

BEFORE THE FEDERAL ELECTION COMMISSION

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v.

MUR No. 7578

2019 MAR 11 PM 12:56

OFFICE OF
GENERAL COUNSEL

FAIRPAC
Matthew John Linder, Treasurer
1070 Tulipwood Lane
Athens, GA 30606

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that FAIRPAC (ID: C00255976) 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 John Linder left Congress on January 3, 2011, and, on January 28, 2014, converted his authorized campaign committee, Linder for Congress, to a multicandidate PAC called FAIRPAC. Since 2015, in a continuation of a pattern of spending that began shortly after Linder left office, FAIRPAC reported \$0 in new contributions, and gave little to other committees or candidates, but used Linder's leftover campaign committee funds for tens of thousands of dollars in payments to Linder's children, phone and internet bills, and an apparent trip to Alaska, 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. John Linder represented Georgia’s 7th District in the U.S. House of Representatives until January 3, 2011. Linder for Congress was his principal campaign committee.¹
5. When Linder left office, Linder for Congress had \$573,574 in cash, according to its 2011 April Quarterly report filed with the Commission.² Then, from 2011 through 2013, Linder for Congress raised \$0 in contributions,³ but its expenditures during this period included:
- a) \$51,000 to Linder’s daughter, Kristine Simpson, for “FR consulting;”⁴
 - b) \$259 to Antler Inn in Jackson, Wyoming, for “travel” on February 7, 2011;⁵
 - c) \$238 to Park Café in Duluth, Georgia, for “entertainment” on March 7, 2011;⁶

¹ Linder for Congress, Statement of Organization, FEC Form 1, at 2 (amended May 22, 2008), <http://docquery.fec.gov/pdf/349/28991149349/28991149349.pdf>.

² Linder for Congress, 2011 April Quarterly, FEC Form 3, at 4 (filed Apr. 14, 2011), <http://docquery.fec.gov/pdf/186/11930664186/11930664186.pdf>.

³ *See* Linder for Congress, Receipts, 2011-12, FEC.gov, https://www.fec.gov/data/receipts/?two_year_transaction_period=2012&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2011&max_date=12%2F31%2F2012 (showing no contributions in 2011 and 2012; the only receipts the committee reported were \$1,260 in line 15 receipts from Suntrust Bank); Linder for Congress, Receipts, 2013, FEC.gov, https://www.fec.gov/data/receipts/?two_year_transaction_period=2014&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2013&max_date=12%2F31%2F2013 (showing no receipts of any kind during calendar year 2013).

⁴ The \$51,000 for “FR consulting” comprised monthly payments of \$1,500 each, beginning in March 2011. Linder for Congress, Disbursements to “Simpson, Kristine,” 2011-12, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2012&data_type=processed&committee_id=C00255976&recipient_name=simpson%2C+kristine&min_date=01%2F01%2F2011&max_date=12%2F31%2F2012; Linder for Congress, Disbursements to “Simpson, Kristine,” 2013, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2014&data_type=processed&committee_id=C00255976&recipient_name=simpson%2C+kristine&min_date=01%2F01%2F2013&max_date=12%2F31%2F2013. Linder for Congress’s first payment to Simpson occurred on March 1, 2011, two months after Linder had left office, and the campaign had not previously reported paying Simpson.

⁵ Linder for Congress, 2011 April Quarterly, *supra* note 2, at 17.

⁶ *Id.*

- d) \$341 to Dish Network for “internet service” on April 6, 2012;⁷
 - e) \$1,859 to Verizon Wireless for “internet” in 2013, comprising seven payments of \$240-\$340 each;⁸
 - f) \$224 to Hughesnet for “internet connection” on February 7, 2013;⁹
 - g) \$2,895 to the Apple Store for a “computer” on March 7, 2013;¹⁰
 - h) \$235 to the Microsoft Store for “computer software” on May 1, 2013;¹¹ and
 - i) \$367 to the Marriott Houston for “travel” on August 7, 2013.¹²
6. On January 28, 2014, three years after Linder left office, Linder for Congress converted to a multicandidate PAC and changed its name to FAIRPAC.¹³

⁷ Linder for Congress, 2012 July Quarterly, FEC Form 3, at 9 (filed July 12, 2012), <http://docquery.fec.gov/pdf/876/12952402876/12952402876.pdf>.

⁸ Linder for Congress, Disbursements to “Verizon,” 2013, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2014&data_type=processed&committee_id=C00255976&recipient_name=verizon&min_date=01%2F01%2F2013&max_date=12%2F31%2F2013. The payments to Verizon, beginning in May 2013, appear to be the first time Linder for Congress/FAIRPAC reported paying Verizon.

⁹ Linder for Congress, 2013 April Quarterly, FEC Form 3, at 8 (filed Apr. 15, 2013), <http://docquery.fec.gov/pdf/572/13961615572/13961615572.pdf>.

¹⁰ *Id.* at 5.

¹¹ Linder for Congress, 2013 July Quarterly, FEC Form 3, at 7 (filed July 12, 2013), <http://docquery.fec.gov/pdf/470/13964042470/13964042470.pdf>.

¹² Linder for Congress, 2013 October Quarterly, FEC Form 3, at 5 (filed Oct. 14, 2013), <http://docquery.fec.gov/pdf/377/13964695377/13964695377.pdf>.

¹³ FAIRPAC, Statement of Organization, FEC Form 1, at 1, 2 (amended Jan. 28, 2014), <http://docquery.fec.gov/pdf/482/14940203482/14940203482.pdf>. FAIRPAC did not file a Form 1M, Notification of Multicandidate Status, until October 15, 2018, when FAIRPAC appears to have incorrectly used activity from when the committee was an authorized candidate committee to qualify FAIRPAC for multicandidate status. FAIRPAC, Notification of Multicandidate Status, FEC Form 1M, at 1-2 (filed Oct. 15, 2018), <http://docquery.fec.gov/pdf/036/201810159124938036/201810159124938036.pdf>. In a Request for Additional Information (RAFI) sent earlier that year, the Commission had noted that FAIRPAC may have satisfied the criteria for multicandidate status but had not filed a Form 1M. Letter from Fed. Election Comm’n to Lynne Linder, Treasurer, FAIRPAC (Apr. 26, 2018), <http://docquery.fec.gov/pdf/251/201804260300004251/201804260300004251.pdf>. Since 2014, FAIRPAC has also received RAFIs for not properly disclosing contributions to federal candidates and for inconsistent or inaccurate summary figures. See FAIRPAC, Requests for Additional Information, FEC.gov, https://www.fec.gov/data/filings/?data_type=processed&committee_id=C00255976&form_type=RAFI (last visited Mar. 3, 2019).

7. FAIRPAC began with \$430,623 in cash-on-hand, according to its first report filed with the Commission after conversion.¹⁴ Almost all of these funds constituted contributions given to Linder while he was still a candidate or officeholder, and rolled-over to FAIRPAC.¹⁵
8. In 2014, FAIRPAC reported \$0 in new contributions.¹⁶ Its spending that year included \$18,000 to Linder's daughter Kristine Simpson for "FR consulting," comprising 12 monthly payments of \$1,500 each;¹⁷ \$1,572 to Delta Airlines for "travel" on December 7, 2014;¹⁸ \$900 to Chowder & Marching on November 7, 2014 for "dinner";¹⁹ \$481 at Best Buy for a computer purchase on February 7, 2014;²⁰ \$3,511 to Verizon Wireless for "internet," comprising 12 monthly payments of \$235 to \$390 each;²¹ and \$263 to the Marriott NW Atlanta on May 7, 2014 for "travel."²²

¹⁴ FAIRPAC, 2014 April Quarterly, FEC Form 3X, at 2 (amended July 13, 2014), <http://docquery.fec.gov/pdf/192/14961555192/14961555192.pdf>. At the beginning of the reporting period, January 1, 2014, FAIRPAC reported \$430,623 in cash on hand; the reporting period ended with \$416,305 cash-on-hand. *Id.*

¹⁵ As previously noted, the only receipts Linder for Congress reported between Linder's departure from Congress and its conversion to FAIRPAC were \$1,260 in apparent interest payments from Suntrust Bank during 2011 and 2012. *See* Linder for Congress, Receipts, 2011-12, *supra* note 3.

¹⁶ FAIRPAC, Receipts, 2014, FEC.gov, https://www.fec.gov/data/receipts/?two_year_transaction_period=2014&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2014&max_date=12%2F31%2F2014 (showing no contributions and a single line 15 receipt from Suntrust Bank in 2014 worth \$1,574); *see also* FAIRPAC, 2014 Year-End, FEC Form 3X, at 3 (filed Jan. 30, 2015), <http://docquery.fec.gov/pdf/201/15950392201/15950392201.pdf>.

¹⁷ FAIRPAC, Disbursements to "Simpson, Kristine," 2014, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2014&data_type=processed&committee_id=C00255976&recipient_name=simpson%2C+kristine&min_date=01%2F01%2F2014&max_date=12%2F31%2F2014. The committee's amended Statement of Organization, filed January 28, 2014, designated Kristine Simpson "assistant treasurer" and continued to designate Lynne Linder as treasurer. FAIRPAC, Statement of Organization (amended Jan. 28, 2014), *supra* note 13, at 3, 4. The committee had not previously listed Simpson on a statement of organization.

¹⁸ FAIRPAC, 2014 Year-End, *supra* note 16, at 6.

¹⁹ FAIRPAC, 2014 Post-General, FEC Form 3X, at 9 (filed Dec. 2, 2014), <http://docquery.fec.gov/pdf/662/14952704662/14952704662.pdf>.

²⁰ FAIRPAC, 2014 April Quarterly, FEC Form 3X, at 8 (amended July 13, 2014), <http://docquery.fec.gov/pdf/192/14961555192/14961555192.pdf> (showing a \$856 disbursement for a computer on February 7, 2014, and a successive entry dated the same day for a \$375 credit for an "exchanged computer").

²¹ FAIRPAC, Disbursements to "Verizon Wireless," 2014, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2014&data_type=processed&committee_id=C00255976&recipient_name=verizon&min_date=01%2F01%2F2014&max_date=12%2F31%2F2014.

²² FAIRPAC, 2014 July Quarterly, FEC Form 3X, at 7 (amended Aug. 20, 2014), <http://docquery.fec.gov/pdf/719/14950082719/14950082719.pdf>.

9. In 2015, FAIRPAC reported \$0 in contributions.²³ Its spending that year included:
- a) \$18,000 to Linder's daughter Kristine Simpson for "FR consulting," comprising 12 monthly payments of \$1,500 each;²⁴
 - b) \$941 to Renaissance Hotels in Washington, D.C., for "travel" on January 7, 2015;²⁵
 - c) \$3,500 to David Burton for "research" on November 2, 2015;²⁶ and
 - d) \$4,328 to Verizon Wireless for "internet," comprising 12 monthly payments of \$342 to \$386 each.²⁷
10. In 2016, FAIRPAC raised \$0 in contributions.²⁸ Its spending that year included:
- a) \$18,000 to Linder's son Matthew John Linder for "FR consulting," comprising 12 monthly payments of \$1,500 each;²⁹

²³ FAIRPAC, Receipts, 2015, FEC.gov, https://www.fec.gov/data/receipts/?two_year_transaction_period=2016&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2015&max_date=12%2F31%2F2015 (showing \$0 in any receipts during calendar year 2015); *see also* FAIRPAC, 2015 Year-End, FEC Form 3X, at 3 (filed Jan. 28, 2016), <http://docquery.fec.gov/pdf/004/201601289004674004/201601289004674004.pdf>.

²⁴ FAIRPAC, Disbursements to "Simpson, Kristine," 2015, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00255976&recipient_name=simpson%2C+kristine&min_date=01%2F01%2F2015&max_date=12%2F31%2F2015.

²⁵ FAIRPAC, 2015 July Quarterly, FEC Form 3X, at 8 (filed July 30, 2015), <http://docquery.fec.gov/pdf/288/201507309000464288/201507309000464288.pdf>.

²⁶ FAIRPAC, 2015 Year-End, *supra* note 23, at 7. David Burton is a senior fellow at the Heritage Foundation. *David R. Burton*, The Heritage Foundation, <https://www.heritage.org/staff/david-r-burton> (last visited Mar. 3, 2019).

²⁷ FAIRPAC, Disbursements to "Verizon Wireless," 2015, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00255976&recipient_name=verizon&min_date=01%2F01%2F2015&max_date=12%2F31%2F2015.

²⁸ FAIRPAC, Receipts, 2016, FEC.gov, https://www.fec.gov/data/receipts/?two_year_transaction_period=2016&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2016&max_date=12%2F31%2F2016 (showing \$0 in any receipts during calendar year 2016); *see also* FAIRPAC, 2016 Year-End, FEC Form 3X, at 3 (filed Jan. 13, 2017), <http://docquery.fec.gov/pdf/563/201701139041387563/201701139041387563.pdf>.

²⁹ FAIRPAC, Disbursements to "Linder, Matthew John," 2016, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00255976&recipient_name=linder+matthew+john&min_date=01%2F01%2F2016&max_date=12%2F31%2F2016. Before the 2016 cycle, Linder for Congress/FAIRPAC had not previously reported paying Matthew John Linder. On January 20, 2016, FAIRPAC filed an amended statement of organization, superseding the previous statement dated January 28, 2014. FAIRPAC, Statement of Organization, FEC Form 1, at 1 (amended Jan. 20, 2016), <http://docquery.fec.gov/pdf/957/201601209004548957/201601209004548957.pdf>. That newly amended statement

- b) \$2,143 to Delta Airlines for “travel” on April 8, 2016;³⁰
 - c) \$523 to Alaska Airlines, also on April 8, 2016, in a transaction described only as “sub-vendor”;³¹
 - d) \$516 at the Captain Cook Hotel in Anchorage, Alaska, for “hotel” on April 28, 2016;³²
 - e) \$4,275 to Verizon Wireless for “internet,” comprising 10 payments of \$342 to \$463 each;³³
 - f) \$222 to AT&T on October 18, 2016 in a transaction described only as “sub-vendor”;³⁴ and
 - g) \$212 to the Wall Street Journal on October 8, 2016.³⁵
11. In 2017, FAIRPAC raised \$0 in new contributions.³⁶ Its spending that year included:
- a) \$18,015 to Linder’s son, Matthew John Linder, for “FR consulting,” comprising 11 monthly payments of \$1,500 each, and one monthly payment of \$1,515;³⁷
 - b) \$3,294 to AT&T, comprising 12 monthly payments of \$239 to \$417 each;³⁸ and

of organization no longer listed Simpson, and for the first time designated Matthew John Linder the committee’s “designated agent.” *Id.* at 4. Lynne Linder continued to be listed as the committee’s treasurer. *Id.* at 3.

³⁰ FAIRPAC, 2016 July Quarterly, FEC Form 3X, at 9 (filed July 13, 2016), <http://docquery.fec.gov/pdf/437/201607139020427437/201607139020427437.pdf>.

³¹ *Id.*

³² *Id.* at 7.

³³ FAIRPAC, Disbursements to “Verizon Wireless,” 2016, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00255976&recipient_name=verizon&min_date=01%2F01%2F2016&max_date=12%2F31%2F2016.

³⁴ FAIRPAC, 2016 Year-End, *supra* note 28, at 6.

³⁵ This transaction’s purpose was unspecified. FAIRPAC, 2016 Post-General, FEC Form 3X, at 7 (filed Dec. 8, 2106), <http://docquery.fec.gov/pdf/101/201612089040223101/201612089040223101.pdf>.

³⁶ FAIRPAC, Receipts, 2017, FEC.gov, https://www.fec.gov/data/receipts/?two_year_transaction_period=2018&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2017&max_date=12%2F31%2F2017 (showing \$0 in any receipts during calendar year 2017); *see also* FAIRPAC, 2017 Year-End, FEC Form 3X, at 3 (filed Jan. 31, 2018), <http://docquery.fec.gov/pdf/901/201801319091044901/201801319091044901.pdf>.

³⁷ FAIRPAC, Disbursements to “Linder, Matthew John,” 2017, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00255976&recipient_name=linder+matthew+john&min_date=01%2F01%2F2017&max_date=12%2F31%2F2017.

- c) \$215 to Office Depot on June 5, 2017, in a transaction described only as “sub-vendor.”³⁹
12. In 2018, FAIRPAC raised \$0 in contributions.⁴⁰ Its spending that year included:
- a) \$18,000 to Linder’s son, Matthew John Linder, for “FR consulting,” comprising 12 monthly payments of \$1,500 each;⁴¹
 - b) \$3,192 to AT&T, comprising 10 monthly payments of \$305 to \$346 each;⁴² and
 - c) \$207 to Hp.com on June 1, 2018.⁴³
13. As of December 31, 2018, FAIRPAC had \$241,285 in remaining cash-on-hand.⁴⁴

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

³⁸ FAIRPAC, Disbursements to “AT&T,” 2017, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00255976&recipient_name=at+t&min_date=01%2F01%2F2017&max_date=12%2F31%2F2017. Some of these disbursements were described as “phone service”; others immediately followed a credit card payment and were described only as “sub-vendor.” *Id.*

³⁹ FAIRPAC, 2017 Mid-Year Report, FEC Form 3X, at 13 (amended July 31, 2017), <http://docquery.fec.gov/pdf/641/201707319069883641/201707319069883641.pdf>.

⁴⁰ FAIRPAC, Receipts, 2018, FEC.gov, https://www.fec.gov/data/receipts/?two_year_transaction_period=2018&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2018&max_date=12%2F31%2F2018 (showing \$0 in contributions during calendar year 2018 and a single \$717 receipt from USAA Credit Card Services on March 27, 2018); *see also* FAIRPAC, 2018 Year-End, FEC Form 3X, at 3 (filed Jan. 31, 2018), <http://docquery.fec.gov/pdf/530/201901319144293530/201901319144293530.pdf>.

⁴¹ FAIRPAC, Disbursements to “Linder, Matthew John,” 2018, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00255976&recipient_name=linder+matthew+john&min_date=01%2F01%2F2018&max_date=12%2F31%2F2018. On September 4, 2018, FAIRPAC filed an amended statement of organization, superseding the previous statement filed January 20, 2016. FAIRPAC, Statement of Organization, FEC Form 1, at 1 (amended Sept. 4, 2018), <http://docquery.fec.gov/pdf/986/201809049121552986/201809049121552986.pdf>. The new statement for the first time listed Matthew John Linder as the committee’s treasurer. *Id.* at 3.

⁴² FAIRPAC, Disbursements to “AT&T,” 2018, FEC.gov, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00255976&recipient_name=at+t&min_date=01%2F01%2F2018&max_date=12%2F31%2F2018. FAIRPAC described these disbursements only as “sub-vendor.” *Id.*

⁴³ FAIRPAC, 2018 July Quarterly, FEC Form 3X, at 8 (amended Aug. 30, 2018), <http://docquery.fec.gov/pdf/875/201808309121542875/201808309121542875.pdf>. This disbursement was described only as “sub-vendor.” *Id.*

⁴⁴ FAIRPAC, 2018 Year-End, *supra* note 40, at 2.

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. Campaign funds are considered to have been converted to “personal use” if the funds are used for “[s]alary payments to a member of the candidate’s family, unless the family member is providing bona fide services to the campaign.” 11 C.F.R. § 113.1(g)(1)(i)(H). The “candidate’s family” includes “[a]ny child . . . of the candidate” and “[t]he spouse of any child . . . of the candidate.” 11 C.F.R. § 113.1(g)(7)(ii)-(iii). Even “[i]f a family member provides bona fide services to the campaign, any salary payment in excess of the fair market

value of the services provided is personal use.” 11 C.F.R. § 113.1(g)(1)(i)(H). As the

Commission has explained:

[S]alary payments to a member of the candidate’s family are personal use, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to the campaign, any salary payment in excess of the fair market value of the services provided is personal use.

60 Fed. Reg. 7862, 7866.

18. 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).
19. 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 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).
20. 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 2.⁴⁵

CAUSE OF ACTION

I. FAIRPAC Converted Campaign Funds to Personal Use

21. 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).
22. Former Rep. John Linder left Congress on January 3, 2011, and on January 28, 2014, converted his authorized campaign committee, Linder for Congress, to FAIRPAC, a multicandidate committee. The \$430,623 in contributions to Linder’s campaign committee that were rolled over to FAIRPAC in January 2014⁴⁶ remained subject to the statutory personal use ban. Despite this personal use prohibition, FAIRPAC used Linder’s campaign

⁴⁵ Advisory Opinion 2004-03 found that 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.

⁴⁶ FAIRPAC, 2014 April Quarterly, *supra* note 14, at 2.

funds for a variety of expenditures that appear to constitute personal use, including regular payments to Linder's children and payments for airfare, hotels, and phone and internet services. Since 2015,⁴⁷ FAIRPAC has been used to pay, among other expenses:

- a) \$72,015 to Linder's children for "FR consulting,"⁴⁸ despite the committee raising \$0;⁴⁹
- b) \$6,708 to AT&T;⁵⁰
- c) \$8,603 to Verizon Wireless;⁵¹
- d) \$2,666 to airlines;⁵² and
- e) \$1,457 to hotels.⁵³

During this same period, FAIRPAC made only \$12,500 in contributions to federal committees or donations to state candidates, and \$3,750 in charitable donations.⁵⁴

⁴⁷ Although Linder for Congress and FAIRPAC appear to have converted contributions to personal use prior to 2015, *see supra* ¶¶ 5-8, civil violations of FECA are subject to a five-year statute of limitations period, 52 U.S.C. § 30145, 28 U.S.C. § 2462.

⁴⁸ *See supra* ¶¶ 9-12. These payments appear to be the continuation of a practice that began in March 2011, two months after Linder left office. *See supra* ¶¶ 5-8. As noted *supra* note 4, Linder's campaign had not paid either of his children while he was in office, but in March 2011 began paying his daughter \$1,500/month for "FR consulting"; this continued until 2016 when the committee, now FAIRPAC, switched to instead paying his son \$1,500/month for "FR consulting." Since Linder left office, Linder for Congress/FAIRPAC has paid his children a total of \$141,015 for "FR consulting," including \$72,015 during the 2016 and 2018 election cycles.

⁴⁹ Since its formation in January 2014, FAIRPAC has reported \$0 in contributions; its other receipts have totaled only \$2,291: \$1,574 from Suntrust Bank in a line 15 receipt described as "offsets to operating expenditu[res]" and dated October 17, 2014, FAIRPAC, 2014 Post-General, *supra* note 19, and \$717 in a line 17 receipt described as a "rewards redemption" from USAA Card Services and dated March 27, 2018, FAIRPAC, 2018 April Quarterly, FEC Form 3X, at 6 (amended Aug. 30, 2018), <http://docquery.fec.gov/pdf/218/201808309121542218/201808309121542218.pdf>.

⁵⁰ *See supra* ¶¶ 10-12.

⁵¹ *See supra* ¶¶ 9-10.

⁵² *See supra* ¶ 10.

⁵³ *See supra* ¶¶ 9-10.

⁵⁴ *See* FAIRPAC, Disbursements, 2015-16, FEC.GOV, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2016&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2015&max_date=12%2F31%2F2016 (reflecting \$7,000 in contributions to federal committees or donations to state or local candidates, and \$2,250 in charitable donations); FAIRPAC, Disbursements, 2017-18, FEC.GOV, https://www.fec.gov/data/disbursements/?two_year_transaction_period=2018&data_type=processed&committee_id=C00255976&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018 (reflecting \$5,500 in candidate contributions or donations and one \$1,500 charitable donation).

23. It has been more than eight years since Linder had any duties as a candidate or officeholder, and FAIRPAC has made few contributions to other committees or donations to state or local candidates or charities. As a result, FAIRPAC's use of campaign contributions for payments to Linder's children,⁵⁵ travel, phone and internet 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

24. Wherefore, the Commission should find reason to believe that FAIRPAC has violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
25. 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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⁵⁵ There is reason to believe the value of the \$72,015 paid to Linder's children for "FR Consulting" exceeded the fair market value of any services actually provided. The description of the services is an apparent reference to "fundraising consulting," but the committee raised \$0 in contributions so engaged in little to no fundraising activities. Moreover, FAIRPAC has given only \$16,250 to candidates or charities, *see supra* note 54, so there is reason to believe that \$72,015 exceeds the market rate for any other services provided in support of the multicandidate PAC's program activities.


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Counsel to the Campaign Legal Center,
Margaret Christ

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 P. Christ

Margaret Christ

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

[Signature]

Notary Public



For Complainant Campaign Legal Center

RF

Brendan M. Fischer

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

[Signature]

Notary Public

