

House Calendar No. __

116TH CONGRESS

1st Session

}

HOUSE OF REPRESENTATIVES

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REPORT

116-__

IN THE MATTER OF ALLEGATIONS
RELATING TO REPRESENTATIVE
CATHY MCMORRIS RODGERS

R E P O R T
OF THE
COMMITTEE ON ETHICS



December 19, 2019.—Referred to the House Calendar and ordered
to be printed

U.S. GOVERNMENT PUBLISHING OFFICE
WASHINGTON: 2019

XX-XXX

ADOPTED BY THE COMMITTEE ON ETHICS ON DECEMBER 18, 2019

**116TH CONGRESS, 1ST SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO
REPRESENTATIVE CATHY MCMORRIS RODGERS**

DECEMBER 19, 2019

MR. DEUTCH from the Committee on Ethics submitted the following

REPORT

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ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON ETHICS

December 19, 2019

The Honorable Cheryl Johnson
Clerk, House of Representatives
Washington, DC 20515

Dear Ms. Johnson:

Pursuant to clauses 3(a)(2) and 3(b) of Rule XI of the Rules of the House of Representatives, we herewith transmit the attached report, "In the Matter of Allegations Relating to Representative Cathy McMorris Rodgers."

Sincerely,

Theodore E. Deutch
Chairman

Kenny Marchant
Ranking Member

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**116TH CONGRESS, 1ST SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO
REPRESENTATIVE CATHY MCMORRIS RODGERS**

December 19, 2019

Mr. DEUTCH from the Committee on Ethics submitted the following

R E P O R T

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

I. INTRODUCTION

On December 23, 2013, the Office of Congressional Ethics (OCE) transmitted to the Committee a Report and Findings (OCE's Referral) relating to Representative Cathy McMorris Rodgers. OCE reviewed allegations that, from 2010 to 2012, Representative Rodgers paid a consultant for official services with funds from political committees; used official resources, including staff, for campaign activities; and combined official resources and campaign resources in furtherance of her campaign for a House leadership office. OCE found there was substantial reason to believe each of the allegations and recommended the Committee further review the allegations.¹

On March 24, 2014, the Committee announced it would review the matter under Committee Rule 18(a). The Committee conducted a thorough investigation into a more expansive timeframe than OCE, reviewing alleged misconduct from 2008 through the start of the OCE investigation in 2013, and continuing on into 2017.² Such a wide-ranging investigation into more than eight years of activity takes extensive time and consideration.

The Committee's investigation was further prolonged by difficulty obtaining testimony from a central witness—a consultant hired by Representative Rodgers around March 2012 to serve

¹ See Report and Findings of the Office of Congressional Ethics (Review No. 13-0906) (Appendix B).

² Committee Rule 18(d) states that “[a]n inquiry shall not be undertaken regarding any alleged violation that occurred before the third previous Congress unless a majority of the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.” The Committee unanimously voted to make this determination in this matter with respect to violations alleged to have occurred from 2008 to 2012.

as her speech coach (Speech Consultant)—who was the subject of an unrelated criminal prosecution. On July 31, 2014, the Committee received a referral from OCE, unconnected to Representative Rodgers, concerning allegations that another Member may have misused official funds to pay Speech Consultant for work performed for his congressional campaigns.³ That Member did not seek re-election to the House for the 114th Congress, and the Committee subsequently lost jurisdiction over the Member (Former Member) before it could complete its review of the matter. On September 3, 2015, Speech Consultant pled guilty in federal court to making false statements to OCE, in an apparent effort to minimize and conceal his role with the Former Member’s campaigns. On March 23, 2016, the Committee received a separate referral from OCE relating to allegations that the Former Member’s Chief of Staff may have also attempted to obstruct the same investigation, and persuaded or conspired with Speech Consultant to make false statements to OCE.⁴ As the Committee reviewed that OCE referral, the Former Member’s Chief of Staff was federally indicted on April 6, 2016, for alleged misuse of official funds and false statements and omissions in connection with OCE’s investigation. Speech Consultant, who was a key witness against the Former Member’s Chief of Staff, refused to provide the Committee with any testimony in the matter relating to Representative Rodgers until he concluded his role as a witness in the unrelated prosecution. The trial of the Former Member’s Chief of Staff, which ultimately resulted in a conviction, was delayed until 2018; accordingly, Speech Consultant’s own sentencing was not completed until August 29, 2018. As a result, the Committee obtained Speech Consultant’s testimony in this matter just earlier this year.⁵

Over the course of its detailed investigation, the Committee found that many of the allegations involved areas of uncertainty facing the House community, particularly with respect to the extent certain House rules and laws apply to leadership offices. The Committee has therefore sought to use its investigation as an opportunity to provide guidance to the House with respect to those issues and has devoted additional time and resources to carefully consider that guidance.

Based on its review, the Committee found that Representative Rodgers provided inappropriate compensation for consultant services from 2012 to 2017. Representative Rodgers defrayed the cost of official services she received from consultants with either political funds or the consultants’ voluntary provision of services, in violation of House rules and laws prohibiting unofficial office accounts. She also used official funds for consultant services in a manner that would have been contrary to relevant laws and rules restricting expenditures of the Members’ Representational Allowance (MRA); however, the official funds used to compensate her consultants were largely appropriated for use by her House leadership office and were therefore not subject to the same restrictions applicable to the MRA. The Committee found that the restrictions in place to safeguard most congressional funds from misuse are lacking with respect to leadership offices. In order to address some of those gaps, the Committee voted to refer certain allegations to the House Inspector General for review.

³ OCE Review No. 14-2533; *see also* Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Paul Broun (Oct. 29, 2014), *available at* <https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-paul-0>.

⁴ OCE Review No. 15-0034.

⁵ In light of the Speech Consultant’s past dishonesty with OCE, and the resulting concerns with his credibility as a witness, the Committee did not pursue a grant of immunity for Speech Consultant in exchange for his testimony. Nor did the Committee rely solely on any of his testimony, once it was obtained, in making its conclusions in this matter.

The Committee also found that, from at least 2008 through 2013, the congressional offices of Representative Rodgers were governed by sloppy practices, including inconsistent policies and poor record-keeping, which led to the misuse of official resources for campaign or other political purposes. House employees are free to engage in campaign activities *on their own time*, as volunteers or for pay, as long as they do not do so in congressional offices or facilities, or otherwise use official House resources, and are not coerced to do campaign work by their employing Member or senior staff. The Committee found that while Representative Rodgers' staff was not compelled to assist with her campaign, her staff used official resources, including official staff time, congressional office space, and travel funds, for political activities.

With respect to the allegation that Representative Rodgers improperly combined official and campaign resources during her 2012 leadership race, the Committee found Representative Rodgers used official resources in connection with a particular leadership race activity that was also paid for with campaign funds (specifically, distribution of an informational packet to other Members). While Representative Rodgers' staff sought and received guidance on this issue, her staff's conduct was inconsistent with that guidance.

Although the Committee determined that Representative Rodgers likely did not know the full extent of her offices' misuse of resources, the Committee also determined that she *should* have been aware that some of the misuse was occurring. Certain aspects of this misconduct appear to have continued past 2013, after OCE launched its investigation; at that time, Representative Rodgers was clearly on notice regarding the need to exercise greater caution in ensuring her offices' compliance with House rules. Much of the misconduct uncovered during the Committee's investigation was conducted under the supervision of Representative Rodgers' then-Chief of Staff, Jeremy Deutsch. Mr. Deutsch was frequently involved in or otherwise had reason to be aware of the misuse of resources. There is no indication Mr. Deutsch brought the bulk of the misconduct to Representative Rodgers' attention; however, the Committee has long held Members responsible for ensuring their staff follow House rules, laws and other standards of conduct.⁶ Thus, Representative Rodgers is ultimately responsible for the conduct of her staff, including her Chief of Staff. It is the Member's responsibility to ensure that adequate policies are put in place and enforced to prevent her staff from acting contrary to House rules and laws. Representative Rodgers did not meet that responsibility.

The Committee notes that Representative Rodgers has accepted responsibility for the Committee's conclusions and has taken steps to prevent such conduct from happening in the future.⁷ The Committee appreciates the full cooperation and transparency she has shown throughout the investigation.

Given the poor record-keeping in the congresswoman's office, and the diffuse, repeated nature of the misconduct at issue, the Committee is unable to precisely calculate the cost of official resources that were misused under Representative Rodgers' supervision. Based on a conservative analysis of the record, discussed in this Report, the Committee has estimated that, at a minimum, the value of the official resources misused was equal to or greater than \$7,575.95.

⁶ *House Ethics Manual* (2008) (*Ethics Manual*) at 124.

⁷ See Appendix A.

Based on the totality of the misconduct, the Committee unanimously voted to issue this Report, which will serve as a reproof of Representative Rodgers' conduct, and find that Representative Rodgers is required to reimburse the U.S. Treasury \$7,575.95. Upon issuance of this Report and Representative Rodgers' reimbursement of the amount described above, the Committee will consider this matter closed.

II. PROCEDURAL HISTORY

OCE commenced a preliminary review into the allegations involving Representative Rodgers on August 28, 2013, and transmitted its Referral to the Committee on December 23, 2013.

On January 17, 2014, counsel for Representative Rodgers voluntarily submitted a written statement to the Committee responding to OCE's Referral.

The Committee reviewed materials provided by OCE. In addition, the Committee sent voluntary requests for information to Representative Rodgers and two of her consultants. Committee staff received and reviewed additional documents responsive to those requests. The Committee also consulted with the office of the Chief Administrative Officer (CAO). In total, the Committee reviewed over 66,500 pages of materials. The Committee also conducted 30 witness interviews, including a voluntary interview of Representative Rodgers, who fully cooperated with the Committee's investigation.

The Committee's general investigative jurisdiction includes the current and three previous Congresses. Pursuant to House Rule XI, clause 3(b)(3) and Committee Rule 18(d), the Committee may not begin an investigation involving allegations outside that general jurisdiction unless it votes to determine that the allegations occurring prior to the third previous Congress are directly related to alleged violations that occurred within the Committee's general jurisdiction. In this matter, the Committee voted to determine that the older allegations involving Representative Rodgers' improper compensation of consultants and misuse of official resources for campaign or political purposes are directly related to the allegations occurring since the start of the 113th Congress.

Before its final vote on this matter, the Committee provided Representative Rodgers with a draft of this Report and invited her to respond in person or in writing. On December 10, 2019, she submitted a written response noting that, while she disagreed with some of the findings reached by the Committee, she takes responsibility for its ultimate conclusions. The Committee considered all of Representative Rodgers' submissions and statements in resolving the matter. On December 18, 2019, the Committee unanimously voted to adopt this Report, to serve as a reproof of Representative Rodgers.

III. ALLEGATIONS

Representative Rodgers has served as the Representative for the Fifth District of Washington since 2005. She was elected as Chair of the House Republican Conference (Conference) on November 14, 2012, and served in that role in the 113th, 114th and 115th Congresses.

A. ALLEGATIONS RELATING TO CONSULTANT SERVICES

1. *Background*

i. *Stan Shore*

In 2012, Stan Shore became a general consultant to Representative Rodgers’ re-election campaign, and continued to serve in that role each campaign cycle, until at least early 2018.⁸ As general consultant, Mr. Shore provided strategic advice, worked with vendors, assisted with campaign debate preparation and speeches, and supervised campaign staff.⁹ Mr. Shore also provided services to Representative Rodgers’ Leadership PAC and joint fundraising committee from 2012 to 2018. In addition to his political work for Representative Rodgers, Mr. Shore held a variety of roles related to Representative Rodgers’ congressional work. From 2008 to 2015, he served as her direct mail vendor. From December 2012 to June 2013, he also worked as a salaried House employee at the Conference. Mr. Shore also worked on retainer as a consultant for the Conference from 2013 through 2017.¹⁰

Mr. Shore held and was compensated for many of these roles concurrently. The following chart shows the payments that he received from those various offices from 2012 through 2018:

| Payments to Stan Shore from Offices/Organizations Controlled by Representative Rodgers (2012-2018) ¹¹ | | | | | | | |
|--|----------|-------------|-------------|-------------|-----------|----------|----------|
| | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 |
| Rodgers House Office MRA | \$80,233 | \$46,823.24 | \$41,752 | \$10,267.50 | -- | -- | \$5,180 |
| House Republican Conference (Consulting Fees) | -- | \$64,500 | \$52,000 | \$44,000 | \$48,000 | \$48,000 | -- |
| House Republican Conference (Salary) | \$5,833 | \$30,999 | -- | -- | -- | -- | -- |
| Rodgers Campaign Committee | \$78,910 | \$56,130 | \$232,882 | \$56,000 | \$146,764 | \$36,000 | \$5,000 |
| Rodgers Other Political Committees | -- | \$15,000 | \$26,441.72 | \$65,000 | \$57,000 | \$55,000 | \$71,000 |

As Mr. Shore took on responsibilities related to the Conference, he had several discussions regarding the amount and source of his compensation with Mr. Deutsch and discussed ways that a mix of campaign and official sources could be used to pay for his services and expenses.

a. November 2012 to December 2012

After Representative Rodgers was elected Conference Chair, but before she officially assumed the role in January 2013, Mr. Deutsch asked Mr. Shore to assist with the leadership

⁸ 18(a) Interview of Stan Shore.

⁹ 18(a) Interview of Jeremy Deutsch; 18(a) Interview of Stan Shore. *See also* Exhibit 1 (email from Mr. Shore to Mr. Deutsch summarizing Mr. Shore’s work for the Conference in the first quarter of 2013).

¹⁰ 18(a) Interview of Stan Shore.

¹¹ Mr. Shore also provided services to a Member other than Representative Rodgers during this time period, but payments for those services are not included in the chart.

transition.¹² Mr. Shore traveled from his home in Washington State to Washington, D.C. to assist with the transition, spending several weeks working out of the congressional office in November and December 2012.¹³ During this time, Mr. Shore helped hire staff, set the conference budget, and provided strategic and communications advice.¹⁴ He considered himself to be acting in a volunteer capacity during the transition and initially did not expect to be paid.¹⁵ However, he said it later became clear “more professional-level work” was required of him, and he asked to be paid.¹⁶ Although Representative Rodgers did not have access to the Conference budget during the transition period, Mr. Deutsch was able to make arrangements with the outgoing Conference Chair to provide a salary to Mr. Shore, who was added to the payroll for the Conference as a “Senior Advisor” and paid \$5,833 on December 17, 2012.¹⁷

In December 2012, Mr. Shore discussed with Mr. Deutsch how he could continue to help with the Conference in 2013 and be compensated. He told Mr. Deutsch that he believed he could be paid from the “technology budget, or out of the salaried section . . . but let’s come up with a number for the year ahead so I can fly back there and help out without having to be concerned about it.”¹⁸ That same day, Mr. Shore proposed to be paid from the “technology” budget through a contract for communications consulting work, intending to make “regular visits” to D.C.¹⁹ Mr. Shore also told Mr. Deutsch that he would like to be reimbursed for his flight, hotel, and meals from his travel to D.C. in November and December 2012, and suggested those costs be paid from Representative Rodgers’ Leadership PAC or campaign committee.²⁰

During this time, Mr. Shore was actively involved in overseeing the Conference’s broader budget planning. In particular, he worked to establish or renegotiate the Conference’s technology-related vendor relationships that were paid through the “technology” budget, a set of funds allocated to the Conference pursuant to a separate House-wide appropriation for “allowances and expenses,” which Conference personnel also referred to as the “AE1” budget.²¹ The AE1 budget was used to pay Mr. Shore’s consulting firm, Datagraphics LLC (Datagraphics).

¹² 18(a) Interview of Stan Shore.

¹³ Mr. Shore said that, at the time, he paid the expenses associated with that travel out of his own pocket. *Id.* As discussed further, *infra*, he later sought to be reimbursed for those expenses.

¹⁴ *Id.*; 18(a) Interview of Jeremy Deutsch.

¹⁵ 18(a) Interview of Stan Shore.

¹⁶ *Id.*

¹⁷ Exhibit 2; 18(a) Interview of Stan Shore.

¹⁸ Exhibit 2. The “technology budget,” also referred to by Conference staff as the “AE1” budget, is a reference to a House-wide appropriation for “Allowances and Expenses,” which was used by the Conference for certain “technology-related expenses.” *See* Exhibit 3. It is separate from the budget allocations for personnel spending. *Id.*; *see also* 18(a) Interview of Conference Operations Director (explaining there was a “bucket of money” available to leadership offices for technology, separate from the “bucket” available for staff salaries). According to the CAO, these funds could be used to satisfy any non-salary expenses incurred by the Conference office.

¹⁹ Exhibit 4.

²⁰ *Id.* When asked about this request, Mr. Shore told the Committee that the purpose of the travel in November and December 2012 was to work on the “campaign reorganization,” but acknowledged that his travel to assist with the Conference transition was not separate from his travel to assist with the campaign, and that he spent more of his time working on tasks related to the Conference than the campaign. 18(a) Interview of Stan Shore. Mr. Shore also did not believe he ever received reimbursement for his travel in November and December. *Id.*

²¹ 18(a) Interview of Stan Shore. *See also* Exhibit 5.

b. January 2013 to June 2013

When Representative Rodgers took over as Conference Chair in January 2013, Mr. Shore remained on the payroll as a Senior Advisor through June 2013. While a Conference employee, Mr. Shore continued to reside in Washington State, traveling to D.C. approximately half of the time.²² At the same time that he was a salaried Conference employee, Mr. Shore received compensation from the Conference through his firm, Datagraphics.²³

According to a draft contract Mr. Shore prepared, Datagraphics was engaged to provide vendor services to the Conference related to overseeing the development and design of Conference websites and technology.²⁴ However, the draft contract was not signed and Mr. Shore never had a formal contract in place for Datagraphics' work with the Conference.²⁵ It is not clear why the Conference did not execute the contract that Mr. Shore had drafted. However, in a March 2013 email to Mr. Shore, the Conference Operations Director stated:

Just spoke to [a CAO employee]. Your two payments of \$15,000 that he had been holding up will be released tonight. No contract needed. . . . He said if we were a Member office that this would not be allowed, they like them to be protected with the contracts, but that we can be exempt. He still would feel much better if you signed a contract eventually.²⁶

Mr. Shore never did sign a contract. According to Mr. Shore, CAO had suggested a contract would need to be signed because they initially mistakenly believed he was a web service vendor subject to various technical certification requirements, and when CAO realized he was not providing the technical services that web vendors provide, they told him no contract was needed. CAO confirmed to the Committee that there is no general requirement that a contract be provided when payments are disbursed pursuant to a voucher submitted for "contractual services," as occurred with Datagraphics. More stringent requirements are in place for services procured through the CAO-managed acquisitions process, as opposed to vouchered services.

When asked by the Committee to identify what work he did in his capacity as a vendor and what work he did as a Senior Advisor to the Conference, Mr. Shore was unable to answer, explaining that he did not distinguish between those two roles.²⁷ In an email to Mr. Deutsch at the end of March 2013, Mr. Shore summarized his contributions to the Conference during the prior quarter, in which he had been employed dually by the Conference and by Datagraphics.²⁸ In the

²² 18(a) Interview of Stan Shore. Representative Rodgers told the Committee she didn't know whether Mr. Shore was living in Washington, D.C. while he was on the Conference payroll, but stated that he was "in and out" of the Conference office during that time period. 18(a) Interview of Representative Rodgers.

²³ See Exhibit 6.

²⁴ Exhibit 7 (The contract specified that Datagraphics would "[d]evelop new e-communications initiatives with the Conference communications team, [c]reate and update interactive web features and other written and digital content, and [a]ssist the Conference Communications and Internet operations team with related projects.").

²⁵ 18(a) Interview of Stan Shore.

²⁶ Exhibit 8.

²⁷ 18(a) Interview of Stan Shore.

²⁸ Exhibit 1.

email, Mr. Shore recounted that he had assisted the Conference with video production, provided input on the Conference website redesign, wrote speeches and op-eds for the Conference chair, helped organize and attend the Member retreat, and helped hire the Conference communications staff.²⁹ He also noted that he had helped develop the Conference budget, and had renegotiated the Conference's contract with a major vendor, which freed up funds in the AE1 budget.³⁰

In early 2013, Mr. Shore played a significant role in devising the budget allocation for both the personnel and AE1 budgets for the Conference.³¹ He also discussed using the surpluses from the AE1 account "to solve some of the [Conference's] budget and personnel problems."³² His structuring of the Conference budget extended to his own compensation, including the funds he received through Datagraphics.

On January 13, 2013, Mr. Shore emailed Mr. Deutsch, stating, "I want to be perfectly frank with you about the compensation I would like to get," and explained that, for 2013, he would like to receive \$35,000 salary from the Conference, \$66,000 through Datagraphics' contract with the Conference, and \$20,000 from the campaign.³³ He noted, however, that he still had concerns about covering his travel costs:

The only issue I'm having is on the reimbursements . . . not for Nov-Jan, but going forward. I want to feel that I can fly out there every month or whenever you want me to lend a hand, but as you know, the flight and several nights at a hotel cost \$1500 to \$2000. Maybe that can just be built into the contract.³⁴

On January 25, 2013, Mr. Shore emailed Mr. Deutsch again, still seeking to resolve his compensation and noting that "things have shifted a little as we discovered that travel reimbursements are an issue."³⁵ According to Mr. Shore, he was told by the Conference Operations Director that the Conference could not reimburse his official travel.³⁶ The Conference Operations Director told the Committee that the Conference was informed by the Committee on House Administration (CHA) that the travel for commuting expenses from out of state was not reimbursable.³⁷ Mr. Shore proposed a new approach:

1. Conference employee. I would like to continue at current salary through February; then reduce salary to \$1,500 per month. The big payments in January and February serve to reimburse me for the Nov-Jan travel . . .

²⁹ *Id.*

³⁰ *Id.*

³¹ See Exhibit 5; Exhibit 9; Exhibit 10 .

³² Exhibit 5.

³³ Exhibit 11. Mr. Shore also proposed for 2014 he receive \$18,000 salary from the Conference, \$72,000 from his contract with the Conference, and \$20,000 from the campaign, with additional compensation for media buying relating to the campaign. *Id.*

³⁴ *Id.*

³⁵ Exhibit 12.

³⁶ 18(a) Interview of Stan Shore.

³⁷ 18(a) Interview of Conference Operations Director.

2. DATAGRAPHICS contract (attached) This is meant to be the main way I am compensated, with funding through AE1 account. Because of the ‘use it or lose it’ funds in that account ending March 31, I have front-loaded payments of \$30,000 in Feb and March.³⁸

With respect to Mr. Shore’s Conference salary, this proposal was similar to what ended up happening: he received large payments of \$8,833 per month for the first few months, and then his salary was reduced to \$1,500 a month. He received the larger payment amount in March as well as January and February of 2013.³⁹ When asked by the Committee whether the larger payments were intended to reimburse him for travel costs, as proposed by his January 25, 2013 email, Mr. Shore said he was never reimbursed for travel and the larger payments were because he “did more work.”⁴⁰ The Conference Operations Director also told the Committee that she understood the larger payments to Mr. Shore in early 2013 to reflect his larger workload and not travel reimbursements.⁴¹ Representative Rodgers herself had no involvement in discussions about how or whether to reimburse Mr. Shore for his travel costs.⁴²

On March 25, 2013, Mr. Shore emailed Mr. Deutsch again regarding his compensation for Conference work:

I would like to keep coming back to D.C. and helping out the conference. Looking at the calendar, I can be in D.C. 14 to 18 days each month . . . The biggest challenge, as with all of our plans, is to find the money . . . I’m assuming that I can take a retainer from the [campaign committee] and Leadership PAC, as [Political Fundraiser] does, to defray the cost. But as you know, all the official budgets are squeezed past the breaking point.⁴³

³⁸ Exhibit 12.

³⁹ In a March 19, 2013 email to the Conference employee who managed payroll for the office, Mr. Shore asked her to retain his salary in March at the same level as January and February “given the difficulties we discussed yesterday.” Exhibit 13. Mr. Shore told the Committee the “difficulties” referenced related to delays in payment processing and issues with health benefits not working. 18(a) Interview of Stan Shore.

⁴⁰ 18(a) Interview of Stan Shore.

⁴¹ 18(a) Interview of Conference Operations Director; *see also id.* (“Q: Do you know if Mr. Shore ultimately was reimbursed for his travel costs? A: I had no dealings with the campaign or leadership PAC, so I can’t speak to that.”).

⁴² 18(a) Interview of Representative Rodgers.

⁴³ Exhibit 14. From 2010 to 2014, the Political Fundraiser received payments from both Representative Rodgers’ campaign committee and her Leadership PAC. The Political Fundraiser told the Committee she handles fundraising for both committees. 18(a) Interview of Political Fundraiser.

Mr. Shore did subsequently receive payments from both the campaign committee and Leadership PAC.⁴⁴ He testified, however, that his proposal to use such payments to “defray the cost” of his Conference work was never put into place.⁴⁵

While he was working as a Conference employee and vendor, Mr. Shore was also working with Representative Rodgers’ personal congressional office and her political committees. He advised on hiring and budgeting for her personal office,⁴⁶ continued to serve as a consultant for her re-election campaign,⁴⁷ and was also paid by her Leadership PAC for consulting services.⁴⁸

c. July 2013 to present

In July 2013, after a reporter called with questions relating to Mr. Shore’s work for the Conference, Mr. Shore stopped receiving his salary from the Conference and the Conference stopped making payments to Datagraphics for vendor services.⁴⁹ According to Mr. Shore, although he and Mr. Deutsch thought his dual employment with the Conference and campaign was permissible, they decided to stop the payments “just to be safe” and “to make sure everything was ‘kosher’ because of the OCE investigation.”⁵⁰ When Mr. Shore interviewed with OCE on October 23, 2013, he testified that he was continuing to provide frequent services to the Conference, without compensation, and traveling to D.C. from Washington State at his own personal expense to do so.⁵¹

According to Mr. Shore, although there was a concern, in or around September 2013, that his work for the Conference “may not be proper,” a couple of months later he was told that the issue was resolved, and he could continue to do work for the Conference.⁵² However, he was never added back onto the employee payroll. Payments to him from the Conference through Datagraphics resumed in December 2013, when he received a \$12,000 payment for consulting services from October 1, 2013 to December 31, 2013.⁵³ Representative Rodgers told the

⁴⁴ Mr. Shore was often paid for his political work through Polis Political Services, Inc., a C-corporation owned by him. 18(a) Interview of Stan Shore (explaining that Polis and Datagraphics are generally interchangeable). According to FEC records, Mr. Shore received his first payment from Representative Rodgers’ Leadership PAC on July 9, 2013 (\$15,000 with “fundraising consulting” as the disbursement description), and he continued to receive payments of between \$10,000 and \$30,000 from the Leadership PAC every few months through August 2017. He also regularly received \$3,000 payments from the campaign committee for “campaign management” from February 2013 through March 2016, and occasionally received additional, much larger payments from the campaign committee, such as a \$9,930 payment on August 27, 2013 (also for “campaign management”). He also received nearly \$100,000 from her joint fundraising committee between June 2014 and October 2018.

⁴⁵ 18(a) Interview of Stan Shore.

⁴⁶ 18(a) Interview of Staff Assistant (“For some reason, Mr. Shore was involved in the [personal office] budget. I have no idea why, and I made my opinions to [the 2013 Member Office Chief of Staff] clear that I thought it was very odd, because he wasn’t on our payroll.”); 18(a) Interview of Deputy District Director (district staffer testified that Mr. Shore interviewed a potential press secretary in the district office in 2013).

⁴⁷ Exhibit 15.

⁴⁸ Exhibit 16.

⁴⁹ OCE Referral, Ex. 38.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² 18(a) Interview of Stan Shore.

⁵³ Exhibit 17.

Committee she was “not sure” whether Mr. Shore continued to provide services to the Conference after June 2013.⁵⁴

Mr. Shore continued to receive compensation from the Conference through Datagraphics until October 2017. The payments are reported in House disbursement records under the budget code for a “technology service contract,” and were invoiced by Mr. Shore’s firm as fees for “New Media and Video Consulting Services.”⁵⁵ Mr. Shore told the Committee that his work for the Conference since being removed from the payroll has included consulting on digital strategy, assisting with personnel hiring, and assisting with messaging in official documents and speeches.⁵⁶ Mr. Shore has also continued to serve as a general consultant for Representative Rodgers’ campaign, as well as providing services to her Leadership PAC and joint fundraising committee.

ii. Speech Consultant

In or around March 2012, Representative Rodgers hired Speech Consultant to serve as her speech coach.⁵⁷ According to Speech Consultant, at the time he was hired, he discussed the services he would provide with the congresswoman, included helping to raise her profile, improve her performance in media interviews, assist her official communications staff, and “make her official functions better.”⁵⁸

From April 2012 through October 2012, Speech Consultant was paid for his services from Representative Rodgers’ Leadership PAC. Representative Rodgers said that Speech Consultant was paid from unofficial funds “out of an abundance of caution,” as she anticipated a large part of his work would be political given that she was very involved in the presidential election that year.⁵⁹ During that time, Speech Consultant assisted with both official and unofficial communications.⁶⁰ In October 2012, he helped Representative Rodgers prepare for debates against her general election opponent.⁶¹

In November and December 2012, Speech Consultant was paid from Representative Rodgers’ campaign committee funds. The Communications Director testified that Speech Consultant “was kind of a *de facto* press secretary for the Congresswoman” during this time.⁶² Documents reviewed by the Committee showed that, in December 2012, Speech Consultant helped Representative Rodgers prepare for official media appearances, edited official press statements,

⁵⁴ 18(a) Interview of Representative Rodgers.

⁵⁵ Exhibit 17.

⁵⁶ 18(a) Interview of Stan Shore.

⁵⁷ Exhibit 18; 18(a) Interview of Representative Rodgers.

⁵⁸ 18(a) Interview of Speech Consultant. *See also* OCE’s Referral, Ex. 9. As previously noted, on September 3, 2015, Speech Consultant pled guilty to making false statements to OCE in connection with a separate investigation; on August 29, 2018, he was sentenced to probation and a \$10,000 fine. He refused to provide testimony to the Committee until after his sentencing. Given Speech Consultant’s past dishonesty to OCE, the Committee did not rely solely on any of his testimony in making its conclusions in this matter.

⁵⁹ 18(a) Interview of Representative Rodgers.

⁶⁰ 18(a) Interview of Press Secretary; Appendix C at 17.

⁶¹ Exhibit 19.

⁶² 18(a) Interview of Communications Director.

and helped hire official communications staff.⁶³ Representative Rodgers' counsel told the Committee that Speech Consultant's "scope of work" changed in December 2012, but disputed that he became "the *de facto* Press Secretary," and said his focus remained on assisting the congresswoman with her communication skills.⁶⁴ Representative Rodgers' counsel also told the Committee that Speech Consultant was paid from the campaign committee rather than the Leadership PAC during this time to "reflect this change in scope of work."⁶⁵ However, Representative Rodgers later told the Committee that she believed he was paid from the campaign committee because the Leadership PAC ran out of money,⁶⁶ which a contemporaneous email also indicates was the reason.⁶⁷ Speech Consultant told the Committee that his "scope of work" did not change at any point from when he was hired through December 2012, with the exception of the campaign work he performed in September and October 2012 relating to Representative Rodgers' campaign debate.⁶⁸

In January 2013, Speech Consultant entered into a new contract with Representative Rodgers (which listed Representative Rodgers' congressional office as her address).⁶⁹ The contract provided that Speech Consultant would render "consulting services associated with media preparation and training/Message design and strategy for Cathy McMorris Rodgers and regular service to the House Republican Conference" for \$5,000 a month, as well as costs and expenses, and an additional \$300 an hour for instruction to Conference members.⁷⁰ According to House disbursement records, for the first several months of 2013, Speech Consultant received half of his retainer from the congresswoman's MRA and the other half from the Conference.⁷¹

Later in 2013, Speech Consultant stopped receiving payments from the MRA altogether. He continued to receive some funds from the Conference (typically about half of his retainer and then additional funds for Conference member training) but began to receive the remainder of his retainer from Representative Rodgers' Leadership PAC or campaign committee. Representative Rodgers told the Committee that Speech Consultant did not help with campaign or political communications in 2013.⁷² Speech Consultant confirmed this in his interview with the Committee.⁷³ When asked why Speech Consultant was then paid with unofficial funds for a portion of that year, Representative Rodgers responded, "because these [media] interviews,

⁶³ See Exhibit 20; see also 18(a) Interview of Speech Consultant ("I would categorize [the work performed in December 2012] as official work").

⁶⁴ Appendix C at 18.

⁶⁵ *Id.*

⁶⁶ 18(a) Interview of Representative Rodgers.

⁶⁷ Exhibit 21(December 12, 2012 email from Mr. Deutsch to campaign treasurer asking him to pay Speech Consultant's invoice, noting that Speech Consultant had previously been paid out of the Leadership PAC "but now there is no money in the account so reelect needs to pay.").

⁶⁸ 18(a) Interview of Speech Consultant.

⁶⁹ Exhibit 22.

⁷⁰ *Id.*

⁷¹ Representative Rodgers told the Committee that her personal office compensated Speech Consultant because of his help with her official speeches and interviews. 18(a) Interview of Representative Rodgers.

⁷² *Id.*

⁷³ 18(a) Interview of Speech Consultant.

sometimes they're political and sometimes they're official. So this is to make sure that when it's political, I can tell you I paid for it with political funds.”⁷⁴

Representative Rodgers continued to compensate Speech Consultant from both her campaign committee funds and the Conference budget until early 2015. She told the Committee she “wasn’t a part of those discussions or decisions” regarding Speech Consultant’s compensation during that time, and that those decisions were made by Mr. Deutsch.⁷⁵ Mr. Deutsch told the Committee he did not recall discussing Speech Consultant’s compensation with Representative Rodgers.⁷⁶

Speech Consultant’s compensation history is summarized in the following chart:

| Payments to Speech Consultant from Offices/Organizations Controlled by Representative Rodgers (2012-2015) | | | | |
|---|----------|----------|----------|---------|
| | 2012 | 2013 | 2014 | 2015 |
| Rodgers House Office MRA | -- | \$10,000 | -- | -- |
| House Republican Conference | -- | \$30,600 | \$27,600 | \$4,500 |
| Rodgers campaign committee | \$4,498 | \$12,500 | \$30,000 | \$4,500 |
| Rodgers leadership PAC | \$14,000 | \$7,500 | -- | -- |

In 2014, Speech Consultant’s services to another Member were the subject of an OCE investigation, unrelated to Representative Rodgers.⁷⁷ The Committee released OCE’s Report and Findings in that matter on October 29, 2014.⁷⁸ On September 3, 2015, Speech Consultant pled guilty in federal criminal court to making material false statements to OCE in that matter.⁷⁹

iii. Leadership Consultant

During the November 2012 race for the Republican Conference Chair position, Leadership Consultant offered her advising services to Representative Rodgers, working with her staff out of the congressional office.⁸⁰ She continued to assist Representative Rodgers during the leadership transition and was added to the payroll for the congresswoman’s personal office as an “Executive Assistant” during that time, for which she was paid \$9,250 from the MRA.⁸¹

In 2015, Leadership Consultant told the Committee that she had been working as a “consultant with the House Republican Conference” since Representative Rodgers was first elected Conference Chair,⁸² and said that she had received the “official offer” to join the

⁷⁴ 18(a) Interview of Representative Rodgers.

⁷⁵ *Id.* But see *id.* (Q: “Did [Mr. Deutsch] tell you during that time period how [Speech Consultant] was being paid?” A: “I believe we discussed it.”).

⁷⁶ 18(a) Interview of Jeremy Deutsch.

⁷⁷ See Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Paul Broun (Oct. 29, 2014), available at <https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-paul-0>.

⁷⁸ *Id.*

⁷⁹ Plea Agreement, *United States v. Brett O’Donnell*, No. 15-34 (M.D.Ga. Sept. 3, 2015).

⁸⁰ 18(a) Interview of Leadership Consultant.

⁸¹ *Id.*; Exhibit 23 (Fourth Quarter 2012 House Disbursements from Office of Representative Rodgers).

⁸² 18(a) Interview of Leadership Consultant.

Conference staff from Mr. Deutsch.⁸³ She testified that she worked part-time and “at best” would come to the office a couple days a week.⁸⁴ However, she told the Committee later during her interview that she is “actually more a consultant for Cathy, more than anything else, because I do more political consulting stuff. I don’t do very much official stuff.”⁸⁵ She told the Committee she was paid by Representative Rodgers’ Leadership PAC and campaign committee for that consulting work.⁸⁶ FEC records show that she was paid by the Leadership PAC from May 2013 to September 2013, and by Representative Rodgers’ campaign committee from June 2014 to January 2017. Leadership Consultant has never received any compensation from the Conference.⁸⁷

Leadership Consultant’s 2014 contract with the campaign committee listed her “scope of work” to include offering advice on leadership positions, campaign staffing, and “budgeting.”⁸⁸ When asked what “budgeting” she advised Representative Rodgers on, Leadership Consultant said, “[t]he only thing I can think of here is I would . . . give my advice, you know, the people I think would be best for CMR within the budget of the Conference.”⁸⁹ Representative Rodgers told the Committee that she believed Leadership Consultant served as a consultant for the Conference in 2013, but that she did not understand her to be volunteering her time.⁹⁰

2. *Relevant House Rules, Laws, and Other Applicable Standards of Conduct*

i. *Unofficial Office Accounts and Volunteer Services*

House Rule XXIV provides that no Member may maintain an unofficial office account, or “defray official expenses for mail or other communications, compensation for services, office space, office furniture, office equipment, or any associated information technology services.”⁹¹ This restriction is similarly codified at 2 U.S.C. § 503(d).

⁸³ *Id.*

⁸⁴ *Id.* The Conference Operations Director, who worked full-time in the Conference from approximately January to August 2013, recalled in a 2019 interview that Leadership Consultant was involved in setting up the Conference office, but did not recall seeing her in the Conference offices after the staff had been fully hired, and did not understand Leadership Consultant to have been a volunteer for the Conference. 18(a) Interview of Conference Operations Director.

⁸⁵ 18(a) Interview of Leadership Consultant.

⁸⁶ *Id.*

⁸⁷ Leadership Consultant appears to have listed her occupation as “Consultant, House Republican Conference” on her LinkedIn profile from January 2013 to January 2017. Leadership Consultant has also been identified in press reports as an “outside consultant” who worked with Mr. Deutsch on personnel decisions for the Conference. See Jonathan Strong, “A Step Back, a Look in the Mirror, a Team Realignment,” Mar. 9, 2013, ROLL CALL, *available at* http://www.rollcall.com/news/a_step_back_a_look_in_the_mirror_a_team_realignment-222977-1.html (“McMorris Rodgers’ new communications team is roughly twice the size of the one in place under Rep. Jeb Hensarling, her predecessor. Hard-charging chief of staff Jeremy Deutsch led a top-to-bottom staff evaluation with outside consultant [Leadership Consultant] that resulted in at least one firing.”).

⁸⁸ Exhibit 24 (agreement signed by Leadership Consultant on August 22, 2014, and effective from July 16, 2014 to December 31, 2014). The Committee was not provided with any other contracts for Leadership Consultant’s services.

⁸⁹ 18(a) Interview of Leadership Consultant.

⁹⁰ 18(a) Interview of Representative Rodgers.

⁹¹ See also *Ethics Manual* at 284-85 (citing Comm. on Standards and Official Conduct, Advisory Op. No. 6 (May 9, 1977)) (prohibition on unofficial office accounts proscribes the private, in-kind contribution of goods or services for

ii. *Consultant Services*

Federal law sets forth certain restrictions on the ability of House offices to retain consultant services. Title 2 of the U.S. Code provides that House committees are permitted, contingent on approval from the Committee on House Administration (CHA), to procure consultant services for not more than one year.⁹² Under Title 2, certain leadership offices are also permitted to have consultants on a temporary or intermittent basis – specifically, the Speaker, Majority Leader, and Minority Leader may each procure one consultant.⁹³ There is no provision of the law or CHA regulations that permits other House leadership offices to procure consultant services.⁹⁴

Pursuant to 2 U.S.C. § 4301, CHA also sets limits on the extent to which House funds may be used to compensate individuals or firms providing consulting or contracting services. The *Members' Congressional Handbook (Members' Handbook)* explains, “only committees are authorized to procure the temporary services of consultants. Member offices are not authorized to procure consultant services.”⁹⁵ Rather, Member offices may only retain “contractors.” From at least 2011 to 2016, the *Members' Handbook* stated that a Member office:

may contract with firms or individuals only for general, non-legislative and non-financial, office services (*e.g.*, equipment maintenance, systems integration, data entry, staff training, photography, custodial services, web services) for a specified time period not to exceed the Member’s current term. Such contracts are reimbursable. Such contractors are not employees of the House and are ineligible for government-provided personnel benefits.⁹⁶

The *Members' Handbook* also states, “Members are advised to consult the Committee on House Administration when entering into such contracts.”⁹⁷ No House entity has published any guidance with respect to the use of consultants or contractors by leadership offices.

official purposes, subject to certain exceptions for services from government agencies or through educational programs).

⁹² 2 U.S.C. § 4301(i).

⁹³ 2 U.S.C. § 5102(a).

⁹⁴ Title 2 does authorize the procurement of consultant services by the Senate Majority and Minority Leader, the President Pro Tempore of the Senate, the Secretary of the Senate, the Legislative Counsel of the Senate, and the Majority and Minority Conference Committees of the Senate. 2 U.S.C. §§ 6501, 6157.

⁹⁵ Exhibit 25 (hereinafter, *Members' Handbook* (2011)) (citing 2 U.S.C. § 72a).

⁹⁶ *Id.* The current version of the *Members' Handbook*, adopted on July 25, 2018, includes a revised contractor rule stating that general office services should be “outside core office functions.” *See* https://cha.house.gov/sites/democrats.cha.house.gov/files/documents/116th_Members_Congresional_Handbook_03-26-2019.pdf. It also includes a revised consultant rule, which explicitly prohibits hiring speechwriters and communications advisers. *See id.*

⁹⁷ *Id.*

iii. *Federal Employee Activities in Matters Affecting U.S. Government Interest*

18 U.S.C. § 203 prohibits federal employees, including a Member, officer, or employee of the House, from receiving compensation, other than salary, for providing any “representational services, agent or attorney or otherwise,” to others, before any department, agency or officer, in relation to any contract, claim, or other particular matter in which the United States has a direct and substantial interest.

18 U.S.C. § 205 prohibits any legislative branch officer or employee from acting as an agent or attorney for anyone other than the employee’s self before any department, agency or officer in connection with any contract, claim, or other particular matter in which the United States has a direct and substantial interest. An individual is an “agent” within the meaning of Section 205 if he has actual and apparent authority to act on behalf of the principal.⁹⁸

iv. *Official Appropriations*

Federal law requires that appropriations “shall be applied only to the objects for which the appropriations were made.”⁹⁹ Regulations from CHA implement that requirement and provide that House funds and resources are to be used for official House business and may not be used for any unofficial purposes. The *Members’ Handbook* states that, “[o]nly expenses the primary purpose of which [is] official and representational” are reimbursable from the MRA.

v. *Additional House Rules, Laws, and Other Standards of Conduct*

House Rule XXIII contains the Code of Official Conduct, which governs the actions of any Member, Delegate, Resident Commissioner, officer or employee of the House. Clause 8, states that “[a] Member . . . of the House may not retain an employee who does not perform duties for the offices of the employing authority commensurate with the compensation such employee receives.” Clauses 1 and 2, provide that “[a] Member . . . officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House,” and “shall adhere to the spirit and the letter of the Rules of the House.”

The Code of Ethics for Government Service sets forth standards of conduct for all government employees.¹⁰⁰ Clause 2 of that Code provides that those in government service should “[u]phold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.” Clause 3 instructs every employee to “[g]ive a full day’s labor for a full day’s pay.” Clause 7 provides that employees should “[e]ngage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties,” and Clause 8 prohibits the use of information an employee receives “confidentially in the performance of governmental duties as a means for making private profit.” All public servants are charged under the Code with upholding the principles articulated, “ever conscious that public office is a public trust.”

⁹⁸ See *O’Neill v. Dep’t of Housing and Urban Dev* 220 F.3d 1354, 1360-61 (Fed. Cir. 2000).

⁹⁹ 31 U.S.C. § 1301.

¹⁰⁰ See *Ethics Manual* at 1, 20-21, 355.

3. *Analysis*

In both her official and political capacities, Representative Rodgers frequently relied on the services of three individuals who considered themselves to be consultants: Stan Shore, Speech Consultant, and Leadership Consultant. She compensated each of these individuals from a mix of official and unofficial resources, without establishing clear boundaries as to what source of compensation was used for particular services. As a result, the Committee found Representative Rodgers (1) used official funds to compensate consultants for impermissible services and expenses, and (2) received voluntary services for official work from consultants and/or compensated consultants for official services in whole or in part from political funds. As discussed further below, the Committee also determined that certain conduct relating to Mr. Shore’s consulting firm merits further review by the House Inspector General.

i. Representative Rodgers Used Official Funds to Compensate Consultants for Impermissible Services and Expenses.

The use of consultant services by congressional offices is addressed in Title 2 of the U.S. Code, which sets out the laws relating to the operation of Congress. Title 2 provides that House committees are permitted, contingent on approval from CHA, to “procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, to make studies or advise the committee.”¹⁰¹ The Speaker, Majority Leader, and Minority Leader of the House are “each authorized to appoint and fix the compensation of one consultant, on a temporary or intermittent basis.”¹⁰² Title 2 also specifies several other congressional offices that are permitted to procure consultant services, including the Conference of the Majority and Conference of the Minority *in the Senate*.¹⁰³ There is no mention, however, of House party caucuses or Member offices procuring consultant services. Given that the law clearly identifies the select instances where procurement of consultant services *is* permitted for congressional offices, a reasonable inference is that procurement of consultant services *is not* permitted for Member offices, the House Republican Conference, and the Democratic Caucus.¹⁰⁴

CHA, which is charged under section 5505 of Title 2 with approving all payments from applicable accounts of the House,¹⁰⁵ appears to have interpreted the law accordingly, at least with respect to Member offices. Citing directly to Title 2, CHA makes clear in its regulations that “only committees are authorized to procure the temporary services of consultants. Member offices are

¹⁰¹ 2 U.S.C. §4301(i).

¹⁰² *Id.* at §5102(a).

¹⁰³ 2 U.S.C. §§ 6501, 6155, 6157.

¹⁰⁴ *See Chevron U.S.A. Inc. v. Echazabal*, 536 U.S. 73 (2002) (discussing the well-established canon of statutory interpretation *expressio unius est exclusion alterius*, or expressing one item of an associated group excludes another left unmentioned.); *see also Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 376 (1958).

¹⁰⁵ “Applicable accounts” means “accounts for salaries and expenses of committees (other than the Committee on Appropriations), the computer support organization of the House of Representatives, and allowances and expenses of Members of the House of Representatives, officers of the House of Representatives, and administrative and support offices of the House of Representatives.” 2 U.S.C. § 5505(b).

not authorized to procure consultant services.”¹⁰⁶ Rather, Member offices may only retain “contractors” for general office services.¹⁰⁷ However, no House entity provides any general guidance on expenditures by leadership offices.¹⁰⁸ It is the Committee’s view that the House community would benefit from more guidance as to the use of official funds by leadership offices. Nonetheless, the Committee was presented with ample evidence that the use of official funds to pay Representative Rodgers’ consultants at times ran afoul of applicable House rules, CHA regulations, federal laws, and other ethical standards.

a. Mr. Shore was Paid with Official Funds for Impermissible Services.

From 2013 to 2017, Mr. Shore provided consulting services to the Conference, for which he was paid from an administrative account separate from salary expenses. During that time, he assisted the Conference with hiring, worked on campaign speeches, and helped set Conference and personal office budgets. From January to June 2013, Mr. Shore was also a House employee, though he continued to perform many of the same duties after he was removed from the payroll. Mr. Shore’s duties, including writing official speeches and advising on official hiring and budgeting, went beyond the services that outside vendors are intended to provide.

When asked by the Committee, Mr. Shore could not distinguish between the duties he performed as a salaried employee and the duties he performed as an outside vendor. Without any clear definition of his various roles, the potential for violations of the laws, rules, and regulations that govern House offices and their appropriated funds was heightened. Given the blurring of Mr. Shore’s positions, his compensation from each of the separate official sources may not have been commensurate with the duties he performed.¹⁰⁹ To the extent payments from the “AE1” account subsidized Mr. Shore’s performance of the regular and normal duties of official staff, such payments were also inconsistent with the restrictions on consulting services articulated by CHA.¹¹⁰ The need to determine the amount of compensation provided to Mr. Shore for his duties as a staffer, versus the compensation for his work as a vendor, is not a merely formalistic exercise. Pursuant to certain ethics laws and rules, highly compensated House employees are subject to additional ethics restrictions, including financial disclosure requirements and restrictions on outside earned income. Mr. Shore’s combined compensation from House sources in early 2013 would have put him well above the senior staff threshold that triggers financial disclosure requirements.¹¹¹

¹⁰⁶ *Members’ Handbook* (2011) at 5; *Members’ Handbook* (2019) at 6.

¹⁰⁷ *Id.* See also Comm. on Ethics, *In the Matter of Representative Luis Gutiérrez*, H. Rept. 115-617, 115th Congress, 2d Session 19-20 (2018) (*Gutiérrez*).

¹⁰⁸ The Conference Operations Director noted that CHA would provide the Conference guidance on specific questions, but said there was less clarity about the rules as to leadership offices than for personal member offices. 18(a) Interview of Conference Operations Director.

¹⁰⁹ See House Rule XXIII, cl. 8 (providing that a Member “may not retain an employee who does not perform duties for the office of the employing authority commensurate with the compensation such employee receives.”).

¹¹⁰ See *Committees’ Congressional Handbook* (2019), available at <https://cha.house.gov/handbooks/committee-handbook> (CHA “will not approve a contract if the services to be provided by the consultant are the regular and normal duties of Committee staff.”).

¹¹¹ In 2013, House employees whose basic rate of pay was equal to or greater than \$9,962.80 per month for at least 60 days were subject to the financial disclosure requirements of “senior staff.” From January to March 2013, Mr. Shore received \$8,833 each month as a House employee, but also received \$6,500 from the Conference for his consultant services during January 2013, and \$15,000 each month from February to March 2013. Accordingly, Mr.

However, his pay was structured so that most of his compensation from the House during that time went through his consulting firm, allowing him to bypass those requirements.

From 2013 to 2017, Mr. Shore's firm received more than \$250,000 from the House for what was publicly reported to be a "technology service contract," but there was never an actual written, signed contract in place. Although CAO has informed the Committee this is permissible under their payment standards, the Committee finds it concerning that such a vast sum of official funds was transmitted to an outside firm without the protections that a signed contract would provide. Without a written contract in place, or any effort to articulate the boundaries of the work that Mr. Shore's compensation was authorized to cover, the potential for misuse of official funds was particularly high. The Committee's investigation in this matter focused on the conduct of Representative Rodgers, and those under her supervision and control; broader questions about the administrative process governing the disbursement of funds from the official budget are beyond the scope of this matter. Further, consideration of the performance, accountability, and integrity of House financial, administrative, and technology-based operations is the stated mission of the House Office of the Inspector General (OIG).¹¹² Accordingly, the Committee has voted to send a copy of this Report and relevant supporting documents to the OIG with a recommendation that the OIG: review the institutional processes, procedures, and controls under which Mr. Shore's firm was compensated for the provision of vaguely defined services without a contract for over five years, as well as any further issues arising out of those processes, procedures, and controls.

b. Representative Rodgers reimbursed Mr. Shore for living and commuting expenses through increased salary payments.

The Committee also found Mr. Shore may have been improperly compensated through his House salary for his travel expenses.

Although officially-connected travel is generally reimbursable from official funds, under CHA regulations, "living and commuting expenses" are not reimbursable except in extraordinary circumstances, with written authorization from CHA.¹¹³ While CHA does not explicitly provide this guidance to leadership offices, the Committee found that Representative Rodgers' Conference staff was generally aware of the restriction and understood it to apply to the Conference office. The precept that appropriated funds cannot be used to pay for the costs of employees commuting

Shore received compensation above the senior staff rate. The Committee notes that his total House compensation for those months was also greater than the maximum salary authorized under the Speaker's Pay Order.

¹¹² Inspector General of the House, <https://www.house.gov/the-house-explained/officers-and-organizations/inspector-general> (explaining that the mission of the House Inspector General is "to provide recommendations for improving the performance, accountability, and integrity of House financial, administrative, and technology-based operations.") (last visited Nov. 22, 2019).

¹¹³ CHA rules provide that this restriction applies to Member offices as well as committees and eligible congressional member organizations. *Members' Handbook* (2011); *Committees' Handbook* (2011); *Eligible Congressional Member Organizations Handbook* (2011). "Living expenses" is defined to include "meals, housing, and other personal expenses incurred at the Member's or employee's residence or duty station," and "commuting expenses" is defined to include "transportation expenses incurred by the Member or employee while commuting between their residence and duty station." *Members' Handbook* (2011) at 27.

to their duty station is fundamental across the federal government.¹¹⁴ If leadership office employees could use official funds to pay for their commuting expenses, there would be no basis on which to restrict Members themselves from using leadership funds for such expenses – such as lodging in Washington, D.C., which Members have long acknowledged they are prohibited from paying with official funds.

Official funds may also not be used to reimburse expenses for travel the primary purpose of which is campaign-related.¹¹⁵ Even where the primary purpose of a trip is official, additional travel costs incurred for a campaign purpose, such as additional nights of hotel lodging to attend campaign meetings or events, must be paid for with campaign funds.¹¹⁶

The use of salary payments to reimburse transportation expenses also implicates House Rule 23, clause 8, which provides that employees' compensation must be commensurate with the duties they perform. The Committee previously found a violation of this rule where a Member used salary increases to pay for staff's personal travel expenses.¹¹⁷ In *The Matter of Representative Barbara Rose-Collins*, the Committee found that the Member awarded raises to some of her congressional staff to enable them to accompany her on a trip to Africa. Although the travel in that matter was personal in nature, the crux of the violation was that the salary payments were not tied to staff's performance of their official duties.

Emails reviewed by the Committee indicate Mr. Shore may have received payments in January and February 2013 in part to reimburse him for travel expenses he incurred in November, December and January.¹¹⁸ These substantial travel expenses accrued in part as a result of Mr. Shore's residence on the opposite side of the country from his "duty station" at the Conference. To some extent, these expenses also related to Mr. Shore's travel to Washington, D.C., in his role as Representative Rodgers' general campaign consultant. Mr. Shore initially proposed that Representative Rodgers' leadership PAC or campaign committee reimburse the cost of his flights, hotels and meals from his travel to Washington, D.C. in November and December 2012.¹¹⁹ Mr. Shore testified that the purpose of that travel was in part to assist with "campaign reorganization," and in part to assist with the leadership transition.¹²⁰ He was never reimbursed from the political committees for that travel.¹²¹

Mr. Shore proposed in late January 2013 that he "continue at current salary through February; then reduce salary to \$1,500 per month. The big payments in January and February

¹¹⁴ See, e.g., GENERAL ACCOUNTABILITY OFFICE, PRINCIPLES OF FEDERAL APPROPRIATIONS LAW, at 3-33 (4th ed. 2017) (citing 31 U.S.C. § 1344(a)(1)) ("[E]mployees must bear the costs of commuting to and from their official duty stations each day.").

¹¹⁵ *Ethics Manual* at 131.

¹¹⁶ *Id.* at 116 ("Any additional meal, lodging, or other travel expenses that the Member or staff person incurs in serving a secondary purpose must be paid by the source associated with that secondary purpose.").

¹¹⁷ Comm. on Standards of Official Conduct, *In the Matter of Representative Barbara Rose-Collins*, H. Rept. 104-876, 104th Cong., 2d Sess. 87 (1997) (*Barbara Rose-Collins*).

¹¹⁸ See Exhibit 12; Exhibit 11.

¹¹⁹ Exhibit 4.

¹²⁰ 18(a) Interview of Stan Shore.

¹²¹ *Id.*

serve to reimburse me for the Nov-Jan travel.”¹²² Mr. Shore’s salary in January and February 2013 was \$8,833, and was later reduced to \$1,500 per month in April 2013. Mr. Shore also received \$8,833 in March 2013, although the Committee was unable to ascertain whether the larger payment that month was also intended to reimburse travel costs.¹²³ For at least January and February 2013, however, at least some portion of Mr. Shore’s salary was intended to serve as travel cost reimbursements.

Mr. Shore told the Committee he was never reimbursed for travel after the Conference learned it was not a permissible use of House funds.¹²⁴ He said he was paid larger amounts in January and February because he was doing a greater amount of work, which happened to align with his initial proposal to be paid a larger salary to reimburse him for travel. The Conference Operations Director confirmed that he did more work in the earlier months. However, the Committee did not find Mr. Shore’s assertion that he abandoned his plan for reimbursement through salary to be credible. Mr. Shore’s January 25, 2013 email stated that his *current salary* was to reimburse him for travel expenses, not for the duties he performed. The email makes clear that the plan to use a higher salary to circumvent the restrictions on reimbursing Mr. Shore’s travel funds had already been implemented. The Committee also found reason to believe, based on Mr. Shore’s own testimony, that at least some of those travel expenses were incurred in connection with Mr. Shore’s campaign work.¹²⁵ The Committee therefore found that Mr. Shore was impermissibly reimbursed for his living or commuting expenses and/or campaign-related travel costs. However, the Committee did not find evidence that Representative Rodgers was aware or had reason to be aware of this plan.

c. Mr. Shore Represented his Consulting Firm in Connection with Government Contracts While a House Employee.

Mr. Shore is the sole owner of his consulting firm, Datagraphics, and was the firm’s agent for purposes of contracting with the House.¹²⁶ During the six months for which he was a House employee, Mr. Shore was actively involved in negotiating the Datagraphics contract with the House Conference and regularly invoiced the House for the services he provided to the Conference through Datagraphics.¹²⁷

Federal laws restrict House employees from acting as an agent or representative of a party in a contract or other matter in which the federal government is a party.¹²⁸ As the *Ethics Manual* cautions, 18 U.S.C. §§ 203 and 205 generally prohibit House employees from privately

¹²² Exhibit 12.

¹²³ On March 19, 2012, Mr. Shore requested of the Conference administrative staff, “given the difficulties we discussed yesterday, could you please retain my salary in March for payment at end of March[,] at the same level as January and February? [T]his seems a certain path and we can make other adjustments later as needed.” Exhibit 13.

¹²⁴ 18(a) Interview of Stan Shore

¹²⁵ See *supra* note 20 and accompanying text.

¹²⁶ See *O’Neill*, 220 F.3d at 1360-61.

¹²⁷ Exhibit 12; Exhibit 11; Exhibit 7; Exhibit 6. During this time, Mr. Shore also contracted with another Member for services categorized as “printing and reproduction” in House disbursement records. He was compensated \$8,853.60 from that Member’s MRA on February 1, 2013.

¹²⁸ 18 U.S.C. §§ 203, 205; see also *Ethics Manual* at 198-200.

representing others before the federal government.¹²⁹ Although the Department of Justice has interpreted these statutes to allow an exemption for an employee's representation of himself before the government, it is not clear that such an exemption would extend to the representation of a distinct legal entity owned by that employee, including an LLC such as Datagraphics.¹³⁰ Furthermore, the Code of Official Conduct provides that House employees may not permit compensation to accrue to their beneficial interest "by virtue of influence improperly exerted from the position of such individual in Congress."¹³¹ House Members and employees are also charged with adhering to the "spirit," in addition to the "letter" of the rules.¹³² Mr. Shore's dual arrangement with the Conference was unambiguously contrary to the spirit of the House's conflict of interest rules and laws.

Mr. Shore is no longer a House employee or contractor and is not subject to the jurisdiction of this Committee. The Committee notes, however, that Representative Rodgers could have done more to prevent these violations from occurring. Although Members are free to delegate various duties relating to their office structure and budget to their staffers, they must do so responsibly and remain accountable for the consequences. Representative Rodgers' delegation decisions left the House deprived of the arms-length dealing and fair competition that the laws and rules discussed above are intended to preserve.

ii. Representative Rodgers Received Official Services from Consultants that were Voluntary or Compensated from Political Funds.

House Rule XXIV provides that Members may not maintain "an unofficial office account," and may not use unofficial funds "to defray official expenses for mail or other communications, compensation for services, office space, office furniture, office equipment, or any associated information technology services." The Committee has interpreted this rule to provide that "outside private donations, funds, or in-kind foods or services may not be used to support the activities of, or pay the expenses of, a congressional office."¹³³

The Committee has previously relied on the language of Rule XXIV to support its finding that "the regular involvement of a volunteer/political advisor in a congressional office who performs tasks properly associated with the official responsibilities of House Members is inappropriate."¹³⁴ Congressional offices may accept the services of a volunteer only where there is a clearly defined program to assure that the volunteer receives a significant education a benefit, and the volunteer services do not supplant the normal and regular duties of paid employees.¹³⁵

¹²⁹ *Ethics Manual* at 185.

¹³⁰ See Office of Gov't Ethics, Informal Adv. Op. 85 x 12 (Aug. 29, 1985).

¹³¹ House Rule XXIII, cl. 3.

¹³² House Rule XXIII, cl. 2.

¹³³ *Ethics Manual* at 326; see also House Select Comm. on Ethics, *Advisory Opinion No. 6* (May 9, 1977), reprinted in *Final Report of the Select Committee on Ethics*, H. Rep. 95-1837, 95th Cong. 2d Sess. app. at 65 (1979).

¹³⁴ Comm. on Standards of Official Conduct, *In the Matter of Representative Bud Shuster*, H. Rept. 106-979, 106th Cong. 2d Sess. 44 (2000) (*Shuster*). See also Comm. on Standards of Official Conduct, *Inquiry into Various Complaints Filed Against Representative Newt Gingrich*, H. Rpt. 104-401, 104th Cong., 1st Sess. 4 (1995) (*Gingrich*).

¹³⁵ *Ethics Manual* at 288.

The Committee found that Representative Rodgers likely accepted official services from all three consultants that were defrayed with political funds or not compensated at all, in violation of Rule XXIV.

Mr. Shore testified that he “volunteered” for the Conference first in November 2012, immediately after Representative Rodgers was elected Conference Chair, and again from July to September 2013, after he was removed from the Conference payroll. During that time, he was also receiving payment from Representative Rodgers’ political committees. Whether Mr. Shore’s services to the Conference during that time were entirely uncompensated, volunteer services, or whether they were covered by the compensation he received from political funds, Mr. Shore provided Representative Rodgers’ congressional office with services for approximately three months that were not paid for with official funds. There is also some evidence that political funds may have been used to defray his compensation earlier in 2013, when he was serving as both an employee and vendor to the Conference.¹³⁶

Speech Consultant was paid entirely with political funds in 2012, when part of his services to Representative Rodgers included working with her official communications team on media relations. While he was paid with official funds for the first three months of 2013, when he began providing services to the Conference, he was paid with political funds, despite Representative Rodgers’ acknowledgement that his services were entirely related to her official duties.

Finally, Leadership Consultant was paid only with political funds the entire time she served as a consultant to the House Republican Conference. The services she provided the Conference were either voluntary or paid for by those political funds. As discussed above, the Committee found evidence indicating the latter to be the case: Leadership Consultant’s 2014 contract with Representative Rodgers’ campaign includes the provision of budgeting services, which she told the Committee were services she provided to the Conference. Accordingly, the expenses for services provided by Leadership Consultant to the Conference appear to have been defrayed with political funds.

Because Mr. Shore, Speech Consultant and Leadership Consultant provided official services that were not compensated with official funds, the Committee found Representative Rodgers effectively maintained unofficial office accounts in violation of House Rule XXIV.

B. ALLEGATIONS RELATING TO USE OF OFFICIAL RESOURCES FOR POLITICAL AND CAMPAIGN ACTIVITIES

From at least 2008 through 2013, when OCE began its investigation, several members of Representative Rodgers’ official staff were heavily involved with her campaigns and other political endeavors. At least some members of her official staff, including Mr. Deutsch, continued to have substantial involvement with her campaign and political efforts after the start of the OCE investigation in August 2013. As discussed further below, applicable House rules and laws permit congressional staff to voluntarily assist with political activities, provided they do not do so using official resources. The Committee examined allegations that Representative Rodgers, and others acting under her supervision and control, used various types of official resources, including staff

¹³⁶ Exhibit 14.

time, congressional office space, travel funds, and other resources, for campaign and political activities. As part of that examination, the Committee looked at the policies and safeguards implemented by the congresswoman relating to the use of official resources for political work.

1. Background

i. Policies regarding political work by official staff

Representative Rodgers asserted that the policies in her offices regarding campaign work were clearly communicated to staff in writing.¹³⁷ When hired, all staff were provided with an Employee Handbook detailing the office policies, including policies relating to official staff participating in political activities.¹³⁸ Staff were required to sign and submit a form acknowledging they received the Employee Handbook, and had read and understood its contents.¹³⁹ Representative Rodgers provided the Committee with only one other document discussing the office policies on campaign work: a training document dated July 2009.¹⁴⁰ The language in the different iterations of the Employee Handbook used in Representative Rodgers' member and Conference offices with respect to staff leave and political work has shifted over time, but at all times her written policies have included some form of the statement that campaign work can only be performed by official staff on their "own time."¹⁴¹

Despite these written policies, the Committee was not able to determine what office rules were actually implemented in Representative Rodgers' offices. The 2009 training document stated that official staff working on the campaign "must keep a detailed, written, contemporaneous diary recording each segment of time you spend on official duties and each segment of time you spend on campaign activities."¹⁴² In at least 2010 and 2011, the Employee Handbook provided that "[e]mployees of the Office may engage in campaign work only on their own time, and only when their Campaign Work Authorization Form . . . has been pre-approved by the Chief of Staff in writing."¹⁴³ However, the Committee did not find any record of any official staffer following

¹³⁷ OCE's Referral, Ex. 4 (Memorandum of Interview for Representative Rodgers); 18(a) Interview of Representative Rodgers.

¹³⁸ 18(a) Interview of Representative Rodgers.

¹³⁹ See, e.g., Exhibit 26.

¹⁴⁰ Exhibit 27. Representative Rodgers told the Committee that, to her knowledge, her policies concerning campaign work by staff were not in writing anywhere other than the Employee Handbooks and the July 2009 training document. 18(a) Interview of Representative Rodgers. Representative Rodgers said her policies were also communicated at annual staff retreats, during presentations lasting for about 30-60 minutes. *Id.* Her staff were also expected, as are all House staff, to complete the annual ethics training provided by the Committee.

¹⁴¹ Exhibit 26 (Employee Handbook for the Office of Representative Rodgers effective August 17, 2010); Exhibit 28 (Employee Handbook for the Office of Representative Rodgers effective June 1, 2011); Exhibit 29 (Employee Handbook for "Team CMR," applicable to employees of the House Republican Conference and the Office of Representative Rodgers, effective January 28, 2015). No other versions of the Employee Handbook for Representative Rodgers' offices were provided to the Committee. The July 2009 training document defined an employee's "own time" as "your lunch hour, after-work hours, and time you are on leave status as set forth in our Employee Handbook." Exhibit 27.

¹⁴² Exhibit 27.

¹⁴³ Exhibit 26; Exhibit 28.

either of these policies for work done on Representative Rodgers' campaign.¹⁴⁴ The staff interviewed by the Committee said they never maintained these records, and some who worked for the congresswoman in 2009, 2010 or 2011 were completely unfamiliar with these policies.¹⁴⁵

Similarly, the Committee received conflicting evidence about the actual office policies regarding unofficial work during office hours. The various iterations of the Employee Handbook from 2010 through 2015 were largely consistent, setting office hours from 8:30 a.m. or 8:45 a.m. to between 5:00 p.m. and 6:00 p.m.¹⁴⁶ Prior to the 2015 Employee Handbook, which provides that lunch periods are established by each employee's supervisor, the written policy stated that employees had one hour for lunch.¹⁴⁷ The Handbooks also noted the right of the office to unilaterally change or revise its policies or practices, and gave Mr. Deutsch and other supervisors discretion with respect to certain attendance requirements.¹⁴⁸ At times, Mr. Deutsch could be strict about office hours, sometimes penalizing staff for being 15 minutes late.¹⁴⁹ He considered a two-hour lunch period to be inappropriate and on at least one occasion scolded an employee for taking a longer lunch.¹⁵⁰

However, staffers testified that there were some instances in which the office's practices with respect to time and attendance were flexible. For example, two staffers who suffered personal family tragedies during their time in the office indicated that the office was accommodating and flexible about their work arrangements during their bereavement.¹⁵¹ Mr. Deutsch's strict enforcement of office hours also did not appear to extend to absences for political work.

Representative Rodgers and Mr. Deutsch testified that staff were permitted to make up time spent on unofficial tasks during office hours by working later at other times.¹⁵² Representative Rodgers told the Committee:

I understood that these are not typical 9 to 5 jobs. I understood that my staff is working a variety of hours, depending upon the day, depending upon the week. My staff works weekdays and weekends. And my understanding would be that as long

¹⁴⁴ There was one instance where a staffer completed a Campaign Work Authorization Form to volunteer with a Senate campaign. Exhibit 30. At least some staffers understood this form to only be required when working on a campaign other than the congresswoman's. 18(a) Interview of Policy Advisor; 18(a) Interview of New Media Director. *But see* 18(a) Interview of Representative Rodgers ("Q: [D]oes the reference to campaign work there include work for your campaign? A: I believe so."); OCE's Referral, Ex. 5 (In Mr. Deutsch's OCE interview, "the witness stated that the form was required to be completed if a staff member wanted to work on any campaign," unless the staff member filled out a separate "vacation" leave form.).

¹⁴⁵ 18(a) Interview of 2010 Staffer; 18(a) Interview of 2008-2009 Press Secretary; 18(a) Interview of Policy Advisor; 18(a) Interview of Deputy District Director.

¹⁴⁶ Exhibit 26; Exhibit 28; Exhibit 29. Prior to the 2015 Employee Handbook, which provides that lunch periods are established by each employee's supervisor, the written policy stated that employees had one hour for lunch.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ 18(a) Interview of Jeremy Deutsch; 18(a) Interview of Press Secretary.

¹⁵⁰ 18(a) Interview of Jeremy Deutsch.

¹⁵¹ *See* 18(a) Interview of Press Secretary; 18(a) Interview of New Media Director.

¹⁵² 18(a) Interview of Jeremy Deutsch; 18(a) Interview of Representative Rodgers.

as they could document when they were doing the campaign activities versus when they were doing the official time, that there was flexibility involved.¹⁵³

Representative Rodgers also said she expected staff were “doing their 40 hours of congressional time,” but added, “I don’t know that I’ve ever said that out loud to them though.”¹⁵⁴ This policy of general flexibility was not included in Representative Rodgers’ written policies.¹⁵⁵ Several staffers told the Committee they understood the office hours to be flexible.¹⁵⁶ However, Representative Rodgers and Mr. Deutsch also testified that, on at least some occasions, they believed staff should take leave when they performed campaign work during office hours.¹⁵⁷

In several instances in which official staff spent a full day during the work week participating in campaign or political activities, those staffers told the Committee they recalled submitting a request to use annual leave. In nearly all of those instances, there is no record of staff requesting leave, or of any leave being deducted from their allotted annual leave on those days. For example, in August 2012, five members of Representative Rodgers’ official staff attended the Republican National Convention for several days in Tampa, Florida, and four of them insisted that they had requested leave for that trip.¹⁵⁸ However, there are no records of leave being taken for any of those staff members.

The Committee was unable to determine whether the leave records were lost or never filled out. Although Mr. Deutsch and Representative Rodgers suggested that some leave forms may have been lost when the congresswoman moved her D.C. office,¹⁵⁹ leave forms were processed through a staff assistant based in the district office.¹⁶⁰ The district office Staff Assistant told the Committee that the D.C. office frequently failed to send her leave request forms for staff and as a result, the leave was not processed and some staff had higher leave balances than they should

¹⁵³ 18(a) Interview of Representative Rodgers. When asked if this was still her understanding, Representative Rodgers said that, since OCE’s investigation, she has been “under the impression now that basically 8:30 to 5:30 they shouldn’t be doing any campaign work unless they take leave.” *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ The Employee Handbooks in effect from 2010 to 2014 are generally based on the Model Handbook produced by CHA and included standard disclaimers that the policies were subject to modification by the office supervisors at any time. Exhibit 26; Exhibit 28. Those handbooks also included a detailed “discretionary time off” policy by which employees who performed more than three hours of official work on weekends or holidays could receive up to two days per month of time off during the work week, after filling out specific forms. *Id.* After OCE’s investigation began, the office adopted a new handbook that explicitly noted that exceptions to the office hours policy “may be made at the discretion of the Congresswoman, the appropriate Senior Manager . . . , or their designee.” Exhibit 29.

¹⁵⁶ 18(a) Interview of Press Secretary; 18(a) Interview of Policy Advisor; 18(a) Interview of District Director.

¹⁵⁷ 18(a) Interview of Jeremy Deutsch; 18(a) Interview of Representative Rodgers.

¹⁵⁸ 18(a) Interview of Legislative Director; 18(a) Interview of Jeremy Deutsch; 18(a) Interview of New Media Director; 18(a) Interview of Press Secretary. Representative Rodgers’ Communications Director testified that he did not submit a request for leave for that time. 18(a) Interview of Communications Director.

¹⁵⁹ 18(a) Interview of Jeremy Deutsch; 18(a) Interview of Representative Rodgers.

¹⁶⁰ Exhibit 28 (Employee Handbook stated that the district office Staff Assistant is responsible for maintaining time and attendance records, which the D.C. office is to send on at least a weekly basis); 18(a) Interview of Staff Assistant (confirming that the general procedure was for her to receive all leave forms in the district office, which she would input into an electronic system).

have.¹⁶¹ The Staff Assistant said she alerted her supervisor to this issue, but nothing came of it.¹⁶² In total, Representative Rodgers provided the Committee with records of only a small handful of instances of staff taking leave for a full day that appear to be related to work for her campaign.¹⁶³ Most of those instances occurred after OCE's review began.

As discussed further below, the Committee reviewed evidence indicating that, despite having written policies relating to staff performance of campaign work that went beyond what the ethics rules require, staff regularly made use of official resources for campaign purposes. Several staffers acknowledged to the Committee that they performed campaign work not on their "own time," but when they were otherwise expected to be performing their official duties.

Despite the apparent inconsistencies between some of the written office policies and the actual office practice, Representative Rodgers said she was never "suspicious of anything," and thought all of her staff took leave when appropriate and did not work on campaign activities in the office.¹⁶⁴ Representative Rodgers acknowledged that, in retrospect, her staff was not following the office policies "to the degree they should have," but said that at the time, she trusted they were doing as the Employee Handbook laid out.¹⁶⁵ When asked whether she could think of any instances where she herself discussed with staffers what they could or could not do with respect to campaign work while in the office or while on official time, Representative Rodgers could only recall one instance, in which she reminded staff how to handle a campaign check that came into her official office.¹⁶⁶

ii. Political Communications

From at least 2008 to 2013, the official communications staff in Representative Rodgers' office performed a substantial amount of political communications work. The Committee found that a portion of the staff's political communications work occurred while on official time, including while in House office buildings, using House office equipment.

There were several instances where the Communications Director,¹⁶⁷ Press Secretary and New Media Director worked on campaign press communications in the congressional office, during office hours. These instances went beyond answering incidental campaign-related

¹⁶¹ 18(a) Interview of Staff Assistant.

¹⁶² *Id.*; see also 18(a) Interview of Jeremy Deutsch (Mr. Deutsch testified that leave forms were not always sent to the district and acknowledged that he may have failed to submit forms for his own requested leave at times).

¹⁶³ Exhibit 31.

¹⁶⁴ 18(a) Interview of Representative Rodgers.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ During the Committee's investigation, several staffers confirmed that there were serious concerns about the Communications Director's general behavior in the workplace. The Communications Director's employment was terminated in early 2013, and his separation from the office was not entirely amicable. Although this does not nullify the credibility of his testimony, the Committee notes that none of its conclusions are based solely on representations by the Communications Director.

questions from reporters and included hours spent drafting press releases, preparing lengthy brochures, and arranging interviews on behalf of the campaign.¹⁶⁸

Representative Rodgers' congressional staff also assisted in drafting her speeches for campaign and political events. The staffer who served as Press Secretary from 2008 to 2009 told the Committee he viewed working on campaign communications as part of his job, noting that there was no one on campaign staff doing a parallel job.¹⁶⁹ Throughout the time he worked for Representative Rodgers, the Communications Director drafted speeches for at least a dozen campaign and political events, including the Republican National Convention, state Republican Party events, and various fundraisers.¹⁷⁰

From 2010 to 2012, the Communications Director said he prepared campaign and political speeches in the congressional office, on his government computer. The Communications Director sent drafts of most of the unofficial speeches he worked on to Mr. Deutsch during office hours,¹⁷¹ and testified that he met with the congresswoman during his work day about campaign speeches.¹⁷² Representative Rodgers told the Committee she remembered having a conversation with the Communications Director about a campaign speech in the congressional office on one occasion.¹⁷³

In March 2013, after becoming Conference Chair, Representative Rodgers gave political speeches at the Dorchester Conference, a political event in Oregon, and the Conservative Political Action Conference (known as "CPAC") in Maryland. In the weeks prior to the events, Representative Rodgers' office scheduled meetings for the congresswoman to work on the speeches with members of both her official and campaign staff, in the congressional office.¹⁷⁴

The speeches themselves included a substantial amount of overlapping language. A portion of both speeches included discussion of her efforts through the Conference to use more technology for messaging, and the CPAC speech briefly touched on some policy issues, but both speeches focused on unofficial, political topics. The Dorchester speech included lines such as, "Eighteen percent more women voted for Obama than Romney. It doesn't have to be that way. Let's not forget: In 2010 we won the women's vote . . . There's no reason we can't win the women's vote again in 2014, in 2016 and in the years ahead."¹⁷⁵ The CPAC speech included

¹⁶⁸ See, e.g., Exhibits 32–44. See also 18(a) Interview of 2008–2009 Press Secretary (testimony by former press secretary that he handled campaign press inquiries and generally did not differentiate between campaign and official requests when determining when or where to work on them).

¹⁶⁹ 18(a) Interview of 2008–2009 Press Secretary.

¹⁷⁰ Exhibits 45–57.

¹⁷¹ See Exhibits 45–46, 48–50, 53–55, and 57. The Communications Director testified that Mr. Deutsch observed him writing speeches in the office during office hours, and Mr. Deutsch discussed those speeches with him in the office. 18(a) Interview of Communications Director.

¹⁷² 18(a) Interview of Communications Director.

¹⁷³ 18(a) Interview of Representative Rodgers.

¹⁷⁴ At least two one-hour drafting sessions for the Dorchester speech were scheduled in Representative Rodgers' congressional office. Exhibit 58. There were also four different speech preparation sessions scheduled the week prior to CPAC. Exhibit 59.

¹⁷⁵ Exhibit 60.

discussion of the women's vote in the 2012 election, conservative women running for office, and ways Republicans can "win elections in the future."¹⁷⁶

Representative Rodgers told the Committee the speech drafting sessions occurred in the congressional office because "when you look at the speech itself, it's really about our work, my work here in the House, and as Chair of the Republican Conference. And I never thought about [the Dorchester speech] being a political speech, even though it was a political event."¹⁷⁷ She also said that she "didn't discuss at the time whether [CPAC] was a political or official event. I honestly thought, to a certain degree, I was going there in an official capacity."¹⁷⁸

Representative Rodgers' Press Secretary helped draft the remarks for the speeches. The Press Secretary told the Committee that she also understood CPAC to be an official speech.¹⁷⁹ However, shortly before the speech, the Press Secretary appeared to recognize there were restrictions on using official resources in connection with the speech. She asked Mr. Shore, to send out a press release after the speech from the campaign, "[s]ince we can't send the substance of CMR's speech out [in] an official capacity (since it has to do with the election, etc.)."¹⁸⁰ When asked why she asked the campaign to send out the release if she thought it was an official speech, the Press Secretary said, "I guess I was simply being careful."¹⁸¹ Representative Rodgers' political fundraising team was also involved with her CPAC speech, including assisting with the language of the speech and discussing online promotion of the speech; the Political Fundraiser was also directed to help the congresswoman practice the speech.¹⁸²

iii. Debate Preparation

Official staff helped prepare Representative Rodgers to debate her campaign opponents in 2008, 2010, and 2012.

The congresswoman's 2008-2009 Press Secretary told the Committee he participated in debate preparation, and specifically recalled working on an "extensive" debate packet in 2008, which "took a lot of time," at the official office.¹⁸³

In 2010, Representative Rodgers' Press Secretary, New Media Director, and Communications Director compiled a 50-page packet with a mix of content created specifically to prepare for the debate and materials initially created for internal official use.¹⁸⁴ Representative Rodgers said she saw this work as something staff did on their own time.¹⁸⁵ However, official

¹⁷⁶ Exhibit 61.

¹⁷⁷ 18(a) Interview of Representative Rodgers.

¹⁷⁸ *Id.*

¹⁷⁹ 18(a) Interview of Press Secretary.

¹⁸⁰ Exhibit 62; *see also* Exhibit 63.

¹⁸¹ 18(a) Interview of Press Secretary.

¹⁸² Exhibit 64.

¹⁸³ Interview of 2008-2009 Press Secretary.

¹⁸⁴ Exhibits 65-69.

¹⁸⁵ 18(a) Interview of Representative Rodgers.

staff sent her substantial work product for debate preparation during office hours.¹⁸⁶ When asked whether it occurred to her that staff may have been working on this from the office, she said it did not.¹⁸⁷ Representative Rodgers said she expected staff to take leave to work on these materials, but she never had any discussions with them about whether they were taking leave, or any discussions about not using official resources for the work.¹⁸⁸

The Committee found that Representative Rodgers' staff, including Mr. Deutsch, the Communications Director, the Press Secretary, the Legislative Director, and the New Media Director, spent substantial time working on debate preparation in the fall of 2012. From September 24, 2012 through October 12, 2012, Representative Rodgers scheduled at least five debate preparation sessions, many of them during office hours.¹⁸⁹ The congresswoman told the Committee she expected staff to take leave for 2012 debate preparation, but there is no record of any of them doing so.¹⁹⁰ She did not have any discussions with staff about ensuring official time or other resources were not used for the debate.¹⁹¹

Representative Rodgers has acknowledged one of the debate preparation sessions, which occurred on Sunday, October 7, 2012, took place in her congressional office.¹⁹² Representative Rodgers has expressed regret this occurred,¹⁹³ but she and her staffers have also offered contradictory explanations for why it occurred. The congresswoman told the Committee and OCE the meeting was intended to occur at her house, but her home was noisy with children, and so it was moved to the congressional office.¹⁹⁴ In her interview with the Committee, she characterized this as a spur-of-the-moment decision:

Q: How far in advance did you plan to hold the debate prep session in the congressional office?

A: It was just in the moment. Because we came back to the office after the Sunday show. And we were going over some other things. There had been a change in the plan at my house, and so we just decided to stay there.¹⁹⁵

Mr. Deutsch also said they had been planning to do the debate preparation session at the congresswoman's home, but the plan changed just prior.¹⁹⁶ The Legislative Director said the decision to move the weekend debate session to the office was made because several staffers were

¹⁸⁶ Exhibit 67; Exhibit 68.

¹⁸⁷ 18(a) Interview of Representative Rodgers.

¹⁸⁸ *Id.*

¹⁸⁹ Exhibit 70.

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² Another debate preparation session may have been held in the congressional office on Friday, October 5, 2012. Exhibit 70; Exhibit 71. Mr. Deutsch told the Committee he did not recall the session scheduled to occur in the congressional office that day, and believed it was moved to Sunday. 18(a) Interview of Jeremy Deutsch. However, records show that, while it was delayed, the session still happened on that day. Exhibit 71.

¹⁹³ Appendix C at 3.

¹⁹⁴ 18(a) Interview of Representative Rodgers; OCE Referral, Ex. 4.

¹⁹⁵ 18(a) Interview of Representative Rodgers.

¹⁹⁶ 18(a) Interview of Jeremy Deutsch.

already working in the office, which led to an impromptu staff meeting the congresswoman joined, which then “floated” to a discussion about the debates.¹⁹⁷ In contrast to all of these after-the-fact explanations, a contemporaneous document indicates the session was scheduled to occur in the congressional office at least two days prior to when it took place. On Friday, October 5, 2012, the Communications Director emailed Speech Consultant, who assisted with debate preparation, stating, “[o]n Sunday, we will be in CMR’s office (2412 Rayburn) at 3:30 p.m.”¹⁹⁸

Representative Rodgers suggested that debate preparation may have been sufficiently official to permit the use of official resources, because it involved a review of her legislative record.¹⁹⁹ However, Representative Rodgers also devoted campaign resources to her debate preparation. Mr. Shore, her general campaign consultant, was included on almost all communications regarding debate preparation, and the Political Fundraiser helped arrange at least some of the debate preparation sessions.²⁰⁰

iv. Travel for Political Purposes

The Committee also reviewed evidence relating to trips for which Representative Rodgers and her staff used official resources. In some instances, the Committee found official resources were used for trips with a campaign or other political purpose. Several of the trips reviewed by the Committee involved both official and political activities; in those instances, the Committee considered whether the primary purpose of the trip was official.

a. Official Staff Booked Political Travel.

Representative Rodgers’ Staff Assistants in both her Washington, D.C. office and her Spokane district office booked campaign and other political travel for the congresswoman and some of the official staff. One D.C.-based Staff Assistant said she would book travel for Representative Rodgers during her workday, regardless of whether the trip was campaign or official.²⁰¹ She relied on Mr. Deutsch to tell her whether travel should be paid for with the campaign credit card or with official funds.²⁰²

Mr. Deutsch confirmed the D.C. Staff Assistant would also book political travel, but said he expected the D.C. Staff Assistant to do so on her lunch break or after work.²⁰³ However, records reviewed by the Committee indicate he had reason to suspect she may have been using official resources to book campaign or political travel, as she would respond to his requests regarding political travel during office hours, when she was likely to be in the office.²⁰⁴ Another Staff Assistant for Representative Rodgers also said she booked campaign travel during her work hours,

¹⁹⁷ 18(a) Interview of Legislative Director.

¹⁹⁸ Exhibit 72.

¹⁹⁹ 18(a) Interview of Representative Rodgers.

²⁰⁰ See Exhibit 73.

²⁰¹ 18(a) Interview of D.C. Staff Assistant.

²⁰² *Id.*

²⁰³ 18(a) Interview of Jeremy Deutsch.

²⁰⁴ Exhibit 74; Exhibit 75; Exhibit 76.

and noted she thought it was “unethical” for her to do so.²⁰⁵ She told the Committee she objected to her supervisors about being asked to book campaign travel during congressional hours, and was told she should instead do it on her own time.²⁰⁶ The Staff Assistant said that she eventually “won,” and stopped booking political travel altogether.²⁰⁷

b. Official Staff Made Campaign-Related Trips to the District.

Official staff based in D.C. made several trips to the district between at least 2008 and 2012, during which time they engaged in some activities for the congresswoman’s campaign. Representative Rodgers claims the campaign work on all of these trips was secondary to an official purpose, but the Committee reviewed evidence demonstrating that was not always the case.

According to one Staff Assistant, who had responsibility for scheduling and travel, Representative Rodgers’ office would often “come up with something that they could do congressionally” when planning a political trip “so that they would pay it on the congressional credit card.”²⁰⁸ The Staff Assistant also said that staff traveled to the district from Washington, D.C., for the 2012 election using congressional funds.²⁰⁹ She noted she observed staff working on campaign activities during the trip, not congressional work, and said she talked with her supervisor about how uncomfortable she was with it.²¹⁰

c. Press Secretary’s April and November 2012 Trips to the District.

OCE found substantial reason to believe Representative Rodgers’ congressional staff traveled using official funds primarily for campaign-related activities.²¹¹ OCE specifically considered two trips by the Press Secretary, one from April 2 to April 6, 2012, and another from November 5 to November 7, 2012, to be instances where MRA funds were used in connection with trips that were primarily campaign in nature.²¹² The April 2012 trip coincided with the congresswoman’s “campaign kickoff” fundraising events (called “Top of the Morning”), and the November 2012 trip coincided with the general election.

In support of its findings, OCE relied in part on the Press Secretary’s testimony during her interview with OCE, where she stated the two trips were primarily campaign-related and that she requested leave for the dates of her travel.²¹³ However, one week after the Press Secretary’s testimony to OCE, an attorney who represented both her and Representative Rodgers contacted

²⁰⁵ 18(a) Interview of Staff Assistant.

²⁰⁶ *Id.*; *see also* 18(a) Interview of 2013 Member Office Chief of Staff.

²⁰⁷ 18(a) Interview of Staff Assistant. The Staff Assistant noted that her successor in that scheduling role told her that she was still expected to book some campaign flights. *Id.* The Political Fundraiser confirmed that the official Staff Assistants sometimes booked campaign and political travel, until around the time Representative Rodgers became Conference Chair. 18(a) Interview of Political Fundraiser.

²⁰⁸ 18(a) Interview of Staff Assistant.

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ OCE’s Referral at 18.

²¹² *Id.* at 18–24.

²¹³ *Id.* at 19, 22.

OCE attorneys to inform them the Press Secretary “no longer believes that she took leave for this time.”²¹⁴ Counsel also told OCE the Press Secretary worked a full official schedule during both trips.²¹⁵ In a separate letter to the Committee on behalf of Representative Rodgers, counsel asserted that the Press Secretary “reviewed her calendar and other records” for the April and November 2012 travel periods following her OCE interview, and “[s]he then recalled that the primary purpose of the travel had actually been to conduct official business.”²¹⁶

In interviews with the Committee, the Press Secretary’s testimony more closely matched her initial testimony to OCE than counsel’s proffer. She recalled filling out a leave form for the trips and remembered telling OCE the trip was primarily campaign-related.²¹⁷ She did not remember ever changing that recollection.²¹⁸ To the contrary, she told the Committee she did not believe her recollection in her OCE interview was incorrect, and noted her recollection in 2017 was “pretty much the exact same thing” as in her OCE interview: the trip was a combination of both official and campaign activities, and she took leave “to be safe, because there were campaign activities.”²¹⁹ She also disagreed with the characterization attributed to her by counsel:

Q: Do you think it’s correct to say that the primary purpose of your travel was to conduct official business?

A: No. I think it was to do these Top of the Morning [fundraiser] events [in April], which is why I remember signing a vacation form [in April]. I would not have done that if I thought the primary reason of my travel was to conduct official business. But, like I said, there was certainly both.²²⁰

The Press Secretary also told the Committee she understood her trip to the district in November 2012 to be “for the reelection.”²²¹ When shown her former counsel’s email and letter stating she had changed her recollection, the Press Secretary was completely unfamiliar with the documents and said she was not aware that her counsel had contacted OCE to amend her testimony.²²²

After the Press Secretary’s first interview with the Committee, her counsel (different from the counsel that represented her in OCE’s interview) contacted the Committee to note the Press Secretary “now recalls that she sought to clarify her OCE testimony by providing OCE, through her former counsel, with her travel calendar for the trips in question.”²²³ During a second interview with Committee staff to explain that statement, the Press Secretary said “there were more official events than [she] had initially recalled.”²²⁴ The Press Secretary did not say her recollection of the

²¹⁴ Exhibit 77.

²¹⁵ *Id.*

²¹⁶ Appendix C at 12, 15.

²¹⁷ 18(a) Interview of Press Secretary.

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

²²² *Id.*

²²³ Exhibit 78.

²²⁴ 18(a) Interview of Press Secretary.

primary purpose of the April and November 2012 trips had changed, but noted she was “a junior staffer at the time, and it wasn’t [her] decision” whether a trip was primarily official.²²⁵ She did ultimately submit her expenses for reimbursement to the official office, which she said someone would have asked her to do.²²⁶ She noted, “it appears that the office determined that it was a full official trip, and I can’t disagree with that determination.”²²⁷ She also pointed out that, while she still recalled submitting a leave request, it was possible the leave request was never processed because someone in the office determined the trip was official.²²⁸

Documents reviewed by the Committee support the Press Secretary’s assertion that she engaged in a mix of official and campaign work during the April 2012 trip.²²⁹ With respect to the Press Secretary’s November 2012 trip to the district, the evidence indicates the trip was primarily campaign-related. The Press Secretary arrived in the district the day before the election and left the day after it. She recalled being present in the campaign office during the daytime.²³⁰ Representative Rodgers told the Committee she was unsure about whether the primary purpose of the Press Secretary’s travel in November 2012 was related to the election and said that she “did not make that call.”²³¹

d. Political Travel by Mr. Deutsch.

The Committee found evidence that Mr. Deutsch took trips that were primarily political in nature without taking leave, even after OCE’s investigation raised concerns regarding political travel by Representative Rodgers’ official staff. Mr. Deutsch would regularly accompany Representative Rodgers on political trips outside D.C. or the congressional district during the work week.²³² This was his practice both when he was Chief of Staff for her personal office and when he moved to the Conference. Mr. Deutsch indicated in his testimony that he understood he should take leave when traveling for the campaign.²³³ On a few occasions in 2014 and 2015, Mr. Deutsch submitted leave requests in connection with political travel,²³⁴ but in the majority of instances from 2008 through 2015, there is no record of Mr. Deutsch requesting leave. The Committee found

²²⁵ *Id.*

²²⁶ *Id.*; Exhibit 79.

²²⁷ 18(a) Interview of Press Secretary.

²²⁸ *Id.*

²²⁹ Representative Rodgers’ counsel submitted a letter to the Committee on her behalf, claiming that only three of the sixteen interviews and other events on the Press Secretary’s schedule for her April 2012 trip to the district were campaign-related. Appendix C at 12-13. However, the Committee found this to be inaccurate; several of the interviews on the Press Secretary’s calendar described as “official” were explicitly planned to be about the congresswoman’s campaign. Exhibits 80-82.

²³⁰ 18(a) Interview of Press Secretary. Representative Rodgers’ counsel asserted in a letter to the Committee that, of the eleven events on the Press Secretary’s calendar for her November 2012 trip to the district, only one of them, an evening victory party on election night, constituted campaign activity. Appendix C. Despite counsel’s claim, contemporaneous records show that seven of the ten remaining events on the Press Secretary’s calendar were interviews that were explicitly planned to include discussion of campaign or political topics. *Id.*; Exhibit 83.

²³¹ 18(a) Interview of Representative Rodgers.

²³² 18(a) Interview of Political Fundraiser.

²³³ 18(a) Interview of Jeremy Deutsch.

²³⁴ Exhibit 84.

more than a dozen examples from 2013 to 2015 in which Mr. Deutsch traveled to attend campaign or PAC fundraisers, with no leave record associated with the dates of those trips.²³⁵

Representative Rodgers told the Committee she expected staff to document and account for political trips they took, and she generally expected staff to take leave when they accompanied her on a political trip, but that was not the case for Mr. Deutsch.²³⁶ She explained that she understood the rules regarding campaign work to be different for him:

[W]ith the Chief of Staff, I feel like, my expectation is that the Chief of Staff has a little more flexibility around political activities versus the rest of the staff; and that there—my understanding is that there is—that there’s an understanding that the Chief of Staff is going to be involved in both political and the official activities from, you know, depending on the day . . . I was not under the impression that the Chief of Staff would have to document every moment of every day or every hour or every trip as detailed as I would expect the rest of the staff to do.²³⁷

Representative Rodgers further explained that she had previously been under the impression that a Member can designate a staffer to be “the political person,” such as the Chief of Staff or District Director, and that person has greater flexibility to do campaign work.²³⁸ She assumed Mr. Deutsch was still working a full week’s worth of work, making up the time spent during the day doing campaign work by working late or on the weekends.²³⁹ Since OCE’s investigation, Representative Rodgers told the Committee she no longer believes that the Chief of Staff has more “flexibility” to assist with the campaign than other staff.²⁴⁰

Representative Rodgers was not sure whether she’d ever discussed this concept of “flexibility” with Mr. Deutsch and said she never specifically asked Mr. Deutsch if he was taking leave for any campaign or political work.²⁴¹ She also never asked Mr. Deutsch or any other staff if they had enough unused leave time to help with the campaign.²⁴²

Representative Rodgers also told the Committee that, since OCE’s investigation, “every hour” has been documented.²⁴³ When asked why there are no leave records for several of the political trips that Mr. Deutsch took after the OCE investigation concluded, the congresswoman said she believed they do exist, and could not explain why they had not been produced.²⁴⁴

²³⁵Exhibit 85.

²³⁶ 18(a) Interview of Representative Rodgers.

²³⁷ *Id.*

²³⁸ *Id.* At least one staffer conveyed a similar view. 18(a) Interview of Staff Assistant (“I don’t really know if this is accurate, but I was told that the District Director had a little bit more leeway with what he was allowed to do when it came to campaign work. I do know for a fact that the District Director never did anything in the office . . . It was the D.C. office that would come and not follow the rules.”).

²³⁹ 18(a) Interview of Representative Rodgers.

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

v. *Additional Campaign and Other Political Activities by Official Staff*

The Committee also reviewed evidence of additional instances where Representative Rodgers' staff blurred the line between campaign and official resources, including evidence of the following issues:

- During Representative Rodgers' 2012 campaign, congressional staff may have shared internal official materials with the campaign.²⁴⁵
- On occasions in 2010 and 2012, campaign documents were likely printed in the congressional office.²⁴⁶
- Between 2008 and 2012, three members of Representative Rodgers' official staff each spent at least one entire work day on activities relating to filming campaign advertisements, without taking leave.²⁴⁷
- Official staff worked with the campaign in both 2010 and 2012 to draft letters to the editor related to the campaign during office hours²⁴⁸ and in the congressional office.²⁴⁹
- Representative Rodgers' congressional staff drove her to political events during office hours,²⁵⁰ and at least two staffers said they would sometimes seek mileage reimbursements from the MRA for those drives.²⁵¹

²⁴⁵ See Exhibit 86 (New Media Director offered to send a memo drafted for official use to the campaign for use in donor email); Exhibits 87 and 88 (indicating an internal official talking points document was shared with the campaign).

²⁴⁶ See Exhibit 54 (Mr. Deutsch asked the Communications Director to print a campaign document and either hand it to the D.C. Staff Assistant or "put on her chair"); Exhibit 89 (Mr. Deutsch asked the Communications Director to print out a campaign document and hand to Representative Rodgers "when she is in the office.").

²⁴⁷ 18(a) Interview of 2008-2009 Press Secretary (Press Secretary recalled being present at the shooting of a television ad on a week day for "one whole day" in 2008.); Exhibit 90 (In October 2010, Press Secretary told congresswoman she and Mr. Deutsch "were working on a TV ad all day" on a Wednesday); Exhibit 91 (In July 2012, District Director sent Mr. Deutsch a "partial listing of [26] places that I will be taking the film person on Tuesday."); Exhibit 92 (Mr. Deutsch sent a list of people to contact about appearing in the advertisements, stating that "recruiting people will be our top priority Monday."); 18(a) Interview of District Director (estimated spending approximately 8-10 hours working with film vendor on one of several days he worked on campaign advertisements.).

²⁴⁸ Exhibit 93; Exhibit 94 ; Exhibit 95; Exhibit 96. The letters clearly related to Representative Rodgers' campaign, including discussions about her campaign opponents and urging voters to support her. *E.g.*, Exhibit 93 ("On Tuesday night, I was flipping back and forth between the baseball game and the debate between Cathy McMorris Rodgers and Daryl Romeyn . . . Did Daryl Romeyn blatantly lie to voters or does he simply not know what he's talking about? Either answer should disqualify him from serving in Congress."); Exhibit 94 (She's well positioned to deliver results on the priorities of our region. Contrast that with our state's junior senator . . . take it from this supporter, [Representative Rodgers] deserves your vote this November.).

²⁴⁹ 18(a) Interview of Communications Director; 18(a) Interview of New Media Director.

²⁵⁰ 18(a) Interview of District Director; 18(a) Interview of Staff Assistant; 18(a) Interview of Deputy District Director.

²⁵¹ 18(a) Interview of District Director; 18(a) Interview of Deputy District Director.

- From at least 2010 to 2013, Representative Rodgers and her staff sometimes sent and received campaign communications from their official House email accounts.²⁵²

Official staff also made outlays to benefit the congresswoman’s campaign. For example, in September 2012, the campaign committee reimbursed the Senior Policy Advisor \$550 for rebar he purchased with his own funds, to use as stakes for campaign signs.²⁵³ The campaign paid the New Media Director \$89 for an “expense reimbursement” in 2011.²⁵⁴ The New Media Director could not recall the purpose of the reimbursement, though he noted that he did purchase bottled water for the campaign on one occasion.²⁵⁵ In 2008, the campaign committee spent at least \$665 to reimburse the then-Chief of Staff for her phone bill, which she used for campaign communications.²⁵⁶

vi. *Voluntary Nature of Campaign Work*

The Committee found no evidence that Representative Rodgers ever compelled her staff to assist with her campaign or other political efforts. Most of the staffers that the Committee interviewed were willing volunteers and said they felt they could have declined to do campaign work without fear of negative consequences.

A few staffers testified that they had the impression Mr. Deutsch expected them to do campaign work, even if he never explicitly said as much to them.²⁵⁷ Mr. Deutsch said that he generally understood staffers who participated in campaign activities to be volunteering their time.²⁵⁸ The Committee did not find any evidence indicating staffers faced adverse consequences for declining to assist with the congresswoman’s campaigns.

2. *Relevant House Rules, Laws and Other Applicable Standards of Conduct*

²⁵² The majority of campaign emails sent and received by official staff used personal email addresses for staff. Most of the instances of House email being used for campaign communications involved Representative Rodgers. She received campaign-related emails through her official House account on at least 50 occasions. On at least 20 of those occasions, she responded to the email from her official account. On at least 4 occasions, Representative Rodgers herself initiated a campaign-related email from her official House account.

²⁵³ Exhibit 97; 18(a) Interview of Senior Policy Advisor.

²⁵⁴ Exhibit 98.

²⁵⁵ 18(a) Interview of New Media Director.

²⁵⁶ Exhibit 99; 18(a) Interview of 2005-2008 Chief of Staff (the former Chief of Staff also believed she paid for meals and other costs associated with fundraising events, for which she was later reimbursed by the campaign).

²⁵⁷ 18(a) Interview of 2008-2009 Press Secretary (former press secretary testified that when Mr. Deutsch became Chief of Staff, the press secretary felt that he could not decline to do campaign work, for fear of losing his job); 18(a) Interview of Staff Assistant (former scheduler testified that she felt Mr. Deutsch expected her to attend the Pink Flamingo fundraiser each year, and would have disapproved of her if she did not attend.); 18(a) Interview of Communications Director (former communications director testified that he never explicitly volunteered for the campaign and that Mr. Deutsch had told him that all campaign press was going to be handled by the official staff).

²⁵⁸ 18(a) Interview of Jeremy Deutsch.

i. *Use of Official Resources for Political and Campaign Activities*

Federal law requires that appropriations “shall be applied only to the objects for which the appropriations were made”²⁵⁹ Regulations from the CHA implement that requirement and provide that House funds and resources are to be used for official House business and may not be used for any unofficial purposes. The *Members’ Handbook* states, “[o]nly expenses the primary purpose of which [is] official and representational” are reimbursable from the MRA, and the MRA may not pay for campaign expenses or political expenses.

The *Ethics Manual* explains the general prohibition against using official resources for campaign or political purposes:

[F]unds appropriated for Member, committee, and other House offices are official resources, as are the goods and services purchased with those funds. Accordingly, among the resources that generally may not be used for campaign or political resources are congressional office equipment (including the computers, telephones and fax machines), office supplies (including official stationery and envelopes), and congressional staff time.²⁶⁰

House buildings, rooms and offices are supported with official funds and are also considered official resources that may not be used for campaign or political activities.²⁶¹

There are certain limited exceptions to the prohibition on using official resources for particular campaign-related activities, including coordination of the Member’s schedule between the congressional office scheduler and the campaign. The *Ethics Manual* notes, however, “the congressional office scheduler should not make travel arrangements for the Member’s campaign trips either in the congressional office or while on official time.”²⁶² Another notable exception where official staff time may be used for campaign activities is that the press secretary in a congressional office may respond to political questions that are merely incidental to an interview focused on official activities.²⁶³ Other than these and certain other very limited exceptions,²⁶⁴ there is no leeway to use official resources for campaign or political activities. Unlike the incidental personal use of official resources, there is no *de minimis* exception to the prohibition on using official resources for campaign or political purposes. This prohibition applies to all House employees equally.

²⁵⁹ 31 U.S.C. § 1301.

²⁶⁰ *Ethics Manual* at 123.

²⁶¹ *Id.* at 127.

²⁶² *Id.* at 132.

²⁶³ *Id.* at 133.

²⁶⁴ The remaining campaign-related activities that may take place in congressional office or using official time are (1) referrals to the campaign office, (2) providing published materials to the campaign, (3) responding to questionnaires on legislative issues, and (4) providing nonpartisan voter registration materials. See *Ethics Manual* at 133-35.

Some activities can be considered either “official” or “political” at the Member’s option, such as town hall meetings or leadership race activities.²⁶⁵ A single event or activity cannot be treated as *both* political and official; once the Member makes a determination, she is bound by it.²⁶⁶ The Committee’s guidance recognizes, however, that travel can have both an official and political purpose.²⁶⁷ The *Ethics Manual* explains that “Member and staff travel, including to one’s district, may be paid with official funds only if the primary purpose of the trip is the conduct of official business.”²⁶⁸ However, “[a]ny additional meal, lodging, or other travel expenses that the Member or staff person incurs in serving a secondary purpose must be paid by the source associated with that secondary purpose.”²⁶⁹ In the *Members’ Handbook*, CHA cautions that, “[i]f the primary purpose [of travel] is for a non-official event/purpose, the office cannot schedule official activities around the non-official event/purpose to make the travel eligible for congressional offices to be reimbursed.”²⁷⁰

The *Ethics Manual* notes, “[w]hat constitutes a staff member’s ‘own time’ is determined by the personnel policies that are in place in the employing office. Time that is available to a staff member, under those policies, to engage in personal or other outside activities may instead be used to do campaign work, if the individual so chooses.”²⁷¹ As examples of what may be included in an employee’s “free time,” the Committee cites an employee’s lunch period, time after the end of the business day, and annual leave.²⁷² The Committee’s guidance recognizes, however, that “it is unrealistic to impose conventional work hours and rules on congressional employees.”²⁷³

Federal law makes it a crime for a federal employee to secure through intimidation any “valuable thing for any political purpose” from another employee.²⁷⁴ The Committee has noted that compelling an employee to do campaign work may violate that provision.²⁷⁵ The *Ethics Manual* states that, if a Member or senior staff were to compel a House employee to do campaign work, it would “result in an impermissible official subsidy of the Member’s campaign.”²⁷⁶ The Committee has further explained that the prohibition on compelling campaign work is “quite broad” and “[i]t forbids Members and senior staff from not only threatening or attempting to intimidate employees regarding doing campaign work but also from directing or otherwise pressuring them to do such work.”²⁷⁷

Additionally, House employees are prohibited from making campaign contributions to their employing Members, pursuant to 18 U.S.C. § 603. Under FEC regulations, most outlays

²⁶⁵ *Id.* at 178.

²⁶⁶ *Id.* at 179 (citing *Advisory Opinion No. 6*, reprinted at 375-77).

²⁶⁷ *Id.* at 116.

²⁶⁸ *Id.* at 131.

²⁶⁹ *Id.* at 116.

²⁷⁰ *Members’ Handbook* at 37.

²⁷¹ *Ethics Manual* at 136.

²⁷² *Id.*

²⁷³ *Id.* (quoting House Comm. on Standards of Official Conduct, *Advisory Opinion No. 2* (July 11, 1973)).

²⁷⁴ 18 U.S.C. § 606.

²⁷⁵ *Ethics Manual* at 136 n.17.

²⁷⁶ *Id.* at 135-36.

²⁷⁷ *Id.* at 136.

made on behalf of a campaign are deemed to be contributions to that campaign from that individual, even if the outlay is promptly reimbursed by the campaign.²⁷⁸

ii. *Additional House Rules, Laws, and Other Standards of Conduct*

House Rule XXIII contains the Code of Official Conduct, which governs the actions of any Member, Delegate, Resident Commissioner, officer or employee of the House.

House Rule XXIII, clause 8, states that “[a] Member . . . of the House may not retain an employee who does not perform duties for the offices of the employing authority commensurate with the compensation such employee receives.” The Code in Ethics for Government Service, clause 3, also states that employees should “[g]ive a full day’s labor for a full day’s pay.”

House Rule XXIII, clauses 1 and 2, provide that “[a] Member . . . officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House,” and “shall adhere to the spirit and the letter of the Rules of the House.”

Finally, House Rule XXIII, clause 19 provides that the term “officer or employee of the House” in the Code of Official Conduct means, an individual whose compensation is disbursed by the Chief Administrative Officer,” and that “[a]n individual whose services are compensated by the House pursuant to a consultant contract shall be considered an employee of the House for purposes of clauses 1, 2, 3, 4, 8, 9, and 13” of the Code of Official Conduct.

3. *Analysis*

CHA regulations implement 31 U.S.C. § 1301(a), which requires that “appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law,” and provide that House funds and resources are to be used for official House business and may not be used for any unofficial purposes. CHA issues the *Members’ Handbook*, which states that “[o]nly expenses the primary purpose of which [is] official and representational” are reimbursable from the MRA and the MRA may not pay for campaign or political expenses. The *Ethics Manual* has an entire section devoted to campaign activity. It makes clear that official resources cannot be used for campaign activities, except under certain very limited and expressly defined circumstances.²⁷⁹ The *Ethics Manual* is also clear that congressional staff are free to voluntarily engage in campaign activities, so long as they do so on their own time, and without using House resources.²⁸⁰

²⁷⁸ See 11 C.F.R. § 116.5(b). The major exception to this rule is for outlays that an individual makes to cover travel expenses incurred on behalf of the campaign. Outlays for the individual’s own travel will not be deemed a contribution if either (1) the campaign provides reimbursement within 60 days after the expenses are incurred if payment was made by a credit card, or within 30 days in all other cases, *id.* § 116.5(b)(1)(2), or (2) the individual outlays for transportation do not exceed \$1,000 with respect to a single election, regardless of whether the campaign reimburses the outlays, *id.* § 100.79(a). See also *Ethics Manual* at 139 n. 27.

²⁷⁹ See *Ethics Manual* at 132-36 (noting that schedulers may coordinate with the campaign to schedule campaign appearances, the press secretary may answer occasional and merely incidental questions on political activities, the congressional office may refer campaign-related letters and other inquiries to the campaign office, and the congressional office may provide the campaign with copies of materials it has issued publicly).

²⁸⁰ *Id.* at 135.

The Code of Official Conduct, found in House Rule XXIII, also requires Members and employees to behave at all times in a manner that reflects creditably on the House (clause 1), and requires them to adhere to the spirit and letter of the Rules (clause 2). House Rule XXIII, clause 1 “is the most comprehensive provision of the Code and was adopted, in part, so that the Committee, in applying the Code, would retain the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress.”²⁸¹ House Rule XXIII, clause 2, allows the Committee to construe ethical rules broadly.²⁸²

The Committee has previously found the use of House resources for campaign-related activity to be a violation of House Rules, regulations and laws.²⁸³

In this matter, the Committee found that Representative Rodgers failed to establish and implement consistent policies to safeguard against the misuse of official resources for campaign purposes. As a result, she and her staff violated House rules, regulations and laws relating to the use of official resources for campaign activities in a number of ways, including (1) devoting official staff time to campaign and political activities, (2) using congressional office space for campaign and political activities, (3) using official funds for travel that was primarily related to her campaign, and (4) using additional House resources for political or campaign purposes.

i. Official Staff Time was Used for Campaign or Political Activities

The Committee found Representative Rodgers’ official staff devoted official staff time to political activities. Representative Rodgers generally disputes this allegation and asserts staff engaged in campaign or other political work only on their own time.

Many House employees choose to use their personal time to assist their bosses’ campaigns. For many, this means that they save campaign work for the weekends or after they go home from work at the end of the day, but staff are free to do campaign work any time of day, any day of the week, as long as they are using their own time, and not their official time, to do so. The Committee anticipates staffers “own time” may not correspond to the hours outside a traditional 9 to 5 work schedule.²⁸⁴ The Committee has also long recognized that it “is not, and should not be, in the business of micromanaging personal offices, or disparaging a leadership style.”²⁸⁵ Accordingly, the Committee takes a “flexible view” on what is “own time” and Members have significant discretion about staffing expectations, “so long as those expectations respect the boundaries set up

²⁸¹ *Shuster* at 9 (internal quotation marks omitted); see also Comm. on Ethics, *In the Matter of Representative Judy Chu*, H. Rept. 113-11, 113th Cong., 2d Sess. 6 (2014) (*Chu*); Comm. on Ethics, *In the Matter of Representative Laura Richardson*, H. Rept. 112-642, 112th Cong., 2d Sess. (2012) (*Richardson*).

²⁸² See Comm. on Ethics, *In the Matter of Representative Ed Whitfield*, H. Rpt. 114-687, 114th Cong., 2d Sess. 45 (2016).

²⁸³ See *Richardson*; *Shuster*; *Barbara Rose-Collins*; Comm. on Standards of Official Conduct, *In the Matter of Representative Jim Bates*, H. Rept. 101-293, 101st Cong., 1st Sess. (1989).

²⁸⁴ *Ethics Manual* at 135-37.

²⁸⁵ *Richardson* at 56.

by the rules.”²⁸⁶ Those boundaries include the general expectation of a full day’s work for a full day’s pay.²⁸⁷ Additionally, the policies set by the office regarding office hours may not be enforced inconsistently in order to benefit a Member’s campaign.²⁸⁸ These boundaries leave room for Members’ offices to adapt to the particular needs of the office, without compromising their representational duties.

The Committee could not determine what the actual policies were in Representative Rodgers’ office regarding official time and campaign work by staff. Although she had written policies in her Employee Handbooks, those policies do not appear to have been consistently followed. The Handbooks included a requirement that staff complete a Campaign Work Authorization form when they volunteered on a campaign, but that form generally was not used. The Handbooks also provided that forms tracking staff leave, including leave for campaign-related reasons, were required to be sent to the district to be processed, but they were often not sent. And despite the office hours identified in her Handbooks, Representative Rodgers and some of her staffers expressed an understanding that the office had “flexibility with hours.”²⁸⁹ These departures from the Handbook were not written down anywhere, apart from the Handbook’s general language preserving the managers’ authority to depart from the written policies, nor is there evidence these departures were clearly communicated to staff.

The “flexibility with hours” appears to have been primarily applied to campaign or other political activities, with some exceptions for circumstances such as bereavement and sick leave.²⁹⁰ For example, the Committee found numerous instances where staff attended morning fundraisers or other campaign events that would have prevented them from arriving at the office by 9 a.m. Staff who arrived fifteen minutes late to the office for other reasons, however, risked being caught in the so-called “speed traps” set up by Mr. Deutsch, where he would monitor staff arrivals “to make a point to get here on time,” and “fine” those who were “straggling” by requiring them to bring in breakfast for the office.²⁹¹ While Members have discretion over how they manage their staff’s work schedules, they cannot deploy that discretion differently for campaign-related activities.

There were numerous instances where the Committee was not able to confirm whether employees were on their own time when performing campaign work, but serious questions were nonetheless raised. For example, with respect to debate preparation sessions, several members of Representative Rodgers’ official staff were scheduled to spend over ten hours during the official

²⁸⁶ *Id.* at 89–90.

²⁸⁷ *Ethics Manual* at 279.

²⁸⁸ For example, the Committee would not permit a Member to set an office policy that opens the office only when there is no campaign work to do. *Richardson* at 90.

²⁸⁹ *See* Appendix C at 5.

²⁹⁰ The Committee found at least two examples where staff were given a reprieve from the general office policies for bereavement leave. *See* 18(a) Interview of Press Secretary; 18(a) Interview of New Media Director. Staff also indicated that there was some flexibility for absences that would be covered by sick leave, such as doctor’s appointments. *See* 18(a) Interview of Staff Assistant; 18(a) Interview of Press Secretary.

²⁹¹ 18(a) Interview of Jeremy Deutsch; *see also* 18(a) Interview of Press Secretary (Mr. Deutsch had a “very strict rule about [staff arriving] at 8:45. Oftentimes he would lock the door and so anybody who came in after 8:45 would be publicly chastised and often asked to bring fresh bagels the next day for the entire team.”).

work day attending such sessions (with the congresswoman present) in 2012.²⁹² They spent additional hours preparing background materials for the debates and attending the debates themselves. However, even setting aside those instances, there was significant, unambiguous evidence that official staff time was used for political purposes. Several staffers explicitly acknowledged to the Committee that this occurred. In other instances, including entire days of political travel, such as Mr. Deutsch's out-of-state trips with the congresswoman and the 2012 Republican National Convention, staff suggested that they intended to use their own time but that did not happen, whether due to sloppy office practices or other reasons. These were not *de minimis* lapses or the actions of a single rogue staffer, but part of a regular practice of engaging in campaign work during official staff time.

ii. Congressional Offices and Facilities Were Used for Political Activities

The Committee also found that congressional offices and facilities were used for campaign and political activities.

As a general rule, House buildings and House rooms and offices may not be used for campaign or political activities. There are certain limited instances where campaign-related activities may take place in a congressional office, such as coordination of a Members' schedule, answering occasional press questions on political matters, and responding to election questionnaires that are limited to legislative issues.²⁹³ Those, however, are the exceptions and not the rule. They are limited to the explicit carve-outs articulated by the Committee in recognition that it would be impractical and unnecessary to prohibit those specific activities. In all other instances, however, campaign-related activities may not take place in congressional office space.

Representative Rodgers concedes that her campaign debate was discussed at a meeting in the congressional office on Sunday, October 7, 2012, but contends that was a regrettable, one-off occurrence. However, the record demonstrates there were several other instances where meetings were held in the congressional office space, with the congresswoman present, to discuss political matters, including at least six speech drafting sessions for the Dorchester and CPAC speeches in early 2013.²⁹⁴ While Representative Rodgers has characterized the Dorchester and CPAC speeches as official, that view is inconsistent with the explicit political themes in the text of the speeches, her campaign staff's involvement with the speeches, and her own staff's recognition that the speeches were not official.

Additionally, the evidence indicates several members of Representative Rodgers' official staff worked on political tasks from their desks in the congressional office. This was a foreseeable result of staff being asked during office hours to help with the congresswoman's campaign. Although Representative Rodgers and Mr. Deutsch may not have witnessed the campaign or political work staff was doing in the congressional office, they never explicitly cautioned staff to avoid doing so, and their own actions sent a contradictory message.

²⁹² See Exhibit 70; Exhibit 100; Exhibit 101.

²⁹³ See *Ethics Manual* at 132-35.

²⁹⁴ Exhibit 59; Exhibit 58.

iii. *MRA Funds Were Used for Campaign and Political Travel*

The *Ethics Manual* cautions that “Member and staff travel, including to one’s district, may be paid with official funds only if the primary purpose of the trip is the conduct of official business.”²⁹⁵ The *Ethics Manual* adds that “[t]he determination of the primary purpose of the trip must be made in a reasonable manner, and one relevant factor in making that determination is the number of days devoted to each purpose.”²⁹⁶

The lack of adequate record-keeping makes it difficult to determine the amount of time devoted to political purposes for each trip. The Committee determined, however, that the record as a whole supports a finding that at least two trips paid for with MRA funds were primarily for political or campaign purposes.²⁹⁷ For the Press Secretary’s April 2012 trip to the district: while the Committee reviewed evidence indicating that there were official activities during those trips, the weight of the evidence indicated that the primary purpose for each of those trips was to support the congresswoman’s fundraising events. With respect to the Press Secretary’s November 2012 trip to the district, the Committee found the evidence to be particularly clear that the primary reason for that travel was political—specifically, for the general election.²⁹⁸

By using official funds to pay for the Press Secretary’s travel expenses on her April and November 2012 trips, Representative Rodgers violated House rules and laws.

iv. *Additional Improper Campaign and Political Activities by Official Staff*

The Committee also found that Representative Rodgers’ staff made use of internal official materials for campaign purposes, received mileage reimbursements from the MRA for driving the congresswoman to campaign events, and made impermissible outlays to her campaign.

The *Ethics Manual* lays out the standards of conduct with respect to each of those issues. While the campaign may receive materials *published* by the congressional office, materials that are prepared for *internal* office use may not be shared with the campaign.²⁹⁹ This issue can arise in the context of preparing a Member for debates, which often involves highlighting the Member’s legislative accomplishments. Members’ campaigns may make use of information about Members’ accomplishments prepared for official use, provided that material is publicly available. However, the Committee found that Representative Rodgers’ staff shared unpublished background materials and talking points with her campaign that were prepared for internal use in her House office.

²⁹⁵ *Ethics Manual* at 131.

²⁹⁶ *Id.* at 116

²⁹⁷ See *Rose-Collins* at 13 (Investigative Subcommittee found travel by district director was primarily for the purpose of attending a campaign event, despite staff’s assertion that his primary reason for travel was official, noting that the only full day of travel was the day of the campaign event.).

²⁹⁸ The Committee also notes its concern about the shifting accounts provided with respect to the Press Secretary’s April 2012 and November 2012 trips. Counsel purported to correct testimony on the Press Secretary’s behalf, but when the Press Secretary was shown counsel’s communications, she was completely unfamiliar with them and disputed at least some of the representations made on her behalf, including whether she had submitted a request for leave in connection with those trips. It is particularly concerning the same counsel represented Representative Rodgers at the time that these representations were made.

²⁹⁹ *Ethics Manual* at 128, 133-34.

The use of MRA funds for mileage reimbursement is governed by the same restrictions as the use of MRA funds for other travel expenses. The *Ethics Manual* advises that “Members should maintain records of the mileage attributable to official, political, and personal trips to ensure that no account is subsidizing another and that any crossover use of a vehicle is indeed incidental.”³⁰⁰ Representative Rodgers provided no such records, and the Committee found, based on the testimony of several members of her staff, that the MRA was likely used to reimburse staff for travel to campaign events.

Staff are also prohibited from making expenditures on behalf of their employing Member’s campaign, as those expenditures are considered impermissible campaign contributions.³⁰¹ As the *Ethics Manual* makes clear, this is true regardless of whether the staffer making the impermissible outlay is later reimbursed by the campaign.³⁰² Representative Rodgers’ campaign committee appears to have reimbursed her staff for several hundred dollars in impermissible outlays since 2008.³⁰³

v. *Representative Rodgers Takes an Overbroad View of Whether an Activity can be Considered “Official”*

Representative Rodgers has repeatedly suggested that certain activities undertaken for an expressly political or campaign purpose were actually official activities because they involved highlighting her legislative accomplishments. The demarcation between official and political events is not always simple. The Committee has long recognized some activities may be considered either “official” or “political” and, in those circumstances, leaves it to the Member to make a determination about which designation applies.³⁰⁴ However, the Committee requires that, once a Member designates an event as political by using campaign resources, no official resources may then be used.³⁰⁵ Representative Rodgers used both campaign and official staff to assist her with activities she now suggests can be considered official. As the Committee has made clear, “[a] single event cannot, for purposes of the House rules, be treated as *both* political and official.”³⁰⁶

³⁰⁰ *Id.* at 330.

³⁰¹ *Ethics Manual* at 139. There is an exception for travel-related expenditures. *Id.*

³⁰² *Id.*

³⁰³ Comm. on Ethics, *In the Matter of Allegations Relating to Michael Collins*, H. Rept. 112-193, 112th Cong., 1st Sess. (2011) (finding that the respondent had been “reimbursed for outlays he made to the campaign [of his employing Member] with his own funds. Some of the outlays appear to violate campaign finance laws and House rules.”).

³⁰⁴ *Ethics Manual* at 178-79.

³⁰⁵ *Id.* at 179.

³⁰⁶ *Id.*

vi. *Representative Rodgers is Responsible for the Misuse Of Official Resources for Political Activities in her Office*

The *Ethics Manual* cautions, “each Member should be aware that he or she may be held responsible for any improper use of House resources that occurs in the Member’s office.”³⁰⁷ The Committee has long held Members responsible for their staff’s improper use of official resources, even when the Members are not aware of their staff’s actions.³⁰⁸ While the Committee recognizes that staff misconduct is at times the result of “rogue” employees acting contrary to their employing Member’s authorization, a staffer is not “rogue” simply because that staffer acts contrary to office policy when such policies were rarely enforced, and the staffer’s supervisor knew or had reason to know of the misconduct.

Representative Rodgers has suggested her Communications Director was the only member of her congressional staff who used official resources for her campaign, and asserted she had “no contemporaneous knowledge whatsoever of [his] improper conduct.”³⁰⁹ The Committee found otherwise.

The Communications Director’s use of official resources for campaign work was blatant and obvious. He primarily sent campaign-related communications while sitting in the congressional office, during office hours, using his House computer. He also discussed that campaign work with the congresswoman in the congressional office. Representative Rodgers’ counsel argues that her admission to discussing campaign speeches in the congressional office with the Communications Director does not support the finding that she had “any—let alone sufficient—knowledge” of his improper conduct.³¹⁰ But of course, that admission *does* provide further support for that finding, since discussing campaign speeches in the congressional office *was* improper conduct. At the very least, when the Communications Director brought up the campaign speech in the office, Representative Rodgers was presented with an opportunity to impress upon him the need to do campaign work on his own time, outside the congressional office. That same opportunity was also presented when he provided her with copies of campaign speeches in the congressional office. Representative Rodgers never took any of these opportunities.³¹¹

The Committee’s record also shows that several other official staffers, including (but not limited to) her Chief of Staff,³¹² District Director, Press Secretary, Legislative Director, New Media Director, and Staff Assistant, also used official resources for her campaign on multiple occasions. Given the breadth of campaign work performed by her official staff, often with short

³⁰⁷ *Ethics Manual* at 33.

³⁰⁸ *Chu* at 6; *see also Shuster* at 64.

³⁰⁹ Appendix C at 7.

³¹⁰ *Id.* at 8.

³¹¹ The Committee agrees with the congresswoman’s argument that the Communications Director’s suggestions to OCE that he was unsure or confused as to whether campaign work was optional or could be performed on official time do not hold water. *See* Appendix C at 9. The Communications Director received clear advice from the Ethics Committee on these issues in June of 2010 and demonstrated in contemporaneous emails that he understood that advice, and yet he continued to act contrary to that advice. *See* Exhibit 102. Nonetheless, by failing to enforce policies against using official resources for campaign work, Representative Rodgers sent a signal that such misconduct could be overlooked.

³¹² The Committee notes that Representative Rodgers’ previously held notion that the same rules regarding campaign work on official time do not apply to the Chief of Staff was incorrect, as she now recognizes.

turn-around times during the week, Representative Rodgers had every reason to question whether her staff was in compliance with ethics requirements when assisting her campaign. If Representative Rodgers did not see the implications of the evidence before her, it was because she failed to exercise the level of supervision and care for the conduct of her staff that the Committee expects of Members. Further, she could have curtailed the potential for abuse of official resources had she established consistent policies regarding campaign work by staff that were actually acknowledged and enforced. Not only did Representative Rodgers miss numerous red flags that should have alerted her to her staff's noncompliance with rules relating to campaign work, the Committee found that in some circumstances, such as during the debate preparation session held in her congressional office, she had actual knowledge of such noncompliance.

Representative Rodgers' failure to notice or take action in response to the lapses of her staff helped contribute to a tone for the office that further allowed for a pattern of misconduct. Like many Members, Representative Rodgers delegated much of the day-to-day running of her office to her Chief of Staff. The Committee recognizes that Members have a significant amount of discretion in how they run their offices, but each Member ultimately remains responsible for their office's compliance with relevant ethical boundaries. Nonetheless, senior staff are also expected to adhere to, and encourage those they supervise to adhere to, all House rules. One member of Representative Rodgers' congressional staff told the Committee she found the allegations in OCE's Referral to be "pretty accurate," but noted that she did not believe the Congresswoman was herself aware of most of the issues:

You know, you don't bring certain things up with the Congresswoman, because it's just things that, you know, they didn't want her being stressed about . . . Jeremy Deutsch was the person who ran the show, and Jeremy Deutsch made all the decisions, and, you know, I think he may have informed the Congresswoman on certain decisions after the fact, but I – I don't believe that she was aware of these things that were going on, because – and I'm not trying to say she's oblivious, but it's just something that she didn't – she wasn't involved in, because she was involved in other stuff.³¹³

The Committee found it particularly concerning that some of the misuse of official resources appears to have continued after OCE's investigation began, at which time Representative Rodgers was on notice that there may be substantial reason to believe at least some members of her congressional staff were using official resources for her campaign.

- vii. *Representative Rodgers did not compel her staff to assist with her campaigns, but should exercise greater care to ensure staff's participation was voluntary*

Although official staff are permitted to participate in campaign work on their own time, without the use of official resources, their participation must not be compelled. The Committee has noted that the coercion of congressional employees to work for a campaign would constitute

³¹³ 18(a) Interview of Staff Assistant.

an impermissible subsidy of that campaign.³¹⁴ As the *Ethics Manual* notes, “[t]he prohibition against coercing staff or requiring staff members to do campaign work is quite broad. It forbids Members and senior staff from not only threatening or attempting to intimidate employees regarding doing campaign work, but also from directing or otherwise pressuring them to do such work.”³¹⁵

The Committee found that Representative Rodgers’ official staff volunteered to help with her campaign and most staff felt they could decline to assist with political activities without suffering any negative consequences. However, the Committee notes that staff were frequently asked to assist with the campaign by their supervisors, including by Mr. Deutsch, and without assurances to the contrary, such requests can be perceived as mandatory assignments from staff. Some members of the congresswoman’s staff indicated to the Committee that they felt the Chief of Staff had an expectation they assist with the campaign and might view someone as failing to be a “team player” if they declined to assist.³¹⁶

While the Committee did not find that Representative Rodgers, Mr. Deutsch or anyone acting on Representative Rodgers’ behalf, actually required staff to perform campaign work, the Committee reminds all Members that they wield enormous influence over their staff and therefore should take caution to ensure that when staff assists with their campaigns, they do not feel any pressure or expectation to do so.

C. ALLEGATIONS RELATING TO USE OF OFFICIAL AND CAMPAIGN RESOURCES FOR LEADERSHIP RACE

1. *Background*

As part of her campaign to be elected Chair of the House Republican Conference, Representative Rodgers prepared and distributed an informational packet and video in the weeks leading up to the November 14, 2012 Conference vote.³¹⁷ She told OCE that the packet and video were a “combined effort” of her campaign and congressional staff.³¹⁸ At least five official staffers were involved in leadership race activities: the New Media Director, the Legislative Director, the Communications Director, the Press Secretary, and Mr. Deutsch. From the unofficial side, the Political Fundraiser, Speech Consultant, Leadership Consultant and Mr. Shore were involved. At least some of the unofficial staffers worked out of the congresswoman’s congressional office in the time between the general election and the Conference election.³¹⁹

³¹⁴ *Ethics Manual* at 136-37; see also *id.* at 137, n.17 (“Depending on the circumstances, compelling a House employee to do campaign work may also violate a provision of the federal criminal code, 18 U.S.C. § 606.”).

³¹⁵ *Id.* at 136.

³¹⁶ 18(a) Interview of New Media Director; 18(a) Interview of Communications Director; 18(a) Interview of Staff Assistant; 18(a) Interview of 2008-2009 Press Secretary.

³¹⁷ OCE Referral, Ex. 4.

³¹⁸ *Id.*

³¹⁹ 18(a) Interview of Political Fundraiser; 18(a) Interview of Leadership Consultant. The Political Fundraiser told the Committee that, although she was working for the campaign during the time of the leadership race, she was in D.C. “as a volunteer/friend helping.” 18(a) Interview of Political Fundraiser. The campaign paid for her accommodations at a hotel while she was in D.C. during the leadership race. *Id.*

On November 2, 2012, Leadership Consultant contacted the Committee asking whether the MRA could be used to pay the cost of mailing copies of the packet.³²⁰ Leadership Consultant's question was specific to mailing the packet; there is no record of her or anyone else working for the congresswoman seeking guidance on whether any other resources could be used in connection with the packet, such as official staff time or congressional office space, nor did she ask about any other aspects of the leadership race, such as the video. Committee counsel responded to Leadership Consultant: "Yes. Official resources are permitted for leadership race purposes."³²¹ A few minutes later, Committee counsel followed up, noting that if the information being mailed was "focused on fundraising accomplishments or goals," that might be an issue.³²² Leadership Consultant sent a copy of the packet to Committee counsel, asking her to review to see if it was permissible to mail the packet, but Committee counsel responded that she was unable to make that call, and suggested Mr. Deutsch call CHA for an opinion.³²³

On November 5, 2012, Mr. Deutsch contacted CHA and learned that the mailing of the packet would need to be paid for with campaign funds,³²⁴ which is what ultimately happened.³²⁵ The costs associated with production of the video were also paid for with campaign funds.³²⁶

Representative Rodgers' counsel told the Committee that, after learning from CHA that the packet had to be mailed with campaign funds, "[a]ll activity associated with the Congresswoman's leadership race followed said precedents," and "no official staff time or any other House resources were used in furtherance of" the mailing.³²⁷ Records reviewed by the Committee, however, indicate that a mix of campaign and official resources continued to be used. Official staff spent November 6, 2012 working to print and add labels to deliver the packets,³²⁸ and to prepare emails attaching the packet and video.³²⁹ At least one of the staffers involved testified that he did this work from the congressional office.³³⁰ None of the official staff took leave.

The New Media Director, who Representative Rodgers said was the point person for the leadership race on the official staff,³³¹ spent a substantial portion the workday stuffing and labeling

³²⁰ Leadership Consultant contacted Kelle Strickland, who was then Counsel to the Chairman of the Committee, on November 2, 2012. Exhibit 103 (After being forwarded a draft of the packet by Mr. Deutsch on November 2, Leadership Consultant asked him "Should I have Kelly look for legality and Mra?"); Exhibit 104 (Leadership Consultant emailed Ms. Strickland asking "Can you use your mra to FedEx leadership race material to members of congress?").

³²¹ Exhibit 104.

³²² Exhibit 105.

³²³ Exhibit 106.

³²⁴ Exhibit 107 (Legislative Director informed Political Fundraiser, "Jeremy just finished with admin, it has to be all campaign funds."). Representative Rodgers was aware that her staff sought guidance on what resources could be used for the packet and told the Committee that she recalled that the advice received was confusing and not clear.

18(a) Interview of Representative Rodgers.

³²⁵ Exhibit 108.

³²⁶ Exhibit 109.

³²⁷ Appendix C at 20.

³²⁸ Exhibit 110.

³²⁹ Exhibit 111.

³³⁰ 18(a) Interview of New Media Director.

³³¹ OCE Referral, Ex. 4.

the packets for distribution in Washington, D.C. The New Media Director sent an email timestamped at 10:46 a.m. to Mr. Deusch, the Legislative Director, and the Political Fundraiser with a list of addresses for the labels, noting “[p]ackets should be ready by 3:00 PM at Kinkos. I’d like to have the plain manilla [sic] envelopes labeled, stamped ‘Member Attention’ and ready to stuff by then.”³³² He emailed again at 5:23 p.m., confirming that Kinkos had run the copies, that all envelopes had been stuffed and sorted, and that he was planning to “set up shop at the ‘home office’ around 6:00 PM ET.”³³³

The New Media Director told the Committee that he worked on the packet in the congressional office and did not recall ever being told that he should not do so.³³⁴ He said he was told early on that the leadership race was something that could use official resources, and that while he recalled that a question came up late in the process about using campaign resources, he did not understand the question to involve whether his overall duties with respect to the leadership race should be considered official or campaign.³³⁵

2. *Relevant House Rules, Laws, and Other Applicable Standards of Conduct*

The Committee’s public guidance regarding the use of campaign and official resources in support of a campaign for House leadership offices provides that, “[a]s a general matter, a Member may use campaign funds to pay for activities in furtherance of a campaign for one of the House leadership offices.”³³⁶ The Committee has further stated:

A Member wishing to use any official House resource in furtherance of a campaign for a House leadership office—such as official stationery, the Inside Mail, or official staff time—should consult with the Committee on House Administration or the Franking Commission, as well as with the [Committee on Ethics], on the extent to which those resources may be used for this purpose. However, when a particular activity related to a leadership race is supported with campaign resources, no official House resources may be devoted to that activity except to the extent noted above.³³⁷

3. *Analysis*

Leadership elections present a unique application of the rules relating to the use of official and campaign resources. As a general matter, the Committee permits Members to use campaign or official resources to pay for activities in furtherance of a campaign for one of the House

³³² Exhibit 110.

³³³ *Id.* The Legislative Director told the Committee that he worked to mail about 200 packets from a hotel in Spokane, and that “the mailing of the packets was something that happened at like 9 o’clock at night.” 18(a) Interview of Legislative Director.

³³⁴ 18(a) Interview of New Media Director.

³³⁵ *Id.* The New Media Director also told the Committee that the Chief of Staff offered him a \$10,000 salary bonus contingent on him assisting with the leadership race, but that he did not end up getting the bonus before he left the Congresswoman’s office. *Id.*, Exhibit 112.

³³⁶ *Ethics Manual* at 161.

³³⁷ *Id.*

leadership offices.³³⁸ However, once a Member uses campaign resources to support a leadership race activity, no official resources may be devoted to that activity.³³⁹ The Committee’s public guidance cautions Members wishing to use official House resources, including official staff time, in furtherance of a leadership campaign to consult with CHA and the Committee for further guidance.³⁴⁰ Representative Rodgers’ office did that with respect to one particular activity related to her leadership race: the mailing of an informational packet. Her office was ultimately told that the mailing of the packet must be paid for with campaign resources. She then used campaign funds to pay for mailing the packet.

Once she determined to mail the packet with campaign funds, Representative Rodgers should have ensured that no official resources, including official staff time, were used to mail the packet. This is demonstrated in an example in the *Ethics Manual*, which provides the following scenario:

A Member who is sending a mailing on a leadership race decides to pay the printing and mailing expenses with campaign funds. No official staff time or any other House resources may be used in furtherance of the mailing.³⁴¹

As discussed, the Committee found evidence that the New Media Director mailed the packet on official staff time, from the congressional office, after Representative Rodgers decided to use campaign funds for the mailing.

The Committee acknowledges Representative Rodgers’ office made the effort to seek guidance from the Committee and CHA, and accordingly, declined to find a violation of House rules, laws or other standards of conduct in connection with the congresswoman’s leadership activities *prior to* seeking guidance. Representative Rodgers told the Committee she found the guidance relating to the leadership race to be “confusing” and “not clear.”³⁴² While there may have been some initial ambiguity in her staff’s communications with CHA and the Committee, Representative Rodgers ultimately received a very clear answer: the packet she sent for her leadership race should be mailed with campaign funds. Indeed, the printing and postage costs were paid with campaign funds. However, Representative Rodgers failed to communicate that guidance clearly to the point person for the activity.³⁴³ If she was confused or unclear about whether other official resources could be used to mail the packet, she or her staff could have asked that question just as easily as they asked about what funds could be used, but they did not do so. The Committee found that Representative Rodgers violated House rules and regulations by making use of official resources, including staff time, to mail her leadership race packet after she learned that the packet must be paid for with campaign funds.

³³⁸ *Id.* at 161.

³³⁹ *Id.*

³⁴⁰ *Id.*

³⁴¹ *Id.*

³⁴² 18(a) Interview of Representative Rodgers.

³⁴³ See 18(a) Interview of Leadership Consultant (Q: Just to be clear, that issue of whether paid campaign staff and official staff could work on the same tasks related to the leadership race, that issue didn’t come up to your knowledge? A: Not at all. We didn’t bring it up. It wasn’t about comingling of funds or anything like that. We were all on the same mission of just producing a good product for the boss.”).

IV. REMEDIAL ACTION AND SANCTIONS

A. REPRESENTATIVE RODGERS IS REQUIRED TO REIMBURSE THE TREASURY FOR HER MISUSE OF OFFICIAL RESOURCES

The *Members' Handbook* states, “[e]ach Member is personally responsible for the payments of any official and representational expenses incurred that exceed the provided MRA or that are incurred but are not reimbursable under these regulations.”³⁴⁴ Consistent with this guidance, where Members have used official funds for impermissible purposes, the Committee has found that they should repay any misspent funds.³⁴⁵ The Committee believes Members should be required to reimburse the U.S. Treasury for impermissible disbursements from the MRA even where the exact amount of such disbursements cannot be determined.³⁴⁶ Where Members and those under their supervision and control have misused funds from other House accounts, the Committee believes the same remedy is required. Members are ultimately responsible for authorizing the expenses of the offices under their control; regardless of whether that office is a personal congressional office or a leadership office, the funds entrusted to a Member for those expenses are not that Member’s own, and should be repaid by that Member when put to improper use.

In some cases, the Committee has found that Members made improper use of official funds, but has not made a finding that they are required to reimburse the Treasury, particularly where the misuse occurred without the Member’s knowledge or approval, or was *de minimis*.³⁴⁷ With respect to several of the allegations reviewed by the Committee in this matter, the misuse of official funds was not *de minimis*, and the Committee found Representative Rodgers had reason to know that some of the misuse was occurring. Accordingly, the Committee found that Representative Rodgers should reimburse the Treasury for at least some of the official resources misused by her offices. For some of the misused official resources, the Committee found that it would be inequitable to hold Representative Rodgers personally liable, but nonetheless believes she holds some responsibility for the misuse and must take better care to prevent the underlying conduct in the future.

Although the Committee could not determine the precise value of all official resources misappropriated to impermissible uses, the Committee has calculated what it believes to be a reasonable estimate for the amount Representative Rodgers should repay, as discussed further

³⁴⁴ *Members' Handbook* at 2; see also *Ethics Manual* at 323 (“Members may be personally liable for misspent funds or expenditures exceeding the MRA.”).

³⁴⁵ See, e.g., *Gutiérrez* at 28; Comm. on Standards of Official Conduct, *In the Matter of Representative Charles C. Diggs*, H. Rept. 96-351, 96th Cong. 1st Sess. (1979) (Member was required to repay House \$40,031.66 for the “personal benefit he received from his misconduct” in giving his office staff raises and requiring them to pay certain of his personal expenses out of those raises); Comm. on Standards of Official Conduct, *In the Matter of Adam Clayton Powell*, H. Rept. 90-27, 90th Cong. 1st Sess. (1967) (Member was censured and fined \$40,000 for various acts, including misappropriating public funds for personal travel, and for paying his wife a salary though she performed no official duties; the Committee noted that the fine would “offset any civil liability of Mr. Powell to the United States of America with respect to” the allegations.).

³⁴⁶ *Gutiérrez* at 28.

³⁴⁷ See, e.g., Comm. on Standards of Official Conduct, *In the Matter of Representative Austin J. Murphy*, H. Rept. 100-485, 100th Cong., 1st Sess. 4 (1987).

below. For official resources misused to benefit her campaign, Representative Rodgers may reimburse the Treasury with campaign funds.

1. Unauthorized Consultant Expenses

Mr. Shore was compensated with official funds for services and expenses for which House rules and/or laws do not permit official funds to be used. Mr. Shore is no longer within the Committee's jurisdiction. However, as discussed above, the Committee has long found Members to be responsible for their staff's misconduct, particularly where the Member was aware of, or directed the impermissible conduct. Representative Rodgers herself appears to have paid little attention to the compensation of her consultants and was not even sure whether Mr. Shore had continued providing services under the contract after June 2013.³⁴⁸ However, the Committee has also found Members responsible for reimbursing the Treasury where, as here, the impermissible conduct resulted from the Member's inadequate supervision.³⁴⁹

Representative Rodgers is the person in charge of the office that procured Mr. Shore's services to the tune of more than a quarter million dollars in House funds over the last four years, and thus bears responsibility for ensuring those funds were properly expended. As discussed above, the Committee found that Mr. Shore likely received improper compensation for the travel expenses he incurred from November 2012 to January 2013, in the form of excess salary payments in January and February 2013. The Committee considered whether Representative Rodgers should be required to reimburse the Treasury for Mr. Shore's inflated salary payment.³⁵⁰ However, the Committee took note of the fact that the Conference Director of Operations believed that the larger salary payments reflected Mr. Shore's heavier workload. The Committee found her to be a credible witness. Given that she understood those payments to be valid, there is little reason to think Representative Rodgers would have reason to question the payments. Accordingly, the Committee determined it would be inequitable to require Representative Rodgers to reimburse those funds.

The Committee also considered whether to require Representative Rodgers to reimburse the Treasury for the payments to Mr. Shore's consulting firm, Datagraphics. While serving as an employee of the Conference, Mr. Shore was responsible for overseeing the Conference budget through which \$52,500 was directed to Datagraphics. However, those payments were approved by the CAO, which is charged by the House with overseeing the payment of vendor services. For that reason, the Committee declined to find that Representative Rodgers must reimburse the Treasury for the disbursements to Datagraphics, and instead determined that the circumstances of Mr. Shore's vendor relationship with the House are better reviewed by the House Inspector General. Nonetheless, the Committee cautions Representative Rodgers and the whole House

³⁴⁸ 18(a) Interview of Representative Rodgers.

³⁴⁹ See *Gutiérrez* at 29.

³⁵⁰ The Committee has previously noted "the individual who authorized the disbursements should be held responsible for such actions since the recipient is not in a position to set into motion the administrative process resulting in payment." Comm. on Standards of Official Conduct, *Summary of Activities, One Hundredth Congress*, H. Rept. 100-1125, 100th Cong. 2d Sess. 6-7 (1989) (taking no further action in the matter of Representative Mary Rose Oakar after Representative Oakar reimbursed the Treasury for disbursements to compensate an individual who violated House and statutory requirements governing where employees may perform their duties).

community to avoid even the appearance of a conflict of interest when entering into relationships with contractors on behalf of the House.

Representative Rodgers' use of consultants also involved a violation of Rule XXIV's prohibition on unofficial office accounts. The Committee has not historically found any reimbursement to be required for unofficial office accounts.³⁵¹ That is not to say that the Committee views violations of Rule XXIV as any less serious than violations involving the misuse of official resources, only that reimbursement of the Treasury is not an appropriate remedy in such a situation.

2. *Official Staff Time*

The exact amount of staff time devoted to Representative Rodgers' campaign and political activities since 2008 cannot be precisely determined, at least in part due to the lack of records kept by the office to track employee time. Given the imprecise nature of the analysis, the Committee has opted to take a conservative approach to calculating an appropriate reimbursement.³⁵²

As discussed above, Mr. Deutsch frequently accompanied the congresswoman on political trips without taking leave from 2008 through at least 2015, and the Communications Director worked on more than a dozen campaign speeches, press releases, and other documents while on official time from 2008 through at least 2012. They both also attended the Republican National Convention in August 2012, and there is no record of their annual leave balances being charged for those days of travel.³⁵³ In sum, these two employees each likely spent more than five days' worth of official time on political work, but five days represents a reasonable minimum estimate. Accordingly, the Committee determined that Mr. Deutsch and the Communications Director each spent a minimum of five full days' worth of official time on campaign work during the time they have been employed in the congresswoman's office, which should be reimbursed.

The Committee also determined that the Press Secretary and New Media Director each spent at least three full days' worth of official time over the course of their employment with the congresswoman doing campaign or political activities. In addition to devoting substantial time to debate preparation and other campaign-related assignments, at least some of which appears to have occurred on official time, both of these employees attended the five-day long Republican National Convention in August 2012 and there is no record of their annual leave balances being charged for those days of travel. The New Media Director used official staff time to help mail the leadership race packets after the staff received CHA guidance that the packets must be paid for with campaign

³⁵¹ See, e.g., *Gingrich*.

³⁵² See Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young*, H. Rept. 113-487, 113th Cong. 2d Sess. 62 (2014) (*Young*) (ISC could not determine the precise value of lodging and hunting services given to a Member because the host "did not prepare an invoice for the trip" and it was unclear what hunting services the Member took advantage of. Accordingly, the ISC valued the hunting services based on the least expensive option available).

³⁵³ The Convention trips involved five official workdays, but the Committee recognizes that staff may have spent some of this time responding to official emails, or doing other work related to their official duties. Accordingly, the Committee has declined to find that Representative Rodgers must reimburse the Treasury for her staff's pay for all five days of the Convention trip.

funds. Documents indicate that the Press Secretary frequently used official staff time to work on campaign communications tasks, including spending an entire day working on a television ad for the campaign with Mr. Deutsch.³⁵⁴ As with Mr. Deutsch and the Communications Director, it is likely that the total official time the New Media Director and Press Secretary spent on campaign work exceeded this estimate, but the Committee feels three days is a reasonable and conservative estimate considering the uncertainties in the record.

The Committee also found the Legislative Director, District Director and Staff Assistant each spent at least one full day's worth of work on political activities. The Legislative Director attended the Republican National Convention without taking leave.³⁵⁵ The Staff Assistant acknowledged she frequently booked political travel and drove the congresswoman to campaign events on official time. The District Director spent at least one entire day assisting with the filming of a campaign advertisement.

The Committee has calculated the daily rate of pay for each of these seven employees based on their 2012 salaries, as 2012 is the year when most of the clear violations of the rules and laws relating to misuse of official resources for campaign purposes took place.

| Employee | Average 2012 Daily Pay Rate | Estimated Min. Days Campaign Work On Official Time | Total Min. Official Pay for Campaign Work |
|-------------------------|-----------------------------|--|---|
| Jeremy Deutsch | \$458.33 | 5 | \$2,291.65 |
| Communications Director | \$225.72 | 5 | \$1,128.60 |
| Press Secretary | \$139.81 | 3 | \$419.43 |
| New Media Director | \$250.77 | 3 | \$752.31 |
| Legislative Director | \$282.93 | 1 | \$282.93 |
| District Director | \$260.42 | 1 | \$260.42 |
| Staff Assistant | \$77.78 | 1 | \$77.78 |

Based on its conservative estimates, the Committee finds that Representative Rodgers is required to reimburse the Treasury the sum of the total minimum official pay for campaign work calculated in the chart above for these seven employees, or \$5,213.12.

This is by necessity an inexact approach. Some of these employees have spent more official staff time on campaign activities than others, but the Committee believes that, on average, this is a fair and reasonable estimate that takes into account the uncertainty created by a lack of adequate record-keeping. There are also employees not captured in this chart who also appear to have performed campaign work on official time, including individuals who served as the congresswoman's Chief of Staff, Press Secretary, and Staff Assistant in other years.

³⁵⁴ Exhibit 90.

³⁵⁵ The Legislative Director also spent substantial time on debate preparation and assisted with mailing the leadership packet. The Committee received conflicting evidence regarding the extent to which this work was done on his own time; accordingly, the Committee has adopted a particularly conservative estimate of his use of official time in this matter.

3. *MRA Funds for Travel Expenses*

According to information provided by Representative Rodgers, the total cost of flights, hotels and expenses for the Press Secretary's April 2012 trip to the district was \$1,515.96, and for her November 2012 trip to the district was \$846.87.³⁵⁶ Those costs were paid for with official funds. As discussed above, the Committee found that the weight of the evidence indicates these trips were primarily campaign-related. Accordingly, the Committee found that Representative Rodgers must reimburse the Treasury the sum of the costs associated with that travel, or \$2,362.83.

4. *Total Recommended Reimbursement*

In sum, Representative Rodgers must repay \$5,213.12 for the misuse of official staff time and \$2,362.83 for the misuse of MRA funds for travel expenses. For all of her improper use of official resources, the Committee found that Representative Rodgers must reimburse the U.S. Treasury the sum of the above-recommended amounts, totaling \$7,575.95. Because the official resources were used for the benefit of her campaign, those funds may be repaid from Representative Rodgers' campaign account.

B. REPRESENTATIVE RODGERS' CONDUCT MERITS REPROVAL BY THE COMMITTEE

The Committee concluded that the sum of all of the violations discussed previously is sufficient to warrant a reproof by the Committee. The conduct discussed above represents a misappropriation of House funds for campaign and political activities, in violation of federal law and House rules. Representative Rodgers' inappropriate compensation of consultants also ran afoul of House rules and regulations. The pervasive and years-long nature of this misconduct is particularly alarming. Based on the totality of misconduct, the Committee also found Representative Rodgers violated House Rule XXIII, clauses 1 and 2.

The Committee has previously reproofed Members for failure to exercise reasonable care,³⁵⁷ including for inattention to the rules and regulations governing the retention of contractors, and inadequate supervision of staff's work that resulted in the misuse of official resources.³⁵⁸ In this case, for more than five years, Representative Rodgers ran offices that showed indifference at best to the rules governing how official and unofficial resources can be used by Members and their staff. Had Representative Rodgers herself regularly directed staff to misuse official resources or unofficial office accounts, a more severe sanction may have been appropriate.³⁵⁹ While

³⁵⁶ Exhibit 113.

³⁵⁷ *See Young*.

³⁵⁸ *See Gutiérrez*.

³⁵⁹ *See, e.g., Richardson* at 15 (recommending reprimand for conduct involving compelling official staff members to perform campaign work, using official resources for campaign purposes, using official resources for personal purposes, and obstructing the Committee's investigation); *see also* Comm. on Ethics, *In the Matter of Rep. Maxine Waters*, H. Rept. 112-690, 112th Cong. 2d Sess. 498-501 (2012) (letter of reproof to House employee, noting that "[a]s the Chief of Staff for Representative Waters, it was incumbent upon [him] to uphold the House rules, laws, regulations and other standards of conduct."); Comm. on Standards of Official Conduct, *In the Matter of the Investigation into Officially Connected Travel of House Members to Attend the Carib News Foundation*

Representative Rodgers may not have been aware of the full extent to which her offices were not in compliance with House rules, laws and other standards of conduct, she failed to exercise the care that is expected of Members to ensure such compliance. Her offices were, in a word, sloppy. As the head of two offices entrusted with sizeable budgets comprised of public funds, she should have done better. The Committee therefore has decided to issue this Report publicly reproofing Representative Rodgers.

The Committee has also previously reproofed House employees for their roles in misusing House resources, particularly where those employees had a role in directing other staff to engage in misconduct.³⁶⁰

In this case, Mr. Deutsch was a ubiquitous presence in all aspects of the Committee's review. He had reason to know that staff was using official resources for campaign and political work, and was himself directly involved in the use of staff time, congressional office space, and other official resources for campaign purposes. He set a tone in the office that enabled a general disregard for the proper use of official or campaign resources. He also oversaw Mr. Shore's compensation. Most significantly, he was a barrier to Representative Rodgers' own awareness of her staff's noncompliance with ethics restrictions.

Mr. Shore was also responsible for some of the most egregious infringements in Representative Rodgers' offices. The Committee's record demonstrates that he sought to obtain compensation for his blurred roles as a Conference employee, Conference consultant, and campaign consultant, from whatever source had available funds without regard for applicable laws, rules and regulations, often leading to the impermissible use of official resources or the impermissible private subsidy of official work. Furthermore, Mr. Shore acted contrary to the spirit and letter of the rules and laws intended to prevent conflicts of interest.

Although Mr. Deutsch and Mr. Shore are no longer House employees, and thus no longer within the Committee's jurisdiction, the Committee takes this opportunity to remind all House employees that their actions while employed in a congressional office are also subject to the Code of Official Conduct and other applicable rules and laws.

V. CONCLUSION

The extensive record compiled by the Committee in this matter demonstrates that the offices of Representative Rodgers frequently exhibited an indifference to the laws, rules and regulations relating to the use of official and unofficial resources. This indifference led to myriad instances of resources being used inappropriately. While in some of those instances, the misuse appeared to be a minor deviation from expected conduct, at other times the impropriety was more severe. Taken as a whole, the abuses reviewed by the Committee add up to a concerning pattern over the course of more than five years.

Multinational Business Conferences in 2007 and 2008, H. Rept. 111-422, 111th Cong. 2d Sess. 137 (admonishing staffer for improper influence and unauthorized release of information in connection with Committee review).

³⁶⁰ See *Richardson* at 97.

While the Committee recognized that Representative Rodgers was not aware of the full extent of misconduct discussed in this Report, she still bears responsibility for the conduct in her office, as she herself has recognized. The Committee notes that Representative Rodgers has fully cooperated with the Committee's review, accepted its conclusions, and taken steps to improve her office's compliance with relevant House rules, laws and other standards of conduct.

Based on her violations of House rules, laws, and other standards of conduct, the Committee has determined to reprove Representative Rodgers and finds that she must reimburse the U.S. Treasury in the amount of \$7,575.95 for the misuse of official resources. The Committee hopes that this Report will also encourage all Members to evaluate the safeguards they have in place to discourage the misuse of official and unofficial resources by their congressional staff.

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

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

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