



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

August 30, 2023

Omar Ashmawy
Staff Director and Chief Counsel
Office of Congressional Ethics
U.S. House of Representatives
PO Box 895
Washington, DC 201515-0895

Re: Request for Investigation into Rep. Andrew Clyde

Dear Mr. Ashmawy:

Citizens for Responsibility and Ethics in Washington respectfully requests that the Office of Congressional Ethics (“OCE”) investigate whether Rep. Andrew Clyde (R-GA) violated House rules by abusing his position when he introduced, sponsored, and advocated for legislation on multiple occasions that would benefit his financial interests as the owner of a gun store.

Background

Rep. Clyde owns Clyde Armory Inc. (the “Clyde Armory”), a company that sells firearms and firearm accessories online and in two brick-and-mortar locations in Athens and Warner Robins, Georgia.¹ Clyde Armory generates \$12 million in annual revenue.²

On January 13, 2023, Attorney General Merrick Garland signed Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) final rule 2021R-08F, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces.’”³ The Rule was published in the Federal Register on January 31, 2023 and includes a 120-day registration period, authorizing ATF enforcement as of June 1, 2023.⁴

¹ The Clyde Armory, <https://clydearmory.com/> (last visited June 18, 2023); Andrew Clyde for Congress (identifying Rep. Clyde as the “proud owner of Clyde Armory”), <https://www.clyde4congress.com/>; Rep. Andrew Clyde, Personal Financial Disclosure Statement for 2021 (identifying Rep. Clyde as CEO), https://disclosures-clerk.house.gov/public_disc/financial-pdfs/2021/10049291.pdf.

² Bethel Magazine, *Wall of Fame Recipients Honored*, Bethel University, <https://magazine.betheluniversity.edu/2015/09/24/wall-of-fame-recipients-honored/> (last visited August 25, 2023).

³ ATF, “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces,’” <https://www.atf.gov/rules-and-regulations/factoring-criteria-firearms-attached-stabilizing-braces>.

⁴ Factoring Criteria for Firearms With Attached “Stabilizing Braces,” 88 Fed. Reg. 6,478 (Jan. 31, 2023) (to be codified at 27 C.F.R. pt. 478, 479).

The Rule amended an existing ATF rule to clarify the factors ATF would consider when evaluating firearms equipped with a “stabilizing brace” (also known as a “pistol brace”) to determine whether these weapons are designed or intended to be fired from the shoulder.⁵ Under the Rule, such firearms would be considered a “rifle” or “short-barreled rifle” under the Gun Control Act of 1968, or a “rifle” or “firearm” subject to regulation under the National Firearms Act, rather than a more lightly regulated pistol.⁶

In effect, the Rule treats firearms with stabilizing braces “like short-barreled rifles, a weapon that is like a sawed-off shotgun and has been heavily regulated since the 1930s.”⁷ Stabilizing braces have been used in several recent mass shootings, including the 2021 shooting in a grocery store in Boulder, Colorado that left 10 people dead.⁸ According to Attorney General Garland, the Rule “makes clear that firearm manufacturers, dealers, and individuals cannot evade these important public safety protections simply by adding accessories to pistols that transform them into short-barreled rifles.”⁹

In a February 1, 2023 speech on the House floor, Rep. Clyde asserted that “my company has sold many of these pistol brace firearms.”¹⁰ The Clyde Armory website indicates that Rep. Clyde’s business sells pistols equipped with stabilizing braces.¹¹ While the website currently states that the relevant firearms will “not ship” with the pictured stabilizing braces, for at least one of these firearms the shipping language appears to have been added sometime after August 9, 2022.¹²

During the same floor speech, Rep. Clyde outlined three legislative actions he is “actively leading” to overturn the rule.¹³

First, on January 31, 2023, Rep. Clyde introduced H.R. 646, the Stop Harassing Owners of Rifles Today (“SHORT”) Act, as its sponsor in the House.¹⁴ The bill would

⁵ *Id.*

⁶ *Id.*

⁷ Lindsay Whitehurst, *Feds finalize tighter regulations on gun stabilizing braces*, Associated Press (Jan. 13, 2023), <https://apnews.com/article/biden-national-rifle-association-us-republican-party-gun-politics-362e5d6dfc78c896b7a376e5368c770b>.

⁸ *Id.*

⁹ *Id.*

¹⁰ 169 Cong. Rec. H620-21 (Feb. 1, 2023); Rep. Andrew Clyde (@rep.andrewclyde9899), Rep. Clyde Leads Special Order Blasting the ATF’s Unconstitutional Pistol Brace Rule, YouTube (Feb. 7, 2023), https://youtu.be/Omy0_alj4bg.

¹¹ See Clyde Armory, *DDM4V7 Pistol*, clydearmory.com, <https://clydearmory.com/daniel-defense-ddm4v7p-02-128-17050/> (last visited July 18, 2023); Clyde Armory, *SIG MPX 9mm 4.5" Black Copperhead Semi Pistol (PMPX-4B-CH)*, clydearmory.com, <https://clydearmory.com/sig-mpx-9mm-4-5-black-copperhead-semi-pistol-pmpx-4b-ch/> (last visited July 18, 2023).

¹² See Clyde Armory, *SIG MPX 9mm 4.5" Black Copperhead Semi Pistol (PMPX-4B-CH)*, clydearmory.com (2022), archived at Wayback Machine, web.archive.org, <https://web.archive.org/web/20220809174144/https://clydearmory.com/sig-mpx-9mm-4-5-black-copperhead-semi-pistol-pmpx-4b-ch/> (citing capture date Aug. 9, 2022).

¹³ *Id.*

¹⁴ Stop Harassing Owners of Rifles Today Act (“SHORT Act”), H.R. 646, 118th Cong. (2023); see also H.R. 646, Summary, <https://www.congress.gov/bill/118th-congress/house-bill/646?s=1&r=49>.

eliminate some restrictions that apply to the sale or transportation of firearms and rifles, including certain pistols with “stabilizing braces,” under the National Firearms Act. Rep. Clyde advocated for his bill in speeches on the House floor,¹⁵ in media interviews,¹⁶ and on his verified official Twitter account.¹⁷

Second, Rep. Clyde introduced, sponsored, and advocated for H.J. Res. 44, a Congressional Review Act (“CRA”) resolution which would nullify ATF final rule 2021R-08F.¹⁸ Rep. Clyde introduced H.J. Res. 44 on March 20, 2023.¹⁹ Both before and after introducing the resolution, Rep. Clyde advocated for the bill on the House floor,²⁰ in a House committee hearing,²¹ through press releases,²² in media interviews,²³ and on his official government Twitter and YouTube accounts.²⁴ The resolution passed the House on June 13,²⁵ and during the floor debate Rep. Clyde again advocated for his legislation.²⁶

Third, Rep. Clyde, who serves on the House Appropriations Committee, has advocated defanging the ATF final rule through the introduction of a “limitation amendment.” Though he has not introduced any text to date, Rep. Clyde said his amendment would prevent ATF from spending any funds on implementing the rule.²⁷

¹⁵ 169 Cong. Rec. H340-41 (Jan. 26, 2023); 169 Cong. Rec. H620-24 (Feb. 1, 2023); 169 Cong. Rec. H2836-37 (June 13, 2023).

¹⁶ Daniel Terrill, *Rep. Andrew Clyde on How He Wants to Chip Away at the NFA*, Free Range American (Feb. 28, 2023), <https://freerangeamerican.us/andrew-clyde/>; Rep. Andrew Clyde (@rep.andrewclyde9899), Rep. Clyde Joins Wake Up America Weekend to Discuss His Efforts to Block ATF's Pistol Brace Rule, YouTube (Jan. 25, 2023), https://youtu.be/v_NG7ZCccLQ.

¹⁷ *See, e.g.*, Rep. Andrew Clyde (@Rep_Clyde), Twitter (Jan. 31, 2023, 4:40 PM), https://twitter.com/Rep_Clyde/status/1620537449121447936; Rep. Andrew Clyde (@Rep_Clyde), Twitter (Feb. 8, 2023, 4:40 PM), https://twitter.com/Rep_Clyde/status/1623422062046986244. The grey checkmark on Rep. Clyde's account notes: “This account is verified because it is a government or multilateral organization account.” (https://twitter.com/Rep_Clyde)

¹⁸ H.J. Res. 44, 118th Cong. (2023) (the resolution is titled: Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives relating to “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces’”); *see also* H.J. Res. 44, Summary, <https://www.congress.gov/bill/118th-congress/house-joint-resolution/44>.

¹⁹ *Id.*

²⁰ 169 Cong. Rec. H340-41 (Jan. 26, 2023).

²¹ House Judiciary Subcommittee on Crime and Federal Government Surveillance: ATF's Assault on the Second Amendment: When is Enough Enough? (Mar. 23, 2023), <https://judiciary.house.gov/committee-activity/hearings/subcommittee-crime-and-federal-government-surveillance-atfs-assault> (comments at 02:57:15).

²² Press Release, Scalise, Clyde, Hudson, Supporters Release Statements on Pistol Brace CRA (June 8, 2023), <https://www.majorityleader.gov/news/documentsingle.aspx?DocumentID=1799>.

²³ Rep. Andrew Clyde (@rep.andrewclyde9899), Rep. Clyde Joins Wake Up America Weekend to Discuss His Efforts to Block ATF's Pistol Brace Rule, YouTube (Jan. 25, 2023), https://youtu.be/v_NG7ZCccLQ.

²⁴ Rep. Andrew Clyde (@rep.andrewclyde9899), Rep. Clyde Leads the Fight Against ATF's Unconstitutional Pistol Brace Rule, YouTube (Jan. 30, 2023), <https://youtu.be/GGmOoGsqvhc>; Rep. Andrew Clyde (@rep.andrewclyde9899), CLYDE: House to Block ATF's Unconstitutional Pistol Brace Rule, YouTube (May 15, 2023), <https://youtu.be/IuLfmOP7sp4>; Rep. Andrew Clyde (@Rep_Clyde), Twitter (June 6, 2023, 4:49 PM), https://twitter.com/Rep_Clyde/status/1666185607888920582.

²⁵ 169 Cong. Rec. H2853 (June 13, 2023).

²⁶ 169 Cong. Rec. H2837 (June 13, 2023).

²⁷ 169 Cong. Rec. H621 (Feb. 1, 2023).

Potential Violations of House Rules

Rep. Clyde appears to have violated House rules governing conflicts of interest by introducing, sponsoring, and advocating for the SHORT Act, the Congressional Review Act resolution that would repeal the final ATF rule, and by advocating for the limitation amendment on ATF appropriations, all of which would impact his personal financial interests as a store owner selling pistols with stabilizing braces.

House precedents largely favor allowing members to vote on legislation that may impact their personal economic interests out of concern over disenfranchising their constituents.²⁸ As a result, members may vote on questions when they are part of a class of those affected, as opposed to affected individually.²⁹ This only applies, however, to floor votes. House rules clearly provide that members normally should not engage in other official actions, such as sponsoring legislation, advocating or participating in a committee proceeding, or contacting an executive branch agency, when their financial interests are at issue.³⁰

As the House Ethics Manual notes, "Such actions entail a degree of advocacy above and beyond that involved in voting, and thus a Member's decision on whether to take any such action on a matter that may affect his or her personal financial interests requires added circumspection. Moreover, such actions may implicate the rules and standards, discussed above, that prohibit the use of one's official position for personal gain,"³¹ including clause 3 of House Rule 23 and section 5 of the Code of Ethics for Government Service ("Code of Ethics").

While House precedent on conflicts indicates disclosure "is the preferred method of regulating possible conflicts of interest," particularly when a member's interests and that of his constituents intersect, "such disclosure must be full and complete, and even if complete, does not always alleviate a conflict or permit a [m]ember to act."³²

Specifically, clause 3 of House Rule 23 states that a member "may not receive compensation and may not permit compensation to accrue to the beneficial interest of such individual from any source, the receipt of which would occur by virtue of influence improperly exerted from the position of such individual in Congress."³³ Under the rule, the House Ethics Committee explained, "if a Member seeks to act on a matter where he might benefit as a Member of a large class, such action does not

²⁸ House Comm. on Ethics, House Ethics Manual, at 243-46 (2022 ed.).

²⁹ *Id.* at 243.

³⁰ *Id.* at 246.

³¹ *Id.*

³² House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Shelley Berkley*, H. Rep. No. 112-716, 112th Cong., 2nd Sess. (Dec. 13, 2012) ("*Berkley*"), Appendix A at 51, Report of the Investigative Subcommittee at 42, *citing House Ethics Manual* at 251 ("ISC Report").

³³ House Rule 23, cl. 3.

require recusal. . . . By contrast, where a Member's action would serve his own narrow financial interests, the Member should refrain from acting."³⁴

Further, section 5 of the Code of Ethics provides that "[a]ny person in Government services should . . . [n]ever discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties."³⁵ The House Ethics Committee "has consistently prohibited acting on matters in which a Member has a financial interest precisely because the public would construe such action as self-dealing, whether the Member engaged in the action for that reason or not."³⁶ Thus, the question is "whether 'reasonable persons' 'might construe' [a Member's interest] as influencing the performance of his government duties" or whether "the public might, and reasonably could, view [the official action] as motivated by his substantial [financial interest]."³⁷

As a House Ethics Committee Investigative Subcommittee noted, conflicts of interest may pose the greatest threat to the public faith in elected officials "because self-dealing is such a simple and well-understood breach of that public trust. The term 'public servant' cannot survive if the servants serve themselves."³⁸

More generally, House Rule 23 requires all members of the House to conduct themselves "at all times in a manner that reflects creditably on the House."³⁹ This ethics standard is considered "the most comprehensive provision" of the code."⁴⁰ The Ethics Manual notes: "When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted it was included within the Code to deal with 'flagrant' violations of the law that reflect on 'Congress as a whole,' and that might otherwise go unpunished."⁴¹

Here, Rep. Clyde's financial interest would be affected by repeal of the ATF Final Rule. Rep. Clyde owns the Clyde Armory, which "has sold many" firearms with the braces in question.⁴² Repealing a rule that would more strictly regulate a product sold by his company - through H.J. Res. 44, H.R. 646, or an appropriations limitation amendment - would impact his financial interest.⁴³

³⁴ House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Roger Williams*, 114th Cong., 2nd Sess. 6 (2016) ("*Williams*").

³⁵ 72 Stat., Part 2, B12, H. Con. Res. 175, 85th Cong. (adopted July 11, 1958); *see also* House Ethics Manual at 355.

³⁶ *Williams* at 6 (quoting House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Phil Gingrey*, 113th Cong., 2nd Sess. 18 (2014) ("*Gingrey*").

³⁷ *Id.* (quoting *Gingrey* at 19–21).

³⁸ ISC Report at 50, *supra* note 33.

³⁹ House Rule 23, cl. 1.

⁴⁰ House Ethics Manual at 12.

⁴¹ House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).§

⁴² 169 Cong. Rec. H620-21 (Feb. 1, 2023)

⁴³ There is no evidence that Rep. Clyde consulted with the House Ethics Committee before taking these actions. An investigation should determine if he did.

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By using his position to introduce, sponsor, and advocate for legislation benefiting his personal financial interest, Rep. Clyde appears to have attempted to provide a financial benefit to himself in violation of House conflict of interest rules, the Code of Ethics for Government Service and House Rule 23. Therefore, CREW respectfully requests that the OCE promptly investigate this matter.

I am aware that the False Statements Act, 18 U.S.C. §1001, applies to complaints made to the Office of Congressional Ethics.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Noah Bookbinder', with a long horizontal flourish extending to the right.

Noah Bookbinder
President