



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

September 28, 2021

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

Re: Complaint against DCCC and Rep. Sean Patrick Maloney

Dear Ms. Stevenson,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. This complaint is submitted, upon information and belief, to request the Federal Election Commission (FEC) immediately investigate and take appropriate enforcement actions to address apparent violations of the Federal Election Campaign Act by the Democratic Congressional Campaign Committee and its Chairman, New York Representative Sean Patrick Maloney.¹

It was recently reported, “The Democratic Congressional Campaign Committee dropped \$813 for an Air France ticket on June 21, 2021 — just weeks before the committee chairman jetted off for a fabulous vacation in France and Italy.”² From August 8 through August 13, the committee chairman Rep. Maloney posted photographs from his vacation, during which he

¹ This complaint is submitted pursuant to 52 U.S.C. § 30109(a)(1). “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed or is about to commit, a violation of the [Act] . . . [t]he Commission shall make and investigation of such alleged violation.” 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.4(a).

² Jon Levine, *DCCC Buys Flight Ticket Just Weeks Before Boss’ Vacation To France*, The New York Post, Sept. 18, 2021, available at: <https://nypost.com/2021/09/18/dccc-buys-flight-ticket-weeks-before-boss-vacation/>. DCCC, August 2021 Monthly Report, Federal Election Commission, Filed Aug. 20, 2021, available at <https://docquery.fec.gov/cgi-bin/fecimg/?202108209466509883>.

attended a wedding in France.³ Both the type and timing of the expenditure for foreign airfare raised “red flags” and when questioned about it, “A rep for the DCCC told The Post the Air France ticket was purchased ‘to conduct DCCC business with Americans living overseas’ and that they didn’t pay for Maloney’s trip. The committee, however, declined to offer any specifics about what DCCC business was happening in Europe or who used the plane ticket.”⁴

The DCCC and its agents may only raise and spend “federal funds” that are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act.⁵ Federal funds may not be spent for personal use, which includes “vacations” and may include travel expenses.⁶ To determine whether a travel expense is a personal one, the following test is applied: “If the expense would exist even in the absence of the candidacy or even if the officeholder were not in office, then the personal use ban applies.”⁷ Additionally, federal law requires that the DCCC disclose all disbursements made with particular information about the disbursement.⁸ The disclosure requirement is one way to deter the use of federal funds for illegal

³ *Id.* Sean Patrick Maloney, Instagram, Aug. 8, 2021, available at: <https://www.instagram.com/p/CSUj8gXrSV1/>; Sean Patrick Maloney, Instagram, Aug. 10, 2021, available at: <https://www.instagram.com/p/CSZ-GvOBsni/>; Sean Patrick Maloney, Instagram, Aug. 13, 2021, available at: https://www.instagram.com/p/CSHS_T9AGM7/.

⁴ *Id.*

⁵ 52 U.S.C. § 30125(a)(1) (“A national committee of a political party (including a national congressional campaign committee of a political party) may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.”); 11 C.F.R. § 300.10 (same); 11 C.F.R. § 300.2(g) (defining “federal funds” as “funds that comply with the limitations, prohibitions, and reporting requirements of the Act”).

⁶ 52 U.S.C. § 30114 (b)(2) (defining “personal use” as “if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office . . .”).

⁷ FEC, *Personal Use*, available at <https://www.fec.gov/help-candidates-and-committees/making-disbursements/personal-use/> (“Commission regulations provide a test, called the ‘irrespective test,’ to differentiate legitimate campaign and officeholder expenses from personal expenses. Under the ‘irrespective test,’ personal use is any use of funds in a campaign account of a candidate (or former candidate) to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate’s campaign or responsibilities as a federal officeholder. More simply, if the expense would exist even in the absence of the candidacy or even if the officeholder were not in office, then the personal use ban applies. Conversely, any expense that results from campaign or officeholder activity falls outside the personal use ban.”).

⁸ 11 C.F.R. § 104.3.

purposes and, further, it provides the public with information to evaluate expenditures and has been used to identify the misuse of funds for personal purposes.⁹

In the present case, the expenditure for foreign airfare and the fact that the DCCC Chairman was apparently vacationing in the same location at the same time raises suspicion that the DCCC used funds for Maloney's personal travel. Maloney's personal vacation included a wedding, which demonstrates his foreign travel expenses would have existed whether or not he engaged in official business while traveling. Under the FEC test, if the plane ticket was used by Maloney, this would be a personal expense.

In addition, once questioned about the expense, the DCCC's answer was "cryptic" and vague, and did not provide facts or properly address the concerns of personal use.¹⁰ The disclosure requirements are designed for the public and governmental bodies to review basic information, and if concerns arise from this information the DCCC must address them by providing more information. A simple denial in this case is not sufficient to address the appearance of personal use.

The DCCC's expenditure on its face raises concerns of personal use and, along with its failure to provide adequate information to the public, requires that the FEC investigate the DCCC and Rep. Maloney for the potential personal use of funds.

⁹ Katy Grimes, *Is Congressional Candidate Christy Smith Violating FEC Rules, Not Disclosing Campaign Staff Salaries?*, California Globe, Nov. 2, 2020, available at <https://californiaglobe.com/section-2/is-congressional-candidate-christy-smith-violating-fec-rules-not-disclosing-campaign-staff-salaries/> (discussing that information in then-Rep. Katie Hill's disclosure led to a complaint for her use of campaign funds for personal travel with a staffer with which she had a personal relationship).

¹⁰ Jon Levine, *DCCC Buys Flight Ticket Just Weeks Before Boss' Vacation To France*, The New York Post, Sept. 18, 2021.

Respectfully submitted,

Kendra Arnold
Executive Director
Foundation for Accountability & Civic Trust
1717 K Street NW, Suite 900
Washington, D.C. 20006

STATE OF _____)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me on September _____, 2021.

Notary Public in and for the State of:
My Commission Expires On:

DCCC Buys Flight Ticket Just Weeks Before Boss' Vacation To France

The New York Post | [Jon Levine](#) | September 18, 2021
[View Source](#)

The Democratic Congressional Campaign Committee [dropped \\$813](#) for an Air France ticket on June 21, 2021 — just weeks before the committee chairman jetted off for a fabulous vacation in France and Italy.

New York Rep. Sean Patrick Maloney (D-Cold Spring) began posting photos of his vacation with husband Randy Florke to Instagram in mid-August.

The DCCC is funded through donations and is tasked with electing Democratic House candidates and helping incumbents keep their jobs. Campaign finance law forbids DCCC funds from being used for personal use.

The pair posed for a [smiling picture together](#) in Nice on Aug 10 with the city's historic lighthouse in the background.

[Three days later](#) Maloney stood with a shirtless Florke surfside. "Daddy stop teasing me!" reads a top comment. [More photos indicate](#) the pair stopped by the Villa et Jardins Ephrussi de Rothschild in Saint-Jean-Cap-Ferrat for the wedding of Haley Plourde-Cole, [a frequent donor to his campaign](#).

"Sean and Randy have been close friends since I worked on Sean's first campaign as a college student in 2006, and as a staffer serving two governors. I am honored they were able to join us for our wedding," Plourde-Cole told The Post.

Other Instagram posts on the trip later placed them in Puglia, Italy, where they visited the art studio of Sudesh Prasad.

"Thank you Sudesh for allowing us a peak at your latest work," Florke said in an [Aug 15 post](#).

A rep for the DCCC told The Post the Air France ticket was purchased "to conduct DCCC business with Americans living overseas" and that they didn't pay for Maloney's trip. The committee, however, declined to offer any specifics about what DCCC business was happening in Europe or who used the plane ticket.

"It's something that should raise red flags," Ann Ravel, a former Democratic chairwoman of the Federal Election Commission told The Post. She laughed at the committee's cryptic explanation.

"There are expatriates all over the world. They should be flying to San Miguel de Allende in Mexico. There are a ton of expats there," she said. "I just think it would be incumbent on them to perhaps be more transparent about it."

Maloney — whose tenure has been [marred by stumbles](#) — has an uphill battle to save Democrats' fragile House majority. Moderates facing tough GOP opponents were unamused by the expenditure.

"Buying flights to France seems pretty incongruous with our goals of protecting difficult seats and protecting our majority, especially given the reporting that some battleground members have been threatened with having their DCCC support pulled just for working to get an infrastructure bill passed," one staffer to an embattled House moderate griped to The Post.

The DCCC has more than \$49 million in its coffers, their most recent filings show.