

ADOPTED BY THE COMMITTEE ON ETHICS ON JANUARY 2, 2017

**114TH CONGRESS, 2ND SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

**SUMMARY OF ACTIVITIES
114TH CONGRESS**

JANUARY 2, 2017

duo

Mr. DENT from the Committee on Ethics submitted the following

REPORT

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ONE HUNDRED FOURTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

January 2, 2017

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The Honorable Karen L. Haas
Clerk, House of Representatives
Washington, DC 20515

Dear Ms. Haas:

Pursuant to clauses 3(a)(2) and 3(b) of Rule XI of the Rules of the House of Representatives, we herewith transmit the attached Report, "Summary of Activities 114th Congress."

Sincerely,


Charles W. Dent
Chairman


Linda T. Sanchez
Ranking Member

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SUMMARY OF ACTIVITIES

ONE HUNDRED FOURTEENTH CONGRESS

January 2, 2017—Committed to the Committee of the Whole House on the State of the

Union and ordered to be printed

Mr. DENT and Ms. SÁNCHEZ, from the Committee on Ethics, submitted the following

REPORT

Overview

The Committee on Ethics (Committee) is tasked with interpreting and enforcing the House's ethics rules. The Committee has sole jurisdiction over the interpretation of the Code of Official Conduct, which governs the acts of House Members, officers, and employees. The Committee is the only standing House committee with equal numbers of Democratic and Republican Members. The operative staff of the Committee is required by rule to be professional and nonpartisan.

In the 114th Congress, the Committee was led by Chairman Charles W. Dent and Ranking Member Linda T. Sánchez. The Members appointed at the beginning of the Congress were Patrick Meehan, Michael E. Capuano, Trey Gowdy, Yvette Clarke, Susan W. Brooks, Ted Deutch, Kenny Marchant, and John B. Larson.

The Committee's core responsibilities include providing training, advice, and education to House Members, officers, and employees; reviewing and approving requests to accept privately-sponsored travel related to official duties; reviewing and certifying all financial disclosure reports Members, candidates for the House, officers, and senior staff are required to file; and investigating and adjudicating allegations of misconduct and violations of rules, laws, or other standards of conduct.

The Committee met 24 times in the 114th Congress, including 12 times in 2015, and 12 times in 2016.

Within the scope of its training, advice and education, travel, and financial disclosure responsibilities, the Committee:

- Issued more than 850 formal advisory opinions regarding ethics rules;

- Reviewed and approved nearly 3,900 requests to accept privately-sponsored, officially-connected travel;
- Fielded nearly 55,000 informal telephone calls, emails, and in-person requests for guidance on ethics issues;
- Released 14 advisory memoranda on various ethics topics to the House;
- Provided training to approximately 11,000 House Members, officers, and employees each year, and reviewed their certifications for satisfying the House's mandatory training requirements;
- Received nearly 16,000 Financial Disclosure Statements and amendments filed by House Members, officers, senior staff, and House candidates; and
- Received more than 3,000 Periodic Transaction Reports filed by House Members, officers, and senior staff, containing thousands of transactions.

In addition, the Committee actively investigates allegations against House Members, officers, and employees, using a mix of investigative techniques to determine the validity of factual allegations, explore potential rules violations, and recommend appropriate sanctions and corrective actions. The Committee's options for investigating a matter include fact-gathering under Committee Rule 18(a), the empanelment of investigative subcommittees (ISCs), consideration of formal complaints, and the review of transmittals from the Office of Congressional Ethics (OCE). Committee review of a matter in any of these formats is an "investigation" under House and Committee rules. Also, it is not uncommon for a matter to be investigated by the Committee in more than one of these formats over the course of the Committee's overall review of that matter. For example, as discussed further in this report, from time to time the Committee may begin an investigation under Committee Rule 18(a) and subsequently determine that it is appropriate to continue the investigation through an investigative subcommittee.

The initiation or status of an investigative matter may or may not be publicly disclosed, depending on the circumstances of the individual matter. However, the fact that the Committee is investigating a particular matter, opts to investigate a matter in one format instead of another, is required or chooses to make a public statement regarding a pending investigative matter, or that a House Member, officer, or employee is referenced in an investigative matter should not be construed as a finding or suggestion that the Member, officer, or employee has committed any violation of the rules, law, or standards of conduct.

During the 114th Congress, within the scope of its investigative responsibilities, the Committee:

- Commenced or continued investigative fact-gathering regarding 78 separate investigative matters;

- Empanelled four new investigative subcommittees, in the matters of Representative Ed Whitfield, Representative Chaka Fattah, Representative Robert Pittenger, and Representative Corrine Brown;
- Held 11 investigative subcommittee meetings;
- Filed 5 reports with the House totaling nearly 2,100 pages regarding various investigative matters;
- Publicly addressed 23 matters, described in Section V of this report;
- Resolved 40 additional matters;
- Conducted 93 voluntary witness interviews;
- Authorized the issuance of 31 subpoenas; and
- Reviewed nearly 600,000 pages of documents.

All votes taken in the investigative subcommittees were unanimous. There were a total of 17 investigative matters pending before the Committee as of January 2, 2017.

All of the Committee's work as summarized in this report is made possible by the Committee's talented professional, nonpartisan staff. The Members of the Committee wish to acknowledge their hard work and dedication to the Committee and the House. In particular, the Committee wishes to acknowledge the service and career of Joanne White, who retired in 2016 following more than 41 years of service to the House, including more than 25 years on the Committee's staff.¹

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. This report summarizes the activities of the Committee for the entirety of the 114th Congress.

The jurisdiction of the Committee on Ethics is defined in clauses 1(g) and 11(g)(4) of House Rule X, clause 3 of House Rule XI, and clause 5(h) of House Rule XXV. The text of those provisions is attached as Appendix I to this Report.

In addition, a number of provisions of statutory law confer authority on the Committee. Specifically, for purposes of the statutes on gifts to federal employees (5 U.S.C. § 7353) and gifts to superiors (5 U.S.C. § 7351), both the Committee and the House of Representatives are the "supervising ethics office" of House Members, officers, and employees. In addition, as discussed further in Part III below, for House Members, officers,

¹ See 162 CONG. REC. E1262, E1263 & E1255 (daily ed. Sep. 13, 2016) (statements of Chairman Dent, Ranking Member Sánchez, and former Chairman Conaway).

and employees, the Committee is both the “supervising ethics office” with regard to financial disclosure under the Ethics in Government Act (EIGA) (5 U.S.C. app. §§ 101 *et seq.*) and the “employing agency” for certain purposes under the Foreign Gifts and Decorations Act (5 U.S.C. § 7342). The outside employment and earned income limitations of the EIGA are administered by the Committee with respect to House Members, officers, and employees (5 U.S.C. app. § 503(1)(A)). Finally, the notification of negotiation and recusal requirements created by the Honest Leadership and Open Government Act (HLOGA) are administered, in part, by the Committee.

II. ADVICE AND EDUCATION

Pursuant to a provision of the Ethics Reform Act of 1989 (2 U.S.C. § 4711(i)), the Committee maintains an Office of Advice and Education, which is staffed as directed by the Committee’s Chairman and Ranking Member. Under the statute, the primary responsibilities of the Office include the following:

- Providing information and guidance to House Members, officers, and employees on the laws, rules, and other standards of conduct applicable to them in their official capacities;
- Drafting responses to specific advisory opinion requests received from House Members, officers, and employees, and submitting them to the Chairman and Ranking Member for review and approval;
- Drafting advisory memoranda on the ethics rules for general distribution to House Members, officers, and employees, and submitting them to the Chairman and Ranking Member, or the full Committee, for review and approval; and
- Developing and conducting educational briefings for House Members, officers, and employees.

The duties of the Office of Advice and Education are also addressed in Committee Rule 3, which sets out additional requirements and procedures for the issuance of Committee advisory opinions.

Under Committee Rule 3(j), the Committee will keep confidential any request for advice from a Member, officer, or employee, as well as any response to such a request. As a further inducement to House Members, officers, and employees to seek Committee advice whenever they have any uncertainty on the applicable laws, rules, or standards, statutory law (2 U.S.C. § 4711(i)(4)) provides that no information provided to the Committee by a Member or staff person when seeking advice on prospective conduct may be used as a basis for initiating a Committee investigation if the individual acts in accordance with the Committee’s written advice. In the same vein, Committee Rule 3(k) provides that the Committee may take no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion of the Committee if the conduct conforms to the specific facts addressed in the opinion. Committee Rule 3(l) also precludes the Committee from using information provided to the Committee by a

requesting individual “seeking advice regarding prospective conduct ... as the basis for initiating an investigation,” provided that the requesting individual “acts in good faith in accordance with the written advice of the Committee.” In addition, the Committee understands that federal courts may consider the good faith reliance of a House Member, officer, or employee on written Committee advice as a defense to Justice Department prosecution regarding certain statutory violations.²

The Committee believes that a broad, active program for advice and education is an extremely important means for attaining understanding of, and compliance with, the ethics rules. The specifics of the Committee’s efforts in the areas of publications, briefings, and advisory opinion letters during the 114th Congress are set forth below. In addition, on a daily basis Committee staff attorneys provided informal advice in response to inquiries received from Members, staff persons, and third parties in telephone calls and e-mails directed to the Committee office, as well as in person. During the 114th Congress, Committee attorneys responded to nearly 55,000 phone calls and e-mail messages seeking advice, and participated in many informal meetings with Members, House staff, or outside individuals or groups regarding specific ethics matters.

PUBLICATIONS

The Committee’s major publication is the *House Ethics Manual*, an updated version of which was issued in March 2008. The Manual provides detailed explanations of all aspects of the ethics rules and statutes applicable to House Members, officers, and employees. Topics covered by the Manual include the acceptance of gifts or travel, campaign activity, casework, outside employment, and involvement with official and outside organizations. The *House Ethics Manual* is posted in a searchable format on the Committee’s Web site: <https://ethics.house.gov>.

The Committee updates and expands upon the materials in the Manual, as well as highlights matters of particular concern, through the issuance of general advisory memoranda to all House Members, officers, and employees. The memoranda issued during the 114th Congress were as follows:

- The 2015 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (January 21, 2015);
- Upcoming Financial Disclosure Clinics & Training (April 17, 2015);
- Reminder about Annual Ethics Training Requirements for 2015 (November 24, 2015);

² For example, a federal court held that it is a complete defense to a prosecution for conduct assertedly in violation of a related federal criminal strict-liability statute (18 U.S.C. § 208) that the conduct was undertaken in good faith reliance upon erroneous legal advice received from the official’s supervising ethics office. *United States v. Hedges*, 912 F.2d 1397, 1403 n.2 (11th Cir. 1990).

- Holiday Guidance on the Gift Rule (December 7, 2015);
- The 2016 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees (January 5, 2016);
- Upcoming Financial Disclosure Clinics & Training (April 15, 2016);
- Member Participation in Certain Events Taking Place During a National Political Convention (May 13, 2016);
- Gift Rules Applicable to National Political Conventions (June 10, 2016);
- Reminder about Annual Ethics Training Requirements for 2016 (September 20, 2016);
- Member Swearing-in and Inauguration Day Receptions, and Attendance at Inaugural-Related Events (November 29, 2016);
- Guidance on House Staff Assisting in the Presidential Transition (December 5, 2016);
- Holiday Guidance on the Gift Rule (December 5, 2016);
- Negotiations for Future Employment and Restrictions on Post-Employment for House Members and Officers (December 22, 2016); and
- Negotiations for Future Employment and Restrictions on Post-Employment for House Staff (December 22, 2016).

A copy of each of these advisory memoranda is included as Appendix II to this Report. In addition, these memoranda are available to the House and the public on the Committee's Web site: <https://ethics.house.gov>.

In addition to the advisory memoranda listed above, the Committee joined a new initiative with the Committee on House Administration to issue periodic joint guidance from the two committees on issues of overlapping jurisdiction. The Committee also issued an updated version of its summary memorandum, *Highlights of the House Ethics Rules*, in May 2015. Copies of all current Committee publications are available from the Committee's office, and their text is posted on the Committee's Web site. The Committee also submits a report each month of the Committee's activities to the Committee on House Administration. Finally, with this report, the Committee has sought to provide as much transparency as is appropriate. In addition to the many numbers referred to throughout this report, the Committee annually publishes the following summary chart in the interest of transparency.

Committee Report (numbers are approximate)	2015	2016	TOTAL
Formal Advice and Approval			
Advisory Opinion Requests Received	507	378	885
Advisory Opinions Mailed	498	360	858
Percentage of Opinions Mailed within 2 weeks	77%	69%	73%
Percentage of Opinions Mailed within 4 weeks	91%	82%	86.5%
Travel Requests Received	2,451	1,933	4,381
Travel Opinions Mailed	2,046	1,829	3,875
Percentage of Travel Opinions Mailed within 2 weeks	5%	2.5%	3.5%
Percentage of Travel Opinions Mailed within 4 weeks	53%	52%	52.5%
Informal Advice (including Financial Disclosure)			
Phone Calls (approximate)	16,976	16,553	33,529
Emails (approximate)	10,096	9,767	19,863
Training			
Total # of House Employees (as of Dec. 23, 2016)	10,006	10,000	----
Employees having completed training	11,260	----	----
Training briefings (scheduled training sessions)	104	64	168
Personal Advisory Meetings with Members, officers, and employees	631	481	1,112
Investigations			
Investigative Matters carried over from the 113 th Congress	14	----	14
Investigative Matters commenced in the 114 th Congress	43	21	64
Investigative Subcommittees carried over from the 112 th Congress	0	----	0
Investigative Subcommittees commenced	3	1	4
Publicly Disclosed Resolutions	10	3	13
Confidential Resolutions	15	25	40
Referrals received from the Office of Congressional Ethics	15	9	24
Financial Disclosures			
FD Reports filed by Members, officers, and employees	3,177	3,777	6,954
FD Reports filed by Candidates	339	820	1,159
FD Reports and amendments reviewed by Committee staff	4,123	3,689	7,812
PTRs filed by Members, officers, and employees	1,193	2,016	3,209
Total FD Reports and PTRs filed by all filers	4,709	6,613	11,322
Committee Publications			
Pink Sheets/General Advisories	4	10	14
Joint Guidance with the Committee on House Administration	0	2	2
Public Statements	10	14	24
Investigative Reports	2	3	5
Miscellaneous Oversight			
Recusals	45	42	87
Negotiations	78	83	161
Qualified Blind Trusts	2	2	2
Legal Expense Funds	8	9	8
Foreign Gifts and Travel Reports	10	3	13
Meetings			
Full Committee Meetings	12	12	24
Subcommittee Meetings	7	6	13
Personnel			
Lowest Total Staff Level	25	25	25
Highest Total Staff Level	28	27	28

ETHICS TRAINING

Clause 3(a)(6) of House Rule XI, which originated in the 110th Congress, requires each House employee to complete ethics training each calendar year, pursuant to guidelines to be issued by the Committee. The House rules and Committee's guidelines require each House employee to complete one hour of ethics training each calendar year. The guidelines also require all House employees who are paid at the "senior staff rate" to complete an additional hour of training once each Congress on issues primarily of interest to senior staff.³ Rule XI requires new House Members and employees to complete ethics training within 60 days of the commencement of their service to the House.⁴

Pursuant to its obligations under Rule XI, the Committee held 104 ethics training sessions during 2015 and 64 during 2016. During the 114th Congress, all employees other than new employees were permitted to fulfill their training requirement either through attending a training session in person or by viewing an on-line presentation. The training sessions for new employees provided a general summary of the House ethics rules in all areas, such as gifts, travel, campaign activity, casework, involvement with outside entities, and outside employment. The live and on-line sessions for existing House employees covered specific topics, such as gifts and travel or campaign work, on a more in-depth basis. The Committee also had several different options that senior staff could use to fulfill their requirement of one additional hour of training. The on-line training provided a general overview of ethics rules of particular interest to senior staff. The live training sessions focused in depth on a single topic, of import for senior staff.

In 2015, the Committee trained more than 2,000 employees in person at live ethics briefings, and nearly 8,000 used one of the on-line training options. During 2016, the Committee trained more than 2,200 employees in person at live ethics briefings, and nearly 9,000 through one of the on-line training options. The total number of employees who completed ethics training for 2016 will be determined after January 31, 2017, the date that House Rule XI established as the deadline for employees to certify completion of the ethics training requirement for 2016.

In addition to the training required under House Rule XI, the Committee also provided training in several other contexts. The House will include 52 new Members in the 115th Congress, most of whom have not previously served in the House. The Committee made a presentation to the Members-elect of the 115th Congress during New Member Orientation. The Committee also met with numerous departing Members and staff to counsel them on the ethics rules related to their transition to private life and the post-employment restrictions. The Committee also provided training open to all House Members, officers, and employees on the financial disclosure rules, which are discussed further in Section III. Finally, together with the Committee on House Administration, the

³ In 2016, the senior staff rate was \$123,175 per year, or a monthly salary above \$10,265. This figure is subject to change each year, and the Committee issues a general advisory memorandum to all House Members, officers, and employees announcing changes in this and other salary thresholds relevant to ethics rules.

⁴ The requirement that new Members receive training within 60 days of commencement of their service to the House was added to House Rule XI in the 114th Congress.

Committee participated in two general briefings, one in 2015 and one in 2016, on the rules related to Member participation in the Congressional Art Competition.

Committee staff also participated in approximately 10 briefings sponsored by or held for the members of outside organizations. In addition, Committee staff led approximately 12 briefings for visiting international dignitaries from a variety of countries, including Colombia, Kosovo, and Malawi.

The Committee will continue this outreach activity in the 115th Congress.

ADVISORY OPINION LETTERS

The Committee's Office of Advice and Education, under the direction and supervision of the Committee's Chairman and Ranking Member, prepared and issued nearly 900 private advisory opinions during the 114th Congress: 498 in 2015 and 360 in 2016. Opinions issued by the Committee in the 114th Congress addressed a wide range of subjects, including various provisions of the gift rule, Member or staff participation in fund-raising activities of charities and for other purposes, the outside earned income and employment limitations, campaign activity by staff, and the post-employment restrictions.

TRAVEL APPROVAL LETTERS

As discussed above, House Rule XXV, clause 5(d)(2), which was enacted at the start of the 110th Congress, charged each House Member or employee with obtaining approval of the Committee prior to undertaking any travel paid for by a private source on matters connected to the individual's House duties.

House Rule XXV, clause 5(i), charges the Committee with undertaking an annual review of its guidelines and regulations regarding privately-funded, officially-connected travel by House Members, officers, and employees. In the 112th Congress, the Committee carried over a bipartisan travel working group to assess and make recommendations regarding its process for the review and approval of such travel. Committee members Representatives Charles Dent and Donna F. Edwards comprised the working group. As a result of the efforts of the working group, the Committee adopted comprehensive revised travel regulations for privately-sponsored, officially-connected travel which were released as a general advisory on December 27, 2012. The regulations were made effective for travel beginning on April 1, 2013. The regulations are available to the House and the public on the Committee's Web site.⁵ In the 114th Congress, the Committee continued its ongoing efforts to review the guidelines and regulations regarding privately-funded, officially-connected travel. This review included a thorough examination of the forms used for privately-funded, officially-connected travel approval.

In general, the Committee requires that any House Member, officer, or employee who wishes to accept an offer of privately-sponsored, officially-connected travel must

⁵ House Comm. on Ethics, *Travel Guidelines and Regulations* ("Travel Regulations") (Dec. 27, 2012), available at https://ethics.house.gov/sites/ethics.house.gov/files/travel%20regs_0.pdf.

submit all required paperwork to the Committee at least 30 days prior to the start of the trip.⁶ However, the 30-day requirement does not apply to certain types of trips, and the Committee retains authority to approve requests submitted after that deadline in exceptional circumstances.⁷ When the Committee opts to approve a request filed after the general deadline, the approval letter sent to the traveler – which must ultimately be publicly disclosed – notes that fact.

Under the travel approval process established by the Committee to implement this rule, the Committee reviewed more than 2,400 requests to accept privately-sponsored, officially-connected travel, and issued letters approving more than 2,000 such requests in 2015. In 2016, the Committee reviewed nearly 2,000 requests to accept privately-sponsored, officially-connected travel, and issued letters approving more than 1,800 such requests.

House Rules and the Committee's Travel Regulations require all House Members, officers, and employees who receive Committee approval to accept privately-sponsored, officially-connected travel to file detailed paperwork about the trip with the Clerk within 15 days of the conclusion of the trip.⁸ The Committee also reviewed the post-travel disclosure forms filed by the traveler for each approved trip and requested amendments or other remedial action by the traveler when deemed necessary.⁹

The post-travel filings are made available to the public in a searchable online database on the Clerk's Web site, at http://clerk.house.gov/public_disc/giftTravel-search.aspx. The public, the media, and outside groups have used this valuable resource for years, and the Committee anticipates that they will continue to do so. The Committee requires those Members, officers, and employees who are required to file financial disclosure statements, as discussed in Section III, to also provide information about privately-sponsored, officially-connected travel on their financial disclosure filings, but the public should be aware that much more detailed and timely public filings regarding such travel are required, and the most authoritative source of those filings is the Clerk's Web site.

III. FINANCIAL DISCLOSURE

Title I of the Ethics in Government Act of 1978 (EIGA), as amended (5 U.S.C. app. §§ 101-111), requires certain officials in all branches of the federal government, as well as candidates for federal office, to file publicly-available Financial Disclosure Statements (Statements). These Statements disclose information concerning the filer's finances, as well as those of certain family members. By May 15 of each year, these "covered individuals" are required to file a Statement that provides information for the preceding calendar year. In

⁶ *Id.* at Part 500 – Committee Approval Process.

⁷ *Id.* at § 501.1.

⁸ House Rule XXV, clause 5(b)(1)(A)(ii); Travel Regulations at Part 600 – Post-Travel Disclosure.

⁹ From time to time, a traveler may inadvertently fail to file all of the required paperwork with their post-travel submission. That is not an indication that the information was not provided to the Committee prior to the trip and before the Committee approved the request, only that the traveler's subsequent submission was incomplete.

addition, the Stop Trading on Congressional Knowledge Act (STOCK Act) amended EIGA in 2012 to add a requirement that financial disclosure filers must report certain securities transactions over \$1,000 no later than 45 days after the transaction. The Committee has termed these interim reports “Periodic Transaction Reports” or “PTRs.”

Financial disclosure filings are not intended to be net worth statements, nor are they well suited to that purpose. As the Commission on Administrative Review of the 95th Congress stated in recommending broader financial disclosure requirements: “The objectives of financial disclosure are to inform the public about the financial interests of government officials in order to increase public confidence in the integrity of government and to deter potential conflicts of interest.”¹⁰

All Members of the House, including Members who are serving the first year of their first term, are required to file a Statement. In addition, any officer or employee of the House who was paid at or above 120 percent of the minimum pay for Executive Branch GS-15 (the “senior staff” rate) for at least 60 days in a calendar year must file a Statement on or before May 15 of the following year. Certain other employees, including those designated by a Member as a “principal assistant” for financial disclosure purposes and employees who are shared staff of three or more offices, are also subject to some financial disclosure filing requirements.

Starting in 2013, financial disclosure filers were able to use an online electronic filing system to draft and submit their Statements and PTRs. Thanks to a very industrious collaboration with the Clerk of the House to create the online system, and extensive outreach and education, more than half of all Members and staff used the online electronic filing system to submit their calendar year 2016 Statements. Specifically, 63% of Members and 72% of House staff used the online system to draft and submit their 2016 Statements.

The Committee engages in substantial training efforts to assist filers with completing their Statements and PTRs. The Committee held three briefings for Members, officers, and employees. The Committee hosted seven walk-in clinics to support filers’ use of the electronic filing system for Statements and PTRs.

For the 114th Congress, the Committee continued its long-standing practice of Committee staff meeting with Members, officers, and employees of the House to assist filers with their Statements and PTRs. Committee staff responded to telephone, e-mail, and in-person questions from filers on an as-needed basis, in addition to reviewing drafts of Statements and PTRs. The Committee encourages all financial disclosure filers to avail themselves of opportunities to seek and receive information and assistance.

For calendar year 2015, the Legislative Resource Center of the Clerk’s office referred a total of 3,516 Financial Disclosure Statements to the Committee for review. Of those, 3,177 were Statements filed by current or new House Members or employees, and 339 were Statements filed by candidates for the House. The Clerk’s office also referred a total of 1,193 PTRs to the Committee for review. The Committee received 554 PTRs from Members and 639 PTRs from officers and employees.

¹⁰ House Comm’n on Admin. Review, *Financial Ethics*, H. Doc. 95-73, 96th Cong., 1st Sess. 6 (1977).

For calendar year 2016, the Legislative Resource Center of the Clerk's office referred a total of 4,597 Statements to the Committee for review. Of those, 3,777 were Statements filed by current or new House Members or employees, and 820 were Statements filed by candidates for the House. The Clerk's office also referred a total of 2,016 PTRs to the Committee for review. The Committee received 818 PTRs from Members and 1198 PTRs from officers and employees.

Where the Committee's review indicated that a filed Statement or PTR was deficient, the Committee requested an amendment from the filer. Such amendments are routine and, without evidence of a knowing or willful violation, the Committee will usually take no further action after the amendment has been filed. Amendments are made publicly available in the same manner as other financial disclosure filings. The Committee also followed up with filers whose Statements indicated non-compliance with applicable law, such as the outside employment and outside earned income limitations.

More information about financial disclosure, including the Committee's instruction booklet for filers and blank copies of Statement and PTR forms, is available on the Committee's Web site, at <https://ethics.house.gov/financial-disclosure>. In addition, financial disclosure filings of Members and candidates and other information about financial disclosure is available on the Clerk's Web site, at http://clerk.house.gov/public_disc/financial.aspx.

IV. COMMITTEE RULES

After the beginning of each Congress, the Committee must adopt rules for that Congress. On February 12, 2015, the Committee met and adopted the Committee rules for the 114th Congress. The substance of the Committee rules for the 114th Congress was largely identical to the amended rules adopted in the 113th Congress.¹¹

A copy of the Committee Rules for the 114th Congress is included as Appendix III to this Report.

V. INVESTIGATIONS

Article I, Section 5 of the Constitution grants each chamber of Congress the power to "punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member." The Committee is designated by House rule as the body which conducts the investigative and adjudicatory functions which usually precede a vote by the full House regarding such punishment or expulsion. House Rule XI, clause 3, as well as Committee Rules 13 through 28, describe specific guidelines and procedures for the exercise of that authority.

¹¹ In the 112th Congress, as a result of the efforts of a working group formed to assess the Committee's rules and procedures, numerous changes were made to the Committee's investigative rules, including changes to Committee Rules 4, 9, 17A, 18, 19 and 23. Those changes were adopted by the Committee on May 18, 2012. House Comm. on Ethics, *Summary of Activities One Hundred Twelfth Congress*, H. Rept. 112-730, 112th Cong. 2nd Sess. at 21 (2012).

The Committee's investigations are conducted either pursuant to authorization by the Chairman and Ranking Member, under Committee Rule 18(a), or pursuant to a vote by the Committee to empanel an Investigative Subcommittee (ISC). Most investigations are conducted pursuant to Committee Rule 18(a). Even those investigations that ultimately result in the formation of an ISC usually begin as Committee Rule 18(a) investigations. Committee Rule 18(a) and ISC investigations differ only in process, not substance. In both kinds of investigations, Committee staff is authorized by Members of the Committee to interview witnesses, request documents and information, and engage in other investigative actions. Further, both the Committee and ISC may authorize subpoenas for documents and witness testimony.¹² Members of the Committee can, and do, attend and participate in voluntary interviews with witnesses in both 18(a) and ISC investigations. House and Committee Rules require attendance of Members at interviews conducted pursuant to subpoena in both 18(a) and ISC investigations.

The Committee may opt to investigate a matter under Committee Rule 18(a) rather than an ISC for a number of reasons. For example, investigating pursuant to Committee Rule 18(a) preserves the Committee's ability both to deploy its limited resources in the most efficient manner possible, and to maintain the confidentiality of its investigations. In general, the Committee publicly announces when it has voted to empanel an ISC. In contrast, most investigations conducted pursuant to Committee Rule 18(a) are confidential. Maintaining the confidentiality of investigations minimizes the risk of interference and protects the identities of complainants. Indeed, in recent investigations, employees of a Member have brought allegations of misconduct to the Committee when they have remained in the employ of the Member and faced intimidation or reprisal.¹³ Maintaining a confidential investigation also avoids unnecessarily tarnishing a Member's reputation before a determination of wrongdoing has been made. As discussed further in this report, public disclosure of an ongoing confidential Committee investigation can also significantly impair the Committee's investigation.

The fact that an investigation is conducted in a confidential manner does not preclude the Committee from making a public statement at the end of the investigation. For example, in this and other recent Congresses, the Committee has issued public reports to the House and letters of reproof in a number of investigative matters that were initiated by the Committee and that had not previously been publicly disclosed by the Committee.¹⁴

¹² The mechanism for issuing a subpoena by the Committee or an ISC does differ. Where an ISC has been empanelled, it can authorize a subpoena, to be signed by the Committee's Chairman and Ranking Member. If the investigation is at the Committee Rule 18(a) stage, the full Committee can vote to issue a subpoena to be signed by the Chairman.

¹³ See, e.g., House Comm. on Standards of Official Conduct, *In the Matter of Allegations Relating to Representative Laura Richardson*, H. Rept. 112-642, 112th Cong. 2d Sess. (2012).

¹⁴ See, e.g., House Comm. on Ethics, *In the Matter of Allegations Relating to Representative David McKinley*, H. Rept. 114-795, 114th Cong. 2d Sess. (2016); House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Phil Gingrey*, H. Rept. 113-664, 113th Cong. 2d Sess. (2014); House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Judy Chu*, H. Rept. 113-665, 113th Cong. 2d Sess. (2014).

Whether the Committee investigates a matter under Committee Rule 18(a) or through an ISC, by rule, the Committee may choose to exercise its investigative authority in several different scenarios.¹⁵ However, most Committee investigations begin when the Committee, on its own initiative, undertakes an investigation. In the 114th Congress, the Committee commenced or continued investigative fact-gathering regarding 78 separate investigative matters, most of which were begun at the Committee's initiative. Those matters also included referrals from the OCE. In the 114th Congress, the OCE referred 24 matters to the Committee, 18 with a recommendation for further review and 6 with a recommendation for dismissal. For the six matters that OCE referred with a recommendation to the Committee that it dismiss the matter, OCE did not provide the Committee with any Findings explaining the recommendation, only a one-page Report with a conclusory recommendation that the matter be dismissed.

In the 114th Congress, the Committee issued letters of reproof in two matters, one following a confidential Committee-initiated investigation under Committee Rule 18(a) that was not publicly disclosed until the conclusion of the investigation, and one following an investigation conducted by an ISC following receipt of a referral from OCE that recommended the Committee further review the allegations in question. Including those two matters, since 2008, the Committee has recommended that the House issue a censure in one matter, recommended in another matter that the House issue a reprimand, and issued ten letters of reproof. Eight of those resolutions followed investigations initiated by the Committee under its own authority, while four of those resolutions followed recommendations by the OCE that the Committee review the allegations.

The OCE is an independent office within the House created by a House resolution in the 110th Congress after the release of a report of the Democratic Members of the Special Ethics Task Force on Ethics Enforcement (Task Force Report).¹⁶ According to the Task Force Report, the OCE Board has the responsibility to review information on allegations of misconduct by Members, officers, and employees of the House and make recommendations to the Committee for the Committee's official consideration and action.

Two OCE Board members may initiate a review by notifying all other OCE Board members in writing. The OCE Board then has 30 calendar days to consider the matter in a preliminary review phase and may vote to either terminate the review or progress to the second-phase review. Once in the second phase, the OCE Board has 45

¹⁵ Specifically, the Committee may exercise its investigative authority when: (1) information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee; (2) information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that a Member of the House certifies in writing that such Member believes the information is submitted in good faith and warrants the review and consideration of the Committee; (3) the Committee, on its own initiative, undertakes an investigation; (4) a Member, officer, or employee is convicted in a Federal, State, or local court of a felony; (5) the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation; or (6) a referral from the OCE is transmitted to the Committee. *See* Committee Rule 14(a).

¹⁶ Special Task Force on Ethics Enforcement, 110th Cong., Report of the Democratic Members of the Special Task Force on Ethics Enforcement (Comm. Print 2007).

calendar days (with a possible one-time extension of 14 days) to complete consideration of the matter and refer it to the Committee with a recommendation for dismissal, further review, or as unresolved due to a tie vote. The OCE Board's referral may not contain any conclusions regarding the validity of the allegations upon which it is based or the guilt or innocence of the individual who is the subject of the review. The Task Force believed that "the timeline requirements instituted by the new process are critical: matters will spend at most three months under consideration by the Board of the OCE before being referred to the Committee for resolution."¹⁷ The Task Force considered whether to give the OCE either direct or indirect subpoena power. But the Task Force Report ultimately decided not to give the OCE subpoena power based on a number of factors. Instead, the Task Force Report stated that the Board's referral may include recommendations for the issuance of subpoenas by the Committee where Members feel it appropriate.

When the Committee receives a referral from the OCE, it is required to review the referral "without prejudice or presumptions as to the merit of the allegations."¹⁸ The Committee thus makes an independent determination about how to proceed in the matter based on the information before the Committee, which may include not only the OCE referral and supporting documents provided to the Committee by the OCE, but other information. It is not uncommon that the Committee's review will require more than 90 days, because of the need to review documents, interview witnesses, and/or assess the legal significance of evidence, among other investigative steps. Some investigations may require the review of tens of thousands, if not hundreds of thousands, of pages of documents. For example, in the 113th Congress one investigation that spanned multiple Congresses required the Committee to review more than 220,000 pages of documents to resolve the matter.¹⁹

In one matter referred to the Committee during the 114th Congress, although the OCE recommended dismissal, the Committee continued review of the matter. In another matter referred during the 114th Congress, the Committee agreed with the OCE's recommendation to dismiss certain allegations against a Member but continued its own, confidential review of related allegations against the same Member that were not part of the OCE's referral. As described further below, one of those matters remains pending. Had the Committee simply accepted the OCE recommendation to dismiss each matter, it would not have been required to make any public statement or conduct any further investigation.

In some instances, the Committee may be asked to defer its investigation by another law enforcement entity, generally the U.S. Department of Justice (DOJ). The Committee typically honors such requests, barring unusual circumstances. For one thing, parallel investigations pose the risk of compromising one another. Also, for the most

¹⁷ *Id.* at 14. The 24 OCE referrals received by the Committee in the 114th Congress were transmitted an average of 120 days after the start of the preliminary review phase.

¹⁸ Committee Rule 17A(a).

¹⁹ House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young*, H. Rept. 113-487, 113th Cong. 2d Sess. at 2 (2014). That investigation was begun at the Committee's initiative under Committee Rule 18(a). Subsequently, the Committee established an ISC to continue the investigation. Ultimately, the Committee issued a public report and letter of reproval to the Member.

serious criminal violations, only DOJ can pursue a prosecution to seek imprisonment, the most serious possible consequence for a violation of law.²⁰ Provided that the Committee still retains jurisdiction, a decision by the Committee to defer does not preclude the Committee from continuing its investigation later, regardless of the outcome of the other entity's investigation. In addition, a decision by the Committee to defer an investigation does not itself indicate that any violation has occurred, or reflect any judgment on behalf of the Committee. In the 114th Congress, the Committee did opt to defer several investigations at the request of DOJ, as described further below.

The Committee publicly addressed 23 investigative matters during the 114th Congress. In addition to confidential matters, the Committee also carried over several public matters from the 113th Congress. In the 114th Congress, the Committee continued to address the matters concerning Representatives Vernon G. Buchanan, Luis Gutiérrez, Cathy McMorris Rodgers, Markwayne Mullin, Bobby Rush, Aaron Schock, and Ed Whitfield. A chronological overview of public statements made by the Committee in the 114th Congress regarding investigative matters follows.

On March 25, 2015, the Committee unanimously voted to establish an ISC with regard to allegations that Representative Ed Whitfield failed to prohibit lobbying contacts between his staff and his wife, improperly used his official position for the beneficial interest of himself or his wife, and dispensed special favors or privileges to either his wife, the Humane Society Legislative Fund, or the Humane Society of the United States.

On July 29, 2015, the Committee unanimously voted to establish an ISC with regard to allegations forming the basis for criminal charges of conspiracy, racketeering, bribery, fraud, falsification of records, making false statements, and money laundering, as filed against Representative Chaka Fattah in the United States District Court for the Eastern District of Pennsylvania on July 29, 2015.

On July 31, 2015, the Committee transmitted a Report to the House regarding allegations relating to privately-sponsored, officially-connected travel by Members and staff of the House to Azerbaijan in May 2013.

On September 3, 2015, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Michael Honda used official resources for campaign purposes, improperly linked official activities to campaign or political support, and used congressional staff to assist him with personal matters.

On September 28, 2015, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations that Representative Blake Farenthold sexually harassed a former member of his staff, discriminated against her on the basis of

²⁰ DOJ will not lose jurisdiction to continue an investigation and pursue prosecution, if it determines that is appropriate, in the event that a Member or employee leaves the House, whether through resignation or defeat for reelection.

her gender, and retaliated against her for complaining about the allegedly unlawful treatment.

On November 18, 2015, the Committee unanimously voted to establish an ISC with regard to allegations that Representative Robert Pittenger received compensation for his involvement with a fiduciary business, a real estate investment firm known as Pittenger Land Investments, Inc. The Committee, following precedent, unanimously recommended to the ISC that it defer action on its investigation in response to a request from DOJ.

On December 14, 2015, the Committee transmitted a Report to the House regarding allegations relating to Representative Jared Polis.

On March 16, 2016, the Committee unanimously voted to establish an ISC with regard to allegations that Representative Corrine Brown engaged in improper conduct relating to certain outside organizations, including allegations that she may have conspired with other persons in connection with fraudulent activity, improperly solicited charitable donations, used campaign funds for personal purposes, used official resources for impermissible non-official purposes, failed to comply with tax laws, and made false statements, and/or failed to make required disclosures, to the House of Representatives and Federal Election Commission. The Committee, following precedent, unanimously recommended to the Investigative Subcommittee that it defer action on its investigation in response to a request from DOJ.

On April 5, 2016, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Alan Grayson may have permitted the use of his name and received compensation from entities providing professional services involving a fiduciary relationship, agreed to receive compensation for representational services rendered by another at a time when he was a Member of Congress in proceedings in which the United States had a direct and substantial interest, did not report required information in his annual financial disclosure statements, may have permitted the use of official resources to support an outside business, held an agreement with the United States while serving in Congress, and used official resources for campaign purposes.

On June 24, 2016, the Committee transmitted a Report to the House regarding allegations related to Representative Vernon G. Buchanan.

On July 14, 2016, the Committee transmitted a Report to the House regarding allegations relating to Representative Ed Whitfield.

On August 11, 2016, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Roger Williams improperly took official action on a matter in which he had a personal financial interest.

On August 17, 2016, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Mark Meadows retained an employee who did not perform duties commensurate with the compensation the employee received and certified that the compensation met applicable House standards.

On September 28, 2016, the Committee transmitted a Report to the House regarding allegations relating to Representative David McKinley.

On November 29, 2016, the Committee announced that, pursuant to Committee Rule 18(a), it would continue to review allegations referred by the OCE that Representative Marlin Stutzman used campaign funds for a personal purpose.

On December 15, 2016, the Committee announced that, pursuant to House Rule XI, clause 3(b)(8)(A), and Committee Rules 17A(b)(1)(A), 17A(c)(1) and 17A(j), the Chairman and Ranking Member of the Committee jointly decided to extend the matter regarding Representative Duncan Hunter, which was transmitted to the Committee by the OCE on August 31, 2016. The Committee stated that it would announce its course of action in this matter following its organizational meeting and adoption of Committee Rules in the 115th Congress.

These investigative matters are described in more detail below, in alphabetical order. Copies of all of the Committee's public statements related to these matters are included as Appendix IV to this Report. Those statements, along with any attachments referenced in the statements, are available on the Committee's Web site. All of the Committee's Reports as filed with the House are also available on the Committee's Web site.

In the Matter of Allegations Related to Representative Corrine Brown

On March 16, 2016, the Committee unanimously voted to establish an Investigative Subcommittee (ISC) to determine whether Representative Corrine Brown violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of her duties or the discharge of her responsibilities, with respect to allegations that she engaged in improper conduct relating to certain outside organizations, including allegations that she may have conspired with other persons in connection with fraudulent activities, improperly solicited charitable donations, used campaign funds for personal purposes, used official resources for impermissible non-official purposes, failed to comply with tax laws, and made false statements, and/or failed to make required disclosures, to the House of Representatives and the Federal Election Commission (FEC). The Committee, following precedent, unanimously recommended to the ISC that it defer action on its investigation in response to a request from DOJ.

On July 6, 2016, the U.S. Attorney for the Middle District of Florida filed an indictment against Representative Brown in federal district court, charging her with mail and wire fraud, conspiracy to commit mail and wire fraud, theft of government funds, a

scheme to conceal material facts, the corrupt endeavor to obstruct and impede the due administration of the internal revenue laws, and filing false federal tax returns. Proceedings in that matter are pending in federal court.

Representative Brown lost her bid for reelection to the House for the 115th Congress, and the Committee will not have jurisdiction over her after January 3, 2017.

In the Matter of Allegations Related to Representative Vernon G. Buchanan

On January 27, 2012, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Vern Buchanan may have violated 18 U.S.C. §§ 201, 1505, and 1512, as well as House Rule XXIII, clause 1, by making the settlement of a lawsuit against a former business partner contingent on the business partner signing a false affidavit to be filed with the FEC. The Committee in the 112th Congress released the OCE Report and Findings, along with Representative Buchanan's response, on May 9, 2012, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

In addition to the allegations that OCE referred to the Committee with a recommendation for further review, the Committee also investigated allegations relating to Representative Buchanan's campaign, including whether several car dealerships partly owned by Representative Buchanan illegally reimbursed their employees for contributions to Representative Buchanan's House campaigns, and whether Representative Buchanan himself may have been aware of the unlawful reimbursements at the time they occurred, or had some role in directing or approving them.

These allegations were also the subject of review by the FEC and the DOJ, and were considered by a Florida state court as part of civil litigation involving Representative Buchanan. Much of the material reviewed by the Committee in its investigation – over 6,000 pages of documents, including statements by 22 witnesses – was generated during these parallel proceedings. The Committee also conducted a voluntary interview with Representative Buchanan.

On June 24, 2016, the Committee in the 114th Congress unanimously voted to release a Report and take no further action against Representative Buchanan.²¹ In its Report, the Committee concluded that there was insufficient evidence to sustain any of the aforementioned allegations or to warrant any disciplinary action against Representative Buchanan. Specifically, the Committee concluded that three car dealerships partly owned by Representative Buchanan did illegally reimburse their employees for contributions to Representative Buchanan's House campaigns. However, the Committee found that the evidence was not sufficient to conclude that Representative Buchanan himself was aware of the unlawful reimbursements when they were made, or

²¹ House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, H. Rept. 114-643, 114th Cong. 2d Sess. (2016).

that he had any role in directing or approving them. The Committee further concluded that the evidence did not support a finding that Representative Buchanan improperly influenced his former business partner's testimony before the FEC. However, the Committee did caution Representative Buchanan to exercise more diligence over affairs related to his campaign.

In the Matter of Allegations Related to Representative Blake Farenthold

On June 29, 2015, the OCE forwarded to the Committee a Report in which it recommended dismissal of allegations that Representative Blake Farenthold sexually harassed a former member of his staff, discriminated against her on the basis of her gender, and retaliated against her for complaining about the allegedly unlawful treatment in violation of federal law, House Rule XXIII, clause 9, and the Congressional Accountability Act. OCE did not provide the Committee with any Findings explaining the basis for its recommendation. The Committee released the OCE Report on September 28, 2015, and noted in a public statement that, although the OCE had recommended dismissal of the matter, the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Farenthold was reelected to the House for the 115th Congress.

In the Matter of Allegations Related to Representative Chaka Fattah

On July 29, 2015, the Committee unanimously voted to empanel an ISC to determine whether Representative Chaka Fattah violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of his duties or the discharge of his responsibilities, with respect to allegations forming the basis for criminal charges of conspiracy, racketeering, bribery, fraud, falsification of records, making false statements, and money laundering, as filed against him in the United States District Court for the Eastern District of Pennsylvania on July 29, 2015.

On June 21, 2016, Representative Fattah was convicted on all 23 counts in the indictment. Representative Fattah resigned from the House on June 23, 2016. On the date of Representative Fattah's resignation, the ISC's and the Committee's jurisdiction to continue their investigation of Representative Fattah ended.

On October 21, 2016, a federal judge upheld the conviction on most counts, but dismissed others. Appeals in the matter are pending.

In the Matter of Allegations Related to Representative Alan Grayson

On January 6, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Alan Grayson may have violated federal law, House rules, and standards of conduct when he permitted

the use of his name by, and received compensation from, entities providing professional services involving a fiduciary relationship; received compensation for representational services rendered by another while he was a Member of Congress, in proceedings in which the United States had a direct and substantial interest; did not provide required information on his annual financial disclosure statements; permitted the use of official resources to support an outside business; held an agreement with the United States while serving in Congress; and used official resources for campaign purposes. The Committee released the OCE Report and Findings, along with Representative Grayson's response, on April 5, 2016, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

Representative Grayson did not run for reelection to the House for the 115th Congress, and the Committee will not have jurisdiction over him after January 3, 2017.

In the Matter of Allegations Related to Representative Luis V. Gutiérrez

On December 4, 2013, the OCE forwarded to the Committee in the 113th Congress a Report and Findings in which it recommended further review of allegations that Representative Luis V. Gutiérrez impermissibly used his Members' Representational Allowance (MRA) to pay a consultant to perform work on behalf of his official office. The referral also included an allegation that Representative Gutiérrez impermissibly allowed the consultant to lobby him while the consultant was employed by Representative Gutiérrez. The Committee released the OCE Report and Findings, along with Representative Gutiérrez's response, on May 5, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Gutiérrez was reelected to the House for the 115th Congress.

In the Matter of Allegations Related to Representative Mike Honda

On June 5, 2015, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Mike Honda may have used official resources for campaign purposes and may have improperly linked official activities to campaign or political support. The OCE Report and Findings recommended dismissal of an allegation that Representative Honda used congressional staff to assist him with personal matters. The Committee released the OCE Report and Findings, along with Representative Honda's response, on September 3, 2015, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

Representative Honda lost his bid for reelection to the House for the 115th Congress, and the Committee will not have jurisdiction over him after January 3, 2017.

In the Matter of Allegations Related to Representative Duncan Hunter

On August 31, 2016, the OCE forwarded to the Committee a matter involving Representative Duncan Hunter. Committee Rule 17A(j) provides that the Committee may postpone any reporting requirement related to an OCE referral that falls within 60 days of an election in which the subject of the referral is a candidate. Representative Hunter was on the general election ballot on November 8, 2016. Therefore, the announcement that the Chairman and Ranking Member jointly decided to extend the matter of Representative Hunter for a 45-day period, pursuant to Committee Rules 17A(b)(1)(A) and 17A(c)(1), was postponed until December 14, 2016. On that same day, the Chairman and Ranking Member released a public statement that the Committee would announce its course of action in this matter following its organizational meeting and adoption of Committee Rules in the 115th Congress.

As of the conclusion of the 114th Congress, the Committee had not completed its review of OCE's referral. Representative Hunter was reelected to the House for the 115th Congress.

In the Matter of Allegations Related to Representative David McKinley

On November 2, 2010, Representative David McKinley was first elected to the House. At that time, he was the majority owner of a West Virginia firm, McKinley & Associates (the "Firm"), that provided engineering and architectural services. Soon after his election, Representative McKinley sought advice from Committee staff regarding his ownership of, and role with, McKinley & Associates. Staff's original advice was that the Firm would need to change its name because architecture is a fiduciary service, and federal law prohibits a House Member from permitting a firm which provides fiduciary services from using the Member's name.

Representative McKinley disagreed with that advice, and attempted to persuade the Committee to change its position, asserting that McKinley & Associates was a "family name," which referred to both himself and his father, who was a well-known engineer in West Virginia. While the Committee considered Representative McKinley's request for a formal advisory opinion, he began the process of selling his interest in the Firm to the Firm's Employee Stock Option Plan (ESOP), without changing the name. Representative McKinley pursued this option based on the advice of his counsel that selling the Firm, with the name intact, would resolve any violations of federal law or House Rules. However, Representative McKinley did not inform the Committee of the sales process, or ask the Committee if his counsel's interpretation of the applicable federal law and House Rule was correct.²² Without waiting for the formal advisory opinion he had requested, and after receiving notice that the opinion, when issued, would require him to change the Firm's name, Representative McKinley signed an agreement

²² The Committee determined that Representative McKinley's counsel was incorrect in his belief that selling the Firm, with the McKinley name attached, would resolve the prohibition on a Member permitting his name to be used by a firm that provides fiduciary services. In fact, selling the Firm without requiring it to remove the Member's name would actually imply such permission.

that committed him to sell the Firm, as McKinley & Associates. Shortly after making this agreement, on June 24, 2011, the Committee issued a formal advisory opinion to Representative McKinley, stating that the Committee concluded that the Firm was named after Representative McKinley, not his father, and that federal law and House Rules required the Firm to change its name.

After the Committee learned that Representative McKinley had agreed to sell the Firm with his name attached, the Chairman and Ranking Member of the Committee sent Representative McKinley a letter on August 24, 2012, stating that the Committee expected Representative McKinley to change the Firm's name, and explaining that a failure to do so could be viewed as a knowing violation of the Ethics in Government Act (EIGA) and House Rule XXV, clause 2, and could result in further Committee proceedings against him. On September 14, 2012, Representative McKinley responded through counsel and stated that he had sold the Firm to the ESOP, and that he therefore could not change the Firm's name.

Due to Representative McKinley's failure to follow the Committee's formal advisory opinion by changing the Firm's name, the Chairman and Ranking Member authorized staff to investigate whether Representative McKinley's actions violated any House rule, law, regulation, or other standard of conduct. Pursuant to this authorization, under Committee Rule 18(a), the Committee sent separate requests for information to Representative McKinley and the Firm in March 2013. The Committee also interviewed relevant witnesses, including the Firm's President.

In July 2015, the Committee notified Representative McKinley that it was considering the adoption of a public Report and Letter of Reproval regarding this matter, and offered him the opportunity to review the draft materials. Representative McKinley personally reviewed the draft Report and Reproval in November 2015, and submitted a written response, through counsel, in February 2016. Representative McKinley appeared before the Committee in September 2016.²³

Following the Committee's investigation, and after hearing from Representative McKinley in writing and in person, the Committee determined that, by failing to remove his name from the Firm before selling it, Representative McKinley violated 5 U.S.C. app. § 502, which provides that a Member shall not "permit [his] name to be used by" firms providing professional services involving a fiduciary relationship. Representative

²³ Although no House or Committee Rule requires it, the Committee has generally maintained a "blackout" period on public statements, including reports, in the 60 days prior to an election in which the subject of the statement is a candidate. This is consistent with House and Committee rules regarding receipt of complaints, referrals from OCE, and certain other public statements during this period. In June 2016, the Committee invited Representative McKinley to appear before the Committee in July 2016 to be heard in person. Representative McKinley informed the Committee that he did not believe that was sufficient time for him to prepare and asked if he could appear in September 2016, instead. The Committee granted that request, subject to a clear written caution that if he chose that course the Committee's blackout practice would not apply to any final resolution of the matter. Representative McKinley chose to delay his appearance until September 2016. Although he appeared before the Committee prior to the start of the blackout period, the Committee's deliberations continued into the blackout period, and the Committee concluded its deliberations and voted to approve the final resolution within the blackout period.

McKinley's conduct also violated House Rule XXV, clause 2, which imposes limits on Members' outside earned income, and House Rule XXIII, clauses 1 and 2, which state that "[a] Member . . . shall behave at all times in a manner that shall reflect creditably on the House," and "shall adhere to the spirit and the letter of the Rules of the House." The Committee also found that the Firm, by its continued use of the McKinley name, could be in violation of 5 U.S.C. § 501, which prohibits firms that practice before federal agencies from using the name of a Member of Congress in advertising the business. The Committee informed the Firm of this determination, and cautioned that it should either change the Firm's name or avoid contracting with federal agencies.

On September 28, 2016, the Committee submitted a report to the House describing the facts and its findings in this matter and issued a public Letter of Reprimand to Representative McKinley.²⁴

In the Matter of Allegations Related to Representative Cathy McMorris Rodgers

On December 23, 2013, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Cathy McMorris Rodgers may have violated House rules by using House resources for campaign activity and combined campaign and House resources for her campaign for a House leadership position. The Committee released the OCE Report and Findings, along with Representative McMorris Rodgers' response, on March 24, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative McMorris Rodgers was reelected to the House for the 115th Congress.

In the Matter of Allegations Related to Representative Mark Meadows

On March 18, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Mark Meadows violated House rules and standards of conduct by retaining an employee who did not perform duties commensurate with the compensation the employee received, and by certifying that the compensation met applicable House standards. Committee Rule 17A(j) provides that the Committee may postpone any reporting requirement related to an OCE referral that falls within 60 days of an election in which the subject of the referral is a candidate. Representative Meadows was on the primary election ballot on June 7, 2016. Therefore, the announcement that the Chairman and Ranking Member jointly decided to extend the matter of Representative Meadows for a 45-day period, pursuant to Committee Rules 17A(b)(1)(A) and 17A(c)(1), was postponed until July 5, 2016. The Committee released the OCE Report and Findings, along with Representative Meadows'

²⁴ House Comm. on Ethics, *In the Matter of Allegations Relating to Representative David McKinley*, H. Rept. 114-795, 114th Cong. 2d Sess. (2016).

response, on August 17, 2016, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Meadows was reelected to the House for the 115th Congress.

In the Matter of Allegations Related to Representative Markwayne Mullin

On December 23, 2013, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Markwayne Mullin received outside earned income in excess of the outside earned income limitations that apply to Members of Congress, and that he impermissibly received payment for his service on the board of directors of a company. The Committee released the OCE Report and Findings, along with Representative Mullin's response, on March 24, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Mullin was reelected to the House for the 115th Congress.

In the Matter of Officially-Connected Travel by House Members to Azerbaijan in 2013

Early in the 114th Congress, the Chairman and Ranking Member authorized Committee staff, pursuant to Committee Rule 18(a), to investigate allegations that several House Members and employees may have received impermissible gifts of travel and tangible gifts in connection with privately-sponsored, officially-connected travel to Turkey and/or Azerbaijan, in violation of Article I, Section 9, Clause 8 of the United States Constitution (the Emoluments Clause), and various federal statutes and House rules. Prior to accepting the travel invitations, each of the House Members and employees who took part in the travel sought and obtained the Committee's approval to accept the travel as privately-sponsored, officially-connected travel. Each sponsoring non-profit organization submitted required disclosure forms to the Committee, certifying that it was the sole sponsor of the trips, and that it had not accepted direct or indirect funding for the trips from another source. However, allegations later arose that the various non-profit sponsors may have misrepresented the true source of the funds used for the privately-sponsored, officially-connected travel, and that the trips had not complied with the requirements for such travel.

On January 29, 2015, the OCE notified the Committee that it had initiated preliminary reviews of ten Members regarding their officially-connected travel to Turkey and/or Azerbaijan. On March 2, 2015, OCE notified the Committee that it was proceeding with a second-phase review for nine of the ten Members who were the subject of the preliminary reviews. On March 4, 2015, the Committee voted unanimously to request that OCE cease its review and immediately refer the matters to the Committee for

its consideration, pursuant to House Rule XI, clause 3(r), and Committee Rule 17A(k)(1). Though the Committee's Chairman and Ranking Member sent a letter to OCE on March 4, 2015, formally requesting that it cease-and-refer the matters, OCE did not comply with that request. Instead, OCE continued its review.

On May 8, 2015, the OCE forwarded to the Committee separate Reports for nine Members who participated in privately-sponsored, officially-connected travel to Azerbaijan in May 2013. Although OCE is prohibited from transmitting any findings following receipt of a cease-and-refer request from the Committee, OCE also transmitted additional materials that it characterized as findings, which recommended further review of allegations that each Member may have received an impermissible gift of travel expenses in violation of House rules and regulations, standards of conduct, and federal law.²⁵ Such a recommendation was superfluous, as the Committee was, in fact, already investigating the allegations.²⁶

On June 22, 2015, the Chairman and Ranking Member of the Committee announced that the Committee had voted to extend the Committee's review of the matters referred to the Committee by OCE. The statement by the Chairman and Ranking Member also noted that a newspaper had obtained, and published, materials transmitted by OCE to the Committee, without the Committee's authorization, and that the unauthorized release may have violated House rules and other standards of conduct, while also having a direct impact on the Committee's investigation, which began well before OCE transmitted the materials to the Committee. As discussed further in the Committee's public report at the conclusion of the matter, at the time of the newspaper's publication of OCE's materials, the Committee had already issued a number of subpoenas to various individuals, and had issued requests for information to a number of entities in foreign countries.²⁷ Discussions with all of those parties about their cooperation with the Committee's investigation were ongoing. Following the newspaper's publication of the OCE materials, a central witness in the matter invoked his Fifth Amendment right and refused to comply with Committee subpoenas seeking his testimony and documents. Foreign entities outside of the Committee's jurisdiction to compel cooperation also subsequently declined to cooperate with the Committee's investigation. As such, the unauthorized disclosure of the material to the newspaper impeded the Committee's ongoing investigation, and prevented it from gathering information critical to its investigation.

The June 22 public statement of the Chairman and Ranking Member also explained that when the OCE transmits materials to the Committee, that does not resolve the matter, as an OCE referral is only a recommendation to the Committee about whether allegations in a particular matter should be investigated further or dismissed and an OCE

²⁵ The materials transmitted by OCE to the Committee included citations to 21 interviews of witnesses, including the dates of those interviews. Of those 21 interviews, only 1 interview had been conducted prior to March 4, 2015, when the Committee informed OCE that it had voted to make a cease and refer request for these matters. House Comm. on Ethics, *In the Matter of Officially-Connected Travel by House Members to Azerbaijan in 2013*, H. Rept. 114-239, 114th Cong. 1st Sess. at 15, n.86 (2015).

²⁶ *Id.* at 14.

²⁷ *Id.* at 16-18.

referral is expressly precluded from containing any conclusions regarding the validity of the allegations upon which it is based or the guilt or innocence of the individual who is the subject of a review. Ultimately, only the Committee can determine whether a Member or other House employee has violated House rules or other standards of conduct.

On July 16, 2015, the Committee sent letters to six Members who participated in the travel, recommending that they return or otherwise remedy certain tangible gifts they received during the trips. All six Members complied immediately and took – or committed to take – the corrective action recommended by the Committee in its letters.

On July 29, 2015, the Committee voted unanimously to release a Report in this matter and take no further action with respect to any of the Members in question. Over the course of its investigation, the Committee issued 12 subpoenas and 18 voluntary requests for information, interviewed ten witnesses, and collected nearly 190,000 pages of information. In so doing, the Committee found that the House travelers had submitted all required travel documentation in good faith, and found no evidence that the House travelers knew or should have known of apparent attempts by the non-profit sponsors to obscure the true sponsors of and/or sources of funding for the travel.

Pursuant to House Rule XI, clause 3(a)(3) and Committee Rules 7(d) and 28, the Committee voted on July 29, 2015, to refer to the DOJ, for further action as it deemed necessary, the conduct by the private trip sponsors detailed in the Committee's Report. Pursuant to House Rule XI, clause 3(r), the Committee also voted to publicly release the OCE Reports as required under the cease-and-refer procedure. Because those rules only required the Committee to release the OCE Reports, and not the materials OCE characterized as "Findings," the Committee decided to withhold public release of any other materials to avoid interfering with any future investigation by the DOJ into possible criminal misconduct by the non-profit sponsors and related individuals and entities outside the House.²⁸ The Committee notes that DOJ has previously prosecuted individuals referred to it by the Committee following a Committee investigation.²⁹

On July 31, 2015, the Committee submitted a Report to the House describing the facts and its findings in this matter, as well as its determination to take no further action in this matter.³⁰

²⁸ Despite these considerations, on September 25, 2015, the OCE voted to publicly release the OCE's Reports and the materials it characterized as "Findings" in this matter. The Board stated that its action was done "pursuant to House Resolution 895 of the 110th Congress § 1(f)(1)(B) (2008), which provides that the Board may release 'any communication' pursuant to its rules or as 'necessary to conduct official business.'"

²⁹ See House Comm. on Ethics, *In the Matter of the Investigation into Officially Connected Travel of House Members to Attend the Carib News Foundation Multinational Business Conferences in 2007 and 2008*, H. Rept. 111-422, 111th Cong. 2d Sess. (2010).

³⁰ House Comm. on Ethics, *In the Matter of Officially-Connected Travel by House Members to Azerbaijan in 2013*, H. Rept. 114-239, 114th Cong. 1st Sess. (2015).

In the Matter of Allegations Related to Representative Robert Pittenger

On November 18, 2015, the Committee unanimously voted to empanel an ISC with jurisdiction to determine whether Representative Pittenger violated the Code of Official Conduct or any law, rule, regulation, or other applicable standard of conduct in the performance of his duties or the discharge of his responsibilities, with respect to allegations that he received compensation for his involvement with a fiduciary business, a real estate investment firm known as Pittenger Land Investments, Inc. The Committee, following precedent, unanimously recommended to the ISC that it defer action on its investigation at that time in response to a request from DOJ.

At the conclusion of the 114th Congress, the Committee continues to defer its investigation of this matter, at the request of DOJ. Representative Pittenger was reelected to the House for the 115th Congress.

In the Matter of Allegations Related to Representative Jared Polis

On October 30, 2015, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Jared Polis may have violated House rules, laws, and other standards of conduct by engaging in activities that could be perceived as endorsements of a video game company and a menswear company, and by using official resources to promote the businesses.

The Committee investigated the allegations and concluded that Representative Polis' participation in a video produced by a video game company and a clothing event with a menswear company did not violate any law or House rules regarding official endorsements or the use of official resources for the promotion of a business endeavor. Accordingly, the Committee unanimously voted to dismiss the matter and to take no further action.

On December 15, 2015, the Committee submitted a Report to the House of Representatives describing the facts and its findings in this matter, as well as its determination to take no further action in this matter.³¹

In the Matter of Allegations Related to Representative Bobby Rush

On June 10, 2014, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Bobby Rush received unpaid usage of office space. The Committee released the OCE Report and Findings, along with Representative Rush's response, on November 10, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

³¹ House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Jared Polis*, H. Rept. 114-381, 114th Cong. 1st Sess. (2015).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Rush was reelected to the House for the 115th Congress.

In the Matter of Allegations Related to Representative Aaron Schock

On August 30, 2012, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Aaron Schock may have solicited contributions for an independent expenditure-only political committee in excess of \$5,000 per donor, in violation of 52 U.S.C. § 30125(e), House Rule XXIII, clause 1, and the Code of Ethics for Government Service. The Committee released the OCE Report and Findings, along with Representative Schock's response, on February 6, 2013, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

On March 17, 2015, Representative Schock announced that he was resigning from the House, effective March 31, 2015. On the date of Representative Schock's resignation, the Committee's jurisdiction to continue its investigation of Representative Schock ended.

On November 10, 2016, the U.S. Attorney for the Central District of Illinois filed an indictment against former Representative Schock in federal district court, charging him with mail and wire fraud, theft of government funds, making false statements, falsifying FEC filings, and filing false federal tax returns. Proceedings in that matter are pending in federal court.

In the Matter of Allegations Related to Representative Marlin Stutzman

On August 31, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Marlin Stutzman may have used campaign funds for personal purposes for a trip to California with his family in violation of 52 U.S.C. § 30114(b)(1) and House Rule XXIII, clauses 6(b) and (c). The Committee released the OCE Report and Findings, along with Representative Stutzman's response, on November 29, 2016, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

Representative Stutzman did not run for reelection to the House for the 115th Congress, and the Committee will not have jurisdiction over him after January 3, 2017.

In the Matter of Allegations Related to Representative Ed Whitfield

On June 10, 2014, the OCE forwarded to the Committee in the 113th Congress a Report and Findings in which it recommended further review of allegations that Representative Whitfield violated House Rule XXV, clause 7, by failing to prohibit lobbying contacts between his staff and his wife, who was then a registered lobbyist, and

that he dispensed special favors or privileges to either his wife or her employers, the Humane Society of the United States or the Humane Society Legislative Fund. The Committee released the OCE Report and Findings, along with Representative Whitfield's response, on November 10, 2014, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

On March 25, 2015, based on the results of the 18(a) investigation, the Committee unanimously voted to empanel an ISC to continue to investigate the allegations in the OCE referral. Over a thirteen month period, the ISC interviewed 11 witnesses, including Representative Whitfield and his wife, and reviewed over 140,000 pages of documents, including Representative Whitfield's own submissions regarding the allegations in this matter.

On April 20, 2016, the ISC voted to adopt a Report, finding that Representative Whitfield had violated the House Rule concerning lobbying contacts between a Member's spouse and his staff, as well as rules regarding the dispensation of special privileges. Though the ISC found that these violations were not intentional, it nonetheless found that Representative Whitfield failed to comprehend the importance of setting boundaries and limits on the interactions between his wife and his staff, and thus failed to take proper precautions to avoid either improper interactions or the appearance of impropriety. The ISC's Report recommended that the Committee reprove Representative Whitfield for such conduct, pursuant to House Rule XI, clause 3(a)(2).

Pursuant to House Rule XI, clause 3(a)(2), the Committee provided Representative Whitfield with copy of the ISC Report on April 29, 2016, and offered him an opportunity to be heard by the full Committee. Following Representative Whitfield's appearance, and after further consideration of Representative Whitfield's views and prior written submissions, the ISC unanimously agreed to make minor revisions to its Report, but still concluded that the violations were significant and numerous enough to warrant reproof by the Committee. On July 6, 2016, the ISC transmitted its revised Report to the Committee.

On July 12, 2016, the Committee considered the ISC's Report and, agreeing with its findings and recommendations, voted unanimously to release its own Report, finding that Representative Whitfield violated House Rule XXV, clause 7, the Code of Ethics for Government Service, section 5, and House Rule XXIII, clauses 1 and 2.

On July 14, 2016, the Committee submitted a Report to the House of Representatives describing the facts and its findings in this matter, and adopting the ISC's Report, which served as a reproof of Representative Whitfield.³²

³² House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Ed Whitfield*, H. Rept. 114-687, 114th Cong. 2d Sess. (2016).

In the Matter of Allegations Related to Representative Roger Williams

On May 13, 2016, the OCE forwarded to the Committee a Report and Findings in which it recommended further review of allegations that Representative Roger Williams may have taken an official action on a matter affecting his personal financial interest in an automobile dealership, by offering an amendment to certain surface transportation reauthorization legislation in the 114th Congress, in violation of House Rule III, clause 1, House Rule XXIII, clause 3, and Section 5 of the Code of Ethics for Government Service. The Committee released the OCE Report and Findings, along with Representative Williams' response, on August 11, 2016, and noted in a public statement that the Committee was continuing to review the allegations pursuant to Committee Rule 18(a).

As of the conclusion of the 114th Congress, the Committee had not completed its investigation into this matter. Representative Williams was reelected to the House for the 115th Congress.

Other Committee investigative actions

In addition to the publicly disclosed matters discussed in this Report, the Committee either commenced review of, or continued to review from the 113th Congress, 50 investigative matters. Of these 50 matters which remain confidential, 40 were resolved in the 114th Congress.