



FEDERAL ELECTION COMMISSION
Washington, DC 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Greitens for US Senate and Eric Greitens)	MUR 7938
in his official capacity as treasurer)	
Greitens for Missouri)	
Eric R. Greitens)	

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

The Complaint in this matter alleged that Eric R. Greitens used funds from his state campaign committee, Greitens for Missouri (the “State Committee”), to impermissibly test the waters for his federal campaign and transferred the State Committee’s website (the “Greitens Website”) to his federal authorized campaign committee, Greitens for US Senate and Eric Greitens in his official capacity as treasurer (the “Federal Committee”), and that the Federal Committee misreported the transfer of the Greitens Website as an in-kind contribution from Greitens.¹ Greitens, the State Committee, and the Federal Committee (collectively, the “Greitens Respondents”) filed a joint Response (the “Response”), denying the allegations and attaching exhibits containing invoices and other documents to assert that some of the alleged testing-the-waters expenses identified in the Complaint were for services unrelated to Greitens’s federal campaign.² The Response further asserted that Greitens owns the Greitens Website personally and licensed its use to the State Committee and the Federal Committee, attaching a copy of the signed licensing agreement with the Federal Committee.³ Finally, the Response asserted that the Federal Committee properly reported its licensing of the Greitens Website as an \$18,000 in-kind contribution from Greitens to the Federal Committee.⁴

The Office of General Counsel (“OGC”) recommended that the Commission find no reason to believe that the Greitens Respondents violated 52 U.S.C. § 30125 and 11 C.F.R. § 110.3(d) by using State Committee funds to pay for federal testing-the-waters expenses, or that the Federal Committee violated 52 U.S.C. § 30104(b) by failing to report federal testing-the-

¹ First Gen. Counsel’s Rpt. (“FGCR”) at 1-3, 5-12 (June 15, 2023).

² *Id.* at 2, 8-10.

³ *Id.* at 2, 11-12.

⁴ *Id.* at 2, 10-11.

waters expenses, with respect to most of the disbursements identified in the Complaint.⁵ Based on the credible explanations and documentation provided by the Response, we agreed with OGC and voted to approve its recommendations on the testing-the-waters and associated reporting allegations.⁶

However, OGC further recommended that the Commission find reason to believe that the Greitens Respondents violated 52 U.S.C. §§ 30104(b), 30125(e) and 11 C.F.R. § 110.3(d) by transferring the Greitens Website from the State Committee to the Federal Committee without paying fair market value and by misreporting the transfer of the Greitens Website as an in-kind contribution from Greitens in disclosure reports filed with the Commission.⁷ OGC reasoned, *inter alia*, that the State Committee made an impermissible transfer to the Federal Committee because the State Committee “made disbursements [of state funds] for improvements to the Greitens Website, which was then transferred to the Federal Committee.”⁸

We disagreed and voted to find no reason to believe the allegations concerning the transfer of the Greitens Website.⁹ This Statement explains the reasons for our votes as to those allegations.

I. FACTUAL BACKGROUND

Greitens is a former Governor of Missouri, who served from January 2017 until he resigned in June 2018, and former candidate for U.S. Senate for Missouri in the 2022 Republican primary election.¹⁰ The State Committee was Greitens’s state political committee for his gubernatorial campaign and remained active after Greitens’s resignation in 2018.¹¹

⁵ OGC recommended no reason to believe as to the alleged testing-the-waters expenses identified in the Complaint other than \$2,400 to Octavian Group, LLC, an LLC owned by Dylan Johnson, Greitens’s federal campaign manager. *Id.* at 18-20. OGC also recommended that the Commission exercise its prosecutorial discretion and dismiss the testing-the-waters and associated reporting allegations with respect to the disbursements to Octavian Group, LLC, based on the potential amount in violation and the resources that would be required to investigate. *Id.* at 20-21 (citing *Heckler v. Chaney*, 470 U.S. 821 (1985)).

⁶ Certification ¶ 2.a-d (July 14, 2023).

⁷ FGCR at 21-29.

⁸ *Id.* at 23-24.

⁹ Specifically, we voted to find no reason to believe that that (1) the Greitens Respondents violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 110.3(d) by transferring the Greitens Website from the State Committee to the Federal Committee without paying fair market value; (2) the Federal Committee violated 52 U.S.C. § 30104(b) by misreporting the transfer of the Greitens Website as an in-kind contribution from Greitens in disclosure reports filed with the Commission; and (3) the Greitens Respondents violated 52 U.S.C. § 30122 by making, allowing, and knowingly accepting a contribution in the name of another related to the transfer of the Greitens Website. Certification ¶ 2.e-g.

¹⁰ FGCR at 4-5.

¹¹ *Id.* at 4 & n.4. After Greitens’s election on November 8, 2016, the State Committee amended its Statement of Committee Organization with the Missouri Ethics Commission to reflect that it had become a committee to support Greitens as a gubernatorial candidate in 2020. *Id.* at 4 n.4.

According to the Complaint, the Greitens Website was updated in May 2020, which then included at the bottom of the page a copyright symbol followed by “Greitens for Missouri. All Rights Reserved” and a statement that it was “created by Abrot Creative.”¹² The State Committee reported its first of three disbursements to Abrot Creative for “web services” on May 14, 2020.¹³ In total, the State Committee disbursed \$19,000 to Abrot Creative: \$9,500 on May 14, 2020; \$4,750 on June 19, 2020; and \$4,750 on July 31, 2020.¹⁴ According to the Response, the Greitens Website was updated and relaunched in an effort to publicize the findings of a Missouri Ethics Commission investigation dismissing various state campaign finance allegations against Greitens and the State Committee and to rehabilitate Greitens’s reputation.¹⁵

Greitens did not ultimately run for Governor or other statewide or federal elected office in 2020.¹⁶ However, on June 9, 2020, amidst the time period of its disbursements to Abrot Creative, the State Committee amended its Statement of Committee Organization to reflect it was a committee to support Greitens as a gubernatorial candidate in 2024.¹⁷ The Response asserted that Greitens began exploring a potential gubernatorial campaign for the 2024 election cycle “[o]n or around December of 2020.”¹⁸ Additionally, according to the Response, Greitens did not decide to run for federal office until former Senator Roy Blunt announced his retirement on March 8, 2021.¹⁹ On March 22, 2021, Greitens publicly announced his campaign for U.S. Senate for Missouri, and the next day Greitens filed his Statement of Candidacy naming the Federal Committee as his principal campaign committee.²⁰

According to the Complaint, around the time Greitens announced his federal candidacy, the disclaimer on the Greitens Website changed to “Paid for by Eric Greitens for U.S. Senate,” but the layout and design of the website was “otherwise unchanged.”²¹ The Federal Committee reported the receipt of an \$18,000 in-kind contribution from Greitens individually for “IN-KIND: WEBSITE” on March 23, 2021.²² Greitens lost the Missouri Republican primary election for U.S. Senate on August 2, 2022.²³

¹² *Id.* at 10 (citing Compl. ¶ 11 (Oct. 28, 2021)).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 8, 22 (citing Resp. at 2-3, 6 (Dec. 8, 2021)).

¹⁶ *Id.* at 4; *FEC Candidates: Filtered Results*, FEC.GOV, https://www.fec.gov/data/candidates/?q=greitens&election_year=2020 (last visited Aug. 18, 2023) (reflecting Greitens was not a federal candidate in 2020).

¹⁷ FGCR at 4 n.4.

¹⁸ *Id.* at 9 (citing Resp. at 4).

¹⁹ *Id.* at 8 (citing Resp. at 2, 4).

²⁰ *Id.* at 4-5.

²¹ *Id.* at 10 (citing Compl. ¶¶ 28-29).

²² *Id.* at 10-11.

²³ *Id.* at 5.

II. LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the “Act”), defines the term “contribution” to include “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election to Federal office.”²⁴ The phrase “anything of value” includes “all in-kind contributions,” defined as the “provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.”²⁵ Commission regulations provide that “candidates for Federal office may make unlimited expenditures from personal funds.”²⁶ Advisory opinions have consistently interpreted this provision to permit a candidate to make unlimited contributions to his or her principal campaign committee.²⁷

The Act and Commission regulations prohibit candidates, individuals holding Federal office, agents of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained, or controlled by or acting on behalf of one or more candidates or individuals holding Federal office from “solicit[ing], receiv[ing], direct[ing], transfer[ing], or spend[ing] funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of th[e] Act.”²⁸ The Commission’s regulations explicitly prohibit “[t]ransfers of funds or assets from a candidate’s campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election.”²⁹ The Commission has explained that this prohibition on all transfers from a candidate’s state or local committee to the candidate’s federal committee is intended to prevent a federal committee’s indirect use of nonfederal funds.³⁰

OGC found the Response’s argument that Greitens owns and licensed the Greitens Website to the State Committee and then to the Federal Committee unpersuasive and viewed the State Committee’s disbursements to improve the Greitens Website as an indirect use of nonfederal funds to the Federal Committee’s benefit.³¹ Specifically, OGC concluded that the

²⁴ 52 U.S.C. § 30101(8)(A)(i).

²⁵ 11 C.F.R. § 100.52(d)(1).

²⁶ 11 C.F.R. § 110.10 (implementing the holding from *Buckley v. Valeo*, 424 U.S. 1 (1976)).

²⁷ *See, e.g.*, Advisory Opinion 2010-15 (Pike) at 2 (“The Commission has interpreted this provision to mean that a candidate may also make unlimited contributions to his or her authorized committee.”); Advisory Opinion 1984-60 (Mulloy) at 2 (“Commission regulations explicitly permit a candidate for Federal office to make unlimited expenditures from his or her personal funds, including contributions to the candidate’s principal campaign committee.”).

²⁸ 52 U.S.C § 30125(e)(1)(A).

²⁹ 11 C.F.R. § 110.3(d).

³⁰ *See* Transfers of Funds from State to Federal Campaigns, 58 Fed. Reg. 3474, 3474-75 (Jan. 8, 1993), <https://www.govinfo.gov/content/pkg/FR-1993-01-08/pdf/FR-1993-01-08.pdf> (explaining that the Commission was adopting total prohibition in this circumstance because of the practical difficulty in linking or otherwise accounting for federally permissible funds available for transfer).

³¹ *See* FGCR at 21-29.

“independent third party . . . valuation of the Greitens Website described in the Response” of \$18,000 appeared to be “based on the improvements made by Abrot Creative” in the amount of \$19,000 “that were paid for by the State Committee’s nonfederal funds,” which reflected an indirect use of nonfederal funds “akin to matters in which a state committee pays for goods or services used by the federal committee.”³²

We disagreed with OGC’s recommendations and voted to find no reason to believe the allegations regarding the Greitens Website. Even assuming, *arguendo*, that the valuation of the Greitens Website was based on the improvements made by the State Committee, there is not a violation of the Act and Commission regulations here because the attendant circumstances, timeline of events, and the substantial information and documents provided in the Response reveal no indirect use of nonfederal funds or circumvention of the Act’s limitations and prohibitions.

Under the Act and Commission regulations and precedent, Greitens is permitted to contribute unlimited personal funds, including in-kind contributions of assets, to the Federal Committee. To document its assertion that Greitens owns the Greitens Website personally and licensed its use to the State and Federal Committees, the Response attached a copy of the licensing agreement between Greitens and the Federal Committee.³³ Under the terms of the licensing agreement, the Greitens Website remained Greitens’s personal property and did not become the property of the Federal Committee.³⁴ We therefore concluded that Greitens was permitted to make an in-kind contribution to the Federal Committee in the form of the Greitens Website, which the available information indicates was his personal asset.

Contrary to OGC’s suggestion of an indirect use of nonfederal funds, the available information supports the Response’s characterization of the purpose of the State Committee’s \$19,000 in disbursements to Abrot Creative for “web services”: to “assist in relaunching the [Greitens W]ebsite” which “coincided with the publication of the [Missouri Ethics Commission’s] findings in the investigation of” Greitens and the State Committee in February 2020.³⁵ First, the State Committee’s disbursements to Abrot Creative began in May 2020 — three months after the Missouri Ethics Commission released its findings in connection with the complaints against Greitens and the State Committee.³⁶

³² *Id.* at 26-27.

³³ Resp. at 5, Ex. C; FGCR at 11-12. The Response also represented that a “copy of purchase confirmation” by Greitens in 2007 could be provided “upon request.” Resp. at 3 & n.8; FGCR at 11-12.

³⁴ Resp., Ex. C; FGCR at 12; *see also* Resp. at 5-6.

³⁵ Resp. at 3. Indeed, the Response broadly asserted that the State Committee’s disbursements identified in the Complaint during 2020 and early 2021 were related to efforts to publicize findings of the Missouri Ethics Commission’s investigation into allegations of misconduct by Greitens and the State Committee and to rehabilitate Greitens’s reputation. Resp. at 2-3; FGCR at 8, 19-20.

³⁶ *See* FGCR at 4 n.3; *id.* at 10.

Next, an archived version of the Greitens Website from May 19, 2020, reflects content relating to the Missouri Ethics Commission’s findings and bears the statement that it was “created by Abrot Creative.”³⁷ This corroborating information is comparable to the material in the Meta Ad Library that appears to confirm the Response’s assertion that the State Committee disbursements for “digital media” in March and April 2020 were in connection with publicizing the Missouri Ethics Commission’s findings.³⁸ Notably, OGC credited the Response’s representations and attached documents based, *inter alia*, on that material in the Meta Ad Library in recommending that the Commission find no reason to believe regarding those alleged testing-the-waters expenses.³⁹ We likewise credited the Response’s representations regarding the disbursements in connection with the Greitens Website, where those representations are supported by publicly-available information and absent any evidence to the contrary.

Furthermore, the disbursements related to the Greitens Website appear to be consistent with other disbursements the State Committee was making in 2020 in connection with the Missouri Ethics Commission’s findings.⁴⁰ If the nature of the State Committee’s disbursements to Abrot Creative or other circumstances indicated that the State Committee disbursed nonfederal funds with an intent to support the Federal Committee or otherwise circumvented the Act’s limitations and prohibitions, our conclusion may have been different. However, to the extent that the State Committee’s funds were used to improve the Greitens Website, which Greitens personally owns and then subsequently licensed to the Federal Committee for its use, there is not a violation of the Act or Commission regulations under these circumstances.⁴¹

³⁷ *Id.* at 10 & n.33; ERIC GREITENS (Mar. 23, 2021), [www.ericgreitens.com \[https://web.archive.org/web/20200519045445/https://www.ericgreitens.com/\]](https://web.archive.org/web/20200519045445/https://www.ericgreitens.com/). The Internet Archive’s most recent archived version of the Greitens Website before May 19, 2020, was captured on June 12, 2018, and reflects Greitens’s gubernatorial campaign. FGCR at 10 n.33; ERIC GREITENS (Mar. 23, 2021), [www.ericgreitens.com \[https://web.archive.org/web/20180612113003/https://ericgreitens.com/\]](https://web.archive.org/web/20180612113003/https://ericgreitens.com/).

³⁸ *See* FGCR at 19 (“[M]aterials in the Meta Ad Library support the Response’s assertion that the State Committee disseminated materials addressing the Missouri Ethics Commission’s investigation around the time the services were originally invoiced in March and April 2020.”).

³⁹ *See id.* at 18-20 (“[A]s discussed above, the Response credibly assert[ed] that the State Committee spent funds in 2020 to rehabilitate Greitens’s reputation following the release of the Missouri Ethics Commission’s investigative findings.”).

⁴⁰ *See id.* at 18-19 (analyzing the State Committee’s payments to Driver Eight Media for “investigation[-] related media bookings in 2020” and to Push Digital LLC for digital media “in connection with ‘efforts to publicize the [Missouri Ethics Commission’s] investigative findings’”).

⁴¹ To the extent that Greitens retaining the improvements to the Greitens Website that the State Committee paid for implicates the personal use prohibition of Missouri state law, we decline to opine on matters of state law that are outside of the Commission’s jurisdiction.

For the reasons set forth above, we voted to find no reason to believe that the Greitens Respondents violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 110.3(d) by transferring the Greitens Website and that the Federal Committee violated 52 U.S.C. § 30104(b) by misreporting the transfer of the Greitens Website as an in-kind contribution from Greitens.⁴²


August 18, 2023
 Date


 Dara Lindenbaum
 Chair

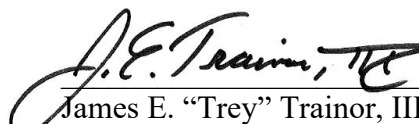
August 18, 2023
 Date


 Sean J. Cooksey
 Vice Chairman

August 18, 2023
 Date


 Allen J. Dickerson
 Commissioner

August 18, 2023
 Date


 James E. "Trey" Trainor, III
 Commissioner

⁴² Certification ¶¶ 2.e-f. Because we voted to find no reason to believe that the Greitens Respondents transferred the Greitens Website from the State Committee to the Federal Committee without paying fair market value and that the Federal Committee misreported the transfer of the Greitens Website as an in-kind contribution from Greitens, we also voted to find no reason to believe the Greitens Respondents violated 52 U.S.C. § 30122 by making, allowing, and knowingly accepting a contribution in the name of another related to the transfer of the Greitens Website. Certification ¶ 2.g.