

**BEFORE THE
FEDERAL ELECTION COMMISSION**

Jason Henry
229 State Street
Harrisburg, PA 17101

Complainant,

v.

Sean Parnell
PO Box 1488
Cranberry Township, PA 16066

Americans for Parnell Committee
PO Box 1488
Cranberry Township, PA 16066

Respondents.

COMPLAINT

This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) against Sean Parnell and his principal campaign committee, Americans for Parnell Committee (the “Committee”), for apparently violating the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “Commission” or “FEC”) regulations. Public records suggest that Mr. Parnell profited off the Committee’s purchase of books he authored that are sold by a commercial publisher, which would be a clear violation of the Act’s prohibition on the personal use of campaign funds. Further, the Committee has repeatedly used campaign assets to promote Mr. Parnell’s books. Since Mr. Parnell’s Senate campaign launch in May, his campaign social media accounts have posted promotional book material on twenty-five different occasions. The prohibition on personal use of campaign funds exists to ensure that campaign funds provided by political contributors are not siphoned away for private gain; the Commission should

immediately investigate whether these actions violated the prohibition on the conversion of campaign funds to personal use and prohibit Mr. Parnell from any further misuse of campaign funds.

FACTUAL BACKGROUND

Sean Parnell is a candidate for U.S. Senate in the state of Pennsylvania.¹ The Committee filed its Statement of Organization with the Commission on May 12, 2021.² According to Mr. Parnell's Senate financial disclosure filed on September 8, 2021, he has been a party to three publication agreements since 2010 with HarperCollins Publishers for the development and publication of five books that he authored.³ All five books were published by HarperCollins Publishers, including his most recent book, *Left for Dead*, which was released on Sept. 7, 2021.⁴ Mr. Parnell reported earned income totaling \$96,811, which was labeled in separate line items on his financial disclosure as either "Royalties" or "Profits on Sale of Books."⁵

The Committee's second quarter FEC report disclosed a payment of \$1,296.69 to Harper Collins Publishing for "Donor Mementos" on June 29, 2021.⁶ Similarly, the Committee's third quarter FEC report disclosed another payment of \$1,506.85 to Harper Collins Publishing for "Donor Mementos" on September 3, 2021.⁷

¹ *FEC Form 1*, Fed. Elec. Comm'n., <https://docquery.fec.gov/cgi-bin/forms/C00724914/1531110/>.

² *Id.*

³ *Candidate Report: Mr. Richard S Parnell*, U.S. Sen. Financial Disclosures (filed Sept. 8, 2021), <https://efdsearch.senate.gov/search/view/annual/0060f214-3495-41b1-bd68-0533432dad8a/>.

⁴ *Sean Parnell*, HARPERCOLLINS PUBLISHERS, <https://www.harpercollins.com/blogs/authors/sean-parnell>.

⁵ *Candidate Report: Mr. Richard S Parnell*, U.S. Sen. Financial Disclosures (filed Sept. 8, 2021), <https://efdsearch.senate.gov/search/view/annual/0060f214-3495-41b1-bd68-0533432dad8a/>.

⁶ *Americans for Parnell Committee – Itemized Disbursements*, Fed. Election Comm'n., <https://docquery.fec.gov/cgi-bin/forms/C00724914/1527294/sb/ALL>.

⁷ *Americans for Parnell Committee – Itemized Disbursements*, Fed. Election Comm'n., <https://docquery.fec.gov/cgi-bin/forms/C00724914/1544321/sb/ALL>.

The Committee has repeatedly used its campaign social media accounts on Twitter, Facebook and Gettr to promote Mr. Parnell's books.⁸ Since the Committee filed its Statement of Organization, the Committee posted promotional book materials in at least twenty-five separate instances: nine times on Twitter, twelve times on Facebook, and four times on Gettr.⁹ The posts include a re-Tweet on Twitter that stated "Do yourself a favor and pick up @SeanParnellUSA's latest Eric Steele book, out today."¹⁰ On Facebook, the Committee posted "We're giving away 100 copies of ONE TRUE PATRIOT! [One of Mr. Parnell's books]. Enter your chance to win . . ."¹¹ And on Gettr, one of the Committee's posts boasted, "Holy cow. My next thriller got a starred review from Publishers Weekly!! So cool. Check this out!"¹² These blatant plugs are only a small sampling of the Committee's promotional activity surrounding Mr. Parnell's books.

LEGAL ANALYSIS

The Act prohibits a candidate or any other person from converting campaign funds to "personal use."¹³ Personal use is any use of campaign funds for an expense "that would exist irrespective of the candidate's campaign or duties as a Federal officeholder."¹⁴ The personal use ban exists to protect campaign supporters, who contribute what they can to a candidate; and ensure their contributions are used for the purpose of electing the candidate rather than the personal enrichment of the candidate.¹⁵ Commission regulations include a non-exhaustive list of

⁸ While the Twitter and Gettr accounts did not expressly indicate they are official campaign accounts, the accounts both identify Mr. Parnell as a Senate candidate in the bio, link to the campaign website and have the campaign logo as the cover photo. *See* Exhibit A. The Committee's Facebook page explicitly states "Americans for Parnell Committee is responsible for this page." *Sean Parnell*, FACEBOOK, <https://www.facebook.com/officialseanparnell> (last visited Oct. 22, 2021).

⁹ *See* Exhibits B-D.

¹⁰ Exhibit B, @SeanParnellUSA, TWITTER (Sept. 7, 2021).

¹¹ Exhibit C, Sean Parnell, FACEBOOK (June 17, 2021).

¹² Exhibit D, @SeanParnellUSA, GETTR (July 25, 2011).

¹³ 52 U.S.C. § 30114(a), (b)(1); 11 C.F.R. § 113.2.

¹⁴ 11 C.F.R. § 113.1(g).

¹⁵ *See id.* § 113.1(g)(1).

expenses that constitute *per se* personal use.¹⁶ For expenses not on the *per se* personal use list, the Commission evaluates, on a case-by-case basis, whether the expenses would have existed irrespective of the candidate's campaign and therefore are an impermissible personal use.¹⁷

The purchase of a candidate's book is not one of the *per se* personal uses.¹⁸ The Commission has held that a campaign committee may use campaign funds to purchase copies of a candidate's book for distribution to campaign supporters and contributors, at fair market value.¹⁹ However, when the candidate receives royalties for a book, the Commission has consistently conditioned this conclusion on the fact that the publisher "(1) donates the candidate's royalties for [the] campaign's book purchases to a charitable organization that is not associated with the candidate and (2) excludes such sales from the calculation of royalties that accrue to the candidate."²⁰ If those conditions are met, the book purchases do not convert campaign funds to a candidate's personal use.

The Commission has previously determined that expenses associated with marketing a book published by a commercial publisher exist irrespective of a candidate's electoral campaign.²¹ Thus, use of a campaign committee's assets to promote a book from which the candidate receives royalties is generally a prohibited personal use of campaign funds.²² The Commission has carved out a limited exception to this principle when both the amount of promotional material and the cost to the committee are *de minimis*.²³ The Commission has concluded that that "the addition of a single sentence, or, at most, two sentences of promotional

¹⁶ *Id.* § 113.1(g).

¹⁷ *Id.* § 113.1(g)(1)(ii).

¹⁸ Fed. Election Comm'n., Adv. Ops. 2001-08, 2011-02, 2014-06.

¹⁹ *Id.*, Adv. Op. 2014-06, page 4.

²⁰ *Id.* at 5.

²¹ *Id.*, Adv. Op. 2006-7, page 3.

²² *Id.*, Adv. Op. 2014-06, page 7.

²³ *See id.*

material about a candidate's book to an authorized committee's substantial website d[oes] not constitute a prohibited personal use of campaign funds, since both the amount of promotional material and the cost to the committee [are] *de minimis*."²⁴ Consistent with this position, the Commission found a proposal to post promotional material comprising up to 25 percent of the authorized committee's website's homepage, 25 percent of the committee's Facebook page, 10 percent of the committee's Twitter page, and 25 percent of the candidate's LinkedIn page to not appear to represent a *de minimis* amount of material.²⁵

Mr. Parnell appears to have financially benefited from his campaign's purchase of his books, in violation of the personal use prohibition. Mr. Parnell has reported receiving nearly \$100,000 in income from royalties and book sale profits in the past decade, which suggests that Mr. Parnell is actively receiving royalty payments for his published works. Furthermore, his principal campaign committee has purchased over \$2,500 in "Donor Mementos" from the publisher of all five of Mr. Parnell's books.²⁶ And there is no indication that HarperCollins Publishers (1) donated Mr. Parnell's royalties from the Donor Memento purchases to a charitable organization that is not associated with Mr. Parnell or (2) excluded such sales from the calculation of royalties that likely accrued to Mr. Parnell. Accordingly, the evidence strongly suggests that Mr. Parnell violated the Act's prohibition on personal use by receiving royalties on his Committee's book purchases—a conversion of campaign funds into personal use.

Further, through his campaign's social media, Mr. Parnell and the Committee appear to have repeatedly used campaign resources for his private gain. Although the Commission has permitted candidates to use campaign resources to make *de minimis* mentions of their published

²⁴ *Id.* Adv. Op. 2011-02, page 6.

²⁵ *Id.* at 7.

²⁶ While the Committee's FEC reports list the recipient as "Harper Collins Publishing," the circumstances suggest that this recipient is actually "HarperCollins Publishers," the publisher of Mr. Parnell's books.

books, Respondents have published at least twenty-five promotional posts on social media, the majority of which featured large photos of his book(s). These twenty-five posts are clearly in excess of the two sentences of promotional material that the Commission has considered *de minimis*.

In addition to the sheer quantity of promotional posts, the actions appear to have entailed the use of substantial campaign staff time and campaign resources. For instance, some of the posts include custom-designed countdown graphics to his latest book's release date.²⁷ The Committee also touted at least one organized giveaway contest in which 100 copies of a Parnell book were given to winning contestants.²⁸ The Commission should immediately investigate the extent to which the Committee was involved in these promotional posts to determine whether these actions violated the prohibition on the conversion of campaign funds to personal use.

REQUESTED ACTION

Public records strongly indicate that Respondents may have violated the Act and Commission regulations by using campaign funds for personal use to further Mr. Parnell's private, financial interests. As such, we respectfully request that the Commission immediately investigate these violations and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,



Jason Henry
229 State Street, Harrisburg, PA 17101

²⁷ See Exhibit D.

²⁸ See Exhibit C.

SUBSCRIBED AND SWORN to before me this 28th day of October, 2021.

Diane J Parks

Notary Public

My Commission Expires:

9-9-25

Commonwealth of Pennsylvania - Notary Seal
Diane J. Parks, Notary Public
Allegheny County
My commission expires September 9, 2025
Commission number 1218170
Member, Pennsylvania Association of Notaries