Union Calendar No. 488

104TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 104–886

SUMMARY OF ACTIVITIES ONE HUNDRED FOURTH CONGRESS

A REPORT

OF THE

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT HOUSE OF REPRESENTATIVES

JANUARY 2, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, January 2, 1997.

Hon. ROBIN CARLE,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. CARLE: Pursuant to clause 1(d) of Rule XI of the Rules of the House of Representatives, I hereby submit to the House a report on the activities of the Committee on Standards of Official Conduct for the 104th Congress.

Sincerely,

NANCY L. JOHNSON,
Chairwoman.

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Mrs. JOHNSON, from the Committee on Standards of Official Conduct, submitted the following

REPORT

I. INTRODUCTION

House Rule XI, Clause 1(d), requires each committee to submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of that committee under that rule and House Rule X during the Congress ending on January 3 of that year.

The jurisdiction of the Committee on Standards of Official Conduct ("Committee") is defined in House Rule X, Clauses 1(p) and 4(e), which state as follows:

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

RULE X, CLAUSE 1(p)

(1) Measures relating to the Code of Conduct. In addition to its legislative jurisdiction under the preceding provision of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in titles I and V of the Ethics in Government Act of 1978 and sections 7342, 7351, and 7353 of title 5, United States Code.

RULE X, CLAUSE 4(e)

(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to time such administrative actions as it may deem appro-

priate to establish or enforce standards of official conduct for Members, officers, and employees of the House, and any letter of reproval or other administrative action of the committee pursuant to an investigation under subdivision (B) shall be issued or implemented as a part of a report required by such subdivision; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing (unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, with the approval of the House, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; (D) to give consideration to the request of any Member, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII.

(2)(A) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made by the Committee on Standards of Official Conduct, and no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee.

(B) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, officer, or employee of the House of Representatives only—

(i) upon receipt of a complaint, in writing and under oath, made by or submitted to a Member of the House and transmitted to the committee by such Member, or

(ii) upon receipt of a complaint, in writing and under oath, directly from an individual not a Member of the House if the committee finds that such complaint has been submitted by such individual to not less than three Mem-

bers of the House who have refused, in writing, to transmit such complaint to the committee.

(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation; nor shall any investigation be undertaken by the committee of any alleged violation which occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to any alleged violation which occurred in a more recent Congress.

(D) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House shall designate a Member of the House from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.

(E) A member of the committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. If the Committee approves and accepts such an affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member of the House from the same political party as the disqualifying member of the committee to act as a member of the committee in any committee proceeding relating to such investigation.

(F) No information or testimony received, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any Committee or staff member unless specifically authorized in each instance by a vote of the full Committee.

The Committee was organized on February 9, 1995. The full Committee held 65 meetings during 1995 and 34 meetings in 1996. In addition, an Investigative Subcommittee regarding Representative Barbara-Rose Collins met 20 times during 1996, and an Investigative Subcommittee regarding Representative Newt Gingrich met 40 times during 1996.

II. Advice and Education

The Committee offers educational programs and publications to inform House Members, officers, and employees of the requirements of the various standards, rules, and laws that govern their conduct. Additionally, the Committee responds to specific requests for advice from Members, officers, and employees on matters relating to the Code of Official Conduct and other laws, rules, and regu-

lations applicable to them in the conduct of their offices and the discharge of their official responsibilities. The Ethics Reform Act of 1989 ("Act") guarantees that no one may be investigated by the Committee on the basis of information provided to the Committee while seeking an opinion about proposed conduct. In that regard, the Act mandated that a separate Office of Advice and Education be established within the Committee in 1990. The Committee maintains the confidentiality of its advice, and by law and Committee rule, anyone who relies in good faith on a written opinion of the Committee subsequently may not be investigated by the Committee concerning the conduct addressed in the opinion. Additionally, courts will consider reliance on a Committee opinion a defense to prosecution by the Department of Justice.

During the 104th Congress, the Committee issued a record number of advisory opinions for Members, officers and employees. The increase in requests for advisory opinions was due to the large number of new staff resulting from the change in majority control of the House, and to the adoption of House Rule 52, banning most gifts, which became effective January 1, 1996. Section 6 of Rule 52 states that "[a]ll the provisions of the [gift rule] shall be interpreted and enforced solely by the Committee on Standards of Official Conduct," and authorizes the Committee to "issue guidance on any matter contained in this rule."

The Committee devoted many meetings to developing compliance guidance for Members regarding the rules changes, and carried out an aggressive program to inform all Members, officers, and employees about the terms and conditions of the new gift rule and the Committee's interpretations of the rule. The Committee's initial advisory memorandum of December 7, 1995, was mailed to every congressional office as well as over 17,000 lobbyists, journalists, and other interested parties.

The Committee also received numerous requests at the beginning of the Congress for guidance regarding solicitations by Members on behalf of outside organizations. Increased interest in this area resulted from the repeal in January 1995 of the House rule authorizing Legislative Service Organizations as official House offices, and from interest by some Members in helping some of those enterprises establish themselves as outside organizations. In response to these requests, the Committee issued an advisory memorandum on solicitations on April 4, 1995.

Publications

The Committee issued the following advisory memoranda during the 104th Congress, which were distributed to all Members, officers, and employees of the House:

Outside Earnings Restrictions for 1995 (February 15, 1995);
Solicitation Guidelines (April 4, 1995);
Classified Oath Information (July 12, 1995);
New Gift Rule (December 7, 1995);
Travel Reporting Guidelines (December 22, 1995);
Outside Earnings Restrictions for 1996 (January 31, 1996);
Widely Attended & Other Events Under the New Gift Rule (March 18, 1996);
Legal Expense Fund Regulations (June 10, 1996);

Gift Rule Issues (July 8, 1996);

Guidelines for National Party Conventions (July 29, 1996);

Guidelines for Presidential Inauguration (December 12, 1996);

Copies of these memoranda are re-printed in Appendix A of this report.

Briefings

As part of its outreach and educational efforts, the Committee conducted numerous briefings during the 104th Congress regarding applicable ethical standards in the House of Representatives and rules governing financial disclosure. The Committee accorded a high priority to such briefings due to the large number of new Members and the passage of the new gift rule.

The Committee sponsored briefings on the new gift rule and participated in other briefings sponsored by the Clerk's office and private outside groups. The Committee provided briefings during the orientation session for Members-elect to the 104th Congress and offered subsequent individual briefings for the new Members and their staff. The Committee provided copies of the *House Ethics Manual* and *Highlights of House Ethics Rules* to every new Member of Congress as part the orientation process. Many Members availed themselves of the opportunity for an ethics briefing, and the Committee found that these briefings provided a useful way to inform Members and their staff, including district office staff, about the Code of Official Conduct and other relevant rules. The Committee will continue this outreach effort in the 105th Congress.

The Committee also provided briefings to returning Members and staff as part of its ongoing educational efforts. Committee staff participated in briefings sponsored by the Congressional Research Service and non-Congressional groups. Committee staff also received numerous requests for briefings from visiting international dignitaries, including several elected officials. Visitors from the emerging democracies of Eastern Europe and many countries in Asia were particularly interested in our ethics regulations.

Advisory Opinions

The Committee's Office of Advice and Education, under the direction and supervision of the Committee's Chairwoman and Ranking Minority Member, prepared approximately 1,200 private advisory opinions during the 104th Congress. Opinions issued by the Committee in the 104th Congress addressed a wide range of subjects, including the following:

Numerous matters under the new gift rule, including privately funded travel and public disclosure of the expenses paid; Gifts from personal friends and from units of government; gifts to spouses and other family members; and offers of free attendance at receptions, "widely attended events," and charity events;

Limitations on the acceptance of gifts from foreign governments, including gifts of travel;

Solicitations by Members on behalf of charities and other non-profit organizations, and the permissibility of other forms

of Member involvement with outside organizations or their events;

Restrictions on campaign activity by House employees;

Requirements concerning the use of volunteers, interns and fellows in Members' offices, and the permissible structure and activities of Members' advisory groups;

Considerations pertinent to the outside employment of the spouse of a Member or employee; and

The applicability, in various circumstances, of the ban on honoraria, the limitation on outside earned income, and the ban on providing fiduciary services.

III. Financial Disclosure

Title I of the Ethics in Government Act of 1978, as amended (5 U.S.C. app. 6, Sections 101–111), requires officials in all branches of the Federal Government to disclose to the public financial information regarding themselves and their families. In the House of Representatives, the Committee is responsible for administering the Act. The Committee establishes policy, issues instructions, and designs the Financial Disclosure Statements to be filed by Members, officers, legislative branch employees, and candidates for the House. After Statements are filed with the Office of Records and Registration of the Clerk of the House, they are forwarded to the Committee to be reviewed for compliance with the law. Accountants from the General Accounting Office assist the Committee in its review efforts.

The Committee provided briefings for persons required to file Financial Disclosure Statements during the 104th Congress. In addition, Committee staff reviewed draft filings by Members and employees to reduce errors and the need for amendments. In calendar years 1995 and 1996, Committee staff reviewed approximately 5,046 Financial Disclosure Statements, including 1,312 Statements from candidates.

Pursuant to its authority under 5 U.S.C. §7342, the Committee also continued its activities implementing the disclosure and reporting requirements of the Foreign Gifts and Decorations Act, and responded to requests from Members and employees for interpretations of the Act. Reports filed in accordance with this Act are available for public inspection at the Committee office.

IV. Investigations

Procedures

Committee rules set forth the following standards and requirements concerning the filing of complaints with the Committee, and the limitations governing Committee acceptance of a complaint:

A complaint must be in writing, under oath, and dated.

The complaint must state the nature of the alleged violation of the Code of Official Conduct or other law, rule, regulation, or other standard of conduct applicable to the performance of duties or discharge of responsibilities.

The complaint must state the facts alleged to give rise to the violation, but may not contain innuendo, speculative assertions, or conclusory statements.

A Member of the House may file a complaint directly, or may forward the complaint of an individual not a Member for the purpose of initiating a Preliminary Inquiry.

If three Members refuse in writing to forward the complaint of someone not a Member, acknowledging that this may cause the Committee to initiate a Preliminary Inquiry, then the individual may file the Complaint directly with the Committee. An exact copy of the complaint filed must be attached to each refusal letter.

Unless the complaining party provides a copy of the complaint to the respondent (the person against whom the complaint is filed), the Committee will not accept the complaint.

Complaints filed within 60 days prior to an election in which the respondent is a candidate will not be accepted.

The respondent will be notified if a complaint is returned, or if it is accepted by the Committee as properly filed.

The respondent will be afforded an opportunity to provide information to the Committee in response to a complaint.

The Committee cannot initiate an investigation of an alleged violation that occurred before the third previous Congress, unless the Committee determines that the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.

If a Member, officer, or employee is convicted of a crime for which a sentence of one or more years may be imposed, a Preliminary Inquiry must be undertaken after sentencing, although the Committee may act sooner.

Upon receipt of a complaint, the Committee first determines if it satisfies the procedural requirements of Clause 4(e)(2)(B) of House Rule 10 and Committee Rule 14. If the Committee determines that the complaint is in proper form and the matter is within the Committee's jurisdiction, it may initiate a Preliminary Inquiry upon an affirmative vote of a majority of its members. If the Committee authorizes a Preliminary Inquiry, the Chairwoman and Ranking Minority Member must select four or six Members to comprise an Investigative Subcommittee.

The Investigative Subcommittee then conducts an investigation, reviews the evidence, and determines whether there is reason to believe that an offense within the Committee's jurisdiction was committed. If a majority of the Investigative Subcommittee finds reason to believe that such a violation was committed, the Subcommittee adopts a Statement of Alleged Violation asserting specific charges in separate counts. The Subcommittee notifies the respondent of its determination, transmits a copy of the Statement of Alleged Violation to the respondent, and advises the respondent that he or she has thirty days in which to respond. Once the response is received, or the time for filing a response has expired, the Statement of Alleged Violation and the response is forwarded to

the Chairwoman and Ranking Minority Member. The deliberations of the Subcommittee are confidential until the report and response have been forwarded to the full Committee.

The Chairwoman then designates the remaining Committee members to comprise an Adjudicatory Subcommittee to conduct a Disciplinary Hearing. At the conclusion of the Disciplinary Hearing, the subcommittee determines if any count contained in the Statement of Alleged Violation has been proven by clear and convincing evidence. If so, the full Committee holds a Sanction Hearing to determine what punishment, if any, to recommend to the House of Representatives.

The Committee may recommend one or more of the following sanctions to the House of Representatives:

(1) Expulsion from the House of Representatives;

(2) Censure;

(3) Reprimand;

(4) Fine;

(5) Denial or limitation of any right, power, privilege, or immunity of the Member, if under the Constitution the House of Representatives may impose such limitation or denial; or

(6) Any other sanction determined by the Committee to be appropriate.

Alternatively, the Committee may send a Letter of Reproval to the Respondent without recommending further action by the full House.

Complaints

The Committee received a record number of complaints against Members of the House during the 104th Congress. Some complaints did not comply with House and Committee rules and were returned to the complainant, but most complied with the rules and were given full consideration by the Committee for appropriate disposition. In most cases, the Committee publicly released its letters to Members upon the final disposition of a case in order to better educate Members and the general public about the rules of conduct and the ethics process.

Some Members of the Committee on both sides of the aisle were troubled during the 104th Congress by what they perceived as an abuse of the ethics process, and believed that some complaints were filed for purely political purposes or were clearly frivolous. While the Committee diligently considered the substantive allegations of each of these complaints, the time consumed by their consideration detracted from the Committee's attention to other, more important pending matters, and underscores the need to clarify Committee rules governing the submission of complaints.

In addition, the Committee was deeply troubled by references in the press to "Committee sources" as sources of confidential information about pending Committee business. Information attributable to such sources often was incomplete or inaccurate, and it put the Committee in the awkward position of either leaving misinformation in the public domain or breaching the confidentiality required by Committee rules by correcting the information officially. In addition, breaches of confidentiality are unfair to the Member under review, destroy the integrity of the ethics process, and erode

trust among Committee members. Clarifying the Committee's rules to allow the Committee to deal more effectively with this problem is essential to reforming the ethics process, and to enabling the Committee to operate more smoothly in the future.

The Committee considered and took action on the following cases during the 104th Congress.

a. Representative Newt Gingrich

The Committee received several complaints against Representative Newt Gingrich during the 104th Congress, as detailed below.

(1) Complaint Filed by Former Representative Ben Jones

Former Representative Ben Jones filed a complaint against Representative Gingrich on September 12, 1994, alleging that Representative Gingrich used official resources in preparing a college course entitled "Renewing American Civilization." These allegations were examined by the Committee during the 103rd Congress. Representative Gingrich made restitution to the U.S. Treasury in the amount of $12.00, and the Committee recommended no further action.

Mr. Jones also alleged that Representative Gingrich acted improperly in accepting a $25,000 contribution by Mr. Richard Berman to the Kennesaw State College Foundation. Mr. Berman made this contribution after testifying before a House subcommittee. Telephone interviews by staff and documentary evidence reviewed by the Committee failed to support the allegation of a quid pro quo or conflict of interest. Therefore, the Committee dismissed this allegation.

Finally, Mr. Jones alleged that Representative Gingrich misused tax-exempt entities organized under 26 U.S.C. § 501(c)(3) in support of his course entitled "Renewing American Civilization." The Committee found that this allegation merited further inquiry and authorized a Preliminary Inquiry on December 6, 1995. The Committee also agreed to hire Special Counsel to assist the Investigative Subcommittee.

The Resolution of Preliminary Inquiry stated as follows:

RESOLUTION OF PRELIMINARY INQUIRY

> Whereas, complaints have been filed with the Committee alleging improper conduct by Representative Newt Gingrich in connection with a college course and certain foundations qualified under section 501(c)(3) of Title 26 of the United States Code; and
>
> Whereas, the Committee determines that these allegations are within the jurisdiction of the Committee and merit further inquiry; Now, therefore, be it
>
> *Resolved*, That the Committee conduct a Preliminary Inquiry, in accordance with Rule 17 of the Rules of the Committee to determine if there is reason to believe that Representative Gingrich's activities in relation to the college course "Renewing American Civilization" were in violation of section 501(c)(3), with respect to the course, violated its status with the knowledge and approval of Representative Gingrich; and be it further

Resolved, That the Chair and Ranking Democratic Member appoint four Members of the Committee to serve as Members of the Investigative Subcommittee that will conduct the Preliminary Inquiry; and be it further

Resolved, That the Committee appoint a Special Counsel to assist the subcommittee.

On December 22, 1995, the Committee hired James Cole as Special Counsel to assist an Investigative Subcommittee chaired by Representative Goss. The other Committee members assigned to the subcommittee were Representatives Cardin, Schiff and Pelosi.

On September 26, 1996, the Investigative Subcommittee provided an interim report to the full Committee which was publicly released by vote of the full Committee. The interim report stated, in pertinent part:

To date the Preliminary Inquiry has involved, among other things, the interviewing of 40 witnesses and the review of documents produced in response to 52 subpoenas or requests for documents. This activity was substantially completed by August 13, 1996. Since that time, the Subcommittee has reviewed the materials and met numerous times to discuss at length with Special Counsel the facts and law related to this matter. The Subcommittee is continuing its work in regard to the issues presented in the Resolution of Preliminary Inquiry.

Rule 16 of the Rules of the Committee allows for the institution of a Preliminary Inquiry in the absence of a filed complaint when the Committee has in its possession any information indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct. Under Rule 16(b) of the Committee's Rules, the standard to be applied in determining whether to institute a Preliminary Inquiry is whether the information merits further inquiry.

While the scope of the Preliminary Inquiry has been carefully focused on the issues presented by the Committee's original Resolution of December 6, 1995, certain facts have been discovered in the course of the Preliminary Inquiry which the Subcommittee has determined merit further inquiry. The Subcommittee has expanded the Preliminary Inquiry to include the following areas:

(1) Whether Representative Gingrich provided accurate, reliable, and complete information concerning the course entitled "Renewing American Civilization," GOPAC's relationship to the course entitled "Renewing American Civilization," or the Progress and Freedom Foundation in the course of communicating with the Committee, directly or through counsel (House Rule 43, Cl. 1);

(2) Whether Representative Gingrich's relationship with the Progress and Freedom Foundation, including but not limited to his involvement with the course entitled "Renewing American Civilization," violated the foundation's

status under 501(c)(3) of the Internal Revenue Code and related regulations (House Rule 43, Cl. 1);

(3) Whether Representative Gingrich's use of the personnel and facilities of the Progress and Freedom Foundation constituted a use of unofficial resources for official purposes (House Rule 45); and

(4) Whether Representative Gingrich's activities on behalf of the Abraham Lincoln Opportunity Foundation violated its status under 501(c)(3) of the Internal Revenue Code and related regulations or whether the Abraham Lincoln Opportunity Foundation violated its status with the knowledge and approval of Representative Gingrich (House Rule 43, Cl. 1).

It is important to understand that this action does not mean the Subcommittee has at this point made any determination that there is reason to believe Representative Gingrich committed any violation within the jurisdiction of the Committee.

The Subcommittee is in the process of notifying Representative Gingrich of these new areas of inquiry and will endeavor to finish its work as expeditiously as possible. It is anticipated that this process will be completed by the end of this Congress. Once that is done the Subcommittee will report its conclusions to the Committee in accordance with the Committee's Rules.

On January 26, 1995, former Representative Ben Jones filed another complaint against Representative Gingrich. That complaint contained several new allegations and repeated three charges from his first complaint filed on September 12, 1994.

First, Mr. Jones alleged that Representative Gingrich's book contract with HarperCollins violated the principles set forth in House Select Committee on Ethics Advisory Opinion No. 13, (October 1978), which notes that being a Member of Congress is a full-time job. The Committee has never ruled that writing a book in itself violates the responsibilities of being a Member; in fact, the Committee has approved numerous book contracts over the past few years. The Committee therefore dismissed this allegation.

Second, Mr. Jones alleged that the amount of money Representative Gingrich was expected to earn abused the exception to the outside earned income limit regarding copyright royalties. Because neither law nor House rules impose any limit on the amount of copyright royalties a Member may receive, the Committee dismissed that allegation.

Third, Mr. Jones alleged that Representative Gingrich violated the Code of Ethics for Government Service by accepting favors or benefits from Mr. Rupert Murdoch in the form of a book contract with Mr. Murdoch's company, HarperCollins. Mr. Jones alleged that at a November 28, 1994, meeting between Mr. Murdoch and Representative Gingrich, Mr. Murdoch made an attempt to influence Representative Gingrich to aid the Fox Network (owned by Mr. Murdoch) in its dispute with NBC by providing Representative Gingrich with a lucrative book contract.

The Committee examined fifteen witnesses under oath, including every participant in the November 28, 1994 meeting. The Commit-

tee found no evidence that either the book or the negotiations between Representative Gingrich and HarperCollins were mentioned at the meeting between Representative Gingrich and Mr. Murdoch. Further, the Committee concluded that the meeting was a courtesy visit of a routine nature, and that the pending NBC complaint before the Federal Communications Commission was mentioned only briefly. Consequently, the Committee concluded that this allegation did not merit further inquiry and dismissed it.

Mr. Jones also alleged that the book auction process was improper. The Committee examined numerous witnesses under oath who were involved in the auction process, including representatives of each of the major publishing houses that bid on Representative Gingrich's book. The Committee also deposed individuals from HarperCollins who were involved in either the auction or the contract negotiations. The auction process and the contract were examined by the Committee and by an outside expert not associated with Representative Gingrich's book or the auction. The auction process—which initially resulted in a $4.5 million advance, later renegotiated to a one dollar advance—was found to be consistent with standard industry practices.

The Committee concluded that Representative Gingrich did not violate House Rule 47, which governs book contracts or royalty income. While the original advance substantially exceeded the terms of any book contract contemplated when the current House rules were drafted, the Committee concluded that Representative Gingrich's book contract was in technical compliance with the "usual and customary" standard of House rules regarding royalty income. However, the Committee strongly questioned the appropriateness of what some could describe as an attempt by Representative Gingrich to capitalize on his office.

The Committee concluded that House Rule 47 should be amended to restrict more clearly the income a Member may derive from writing books. As the Committee stated in its report to the House on December 12, 1995: "[A]s recent events demonstrate, existing rules permit a Member to reap significant and immediate financial benefits appearing to be based primarily on his or her position. At a minimum, this creates the impression of exploiting one's office for personal gain. Such a perception is especially troubling when it pertains to the office of the Speaker of the House, a constitutional office requiring the highest standards of ethical behavior, but it is also a factor to be strongly considered by each Member of Congress."

The Committee recommended that House Rule 47 be changed to subject royalty income derived from books written while one is a Member to the same limits as other sources of outside earned income, and to prohibit Members, officers and employees from receiving advances from a book contract. To implement that recommendation, Committee Chairwoman Nancy L. Johnson, joined by the other members of the Committee, introduced H. Res. 299 on December 12, 1995. The House debated and adopted a substitute resolution which prohibited Members, officers and employees from receiving advances from a book contract but did not subject royalty income received from book sales to the outside earned income limit.

Mr. Jones further alleged that Representative Gingrich asked chief executive officers at the Business Roundtable to provide volunteers to help him reduce the size of government, and that he asked the Business Roundtable and the Managed Futures Association to buy the tapes of his course. The Committee found no evidence of any contribution of goods or services in support of congressional operations, and concluded there had been no violation of Rule 45. The Committee therefore dismissed this count of the Jones complaint on the grounds that it merited no further inquiry.

Further, the Committee found that no House rule or regulation is violated when a Member, without using any official resources, mentions the availability of a product such as a videotape collection, particularly when the beneficiary of any sales is an organization recognized under Section 170(c) of the Internal Revenue Code. In fact, the Committee's memorandum of October 9, 1990, allows such solicitations by Members, officers, and employees without any requirement for prior approval by this Committee. The Committee subsequently dismissed this count of the Jones complaint.

Finally, Mr. Jones alleged that Representative Gingrich improperly intervened with Executive Branch officials on behalf of Direct Access Diagnostics, a contributor to the Progress and Freedom Foundation ("Foundation"). The Committee obtained sworn testimony from four witnesses and reviewed written submissions provided by Representative Gingrich, the Foundation, and Johnson & Johnson, the corporate parent company of Direct Access Diagnostics. The Committee found no credible evidence of any improper linkage between the action of Representative Gingrich and contributions to the Foundation. In addition, the Committee found that other Members had sent letters to Executive Branch officials on behalf of Direct Access Diagnostics. The Committee therefore dismissed this allegation on the grounds that it did not merit further inquiry.

(2) Complaint Filed by Representative George Miller

On February 13, 1995, Representative George Miller filed a complaint against Representative Gingrich on behalf of Ralph Nader's Congressional Accountability Project, which had prepared the complaint. This complaint alleged that Representative Gingrich improperly used the services of Mr. Joseph Gaylord in the operation of Representative Gingrich's congressional office in violation of House Rule 45, which prohibits the use of private resources for official purposes. The Committee found that Representative Gingrich made inappropriate use of Mr. Gaylord's services during the period in which Representative Gingrich was assembling his leadership staff to become Speaker. The Committee also found that the routine presence of Mr. Gaylord in Representative Gingrich's congressional office created the appearance of improper commingling of political and official resources and was inappropriate. The Committee concluded that these actions collectively violated House Rule 45. The Committee notified Representative Gingrich of this finding in its publicly released letter to him of December 6, 1995 and took no further action on the complaint.

(3) Complaint Filed by Representatives Schroeder, Johnston, and McKinney

On February 23, 1995, Representatives Schroeder, Johnston, and McKinney filed a complaint against Representative Gingrich. The complaint alleged that Representative Gingrich's receipt of free cable time from Mind Extension University to broadcast his course constituted a gift and was an improper solicitation and/or acceptance of something of value in violation of House rules.

Based on sworn testimony, a review of documentary evidence, and interviews by Committee staff, the Committee found that the broadcasting of the lectures did not constitute either a gift or a favor to Representative Gingrich within the meaning of House rules or applicable standards, and that there was not an improper solicitation. The receipt of an incidental benefit of publicity does not constitute "something of value" under 5 U.S.C. §7353. The Committee further found there was no evidence of Representative Gingrich's involvement in the solicitation of free cable time; that he was not compensated for the broadcasting of the lectures; and that there was nothing special or unusual about the broadcasting arrangement. The Committee dismissed this allegation on the grounds that it did not merit further inquiry and so notified Representative Gingrich in its publicly released letter to him of December 6, 1995.

(4) Complaints Filed by Representative David Bonior

Representative David Bonior filed a complaint against Representative Gingrich on March 8, 1995. This complaint alleged that between February 2, 1993, and April 24, 1994, Representative Gingrich improperly used official resources for unofficial purposes by speaking once on the House floor about his course, "Renewing American Civilization," and by mentioning a 1–800 telephone number during three Special Orders and an Extension of Remarks.

Representative Gingrich previously had informed the Committee of his intention to discuss the course on the House floor, and the Committee confirmed it was within his right to do so. However, the Committee regarded the mentioning of the 1–800 number for the purpose of selling audio or video tapes of the college course to be an improper use of the House Floor. The Committee's standing policy on solicitation by Members was outlined in an August 3, 1993, letter to Representative Gingrich regarding fundraising for the course at Kennesaw State College. In that letter, the Committee restated its rule covering fundraising by Members: "Members may solicit funds on behalf of charitable organizations qualified under §170(c) of the Internal Revenue Code, provided that no official resources are used, no official endorsement is implied, and no direct personal benefit results." By referring to the 1–800 telephone number, by which tapes were offered for sale in a speech on the House floor, Representative Gingrich improperly used official resources in a solicitation for a §170(c) organization. That action also violated the proscription noted in the House Ethics Manual against inserting commercial advertising in the Congressional Record.

Thus, while the Committee found no misuse of official resources by Representative Gingrich by speaking about the course, it did find a misuse of a Member's prerogative to speak on the House

Floor in the instance in which the 1–800 number established to sell tapes was mentioned. The Committee took no further action on this complaint.

On May 15, 1995, Representative Bonior filed a second complaint against Representative Gingrich alleging that Representative Gingrich violated House Rules by using Special Orders in 1990 to publicize a GOPAC-sponsored activity, the American Opportunities Workshop ("AOW"). During these Special Orders, Representative Gingrich referred to a 1–800 telephone number by which tapes of the televised program could be obtained. Of special significance to the Committee was the fact that AOW was sponsored by GOPAC, a partisan organization. Representative Gingrich's assertions in the Special Orders that the endeavor was nonpartisan did not overcome the perception of partisanship stemming from GOPAC's involvement in the organization and operation of AOW. The Committee found that the Special Orders violated House Rules because they constituted use of the official resources of the House Floor for political purposes. The Committee took no further action on the complaint.

(5) Committee Action on Jones & Bonior Complaints

The Committee began meeting on the above-referenced complaints on February 9, 1995, shortly after it was constituted for the 104th Congress. As the Committee received new complaints against Representative Gingrich, it provided Representative Gingrich thirty days to respond to each additional complaint, as required by Committee Rule 18. In some cases, the allegations raised no issues of fact, and the Committee was able to resolve those allegations without conducting an investigation. In other cases, it appeared that the conduct alleged could be verified by seeking further information, and the Committee obtained additional documentation. Some allegations raised complex issues requiring resources not available on the Committee staff.

The Committee held more than fifty meetings on these complaints in Executive Session, either to discuss the complaints among the Members of the Committee, or to obtain testimony from witnesses with knowledge pertinent to the allegations at issue. Consistent with Committee Rules 17 and 22, each witness was permitted to have counsel present.

On December 6, 1995, the Committee took final action on five of the six pending complaints against Representative Gingrich. The Committee adopted the approach of consolidating these complaints because of the interrelationship between some of the allegations, and to give Members confidence to deal with each allegation on its merits, since no vote was final until all counts of the complaints were resolved satisfactorily. Given the range of options for resolving the various complaints—from dismissal to referral to an outside counsel—this approach was successful, and it resulted in a unanimous vote on final action on all counts. The Committee notified Representative Gingrich by letter on December 6, 1995, regarding its disposition of these complaints, and voted to publicly release that letter.

On December 21, 1996, the Investigative Subcommittee chaired by Representative Goss adopted a Statement of Alleged Violation

against Representative Gingrich. (See Appendix B.) The Statement of Alleged Violation charged Representative Gingrich with violating House Rule 43, Clause 1. The Subcommittee found that Representative Gingrich "failed to take appropriate steps to ensure that the activities [of certain tax-exempt organizations] were in accordance with section 501(c)(3) of the Internal Revenue Code. . . ." The Subcommittee also found that "information was transmitted to the Committee by and on behalf of Mr. Gingrich that was material to matters under consideration by the Committee, which information, as Mr. Gingrich should have known, was inaccurate, incomplete, and unreliable."

Representative Gingrich admitted to the alleged violations and waived his right to an adjudicatory hearing. The Committee expects to be re-authorized by the House to complete the disposition of this matter by January 21, 1997, by which time the Committee will have conducted a sanctions hearing and filed a final report with the House.

(6) Complaints Filed by Representative George Miller

On November 15, 1995, and April 22, 1996, Representative George Miller filed complaints against Representative Gingrich on behalf of the Congressional Accountability Project, alleging that Representative Gingrich violated House rules by using the services of Mr. Donald Jones in his congressional offices. The Committee found that, while Representative Gingrich's office took steps to ensure that Mr. Jones' activities in the congressional office was proper, his participation as an "informal advisor" did not comply with applicable guidelines issued by the Committee governing interns or volunteers because his services were not provided as part of a clearly defined educational program. The Committee directed Representative Gingrich to "take immediate steps to not only prevent the reoccurrence of similar incidents and ensure compliance with applicable standards, but also to guard against even the appearance of impropriety."

The Committee determined that the complaints did not merit further inquiry, however, and dismissed them. Representative Gingrich was informed of the Committee's decisions by a letter, which was publicly released.

(7) Complaint Filed by Bonior, DeLauro, Lewis, Miller & Schroeder

On December 14, 1995, Representatives Bonior, DeLauro, Lewis, Miller, and Schroeder submitted an amendment to the Jones complaint filed with the Committee on January 25, 1995. The Members submitting the amendment did not obtain the Committee's prior approval to amend their original complaint, as required by Committee Rule 14(h). Consequently, on January 25, 1996, the Committee advised those Members that they could re-file their allegations in the form of a new complaint. On January 31, 1996, the complainants filed a new complaint accompanied by news articles and approximately 8,000 pages of documents released by the Federal Election Commission ("FEC"). The FEC had obtained those documents from GOPAC during a then-pending civil action against GOPAC.

The new complaint alleged that: (1) Representative Gingrich violated the laws governing tax-exempt organizations with respect to the sponsorship and operation of the American Opportunity Workshops, the Abraham Lincoln Opportunity Foundation, and American Citizens' Television; (2) he intervened improperly with the Environmental Protection Agency in 1991 on behalf of Mr. Miller Nichols, a non-constituent, concerning federal asbestos regulations; (3) he intervened improperly with the International Trade Commission in 1989 on behalf of Southdown, Inc., a contributor to GOPAC; (4) he received improper personal benefits from GOPAC in 1990; (5) he personally violated Federal election campaign laws with respect to alleged contributions by GOPAC to his 1990 congressional campaign; (6) he directed that contributions to GOPAC be forwarded to his 1990 election campaign; and (7) he separately violated House Rule 43, Clause 1, based on cumulative alleged conduct cited throughout the complaint.

On February 1, 1996, the Committee notified the complainants that the new complaint satisfied the procedural requirements of Committee rules, and that the Committee was forwarding the complaint to Representative Gingrich. The Committee also advised the complainants that it was returning to them two boxes containing the above-specified 8,000 pages of documents. The Committee took this action because Committee rules require that documents submitted with a complaint be related to the specific counts of a complaint, and the Committee understood that the relevant documents had been attached to the complaint and cited therein with specificity.

On March 4, 1996, Representative Gingrich responded to the complaint through his attorney, denying all allegations in the complaint.

The Committee undertook an analysis of the legal and factual allegations contained in the complaint, and, in two instances, sought additional information. On May 30, 1996, two Committee staff attorneys met with a senior FEC attorney familiar with the FEC civil action against GOPAC in order to obtain further information about how that case related to two counts of the complaint alleging violations of Federal election campaign law. In addition, the Committee received documents in the summer of 1996 from Mr. Miller Nichols, who was unable to appear before the Committee, and from the J.S. Nichols Company.

On August 1, 1996, the Committee referred to the Investigative Subcommittee chaired by Representative Porter Goss the allegations concerning tax-exempt organizations, based on similarities between the conduct alleged and matters already under investigation by the Goss Subcommittee. On September 26, the Committee determined that the allegations regarding tax-exempt organizations were moot for purposes of this complaint, in light of the referral of those allegations to the Goss Subcommittee. The Committee dismissed the allegations concerning Miller Nichols and Southdown on the grounds that they did not merit further inquiry. On September 27, 1996, the Committee submitted a request to the Investigative Subcommittee chaired by Representative Goss, seeking to determine whether the subcommittee had any information in its possession relating to the unresolved allegations that Representative

Gingrich received improper personal benefits from GOPAC, and that he personally violated Federal election campaign laws.

The Committee notified Representative Gingrich of these actions on September 28, 1996. In its notification letter, the Committee advised Representative Gingrich that it was still in the process of obtaining additional information concerning the allegation that he received improper personal benefits from GOPAC in 1990, the alleged violations of Federal election campaign laws, and the alleged violation of House Rule 43, Clause 1, based on alleged cumulative conduct described in the complaint. The Committee advised Representative Gingrich that it had not reached any conclusions regarding the latter allegations.

b. Classified Information/Secrecy Oath

On April 7, 1995, Representative Larry Combest and Representative Robert Torricelli submitted letters to the Committee in which they asked the Committee to make certain determinations regarding the publication by the *New York Times* of information contained in a letter sent by Representative Torricelli to President Clinton and provided to the *Times* by Representative Torricelli. On January 4, 1995, the House adopted a new rule (Rule XLVIII, Cl. 13) requiring each Member, officer and employee of the House to execute an oath before receiving access to classified information. The oath states as follows:

> I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service with the House of Representatives, except as authorized by the House of Representatives or in accordance with its rules.

The Committee found the portion of the oath referring to classified information received "in the course of" service in the House to be ambiguous. However, the Committee concluded that the public disclosure of the particularly sensitive information asserted to be at issue here would be contrary to what the Committee now interprets to be the requirements of House Rule XLIII, Clause 13. Because of the ambiguity noted above, the Committee took no further action regarding Representative Torricelli. On July 12, 1995, the Committee issued guidance on the secrecy oath which stated in pertinent part:

SCOPE OF OATH

> The Committee agrees that the oath's reference to information received "in the course of . . . service in the House" may lead to confusion. It has been suggested that this phrase covers only that classified information furnished to a Member by the House of Representatives or by the Executive Branch, such as at a hearing, briefing, or in response to written requests. Others suggest that the phrase includes any classified information provided to a Member by any person during the Member's term in office.
>
> The Committee believes that the latter formulation is correct and best effectuates the intent of the rule.

DUTY TO INQUIRE

> The Committee further believes that to give full effect to the purpose of the oath, each Member, when in doubt as to the classification of what a Member believes to be sensitive information in his or her possession, must make a good faith effort to determine if it is classified before disclosing it to the public. Such a determination can be made by contacting the House Permanent Select Committee on Intelligence or other appropriate Committee of jurisdiction.

c. Representative Mel Reynolds

In April 1995, the Committee received information alleging violations of House rules by Representative Mel Reynolds. On May 11, 1995, the Committee self-initiated a complaint against Representative Reynolds and, in a letter to Representative Reynolds, invited him to comment on the allegations. The Committee received Representative Reynolds' response on June 26, 1996. The Committee adopted a Resolution of Preliminary Inquiry on June 28, 1996, and informed Representative Reynolds that it would not make any public statement about this matter until the conclusion of his state trial in Illinois on charges of criminal sexual assault, aggravated sexual abuse, solicitation of child pornography, and obstruction of justice. The Resolution of Preliminary Inquiry alleged that Representative Reynolds misused congressional staff for personal purposes, used official resources for personal and campaign purposes, failed to repay personal debts incurred by personal staff on his behalf, and asked congressional staff to tell the Illinois State's Attorney certain information that was false.

Representative Reynolds was convicted in Illinois State Court on August 22, 1995, on all charges. On September 1, 1995, he resigned from the House of Representatives. The Committee lost jurisdiction over Mr. Reynolds effective upon his resignation from the House.

d. Representative Richard K. Armey

On June 2, 1995, Representative Gutierrez filed a complaint against Representative Richard K. Armey on behalf of the Congressional Accountability Project, alleging that Representative Armey violated House rules by allowing a private entity to use terms in a letter that created the appearance of a congressional endorsement. In accordance with Committee rules, Representative Armey was afforded an opportunity to respond to the complaint. Representative Armey acknowledged that a facsimile of official letterhead he authorized to be used was technically an infringement of a House rule, and that he regretted the oversight. After considering the complaint and Representative Armey's response, the Committee determined that the complaint did not merit further inquiry and dismissed it. In a publicly released letter to Representative Armey, the Committee noted his acknowledgement of the violation to the Committee and stated that no further action was necessary.

e. Representative Charles Wilson

On August 28, 1995, the FEC transmitted to the Committee information pertaining to Representative Wilson that was developed

during the Commission's investigation and disposition of allegations that Representative Wilson's campaign committee failed to report certain disbursements and receipts. The FEC matter was concluded with a conciliation agreement between Representative Wilson and the FEC pursuant to which Representative Wilson's campaign paid a $90,000 fine. The information provided to the Committee indicated that on several occasions between July 1988 and August 1990, Representative Wilson received personal loans from his campaign committee, and that his Financial Disclosure Statement for calendar year 1990 did not disclose as a liability a debt exceeding $10,000 that Representative Wilson owed his campaign for approximately twenty days in 1990.

In each case, Representative Wilson violated the Rules of the House of Representatives, including House Rule XLIII, Clause 6. Representative Wilson appeared before the Committee on November 30, 1995, asserting that he was unaware of the relevant rules and that he had lent his campaign substantial amounts of money and had not adequately distinguished between his campaign account and his personal finances. The Committee concluded that Representative Wilson should have been aware of the prohibition of borrowing from campaign funds. Representative Wilson admitted the error. Given the admission of error and the fine paid to the FEC, the Committee dismissed the complaint on December 7, 1995, and in a publicly released letter admonished Representative Wilson to take all action necessary to ensure that he and his staff adhere to the Rules of the House and that any recurrence of the violations might result in a recommendation that sanctions be imposed.

f. Representative David McIntosh

On October 27, 1995, Representative Gutierrez filed a complaint against Representative David McIntosh on behalf of Ralph Nader. On December 5, 1995, Representative Slaughter filed another complaint against Representative McIntosh on behalf of the Alliance for Justice. Both complaints alleged that Representative McIntosh violated House rules by allowing a forged document regarding the Alliance for Justice to be produced and distributed at a committee hearing held on September 28, 1995. One of the complaints also questioned the conduct of a Subcommittee staffer who had questioned an employee of the Alliance for Justice regarding the employee's observance of a religious holiday. In accordance with Committee rules, the Committee afforded Representative McIntosh an opportunity to respond to the complaints.

The Committee accepted Representative McIntosh's explanation that he did not intend to mislead anyone into believing that the chart had been prepared by the Alliance for Justice, and that he took responsibility for the chart when questions were first raised about it at the Subcommittee hearing and apologized immediately for any misunderstanding. Furthermore, the graphic artist who prepared the chart said that the request was not unusual.

While the request may not have been unusual, the Committee believed it inappropriate for Members or staff to create a facsimile of another organization's letterhead. In addition, the Committee expressed strong concern regarding the inquiries made by a Subcommittee staffer to the Alliance for Justice staff. Questioning

someone about his or her observance of a religious holiday is offensive and improper and will not be tolerated by the House. Representative McIntosh advised the Committee he did not tolerate behavior that is harassing, insensitive or discriminatory in any manner and formalized that in written policy for his staff. On March 14, 1996, the Committee considered the complaints and determined that they did not merit further inquiry and accordingly dismissed the complaints. The Congressman was informed of the Committee's action by letter.

g. Representative Barbara-Rose Collins

Based on newspaper articles and interviews with former House employees, the Committee self-initiated a complaint against Representative Barbara-Rose Collins and afforded her an opportunity to respond to the allegations. On December 5, 1995, the Committee voted to initiate a Preliminary Inquiry and established an Investigative Subcommittee chaired by Representative Bunning. Other Subcommittee members included Representatives Borski, Hobson and Sawyer. On September 12, 1996, the Investigative Subcommittee adopted a Statement of Alleged Violation concerning Representative Collins' use of official, campaign, and scholarship fund resources. (See Appendix C.)

Pursuant to Committee Rule 17(d), the subcommittee transmitted a copy of the Statement of Alleged Violation to Representative Collins on September 17, 1996, inviting her to submit a response. On October 2, 1996, Representative Collins submitted a motion for a bill of particulars to the subcommittee, in which she sought additional information concerning the evidentiary basis for the Statement of Alleged Violation. On October 7, 1996, the subcommittee granted Representative Collins' motion in part and provided additional information to her. On October 24, 1996, Representative Collins' attorney notified the subcommittee that Representative Collins would not be submitting a response to the Statement of Alleged Violation. Representative Collins' attorney advised Committee counsel that Representative Collins was foregoing a response because of an ongoing criminal investigation concerning her. Pursuant to Committee Rule 18(a)(1), the subcommittee regarded Representative Collins' failure to submit an answer as a denial of each count in the Statement of Alleged Violation.

On October 25, 1996, the subcommittee transmitted the Statement of Alleged Violations to the full Committee pursuant to Committee Rule 18(g). Representative Collins was defeated in a primary election in August 1996. The Investigative Subcommittee recommended that no adjudicative subcommittee be established, and that no further action be taken in this matter. The subcommittee based its recommendation on the fact that Representative Collins had lost her primary election in August 1996, and that the Committee therefore would lose its jurisdiction over her on January 3, 1997, before an adjudicative proceeding could be completed. The Committee subsequently approved the subcommittee's recommendation.

h. Representative Robert Torricelli

On December 21, 1995, the Committee received a complaint against Representative Robert Torricelli filed by Representative William M. Thomas regarding an October 9, 1995, press release by Representative Torricelli's congressional office in Washington. The press release, which Representative Torricelli's congressional office distributed by means of the office fax, contained numerous critical remarks about Representative Dick Zimmer, then a potential opponent of Mr. Torricelli's in the November 1996 election for the U.S. Senate seat being vacated by Senator Bill Bradley.

Representative Thomas' complaint charged Representative Torricelli with four violations: (1) House Rule 43, Clause 1, which requires that "a Member . . . shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives"; (2) House Rule 43, Clause 2, which states that Members "shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof"; (3) Committee on House Oversight rules and 31 U.S.C. §1301(a), which collectively prohibit the use of official resources for campaign purposes; and (4) Committee on House Oversight rules regarding the use of the Member's Representational Allowance and office fax machines. The Committee determined that the complaint satisfied the procedural requirements of Committee rules, and transmitted it to Representative Torricelli on February 1, 1996.

On February 29, 1996, Representative Torricelli filed a response to Representative Thomas' complaint. In his response, Representative Torricelli acknowledged that his press release could be construed "to have a political message," and enclosed a check to the U.S. Treasury in the amount of $2.83 "for the cost of four sheets of paper and the use of my office fax machine." He also asked the Committee to dismiss both the complaint against him and a separate complaint that he had filed against Representative Zimmer.

On March 29, 1996, the Committee advised Mr. Torricelli of its finding that the press release issued by his congressional office "violated applicable rules and regulations concerning the use of official resources." The Committee informed Representative Torricelli that it would take no further action on the complaint, but stated its expectation that he would comply with applicable rules in the future.

i. Representative Dick Zimmer

On December 21, 1995, the Committee received a complaint against Representative Dick Zimmer filed by Representative Robert Torricelli regarding an October 11, 1995, press release by Representative Zimmer's congressional office in Washington. The press release in question was entitled "Zimmer Wallops Torricelli in N.J. Congressional Softball Tourney," and was distributed by means of the fax machine in Representative Zimmer's congressional office. Representative Torricelli alleged that the press release attacked him "in a personal way," and that it violated Federal statutes concerning the use of the congressional frank.

On January 5, 1996, the Committee returned the complaint to Representative Torricelli on the grounds that the complaint did not meet the procedural requirements of Committee rules. On January

19, 1996, Representative Torricelli resubmitted his complaint against Representative Zimmer.

On February 29, 1996, Representative Zimmer filed a response to Representative Torricelli's complaint. Representative Zimmer maintained in his response that his press release was "a light-hearted description of a congressional softball tournament among the New Jersey delegation," and that it "made no political or personal references."

On March 29, 1996, the Committee dismissed Representative Torricelli's complaint against Representative Zimmer on the grounds that it found no merit to the complaint.

j. Representative Richard A. Gephardt

On February 2, 1996, Representative Jennifer Dunn filed a complaint with the Committee in which she alleged that Representative Gephardt had violated House Rules pertaining to financial disclosure reporting requirements, the Internal Revenue Code, and federal campaign finance laws. The charges in Representative Dunn's complaint stemmed from a series of land sales and financing agreements regarding real property purchased and sold by Representative and Mrs. Gephardt in North Carolina. Specifically, Representative Dunn alleged that Representative Gephardt entered a series of financing arrangements relating to the sale and purchase of real property in North Carolina in which he characterized the property as "investment" property in order to obtain favorable tax treatment, and that his treatment of the property on his Financial Disclosure Statement was inconsistent with the manner in which he treated the property for tax purposes.

Representative Gephardt filed an answer with the Committee on February 8, 1996, in which he stated that he had accurately reported the property on his financial disclosure forms, that the tax treatment of the property was consistent with applicable law, and that he had not violated federal campaign finance laws. In an amended answer that he filed with the Committee on April 17, 1996, Representative Gephardt provided the Committee with documentation to support the positions set forth in his original answer.

In May 1996, the Committee directed staff to obtain additional information from Representative Gephardt to assist the Committee in deciding issues that remained unresolved. Representative Gephardt completed his response to the Committee's request for additional information by September 8, 1996. On that date, Representative Gephardt's counsel advised Committee staff that Representative Gephardt had discovered an inaccuracy on his financial disclosure statement for 1992 that would require an amendment. Representative Gephardt filed an amended financial disclosure statement on September 27. On September 28, the Committee voted to dismiss the complaint filed by Representative Dunn.

In a publicly released letter to Representative Gephardt, the Committee noted that Representative Gephardt amended his Financial Disclosure Statements for 1991 and 1992 to reflect, among other things, gross rental income generated by the Corolla Light property during 1992 in the range of $25,000 to $50,000 and that this was not the first occasion he has amended his Financial Disclosure Statement in connection with these transactions. Further,

the Committee's resolution of the matter had been delayed pending receipt of documentation it had requested from Representative Gephardt in May. The Committee further noted that it had been unable to resolve the matter until Representative Gephardt amended his 1992 financial disclosure statement, which was not filed until September 27, 1996.

k. Representative David Bonior

On March 6, 1996, the Committee received a complaint against Representative Bonior from the Landmark Legal Foundation, accompanied by three letters of refusal from Members in accordance with Committee Rule 14(e). The complaint requested the Committee to determine, with regard to a book co-authored by Representative Bonior which was published in 1984, whether any congressional employees assisted him in his work on the book while on official time, and whether any congressional employees were rewarded in their House jobs for work done in support of the book. On May 9, 1996, the Committee returned the complaint to the Landmark Legal Foundation pursuant to Committee Rule 15(b), for the reason that the complaint did not comply with clause 4(e)(2)(C) of House Rule X and Committee Rule 14(j). Those rules prohibit an investigation of any alleged violation which occurred before the third previous Congress, unless the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.

On March 20, 1996, the Committee received another complaint against Representative Bonior from the Landmark Legal Foundation, also accompanied by three letters of refusal from Members in accordance with Committee Rule 14(e). The complaint primarily alleged that in April 1991, the month before Representative Bonior married a member of his staff, he increased her salary by over 20 percent, and that he thereby violated, among other things, several provisions of the Code of Official Conduct (House Rule XLIII). The Committee received a response on behalf of Representative Bonior on April 26, 1996. Upon review of the complaint and response, including information on salaries paid to staff in Representative Bonior's Whip office and Congressional office in 1990–1991, the Committee on May 8, 1996, determined that the factual allegations made in the complaint were unsupported and voted to dismiss the complaint.

l. Representative Gerald Solomon

On April 2, 1996, New York State Assemblyman Richard L. Brodsky, and seven of his colleagues filed a complaint against Representative Solomon, accompanied by three letters of refusal from Members in accordance with Committee Rule 14(e). The subject matter of the complaint was a press release issued by Representative Solomon, and a letter he had sent to Assemblyman Brodsky, both expressing his strong disagreement with the position Assemblyman Brodsky had taken regarding a settlement agreement which the New York Department of Environmental Conservation had entered into with General Electric Corporation. The letter included the sentence, "As Chairman of the Rules Committee, I could easily retaliate by involving myself in the activities in your Assem-

bly District." The Committee received a response from Representative Solomon on April 4, 1996. In that response Representative Solomon said that he had not retaliated in any way and never intended to retaliate. In a letter to Representative Solomon of May 8, 1996, which the Committee publicly released, the Committee noted that it had dismissed the complaint, but advised that as a Member, he should avoid even the appearance of impropriety and be judicious in the language used on official letterhead.

m. Representative Jim McDermott

On July 17, 1996, Representative Peter King filed a complaint against Representative McDermott, a member of this Committee. Representative McDermott recused himself from consideration of this complaint, and pursuant to clause 4(e)(2)(D) of House Rule 10, the Speaker pro tempore designated Representative Louis Stokes to act as a member of the Committee for consideration of this complaint. The complaint alleged that Representative McDermott participated in deliberations involving ethics complaints filed with the substantial assistance of his political action committee fundraiser, and thereby allegedly could not discharge his duties on the Committee in an impartial manner. The complaint further alleged that Representative McDermott's public comments on Committee business violated Committee Rule 10(b), which prohibits Committee Members and staff from disclosing to "to any person outside the Committee, unless authorized by the Committee, any information regarding the Committee's . . . investigative, adjudicatory or other proceedings," including information derived from executive session proceedings.

The Committee received Representative McDermott's response that the charges were without merit on July 23, 1996. On July 24, 1996, the Committee dismissed the complaint and in a publicly released letter said that the information provided in the complaint did not overcome the presumption that members of the Committee do not have conflicts of interest on a pending matter. The Committee also stated that, while several members of the Committee had made public statements regarding the work of the Committee that could be viewed as "inconsistent with the letter or spirit of our very restrictive rules . . . . the Committee expects all members of the Committee to adhere rigidly to our rules both in making planned statement or unplanned statements."

V. Pending Committee Business

At the adjournment of the 104th Congress, several complaints were still pending before the Committee.

A complaint was filed against Representative DeLay on September 5, 1996, by the Congressional Accountability Project, accompanied by three letters of refusal from Members in accordance with Committee Rule 14(e).

A complaint was filed against Representative Shuster on September 5, 1996, by the Congressional Accountability Project, accompanied by three letters of refusal from Members in accordance with Committee Rule 14(e).

A complaint also was filed against Representative Torricelli by Representatives Combest, Dornan, and Hansen on July 26, 1996.

In each case, the respondent furnished the Committee with an answer after the House had adjourned sine die, and the Committee did not meet to consider these complaints.

The Committee had considered information regarding Representative Greene pending the outcome of other ongoing investigations. The Department of Justice notified Representative Greene on October 31, 1996, that she was no longer under investigation. The Congress had adjourned sine die before Representative Greene received this notification.

According to a ruling by the House Parliamentarian, unresolved complaints left pending at the end of a Congress expire at the end of that Congress. The Committee in the 105th Congress may carry over any complaint by motion or ask the complainant to refile the complaint.

Materials From the Inspector General

On two occasions the Committee received referrals from the House Inspector General. In one instance, the Committee ascertained from the Member in question information relevant to the referral and concluded that no further investigation was necessary.

On another occasion, the Committee received information relevant to an audit conducted by the Inspector General's office. The House employee most responsible for the matter raised in the referral had left the employment of the House by the time of the referral.

Justice Department Request for Committee Files

In 1995, the Committee received a subpoena from the Department of Justice to provide documents regarding the criminal prosecution of Representative McDade, as well as the trial testimony of the custodian of those documents. The General Counsel for the House, acting on behalf of the Committee and the bipartisan leadership of the House, moved to quash the subpoena on the grounds that the documents were privileged under the Speech and Debate provisions of the U.S. Constitution, and that complying with the subpoena request would have a chilling effect on the Committee's ability to provide guidance to Members regarding the Code of Conduct. Although negotiations between the General Counsel's office and the Department of Justice ultimately were unsuccessful, the U.S. Court of Appeals for the Third Circuit ruled in favor of the House's position.

APPENDIX A

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, February 15, 1995.

MEMORANDUM FOR ALL MEMBERS, OFFICERS AND EMPLOYEES

From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic Member.
Subject: Salary Levels At Which Post-employment Restrictions, Outside Earned Income Restrictions, and Financial Disclosure Requirements Apply.

The Committee has received many telephone inquiries regarding the various monetary thresholds and caps affecting post-employment restrictions, outside earned income limitations and financial disclosure requirements. These matters are addressed below.

POST-EMPLOYMENT RESTRICTIONS

The Ethics Reform Act of 1989 established statutory post-employment restrictions on lobbying activities for all Members and officers of the House and certain employees (see House Ethics Manual, 102d Cong., 2d Sess. 124–127 (1992)). An employee is covered if, for at least 60 days during the calendar year preceding termination of employment, he or she was paid at a rate equal or greater than 75 percent of the salary for Members at the time of termination.

The pay for Members remains $133,600. Therefore, the post-employment threshold for employees who leave their congressional jobs in 1995 is $100,200.

OUTSIDE EARNED INCOME LIMITATIONS

House Rule 47 and title 5 of the Ethics in Government Act of 1978 limit the amount of outside earned income a Member or senior employee may receive in a calendar year to 15 percent of the January 1 rate of pay in effect for level II of the Executive Schedule (see House Ethics Manual, p. 101). A Member's pay remains $133,600; thus, the outside earned income limit for calendar year 1995 remains $20,040.

The limit applies to all Members and to officers and employees paid at a rate of 120 percent of the minimum pay for GS–15 of the general schedule for at least 90 days in a calendar year. Since the GS–15 rate of basic pay is now $67,941, the earned income threshold is $81,530. Locality pay is not considered in making this determination.

FINANCIAL DISCLOSURE

All House officers and employees paid at a rate of 120 percent of the minimum pay for GS–15 of the general schedule for more

than 60 days at any time during the year must file a financial disclosure statement (see House Ethics Manual, p. 161). As noted above, 120 percent of GS–15 is now $81,530.

Please note that the requirement to file a financial disclosure statement covering calendar year 1994 was triggered by having earned at a rate of $79,930 for more than 60 days in 1994. These 1994 financial disclosure statements are due May 15, 1995, for individuals who continue to be House employees. An individual who earns enough to trigger the reporting requirement and leaves the House payroll must file a termination disclosure report, due 30 days after the date of termination.

* * * * * * *

Calendar Year 1995

Post-employment threshold	$100,200
Financial disclosure threshold	81,530
Outside earned income threshold	81,530
Outside earned income cap	20,040

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, April 4, 1995.

MEMORANDUM FOR ALL MEMBERS, OFFICERS AND EMPLOYEES

From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic Member.
Subject: Revised Solicitation Guidelines.

SUMMARY OF NEW RESTRICTIONS ON SOLICITATION

In this Memorandum, the Committee on Standards of Official Conduct announces two new restrictions on solicitation by Members, officers, and employees of the House:

1. No Member, officer, or employee of the House may solicit funds for any organization (other than campaigns and other political entities) which is established or controlled by Members of Congress, unless the organization's principal activities are unrelated to a Member's official duties.
2. A Member may no longer use a facsimile of official stationery for his or her own campaign.

These new restrictions are discussed in more detail in the general discussion of the rules on solicitation which follows.

SOLICITATION GUIDELINES

A government-wide restriction on the solicitation of funds, codified at 5 U.S.C. § 7353, bars Members, officers, and employees of the House from asking for or accepting anything of value from anyone who seeks official action from the House, does business with the House, or has interests that may be substantially affected by the performance of official duties. The statute covers the solicitation of "anything of value," regardless of whether the official personally benefits from it. The only exceptions are those expressly

permitted by the Committee on Standards of Official Conduct, as supervising ethics office for the House.

A. Soliciting for Charities and Other Organizations

On October 9, 1990, the Committee announced a generic exception from the solicitation restriction for efforts on behalf of charities qualified under section 170(c) of the Internal Revenue Code, so long as no official resources are used, no official endorsement is implied, and no direct personal benefit results for the soliciting Member. The same announcement explained that questions regarding solicitations on behalf of other entities would be decided as they arise.

The Committee has generally granted exceptions to 5 U.S.C. § 7353 to allow Members, officers, and employees to solicit funds on behalf of non-profit organizations, subject to the same restrictions that apply to efforts on behalf of a qualified charity, i.e., no official resources may be used, no official endorsement may be implied, and no direct personal benefit results. No solicitation may bear official letterhead, "Congress of the United States," "House of Representatives," "official business," or the Great Seal (House Rule 43, clause 11; 18 U.S.C. § 713). Moreover, regulations of the House Office Building Commission prohibit soliciting and other nongovernmental activities in facilities of the House of Representatives. Reprinted in House Ethics Manual, 102d Cong., 2d Sess. 235–237 (1992).

While each of these restrictions on solicitation continues to apply, it is now the further policy of this Committee that Members, officers, and employees of the House may not solicit funds for any organization—regardless of tax status—which is established or controlled by Members of Congress. The only exceptions are campaigns and other political entities (see below), and organizations whose principal activities are unrelated to a Member's official duties. The Committee believes that, in light of the relationship between such an organization and its affiliated Members, there is an inherent risk that its operations will improperly subsidize the operations of congressional offices in violation of House Rule 45.

Questions as to whether an organization's activities are unrelated to a Member's official duties should be directed to the Committee's Office of Advice and Education at 225–3787.

Example 1. Member A has been asked to solicit funds on behalf of Organization V, a charity which is qualified under § 170(c) of the Internal Revenue Code. It was not established, nor is it controlled, by Members of Congress. Member A may solicit funds on behalf of Organization V, subject to the restrictions set forth above (no use of official resources, etc.).

Example 2. Member B has been asked to solicit funds on behalf of Organization W, a non-profit social welfare organization which is not qualified under § 170(c). It was not established, not is it controlled, by Members of Congress. Because Organization W does not fall within the generic exception which applies to § 170(c) organizations, Member B must obtain written approval from the Committee before soliciting funds on behalf of Organization W.

Example 3. Member C has been asked to solicit funds on behalf of Organization X, an educational foundation which is qualified under § 170(c). It was established by Members of Congress. Its pur-

pose is to provide Members of Congress with information and research about pending legislation. Because the principal activities of Organization X are related to a Member's official duties, Member C may not solicit funds on behalf of Organization X.

Example 4. Member D wishes to solicit funds on behalf of Organization Y, a local arts organization which is qualified under § 170(c). It was established by Member D. Because the principal activities of Organization Y are unrelated to a Member's official duties, Member D may solicit funds on behalf of Organization Y, subject to the restrictions set forth above (no use of official resources, etc.).

Example 5. Organization Z asks Member E to send out a fundraising letter on its behalf on Member E's congressional letterhead. Member E may not do so.

B. Political Fundraising

The Committee does not construe 5 U.S.C. § 7353 to prevent Members, officers, or employees of the House from raising funds for campaigns or other political entities. Members, officers, and employees are thus not required to seek or obtain this Committee's permission to engage in campaign or political fundraising. They must, however, comply with the following statutes, rules and regulations which govern the solicitation and acceptance of campaign funds.

No Use of Official Resources. Under 31 U.S.C. § 1301(a) and under the regulations of the Committee on House Oversight, official resources and allowances may be used only for official activities. Members and House employees are thus prohibited from using any official resources (such as congressional letterhead and telephones, copiers, and fax machines in congressional offices), to solicit campaign funds.

No Solicitation from Federal Employees. Federal criminal law (18 U.S.C. § 602) prohibits Members of Congress, candidates for Congress, and Federal employees from knowingly soliciting political contributions from Federal employees, including employees of the House of Representatives. The statute does not, however, apply to soliciting political contributions from *Members* of Congress.[1]

The statute prohibits the "knowing" solicitation of contributions from Federal employees; inadvertent solicitations, such as when part of a general fundraising campaign aimed at the public at large, do not violate the statute. Moreover, it prohibits only the solicitation, and not the receipt, of political contributions from Federal employees.[2]

No Solicitation in Federal Offices. Federal criminal law (18 U.S.C. § 607) makes it unlawful to solicit campaign contributions "in any room or building occupied in the discharge of official duties" by any Federal employee. Moreover, regulations of the House Office Building Commission prohibit soliciting and other nongovernmental activities in facilities of the House. *Reprinted in*

[1] Thus, while neither Members nor House employees may knowingly solicit campaign contributions from House *employees*, both Members and employees may solicit contributions from *Members*.

[2] However, under a separate provision of the federal criminal code (18 U.S.C. § 603), a congressional employee may not make political contributions to his or her *employing Member* or employing authority. HOUSE ETHICS MANUAL, 102d Cong., 2d Sess. 287–90 (1992).

HOUSE ETHICS MANUAL at 235–37. Thus, campaign contributions may not be solicited in the Capitol, House office buildings, or in district offices. (This statute also prohibits the *receipt* of campaign contributions in Federal office buildings; however, contributions received in congressional offices may be accepted, provided that they were not solicited in a manner which directed the contributor to send the contribution to the congressional office, and that they are forwarded within seven days to the appropriate campaign organization.)

No Use of Facsimile of Official Stationery. While each of the above restrictions continues to apply to political fundraising, it is now the further policy of the Committee that Members may no longer use facsimiles of their official stationery for campaign purposes. House Rule 43, clause 11, provides:

> A Member of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization to use the words "Congress of the United States", "House of Representatives", or "Official Business", or any combination of words thereof, on any letterhead or envelope.

In 1979, when the Committee issued an Advisory Opinion (*reprinted in* HOUSE ETHICS MANUAL at 325–27) regarding this rule, it determined that the phrase "non-House individual, group, or organization" in the rule did not extend to a Member's principal campaign committee or to the Democratic and Republican Congressional Campaign Committees. The Committee therefore took the position that the rule would not prevent a Member from using a facsimile of official stationary (which is likely to include "Congress of the United States", "House of Representatives", or both) for his or her own campaign. Since a letter advocating a Member's reelection or soliciting campaign contributions must include a conspicuous statement indicating the sponsor of the communication (generally, the campaign committee),[3] it was thought unlikely that such a letter would be misinterpreted as an official communication from the House.

However, since the 1979 Advisory Opinion was published, Congress has amended the law relating to official-appearing stationery. Under the Deceptive Mailings Prevention Act of 1990 (39 U.S.C. § 3001(h)–(i)), any solicitation by a non-governmental entity, which uses any insignia, term or symbol implying Federal Government connection, endorsement, or approval, must carry a disclaimer, both on the internal documents and on the envelope, conspicuously stating that it is not an official mailing. The term "nongovernmental entity" in the Act applies to a Member's campaign. See House Ethics Manual at 281–82. Moreover, two provisions of the Federal criminal code militate against the use of facsimiles of official stationery for campaign mailings. One, 18 U.S.C. § 713, prohibits the knowing display of a likeness or facsimile of the Great Seal on (among other things) stationery, in a manner reasonably calculated to convey a false impression of sponsorship or approval

[3] 2 U.S.C. § 441d. Note that this statute requires an affirmative disclosure of the source of the communication (e.g., "Paid for by the Doe for Congress Committee"); a mere statement of who is not the source (e.g., "Not printed at Government expense") does not suffice.

by the U.S. Government; display of the Seal on stationery used for solicitation of funds or political support has been regarded by the Department of Justice as a violation of this provision. See House Ethics Manual at 282.[4] Second, as noted above, it is unlawful to solicit or receive campaign contributions in any Federal office building. Campaign solicitations bearing letterhead listing the addresses of a Member's offices could be viewed by the Department of Justice as violating this provision.

In light of these provisions, and to ensure that the public is not misled by campaign solicitations which may appear to be official mailings, the Committee declares that it will no longer interpret Rule 43, clause 11, to exclude Members' campaigns and party campaign committees. As a result, as of May 1, 1995, Members may no longer use facsimiles of their official stationery for campaign purposes, including fundraising letters.[5]

Example 1. Member A wishes to send a letter soliciting funds for his own campaign. The letter will be on his campaign stationery, which contains a depiction of the Capitol Dome, the words "A for Congress," the address and telephone number of Member A's campaign office, and a statement that the letter was "Paid for by the A for Congress Committee." Member A may send the letter, subject to the restrictions set forth above (no use of official resources, etc.).

Example 2. Member B wishes to send a fundraising letter for a candidate for governor in her home state, on the candidate's campaign stationery. Member B may sign the letter.

Example 3. Member C wishes to send a letter soliciting funds for his own campaign. The letter will be on stationery which contains the words "U.S. House of Representatives," and the address and telephone number of Member C's congressional offices. Member C may not send the letter, because Rule 43, clause 11, prohibits the use of the phrase "U.S. House of Representatives" by non-House organizations, and because a campaign solicitation bearing letterhead listing a Member's congressional offices could be viewed as violating the law prohibiting the solicitation of campaign contributions in Federal office buildings.

If you have questions or would like further information, please call the Committee's Office of Advice and Education at 225–3787.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, July 12, 1995.

MEMORANDUM FOR ALL MEMBERS, OFFICERS AND EMPLOYEES

From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic Member.
Subject: Classified Information Oath.

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[4] The former General Counsel of the House had distinguished the Great Seal from "congressional seals," which may be used by Members on Christmas cards and other items that are neither printed nor mailed at official expense. See House Ethics Manual at 282. Nevertheless, to avoid any dispute as to whether "congressional seals" are facsimiles of the Great Seal, Members are encouraged to use a likeness of the Capitol Dome on campaign stationery instead. The Dome is in the public domain and therefore is not protected in the same manner as the Great Seal.

[5] Other information which is displayed on official stationery, such as the district served by the Member and the Member's committee assignments, may be used on campaign stationery. Use of this information is not restricted by Rule 43, clause 11, or by the statutes cited above.

BACKGROUND

On January 4, 1995, a new provision was added to the Code of Official Conduct, Rule XLIII of the Rules of the House of Representatives. The new provision, clause 13, prescribed an oath to be executed by all Members, Officers and employees of the House before obtaining access to classified information. The oath reads as follows:

> I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service with the House of Representatives, except as authorized by House of Representatives (*sic*) or in accordance with its rules.

The Committee has been asked to clarify the obligations placed on Members by the oath. Pursuant to its authority over measures related to the Code of Official Conduct, the Committee issues the following guidance.

SCOPE OF OATH

The Committee agrees that the oath's reference to information received "in the course of . . . service in the House" may lead to confusion. It has been suggested that this phrase covers only that classified information furnished to a Member by the House of Representatives or by the Executive Branch, such as at a hearing, briefing, or in response to written requests. Others suggest that the phrase includes any classified information provided to a Member by any person during the Member's term in office.

The Committee believes that the latter formulation is correct and best effectuates the intent of the rule.

DUTY TO INQUIRE

The Committee further believes that to give full effect to the purpose of the oath, each Member, when in doubt as to the classification of what a member believes to be sensitive information in his or her possession, must make a good faith effort to determine if it is classified before disclosing it to the public. Such a determination can be made by contacting the House Permanent Select Committee on Intelligence or other appropriate Committee of jurisdiction.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC.

MEMORANDUM

To: All Members, Officers, and Employees of the House of Representatives.
From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic Member.
Subject: New Gift Rule.
Date: December 7, 1995.

On November 16, 1995, the House adopted a new rule, Rule 52, banning most gifts. The new restrictions go into effect on January

1, 1996, and govern *every* Member, officer, and employee of the House. Members should insure that all of their staff, in Washington and in every district office, are aware of this rule change.

Rule 52 will prohibit Members, officers, and employees from accepting *any* gift, except as provided in the rule. There is no more "gift limit," below which a gift may be accepted. *Unless a gift falls into one of the specific exceptions stated in the rule, it may not be accepted.* If a Member or employee receives an impermissible item that is perishable, it may be donated to charity or discarded. All other unacceptable items must be returned or purchased at fair market value.

There are general exceptions for gifts from relatives; personal friends; and other Members, officers, and employees of the House or the Senate. In addition, a number of items are exempt, notably: personal hospitality; campaign contributions; contributions to legal expense funds; informational materials sent to congressional offices; anything paid for by the Federal Government or a State or local government; opportunities available to the public at large or other groups unrelated to congressional employment; free attendance provided by the sponsor of a widely attended event; food or refreshments of nominal value offered other than as part of a meal; and other items of nominal value, such as caps or T-shirts. This memorandum discusses some of the exceptions in detail and lists all of them. The full text of the new rule is attached.

No Meals, No Tickets. Among the biggest changes in the rule is the elimination of the local meal exception. A Member or employee will no longer be able to accept an invitation to lunch or dinner at someone else's expense, unless that person is a relative, a personal friend, or a sponsor of an event that falls within one of the exceptions listed below. Similarly, tickets to sports, musical, or dramatic events may only be accepted from relatives and friends, under the new rule. This rule applies to all tickets for events taking place on or after January 1, 1996, no matter when the tickets are offered.

> *Example 1.* On December 15, 1995, Laura Lobbyist offers Stanley Staffer tickets to a hockey game taking place in January, 1996. Stanley may not accept.

Definition. "Gift" is defined to mean: "any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value . . . [including] gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred."

Family and Friends. Gifts from relatives, as defined in the Ethics in Government Act,[1] are exempt from the gift ban. A new exception has been created for gifts provided on the basis of personal friendship, unless the Member, officer, or employee has reason to believe that a particular gift was given because of his or her official position. In determining whether the gift was provided because of

[1] The Ethics in Government Act defines relative as a "father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, . . . the grandfather or grandmother of [one's] spouse . . . , and shall be deemed to include [one's] fiance or fiancee." 5 U.S.C. app. 6, § 109(16).

friendship rather than because of official position, the rule explains that one should consider factors such as: the history of the relationship (including any previous exchange of gifts); whether the giver personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and whether the giver gave similar gifts to other Members, officers, or employees. It is up to the recipient to make this determination for gifts worth up to $250; gifts exceeding $250 require this Committee's approval.

> *Example 2.* Joe College was Roy Representative's college roommate. Every year since they were freshmen, Joe has sent Roy a sweater on his birthday. Two years ago, Joe became a lobbyist for the Widget Association. He has continued to send sweaters on Roy's birthday. To the best of Roy's knowledge, Joe pays for the sweaters personally and does not deduct their cost as a business expense. On his birthday in 1996, Roy may accept the sweater.
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> *Example 3.* On January 1, 1996, Joe College takes a job with the American Sweater Association. To demonstrate the fine quality of American sweaters, Joe sends a free sweater to every Member of Congress, including Roy. None of the Members, including Roy, may keep the sweaters.
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> *Example 4.* Ever since she was elected to Congress 10 years ago, Carla Congresswoman has been going out to lunch periodically with Edna Executive. They discuss legislative issues of interest to Edna's company and Edna always picks up the tab, using her corporate credit card. Aside from these lunches, the two never socialize. As of January 1, Carla will have to pay her share of the meal if she wishes to have lunch with Edna. Although they have known each other for years, theirs is not a "personal friendship."

While gifts from relatives are exempt from the gift ban, gifts to relatives or close associates of a Member or employee may be prohibited under the new rule. The rule states that prohibited gifts include anything given to a family member or other person based on a relationship with the Member, officer, or employee if the latter knows and acquiesces and has reason to believe the gift was given because of his or her official position. If food is given to a Member, officer, or employee and that person's spouse or dependent, only the Member, officer, or employee's food counts.

> *Example 5.* Every January, Larry Lobbyist sends a leather-bound pocket appointment calendar to Moe Member at his office. Knowing that he may not do this in 1996, he sends one to Mrs. Member at home, instead. The calendar would be deemed an impermissible gift to Moe.

Food. As stated above, the local meal exception has been eliminated. Thus, one-on-one or small group lunches where someone other than the Member or employee pays will, for the most part, be banned (unless the host is a relative or a personal friend).

Meals are still permissible (although they must be disclosed) in connection with travel to a meeting, speaking engagement, fact-finding trip or similar event in connection with official duties. Simi-

larly, food and drink may be accepted in connection with outside business or other unofficial activities, job interviews, campaign events, in connection with the receipt of honorary degrees and awards for public service, when provided as an integral part of training, when authorized under the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act (that is, in connection with foreign government-sponsored travel) or any other statute, and when provided by a unit of Federal, State, or local government. In addition, Members and staff may still accept food and refreshments of nominal value offered other than as part of a meal (e.g., coffee and donuts, hors d'oeuvres at a reception). Finally, a Member or staff person may accept an offer of free attendance at a widely attended event, which may include food, as described below.

Example 6. Lucy Lobbyist wants to meet with Carl Congressman to discuss a bill that is scheduled to come to the floor the next day. Susie Scheduler says that Carl is busy all day. Lucy says, "Well, he has to eat. Let me take him to lunch or dinner and we can discuss the bill then." Carl may meet with Lucy, but he has to pay for his own meal.

Example 7. Connie Constituent comes to Washington and drops by to see Myrna Member. Connie says, "I really admire the positions you've taken and I would be honored if you would let me take you to lunch." Myrna must pay for her own meal.

Example 8. Godfrey Governor invites the state's congressional delegation to an official dinner at the Governor's Mansion. Since the dinner is provided by the State government, the delegation may attend.

Example 9. Russell Representative is on a CODEL to Ruritania. The Ruritanian Foreign Ministry hosts a dinner party for the delegation. Since meals in a foreign country provided by that country's government are authorized under the Foreign Gifts and Decorations Act, the Members may attend.

Example 10. While in Ruritania, a local company seeking opportunities to do business with Russell's state invites Russell to a dinner with the company's top two officials. Russell must pay for his own dinner.

Example 11. A home-state company hosts a cocktail reception for a congressional delegation. Since the food and drink provided there to any individual is of nominal value and not part of a meal, the delegation may attend.

Example 12. A committee is working late into the night marking up a bill. Atticus Attorney offers to send over Chinese food for the staff, who he knows will not have time to go out for dinner. The staff must decline.

Example 13. The day after the markup, Charles Chairman offers to take the whole staff out to lunch. Since this is a gift from a Member, the staff may accept.

Widely attended events. A Member, officer, or employee may accept an offer of free attendance from the sponsor of a widely attended event where:

• the Member or employee is speaking or performing a ceremonial function; or

• attendance is appropriate to the performance of the official duties or representative function of the Member or employee.

The term "widely attended event" derives from executive branch standards of conduct. The legislative history of this provision quotes with approval the executive branch regulation which states: "A gathering is widely attended if, for example, it is open to members from throughout a given industry or profession or if those in attendance represent a range of persons interested in a given matter." If this standard is met, the attendee may accept a waiver of all or part of a conference fee, local transportation, food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event, as well as an unsolicited offer of free attendance for an accompanying individual. The Member or employee may not accept entertainment collateral to the event (e.g., theater tickets) or food or refreshments that are not provided in a group setting with all or substantially all other attendees.

Example 14. The Chamber of Commerce in Carol Congresswoman's district invites her to the monthly breakfast meeting of its members. Carol may attend and eat breakfast.

Example 15. A rotary club in Maxwell Member's district holds periodic luncheon meetings of its membership and invites him to one. Maxwell may attend and eat lunch.

Example 16. A veterans' group in Rhonda Representative's district invites her to a Veterans' Day dinner at the local VFW hall. Rhonda may attend and eat dinner.

Example 17. The Widget Manufacturers of America is holding its annual conference in Washington, D.C. The group invites Caleb Congressman to be the keynote speaker at dinner the first night. Caleb may give the speech and eat the dinner.

Example 18. Owen Owner, the owner of a sports team, invites Maury Member to view an upcoming game from his skybox. Even though the game is widely attended, sitting in the skybox is not related to any official, representative, or ceremonial function of Maury's. If Maury wishes to attend the game, he must buy his own ticket.

Example 19. A new Concert Hall is opening in Central City in Chloe Congresswoman's district. The Central City Symphony invites a number of local officials, including Chloe, to attend the inaugural concert, sit in a place of honor, and be recognized for their help in making the new Hall a reality. Chloe may attend.

Example 20. Calvin Congressman has announced that this will be his final term in office. In honor of his long and distinguished career in public service, Big Corporation wishes to host a dinner for him. Big plans to invite hundreds of people from the private and public sector, including many Members and employees of Congress. The Members and staff may attend.

Charity events. A Member or employee may accept a sponsor's unsolicited offer of free attendance at a charity event, including an entrance fee waiver, local transportation, food, refreshments, and entertainment. The Member or employee may also, if invited to do so, bring a spouse or child. However, gifts of travel or lodging in connection with charity events are barred.

Example 21. The National Association of Do-Gooders is having its annual dinner to raise funds for its charitable activities. Tickets are $500 apiece, but the charity has offered complimentary tickets to Ron Representative and his wife. The Representatives may attend.

Example 22. MegaCorporation buys a table at the Do-Gooders' annual charity dinner. Ron Representative may *not* accept the invitation of MegaCorporation's CEO to sit at its table.

Example 23. The Do-Gooders, as another fundraising activity, host a celebrity golf tournament in Palm Springs. The charity asks Ron Representative to be one of the celebrity participants. If Ron wishes to attend, he must pay his own transportation and lodging. He may accept a waiver of the entrance fee and meals that are provided to all participants. He may not accept the bag of golf paraphernalia that the other celebrities receive.

Travel. The new rule continues to allow Members and staff to travel at the expense of private sources to meetings, speaking engagements, fact-finding trips and similar events in connection with their official duties. The funding of this kind of activity is deemed a reimbursement to the House and not a gift to the individual traveler. Such travel will remain subject to the existing time limits of four days for travel within the contiguous 48 states, and seven days (excluding travel days) for trips elsewhere. As is currently the case, the Committee is authorized to approve longer periods of time upon request in advance of the travel. In connection with such events, a Member or staffer may accept necessary transportation, lodging, food and refreshments, conference fees and materials. Travel expenses for a spouse or child may also be accepted. Travel expenses may *not* be accepted from registered lobbyists or agents of foreign principals.

Staff travel requires prior written authorization by the supervising Member. All travel expenses accepted in connection with official duties must be itemized and disclosed within 30 days, signed by the Member who is either traveling or approving staff travel (see discussion of Disclosure, below). The exception for travel related to official duties does not cover recreational activities. Stayovers at traveler expense will still be permitted.

Transportation, lodging, food, refreshments, and other benefits may also be accepted in connection with: campaign events; job interviews; and outside business, employment, or other unofficial activities (religious activities, for example) of a Member, employee, or spouse. In addition, one may accept travel (and associated food, refreshments, and entertainment) to receive an honorary degree. Finally, foreign-government sponsored travel, as authorized under the Foreign Gifts and Decorations Act or Mutual Educational and

Cultural Exchange Act, continues to be permissible, as described in the *House Ethics Manual,* 102d Cong., 2d Sess. 44–47 (1992). The travel discussed in this paragraph is not subject to the four- and seven-day time limits or the requirement to itemize and disclose expenses within 30 days. Any Member or any employee who is required to file an annual Financial Disclosure Statement will have to disclose the receipt of more than $250 worth of travel expenses in a single year from any private source (other than a relative) on that form.

Example 24. Stella Staffer volunteers at her church on her own time. Because she helps to organize the church's annual retreat, the church has offered to pay her expenses at the week-long event. Stella may accept.

Example 25. Alex Aide's wife, Wanda, is a salesperson. Wanda's employer offers a weekend for two in Mexico to the salesperson of the year. In 1996, Wanda wins the award. Alex may accompany Wanda.

Example 26. Elton Employee is invited to make a work-related morning presentation at a conference. The sponsor offers to pay his airfare, meals, and lodging, all of which Elton may accept, as long as he discloses these expenses within 30 days of his return. The sponsor also offers to pay his greens fees at a nearby golf course if he wishes to golf in the afternoon when the conference has recessed. Elton may not accept the greens fees.

Disclosure. Rule 52 contains three new disclosure requirements, for travel authorizations, travel expenses, and payments in lieu of honoraria by lobbyists.

Any employee who travels at private expenses must secure advance authorization from his or her supervising Member or officer, specifying: the name of the employee; the name of the funding source; and the time, place, and purpose of the travel. As part of this authorization, the Member must sign a statement that the travel is in connection with official duties and would not create the appearance that the traveler is using public office for private gain. The authorization must be filed with the Clerk within 30 days of return.

In addition, all privately funded travel expenses, for Members and staff, must be itemized and disclosed within 30 days of return. This disclosure must be signed by the Member who is personally traveling or authorizing staff travel and must include:

- good faith estimates of total expenditures for (1) transportation, (2) lodging, (3) meals, and (4) other expenses;
- a determination that all such expenses are "necessary" (that is, reasonable, within the relevant day limits, and not recreational); and
- (for Member travel) a determination that the travel is in connection with official duties and would not create the appearance that the Member is using public office for private gain.

Moreover, within 30 days of designating a charity to receive a payment in lieu of an honorarium from a lobbyist, a Member, officer or employee must report to the Clerk: (1) the name and address

of the lobbyist; (2) the date and amount of the contribution; and (3) the name and address of the charitable organization designated.

The Clerk shall make all these reports available to the public as soon as possible after filing. The Committee is developing forms for these disclosures.

Political events. Rule 52 does not limit Member or staff participation in political events. Political contributions, for any Federal, state, or local campaign, are specifically exempt from the ban, as is attendance at a fundraising event sponsored by any political organization. Political organizations may also provide food, refreshments, lodging, transportation, and other benefits in connection with fundraising or campaign events sponsored by those organizations. In addition, free attendance at a widely attended convention or other event may be provided by its sponsor.

Items of nominal value. Rule 52 permits a Member or employee to accept "an item of nominal value such as a greeting card, baseball cap, or a T-shirt." Other nominal value items might include mugs, pens, and flowers. There is no precise dollar figure for "nominal value." Members should use their common sense. A Member could accept an inexpensive pen imprinted with the corporate logo of a constituent company, or an occasional bouquet of flowers. The Member should decline a Mont Blanc pen with his or her initials engraved on it, or flowers for the office every week from the same lobbyist.

Lobbyists are subject to additional restrictions, i.e., they *may not* provide travel or personal hospitality to Members or staff, contribute to Members' or staffers' legal expense funds, support conferences or retreats for Members or staff, contribute to entities maintained or controlled by Members or staff, or donate to charities at Members' or staffers' recommendation (other than in lieu of honoraria). The ban on accepting personal hospitality from lobbyists, however, does not apply where the lobbyist is a bona fide personal friend, as defined above.

> *Example 27*. Joe College, Roy Representative's college roommate, is a lobbyist for the sweater industry. Joe and Roy and their wives have socialized together since college. Joe invites Roy and his wife to spend a week in August with the Colleges at their beach house on Hilton Head. Assuming that Joe does not seek reimbursement or a tax deduction for the expense of entertaining Roy, Roy may accept.
>
> *Example 28*. Joe, the sweater lobbyist, offers to take his friend, Roy Representative, on a three-day tour of Southern sweater plants. Roy may not accept. If the Swank Sweater Company invites Roy on a tour, he may accept.

Exceptions. In summary, all gifts are banned with the following exceptions:

1. Anything for which the Member, officer, or employee pays market value or which is promptly returned (perishable items may be donated to charity or destroyed).
2. Political contributions.
3. Gifts from relatives.

4. Anything provided by an individual on the basis of a personal friendship, unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position. In deciding, the Member, officer, or employee shall consider the history of relationship (including any previous exchange of gifts), whether the giver personally paid for the gift or sought a tax deduction or business reimbursement for the gift, and whether the giver gave similar gifts to other Member, officer, or employees.

5. Contributions to legal expense funds (except from lobbyists and foreign agents).

6. Any gift from another Member, officer, or employee of the House or Senate.

7. Food, refreshments, lodging and other benefits (a) resulting from outside business, employment, or other activities of the Member, officer, or employee or spouse; (b) customarily provided by a prospective employer; or (c) provided by a political organization in connection with a fundraising or campaign event.

8. Pensions and other benefits from a former employer.

9. Informational materials (e.g. books, periodicals, audiotapes, and videotapes) sent to the office.

10. Awards or prizes given to competitors in contests or events open to the public, including random drawings.

11. Honorary degrees and other non-monetary awards in recognition of public service (including associated food, refreshments, entertainment, and, in the case of degrees, travel).

12. Training (including food and refreshments provided to all attendees), if in the interest of the House.

13. Inheritances.

14. Any item the receipt of which is authorized by any statute, including the Foreign Gifts and Decorations Act and the Mutual Educational and Cultural Exchange Act.

15. Anything paid for by Federal, state, or local government, or secured by the Government under a Government contract.

16. Personal hospitality, unless from a registered lobbyist or agent of a foreign principal.

17. Free attendance at a widely attended event if the Member, officer, or employee is participating, performing a ceremonial function, or attendance is appropriate to the performance of the official duties or representative function of the Member, officer, or employee. The Member, officer, or employee may also accept an unsolicited offer of free attendance for an accompanying individual.

18. Opportunities and benefits (including bank loans) which are available to the public, all federal employees, or some other group.

19. Plaques, trophies, and other commemorative items.

20. Anything for which, in an unusual case, a waiver is granted by this Committee.

21. Food or refreshments of a nominal value offered other than as a part of a meal.

22. Home-state products that are intended primarily for promotional purposes, such as display or free distribution, and that are of minimal value to any individual recipient.

23. An item of nominal value, such as a cap or T-shirt.

Enforcement. The Committee on Standards of Official Conduct is solely authorized to interpret, enforce, and issue guidance on the rule. If you have any questions, please call the Committee's Office of Advice and Education at 225–3787.

RULE LII [52]

Gift rule

1. (a) No Member, officer, or employee of the House of Representatives shall knowingly accept a gift except as provided in this rule.

(b) (1) For the purpose of this rule, the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(2) (A) A gift to a family member of a Member, officer, or employee, or a gift to any other individual based on that individual's relationship with the Member, officer, or employee, shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

(B) If food or refreshment is provided at the same time and place to both a Member, officer, or employee and the spouse or dependent thereof, only the food or refreshment provided to the Member, officer, or employee shall be treated as a gift for purposes of this rule.

(c) The restrictions in paragraph (a) shall not apply to the following:

(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

(2) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a lawful contribution for election to a State or local government office, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(3) A gift from a relative as described in section 109(16) of title I of the Ethics in Government Act of 1978 (Public Law 95–521).

(4) (A) Anything provided by an individual on the basis of a personal friendship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal friendship.

(B) In determining whether a gift is provided on the basis of personal friendship, the Member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

(ii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

(iii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(5) Except as provided in clause 3(c), a contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

(7) Food, refreshments, lodging, transportation, and other benefits—

(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances:

(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(12) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the House of Representatives.

(13) Bequests, inheritances, and other transfers at death.

(14) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

(15) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(16) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

(17) Free attendance at a widely attended event permitted pursuant to paragraph (d).

(18) Opportunities and benefits which are—

(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(B) offered to members of a group or class in which membership is unrelated to congressional employment;

(C) offered to members of an organization such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(19) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended for presentation.

(20) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

(21) Food or refreshments of a nominal value offered other than as a part of a meal.

(22) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(23) An item of nominal value such as a greeting card, baseball cap, or a T-shirt.

(d)(1) A Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

(2) A Member, officer, or employee who attends an event described in subparagraph (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(3) A Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.

(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in paragraph (c)(4) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. No determination under this paragraph is required for gifts given on the basis of the family relationship exception.

(f) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

2. (a)(1) A reimbursement (including payment in kind) to a Member, officer, or employee from a private source other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as all officeholder shall be deemed to be a reimbursement to the House of

Representatives and not a gift prohibited by this rule, if the Member, officer, or employee—

(A) in the case of an employee, receives advance authorization, from the Member of officer under whose direct supervision the employee works, to accept reimbursement, and

(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.

(2) For purposes of paragraph (a)(1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

(b) Each advance authorization to accept reimbursement shall be signed by the member or officer under whose direct supervision the employee works and shall include—

(1) the name of the employee;

(2) the name of the person who will make the reimbursements;

(3) the time, place, and purpose of the travel; and

(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

(c) Each disclosure made under paragraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in paragraph (d); and

(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

(d) For the purposes of this clause, the term 'necessary transportation, lodging, and related expenses'—

(1) includes reasonable expenses that are necessary for travel for a period not exceeding 4 days within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation,

whether or not such transportation occurs within the periods described in subparagraph (1);

(3) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as all integral part of the event, except for activities or entertainment otherwise permissible under this rule; and

(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee.

(e) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosure of reimbursement filed pursuant to paragraph (a) as soon as possible after they are received.

3. A gift prohibited by clause 1(a) includes the following:

(a) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, officer, or employee.

(b) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1980) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by clause 4.

(c) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, officer, or employee.

(d) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, officers, or employees.

4. (a) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, officer, or employee shall not be considered a gift under this rule if it is reported as provided in paragraph (b).

(b) A Member, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of honoraria described in paragraph (a) shall report within 30 days after such designation or recommendation to the Clerk of the House of Representatives—

(1) the name and address of the registered lobbyist who is making the contribution in lieu of honoraria;

(2) the date and amount of the contribution; and

(3) the name and address of the charitable organization designated or recommended by the Member. The Clerk of the House of Representatives shall make public information received pursuant to this paragraph as soon as possible after it is received.

5. For purposes of this rule—

(a) the term "registered lobbyist" means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and

(b) the term "agent of a foreign principal" means an agent of a foreign principal registered under the Foreign Agents Registration Act.

6. All the provisions of this rule shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this rule.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, December 22, 1995.

DEAR COLLEAGUE: Under the new gift rule, effective January 1, 1996, every time you or a member of your staff travels at private expense for a meeting, fact-finding trip, or similar event in connection with official duties, you will have to file a disclosure form with the Clerk within 30 days after you return. All forms, including those reporting staff travel, must be signed by a Member or Officer of the House. In addition, if a lobbyist makes a contribution to charity in lieu of paying you an honorarium for a speech, appearance, or article, you will have to file a disclosure report within 30 days after designating the charity.

Copies of the forms are attached. Feel free to make more copies of these forms in your office. Additional blank forms may be obtained from the Legislative Resource Center, Office of the Clerk, 1036 Longworth House Office Building (where the completed forms are to be filed) or from the Committee on Standards of official Conduct HT–2 The Capitol.

If you have any questions, please call the Committee's Office of Advice and Education, at extension 5–3787.

Sincerely,

NANCY L. JOHNSON,
Chairman.
JIM MCDERMOTT,
Ranking Democratic Member.

U.S. HOUSE OF REPRESENTATIVES

MEMBER/OFFICER TRAVEL DISCLOSURE FORM

This form is for disclosing the receipt of travel expenses from private sources for meetings, speaking engagements, fact-finding trips or similar events in connection with official duties. You need not disclose government-funded or political travel on this form, or travel that is unrelated to official duties. This form does not eliminate the need to report all privately-funded travel on the annual Financial Disclosure Statements.

In accordance with House Rule 52, please complete this form and file it with the Clerk of the House of Representatives, 1036 Longworth House Office Building, within 30 days after travel is completed. The Clerk shall make these forms available to the public as soon as possible after they are filed.

DESCRIPTION OF THE TRIP:
Dates of travel:
Destination(s):
Sponsor (who paid for the trip):

Purpose:

PROVIDE A GOOD FAITH ESTIMATE OF THE FOLLOWING:

Total transportation expenses:
Total lodging expenses:
Total meal expenses:
Total of all other expenses:

I have determined that all of the expenses listed above were necessary and that the travel was in connection with my duties as a Member/Officer of the House of Representatives and would not create the appearance that I am using public office for private gain.

Name (please print or type):
Signature:
Date:

U.S. HOUSE OF REPRESENTATIVES

EMPLOYEE TRAVEL DISCLOSURE FORM

This form is for disclosing the receipt of travel expenses from private sources for meetings, speaking engagements, fact-finding trips or similar events in connection with official duties. You need not disclose government-funded or political travel on this form, or travel that is unrelated to official duties. This form does not eliminate the need to report all privately-funded travel on the annual Financial Disclosure Statements of those persons required to file them.

In accordance with House Rule 52, please complete this form and file it with the Clerk of the House of Representatives, 1036 Longworth House Office Building, within 30 days after travel is completed. The Clerk shall make these forms available to the public as soon as possible after they are filed.

DESCRIPTION OF THE TRIP:

Dates of travel:
Destination(s):
Sponsor (who paid for the trip):
Purpose:

PROVIDE A GOOD FAITH ESTIMATE OF THE FOLLOWING:

Total transportation expenses:
Total lodging expenses:
Total meal expenses:
Total of all other expenses:
Name (please print or type):
Signature:
Date:

I authorized this travel in advance. I have determined that all of the expenses listed above were necessary and that the travel was in connection with the employee's official duties and would not create the appearance that he/she is using public office for private gain.

Name of supervising Member/officer (please print or type):
Signature of supervising Member/officer
Date:

U.S. HOUSE OF REPRESENTATIVES

REPORT OF CHARITABLE CONTRIBUTION

IN LIEU OF HONORARIUM BY A REGISTERED LOBBYIST

A Member, Officer, or employee of the House of Representatives who asks a registered lobbyist to make a contribution to a charitable organization in lieu of paying an honorarium must complete this form and file it with the Clerk of the House of Representatives

within 30 days after the request. The Clerk shall make this information public as soon as possible after it is filed.

Name of lobbyist making the contribution:
Address of lobbyist:
Date of contribution:
Amount of contribution:
Name of charitable organization:
Address of charitable organization:
Name of Member, officer or employee (please print or type):
Signature of Member officer or employee:
Date:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, January 31, 1996.

MEMORANDUM FOR ALL MEMBERS, OFFICERS AND EMPLOYEES

From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic Member.
Subject: Salary Levels At Which Outside Earned Income Restrictions, Financial Disclosure Requirements, and Post-employment Restrictions Apply for 1996.

OUTSIDE EARNED INCOME LIMITATIONS

House Rule 47 and title 5 of the Ethics in Government Act of 1978 limit the amount of outside earned income a Member or senior employee may receive in a calendar year to 15 percent of the January 1 rate of pay in effect for level II of the Executive Schedule (*see* HOUSE ETHICS MANUAL, p. 101). Executive level II remains $133,600; thus, the outside earned income limit for calendar year 1996 remains $20,040.

The limit applies to all Members and to officers and employees paid at a rate of 120 percent of the minimum pay for GS–15 of the general schedule for at least 90 days in a calendar year. Since the GS–15 rate of basic pay is now $69,300, the earned income threshold is $83,160. Locality pay is not considered in making this determination.

FINANCIAL DISCLOSURE

All House officers and employees paid at a rate of 120 percent of the minimum pay for GS–15 of the general schedule for more than 60 days at any time during the year must file a financial disclosure statement (*see* HOUSE ETHICS MANUAL, p. 161). As noted above, 120 percent of GS–15 is now $83,160.

Please note that the requirement to file a financial disclosure statement covering calendar year 1995 was triggered by having earned at a rate of $81,530 for more than 60 days in 1995. These 1995 financial disclosure statements are due May 15, 1996, for individuals who continue to be House employees. An individual who earns enough to trigger the reporting requirement and leaves the House payroll must file a termination disclosure report, due 30 days after the date of termination.

POST-EMPLOYMENT RESTRICTIONS

The Ethics Reform Act of 1989 established statutory post-employment restrictions on lobbying activities for all Members and officers of the House and certain employees (*see* HOUSE ETHICS MANUAL, 102d Cong., 2d Sess. 124–127 (1992)). An employee is covered if, for at least 60 days during the one-year period preceding termination of employment, he or she was paid at a rate equal to or greater than 75 percent of the salary for Members at the time of termination.

The pay for Members remains $133,600. Therefore, the post-employment threshold for employees who leave their congressional jobs in 1996 is $100,200.

* * * * * * *

Calendar Year 1996

Post-employment threshold	$100,200
Financial disclosure threshold	83,160
Outside earned income threshold	83,160
Outside earned income cap	20,040

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC.

MEMORANDUM

To: All Members, Officers, and Employees of the House of Representatives.
From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic member.
Subject: Widely Attended and other Events under the New Gift Rule.
Date: March 18, 1996.

The Committee has received many inquiries as to the types of events that Members and staff may attend under the new gift rule (House Rule 52). We hope the following guidance, which refines and supplements the advice previously distributed in our memorandum of December 7, 1995, will prove useful.

WIDELY ATTENDED EVENTS

House Rule 52 [1] permits a Member, officer, or employee to accept an offer of free attendance at an event (such as a convention, conference, symposium, forum, panel discussion, luncheon or dinner, viewing, or reception,[2] subject to three restrictions: (1) the event must be "widely attended," (2) the invitation must come from the sponsor, and (3) the attendance of the Member or staff person must be related to his or her official duties. The Committee defines these elements as follows.

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[1] Clauses 1(c)(17) and 1(d).

[2] Receptions, at which "food or refreshments of a nominal value offered other than as a part of a meal" are served, are separately exempt from the gift limit and need not comply with the restrictions on "widely attended events."

First, an event is deemed "widely attended" if (a) there is a reasonable expectation that at least twenty-five persons, other than Members, officers, or employees of the Congress, will attend the event; and (b) attendance at the event is open to members from throughout a given industry or profession, or those in attendance represent a range of persons interested in a given matter.

Second, the term "sponsor" refers to the person, entity, or entities that are primarily responsible for organizing the event. An individual who simply contributes money to an event is not considered a sponsor.

Third, the Member, officer, or employee must be participating in the event by speaking or by performing a ceremonial role; or he or she must determine that attendance at the event is appropriate to the performance of his or her official duties or representative function. Note that the responsibility for making this determination rests with the individual Member, officer, or employee who wishes to attend the event. Some relevant factors might include the opportunity to meet with constituents at the event, the desirability of representing one's constituency at an event where other elected or appointed officials will be present, or the opportunity to present or receive information at the event that is pertinent to one's district or to a legislative proposal. In making this determination, one should bear in mind the legislative history of the gift rule, which indicates that the event may not be merely for the personal pleasure or entertainment of the Member or employee.

If the criteria described above are satisfied, the attendee may accept a waiver of all or part of a conference fee, local transportation, food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event, as well as an unsolicited offer of free attendance for a companion. The Member or employee may not accept entertainment collateral to the event (e.g., theater tickets) or food or refreshments that are not provided in a group setting with all or substantially all other attendees.

Example 1. The Widget Manufacturers of America is holding its annual conference in Washington, D.C. Hundreds of widget-makers from across the country attend. The group invites Congressman A to be the keynote speaker at dinner the first night. The Congressman may give the speech and eat the dinner.

Example 2. A trade association is holding a luncheon in Washington, D.C. The association has invited all of its members and expects about 30 to attend. The association also invites several House staffers who work on issues relevant to the association to the lunch to discuss pending legislation. If the staffers determine that it is appropriate to their official duties to attend, they may attend and eat lunch.

Example 3. The government relations department of Big Business, Inc. invites Member B to its weekly staff meeting and luncheon. Big expects that he entire staff of its government relations department, consisting of 5 lobbyists, 10 researchers, and 15 support staff, will attend. Big's luncheon does not constitute a widely attended event be-

cause attendance at the event is not open to members from throughout a given industry or profession, nor do those present represent a range of persons interested in a given matter. The Member may not accept a free lunch from Big. He may attend and not eat, or buy or bring his own lunch.

SOURCE OF INVITATIONS

The Committee construes Rule 52 as requiring that a Member or employee may only accept an invitation to an event from the sponsor of that event. This interpretation holds true for all events, regardless of whether they are widely attended, charitable, or political. As noted above, the term "sponsor" refers to the person, entity, or entities that are primarily responsible for organizing the event. An individual who simply contributes money to an event (e.g., by buying a ticket) is not considered a sponsor. Individual contributors may request that the sponsor invite particular Members or staff to sit with them, but ultimate control of the guest list and seating arrangements must remain with the sponsor.

Example 4. The Good Samaritan Foundation, a 501(c)(3) organization, organizes a $1,000-a-plate fundraising dinner to support its charitable activities. Good Samaritan may provide complimentary tickets to the dinner to Mr. and Mrs. Representative.

Example 5. Small Business, Inc. buys a table at the Good Samaritan fundraising dinner. The Representatives may *not* accept tickets from Small Business, Inc.

Example 6. The Republican National Committee organizes a fundraising dinner. The RNC may provide complimentary tickets to Members and staff.

Example 7. The DCCC organizes a fundraising dinner. A political action committee buys a table. Member *C* may not accept a ticket from the PAC. *C* may accept a ticket from the DCCC, and, if it chooses to do so, the DCCC may seat *C* at the PAC's table.

EVENTS WITH CONSTITUENT ORGANIZATIONS

The new gift rule was not intended to interfere with Members carrying out their conventional representational duties. The Committee recognizes that meetings or events with constituent organizations may sometimes be attended by only a few constituents, particularly where the organization is from a state with a small or diffuse population.

Therefore, the Committee grants a general waiver for Members, officers, and employees to accept free attendance (including meals) at meetings or events with constituent organizations, regardless of the number of constituents in attendance or the location of the event, *provided* that the meeting or event is:

(1) regularly scheduled (such as an annual visit to Washington, DC);

(2) related to the official duties or representative functions of the Member, officer, or employee attending the event; *and*

(3) open to members of the constituent organization (as opposed to only officers or board members).

Examples of constituent organizations covered by this waiver include, but are not limited to, the Chamber of Commerce, Rotary Club, civic associations, senior citizens' organizations, veterans' groups, and professional associations (e.g., associations of hospital administration, realtors, car dealers, doctors, nurses, lawyers, farmers, bankers, or teachers).

Example 8. The Chamber of Commerce in Representative *D*'s district invites her to the monthly breakfast meeting of its members. If *D* determines that it is related to her official duties or representative functions, she may attend and eat breakfast and/or send someone from her staff.

Example 9. A Rotary Club in Member *E*'s district holds periodic luncheon meetings of its membership and invites him to one. If the Member determines that it is related to his official duties or representative functions, he may attend and eat lunch.

Example 10. A veterans' group in Representative *F*'s district invites her to a Veterans' Day dinner, with its members, at the local VFW hall. If *F* determines that it is related to her official duties or representative functions, she may attend and eat dinner.

Example 11. The Homestate Realtors' Association holds its annual Washington "fly-in." All members of the association are invited; usually about 20 realtors come. One of the events on their agenda is a dinner they propose to host for their congressional delegation. If the Members of the delegation determine that it is related to their official duties or representative functions, they may attend and eat dinner.

Example 12. A realtor comes to Washington for the Realtors' Association "fly-in." He is the only realtor from Congressman *G*'s district who makes the trip and he would like to have lunch with his representative. Since their lunch is not an association event, the Congressman must pay for his own lunch.

Example 13. Two members of the Homestate Realtors' Association fly to Washington on their own and invite Congresswoman *H* to lunch. Since the trip is not an association event, *H* must pay for her own lunch.

EDUCATIONAL EVENTS

The Committee is aware that some worthwhile events may be designed for small groups, to facilitate discussions. While these events may not be "widely attended," in that fewer than 25 non-congressional attendees may be expected, we do not believe the gift rule should prevent Members or employees from participating in educational activities. Therefore, the Committee grants a general waiver permitting Members and employees to accept invitations to events (including meals offered as part of these events) that, while they do not meet the criteria of "widely attended events," are:

(1) educational (e.g., lectures, seminars, and discussions), and

(2) sponsored by universities, foundations, "think tanks," or similar non-profit, non-advocacy organizations.

In keeping with the gift rule's intent, this waiver does not extend to meals in connection with presentations sponsored by lobbyists, lobbying firms, or advocacy groups, or to meals in connection with legislative briefings or strategy sessions.

Example 14. The Plato Institute, a non-partisian, non-profit "think tank," hosts a luncheon series featuring distinguished speakers from academia discussing foreign policy topics. They invite approximately 15 individuals to each luncheon, including a number of congressional staff persons. The staff may attend and eat lunch.

Example 15. The Widget Manufacturers' Association establishes a non-profit educational foundation. The foundation sponsors a monthly Widget Wonks' Forum, at which experts from the widget field explain aspects of their industry and the ramifications of various legislative proposals for that industry. Approximately a dozen congressional staff persons are invited to each of these presentations, which occur over lunch. If staff persons wish to attend, they must bring or buy their own lunch, or not eat.

INCIDENTAL EXPENSES

Sometimes, in the course of performing one's legislative or representative duties at government expense, a Member or employee will be offered a de minimis amount of food or transportation, as a courtesy. One might be offered a meal in the company cafeteria while touring a facility in one's district or a ride from the airport to a site being visited, while in an unfamiliar town on committee business. We do not believe the spirit of the gift rule is violated by accepting such occasional, incidental courtesies. Therefore, the Committee grants a general waiver of the gift rule enabling a Member, officer, or employee to accept the following expenses incidental to legitimate official activity:

(1) food or refreshments, including a meal, offered by the management of a site being visited, (a) on that business's premises, and (b) in a group setting with employees of the organization;

(2) local transportation, outside of the District of Columbia, provided by the management of a site being visited in the course of official duties, between an airport or other terminus and the site.

Similarly, acceptance of these expenses will not be deemed a violation of House Rule 45.

This waiver does not extend to car service made available from the same source on a regular basis, transportation in the District of Columbia, or catered meals at the Washington, D.C. offices of lobbying or law firms.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, June 10, 1996.

MEMORANDUM TO ALL MEMBERS, OFFICERS, AND EMPLOYEES

From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic Member.
Subject: Legal Expense Fund Regulations.

The new gift rule exempts "a contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct," as long as the contribution is not from a registered lobbyist or an agent of a foreign principal (House Rule 52, clause 1(c)(5)). In light of this new rule, and pursuant to its authority thereunder, the Committee hereby issues regulations explaining its "restrictions and disclosure requirements" for legal expense funds. The regulations set forth below supersede the Committee's prior policies under the old gift rule [1] and take effect as of July 1, 1996. The prior policies remain in effect until that date.

LEGAL EXPENSE FUND REGULATIONS

1. A Member, officer, or employee who wishes to solicit and/or receive donations, in cash or in kind, to pay legal expenses shall obtain the prior written permission of the Committee on Standards of Official Conduct.[2]

2. The Committee shall grant permission to establish a Legal Expense Fund only where the legal expenses arise in connection with: the individual's candidacy for or election to federal office; the individual's official duties or position in Congress (including legal expenses incurred in connection with an amicus brief filed in a Member's official capacity, a civil action by a Member challenging the validity of a law or federal regulation, or a matter before the Committee on Standards of Official Conduct); a criminal prosecution; or a civil matter bearing on the individual's reputation or fitness for office.

3. The Committee shall not grant permission to establish a Legal Expense Fund where the legal expenses arise in connection with a matter that is primarily personal in nature (e.g., a matrimonial action).

4. A Member, officer, or employee may accept pro bono legal assistance without limit to file an amicus brief in his or her capacity as a Member of Congress or to bring a civil action challenging the validity of any federal law or regulation. Pro bono legal assistance for other purposes shall be deemed a contribution subject to the restrictions of these regulations.

5. A Legal Expense Fund shall be set up as a trust, administered by an independent trustee, who shall oversee fund raising.

6. The trustee shall not have any family, business, or employment relationship with the trust's beneficiary.

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[1] *See House Ethics Manual,* 102d Cong., 2d Sess. 49–50 (1992).

[2] Permission is not required to solicit and/or receive a donation in any amount from a relative or a donation of up to $250 from a personal friend.

7. Trust funds shall be used only for legal expenses (and expenses incurred in soliciting for and administering the trust), except that any excess funds shall be returned to contributors. Under no circumstances may the beneficiary of a Legal Expense Fund convert the funds to any other purpose.

8. A Legal Expense Fund shall not accept more than $5,000 in a calendar year from any individual or organization.

9. A Legal Expense Fund shall not accept any contribution from a registered lobbyist or an agent of a foreign principal.

10. Other than as specifically barred by law or regulation, a Legal Expense Fund may accept contributions from any individual or organization, including a corporation, labor union, or political action committee (PAC).

11. No contribution shall be solicited for or accepted by a Legal Expense Fund prior to the Committee's written approval of the completed trust document (including the name of the trustee).

12. Within one week of the Committee's approval of the trust document, the beneficiary shall file a copy of the trust document with the Legislative Resource Center (1036 Longworth House Office Building) for public disclosure.

13. The beneficiary of a Legal Expense Fund shall report to the Committee on a quarterly basis, with copy filed for public disclosure at the Legislative Resource Center:

(a) any donation to the Fund from a corporation or labor union;

(b) any contribution (or group of contributions) exceeding $250 in a calendar year from any other single source; and

(c) any expenditure from the Fund exceeding $250 in a calendar year.

Beginning October 30, 1996, these reports shall be due as follows:

Reporting period	Due date
January 1–March 31	April 30.
April 1–June 30	July 30.
July 1–September 30	October 30.
October 1–December 31	January 30.

14. Any Member or employee who established a Legal Expense Fund prior to July 1, 1996 shall make any necessary modifications to the trust document to bring it into compliance with these regulations and shall disclose the trust document with his or her first quarterly report of the 105th Congress on January 30, 1997. Reports of receipts and expenditures shall be due beginning October 30, 1996, as stated in paragraph 13, above.

USE OF CAMPAIGN FUNDS FOR LEGAL EXPENSES

This Committee has stated (in the 1992 *Ethics Manual*) that Members may use campaign funds to defend legal actions arising out of their campaign, election, or the performance of their official duties. More recently, however, the Federal Election Commission (FEC) issued regulations defining impermissible personal uses of campaign funds, including using campaign funds for certain legal expenses. Any Member contemplating the use of campaign funds

for the direct payment of legal expenses or for contribution to a legal expense fund should first contact the FEC.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, July 8, 1996.

MEMORANDUM

To: All Members, Officers, and Employees of the House of Representatives.
From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic Member.
Subject: Gift Rule Issues.

This memorandum addresses three matters under the new gift rule (House Rule 52), which went into effect at the start of this year: (1) Member and staff participation in charity golf tournaments, (2) acceptance of an "honorary membership" in an organization by a Member or employee, and (3) the form of requests for advice made to the Committee. The Committee's guidance on these matters is as follows.

CHARITY GOLF TOURNAMENTS

Attendance at Charity Tournaments. Subject to several restrictions which are addressed below, the gift rule allows Members and staff to accept a sponsor's offer of free attendance at a charity event, including a charity golf tournament.[1] According to the House Rules Committee report on the gift rule, the provision on attendance at charity events was included in the rule in order to allow Members and staff "to lend their names to legitimate charitable enterprises and otherwise promote charitable goals."[2] The restrictions encompassed in this provision are four-fold.

First, the tournament must be a bona fide charity event: that is, an event the primary purpose of which is to raise funds for an organization qualified under section 170(c) of the Tax Code to receive tax deductible contributions.

Second, Members and staff may accept an invitation only from the tournament's *sponsor*. As explained in the Committee's gift rule advisory memorandum of March 18, 1996, the "sponsor" of an event is the person or persons primarily responsible for organizing the event. A person who simply contributes money or buys tickets to an event is *not* considered a sponsor of that event. Accordingly, the rule does not allow Members and staff to accept an invitation from a person who has simply paid entry fees for a tournament.

Third, under the terms of the rule, the sponsor's invitation to attend the tournament must be *unsolicited*.

Finally, the rule specifically prohibits Members and staff from accepting reimbursement for transportation or lodging in connection with their attendance at any charity event. This prohibition is a major change from the rules previously in effect. Local transportation may be accepted from the sponsor, however.

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[1] Clause 1(d)(3) of House Rule 52.
[2] H.R. Rep. No. 337, 104th Cong., 1st Sess., at p. 12.

Refreshments and Gift Items. Often the sponsors of charity tournament offer food and beverages, as well as certain gift items, to the tournament participants.

Members and staff who may attend a tournament under the standards set forth above may also, while at the event, accept food or refreshments which the sponsor offers to all attendees in a group setting, and as an integral part of the event.[3]

In addition, under clause 1(c)(23) of the rule, participating Members and staff may accept from the sponsor items of "nominal value" which the sponsor offers to all participants. Neither the rule itself nor any of the guidance issued by the Committee defines "nominal value" in terms of a precise dollar amount. Instead, whether any particular item offered to a Member or employee is acceptable as an item of "nominal value" is to be reasonably determined by that individual. In our view, items such as a set of golf balls or tees, or a visor, may properly be considered items of nominal value, whereas items such as a golf bag or a pair of golf shoes cannot reasonably be considered items of nominal value.

Since they are limited to accepting gift items of nominal value, House Members and staff may not be able to accept all items which are provided to all other tournament participants. This is not an inappropriate result, in view of the fact that in the circumstances here addressed, the other participants paid the entrance fee for the tournament, but the participating Members and employees did not. However, where a Member or employee does pay the full entrance fee for a charity tournament, he or she may accept all of the gift items which are offered to all of the other participants.

House Members and employees may also accept so-called "skill" prizes offered by the tournament sponsor, such as for the lowest score in the tournament, or for a hole-in-one. Any such prize will have to be disclosed as earned income on the annual Financial Disclosure Statement of any individual who is legally obliged to file one (Members, officers and certain staff).

Finally, at times a tournament sponsor offers "door prizes" to tournament participants through a drawing, and/or holds a raffle at the tournament to which tickets must be purchased separately. Members and employees who win a prize in such a drawing or raffle may keep the prize, provided that most of the entries in the contest were from individuals who are not Members, officers or employees of the Congress. If the prize is worth more than $250, it will have to be disclosed as a gift on the Financial Disclosure Statement of any individual who is required to file one.

HONORARY MEMBERSHIPS

Prior to the adoption of House Rule 52, the Committee permitted a Member or employee to accept an honorary membership in an organization—including, for example, a country club—in limited circumstances. A gift of membership was to be valued according to the extent to which the individual made use of the benefits of membership.[4]

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[3] Clause 1(d)(4) of House Rule 52.

[4] *See House Ethics Manual,* 102d Cong., 2d Sess. 57 (1992).

In light of the new restrictions contained in House Rule 52 (and the difficulties of valuation under the "use" standard noted above), the Committee has adopted a new policy regarding the acceptance of honorary memberships. As of the date of this Memorandum, Members and employees may not accept an honorary membership in any organization if acceptance entails the waiver of initiation fees and/or periodic dues.

COMMITTEE ADVICE

The Committee staff is available to provide informal advice over the telephone regarding the gift rule, as well as other ethics matters, and the Committee will provide a formal written opinion in response to a proper written inquiry.

It should be noted, however, that only the Committee's formal written opinions are binding on the Committee: that is, under Committee Rule 3(l), the Committee "may take no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts addressed in the opinion."

Accordingly, especially with regard to questions that are unusual or complex, the Committee encourages a written inquiry. Under Committee Rule 3(k), the Committee is required to keep confidential any request for advice, as well as any response thereto.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, July 29, 1996.

To: All Members, Officers, and Employees of the House of Representatives and Staff.
From: Committee on Standards of Official Conduct, Nancy L. Johnson, Chairman, Jim McDermott, Ranking Democratic Member.
Subject: Guidelines For National Party Conventions.

MEMORANDUM

The Committee continues to receive numerous inquiries regarding the effect of the new House gift rule (Rule 52) on Members and staff who attend the Republican and Democratic national party conventions in San Diego and Chicago in August. Attached is a copy of the convention guidelines the Committee previously circulated in March.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, March 29, 1996.

DEAR COLLEAGUE: The Committee on Standards of Official Conduct has received many inquiries regarding the effect of the new House gift rule (Rule 52) on Members and staff who attend the national party conventions this summer in San Diego and Chicago. There are five rules to remember in this context.

1. A House Member or employee may accept anything from: the city of San Diego or Chicago, any unit of state or local government, or the official local Host Committee in San Diego or Chicago. This derives from Rule 52's exception for anything provided by a unit of government.

2. A House Member or employee may accept meals, refreshments, lodging, transportation, tickets to sporting, theatrical, and other entertainment events, and items of nominal value, as long as they are provided by one of the following: the Republican or Democratic National Committee, the Republican or Democratic convention committee, a state or local party organization, or a campaign committee. This derives from Rule 52's exception for various items provided by a political organization in connection with a campaign event.

3. Members and staff may accept invitations to any reception (under Rule 52's exception for food of nominal value offered other than as a part of a meal).

4. A Member or employee may accept a meal, entertainment that is integral to the event, local transportation, and an item of nominal value at an event sponsored by an individual, corporation, union, or other group *if* at least 25 non-congressional attendees are expected and the Member or staff person is invited by the organizer of the event. This comes from Rule 52's exception for "widely attended events." The Committee believes that attendance at these large gatherings at the conventions is appropriate to the performance of official duties.

5. Outside of the context of widely attended or fundraising events, Members and staff may *not* accept meals, tickets to sporting or entertainment events, greens fees, or gifts of more than nominal value from individual lobbyists or anyone not listed in paragraphs 1 and 2, above (except a relative or a personal friend).

If you have any questions regarding these issues or other matters relating to the gift rule, please contact the Committee's Office of Advice of Education at extension 5–3787.

Sincerely,

NANCY L. JOHNSON,
Chairman.
JIM MCDERMOTT,
Ranking Democratic Member.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, December 12, 1996.

DEAR COLLEAGUE: This letter, on behalf of the Committee on Standards of Official Conduct, summarizes the circumstances in which members and employees may, under the gift rule (House Rule 52), accept an offer of free attendance at events held in connection with the Presidential Inauguration.

Members and staff may attend any *reception,* under the rule's provision allowing acceptance of food or refreshments of a nominal value offered other than as a part of a meal. Members and staff may also accept an invitation offered by a *state or local government,* under the rule's provision allowing acceptance of things paid for by governmental units.

In addition, the rule allows acceptance of an invitation from any *political or campaign committee* for an event which that committee is sponsoring. Members and staff may also accept a ticket to any event from a *relative,* or one that is offered on the basis of *personal*

friendship. However, a ticket valued at more than $250 can be accepted on the basis of personal friendship only with this Committee's written approval.

Otherwise, Members and staff may accept an offer of free attendance at an event—including an inaugural ball, dinner or similar event—only if the rule's requirements regarding *"widely attended" events* are satisfied. Those requirements are that (1) at least 25 non-congressional attendees are expected at the event, (2) the offer is made by the organizer of the event (as opposed to one who has merely purchased tickets for the event), and (3) attendance at that event is appropriate to the performance of the official duties or representative function of the Member or staffer.

As to requirement (2) noted above, the sponsor of the official inaugural balls and other official events in the Presidential Inaugural Committee. Thus the rule prohibits the acceptance of an offer of free attendance at those events from anyone other than the Inaugural Committee (or a relative or personal friend).

If you have any questions (including with regard to reporting of gifts on one's Financial Disclosure Statement), please contact the Committee's Office of Advice and Education at extension 5–3787.

Sincerely,

NANCY L. JOHNSON,
Chairman.
JIM MCDERMOTT,
Ranking Democratic Member.

APPENDIX B

STATEMENT OF THE INVESTIGATIVE SUBCOMMITTEE ON BEHALF OF THE HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, DECEMBER 21, 1996

The House Committee on Standards of Official Conduct is today releasing a Statement of Alleged Violation issued in the matter of Representative Newt Gingrich. In addition, the Committee is also releasing Mr. Gingrich's answer to the Statement of Alleged Violation, in which he admits to the violation of House Rules contained in the Statement of Alleged Violation.

In light of Mr. Gingrich's answer, the Investigative Subcommittee is of the view that the Rules of the Committee will not require the holding of an adjudicatory hearing to determine whether the violation has been proven. Accordingly, with the concurrence of the Committee, the next proceeding will be a hearing before the full Committee to determine a recommendation to the House for an appropriate resolution. Since this remains a pending matter, there will be no further public comment.

HOUSE OF REPRESENTATIVES COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH

RESPONDENT'S ANSWER TO STATEMENT OF ALLEGED VIOLATION

I, Newt Gingrich, admit to the Statement of Alleged Violation dated December 21, 1996.

Representative NEWT GINGRICH,
Respondent.
J. RANDOLPH EVANS, Esq.,
Attorney for Representative Newt Gingrich.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 21, 1996.

Representative NEWT GINGRICH.

HOUSE OF REPRESENTATIVES COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH, DECEMBER 21, 1996

STATEMENT OF ALLEGED VIOLATION

1. At all times relevant to this Statement of Alleged Violation, Newt Gingrich was a Member of the United States House of Representatives representing the Sixth District of Georgia.

2. At all times relevant to this Statement of Alleged Violation, GOPAC was a political action committee within the meaning of section 527 of the Internal Revenue Code dedicated to; among other

things, achieving Republican control of the United States House of Representatives.

3. GOPAC's methods for accomplishing the goal described in paragraph 2 included the development of a political message to appeal to votes and the dissemination of that message as widely as possible. As stated in a draft document dated November 1, 1989, entitled "GOPAC IN THE 1990s:"

> [GOPAC's] role is to both *create* and *disseminate* the doctrine of a majority Republican party.
>
> The *creation* of a new doctrine is essentially a research function, involving the development of new ideas at the strategic, operational and tactical level. Strategic doctrine, in this context, consists of the language, policies and programs that will define the caring, humanitarian, reform Republican agenda of the 1990s. Operational doctrine consists of the political message and image which will attract voters and elect state and local candidates in support of this new agenda. And, tactical doctrine consists of the specific political techniques Republicans will use to win elections and enact governing conservative policies. (emphasis in the original).

The document then states:

> As important as the creation of the new doctrine is its *dissemination.* During the 1980s GOPAC and Newt Gingrich have led the way in applying new technology, from C–SPAN to video tapes, to disseminate information to Republican candidates and political activists.
>
> * * * * *
>
> But the Mission Statement demands that we do much more. To create the level of change needed to become a majority, the new Republican doctrine must be communicated to a broader audience, with greater frequency, in a more usable form. GOPAC needs a bigger "microphone." (emphasis in the original).

4. From in or about September 1986 through in or about May 1995, Mr. Gingrich was General Chairman of GOPAC. In that capacity he determined the messages GOPAC used to accomplish its goals.

5. In a document entitled "*Key Factors in a House GOP Majority,*" Mr. Gingrich wrote the following:

> 1. The fact that 50% of all potential voters are currently outside politics (non-voters) creates the possibility that a new appeal might alter the current balance of political power by bringing in a vast number of new voters.
>
> * * * * *
>
> 3. It is possible to articulate a vision of "an America that can be" which is appealing to most Americans, reflects the broad values of a governing conservation (basic American values, entrepreneurial Free Enterprise and Technological progress), and is very difficult for the Democrats to co-opt because of their ideology and their interest groups.

4. It is more powerful and more effective to develop a reform movement parallel to the official Republican Party because:

a. the news media will find it more interesting and cover it more often and more favorably;

b. the non-voters who are non-political or anti-political will accept a movement more rapidly than they will accept an established party;

* * * * *

6. The objective measurable goal is the maximum growth of news coverage of our vision and ideas, the maximum recruitment of new candidates, voters and resources, and the maximum electoral success in winning seats from the most local office to the White House and then using those victories to implement the values of a governing conservatism and to create the best America that can be.

6. In early 1990 GOPAC developed and carried out a project called American Opportunities Workshop ("AOW"). It consisted of producing and broadcasting a television program centered on a citizens' movement to reform government. The movement was based on three tenants:

1. Basic American Values;
2. Entrepreneurial Free Enterprise; and
3. Technological Progress.

The project also involved the recruitment of activists to set up local workshops around the broadcast in order to recruit people to the movement. The project was Mr. Gingrich's idea and he had a high level of involvement in it.

7. While AOW was described as being non-partisan, mailings sent by GOPAC to its supporters described AOW as having partisan, political goals. One letter sent over Mr. Gingrich's name stated the following:

> [W]e'll be reaching voters with our message, and helping drive down to the state and local level our politics of realignment.
>
> Through the use of satellite hook-ups, not only can we reach new groups of voters not traditionally associated with our Party, but we'll be able to give them our message straight, without it being filtered and misinterpreted by liberal elements in the media.

The letter ended with the following:

> I truly believe that our Party and our President stand on the verge of a tremendous success this year, and that this workshop can be a great election year boost to us.

8. AOW consumed a large portion of GOPAC's financial resources during 1990. After one program the funding and operation of the project was transferred, with Mr. Gingrich's knowledge and approval, to the Abraham Lincoln Opportunity Foundation ("ALOF"), a corporation with a tax-exempt status under section 501(c)(3) of the Internal Revenue Code. ALOF operated out of GOPAC's offices. Its officers consisted of Howard Callaway, the Chairman of

GOPAC, and Kay Riddle, Executive Director of GOPAC. In addition, the people who were listed as working for ALOF were GOPAC employees or consultants. ALOF raised and expended tax-deductible charitable contributions to carry out the project.

9. At ALOF the project was called American Citizens' Television ("ACTV") and had the same goals as AOW. It was also based on the three tenants of Basic American Values, Entrepreneurial Free Enterprise, and Technological Progress and involved the recruiting of activists to set up local workshops around the broadcast to recruit people to the citizens' movement. In a letter sent by GOPAC over Mr. Gingrich's name, ACTV was described as follows:

> I am excited about progress of the "American Citizen's Television" project, which will carry the torch of citizen activism begun by our American Opportunities Workshop on May 19th. We mobilized thousands of people across the nation at the grass roots level who as a result of AOW, are now dedicated GOPAC activists. We are making great strides in continuing to recruit activists all across America to become involved with the Republican party. Our efforts are literally snowballing into the activist movement we need to win in '92.

10. ACTV broadcast three programs in 1990 and Mr. Gingrich continued his involvement in the project. The first two were produced by ALOF. They aired on July 21, 1990, and September 29, 1990, and were hosted by Mr. Gingrich. The last program was produced by the Council for Citizens Against Government Waste, a 501(c)(4) organization, and did not include Mr. Gingrich. ALOF expended approximately $260,000 in regard to these programs.

11. Under the Internal Revenue Code, an organization which is exempt from taxation under section 501(c)(3) must be operated exclusively for exempt purposes. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Conferring a benefit on private interests is a non-exempt purpose. Under the Internal Revenue Code, an organization which is exempt from taxation under section 501(c)(3) is also prohibited from providing any support to a political action committee. These prohibitions reflect Congressional concerns that tax-payer funds not be used to subsidize political activity.

12. Mr. Gingrich did not seek specific legal advice concerning the application of section 501(c)(3) of the Internal Revenue Code in regard to the facts described in paragraphs 2 through 10 and did not take affirmative steps to ensure that such legal advice was obtained by others from an appropriate source.

13. During the Preliminary Inquiry the Investigative Subcommittee ("Subcommittee") consulted with an expert in the law of tax-exempt organizations. Mr. Gingrich's activities on behalf of ALOF and the activities of others on behalf of ALOF with Mr. Gingrich's knowledge and approval were reviewed by the expert. The expert concluded that those activities violated ALOF's status under section 501(c)(3) of the Internal Revenue Code in that, among other things, those activities:

a. were intended to confer more than insubstantial benefits on GOPAC and Republican entities and candidates; and

b. provided support to GOPAC.

14. The Subcommittee also heard from tax counsel retained by Mr. Gingrich for the purposes of this Preliminary Inquiry. According to Mr. Gingrich's tax counsel, this type of activity would not violate ALOF's status under section 501(c)(3) of the Internal Revenue Code.

15. Both the Subcommittee's expert and Mr. Gingrich's tax counsel agree that had they been consulted about this type of activity prior to its taking place, they would have advised that it not be conducted under the auspices of an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

16. If the legal advice described in paragraph 15 had been sought and followed, most, if not all, of the tax-deductible charitable contributions would not have been used for the activities described in paragraphs 2 through 10. As a result, the public controversy involving the legality of a Member's involvement with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code concerning activities described in paragraphs 2 through 10 would not have occurred.

17. In December 1992, Mr. Gingrich began to develop a movement which became known as Renewing American Civilization. The goal of this movement was the replacement of the "welfare state" with an "opportunity society."

18. A primary means of achieving this goal was the development of the movement's message and the dissemination of that message as widely as possible. The message was also known by the name of Renewing American Civilization. The heart of that message was that the welfare state had failed, that it could not be repaired but had to be replaced, and that it had to be replaced with an opportunity society that was based on what was called the "five pillars of American Civilization." These were: (1) personal strength; (2) entrepreneurial free enterprise; (3) the spirit of invention; (4) quality as defined by Edwards Deming; and (5) the lessons of American history. The message also concentrated on three substantive areas. These were: (1) jobs and economic growth; (2) health; and (3) saving the inner city.

19. It was intended that a Republican majority would be part of the movement.

20. One aspect of the movement was to "professionalize" the House Republicans. One method for doing this was to use the movement's message to attract voters, resources, and candidates.

21. GOPAC was one of the institutions that was instrumental in developing and disseminating the message of the movement. In early 1993 Mr. Gingrich, as GOPAC's General Chairman, was instrumental in determining that virtually the entire political program for GOPAC in 1993 and 1994 would be centered on developing, disseminating, and using the message of Renewing American Civilization.

22. In late 1992 and through 1993, GOPAC's limited financial resources were not sufficient to enable it to carry out all of the political programs at its usual level.

23. In or about late 1992 or early 1993, Mr. Gingrich decided to teach a course. It was also entitled Renewing American Civilization. The course lasted ten weeks and devoted a separate session to each of the "five pillars" and each of the three substantive areas.

24. GOPAC had a number of roles in regard to the course. They included:

a. Starting in or about February 1993, employees and consultants for GOPAC were involved in developing the course. As of June 1, 1993, Jeffrey Eisenach, GOPAC's Executive Director, and two of his assistants, resigned from their positions at GOPAC to manage the operations of the course. They did, however, maintain a consulting contract under which GOPAC paid one-half of their salaries through September 30, 1993.

b. In a letter sent to all GOPAC Charter Members over Mr. Gingrich's name in June 1993, another aspect of GOPAC's involvement in the course was described as follows:

> During our meeting in January, a number of Charter Members were kind enough to take part in a planning session on "Renewing American Civilization." That session not only affected the substance of what the message was to be, but also how best the new message of positive solutions could be disseminated to this nation's decision makers—elected officials, civic and business leaders, the media and individual voters. In addition to my present avenues of communications I decided to add an avenue close to my heart, that being teaching. I have agreed with Kennesaw State College, a 12,000 student graduate and undergraduate college located in my district, to teach "Renewing American Civilization" as a for-credit class four times during the next four years.

c. GOPAC's Charter Member Meeting in April 1993 was entitled "Renewing American Civilization." At that meeting, Charter Members were asked to help develop the ideas contained in the course. A memorandum to the Charter Member attendees described that process as follows:

> As you are probably aware, Newt will be teaching a for-credit class at Kennesaw State College this Fall on the topic of "Renewing American Civilization." The class is organized around his "Five Pillars of American Civilization.". . .
>
> During the afternoon of Sunday, April 25, we are asking our Charter Members to participate in a set of breakout sessions, with one session focussing on each of the five "pillars." In particular, we will ask you to critique a draft "visions statement" explaining why we believe each pillar is essential to renewing American Civilization. If past experience is any guide, we expect these sessions to dramatically improve both our understanding of the subject and our ability to communicate it.

d. GOPAC employees took part in fundraising for the course.

e. GOPAC was involved in the promotion of the course. In one such instance, GOPAC prepared and sent a letter concern-

ing the course over Mr. Gingrich's name to College Republicans. The letter included the following:

> [C]onservatives today face a challenge larger than stopping President Clinton. We must ask ourselves what the future would be like if we were allowed to define it, and learn to explain that future to the American people in a way that captures first their imagination and then their votes.
>
> In that context, I am going to devote much of the next four years, starting this Fall, to teaching a course entitled "Renewing American Civilization." In am writing to you today to ask you to enroll for the class, and to organize a seminar so that your friends can enroll as well.
>
> * * * * *
>
> Let me be clear: This is not about politics as such. But I believe the ground we will cover is essential for anyone who hopes to be involved in politics over the next several decades to understand. American cvilization is, after all, the cultural glue that holds us all together. Unless we can understand it, renew it and extend it into the next century, we will never succeed in replacing the Welfare State with an Opportunity Society.
>
> * * * * *
>
> I have devoted my life to teaching and acting out a set of principles. As a fellow Republican, I know you share those values. This class will help us all remember what we're about and why it is so essential that we prevail. Please join me this Fall for "Renewing American Civilization."

f. In letters sent by GOPAC, a partisan, political role for the course was described.

Two letters sent over Mr. Gingrich's name included the following statements:

> i. As we discussed, it is time to lay down a blueprint—which is why in part I am teaching the course on Renewing American Civilization. Hopefully, it will provide the structure to build an offense so that Republicans can break through dramatically in 1996. We have a good chance to make significant gains in 1994, but only if we can reach the point where we are united behind a positive message, as well as a critique of the Clinton program.
>
> ii. I am encouraged by your understanding that the welfare state cannot merely be repaired, but must be replaced and have made a goal of activating at least 200,000 citizen activists nationwide through my course, Renewing American Civilization. We hope to educate people with the fact that we are entering the information society. In order to make sense of this society, we must rebuild an opportunistic country. In essence, if we can reach Americans through my course, independent expenditures, GOPAC and other strategies, we just might unseat the Democratic

majority in the House in 1994 and make government accountable again.

Another letter sent over GOPAC's Finance Director's name included the following statement:

> iii. As the new finance director, I want to introduce myself and to assure you of my commitment and enthusiasm to the recruitment and training of grassroots Republican candidates. In addition, with the course Newt will be teaching in the fall—Renewing American Civilization—I see a very real opportunity to educate the American voting population to Republican ideals, increasing our opportunity to win local, state and Congressional seats.

25. The course was taught at Kennesaw State College in the fall of 1993 and was taught at Reinhardt College in the winters of 1994 and 1995.

26. Each year the course consisted of forty hours of lectures. Mr. Gingrich presented twenty hours of lecture and a co-professor from each of the respective colleges was responsible for the other twenty hours of the course.

27. Each year the course was taught, it was also broadcast throughout the United States via satellite and local cable channels, and distributed via videotape and audiotape. The broadcasts and tapes only encompassed the twenty hours of lectures presented by Mr. Gingrich. Kennesaw State College Foundation and the Progress and Freedom Foundation were responsible for this dissemination of the course; Reinhardt College was not.

28. The money raised and expended for the course was used primarily for the dissemination of the course as described in paragraph 27. In 1993 course expenditures amounted to approximately $300,000, in 1994 course expenditures amounted to approximately $450,000, and in 1995 course expenditures amounted to approximately $450,000.

29. The main message of the course and the main message of the movement was renewing American civilization by replacing the welfare state with an opportunity society. "Renewing American Civilization" was also the main message of GOPAC and the main message of virtually every political and campaign speech made by Mr. Gingrich in 1993 and 1994. The course was, among other things, the primary means for developing and disseminating this message.

30. Mr. Gingrich described the mission of the course and the movement as follows:

> We will develop a movement to renew American Civilization using the 5 pillars of 21st Century Freedom so people understand freedom and progress is possible and their practical, daily lives can be far better. Renewing American Civilization must be communicated as an intellectual-cultural message with governmental-political consequences. As people become convinced American civilization must and can be renewed and the 5 pillars will improve their lives we will encourage them and help them to network together and independently, autonomously initiate improve-

> ments wherever they want. However, we will focus on economic growth, health, and saving the inner city as the first three key areas to improve. Our emphasis will be on reshaping law and government to facilitate improvement in all of american [sic] society. We will emphasize elections, candidates and politics as vehicles for change and the news media as a primary vehicle for communications. To the degree Democrats agree with our goals we will work with them but our emphasis is on the Republican Party as the primary vehicle for renewing American civilization.

31. In a memorandum addressed to "Various Gingrich Staffs," which included GOPAC employees and consultants as well as people involved in Mr. Gingrich's campaign, Mr. Gingrich described the broad application of the Renewing American Civilization message as follows:

> I believe the vision of renewing American civilization will allow us to orient and focus our activities for a long time to come.
>
> At every level from the national focus of the Whip office to the 6th district of Georgia focus of the Congressional office to the national political education efforts of GOPAC and the re-election efforts of FONG we should be able to use the ideas, language and concepts of renewing American civilization.

He then described the role of the course in this process:

> The course is only one is a series of strategies designed to implement a strategy of renewing American civilization.

Another of Mr. Gingrich's strategic involving the course was:

> Getting Republican activists committed to renewing American civilization, to setting up workshops built around the course, and to opening the party up to every citizen who wants to renew American civilization.

32. In writing about the goals of the movement, Mr. Gingrich wrote:

> Our overall goal is to develop a blueprint for renewing America by replacing the welfare state, recruit, discover, arouse and network together 200,000 activists including candidates for elected office at all levels, and arouse enough volunteers and contributors to win a sweeping victory in 1996 and then actually implement our victory in the first three months of 1997.

The "sweeping victory" referred to in this document is by Republicans. Mr. Gingrich went on to describe the specific goals within the overall goal, all of which were to be accomplished through the course.

> 1. By April 1996 have a thorough, practical blueprint for replacing the welfare state that can be understood and supported by voters and activists.
>
> We will teach a course on Renewing American civilization on ten Saturday mornings this fall and make it avail-

> able by satellite, by audio and video tape and by computer to interested activists across the country. A month will then be spent redesigning the course based on feedback and better ideas. Then the course will be retaught in Winter Quarter 1994. It will then be rethought and redesigned for nine months of critical re-evaluation based on active working groups actually applying ideas across the country the course will be taught for one final time in Winter Quarter 1996.
>
> 2. Have created a movement and momentum which require the national press corps to actually study the material in order to report the phenomenon thus infecting them with new ideas, new language and new perspectives.
>
> 3. Have a cadre of at least 200,000 people committed to the general ideas so they are creating an echo effect on talk radio and in letters to the editor and most of our candidates and campaigns reflect the concepts of renewing America.
>
> Replacing the welfare state will require about 200,000 activists (willing to learn now [sic] to replace the welfare state, to run for office and to actually replace the welfare state once in office) and about six million supporters (willing to write checks, put up yard signs, or do a half day's volunteer work).

33. In a speech at a GOPAC training seminar for candidates at the Virginia Republican Convention in June 1993, Mr. Gingrich described a partisan goal of the movement.

> We can't do much about the Democrats. They went too far to the left; they're still too far to the left; that's their problem. But we have a huge burden so that everyone who wants to replace the welfare state and everyone who wants to renew American civilization has a home, and it's called being a Republican. We have to really learn how to bring them all in.

He then discussed the role of the course in the movement and described how the "five pillars" of the Renewing American Civilization course could be applied to political campaigns.

> Now, let me start just as a quick overview. First, as I said earlier, American civilization is a civilization. Very important. It is impossible for anyone on the left to debate you on that topic.
>
> * * * * *
>
> But the reason I say that is if you go out and you campaign on behalf of American civilization and you want to renew American civilization, it is linguistically impossible to oppose you. And how is your opponent going to get up and say I'm against American civilization?

Near the end of the speech he stated:

> I believe, if you take the five pillars I've described, if you find the three areas that will really fit you, and are really in a position to help you, that you are then going to have

a language to explain how to replace the welfare state, and three topics that are going to arouse volunteers and arouse contributions and help people say, Yes, I want this done.

34. In a number of other instances, Mr. Gingrich applied the ideas of the course to partisan, political purposes. Examples include:

a. In a document entitled "House Republican Focus for 1994" Mr. Gingrich wrote:

> The Republican party can offer a better life for virtually everyone if it applies the principles of American civilization to create a more flexible, decentralized market oriented system that uses the Third Wave of change and accepts the disciplines of the world market.
>
> These ideas are outlined in a 20 hour intellectual framework "Renewing American Civilization" available on National Empowerment Television every Wednesday from 1 pm to 3 p.m. and available on audio tape and video tape from 1–800–TO RENEW.

b. In a document Mr. Gingrich said was a briefing paper for House Republican Members, he described the movement to renew American civilization. Renewing American civilization required the replacement of the welfare state with an opportunity society. He wrote that doing this will require at least 200,000 "partners for progress" willing to study the principles of American civilization, work on campaigns, run for office, and engage in other activities to further the movement. Under the heading "LEARNING THE PRINCIPLES OF AMERICAN CIVILIZATION" Mr. Gingrich wrote, "The course, 'Renewing American Civilization', is designed as a 20 hour introduction to the principles necessary to replace the welfare state with an opportunity society." On the next page entitled "Connecting the 'Partners' to the 'Principles,'" Mr. Gingrich described where the course was being taught, including the fact that it was being broadcast for fifty weeks during 1994 on National Empowerment Television. He then wrote that, "Our goal is to get every potential partner for progress to take the course and study the principles."

In a document entitled "*The 14 Steps* Renewing American Civilization by replacing the welfare state with an opportunity society," Mr. Gingrich described a relationship between the course and the movement. He began with the proposition that the welfare state had failed and needed to be replaced. In describing the replacement, Mr. Gingrich wrote that it:

> Must be an opportunity society based on the principles of American civilization. . . .
>
> These principles each receive two hours of introduction in "Renewing American Civilization", a course taught at Reinhardt College. The course is available on National Empowerment Television from 1–3 p.m. every Wednesday and by videotape or audiotape by calling 1–800–TO–RENEW.

Mr. Gingrich then wrote:

> The Democrats are the party of the welfare state. Too many years in office have led to arrogance of power and to continuing violations of the basic values of self-government.
>
> Only by voting Republican can the welfare state be replaced and an opportunity society be created.

35. From in or about June 1993 through in or about December 1993, the course was funded and operated with tax-exempt funds under the auspices of the Kennesaw State College Foundation, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. From in or about December 1993 through in or about July 1995, the course was funded and operated under the auspices of the Progress and Freedom Foundation, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. In 1994 and 1995 the course was taught at Reinhardt College, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

36. Under the Internal Revenue Code, an organization which is exempt from taxation under section 501(c)(3) must be operated exclusively for exempt purposes. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Conferring a benefit on private interests is a non-exempt purpose. Under the Internal Revenue Code, an organization which is exempt from taxation under section 501(c)(3) is also prohibited from any participation in a political campaign or from providing any support to a political action committee. These prohibitions reflect Congressional concerns that tax-payer funds not be used to subsidize political activity.

37. Although Mr. Gingrich consulted with the House Committee on Standards of Official Conduct ("Committee") prior to teaching the course, he did not seek specific legal advice concerning the application of section 501(c)(3) of the Internal Revenue Code in regard to the facts described in paragraphs 17 through 35 from an appropriate source and did not take affirmative steps to ensure that such legal advice was obtained by others from an appropriate source.

38. During the Preliminary Inquiry the Subcommittee consulted with an expert in the law of tax-exempt organizations. Mr. Gingrich's activities on behalf of the Kennesaw State College Foundation, the Progress and Freedom Foundation, and Reinhardt College in regard to the course entitled "Renewing American Civilization" and the activities of others on behalf of those organizations with Mr. Gingrich's knowledge and approval were reviewed by the expert. The expert concluded that those activities violated Kennesaw State College Foundation's status under section 501(c)(3) of the Internal Revenue Code, the Progress and Freedom Foundation's status under section 501(c)(3) of the Internal Revenue Code, and Reinhardt College's status under section 501(c)(3) of the Internal Revenue Code in that, among other things, those activities were intended to confer more than insubstantial benefits on Mr. Gingrich, GOPAC, and other Republican entities and candidates.

39. The Subcommittee also heard from tax counsel retained by Mr. Gingrich for the purposes of this Preliminary Inquiry. According to Mr. Gingrich's tax counsel, this type of activity would not

violate the status of the Kennesaw State College Foundation, the Progress and Freedom Foundation, or Reinhardt College under section 501(c)(3) of the Internal Revenue Code.

40. Both the Subcommittee's expert and Mr. Gingrich's tax counsel agree that had they been consulted about this type of activity prior to its taking place, they would have advised that it not be conducted under the auspices of an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

41. If the legal advice described in paragraph 40 had been sought and followed, most, if not all, of the tax-deductible charitable contributions would not have been used for the activities described in paragraphs 17 through 35. As a result, the public controversy involving the legality of a Member's involvement with organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code concerning activities described in paragraphs 17 through 35 would not have occurred.

42. On or about September 7, 1994, a complaint was filed against Mr. Gingrich with the Committee. The complaint centered on the course entitled "Renewing American Civilization." Among other things, it alleged that Mr. Gingrich had used his congressional staff to work on the course and that he had misused organizations that were exempt from taxation under section 501(c)(3) of the Internal Revenue Code because the course was a partisan, political project, with significant involvement by GOPAC, and was not a permissible activity for a section 501(c)(3) organization.

43. On or about October 4, 1994, Mr. Gingrich wrote the Committee in response to the complaint and primarily addressed the issues concerning the use of congressional staff for the course. In doing so he stated:

> I would like to make it abundantly clear that those who were paid for course preparation were paid by either the Kennesaw State Foundation, [sic] the Progress and Freedom Foundation or GOPAC. . . . Those persons paid by one of the aforementioned groups include: Dr. Jeffrey Eisenach, Mike DuGally, Jana Rogers, Patty Stechschultez [sic], Pamla Prochnow, Dr. Steve Hanser, Joe Gaylord and Nancy Desmond.

44. On or about October 31, 1994, the Committee sent Mr. Gingrich a letter asking for additional information concerning the allegations of misuse of tax-exempt organizations in regard to the course. The Committee also asked for information relating to the involvement of GOPAC in various aspects of the course.

45. Whether any aspects of the course were political or partisan in their motivation, application, or design was material to the Committee's deliberations in regard to the complaint. Whether GOPAC had any involvement with the course was also material to the Committee's deliberations in regard to the complaint.

46. In November 1994, Mr. Gingrich retained counsel to represent him in connection with the Committee's investigation. According to Mr. Gingrich, he then relied on counsel to respond to and otherwise address issues and concerns raised by the Committee. Mr. Gingrich, however, remained ultimately responsible for fully, fairly, and accurately responding to the Committee.

47. Between on or about December 8, 1994, and on or about December 15, 1994, Mr. Gingrich delivered or caused to be delivered to the Committee a letter dated December 8, 1994, signed by Mr. Gingrich in response to the Committee's letter described in paragraph 44. According to testimony before the Subcommittee, the six-page December 8, 1994 letter was prepared by Mr. Gingrich's attorney and submitted to Mr. Gingrich for review during the transition following the 1994 election. In the December 8, 1994 letter Mr. Gingrich made the following statements:

> [The course] was, by design and application, completely nonpartisan. It was and remains about ideas, not politics. (Page 2).
>
> The idea to teach "Renewing American Civilization" arose wholly independent of GOPAC, because the course, unlike the committee, is non-partisan and apolitical. My motivation for teaching these ideas arose not as a politician, but rather as a former educator and concerned American citizen. . . . Page 4).
>
> The fact is, "Renewing American Civilization" and GOPAC have never had any official relationship. (Page 4).
>
> GOPAC . . . is a political organization whose interests are not directly advanced by this non-partisan educational endeavor. (Page 5).
>
> As a political action committee, GOPAC never participated in the administration of "Renewing American Civilization." (Page 4).
>
> Where employees of GOPAC simultaneously assisted the project, they did so as private, civic-minded individuals contributing time and effort to a 501(c)(3) organization. (Page 4).
>
> Ancitipating media or political attempts to link the Course to [GOPAC], "Renewing American Civilization" organizers went out of their way to avoid even the appearances of improper association with GOPAC. Before we had raised the first dollar or sent out the first brochure, Course Project Director Jeff Eisenach resigned his position at GOPAC. (Page 4).

48. On or about January 26, 1995, an amended complaint against Mr. Gingrich was filed with the Committee. The amended complaint encompassed the same allegations as the complaint described in paragraph 42, as well as additional allegations.

49. On or about March 27, 1995, Mr. Gingrich's attorney prepared, signed, and caused a fifty-two page letter dated March 27, 1995, with 31 exhibits to be delivered to the Committee responding to the amended complaint. The March 27, 1995 letter was submitted to Mr. Gingrich shortly before it was filed with the Committee.

50. Prior to the letter from Mr. Gingrich's attorney being delivered to the Committee, Mr. Gingrich reviewed it and approved its submission to the Committee. The ultimate responsibility for the accuracy of information submitted to the Committee remained with Mr. Gingrich.

51. The March 27, 1995 letter contains the following statements:

> As Ex. 13 demonstrated, the course solicitation . . . materials are completely non-partisan. (Page 19, footnote 1).
>
> GOPAC did not become involved in the Speaker's academic affairs because it is a political organization whose interests are not advanced by this non-partisan educational endeavor. (Page 35).
>
> The Renewing American Civilization course and GOPAC have never had any relationship, official or otherwise. (Page 35).
>
> As noted previously, GOPAC has had absolutely no role in funding, promoting, or administering Renewing American Civilization. (Pages 34–35).
>
> GOPAC has not been involved in course fundraising and has never contributed any money or services to the course. (Page 28).
>
> Anticipating media or political attempts to link the course to GOPAC, course organizers went out of their way to avoid even the appearance of associating with GOPAC. Prior to becoming Course Project Director, Jeffrey Eisenach resigned his position at GOPAC and has not returned. (Page 36).

52. Mr. Gingrich engaged in conduct that did not reflect creditably on the House of Representatives in that: regardless of the resolution of whether the activities described in paragraphs 2 through 41 constitute a violation of section 501(c)(3) of the Internal Revenue Code, by failing to seek and follow the legal advice described in paragraphs 15 and 40, Mr. Gingrich failed to take appropriate steps to ensure that the activities described in paragraphs 2 through 41 were in accordance with section 501(c)(3) of the Internal Revenue Code; and on or about March 27, 1995, and on or about December 8, 1994, information was transmitted to the Committee by and on behalf of Mr. Gingrich that was material to matters under consideration by the Committee, which information, as Mr. Gingrich should have known, was inaccurate, incomplete, and unreliable.

53. The conduct described in this Statement of Alleged Violation constitutes a violation of Rule 43(1) of the Rules of the United States House of Representatives.

APPENDIX C

INVESTIGATIVE SUBCOMMITTEE OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN THE MATTER OF REPRESENTATIVE BARBARA-ROSE COLLINS

STATEMENT OF ALLEGED VIOLATION, ADOPTED SEPTEMBER 12, 1996

I. RELEVANT STANDARDS OF CONDUCT AND LAWS

At all times relevant to the violations hereafter alleged, the pertinent provisions of House Rules and laws stated as follows:

A. House Rule XLIII, Clause 1 (Code of Official Conduct)

> "A Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

B. House Rule XLIII, Clause 6 (Code of Official Conduct)

> "A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes."

C. House Rule XLIII, Clause 8 (Code of Official Conduct)

> "A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority."

D. House Rule XLV

> "No Member may maintain or have maintained for his use an unofficial office account." According to the Committee's interpretation of Rule 45, "outside private donations, funds, campaign contributions, or in-kind services may not be used to support the activities of, or pay the expenses of, a congressional office." (*House Ethics Manual* at 217.) Private funds may be used "only to support private or political, and not official, activities." (*Id.* at 218; *see also id.* at 221.)

E. 31 U.S.C. § 1301(a)

> "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."

F. Committee on House Administration, Congressional Handbook, Regulations for Allowances and Expenses of Members, Committees and Employees (June 1993)

Salary adjustments of an employee of a Member "should reflect services performed during the particular pay period or may reflect exceptional performance during the course of an allowance year. Increases should be made only when the services of the individual(s) warrant." (Page 7)

"Each Member is authorized an Official Expenses Allowance to pay ordinary and necessary business expenses incurred by the Member (and/or the Member's employees) . . . in support of the conduct of the Member's official and representational duties to the district from which he/she was elected. . . . This allowance may not be used to defray any personal, political or campaign related expenses . . . or expenses related to the conduct of other than official and representational business." (Page 23)

"Each Member and his/her clerk-hire employees may be reimbursed for travel expenses incurred in support of the conduct of the Member's official and representational duties to the district from which the Member was elected. (Page 36)

"Travel expenses incurred by someone other than the Member or his/her employees are not payable from the Official Expenses Allowance." (Page 36)

"Travel expenses incurred in support of the conduct of personal, political, or campaign-related business . . or in support of the conduct of other than official and representational business are not payable from the Official Expenses Allowance." (Page 36)

G. Committee on House Oversight, Members' Congressional Handbook, Regulations Governing the Members' Representational Allowance of the U.S. House of Representatives (1995)

"All Members have one 'Members' Representational Allowance' (MRA) available to support the conduct of official and representational duties to the district from which elected. . . . The MRA may *not* be used to pay for any personal, political, campaign, or committee expenses. (Page 1) (Emphasis in original)

"Members may adjust, in any month, a Clerk Hire employee's salary to reflect exceptional, meritorious, or less than satisfactory service." (Page 9)

"Travel expenses incurred by someone other than Members or their Clerk Hire employees are *not* reimbursable from the MRA." (Page 46) (Emphasis in original)

H. Regulations Regarding Solicitation Promulgated by Committee on Standards of Official Conduct

The *House Ethics Manual* states that "Members, officers, and employees of the House *may* solicit funds on behalf of charitable organizations qualified under § 170(c) of the Internal Revenue Code, provided that no official resources are used, no official endorsement is implied, and no direct personal benefit results. No solicitation may bear official letterhead, the Great

Seal, or the terms 'Congress of the United States,' 'House of Representatives,' or 'official business.' . . . Questions regarding solicitations on behalf of entities that are not charities qualified under § 170(c) should be addressed to the Committee." (*House Ethics Manual* at 51) (emphasis in original). That guidance is based on an October 9, 1990, memorandum from the Committee on Standards of Official Conduct to all Members, Officers, and Employees of the House of Representatives. In addition to the guidance discussed above, that memorandum states: "The Committee will address on a case-by-case basis the extent to which a Member, officer, or employee may personally control the distribution of funds from a charity for which he or she solicits funds." (*House Ethics Manual* at 65)

II. ALLEGED VIOLATIONS

COUNT I—MISUSE OF OFFICIAL RESOURCES (CAMPAIGN ACTIVITY BY HOUSE EMPLOYEES)

The record indicates that during calendar years 1994 and 1995, House employees in the district and Washington, D.C. congressional offices of the Respondent, Representative Barbara-Rose Collins, regularly performed work for the Respondent's campaign at times when they should have been performing official duties, and often in the congressional office, with the Respondent's knowledge and approval. Such activities included: (1) collecting campaign contribution checks from a campaign post office box; (2) depositing campaign contribution checks; (3) maintaining the financial records of the Respondent's campaign organization; (4) paying the campaign's bills; and (5) organizing campaign events. Because the Respondent permitted appropriations to be applied to objects other than those for which the appropriations were made, the Committee has reason to believe that the Respondent violated 31 U.S.C. § 1301(a) and corresponding Regulations of the Committee on House Administration and the House Committee on Oversight. Because of the frequency with which employees of the Respondent performed campaign-related activities in the manner described above, and the Respondent's knowledge and approval of such activities, the Committee also has reason to believe that the Respondent conducted herself in a manner that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of the Representatives.

COUNT II—MISUSE OF OFFICIAL RESOURCES (USE OF OFFICIAL FUNDS FOR CAMPAIGN PURPOSES)

The record indicates that on or about April 4, 1995, Jerry Springs, an employee of the Respondent's congressional office in Detroit, traveled to Washington, D.C. for the primary purpose of attending a fundraising event benefiting the Respondent's campaign committee. The record also indicates that, with the Respondent's knowledge and approval, official funds of the House of Representatives were used to pay for Mr. Springs' lodging in Washington. The record indicates that the Respondent's congressional office in Washington, D.C. submitted a voucher to the House Office of Fi-

nance regarding Mr. Springs' lodging expenses, which represented that the purpose of the travel was "official business." The record also indicates that the Respondent signed and approved that voucher.

The record further indicates that the Respondent's congressional office, with the knowledge and approval of the Respondent, used official funds of the House of Representatives to purchase a round-trip airline ticket from Detroit to Washington, D.C. in the name of Milton Harris, another employee of the Respondent's Detroit congressional office. The record indicates that the Respondent's congressional office submitted a voucher to the House Office of Finance regarding the cost of Mr. Harris' round-trip air transportation, which represented that the purpose of the travel was "official business." The record also indicates that the Respondent signed and approved that voucher. The record indicates that Mr. Harris did not use the airline ticket purchased in his name, and that instead, the ticket was used by Leon Robinson, a personal friend of the Respondent's who was not employed by the House of Representatives, with the knowledge and approval of the Respondent.

Because the Respondent permitted appropriations to be applied to objects other than those for which the appropriations were made, the Committee has reason to believe that the Respondent violated 31 U.S.C. § 1301(a) and corresponding Regulations of the Committee on House Administration and the House Committee on Oversight. For the reasons cited above, the Committee also has reason to believe that the Respondent acted in a manner that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of the Representatives.

COUNT III—MISUSE OF OFFICIAL RESOURCES (PERFORMANCE OF PERSONAL SERVICES BY HOUSE EMPLOYEES)

The record indicates that during calendar years 1994 and 1995, House employees in the Respondent's congressional offices in Detroit and Washington, D.C. regularly performed personal services for the Respondent at times when they should have been performing official duties, with the Respondent's knowledge and approval. Such personal service included: (1) paying the Respondent's personal bills; (2) picking up the Respondent's personal mail; (3) cleaning the Respondent's personal residence; and (4) affording access to the Respondent's personal residence for deliveries and the performance of personal services. Because the Respondent permitted appropriations to be applied to objects other than those for which the appropriations were made, the Committee has reason to believe that the Respondent violated 31 U.S.C. § 1301(a) and corresponding Regulations of the Committee on House Administration and the House Committee on Oversight. Because the regularity with which House employees performed personal services for the Respondent, the Committee also has reason to believe that the Respondent conducted herself in a manner that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of Representatives.

COUNT IV—MISUSE OF OFFICIAL RESOURCES (IMPROPER USE OF VOUCHERED POSTAGE STAMPS)

The record indicates that during calendar years 1994 and 1995, the Washington, D.C. congressional office of the Respondent purchased first-class postage stamps with official funds that were used by employees of the Respondent's congressional offices to pay the Respondent's personal bills and bills incurred by the Respondent's campaign committee, with the knowledge and approval of the Respondent. Because the Respondent permitted appropriations to be applied to objects other than those for which the appropriations were made, the Committee has reason to believe that the Respondent violated 31 U.S.C. § 1301(a) and corresponding Regulations of the Committee on House Administration and the House Committee on Oversight. Because the record indicates that the above-described use of vouchered postage stamps occurred with the knowledge and approval of the Respondent, the Committee also has reason to believe that the Respondent did not conduct herself in a manner that reflects creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of Representatives.

COUNT V—MISUSE OF OFFICIAL RESOURCES (USE OF OFFICIAL FUNDS FOR PERSONAL PURPOSES)

The record indicates that during calendar years 1994 and 1995, the congressional offices of the Respondent used official funds to send several packages by overnight mail concerning the Respondent's personal affairs, with the Respondent's knowledge and approval. Because the Respondent permitted appropriations to be applied to objects other than those for which the appropriations were made, the Committee has reason to believe that the Respondent violated 31 U.S.C. § 1301(a) and corresponding Regulations of the Committee on House Administration and the House Committee on Oversight. Because the record indicates that official funds were used in the manner described with the knowledge and approval of the Respondent, the Committee also has reason to believe that the Respondent did not conduct herself in a manner that reflects creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of Representatives.

COUNT VI—MISUSE OF CAMPAIGN RESOURCES (COMMINGLING AND CONVERSION)

The record indicates that funds from the Respondent's campaign committee improperly were used for the Respondent's personal purposes on several occasions during calendar years 1994 and 1995, with the knowledge and approval of the Respondent.

1. The record indicates that on or about June 30, 1994, the Respondent's campaign committee, "Friends of Barbara-Rose Collins," issued a check in the amount of $3,911.00 payable to Barbara-Rose Collins, purportedly for reimbursement of expenses concerning a campaign event. The record also indicates that the Respondent endorsed that check and, on or about July 1, 1994, caused it to be

deposited in her personal checking account at the Wright Patman Congressional Credit Union ("Credit Union").

2. The record indicates that on or about August 3, 1994, Friends of Barbara-Rose Collins issued a check in the amount of $2,900.00 payable to "Cash" in connection with fundraising events and the NAACP. The record also indicates that the Respondent endorsed the check and, on or about August 5, 1994, caused it to be deposited in her personal checking account at the Credit Union.

3. The record indicates that:

a. On or about November 8, 1994, Friends of Barbara-Rose Collins issued a check in the amount of $8,500.00 payable to Jerry Springs, District Director of the Respondent's congressional office in Detroit, purportedly for election day poll workers and other election day expenses.

b. On the same day, November 8, 1994, Mr. Springs cashed the same $8,500.00 check at Comerica Bank in Detroit.

c. On or about November 14, 1994, Mr. Springs used cash to purchase a cashier's check at Comerican Bank in Detroit in the amount of $8.500.00, made payable to Barbara-Rose Collins.

d. On or about November 15, 1994, the same cashier's check purchased by Mr. Springs in the amount of $8.500.00 was deposited in to the Respondent's personal checking account at the Credit Union.

4. The record indicates that:

a. On or about March 6, 1995, Friends of Barbara-Rose Collins issued a check in the amount of $2,400.00, payable to "Comerica." That check was co-signed and endorsed by the Respondent.

b. On or about the same day, March 6, 1995, Comerica Bank in Detroit issued a cashier's check payable to Barbara-Rose Collins in the amount of $2,400.00.

c. On or about March 9, 1995, $2,400.00 was deposited into the Respondent's checking account at the Credit Union.

5. The record indicates that:

a. On or about August 7, 1995, the Respondent purchased a freezer, oven, and electric dryer from ABC Warehouse in Southfield, Michigan.

b. The Respondent effected that purchase by means of a check in the amount of $913.72 drawn on the account of Friends of Barbara-Rose Collins and signed by the Respondent.

c. The Respondent instructed a salesperson at ABC Warehouse to have the oven and dryer delivered to her vacation home at Shay Lake, Michigan.

d. Employees of the Respondent's congressional office in Detroit subsequently delivered the oven and dryer to the Respondent's home at Shay Lake, Michigan.

e. On or about October 3, 1995, the Respondent issued a personal check in the amount of $354.00 payable to the Friends of Barbara-Rose Collins in partial reimbursement for the campaign's purchase of the oven and dryer.

Based on the foregoing, the Committee has reason to believe that the Respondent commingled campaign and personal funds, and converted campaign funds to personal use, in violation of the Code of Official Conduct as set forth in Clause 6 of Rule XLIII of the

House of Representatives. In addition, the Committee has reason to believe that the Respondent conducted herself in a manner that does not reflect creditability on the House of Representatives, in violation of the Code of Office Conduct, as set forth in Clause 1 of Rule XLIII of the House of the Representatives.

COUNT VII—MISUSE OF CAMPAIGN FUNDS (EXPENDITURE OF CAMPAIGN FUNDS NOT ATTRIBUTABLE TO BONA FIDE CAMPAIGN OR POLITICAL PURPOSES)

The record indicates that the Respondent's campaign committee made numerous expenditures during calendar year 1994 and 1995 that were not attributable to bona fide campaign or political purposes, with the knowledge and approval of the Respondent.

1. The record indicates that on or about October 26, 1994, the Respondent caused a check to be issued on the account of her campaign committee in the amount of $1,000.00, payable to Detroit Edison. A handwritten annotation on the check indicated that the purpose of the check was to "Reconnect 19713 Ridgemont St. Clair Shores," while a campaign filing with the Federal Election Commission ("FEC") dated January 8, 1996, indicated that the purpose of the disbursement was to "reconnect 19731 Ridgemont constituents." The $1,000.00 campaign expenditure was made on behalf of Joyce Smith, an employee of the Respondent's Detroit congressional office, for the purpose of enabling Ms. Smith to pay her residential electric bill. Ms. Smith was not a constituent at the time of the payment, and she later reimbursed the Respondent in two direct cash payments of $500.00 each.

2. The record indicates that on or about December 6, 1994, a check drawn on the account of the Respondent's campaign committee was issued in the amount of $4,000.00, payable to Jerry Springs, District Director of the Respondent's congressional office in Detroit. The record indicates that Mr. Springs cashed the check on or about December 7, 1994. A campaign filing with the FEC dated January 8, 1996, represented that the purpose of the expenditure related to the "Panafest event," while the check register corresponding to the $4,000.00 check stated that the purpose of the payment concerned the "Panafest Reception." The record indicates that the term "Panafest" pertains to an event that occurred in Ghana during a personal visit there in December 1994 by the Respondent and members of her congressional staff, including Mr. Springs.

The Record indicates that:

a. On or about Janaury 20, 1995, a check drawn on the account of the Respondent's campaign committee, co-signed by the Respondent, was issued in the amount of $8,043.11, payable to American Express.

b. That payment to American Express related at least in part to personal expenses incurred by the Respondent at the "Golden Tulip Hotel," which, according to the record, is a hotel in Ghana that the Respondent visited during her December 1994 trip to Africa.

c. According to documents filed with the FEC by the Respondent's campaign committee, on or about February 10, 1995, the Respondent's campaign committee disbursed

$1,673.00 to "African Art Market in Accra, Ghana" for "Art objects for offices" in "DC/District."

4. On or about February 9, 1995, a check drawn on the account of the Respondent's campaign committee was issued in the amount of $300.00, payable to "Mary Pointer" for "Services Rendered." The corresponding check register also stated that the purpose of the expenditure was "services rendered," while a campaign filing with the FEC dated January 8, 1996, represented that the purpose concerned "maintenance campaign mtgs." The record indicates that the $300.00 in campaign funds were used to pay for the cleaning of the Respondent's personal residence in Detroit.

Based on the foregoing, the Committee has reason to believe that the Respondent violated the Code of Official Conduct as set forth in Clause 6 of Rule XLIII of the House of Representatives. In addition, the Committee has reason to believe that the Respondent conducted herself in a manner that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of Representatives.

COUNT VIII—MISUSE IF SCHOLARSHIP COMMITTEE FUNDS

The record indicates that the Respondent commingled with personal funds, and converted to personal use, funds of the Collins Congressional Community Scholarship Committee ("CCCSC") on several occasions during calendar years 1994 and 1995.

1. The record indicates that on or about May 3, 1994, a check drawn on the account of the CCCSC was issued in the amount of $9,800.00, payable to "Cash" for "Scholarships." The record indicates that the Respondent signed and endorsed that check. The record further indicates that on or about May 4, 1994, the same check in the amount of $9,800.00 was deposited into the Respondent's personal checking account at the Credit Union.

2. The record indicates that on or about August 15, 1994, a check drawn on the account of the CCCSC was issued in the amount of $1,200.00, payable to Barbara-Rose Collins for "Kande Dean." The record indicates that the Respondent signed and endorsed that check, and that check was cashed on or about August 15, 1994.

3. The record indicates that on or about October 24, 1994, a check drawn on the account of the CCCSC was issued in the amount of $3,812.11, payable to American Express. The Record also indicates that this payment was made in connection with the Respondent's personal American Express account.

4. The record indicates that on or about November 9, 1994, a check drawn on the account of the CCCSC was issued in the amount of $8,000.00, signed by Barbara-Rose Collins and payable to Valerie Nicholas for "Festival of Giving." At the time, Ms. Nicholas was an employee of the Respondent's congressional office in Washington, D.C. The Respondent directed Ms. Nicholas to cash the check on behalf of the Respondent, and to bring the cash to the Respondent at her home. On or about November 10, 1994, Ms. Nicholas cashed the $8,000.00 check at Riggs Bank in Washington, D.C. and delivered the cash proceeds to the Respondent at her home in Virginia.

5. The record indicates that:

a. On or about May 7, 1995, the Respondent issued a check drawn on her personal account at the Credit Union in the amount of $5,000.00, payable to "Classic Consignments." Classic Consignments is a business in Palm Desert, California, that sells second-hand home furnishings and other merchandise.

b. On or about May 9, 1995, a check drawn on the account of the CCCSC was issued in the amount of $8,900.00, payable to "Comerica/Cash" for "Classic Consignments." The Respondent signed the check.

c. On or about May 9, 1995, the same $8,900.00 check drawn on the account of the CCCSC was deposited into the Respondent's personal account at Comerica Bank in Detroit.

d. On or about May 13, 1995, the Respondent purchased several personal items from Classic Consignments, including chandeliers and a Tiffany lamp, at a cost of $4,400.00. The Respondent ordered the delivery of the items to her home in Detroit, bringing the total cost of the transaction to approximately $5,646.00

e. On or about June 1, 1995, the Respondent issued a check drawn on her personal account at the Credit Union in the amount of $8,900.00, payable to the CCCSC in reimbursement for $8,900.00 drawn from the CCCSC account on or about May 9, 1995. On or about September 20, 1995, that check was deposited into the CCCSC account at Riggs Bank in Washington, D.C.

6. On or about October 3, 1995, a check drawn on the account of the CCCSC was issued in the amount of $3,888.90, payable to American Express for "CBC Week Hotel Expenses & Misc. Hyatt Regency." Respondent signed the check. The record indicates that the proceeds from the check were used in connection with an annual social event in Washington, D.C. relating to the Congressional Black Caucus.

7. The record indicates that on or about October 27, 1995, the Respondent closed the bank account of the CCCSC at Riggs Bank in Washington, D.C. In closing the account, Respondent issued a check drawn on the account in the amount of $12,367.91, made payable to "Riggs/Barbara-Rose Collins." On or about the same day, the Respondent cashed the check in the amount of $12,367.91 and used the cash proceeds to purchase a cashier's check from Riggs Bank in the amount of $6,853.91, payable to herself. The Respondent also purchased a second cashier's check from Riggs Bank in the amount of $4,000.00, payable to "Operation Get Down." The latter cashier's check bears the Respondent's endorsement and, beneath the endorsement, the handwritten annotation, "Not used for purpose intended."

Based on the foregoing, the Committee has reason to believe that the Respondent conducted herself in a manner that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of Representatives.

COUNT IX—MAINTENANCE OF UNOFFICIAL ACCOUNT

1. The record indicates that in early October 1995, Jerry Springs, the District Director of the Respondent's congressional office in De-

troit, transmitted a check in the amount of $500.00, drawn on the account of the Respondent's campaign committee, To Deputy District Director Cecilia Walker. A handwritten annotation on the check indicates that the purpose of the check was to provide a fund for "petty cash" expenses, and the record indicates that Mr. Springs advised Ms. Walker that the check was to be used for petty cash purposes. In addition, in late October or early November 1995, the Respondent personally gave a check in the amount of $1,000.00, drawn on her campaign committee's account, to Ms. Walker with instructions to use the money for petty cash expenses. The Respondent directed Ms. Walker to use petty cash consisting of campaign funds for expenditures concerning the district congressional office. The record also indicates that the petty cash fund was used to purchase items for the Respondent's congressional office in Detroit.

2. The record indicates that on or about May 16, 1995, the Respondent's campaign committee disbursed $270.00 to the "Senegal Art Market" to purchase "art carvings" for the Respondent's congressional offices in Washington, D.C. and Detroit.

Because outside donations, including campaign contributions, may not be used to support the activities of, or pay the expenses of, a congressional office, the Committee has reason to believe that the Respondent violated Rule XLV of the House of Representatives. Because the Respondent conducted herself in a manner that does not reflect creditably on the House of Representatives, the Committee also has reason to believe that the Respondent violated the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of Representatives.

COUNT X—HOUSE EMPLOYEE RAISES NOT COMMENSURATE WITH OFFICIAL DUTIES

The record indicates that in the summer and fall of 1994, the Respondent awarded substantial bonuses to several members of her congressional staff in the form of temporary salary increases. The record further indicates that each of the House employees who received these salary adjustments traveled to Africa with Representative Collins in December 1994, that the trip to Africa was personal in nature, and that the purpose of the adjustments was to enable those employees to pay for their travel to Africa. The Committee therefore has reason to believe that the compensation awarded to the House employees in question was not commensurate with the performance of their official duties, and that Representative Collins violated the Code of Official Conduct as set forth in Clause 8 of Rule XLIII of the House of Representatives. Because the Respondent conducted herself in a manner that does not reflect creditably on the House of Representatives, the Committee also has reason to believe that the Respondent violated the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of Representatives.

COUNT XI—IMPROPER SOLICITATION

The record indicates that on or about August 3, 1994, the Respondent's congressional office in Washington, D.C. sent letters to private corporations soliciting financial contributions to sponsor the

"Michigan Bash IV," described in the solicitation letter as a "gala reception" occurring on September 16, 1994, in connection with the Congressional Black Caucus. The letter was sent on Representative Collins' official congressional letterhead bearing the term "Congress of the United States," and it was signed by Representative Collins. The letter directed that contribution checks "should be made payable to the Collins Congressional Community Service Committee, and forwarded to 1108 Longworth HOB, Washington, D.C. 20515"—the location of Representative Collins' congressional office at that time. In addition, the letter stated that "[c]hecks will be deposited directly into an account set up specifically for the reception."

The record indicates that the "Collins Congressional Community Service Committee" is the same organization known as the "Collins Congressional-Community Scholarship Committee" ("CCCSC"). In addition, the record indicates that (1) the CCCSC was not an organization qualified under § 170 of the Internal Revenue Code; (2) neither Representative Collins nor any member of her congressional staff obtained permission from the Committee on Standards of Official Conduct to solicit contributions to the CCCSC; (3) a separate financial account was not established for the deposit of contribution checks for the "Michigan Bash IV"; (4) several thousand dollars in contributions were received as a result of the solicitation for the "Michigan Bash IV"; (5) checks were deposited into the preexisting bank account of the CCCSC in Washington, D.C.; and (6) Representative Collins personally exercised control over funds in the bank account of the CCCSC.

Based on the foregoing, the Committee has reason to believe that the Respondent violated applicable House rules governing solicitations. The Committee also has reason to believe that by soliciting private donations to a fund that she controlled, the Respondent conducted herself in a manner that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule XLIII of the House of Representatives.

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