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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**REPORT**

Review No. 18-1329

The Board of the Office of Congressional Ethics (“the Board”), by a vote of no less than four members, on August 29, 2018, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives.

**SUBJECT:** Representative Thomas Garrett

**NATURE OF THE ALLEGED VIOLATION:** Representative Garrett may have used his congressional staff to perform unofficial work and personal errands. If Representative Garrett used congressional staff to perform unofficial work and personal errands, then he may have violated House rules and standards of conduct.

**RECOMMENDATION:** The Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Garrett used congressional staff to perform unofficial work and personal errands.

**VOTES IN THE AFFIRMATIVE:** 5

**VOTES IN THE NEGATIVE:** 1

**ABSTENTIONS:** 0

**NATURE OF THE ALLEGED VIOLATION:** In 2018, Representative Garrett hired an employee from his official congressional staff to work for his congressional campaign committee. The employee may have performed personal errands while being paid by Representative Garrett’s congressional campaign committee. If Representative Garrett converted funds from his congressional campaign committee for personal use, then he may have violated House rules, standards of conduct, and federal law.

**RECOMMENDATION:** The Board recommends that the Committee on Ethics dismiss the above allegation because there is not a substantial reason to believe that Representative Garrett converted funds from his congressional campaign committee for personal use.

**VOTES IN THE AFFIRMATIVE:** 6

**VOTES IN THE NEGATIVE:** 0

**ABSTENTIONS:** 0

**MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON ETHICS:** Omar S. Ashmawy, Staff Director & Chief Counsel.

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**FINDINGS OF FACT AND CITATIONS TO LAW**

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OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**FINDINGS OF FACT AND CITATIONS TO LAW**

Review No. 18-1329

On August 29, 2018, the Board of the Office of Congressional Ethics adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

**I. INTRODUCTION**

**A. Summary of Allegations**

1. Representative Garrett may have used his congressional staff to perform unofficial work and personal errands. If Representative Garrett used congressional staff to perform unofficial work and personal errands, then he may have violated House rules and standards of conduct.
2. The Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Garrett used congressional staff to perform unofficial work and personal errands.
3. Representative Garrett hired an employee from his official congressional staff to work for his congressional campaign committee in 2018. The employee may have performed unofficial work and personal errands while being paid by Representative Garrett's congressional campaign committee. If Representative Garrett converted funds from his congressional campaign committee for personal use, then he may have violated House rules, standards of conduct, and federal law.
4. The Board recommends that the Committee on Ethics dismiss the above allegation because there is not a substantial reason to believe that Representative Garrett converted funds from his congressional campaign committee for personal use.

**B. Jurisdiction Statement**

5. The allegations that were the subject of this review concern Representative Garrett, a Member of the United States House of Representatives from the 5th District of Virginia. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics ("OCE") directs that, "[n]o review shall be undertaken... by the board of any alleged violation that occurred before the date of adoption of this resolution."<sup>1</sup> The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

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<sup>1</sup> H. Res. 895, 110th Cong. §1(e) (2008) (as amended) ("the Resolution").

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**C. Procedural History**

6. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on June 8, 2018. The preliminary review commenced on June 9, 2018.<sup>2</sup> The preliminary review was scheduled to end on July 8, 2018.
7. On June 14, 2018, the OCE notified Representative Garrett of the initiation of the preliminary review, provided him with a statement of the nature of the review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.
8. At least three members of the Board voted to initiate a second-phase review in this matter on July 8, 2018.<sup>3</sup> The second-phase review commenced on July 9, 2018. The second-phase review was scheduled to end on August 22, 2018.
9. On July 9, 2018, the OCE notified Representative Garrett of the initiation of the second-phase review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.
10. The Board voted to refer the matter to the Committee on Ethics and adopted these findings on August 29, 2018.
11. The report and its findings in this matter were transmitted to the Committee on Ethics on September 5, 2018.

**D. Summary of Investigative Activity**

12. The OCE requested documentary and in some cases testimonial information from the following sources:
  - (1) Representative Garrett;
  - (2) Flanna Garrett, Representative Garrett's Wife;
  - (3) Jimmy Keady, Representative Garrett's former Chief of Staff;
  - (4) Kevin Reynolds, Representative Garrett's former Chief of Staff;
  - (5) Tanner Hirschfeld, Representative Garrett's former intern;
  - (6) Denzel Jones, Representative Garrett's former Executive Assistant;
  - (7) Matt Missen, Representative Garrett's former Communications Director;

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<sup>2</sup> According to the Resolution, the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

<sup>3</sup> According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase commences the day after the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

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- (8) Representative Garrett's former Staffer 1 ("Former Staffer 1");
- (9) Representative Garrett's former Staffer 2 ("Former Staffer 2");
- (10) Representative Garrett's former Staffer 3 ("Former Staffer 3");
- (11) Representative Garrett's former Staffer 4 ("Former Staffer 4");
- (12) Representative Garrett's former Staffer 5 ("Former Staffer 5");
- (13) Representative Garrett's current Staffer 1 ("Staffer 1");
- (14) Representative Garrett's current Staffer 2 ("Staffer 2").

13. The following individuals refused to cooperate with the OCE's review:

- (1) Representative Garrett;
- (2) Flanna Garrett;
- (3) Jimmy Keady;
- (4) Kevin Reynolds;
- (5) Tanner Hirschfeld;
- (6) Denzel Jones; and
- (7) Matt Missen.

## **II. REPRESENTATIVE GARRETT'S USE OF OFFICIAL CONGRESSIONAL STAFF FOR UNOFFICIAL WORK AND PERSONAL ERRANDS**

### **A. Applicable Law, Rules, and Standards of Conduct**

#### 14. House Ethics Manual

*The House Ethics Manual states that, "House resources acquired with [official] funds – including the office telephones, computers fax machines and other equipment, office supplies, office space, and staff while on official time – are to be used for the conduct of official House business."<sup>4</sup>*

*The Manual further provides: "The [Members' Representational Allowance ("MRA")] may only be used for official and representational expenses. The MRA may not be used to pay for any expenses related to activities or events that are primarily social in nature, personal expenses, campaign or political expenses, or House committee expenses.*

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<sup>4</sup> House Ethics Manual (2008) at 197.

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*Members may be personally liable for misspent funds or expenditures exceeding the MRA.*"<sup>5</sup>

15. The Member's Congressional Handbook

*The Members' Congressional Handbook provides that "[t]he MRA may not pay for personal expenses."*<sup>6</sup>

**B. Multiple Witnesses Confirmed that Some Unofficial Work and Personal Errands Were Performed by Employees in Representative Garrett's Office**

16. The OCE interviewed five former, and two current staff members in Representative Garrett's congressional office. The staff members' employment covered the entire duration of Representative Garrett's time as a Member of the House. The OCE found that Representative Garrett's wife, Flanna Garrett, made numerous requests to staff members, that were both officially and unofficially related. This created a frustrating work environment for employees, especially for Jimmy Keady as Chief of Staff.
17. Because Representative Garrett, Flanna Garrett, and Jimmy Keady refused to cooperate with this review, the OCE could not fully assess the extent and nature of unofficial work and personal errands assigned to staff members in Representative Garrett's office.
18. Generally, the OCE received evidence that confirmed public reports<sup>7</sup> concerning Flanna Garrett's extensive requests for personal errands. In communications between staff members and Jimmy Keady, Mr. Keady described difficult circumstances of his work environment. Mr. Keady's employment was terminated by Representative Garrett in late May 2018, in part for "the pushback he was getting on certain things . . . and the delineation of official versus unofficial."<sup>8</sup>

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<sup>5</sup> *Id.* at 323 (citing to Comm. on House Admin., *Members' Congressional Handbook*).

<sup>6</sup> Comm. on House Administration, *Members' Congressional Handbook*, 115<sup>th</sup> Congress (Feb. 27, 2018) available at <https://cha.house.gov/handbooks/members-congressional-handbook>.

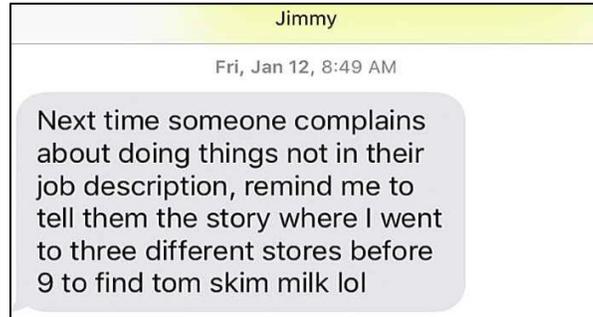
<sup>7</sup> *Ex-aides say congressman made them his servants*, POLITICO (May 25, 2018), available at <https://www.politico.com/story/2018/05/25/tom-garrett-staff-servants-608665>.

<sup>8</sup> Transcript of Interview of Staffer 1, Aug. 15, 2018 ("Staffer 1 TOI") (Exhibit 1 at 18-1329\_0055).

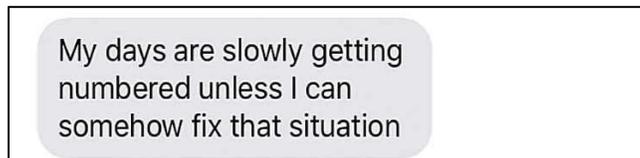
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19. Below, in a January 2017 text message with Staffer 1, a senior staff member in Representative Garrett’s congressional office, Mr. Keady stated “[n]ext time someone complains about doing things not in their job description, remind me to tell them the story where I went to three different stores before 9 to find skim milk lol.”<sup>9</sup>



20. After a lengthy set of questions and answers regarding the identity of staffers complaining about performing “things not in their job description,” that were neither official nor campaign related, Staffer 1 told the OCE that “the only person I can definitively say was Jimmy.”<sup>10</sup>
21. Later, on February 28, 2018, Mr. Keady told Staffer 1 via text message, “[m]y days are slowly getting numbered unless I can somehow fix that situation.”<sup>11</sup>



22. When asked about the text above, Staffer 1 stated that Mr. Keady “was talking about the conflict that he had with Flanna and Tom with getting things done and then certain requests that we couldn’t officially accommodate, getting those done.”<sup>12</sup> Staffer 1 clarified that she meant “personal” requests.<sup>13</sup>
23. Some witnesses confirmed that extensive requests for personal errands occurred. Former Staffer 1 stated that he was “unsurprised” by the public reports concerning Representative Garrett’s office.<sup>14</sup> Matt Missen, Representative Garrett’s former Communications Director told the OCE that he “lied to the press” when a statement was attributed to him,

<sup>9</sup> Text Message Exchange between Jimmy Keady and Staffer 1 (Exhibit 2 at 18-1329\_0068).

<sup>10</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0034).

<sup>11</sup> Text Message Exchange between Jimmy Keady and Staffer 1 (Exhibit 2 at 18-1329\_0069); Staffer 1 TOI (Exhibit 1 at 18-1329\_0041).

<sup>12</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0041-42).

<sup>13</sup> *Id.* at 18-1329\_0042.

<sup>14</sup> Transcript of Interview of Former Staffer 1, Jul. 11, 2018 (“Former Staffer 1 TOI”) (Exhibit 3 at 18-1329\_0079).

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denying that staff members performed personal errands for Representative Garrett and his wife.<sup>15</sup>

24. In other instances, witnesses stated that public allegations of extensive requests for personal errands were possibly exaggerated or misleading. Staffer 1 told the OCE that she had “frustration with how some things were characterized” publicly.<sup>16</sup> Staffer 2, a junior staff member in Representative Garrett’s office, stated that she disagreed with some of the public allegations and that they were started “because former staffers have a negative taste in their mouth . . .”<sup>17</sup> Former Staffer 2 told the OCE that the public reports were a “media hit” and a “witch hunt.”<sup>18</sup> Former Staffer 3 submitted a statement to the OCE denying many of the allegations that had been made publicly.<sup>19</sup>
25. As discussed below, the OCE also obtained specific evidence of personal errands and unofficial work assigned to Representative Garrett’s employees.

#### Oil Changes

26. On at least two occasions, and possibly others, Representative Garrett or Flanna Garrett made requests that a staff member change the oil in Representative Garrett’s car.
27. According to Matt Missen and Staffer 1, in one instance, Flanna Garrett requested that a staff member change the oil in Representative Garrett’s car after picking her up from the airport.<sup>20</sup> Both witnesses told the OCE that Jimmy Keady instructed the staff member not to change the oil in Representative Garrett’s car.<sup>21</sup> Mrs. Garrett then became angry about that direction by Mr. Keady.<sup>22</sup>
28. Matt Missen and Staffer 1 also confirmed that a staff member in Representative Garrett’s district office was asked to change the oil in Representative Garrett’s car on another occasion during an official visit to Monticello by a member of a foreign government in which Representative Garrett and his staff attended.<sup>23</sup>

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<sup>15</sup> Transcript of Interview of Matt Missen, Jul. 20, 2018 (“Matt Missen TOI”) (Exhibit 4 at 18-1329\_0109). *See also Ex-aides say congressman made them his servants*, POLITICO (May 25, 2018), available at <https://www.politico.com/story/2018/05/25/tom-garrett-staff-servants-608665>. The OCE notes that both Former Staffer 1 and Mr. Missen’s employment was terminated by Representative Garrett. *See generally* Former Staffer 1 TOI; Matt Missen TOI.

<sup>16</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0008).

<sup>17</sup> Transcript of Interview of Staffer 2, Jul. 30, 2018 (“Staffer 2 TOI”) (Exhibit 5 at 18-1329\_0167).

<sup>18</sup> Transcript of Interview of Former Staffer 2, Jul. 11, 2018 (“Former Staffer 2 TOI”) (Exhibit 6 at 18-1329\_0187).

<sup>19</sup> Statement from Former Staffer 3 to the OCE, sent on Jun. 28, 2018 (Exhibit 7 at 18-1329\_0208-09).

<sup>20</sup> Matt Missen TOI (Exhibit 4 at 18-1329\_0114-15); Staffer 1 TOI (Exhibit 1 at 18-1329\_0018). The Board notes that Mr. Missen’s employment with Representative Garrett’s office was terminated in early June 2018. Apart from the circumstances surrounding his termination that may have resulted in some degree of bias, the OCE found Mr. Missen’s testimony to be detailed and forthcoming. After interviewing with the OCE, Mr. Missen did not respond to the OCE’s repeated requests for documents.

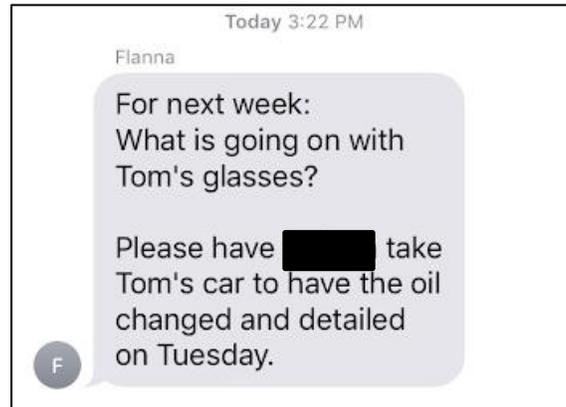
<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

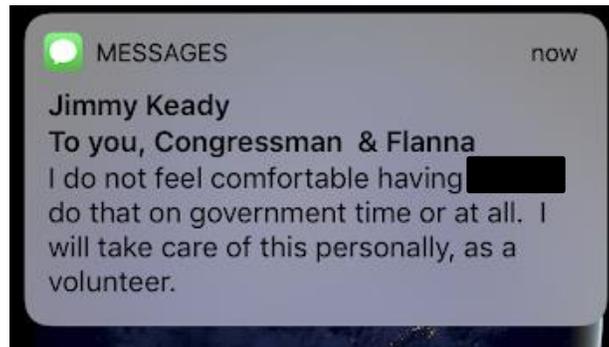
<sup>23</sup> *Id.* at 18-1329\_0019, 0116.

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29. Below, an undated text exchange between Flanna Garrett, Staffer 2, and another individual, shows a request made by Mrs. Garrett for Former Staffer 5 to “take Tom’s car to have the oil changed and detailed on Tuesday.”<sup>24</sup> The OCE could not establish whether this was a separate request made by Flanna Garrett, distinct from the two requests identified above.



30. In response, Jimmy Keady stated “I do not feel comfortable having [Former Staffer 5] do that on government time or at all. I will take care of this personally, as a volunteer.”<sup>25</sup>



### Trips to Retail Stores

31. The evidence obtained by the OCE also showed instances of Representative Garrett’s staff assisting Flanna Garrett in trips to retail stores like Costco and IKEA.

32. Former Staffer 5 told the OCE that he accompanied Mrs. Garrett to IKEA with her baby, during normal work hours, in December 2017.<sup>26</sup> On that same trip, Former Staffer 5 delivered the furniture items to the Garretts apartment.<sup>27</sup> Former Staffer 5 also

<sup>24</sup> Text Message Exchange between Rep. Garrett, Flanna Garrett, Jimmy Keady, and Staffer 2 (Exhibit 8 at 18-1329\_0211).

<sup>25</sup> *Id.* at 18-1329\_0212.

<sup>26</sup> Transcript of Interview of Former Staffer 5, Jul. 31, 2018 (“Former Staffer 5 TOI”) (Exhibit 9 at 18-1329\_0223, 0237).

<sup>27</sup> *Id.* at 18-1329\_0237.

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accompanied Flanna Garrett to Costco in October 2017 to purchase items for the congressional office as well as some personal items for the Garretts.<sup>28</sup> This trip occurred during normal work hours.<sup>29</sup>

33. Former Staffer 1 told the OCE that although he did not accompany Flanna Garrett on any trips to retail stores, former Executive Assistant Denzel Jones informed Former Staffer 1 that he was with Mrs. Garrett on several occasions to purchase official and personal items for the Garretts at grocery stores and Costco.<sup>30</sup>
34. When asked how many times Mr. Jones accompanied Mrs. Garrett on trips to Costco, Former Staffer 1 told the OCE that “it was more than once” but probably less than ten times.<sup>31</sup> Former Staffer 1 stated that interns “frequently” accompanied Mrs. Garrett on trips to Costco, “once every three weeks.”<sup>32</sup>
35. Several staff members also stated that they either had no awareness of trips to retail stores by employees in Representative Garrett’s office or that no requests of this specific nature were made to them personally.<sup>33</sup>

#### Dog Sitting

36. The Garrett’s dog frequently was present in the congressional office and the evidence obtained by OCE showed that employees in Representative Garrett’s office were sometimes responsible for feeding the dog and taking it out of the office for walks.<sup>34</sup> Additionally, on approximately five or six occasions, Staffer 1 and Staffer 2 watched the Garrett’s dog on their personal time outside the office.
37. Staffer 1 told the OCE that she watched the Garrett’s dog on three occasions while Representative Garrett and his wife were out of town.<sup>35</sup> Staffer 2 told the OCE that she watched the Garrett’s dog on two occasions while the Garretts were out of town.<sup>36</sup>
38. Both Staffer 1 and Staffer 2 explained to the OCE that they enjoyed spending time with the Garrett’s dog and they did not feel pressure to accept the requests.<sup>37</sup> Staffer 1 stated that she was compensated personally by the Garretts on one occasion for dog sitting;

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<sup>28</sup> *Id.* at 18-1329\_0222, 0236.

<sup>29</sup> *Id.*

<sup>30</sup> Former Staffer 1 TOI (Exhibit 3 at 18-1329\_0081-82).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 18-1329\_0088.

<sup>33</sup> *See e.g.*, Matt Missen TOI (Exhibit 4 at 18-1329\_0113); Former Staffer 2 TOI (Exhibit 6 at 18-1329\_0195); Staffer 1 TOI (Exhibit 1 at 18-1329\_0017).

<sup>34</sup> Former Staffer 1 TOI (Exhibit 3 at 18-1329\_0087); *but see* Matt Missen TOI (Exhibit 4 at 18-1329\_0112, 0117) (“I was never an eyewitness to ‘[d]o this with the dog’”).

<sup>35</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0013).

<sup>36</sup> Staffer 2 TOI (Exhibit 5 at 18-1329\_0158, 0161).

<sup>37</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0014); Staffer 2 (Exhibit 5 at 18-1329\_0162).

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Staffer 2 stated that she was compensated also on one occasion via a spa gift card from the Garretts personally.<sup>38</sup>

Other Instances of Personal Errands

39. Multiple witnesses also told the OCE that Tanner Hirschfeld, an intern, drove Representative Garrett's daughters from Washington, DC to Scottsville, VA on at least one occasion, and possibly others.<sup>39</sup> Witnesses stated that he volunteered for the task and one witness stated that the drive could have been associated with a campaign event.<sup>40</sup> As discussed above, one staff member also drove Flanna Garrett to the airport on at least one occasion.<sup>41</sup>
40. Staff members in Representative Garrett's office also helped the Garretts move into an apartment. Former Staffer 5 stated that in November 2017, Jimmy Keady asked if Former Staffer 5 could help move Representative Garrett and his wife to a new apartment.<sup>42</sup> The move occurred during normal work hours and lasted all day.<sup>43</sup> Former Staffer 5 told the OCE that over the course of his employment in Representative Garrett's office he "more than made up" for the time spent moving.<sup>44</sup> Matt Missen and Staffer 1 confirmed that Jimmy Keady and other staff members assisted in moving the Garretts into a new apartment during normal work hours.<sup>45</sup> Mr. Missen also told the OCE that a staff member was paid by Representative Garrett to set up a WiFi network in Representative Garrett's apartment.<sup>46</sup> Former Staffer 5 confirmed that he set up the Wi-Fi.<sup>47</sup>
41. The OCE also found other instances of personal errands requested by Representative Garrett or Flanna Garrett that may be considered *de minimus* in nature. Staff members told the OCE, or provided documents showing, that they delivered clothing items, cigarettes, keys, or cell phones to Representative Garrett. Some of these tasks may have also been to assist him in an official capacity.
42. In sum, the OCE obtained evidence of specific instances of personal errands performed throughout the 115th Congress by Representative Garrett's congressional staff. The OCE also obtained a significant amount of testimony concerning the difficult work environment caused by the Garretts' requests for personal errands and unofficial work.

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<sup>38</sup> *Id.*

<sup>39</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0018); Former Staffer 1 TOI (Exhibit 3 at 18-1329\_0084); Staffer 2 TOI (Exhibit 5 at 18-1329\_0179); Matt Missen TOI (Exhibit 4 at 18-1329\_0113). One witness told the OCE that he had not heard about Mr. Hirschfeld's driving of Rep. Garrett's daughters. Former Staffer 5 TOI (Exhibit 9 at 18-1329\_0223-24)

<sup>40</sup> Former Staffer 2 TOI (Exhibit 6 at 18-1329\_0195).

<sup>41</sup> Matt Missen TOI (Exhibit 4 at 18-1329\_0114-15); Staffer 1 TOI (Exhibit 1 at 18-1329\_0018).

<sup>42</sup> Former Staffer 5 TOI (Exhibit 9 at 18-1329\_0236).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 18-1329\_0236-37.

<sup>45</sup> Matt Missen TOI (Exhibit 4 at 18-1329\_0123); Staffer 1 TOI (Exhibit 1 at 18-1329\_0026).

<sup>46</sup> Matt Missen TOI (Exhibit 4 at 18-1329\_0123).

<sup>47</sup> Former Staffer 5 TOI (Exhibit 9 at 18-1329\_0237). Former Staffer 5 stated that he was compensated with cash by Rep. Garrett and his wife. *Id.*

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As discussed in Part III of these findings, Representative Garrett, Flanna Garrett, and Jimmy Keady developed a plan to “streamline” the requests and staff concerns resulting from them.

43. Based on the information above, the Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Garrett used congressional staff to perform unofficial work and personal errands.

### **III. REPRESENTATIVE GARRETT’S CONGRESSIONAL CAMPAIGN COMMITTEE EMPLOYED AN OFFICIAL CONGRESSIONAL STAFF MEMBER FOR SOME DEGREE OF PERSONAL ERRANDS**

#### **A. Applicable Law, Rules, and Standards of Conduct**

44. 52 U.S.C. § 30114(b)(1)

*“A contribution or donation described in subsection (a) of this section shall not be converted by any person to personal use.”<sup>48</sup>*

45. House Rules

*House Rule 23, clause 6(c) states that, “a Member except as provided in clause 1(b) of rule XXIV, may not expend funds from his campaign account that are not attributable to bona fide campaign or political purposes.”*

46. House Ethics Manual

*The House Ethics Manual states, “Members have wide discretion in determining what constitutes a bona fide campaign or political purpose to which campaign funds and resources may be devoted, but Members have **no** discretion whatsoever to convert campaign funds to personal use. Furthermore, House rules require that Members be able to verify that campaign funds have not been used for personal purposes.”<sup>49</sup>*

#### **B. Staffer 2 was Hired by Representative Garrett’s Congressional Campaign Committee in 2018 to Perform Both Personal Errands and Campaign Work**

47. While reviewing whether Representative Garrett’s used official congressional staff for unofficial work or personal errands, the OCE received evidence that a current employee in Representative Garrett’s congressional office was offered a paid position with his congressional campaign committee. The evidence indicated that at least part of the

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<sup>48</sup> See also 11 C.F.R. § 113.1(g). “Personal use means any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate’s campaign or duties as a Federal officeholder.”

<sup>49</sup> House Ethics Manual (2008) at 173 (emphasis in original).

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responsibilities of that position involved personal errands assigned by Representative Garrett or his wife.

48. Because Representative Garrett, Flanna Garrett, and Jimmy Keady refused to cooperate with this review, the OCE could not fully assess the origins of the campaign position, the intentions behind the role's creation, or the full extent of services performed. However, the OCE obtained evidence that Jimmy Keady, Representative Garrett and Flanna Garrett may have created the campaign position, paid with campaign funds, for impermissible purposes.

Creating a Position Paid by the Campaign Committee

49. Matt Missen told the OCE that in March 2018, Jimmy Keady proposed employing a current congressional staff member to handle the personally-related requests from Representative Garrett's wife.<sup>50</sup> He stated that Representative Garrett's congressional campaign committee would pay the staff member.<sup>51</sup> Mr. Missen believed that the proposed position was a result of a conversation between Representative Garrett, Flanna Garrett, and Jimmy Keady.<sup>52</sup>
50. Mr. Missen stated that he, Jimmy Keady, and Staffer 1 discussed the proposal and wanted to offer the role to either Former Staffer 5 or Staffer 2.<sup>53</sup>
51. Staffer 1 confirmed that Mr. Keady intended to create a position with the campaign for either Former Staffer 5 or Staffer 2.<sup>54</sup> Staffer 1 suggested Former Staffer 5 for the new position.<sup>55</sup> Staffer 1 also told the OCE that personal errands were part of the anticipated role for the staff member, among other tasks related to the campaign like "thank you cards, or running things to the post office."<sup>56</sup>
52. When asked whether the new role was connected to frustrations Jimmy Keady expressed concerning personal requests by Flanna Garrett, Staffer 1 stated that it was.<sup>57</sup> Staffer 1's statements align with Mr. Missen's testimony to the OCE, that the new position was created to address Flanna Garrett's numerous requests of Representative Garrett's staff.<sup>58</sup>

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<sup>50</sup> Matt Missen TOI (Exhibit 4 at 18-1329\_0118-19, 0121)

<sup>51</sup> *Id.* at 18-1329\_0118.

<sup>52</sup> *Id.* at 18-1329\_0121.

<sup>53</sup> *Id.* at 18-1329\_0119.

<sup>54</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0036-38).

<sup>55</sup> *Id.* at 18-1329\_0036.

<sup>56</sup> *Id.* at 18-1329\_0036-39, 0047, 0065. Staffer 1 told the OCE that it was her understanding that the new role with the campaign involved paying the individual out of "two separate pots": one from the campaign and one from the Garrett's personal funds. *Id.* at 18-1329\_0046. When asked where she got that understanding, Staffer 1 told the OCE that although "it wasn't specifically laid out to me like that," she had the understanding from "context clues" related to Staffer 2 being paid personally by the Garretts for dog sitting. *Id.* at 18-1329\_0046-47. She also stated that she "could have been missing something or misunderstanding it." *Id.* at 18-1329\_0065.

<sup>57</sup> *Id.* at 18-1329\_0037-38 ("[Jimmy] wanted to streamline things. He preferred requests from Flanna were not being made to staffers . . ."). *Id.* at 18-1329\_0037.

<sup>58</sup> Matt Missen TOI (Exhibit 4 at 18-1329\_0118-19).

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Former Staffer 5's Offer from the Campaign Committee

53. Former Staffer 5 explained to the OCE that in March 2018, Jimmy Keady offered him a position with Representative Garrett's campaign committee after he was first approached by Staffer 1 to gauge his interest in the position.<sup>59</sup> He told the OCE that after speaking with Mr. Keady, he understood that "this would be someone that could directly assist with Congressman Garrett and his wife, in addition to helping Jimmy out with campaign activities."<sup>60</sup>
54. Former Staffer 5 also confirmed Staffer 1 and Mr. Missen's testimony concerning the anticipated job duties for the new position. He stated that in his preliminary discussions about the new role, Mr. Keady "indicated it would be like a "50/50 time for" personally related tasks and actual campaign duties."<sup>61</sup> Mr. Keady specifically mentioned oil changes to Former Staffer 5.<sup>62</sup> Former Staffer 5 stated that "the more I heard about the position, the more uncomfortable I felt with it . . . ."<sup>63</sup>
55. After he sought guidance about the new role, Former Staffer 5 was ready to accept the offer from Jimmy Keady to be paid by Representative Garrett's campaign committee.<sup>64</sup> Former Staffer 5 was then told by Mr. Keady that Staffer 2 had been selected for the position.<sup>65</sup>

Staffer 2's Offer from the Campaign Committee

56. Ultimately, Staffer 2 was chosen for the new position. According to Matt Missen and Staffer 1, Flanna Garrett, or Flanna Garrett and Representative Garrett together, made the decision to hire Staffer 2, rather than Former Staffer 5.<sup>66</sup>
57. During her interview, Staffer 2 told the OCE that Mr. Keady approached her about working for Representative Garrett's campaign committee for \$400 per month.<sup>67</sup> She stated that she did not immediately agree to the offer but instead thought about the opportunity over the weekend and "talked to different people" about whether she should accept the job offer.<sup>68</sup>
58. Former Staffer 4 was one of the people with whom Staffer 2 discussed the proposed position.<sup>69</sup> Former Staffer 4 told the OCE that Staffer 2 may have texted him, asking if

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<sup>59</sup> Former Staffer 5 TOI (Exhibit 9 at 18-1329\_0227-28).

<sup>60</sup> *Id.* at 18-1329\_0227.

<sup>61</sup> *Id.* at 18-1329\_0228.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 18-1329\_0231.

<sup>64</sup> *Id.* at 18-1329\_0229, 0232. Former Staffer 5 also told the OCE that he sought guidance on the new position with the Committee on Ethics. *Id.* at 18-1329\_0229-30. However, he did not remember discussing the possibility of being paid with campaign funds for personally-related tasks for Rep. Garrett and his wife. *Id.* at 18-1329\_0230-31.

<sup>65</sup> *Id.* at 18-1329\_0232.

<sup>66</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0036); Matt Missen TOI (Exhibit 4 at 18-1329\_0119).

<sup>67</sup> Staffer 2 TOI (Exhibit 5 at 18-1329\_0154).

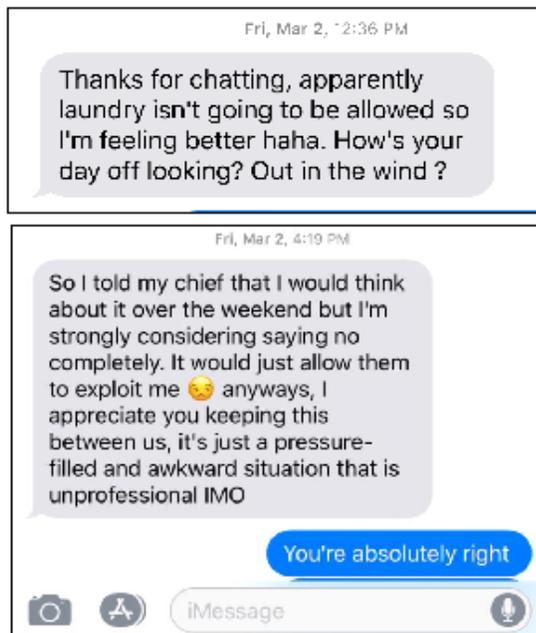
<sup>68</sup> *Id.*

<sup>69</sup> Transcript of Interview of Former Staffer 4, Jul. 23, 2018 ("Former Staffer 4 TOI") (Exhibit 10 at 18-1329\_0249-50).

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he could talk; the two then discussed the position during a telephone call.<sup>70</sup> During the call, Former Staffer 4 stated that Staffer 2 talked about working for Representative Garrett's campaign committee and concerns she had about the position.<sup>71</sup>

59. In his interview with the OCE, Former Staffer 4 discussed "angst" in Representative Garrett's office concerning personal errands.<sup>72</sup> He stated that he was aware of the "angst" because of his telephone call with Staffer 2.<sup>73</sup> When asked how the personal errands were connected to Staffer 2's proposed arrangement with Representative Garrett's campaign committee, he stated that "I think some personal errands might have been classified as campaign work."<sup>74</sup> Former Staffer 4 told the OCE that Staffer 2 characterized the situation that way, specifically mentioning "dry cleaning" as part of anticipated duties for the new position with the campaign.<sup>75</sup>
60. On March 2, 2018, in text messages between Staffer 2 and Former Staffer 4 after the telephone call noted above, Staffer 2 thanked Former Staffer 4 for speaking with her.<sup>76</sup> She also stated that "apparently laundry isn't going to be allowed so I'm feeling better haha." A few hours later she texted again stating that the position would "just allow them to exploit me."<sup>77</sup>



61. Staffer 1 also told the OCE that in conversations with her, Staffer 2 expressed concern "that she wasn't going to be doing real campaign things . . . ."<sup>78</sup> Staffer 1 explained to

<sup>70</sup> *Id.* at 18-1329\_0249.

<sup>71</sup> *Id.* at 18-1329\_0250, 0252.

<sup>72</sup> *Id.* at 18-1329\_0248.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 18-1329\_0249.

<sup>75</sup> *Id.* at 18-1329\_0250-51.

<sup>76</sup> Text Message Exchange between Former Staffer 4 and Staffer 2 (Exhibit 11 at 18-1329\_260-61).

<sup>77</sup> *Id.*

<sup>78</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0051).

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Staffer 2 that she would be doing actual campaign work, based on her understanding of the new role.<sup>79</sup> Staffer 2 corroborated that testimony, telling the OCE that she and Staffer 1 discussed her concerns about the role.<sup>80</sup>

62. Notably, in her interview with the OCE, Staffer 2 did not characterize her consideration of the position, namely concerns about personal errands, in a manner consistent with her conversations with Former Staffer 4 and Staffer 1.

63. The OCE asked Staffer 2 multiple times about her understanding of the responsibilities connected to the position paid for by Representative Garrett's campaign committee. Specifically, the OCE asked Staffer 2 about personal errands. Staffer 2 stated that "I didn't want to do any of that. Jimmy and I went over that as part of the contract. I was like . . . 'I'm not going to be doing anything that isn't campaign related.'"<sup>81</sup>

64. When asked why she had that discussion with Mr. Keady, Staffer 2 told the OCE that "I would say it came up because they had asked people to in the past."<sup>82</sup> Later, Staffer 2 stated:

It was not my expectation. It wasn't Jimmy's. If the Congressman had a different expectation he did not tell me about it. It just wasn't, I made that very clear with Jimmy. I'm not going to waste my time doing any personal errands. I was busy in the office. Other people could maybe be under that impression but other people weren't necessarily there when I was talking to Jimmy about it and other people might assume things but I was not under that impression. I never felt abused by Congressman Garrett or his wife. I was excited to go to the events. I was not under that expectation. He might have been, the Congressman, but April and May there was never really a time when he asked me to do something out of the ordinary.<sup>83</sup>

65. The Board notes that Staffer 2's testimony conflicts with that of other witnesses and Staffer 2's own contemporaneous conversations with other individuals. However, as discussed below, the OCE obtained evidence that Staffer 2 performed various campaign related tasks for Representative Garrett's campaign committee in 2018.

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<sup>79</sup> *Id.*

<sup>80</sup> Staffer 2 TOI (Exhibit 5 at 18-1329\_0175).

<sup>81</sup> *Id.* at 18-1329\_0158.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 18-1329\_0161.

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Staffer 2's Position Paid by the Campaign Committee

66. In March 2018, Staffer 2 entered into a contract with Representative Garrett's congressional campaign committee, beginning March 1, 2018.<sup>84</sup> The contract terms stated that "Services to Be Performed" were "duties . . . to include, but not limited to, any duties as prescribed by the CAMPAIGN from Jimmy Keady, or other personnel as instructed by Mr. Keady."<sup>85</sup>

<p>1. Services to Be Performed Staff agrees to perform the duties of Campaign Assistant on behalf of the CAMPAIGN, to include, but not limited to, any duties as prescribed by the CAMPAIGN from Jimmy Keady, or other personnel as instructed by Mr. Keady.</p>
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67. Staffer 2 told the OCE that her contract ended "around May 20th" of 2018.<sup>86</sup> She stated that in March and April 2018, she worked "plus or minus" "five hours a week."<sup>87</sup> When asked how her work hours in March and April, she responded "it wasn't much."<sup>88</sup> In May, Staffer 2 stated that she "was busier in May" 2018.<sup>89</sup>

68. In total, through testimony and documents received, the OCE identified several instances where Staffer 2 may have performed bona fide campaign work for Representative Garrett's congressional campaign committee.

69. First, Staffer 2 told the OCE that she attended and worked at a campaign event for Representative Garrett on a Sunday in April 2018.<sup>90</sup> Staffer 2 worked at the event for about three hours.<sup>91</sup> Second, she stated that Jimmy Keady asked her to transfer information contained on business cards to a Word document.<sup>92</sup> Third, Staffer 2 recalled at least one occasion in which she dropped off a gift to a campaign donor.<sup>93</sup> Fourth, Staffer 2 scheduled a campaign related trip to New Orleans for Representative Garrett in May 2018.<sup>94</sup> Lastly, Staffer 2 stated that she staffed a press conference at the National Indian Gaming Association for Representative Garrett, related to his resignation from Congress.<sup>95</sup>

70. In addition to Staffer 2's testimony, the OCE obtained evidence that Staffer 2 may have, among other tasks, deposited checks from and purchased gifts for, campaign donors.<sup>96</sup>

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<sup>84</sup> Contract between Staffer 2 and Tom Garrett for Congress, dated Mar. 5, 2018 (Exhibit 12 at 18-1329\_0263-64).

<sup>85</sup> *Id.*

<sup>86</sup> Staffer 2 TOI (Exhibit 5 at 18-1329\_0155).

<sup>87</sup> *Id.* at 18-1329\_0155-56.

<sup>88</sup> *Id.* at 18-1329\_0155.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.* at 18-1329\_0153.

<sup>91</sup> *Id.* at 18-1329\_0154.

<sup>92</sup> *Id.* at 18-1329\_0156.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.* at 18-1329\_0157; Staffer 2's Campaign-related Work Documents (Exhibit 13 at 18-1329\_0268).

<sup>95</sup> Staffer 2 TOI (Exhibit 5 at 18-1329\_0160).

<sup>96</sup> Staffer 2's Campaign-related Work Documents (Exhibit 13 at 18-1329\_0266-74).

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71. On multiple occasions during her interview, the OCE specifically asked Staffer 2 what personal errands she completed for Representative Garrett or his wife while she was under contract with Representative Garrett's campaign committee. Staffer 2 provided examples of services that she considered personal in nature.
72. Staffer 2 stated that she sent a gift to a personal friend of the Garrett's on one occasion and watched the Garrett's dog on one other occasion in April 2018.<sup>97</sup> Staffer 2 also told the OCE that she was asked by Flanna Garrett to frame an invitation to, or possibly photo of, the White House Christmas Party.<sup>98</sup>
73. Mr. Missen told the OCE that during the contractual period, Staffer 2 would "take care of the dog and run errands, do whatever Flanna needed . . . ." <sup>99</sup> He approximated Staffer 2's time running errands for Mrs. Garrett at "at least 15 hours a week."<sup>100</sup> Former Staffer 5 also told the OCE that Staffer 2 "would occasionally say, 'hey, Flanna asked me to do something,' or 'hey, I'm coming from the Garrett's apartment.'" <sup>101</sup> Staffer 1 told the OCE that "I know [Staffer 2] did personal things for them. I don't know what was laid out in the role officially."<sup>102</sup>
74. Disclosures by Representative Garrett's campaign committee, filed with the Federal Election Commission, show that Staffer 2 was paid four times, totaling \$1,650, from March 15, 2018 to May 15, 2018.<sup>103</sup> In "Purpose of Disbursement" line, Representative Garrett's campaign committee described the expenditures as "salary."<sup>104</sup>
75. In sum, Staffer 1 and Staffer 2, both current staff members in Representative Garrett's office, were less than specific in describing Staffer 2's responsibilities with Representative Garrett's campaign committee. Their testimony was especially vague concerning those anticipated tasks that were for the personal benefit of Representative Garrett and Flanna Garrett. Yet the OCE obtained evidence that Staffer 2 performed bona fide campaign work from March 2018 to May 2018. The evidence did not show a significant number of personal errands performed by Staffer 2, during the same period.
76. Based on the information above, the Board recommends that the Committee on Ethics dismiss the above allegation because there is not a substantial reason to believe that Representative Garrett converted funds from his congressional campaign committee for personal use.

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<sup>97</sup> Staffer 2 TOI (Exhibit 5 at 18-1329\_0157, 0161).

<sup>98</sup> *Id.* at 18-1329\_0164.

<sup>99</sup> Matt Missen TOI (Exhibit 4 at 18-1329\_0119).

<sup>100</sup> *Id.* at 18-1329\_0120. Mr. Missen's testimony regarding the "15 hours a week" of personal errands was not substantiated by the evidence obtained by the OCE.

<sup>101</sup> Former Staffer 5 TOI (Exhibit 9 at 18-1329\_0233).

<sup>102</sup> Staffer 1 TOI (Exhibit 1 at 18-1329\_0039).

<sup>103</sup> FEC Amended April Quarterly Report (filed Jul. 14, 2018) (\$400 disbursement on Mar. 15, 2018); FEC July Quarterly Report (filed Jul. 15, 2018) (\$400 disbursement on Apr. 13, 2018, \$250 disbursement on Apr. 19, 2018, \$600 disbursement on May 15, 2018).

<sup>104</sup> *Id.*

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**IV. CONCLUSION**

77. Representative Garrett and his wife requested extensive personal errands and unofficial work from Representative Garrett's congressional staff members over the course of the 115th Congress.
78. Thus, the Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Garrett used congressional staff to perform unofficial work and personal errands.
79. Representative Garrett may have created a position with his congressional campaign committee, paid by committee funds, to facilitate the performance of personal errands for the benefit of Representative Garrett and his wife. The evidence obtained by the OCE showed that the position involved bona fide campaign work as opposed to a significant number of personal errands.
80. Thus, the Board also recommends that the Committee on Ethics dismiss the above allegation because there is not a substantial reason to believe that Representative Garrett converted funds from his congressional campaign committee for personal

**V. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATION FOR THE ISSUANCE OF SUBPOENAS**

81. The Board recommends the issuance of subpoenas to the following non-cooperative individuals and entities:
  - (1) Representative Garrett;
  - (2) Flanna Garrett;
  - (3) Jimmy Keady;
  - (4) Kevin Reynolds;
  - (5) Tanner Hirschfeld;
  - (6) Denzel Jones; and
  - (7) Matt Missen.