

**BEFORE THE FEDERAL ELECTION COMMISSION**

**ROB SECAUR,**

c/o Ohio Republican Party  
211 South Fifth Street  
Columbus, Ohio 43215

v.

Matter Under Review No. \_\_\_\_\_

**THE OHIO DEMOCRATIC PARTY,**

340 East Fulton Street  
Columbus, Ohio 43215

**ALAINA SHEARER,**

P.O. Box 542  
Lewis Center, Ohio 43035

**ALAINA SHEARER FOR CONGRESS,**

P.O. Box 542  
Lewis Center, Ohio 43035

**DESIREE TIMS, and**

P.O. Box 17034  
Dayton, Ohio 45417

**FRIENDS OF DESIREE TIMS,**

P.O. Box 17034  
4323 W. 3rd Street  
Dayton, Ohio 45417.

**COMPLAINT**

I am the Executive Director of the Ohio Republican Party. Pursuant to 52 U.S.C. § 30109(a)(1), I am filing this complaint with the Federal Election Commission (“FEC” or “Commission”) because I have reason to believe that the Ohio Democratic Party, two Democratic congressional candidates, and their respective campaigns (collectively,

“Respondents”) are engaging in an unlawful scheme to violate the federal campaign finance laws.

The FEC’s regulations permit a candidate’s campaign – and only the candidate’s campaign – to pay the candidate a salary. Salary payments to the candidate from any other entity are *per se* unlawful. As further detailed in this complaint, publicly available reports indicate that the Ohio Democratic Party paid two candidates – Alaina Shearer and Desiree Tims – tens of thousands of dollars in combined salary payments in violation of federal law.

In response to a similar complaint, the Ohio Democratic Party admitted that it has engaged in this sort of scheme “[f]or several years” and has shown no signs of backing down from what appears to be a blatantly unlawful practice. Laura Bischoff, *Mike Turner Accuses Desiree Tims of Campaign Violations*, Dayton Daily News (Sept. 2, 2020).<sup>1</sup> But when another candidate recently engaged in similar conduct, the Commission declared that a “significant civil penalty” was warranted and ultimately fined the candidate and his campaign thousands of dollars. The Commission should investigate this matter and fine the Respondents accordingly.

### **PARTIES**

1. Complainant Rob Secaur is the Executive Director of the Ohio Republican Party.
2. Respondent Ohio Democratic Party is the federally-registered committee associated with the Democratic Party of Ohio.
3. Respondent Alaina Shearer is the Democratic candidate for Congress in Ohio’s Twelfth Congressional District.
4. Respondent Alaina Shearer for Congress is Ms. Shearer’s federally-registered campaign committee.

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<sup>1</sup> <https://www.daytondailynews.com/news/mike-turner-accuses-desiree-tims-of-campaign-violations/E5EHZQAG6ZFMFOLJY2GCGCCCEY/>.

5. Respondent Desiree Tims is the Democratic candidate for Congress in Ohio’s Tenth Congressional District.
6. Respondent Friends of Desiree Tims is Ms. Tims’ federally-registered campaign committee.

**FACTUAL BACKGROUND**

7. On May 15, 2020, Ms. Shearer filed a Financial Disclosure Report with the Clerk of the U.S. House of Representatives disclosing information about her income and assets. *See* Alaina Shearer, Financial Disclosure Report (May 15, 2020).<sup>2</sup> This report states that, through the date of filing, Ms. Shearer had received \$21,527.38 in “Salary” from the “Ohio Democratic Party/Campaign.” *Id.*
8. According to the FEC’s records, it does not appear that Ms. Shearer’s campaign committee ever paid a stipend/salary directly to Ms. Shearer.
9. Instead, the Ohio Democratic Party’s FEC reports reflect that the following payments to Ms. Shearer:

<b><u>DATE OF PAYMENT</u></b>	<b><u>AMOUNT</u></b>
January 30, 2020	\$2,698.79
February 13, 2020	\$2,698.77
February 27, 2020	\$2,698.79
March 13, 2020	\$2,698.78
March 27, 2020	\$2,698.78
April 14, 2020	\$2,698.78
April 29, 2020	\$2,698.79
May 15, 2020	\$2,635.90

<sup>2</sup> At [https://disclosures-clerk.house.gov/public\\_disc/financial-pdfs/2020/10036016.pdf](https://disclosures-clerk.house.gov/public_disc/financial-pdfs/2020/10036016.pdf).

May 28, 2020	\$2,601.12
June 12, 2020	\$2,635.91
June 30, 2020	\$2,601.10
July 14, 2020	\$2,635.92
July 30, 2020	\$2,601.11

10. The “Purpose of Disbursement” for these payments is listed as “Payroll.”

11. Ms. Tims has filed several Financial Disclosure Reports with the Clerk of the U.S. House of Representatives disclosing information about her income and assets. *See* Desiree Tims, 2019 *Financial Disclosure Report* (Dec. 27, 2019);<sup>3</sup> Desiree Tims, 2020 *Financial Disclosure Report* (Aug. 13, 2020).<sup>4</sup> These reports aver that Ms. Tims received income in the form of a stipend/salary from one – and only one – entity during the relevant period: \$17,000 in the aggregate from the Friends of Desiree Tims committee. *See id.*

12. Yet according to the FEC’s records, it does not appear that Ms. Tims’ campaign committee has ever paid a stipend/salary to Ms. Tims.

13. Instead, the Ohio Democratic Party made the following series of regular payments to Desiree Tims:

<b><u>DATE OF PAYMENT</u></b>	<b><u>AMOUNT</u></b>
September 13, 2019	\$1,016.21
September 27, 2019	\$1,016.20
October 11, 2019	\$1,016.21

<sup>3</sup> At [https://disclosures-clerk.house.gov/public\\_disc/financial-pdfs/2019/10032332.pdf](https://disclosures-clerk.house.gov/public_disc/financial-pdfs/2019/10032332.pdf).

<sup>4</sup> At [https://disclosures-clerk.house.gov/public\\_disc/financial-pdfs/2020/10035961.pdf](https://disclosures-clerk.house.gov/public_disc/financial-pdfs/2020/10035961.pdf).

October 29, 2019	\$1,016.20
November 14, 2019	\$1,016.21
November 28, 2019	\$1,016.20
December 12, 2019	\$1,016.21
December 30, 2019	\$1,016.20
January 14, 2020	\$1,018.39
January 30, 2020	\$1,018.40
February 13, 2020	\$1,018.39
February 27, 2020	\$1,018.40
March 13, 2020	\$1,018.39
March 27, 2020	\$1,018.40
April 14, 2020	\$1,018.39
April 29, 2020	\$831.51
May 15, 2020	\$831.51

14. The “Purpose of Disbursement” for these payments is listed as “Payroll.”

**Count I – Misuse of Campaign Funds for Personal Use**

15. The Federal Election Campaign Act of 1971, as amended (“FECA”) prohibits the conversion of campaign funds for personal use. *See* 52 U.S.C. § 30114(b). The FEC’s regulations clearly explain that salary payments to a candidate are a *per se* violation of the personal use prohibition unless such payments comply with certain conditions. *See* 11 C.F.R. § 113.1(g);

*see also* First General Counsel’s Report, Matter Under Review 7068 (Mowrer for Iowa) at 4 (Dec. 5, 2016).<sup>5</sup>

16. One of these conditions is that the salary payment must come directly from “a candidate’s principal campaign.” 11 C.F.R. § 113.1(g)(1)(i)(I); *see also Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds*, 67 Fed. Reg. 76,962, 76,972 (Dec. 13, 2002) (“the candidate’s salary must be paid from his or her principal campaign committee only”) (emphasis added).
17. As noted above, I have reviewed the FEC’s database but did not find any information indicating that Ms. Shearer or Ms. Tims received a salary payment from their respective campaign committees. Instead, it appears that the Ohio Democratic Party made biweekly salary payments to the candidates during portions of the 2019-2020 election cycle. Because these payroll-related payments came from the Ohio Democratic Party rather than the candidate’s campaign, they are clear violations of § 113.1(g)(1)(i)(I) and constitute a *per se* personal use of campaign funds.<sup>6</sup>
18. These combined FECA violations are not *de minimis* and, in the Commission’s own words, warrant “a significant civil penalty.” *See* Conciliation Agreement, Matter Under Review 7068 (Mowrer for Iowa) at 5 (Aug. 30, 2018).<sup>7</sup> Indeed, the FEC fined candidate James Mowrer and his campaign committee thousands of dollars after the campaign had made impermissible salary payments in amounts less than the total amount at issue in this case.  
  
*See id.*

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<sup>5</sup> At <https://www.fec.gov/files/legal/murs/7068/18044452883.pdf>.

<sup>6</sup> These payments appear to be funded, at least in part, by contributions from the candidate’s own campaigns, which have reported making regular contributions to the Ohio Democratic Party. In the case of the Shearer campaign, these payments to the state party were specifically described as “Contribution – Payroll.” *See, e.g.*, Alaina Shearer for Congress, *Spending*, at <https://www.fec.gov/data/committee/C00724047/?cycle=2020&tab=spending>.

<sup>7</sup> At <https://www.fec.gov/files/legal/murs/7068/18044452939.pdf>.

**Count II – Misreporting the Purpose of Expenditures to Deceive Regulators and the Public**

19. The FEC’s regulations require political committees to specify the “purpose” of any itemized disbursement, with the term “purpose” meaning “a brief statement or description of why the disbursement was made.” 11 C.F.R. § 104.3(b)(3), (4).
20. The Ohio Democratic Party reported payments to candidates Shearer and Tims as “payroll.” However, upon information and belief, the payments were not a payroll expense of the party but rather were salary payments to the two named candidates in their capacity as candidates.
21. The effect of the improper reporting was to defeat the truthful public disclosure that is required by the law. *Cf. Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds*, 67 Fed. Reg. at 76,972 (approving the permissibility of salary payments only after making clear that “all candidate . . . salaries [must] be fully disclosed to the public [such that] those who contribute to the campaign and who support the candidate will be able to voice their approval, or disapproval, of this use of campaign funds”).
22. Accordingly, all of the above itemized payments by the Ohio Democratic Party were improperly and inaccurately reported in violation of 11 C.F.R. § 104.3.

**CONCLUSION AND VERIFICATION**

Based on the foregoing information, I request that the Commission investigate this matter and take all appropriate steps to remedy the violations identified herein. Further, I affirm that the factual statements above are, to the best of my knowledge and belief, true pursuant to 18 U.S.C. § 1001.

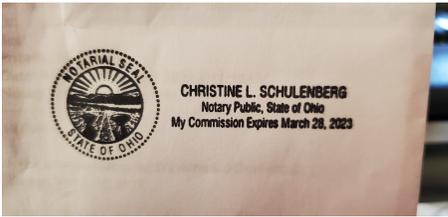
DATE: September 9, 2020

Respectfully submitted,

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Rob Secaur

Sworn to and subscribed before me this 10<sup>th</sup> day of September 2020.



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Notary Public