

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

FEDERAL ELECTION COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	No. __
)	
DAVID RIVERA,)	COMPLAINT
)	
Defendant.)	
)	

COMPLAINT

1. During the 2011-2012 federal election cycle, then-U.S. Congressman David Rivera engaged in a scheme to secretly provide more than \$69,000 in direct and in-kind contributions to the primary election campaign of Justin Lamar Sternad in Florida’s 26th Congressional District, in violation of the Federal Election Campaign Act (“FECA” or “Act”). Rivera directed an associate, Ana Sol Alliegro, to approach Sternad with the offer to help fund his campaign, to which Sternad agreed. At Rivera’s direction, Alliegro then delivered funds or arranged for them to be delivered to Sternad, his principal campaign committee, and vendors providing services to the committee. Rivera’s scheme involved concealing in-kind contributions by paying vendors mostly in cash to produce and distribute materials for Sternad’s campaign. Sternad’s disclosure reports failed to disclose the true source of the contributions, instead falsely stating that the contributions were loans from Sternad’s personal funds. Rivera took several measures to conceal his involvement and the source of the contributions. The Rivera-supported Sternad campaign aided Rivera’s own election efforts by opposing Joe Garcia during his primary election. Garcia was the candidate Rivera was likely to — and did — ultimately face in the general election. To remedy these violations, the Federal Election Commission (“Commission”

or “FEC”) seeks a declaration that Rivera violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by knowingly and willfully making contributions in the name of another to Sternad’s campaign, an appropriate civil penalty against Rivera, and a permanent injunction against future similar violations by Rivera.

JURISDICTION AND VENUE

2. This action seeks civil penalties, declaratory, injunctive, and other appropriate relief pursuant to the authority granted by Congress to the Federal Election Commission in the Federal Election Campaign Act, codified at 52 U.S.C. §§ 30101-146 (formerly codified at 2 U.S.C. §§ 431-457).¹

3. This Court has jurisdiction over this suit pursuant to 28 U.S.C. § 1345 as an action brought by an agency of the United States expressly authorized to sue by an act of Congress. 52 U.S.C. §§ 30107(a)(6), 30109(a)(6)(A).

4. Venue is properly found in the United States District Court for the Southern District of Florida pursuant to 28 U.S.C. § 1391(b) and 52 U.S.C. § 30109(a)(6)(A), because defendant is found, resides, and transacts business in this district and a substantial part of the acts or omissions giving rise to this action occurred in this district.

THE PARTIES

5. Plaintiff Federal Election Commission is the independent agency of the United States government with exclusive jurisdiction over the administration, interpretation, and civil enforcement of FECA. *See* 52 U.S.C. §§ 30106(b)(1), 30107(a), 30109. The Commission is authorized to institute investigations of possible violations of the Act, *id.* § 30109(a)(1)-(2), and

¹ On September 1, 2014, FECA’s provisions were moved from Title 2 of the United States Code to the newly created Title 52. The alleged violations and many of the administrative actions in this matter occurred prior to this change. A full transfer table is available at http://uscode.house.gov/editorialreclassification/t52/Reclassifications_Title_52.html.

to initiate civil actions in the United States district courts to obtain judicial enforcement of the Act, *id.* §§ 30107(e), 30109(a)(6).

6. Defendant David Rivera is a Florida resident and was a United States Congressman representing Florida's 25th Congressional District from January 2011 through January 2013. In 2012, Rivera unsuccessfully ran for re-election as the Republican candidate to represent Florida's redrawn 26th Congressional District. Rivera had served multiple terms as a Florida state legislator prior to his term as a Congressman. In March 2017, Rivera filed paperwork with the Florida Division of Elections as a candidate in 2018 for election to represent Florida's 105th House District.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

7. FECA provides that “[n]o person shall make a contribution in the name of another person.” 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f). The Act defines “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 for Federal office” or “the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.” 52 U.S.C. § 30101(8)(A)(i)-(ii).

8. Further, no person may “[k]nowingly help or assist” any person in contributing in the name of another. 11 C.F.R. § 110.4(b)(1)(iii). A person has knowingly helped or assisted a person to contribute in the name of another when he or she has “initiate[d] or instigate[d] or ha[d] some significant participation in a plan or scheme to make a contribution in the name of another.” *Affiliated Committees, Transfers, Prohibited Contributions, Annual Contribution Limitations and Earmarked Contributions*, 54 Fed. Reg. 34,098, 34,105 (Aug. 17, 1989) (Explanation and Justification for 11 C.F.R. § 110.4).

9. The Act authorizes a United States district court to order a defendant who has knowingly and willfully made contributions in the name of another in violation of 52 U.S.C. § 30122 to pay a civil penalty. During the 2011-2012 election cycle, the Act provided that the civil penalty for such a violation may not be less than 300% of the contributions involved in the violation and may not be more than the greater of \$60,000 or 1,000% of the contributions involved in the violation. 52 U.S.C. § 30109(a)(6)(C); 11 C.F.R. § 111.24(a)(2)(ii).

10. The Act also authorizes a United States district court to order a defendant who has violated FECA, but has not done so knowingly and willfully, to pay a civil penalty. During the 2012 election cycle, the Act provided that the civil penalty for such a violation shall not exceed the greater of \$7,500 or an amount equal to any contribution involved in the violation. 52 U.S.C. § 30109(a)(6)(B); 11 C.F.R. § 111.24(a)(1).

11. In addition to imposing civil penalties, FECA authorizes a United States district court to “grant a permanent or temporary injunction, restraining order, or other order” against any defendant who has violated the Act. 52 U.S.C. § 30109(a)(6)(B).

FACTUAL BACKGROUND

12. David Rivera was a Congressman representing Florida’s 25th Congressional District from January 2011 through January 2013. In 2012, Rivera ran for reelection as the Republican candidate to represent Florida’s redrawn 26th Congressional District and lost to Democrat Joe Garcia. Garcia became the Democratic candidate in the 2012 general election after defeating three other candidates in the Democratic primary, including Justin Lamar Sternad.

13. During the Democratic primary, Rivera carried out a scheme to secretly provide funds to Sternad’s primary campaign. Between July and August 2012, Sternad and his principal

campaign committee (the “Sternad Committee”),² received the following contributions through Rivera’s scheme:

Approximate Date of Contribution	Amount of Contribution	Form of Payment	Payment Recipient
July 14-15, 2012	\$2,600	Currency	Graphic Designer
July 23, 2012	\$10,000	Currency	Expert Printing
July 17-24, 2012	\$15,901.35	Currency	Rapid Mail
August 2, 2012	\$5,000	Currency	Expert Printing
August 2-8, 2012	\$22,100	Currency	Rapid Mail
August 9, 2012	\$13,824.85	Check	Expert Printing and Rapid Mail
Total	\$69,426.20		

14. Rivera initiated his scheme in April 2012, when he met with Ana Sol Alliegro to discuss providing financial support to Sternad’s primary campaign. Rivera directed Alliegro to approach Sternad with the offer to help fund his campaign.

15. On or about April 24, 2012, Alliegro spoke with Sternad and offered to provide funds for his campaign, to which Sternad agreed. At Rivera’s direction, Alliegro then spent the next few months serving as an intermediary transmitting funds to Sternad, the Sternad Committee, and the vendors providing services to the Committee.

16. Rivera’s scheme included concealing in-kind contributions to the Sternad Committee by delivering payments directly to vendors providing services to the Committee. To further his scheme, with Alliegro’s help, Rivera hired vendors for the Sternad Committee that he had used for his previous campaigns. This included Inkpressions, Inc., d/b/a Expert Printing & Graphics (“Expert Printing”) for designing the flyers, Campaign Data, Inc. for demographics research, and Rapid Mail & Computer Services (“Rapid Mail”) for mailing the flyers.

² On or about July 10, 2012, Sternad re-designated his principal campaign committee from “Justin Sternad for Congress” to “Lamar Sternad for Congress.” This complaint refers to both as the Sternad Committee.

17. Rivera worked with the vendors, separately and with Alliegro, to design and distribute materials for the Sternad campaign. Rivera attempted to conceal his involvement in the scheme to provide undisclosed funds to the vendors. In one instance, Expert Printing put Rivera's name on an invoice for services it provided to the Sternad Committee. In response, Rivera insisted that the vendor not use his name on the invoices.

18. Rivera arranged for at least five of the contributions involved in the scheme to be delivered in cash. Some of the funds were hand-delivered by Rivera's co-conspirator Alliegro, and others were delivered in cash to vendors by a courier service, Sunshine State Messenger Service.

19. On or about August 9, 2012, Rivera personally delivered a check in the amount of \$13,824.85 to Expert Printing as payment for its services to the Sternad Campaign. Evidence obtained by the Commission indicates that the check was drawn on an account belonging to the Florida Action Network ("FAN"), a non-profit organization that Rivera helped found in early April 2012. The check was signed by Ivette Pinto, an individual who served as an aide to Rivera's congressional office.

20. The same day he delivered the FAN check to Expert Printing, Rivera directed Expert Printing to issue a check in the amount of \$9,000 payable to Rapid Mail to cover mailing costs for the Sternad Campaign. The check was subsequently delivered to Rapid Mail.

21. In or about July 2012, the owner of Rapid Mail asked Rivera about an outstanding payment for services Rapid Mail had performed for the Sternad Committee. Rivera instructed the owner to check his company mailbox, where the owner found an envelope containing several thousand dollars in cash.

22. Between May 2012 and August 2012, Sternad signed and mailed multiple disclosure reports to the FEC as the treasurer of the Sternad Committee. The reports failed to accurately disclose the source of the contributions described in paragraphs 13 to 21. Rather, upon Alliegro's instructions, Sternad concealed the source of the contributions by falsely reporting them as loans from his personal funds to the Sternad Committee.

23. Sternad was criminally prosecuted for his role in the scheme described in this complaint. *United States v. Sternad*, Case No. 1:13-CR-20108 (S.D. Fla). On March 15, 2013, Sternad pled guilty to the criminal charges.

24. After Sternad's guilty plea, the Sternad Committee filed amended disclosure reports with the Commission, stating that \$81,438 in contributions came from "Unknown Contributors." The amended reports included cover letters stating that both Alliegro and Rivera were involved in providing funds to Sternad's campaign. The letters stated that "deposit[s] [were] coordinated," and payments were made directly to vendors, by "Ana Alliegro and/or David Rivera."

25. Alliegro was also criminally prosecuted for her role in the scheme described in this complaint. *United States v. Alliegro*, 14-20102-CR (S.D. Fla.). Court records in that case indicate that, during the criminal investigation, Rivera helped Alliegro flee the country, but she was arrested in Nicaragua and brought back to Florida. Alliegro pled guilty on August 19, 2014.

26. Rivera made the contributions described in paragraphs 13 to 22 for the purpose of influencing the 2012 Democratic primary election for Florida's 26th Congressional District and ultimately enhancing his own prospects in the 2012 general election.

27. Rivera made the contributions described in paragraphs 13 to 22 voluntarily and with an awareness that they were unlawful.

ADMINISTRATIVE PROCEEDINGS

28. On April 26, 2013, the Commission notified David Rivera that it had received information in the normal course of carrying out its supervisory responsibilities indicating that Rivera may have violated provisions of the Act. The Commission's letter provided Rivera with factual information known at the time and gave him the opportunity to respond. Rivera did not submit a written response.

29. On September 10, 2013, the Commission decided by a vote of 5-0 to find reason to believe that Rivera had knowingly and willfully violated 2 U.S.C. § 441f (now 52 U.S.C. § 30122) by making contributions in the name of another to Sternad's primary campaign. The Commission notified Rivera of its reason-to-believe findings in a letter dated September 11, 2013, which attached the factual and legal analysis supporting the Commission's determination. *See* 52 U.S.C. § 30109(a)(2).

30. On September 25, 2013, Rivera's counsel responded to the Commission's reason-to-believe letter, stating that Rivera denied violating the Act as alleged by the Commission.

31. Following an investigation, the Commission's General Counsel notified Rivera on April 28, 2017 that it was prepared to recommend that the Commission find probable cause to believe that Rivera knowingly and willfully violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). The General Counsel also provided Rivera with a brief stating its position on the legal and factual issues of the matter, and it informed Rivera that he may file a brief stating his position on the issues and replying to the General Counsel's brief. *See* 52 U.S.C. § 30109(a)(3). Rivera did not submit a written response.

32. After reviewing the available information, on June 1, 2017 the Commission voted 5-0 to find probable cause to believe that Rivera had knowingly and willfully violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b). *See* 52 U.S.C. § 30109(a)(3).

33. The Commission notified Rivera of its probable cause findings against him by letter dated June 2, 2017, which also enclosed a proposed conciliation agreement. The Commission then endeavored, for a period of not less than 30 days, to correct the violations through informal methods of conference, conciliation, and persuasion. *See* 52 U.S.C. § 30109(a)(4)(A).

34. After the Commission was unable to secure an acceptable conciliation agreement with Rivera, on July 11, 2017 the Commission voted 5-0 to authorize filing this civil lawsuit against him. *See* 52 U.S.C. § 30109(a)(6).

35. The Commission has satisfied all of the jurisdictional requirements in FECA that are prerequisites to filing this action.

FIRST CAUSE OF ACTION

36. Paragraphs 1 through 35, inclusive, are incorporated herein by reference.

37. Defendant David Rivera knowingly and willfully violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(iii) by making contributions in the name of another when he caused, directed, and assisted in the making of contributions in the name of others to Justin Lamar Sternad's 2012 primary campaign in Florida's 26th U.S. Congressional District.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Federal Election Commission prays that this Court:

A. Declare that defendant David Rivera knowingly and willfully violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(iii) by making more than \$69,000 in contributions in the names of others;

B. Permanently enjoin defendant David Rivera from making contributions in the names of others to federal candidates;

C. Assess an appropriate civil penalty against defendant David Rivera for each violation that he is found to have committed:

1. for each knowing and willful violation of 52 U.S.C. § 30122, a civil penalty that is not less than 300% of the amount involved in the violation and is not more than the greater of \$60,000 or 1,000% of the amount involved in the violation, *see* 52 U.S.C. § 30109(a)(6)(C), 11 C.F.R. § 111.24(a)(2)(ii) (2010); here, the Commission requests 700%, or \$486,000; and

2. for each violation of 52 U.S.C. § 30122 that the Court may find to be not knowing and willful, a civil penalty not to exceed the greater of \$7,500 or the amount of any contributions or expenditures involved, *see* 52 U.S.C. § 30109(a)(6)(B), 11 C.F.R. § 111.24(a)(1) (2010).

D. Award plaintiff Federal Election Commission its costs in this action; and

E. Grant plaintiff Federal Election such other relief as may be appropriate.

Respectfully submitted,

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