

1 **FEDERAL ELECTION COMMISSION**

2
3 **FIRST GENERAL COUNSEL'S REPORT**

4
5 MUR 7657

6 DATE COMPLAINT FILED: 10/28/19

7 DATE OF NOTIFICATION: 11/01/19

8 LAST RESPONSE RECEIVED: 12/05/19

9 DATE ACTIVATED: 12/03/19

10
11 EXPIRATION OF SOL: 4/1/22 (earliest)

12 12/31/23 (latest)

13 ELECTION CYCLE: 2018

14
15 **COMPLAINANTS:**

Campaign Legal Center

16 Margaret Christ

17
18 **RESPONDENTS:**

IRL PAC and Ed Torgas, in his official capacity
as treasurer (terminated)¹

19 South Florida First PAC (f/k/a Ros-Lehtinen for
20 Congress) and Antonio Argiz, in

21 his official capacity as treasurer (terminated)
22 Illeana Ros-Lehtinen

23
24
25 **RELEVANT STATUTES
26 AND REGULATIONS:**

52 U.S.C. § 30101(4)(A)

27 52 U.S.C. § 30114(a), (b)

28 11 C.F.R. § 100.5(e)(3)

29 11 C.F.R. § 113.1(g)

30 11 C.F.R. § 113.2

31
32 **INTERNAL REPORTS CHECKED:**

Disclosure Reports

33
34 **FEDERAL AGENCIES CHECKED:**

None

35
36 **I. INTRODUCTION**

37 The Complaint alleges that Representative Illeana Ros-Lehtinen made impermissible
38 personal use of funds contributed to her principal campaign committee and later transferred to her

¹ The Respondent committees were permitted to terminate before the Complaint was filed. The Commission recently made reason-to-believe findings against a terminated Committee. *See* First Gen. Counsel's Rpt. at n.1, MUR 7343 (Highway 31) and Certification (July 25, 2019) *See also* First Gen. Counsel's Rpt. at n.1, MUR 7336 (Mulvaney for Congress) (explaining Commission's authority to consider enforcement action against terminated committees).

1 leadership PAC, IRL PAC.² Respondents maintain that the challenged disbursements were for
2 legitimate events related to the business of Ros-Lehtinen's principal campaign committee or IRL
3 PAC.³

4 As explained below, we recommend that the Commission find reason to believe that Ros-
5 Lehtinen, IRL PAC and Ed Torgas in his official capacity as treasurer, and Ros-Lehtinen's campaign
6 committee, Ros-Lehtinen for Congress (now known as South Florida First PAC) and Antonio Argiz
7 in his official capacity as treasurer, violated 52 U.S.C. § 30114(b) by converting campaign funds to
8 personal use.

9 II. FACTS

10 Ros-Lehtinen represented Florida's 27th District in the U.S. House of Representatives
11 from 1989 until 2019, during which time her authorized campaign committee was Ros-Lehtinen
12 for Congress ("Ros-Lehtinen Committee").⁴ On April 30, 2017, Ros-Lehtinen announced that
13 she would not seek re-election in 2018.⁵ On October 25, 2017, the Ros-Lehtinen Committee
14 converted to a multicandidate committee named South Florida First PAC ("SFF PAC") and
15 affiliated with Ros-Lehtinen's leadership PAC, IRL PAC.⁶

² Compl. at 1, 3 (Oct. 28, 2019).

³ Response of IRL PAC ("Resp.") at 1 (Nov. 22, 2019). Ros-Lehtinen and South Florida First PAC adopted IRL PAC's response as their own, on December 3 and 5, 2019, respectively.

⁴ Compl. at 2, 5.

⁵ *Id.* at 2, citing Eric Garcia, *Ros-Lehtinen Not Seeking Re-election*, ROLL CALL (Apr. 30, 2017).

⁶ *Id.* at 3, citing SFF PAC, Amended Statement of Organization, FEC Form 1, at 1 (Oct. 25, 2017). SFF PAC raised no additional contributions after its conversion to a multicandidate committee. *See* SFF PAC Termination Report (Nov. 7, 2017).

1 On October 31, 2017, SFF PAC transferred its entire \$177,445 cash balance to IRL PAC
 2 and then terminated.⁷ At the time of the transfer, IRL PAC had \$5,967.39 in cash-on-hand.⁸
 3 Ros-Lehtinen left office on January 3, 2019.⁹ On July 3, 2019, IRL PAC filed for termination,
 4 which was approved.¹⁰

5 The Complaint alleges that the Respondents made a series of disbursements that appeared
 6 to be for personal use.¹¹ It argues that none of the spending listed below had any apparent
 7 connection to Ros-Lehtinen's candidacy or duties as an officeholder, or related to fundraising
 8 expenses for any committee.¹² Specifically, the Complaint refers to disbursements totaling
 9 \$74,673 for theme park admissions, food, lodging, facility rentals, catering, and gift cards, which
 10 are generally described immediately below and discussed in detail in section III.B.

- 11 • \$3,756 for meals, park event tickets, and lodging at Disney hotels and theme parks
 12 from November 30 through December 5, 2017;
- 13 • \$10,260 on rooms at Lotte New York Palace on October 3 and October 4, 2018;
- 14 • \$5,892 for parking, rooms, and meals at the Ritz Carlton in Florida on May 8,
 15 2018;
- 16 • \$46,261 for hotel rooms and facility rental at W Hotel South Beach in connection
 17 with events held in 2017 and 2018;
- 18 • \$5,400 for Best Buy gift cards in July and August 2017; and
 19
- 20 • \$5,400 for Best Buy gift cards in July and August 2017; and

⁷ *Id.* The termination was approved on November 8, 2017. *See* Letter from Christopher Morse, Reports Analysis Division ("RAD"), FEC, to Antonio L. Argiz, Treasurer, South Florida First PAC (Nov. 8, 2017).

⁸ IRL PAC Amended 2017 Year End Report at 12 (April 6, 2018).

⁹ Compl. at 6; IRL PAC Amended 2017 Year End Report at 2 (April 6, 2018).

¹⁰ *See* Letter from Andrea Chamorro, RAD, FEC, to Ed Torgas, Treasurer, IRL PAC (July 12, 2019).

¹¹ Compl. at 4-5.

¹² Compl at 6-7.

- 1 • \$3,104 for meals at Mesamar in Florida on December 31, 2018.¹³

2 Respondents assert that the alleged expenses were in connection with fundraising and
3 other events, and the gift cards and meals at Mesamar were thank-you gifts to campaign staff and
4 volunteers before Ros-Lehtinen left office. Respondents also maintain that while Ros-Lehtinen's
5 husband accompanied her at the events, and participated in them, "none of the expenses
6 referenced in the complaint were in any way for the benefit of other family members, or anyone
7 else not connected with and representing IRL PAC."¹⁴

8 **III. LEGAL ANALYSIS**

9 **A. Legal Standard**

10 Under the Act, a contribution accepted by a candidate may be used for, *inter alia*,
11 "otherwise authorized expenditures in connection with the campaign for Federal office of the
12 candidate."¹⁵ The Act and Commission regulations give candidates wide discretion over the use
13 of campaign funds, but it is not limitless.¹⁶ Specifically, a contribution to a candidate shall not
14 be converted by any person to "personal use."¹⁷ "Personal use" means any use of funds in a
15 campaign account of a present or former candidate to fulfill a commitment, obligation, or
16 expense of any person that would exist irrespective of the candidate's campaign or duties as a
17 Federal officeholder.¹⁸ The Commission's regulations include a non-exhaustive list of *per se*

¹³ *Id.*

¹⁴ Resp. at 2; Exs. 1-6.

¹⁵ 52 U.S.C. § 30114(a).

¹⁶ Explanation and Justification for Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7,862, 7,863 (Feb. 9, 1995) ("Personal Use E&J").

¹⁷ 52 U.S.C. § 30114(b)(1).

¹⁸ *Id.* § 30114(b)(2); 11 C.F.R. § 113.1(g); Personal Use E&J, 60 Fed. Reg. at 7,863.

1 personal uses of campaign funds, including household food items, clothing, mortgage, utility
2 payments, and admission to a sporting event, concert, theater or other form of entertainment,
3 unless part of a specific campaign or officeholder activity.¹⁹ The Commission evaluates other
4 expenses, such as travel, meal, and legal expenses, on a case-by-case basis by applying the
5 “irrespective test” to determine whether a personal use violation has occurred.²⁰

6 In addition, the Commission’s regulations include a list of permissible non-campaign
7 related expenses, including ordinary and necessary expenses incurred in connection with the
8 recipient’s duties as a federal officeholder, travel costs associated with *bona fide* official duties
9 such as speaking engagements, the cost of winding down an office for a period of six months
10 after leaving office, and for any other lawful purpose, unless such use is “personal use.”²¹

11 The Commission has concluded that principal campaign committees can be converted to
12 multi-candidate committees, but contributions received when a committee was still a principal
13 campaign committee remain subject to the personal use prohibition. In Advisory Opinion
14 2012-06 (RickPerry.org), the Commission permitted then-Governor Perry’s principal campaign
15 committee for the 2012 presidential election to convert to a nonconnected committee and to fund
16 the nonconnected committee’s activities using its remaining primary election funds, to the extent

¹⁹ 11 C.F.R. § 113.1(g)(1)(i)(A)-(J).

²⁰ See 11 C.F.R. § 113.1(g)(1)(ii).

²¹ See 11 C.F.R. § 113.2(a)-(e); Explanation and Justification for Final Rules on Use of Campaign Funds for Donations to Non-Federal Candidates and Any Other Lawful Purpose Other than Personal Use, 72 Fed. Reg. 56,245, 56,246 (Oct. 3, 2007). In MUR 7292 (Stearns), the Commission drew a distinction between the permissible purpose of donating money to an organization and the impermissible purpose of traveling to a specific location for the purpose of making that donation. Factual & Legal Analysis at 14, MUR 7292 (Stearns).

1 the funds were not used for personal use.²²

2 Further, the Commission has recognized that a candidate or Federal officeholder may
3 need to travel for a mixture of personal and campaign or officeholder activities.²³ When travel is
4 for a mixed purpose, the Commission conducts a case-by-case analysis examining whether the
5 travel expenses would have existed irrespective of the candidate's campaign or duties as a holder
6 of Federal office.²⁴ Any expenses that would have been incurred irrespective of the campaign or
7 duties of the Federal officeholder are considered personal in nature.²⁵ The use of campaign
8 funds for such expenses is a conversion of campaign contributions to personal use, unless the
9 person benefitting from such use reimburses the campaign account within thirty days for the
10 amount of the personal expenses.²⁶ For example, if a Member of Congress travels to make a
11 speech in his or her official capacity, and stays an extra week there on vacation, the Member's
12 campaign committee can pay the Member's transportation costs and the subsistence costs
13 necessary for making the speech.²⁷ But if the committee pays the cost of the entire trip,
14 including the expenses incurred during the extra week of vacation, the Member is required to
15 reimburse the committee for the expenses incurred during this extra week. This includes the

²² See Advisory Op. 2012-06 at 2-4. See also Advisory Op. 1994-31 (Gallo) (concluding that a former candidate may use remaining general election contributions to create a multicandidate committee). In 2018, the Commission sought comments on a rulemaking petition to revise and amend 11 C.F.R. §§ 113.1(g) and 113.2 to clarify the permissible use of campaign funds for former candidates and officeholders. Rulemaking Petition: Former Candidates' Personal Use, 83 Fed. Reg. 12,283 (Mar. 21, 2018); Rulemaking Petitions: Former Candidates' Personal Use: Correction, 83 Fed. Reg. 17,509 (Apr. 20, 2018).

²³ Personal Use E&J, 60 Fed. Reg. 7869.

²⁴ *Id.*; 11 C.F.R. § 113.1(g)(1)(ii).

²⁵ Advisory Op. 2002-05 (Time for Ann Hutchinson).

²⁶ 11 C.F.R. § 113.1(g)(1)(ii).

²⁷ Personal Use E&J, 60 Fed. Reg. 7869.

1 hotel and meal expenses for the extra week along with any entertainment expenses incurred
2 during this time that are included in the amount paid by the committee.²⁸

3 **B. Respondents Appear to Have Violated 52 U.S.C. § 30114(b) by Using**
4 **Campaign Funds for Personal Use**

5
6 IRL PAC's spending is subject to the Act's personal use prohibition.²⁹ All but
7 approximately 3% of IRL PAC's cash on hand came from SFF PAC's transfer of \$177,445 on
8 October 31, 2017, and six days before that transfer, Ros-Lehtinen for Congress converted from a
9 principal campaign committee to the multicandidate committee, SFF PAC. Thus, under
10 Advisory Opinion 2012-06, the personal use prohibition applies to IRL PAC's spending. And,
11 as discussed below, the available information supports a reasonable inference that Respondents
12 converted campaign funds to personal use regarding some, but not all, of the alleged instances.

13 1. "Disney Agenda" Event

14 More than seven months after Ros-Lehtinen's April 30, 2017, announcement that she was
15 not running for re-election, Ros-Lehtinen traveled to Orlando, Florida, to attend an event for
16 Mario Diaz-Balart for Congress and Yoder for Congress referred to as the "Disney 2017
17 Agenda" ("Disney Agenda").³⁰ According to the invitation, the Disney Agenda event ran one
18 full day, from the evening of December 1, 2017, through the next evening.³¹ The chart below
19 reflects payments that IRL PAC made in the Orlando area around that time:³²

20

²⁸ *Id.*

²⁹ *See* Advisory Op. 2012-06 (RickPerry.org).

³⁰ Resp. at 1.

³¹ Resp.; Ex. 3.

³² IRL PAC Amended 2017 Year-End Report at 19-23 (Apr. 6, 2018).

Date	Amount	Payee	Purpose
November 30, 2017	\$1,957.50	Disney's Boardwalk Inn (three separate payments of \$652.50)	Lodging
December 4, 2017	\$ 455.84	Disney Destinations, LLC/Disney Worldwide Services, Inc.	Park Event Tickets
December 4, 2017	\$ 367.44	Disney Destinations, LLC/Disney Worldwide Services, Inc. (three separate payments of \$122.48)	Park Event Tickets
December 4, 2017	\$ 232.18	Disney Destinations, LLC/Disney Worldwide Services, Inc. (two separate payments of \$116.09)	Park Event Tickets
December 5, 2017	\$ 116.09	Disney Destinations, LLC/Disney Worldwide Services, Inc.	Park Event Tickets
December 5, 2017	\$ 226.38	Chef Art Smith's Homecoming	Meals
December 5, 2017	\$ 627.16	Disney's Boardwalk Inn (five separate payments)	Meals
TOTAL	\$3,982.59		

1
 2 A review of these expenses and the available information suggests that IRL PAC
 3 converted campaign funds to personal use. First, IRL PAC made seven payments on
 4 December 4, 2017, for park event tickets at Disney World totaling \$1,171.55 that do not appear
 5 to be related to Ros-Lehtinen's duties as an officeholder. In fact, the payments appear to
 6 constitute *per se* personal use. The Act includes the "admission to a sporting event, concert,
 7 theater, or other form of entertainment not associated with an election campaign" as among the
 8 activities that would constitute a conversion to personal use.³³ Notably, Respondents do not
 9 address the PAC's purchase of the Disney theme park tickets.

³³ 52 U.S.C. § 30114(b)(2)(H).

1 IRL PAC's disclosure reports suggest that other spending reflected in the chart above
2 may also constitute personal use and merit investigation. For one thing, the Disney Agenda
3 ended on December 2, 2017, but many of the purchases are dated December 4 and 5, 2017. It is
4 possible that some of the expenses may have been incurred during the event and paid for two or
5 three days later. Still, Respondents do not offer that explanation.

6 Instead, Respondents assert that Ros-Lehtinen, her spouse, "and several PAC
7 representatives" attended the Disney Agenda.³⁴ The Response also states that Ros-Lehtinen
8 "and the PAC representatives participated in the event activities to discuss state and local
9 legislative and political matters that could potentially impact the IRL PAC, and to discuss the
10 PAC and its future with others at this widely-attended event."³⁵ This response, however, does
11 not sufficiently rebut the Complaint's allegations. IRL PAC does not say how many people
12 attended which events, when the expenses were incurred, and how long PAC representatives
13 stayed in the Orlando area. For example, the PAC made six payments on December 5, 2017, for
14 meals totaling \$853.76.³⁶ The response does not indicate on which dates the "several [IRL] PAC
15 representatives"³⁷ ate these meals, and, given that the Disney Agenda ended three days earlier, it
16 is reasonable to question if the payments were for meals after the Disney Agenda ended. As for
17 lodging, IRL PAC discloses three payments to Disney's Boardwalk Inn in the amount of \$652.50

³⁴ Resp. at 1.

³⁵ *Id.* at 1-2.

³⁶ IRL PAC Amended 2017 Year-End Report at 19, 22-23.

³⁷ *See* Resp. at 1.

1 each (totaling \$1,957.50) on November 30, 2017.³⁸ Again, the Response does not reveal exactly
2 how many people stayed at the Boardwalk Inn, or for how long.

3 Respondents also do not identify the “several PAC representatives” who traveled with
4 Ros-Lehtinen for this event, which raises the reasonable question whether family members and
5 friends who were doing no work for IRL PAC traveled to and stayed at DisneyWorld at its
6 expense.³⁹ IRL PAC did not disclose any payroll disbursements to any staff contemporaneous
7 with the Disney Agenda, and reimbursed only one person for travel expenses.⁴⁰ By contrast, the
8 available information suggests that Ros-Lehtinen’s family members were with Ros-Lehtinen
9 during the time of the Disney Agenda. The Complaint refers to a photo on Ros-Lehtinen’s
10 Twitter account showing Ros-Lehtinen and six members of her family, four of whom are
11 children, posing with Mickey Mouse on December 2, 2017, the same day that most of the
12 activity at the Diaz-Balart/Yoder Disney Agenda transpired.⁴¹ The Response does not
13 specifically address this photo. The 7:52 a.m. time stamp of the Twitter photo coincides with the
14 Disney Agenda’s “Character Buffet Breakfast,” a feature at various Disney dining establishments
15 in which popular Disney characters appear, which started at 7:30 a.m. on December 2, 2017.⁴²
16 The fact that many members of Ros-Lehtinen’s family were present at the time of the Disney

³⁸ IRL PAC Amended 2017 Year-End Report at 18.

³⁹ As explained above, if the trip was a combination of PAC business and a family vacation, Ros-Lehtinen was required to reimburse the PAC for her personal expenses within 30 days. *See* 11 C.F.R. § 113.1(g)(1)(ii). The PAC reported no such reimbursements.

⁴⁰ IRL PAC Amended 2017 Year-End Report at 28-29. Specifically, IRL PAC’s 2017 Year-End Report discloses two reimbursements to Harriet Carter for travel and expenses more than three weeks later on December 26 (\$44.90), and 29 (\$41.20), 2017, respectively. Even if Carter’s reimbursements were somehow tied to this event, and if she stayed at the hotel, it is still unclear who the “several [IRL] PAC representatives” that traveled to this event.

⁴¹ Compl. at 4, citing Ileana Ros-Lehtinen (@RosLehtinen), TWITTER (Dec. 2, 2017, 7:52AM).

⁴² Resp.; Ex. 3. *See also* Walt Disney World Resort – Character Dining, available at <https://disneyworld.disney.go.com/dining/character/> (last accessed May 8, 2020).

1 Agenda event, coupled with IRL PAC's spending on Disney World tickets, indicates that
2 campaign funds were converted to personal use.

3 In summary, the available information supports a reasonable inference that at least some
4 of the Disney Agenda expenses constituted personal use, and Respondents' general and unsworn
5 assertion that "none of the expenses referenced in the [C]omplaint were in any way for the
6 benefit of other family members, or anyone else not connected with and representing IRL PAC,"
7 does not sufficiently rebut the Complaint's allegations.⁴³

8 2. New York City Fundraising Event

9 Similarly, expenses incurred by Ros-Lehtinen and "other IRL PAC representatives"⁴⁴
10 regarding a trip to New York merit investigation. Respondents state that they made the trip to
11 explore "the potential for fundraising outside of her home District" and hold a fundraising

⁴³ See Resp. at 2. The Commission has stated that it will not find a personal use violation "[i]f the candidate can reasonably show that the expenses at issue resulted from campaign or officeholder activities." Personal Use E&J, 60 Fed. Reg. 7866-7867. The Commission has made findings of personal use, however, in instances where candidates and their respective committees have failed to sufficiently explain questionable spending. For example, in MUR 6498, (Lynch for Congress), the Commission found reason to believe that the committee converted campaign funds to personal use, noting that the candidate's unsworn general denials did not sufficiently refute the allegations of personal use raised in the Referral. Factual & Legal Analysis at 11, MUR 6498 (Lynch for Congress). In MUR 5962 (Istook for Congress), the Commission found reason to believe that the committee converted campaign funds to personal use, which included expenditures for items such as meals and travel that were considered non-campaign related based on the type of expenses and the lack of information verifying that they were campaign or officeholder related. Those expenses included a meal at a New York City restaurant that the committee stated was in connection with a fundraising event, but could not provide documentation in support of the fundraiser. Final Audit Report on Friends of Ernest Istook (AR 07-03) at 16-17 (May 23, 2007). By contrast, in MUR 7421 (Cramer for Senate), the Commission found no reason to believe that the candidate and committee converted campaign funds to personal use with respect to allegations that reimbursements for travel expenses and meals were not related to the candidate's federal campaign. Factual & Legal Analysis at 6, MUR 7421 (Cramer for Senate). There, the Commission's determination was based on the respondents' assertions that it paid a reasonable per diem for meals that followed Commission guidelines; an *Associated Press* "Fact Check" analysis of the travel records provided to it by the candidate's campaign, which concluded that the candidate's campaign schedule was consistent with the amount reimbursed for mileage; and the complaint's failure to point to any specific information to support its personal use allegations, instead relying on an assertion that the amount of the reimbursements seemed excessive. *Id.* at 3, 6.

⁴⁴ Resp. at 2.

1 brunch and meetings, but this general explanation does not sufficiently rebut the Complaint's
 2 specific allegations.⁴⁵

3 The Response attaches a copy of the invitation to the event, which consisted of a brunch
 4 held on Sunday, September 30, 2018, at the 3 West Club from 10:00 am to noon, at a cost of
 5 \$250 per person.⁴⁶ As shown in the chart below,⁴⁷ IRL PAC paid \$16,095.73 between
 6 September 4, 2018, and October 9, 2018, for catering, hotel, and meal expenses in New York
 7 City:

Date	Amount	Payee	Purpose
September 4, 2018	\$ 482.82	3 West Club	Catering/Facility Deposit
September 27, 2018	\$ 844.94	3 West Club	Catering/Facility Deposit
October 1, 2018	\$1,213.74	Harry Cipriani	Meals
October 2, 2018	\$ 456.91	Harry Cipriani	Meals
October 2, 2018	\$1,413.27	Morimoto	Meals
October 3, 2018	\$ 239.04	Café Boulud	Meals
October 3, 2018	\$ 903.42	Harry Cipriani	Meals
October 3, 2018	\$3,147.79	Lotte New York Palace	Rooms
October 4, 2018	\$7,112.49	Lotte New York Palace (two separate payments)	Rooms
October 9, 2018	\$ 281.65	3 West Club	Catering/Facility Deposit
TOTAL	\$16,095.73		

8

⁴⁵ *See id.*

⁴⁶ Resp.; Ex. 6A.

⁴⁷ *See* IRL PAC Amended 2018 October Quarterly Report at 20, 29 (Apr. 12, 2019); IRL PAC Amended 2018 Post-General Report at 9, 10, 14-17 (Apr. 12, 2019).

1 IRL PAC's meal disbursements from October 1-3, 2018, raise the possibility that Ros-
2 Lehtinen, and possibly others, were in New York City for a number of days after the 3 West
3 Club brunch on September 30. As with the Disney Agenda expenses, Respondents do not
4 identify the "IRL PAC representatives" attending the brunch, and at this time, IRL PAC was not
5 making payroll disbursements and did not reimburse volunteers, with the exception of a \$152.49
6 unspecified reimbursement to Maria Christina Del Portillo on October 15, 2018.⁴⁸ While some
7 of the meal and lodging expenses may have been in connection with the brunch, the total amount
8 spent (\$4,226.38 in meals and \$10,260.28 in lodging), the number of restaurants visited, and the
9 timing of the payments support a reasonable inference that a significant portion of the spending
10 constituted personal use.⁴⁹ As Respondents' general rebuttal does not sufficiently explain these
11 expenses, we recommend an investigation.

12 3. Amelia Island PAC Event

13 Ros-Lehtinen also traveled to an event held by the Republican Main Street Partnership
14 PAC in Amelia Island, Florida, from May 4 through May 6, 2018.⁵⁰ The registration form
15 directly below the invitation notes that "in an effort to accommodate everyone," registration for
16 this event was limited to members (which included Ros-Lehtinen) and a spouse, and up to two
17 minor children under the age of 18.⁵¹ It also states that members had the option of reserving "a

⁴⁸ IRL PAC Amended 2018 Post-General Report at 20.

⁴⁹ The Response asserts that this event raised \$6,350. Resp. at 2. IRL PAC disclosed the receipt of one contribution in proximity to the event — \$1,000 received on October 2, 2018. IRL PAC Amended 2018 Pre-General Report at 6 (Apr. 12, 2019). The PAC did not report receiving any other contributions until November 5, 2018, when it reported its final contributions before it terminated. *See* IRL PAC Amended 2018 Post-General Report at 6, 7 (Apr. 12, 2019) (receipt of contributions of \$350 and \$5,000). *See also* IRL PAC Amended 2018 October Quarterly Report (no contributions received during the three months before the event).

⁵⁰ Resp.; Ex. 5.

⁵¹ *Id.*

1 standard room in the hotel or a two-bedroom condo.”⁵² As shown in the chart below, IRL PAC
 2 disclosed three separate disbursements for “rooms” totaling \$5,857.10, four disbursements for
 3 meals totaling \$1,102.17, and other disbursements:

Date	Amount	Payee	Purpose
May 7, 2018	\$ 442.85	Amelia Liquors	Event Supplies/beverages
May 8, 2018	\$5,857.10	Ritz Carlton (three separate payments)	Rooms
May 8, 2018	\$ 25.95	Ritz Carlton	Parking
May 8, 2018	\$ 8.56	Ritz Carlton	Meals
May 24, 2018	\$ 106.88	Ritz Carlton	Meals
June 8, 2018	\$ 493.43	Ritz Carlton	Meals
June 18, 2018	\$ 493.43	Ritz Carlton	Meals ⁵³
TOTAL	\$7,428.07		

4
 5 The Response states that Ros-Lehtinen and other IRL PAC representatives participated in
 6 the Amelia Island event activities “to discuss state and local legislative and political matters that
 7 could impact the IRL PAC, and to discuss the PAC and its future with others at this widely-
 8 attended event.”⁵⁴

9 It is unclear why IRL PAC needed to reserve what appears to be numerous rooms for the
 10 two-night stay, rooms that cost the PAC \$5,057.10.⁵⁵ As mentioned above, registration was
 11 limited to members and up to three immediate family members only, and at that time, IRL PAC

⁵² *Id.*

⁵³ IRL PAC 12-Day Runoff Report at 21, 23-24, 27, 30 and 33 (July 5, 2018).

⁵⁴ Resp. at 2.

⁵⁵ IRL PAC 12-Day Runoff Report at 23-24.

1 was making no payroll disbursements or expense refunds to volunteers. Further, the Republican
2 Main Street Partnership PAC's payment to the Ritz Carlton-Amelia Island for
3 "Facilities/Catering/Lodging" in the amount of \$95,000 indicates that it may have paid some or
4 all of the food, drink, and lodging expenses during the weekend, raising additional questions
5 whether a portion of IRL PAC's payments were personal use.⁵⁶ These circumstances suggest
6 that some portion of campaign funds could have been personal use, and Respondents do not
7 explain the spending sufficiently.

8 4. 2018 W Hotel South Beach IRL PAC Fundraising Events

9 IRL PAC held two fundraising events during the weekend of March 9-11, 2018, in
10 Miami.⁵⁷ The first event was a "Poolside Reception" at the W Hotel South Beach on March 9,
11 2018. The second event was a "Dinner At Casablanca On The Bay Restaurant"⁵⁸ on March 10,
12 2018, which took place at a location away from the hotel.⁵⁹ The invitation to the weekend events
13 indicated that the admission fee was "\$1,000 Per Person Per Event."⁶⁰ An IRL PAC "South
14 Beach Weekend" at the W Hotel RSVP sheet noted that the PAC had secured hotel rooms for the
15 weekend, and attendees were to use their own credit cards to reserve rooms.⁶¹

⁵⁶ Republican Mainstreet Partnership PAC 2018 July Monthly Report at 16 (July 12, 2018).

⁵⁷ Resp. at 2.

⁵⁸ Resp.; Ex. 4A. IRL PAC discloses two payments to this restaurant on March 12, 2018, for meals totaling \$2,906.18. IRL PAC Amended 2018 April Quarterly Report at 28 (July 5, 2018).

⁵⁹ Resp.; Ex. 4A.

⁶⁰ *Id.*

⁶¹ Resp.; Ex. 4B.

1 As shown in the chart below, IRL PAC's disclosure reports reflect three payments to W
 2 Hotel South Beach in amounts totaling \$28,442.33 that appear related to the "Poolside
 3 Reception" fundraising event and lodging for the weekend:⁶²

Date	Amount	Payee	Purpose
November 22, 2017	\$ 5,500.00	W Hotel South Beach	Facility Rental Deposit ⁶³
March 12, 2018	\$ 726.33	W Hotel South Beach	Meals
May 7, 2018	\$22,216.00	W Hotel South Beach	Catering/Facility Rental ⁶⁴
TOTAL	\$28,442.33		

4
 5 This spending, however, raises concerns that campaign funds could have been used to
 6 pay for expenses not connected to either the Poolside Reception or Ros-Lehtinen's other
 7 officeholder duties. Specifically, IRL PAC's total payment to the hotel greatly exceeds the
 8 "minimum revenue anticipated" by the W Hotel in the signed agreement between IRL PAC and
 9 the hotel ("Agreement").⁶⁵ This substantial increase raises a reasonable question whether the
 10 IRL PAC paid for lodging and meals for family, friends, and other people unconnected to the
 11 events.

12 According to the Agreement, the "Total Minimum Revenue" expected was \$14,380;
 13 \$9,880 covered a block of 10 hotel rooms for two nights, and \$4,500 covered food, beverages,

⁶² Resp.; Ex. 4A.

⁶³ IRL PAC Amended 2017 Year-End Report at 16.

⁶⁴ IRL PAC 12-Day Runoff Report at 22.

⁶⁵ Resp.; Exs. 4A-C.

1 and the room rental for the Poolside Reception.⁶⁶ Forty attendees were expected for the
2 reception.⁶⁷ Under the Agreement, the Respondents' responsibility for the \$9,880 in room
3 charges would be reduced as attendees booked and paid for rooms in the reserved block.⁶⁸ Thus,
4 the total amount IRL PAC owed the hotel should have decreased, unless the PAC, not attendees,
5 paid for additional rooms.⁶⁹ But, in fact, IRL PAC's final payments to the hotel in connection
6 with the Agreement totaled \$27,716, nearly twice the "minimum revenue anticipated."
7 Respondents do not explain this substantial increase. And while it is not unusual for events to
8 cost more than anticipated — if, for example, more than 40 people attended the Poolside
9 Reception, the event costs would likely be more than \$4,500 — it seems unlikely that such
10 increases would have caused IRL PAC's total bill to the W Hotel to nearly double.⁷⁰ Further,
11 since IRL PAC was not making any payroll disbursements to staff, and did not disclose any

⁶⁶ Resp.; Ex. 4C.

⁶⁷ *Id.*

⁶⁸ *Id.* The Agreement provides that the guests were responsible for renting the rooms in the room block, but in the event that the guests reserving the room block fail to generate the "Adjusted Minimum Guest Room Revenue" (90% of the total value of the room block (\$9,880), or \$8,892), IRL PAC agrees to pay "Attrition Damages." *Id.* at 2-3. Such damages will be equal to the "Adjusted Minimum Guest Room Revenue" minus the actual guest room revenue, which reflected the portion of the room block that the hotel was able to rent out to other guests. *Id.* at 3.

⁶⁹ The Response states that the 2018 W Hotel event reflected an annual fundraiser that was usually on behalf Ros-Lehtinen for Congress, but now focused on supporting IRL PAC. Resp. at 2. In March 2017, the Ros-Lehtinen Committee held a weekend event at the W Hotel, and the agreement with the hotel for that event was similar to the 2018 Agreement with IRL PAC. Resp.; Ex. 1C. Like the 2018 Agreement, the 2017 agreement reserved a block of hotel rooms and the room charges represented most of the costs contained in the agreement, specifically, \$14,870 of the \$20,370 "Total Minimum Revenue" in the 2017 agreement. *Id.* Like IRL PAC, the Ros-Lehtinen Committee was solely responsible for the remaining charges, which included the food and beverage and room rental charges for a cocktail fundraiser reception. But unlike the March 2018 fundraising event, the Ros-Lehtinen Committee's final payment of \$18,545 to the hotel in 2017 reflected a reduction from the "Total Minimum Revenue" in the agreement. *See* Ros-Lehtinen Committee Amended 2017 July Quarterly Report at 50 (Aug. 22, 2017).

⁷⁰ Respondents state that IRL PAC's W Hotel South Beach weekend events raised a total of \$22,250 in contributions, about \$9,000 less than it paid the hotel and the restaurant for the two events. Resp. at 2. The invitation for the Poolside Reception and Dinner events asked for a contribution of \$1,000 per person per event. Resp.; Ex. 4A.

1 reimbursements to volunteers for any expenses during the time of this event, it does not appear
2 that additional rooms would have been used for IRL PAC staff or volunteers.⁷¹

3 Accordingly, the unexplained significant increase in costs at a time when IRL PAC's
4 responsibility should have decreased under the Agreement suggests that IRL PAC incurred
5 additional hotel expenses not connected to either the Poolside Reception or Ros-Lehtinen's other
6 officeholder duties. Finally, IRL PAC's post-fundraising event payment of \$726.33 in meal
7 charges to the hotel on March 12, 2018, an expense that was not specifically referenced in the
8 Agreement, could likewise be connected to other spending. As Respondents offer no
9 explanation for the substantial increase from the Agreement or the March 12 meal charges, IRL
10 PAC's spending here appears to warrant further scrutiny.

11 **C. Conclusion**

12 Based on the foregoing, the available information raises a reasonable inference that
13 Respondents converted campaign funds into personal use. Accordingly, we recommend that the
14 Commission find reason to believe that IRL PAC and Ed Torgas in his official capacity as
15 treasurer (terminated), South Florida First PAC (f/k/a Ros-Lehtinen for Congress) and Antonio
16 Argiz in his official capacity as treasurer (terminated) and Ros-Lehtinen violated 52 U.S.C.
17 § 30114(b) by converting campaign funds to personal use.⁷²

⁷¹ IRL PAC's disclosure report during this period reflects only one person compensated for assisting the PAC – Reimy Benitez – who had been receiving monthly payments for “Accounting/Report Preparation.” See IRL PAC Amended 2018 April Quarterly Report at 34.

⁷² With respect to the remaining disbursements identified by the Complaint, there is insufficient information to find reason to believe that they were for personal use. This conclusion applies to the provision of Best Buy gift cards, meal expenses at the Mesamar restaurant, and the fundraising costs of Ros-Lehtinen's 2017 event the W Hotel South Beach Hotel. The Commission has dismissed a matter in which the complaint alleged that expenditures were for personal use because they were allegedly excessive in comparison to those of other committees, noting that “there is nothing inherently suggestive about the fact that the Committee reported spending more on [disputed expenditures] than other committees.” See Factual & Legal Analysis at 7, MUR 7494 (John Culberson, *et al.*) (dismissing allegations of personal use where complainant failed to link questioned expenditures to actual personal use).

1 **IV. INVESTIGATION**

2 The proposed investigation would seek evidence regarding the Respondents' spending,
3 including, but not limited to: (1) the circumstances surrounding the Disney Park tickets; (2) the
4 identity of any persons who traveled with IRL PAC to any events referenced in the Complaint;
5 (3) all cost information and relevant documents relating to the spending for the Disney Agenda, the
6 New York City event, the Amelia Island PAC Event, and March 2018 W Hotel South Beach event;
7 and (4) any information relating to the planning of the events at issue. We intend to seek the
8 information informally, but recommend that the Commission authorize the use of compulsory
9 service if informal means are ineffective.

10 **V. RECOMMENDATIONS**

- 11 1. Find reason to believe that Illeana Ros-Lehtinen violated 52 U.S.C. § 30114(b);
12 2. Find reason to believe that IRL PAC and Ed Torgas, in his official capacity as treasurer
13 (terminated) violated 52 U.S.C. § 30114(b);
14 3. Find reason to believe that South Florida First PAC (f/k/a Ros-Lehtinen for Congress) and
15 Antonio Argiz, in his official capacity as treasurer (terminated) violated 52 U.S.C.
16 § 30114(b);
17 4. Approve the attached Factual and Legal Analysis;
18 5. Authorize the use of compulsory process; and

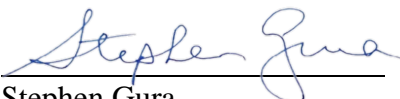
1 6. Approve the appropriate letter.


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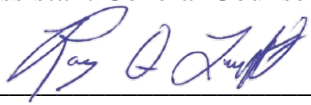
Lisa J. Stevenson
Acting General Counsel

Charles Kitcher
Acting Associate General Counsel for Enforcement

_____ 5.22.20
Date

By: 
Stephen Gura
Deputy Associate General Counsel


Mark Allen
Assistant General Counsel


Roy Q. Lockett
Attorney

Attachment:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

1
2
3
4 RESPONDENTS: IRL PAC and Ed Torgas, in his official MUR 7657
5 capacity as treasurer (terminated)
6 South Florida First PAC (f/k/a Ros-Lehtinen for Congress)
7 and Antonio Argiz, in his official capacity
8 as treasurer (terminated)
9 Illeana Ros-Lehtinen
10

I. INTRODUCTION

11
12
13 This matter was generated by a Complaint filed with the Federal Election Commission (the
14 “Commission”) by the Campaign Legal Center and Margaret Christ.¹ The Complaint alleges that
15 Representative Illeana Ros-Lehtinen made impermissible personal use of funds contributed to her
16 principal campaign committee and later transferred to her leadership PAC, IRL PAC.² Respondents
17 maintain that the challenged disbursements were for legitimate events related to the business of Ros-
18 Lehtinen’s principal campaign committee or IRL PAC.³

19 As explained below, the Commission finds reason to believe that Ros-Lehtinen, IRL PAC
20 and Ed Torgas in his official capacity as treasurer, and Ros-Lehtinen’s campaign committee, Ros-
21 Lehtinen for Congress (now known as South Florida First PAC) and Antonio Argiz in his official
22 capacity as treasurer, violated 52 U.S.C. § 30114(b) by converting campaign funds to personal use.
23

¹ See 52 U.S.C. § 30109(a)(1).

² Compl. at 1, 3 (Oct. 28, 2019).

³ Response of IRL PAC (“Resp.”) at 1 (Nov. 22, 2019). Ros-Lehtinen and South Florida First PAC adopted IRL PAC’s response as their own, on December 3 and 5, 2019, respectively.

1 **II. FACTUAL AND LEGAL ANALYSIS**

2 **A. Factual Background**

3 Ros-Lehtinen represented Florida's 27th District in the U.S. House of Representatives
4 from 1989 until 2019, during which time her authorized campaign committee was Ros-Lehtinen
5 for Congress ("Ros-Lehtinen Committee").⁴ On April 30, 2017, Ros-Lehtinen announced that
6 she would not seek re-election in 2018.⁵ On October 25, 2017, the Ros-Lehtinen Committee
7 converted to a multicandidate committee named South Florida First PAC ("SFF PAC") and
8 affiliated with Ros-Lehtinen's leadership PAC, IRL PAC.⁶

9 On October 31, 2017, SFF PAC transferred its entire \$177,445 cash balance to IRL PAC
10 and then terminated.⁷ At the time of the transfer, IRL PAC had \$5,967.39 in cash-on-hand.⁸
11 Ros-Lehtinen left office on January 3, 2019.⁹ On July 3, 2019, IRL PAC filed for termination,
12 which was approved.¹⁰

13 The Complaint alleges that the Respondents made a series of disbursements that appeared
14 to be for personal use.¹¹ It argues that none of the spending listed below had any apparent
15 connection to Ros-Lehtinen's candidacy or duties as an officeholder, or related to fundraising

4 Compl. at 2, 5.

5 *Id.* at 2, citing Eric Garcia, *Ros-Lehtinen Not Seeking Re-election*, ROLL CALL (Apr. 30, 2017).

6 *Id.* at 3, citing SFF PAC, Amended Statement of Organization, FEC Form 1, at 1 (Oct. 25, 2017). SFF PAC raised no additional contributions after its conversion to a multicandidate committee. *See* SFF PAC Termination Report (Nov. 7, 2017).

7 *Id.* The termination was approved on November 8, 2017. *See* Letter from Christopher Morse, Reports Analysis Division ("RAD"), FEC, to Antonio L. Argiz, Treasurer, South Florida First PAC (Nov. 8, 2017).

8 IRL PAC Amended 2017 Year End Report at 12 (April 6, 2018).

9 Compl. at 6; IRL PAC Amended 2017 Year End Report at 2 (April 6, 2018).

10 *See* Letter from Andrea Chamorro, RAD, FEC, to Ed Torgas, Treasurer, IRL PAC (July 12, 2019).

11 Compl. at 4-5.

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1 expenses for any committee.¹² Specifically, the Complaint refers to disbursements totaling
2 \$74,673 for theme park admissions, food, lodging, facility rentals, catering, and gift cards, which
3 are generally described immediately below and discussed in detail in section II.B.2.

- 4 • \$3,756 for meals, park event tickets, and lodging at Disney hotels and theme parks
5 from November 30 through December 5, 2017;
6
- 7 • \$10,260 on rooms at Lotte New York Palace on October 3 and October 4, 2018;
- 8 • \$5,892 for parking, rooms, and meals at the Ritz Carlton in Florida on May 8,
9 2018;
- 10
- 11 • \$46,261 for hotel rooms and facility rental at W Hotel South Beach in connection
12 with events held in 2017 and 2018;
- 13 • \$5,400 for Best Buy gift cards in July and August 2017; and
- 14 • \$3,104 for meals at Mesamar in Florida on December 31, 2018.¹³

15 Respondents assert that the alleged expenses were in connection with fundraising and
16 other events, and the gift cards and meals at Mesamar were thank-you gifts to campaign staff and
17 volunteers before Ros-Lehtinen left office. Respondents also maintain that while Ros-Lehtinen's
18 husband accompanied her at the events, and participated in them, "none of the expenses
19 referenced in the complaint were in any way for the benefit of other family members, or anyone
20 else not connected with and representing IRL PAC."¹⁴

¹² Compl at 6-7.

¹³ *Id.*

¹⁴ Resp. at 2; Exs. 1-6.

B. Legal Analysis

1. Legal Standard

Under the Act, a contribution accepted by a candidate may be used for, *inter alia*, “otherwise authorized expenditures in connection with the campaign for Federal office of the candidate.”¹⁵ The Act and Commission regulations give candidates wide discretion over the use of campaign funds, but it is not limitless.¹⁶ Specifically, a contribution to a candidate shall not be converted by any person to “personal use.”¹⁷ “Personal use” means any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate’s campaign or duties as a Federal officeholder.¹⁸ The Commission’s regulations include a non-exhaustive list of *per se* personal uses of campaign funds, including household food items, clothing, mortgage, utility payments, and admission to a sporting event, concert, theater or other form of entertainment, unless part of a specific campaign or officeholder activity.¹⁹ The Commission evaluates other expenses, such as travel, meal, and legal expenses, on a case-by-case basis by applying the “irrespective test” to determine whether a personal use violation has occurred.²⁰

¹⁵ 52 U.S.C. § 30114(a).

¹⁶ Explanation and Justification for Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed. Reg. 7,862, 7,863 (Feb. 9, 1995) (“Personal Use E&J”).

¹⁷ 52 U.S.C. § 30114(b)(1).

¹⁸ *Id.* § 30114(b)(2); 11 C.F.R. § 113.1(g); Personal Use E&J, 60 Fed. Reg. at 7,863.

¹⁹ 11 C.F.R. § 113.1(g)(1)(i)(A)-(J).

²⁰ *See* 11 C.F.R. § 113.1(g)(1)(ii).

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1 In addition, the Commission’s regulations include a list of permissible non-campaign
2 related expenses, including ordinary and necessary expenses incurred in connection with the
3 recipient’s duties as a federal officeholder, travel costs associated with *bona fide* official duties
4 such as speaking engagements, the cost of winding down an office for a period of six months
5 after leaving office, and for any other lawful purpose, unless such use is “personal use.”²¹

6 The Commission has concluded that principal campaign committees can be converted to
7 multi-candidate committees, but contributions received when a committee was still a principal
8 campaign committee remain subject to the personal use prohibition. In Advisory Opinion
9 2012-06 (RickPerry.org), the Commission permitted then-Governor Perry’s principal campaign
10 committee for the 2012 presidential election to convert to a nonconnected committee and to fund
11 the nonconnected committee’s activities using its remaining primary election funds, to the extent
12 the funds were not used for personal use.²²

13 Further, the Commission has recognized that a candidate or Federal officeholder may
14 need to travel for a mixture of personal and campaign or officeholder activities.²³ When travel is
15 for a mixed purpose, the Commission conducts a case-by-case analysis examining whether the
16 travel expenses would have existed irrespective of the candidate’s campaign or duties as a holder

²¹ See 11 C.F.R. § 113.2(a)-(e); Explanation and Justification for Final Rules on Use of Campaign Funds for Donations to Non-Federal Candidates and Any Other Lawful Purpose Other than Personal Use, 72 Fed. Reg. 56,245, 56,246 (Oct. 3, 2007). In MUR 7292 (Stearns), the Commission drew a distinction between the permissible purpose of donating money to an organization and the impermissible purpose of traveling to a specific location for the purpose of making that donation. Factual & Legal Analysis at 14, MUR 7292 (Stearns).

²² See Advisory Op. 2012-06 at 2-4. See also Advisory Op. 1994-31 (Gallo) (concluding that a former candidate may use remaining general election contributions to create a multicandidate committee). In 2018, the Commission sought comments on a rulemaking petition to revise and amend 11 C.F.R. §§ 113.1(g) and 113.2 to clarify the permissible use of campaign funds for former candidates and officeholders. Rulemaking Petition: Former Candidates’ Personal Use, 83 Fed. Reg. 12,283 (Mar. 21, 2018); Rulemaking Petitions: Former Candidates’ Personal Use: Correction, 83 Fed. Reg. 17,509 (Apr. 20, 2018).

²³ Personal Use E&J, 60 Fed. Reg. 7869.

1 of Federal office.²⁴ Any expenses that would have been incurred irrespective of the campaign or
2 duties of the Federal officeholder are considered personal in nature.²⁵ The use of campaign
3 funds for such expenses is a conversion of campaign contributions to personal use, unless the
4 person benefitting from such use reimburses the campaign account within thirty days for the
5 amount of the personal expenses.²⁶ For example, if a Member of Congress travels to make a
6 speech in his or her official capacity, and stays an extra week there on vacation, the Member's
7 campaign committee can pay the Member's transportation costs and the subsistence costs
8 necessary for making the speech.²⁷ But if the committee pays the cost of the entire trip,
9 including the expenses incurred during the extra week of vacation, the Member is required to
10 reimburse the committee for the expenses incurred during this extra week. This includes the
11 hotel and meal expenses for the extra week along with any entertainment expenses incurred
12 during this time that are included in the amount paid by the committee.²⁸

13 2. Respondents Appear to Have Violated 52 U.S.C. § 30114(b) by Using
14 Campaign Funds for Personal Use
15

16 IRL PAC's spending is subject to the Act's personal use prohibition.²⁹ All but
17 approximately 3% of IRL PAC's cash on hand came from SFF PAC's transfer of \$177,445 on
18 October 31, 2017, and six days before that transfer, Ros-Lehtinen for Congress converted from a
19 principal campaign committee to the multicandidate committee, SFF PAC. Thus, under

²⁴ *Id.*; 11 C.F.R. § 113.1(g)(1)(ii).

²⁵ Advisory Op. 2002-05 (Time for Ann Hutchinson).

²⁶ 11 C.F.R. § 113.1(g)(1)(ii).

²⁷ Personal Use E&J, 60 Fed. Reg. 7869.

²⁸ *Id.*

²⁹ *See* Advisory Op. 2012-06 (RickPerry.org).

1 Advisory Opinion 2012-06, the personal use prohibition applies to IRL PAC’s spending. And,
2 as discussed below, the available information supports a reasonable inference that Respondents
3 converted campaign funds to personal use regarding some, but not all, of the alleged instances.

4 a. “Disney Agenda” Event

5 More than seven months after Ros-Lehtinen’s April 30, 2017, announcement that she was
6 not running for re-election, Ros-Lehtinen traveled to Orlando, Florida, to attend an event for
7 Mario Diaz-Balart for Congress and Yoder for Congress referred to as the “Disney 2017
8 Agenda” (“Disney Agenda”).³⁰ According to the invitation, the Disney Agenda event ran one
9 full day, from the evening of December 1, 2017, through the next evening.³¹ The chart below
10 reflects payments that IRL PAC made in the Orlando area around that time:³²

Date	Amount	Payee	Purpose
November 30, 2017	\$1,957.50	Disney’s Boardwalk Inn (three separate payments of \$652.50)	Lodging
December 4, 2017	\$ 455.84	Disney Destinations, LLC/Disney Worldwide Services, Inc.	Park Event Tickets
December 4, 2017	\$ 367.44	Disney Destinations, LLC/Disney Worldwide Services, Inc. (three separate payments of \$122.48)	Park Event Tickets
December 4, 2017	\$ 232.18	Disney Destinations, LLC/Disney Worldwide Services, Inc. (two separate payments of \$116.09)	Park Event Tickets
December 5, 2017	\$ 116.09	Disney Destinations, LLC/Disney Worldwide Services, Inc.	Park Event Tickets

³⁰ Resp. at 1.

³¹ Resp.; Ex. 3.

³² IRL PAC Amended 2017 Year-End Report at 19-23 (Apr. 6, 2018).

December 5, 2017	\$ 226.38	Chef Art Smith's Homecomin'	Meals
December 5, 2017	\$ 627.16	Disney's Boardwalk Inn (five separate payments)	Meals
TOTAL	\$3,982.59		

1

2 A review of these expenses and the available information suggests that IRL PAC
3 converted campaign funds to personal use. First, IRL PAC made seven payments on
4 December 4, 2017, for park event tickets at Disney World totaling \$1,171.55 that do not appear
5 to be related to Ros-Lehtinen's duties as an officeholder. In fact, the payments appear to
6 constitute *per se* personal use. The Act includes the "admission to a sporting event, concert,
7 theater, or other form of entertainment not associated with an election campaign" as among the
8 activities that would constitute a conversion to personal use.³³ Notably, Respondents do not
9 address the PAC's purchase of the Disney theme park tickets.

10 IRL PAC's disclosure reports suggest that other spending reflected in the chart above
11 may also constitute personal use. For one thing, the Disney Agenda ended on December 2, 2017,
12 but many of the purchases are dated December 4 and 5, 2017. It is possible that some of the
13 expenses may have been incurred during the event and paid for two or three days later. Still,
14 Respondents do not offer that explanation.

15 Instead, Respondents assert that Ros-Lehtinen, her spouse, "and several PAC
16 representatives" attended the Disney Agenda.³⁴ The Response also states that Ros-Lehtinen
17 "and the PAC representatives participated in the event activities to discuss state and local
18 legislative and political matters that could potentially impact the IRL PAC, and to discuss the

³³ 52 U.S.C. § 30114(b)(2)(H).

³⁴ Resp. at 1.

1 PAC and its future with others at this widely-attended event.”³⁵ This response, however, does
2 not sufficiently rebut the Complaint’s allegations. IRL PAC does not say how many people
3 attended which events, when the expenses were incurred, and how long PAC representatives
4 stayed in the Orlando area. For example, the PAC made six payments on December 5, 2017, for
5 meals totaling \$853.76.³⁶ The response does not indicate on which dates the “several [IRL] PAC
6 representatives”³⁷ ate these meals, and, given that the Disney Agenda ended three days earlier, it
7 is reasonable to question if the payments were for meals after the Disney Agenda ended. As for
8 lodging, IRL PAC discloses three payments to Disney’s Boardwalk Inn in the amount of \$652.50
9 each (totaling \$1,957.50) on November 30, 2017.³⁸ Again, the Response does not reveal exactly
10 how many people stayed at the Boardwalk Inn, or for how long.

11 Respondents also do not identify the “several PAC representatives” who traveled with
12 Ros-Lehtinen for this event, which raises the reasonable question whether family members and
13 friends who were doing no work for IRL PAC traveled to and stayed at DisneyWorld at its
14 expense.³⁹ IRL PAC did not disclose any payroll disbursements to any staff contemporaneous
15 with the Disney Agenda, and reimbursed only one person for travel expenses.⁴⁰ By contrast, the

³⁵ *Id.* at 1-2.

³⁶ IRL PAC Amended 2017 Year-End Report at 19, 22-23.

³⁷ *See Resp.* at 1.

³⁸ IRL PAC Amended 2017 Year-End Report at 18.

³⁹ As explained above, if the trip was a combination of PAC business and a family vacation, Ros-Lehtinen was required to reimburse the PAC for her personal expenses within 30 days. *See* 11 C.F.R. § 113.1(g)(1)(ii). The PAC reported no such reimbursements.

⁴⁰ IRL PAC Amended 2017 Year-End Report at 28-29. Specifically, IRL PAC’s 2017 Year-End Report discloses two reimbursements to Harriet Carter for travel and expenses more than three weeks later on December 26 (\$44.90), and 29 (\$41.20), 2017, respectively. Even if Carter’s reimbursements were somehow tied to this event, and if she stayed at the hotel, it is still unclear who the “several [IRL] PAC representatives” that traveled to this event.

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1 available information suggests that Ros-Lehtinen’s family members were with Ros-Lehtinen
2 during the time of the Disney Agenda. The Complaint refers to a photo on Ros-Lehtinen’s
3 Twitter account showing Ros-Lehtinen and six members of her family, four of whom are
4 children, posing with Mickey Mouse on December 2, 2017, the same day that most of the
5 activity at the Diaz-Balart/Yoder Disney Agenda transpired.⁴¹ The Response does not
6 specifically address this photo. The 7:52 a.m. time stamp of the Twitter photo coincides with the
7 Disney Agenda’s “Character Buffet Breakfast,” a feature at various Disney dining establishments
8 in which popular Disney characters appear, which started at 7:30 a.m. on December 2, 2017.⁴²
9 The fact that many members of Ros-Lehtinen’s family were present at the time of the Disney
10 Agenda event, coupled with IRL PAC’s spending on Disney World tickets, indicates that
11 campaign funds were converted to personal use.

12 In summary, the available information supports a reasonable inference that at least some
13 of the Disney Agenda expenses constituted personal use, and Respondents’ general and unsworn
14 assertion that “none of the expenses referenced in the [C]omplaint were in any way for the
15 benefit of other family members, or anyone else not connected with and representing IRL PAC,”

⁴¹ Compl. at 4, citing Ileana Ros-Lehtinen (@RosLehtinen), TWITTER (Dec. 2, 2017, 7:52AM).

⁴² Resp.; Ex. 3. *See also* Walt Disney World Resort – Character Dining, available at <https://disneyworld.disney.go.com/dining/character/> (last accessed May 8, 2020).

1 does not sufficiently rebut the Complaint’s allegations.⁴³

2 b. New York City Fundraising Event

3 Similarly, expenses incurred by Ros-Lehtinen and “other IRL PAC representatives”⁴⁴
4 regarding a trip to New York merit further scrutiny. Respondents state that they made the trip to
5 explore “the potential for fundraising outside of her home District” and hold a fundraising
6 brunch and meetings, but this general explanation does not sufficiently rebut the Complaint’s
7 specific allegations.⁴⁵

8 The Response attaches a copy of the invitation to the event, which consisted of a brunch
9 held on Sunday, September 30, 2018, at the 3 West Club from 10:00 am to noon, at a cost of

⁴³ See Resp. at 2. The Commission has stated that it will not find a personal use violation “[i]f the candidate can reasonably show that the expenses at issue resulted from campaign or officeholder activities.” Personal Use E&J, 60 Fed. Reg. 7866-7867. The Commission has made findings of personal use, however, in instances where candidates and their respective committees have failed to sufficiently explain questionable spending. For example, in MUR 6498, (Lynch for Congress), the Commission found reason to believe that the committee converted campaign funds to personal use, noting that the candidate’s unsworn general denials did not sufficiently refute the allegations of personal use raised in the Referral. Factual & Legal Analysis at 11, MUR 6498 (Lynch for Congress). In MUR 5962 (Istook for Congress), the Commission found reason to believe that the committee converted campaign funds to personal use, which included expenditures for items such as meals and travel that were considered non-campaign related based on the type of expenses and the lack of information verifying that they were campaign or officeholder related. Those expenses included a meal at a New York City restaurant that the committee stated was in connection with a fundraising event, but could not provide documentation in support of the fundraiser. Final Audit Report on Friends of Ernest Istook (AR 07-03) at 16-17 (May 23, 2007). By contrast, in MUR 7421 (Cramer for Senate), the Commission found no reason to believe that the candidate and committee converted campaign funds to personal use with respect to allegations that reimbursements for travel expenses and meals were not related to the candidate’s federal campaign. Factual & Legal Analysis at 6, MUR 7421 (Cramer for Senate). There, the Commission’s determination was based on the respondents’ assertions that it paid a reasonable per diem for meals that followed Commission guidelines; an *Associated Press* “Fact Check” analysis of the travel records provided to it by the candidate’s campaign, which concluded that the candidate’s campaign schedule was consistent with the amount reimbursed for mileage; and the complaint’s failure to point to any specific information to support its personal use allegations, instead relying on an assertion that the amount of the reimbursements seemed excessive. *Id.* at 3, 6.

⁴⁴ Resp. at 2.

⁴⁵ See *id.*

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1 \$250 per person.⁴⁶ As shown in the chart below,⁴⁷ IRL PAC paid \$16,095.73 between
2 September 4, 2018, and October 9, 2018, for catering, hotel, and meal expenses in New York
3 City:

Date	Amount	Payee	Purpose
September 4, 2018	\$ 482.82	3 West Club	Catering/Facility Deposit
September 27, 2018	\$ 844.94	3 West Club	Catering/Facility Deposit
October 1, 2018	\$1,213.74	Harry Cipriani	Meals
October 2, 2018	\$ 456.91	Harry Cipriani	Meals
October 2, 2018	\$1,413.27	Morimoto	Meals
October 3, 2018	\$ 239.04	Café Boulud	Meals
October 3, 2018	\$ 903.42	Harry Cipriani	Meals
October 3, 2018	\$3,147.79	Lotte New York Palace	Rooms
October 4, 2018	\$7,112.49	Lotte New York Palace (two separate payments)	Rooms
October 9, 2018	\$ 281.65	3 West Club	Catering/Facility Deposit
TOTAL	\$16,095.73		

4
5 IRL PAC's meal disbursements from October 1-3, 2018, raise the possibility that Ros-
6 Lehtinen, and possibly others, were in New York City for a number of days after the 3 West
7 Club brunch on September 30. As with the Disney Agenda expenses, Respondents do not
8 identify the "IRL PAC representatives" attending the brunch, and at this time, IRL PAC was not

⁴⁶ Resp.; Ex. 6A.

⁴⁷ See IRL PAC Amended 2018 October Quarterly Report at 20, 29 (Apr. 12, 2019); IRL PAC Amended 2018 Post-General Report at 9, 10, 14-17 (Apr. 12, 2019).

1 making payroll disbursements and did not reimburse volunteers, with the exception of a \$152.49
2 unspecified reimbursement to Maria Christina Del Portillo on October 15, 2018.⁴⁸ While some
3 of the meal and lodging expenses may have been in connection with the brunch, the total amount
4 spent (\$4,226.38 in meals and \$10,260.28 in lodging), the number of restaurants visited, and the
5 timing of the payments support a reasonable inference that a significant portion of the spending
6 constituted personal use.⁴⁹ Respondents' general rebuttal does not sufficiently explain these
7 expenses.

8 c. Amelia Island PAC Event

9 Ros-Lehtinen also traveled to an event held by the Republican Main Street Partnership
10 PAC in Amelia Island, Florida, from May 4 through May 6, 2018.⁵⁰ The registration form
11 directly below the invitation notes that “in an effort to accommodate everyone,” registration for
12 this event was limited to members (which included Ros-Lehtinen) and a spouse, and up to two
13 minor children under the age of 18.⁵¹ It also states that members had the option of reserving “a
14 standard room in the hotel or a two-bedroom condo.”⁵² As shown in the chart below, IRL PAC
15 disclosed three separate disbursements for “rooms” totaling \$5,857.10, four disbursements for
16 meals totaling \$1,102.17, and other disbursements:

⁴⁸ IRL PAC Amended 2018 Post-General Report at 20.

⁴⁹ The Response asserts that this event raised \$6,350. Resp. at 2. IRL PAC disclosed the receipt of one contribution in proximity to the event — \$1,000 received on October 2, 2018. IRL PAC Amended 2018 Pre-General Report at 6 (Apr. 12, 2019). The PAC did not report receiving any other contributions until November 5, 2018, when it reported its final contributions before it terminated. *See* IRL PAC Amended 2018 Post-General Report at 6, 7 (Apr. 12, 2019) (receipt of contributions of \$350 and \$5,000). *See also* IRL PAC Amended 2018 October Quarterly Report (no contributions received during the three months before the event).

⁵⁰ Resp.; Ex. 5.

⁵¹ *Id.*

⁵² *Id.*

Date	Amount	Payee	Purpose
May 7, 2018	\$ 442.85	Amelia Liquors	Event Supplies/beverages
May 8, 2018	\$5,857.10	Ritz Carlton (three separate payments)	Rooms
May 8, 2018	\$ 25.95	Ritz Carlton	Parking
May 8, 2018	\$ 8.56	Ritz Carlton	Meals
May 24, 2018	\$ 106.88	Ritz Carlton	Meals
June 8, 2018	\$ 493.43	Ritz Carlton	Meals
June 18, 2018	\$ 493.43	Ritz Carlton	Meals ⁵³
TOTAL	\$7,428.07		

1

2 The Response states that Ros-Lehtinen and other IRL PAC representatives participated in
3 the Amelia Island event activities “to discuss state and local legislative and political matters that
4 could impact the IRL PAC, and to discuss the PAC and its future with others at this widely-
5 attended event.”⁵⁴

6 It is unclear why IRL PAC needed to reserve what appears to be numerous rooms for the
7 two-night stay, rooms that cost the PAC \$5,057.10.⁵⁵ As mentioned above, registration was
8 limited to members and up to three immediate family members only, and at that time, IRL PAC
9 was making no payroll disbursements or expense refunds to volunteers. Further, the Republican
10 Main Street Partnership PAC’s payment to the Ritz Carlton-Amelia Island for

⁵³ IRL PAC 12-Day Runoff Report at 21, 23-24, 27, 30 and 33 (July 5, 2018).

⁵⁴ Resp. at 2.

⁵⁵ IRL PAC 12-Day Runoff Report at 23-24.

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1 “Facilities/Catering/Lodging” in the amount of \$95,000 indicates that it may have paid some or
2 all of the food, drink, and lodging expenses during the weekend, raising additional questions
3 whether a portion of IRL PAC’s payments were personal use.⁵⁶ These circumstances suggest
4 that some portion of campaign funds could have been personal use, and Respondents do not
5 explain the spending sufficiently.

6 d. 2018 W Hotel South Beach IRL PAC Fundraising Events

7 IRL PAC held two fundraising events during the weekend of March 9-11, 2018, in
8 Miami.⁵⁷ The first event was a “Poolside Reception” at the W Hotel South Beach on March 9,
9 2018. The second event was a “Dinner At Casablanca On The Bay Restaurant”⁵⁸ on March 10,
10 2018, which took place at a location away from the hotel.⁵⁹ The invitation to the weekend events
11 indicated that the admission fee was “\$1,000 Per Person Per Event.”⁶⁰ An IRL PAC “South
12 Beach Weekend” at the W Hotel RSVP sheet noted that the PAC had secured hotel rooms for the
13 weekend, and attendees were to use their own credit cards to reserve rooms.⁶¹

14 As shown in the chart below, IRL PAC’s disclosure reports reflect three payments to W
15 Hotel South Beach in amounts totaling \$28,442.33 that appear related to the “Poolside
16 Reception” fundraising event and lodging for the weekend.⁶²

⁵⁶ Republican Mainstreet Partnership PAC 2018 July Monthly Report at 16 (July 12, 2018).

⁵⁷ Resp. at 2.

⁵⁸ Resp.; Ex. 4A. IRL PAC discloses two payments to this restaurant on March 12, 2018, for meals totaling \$2,906.18. IRL PAC Amended 2018 April Quarterly Report at 28 (July 5, 2018).

⁵⁹ Resp.; Ex. 4A.

⁶⁰ *Id.*

⁶¹ Resp.; Ex. 4B.

⁶² Resp.; Ex. 4A.

Date	Amount	Payee	Purpose
November 22, 2017	\$ 5,500.00	W Hotel South Beach	Facility Rental Deposit ⁶³
March 12, 2018	\$ 726.33	W Hotel South Beach	Meals
May 7, 2018	\$22,216.00	W Hotel South Beach	Catering/Facility Rental ⁶⁴
TOTAL	\$28,442.33		

1
2 This spending, however, raises concerns that campaign funds could have been used to
3 pay for expenses not connected to either the Poolside Reception or Ros-Lehtinen’s other
4 officeholder duties. Specifically, IRL PAC’s total payment to the hotel greatly exceeds the
5 “minimum revenue anticipated” by the W Hotel in the signed agreement between IRL PAC and
6 the hotel (“Agreement”).⁶⁵ This substantial increase raises a reasonable question whether the
7 IRL PAC paid for lodging and meals for family, friends, and other people unconnected to the
8 events.

9 According to the Agreement, the “Total Minimum Revenue” expected was \$14,380;
10 \$9,880 covered a block of 10 hotel rooms for two nights, and \$4,500 covered food, beverages,
11 and the room rental for the Poolside Reception.⁶⁶ Forty attendees were expected for the
12 reception.⁶⁷ Under the Agreement, the Respondents’ responsibility for the \$9,880 in room

⁶³ IRL PAC Amended 2017 Year-End Report at 16.

⁶⁴ IRL PAC 12-Day Runoff Report at 22.

⁶⁵ Resp.; Exs. 4A-C.

⁶⁶ Resp.; Ex. 4C.

⁶⁷ *Id.*

1 charges would be reduced as attendees booked and paid for rooms in the reserved block.⁶⁸ Thus,
2 the total amount IRL PAC owed the hotel should have decreased, unless the PAC, not attendees,
3 paid for additional rooms.⁶⁹ But, in fact, IRL PAC’s final payments to the hotel in connection
4 with the Agreement totaled \$27,716, nearly twice the “minimum revenue anticipated.”
5 Respondents do not explain this substantial increase. And while it is not unusual for events to
6 cost more than anticipated — if, for example, more than 40 people attended the Poolside
7 Reception, the event costs would likely be more than \$4,500 — it seems unlikely that such
8 increases would have caused IRL PAC’s total bill to the W Hotel to nearly double.⁷⁰ Further,
9 since IRL PAC was not making any payroll disbursements to staff, and did not disclose any
10 reimbursements to volunteers for any expenses during the time of this event, it does not appear
11 that additional rooms would have been used for IRL PAC staff or volunteers.⁷¹

⁶⁸ *Id.* The Agreement provides that the guests were responsible for renting the rooms in the room block, but in the event that the guests reserving the room block fail to generate the “Adjusted Minimum Guest Room Revenue” (90% of the total value of the room block (\$9,880), or \$8,892), IRL PAC agrees to pay “Attrition Damages.” *Id.* at 2-3. Such damages will be equal to the “Adjusted Minimum Guest Room Revenue” minus the actual guest room revenue, which reflected the portion of the room block that the hotel was able to rent out to other guests. *Id.* at 3.

⁶⁹ The Response states that the 2018 W Hotel event reflected an annual fundraiser that was usually on behalf Ros-Lehtinen for Congress, but now focused on supporting IRL PAC. Resp. at 2. In March 2017, the Ros-Lehtinen Committee held a weekend event at the W Hotel, and the agreement with the hotel for that event was similar to the 2018 Agreement with IRL PAC. Resp.; Ex. 1C. Like the 2018 Agreement, the 2017 agreement reserved a block of hotel rooms and the room charges represented most of the costs contained in the agreement, specifically, \$14,870 of the \$20,370 “Total Minimum Revenue” in the 2017 agreement *Id.* Like IRL PAC, the Ros-Lehtinen Committee was solely responsible for the remaining charges, which included the food and beverage and room rental charges for a cocktail fundraiser reception. But unlike the March 2018 fundraising event, the Ros-Lehtinen Committee’s final payment of \$18,545 to the hotel in 2017 reflected a reduction from the “Total Minimum Revenue” in the agreement. *See* Ros-Lehtinen Committee Amended 2017 July Quarterly Report at 50 (Aug. 22, 2017).

⁷⁰ Respondents state that IRL PAC’s W Hotel South Beach weekend events raised a total of \$22,250 in contributions, about \$9,000 less than it paid the hotel and the restaurant for the two events. Resp. at 2. The invitation for the Poolside Reception and Dinner events asked for a contribution of \$1,000 per person per event. Resp.; Ex. 4A.

⁷¹ IRL PAC’s disclosure report during this period reflects only one person compensated for assisting the PAC – Reimy Benitez – who had been receiving monthly payments for “Accounting/Report Preparation.” *See* IRL PAC Amended 2018 April Quarterly Report at 34.

1 Accordingly, the unexplained significant increase in costs at a time when IRL PAC's
2 responsibility should have decreased under the Agreement suggests that IRL PAC incurred
3 additional hotel expenses not connected to either the Poolside Reception or Ros-Lehtinen's other
4 officeholder duties. Finally, IRL PAC's post-fundraising event payment of \$726.33 in meal
5 charges to the hotel on March 12, 2018, an expense that was not specifically referenced in the
6 Agreement, could likewise be connected to other spending. As Respondents offer no
7 explanation for the substantial increase from the Agreement or the March 12 meal charges, IRL
8 PAC's spending here appears to warrant further scrutiny.

9 Based on the foregoing, the available information raises a reasonable inference that
10 Respondents converted campaign funds into personal use. Accordingly, the Commission finds
11 reason to believe that IRL PAC and Ed Torgas in his official capacity as treasurer (terminated),
12 South Florida First PAC (f/k/a Ros-Lehtinen for Congress) and Antonio Argiz in his official
13 capacity as treasurer (terminated) and Ros-Lehtinen violated 52 U.S.C. § 30114(b) by converting
14 campaign funds to personal use.⁷²

⁷² With respect to the remaining disbursements identified by the Complaint, there is insufficient information to find reason to believe that they were for personal use. This conclusion applies to the provision of Best Buy gift cards, meal expenses at the Mesamar restaurant, and the fundraising costs of Ros-Lehtinen's 2017 event the W Hotel South Beach Hotel. The Commission has dismissed a matter in which the complaint alleged that expenditures were for personal use because they were allegedly excessive in comparison to those of other committees, noting that "there is nothing inherently suggestive about the fact that the Committee reported spending more on [disputed expenditures] than other committees." *See* Factual & Legal Analysis at 7, MUR 7494 (John Culberson, *et al.*) (dismissing allegations of personal use where complainant failed to link questioned expenditures to actual personal use).