

June 16, 2015

Omar Ashmawy
Staff Director and Chief Counsel
Office of Congressional Ethics
1017 Longworth HOB
Washington, D.C. 20515

BY FAX: 202-226-0997

Re: Request for Investigation into Rep. Frank Guinta (R-NH)

Dear Mr. Ashmawy:

Citizens for Responsibility and Ethics in Washington ("CREW") respectfully requests that the Office of Congressional Ethics ("OCE") investigate whether Rep. Frank Guinta (R-NH) violated federal law and House rules by failing to disclose on his personal financial disclosure reports hundreds of thousands of dollars in assets, as well as income and transactions associated with those assets, that he steadfastly represents belong to him. Attempting to justify his conduct, Rep. Guinta self-servingly ignores the plain language of the Ethics in Government Act and misinterprets House Ethics Committee guidance, but his intentional omissions clearly violate both the letter and spirit of the law.

Background

During his first campaign for the House of Representatives in 2009 and 2010, Rep. Guinta lent his campaign committee, Friends of Frank Guinta, a total of \$355,000.¹ The size of these loans raised questions about the source of the funds and the veracity of the personal financial disclosure statement Rep. Guinta filed with the House Ethics Committee on May 15, 2010. In that statement, Rep. Guinta reported, among other things, having three bank accounts, including a Bank of America account with a reported value of \$15,001 to \$50,000.² After the *Nashua Telegraph* ran a story in July 2010 questioning how he had been able to loan such large sums of money to his campaign,³ Rep. Guinta amended his personal financial disclosure statement, disclosing for the first time a second Bank of America account that he valued at

¹ Federal Election Commission, MUR Nos. 6363 and 6440, First General Counsel's Report, May 9, 2011 ("First General Counsel's Report"), at 4, available at <http://eqs.fec.gov/eqsdocsMUR/15044373428.pdf>. See also Federal Election Commission, MUR Nos. 6363 and 6440, Response to Request for Materials and Motion to Dismiss Matter(s) Under Review, December 21, 2011 ("Guinta FEC Response"), at 8-9, available at <http://eqs.fec.gov/eqsdocsMUR/15044373452.pdf>.

² Frank C. Guinta, Personal Financial Disclosure Statement, Candidate Report, filed May 15, 2010, available at http://pfds.opensecrets.org/N00030801_2009_nom.pdf.

³ Kevin Landrigan, Hopeful's Support of Gun Ownership is Targeted, *Nashua Telegraph*, July 11, 2010.

between \$250,001 and \$500,000.⁴ This disclosure led to further questions about the source of the funds, and later in 2010 two complaints were filed with the Federal Election Commission (“FEC”) alleging Rep. Guinta did not have \$355,000 in personal funds to loan to his campaign, and thus he must have received the money from another source.⁵ Responding to those complaints, Rep. Guinta insisted (and still insists) the funds were his, yet also claimed he did not have to disclose them on his personal financial disclosure reports.

Rep. Guinta Unwaveringly Asserts Assets in the Family “Pot” Were and Are His

In public statements, filings with the FEC, and a sworn affidavit, Rep. Guinta unwaveringly has proclaimed the funds used for the loans belonged to him. According to Rep. Guinta, the source of those funds is a Guinta family “pot” of money.⁶ Over a long period of time, Rep. Guinta claims, starting when he was a child, his immediate family accumulated assets, including cash, real estate, and other assets, into what his parents call the family “pot.”⁷ The pot served as a “collective financial resource for the family,” and is “accessible in common to members of the family when needs arise.”⁸

Within this pot, Rep. Guinta asserts, the family commingled assets, including assets belonging to Rep. Guinta.⁹ In his initial response to the FEC, Rep. Guinta identified more than \$100,000 of his “own money” that was commingled into the pot.¹⁰ In a subsequent submission to the FEC, Rep. Guinta identified an additional \$41,800 in assets he asserts he contributed to the family pot.¹¹

The total value of his “equitable interests” in the family pot, however, is far larger, Rep. Guinta asserts.¹² Starting in his teenage years, Rep. Guinta “assumed a unique leadership role in the family’s financial and investment decisions,” spending a significant amount of time managing the equity investments in the family pot and advising his parents on investments and other financial decisions regarding the assets.¹³ As a result of these investments, the Guinta

⁴ Frank C. Guinta, Personal Financial Disclosure Statement, Candidate Report, Amended, filed July 23, 2010, available at http://pfds.opensecrets.org/N00030801_2009_nom_a.pdf.

⁵ Kasie Hunt, Bradley: Guinta Should Drop Out, *Politico*, August 13, 2010, available at <http://www.politico.com/news/stories/0810/41058.html>; First General Counsel’s Report, at 1-2.

⁶ Guinta FEC Response, at 1-3; Dave Solomon, Guinta Documents Don’t Add Up, *New Hampshire Union Leader*, May 17, 2015, available at <http://www.unionleader.com/article/20150517/NEWS06/150519269>; Tim Buckland, Guinta Agrees to Repay 2010 Campaign Contribution, Pay Fine, *New Hampshire Union Leader*, May 13, 2015, available at <http://www.unionleader.com/article/20150513/NEWS06/150519699/0/FRONTPAGE>.

⁷ Guinta FEC Response at 2, 3. The family members with interests in the “pot” are Rep. Guinta’s parents and their three adult children. *Id.* at 3.

⁸ *Id.* at 3.

⁹ *Id.*

¹⁰ *Id.* at 3-5.

¹¹ Federal Election Commission, MUR Nos. 6363 and 6440, Second General Counsel’s Report, February 11, 2014, at 5 (“Second General Counsel’s Report”) (citing Respondents’ Supplemental Submission, July 23, 2012), available at <http://eqs.fec.gov/eqsdocsMUR/15044373472.pdf>.

¹² Guinta FEC Response, at 6; Second General Counsel’s Report, at 5.

¹³ Guinta FEC Response, at 3, 6-7.

family has enjoyed “above-market returns . . . over the course of three decades.”¹⁴ While Rep. Guinta did not provide the exact value of these assets, his July 23, 2012 submission to the FEC asserted that applying the growth rate of the S&P 500 to the “combined assets Rep. Guinta personally contributed to the family pot would have been worth \$708,384.17 as of August 2010.”¹⁵

The Bank of America account holding at least some of the family pot assets was (and apparently still is) in the names of Rep. Guinta’s parents, not Rep. Guinta.¹⁶ Those assets, however, “belonged to him and . . . were available to him under FECA to loan/contribute to his campaign for federal office,” Rep. Guinta maintains.¹⁷ As a result, Rep. Guinta contends, the only way he could get his money out of the account was to have his parents write a check to him.¹⁸

Rep. Guinta repeatedly claimed the funds in the account are his, and has not wavered from that position. In a sworn affidavit submitted to the FEC, for example, Rep. Guinta asserted: “I possess legal access [to] the funds in the [Bank of America] Account based up an equitable interest, and pursuant to a specific commitment and pledge to me from my parents that the funds in the Account were available to me for my use for whatever purpose(s) I deemed appropriate.”¹⁹ Throughout his response to the FEC, Rep. Guinta similarly asserted an “equitable interest” in the assets.²⁰ “Rep. Guinta’s interest in the pot was not simply *de facto*, it was *de jure*,” he told the FEC. While the family did not establish a formal trust,²¹ Rep. Guinta asserted the funds are so unquestionably his that if his parents ever denied him access to the money in the family pot, Rep. Guinta could have secured a constructive trust to his benefit over the accounts.²² As a result, “[a] court would recognize and enforce Rep. Guinta’s equitable interest over his fair share of the funds held in the family pot.”²³ The amount of the trust to which he would be entitled, Rep. Guinta added, included “any increase in the value of that property from investment.”²⁴

Rep. Guinta also made numerous public statements insisting the funds were his, including several in the last month. In a “Note and Apology” posted on his campaign’s Facebook pages, for instance, Rep. Guinta stated: “Did my parents issue checks? Yes. Due to my status as a minor in the early years, my parent’s [sic] names were at the top of the account. *Was it their*

¹⁴ *Id.* at 6.

¹⁵ Second General Counsel’s Report, at 5.

¹⁶ Guinta FEC Response, at 1-2, 14.

¹⁷ *Id.* at 2.

¹⁸ Solomon, *New Hampshire Union Leader*, May 17, 2015.

¹⁹ Second General Counsel’s Report, at 2 (citing Frank Guinta Affidavit, ¶¶ 5-6). *See also id.* (“‘The source of all funds loaned by me to the [campaign] Committee was an account at Bank of America’ that was ‘comprised of funds which are an asset over which I had/have legal right of access or over which I had/have control.’”).

²⁰ *See, e.g.*, Guinta FEC Response, at 6, 11.

²¹ *Id.* at 10, 14.

²² *Id.* at 1, 10-11.

²³ *Id.* at 11.

²⁴ Guinta FEC Response, at 11.

*money? No. Documents prove the funds were mine.*²⁵ Rep. Guinta made similar comments to news organizations, including the *New Hampshire Union Leader*.²⁶

A significant amount of the assets Rep. Guinta insists belong to him appear to have been in the family pot over the last five years, and more likely will be added over the next year. Subtracting the \$355,000 Rep. Guinta loaned to his campaign committee from \$708,384.17 – the minimum value Rep. Guinta put on his assets in the family pot – Rep. Guinta's share of the family pot was at least \$353,384.17 in August 2010. There is no evidence Rep. Guinta's share of the family pot diminished in the subsequent years. In addition, under the terms of the conciliation agreement he reached with the FEC to resolve the two complaints against him, Rep. Guinta must refund the \$355,000 in loans he made to his campaign within 12 months.²⁷ Presumably, Rep. Guinta will be returning those funds to the family pot.

Rep. Guinta Failed to Disclose the Assets in His Personal Financial Disclosures

With one exception, Rep. Guinta has not disclosed any of the assets in the family pot he insists are his. As noted, Rep. Guinta's original 2009 personal financial disclosure report, filed in May 2010, failed to disclose any of the funds in the family pot he claims are his.²⁸ Rep. Guinta – then a candidate for the House – amended his report in July 2010, disclosing for the first and only time the second Bank of America account he claims contains the assets in the family pot he lent to his campaign.²⁹

Despite disclosing the second Bank of America account on the amended 2010 report, none of the personal financial disclosure reports Rep. Guinta subsequently filed with the House Ethics Committee list that account or any other personal assets that are part of the family pot. In all, Rep. Guinta filed six personal financial disclosure reports that omitted these assets: an original 2010 report, an amended 2010 report, an original 2011 report, an amended 2011 report, a termination report covering 2012 filed after Rep. Guinta was defeated in the 2012 election, and a report covering 2012-14 filed in March 2014 when Rep. Guinta again became a candidate for the House.³⁰

²⁵ Guinta for Congress Facebook page, *A Note and Apology from Frank Guinta*, May 17, 2015 (emphasis added), available at <http://teamguinta.com/news/2015-05-17/note-and-apology-frank-guinta>.

²⁶ Solomon, *New Hampshire Union Leader*, May 17, 2015.

²⁷ Federal Election Commission, *MUR Nos. 6363 and 6440, Conciliation Agreement*, May 6, 2015, at 5, available at <http://eqs.fec.gov/eqsdocsMUR/15044373517.pdf>.

²⁸ Frank C. Guinta, *Personal Financial Disclosure Statement, Candidate Report*, filed May 15, 2010. This report purports to cover calendar year 2009 only.

²⁹ Frank C. Guinta, *Personal Financial Disclosure Statement, Candidate Report, Amended*, filed July 23, 2010. This report purports to cover the period from January 1, 2009 to April 30, 2010.

³⁰ Frank Guinta, *Personal Financial Disclosure Statement for Calendar Year 2010*, filed May 17, 2011, available at http://pfds.opensecrets.org/N00030801_2010.pdf; Frank Guinta, *Personal Financial Disclosure Statement for Calendar Year 2010, Amended*, filed August 17, 2011, available at http://pfds.opensecrets.org/N00030801_2010_a.pdf; Frank Guinta, *Personal Financial Disclosure Statement for Calendar Year 2011*, filed May 15, 2012, available at http://pfds.opensecrets.org/N00030801_2011.pdf; Frank Guinta, *Personal Financial Disclosure Statement for Calendar Year 2011, Amended*, filed August 31, 2012, available at <http://pfds.opensecrets.org/>

Notably, it is not clear that the funds in the Bank of America account represent all of Rep. Guinta's assets in the family pot. Rep. Guinta asserted to the FEC that the family pot included, among other things, investment accounts, real estate, and stocks.³¹ In fact, Rep. Guinta claimed, he actively traded stocks for the benefit of the family and managed equity investments.³² It is not known if any such assets existed during the more than five year period covered by Rep. Guinta's personal financial disclosures and if so, whether a share of them belonged to him. Considering the prior diversification of the family pot and the above-market gains Rep. Guinta says he obtained, assets outside of the Bank of America account belonging to him may have existed or still exist. No such assets, however, were disclosed on his personal financial disclosure reports.

Rep. Guinta's personal financial disclosure reports also failed to disclose any income from the family pot or any transactions related to it. As noted, Rep. Guinta acknowledged he actively traded stocks for the family pot and obtained above-market returns. Although Rep. Guinta said his day-to-day management of the family pot diminished over time,³³ transactions involving assets he maintains belong to him may have occurred. Further, Rep. Guinta may have received income from his assets in the family pot, either from the equity, real estate, and other investments, or from interest on the assets in the second Bank of America account.

Violations

False Statements on Personal Financial Disclosure Reports

The Ethics in Government Act ("EIGA") requires all members of Congress and candidates for Congress to file financial disclosure reports.³⁴ House Rule 26 incorporates the financial disclosure provisions of EIGA,³⁵ and the House Ethics Committee publishes instructions for completing personal financial disclosure reports and provides guidance on disclosure in the House Ethics Manual. In addition, federal law prohibits anyone from "knowingly and willfully" making "any materially false, fictitious, or fraudulent statement or representation" in any matter within the jurisdiction of the executive, legislative, or judicial branch,³⁶ including statements on personal financial disclosure forms.

N00030801_2011_a.pdf; Frank Guinta, Personal Financial Disclosure Statement, Termination Report, filed March 5, 2013, available at http://pfd.opensecrets.org/N00030801_2012_Term.pdf; Frank C. Guinta, Personal Financial Disclosure Statement, Candidate Report, filed March 13, 2014, available at http://pfd.opensecrets.org/N00030801_2013.pdf (purporting to cover January 1, 2012 through January 31, 2014).

³¹ Guinta FEC Response, at 3, 7.

³² *Id.* at 3, 6-7.

³³ *Id.* at 3, 7.

³⁴ 5 U.S.C. app. 4, §§ 101(a), (c), (f).

³⁵ House Rule 26, cl. 2; House Comm. on Standards of Official Conduct, House Ethics Manual, at 248 (110th Cong., 2d Sess., 2008 ed.).

³⁶ 18 U.S.C. § 1001(a)(2).

EIGA requires all personal financial disclosure reports to “include a *full and complete statement* with respect to” the filer’s assets, income, and transactions.³⁷ With regard to assets, the statute requires members of Congress and candidates to disclose “[t]he identity and category of value of any interest in property held during the preceding year . . . for investment or the production of income” valued at more than \$1,000.³⁸ Deposits of more than \$5,000 in a “personal savings account” – defined to include “any certificate of deposit or other form of deposit in a bank” or similar financial institution – also must be disclosed.³⁹

The statute’s full and complete disclosure requirement is reflected in the House Ethics Committee’s instructions for the personal financial disclosure forms. The instructions for all of the years Rep. Guinta filed first state: “You are required to disclose the following on [the appropriate schedule]: 1. **Assets** (real and personal property) held for investment or the production of income valued at more than **\$1,000** at the close of the calendar year . . .”⁴⁰ The forms then specify that “[r]eal or personal property held by you, your spouse, or a dependent child as an investment or for the production of income must be disclosed if it is had a value in excess of \$1,000 at the close of the calendar year *or* generated unearned income in excess of \$200 during the calendar year.”⁴¹ Reportable assets include: real property, brokerage accounts, corporate securities, mutual funds, bank accounts, and trusts.⁴²

With regard to bank accounts – which only must be disclosed if the deposits in them total more than \$5,000 – the instructions provide:

In order to determine whether deposits in a bank account must be disclosed, you must first add together all interest-bearing checking and savings accounts held by you, your spouse, or a dependent child at every financial institution in which you have such accounts. If the total value of these accounts exceeded \$5,000 at the end of the calendar year, then you must disclose each financial institution which held deposits valued at more than \$1,000.⁴³

Based on this passage, Rep. Guinta argued to the FEC he did not have to disclose the second Bank of America account – even though he insists he held an equitable interest in the funds –

³⁷ 5 U.S.C. app. 4, § 102(a) (emphasis added). See also S. Rep. No. 170, 95th Cong., 2d Sess. 42 (EIGA is a “comprehensive statute requiring full and complete public financial disclosure by high-level officials in all three branches of Federal government”) (quoted in *Slevin v. New York*, 551 F. Supp. 917, 943 (S.D.N.Y. 1982)).

³⁸ 5 U.S.C. app. 4, § 102(a)(3).

³⁹ *Id.*

⁴⁰ See, e.g., House Committee on Ethics, Instruction for Guide Completing Calendar Year 2011 Financial Disclosure Statement, Form A (2012) (“2011 PFD Instructions”), at 11 (emphasis in original), available at https://web.archive.org/web/20120625142550/http://ethics.house.gov/sites/ethics.house.gov/files/73-495_FormA.pdf. As the relevant provisions in the 2011, 2012, and 2013 instructions are either identical or substantively the same, only the 2011 PFD Instructions are cited herein.

⁴¹ *Id.* (emphasis in original).

⁴² *Id.*

⁴³ 2011 PFD Instructions, at 16.

because the account was “held” in the names of his parents, not him. Under Rep. Guinta’s interpretation, the House requires filers “only to disclose bank accounts and property ‘held’ by” the filer, his or her spouse, or his or her dependent children *in their own name*.⁴⁴ The form, he contends, “does not call for disclosure of bank accounts commingled among parents and siblings, not established formally as a legal ‘trust.’”⁴⁵ Rep. Guinta recently repeated this argument to the news media.⁴⁶

Rep. Guinta’s self-serving misinterpretation contradicts the plain language of EIGA, the clear meaning of the House Ethics Committee’s instructions, and the spirit of the law.⁴⁷ The statute itself requires “full and complete” disclosure, including disclosure of “*any* interest in property,” including “*any* certificate of deposit or other form of deposit in a bank.”⁴⁸ There is no exception for funds in which the filer has an “equitable interest” but maintained in a bank account in another person’s name.

Nor do the House Ethics Committee’s instructions and guidance support Rep. Guinta’s interpretation. Rep. Guinta reads too much into the word “held.” Simply because a person’s name is not on an account does not mean they do not “hold” it. A person can “hold” property or an asset if he or she “maintain[s] possession of or authority over” it or possesses it “in virtue of legal title.”⁴⁹ Here, Rep. Guinta insists he “held” an ownership interest in the funds in the second Bank of America account, even though the account was not in his name.

The bank account instructions also must be read in the context of the instructions for other types of assets, which are concerned with ownership interests, not the name on the account. In other situations involving commingled funds or where the name on an account might not reflect the financial interests or rights, the instructions make clear disclosure is required when the filer has a genuine ownership interest in the asset. If a filer participates in an investment club in which the funds of several people are commingled, for example, he or she “must disclose your

⁴⁴ Guinta FEC Response, at 2, 14.

⁴⁵ *Id.* at 2.

⁴⁶ Solomon, *New Hampshire Union Leader*, May 17, 2015 (“‘There is nothing specific in the filing instructions about an asset like this,’ [Guinta] said. ‘It’s a unique asset of funds that I generated that are comingled with other family funds, and there was no requirement for that kind of money to be disclosed.’”). The instructions also provide that deposits in “non-interest bearing” personal checking or savings accounts do not need to be disclosed, regardless of the amount in them. 2011 PFD Instructions, at 19; *see also* House Ethics Manual, at 255. As Rep. Guinta has never claimed any assets in the family pot are excluded from disclosure under this provision, presumably none of those assets were or are in a non-interest bearing account.

⁴⁷ It also contradicts Rep. Guinta’s own position on disclosure in July 2010, when he disclosed the second Bank of America account on his amended 2009 personal financial disclosure form. That amendment “remedied” his earlier omission of the account, he told the FEC in early 2011. Federal Election Commission, MUR No. 6440, Response and Motion to Dismiss Complaint, January 20, 2011, *available at* <http://eqs.fec.gov/eqsdocsMUR/15044373425.pdf>. Rep. Guinta later attempted to justify his fluctuating views by claiming the original omission and the subsequent amendment “both represented reasonable and good faith attempts to comply with the form’s imperfect and ambiguous instructions.” Guinta FEC Response, at 14-15.

⁴⁸ 5 U.S.C. app. 4, § 102(a)(3) (emphasis added).

⁴⁹ Black’s Law Dictionary 503 (6th ed. 1991).

share of the holdings to the extent your interest . . . in any particular asset exceeded \$1,000.”⁵⁰ A filer must similarly disclose any “ownership interest” in a privately-held partnership, corporation, or other business entity, or in a hedge fund or a private equity fund.⁵¹ Where the filer is a partner in a limited partnership or limited liability company that holds real estate, the filer must disclose “your interest” in each property.⁵² Even the instructions for bank accounts that Rep. Guinta relies on later provides that when the filer is “listed on an account purely for custodian reasons and you *do not assert any ownership rights* to the assets in the account,” the account does not need to be reported.⁵³

Rep. Guinta’s interpretation also violates the policy underlying personal financial disclosure. The personal financial disclosure provisions “were enacted to monitor and to deter possible conflicts of interest due to outside financial holdings.”⁵⁴ The intent of public disclosure is to “provide the information necessary to allow Members’ constituencies to judge their official conduct in light of possible financial conflicts with private holdings.”⁵⁵ By failing to disclose all of his private holdings, Rep. Guinta deprived his constituents of the information needed to judge his conduct. Rep. Guinta’s interpretation also would create a massive loophole for hiding assets. A member or candidate could simply commingle his or her assets with another person in a bank account in the other person’s name, and would not be required to disclose them.

In addition, it is not even clear those assets fit in the category of bank account. Instead, they may be best considered a trust with Rep. Guinta as one of its beneficiaries. Rep. Guinta himself asserted to the FEC that his equitable ownership interest in his assets in the family pot is so strong that he could obtain a constructive trust over them. Rep. Guinta further claimed, however, that he did not have to disclose the assets because his family did not establish a formal trust over them.⁵⁶ This is incorrect. Both EIGA and the instructions make clear disclosure is not limited to formal trusts. The statute specifically requires disclosure of “holdings of and the income from a trust or *other financial arrangement*.”⁵⁷ The instructions similarly require disclosure of the assets in a “trust or a *similar financial arrangement*.”⁵⁸ Where such a trust or similar arrangement exists, the filer generally “must disclose” the arrangement and information concerning each asset held in it “in which you, your spouse, or a dependent child has a beneficial interest.”⁵⁹

Rep. Guinta’s self-serving interpretations of the instructions with regard to bank accounts and trusts are incorrect. Rep. Guinta claims he had (and he likely still has) an ownership interest

⁵⁰ 2011 PFD Instructions, at 19.

⁵¹ *Id.* at 14, 15, 17.

⁵² *Id.* at 17.

⁵³ *Id.*

⁵⁴ House Ethics Manual, at 249.

⁵⁵ *Id.* at 250.

⁵⁶ Guinta FEC Response, at 2, 14, n.22.

⁵⁷ 5 U.S.C. app. 4, § 102(f)(1) (emphasis added).

⁵⁸ 2011 PFD Instructions, at 18.

⁵⁹ *Id.* at 7.

in the second Bank of America bank account. After subtracting the \$355,000 he loaned to his campaign, his assets in that account were valued at more than \$353,000 as of August 2010. Rep. Guinta, however, failed to disclose these assets on six of his personal financial disclosure forms.

Furthermore, it is unclear if this bank account was Rep. Guinta's only asset in the family pot. Rep. Guinta asserted to the FEC that the family pot included, among other things, investment accounts, real estate, and stocks. EIGA and the instructions clearly require disclosure of these types of assets. To the extent these types of assets were in the family pot and Rep. Guinta held an equity interest in them, he should have disclosed them on his personal financial disclosure reports.

Rep. Guinta also claims he did not disclose assets in the family pot because it is illegal or improper to report an asset that should not be reported on a personal financial disclosure statement.⁶⁰ This is simply incorrect. As the House Ethics Manual clearly states: "In all instances, filers may disclose additional information or explanation at their discretion."⁶¹

EIGA and the instructions also require disclosure of all unearned income of more than \$200,⁶² and all transactions involving real property or securities valued at more than \$1,000.⁶³ Unearned income that must be disclosed includes dividends, interest, and capital gains.⁶⁴ If the second Bank of America account was interest-bearing, and it generated more than \$200 in interest in any year that he filed a personal financial disclosure, Rep. Guinta should have reported that income. Moreover, Rep. Guinta claimed he obtained above-market returns for the family pot in the years that he actively managed it, and provided investment advice at other times. If any other assets in the family pot generated unearned income of more than \$200 in any year that he filed a personal financial disclosure, Rep. Guinta should have reported them. Rep. Guinta also claimed he actively traded stocks and engaged in other transactions related to the family pot. If any such transactions involving real property or securities occurred in any year that he filed a personal financial disclosure, Rep. Guinta should have reported them.

Ignoring the plain language of EIGA and relying on his specious and self-serving misinterpretation of the instructions, Rep. Guinta intentionally failed to report his assets, income, and transactions on six separate personal financial disclosure statements.

⁶⁰ Guinta FEC Response, at 14 ("Including the entire family pot in the disclosure . . . would likely have been an error under the form's definitions and instructions. This is important, because overreporting Rep. Guinta's funds would have been just as improper as underreporting his funds."); Solomon, *New Hampshire Union Leader*, May 17, 2015 ("It is illegal to over-report," said Guinta. "I didn't want to report an asset that I didn't think was reportable and have a problem with over-reporting."").

⁶¹ *House Ethics Manual*, at 252.

⁶² 5 U.S.C. app. 4, § 102(a)(1)(B); 2011 PFD Instructions, at 12.

⁶³ 5 U.S.C. app. 4, § 102(a)(5); 2011 PFD Instructions, at 21-24.

⁶⁴ *Id.* at 12.

Conclusion

Rep. Guinta wants to have his cake and eat it, too. He insists – to the FEC in a sworn affidavit and in his response to complaints, and in repeated public statements – he has an equitable interest in assets in the Guinta family pot. Yet he also insists he did not need to report those assets to the public on his personal financial disclosure statements on the baseless ground that the bank account holding at least some of those assets is in his parents' name. Rep. Guinta further provided no information about assets in the family pot other than the bank account, and ignored any income or transactions associated with the assets.

Financial disclosure is a critical tool for keeping public officials accountable to their constituents. If some of the assets in the family pot really belong to him, as Rep. Guinta unwaveringly claims, he must disclose them, and not be permitted to make a mockery of the rules. OCE therefore should commence an immediate investigation into Rep. Guinta's conduct and forward this matter to the House Ethics Committee for appropriate action.

I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics
in Washington