



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Congressman Robert E. Andrews, *et al.*

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) MUR 6511
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**STATEMENT OF REASONS
OF COMMISSIONER ELLEN L. WEINTRAUB**

The Federal Election Campaign Act of 1971, as amended (“the Act”), and Commission regulations give candidates wide discretion over the use of campaign funds, but it is not limitless. Significantly, candidates may not convert campaign funds to personal use.¹ In this matter, Congressman Robert Andrews used campaign funds to pay for a family trip to a luxury resort in Scotland, his daughter’s travel to California where she participated in recording sessions to advance her career, and donations to a local theater where his daughter performs. In my view, the Scotland trip clearly constituted personal use, and the California trips and donations raised questions that the Commission should have investigated. I thus voted to find reason to believe that the personal use restrictions had been violated and could not support dismissal of the complaint.²

¹ 2 U.S.C. § 439a(b)(1); 11 C.F.R. § 113.1(g).

² See Certification of May 20, 2014 vote in MUR 6511. Specifically, I voted with Vice Chair Ann M. Ravel and Commissioner Steven T. Walther to find reason to believe that Robert E. Andrews and his campaign committee violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign funds to pay for expenses incurred by the candidate’s daughter during a campaign-related trip to California. We also voted to find reason to believe that Andrews and his committee used campaign funds to pay for a non-campaign related trip to Scotland for his entire family. Our colleagues did not support either motion to find reason to believe and the Commission vote split, 3-3. Four Commissioners ultimately voted to dismiss the allegations based on the California and Scotland trips. Commissioner Walther and I dissented. The

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The Act expressly prohibits any person from converting contributions or donations to "personal use."³ "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."⁴ Using campaign funds to subsidize a family vacation or a family member's professional opportunities would plainly constitute personal use. Indeed, the statute specifically lists payment with campaign funds for "a vacation or other noncampaign-related trip" as an example of personal use.⁵

In this case, Congressman Andrews spent \$13,539.70 in campaign funds and \$16,574.88 from his leadership PAC, the Committee to Strengthen America, to pay for his entire family to fly business class to Scotland and stay for three nights in two rooms at the five-star Balmoral Hotel in Edinburgh, Scotland (which they followed up with several days' vacation in London, England), all to attend the wedding of an individual who had provided informal unpaid advice to Andrews' campaign in 2004 and 2008.⁶ While Andrews maintained that he needed to attend the wedding, with his wife and two children, to foster goodwill with a "critical" campaign aide,⁷ the consultant himself described his relationship with Andrews between 2008 and his 2011 wedding as primarily personal.⁸ This very issue was reviewed by the Board of the Office of Congressional Ethics ("OCE") which, on March 23, 2012, found that "there is substantial reason to believe that [Andrews] improperly used congressional campaign and Leadership PAC funds for personal use, in violation of House rules and federal law."⁹ A majority of the Commission

Complaint in this matter also alleged that Andrews violated the Act by using campaign funds to pay for a June 2011 party at his home celebrating his 20th year in Congress and his daughter's high school graduation and by donating campaign funds to a local theater. Compl. at 4-5. I joined the Commission in unanimously finding that there was no reason to believe that Andrews or his committee violated the Act by using campaign funds for the party because the Andrews family incurred sufficient out-of-pocket expenses to cover the personal portion of the party. Certification of May 20, 2014 vote in MUR 6511. However, along with Commissioner Walther, I voted to find reason to believe Andrews violated the Act by using campaign funds to make donations to local charities. The Commission voted 4-2 to find no reason to believe Andrews violated the Act in this way.

³ 2 U.S.C. § 439a(b)(1); 11 C.F.R. § 113.1(g).

⁴ *Id.*; see also 2 U.S.C. § 439a(b)(2).

⁵ 2 U.S.C. § 439a(b)(2)(E).

⁶ Factual and Legal Analysis in MUR 6511 (Andrews, et al.), dated May 28, 2014 ("Andrews F&LA"), at 6-8. On the day the complaint in this matter was filed, Andrews repaid these funds to his campaign and leadership committees. *Id.* at 8.

⁷ Resp. at 2-3; Second Supp. Resp. at 2-3.

⁸ Andrews F&LA at 9.

⁹ OCE ultimately approved a report recommending that the U.S. House of Representatives Committee on Ethics further review this issue of personal use. On February 26, 2013, the House Committee on Ethics unanimously voted to establish an Investigative Subcommittee. Andrews resigned from Congress on February 4, 2014.

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rightly recognized that “maintaining a relationship with this former volunteer seems too tenuous a basis to justify using campaign funds for the Andrews family’s Scotland-related expenses.”¹⁰ To me, this violation was blatant and warranted pursuing a conciliation agreement.

With respect to the allegations about the donations and California trips, I believe the Commission should have engaged in a limited inquiry to ascertain the facts. Andrews’ campaign donated \$12,500 to the Walnut Street Theater in Philadelphia, where his teenage daughter, an aspiring singer and actress, often performed.¹¹ Was the daughter’s employment related to those donations? That is unclear, but a few questions could have resolved this issue.

Finally, Andrews used campaign funds to pay for his daughter to accompany him on trips to Los Angeles where he conducted fundraising activities and she auditioned and conducted other activities designed to advance her interest in a career in show business.¹² Andrews makes two arguments to justify this use of campaign funds. He cites to several Advisory Opinions¹³ for the proposition that minor children may travel with their parents at campaign expense, and he claims that his daughter functioned as a campaign aide on these trips.¹⁴ His reliance on the Advisory Opinions is misplaced for they establish no such general principle. They address the situation where very young children (ranging from an infant to a 6-year-old) could not be left unattended and therefore had to travel with their candidate parents. A teenager old enough to be seeking her own career opportunities is not similarly situated. As to the second argument, according to the Office of Congressional Ethics Board Report, when asked what campaign functions his daughter performed, Andrews indicated that his daughter assisted him by taking notes during meetings, but when asked to produce copies of the notes, Andrews said none were saved because they were like “scrap paper.”¹⁵

The information currently before the Commission raises serious questions as to whether Andrews’ use of campaign funds for his daughter’s travel expenses was primarily for the purpose of advancing her career rather than his campaign. A targeted investigation could have allowed the Commission to make an informed judgment about the validity of these allegations without unduly expending Commission resources.

¹⁰ Andrews F&LA at 11.

¹¹ *Id.* at 13-14.

¹² *Id.* at 4-5.

¹³ See Advisory Op. 2005-09 (Dodd); Advisory Op. 1996-34 (Thornberry); Advisory Op. 1995-20 (Roemer).

¹⁴ First Supp. Resp. at 2; Second Supp. Resp. at 6-7.

¹⁵ Office of Congressional Ethics Board Report, Review No. 11-3620 (pub. Aug. 31, 2012), at 29.

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MUR 6511 (Andrews, et al.)
Statement of Commissioner Weintraub

The personal use restrictions are a significant part of the statutory framework, designed to ensure that the large sums raised by modern campaigns are not misused by the candidates who control them. I believe the Commission should have acted in this case to vindicate that important interest.

6/23/14
Date

Ellen L. Weintraub
Ellen L. Weintraub
Commissioner

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