



10 G Street NE, Suite 600 | Washington, DC 20002

November 22, 2021

VIA E-MAIL

Roy Q. Luckett, Acting Assistant General Counsel
 Kathryn Ross, Paralegal
 Federal Election Commission
 Office of Complaints Examination and Legal Administration
 1050 First Street, NE
 Washington, DC 20463
 Email: CELA@fec.gov

Re: Matter Under Review 7929 (DCCC; Timothy Persico, DCCC Treasurer; Rep. Sean Patrick Maloney, DCCC Chair)

Dear Mr. Luckett:

We write on behalf of DCCC, Timothy Persico in his official capacity as DCCC Treasurer, and Representative Sean Patrick Maloney, Chairman of DCCC (collectively, “Respondents”) in response to the complaint filed by the Foundation for Accountability and Civic Trust (“Complainant”) in Matter Under Review 7929 (the “Complaint”). The Complaint makes completely frivolous allegations about violations of the personal use restriction and reporting requirements under the Federal Election Campaign Act of 1971, as amended (the “Act”) and Federal Election Commission (the “Commission” or “FEC”) regulations.¹

Specifically, the Complaint falsely accuses DCCC of using its funds to pay for Rep. Maloney to vacation in Europe in August 2021. The Complainant’s only support for this allegation is a newspaper article titled “DCCC Buys Flight Ticket Just Weeks Before Boss’ Vacation to France,”² which notes that on June 21, 2021, DCCC purchased an Air France flight, and separately, Representative Maloney posted on social media vacation photographs of himself with his husband in Europe in August 2021. As stated in that article, DCCC said it did not “pay for Maloney’s trip” and that “the Air France ticket was purchased ‘to conduct DCCC business with Americans living overseas.’”³ Nonetheless, Complainant then peddles a false narrative that DCCC’s answer in the press story was “cryptic” and “vague” and that such public denial “did not provide facts or properly address the concerns of personal use.” Further, the Complaint contains a veiled allegation that DCCC somehow failed to properly report its expenditures to the FEC. Because the Complaint does not allege any additional facts that demonstrate Respondents

¹ This Complaint demonstrates why the Federal Election Commission needs to adopt a policy or regulation to ensure that frivolous, potentially defamatory, and/or slanderous complaints are sanctionable akin to Rule 11 of the Federal Rules of Civil Procedure.

² Jon Levine, *DCCC Buys Flight Ticket Just Weeks Before Boss’ Vacation to France*, The New York Post (Sept. 18, 2021), <https://nypost.com/2021/09/18/dccc-buys-flight-ticket-weeks-before-boss-vacation/>.

³ *Id.*

violated the personal use restrictions or reporting requirements under federal law, the Commission should find no reason to believe Respondents violated the Act and dismiss the Complaint immediately.

I. Factual Background

DCCC is a national political party committee whose mission is to support Democratic House campaigns.⁴ For the 2022 election cycle, it is chaired by Representative Sean Patrick Maloney.⁵ DCCC raises contributions from United States citizens all over the world to achieve its mission. DCCC frequently holds fundraising events featuring Members of Congress, who appear to help raise money and speak with supporters. In September 2021, DCCC hosted a series of fundraising events and meetings with American citizens living abroad in Europe. In preparation for those activities, on June 21, 2021, DCCC purchased an airline ticket from Air France for Rep. Adam Schiff to fly to Europe. DCCC reported this travel expense on its August monthly FEC report.⁶ In accordance with the Act, DCCC disclosed additional expenses associated with these fundraising events and meetings in its monthly FEC reports.

Separately, and unrelated to DCCC’s September fundraising trip, in August 2021, Rep. Maloney and his husband took a vacation in Europe. Rep. Maloney self-funded his vacation, meaning he did not use any DCCC funds to pay for it.

II. Legal Analysis

The FEC may only find “reason to believe” Respondents violated the Act, or Commission regulations if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation.⁷ The complaint here fails to make that showing as its allegations are entirely false.

1. Even if the Act’s personal use restriction applied to DCCC funds, Respondents did not violate the Act because DCCC did not pay for Rep. Maloney’s vacation and the Air France ticket was for a legitimate DCCC operating expense.

The Act prohibits any person from converting contributions accepted by a candidate for personal use.⁸ A contribution is “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.”⁹ Using

⁴ DCCC, FEC Form 1, Statement of Organization (amended June 24, 2021), <https://docquery.fec.gov/cgi-bin/forms/C00000935/1521495/>.

⁵ Alex Rogers, *House Democrats elect Sean Patrick Maloney as DCCC chairman*, CNNPolitics (Dec. 3, 2020), <https://www.cnn.com/2020/12/03/politics/sean-patrick-maloney-dccc-chair-elected/index.html>.

⁶ DCCC, FEC Form 3X, Report of Receipts and Disbursements for Other Than an Authorized Committee (Aug. 20, 2021), 22024, <https://docquery.fec.gov/pdf/860/202108209466487860/202108209466487860.pdf>.

⁷ See 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.9; Statement of Reasons of Comm’rs Mason, Sandstrom, Smith & Thomas, Matter Under Review 4960 (Hillary Rodham Clinton for US Senate Exploratory Committee), (Dec. 21, 2000), at 7.

⁸ 52 U.S.C. § 30114(b)(1).

⁹ 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g).

campaign funds for a vacation is considered personal use.¹⁰ Using campaign funds for travel is assessed on a “case-by-case basis.”¹¹ This Commission has previously explained that these personal use restrictions do not apply to funds raised by national party committees.¹² Because DCCC is a national party committee and not a candidate committee, the Complaint fails to allege that any campaign funds were used impermissibly.

Even if the personal use restrictions applied to DCCC funds, which they do not, DCCC funds here were used for permissible DCCC operating expenses.¹³ Complainant falsely alleges that there were “apparent violations” of the Act by wrongfully alleging that the ticket was for Rep. Maloney to vacation in Europe. In reality, the Air France ticket was purchased on June 21, 2021 by DCCC for Rep. Schiff to travel to Europe to participate in DCCC fundraising events and meetings. Other expenses associated with that trip were permissibly paid for by DCCC for DCCC fundraising purposes. No DCCC funds were used to finance any portion of Rep. Maloney’s personal vacation in Europe; Rep. Maloney and his husband paid for the expenses associated with their vacation themselves. The allegations by Complainant to the contrary are wrong. As a result, there is absolutely no basis on which the Commission can find that the Respondents violated the personal use restrictions under the Act or Commission regulations.

2. Because DCCC properly reported its travel expenditure to the FEC, it did not violate the Act or Commission regulations.

All federal political committees are required to report their receipts and disbursements.¹⁴ Each report must disclose disbursements for, among other things, operating expenses, including the name and address of each person to whom an operating expenditure in an aggregate amount in excess of \$200 within the calendar year was made.¹⁵ Further, the disclosure must include the

¹⁰ 52 U.S.C. § 30114(b)(2)(E); 11 C.F.R. § 113.1(g)(1)(i)(J).

¹¹ 11 C.F.R. § 113.1(g)(ii)(C).

¹² See Matter Under Review (“MUR”) 6105. In MUR 6105, a complaint was filed against then-Vice Presidential nominee Sarah Palin and the Republican National Committee (“RNC”), alleging that the RNC spent over \$150,000 on clothes for Ms. Palin and her family in violation of the Act’s personal use restrictions. First General Counsel’s Report, Matter Under Review 6105 (April 16, 2009), at 1-2. The Commission found “no reason” to believe the parties violated the Act since “the personal use prohibitions were not violated because the RNC used its own funds and not campaign funds of a candidate” when it purchased the items. *Id.* at 2; see also Factual and Legal Analysis, Matter Under Review 6105 (May 15, 2009), at 2 (determining “no candidate funds were converted to ‘personal use’” where RNC made the clothing expenditures); see also Advisory Opinion 1991-21, (Alliance for Representative Government) (advising that multicandidate committee could disburse remaining funds to a former officeholder because “he was not a Federal candidate and the committee was not the principal campaign committee” so “the prohibition against personal use by a candidate, [did] not apply to the committee’s excess funds”).

¹³ Had DCCC funds been used for a Member’s personal vacation, the proper forum for the complaint would be to the Office of Congressional Ethics or the House Committee on Ethics for impermissible gifts, not the FEC. Rule XXV.5(a)(3)(B), Rules of the U.S. House of Representatives, 117th Cong. (2021). In any event, the travel expenditure to Air France was permissibly for DCCC business, not for a Member’s vacation, and thus, neither the Act, FEC regulations, or House Rules were violated.

¹⁴ 52 U.S.C. § 30104(a)(1); see also First General Counsel’s Report, Matter Under Review 6435 (Rangel, et al) (Sept. 30, 2014), at 12 (stating the complaint’s speculative allegations that a PAC paid for a Member’s legal fees, “based on the timing of the payments” lacked “sufficient facts to contradict respondents’ contentions” about the true nature of the legal fees where “the complaint provides no specific facts to support such speculation.”)

¹⁵ 52 U.S.C. § 30104(b)(5).

“date, amount, and purpose of such operating expenditure.”¹⁶

Here, DCCC reported its disbursement to Air France on its August monthly FEC report. As required by the law, the \$813.20 disbursement for travel is dated June 21, 2021. Despite this accurate disclosure, Complainant argues that DCCC “fail[ed] to provide adequate information to the public” in its FEC disclosures. Respondents complied with all disclosure requirements under the Act and Commission regulations.¹⁷ If Complainant believes that DCCC should be required to submit more details on its FEC disclosures, Complainant should submit a formal request for a rulemaking to the Commission. A complaint is not the appropriate venue to raise these concerns as the FEC enforcement process is not “an opportunity to obtain some sort of legal precedent which was apparently unattainable through more traditional and appropriate channels.”¹⁸

III. Conclusion

As demonstrated herein, the allegation that DCCC funded Rep. Maloney’s August vacation is without merit. The Air France ticket referenced in the Complaint was used to fund Rep. Schiff’s trip to conduct DCCC fundraising meetings and events in Europe with American citizens living abroad and was properly reported. The allegations contained in the complaint are nothing more than mere suspicions clipped from an article that attempted to weave together a narrative about improper spending that is neither factually nor legally supported in the complaint or reality. Accordingly, the Commission should reject the Complaint’s request for an investigation, find no reason to believe that a violation of the Act or Commission regulation has occurred, and close this matter.

Yours truly,

Marc E. Elias
Rachel L. Jacobs
Jennifer Thelusma

¹⁶ 11 C.F.R. § 104.3(b)(3)(i).

¹⁷ See Purposes of Disbursement, Federal Elections Commission (last visited Nov. 17, 2021), <https://www.fec.gov/help-candidates-and-committees/purposes-disbursements/> (listing “Travel” as “Adequate Purposes of Disbursement”).

¹⁸ Statement of Reasons of Vice Chairman Matthew S. Petersen and Comm’rs Caroline C. Hunter and Donald F. McGahn II, Matter Under Review 5541 (The November Fund), (June 1, 2009), at 17.