

Congressional District in the United States House of Representatives and in his 2010 special election campaign for the same seat, for Mr. Lynch's personal use. Mr. Lynch used campaign funds to pay for various personal expenses, including monthly gym membership dues, payments on a personal loan, various automobile expenses, and retail purchases. The Federal Election Commission seeks a declaration that defendants' conversion of \$1,374 of campaign funds for Mr. Lynch's personal use on or after August 20, 2010 violated 52 U.S.C. § 30114(b), the assessment of a \$7,500 civil penalty against Mr. Lynch in his personal capacity, the assessment of a \$7,500 civil penalty against Lynch for Congress and Mr. Lynch in his official capacity as treasurer of that committee, an order requiring Mr. Lynch to disgorge the \$1,374 of campaign funds converted to personal use on or after August 20, 2010, and a permanent injunction against future similar violations by defendants.

JURISDICTION AND VENUE

2. This action seeks declaratory, injunctive, and other appropriate relief pursuant to the express authority granted by Congress to the Federal Election Commission in the Federal Election Campaign Act ("Act" or "FECA"), codified at 52 U.S.C. §§ 30101-146.¹

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. A substantial part of the acts or omissions giving rise to this suit occurred in this district and 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).

¹ Until recently, FECA's provisions were found in Title 2 of the United States Code. Those provisions have now been moved to new 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.

THE PARTIES

5. Plaintiff Federal Election Commission (“Commission” or “FEC”) 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, 52 U.S.C. § 30109(a)(1)-(2), and to initiate civil actions in the United States district courts to obtain judicial enforcement of the Act, 52 U.S.C. §§ 30107(e), 30109(a)(6).

6. Defendant Edward J. Lynch, Sr. was a candidate, within the meaning of 52 U.S.C. § 30101(2), to represent Florida’s 19th Congressional District in the United States House of Representatives in 2008 and in a special election for the same congressional seat in 2010.

7. Defendant Lynch for Congress (“Lynch Committee”) was and is a political committee of Edward J. Lynch, Sr. within the meaning of 52 U.S.C. § 30101(4). Mr. Lynch designated the Lynch Committee as his authorized principal campaign committee, within the meaning of 52 U.S.C. § 30101(5)-(6), for the 2008 election to represent Florida’s 19th Congressional District in the United States House of Representatives and the 2010 special election for the same congressional seat. As such, the Lynch Committee was authorized to receive contributions and make expenditures on behalf of the candidate, Edward J. Lynch, Sr. *See* 52 U.S.C. § 30102(e)(1)-(2). No expenditure by or on behalf of the Lynch Committee could or can be made without the authorization of the Committee’s treasurer or his or her agent. *See* 52 U.S.C. §§ 30102(a), 30103(b)(4).

8. In addition to being a candidate, Mr. Lynch has served as the treasurer and custodian of records for the Lynch Committee since February 28, 2008.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

9. 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).

10. The Act provides that contributions or donations described in 52 U.S.C. § 30114(a) “shall not be converted by any person to personal use.” 52 U.S.C. § 30114(b)(1).

11. The Act defines “personal use” as the use of a contribution or donation “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).

12. Personal use includes, *inter alia*, payments of home mortgages, rent, or utilities; clothing purchases; non-campaign related automobile expenses; and health club dues, among other payments. 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g).

13. In enforcement actions instituted by the Commission, courts are authorized to grant injunctions or other orders, including assessing civil penalties that do not exceed the greater of \$7500 or an amount equal to any contribution or expenditure involved, for each violation of the Act. 52 U.S.C. § 30109(a)(6)(B); 11 C.F.R. § 11.24(a)(1) (providing the inflation-adjusted statutory penalty amount).

14. Actions “for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise,” including for violations of the personal use prohibition, are subject to a five-year statute of limitations. 28 U.S.C. § 2462.

FACTUAL BACKGROUND

15. Edward J. Lynch, Sr. was an unsuccessful candidate in the 2008 election to represent Florida's 19th Congressional District in the United States House of Representatives and again in the 2010 special election for the same congressional seat.

16. During his first campaign, Mr. Lynch filed a Statement of Candidacy and Statement of Organization designating himself as treasurer and custodian of records for the Lynch Committee. He filed a new Statement of Candidacy when he decided to participate in the 2010 special election to fill a vacancy resulting from Representative Robert Wexler's retirement and did not change his designation as the Lynch Committee's treasurer.

17. Evidence obtained by the Commission indicates that during each campaign, Mr. Lynch exercised nearly exclusive oversight of the Lynch Committee's funds and bank records and that he restricted his staff's access to records reflecting the Lynch Committee's financial activities and status.

18. Evidence obtained by the Commission further indicates that between 2008 and 2010, as much as \$53,500 in campaign contributions to the Lynch Committee were used to pay Mr. Lynch's personal expenses.

19. Mr. Lynch has admitted that he spent "over \$5,000" in campaign funds for personal expenses, including seven months of a recurring gym membership fee, a home utility bill payment, an emergency room visit, a driver's license fee, payment on a personal loan, purchase of a gun holster, shooting range fees, and retail and clothing purchases.

20. Mr. Lynch has also admitted that he spent campaign funds on expenses that were for a mixture of campaign and personal use, including vehicle expenses, cell phone payments, meals, and cash withdrawals, and he has stated that he failed to document such expenditures.

21. Bank records subpoenaed by the Commission reflect \$30,530 in cash withdrawals through ATM and bank teller withdrawals for which there is no documentation reflecting how the withdrawn fund were used or by whom.

22. This complaint seeks relief for each of the following expenditures, made on or after August 20, 2010 — months after Mr. Lynch lost the April 2010 special election for Florida's 19th Congressional District in the United States House of Representatives — of personal expenses of Mr. Lynch with the Lynch Committee's campaign funds:

Date	Amount of disbursement	Description of Payment in Bank Statement
8/20/2010	\$59.22	Chevron
8/30/2010	\$69.00	Shell Oil
8/30/2010	\$35.00	The Ladders
9/2/2010	\$82.72	ER Bradley's Saloon
9/3/2010	\$42.00	Lake Point BP
9/7/2010	\$17.36	Publix
9/16/2010	\$500.00	Over the Counter W/D
9/16/2010	\$52.77	On the Border Royal
9/16/2010	\$64.18	Shell Oil
9/16/2010	\$286.42	Kohl's
9/17/2010	\$10.65	PF Royal Palm
9/20/2010	\$52.61	Shell Oil
9/27/2010	\$62.54	Exxon Mobil
10/10/2010	\$29.00	PF Royal Palm
11/17/2010	\$10.65	PLA FIT RPB member pay
TOTAL	\$1,374.12	

ADMINISTRATIVE PROCEEDINGS

23. The underlying administrative enforcement matter, Matter Under Review (“MUR”) 6498, was internally generated as a result of the Commission’s review of information in the normal course of carrying out its supervisory responsibilities indicating that Mr. Lynch and his principal authorized campaign committee may have violated, *inter alia*, FECA’s personal use provisions.

24. On or about June 14, 2010, the Commission sent defendants Mr. Lynch and the Lynch Committee a letter notifying them that the Commission had ascertained information in the normal course of carrying out its supervisory responsibilities indicating that the Lynch Committee and Mr. Lynch, personally and in his official capacity as treasurer of the Lynch Committee, may have violated FECA by, *inter alia*, using campaign funds for personal expenses and that the matter had been referred to the Commission’s Office of General Counsel for possible enforcement action. The letter further informed defendants that the Commission’s Office of General Counsel was reviewing the information in connection with making a recommendation to the Commission as to whether there is reason to believe that defendants violated the Act, and that before the General Counsel makes such a recommendation, defendants may provide in writing any factual or legal materials that they believe are relevant to the matter, including any related documents.

25. On July 6, 2010, the Commission received a letter from Mr. Lynch responding to the Commission’s June 14 notification letter.

26. After reviewing the available information, on November 1, 2011, the FEC voted 6-0 to find reason to believe that Mr. Lynch violated, *inter alia*, 2 U.S.C. § 439a(b) [now 52

U.S.C. § 30114(b)] by using campaign funds for personal expenses, that the Lynch Committee and Mr. Lynch, in his official capacity as treasurer of the Lynch Committee, violated, *inter alia*, 2 U.S.C. § 439a(b) [now 52 U.S.C. 30114(b)] by disbursing campaign funds for Mr. Lynch's personal expenses, and open an investigation. The Commission notified defendants of its reason-to-believe determination by letter sent on or about November 7, 2011.

27. During the course of the Commission's investigation of MUR 6498, the parties executed two tolling agreements, first on April 1, 2013, and second on May 28, 2013, each time allowing defendants additional time to respond to a letter and subpoena from the Commission and extending the Commission's time to institute a civil law enforcement suit by a period of 60 calendar days from the expiration date of the five-year statute of limitations found at 28 U.S.C. § 2462.

28. On or about July 1, 2015, the Commission's Office of General Counsel notified defendants that the Office of General Counsel was prepared to recommend that the Commission find "probable cause" to believe that the defendants had violated, *inter alia*, 2 U.S.C. § 439a(b) [now 52 U.S.C. § 30114(b)]. *See* 52 U.S.C. § 30109(a)(3). The Office of General Counsel also enclosed with its July 1 notification a brief stating the position of the Office on the legal and factual issues of the matter, and informed defendants that they may file a brief stating their position on the issues and replying to the brief of the Office of General Counsel. Defendants did not file a response to the General Counsel's brief.

29. On or about September 10, 2015, the Commission sent Mr. Lynch a letter referencing its July 1, 2015 notification and enclosed brief and the lack of any timely reply to that brief by defendants. The letter further referenced the Commission's receipt on August 5, 2015, of a notification from the defendants' former counsel that he had withdrawn from further

representation of the defendants. The letter advised Mr. Lynch of the Office General Counsel's intent to proceed with recommending that the Commission find probable cause to believe that defendants had violated, *inter alia*, 52 U.S.C. § 30114(b) based on the factual and legal analysis set forth in the Office of General Counsel's brief.

30. After reviewing the information available, on October 1, 2015, the Commission voted 6-0 to find probable cause to believe that Lynch for Congress and Mr. Lynch, personally and in his official capacity as treasurer violated, *inter alia*, 52 U.S.C. § 30114(b). The Commission further authorized the Office of General Counsel to attempt to correct the defendants' violations through informal methods of conference, conciliation, and persuasion.

31. The Commission notified the defendants on or about October 14, 2015, of the Commission's October 1, 2015 findings, and, for a period of not less than 30 days, endeavored to correct the violations through informal methods of conference, conciliation, and persuasion. *See* 52 U.S.C. § 30109(a)(4)(A).

32. Unable to secure acceptable conciliation agreements with defendants, on December 10, 2015, the Commission voted 6-0 to authorize filing this civil lawsuit against defendants. *See* 52 U.S.C. § 30109(a)(6).

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

FIRST CAUSE OF ACTION

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

35. On or after August 20, 2010, Edward J. Lynch, Sr. converted a total of approximately \$1,374 of the Lynch Committee's campaign funds to his personal use, including

for monthly gym membership dues, a cash withdrawal, various automobile expenses, and retail purchases.

36. By converting those Lynch Committee campaign funds to his own personal use, defendant Edward J. Lynch, Sr. violated 52 U.S.C. § 30114(b).

SECOND CAUSE OF ACTION

37. Paragraphs 1 through 38, inclusive, are incorporated herein by reference.

38. On or after August 20, 2010, the Lynch Committee and Edward J. Lynch, Sr., in his official capacity as treasurer for the Lynch Committee, disbursed approximately \$1,374 in the Lynch Committee's campaign funds for Mr. Lynch's personal expenses, including for monthly gym membership dues, a cash withdrawal, various automobile expenses, and retail purchases.

39. By disbursing those Lynch Committee campaign funds for Mr. Lynch's personal use, the Lynch Committee and Edward J. Lynch, Sr., in his official capacity as treasurer for the Lynch Committee, violated 52 U.S.C. § 30114(b).

PRAYER FOR RELIEF

WHEREFORE, plaintiff Federal Election Commission prays that this Court:

A. Declare that the Lynch Committee and Edward J. Lynch, Sr., personally and in his official capacity as treasurer of the Lynch Committee, violated 52 U.S.C. § 30114(b) by converting approximately \$1,374 in the Lynch Committee's campaign funds to the personal use of Mr. Lynch on or after August 20, 2010;

B. Assess a \$7,500 civil penalty against Edward Lynch, Sr. in his personal capacity and a \$7,500 civil penalty against the Lynch Committee and Mr. Lynch in his official capacity as treasurer. 52 U.S.C. § 30109(a)(6)(B); 11 C.F.R. § 111.24(a)(1).

C. Order defendant Edward J. Lynch, Sr. to disgorge the \$1,374 in the Lynch Committee's campaign funds that he converted for his personal use on or after August 20, 2010;

D. Permanently enjoin the Lynch Committee and Edward J. Lynch, Sr., personally and in his official capacity as treasurer of the Lynch Committee, from converting campaign funds to the personal use of Mr. Lynch;

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

F. Grant plaintiff Federal Election any other relief to which the Commission may be entitled.

Respectfully submitted,

Daniel A. Petalas
Acting General Counsel
dpetalas@fec.gov

Lisa J. Stevenson
Deputy General Counsel
lstevenson@fec.gov

Kevin Deeley
Acting Associate General Counsel
kdeeley@fec.gov

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s/ Benjamin A. Streeter III
Benjamin A. Streeter III
Attorney
bstreeter@fec.gov

Erin Chlopak
Acting Assistant General Counsel
echlopak@fec.gov

COUNSEL FOR DEFENDANT
FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

CERTIFICATE OF SERVICE

I, Benjamin A. Streeter III, an attorney of record in this case, certify that I served on March 7, 2016 a copy of the foregoing Federal Election Commission's Amended Complaint to Edward J. Lynch, Sr., individually and in his official capacity as treasurer and as custodian of record for Lynch for Congress, via first class mail addressed to Mr. Lynch in each of his capacities at his address of record, 10269 Trianon Place, Wellington, FL 33449, and via this Court's Electronic Case Filing System.

s/ Benjamin A. Streeter III