuant to 11 C.F.R. § 113.1(g)(1)(ii)(C), if a committee uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign or officeholder-related activities, the incremental expenses that result from the personal activities are personal use, unless the person(s) benefiting from this use reimburse(s) the campaign account within thirty days for the amount of the incremental expenses.

STATEMENT OF FACTS

7. Cal Cunningham is a candidate for U.S. Senate in North Carolina.¹ He currently serves as a Lieutenant Colonel with the Army Reserve.²
8. Mr. Cunningham's campaign committee made a \$548.40 disbursement to Delta Airlines for "Travel" on March 5, 2020.³
9. On March 7, 2020 a prominent California political donor posted on Facebook that she had met Mr. Cunningham at dinner the night before, presumably on March 6th at an event

¹ Cal for NC, Home.

² Cal for NC, About Cal.

³ Cal for NC, April 15 Quarterly Report, 3063 (filed on Apr. 15, 2020).

hosted by Senate 2020, a joint fundraising committee formed between Mr. Cunningham and other candidates for U.S. Senate.⁴

10. Upon return to North Carolina, Mr. Cunningham's campaign committee made a \$45.00 disbursement to RDU Parking for "Travel" on March 8, 2020.⁵ RDU is the Federal Aviation Administration's airport code for Raleigh-Durham International Airport.⁶
11. On October 6, 2020 it was reported by a local North Carolina press outlet that Mr. Cunningham had engaged in an extramarital affair in California in March of 2020.⁷
12. Reports of the affair have prompted the Army Reserve, in which Mr. Cunningham serves, to commence an investigation. According to the report, "[a]dultery is listed as 'unacceptable conduct' by the military and may be 'service discrediting.'"⁸

CAUSE OF ACTION

AGAINST RESPONDENTS REPRESENTATIVE CAL CUNNINGHAM, CAL FOR NC, AND STEVEN MELE

Use of Campaign Contributions for Personal Use in Violation of 52 U.S.C. § 30114 and 11 C.F.R. § 113.1(g)

13. 52 U.S.C. § 30114 and 11 C.F.R. § 113.1(g) prohibit the use of campaign expenditures for personal obligations which would exist irrespective of Cal Cunningham's campaign for U.S. Senate. The flight purchase made by Cal for NC indicates that Mr. Cunningham arrived in California on March 6, 2020. The parking payment made by Cal for NC at Raleigh-Durham International Airport indicates that Mr. Cunningham returned from California on March 8, 2020. To date, only one campaign-related event is determinable within the three-day time frame which Mr. Cunningham spent in California.⁹ The balance of Mr. Cunningham's March trip to California, based on public reporting, presumably was spent pursuing his extramarital indiscretions.¹⁰ Accordingly, to the extent that Mr. Cunningham has used campaign resources to pay for a flight and airport parking to travel from his home state of North Carolina to California in furtherance of an extramarital affair, his actions would fall within the prohibitions of federal law and campaign regulations. Additionally, 11 C.F.R. § 113.1(g)(1)(ii)(C) requires Mr. Cunningham to reimburse, within 30 days, any incremental expenses that resulted from his personal activities.

PRAYER FOR RELIEF

14. Wherefore, the Commission should find reason to believe that Cal Cunningham and his Committee have violated 52 U.S.C. § 30114 and 11 C.F.R. § 113.1(g) and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2). Further, the Commission should enjoin respondents from any future violations, and impose any necessary and appropriate remedies to ensure respondents future compliance with FECA. Regrettably, the nature of an extramarital affair is deception and concealment and North Carolinians deserve to know the extent to which Mr. Cunningham may have converted campaign funds for personal use.

⁴ Exhibit A; See also Facebook, Mabelle Drake Hueston: Senate 2020, April 15 Quarterly Report, 5-14 (filed on Apr. 15, 2020).

⁵ Cal for NC, April 15 Quarterly Report, 3063 (filed on Apr. 15, 2020).

⁶ Federal Aviation Administration, Airport and Facility Codes.

⁷ Paul Specht, *Army Reserve investigating Cunningham after woman confirms affair, more texts emerge*, WRAL (Oct. 6, 2020).

⁸ Specht, *supra* note 7.

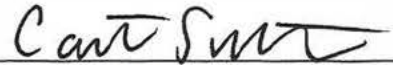
⁹ Exhibit A; See also Facebook, Mabelle Drake Hueston: Senate 2020, April 15 Quarterly Report, 5-14 (filed on Apr. 15, 2020).

¹⁰ Specht, *supra* note 7.

Therefore, the FEC should conduct an immediate and complete audit of any campaign spending which may have disguised the true nature of payments made by Mr. Cunningham and his Committee.

October 13, 2020

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Cait Sutherland", written over a horizontal line.

Caitlin Sutherland, Executive Director
Americans for Public Trust
107 South West Street, Suite 442
Alexandria, VA 22314

VERIFICATION

8. The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

For Complainant "Americans for Public Trust"

Caitlin Sutherland
Caitlin Sutherland

City of Alexandria
Commonwealth of Virginia

The foregoing instrument was subscribed and sworn to before me this 13th day of October 2020 by Caitlin Sutherland.

Wade Hamilton Franklin
Notary Public



Notary registration number: 7539034

My commission expires: 01/31/2021

Exhibit A

**Mabelle Drake Hueston**

March 7 · 🌐

Cal Cunningham was one of the soon-to-be Senators we met at dinner last night.

He will make America proud again.

We talked about Cal State Long Beach, antiques, UNC Chapel Hill, and Pembroke, mostly because of Mary Ann Jacobs, and Lumbees, and then about Navajo jewelry.

Friends in NC, share this, read about him, get to know him, donate, if you can, and send him to the Senate!!!

*Be aware of possible Republican sabotage; do not be fooled.

<https://www.calfornc.com/>



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1 Share



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