



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUL 14 2009

**The Honorable Robert E. Andrews
United States House of Representatives
2439 Rayburn House Office Building
Washington, DC 20515**

**RE: MUR 6140
Robert E. Andrews**

Dear Representative Andrews:

On December 9, 2008, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by the Andrews for Congress Committee, and Maureen Doherty, in her official capacity as treasurer, the Commission, on July 2, 2009, voted to dismiss this matter as to you, and has closed the file. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information. The Commission reminds you that you appear to have violated 2 U.S.C. § 439a(b). You should take steps to ensure that this activity does not occur in the future.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

If you have any questions, please contact J. Cameron Thurber, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Susan L. Lebeaux".

**Susan L. Lebeaux
Assistant General Counsel**

**Enclosure
Factual and Legal Analysis**

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS: Rep. Robert E. Andrews** **MUR: 6140**
6 **Andrews for Congress Committee, and**
7 **Maureen Doherty, in her official capacity**
8 **as treasurer**
9

10 **I. INTRODUCTION**

11 This matter was generated by a complaint filed with the Federal Election Commission
12 ("Commission") by Citizens for Responsibility and Ethics in Washington. See 2 U.S.C.
13 § 437g(a)(1). For the reasons set forth below, the Commission dismissed the complaint alleging
14 that Rep. Robert E. Andrews, and the Andrews for Congress Committee, and Maureen Doherty,
15 in her official capacity as treasurer ("Andrews Committee"), violated 2 U.S.C. § 439a(b)(2)(B)
16 and 11 C.F.R. § 113.1(g).

17 **II. DISCUSSION**

18 The complaint alleges that on June 11, 2007, the Andrews Committee spent \$952.04 for
19 clothing items at Benjamin Peters, Bon-Ton, and Target for Rep. Andrews' personal use, as
20 reflected in its 2007 Amended July Quarterly Report filed on April 12, 2008.

21 In its response, the Andrews Committee states that Rep. Andrews purchased the clothing
22 because when he travelled on the morning of June 9, 2007, to give a keynote speech that evening
23 at Cornell University, the airline lost his luggage. The response further states that Rep. Andrews
24 paid for the clothes using a personal credit card "primarily used for campaign-related
25 expenditures and trips, but Mr. Andrews is personally and solely responsible for all expenditures
26 on the card." Response at 1. The response attaches a copy of the check drawn on the Andrews
27 Committee's bank account that was used to pay for the credit card charges, including the clothing

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1 purchases. The response states, and attached documents show, that on July 20, 2007, the airline
2 reimbursed Rep. Andrews, and he endorsed the check over to the Andrews Committee, which
3 deposited it into the Committee's account. The Andrews Committee treasurer, who filed the
4 response, states she contacted RAD by telephone about reporting this series of events and
5 thereafter filed a Form 99 (Miscellaneous Report) on October 12, 2007. The Andrews
6 Committee also reported the candidate's repayment on its 2007 October Quarterly Report filed
7 the same day.

8 2 U.S.C. § 439a(b)(1) states, "A contribution or donation described in sub-section (a)
9 shall not be converted by any person to personal use." Sub-section (a) refers to "[a] contribution
10 accepted by a candidate, and any other donation received by an individual as support for
11 activities of the individual as a holder of Federal office" The statute further states in sub-
12 section (b)(2) that "a contribution or donation shall be considered to be converted to personal use
13 if the contribution or amount is used to fulfill any commitment, obligation, or expense of a
14 person that would exist irrespective of the candidate's election campaign or individual's duties as
15 a holder of Federal office, including . . . (B) a clothing purchase" See also 11 C.F.R.
16 § 113.1(g)(1)(i)(c) (use of campaign funds for the purchase of clothing, other than items of *de*
17 *minimis* value that are used in the campaign, such as campaign "T-shirts" or caps with campaign
18 slogans, constitutes personal use).

19 Rep. Andrews used campaign funds from his authorized committee for clothing
20 purchases, which were of more than *de minimis* value, in violation of the prohibition on personal
21 use of campaign funds. 2 U.S.C. § 439a(b); 11 C.F.R. § 113.1(g). Despite the violations, Rep.
22 Andrews reimbursed the Andrews Committee before the complaint was filed. Moreover, the
23 alleged amount in violation is so low that it would not merit the further use of Commission

1 resources to pursue this matter. *See Statement of Policy Regarding Commission Action in*
2 *Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545, 12545-6 (Mar. 16,*
3 *2007).*

4 Therefore, the Commission has exercised its prosecutorial discretion and decided to
5 dismiss the complaint and close the file. *See Heckler v. Chaney, 470 U.S. 821 (1985).*

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