



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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MAY 28 2014

Melanie Sloan, Executive Director
Citizens for Responsibility and
Ethics in Washington
1400 Eye Street, N.W.
Washington, D.C. 20005

Re: MUR 6511
Rep. Robert E. Andrews
Rob Andrews U.S. House Committee
and Maureen Doherty, Treasurer

Dear Ms. Sloan:

On May 20, 2014, the Federal Election Commission reviewed the allegations in your complaints filed November 30, 2011 and February 17, 2012. On the basis of the information provided in your complaints and by the respondents, after considering the circumstances of this matter, the Commission determined to dismiss allegations that Representative Robert E. Andrews and Rob Andrews U.S. House Committee and Maureen Doherty in her official capacity as treasurer (the "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 non-campaign related expenses incurred by Andrews's daughter when she accompanied him on campaign trips to California and for Andrews's non-campaign related travel to Scotland.

The Commission also found no reason to believe that Representative Andrews and the 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 related to a June 2011 party at Andrews's home and for donations to local charitable organizations. The Commission closed its file in this matter.

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) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's findings is enclosed.

Melanie Sloan
MUR 6511 (Andrews)
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The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler", with a long horizontal flourish extending to the right.

Mark Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Congressman Robert E. Andrews

MUR: 6511

Rob Andrews U.S. House Committee
and Maureen Doherty in her official capacity as treasurer

1 **I. INTRODUCTION**

2 This matter involves allegations that Congressman Robert E. Andrews (New Jersey, 1st
3 District) and his principal campaign committee, Rob Andrews U.S. House Committee and
4 Maureen Doherty in her official capacity as treasurer (the “Andrews Committee”), violated
5 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) by using campaign contributions to pay for
6 expenses that were unrelated to Andrews’s campaign, including: a family trip to Scotland for the
7 wedding of a former campaign volunteer, a June 2011 party at the Andrews home, and donations
8 to local theaters and travel to California to “subsidize the fledgling career of his daughter.”
9 Compl. at 5-7 (Nov. 30, 2011). In their First and Supplemental Responses, Respondents deny
10 the allegations in the Complaint, and argue that the Andrews Committee paid only for travel and
11 activities that were campaign related. Resp. at 1-2 (Jan. 13, 2012); Supp. Resp. at 3-4 (Apr. 4,
12 2012).¹

13 For the reasons discussed below, in consideration of the Commission resources, the
14 Commission exercised its prosecutorial discretion in connection with the disbursements for some
15 of the activities cited in the Complaint, and found no reason to believe that Respondents violated

¹ The facts and allegations that are the basis of this matter have also been reviewed by the Board of the Office of Congressional Ethics (“OCE Board”) which, on March 23, 2012, approved a report recommending that the U.S. House of Representatives Committee on Ethics (“House Ethics Committee”) further review the allegations concerning Andrews “because there is substantial reason to believe that he improperly used congressional campaign and Leadership PAC funds for personal use, in violation of House rules and federal law.” OCE Board Report, Review No. 11-3260 (pub. Aug. 31, 2012) (“OCE Board Report”). Respondents were provided with an opportunity to address the facts and legal conclusions in the OCE Board Report and, accordingly, submitted a Second Supplemental Response on October 12, 2012.

1 the Federal Election Campaign Act of 1971, as amended (the “Act”), in connection with the
2 disbursements for other activities cited in the Complaint.

3 **II. FACTUAL AND LEGAL ANALYSIS**

4
5 The Act prohibits any person from converting an authorized committee’s contributions or
6 donations to “personal use.” 2 U.S.C. § 439a(b)(1); 11 C.F.R. § 113.1(g). Campaign funds
7 “shall be considered to be converted to personal use if the contribution or amount is used to
8 fulfill any commitment, obligation or expense of a person that would exist irrespective of the
9 candidate’s election campaign or individual’s duties as a holder of Federal office.” 2 U.S.C.
10 § 439a(b)(2). The Commission has stated that expenses that would have been incurred if the
11 candidate was not a candidate for office or an officeholder are treated as personal rather than
12 campaign or officeholder related:

13 If campaign funds are used for a financial obligation that is caused by
14 campaign activity or the activities of an officeholder, that is not personal
15 use. However, if the obligation would exist in the absence of the
16 candidacy or even if the officeholder were not in office, then the use of
17 funds for that obligation generally would be personal use.

18
19 *Final Rule and Explanation and Justification, Personal Use of Campaign Funds*, 60 Fed. Reg.
20 7861, 7863-64 (Feb. 9, 1995) (“1995 Personal Use E & J”).

21 The regulations provide examples of expenses that, if paid by a committee, are
22 considered to be *per se* personal use in violation of 2 U.S.C. § 439a(b)(2). 11 C.F.R.
23 § 113.1(g)(1)(i). These expenses include a vacation or other non-campaign related trip,
24 household food items, funeral expenses, clothing, tuition payments, mortgage, rent and utility
25 payments, entertainment expenses, club dues and memberships, and salary payments to family
26 members, because such expenses would exist irrespective of the candidate’s campaign or duties
27 as a Federal officeholder. *Id.* For expenses that are not expressly enumerated as personal use,

1 the Commission conducts a case-by-case analysis to determine whether they should be classified
2 as such. 11 C.F.R. § 113.1(g)(1)(ii).

3 Here, the expenses alleged to constitute personal use fall into three broad categories:

4 (1) travel expenses that are alleged to be unrelated to campaign activity, (2) a June 2011 party at
5 the Andrews home, and (3) donations to several local non-profit arts organizations.²

6 **A. Travel Expenses**

7 The Commission has recognized that a candidate or Federal officeholder may need to
8 travel for a mixture of personal and campaign or officeholder activities. *1995 Personal Use*
9 *E & J*, 60 Fed. Reg. at 7869. When travel is for a mixed purpose, the Commission conducts a
10 case-by-case analysis examining whether the travel expenses would have existed irrespective of
11 the candidate's campaign or duties as a holder of Federal office. *Id.*; 11 C.F.R. § 113.1(g)(1)(ii).
12 Any expenses that would have been incurred irrespective of the campaign or duties of the
13 Federal officeholder are considered personal in nature. The use of campaign funds for such
14 expenses is a conversion of campaign contributions to personal use, unless the person benefitting
15 from such use reimburses the campaign account within thirty days for the amount of the personal
16 expenses. 11 C.F.R. § 113.1(g)(1)(ii); *1995 Personal Use E & J*, 60 Fed. Reg. at 7869; *see* MUR
17 5218 (Russ Francis); Advisory Op. 2002-05 (Time for Ann Hutchinson).

² The Complaint claims that Respondents' alleged violations of the Act were knowing and willful. Compl. at 5-7. Complainant points out that Andrews, Doherty, and Andrews's principal campaign committee from a prior election cycle were respondents in a previous MUR where they were alleged to have converted campaign funds to personal use. *Id.* at 3-4. In MUR 6140, the Commission exercised its discretion and dismissed allegations that Andrews and his committee violated 2 U.S.C. § 439a(b)(2)(B) and 11 C.F.R. § 113.1(g) when they spent \$952 in campaign funds to purchase clothing and other items for Andrews's personal use. Nevertheless, Andrews and his committee were cautioned that the personal use of campaign funds is expressly prohibited by the Act, and that they were to take steps to avoid such violations in the future. *See* MUR 6140 Notification Letter to Andrews for Congress Committee dated July 14, 2009, Attach. 1 at 2-3. Given this previous warning, Complainant argues that these alleged new violations were knowing and willful. Compl. at 5-7.

1 with him to California, she regularly attends campaign events and often acts as a campaign aide;
 2 therefore, the Andrews Committee paid her travel expenses and disclosed its expenditures for her
 3 travel to the Commission. *Id.* Respondents also contend that because Andrews’s daughter is a
 4 minor, whenever she travels with the candidate her travel costs are payable by the campaign
 5 committee, citing Advisory Op. 1995-20 (Hoosiers for Tim Roemer) (“AO 1995-20”), Advisory
 6 Op. 1996-34 (Thornberry for U.S. Congress) (“AO 1996-34”), and Advisory Op. 2005-09
 7 (Friends of Chris Dodd) (“AO 2005-09”). According to Respondents, “when travelling, Rep.
 8 Andrews pays for all personal activities with his own private funds.” First Supp. Resp. at 3 (Apr.
 9 4, 2012).

10 *Chart A – Travel to California*

Date	Destination	Campaign Activity	Disbursements Reported ⁴	Non-campaign Activity	
Feb. 19-25, 2011	LA, San Francisco	Brunch, Fundraising lunches/dinners, Meetings	\$2,468	Unknown	
April 7-11, 2011	LA	Fundraising lunch/dinner, Meetings	\$2,813	Media reports daughter’s recording session	
June 3-6, 2011	LA	Fundraising event, Meetings	\$4,399	Unknown	
July 15-18, 2011	LA, Bel Air	Fundraising event, Meetings	\$7,777	Media reports daughter’s recording session	
Aug. 16-19, 2011	LA	Fundraising breakfast/dinner, Meetings	\$1,989	Media reports daughter’s recording session	
Nov. 9-13, 2011	LA	Fundraising lunch/dinner, PAC activities, Tours, TV interviews, Meetings	\$4,989	Media reports daughter’s recording session	

11 The available information indicates that Andrews’s daughter’s travel to California may
 12 have involved non-campaign related activities. However, given that Andrews and his minor
 13 child traveled together to California and Andrews’s minor child appears to have attended at least
 14 one campaign event with her father during each of these trips, and given the Respondents’

⁴ These amounts exclude airfare because the cost for airline tickets is not specifically itemized in the disclosure reports by trip, and therefore we are unable to determine which tickets were purchased for these trips.

1 assertion that Andrew's daughter traveled for the purpose of participating in campaign activity as
2 a campaign aide on these trips, it seems likely that, even if some of the disbursements at issue
3 were both campaign and personal in nature, any costs associated with the non-campaign related
4 activities would likely result in a relatively small personal use violation. Thus, in consideration
5 of Commission resources, the Commission exercised its prosecutorial discretion and dismissed
6 the allegation that Andrews and the Andrews Committee violated 2 U.S.C. § 439a(b)(1) and 11
7 C.F.R. § 113.1(g)(1) by using campaign contributions to pay for non-campaign related travel
8 expenses for his daughter when she accompanied him on trips to California.

9 2. Travel to Scotland

10 a. Factual Background

11 The Complaint alleges that the Andrews Committee and Andrews violated the Act by
12 using campaign funds to pay for expenses related to the Scotland trip because it was personal in
13 nature and not campaign related. Compl. at 5-6. In late June 2011, Andrews and his family flew
14 to the United Kingdom to attend the wedding of Scott Street, a volunteer campaign consultant, in
15 Edinburgh, Scotland as well as for a family vacation in London, England.⁵ Resp. at 2. The
16 Andrews family stayed at the hotel where the wedding reception was located and attended events
17 relating to the wedding on Friday, June 24, and Saturday, June 25. *Id.* On Sunday, June 26, the
18 Andrews family left Edinburgh and flew to London, England where they vacationed for several
19 days. *Id.*; Resp. at 2. On July 1, 2011, Andrews flew back to Washington, while his wife and
20 two daughters stayed for a few more days in London and flew back to New York on July 5,
21 2011. *Id.*

⁵ The available information indicates that Andrews's wife and two daughters left New York on Wednesday, June 22, 2011, and arrived in Edinburgh on Thursday, June 23, 2011. Andrews left Washington, D.C. on Friday, June 24, 2011, and arrived in Edinburgh on Saturday, June 25, 2011. OCE Report at 8 (citing OCE Report, Ex. 1, "Transcript of Interview of Andrews, March 6, 2012").

1 Using his personal credit card, Andrews paid a travel agency \$16,574.88 to purchase four
2 round-trip business class tickets, plus insurance, to the United Kingdom. In May 2011,
3 Andrews's wife and his chief of staff requested that the travel agency refund the \$16,574.88 back
4 to Andrews's personal credit card. Andrews's chief of staff then wired the travel agency
5 \$16,574.88 from the bank account of his leadership PAC, The Committee to Strengthen America
6 PAC ("Committee to Strengthen America"). The Committee to Strengthen America disclosed
7 the \$16,574.88 disbursement to the travel agency for Andrews's airfare in its 2011 Year-End
8 Report.⁶ Amended 2011 Year-End Report at 13 (Sept. 5, 2012).⁷

9 The Andrews Committee paid and disclosed in its reports to the Commission, a total of
10 \$13,539.70 for expenditures related to the Scotland trip which, excluding airfare, included:
11 \$7,725 for two rooms for three nights at the Balmoral Hotel, \$953 on meals, tips and airline
12 baggage fees, \$88 for newspapers, and \$463 to Bloomingdales for a wedding gift.⁸ 2011
13 October Quarterly Report at 115, 117, 118, 135, 137, and 143 (Oct. 14, 2011);⁹ 2011 July
14 Quarterly Report at 130 (July 14, 2011).¹⁰

⁶ Because the Committee to Strengthen America's disbursement was not made from Andrews' "campaign account," it was not subject to the Commission's personal use regulation. See 11 C.F.R. § 113.1(g).

On May 2, 2011, the Andrews Committee's treasurer, Maureen Doherty, wrote an email to Andrews's wife and chief of staff discussing the use of funds from the Committee to Strengthen America to pay for the cost of airfare to the United Kingdom. OCE Report at 14-15. In the email, Doherty emphasized that she was not an expert in campaign finance law, but her understanding was that FECA and House Ethics rules prohibited the use of Committee to Strengthen America funds for Andrews's personal or official expenses; she suggested that the final decision about whether to use Committee to Strengthen America funds to pay for the family's travel to the United Kingdom rested with Andrews. *Id.* at 15-16. Andrews and his wife decided that it was appropriate to use Committee to Strengthen America funds to pay for the family's airfare. *Id.*

⁷ <http://images.nictusa.com/pdf/876/12972174876/12972174876.pdf>.

⁸ Respondents state that the only activity that was not related to the wedding was a walking tour of local attractions, which was paid for with the Andrews's personal credit card. Resp. at 2.

⁹ <http://images.nictusa.com/pdf/150/11971588150/11971588150.pdf>.

¹⁰ <http://images.nictusa.com/pdf/654/11931817654/11931817654.pdf>.

1 On November 30, 2011, Andrews refunded the Committee to Strengthen America the
2 \$16,574.88 it had paid for the Andrews’s airfare to the United Kingdom, and refunded the
3 Andrews Committee the \$13,539.70 it had paid for hotel and other expenses incurred by the
4 Andrews family during the trip. Resp., Attach A.

5 In their responses to the Complaint as well as in media reports about the Scotland trip,
6 Andrews and the Andrews Committee have asserted that the trip was campaign related and not a
7 personal use of campaign funds. Resp. at 2; Friedman, *supra*. The Response states that the
8 expenses associated with the Scotland trip “clearly would not have occurred irrespective of
9 Andrews’s campaign or his position as a Member of Congress.” Resp. at 2. Respondents assert
10 that Andrews attended the wedding “to recognize a well-known opposition research specialist
11 who has volunteered substantial time to the campaign Committee” and “provided invaluable
12 services to Andrews that substantially helped him meet both work-related and campaign-related
13 demands and furthered his campaigns.” *Id.* Respondents contend, “The purpose of the trip was
14 to maintain this contact and foster goodwill with a critical person to his campaign” and “but for
15 the campaign related activity, the Scotland trip would not have occurred.” *Id.* Respondents
16 assert that Andrews’s attendance at the wedding was campaign related because the volunteer had
17 provided “substantial” services to Andrews’s campaigns, and Andrews wished to maintain this
18 relationship because he “reasonably anticipated that this volunteer consultant would provide such
19 advice in the future campaigns, as well as provide counsel on other areas that would help the
20 [Andrews’s] campaign and leadership PAC goals.” Second Supp. Resp. at 3.

21 Regarding the inclusion of his family in the Scotland trip, Respondents contend,
22 “Andrews’s wife and two daughters are very involved in his campaigns and campaign-related
23 events and regularly attend campaign-related events.” Resp. at 2; Second Supp. Resp. at 3.

1 Respondents assert that the attendance of the entire Andrews family at the wedding of this
2 campaign volunteer was considered important to generate goodwill. *Id.*

3 Although the Response does not identify the name of the volunteer consultant whose
4 wedding the Andrews family attended, the OCE Report reveals the name of the volunteer as
5 Scott Street. In the course of its review, the OCE Board interviewed Street about the nature of
6 his relationship and work for Andrews and the Committee. OCE Report at 9, (citing OCE
7 Report Ex. 3, “Memorandum of Interview of Witness 1, Mar. 5, 2012”).

8 According to Street, he met Andrews in 2003 while working on the Richard Gephardt
9 presidential campaign as a deputy director of research. OCE Report, Ex. 3 at 2. During this
10 time, Street and Andrews spoke less than a dozen times, and the conversations often concerned
11 personal topics, like Street’s plan to attend law school. *Id.* Street said he “informally advised”
12 Andrews twice, in 2004 and 2008, for which he received no compensation. *Id.* at 3. In 2004,
13 Andrews asked Street for tips on potential research he could conduct on his own record as a
14 member of Congress and in 2008, Street informally advised Andrews during his Senate
15 campaign, providing information on election strategy, communications strategy, and opposition
16 research. *Id.* The work lasted three to four months and involved no more than 50 hours of
17 services and there was little direct contact with Andrews during that time. *Id.* Between the 2004
18 and 2008 instances of informal advice, Street and Andrews exchanged emails and telephone calls
19 approximately 12-15 times and had one face-to-face interaction when Street stopped by
20 Andrews’s congressional office. *Id.* Since 2008, Street described the primary nature of his
21 contact with Andrews as personal with politics sometimes coming up. *Id.* at 3-4. Although
22 Street had no face-to-face contact with Andrews in 2010, he did make a contribution of \$250 to

1 Andrews's re-election campaign.¹¹ *Id.* In 2010 and 2011, Street spoke with Andrews over a
2 dozen times and had lunch with the Congressman a few months after the wedding. *Id.* Street
3 told the OCE Board that he had invited Andrews to the wedding, along with various political
4 consultants and some judges, "because he is the elected official that [Street] has the best
5 relationship with." *Id.*

6 Andrews described Street to the OCE Board as a "volunteer political consultant" who has
7 conducted opposition research and given him political advice over the years. OCE Report at 10
8 (citing OCE Report Ex. 1, "Transcript of Interview of Andrews, Mar. 6, 2012"). Andrews
9 described Street as one of several people with whom he tried to "cultivate" a relationship so that
10 he could call on them to provide services in the future to the Andrews Committee or leadership
11 PAC, should it be necessary. *Id.* at 10-11. Andrews admits that he never had explicit
12 conversations with Street about how he viewed the nature of their relationship or his expectations
13 for the future, nor does he claim to have communicated with Street on a regular basis. *Id.*
14 Rather, he describes the relationship as one where he would call Street informally and
15 spontaneously whenever he felt it was necessary. *Id.*

16 Andrews described the nature of his relationship and conversations with Street as
17 primarily political. *Id.* at 10. Although he was unable to identify specific projects he had
18 assigned to Street, Andrews explained that he maintained the relationship with Street because he
19 "wanted to have the ability to ask him" for assistance at some future date if he needed it to help
20 his committee or leadership PAC.¹² *Id.* at 10-12. Andrews admits that he made no political

¹¹ Street's \$250 contribution to the Andrews Committee in 2010 is his only reported contribution to any of Andrews's campaigns. Street has made no contributions to Andrews's leadership PAC.

¹² Andrews's chief of staff and the Andrews Committee's treasurer told the OCE Board that they did not know Street personally or whether he had provided consulting services to Andrews. OCE Report at 9 (citing OCE Report Ex. 2, "Transcript of Interview of Andrews's Chief of Staff, Jan. 26, 2012" and "Transcript of Andrews's Treasurer, Jan. 26, 2012"). Mrs. Andrews told the OCE Board that she did not know Street personally but knew him

1 speeches and conducted no fundraising during the Scotland trip, “because that wasn’t the
2 purpose of the trip. The purpose of the trip was to again broaden and deepen this relationship
3 with [Street] and to make it more likely he would help us in the future.” *Id.* at 12-13.

4 b. Analysis

5 As previously discussed, a contribution is converted for personal use only if the
6 commitment, obligation or expense giving rise to the expense would exist “irrespective of the
7 candidate’s election campaign or individual’s duties as a holder of Federal office.” 2 U.S.C.
8 § 439a(b)(2). “If campaign funds are used for a financial obligation that is caused by campaign
9 activity or the activities of an officeholder, that is not personal use.” *1995 Personal Use E & J*,
10 60 Fed. Reg. at 7864.

11 Although Respondents assert that Andrews’s attendance at the wedding was campaign
12 related because the volunteer had provided “substantial services to Andrews’s campaigns,”
13 neither Andrews nor his staff could identify any specific projects assigned to Street. OCE Report
14 at 9-10. Furthermore, Andrews made no political speeches and conducted no fundraising during
15 the Scotland trip. *Id.* at 12-13. While the Act and Commission regulations grant committees
16 wide discretion to use campaign funds for campaign-related activities, under these facts,
17 maintaining a relationship with this former volunteer seems too tenuous a basis to justify using
18 campaign funds for the Andrews family’s Scotland-related expenses. Thus, Respondents’
19 disbursements of campaign funds in connection with the attendance of Andrews and his family at
20 Street’s wedding in Scotland appear to constitute personal use. However, given the fact that

politically as having provided “opposition research” services to her husband. OCE Report at 10 (citing OCE Report Ex. 2, “Transcript of Interview of Andrews’s Wife, Jan. 26, 2012”). Mrs. Andrews met Street for the first time at his wedding in Scotland. *Id.*

¹³ Andrews’s daughter’s invitees received a separate computer-generated invitation that she created and mailed electronically. Second Supp. Resp. at 8. Andrews purchased the cake to celebrate his daughter’s graduation using a personal credit card. Resp. at 3.

1 Andrews reimbursed the Committee and Committee to Strengthen America for the expenses
2 incurred by the Andrews family during the trip prior to receiving notice from the Commission of
3 the Complaint filed in this matter, the Commission, in consideration of Commission resources,
4 exercises its prosecutorial discretion and dismisses the allegation that Andrews or the Andrews
5 Committee violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1g(a)(1) by using campaign
6 funds to pay for a trip to Scotland.

7 **B. June 2011 Party**

8 In June 2011, Andrews held a party at his home. Resp. at 3. The Andrews Committee's
9 official invitations for the event read, "We hope that you and your family will join us in
10 Celebrating Rob's 20 years of service in the House of Representatives and [his daughter's]
11 graduation from the Baldwin School." OCE Report at Ex. 14. Complainant alleges that because
12 the party was billed as a high school graduation party for one of Andrews's daughters it was a
13 personal expense. Compl. at 4. Respondents maintain that the Andrews family took special care
14 to segregate costs attributable to their daughter's guests, even though they believe that the
15 regulations set forth no legal requirement to do so, and in fact paid significantly more than the
16 *pro rata* share for their personal guests. Resp. at 3.

17 Respondents state that "more than 300 guests" attended Andrews's party. Second Supp.
18 Resp. at 8. The Andrews Committee invited 313 guests, while Andrews's daughter invited 14.
19 *Id.* The total cost of the event was \$20,159.09. *Id.* Of that amount, the Andrews Committee
20 spent \$660.14 on invitations that were sent only to its guests.¹³ *Id.* Of the remaining \$19,498.95
21 cost of the event, approximately \$834.81 is attributable to Andrews's daughter's 14 guests, since

¹³ Andrews's daughter's invitees received a separate computer-generated invitation that she created and mailed electronically. Second Supp. Resp. at 8. Andrews purchased the cake to celebrate his daughter's graduation using a personal credit card. Resp. at 3.

1 the *pro rata* cost of the event for each guest was approximately \$59.62 ($\$19,498.95 \div 327 =$
2 $\$59.62 \times 14 = \834.81).

3 The Andrews family personally paid or reimbursed the Andrews Committee \$7,343.29 to
4 cover the cost of food and beverages for his daughter's invitees. Second Supp. Resp. at 8. That
5 amount accounts for nearly 38% of the total cost of the event ($\$7,343.29 \div \$19,498.95 = 0.376$),
6 and amounts to a payment of approximately \$524.52 for each of Andrews's daughter's guests
7 ($\$7,343.29 \div 14 = \524.52).

8 The Act and Commission regulations permit campaign funds to be used by a candidate or
9 Federal officeholder for "ordinary and necessary expenses incurred in connection with duties of
10 the individual as a holder of Federal office" or for "any other lawful purpose." 2 U.S.C.
11 § 439a(a)(2), (6); *see* 11 C.F.R. § 113.2(a), (e). Because the purpose of the event at the
12 Andrews's home was primarily to commemorate Andrews's service as a Member of Congress,
13 the use of campaign funds to pay the cost of the event is permissible under the Act. *See* 11
14 C.F.R. § 113.2(e); *see also* Advisory Op. 1978-85 (Whitehurst for Congress) at 1 (authorizing
15 the use of campaign funds for celebration commemorating representative's service). Moreover,
16 Andrews paid the additional non-campaign related costs (*i.e.*, cost of his daughter's cake, and
17 food and beverages consumed by her friends) with his personal funds.

18 The Commission found no reason to believe that Andrews and the Committee violated
19 2 U.S.C. § 439a(b)(1) and 11 C.F.R. § 113.1(g)(1) in connection with the June 2011 party at
20 Andrews's home.

21 C. Contributions to Local Theaters

22 On February 11, 2011, the Andrews Committee made a \$12,500 contribution to the
23 Walnut Street Theater in Philadelphia, Pennsylvania that it described in its disclosure report as a

1 “Gala donation.” Amended 2011 April Quarterly Report at 132 (Mar. 31, 2011).¹⁴ The
2 Complaint alleges that Andrews’s daughter often appears in productions at the theater and the
3 purpose of the disbursement was to “subsidize” his daughter’s acting and singing career. Compl.
4 at 5, 7. The Complaint also repeats a news article’s allegation that “[t]here are several more
5 examples of Andrews donating thousands [of dollars in campaign funds] to theaters within
6 months of his daughter performing a role in their production.” Compl. at 5; *see also* Friedman,
7 *supra*. In support of this claim, the Complaint cites four additional disbursements by the
8 Andrews Committee: three disbursements totaling \$107 to the Broadway Theater of Pitman for
9 “gifts for donor[s],” and a donation for \$125 to the Cherokee Drama Guild. Compl., Ex. E.

10 Respondents assert that the contributions to Walnut Street Theater and other local
11 theaters, all of which are qualified non-profit organizations, are permissible under 26 U.S.C.
12 §§ 170(c) and 501(c)(3). Resp. at 4. Specifically, Respondents assert that the Walnut Street
13 Theater is located within three miles of the Congressman’s district and this was a single
14 charitable contribution made at a fundraising gala to support the theater’s educational outreach
15 program for school children in the southern New Jersey and greater Philadelphia area. Resp.
16 at 3-4, Attach. C. Respondents contend that the Complaint speculates as to Andrews’s motives
17 for making donations to local charities, and points out that “the campaign regularly supports
18 scholarship programs in Andrews’s district and contributes to many other recognized non-profit
19 charitable organizations. These contributions both help his constituents and foster goodwill that
20 furthers his campaigns for election.” *Id.* at 4.

21 Pursuant to 11 C.F.R. § 113.1(g)(2), campaign funds may be contributed to any charitable
22 organization described in the Internal Revenue Code at 26 U.S.C. § 170(c), so long as the

¹⁴ See <http://images.nictusa.com/pdf/562/11971837562/11971837562.pdf>.

1 candidate does not receive compensation from the recipient organization before it has expended
2 the entire amount donated for purposes unrelated to the candidate's personal benefit. *See also*
3 11 C.F.R. § 113.2(b) (“[F]unds in a campaign account . . . [m]ay be contributed to any
4 organization described in section 170(c) of Title 26, of the United States Code.”).

5 Respondents claim that the Walnut Street Theatre and other local theaters are qualified
6 charitable organizations under 26 U.S.C. § 170(c) and 26 U.S.C. § 501(c)(3), and there is no
7 information to the contrary. Further, there is no information to suggest that Andrews received
8 any compensation from any of the theaters in return for his donations. At most, the Complaint
9 makes a vague suggestion, unsupported by specific information, that the donations are *quid pro*
10 *quo* efforts to curry favor for his daughter in connection with her participation in productions at
11 the theaters. This does not amount to “compensation” pursuant to the regulation, however,
12 particularly without any additional information. Therefore, the Commission found no reason to
13 believe that Andrews and the Andrews Committee violated 2 U.S.C. § 439a(b)(1) and 11 C.F.R.
14 § 113.1(g)(1) by making donations to local theaters using campaign funds.