

higher civil penalty.⁵ That vote failed, 3-2.⁶

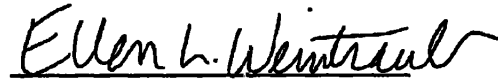
This particular case brings to the fore the reality that super PACs like Winning Our Future—created for the sole purpose of advocating for a candidate in a single election and mostly backed by a few large donors—can evade the rules with impunity simply by failing to timely disclose political activity and then disbanding after the election. On April 25, 2012, the Commission sent Winning Our Future a letter notifying them that there was a serious discrepancy in their reports regarding these communications, and warning that the Commission “may take further action concerning this matter.”⁷ One week later, on May 2, Winning Our Future refunded \$5 million to the committee’s top donor, leaving only \$529,217 in its bank account.⁸ Over the next year, the committee spent the vast majority of its remaining funds,⁹ knowing full well, for most of that time, that an enforcement action was pending.

The civil penalties provided in the Act are intended to be an incentive for accurate and timely reporting and compliance with the requirements of the law. An appropriate penalty in this matter would have reflected the severity both of the violation and of the conduct of the committee in evading enforcement. The Commission’s failure to pursue an adequate civil penalty under these circumstances risks conveying that super PACs can expect the Commission to grant them clemency regardless of their documented ability to raise funds. We are not willing to undermine the law in that manner.

2/27/14
Date


Ann M. Ravel
Vice Chair

2/27/14
Date


Ellen L. Weintraub
Commissioner

⁵ In the past, the Commission has approved penalties in similar matters that better corresponded to the severity of the violation. For example, in one prior case, the Commission approved a conciliation agreement with a respondent that had failed to file notices for just under \$1.2 million in communications. See Conciliation Agreement in MUR 5851 (DNC Services Corporation et. al.), dated Apr. 13, 2007, at 2. The respondent ultimately agreed to pay an \$82,000 penalty. *Id.* at 3.

⁶ See note 1, above.

⁷ See Request for Additional Information (“*RFAI*”) at 2, dated April 25, 2012, available at <http://images.nictusa.com/pdf/522/12330005522/12330005522.pdf#navpanes=0>.

⁸ See Amended June 2012 Monthly Report, dated May 29, 2013, available at <http://docquery.fec.gov/pdf/465/13962721465/13962721465.pdf#navpanes=0>.

⁹ Winning Our Future’s reports show that, by the end of March 2013, the committee had less than \$20,000 in its accounts. See Amended April 2012 Monthly Report, dated May 29, 2013, available at <http://docquery.fec.gov/pdf/543/13962721543/13962721543.pdf#navpanes=0>.