

October 10, 2018

Office of Congressional Ethics  
U.S. House of Representatives  
P.O. Box 895  
Washington, DC 20515-0895

**Re: Representative Brat's Use of Campaign Funds for Personal Use and Failure to Disclose Income as Required by Law**

Dear Chairman Hastings and Co-Chairman Skaggs:

Pursuant to Rule 3(A) of the Office of Congressional Ethics Rules for the Conduct of Investigations, we submit this letter to notify you of potential violations of the Federal Election Campaign Act, the Ethics in Government Act, and the rules of the United States House of Representatives by Representative David Brat. In short, Representative Brat appears to have used his campaign funds for his personal benefit, using his website to promote the sale of his book, *American Underdog*, and has failed to disclose any information about his book on the financial disclosure reports he has filed with the Clerk of the House. We respectfully request that the Office of Congressional Ethics investigate these potential violations further.

**I. Background**

Representative Dave Brat is a member of the U.S. House of Representatives from the Seventh Congressional District of Virginia, and he is a candidate for re-election to the House of Representatives. Friends of Dave Brat, Inc. (C00554949) is Representative Brat's principal campaign committee. On or about June 28, 2016, Center Street/Hachette Book Group published Representative Brat's book, *American Underdog: Proof that Principles Matter* ("American Underdog").

Friends of Dave Brat, Inc. has and continues to promote *American Underdog* on its website, at the url <https://davebrat.com/american-underdog/>. See Exhibit A. The campaign's website features a giant image of the cover of *American Underdog*. A whole subpage of his campaign's website is entirely devoted to promoting Representative Brat's book. *Id.* His campaign's website also includes hyperlinks to online booksellers, such as Amazon and Barnes & Noble, selling *American Underdog*, and directs Representative Brat's supporters to promote *American Underdog* on Facebook and Twitter. *Id.*; Exhibit B.

On information and belief, Representative Brat has not disclosed any information about his book on his personal financial disclosures. Exhibit C.

## **II. Legal Background and Analysis**

### **A. Representative Brat Has Converted Campaign Funds into Personal Use**

The Federal Election Campaign Act of 1971, as amended (“FECA”), and the Rules of the House of Representatives prohibit the use of campaign funds for personal use. 52 U.S.C. § 30114(b)(1); House R. XXIII, cl. 6(b). Funds are converted to personal use if they are “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.” 52 U.S.C. § 30114 (b)(2); *see* 11 C.F.R. § 113.1(g). In interpreting this provision, the Federal Elections Commission (“FEC”) found that “the use of an authorized committee’s asset, such as the Committee’s website to promote the candidate’s book would ordinarily constitute a prohibited personal use.” FEC Advisory Opinion 2011-02 (Brown). The FEC has permitted candidates to post a “de minimis amount of material . . . at a de minimis cost” and has, considered “one to two sentences” to be a de minimis amount. Advisory Opinion 2014-06 (Ryan).

Representative Brat’s campaign website devotes well more than the approved one-to-two sentences to promoting Representative Brat’s book. He devotes an entire subpage of his campaign website to promoting the book, includes a giant image promoting American Underdog, and encourages his supporters to purchase the book and market it through their own social media channels. Representative Brat’s campaign website has substantially more content on it than a de minimis amount. Assuming that Representative Brat receives royalties from the sale of his book, he appears to be improperly using his campaign funds for his personal enrichment, in violation of FECA and House ethics rules.

### **B. Representative Brat Has Filed False Financial Disclosure Reports**

The Ethics in Government Act of 1978, as amended (“EIGA”), requires Members of Congress to file annual financial disclosure reports disclosing, among other things, every source of income aggregating \$200 or more in the calendar year, all assets having a value of more than \$1,000, and all agreements that the Member is a party to. 5 U.S.C. app. § 102(a)(1), (3), (7); House R. XXVI, cl.2.

The Committee on Ethics requires owners of intellectual property, such as literary works, to disclose their ownership interests in the intellectual property, as well as any royalties received therefrom. U.S. House of Representatives Committee on Ethics, *Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports, Calendar Year 2017*, at 25, available at <https://ethics.house.gov/forms/information-and-forms>. On information and belief, the Committee on Ethics has also previously taken the

Office of Congressional Ethics  
October 10, 2018  
Page 3

position that a publishing contract must be disclosed on a Member's financial disclosure report in the "Agreements" section.

Representative Brat did not do any of this: he did not disclose any income from sales of his book; he did not report the value of his intellectual property in the book; and he did not disclose an agreement with his publishing company. Exhibit C. Even if he did not receive any income from sales of his book in 2016 or 2017, he appears to have violated EIGA and House rules by filing a false report that did not disclose his interest in the book or his publishing agreement.

### **III. Conclusion**

For the reasons described herein, we believe that there is probable cause to believe that Representative Brat has violated the campaign finance and ethics laws, and we respectfully request that the Office of Congressional Ethics initiate a review of these allegations.

Sincerely,

Tiffany Muller  
President and Executive Director  
End Citizens United

