



December 1, 2021

**MUR 7947**

Lisa J. Stevenson  
Acting General Counsel  
Office of the General Counsel  
Federal Election Commission  
1050 First Street, NE  
Washington, DC 20463

Dear Ms. Stevenson,

The American Accountability Foundation (AAF) files this complaint under 52 U.S.C. 30109(a)(1) against the principal campaign committee of Rep. Eric Swalwell (D-CA), Swalwell for Congress (Swalwell Committee), for violating the Federal Campaign Act of 1971, as amended (the Act), and the Federal Election Commission (FEC) regulations, as described below. News reports in recent months<sup>1</sup> indicate that the Swalwell Committee spent thousands of dollars in campaign funds on a lavish lifestyle and potentially for personal use. For example, the committee spent campaign funds on sporting events, entertainment, Uber Eats, luxury private flights, private limo services, alcohol delivery services, and meals at extravagant restaurants that appear to be beyond excessive for a candidate in a non-election year. According to FEC filings, the Swalwell Committee spent over \$1.3 million in the first three quarters of 2021 alone, in a congressional district Swalwell routinely wins by 50 points.<sup>2</sup>

A closer review of the Swalwell Committee's FEC reports indicates anomalies in campaign expenditures that raise troubling questions as to whether campaign disbursements went towards personal use or to the direct benefit of family members. These anomalies include what appears to be preloading of campaign dollars to a Starbucks account and/or gift cards, paying a family member over \$17,000 for "childcare", attending the musical Beach Blanket Babylon, and personal medical testing for COVID-19, among others.<sup>3</sup>

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<sup>1</sup> Houston Keene, "Swalwell Spent Thousands of Campaign Dollars on Booze and Limo ...", July 20, 2021.

<https://www.foxnews.com/politics/swalwell-campaign-dollars-booze-limos-hotels>; Greg Price, "Rep. Swalwell Spent Thousands Of Campaign Dollars On Alcohol ...", July 20, 2021. <https://dailycaller.com/2021/07/20/swalwell-thousands-campaign-dollars-alcohol-limos-hotels/>; Henry Rodgers, "FEC Records Show Eric Swalwell Spending Campaign Funds On ...", November 1, 2021. <https://dailycaller.com/2021/11/01/fec-records-eric-swallow-casino-steak-houses/>.

<sup>2</sup> Swalwell for Congress, FEC Swalwell for Congress - Committee Overview, <https://www.fec.gov/data/committee/C00502294/?tab=filings>.

<sup>3</sup> Swalwell for Congress, FEC Swalwell for Congress - Committee Overview, <https://www.fec.gov/data/committee/C00502294/?tab=filings>.

### Personal Use of Campaign Funds

An investigation should be conducted to review expenditures of the Swalwell Committee that appear to personal in nature and not campaign related. Personal use is defined as, "...any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder."<sup>4</sup>

Healthcare expenses occur "irrespective" of a candidate's campaign or official duties and are thereby identified as personal use.<sup>5</sup> Meals with only one person present or food that would be consumed "irrespective" of a candidate's campaign are not permissible uses of a campaign account.<sup>6</sup> Disbursements which are small and appear to be for a single person or for standard meals outside of campaign events fall under expenditures that are of personal use. Any expenditures under the category of personal use should be identified through an audit and reimbursed.

Tickets for "sporting events" and "other form of entertainment" are expenses classified as personal use unless the committee can prove the activity is campaign related.<sup>7</sup> There are several small disbursements indicative of a single person attending an event or examples of an event that is only conducive for entertainment, both of which should be evaluated in an audit for possible personal use.<sup>8</sup>

While it is acceptable to employ a candidate's family member who provides "bone fide" services to the campaign, it must be done at fair market value.<sup>9</sup> A closer examination into whether the disbursements by the Swalwell Committee for child care services fall outside the fair market value should be conducted to ensure it did not fall under personal use. The definition for a candidate's family member includes any "parent" and a "person who shares a residence with the candidate"<sup>10</sup>, which in the case of the Swalwell Committee may include Rep. Swalwell's father and/or Susan Reynolds, the latter who listed a District of Columbia address in the FEC filings.<sup>11</sup>

### **Factual Allegations**

Swalwell for Congress is the Principal Campaign Committee for Rep. Eric Swalwell. The Treasurer is Jerome C. Pandell.<sup>12</sup>

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<sup>4</sup> 11 C.F.R. § 113.1(g).

<sup>5</sup> 11 C.F.R. § 113.1(g)(1)(i).

<sup>6</sup> 52 U.S.C. § 30114(b)(2).

<sup>7</sup> 11 C.F.R. § 113.1(g)(1)(i)(F).

<sup>8</sup> See notes 23-28 above.

<sup>9</sup> 11 C.F.R. § 113.1(g)(1)(i)(H).

<sup>10</sup> 11 C.F.R. § 113.1(g)(7).

<sup>11</sup> Swalwell for Congress, FEC Swalwell for Congress - Committee Overview, <https://www.fec.gov/data/committee/C00502294/?tab=filings>.

<sup>12</sup> Swalwell for Congress, FEC Form 1, Statement of Organization, Amended, October 30, 2019, found at <https://docquery.fec.gov/pdf/055/201910309165306055/201910309165306055.pdf>.

Rep. Eric Swalwell received harsh criticism in July 2021 for liberally spending large amounts of campaign funds in a non-election year with expenditures like “booze, and limo services, [and] \$20k at hotel where his wife worked.”<sup>13</sup>

*Potential Disbursements by the Swalwell Committee for Personal Use*

Rep. Swalwell accepted a trip from March 29, 2021 to April 3, 2021 costing over \$19,000 for himself and his wife Brittany Swalwell to attend an educational international seminar (Qatar Trip) in the country of Qatar that was paid for by the United States Qatar Business Council.<sup>14</sup> During this trip, pictures posted to social media revealed Rep. Swalwell and his wife, Brittany Swalwell, posing on top of camels in Qatar, with Rep. Swalwell appearing shirtless.<sup>15</sup>

The House Ethics Committee maintains clear rules on the acceptance of sponsored travel with the condition that the time is spent primarily on “officially-connected programming” for the participants:

“Generally each day must include a full day of programming. Officially-connected programming means meetings or sessions related to the primary purpose of the trip. Officially-connected programming does not include entertainment or recreational activities, time for personal telephone calls, “executive” or personal time, or meals without substantive programming.”<sup>16</sup>

Rep. Swalwell used official sanctioned travel to engage in seemingly personal entertainment with his wife while on the trip to Qatar in direct contradiction to the stated purpose of the trip and in violation of guidance by the House Ethics Committee.<sup>17</sup> This behavior seems to be representative of other activities by Rep. Swalwell and his Principal Campaign Committee, Swalwell for Congress, to use campaign funds for personal use.

On March 29, 2021, the Swalwell Committee made a disbursement of \$238.50 from the “House Gift Shop” for “Constituent Supplies” which corresponds to the same date of departure for the Qatar Trip for Rep. Swalwell.<sup>18</sup> The timing of purchases from a gift shop right before a privately funded travel excursion raises questions on whether the campaign paid for gifts not related to campaign activities. On the same day of travel, there is a charge of \$19.38 for “Uber Eats” which appears to be personal food prior to travel on the Qatar Trip and not related to a campaign expenditure.<sup>19</sup>

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<sup>13</sup> See note 1 above.

<sup>14</sup> Eric Swalwell, “Post Travel Disclosure”, <https://disclosures-clerk.house.gov/gtimages/MT/2021/500023137.pdf>.

<sup>15</sup> Kimberly Leonard and Dave Levinthal, “Photos show shirtless Democratic congressmen and their wives riding camels on a Qatar trip paid for by a special interest group”, <https://www.businessinsider.com/eric-swallowwell-ruben-gallegos-shirtless-in-qatar-riding-camel-2021-7>.

<sup>16</sup> See section “D. Length of Travel, i. General Time Limits”, <https://ethics.house.gov/house-ethics-manual/travel>.

<sup>17</sup> Ibid.

<sup>18</sup> Swalwell for Congress, “FEC Form 3, 2021 April Quarterly Report”, April 15, 2021.

<sup>19</sup> Ibid.

While Rep. Swalwell was on the Qatar Trip abroad, the campaign made expenditures on April 2, 2021 for the alcohol service “Drizly” in the amount of \$124.86 that did not appear to be linked to a campaign event.<sup>20</sup> There is also a payment of \$1,242.50 to Brittany Swalwell’s Aunt labeled as “Childcare for Campaign Event” on April 1, 2021, also during the time Rep. Swalwell was out of the country on the Qatar Trip.<sup>21</sup>

In August 2021, the Swalwell Committee reported a disbursement for Rep. Swalwell of \$50.86 labeled as “Covid Testing.”<sup>22</sup> The use of campaign funds for personal use is directly prohibited. Using the “irrespective test” under FEC regulations, the use of campaign funds for healthcare services is considered an expense that exists “irrespective of the candidate’s campaign or responsibilities as a federal officeholder.”<sup>23</sup>

In a recent advisory opinion request, a then-candidate for Congress requested an exemption from the Commission to use campaign funds to pay for her personal health insurance.<sup>24</sup> The candidate lost her race before the FEC could provide an answer and dismissed the request as moot. The mere fact that the candidate needed to request an exemption illustrates how healthcare expenses currently are not exempted and are considered expenses “irrespective” of the campaign or responsibilities as a federal officeholder. Additionally, Rep. Swalwell is eligible as a sitting member of the House of Representatives to receive health insurance as part of his benefits package.<sup>25</sup> Whatever arguments could be made for a first-time candidate for Congress to obtain an exemption for healthcare costs do not apply to Rep. Swalwell who receives personal health insurance through Congress.

The FEC expressly prohibits the use of campaign for personal entertainment.<sup>26</sup> However, numerous charges from by the Swalwell Committee appear to be entertainment expenses unrelated to any campaign activity. In two instances on 12/16/2018 and 10/07/2015, the Swalwell Committee made disbursements of \$272 & \$317.00 respectively<sup>27</sup> for “event tickets” to Beach Blanket Babylon, a musical show based out of San Francisco.<sup>28</sup> Neither of these expenditures has been identified as a fundraising expense, and the nature of the event suggests it was a leisure outing. Indeed, it strains the imagination that any campaign activity could take place during the course of a musical performance.

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<sup>20</sup> Swalwell for Congress, “FEC Form 3, 2021 July Quarterly Report,” July 15, 2021.

<sup>21</sup> Ibid.

<sup>22</sup> Swalwell for Congress, FEC Form 3, 2021 October Quarterly Report, Oct. 15, 2021.

<sup>23</sup> “Candidate | Personal Use - FEC”, available at <https://www.fec.gov/help-candidates-and-committees/making-disbursements/personal-use/>.

<sup>24</sup> Nabilah Islam, Advisory Opinion Request, January 27, 2021, available at [https://www.fec.gov/files/legal/aos/2020-01/202001R\\_1.pdf](https://www.fec.gov/files/legal/aos/2020-01/202001R_1.pdf).

<sup>25</sup> Congressional Research Service, Health Benefits for Members of Congress and Designated Congressional Staff: In Brief, Update January 13, 2017, available at <https://crsreports.congress.gov/product/pdf/R/R43194/16>.

<sup>26</sup> <https://www.fec.gov/help-candidates-and-committees/making-disbursements/personal-use/>.

<sup>27</sup> Swalwell for Congress, Filtered Disbursements Search on FEC.gov, found at [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00502294&disbursement\\_description=tickets](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00502294&disbursement_description=tickets).

<sup>28</sup> See [https://www.tripadvisor.com/Attraction\\_Review-g60713-d142394-Reviews-Beach\\_Blanket\\_Babylon-San\\_Francisco\\_California.html](https://www.tripadvisor.com/Attraction_Review-g60713-d142394-Reviews-Beach_Blanket_Babylon-San_Francisco_California.html).

Similarly, multiple disbursements for the purchase of baseball tickets were also listed in the Swalwell Committee reports. Washington Nationals tickets purchased on 9/17/2021 for \$153.00 and 9/10/2021 for \$272 were listed as “Tickets for a Campaign Event”, but seem to be relatively low in cost compared to other ticket purchases for similar events.<sup>29</sup> For comparison, event tickets purchased for “campaign events” for the Oakland Athletics on 8/3/2018, Oakland Athletics on 7/19/2018, and Capital One Arena cost the Swalwell Committee \$2,275.00, \$1,795.00, and \$1,869.54 respectively. The Washington Nationals ticket prices do not appear to be the same cost as other sporting events listed as “campaign events” indicating they may have been used for personal use such as the Congressional Baseball Game which took place in September 2021 or a similar personal leisure event.<sup>30</sup>

Additionally, a disbursement listed as “Tickets for Campaign Event” on 3/9/2018 reveal \$261.00 went toward “Vivid Seats”<sup>31</sup>, a third-party online ticket exchange for sports, concerts, or events.<sup>32</sup> There are not enough details to ascertain what event the tickets went towards or whether it was campaign related activity, though the low dollar amount seems to indicate an outing for one person or very small number of people, not a campaign event. Tickets purchased solely for a leisure outing are not acceptable uses of campaign funds.<sup>33</sup>

There are several distributions under the category of “Food & Beverage” that are diminutive expenses, leading to questions on whether the expenditure was campaign related or of a personal nature. On September 17, 2021, the same day the Swalwell Committee paid a small amount of money for Washington Nationals Tickets<sup>34</sup>, a charge at “Sonoma” \$36.70 was also filed.<sup>35</sup> The low cost of the expenditure appears to be a meal charge for a single person and not a charge for a campaign event.

On August 16, 2021, the Swalwell Committee listed charges of \$9.10, \$22.25, and \$18.90 at “Bluejacket Yards” for “Food & Beverage.”<sup>36</sup> Each of these charges, along with a \$79.40 charge at “Charlie Palmer’s”, are among numerous examples of Swalwell Committee expenditures that appear to be of personal nature due to the low outlay amount consistent with small individual meals rather than campaign events or similarly related activities. To further illustrate this point, the Swalwell Committee made a charge of \$15.00 to “Charlie Palmer’s”, a high-end steak restaurant on July 2, 2021 on a day that no other recorded expenditures were made.<sup>37</sup> Again, it appears that the Swalwell Committee used its campaign account to pay for items unrelated to campaign activities. A further investigation into these matters is necessary to provide clarity into the nature of these, and other, irregular expenditures.

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<sup>29</sup> [https://www.fec.gov/data/disbursements/?data\\_type=efiling&committee\\_id=C00502294&disbursement\\_description=ticket](https://www.fec.gov/data/disbursements/?data_type=efiling&committee_id=C00502294&disbursement_description=ticket).

<sup>30</sup> 2021 Congressional Baseball Game, <https://www.c-span.org/video/?514955-1/president-biden-appears-2021-congressional-baseball-game>.

<sup>31</sup> <https://docquery.fec.gov/cgi-bin/fecimg/?201804159108155237>.

<sup>32</sup> Ibid; <https://www.vividseats.com/>.

<sup>33</sup> “Candidate | Personal Use - FEC”, available at <https://www.fec.gov/help-candidates-and-committees/making-disbursements/personal-use/>.

<sup>34</sup> [https://www.fec.gov/data/disbursements/?data\\_type=efiling&committee\\_id=C00502294&disbursement\\_description=ticket](https://www.fec.gov/data/disbursements/?data_type=efiling&committee_id=C00502294&disbursement_description=ticket).

<sup>35</sup> Swalwell for Congress, [FEC Form 3, 2021 October Quarterly Report](#), Oct. 15, 2021.

<sup>36</sup> Swalwell for Congress, [FEC Form 3, 2021 October Quarterly Report](#), Oct. 15, 2021.

<sup>37</sup> Swalwell for Congress, [FEC Form 3, 2021 October Quarterly Report](#), Oct. 15, 2021.

### Questionable Payments to Family

Payments by the Swalwell Committee to “Susan Reynolds”, Brittany Swalwell’s Aunt, for “childcare” occurred multiple times between 2019-2021 for a total of just over \$17,000.<sup>38</sup> The cost of child care appears high and may be above the fair market value for the services as required by law.<sup>39</sup> Childcare is a permissible campaign expense if it is “incurred only as a direct result of campaign activity and would not otherwise exist.”<sup>40</sup>

According to professional childcare site Care.com, the hourly cost of care ranges between \$14-\$19 for the top cities in America.<sup>41</sup> For a frame of reference, paying Susan Reynolds \$1,242.50 on April 1, 2021<sup>42</sup> at an above market rate of \$25/hour would account for a total of 49.5 total hours worked during a “campaign event.” That many hours would be the equivalent of a full 40-hour work week plus overtime, which appears to be quite excessive.

These babysitting expenses also suggest that Rep. Swalwell’s wife is traveling with him for campaign events. Questions arise regarding what role Brittany Swalwell maintains with the campaign that would justify the campaign paying for her to travel with her husband and subsequent childcare services. An investigation would answer these questions and others like whether she is paying her own way or if the campaign is covering her cost to go on a vacation.

Additional child care payments totaling \$7,384.75 went to “Eric Swalwell” between 2019-2020 for childcare services.<sup>43</sup> Presumably, this is Rep. Swalwell’s father, but the filings are unclear whether the recipient is Rep. Swalwell or his father.

Even if every payment to a family member for childcare services qualified under a “direct result of campaign activity,” the question remains whether the expense would not otherwise exist outside of campaign activities. It is abnormal for a person to pay an aunt or grandparent to watch their child. Rep. Swalwell has family members that would watch the kids for free regardless of whether he was a member of congress and, subsequently, should not be able to enrich his family members for spending quality time with his kids.

### **Potential Misconduct**

#### Improper Distribution of Campaign Funds from Committee’s Depository

There are several charges that appear to be in direct violation of FEC regulations and federal law regarding the method of making distributions from a campaign account.<sup>44</sup> FEC regulations maintain strict

<sup>38</sup> Swalwell for Congress, FEC Swalwell for Congress - Committee Overview, <https://www.fec.gov/data/committee/C00502294/?tab=filings>.

<sup>39</sup> 11 C.F.R. § 113.1(g)(1)(i)(H).

<sup>40</sup> See FEC Advisory Opinion 2018-06 found at <https://www.fec.gov/files/legal/aos/2018-06/2018-06.pdf>.

<sup>41</sup> See “Pay Rates for Top Cities” found at <https://www.care.com/babysitting-rates>.

<sup>42</sup> Swalwell for Congress, “FEC Form 3, 2021 July Quarterly Report, July 15, 2021.

<sup>43</sup> Swalwell for Congress, Disbursements found at [fec.gov, https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00502294](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00502294).

<sup>44</sup> 11 C.F.R. § 102.10; 52 U.S.C. § 30102(h)(1).

instructions on how “all” disbursements, other than “petty cash”, must be drawn from the campaign’s depository. The Code of Federal Regulations states, “All disbursements by a political committee, except for disbursements from the petty cash fund under 11 CFR 102.11, shall be made by check or similar draft drawn on account(s) established at the committee’s campaign depository or depositories under 11 CFR part 103.”<sup>45</sup> This rule allows each individual expenditure to be tracked and reported to ensure correct adherence to federal laws and regulations.

The Swalwell Committee made over 150 charges to “Starbucks”, including numerous charges with round numbers indicating the possibility of gift card purchases or the preloading of an individual Starbucks Account.<sup>46</sup> Any purchases towards a preloaded account or gift card circumvents transparency and the law requiring each transaction to be drawn from the campaign account. Payments like the \$250.00 charge on 12/23/2014 occurred during the Christmas and holiday season increasing the likelihood that gift card(s) were purchased. The frequency at which transactions with a round value occur, for example 19 transactions with a value of \$100 between 2015-2018<sup>47</sup>, suggests campaign funds were potentially used for gift cards or a preloaded Starbucks account that was disbursed in violation of FEC regulations.<sup>48</sup> Likewise, a charge of \$25 as recent as August 25, 2021 and two similar charges of \$35.00 in June, 2021 seem to indicate that actions potentially in violation of federal law continue to occur.<sup>49</sup> This activity raises troubling questions about how the campaign spends its funds and reports that spending.

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### Summary

It is the goal of the American Accountability Foundation to ensure transparency of the actions of government officials. The goal of regulations and laws surrounding campaign finance is to ensure that money is used for their stated purpose and not misused for personal gain. Expenditures adding up to tens of thousands of dollars made by the Swalwell Committee point to behavior unrelated to the

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<sup>45</sup> Ibid.

<sup>46</sup> Swalwell for Congress, Filtered Disbursements Search on FEC.gov, found at [https://www.fec.gov/data/disbursements/?data\\_type=processed&committee\\_id=C00502294&recipient\\_name=starbucks](https://www.fec.gov/data/disbursements/?data_type=processed&committee_id=C00502294&recipient_name=starbucks); 11 C.F.R. § 102.10; 11 C.F.R. § 102.11.

<sup>47</sup> Ibid.

<sup>48</sup> Starbucks Rewards, “Preload: To save time and earn Stars twice as fast, add money to your digital Starbucks Card using any payment option. Scan and pay in one step or order ahead in the app”, <https://www.starbucks.com/rewards>; 11 C.F.R. § 102.10.

<sup>49</sup> 52 U.S.C. § 30114(b)(2).

campaign of Rep. Swalwell. Based on its supervisory authority, the FEC should use their investigative ability, including the use of an audit, to examine violations of law by the Swalwell Committee.<sup>50</sup>

Sincerely,



Matthew Buckham  
Director  
American Accountability Foundation  
300 Independence Ave SE  
Washington, DC 20003

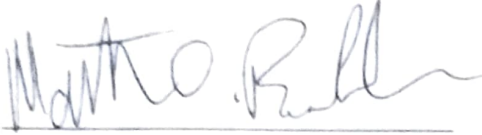
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<sup>50</sup> Under 52 U.S.C. § 30109(a), the FEC may use this complaint to request an audit into violations made by the Swalwell Committee. Should they use this complaint as one identified under 52 U.S.C. § 30109(a)(b), a verification letter in accordance to 11 C.F.R. § 111.4 is attached, listing AAF and its director, Matthew Buckham as complainants.



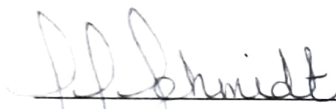
Verification

The American Accountability Foundation and Matthew Buckham hereby verify that the statements made in the attached complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.



Matthew Buckham

Sworn to and subscribed before me this 1<sup>st</sup> day of December, 2021.

 exp. 6/9/2025  
Notary Public

