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BEFORE THE FEDERAL ELECTION COMMISSION

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v.

MUR No. 7577

ANDER PAC
Benjamin Ottenhoff, Treasurer
P.O. Box 9891
Arlington, VA 22219

OFFICE OF
GENERAL COUNSEL
2019 MAR 11 PM 12:55

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Ander PAC (ID: C00352849) has expended campaign funds for personal use, in violation of the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101, *et seq.*
2. Representative Ander Crenshaw left Congress on January 3, 2017, and a month later, converted his authorized campaign committee, Crenshaw for Congress, to a multicandidate PAC called Ander PAC. Ander PAC raised little, but used Crenshaw's leftover campaign committee funds for spending on annual credit card fees, phone bills, hotel stays, meals, and a trip to Disney World, among other expenditures, in violation of the prohibition against converting campaign funds to personal use at 52 U.S.C. § 30114(b)(1).
3. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an

investigation of such alleged violation . . .” 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

FACTS

4. Ander Crenshaw represented Florida’s 4th District in the U.S. House of Representatives from 2001 until January 3, 2017. Crenshaw for Congress was his principal campaign committee.¹
5. On February 1, 2017, a month after Crenshaw left office, Crenshaw for Congress converted to a multicandidate PAC and changed its name to Ander PAC.²
6. Ander PAC began with \$59,868 in cash-on-hand, according to its first report filed with the Commission.³ During the first half of 2017, Ander PAC reported \$2,450 in receipts—

¹ Crenshaw for Congress, Statement of Organization, FEC Form 1, at 2 (amended Dec. 21, 2015), <http://docquery.fec.gov/pdf/080/201512219004410080/201512219004410080.pdf>. On April 13, 2016, Crenshaw announced that he would not seek re-election. Simone Pathé, *Florida’s Ander Crenshaw Won’t Seek Re-election*, ROLL CALL (Apr. 13, 2016), <https://www.rollcall.com/politics/floridas-ander-crenshaw-wont-seek-re-election>. Certain expenditures while Crenshaw was still in office, in the nine-month period between his retirement announcement and his departure from Congress, may also have violated the personal use prohibition and/or reporting requirements. For example, on its 2016 October quarterly report, Crenshaw for Congress reported \$0 in receipts, but its \$100,981 in third-quarter spending included the following expenditures described as “travel”: \$828 at the Hammock Beach Lodge in Florida on August 19, 2016, another \$3,613 to the Hammock Beach Lodge on September 23, 2016, and \$2,691 to the Broadmoor Hotel in Colorado Springs, Colorado, on September 23, 2016. Crenshaw for Congress, 2016 October Quarterly Report, FEC Form 3, at 3, 4, 16, 28, 30 (filed Oct. 15, 2016), <http://docquery.fec.gov/pdf/088/201610159032554088/201610159032554088.pdf>. Because there were no receipts from this period, it does not appear that these expenditures were related to fundraising activities. On its 2016 year-end report, the committee again reported \$0 in new receipts, but its \$79,785 in fourth-quarter spending included “travel” expenditures such as \$2,412 at the Gramercy Park Hotel in New York City on September 21, 2016, \$1,991 at the Trump International Hotel on September 29, 2016, and \$1,700 at the Hyatt Regency Jacksonville on November 6, 2016. Crenshaw for Congress, 2016 Year-End Report, FEC Form 3, at 3, 4, 25, 27, 10 (filed Jan. 31, 2017), <http://docquery.fec.gov/pdf/227/201701319042197227/201701319042197227.pdf>. Additionally, the committee categorized \$38,490 in expenditures under category code 003, Solicitation and Fundraising Expenses, for expenditures at restaurants, the Capitol Hill Club, and other venues, despite the fact that the committee did not report raising any money during the reporting period. *Id.* at 8-27. *See also* Instructions for FEC Form 3 and Related Schedules, FED. ELECTION COMM’N 12 (revised May 2016), <https://www.fec.gov/resources/cms-content/documents/fecfrm3i.pdf> (explaining that “the committee should also broadly characterize disbursements by providing the code for each category of disbursement,” and that category code 003 signifies a purpose of “Solicitation and Fundraising Expenses”).

² Ander PAC, Statement of Organization, FEC Form 1, at 1, 2 (amended Feb. 1, 2017), <http://docquery.fec.gov/pdf/684/201702019042407684/201702019042407684.pdf>; *see also* Ander PAC, Notification of Multicandidate Status, FEC Form 1M, at 1 (filed Feb. 1, 2017), <http://docquery.fec.gov/pdf/697/201702019042407697/201702019042407697.pdf>.

³ Ander PAC, 2017 Mid-Year Report, FEC Form 3X, at 2 (filed July 31, 2017), <http://docquery.fec.gov/pdf/153/201707319069899153/201707319069899153.pdf>. At the beginning of the reporting

comprising \$450 in contributions and a single \$2,000 refund from a prior Crenshaw for Congress contribution to another committee—and \$25,691 in disbursements,⁴ which included the following expenditures after January 3, 2017:

- a) \$3,405 to AT&T in recurring payments for “phone service” throughout the first half of 2017;⁵
- b) \$412 to the Capitol Hill Club for “food/beverage” on June 27, 2017;⁶
- c) A series of expenditures all dated January 18, 2017, including: \$507 to Avis Rental Car for “travel”; \$251 to Delta Airlines for “travel”; \$978 to III Forks in Florida for “catering/facility rental”; \$951 to Riverside Liquors for “catering”; \$518 to Schneiders of Capitol Hill in Washington, D.C., for “food/beverage”; \$203 to SI Smithsonian in Washington, D.C., for a “subscription”; \$272 to St. Cecilia in Georgia for “food/beverage”; \$356 to The Italian Store in Arlington, Virginia, for “food/beverage”; and \$1,052 to the Yeamans Hall Club in South Carolina for “travel.”⁷

7. On its 2017 year-end report, Ander PAC reported \$0 in receipts and \$6,992 in disbursements,⁸ which included:

- a) \$2,885 to the Apple Store on December 11, 2017 for “phone equipment/service”;⁹

period, January 1, 2017, Ander PAC reported \$59,868 in cash on hand; the reporting period ended with \$36,627 cash-on-hand. *Id.*

⁴ *Id.* at 3, 4, 6-8. Ander PAC made only one \$3,000 contribution during the reporting period. *Id.* at 22.

⁵ *Id.* at 9, 14, 15, 16, 17, 18, 19, 20.

⁶ *Id.* at 18.

⁷ *Id.* at 10-13. These expenditures were all memo entries associated with a \$7,546 credit card payment also dated January 18, 2017, *id.* at 9, so it appears likely that the individual expenditures were misdated.

⁸ Ander PAC, 2017 Year-End Report, FEC Form 3X, at 3, 4 (filed Jan. 31, 2018),

<http://docquery.fec.gov/pdf/765/201801319091051765/201801319091051765.pdf>.

⁹ *Id.* at 11.

- b) \$225 to American Express for an “annual fee”,¹⁰
- c) \$1,250 in recurring payments to AT&T for “phone service”;¹¹ and
- d) Two payments of \$55 each to EZ airport shuttle for “travel” in September and December 2017.¹²

8. On its 2018 April quarterly report, Ander PAC reported \$0 in receipts and \$3,224 in disbursements,¹³ which included:

- a) \$1,730 to AT&T for three monthly payments for “phone service”;¹⁴
- b) \$453 to River & Post in Jacksonville, Florida, for “food/beverage” on January 22, 2018;¹⁵
- c) \$330 to EZ Airport Shuttle for “travel” in February and March 2018;¹⁶ and
- d) A \$251 reimbursement to Erica Striebel for “food/beverage” at the Capitol Hill Club on February 10, 2018.¹⁷

9. On its 2018 July quarterly report, Ander PAC reported \$0 in receipts and \$7,130 in disbursements,¹⁸ which included a \$450 payment to the Capitol Hill Club for “dues” on June 24, 2018 and \$594 to AT&T in two payments for “phone service.”¹⁹

¹⁰ *Id.* at 9

¹¹ *Id.* at 6, 7, 8, 10.

¹² *Id.* at 8, 10.

¹³ Ander PAC, 2018 April Quarterly Report, FEC Form 3X, at 3, 4 (filed Apr. 15, 2018), <http://docquery.fec.gov/pdf/883/201804159108125883/201804159108125883.pdf>.

¹⁴ *Id.* at 6, 7, 9.

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 7, 8.

¹⁷ *Id.* at 9. Erica Striebel was Crenshaw’s chief of staff while he was in Congress, and Striebel now is a lobbyist for General Dynamics. *Employment History: Striebel, Erica*, CTR. FOR RESPONSIVE POLITICS, https://www.opensecrets.org/revolving/rev_summary.php?id=80540 (last visited Jan. 17, 2019).

¹⁸ Ander PAC, 2018 July Quarterly Report, FEC Form 3X, at 3, 4 (filed July 15, 2018), <http://docquery.fec.gov/pdf/386/201807159115521386/201807159115521386.pdf>.

¹⁹ *Id.* at 6-7.

10. On its 2018 October quarterly report, Ander PAC reported \$0 in receipts and \$3,177 in disbursements,²⁰ which included:
- a) \$557 to the Four Seasons in Lake Buena Vista, Florida, on August 30, 2018 for “travel”;²¹
 - b) \$923 to American Airlines on August 30, 2018 for “travel”;²²
 - c) \$1,011 to Village Hotel in Asheville, North Carolina, on August 30, 2018 for “travel”;²³
 - d) \$1,092 to Broadmoor Hotel in Colorado Springs, Colorado, on September 11, 2018 for “travel”;²⁴ and
 - e) Three monthly payments totaling \$1,030 to AT&T for “phone service.”²⁵
11. On its 2018 pre-general report, Ander PAC reported \$0 in receipts and \$12,071 in disbursements,²⁶ which included:
- a) \$2,440 to Walt Disney World Services in Lake Buena Vista, Florida, on October 15, 2018, for “travel”;²⁷
 - b) \$2,770 to the Four Seasons in Lake Buena Vista, Florida (which, according to its website, is “nestled in a secluded, residential setting with WALT DISNEY WORLD® Resort”²⁸) on October 15, 2018 for “travel”;²⁹

²⁰ Ander PAC, 2018 October Quarterly Report, FEC Form 3X, at 3, 4 (filed Oct. 15, 2018), <http://docquery.fec.gov/pdf/507/201810159124881507/201810159124881507.pdf>.

²¹ *Id.* at 7.

²² *Id.*

²³ *Id.* at 8.

²⁴ *Id.* at 9.

²⁵ *Id.* at 6, 8, 9.

²⁶ Ander PAC, 2018 Pre-General Report, FEC Form 3X, at 3, 4 (filed Oct. 25, 2018), <http://docquery.fec.gov/pdf/063/201810259130884063/201810259130884063.pdf>.

²⁷ *Id.* at 7.

²⁸ FOUR SEASONS RESORT ORLANDO AT WALT DISNEY WORLD, <https://www.fourseasons.com/orlando/> (last visited Mar. 7, 2019).

²⁹ Ander PAC, 2018 Pre-General Report, *supra* note 26, at 6.

c) \$392 to AT&T for “phone service” on October 15, 2018;³⁰ and

d) \$225 to American Express for a “renewal fee” on October 15, 2018.³¹

12. On its 2018 post-general report, Ander PAC reported \$0 in receipts and \$1,186 in disbursements,³² which included the following expenditures all dated November 22, 2018: \$234 at San Lorenzo in Washington, D.C., for “food/beverage”;³³ \$350 at The Line in Washington, D.C., for “food/beverage”;³⁴ and \$392 for “travel” to the Gate Hospitality Group,³⁵ which is located at the same address as the Ponte Vedra Inn and Club, an oceanfront resort in Ponte Vedra Beach, Florida.³⁶
13. On January 14, 2019, Ander PAC filed a termination report.³⁷ It reported no receipts and spent its remaining \$2,846 in cash on the following disbursements, all dated December 6, 2018: a \$1,421 credit card payment comprising \$25 spent at the Capitol Hill Club on “travel” and \$1,396 on “catering/facility rental” at Bistro Bis in Washington, D.C., and \$1,425 for “compliance consulting.”³⁸

SUMMARY OF THE LAW

14. FECA provides that any “contribution accepted by a candidate” may be used by the candidate for, *inter alia*, “otherwise authorized expenditures in connection with the campaign

³⁰ *Id.* at 6.

³¹ *Id.* at 7.

³² Ander PAC, 2018 Post-General Report, FEC Form 3X, at 3, 4 (filed Dec. 6, 2018), <http://docquery.fec.gov/pdf/640/201812069134466640/201812069134466640.pdf>.

³³ *Id.* at 6.

³⁴ *Id.*

³⁵ *Id.* at 7.

³⁶ *Contact Us*, Ponte Vedra Inn & Club, <https://www.pvicmember.com/Default.aspx?p=DynamicModule&pageid=394006&ssid=316155&vnf=1> (last visited Mar. 7, 2019).

³⁷ Ander PAC, Termination Report, FEC Form 3X, at 1 (filed Jan. 14, 2019), <http://docquery.fec.gov/pdf/371/201901149143812371/201901149143812371.pdf>.

³⁸ *Id.* at 6-7.

for Federal office of the candidate,” 52 U.S.C. § 30114(a)(1), *see also* 11 C.F.R. § 113.2(a)-(e), and that such contributions shall not be converted to the personal use of the candidate or any other person, *id.* § 30114(b); *see also* 11 C.F.R. §§ 113.1(g), 113.2(e).

15. Contributions accepted by a candidate are considered to have been converted to “personal use” if the funds are 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.” 52 U.S.C. § 30114(b)(2). Commission regulations similarly define “personal use” as the use of funds in a campaign account “to fulfill any commitment, obligation, or expense of any person that would exist irrespective of the candidate’s election campaign or duties as a Federal officeholder.” 11 C.F.R. § 113.1(g).

16. The Commission has explained the “irrespective” test as follows:

If campaign funds are used for a financial obligation that is caused by campaign activity or the activities of an officeholder, that use is not personal use. However, if the obligation would exist even 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.

Expenditures; Reports by Political Committees; Personal Use of Campaign Funds, 60 Fed.

Reg. 7862, 7863–64 (Feb. 9, 1995). If a current officeholder or candidate “can reasonably show that the expenses at issue resulted from campaign or officeholder activities, the Commission will not consider the use to be personal use.” *Id.* at 7867.

17. FECA and Commission regulations provide a non-exhaustive list of uses of contributions that are *per se* personal use. 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i). For uses of contributions not on this list, such as meal or travel expenses, the Commission determines, on a case-by-case basis, whether they constitute personal use. 11 C.F.R. § 113.1(g)(1)(ii).
18. Former officeholders or their campaign committees may permissibly use contributions to pay certain expenses related to winding down their office, *see* 11 C.F.R. § 113.2(a)(2)

(recognizing as “ordinary and necessary” costs of winding down a former officeholder’s office and permitting use of campaign funds to pay for such expenses for six months after officeholder leaves office). The Commission has also permitted former officeholders’ campaign committees to expend campaign funds for uses expressly permitted under FECA and Commission regulations, such as donating leftover campaign funds to charity as authorized by 52 U.S.C. § 30114(a)(3) and 11 C.F.R. § 113.2(b), *see* Advisory Opinion 2012-05 (Lantis), or donating to state and local candidates as authorized by 52 U.S.C. § 30114(a)(5) and 11 C.F.R. § 113.2(f), *see* Advisory Opinion 2012-06 (Perry); Advisory Opinion 1993-10 (Colorado).

19. The Commission has also permitted former candidates and officeholders to convert their principal campaign committees to multicandidate committees as an alternative to the committee’s termination. *See, e.g.,* Advisory Opinion 2012-06 (Perry); Advisory Opinion 2004-03 (Dooley for the Valley); Advisory Opinion 1994-31 (Gallo); Advisory Opinion 1988-31 (Stratton). However, contributions received when a committee was still a principal campaign committee remain subject to the personal use ban, even after converting to a multicandidate committee. Advisory Opinion 2004-03 (Dooley for the Valley) at 3; *see also* Advisory Opinion 2012-06 (Perry) at note 2.³⁹

CAUSE OF ACTION

³⁹ Advisory Opinion 2004-03 found both the personal use ban and other then-existing restrictions on the use of campaign funds by a principal campaign committee remained in place after converting to a multicandidate committee. Congress subsequently changed the law to allow for the use of campaign funds for “any lawful purpose.” other than personal use; the Commission stated that the change “had the effect of superseding, in part,” those portions of Advisory Opinion 2004-03 that limited campaign funds to be used for specifically enumerated purposes, but the changes did not affect the analysis related to personal use. Explanation and Justification for Final Rules on Use of Campaign Funds for Donations to Non-Federal Candidates and Any Other Lawful Purpose Other than Personal Use, 72 FR 56245, 56246 (Oct. 3, 2007); *see also* Advisory Opinion 2012-06 (Perry) at note 2.

I. Ander PAC Converted Campaign Funds to Personal Use

20. A campaign committee may not convert campaign funds to the personal use of the candidate or any other person. 52 U.S.C. § 30114(b)(1). “Personal use” is defined as any expense that would exist “irrespective of the candidate’s campaign or duties as a Federal officeholder,” 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g). Contributions received when a committee was still a principal campaign committee remain subject to the personal use ban, even after converting to a multicandidate committee. Advisory Opinion 2004-03 (Dooley for the Valley).
21. Former Rep. Ander Crenshaw left Congress on January 3, 2017, and on February 1, 2017, converted his authorized campaign committee, Crenshaw for Congress, to Ander PAC, a multicandidate committee. The \$59,868 in contributions to Crenshaw’s campaign committee that were rolled-over to Ander PAC remained subject to the statutory personal use ban. Despite this personal use prohibition, Ander PAC used Crenshaw’s campaign funds for a variety of apparently personal expenditures, including a trip to Disney World, phone bills, expensive meals, and costly flights and hotel stays. Since Crenshaw left office, Ander PAC has been used to pay, among other expenses:
 - a) \$557 to the Four Seasons in Lake Buena Vista, Florida, on August 30, 2018 for “travel”;⁴⁰
 - b) \$1,011 to Village Hotel in Asheville, North Carolina, on August 30, 2018 for “travel.”⁴¹

⁴⁰ Ander PAC, 2018 October Quarterly, *supra* note 20, at 7.
⁴¹ *Id.* at 8.

- c) \$1,092 to Broadmoor Hotel in Colorado Springs, Colorado, on September 11, 2018 for “travel;”⁴²
 - d) \$2,440 to Walt Disney World in Lake Buena Vista, Florida, on October 15, 2018,⁴³ plus \$2,770 on that same date to the Four Seasons at Walt Disney World Resort,⁴⁴
 - e) \$8,401 in AT&T phone bills;⁴⁵
 - f) \$450 in American Express credit card fees;⁴⁶
 - g) \$2,885 at the Apple store;⁴⁷ and
 - h) \$6,857 for “food/beverage” or “catering.”⁴⁸
22. As a result, Ander PAC’s use of campaign contributions for luxury travel, meals, phone bills, and other apparently personal expenses constituted the illegal conversion of campaign funds to personal use, in violation of 52 U.S.C. § 30114(b)(1).

PRAYER FOR RELIEF

23. Wherefore, the Commission should find reason to believe that Ander PAC has violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).

⁴² *Id.* at 9.

⁴³ Ander PAC, 2018 Pre-General, *supra* note 26, at 7.

⁴⁴ *Id.* at 6; *see also* sources cited *supra* note 28.

⁴⁵ Ander PAC, Disbursements for “phone service,” 2017-18, FEC.GOV, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00352849&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018&disbursement_description=phone+service (last visited Feb. 27, 2019).

⁴⁶ Ander PAC, Disbursements for “annual fee” or “renewal fee,” 2017-18, FEC.GOV, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00352849&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018&disbursement_description=annual+fee&disbursement_description=renewal+fee (last visited Feb. 27, 2019).

⁴⁷ Ander PAC, 2017 Year-End Report, *supra* note 8.

⁴⁸ Ander PAC, Disbursements for “food” or “catering,” 2017-18, FEC.GOV, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00352849&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018&disbursement_description=food&disbursement_description=catering (last visited Feb. 27, 2019).

24. Further, the Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations and an injunction prohibiting the respondents from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Respectfully submitted,



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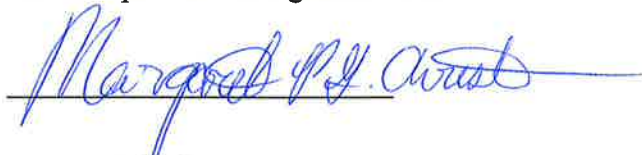
March 8, 2019

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Margaret Christ



Margaret Christ

Sworn to and subscribed before me this 7 day of March 2019.



Notary Public



For Complainant Campaign Legal Center



Brendan M. Fischer

Sworn to and subscribed before me this 7 day of March 2019.



Notary Public

