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**RECEIVED**

By Office of General Counsel at 3:58 pm, Jun 08, 2023

**RECEIVED**

By Office of the Commission Secretary at 10:45 am, Jun 12, 2023

June 8, 2023

**VIA E-MAIL**

Office of General Counsel  
Attn: Lisa J. Stevenson, Esq.  
Acting General Counsel  
Federal Election Commission  
1050 First Street NE  
Washington, DC 20463  
[ao@fec.gov](mailto:ao@fec.gov)

**RE: Advisory Opinion Request**

Dear Ms. Stevenson:

Pursuant to 52.U.S.C. § 30108 and 11 C.F.R. § 112.1, Guy for Congress seeks an advisory opinion confirming that, under the Federal Election Campaign Act of 1971 (the “Act”) and the attendant regulations promulgated by the Federal Election Commission (“FEC” or the “Commission”), it may pay for the installation of a special security film on the windows of Congressman Guy Reschenthaler’s residence.

**I. FACTUAL DISCUSSION**

Guy for Congress (the “Committee”) is registered with the FEC as the principal campaign committee of United States Representative Guy Reschenthaler, who is currently a member of the United States House of Representatives from Pennsylvania’s 14<sup>th</sup> Congressional District and is running for reelection in 2022.<sup>1</sup>

As relayed in countless media accounts, instances of violent behavior directed against Members of Congress have increased dramatically over the last several years. In particular, as protests outside the homes of public officials have become more

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<sup>1</sup> FEC, FEC Form 1: Statement of Organization, Guy for Congress (December 6, 2021), <https://docquery.fec.gov/pdf/903/202112069469800903/202112069469800903.pdf>.



commonplace,<sup>2</sup> the threats that Members face in their individual private residences have become more acute.<sup>3</sup>

Unfortunately, Congressman Reschenthaler has not been immune from the uptick in such violence. Indeed, in the last two years alone, his office has not only received countless threats, but has also been the target of violence. Specifically, on April 19, 2022, a man verbally harassed and threatened staff at Congressman Reschenthaler's district office and, after leaving for a short period, returned and threw a brick through one of the office windows.<sup>4</sup>

Of equal importance to the present request, these threats have extended beyond Congressman Reschenthaler's office and infiltrated his private residence. For example, in 2021, while Congressman Reschenthaler was performing routine household tasks in his home garage, he was confronted and harassed by two individuals that disagreed with official acts taken by the Congressman in connection with the certification of the 2020 presidential election results. Not long before that incident—approximately, one week before the 2020 general election, to be exact—an intruder had trespassed into the backyard of Congressman Reschenthaler's neighbor. Upon information and belief—as reported to law enforcement—the neighbor suspected the intruder believed that residence belonged to Congressman Reschenthaler.

Indeed, even outside of his office and private residence, Congressman Reschenthaler has been publicly harassed and accosted specifically and expressly in connection with his role as a member of Congress. For instance, on August 28, 2020—after President Trump officially accepted the Republican Party's nomination for President of the United States—Congressman Reschenthaler, his wife, and several other members of Congress were

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<sup>2</sup> See, e.g., Eliza Tebo, *Demonstrators Gather At Sen. Lindsey Graham's D.C. Home Urging 'No Confirmation Before Inauguration'*, DCist (September 21, 2020), <https://dcist.com/story/20/09/21/no-confirmation-before-inauguration/>.

<sup>3</sup> Zach Schonfeld, *Collins says she 'wouldn't be surprised' if a lawmaker is killed amid rise in threats*, The Hill (October 2, 2022), <https://thehill.com/homenews/senate/3671136-collins-says-she-wouldnt-be-surprised-if-a-lawmaker-is-killed-amid-rise-in-threats/>. (discussing increased violence against members of Congress, including an incident during which a window at Senator Collins's home was smashed); see also Amanda Holpuch, *Pelosi's Husband Is Gravely Injured in Hammer Attack by Intruder*, The New York Times (October 28, 2022) <https://www.nytimes.com/2022/10/28/us/politics/nancy-paul-pelosi-attack.html>. (recounting a violent intruder's assault of Speaker Pelosi's husband).

<sup>4</sup> Paul Peirce, *Hempfield man jailed after police say he disrupted a funeral, broke a window at congressman's office*, TribLive (April 22, 2022), <https://triblive.com/local/westmoreland/hempfield-man-jailed-after-police-say-he-disrupted-a-funeral-broke-window-at-congressmans-office/>.



accosted by violent protesters as they left the White House.<sup>5</sup> As the incident unfolded, it became apparent that the protesters not only recognized that Congressman Reschenthaler and his colleagues were elected officials, but also expressly targeted them because of this fact. In addition, Congressman Reschenthaler has also received numerous concrete threats of violence, which have been reported to Capitol Police.

It also bears noting that in January 2023, Congressman Reschenthaler was named Chief Deputy Whip, making him an integral part of the House majority's leadership team. As a result, Congressman Reschenthaler has been the subject of increased public attention, which, in turn, is reasonably likely to make him even more of a target than he was before.

In response, Congressman Reschenthaler has taken various steps to address the increased threat of violence in his private residence, including the installation of security cameras, and a home alarm system. These measures are, of course, helpful in alerting law enforcement to the presence of intruders *after* the fact. But they do not—and cannot—shield Congressman Reschenthaler from violent acts that may be perpetrated against him. As such, the Committee seeks to pay for the installation of a special security film on the windows at Congressman Reschenthaler's home, which is situated only a few feet from a public sidewalk. The residential security window film is a durable polyester film applied to the interior of glass windows to form a shatter-resistant barrier, protecting those inside the structure from incoming projectiles. Furthermore, because the security window film holds the glass in place, it also prevents any broken glass shards from flying through the air, which often exacerbates injuries caused by projectile thrown through a window.<sup>6</sup> The approximate total cost to the Committee would be \$8,000.

Several features of this proposed security measure bear highlighting.<sup>7</sup> First, the sole function of the security film is to provide for the safety of those within the structure in the event a projectile is thrown at the window. Indeed, because the clear film does not change the physical appearance of a residence, it has no aesthetic value whatsoever. Second, the security film is not a permanent fixture and, if properly applied, can generally be removed. Third, the specific film in question has been well-recognized for its effectiveness and, in fact, has been installed in numerous federal office buildings.

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<sup>5</sup> Lisa Lambert, *Republican senator, swarmed by protesters after Trump speech, calls for FBI probe*, Reuters (August 28, 2020) <https://www.reuters.com/article/us-usa-washington-paul/republican-senator-swarmed-by-protesters-after-trump-speech-calls-for-fbi-probe-idUSKBN25O0LW>.

<sup>6</sup> U.S. Film Crew, <https://www.usfilmcrew.com/residential/security-window-film-installation/>.

<sup>7</sup> Of course, the Committee will pay the fair market value for the film and installation. *See, e.g.*, Adv. Op. 2022-02, at 5 n.4 (permitting use of campaign funds for the proposed security upgrade, but noting that “[t]he Commission assumes that your principal campaign committee will pay the fair market value of the locking steel gate and its installation to prevent the acceptance of potentially impermissible in-kind contributions from vendors”).



## II. QUESTION POSED

The Committee seeks confirmation that under the Act, as well as the Commission’s regulations and prior advice on the matter, the Committee may pay for the cost and installation of a security window film to protect Congressman Reschenthaler’s home.

## III. LEGAL ANALYSIS

Under the Act, campaign funds may properly be used for, among other things, “ordinary and necessary expenses incurred in connection with the duties of the individual as a holder of Federal office,” 52 U.S.C. § 30114(a)(2), and any other lawful purpose that does not fall within the Act’s proscription against “personal use.” *See id.* at § 30114(a)(6) (citing 52 U.S.C § 30114(b) (prohibiting “personal use)).<sup>8</sup> In turn, the term “personal use” is defined as “any use of funds in a campaign account...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.”<sup>9</sup>

While the regulations classify certain expenditures as *per se* “personal use,” residential security is not among those items.<sup>10</sup> Rather, whether campaign funds may be used in connection with such expenses is subject to a case-by-case determination, in accordance with the basic definitional criteria referenced above.<sup>11</sup> In conducting this assessment, “the Commission has long recognized that if a candidate ‘can reasonably show that the expenses at issue resulted from campaign or officeholder activities, the Commission will not consider the use to be personal use.’”<sup>12</sup> In the specific context of security measures at a Member’s residence, the Commission has repeatedly acknowledged that such expenses would not necessarily be incurred irrespective of their official duties, given “the implications of the heightened threat environment faced by members of Congress collectively,”<sup>13</sup> Accordingly, the Commission has consistently opined that Members of Congress may use campaign

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<sup>8</sup> 52 U.S.C. § 30114(b)(1); *see also* 11 C.F.R. § 113.2(a)-(e).

<sup>9</sup> 11 C.F.R. § 113.1(g).

<sup>10</sup> 11 C.F.R. § 113.1(g)(1)(i)(A)-(J).

<sup>11</sup> *Id.*

<sup>12</sup> FEC Adv. Op. 2020-06 (Escobar), <https://www.fec.gov/files/legal/aos/2020-06/2020-06.pdf> (quoting Personal Use of Campaign Funds, 60 Fed. Reg. 7862, 7867 (Feb. 9, 1995)).

<sup>13</sup> FEC Adv. Op. 2020-06 (Escobar), <https://www.fec.gov/files/legal/aos/2020-06/2020-06.pdf> (citing Personal Use of Campaign Funds, 60 Fed. Reg. 7862, 7867 (Feb. 9, 1995)).



funds for residential security upgrades that do not result in any structural improvement and are not intended to increase the value of their property.<sup>14</sup>

Indeed, the Commission has been particularly mindful of the need for such expenditures in recent years. Specifically, in 2017, the United States Capitol Police recommended that all Members upgrade their residential security due to a heightened threat environment. As a result, the Commission issued an Advisory Opinion expressly authorizing Members to use campaign funds to pay for costs associated with residential security systems that are not structural improvements, without such constituting personal use of campaign funds.<sup>15</sup> Moreover, the Commission later emphasized that such expenditures are appropriate, regardless of whether a Member faces a specific or ongoing threat and, furthermore, a Member is not required to obtain an individualized assessment from Capitol Police.<sup>16</sup>

In an Advisory Opinion issued in March 2021, the Commission once again acknowledged the increasing need for Members to “take proactive measures to protect themselves and their immediate families due to threats arising from their status as officeholders” and, thus, concluded that use of campaign funds for security personnel when a Member is not under the protection of federal agents does not constitute an impermissible “personal use.”<sup>17</sup>

In April 2022, responding to the growing threat to Members in the current political climate, the Commission issued another Advisory Opinion, concluding that the use of campaign funds to purchase and install a structural locking steel security gate to secure the perimeter of a Member’s property did not constitute an impermissible “personal use” under the Act.<sup>18</sup> In this regard, the Commission clarified that, notwithstanding its prior references to permissible “non-structural” security measures, a security upgrades is not necessarily prohibited merely because it can properly be characterized as “structural.”<sup>19</sup> Rather, the assessment is made on a case-by-case basis. In finding that the proposed measure was not an impermissible “personal use” of campaign funds, the Commission highlighted two crucial points: *first*, the structural steel gate was not intended to improve

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<sup>14</sup> See, e.g., FEC Adv. Op. 2009-08 (Gallegly), <https://www.fec.gov/files/legal/aos/2009-08/AO-2009-08.pdf>; FEC Adv. Op. 2011-05 (Terry), <https://www.fec.gov/files/legal/aos/2011-05/AO-2011-05.pdf>; FEC Adv. Op. 2011-17 (Giffords), <https://www.fec.gov/files/legal/aos/2011-17/AO-2011-17.pdf>.

<sup>15</sup> See FEC Adv. Op. 2017-07 (Sergeant at Arms), <https://www.fec.gov/files/legal/aos/2017-07/2017-07.pdf>.

<sup>16</sup> See *id.*

<sup>17</sup> FEC Adv. Op. 2021-03 (NRSC and NRCC), <https://www.fec.gov/files/legal/aos/2021-03/2021-03.pdf>.

<sup>18</sup> See FEC Adv. Op. 2022-02 (Steube), <https://www.fec.gov/files/legal/aos/2022-02/2022-02.pdf>.

<sup>19</sup> See *id.*



the Member’s home and provided no aesthetic value; and *second*, it could be removed if the Member ever relocates from the residence.<sup>20</sup> Moreover, although falling outside of the permissible “non-structural security devices” category, the Commission found that due to the certain features of the Member’s residence (e.g., its remote location, size, etc.), a “lockable barrier to the entrance” of the Member’s property was reasonably necessary.<sup>21</sup>

Finally, the Commission’s most recent opinion on the subject is also perhaps the most instructive. Specifically, in January 2023, the Commission expressly concluded that the use of campaign funds to purchase and install “security film on accessible windows to prevent surreptitious observation into the residence” was permissible under the Act.<sup>22</sup> A security film, the Commission concluded, “is a removable security measure designed to mitigate potential threats stemming from [a Member of Congress]’ duties as a federal officeholder, and therefore falls within the category of ‘non-structural devices’ for which the use of campaign funds was authorized[.]”<sup>23</sup> Accordingly, security film falls into the same category as “non-structural security devices,” including cameras, sensors, and distress devices.<sup>24</sup>

Reading the foregoing Advisory Opinions in tandem, it is our understanding that affixing the above-described security film onto the windows of Congressman Reschenthaler’s residence does not constitute a “personal use” prohibited by the Act. Similar to the facts presented in Advisory Opinion 2022-25 (Crapo), the residential security window film is a clear protective film undetectable to the naked eye and, therefore “does not provide aesthetic or decorative enhancements . . .”<sup>25</sup> Rather, the sole purpose of this security measure is to protect the Congressman against the very type of violence previously perpetrated not only against his office,<sup>26</sup> but also against a current member of the United States Senate.<sup>27</sup> Moreover, because the residential security window film is not a permanent fixture and can be removed, the security film is not a structural alteration or

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<sup>20</sup> *See id.*

<sup>21</sup> *See id.* It also bears noting that the Commission recently confirmed that the use of campaign funds for reasonably cybersecurity measures at to protect an officeholder’s home network did not constitute an impermissible “personal use,” given that high-level public officials generally face a greater threat of cyberattack against their devices and accounts than members of the public. FEC Adv. Op. 2022-17 (Warren), available at <https://www.fec.gov/files/legal/aos/2022-17/2022-17.pdf>.

<sup>22</sup> FEC Adv. Op. 2022-25 (Crapo), <https://www.fec.gov/files/legal/aos/2022-25/2022-25.pdf> (permitting, *inter alia*, the purchase and installation of an electronic home security system and reinforced doors using campaign funds, both of which have been installed in Congressman Reschenthaler’s private residence.).

<sup>23</sup> *See id.*

<sup>24</sup> *See id.*

<sup>25</sup> *See, e.g.*, FEC Adv. Op. 2022-02 (Steube), at 5.

<sup>26</sup> *See supra* note 4.

<sup>27</sup> *See supra* note 3.



improvement to the residence and is not intended to increase the value of Congressman Reschenthaler's home.<sup>28</sup>

Finally, although the proposed residential security window film in Congressman Reschenthaler's residence slightly differs from the security film at issue in Advisory Opinion 2022-25, the common thread remains the same: the security film is a removable, non-structural enhancement intended to provide an increased security measure. Indeed, the proposed residential security window film for Congressman Reschenthaler's residence goes beyond the visual security feature in Advisory Opinion 2022-25 (to prevent surreptitious observation) and provides physical safety for Congressman Reschenthaler.<sup>29</sup> Under these circumstances—consistent with the Commission's interpretation of the Act in Advisory Opinion 2022-25 and Advisory Opinion 2022-02—the cost of purchasing and installing the residential security window film would not constitute a prohibited personal use of campaign funds.

For the foregoing reasons, we ask the Commission to confirm that the Committee may use its funds to pay for residential security window film to protect Congressman Reschenthaler's residence.

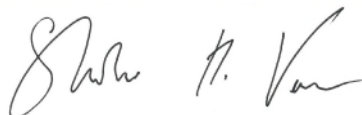
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<sup>28</sup> Assuming *arguendo* the security upgrade to the windows might have a positive impact on the value of Congressman Reschenthaler's home—a dubious proposition at best—any such increase is speculative (as it would be based on the personal preferences of the putative buyer) and would be ancillary to the primary purpose of the expenditures. As we understand it, an expenditure that is otherwise proper is not rendered impermissible merely because it may have an incidental benefit not associated with its main purpose. See, e.g., FEC Adv. Op. 2022-17 (Warren), at 5, available at <https://www.fec.gov/files/legal/aos/2022-17/2022-17.pdf>. (“[T]he fact that others may incidentally benefit from the home network cybersecurity measures does not alter the conclusion that protecting Senator Warren's home network is necessary to protect her own personal devices and accounts, which the Commission previously recognized is an expense that does not constitute personal use.”).

<sup>29</sup> Furthermore, while we acknowledge that in Advisory Opinion 2022-25, Capitol Police officials also endorsed the installation of security film at the Member's residence, based on our review of the pertinent guidance on the subject from the Commission, a recommendation suggesting the adoption of a specific prophylactic measure does not appear to be dispositive. See, e.g., Adv. Op. 2022-17 (Warren), at 1-2. However, to the extent the Commission believes that it would be relevant to its analysis, the Committee and Congressman Reschenthaler are prepared to solicit recommendations from law enforcement on the matter.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Shohin Vance". The signature is fluid and cursive, with the first name "Shohin" written in a larger, more prominent script than the last name "Vance".

Shohin Vance

Counsel to Guy for Congress