

ADOPTED BY THE COMMITTEE ON ETHICS ON MARCH 15, 2018

**115TH CONGRESS, 2ND SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO
REPRESENTATIVE BOBBY L. RUSH**

MARCH 22, 2018

Ms. BROOKS from the Committee on Ethics submitted the following

REPORT

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ONE HUNDRED FIFTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

March 22, 2018

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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, "In the Matter of Allegations Relating to Representative Bobby L. Rush."

Sincerely,

Susan W. Brooks
Chairwoman

Theodore E. Deutch
Ranking Member

CONTENTS

I.	INTRODUCTION	1
II.	PROCEDURAL HISTORY.....	2
III.	HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT	3
IV.	BACKGROUND	4
	A. Representative Rush’s Career as an Elected Official.....	4
	B. Representative Rush’s Office Space in Lake Meadows Shopping Center	4
	1. The 1989 Lease and Draper and Kramer’s Efforts to Collect and Track Unpaid Rent	4
	2. Representative Rush’s Use of the Office Space	8
	C. Citizens for Rush Donations to the BCCC	9
	1. The BCCC	9
	2. Representative Rush’s Son Worked at the BCCC.....	9
	3. July 23, 2013, Donation.....	10
	4. October 9, 2014, Donation	10
V.	FINDINGS	11
	A. Representative Rush accepted gifts of office space that exceeded the Gift Rule limits	11
	1. Rent-Free Use of the Office Was a Gift	11
	2. Rent-Free Use of the Office Did Not Amount to a Campaign Contribution	11
	3. Value of the Gift of Office Space.....	14
	B. Conversion of Campaign Funds to Personal Use	23
	C. House Rule XXIII, Clauses 1 and 2.....	23
	D. Disclosure of Impermissible Gifts	25
VI.	CONCLUSION.....	25
VII.	STATEMENT UNDER HOUSE RULE XIII, CLAUSE 3(C).....	26

APPENDIX A: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS (REVIEW NO. 14-8751)

APPENDIX B: REPRESENTATIVE RUSH’S RESPONSE TO THE OFFICE OF CONGRESSIONAL ETHICS REFERRAL

APPENDIX C: EXHIBITS TO COMMITTEE REPORT

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March 22, 2018

Ms. BROOKS from the Committee on Ethics submitted the following

R E P O R T

In accordance with House Rule XI, clauses 3(a)(2) and 3(b), the Committee on Ethics (Committee) hereby submits the following Report to the House of Representatives:

I. INTRODUCTION

On June 10, 2014, the Office of Congressional Ethics (OCE) transmitted to the Committee a Report and Findings (OCE's Referral) relating to Representative Rush. OCE's Referral discussed two allegations, recommending further review of one and dismissal of the other.

OCE recommended the Committee further review an allegation that Representative Rush has occupied and used office space in a Chicago shopping center for over two decades, without paying any rent. OCE found substantial reason to believe that the free use of office space represented serial in-kind contributions to Representative Rush's state and federal electoral campaigns, and that the value of these campaign contributions exceeded state and federal limits. OCE recommended dismissal of a separate allegation that Representative Rush improperly converted campaign funds to personal use. That allegation centered on a donation that Representative Rush's federal campaign committee, Citizens for Rush, reported making to the Beloved Community Christian Church (BCCC), which for some period employed and paid his son. OCE found that the donation, made in July 2013, was actually misreported and made to a different entity. OCE thus recommended the Committee dismiss this allegation.

In the latter part of 2014, while the Committee was reviewing OCE's Referral and supplemental materials, Representative Rush's federal campaign committee reported another donation to BCCC. Given this additional donation, the Chairman and Ranking Member authorized Committee staff to investigate the issues surrounding both alleged donations to BCCC, as well as the allegation involving Representative Rush's receipt of free office space.

Following its investigation, the Committee concluded that the rent-free office space was a gift to Representative Rush, which he accepted in violation of House rules and federal law. With

respect to Representative Rush's donations of campaign funds to the BCCC, the Committee concurred in OCE's finding that the July 2013 donation was made not to the BCCC but to an entity that did not employ and compensate any members of Representative Rush's family. As for the 2014 donation, the Committee found that Representative Rush's son was not on the BCCC's payroll when the BCCC received those funds. Accordingly, the Committee concluded that Representative Rush did not violate laws or House Rules that prohibit the conversion of campaign funds to personal use.

This Report discusses the Committee's findings and conclusions in this matter. The Committee unanimously voted to adopt this Report, which will serve as a reproof of Representative Rush for accepting an impermissible gift. Furthermore, the Committee unanimously found that Representative Rush must repay the value of the impermissible gift, amend his Financial Disclosure Statements to reflect the gift, and either vacate the office space or commence paying for the space within six weeks of the publication of this Report. Finally, the Committee unanimously voted to dismiss the allegations related to donations of campaign funds to the BCCC.

II. PROCEDURAL HISTORY

OCE undertook a preliminary review of this matter on January 29, 2014. On February 28, 2014, OCE initiated a second-phase review. On May 29, 2014, the OCE Board unanimously voted to adopt the Findings and refer the matter to the Committee with a recommendation for further review. The Committee received OCE's Referral on June 10, 2014.

Representative Rush then submitted a response to the Committee, through counsel.¹ After the Committee received OCE's Referral and Representative Rush's response, Citizens for Rush disclosed in a report to the Federal Election Commission (FEC) that on October 9, 2014, it made a donation to the BCCC in the amount of \$10,000.² Thereafter, the Committee published OCE's Referral and Representative Rush's response, and publicly announced that the Committee would investigate the matter under Committee Rule 18(a).³

Some of the allegations reviewed by the Committee occurred before the 112th Congress, prior to the Committee's general investigative jurisdiction, which includes the current and three previous Congresses. However, pursuant to House Rule XI, clause 3(b)(3) and Committee Rule 18(d), the Committee voted to determine that these allegations were directly related to alleged violations that occurred within the Committee's general jurisdiction and did investigate those allegations.⁴

¹ Letter from Scott E. Thomas and Jen Carrier to Tom Rust, July 11, 2014 (*hereinafter* July 11, 2014 Submission).

² Pre-General Election FEC Report, filed on October 23, 2014.

³ Committee Rule 18(d) states that "[a]n inquiry shall not be undertaken regarding any alleged violation that occurred before the third previous Congress unless a majority of the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress." The Committee unanimously voted to make this determination in this matter with respect to the allegation that Representative Rush received an impermissible gift of office space during the period from 1993 to the present.

⁴ As discussed further in this Report, the allegations are that Representative Rush received improper gifts, special favors, or campaign contributions, in the form of free rent, from January 3, 1993, to present. While the allegations

In the course of its investigation, the Committee issued requests for information to Representative Rush and to the entities that own and manage the office space leased to Representative Rush. In response to those requests, the Committee received and reviewed over 1,400 pages of materials. The Committee also interviewed ten individuals, including Representative Rush, who appeared voluntarily before the Committee. Representative Rush fully cooperated with the Committee's investigation.

In December 2017, the Committee notified Representative Rush that it was considering the adoption of a public report that would serve as a reproof of him regarding this matter. Before the Committee decided how to resolve this matter, in accordance with House Rules, Representative Rush was invited to be heard by the Committee in writing and/or in person.⁵ Representative Rush declined the invitation to be heard by the Committee. Ultimately, the Committee determined that the appropriate resolution of this matter was to issue this Report, which will serve as a reproof of Representative Rush's conduct.

III. HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT

A federal statute, 5 U.S.C. § 7353, prohibits federal officials, including Members of Congress, from soliciting or accepting anything of value, except as provided in rules and regulations issued by their supervising ethics office. For House Members, either the Committee or the "House of Representatives as a whole" is the "supervising ethics office."⁶ Accordingly, the House, through House Rule XXV, clause 5 (the Gift Rule), has defined the gifts Members may accept consistent with federal law. The Gift Rule prohibits a Member from knowingly accepting a gift unless it fits within one of the rule's enumerated exceptions.⁷ The Gift Rule defines a "gift" broadly, as "a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value."⁸

House Rule XXIII, clause 6(a), requires that a Member keep his campaign funds separate from personal funds. House Rule XXIII, clause 6(b) prohibits a Member from converting "campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures."

Similarly, the Federal Election Campaign Act (FECA), 52 U.S.C. § 30114(b), prohibits the conversion of campaign contributions to personal use. FEC regulations specify that a donation of campaign funds to a charitable organization may be deemed to be a prohibited conversion if "the

dating from January 5, 2011, to present are within the Committee's jurisdiction, the allegations from 1993 to January 5, 2011, are not. However, the allegations in connection with non-payment of rent from 1993 to January 4, 2011, appear to be directly related to the allegations that are within the Committee's three-Congress jurisdiction.

⁵ House Rule XI, cl. 3(a)(2).

⁶ 5 U.S.C. § 7353(d).

⁷ House Rule XXV, cl. 5(a)(1)(A)(i). If no exception applies, House Rules permit a Member to accept a gift not otherwise prohibited if the Member "reasonably and in good faith believes" the gift has a value of less than \$50 and a cumulative value from one source during a calendar year of less than \$100. House Rule XXV, cl. 5(a)(1)(B)(i).

⁸ House Rule XXV, cl. 5(a)(2)(A).

candidate receives compensation from the organization before the organization has expended the entire amount donated for purposes unrelated to his or personal benefit.”⁹ In its advisory opinions, the FEC has indicated that the prohibition applies to receipt of compensation not just by candidates but also by members of their family.¹⁰

Finally, House Rule XXIII, clauses 1 and 2, 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.”

IV. BACKGROUND

A. Representative Rush’s Career as an Elected Official

In 1983, Representative Rush was elected as Alderman to represent Ward 2 of the City of Chicago. In 1984 and in 1990, respectively, he also became the Committeeman for Ward 2 and the State Committeeman for the 1st District of Illinois. As a Ward and State Committeeman, Representative Rush supported and promoted candidates for local office and interfaced with constituents.

In 1992, Representative Rush was elected to the U.S. House of Representatives as the Representative for Illinois’ 1st Congressional District. After he was sworn in as a Member of Congress in 1993, Representative Rush gave up his Alderman post. In 2008, he also ceded his position as Ward Committeeman. Representative Rush continues to serve as a State Committeeman.

B. Representative Rush’s Office Space in Lake Meadows Shopping Center

1. The 1989 lease and Representative Rush’s failure to pay rent

In August 1989, while he served as Alderman for the City of Chicago, Representative Rush signed a one-year lease for office space located at 3361 S. Martin Luther King Drive, Unit C-6, Chicago, Illinois (1989 Lease).¹¹ The office was situated in Lake Meadows Shopping Center, which was located in Representative Rush’s eventual congressional district. Lake Meadows Shopping Center was owned by Lake Meadows Associates, an Illinois limited partnership. Lake Meadows Associates was itself owned by three limited liability companies. Pursuant to a management agreement, Lake Meadows Associates delegated all day-to-day management responsibilities, including rent collection, to Draper and Kramer, Inc. (Draper and Kramer).¹²

⁹ See 11 CFR § 113.1(g)(2).

¹⁰ See, e.g., FEC Advisory Ops. 2005-06, 2012-05. Even so, the FEC has permitted significant contributions of campaign funds to a charitable organization that employed a candidate’s family member where the organization represented that the family member would not be compensated from the donated funds.

¹¹ Exhibit 1.

¹² At the time the lease was signed, Draper and Kramer operated under the name of Harold J. Carlson Associates, Inc. and was one of three general partners of Lake Meadows Associates. Exhibit 2.

The 1989 Lease named “Bobby Rush, an individual” as the tenant.¹³ Although Representative Rush signed the lease as an individual, the lease specified that the office would be used as “an aldermanic office for Alderman Rush’s local Chicago political ward, known as the Second Ward.”¹⁴ The lease also stated that the “Tenant’s Trade Name” was “Alderman Bobby Rush,”¹⁵ although it made clear that the “trade name” is not the identity of the “tenant” bound by the lease.¹⁶

By signing the 1989 Lease, Representative Rush agreed to pay a monthly rent of \$1,126.49, which was comprised of a fixed minimum rent of \$627.00, a common area use charge of \$343.87, an insurance charge of \$10.04, and a real estate tax charge of \$145.58.¹⁷ Representative Rush also agreed to remit a security deposit of \$1,881.00.¹⁸ An executed copy of the lease was forwarded to Representative Rush in December 1989.¹⁹ Because a third party occupied the office space and was delayed in vacating it, Draper and Kramer permitted Representative Rush to make his first rental payment in January 1990, approximately seven months after the lease was executed.²⁰

Representative Rush told the Committee the City of Chicago had paid the rent for his previous Aldermanic office, and that he expected the City to also pay for the Lake Meadows office.²¹ However, this never happened. Representative Rush did not make the first required rent payment in January 1990, and apparently never paid the security deposit specified by the 1989 Lease. Draper and Kramer’s records indicate that throughout 1990, Representative Rush was repeatedly asked to pay rent, and he made several promises to pay, even delivering two checks that were returned for insufficient funds.²² Both checks were drawn from the same account, which one of the checks identified as the “Alderman Bobby Rush Contingency Account.”²³

By September 1990, Representative Rush’s unpaid rent balance had grown to \$14,937.19.²⁴ In an internal Draper and Kramer memo dated September 19, 1990, the property manager stated that she had not issued a notice of eviction to Representative Rush, “pending direction of ownership,” and concluded: “I believe that in order to have him vacate at the end of his lease term, we will be forced to take legal action.”²⁵ The property manager recommended that Draper and Kramer “proceed with action to remove the alderman from space C-6.”²⁶

Despite this recommendation, Draper and Kramer never sent Representative Rush a notice that it intended to initiate legal action against him, and it never petitioned a court to evict

¹³ Exhibit 1.

¹⁴ *Id.* at § 1.1(H).

¹⁵ *Id.* at § 1.1(I).

¹⁶ *Id.* at § 6.1.

¹⁷ Exhibit 3.

¹⁸ Exhibit 1.

¹⁹ Exhibit 4.

²⁰ Exhibit 3; Exhibit 5; Exhibit 6

²¹ 18(a) Interview of Representative Rush.

²² Exhibit 6; Exhibit 7; Exhibit 5; Exhibit 8.

²³ *See* Exhibit 8.

²⁴ Exhibit 6.

²⁵ *Id.*

²⁶ *Id.*

Representative Rush or force him to pay back rent. Instead, on November 5, 1990, Draper and Kramer notified Representative Rush that his one-year lease had expired (as of October 31, 1990) and that he would be considered a month-to-month tenant “at the same terms and conditions outlined in the initial lease document.”²⁷

Representative Rush told the Committee he did not recall ever receiving this notice, which was included in a letter sent to his home address.²⁸ Nor did he recall ever being told that Draper and Kramer, or anyone else, considered him to be a tenant in the Lake Meadows office space after the 1989 Lease expired, with continuing obligations under the lease.²⁹

Despite Representative Rush’s lack of recollection, the documentary record is clear that, for several years after the lease expired and Representative Rush converted to a month-to-month tenancy, Draper and Kramer continued trying to collect rent from Representative Rush.³⁰ These collections efforts consisted of phone calls to Representative Rush, in-person discussions with him, and written requests. Draper and Kramer’s collections log shows that in response to these efforts, Representative Rush made additional promises to pay between 1990 and 1992.³¹ Representative Rush also told Draper and Kramer he would set up an arrangement with the City of Chicago to cover the rent.³² However, neither Representative Rush nor the City of Chicago actually paid any rent.

Sometime in the mid-1990s, several years after Representative Rush was elected to Congress, Draper and Kramer’s senior management instructed the property manager who oversaw Lake Meadows Shopping Center to suspend all collections efforts involving Representative Rush.³³ Despite numerous queries to current and former Draper and Kramer employees, the Committee could not conclusively determine who at Draper and Kramer issued the instruction to suspend collections efforts, precisely when it was issued, or what motivated the decision. Several witnesses told the Committee that Representative Rush’s position as Alderman, as well as his other political associations, may have been a factor.³⁴ These witnesses acknowledged this was speculation, and not based on any conversations with Draper and Kramer employees or owners.³⁵ However, two documents produced to the Committee lend some credence to these suppositions. According to a 1997 inter-office memorandum, by January 1991—one year after the commencement of Representative Rush’s lease, and several months after the lease expired—the unpaid rent balance was over \$19,000, “with numerous promises to pay having been made over the prior year.”³⁶ Immediately following this recitation, the memo stated “(It must be noted that

²⁷ Exhibit 9.

²⁸ 18(a) Interview of Representative Rush.

²⁹ *Id.*

³⁰ *See* Exhibit 7. Draper and Kramer provided a collections log that covered the time period of 1990 through 1992. The Committee requested all similar collections documents for other years, but Draper and Kramer was unable to find or produce additional documents.

³¹ *See id.*

³² Exhibit 10.

³³ 18(a) Interview of Property Manager A.

³⁴ 18(a) Interview of Senior Vice President A; 18(a) Interview of Property Manager B; 18(a) Interview of Property Manager A.

³⁵ *See* 18(a) Interview of Property Manager B.

³⁶ Exhibit 5 at 1.

at this time we were asking [for] the Alderman’s assistance with the termination of the Newsstand’s right to occupy the North-East corner of King Dr.)”³⁷ Of course, this preceded Representative Rush’s election to Congress by nearly two years. Another internal Draper and Kramer memo, written in 1999, six years after Representative Rush joined the House, stated: “This tenant [Representative Rush] owes \$25,272.10 in rent and charges. The last rental payment was made in June 1997. In light of the political issues associated with this tenant, how do we want to proceed?”³⁸ Neither the author nor the recipient of this memo was able to explain to the Committee the meaning of “political issues.”³⁹ For his part, Representative Rush denied providing any assistance to Draper and Kramer, or any of the owners of the Lake Meadows Shopping Center, at any time during his tenure in Congress.⁴⁰ The Committee found no evidence that Representative Rush was ever asked for, or provided, such assistance.

Even after Draper and Kramer stopped actively seeking rent payments from Representative Rush, the company continued to treat him like a *bona fide* tenant in other respects, both internally and in sporadic communications with Representative Rush. For instance, accounting records show that through the 1990s, 2000s, and to the present, Draper and Kramer itemized what Representative Rush was supposed to have paid each month in rent and fees.⁴¹ In conjunction with this detailed accounting, Draper and Kramer appears to have sent Representative Rush certain billing statements that summarized his unpaid rent balance. For example, a September 2000 statement noted that Representative Rush owed \$57,031.52.⁴² Additionally, Draper and Kramer periodically contacted Representative Rush with reminders of the responsibilities he had to maintain the appearance and condition of his leased space. In a 1997 letter, a then-vice president of operations requested that Representative Rush fix broken windows, remove dirt and obsolete campaign signs from windows, and coordinate with the gas company to avoid losing heating in the space.⁴³

In a similar letter in 2004, a property manager asked Representative Rush to reimburse Draper and Kramer for plumbing work done at the office and to obtain liability insurance.⁴⁴ Although the letter was sent to Representative Rush’s House district office, and addressed to his longtime Executive Assistant, Representative Rush did not recall receiving the letter or being told of it.⁴⁵ In the letter, the property manager noted that the lease required Representative Rush to

³⁷ *Id.* King Drive is one of the streets that borders Lake Meadows Shopping Center. The Committee learned that in 1991, Draper and Kramer and Lake Meadows Associates were concerned that a particular Newsstand (a kiosk that sold newspapers, magazines and other print publications) was encroaching on the shopping center’s property line. *See* 18(a) Interview of Chief Executive Officer. It is unclear whether Representative Rush in fact assisted with relocating the Newsstand or if the issue was resolved in some other way. Representative Rush did not recall providing any such assistance. *See* 18(a) Interview of Representative Rush.

³⁸ Exhibit 11. Draper and Kramer’s accounting documents contain no record of Representative Rush making any rental payments in June 1997. Likewise, Representative Rush has not found any banking records or other documents showing that he made such payments.

³⁹ 18(a) Interview of Property Manager B; 18(a) Interview of Senior Vice President B.

⁴⁰ 18(a) Interview of Representative Rush.

⁴¹ Exhibit 12; Exhibit 13. The records show that while the monthly rent for the office space has been a fixed charge of \$627, the “common area use” costs have generally increased over the years.

⁴² Exhibit 12.

⁴³ Exhibit 14.

⁴⁴ Exhibit 15.

⁴⁵ 18(a) Interview of Representative Rush.

provide the landlord with a certificate of insurance, and failure to do so “can be considered a default of the terms of your lease agreement.”⁴⁶ The property manager told the Committee that the “lease” she referenced in the letter was the month-to-month tenancy arrangement of which Representative Rush was notified in 1990, after the 1989 Lease expired.⁴⁷ The property manager also told the Committee that Representative Rush never responded to the 2004 letter, reimbursed the landlord for the plumbing work, or provided a certificate of insurance.⁴⁸

2. *Representative Rush’s use of the office space*

Representative Rush does not dispute that for 27 years he has been the sole occupant and primary user of the office space at Lake Meadows Shopping Center. In submissions to the Committee, Representative Rush has asserted that he used the office space for two primary purposes. First, the space was used as storage for a variety of items, including a photocopier, old campaign materials, files from Representative Rush’s tenure as an alderman, and “a few old desks, old file cabinets, and old sets of shelves dating back 20 years.”⁴⁹ According to Representative Rush, this storage use of the space, though constant from the time Representative Rush joined the House to the present, has been of limited value, particularly in recent years. Representative Rush has described the current contents of the office as “junk” that is “useless” or “essentially worthless.”⁵⁰

Representative Rush has also stated that he used the Lake Meadows office between 1993 and 2008, sporadically and for irregular periods, for a variety of other purposes, including (1) meetings between Representative Rush as Ward or State Party Committeeman and prospective local candidates; (2) meetings between Representative Rush and his federal campaign committee Treasurer; (3) as the campaign headquarters for his sister, in 1995, when she ran for a Chicago Alderman position; (4) social meetings with residents of the area surrounding the office; and (5) classes offered by a non-profit organization in the 2007-2008 period. Representative Rush has asserted that any use of the office for meetings and other non-storage purposes wound down after he gave up his position as Chicago Ward Committeeman in 2008, and the Committee found no evidence to the contrary. As Representative Rush stated in July 2014, the office space “has not been used by anyone at all for any meetings or gatherings the last two years, and at most has served as the dormant repository for abandoned ‘junk’ that has been there for many years now.”⁵¹ Representative Rush told the Committee in 2017 that he had not vacated the office space since the OCE investigation began in 2013 because he “didn’t want to interfere with any investigations or what have you, tampering with anything.”⁵²

Representative Rush has estimated that all of his uses of the office, other than for the non-profit classes, totaled 5 days per year (at 8 hours per day) from the time he became a House

⁴⁶ Exhibit 15.

⁴⁷ 18(a) Interview of Property Manager C.

⁴⁸ *Id.*

⁴⁹ See July 11, 2014 Submission at 1-2.

⁵⁰ See *id.* at 1.

⁵¹ Letter from Scott E. Thomas to Nadia Konstantinova, Aug. 10, 2015 (*hereinafter* August 10, 2015 Submission).

⁵² 18(a) Interview of Representative Rush.

Member in 1993 through 2008.⁵³ Representative Rush estimated the non-profit organization he lent the Lake Meadows office to in 2007 and 2008 used the space for approximately 120 hours.⁵⁴

C. Citizens for Rush Donations to Beloved Community Christian Church

1. BCCC

Representative Rush founded BCCC,⁵⁵ a 501(c)(3) charitable organization, in approximately 2002.⁵⁶ Since its early days, Representative Rush has been BCCC's pastor and teacher, and a member and leader of its core group, which makes decisions for the church.⁵⁷ He receives no payments from the church.⁵⁸

BCCC uses a single operating account to hold donations to the church and to pay bills and salaries.⁵⁹ Representative Rush has no control over that account, and while he can sign checks drawn on the account, two additional signatures are required.⁶⁰ As the manager of BCCC's finances, the secretary is responsible for receiving, depositing, and cataloguing all donations, and for writing checks to cover bills and to pay salaries to BCCC's employees.⁶¹ Over the years, BCCC has paid salaries to three of its musicians and the custodial engineer.⁶²

2. Representative Rush's son worked at BCCC

Representative Rush's son began working for BCCC as a custodial engineer in July 2013.⁶³ He was paid \$300 per week, at the same rate as his predecessor.⁶⁴ He received his salary payments on a bi-weekly basis.⁶⁵ During Representative Rush's son's employment with BCCC, there were several periods when the church did not have enough money to pay him. Representative Rush's son estimated that BCCC still owes him around \$2,200 in back pay.⁶⁶

Representative Rush's son told the Committee he stopped working for BCCC in the spring of 2014,⁶⁷ and the last payment he received from the church was in March 2014.⁶⁸ BCCC's secretary had a different recollection, believing that Representative Rush's son worked at BCCC

⁵³ July 11, 2014 Submission at 2.

⁵⁴ *Id.*

⁵⁵ Presently, the BCCC is called the Beloved Community Christian Church of God in Christ, abbreviated BCCCOGIC.

⁵⁶ OCE Interview of Representative Rush (OCE's Referral, Ex. 1) at 2-4.

⁵⁷ *Id.* at 3-4.

⁵⁸ *Id.* at 15-16; Letter from Scott Thomas to Paul Solis, May 27, 2014 (*hereinafter* May 27, 2014 Submission to OCE) at 3.

⁵⁹ 18(a) Interview of Church Administrative Assistant.

⁶⁰ OCE Interview of Representative Rush (OCE's Referral, Ex. 1) at 6.

⁶¹ 18(a) Interview of Church Administrative Assistant.

⁶² *Id.*

⁶³ OCE Interview of Representative Rush's Son (OCE's Referral, Ex. 8) at 2, 9-10.

⁶⁴ *Id.* at 9.

⁶⁵ *Id.* at 11.

⁶⁶ 18(a) Interview of Representative Rush's Son.

⁶⁷ *Id.*

⁶⁸ *Id.*

until the fall of 2014.⁶⁹ Representative Rush told the Committee his son was no longer on BCCC's payroll in October 2014.⁷⁰

3. *July 23, 2013, donation of campaign funds*

In its October 2013 Quarterly FEC report, Citizens for Rush disclosed that on July 23, 2013, it made a \$2,100 donation to BCCC.⁷¹ On April 15, 2014, Citizens for Rush amended this report to reflect that the \$2,100 donation had instead been made to Beloved Community Family Services (BCFS), a different non-profit entity.⁷² BCFS's bank statement confirmed that on July 23, 2013, BCFS deposited \$2,100 into its account.⁷³ BCCC's secretary, the individual responsible for receiving and recording BCCC's incoming donations, told the Committee that she had been unaware of the July 23, 2013, donation's existence until this matter came under investigation in 2014.⁷⁴

In his communications with OCE, Representative Rush affirmed that the July 23, 2013, donation was intended for and made to BCFS, not BCCC.⁷⁵ Although Representative Rush had been involved in helping BCFS during its formation, he has not served as an officer or a member of its board.⁷⁶ Over the years, various members of Representative Rush's family have sat on the BCFS board, but they did not receive compensation for those services.⁷⁷

4. *October 9, 2014, donation of campaign funds*

In a Pre-General Election FEC Report that Citizens for Rush filed on October 23, 2014, the campaign committee disclosed that on October 9, 2014, it made a disbursement to BCCC in the amount of \$10,000. BCCC's secretary told the Committee that she received the \$10,000 check from Representative Rush.⁷⁸ When he handed her the check, Representative Rush issued no instructions other than asking that the money be deposited into BCCC's account.⁷⁹

BCCC's secretary told the Committee that when she received and deposited the \$10,000 donation into BCCC's single operating account, Representative Rush's son was still employed by the church.⁸⁰ The secretary could not, however, recall whether at that time, in October 2014, BCCC was paying Representative Rush's son for his work or if this was one of the periods when BCCC was in arrears on salaries.⁸¹ In an August 2015 letter, Representative Rush advised the Committee that his son "has not been compensated for quite some time" because BCCC's stained

⁶⁹ 18(a) Interview of Church Administrative Assistant.

⁷⁰ 18(a) Interview of Representative Rush.

⁷¹ 2013 October Quarterly FEC report.

⁷² 2013 October Quarterly FEC report, amended.

⁷³ OCE's Referral at 20 (Ex. 19).

⁷⁴ 18(a) Interview of Church Administrative Assistant.

⁷⁵ OCE's Referral at 19-20; May 27, 2014 Submission to OCE at 4.

⁷⁶ July 11, 2014 Submission at Attachment 1 § 6.

⁷⁷ OCE's Referral at 19; July 11, 2014 Submission at Attachment 1 § B.

⁷⁸ 18(a) Interview of Church Administrative Assistant.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

glass window collapsed in late October 2014 and the church had been experiencing financial difficulties.⁸² Representative Rush’s son told Committee staff that BCCC did not pay him in 2014, and that the church in fact owed him back pay, which he never received.⁸³

V. FINDINGS

A. Representative Rush Accepted a Gift of Office Space that Exceeded the Gift Rule Limits

1. *Representative Rush received a gift of rent-free office space*

The Gift Rule prohibits a Member from knowingly accepting a gift unless it fits within one of the Rule’s enumerated exceptions.⁸⁴ A “gift” is defined as “a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.”⁸⁵ The Committee considered whether the arrangement between Draper and Kramer and Representative Rush, which allowed the Member to occupy and use office space for his entire tenure in the House without any payment of rent, was a “forbearance,” *i.e.*, Draper and Kramer had a legal right to demand payment of rent from Representative Rush at all times and chose not to. If so, the value of the gift to Representative Rush would be simple: the full value of the forbearance, which would be the amount of rent that was not paid. Ultimately, the Committee concluded Draper and Kramer likely waived its legal right to collect rent. However, the Committee also concluded the office space was an “item having monetary value.” As such, the office space was a gift, and was subject to the strict limits of the Gift Rule. That rule permits a Member to accept a gift (not otherwise prohibited) only if it fits within one of the enumerated exceptions. If no exception applies, then the gift may be accepted only if the Member “reasonably and in good faith believes” it has a value of less than \$50 and a cumulative value from one source during a calendar year of less than \$100.⁸⁶

2. *Rent-free use of the office did not amount to a campaign contribution*

The Gift Rule has one exception that, in light of how OCE interpreted the facts of this matter, bears examining. Specifically, the Gift Rule exempts from its prohibitions the receipt of a “contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) that is lawfully made under that Act, a lawful contribution for the election to a State or local government office, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.”⁸⁷ OCE found substantial reason to believe Draper and Kramer made recurring in-kind contributions to the campaign committees for Representative Rush’s state and federal positions – Citizens for Rush and Friends of Bobby Rush – by allowing those committees to use the Lake Meadows office without taking legal action to force Representative Rush to pay rent. Based on its method of valuing the office

⁸² August 10, 2015 Submission at 3.

⁸³ 18(a) Interview of Representative Rush’s Son.

⁸⁴ House Rule XXV, cl. 5(a)(1)(A)(i). The rule does not have an exception that would permit Representative Rush to accept this type of gift. *See* House Rule XXV, cl. 5(a)(3).

⁸⁵ House Rule XXV, cl. 5(a)(2)(A).

⁸⁶ House Rule XXV, cl. 5(a)(1)(B)(i).

⁸⁷ The statute has been recodified as 52 U.S.C. § 30101. House Rule XXV, cl. 5(a)(3)(B).

space, OCE concluded that the campaign contributions exceeded the limits set by federal law, and from 2011 on, by Illinois law.⁸⁸ OCE thus found substantial reason to believe the contributions were not “lawfully made under the Act” and did not fit within the exception to the Gift Rule.⁸⁹ Accordingly, any campaign contributions in excess of federal and state limits represented gifts to Representative Rush, which the Gift Rule did not allow him to accept or retain.

The Committee also concluded that the Gift Rule and its limitations applied to Representative Rush’s receipt of the rent-free office space. However, the Committee found the office space was a gift to Representative Rush *personally*, not a contribution to his federal and state campaigns. The Federal Election Campaign Act of 1971 (FECA) defines a campaign contribution as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person *for the purpose of* influencing any election for Federal office.”⁹⁰ (Emphasis added). The Illinois Campaign Financing Act includes a similar definition.⁹¹ FECA further specifies that an in-kind contribution is made by any person “in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents.”⁹² Accordingly, when considering whether a candidate’s receipt of a free or discounted good or service should be considered a contribution to the candidate’s electoral campaign, the intent of the person providing the good or service is important.⁹³

In this case, there is no evidence that Draper and Kramer, or the owner of the Lake Meadows Shopping Center, Lake Meadows Associates, knowingly provided free office space to Representative Rush’s state or federal campaign committees, or that they did so for the purpose of influencing, or in connection with, any of Representative Rush’s campaigns. Indeed, the available evidence is all to the contrary. Most importantly, the lease provided that the office would be used as an Aldermanic office, and not for any other purpose.⁹⁴ Thus, Draper and Kramer expressly did not authorize use of the office for Representative Rush’s state and federal campaigns. Under a similar set of facts, the FEC found that where a landlord leased office space to a person who was not a candidate or campaign committee, and that person allowed a campaign committee to use the space free of charge, the landlord did not intend to make an in-kind contribution to the campaign

⁸⁸ Prior to January 1, 2011, Illinois had no legal limit on the contributions a single donor could make to a state candidate on an annual basis. See S.B. 1466, 96th Gen. Assembly. In 2011, Illinois established the following statutory limits: \$5,000 from an individual; \$10,000 from a corporation, labor union, or association; \$50,000 from a political action committee or another candidate political committee. See *id.* § 9-8.5.

⁸⁹ OCE’s Referral at 17.

⁹⁰ 52 U.S.C. § 30101(8)(A)(i); see also 11 CFR § 100.52(a).

⁹¹ The Act defines a contribution as “a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value, knowingly received in connection with the nomination for election, election, or retention of any candidate or person to or in public office or in connection with any question of public policy.” 10 ILCS 5/9-1.4(A)(1).

⁹² 52 U.S.C. § 30116(a)(7)(B)(i).

⁹³ Cf. *McCormick v. United States*, 500 U.S. 257, 271 (in determining “whether payments made to an elected official are in fact campaign contributions” or were unlawful payoffs as part of an extortion scheme, “the intention of the parties is a relevant consideration.”).

⁹⁴ See Exhibit 1 at § 1.1(H) (“Use (Article VI): As an Aldermanic office for Alderman Rush’s local Chicago political Ward, known as the Second Ward.”); *id.* at § 6.1 (“Tenant agrees that the Leased Premises shall be used and occupied by Tenant or anyone else claiming under Tenant only for the purpose specified as the use thereof in Section 1.1.H. and for no other purpose or purposes without the prior consent of Landlord.”)

committee.⁹⁵ As in this case, the terms of the lease permitted use of the space for a specific, non-campaign, purpose, and the lease prohibited the tenant who signed the lease from subletting the space to any other tenant without the landlord's express permission.⁹⁶ It is also significant that, according to the President and CEO of Draper and Kramer, he believed Representative Rush had vacated the Lake Meadows office soon after he became a month-to-month tenant in late 1991.⁹⁷ His surprise that Representative Rush occupied the space for the next twenty years is obviously inconsistent with any intent to make an in-kind contribution to Representative Rush's campaigns.

The FEC's General Counsel reached a different conclusion with respect to an apartment that Representative Charlie Rangel rented as a residential unit but used as a campaign office.⁹⁸ However, the facts in this case are distinguishable from Representative Rangel's circumstances. In the Representative Rangel matter, the FEC's General Counsel noted that the lease required residential use of the unit, and prohibited subletting without the landlord's consent,⁹⁹ but nonetheless found that the landlord made in-kind contributions to Representative Rangel's campaign committees by allowing the committees to use the unit for rent that was below-market for a comparable office space. It appears the FEC's General Counsel was willing to "look past" the lease restrictions because the evidence showed that the landlord's employees or executives knew or should have known Representative Rangel was using the unit as a campaign office, contrary to the terms of the lease. The evidence for this conclusion included the landlord's receipt of rent checks from the campaign committees, and emails from the committees including the apartment address and unit number, as well as testimony from a senior executive of the landlord company that he knew the campaign committees were using the apartment as an office.¹⁰⁰ None of those facts exist in this case, and each relevant fact is to the contrary: (1) Representative Rush's campaign committees never paid rent to, or communicated with, the landlord, Draper and Kramer; (2) the President of Draper and Kramer, along with other company officers and employees, had no idea the committees were using the office space;¹⁰¹ (3) while one Draper and Kramer executive may have known that Representative Rush was still occupying the office space as late as 2009, internal communications to the executive indicated the tenant was the "2nd Ward Democratic

⁹⁵ See, e.g., FEC, *Factual and Legal Analysis regarding Pettit Square Partners, LLC*, MUR 6463, May 7, 2012, at 3 (available at <http://eqs.fec.gov/eqsdocsMUR/12044321389.pdf>) (where lessor of office space allowed the Democratic National Committee to use the space without notice to the landlord, and the lease expressly prohibited subletting the space without the landlord's consent, the landlord "may not have authorized the DNC to occupy the space or otherwise make an in-kind contribution under the Act. Under these circumstances, the Commission dismisses the allegations related to [the landlord].").

⁹⁶ See *id.*; see also Exhibit 1 at § 12.1 ("Tenant shall not transfer, assign, sublet, enter into a license or concession agreement or hypothecate this Lease or Tenant's interest in and to the Leased Premises, or permit any transfer of Tenant's Interest created hereby . . . or permit the use or occupancy of the Leased Premises or any part thereof by anyone other than Tenant, without first obtaining the prior written consent of Landlord.")

⁹⁷ 18(a) Interview of Chief Executive Officer.

⁹⁸ See FEC, *In the Matter of Fourth Lenox Terrace Associates*, Gen. Counsel's Rept. #2, Aug. 11, 2011 (available at <http://eqs.fec.gov/eqsdocsMUR/12044312868.pdf>).

⁹⁹ See *id.* at 5.

¹⁰⁰ See *id.* at 9-12, 19.

¹⁰¹ See 18(a) Interview of Senior Vice President A (Senior Vice President in charge of property management) ("Q. Do you know what the office was used for? A. I don't know that either."); OCE Interview of Property Manager C (Property Manager of Lake Meadows Shopping Center, who worked in the shopping center two doors down from Representative Rush's office from 2002 to 2013, had never heard the name of Representative Rush's congressional campaign committee).

Party”; (4) the signage on the outside of the Lake Meadows office reads “2nd Ward Regular Democratic Party Bobby Rush,”¹⁰² which refers to Representative Rush’s former position as the Alderman of Chicago’s Second Ward; there is no indication on the exterior of the office that it has ever housed Representative Rush’s state or federal campaign committees. Consistent with all of this evidence, Draper and Kramer’s internal records of the rent due on the Lake Meadows office continued to identify it as the “Second Ward Office” or “Second Ward Democratic Party” until at least 2009, and there is no reason to believe that designation has changed since then.¹⁰³

Thus, based on the factors the FEC has considered in other matters, the failure of Draper and Kramer, and Lake Meadows Associates, to collect rent on the Lake Meadows office –which Representative Rush leased as “Bobby Rush, an individual,” to house a local elected office–did not result in an in-kind contribution to Representative Rush’s state or federal campaign committees because the lease only permitted the office to be used as an Aldermanic office and the evidence does not show that Draper and Kramer or Lake Meadows Associates knew or should have known the campaign committees were the “true” tenants.

There is also no evidence that *Representative Rush* viewed the office space as a contribution to his state or federal campaigns. He never disclosed it as such on state or federal campaign filings before OCE began its investigation, and when he subsequently revised those filings, he listed the unpaid rent as debts of his state committeeman and federal campaign committees, not as contributions (which would not incur an obligation to repay).

Thus, there is no indication that the rent-free office space Representative Rush received was ever intended to be, or would fit within the legal definition of, a campaign contribution. Accordingly, the Committee found the rent-free office space was a gift to Representative Rush, not a contribution to his campaigns.

3. *Value of the gift of office space*

The Committee has a longstanding practice of finding Members should repay the value of improper gifts they accept.¹⁰⁴ Although the Committee has not previously addressed the issue of a gift in the form of free office space, *In the Matter of Representative Don Young*, the Committee found Representative Young must repay the value of free lodging he accepted in violation of the Gift Rule.¹⁰⁵ Likewise, *In the Matter of Representative Jean Schmidt*, the Committee found

¹⁰² The word “committeeman” is printed in a different font and color below this statement, but it is unclear whether this refers to Representative Rush’s former position as a city committeeman or his current position as a state committeeman.

¹⁰³ See Exhibit 17; Exhibit 13.

¹⁰⁴ See House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young*, H. Rep. 113-487, 113th Cong., 2d Sess. (2014) (hereinafter *Young*); House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Jean Schmidt*, H. Rep. 112-195, 112th Cong., 1st Sess. (2011) (hereinafter *Schmidt*); House Comm. on Standards of Official Conduct, *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. Rep. 111-422, 111th Cong. 2nd Sess. (2010) (hereinafter *Carib News*).

¹⁰⁵ See *Young* at 4.

Representative Schmidt must repay over \$500,000 for legal services she received but was not billed for, even though she was unaware that a private entity had paid for them.¹⁰⁶

As previously discussed, Representative Rush signed a lease for the Lake Meadows office in August of 1989, which required him to pay \$1,126.49 per month, inclusive of both rent and “common access charges” for shared services such as security and sanitation, for the one-year lease term. When the written lease expired, the landlord mailed a letter to Representative Rush’s home, notifying him that “your occupancy is on a month-to-month basis only, at the same terms and conditions outlined in the initial lease document.”¹⁰⁷ The notice further stated that the landlord “reserves the right to terminate this lease upon 30 days written notice.”¹⁰⁸ Draper and Kramer never provided notice of termination of the lease. Thus, by both the terms of the letter and in the view of the company’s employees,¹⁰⁹ Representative Rush remains a month-to-month tenant today.

Representative Rush told the Committee he has no recollection of receiving any notice that he was bound by the lease for the Lake Meadows office after the original lease expired on October 31, 1990.¹¹⁰ The Committee accepts Representative Rush’s lack of recollection, but there is no reason to believe he did not receive the notice mailed to his home. Moreover, the lease Representative Rush signed states: “Notice and demands [to the tenant] shall be deemed to have been given when mailed.”¹¹¹ Finally, as previously discussed, Draper and Kramer sent Representative Rush numerous letters over the years, to his home address, his House District office, and the Lake Meadows office, indicating that he was still a “tenant,” and that he remained bound by the terms of the lease. Indeed, some of these notices informed Representative Rush that he continued to accrue an increasingly substantial balance of past-due rent.¹¹²

Given this, there is an argument that Lake Meadows Associates, the owners of the Lake Meadows office, had a legal right to require Representative Rush to pay the full monthly charges specified in the 1989 Lease, from the start of the lease to the present. Once Representative Rush was sworn in as a House Member in January 1993, he was subject to the Gift Rule, which currently prohibits a Member from accepting any gift unless it fits within an enumerated exception to the Gift Rule. If no exception applies, and the gift is not otherwise prohibited, the Member may accept a gift valued at less than \$50, or totaling less than \$100 from a single source in a year.¹¹³ The Gift Rule defines such a gift broadly, and includes a “forbearance.” Although the Gift Rule does not define that term, a forbearance is generally defined as “[t]he act of refraining from enforcing a right, obligation, or debt.”¹¹⁴ Thus, if Lake Meadows Associates, or its agent Draper and Kramer, had a legal right to collect the amount specified in the 1989 Lease from Representative Rush, and

¹⁰⁶ See *Schmidt* at 16-17.

¹⁰⁷ Exhibit 9.

¹⁰⁸ *Id.*

¹⁰⁹ See, e.g., 18(a) Interview of Property Manager C.

¹¹⁰ 18(a) Interview of Representative Rush.

¹¹¹ See Exhibit 1 at § 24.11.

¹¹² See, e.g., Exhibit 18 (noting “your past due balance of \$29,517.10” and stating this “past due balance is due with your May 1999 charges above.”); Exhibit 17 (September 2000 rent statement addressed to Representative Rush at the Lake Meadows office, with a “balance due” of \$57,031.52).

¹¹³ The Gift Rule has changed several times since 1993. See p. 21.

¹¹⁴ Black’s Law Dictionary (Tenth Ed.) at 760.

that right continued until the present, then the total value of the gift to Representative Rush during the 24 years he has been subject to the Gift Rule as a Member is the amount he was obligated to pay, under the 1989 Lease, from 1993 to the present.

While this formulation of the value of the gift is both simple and clear, the Committee did not find it appropriate as a matter of law. The failure to collect rent from Representative Rush was a forbearance only if Draper and Kramer, acting as the agent for Lake Meadows Associates, had a legal right to collect the rent. But it is likely that, at some point during Representative Rush's tenure in the House, Draper and Kramer effectively forfeited this right. Indeed, this appears to have been an intentional waiver. In a 1990 memo, written before Representative Rush was elected to Congress, the property manager for the Lake Meadows office recommended to her superiors that they take legal action to evict Representative Rush and collect the overdue rent. Draper and Kramer never did so. Instead, sometime in the mid-1990's, management directed the property managers to cease all efforts to collect the rent. While the occasional automated reminder of a past-due balance may have gone out, Draper and Kramer never issued a formal demand for payment to Representative Rush or initiated any legal action to evict him or obtain a money judgement against him.

Given this course of conduct, it appears that Draper and Kramer waived its right to collect rent from Representative Rush. Under Illinois law, "[p]arties to a contract have the power to waive provisions placed in the contract for their benefit and such a waiver may be established by conduct indicating that strict compliance with the contractual provisions will not be required."¹¹⁵ Waiver of a contractual right can be implied or express.¹¹⁶ "An implied waiver of a legal right may arise when conduct of the person against whom waiver is asserted is inconsistent with any other intention than to waive it."¹¹⁷ Where the non-breaching party to a contract "has intentionally relinquished a known right, either expressly or by conduct inconsistent with an intent to enforce that right, he has waived it and may not thereafter seek judicial enforcement."¹¹⁸ Further, "[a] party to a contract may not lull another into a false assurance that strict compliance with a contractual duty will not be required and then sue for noncompliance."¹¹⁹ Here, the record is clear that Draper and Kramer's management decided, before Representative Rush was elected to the House, that it would not enforce its legal right to sue him for nonpayment of rent. Thus, Draper and Kramer engaged in "conduct inconsistent with an intent to enforce that right . . . and may not thereafter seek judicial enforcement."¹²⁰

The common law doctrine of laches may also apply in these circumstances. The Supreme Court of Illinois has defined laches as "a neglect or omission to assert a right, taken in conjunction with a lapse of time of more or less duration, and other circumstances causing prejudice to an

¹¹⁵ *Whalen v. K Mart Corp.*, 166 Ill. App. 3d 339, 343 (Ill. App. Ct. 1st Dist. Feb. 2, 1988).

¹¹⁶ *See National Tea Co. v. Commerce & Industry Ins. Co.*, 119 Ill. App. 3d 195 (Ill. App. Ct. 1st Dist. Oct. 28, 1983).

¹¹⁷ *Whalen*, 166 Ill. App. 3d at 343 (citing *Saverslak v. Davis-Cleaner Produce Co.*, 606 F.2d 208, 213 (7th Cir. 1979), *cert. denied* 444 U.S. 1078 (1980)).

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

adverse party, as will operate to bar relief in equity.”¹²¹ For laches to apply, a plaintiff must have knowledge of his right, yet fail to assert it in a timely manner.¹²² Here, there is no question that Draper and Kramer believed it had a right to initiate a legal action to evict Representative Rush from the Lake Meadows office and force him to pay the past-due rent.¹²³ Yet Draper and Kramer never acted to enforce its rights, and made an explicit decision not to do so. The prejudice to Representative Rush is clear: if he believed a court would one day force him to pay 27 years of back rent, there is little doubt he would have vacated the Lake Meadows office long ago.¹²⁴

Under either a theory of waiver or laches, the Committee believes Draper and Kramer forfeited any legal right to collect unpaid rent from Representative Rush long ago. Accordingly, as a matter of law, Representative Rush did not receive the benefit of a forbearance from the payment of rent for the Lake Meadows office.

However, this does not mean the office space was not a gift to Representative Rush, or that the gift had no value. The *House Ethics Manual* states:

[W]hen a Member . . . is offered a tangible item, a service, or anything else, he or she must first determine whether the item has monetary value. If it does, then the individual may accept it only in accordance with provisions of the gift rule. This is so even if the donor obtained the gift without charge.¹²⁵

This statement is immediately followed by an example:

A Member has been invited to play golf by an acquaintance who belongs to a country club, and under the rules of the club, the guest of a club member plays without any fee. Nevertheless, the Member’s use of the course would be deemed a gift to the Member from his host, having a value of the amount that the country club generally charges for a round of golf.¹²⁶

While the facts here are more complex, the same principle applies: even if Draper and Kramer at some point waived its right to collect overdue rent from Representative Rush, and even if Draper and Kramer lost nothing by allowing Representative Rush to use the space, the office still had value to Representative Rush. That value was a gift to Representative Rush.

¹²¹ *Meyers v. Kissner*, 149 Ill.2d 1, 12 (1992).

¹²² *See Bremer v. Bremer*, 411 Ill. 454, 468, 104 N.E.2d 299 (1952).

¹²³ *See* Exhibit 6.

¹²⁴ While laches is a defense generally applicable in actions for equitable relief – while a suit for unpaid rent would be an action at law – the Illinois Supreme Court has held that “laches analysis is no longer mechanically applied to all actions denominated equitable, particularly where such an application would frustrate the intent of the legislature.” *See Sundance Homes v. County of Du Page*, 195 Ill. 2d 257, 271 (Ill. Feb. 16, 2001). Further, laches may apply where a plaintiff seeks both legal and equitable remedies. *See General Auto Service Station, LLC v. Garrett*, 2016 IL App (1st) 151924, at 4 (Mar. 2, 2016). It appears that would be true if Draper and Kramer sought to enforce the lease with Representative Rush, as it would sue for both legal relief (unpaid rent) and the equitable remedy of eviction.

¹²⁵ *House Ethics Manual* (2008) at 32 (hereinafter *Ethics Manual*).

¹²⁶ *Id.*

The facts here bear some resemblance to those in the *Carib News* matter, where several Members accepted gifts of travel from a private trip sponsor. An investigative subcommittee (ISC) determined that some of the travel expenses were in fact paid by other entities, which could not sponsor private travel.¹²⁷ The ISC thus attempted to determine the value of these impermissible gifts to the Members. One sticking point was the air travel several Members accepted; according to the airline that provided tickets to the private trip sponsor, the tickets were “promotional,” and were thus supplied at no cost.¹²⁸ Given this, the Committee found that the value of the tickets “should have been reported . . . at the fair market value pursuant to the gift rule because the tickets had no face value.”¹²⁹ This presented a different issue: the airline “advised the Subcommittee that an actual value for the tickets could not be determined because of the nature of the promotional tickets. However, they subsequently provided the walk-up fare that would have been charged if the tickets were purchased the day of travel at the ticket counter.”¹³⁰ Ultimately, the ISC concluded that Members should be required to repay this “walk-up fare” for their flights,¹³¹ even though the private trip sponsor would not have waited until the last minute to arrange Member travel, and the walk-up fare was likely higher than the fare for an advance purchase.

In this case, the Lake Meadows office did have a “face value”—the amount specified in the lease—when Representative Rush rented it. However, because the landlord slept on its rights to collect the rent from 1990 to the present, the office is now more akin to the “promotional fare” that Members received for air travel in *Carib News*, meaning a price that is artificial, and does not reflect the item’s true market value. In *Carib News*, flights from the United States to Antigua had a promotional fare of \$0. Here, the landlord effectively charged Representative Rush \$0 in rent, even when it had the right to collect the rent specified in the lease, and ultimately waived its right to collect even that amount.

The fact that Draper and Kramer effectively, and intentionally, waived its right to collect rent from Representative Rush for the Lake Meadows office means only that the gift of office space to him cannot be valued solely by reference to the lease Representative Rush signed. However, Representative Rush still received a thing of value. Given this, the Committee was required to find an alternative way to calculate the fair market value of the gift. In *Carib News*, the fair market value of the flights was based on a hypothetical day-of-travel purchase, which was likely higher than the rate any Member or sponsor, booking travel months in advance, would have actually paid. In this case, the alternative value, based on Representative Rush’s actual use of the office space, is lower than the rent specified in the lease. In light of the uncommon, fact-specific circumstances in both matters, the Committee felt comfortable utilizing these alternative market valuations.

Ultimately, given the passage of time and the limited evidence from third-party sources regarding how the Lake Meadows office was used, and to what degree, the Committee largely

¹²⁷ See *Carib News* at 111.

¹²⁸ See *id.* at 111-13.

¹²⁹ See *id.* at 119. The Committee applied House Rule XXV, clause 5(a)(1)(B)(ii): “A gift of a ticket to a sporting or entertainment event shall be valued at the face value of the ticket or, in the case of a ticket without a face value, at the highest cost of a ticket with a face value for the event. The price printed on a ticket to an event shall be deemed its face value only if it also is the price at which the issuer offers that ticket for sale to the public.”

¹³⁰ See *id.* at 118, n.387.

¹³¹ *Id.* at IV.

accepted the valuation proposed by Representative Rush himself, which is based on Representative Rush's own estimates of how and when he used the office. This estimate relies on the replacement value of the office space, meaning what Representative Rush would have had to pay to use similar space to a similar extent.

As previously discussed, Representative Rush has asserted that he used the office space for two primary purposes: for storage of old office equipment and records from his time as a Chicago Alderman, and, more intermittently, for a variety of meetings, campaign activities (both his own and of other candidates), and classes offered by a non-profit organization to educate at-risk youth.

If Representative Rush had moved out of the Lake Meadows office when he was sworn in to the House in 1993, and chosen to find storage space for his old Aldermanic files and file cabinets, along with a few tables, a photocopier, and other office equipment, he would have had to pay something for that space. Representative Rush has asserted that a comparable storage space in the same area would cost him \$250 per month.¹³² However, the Committee did not find that this storage value of the space represented a gift to Representative Rush because it is clear from Representative Rush's testimony to OCE and the Committee, and from the rest of the factual record, that Representative Rush would not have paid the replacement cost of the space. Instead, Representative Rush has stated, and the Committee has no reason to doubt, that he views the items stored in the Lake Meadows office as "junk" that is "useless" or "essentially worthless."¹³³ Consistent with this view, Representative Rush told OCE in 2014 he "sees no value in keeping the old Aldermanic or Committeeman records, sees no value in the old copy machines stored there, and is perfectly willing to clear out the space, and hand over the keys immediately because the space really has no practical value to his Committeeman operation."¹³⁴ He made a similar statement to the Committee, saying he was "perfectly willing to empty out the space today, [and] discard the old equipment, records, and other items stored there."¹³⁵ Given these statements, and the low value Representative Rush assigned to the contents of the Lake Meadows office, the Committee determined that if the landlord of the space had ever demanded payment of rent, Representative Rush would have simply disposed of whatever items the office contained. Accordingly, it was not necessary or appropriate for the Committee to calculate the replacement value of the storage components of the office space, because that usage would not have been replaced.

The same cannot be said of the use of the office as a meeting space. Representative Rush told OCE he used the office space for a variety of in-person meetings over the years, and that many of those meetings were necessary to the performance of his roles as a Ward and State Committeeman.¹³⁶ Thus, the Committee found Representative Rush would have had to find, and

¹³² See July 11, 2014 Submission at 1.

¹³³ See *id.* at 1.

¹³⁴ See May 27, 2014 Submission to OCE at 3.

¹³⁵ See July 11, 2014 Submission at 6.

¹³⁶ See OCE Interview of Representative Rush (OCE's Referral, Ex. 1) at 33 ("Then when I became a Member of Congress, that office – because I was a Ward Committeeman, we started having meetings in that office and Ward meetings . . . if you're involved in Ward politics, you got to have a place where your precinct captains could meet, where your precinct captains could conduct their business, and you have regular Ward meetings. So we did that for a few years."); see also *id.* at 33-34. ("And I'm a state party official . . . so I supported a number of candidates. That

presumably pay for, meeting space to replace the Lake Meadows office. Of course, the office was not used continuously, and it seems to have been used less and less over the years. Indeed, the primary use of the space, as a Ward Committeeman office, ended in 2008 when Representative Rush relinquished that office.¹³⁷

Representative Rush has estimated that all of the non-storage uses of the office, with the exception of the non-profit organization's classes, totaled 5 days per year (at 8 hours per day) from the time he became a House Member in 1993 through 2008.¹³⁸ The Committee found the record consistent with this estimate.¹³⁹ The record also supports Representative Rush's estimate that the non-profit organization used the space for approximately 120 hours in 2007 and 2008.¹⁴⁰ However, these estimates includes uses of the space by people other than Representative Rush. Representative Rush did not lead, and was not responsible for, the non-profit's classes, and there is no reason to think he would have paid to rent space to hold the classes, if he did not have the empty Lake Meadows office. Likewise, Representative Rush's estimates include other candidates' use of the space for their local office campaigns. There is no indication Representative Rush would have rented campaign offices for any unrelated candidates.¹⁴¹ Thus, these uses of the Lake Meadows office had no replacement value to Representative Rush because he would not have paid to replace them. Further, to the extent Representative Rush allowed a non-profit organization or other candidates to use the office, the free space was a gift to *them*, not to Representative Rush.

Accordingly, the Committee did not calculate a replacement value for use of the Lake Meadows office by the non-profit organization to teach classes to at-risk youth. The Committee also subtracted from Representative Rush's estimate of the total use of the office space the Committee's own estimate of usage by other candidates. These calculations were necessarily imprecise. However, the Committee believed they reflected a fair assessment of the value of the

office was used primarily for meeting with those candidates, me gathering material from those candidates, me circulating material for those candidates, and that was all the way up until, I'd say [2007 or 2008], maybe longer.")

¹³⁷ See *id.* at 41 ("Since I stopped being a Ward Committeeman, then there was no need to have that office.")

¹³⁸ See July 11, 2014 Submission at 2.

¹³⁹ Although there is no daily record of use of the Lake Meadows office from 1993 through the present, contemporaneous accounts from the staff of the management company suggest the office was infrequently occupied. See, e.g., Exhibit 14 (March 24, 1997, letter to Representative Rush: "We have noticed that your Lake Meadows Shopping Center office has not been utilized for several months. Many area residents and business professionals have stopped at our office demonstrating their frustration with their inability to contact you at this location."); Exhibit 19 (June 7, 2011 email to Representative Rush's Executive Assistant: "Since someone is not always in the office, I'm wondering how we could show the space to a prospective tenant, as that need may arise."); Exhibit 20 (March 6, 2012, letter to Representative Rush: "someone is not always in that office."); see also 18(a) Interview of Property Manager A (former Property Manager of Lake Meadows Shopping Center, discussing the period from 1996 to 1998: "most of the time it was, you could see that it was dark from within, so I guess the occasional use was what I could best typify as my experience with [Representative Rush]."); 18(a) Interview of Senior Vice President B (employee of the Lake Meadows management company from 1997 to 2014: "I also never saw anyone in there, you know . . . and I was, you know, at the property off and on over the years, kind of – I didn't really view it as occupied.")

¹⁴⁰ See July 11, 2014 Submission at 2.

¹⁴¹ It appears Representative Rush did allow his sister to use the Lake Meadows office as a campaign office for her own race for Chicago Alderman in 1995. See 18(a) Interview of Representative Rush. Although this usage appears to have been sporadic and quite limited, the Committee attributed it to Representative Rush, as it benefitted his family member.

Lake Meadows office attributed to Representative Rush's own use of the space. The Committee thus estimated Representative Rush himself used the Lake Meadows office for approximately three days a year, at eight hours a day, from 1993 to 2008, for a total of 384 hours.

Representative Rush has stated that a meeting space with the same capacity as the Lake Meadows office, in the same area, currently rents for \$65 per hour.¹⁴² However, it appears the rental rate was significantly lower in previous years, and the Committee estimated the YMCA meeting space, or similar space, would have rented for no more than \$40 between 1993 and 2008.¹⁴³ Accordingly, for a total of 384 hours of usage between 1993 and 2008, the Committee estimated the replacement value of the Lake Meadows office for meeting space at \$15,360.

Although the Committee's valuation of the gift to Representative Rush is largely based on the Member's own estimate of the replacement value of the space, Representative Rush has also asserted that the space may have had no value, or that his occupancy of the office provided a value to the Lake Meadows Shopping Center, which offset whatever he received in free use of the space.

Several current and former Draper and Kramer employees told Committee staff that the Lake Meadows office was "unleasable,"¹⁴⁴ by which they seemed to mean that, in the years between 1989 and the present, no tenant could be found who would pay the rent Representative Rush agreed to pay. This was in part due to the physical condition and surroundings of the shopping center, which have varied from bleak to improved over the years, and in part due to the location of the Lake Meadows office, in a dark and somewhat isolated corner of the shopping center. However, no Draper and Kramer witnesses suggested that the office space was unleasable at any price, and there is no reason to think the space had literally zero value to its owners. Even if that were true, as previously discussed, an item that has no cost (or value) to the giver of a gift may still have value to the recipient.¹⁴⁵ In this case, the office space clearly had value to Representative Rush, although his use of the space varied over time. Indeed, Representative Rush has acknowledged that he would have been required to pay some amount for storage and meeting space if he could not use the Lake Meadows office for those purposes. Accordingly, the free use of that space was subject to the Gift Rule.

Representative Rush has also argued that the presence of his office in a downtrodden shopping center was of some benefit to Draper and Kramer, and this benefit should offset the rent he did not pay.¹⁴⁶ But the Gift Rule cannot be applied in this way. A lobbyist who invites a Member on a trip with clients may obtain a significant benefit from the Member's presence. However, that value does not decrease the value of the gift of travel to the Member. Likewise, in this case it is likely that Lake Meadows Shopping Center derived some benefit from having Representative Rush as a tenant; his office increased foot traffic in a corner of the shopping center and may have lent some prestige to the complex. Yet this does not lessen the value of the space

¹⁴² See July 11, 2014 Submission at 2.

¹⁴³ Rental rates are only publicly available from 2011 to present.

¹⁴⁴ See, e.g., 18(a) Interview of Shopping Center Manager.

¹⁴⁵ See *Ethics Manual* at 32 (Member may only accept an item if it fits within the value limits of the Gift Rule "even if the donor obtained the gift without charge.")

¹⁴⁶ See July 11, 2014 Submission at 3.

to Representative Rush. That value to the Member is the basis for valuing the gift to Representative Rush.

During the years when Representative Rush was actively using the Lake Meadows office for meetings, the Gift Rule varied in the treatment of gifts a Member could accept. From 1993, when Representative Rush was sworn in to the House, through 1995, Members could accept gifts from a single source of up \$250 per year. Thus, for that period, Representative Rush exceeded the Gift Rule limit by \$710 per year. From 1996 through 1998, Members could accept a gift only if it fit within one of the exceptions to the Gift Rule, which the gift of office space to Representative Rush did not. Finally, from 1999 to the present, the Gift Rule has permitted a Member to accept a gift if it fits within an exception to the rule, or, if no exception applies, the gift was valued at less than \$50. Under this version of the Gift Rule, a Member may accept several gifts from a single source in a calendar year that total less than \$100 in value, as long as none of the gifts from that source are valued at \$50 or more. According to the framework of the Gift Rule for the period from 1996 to present, the free office space Representative Rush received during those years exceeded the allowable amount by \$960 per year. In total, inclusive of the period from 1993 to 2008, Representative Rush exceeded the gift limit by \$14,610.

This is a substantial sum, and the Committee recognizes, as it has in other matters, that requiring repayment imposes a burden on the Member.¹⁴⁷ However, in these circumstances and in light of its precedents, the Committee has no other option.¹⁴⁸ Under the Committee's precedents and the clear requirements of the Gift Rule and federal law, a Member may not retain, and must return, any gift in excess of what the rules allow.¹⁴⁹ In this case, that means Representative Rush must repay the value of the free office space he received.¹⁵⁰ In doing so, Representative Rush must use personal funds, as the gift was made to Representative Rush personally, and was not meant to be, and did not carry any indicia of, a campaign contribution. However, because Representative Rush's state and federal campaigns were the actual users of the office, Representative Rush may charge them reasonable rents.¹⁵¹ Accordingly, while Representative Rush must repay the

¹⁴⁷ See, e.g., *Schmidt* at 19 (“The Committee recognizes that the lawyers . . . have been representing Representative Schmidt for more than two years . . . and the legal fees for this work are substantial. For this reason, the Committee does not expect Representative Schmidt to fully pay the lawyers . . . immediately. However, Representative Schmidt must ensure that TCA does not make any further payments on her behalf to the lawyers . . . and must begin paying the lawyers . . . as soon as funds are available.”)

¹⁴⁸ The hardship to a Member of repaying a gift is not, and cannot be, the basis for valuing the gift or determining whether payment is required. In prior cases, the Committee has required Members to make substantial repayments, even where the Member was unaware of the receipt or value of a gift. See, e.g., *id.* at 3 (Member required to repay a gift of \$500,000 in legal fees, “[d]espite [the Member’s] apparent lack of knowledge of this arrangement,” because “it was in fact improper and constituted an impermissible gift.”); see also *supra* at n.102.

¹⁴⁹ See n.102, *supra*.

¹⁵⁰ A Member who receives a gift the Member cannot accept is typically directed to either return the gift to the giver or pay that person or entity the fair market value of the gift. Here, the owner of the office space, Lake Meadows Associates, waived its right to recover rent from Representative Rush. Further, the Committee found Lake Meadows Associates actually had a part in creating the conditions that necessitated this investigation. Thus, given the landlord's lack of a legal right to the repayment, the Committee did not find payment to the landlord to be the appropriate remedy. Therefore, the Committee finds that Representative Rush should repay the value of the impermissible gift, \$13,310, to the U.S. Treasury.

¹⁵¹ Representative Rush told OCE his federal campaign committee did not use the Lake Meadows office. See OCE Interview of Representative Rush (OCE's Referral, Ex. 1) at 42. However, the documentary record suggests at least

impermissible gift out of personal funds, his state and federal campaign committees may pay him rent in the amount of the fair market value of the space.¹⁵²

B. Conversion of Campaign Funds to Personal Use

The Committee did not find that Representative Rush converted campaign funds to personal use. With respect to the allegation OCE referred to the Committee, with a recommendation of dismissal, the Committee concurred with OCE's finding that Representative Rush's federal campaign committee did not actually make a donation to BCCC in 2013, but instead donated funds to a separate entity, which never employed or compensated Representative Rush or his family members. The Committee found that Representative Rush's federal campaign committee did make a \$10,000 donation to BCCC in October 2014, and that the church at one time employed Representative Rush's son. However, the record did not establish that Representative Rush's son was on BCCC's payroll on or after the date of the donation. While witnesses had conflicting memories regarding the timeline of Representative Rush's son's work for BCCC, tax filings and other records do not show any payments to Representative Rush's son in or after October 2014. Accordingly, the Committee did not find that any part of the donated campaign funds were used for the personal benefit of Representative Rush or any member of his family.

C. House Rule XXIII, Clauses 1 and 2

As stated in previous reports, the Committee observes two basic principles when applying the first two clauses of the Code of Conduct. First, Members must at all times act in a manner that reflects creditably upon the House. Second, the Code of Conduct and other standards of conduct governing the ethical behavior of the House community are not criminal statutes to be construed strictly, but rather—under clause 2 of House Rule XXIII—must be read to prohibit violations not only of the letter of the rules, but of the spirit of the rules. Ethical rules governing the conduct of Members were created to assure the public of “the importance of the precedents of decorum and consideration that have evolved in the House over the years.”¹⁵³ The standard “provide[s] the House with the means to deal with infractions that rise to trouble it without burdening it with defining specific charges that would be difficult to state with precision.”¹⁵⁴ The practical effect of clause 2 is to allow the Committee to construe the ethical rules broadly, and prohibit Members from doing indirectly what they would be barred from doing directly. The *Ethics Manual* states

some use of the office by Citizens for Rush over the years, including as an occasional meeting space for Representative Rush's campaign Treasurer.

¹⁵² See *Ethics Manual* at 170-71 (“At times a Member . . . has office space or other property that the person wishes to lease to the Member's campaign. . . . Such a transaction is permissible under the House Rules only if (1) there is a bona fide campaign need for the goods, services, or space, and (2) the campaign does not pay more than fair market value in the transaction. Whenever a Member's campaign is considering entering into a transaction with either the Member or one of his or her family members, it is advisable for the Member to seek a written advisory opinion on the transaction from the Standards Committee. . . . A Member and the Member's campaign staff should also review the FEC regulations on campaign transactions with a candidate or a family member of the candidate before entering into any such transaction.”)

¹⁵³ House Comm. on Standards of Official Conduct, *Report Under the Authority of H. Res 418*, H. Rept. 90-1176, 90th Cong. 2d Sess. 17 (1968).

¹⁵⁴ 114 Cong. Rec. 8778 (Apr. 3, 1968) (Statement of Representative Price).

that “a narrow technical reading of a House Rule should not overcome its ‘spirit’ and the intent of the House in adopting that and other rules of conduct.”¹⁵⁵

The Committee, after analyzing the conduct at issue in this matter under these standards, found that Representative Rush violated House Rule XXIII, clauses 1 and 2, by accepting gifts of free office space over the entire length of his time in Congress, a period of 24 years. Representative Rush has explained that he viewed the Lake Meadows office space as having very little value, that Draper and Kramer never initiated legal action to evict or force him to pay rent, and that he made only minimal use of the space, particularly since 2008.¹⁵⁶ When asked to explain why he believed he could occupy and use the office space without ever paying rent, Representative Rush stated “I never really thought about it.”¹⁵⁷ The Committee accepted Representative Rush’s explanations as genuine, including his assertion that, had the landlord taken legal action against him, he would have vacated the office space, or at least re-negotiated the rent.¹⁵⁸ However, these explanations are not excuses. Further, even if Representative Rush’s explanations demonstrated compliance with the letter of the Gift Rule—which they do not—he clearly did not follow the rule’s spirit. Representative Rush knew, for more than two decades, that he occupied and made use of office space without paying for it. He should have known, as several Draper and Kramer employees confirmed, that this was a highly unusual commercial arrangement.¹⁵⁹ Yet he appears to have never questioned whether it was appropriate, particularly in light of the strict limits on gifts a Member may receive. In this respect, Representative Rush’s actions are comparable of those the Committee considered in *The Matter of Representative Don Young*, where the Member “was, at best, blithe with respect to the question of gift rule compliance,” and exhibited a “casual attitude” regarding the relevant rules.¹⁶⁰

In numerous matters, the Committee has found that Members violated House Rules without any intent to do so, merely because they did not pay attention to the applicable standards of conduct.¹⁶¹ As the Committee explained in the *Young* matter, such inattention to the rules, which results in significant or repeated violations, can justify a public reproof:

[T]here is no evidence that [the Member] actually intended to receive inappropriate gifts, or purposefully violated the rules . . . But there are a range of mindsets between completely innocent and unforgivably corrupt. Somewhere along that span sit Members who fail to exercise care that a reasonable Member would exercise in similar circumstances to ensure compliance with the Code of Conduct.

¹⁵⁵ *Ethics Manual* at 17 (citing House Select Comm. On Ethics, *Advisory Opinion No. 4*, H. Rept. 95-1837, 95th Cong. 2d Sess. App. 61 (1979)).

¹⁵⁶ See July 11, 2014 Submission at 1-3; 18(a) Interview of Representative Rush.

¹⁵⁷ 18(a) Interview of Representative Rush.

¹⁵⁸ *Id.*

¹⁵⁹ See, e.g., 18(a) Interview of Senior Vice President A.

¹⁶⁰ See *Young* at 69.

¹⁶¹ See House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Phil Gingrey*, H. Rep. 113-664, 113th Cong., 2d Sess. (2014) (hereinafter *Gingrey*) at 25; House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Shelley Berkley*, H. Rep. 112-716, 112th Cong., 2d Sess. (2012) (hereinafter *Berkley*) at 10; House Comm. on Standards of Official Conduct, *In the Matter of Representative Richard H. Stallings*, H. Rep. 100-382, 100th Cong., 1st Sess. (1987) (hereinafter *Stallings*) at 5.

And in cases where a Member fails to exercise that care – where they ‘should have known’ . . . or they ‘lack[ed] . . . discernible policies’ for compliance . . . the Committee has consistently reprimanded the offending Members.¹⁶²

In this case, Representative Rush should have known that he could not accept the use of office space, over a 24 year period, without making any effort to determine whether the Gift Rule allowed it. The resulting violations were both foreseeable and entirely avoidable. Thus, consistent with its precedent, the Committee has decided to publicly reprimand Representative Rush.¹⁶³

D. Disclosure of Impermissible Gifts

The Ethics in Government Act (EIGA) requires disclosure of gifts received during the year, from someone other than a relative, whose aggregate value exceeds “minimal value,” as defined by that statute.¹⁶⁴ Over the period Representative Rush has occupied the Lake Meadows office, the statutory definition of “minimal value” has varied, but has always been less than the annual value of the gifts office space Representative Rush received.¹⁶⁵ Any required disclosures are made on Schedule VI of a Member’s annual Financial Disclosure Statement.

From 1993 to 2008, Representative Rush received gifts of office space from Draper and Kramer that exceeded the annual gift limit for each year. These gifts were not disclosed on Representative Rush’s Financial Disclosure Statements for the relevant period. Given that Representative Rush did not believe the free use of the Lake Meadows office was a “gift” to him, it is not surprising that he did not make the necessary disclosures.¹⁶⁶ However, now that the Committee has determined Representative Rush received gifts of free rent, he must disclose them on his Financial Disclosure Statements unless and until the gifts are repaid.¹⁶⁷

VI. CONCLUSION

In 1989, two years before his election to Congress, Bobby Rush was a Chicago Alderman, seeking an Aldermanic office in the heart of his city Ward. Representative Rush signed a standard commercial lease, as an individual, for a space in the Lake Meadows Shopping Center, filled the office with furniture, equipment, and records, and opened it for city business. However, Alderman Rush did not pay the security deposit or rent due under the lease, and over time his back rent continued to increase. When the lease expired in 1991, Alderman Rush was told he would be treated as a month-to-month tenant, with no change to his obligations under the lease. Still, Alderman Rush did not pay the rent, and in January 1993, he became Congressman Rush, and

¹⁶² *Young* at 70.

¹⁶³ *See Gingrey* at 25; *Berkley* at 11; *Stallings* at 6.

¹⁶⁴ 41 C.F.R. § 102–42.10 (2011).

¹⁶⁵ Minimal value for purposes of disclosure under EIGA is the same as that for the Foreign Gifts and Decorations Act, 5 U.S.C. § 7342(a)(5).

¹⁶⁶ *See, e.g., Schmidt* at 19-20.

¹⁶⁷ *See id.* at 19 (“Until Representative Schmidt has paid the lawyers associated with TALDF for all fees originally paid by TCA, Representative Schmidt must disclose on Schedule V of her annual Financial Disclosure Statement all outstanding TALDF-related fees which were originally paid by TCA.”) Representative Rush may avoid amending his Financial Disclosure Statements by immediately repaying the value of the gifts of office space to the U.S. Treasury. Once repayment is made, there is no longer any “gift” to disclose.

quickly resigned from his Aldermanic post. If the story of Representative Rush's Lake Meadows office ended there, the Committee's investigation of this matter would have never begun.

Unfortunately, Representative Rush neither vacated the office in 1993 nor commenced paying rent. Instead, from his election to Congress through the present, Representative Rush has continued to occupy the Lake Meadows office, using it, or allowing others to use it, for a variety of purposes in the early years and solely for storage of old records and "junk" since 2008. Representative Rush has offered a variety of reasons for his failure to pay any rent in this time, but the simplest explanation seems the most likely: the landlord stopped asking for payment more than two decades ago, and Representative Rush never considered whether this informal, unstated arrangement was a gift he could not accept. Ultimately, the Committee concluded Representative Rush did receive a gift, which exceeded the strict limits of the House Gift Rule. Thus, Representative Rush is required by the rules and under the Committee's precedent to personally repay the gift's value. Representative Rush must also vacate the Lake Meadows office, or commence paying for his use of the space, within six weeks of the publication of this Report.

The Committee accepted Representative Rush's assertion that he did not intend to accept an impermissible gift, but found that the violation in this case was caused by inattention to the relevant rules. Consistent with its precedent, the Committee decided to reprove Representative Rush for his significant, though unintentional, violation of the Gift Rule, and to require him to repay the value of the gift he could not accept. Representative Rush has accepted the Committee's findings, and the Committee appreciates that he has accepted responsibility for his conduct. While commendable, Representative Rush's acceptance of responsibility does not overcome the need for reproof. Thus, the Committee issued this Report as a reproof of Representative Rush, and will consider the matter closed upon Representative Rush's repayment of the amount specified herein.

VII. STATEMENT UNDER HOUSE RULE XIII, CLAUSE 3(C)

The Committee made no special oversight findings in this Report. No budget statement is submitted. No funding is authorized by any measure in this Report.