

COPY

RECEIVED  
FEDERAL ELECTION  
COMMISSION

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

2013 AUG -9 PM 12: 02

FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 6511

DATE COMPLAINT FILED: November 30, 2011  
February 17, 2012

DATE OF NOTIFICATIONS: December 6, 2011  
March 7, 2012

RESPONSES RECEIVED: January 13, 2012  
April 2, 2012  
October, 12, 2012

DATE OF ACTIVATION: April 6, 2012

EPS:

EXPIRATION OF SOL: Earliest: February 2016  
Latest: November 2016

COMPLAINANT:

Citizens for Responsibility and Ethics in  
Washington

RESPONDENTS:

Congressman Robert E. Andrews  
Rob Andrews U.S. House Committee  
and Maureen Doherty in her official capacity as  
treasurer

RELEVANT STATUTES  
AND REGULATIONS:

2 U.S.C. § 439a(a)-(b)  
26 U.S.C. § 107(c)  
26 U.S.C. § 501(c)(3)  
11 C.F.R. § 113.1(g)  
11 C.F.R. § 113.2(a)-(b), (e)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

Office of Congressional Ethics

I. INTRODUCTION

This matter involves allegations that Congressman Robert E. Andrews (New Jersey, 1st District) and his principal campaign committee, Rob Andrews U.S. House Committee and Maureen Doherty in her official capacity as treasurer (the "Andrews Committee"), violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign contributions to pay for

14044354204

1 expenses that were unrelated to Andrews's campaign, including: a family trip to Scotland for the  
2 wedding of a former campaign volunteer, a June 2011 party at the Andrews home, and donations  
3 to local theaters and travel to California to "subsidize the fledgling career of his daughter."  
4 Compl. at 5-7 (Nov. 30, 2011). In their First and Supplemental Responses, Respondents deny  
5 the allegations in the Complaint, and argue that the Andrews Committee paid only for travel and  
6 activities that were campaign related. Resp. at 1-2 (Jan. 13, 2012); Supp. Resp. at 3-4 (Apr. 4,  
7 2012).

8 The facts and allegations that are the basis of this matter have also been reviewed by the  
9 Board of the Office of Congressional Ethics ("OCE Board") which, on March 23, 2012,  
10 approved a report recommending that the U.S. House of Representatives Committee on Ethics  
11 ("House Ethics Committee") further review the allegations concerning Andrews "because there  
12 is substantial reason to believe that he improperly used congressional campaign and Leadership  
13 PAC funds for personal use, in violation of House rules and federal law." OCE Board Report,  
14 Review No. 11-3260 (pub. Aug. 31, 2012) ("OCE Board Report"). The House Ethics  
15 Committee review is ongoing.<sup>1</sup> Respondents were provided with an opportunity to address the  
16 facts and legal conclusions in the OCE Board Report and, accordingly, submitted a Second  
17 Supplemental Response on October 12, 2012.

18 The available information indicates that various trips to California by Andrews's  
19 daughter involved a combination of campaign and personal expenses that should not have been  
20 paid entirely with campaign funds. For the reasons discussed below, the other expenses cited by  
21 the Complaint do not appear to constitute personal use of campaign funds. Accordingly, we  
22 recommend that the Commission find reason to believe Respondents violated 2 U.S.C.

---

<sup>1</sup> On February 26, 2013, the House Committee on Ethics unanimously voted to establish an Investigative Subcommittee.

14044354205

§ 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign funds to pay for personal expenses incurred for Andrews's daughter's travel to California, and authorize an investigation. We also recommend that the Commission find no reason to believe that Respondents violated the Federal Election Campaign Act of 1971, as amended (the "Act"), in connection with disbursements for various other activities cited in the Complaint.

## II. FACTUAL AND LEGAL ANALYSIS

The Act prohibits any person from converting an authorized committee's contributions or donations to "personal use." 2 U.S.C. § 439a(b)(1); 11 C.F.R. § 113.1(g). Campaign funds "shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office." 2 U.S.C. § 439a(b)(2). The Commission has stated that expenses that would have been incurred if the candidate was not a candidate for office or an officeholder are treated as personal rather than campaign or officeholder related:

If campaign funds are used for a financial obligation that is caused by campaign activity or the activities of an officeholder, that is not personal use. However, if the obligation would exist in the absence of the candidacy or even if the officeholder were not in office, then the use of funds for that obligation generally would be personal use.

*Final Rule and Explanation and Justification, Personal Use of Campaign Funds*, 60 Fed. Reg. 7861, 7863-64 (Feb. 9, 1995) ("1995 Personal Use E & J").

The regulations provide examples of expenses that, if paid by a committee, are considered to be *per se* personal use in violation of 2 U.S.C. § 439a(b)(2). 11 C.F.R. § 113.1(g)(1)(i). These expenses include household food items, funeral expenses, clothing, tuition payments, mortgage, rent and utility payments, entertainment expenses, club dues and

14044354206

1 memberships, and salary payments to family members, because such expenses would exist  
2 irrespective of the candidate's campaign or duties as a Federal officeholder. *Id.* For expenses  
3 that are not expressly enumerated as personal use, the Commission conducts a case-by-case  
4 analysis to determine whether they should be classified as such. 11 C.F.R. § 113.1(g)(1)(ii).

5 Here, the expenses alleged to constitute personal use fall into three broad categories:

6 (1) travel expenses that are alleged to be unrelated to campaign activity, (2) a June 2011 party at  
7 the Andrews home, and (3) donations to several local non-profit arts organizations.<sup>2</sup>

8 **A. Travel Expenses**

9 The Commission has recognized that a candidate or Federal officeholder may need to  
10 travel for a mixture of personal and campaign or officeholder activities. *1995 Personal Use*  
11 *E & J*, 60 Fed. Reg. at 7869. When travel is for a mixed purpose, the Commission conducts a  
12 case-by-case analysis examining whether the travel expenses would have existed irrespective of  
13 the candidate's campaign or duties as a holder of Federal office. *Id.*; 11 C.F.R. § 113.1(g)(1)(ii).  
14 Any expenses that would have been incurred irrespective of the campaign or duties of the  
15 Federal officeholder are considered personal in nature. The use of campaign funds for such  
16 expenses is a conversion of campaign contributions to personal use, unless the person benefitting  
17 from such use reimburses the campaign account within thirty days for the amount of the personal

---

<sup>2</sup> The Complaint claims that Respondents' alleged violations of the Act were knowing and willful. Compl. at 5-7. Complainant points out that Andrews, Doherty, and Andrews's principal campaign committee from a prior election cycle were respondents in a previous MUR where they were alleged to have converted campaign funds to personal use. *Id.* at 3-4. In MUR 6140, the Commission exercised its discretion and dismissed allegations that Andrews and his committee violated 2 U.S.C. § 439a(b)(2)(B) and 11 C.F.R. § 113.1(g) when they spent \$952 in campaign funds to purchase clothing and other items for Andrews's personal use. Nevertheless, Andrews and his committee were cautioned that the personal use of campaign funds is expressly prohibited by the Act, and that they were to take steps to avoid such violations in the future. See MUR 6140 Notification Letter to Andrews for Congress Committee dated July 14, 2009, Attach. 1 at 2-3. Given this previous warning, Complainant argues that these alleged new violations were knowing and willful. Compl. at 5-7.

14044354207

1 expenses. 11 C.F.R. § 113.1(g)(1)(ii); *1995 Personal Use E & J*, 60 Fed. Reg. at 7869; *see* MUR  
2 5218 (Russ Francis); Advisory Op. 2002-05 (Time for Ann Hutchinson).

3 The Complaint alleges that the Andrews Committee paid the travel expenses for multiple  
4 trips to Los Angeles, California by Andrews and his daughter, "for auditions and other activities  
5 related to her show business career." Compl. at 5.

6 1. Travel to California

7 From February through November 2011, Andrews made at least six trips to California for  
8 fundraisers, speeches, and prospecting meetings. *See* Resp. at 4; Second Supp. Resp. at 4-6;  
9 Chart A, *infra*. Andrews was accompanied by his teenage daughter on each of his trips to  
10 California, and the Andrews Committee paid all of the travel expenses for both Andrews and his  
11 daughter. The Complaint alleges that Respondents violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R.  
12 §113.1(g)(1) because of information suggesting that the daughter's presence on the trips were for  
13 the purpose of promoting her singing and acting career. Compl. at 5-7. Complainant cites media  
14 reports suggesting that Andrews's daughter utilized each of those trips to participate in studio  
15 recording sessions that would further her career in music and entertainment. *See* Matt Friedman,  
16 *South Jersey congressman spent \$9,000 from campaign funds on donor's wedding*, NEWARK  
17 STAR LEDGER, Nov. 20, 2011; Joelle Farrell, *U.S. Rep Andrews's travels under scrutiny again*,  
18 THE INQUIRER, Feb. 11, 2012; Geoff Mulvihill, *Watchdog wants spending by U.S. Congressman*  
19 *Andrews audited*, NEW JERSEY HERALD, Feb. 7, 2012; Jim Walsh, *More Andrews trips in*  
20 *question*, COURIER POST ONLINE.COM, Feb. 9, 2012.

21 Respondents contend that the California trips were campaign related travel, involving  
22 fundraising lunches and dinners, speeches and donor prospecting meetings, and that Andrews

14044354208

1 raised a significant amount of money through participation in these events.<sup>3</sup> Resp. at 4; Second  
2 Supp. Resp. at 4-5 (Oct. 12, 2012). Respondents do not deny that Andrews's daughter conducted  
3 personal business with individuals in the entertainment industry during the trips to Los Angeles  
4 that were paid for by the campaign. Resp. at 5. Nor do Respondents claim to have allocated the  
5 campaign and non-campaign related activities for the candidate's daughter's expenses, or paid  
6 for the non-campaign related portion of the trip with personal funds. Respondents only assert  
7 that when Andrews's daughter travels with him to California, she regularly attends campaign  
8 events and often acts as a campaign aide; therefore, the Andrews Committee paid her travel  
9 expenses and disclosed its expenditures for her travel to the Commission. *Id.* Respondents also  
10 contend that because Andrews's daughter is a minor, whenever she travels with the candidate her  
11 travel costs are payable by the campaign committee, citing Advisory Op. 1995-20 (Hoosiers for  
12 Tim Roemer) ("AO 1995-20"), Advisory Op. 1996-34 (Thornberry for U.S. Congress) ("AO  
13 1996-34"), and Advisory Op. 2005-09 (Friends of Chris Dodd) ("AO 2005-09").

14 The Commission has approved the use of campaign funds to pay for travel costs  
15 attributable to a candidate's minor children when (1) the minor children traveled for the purpose  
16 of participating in the campaign activity or official function for the Federal officeholder, *see*  
17 AO 2005-09; or (2) it was necessary for the candidate's very young children to accompany the  
18 candidate and the candidate's spouse, so that they could participate in the campaign activity or  
19 official function, *see* AO 1995-20; AO 1996-36. These advisory opinions, however, do not state,  
20 as Respondents suggest, that travel for the child of a candidate or Federal officeholder is always  
21 campaign related, and can be paid for entirely with campaign funds, simply because she is a  
22 minor or may play some role at campaign events. Resp. at 5.

---

<sup>3</sup> The Committee's July 2011 Quarterly Report lists over thirty donors from California during that period, and indicates that it is the largest source of contributions to the Committee outside of New Jersey.

14044354209

1 While Respondents have demonstrated that Andrews's daughter attended some campaign  
2 events while on California trips, Resp. at 4, they have not provided sufficient information to  
3 demonstrate that her activities and expenses during those trips were campaign related. The  
4 available information indicates that Andrews's daughter's travel to California involved  
5 substantial non-campaign related activities, including recording studio sessions intended to  
6 promote her acting and singing career, during the California trips at issue. *Id*; see also *infra*  
7 Chart A. Thus, the appropriate inquiry is not whether Andrews's daughter was a minor or how  
8 much of a role she played in the campaign event, but whether the expenses incurred by  
9 Andrews's daughter would have existed irrespective of Andrews's campaign or duties as a  
10 Federal officeholder.

11 *Chart A – Travel to California*

Date	Destination	Campaign Activity	Disbursements Reported <sup>4</sup>	Non-campaign Activity	Amount paid with Personal Funds
Feb. 19-25, 2011	LA, San Francisco	Brunch, Fundraising lunches/dinners, Meetings	\$2,468	Unknown	\$0
April 7-11, 2011	LA	Fundraising lunch/dinner, Meetings	\$2,813	Media reports daughter's recording session	\$0
June 3-6, 2011	LA	Fundraising event, Meetings	\$4,399	Unknown	\$0
July 15-18, 2011	LA, Bel Air	Fundraising event, Meetings	\$7,777	Media reports daughter's recording session	\$0
Aug. 16-19, 2011	LA	Fundraising breakfast/dinner, Meetings	\$1,989	Media reports daughter's recording session	\$0
Nov. 9-13, 2011	LA	Fundraising lunch/dinner, PAC activities, Tours, TV interviews, Meetings	\$4,989	Media reports daughter's recording session	\$0

12 As previously discussed, if a candidate or officeholder uses committee funds to pay for  
13 mixed travel expenses, the candidate or officeholder must reimburse the committee for the  
14 incremental personal expenses within 30 days. See *supra* at 4; 11 C.F.R. § 113.1(g)(1)(ii); 1995

<sup>4</sup> These amounts exclude airfare because the cost for airline tickets is not specifically itemized in the disclosure reports by trip, and therefore we are unable to determine which tickets were purchased for these trips.

1 *Personal Use E & J*, 60 Fed. Reg. at 7869; *see* MUR 5218 (Russ Francis); AO 2002-05. Even  
2 accepting Respondents' representation that Andrews's daughter served as a campaign aide when  
3 she traveled with Andrews to California, it appears that she participated in sufficient non-  
4 campaign related activities that she would have incurred expenses that were both campaign and  
5 personal in nature. Accordingly, her campaign and personal expenses should have been  
6 allocated, and her personal expenses should have been paid for with personal funds, or  
7 reimbursed to the Andrews Committee within 30 days. Respondents have provided no  
8 information that the required allocation or reimbursement occurred.

9 Based on our review of the available facts and public record, we recommend that the  
10 Commission find reason to believe Andrews and the Andrews Committee violated 2 U.S.C.  
11 § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign contributions to pay for non-  
12 campaign related travel expenses for his daughter when she accompanied him on trips to  
13 California.<sup>5</sup> We further recommend the Commission open an investigation to ascertain the  
14 amount of campaign funds that were used to pay for non-campaign related expenses incurred  
15 during those trips to California.

16 2. Travel to Scotland

17 a. Factual Background

18 In late June 2011, Andrews and his family flew to the United Kingdom to attend the  
19 wedding of Scott Street, a volunteer campaign consultant, in Edinburgh, Scotland as well as for a

---

<sup>5</sup> As noted above, Complainants argue that Respondents' violations were knowing and willful because in MUR 6140, they were cautioned to take special care to avoid violations of 2 U.S.C. § 439a(b)(1). *See supra* n. 1. The information available to date, however, does not sufficiently establish that there is reason to believe that Respondents' violations were knowing and willful, and therefore we make no knowing and willful recommendation at this time.



1 family vacation in London, England.<sup>6</sup> Resp. at 2. The Andrews family stayed at the hotel where  
2 the wedding reception was located and attended events relating to the wedding on Friday, June  
3 24, and Saturday, June 25. *Id.* On Sunday, June 26, the Andrews family left Edinburgh and flew  
4 to London, England where they vacationed for several days. *Id.*; Resp. at 2. On July 1, 2011,  
5 Andrews flew back to Washington, while his wife and two daughters stayed for a few more days  
6 in London and flew back to New York on July 5, 2011. *Id.*

7 Using his personal credit card, Andrews paid a travel agency \$16,574.88 to purchase four  
8 round-trip business class tickets, plus insurance, to the United Kingdom. In May 2011,  
9 Andrews's wife and his chief of staff requested that the travel agency refund the \$16,574.88 back  
10 to Andrews's personal credit card. Andrews's chief of staff then wired the travel agency  
11 \$16,574.88 from the bank account of his leadership PAC, The Committee to Strengthen America  
12 PAC ("Committee to Strengthen America"). The Committee to Strengthen America disclosed  
13 the \$16,574.88 disbursement to the travel agency for Andrews's airfare in its 2011 Year-End  
14 Report.<sup>7</sup> Amended 2011 Year-End Report at 13 (Sept. 5, 2012).<sup>8</sup>

---

<sup>6</sup> The available information indicates that Andrews's wife and two daughters left New York on Wednesday, June 22, 2011, and arrived in Edinburgh on Thursday, June 23, 2011. Andrews left Washington, D.C. on Friday, June 24, 2011, and arrived in Edinburgh on Saturday, June 25, 2011. OCE Report at 8 (citing OCE Report, Ex. 1, "Transcript of Interview of Andrews, March 6, 2012").

<sup>7</sup> Because the Committee to Strengthen America's disbursement was not made from Andrews' "campaign account," it was not subject to the Commission's personal use regulation. See 11 C.F.R. § 113.1(g).

On May 2, 2011, the Andrews Committee's treasurer, Maureen Doherty, wrote an email to Andrews's wife and chief of staff discussing the use of funds from the Committee to Strengthen America to pay for the cost of airfare to the United Kingdom. OCE Report at 14-15. In the email, Doherty emphasized that she was not an expert in campaign finance law, but her understanding was that FECA and House Ethics rules prohibited the use of Committee to Strengthen America funds for Andrews's personal or official expenses; she suggested that the final decision about whether to use Committee to Strengthen America funds to pay for the family's travel to the United Kingdom rested with Andrews. *Id.* at 15-16. Andrews and his wife decided that it was appropriate to use Committee to Strengthen America funds to pay for the family's airfare. *Id.*

<sup>8</sup> <http://images.nictusa.com/pdf/876/12972174876/12972174876.pdf>.

14044354212

1 The Andrews Committee paid and disclosed in its reports to the Commission, a total of  
2 \$13,539.70 for expenditures related to the Scotland trip which, excluding airfare, included:  
3 \$7,725 for two rooms for three nights at the Balmoral Hotel, \$953 on meals, tips and airline  
4 baggage fees, \$88 for newspapers, and \$463 to Bloomingdales for a wedding gift.<sup>9</sup> 2011  
5 October Quarterly Report at 115, 117, 118, 135, 137, and 143 (Oct. 14, 2011);<sup>10</sup> 2011 July  
6 Quarterly Report at 130 (July 14, 2011).<sup>11</sup>

7 After media reports about the Scotland trip circulated and a Complaint was filed with the  
8 Commission, on November 30, 2011, Andrews refunded the Committee to Strengthen America  
9 the \$16,574.88 it had paid for the Andrews's airfare to the United Kingdom, and refunded the  
10 Andrews Committee the \$13,539.70 it had paid for hotel and other expenses incurred by the  
11 Andrews family during the trip. Resp., Attach A.

12 The Complaint alleges that the Andrews Committee and Andrews violated the Act by  
13 using campaign funds to pay for expenses related to the Scotland trip because it was personal in  
14 nature and not campaign related. Compl. at 5-6. In their responses to the Complaint as well as  
15 in media reports about the Scotland trip, Andrews and the Andrews Committee have asserted  
16 that the trip was campaign related and not a personal use of campaign funds. Resp. at 2;  
17 Friedman, *supra*. The Response states that the expenses associated with the Scotland trip  
18 "clearly would not have occurred irrespective of Andrews's campaign or his position as a  
19 Member of Congress." Resp. at 2. Respondents assert that Andrews attended the wedding "to  
20 recognize a well-known opposition research specialist who has volunteered substantial time to

---

<sup>9</sup> Respondents state that the only activity that was not related to the wedding was a walking tour of local attractions, which was paid for with the Andrews's personal credit card. Resp. at 2.

<sup>10</sup> <http://images.nictusa.com/pdf/150/11971588150/11971588150.pdf>.

<sup>11</sup> <http://images.nictusa.com/pdf/654/11931817654/11931817654.pdf>.

14044354213

1 the campaign Committee" and "provided invaluable services to Andrews that substantially  
2 helped him meet both work-related and campaign-related demands and furthered his campaigns."  
3 *Id.* Respondents contend, "The purpose of the trip was to maintain this contact and foster  
4 goodwill with a critical person to his campaign" and "but for the campaign related activity, the  
5 Scotland trip would not have occurred." *Id.* Respondents assert that Andrews's attendance at  
6 the wedding was campaign related because the volunteer had provided "substantial" services to  
7 Andrews's campaigns, and Andrews wished to maintain this relationship because he "reasonably  
8 anticipated that this volunteer consultant would provide such advice in the future campaigns, as  
9 well as provide counsel on other areas that would help the [Andrews] campaign and leadership  
10 PAC goals." Second Supp. Resp. at 3.

11 Regarding the inclusion of his family in the Scotland trip, Respondents contend,  
12 "Andrews's wife and two daughters are very involved in his campaigns and campaign-related  
13 events and regularly attend campaign-related events." Resp. at 2; Second Supp. Resp. at 3.  
14 Respondents assert that the attendance of the entire Andrews family at the wedding of this  
15 campaign volunteer was considered important to generate goodwill. *Id.*

16 Although the Response does not identify the name of the volunteer consultant whose  
17 wedding the Andrews family attended, the OCE Report reveals the name of the volunteer as  
18 Scott Street. In the course of its review, the OCE Board interviewed Street about the nature of  
19 his relationship and work for Andrews and the Committee. OCE Report at 9, (citing OCE  
20 Report Ex. 3, "Memorandum of Interview of Witness 1, Mar. 5, 2012").

21 According to Street, he met Andrews in 2003 while working on the Richard Gephardt  
22 presidential campaign as a deputy director of research. OCE Report, Ex. 3 at 2. During this  
23 time, Street and Andrews spoke less than a dozen times, and the conversations often concerned

1 personal topics, like Street's plan to attend law school. *Id.* Street said he "informally advised"  
2 Andrews twice, in 2004 and 2008, for which he received no compensation. *Id.* at 3. In 2004,  
3 Andrews asked Street for tips on potential research he could conduct on his own record as a  
4 member of Congress and in 2008, Street informally advised Andrews during his Senate  
5 campaign, providing information on election strategy, communications strategy, and opposition  
6 research. *Id.* The work lasted three to four months and involved no more than 50 hours of  
7 services and there was little direct contact with Andrews during that time. *Id.* Between the 2004  
8 and 2008 instances of informal advice, Street and Andrews exchanged emails and telephone calls  
9 approximately 12-15 times and had one face-to-face interaction when Street stopped by  
10 Andrews's congressional office. *Id.* Since 2008, Street described the primary nature of his  
11 contact with Andrews as personal with politics sometimes coming up. *Id.* at 3-4. Although  
12 Street had no face-to-face contact with Andrews in 2010, he did make a contribution of \$250 to  
13 Andrews's re-election campaign.<sup>12</sup> *Id.* In 2010 and 2011, Street spoke with Andrews over a  
14 dozen times and had lunch with the Congressman a few months after the wedding. *Id.* Street  
15 told the OCE Board that he had invited Andrews to the wedding, along with various political  
16 consultants and some judges, "because he is the elected official that [Street] has the best  
17 relationship with." *Id.*

18 Andrews described Street to the OCE Board as a "volunteer political consultant" who has  
19 conducted opposition research and given him political advice over the years. OCE Report at 10  
20 (citing OCE Report Ex. 1, "Transcript of Interview of Andrews, Mar. 6, 2012"). Andrews  
21 described Street as one of several people with whom he tried to "cultivate" a relationship so that  
22 he could call on them to provide services in the future to the Andrews Committee or leadership

---

<sup>12</sup> Street's \$250 contribution to the Andrews Committee in 2010 is his only reported contribution to any of Andrews's campaigns. Street has made no contributions to Andrews's leadership PAC.

14044354215

1 PAC, should it be necessary. *Id.* at 10-11. Andrews admits that he never had explicit  
2 conversations with Street about how he viewed the nature of their relationship or his expectations  
3 for the future, nor does he claim to have communicated with Street on a regular basis. *Id.*  
4 Rather, he describes the relationship as one where he would call Street informally and  
5 spontaneously whenever he felt it was necessary. *Id.*

6 Andrews described the nature of his relationship and conversations with Street as  
7 primarily political. *Id.* at 10. Although he was unable to identify specific projects he had  
8 assigned to Street, Andrews explained that he maintained the relationship with Street because he  
9 "wanted to have the ability to ask him" for assistance at some future date if he needed it to help  
10 his committee or leadership PAC.<sup>13</sup> *Id.* at 10-12. Andrews admits that he made no political  
11 speeches and conducted no fundraising during the Scotland trip, "because that wasn't the  
12 purpose of the trip. The purpose of the trip was to again broaden and deepen this relationship  
13 with [Street] and to make it more likely he would help us in the future." *Id.* at 12-13.

14 b. Analysis

15 As previously discussed, a contribution is converted for personal use only if the  
16 commitment, obligation or expense giving rise to the expense would exist "irrespective of the  
17 candidate's election campaign or individual's duties as a holder of Federal office." 2 U.S.C.  
18 § 439a(b)(2). "If campaign funds are used for a financial obligation that is caused by campaign

---

<sup>13</sup> Andrews's chief of staff and the Andrews Committee's treasurer told the OCE Board that they did not know Street personally or whether he had provided consulting services to Andrews. OCE Report at 9 (citing OCE Report Ex. 2, "Transcript of Interview of Andrews's Chief of Staff, Jan. 26, 2012" and "Transcript of Andrews's Treasurer, Jan. 26, 2012"). Mrs. Andrews told the OCE Board that she did not know Street personally but knew him politically as having provided "opposition research" services to her husband. OCE Report at 10 (citing OCE Report Ex. 2, "Transcript of Interview of Andrews's Wife, Jan. 26, 2012"). Mrs. Andrews met Street for the first time at his wedding in Scotland. *Id.*

14044354216

1 activity or the activities of an officeholder, that is not personal use." *1995 Personal Use E & J*,  
2 60 Fed. Reg. at 7864.

3 Because Andrews's travel to Scotland does not constitute *per se* personal use as  
4 enumerated in the Act, it therefore requires a case-by-case analysis of whether the travel  
5 expenses would have been incurred "irrespective" of Andrews's campaign or duties as a holder  
6 of Federal office. While the Complaint asserts that the Scotland trip was purely personal in  
7 nature, rather than campaign related activity, the available information does not clearly support  
8 such a conclusion.

9 The Act and Commission regulations grant committees wide discretion to use campaign  
10 funds for campaign related activities, and the Commission has approved the use of campaign  
11 funds for gifts or special events intended to recognize or express appreciation to campaign  
12 volunteers and contributors who have worked on prior campaigns. *See e.g.*, Advisory Op. 2001-  
13 08 (Citizens for Arlen Specter) ("AO 2001-08"); Advisory Op. 1995-46 (Friends of Senator  
14 D'Amato) ("AO 1995-46"); Advisory Op. 1993-20 (Campbell Victory Fund) ("AO 1993-20");  
15 Advisory Op. 1983-05 (Ronnie G. Flipppo Committee) ("AO 1983-05"). Because gifts or events  
16 to express appreciation to supporters or volunteers would not occur "in the absence of the  
17 candidacy or ... if the officeholder were not in office," they do not constitute personal use. *1995*  
18 *Personal Use E & J*, 60 Fed. Reg. at 7864.

19 The publicly available information does not contradict Respondents' contention that  
20 Andrews attended the wedding of a campaign volunteer and supporter. *See* Compl. at 2, Ex. B.  
21 Nor is there information to contradict Respondents' claim that, "but for the campaign-related  
22 activity [of the volunteer], the Scotland trip would not have occurred." Resp. at 2. In fact, the  
23 volunteer stated that he had invited Andrews to the wedding because Andrews was the Member

1 of Congress with whom the volunteer had the best relationship. OCE Report, Ex. 3 at 3. It was  
2 the candidate's judgment that this campaign volunteer was "critical" to his future plans for his  
3 campaign and leadership PAC, and that his presence at this volunteer's wedding was necessary  
4 to maintain the relationship for the benefit of the campaign, notwithstanding that volunteer's  
5 perception that their relationship was personal. Such judgments are matters of discretion, and the  
6 Commission has been hesitant to delve into determining the subjective intent of a committee's  
7 use of its campaign funds, so long as there is a credible nexus between the campaign and the  
8 expenditure. *See* 60 Fed. Reg. at 7863.

9 The Commission has also given committees wide discretion in determining how to use  
10 their campaign funds to "best advance their political purposes," *see* Advisory Op. 1981-25  
11 (Dannemeyer) at 2, including paying for special events for volunteers and supporters, *see* AO  
12 1983-05 (approving the use of campaign funds to pay for special receptions or other social  
13 events as special recognition for certain supporters). Andrews's use of campaign funds to pay  
14 for travel expenses associated with attending a special event to express his appreciation and  
15 maintain his relationship with an important campaign volunteer is consistent with the wide  
16 discretion the Commission has granted to committees to use campaign funds to advance their  
17 political purposes.<sup>14</sup> *See* AO 1983-05 (special receptions and events); *see also* AO 2001-08  
18 (gifts of candidate's book); AO 1995-46 (same); AO 1993-20 (same).

19 The available information does not provide an adequate foundation for a finding of  
20 reason to believe that the use of campaign funds to pay for Andrews's trip to Scotland violated  
21 the Act. *See Buchanan v. FEC*, 112 F. Supp. 2d 58, 72 (D.D.C. 2000) ("[T]he [Commission] is

---

<sup>14</sup> Andrews's decision to reimburse the Andrews Committee for the Scotland trip expenses following negative publicity does not change our conclusion that the trip was campaign related. Respondents assert that Andrews's decision was a political judgment that did not constitute an admission of wrongdoing, and we agree.

1 expected to weigh the evidence before it can make credibility determinations in reaching its  
2 ultimate decision.”). Accordingly, we recommend that the Commission find no reason to believe  
3 that Andrews or the Andrews Committee violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R.  
4 § 113.1g(a)(1) by using campaign funds to pay for a trip to Scotland.

5 **B. June 2011 Party**

6 In June 2011, Andrews held a party at his home. Resp. at 3. The Andrews Committee's  
7 official invitations for the event read, “We hope that you and your family will join us in  
8 Celebrating Rob's 20 years of service in the House of Representatives and [his daughter's]  
9 graduation from the Baldwin School.” OCE Report at Ex. 14. Complainant alleges that because  
10 the party was billed as a high school graduation party for one of Andrews's daughters it was a  
11 personal expense. Compl. at 4. Respondents maintain that the Andrews family took special care  
12 to segregate costs attributable to their daughter's guests, even though they believe that the  
13 regulations set forth no legal requirement to do so, and in fact paid significantly more than the  
14 *pro rata* share for their personal guests. Resp. at 3.

15 Respondents state that “more than 300 guests” attended Andrews's party. Second Supp.  
16 Resp. at 8. The Andrews Committee invited 313 guests, while Andrews's daughter invited 14.  
17 *Id.* The total cost of the event was \$20,159.09. *Id.* Of that amount, the Andrews Committee  
18 spent \$660.14 on invitations that were sent only to its guests.<sup>15</sup> *Id.* Of the remaining \$19,498.95  
19 cost of the event, approximately \$834.81 is apportionable to Andrews's daughter's 14 guests,  
20 since the *pro rata* cost of the event for each guest was approximately \$59.62 (\$19,498.95 ÷ 327  
21 = \$59.62 x 14 = \$834.81).

---

<sup>15</sup> Andrews's daughter's invitees received a separate computer-generated invitation that she created and mailed electronically. Second Supp. Resp. at 8. Andrews purchased the cake to celebrate his daughter's graduation using a personal credit card. Resp. at 3.



1 The Andrews family personally paid or reimbursed the Andrews Committee \$7,343.29 to  
2 cover the cost of food and beverages for his daughter's invitees. Second Supp. Resp. at 8. That  
3 amount accounts for nearly 38% of the total cost of the event ( $\$7,343.29 \div \$19,498.95 = 0.376$ ),  
4 and amounts to a payment of approximately \$524.52 for each of Andrews's daughter's guests  
5 ( $\$7,343.29 \div 14 = \$524.52$ ).

6 The Act and Commission regulations permit campaign funds to be used by a candidate or  
7 Federal officeholder for "ordinary and necessary expenses incurred in connection with duties of  
8 the individual as a holder of Federal office" or for "any other lawful purpose." 2 U.S.C.  
9 § 439a(a)(2), (6); *see* 11 C.F.R. § 113.2(a), (e). Because the purpose of the event at the  
10 Andrews's home was primarily to commemorate Andrews's service as a Member of Congress,  
11 the use of campaign funds to pay the cost of the event is permissible under the Act. *See* 11  
12 C.F.R. § 113.2(e); *see also* Advisory Op. 1978-85 (Whitehurst for Congress) at 1 (authorizing  
13 the use of campaign funds for celebration commemorating representative's service). Moreover,  
14 Andrews paid the additional non-campaign related costs (*i.e.*, cost of his daughter's cake, and  
15 food and beverages consumed by her friends) with his personal funds.

16 We recommend that the Commission find no reason to believe that Andrews and the  
17 Committee violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) in connection with the  
18 June 2011 party at Andrews's home.

### 19 C. Contributions to Local Theaters

20 On February 11, 2011, the Andrews Committee made a \$12,500 contribution to the  
21 Walnut Street Theater in Philadelphia, Pennsylvania that it described in its disclosure report as a  
22 "Gala donation." Amended 2011 April Quarterly Report at 132 (Mar. 31, 2011).<sup>16</sup> The

---

<sup>16</sup> *See* <http://images.nictusa.com/pdf/562/11971837562/11971837562.pdf>.

1 Complaint alleges that Andrews's daughter often appears in productions at the theater and the  
2 purpose of the disbursement was to "subsidize" his daughter's acting and singing career. Compl.  
3 at 5, 7. The Complaint also repeats a news article's allegation that "[t]here are several more  
4 examples of Andrews donating thousands [of dollars in campaign funds] to theaters within  
5 months of his daughter performing a role in their production." Compl. at 5; *see also* Friedman,  
6 *supra*. In support of this claim, the Complaint cites four additional disbursements by the  
7 Andrews Committee: three disbursements totaling \$107 to the Broadway Theater of Pitman for  
8 "gifts for donor[s]," and a donation for \$125 to the Cherokee Drama Guild. Compl., Ex. E.

9 Respondents assert that the contributions to Walnut Street Theater and other local  
10 theaters, all of which are qualified non-profit organizations, are permissible under 26 U.S.C.  
11 §§ 170(c) and 501(c)(3). Resp. at 4. Specifically, Respondents assert that the Walnut Street  
12 Theater is located within three miles of the Congressman's district and this was a single  
13 charitable contribution made at a fundraising gala to support the theater's educational outreach  
14 program for school children in the southern New Jersey and greater Philadelphia area. Resp. at  
15 3-4, Attach. C. Respondents contend that the Complaint speculates as to Andrews's motives for  
16 making donations to local charities, and points out that "the campaign regularly supports  
17 scholarship programs in Andrews's district and contributes to many other recognized non-profit  
18 charitable organizations. These contributions both help his constituents and foster goodwill that  
19 furthers his campaigns for election." *Id.* at 4.

20 Pursuant to 11 C.F.R. § 113.1(g)(2), campaign funds may be contributed to any charitable  
21 organization described in the Internal Revenue Code at 26 U.S.C. § 170(c), so long as the  
22 candidate does not receive compensation from the recipient organization before it has expended  
23 the entire amount donated for purposes unrelated to the candidate's personal benefit. *See also*

11 C.F.R. § 113.2(b) (“[F]unds in a campaign account . . . [m]ay be contributed to any organization described in section 170(c) of Title 26, of the United States Code.”).

Respondents claim that the Walnut Street Theatre and other local theaters are qualified charitable organizations under 26 U.S.C. § 170(c) and 26 U.S.C. § 501(c)(3), and there is no information to the contrary. Further, there is no information to suggest that Andrews received any compensation from any of the theaters in return for his donations. At most, the Complaint makes a vague suggestion, unsupported by specific information, that the donations are *quid pro quo* efforts to curry favor for his daughter in connection with her participation in productions at the theaters. This does not amount to “compensation” pursuant to the regulation, however, particularly without any additional information. Therefore, we recommend that the Commission find no reason to believe that Andrews and the Andrews Committee, violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by making donations to local theaters using campaign funds.

### III. PROPOSED INVESTIGATION

This matter will require an investigation to obtain sufficient information about the travel expenses incurred during Andrews’s trips to California, and what amounts should have been paid using Andrews Committee or personal funds. At this time we do not have sufficient information about the amount of campaign funds that were converted to personal use

We anticipate being able to obtain the information informally through written questions and discussions with the Andrews Committee. In the event that it becomes necessary to use formal discovery, however, we recommend that the Commission authorize the use of compulsory process.

#### IV. RECOMMENDATIONS

- (1) Find reason to believe that Robert E. Andrews and Rob Andrews U.S. House Committee and Maureen Doherty, in her official capacity as treasurer, violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign funds to pay for non-campaign related expenses incurred by Andrews's daughter when she accompanied him on campaign trips to California;
- (2) Find no reason to believe that Robert E. Andrews and Rob Andrews U.S. House Committee and Maureen Doherty, in her official capacity as treasurer, violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign funds to pay for non-campaign related travel to Scotland;
- (3) Find no reason to believe that Robert E. Andrews and Rob Andrews U.S. House Committee and Maureen Doherty, in her official capacity as treasurer, violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign funds to pay for expenses related to a June 2011 party at Andrews's home;
- (4) Find no reason to believe that Robert E. Andrews and Rob Andrews U.S. House Committee and Maureen Doherty, in her official capacity as treasurer, violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign funds to make donations to local charitable organizations;
- (5) Authorize an investigation;
- (6) Authorize the use of compulsory process as to the Respondents and all witnesses in this matter, including the issuance of appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary;
- (7) Approve the attached Factual and Legal Analysis; and

(8) Approve the appropriate letter.

General Counsel

BY:

Date

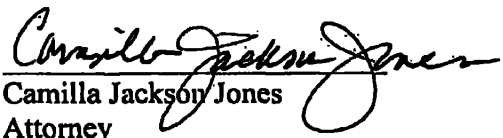
8-9-13

  
Kathleen Guith

Deputy Associate General Counsel  
for Enforcement

  
Mark Shonkwiler

Assistant General Counsel

  
Camilla Jackson Jones  
Attorney

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

14044354224