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2nd Session

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HOUSE OF REPRESENTATIVES {

REPORT

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IN THE MATTER OF ALLEGATIONS
RELATING TO REPRESENTATIVE
MARK MEADOWS

R E P O R T
OF THE
COMMITTEE ON ETHICS



November 16, 2018.—Referred to the House Calendar and ordered
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**115TH CONGRESS, 2ND SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO
REPRESENTATIVE MARK MEADOWS**

NOVEMBER 16, 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

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November 16, 2018

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 Mark Meadows."

Sincerely,

A handwritten signature in blue ink that reads "Susan W. Brooks".

Susan W. Brooks
Chairwoman

A handwritten signature in blue ink that reads "Theodore E. Deutch".

Theodore E. Deutch
Ranking Member

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

**IN THE MATTER OF ALLEGATIONS RELATING TO
REPRESENTATIVE MARK MEADOWS**

November 16, 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

In the 114th Congress, the Committee began an investigation of allegations regarding Representative Mark Meadows. The Committee conducted a thorough review of these allegations. This Report explains the Committee’s investigation and its conclusions.

News reports in the fall of 2015 alleged that multiple female staffers in Representative Meadows’ office had complained to him that they were sexually harassed by his then-Chief of Staff, Kenny West. It was alleged that in response Representative Meadows changed Mr. West’s title to Senior Advisor, but kept him on his official staff for months after learning of the allegations, when he may not have performed work commensurate with his rate of pay. Mr. West then resigned, but Representative Meadows continued to pay him at his full salary for another two months, and Mr. West also received official mileage reimbursement during that time period.

On October 23, 2015, the Office of Congressional Ethics (OCE) began a preliminary review of allegations that Representative Meadows paid Mr. West when he did not perform duties commensurate with his official duties. On November 17, 2015, Representative Meadows wrote to OCE and stated he intended to report the allegation to the Committee, and would decline to cooperate with OCE’s review. The next day, Representative Meadows sent a letter to the then-Chairman and Ranking Member of the Committee requesting the Committee review his decision to continue paying his former Chief of Staff, Kenny West, from May 21, 2015, when Mr. West resigned from Representative Meadows’ office, through August 15, 2015. Representative Meadows explained that he continued paying Mr. West for purposes of a smooth transition and as “severance.” He also stated that Mr. West engaged in “legitimate official activity” during that time period, including traveling to “constituent meetings on my behalf.” Representative Meadows

also said he declined to cooperate with a concurrent review of the severance payments by OCE, but would fully cooperate with the requested Committee review.

On March 18, 2016, OCE transmitted a Report and Findings (OCE's Referral) regarding Representative Meadows to the Committee.¹ OCE's Referral stated that, in October 2014, several female employees in Representative Meadows' congressional office made complaints to him of inappropriate behavior by Mr. West, including unwanted touching, inappropriate staring and unprofessional comments.² Following those reports, Representative Meadows restricted Mr. West from his congressional offices and from contacting female employees. However, Mr. West remained in his position until April 2015 when his title was changed to Senior Advisor. Despite the change in his title and loss of responsibilities to supervise Representative Meadows' congressional staff, the then-Senior Advisor continued to receive the same salary from the House of Representatives until August 15, 2015.

OCE examined what official congressional work Mr. West performed after his title changed to Senior Advisor and, based on that review, found substantial reason to believe Representative Meadows retained an employee who did not perform duties commensurate with the compensation the employee received, and certified the compensation met applicable House standards, in violation of House rules and standards of conduct.³ OCE recommended the Committee conduct a further review of the allegations.

The Committee did conduct a further review of the allegations in OCE's Referral. On August 17, 2016, the Committee published OCE's Referral and a response from Representative Meadows, and publicly announced the Committee would investigate the matter under Committee Rule 18(a). The Committee considered whether Representative Meadows violated any House rule or other standard of conduct when he paid Mr. West his full salary when Mr. West (1) was restricted from the congressional offices and from contacting female employees; (2) lost his supervisory responsibilities and became Senior Advisor; and (3) was paid his full salary for two months as "severance." The Committee also considered whether Representative Meadows violated any House rule or other standard of conduct in connection with the allegations that Mr. West engaged in inappropriate behavior and/or sexual harassment in his office.

As discussed more fully below, it was generally within Representative Meadows' discretion as the employing Member to change the terms and conditions of Mr. West's employment. However, clause 8 of the Code of Official Conduct provides that Members may not retain an employee who does not perform duties for the employing office commensurate with the compensation the employee receives. When Mr. West was demoted to Senior Advisor, his pay remained the same but the Committee found little evidence of official work that he completed during that time. Thus, the Committee found that his duties as Senior Advisor were not commensurate with his pay.

¹ See Report and Findings of the Office of Congressional Ethics (Review No. 15-1671) (Appendix A) (hereinafter OCE's Referral).

² *Id.* at 6, OCE Interview of Witness B (OCE's Referral, Exhibit 3) at 9, OCE Interview of Witness C (OCE's Referral, Exhibit 4) at 5-6.

³ OCE's Referral at 6.

With respect to the payment of severance, the Committee acknowledges that there was little and inconsistent guidance on severance payments available to the House community at the time Representative Meadows paid severance to Mr. West. That said, after Mr. West ended his duties for the congressional office, Representative Meadows continued to pay his salary for two months. Representative Meadows sought no guidance on whether such payments were permissible and did not obtain anything of discernible value in exchange for those official funds, such as a release of legal claims. Accordingly, the Committee found that Representative Meadows' payment of severance to Mr. West ran afoul of clause 8.

In addition to further reviewing the compensation-related issues in OCE's Referral, the Committee considered (1) when Representative Meadows learned about Mr. West's inappropriate behavior; and (2) whether Representative Meadows exercised reasonable care to prevent and promptly correct Mr. West's inappropriate behavior after he learned about it. Based on the evidentiary record, the Committee found that Representative Meadows did not know about Mr. West's inappropriate conduct until October 2014, when several of his female staff made complaints about Mr. West's behavior to him. The Committee also found that, once Representative Meadows became aware of Mr. West's behavior, he should have done more to address that behavior and prevent it from occurring again in the future. While Representative Meadows took some important immediate steps – restricting Mr. West from the congressional offices and prohibiting him from contacting most of the female employees – those steps were essentially all he did to prevent and correct the alleged sexual harassment for nearly six months.

Soon after he received the complaints, Representative Meadows arranged for an independent investigation into the allegations instead of contacting the Committee, the Office of House Employment Counsel (OHEC), or the Office of Compliance (OOC). After that independent review was complete, he ignored its findings and the recommendation by the independent investigator to terminate Mr. West's employment. In the months that followed, Mr. West retained his title, full salary and supervisory responsibilities over all of the congressional staff. Representative Meadows kept Mr. West in his position even after Mr. West failed to abide by the restrictions Representative Meadows put in place to separate him from the female staff. In fact, another Member approached Representative Meadows on the House Floor to inform him that his remedial measures had not worked, and yet, Representative Meadows kept Mr. West as Chief of Staff. It was not until the Speaker's office became involved that Representative Meadows removed Mr. West from his supervisory role in April 2015. Mr. West, however, was merely demoted to Senior Advisor, and continued to draw the same salary until August 15, 2015.

As discussed further in this Report, the Committee's review found that Mr. West's behavior toward the female staff was inappropriate in every sense of the word. The Committee found the witnesses who described Mr. West's conduct to be credible and their testimony was consistent. There is no place in any congressional office for looking up skirts, or down shirts; staring at a woman's chest; unwanted touching; or making sexual comments, even if subtle or in jest. The fact that Mr. West supervised the women he did these things to makes his behavior even more unacceptable. Just as between Members and their staff, a power imbalance exists between senior staff and junior staff in congressional offices. Those entrusted with supervisory responsibilities in the workplace must be sensitive to the potential for discrimination and for creating uncomfortable working conditions for staff.

Mr. West is no longer a House employee and thus, is no longer subject to the House Rules that prohibit sexual harassment, nor to this Committee's jurisdiction. However, the Committee does not want to leave the impression that his behavior was appropriate in any way.

The Committee found that at a minimum, Mr. West's actions violated the *spirit* of clause 9, because his actions were inappropriate and discriminatory, and would thus violate clause 2 of the Code. The Committee also found that Mr. West's actions while employed by the House did not reflect creditably on Representative Meadows' office or the House as a whole, in violation of clause 1 of the Code. Such behavior has no place in the House of Representatives. The women that worked in Representative Meadows' office deserved much better. However, because Mr. West is no longer a House employee, the Committee does not have jurisdiction over him.

Representative Meadows' failure to take prompt and decisive action to deal with the alleged sexual harassment in his congressional office was troubling to the Committee. The Committee found Representative Meadows violated House rules by failing to take appropriate steps to ensure that his House office was free from discrimination and any perception of discrimination.

In addition, the Committee is concerned that Representative Meadows' "solution" to the sexual harassment allegations, to cut off all contact between Mr. West and most of his female employees, caused another potential problem. An environment where only male staff have access to the Chief of Staff risks unequal treatment of employees based solely on sex.

Accordingly, the Committee unanimously voted to issue this Report, which will serve as a reproof of Representative Meadows' conduct, and to require Representative Meadows to reimburse the U.S. Treasury for the overpayment of Mr. West, in the amount of \$40,625.02. Upon issuance of this Report and Representative Meadows' reimbursement to the Treasury, the Committee will consider this matter closed.

II. PROCEDURAL HISTORY

OCE began a preliminary review on October 24, 2015. On November 17, 2015, Representative Meadows wrote to OCE and stated, "I am choosing to forego the costly and burdensome process of participating in duplicate investigations, and instead will self-report to the Committee on Ethics and follow their instructions to resolve this matter."⁴ On November 18, 2015, Representative Meadows wrote to the Committee regarding "an allegation made against me for the manner in which I paid a member of my staff upon his termination."⁵ Representative Meadows stated that the matter was currently the subject of a preliminary review by OCE, but that "because I would like to save the cost and burden of duplicate inquiries, I have informed the OCE that I will not participate in their review, but will cooperate fully with your Committee in order to reach a resolution of these allegations."⁶

⁴ Letter from Representative Meadows to Omar Ashmawy, Staff Director & Chief Counsel, OCE (Nov. 17, 2015) (Appendix B).

⁵ Letter from Representative Meadows to Chairman Charles W. Dent and Ranking Member Linda T. Sánchez, Committee on Ethics (Nov. 18, 2015) (Appendix B).

⁶ *Id.*

On November 23, 2015, OCE began a second phase review. OCE extended its review an additional 14 days, until January 20, 2016. OCE’s Board voted to adopt findings in the matter on February 26, 2016. OCE transmitted its Referral in this matter to the Committee on March 18, 2016.

Committee staff reviewed OCE’s Referral, along with other documentary and testimonial evidence obtained by OCE. In addition, the Committee issued voluntary requests for information to Representative Meadows and 21 other individuals, including current and former members of Representative Meadows’ official and campaign staff and others familiar with the allegations. The Committee also issued a subpoena for documents to a former member of Representative Meadows’ campaign staff, and received and reviewed additional documents from that individual. In total, the Committee reviewed over 3,700 pages of materials. The Committee also interviewed 22 witnesses, including current and former members of Representative Meadows’ official and campaign staff, others familiar with the allegations, another Member who was familiar with the allegations, and Representative Meadows. Representative Meadows fully cooperated with the Committee’s investigation.

Before its final vote on this matter, the Committee provided Representative Meadows with a copy of this Report on October 26, 2018, and an opportunity to address the full Committee in person or in writing. Representative Meadows declined the Committee’s invitation to do so.

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

A. Sex Discrimination and Sexual Harassment

Sexual harassment and other forms of employment discrimination are prohibited in the House by both federal statute and House Rule. The Congressional Accountability Act (CAA),⁷ prohibits discrimination based on sex, including sexual harassment, and also prohibits intimidation, reprisal or other discrimination against a person for opposing sex discrimination. During the period under review, House Rule XXIII, clause 9, stated that “[a] Member . . . may not discharge and may not refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the race, color, religion, sex (including marital or parental status), disability, age, or national origin of such individual.” The Committee has long held that a Member who violates applicable sex discrimination and sexual harassment laws also violates House Rule XXIII, clause 9.⁸ On February 6, 2018, the House formally amended clause 9 to confirm that the prohibition includes “committing an act of sexual harassment against such an individual.”⁹

⁷ 2 U.S.C. §§ 1311 *et seq.*

⁸ *House Ethics Manual* (2008) at 268-69 (hereinafter *Ethics Manual*) (citing House Comm. on Standards of Official Conduct, *In the Matter of Representative Jim Bates*, H. Rep. 101-293, 101st Cong., 1st Sess. 8-10 (1989) (hereinafter *Bates*)).

⁹ H.R. Res. 724, 115th Cong. (2018). On February 6, 2018, the House passed H.R. 4924, the Congressional Accountability Act of 1994 Reform Act. That legislation would make certain changes to the CAA. *See, e.g.*, Statement of the Chairwoman and Ranking Member of the Committee on Ethics, (Feb. 6, 2018), <https://ethics.house.gov/press-release/statement-chairwoman-and-ranking-member-committee-ethics-0>. On May 24,

The CAA created the OOC as a forum to administer disputes that arise under the CAA, including claims of gender discrimination and sexual harassment. The OOC’s guidance defines sexual harassment as “[u]nwelcoming sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature if the implication is that submission to such conduct is expected as part of the job.”¹⁰ Consistent with judicial interpretations of Title VII of the Civil Rights Act of 1964,¹¹ the OOC has also recognized that harassment, including sexual harassment, can occur “when there is unwelcome conduct, such as insults, slurs, or other verbal or physical conduct or activity regarding a protected trait,” which “creates an intimidating, hostile, or offensive work environment, that unreasonably interferes with an individual’s work performance.”¹²

Sexual harassment and other forms of sex discrimination also implicate House Rule XXIII, clauses 1 and 2, which state that “[a] Member . . . of the House 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.”

B. *Payment of Compensation and Severance to House Employees*

House Rule XXIII, clause 8, states that “[a] Member . . . of the House may not retain an employee who does not perform duties for the offices of the employing authority commensurate with the compensation such employee receives.” Thus, a Member is responsible for ensuring that each employee the Member retains performs official work commensurate with that employee’s pay. As the *Ethics Manual* states:

The underlying standard for the receipt of compensation by an employee of the House is that the employee has regularly performed official duties commensurate with the compensation received. The Code of Ethics for Government Service instructs every employee to ‘[g]ive a full day’s labor for a full day’s pay; giving to the performance of his duties his best effort and best thought.’ Employees are paid United States Treasury funds to perform public duties. Appropriated funds are to be used solely for purposes for which appropriated. Funds appropriated for congressional staff to perform official duties should be used only for assisting a Member in his or her legislative and congressional functions.¹³

Notwithstanding these restrictions, the “general terms, conditions, and specific duties of House employees traditionally have been within the discretion of the employing Member.”¹⁴

2018, the Senate passed S. 2952, its version of legislation to reform the Congressional Accountability Act of 1994 Reform Act. The Senate’s version was transmitted to the House on May 29, 2018. As of this time, no further action has been taken on either version of the Congressional Accountability Act of 1994 Reform Act.

¹⁰ Office of Compliance, *CAA Handbook* (2010) at 44, available at <https://compliance.gov/sites/default/files/wp-content/uploads/2010/01/CAA-Handbook.pdf>

¹¹ 42 U.S.C. § 2000e *et seq.*

¹² Office of Compliance, *Compliance@Work* at 2 (2012), <https://www.compliance.gov/sites/default/files/wp-content/uploads/2012/09/Newsletter-for-Staff.pdf>

¹³ *Ethics Manual* at 279.

¹⁴ *Id.* at 267; see also *Members’ Congressional Handbook*, July 25, 2018 at 4 (hereinafter *Members’ Handbook* (2018)) (“the Member determines the terms and conditions of employment and service for their staff”); Exhibit 1

IV. BACKGROUND

A. *Representative Meadows' Relationship with Mr. West*

Representative Mark Meadows represents the Eleventh District of North Carolina. He has been a Member of the House of Representatives since 2013. Representative Meadows first became acquainted with Mr. West before he was elected to Congress, when Mr. West was one of his opponents in the 2012 Republican primary election.¹⁵ Representative Meadows hired Mr. West after he was elected to the House, and Mr. West became Chief of Staff when Representative Meadows was sworn into office on January 3, 2013.¹⁶ Before he joined Representative Meadows' congressional office, Mr. West sold insurance in North Carolina.¹⁷

Representative Meadows told the Committee he hired Mr. West because he had good connections in rural areas of the District where Representative Meadows was less well known, and also because he wanted, "someone who could do outreach in the district as a chief of staff."¹⁸ After Representative Meadows hired Mr. West but before he was sworn into office, a campaign supporter and local business owner (hereinafter Campaign Supporter) told Representative Meadows that Mr. West had previously exhibited behavior in a professional setting that made females uncomfortable.¹⁹ That information was conveyed as a part of a larger conversation about the Campaign Supporter's displeasure with Representative Meadows' decision to hire Mr. West.²⁰

After Representative Meadows was sworn in, Mr. West began managing the congressional office from the district, but spent some of his time in Representative Meadows' Washington, D.C., office.²¹ He was responsible for supervising all of Representative Meadows' congressional employees and evaluating their performance.²² He also made recommendations to Representative Meadows related to hiring, firing, salaries and bonuses for all of the congressional employees.²³

B. *Allegations that Mr. West Acted Inappropriately toward Female Employees in Representative Meadows' Offices*

According to multiple witnesses, female employees in the Washington, D.C. and district offices began to feel uncomfortable with Mr. West's behavior toward them shortly after he became Chief of Staff in January 2013, and this discomfort persisted through October 2014.²⁴ The individual who served as the Legislative Director and Deputy Chief of Staff (hereinafter D.C. Deputy Chief), a male employee who started in Representative Meadows' Washington, D.C.,

(*Members' Handbook* (2011)) at 3 (the *Members' Handbook* in effect at the time Mr. West was employed in Representative Meadows' office).

¹⁵ 18(a) Interview of Representative Meadows.

¹⁶ *Id.*

¹⁷ 18(a) Interview of Kenny West.

¹⁸ 18(a) Interview of Representative Meadows.

¹⁹ 18(a) Interview of Witness P; 18(a) Interview of Representative Meadows. *See also infra* Section V.B.

²⁰ 18(a) Interview of Representative Meadows.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *See, e.g.*, 18(a) Interview of Employee A; 18(a) Interview of Employee G; 18(a) Interview of Employee B; 18(a) Interview of Employee D.

office in January 2013, said he heard as early as January or February 2013 that Mr. West made female employees feel uncomfortable.²⁵

Mr. West's alleged inappropriate behavior fell into three main categories: (1) unwanted touching, (2) inappropriate staring, and (3) unprofessional comments related to female employees' appearances.

1. Unwanted touching

Six female employees told the Committee that they experienced unwanted touching by Mr. West on multiple occasions in the congressional office, and other employees, male and female alike, observed this behavior.²⁶ One female employee described Mr. West as being very "handsy."²⁷ Indeed, testimony shows Mr. West touched multiple female staff in ways that were not overtly sexual, but were nonetheless inappropriate. Mr. West placed his hands on the backs or shoulders of multiple female staff dozens of times,²⁸ poked a female employee in the side at least a dozen times,²⁹ grabbed a female employee's hand to look at her nail polish,³⁰ and repeatedly touched the heads or hair of female staff, including scratching their heads and pulling on ponytails.³¹ One female employee said that Mr. West pulled her ponytail when he would walk by her desk, estimating that it occurred less than a dozen times, beginning in October 2013 shortly after she started in the congressional office.³² Another female staffer told OCE that she was warned when she started in the congressional office not to wear her hair in a ponytail because Mr. West liked to play with it.³³ Mr. West's unwanted touching was also directed towards interns in the office. One female employee recounted a conversation that a female intern had with the entire Washington, D.C., staff at the end of her internship. She said, "the typical question we would ask our interns is, what [were] your highs and lows? Her low was how uncomfortable Kenny made her feel and how he would always touch her hair."³⁴

2. Inappropriate staring

Many of Representative Meadows' congressional staff told the Committee that Mr. West stared at female employees inappropriately on a regular basis.³⁵ Several female employees

²⁵ 18(a) Interview of Employee J.

²⁶ 18(a) Interview of Employee A; 18(a) Interview of Employee B; 18(a) Interview of Employee C; 18(a) Interview of Employee E; 18(a) Interview of Employee F; 18(a) Interview of Employee G; *see also* 18(a) Interview of Employee J; 18(a) Interview of Employee K.

²⁷ 18(a) Interview of Employee E.

²⁸ 18(a) Interview of Employee C; 18(a) Interview of Employee B; 18(a) Interview of Employee K.

²⁹ 18(a) Interview of Employee B.

³⁰ Exhibit 2.

³¹ 18(a) Interview of Employee F; 18(a) Interview of Employee G. In an email produced to the Committee, dated November 12, 2013, two female employees who worked in the Washington, D.C. office discussed Mr. West touching their hair. One said Mr. West had an "affinity for touching [her] hair." Exhibit 3.

³² 18(a) Interview of Employee G.

³³ OCE Interview of Witness B (OCE's Referral, Exhibit 3) at 6.

³⁴ 18(a) Interview of Employee D.

³⁵ *See e.g.*, 18(a) Interview of Employee J (describing instances of hovering closely to two former female employees); 18(a) Interview of Employee K (describing instances of looking down a female's shirt); 18(a) Interview of Employee B (describing a female "contort[ing] into weird positions" to avoid Mr. West staring at her); 18(a) Interview of Employee F (describing instances of Mr. West "creepily watching" females during meetings).

reported that Mr. West looked at their chests, down their blouses, or up their skirts. One female employee told the Committee, “[m]ost people you talk to have eye contact. Kenny’s eyes, if you’re a woman, they’re on your breast.”³⁶ Multiple female employees expressed discomfort with Mr. West “hovering” closely to them, invading their personal space.³⁷ One female employee told the Committee that she moved to a standing desk to avoid Mr. West’s “hovering.”³⁸ Another, who also worked at a standing desk, said Mr. West would stand next to her while she worked, “shoulder to shoulder” so he could look down her shirt.³⁹ Two female employees described sitting in awkward positions in staff meetings or at their desks to prevent Mr. West from looking up their skirts.⁴⁰

3. *Unprofessional comments about female employees’ appearances*

Numerous witnesses testified that Mr. West commented frequently about female employees’ appearances, including their looks and clothing. Mr. West would often describe female staff as attractive or beautiful,⁴¹ and would make comments to female staff like, “you should wear heels more often,”⁴² “[w]ow, I can’t believe your husband lets you out that way,”⁴³ and “ooh, that red dress.”⁴⁴ Mr. West also commented on female employees’ weight, including asking one how much she weighed.⁴⁵ Two female employees recounted a story to the Committee that was relayed to them by Mr. West’s wife: in New York City, Mr. West encountered a topless performer in Central Park and told his wife the performer looked like Employee B.⁴⁶ Employee B, who heard Mr. West’s wife tell the story, said she felt “really uncomfortable.”⁴⁷

C. *Representative Meadows becomes Aware of the Alleged Inappropriate Behavior*

1. *Representative Meadows’ awareness before October 2014*

Although it was widely known among Representative Meadows’ staff that Mr. West made female employees uncomfortable, there is some question about when Representative Meadows first learned of the problem. During the course of the Committee’s investigation, the Committee reviewed allegations that Representative Meadows may have known, prior to October 2014, that

³⁶ 18(a) Interview of Employee E.

³⁷ 18(a) Interview of Employee D; 18(a) Interview of Employee A; 18(a) Interview of Employee F; *see also* 18(a) Interview of Employee J.

³⁸ 18(a) Interview of Employee B.

³⁹ 18(a) Interview of Employee D; *see also* 18(a) Interview of Employee K (observed Mr. West standing shoulder to shoulder with a female employee and looking down her shirt); 18(a) Interview of Employee B (“I kind of recall him [standing shoulder to shoulder] with all the girls in the office.”).

⁴⁰ 18(a) Interview of Employee D; 18(a) Interview of Employee B; *see also* 18(a) Interview of Employee J.

⁴¹ 18(a) Interview of Employee D; 18(a) Interview of Employee B; 18(a) Interview of Employee K.

⁴² 18(a) Interview of Employee F; 18(a) Interview of Employee B.

⁴³ 18(a) Interview of Employee J.

⁴⁴ 18(a) Interview of Employee B.

⁴⁵ *Id.*; 18(a) Interview of Employee J.

⁴⁶ 18(a) Interview of Employee G; 18(a) Interview of Employee B.

⁴⁷ 18(a) Interview of Employee B.

Mr. West made his female employees feel uncomfortable. The investigation did not, however, substantiate any of those allegations.

Employee D told both OCE and the Committee she heard from the D.C. Deputy Chief that a district office staffer sent an email to Representative Meadows, prior to February 2014, complaining that Mr. West “would always try to hug her too closely. She felt like it was always him trying to feel her chest, and look down her shirt, and she didn’t like that.”⁴⁸ Employee D stated that she had learned Representative Meadows “just forwarded [the district staffer’s email] to Kenny.”⁴⁹ However, Employee D never saw the email, and the events she described took place before she joined Representative Meadows’ office.⁵⁰ Further, neither Representative Meadows nor any other member of his staff corroborated this account.⁵¹

Second, a former campaign staffer, Witness Q, independently contacted the Committee after learning about the Committee’s investigation and alleged that Representative Meadows and his senior staff knew as early as April 2014 that Mr. West acted inappropriately toward female staff. More specifically, Witness Q alleged that complaints about Mr. West’s behavior toward women were lodged in April 2014 and that Mr. West was prohibited from entering the congressional offices at that time, rather than in October 2014 as the OCE Referral stated.⁵² Witness Q had no firsthand knowledge of his allegations, but based them on conversations he had with two of Representative Meadows’ congressional staff in April 2014.⁵³ The Committee, however, was unable to confirm that the alleged conversations with the two staffers occurred. One of the staffers that was supposedly a part of those conversations told the Committee that he had no recollection of them, and the other staffer could not be reached by the Committee.⁵⁴

Thus, the Committee was unable to substantiate allegations that Representative Meadows knew prior to October 2014 that Mr. West acted inappropriately toward female staff.

2. *October 2014 allegations of inappropriate behavior*

Within the span of a few days in October 2014, employees in Representative Meadows’ Washington, D.C. and Hendersonville, North Carolina, offices complained to Representative Meadows about Mr. West’s inappropriate behavior toward female employees.

The first complaints were made by the five female staff in the Washington, D.C., office and relayed to Representative Meadows by the D.C. Deputy Chief. The complaints were prompted by Mr. West’s insistence in August and September 2014 that one of the females in that office, Employee B, make a trip to the district that would have required her to spend substantial time alone

⁴⁸ OCE Interview of Witness B (OCE’s Referral, Exhibit 3) at 24; 18(a) Interview of Employee D.

⁴⁹ OCE Interview of Witness B (OCE’s Referral, Exhibit 3) at 24.

⁵⁰ 18(a) Interview of Employee D.

⁵¹ 18(a) Interview of Employee J. The Committee did learn about one instance where Representative Meadows received a written complaint about Mr. West from a female district staff employee in 2013, but that complaint discussed only Mr. West’s alleged dishonesty in salary negotiations, and did not mention any inappropriate behavior towards women. 18(a) Interview of Employee E.

⁵² 18(a) Interview of Witness Q.

⁵³ *Id.*

⁵⁴ 18(a) Interview of Employee R.

with Mr. West.⁵⁵ Employee B initially avoided the trip but eventually felt her job was at risk if she continued to do so.⁵⁶ She discussed her concerns with the D.C. Deputy Chief, who told the Committee “[t]he only recourse that [he] saw as deputy chief at this time was to go talk to Congressman Meadows.”⁵⁷

In early October 2014, before he talked to Representative Meadows, the D.C. Deputy Chief told all female employees in the Washington, D.C., office that he would be speaking to the Congressman regarding Mr. West’s inappropriate behavior toward women.⁵⁸ All five female employees in the Washington, D.C., office emailed instances of inappropriate behavior they had experienced with Mr. West to the D.C. Deputy Chief.⁵⁹ He created a document that listed the complaints from each female employee, without identifying them by name, for his discussion with Representative Meadows.⁶⁰ The list described instances of unwanted touching, inappropriate staring, and comments by Mr. West, of the kind described previously.⁶¹

On or around Friday, October 17, 2014, the D.C. Deputy Chief told Representative Meadows that female employees in the Washington, D.C., office were uncomfortable around Mr. West.⁶² He also gave Representative Meadows the list of complaints he had compiled.⁶³ The D.C. Deputy Chief also relayed to Representative Meadows that Employee B did not feel comfortable traveling to the district due to Mr. West’s behavior toward her.⁶⁴ Representative Meadows immediately met with his Washington, D.C., congressional staff and told them he had zero tolerance for the inappropriate behavior and would address it.⁶⁵ He did not, however, tell them how he would address it.⁶⁶

After learning about the allegations, Representative Meadows called Mr. West, who was in the district at the time, to inform him of the claims against him.⁶⁷ After the call, he provided Mr. West the document that listed the allegations.⁶⁸ At that time, Representative Meadows also

⁵⁵ 18(a) Interview of Employee B.

⁵⁶ *Id.*

⁵⁷ 18(a) Interview of Employee J.

⁵⁸ *Id.*; *see also, e.g.*, 18(a) Interview of Employee D; 18(a) Interview of Employee A. Mr. West suggested to the Committee that the D.C. Deputy Chief shared the complaints he had compiled with all of the female employees, causing them to unfairly “pile on” additional complaints. 18(a) Interview of Kenny West. However, the D.C. Deputy Chief explained he was aware that other female employees had expressed concerns and wanted to give them the opportunity, if they chose, to raise any issues with Representative Meadows. 18(a) Interview of Employee J; *see also* 18(a) Interview of Employee A. He further explained he did not want it to be a “she said/he said” situation, and thought Representative Meadows should hear from more than one female employee. 18(a) Interview of Employee J.

⁵⁹ 18(a) Interview of Employee J.

⁶⁰ *Id.*; Exhibit 4.

⁶¹ Exhibit 4; *see also* 18(a) Interview of Employee J.

⁶² 18(a) Interview of Employee J; 18(a) Interview of Representative Meadows.

⁶³ *Id.*; *see also* Exhibit 4.

⁶⁴ 18(a) Interview of Representative Meadows.

⁶⁵ *Id.*; *see also* 18(a) Interview of Employee J. Mr. West was not in Washington, D.C. at the time and was not in this meeting.

⁶⁶ 18(a) Interview of Representative Meadows; *see also* 18(a) Interview of Employee J.

⁶⁷ 18(a) Interview of Representative Meadows; *see also* 18(a) Interview of Kenny West.

⁶⁸ *Id.*

instructed Mr. West not to have contact with any female employees in the Washington, D.C. office, other than the scheduler, and told Mr. West that there would be an investigation.⁶⁹

On the evening of Tuesday, October 21, 2014, just four days after learning about the allegations from the Washington, D.C., office, Representative Meadows received another complaint, this time from a female employee in his Hendersonville district office. The individual serving as District Director and Deputy Chief of Staff (hereinafter District Deputy Chief) forwarded to Representative Meadows an email from Employee C.⁷⁰ In her email, Employee C said that Mr. West made her feel uncomfortable in a meeting that day.⁷¹ She wrote that Mr. West made her feel “extremely ill at ease,” that he “stare[d] inappropriately,” and was “overly touchy.”⁷² She also requested in the email that Mr. West “maintain his distance” from her.⁷³ Employee C told the Committee that she complained after Mr. West stared at her “like he was trying to look down my shirt” during her performance evaluation that day.⁷⁴ The District Deputy Chief also attended the performance evaluation meeting. When asked by the Committee what he observed, he said, “I was in there the entire time during this discussion, and I never saw anything inappropriate.”⁷⁵ However, he also said that Mr. West had a tendency to be long-winded and he did not remember whether he was paying attention during the entire meeting.⁷⁶

The following morning, on Wednesday, October 22, 2014, Mr. West attempted to return to the Hendersonville district office but another district office employee, Employee E, barred him from entering. She told Mr. West he made both she and Employee C feel uncomfortable and therefore he could not come into the office.⁷⁷ After arguing with Employee E, Mr. West eventually left.⁷⁸ Mr. West immediately called Representative Meadows and reported that he was blocked from entering the Hendersonville office.⁷⁹

D. Reactions to Allegations of Inappropriate Behavior

Representative Meadows told the Committee he was “shocked, upset [and] surprised” when he received the allegations from his Washington, D.C. staff in mid-October 2014.⁸⁰ When he learned about Employee C’s allegations and the subsequent confrontation at the Hendersonville office, he said he knew he had “a pervasive problem.”⁸¹ He explained, “probably the biggest thing that was difficult for me is that some of these things, one, I missed, but the other was . . . why

⁶⁹ *Id.*

⁷⁰ Exhibit 5.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ 18(a) Interview of Employee C.

⁷⁵ 18(a) Interview of Employee M.

⁷⁶ *Id.*

⁷⁷ 18(a) Interview of Employee C; 18(a) Interview of Employee E; *see also* 18(a) Interview of Kenny West. Mr. West said Employee E told him he could not enter the district office because he “looked at [her] boobs.”

⁷⁸ 18(a) Interview of Employee E.

⁷⁹ 18(a) Interview of Representative Meadows; *see also* 18(a) Interview of Kenny West.

⁸⁰ 18(a) Interview of Representative Meadows; *see also* 18(a) Interview of Employee J.

⁸¹ 18(a) Interview of Representative Meadows.

didn't I hear about them?"⁸² Representative Meadows said he did not recall ever being told or hearing that Mr. West acted inappropriately toward his female staff before they brought complaints to him in October 2014.⁸³

According to Representative Meadows, Mr. West "vigorously" denied the allegations against him.⁸⁴ Representative Meadows told the Committee that Mr. West thought the congressional staff, particularly the D.C. Deputy Chief and the District Deputy Chief were just trying to get Mr. West fired.⁸⁵ Mr. West also told Representative Meadows that the staff did not like having an "older guy" around.⁸⁶

In his testimony to the Committee, Mr. West denied all but one of the allegations about his behavior: he admitted that he touched Employee A's hair when she wore it in a bun.⁸⁷ Mr. West explained that Employee A told him she did not like to be touched, and so he never touched her again.⁸⁸

Mr. West suggested alternative explanations for the allegations. To illustrate, he suggested that the allegations related to his comments about female employee's clothing may have been a response to him telling female employees that they dressed inappropriately.⁸⁹ He also said that he told female and male employees alike that they "[l]ooked nice today."⁹⁰ Further, Mr. West said that while he never touched a female employee's back or shoulders, he may have "brushed against them in the office trying to get by."⁹¹

Mr. West also claimed the allegations were "coordinated," speculating, "I think some of them wanted me out of the way so somebody else could be the chief."⁹² He thought that Representative Meadows' staff were unhappy that he supported Representative Meadows' decision not to vote with House leadership in a few instances.⁹³ Although Representative Meadows told the Committee that Mr. West, who was fifty-six years old at the time, alluded to

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ 18(a) Interview of Kenny West.

⁸⁸ *Id.* Employee A recalled one instance in which she said something to Mr. West about his behavior, but believed it related to him hovering close to her. 18(a) Interview of Employee A. She also told the Committee that she observed Mr. West engaging in the behavior alleged, such as standing close and touching hair, with other women in the office. *Id.*

⁸⁹ 18(a) Interview of Kenny West ("Q. Did you ever look down a female staffer's blouse? . . . A. [T]he answer to that is no, but I will tell you some of our female staff . . . they dressed inappropriately. . . . I said: You cannot dress like that and be meeting with the Ambassador of [I]srael. You can't do that. And some of them took offense I imagine. Okay? But the answer to that is no.").

⁹⁰ *Id.*

⁹¹ *Id.* Mr. West also said that one female employee, who he declined to identify, straightened his tie and rubbed his head when he had a headache.

⁹² *Id.*

⁹³ *Id.*

age discrimination when Representative Meadows confronted him about the allegations, Mr. West denied doing so to the Committee.⁹⁴

E. Corrective Measures Representative Meadows Took regarding the Allegations of Inappropriate Behavior

Almost immediately after learning about the allegations, Representative Meadows made two changes. First, he attempted to separate Mr. West from the female employees in his offices. He directed Mr. West to (1) have no contact with female employees other than the scheduler;⁹⁵ (2) not return to the Washington, D.C., or district congressional offices when female employees were present; and (3) use the D.C. Deputy Chief and District Deputy Chief, both male employees, as a conduit for any supervisory interactions with female employees.⁹⁶ Representative Meadows told the Committee Mr. West was upset about the restrictions and told him, “I can’t even do my job.”⁹⁷ Despite the restrictions that even Mr. West identified as an impediment to doing his job, Mr. West’s title did not change and his compensation was not reduced.⁹⁸

Second, Representative Meadows gave Mr. West access to the email accounts of the D.C. and District Deputy Chiefs.⁹⁹ Mr. West received access on October 22, 2014, five days after Representative Meadows learned about the Washington, D.C., allegations and the same day that Employee E barred Mr. West from entering the Hendersonville office.¹⁰⁰ This access allowed Mr. West to see all of the emails the Deputies sent and received on their official congressional email accounts, without them knowing.¹⁰¹ On the same day, Representative Meadows received access to every member of his staff’s emails.¹⁰² However, Representative Meadows never utilized that access himself.¹⁰³

Representative Meadows told the Committee he gave Mr. West access to the Deputies’ emails so Mr. West could “properly monitor things” because “he’s not going to have as much direct contact with the office.”¹⁰⁴ Representative Meadows said he did not instruct Mr. West to look for anything in particular in the emails, nor did he provide Mr. West with the email access in response to, or connection with, the allegations against Mr. West.¹⁰⁵ Mr. West gave the Committee a very different explanation: he said Representative Meadows “wanted me to see what was transpiring between [the Deputies],” because “[i]t’s my opinion that them [sic] two were a main

⁹⁴ *Id.* (“Q. Did you ever tell Representative Meadows that you thought that staff were discriminating against you in some way? A. Never discriminating.”)

⁹⁵ 18(a) Interview of Representative Meadows. Representative Meadows told Mr. West that the only female employee he could have direct contact with was his scheduler because it was necessary for scheduling purposes.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.* As discussed more fully in section V.C.2., *infra*, Mr. West actually received an increase in compensation around the same time, apparently as part of a year-end bonus.

⁹⁹ 18(a) Interview of Representative Meadows.

¹⁰⁰ *See* Exhibit 6.

¹⁰¹ 18(a) Interview of Representative Meadows.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

cause of what happened.”¹⁰⁶ Mr. West told the Committee that when he accessed the Deputies’ emails, he was looking for information about the allegations because he believed the allegations were a result of the Deputies’ scheme to get him fired.¹⁰⁷

The investigative record shows that on at least five occasions, Mr. West shared information he found in either or both the D.C. and District Deputy Chief’s emails with Representative Meadows. Only one of the five emails appears to be related to Mr. West or the allegations: a March 2015 email exchange between the D.C. Deputy Chief and a staffer that worked for a Member in House leadership. In that email, the leadership staffer asked the D.C. Deputy Chief whether a rumor that Mr. West was leaving was true, and the D.C. Deputy Chief responded that he could not confirm the rumor. The other emails Mr. West shared with Representative Meadows generally concerned conversations between the Deputies and other Member offices, or speculation about personnel moves not involving Mr. West.

F. Representative Meadows Requests an Independent Investigation

In addition to the steps he took within his congressional office, Representative Meadows sought Representative Trey Gowdy’s advice in early November 2014.¹⁰⁸ Representative Meadows said he consulted Representative Gowdy because he wanted a prosecutor’s advice on the best way to investigate the allegations.¹⁰⁹ As a result of this conversation, Representative Gowdy recommended his senior female staffer (hereinafter Gowdy Staffer), a former Violence Against Women prosecutor who could talk to Representative Meadows’ female employees in a comfortable, non-threatening way, assess the situation in Representative Meadows’ Washington, D.C., office.¹¹⁰ Representative Meadows told the Committee he wanted “[a]n independent third-party evaluator who could evaluate the merits of [the allegations] without being obligatory to [him] or anybody else . . . and make a recommendation.”¹¹¹ Gowdy Staffer was trained and had extensive experience in conducting independent investigations and interviewing sensitive witnesses.

On November 18, 2014, Gowdy Staffer met with the female employees that worked in Representative Meadows’ Washington, D.C., congressional office.¹¹² Representative Gowdy was not involved in the investigation. Shortly after the meetings, Gowdy Staffer talked to Representative Meadows about what she learned in those meetings, and made a recommendation to terminate Mr. West. She described her conversation with Representative Meadows to the Committee:

We met and I relayed to him my honest opinion and feeling, I guess recommendation. The question was: What would you do if you were the chief of staff? That was the question to me. I said: I would let him go, for a couple of reasons. One is, you know, he – Mr. Meadows relayed to me that he had a great

¹⁰⁶ 18(a) Interview of Kenny West.

¹⁰⁷ *Id.*

¹⁰⁸ 18(a) Interview of Representative Meadows.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*; 18(a) Interview of Representative Gowdy.

¹¹¹ 18 (a) Interview of Representative Meadows; *see also* 18(a) Interview of Gowdy Staffer.

¹¹² 18(a) Interview of Representative Meadows; 18(a) Interview of Gowdy Staffer. Gowdy Staffer was not asked to meet with the female employees in the district offices.

staff, that they all had done a fantastic job, and there was a mutual respect there. And if he truly valued the staff, my feeling was, if it didn't get resolved, they were going to eventually move on. I mean, they were – they did not feel like they could stay in that office and work in that office with Kenny West. But the first and foremost is if you value your staff, you – and this continues, you may not keep your staff. So that was number one.

Number two was they had some serious claims. And from my perspective and sort of from having my legal perspective, that this could be a real problem for Mr. Meadows. Because you have someone working in your office, and these claims are very much, for me, sexual harassment potentially. Hostility in the workplace potentially. And that's not something I as a chief of staff would even entertain, tolerate, even if there was a suggestion. So that was my personal feeling based on what they had all said to me. That the stories were consistent, that there didn't seem, to me, to be some sort of ulterior motive or just animosity where they were just trying to get rid of Kenny. It was truly a sense of: We're not comfortable. We don't feel comfortable working here. I don't want to leave, but here we are. So that's what I relayed to him.¹¹³

Representative Meadows told the Committee he did not recall Gowdy Staffer telling him anything about sexual harassment or a hostile work environment, but he did remember she told him the allegations against Mr. West were serious and he “needed to take action to terminate the employment.”¹¹⁴ After Gowdy Staffer made her recommendation, both Representative Gowdy and Gowdy Staffer believed Mr. West was terminated.¹¹⁵

Representative Meadows did not, however, fire Mr. West. He told the Committee he thought the allegations were credible but he still had reservations.¹¹⁶ In particular, he said he was debating whether to give Mr. West the opportunity to tell his side of the story.¹¹⁷ He explained to the Committee, that from mid-November 2014 when Gowdy Staffer completed her investigation until April 1, 2015, when he demoted Mr. West, he went “back and forth, maybe longer than I should have, wrestling with what was fair and what was not.”¹¹⁸

Representative Meadows did not do anything further to address his reservations about whether it would be “fair” to terminate Mr. West. The Committee notes that Representative Meadows did not seek assistance from any of the resources available to the House community, such as the Committee, OOC, or OHEC.¹¹⁹ Representative Meadows told the Committee that, at

¹¹³ 18(a) Interview of Gowdy Staffer.

¹¹⁴ 18(a) Interview of Representative Meadows.

¹¹⁵ 18(a) Interview of Representative Gowdy.

¹¹⁶ 18(a) Interview of Representative Meadows.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.* At the time, Representative Gowdy served on the Committee. However, in his interview with the Committee, Representative Gowdy said that he viewed the issues with Mr. West as an employment matter, which he assumed was resolved because he believed Mr. West had been fired after Gowdy Staffer's investigation. Representative Gowdy did not engage in Committee decisions or discussions regarding this matter. 18(a) Interview of Representative Gowdy.

the time, he did not know what congressional resources were available.¹²⁰ However, there is no indication he made any effort to find that out. Representative Meadows also did not consult any private legal counsel.¹²¹

G. Mr. West's Work and Responsibilities Following the Independent Investigation and Recommendation to Terminate Him

After the independent investigation, Representative Meadows did not make any immediate changes to Mr. West's responsibilities.¹²² Mr. West continued to make recommendations to Representative Meadows regarding employees' salaries and positions and the office budget.¹²³ In fact, the investigative record shows that Mr. West provided Representative Meadows with written evaluations of all congressional staff on two occasions: in November 2014 and February 2015.¹²⁴ In those evaluations, Mr. West was critical of the D.C. and District Deputy Chiefs – who he believed had devised the allegations as a way to get him fired¹²⁵ – and several of the female employees that made allegations against him.¹²⁶

Because Mr. West continued to be barred from entering the congressional offices and from contacting most of the female employees, Mr. West worked from his home in the district.¹²⁷ Representative Meadows told the Committee he asked Mr. West to perform additional outreach throughout the district because he would not be coming back to Washington, D.C.¹²⁸ This included attending events with Representative Meadows, outreach to county managers and more casework related to governmental officials.¹²⁹ Representative Meadows testified that he did not view the restrictions on Mr. West as a change or reduction in his responsibilities.¹³⁰

H. Staff's Understanding of Mr. West's Work and Responsibilities Following the Independent Investigation

In late November 2014, after the independent investigation was complete, Representative Meadows asked his D.C. Deputy Chief to announce to the female employees in the Washington, D.C. office that: (1) Mr. West would no longer have a role in the Washington, D.C. office; (2) he would have limited contact with the female employees; and (3) he would no longer have office space in Washington, D.C., after Representative Meadows moved to a new office in the Longworth

¹²⁰ 18(a) Interview of Representative Meadows.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.* Representative Meadows told the Committee he did not hire any employees nor were there any formal performance evaluations from October 17, 2014, when he became aware of the allegations against Mr. West, through April 1, 2015, when he changed Mr. West's title to Senior Advisor.

¹²⁴ Exhibits 7 and 8.

¹²⁵ 18(a) Interview of Kenny West.

¹²⁶ *See* Exhibits 7 and 8.

¹²⁷ 18(a) Interview of Representative Meadows.

¹²⁸ *Id.*

¹²⁹ *Id.* Representative Meadows told the Committee that at the time he received positive responses about Mr. West's work in the district, but he said that since then, he learned that Mr. West had not been doing the additional outreach in the district as he had asked. He said that other employees have told him that Mr. West could have done things better.

¹³⁰ *Id.*

House Office Building in January 2015.¹³¹ The D.C. Deputy Chief made the announcement at a staff meeting with the female employees.¹³²

It is unclear whether a similar announcement was made to Representative Meadows' district staff. The District Deputy Chief testified he was not aware Representative Meadows had restricted Mr. West from the district offices or directly communicating with female employees, and thus, did not make any announcements.¹³³ Likewise, female staff in the Hendersonville office told the Committee they were never told Mr. West was not allowed in the office, or was not allowed to contact them.¹³⁴ Employee E, a district office staffer, said, "I didn't know if Kenny would be in the office the next day . . . it was just not discussed."¹³⁵ However, one male employee that worked in the Lenoir district office testified that the District Deputy Chief told him that Mr. West would no longer be coming to the Hendersonville congressional office because a complaint had been filed about Mr. West's behavior.¹³⁶

Regardless of what they were told about Mr. West, the record shows that the congressional staff were confused about Mr. West's role in the fall of 2014. Several D.C.-based staff said they did not know what Mr. West was doing after he was no longer coming to the office.¹³⁷ Employee B told the Committee, "I don't think we were sure if he was working for [Representative Meadows] or not."¹³⁸ Employee D told the Committee the only indication Mr. West was still working for Representative Meadows were a few emails that he sent.¹³⁹ Employee D also told the Committee that she knew that Mr. West remained involved in staff salary decisions because Representative Meadows had mentioned to her in an email on March 11, 2015, that he talked to Mr. West about her salary.¹⁴⁰ Similarly, district office employees were uncertain about what Mr. West was doing.¹⁴¹ One told the Committee that he thought Mr. West was still Chief of Staff, but said, "his status in the office at that time, I wasn't really sure about."¹⁴² Another said, "Kenny was not discussed, didn't know where he was working, what he was doing. He just wasn't discussed."¹⁴³

I. Mr. West's Failure to Comply with Restrictions to Protect Female Staff

Despite the assurances Representative Meadows had given to female staff in the Washington, D.C., office, Mr. West did contact some of them in early January 2015, and even

¹³¹ Exhibit 9; 18(a) Interview of Employee J; *see also* 18(a) Interview of Employee B.

¹³² 18(a) Interview of Employee J; 18(a) Interview of Employee B; 18(a) Interview of Employee A; 18(a) Interview of Employee G.

¹³³ 18(a) Interview of Employee M.

¹³⁴ 18(a) Interview of Employee E; 18(a) Interview of Employee C.

¹³⁵ 18(a) Interview of Employee E.

¹³⁶ 18(a) Interview of Employee R.

¹³⁷ 18(a) Interview of Employee F; 18(a) Interview of Employee D; 18(a) Interview of Employee A; 18(a) Interview of Employee G.

¹³⁸ 18(a) Interview of Employee B.

¹³⁹ 18(a) Interview of Employee D.

¹⁴⁰ *Id.*

¹⁴¹ 18(a) Interview of Employee C; 18(a) Interview of Employee E. Employee E told the Committee Mr. West never appeared to be doing any work before the allegations were raised to Representative Meadows, so she did not see a change after.

¹⁴² 18(a) Interview of Employee R.

¹⁴³ 18(a) Interview of Employee E.

suggested that he would return to the Washington, D.C., office.¹⁴⁴ In March 2015, Mr. West again contacted two female congressional employees, one multiple times over the weekend and one at the office.¹⁴⁵ Representative Meadows learned of these contacts soon after they occurred.¹⁴⁶ Despite Mr. West's failure to follow his instructions, Representative Meadows did not terminate his employment. When asked why he did not fire Mr. West on either of these occasions, Representative Meadows explained: "The justification that he gave, I mean, was that he was contacting the particular individual based on a case that he was working. I mean, he gave a business reason for the contact."¹⁴⁷ Representative Meadows merely told Mr. West again not to contact the female employees and to work through the Deputies.¹⁴⁸

J. Representative Gowdy and the Speaker's Office Advise Representative Meadows to Terminate Mr. West

On January 7, 2015, nearly two months after Gowdy Staffer completed her investigation and recommended Representative Meadows terminate Mr. West, a female employee in Representative Meadows' Washington, D.C., office emailed Gowdy Staffer saying that Mr. West "is still on staff," was "temporarily out of the picture" but he "will be back up in DC, despite previous assurances to the contrary."¹⁴⁹ She also said that the women in the office were not comfortable with Mr. West returning and they did not know how to properly address it.¹⁵⁰

Gowdy Staffer told Representative Gowdy this information. Representative Gowdy and Gowdy Staffer both told the Committee they were surprised to learn Representative Meadows had not yet fired Mr. West.¹⁵¹ As a result, Representative Gowdy approached Representative Meadows on the House Floor.¹⁵² Representative Gowdy told him the steps he had taken to resolve the allegations about Mr. West had not worked.¹⁵³ Representative Gowdy advised Representative Meadows against keeping Mr. West on staff.¹⁵⁴ Representative Gowdy explained that he gave Representative Meadows "some pretty firm impolite counsel, which would have been along the lines of: He has already hurt you, and it is going to continue." Representative Gowdy explained to the Committee he knew Representative Meadows was concerned for and valued his female staff and wanted the environment in his office to change.¹⁵⁵

Despite this counsel from Representative Gowdy, Representative Meadows continued to retain Mr. West without making any changes to his role. In late March 2015, the Speaker's office became involved. Representative Meadows told the Committee that rumors were circulating about Mr. West's behavior toward female staff, which prompted the Speaker's office to contact him.¹⁵⁶

¹⁴⁴ 18(a) Interview of Employee J; 18(a) Interview of Employee B; 18(a) Interview of Employee D.

¹⁴⁵ 18(a) Interview of Representative Meadows.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Exhibit 10.

¹⁵⁰ *Id.*

¹⁵¹ 18(a) Interview of Representative Gowdy; 18(a) Interview of Gowdy Staffer.

¹⁵² 18(a) Interview of Representative Meadows; 18(a) Interview of Representative Gowdy.

¹⁵³ 18(a) Interview of Representative Gowdy.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ 18(a) Interview of Representative Meadows.

According to Representative Meadows, the General Counsel for the Speaker told Representative Meadows that even though Mr. West was physically separated from the female employees, because he had hiring, firing, and financial responsibilities, the female employees could make claims that they were not properly compensated or that there was a hostile work environment.¹⁵⁷ Representative Meadows told the Committee this was when he finally realized Mr. West could no longer serve as Chief of Staff.¹⁵⁸

K. Mr. West becomes Senior Advisor

On March 25, 2015, Representative Meadows sent an email to his D.C. Deputy Chief and District Deputy Chief instructing them that, effective immediately, they would report directly to him and would be responsible for supervising their respective employees in Washington, D.C., and the district.¹⁵⁹ A week later, on April 1, 2015, Representative Meadows announced to his entire congressional staff that he had decided to have a full time chief of staff in Washington, D.C., and he would be replacing Mr. West.¹⁶⁰ The same day, Representative Meadows officially changed Mr. West's title to Senior Advisor but kept his salary the same.¹⁶¹ Representative Meadows did not inform his staff that Mr. West would be Senior Advisor. As a result, most of Representative Meadows' staff did not know Mr. West was still on staff; they thought he had left the congressional office.¹⁶²

According to Representative Meadows, as Senior Advisor, Mr. West had the same responsibilities that he previously had, including working on the budget and outreach in the district, except that he no longer supervised any employees.¹⁶³ Mr. West, however, told the Committee that as Senior Advisor, he provided Representative Meadows with advice on legislation and continued to meet with constituents.¹⁶⁴ He said he did not work on the office budget, but instead had turned those responsibilities over to Representative Meadows.¹⁶⁵

Representative Meadows said he tried to encourage Mr. West to do work in the district during this time period, but admitted he did not do much follow up with Mr. West to ensure he was working.¹⁶⁶ Mr. West, however, told the Committee that he called Representative Meadows every day and that Representative Meadows was aware of Mr. West's meetings with constituents because his travel for those meetings was recorded on his mileage expense reports.¹⁶⁷ The Committee reviewed the mileage reimbursements that Mr. West received for travel in his privately

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ Exhibit 11.

¹⁶⁰ Exhibit 12.

¹⁶¹ 18(a) Interview of Representative Meadows.

¹⁶² *See e.g.*, 18(a) Interview of Employee C; 18(a) Interview of Employee D; 18(a) Interview of Employee G.

¹⁶³ 18(a) Interview of Representative Meadows.

¹⁶⁴ 18(a) Interview of Kenny West.

¹⁶⁵ *Id.*

¹⁶⁶ 18(a) Interview of Representative Meadows.

¹⁶⁷ 18(a) Interview of Kenny West.

owned vehicle during the time he was Senior Advisor. Those reimbursements show that Mr. West traveled on 14 days out of a total of 48 working days.¹⁶⁸

Representative Meadows said he did not change Mr. West's pay, despite his decreased responsibilities, because he viewed this as a "transition period."¹⁶⁹ Representative Meadows explained, "[I]f I was in the private sector, I would have left his pay the same and figured out a way to get him gone."¹⁷⁰ Representative Meadows also said he hoped that changing Mr. West's title would encourage him to quit.¹⁷¹

L. Mr. West Resigns and is Paid Severance

On May 21, 2015, Mr. West resigned.¹⁷² While Representative Meadows did not ask for his resignation that day, he said he had previously talked with Mr. West about his potential resignation or termination, and had encouraged him to seek other employment.¹⁷³ In his resignation letter, Mr. West asked Representative Meadows to pay him through August or July at a minimum.¹⁷⁴ According to Representative Meadows and Mr. West, Mr. West continued to do some official work until mid-June 2015.¹⁷⁵ Mr. West's mileage reimbursements show he traveled on three occasions for official purposes after his resignation.¹⁷⁶

From mid-June until August 15, 2015, Mr. West was kept on Representative Meadows' House payroll, as "severance," at the same rate of pay that he had received as Chief of Staff and Senior Advisor.¹⁷⁷ Representative Meadows said he paid the severance because he wanted a smooth transition, but also because he thought it would encourage Mr. West not to file an age discrimination lawsuit against his congressional office.¹⁷⁸ Representative Meadows told the Committee he was not sure if Mr. West had actually obtained legal representation, but said that Mr. West had told him that he had talked to an attorney at some point.¹⁷⁹ However, Representative Meadows did not make, or attempt to make, any legal agreement with Mr. West that he would

¹⁶⁸ Exhibit 13. Documents reviewed by the Committee show that Mr. West was on leave for five days in April 2015. Mr. West did not receive reimbursements for travel on those days and they are not included in the 48 total working days as Senior Advisor.

¹⁶⁹ 18(a) Interview of Representative Meadows.

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² Exhibit 14.

¹⁷³ 18(a) Interview of Representative Meadows.

¹⁷⁴ Exhibit 14.

¹⁷⁵ 18(a) Interview of Representative Meadows; 18(a) Interview of Kenny West.

¹⁷⁶ Representative Meadows later reimbursed the U.S. Treasury \$400.96 for the three mileage reimbursements that Mr. West received from Representative Meadows' Members Representation Allowance (MRA). The reimbursements were for travel on May 27, 2015, June 2, 2015 and June 9, 2015. When asked about these trips, Mr. West claimed they were for official purposes. He also said Representative Meadows was aware of the trips, "because I told him I had other events." 18(a) Interview of Kenny West. Representative Meadows told the Committee in a November 18, 2015, letter that the reimbursements were for legitimate official activity, but that he reimbursed the U.S. Treasury to address any concerns his constituents may have had. Letter from Representative Meadows to Chairman Charles W. Dent and Ranking Member Linda T. Sánchez, Committee on Ethics (Nov. 18, 2015) (Appendix B).

¹⁷⁷ 18(a) Interview of Representative Meadows.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

waive any legal claims.¹⁸⁰ When asked why he did not take any measures to protect himself or his office from a possible lawsuit, Representative Meadows said, “I felt like [Mr. West’s resignation] was his admission that he was going to go on, you know, and do other things”¹⁸¹

M. *Speculation About the Hiring and Delayed Termination of Mr. West*

Multiple witnesses told the Committee they had speculated, or heard speculation, that Mr. West possessed negative information about Representative Meadows’ personal affairs. Several witnesses thought that the negative information may have spurred Representative Meadows to hire Mr. West, or to keep him on staff even after the allegations about his inappropriate behavior surfaced. Both Representative Meadows and Mr. West flatly denied this, and the Committee found no credible evidence to support it.

V. FINDINGS

Discrimination against a House employee on the basis of sex or gender is strictly prohibited by the Code of Official Conduct as well as the CAA, which subjected Congress to a number of federal employment laws, including Title VII of the Civil Rights Act of 1964. During the period under review, House Rule XXIII, clause 9, stated that “[a] Member . . . may not discharge and may not refuse to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the race, color, religion, sex (including marital or parental status), disability, age, or national origin of such individual.” Indeed, the Committee has long held “that sexual harassment is a form of sex discrimination,” and that such behavior violates the House Code of Official Conduct.¹⁸² *In the Matter of Representative Jim Bates*, the Committee expressly held that a Member who violates applicable sex discrimination and sexual harassment laws also violates House Rule XXIII, clause 9.¹⁸³

Under Title VII jurisprudence, sexual harassment may be actionable “in either of two circumstances: the grant or denial of an economic *quid pro quo* in exchange for sexual favors, or discrimination that has created a hostile or abusive work environment.”¹⁸⁴ A hostile work environment is one where the “workplace is permeated with discriminatory intimidation, ridicule, and insult” and these behaviors are “sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment.”¹⁸⁵

Even if discriminatory conduct does not meet the elements of sexual harassment under Title VII, it may nonetheless run afoul of clauses 1 and 2 of the Code of Conduct, which is also

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Ethics Manual* at 268-69 (citing *Bates* at 8-10); see also *Meritor Sav. Bank v. Vinson*, 477 U.S. 57, 67 (1986) (quoting *Henson v. Dundee*, 682 F.2d 897, 902 (11th Cir. 1982)) (“Sexual harassment which creates a hostile or offensive environment for members of one sex is every bit the arbitrary barrier to sexual equality at the workplace that racial harassment is to racial equality. Surely, a requirement that a man or woman run a gauntlet of sexual abuse in return for the privilege of being allowed to work and make a living can be as demeaning and disconcerting as the harshest of racial epithets.”)

¹⁸³ *Id.*

¹⁸⁴ *Gary v. Long*, 59 F.3d 1391, 1395 (D.C. Cir. 1995) (citations omitted).

¹⁸⁵ *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993).

found in House Rule XXIII. Clause 1 provides that Members and employees of the House “shall behave at all times in a manner that shall reflect creditably on the House.” It is a “purposefully . . . subjective” standard.¹⁸⁶ Clause 2 requires adherence to “the spirit and the letter” of House Rules. While conduct may not violate the “letter” of federal sexual harassment law (and thus, clause 9, which incorporates that law), it may still be contrary to the spirit of the prohibition on discriminatory conduct in the form of sexual harassment.¹⁸⁷ Clause 2 is a “genteel rule”¹⁸⁸ meant to emphasize “the importance of the precedents of decorum and consideration that have evolved in the House over the years.”¹⁸⁹

A. *Mr. West’s Behavior*

Mr. West is no longer a House employee and thus, is no longer subject to the House Rules that prohibit sexual harassment, nor to this Committee’s jurisdiction.¹⁹⁰ However, the Committee does not want to leave the impression that his behavior was appropriate in any way. In fact, his behavior toward the female staff was inappropriate in every sense of the word. The Committee found the witnesses who described Mr. West’s conduct to be credible and their testimony was consistent.¹⁹¹ There is no place in any congressional office for looking up skirts, or down shirts; staring at a woman’s chest; unwanted touching; or making sexual comments, even if subtle or in jest. The fact that Mr. West supervised the women he did these things to makes his behavior even more unacceptable. Just as between Members and their staff, a power imbalance exists between senior staff and junior staff in congressional offices. Those entrusted with supervisory responsibilities in the workplace must be sensitive to the potential for discrimination and for creating uncomfortable working conditions for staff.

Mr. West’s behavior raises serious questions as to whether it constituted sexual harassment under the demanding legal standards in Title VII jurisprudence.¹⁹² Clause 9 of the Code of Official Conduct, House Rule XXIII, mirrors the language of Title VII, and conduct that constitutes a violation of Title VII and the CAA is thus also a violation of the House Rules. At a minimum, Mr. West’s actions violated the *spirit* of clause 9, because his actions were inappropriate and discriminatory, and would thus violate clause 2 of the Code. The Committee also found that Mr. West’s actions while employed by the House did not reflect creditably on Representative Meadows’ office or the House as a whole, in violation of clause 1 of the Code. Such behavior has no place in the House of Representatives. The women that worked in Representative Meadows’

¹⁸⁶ See *Ethics Manual* at 13 (citing 114 Cong. Rec. 8778 (1968)).

¹⁸⁷ *Ethics Manual* at 17 (“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.”).

¹⁸⁸ *Ethics Manual* at 17.

¹⁸⁹ House Comm. on Standards of Official Conduct, *Report under the Authority of H. Res. 418*, H. Rep. 1176, 90th Cong., 2d Sess. 17 (1968).

¹⁹⁰ House Rule XI, clause 3(a)(2) (“The Committee may investigate . . . an alleged violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House . . .”).

¹⁹¹ Contrary to Mr. West’s assertions, the Committee found no indication that the allegations about Mr. West’s behavior were rooted in a desire to get Mr. West fired, a dislike of Mr. West, or anything related to his age. The Committee’s credibility determination is the same as the credibility determination Gowdy Staffer made after her independent investigation in November 2014, which she relayed to Representative Meadows at that time. 18(a) Interview of Gowdy Staffer; 18(a) Interview of Representative Meadows.

¹⁹² See *Tucker v. Johnson*, 211 F. Supp. 3d 95, 101 (D.D.C. 2016) (citation omitted) (describing the legal standard for Title VII claims in the D.C. circuit as “demanding”).

office deserved much better. However, because Mr. West is no longer a House employee, the Committee does not have jurisdiction over him.

B. Representative Meadows' Response to Mr. West's Behavior

Under Title VII jurisprudence, employers may be held vicariously liable for sexual harassment by a supervisory employee.¹⁹³ The Committee has also long held, in other contexts, that a Member is generally responsible for violations of the Code of Conduct that occur in their offices.¹⁹⁴

For example, in *The Matter of Representative E.G. "Bud" Shuster*, the Committee issued a letter of reproof to Representative Shuster for a pattern of conduct that did not reflect creditably on the House, in violation of then-House Rule XLIII, clause 1 (the predecessor to House Rule XXIII, clause 1). Among other things, the Committee found that Representative Shuster was responsible for his staff's performance of campaign work in his congressional office, despite not finding evidence that Representative Shuster himself was aware the activity was taking place.¹⁹⁵ The Committee explained, "Members of the House are ultimately responsible for ensuring their offices function in accordance with applicable standards. In this regard, Members must not only ensure that their offices comply with appropriate standards but also take account of the manner in which their actions may be perceived."¹⁹⁶ The Committee sees no reason the result should be different in this context. In fact, the Committee previously advised Members "to scrupulously avoid even the impression of a workplace tainted by sexism."¹⁹⁷

The Committee's investigation explored (1) when Representative Meadows knew about Mr. West's inappropriate behavior toward women and (2) whether Representative Meadows

¹⁹³ *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998); *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 747 (1998). The *Faragher* and *Ellerth* decisions held that an employer is vicariously liable for actionable harassment by a supervisor but the employer may assert an affirmative defense to liability when no tangible employment action was taken. *Faragher*, 524 U.S. at 807; *Ellerth* 524 U.S. at 765. The affirmative defense requires the employer to show 1) "the employer exercised reasonable care to prevent and promptly correct any sexually harassing behavior," and 2) "that the plaintiff employee unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer or to avoid harm otherwise." *Faragher*, 524 U.S. at 807.

¹⁹⁴ See Comm. on Ethics, *In the Matter of Allegations Relating to Representative Laura Richardson*, H. Rept. 112-642, 112th Cong. 2d Sess. 97 (hereinafter *Richardson*) ("Members are responsible for violations that occur in their office, and cannot shield themselves from liability by using staff as a proxy for wrongdoing"); Comm. on Ethics, *In the Matter of Allegations Related to Representative Ed Whitfield*, H. Rept. 114-687, 114th Cong., 2d Sess. 44 (hereinafter *Whitfield*) (The Committee found that Representative Whitfield violated House rules "by fail[ing] to establish clear guidelines and limits for his staff, which resulted in numerous lobbying contacts between his staff and [his wife]"); 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 Multi-National Business Conferences in 2007 and 2008*, H. Rept. 111-142, 111th Cong. 2d Sess. 192 (2010)("[B]ased on the Standards Committee's longstanding precedent . . . the Subcommittee finds that it would not well serve the House as an institution to allow its Members to escape responsibility by delegating authority to their staff to take actions and hide behind their lack of knowledge of the facts surrounding those actions . . .").

¹⁹⁵ Comm. on Standards of Official Conduct, *In the Matter of Representative E.G. "Bud" Shuster*, H. Rept. 106-979, 106th Cong. 2d Sess. 64 (2000) (hereinafter *Shuster*).

¹⁹⁶ *Id.* at 49.

¹⁹⁷ House Comm. on Ethics, *In the Matter of Allegations Relating to Representative Alcee L. Hastings*, H. Rept. 113-663, 113th Cong. 2d Sess. 16 (2014) (hereinafter *Hastings*).

exercised reasonable care to prevent and promptly correct Mr. West's behavior once he learned of it. As to the first issue, the Committee reviewed allegations that Representative Meadows may have known prior to October 2014 that Mr. West made women feel uncomfortable. A report published in the *Huffington Post* on October 5, 2015, stated:

A person close to Meadows said he personally observed West's behavior around women before he was offered the job, and warned Meadows about West. "There were a number of us who talked to him and basically said, 'You have a problem here,' before he ever got sworn into office," he said.¹⁹⁸

Representative Meadows has denied this account,¹⁹⁹ and the Committee's investigation did not substantiate this claim.²⁰⁰ As discussed previously, however, Campaign Supporter and Representative Meadows did have a conversation about Mr. West prior to Representative Meadows being sworn into office. Campaign Supporter described the conversation as follows:

I did tell [Representative Meadows] that Kenny had – when he was in my business interviewing my employees, that after he left, I had two female employees come up and tell me that they didn't ever want to be interviewed by him again, that he made them feel very uncomfortable. Now, Kenny is what I call a space invader. He's very touchy. He likes to get really close to you when he talks. He likes to have his arm on you, I mean, if it's a man or a woman. And I told Mark, I said, this guy, you know, he needs to understand space respect [sic]. And I told him about that. I felt like I had to.²⁰¹

When asked about this conversation, Representative Meadows said he recalled having conversations with Campaign Supporter about Mr. West, but did not specifically remember Campaign Supporter saying Mr. West made females feel uncomfortable or that that he was a "space invader."²⁰²

The Committee found Representative Meadows' testimony on this point to be credible. Representative Meadows explained that he had allowed his daughter to intern in his House office, which he would have never done if he believed Mr. West was a threat to the female staff.²⁰³ Even assuming that Campaign Supporter did tell Representative Meadows that Mr. West had made some

¹⁹⁸ Ryan Grimm and Paul Blumenthal, *Congressman Behind Planned Parenthood Assault Kept Paying Aide After Sexual Harassment Complaints*, HUFFINGTON POST, (Oct. 5, 2015), https://www.huffingtonpost.com/entry/mark-meadows-sexual-harassment-kenny-west_us_560f06eae4b0af3706e0fa1b.

¹⁹⁹ Email from Elliot S. Berke to Kathryn Lefebvre Donahue (May 13, 2016).

²⁰⁰ The Committee believes the source for this article was the person this Report refers to as Campaign Supporter, who spoke to the *Huffington Post* reporter about this same subject. See 18(a) Interview of Witness P. But Campaign Supporter has denied making the statement, including the claim that "[t]here were a number of us who talked to him." See 18(a) Interview of Witness P. *Id.*

²⁰¹ 18(a) Interview of Witness P.

²⁰² 18(a) Interview of Representative Meadows. Representative Meadows said that after the allegations about Mr. West were made public, Campaign Supporter reminded Representative Meadows that he had previously told him that Mr. West was someone who invaded people's space.

²⁰³ Representative Meadows also told the Committee that he asked his daughter whether she had ever experienced or observed any inappropriate behavior by Mr. West. She told him she had not. 18(a) Interview of Representative Meadows.

women feel uncomfortable and was a “space invader,” the Committee does not believe that would have placed Representative Meadows “on notice” that Mr. West would behave inappropriately toward his female congressional staff. The Committee found no credible evidence that Representative Meadows knew about Mr. West’s inappropriate behavior prior to receiving the complaints from female staff in his Washington, D.C., and district offices in October 2014.

Turning to the second issue, whether Representative Meadows exercised reasonable care to prevent and promptly correct Mr. West’s behavior when he learned of it in October 2014, the record shows that Representative Meadows took some immediate steps to address the allegations, but ultimately did not do enough. The Committee did not find that Representative Meadows intentionally placed his staff at risk, but his failure to take appropriate and swift action did exactly that.

One of Representative Meadow’s first measures was to prohibit Mr. West from the congressional offices and from directly contacting most of his female employees. Removing an alleged harasser from the workplace is an appropriate first step in response to allegations of inappropriate behavior or sexual harassment. Representative Meadows also sought guidance from Representative Gowdy, and asked Gowdy Staffer to conduct an investigation. Representative Meadows had the right idea to ask a neutral, third party to investigate the allegations. However, while Gowdy Staffer had substantial experience with investigations, as she was a former prosecutor, at the end of the day she was another Member’s employee. A Member should not ask another Member’s staff to investigate allegations of inappropriate behavior. It would have been more appropriate for Representative Meadows to have sought the assistance of an independent investigator specifically trained in workplace investigations. He could have done so through the House resources available, such as the Committee, OOC or OHEC.

Regardless, Gowdy Staffer did conduct an independent investigation, as requested, which involved informal interviews of female staff in Representative Meadows’ Washington, D.C., office, but not of any district staff, male staff, or Mr. West. The result was unequivocal: she told him Mr. West “had to be let go.”²⁰⁴ As discussed in Section IV.F., Gowdy Staffer explained to Representative Meadows that his staff was “not comfortable,” could not work for Mr. West, and that the female employees had “consistent” and “serious claims.” Gowdy Staffer also emphasized these claims could create “real problem[s]” for Representative Meadows, including possible claims of sexual harassment and a hostile work environment.

Yet when Representative Meadows received the recommendation, in November 2014, he did not follow it. Instead, Representative Meadows merely formalized the measures he had previously taken: Mr. West (1) could have no contact with female employees other than the scheduler²⁰⁵; (2) could not return to the Washington, D.C., or district congressional offices where female employees were present; and (3) should use the D.C. Deputy Chief and District Deputy Chief, both male employees, as a conduit for any supervisory interactions with female employees.²⁰⁶

²⁰⁴ 18(a) Interview of Gowdy Staffer; 18(a) Interview of Representative Meadows.

²⁰⁵ 18(a) Interview of Representative Meadows. Representative Meadows told Mr. West that the only female employee he could have direct contact with was his scheduler because it was necessary for scheduling purposes.

²⁰⁶ *Id.*

This created several problems. First, it did not send a message to his staff that he took their claims seriously or that sexual harassment is not tolerated in the House. Certainly, Representative Meadows' decision to initiate an independent investigation and then to leave the alleged harasser in a position of authority over the staff could be seen to communicate the opposite message, that Representative Meadows either did not believe the female staff or was not concerned enough to terminate Mr. West.

The Committee asked Representative Meadows if he had any concern that his female staff would experience anxiety due to the uncertainty about Mr. West's role and authority from October 2014 until Representative Meadows announced he would replace Mr. West on April 1, 2015. He explained his view:

I tried to assure them in any way while we were evaluating the whole deal that their personal contact with Mr. West— they would not have to make personal contact with him. So I felt like that would alleviate the concern. . . . I felt like they were protected because I think they knew that I was serious about not having him back. . . . I thought my staff, early on, trusted me enough to know that their health and wellbeing was my number-one concern. I was unequivocal in sharing that I wanted them to be protected.²⁰⁷

If this is the message Representative Meadows intended to send, it was muddled at best. The female staff's concerns are demonstrated in a February 6, 2015, email to Gowdy Staffer, months after she completed her investigation. The female employee wrote, "there are still talks of him coming back up. He is also still in control of the budget/salaries, which has many concerned. Mr. Meadows was adamant that it has been addressed, though."²⁰⁸

Second, Representative Meadows' plan to prohibit contact between the female staff and Mr. West did not work. On several occasions, Mr. West intentionally disregarded the limits placed on him. In January 2015, after the independent investigation was completed, the D.C. Deputy Chief told Representative Meadows Mr. West was calling female staff.²⁰⁹ The D.C. Deputy Chief told the Committee that female staff felt they were in a bind:

I think there was a bit of an expectation: He is still the chief; I don't want to just hang up on him because I have been told otherwise, like I don't know how to handle this. There was a concern of if Kenny calls me, what do I do? He is still the chief of staff, even though I have also been told . . . I am not going to be interacting with him. So I am not sure what to do because he is still in a managerial role, at least in title, but not in practice, at least according to what the Congressman had told them previously.²¹⁰

²⁰⁷ 18(a) Interview of Representative Meadows.

²⁰⁸ See Exhibit 10.

²⁰⁹ 18(a) Interview of Representative Meadows.

²¹⁰ 18(a) Interview of Employee J.

Mr. West continued to flout the rules Representative Meadows put in place as late as mid-March 2015, when Mr. West called two female employees, multiple times.²¹¹ These continued contacts show that however genuine Representative Meadows' intention to protect his staff, his ground rules were not working, and female employees continued to feel uncomfortable in the work environment that Representative Meadows oversaw.

Third, retaining Mr. West in his supervisory position created an environment ripe for retaliation. As mentioned previously, the CAA not only prohibits sexual harassment in the House, but also reprisal or intimidation against a person for reporting sexual harassment.²¹² The investigative record shows that Mr. West continued to provide Representative Meadows with evaluations of the congressional staff, in November 2014 and February 2015. In those evaluations, he was critical of the D.C. and District Deputy Chiefs and several of the female employees that raised the harassment allegations. The record also shows that Mr. West made recommendations for salary increases and promotion for two female employees in March 2015, which Representative Meadows ultimately put into place. As mentioned previously, a female employee raised a concern about Mr. West's control over the salaries and budget in her email to Gowdy Staffer in February 2015. Representative Meadows also allowed Mr. West to secretly access the email accounts of the D.C. and District Deputy Chiefs. According to Mr. West's testimony, it was "to see what was transpiring between [the Deputies]," because "[i]t's my opinion that them [sic] two were a main cause of what happened."²¹³

The Committee asked Representative Meadows if he had any concern about keeping Mr. West in his supervisory role after the allegations. He said, "[b]ecause I had the ultimate responsibility of hiring and firing and payroll, it certainly did not create the type of elevated concern that, you know, that, all of a sudden he was going to let somebody go or there was going to be some issue where they didn't get compensated properly. So, you know, in retrospect, maybe I should have looked at it differently."²¹⁴

It is true, and significant, that neither Mr. West nor Representative Meadows took any formal adverse employment action against any of the female staff or the Deputies that reported the allegations, and several complainants were actually promoted or received raises while Mr. West was Chief of Staff. However, by allowing Mr. West to continue to evaluate employees and to secretly access the D.C. and District Deputy Chief's email accounts, Representative Meadows fostered the potential for retribution by Mr. West. Representative Meadows could and should have done more to remove Mr. West's supervisory authority and inform the staff that he had done so. He did not adequately protect his staff from the possibility of retaliation.

It seems that Representative Meadows did not fully comprehend the ramifications of his decision to keep Mr. West as Chief of Staff – despite being told otherwise by Gowdy Staffer – until the office of the Speaker raised the issue with him, five months after the initial complaints

²¹¹ *Id.*

²¹² Title VII jurisprudence also prohibits retaliation. *See e.g., McGrath v. Clinton*, 666 F.3d 1377, 1380 (D.C. Cir. 2012).

²¹³ 18(a) Interview of Kenny West.

²¹⁴ 18(a) Interview of Representative Meadows.

about Mr. West and four months after the independent investigation was complete and recommended termination.

Based on the entire record in this matter, the Committee found that, when he learned about allegations of sexual harassment by Mr. West, Representative Meadows took some immediate and appropriate steps to separate Mr. West from his female staff and to request an independent investigation. However, these steps were insufficient. Mr. West retained his title and all the actual and apparent authority over staff that went with it. Further, Representative Meadows' actions did not communicate to his staff that he had taken the complaints seriously, and it did not protect them from potential future harassment or retaliation.

When asked if he was concerned about the impact this situation would have on his female staff, Representative Meadows stated "I think there was a bigger concern on my part, is making sure that in any evaluation of the truth [Mr. West] got a fair shake all the way around. And so, to just immediately terminate without hearing the facts was a concern."²¹⁵ Due process is of course essential, and had Representative Meadows utilized House resources such as OHEC, the Committee, or OOC, Mr. West would have received it. Instead, Representative Meadows ignored the results of an independent investigation and did not remove Mr. West for five months. The Committee found this was not an adequate or timely response.

Moreover, Representative Meadows' attempt to fix the "pervasive problem"²¹⁶ of harassment in his offices by limiting Mr. West's contact with female employees created a serious risk of gender discrimination. After the complaints came to him in October 2014, Representative Meadows cut off communications between Mr. West and all female staff, except one female scheduler. As a result, most of the female staff could not have any contact with the person who was supposed to be providing supervision and direction, and who had significant input into promotions, compensation and the office budget, among other things. Male staff were not limited in the same way. The Committee found Representative Meadows' attempt to fix the problem risked subjecting his female employees to further discrimination.

As described above, Members are ultimately responsible for ensuring their offices function in accordance with applicable standards and they also must "take account of the manner in which their actions may be perceived."²¹⁷ Representative Meadows is responsible for ensuring that his office is free from discrimination and any perception of discrimination, and he failed to adequately or promptly do so after learning about the allegations involving Mr. West. As such, his actions were contrary to the spirit of the anti-discrimination provision of the Code of Official Conduct (clause 9), in violation of clause 2 of the Code (which requires Members to adhere to the spirit of the rules of the House). The Committee also found that Representative Meadows' actions did not reflect creditably on the House, in violation of clause 1 of the Code of Conduct. Congressional offices should serve as an example of discrimination-free workplaces for the rest of the country. Members should never tolerate sexual harassment or any other discriminatory conduct in their offices, or give even the slightest impression that such conduct is acceptable in the congressional workplace.

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Shuster* at 49.

If Representative Meadows had sought assistance from any of the House resources available to him when he learned of the allegations, like the Committee, OOC or OHEC, and followed their advice, his actions would likely have complied with applicable House Rules. It is the best practice for a Member to utilize the appropriate independent House resources when faced with allegations of sexual harassment or discrimination in their offices. It is also a best practice for Members to follow recommendations after seeking appropriate outside assistance. Had Representative Meadows followed the recommendation from Gowdy Staffer and terminated Mr. West's employment after the investigation, most of the violations discussed in this Report would have been avoided.

Members and employees alike should be able to work free from sexual harassment or discrimination of any kind. The Committee notes that House Resolution 630, which was passed on November 29, 2017, requires each Member, Officer, and employee of the House to complete an education program focused on workplace rights and responsibilities. The Committee is hopeful that this will increase awareness of sexual harassment and discrimination in the workplace, encourage Members and staff to identify any issues that may arise in their offices, and educate Members and staff about the range of resources available to them.

C. Mr. West's Revised Duties, Compensation, and Severance

Representative Meadows' decisions to continue paying Mr. West, at his full salary, after he was (1) barred from working in the congressional offices and contacting most female staff; (2) demoted to Senior Advisor and lost his supervisory responsibilities; and (3) no longer serving in any position in Representative Meadows' office, raise questions as to whether Representative Meadows violated House Rule XXIII, clause 8.

1. House Rule XXIII, clause 8, and the Committee's guidance and precedent

Clause 8 states “[a] Member . . . of the House may not retain an employee who does not perform duties for the offices of the employing authority commensurate with the compensation such employee receives.” The Code of Ethics for Government Service further instructs every employee to “[g]ive a full day's labor for a full day's pay,”²¹⁸ and federal law requires that appropriated funds are to be used solely for purposes for which appropriated.²¹⁹ CHA regulations require employing Members to submit monthly salary certifications for their staff to ensure compliance with applicable regulations.²²⁰

Notwithstanding these restrictions, the “general terms, conditions, and specific duties of House employees traditionally have been within the discretion of the employing Member.”²²¹ Accordingly, while a staffer is instructed to “give a full day's labor for a full day's pay,” the employing Member may dictate what a “full day's labor” consists of.

²¹⁸ Code of Ethics for Government Service ¶ 3.

²¹⁹ 31 U.S.C. § 1301(a); see also *Ethics Manual* at 279.

²²⁰ *Members' Handbook* (2018) at 4; Exhibit 1 at 3-4. See also *Ethics Manual* at 277.

²²¹ *Ethics Manual* at 267; see also *Members' Handbook* (2018) at 4 (“the Member determines the terms and conditions of employment and service for their staff.”); Exhibit 1 at 3

Clause 8 aims to prevent fraud or misuse of the House payroll, particularly the use of “ghost employee” schemes. In such schemes, an employee is recorded on the payroll, but – with the Member’s knowledge – does not perform official work equivalent to the earnings he or she collects. The “ghost employee” may be a real individual, or a fictitious person who is misrepresented on payroll records as a *bona fide* employee, whose wage or salary payments are then used for some impermissible purpose.²²²

Consistent with the animating purpose of House Rule XXIII, clause 8, and its predecessor, former Rule XLIII, clause 8, the Committee has historically found violations of the “ghost employee” rule in cases where Members have knowingly converted official funds, originally disbursed as staff compensation, for their personal financial benefit or other unauthorized use.²²³ For example, in *The Matter of Representative Charles C. Diggs, Jr.*, the Committee found that Representative Diggs had inflated the salaries of several of his employees, beyond levels commensurate with their respective duties, to enable those employees to “kick back” the additional funds to Representative Diggs to pay certain personal and official expenses.²²⁴ The Committee also found that Representative Diggs had placed several individuals on his congressional payroll to compensate them for personal services they provided to him.²²⁵ On the basis of those findings, the Committee recommended censure to the House and required Representative Diggs to repay official funds for various violations of clause 8.

Violations of clause 8 may also implicate federal criminal laws. During the 100th Congress, the Committee initiated an inquiry into allegations that Delegate Fofo I.F. Sunia authorized the disbursement of compensation to individuals who did not perform services for the House, in violation of Rule XLIII, clause 8.²²⁶ The Committee deferred its investigation at the request of the U.S. Attorney’s Office for the District of Columbia, which was actively investigating the matter.²²⁷ Delegate Sunia later pleaded guilty to having conspired to commit fraud in violation of 18 U.S.C. § 371 (the criminal conspiracy statute) by submitting payroll forms and collecting salary checks for individuals who performed no work.²²⁸ Upon reviewing the evidence relating to

²²² See *U.S. v. Robinson*, 903 F. Supp. 2d 766, 791 (E.D. Mo. 2012) (“[A]n employee who receives salary money for time in which he did not work or perform services is a ‘ghost’ employee who is not receiving bona fide salary or wages”); *U.S. v. Harloff*, 815 F. Supp. 618, 619 (W.D.N.Y. 1993) (citing *U.S. v. Stout*, 1990 U.S. Dist. LEXIS 12343 (E.D. Pa. 1990) (noting that 18 U.S.C. § 666(c) authorizes prosecution based on “ghost employees,” or situations in which an employee “invents fictitious workers and collects their ‘wages’ for his/her own use”).

²²³ Before the permanent Committee on Standards of Official Conduct was created in 1967, and before the existence of either Rule XXIII, clause 8, or Rule XLIII, clause 8, various subcommittees of the House investigated Representative Adam Clayton Powell, Jr. for expenditures he made as chairman of the Committee on Education and Labor, including salary payments he made to his wife over more than two years, even though she performed no official duties during that time. In the 90th and 91st Congresses, Representative Powell was removed from his chairmanship and fined, and an attempt was made to exclude him from the House. See Select Comm. Pursuant to H. Res. 1, *In re Adam Clayton Powell*, H. Rept. 90-27, 90th Cong., 1st Sess. 19-20, 31-32 (1967); see also *Ethics Manual* at 5.

²²⁴ Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Diggs, Jr.*, H. Rept. 96-351, 96th Cong., 1st Sess. 5-6, 44 (1979) (hereinafter *Diggs*).

²²⁵ *Id.* at 5.

²²⁶ Comm. on Standards of Official Conduct, *Summary of Activities, One Hundredth Congress*, H. Rept. 100-1125, 100th Cong., 2d Sess. 15-16 (*In the Matter of Delegate Fofo I.F. Sunia and Matthew K. Iuli*).

²²⁷ *Id.* at 15.

²²⁸ *Id.* at 15-16.

the guilty pleas, the Committee found that Delegate Sunia had used the salary checks to pay for hotel and meal expenses for visiting constituents and staff, campaign expenses, and personal expenses of his family, in violation not only of the conspiracy statute, but also of the Code of Official Conduct and the Code of Ethics for Government Service.²²⁹ However, Delegate Sunia resigned before the Committee could hold a disciplinary hearing to consider sanctions.²³⁰

The Committee has also found violations of the “ghost employee” rule where a Member did not profit or otherwise obtain a financial benefit from the misuse of official funds appropriated for staff compensation, but retained and paid an employee even though the Member knew the employee was not physically present to perform official work. In *The Matter of Representative Austin J. Murphy*, the Committee recommended, and the House voted to issue, a reprimand to Representative Murphy for various violations of law and House rules, including hiring and retaining an individual on his subcommittee staff who did not perform duties commensurate with the compensation he received.²³¹ In that matter, the subcommittee’s staff director began to have frequent absences from work.²³² Indeed, despite his position as staff director, and the management responsibilities associated with the position, his frequent absences left staff “wonder[ing] among themselves what [he] was doing.”²³³ Given the nature of the employee’s responsibilities and the circumstances surrounding his absences, the Committee found that his attendance had deteriorated to the point that he was no longer performing the duties of his position and that Representative Murphy knew that the employee was not working, though he remained on the House payroll.²³⁴ Thus, the Committee concluded that Representative Murphy’s conduct violated House Rule XLIII, clause 8.

In *The Matter of Representative Barbara Rose Collins*, the Committee found Representative Collins violated House Rule XLIII, clause 8, by providing several of her staff members with temporary salary raises that were not commensurate with official duties they performed.²³⁵ The Committee found that the pay increases – which Representative Collins was personally involved in implementing – were wholly unrelated to staff’s performance of official duties. Rather, the Committee found that the raises were paid to Representative Collins’ congressional staff to enable them to accompany her on a trip to Ghana that was personal in nature. Moreover, the Committee obtained evidence that Representative Collins had specifically linked payment of the salary increases to staff’s willingness to participate in the trip.²³⁶

Finally, in *The Matter of Representative Charles H. Wilson*, the Committee found Representative Wilson hired a person whose salary was not commensurate with duties performed, in violation of XLIII, clause 8, when he employed a friend and political supporter as a

²²⁹ *Id.* at 16.

²³⁰ *Id.*

²³¹ Comm. on Standards of Official Conduct, *In the Matter of Representative Austin J. Murphy*, H. Rept. 100-485, 100th Cong., 1st Sess. 5 (1987) (hereinafter *Murphy*).

²³² *Id.* at 5.

²³³ *Id.* at 33.

²³⁴ *Id.* at 5.

²³⁵ Comm. on Standards of Official Conduct, *In the Matter of Representative Barbara Rose Collins*, H. Rept. 104-876, 104th Cong., 2d Sess. 35 (1997).

²³⁶ *Id.* at 35-36.

congressional staffer.²³⁷ The individual was hired for the stated purpose of advising Representative Wilson on postal matters, preparing and editing a newsletter, and serving as a business liaison with the California business community. However, the Committee found many of the duties for which the staffer was paid were incidental to his role as Representative Wilson's personal confidant and campaign representative.²³⁸

2. *Representative Meadows' compensation of Mr. West*

Representative Meadows paid Mr. West a salary of at least \$155,000 per year from the time he became a House employee on January 3, 2013 until he left his employment with the House on August 15, 2015. In October 2014, Representative Meadows adjusted most of his employees' salaries, including Mr. West's salary, to a higher rate apparently for a year-end bonus.²³⁹ Representative Meadows adjusted Mr. West's salary from \$155,000 to \$168,411, the maximum rate of pay at that time.²⁴⁰ The other staff who received the temporary pay increase in October had their pay adjusted back to their regular salary as of November 2014. Mr. West's salary remained at \$168,411 for November and December 2014, was moved to \$157,400 in January 2015 and finally back to \$155,000 in February 2015, where it remained until his employment ended on August 15, 2015. As a result, Mr. West received \$3,552.74 of additional gross pay, apparently as a bonus, from October 2014 to January 2015, which coincides with when Mr. West began to be prohibited from entering the congressional offices and from contacting the female congressional staff.

The Committee examined Mr. West's duties and pay at the following junctures in his tenure with Representative Meadows: (1) Mid-October 2014 through April 1, 2015, when Mr. West was restricted from the congressional offices and from contacting most of the female employees, but still served as Chief of Staff; (2) April 1, 2015 to mid-June 2015, when Mr. West held the title of "Senior Advisor" and lost his supervisory responsibilities; and (3) Mid-June 2015 to August 2015, when Mr. West was paid "severance" and no longer served in any House position.

i. Pay as Chief of Staff from Mid-October 2014 – April 1, 2015

Representative Meadows has asserted Mr. West maintained all of his supervisory and managerial responsibilities over the more than five month period following the initial complaints of sexual harassment until he demoted Mr. West on April 1, 2015. The Committee found it difficult to understand how a chief of staff could perform some of the core functions of that position, particularly supervising all staff, when he was unable to speak with over half of the employees (those who were female) and could not set foot in any of the congressional offices. In fact, Mr. West himself told Representative Meadows when he was barred from the offices, "I can't even do my job."²⁴¹

²³⁷ Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson*, H. Rept. 96-930, 96th Cong., 2d. Sess. 2 (1980).

²³⁸ *Id.* at 354-55.

²³⁹ The D.C. Deputy Chief told the Committee that in 2014, Representative Meadows gave the staff bonuses in October so they could use them for the holidays. 18(a) Interview of Employee J.

²⁴⁰ Rate set by Order of the Speaker of the House of Representatives, pursuant to 2 U.S.C. § 4532.

²⁴¹ 18(a) Interview of Representative Meadows.

When asked how Mr. West could do his job, Representative Meadows explained that Mr. West could continue to have conversations with the Deputies. He said, “You know, to make the assumption that you have to have a personal interaction with a female employee to properly supervise would be to suggest that everything is a flat plane, and that you’ve got to have that. I mean, so he still had that same supervisory managerial role that he would have without the personal interaction . . .”²⁴²

The Committee questions how this arrangement actually worked in practice and is concerned that Mr. West received an apparent bonus in the months following the allegations. However, the Committee has long held that Members have discretion over the terms, conditions and duties of House employees that they employ.²⁴³ Mr. West was still doing a “full day’s labor.” Even if the Committee believes the rate of pay he received was higher than what most Members would choose to pay an employee performing similar duties, it was still within the reasonable exercise of Representative Meadows’ discretion. Accordingly, the Committee found no violation of clause 8 from mid-October 2014 to April 1, 2015.

ii. Pay as Senior Advisor from April 1, 2015 – Mid-June 2015

After Mr. West was demoted to Senior Advisor on April 1, 2015, Representative Meadows told the Committee Mr. West lost his supervisory responsibilities.²⁴⁴ While Representative Meadows said that Mr. West was still “operating,” he admitted that he considered this a “transition period” and he did not follow up with Mr. West as much as he should have to ensure that he was doing his job.²⁴⁵ The mileage reimbursements that Mr. West received when he was Senior Advisor show he traveled on 14 of 48 possible working days, approximately thirty percent of the time, presumably for constituent meetings.²⁴⁶ As demonstrated by Representative Meadows’ and Mr. West’s testimony, they were not on the same page as to what Mr. West’s responsibilities were as Senior Advisor.²⁴⁷ The rest of Representative Meadows’ congressional staff did not know that Mr. West was even on staff at this time, let alone what he was doing, which further suggests that Mr. West’s work during this time was infrequent and inessential.

When asked why he did not change Mr. West’s pay when his responsibilities changed, Representative Meadows told the Committee, “if I was in the private sector, I would have left his pay the same and figured out a way to get him gone. . . . I had no idea that I was violating any kind of [rule] – in fact, quite the opposite.”²⁴⁸ He elaborated, “I think that’s the normal way that you would do this in the private sector, and I assumed that that’s the way that we would do business, you know, in this environment.”²⁴⁹

Representative Meadows does not work in the private sector, and the payments that he authorized despite the substantial decrease in work by Mr. West were made with public funds.

²⁴² 18(a) Interview of Representative Meadows.

²⁴³ *Ethics Manual* at 267.

²⁴⁴ 18(a) Interview of Representative Meadows.

²⁴⁵ *Id.*

²⁴⁶ *See* Exhibit 13.

²⁴⁷ *See* 18(a) Interview of Representative Meadows; 18(a) Interview of Kenny West.

²⁴⁸ 18(a) Interview of Representative Meadows.

²⁴⁹ *Id.*

The Committee credits Representative Meadows' testimony that he did not intend to violate the rules regarding compensation for House employees. Nonetheless, Mr. West's terms, conditions, and duties of his employment drastically changed during this time period, but his compensation did not. The Committee has stated previously that when an employee's time working in the congressional office substantially decreases, a corresponding decrease in pay is appropriate.²⁵⁰ The Committee has previously found Members to have violated House rules where they used official funds to compensate House employees who did not do work commensurate with their pay.²⁵¹ Further, the Committee has long held that ignorance of a House rule is no excuse for violating it, or defense to an adverse action.²⁵² Thus, the Committee found that Representative Meadows violated both the letter and spirit of House Rule XXIII, clause 8 during the two and a half months Mr. West was Senior Advisor.

iii. *Severance from Mid-June 2015 – August 15, 2015*

After Mr. West completed his official work as Senior Advisor, Representative Meadows paid him "severance" by leaving him on House payroll for two months when he was not working. There is no dispute that Mr. West was not giving a "full day's labor for a full day's pay" for those two months. The Committee acknowledges that there was little and inconsistent guidance on severance payments available to the House community at the time Representative Meadows paid severance to Mr. West. That said, Representative Meadows sought no guidance from OHEC, the Committee, or any of the other appropriate source in determining the amount, terms, or conditions of the "severance."²⁵³ He has claimed that he consulted with OHEC after the fact and they told him that he handled the matter consistent with advice OHEC has offered in similar situations.²⁵⁴ However, the Committee was not privy to those communications. Representative Meadows also did not obtain anything of discernable value to the House in exchange for the "severance" he paid to Mr. West. For example, despite asserting that he paid the "severance" in part to avoid an age discrimination lawsuit, Representative Meadows did not obtain a waiver of legal claims against his office. By keeping Mr. West on the payroll without working, Representative Meadows retained an employee who did not perform duties commensurate with the compensation he received. As mentioned above, the Committee has previously found Members to have violated House rules where they used official funds to compensate House employees who did not do work commensurate with their pay.²⁵⁵ For this reason, the Committee found that Representative Meadows' payment of "severance," by keeping Mr. West on House payroll for two months without performing any work, violated the letter and spirit of House Rule XXIII, clause 8.

²⁵⁰ *Ethics Manual* at 136.

²⁵¹ See e.g., *Murphy* at 5 (Member violated clause 8 by keeping the staff director of the Committee that he chaired on the payroll despite knowing he was not fulfilling the responsibilities of his position); *Richardson* at 91-92 (Member violated clause 8 by retaining a full time staffer who actually spent most of her time performing campaign work).

²⁵² *Whitfield* at 45 ("a Member's mistaken belief in their compliance with the rules does not excuse a violation of those rules").

²⁵³ 18(a) Interview of Representative Meadows.

²⁵⁴ Letter from Elliot S. Berke, Counsel to Representative Meadows, to Chairman Charles W. Dent and Ranking Member Linda T. Sánchez, Committee on Ethics (May 10, 2016) (Appendix B).

²⁵⁵ *Supra* Section V.C.2.ii.

D. *Repayment of Funds to the U.S. Treasury*

The *Members' Handbook* states, “[e]ach Member is personally responsible for the payments of any official and representational expenses incurred that exceed the provided MRA or that are incurred but are not reimbursable under these regulations.”²⁵⁶ Consistent with this guidance, where Members have used official funds for impermissible purposes, the Committee has frequently directed them to repay any misspent funds.²⁵⁷ There have, however, been instances where the Committee has sanctioned a Member but has not required repayment of misused funds. Most notably, *In the Matter of Representative Austin J. Murphy*, the Committee recommended and the House voted to issue a reprimand for various misuses of official resources, including paying an absentee employee.²⁵⁸ In the Committee’s discussion of the matter, it did not discuss repayment, and stated that, while Representative Murphy acknowledged misuse of official resources, he “either disclaimed his knowledge or approval of such activity, or asserted that such instances were *de minimis*.”²⁵⁹

In this case, Representative Meadows cannot claim that he was unaware of Mr. West’s pay when he was Senior Advisor or while being paid “severance,” because he was the one who authorized it. Further, Mr. West’s pay was in no way *de minimis*: from April 1, 2015 to June 15, 2015 he made \$32,291.68 as Senior Advisor, and his two months of “severance” totaled \$25,833.34. As such, reimbursement in this matter is appropriate, consistent with the *Members' Handbook*²⁶⁰ and the Committee’s more recent precedent.²⁶¹

Accordingly, the Committee attempted to calculate the amount by which Representative Meadows overcompensated Mr. West during the time periods where he did not perform duties commensurate with his compensation, in violation of clause 8. As stated previously, when Mr. West was Senior Advisor from April 1, 2015 to June 15, 2015 he earned \$32,291.68. Because the investigative record is inconclusive about the amount of official work Mr. West performed during that time period, it is difficult to estimate how much of that pay was commensurate with his duties. Even so, in recent matters, the Committee has directed Members to make repayments even where

²⁵⁶ *Members' Handbook* (2018) at 2; see also Exhibit 1 at 2; *Ethics Manual* at 323 (“Members may be personally liable for misspent funds or expenditures exceeding the MRA.”).

²⁵⁷ See, e.g., Comm. on Ethics, *In the Matter of Representative Luis V. Gutiérrez*, H. Rept. 115-617, 115th Cong. 2d Sess. 29 (2018) (hereinafter *Gutiérrez*) (Member was issued a reproof and required to repay \$9,700 for misusing MRA funds to pay a contractor for services outside the scope of the contract and beyond permissible scope under CHA rules); *Diggs* at 17-18 (Member was required to repay House \$40,031.66 for the “personal benefit he received from his misconduct” in giving his office staff raises and requiring them to pay certain of his personal expenses out of those raises); *Powell* at 19-20, 31-32 (Member was removed from his chairmanship, fined \$40,000 and an attempt was made to exclude him from the House for various acts, including misappropriating public funds for personal travel, and for paying his wife a salary though she performed no official duties; the Committee noted that the fine would “offset any civil liability of Mr. Powell to the United States of America with respect to” the allegations); *Richardson* at 15 (Member was reprimanded and fined \$10,000 for her “misconduct,” which included retaining a full time staffer who did not perform the duties of her office commensurate with compensation received).

²⁵⁸ *Murphy* at 5.

²⁵⁹ *Id.* at 4.

²⁶⁰ See *Members' Handbook* (2018) at 4; Exhibit 1 at 3.

²⁶¹ See, e.g., *Gutiérrez* at 29.

“estimating [a] value is imprecise,”²⁶² or determining a valuation “is relatively complicated.”²⁶³ In that vein, the Committee has opted to take a conservative approach to calculating an appropriate reimbursement. While Representative Meadows and Mr. West described the Senior Advisor role differently, they both mentioned that Mr. West performed some form of outreach in the district. Consequently, the Committee decided to compare Mr. West’s salary to the most senior employee in the district at that time, the District Deputy Chief, who had similar outreach responsibilities. The District Deputy Chief earned \$14,791.68 less than Mr. West for the period from April 1, 2015 to June 15, 2015. While not an exact approach, the Committee believes that the difference between these salaries is a fair and reasonable amount for Representative Meadows to repay to the U.S. Treasury for the clause 8 violation related to the Senior Advisor role.

The calculation for the repayment for Mr. West’s “severance” is much simpler. From June 15, 2015 to August 15, 2015, Mr. West earned \$25,833.34. There is no dispute that this portion of his salary was “severance” and that he did not do any meaningful work during that time period. Thus, the entire amount should be reimbursed to the U.S. Treasury for the clause 8 violation related to impermissible severance.

In sum, Representative Meadows must repay the U.S. Treasury a total of \$40,625.02 for Mr. West’s pay that was not commensurate with his duties and thus, violated House Rule XXIII, clause 8.²⁶⁴ The Committee directs Representative Meadows to repay that amount to the U.S. Treasury no later than May 15, 2020, and provide proof of repayment to the Committee by that date.

E. Representative Meadows’ Conduct Merits Reproval by the Committee

The Committee concluded that all of the violations detailed in this Report are sufficient to warrant a reproval by the Committee. Although the Committee accepts Representative Meadows’ assertions that his actions related to Mr. West’s harassment and his payments to Mr. West when he was Senior Advisor and as “severance” were never intended to violate House Rules, they did. He was ultimately responsible for ensuring that his office was free from discrimination and any perception of discrimination. He failed to adequately do so, in violation of clauses 1 and 2 of the Code of Official Conduct. Further, his attempts to transition Mr. West out of the office precipitated another violation of the Code of Official Conduct, by employing Mr. West when he was not performing duties commensurate with his pay, in violation of the letter and spirit of clause 8. The

²⁶² See Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young*, H. Rept. 113-487, 113th Cong. 2d Sess. 62 (2014) (ISC could not determine the precise value of lodging and hunting services given to a Member because the host “did not prepare an invoice for the trip” and it was unclear what hunting services the Member took advantage of. Accordingly, the ISC valued the hunting services based on the least expensive option available).

²⁶³ *Id.* at 63 (ISC could not determine the actual value of food eaten by the Member, so it valued meals based on the maximum *per diem* rate for travel in the geographic area where the meals were taken).

²⁶⁴ Representative Meadows asked the Committee whether Mr. West’s unused accrued leave was factored into the calculation of the amount of repayment to the U.S. Treasury. Representative Meadows did not, however, provide the Committee with any information regarding the amount of leave Mr. West may have accrued or the personnel policies in place in his office regarding accrual of leave. House regulations state that Members’ offices “may provide lump sum payments for accrued annual leave only if such leave was accrued in accordance with written personnel policies established prior to the accrual of such leave.” Exhibit 1 at 9; *see also Members’ Handbook* (2018) at 11.

Committee has previously issued reprovais to Members who unknowing violated House Rules, but the Committee determined should have taken additional steps to ensure their conduct was consistent with the Code of Official Conduct.²⁶⁵

VI. CONCLUSION

The Committee takes allegations of sexual harassment and discrimination extremely seriously. Mr. West's behavior toward the female employees in Representative Meadows' office, regardless of whether or not a federal court would consider it sexual harassment under Title VII, has no place in the House of Representatives. In 2014, the Committee advised Members "to scrupulously avoid even the impression of a workplace tainted by sexism."²⁶⁶ The Committee emphatically reiterates that message again today.

Representative Meadows could have and should have done more to ensure that his congressional office was free from discrimination or the perception of discrimination. While Representative Meadows did take some important immediate steps after learning of the allegations of sexual harassment by Mr. West, he did not do enough to address the allegations or to prevent potential further harassment or retaliation. His failure to take decisive action led to his retention of an employee who did not perform duties commensurate with his pay. Based on the totality of the circumstances, the Committee decided to reprove Representative Meadows for his conduct in this matter. Additionally, the Committee concluded that Representative Meadows must reimburse the U.S. Treasury in the amount of \$40,625.02 for Mr. West's salary that was not commensurate with his work.

The Committee is conscious of the current climate, as the nation seeks a more full-throated societal condemnation of sexual harassment than what has been the norm of past generations. As representatives of the people, the House should be a leader in this national conversation. It is the Committee's hope that this Report will not only hold Representative Meadows accountable for the inadequacy of his response to allegations of sexual harassment against someone under his supervision, but serve as a caution to the entire House community to be sensitive to the potential for sexual harassment and discrimination. Amid an evolving national conversation about sexual harassment, Members' offices should serve as an example for the modern American workplace, and accordingly those offices should be professional and fair environments for all who work within them.

Upon publication of this Report and Representative Meadows' reimbursement of funds to the U.S. Treasury, the Committee considers the matter closed.

²⁶⁵ See *Whitfield* at 45 (citing *In the Matter of Allegations Relating to Representative Phil Gingrey*, H. Rept. 113-664, 113th Cong. 2d Sess. 25 (2014) (finding violations of House Rules, and issuing a reproof, even though "the Committee credited Representative Gingrey's assertion that he believed his actions were consistent with House Rules."); see also *In the Matter of Allegations Relating to Representative Shelley Berkley*, H. Rept. 112-716, 112th Cong. 2d Sess. 10 (2012) (reproof was appropriate even though "[t]he ISC found that Representative Berkley mistakenly believed the rules governing what assistance her office could provide to her husband's practice required only that they treat him in the same manner by which they treated any other constituent.").

²⁶⁶ *Hastings* at 16.

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.