

HOUSE OF REPRESENTATIVES

111TH CONGRESS

2d Session

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

INVESTIGATIVE SUBCOMMITTEE

IN THE MATTER OF REPRESENTATIVE MAXINE WATERS

STATEMENT OF ALLEGED VIOLATION

Adopted June 15, 2010

STATEMENT OF ALLEGED VIOLATIONS

For the following alleged violations, the Investigative Subcommittee has determined there is “substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred.” *See* Rule 19(f), Rules of the Committee on Standards of Official Conduct.

At all times relevant to this Statement of Alleged Violations, Representative Maxine Waters (Respondent) was a Member of the United States House of Representatives representing the 35th District of California. During the 110th Congress, Respondent was Chairwoman of the Housing and Community Opportunity Subcommittee of the Committee on Financial Services.

STATEMENT OF FACTS IN SUPPORT OF ALLEGED VIOLATIONS

I. ONEUNITED BANK’S MEETING WITH THE DEPARTMENT OF THE TREASURY

1. On September 7, 2008, the United States Department of Treasury and the Federal Housing Finance Agency (FHFA) placed the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) into conservatorship (the Conservatorship).

2. OneUnited Bank (OneUnited) held substantial investments in Fannie Mae and Freddie Mac preferred stock.

3. Due to the Conservatorship’s impact on the value of Fannie Mae and Freddie Mac stock, OneUnited incurred unrealized losses that effectively wiped out OneUnited’s Tier 1 capital and threatened the viability of the bank.

4. Sometime around September 7, 2008, Kevin Cohee, the Chief Executive Officer (CEO) and Chairman of the Board of Directors of OneUnited, contacted Respondent to request a meeting with Treasury officials regarding the impact of the Conservatorship on minority banks.

5. Respondent was “familiar” with Kevin Cohee. Kevin Cohee, and his wife Teri Williams, President of OneUnited, hosted a fundraiser at their home for Respondent. They also contributed to Respondent’s campaign on numerous occasions.

6. During the same time period, Robert Cooper, Senior Counsel to OneUnited and Chair-Elect of the National Bankers Association (NBA), contacted Respondent and asked her to arrange a meeting with Treasury officials regarding the impact of the Conservatorship on minority banks. Respondent has a long history of assisting small and minority owned banks generally, and NBA in particular.

7. Respondent called then-Treasury Secretary Henry Paulson on or around September 8, 2008, and requested a meeting on behalf of NBA, which OneUnited was a member of, to discuss the impact of the Conservatorship on minority banks.

8. Then-Secretary Paulson granted Respondent’s request by arranging for several senior Treasury officials to meet with NBA. He granted Respondent’s request because she was a Member of Congress.

9. Respondent instructed her Chief of Staff, Mikael Moore, who was also her grandson, to follow up with Treasury for the meeting arrangements.

10. On September 9, 2008, Kevin Cohee and Robert Cooper, the CEO of OneUnited and OneUnited’s long-time Senior Counsel met with the Treasury officials. No other representatives from NBA or any other NBA member bank were present. Secretary Paulson did not attend the meeting.

11. During the meeting, Kevin Cohee and Robert Cooper discussed the impact of the Conservatorship on OneUnited and requested approximately \$50 million dollars from Treasury to compensate OneUnited for unrealized losses it incurred as a result of the Conservatorship.

12. Treasury was unable to grant OneUnited's request because it lacked the legislative authority to do so.

II. RESPONDENT'S PERSONAL INTEREST IN ONEUNITED BANK

13. Respondent's husband, Sidney Williams, served as a member of the OneUnited Board of Directors from January 23, 2004, until April 21, 2008.

14. At all times relevant, Respondent's husband owned 3,500 shares of OneUnited preferred stock and 476 shares of OneUnited common stock.

15. Respondent disclosed her husband's ownership of OneUnited stock on Respondent's Financial Disclosure Statements filed for calendar years 2004, 2005, 2006, and 2007.

16. The actual value of Respondent's husband's OneUnited shares at the end of calendar year 2007 was \$352,089.64, which at the time accounted for somewhere between 4.6% and 15.2% of Representative Waters' and her husband's combined net worth as reported in Respondent's Financial Disclosure Statement for 2007, filed in May of 2008.

17. On June 30, 2008, the actual value of Respondent's husband's OneUnited shares was \$351,751.68.

18. On September 30, 2008, after the Conservatorship, the actual value of Respondent's husband's OneUnited shares had fallen to \$175,000.

19. If OneUnited failed, Respondent's husband's investment in OneUnited would have been worthless.

20. Sometime early in September 2008, Respondent had a discussion with Representative Barney Frank regarding OneUnited and her husband's prior board membership with the bank. At the time of this discussion, Representative Frank did not know that Respondent's husband owned approximately \$350,000 worth of OneUnited stock or owned any stock in OneUnited.

21. Representative Frank told Respondent not to get involved and that he would handle the issues related to OneUnited.

22. Respondent agreed to refrain from advocating on behalf of OneUnited.

23. Respondent did not instruct her Chief of Staff, Mikael Moore, to refrain from assisting OneUnited.

III. CONTINUED ASSISTANCE PROVIDED TO ONEUNITED BANK AFTER THE MEETING WITH TREASURY

24. Following the September 9, 2008, meeting with Treasury, Respondent's Chief of Staff, Mikael Moore, was actively involved in assisting OneUnited representatives with their request for capital from Treasury and crafting legislation to authorize Treasury to grant the request.

25. On September 19, 2008, Respondent's Chief of Staff sent an email to a member of Representative Barney Frank's staff. The subject of the email was "O[ne]U[nited] is in trouble." Representative Frank's staffer replied, "depends on scope." Respondent's Chief of Staff responded that "it will become a timetable issue."

26. On September 20, 2008, Respondent's Chief of Staff sent an email to Kevin Cohee, CEO of OneUnited. The subject of the email was "Draft" and attached to the email was draft legislation entitled, "LEGISLATIVE PROPOSAL FOR TREASURY AUTHORITY TO PURCHASE MORTGAGE RELATED ASSETS[.]"

27. On September 22, 2008, Respondent's Chief of Staff received an email from Kevin Cohee. Mr. Cohee requested that Respondent's Chief of Staff print a document for their meeting. The document was draft language for proposed legislation that would give Treasury authority to purchase certain assets that would have applied to OneUnited.

28. On September 23, 2008, Respondent's Chief of Staff received an email from Robert Cooper, Senior Counsel to OneUnited. The subject of the email was, "Fw: Treasury Request Appendix Final.xls," and included a document containing a chart with information regarding OneUnited's shares of Fannie Mae and Freddie Mac stock and OneUnited's request for approximately \$50 million from Treasury.

29. On September 25, 2008, Respondent's Chief of Staff received an email from Robert Cooper. The subject of the email was, "Any update?" No message was contained in the body of the email. Respondent's Chief of Staff replied to the email, "Call in the office."

30. On September 28, 2008, Respondent's Chief of Staff received an email from Robert Cooper. The subject of the email was, "Thank you for all your hard work!" No message was contained in the body of the email.

31. On September 29, 2008, Respondent's Chief of Staff received an email from Robert Cooper. The subject of the email was "Checking in[.]" Mr. Cooper wrote, "In thinking about next steps, we are prepared to rally our supporters by phone or through direct personal contacts. What is your sense, given that the inevitable 'mental fatigue' will begin to set in

around a process that even as we speak has not been settled. Obviously, we're trying to get some sort of written commitment from Treasury on an expedited basis prior to the recess for the Jewish holidays and before tomorrow's deadline. Let me know."

IV. ONEUNITED OBTAINED TARP FUNDING

32. On October 3, 2008, the Emergency Economic Stabilization Act (EESA), which established the Troubled Asset Relief Program (TARP), was signed into law. Section 103(6) of EESA provided, "In exercising the authorities granted in this Act, the Secretary shall take into consideration-- (6) providing financial assistance to financial institutions, including those serving low- and moderate-income populations and other underserved communities, and that have assets less than \$1,000,000,000, that were well or adequately capitalized as of June 30, 2008, and that as a result of the devaluation of the preferred government-sponsored enterprises stock will drop one or more capital levels, in a manner sufficient to restore the financial institutions to at least an adequately capitalized level[.]"

33. The language in the TARP legislation applied to OneUnited, and Representative Frank stated the language was intended to include OneUnited.

34. OneUnited applied for TARP funding.

35. In connection with its application for TARP funding, OneUnited also raised significant amounts of private capital and applied to the Federal Deposit Insurance Corporation for a tax credit waiver.

36. On October 31, 2008, Respondent's Chief of Staff received an email from the CEO of OneUnited, Kevin Cohee. Mr. Cohee stated, "We are pleased to report that we received \$17 Million in private investment today. Thank you for your kindness and consideration in

helping us to consummate this transaction. This is in addition to the investment we received yesterday; the Bank is now adequately capitalized and we will be applying to the TARP program next week.”

37. On December 19, 2008, OneUnited received \$12,063,000 dollars in TARP funding from Treasury.

38. If OneUnited had not received this funding, Respondent’s husband’s financial interest in OneUnited would have been worthless. Thus, the preservation of the value of Respondent’s husband’s investment in OneUnited personally benefitted Respondent.

ALLEGED VIOLATIONS

COUNT I: Conduct in Violation of House Rule XXIII, clause 1

39. Paragraphs 1 through 38 are reincorporated as if set forth fully herein.

40. House Rule XXIII, clause 1 provides:

A Member . . . shall behave at all times in a manner that shall reflect creditably on the House.

41. OneUnited sought to obtain funding from Treasury and would have failed if it did not receive capital.

42. Respondent’s Chief of Staff provided continued assistance to OneUnited in their efforts to obtain legislation that ultimately resulted in OneUnited receiving funding from Treasury.

43. As of September 30, 2008, during the time period when Respondent’s Chief of Staff provided this assistance to OneUnited, Respondent’s husband’s financial interest in

OneUnited, which was worth \$350,000 as of June 30, 2008, had declined to approximately \$175,000.

44. If OneUnited had not received this funding, Respondent's husband's financial interest in OneUnited would have been worthless. Thus, the preservation of the value of Respondent's husband's investment in OneUnited would personally benefit Respondent.

45. Respondent is responsible for the oversight and administration of her congressional office.

46. Respondent is responsible for the conduct and actions of members of her staff, especially her Chief of Staff, when members of her staff are acting within the scope and course of their employment.

47. Once Respondent realized that she "should not be involved" in assisting OneUnited, Respondent should have instructed her Chief of Staff, Mikael Moore, to refrain from assisting OneUnited. Respondent failed to do so.

48. Respondent's Chief of Staff's continued involvement in assisting OneUnited created an appearance that Respondent was taking official action for Respondent's personal benefit, which did not reflect creditably on the House.

49. Respondent's failure to instruct her Chief of Staff to refrain from assisting OneUnited after Respondent realized that she "should not be involved" violated the House Rule applicable to behaving at all times in a manner that shall reflect creditably on the House; all in violation of House Rule XXIII, clause 1.

COUNT II: Conduct in Violation of the Spirit of House Rule XXIII, clause 3

50. Paragraphs 1 through 49 are reincorporated as if set forth fully herein.

51. House Rule XXIII, clause 2 provides:

A Member . . . shall adhere to the spirit and the letter of the Rules of the House and to the rules of duly constituted committees thereof.

52. House Rule XXIII, clause 3 provides:

A Member . . . may not receive compensation and may not permit compensation to accrue to the beneficial interest of such individual from any source, the receipt of which would occur by virtue of influence improperly exerted from the position of such individual in Congress.

53. Respondent is responsible for the oversight and administration of her congressional office.

54. Respondent is responsible for the conduct and actions of members of her staff, especially her Chief of Staff, when members of her staff are acting within the scope and course of their employment.

55. The preservation of the value of Respondent's husband's investment in OneUnited would constitute compensation accruing to the beneficial interest of Respondent.

56. Respondent's failure to instruct her Chief of Staff to refrain from assisting OneUnited after Respondent realized that she "should not be involved" was inconsistent with the spirit of the House Rule applicable to receiving compensation by virtue of influence improperly exerted from the position of the Respondent in Congress; all in violation of House Rule XXIII, clause 2.

COUNT III: Conduct in Violation of the Code of Ethics for Government Service, clause 5

57. Paragraphs 1 through 56 are reincorporated as if set forth fully herein.

58. The Code of Ethics for Government Service (72 Stat., Part 2, B12, H. Res. 175, 85th Cong.) (adopted July 11, 1958) provides:

[A]ny person in Government service should:

...

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

59. Respondent is responsible for the oversight and administration of her congressional office.

60. Respondent is responsible for the conduct and actions of members of her staff, especially her Chief of Staff, when members of her staff are acting within the scope and course of their employment.

61. The preservation of the value of Respondent's husband's investment in OneUnited would constitute a benefit to Respondent.

62. Reasonable persons could construe Respondent's Chief of Staff's continued involvement in assisting OneUnited as the dispensing of special favors or privileges to OneUnited, and accepting the preservation of the value her husband's investment in OneUnited as a benefit under circumstances which might influence the performance of Respondent's governmental duties; all in violation of the Code of Ethics for Government Service, clause 5.