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BEFORE THE FEDERAL ELECTION COMMISSION

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v.

MUR No. 7657

IRL PAC
Ed Torgas, Treasurer
P.O. Box 90-1233
Homestead, FL 33090

ROS-LEHTINEN FOR CONGRESS
/ SOUTH FLORIDA FIRST PAC
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COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that former Rep. Ileana Ros-Lehtinen’s campaign committee, Ros-Lehtinen for Congress (renamed South Florida First PAC) (ID: C00280537), and her leadership PAC, IRL PAC (ID: C004029862), converted campaign funds to personal use, in violation of the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30101, *et. seq.*
2. Rep. Ros-Lehtinen announced on April 30, 2017 that she would not seek re-election. In late October of 2017, her campaign committee converted to a multicandidate PAC, transferred its remaining \$177,445 cash-on-hand to Ros-Lehtinen’s leadership PAC, IRL

PAC, and terminated. IRL PAC then proceeded to spend Ros-Lehtinen's campaign contributions on a weekend trip to Disney World for Ros-Lehtinen and her family, tens of thousands of dollars in payments to luxury hotels, and other apparent personal uses, in violation of 52 U.S.C. § 30114(b)(1).

3. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation" 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

FACTS

4. On April 30, 2017, then-Rep. Ileana Ros-Lehtinen, who represented Florida's 27th congressional district, announced that she would not seek re-election in 2018.¹
5. At the time of her announcement, the Congresswoman's authorized committee was called Ros-Lehtinen for Congress.² The committee's July quarterly report showed that it refunded approximately \$87,500 in contributions after Ros-Lehtinen's announcement,³ and shortly before the announcement paid \$18,545 to W Hotel South Beach for "Hotel Rooms, Banquet."⁴ On its October quarterly report, the committee reported spending \$5,400 on Best Buy gift cards in July and August 2017.⁵

¹ Eric Garcia, *Ros-Lehtinen Not Seeking Re-election*, ROLL CALL (Apr. 30, 2017), <https://www.rollcall.com/news/ros-lehtinen-not-seeking-re-election>.

² Ros-Lehtinen for Congress, Statement of Organization, FEC Form 1, at 1 (amended Apr. 26, 2017), <https://docquery.fec.gov/pdf/794/201704269053480794/201704269053480794.pdf>.

³ Ros-Lehtinen for Congress, 2017 July Quarterly Report, FEC Form 3, at 2 (amended Aug. 22, 2017), <https://docquery.fec.gov/pdf/455/201708229071115455/201708229071115455.pdf>.

⁴ *Id.* at 50.

⁵ Ros-Lehtinen for Congress, 2017 October Quarterly Report, FEC Form 3, at 6-7, 10 (amended Oct. 12, 2017), <https://docquery.fec.gov/pdf/460/201710129075615460/201710129075615460.pdf>.

6. On October 25, 2017, Ros-Lehtinen for Congress changed its name to South Florida First PAC.⁶ The amended statement of organization described South Florida First PAC as a multicandidate committee rather than an authorized committee, and stated that the committee was affiliated with Rep. Ros-Lehtinen's leadership PAC, IRL PAC.⁷ The next day, October 26, 2017, IRL PAC filed an amended statement of organization listing South Florida First PAC as an affiliated committee.⁸
7. South Florida First PAC raised no additional contributions after its conversion to a multicandidate committee.⁹ On October 31, 2017, South Florida First PAC transferred its entire \$177,445 cash balance to IRL PAC, and then a week later it filed a termination report.¹⁰
8. At the time of the transfer, IRL PAC had only \$8,277 cash-on-hand.¹¹ Following the transfer from South Florida First PAC, IRL PAC received only one other contribution in 2017: a \$2,500 contribution dated November 15, 2017.¹² It raised \$48,600 in contributions in 2018.¹³

⁶ South Florida First PAC, Statement of Organization, FEC Form 1, at 1 (amended Oct. 25, 2017), <https://docquery.fec.gov/pdf/567/201710259076674567/201710259076674567.pdf>.

⁷ *Id.* at 1, 2-3; *see also* IRL PAC, Statement of Organization, FEC Form 1, at 2-3 (amended Jan. 5, 2014), <https://docquery.fec.gov/pdf/546/14960003546/14960003546.pdf>.

⁸ IRL PAC, Statement of Organization, FEC Form 1, at 3 (amended Oct. 26, 2017), <https://docquery.fec.gov/pdf/571/201710269076678571/201710269076678571.pdf>.

⁹ South Florida First PAC, Receipts, Oct. 25, 2017 – Oct. 31, 2017, FEC.GOV, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00280537&two_year_transaction_period=2018&min_date=10%2F25%2F2017&max_date=10%2F31%2F2017 (last visited Oct. 28, 2019).

¹⁰ South Florida First PAC, Termination Report, FEC Form 3X, at 6 (filed Nov. 7, 2017), <https://docquery.fec.gov/pdf/104/201711079086612104/201711079086612104.pdf>.

¹¹ IRL PAC, 2017 Year-End Report, FEC Form 3X, at 2, 6-7 (amended Apr. 6, 2018), <https://docquery.fec.gov/pdf/390/201804069103539390/201804069103539390.pdf> (showing \$8,277 cash-on-hand at the beginning of the October 1, 2017 reporting period and no contributions received before the \$177,445 transfer on October 31, 2017).

¹² *Id.* at 6.

¹³ IRL PAC, Contributions Received 01/01/2018 – 12/31/2018, FEC.gov, https://www.fec.gov/data/receipts/?data_type=processed&committee_id=C00402982&two_year_transaction_period=2018&min_date=01%2F01%2F2018&max_date=12%2F31%2F2018 (last visited Oct. 28, 2019).

9. Between November 30, 2017 and December 5, 2017, IRL PAC spent \$3,756 on “meals,” “park event tickets,” and “lodging” at Disney hotels and theme parks.¹⁴ During this period, the PAC did not receive any contributions.¹⁵ Rep. Ros-Lehtinen’s Twitter account showed a photo of the Congresswoman and her family at Disney World on December 2, 2017.¹⁶
10. Other IRL PAC spending during Rep. Ros-Lehtinen’s final fourteen months in office included:
- a. A \$5,500 “facility rental deposit” at W Hotel South Beach in Florida on November 22, 2017;¹⁷
 - b. \$22,216 for “catering/facility rental” at W Hotel South Beach in Florida on May 7, 2018;¹⁸
 - c. \$5,892 for “parking,” “rooms,” and “meals” at the Ritz Carlton in Florida on May 8, 2018;¹⁹
 - d. \$10,260 on “rooms” at Lotte New York Palace in New York City on October 3 and October 4, 2018;²⁰
 - e. \$3,104 for “meals” at Mesamar in Florida on December 31, 2018.²¹

¹⁴ *Id.* at 18, 20-23.

¹⁵ IRL PAC, 2017 Year-End Report, *supra* note 11, at 6-7 (showing no contributions between November 30 and December 5, 2017).

¹⁶ Ileana Ros-Lehtinen (@RosLehtinen), TWITTER (Dec. 2, 2017, 7:52AM), <https://twitter.com/RosLehtinen/status/936986382731530241>; see also Noah Pransky, *Ileana Ros-Lehtinen’s ‘questionable’ zombie campaign spending*, FLORIDA POLITICS (June 30, 2019), <https://floridapolitics.com/archives/300152-ileana-ros-lehtinens-questionable-zombie-campaign-spending>.

¹⁷ IRL PAC, 2017 Year-End Report, *supra* note 11, at 16.

¹⁸ IRL PAC, 2018 Pre-Runoff Report, FEC Form 3X, at 22 (filed July 5, 2018), <https://docquery.fec.gov/pdf/834/201807059115239834/201807059115239834.pdf>.

¹⁹ *Id.* at 23-24, 27, 30, 33.

²⁰ IRL PAC, 2018 Pre-General Report, FEC Form 3X, at 14-16 (amended Apr. 12, 2019), <https://docquery.fec.gov/pdf/727/201904129146088727/201904129146088727.pdf>.

²¹ IRL PAC, 2018 Year-End Report, FEC Form 3X, at 6 (amended Apr. 12, 2019), <https://docquery.fec.gov/pdf/336/201904129146089336/201904129146089336.pdf>.

11. Ros-Lehtinen left office on January 3, 2019.
12. On July 3, 2019, IRL PAC submitted a termination report.²²

SUMMARY OF THE LAW

13. FECA provides that contributions accepted by a candidate may be used by the candidate for, *inter alia*, “otherwise authorized expenditures in connection with the campaign for Federal office of the candidate,” 52 U.S.C. § 30114(a)(1), *see also* 11 C.F.R. § 113.2(a)-(e), and that such contributions shall not be converted to the personal use of the candidate or any other person, 52 U.S.C. § 30114(b); *see also* 11 C.F.R. §§ 113.1(g), 113.2(e).
14. Campaign funds are considered to have been converted to “personal use” if the funds are used “to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of Federal office.” 52 U.S.C. § 30114(b)(2). Commission regulations similarly define “personal use” as the use of funds in a campaign account “to fulfill any commitment, obligation, or expense of any person that would exist irrespective of the candidate’s *election campaign* or duties as a *Federal officeholder*.” 11 C.F.R. § 113.1(g) (emphasis added).
15. The Commission has explained the “irrespective” test as follows:

If campaign funds are used for a financial obligation that is caused by campaign activity or the activities of an officeholder, that use is not personal use. However, if the obligation would exist even in the absence of the candidacy or even if the officeholder were not in office, then the use of funds for that obligation generally would be personal use.

²² IRL PAC, Termination Report, FEC Form 3X (amended July 3, 2019), <https://docquery.fec.gov/pdf/556/201907039150448556/201907039150448556.pdf>.

- Expenditures; Reports by Political Committees; Personal Use of Campaign Funds*, 60 Fed. Reg. 7862, 7863–64 (Feb. 9, 1995). If a current officeholder or candidate “can reasonably show that the expenses at issue resulted from campaign or officeholder activities, the Commission will not consider the use to be personal use.” *Id.* at 7867.
16. FECA and Commission regulations provide a non-exhaustive list of uses of campaign funds that are *per se* personal use. 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i). For uses of campaign funds not on this list, the Commission determines, on a case-by-case basis, whether they constitute personal use. 11 C.F.R. § 113.1(g)(1)(ii).
17. The Commission has permitted former candidates and officeholders to convert their principal campaign committees to multicandidate committees as an alternative to the committee’s termination. *See, e.g.*, Advisory Opinion 2012-06 (Perry); Advisory Opinion 2004-03 (Dooley for the Valley); Advisory Opinion 1994-31 (Gallo); Advisory Opinion 1988-31 (Stratton). However, contributions received when a committee was still a principal campaign committee remain subject to the personal use ban, even after converting to a multicandidate committee. Advisory Opinion 2004-03 (Dooley for the Valley) at 3; *see also* Advisory Opinion 2012-06 (Perry) at note 2.

CAUSE OF ACTION

I. IRL PAC AND ROS-LEHTINEN FOR CONGRESS/SOUTH FLORIDA PAC ILLEGALLY

CONVERTED FUNDS TO PERSONAL USE

18. There is reason to believe that IRL PAC and Ros-Lehtinen for Congress/South Florida PAC have violated 52 U.S.C. § 30114(b) by converting contributions to personal use, including a family trip to Disney World and tens of thousands of dollars of expenses at luxury hotels, none of which have any apparent connection to Rep. Ros-Lehtinen’s

candidacy or duties as an officeholder, nor do they appear to relate to fundraising expenses for any committee.²³

19. Contributions accepted by a candidate may not be converted to the personal use of the candidate or any other person. 52 U.S.C. § 30114(b)(1). “Personal use” is defined as any expense that would exist “irrespective of the candidate’s campaign or duties as a Federal officeholder.” 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g). FECA’s “restrictions on the use of campaign funds apply expressly to ‘contributions accepted by a candidate,’” Advisory Opinion 2004-03 (Dooley for the Valley) at 2, and the personal use restrictions therefore continue to apply to funds received during candidacy after an authorized committee has converted to a multicandidate PAC, as well as after such contributions have been transferred to another committee affiliated with the candidate.
20. The \$177,445 in contributions accepted by Ros-Lehtinen as a candidate, and deposited into her authorized campaign committee account, remained subject to the personal use ban even after being transferred to IRL PAC. The transferred contributions constituted the vast majority of IRL PAC’s funds: at the time of the transfer, IRL PAC had only \$8,277 cash-on-hand, and the committee raised just \$51,100 in contributions after the transfer (\$48,600 of which was raised between March and October of 2018).²⁴ There is reason to believe that IRL PAC then converted those campaign funds to personal use with expenditures such as the following:

²³ See sources cited *supra* ¶¶ 9-10.

²⁴ See sources cited *supra* ¶¶ 8,11. Although contributions to an incumbent officeholder’s leadership PAC are “contributions accepted by a candidate” or “received by an individual as support for activities of the individual as a holder of federal office,” and remain subject to the personal use ban under a plain reading of the statute at 52 U.S.C. § 30114(a), (b)(1), the contributions at issue in this complaint were accepted by the candidate’s authorized committee.

- a. \$3,756 on “meals,” “park event tickets,” and “lodging” at Disney World in Florida between November 30, 2017 and December 5, 2017.²⁵ Rep. Ros-Lehtinen’s Twitter account showed a photo of the Congresswoman and her family at Disney World on December 2, 2017.²⁶ The expenses were apparently not made in connection with fundraising, since the committee did not receive any contributions during this period.²⁷ Nor does research indicate that a campaign event or a Congressional event was held at Disney World during this period.
- b. Nearly \$30,000 spent at the W Hotel South Beach in 2017 and 2018: a \$5,500 “rental deposit” on November 22, 2017 and \$22,216 on “catering/facility rental” on May 7, 2018.²⁸ These expenditures do not appear connected to any fundraising activity, since the committee raised comparatively little in contributions over the relevant period.²⁹ Nor does research indicate that a campaign event or a Congressional event was held at or near the hotel during this period.
- c. \$10,260 on rooms at the Lotte Palace New York on October 4, 2018,³⁰ which has no discernible connection to fundraising, since the committee raised few contributions during this period.³¹ Nor does research indicate that a campaign event or a Congressional event was held at or near the hotel during this period.
- d. \$5,892 total on “parking,” “rooms,” and “meals” at the Ritz Carlton in Florida on May 8, 2018,³² which similarly has no discernible connection to fundraising. Nor

²⁵ See sources cited *supra* ¶ 9.

²⁶ *Id.*

²⁷ IRL PAC, 2017 Year-End Report, *supra* note 11, at 6-7 (showing a single contribution of \$2,500 from October 1, 2017 to December 31, 2017).

²⁸ See sources cited *supra* ¶ 10.

²⁹ See sources cited *supra* ¶ 8.

³⁰ See sources cited *supra* ¶ 10.

³¹ See sources cited *supra* ¶ 8.

³² See sources cited *supra* ¶ 10.

does research indicate that a campaign event or a Congressional event was held at or near the hotel during this period.

- e. \$3,104 for “meals” at Mesamar in Florida on New Year’s Eve, 2018, which similarly has no discernible connection to fundraising, nor does research indicate that a campaign event or a Congressional event was held at or near the restaurant during this period.³³

21. Certain expenditures made by Ros-Lehtinen’s campaign committee before the transfer to IRL PAC similarly appear to constitute personal use. An \$18,545 payment to W Hotel South Beach for “Hotel Rooms, Banquet” on April 1, 2017 does not correspond with any fundraising activities, nor does research indicate that a campaign event or a Congressional event was held at or near the hotel during this period.³⁴ And it is difficult to see any justification for the committee spending \$5,400 on Best Buy gift cards.³⁵
22. As a result, there is reason to believe that Ros-Lehtinen for Congress/South Florida First PAC and IRL PAC converted campaign contributions to personal use, in violation of 52 U.S.C. § 30114(b)(1).

PRAYER FOR RELIEF

23. Wherefore, the Commission should find reason to believe that Ros-Lehtinen for Congress/South Florida First PAC and IRL PAC have violated 52 U.S.C. § 30101, *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).

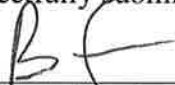
³³ *Id.* The restaurant was open to the public on New Year’s Eve, so it was likely not reserved for a special event. Mesamar Seafood Table (@mesamarseafood), INSTAGRAM, (Dec. 31, 2018) <https://www.instagram.com/p/BsDramcnNN2/>.

³⁴ See sources cited *supra* ¶ 5.

³⁵ *Id.* In 2019, IRL PAC also reported buying \$1,029 of Best Buy gift cards, but described them as “Thank you gift cards.” IRL PAC, Termination Report, *supra* note 22, at 7.

24. Further, the Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the Federal Election Campaign Act.

Respectfully submitted,



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October 28, 2019

VERIFICATION

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

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Margaret Christ

Margaret P. Christ

Margaret Christ

Sworn to and subscribed before me this 28 day of October 2019.

[Signature]

Notary Public



For Complainant Campaign Legal Center

B F

Brendan M. Fischer

Sworn to and subscribed before me this 28 day of October 2019.

[Signature]

Notary Public

