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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 15-6530

The Board of the Office of Congressional Ethics (hereafter “the Board”), by a vote of no less than four members, on December 18, 2015, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives (hereafter the “Committee”).

SUBJECT: Representative Alan Grayson

NATURE OF THE ALLEGED VIOLATION: Representative Grayson operates a hedge fund and directed multiple law firms, all of which may have provided professional services involving a fiduciary relationship. If Representative Grayson received compensation from, or permitted the use of his name by, an entity that provides professional services involving a fiduciary relationship, during his congressional service, then he may have violated federal law, House rules, and standards of conduct.

Representative Grayson may have maintained a contingent fee interest in legal proceedings in which the United States government had a direct and substantial interest during his time in Congress. If Representative Grayson agreed to receive compensation, for representational services performed by others, while he was a Member of Congress, in proceedings involving the government, then he may have violated federal law.

Representative Grayson may have omitted required information from his annual financial disclosure statements related to reportable assets, income, agreements, and positions. If Representative Grayson did not include required information in his annual financial disclosure statements, then he may have violated federal law, House rules, and standards of conduct.

Representative Grayson’s congressional staffer may have used official resources, including staff time, to perform work for Representative Grayson’s hedge fund. If Representative Grayson’s staffer used official resources for unofficial purposes, then Representative Grayson may have violated federal law, House rules, and standards of conduct.

Representative Grayson served as a limited partner in three energy-sector limited partnerships that, through their subsidiaries, may have held contracts with the federal government during Representative Grayson’s congressional service. If Representative Grayson held or enjoyed contracts or agreements with the federal government, as a result of his limited partnership interests, while serving in Congress, then he may have violated federal law.

Representative Grayson may have participated in multiple press interviews that focused primarily on his Senate campaign, from his official office, and may have used campaign resources to facilitate these interviews. If Representative Grayson used official resources for campaign purposes, then he may have violated federal law, House rules, and standards of conduct.

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RECOMMENDATION: The Board recommends that the Committee further review the allegation that Representative Grayson may have permitted the use of his name and received compensation from entities providing professional services involving a fiduciary relationship, as there is substantial reason to believe that Representative Grayson improperly allowed the use of his name by four entities connected to Representative Grayson's hedge fund and Grayson Consulting, Inc. of Virginia, and received compensation through management fees from the Grayson Fund Management Company, LLC.

The Board recommends that the Committee further review the allegation that Representative Grayson agreed to receive compensation for representational services rendered by another at a time when he was a Member of Congress in proceedings in which the United States had a direct and substantial interest, as there is substantial reason to believe that Representative Grayson improperly maintained a contingent fee interest in at least seven cases brought under the False Claims Act that were pending during Representative Grayson's congressional service.

The Board recommends that the Committee further review the allegation that Representative Grayson did not report required information in his annual financial disclosure statements, as there is substantial reason to believe that Representative Grayson improperly omitted information related to his assets, unearned and earned income, reportable agreements and positions from his disclosure statements.

The Board recommends that the Committee further review the allegation that Representative Grayson may have permitted the use of official resources to support an outside business, as there is substantial reason to believe that Representative Grayson's staffer improperly used official resources for unofficial purposes.

The Board recommends that the Committee further review the allegation that Representative Grayson held an agreement with the United States while serving in Congress, as there is substantial reason to believe that Representative Grayson improperly held agreements with the federal government while serving as a member of three limited partnerships.

The Board recommends that the Committee further review the allegation that Representative Grayson used official resources for campaign purposes, as there is substantial reason to believe that Representative Grayson improperly participated in campaign-focused interviews from his official office.

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.

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. 15-6530

On December 18, 2015, the Board of the Office of Congressional Ethics (hereafter “the Board”) 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. EXECUTIVE SUMMARY

This Office of Congressional Ethics (“OCE”) review focused on numerous alleged violations involving Representative Alan Grayson, the majority of which relate to his leadership and ownership of a hedge fund and law firms, omissions from his annual financial disclosure forms, and the use of official resources for unofficial purposes. The OCE’s report focuses on conduct in six areas: (1) the receipt of compensation and use of Representative Grayson’s name by entities that provided professional services involving a fiduciary relationship; (2) Representative Grayson’s agreement to accept contingent fees in cases involving the government that would incorporate work performed by other attorneys during Representative Grayson’s time in office; (3) significant omissions from Representative Grayson’s annual financial disclosure forms; (4) contracts with the federal government that Representative Grayson held indirectly as a member of three limited partnerships while he served in Congress; (5) the use of official resources by Representative Grayson’s staffer to support Representative Grayson’s hedge fund; and (6) Representative Grayson’s participation in campaign interviews from his congressional office.

Hedge Fund & Law Firms

In 2011, Representative Grayson launched a hedge fund – referred to in this report as the Grayson Hedge Fund – that remains active today. The Grayson Hedge Fund had a fiduciary relationship – an obligation to act in another’s best interest or for their benefit – with multiple investors, including at least two investors that were not members of Representative Grayson’s family. From January 2013, when Representative Grayson began his second term in Congress, until September 2015, Grayson Hedge Fund entities used the Grayson name and on at least one occasion, Representative Grayson appears to have received compensation from the hedge fund.

Representative Grayson is an attorney who often worked on litigation involving the federal government and operated law firms that bore his name. In addition, the OCE found evidence that from January to June 2014, Representative Grayson managed a Virginia-based corporation that used the Grayson name and provided legal services involving a fiduciary relationship.

Finally, the OCE found evidence that Representative Grayson agreed to receive contingent fees in cases in which the federal government had a direct and substantial interest, that were pending during his time in Congress. Contingent fees allow payment to be collected after a successful outcome in a legal case. According to these agreements, Representative Grayson held a financial

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stake in work that was performed by other attorneys in these cases while he also served in
Congress.

Financial Disclosure

The OCE found numerous omissions from Representative Grayson's annual financial disclosure forms concerning assets, income, agreements and positions. In many instances, these omissions were significantly related to other alleged violations highlighted in this report concerning the Grayson Hedge Fund and Representative Grayson's interest in law firms and pending litigation.

Contracts with the Government

The OCE found that Representative Grayson was a limited partner in three energy-sector limited partnerships, all of which had agreements with the federal government through their subsidiaries. The prohibition on Members of Congress contracting with the federal government includes contracts held as a result of a Member's interest in a limited partnership.

Use of Official Resources for Unofficial Purposes

The OCE identified multiple instances in which a congressional staffer for Representative Grayson, who was also employed by the Grayson Hedge Fund, used official time and resources to work for the hedge fund. In addition, this staffer performed tasks and services for Representative Grayson unrelated to her congressional work or work for the Grayson Hedge Fund.

Finally, the OCE determined that Representative Grayson participated in multiple press interviews focused on his campaign for the U.S. Senate from his congressional office, and in some cases used campaign resources, including a campaign computer and campaign staff, to facilitate these interviews.

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II. INTRODUCTION

A. Summary of Allegations

1. Representative Grayson is currently serving his third non-consecutive term in Congress. He first served from 2009 until 2011 in the 111th Congress as a Member from Florida's 8th congressional district. In 2013, he re-entered Congress as a Member from Florida's 9th congressional district.
2. Prior to entering Congress and during the two-year break between his first and second terms in office, Representative Grayson practiced as an attorney and directed multiple law firms. Separately, in 2011, Representative Grayson created a hedge fund which remains operational today. After review of information related to Representative Grayson's law firms, hedge fund, business agreements, annual financial disclosure statements, and use of official resources, the OCE identified potential violations under federal law, House rules, and standards of conduct. In many cases, the alleged violations were interrelated and connected to Representative Grayson's leadership of, and financial interest in, the law firms he directed and the hedge fund he manages.
3. The OCE also learned that Representative Grayson may have maintained a contingent fee interest, through retainer agreements, in the outcome of legal proceedings involving the United States government, that were pending during his congressional service. Such agreements may be improper, even when all representational work is performed by other attorneys during the Member's term in office.
4. In addition, the OCE identified potential violations related to omissions from Representative Grayson's annual financial disclosure statements, Representative Grayson's membership in limited partnerships that may hold contracts with the federal government, and work by a congressional staffer for Representative Grayson's outside business using official resources.
5. Finally, Representative Grayson may have participated in multiple interviews that were focused primarily on his campaign for the U.S. Senate, and that were conducted in his official congressional office, through the use of a campaign computer and the support of campaign staff.
6. The Board recommends that the Committee further review the allegation that Representative Grayson permitted the use of his name and received compensation from entities providing professional services involving a fiduciary relationship, as there is substantial reason to believe that Representative Grayson improperly allowed the use of his name by four entities connected to Representative Grayson's hedge fund and Grayson Consulting, Inc. based in Virginia, and received compensation through management fees from the Grayson Fund Management Company, LLC.
7. The Board recommends that the Committee further review the allegation that Representative Grayson agreed to receive compensation for representational services rendered by another at a time when he was a Member of Congress in proceedings in which the United States had a direct and substantial interest, as there is substantial reason to

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believe that Representative Grayson improperly maintained a contingent fee interest in at least seven cases brought under the False Claims Act that were pending during Representative Grayson's congressional service.

8. The Board recommends that the Committee further review the allegation that Representative Grayson did not report required information in his annual financial disclosure statements, as there is substantial reason to believe that Representative Grayson improperly omitted information related to his assets, unearned and earned income, reportable agreements and positions from his disclosure statements.
9. The Board recommends that the Committee further review the allegation that Representative Grayson may have permitted the use of official resources to support an outside business as there is substantial reason to believe that Representative Grayson's staffer improperly used official resources to perform work for Representative Grayson's hedge fund.
10. The Board recommends that the Committee further review the allegation that Representative Grayson held an agreement with the United States while serving in Congress, as there is substantial reason to believe that Representative Grayson improperly held agreements with the federal government while serving as a member of three limited partnerships.
11. The Board recommends that the Committee further review the allegation that Representative Grayson used official resources for campaign purposes, as there is substantial reason to believe that Representative Grayson improperly participated in campaign-focused interviews from his official office.

B. Jurisdiction Statement

12. The allegations that were the subject of this review concern Representative Alan Grayson, a Member of the United States House of Representatives from the 9th District of Florida.¹ The Resolution the United States House of Representatives adopted creating the 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."² 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.

¹ Representative Alan Grayson is currently serving his third non-consecutive term in Congress. He first served from 2009 until 2011 as a Member from Florida's 8th congressional district, and was re-elected in 2012 to serve the 9th congressional district of Florida.

² H. Res 895, 110th Cong. §1(e) (2008) (as amended).

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C. Procedural History

13. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 29, 2015. The preliminary review commenced on July 30, 2015.³ The preliminary review was scheduled to end on August 28, 2015.
14. On July 30, 2015, the OCE notified Representative Grayson 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.⁴
15. At least three members of the Board voted to initiate a second-phase review in this matter on August 28, 2015. The second-phase review commenced on August 29, 2015. The second-phase review was scheduled to end on October 12, 2015.
16. On August 31, 2015, the OCE notified Representative Grayson of the initiation of the second-phase review in this matter, and again notified him of his right to be represented by counsel in this matter, and that invoking that right would not be held negatively against him.⁵
17. The Board voted to extend the 45-day second-phase review by an additional 14 days on September 25, 2015. Following the extension, the second-phase review ended on October 26, 2015.⁶
18. The Board voted to refer the matter to the Committee on Ethics for further review and adopted these findings on December 18, 2015.
19. The report and its findings in this matter were transmitted to the Committee on Ethics on January 6, 2016.

D. Summary of Investigative Activity

20. The OCE requested documentary and in some cases testimonial information from the following sources:
 - (1) Representative Alan Grayson;
 - (2) Rep. Grayson Congressional Office Manager and Business Director;

³ A preliminary review is “requested” in writing by members of the Board of the OCE. The request for a preliminary review is received by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (as amended), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board’s request.

⁴ Letter from Omar S. Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, to Representative Grayson, July 30, 2015.

⁵ Letter from Omar S. Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, to Representative Grayson, Aug. 31, 2015.

⁶ The 14-day extension expires after the 45-day second-phase review ends. The 14-day extension does not begin on the date of the Board vote.

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- (3) Representative Grayson's Communications Director;
 - (4) Former Grayson Fund Vice President of Investor Relations;
 - (5) Grayson Law Firms Attorney;
 - (6) The Committee to Elect Alan Grayson;
 - (7) GUTS Political Action Committee A/K/A True Blue Democrats;
 - (8) CVR Refining, LP;
 - (9) Natural Resources Partners LP; and
 - (10) Northern Tier Energy LP.
21. Victor Kubli, an attorney who worked at multiple law firms with Representative Grayson and whose law firms took casework from Representative Grayson when he entered Congress, declined to provide the OCE with a complete production of requested materials and declined to be interviewed by the OCE. Mr. Kubli was determined to be a non-cooperating witness.
 22. Lolita Carson Grayson, Representative Grayson's former spouse, declined to provide the OCE with a complete production of requested materials and declined to be interviewed by the OCE. Ms. Carson Grayson was determined to be a non-cooperating witness.

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III. REPRESENTATIVE GRAYSON OPERATES A HEDGE FUND AND DIRECTED MULTIPLE LAW FIRMS

A. Applicable Law, Rules, and Standards of Conduct

23. House Rule 23, clause 1

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

24. House Rule 23, clause 2

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

25. Use of a Member’s Name by an Entity that Provides Covered Professional Services

a. Ethics Reform Act of 1989

“A Member...shall not – . . . permit that Member’s . . . name to be used by any . . . firm, partnership, association, corporation, or other entity [which provides professional services involving a fiduciary relationship]. . . .”⁷

b. House Rules

House Rule 25, clause 2(b) states that, “[a] Member, Delegate, Resident Commissioner, officer, or employee of the House may not– . . . permit the name of such individual to be used by such a firm, partnership, association, corporation, or other entity. . . .”

c. House Ethics Manual

*“A Member or senior staff person is further prohibited from ‘permit[ting] his name to be used by . . . a firm, partnership, association, corporation, or other entity’ that ‘provides professional services involving a fiduciary relationship.’ While the other two fiduciary relationship prohibitions relate to receipt of compensation, the ban on allowing one’s name to be used by a covered organization applies **regardless of whether the organization compensates the Member or employee**. The ban extends, for example, to use of the name of the Member or senior staff person on the letterhead, advertising, or signage of any covered organization.”⁸*

“Under this provision, when the name of an incoming Member or senior staff person had been used in the name of a law firm, real estate agency, or other organization that provides fiduciary services, the name of that organization must be changed to eliminate the name of the Member or senior staff person.”⁹

⁷ 5 U.S.C. app. 4 § 502(a)(2).

⁸ House Ethics Manual at 221 (2008) (emphasis in original, citing House Rule 25, cl. 2(b) and 5 U.S.C. app. 4 § 502(a)(2)).

⁹ House Ethics Manual at 221.

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The House Ethics Manual further states that the term “fiduciary” generally denotes, “an obligation to act in another person’s best interests or for that person’s benefit, or a relationship of trust in which one relies on the integrity, fidelity, and judgment of another.”¹⁰ The House Ethics Manual cites the House Bipartisan Task Force on Ethics Report from 1989 for the proposition that “the term fiduciary [should] not be applied in a narrow technical sense.”¹¹

26. Receipt of Compensation for Providing Services Involving a Fiduciary Relationship

a. Ethics Reform Act of 1989

“A Member...shall not – . . . receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship”¹² The Ethics Reform Act of 1989 also states that, “[a] Member...shall not – . . . receive compensation for practicing a profession which involves a fiduciary relationship. . . .”¹³

b. House Rules

Pursuant to House Rule 25, clause 2(a), a Member may not, “receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity that provides professional services involving a fiduciary relationship” House Rule 25, clause 2(c) prohibits the receipt of “compensation for practicing a profession that involves a fiduciary relationship”

c. House Ethics Manual

The House Ethics Manual explains that the prohibitions on the receipt of compensation for practicing a profession that involves a fiduciary relationship “clearly apply to consulting and advising in professional fields such as law, accounting, investing, and real estate or insurance sales.”¹⁴

The House Ethics Manual creates an exception, subject to certain requirements, to allow a Member to receive compensation from a business in which the Member or staff person (or his or her family) holds a controlling interest.¹⁵ However, “the family-owned business may not be a law firm, an insurance agency, or any other entity that provides professional services involving a fiduciary relationship.”¹⁶ Additionally, “the services provided by the Member may not be in a professional field such as law or accounting”¹⁷

¹⁰ *Id.* at 215.

¹¹ *Id.* (quoting House Bipartisan Task Force on Ethics, *Report on H.R. 3660*, 101st Cong., 1st Sess. 13-14 (Comm. Print, Comm. on Rules 1989), reprinted in 135 *Cong. Rec.* H9253, H9256 (daily ed. Nov. 21, 1989)).

¹² 5 U.S.C. app. 4 § 502(a)(1).

¹³ 5 U.S.C. app. 4 § 502(a)(3).

¹⁴ House Ethics Manual at 217.

¹⁵ *Id.* at 217-218.

¹⁶ *Id.* at 218.

¹⁷ *Id.*

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27. House Gift Rule

House Rule 25, clause 5 provides that, “[a] Member . . . may not knowingly accept a gift except as provided in this clause.” House Rule 25, clause 5(a)(2)(A) defines the term “gift” broadly to include any “gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value,” and also to include “gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.”

B. Representative Grayson Manages a Hedge Fund That Provides Professional Services Involving a Fiduciary Relationship

28. Evidence obtained by the OCE indicates that Representative Grayson may have permitted the use of his name by, and received compensation from, a hedge fund that he operates and which provided services involving a fiduciary relationship to at least two private investors during Representative Grayson’s congressional service. From April 2011 until September 2015, Representative Grayson’s hedge fund used the Grayson name. In addition, the OCE found that, on at least one occasion, management fees likely were distributed to Representative Grayson and his family from the hedge fund as compensation for services.

i. The Grayson Hedge Fund Structure

29. After Representative Grayson lost his re-election bid in 2010 and left Congress in 2011, he initiated the process of establishing a hedge fund (the “Grayson Hedge Fund”).¹⁸

30. In early 2011, Representative Grayson and Former Grayson Fund Vice President of Investor Relations (“Former Grayson Fund VP”), who worked at the Grayson Hedge Fund from January 2011 until January 2014,¹⁹ began working with legal counsel to create the Grayson Hedge Fund.²⁰ According to Former Grayson Fund VP, Representative Grayson was responsible for making all decisions about establishing and structuring the Grayson Hedge Fund.²¹ Representative Grayson told the OCE that the decisions about structuring the Grayson Hedge Fund were made by lawyers who he hired.²²

31. In April 2011, Representative Grayson began to organize and register the five entities associated with the Grayson Hedge Fund that are illustrated in the following diagram of the hedge fund master-feeder fund structure included in Grayson Hedge Fund materials.²³ As more fully described below, the Grayson Hedge Fund had one umbrella entity, the Grayson

¹⁸ Of the five hedge fund entities associated with the Grayson Hedge Fund, two have recently been dissolved and three recently changed their names to remove the word Grayson. *See* discussion *infra* Part III.B.vii.

¹⁹ Transcript of Interview of Former Grayson Fund Vice President of Investor Relations, Oct. 2, 2015 (“Transcript of Former Grayson Fund VP”) (Exhibit 1 at 15-6530_0002); Letter from Former Grayson Fund VP to Helen Eisner, Investigative Counsel, Aug. 25, 2015.

²⁰ Transcript of Interview of Representative Grayson, Oct. 21, 2015 (“Transcript of Rep. Grayson”) (Exhibit 2 at 15-6530_0107); Transcript of Former Grayson Fund VP (Exhibit 1 at 15-6530_0008-0009).

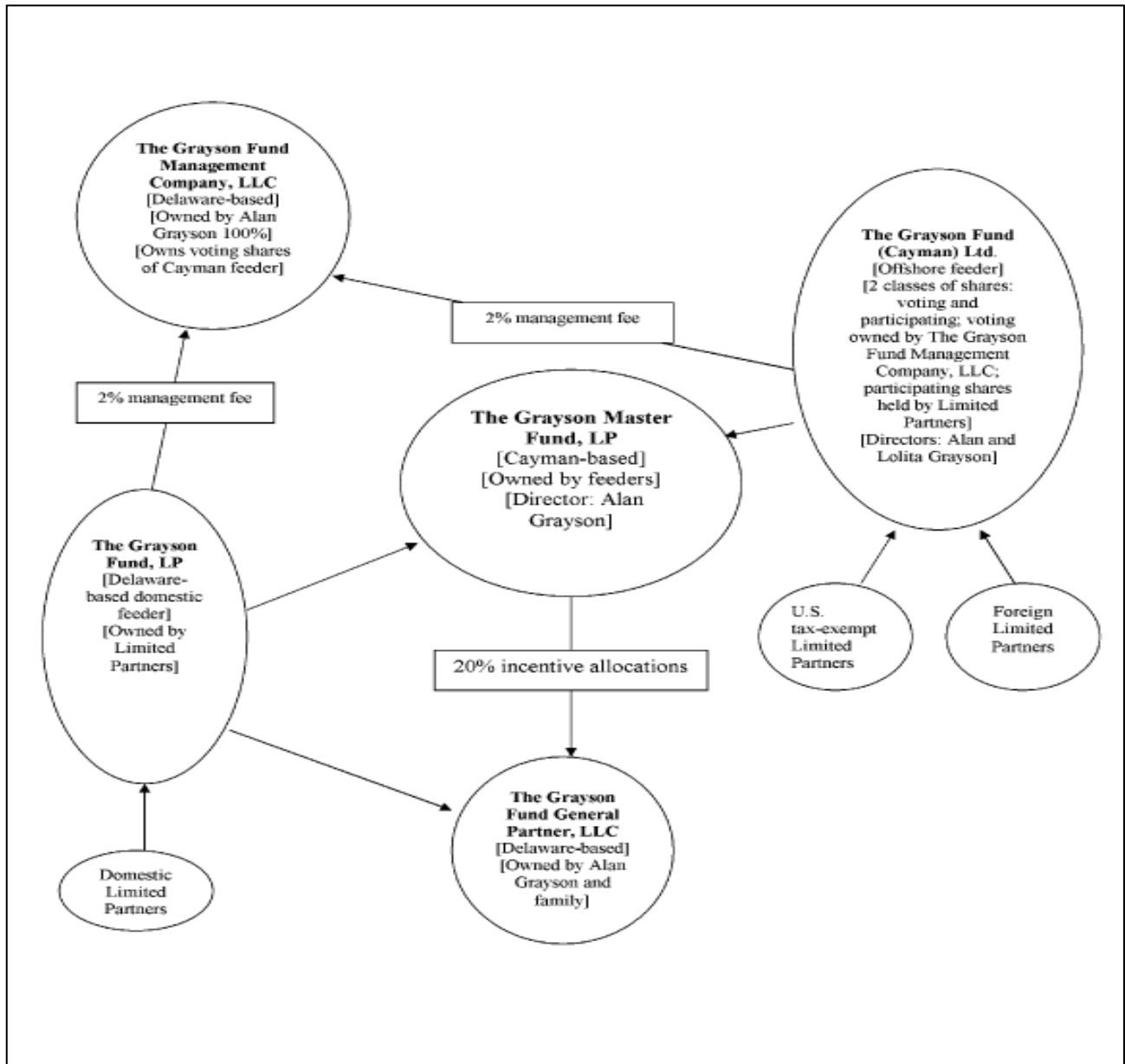
²¹ *Id.* (Exhibit 1 at 15-6530_0009).

²² Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0107).

²³ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0182-0183); The Grayson Hedge Fund Structure Chart (Exhibit 4 at 15-6530_0278).

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Master Fund, LP (the “Master Fund”), that was set up to hold assets from investments received by a domestic feeder fund and an offshore feeder fund.²⁴



32. The Grayson Fund, LP, a limited partnership established in Delaware on April 19, 2011, served as the feeder fund for domestic investors to the Grayson Hedge Fund.²⁵ The Grayson Fund (Cayman) Ltd., registered in the Cayman Islands in 2011, served as the feeder fund for U.S. tax exempt and non-U.S. investors to the Grayson Hedge Fund.²⁶

²⁴ Transcript of Former Grayson Fund VP (Exhibit 1 at 15-6530_0009).

²⁵ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0182).

²⁶ *Id.*

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33. Any investments received by the Grayson Fund, LP and the Grayson Fund (Cayman) Ltd. were designed to feed into the Master Fund, which is a Cayman Islands exempted limited partnership formed on August 11, 2011.²⁷ The Master Fund was the “central investment mechanism” for the Grayson Hedge Fund.²⁸

34. According to the Exempted Limited Partnership Agreement of the Master Fund from August 19, 2011:

The Partnership [Master Fund] is organized for the purpose of, under normal market conditions, seeking positive returns, capital appreciation, capital preservation, and/or income by investing and/or trading in securities of any kind or other property of U.S. and foreign issuers and engaging in all other activities and transactions (in each case, whether for hedging, speculation, investment or any other lawful purpose) that the General Partner may deem necessary or advisable in connection therewith²⁹

35. In the preceding description, the “General Partner” of the Master Fund refers to the Grayson Fund General Partner, LLC (the “Grayson Fund General Partner”).³⁰ The Grayson Fund General Partner was established on April 19, 2011 as a Delaware limited liability company.³¹ Representative Grayson holds a 50% interest in the Grayson Fund General Partner, his five children each own a 9.9% interest, and the Alan Grayson Irrevocable Trust, established to benefit Representative Grayson’s mother, owns a 0.5% interest.³²

ANNEX A	
<i>Name and Address of Members</i>	<i>Percentage Interest (%)</i>
Alan Grayson 4415 Gwyndale Ct. Orlando, FL 32819	50
Lolita C. Grayson, as Custodian of Fla. UTMA Acct. FBO Skye Grayson	9.9
Lolita C. Grayson, as Custodian of Fla. UTMA Acct. FBO Star Grayson	9.9
Lolita C. Grayson, as Custodian of Fla. UTMA Acct. FBO Sage Grayson	9.9
Lolita C. Grayson, as Custodian of Fla. UTMA Acct. FBO Stone Grayson	9.9
Lolita C. Grayson, as Custodian of Fla. UTMA Acct. FBO Storm Grayson	9.9
Alan Grayson Irrevocable Trust FBO Dorothy Ann Grayson dated 8/1/11	0.5

²⁷ *Id.*; The Grayson Master Fund (Cayman), LP, Certificate of Registration of Exempted Limited Partnership, Aug. 11, 2011 (Exhibit 5 at 15-6530_0280).

²⁸ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0182).

²⁹ The Grayson Master Fund (Cayman), LP, Exempted Limited Partnership Agreement, Aug. 19, 2011 (Exhibit 6 at 15-6530_0286).

³⁰ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0182-0183).

³¹ The Grayson Fund General Partner, LLC, Delaware Certificate of Formation, May 17, 2011 (Exhibit 7 at 15-6530_0319); The Grayson Fund General Partner, LLC, Florida 2015 Foreign Limited Liability Company Annual Report, Feb. 11, 2015 (Exhibit 8 at 15-6530_0321).

³² The Grayson Fund General Partner, LLC, Limited Liability Company Operating Agreement, 2011 (Exhibit 9 at 15-6530_0329).

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36. The Grayson Fund Management Company, LLC (“Grayson Fund Management Co.”), as more fully described below, served as the investment manager of the Grayson Hedge Fund.³³ The Grayson Fund Management Co. is a Delaware limited liability company established on April 19, 2011.³⁴ The ownership percentages of the Grayson Fund Management Co. are the same as those for the Grayson Fund General Partner, with Representative Grayson holding a 50% interest, his five children each owning a 9.9% interest, and the Alan Grayson Irrevocable Trust established to benefit Representative Grayson’s mother owning a 0.5% interest.³⁵
37. As illustrated in the diagram reproduced above, the Master Fund, the Grayson Fund, LP, the Grayson Fund (Cayman) Ltd., the Grayson Fund General Partner, and the Grayson Fund Management Co. represented the five core entities of the Grayson Hedge Fund.

ii. The Grayson Hedge Fund Operations

38. The Grayson Fund General Partner and the Grayson Fund Management Co., two entities owned entirely by Representative Grayson and his family, controlled the operations of the Grayson Hedge Fund. The Grayson Fund General Partner had the authority to operate the business of the Grayson Hedge Fund,³⁶ but “delegated investment discretion over the Master Fund’s assets to the Investment Manager [the Grayson Fund Management Co.]”³⁷ Therefore, the Grayson Fund Management Co. oversaw the fund’s portfolio held by the Master Fund. According to a Grayson Fund, LP document dated February 26, 2013, “Alan Grayson (or his designee) will have initial primary responsibility for the Fund’s investment decisions.”³⁸ The same document explains, “[t]he success of the Fund depends on the ability of the Investment Manager [the Grayson Fund Management Co.] to identify, select and realize investments consistent with its objective.”³⁹
39. Since its inception, the Grayson Fund Management Co. has had three employees: Former Grayson Fund VP, Rep. Grayson Congressional Office Manager and Business Director, and another part-time employee.⁴⁰

³³ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0182-0183).

³⁴ The Grayson Fund Management Company, LLC, Delaware Certificate of Formation, May 17, 2011 (Exhibit 10 at 15-6530_0331); The Grayson Fund Management Company, LLC, Florida 2015 Foreign Limited Liability Company Annual Report, Feb. 19, 2015 (Exhibit 11 at 15-6530_0333).

³⁵ The Grayson Fund Management Company, LLC, Limited Liability Company Operating Agreement, 2011 (Exhibit 12 at 15-6530_0341).

³⁶ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0182-0183).

³⁷ *Id.* (Exhibit 3 at 15-6530_0182).

³⁸ *Id.* (Exhibit 3 at 15-6530_0183).

³⁹ *Id.* (Exhibit 3 at 15-6530_0189).

⁴⁰ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0109); Transcript of Interview of Rep. Grayson Congressional Office Manager and Business Director, Oct. 16, 2015 (“Transcript of Rep. Grayson Congressional Office Manager and Business Director”) (Exhibit 13 at 15-6530_0390-0391). Although the OCE requested that Representative Grayson provide the name and contact information for current and former employees of the Grayson Hedge Fund, Representative Grayson did not identify the third part-time employee in his production and the OCE only learned of his employment by the Grayson Hedge Fund after interviewing Rep. Grayson Congressional Office Manager and

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40. According to Former Grayson Fund VP, Representative Grayson gave the “marching orders” with regards to the general operations of the Grayson Hedge Fund.⁴¹ He explained that during his time at the fund from January 2011 through January 2014, he interacted with Representative Grayson “multiple times every day.”⁴² Representative Grayson confirmed to the OCE that he alone made decisions about the Grayson Hedge Fund’s investments.⁴³

iii. Investors in the Grayson Hedge Fund During Representative Grayson’s Congressional Service

41. Evidence obtained by the OCE indicates that the Grayson Fund, LP garnered investments from at least five different individuals and entities.⁴⁴ Three of the investors were Representative Grayson and entities connected to his immediate family. Representative Grayson described the two additional, non-family investors as “long-time friends.”⁴⁵

42. The Grayson Fund (Cayman) Ltd. does not appear to have attracted any investors and was recently decommissioned.⁴⁶

43. Representative Grayson, the Grayson Fund General Partner, and a third entity called the Grayson Family Partnership LLLP (the “Family Partnership”) all held investments in the Grayson Fund, LP. In late 2012, Representative Grayson appears to have held a \$10 million subscription in the Grayson Fund, LP, and subsequently assigned \$6 million of his subscription to the Family Partnership.⁴⁷ The Grayson Fund General Partner also made a small capital outlay of \$1,000 into the Grayson Fund, LP.⁴⁸

44. During its review, the OCE identified at least two investors in the Grayson Fund, LP that were not entities controlled by Representative Grayson’s family. Representative Grayson did not produce a complete record of partnership activity regarding the investments of the two investors in Grayson Fund, LP. Representative Grayson did not answer the OCE’s

Business Director at the end of the review period. When the OCE asked Representative Grayson about this employee, he said that the employee is “involved in situations where there might be somebody who’s interested in investing in the fund” and has worked at the Grayson Hedge Fund for more than a year. Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0109).

⁴¹ Transcript of Former Grayson Fund VP (Exhibit 1 at 15-6530_0012).

⁴² *Id.*

⁴³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0110).

⁴⁴ The Grayson Fund, LP Partnership Account Activity Statements. Certain documents were not included as exhibits to this Referral. They will be provided to the Committee on Ethics as supplemental information. These documents will be referenced as *see supra* note 44.

⁴⁵ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0113).

⁴⁶ Grayson Fund (Cayman) Ltd., S.E.C. Form D, Nov. 24, 2014 (Exhibit 14 at 15-6530_0420); Grayson Fund (Cayman) Ltd., S.E.C. Form D, Oct. 18, 2012 (Exhibit 15 at 15-6530_0428); Transcript of Former Grayson Fund VP (Exhibit 1 at 15-6530_0033-0034); *see also* discussion *infra* Part III.B.vii.

⁴⁷ Letter from Rep. Grayson to Joseph D. Goldstein, G&S Fund Services, LLC, Dec. 21, 2012 (Exhibit 16 at 15-6530_0431); The Grayson Fund, LP, Subscription Documents for the Grayson Family Partnership LLLP, Dec. 21, 2012 (Exhibit 17 at 15-6530_0446, 0455).

⁴⁸ *See supra* note 44, The Grayson Fund, LP Partners Account Activity Statement, April 2012.

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questions about the identity of the two investors and redacted all identifying information related to these two investors in his production to the OCE.⁴⁹

45. Nevertheless, the OCE was able to obtain records related to investors in the Grayson Fund, LP. The OCE found that Investor 1 invested approximately \$100,000 in the Grayson Fund, LP in May of 2013 through a revocable trust.⁵⁰ Former Grayson Fund VP described Investor 1 as someone who Representative Grayson knew “very well” who was a “prominent Democratic operative” and a “Democratic supporter.”⁵¹ Investor 1 withdrew his investment in January of 2015.⁵²
46. Investor 2 invested \$250,000 in The Grayson Fund, LP in August of 2014.⁵³ Investor 2 withdrew this investment in January 2015.⁵⁴
47. Based on this information, the OCE Board found that the Grayson Fund, LP, the Master Fund, the Grayson Fund Management Co. and the Grayson Fund General Partner provided professional services involving a fiduciary relationship to investors while Representative Grayson served in Congress.

iv. Grayson Hedge Fund Profit & Fee Generation Mechanisms

48. The Grayson Hedge Fund structure allowed for profit and fee generation by the Grayson Fund General Partner and the Grayson Fund Management Co., which were owned exclusively by Representative Grayson, Representative Grayson’s children, and a trust designed to benefit Representative Grayson’s mother.⁵⁵
49. The Grayson Hedge Fund structure made profit through two mechanisms: (1) incentive allocations and (2) management fees.⁵⁶ These mechanisms are clearly delineated on the Grayson Hedge Fund’s chart shown previously.

⁴⁹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0114).

⁵⁰ See *supra* note 44, the Grayson Fund, LP Partners Account Activity Statement, May 2013.

⁵¹ Transcript of Former Grayson Fund VP (Exhibit 1 at 15-6530_0017-0018).

⁵² See *supra* note 44, the Grayson Fund, LP Partners Account Activity Statement, January 2015.

⁵³ See *supra* note 44, the Grayson Fund, LP Partners Account Activity Statement, August 2014.

⁵⁴ See *supra* note 44, the Grayson Fund, LP Partners Account Activity Statement, January 2015.

⁵⁵ See discussion *supra* Part III.B.i.

⁵⁶ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0187-0188).

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50. In a May 2011 email, sent to Former Grayson Fund VP during the process of structuring the Grayson Hedge Fund, Representative Grayson demonstrated his knowledge of the value of the incentive allocations and management fees, explaining “I think that both the fee and the allocation will generate substantial revenue and profit.”⁵⁷

Alan Grayson [REDACTED]
To: Todd Jurkowski [REDACTED] Sat, May 14, 2011 at 1:03 PM

Dear Todd:

Per our brief conversation a few days ago, I did not realize until now that the 2% management fee and the 20% incentive allocation would be going to two different entities. I think that both the fee and the allocation will generate substantial revenue and profit. I was under the impression that one LLC, in which I would own no more than 50%, would get both. Does the master-feeder arrangement necessitate two different recipients? If so, then I would expect that the children would own 50% of both, unless there is some rule against that. Also, if the wholly-owned entity can or somehow must pass its profits through to the family entity, then that would be OK too.

Sincerely,

Alan

51. The incentive allocations generated profit for the Grayson Fund General Partner.⁵⁸ The Former Grayson Fund VP told the OCE that the Grayson Fund General Partner was the “money-making entity of the fund.”⁵⁹
52. While the incentive allocations derived passive income related to the success of the Grayson Hedge Fund’s investments, the management fee represented earned income as compensation for the management of the fund. The Grayson Fund, LP and the Grayson Fund (Cayman) Ltd. could pay a 0.50 percent fee, 2% annualized, of the opening capital account balances of the limited partners for the applicable quarter to the Grayson Fund Management Co., known as the management fee.⁶⁰ The fee was paid to “the Investment Adviser [the Grayson Fund Management Co.], as compensation for its services.”⁶¹
53. As noted in the Private Placement Memorandum for the Grayson Fund, LP, the Grayson Fund General Partner and the Grayson Fund Management Co. had the sole discretion whether to waive or incur the management fees.⁶² As stated previously, these two entities were owned entirely by Representative Grayson, his children, and a trust for the benefit of Representative Grayson’s mother.

⁵⁷ Email from Representative Grayson to Former Grayson Fund VP, May 14, 2011 (Exhibit 18 at 15-6530_0457).

⁵⁸ The Grayson Master Fund (Cayman), LP, Exempted Limited Partnership Agreement, Aug. 19, 2011 (Exhibit 6 at 15-6530_0298).

⁵⁹ Transcript of Former Grayson Fund VP (Exhibit 1 at 15-6530_0010).

⁶⁰ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0187); The Grayson Fund (Cayman) Ltd., Confidential Information Memorandum, 2011 (Exhibit 19 at 15-6530_0475, 0481).

⁶¹ *Id.* (Exhibit 19 at 15-6530_0481).

⁶² The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0187).

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v. *Receipt of Compensation by Representative Grayson from the Grayson Hedge Fund*

54. The OCE found that Representative Grayson received compensation as management fees from the Grayson Hedge Fund while serving in Congress. When asked whether he ever received income related to management fees, Representative Grayson told the OCE, “I would have to say no as you mean the term and as I understand you mean the term. The fund has not generated income in general of any kind”⁶³ On the same topic, Representative Grayson explained that the Grayson Hedge Fund made a decision that the management fees would be accrued and “payable but not paid.”⁶⁴
55. Former Grayson Fund VP told the OCE that during his time at the Grayson Hedge Fund, the management fees were paid to the Grayson Fund Management Co. to cover start-up costs such as rent and utilities, but that Representative Grayson never received compensation personally through the management fees.⁶⁵
56. In contrast to Representative Grayson’s statement that management fees were not paid, the OCE identified at least one occasion when management fees were distributed to Representative Grayson. On October 22, 2014, when the Grayson Fund, LP had two non-family investors, Representative Grayson asked Rep. Grayson Congressional Office Manager and Business Director to check with the Grayson Hedge Fund’s outside fund administration and accounting service, G&S Fund Services, to determine “(a) how much (if any) the Fund now owes to its owners and (b) how such distributions are done?”⁶⁶ Representative Grayson explained to Rep. Grayson Congressional Office Manager and Business Director, who at the time was an Administrator of the Grayson Fund, LP and a Director of the Master Fund, that, “Over time, the Fund generates management fees, profit, etc., that can be distributed to the owners of the Fund, meaning me, the children and Mom’s trust.”⁶⁷

Dear Carla:

Over time, the Fund generates management fees, profit, etc., that can be distributed to the owners of the Fund, meaning me, the children and Mom's trust. We've never done a distribution before. Can you please check, with G&S I guess, and find out: (a) how much (if any) the Fund now owes to its owners and (b) how such distributions are done? Thanks.

Sincerely,

Alan

⁶³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0125).

⁶⁴ *Id.* (Exhibit 2 at 15-6530_0119).

⁶⁵ Transcript of Former Grayson Fund VP (Exhibit 1 at 15-6530_0024-0025).

⁶⁶ Wire Transfer Emails between Representative Grayson, Rep. Grayson Congressional Office Manager and Business Director, and G&S Fund Services, 2014 (Exhibit 20 at 15-6530_0562).

⁶⁷ *Id.*

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57. Rep. Grayson Congressional Office Manager and Business Director communicated with a G & S Fund Services representative and provided Representative Grayson with an explanation for how management fees could move to the Grayson Fund Management Co. and how the incentive allocations could be provided to the Grayson Fund General Partner.⁶⁸

58. According to the representative from G&S Fund Services:

The money has to be move [sic] from the brokerage account into the Sun Trust LP account. Then we can move the money from the SunTrust LP account to the mgt LLC account. The GP (Alan) can withdraw \$4,079.22 for management fees and yes no prior fees were taken before.⁶⁹

59. By email on November 6, 2014, Representative Grayson said “let’s do that” regarding the distribution of \$4,079.22 in management fees.⁷⁰

-----Original Message-----
From: Alan Grayson
Sent: Thu 11/6/2014 9:55 PM
To: Carla Coleman
Subject: RE: Fund Distribution

Dear Carla:

Fine. Let's do that for the \$4079.22 for the management fees plus \$200,000 out of the incentive fees. Please tell me what I need to do in order to get this done
Thanks.

Sincerely,

Alan

60. On November 7, 2014, the ConvergEx Vice President confirmed the completion of a wire transfer, including \$4,079.22 of fees as compensation for service in addition to \$200,000 in passive incentive allocations.⁷¹

Alan...I can confirm that your wire was sent. Here's a screenshot:

U1125340					
WIRE	24165119	USD 204,079.22	2014-11-07	2014-11-07	Sent

61. During his interview with the OCE, Representative Grayson was asked about the November 2014 wire transfer and preceding discussion of payment of management fees.⁷² Representative Grayson told the OCE “[w]hat it looks like to me is that it was a transfer from one Fund entity to another Fund entity. In regard to those management fees, I can tell

⁶⁸ *Id.* (Exhibit 20 at 15-6530_0561).

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.* (Exhibit 20 at 15-6530_0559).

⁷² Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0120-0122).

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you that whether it was at this time or after this time, those fees were reversed and paid out to the outside investors.”⁷³

62. However, the OCE found that the wire transfer was more than simply a transfer between Grayson Hedge Fund entities, but rather it was a transfer of fees accrued from investors to Representative Grayson and his family. Specifically, at this time in October 2014, the brokerage accounts that held the assets of the Master Fund were Interactive Brokers (“IB”) and ConvergEx.⁷⁴ Besides the approximately \$9 million in assets in Grayson Fund, LP from five investors, all other assets of the Grayson Fund, LP were held in a SunTrust bank account.⁷⁵ Based on these facts, the OCE found that the G&S Fund Services representative had explained in an October 24, 2014 email that fees could be transferred from the Grayson Fund, LP’s brokerage account, to the Grayson Fund, LP’s bank account—the SunTrust account—and subsequently to the “mgt LLC account” which was the Grayson Fund Management Co. owned by Representative Grayson and his family.⁷⁶
63. Regarding the November 2014 wire transfer, Rep. Grayson Congressional Office Manager and Business Director explained, “I think it went into the Grayson Fund and then Alan would take his money from there.”⁷⁷
64. Representative Grayson was asked whether there were other instances in which transfers were made within the entities of the Grayson Hedge Fund regarding incentive allocations or management fees.⁷⁸ Representative Grayson responded, “None. I didn’t even remember this one until you pointed out but I know that in the case of the fees you are referring to, that was refunded.”⁷⁹
65. Representative Grayson explained to the OCE that all management fees and incentive allocations that were accrued from outside investors were refunded.⁸⁰ The OCE found that at the end of CY 2013, there were \$1,794.87 in management fees payable to the Grayson Fund Management Co. and \$15,083.44 in incentive fees payable to the Grayson Fund General Partner.⁸¹ The OCE found that at the end of CY 2014, there were \$5,848.27 in management fees payable and \$784,280.00 in incentive fees payable.⁸²

⁷³ *Id.* (Exhibit 2 at 15-6530_0120).

⁷⁴ *See supra* note 44, The Grayson Master Fund (Cayman), LP Balance Sheet, Oct. 31, 2014 and The Grayson Master Fund (Cayman), LP Balance Sheet, Nov. 30, 2014.

⁷⁵ *Id.*

⁷⁶ Wire Transfer Emails between Representative Grayson, Rep. Grayson Congressional Office Manager and Business Director, and G&S Fund Services, 2014 (Exhibit 20 at 15-6530_0561).

⁷⁷ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0400).

⁷⁸ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0122).

⁷⁹ *Id.*

⁸⁰ *Id.* (Exhibit 2 at 15-6530_0120, 0122).

⁸¹ *See supra* note 44, the Grayson Fund, LP Balance Sheet, Dec. 31, 2013.

⁸² *See supra* note 44, the Grayson Fund, LP Balance Sheet, Dec. 31, 2014.

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66. When Investor 1 and Investor 2 withdrew from the Grayson Fund, LP, Representative Grayson decided to refund each investor the amount of its original investment, rather than the value of its investment at the time of the withdrawal.⁸³
67. Even if the fees were eventually refunded, the OCE Board finds that there is substantial reason to believe that Representative Grayson received compensation for his services to the Grayson Hedge Fund as part of the November 2014 management fee distribution, during a time when the Grayson Hedge Fund had a fiduciary relationship with investors and while Representative Grayson was serving in Congress.

vi. Impact of Congressional Service on the Grayson Hedge Fund

68. The OCE found that Representative Grayson informed investors that he planned to manage the Grayson Hedge Fund while serving in Congress and that Representative Grayson was aware that his congressional service imposed ethical obligations on him that could impact the Grayson Hedge Fund. Specifically, the Grayson Fund, LP Private Placement Memorandum from February 26, 2013 included information about the impact of Representative Grayson's re-election and second term in Congress, on the Grayson Hedge Fund.⁸⁴ The Private Placement Memorandum specifically notes:

Alan Grayson will hold public office in the U.S. Congress as a Representative from the State of Florida. His role as an active U.S. Congressman will impact the time he is able to devote to the Fund and will subject him to the U.S. STOCK Act, which restricts certain public officials from trading on any non-public information received as a result of such public office; the U.S. STOCK Act's prohibitions may preempt the Fund from pursuing certain profitable investments. Additionally, U.S. Congressmen are subject to certain monthly and annual disclosure requirements with respect to certain of their personal investment holdings; to the extent Alan Grayson makes parallel investments with the Fund, the Fund's investment strategy and positions may be gleaned, in whole or in part, as a result of such disclosures and put the Fund at a competitive disadvantage. Furthermore, notwithstanding the foregoing, there is a risk that Alan Grayson may be required to disclose [sic] some or all of the Fund's holdings as well when making such Congressional disclosures; the Fund does not currently intend to make such disclosures unless it is required to by law.⁸⁵

⁸³ Email from Representative Grayson to Veda Balli, G&S Fund Service, Jan. 30, 2015 (Exhibit 21 at 15-6530_0564).

⁸⁴ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0193)

⁸⁵ *Id.*

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69. Representative Grayson’s service as a Member of Congress was disclosed in Grayson Hedge Fund documentation. For example, Grayson Hedge Fund overview documents from 2013 identify Representative Grayson as a U.S. Congressman.⁸⁶

The Grayson Fund June 2013


Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	YTD	DJ SUISE HFI
2013	0.04%	(3.08%)	2.11%	0.98%	(13.54%)	-	-	-	-	-	-	-	(14.37%)	5.43%
2012	5.00%	(0.34%)	(3.95%)	(2.46%)	(9.63%)	(2.42%)	7.56%	8.95%	4.83%	(9.61%)	8.28%	(8.43%)	(2.94%)	7.67%
2011	-	-	-	-	-	-	-	-	-	-	-	0.41%	0.41%	(0.22%)

Fund Overview

The Grayson Fund is a global long-short equity fund. We capitalize on markets in turmoil due to economic, political or natural disasters. Our Manager, Alan Grayson, specializes in discovering outstanding companies that are undervalued due to forces beyond their control. He identifies them, and then we conduct a thorough examination of each opportunity (often including site visits by a member of The Grayson Fund team) before we invest your money. Alan also executes short hedges when market conditions permit.

Alan Grayson, Manager

- U.S. Congressman (Member of Financial Services Committee, 2009-2011)
- Harvard-educated economist and lawyer
- Founder & first President of IDT (Fortune 1000)
- Owns or owned 1% to 10% of a dozen public companies
- Traveled to every country in the world (understands political & economic dynamics of all stock markets)



vii. *September 2015 Grayson Hedge Fund Name Change and Partial De-registration*

70. After the initiation of the OCE’s review, Representative Grayson removed his name from three Grayson Hedge Fund entities and de-registered two. On September 16, 2015, the Grayson Fund General Partner, LLC received a certificate from the Secretary of State of the State of Delaware confirming that the entity had changed its name to The Sibylline Fund General Partner, LLC.⁸⁷ The new name was also registered in the Cayman Islands.⁸⁸ On September 16, 2015, the Grayson Fund Management Company, LLC received a certificate from the Secretary of State of the State of Delaware confirming that the entity had changed its name to the Sibylline Fund Management Company, LLC.⁸⁹ The Grayson Fund, LP also recently changed its name to The Sibylline Fund, LP.⁹⁰ The Master Fund and the Grayson Fund (Cayman) Ltd recently were de-registered.⁹¹
71. When asked why the Grayson Hedge Fund changed its name, Representative Grayson explained, “[i]t had become a matter of some unnecessary controversy. It was never important the fund was named the Grayson Fund. It simply wasn’t worth arguing about.”⁹²
72. From January 2013, when Representative Grayson was sworn in to serve his second term, until September 2015, five Grayson Hedge Fund entities used the Grayson name. While the Grayson Fund (Cayman) Ltd. never had any investors, four other entities of the Grayson

⁸⁶ The Grayson Fund, Fund Overview, June 2013 (Exhibit 22 at 15-6530_0566).

⁸⁷ The Sibylline Fund General Partner, LLC, Delaware Certificate of Formation, Sept. 16, 2015 (Exhibit 23 at 15-6530_0568).

⁸⁸ The Sibylline Fund General Partner, LLC, Cayman Islands Certificate of Registration on Change of Name, Sept. 14, 2015 (Exhibit 24 at 15-6530_0570).

⁸⁹ The Sibylline Fund Management Company, LLC, Delaware Certificate of Formation, Sept. 16, 2015 (Exhibit 25 at 15-6530_0572).

⁹⁰ The Sibylline Fund, LP, Limited Partnership Agreement, Sept. 1, 2015 (Exhibit 26 at 15-6530_0577).

⁹¹ The Sibylline Fund General Partner, LLC, Written Resolution of the Sole Managing Member, De-Registration of the Partnership, 2015 (Exhibit 27 at 15-6530_0615); The Grayson Fund (Cayman) Ltd, Unanimous Written Resolutions of the Board of Directors of the Company, De-Registration of the Company, Sept. 9, 2015 (Exhibit 28 at 15-6530_0617-0618).

⁹² Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0136).

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Hedge Fund provided professional services involving a fiduciary relationship to investors during a time when the entities used the Grayson name and Representative Grayson served in Congress.

73. Based on the foregoing information, the OCE Board finds that there is substantial reason to believe that Representative Grayson permitted the use of his name by five entities of the Grayson Hedge Fund, four of which provided services involving a fiduciary relationship, in violation of federal law, House rules, and standards of conduct.⁹³
74. In November 2014, the Grayson Fund Management Co. received a wire transfer of \$4,079.22 in management fees.⁹⁴ Through his ownership and management of the Grayson Fund Management Co., Representative Grayson received management fees as compensation for services.⁹⁵ The Board notes that in addition to the \$4,079.22 in management fees distributed in November 2014, as previously explained, additional management fees were accrued and payable at the end of 2013 and 2014, and may have been distributed to Representative Grayson.
75. Based on the foregoing information, the OCE Board finds that there is substantial reason to believe that, Representative Grayson, on at least one occasion, received management fees, as compensation for services, from an entity during a time when that entity provided professional services involving a fiduciary relationship, in violation of federal law, House rules, and standards of conduct.

C. Representative Grayson Operated Multiple Law Firms

76. Representative Grayson is an attorney who has operated multiple law firms.⁹⁶ As described below, prior to entering Congress in 2009, Representative Grayson owned and worked at a law firm called Grayson & Kubli, P.C. (“Grayson & Kubli”), which is now known as AMG TR P.C. When he started his first term in 2009, Grayson & Kubli entered a Buy-Out Agreement (the “Buy-Out Agreement”) with a new firm called Kubli & Associates, P.C. (“Kubli & Associates”), transferring casework and employees.
77. When Representative Grayson left Congress in early 2011, he formed Grayson Law Center, P.C. (“Grayson Law Center”), which then took casework back from Kubli & Associates. By the time Representative Grayson entered Congress again in 2013, Grayson Law Center had changed its name to GL Ctr. P.C. This firm transferred some casework to a new firm called the Law Office of Victor Kubli, P.C.

⁹³ The Grayson Fund (Cayman) Ltd. does not appear to have attracted any investors and therefore does not appear to have provided services involving a relationship of trust or reliance on the integrity, fidelity of judgment of another. *See* House Ethics Manual at 215 (discussing the term “fiduciary”).

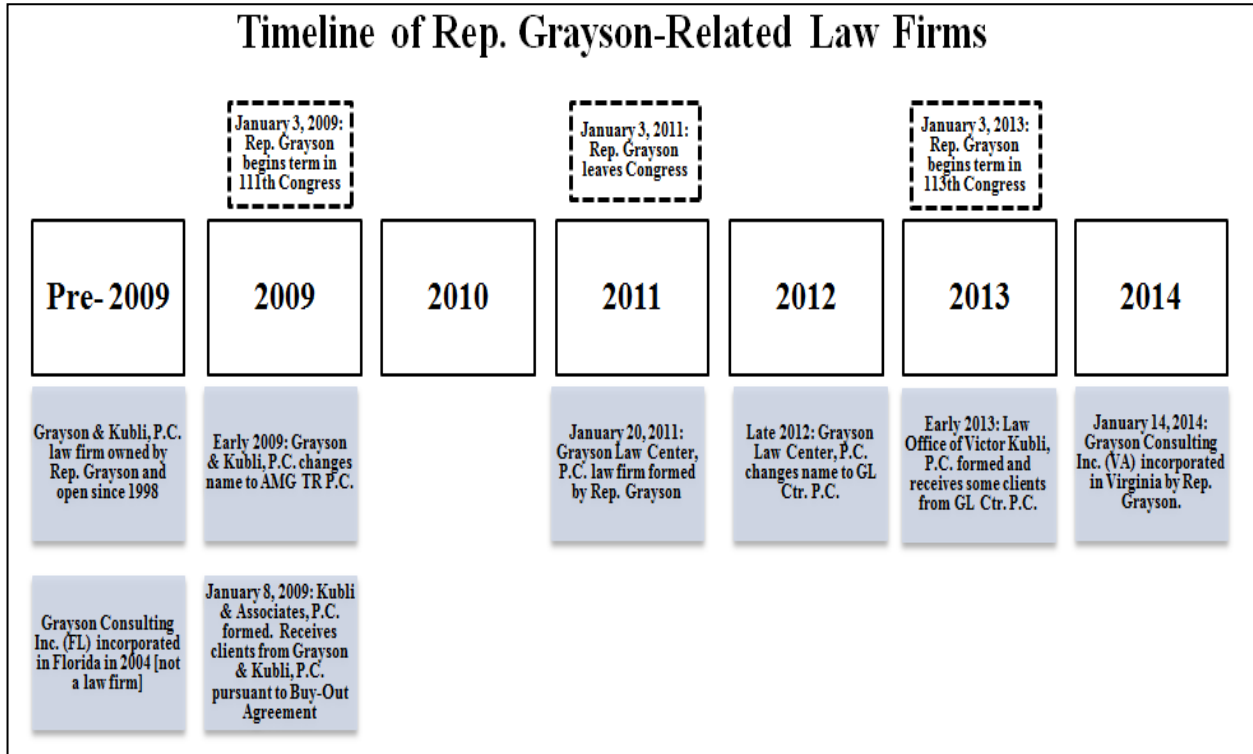
⁹⁴ Wire Transfer Emails between Representative Grayson, Rep. Grayson Congressional Office Manager and Business Director, and G&S Fund Services, 2014 (Exhibit 20 at 15-6530_0559-0561).

⁹⁵ The Grayson Fund, LP, Confidential Private Placement Memorandum, Feb. 26, 2013 (Exhibit 3 at 15-6530_0187).

⁹⁶ *See, e.g.*, Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0060).

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78. In early 2014, Representative Grayson incorporated a new Virginia entity called Grayson Consulting Inc., which employed one attorney to perform legal work for Representative Grayson.



79. According to Representative Grayson, his law firms conducted government contracts work, patent work, whistleblower litigation, and general and civil litigation.⁹⁷ In addition to work on behalf of outside clients, the OCE found that the above listed law firms performed legal work for Representative Grayson and entities owned by his family.
80. Although Representative Grayson does not appear to have received compensation from the law firms while they were providing professional services while he was serving in Congress, evidence obtained by the OCE indicates that Representative Grayson permitted the use of his name by one entity that provided legal services involving a fiduciary relationship during his time in Congress.

i. Grayson & Kubli, P.C. (Currently AMG TR P.C.)

81. In 1998, a law firm currently known as AMG TR P.C. was incorporated in Virginia and this law firm maintains an active corporate registration, although it currently does not have clients and is not engaged in the practice of law.⁹⁸ Prior to Representative Grayson's first

⁹⁷ *Id.* (Exhibit 2 at 15-6530_0060-0061, 0067).

⁹⁸ AMG TR PC, Commonwealth of Virginia State Corporation Commission Business Entity Details, (last visited Dec. 15, 2015) (Exhibit 29 at 15-6530_0620); *see also* Letter from Brett Kappel, Counsel to Rep. Grayson to Helen Eisner, Investigative Counsel, Oct. 8, 2015 (The OCE notes that certain information referred to in these findings of fact was not provided directly to the OCE by Representative Grayson as requested, but rather was produced to the

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term in office, AMG TR P.C. operated under the name Grayson & Kubli.⁹⁹ Representative Grayson holds a one hundred percent ownership interest in AMG TR P.C. and held the same interest in its predecessor Grayson & Kubli.¹⁰⁰

82. Prior to starting his 2009 congressional term, Representative Grayson worked at Grayson & Kubli, where in addition to practicing law, he described his responsibilities as including firm management and client billing.¹⁰¹ According to documents reviewed by the OCE, Grayson & Kubli had approximately twelve employees and had served over 200 clients.¹⁰² Grayson & Kubli frequently was involved in protracted litigation that often spanned multiple years.¹⁰³ Grayson & Kubli used a range of client billing methods including billable hours and contingent fee arrangements.¹⁰⁴

ii. Transition from Grayson & Kubli, P.C. to Kubli & Associates, P.C.

83. When Representative Grayson was elected to Congress in 2008, Grayson & Kubli changed its name to AMG TR P.C. and a Buy-Out Agreement was entered between Grayson & Kubli and a newly formed entity called Kubli & Associates run by Victor Kubli.¹⁰⁵
84. According to Grayson Law Firms Attorney, besides the name change and the fact that Representative Grayson was no longer involved in firm management, there were very few other changes to the law firm following the transition to Kubli & Associates, “[t]he facilities and equipment that I used to perform my work did not change.”¹⁰⁶
85. The Buy-Out Agreement was signed by Victor Kubli, on behalf of Kubli & Associates, and by Representative Grayson, on behalf of Grayson & Kubli.¹⁰⁷ Representative Grayson told the OCE that the Buy-Out Agreement was “negotiated word by word” by him and Victor Kubli.¹⁰⁸ The Buy-Out Agreement allowed Representative Grayson, through his ownership of Grayson & Kubli, to maintain a financial interest in certain contingent fee cases that Grayson & Kubli transitioned to Kubli & Associates. It also included terms that allowed Kubli & Associates to continue to represent Representative Grayson in his personal litigation free of cost.

OCE through letters from Representative Grayson’s counsel. The OCE gave appropriate evidentiary value to this information).

⁹⁹ AMG TR PC, Commonwealth of Virginia State Corporation Commission Business Entity Search, SCC ID 04967956 (last visited Dec. 15, 2015) (Exhibit 30 at 15-6530_0622).

¹⁰⁰ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0060); *see supra* note 44, AMG TR P.C., I.R.S. Schedule K-1 Form (Shareholder Alan M. Grayson) (2013).

¹⁰¹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0062-0063).

¹⁰² *See* Letter from Representative Grayson to Analytica Securities, June 26, 2001 (Exhibit 31 at 15-6530_0625).

¹⁰³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0094-0105).

¹⁰⁴ *Id.* (Exhibit 2 at 15-6530_0062).

¹⁰⁵ Kubli & Associates, P.C., Maryland Department of Assessments and Taxation Business Services Business Information, (last visited Dec. 15, 2015) (Exhibit 33 at 15-6530_0672); Buy-Out Agreement between Grayson & Kubli, P.C. and Kubli & Associates, P.C., Jan. 2009 (“Buy-Out Agreement”) (Exhibit 34 at 15-6530_0674-0684).

¹⁰⁶ Letter from Grayson Law Firms Attorney to Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Aug. 24, 2015 (Exhibit 35 at 15-6530_0687).

¹⁰⁷ Buy-Out Agreement (Exhibit 34 at 15-6530_0684).

¹⁰⁸ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0080).

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a. Representative Grayson’s Continued Financial Interest in Kubli & Associates Cases

86. In the Buy-Out Agreement, Representative Grayson, as a director of the “Seller” Grayson & Kubli, agreed to transfer the assets of Grayson & Kubli to Kubli & Associates.¹⁰⁹
87. Paragraph twelve of the Buy-Out Agreement required that Grayson & Kubli receive the entire amount of any fees collected in certain contingent fee cases still pending when Representative Grayson entered Congress.¹¹⁰ Specifically, the Buy-Out Agreement states:
- Because the Seller and Buyer are unable to agree on the value of certain contingent fee cases, *e.g.*, the ‘Kargo’ case, the ‘IDT’ cases, the ‘Escheat’ cases and the ‘Derivium’ cases, for the Seller’s contingent fee cases, the Seller shall receive the entire amount of such fees if, as and when they are collected, unless the Seller and Buyer agree otherwise in writing. Such fees shall be deemed earned in full as of the date of the contingent fee agreement was made.¹¹¹
88. When asked about the specific cases referred to in this paragraph of the Buy-Out Agreement, Representative Grayson told the OCE, “[t]hey were cases that Grayson and Kubli had been working on and the intention was for Kubli & Associates to continue work on those cases after I took office. That’s what that refers to.”¹¹²
89. According to Representative Grayson, the “Derivium” cases cited in the Buy-Out Agreement involved “the defendant Derivium and many, many related parties involving the fact that I gave stock to Derivium and related entities and the stock was never returned to me. When I say I gave stock, I pledged stock as collateral for loans. Give is not the right word to use technically, but I pledged stock as collateral for loans. At the termination of the loan, the stock was never returned to me.”¹¹³

b. Work Performed by Kubli & Associates for Representative Grayson

90. Evidence obtained by the OCE indicates that Kubli & Associates performed thousands of hours of work for Representative Grayson and that Representative Grayson may never have been billed for this work.
91. Representative Grayson told the OCE that Kubli & Associates did not perform work on his behalf or on behalf of any entities with which he was associated.¹¹⁴ When asked about work Kubli & Associates may have performed in the Derivium cases pursuant to the Buy-

¹⁰⁹ Buy-Out Agreement (Exhibit 34 at 15-6530_0674).

¹¹⁰ *Id.* (Exhibit 34 at 15-6530_0679).

¹¹¹ *Id.*

¹¹² Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0080).

¹¹³ *Id.* (Exhibit 2 at 15-6530_0082). Prior to entering Congress for his first term, Representative Grayson was heavily invested and lost millions of dollars in a fraudulent 90 percent stock loans scheme that has resulted in more than a decades-worth of litigation. *See, e.g., Grayson v. Cathcart*, No. 2:07-cv-00593-DCN, 2014 U.S. Dist. LEXIS 115579 (D.S.C., August 20, 2014); *In re Derivium Capital LLC*, 716 F.3d 355 (4th Cir. 2013).

¹¹⁴ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0080-0081).

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Out Agreement, Representative Grayson explained that Kubli & Associates had “probably” performed work, but that “there were other attorneys outside of Kubli & Associates who were definitely involved and who might have been involved at that time. I’m not sure that Kubli & Associates ever did any work relating to the Derivium cases.”¹¹⁵

92. Grayson Law Firms Attorney told the OCE that when she worked at Kubli & Associates, her primary client was Representative Grayson.¹¹⁶ During one year of work at Kubli & Associates, Grayson Law Firms Attorney told the OCE that she worked for 3200 hours on the Derivium litigation.¹¹⁷ Representative Grayson could not recall when Grayson Law Firms Attorney started working for him or during what period of time she may have worked on the Derivium cases.¹¹⁸ However, later in the interview Representative Grayson recalled that Grayson Law Firms Attorney “was representing me personally in Derivium cases” while working at a law firm Representative Grayson formed between his first and second term in office.¹¹⁹ The docket for the Derivium cases contains numerous examples of work performed by Grayson Law Firms Attorney on behalf of Representative Grayson while she worked at Kubli & Associates.¹²⁰
93. Regarding payment for work performed for Representative Grayson, Paragraph 12 of the Buy-Out Agreement states:

As part of the compensation received by the Seller under this Agreement, the Buyer shall continue the litigation of such [contingent fee cases including Derivium] without charge to the Seller unless the Seller consents to dismissal

¹¹⁵ *Id.* (Exhibit 2 at 15-6530_0083).

¹¹⁶ Transcript of Interview of Grayson Law Firms Attorney, Sept. 2, 2015 (“Transcript of Grayson Law Firms Attorney”) (Exhibit 32 at 15-6530_0641). Prior to joining Kubli & Associates, Grayson Law Firms Attorney worked at Grayson & Kubli. In 2007 she was asked by Representative Grayson to represent him, a company called AMG Trust, and Grayson Consulting Inc. in pending actions related to the Derivium litigation. Letter from Grayson Law Firms Attorney to Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Aug. 24, 2015 (Exhibit 35 at 15-6530_0686-0687); Transcript of Grayson Law Firms Attorney (Exhibit 32 at 15-6530_0636-0639, 0647-0648). The AMG Trust is an international trust that was registered in the Cook Islands in 2001, and is a separate and distinct entity from AMG TR P.C. AMG Trust, Cook Islands Certificate of Registration of an International Trust, Dec. 27, 2001 (Exhibit 36 at 15-6530_0693). According to Grayson Law Firms Attorney, the AMG Trust was assigned some of the loans that were a part of the fraudulent scheme, and the entity has since been dissolved. Transcript of Grayson Law Firms Attorney (Exhibit 32 at 15-6530_0638-0639). Grayson Consulting Inc. is a Florida corporation formed in 2004 for which Representative Grayson acts as the sole director. Grayson Consulting, Inc., Florida Articles of Incorporation, June 8, 2004 (Exhibit 37 at 15-6530_0695-0701); Grayson Consulting, Inc., Florida Statement of Change of Registered Office, June 20, 2014 (Exhibit 38 at 15-6530_0703-0705). Grayson Consulting Inc., incorporated in Florida, is an active corporation. Grayson Consulting Inc., Florida Department of State Division of Corporations Detail by Entity Name, (last visited Dec. 15, 2015) (Exhibit 39 at 15-6530_0707-0708). Representative Grayson told the OCE that Grayson Consulting Inc. was owned by himself and his children, and that it was a company that performed business consulting, but did not engage in legal work. Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0069-0071).

¹¹⁷ Transcript of Grayson Law Firms Attorney (Exhibit 32 at 15-6530_0644-0645).

¹¹⁸ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0083).

¹¹⁹ *Id.* (Exhibit 2 at 15-6530_0092).

¹²⁰ *See, e.g.*, Motion and Memorandum in Support of Plaintiffs Alan M. Grayson’s and the AMG Trust’s Motion in Limine, *In re Derivium Capital, LLC*, No. 2:07-cv-02992-DCN (D.S.C. Feb. 13, 2009); Supplement to Plaintiffs’ Joint Emergency Motion for Relief from Discovery to take the Deposition of Charles Cathcart, *In re Derivium Capital, LLC*, No. 2:07-cv-2992 (D.S.C. July 8, 2010).

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(or the client requests dismissal without Buyer's solicitation to do so, or the Rules of Professional Conduct or Federal Rule of Civil Procedure 11 or other applicable law requires dismissal).¹²¹

94. When asked about this provision, Representative Grayson said it was a boiler plate provision that he did not think referred to any cases and that he did not think "ever came up."¹²²
95. Grayson Law Firms Attorney told the OCE that she was getting paid a salary from Kubli & Associates, and that she tracked her hours for work performed for Representative Grayson and submitted them to Rep. Grayson Congressional Office Manager and Business Director, who was then serving as the office manager for Kubli & Associates.¹²³ Rep. Grayson Congressional Office Manager and Business Director told the OCE that she did not think anyone was billed for the Derivium case work, unless Victor Kubli had billed Representative Grayson without her knowledge.¹²⁴
96. Because Victor Kubli did not cooperate with the OCE's review, the OCE was not able to ask Mr. Kubli about billing practices or review responsive billing documents. However, even without a complete production, it appears that Kubli & Associates performed a significant amount of legal work for Representative Grayson and entities owned by his families in the Derivium litigation, and that Representative Grayson did not pay for these services.

iii. Formation of Grayson Law Center, P.C. and GL Ctr. P.C.

97. When Representative Grayson left Congress in early 2011, he started a new law firm called Grayson Law Center, which was incorporated in Virginia on January 20, 2011.¹²⁵ Representative Grayson told the OCE that he was in charge of and performed legal work on behalf of Grayson Law Center during the period of time when he did not serve in Congress.¹²⁶
98. According to Rep. Grayson Congressional Office Manager and Business Director, Kubli & Associates effectively merged into Grayson Law Center, Victor Kubli began to work for Grayson Law Center, and she took on the role of office manager of the newly formed law firm.¹²⁷ Representative Grayson told the OCE that Grayson Law Center had fewer than ten

¹²¹ Buy-Out Agreement (Exhibit 34 at 15-6530_0679).

¹²² Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0079).

¹²³ Transcript of Grayson Law Firms Attorney (Exhibit 32 at 15-6530_0641-0642, 0645-0646).

¹²⁴ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0354).

¹²⁵ GL Ctr. P.C., Commonwealth of Virginia State Corporation Commission Business Entity Details, (last visited Dec. 15, 2015) (Exhibit 40 at 15-6530_0710); GL Ctr. P.C., Commonwealth of Virginia State Corporation Commission Business Entity Search, SCC ID 07324973, (last visited Dec. 15, 2015) (Exhibit 41 at 15-6530_0712); Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0067).

¹²⁶ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0067).

¹²⁷ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0355).

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employees,¹²⁸ and Rep. Grayson Congressional Office Manager and Business Director said the number of employees began to wind down over time.¹²⁹

99. After Representative Grayson was elected to his second term in Congress in 2012, he changed the name of Grayson Law Center to GL Ctr. P.C. Representative Grayson told the OCE that “the entity needed to continue in existence in case money that was owed to us was ever paid to it and I considered it to be inappropriate to have a law firm with my name in it after the election.”¹³⁰
100. Rep. Grayson Congressional Office Manager and Business Director told the OCE that she filed the paper work for the name change and that after the change everything else about the office stayed the same: “[s]ame office same everything.”¹³¹
101. Grayson Law Firms Attorney told the OCE that while she worked almost entirely on the Derivium cases during her time at Grayson Law Center, the other attorneys at the firm worked primarily on qui tam cases where the “clients of the firm were the relators standing in the stead of the federal government.”¹³² Grayson Law Firms Attorney continued to serve as counsel in the Derivium cases through her work at Grayson Law Center,¹³³ and as a part of GL Ctr. P.C.¹³⁴
102. In 2013, when Representative Grayson began his second term in Congress, many pending cases were again transitioned to Victor Kubli and his new law firm, the Law Office of Victor Kubli P.C.¹³⁵
103. Currently, GL Ctr. P.C. remains a registered business entity in Virginia, although Representative Grayson told the OCE that it conducts no active business.¹³⁶
104. The OCE asked Representative Grayson whether an agreement similar to the Buy-Out Agreement existed to govern the 2013 transition of clients from Grayson Law Center to Victor Kubli and he said that he did not remember making any such agreements.¹³⁷ Victor Kubli had told the OCE that any materials related to the transition of clients from Grayson Law Center or GL Ctr. P.C. to his new law firm likely were stored on a computer in his

¹²⁸ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0067).

¹²⁹ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0356).

¹³⁰ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0068).

¹³¹ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0359-0360).

¹³² Transcript of Grayson Law Firms Attorney (Exhibit 32 at 15-6530_0648-0649).

¹³³ See, e.g., Motion to Amend the Scheduling Order to Enlarge the Time for Filing the Parties’ Fed. R. Civ. P. 26(a) Disclosures, *Grayson v. Cathcart*, No. 2:07-CV-00593-DCN (D.S.C. April 18, 2012).

¹³⁴ See, e.g., Motion for an Enlargement of Time for Plaintiffs to File Responses to Defendants Vision’s, Total Eclipse’s, and Buriak’s Dispositive Motions and for Leave to Exceed 35-Page Limit, *In re Derivium Capital, LLC*, No. 2:07-cv-00593-DCN (D.S.C. May 22, 2013).

¹³⁵ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0085).

¹³⁶ GL Ctr. P.C., Commonwealth of Virginia State Corporation Commission Business Entity Details, (last visited Dec. 15, 2015) (Exhibit 40 at 15-6530_0710); Letter from Brett Kappel, Counsel to Rep. Grayson to Helen Eisner, Investigative Counsel, Oct. 8, 2015.

¹³⁷ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0085-0086).

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possession. Because Mr. Kubli refused to cooperate with this review, the OCE was not able to review the materials Mr. Kubli referenced.

iv. Grayson Consulting Inc. in Virginia

105. In January 2014, Grayson Law Firms Attorney was told that she would begin working as General Counsel for a “newly-formed Virginia entity” called Grayson Consulting Inc.¹³⁸ She learned of the transition from Rep. Grayson Congressional Office Manager and Business Director.¹³⁹
106. Grayson Law Firms Attorney told the OCE that the only clients of the new Virginia-based Grayson Consulting Inc. were Grayson Consulting Inc. based in Florida and Representative Grayson.¹⁴⁰ As previously discussed, Grayson Consulting Inc. is a Florida corporation formed by Representative Grayson in 2004 and Representative Grayson is its sole director.¹⁴¹ Documents filed by Grayson Law Firms Attorney in the Derivium litigation confirm the fact that she represented Grayson Consulting Inc. based in Florida through the new Virginia-based entity.¹⁴²
107. Representative Grayson told the OCE that he was not aware of any difference between Grayson Consulting Inc. based in Florida and Grayson Consulting Inc. based in Virginia.¹⁴³ Representative Grayson told the OCE that the Virginia entity may have filed paperwork “as doing business in” Virginia, but he was not aware of a separate legal entity.¹⁴⁴
108. Although Representative Grayson stated that he was not aware of any difference between Grayson Consulting Inc. based in Virginia and the Florida corporation, records obtained by the OCE establish that there were two separate entities. Specifically, records from the Commonwealth of Virginia State Corporation Commission indicate that an entity called Grayson Consulting Inc. was formed in Virginia on January 14, 2014 and is currently active.¹⁴⁵
109. The OCE also identified articles of incorporation for Grayson Consulting, Inc. as a Virginia corporation signed by Representative Grayson on January 14, 2014, and a Certificate of Incorporation in Virginia on that same date.¹⁴⁶ The articles list Representative Grayson as

¹³⁸ Letter from Grayson Law Firms Attorney to Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Aug. 24, 2015 (Exhibit 35 at 15-6530_0687).

¹³⁹ Transcript of Grayson Law Firms Attorney (Exhibit 32 at 15-6530_0655-0656).

¹⁴⁰ *Id.* (Exhibit 32 at 15-6530_0656).

¹⁴¹ Grayson Consulting, Inc., Florida Articles of Incorporation, June 8, 2004 (Exhibit 37 at 15-6530_0695-0701); Grayson Consulting, Inc., Florida Statement of Change of Registered Office, June 20, 2014 (Exhibit 38 at 15-6530_0703-0705); Grayson Consulting, Inc., Florida Department of State Division of Corporations Detail by Entity Name, (last visited Dec. 15, 2015) (Exhibit 39 at 15-6530_0707-0708).

¹⁴² *See, e.g.*, Plaintiffs’ Consolidated Objections to Defendant’s Pretrial Rule Disclosures, *In re Derivium Capital, LLC*, No. 2:07-cv-00593-DCN, (D.S.C. March 31, 2014).

¹⁴³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0070).

¹⁴⁴ *Id.*

¹⁴⁵ Grayson Consulting Inc., Commonwealth of Virginia State Corporation Commission Business Entity Details, (last visited Dec. 15, 2015) (Exhibit 42 at 15-6530_0714).

¹⁴⁶ Grayson Consulting Inc., Commonwealth of Virginia Certificate of Incorporation and Articles of Incorporation, (Jan. 14, 2014) (Exhibit 43 at 15-6530_0716-0718).

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the initial director of the corporation.¹⁴⁷ According to a 2014 annual report for Grayson Consulting Inc. in Virginia, Representative Grayson and his five children currently serve as directors and principal officers of the corporation.¹⁴⁸

110. Between January and June 2014, Grayson Consulting Inc. in Virginia appears to have provided legal services to Grayson Consulting Inc. in Florida, a separate legal entity.¹⁴⁹ The Board notes that even when the recipient of legal services is a family-owned entity, the restrictions on the use of a Member's name by an entity providing professional services involving a fiduciary relationship still apply.¹⁵⁰
111. In addition, the evidence obtained by the OCE shows that Kubli & Associates performed thousands of hours of legal work on behalf of Representative Grayson and entities controlled by Representative Grayson in the Derivium litigation, for which Representative Grayson was never billed. Although this work may have been contemplated as compensation received under the Buy-Out Agreement with Kubli & Associates, the Board notes that it is an open question whether a Member of Congress can be benefit from an agreement for thousands of hours of free legal services over the course of multiple years without accepting an impermissible gift.
112. Based on the foregoing information, the OCE Board finds that there is substantial reason to believe that Representative Grayson permitted the use of his name by Grayson Consulting Inc., a Virginia corporation, which provided services involving a fiduciary relationship to Grayson Consulting Inc., a Florida corporation, during his congressional service, in violation of federal law, House rules, and standards of conduct.¹⁵¹

¹⁴⁷ *Id.* (Exhibit 43 at 15-6530_0718).

¹⁴⁸ Grayson Consulting Inc., Commonwealth of Virginia 2015 Annual Report, (Jan. 14, 2014) (Exhibit 44 at 15-6530_0720-0721).

¹⁴⁹ In June 2014, Grayson Law Firms Attorney accepted a position at a new law firm that is not affiliated with Representative Grayson. Letter from Grayson Law Firms Attorney to Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Aug. 24, 2015 (Exhibit 35 at 15-6530_0688).

¹⁵⁰ *See* House Ethics Manual at 217-218 (discussing the application House rules regarding entities that provide professional services involving a fiduciary relationship).

¹⁵¹ The OCE Board notes that certain materials that were responsive to OCE's requests for information to Representative Grayson were not produced by Representative Grayson. As part of this review, the OCE requested that Representative Grayson provide all agreements, records, files, communications, emails, notes, and any other documents, from January 1, 2008 to the present related to the transfer of legal casework or clients from Representative Grayson to other attorneys and law firms, and arrangements to provide compensation, attorney's fees, or anything of value to Representative Grayson related to legal work performed by Representative Grayson, Victor Kubli, Grayson & Kubli, and Kubli & Associates. Supplemental Request for Information to Representative Grayson from Paul Solis, Deputy Chief Counsel, Office of Congressional Ethics, Aug. 20, 2015. Representative Grayson did not provide the Buy-Out Agreement to the OCE and produced very limited responsive materials concerning that specific request for information regarding the transfer of casework and arrangements. When asked why the Buy-Out Agreement was not produced, Representative Grayson told the OCE that he believed that the agreement had been taken from his house against his will as part of divorce proceedings. Transcript of Rep. Grayson (Exhibit 2 at 15_6530_0074). Rep. Grayson Congressional Office Manager and Business Director told the OCE that many files and records related to Representative Grayson's law firms were maintained in two storage lockers in Tyson's Corner, Virginia. Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0362-0363). When asked about these storage lockers containing materials, Representative Grayson told the OCE that when he received the OCE's requests for information, he went over the

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IV. REPRESENTATIVE GRAYSON MAY HAVE AGREED TO RECEIVE COMPENSATION FOR REPRESENTATIONAL SERVICES RENDERED BY ANOTHER IN A MATTER IN WHICH THE UNITED STATES HAD A DIRECT AND SUBSTANTIAL INTEREST DURING A TIME WHEN HE SERVED IN CONGRESS

A. Applicable Law, Rules, and Standards of Conduct

113. 18 U.S.C. § 203

“(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another—

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect;

...

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission;

...

shall be subject to the penalties set forth in section 216 of this title.”

114. House Ethics Manual

“Section 203 prohibits the receipt of compensation ‘directly or indirectly’ for services before federal agencies. Therefore, if a Member or staff person, whether through participation in a partnership arrangement or otherwise, shares in fees from services rendered before federal

requests with Rep. Grayson Congressional Office Manager and Business Director and “told her that she should provide the responsive documents. I don’t remember the storage facilities that you’re describing coming up during that conversation, but I gave her a general indication that she should provide whatever it is that was in her possession, and I think she did that.” Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0075). Grayson Law Firms Attorney also told the OCE that currently she has access to law firm emails that are maintained on a server that is owned or leased by the law firms that Representative Grayson managed. Letter from Grayson Law Firms Attorney to Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Aug. 24, 2015 (Exhibit 35 at 15-6530_0688). While some of the materials maintained in the storage lockers and servers may contain client-specific information, many general materials, such as the Buy-Out Agreement, were not provided by Representative Grayson and may have been directly responsive to the OCE’s requests for information.

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agencies, a violation of this provision may occur even if the individual did not personally perform the services.”¹⁵²

The House Ethics Manual states, “a Member who had been an attorney may accept a fee for legal work completed prior to becoming a Member.”¹⁵³ A footnote to that statement explains, “[however], such a Member could not participate in an arrangement with his or her former firm in which the Member would be paid income derived from the continuing or future business of clients that the member had brought into the firm.”¹⁵⁴

B. Representative Grayson May Have Maintained a Contingent Fee Interest in Legal Proceedings Involving the Federal Government While Serving in Congress

115. During his time in Congress, Representative Grayson may have maintained a contingent fee interest in False Claims Act cases that his law firms transitioned to other law firms when he entered Congress in 2009 and 2013.¹⁵⁵ Contingent fees allow for the collection of legal fees after a successful outcome, rather than the upfront payment of fees to an attorney. Through his continued contingent fee interest in False Claims Act litigation, Representative Grayson may have agreed to receive compensation for representational services performed by others during his time in Congress, in proceedings in which the United States had a direct and substantial interest.¹⁵⁶ The OCE Board notes that the relevant statutory prohibition addresses not just the receipt of compensation, but also encompasses *agreements* to receive compensation.¹⁵⁷
116. When Representative Grayson entered Congress in 2009 and again in 2013, he transitioned many of his clients to Kubli & Associates, and later to the Law Office of Victor Kubli, P.C.¹⁵⁸ Representative Grayson explained to the OCE that when he entered Congress, the retainer agreements with many of his clients, were still in effect.¹⁵⁹
117. The OCE asked Representative Grayson about any payments from clients or to Victor Kubli that would be owed to himself or the law firms he directed while he served in

¹⁵² House Ethics Manual at 199.

¹⁵³ *Id.* at 217.

¹⁵⁴ *Id.* at 217 n. 68.

¹⁵⁵ Buy-Out Agreement (Exhibit 34 at 15-6530_0674-0684); Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0085-0086).

¹⁵⁶ On multiple occasions, the U.S. Department of Justice Office of Legal Counsel has discussed the conflict between 18 U.S.C. § 203 and maintaining a contingent fee interest in legal proceedings during government service. *See* Application of 18 U.S.C. § 203 to Former Employee’s Receipt of Attorney’s Fees in Qui Tam Action, 26 Op. O.L.C. 10, 11 (2002); Attorney’s Fees for Legal Service Performed Prior to Federal Employment, 23 Op. O.L.C. 42, 44 (1999); 18 U.S.C. § 203 and Contingent Interests in Expenses Recoverable in Litigation Against the United States, 1998 OLC LEXIS 51 (1998).

¹⁵⁷ 18 U.S.C. § 203; *Ekberg v. United States*, 167 F.2d 380 (1st Cir. 1948) (“[T]he acts of agreeing to receive, and receiving, compensation . . . constitute separate and distinct offenses”); *Burton v. United States*, 202 U.S. 344, 377 (1906) (“There might be an agreement to receive compensation for service to be rendered without any compensation ever being in fact made, and yet that agreement would be covered by the statute as an offense.”).

¹⁵⁸ Buy-Out Agreement (Exhibit 34 at 15-6530_0674-0684); Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0085).

¹⁵⁹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0087).

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Congress.¹⁶⁰ According to Representative Grayson, “[t]he retainer agreement establishes certain rights in payments that are made for or to or on behalf of the client. And so if the client were receiving money or money was paid on behalf of the client in any case, then arguably, there would be some legal right based upon the retainer agreement, to receive part or even conceivably all of that payment depending on the circumstances.”¹⁶¹

118. When asked about billing procedures for False Claims Act cases where Grayson & Kubli acted as counsel, Representative Grayson stated, “[f]rom time to time we would bill or accrue disbursements, and when we were successful we would try to collect contingent fees from defendants.”¹⁶²
119. In the Buy-Out Agreement between Kubli & Associates and Grayson & Kubli, Representative Grayson noted that for certain contingent fee cases where the two law firms could not agree on the value, Grayson & Kubli, a company which Representative Grayson owned, would receive the entire amount of such fees.¹⁶³ Paragraph 12 of the Buy-Out Agreement states “such fees shall be deemed earned in full as of the date of the contingent fee agreement was made.”¹⁶⁴
120. While the Buy-Out agreement fixed the date on which contingent fees were earned to before Representative Grayson’s congressional service, the OCE found multiple cases where representational work in contingent fees cases likely continued during a period of time when Representative Grayson served in Congress. The OCE Board notes that maintaining a contingent fee interest in a pending proceeding is a potential concern because contingent fee payments are based on all the representational work performed in a case, not just the work that occurred when an individual was not in government service. The entire body of representational work in the proceeding is not fixed to any particular period of time.¹⁶⁵ Even if a Member of Congress does not perform any representational work on a case during his government service, the contingent fee that he could potentially collect would be based in part on representational work performed by others during his congressional service.
121. In the OCE’s Supplemental Request for Information to Representative Grayson, the OCE requested materials from January 1, 2008 to the present regarding the transfer of legal casework or clients from Representative Grayson to other attorneys and for materials regarding arrangements to provide compensation, attorney’s fees, or anything of value to Representative Grayson related to legal work performed by Representative Grayson, Victor

¹⁶⁰ *Id.* (Exhibit 2 at 15-6530_0096).

¹⁶¹ *Id.*

¹⁶² *Id.* (Exhibit 2 at 15-6530_0088).

¹⁶³ Buy-Out Agreement (Exhibit 34 at 15-6530_0679).

¹⁶⁴ *Id.*

¹⁶⁵ Attorney’s Fees for Legal Service Performed Prior to Federal Employment, 23 Op. O.L.C. 42, 44 (1999) (citing Memorandum for Randolph Moss, Acting Assistant Attorney General, Office of Legal Counsel, from Mary Braden, Director, Departmental Ethics Office, Justice Management Division, *Re: Request for Legal Opinion Regarding the Application of 18 U.S.C. § 203 to Acceptance of Attorney’s Fees for Work Performed Prior to Service as Department of Justice Employee* (Jan. 12, 1999) (“[C]ontingent fees are based in some part on representations that continue until the contingency is fixed.”)).

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Kubli, Grayson & Kubli, Grayson Law Center, Grayson Consulting Inc., Kubli & Associates, the Law Office of Victor Kubli, or any employees of these entities.¹⁶⁶

Representative Grayson told the OCE through counsel that he had produced non-privileged documents responsive to this request, but had not produced a small amount of information to protect non-responsive, sensitive information.¹⁶⁷ The OCE did not receive requested material pertaining to Representative Grayson’s transition of casework or financial interest in cases pending when he was elected for his first and second term in Congress.

122. When asked about locations where Grayson & Kubli stored information and records, Representative Grayson told the OCE, “[w]ell, I’m sure that Victor Kubli, since he was the principal of Kubli and Associates, has many such records as of 2009. Whether he still has them or not I have no idea.”¹⁶⁸ Representative Grayson also told the OCE that Victor Kubli would probably be the person with possession of any retainer agreements.¹⁶⁹ As described below, Victor Kubli decided not to cooperate with the OCE’s review.
123. Without access to the requested material from Representative Grayson and Victor Kubli, the OCE reviewed public court filings and decisions, and asked Representative Grayson about relevant legal cases and proceedings.¹⁷⁰
124. During his interview, Representative Grayson was asked about seven False Claims Act cases that had been undertaken by either Grayson & Kubli or Grayson Law Center, and were transitioned to Kubli & Associates or the Law Office of Victor Kubli, P.C. when Representative Grayson entered and re-entered Congress for his first and second terms.¹⁷¹
125. The Federal False Claims Act allows individuals to bring claims against individuals or companies that may have defrauded the government.¹⁷² The law includes a qui tam component, whereby individuals termed “relators” take the place of the government in the litigation. While the government is the true party in interest and would collect the majority of any reward for fraudulent practices, the relator serves to collect a percentage of the

¹⁶⁶ Supplemental Request for Information to Representative Grayson from Paul Solis, Deputy Chief Counsel, Office of Congressional Ethics, Aug. 20, 2015.

¹⁶⁷ Letter from Brett Kappel, Counsel to Rep. Grayson to Helen Eisner, Investigative Counsel, Oct. 8, 2015.

¹⁶⁸ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0075).

¹⁶⁹ *Id.* (Exhibit 2 at 15-6530_0103).

¹⁷⁰ *Id.* (Exhibit 2 at 15-6530_0093-0106).

¹⁷¹ *Id.* The seven False Claims Act cases are cited below with reference to specific documents in the case dockets signifying participation by Representative Grayson’s law firms and the transition of counsel and law firms when Representative Grayson entered Congress. *United States ex rel. Rycroft v. Zeroline, Ltd.*, No. 1:07-cv-10777-WGY, Docket Doc. Nos. 1, 43, 117; *United States ex rel. DRC, Inc. v. Custer Battles, LLC*, No. 1:04-cv-00199-TSE-TRJ, Docket Doc. Nos. 244, 562, 566, 570, 598; *United States ex rel. Godfrey v. KBR, Inc.*, No. 08-1423, Docket Doc. Nos. 18, 32, 35; *United States ex rel. Ritchie v. Lockheed Martin Corp.*, No. 04-1937, District Court Docket Doc. Nos. 13, 211 *United States ex rel. Ritchie v. Lockheed Martin Corp.*, No. 08-1112, Appellate Docket Doc. Nos. 0101413183, 01015120880, 01017583062; *United States ex rel. El-Amin v. The George Washington University*, No. 1:95-cv-02000-CKKK-JMF, Docket Doc. Nos. 10, 743, 771, 781, 800; *United States ex rel. McBride v. Halliburton Co.*, No. 1:05-cv-00828-FJS, Docket Doc. Nos. 1, 7, 79, 80, 198, 213; *United States ex rel. Ubl v. IIF Data Solutions*, No. 1:06-cv-00641-LO-TRJ, District Court Docket Doc. No. 277, 337; *United States ex rel. Ubl v. IIF Data Solutions*, No. 09-2280, Appellate Docket Doc. No. 8.

¹⁷² 31 U.S.C. §§ 3729-3733.

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reward. Consequently, the government has a direct and substantial interest in False Claims Act litigation.¹⁷³

126. Representative Grayson explained to the OCE that his law firms held retainer agreements with the clients in the seven False Claims Act cases, and that the retainer agreements would have provided for contingent fee payments in the seven cases.¹⁷⁴ Representational work appears to have been performed by other attorneys in these proceedings during the period of time when Representative Grayson was in Congress.¹⁷⁵
127. In one of the seven False Claims Act cases, *DRC, Inc., ex rel. v. Custer Battles, LLC*, the OCE found that a judgment was entered in favor of the relators, who Representative Grayson had represented.¹⁷⁶ Representative Grayson told the OCE that he was “not aware of any successful collection” regarding the judgment and explained, “[i]t’s the government’s responsibility, the government hasn’t moved on it.”¹⁷⁷ Rep. Grayson Congressional Office Manager and Business Director told the OCE, “I don’t think any money came in although you know they won, but I don’t think anything ever came in.”¹⁷⁸
128. The OCE found that Representative Grayson maintained a contingent fee interest in at least seven False Claims Act cases during his time in Congress. The federal government had a direct and substantial interest in these proceedings, and representational work appears to have been performed by other attorneys in these cases while Representative Grayson was in Congress.
129. Based on the foregoing information, the OCE Board finds that there is substantial reason to believe that Representative Grayson agreed to receive compensation for representational services, rendered by another, in at least seven False Claims Act cases in which the United States had a direct and substantial interest, during a time when he was a Member of Congress, in violation of federal law.

¹⁷³ See Memorandum Opinion for the Director, Executive Office for United States Attorneys from Theodore B. Olson, Acceptance of Legal Fees by United States Attorney 6 Op. O.L.C. 602, 603 (Nov. 4, 1982) (explaining that “the inquiry into whether a matter is a claim against the United States should be focused on whether the United States has a significant monetary interest at stake in the lawsuit”); see also Application of 18 U.S.C. § 203 to Former Employee’s Receipt of Attorney’s Fees in Qui Tam Action, 26 Op. O.L.C. 10 (2002) (The U.S. Department of Justice Office of Legal Counsel previously found that the government had a direct and substantial interest in a qui tam case).

¹⁷⁴ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0095, 0101-0105).

¹⁷⁵ See generally cases and corresponding dockets *supra* note 171.

¹⁷⁶ Final Order, *United States ex rel. DRC, Inc. v. Custer Battles, LLC*, No. 1:04-cv-00199-TSE-TRJ, Docket Doc. 613 (Nov. 24, 2009); *DRC, Inc., ex rel. v. Custer Battles, LLC*, 446 Fed. Appx. 561 (4th Cir. 2011).

¹⁷⁷ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0100).

¹⁷⁸ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0371).

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V. REPRESENTATIVE GRAYSON MAY HAVE OMITTED REQUIRED INFORMATION FROM HIS FINANCIAL DISCLOSURE STATEMENTS

A. Applicable Law, Rules, and Standards of Conduct

130. Ethics in Government Act of 1978

“(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

...

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

...

(9) a Member of Congress as defined under section 109(12).”¹⁷⁹

The Ethics in Government Act of 1978 also states, “a congressional ethics committee . . . may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.”¹⁸⁰

131. House Rule 26, clause 2

House Rule 26, clause 2 provides, “[f]or the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be considered Rules of the House as they pertain to Members, Delegates, the Resident Commissioner, officers, and employees of the House.”

132. House Committee on Ethics Discussion of Financial Disclosure Omissions and Amendments

The House Ethics Manual discusses the Committee on Ethics’ policy regarding amendments to financial disclosures, stating that “the Committee will adopt a two-pronged test for determining whether an amendment is considered to be filed with a presumption of good faith: First, whether it is submitted within the appropriate amendment period (close-of-year); and second, a ‘circumstance’ text [sic] addressing why the amendment is justified. In this latter regard, filers will be expected to submit with the amendment a brief statement on why the earlier FD is being revised.”¹⁸¹ This test was cited by the Committee In the Matter of Representative Charles B. Rangel, in finding that Representative Rangel did not file timely amendments within the close of the year.¹⁸²

¹⁷⁹ 5 U.S.C. app. 4 § 101(d), (f).

¹⁸⁰ 5 U.S.C. app. 4 § 104(c).

¹⁸¹ House Ethics Manual at 379.

¹⁸² Committee on Standards of Official Conduct, *Statement of Alleged Violation in the Matter of Representative Charles B. Rangel*, Count IX (June 17, 2010).

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In a recent report, the Committee on Ethics noted that many financial disclosure statements contain inadvertent errors that once identified can be corrected.¹⁸³ The Committee described the potential for greater concern when “errors or omissions are knowing or willful, or appear to be significantly related to other potential violations.”¹⁸⁴

133. Asset and Unearned Income Reporting

a. Ethics in Government Act of 1978

Pursuant to the Ethics in Government Act of 1978, the contents of a financial disclosure report must include “[t]he identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year”¹⁸⁵

b. House Committee on Ethics Financial Disclosure Statements Instruction Guide

“For each asset you disclose, you must indicate the category of its period-end value. Providing a good faith estimate of the fair market value of an asset if the exact value is neither known nor easily obtainable is an acceptable . . . method of valuation.”¹⁸⁶ The Instruction Guide provides numerous alternative methods for determining the value of a reportable asset.¹⁸⁷

“Type of Income (Block C): “Unearned” income is derived from the assets and other income sources listed [sic] in Block A. It includes, but is not limited to, such items as interest, rents, dividends, and capital gains. Place an “X” in the appropriate column, or, if you have some other type of unearned income not specifically listed, provide a brief description (e.g., “Farm Income”) in the “Other Type of Income” column. If an asset had more than one type of income, such as dividends and capital gains, you may check each box that applies, and then provide the total amount of income received in Block D.”¹⁸⁸

c. House Ethics Manual Hedge Fund Reporting Requirements

The House Ethics Manual explains, “[t]he identity of the property, in addition to its category of value, must be specified. Each company in which stock worth over \$1,000 is held must be listed separately. Except in limited circumstances, the filer must disclose the specific contents of any investment account, private retirement account (e.g., a 401(k) or IRA), or education savings account (i.e., a —529 plan). In other words, the EIGA requires disclosure of each asset held within such an account that meets the value or income tests described above.”¹⁸⁹

¹⁸³ Report of the Committee on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, (July 10, 2012) at 5.

¹⁸⁴ *Id.*

¹⁸⁵ 5 U.S.C. app. 4 § 102(a)(3).

¹⁸⁶ House Committee on Ethics, *Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2014* at 13.

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* at 23.

¹⁸⁹ House Ethics Manual at 255 (internal citations to Ethics in Government Act omitted).

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d. House Committee on Ethics Financial Disclosure Statements Instruction Guide Hedge Fund Reporting Requirements

Regarding hedge fund disclosure, the Committee on Ethics Financial Disclosure Instruction Guide states,

“[h]edge funds, private equity funds, and privately-traded REITs are private investment vehicles that are open to a limited class of investors and frequently require a very large initial minimum investment. You must disclose your, your spouse's, or your dependent child's ownership interest in each hedge fund or private equity fund that meets either of the reporting thresholds

...

If the fund does not qualify as an EIF [Excepted Investment Fund], you must either list each asset held in the fund, and the value and amount and type of income of each asset”¹⁹⁰

134. Earned Income Reporting Requirements

The Ethics in Government Act of 1978 states that each report must include a statement of “[t]he source, type, and amount or value of income . . . from any source (other than from current employment by the United States Government). . . .”¹⁹¹

The House Committee on Ethics Financial Disclosure Instruction Guide explains, “[e]arned income, reportable on Schedule C, is generally income the filer receives resulting from ‘the fruit of their labor.’ By contrast, income that is unearned, or passive in nature, such as dividends, rent, and partnership income, should be reported on Schedule A . . . The earned income filers report on Schedule C is intended to be comprehensive and means ‘all income from whatever source derived , including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it)’”¹⁹²

Additionally, the House Committee on Ethics Financial Disclosure Instruction Guide explains, “[c]ertain types of earned income, such as . . . compensation for services rendered prior to current legislative employment, do not count against the outside earned income limit for the current year. Nonetheless, such income must be reported on Schedule C.”¹⁹³

¹⁹⁰ House Committee on Ethics, Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2014 at 17 (emphasis in original).

¹⁹¹ 5 U.S.C. app. 4 § 102(a)(1)(A).

¹⁹² House Committee on Ethics, Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2014 at 27 (emphasis in original).

¹⁹³ *Id.* at 28; House Committee on Ethics, Instruction Guide for Completing Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2013 at 29 (2014); House Committee on Ethics, Instruction Guide for Completing Calendar Year 2012 Financial Disclosure Statement Form A at 10 (2013); House Committee on Ethics, Instruction Guide for Completing Calendar Year 2011 Financial Disclosure Statement Form A at 9 (2012); House Committee on Ethics, Instruction Guide for Completing Calendar Year 2010 Financial Disclosure Statement

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135. Debts Owed to the Filer

“Debts owed to the filer may be a reportable asset. If you are owed more than \$1,000 by anyone other than your spouse, or a parent, sibling, or child of you or your spouse and are charging interest on the debt, you must disclose the name of the person or entity and their city and state of residence, the category of value of the debt, and the category of value of the interest received.”¹⁹⁴

136. Reporting Requirements for Positions

The Ethics in Government Act of 1978 requires disclosure of “[t]he identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States.”¹⁹⁵

137. Agreement Reporting Requirements

The Ethics in Government Act of 1978 requires that a financial disclosure report include, “[a] description of the date, parties to, and terms of any agreement or arrangement with respect to . . . (C) continuation of payments by a former employer other than the United States Government . . .”¹⁹⁶

The House Committee on Ethics Financial Disclosure Instruction Guide explains that a Member must disclose on Schedule F information about agreements pertaining to “continuing compensation payments, such as a buyout agreement, severance payments, or payments not yet received for previous work.”¹⁹⁷

B. Representative Grayson May Have Omitted Required Information from His Annual Financial Disclosure Statements

138. As a Member of Congress, Representative Grayson is required to comply with the financial disclosure reporting obligations imposed by federal law and House rules. The OCE reviewed Representative Grayson’s annual financial disclosure statements and found numerous omissions, some of which may be “significantly related to other potential violations” discussed in this referral concerning the Grayson Hedge Fund and the law firms

Form A at 9 (2011); House Committee on Ethics, Instruction Guide for Completing Calendar Year 2009 Financial Disclosure Statement Form A at 9.

¹⁹⁴ House Committee on Ethics, Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2014 at 20 (emphasis in original removed).

¹⁹⁵ 5 U.S.C. app. 4 § 102(a)(6).

¹⁹⁶ 5 U.S.C. app. 4 § 102(a)(7).

¹⁹⁷ House Committee on Ethics, Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2014 at 32; *see also* House Committee on Ethics, Instruction Guide for Completing Calendar Year 2009 Financial Disclosure Statement Form A at 29.

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that Representative Grayson operated.¹⁹⁸ In some instances, Representative Grayson's annual financial disclosure reports appeared to obscure information that financial disclosure reports are intended to make transparent and readily discernible by the public.

i. Financial Disclosure Statement Preparation

139. Representative Grayson told the OCE that he prepares his financial disclosure statements himself without the assistance of staff.¹⁹⁹ As part of this process, Representative Grayson reviews prior disclosures, investment activity, and bank statements as necessary.²⁰⁰
140. According to Representative Grayson, all his business and personal banking and tax statements are maintained by Rep. Grayson Congressional Office Manager and Business Director, and when he needs to review these records to complete his disclosures, he requests that she provide them.²⁰¹ Rep. Grayson Congressional Office Manager and Business Director confirmed that she has access to these records.²⁰² As part of the explanation for her role in maintaining the records, Representative Grayson described his personal financial records and the Grayson Hedge Fund's records as "intertwined."²⁰³ Rep. Grayson Congressional Office Manager and Business Director also has access to financial records for Representative Grayson's minor children.²⁰⁴
141. The OCE asked Representative Grayson how often he reviews instructions from the Committee on Ethics on how to complete financial disclosure forms.²⁰⁵ Representative Grayson explained that he reviews such forms "whenever something comes up that seems to require some attention or some kind of check. That's when I look back, otherwise I don't."²⁰⁶ On some occasions, he has communicated with the Committee on Ethics about what he termed "misunderstandings" in his financial disclosure statements and has made necessary amendments.²⁰⁷

ii. Assets and Unearned Income Reporting

142. The following section identifies selected findings regarding specific asset and unearned income reporting omissions and ambiguities in Representative Grayson's annual financial disclosure statements.

¹⁹⁸ Report of the Committee on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, (July 10, 2012) at 5.

¹⁹⁹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0055).

²⁰⁰ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0055-0056).

²⁰¹ *Id.* (Exhibit 2 at 15-6530_0056).

²⁰² Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0391-0392).

²⁰³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0057).

²⁰⁴ *Id.* (Exhibit 2 at 15-6530_0058).

²⁰⁵ *Id.* (Exhibit 2 at 15-6530_0058-0059).

²⁰⁶ *Id.* (Exhibit 2 at 15-6530_0058).

²⁰⁷ *Id.* (Exhibit 2 at 15-6530_0059).

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a. Grayson Law Firm Asset and Income Disclosure Omissions

143. The OCE reviewed tax statements and financial records related to the law firms owned by Representative Grayson and identified significant omissions concerning the value of the businesses and income they have generated. As previously described, in 2009 Grayson & Kubli, P.C. changed it named to AMG TR P.C.²⁰⁸ The OCE reviewed an AMG TR P.C. 2009 I.R.S. Form 1120S U.S. Tax Return for an S Corporation document signed by Representative Grayson in September 2010, and Representative Grayson's I.R.S. Form 1040 Individual Tax Return from 2009.²⁰⁹ The OCE also reviewed an AMG TR P.C. 2009 I.R.S. Form 1120S Schedule K-1 Shareholder's Share of Income Form for Representative Grayson, indicating that Representative Grayson was the 100% owner stock in the company.²¹⁰ These forms were provided to the OCE by Representative Grayson and identify \$855,075.00 in ordinary business income accrued by AMG TR P.C. in 2009.²¹¹
144. Representative Grayson's 2009 amended annual financial disclosure statement, filed in November 2010, after the September 2010 filing of the I.R.S. Form 1120S Tax Return, discloses an interest in G+K Stock book.²¹² Representative Grayson confirmed that this was his interest in Grayson & Kubli, which had since changed its name to AMG TR P.C.²¹³ Notably, the assets and unearned income schedule in Representative Grayson's 2009 disclosure statement indicates that Grayson & Kubli did not generate any income that year and the earned income schedule was not completed.²¹⁴
145. After his interview, Representative Grayson explained to the OCE through counsel that the \$855,075.00 in unreported income was attributable to a collection from a former client related to work performed before Representative Grayson was in Congress.²¹⁵ On December 2, 2015, more than five years after the 2009 statement was submitted, Representative Grayson filed a letter with the Committee on Ethics amending his 2009 annual financial disclosure statement to reflect the \$855,075.00 in income, and noted that the income was generated on January 4, 2009 before he was sworn in to Congress.²¹⁶
146. Regarding Grayson Law Center, the OCE reviewed a 2012 I.R.S. Form 1120S U.S. Income Tax Return for an S Corporation, a 2012 I.R.S. Schedule K-1 Form for Representative Grayson's interest as the 100 percent shareholder in the company, and Representative

²⁰⁸ AMG TR PC, Commonwealth of Virginia State Corporation Commission Business Entity Search, SCC ID 04967956 (last visited Dec. 15, 2015) (Exhibit 30 at 15-6530_0622).

²⁰⁹ See *supra* note 44, AMG TR P.C., U.S. Income Tax Return for an S Corporation (I.R.S. Form 1120S) (2009), AMG TR P.C., I.R.S. Schedule K-1 Form (Shareholder Alan M. Grayson) (2009), Alan Grayson and Lolita Grayson, U.S. Individual Income Tax Return (I.R.S. Form 1040) (2009).

²¹⁰ *Id.*

²¹¹ See *supra* note 44, AMG TR P.C., U.S. Income Tax Return for an S Corporation (I.R.S. Form 1120S) (2009), AMG TR P.C., I.R.S. Schedule K-1 Form (Shareholder Alan M. Grayson) (2009), Alan Grayson and Lolita Grayson, U.S. Individual Income Tax Return (I.R.S. Form 1040) (2009).

²¹² Representative Grayson 2009 Amended Annual Financial Disclosure Statement, filed Nov. 30, 2010, at 4 line 8.

²¹³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0064).

²¹⁴ Representative Grayson 2009 Amended Annual Financial Disclosure Statement, filed Nov. 30, 2010, at 4 line 8.

²¹⁵ Letter from Brett Kappel, Counsel to Rep. Grayson, to Helen Eisner, Investigative Counsel, Oct. 28, 2015.

²¹⁶ Letter from Representative Grayson to Committee on Ethics Chair Dent and Ranking Member Sanchez, Dec. 2, 2015.

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Grayson's I.R.S. Form 1040 Individual Tax Return.²¹⁷ Representative Grayson told the OCE that the Grayson Law Center tax return was self-prepared in reliance on numbers provided by others.²¹⁸ The tax forms indicate that in 2012, Grayson Law Center held \$357,232.00 in assets and accrued \$334,288.00 in ordinary business income.²¹⁹

147. On his 2012 annual financial disclosure statement, Representative Grayson identified Grayson Law Center, P.C. as "GLCPC".²²⁰ According to Representative Grayson, "GLCPC" referred to the legal entity Grayson Law Center, P.C., although he could not remember if anyone ever referred to it as GLCPC.²²¹ On his 2012 annual financial disclosure statement, Representative Grayson listed the value of GLCPC as "indefinite" and indicated that it did not receive any income in 2012.²²² Representative Grayson told the OCE that he thought the tax forms likely were filed after the annual disclosure statement was filed in August 2013, and that consequently the value was indefinite.²²³
148. Representative Grayson told the OCE that he did not have any conversations with the Committee on Ethics about the use of the term "indefinite" and he did not think that the use of the term was inappropriate.²²⁴
149. The Committee on Ethics instructs that if filers do not receive their Schedule K-1 tax form prior to the filing deadline, a filer should include a good faith estimate and later amend the statement if the good faith estimate is inconsistent with the actual income received.²²⁵ On January 13, 2014, Representative Grayson submitted a letter to the Committee on Ethics clarifying aspects of his 2012 financial disclosure statement, but did not address the value of, or any income generated by Grayson Law Center in 2012.²²⁶
150. In a letter to the OCE after his interview, Representative Grayson said that the \$334,288.00 in income received represented a collection from legal work performed prior to Representative Grayson's congressional term, however this income was not reported in his 2012 annual financial disclosure statement.²²⁷ On December 2, 2015, more than two years after the statement was submitted, Representative Grayson submitted a letter to the

²¹⁷ See *supra* note 44, Grayson Law Center, P.C., U.S. Income Tax Return for an S Corporation (I.R.S. Form 1120S) (2012), Grayson Law Center, P.C., I.R.S. Schedule K-1 Form (Partner Alan M. Grayson) (2012), Alan Grayson and Lolita Grayson, U.S. Individual Income Tax Return (I.R.S. Form 1040) (2012).

²¹⁸ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0090).

²¹⁹ See *supra* note 44, Grayson Law Center, P.C., U.S. Income Tax Return for an S Corporation (I.R.S. Form 1120S) (2012), Grayson Law Center, P.C., I.R.S. Schedule K-1 Form (Partner Alan M. Grayson) (2012), Alan Grayson and Lolita Grayson, U.S. Individual Income Tax Return (I.R.S. Form 1040) (2012).

²²⁰ Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013, at 4 line 20.

²²¹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0090).

²²² Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013, at 4 line 20.

²²³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0091).

²²⁴ *Id.* (Exhibit 2 at 15-6530_0092).

²²⁵ House Committee on Ethics, Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2014 at 20.

²²⁶ Letter from Representative Grayson to Committee on Ethics Chair Conaway and Ranking Member Sanchez, Jan. 13, 2014.

²²⁷ Letter from Brett Kappel, Counsel to Rep. Grayson, to Helen Eisner, Investigative Counsel, Oct. 28, 2015; House Committee on Ethics, Instruction Guide for Completing Calendar Year 2012 Financial Disclosure Statement Form A at 10 (2013).

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Committee on Ethics amending his 2012 annual financial disclosure report to reflect \$334,288.00 in ordinary business income for GL Ctr. P.C.²²⁸

b. Representative Grayson Family-Related Entities Disclosure Omissions

151. The OCE found that information related to the Grayson Family Partnership LLLP and a family trust that benefited Representative Grayson and his children was never disclosed on Representative Grayson’s annual financial disclosure statements. As previously noted, the Family Partnership was an investor in the Grayson Fund, LP.²²⁹ The Family Partnership received a certificate of limited partnership in Florida on December 21, 2012 and remains an active partnership in Florida.²³⁰ According to its Limited Partnership Agreement, the purpose of the Family Partnership was “to generate income and profits, increase wealth, and provide a means for the Family to become knowledgeable of, manage and preserve Family Assets.”²³¹
152. Representative Grayson was the General Partner of the Family Partnership with a two percent interest in the partnership and Lolita Carson Grayson was the sole limited partner with a ninety-eight percent interest in the partnership.²³² The initial capital contribution of Representative Grayson and Lolita Carson Grayson to the Family Partnership was \$6 million and the value of two properties that Representative Grayson provided as a gift to Lolita Carson Grayson, who in turn invested the property in the Family Partnership.²³³

EXHIBIT B - INITIAL CAPITAL CONTRIBUTIONS		
Partner	Value of Contribution	Description of Contribution
Alan Grayson (1)	\$ (2)	[REDACTED] Vienna, Virginia 22182
	\$6,000,000	\$6 million subscription Grayson Fund, L.P. (3)
Alan Grayson (1) and Lolita Carson Grayson	\$ (2)	[REDACTED] Charles Town, West Virginia 25414

(1) Amounts include value of property contributed directly by Alan Grayson, which shall be treated as a gift to Lolita Carson Grayson, followed by a contribution by Lolita Carson Grayson to the Partnership.

(2) Values to be determined by appraisal.

(3) Exhibit C details an amount of the Partnership’s assets that will be committed to the purchase of specific assets by the General Partner.

²²⁸ Letter from Representative Grayson to Committee on Ethics Chair Dent and Ranking Member Sanchez, Dec. 2, 2015.

²²⁹ Letter from Rep. Grayson to Joseph D. Goldstein, G&S Fund Services, LLC, Dec. 21, 2012 (Exhibit 16 at 15-6530_0431); The Grayson Fund, LP, Subscription Documents for the Grayson Family Partnership, LLLP, Dec. 21, 2012 (Exhibit 17 at 15-6530_0446, 0455).

²³⁰ The Grayson Family Partnership LLLP, Florida Certificate of Limited Partnership (Dec. 21, 2012) (Exhibit 45 at 15-6530_0724-0725); The Grayson Family Partnership LLLP, 2015 Florida Limited Partnership Annual Report (Feb. 11, 2015) (Exhibit 46 at 15-6530_0727).

²³¹ The Grayson Family Partnership LLLP, Limited Partnership Agreement, Dec. 21 2012 (Exhibit 47 at 15-6530_0730).

²³² *Id.* (Exhibit 47 at 15-6530_0767).

²³³ *Id.* (Exhibit 47 at 15-6530_0768).

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153. The Family Partnership's 2012 Form 1065 U.S. Return of Partnership Income Form signed by Representative Grayson on Dec. 31, 2013, lists the total assets for the Family Partnership as \$1,047,131.²³⁴ The 2013 Form 1065 U.S. Return of Partnership Income Form identifies \$729,661 in total assets for the Grayson Family Partnership LLLP.²³⁵ Representative Grayson or his then wife's ownership of the Family Partnership is not disclosed anywhere on Representative Grayson's annual financial disclosure statements.²³⁶
154. In late December 2012, Lolita Carson Grayson's 98% interest as a limited partner in the Family Partnership appears to have been transferred to the Lolita Carson Grayson Irrevocable Family Trust (the "Family Trust"), another entity that is absent from Representative Grayson's annual financial disclosure statements.²³⁷ According to a 2012 Schedule K-1 Tax Form representing the Lolita Carson Grayson Irrevocable Family Trust's partnership interest in the Family Partnership, the Family Trust had an ending capital account of \$1,026,189 in 2012, which likely represents assets that were held in the Family Partnership.²³⁸ In 2012, the Family Trust accrued \$342,205 in capital gains.²³⁹
155. The OCE asked Representative Grayson why the Lolita Carson Grayson Irrevocable Trust was not disclosed on his annual financial disclosure statements and provided Representative Grayson with a copy of his 2012 financial disclosure statement to review.²⁴⁰ Representative Grayson said that as far as he knew, he was "not a beneficiary of the trust."²⁴¹ However, documents reviewed by the OCE confirm that withdrawal rights to the Family Trust were held by Representative Grayson and Representative Grayson's children, with each of the children and Representative Grayson holding one equal share in the trust.²⁴²
156. In response to further questions about the absence of the Family Trust from the disclosure statements, Representative Grayson explained that the Family Trust may not have been disclosed because the assets of the trust consisted of personal residences, and there may not be a duty to disclose ownership of a personal residence.²⁴³

²³⁴ See *supra* note 44, Grayson Family Partnership LLP, U.S. Return of Partnership Income (I.R.S. Form 1065) (2012).

²³⁵ See *supra* note 44, Grayson Family Partnership LLLP, U.S. Return of Partnership Income (I.R.S. Form 1065) (2013).

²³⁶ Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013; Representative Grayson 2013 Annual Financial Disclosure Statement, filed Aug. 13, 2014; Representative Grayson 2014 Annual Financial Disclosure Statement, filed Aug. 13, 2015.

²³⁷ See *supra* note 44, Grayson Family Partnership LLP, U.S. Return of Partnership Income (I.R.S. Form 1065) (2012).

²³⁸ See *supra* note 44, Grayson Family Partnership LLP, I.R.S. Schedule K-1 Form (Partner Lolita Carson Grayson Irrevocable Family Trust) (2012).

²³⁹ See *supra* note 44, Grayson Family Partnership LLP, I.R.S. Schedule K-1 Forms (Partners Alan M. Grayson, the Lolita Carson Grayson Irrevocable Trust) (2012), Grayson Family Partnership LLP, U.S. Return of Partnership Income (I.R.S. Form 1065) (2012).

²⁴⁰ Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013; Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0135).

²⁴¹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0134).

²⁴² See *supra* note 44, Lolita Carson Grayson Irrevocable Family Trust, Trust Agreement, Dec. 31, 2012.

²⁴³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0135).

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157. The House Committee on Ethics Financial Disclosure Instruction Guide states that personal residences that do not generate rental income do not need to be disclosed on financial disclosure statements.²⁴⁴ Nevertheless, there is a requirement to report an interest in real estate that is “held for investment or the production of income.”²⁴⁵ This includes disclosure of a limited partnership that was formed for the purpose of holding investments.²⁴⁶ The Instruction Guide does not directly address a trust that holds personal residences where the value of the property is held for investment and the production of income. However, the OCE Board notes that the Family Trust produced a significant amount of income from investments.

c. Grayson Hedge Fund Disclosure Omission

158. In his 2012 annual financial disclosure statement, Representative Grayson reported that he derived no income from the Grayson Fund General Partner.²⁴⁷

159. The OCE reviewed the Grayson Fund General Partner’s 2012 I.R.S. Form 1065 U.S. Return of Partnership Income forms and seven 2012 I.R.S. Schedule K-1 Partner’s Share of Income Forms for the partners of the Grayson Fund General Partner.²⁴⁸ These forms indicate that the Grayson Fund General Partner had \$186,054 in ordinary business income in 2012, the large majority of which was disclosed on the tax forms as having been distributed to Representative Grayson and his five children, with the exception of \$925 which was distributed to the Alan Grayson Irrevocable Trust that benefitted Representative Grayson’s mother.²⁴⁹ This 2012 distribution to the partners of the Grayson Fund General Partner is consistent with an email from a G&S Fund Services representative in October 2014 stating that “GP took incentive fees before on this account back in 2012.”²⁵⁰

160. Former Grayson Fund VP thought that the tax forms may have originally mischaracterized Representative Grayson’s distribution as self-employment earnings, and this was later corrected to reflect the fact that although he was owner of the Grayson Fund General Partner, the funds did not represent earnings.²⁵¹

161. When asked about this 2012 distribution to the Grayson Fund General Partner, Representative Grayson told the OCE that he believed it represented “phantom income” whereby partnership activities are attributed even if the money was never received because the collective Grayson Hedge Fund had no net income.²⁵² Representative Grayson later

²⁴⁴ House Committee on Ethics, Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2014 at 22.

²⁴⁵ *Id.* at 22, 29.

²⁴⁶ *Id.* at 19-20.

²⁴⁷ Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013, at 4 Line 17.

²⁴⁸ See *supra* note 44, Grayson Fund General Partner LLC, I.R.S. Schedule K-1 Forms (Partners Alan Grayson, Rep. Grayson’s children, the Alan Grayson Irrevocable Trust) (2012), Grayson Fund General Partner, LLC, U.S. Return of Partnership Income (I.R.S. Form 1065) (2012).

²⁴⁹ *Id.*

²⁵⁰ Wire Transfer Emails between Representative Grayson, Rep. Grayson Congressional Office Manager and Business Director, and G&S Fund Services, 2014 (Exhibit 20 at 15-6530_0561).

²⁵¹ Transcript of Former Grayson Fund VP (Exhibit 1 at 15-6530_0037).

²⁵² Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0123).

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reiterated by counsel that the distribution may have been “‘phantom income’ as a result of amounts that a single entity within the partnership must report to the IRS but were never actually received, since such amounts are merely a byproduct of the partnership’s structure.”²⁵³ Even if the \$186,054 was redistributed within the Grayson Hedge Fund, the tax forms provided to the OCE identify \$186,054 in reportable, ordinary business income that was not included on Representative Grayson’s annual financial disclosure statement.

d. Disclosure of the Underlying Assets of the Grayson Hedge Fund

162. While Representative Grayson disclosed the underlying assets of the Grayson Hedge Fund in his annual financial disclosure statements, his method of disclosure obscured their identity. In addition, Representative Grayson’s reporting of these assets lacks clarity and may involve double counting of certain holdings. The discussion below highlights a specific example to help clarify the OCE’s findings related to Representative Grayson’s reporting of the underlying holding of the Grayson Hedge Fund, which were held under the umbrella of the Master Fund.

163. In Representative Grayson’s 2012 Annual Financial Disclosure Statement, he reports a value of \$5,000,001-\$25,000,000 in “Grayson Fund interest.”²⁵⁴

BLOCK A Asset and/or Income Source	BLOCK B Year-End Value of Asset													BLOCK C Type of Income							BLOCK D Amount of Income										
	A	B	C	D	E	F	G	H	I	J	K	L	M	DIVIDENDS	RENT	INTEREST	CAPITAL GAINS	EXCEPTED/BLIND TRUST	TAX-DEFERRED	Other Type of Income (Specify: e.g., Partnership Income or Farm Income)	I	II	III	IV	V	VI	VII	VIII	IX	X	
	None	\$1 - \$1,000	\$1,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	Spouse/DC Asset over \$1,000,000*								None	\$1 - \$200	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	\$1,000,001 - \$5,000,000	
USW Exchange Fund Units	X																			Dist.											
Derivation Class																	X														
ACM Note																															
IRA Note																	X														
Amg Tr Stock bond				X													X														
Grayson Consulting Stock bond				X													X														
Amer Elec options				X													X														
Morgan Options								X									X														
L115 options				X													X														
Merch options				X													X														
3M options						X											X														
US Bank options					X												X														
Dixiey stock		X															X														
78 296 Yukon stock bond				X													X														
VMS Membership - bank			X														X														
Grayson Fund Mgmt Co - bank				X													X														
.. .. G.C. - bank				X													X														
Grayson Fund interest										X							X														
VMS Ventures								X									X														
G.C. Fund								X									X														

164. The OCE reviewed documents and confirmed with Representative Grayson that he purchased 78,300.00 units of Jaguar Mining Inc. at a value of \$498,178 through his personal TD Ameritrade account in December 2011, which were then earmarked as

²⁵³ Letter from Brett Kappel, Counsel to Rep. Grayson, to Helen Eisner, Investigative Counsel, Oct. 28, 2015.

²⁵⁴ Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013, at 4 Line 18.

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167. When asked about this potential aggregation, Representative Grayson explained, “the answer is, the most likely answer, although not the only possible answer, is that those two things were lumped together on that line. That would be one way that that would have been dealt with.”²⁶¹ Representative Grayson also suggested that there could have been an omission and “based upon your pointing this out, we will conduct some kind of inquiry on this”²⁶²
168. The Committee’s instructions for disclosing the underlying assets of pooled investment funds require the filer to “list each asset held in the fund, and the value and amount and type of income of each asset”²⁶³ In this instance, the Jaguar Mining Inc. asset was disclosed two pages prior to where the Grayson Fund interest is listed and there is no linkage between the two identifying “Jaguar Stock” as a holding of the Grayson Fund asset disclosed two pages later.
169. As a separate point, the Jaguar Stock value is listed on page two of the statement in addition to the \$5,000,001 - \$25,000,000 identified for the Grayson Fund.²⁶⁴ This means that the value of the 78,300.00 in Jaguar units at the end of 2012 would be represented in two places, under the Jaguar Stock entry and the Grayson Fund interest entry. For all the underlying assets of the Master Fund, it is equally true that the assets were reported separately and in addition to the \$5,000,001 - \$25,000,000 valuation of Grayson Fund interest. When asked whether the Grayson Fund disclosure on page four of the 2012 annual financial disclosure included the value of the Jaguar stock, Representative Grayson stated that “It could.”²⁶⁵
170. In another example, Representative Grayson purchased 170,000.00 units of Taseko Mines Ltd. on December 30, 2011 for \$458,076.00 in his personal TD Ameritrade account.²⁶⁶ These 170,000.00 were then transferred to the Master Fund and the same units remained in the Master Fund on December 31, 2012.²⁶⁷ Unlike in the case of the Jaguar Stock, the OCE found that Representative Grayson did not separately purchase these securities in 2012. The Taseko Mines interest is reported on page 3 of Representative Grayson’s 2012 financial disclosure statement.²⁶⁸ Based on the OCE’s review, in 2012 Representative Grayson had no separate personal interest in Taseko, only an interest through his investment in the Grayson Hedge Fund. Again, this interest is reported on a separate page from the \$5,000,001-\$25,000,000 entry for the Grayson Fund interest in the disclosure statement.

²⁶¹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0131).

²⁶² *Id.*

²⁶³ House Committee on Ethics, Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports for Calendar Year 2014 at 17.

²⁶⁴ Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013, at 2, 4.

²⁶⁵ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0132).

²⁶⁶ *See supra* note 44, TD Ameritrade 2011 Consolidated Forms 1099 for Alan Grayson & Lolita Grayson Ten Com, Supplemental Reporting Section.

²⁶⁷ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0127); *see supra* note 44, The Grayson Master Fund (Cayman), LP Portfolio Analysis, Dec. 31, 2012.

²⁶⁸ Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013, at 3 Line 16.

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175. For the entry K+A Note,²⁷⁷ Representative Grayson explained to the OCE that this entry corresponded to \$2 million in compensation owed to Grayson & Kubli from Kubli & Associates under the Buy-Out Agreement, which constituted a note owed by Kubli & Associates and was never paid.²⁷⁸ When asked why Representative Grayson used the term “Indefinite” to describe the note, he said “Because it’s accurate. It describes the situation.”²⁷⁹ Representative Grayson’s counsel explained by letter after the interview that the debt specifically included at least \$2 million owed under the agreement that was never paid, and an additional \$1,133,901.45 from a Virginia judgment against Kubli & Associates in favor of GSA Telecommunications Trust, a company owned solely by Representative Grayson that had loaned money to Kubli & Associates for its business operations.²⁸⁰
176. Here, the unpaid compensation under the Buy-Out Agreement and the Virginia judgment provide defined numbers that could have been used to provide a good faith estimate of the debt. The use of the term “Indefinite” obscures a debt of a few million dollars, and “Indefinite” may similarly obfuscate other entries of significant value where no good faith estimate is provided on Representative Grayson’s financial disclosure statements.

iii. Unreported Positions

177. During the course of this review, the OCE identified positions held by Representative Grayson that were excluded from his annual financial disclosure statements.
178. Representative Grayson has served as a managing Member of the Grayson Fund General Partner, now the Sibylline Fund General Partner, LLC, since it was created 2011.²⁸¹ Representative Grayson has also served as a limited partner for the Grayson Fund, LP, now the Sibylline Fund LP, since 2011.²⁸² Representative Grayson provided the OCE with an October 20, 2015 letter to the Committee on Ethics in which he disclosed his unreported positions with these entities.²⁸³
179. Representative Grayson also served as General Partner to the Family Partnership,²⁸⁴ a position and entity that has not been reported in Representative Grayson’s annual financial

²⁷⁷ Representative Grayson 2014 Annual Financial Disclosure Statement, filed Aug. 13, 2015, at 5 line 13.

²⁷⁸ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0076-0078); Buy-Out Agreement (Exhibit 34 at 15-6530_0677-0678).

²⁷⁹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0079).

²⁸⁰ Confession of Judgment for the GSA Telecommunications Trust against Kubli & Associates, P.C., Clerk of the Circuit Court of the County of Fairfax, Virginia, Dec. 30, 2009 (Exhibit 48 at 15-6530_0778); Letter from Brett Kappel, Counsel to Rep. Grayson, to Helen Eisner, Investigative Counsel, Oct. 28, 2015; *see supra* note 44, GSA Telecommunications Trust, I.R.S. Schedule K-1 Form (Partner Alan Grayson) (2013).

²⁸¹ Letter from Brett Kappel, Counsel to Rep. Grayson, to Helen Eisner, Investigative Counsel, Oct. 8, 2015.

²⁸² *Id.*

²⁸³ Letter from Representative Grayson to Committee on Ethics Chair Dent and Ranking Member Sanchez, Oct. 20, 2015.

²⁸⁴ The Grayson Family Partnership LLLP, Limited Partnership Agreement, Dec. 21, 2012 (Exhibit 47 at 15-6530_0767).

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disclosure reports since the entity was formed in December 2012.²⁸⁵ This position was not mentioned in the October 20, 2015 letter to the Committee on Ethics.²⁸⁶

iv. Unreported Agreements

180. When Representative Grayson entered Congress in 2009, he held certain rights under a Buy-Out Agreement with Kubli & Associates, which he had signed for Grayson & Kubli in his authority as director of the Seller.²⁸⁷ The Buy-Out Agreement specifically addressed debt owed to Representative Grayson, compensation to Representative Grayson as the sole owner of Grayson & Kubli, and payments not yet received for previous work.²⁸⁸ The CY 2009 Committee on Ethics Financial Disclosure Instruction Guide required filers to disclose agreements with former employers, “for continuing compensation payments, such as a buyout agreement, severance payments, or payments not yet received for previous work.”²⁸⁹
181. The Buy-Out Agreement has not been reported in any of Representative Grayson’s annual financial disclosure statements.²⁹⁰ The information contained in this Buy-Out Agreement may be significantly related to other potential violations identified in this referral concerning agreements to receive compensation, his association with entities that provide professional services involving a fiduciary duty, and the receipt of earned income. The OCE Board also notes that because of Victor Kubli’s failure to cooperate, the OCE was unable to identify whether there are additional reportable agreements that should have been disclosed in Representative Grayson’s financial disclosure statements.
182. Based on the foregoing information, the OCE Board finds that there is substantial reason to believe that Representative Grayson omitted required information from his annual financial disclosure statements that may be “significantly related to other potential violations” discussed in this referral.²⁹¹

²⁸⁵ Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013; Representative Grayson 2013 Annual Financial Disclosure Statement, filed Aug. 13, 2014; Representative Grayson 2014 Annual Financial Disclosure Statement, filed Aug. 13, 2015.

²⁸⁶ Letter from Representative Grayson to Committee on Ethics Chair Dent and Ranking Member Sanchez, Oct. 20, 2015.

²⁸⁷ Buy-Out Agreement (Exhibit 34 at 15-6530_0674-0684).

²⁸⁸ *Id.*

²⁸⁹ House Committee on Ethics, Instruction Guide for Completing Calendar Year 2009 Financial Disclosure Statement Form A at 29.

²⁹⁰ *See, e.g.*, Representative Grayson 2008 Annual Financial Disclosure Statement, filed Aug. 13, 2009, at 17; Representative Grayson 2009 Amended Annual Financial Disclosure Statement, filed Nov. 30, 2010, at 7; Representative Grayson 2010 Annual Financial Disclosure Statement, filed May 2, 2011, at 8; Representative Grayson 2012 Annual Financial Disclosure Statement, filed Aug. 12, 2013, at 14; Representative Grayson 2013 Annual Financial Disclosure Statement, filed Aug. 13, 2014; Representative Grayson 2014 Annual Financial Disclosure Statement, filed Aug. 13, 2015.

²⁹¹ Report of the Committee on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, (July 10, 2012) at 5.

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VI. REPRESENTATIVE GRAYSON MAY HAVE USED OFFICIAL RESOURCES TO SUPPORT OUTSIDE BUSINESSES

A. Applicable Law, Rules, and Standards of Conduct

183. Prohibition Against Use of Congressional Office Resources for Unofficial Purposes

a. 31 U.S.C. § 1301(a)

“Appropriations shall be applied only to the objects for which the appropriations were made”

b. House Ethics Manual

“Pursuant to federal statute (18 U.S.C. § 1301(a)), official funds may be used only for the purposes appropriated. Thus, House resources acquired with such 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. Those resources may not be used to perform or in furtherance of any outside employment of any Member, officer, or employee.”²⁹²

The House Ethics Manual instructs that, “[t]he misuse of the funds and other resources that the House of Representatives entrusts to Members for the conduct of official House business is a very serious matter. . . each Member should be aware that he or she may be held responsible for any improper use of resources that occurs in the Member’s office. . . .”²⁹³

B. Representative Grayson Congressional Office Manager and Business Director May Have Used Official Resources to Support Representative Grayson’s Hedge Fund

184. During the course of its review, the OCE found that Rep. Grayson Congressional Office Manager and Business Director has held and, in some cases, currently holds a number of positions for Representative Grayson’s congressional office, campaign committee, the Grayson Hedge Fund, multiple law firms, and nonprofits. Rep. Grayson Congressional Office Manager and Business Director also plays a central role in managing Representative Grayson’s personal and business finances. In this review, the OCE found that Rep. Grayson Congressional Office Manager and Business Director’s congressional responsibilities and outside obligations for Representative Grayson were sometimes commingled. In specific instances, this commingling may have resulted in the improper use of official resources for unofficial purposes. Moreover, the OCE found evidence that Rep. Grayson Congressional Office Manager and Business Director performed services for Representative Grayson that do not relate to official duties or outside employment.

185. Rep. Grayson Congressional Office Manager and Business Director currently serves as the Office Manager and Scheduler in Representative Grayson’s congressional office.²⁹⁴ She has held that position since 2012 following Representative Grayson’s re-election to

²⁹² House Ethics Manual at 197.

²⁹³ *Id.* at 124.

²⁹⁴ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0343).

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Congress.²⁹⁵ In this position, Rep. Grayson Congressional Office Manager and Business Director explained that she takes “care of . . . what he needs in the office and do all of his scheduling, talk to people that want to have meetings with him.”²⁹⁶ She also held the position of Treasurer for the Committee to Elect Alan Grayson for a period of three or four months in 2014 or 2015.²⁹⁷

186. Rep. Grayson Congressional Office Manager and Business Director first met Representative Grayson in 2000 when she applied for a job at Grayson & Kubli.²⁹⁸ She was hired to work as the Office Manager for Grayson & Kubli, and continued in this position until 2009, when she became the Office Manager of Kubli & Associates.²⁹⁹
187. When Representative Grayson opened Grayson Law Center following his first term in Congress, Rep. Grayson Congressional Office Manager and Business Director joined that law firm in 2011 as a full-time employee and remained at the firm through its name change to GL Ctr. P.C.³⁰⁰ From 2013 through the present, she has continued to serve without compensation as Vice President to GL Ctr. P.C., and also serve as Vice President to AMG TR P.C.³⁰¹
188. When the Grayson Hedge Fund was first established, Rep. Grayson Congressional Office Manager and Business Director told the OCE that she did not hold a position with the Grayson Hedge Fund.³⁰² Although she did not have a formal position with the entity, she was involved in transferring money from Grayson Consulting, Inc. of Florida to help pay the Grayson Hedge Fund’s initial expenses.³⁰³
189. In 2014, Rep. Grayson Congressional Office Manager and Business Director became an employee of the Grayson Fund Management Co., and has continued in this position through its recent name change.³⁰⁴ She told the OCE that she is paid part-time for eight hours of work a week on behalf of Grayson Fund Management Co.³⁰⁵ Rep. Grayson Congressional Office Manager and Business Director does not have an employment contract for this

²⁹⁵ *Id.*

²⁹⁶ *Id.* (Exhibit 13 at 15-6530_0346).

²⁹⁷ *Id.* (Exhibit 13 at 15-6530_0344).

²⁹⁸ *Id.* (Exhibit 13 at 15-6530_0345).

²⁹⁹ *Id.* (Exhibit 13 at 15-6530_0347).

³⁰⁰ Letter from Brett Kappel, Counsel to Rep. Grayson Congressional Office Manager and Business Director, to Helen Eisner, Investigative Counsel, Oct. 28, 2015; Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0347, 0359-0360).

³⁰¹ Letter from Brett Kappel, Counsel to Rep. Grayson Congressional Office Manager and Business Director, to Helen Eisner, Investigative Counsel, Oct. 28, 2015; Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0360-0363).

³⁰² *Id.* (Exhibit 13 at 15-6530_0386, 0388).

³⁰³ Emails between Former Grayson Fund VP and Rep. Grayson Congressional Office Manager and Business Director, May 20-23, 2011 (Exhibit 49 at 15-6530_0780-0781); Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0386-0387). At this time, the referenced Grayson Consulting, Inc. was the Florida-based entity.

³⁰⁴ Letter from Brett Kappel, Counsel to Rep. Grayson Congressional Office Manager and Business Director, to Helen Eisner, Investigative Counsel, Oct. 28, 2015

³⁰⁵ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0384-0385).

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position and keeps track of her hours informally.³⁰⁶ Rep. Grayson Congressional Office Manager and Business Director told the OCE that she works from home one day a week on behalf of the Grayson Fund Management Co.³⁰⁷

190. In 2014, Rep. Grayson Congressional Office Manager and Business Director also served as a Director of the Master Fund and the Grayson Master Fund Ltd. (Caymans), and as an Administrator of the Grayson Fund, LP.³⁰⁸ The Master Fund and the Caymans-based feeder fund were dissolved early in 2015, but she continues in her role as Administrator of the renamed Grayson Fund, LP.³⁰⁹ She does not appear to receive compensation for her position with the renamed Grayson Fund, LP.
191. Rep. Grayson Congressional Office Manager and Business Director performs daily work on behalf of the Grayson Hedge Fund through her employment for the Grayson Fund Management Co. When Former Grayson Fund VP left the Grayson Hedge Fund in early 2014, he helped train Rep. Grayson Congressional Office Manager and Business Director in her new responsibilities.³¹⁰ These responsibilities included managing digital files and monthly bills for the Grayson Hedge Fund, and performing daily research.³¹¹ Rep. Grayson Congressional Office Manager and Business Director described her daily research as something that takes “45 seconds” a day to accomplish and involving simply pulling numbers related to certain stocks from Yahoo Finance and forwarding these numbers to Representative Grayson.³¹²
192. The OCE found that as part of her work for the Grayson Hedge Fund, Rep. Grayson Congressional Office Manager and Business Director took on many responsibilities related to communicating with service providers to the Grayson Hedge Fund, such as accountants and brokerage fund representatives.³¹³
193. During her interview with the OCE, she explained that when she wants to check email related to the Grayson Hedge Fund during the workday, she uses a personal computer that she sometimes brings into the congressional office.³¹⁴ She told the OCE that she made phone calls and exchanged emails concerning the Grayson Hedge Fund during the workday

³⁰⁶ *Id.* (Exhibit 13 at 15-6530_0385).

³⁰⁷ *Id.* (Exhibit 13 at 15-6530_0407).

³⁰⁸ Letter from Brett Kappel, Counsel to Rep. Grayson Congressional Office Manager and Business Director, to Helen Eisner, Investigative Counsel, Oct. 28, 2015.

³⁰⁹ *Id.*

³¹⁰ Email from Former Grayson Fund VP to Rep. Grayson Congressional Office Manager and Business Director (Exhibit 50 at 15-6530_0783).

³¹¹ *Id.*

³¹² Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0392-0393).

³¹³ *See, e.g.*, Emails between Rep. Grayson Congressional Office Manager and Business Director and Accountant, McGladrey LLP, Sept. 5-12, 2014 (Exhibit 51 at 15-6530_0786-0790).

³¹⁴ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0405).

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very rarely, although the OCE found multiple examples of Grayson Hedge Fund-related communications during regular working hours.³¹⁵

194. In one instance, the OCE found that Rep. Grayson Congressional Office Manager and Business Director exchanged emails with an accountant about Grayson Hedge Fund business during the regular work day, and asked the accountant to email her official House of Representatives email address.³¹⁶ When asked how often she uses her House email address for Grayson Hedge Fund business, Rep. Grayson Congressional Office Manager and Business Director said “not very often.”³¹⁷



195. During her interview with the OCE, Rep. Grayson Congressional Office Manager and Business Director explained that on very rare occasions, she asks Representative Grayson to sign paperwork related to the Grayson Hedge Fund in the congressional office because that is her only opportunity to see him in person when he is not in Florida.³¹⁸
196. The OCE also found that Rep. Grayson Congressional Office Manager and Business Director performed services for Representative Grayson unrelated to her paid employment by the Grayson Hedge Fund, prior paid employment with the law firms, or her congressional work. For example, she was responsible for sending tax forms related to the Lolita Carson Grayson Irrevocable Family Trust.³¹⁹
197. Rep. Grayson Congressional Office Manager and Business Director also served as the unpaid Registered Agent and Secretary for two Florida nonprofits that Representative Grayson established in 2012 and that were dissolved early this year.³²⁰ Rep. Grayson

³¹⁵ See *id.* (Exhibit 13 at 15-6530_0404-0405); see, e.g., Emails between Rep Grayson Congressional Office Manager and Business Director and Brokerage Account Senior Vice President, March 26, 2015 (Exhibit 52 at 15-6530_0792-0794); Emails between Rep. Grayson Congressional Office Manager and Business Director, and Tax Manager, Financial Services, McGladrey LLP, Dec. 1, 2014 (Exhibit 53 at 15-6530_0796).

³¹⁶ See, e.g., Emails between Rep. Grayson Congressional Office Manager and Business Director and Accountant, McGladrey LLP, Sept. 5 -12, 2014 (Exhibit 51 at 15-6530_0790); see also emails between Rep Grayson Congressional Office Manager and Business Director and Brokerage Account Senior Vice President, March 26, 2015 (Exhibit 52 at 15-6530_0792-0794) (providing another example of Rep. Grayson Congressional Office Manager and Business Director’s use of her official email account to perform business for the Grayson Hedge Fund).

³¹⁷ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0405).

³¹⁸ *Id.* (Exhibit 13 at 15-6530_0407).

³¹⁹ *Id.* (Exhibit 13 at 15-6530_0401).

³²⁰ Small Friends, Inc., 2014 Florida Not for Profit Corporation Annual Report, Jan. 10, 2014 (Exhibit 54 at 15-6530_0798); Small Friends, Inc., Articles of Dissolution, Feb. 10, 2015 (Exhibit 55 at 15-6530_0800-0802); Florida Save Our Shores, Inc., 2014 Florida Not for Profit Corporation Annual Report, Jan. 10, 2014 (Exhibit 56 at 15-

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Congressional Office Manager and Business Director told the OCE that she did not participate in any activities related to the nonprofits besides helping to dissolve them.³²¹

198. During his interview with the OCE, Representative Grayson explained that Rep. Grayson Congressional Office Manager and Business Director also acted as the bookkeeper for the large majority records and files related to Representative Grayson’s personal finances and those of his dependent children, his tax records, the records related to the Grayson Hedge Fund and his law firms, and records regarding collections owed to the law firms.³²² Representative Grayson said that whenever he wanted to access these records, he would go through Rep. Grayson Congressional Office Manager and Business Director.³²³
199. Based on the foregoing information, the OCE Board finds that there is substantial reason to believe that Representative Grayson may have permitted the use of official funds for unofficial purposes because Rep. Grayson Congressional Office Manager and Business Director may have used official resources and official time to perform work for an outside business in violation of federal law, House rules, and standards of conduct. Additionally, Representative Grayson may have assigned work to and expected Rep. Grayson Congressional Office Manager and Business Director to perform services unrelated to her official duties or paid outside employment.

VII. REPRESENTATIVE GRAYSON MAY HAVE HELD A CONTRACT OR AGREEMENT WITH THE UNITED STATES GOVERNMENT

A. Applicable Law, Rules, and Standards of Conduct

200. 18 U.S.C. § 431

“Whoever, being a Member of or Delegate to Congress . . . directly or indirectly, himself, or by any other person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in whole or in part, any contract or agreement, made or entered into on behalf of the United States or any agency thereof, by any officer or person authorized to make contracts on its behalf, shall be fined under this title . . . All contracts or agreements made in violation of this section shall be void”

201. House Ethics Manual

According to the House Ethics Manual, “[u]nder the federal criminal code, a Member of Congress may not enter into a contract or agreement with the United States government. Any such contract is deemed void, and both the Member and the officer or employee who makes the contract on behalf of the federal government may be fined (18 U.S.C. §§ 431, 432).”³²⁴

6530_0804); Florida Save Our Shores, Inc., Articles of Dissolution, Feb. 10, 2015 (Exhibit 57 at 15-6530_0806-0808).

³²¹ Transcript of Rep. Grayson Congressional Office Manager and Business Director (Exhibit 13 at 15-6530_0379-0381).

³²² Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0056-0058, 0063-0064, 0075, 0093, 0097, 0103).

³²³ *Id.*

³²⁴ House Ethics Manual at 200.

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The House Ethics Manual explains, “[t]he Attorney General has interpreted this language to prohibit a general or limited partnership that includes a Member of Congress from entering into a contract with the federal government.”³²⁵ For this proposition, the Committee on Ethics cites a U.S. Department of Justice, Office of Legal Counsel opinion, which prohibited a Member from having an ownership interest in an entity that held leases with the federal government.³²⁶

B. Limited Partnerships that Included Representative Grayson as a Member May Have Held or Enjoyed Contracts with the Federal Government

202. As part of this review, the OCE found that during his time in Congress, Representative Grayson served as a limited partner in three limited partnerships in the energy sector, all of which held contracts with the federal government through their subsidiaries. Representative Grayson may have violated the restriction on a Member of Congress holding or enjoying a contract with the federal government through his membership in the limited partnerships.
203. When asked about his interest in the limited partnerships, Representative Grayson explained, “in the case of these the companies, even though they’re publicly traded on the stock market, they are actually limited partnerships.”³²⁷ Representative Grayson further explained with regards to his specific interests, “these are small ownership interests in partnerships, rather than corporations. As a result of that, the entities involved here do not pay out dividends in the normal manner because dividends are paid by corporations, instead they pay out partnership distributions.”³²⁸
204. CVR Refining LP is an “independent downstream energy limited partnership formed by CVR Energy, Inc., to own, operate and grow its refining and related logistics businesses.”³²⁹ According to the General Counsel of CVR Refining, LP, while it is difficult to estimate approximately how many limited partners exist, in 2013 and 2014 the limited partnership issued over 60,000 Schedule K-1 Tax Forms.³³⁰
205. According to a 2013 Schedule K-1 Form for Representative Grayson and Lolita Grayson for CVR Refining LP, Representative Grayson contributed \$528,798 in capital to the partnership when he bought shares on September 17, 2013, and received \$6,000 in partnership distributions that year.³³¹ This entire interest was sold in late January 2014.³³²

³²⁵ *Id.* at 201. (citing 22 Op. O.L.C. 33, 34 (Feb. 17, 1998) which found that 18 U.S.C. § 431 prohibited a Member of Congress from holding a beneficial interest in a blind trust if the trust acquired an ownership interest in a limited partnership that held leases with the federal government) (citation date corrected from original).

³²⁶ 22 Op. O.L.C. 33, 34 (Feb. 17, 1998).

³²⁷ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0140).

³²⁸ *Id.* (Exhibit 2 at 15-6530_0140-0141).

³²⁹ CVR Refining, LP, <http://www.cvrenergy.com/CVRRefining/index.html> (last visited Dec. 16, 2015).

³³⁰ Email between John R. Walter, Senior Vice President, General Counsel and Secretary, CVR Energy, Inc. and Helen Eisner, Investigative Counsel, Aug. 24, 2015.

³³¹ *See supra* note 44, CVR Refining LP, I.R.S. Schedule K-1 Form (Partners Alan Grayson & Lolita Grayson Ten Com) (2013). This interest was fully reported on Representative Grayson’s 2013 annual financial disclosure statement, as was the purchase. Representative Grayson 2013 Annual Financial Disclosure Statement, filed Aug. 13, 2014, at 2, 9.

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206. The OCE found that subsidiaries of CVR Refining LP held and enjoyed agreements with the federal government. For example, one subsidiary of CVR Refining LP holds contracts to provide jet fuel to Defense Logistics Agency, a sub-agency of the Department of Defense.³³³ The OCE also found examples of contracts between CVR Refining LP and federal agencies related to compliance measures. For example, one subsidiary holds consent decrees with the United States Environmental Protection Agency related to alleged violations at a petroleum refinery and corrective action.³³⁴ Another subsidiary holds a settlement agreement with the Environmental Protection Agency related to the release of contaminants and corrective measures to prevent, mitigate, and remediate the release of hazardous waste.³³⁵ The OCE also found that a CVR Refining LP subsidiary holds a stipulation and settlement agreement with the U.S. Department of Labor regarding abatement procedures and action to be undertaken related to potential health hazards and violations found during an inspection by the Occupational Safety and Health Review Commission.³³⁶ Additionally, CVR Refining LP's subsidiaries held some non-competitive licenses and registrations granted by federal agencies.³³⁷ Representative Grayson told the OCE that he did not have any agreements with CVR Refining LP related to his partnership interest distribution, and therefore his partnership distribution incorporated any profits contingent on these agreements.³³⁸
207. Northern Tier Energy LP ("Northern Tier") "is an independent downstream energy limited partnership with refining, retail and logistics operations"³³⁹ The number of limited partners in Northern Tier "fluctuated from a low of approximately 18,000 when Northern Tier went public in 2012 to a high of approximately 100,000 in 2013."³⁴⁰ According to

³³² See *supra* note 44, CVR Refining LP, I.R.S. Schedule K-1 Form, Ownership Schedule (Partners Alan Grayson & Lolita Grayson Ten Com) (2014). The sale is accounted for on Representative Grayson's 2014 annual financial disclosure report and periodic transaction reports. Representative Grayson 2014 Annual Financial Disclosure Statement, filed Aug. 13, 2015, at 2, 8; Representative Grayson Periodic Transaction Report, filed Feb. 11, 2014, at 1.

³³³ Wynnewood Energy Company, LLC, Solicitation/Contract/Order for Commercial Items issued by Defense Logistics Agency Energy, Sept. 20, 2012 (Exhibit 58 at 15-6530_0810-0813); Wynnewood Energy Company, Solicitation/Contract/Order for Commercial Items issued by Defense Logistics Agency Energy, Dec. 10, 2013 (Exhibit 59 at 15-6530_0815-0817).

³³⁴ Consent Decree, *United States v. Coffeyville Resources Refining & Marketing*, No. 11-CV-1291-JTM-JPO (March 25, 2013); Second Consent Decree, *United States v. Coffeyville Resources Refining & Marketing, LLC*, No. 04-CV-1064-MLB (March 6, 2012).

³³⁵ Administrative Order on Consent, U.S. Environmental Protection Agency, *In re Farmland Industries, Inc*, RCRA No. VII-95-H-011 (Jan. 19, 1996).

³³⁶ Stipulation and Settlement Agreement, Occupational Safety and Health Review Commission, *Department of Labor v. Coffeyville Resources Refining & Marketing, LLC*, OSHRC No. 15-0323 (June 22, 2015).

³³⁷ See, e.g. Letter from John R. Walter, Senior Vice President, General Counsel and Secretary, CVR Refining LP to Helen Eisner, Investigative Counsel, Sept. 16, 2015 (Exhibit 60 at 15-6530_0821); Email between John R. Walter, Senior Vice President, General Counsel and Secretary, CVR Energy, Inc. and Paul Solis, Deputy Chief Counsel, Nov. 19, 2015.

³³⁸ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0141).

³³⁹ Northern Tier Energy LP, <http://investors.ntenergy.com/phoenix.zhtml?c=251295&p=irol-IRHome> (last visited Dec. 16, 2015).

³⁴⁰ Letter from J. Scott Childs, Procurement Counsel, Northern Tier Energy LP to Deputy Chief Counsel, Paul Solis, Oct. 15, 2015 (Exhibit 61 at 15-6530_0823).

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Northern Tier's most recent annual Form 10-K filing, the company's operations are conducted through operating subsidiaries.³⁴¹

208. The OCE found that the agreements held between Northern Tier and its subsidiaries and the federal government primarily consisted of non-competitive licenses, permits, and certifications.³⁴²
209. According to a 2013 Schedule K-1 Form for Representative Grayson and Lolita Grayson as tenants in common in Northern Tier, Representative Grayson contributed \$957,892 in capital to the partnership in September 2013, and received \$27,178 in distributions in 2013.³⁴³ Representative Grayson's 2014 annual financial disclosure report and periodic transaction reports indicate that his interest in Northern Tier was sold on July 2, 2014.³⁴⁴ Representative Grayson told the OCE that he did not have any agreements with Northern Tier related to his partnership interest distribution, and therefore his partnership distribution incorporated any profits contingent on these licenses, permits, and certifications.³⁴⁵
210. Natural Resources Partners L.P. ("Natural Resources") is a "natural resource company that owns interests in oil and gas, coal, aggregates and industrial materials across the United States."³⁴⁶ The operations of the partnership are conducted through wholly owned operating companies and subsidiaries.³⁴⁷ According to Natural Resources' Vice President and General Counsel, limited partners, excluding employees of or members of the partnership's management team, do not play a role in obtaining licenses or permits for the partnership or conducting business activities of the partnership.³⁴⁸ As of February 2015, Natural Resources had "approximately 43,400 beneficial and registered holders of common units representing limited partner interests in NRP."³⁴⁹
211. Representative Grayson contributed \$1,054,410 in capital to Natural Resources in July and September 2013, which was fully reported in his 2013 annual financial disclosure statement.³⁵⁰ On July 2, 2014, Representative Grayson sold his interest in Natural

³⁴¹ Northern Tier Energy, LP Securities and Exchange Commission Form 10-K at Part I, 1 (2014).

³⁴² Email from J. Scott Childs, Procurement Counsel, Northern Tier Energy LP to Deputy Chief Counsel, Paul Solis, Oct. 28, 2015.

³⁴³ See *supra* note 44, Northern Tier Energy LP, I.R.S. Schedule K-1 Forms (Partners Alan Grayson & Lolita Grayson Ten Com) (2013). This interest was fully reported on Representative Grayson's 2013 annual financial disclosure statement, as was the purchase. Representative Grayson 2013 Annual Financial Disclosure Statement, filed Aug. 13, 2014, at 3, 12.

³⁴⁴ Representative Grayson 2014 Annual Financial Disclosure Statement, filed Aug. 13, 2015, at 3, 10; Representative Grayson Periodic Transaction Report, filed July 30, 2014, at 3.

³⁴⁵ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0141).

³⁴⁶ Natural Resources Partners L.P., <http://nrplp.com/> (last visited Dec. 16, 2015).

³⁴⁷ Natural Resource Partners L.P. Securities and Exchange Commission Form 10-K at Part I, 2 (2014).

³⁴⁸ Email from Kathryn Wilson, Vice President & General Counsel, Natural Resource Partners, L.P. to Deputy Chief Counsel, Paul Solis, Oct. 20, 2015.

³⁴⁹ Letter from Kathryn Wilson, President & General Counsel, Natural Resource Partners, L.P. to Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Oct. 12, 2015. (Exhibit 62 at 15-6530_0828).

³⁵⁰ See *supra* note 44, Natural Resource Partners LP, I.R.S. Schedule K-1 Forms (Partner Alan Grayson Lolita Grayson Ten Com) (2013); Representative Grayson 2013 Annual Financial Disclosure Statement, filed Aug. 13, 2014, at 3, 11-12.

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Resources.³⁵¹ Representative Grayson told the OCE that he did not have any agreements with Natural Resources related to his partnership interest distribution, and therefore his partnership distribution incorporated any profits contingent on these agreements.³⁵²

212. The OCE found that subsidiaries of Natural Resources held agreements with the federal government. One of Natural Resources' subsidiaries, WPP LLC, leased land to the United States Postal Service for use as a post office.³⁵³ The OCE also found that subsidiaries of Natural Resources held multiple oil and gas leases with the federal government.³⁵⁴ In October 2014, Natural Resources acquired VantaCore Partners LLC, a company that holds, directly and through its subsidiaries numerous licenses, permits, and contracts with the federal government.³⁵⁵ Natural Resources' acquisition of these agreements occurred after Representative Grayson sold his limited partnership interest in the partnership.
213. In many cases, the OCE found that agreements or contracts between the federal government, and CVR Refining LP, Northern Tier, and Natural Resources were held through subsidiaries. In its guidance regarding 18 U.S.C. § 431, the Committee on Ethics cited to authority that concluded that a Member of Congress is prohibited from having a beneficial interest in a trust, if the trust has an ownership interest in a limited partnership that holds leases with the federal government.³⁵⁶ As such, the statute appears to be equally applicable when agreements with the federal government are held through subsidiaries, rather than directly with the CVR Refining LP, Northern Tier, and Natural Resources. Moreover, the statutory language specifically references contracts and agreements that are held "indirectly."³⁵⁷
214. According to the same authority cited by the Committee, the exception to 18 U.S.C. § 431 when a contract is held with "an incorporated company for the general benefit of such corporation" does not extend to contracts held through limited partnerships.³⁵⁸ Notwithstanding the fact that an interest in a limited partnership may be functionally equivalent to stock ownership, the Board is obliged to apply the statute to contracts held through limited partnerships even when there are a large number of limited partner interests resembling corporate stock.

³⁵¹ This sale is accounted for on Representative Grayson's 2014 annual financial disclosure statement and periodic transaction reports. Representative Grayson 2014 Annual Financial Disclosure Statement, filed Aug. 13, 2015, at 3, 9; Representative Grayson Periodic Transaction Report, filed July 30, 2014, at 1.

³⁵² Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0141).

³⁵³ WPP LLC, Certificate of Transfer of Title to Leased Property and Lease Assignment and Assumption, July 23, 2009 (Exhibit 63 at 15-630_0832).

³⁵⁴ Letter from Kathryn Wilson, President & General Counsel, Natural Resource Partners, L.P. to Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Oct. 12, 2015 (Exhibit 62 at 15-6530_0828-0829); Natural Resources Partners L.P., Federal Oil and Gas Leases List (Exhibit 64 at 15-6530_0834-0837).

³⁵⁵ Letter from Kathryn Wilson, President & General Counsel, Natural Resource Partners, L.P. to Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Oct. 12, 2015 (Exhibit 62 at 15-6530_0829).

³⁵⁶ 22 Op. O.L.C. 33 (Feb. 17, 1998). The Office of Legal Counsel opinion explains that the remoteness of ownership does not create an exception, stating, "[t]he statute makes no exception for minor interests. It expressly encompasses the 'indirect[]' holding, 'in whole or in part,' of Government contracts by Members of Congress." *Id.* (citing 18 U.S.C. § 431).

³⁵⁷ 18 U.S.C. § 431.

³⁵⁸ 18 U.S.C. § 433; 22 Op. O.L.C. 33, 37-38 (Feb. 17, 1998).

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215. For the foregoing reasons, the OCE Board finds that as result of his interest in three limited partnerships that held agreements, through their subsidiaries, with the federal government, there is substantial reason to believe that Representative Grayson may have held or enjoyed a contract with the federal government in violation of federal law.

VIII. REPRESENTATIVE GRAYSON MAY HAVE USED OFFICIAL RESOURCES FOR CAMPAIGN PURPOSES

A. Applicable Law, Rules, and Standards of Conduct

216. 31 U.S.C. § 1301(a)

“Appropriations shall be applied only to the objects for which the appropriations were made”

217. 18 U.S.C. § 641

“Whoever . . . knowingly converts to his use or the use of another . . . money, or thing of value of the United States . . . [s]hall be fined under this title or imprisoned”

218. House Ethics Manual

*The House Ethics Manual instructs that, “official resources of the House must, as a general rule, be used for the performance of official business of the House, and hence those resources may **not** be used for campaign or political purposes. . . . The misuse of the funds and other resources that the House of Representatives entrusts to Members for the conduct of official House business is a very serious matter. . . . each Member should be aware that he or she may be held responsible for any improper use of resources that occurs in the Member’s office. . . .”³⁵⁹*

*The House Ethics Manual also explains, “[a]mong the specific activities that clearly may **not** be undertaken in a congressional office or using House resources (including official staff time) are . . . the drafting of campaign speeches, statements, press release or literature”³⁶⁰ Further, “House buildings, and House rooms and office . . . are supported with official funds and hence are considered official resources. Accordingly, as a general rule, they may not be used for the conduct of campaign or political activities. Thus, for example, a Member may not film a campaign commercial or have campaign photos taken in a congressional office.”³⁶¹*

*Discussing the limited campaign-related activities that may take place in a congressional office, the House Ethics Manual explains that, “[t]he press secretary in the congressional office may answer occasional questions on political matters, and may also respond to such questions that are **merely incidental** to an interview focused on the Member’s official activities.”³⁶² Further, “[e]ven though a cellphone or BlackBerry is paid for with campaign funds, it may **not** be used to*

³⁵⁹ House Ethics Manual at 123-24 (emphasis in original).

³⁶⁰ *Id.* at 124 (emphasis in original).

³⁶¹ *Id.* at 127.

³⁶² *Id.* at 133 (emphasis added).

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*make or answer campaign-related calls, or to send or respond to e-mails on campaign matters,
while the user is in a House room or office*³⁶³

**B. Representative Grayson Participated in Campaign-Focused Interviews from his
Congressional Office Using Campaign-Funded Equipment**

219. In this review, the OCE found evidence that Representative Grayson may have participated in multiple media interviews primarily focused on his Senate campaign from his congressional office using official resources. The OCE also found that Representative Grayson may have used a campaign computer and been staffed by an employee of his Senate campaign, while conducting such interviews from his official office.

i. July 9, 2015 Press Interviews

220. On the morning that he announced his Senate candidacy, July 9, 2015, Representative Grayson appeared in a 15-minute HuffPost Live video interview titled “Rep. Alan Grayson Announces Senate Bid” that was filmed in his congressional office in Washington, DC.³⁶⁴

221. The day prior to the interview, July 8, 2015, a reporter from the Huffington Post reached out via email to Representative Grayson’s congressional Press Secretary, David Damron, and asked “can he join us on HuffPost Live tomorrow after the big announcement.”³⁶⁵ The email from the Huffington Post reporter was subsequently forwarded by the Press Secretary to Representative Grayson’s Communications Director in the congressional office and Kevin Franck, a Senior Advisor to Alan Grayson for Senate (the “Campaign Senior Advisor”).³⁶⁶ Representative Grayson’s Communication’s Director described the Campaign Senior Advisor as the campaign’s “communications guy.”³⁶⁷ The congressional Press Secretary indicated in his email that the interview could be “worth some studio time.”³⁶⁸

³⁶³ *Id.* at 178 (emphasis in original).

³⁶⁴ See HUFFPOST LIVE, “Rep. Alan Grayson Announces Senate Bid,” aired July 9, 2015, available at <http://live.huffingtonpost.com/r/segment/alan-grayson-running-for-senate/559bdab12b8c2ae808000041> (the “HuffPost Live Senate Bid Interview”).

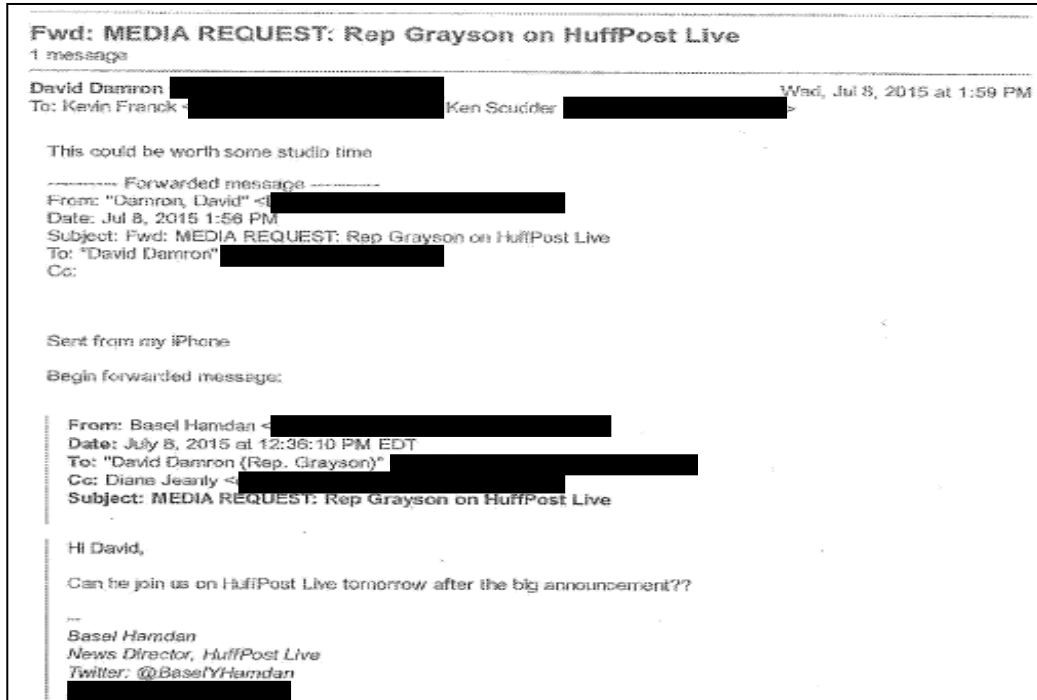
³⁶⁵ Email from David Damron to Kevin Franck and Representative Grayson’s Communications Director, July 8, 2015 (Exhibit 65 at 15-6530_0839).

³⁶⁶ *Id.*

³⁶⁷ Transcript of Interview of Representative Grayson’s Communications Director, Oct. 15, 2015 (“Transcript of Representative Grayson’s Communications Director”) (Exhibit 66 at 15-6530_0842).

³⁶⁸ Email from David Damron to Kevin Franck and Representative Grayson’s Communications Director, July 8, 2015 (Exhibit 65 at 15-6530_0839).

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222. According to Representative Grayson’s Communications Director, the Senate campaign had arranged for access to a studio that morning that was not located in the Capitol complex.³⁶⁹ Representative Grayson’s Communications Director explained that he did not consider the Huffington Post interview to be an “official interview” and that the congressional Press Secretary had sent the email to the campaign so that they could take over the logistics of planning the interview.³⁷⁰
223. During the afternoon of July 8, 2015, the Campaign Senior Advisor corresponded with the Huffington Post about using a webcam to conduct the interview and on the morning of July 9, 2015 asked Representative Grayson’s Communications Director whether he could help perform a computer check for the interview.³⁷¹
224. On the morning of July 9, 2015, Representative Grayson’s Communications Director performed the computer check using Representative Grayson’s personal campaign computer that was purchased using campaign funds.³⁷² Representative Grayson’s Communications Director explained that the campaign computer was the only computer that could have been used in Representative Grayson’s office to conduct the interview.³⁷³
225. Representative Grayson told the OCE that the campaign computer was used for the HuffPost Live interview because “it seemed appropriate to do it that way. I’m not sure we

³⁶⁹ Transcript of Representative Grayson’s Communications Director (Exhibit 66 at 15-6530_0846-0847).

³⁷⁰ *Id.* (Exhibit 66 at 15-6530_0847, 0855).

³⁷¹ Email from Kevin Franck to Representative Grayson’s Communications Director, July 9, 2015 (Exhibit 67 at 15-6530_0887).

³⁷² Transcript of Representative Grayson’s Communications Director (Exhibit 66 at 15-6530_0851-0852); Committee to Elect Alan Grayson, F.E.C. Form 3, Report of Receipts and Disbursements, Apr. 15, 2015 (Exhibit 68 at 15-6530_0894).

³⁷³ Transcript of Representative Grayson’s Communications Director (Exhibit 66 at 15-6530_0852).

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had other options. I don't know what other computers might have been available that have webcams in them. It happens that the computer that's owned by the campaign has a webcam in it."³⁷⁴ Representative Grayson told the OCE that he was not aware of any rule that would prevent him from carrying a campaign computer into his office and stated that he was aware that there were rules that would prevent him from using his campaign computer in his official office for the solicitation of campaign funds.³⁷⁵ Representative Grayson told the OCE that his understanding of the rules governing the *use* of a campaign computer in the official office would depend on the circumstances.³⁷⁶

226. To prepare the congressional office for the videocast, Representative Grayson's Communication's Director and the Campaign Senior Advisor set up the office background for the interview, including moving flags to be in view of the camera.³⁷⁷ Representative Grayson's Communications Director said that he was not present during the interview because "it was not my interview," alluding to the fact that he viewed the interview as campaign-focused.³⁷⁸ Representative Grayson's Communications Director thought that the Campaign Senior Advisor was present in the room during the interview.³⁷⁹
227. Representative Grayson told the OCE that he did not remember who was present during the interview.³⁸⁰ When asked if the Campaign Senior Advisor was present he said "I don't remember that. I tend to think that was not true, but I can't be certain."³⁸¹ When asked whether he had ever seen the Campaign Senior Advisor in his congressional office, Representative Grayson said "It's possible. I can't remember, as I sit here, whether that's happened or not, but it is possible that he's been in the Congressional office."³⁸²
228. The HuffPost Live reporter opened the video interview by stating, "joining us now to discuss his Senate bid and more is Congressman Alan Grayson."³⁸³ The interviewer asked Representative Grayson about why he wanted to run for Senate and the congressional landscape he would face as a Senator.³⁸⁴ Representative Grayson discussed his donor-base and the number of phone calls that had been made in support of his candidacy.³⁸⁵ Representative Grayson also spent a significant amount of time comparing himself to one of his opponents in the Florida Democratic Senate primary, and discussing polling regarding his candidacy.³⁸⁶
229. At the beginning of the interview, Representative Grayson's congressional office is visible in the background with an American flag and the flag of the state of Florida in the

³⁷⁴ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0142-0143).

³⁷⁵ *Id.* at (Exhibit 2 at 15-6530_0144-0145).

³⁷⁶ *Id.* at (Exhibit 2 at 15-6530_0145).

³⁷⁷ Transcript of Representative Grayson's Communications Director (Exhibit 66 at 15-6530_0854-0856).

³⁷⁸ *Id.* (Exhibit 66 at 15-6530_0856).

³⁷⁹ *Id.*

³⁸⁰ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0142).

³⁸¹ *Id.*

³⁸² *Id.*

³⁸³ HuffPost Live Senate Bid Interview.

³⁸⁴ *Id.*

³⁸⁵ *Id.*

³⁸⁶ *Id.*

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picture.³⁸⁷ The video interview was broadcast from the congressional office using the Google Hangout application and was filmed with a webcam on Representative Grayson's personal campaign computer.³⁸⁸

230. According to Representative Grayson's Communications Director, Representative Grayson participated in additional phone interviews about his Senate campaign from his congressional office on the same morning of the HuffPost Live interview.³⁸⁹

Representative Grayson's Communications Director said that the Campaign Senior Advisor was also in the room for those interviews.³⁹⁰ When asked about these additional campaign interviews, Representative Grayson told the OCE "I know that we went to studio and conducted some interviews there that day, but I don't remember any others in the office."³⁹¹

231. On July 10, 2015, the day after the HuffPost Live Interview, the Campaign Senior Advisor received an inquiry from a reporter asking for an "explanation" for why Representative Grayson conducted the "his announcement for HuffPost live from his House office."³⁹² The press inquiry produced a significant amount internal discussion between Representative Grayson's congressional and campaign staff about an appropriate response.³⁹³ Initially Representative Grayson's Communications Director said, "[the reporter] asked if ethics violation. I'm 90% sure it's not."³⁹⁴ Representative Grayson's Communications Director eventually acknowledged "rules are pretty clear on it. Should not have happened."³⁹⁵ There was continued internal discussion from the campaign of whether it was possible to identify the congressional office in the video.³⁹⁶

On Fri, Jul 10, 2015 at 4:02 PM, Ken Scudder <[REDACTED]> wrote:
Got no choice - rules are pretty clear on it. Should not have happened. Admit it, take the hit now, and don't fight it for 15 months.

On Fri, Jul 10, 2015 at 4:00 PM, Kevin Franck <[REDACTED]> wrote:
It sounds like you're going to admit we broke the rules, but promise not to do it again.

³⁸⁷ *Id.*

³⁸⁸ *Id.*; Email from Kevin Franck to Representative Grayson's Communications Director, July 9, 2015 (Exhibit 67 at 15-6530_0887).

³⁸⁹ Transcript of Representative Grayson's Communications Director (Exhibit 66 at 15-6530_0876-0877).

³⁹⁰ *Id.* (Exhibit 66 at 15-6530_0876).

³⁹¹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0147).

³⁹² Emails between Kevin Franck, Doug Dodson, and Representative Grayson's Communications Director, July 10, 2015 (Exhibit 69 at 15-6530_0898).

³⁹³ *Id.* (Exhibit 69 at 15-6530_0897).

³⁹⁴ *Id.* (Exhibit 69 at 15-6530_0897).

³⁹⁵ Emails between Representative Grayson's Communications Director and Kevin Franck, July 10, 2015 (Exhibit 70 at 15-6530_0901).

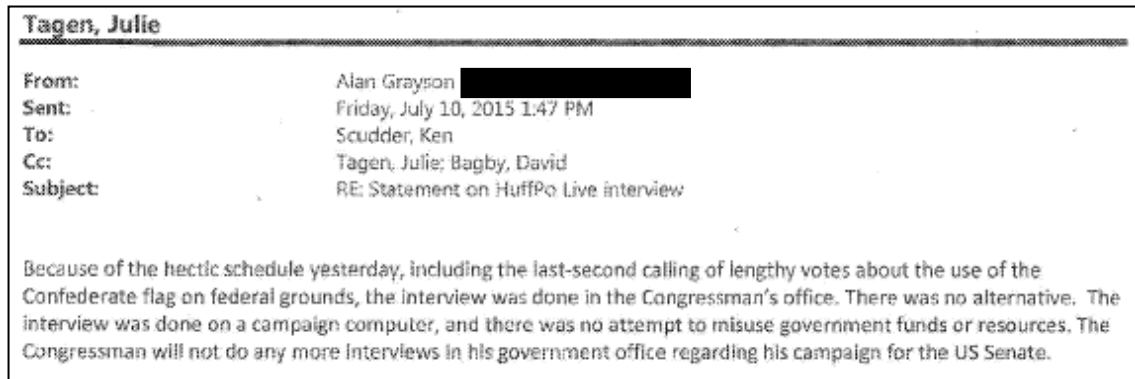
³⁹⁶ *Id.*

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232. Representative Grayson's Communication's Director sent a response to the reporter, that was edited and approved by Representative Grayson, with the following language:

Because of the hectic schedule yesterday, including the last-second calling of lengthy votes about the use of the Confederate flag on federal grounds, the interview was done in the Congressman's office. There was no alternative. The interview was done on a campaign computer, and there was no attempt to misuse government funds or resources. The Congressman will not do any more interviews in his government office regarding his campaign for the US Senate.³⁹⁷

233. As shown in the email below, before the statement was provided to the reporter, Representative Grayson edited the statement to include the phrase: "There was no alternative."³⁹⁸



234. When the OCE asked him about the addition of this statement, Representative Grayson explained:

That was my feeling, that the interview simply would not have happened given the schedule that day, unless we were able to do it at that time, in the way that we did. . . . I did feel that that was correct, that there was no alternative if we were going to do the interview at all. There was just no other way to practically accomplish that. That was definitely how I felt.³⁹⁹

235. Representative Grayson's Communication's Director also explained that it was a hectic day with votes and that "it would have been almost impossible to get him to an offsite location, do the interview when it was scheduled and back in time to make those votes. These are important issues for him to vote on."⁴⁰⁰

³⁹⁷ Email between Representative Grayson's Communications Director and Fox News Reporter, July 10, 2015 (Exhibit 71 at 15-6530_0906).

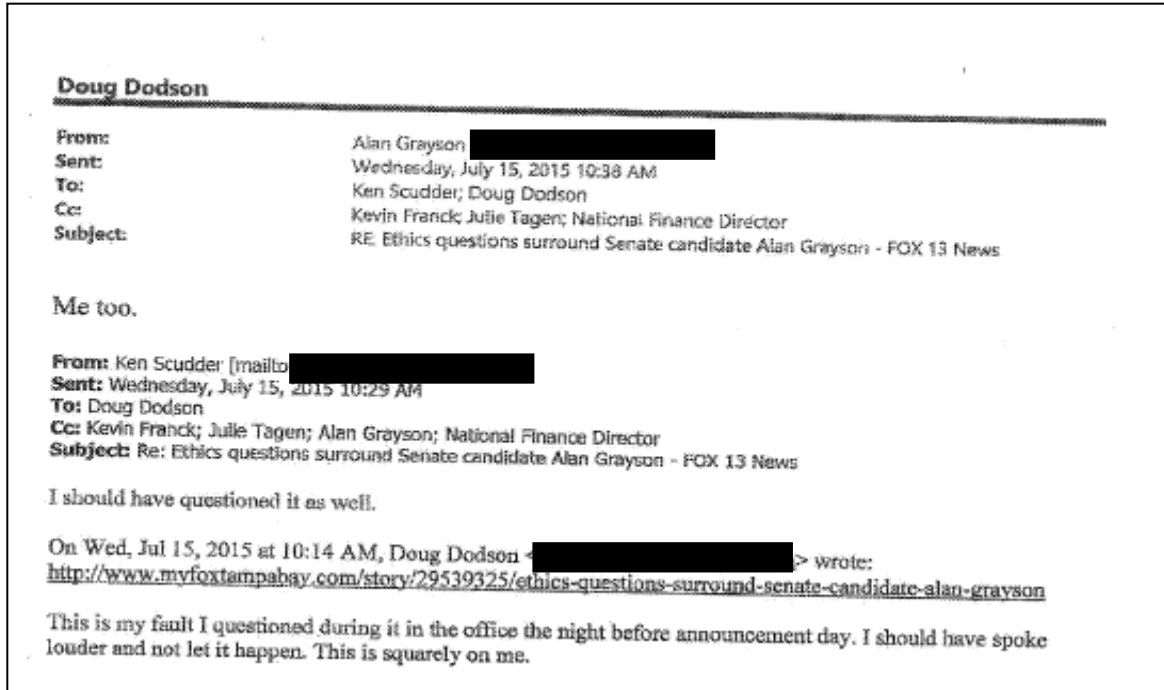
³⁹⁸ Emails between Representative Grayson and Representative Grayson's Communication's Director, July 10, 2015 (Exhibit 72 at 15-6530_0908).

³⁹⁹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0147).

⁴⁰⁰ Transcript of Representative Grayson's Communications Director (Exhibit 66 at 15-6530_0865).

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236. On July 15, 2015, Representative Grayson, Representative Grayson’s Communications Director, Campaign Manager Doug Dodson, the Campaign Senior Advisor, and Chief-of-Staff Julie Tagen exchanged emails about the press inquiries related to the HuffPost Live interview. Representative Grayson’s Communications Director and Campaign Manager indicated they should have questioned the interview.⁴⁰¹ Representative Grayson responded to the email chain saying, “Me too.”⁴⁰²



237. Representative Grayson told the OCE that when he responded “Me too” he was trying to console his employee and provide emotional support.⁴⁰³ Representative Grayson told the OCE, “I certainly did not agree that it was my fault, in any sense. I’m not responsible for making these kinds of judgments.”⁴⁰⁴

ii. September 25, 2015 Press Interview

238. On September 25, 2015 – two months after the HuffPost Live interview—Representative Grayson participated in an interview with the Nicole Sandler Show, a talk radio program.⁴⁰⁵ The Nicole Sandler Show is broadcast online and on multiple radio networks across the country.⁴⁰⁶

⁴⁰¹ Emails between Representative Grayson, Representative Grayson’s Communications Director, and Doug Dodson, July 15, 2015 (Exhibit 73 at 15-6530_0910).

⁴⁰² *Id.*

⁴⁰³ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0143).

⁴⁰⁴ *Id.* (Exhibit 2 at 15-6530_0144).

⁴⁰⁵ The Nicole Sandler Show, Popes & Tears, <http://radioornot.com/blog/9-25-15-nicole-sandler-show-popes-tears/> (last visited Dec. 17, 2015).

⁴⁰⁶ Nicole Sandler, About Me, <http://nicolesandler.com/> (last visited Dec. 17, 2015).

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239. Representative Grayson spent approximately three fourths of the twenty-one-minute interview discussing his campaign for Senate.⁴⁰⁷ The first six minutes of the interview involved a discussion between Ms. Sandler and Representative Grayson about leadership issues in the House of Representatives.⁴⁰⁸ The next fifteen minutes focused on Representative Grayson's campaign for Senate with a discussion of polling, his primary opponent, and campaign contributions.⁴⁰⁹
240. Towards the end of the interview, Representative Grayson explained "that buzzing that you heard in the background a couple of minutes ago was the notice that votes have started... votes have started here in the House, I have to go do that part of this job."⁴¹⁰
241. In response to a question from the OCE about the location of the interview, Representative Grayson explained, "I think it was conducted in my office, but I can't swear at this point. I don't remember that specifically, but my guess is that it was conducted in the office. It was definitely conducted somewhere in the Capitol complex."⁴¹¹ According to Representative Grayson, the interview was conducted using his personal cell phone.⁴¹²
242. When asked when he first heard about the interview with the Nicole Sandler Show, Representative Grayson told the OCE that Representative Grayson's Communications Director "told me that Nicole wanted to talk about my 'Shut Down the Shutdowns Act.'"⁴¹³ Representative Grayson stated that Representative Grayson's Communications Director told him about the interview approximately a couple hours before it began.⁴¹⁴
243. Representative Grayson repeatedly told the OCE that Representative Grayson's Communications Director spoke directly with Ms. Sandler about the content of the interview, emphasizing that Representative Grayson's Communications Director believed the discussion would focus on congressional issues.⁴¹⁵ However, Representative Grayson's Communications Director told the OCE that he was out of the office celebrating his wedding during the week when the inquiry about the interview came to the office and when the interview with The Nicole Sandler Show occurred.⁴¹⁶ He explained that the congressional Press Secretary was responsible for the logistics of the interview.⁴¹⁷ Representative Grayson's Communications Director did not realize that the interview had taken place in the office until he read about it in a news article.⁴¹⁸

⁴⁰⁷ The Nicole Sandler Show, Popes & Tears, <http://radioornot.com/blog/9-25-15-nicole-sandler-show-popes-tears/> (last visited Dec. 17, 2015).

⁴⁰⁸ *Id.*

⁴⁰⁹ *Id.*

⁴¹⁰ *Id.*

⁴¹¹ Transcript of Rep. Grayson (Exhibit 2 at 15-6530_0148).

⁴¹² *Id.* (Exhibit 2 at 15-6530_0149).

⁴¹³ *Id.*

⁴¹⁴ *Id.* (Exhibit 2 at 15-6530_0148).

⁴¹⁵ *Id.* (Exhibit 2 at 15-6530_0149).

⁴¹⁶ Transcript of Representative Grayson's Communications Director (Exhibit 66 at 15-6530_0871-0872).

⁴¹⁷ *Id.* (Exhibit 66 at 15-6530_0871).

⁴¹⁸ *Id.* (Exhibit 66 at 15-6530_0871-0872). After the OCE interview, Representative Grayson's counsel stated by letter, "Regarding the discussion of the Nicole Sandler interview, please be advised that Rep. Grayson inadvertently

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244. Based on the foregoing information, the OCE Board finds that there is substantial reason to believe that Representative Grayson misused official resources by participating in multiple campaign interviews from his official office or the Capitol complex, in violation of federal law, House rules, and standard of conduct.

IX. INDIVIDUALS WHO REFUSED TO COOPERATE WITH THE OCE REVIEW

Victor Kubli

245. The OCE requested information from Victor Kubli, an officer at Grayson & Kubli, an employee of Grayson Law Center, and the director of Kubli & Associates and the Law Office of Victor Kubli, P.C.⁴¹⁹ As part of this request, the OCE requested records, documents, and communications related to earned or unearned income received by Representative Grayson, concerning Representative Grayson's role in various law firms, and records from law firms run by Mr. Kubli that did not employ Representative Grayson. During a phone call with the OCE on August 13, 2015, Mr. Kubli said that he was committed to providing the OCE with a complete production.⁴²⁰ Mr. Kubli initially provided the OCE with nineteen pages of documents in addition to a two-page email.
246. On September 21, 2015, Mr. Kubli informed the OCE that he had received a call from Representative Grayson regarding the OCE's review, and from that point forward Mr. Kubli did not cooperate with the OCE's review.⁴²¹ The OCE communicated with Representative Grayson's counsel about Representative Grayson's contact with Mr. Kubli and Representative Grayson's counsel made broad claims of privilege regarding materials in Mr. Kubli's possession. The OCE determined that Representative Grayson's claims did not prevent Mr. Kubli from cooperating with the OCE's review.
247. Mr. Kubli never responded to the OCE's further requests regarding these materials, never produced any additional documents that he had told the OCE that he had in his possession, and did not interview with the OCE. Therefore, Mr. Kubli did not cooperate with the OCE's review.

Lolita Carson Grayson

248. Lolita Carson Grayson was Representative Grayson's long-time spouse and their marriage was recently annulled.
249. The OCE sent Ms. Carson Grayson a request for information related to documents, records, and communications regarding Representative Grayson's businesses and finances. The OCE also requested the opportunity to interview Ms. Carson Grayson.

referred to [Representative Grayson's Communications Director] when he meant to refer to David Damron." Letter from Brett Kappel, Counsel to Rep. Grayson, to Helen Eisner, Investigative Counsel, Oct. 28, 2015.

⁴¹⁹ Request for Information to Victor Kubli, from Omar Ashmawy, Staff Director and Chief Counsel, Office of Congressional Ethics, Aug. 4, 2015.

⁴²⁰ Memorandum for Record, OCE Rev. No. 15-6530, prepared by Helen Eisner, Investigative Counsel, August 13, 2015.

⁴²¹ Email from Victor Kubli to Helen Eisner, Investigative Counsel, Sept. 21, 2015 (Exhibit 74 at 15-6530_0912).

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250. Ms. Carson Grayson initially provided the OCE with responsive materials, but declined to provide the entire production of materials in her possession and through her point-of-contact, declined the OCE's request for an interview. She therefore did not cooperate with the OCE's review.

X. CONCLUSION

251. Based on the foregoing information, the Board finds that there is substantial reason to believe that Representative Grayson permitted the use of his name by four entities connected to Representative Grayson's hedge fund and Grayson Consulting, Inc. of Virginia that provided professional services involving a fiduciary responsibility, and received compensation through management fees from the Grayson Fund Management Company, LLC.

252. The Board finds that there is substantial reason to believe that during his congressional service, Representative Grayson maintained a contingent fee interest in legal proceedings in which the United States government had a direct and substantial interest and therefore agreed to receive compensation, for representational services performed by others, while he was a Member of Congress, in proceedings involving the government.

253. The Board finds that there is substantial reason to believe that Representative Grayson omitted required information from his annual financial disclosure statements related to reportable assets, income, agreements, and positions.

254. The Board finds that there is substantial reason to believe that Representative Grayson's congressional staffer used official resources for unofficial purposes, including the use of staff time and resources to perform work for Representative Grayson's hedge fund.

255. The Board finds that there is substantial reason to believe that Representative Grayson held contracts or agreements with the federal government, through his membership in limited partnerships, while serving in Congress.

256. The Board finds that there is substantial reason to believe that Representative Grayson participated in multiple press interviews that focused primarily on his Senate campaign from his official office.

257. Accordingly, the Board recommends that the Committee further review the allegation that Representative Grayson permitted the use of his name and received compensation from entities providing professional services involving a fiduciary relationship, in violation of federal law, House rules, and standards of conduct.

258. The Board recommends that the Committee further review the allegation that Representative Grayson agreed to receive compensation for representational services rendered by another at a time when he was a Member of Congress in at least seven False Claims Act proceedings in which the United States had a direct and substantial interest, in violation of federal law.

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259. The Board recommends that the Committee further review the allegation that Representative Grayson did not report required information in his annual financial disclosure statements in violation of federal law, House rules, and standards of conduct.
260. The Board recommends that the Committee further review the allegation that Representative Grayson permitted the use of official resources to support an outside business in violation of federal law, House rules, and standards of conduct.
261. The Board recommends that the Committee further review the allegation that Representative Grayson held an agreement with the United States government while serving in Congress and as a Member of three limited partnerships, in violation of federal law.
262. The Board recommends that the Committee further review the allegation that Representative Grayson used official resources for campaign purposes by participating in campaign-focused interviews from his official office, in violation of federal law, House rules, and standards of conduct.

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

263. The following witnesses, by declining to interview or provide requested information to the OCE, did not cooperate with the OCE review:
 - a. Victor Kubli
 - b. Lolita Carson Grayson
264. The Board recommends the issuance of subpoenas to Victor Kubli and Lolita Carson Grayson.