



October 6, 2021

Chairman Mike Barnes  
Co-Chairman Paul Vinovich  
Office of Congressional Ethics  
425 3rd Street, SW Suite 1110  
Washington, DC 20024

*Sent via email (oce@mail.house.gov)*

Dear Chairman Barnes and Co-Chairman Vinovich:

Campaign Legal Center (“CLC”) respectfully requests that the Office of Congressional Ethics (“OCE”) investigate whether Rep. Mike Kelly violated House rules. Specifically, Federal Election Commission (“FEC”) reports indicate that from 2019 to 2020, Rep. Kelly’s leadership PAC spent tens of thousands of dollars on luxury trips, transportation, and dining; over \$1,000 on event tickets; and hundreds of dollars on “appreciation gifts”—all potentially violating the personal use ban.<sup>1</sup> Only 22% of the roughly \$205,000 spent by Rep. Kelly’s leadership PAC during this period went toward other candidates and political parties and groups.<sup>2</sup> Based on these expenditures, OCE should investigate whether Rep. Kelly improperly converted campaign funds to personal use in violation of House rules.

Members of Congress are clearly prohibited by House rules from using leadership PACs as personal slush funds. When elected officials use campaign contributions to enrich themselves, they undermine the public’s trust in their elected officials and the campaign finance system. House rules require Rep. Kelly and other members to verify that leadership PAC expenses are legitimate campaign expenses. Based on Rep. Kelly’s remarkably small

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<sup>1</sup> Keep America Rolling (C00524603), Disbursements, FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00524603&two\\_year\\_transaction\\_period=2020&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00524603&two_year_transaction_period=2020&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>2</sup> *Id.*

leadership PAC expenses on political contributions and significant amount spent on luxury travel, dining, event tickets, and gifts, the OCE should require him to verify that he has complied with House rules.

### **House Rules Prohibit Members from Converting Leadership PAC Funds to Personal Use**

Pursuant to House rules, members “may not convert campaign funds to personal use.”<sup>3</sup> As the House Ethics Manual states, “Campaign funds are **not** to be used to enhance a Member’s lifestyle, or to pay a Member’s personal obligations.”<sup>4</sup>

“[T]he term ‘campaign funds’ includes funds of any political committee under the Federal Election Campaign Act of 1971 [“FECA”], without regard to whether the committee is an authorized committee of the Member.”<sup>5</sup> Under House rules, the personal use ban applies to leadership PAC funds, which are “political committees” under FECA.<sup>6</sup>

The House Ethics Manual refers FEC regulations for guidance on what constitutes prohibited “personal use.”<sup>7</sup> Those FEC regulations provide a non-exhaustive list of uses of campaign funds that are *per se* personal use, which includes “vacation” and “[a]dmission to a sporting event” or other forms of entertainment.<sup>8</sup> Uses of campaign funds not on this list, such as meal and travel expenses, are evaluated for illegal personal use on a case-by-case basis.<sup>9</sup> FEC regulations mandate that “incremental expenses” that are “associated with travel [] involv[ing] both personal activities and campaign or officeholder-related activities” be deemed personal use, “unless the person(s) benefitting from this use reimburse(s) the campaign account within thirty days for the amount of the incremental expenses.”<sup>10</sup>

“Members have wide discretion in determining what constitutes a bona fide campaign or political purpose to which campaign funds and

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<sup>3</sup> RULES OF THE HOUSE OF REPRESENTATIVES OF THE U.S. 117<sup>TH</sup> CONG. (2021), House Rule 23, cl. 6(b); COMM. ON STANDARDS OF OFFICIAL CONDUCT, 110<sup>TH</sup> CONG., HOUSE ETHICS MANUAL 173 (2008), *available at* [https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008\\_House\\_Ethics\\_Manual.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf) (emphasis in original).

<sup>4</sup> HOUSE ETHICS MANUAL, *supra* note 3, at 173 (emphasis in original).

<sup>5</sup> House Rule 23 cl. 15(d)(1), *supra* note 3.

<sup>6</sup> *Id.*; 52 U.S.C. § 30101(4); 11 C.F.R. § 100.5(e)(6). *See also* HOUSE ETHICS MANUAL, *supra* note 3, at 118, note 37 (“The term ‘campaign funds’ is defined broadly to include ‘leadership PAC’ funds).

<sup>7</sup> *See id.* at 153-154, 172.

<sup>8</sup> *See* 11 C.F.R. § 113.1(g)(1)(i).

<sup>9</sup> *See id.* § 113.1(g)(1)(ii).

<sup>10</sup> *See id.* § 113.1(g)(1)(ii)(C).

resources may be devoted, but Members have no discretion whatsoever to convert campaign funds to personal use. Furthermore, House rules require that Members be able to verify that campaign funds have not been used for personal purposes.”<sup>11</sup> “[T]he verification requirement imposed by the House rules is separate from, and in addition to, whatever recordkeeping requirements are imposed by the Federal Election Commission on federal candidates generally.”<sup>12</sup>

### **Rep. Kelly Used Leadership PAC Funds to Pay for Travel, Transportation, Dining, Event Tickets, and Gifts**

The tens of thousands of dollars spent by Rep. Kelly’s leadership PAC on luxury resorts, dining, event tickets, and gifts, raise questions as to whether these funds have been converted to Rep. Kelly’s personal use.

From 2019 to 2020, Rep. Kelly’s leadership PAC spent a total of \$77,717.42 at the St. Regis Deer Valley,<sup>13</sup> a five-star resort in Park City, Utah. Payments included a total of \$18,365 for lodging on four separate dates; \$309 for “hotel services;” and \$15,946.87 for unspecified purposes, with the description for those records simply listed as question marks or a vague reference to “see memos” and no further detail.<sup>14</sup> Also in Park City, the leadership PAC paid \$560 for the Snow Country Limousine service and \$314.64 for “food and beverages” at The Mustang.<sup>15</sup> Although the leadership PAC labels certain expenses for meals as “fundraising,” the PAC’s records do not include significant contributions received near the time of the events to support that these are large fundraisers. An OCE preliminary review can collect the information needed to verify if the expenses comply with House rules.

During the same timeframe, Rep. Kelly’s leadership PAC paid large sums to luxury hotels and resorts in Sea Island, Georgia; Las Vegas, Nevada;

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<sup>11</sup> HOUSE ETHICS MANUAL, *supra* note 3, at 173.

<sup>12</sup> *Id.* at 165.

<sup>13</sup> Keep America Rolling (C00524603), Disbursements for “St. Regis,” FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00524603&recipient\\_name=St.+regis&two\\_year\\_transaction\\_period=2020&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00524603&recipient_name=St.+regis&two_year_transaction_period=2020&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>14</sup> *Id.*

<sup>15</sup> Keep America Rolling (C00524603), Disbursements for “The Mustang” and “Snow Country Limousine,” FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00524603&recipient\\_name=snow+country+limousine&recipient\\_name=the+mustang&two\\_year\\_transaction\\_period=2020&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00524603&recipient_name=snow+country+limousine&recipient_name=the+mustang&two_year_transaction_period=2020&line_number=F3X-21B) (last visited Oct. 5, 2021).

and Palm Beach, Florida.<sup>16</sup> Specifically, \$19,471.73 went to Sea Island Company, which owns the Sea Island Resort in Georgia—“[t]he only resort in the world to achieve four Forbes Five-Stars 13 years in a row.”<sup>17</sup> Three Las Vegas hotels—Wynn Las Vegas, Four Seasons Las Vegas, and The Venetian Resort—received a combined \$3,017.77 in payments from Rep. Kelly’s leadership PAC.<sup>18</sup> And, the leadership PAC paid a total of \$5,198.09 to The Breakers, a five-star establishment in Palm Beach, with \$560.97 of that amount spent on food and beverages.<sup>19</sup>

FEC records also indicate Rep. Kelly’s leadership PAC spent \$19,769.50 on airfare and related “service charge[s]” or “additional services”<sup>20</sup> and \$1,852 on Amtrak train tickets.<sup>21</sup>

Non-travel expenditures by Rep. Kelly’s leadership PAC from 2019 to 2020 include \$1,750 for “event tickets,” \$205.05 on “appreciation gifts” at Klafter’s Inc.,<sup>22</sup> and \$7,175.85 on dining.<sup>23</sup>

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<sup>16</sup> Keep America Rolling (C00524603), Disbursements for “Sea Island Company,” “The Venetian,” “Wynn,” “Four Seasons,” and “The Breakers,” FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00524603&recipient\\_name=four+seasons&recipient\\_name=sea+island+company&recipient\\_name=the+breakers&recipient\\_name=the+venetian&recipient\\_name=wynn&two\\_year\\_transaction\\_period=2020&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00524603&recipient_name=four+seasons&recipient_name=sea+island+company&recipient_name=the+breakers&recipient_name=the+venetian&recipient_name=wynn&two_year_transaction_period=2020&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>17</sup> Sea Island Resort Homepage, <https://www.seaisland.com/> (last visited Oct. 5, 2021).

<sup>18</sup> Keep America Rolling (C00524603), Disbursements for “Sea Island Company,” “The Venetian,” “Wynn,” “Four Seasons,” and “The Breakers,” *supra* note 16.

<sup>19</sup> *Id.*

<sup>20</sup> Keep America Rolling (C00524603), Disbursements for “American Airlines,” “Delta,” “Southwest Airlines,” and “United Airlines,” FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00524603&recipient\\_name=american+airlines&recipient\\_name=delta&recipient\\_name=southwest+airlines&recipient\\_name=united+airlines&two\\_year\\_transaction\\_period=2020&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00524603&recipient_name=american+airlines&recipient_name=delta&recipient_name=southwest+airlines&recipient_name=united+airlines&two_year_transaction_period=2020&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>21</sup> Keep America Rolling (C00524603), Disbursements for “Amtrak,” FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00524603&recipient\\_name=amtrak&two\\_year\\_transaction\\_period=2020&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00524603&recipient_name=amtrak&two_year_transaction_period=2020&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>22</sup> Keep America Rolling (C00524603), Disbursements for “event tickets” and “appreciation gifts,” FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00524603&two\\_year\\_transaction\\_period=2020&disbursement\\_description=appreciation+gifts&disbursement\\_description=event+tickets&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00524603&two_year_transaction_period=2020&disbursement_description=appreciation+gifts&disbursement_description=event+tickets&line_number=F3X-21B) (last visited Oct. 5, 2021).

<sup>23</sup> Keep America Rolling (C00524603), Disbursements for “Capitol Hill Club,” “Landini Brothers,” “Trattoria Alberto,” “Ristorante,” and “The Mustang,” FEC.GOV, [https://www.fec.gov/data/disbursements/?cycle=2020&data\\_type=processed&committee\\_id=C00524603&recipient\\_name=CAPITOL+HILL+CLUB&recipient\\_name=LANDINI+BROTHERS&recipient\\_name=TRATTORIA+ALBERTO&recipient\\_name=ristorante&recipient\\_name=the+mustang&two\\_year\\_transaction\\_period=2020&line\\_number=F3X-21B](https://www.fec.gov/data/disbursements/?cycle=2020&data_type=processed&committee_id=C00524603&recipient_name=CAPITOL+HILL+CLUB&recipient_name=LANDINI+BROTHERS&recipient_name=TRATTORIA+ALBERTO&recipient_name=ristorante&recipient_name=the+mustang&two_year_transaction_period=2020&line_number=F3X-21B) (last visited Oct. 5, 2021).

## **There is a Reasonable Basis to Believe that the Leadership PAC Expenses Were for Personal Use**

Pursuant to Rule 7 of the OCE Rules for the Conduct of Investigations, the “Board shall authorize a preliminary review of any allegation(s) when it determines there is a reasonable basis to believe the allegation(s) based on all the information then known to the Board.”<sup>24</sup> “A reasonable basis to believe the allegation(s) exists when there is a reasonable and articulable basis for believing the allegation(s).”<sup>25</sup> The available facts provide a reasonable basis to believe that Rep. Kelly’s leadership PAC expenses were for personal use, warranting an investigation, for the following reasons.

First, FEC regulations, to which the House Ethics Manual refers, make clear that leadership PAC spending on vacations and event tickets are *per se* personal use.<sup>26</sup> Rep. Kelly’s leadership PAC spent money on travel at resorts that appear to be vacations and on event tickets. As a result, these expenses are considered personal use unless Rep. Kelly provides verification that these were bona fide campaign or political expenses.

Second, the law establishes that the mere fact that a member’s travel may be partly for campaign-related purposes does not give that member carte blanche to use leadership PAC funds on *personal* activities during such travel.<sup>27</sup> Therefore, even if limited campaign activity occurred at the resort or during other travel, Rep. Kelly is still obligated to verify that other related expenses were for bona fide campaign and political use.

Finally, Rep. Kelly’s leadership PAC does not operate as a standard leadership PAC. The purpose of leadership PACs is to enable lawmakers to raise and spend campaign funds for their colleagues running in competitive House and Senate districts. Rep. Kelly’s leadership PAC does not appear to prioritize spending on such political expenses because only 22% of the roughly \$205,000 spent by Rep. Kelly’s leadership PAC from 2019 to 2020 went toward other candidates and political parties and groups. As a result, OCE should investigate Rep. Kelly’s leadership PAC spending on travel, entertainment, dining, and gifts, to determine whether there was a proper campaign purpose for the expenses.

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<sup>24</sup> OFF. OF CONG. ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS, Rule 7(A), available at [https://oce.house.gov/sites/congressioalethics.house.gov/files/OCE\\_Rules\\_Conduct\\_Investigations.pdf](https://oce.house.gov/sites/congressioalethics.house.gov/files/OCE_Rules_Conduct_Investigations.pdf) (last visited Oct. 5, 2021).

<sup>25</sup> *Id.*

<sup>26</sup> *See* 11 C.F.R. § 113.1(g)(1)(i).

<sup>27</sup> *See id.* § 113.1(g)(1)(ii).

## Conclusion

OCE is aware of the problem of misuse of campaign funds, and has investigated members for converting leadership PAC funds to personal use, including former Representatives John J. Duncan, Jr. and Robert Andrews.<sup>28</sup> CLC respectfully requests that OCE continue to enforce House rules restricting use of leadership PAC funds and review whether Rep. Kelly converted campaign funds to personal use.

We acknowledge that 18 U.S.C. § 1001 applies to the information provided.

Sincerely,

\_\_\_\_\_/s/\_\_\_\_\_  
Kedric L. Payne  
General Counsel and Senior Director,  
Ethics

\_\_\_\_\_/s/\_\_\_\_\_  
Delaney N. Marsco  
Senior Legal Counsel, Ethics

\_\_\_\_\_/s/\_\_\_\_\_  
Lauri A. Bonacorsi  
Fellow

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<sup>28</sup> OFF. OF CONG. ETHICS, Report of the Office of Congressional Ethics Regarding Rep. John J. Duncan Jr., [https://oce.house.gov/sites/congressionaethics.house.gov/files/documents/OCE%20Rev.%2017-2646 Referral Final.pdf](https://oce.house.gov/sites/congressionaethics.house.gov/files/documents/OCE%20Rev.%2017-2646%20Referral%20Final.pdf); OFF. OF CONG. ETHICS, Report of the Office of Congressional Ethics Regarding Rep. Robert E. Andrews, [https://oce.house.gov/sites/congressionaethics.house.gov/files/migrated/disclosures/Review\\_N o 11-3260 Referral.pdf](https://oce.house.gov/sites/congressionaethics.house.gov/files/migrated/disclosures/Review_N_o_11-3260_Referral.pdf).