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COMMITTEE ON ETHICS



Brian G. Svoboda
PHONE: (202) 434-1654
FAX: (202) 434-1690
EMAIL: BSvoboda@perkinscoie.com

700 Thirteenth Street, N.W., Suite 600
Washington, D.C. 20005-3960
PHONE: 202.654.6200
FAX: 202.654.6211
www.perkinscoie.com

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Daniel A. Schwager, Esq.
Chief Counsel and Staff Director
Committee on Ethics
United States House of Representatives
Washington, DC 20515

Re: Representative Bill Owens

Dear Mr. Schwager:

We write on behalf of Representative Bill Owens in response to the Office of Congressional Ethics' ("OCE") Report and Findings in Review No. 12-8236.

This matter arises from a privately paid, officially connected trip that Representative Owens took to Taiwan. Before he took the trip, the Committee on Ethics reviewed and approved it. At the time Representative Owens took the trip, he had every reason to believe that: (1) the trip had been paid for by a qualified private sponsor; and (2) the trip had been organized by that qualified private sponsor. Immediately after receiving notice of any potential issues concerning this trip, Representative Owens, on his own initiative, reimbursed the qualified private sponsor for the full value of the trip. When later contacted by OCE, Representative Owens and his staff cooperated fully in all inquiries, and provided a full record of this issue for review.

In this context, there is no basis whatsoever for further action on this matter. The OCE's Report and Findings pile inference on supposition to reach unsupported and unsupportable allegations.

First, the Report and Findings suggest that Representative Owens accepted payment of travel expenses from an impermissible source. Even on a review of the language in the Findings itself, this allegation is simply unsupported. The OCE draws inferences from tidbits in emails to allege that the Government of Taiwan may have initially paid certain expenses that "may have been reimbursed" by the Chinese Culture University, the qualified private sponsor. The OCE also declares itself judge and jury by citing two fragments of documents to claim that Representative

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Owens and his staff should have known that the Government of Taiwan may have initially paid these expenses, while ignoring credible and uncontroverted evidence that they did not. When read in the context of the report, this allegation is baseless speculation and certainly should not form the basis of any further proceedings.

Second, the Report and Findings suggest that reimbursement of travel expenses was improper because certain agents for a foreign government may have participated in the planning of the trip. On this score, the Report and Findings ignore that at the time the trip was planned and taken, the educational institution had paid for and participated in the trip and made clear it was the host. Representative Owens had every reason to believe at the time that this complied with the Rules. In fact, while the OCE now contends that lobbyist involvement made the trip prohibited, the Committee's pre-approval form indicated otherwise. At bottom, this is an area governed by vague and inconsistently interpreted rules, and Representative Owens and his staff clearly acted in good faith with respect to these issues. Thus, while the OCE invents a wall of separation between foreign private sponsors and their governments, no such wall exists.

Third, even if Park Strategies' or the Government of Taiwan's involvement was problematic, the House Ethics Manual provides that "[w]hen a Member, officer, or employee receives a gift that is not acceptable under the gift rule, and for which a gift rule waiver is not available, there are generally two options: pay the donor the 'market value' of the gift, or return the gift to the donor."¹ That is exactly what Representative Owens did here. Indeed, before any referral to OCE or this Committee, Representative Owens voluntarily repaid the University for the full cost of the travel. In the past, where the Committee has found that a Member inadvertently accepted an impermissible gift, the result has been what Representative Owens has already done voluntarily.

Finally, it bears emphasis that the Report and the Findings violate the OCE's own rules. The OCE responded to Representative Owens' good faith, cooperation, and remedial action by recommending still more investigation, failing to disclose one of the two allegations altogether, and stating a conclusion about their validity that is expressly prohibited by House and OCE rules. Moreover, the OCE bases its recommendation largely on the fact that other parties did not cooperate with the investigation, wrongly imputing this lack of cooperation to Representative Owens. The suggestion that Representative Owens somehow should be held responsible for non-responses by independent institutions like Park Strategies or the Chinese Culture University should raise red flags for the entire Committee on Ethics.

As discussed below, the Report and Findings include a number of prohibited conclusions and inferences, demonstrating that they are simply not a credible basis on which to conduct further

¹ House Ethics Manual (2008) at 73.

proceedings. Accordingly, and for the reasons discussed below, the Committee on Ethics should dismiss this matter.

FACTUAL BACKGROUND

Representative Owens and his wife traveled to Taiwan from December 27, 2011 to January 1, 2012, at the invitation of the Chinese Culture University, one of Taiwan's largest universities. At that time, Representative Owens had a particular interest in Taiwan, because of the job creation potential for his region. He was working to attract the Taiwan Semiconductor Manufacturing Co. ("TSMC"), one of the world's largest contract chipmakers, to come to Marcy, New York, and open a factory there, which would create jobs for his nearby constituents.²

That Representative Owens might go to Taiwan was first suggested in July 2011, at a meeting between him and a representative of the Taiwanese government, who invited Representative Owens and his family.³ The possibility of a visit was later raised with Representative Owens' staff by Sean King of Park Strategies, which is a lobbying firm that represents Taiwan's de facto embassy, the Taiwan Educational and Cultural Representative Office ("TECRO").⁴

Representative Owens' staff had no reason to question the permissibility of their interactions with Mr. King, a lobbyist, about the possible travel. First, they inquired and understood from Mr. King that the trip would be organized and paid for by the government of Taiwan under the Mutual Educational and Cultural Exchange Act ("MECEA").⁵ Second, they knew that Park Strategies had recently arranged for another Member of the New York delegation to travel to Taiwan, and that the firm was concurrently working with another Member of the delegation on a similar trip.⁶ Third, Park Strategies' emails alerted the staff to the possibility that their

² OCE Exh. 2 ¶ 5 (Memorandum of Interview with Representative Owens) (hereinafter "Owens Interview").

³ Owens Interview ¶ 2.

⁴ OCE Exh. 3 ¶¶ 8-9 (Memorandum of Interview with Senior Legislative Assistant to Representative Owens) (hereinafter "Staff Interview"). OCE refers to Representative Owens' staff throughout by their titles, in an apparent effort to comply with the prohibition on transmitting findings that contain "the names of any cooperative witnesses ..." H. Res. 895, 110th Cong. § 1(c)(2)(C)(i)(D)(ii). But the findings incorporate, and even cross-reference several documents that name these same individuals, allowing for their ready identification. This has been OCE's practice since its inception. But it invades the witnesses' privacy and violates the resolution, which is crafted to protect witness anonymity. Indeed, the resolution directs OCE to transmit "a written report," "its findings," and "any supporting documentation." *Id.* But it provides only for public release of "the written report and findings." *Id.* § 3.

⁵ Staff Interview ¶¶ 13-14.

⁶ *Id.* ¶ 11, 15; *see also* Owens Interview ¶¶ 3-4; OCE Exh. 5 ¶ 13 (Memorandum of Interview with Chief of Staff to Representative Owens) (hereinafter "Chief of Staff Interview").

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interactions would be publicly disclosed under the Foreign Agents Registration Act.⁷

As the possibility of a trip developed in November 2011, Representative Owens' staff consulted with the Committee on Ethics about trip-related issues,⁸ particularly regarding the rules that would affect his wife's travel. The documents show that the staff understood there may be circumstances under which Mrs. Owens might be able to attend, but that the answer would hinge on the particular details of the United States' MECEA agreement with Taiwan.⁹

By letter dated November 29, 2011, the Chinese Culture University invited Representative and Mrs. Owens to Taiwan as its guests.¹⁰ The record shows that Representative Owens and his staff believed that this invitation was in compliance with House ethics rules and that they took the necessary steps to seek and obtain approval for the trip from the Committee on Ethics. The record does not show that Representative Owens' staff knew that their contacts with Park Strategies or TECRO were in any way impermissible, because of the university's decision to sponsor the trip.

A close review of the Committee's Travel Certification Form shows why this was so. Because no lobbyist was paying for the travel, because the Chinese Culture University did not employ or retain lobbyists, and because no lobbyist would be accompanying Representative Owens on the trip, the office did not understand that its earlier and continued contacts with Park Strategies about the trip were in any way problematic.¹¹

2. I represent that the trip will not be financed (in whole or in part) by a federally-registered lobbyist or a registered foreign agent (signify "yes" by checking box):

⁷ See, e.g., OCE Exh. 4; OCE Exh. 6. Indeed, Park Strategies' FARA filings appear to have triggered the news article that resulted in this review. The FARA filings appear to have been the only significant source of documents obtained by OCE in its review, other than those produced by Representative Owens himself.

⁸ The Representative was elected in 2009. While he had traveled recently to Israel, see Owens Interview ¶ 12, his staff's familiarity with the rules governing foreign travel was accordingly limited, and the office had no formal process for scheduling or planning them. See Chief of Staff Interview ¶ 9.

⁹ OCE Exh. 7.

¹⁰ OCE Exh. 1, Doc. No. 12-8236_0010.

¹¹ OCE Exh. 1, Doc. Nos. 12-8236_0004-05.

9. I represent that ~~(check one of the following)~~:
- The sponsor of the trip is an institution of higher education within the meaning of section 101 of the Higher Education Act of 1968; or
 - The sponsor of the trip does not retain or employ a federally registered lobbyist or registered foreign agent; or
 - The trip is for attendance at a one-day event ~~and~~ lobbyist involvement in planning, organizing, requesting, or arranging the trip was ~~de minimis~~ under the Committee's travel regulations.
10. If travel is for participation in a one-day event (i.e., if you checked Question 9(c)), check one of the following:
- One-night's lodging and meals are being offered; or
 - Two-night's lodging and meals are being offered.
- If "b" is checked, explain why the second night is warranted: _____
11. If the trip is not sponsored by an institution of higher education, I represent that a federally-registered lobbyist or foreign agent will not accompany House Members or employees on any segment of the trip (signify "yes" by checking box):

Nor did the Representative or his staff have reason to think that their continued interaction with the Taiwanese government was in any way inappropriate. Indeed, when the Committee on Ethics approved the trip, its December 20, 2011 letter appeared to contemplate such interactions, noting that "the trip may involve meetings with foreign government representatives" and reminding the Member that he would have to disclose gifts received from them under the Foreign Gifts and Decorations Act.¹²

The Chinese Culture University made clear it was the sponsor of the trip. The University hosted a dinner for Representative and Mrs. Owens on their first night in Taipei, and one of its deans attended the dinner held for Representative and Mrs. Owens on their second and final night in Taipei. Moreover, from the OCE's repeated correspondence with the Chinese Culture University, it appears that the University took pride in its sponsorship, and had hosted other similar trips for other U.S. government officials.¹³ (The itinerary for the trip is contained in Representative Owens' filings with the Committee, and is summarized in Addendum A.)

OCE's findings present evidence, unknown to Representative Owens or his staff prior to this review, that the Taiwanese government *may have* paid in the first instance for some of the expenses associated with the trip. It goes further to claim that "Representative Owens and members of his congressional staff had *several indications* that the Taiwan government was paying his travel expenses."¹⁴ By OCE's own reckoning, these "several indications" were, in

¹² OCE Exh. 1, Doc. No. 12-8236_0011. Representative Owens told OCE emphatically during his interview that, had he or his staff learned at any point that the trip was prohibited by the ethics rules, it would have been "game over," and the trip would not have occurred. See Owens Interview ¶ 41.

¹³ OCE Exh. 20-21.

¹⁴ OCE Findings ¶ 30(3) (emphasis added).

fact, only two. The first is a lone paragraph in a four-page memo, saying that the Representative should return his boarding passes to TECRO.¹⁵ Representative Owens told OCE that he did not focus on the instruction, and did not comply with it. The second is one of a flurry of emails sent about the trip to the principal staffer involved, saying that "[t]he price that we will send invoice to TECRO is approximately USD\$8655 + tax \$357.30 = USD\$9011.80."¹⁶ The staffer in question indicated to OCE that he did not take notice of the statement.¹⁷ The OCE's reliance on these two bits of information as evidence that Representative Owens or his staff should have suspected that the Government of Taiwan may have been "paying his travel expenses" is flawed. Even if this information had been focused on, it could simply be read as a request for documentation of the trip. And, it bears emphasis that nothing in the Report and Findings demonstrate that the Government of Taiwan actually paid the expenses in the first instance.

After obtaining Committee pre-approval and submitting the necessary post-travel certification forms, neither Representative Owens nor his staff had any reason to doubt the trip's compliance. However, immediately after Representative Owens became aware of any issues relating to this trip, out of an abundance of caution and to avoid any possible appearance of impropriety, Representative Owens promptly decided to repay the Chinese Culture University for the cost of the trip. He also arranged for his staff to undertake additional ethics training, to avoid any future questions about compliance with the travel rules.¹⁸

DISCUSSION

A. OCE Should Have Dismissed the Matter, Given the Lack of Any Clear Violation, and Representative Owens' Good Faith Remedial Measures

The OCE fails to present a clear violation of any law, rule, or standard of conduct by Representative Owens or his staff. To the contrary, the record showed that, when the Owens office began its interactions with Park Strategies about a potential trip, those interactions were

¹⁵ OCE Exh. 19. An email transmitting the memo indicated that it was part of voluminous briefing materials that were sent with Representative Owens to Taiwan. *See id.* at Doc. No. 12-8326_0104 ("One more thing to print for the Honorable.").

¹⁶ OCE Exh. 13.

¹⁷ Staff Interview ¶ 43.

¹⁸ Owens Interview ¶ 41. *See also* Interview with Post-Star Editorial Board (May 27, 2012), available at http://poststar.com/blogs/all_politics_is_local/owens-staff-to-take-ethics-training-in-light-of-tawain/article_45237508-a843-11e1-940d-0019bb2963f4.html. While staff in Representative Owens's office receive mandatory Committee on Ethics training, the special, additional training he referenced was provided by private counsel. *See* Owens Interview ¶ 41.

unambiguously allowed, insofar as it was understood that the Government of Taiwan would sponsor the trip under MECEA. It shows further that the preapproval forms indicated to Representative Owens and his staff that Park Strategies' involvement did not render the trip impermissible, because the Chinese Culture University did not employ or retain lobbyists, and because no one from Park Strategies had paid for the trip or would accompany Representative Owens. It shows also that the Chinese Culture University was, in fact, the sponsor of the trip – that it paid for the trip, regarded itself as the sponsor, and participated in events on the trip.

Moreover, the record demonstrates nothing but good faith on the part of Representative Owens and his staff. The Report and Findings show that Representative Owens and his staff asked about the legal basis for the trip; knew other trips had been taken or prepared under similar circumstances by other Members; sought advice from the Committee when dealing with complex questions that they lacked the background to answer themselves; truthfully submitted the necessary pre-approval forms; and took prompt remedial action when the trip became a source of controversy. If it turns out that the Taiwanese embassy pre-paid for any trip expenses – something hardly established in the Report – that was certainly not something of which Representative Owens or his staff was aware. They cooperated completely with OCE's review, providing virtually all of the information on which OCE relied in its Report and Findings, and making themselves available for interview.

On these facts, OCE should have recommended dismissal.¹⁹ Even if Park Strategies' or TECRO's involvement had rendered the trip impermissible, the House Ethics Manual provides that "[w]hen a Member, officer, or employee receives a gift that is not acceptable under the gift rule, and for which a gift rule waiver is not available, there are generally two options: pay the donor the 'market value' of the gift, or return the gift to the donor."²⁰ That is exactly what Representative Owens did here, before any review had commenced: he agreed to repay the University for the full cost of the travel. In the past, where the Committee has found that a Member inadvertently accepted an impermissible gift, the result has been exactly what has already occurred here. Instead, OCE would have the Committee on Ethics devote its limited resources to reviewing a matter that, in the ordinary course, even if it were resolved adversely, would culminate in action that has already been taken voluntarily by the Member.

B. OCE's Allegation That Representative Owens Received a Prohibited Gift Is Improper, and Without Any Basis in Law or Fact

¹⁹ The OCE has broad discretion to dismiss a matter when it determines that the violation was *de minimis* in nature. See H. Res. 895, §1(c)(1)(F)(i).

²⁰ House Ethics Manual at 73.

1. OCE lacked authority to make this allegation for the first time in its referral to the Committee on Ethics.

The OCE is authorized to investigate "allegations" that a Member "has violated a law, rule, regulation, or other standard of conduct in effect at the time the conduct occurred and applicable to the subject in the performance of his or her duties or the discharge of his or her responsibilities."²¹ The rules require the Board to initiate a preliminary review of the allegation and notify the Member of the allegation that the Board is investigating.²² The Board may not refer an allegation to the Committee on Ethics unless it has first initiated a preliminary review of the allegation and has notified the Member of the allegation that is investigating.

That did not happen here. On May 24, 2012, the OCE informed Representative Owens that it was initiating a preliminary review of the allegation that the trip had been planned, organized, requested, or arranged by lobbyists. Representative Owens responded to and cooperated with OCE's review of that allegation. On June 25, 2012, the OCE informed Representative Owens that the Board had authorized a second-phase review into that same allegation. Representative Owens continued to cooperate with that same review; at no point was he made aware that the OCE was considering another allegation against him.

The OCE first told Representative Owens that he was facing not one, but two allegations when it sent him its Report and Findings to the Committee. This is a clear violation of both OCE Rule 7, which bars OCE from referring an allegation without first initiating a preliminary review of it, and of OCE Rule 11, which requires OCE to notify the Member at the preliminary review stage of each allegation being considered. These rules are not just technicalities. They provide Members with the ability to confront the charges against them, and ensure that the OCE Board considers the Member's response before it decides whether to refer the allegation to the Committee on Ethics. When that process is short-circuited, the Member loses the opportunity to make his case to the Board why the allegation should not be referred, and the Committee loses the benefit of a fully informed OCE recommendation. The effects of OCE's violation are particularly prejudicial where, as here, the allegation is unsupported by the law and facts.

2. OCE failed to show that the Chinese Culture University was not the true sponsor of the trip.

The OCE report concluded that "[b]ecause Representative Owens' trip was organized, conducted, and initially paid for by the government of Taiwan, the Chinese Culture University was not a

²¹ OCE Rule 1.

²² OCE Rules 7, 11(A).

permissible sponsor of the trip."²³ This conclusion reflects a basic misunderstanding of the travel rules. They do not bar foreign governments from helping to organize or conduct a trip that is sponsored by a private entity in its country. Once the Committee on Ethics determines that a sponsor's role and interest is sufficient, as it did here, there is no further basis for investigation unless it is shown that the sponsor made false or misleading representations to the Committee. There is no such allegation here.

The House Travel Guidelines and Regulations provide that "[e]xpenses may only be accepted from an entity or entities that have a significant role in organizing and conducting a trip, and that also have a clear and defined organizational interest in the purpose of the trip or location being visited."²⁴ The pre-approval forms ask the private sponsor to describe its role and interest in planning the trip, and the Committee on Ethics is tasked with determining whether that role and interest is sufficient. That is what happened here:²⁵

- Question 12 of the form provides that "[p]rivate sponsors must have a direct and immediate relationship to the purpose of the trip or location being visited" and asks the sponsor to "[d]escribe the role of each sponsor in organizing and conducting the trip." The University answered: "The Chinese Culture University is a private academic institution located in Taipei, Taiwan. The University constantly sponsors educational and fact-finding programs for international visitors to travel to Taiwan."
- Question 13 requires the sponsor to list its "organizational interest in the purpose of the trip." The University answered: "The Chinese Culture University aims to promote international cultural exchanges in order for it to thrive in a world increasingly engineered by an irresistible thrust towards globalization."

Based upon these representations, the Committee on Ethics approved the trip in December 2011. In its review, the OCE did not give proper weight to the University's role and interest. The University hosted Representative and Mrs. Owens for a dinner on their first night in Taipei. Such an event would have required substantial preparations by the University, and suggests that the University had input on planning and conducting the trip. The fact that a University dean attended a dinner with Representative and Mrs. Owens on the second night provides more evidence of the University's involvement. The OCE findings gave no weight to these facts, nor to the representations that the University made to the Committee on Ethics regarding its

²³ OCE Findings at 10.

²⁴ http://ethics.house.gov/sites/ethics.house.gov/files/Pink_sheet_travel_regulations_0.pdf.

²⁵ OCE Exh. 1, Doc. Nos. 12-8236_0004-05.

significant institutional interest in the trip.

Instead, the OCE looked at the issue through the wrong side of the lens, finding that the Taiwanese government's role in organizing and conducting the trip made the University an improper sponsor.²⁶ But the travel rules do not work that way. Once the private entity demonstrates to the Committee on Ethics that it has a sufficient role and interest in the trip, as the University did here, it is a permissible sponsor. The rules do not prohibit persons *other than a lobbyist or foreign agent* from playing a role, even a significant one, in helping to organize or conduct a trip sponsored by another party.²⁷ That is particularly true where, as here, the sponsor is a foreign entity with no presence in the United States and the party assisting the sponsor is the host government.

3. An otherwise permissible trip is not illegal because a third party advances costs without the knowledge of the Member or staff.

In finding that Representative Owens accepted travel from an impermissible sponsor, the OCE also pointed to evidence that TECRO *may have* advanced certain travel costs that were reimbursed by the University. Based on a conversation with a "witness with knowledge of Representative Owens' flight arrangements," the OCE concluded that the Taiwan Ministry of Foreign Affairs paid China Airlines in the first instance for the cost of Representative Owens' airfare. Likewise, based on an email exchange with a representative of the Regent Taipei Hotel, the OCE concluded that Representative Owens' room payment was paid in the first instance by the Taiwan Ministry of Foreign Affairs. Both TECRO and the hotel affirmed that the University reimbursed the Taiwan Ministry of Foreign Affairs for all costs.

Even if this finding is correct, it does not follow that Representative Owens accepted travel from an impermissible sponsor. The rules prohibit a sponsor from accepting earmarked contributions from third parties to defray the cost of a trip, and require the sponsor to certify on its Private Sponsor Travel Certification Form that it "has not accepted from any other source funds earmarked directly or indirectly to finance any aspect of the trip."²⁸ But neither the rules, nor the form's instructions, specify whether an advance of funds by a non-sponsor is impermissible, when those funds are subsequently reimbursed by the sponsor.

²⁶ See OCE Findings ¶¶ 25, 27, 28, 29.

²⁷ Had Congress meant to proscribe *all* non-sponsors from playing such a role, it would have replaced the terms "a registered lobbyist or agent of a foreign principal" in Rule XXV(5)(c)(3) with "any person other than the sponsor." That it chose not to do so is significant. The OCE, meanwhile, cites to no law, rule, or regulation barring entities other than lobbyists or foreign agents from helping to plan or conduct a trip.

²⁸ <http://ethics.house.gov/sites/ethics.house.gov/files/Sponsor%20certification%20form%203-2011.pdf>

In a footnote, the OCE suggests that such advances might be impermissible, because House rules prohibit Members from accepting gifts from state governments when the cost is advanced by a lobbyist or consultant for the government.²⁹ But the House's decision to prohibit lobbyists and consultants from advancing the cost of otherwise permissible gifts does not imply that it meant to prohibit *any person* from advancing such costs. For instance, the instructions to the Private Sponsor Travel Certification Form expressly provide that "House Members and staff may not accept travel funded by a federal lobbyist or registered foreign agent, *even when the lobbyist or foreign agent will be reimbursed by a client or employer.*"³⁰ On the other hand, the instructions state that trip sponsors may not accept from any other source funds earmarked directly or indirectly to finance any aspect of the trip, but do not expressly provide that third party advances (to be reimbursed by the sponsor) are impermissible. That omission should be interpreted to mean that the strict prohibition on advances from lobbyists and foreign agents does not apply to other persons. Such a distinction would be consistent with the stricter treatment of lobbyists and registered agents under Rule XXV.

In any event, the record demonstrates nothing but a good faith compliance with the rules by Representative Owens and his staff. The record shows that the Chinese Culture University did, in fact, pay for the trip. The record finally shows that Representative Owens ultimately paid for the trip himself, so that there could be no question as to his personal compliance.

C. OCE Violated Its Rules By Drawing Prohibited Conclusions and Negative Inferences Against Representative Owens

The OCE Resolution prohibits OCE's Findings from containing "any conclusions regarding the validity of the allegations upon which it is based or the guilt or innocence of the individual who is the subject of the review"³¹ Yet in the Findings' Table of Contents, OCE declares, in bold type, all in capital letters: "REPRESENTATIVE OWENS ACCEPTED PAYMENT OF TRAVEL EXPENSES FOR AN OFFICIALLY CONNECTED TRIP TO TAIWAN FROM AN IMPERMISSIBLE SOURCE, RESULTING IN AN IMPERMISSIBLE GIFT, IN VIOLATION OF FEDERAL LAW AND HOUSE RULES." This is an egregious violation of OCE's rules. In another matter, the Committee found OCE to violate the resolution by saying, for example, that a Member had shown "lack of candor" in an interview.³²

²⁹ OCE Findings n. 13.

³⁰ http://ethics.house.gov/sites/ethics.house.gov/files/Instructions_Sponsor_Certification_Form_2008.pdf (emphasis added).

³¹ H. Res. 895 § 1(c)(2)(C)(ii)(II).

³² H. Rep. 111-320, at 35 (2009) (In re Representative Graves).

But this is not the OCE's only violation of its rules. In the past, the OCE has tried to punish other Members for lack of cooperation by drawing an impermissible negative inference against them. Here, with Representative Owens having cooperated completely with its review, the OCE went even further. It drew a series of negative inferences from the non-cooperation of *third party witnesses*, none of whom was in any way under Representative Owens' control. One of these witnesses, the Chinese Culture University, is not only across the globe, but appears actually to have responded to OCE requests for information. It was the supposed insufficiency of its response, not its total non-response, which led the OCE to punish Representative Owens.

And it is Representative Owens who was punished. The OCE has jurisdiction solely over the conduct of Members, officers and employees of the House; it has no authority to refer violations of laws by overseas universities or private lobbyists.³³ To reach a prohibited conclusion about the validity of allegations against Representative Owens, because of the conduct of others, is an extraordinary violation of the OCE Resolution.

CONCLUSION

This matter never should have come before the Committee. Representative Owens' office acted consistently in good faith to engage in Committee-approved, privately paid, officially connected travel. When questions arose about the trip, Representative Owens immediately repaid the Chinese Culture University for the trip and arranged a private legal briefing for his staff.

After the OCE began its review, the Representative cooperated completely. He responded to OCE's requests. He and his staff submitted to interviews. The reasonableness of their conduct should have been evident from the information provided. It shows the steps his office took in advance to ensure that the trip complied with the rules. It also demonstrates nothing but good faith on the part of Representative Owens and his staff. Yet the OCE responded by referring the matter for still more investigation, in repeated violation of its own rules. Even if reimbursement of travel expenses was impermissible, Representative Owens had already repaid the University for the full cost of the travel, before any review had commenced.

The Committee should dismiss the matter. Moreover, it should either withhold altogether the public release of the illegally tendered Report and Findings, or it should couple their release with an authoritative statement that repudiates them.

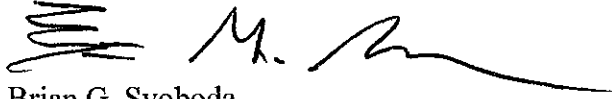
We appreciate the Committee's attention, and we are pleased to assist in a proper termination of this matter.

³³ H. Res. 895 § 1(c)(1)(A).

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Very truly yours,

A handwritten signature in black ink, appearing to read "B. Svoboda", with a long horizontal flourish extending to the right.

Brian G. Svoboda

Jonathan S. Berkon

Counsel to Representative Bill Owens

ADDENDUM A

Itinerary and Details Regarding Representative Owens' Trip to Taiwan

On December 27, 2011, Representative and Mrs. Owens embarked on a twenty-three hour series of flights to Taiwan, arriving late in the evening of December 28.³⁴ The trip involved an aggressive schedule of official activities. Awaking early on the morning of December 29, Representative Owens met with the Taiwanese President and Vice Minister of National Defense. Representative Owens followed that with back-to-back meetings with a Taiwanese legislator and with personnel at the American Chamber of Commerce. Representative Owens then attended a dinner hosted by the Chairman and President of the trip's sponsor, the Chinese Culture University, along with two University deans.³⁵ Following the dinner, Representative Owens took a train from Taipei to Zuoying, arriving late at night. The next morning, he visited a Navy base and then called on the customs office for the CSI/Mega-Port Project. After taking the train back to Taipei, Representative Owens met with the Chief Financial Officer of the Taiwanese Semiconductor Manufacturing Company ("TSMC"), the company that Representative Owens was trying to convince to build a new plant just outside his district. He then went to a dinner hosted by the Taiwanese foreign minister, which was attended by a dean from the Chinese Culture University.³⁶ On the third day, after visits to the National Palace Museum and the Tour Taipei 101 Financial Center and a meeting with the opposition leader, Representative and Mrs. Owens embarked on the journey home, arriving the next day.

³⁴ OCE Exh. 1, Doc. Nos. 12-8236_0012-15.

³⁵ Owens Interview ¶ 29.

³⁶ *Id.*