



June 12, 2013

Justice Scalia  
The Supreme Court  
Washington, D.C. 20543

Dear Justice Scalia:

Last week, in compliance with the Ethics in Government Act of 1978, you disclosed reimbursement for “transportation, food, and lodging” for a speech that you gave before a group called “Friends of Abe” in Simi Valley, California on August 25, 2012.

We are concerned because little is known about the organization “Friends of Abe.” The group has no public webpage or profile. What little is known about the organization comes from public press reports. Writing for the *Washington Post* six months before the organization paid for your travel, meals and accommodation in California, Professor Steven J. Ross of the University of Southern California described “Friends of Abe” as “[t]he most important source of underground political activism in Hollywood today.”<sup>1</sup> He wrote that the organization is “a group of 600 actors, writers and producers who meet in restaurants and private homes to discuss supporting candidates and promoting film and television projects that offer conservative views of traditional American values.”<sup>2</sup> *Reuters* described “Friends of Abe” as a “political safe house[.]” that has hosted monthly guest speakers such as House Speaker John Boehner, Majority Leader Eric Cantor, and Congressman Paul Ryan.<sup>3</sup> The *Daily Beast* described the organization as “the super secret Hollywood club of conservative entertainment types” that “wants to be a little less secret and a little more important to Washington.”<sup>4</sup>

From what is known in public press accounts about “Friends of Abe,” your reimbursement for travel to give a speech to this particular group raises questions about whether your conduct comported with the Judicial Code of Conduct.

Specifically, Canon 5 advises that a judge should not “make speeches for a political organization” or “engage in any other political activity.” Canon 4 says that “a judge should not

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<sup>1</sup> Steven J. Ross, “Five Reasons Hollywood is Not a Bastion of Liberalism,” Political Bookworm, WashingtonPost.com, February 24, 2012, [http://www.washingtonpost.com/blogs/political-bookworm/post/five-reasons-hollywood-is-not-a-bastion-of-liberalism/2012/02/24/gIQAoO0RYR\\_blog.html](http://www.washingtonpost.com/blogs/political-bookworm/post/five-reasons-hollywood-is-not-a-bastion-of-liberalism/2012/02/24/gIQAoO0RYR_blog.html).

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

<sup>3</sup> Michael Janofsky, “With Obama Struggling in Hollywood, GOP Support on the Rise,” Reuters, Feb. 27, 2012, <http://www.reuters.com/article/2012/02/28/idUS364800320520120228>.

<sup>4</sup> “Stars Coming Out of GOP Closet,” *Daily Beast*, Aug. 3, 2010, <http://www.thedailybeast.com/cheats/2010/08/03/stars-coming-out-of-gop-closet.html>.

participate in extrajudicial activities that detract from the dignity of the judge's office" or "reflect adversely on the judge's impartiality." Canon 2 states that a judge should "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary" and should neither "lend the prestige of the judicial office to advance the private interests of the judge or others nor convey the impression that they are in a special position to influence the judge."

Although the Code is not formally binding on members of the Supreme Court, Chief Justice Roberts wrote in his 2011 Year End Report that "as a practical matter, the Code remains the starting point and a key source of guidance for the Justices as well as their lower court colleagues."<sup>5</sup> Justice Kennedy testified two years ago before a committee of the House of Representatives that:

the [Judicial] Code of Conduct does apply to the judges in the sense that we have agreed to be bound by them. Those rules are public, and if there is some question that we haven't complied with the letter or spirit of those rules, there can be comment about that. Of course the Court has to follow rules of judicial ethics. That's part of our oath, that's part of our obligation of neutrality.<sup>6</sup>

Common Cause respectfully requests that you provide a public explanation of how making a speech at a "Friends of Abe" function, and accepting the group's financial reimbursement for your travel, food and lodging, does or does not comply with the rules of judicial ethics spelled out in the Code of Conduct for U.S. Judges. We also request that you provide a copy of your itinerary, the agenda and speakers list for the Friends of Abe event, and a copy of the speech that you delivered. All other federal judges, and the organizations that sponsor events they attend, must report this type of information, and we cannot see any reason why the Supreme Court should be held to a lower standard. As you are aware, several of your colleagues also publish their speeches on the Supreme Court's website. However, the website does not include any of your remarks.<sup>7</sup>

Supreme Court justices are uniquely positioned to promote civic dialogue and respect for the rule of law in their public appearances, and their conduct and remarks have a significant impact on public perceptions of fair and impartial justice, or the lack thereof. Lending the prestige of the Supreme Court to secret, closed-door political organizations can easily undermine public confidence in the judiciary. We urge you, as a member of the highest court in the country, to adhere to the highest standards of conduct and transparency.

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<sup>5</sup> Chief Justice John Roberts, 2011 Year-End Report on the Federal Judiciary, December 31, 2011.

<sup>6</sup> Associate Justice Anthony Kennedy, Testimony before the U.S. House Subcommittee on Financial Services and General Government, U.S. House Committee on Appropriations, Apr. 14, 2011.

<sup>7</sup> Speeches, Supreme Court of the United States, <http://www.supremecourt.gov/publicinfo/speeches/speeches.aspx>

Sincerely,

A handwritten signature in black ink, reading "Arn H. Pearson". The signature is written in a cursive style with a prominent initial "A" and a long, sweeping underline.

Arn H. Pearson  
Vice President for Policy and Litigation