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April 22, 2019

Federal Election Commission
 Office of General Counsel
 Office of Complaints Examination
 & Legal Administration
 attn: Kathryn Ross, Paralegal
 1050 First Street, NE
 Washington, DC 20002

2019 APR 23 PM 2:21

OFFICE OF
GENERAL COUNSEL**Re: Response of FAIRPAC in MUR 7578**

Dear Ms. Ross,

This Response is submitted by the undersigned counsel on behalf of FAIRPAC and Matthew John Linder, in his capacity as Treasurer of FAIRPAC, in connection with MUR 7578. For the reasons set forth below, the Commission should find no reason to believe a violation of the Act occurred and the Complaint should be dismissed.

Representative John Linder served in the U.S. House of Representatives from 1993 to 2011. His principal campaign committee was named Linder for Congress. In January 2014, Linder for Congress converted to a multicandidate committee named FAIRPAC. The name FAIRPAC is a reference to Representative Linder's longtime advocacy on behalf of the "fair tax."¹

I. Complaint Background

This is one of two complaints filed by the Campaign Legal Center on March 11, 2019 alleging violations by what it refers to in the media as "zombie campaigns." A "zombie campaign" is not a legal term of art and it does not describe anything that is unlawful. Rather,

¹ Representative Linder is a long-time proponent and leading advocate for the "fair tax," which is a proposal to replace the current federal tax system with a national sales tax. Representative Linder co-authored books on the proposal that were published in 2005 and 2008. He was referred to as "a tireless champion [of the Fair Tax] who first introduced the FairTax bill in 1999, and reintroduced it in each new Congress until he retired in 2011." Ryan Lovelace, *The FairTax Makes a Comeback*, National Review (Jan. 22, 2015), <https://www.nationalreview.com/2015/01/fairtax-makes-comeback-ryan-lovelace/>.

the term is used by advocates to put a negative spin on the campaign committees that continue to exist after a Member of Congress retires or is defeated. According to the Campaign Legal Center, “zombie campaigns” pose a threat to “the integrity of our campaign finance system.”²

The context of this complaint suggests partisan motivations. In October 2017, the Campaign Legal Center filed a complaint against retired Republican Congressman Cliff Stearns alleging personal use violations. Why Representative Stearns was singled out is unclear. A few months later, as the Campaign Legal Center notes, an “investigation by the *Tampa Bay Times* and WTSP documented the extent of the zombie campaigns phenomenon.”³ This investigation, detailed in a January 31, 2018 article, claims to have found “roughly 100 of these zombie campaigns.”⁴ The article details examples involving both Democrat and Republican former House members. Of one retired Democratic House member, Robin Tallon Jr., the Campaign Legal Center’s Adav Noti said: “It’s almost inconceivable that spending is legal. . . . That’s 25 years after he left office.”⁵ To the best of our knowledge, the Campaign Legal Center did not file a complaint against this former Democratic House member, despite Mr. Noti’s assessment.

To coincide with the *Tampa Bay Times* report, the Campaign Legal Center filed one complaint against a consultant associated with the campaign committee of a deceased former Democratic House member. Rather than file additional complaints, the Campaign Legal Center apparently chose to file a rulemaking petition instead.⁶ Now, over a year later, the Campaign Legal Center has filed two more complaints, both against (living) Republicans. And, in what can only be described as an absolutely incredible and amazing coincidence, this particular complaint was filed just three days after former Republican Congressman John Linder was nominated for an ambassadorship.⁷

² Campaign Legal Center, *Zombie Campaign Redux: Former Members of Congress Continue to Use Leftover Campaign Cash as Personal Slush Funds*, March 12, 2019, <https://campaignlegal.org/update/zombie-campaign-redux-former-members-congress-continue-use-leftover-campaign-cash-personal>.

³ *Id.*

⁴ Christopher O’Donnell, Eli Murray, Connie Humburg, and Noah Pransky, *Zombie Campaigns: The campaign is over. The candidate might be dead. But the spending never stops.*, *Tampa Bay Times* (Jan. 31, 2018), <http://www.tampabay.com/projects/2018/investigations/zombie-campaigns/spending-millions-after-office/>.

⁵ *Id.*

⁶ Campaign Legal Center, *Petition for Rulemaking to Revise and Amend Regulations Relating to Former Candidates’ Personal Use of Campaign Funds* at 4 (Feb. 5, 2018), <https://campaignlegal.org/sites/default/files/02-05-18%20CLC%20Former%20Member%20Personal%20Use%20petition.pdf>.

⁷ White House Press Release, *President Donald J. Trump Announces Intent to Nominate Personnel to Key Administration Posts* (March 8, 2019), <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-personnel-key-administration-posts-72/> (“John Linder of

II. The Complaint's Allegations

The Complaint details reported transactions from 2011 – 2018. The Complainant's so-called "causes of action" do not include transactions before 2014 because the Complainant realizes they are beyond the statute of limitations.⁸ On January 28, 2014, former Representative Linder converted his principal campaign committee into a multicandidate PAC, consistent with longstanding Commission guidance. The Complaint contends that specific transactions that occurred subsequent to this conversion, beginning in 2014 and continuing through 2018, violate the Act's personal use restriction. However, every expense identified by the Complainant is a common and ordinary PAC expense disbursed by a committee that converted via a procedure that has been expressly blessed by the Commission.

In the past, the Campaign Legal Center has applied its "zombie campaign" arguments to campaign committees. Applied to an ongoing multicandidate PAC, however, those same arguments make little sense, and are, in fact, inconsistent with longtime Commission guidance. For example, in its rulemaking petition, the Campaign Legal Center claims that there is no legitimate reason for a retired Member to continue to have "cell phones bills, office rent, travel expenses, or club dues."⁹ Whether that assertion is correct or not with respect to authorized campaign committees that continue to exist after the individual is no longer a candidate or officeholder, it is entirely beside the point in the case of a committee that has converted into an ongoing multicandidate PAC. Since at least 1983, the Commission has permitted entities that receive excess funds from a former campaign committee to spend those funds on the entity's "ordinary and necessary" expenses so long as a personal benefit does not accrue to the former candidate/officeholder. The Campaign Legal Center's more recent efforts to *change the law* should not be mistaken for what the law has been for decades.

Georgia, to be the Representative of the United States of America to the Association of Southeast Asian Nations, with the rank and status of Ambassador Extraordinary and Plenipotentiary.").

⁸ See Complaint at ¶ 22 n.47 ("Although Linder for Congress and FAIRPAC appear to have converted contributions to personal use prior to 2015 ..., civil violations of FECA are subject to a five-year statute of limitations."). The Complainants are incorrect with respect to their personal use allegations but correct about the statute of limitations.

⁹ Campaign Legal Center, Petition for Rulemaking to Revise and Amend Regulations Relating to Former Candidates' Personal Use of Campaign Funds at 4 (Feb. 5, 2018), <https://campaignlegal.org/sites/default/files/02-05-18%20CLC%20Former%20Member%20Personal%20Use%20petition.pdf>.

III. Applicable Law

A. Conversion of Campaign Committee to Multicandidate PAC

As noted above, former Representative Linder converted his principal campaign committee into a multi-candidate committee in January 2014. There is absolutely nothing unlawful about the existence of FAIRPAC, or its origins. The Commission has approved of campaign committee conversion dating back to at least 1978.¹⁰ In the post-BCRA era, the Commission again blessed committee conversion, and reiterated that “[t]he funds received by the Committee when it was a principal campaign committee must be spent only for one or more of the four permissible uses enumerated in 2 U.S.C. 439a(a), and must not be converted to the personal use of any individual (2 U.S.C. 439a(b)).”¹¹ Funds raised after the date of conversion are not subject to this restriction.

B. Use of Pre-Conversion Funds

Aside from asserting that the personal use restriction attaches to pre-conversion funds, the question of how converted committees may spend those pre-conversion funds has never been addressed in any detail. The basic rule, however, was most recently stated in Advisory Opinion 2012-06 (RickPerry.org):

The Commission has long interpreted these provisions of the Act and Commission regulations as permitting candidates to convert their authorized committees to nonconnected political committees, **and to finance the activities**

¹⁰ See Advisory Opinion 2004-03 (Dooley) at 2 (“Nothing in the Act or Commission regulations explicitly addresses the conversion of an authorized committee of a candidate into a multicandidate committee. However, in past advisory opinions, the Commission has explicitly permitted the transition of a principal campaign committee into a multicandidate committee. Advisory Opinions 1994-31, 1993-22, 1988-41, 1987-11, 1985-30, 1985-13, 1983-14, 1982-32, and 1978-86. After the adoption of the personal use regulations (11 CFR Part 113) in 1995, however, the Commission has referred to such a transition but has not explicitly permitted or prohibited the transition. See Advisory Opinion 2000-12.”). In 1985, the Commission explained that it had previously “expressed the view that the conversion of a candidate’s principal campaign committee to a multicandidate political committee was a permissible use of the principal campaign committee’s contributed funds that are deemed to be in excess of any amounts necessary to defray the candidate’s expenditures under 2 U.S.C. 439a.” Advisory Opinion 1985-30 (Holt)

¹¹ Advisory Opinion 2004-03 (Dooley) at 3. “Any other lawful purpose” was restored to Section 439a through the Consolidated Appropriations Act of 2005, and the Commission updated its regulations accordingly. In the accompanying Explanation and Justification, the Commission wrote: “The change also had the effect of superseding, in part, Advisory Opinion 2004-03 (Dooley), to the extent that Advisory Opinion 2004-03 placed certain limits on an authorized committee that had converted into a multicandidate committee and its use, for any lawful purpose, of funds that had been received when the committee was an authorized committee.” 72 Fed. Reg. 56,245, 56,246 (Oct. 3, 2007).

of the nonconnected committees with contributions received by the candidates for elections in which the candidates had participated.¹²

With respect to how this applies in practice, this language reflects a decades-old distinction drawn between spending in support of an entity's ordinary activities and personal use spending. In 1983, the Commission concluded that an entity that receives a campaign committee's excess funds may spend those funds on "ordinary and necessary expenses," subject to the personal use restriction.

In Advisory Opinion 1983-27 (McDaniel), "the Commission ... concluded that while a principal campaign committee's contributed funds may be transferred without limit to a tax-exempt organization, these funds could not then be used to pay compensation to the former candidate as an officer of the tax exempt organization because of the Act's prohibition on the conversion of such funds to personal use under 2 U.S.C. 439a and 11 CFR 113.2(d)."¹³ The Commission emphasized that "a prohibited personal use of excess campaign funds would result" if "any of the funds donated by your committee accrue to your benefit." **The Commission noted, however, that this restriction did not include reimbursing the former candidate/officeholder for "ordinary and necessary expenses" of the tax-exempt organization.**¹⁴

Advisory Opinion 1983-27 was cited approvingly in Advisory Opinion 1996-09 (Exon),¹⁵ which was issued subsequent to the Commission's adoption of the "irrespective" test in

¹² Advisory Opinion 2012-06 (RickPerry.org) at 3 (emphasis added).

¹³ Advisory Opinion 1983-27 (McDaniel).

¹⁴ *Id.* ("An exception to the foregoing prohibition will be made for the reimbursement by ADI of ordinary and necessary expenses that you incur on behalf of ADI in your capacity as Chairman of its Board of Directors.").

¹⁵ In Advisory Opinion 1996-09, the Commission wrote:

The Commission has previously considered the question of whether a candidate's campaign committee may donate campaign funds to an entity where the possibility arises that some of those funds may be used to benefit the candidate. Advisory Opinion 1983-27 addressed the donation of campaign funds, remaining after an unsuccessful candidacy, to an educational foundation. The candidate would serve as Chairman of the foundation's Board of Directors. The Commission concluded that, so long as none of the funds donated by the campaign committee would be paid to the candidate for his personal use, the donation would be permissible. The Commission elaborated by stating that the candidate would not be permitted to receive any funds from the foundation, "including, but not limited to, any compensation, loans, awards, grants, or fellowships," until such time as the foundation expended, "for purposes unrelated to [his] personal benefit, the entire amount so donated." If any of the donated funds accrued to his benefit, a prohibited personal use would result. An exception was provided with respect to the

1995. This, of course, indicates that the Commission did not believe the 1995 “personal use” rulemaking superseded its 1983 decision.¹⁶ In Advisory Opinion 1996-09, the Commission approved a request to use excess campaign funds to pay, in part, for what was essentially a “legacy office” for a retired Senator. The request explained that the retired Senator’s excess campaign funds would be used to pay for a facility that included “an office [to] be used by Senator Exon on an occasional basis, principally with regard to the work of the library ... where [Senator Exon] could also work from time to time and greet visitors, etc.”¹⁷ The Commission concluded that Senator Exon could use “the office for matters connected to the operation of the library facility or to other Party business,” but that “[u]se of the office for personal activities, however, will be personal use, unless they are of a de minimis amount.”¹⁸ The Commission viewed this result as consistent with Advisory Opinion 1983-27, and there was no suggestion in the advisory opinion that the new “irrespective” test altered the result or the analysis.

The Commission has also cited Advisory Opinion 1983-27 in a post-BCRA matter. In Advisory Opinion 2008-10 (Lantos), the Commission noted that it “has previously interpreted this provision [11 CFR 113.1(g)(2)] to allow a campaign committee to donate funds to a charitable organization even when the candidate was a member of the organization’s board of directors, so long as none of the donated funds accrued to the candidate’s benefit. Advisory Opinion 1983-27 (McDaniel).” Finally, Advisory Opinion 2012-06 (RickPerry.org) clearly states that a converted committee may use pre-conversion funds “to finance the activities of the nonconnected committee[.]”¹⁹

In light of the Commission’s longstanding approach to “ordinary and necessary” expenses, as set forth in Advisory Opinion 1983-27 (McDaniel), and its even longer-standing approach to campaign committee conversion, there is nothing new or novel about Advisory Opinion 2004-03 (Dooley) or Advisory Opinion 2012-06 (RickPerry.org). The Commission’s most recent committee conversion decisions do not impose the onerous restrictions on the use of campaign funds for which the Complainants have advocated elsewhere. Rather, the Commission concluded generally that “RickPerry.org may convert to a nonconnected committee by amending

foundation's reimbursement of ordinary and necessary expenses incurred by the candidate on behalf of the foundation in his capacity as Board Chairman. Advisory Opinion 1983-27.

¹⁶ The Commission’s 1995 Explanation and Justification identifies several advisory opinions that were superseded by the new “personal use” regulations, including Advisory Opinions 1976-53, 1976-17, 1980-49, 1982-64, 1983-01, 1985-22, 1985-42, and 1988-13. *See* Final Rule on Personal Use of Campaign Funds, 60 Fed. Reg. 7862 (Feb. 9, 1995). Notably, Advisory Opinion 1983-27 (McDaniel) is *not* identified as superseded, and in fact, is identified as being consistent with the adopted version of 11 C.F.R. § 113.1(g)(2).

¹⁷ Advisory Opinion 1996-09 (Exon).

¹⁸ *Id.*

¹⁹ Advisory Opinion 2012-06 (RickPerry.org) at 3.

its Statement of Organization (FEC Form 1) *and fund the nonconnected committee's activities using its remaining primary election funds.*"²⁰ Whatever the personal use restriction on pre-conversion funds means in practice in this particular context, it *does not* include spending on "ordinary and necessary" committee expenses or generally financing the committee's activities.

IV. Discussion of Specific Expenses

FAIRPAC's spending is entirely consistent with the Commission's established rules. FAIRPAC has used pre-conversion funds only for "ordinary and necessary"²¹ PAC expenses and "to finance the activities of the nonconnected committee[.]"²² Furthermore, the Complainant's characterizations of FAIRPAC as effectively dormant are not correct. FAIRPAC is an active and ongoing federal committee that continues to engage in various activities and has made contributions to candidates and donations to nonprofit organizations during the 2014, 2016, and 2018 election cycles.

A. Bookkeeping and PAC Maintenance Expenses

FAIRPAC pays \$1,500 per month for PAC bookkeeping and reporting services. Bookkeeping, reporting, and committee maintenance services are, of course, permissible campaign committee expenses pursuant to 52 U.S.C. § 30114(a). In addition, they are "ordinary and necessary" expenses for a PAC. Not only are these expenses permissible, they are legally required – for any type of registered committee. The amount paid reflects the ordinary market rate for such services and is consistent with the amounts charged by consultants across the country.

FAIRPAC paid former Representative Linder's daughter for these services from 2014-2015, and has paid his son for these services from 2016 – present. Salary payments to a member of a candidate's family are *expressly permitted* by Commission regulation, so long as "the family member is providing *bona fide* services to the campaign" and the payment is not "in excess of the fair market value of the services provided."²³ In past matters, "the Commission specifically

²⁰ *Id.*

²¹ Advisory Opinion 1983-27 (McDaniel).

²² Advisory Opinion 2012-06 (RickPerry.org).

²³ 11 C.F.R. § 113.1(g)(1)(i)(H); *see also* Final Rule on Personal Use of Campaign Funds, 60 Fed. Reg. 7862, 7866 (Feb. 9, 1995) ("The Commission agrees with those commenters that argue that family members should be treated the same as other members of the campaign staff. So long as the family member is providing *bona fide* services to the campaign, salary payments to that family member should not be considered personal use. However, the Commission believes these payments should be limited to the fair market value of the services provided. Consequently, the final rules treat salary payments in excess of that amount as personal use."); Advisory Opinion 2001-10 (Jackson) ("The regulations

authorized the use of excess campaign funds to pay the costs incurred for ‘staff, headquarters, and supplies in order to file Federal Election Commission reports.’”²⁴

The Complainant does *not* contend that \$1,500 per month is an excessive payment for bookkeeping and reporting services.²⁵ Rather, the Complaint mistakenly contends that *bona fide* services were not provided to the PAC on the grounds that payments are listed “for ‘FR consulting,’ despite the committee raising \$0.”²⁶ The Complainant presumes – incorrectly – that “FR consulting” means “*fundraising consulting*.”²⁷ The term was used by the committee’s bookkeepers for years to refer to “*financial reporting consulting*.” Any payments made for “FR consulting” were for the PAC’s bookkeeping and *financial reporting* services. (During the period at issue in this matter, the committee continued to use the description “FR consulting” simply because that is how it had been done in the past. If the Commission believes one or more amended filings, or a Form 99 explanation, would be in order, the Respondent is willing to cooperate.)

B. Computer-Related Expenses

The computer and internet-related expenses identified in the Complaint were incurred as necessary bookkeeping and reporting expenses. Political committees are required to file their FEC reports electronically. As a practical matter, this is a requirement that every committee have computer equipment and an internet connection. As noted above, “the Commission specifically authorized the use of excess campaign funds to pay the costs incurred for ‘staff, headquarters, and supplies in order to file Federal Election Commission reports.’”²⁸

The following expenses are identified in the Complaint:

specifically permit salary payments to family members where they are payments for ‘*bona fide*, campaign related services.’ 11 CFR 113.1(g)(1)(i)(H).”)

²⁴ Advisory Opinion 1993-06 (Panetta) (emphasis added) at 5 *quoting* Informational Letter in Response to Advisory Opinion Request 1976-101.

²⁵ To the extent the Complainant suggests that this amount “exceeds the market rate for any other services provided in support of the multicandidate PAC’s program services,” see Complaint at ¶ 23 n.55, the Complainant is simply wrong.

²⁶ Complaint at ¶ 22.

²⁷ Complaint at ¶ 23 n.55 (“The description of the services is an apparent reference to ‘fundraising consulting,’ but the committee raised \$0 in contributions so engaged in little or no fundraising activities.”).

²⁸ Advisory Opinion 1993-06 (Panetta) at 5 (emphasis added) *quoting* Informational Letter in Response to Advisory Opinion Request 1976-101.

Expense	Purpose
\$481, Best Buy, 2/7/2014	Computer for PAC use
\$215, Office Depot, 6/5/2017	Replacement printer for PAC use
\$207, HP.com, 6/1/2018	Ink cartridges for printer
Verizon Wireless, 2014-2016	Monthly payments for internet service
AT&T, 2016-2018	Monthly payments for internet service

These are “ordinary and necessary”²⁹ PAC expenses and this spending constitutes a textbook example of “financ[ing] the activities of the nonconnected committee[.]”³⁰

C. Travel and Hotel Expenses

The Complaint identifies expenses related to three events to which Representative Linder traveled and participated. All of the events were political-related and none were in the nature of a vacation or for other personal purposes.

1. Chowder & Marching

One of the expenses the Complainant identifies is for a “dinner” disbursement paid to Chowder & Marching. The Complainant appears to have no idea what this is and apparently did not bother to look it up. Chowder and Marching is an organization of past and present House Republicans that hosts meetings and banquets from time to time. The “Chowder and Marching Club” was reportedly founded in 1949 by Richard Nixon and Gerald Ford. The media writes about the organization sporadically: the *New York Times* wrote about it in 1982,³¹ and the *Wall Street Journal* published an article in 2018.³² According to the *Wall Street Journal*:

The Chowder and Marching Club is an invitation-only group of current and former House Republicans that has been around almost 70 years. They meet Wednesday evenings in the U.S. Capitol. Once every few years, members gather for a banquet wearing aprons and goofy hats that resemble the Swedish chef character from “The Muppet Show.”

²⁹ Advisory Opinion 1983-27 (McDaniel).

³⁰ Advisory Opinion 2012-06 (RickPerry.org).

³¹ Marjorie Hunter, *G.O.P. Success Recipe Often Includes Chowder*, *New York Times* (Mar. 15, 1982), <https://www.nytimes.com/1982/03/15/us/gop-success-recipe-often-includes-chowder.html>.

³² Janet Hook and Natalie Andrews, *There Really Is A Secret Club In Washington Whose Members Run America*, *Wall Street Journal* (June 20, 2018), <https://www.wsj.com/articles/there-really-is-a-secret-club-in-washington-whose-members-run-america-1529506405>.

Confidential interviews with skittish club members have uncovered more. The club meetings, held every week the House is in session, encompass an hour of drinks, dinner and conversation about policy and politics. They are held on the Capitol's first floor, in Room H-107.

[***]

The club's aim is simply to provide a venue for legislators, young and old, to meet, network and shoot the breeze. Its membership of a few dozen is built every year by invitation. Members tap a handful of recently elected House members who seem to have promising careers ahead of them in Congress, regardless of ideology.

[***]

Beside secrecy, another club rule is once a Chowder member, always a Chowder member. Lawmakers who leave the House for the Senate or governorships—or even the private sector—are forever welcome at meetings.³³

Representative Linder joined the Chowder & Marching during his first year in the U.S. House and has remained a member ever since. The following expenses referenced in the Complaint were incurred in connection with former Representative Linder's attendance at a 65th anniversary event hosted in 2014 by the Chowder & Marching Club:

- \$900, Chowder & Marching, November 7, 2014
- \$1,572, Delta Airlines, December 7, 2015
- \$941, Renaissance Hotels, January 7, 2015

A review of Commission report data shows that many campaign committees made disbursements to "Chowder and Marching" in late 2014. The listed purpose of disbursement on the campaigns' reports varies widely, but includes "event tickets," "program expense," "fundraising dinner," "meeting expense," "membership dues," and "donation." For current members of the U.S. House, these expenses are permissible as either campaign or officeholder expenses pursuant to 52 U.S.C. § 30114(a)(1), (2). Given that membership is open only to past and present members of the House, and "once a Chowder member, always a Chowder member,"³⁴ these expenses would not exist irrespective of former Representative Linder's prior status as an officeholder. Furthermore, meeting with past and present members of the U.S. House in a policy/political context also falls easily within the category of "ordinary and necessary" PAC expenses.

³³ *Id.*

³⁴ *Id.*

2. Alaska, 2016

The Complainant asserts that FAIRPAC “used Linder’s leftover campaign committee funds for ... an apparent trip to Alaska” and concludes that this was a “personal expense.” The Complainant has no factual basis for its conclusion and obviously has not done any research into the matter.

In April 2016, former Representative Linder travelled to Alaska for two speaking engagements. The first event was hosted by a former Lieutenant Governor, and the second event was a breakfast meeting with state party members. Both events were held in conjunction with the Alaska Republican Party convention. The convention was held on April 30 and the main item of business was the selection of delegates to the 2016 Republican National Convention. Representative Linder spoke about the “fair tax” at both events. The following expenses identified in the Complaint were incurred in connection with these events:

- \$2,143, Delta Airlines, April 8, 2016
- \$523, Alaska Airlines, April 8, 2016
- \$516, Captain Cook Hotel, April 28, 2016

Travel and lodging expenses of this nature are permissible campaign expenses pursuant to 52 U.S.C. § 30114(a), and with respect to FAIRPAC, these are “ordinary and necessary” PAC expenses. In addition, the Commission has previously determined that a former Member of Congress may use “excess campaign funds” to travel to political party events.³⁵

3. Atlanta, 2014

In May 2014, Representative Linder traveled to Atlanta to speak to an organization about the “fair tax.” FAIRPAC paid \$263 to the Marriott NW Atlanta on May 7, 2014 in connection with this speaking engagement. This is an “ordinary and necessary” PAC expense that is materially indistinguishable from the reimbursable expenses referenced in Advisory Opinion 1983-27 (McDaniel). This expense also falls squarely within “financ[ing] the activities of the nonconnected committee.”³⁶

D. Research

On November 2, 2015, FAIRPAC paid \$3,500 to David Burton for research services. Mr. Burton’s research was connected to a “fair tax” legislative proposal that was advanced in Georgia at the state level. Specifically, Mr. Burton conducted economic research to determine the “fair tax” rates that would be necessary to replace the state’s existing income and other tax revenues. This is an “ordinary and necessary” PAC expense and not materially distinguishable

³⁵ See Advisory Opinion 1993-06 (Panetta).

³⁶ Advisory Opinion 2012-06 (RickPerry.org).

from the reimbursable expenses referenced in Advisory Opinion 1983-27 (McDaniel). This expense also falls squarely within “financ[ing] the activities of the nonconnected committee.”³⁷

E. *Wall Street Journal* Subscription

FAIRPAC made a disbursement of \$212 to the *Wall Street Journal* on October 8, 2016. A cursory review of Commission records makes clear that disbursements to the *Wall Street Journal* are common among campaign committees, party committees, and PACs. This is an “ordinary and necessary” PAC expense and not materially distinguishable from the reimbursable expenses referenced in Advisory Opinion 1983-27 (McDaniel). This expense also falls squarely within “financ[ing] the activities of the nonconnected committee.”³⁸

V. Conclusion

FAIRPAC’s spending is consistent with the applicable statutory provisions, Commission regulations, and Commission precedent. For the reasons set forth above, the Commission should find no reason to believe the Respondents violated the Act and dismiss the Complaint.

Sincerely,



Michael Bayes
Counsel to FAIRPAC

³⁷ *Id.*

³⁸ *Id.*