



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 14, 2021

VIA EMAIL: CSpies@dickinson-wright.com

Charles R. Spies
Dickinson Wright PLLC
1825 Eye Street, NW Suite 900
Washington, DC 20006

RE: MUR 7577
Ander PAC (Terminated) and Benjamin
Ottenhoff, in his official capacity as
treasurer, *et al.*

Dear Mr. Spies:

On September 8, 2021, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 52 U.S.C. § 30114(b), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Amanda Andrade

Amanda Andrade
Attorney

Enclosure:
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

1
2
3 In the Matter of)
4)
5 Ander PAC (f/k/a Crenshaw for Congress)) MUR 7577
6 and Benjamin Ottenhoff in his official capacity as treasurer)
7 Ander Crenshaw)
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9

CONCILIATION AGREEMENT

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12 This matter was initiated by a signed, sworn, and notarized complaint by Margaret Christ,
13 Campaign Legal Center. The Federal Election Commission (the “Commission”) found reason to
14 believe that Ander PAC (f/k/a Crenshaw for Congress) and Benjamin Ottenhoff in his official
15 capacity as treasurer and Ander Crenshaw (collectively, “Respondents”) violated 52 U.S.C.
16 § 30114(b).

17 NOW, THEREFORE, the Commission and the Respondents, having participated in
18 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree
19 as follows:

20 I. The Commission has jurisdiction over the Respondents and the subject matter of
21 this proceeding, and this agreement has the effect of an agreement entered pursuant to
22 52 U.S.C. § 30109(a)(4)(A)(i).

23 II. Respondents have had a reasonable opportunity to demonstrate that no action should
24 be taken in this matter.

25 III. Respondents enter voluntarily into this agreement with the Commission.

26 IV. The pertinent facts and law in this matter are as follows:

27 1. Ander Crenshaw represented Florida’s 4th District in the U.S. House of
28 Representatives from 2001 until 2017, during which time his principal campaign committee was

1 called Crenshaw for Congress. In January 2017, Crenshaw retired from office and has not been a
2 candidate for any federal office at any time since.

3 2. Crenshaw for Congress was the principal campaign committee for Crenshaw within
4 the meaning of 52 U.S.C. § 30101(5). On February 1, 2017, Crenshaw for Congress converted
5 to a multicandidate PAC, changing its name to Ander PAC

6 3. Benjamin Ottenhoff was the treasurer of Ander PAC.

7 4. On January 30, 2019, the Commission's Reports Analysis Division approved Ander
8 PAC's termination.

9 5. A contribution accepted by a candidate may be used for, *inter alia*, "otherwise
10 authorized expenditures in connection with the campaign for Federal office of the candidate."
11 52 U.S.C. § 30114(a). Permissible non-campaign related expenses include ordinary and
12 necessary expenses incurred in connection with the recipients' duties as a federal officeholder,
13 such as travel costs associated with *bona fide* official duties such as speaking engagements, costs
14 of winding the former federal officeholders' office for a period of six months after he or she
15 leaves office, and for any other lawful purpose, unless such use is "personal use." *See* 11 C.F.R.
16 § 113.2(a)-(e).

17 6. Conversion to personal use occurs when funds in a campaign account are used "to
18 fulfill any commitment, obligation, or expense of a person that would exist irrespective of the
19 candidate's election campaign or individual's duties as a holder of Federal office." 52 U.S.C.
20 § 30114(b)(2); *see also* 11 C.F.R. § 113.1(g). Certain uses of campaign funds constitute *per se*
21 conversion to personal use, including for the purchase of household food items, clothing,
22 mortgage and utility payments, and dues and fees or gratuities at country clubs, health clubs,
23 recreational facilities, or other nonpolitical organization, unless they are part of the costs of a

1 specific fundraising event that takes place on the organization’s premises. 52 U.S.C.

2 § 30114(b)(2)(A)-(I); 11 C.F.R. § 113.1(g)(1)(i)(A)-(J)

3 7. For all other disbursements, the Commission determines on a case-by-case basis
4 whether a given campaign fund disbursement is personal use by applying the “irrespective test;”
5 that is, whether the payment fulfills a commitment, obligation, or expense that would exist
6 irrespective of the candidate’s campaign or duties as a federal officeholder. 52 U.S.C. §
7 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(ii).

8 8. The Commission has concluded that principal campaign committees can be converted
9 to multi-candidate committees, but those contributions received when a committee was still a
10 principal campaign committee remain subject to the personal use prohibition. *See, e.g.*, Advisory
11 Op. 2012-06 (RickPerry.org).

12 9. After Crenshaw retired from office, Ander PAC raised \$450 in contributions and
13 made \$62,317.84 in disbursements. Of those disbursements, the Commission found reason to
14 believe that Ander PAC spent \$13,196.08 of campaign funds that was converted to personal use,
15 including over \$8,000 for travel to political fundraising events at the Four Seasons at Disney
16 World, the Broadmoor Destination Resort in Colorado Springs, and the Biltmore Estate in North
17 Carolina; \$450 for membership dues at Capitol Hill Club; and \$3,000 in spending on food and
18 beverages.

19 V. For the purpose of resolving this matter and because of Respondents’ desire to avoid
20 further legal costs, Respondents will not contest that they violated 52 U.S.C. § 30114(b) by using
21 campaign committee funds to make disbursements for personal use.

1 VI. Respondents will take the following actions:

2 1. Ander Crenshaw will pay a civil penalty to the Federal Election Commission in the
3 amount of \$3,950.

4 2. Ander PAC will waive its right to a refund of the disbursements made for
5 Crenshaw's personal use and will instruct Crenshaw to disgorge \$13,196 to the U.S. Treasury.

6 3. Respondents will cease and desist from violating 52 U.S.C. § 30114(b).

7 VII. The Commission, on request of anyone filing a complaint under 52 U.S.C.
8 § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review
9 compliance with this agreement. If the Commission believes that this agreement or any
10 requirement thereof has been violated, it may institute a civil action for relief in the United States
11 District Court for the District of Columbia.

12 VIII. This agreement shall become effective as of the date that all parties hereto have
13 executed same and the Commission has approved the entire agreement.

14 IX. Respondents shall have no more than 30 days from the date this agreement becomes
15 effective to comply with and implement the requirements contained in this agreement and to so
16 notify the Commission.

17 X. This Conciliation Agreement constitutes the entire agreement between the parties
18 on the matters raised herein, and no other statement, promise, or agreement, either written or
19 oral, made by either party or by agents of either party, that is not contained in this written
20 agreement shall be enforceable.

1 FOR THE COMMISSION:

2 Lisa J. Stevenson
3 Acting General Counsel

4 BY: Charles Kitcher
5 Charles Kitcher
6 Associate General Counsel

9/10/21

Date

7 FOR THE RESPONDENT:

8 Ander Crenshaw
Ander Crenshaw

August 17, 2021
Date