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January 13, 2012

HAND DELIVERED

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999 E Street, N.W.
Washington, D.C. 20463

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OFFICE OF GENERAL
COUNSEL

Re: **MUR 6511**

Dear Mr. Jordan:

We are writing on behalf of our clients, Congressman Rob Andrews and Maureen Doherty, Treasurer of Rob Andrews U.S. House Committee, (collectively referred to as the "Respondents") in response to the Complaint filed in the above-referenced matter by the Citizens for Responsibility and Ethics in Washington ("the Complainant"). For the reasons set forth below, the facts do not support a "reason to believe" finding in this matter, and the Complaint should be dismissed.

Only when a complaint sets forth sufficient specific facts, which, if established, would constitute a violation of the Federal Election Campaign Act may the Commission find "reason to believe." See 11 C.F.R. § 111.4(a), (d). Bare legal conclusions based on asserted facts or mere speculation cannot support such a finding, and offer no basis for the FEC to conduct an investigation. See Commissioners Mason, Sandstrom and Thomas Statement of Reasons MUR 4960 (Dec. 21, 2001). Moreover, the Commission must dismiss a complaint when the allegations are refuted with sufficiently compelling evidence. See *id.*

Here, Complainant makes three separate allegations against Respondents, each of which is unsupported by the facts and derived from unwarranted legal conclusions that provide no basis for investigation by the FEC.

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First, the Complainant alleges that the Respondents improperly used campaign funds to pay personal obligations. See Compl. at 6; see also 11 C.F.R. § 113.1(g)(1)(i)(J) (prohibiting use of campaign funds to pay for "vacation" or non-campaign-related trip).

Under the Act and Commission regulations, a candidate and the candidate's committee have wide discretion in making expenditures to influence the candidate's election, as long as such campaign funds are not converted to personal use. See 2 U.S.C. §430a; 11 C.F.R. §§ 113.1(g). Commission regulations define personal use as "any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder." 11 C.F.R. § 113.1(g).

The expenses associated with the trip in question clearly would not have occurred *irrespective* of Rep. Andrews's campaign or his position as a Member of Congress. The family attended the wedding to recognize a well-known opposition research specialist who has volunteered substantial time to the campaign Committee. This volunteer has provided invaluable services to Rep. Andrews that substantially helped him meet both work-related and campaign-related demands and furthered his campaigns. But for the campaign-related activity, the Scotland trip would not have occurred. The purpose of the trip was to maintain this contact and foster goodwill with a critical person to his campaign—an individual who has supported his campaign through tremendous volunteer assistance with opposition research and political advice. Rep. Andrews's family's attendance was considered important to generate this goodwill. Rep. Andrews's wife and two daughters are very involved in his campaigns and campaign-related events and regularly attend campaign-related events.

In accordance with the Act and the Commission regulations, the Committee paid only the aspects of the trip related to the wedding in Scotland and the Andrews family personally paid for all other expenses. For example, the family traveled to the wedding on Thursday, attended events relating to the wedding on Friday and Saturday, stayed at the hotel where the wedding reception was physically located, and left the hotel before seven on Sunday morning for the Edinburgh airport. The only non-campaign related activity in Scotland was an incidental activity (a walking tour of a local attraction Friday morning), which Rep. Andrews's family paid for on their personal credit card. Indeed, this is very different from the cases where the candidate concedes that the purpose of the trip was for a non-campaign related event and thereafter justifies the trip by making a few phone calls and meetings related to the campaign (See, e.g., First General Counsel's Report IMUR 6127 (June 18, 2009)). Here, but for the campaign-related activity, the trip would not have occurred.

When a candidate's family is attending campaign-related events, the Act, the Commission Regulations and the Advisory Opinions have expressly recognized that

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such expenditures are proper and not personal use. See FEC AO 1981-25 (recognizing that wife's travel that advances political purposes are proper expenditures); FEC AO 1985-20 (authorizing travel of children with parents to campaign-related events). Here, Rep. Andrews's family campaigns together, and the family appears in his brochures and advertising. They are an integral part of his re-election campaign, and regularly participate in campaign-related events. As such, the costs of the trip are within the statutory definition of campaign expenses. Nonetheless, Rep. Andrews reimbursed his Committee for all expenses related to the wedding on November 30, 2011. See Attachment A (reimbursement checks from Robert and Camille Andrews to Campaign Committee).

Second, the Complainant alleges that Respondents used campaign funds to pay for a high school graduation party for his daughter. See Compl. at 6; see also 11 C.F.R. § 113.1(g). This allegation is patently untrue and is based on mere speculation by the Complainant. Respondents did use campaign funds to pay the expenses for a celebration of Rep. Andrews's 20 years as a Member of Congress. Because this event related to Rep. Andrews's service as a Member of Congress, it was not for "personal use" and properly payable with campaign funds under the regulations. See 11 C.F.R. § 113.2(e); see also FEC AO 1978-85 (authorizing use of campaign funds for celebration commemorating representative's service).

As part of that official celebration, which included several hundred supporters of Rep. Andrews, Rep. Andrews and his wife permitted their daughter, who had recently graduated from high school, to invite a few of her friends to the party. Three high school classmates attended the celebration along with a few additional guests. The Andrews separately accounted for all of the costs attributed to their daughter's guests and paid for all of those costs with personal funds. See Attachment B (May 31, 2011, email from C. Andrews to M. Doherty re: payment for party guests).

Indeed, the Andrews took scrupulous care to segregate the costs attributable to their daughter's guests even though no provision required that they do so. No regulation or FEC advisory opinion sets forth who may be invited to a celebration of congressional service. Nor would a Member necessarily be prohibited from inviting guests associated with his or her daughter (or any other person) or from recognizing their child's accomplishments at the celebration. As such, Rep. Andrews exceeded his legal obligations in accounting for costs that the family attributed to their daughter's guests. Even if some restriction on invitees existed, the Committee paid no personal costs for their daughter's guests and no funds were used improperly.

Third, Complainant alleges that Respondents used campaign funds to subsidize Rep. Andrews's daughter's "acting and singing career." See Compl. at 7; see also 11 C.F.R. § 113.1(g)(1)(i)(F). Complainant first alleges that Respondents improperly made a \$12,500 donation to the Walnut Street Theatre in Philadelphia for its Gala to support

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its educational outreach programs. While Respondents did make this donation with funds Rep. Andrews directed excess campaign funds, such expenditure by the Committee is explicitly permitted under the Act and Commission regulations. A contribution to a legitimate non-profit organization like the Walnut Street Theatre, a qualified organization under 26 U.S.C. § 170(c), and 26 U.S.C. § 501(c)(3), is expressly sanctioned by FEC regulations. See 11 C.F.R. § 113.2(b). The theater is located approximately three miles from Rep. Andrews's district and the Committee's contribution was directed to help fund outreach programs to school children in the South New Jersey and Greater Philadelphia area addressing important issues that help children understand racism, bullying, environmental protection and civil rights. See Attachment C (Theatre publication describing outreach programs funded by Gala and IRS listing of Theatre as a charity).

The Act provides that campaign funds may be contributed to *any* organization described in section 170(c) of title 26. 11 C.F.R. § 113.2 (b). Complainant provides no factual evidence or explanation of how this contribution, or any other similar charitable donation from the Committee to a qualified organization under 26 U.S.C. § 170(c), violates any regulation relating to personal use. Instead, Complainant ignores regulations expressly authorizing charitable contributions without limit. Further, Complainant's factual allegation regarding Rep. Andrews's motivation for making the contribution is mere speculation and cannot serve as the basis for additional Commission action. To the contrary, the campaign regularly supports scholarship programs in Rep. Andrews's district and contributes to many other recognized non-profit charitable organizations. These contributions both help his constituents and foster goodwill that furthers his campaigns for election.

Complainant similarly alleges that Respondents used campaign funds to pay for Rep. Andrews's daughter's travel to Los Angeles for "auditions and other activities related to her show business career." See Corrupt. at 5; see also 11 C.F.R. § 113.1(g). Once again, Complainant bases its allegations on mere speculation and ignores clear legal guidance from the FEC.

Rep. Andrews raises a significant amount of money in California and the purpose of each trip was campaign related and included fundraisers, speeches, and prospecting meetings. For example, the Committee's July 15, 2011 FEC report alone lists over 30 donors located in that state. The three trips to California referenced in the Complaint were short trips in February, April and June that were clearly campaign-related. For example, on Feb. 19th, Rep. Andrews travelled late in the day and checked into his hotel after 10 pm. On the 20th, Rep. Andrews had a campaign-related brunch. On the 21st, a federal holiday, Rep. Andrews attended a campaign-related dinner party. On the 22nd, Rep. Andrews flew to San Francisco for an early morning prospecting meeting followed by a fundraising/prospecting luncheon, and then a fundraising dinner. Rep. Andrews returned to Los Angeles on the 23rd and had several other prospecting meetings and a

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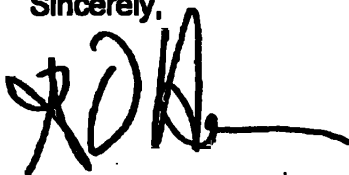
fundraising reception. On the 24th, Rep. Andrews had a prospecting meeting. He flew home early in the morning on the 25th. His April and June trips to California followed the same pattern and purpose of campaign-related events.

When his daughter, who is a minor, travels with Rep. Andrews, she attends the California campaign events with him and often acts in place of a campaign aide at the events. In such a circumstance, travel costs attributed to a member's minor child are payable by the campaign committee. See FEC AO 1995-20 ("travel by children accompanying their parents [for campaign purposes] would not constitute the personal use of campaign funds provided that the parents are traveling for campaign purposes, and the children are minors"). Accord, FEC AO 1996-34 (authorizing campaign funds to be used for travel, related meals and lodging expenses of family attending a trip related to political receptions and fundraising events); FEC AO 2005-09 ("the Committee may use campaign funds to pay for the travel expenses of [the Member's] minor children to accompany the [Member] when the purpose of the travel is to attend or participate in events officially connected to the [the Member]"). Since the expenditures are for travel in connection with the Member's campaign for Federal office, such expenditures are proper under applicable rules.

With respect to each of these allegations, Complainant has not and cannot set forth facts sufficient to establish "reason to believe" a violation of the Act or Commission regulations has occurred. To the contrary, the facts establish that each of the expenditures fully complied with all applicable statutes and regulations.

Pursuant to 11 C.F.R. § 111.4(d), Respondents respectfully request that the commission immediately dismiss the Complaint and take no further action.

Sincerely,



Stanley M. Brand
Andrew D. Herman

Counsel to Congressman Rob Andrews and
Maureen Doherty, Treasurer of Rob Andrews
U.S. House Committee

ADH:mob

Enclosures

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ATTACHMENT C

Touring Outreach Company

Walnut Street Theatre celebrates 26 years of bringing high-quality professional theatre to schools across the Delaware Valley. Our multi-cultural Touring Outreach Company introduces students to the art of theatre through age appropriate, curriculum-based pieces, which are socially relevant, entertaining and exciting. The Touring Outreach Company performs over 300 shows each year, reaching more than 80,000 students annually. Each season we offer new productions and travel to schools and community organizations in Pennsylvania, New Jersey and Delaware. These low-cost programs help teachers link the arts to their curriculum, making theatre available, accessible and engaging.



There is an exceptionally wide choice of programs, including workshops and residencies, which can be customized to address the educational needs of individual schools. Outreach Program options can supplement the school curriculum or they can bring together enriching experiences. Professional actors come to YOUR school with sets, costumes and props. They can put on a production in any space, from auditoriums to multi-purpose rooms. Perfect for your next school assembly, programs are 60 minutes and include a question and answer period after the show. A teacher study guide is also supplied for each show.

- View our 2011-2012 Season!
- View booking information, including rates and policies



Watch a Video On Our Nationally Recognized Anti-Bullying Outreach Shows

For information on booking the Touring Outreach Company, call 215-574-3550, x584 or download the 2011-2012 Outreach Brochure [2.4MB PDF].

Image (l to r): Tara Taylor, Leslie Newton Holden, Evan Faram, Carlos Avila. Photo by Mark Garvin.

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