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**116TH CONGRESS, 2ND SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO
REPRESENTATIVE DAVID SCHWEIKERT**

June 30, 2020

Mr. PHILLIPS, from the Investigative Subcommittee, submitted the following

REPORT

To the Committee on Ethics

INVESTIGATIVE SUBCOMMITTEE

Dean Phillips, Minnesota
Chairman

Bill Flores, Texas
Ranking Member

Jamie Raskin, Maryland

John Katko, New York

REPORT STAFF

Thomas A. Rust, *Chief Counsel/Staff Director*
Brittney Pescatore, *Director of Investigations*

Janet M. Foster, *Counsel*

C. Ezekiel Ross, *Counsel*

Danielle Appleman, *Investigator*

Caroline Taylor, *Investigative Clerk*

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REPORT OF THE INVESTIGATIVE SUBCOMMITTEE

I. INTRODUCTION

On June 14, 2018, the Committee on Ethics (Committee) impaneled this Investigative Subcommittee (ISC) to investigate allegations referred by the Office of Congressional Ethics (OCE) that Representative David Schweikert may have authorized the misuse of his Members' Representational Allowance (MRA) for improper purposes and that he may have accepted improper campaign contributions from his then-Chief of Staff, Richard Oliver Schwab. On December 20, 2018, the Committee unanimously voted to expand the ISC's jurisdiction to include allegations raised in a second referral from OCE that Representative Schweikert may have used official resources to benefit his campaigns, pressured official staff to perform campaign activities, authorized compensation to an employee who did not perform duties commensurate with the compensation the employee received, received loans or gifts from a congressional employee, and omitted required information from his House financial disclosure statements and Federal Election Commission (FEC) candidate committee reports.

The ISC conducted a detailed investigation into these numerous and wide-ranging allegations. Through its investigation, the ISC determined that Representative Schweikert's campaign committees made a series of reporting errors, ranging from technical errors to more substantive falsehoods, and his campaign accepted hundreds of thousands of dollars in impermissible advances from Mr. Schwab. The ISC also found that Representative Schweikert's campaign funds were used to reimburse staff for expenditures made for his personal use, including babysitting services, meals, dry-cleaning, and travel. While those campaign finance violations were ongoing, Representative Schweikert presided over a congressional office in which official resources were misused to support his campaign. This misuse primarily centered around Mr. Schwab, who Representative Schweikert frequently pressured to perform campaign work, and who expected other congressional staff to assist in campaign-related tasks. As discussed further in this Report, the ISC found some allegations raised by OCE's referrals could not be substantiated.

Representative Schweikert has attempted to cast himself as an unknowing participant or victim in response to many of these allegations and sought to lay much of the blame at the feet of Mr. Schwab and the compliance professionals he trusted to oversee his campaign committees.

The ISC is well-aware that Members have demanding schedules that do not afford them the time to tend to the minutiae of every campaign transaction or congressional office task to ensure their campaigns and congressional offices operate in full compliance with relevant rules and laws. Members often delegate such oversight and compliance responsibilities to others, as Representative Schweikert did with Mr. Schwab in this matter and with individuals employed by his campaign compliance firm. But Members must be held to account when they: know or should know of ethical violations that occur within the organizations they oversee; abdicate their duty to supervise the staff to whom they delegate substantial responsibilities; disregard concerns as they are brought to their attention; and hamstring compliance professionals by not supplying necessary information or providing false information. Representative Schweikert not only engaged in such conduct, in some instances (particularly with respect to campaign reporting requirements), he was a direct participant in conduct that resulted in violations.

When the time came for him to address allegations of his wrongdoing, Representative Schweikert made repeated assurances that he intended to cooperate. Representative Schweikert did provide a substantial document production and made several meaningful efforts towards cooperation, and the ISC has considered those actions in assessing the matter. Nonetheless, Representative Schweikert did not follow-through on many of his assurances and delayed in providing any meaningful response to key issues under investigation. The ISC was troubled that he waited over a year to address allegations of serious reporting violations detailed in OCE's Second Referral, after repeatedly attempting to waive off the matter as the product of inadvertent errors. Moreover, his testimony before the ISC, which was interspersed with incoherent or misleading statements that were contradicted by the record, fell well short of the duty of candor Members are expected to provide.

Based on the totality of misconduct, the ISC unanimously concluded that there is substantial reason to believe that Representative Schweikert violated House Rules and other laws, rules, and standards of conduct, and that a House-level sanction is warranted. On June 30, 2020, after negotiating a resolution of this matter with Representative Schweikert, the ISC adopted a Statement of Alleged Violations (SAV) against Representative Schweikert finding that he engaged in a series of misconduct that did not reflect creditably on the House in violation of House Rule XXIII, clause 1, and failed to uphold the laws and regulations of the United States in violation of paragraph 2 of the Code of Ethics for Government Service. As part of the negotiated resolution, Representative Schweikert agreed to admit to all the violations in the SAV and waive further procedural steps.

The ISC, by this Report, unanimously recommends that the full Committee submit a public report to the House with a resolution that Representative Schweikert be reprimanded for his conduct and fined in the amount of \$50,000. Representative Schweikert has agreed to accept these recommended sanctions. With respect to the views Representative Schweikert submitted in response to the ISC's Report, the ISC does not believe they are in clear contravention of the agreed upon terms of the settlement in this matter, but they raise questions about whether he has truly accepted responsibility for his actions or whether he appreciates that the violations in this matter stemmed from his own conduct and inaction. Indeed, his views appear to be a furtherance of his tendency to blame others, including Mr. Schwab and, now, ISC counsel, for his own ethical failures. It is the ISC's expectation that, going forward, Representative Schweikert will abide

faithfully by the terms of the settlement, including accepting responsibility for the violations he has already agreed that he committed.

While the ISC was not swayed by Representative Schweikert's attempts to portray himself as the victim of rogue staffers and incompetent compliance professionals, the ISC believes all House Members would benefit from greater awareness of the rules, laws, and regulations at issue in this matter, as well as a reminder that Members may be held responsible for the misconduct of those who work under their supervision. The ISC has made several advisory recommendations to the Committee in this Report, with the hope that Representative Schweikert's lapses will serve as a cautionary tale to all House Members.

II. PROCEDURAL HISTORY

On November 2, 2017, *The Washington Examiner* published an article entitled "A lot of cash is flowing to David Schweikert's chief of staff Oliver Schwab."¹ The article contained allegations from at least three anonymous sources accusing Mr. Schwab of using taxpayer money to enrich himself, including by booking a personal vacation using official funds and by seeking reimbursements for numerous office supply purchases. The article also noted that Mr. Schwab had received more than \$160,000 through his one-man consulting firm, Chartwell Associates, from Representative Schweikert's campaign and political committees in addition to his congressional office.

On November 16, 2017, OCE informed the Committee it had initiated two preliminary reviews, one into Mr. Schwab and one into Representative Schweikert, relating to similar allegations. After OCE opened its preliminary reviews, but before the matter was referred to the Committee, Representative Schweikert reached out to the Committee, through his counsel, seeking to "self-report" the matter under review by OCE.² On April 11, 2018, OCE informed the Committee that it had opened two additional preliminary reviews into other allegations concerning Representative Schweikert and Mr. Schwab.

On April 16, 2018, OCE sent two referrals (OCE's First Referrals)³ to the Committee recommending that the Committee further review allegations that:

¹ Philip Wegmann, *A lot of cash is flowing to David Schweikert's chief of staff Oliver Schwab*, *Washington Examiner*, (Nov. 2, 2017), <https://www.washingtonexaminer.com/a-lot-of-cash-is-flowing-to-david-schweikerts-chief-of-staff-oliver-schwab> (hereinafter *Washington Examiner Article*).

² Committee Rule 18(c) provides that a House Member or staffer may submit a written request to the Chair and Ranking Member of the Committee for an investigation into that individual's own conduct. The Committee encourages self-reporting of potential violations of House Rules, laws, and other standards of conduct. As a general proposition, self-reported matters, when accompanied by full cooperation, may be resolved more expeditiously than other matters. Self-reporting does not guarantee or prevent any particular outcome in a matter. The Committee may consider voluntary disclosure as a mitigating factor when determining how to resolve a matter; however, the Committee does not consider self-disclosure of violations following the commencement of a preliminary review by OCE to be "self-reports" in the same sense as disclosure of allegations that are not already part of the congressional ethics investigative process.

³ One of the Report and Findings pertained to allegations against Mr. Schwab. On July 9, 2018, Mr. Schwab left House employment and the Committee's jurisdiction over him ended.

1. Representative Schweikert and Mr. Schwab, may have misused or authorized the misuse of House resources;
2. Representative Schweikert may have failed to ensure that his campaign committees complied with applicable rules regarding contributions from congressional employees;
3. Mr. Schwab may have improperly made personal outlays on behalf of Representative Schweikert's principal campaign committees; and
4. Mr. Schwab may have received income beyond the outside earned income limit for senior staff.⁴

Representative Schweikert also received notice of OCE's First Referrals on April 16, 2018. That same date, Representative Schweikert and Mr. Schwab, through their counsel, informed the Committee that Representative Schweikert's campaign committee intended to file a *sua sponte* complaint with the FEC regarding the transactions at issue in OCE's First Referrals.⁵ On May 1, 2018, Representative Schweikert and Mr. Schwab provided a joint response to OCE's First Referrals.⁶ On June 8, 2018, the Committee sent a letter to Representative Schweikert and Mr. Schwab.⁷

On June 28, 2018, the Committee announced that it had unanimously voted to establish an ISC to determine whether Representative Schweikert or Mr. Schwab violated the Code of Official Conduct or any law, rule, regulation or other applicable standard of conduct with respect to the allegations raised in OCE's First Referrals. On July 9, 2018, Mr. Schwab left House employment after resigning from his position as Representative Schweikert's Chief of Staff. On the date of Mr. Schwab's resignation, the ISC's and the Committee's jurisdiction over Mr. Schwab ended.

On September 5, 2018, OCE transmitted a separate and additional Report and Findings (OCE's Second Referral) to the Committee recommending that the Committee further review allegations that Representative Schweikert may have:

1. Used official resources to benefit his campaigns and pressured official staff to perform official activity;

⁴ Report and Findings of the Office of Congressional Ethics (Review No. 17-4790) (Appendix B) (hereinafter OCE's First Referrals).

⁵ Exhibit 1. Counsel also requested guidance on how to "cure" outstanding impermissible campaign outlays, "or whether further steps may be taken by Congressman Schweikert and Oliver Schwab to ensure that any violations of House Rules have been adequately addressed." *Id.*

⁶ Exhibit 2. The response stated they were awaiting direction from the Committee on how to effectuate a refund of MRA funds spent on travel by Mr. Schwab and how to address impermissible outlays reimbursed by the campaign. *Id.*

⁷ Exhibit 3. In its letter, the Committee noted "[a]ny comment from the Committee on your past conduct and what, if any, steps are necessary to remedy that conduct must await the conclusion of the Committee's investigation," but added "[o]f course, if you are aware of inaccurate reporting on required disclosures previously filed with the [FEC], those inaccuracies should be promptly and accurately corrected." *Id.* The Committee urged caution in taking any additional remedial steps, highlighting that House Rule XXIV would generally prohibit Mr. Schwab from reimbursing the MRA for official expenditures with his personal funds, and that any attempt by staff to repay the campaign for reimbursed outlays could further implicate the restriction on contributions to an employing Member. *Id.*

2. Authorized compensation to an employee who did not perform duties commensurate with the compensation the employee received;
3. Received loans or gifts from a congressional employee; and
4. Omitted required information from his House financial disclosure statements and FEC candidate committee reports.⁸

OCE found substantial reason to believe these four allegations and recommended that the Committee further review the allegations. OCE also reviewed a fifth allegation, that Representative Schweikert tied official activities to campaign or political support. OCE did not find substantial reason to believe the fifth allegation and recommended that allegation be dismissed.

On December 20, 2018, the Committee announced it unanimously voted to expand the ISC's jurisdiction to include the four allegations referred for further review in OCE's Second Referral. The ISC was unable to complete its investigation prior to the end of the 115th Congress. Accordingly, on May 3, 2019, the Committee announced that it had unanimously voted to reauthorize an ISC for the 116th Congress to review allegations involving Representative Schweikert.

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. The Committee also voted to determine that the allegations referred to the ISC relating to conduct that occurred prior to the 113th Congress was directly related to allegations relating to conduct that occurred in the 113th Congress and subsequent Congresses.⁹

The ISC met four times in the 115th Congress and 22 times in the 116th Congress. The ISC sent 15 requests for information and authorized five subpoenas. Committee staff received and reviewed additional documents responsive to those requests. The ISC also reviewed materials provided by OCE. In total, the ISC reviewed over 200,000 pages of materials. The ISC also

⁸ Report and Findings of the Office of Congressional Ethics (Review No. 18-2234) (Appendix B) (hereinafter OCE's Second Referral).

⁹ Some of the allegations contained in OCE's Second Referral included conduct occurring prior to 2013. With respect to the allegation regarding the use of official resources for campaign purposes, OCE's Second Referral included allegations that Mr. Schwab, as well as two other members of Representative Schweikert's congressional staff, worked on political matters while in the House offices and/or during the workday throughout 2011 to 2017. OCE's Second Referral also included allegations that Representative Schweikert may have omitted required information from his annual Financial Disclosure Statements from 2010 to 2016. According to OCE, Representative Schweikert may have failed to properly disclose: (1) several real-estate related investments and corresponding liabilities associated with those properties in his 2010 to 2014 House financial disclosure statements; (2) the existence of certain bank accounts in his 2010 to 2016 House financial disclosure Statements; and (3) credit card liabilities in his 2010 and 2014 House financial disclosure Statements. In addition, OCE alleged that Representative Schweikert repeatedly failed to disclose information about receipts, disbursements and irregularities with respect to his FEC campaign committee reports from January 2010 to at least February 2015.

conducted 18 witness interviews, including one pursuant to a court order,¹⁰ and a voluntary interview of Representative Schweikert.

The ISC's investigation was prolonged by difficulty obtaining documents and information from Representative Schweikert. Representative Schweikert's productions to the ISC's initial requests for information spanned over 12 months. Because Representative Schweikert did not directly address many of the allegations raised in OCE's Referrals, despite repeated requests from the ISC and assurances that he was working cooperatively with the FEC on the issues, the ISC authorized an additional request for information on December 9, 2019. Representative Schweikert provided a partial response on January 6, 2020 and a further response on January 31, 2020.

Representative Schweikert also asked that his interview be expedited and the ISC granted his request, but Representative Schweikert was ill-prepared to address many of the ISC's questions during his interview, including questions based on the OCE referrals that he had been in possession of for over a year and a half.

In light of the many delays and difficulty in contacting or receiving information from relevant witnesses, the ISC informed Representative Schweikert it would be willing to curtail its fact finding, including forgoing an interview of Joyce Schweikert, if Representative Schweikert would stipulate to certain material facts that might otherwise have been further investigated. On May 1, 2020, counsel for Representative Schweikert and the ISC came to agreement on a set of stipulations, which the ISC approves.¹¹ Following negotiations, Representative Schweikert and the ISC agreed to terms for the resolution of the ISC's investigation. As part of that agreement, Representative Schweikert agreed to admit to the violations in the SAV and waive further procedural steps. The ISC also provided Representative Schweikert with a draft of this Report, and Representative Schweikert has submitted his views in response.¹²

On June 30, 2020, the ISC voted to adopt the SAV and this Report, and transmit the SAV, Report, and Representative Schweikert's views in response to the Report to the Committee.

III. FINDINGS

Representative Schweikert has been a Member of the United States House of Representatives since 2011, representing Arizona's 5th congressional district from 2011 to 2012, and Arizona's 6th congressional district from 2013 to the present.

Beginning with his successful 2010 campaign for Congress and continuing into 2018, Representative Schweikert's campaign committees and congressional office engaged in an assortment of unethical conduct. Much of the misconduct centered around Representative Schweikert's former campaign manager and Chief of Staff, Richard Oliver Schwab.

Mr. Schwab served as Representative Schweikert's campaign manager from 2010 until early 2012 and resumed a campaign management role between January 2013 until July 2018. Mr.

¹⁰ See 18 U.S.C. § 6005.

¹¹ See Appendix C.

¹² See Appendix E.

Schwab also served in his congressional office as Chief of Staff from January 2011 to June 2012, Senior Adviser from September 2012 to May 2013, and Chief of Staff from May 2013 to July 2018.

Mr. Schwab had a very close relationship with Representative Schweikert throughout this time.¹³ Representative Schweikert considered Mr. Schwab to be “more like [a] son” and acknowledged placing an “excessive amounts of trust” in Mr. Schwab,¹⁴ while Mr. Schwab testified they had a “very close family-style” relationship.¹⁵ For much of the period under review, Mr. Schwab and Representative Schweikert routinely flouted rules prohibiting Members from accepting impermissible gifts and improper contributions from their congressional staff and misused official resources to benefit Representative Schweikert’s campaign.

Many Members place their trust in their chiefs of staff and campaign managers, and delegate a substantial amount of responsibility to such individuals; nonetheless, Members remain ultimately responsible for oversight of their congressional office and campaigns. Representative Schweikert delegated many responsibilities to Mr. Schwab but abdicated his duty to perform any meaningful oversight of him. This led to a dynamic in which Representative Schweikert’s campaign and congressional staff felt dissuaded from raising concerns about Mr. Schwab; those staff who did raise concerns about Mr. Schwab found Representative Schweikert to be dismissive and unwilling to take any meaningful action.¹⁶

Several witnesses interviewed by the ISC or OCE raised issues about Mr. Schwab’s credibility. All four Members of the ISC were present for some portion of Mr. Schwab’s deposition and had the opportunity to assess his credibility for themselves. The ISC generally credited Mr. Schwab’s testimony, which was provided under penalty of perjury, but found that his assertions regarding the conduct of Representative Schweikert and others were sometimes exaggerated, while he at times minimized his own misconduct. In light of these issues, the ISC was careful to ensure that its findings did not rely exclusively on Mr. Schwab’s testimony, and were corroborated to some extent by testimony from other witnesses or documentary evidence. Indeed, if the ISC relied upon the uncorroborated portions of Mr. Schwab’s testimony to make its findings, its analysis of this matter would be very different and Representative Schweikert would be facing harsher penalties for his conduct.

Other violations occurred not as a result of Mr. Schwab’s conduct, but due to Representative Schweikert’s failure to ensure his campaign committees complied with applicable laws. Those offenses involved campaign reporting errors that ranged from technical inaccuracies and omissions to outright falsehoods. Representative Schweikert was aware of many of these errors as they were occurring yet failed to take corrective actions. In some instances, he facilitated the errors by omitting information or providing inaccurate information to individuals who prepared his campaign committees FEC filings.

¹³ ISC Interview of Employee B; ISC Interview of Employee C; ISC Interview of Employee A.

¹⁴ ISC Interview of Representative Schweikert.

¹⁵ ISC Interview of Oliver Schwab.

¹⁶ OCE Interview of Employee D (OCE’s Second Referral, Exhibit 5); ISC Interview of Employee B; ISC Interview of Campaign Consultant; ISC Interview of 2012 Campaign Manager.

The misconduct reviewed by the ISC was wide-ranging and long-spanning, and when viewed in the aggregate, a clear pattern of indifference emerges. Representative Schweikert was indifferent to ensuring the offices he oversaw complied with applicable laws and other standards of conduct. He was indifferent to taking corrective actions after learning of reporting errors or ongoing campaign violations and unresponsive to campaign and official staff members' concerns about Mr. Schwab's conduct. The ISC's investigation was treated with similar indifference; Representative Schweikert delayed responding to its requests and his testimony was punctuated by dissembling and incoherent statements. Representative Schweikert's indifference to ethical norms resulted in systemic ethical failures, which were prolonged by his failure to demonstrate full candor and reasonable diligence in responding to the ISC's investigation.

As detailed below, by engaging in this conduct, Representative Schweikert brought discredit upon the House and failed to uphold the laws and regulations of the United States, in violation of House Rule XXIII, clause 1 and paragraph 2 of the Code of Ethics for Government Service.

A. Findings Relating to Campaign Finance

1. Overview

Since his 2010 campaign, Representative Schweikert has had the following authorized campaign committees and campaign treasurers, with each campaign committee having served as the designated principal campaign committee for at least one congressional election cycle:

Authorized Campaign Committee Names	Designated as Principal Campaign Committee	Treasurer(s) as reported in Statement of Organization Filed with Federal Election Commission (FEC)
David Schweikert for Congress ¹⁷	2010 election	<ul style="list-style-type: none"> Joyce Schweikert (October 24, 2007 – May 29, 2013) Treasurer D (May 29, 2013 – June 9, 2017) Treasurer C (June 9, 2017 – December 20, 2017) Treasurer E (December 20, 2017 – April 13, 2018) Treasurer B (April 13, 2018 – present)
Schweikert for Congress ¹⁸ (terminated in October 2013)	2012 election	<ul style="list-style-type: none"> Treasurer A (January 20, 2011 – January 13, 2012) Treasurer B (January 13, 2012 – May 29, 2013) Treasurer D (May 29, 2013 – October 11, 2013)
Friends of David Schweikert ¹⁹	2014-2020 elections	<ul style="list-style-type: none"> Treasurer D (January 10, 2013 – June 9, 2017) Treasurer C (June 9, 2017 – December 20, 2017) Treasurer E (December 20, 2017 – April 13, 2018) Treasurer B (April 13, 2018 – present)

¹⁷ David Schweikert for Congress, Statement of Organization (2007-2018).

¹⁸ Schweikert for Congress, Statement of Organization (2011-2013).

¹⁹ Friends of David Schweikert, Statement of Organization (2013-2020).

From at least July 2010 through at least December 2017, Representative Schweikert and/or his campaign committees routinely violated federal campaign finance laws and regulations. The ISC found that Representative Schweikert's campaign committees disclosed a loan that was not made and improperly disclosed or failed to disclose at least an additional \$205,000 in loans or loan repayments made or obtained for the benefit of his congressional campaigns. At least \$25,000 in disbursements made by David Schweikert for Congress and Schweikert for Congress from 2011 through 2013 and more than \$140,000 in receipts received by David Schweikert for Congress between 2010 and 2013 were not reported. Schweikert for Congress also reported making \$100,000 in campaign expenditures that were never actually made. Representative Schweikert's campaigns also improperly accepted contributions from employees of his congressional office. The ISC also determined that at least \$1,476.90 of Representative Schweikert's campaign funds were used for impermissible personal purposes.

Representative Schweikert's spouse played a significant role in managing his campaign committees' finances until at least early 2013; during that time, his campaign committees failed to disclose tens to hundreds of thousands of dollars in contributions and disbursements that were made with campaign funds, falsely reported making disbursements with campaign funds that did not occur, did not follow FEC regulations regarding proper disclosure of loans and loan repayments, and reported receiving a \$100,000 loan from the candidate that did not exist. After campaign staffers raised concerns about irregular activity by Mrs. Schweikert, she was replaced as treasurer for the campaign and a professional compliance firm was hired, but that compliance firm was neither directed or empowered to address the problems that staff had flagged; instead a new campaign committee was organized and new accounts created, and the professional compliance firm continued to file false or incomplete reports with the FEC.

In some instances, Representative Schweikert facilitated these reporting errors by failing to provide information from his campaign treasurers and/or compliance professionals; in other cases, Representative Schweikert learned of false statements and omissions in reports after they were filed with the FEC yet failed to ensure that corrective actions were taken to fix the errors for years after learning of the errors. In 2018, OCE opened a review into allegations relating to errors and omissions in his candidate committee FEC reports, and reported finding substantial reason to believe various loans, repayments, contributions, and expenditures were not disclosed consistent with applicable laws and regulations. However, Representative Schweikert insisted publicly that the allegations referred by OCE related to "clerical mistakes" while neglecting requests from the ISC for over a year to identify those mistakes and the steps taken to address those mistakes.²⁰

The flouting of campaign finance laws and regulations was not limited to disclosure violations. Among other issues, Representative Schweikert's campaign committees accepted substantial campaign contributions from his Chief of Staff, Oliver Schwab, largely in the form of outlays on behalf of his campaign totaling hundreds of thousands of dollars. These improper advances from Mr. Schwab enabled Representative Schweikert's campaign to inflate quarterly financial figures and make campaign expenditures – including personal loan repayments to the

²⁰ John Bresnahan, *Ethics Committee launches full-scale probe into Schweikert and top aide*, POLITICO, (June 28, 2018), <https://www.politico.com/story/2018/06/28/david-schweikert-aide-oliver-schwab-probe-680895>.

Schweikerts – that it would not otherwise have had the liquidity to make. By reporting hundreds of thousands of dollars’ worth of Mr. Schwab’s reimbursement payments through various means that obscured the true (and improper) source of funds, including listing the payee as Mr. Schwab’s consulting company and credit card companies, Representative Schweikert’s FEC filings hid the extent to which Mr. Schwab was fronting money to the campaign on a regular basis.

In some instances, Mr. Schwab billed Representative Schweikert’s campaign for services when in fact he was seeking reimbursements for outlays he had made on behalf of the campaign. In other cases, however, Mr. Schwab billed the campaign for services in order to recoup expenses he or other members of Representative Schweikert’s congressional staff incurred on Representative Schweikert’s personal behalf. A campaign staff member raised concerns with Representative Schweikert about the frequency of reimbursements and payments Mr. Schwab was receiving from the campaign, yet Representative Schweikert took no action and the practice continued unimpeded.

The *House Ethics Manual (Ethics Manual)* cautions that “a Member or employee must take reasonable steps to ensure that any outside organization over which he or she exercises control – including the individual’s own authorized campaign committee or, for example, a ‘leadership PAC’ – operates in compliance with applicable law.”²¹

The *Ethics Manual* further states:

While [Federal Election Campaign Act (FECA)] and other statutes on campaign activity are not rules of the House, Members and employees must also bear in mind that the House Rules require that they conduct themselves ‘at all times in a manner that shall reflect creditably on the House’ (House Rule 23, clause 1). In addition, the Code of Ethics for Government Service, which applies to House Members and staff, provides in ¶ 2 that government officials should ‘[u]phold the Constitution, laws and legal regulations of the United States and of all governments therein and never be a party to their evasion.’ Accordingly, in violating FECA or another provision of statutory law, a Member or employee may also violate these provisions of the House rules and standards of conduct.

The Committee has sanctioned Members for misconduct relating to a successful campaign for election to the House and campaign finance violations, ranging from misuse of campaign funds to acceptance of excessive contributions.²² With respect to reporting violations, whether they are

²¹ *Ethics Manual* at 123.

²² See Comm. on Ethics, *In the Matter of Representative Ruben Kihuen*, H. Rept. 115-1041, 115th Cong. 2d Sess. (2018) (hereinafter *Kihuen*); House Comm. on Standards of Official Conduct, *In the Matter of Representative Jay Kim*, H. Rep. 105-797, 105th Cong. 2d Sess. (1998) (hereinafter *Kim*); House Comm. on Standards of Official Conduct, *In the Matter of Representative Earl F. Hilliard*, H. Rept. 107-130, 107th Cong. 1st Sess. (2001); Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Michael Grimm, (Nov. 26, 2012), <https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-2>.

related to FEC reports or Financial Disclosure Statements, the Committee strongly encourages Members to take prompt corrective action, including voluntarily filing appropriate amendments.²³

As detailed below, Representative Schweikert did not take reasonable steps to ensure that his campaign committees operated in compliance with applicable laws. Despite Representative Schweikert's efforts to dismiss the issues as minor mistakes or the conduct of wayward staff acting without his knowledge or support, the ISC found substantial reason to believe that Representative Schweikert facilitated many of the most egregious errors. Furthermore, while he took some positive steps towards his compliance obligations, including hiring one compliance firm in 2013 after initial issues emerged with his campaign, and hiring another compliance firm in December 2017 after another set of issues came to light, Representative Schweikert nonetheless demonstrated insufficient regard for FECA's reporting requirements by not empowering those firms to take complete and prompt corrective actions with respect to several significant reporting errors and omissions. Representative Schweikert's failure to take reasonable actions to ensure his campaign committees followed applicable laws led to systemic FECA violations and his indifference to many of these issues continued even after they were summarized in great detail by the OCE. Viewed in the aggregate, Representative Schweikert's conduct did not reflect creditably on the House, and was a violation of House Rule XXIII, clause 1. By failing to ensure his campaign committees operated in full compliance of FECA and laws that prohibit congressional staff from making contributions to their employing Members' campaigns, he further violated paragraph 2 of the Code of Ethics for Government.

2. *Failure to Disclose Metro Phoenix Bank Loan*

i. *Background*

On July 19, 2010, Representative Schweikert, his spouse, and Sheridan Equities LLC, applied for a \$75,000 revolving line of credit from Metro Phoenix Bank (MPB), which the bank's records from that time indicate was intended to be used for "marketing [Representative] Schweikert's [political] campaign."²⁴ Sheridan Equities LLC is a single-member limited liability corporation based in Arizona owned by Representative Schweikert. On July 30, 2010, the Schweikerts and Sheridan Equities LLC obtained the \$75,000 revolving line of credit from MPB.²⁵ The line of credit was secured by three rental properties, which were held by Sheridan Equities, with a total estimated value of \$273,000.²⁶

²³ See Comm. on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, H. Rept. 112-588, 112th Cong. 2d Sess. 5-6 (2012) (acknowledging that filers may first become aware of errors after being notified by members of the media or outside groups who review the statements and other public records) (hereinafter *Buchanan*).

²⁴ See Exhibit 4 at COE.SCHWEIKERT.5231. According to MPB Official A, Representative Schweikert was initially referred to the bank by a member of its Board. OCE Interview of MPB Official A.

²⁵ *Id.* at COE.SCHWEIKERT 5234. Though the terms of the line of credit were described by MPB officials as "standard" and "boilerplate," the loan was "atypical" given that the bank did not routinely give such small loans. OCE Interview of MPB Official A; OCE Interview of MPB Official B.

²⁶ *Id.* at COE.SCHWEIKERT.5232.

Representative Schweikert funded in-kind contributions to his principal campaign committee, David Schweikert for Congress, using funds from the MPB line of credit on the following dates:

- August 2, 2010 (\$11,557 cashier's check payable to Blue Point LLC)²⁷
- August 2, 2010 (\$24,589.80 wire to Anthem Media Inc)²⁸
- August 4, 2010 (\$26,000 cashier's check payable to Blue Point LLC)²⁹

The funds disbursed from the MPB line of credit were reported as disbursements by David Schweikert for Congress on:

- July 30, 2010 (\$24,589.80 to Anthem Media LLC for "TV & Radio")³⁰
- August 2, 2010 (\$11,557 to Blue Point LLC for "Mail Design and Printing")³¹
- August 4, 2010 (\$26,000 to Blue Point LLC for "Mail Design and Printing")³²

On February 2, 2011, the Schweikerts and Sheridan Equities LLC requested the line of credit be increased by \$79,000 for non-campaign-related purposes.³³ On or about February 14, 2011, the Schweikerts and Sheridan Equities obtained a \$79,000 increase to the line of credit from MPB, for a total value of \$154,000.³⁴ The increased line of credit was secured by an additional rental property owned by Sheridan Equities LLC.³⁵ The ISC did not obtain evidence that the additional funds were used in connection with Representative Schweikert's campaign.³⁶ Additional terms were added to the MPB line of credit between March 2013 and October 2014. Those terms included:

- March 5, 2012: Maturity date of the loan was extended from March 5, 2012 to May 5, 2013;³⁷
- May 31, 2013: Maturity date of the loan was extended from May 5, 2013 to June 5, 2018;³⁸
- August 16, 2013: Metro Phoenix Bank agreed to release and reconvey the deed of trust and assessment of rents for 5920 W. State Ave., Glendale, AZ, to accommodate the sale of the property;³⁹
- July 21, 2014: Metro Phoenix Bank agreed to release and reconvey the deed of trust and assessment of rents for 6413 W Lamar Rd., Glendale, AZ, to accommodate the sale of the property;⁴⁰

²⁷ *Id.* at COE.SCHWEIKERT.5313.

²⁸ *Id.* at COE.SCHWEIKERT.5309.

²⁹ *Id.* at COE.SCHWEIKERT.5317.

³⁰ David Schweikert for Congress, 2010 Pre-Primary Report of Receipts and Disbursements, at 40 (Aug. 12, 2010).

³¹ *Id.* at 43.

³² *Id.* at 45.

³³ Exhibit 4 at COE.SCHWEIKERT.005318-COE.SCHWEIKERT.005319.

³⁴ *Id.* at COE.SCHWEIKERT.005328.

³⁵ *Id.*

³⁶ *Id.* at COE.SCHWEIKERT.005407-5408.

³⁷ *Id.* at COE.SCHWEIKERT.005378.

³⁸ *Id.* at COE.SCHWEIKERT.005386.

³⁹ *Id.* at COE.SCHWEIKERT.005401.

⁴⁰ *Id.* at COE.SCHWEIKERT.005402

- July 30, 2014: Metro Phoenix Bank agreed to release and reconvey the deed of trust and assessment of rents for 3338 E Willetta St., Phoenix, AZ, to accommodate the sale of the property;⁴¹ and
- October 8, 2014: Loan re-amortized over a 15-year period, with remaining collateral on one property: 3013 N 64th Dr., Phoenix, AZ.⁴²

The Schweikerts made repayments to the line of credit, using their personal funds, on a monthly basis from approximately October 2010 to February 2015. On February 6, 2015, the line of credit was fully repaid.⁴³

At the time the MPB line of credit was obtained, Representative Schweikert's principal campaign committee was David Schweikert for Congress, and its treasurer was Representative Schweikert's spouse. David Schweikert for Congress did not report the MPB line of credit to the FEC, did not report that the expenditures from the MPB line of credit were in-kind contributions from Representative Schweikert, and did not report the Schweikerts' repayment of the draws on the line of credit.

Representative Schweikert admitted that he and Mrs. Schweikert, who had served as campaign treasurer for David Schweikert for Congress at the time the line of credit was initially obtained, failed to take any steps to ensure the loan activity was reported. Their rationale for not doing so was their belief that such information was not required to be disclosed to the FEC.⁴⁴ When Mrs. Schweikert was replaced as treasurer of David Schweikert for Congress, her replacement was not informed of the line of credit and so the campaign committee continued to omit information regarding the loan from its reports to the FEC.⁴⁵

Although Representative Schweikert did not believe the line of credit needed to be disclosed, allegations that he had failed to report such a loan surfaced before the loan had been fully paid off. In August 2012, a local blog speculated that funds Representative Schweikert obtained from MPB were being used to support Representative Schweikert's campaign, citing publicly available real property records demonstrating that the deeds for the properties securing the loan had been transferred to MPB.⁴⁶ The blog post alleged: "it's possible that Schweikert and his new friends at Metro Phoenix bank are financing an off-the-books shadow campaign fund for Schweikert."⁴⁷ Notwithstanding the speculation surrounding his campaign's relationship with MPB, Representative Schweikert's campaign committees did not amend or otherwise make any filings to disclose that the \$75,000 line of credit from MPB was obtained and that funds drawn from it were used in support of his campaign. At the time, the blog post caught the attention of

⁴¹ *Id.* at COE.SCHWEIKERT.005403

⁴² *Id.* at COE.SCHWEIKERT.005405

⁴³ *Id.* at COE.SCHWEIKERT.005408; *see* Appendix C ¶ 3.

⁴⁴ Appendix C ¶ 4.

⁴⁵ *Id.* ¶¶ 5, 11.

⁴⁶ *David Schweikert gives \$130,000 to campaign while involved in real estate loan scam with campaign depository, Metro Phoenix Bank, Politico Mafioso*, (Aug. 24, 2012), <http://politicomafioso.blogspot.com/2012/08/david-schweikert-gives-130000-to.html>.

⁴⁷ *Id.*

MPB officials, who circled it among themselves, as well as Mr. Schwab, who received an email alert with a link to the blog post.⁴⁸

On April 11, 2018, OCE informed Representative Schweikert that it was reviewing allegations that he may have omitted required information from his Financial Disclosure Statements and FEC candidate committee reports. On the same date, the OCE sent him a request for, *inter alia*, “[a]ll documents or communications associated with any lines of credit or loans that you or any business you are associated with received from Metro Phoenix Bank.” In response to the request, Representative Schweikert’s counsel stated that they believed OCE’s requests stemmed from the August 2012 blog post referenced above, and argued that the blog entry made “unfounded allegations” against the congressman “that were not corroborated or followed up on by any credible media entities.”⁴⁹ Representative Schweikert did not comply with OCE’s request for documents associated with any lines of credit or loans that he or any business he is associated with received from MPB. On June 13, 2018, his counsel told OCE: “[i]f you have specific questions about items in the financial disclosure, please direct those to counsel. Nothing OCE has provided appears to have any reasonable articulate basis to justify a broad and sweeping inquiry into information already disclosed on financial disclosures.”⁵⁰

On June 8, 2018, following Representative Schweikert’s request for guidance regarding impermissible outlays his campaign had made, the Committee advised him that if he was aware of any inaccurate reporting on required disclosures previously filed with the FEC, “those inaccuracies should be promptly and accurately corrected.” At that time, the Committee encouraged him to make any appropriate *sua sponte* submission to the FEC relating to the matters under review.⁵¹ Shortly after receiving that guidance, Representative Schweikert informed the FEC in a *sua sponte* submission of certain errors related to improper outlays, but he did not inform it of the omission of the MPB line of credit.⁵²

On September 5, 2018, the Committee transmitted to Representative Schweikert OCE’s Second Referral, which included a detailed section alleging the \$75,000 MPB line of credit was improperly omitted from his principal campaign committee’s FEC filings between 2010 and 2015. On that date, the Committee provided him with the opportunity to respond, in writing, to OCE’s Second Referral. On October 3, 2018, he responded, through counsel:

Regarding the allegations that the Congressman may have omitted information from his [FEC] candidate committee reports . . . the Congressman has been working to cure any such inadvertent errors or discrepancies for several months. A new FEC compliance firm

⁴⁸ See Exhibit 5. Mr. Schwab was not working for Representative Schweikert’s campaign at that time.

⁴⁹ Exhibit 6. Representative Schweikert later informed the OCE Board that the allegations reviewed by OCE “reminded [him] of an August 2012 anonymous blog entry during [his] Republican primary that contained many unsubstantiated and false allegations . . . [i]t is worth nothing that the author of those blog posts subsequently came forward on his own volition and offered an apology to me for making those false allegations.” Exhibit 7.

⁵⁰ Exhibit 6.

⁵¹ *Id.*

⁵² Exhibit 51

was retained at the end of 2017, and the Congressman's counsel has engaged with FEC staff to work cooperatively to resolve any issues.⁵³

However, neither he, nor anyone acting on his or his campaign committees' behalf, informed the FEC or the Committee of the omission of the MPB line of credit at that time. On December 21, 2018, the ISC requested that Representative Schweikert identify any errors or omissions in his FEC reports; he did not address the MPB line of credit omission in his response to this request.

In response to the ISC's repeated follow up requests for specific information or documents relating to FEC reporting errors, Representative Schweikert's counsel consistently referenced the congressman's cooperation with a self-reported FEC review. However, Representative Schweikert did not specifically address the allegations relating to the MPB loan until the ISC sent a second request for information on December 9, 2019, that specifically directed him to state whether he obtained this line of credit in support of his campaign and inform the ISC whether and when the campaign committee intended to disclose the line of credit to the FEC. In response, on January 6, 2020, Representative Schweikert's counsel informed the ISC that "it appears that Schweikert for Congress inadvertently failed to disclose that Representative Schweikert funded certain loans to his campaign with a \$75,000 line of credit obtained from MPB."⁵⁴ The FEC was subsequently alerted to this omission on January 27, 2020, slightly less than five years from when the line of credit was paid off.⁵⁵

During his interview with the ISC, Representative Schweikert testified that he was unaware the line of credit was improperly omitted from his FEC filings until February 27, 2020, the day before the interview:

Q. At the time you obtained the loan for the line of credit, did you receive any guidance regarding whether the line of credit needed to be disclosed on any FEC reports?

A. No. And this may be my sin, I didn't ask. I just -- I assumed. I didn't even assume. I didn't think about it.

Q. So when did you first realize that that line of credit hadn't been properly disclosed on FEC reports?

A. Brutally honest answer. What time did I talk to you yesterday? About 3 o'clock in the afternoon?

⁵³ Exhibit 88.

⁵⁴ Exhibit 25.

⁵⁵ Exhibit 8 (Jan. 27, 2020 email from Representative Schweikert's counsel to FEC staff stating, "it appears that the David Schweikert for Congress committee funded certain campaign disbursements in 2010 with a \$75,000 line of credit from Metro Phoenix Bank secured by Representative Schweikert, his wife, and Sheridan Equities, but the line of credit was not disclosed on the committee's reports."). The FEC's statute of limitations for civil enforcement of FECA violations is five years.

[Representative Schweikert's Counsel]. Yes.

A. That's my first time I even found out there was such a thing where if I had line of credit on use from that money, that it also had to be on the FEC.⁵⁶

i. Relevant Laws, Rules, and Other Applicable Standards of Conduct

Campaigns must disclose all receipts, including any monetary donations, in-kind contributions, or loans, on reports to the FEC.⁵⁷ Certain loans, including a bank loan or line of credit, require additional reporting on Schedule C-1, including the disclosure of:

1. The date, amount, and interest rate of the loan, advance, or line of credit;
2. The name and address of the lending institution; and
3. The types and value of collateral or other sources of repayment that secure the loan, advance, or line of credit, if any.⁵⁸

This is true even where the bank loans are obtained by the candidate and then contributed to the campaign, rather than loaned directly to the campaign committee.⁵⁹ Loans “must be reported continuously until repaid” and the Schedule C-1 must be updated if the terms of the loan or line of credit are restructured.⁶⁰

Pursuant to paragraph 2 of the Code of Ethics for Government Services, Members are expected to uphold the laws and legal regulations of the United States, and never be a party to their evasion. Members must also act in a manner that reflects creditably on the House, pursuant to House Rule XXIII, clause 1.

ii. Findings

Candidates must disclose bank loans obtained for campaign-related purposes, including the terms and any collateral used in support of the loan.⁶¹ Between July 2010 and February 2015, Representative Schweikert's principal campaign committees did not disclose to the FEC that he

⁵⁶ ISC Interview of Representative Schweikert.

⁵⁷ 52 U.S.C. § 30104(b)(2); 11 C.F.R. § 104.3(a)(3). For contributions that exceed \$200 in an election cycle, the campaign committee must disclose the name of the person who made the contribution, the date and amount of the contribution. 52 U.S.C. § 30104(b)(3). In-kind contributions from a candidate's personal funds that exceed \$200 in an election cycle must also be disclosed. *See Federal Election Commission Campaign Guide: Congressional Candidates and Committees*, at 95-96, (June 2014), <https://www.fec.gov/resources/cms-content/documents/candgui.pdf> (hereinafter *FEC Campaign Guide*).

⁵⁸ 11 C.F.R. § 104.3(d)(4)(1)(i)-(iii). *See also FEC Campaign Guide* at 110-111 (reporting guidance on candidate's loan derived from a line of credit).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ 11 C.F.R. § 100.83(e); 11 C.F.R. § 104.3.

obtained a line of credit in support of his campaign, the terms of the line of credit, modifications to the line of credit, or the repayment of the line of credit.

Representative Schweikert did report the MPB line of credit in his House Financial Disclosure Statements for the relevant years. However, the disclosure of required information in House financial reports does not relieve candidates of their duty to comply with the FEC's separate reporting requirements. For example, in 2019, the FEC imposed a \$35,000 civil fine arising out of inaccurate 2012 FEC reports where a candidate disclosed loans of "personal funds" that were in fact borrowed from commercial lenders, including a line of credit that had been disclosed by the candidate on his Senate Financial Disclosure Statements.⁶² Moreover, even though Representative Schweikert's House disclosure statements disclosed the existence of the line of credit - which was already a matter of public record based on Arizona real property records - they did not disclose that the line of credit was used for his campaign.

Representative Schweikert advised the ISC that neither he nor Mrs. Schweikert, who served as his campaign treasurer at the time the MPB line of credit was obtained, believed it needed to be disclosed to the FEC.⁶³ According to Representative Schweikert's counsel, the failure to disclose the line of credit was "caused by a mistaken understanding that the funds were Representative Schweikert's 'personal funds' even though they originated with the line of credit."⁶⁴

As a preliminary matter, Members should exercise caution when selecting campaign treasurers due to the "pivotal role" treasurers play in ensuring campaign committees remain in compliance with FECA.⁶⁵ By running a frugal campaign in 2010, Representative Schweikert saved costs by entrusting Mrs. Schweikert to prepare his campaign filings without the aid of a professional compliance firm, but in so doing put his campaign committees at greater risk for non-compliance given that Mrs. Schweikert had only a "basic" understanding of relevant campaign finance laws and reporting rules.⁶⁶ Nonetheless, Mrs. Schweikert did demonstrate a basic understanding of the rules regarding the disclosure of loans - and the source of those loans - made to campaigns. Prior to when the MPB line of credit was obtained, she had served as treasurer of the David Schweikert for Congress campaign committee for several years, and during that time she reported hundreds of thousands of dollars in loans the David Schweikert for Congress campaign committee received and identified the source of those loans as coming from Representative Schweikert's personal funds.⁶⁷ Yet she did not disclose *any* loan information

⁶² See e.g., Ted Cruz for Senate, *et al.* (MUR 7001). The FEC imposed a \$35,000 civil fine when the candidate failed to report margin loans and a line of credit obtained in support of campaign, notwithstanding the fact that candidate disclosed the loans on his Senate Disclosure Statements.

⁶³ Appendix C ¶ 4.

⁶⁴ Exhibit 25.

⁶⁵ See Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings, 70 Fed. Reg. 5 (Jan. 3, 2005).

⁶⁶ ISC Interview of Representative Schweikert. Representative Schweikert maintained that Mrs. Schweikert was "familiar with the basics" of campaign finance laws and reporting rules, but acknowledged that after some of her bookkeeping errors were brought to his attention, it was time to "stop trying to nickel-and-dime" and he retained a professional compliance firm. *Id.*

⁶⁷ The campaign committee filings that disclosed those loans indicated that the source of the loans came from the candidate's personal funds. See e.g., David Schweikert for Congress, 2007 Year-End Report of Receipts and

related to the \$75,000 line of credit Representative Schweikert obtained from MPB in support of his campaign.⁶⁸ If she mistakenly believed that the funds from the MPB line of credit were Representative Schweikert's personal funds, then based on her prior practices, she should have disclosed it as such.

In addition, and as discussed more fully below, in 2011, Schweikert for Congress inaccurately reported that the campaign committee received a personal loan from Representative Schweikert. According to Representative Schweikert, Mrs. Schweikert input the loan as an inadvertent mistake that occurred after he had intended to apply for, but ultimately did not obtain, a line of credit.⁶⁹ Paradoxically, if the ISC were to find his testimony credible in that regard, it would also need to find that by 2011, Mrs. Schweikert was aware that the MPB line of credit obtained in 2010 needed to be reported to the FEC.

Furthermore, by August 2012, the question of whether MPB was funding an “off-the-books . . . shadow campaign” for Representative Schweikert was an issue of public discussion,⁷⁰ but Representative Schweikert did not take any steps at that point to ensure his campaign was fully complying with applicable laws and regulations related to the line of credit, and the line of credit continued to go unreported to the FEC.

The omission of this information was further prolonged as a result of Representative Schweikert's failure to inform the compliance firm that was retained in January 2013 to take over bookkeeping responsibilities from Mrs. Schweikert of the line of credit.

Even after OCE began investigating allegations that he omitted information in his FEC filings in April 2018, Representative Schweikert did not act take appropriate corrective steps to address the reporting omission. Through counsel, he questioned the validity of the OCE's investigation by suggesting it was improperly based off of the same blog post that questioned whether MPB funds were being used for his campaign, referring to the allegations in the blog entry as “unfounded.”⁷¹ Any meaningful review of this issue by this point would have shown that the MPB line of credit should have been reported to the FEC, but no such review appears to have been undertaken at that time. Following his September 2018 receipt of OCE's Second Referral, which thoroughly detailed the omission of the MPB line of credit and applicable laws and regulations,⁷² Representative Schweikert could have taken prompt actions to ensure proper amendments were

Disbursements, at 143-144 (Jan. 30, 2008) (disclosing receipt of a \$50,000 and \$100,000 in unsecured loans from Representative Schweikert); David Schweikert for Congress, July 2010 Quarterly Report of Receipts and Disbursements, at 104 (Jul. 15, 2010) (disclosing receipt of a \$225,000 unsecured loan from Representative Schweikert).

⁶⁸ In some matters, candidates mistakenly designate loans originating from banks or a line of credit as loans from their personal funds without providing the required information regarding the source bank. In this case, Representative Schweikert's campaign made no disclosures regarding the source of funds obtained by MPB.

⁶⁹ ISC Interview of Representative Schweikert.

⁷⁰ *David Schweikert gives \$130,000 to campaign while involved in real estate loan scam with campaign depository, Metro Phoenix Bank, Politico Mafioso*, (Aug. 24, 2012), <http://politicomafioso.blogspot.com/2012/08/david-schweikert-gives-130000-to.html>.

⁷¹ Exhibit 6.

⁷² OCE's Second Referral at 39-41.

filed with the FEC. But the FEC was not advised of the undisclosed MPB line of credit until January 2020, more than a year after the failure to disclose it was highlighted by OCE and more than a year after the Committee advised Representative Schweikert that any inaccurate disclosures to the FEC should be promptly and accurately corrected. The disclosure to the FEC only came after the ISC inquired about whether such disclosure had been made. Representative Schweikert's assertion that he had only learned that the MPB line of credit should have been reported to the FEC the day before his testimony further underscores his apparent indifference to ensuring his campaign committees operated in full compliance with applicable laws and regulations.⁷³

In the context of financial disclosure reporting violations, the Committee has cautioned Members to promptly file amendments whenever they learn of errors or omissions, and has warned that knowing and willful violations may result in civil or criminal penalties.⁷⁴ In this matter, the ISC did not find sufficient evidence to determine that the initial omission of the MPB line of credit was willful. Nonetheless, Representative Schweikert did not make the disclosures related to the line of credit as required under FECA, the failure to disclose was at minimum a consequence of inadequate oversight of his campaign's reporting, and moreover, when given reason to know that his campaign had failed to make required disclosures, he did not take appropriate steps to correct the error.

These actions did not reflect creditably on the House and resulted in a prolonged failure by Representative Schweikert to uphold laws and regulations of the United States, including provisions of the FECA and the FEC's implementing regulations. Accordingly, the ISC found Representative Schweikert violated House Rule XXIII, clause 1, and paragraph 2 of the Code of Ethics for Government Services. The ISC recommends that Representative Schweikert continue to work cooperatively, and in a fully transparent manner, with the FEC to ensure that all appropriate corrective measures are taken.⁷⁵

⁷³ ISC Interview of Representative Schweikert. According to Representative Schweikert, he read the OCE's Second Referral, but "must have gone right over" the section regarding the MPB line of credit omission. *Id.*

⁷⁴ *Ethics Manual* at 265; see also *Buchanan* (determining no further action was necessary in recognition of the fact that there was no evidence that Member's failure to file correct and complete information in his financial disclosures was either knowing or willful, and because, "very shortly" after the Member was notified by the OCE that his disclosures were inaccurate, he submitted information to the Clerk of the House to publicly amend the disclosures with corrected information).

⁷⁵ The ISC further notes that, to the extent that Representative Schweikert's spouse made repayments to campaign-related draws on the line of credit with funds that were not Representative Schweikert's personal funds, she may have made excessive contributions to his campaign. See Advisory Op. Cunningham (AO 1994-26) at 4 ("Repayments of the draws on these lines of credit must originate from contributions that are permissible under the Act.").

3. *Falsely Reported \$100,000 Personal Loan and Falsely Reported \$100,000 Disbursements*

i. *Background*

On January 31, 2012, the Schweikert for Congress campaign committee disclosed in its 2011 Year-End Report that Representative Schweikert had loaned it \$100,000 of his personal funds on December 25, 2011.⁷⁶ No such loan was actually made.⁷⁷

Representative Schweikert testified that, in late December 2011, he intended to apply for a \$100,000 line of credit that he anticipated using as a personal loan to his campaign.⁷⁸ Mrs. Schweikert entered a \$100,000 personal loan from Representative Schweikert into Schweikert for Congress's financial tracking software used to generate the committee's FEC disclosure reports,⁷⁹ but the \$100,000 loan was never made to the Schweikert for Congress campaign committee. The loan entry in the campaign's financial tracking software, however, was not removed and a \$100,000 loan entry was included in Schweikert for Congress's reports to the FEC, beginning with the 2011 Year End Report.

The individual serving as treasurer of Schweikert for Congress on the date the loan was alleged to have been made was not aware that Representative Schweikert reported making a \$100,000 personal loan to his campaign or that the loan was fictional.⁸⁰ That individual, Treasurer A, was a campaign volunteer who was asked by Representative Schweikert to serve as the official treasurer after he was elected to Congress; however, from the start of Treasurer A's involvement as campaign treasurer in January 2011, her role was largely limited to disclosure of campaign contributions, while Mrs. Schweikert retained responsibility for handling the reporting of the campaign committee's expenditures and loans.⁸¹ As part of her role as treasurer, Treasurer A had access to the committee's FEC reporting software and reconciled the committee's bank statements with deposits prior to filing a disclosure report.⁸² Treasurer A was "very concerned" about signing FEC filings because she had limited knowledge of the campaign's finances, which were primarily overseen by Mrs. Schweikert.⁸³ She, however, testified that she had a "great deal of confidence in Joyce [Schweikert]'s ability."⁸⁴

Around the same time the \$100,000 loan was reportedly made to Schweikert for Congress, Treasurer A was replaced by Treasurer B.⁸⁵ Treasurer A testified that she intended to stay on as treasurer at that time, but Mr. Schwab informed her at that time that she would no longer be

⁷⁶ Schweikert for Congress, 2011 Year-End Report of Receipts and Disbursements, at 94 (Jan. 31, 2012).

⁷⁷ See Exhibit 9 at COE.SCHWEIKERT.005585-COE.SCHWEIKERT.005590.

⁷⁸ ISC Interview of Representative Schweikert.

⁷⁹ ISC Interview of Representative Schweikert; ISC Interview of Treasurer A.

⁸⁰ ISC Interview of Treasurer A; Appendix C ¶ 5.

⁸¹ ISC Interview of Treasurer A; Appendix C ¶ 2.

⁸² ISC Interview of Treasurer A.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Exhibit 10.

serving as treasurer.⁸⁶ Mr. Schwab gave her no reason for the change.⁸⁷ Treasurer B began to transition into the treasurer role for Schweikert for Congress in December 2011. On December 20, 2011, five days prior to when Representative Schweikert’s campaign reported that the fictional \$100,000 loan was made, Treasurer B told a personal friend, via email, that she had just become “Schweikert’s campaign treasurer,” and explained, “Joyce [Schweikert] doesn’t want to sign [the FEC reports] since she’s spouse and [Treasurer A] has some trepidation about being the responsible party.”⁸⁸ Treasurer B, who had previously worked with Representative Schweikert’s real estate business, had no prior campaign treasurer experience and told her friend she would need “a crash course on campaign finance law.”⁸⁹ On January 13, 2012, Schweikert for Congress filed an amended Statement of Organization, reflecting Treasurer B’s replacement of Treasurer A as campaign treasurer.⁹⁰

On January 31, 2012, Treasurer B signed the Schweikert for Congress 2011 Year-End Report, which was the first disclosure of the fictional \$100,000 loan.⁹¹ Like her predecessor, Treasurer B had access to the committee’s FEC reporting software and reviewed committee bank statements but was not aware that the \$100,000 loan had not been made and was not involved in inputting the information into the filing software.⁹² The Schweikerts did not recall telling the Schweikert for Congress campaign treasurers or other individuals who worked on preparing or reviewing the 2011 Year-End Report, or any ensuing FEC reports that referenced this loan, that the \$100,000 loan had never actually been made.⁹³

The reporting of the \$100,000 loan inflated Representative Schweikert’s overall campaign cash totals. The day after the loan was reported, Representative Schweikert’s campaign consultant commented in a news article that the campaign reached near its finance goals going into Representative Schweikert’s 2012 primary election.⁹⁴ The loan was also listed by the Schweikerts as an asset in connection with personal financial disclosure statements provided to MPB in support of the line of credit they originally obtained in 2010.⁹⁵

⁸⁶ ISC Interview of Treasurer A.

⁸⁷ *Id.*

⁸⁸ Exhibit 10.

⁸⁹ *Id.*; ISC Interview of Treasurer B.

⁹⁰ Schweikert for Congress, 2012 Amended Statement of Organization (Jan. 13, 2012).

⁹¹ Schweikert for Congress, 2011 Year-End Report (Jan. 31, 2012).

⁹² ISC Interview of Treasurer B. On December 25, 2011, the same date the campaign reported receiving the \$100,000 personal loan from Representative Schweikert, Representative Schweikert emailed Mr. Schwab from his campaign email account and asked, “what is your log on for FEC data?” *See* Exhibit 11.

⁹³ Appendix C ¶ 5.

⁹⁴ Ronald J. Hansen, *Pinal County Sheriff Babeu’s war chest tops field*, *The Arizona Republic*, (Feb. 1, 2012), <http://archive.azcentral.com/arizonarepublic/local/articles/2012/02/01/20120201pinal-county-sheriff-babeus-war-chest-tops-field.html#ixzz6GIusEBRa> (noting that “Schweikert raised \$170,000 at the end of 2011 and began 2012 with \$700,000 in cash. Although that was less than others, such as Quayle, Schweikert largely reached his own goals, said [Campaign Consultant], a spokesman for the Schweikert campaign.”).

⁹⁵ On or about April 15, 2012, the Schweikerts provided a personal financial statement to MPB asserting they had \$600,000 in campaign loans in assets—a figure that included the fictional \$100,000 loan. *See* Exhibit 12 at COE.SCHWEIKERT.005414. MPB Official A said that the bank did not verify the Schweikerts’ campaign debt due to the small size of the loan. OCE Interview of MPB Official A.

In October and November 2012, the Schweikert for Congress campaign committee reported making \$100,000 in payments to Blue Point LLC, a company owned by Representative Schweikert's campaign consultant, Campaign Consultant.⁹⁶ Schweikert for Congress bank accounts for the same period, however, did not show these disbursements being made. The \$100,000 was spread out into 5 irregularly-sized payments, and therefore looked similar to the large mail-related disbursements Campaign Consultant's company typically received:

- October 5, 2012 disbursement for \$23,972⁹⁷
- October 15, 2012 disbursement for \$11,580⁹⁸
- October 19, 2012 disbursement for \$18,868⁹⁹
- October 26, 2012 disbursement for \$22,580¹⁰⁰
- November 2, 2012 disbursement for \$23,000¹⁰¹

By misreporting the \$100,000 disbursements to Blue Point LLC, Schweikert for Congress was able to balance its accounts and report an ending cash on hand of only \$7,488.54 at the close of the 2012 election cycle.¹⁰² Without the false Blue Point disbursements, the campaign committee would have reported an ending cash on hand of \$107,488.54, which would have included the December 25, 2011, \$100,000 loan that was never received by the campaign. Accordingly, the misreported disbursements served to cover the misreported loan that was never received and allowed the campaign to adjust its bank accounts at the end of 2012.

Representative Schweikert's campaign manager at the time, 2012 Campaign Manager, testified that a few weeks after the 2012 general election, when post-general election reports were filed, he asked Campaign Consultant about the disbursements to Blue Point LLC because he did not believe the campaign did mailings for the general election.¹⁰³ Campaign Consultant informed him that he had not produced any mail nor been paid for mail during that time.¹⁰⁴ According to Representative Schweikert, this \$100,000 in disbursements to Blue Point LLC was "misreported" by Mrs. Schweikert to the FEC,¹⁰⁵ but the ISC received no further explanation why the fictional disbursements were reported in the first place.

In December 2012, 2012 Campaign Manager made a reference to Mr. Schwab about Mrs. Schweikert having stolen money from the campaign: "let's seriously consider the fact that Joyce

⁹⁶ Schweikert for Congress, 2012 Pre-General Report of Receipts and Disbursements (Oct. 25, 2012); Schweikert for Congress, 2012 Post-General Report of Receipts and Disbursements (Dec. 6, 2012); Schweikert for Congress, 2012 Amended Post-General Report of Receipts and Disbursements (Jan. 20, 2013).

⁹⁷ Schweikert for Congress, 2012 Pre-General Report of Receipts and Disbursements, at 19 (Oct. 25, 2012).

⁹⁸ *Id.* at 20.

⁹⁹ Schweikert for Congress, 2012 Post-General Report of Receipts and Disbursements, at 27 (Dec. 6, 2012); Schweikert for Congress, 2012 Amended Post-General Report of Receipts and Disbursements, at 28 (Jan. 20, 2013).

¹⁰⁰ Schweikert for Congress, 2012 Post-General Report of Receipts and Disbursements, at 28 (Dec. 6, 2012);

Schweikert for Congress, 2012 Amended Post-General Report of Receipts and Disbursements, at 29 (Jan. 20, 2013).

¹⁰¹ Schweikert for Congress, 2012 Post-General Report of Receipts and Disbursements, at 30 (Dec. 6, 2012);

Schweikert for Congress, 2012 Amended Post-General Report of Receipts and Disbursements, at 31 (Jan. 20, 2013).

¹⁰² Schweikert for Congress, 2012 Year-End Report of Receipts and Disbursements, at 2 (Jan. 31, 2013).

¹⁰³ ISC Interview of 2012 Campaign Manager.

¹⁰⁴ *Id.*

¹⁰⁵ Appendix C ¶ 8.

[Schweikert] has stolen AT LEAST 4 times that from the [campaign committee].”¹⁰⁶ 2012 Campaign Manager subsequently testified that he was only joking when he made this assertion.¹⁰⁷ Mr. Schwab testified that, after 2012 Campaign Manager made that reference, he “immediately” raised the need to “professionalize the bookkeeping” of the campaign with Representative Schweikert.¹⁰⁸

In late 2012, Mr. Schwab, 2012 Campaign Manager, and Campaign Consultant informed Representative Schweikert there were issues with Mrs. Schweikert’s campaign financial activities, including that the campaign committee misreported disbursements to Blue Point LLC that had not been made.¹⁰⁹ Following those discussions, Representative Schweikert told Mr. Schwab that he wanted to “get the books away from Joyce [Schweikert].”¹¹⁰

Compliance Firm 1 was retained in January 2013 to take over management of the campaign finances, including campaign treasurer duties, and to create a new campaign committee, Friends of David Schweikert.¹¹¹ An employee of that compliance firm, Treasurer D, officially replaced Treasurer B as campaign treasurer in May 2013, but Compliance Firm 1 began taking over compliance and treasurer responsibilities in January 2013.¹¹² Compliance Firm 1 was not advised that the \$100,000 personal loan had not actually been made, nor were they made aware of the misreported disbursements to Blue Point LLC.¹¹³

To effectuate the transfer of responsibilities, a partner of Compliance Firm 1 requested that Treasurer D receive access to the committees’ accounting software and be given access to the bank accounts.¹¹⁴ Treasurer D also followed-up on that request. On at least two occasions in February 2013, Treasurer D asked Mrs. Schweikert for access to the David Schweikert for Congress and Schweikert for Congress accounts at Chase Bank;¹¹⁵ however the ISC did not find evidence showing that Mrs. Schweikert ever gave Treasurer D, or any other individual at Compliance Firm 1, access to the accounts.¹¹⁶

¹⁰⁶ Exhibit 13.

¹⁰⁷ ISC Interview of 2012 Campaign Manager (“I’ll just say right now that this was a joke between Oliver and I. This was us screwing around on email and we were not serious about that. It was like a running joke we had over frustration with slow reimbursements and things like that.”).

¹⁰⁸ ISC Interview of Oliver Schwab (following receipt of 2012 Campaign Manager’s email, he “immediately went to Mr. Schweikert” and said, “it is time to professionalize the bookkeeping of this campaign work.”).

¹⁰⁹ *Id.*; ISC Interview of Campaign Consultant; ISC Interview of 2012 Campaign Manager.

¹¹⁰ ISC Interview of Representative Schweikert; ISC Interview of Oliver Schwab.

¹¹¹ Exhibit 14. (Jan. 2, 2013 email from Oliver Schwab to Treasurer C at Compliance Firm 1: “[Representative Schweikert] wanted me to ask if you would take our 2014 [campaign account] on as a client for this next cycle”).

¹¹² *Id.*

¹¹³ Appendix C ¶¶ 10, 11.

¹¹⁴ Exhibit 14.

¹¹⁵ Exhibit 15 (Feb. 21, 2013 email from Treasurer D to Joyce Schweikert suggesting, “It might be helpful for you to add me on as a signer for the Chase account”); Exhibit 16 (Feb. 25, 2013 email from Treasurer D to Joyce Schweikert suggesting again, “Hey Joyce, [w]ill you give me access to the chase online [account] so I can get to the bank statements?”).

¹¹⁶ ISC Interview of Treasurer D. Mrs. Schweikert closed the bank accounts on Apr. 8, 2013, and June 17, 2013, respectively. Exhibit 17 at COE.SCHWEIKERT.005936; Exhibit 9 at COE.SCHWEIKERT.005711.

The Schweikerts never advised Treasurer D that the \$100,000 loan had not been made.¹¹⁷ Instead, Mrs. Schweikert appears to have sought to have the cash on hand from the previous campaign committees moved to the Schweikerts' personal bank accounts as repayment for the debt.¹¹⁸

On January 6, 2013, Treasurer D emailed Mrs. Schweikert and Mr. Schwab, outlining her understanding of the campaign committees' debts at that time, including "Schweikert for Congress (Primary 2012) \$230,000.00."¹¹⁹ The \$230,000 referenced by Treasurer D was comprised of the fictional December 25, 2011, \$100,000 loan and a \$130,000 personal loan Representative Schweikert made to his campaign on or about August 22, 2012. On February 4, 2013, Mrs. Schweikert emailed Treasurer D stating, "I need to have [the cash on hand] balance in our private real estate bank account soon."¹²⁰ On February 20, 2013, Mrs. Schweikert sent an email to Treasurer D with the subject line, "money move," and stated: "we will need to move money before the month ends. I need to show as much \$\$\$ in our bank [account]."¹²¹ When Treasurer D asked: "Could you clarify what money you would like to move from which account for what purposes?" Mrs. Schweikert replied: "All [the] \$\$\$ you can afford for loan payback. Send [Representative Schweikert] a check. I will post on old committee for personal pay down."¹²² Mrs. Schweikert sent a follow-up email to Treasurer D that same day at 2:06 p.m., stating: "Please ask all fundraisers . . . if they have checks out still to give you for deposit. Is the correct process to send you a [check] for all net Jan[uary] & Feb[ruary] \$\$\$ that had hit old [campaign account] – Chase bank[.] Then when you deposit in BB&T [bank account], you can then send [Representative Schweikert] a big [check] for personal loan payback."¹²³

Despite Mrs. Schweikert's requests, Schweikert for Congress did not report making any repayments to Representative Schweikert for the fictional \$100,000 loan. All of the loan repayments during late 2012 and throughout 2013 were attributed to the \$130,000 personal loan he made in August 2012, and the \$100,000 loan was deemed "forgiven" in the fall of 2013.

On August 10, 2013, Mrs. Schweikert emailed Treasurer D, and stated, "David and I have decided to settle some of the remaining debt on the 2012 committee" and asked Treasurer D to "release the \$100,000 [December 25, 2011 personal loan] as settled" and "close [the Schweikert for Congress] committee. We would like for this to happen in the next few weeks. We will then just keep working on the very old debt from 2008/2010 committee."¹²⁴ This was the earliest indication in the ISC's record that the Schweikerts stopped seeking payments from the campaign for the loan that did not exist. The ISC was not able to determine precisely what motivated the Schweikerts to abandon their efforts to be paid by the campaign for the fictional debt.

¹¹⁷ Appendix C ¶ 5.

¹¹⁸ During this time the Schweikerts were applying for a house loan. Exhibit 18.

¹¹⁹ Exhibit 19.

¹²⁰ Exhibit 20.

¹²¹ Exhibit 21.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ Exhibit 22.

According to Representative Schweikert, the \$100,000 loan was reported to the FEC as a result of a “screw-up” in connection with a line of credit he planned to obtain:

I had started the paperwork to do a credit line on the house, and in the chaos, maybe it just never got completed, and it [had] already been put down on the FECs. It should not have been done, it was a mistake.¹²⁵

Representative Schweikert testified he first became aware that the \$100,000 loan had been falsely reported nearly a year after it was first reported, after the 2012 election.¹²⁶ At that point, he recalled having a “tense concern saying we can’t have anything where we benefit. This has to get fixed, and my understanding is that’s what happened.”¹²⁷ Representative Schweikert further testified that he assumed Mrs. Schweikert was aware that the \$100,000 personal loan was not made.¹²⁸

Representative Schweikert told the ISC the issue was “taken care of” through “paperwork,”¹²⁹ but admitted that he did not advise the new compliance firm of the reporting error.¹³⁰ On October 11, 2013, Schweikert for Congress filed a termination report stating, among other things, that the December 25, 2011 \$100,000 loan had been “forgiven.” On October 12, 2013, Schweikert for Congress filed with the FEC a September 30, 2013 memorandum, signed by Representative Schweikert, in which he falsely stated: “Please be advised that as of September 30, 2013 I have forgiven the outstanding \$100,000 loan, incurred on December 25, 2011, from my personal funds to the Schweikert for Congress Committee 2012 Primary Election.”¹³¹ At that time, Representative Schweikert was aware that no such loan existed.

In his testimony to the ISC, Representative Schweikert acknowledged, “in retrospect,” different paperwork should have been filed.¹³² Representative Schweikert testified he was not advised by anyone to say that the loan was forgiven and said: “if I was a better lawyer, but not having gone to law school, we probably should have done it a different way. But it still accomplishes the same thing, it cleaned it up.”¹³³

On November 5, 2013, the FEC accepted the Schweikert for Congress termination report and allowed for the Schweikert for Congress campaign committee to be terminated. Prior to its termination, Schweikert for Congress falsely reported the existence of the \$100,000 loan to the FEC in the following reports:

¹²⁵ ISC Interview of Representative Schweikert.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*; Appendix C ¶ 5.

¹³¹ Schweikert for Congress, Miscellaneous Report to FEC 2013 (Sept. 30, 2013).

¹³² ISC Interview of Representative Schweikert.

¹³³ *Id.*

1/31/12	Schweikert for Congress 2011 Year-End Report
4/15/12	Schweikert for Congress April 2012 Quarterly Report
7/15/12	Schweikert for Congress July 2012 Quarterly Report
9/6/12	Schweikert for Congress July 2012 Amended Quarterly Report
9/16/12	Schweikert for Congress Pre-Primary Quarterly Report
10/15/12	Schweikert for Congress October 2012 Quarterly Report
10/25/12	Schweikert for Congress Pre-General 2012 Report
12/6/12	Schweikert for Congress Post-General 2012 Report
1/20/13	Schweikert for Congress Post-General 2012 Report Amendment 1
1/31/13	Schweikert for Congress 2012 Year-End Report
4/14/13	Schweikert for Congress April 2013 Quarterly Report
7/13/13	Schweikert for Congress July 2013 Quarterly Report
10/12/13	Memorandum from Representative Schweikert to Campaign Treasurer
10/11/13	Schweikert for Congress October 2013 Termination Report

On April 11, 2018, OCE initiated a review involving allegations of inaccurate FEC reports and sent Representative Schweikert a request for, *inter alia*, “[a]ll documents or communications related to any personal loans or contributions [Representative Schweikert] made to Schweikert for Congress in 2011-2012, including but not limited to, all documents or communications evidencing the source of those loans or contributions.”¹³⁴ Representative Schweikert did not cooperate with OCE’s request and did not advise the OCE that the \$100,000 personal loan had not been made. Instead, on June 13, 2018, his counsel told the OCE:

A comprehensive accounting of any personal loans made to Schweikert for Congress can be found in publicly available FEC reports. According to those records, Mr. Schweikert made two personal loans to his campaign during the 2011-2012 election cycle. The first was made on December 25, 2011, in the amount of \$100,000; the second was made on August 22, 2012, in the amount of \$130,000.¹³⁵

On June 8, 2018, the Committee informed Representative Schweikert that, if he was aware of any inaccurate reporting on required disclosures previously filed with the FEC, those inaccuracies should be promptly and accurately corrected. At that time, the Committee encouraged Representative Schweikert to make any appropriate *sua sponte* submission to the FEC relating to the matters under review.

On September 6, 2018, the Committee transmitted to Representative Schweikert the Report and Findings of OCE which stated, *inter alia*, that OCE “found irregularities regarding a \$100,000.00 personal loan from Rep. Schweikert, which was disclosed by Schweikert for Congress in a 2011 Year End FEC Report. Specifically, OCE could not identify any campaign

¹³⁴ See Exhibit 6 (citing OCE’s document requests).

¹³⁵ Exhibit 6.

bank statements showing that the campaign actually received the \$100,000.00.”¹³⁶ On that date, the Committee provided Representative Schweikert with the opportunity to respond, in writing, to OCE’s Report and Findings. On October 3, 2018, Representative Schweikert, through counsel, provided a response to OCE’s Second Referral, but did not address the irregularities identified by the OCE with respect to the reported \$100,000 loan. His counsel told the Committee that they had “engaged with FEC staff to work cooperatively to resolve any issues,” and that Representative Schweikert had been working to cure “inadvertent errors or discrepancies.”¹³⁷

For over a year, however, Representative Schweikert and his counsel did not work to cure or engage with any FEC staff regarding the irregularities with the reported \$100,000 loan. Despite assuring the ISC that he intended to cooperate and was working to promptly address errors and omissions raised by OCE, he did not inform the ISC that the \$100,000 loan was improperly reported until January 6, 2020, when his counsel advised the ISC: “Based on our review, it appears that, due to administrative error, this loan may have been inadvertently reported as having been made (and forgiven) when it was never in fact made.”¹³⁸ This admission followed multiple follow-up requests from the ISC that he identify errors and omissions in his FEC filings, culminating in an additional request for information from the ISC in December 2019 that specifically directed Representative Schweikert to state whether the December 25, 2011, \$100,000 loan been deposited in his campaign committee bank accounts.

Representative Schweikert first alerted the FEC of this improper disclosure on January 27, 2020, when his counsel emailed FEC staff: “it appears that this loan was never made and should not have been disclosed on the committee’s reports.”¹³⁹

Representative Schweikert was asked during his interview with the ISC whether the hundreds of thousands of dollars of personal loans he reported making to his campaign in 2007, 2008, and 2009 were also “inadvertently” reported and he responded: “I don’t believe so.”¹⁴⁰

ii. Relevant Laws, Rules, and Other Applicable Standards of Conduct

A candidate’s principal campaign committee must accurately report information to the FEC, including all loans and contributions it receives and disbursements it makes.¹⁴¹

Candidates may loan their personal funds to their own campaigns; such loans are considered contributions and although they are not subject to the same monetary limits as other contributions, they are subject to additional reporting requirements.¹⁴² The loan must be itemized

¹³⁶ OCE’s Second Referral at 41.

¹³⁷ Exhibit 93.

¹³⁸ Exhibit 25.

¹³⁹ Exhibit 8.

¹⁴⁰ ISC Interview of Representative Schweikert. His counsel further advised that the prior loans had not been previously reviewed in preparation for his interview and that it was difficult for Representative Schweikert to answer specific questions about the details of reporting and making of the loans due to the age of the transactions.

¹⁴¹ 52 U.S.C. § 30104(b)(3)(E).

¹⁴² See *Personal loans from the candidate*, FEC, <https://www.fec.gov/help-candidates-and-committees/handling-loans-debts-and-advances/personal-loans-candidate/>.

by the campaign committee and continuously reported until paid off. There are also limits on the extent to which personal loans by candidates can be repaid by a campaign after the date of the election for which the loan occurred.¹⁴³ A candidate may forgive all or part of a personal loan by filing a signed statement with the FEC indicating the forgiveness.¹⁴⁴ Campaign committees are also required to report disbursements.¹⁴⁵ When a campaign committee discovers that an earlier report contained erroneous information, it must file an amended report.¹⁴⁶

Pursuant to paragraph 2 of the Code of Ethics for Government Services, Members are expected to uphold the laws and legal regulations of the United States, and never be a party to their evasion. Members must also act in a manner that reflects creditably on the House, pursuant to House Rule XXIII, clause 1.

iii. Findings

Schweikert for Congress, which served as Representative Schweikert's principal campaign committee during the 2012 campaign, failed to file accurate and complete disclosures with the FEC as required by federal campaign finance laws and regulations. Specifically, the campaign committee falsely reported receiving a December 25, 2011, \$100,000 personal loan from Representative Schweikert, and falsely reported making five disbursements totaling \$100,000.

The weight of evidence does not support Representative Schweikert's contention that these fabrications were the result of "inadvertent" errors. Mrs. Schweikert, who was responsible for the errors, has a background in accounting and bookkeeping and had access to the campaign's bank statements. A cursory review of those records easily shows that the transactions did not occur as they were reported. In addition, the fake disbursements, spread out over five odd-numbered payments to a frequent campaign vendor, were for the exact sum of money missing from the campaign's receipts due to the fake loan; those disbursements gave the illusion that the \$100,000 loan was used by the Schweikert for Congress campaign committee, effectively balancing out the campaign's reported cash on hand and preventing a shortfall in campaign funds that might have signaled to others that the loan had never been made in the first place.

Representative Schweikert was specifically advised of irregularities regarding Mrs. Schweikert's handling of campaign finances, including the misreported disbursements to Blue Point LLC (which accounted for the \$100,000 in funds that were not received). He was also aware that the \$100,000 loan had been improperly reported. This led him to replace Mrs. Schweikert with a new campaign compliance firm, Compliance Firm 1, in January 2013. Representative Schweikert testified that his former Chief of Staff, Oliver Schwab, was tasked with identifying and hiring the new firm.¹⁴⁷ Mr. Schwab testified:

In 2012, after I returned, one of [Representative] Schweikert's priority objectives for me was to, quote, "get the books away from

¹⁴³ 11 C.F.R. §§ 116.11, 116.12.

¹⁴⁴ *FEC Campaign Guide* at 127 (citing Advisory Op. 1985-10 and 1979-05).

¹⁴⁵ 11 C.F.R. § 104.3(b).

¹⁴⁶ *FEC Campaign Guide* at 122.

¹⁴⁷ ISC Interview of Representative Schweikert.

my wife.” I say that not to sound in any way that he was being ill-spirited to his wife, I think he genuinely wanted his marriage back, because the FEC accounting was taking a lot of time and energy out of their day in day out and it seemed to be dominating the nature of their relationship. But I also sensed in that a tone that he wanted to have sort of a fresh start, if that's an appropriate way to describe what he asked would be in the next sequence. He said, find the best FEC team that you can and have them certify that this debt is all there. I want someone to audit the books as they've been kept for up until that point . . . They certified that the debt figures were there. I asked a couple of questions at the time, like, you know, is there a way for you to audit, you know, everything that's happened to date? . . . But they really couldn't go back and see line item by line item because those records were not provided by the Schweikerts.¹⁴⁸

While Representative Schweikert may have brought in compliance professionals to clean up the campaign's books going forward, the record is clear that he made no meaningful efforts to address any misconduct from the 2012 election. He did not advise individuals at Compliance Firm 1 of the issues that he was aware of, and the firm was not provided access to the campaign's prior bank accounts, which would have revealed that the \$100,000 loan was never received and that the \$100,000 disbursements to Blue Point LLC were never made. If the reporting of the personal loan was in fact the result of an inadvertent error, Representative Schweikert had many opportunities to promptly advise the FEC, his campaign treasurers, the OCE, and the ISC of that error, but he did not do so.

Representative Schweikert's assertion that he sought to “fix” the error upon learning of it is hard to reconcile with communications from early 2013 where Mrs. Schweikert appeared to be actively planning to be repaid for the fictional \$100,000 loan. Mrs. Schweikert's August 2013 assertion to the campaign's treasurer that “[Representative Schweikert] and I have decided to settle some of the remaining debt on the 2012 committee” may have put an end to the potential for the \$100,000 to be improperly taken from the campaign for the Schweikerts' personal profit, but it added to the falsehoods surrounding the loan. Representative Schweikert furthered the misreporting when he executed a signed memorandum addressed to his treasurer in September 2013, which was then filed with the FEC: “I have forgiven the outstanding \$100,000 loan, incurred on December 25, 2011, from my Schweikert for Congress Committee 2012 Primary Election.”¹⁴⁹

Representative Schweikert justified this statement by noting that he is not a lawyer and that it seemed to be “the most rationale way” to make sure the Schweikerts did not benefit from the falsely reported loan.¹⁵⁰ A legal degree, however, is not required to know this statement was untruthful. While the ISC did not obtain evidence showing that Representative Schweikert financially benefited from these reporting errors, the errors deprived the FEC and the public of transparent accounting of his campaign's finances, and at the same time advantaged Representative

¹⁴⁸ ISC Interview of Oliver Schwab.

¹⁴⁹ Schweikert for Congress, Miscellaneous Report to FEC 2013 (Sept. 30, 2013).

¹⁵⁰ ISC Interview of Representative Schweikert.

Schweikert's campaign by giving the impression that it was in stronger financial shape going into a competitive primary election season.

Not only did Representative Schweikert fail to properly correct the record when he reported his "forgiveness" to the FEC, he again failed to do so when OCE inquired about the loan. Instead of cooperating with OCE's request, Representative Schweikert directed OCE back to the inaccurate FEC reports, which he maintained contained a "comprehensive accounting" of details related to the loan, thereby implying the FEC disclosures were accurate, when they were not. In September 2018, slightly less than five years after he falsely told the FEC that he had "forgiven" a loan that he never made, the Committee asked Representative Schweikert to respond to OCE's review, including its assertion that there was no record of the \$100,000 loan in the campaign's bank statements. At that time, Representative Schweikert continued to ignore the issue. When the ISC requested information regarding the loan he did not advise the ISC of the "inadvertent" error for over a year.

On these facts, the ISC found substantial reason to believe that the reporting of the \$100,000 personal loan and \$100,000 in disbursements that were never made did not occur as a result of merely "inadvertent errors." At the very least, Representative Schweikert exercised gross indifference to his obligations under campaign finance law. The ISC further believes the record raises serious questions as to whether there were efforts to conceal the fact that the loan and disbursements had been falsely reported for as long as practicable.¹⁵¹

Accordingly, the ISC determined that Representative Schweikert failed to uphold the laws and regulations of the United States, including provisions of the FECA and the FEC's implementing regulations and was a party to their non-compliance, in violation of paragraph 2 of the Code of Ethics for Government Services and that he acted in a manner that did not reflect creditably on the House, in violation of House Rule XXIII, clause 1.

4. Irregularities with August 2012 \$130,000 Personal loan

i. Background

Schweikert for Congress reported to the FEC that it received a \$130,000 personal loan from Representative Schweikert on August 22, 2012.¹⁵² Schweikert for Congress did not receive a single transfer of \$130,000 from Representative Schweikert; it received four separate transfers totaling \$130,000:

- August 16, 2012 (\$5,000 transfer from Sheridan Holdings account)¹⁵³
- August 17, 2012 (\$8,000 from Sheridan Holdings account)¹⁵⁴

¹⁵¹ The ISC also has concerns as to whether other loans Representative Schweikert reported making to his campaign were in fact made due to Representative Schweikert's inability to specifically confirm that they were not inadvertently reported. *Id.*

¹⁵² Schweikert for Congress, Oct. 2012 Quarterly Report of Receipts and Disbursements, at 71 (Oct. 15, 2012); *see also* Schweikert for Congress, 48 Hour Notice of Contributions/Loans Received (Aug. 22, 2012).

¹⁵³ Exhibit 23.

¹⁵⁴ *Id.*

- August 21, 2012 (\$17,000 from Mrs. Schweikert account)¹⁵⁵
- August 22, 2012 (\$100,000 from Sheridan Holdings account)¹⁵⁶

Representative Schweikert’s campaign consultant testified that he advised the congressman the \$130,000 loan was unnecessary, but that Representative Schweikert told him he would proceed with the loan, which he said was funded by his “retirement account.”¹⁵⁷ According to Representative Schweikert, around the time the loan was made to the campaign, he was “trying to buy one more television ad.”¹⁵⁸

The \$100,000 transfer from the Sheridan Holdings account was not sourced from a “retirement account,” but from a cashier’s check received the day before from an individual (Individual A) who is Representative Schweikert’s close relative.¹⁵⁹ Representative Schweikert asserted the \$100,000 check, which was payable to David and Joyce Schweikert, was a gift unrelated to his election, and that he customarily received gifts of a personal nature before and after the \$100,000 check was sent to him.¹⁶⁰ As examples of other gifts from Individual A, Representative Schweikert testified that he received items such as a Rolex watch, thousands of dollars’ worth of candy, and checks ranging from \$20,000 to \$100,000.¹⁶¹

Representative Schweikert further testified that he did not solicit a contribution from Individual A, nor did he believe the \$100,000 check was a campaign contribution.¹⁶²

With respect to the August 21, 2012, \$17,000 transfer to Schweikert for Congress received from Mrs. Schweikert’s bank account, Representative Schweikert testified and advised through counsel that her bank account was “jointly utilized” by the Schweikerts as “a family account,” that he had access to the account, and that they “put money in each other’s accounts all the time.”¹⁶³ Representative Schweikert informed the ISC that he could no longer access bank records related to Mrs. Schweikert’s account, but his counsel advised, “each spouse regularly deposits salary into the account and withdraws funds from the account for household and other expenses.”¹⁶⁴

OCE’s Second Referral provided a detailed summary of discrepancies associated with the repayment of the loan.¹⁶⁵ In its FEC filings, Schweikert for Congress reported repaying the \$130,000 personal loan to Representative Schweikert between December 2012 and August

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ ISC Interview of Campaign Consultant.

¹⁵⁸ ISC Interview of Representative Schweikert.

¹⁵⁹ Exhibit 24.

¹⁶⁰ ISC Interview of Representative Schweikert (explaining that the cashier’s check from Individual A “showed up in the mail”).

¹⁶¹ *Id.*

¹⁶² *Id.* at 67. But when Representative Schweikert was asked whether he believed it was a coincidence that this large check was sent just before his primary election against Ben Quayle, he testified, “My instinct is he sent the money because he knew—because it was a national story, you know, running against the son of a vice president was a national story.” *Id.*

¹⁶³ *Id.*; Exhibit 25.

¹⁶⁴ Exhibit 25. During August 2012, however, the Schweikerts also had a joint account—separate from Mrs. Schweikert’s account, which was used by Representative Schweikert to deposit his congressional salary. Exhibit 26.

¹⁶⁵ OCE’s Second Referral at 43-45.

2013.¹⁶⁶ Bank records show, however, that Schweikert for Congress only repaid \$30,062.00 of the loan, and it did so between November 2012 and March 2013.¹⁶⁷ Schweikert for Congress also reported making a February 28, 2013, loan repayment of \$5,448.54 to Representative Schweikert; however, that repayment was offset by an online transfer on the same date from the Schweikerts' joint checking account to the Schweikert for Congress bank account.¹⁶⁸ An additional \$94,449.46 was repaid to the Schweikerts between February 2013 and August 2013 by a newly created campaign committee, Friends of David Schweikert.¹⁶⁹ The Friends of David Schweikert campaign committee did not report these disbursements as loan repayments; it reported these disbursements as transfers to Schweikert for Congress.¹⁷⁰

In the January 27, 2020 letter, Representative Schweikert's counsel advised FEC staff the following: "Although Schweikert for Congress reported that it fully repaid Representative Schweikert in installments between February and August of 2013, it appears that some of the repayments were made directly from an account of the Friends of David Schweikert committee."

Following this communication, Representative Schweikert advised the ISC that the FEC was "made aware that there are some reporting discrepancies in the committees" disclosure reports with respect to these repayments.¹⁷¹

¹⁶⁶ Schweikert for Congress, 2012 Year-End Report of Receipts and Disbursements, at 13 (Jan. 31, 2013); Schweikert for Congress, Apr. 2013 Quarterly Report of Receipts and Disbursements, at 6, 8 (Apr. 14, 2013); Schweikert for Congress, July 2013 Quarterly Report of Receipts and Disbursements, at 6, 8 (July 15, 2013); Schweikert for Congress, 2013 Termination Report at 8, 10 (Oct. 11, 2013).

¹⁶⁷ Exhibit 9.

¹⁶⁸ *Id.* at COE.SCHWEIKERT.005687-COE.SCHWEIKERT.005688.

¹⁶⁹ Exhibit 27.

¹⁷⁰ See Exhibit 8. In addition to these repayment discrepancies, between 2013 and 2017, the David Schweikert for Congress campaign committee reported making a series of repayments to Representative Schweikert for loans he made in connection with his 2008 and 2010 primary elections which were, in fact, repaid to Representative Schweikert by a different campaign committee, Friends of David Schweikert. As was the case with the misreported repayments of the \$130,000 loan, Friends of David Schweikert reported making transfers to David Schweikert for Congress, when in fact it was making loan repayments directly to Representative Schweikert. David Schweikert for Congress could not have received payment transfers from Friends of David Schweikert, nor could it make repayments to Representative Schweikert for his prior loans, because its bank accounts had been closed by Mrs. Schweikert in the Spring of 2013. In December 2017, individuals at Compliance Firm 2, the compliance firm hired to replace Compliance Firm 1, discovered that Friends of David Schweikert had been repaying Representative Schweikert for personal loans he had made to a different campaign committee, David Schweikert for Congress. Following that discovery, individuals at Compliance Firm 2 worked to open a new bank account for David Schweikert for Congress so that the remaining loan repayments could be paid directly through that committee's bank account. See Exhibit 28. (stating in a Dec. 22, 2017 email from a Compliance Firm 2 individual to Mr. Schwab that Compliance Firm 2 needs a copy of the [employee identification letter] for David Schweikert for Congress to establish a bank account).

¹⁷¹ Exhibit 27. In addition to these repayment discrepancies, it also appears that David Schweikert for Congress improperly reported making repayments to Representative Schweikert for personal loans he made in connection with the 2010 primary, when in fact, Friends of David Schweikert was responsible for the repayments. Friends of David Schweikert reported those repayments as transfers to David Schweikert for Congress, when in fact it made the repayments directly to Representative Schweikert.

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

FECA prohibits any person from making, and a candidate and his or her authorized campaign committee from accepting, contributions exceeding the contribution limits. A contribution is any “gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office.”¹⁷² The individual contribution limit during the 2011-2012 election cycle was \$2,500 per election.¹⁷³

A candidate for general office may make unlimited expenditures and loans from personal funds.¹⁷⁴ FEC regulations define “personal funds” to include, “[g]ifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle.”¹⁷⁵ The FEC has further explained that if any person gives or loans the candidate money “for the purpose of influencing any election for Federal office,” the funds are not considered personal funds of the candidate but instead constitute a contribution from the donor to the campaign.¹⁷⁶

Personal funds also include the candidate’s income received during the current election cycle and a portion of assets that are jointly owned by the candidate and the candidate’s spouse either “equal to the candidate’s share of the asset under the instrument of conveyance or ownership,” or if nothing is specified, one-half the value of the jointly owned asset.¹⁷⁷

Unlike a candidate, a candidate’s spouse is subject to FECA’s contribution limits.¹⁷⁸ When a candidate uses “personal funds” derived from assets that are jointly owned by the candidate and the candidate’s spouse, the amount is limited to the “candidate’s share of the asset under the instrument of conveyance or ownership,” if the instrument is silent, the FEC presumes the candidate holds a “one-half” ownership interest.¹⁷⁹

Pursuant to paragraph 2 of the Code of Ethics for Government Services, Members are expected to uphold the laws and legal regulations of the United States, and never be a party to their evasion. Members must also act in a manner that reflects creditably on the House, pursuant to House Rule XXIII, clause 1.

¹⁷² 52 U.S.C. § 30101(8)(A); 11 CFR § 100.52(a).

¹⁷³ See *FEC Announces 2011-2012 Campaign Cycle Contribution Limits*, FEC, (Feb. 3, 2011), <https://www.fec.gov/updates/fec-announces-2011-2012-campaign-cycle-contribution-limits/>. See also 11 C.F.R. § 110.1(b) (noting that the contribution limit shall be adjusted by the percent difference in the price index every two-year period).

¹⁷⁴ 11 C.F.R. § 110.10.

¹⁷⁵ 11 C.F.R. § 100.33(b)(6).

¹⁷⁶ See *FEC Campaign Guide* at 28-29; 11 C.F.R. § 100.52(a).

¹⁷⁷ 52 U.S.C. § 30101(26)(C).

¹⁷⁸ See *FEC Campaign Guide* at 28.

¹⁷⁹ 52 U.S.C. § 30101(26)(C); 11 C.F.R. § 100.33(c).

iii. Findings

The ISC considered whether the \$130,000 personal loan Representative Schweikert made to the Schweikert for Congress campaign committees was funded by excessive contributions from Individual A and Mrs. Schweikert.

The circumstances surrounding the \$130,000 personal loan raised questions as to whether it was truly sourced from “personal funds” of Representative Schweikert. First, the \$100,000 transfer Representative Schweikert received from Individual A occurred just several days prior to a competitive primary election which had received national attention. Representative Schweikert testified that he loaned his campaign the \$130,000 because he wanted to do “one more television ad”; however, without the transfer from Individual A, neither he nor his campaign had had the liquidity to make such disbursements.¹⁸⁰ While the ISC received evidence that Representative Schweikert received smaller value gifts from Individual A, the ISC did not receive specific information about the amount, form, timing, of previous gifts he received from Individual A.

Based on the record before the ISC, there is not sufficient evidence to conclusively determine whether Representative Schweikert customarily received gifts from Individual A of a similar nature and amount to the \$100,000 transfer he received just prior to his primary election. The ISC further notes that the FEC has been inconsistent on when gifts to a candidate qualify as “personal funds” of the candidate versus a contribution.¹⁸¹ Ultimately, the ISC did not make a finding that the \$100,000 transfer from Individual A that preceded the \$130,000 personal loan Representative Schweikert made to his campaign constituted an excessive contribution from Individual A.

With respect to the \$17,000 transfer from Mrs. Schweikert’s account to Schweikert for Congress, the ISC notes that the Schweikerts reside in Arizona, a community property state, in which “all property acquired by either husband or wife during the marriage,” with limited exceptions, “is the community property of the husband and wife.”¹⁸² Spouses who reside in

¹⁸⁰ ISC Interview of Representative Schweikert. On August 22 and 23, 2012, one day after the \$100,000 from Individual A was transferred to Schweikert for Congress, the campaign reported disbursing \$20,000 and \$80,532.30 for “tv ads” and “tv & radio buys,” respectively. *See* Schweikert for Congress, Oct. 2012 Quarterly Report of Receipts and Disbursements, at 57-58 (Oct. 15, 2012). When accounting for the fact that the December 25, 2011, \$100,000 personal loan had not been made to the campaign, Schweikert for Congress would not have been able to make those disbursements in addition to the other disbursements it made in August 2012 without this transfer from Individual A. *See* Exhibit 9 at COE.SCHWEIKERT.005647-COE.SCHWEIKERT.005654 (reflecting ending balance of \$13,014.24). Excluding the deposit of the \$100,000 in funds from Individual A, Sheridan Holdings bank statements showed a total beginning and ending assets in August 2012 of \$16,861.43 and \$5,509.60. *See* Exhibit 29. The Schweikerts’ joint account showed a total beginning and ending assets in August 2012 of \$4,147.42 and \$2,749, with a total of \$12,535.29 in deposits. *See* Exhibit 26.

¹⁸¹ In *Ferguson for Congress, et al.*, (MUR 5138), the FEC in a 4-2 vote, issued a \$210,000 civil penalty after concluding the candidate accepted excessive contributions from his parents in connection with \$1 million he received from a trust that was newly created for the candidate and all of his siblings, but which had only vested for the candidate at the time he transferred the funds to his campaign. In *Minnesotans for Janet Robert, et al.*, (MUR 5321), however, the FEC deadlocked in a 3-3 vote on whether to enter settlement discussions as to whether the candidate received an excessive contribution from her mother, after the candidate’s mother gave her and all of her siblings \$800,000 shortly before the candidate’s general election.

¹⁸² Ariz. Rev. Statute § 25-211.

Arizona “have equal management, control and disposition rights over their community property and have equal power to bind the community.”¹⁸³ Funds in one spouse’s bank account are treated as community property when marital funds are commingled and in the absence of evidence that the account was intended to be separate property.¹⁸⁴ The FEC instructs candidates that they “may use, as personal funds, his or her portion of assets owned jointly with a spouse (for example, a checking account or jointly owned stock). If the candidate’s financial interest in an asset is not specified, then the candidate’s share is half the value.”¹⁸⁵ However, the FEC has, at times, found that the total funds in a joint account may amount to a candidate’s entire funds, if the state law governing such accounts provides that both spouses owning the account have equal and complete access to the funds.¹⁸⁶

According to Representative Schweikert, Mrs. Schweikert’s bank account was treated as the Schweikerts’ joint account given that he commingled his assets within that account and had access to the account.¹⁸⁷ In the absence of evidence to the contrary, and in recognition of Arizona’s status as a community property state in which spouses are deemed to “have equal management, control and disposition rights” over such property,¹⁸⁸ the ISC determined there is not substantial reason to believe the \$17,000 transfer from Mrs. Schweikert’s account amounted to an excessive contribution.

With respect to the reporting discrepancies related to the repayments of the \$130,000 loan, the ISC notes that these errors are largely technical violations that occurred with the knowledge of the compliance firm Representative Schweikert retained in January 2013, but which, nevertheless, fall within the pattern of reporting violations that were not promptly corrected. The ISC recommends that Representative Schweikert continue to work with the FEC to correct all errors relating to the repayment of these loans.

¹⁸³ Ariz. Rev. Statute § 25-214.

¹⁸⁴ *Cooper v. Cooper*, 130 Ariz. 257, 260 (1981) (*en banc*) (finding that a spouse’s savings account, in her name only, was “community property” due to the “commingling of monies from the husband’s salary for community expenses” and because the spouse “did not sustain her burden of demonstrating which portion of the monies in the account retained their separate character.”).

¹⁸⁵ *FEC Campaign Guide* at 29; 11 C.F.R. § 100.33.(c).

¹⁸⁶ Ted Cruz for Senate, *et al.*, (LRA #976) Supplemental Comments on Resubmitted Draft Final Audit Report, at 6 (“In the context of a joint bank account, however, the Commission deems all of the funds in an account held jointly with a spouse to be the candidate’s personal funds if the state law governing such accounts provides that both spouses owning the account have equal and complete access to its funds.”); *see also* Rush Holt for Congress, *et al.* (MUR 4910R) Second General Counsel’s Report (taking no further action where amount in violation was small and the law concerning joint bank accounts was considered “unsettled”); Terri Lynn Land for Senate, *et al.* (MUR 6860) Conciliation Agreement (imposing a \$66,000 civil penalty after candidate’s spouse transferred funds from his personal account to candidate’s account and candidate used those funds to cover loan to campaign).

¹⁸⁷ ISC interview of Representative Schweikert (explaining “[w]e put money in each other’s accounts all the time” and stating he believed funds from his mother’s estate were deposited into that account). The ISC requested, but did not receive, records to Mrs. Schweikert’s bank accounts, to confirm this statement. According to Representative Schweikert’s counsel, the records were no longer accessible.

¹⁸⁸ Rush Holt for Congress, *et al.* MUR (4910R) Second General Counsel’s Report, at 4.

5. Failure to Report Contributions and Receipts

i. Background

Between 2010 and 2013 the Schweikert for Congress and David Schweikert for Congress campaign committees did not report thousands of dollars' worth of receipts and disbursements to the FEC. The ISC and Representative Schweikert stipulated to the following facts as it relates to these omissions:

- Between 2010 and 2013, David Schweikert for Congress Chase bank records contain at least \$8,000 in disbursements and \$140,000 in receipts that are not reflected in any of the David Schweikert for Congress disclosures made to the FEC.¹⁸⁹
- The January 2013 monthly statement from the Schweikert for Congress Chase bank account shows a series of small disbursements totaling \$1,658.41 from two account debit cards, and a series of small deposits totaling \$3,390.01. Schweikert for Congress's April 2013 Quarterly Report covering this time frame does not include disbursements or receipts in these amounts. Representative Schweikert believes that, aside from a recurring payment to the campaign's email marketing firm and a \$15 payment to Facebook, the debit card transactions were in-store purchases by his then-chief of staff to pay for expenses related to serving coffee and donuts at the Maricopa County Republican Mandatory meeting.¹⁹⁰
- The February 2013 monthly statement from the Schweikert for Congress bank account shows a check paid by the committee in the amount of \$19,708.10 on February 28, 2013, and \$24,108.18 in deposits. Schweikert for Congress's April 2013 Quarterly Report covering this time frame does not include disbursements or receipts in these amounts.¹⁹¹
- Representative Schweikert and Mrs. Schweikert were the only individuals that had debit cards in their names for the Schweikert for Congress Chase bank account in early 2013.¹⁹²

Mrs. Schweikert was responsible for preparing the David Schweikert for Congress and Schweikert for Congress FEC reports that omitted these contributions and disbursements.¹⁹³ The Schweikert for Congress campaign treasurers who worked with Mrs. Schweikert when these reporting omissions occurred did not express concern over Mrs. Schweikert's bookkeeping abilities; one treasurer noted she had "a great deal of confidence in [Mrs. Schweikert's] ability."¹⁹⁴ Representative Schweikert's campaign consultant similarly did not question Mrs. Schweikert's

¹⁸⁹ Appendix C ¶ 7; see OCE's Second Referral at 45.

¹⁹⁰ *Id.* ¶ 6.

¹⁹¹ *Id.* ¶ 14.

¹⁹² *Id.* ¶ 15.

¹⁹³ *Id.* ¶ 2; ISC Interview of Treasurer A; ISC Interview of Treasurer B; ISC Interview of 2012 Campaign Manager.

¹⁹⁴ ISC Interview of Treasurer A.

professional abilities, but he had concerns that the job “was too personal” for Mrs. Schweikert and felt that “[i]t’s just bad form to have the wife of the Member handling the money.”¹⁹⁵ According to Representative Schweikert’s campaign manager for the 2012 election cycle, Mrs. Schweikert “was more concerned about day-to-day dollars going out the door than being focused on making sure the FEC report was 100 percent correct,” and implied that her other commitments, including her full-time job, may have contributed to mistakes in her FEC reports.¹⁹⁶

As discussed above, by late 2012, Representative Schweikert’s campaign consultant and his campaign managers informed him there were issues with the campaign’s disclosures, specifically with respect to the reporting of disbursements that were not made.¹⁹⁷ Following those concerns, Representative Schweikert retained the professional compliance firm, Compliance Firm 1 in January 2013 to take over management of the campaign finances, including campaign treasurer duties. As previously noted, Compliance Firm 1’s compliance work was only prospective; it did not perform a review or audit of prior filings.

In September 2018, OCE transmitted a referral to the Committee detailing many of these reporting omissions, including the failure by David Schweikert for Congress to disclose twelve receipts over \$142,155.63 from accounts controlled by the Schweikerts, as well as the omission of disbursements by David Schweikert for Congress in early 2011.¹⁹⁸ Representative Schweikert was provided a copy of the referral and advised the Committee that he was working to cure any inadvertent errors or discrepancies regarding allegations that he may have omitted information from his FEC reports, explaining: “the Committee knows the Congressman has been working to cure any such inadvertent errors or discrepancies for several months. A new FEC compliance firm was retained at the end of 2017, and the Congressman’s counsel has engaged with FEC staff to work cooperatively to resolve any issues.”¹⁹⁹ Despite these assurances, the FEC was not informed of these reporting errors at that time and the new compliance firm did not take steps to investigate or correct these reporting omissions.

During his interview Representative Schweikert was asked to explain why these reporting omissions occurred, however, he was not familiar enough with OCE’s allegations to provide a coherent explanation at that time, and generally stated “I thought this would have just been accounting mistakes.”²⁰⁰ No further explanations were provided by Representative Schweikert or anyone on his behalf for why these reporting discrepancies occurred.

Representative Schweikert generally denied ever using campaign funds for impermissible purposes, however the ISC could not verify that the unreported disbursements were used for *bona fide* campaign purposes.²⁰¹ Representative Schweikert further advised the ISC he could not verify the unreported \$19,708.10 disbursement was a *bona fide* campaign expenditure because bank

¹⁹⁵ ISC Interview of Campaign Consultant.

¹⁹⁶ ISC Interview of 2012 Campaign Manager.

¹⁹⁷ ISC Interview of Oliver Schwab; ISC Interview of Campaign Consultant; ISC Interview of 2012 Campaign Manager.

¹⁹⁸ OCE’s Second Referral at 45.

¹⁹⁹ Exhibit 93.

²⁰⁰ ISC Interview of Representative Schweikert.

²⁰¹ *Id.*

records were no longer available due to the age of the activity.²⁰² The individuals who served as campaign treasurers at the time of the unreported campaign disbursements testified that they were not aware of the Schweikerts misusing campaign funds for personal purposes.²⁰³

ii. Relevant Laws, Rules, and Other Applicable Standards of Conduct

Campaign committees must file reports disclosing all receipts and disbursements.²⁰⁴ These reports must include, among other things, the amount and nature of the receipts and disbursements.²⁰⁵ Under FEC rules, campaign treasurers are required to keep records for three years from the filing date of the report to which they relate.

In addition, House Rule XXIII, clause 6(b) states a “Member, Delegate, or Resident Commissioner may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures.” Accordingly, the *Ethics Manual* explains Members “must be able to verify that campaign resources have not been so misused”²⁰⁶ and cautions:

Members and their campaign staffs should bear in mind that the verification requirement imposed by the House rules is separate from, and in addition to, whatever recordkeeping requirements are imposed by the Federal Election Commission on candidates generally (or with regard to Members who are candidates for a state of local office, the requirements imposed by applicable state or local law.)²⁰⁷

Furthermore, paragraph 2 of the Code of Ethics for Government Service requires Members to uphold the laws and regulations of the United States, including provisions of the FECA and the FEC’s implementing regulations, and to never be a party to their evasion. Finally, House Rule XXIII, clause 1, states that “[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House.”

iii. Findings

Between 2010 and 2013, Representative Schweikert’s principal campaign committees, David Schweikert for Congress and Schweikert for Congress, failed to report thousands of dollars’ worth of receipts and disbursements to the FEC, in violation of applicable FEC reporting requirements. Each of Representative Schweikert’s reporting errors represented a violation but in

²⁰² See Appendix C ¶ 14. Prior to OCE’s investigation, on July 29, 2016, Representative Schweikert asked Mr. Schwab for guidance on how long campaign records must be maintained, noting “[w]e have cabinets full of things from 2008.” Mr. Schwab forwarded Representative Schweikert’s request to the campaign’s treasurer, who advised “the FEC only requires 3 years [of record keeping]. It is 3 years from when the information was reported, so to be safe, I would keep everything from January 1st 2013 forward. Everything else can go.” Exhibit 30.

²⁰³ ISC Interview of Treasurer A; ISC Interview of Treasurer B; ISC Interview of Representative Schweikert.

²⁰⁴ 52 U.S.C. § 30104.

²⁰⁵ 52 U.S.C. § 30104(b)(2), (4); 11 C.F.R. § 104.3(a), (b).

²⁰⁶ *Ethics Manual* at 153.

²⁰⁷ *Id.* at 165 (emphasis omitted).

the aggregate, Representative Schweikert's reporting errors represented a systemic problem.

The ISC could not determine whether the omission of the contributions and receipts by Mrs. Schweikert were done willfully or if they were a byproduct of her not being able to spend the time required to ensure accurate reporting due to her other professional commitments. As discussed previously, however, because of the significant duties and responsibilities attached to the role of campaign treasurer, Members should endeavor to appoint individuals who are familiar with relevant campaign finance laws and have the time needed to prepare accurate disclosures.

The Committee has a long history of undertaking investigations and, when appropriate, imposing sanctions or directing remedial measures where a Member or candidate in a successful election to the House is found by the Committee to have violated a clear standard of campaign finance laws or regulations.²⁰⁸ The duty to accurately disclose receipts and disbursements is integral to ensuring transparency during the electoral process and a basic component of campaign finance law. Representative Schweikert knew there were concerns about the accuracy of Mrs. Schweikert's FEC filings; though he took appropriate steps in replacing her with a professional compliance firm, her prior reporting omissions went uncorrected because the firm was not specifically advised of any concerns about her handling of campaign finances.

The ISC determined that the omission of thousands of dollars' worth of receipts and disbursements by Representative Schweikert's campaign committees fell within an overall pattern of systemic reporting violations that Representative Schweikert did not take reasonable steps to prevent or correct. By engaging in the above conduct, Representative Schweikert failed to uphold the laws and regulations of the United States, including provisions of the FECA and the FEC's implementing regulations, and was a party to their non-compliance, in violation of paragraph 2 of the Code of Ethics for Government Services.

The ISC did not determine there was substantial reason to believe that the unreported disbursements were used for impermissible purposes, but further notes that this matter should serve as a reminder to Members that the rules of the House do not impose the same time limits on how long campaign records should be maintained as the FEC's three-year recordkeeping requirement.²⁰⁹

The ISC determined that Representative Schweikert's failure to properly disclose or fully verify over \$25,000 in disbursements from his campaign committees from 2011 to 2013 was part of a broader pattern of conduct that did not reflect creditably on the House and violated House Rule XXIII, clause 1.

²⁰⁸ While Representative Schweikert was not a Member of the House in 2010, the Committee has long held it has jurisdiction over misconduct relating to a successful campaign for the House. *Kihuen* at 5; *Kim* at 6.

²⁰⁹ *Ethics Manual* at 164-165. ("[T]he propriety of particular outlays may not be subject to review for months or years after the fact, when recollections as to the circumstances or specific purposes of an outlay may well have faded.").

6. Campaign Contributions by Congressional Staff

i. Background

From 2011 to 2018, Representative Schweikert's campaign committees routinely accepted contributions, frequently in the form of outlays, from Mr. Schwab. During that time, the campaign committees also accepted impermissible campaign contributions from at least five members of Representative Schweikert's congressional staff.

a. Direct Contributions

On one occasion, in early 2012, the Schweikert for Congress campaign committee reported receiving direct contributions from Mr. Schwab and Employee F totaling \$1,000 and \$500.²¹⁰ The contribution attributed to Employee F came from a joint checking account he shared with his spouse.²¹¹ Employee F generally denied that Representative Schweikert or anyone acting on his behalf had solicited a campaign contribution, but when asked what led his wife to make the contribution, he asserted marital privilege and declined to provide a response.²¹² According to Mr. Schwab, he made his contribution at Mrs. Schweikert's request and he informed Representative Schweikert that Mrs. Schweikert had made such a request shortly after he made the contribution to the campaign.²¹³ The ISC did not find additional evidence of Mrs. Schweikert soliciting the contribution.

Schweikert for Congress originally reported Employee F's and Mr. Schwab's contributions in its April 2012 Quarterly Report.²¹⁴ However, in the Schweikert for Congress July 2012 Quarterly filing, Employee F's contribution was reattributed to his spouse and Mr. Schwab's contribution was reportedly refunded.²¹⁵ In explaining why the campaign determined to issue him a refund, Mr. Schwab recalled his and Employee F's contributions had become a "political issue" and remembered seeing a blog post with a picture of his name and Employee F's name "saying illegal contribution or something like that."²¹⁶

²¹⁰ Schweikert for Congress, Apr. 2012 Quarterly Report of Receipts and Disbursements, at 14, 71 (Apr. 15, 2012).

²¹¹ ISC Interview of Employee F.

²¹² *Id.*

²¹³ ISC Interview of Oliver Schwab.

²¹⁴ Schweikert for Congress, Apr. 2012 Quarterly Report of Receipts and Disbursements, at 14, 71 (Apr. 15, 2012).

²¹⁵ Schweikert for Congress, July 2012 Quarterly Report of Receipts and Disbursements, at 101-102, 158 (July 15, 2012). Employee F's contribution was reattributed to his spouse in recognition that it came from their joint checking account. ISC Interview of Employee F.

²¹⁶ ISC Interview of Oliver Schwab. Mr. Schwab testified that he and Employee F "jokingly shared [their] frustration that this was yet another Schweikert request for money" and explained "had the Schweikerts not asked for funds, it was completely avoidable." *Id.* A July 5, 2012 blog entry noted that Employee F and Mr. Schwab were prohibited under federal law from contributing to Representative Schweikert's campaign. *See Independence Day Comes Early for Dave Schweikert*, Politico Mafioso, (July 5, 2012), <https://politicomafioso.blogspot.com/2012/07/independence-day-comes-early-for-dave.html> (noting that both Mr. Schwab and Employee F "are federal employees on [Representative Schweikert's] congressional staff. And both are therefore prohibited by federal law from contributing to [Representative Schweikert's] campaign").

Representative Schweikert denied that he or his spouse ever asked members of his congressional staff to make a monetary contribution to his campaign.²¹⁷ He further testified he was unaware the Schweikert for Congress campaign committee refunded Mr. Schwab's contribution.²¹⁸

In 2014, the Committee sent letters to Mr. Schwab and Employee F to advise that "federal law prohibits a House employee from making a contribution to their employing Member's campaign." The Committee took no further action in recognition that the contributions had been reattributed and refunded. Representative Schweikert testified he was unaware the Committee had issued these letters.²¹⁹

b. Outlays

Between January 2011 and July 2018, Mr. Schwab made outlays using his personal funds on behalf of Representative Schweikert's authorized campaign committees totaling over \$270,000.00.²²⁰ The campaign reimbursed Mr. Schwab for these outlays through different means, including by issuing checks to Mr. Schwab, to Chartwell Associates (a single-member limited liability company based in Virginia and owned by Mr. Schwab), and Mr. Schwab's credit card companies (including Chase, Barclays Card Services, and American Express).²²¹

Based on available FEC records and underlying campaign records and communications, the ISC determined that Representative Schweikert's authorized campaign committees paid:

- at least \$7,000.00 in reimbursements to Mr. Schwab directly;
- at least \$65,000 in reimbursements to Mr. Schwab by issuing reimbursements to Chartwell Associates; and
- at least \$200,000 in reimbursements to Mr. Schwab by issuing disbursements to Mr. Schwab's personal credit card companies.²²²

Mr. Schwab testified that Representative Schweikert was aware Mr. Schwab was making expenditures on behalf of Representative Schweikert's campaign using his personal funds, and

²¹⁷ ISC Interview of Representative Schweikert. Representative Schweikert speculated that Employee F may have been a "salt"—i.e., a fictitious contributor listed on an FEC report, with the FEC's knowledge, to enable a campaign committee to detect whether the names and addresses of individual contributors are being used illegally. See 11 C.F.R. §104.3(e). When interviewed, however, Employee F made no such assertion. See generally ISC Interview of Employee F.

²¹⁸ ISC Interview of Representative Schweikert.

²¹⁹ *Id.*

²²⁰ Exhibit 31.

²²¹ The Compliance Firm 1 employees who issued a majority of these reimbursements told the ISC they issued reimbursement checks to Mr. Schwab in whatever form he requested because he had been given the authority to authorize expenditures. ISC Interview of Treasurer C; ISC Interview of Treasurer D. On at least one occasion, the campaign also reimbursed Representative Schweikert through a payment to the vendor for \$20,950 in security expenses. See Exhibit 32; Friends of David Schweikert, Oct. 2017 Quarterly Report of Receipts and Disbursements, at 48 (Oct. 13, 2017).

²²² Exhibit 31.

that Representative Schweikert instructed Mr. Schwab to seek reimbursements through Chartwell or his credit card company in order to conceal the fact that Mr. Schwab was responsible for the underlying expenditure.²²³ The ISC did not obtain any written record of Representative Schweikert directing Mr. Schwab to seek payment in that way.

In some instances where Mr. Schwab was reimbursed for his outlays through his company, Chartwell Associates, the reimbursement was reported as income to Mr. Schwab for consulting services. Mr. Schwab testified that he was instructed by Representative Schweikert to do this in some instances because Representative Schweikert was “very adamant that he did not want a whole bunch of dinners in D.C. showing up on his FECs. So the way those would get repaid to the person who had provided the outlay, that being me, is that it would show up in the form of me charging a consulting invoice.”²²⁴ Representative Schweikert denied that he ever instructed Mr. Schwab to bill the campaign this way.²²⁵

Representative Schweikert initially testified that he did not know that Mr. Schwab was making campaign purchases using his personal money and suggested that he may have done so in order to accrue frequent flyer miles.²²⁶ Later in his testimony, however, Representative Schweikert conceded that he may have been aware that Mr. Schwab made small purchases for his campaign with personal funds as it was happening:

I can't give you the date. It may have been one of those occasions where it was just one of those things you never paid attention to, you know. Okay. Did you go buy coffee? Great. All right. And he could have been walking out the door and saying, I'll turn in my reimbursement later.²²⁷

Representative Schweikert further testified that he could not recall whether he had discussions about the fact that his campaign would reimburse Mr. Schwab by issuing payments to or his credit card companies and denied ever talking to Mr. Schwab about having the campaign reimburse him through Chartwell.²²⁸ The ISC did not obtain documents specifically showing Representative Schweikert knew that Mr. Schwab was reimbursed in this manner.²²⁹ As discussed elsewhere in this Report, Mr. Schwab testified that Representative Schweikert used to tell him “if you can avoid a paper trail all the better” and requested that “things be conducted on text or over the phone because he was not seeking to create paper trails.”²³⁰

²²³ ISC Interview of Oliver Schwab.

²²⁴ *Id.*

²²⁵ ISC Interview of Representative Schweikert.

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ When Representative Schweikert was shown an email he received from Mr. Schwab regarding a bill for a Sony laptop Mr. Schwab purchased for him, Representative Schweikert said he assumed it was being paid for by the campaign and added he “would have paid no attention” to how Mr. Schwab made the purchase. *Id.*

²³⁰ ISC Interview of Oliver Schwab. In an unrelated instance, Mr. Schwab emailed Employee G asking about the status of a meeting Representative Schweikert was going to have with his pollster in the congressional office.

The ISC received testimony from other witnesses that calls into question Representative Schweikert's assertions that he was generally unaware of the payments going to Mr. Schwab. Representative Schweikert's current campaign consultant told the ISC that he raised concerns "four or five years ago" with Representative Schweikert that "it seemed . . . like a lot of money was coming out of the campaign [to Mr. Schwab]."²³¹ Campaign Consultant believed that "it looked bad" given that Mr. Schwab was receiving reimbursements "two, three times a week."²³² According to the campaign consultant, Representative Schweikert told him he would "look into it";²³³ however, the frequency of disbursements to Mr. Schwab did not change until press reported on Mr. Schwab's expenditures in the fall of 2017. Representative Schweikert's former campaign manager testified that he did not raise the issue of Mr. Schwab's campaign reimbursements with Representative Schweikert because "[Mr. Schwab] was a sensitive topic," and Representative Schweikert "relied on [Mr. Schwab] for a lot of things."²³⁴ He further explained:

[Representative Schweikert] put a lot of trust in [Mr. Schwab], and I think it became a very critical relationship for him in that he had come to rely on [Mr. Schwab] for so many things that he didn't want to hear anything about how [Mr. Schwab] was maybe engaging in inappropriate activity. So I had heard from [Campaign Consultant] that he had raised some things, and, you know, based on [Campaign Consultant's] experience, I chose not to raise it with [Representative Schweikert].²³⁵

According to Mr. Schwab, on one occasion, he billed Representative Schweikert's campaign for approximately \$5,000 in consulting services when in fact he was seeking reimbursement for paying for Representative Schweikert's private airfare.²³⁶ Mr. Schwab could not recall specifics about the flight, but he testified that Representative Schweikert had to take the private flight as a last resort to attend a speaking engagement at a Republican women's group event which Representative Schweikert had committed to attend but which he had not budgeted enough time to drive to.²³⁷ Representative Schweikert denied ever flying on a private plane since becoming a Member of Congress, but recalled one instance in which he took a "tiny jet" to Lake Havasu City, Arizona, in connection with a speech he was scheduled to give at a partisan club.²³⁸ Despite the plane's small size, Representative Schweikert said he believed it was a commercial flight because there were "two guys with white uniforms in funny little hats sitting in the front seats."²³⁹ Representative Schweikert believed that the campaign paid for the flight and

Employee G indicated that she overheard Representative Schweikert say "we don't want any paper trails of emails floating around about a pollster." Exhibit 33; ISC Interview of Oliver Schwab.

²³¹ ISC Interview of Campaign Consultant.

²³² *Id.*

²³³ *Id.*

²³⁴ ISC Interview of 2012 Campaign Manager.

²³⁵ *Id.*

²³⁶ ISC Interview of Oliver Schwab.

²³⁷ *Id.*

²³⁸ ISC Interview of Representative Schweikert.

²³⁹ *Id.*

said it “never crossed [his] mind” to be concerned about a charter plane showing up on his campaign’s FEC filings.²⁴⁰ A small municipal airport is in Lake Havasu, but only private and chartered planes are allowed to land there.²⁴¹ Representative Schweikert spoke at a Lake Havasu Republican Women’s event on or about February 7, 2014.²⁴² Representative Schweikert’s campaign committees, however, did not report making any disbursements for flights around this time.²⁴³

According to Mr. Schwab, individuals at Compliance Firm 1, which served as the campaign’s compliance firm between 2013 and 2017 when the bulk of the reimbursements were made, were aware that he was billing some expense reimbursements to the campaign as consulting services.²⁴⁴ On one occasion, on May 19, 2015, Mr. Schwab emailed the campaign treasurer regarding reimbursement of his expenses and stated, “I have as many as like [\$7,000 in reimbursements], but will do whatever the right amount i[s] (does this need to be done to [Mr. Schwab’s spouse] instead of me? Should it be billed as a vendor invoice?).”²⁴⁵ But when asked why certain disbursements to Mr. Schwab were characterized as “strategic consulting” when they were actually for reimbursements, the Compliance Firm 1 employees claimed that it was only the result of a mistake or could not recall why the disbursement was categorized that way.²⁴⁶

Mr. Schwab testified that Representative Schweikert instructed him to hold debt he incurred on behalf of the campaign because Mr. Schwab was wealthier than he was and so that the campaign committee could post larger FEC figures.²⁴⁷ Several former staff members recalled hearing Mr. Schwab complain that Representative Schweikert or his campaign owed him money for things he had put on his credit card.²⁴⁸ Representative Schweikert testified, however, that he now believes he was “taken advantage of” by Mr. Schwab and that many of Mr. Schwab’s credit card purchases were tied to efforts to accrue frequent flyer mile points.²⁴⁹

Regardless of whether it was done at Representative Schweikert’s direction, Mr. Schwab made substantial advances to Friends of David Schweikert, and by reporting Mr. Schwab’s reimbursements to the FEC as being to Chartwell Associates or various credit card companies, the campaign committee essentially hid from public view the true amount of expenditures Mr. Schwab

²⁴⁰ *Id.*

²⁴¹ Emily Zemler, *What Is the Closest Airport to Lake Havasu, AZ?*, USA Today, (Mar. 15, 2018), <https://traveltips.usatoday.com/closest-airport-lake-havasu-az-109428.html>. Representative Schweikert spoke at a Lake Havasu Republican Women’s event on Feb. 7, 2014. *See* Exhibit 34.

²⁴² *Id.*

²⁴³ On Feb. 27, 2014, the Friends of David Schweikert campaign reported paying Chartwell Associates \$4,250 for “fundraising/strategic consulting.” Friends of David Schweikert, Apr. 2014 Quarterly Report of Receipts and Disbursements, at 52 (Apr. 15, 2014).

²⁴⁴ ISC Interview of Oliver Schwab.

²⁴⁵ Exhibit 35. Representative Schweikert was not copied on this email exchange.

²⁴⁶ ISC Interview of Treasurer D; ISC Interview of Treasurer C.

²⁴⁷ ISC Interview of Oliver Schwab. Mr. Schwab also held reimbursements he incurred on behalf of Representative Schweikert’s leadership political action committee, Team DAVE. *See* Exhibit 36 (stating in an email on February 27, 2013 from Mr. Schwab to Treasurer C “PS – this fully clears out the big ticket things I’ve been holding!” regarding a \$3,592.11 reimbursement check).

²⁴⁸ OCE’s Second Referral at 25.

²⁴⁹ ISC Interview of Representative Schweikert.

had made on behalf of his campaigns, and in other cases obscured the true nature, date, and underlying recipient of the disbursements.

In some instances, Mr. Schwab waited to seek reimbursements until the next reporting quarter, providing some advances that were not repaid for months and were not reported in the quarter in which the cost was incurred. As discussed further below, not every omitted detail of these disbursements was legally required to be disclosed; however, the pattern of omissions is consistent with a broader effort to obscure the extent of Mr. Schwab's advances and inflate the campaign's quarterly financial numbers. For example:

- On March 11, 2016, a campaign vendor invoiced Friends of David Schweikert for \$5,407.89 for a fundraising mailer and postage.²⁵⁰ On March 14, 2016 (in the first quarter reporting period of 2016), Mr. Schwab, using his personal credit card, paid \$5,407.89 for the mailer.²⁵¹ Mr. Schwab did not seek reimbursement for the mailing and other expenses incurred until Wednesday, April 20, 2016 (for a combined total of \$7,396.34 in expenses), when he emailed the campaign treasurer:

I know this may bring us close to the bottom, but can you cut a check for Chartwell per below? I've attached receipts. This gets me updated on what I've got outstanding on my card. We have some events back home and some pieces in the works that will grow the account back up so not to worry as per my accounting this gets us close to the bottom of the dregs. Any chance I could pick up Monday? By then the checks I sent should also have arrived."²⁵²

The reimbursement check to Chartwell Associates was executed on Thursday, April 21, 2016,²⁵³ and deposited on Monday, April 25, 2016—six weeks after the funds were advanced by Mr. Schwab.²⁵⁴ The expenditure was disclosed on the second quarter FEC filing as an April 20, 2016, disbursement to Chartwell Associates LLC for \$7,396.34 for "Printing/Postage/Food/Beverage."²⁵⁵ The specific expenses, including the March 14, 2016, payment to the marketing vendor for \$5,407.89, were not disclosed and the advances were never disclosed as a debt by the campaign committee.

- In the final month of the third quarterly reporting period, from September 7, 2016, through September 30, 2016, Mr. Schwab incurred \$21,589.79 worth of campaign-related expenses on behalf of Friends of David Schweikert using his personal Chase Bank card. After the reporting period closed, on October 4, 2016, Mr. Schwab provided

²⁵⁰ Exhibit 37.

²⁵¹ Although the invoice was submitted by East Valley Web & Graphic Design, the repayment was made to Holy Cats Marketing, a company with the same owner.

²⁵² Exhibit 38. The campaign treasurer was provided with a copy of Mr. Schwab's credit card statement, but there is no record of her receiving the underlying invoice from East Valley Web & Graphic Design.

²⁵³ *Id.* Exhibit 38.

²⁵⁴ Exhibit 39.

²⁵⁵ Friends of David Schweikert, July 2016 Quarterly Report of Receipts and Disbursements, at 31 (Jul. 15, 2016).

the campaign treasurer with a spreadsheet identifying the expenditures he incurred and the dates on which he incurred them, noting that he had also obtained several campaign donation checks to deposit into the campaign's accounts.²⁵⁶ Friends of David Schweikert then prepared a check for Mr. Schwab to reimburse him for these expenses dated October 4, 2016; at Mr. Schwab's direction, the check was made payable to Chase Bank.²⁵⁷ The check was deposited on October 11, 2016.²⁵⁸ The corresponding FEC disclosure regarding this reimbursement disclosed an October 4, 2016 payment to "Chase Bank"²⁵⁹ and did not identify Mr. Schwab as the source of the underlying advance, nor did it disclose the true dates of the campaign-related expenses. Mr. Schwab's advances for the third quarter expenses were never disclosed as a debt owed by the campaign committee.

- In December 2016, Mr. Schwab incurred \$4,356.98 worth of campaign related expenses on behalf of Friends of David Schweikert using his personal Barclays card.²⁶⁰ Mr. Schwab did not seek a reimbursement for these expenses until February 15, 2017, after the 2016 reporting period had ended, when he requested Compliance Firm 1 employees send him a reimbursement check made payable to "Card Services 5452" and provided a spreadsheet listing his expenditures and a copy of his Barclays credit card statement.²⁶¹ On February 17, 2017, Friends of David Schweikert executed a reimbursement check for Mr. Schwab's expenditures made payable to "Card Service Account."²⁶² The funds were deposited on March 1, 2017.²⁶³ The corresponding FEC disclosures regarding this reimbursement state a disbursement was made to "Chase Bank" on February 17, 2017; the campaign did not identify Mr. Schwab as the source of the underlying advance or disclose the advance as a debt owed by the committee.²⁶⁴
- Between December 2016 and March 2017, Mr. Schwab incurred \$13,482.24 worth of campaign-related expenses on behalf of Friends of David Schweikert using his personal Chase Bank card. Mr. Schwab did not seek a reimbursement for these expenses until April 2, 2017, after the first reporting quarter of 2017. At that time, he provided Compliance Firm 1 employees with a spreadsheet listing the expenditures on his Chase Bank card and their corresponding dates; he also provided a copy of his credit card statements and some receipts.²⁶⁵ The majority of the expenditures were between one and three months old, with the earliest occurring on December 8, 2016. The

²⁵⁶ Exhibit 40.

²⁵⁷ *Id.*

²⁵⁸ Exhibit 41.

²⁵⁹ Friends of David Schweikert, 2016 Pre-Election General Report of Receipts and Disbursements, at 13 (Oct. 26, 2016).

²⁶⁰ Exhibit 42.

²⁶¹ *Id.*

²⁶² Exhibit 42.

²⁶³ Exhibit 43.

²⁶⁴ Friends of David Schweikert, Apr. 2017 Quarterly Report of Receipts and Disbursements, at 52 (July 14, 2017).

²⁶⁵ Exhibit 44.

corresponding FEC disclosure regarding this reimbursement reported a disbursement to “Chase Bank” and did not identify Mr. Schwab as the source of the underlying advances.²⁶⁶ The specific expenses, including the expenses incurred in the fourth quarter of 2016 and the first quarter of 2017, were disclosed as occurring on April 4, 2017, and were never reported as debts by the campaign committee.

In some instances, Mr. Schwab waited to submit his reimbursement requests so that the Schweikerts’ could receive loan repayments from the campaign.²⁶⁷ For example, on June 18, 2015, Mr. Schwab emailed the campaign treasurer: “Let’s proceed first of the month with the \$15,000 transfer to the Schweikert’s. I’ve got 2 big mail pieces in the works right now. I put \$7,000 on my card to get these out which I’ll hold for reimbursement well down the road.”²⁶⁸

Representative Schweikert denied that he ever instructed or implied to Mr. Schwab that he could afford to hold debt owed to him by the campaign.²⁶⁹ Representative Schweikert further testified that, as a Member of Congress, he did not have time to pay attention to how Mr. Schwab was paying for purchases, telling the ISC, “it’s sort of absurd if that’s the granular level you were fixated on.”²⁷⁰ According to other staff members, however, the Schweikerts “watched every penny coming in and going out [of the campaign] very closely” and monitored the campaign accounts.²⁷¹

Mr. Schwab was not the only congressional staffer who made non-travel-related outlays that were reimbursed by the campaign. Representative Schweikert acknowledged that at least three other congressional staffers made outlays for campaign-related expenditures.²⁷² Representative Schweikert subsequently sought to “cure” the outlays by having staff re-contribute the amount directly to the campaign and then be refunded by Representative Schweikert.²⁷³ In addition to those individuals, the ISC determined that two other congressional staff members made small outlays on behalf of Representative Schweikert’s campaign.²⁷⁴

Representative Schweikert testified he was unaware of rules that prohibit staff from making contributions to their employing Members’ campaigns and that he relied on his campaign

²⁶⁶ Friends of David Schweikert, July 2017 Quarterly Report of Receipts and Disbursements, at 64 (July 14, 2017).

²⁶⁷ Exhibit 45.

²⁶⁸ *Id.* See also Exhibit 46 (July 8, 2016 email from Mr. Schwab to Treasurer D: “The Schweikert’s (sic) asked if they could have a \$15k debt payment; and I’m balancing what I submit for payment.”). Representative Schweikert was not copied on these email exchanges.

²⁶⁹ ISC Interview of Representative Schweikert.

²⁷⁰ *Id.*

²⁷¹ ISC Interview of 2012 Campaign Manager. 2012 Campaign Manager also testified, “there were times that [the Schweikerts] asked me . . . did you need to spend this much on pizza? Was there a cheaper option? Could you have gotten a better deal on . . . stakes for yard signs and things like that.” ISC Interview of 2012 Campaign Manager. See OCE Interview of Employee E (OCE’s Second Referral, Exhibit 1) (noting that the Schweikerts monitored the campaign bank accounts).

²⁷² See Exhibit 1.

²⁷³ *Id.*

²⁷⁴ Exhibit 47 (District Representative received a \$125 reimbursement from Friends of David Schweikert for posters); Exhibit 48 (Legislative Assistant received a \$137 reimbursement from Friends of David Schweikert for meals).

treasurers to ensure his campaign abided by appropriate rules.²⁷⁵ The ISC interviewed four individuals who served as campaign treasurer or provided campaign compliance services to Representative Schweikert's campaign between 2013 and 2017. None of those individuals were familiar with the statutory prohibition on congressional staff making outlays on behalf of their employing Members' campaign.²⁷⁶ Representative Schweikert's congressional office provided staff with an Employee Handbook that specifically advised staff of, or referred staff to, information regarding the prohibition on staff from making contributions to their employing Members' campaigns.²⁷⁷ As explained elsewhere in this report, however, his staff did not consult the handbook regularly.²⁷⁸

After OCE initiated a review into allegations that Mr. Schwab received improper payments from Representative Schweikert's authorized campaign committees, the campaign conducted an internal review and identified transactions totaling \$102,622.34 that were originally paid with Mr. Schwab's personal credit card and then reimbursed to Mr. Schwab and/or Chartwell Associates by the campaign, but were reported with descriptions such as "strategic consulting."²⁷⁹ After its internal review, Representative Schweikert reported that his campaign had \$50,372.14 of the \$102,622.34 refunded by the vendor to Mr. Schwab's personal credit card, and then the campaign repaid the invoices directly using campaign funds. The remaining \$52,250.20 were either unverifiable transactions or could not be refunded by the vendor.²⁸⁰

Representative Schweikert informed the Committee in April 2018 that his campaign would be amending its FEC reports to reflect the transactions that had been inaccurately reported as "strategic consulting" payments, but requested guidance from the Committee on what additional remedial actions may be necessary "to avoid two rounds of public filings with the FEC."²⁸¹ The Committee informed Representative Schweikert that, because the review was ongoing, it could not provide comment on his past conduct or the remedial actions that were necessary at that time, but informed him that he should ensure any inaccurate reporting on prior FEC disclosures was "promptly and accurately corrected."²⁸² The Committee also urged caution on remedial steps other

²⁷⁵ ISC Interview of Representative Schweikert.

²⁷⁶ ISC Interview of Treasurer C. According to Treasurer C, he did not know that Mr. Schwab also worked for Representative Schweikert's congressional office until 2016, and he believed that Mr. Schwab's outlays were allowable if they were reimbursed within the timeframes specified in 11 C.F.R. § 116.5. As discussed below, however, § 116.5 only applies to outlays for personal travel. ISC Interview of Treasurer D (testifying she was not aware of any restrictions on congressional staff making outlays for the campaign of a Member that they work for); ISC Interview of Treasurer A; ISC Interview of Treasurer B (noting that she did not understand staff outlays to have been improper, only that they were reported incorrectly).

²⁷⁷ Exhibit 49 at COE.SCHWEIKERT.022279 (2011 Office Manual referring staff to the Congressional Research Service publication "Campaign Activities by Congressional Employees."); Exhibit 50 at COE.SCHWEIKERT.025125 (January 2017 Office Manual advising staff that "[a] federal criminal law prohibits House employees from making campaign contributions to their employing Member. Similarly, House employees generally should not make any 'outlays' from personal funds for the benefit for the campaign, even if reimbursed by the campaign.").

²⁷⁸ See *infra* Section III(b)(2)(i).

²⁷⁹ Exhibit 1.

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² Exhibit 3.

than corrections to inaccurate FEC disclosures (noting, for example, that “any attempt by staff to repay the campaign for reimbursed outlays could further implicate the restriction on contributions to the employing Member”).²⁸³

Representative Schweikert submitted a *sua sponte* self-report to the FEC disclosing the \$102,622.34 in improper payments on June 26, 2018.²⁸⁴ His *sua sponte* submission remains pending with the FEC, and Representative Schweikert, through his counsel, has informed the ISC that his campaign is “working cooperatively with the FEC to ensure that its reports comply with FEC rules and regulations.”²⁸⁵

Representative Schweikert has also taken a number of steps to prevent official staff from making outlays to his campaign in the future. His new chief of staff circulated a note to all official staff to caution them that outlays are impermissible.²⁸⁶ He also advised that his current chief of staff has a debit card to pay for campaign expenses.²⁸⁷

ii. Relevant Laws, Rules, and Other Applicable Standards of Conduct

Pursuant to 18 U.S.C. § 603, it is unlawful for any federal officer or employee to make campaign contributions to the employer or employing authority of the person making the contribution.²⁸⁸ Accordingly, an employee of a Member office is prohibited from making a contribution to the campaign of his or her employing Member.²⁸⁹ This guidance is included in the *Ethics Manual*, as well as annual ethics training provided to all House staffers, and in Campaign Activity Pink Sheets regularly issued to the House community.

The prohibition against an employee making such a contribution to the individual’s employing Member is absolute. A House employee may not make such a contribution even if the contribution was entirely unsolicited and the employee genuinely wishes to make the contribution.²⁹⁰

Under FEC regulations, most outlays that an individual makes on behalf of a campaign using his or her personal funds, including a personal credit card, are deemed to be a contribution to that campaign from that individual.²⁹¹ This is so even if it is intended that the campaign will

²⁸³ *Id.*

²⁸⁴ Exhibit 51.

²⁸⁵ Exhibit 25.

²⁸⁶ Exhibit 52 (“Never under any circumstances are staff allowed to pay for anything campaign related, as any type of payment would require a reimbursement which is not permissible.”)

²⁸⁷ ISC Interview of Representative Schweikert.

²⁸⁸ 18 U.S.C. § 603.

²⁸⁹ *Ethics Manual* at 137-138.

²⁹⁰ *Id.*

²⁹¹ 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 using a different payment method, 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. 11 C.F.R. §§ 100.79(a), 116.5(b)(1). See also *Ethics Manual* at 139 n. 27.

reimburse the individual promptly. The major exception to this rule is for outlays that an individual makes to cover expenses that the individual incurs in traveling on behalf of a campaign.²⁹²

The FEC instructs campaign committees to report staff advances, including advances made using personal credit cards, if, at the end of the reporting period, “the amount of previous contributions in the election cycle from the person making the advance plus the amount of the advance minus the amount of the reimbursement is greater than \$200.”²⁹³ Campaign committees must report reimbursements to individuals and itemize such reimbursements if reimbursements to the individual exceed \$200 in the election cycle.²⁹⁴ If an individual’s advance is not reimbursed, or is partially reimbursed within the same reporting period, the campaign committee must also report the amount of the advance outstanding at the end of the reporting period as a debt owed by the campaign if it exceeds \$500 or has been outstanding for more than 60 days of when it was incurred.²⁹⁵

The *Ethics Manual* advises that when a House employee undertakes campaign work, “the individual should make appropriate arrangements with the campaign to ensure that he or she will not be called upon to make any improper outlays. The arrangements may include, for example, providing the individual, in advance, with any funds that might be needed to cover anticipated campaign expenses, or providing the individual with use of a campaign credit card.”²⁹⁶

Campaign committees may pay for operating expenditures with a committee credit card and must itemize the credit card payment if such payments exceed \$200 during the election cycle.²⁹⁷ The campaign committee must also itemize, as a memo entry, specific transactions charged on a credit card if payments to the vendor exceed \$200.²⁹⁸ The memo entry must include the vendor’s name, the purpose of the disbursement, date services were received, and the disbursement amount.²⁹⁹

The *Ethics Manual* also advises that a Member “must take reasonable steps to ensure that any outside organization over which he or she exercises control—including the individual’s own authorized campaign committee . . . operates in compliance with applicable law.”³⁰⁰ In violating FECA or another provision of statutory law, a Member may also violate House Rule XXIII, clause 1 and paragraph 2 of the Code of Ethics for Government Service.

²⁹² 11 C.F.R. § 116.5(b)(1), (2).

²⁹³ See *How to Report Staff Reimbursements*, FEC, <https://www.fec.gov/help-candidates-and-committees/filing-reports/staff-reimbursements/>.

²⁹⁴ *Id.*

²⁹⁵ See Advisory Op. Lucas (AO 1996-20); Advisory Op. Faulkner (AO 1992-01).

²⁹⁶ *Ethics Manual* at 139.

²⁹⁷ See *How to Report Staff Reimbursements*, FEC, <https://www.fec.gov/help-candidates-and-committees/filing-reports/staff-reimbursements/>.

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ *Ethics Manual* at 123.

iii. Findings

Between January 2011 and July 2018, Representative Schweikert's campaign committees routinely accepted contributions, frequently in the form of outlays, from Mr. Schwab and other members of Representative Schweikert congressional staff, in violation of applicable laws and rules that prohibit members of congressional staff from making contributions to their employing Members' campaigns.

The Committee has investigated other instances where congressional staff made impermissible outlays on behalf of their employing Members' campaigns. Those matters have typically been resolved by the Committee through the issuance of private letters in recognition of the small amount of outlays at issue or infrequent or discrete nature of the occurrence. But in this case the outlays by staff, particularly Mr. Schwab, were unprecedented in their nature, frequency, and amount. Specifically, Mr. Schwab made campaign outlays throughout his entire eight-year employment in Representative Schweikert's congressional office, which totaled over a quarter million dollars. Even though such outlays were generally reimbursed, the advances themselves were of significant value to the campaign, as they enabled higher quarterly reporting numbers and permitted the campaign to meet its other bills while Mr. Schwab held the debt until additional funds could be raised. He then received reimbursements for these impermissible outlays through various means that obscured the scope of this practice. Therefore, while it is not uncommon for the Committee to find instances in which congressional staff make minor or occasional outlays for the benefit of their employing Member's campaign, the extent of impermissible outlays in this case was substantial.

The ISC received conflicting testimony regarding the extent of Representative Schweikert's awareness of this practice and whether Mrs. Schweikert solicited a monetary contribution from Mr. Schwab.³⁰¹ But Representative Schweikert's contention that he did not pay close attention to how his campaign funds were spent and his testimony that he was unaware that Mr. Schwab was making outlays on behalf of his campaign using personal funds is not consistent with the record before the ISC. In 2014 or 2015, concerns about Mr. Schwab's campaign reimbursements were brought directly to Representative Schweikert's attention, who said he would "look in to it," but then did nothing to slow the practice.³⁰² Prior to this point, Representative Schweikert's spouse served as campaign treasurer, during a period when over three thousand dollars' worth of reimbursements were reportedly paid directly to Mr. Schwab.³⁰³ During that time, Representative Schweikert and Mrs. Schweikert "watched every penny" coming in and going out of the campaign.³⁰⁴ At a minimum, therefore, Representative Schweikert should have known that Mr. Schwab was making a significant amount of disbursements on behalf of his campaign.

³⁰¹ ISC Interview of Oliver Schwab; ISC Interview of Employee F; ISC Interview of Representative Schweikert.

³⁰² ISC Interview of Campaign Consultant.

³⁰³ Appendix C ¶ 6.

³⁰⁴ ISC Interview of 2012 Campaign Manager.

Members must take reasonable steps to ensure the campaign committees they oversee operate in compliance with applicable law.³⁰⁵ Yet Representative Schweikert failed to place any limits on Mr. Schwab's expenditures for the campaign and abdicated his duty to perform any meaningful oversight over Mr. Schwab and his campaign's spending practices. Representative Schweikert's close relationship with Mr. Schwab further dissuaded staff from bringing concerns about Mr. Schwab's outlays to Representative Schweikert's attention.³⁰⁶

The ISC appreciates that Members' schedules do not afford them the time to tend to day to day particulars of campaign spending and recognizes Representative Schweikert has maintained that he was unaware of the absolute prohibition against staff making contributions to their employing Members' campaigns. However, his failure to exercise proper oversight over his campaign resulted in sustained and significant violations of the prohibition against congressional staff making contributions to their employing Members' campaigns. As discussed above, although Mr. Schwab's outlays were largely reimbursed, the manner in which he sought reimbursement (including a pattern of holding debt through reporting periods) advantaged Representative Schweikert's campaign. Even if the ISC were to credit Representative Schweikert's assertion that he was oblivious to the fact that his campaign's bills were getting paid because of Mr. Schwab's personal advances, Representative Schweikert's utter indifference to his campaign's financial transactions was a gross neglect of his responsibility as a congressional candidate and House Member to ensure his campaign committees operated in compliance with applicable laws and regulations.

By engaging in the above conduct, Representative Schweikert failed to uphold the laws and regulations of the United States, including provisions of the FECA and the FEC's implementing regulations, and was a party to their non-compliance, in violation of paragraph 2 of the Code of Ethics for Government Service and House Rule XXIII, clause 1.

The ISC further notes that the sheer breadth of this misconduct was obscured from the public, the FEC, and the Committee because Representative Schweikert's campaign committees reported the repayments to Mr. Schwab through various means, including by issuing reimbursements to Mr. Schwab directly, to his single-member LLC, Chartwell Associates, and through payments to his personal credit card companies. Although these methods of payment may not amount to violations of campaign finance laws, they compounded the serious transparency concerns at issue. In addition, in many instances, Mr. Schwab held debt he incurred on behalf of the campaign, thereby allowing the campaign to post higher cash on hand totals and Representative Schweikert to receive repayments on his personal loans. Each outlay that Representative Schweikert's campaign failed to reimburse or only partially reimbursed within the same reporting period should have been reported as a debt owed by the Committee, but no such reporting was made.³⁰⁷ The ISC did not make a finding that these reporting errors constituted a separate violation of House rules or laws, but found them to be part of an overall systemic pattern of misconduct that did not reflect creditably upon the House.

³⁰⁵ *Ethics Manual* at 123.

³⁰⁶ ISC Interview of 2012 Campaign Manager; OCE Interview of Employee D (OCE's Second Referral, Exhibit 5).

³⁰⁷ See AO 1996-20; AO 1992-01.

The ISC recommends that Representative Schweikert continue to work with the FEC to address the issues detailed above relating to impermissible advances from Mr. Schwab and other congressional staffers.

7. Allegations that Representative Schweikert Accepted Gifts from Staff & Misused Campaign Funds for Personal Expenditures

i. Facts

As discussed above, Mr. Schwab frequently made purchases on behalf of Representative Schweikert's campaign which were not always quickly reimbursed by the campaign. Because of the delays in repayment, Mr. Schwab often complained in front of other members of staff that Representative Schweikert owed him thousands of dollars.³⁰⁸ OCE determined that Representative Schweikert may have accepted gifts or loans from Mr. Schwab based on testimony from staff who overheard Mr. Schwab's complaints about being owed money.³⁰⁹

Mr. Schwab's purchases were not limited to campaign expenditures; he, as well as other official staff members, also made numerous purchases for Representative Schweikert's personal use. In many instances, Representative Schweikert directly reimbursed staff for the expenses they incurred; however, on some occasions, funds from Representative Schweikert's campaign were used to reimburse staff for the personal expenses.

For example, Mr. Schwab frequently bought food for Representative Schweikert when the congressman was in Washington, D.C., usually on his own initiative.³¹⁰ On at least one occasion, Mr. Schwab paid for a meal Representative Schweikert attended with official staff in which Representative Schweikert left before the bill came.³¹¹ Mr. Schwab testified that he was not reimbursed by Representative Schweikert directly on these occasions, instead, he received reimbursements from the campaign for the purchases or by billing the campaign for services to obscure the underlying reason for the reimbursement.³¹²

Representative Schweikert denied that he ever left a dinner without paying his portion of the meal, and explained that while "it's probably happened" that staff purchased food from him, in each instance "they were paid back immediately."³¹³ The ISC found that in some instances, however, staff were not paid back immediately or directly by Representative Schweikert, instead,

³⁰⁸ OCE Interview of Financial Administrator (OCE's Second Referral, Exhibit 9); ISC Interview of Employee B; ISC Interview of Employee C.

³⁰⁹ OCE Second Referral at 23-26.

³¹⁰ ISC Interview of Oliver Schwab; ISC Interview of Employee A.

³¹¹ ISC Interview of Employee A; ISC Interview of Oliver Schwab.

³¹² ISC Interview of Oliver Schwab ("[W]e do not get into the business of having Longworth cafeteria on Mr. Schweikert's FECs . . . he was very adamant that he did not want a whole bunch of dinners in D.C. showing up on his FECs. So, the way that those would get repaid to the person who had provided the outlay, that being me, is that it would show up in the form of me charging a consulting invoice.").

³¹³ ISC Interview of Representative Schweikert.

they were repaid by his campaign or by Mr. Schwab who then received reimbursement through the campaign.³¹⁴

In some instances, staff sent their receipts directly to Mr. Schwab for repayment.³¹⁵ One staffer recalled hearing another staffer who regularly bought a significant amount of food for the congressman that Representative Schweikert had a “pretty big tab going right now.”³¹⁶ Mr. Schwab included receipts he received from congressional staffers for Representative Schweikert’s meal expenses as part of larger reimbursement requests he submitted on behalf of Chartwell Associates.³¹⁷

Mr. Schwab and another staffer also paid for Representative Schweikert’s dry-cleaning on occasion and were reimbursed.³¹⁸ Representative Schweikert, however, denied that staff paid for dry cleaning, noting: “I’m not like so many of these Members, go get my dry cleaning, go take my dog for a walk, go watch my daughter, go buy me something. I’ve just never done any of those things.”³¹⁹ He further testified that he “hit the ceiling” after learning Mr. Schwab used campaign funds to pay for dry cleaning and stated “I have no idea who it is for or what it is for, but that is unacceptable.”³²⁰

The ISC found that Mr. Schwab occasionally purchased flight upgrades for Representative Schweikert when he was traveling with his daughter.³²¹ Representative Schweikert testified that he was unaware that Mr. Schwab had paid for his upgrade in these instances and said that he was

³¹⁴ Exhibit 53; *see, e.g.*, ISC Interview of Employee G (testifying that the purchases of more than \$200 included food for consumption by the entire office but also food specifically for Representative Schweikert; the staffer was reimbursed by the campaign committee); ISC Interview of Employee A (testifying she picked up groceries that Representative Schweikert requested for his meals, such as salads or frozen Indian or Chinese food, to eat while he was in the office and stating she was typically reimbursed by the congressman but on “rare occasion” was reimbursed by Mr. Schwab); Exhibit 38 (stating in an email from Employee A to Mr. Schwab, “[I] wanted to send [you] a note about the receipts I gave you last week,” listing expenses for flowers and “berries for [Representative Schweikert’s] smoothies”).

³¹⁵ *See, e.g.*, Exhibit 38. Employee J emailed Mr. Schwab with the subject title “[Representative Schweikert] Food” and listed food purchases totaling \$115.

³¹⁶ ISC Interview of Employee G.

³¹⁷ On April 21, 2016 Friends of David Schweikert issued a check to Mr. Schwab, via Chartwell Associates, which included reimbursement for the staffers’ outlays for meal expenses. *See* Exhibit 38.

³¹⁸ ISC Interview of Oliver Schwab (noting that Representative Schweikert would make attempts to repay him, but that on other occasions, he billed the campaign at Representative Schweikert’s instruction); ISC Interview of Employee A.

³¹⁹ ISC Interview of Representative Schweikert.

³²⁰ *Id.*

³²¹ ISC Interview of Employee A; Exhibit 54 (Dec. 21, 2016, email from Employee A to Mr. Schwab noting, “I used your SW [credit] card for a \$75 American Airlines upgrade for [Representative Schweikert] to have his daughter visit. If you would like to revisit how to purchase flights for the incoming Congress, just let me know and I’ll be happy to adjust!”). According to Employee A, Representative Schweikert did not like to fly first class unless he was traveling with his daughter, so in those instances, she upgraded his seat to first class and either Representative Schweikert or Mr. Schwab paid the upgrade fee. ISC Interview of Employee A. Employee A further explained that MRA funds were never paid for these upgrades because the office was “very careful” about not having taxpayer dollars go to accommodating Representative Schweikert’s daughter traveling to Washington, D.C. with him. *Id.*

concerned that staff did not ask to use his miles or his credit card to purchase upgrades so that he could travel with his daughter.³²²

Mr. Schwab also testified he used his frequent flyer miles to purchase flights for Representative Schweikert and his family “at least a half dozen times over the last decade.”³²³ According to Mr. Schwab, Representative Schweikert suggested that he do so because his frequent flyer points had been accrued through his work for the congressional and office and the campaign.³²⁴ Mr. Schwab testified that on one occasion, Mrs. Schweikert borrowed his miles because she did not have enough points in her account and that he may have transferred the miles back into his account.³²⁵ Although Representative Schweikert generally denied that Mr. Schwab ever used his frequent flyer miles on his family’s behalf,³²⁶ other staff members recalled having contemporaneous discussions with Mr. Schwab where he discussed doing so.³²⁷ In addition, on one occasion, on December 14, 2015, Mr. Schwab emailed Representative Schweikert to note that he had, on occasion, used his frequent flyer miles to purchase flights for Representative Schweikert when Representative Schweikert was traveling internationally or out of Dulles airport.³²⁸

Mr. Schwab testified that Representative Schweikert initially made attempts to partially repay Mr. Schwab for the expenses he had incurred on his behalf, but as the numbers accrued, he instructed Mr. Schwab to “be creative” and bill the campaign for the expenses.³²⁹ To conceal the fact that he was seeking reimbursements for personal expenses he and other staff incurred on Representative Schweikert’s behalf, Mr. Schwab occasionally submitted false campaign invoices or instructed the campaign’s treasurers to make disbursements for consulting services.³³⁰

The ISC also found that congressional staff advanced money for babysitting services. When asked whether staff ever paid for babysitting services for his daughter, Representative Schweikert denied that staff ever did so, and insisted he paid and found babysitters himself.³³¹ However, at least one member of his staff found babysitters for him, including as late as May

³²² ISC Interview of Representative Schweikert.

³²³ ISC Interview of Oliver Schwab.

³²⁴ *Id.*

³²⁵ *Id.*

³²⁶ ISC Interview of Representative Schweikert.

³²⁷ ISC Interview of Financial Administrator; ISC Interview of Employee B.

³²⁸ Exhibit 55. When asked about this email, Representative Schweikert said he thought Mr. Schwab “might have been trying to milk miles off my flights.” ISC Interview of Representative Schweikert. On at least one occasion, Mr. Schwab advanced hotel expenses and sought reimbursement from Representative Schweikert’s leadership PAC. On February 25, 2016, Mr. Schwab emailed Mrs. Schweikert, Representative Schweikert, and Employee A, “In the event that [Mrs. Schweikert] chooses to fly in on March 2nd, I have a room reserved (and fully paid for) at the Residence Inn, 4 blocks from the Capitol.” Mr. Schwab’s credit card showed a Residence Inn Capitol charge posted on March 6, 2016 for \$258.77. On April 14, 2016, Mr. Schwab was reimbursed by Representative Schweikert’s leadership PAC, Team Dave, for this expense, which was reported as “PAC Travel” and paid to Chartwell Associates. See Exhibit 56. The ISC did not receive additional evidence regarding the purpose of this travel.

³²⁹ ISC Interview of Oliver Schwab.

³³⁰ *Id.*

³³¹ ISC Interview of Representative Schweikert.

2018.³³² That staff member, Employee A, also paid over \$800 out of her own pocket for babysitting services on Representative Schweikert’s behalf on two occasions. She was reimbursed for those expenses with campaign funds. For the first instance, Employee A emailed Mr. Schwab on July 26, 2017 with a list of non-official expenses totaling \$476.90, \$350 of which was for, among other things, “Sally babysitting.”³³³ On June 27, 2017, Friends of David Schweikert disbursed \$476.90 for “petty cash,” in connection with Employee A’s reimbursement request.³³⁴ For the second instance, Mr. Schwab emailed Employee A on October 6, 2017, and asked her to “resend babysitting,” to which she responded: “\$502.83.”³³⁵ Employee A explained that Mr. Schwab’s email was asking her to resend the cost of babysitting for Representative Schweikert’s daughter and that her response referred to costs associated with babysitting.³³⁶ On October 9, 2017, Friends of David Schweikert disbursed \$1,000.00 to Employee A, for “strategic campaign consulting” at Mr. Schwab’s direction, when Mr. Schwab intended for this disbursement to reimburse Employee A for babysitting expenses she incurred on behalf of Representative Schweikert.³³⁷

Two staff members testified that congressional staffers watched Representative Schweikert’s daughter within the congressional office.³³⁸ In addition, the ISC reviewed evidence indicating that Representative Schweikert sought to hire a staff member to help watch his daughter. On March 19, 2016, a member of Representative Schweikert’s congressional staff emailed Mr. Schwab to tell him:

[Representative Schweikert] came to me pushing to find him a ‘unemployed female intern type person’ to be Olivia’s nanny this week—I said I didn’t know anyone because I don’t want to put someone in the position of being a babysitter. Just a heads up.³³⁹

Representative Schweikert denied that he ever asked staff to watch his daughter and noted that on one occasion, when his babysitter was running late, he left his daughter in his office with the door closed and that he did not ask staff to watch her.³⁴⁰

³³² Exhibit 57 (On May 30, 2018, Employee A emailed Mr. Schwab to inform him that she could not find a babysitter for Representative Schweikert due to the short amount of time).

³³³ Exhibit 58.

³³⁴ Friends of David Schweikert, July 2017 Quarterly Report of Receipts and Disbursements, at 64 (Jul. 14, 2017).

³³⁵ Exhibit 59.

³³⁶ ISC Interview of Employee A.

³³⁷ ISC interview of Oliver Schwab; Friends of David Schweikert, 2017 Year-End Report of Receipts and Disbursements, at 54 (Jan. 31, 2018).

³³⁸ ISC Interview of Employee A; ISC Interview of Employee H (explaining that staff has not babysat “in the formal traditional sense of go over to his house and watch his kid” but there were “maybe three or four times” in which Representative Schweikert brought his daughter to the office and there were times when she did not go with him to committee meetings).

³³⁹ Exhibit 60.

³⁴⁰ ISC Interview of Representative Schweikert.

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

House Rule XXIII, clause 6 provides that a Member –

- (a) shall keep the campaign funds of such individual separate from the personal funds of such individual;
- (b) may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures; and
- (c) except as provided in clause 1(b) of rule XXIV, may not expend funds from a campaign account of such individual that are not attributable to bona fide campaign or political purposes.

FECA and its implementing regulations also prohibit the use of campaign funds for personal use.³⁴¹ A contribution shall be considered to be converted to personal use if it is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or duties as a federal officeholder, including:

- (A) a home mortgage, rent, or utility payment;
- (B) a clothing purchase;
- (C) a noncampaign-related automobile expense;
- (D) a country club membership;
- (E) a vacation or other noncampaign-related trip;
- (F) a household food item;
- (G) a tuition payment;
- (H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and
- (I) dues, fees, and other payments to a health club or recreational facility.³⁴²

The *Ethics Manual* notes that campaign funds may be used to pay for certain meal expenses, including meals connected to campaign events and for food and beverage expenses that are incidental to official meetings that include outside individuals, such as constituents.³⁴³

As a general matter, House Rule XXV, clause 5(a)(3)(F) provides that Members, officers, and employees may accept “[a] gift from another Member . . . officer, or employee of the House or Senate.” The Committee has explained, however, that federal law generally bars government employees from giving gifts to their official superiors and prohibits employees from accepting a gift from those who work for them.³⁴⁴ A “gift” is anything of monetary value, including gifts of services, meals, payment in advance, or reimbursement after the expense has been incurred.³⁴⁵

³⁴¹ See 52 U.S.C. § 30114(b)(1); 11 C.F.R. § 113.2(e).

³⁴² 52 U.S.C. §§ 30114(b)(2).

³⁴³ *Ethics Manual* at 159-160.

³⁴⁴ *Id.* at 70 (citing 5 U.S.C. § 7351). The Committee has recognized common sense exceptions for voluntary gifts on special occasions where gifts are traditionally given, such as birthdays and holidays.

³⁴⁵ House Rule XXV, cl. 5(a)(2)(A).

The gift prohibition does not apply to anything for which the Member pays the market value, or does not use and promptly returns to the donor.³⁴⁶

A provision of the *Members' Handbook* permits the incidental personal use of House resources “when such use is negligible in nature, frequency, time consumed, and expense.”³⁴⁷

Furthermore, paragraph 2 of the Code of Ethics for Government Service requires Members to uphold the laws and regulations of the United States, including provisions of the FECA and the FEC’s implementing regulations, and to never be a party to their evasion. Finally, House Rule XXIII, clause 1, states that “[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House.”

iii. Findings

There were numerous instances in which members of Representative Schweikert’s staff advanced their personal funds for his personal benefit in the form of paying for meals, travel, dry-cleaning, and babysitting services. For each such instance reviewed by the ISC, staff were reimbursed the full value of the advance, either directly by Representative Schweikert, or by his campaign or Mr. Schwab.

As explained above, Members may not knowingly accept gifts from their staff members, unless a Member pays fair market value for the gift.³⁴⁸ The ISC did not find substantial evidence that Representative Schweikert received impermissible gifts from staff members. This was in large part because Mr. Schwab appears to have taken steps to make staffers whole by reimbursing their advances from campaign funds. The ISC notes that Representative Schweikert’s purported obliviousness to this fact raises concerning questions about his attention to the potential for inappropriate gifts from his staffers—in other words, if Representative Schweikert did not know that the campaign was paying for his babysitter, who did he think *was* paying, since it was not him?

Although the ISC did not determine that Representative Schweikert violated applicable gift rules, the ISC did determine that the use of Representative Schweikert’s campaign funds to repay staff for some of those expenditures was impermissible.

As a general matter, campaign funds may be used to pay for certain expenses, including food and beverage expenses incidental to an official meeting with non-House employees, such as constituents.³⁴⁹ Campaign funds may also be used to defray ordinary and necessary expenses incurred in connection with the recipient’s responsibilities as a holder of federal office.³⁵⁰ Campaign funds cannot, however, be used for a candidate’s “personal use.”³⁵¹ Personal use is any

³⁴⁶ *Id.* at cl. 5(a)(3)(A).

³⁴⁷ *Members' Handbook* at 3.

³⁴⁸ 5 U.S.C. § 7351(c); *Ethics Manual* at 73.

³⁴⁹ *Ethics Manual* at 160.

³⁵⁰ 11 C.F.R. § 113.2(a).

³⁵¹ 52 U.S.C. § 30114(b)(1); 11 C.F.R. § 113.2(e).

use of campaign funds to fulfill a commitment, obligation or expense of any individual that would exist irrespective of the candidate's campaign or duties as a federal officeholder.³⁵²

The use of campaign funds to reimburse staff for purchases of certain food items which were consumed by staff and constituents and other outside visitors were permissible campaign expenditures where such were incidental to official activities within the congressional office. Other expenditures, including personal travel and babysitting expenses, were not legitimate uses of campaign funds, as such expenditures would have existed irrespective of Representative Schweikert's duties as a candidate or federal officeholder.

Representative Schweikert denied knowing his campaign funds were used for his personal benefit and said it was "very odd" to see instances where his staff were seeking reimbursements from Mr. Schwab or his campaign because he had a policy of providing cash to staff.³⁵³ Mr. Schwab, however, maintains that it was Representative Schweikert who instructed him to "be creative" and bill the campaign for personal expenses.³⁵⁴ Despite this inconsistent testimony, the fact remains that Representative Schweikert's campaign funds were, in fact, used to defray personal costs incurred on his behalf on a few occasions. While the practice of staff paying for certain personal expenses on Representative Schweikert's behalf appears to have largely been undertaken by staff as a means to "keep the trains moving" and not at Representative Schweikert's explicit direction, Representative Schweikert is ultimately responsible for the conduct of both his congressional and campaign offices, and should have questioned how hundreds of dollars' worth of babysitting expenses and other personal expenses on his behalf were ultimately paid.³⁵⁵

The ISC found Representative Schweikert's overall testimony regarding these allegations to be unconvincing. Representative Schweikert's insistence that he was "not like so many of these [other] Members," in that he "never" directed staff perform personal tasks on their behalf,³⁵⁶ was belied by the ISC's record. For example, his express denials that staff ever paid for babysitting services or babysat on his behalf were contradicted by several members of his staff who testified otherwise, as well as documents obtained in the course of its investigation, including an email from staff expressing concern at Representative Schweikert's attempt to find an "unemployed female intern type person" to serve as his daughter's nanny.³⁵⁷

³⁵² 11 C.F.R. § 113.1(g).

³⁵³ ISC Interview of Representative Schweikert.

³⁵⁴ ISC Interview of Oliver Schwab.

³⁵⁵ The ISC also considered whether the instances in which staff watched Representative Schweikert's daughter within the congressional office constituted a misuse of official resources as providing babysitting services on behalf of a Member has no clear nexus to official duties. The ISC notes, however, that House rules permit the incidental personal use of government resources when such use is negligible in nature, frequency, time consumed, and expense. See *Ethics Manual* at 126. The instances in which staff watched Representative Schweikert's daughter within the congressional office were infrequent and isolated occurrences. See ISC Interview of Employee A; ISC Interview of Employee H. Accordingly, the ISC declined to find that those instances constituted a separate violation.

³⁵⁶ ISC Interview of Representative Schweikert.

³⁵⁷ ISC Interview of Employee A; ISC Interview of Employee H (explaining that staff has not babysat "in the formal traditional sense of go over to his house and watch his kid" but there were "maybe three or four times" in which Representative Schweikert brought his daughter to the office and there were times when she did not go with him to committee meetings); Exhibit 60.

The ISC was unable to calculate the precise amount of campaign funds that were misused for personal purposes because many of these expenses were characterized by Mr. Schwab as consulting expenses or petty cash, and underlying records were not preserved or provided to the campaign. The ISC determined, however, that at least \$1,476.90 in campaign funds were misused for personal purposes based on disbursements paid to Employee A by Friends of David Schweikert, designated as “petty cash” and for “strategic campaign consulting,” which were intended to reimburse her for babysitting and other related expenses she incurred on behalf of Representative Schweikert.³⁵⁸

By engaging in the above conduct, Representative Schweikert failed to uphold the laws and regulations of the United States, including provisions of the FECA and the FEC’s implementing regulations, and was a party to their non-compliance, in violation of paragraph 2 of the Code of Ethics for Government Service.

By converting campaign funds to personal use, Representative Schweikert further violated House Rule XXIII, clause 6(c). The conversion of campaign funds to personal use is also a violation of FECA. Accordingly, in converting campaign funds to personal use, Representative Schweikert violated House Rule XXIII, clause 1.

B. Findings Relating to Misuse of Official Resources

1. Overview

The ISC investigated allegations that Representative Schweikert’s Members’ Representational Allowance (MRA) was misused with respect to the following categories: (1) campaign work; (2) a mixed-purpose trip to Phoenix taken by Mr. Schwab in January 2015; (3) reimbursements for office supply purchases; and (4) a training program attended by Mr. Schwab. In addition, the ISC investigated allegations that staff were pressured to perform campaign work.

As discussed below, the ISC determined that between 2011 and 2018, Representative Schweikert’s official resources were misused to support his campaign. The ISC also determined that Mr. Schwab felt pressured by Representative Schweikert to fundraise on behalf of his campaign. Although other staff generally did not feel pressure to perform work from Representative Schweikert directly, some staff did feel there was an expectation to assist the campaign as a result of Mr. Schwab’s actions. The ISC also concluded Representative Schweikert’s MRA was used improperly to fully fund a trip Mr. Schwab took to Phoenix that was taken for official and unofficial purposes. However, the ISC did not find substantial reason to believe that Representative Schweikert’s MRA was misused with respect to office supply purchases or in connection with a training program Mr. Schwab attended.

For much of the relevant period, Representative Schweikert made little to no effort to oversee the use of official resources in his office, including how his MRA was spent. In addition,

³⁵⁸ Although the Committee generally directs Members to repay misspent funds, the ISC determined that repayment was not necessary in light of the substantial fine Representative Schweikert has agreed to pay.

although Representative Schweikert testified that he was unaware Mr. Schwab or any other member of his staff performed campaign work within the office, another staffer testified that it would take “willful ignorance and negligence” for Representative Schweikert to be unaware that Mr. Schwab performed campaign work in the office.³⁵⁹ The ISC found that there were numerous instances in which members of Representative Schweikert’s staff engaged in campaign work within the office and there were occasions in which Representative Schweikert also engaged in campaign work within the congressional office.

As the *Ethics Manual* explains, “the misuse of the funds and other resources that the House of Representatives entrusts to Members for the conduct of official House business is a very serious matter” and, therefore, “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.”³⁶⁰ Members who misuse official resources and compel staff to perform campaign work may also violate other standards of conduct, including House Rule XXIII, clauses 1 and 2, and paragraph 2 of the Code of Ethics for Government Service. Members may also be held liable for any improper use of House resources where a Member knew or had reason to know of improper conduct by staff.³⁶¹

The use of Representative Schweikert’s MRA for unofficial purposes was not an isolated occurrence, but part of a long-running practice that ultimately benefited Representative Schweikert’s campaign at taxpayer’s expense. Although much of the misuse centered around Mr. Schwab’s conduct, the ISC determined that Representative Schweikert facilitated the use of resources for campaign purposes by pressuring Mr. Schwab to perform campaign work, while at the same time failing to set appropriate boundaries over Mr. Schwab’s performance of official versus campaign work.

As explained in more detail below, the ISC determined that by engaging in this conduct, particularly, by failing to adequately supervise Mr. Schwab, Representative Schweikert’s conduct did not reflect creditably on the House, in violation of House Rule XXIII, clause 1. The ISC further determined that Representative Schweikert failed to uphold the laws and regulations of the United States, including 31 U.S.C. § 1301 and other standards of conduct, including the implementing policies contained in the Members’ Handbook, and was a party to their non-compliance, in violation of paragraph 2 of the Code of Ethics for Government Service.

2. *Findings Relating to Misuse of Official Resources for Campaign Purposes*

i. *Background*

Between 2011 and 2018, members of Representative Schweikert’s congressional staff performed political work using congressional resources, including congressional staff time and congressional office space.

³⁵⁹ ISC Interview of Employee G.

³⁶⁰ *Ethics Manual* at 124.

³⁶¹ See Comm. on Ethics, *In the Matter of Allegations Relating to Representative Laura Richardson*, H. Rept. 112-642, 112th Cong. 2d Sess. 98 (2012) (hereinafter *Richardson*).

Although the employee handbook in Representative Schweikert's office set certain office policies prohibiting the use of official resources for political activities and providing that campaign work could only be performed on staff's own time,³⁶² the handbook policies were not always followed. Congressional staff informed the ISC that they did not consult the handbook regularly, and that the office employed looser policies in practice.³⁶³

A. Campaign Work by Mr. Schwab

Mr. Schwab was responsible for the majority of political work performed within Representative Schweikert's congressional office, although several staff testified that he usually tried to leave the office to perform campaign work.³⁶⁴ Mr. Schwab's campaign-related activities in the congressional office ranged from menial tasks to substantive work, including:

- stuffing and stamping campaign mailers;³⁶⁵
- storing campaign materials in the congressional office;³⁶⁶
- meeting with a political pollster;³⁶⁷
- drafting and responding to campaign communications;³⁶⁸
- regularly using the congressional office scanner to print and send campaign-related documents, including his campaign reimbursement requests;³⁶⁹
- using his House devices for campaign purposes;³⁷⁰
- taking campaign calls;³⁷¹

³⁶² Exhibit 49 (2011 Office Manual). An update to the handbook was made in January 2017 to define an employee's "own time" to mean "before 9:00 a.m., on lunch break, on leave time, or after 5:00 p.m. Monday through Friday, or on weekends, or while on leave/vacation." See Exhibit 50 at COE.SCHWEIKERT.025109 (2017 Office Manual).

³⁶³ ISC Interview of Employee F; ISC Interview of Employee A. For example, even though the handbook required a running log to track when staff took paid time off and prescribed set amounts of leave employees could take, the office maintained a "very flexible" leave policy in practice. ISC Interview of Employee A. Congressional employees were also permitted to perform campaign work during the office's hours of operation, 8:45 a.m. to 6:00 p.m. during in-session workdays and 9:00 a.m. to 5:00 p.m. during out-of-session workdays, so long as the work took place outside the congressional office and the employee made up the time spent on political activities by working longer hours. ISC Interview of Employee A.

³⁶⁴ See e.g., ISC interview of Employee A; ISC Interview of Employee G.

³⁶⁵ ISC interview of Employee B.

³⁶⁶ ISC Interview of Employee G; see Exhibit 61 (Dec. 2014 email from Mr. Schwab to district director asking: "[w]ould you be willing to grab one of the Schweikert coffee baskets out of the file cabinet by where I sit and coordinate with [campaign staffer] to see if she can bring [it] over" to a political group).

³⁶⁷ Mr. Schwab advised that he worked to make sure the pollster's visit to the office in February 2014 was "aboveboard" and while he testified the pollster "knew that there needed to be a separation of political to official . . . [Representative] Schweikert was pretty darn adamant that he wanted to ramp up sort of the political awareness of the office." ISC interview of Oliver Schwab. See Exhibit 33 (Feb. 2014 email regarding the pollster's visit); see also OCE Interview of Employee E (OCE's Second Referral, Exhibit 1) (Staffer, who worked in the congressional office until May 2013, testified: "I think at one point, I recall the congressman's pollster came to the office and talked to (sic) some poll things, just some results they had gotten from being in the field.").

³⁶⁸ ISC Interview of Employee C; ISC Interview of Oliver Schwab; ISC Interview of Employee B.

³⁶⁹ See e.g., Exhibit 62.

³⁷⁰ ISC interview of Oliver Schwab (noting that he did so on the "rarest" of occasions); see e.g., Exhibit 63 (using office scanner to send to campaign materials).

³⁷¹ ISC Interview of Oliver Schwab.

- enlisting help from members of Representative Schweikert’s legislative staff to edit and proofread campaign materials.³⁷²

One staff member who was employed in the Washington, D.C. office between January 2011 and May 2013, recalled staff complained that Mr. Schwab frequently was “pushing the envelope and trying to push the line” when it came to performing political activity within the congressional office.³⁷³ In many instances, Mr. Schwab performed campaign work within the congressional office, by using his personal laptop.³⁷⁴

Some staff members testified that they were unaware that Mr. Schwab was performing political work within the congressional office or denied knowing he used official resources in support of the campaign.³⁷⁵ However, in some instances, those same staffers were copied on campaign-related requests that Mr. Schwab sent while in the congressional office or using congressional devices.³⁷⁶

While Mr. Schwab performed a substantial amount of campaign work within the congressional office, Mr. Schwab also spent significant time outside of the congressional office performing campaign work.³⁷⁷ One staff member recalled that Representative Schweikert was “very frugal” and did not want to have a large campaign staff; and another recalled the campaign “was just Oliver and David.”³⁷⁸ This structure appears to have contributed to the amount of time Mr. Schwab spent performing campaign work, as he acknowledged he was often out of the congressional office, in order to perform campaign work, and explained that he was responsible for “running all political operations, all in-district fundraising, raising all of the NRCC dues, all of the reelect dollars on an individual basis, managing the email campaigns, [and] managing the House file campaigns.”³⁷⁹

Representative Schweikert similarly testified that Mr. Schwab was often absent from the congressional office. While he recalled “dozens of times” where Mr. Schwab left the congressional office to take a campaign-related call, he did not believe that Mr. Schwab was frequently absent from the office to perform campaign work, noting instead that Mr. Schwab was

³⁷² ISC interview of Employee C; ISC Interview of Oliver Schwab.

³⁷³ OCE Interview of 2012 Campaign Manager (OCE’s Second Referral, Exhibit 6).

³⁷⁴ ISC Interview of Employee C; ISC Interview of Oliver Schwab.

³⁷⁵ ISC Interview of Employee H; ISC Interview of Employee A.

³⁷⁶ *See e.g.*, Exhibit 64.

³⁷⁷ ISC Interview of Employee G; ISC Interview of Employee A; OCE Interview of 2012 Campaign Manager (OCE’s Second Referral, Exhibit 6) (noting nearly every day in mid to late 2013, he was hearing from Washington, D.C. staff that they did not know where Mr. Schwab was, “he’d disappear for four or five hours” and he assumed he was at the NRCC making political phone calls); *see e.g.*, Exhibit 65 (Oct. 18, 2016 email from Mr. Schwab to Financial Administrator noting that unless it was necessary, he did not anticipate being physically in the office until after the election.).

³⁷⁸ ISC Interview of Employee G (“[Representative] Schweikert is a very frugal man in some ways and, especially with his campaign, didn’t want to have a lot of campaign staff.”); ISC Interview of Employee A (“[Representative Schweikert] never really had a campaign while I was there. It was just [Representative Schweikert] and [Mr. Schwab].”).

³⁷⁹ ISC Interview of Oliver Schwab.

mostly socializing and building relationships.³⁸⁰ Representative Schweikert further stated that while he did not know for certain that Mr. Schwab’s absences were attributed to campaign work, “you have to assume you’ve hired an adult that knows the rules.”³⁸¹

Even though Representative Schweikert’s office had written policies for tracking leave and only allowed for campaign work to be performed outside of working hours, the office kept no formal record of the hours Mr. Schwab spent working during official versus unofficial hours. Mr. Schwab testified that “taxpayers got more than a full day’s work out of [him] on any given day of the week” given the long hours he worked.³⁸² Another former staffer, tasked with keeping track of employee time, echoed these sentiments: “I wasn’t fazed by Oliver’s time, because anytime I had an official question, he was responsive . . . he was always accessible, and he always answered official questions no matter what time of the day it was.”³⁸³ On at least one occasion, Mr. Schwab was cautioned by another staffer against the use of official resources for unofficial purposes, and on another occasion, Mr. Schwab cautioned other staffers.³⁸⁴ Those admonitions, however, were inconsistent with Mr. Schwab’s actions and did not prevent the use of official resources for non-official purposes by other staff.

According to one former staffer, following public reporting about Mr. Schwab’s spending and campaign activities in November 2017, Mr. Schwab wanted “to make[] sure that he was being transparent and had records of what he was doing.”³⁸⁵ On February 21, 2018, after the initiation of OCE’s investigation into Mr. Schwab’s conduct, Mr. Schwab emailed other congressional staffers, noting: “I am going to implement a new protocol for how I manage personal time that I take off to perform campaign responsibilities,” and enlisted help from another staffer to keep track of his time off setting up a separate email account to track his hours.³⁸⁶

B. Campaign Work by Other Staff

Four other members of Representative Schweikert’s staff testified that they performed campaign work in the congressional office on occasion, though to a significantly lesser extent than Mr. Schwab. Employee E advised the ISC that he was asked “to provide inputs, edits or comments

³⁸⁰ ISC Interview of Representative Schweikert.

³⁸¹ *Id.*

³⁸² ISC Interview of Oliver Schwab.

³⁸³ ISC Interview of Employee A. *See also* ISC Interview of Employee C (“[H]e [would] sometimes work in the office late at night. Other times he would be out of the office for a portion of the day, you know, come in on weekends and take Friday off and things of that nature. There [were] no structured standardized hours that he worked.”).

³⁸⁴ Exhibit 66 (Mar. 20, 2012 email from Mr. Schwab to Employee F: “[O]f course none of this [campaign related communication] is appropriate on the official [email]. Forward [emails] to gmail and lets have the conversation there in future.”); Exhibit 67 (Oct. 7, 2013 email from Employee F to Mr. Schwab noting that he received a fundraising email on his official email account and that Mr. Schwab should “have a very serious conversation with” himself and a “[t]ime out may need to be in order”).

³⁸⁵ ISC Interview of Employee A.

³⁸⁶ Exhibit 68. Mr. Schwab also took steps to avoid performing campaign work during the day. On April 24, 2018, Mr. Schwab emailed staff, “I have deleted my personal gmail from my official phone just as a safeguard that an official device just as a safeguard that an official device just to guarantee an additional step in compliance in the event that inbound messages appear throughout the day.” Exhibit 69.

to support campaign activities” and noted, “more often than not, [he] would perform those activities using an office computer[] and coordinating through [his] personal email account.”³⁸⁷ Employee E also authored campaign documents within the congressional office.³⁸⁸ For example, in December 2015, Employee E drafted an overview of Representative Schweikert’s policy positions on Israel, at Mr. Schwab’s request, so that the information could be sent to the host of an upcoming fundraiser for Representative Schweikert.³⁸⁹ In addition, in March 2016, Employee E wrote a portion of a campaign newsletter, again at Mr. Schwab’s request, within the official office and using House resources.³⁹⁰ Employee E also provided briefings to Representative Schweikert in advance of non-official events within the congressional office.³⁹¹ In testimony to OCE, Employee E characterized these briefings for Representative Schweikert as “always kind of that wink and nod, that it was for the campaign or a campaign event, but never specifically said”³⁹²; he later noted to the ISC that his phrasing “may have been a bad choice of words,” and said he believed he was “providing policy support within the official capacity that happened to have a campaign tie-in” and “there was an understanding that there was a campaign benefit from him understanding the policy issues.”³⁹³

Employee F engaged in campaign work by occasionally posting content on Representative Schweikert’s campaign social media pages using his House computer.³⁹⁴ He also sent campaign related communications, including fundraising requests within the congressional office.³⁹⁵ Employee F could not estimate how many times he sent fundraising invites from within the congressional office.³⁹⁶ On one occasion, Employee F instructed another congressional staff member to do a social media analysis of a communication sent by Representative Schweikert’s campaign.³⁹⁷ According to Employee F, he asked the staff member to not use any official resources to complete the task.³⁹⁸

Other staffers, such as Employee B engaged in campaign-related activity in Representative Schweikert’s congressional office, including sending invitations to campaign events.³⁹⁹

³⁸⁷ Exhibit 70.

³⁸⁸ *Id.* The staffer testified that he routinely deletes his inbox, so his production was not complete.

³⁸⁹ *Id.* See ISC Interview of Employee C (noting that the statement he drafted “appears to be pretty can language that we would have used for constituent correspondence or other Israeli-U.S. relation products”).

³⁹⁰ Exhibit 70; ISC Interview of Employee C (testifying that the language used is “largely kind of standard boilerplate language that we would have used for like a constituent correspondence, maybe slightly modified” and that he performed this work in the office and using his office computer).

³⁹¹ ISC interview of Employee C.

³⁹² OCE Interview of Employee C (OCE’s Second Referral, Exhibit 2).

³⁹³ ISC Interview of Employee C.

³⁹⁴ ISC interview of Employee F.

³⁹⁵ *Id.* Exhibit 71 (discussing Representative Schweikert’s campaign nominating petitions with a campaign vendor, using his House email account).

³⁹⁶ ISC Interview of Employee F.

³⁹⁷ *Id.* On June 12, 2017, the congressional intern emailed a staffer the results of the social media analysis surrounding a campaign letter. Exhibit 72.

³⁹⁸ ISC Interview of Employee F.

³⁹⁹ ISC Interview of Employee B (noting that he provided the ISC emails where he was “relatively certain” he was in the office just asking people to come to a campaign event); see e.g., Exhibits 73-77.

Employee B also recalled that “there may have been times where [Mr. Schwab] asked people to proofread a campaign e-mail.”⁴⁰⁰

Additionally, Employee G helped look at campaign logos within the congressional office on at least two occasions.⁴⁰¹ She also had an “informal but unpaid role of coordinating some [campaign] logistics.”⁴⁰² This role entailed, among other things, reaching out to a campaign pollster to set up a meeting at Representative Schweikert’s direction, inputting information on the office’s outlook calendar, and helping determine who to invite to campaign events. Most of these activities were undertaken in the congressional office or otherwise using official resources.⁴⁰³ Employee G explained that she assumed that was what she was supposed to do because that is what Mr. Schwab requested of her.⁴⁰⁴ Employee G estimated spending less than an hour or two a week “scheduling a luncheon or finding people who had been to luncheons” within the congressional office, though she did not characterize it as a regular occurrence.⁴⁰⁵

C. Representative Schweikert’s Involvement in Campaign Use of Official Resources

Representative Schweikert testified that he did not see Mr. Schwab perform campaign work in the congressional office⁴⁰⁶ and denied that he or other staff performed campaign work within his office.⁴⁰⁷ But on at least some occasions, he was involved in campaign-related discussions within the congressional office.

For example, Representative Schweikert met with his campaign pollster within his congressional office on at least one occasion.⁴⁰⁸ On February 27, 2014, Representative Schweikert met with his campaign pollster in the congressional office. He expected his staff to arrange the

⁴⁰⁰ ISC Interview of Employee B.

⁴⁰¹ ISC Interview of Employee G.

⁴⁰² *Id.*

⁴⁰³ *Id.* Employee G explained, “I recall also pulling up prior luncheons that would have been campaign related and see who had attended those to say this person hasn’t been to a lunch in a long time or this person just came last week” and advised the ISC she had requested to be paid to perform the campaign work outside of working hours but was told “no.” *Id.* On February 9, 2014, Representative Schweikert emailed Mr. Schwab stating that Employee G had not yet contacted the pollster, despite the fact that he sent Employee G the request “either yesterday or the day before.” *See* Exhibit 78.

⁴⁰⁴ ISC Interview of Employee G (“I was mostly instructed. Once instructed once, I thought, oh, this is what I’m supposed to do here” and recalled Mr. Schwab asking her, “[W]ho hasn’t been to a lunch in a while[?]”). Upon her departure, Employee G sent her successor an email in which she advised, “You basically just need to keep track of where the Member will be, but no logistics should be coordinated by you at all.” *See* Exhibit 79. Employee G said she sent this email because “I think I probably realized that I shouldn’t have been scheduling things as I was and didn’t want her to get into the same trap—or not necessarily trap, but I think I realized that I was not going to be paid for what I was doing, and I didn’t want her to do work that she didn’t need to be doing, and to avoid a possible issue.” ISC Interview of Employee G.

⁴⁰⁵ *Id.*

⁴⁰⁶ ISC Interview of Representative Schweikert.

⁴⁰⁷ *Id.*

⁴⁰⁸ Exhibit 80. Email records and staff testimony indicates that his campaign pollster came to the congressional office on two other occasions. *See* Exhibit 80 (scheduling Feb. 2015 visit); *see also* OCE Interview of Employee E (OCE’s Second Referral, Exhibit 1). Employee E worked in the congressional office until May 2013 and recalled “the congressman’s campaign pollster came to the office and talked to (sic) some poll things, just some results they had gotten from being in the field.” *Id.*

meeting,⁴⁰⁹ and after confirming the meeting, the scheduler informed him: “Boss, you requested that whoever was available sit in on the meeting to hear what’s going on in AZ this upcoming cycle.” Mr. Schwab sent a follow-up email to the scheduler and noted, “[t]his is to be a quiet meeting where [the pollster] and David can speak privately.”⁴¹⁰ Representative Schweikert advised the ISC that his pollster has visited Capitol Hill to socialize and find more work,⁴¹¹ but he did not recall what the February 2014 meeting was about.⁴¹² Mr. Schwab testified that Representative Schweikert felt it would be beneficial for the pollster to speak with legislative staff about national and district base sentiments.⁴¹³

Shortly after the scheduler sent an email regarding the meeting, Representative Schweikert was overheard saying, “we don’t want any paper trails of emails floating around about a pollster.”⁴¹⁴

Representative Schweikert received briefings from staff prior to non-official events,⁴¹⁵ and Mr. Schwab testified that he had “daily” campaign communications with Representative Schweikert within the congressional office because that was most convenient to meet given that Representative Schweikert slept in the office:

Mr. Schweikert did not want to leave the office, both in the morning and in the evening. And so that meant that anything that required his sign-off or he had directed that was now asking for follow-up on --

⁴⁰⁹ Exhibit 78.

⁴¹⁰ Exhibit 81.

⁴¹¹ ISC Interview of Representative Schweikert.

⁴¹² *Id.* Representative Schweikert speculated that the meeting was “to understand the attitudinally,” “what’s happening in Arizona” and explained it “seems somewhat appropriate” to do this if “you’re trying to educate the staff on what your constituency cares about.” *Id.*

⁴¹³ ISC Interview of Oliver Schwab (explaining that while he worked closely with the pollster to make sure he knew there needed to be a separation of political to official, Representative Schweikert “was pretty darn adamant that he wanted to ramp up sort of the political awareness of the office.”).

⁴¹⁴ *Id.* Exhibit 82. The ISC notes that Representative Schweikert’s document productions did not include the email exchange regarding the pollster’s visit to his congressional office. The ISC received numerous email exchanges that Representative Schweikert was copied on or that he sent in which official staff were engaging in campaign work, but which were not included in his document productions to the ISC. *See e.g.*, Exhibit 83 (Jun. 2, 2011 email from Representative Schweikert asking Mr. Schwab to look over campaign event); Exhibit 84 (May 9, 2014 email from Mr. Schwab to Representative Schweikert noting that the congressional office’s communications director had just designed an enhanced graphic for the unofficial campaign Facebook page); Exhibit 85 (Feb. 11, 2015 email from Mr. Schwab to Representative Schweikert noting that he sent a fundraising request); Exhibit 75 (May 18, 2016 email from Mr. Schwab to Representative Schweikert and others, including congressional staff, regarding collecting nomination signatures); Exhibit 86 (May 26, 2016 email from Representative Schweikert to Mr. Schwab asking if Employee F dropped off more nominating petitions); Exhibit 87 (Dec. 13, 2016 email from District Representative to Representative Schweikert noting that he had cleaned up donor lists); Exhibit 88 (Mar. 9, 2018 email to Representative Schweikert from Mr. Schwab in which he notes he is personalizing an email invitation for joint fundraising committee event); Exhibit 89 (Mar. 18, 2018 email from Mr. Schwab to Representative Schweikert in which he notes he and Employee F will make sure to track which candidate receives an endorsement); Exhibit 90 (Jun. 20, 2018 email from Mr. Schwab, which Representative Schweikert was copied on, in which Mr. Schwab solicited a campaign contribution).

⁴¹⁵ ISC Interview of Employee C; ISC Interview of Employee B.

which was nearly anything when it came to the campaign, because otherwise it's just me -- would invariably take place in the office.⁴¹⁶

Another staff member informed the ISC that Representative Schweikert and Mr. Schwab had frequent discussions about the campaign within the congressional office, though he later characterized the conversations as non-substantive.⁴¹⁷

D. Remedial Measures Regarding Campaign Work by Official Staff

On October 3, 2018, Representative Schweikert informed the Committee that he had taken remedial measures to ensure that his office is fully compliant with all applicable laws, which included “a strict firewall between congressional staffers and the campaign by instituting a policy that severely restricts congressional employees from performing otherwise permissible campaign related work for his campaign.”⁴¹⁸

In January 2019, Representative Schweikert's new chief of staff sent an annual reminder to all staff in which she noted:

Please know that no one on official staff is allowed to engage in campaign related activities during office hours, nor engage in anything campaign related in the office. Any questions at all on this policy, please call me.

All Schweikert campaign related activity must be approved by me, so please contact me regarding any activity you would like to be engaged with.⁴¹⁹

Employee H did not believe there were ever issues with office staff doing campaign-related activities during the workday;⁴²⁰ her email was precipitated by a discussion she had with Representative Schweikert and the new compliance firm he had retained about keeping the congressional office separate from the campaign.⁴²¹

Although most of Representative Schweikert's staff appear to have generally abided by this policy, Employee H is not subject to this policy. She is more involved in Representative Schweikert's campaign than she was before becoming his chief of staff in July 2018; she staffs campaign events, approves certain campaign expenses, and engages in campaign-related work during office hours, outside of the congressional office.⁴²²

⁴¹⁶ ISC Interview of Oliver Schwab.

⁴¹⁷ Exhibit 70; ISC Interview of Employee C.

⁴¹⁸ Exhibit 91.

⁴¹⁹ Exhibit 52.

⁴²⁰ ISC Interview of Employee H.

⁴²¹ *Id.*

⁴²² ISC Interview of Employee H; ISC Interview of Employee A (noting that Employee H was not subject to the policy).

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

Federal law provides appropriations shall apply “only to the objects for which the appropriations were made.”⁴²³ Within the House of Representatives there is “a single allowance, to be known as the ‘Members’ Representational Allowance,’ (MRA) which shall be available to support the conduct of the official and representational duties of a Member of the House of Representatives with respect to the district from which the Member is elected.”⁴²⁴ The Committee on House Administration (CHA) implements these laws in the *Members’ Handbook*, which explains House funds and resources cannot be used for unofficial purposes; “[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.⁴²⁵

The *Ethics Manual* explains the prohibition against using official resources for campaign 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 . . .

Among the specific activities that clearly may **not** be undertaken in a congressional office or using House resources (including official staff time) are the solicitation of contributions; the drafting of campaign speeches, statements, press releases or literature; the completion of FEC reports; the creation of issuance of a campaign mailing; and the holding of a meeting on campaign business.⁴²⁶

There is no *de minimis* exception to the prohibition on using official resources for campaign or political purposes.⁴²⁷ The *Ethics Manual* provides for some limited exceptions to the general prohibition.⁴²⁸ For example, the individual in the congressional office who handles the Member’s schedule may coordinate with those in the campaign office who schedule the Member’s campaign appearances, but cannot make travel arrangements or coordinate other logistics for campaign

⁴²³ 31 U.S.C. § 1301(a).

⁴²⁴ 2 U.S.C. § 5341(a).

⁴²⁵ *Members’ Handbook*.

⁴²⁶ *Ethics Manual* at 123-124 (emphasis in original).

⁴²⁷ *Id.* at 126 (noting that a provision in the *Members’ Handbook* which permits the incidental use of House equipment and supplies “only applies to incidental personal use of those resources, and **not** to their use for campaign or political purposes”) (emphasis in original).

⁴²⁸ *Id.* at 132-135.

events within the congressional office or while on official time.⁴²⁹ In addition, a congressional office may provide a campaign office with publicly available materials, such as press releases and speeches; however, other materials in the congressional office files, such as back-up memoranda should not be shared with the campaign or used for campaign purposes and congressional staff should not do research or write speeches on behalf of the campaign while on official time or using official resources.⁴³⁰ Apart from these and other limited exceptions, official resources cannot be used for campaign or political activities.⁴³¹

House employees are permitted to do campaign work outside of congressional space, without the use of any House resources, and on their own time (as opposed to “official” time for which they are compensated by the House).⁴³² According to the *Ethics Manual*, “[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.”⁴³³ An employee’s “free time,” generally may include the employee’s lunch period, time after the end of the business day, and annual leave.⁴³⁴ The Committee’s guidance recognizes, however, that “it is unrealistic to impose conventional work hours and rules on congressional employees” and the Committee takes a “flexible view” of official time to provide leeway to Members to adapt to the particular needs of the office.⁴³⁵ Members must nonetheless respect the boundaries set up by the rules,⁴³⁶ which include the general expectation of a full day’s work for a full day’s pay.⁴³⁷ Additionally, the policies set by the office regarding office hours may not be enforced inconsistently in order to benefit a Member’s campaign.⁴³⁸

The Committee “has long taken the position that each Member is responsible for assuring that the Member’s employees are aware of and adhere to the rules, and for assuring that House resources are used for proper purposes.”⁴³⁹ The Committee has cautioned that “each Member

⁴²⁹ *Id.* at 133; Comm. on Ethics, *Campaign Activity Guidance*, at 13 (June 7, 2018)

https://ethics.house.gov/sites/ethics.house.gov/files/FINAL%202018%20Campaign%20Activity%20Pink%20Sheet_0.pdf.

⁴³⁰ *Ethics Manual* at 134.

⁴³¹ 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 id.* at 133-35.

⁴³² *Id.* at 126.

⁴³³ *Id.* at 136.

⁴³⁴ *Id.*

⁴³⁵ Comm. on Ethics, *In the Matter of Allegations Relating to Rep. Cathy McMorris Rodgers*, H. Rept. 116-359, 116th Cong. 1st Sess. 38-40 (2019) (hereinafter *Rodgers*) (quoting House Comm. on Standards of Official Conduct, *Advisory Opinion No. 2* (July 11, 1973)).

⁴³⁶ *Rodgers* at 89-90.

⁴³⁷ *Ethics Manual* at 279.

⁴³⁸ *Rodgers* at 40.

⁴³⁹ *Id.* House Comm. on Standards of Official Conduct, *In the Matter of Rep. E.G. Bud Shuster*, H. Rep. 106-979, 106th Cong., 2d Sess. 31 (2000) (finding the Member liable for violations of prohibition on campaign work by official staff arising from lack of uniform leave policy and holding the Member accountable for improper use of official resources even though the Committee found “no direct evidence that [the Member] was aware that this activity was taking place”); House Comm. on Standards of Official Conduct, *Statement Regarding Complaints*

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."⁴⁴⁰

The misuse of official resources may implicate House Rule XXIII, clauses 1 and 2, which state that "[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House," and "shall adhere to the spirit and the letter of the Rules of the House." The improper use of official resources for campaign purposes may also result in violations of clause 2 of the Code of Ethics for Government Service, which requires any person in government service to uphold the laws and regulations of the United States.

iii. Findings

Between 2011 and 2018, official resources and staff time were frequently used to support Representative Schweikert's campaign. Many of the instances of misuse of official resources that occurred in Representative Schweikert's office were textbook examples of prohibited conduct discussed in the *Ethics Manual*. For example, the individual responsible for maintaining Representative Schweikert's schedule not only coordinated Representative Schweikert's campaign schedule but reached out to individuals to schedule meetings, and helped planned logistics of campaign events, including coming up with lists of who had and had not attended campaign events, in contravention to *Ethics Manual's* guidance that individuals with such responsibilities should limit their work to campaign coordination.⁴⁴¹ Another member of staff helped draft materials to be used in a campaign newsletter, despite clear guidance in the *Ethics Manual* that "[c]ongressional staff members should not do research on behalf of the campaign or write campaign speeches or other materials while on official time or using official resources."⁴⁴²

Moreover, Mr. Schwab regularly used House resources, including the congressional office space, to perform a variety of campaign-related activities that ranged from small administrative tasks such as stuffing envelopes, to more substantive matters such as drafting campaign materials, and spent a significant amount of time performing campaign work without meaningful oversight from Representative Schweikert or other efforts to ensure his time spent on campaign work was not time that he should have been spending on his official responsibilities. Although Representative Schweikert testified that he assumed Mr. Schwab "knows the rules,"⁴⁴³ he did not appear to ever discuss what those specific rules were with Mr. Schwab, nor did he perform any

Against Rep. Newt Gingrich, 101st Cong., 2d Sess. 60, 165-66 (1990) (finding the Member responsible for violations arising out of presence of political consultant in his office); House Comm. on Standards of Official Conduct, *In the Matter of Rep. Austin J. Murphy*, H. Rep. 100-485, 100th Cong., 1st Sess. 4 (1987) ("[A] Member must be held responsible to the House for assuring that resources provided in support of his official duties are applied to the proper purposes.") (hereinafter *Murphy*).

⁴⁴⁰ *Ethics Manual* at 124.

⁴⁴¹ ISC Interview of Employee G at 92; *Ethics Manual* at 133.

⁴⁴² *Ethics Manual* at 134.

⁴⁴³ ISC Interview of Representative Schweikert.

meaningful supervision over Mr. Schwab. The ISC was also unable to verify Mr. Schwab's claim that "taxpayers got more than a full day's work."⁴⁴⁴

According to the *Ethics Manual*, "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."⁴⁴⁵ The Committee has found Members liable for staff's conduct in many prior matters.⁴⁴⁶ In determining Member liability for staff misconduct, the Committee distinguish between cases where a Member knew, or should have known, of improper conduct and instances where a Member reasonably believed that staff was acting properly or there was a "rogue employee."⁴⁴⁷

Representative Schweikert knew, or should have known, that official resources were being misused to support his campaign. As a preliminary matter, Representative Schweikert presided over a campaign operation that was heavily dependent on Mr. Schwab, who served as the campaign's primary fundraiser and campaign manager.⁴⁴⁸ While the ISC recognizes that it is not uncommon for senior staff to also assist with their Members' campaigns, those staffers must still abide by the restrictions on the use of official resources for campaign purposes. The pressure Mr. Schwab felt to fundraise for the campaign further led him to "maximize the resources available" to him, including the congressional staff working under his supervision, to assist with campaign matters.⁴⁴⁹

The ISC also determined that Representative Schweikert participated directly in some instances of the misuse, by, among other things, receiving briefings in advance of campaign events within the congressional office,⁴⁵⁰ and having ongoing discussions with Mr. Schwab about campaign-related matters within the congressional office.⁴⁵¹ Despite his denials to the contrary, the ISC determined, as another staff noted, that it would take "willful ignorance and negligence" for Representative Schweikert not to have been aware that either official resources were being use to benefit his campaign or that people were potentially doing campaign work in his House office.⁴⁵²

By engaging in the above conduct, particularly, by failing to adequately supervise his staff, Representative Schweikert failed to uphold the laws and regulations of the United States, including 31 U.S.C. § 1301 and other standards of conduct, including the implementing policies contained in the *Members' Handbook*, and was a party to their non-compliance, in violation of paragraph 2 of the Code of Ethics for Government Service. Representative Schweikert's actions, particularly his failure to adequately supervise staff, further reflected poorly on the institution of

⁴⁴⁴ ISC Interview of Oliver Schwab.

⁴⁴⁵ *Ethics Manual* at 124.

⁴⁴⁶ See *Murphy* ("[A] Member must be held responsible to the House for assuring that resources provided in support of his official duties are applied to the proper purposes.").

⁴⁴⁷ See *Richardson* ("The ISC recognizes that misconduct in a Member office can range on a spectrum between subordinates following orders despite their wrongfulness, and 'rogue' agents acting outside the authority granted to them by a Member.")

⁴⁴⁸ ISC Interview of Oliver Schwab; ISC interview of Employee G.

⁴⁴⁹ ISC Interview of Oliver Schwab.

⁴⁵⁰ ISC Interview of Employee C; ISC Interview of Employee B.

⁴⁵¹ ISC Interview of Oliver Schwab; ISC Interview of Employee C.

⁴⁵² ISC Interview of Employee G.

the House and, thereby, brought discredit upon the House, in violation of House Rule XXIII, clause 1.

The Committee sometimes resolves matters involving sporadic or minor misuses official resources for campaign purposes with a private direction to, e.g., repay the value of a few hours of misused staff time or the amount of misused MRA funds. While the misuse of official resources to benefit Representative Schweikert's campaign was not as severe as in other recent matters before the Committee that resulted in sanctions,⁴⁵³ it was far from incidental or minor and could have been prevented with proper oversight of staff. In recognition of the substantial fine that Representative Schweikert has agreed to pay for the totality of violations, the ISC determined that no further payment to the Treasury for misused official resources was warranted.

3. Findings Relating to Pressuring Staff to Perform Campaign Work

i. Background

Mr. Schwab testified that he was routinely pressured by Representative Schweikert to perform campaign work, particularly campaign fundraising throughout his employment Representative Schweikert's congressional office.⁴⁵⁴ According to Mr. Schwab, he was expected to prioritize campaign work over official work and Representative Schweikert instructed him on a "daily" basis to leave the congressional office and fundraise on his behalf.⁴⁵⁵ Another staff member testified that she saw Representative Schweikert ask Mr. Schwab, as well as the Chief of Staff who replaced him, to leave the office and handle campaign work.⁴⁵⁶

There were some instances in which Mr. Schwab referenced fundraising pressure in emails to Representative Schweikert. For example, in April 2015, Mr. Schwab sent an email to Representative Schweikert and another official staff member noting: "I was able to move the ball rightly forward with the NRCC this week. Total outstanding due for 2015 is only \$24,450 . . . Good work guys. The pressure is completely off to raise for the NRCC now."⁴⁵⁷ In another instance, Mr. Schwab told Representative Schweikert he could not be the only staff member "proactively engaging support" in order to raise funds.⁴⁵⁸ Mr. Schwab explained that his email was not intended to direct another staffer to raise funds, but indicated that the pressure to raise significant funds created a more general pressure for staff to "pull[] their weight."⁴⁵⁹

⁴⁵³ See e.g., *Rodgers; Richardson*.

⁴⁵⁴ ISC Interview of Oliver Schwab.

⁴⁵⁵ *Id.* According to Mr. Schwab, Representative Schweikert's campaign consultant also told him to leave the congressional office to fundraise, noting it "even got to the point where he would work to befriend the staff assistant of the district office to report on when I was there and when I wasn't." ISC Interview of Oliver Schwab; ISC Interview of Campaign Consultant (noting that he did not recall whether he kept tabs on Mr. Schwab's whereabouts).

⁴⁵⁶ ISC Interview of Employee A.

⁴⁵⁷ Exhibit 92.

⁴⁵⁸ Exhibit 93.

⁴⁵⁹ ISC Interview of Oliver Schwab.

The ISC received evidence that by the fall of 2016, Representative Schweikert was heavily pressuring Mr. Schwab to fundraise. Another staffer in the office testified:

[Representative Schweikert had] been pushing Oliver really hard, you're going to raise me a million dollars, you're going to raise me a million dollars. This is really kind of post, you know, after August and, you know, David's opportunity to run against McCain was over. He's like, well, I want the next one, I want to be able to challenge Jeff Flake.

And so, the comment over and over again was, you're going to raise me a million dollars, you're going to raise me a million dollars. David did complain to me on more than one occasion that he thought Oliver, at this point in time—this was the only time that I ever heard anything negative about Oliver was, like, Oliver needs to be working really hard on fundraising. Not that he's doing a bad job, just that needs to be, he needs to be fundraising, fundraising, fundraising all the time.⁴⁶⁰

Representative Schweikert, however, denied that he ever pressured Mr. Schwab to fundraise on his behalf or instructed him to leave the office to perform campaign work: “Saying go out and make fundraising phone calls? I don't think I did it that way. That doesn't mean he wasn't out making phone calls on my behalf.” Instead, Representative Schweikert testified, “I don't think I would have had to say that. I think he almost—instinctually he would leave.”⁴⁶¹

The ISC did not receive evidence that Representative Schweikert directly pressured other staff to assist his campaign, but it did find instances in which Mr. Schwab made some staff members feel like they had to assist the campaign. According to Mr. Schwab, as a result of “the constant pressure to perform and raise funds,” he felt like he had to “maximize the resources” available to him.⁴⁶² Mr. Schwab had an expectation that other members of the congressional staff would assist Representative Schweikert's campaign.⁴⁶³ He also believed that Representative Schweikert's legislative staff was “exposed to the pressures that [he] was under,” such that many “were eager to find ways that they might even be able to help.”⁴⁶⁴ The ISC did not receive evidence directly from any of the legislative staff that Mr. Schwab identified indicating that they felt compelled to assist with the campaign. However, for one of the staffers Mr. Schwab identified as “exposed to the pressures,” Employee K, the ISC received evidence that during a discussion among personnel about her requested salary increase, Mr. Schwab raised concerns about her impact on

⁴⁶⁰ ISC Interview of Employee B.

⁴⁶¹ ISC Interview of Representative Schweikert.

⁴⁶² ISC Interview of Oliver Schwab.

⁴⁶³ *Id.*

⁴⁶⁴ *Id.*

campaign fundraising.⁴⁶⁵ Specifically, on January 2, 2012, Mr. Schwab emailed the then-Chief of Staff, about the Employee K's performance after she requested a raise:

From a fundraising perspective- when I have double checked the work of everyone in the office, except Employee K, . . . I have been beyond impressed. That's very important to me as you know, but it also shows Employee K has a lot of room to grow and it's [sic] energy I am spending to backfill relations that could otherwise be filled.⁴⁶⁶

Mr. Schwab denied that this staffer's effect on fundraising ultimately factored into whether she received the raise she requested, but he testified that he continued to monitor the effect that congressional staff had on fundraising beyond 2012, stating: "that was something that would have been on my mind every single day in the job."⁴⁶⁷ Mr. Schwab also encouraged Representative Schweikert's legislative staff to "connect" with companies that the campaign's fundraising consultant identified as solicitation targets.⁴⁶⁸

Some staffers who received requests from Mr. Schwab to assist the campaign felt like they had to comply with his requests given that it came from their supervisor. On June 11, 2014, Mr. Schwab sent a number of staffers an email titled "Office contacts, project this a.m." and asked:

[C]ould everyone export their official contacts and send them over in a spreadsheet[?] I've done so from my account. These would be used for David's non-official DC based fundraising marketing events. Please only do this if you're comfortable, but I did want to ask as I'm updating mine now.⁴⁶⁹

One recipient of this email testified that, "as a staffer it does put you in a bind on whether or not you follow the directive from the chief or do something that you're uncomfortable with."⁴⁷⁰ That staffer further explained that, while he believed he had a choice in whether to comply with Mr. Schwab's campaign-related requests, "the consequences of those choices on whether or not I said no, I think that would have put me in a tough position to say no."⁴⁷¹ Another staffer explained that she would have complied with the request because it came from her boss; had she not complied, "it would have been a follow-up conversation of why didn't you do this."⁴⁷² That staffer

⁴⁶⁵ Exhibit 94.

⁴⁶⁶ *Id.*

⁴⁶⁷ ISC Interview of Oliver Schwab.

⁴⁶⁸ *See e.g.*, Exhibit 95. (Following an email from the fundraising consultant to congressional staff in which she stated, "Has anyone talked to the following [companies] lately! Trying to go after them for money!" Mr. Schwab told staff, "If either of you need, you're welcome to use my [Capitol Hill Club] membership this week. Don't know if there is anyone you're looking to connect with, but the card is in my upper left drawer. [Fundraising consultant], is there anyone you've chatted with who could use a little love?").

⁴⁶⁹ Exhibit 96.

⁴⁷⁰ ISC Interview of Employee C.

⁴⁷¹ *Id.*

⁴⁷² ISC Interview of Employee G. On June 18, 2014, Mr. Schwab directed Employee G to post non-official content on the campaign's social media. *See* Exhibit 97.

also complained about having to perform campaign-related work relating to scheduling and coordinating campaign events outside of working hours and without compensation.⁴⁷³

Employee E testified there was an “expectation” that congressional staff would be accessible to support the campaign as needed.⁴⁷⁴ Although he was not sure whether the expectation stemmed from Representative Schweikert or Mr. Schwab, Employee E explained to OCE that Representative Schweikert “was certainly aware of it and allowed it to exist.”⁴⁷⁵ Employee E never explicitly raised concerns that what he was asked to do was inappropriate, because:

[I]f there was a question about either my commitment to support David or my commitment to support Oliver in these efforts that it would have swayed how I was viewed in the office, and either my promotion potential, salary increases, or bring into question my need to continue to be continually employed in the office.⁴⁷⁶

The most explicit instance of Mr. Schwab pressuring official staff to assist with the campaign occurred with respect to the events that led to Employee B’s departure from the congressional office. According to Employee B, in the fall of 2016, Mr. Schwab told him that if he wanted to stay employed in the congressional office, he would need to take a 40 percent pay cut and his performance would be judged on fundraising.⁴⁷⁷ When asked if there was any truth to this allegation, Mr. Schwab said he could “certainly see how [Employee B] would’ve interpreted conversations to that respect,”⁴⁷⁸ but noted there were “purely official” performance-related reasons that led Employee B’s departure from the office and denied that there was any expectation that Employee B fundraise on behalf of Representative Schweikert’s campaign.⁴⁷⁹

Around the time he had this conversation with Employee B, Mr. Schwab had informed Representative Schweikert that he could not be the only person at the staff level proactively engaging support in order to raise one million dollars for the next campaign election.⁴⁸⁰ Shortly after receiving this email, Representative Schweikert asked Mr. Schwab if it would help to take Employee B to a fundraising seminar.⁴⁸¹

Employee B testified that, even though Representative Schweikert told him directly that he did not have to worry about fundraising, he ultimately decided against telling the congressman

⁴⁷³ ISC Interview of Employee G; OCE Interview of Employee B (Second Referral, Exhibit 3) (“[T]here was a time that Employee G was complaining that she wasn’t being fairly compensated by the campaign . . . just the amount of time that she had to spend off work, doing campaign-related work.”).

⁴⁷⁴ OCE Interview of Employee C (OCE’s Second Referral, Exhibit 2); ISC Interview of Employee C.

⁴⁷⁵ OCE Interview of Employee C (OCE’s Second Referral, Exhibit 2).

⁴⁷⁶ *Id.* at 14.

⁴⁷⁷ ISC Interview of Employee B; ISC Interview of Oliver Schwab.

⁴⁷⁸ ISC Interview of Oliver Schwab.

⁴⁷⁹ *Id.*

⁴⁸⁰ Exhibit 93. Employee B referenced a fundraising target in a memorandum he sent to Mr. Schwab after his meeting, in which he noted “[Representative Schweikert] has identified a primary goal of having \$1[,000,000] in his war chest” and noted that his role in achieving this outcome included staffing the office’s “ideas shop” and he also would work to identify and develop potential relationships. Exhibit 98.

⁴⁸¹ Exhibit 99.

about Mr. Schwab’s ultimatum because he did not think Representative Schweikert would listen given Representative Schweikert’s close relationship with Mr. Schwab.⁴⁸² Employee B advised the ISC that he chose not to take Mr. Schwab’s offer and decided to leave the congressional office after Mr. Schwab indicated his performance would be judged on fundraising:

[Mr. Schwab] basically said you're going to be in—going into fundraising events at 7 a.m. every morning, and you'll be staying on the Hill until 10:00 [p.m.] at night. I don't expect that that was what he actually though[t] would happen. I think he was just trying to make that option sound really bad. But it was enough of a threat that that was thrown off the table immediately. And so . . . [Mr. Schwab] is saying that [Representative Schweikert is] saying fundraise, fundraise, fundraise, fundraise, and I'm hearing [Representative Schweikert] saying to me, policy, policy, policy, policy, policy. And so, when I say 'unstable,' I mean, it kind of seemed like [Mr. Schwab] was going to crack under this dual—this whatever [Representative Schweikert] was trying to push.⁴⁸³

Notwithstanding the testimony from some staff that they felt pressured or that there was an expectation to assist Representative Schweikert’s campaign, there were several other staffers who said they never felt pressured to perform campaign work or were unaware of other staff members being compelled to perform campaign work.⁴⁸⁴

ii. Relevant Laws, Rules, and Other Applicable Standards of Conduct

Federal law makes it a crime for a federal employee to secure through intimidation any “valuable thing for any political purpose” from another employee.⁴⁸⁵ The Committee has noted that compelling an employee to do campaign work may violate that provision.⁴⁸⁶ 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.”⁴⁸⁷ 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.”⁴⁸⁸

Compelling, intimidating, or pressuring staff to perform campaign work may violate House Rules, regulations, laws or other standards of conduct, including House Rule XXIII clauses 1 and 2, and paragraph 2 of the Code of Ethics for Government Service.

⁴⁸² ISC Interview of Employee B.

⁴⁸³ *Id.*

⁴⁸⁴ ISC Interview of Employee A; ISC Interview of Employee F; ISC Interview of Employee I; ISC Interview of Employee H; OCE Interview of Employee D (OCE’s Second Referral, Exhibit 5).

⁴⁸⁵ 18 U.S.C. § 606.

⁴⁸⁶ *Ethics Manual* at 136 n.17.

⁴⁸⁷ *Id.* at 135-36.

⁴⁸⁸ *Id.* at 136.

iii. Findings

After consideration of the evidence, the ISC found that, contrary to Representative Schweikert's statements, he regularly pressured Mr. Schwab to do campaign work, particularly campaign fundraising. In this regard, Mr. Schwab's testimony was aligned with that of Employee B, who testified Representative Schweikert was "pushing [Mr. Schwab] really hard" to fundraise and another staff member recalled instances in which Representative Schweikert instructed Mr. Schwab to leave the congressional office to attend to campaign related matters.⁴⁸⁹ The ISC also received contemporaneous emails Mr. Schwab sent Representative Schweikert where he discussed his need to enlist other staff to help reach the campaign's fundraising goal or referenced a general pressure to fundraise.⁴⁹⁰

The ISC also received a range of testimony regarding other staff's experiences in the congressional office regarding campaign work. Many staff members said they felt no pressure at all to perform campaign work and that to the extent any campaign work was done, it was performed voluntarily.⁴⁹¹ For example, a staffer responsible for coordinating Representative Schweikert's schedule testified that she volunteered on her own time to help on campaign events and denied ever getting involved in handling campaign logistics; however her predecessor complained about having to perform campaign work outside of working hours and without compensation.⁴⁹² Two staff members did testify that they believed there was an expectation to assist the campaign,⁴⁹³ and one of those staffers, Employee B, ultimately left the office after Mr. Schwab advised him that he would need to take a forty percent pay cut and have his performance judged on fundraising.⁴⁹⁴ Employee B further testified that he did not inform Representative Schweikert of Mr. Schwab's ultimatum because he did not think Representative Schweikert would have listened.⁴⁹⁵ While the ISC did not find that all staff were compelled to perform campaign work, nor did the ISC find that Representative Schweikert himself directly pressured any staff other than Mr. Schwab to perform campaign work, the fact remains that at least three other staff members who worked in Representative Schweikert's congressional office felt there was a requirement or expectation to assist with his campaign.

The ISC recognizes that Mr. Schwab made efforts to style his campaign-related requests as voluntary or optional by using terms such as "only do this if you're comfortable."⁴⁹⁶ Nonetheless, those caveats did not allay some staffers' feeling of pressure. According to one staff member, the qualifier that staff should only do the task if they were comfortable was "only a "cover

⁴⁸⁹ ISC Interview of Employee B; ISC Interview of Employee A.

⁴⁹⁰ *See e.g.*, Exhibit 93. These emails were not included in Representative Schweikert's document productions to the ISC.

⁴⁹¹ ISC Interview of Employee A; ISC Interview of Employee F; ISC Interview of Employee I; ISC Interview of Employee H; OCE Interview of Employee D (OCE's Second Referral, Exhibit 5).

⁴⁹² ISC Interview of Employee A; ISC Interview of Employee G; OCE Interview of Employee B (Second Referral, Exhibit 3).

⁴⁹³ ISC Interview of Employee G; OCE Interview of Employee C (OCE's Second Referral, Exhibit 2); ISC Interview of Employee B.

⁴⁹⁴ ISC interview of Employee B (noting that he was expected to staff events).

⁴⁹⁵ *Id.*

⁴⁹⁶ *See e.g.*, Exhibit 96.

your a**” note and still left the staffer feeling like she had to comply with his request, because if she had not, “there would have been a follow-up conversation of why didn’t you do this.”⁴⁹⁷ Indeed, even though, in most cases, Mr. Schwab did not explicitly pressure staff to help with the campaign, his ongoing requests that staff help with campaign work put some in an untenable situation where they felt like they had to comply or risk adverse consequences.⁴⁹⁸

In a recent matter, the Committee cautioned Members that they wield “enormous influence over their staff,” and should therefore take caution to ensure that when staff assist with their campaigns, they do not feel any pressure or expectation to do so.⁴⁹⁹ Senior staff and other employees with supervisory responsibilities should also heed this guidance, as even requests for voluntary assistance, as Mr. Schwab’s were styled, can take on a more coercive meaning when succeeded by follow-up questions of why the task was not performed.

The *Ethics Manual* cautions that the prohibition against compelled campaign work is “quite broad” and 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.”⁵⁰⁰ The Committee has found that requiring a House employee to perform campaign work is a violation of House Rule XXIII, clause 1, as such behavior does not reflect creditably on the House, and clause 2, as failing to abide by the spirit and letter of House and Committee Rules.⁵⁰¹

Although the instances of compelled campaign work in this matter often centered around Mr. Schwab’s conduct and were not as egregious as prior matters in which the Member played a substantial and direct role in pressuring numerous staff to engage in campaign work,⁵⁰² they were, nevertheless, inconsistent with the Committee’s prior guidance. Moreover, the Committee has found Members liable for the conduct of their staff when the Member knew or had reason to know of the improper conduct.⁵⁰³

The pressure to fundraise that Representative Schweikert placed on Mr. Schwab was not only inconsistent with the Committee’s guidance, but it appears to have led to further violations by Mr. Schwab, as Mr. Schwab noted the pressure he was under contributed to his decision to “maximize the resources around him” to raise funds.⁵⁰⁴ Mr. Schwab’s conduct in seeking campaign assistance from staff was improper to the extent that his requests caused staff to feel pressured to assist the campaign. In addition, Employee B’s testimony regarding the ultimatum he was given raises serious concerns that Mr. Schwab may have attempted to compel campaign

⁴⁹⁷ ISC Interview of Employee G.

⁴⁹⁸ ISC Interview of Employee C; ISC Interview of Employee G.

⁴⁹⁹ *Rodgers* at 46-47.

⁵⁰⁰ *Ethics Manual* at 135-36.

⁵⁰¹ Comm. on Standards of Official Conduct, *In the Matter of Representative Barbara-Rose Collins*, H. Rept. 104-876, 104th Cong. 2d Sess. (Jan. 2, 1997) (hereinafter *Collins*); Comm. on Standards of Official Conduct, *In the Matter of Representative Jim Bates*, H. Rept. 101-293, 101st Cong. 1st Sess. (Oct. 18, 1989); *Richardson*.

⁵⁰² *Richardson*.

⁵⁰³ *Richardson* at 97. (“Members are responsible for violations that occur in their office, and cannot shield themselves from liability by using staff as proxy for wrongdoing.”).

⁵⁰⁴ ISC Interview of Oliver Schwab.

work in violation of federal law. However, Mr. Schwab denied the allegations and the ISC did not find direct evidence that Representative Schweikert was aware of Mr. Schwab's alleged ultimatum.

Representative Schweikert's lax oversight over his congressional office, however, did not cultivate an environment where staff felt like they could bring concerns without retributions. Instead, at least some of the staff who felt that Mr. Schwab's requests were inappropriate believed Representative Schweikert would not listen or were concerned that such discussions would lead to broader questions of their commitment to Representative Schweikert and lead to adverse employment consequences.⁵⁰⁵ Moreover, as discussed above, the ISC received substantial evidence that Representative Schweikert himself, both directly and indirectly, pressured Mr. Schwab to perform campaign work. While Mr. Schwab was an employee of the campaign, the emphasis Representative Schweikert appears to have placed on his fundraising efforts nonetheless implicated the prohibition on compelled campaign work. Mr. Schwab may have been an integral part of Representative Schweikert's campaign, as many chiefs of staff are, but that does not mean that a Member can require that whoever holds the role of a chief of staff to raise money for a political campaign. Due to pressure from Representative Schweikert, Mr. Schwab was under the impression that his congressional position was tied to his fundraising success, creating an impermissible official subsidy.⁵⁰⁶

For the reasons discussed above, the ISC determined that by engaging in the conduct described above, particularly by failing to adequately supervise his staff, Representative Schweikert did not act in a manner that reflected creditably on the House, in violation of House Rule XXIII, clause 1.

4. Findings Relating to Mixed-Purpose Trip

i. Background

Representative Schweikert's MRA was used to pay approximately \$6,000 for a six-day trip Mr. Schwab took to Phoenix, Arizona from Wednesday, January 28, 2015, through Monday, February 2, 2015 (Phoenix trip), including 5 nights of lodging totaling \$4,027.07.⁵⁰⁷ Hotel and other travel-related costs were higher than normal on those dates because Phoenix was hosting the Super Bowl as well as the Phoenix Open golf event that same weekend. Mr. Schwab's trip to Arizona included some officially-connected work, including management of personnel issues in the district office.⁵⁰⁸ Mr. Schwab also asserted that a dinner he attended over the weekend while

⁵⁰⁵ OCE interview of Employee C (OCE's Second Referral, Exhibit 2); ISC Interview of Employee B.

⁵⁰⁶ ISC Interview of Oliver Schwab ("Primary fundraiser, campaign manager, executive director. I would say the person who spent time going door to door, collecting petitions. I spent a lot of time doing volunteer management. There was a D.C. PAC component which needed constant energy and effort. And so, all of those would fall into the overall structure of being campaign manager. But then again that's what—that also was understood in my role to be his chief of staff.").

⁵⁰⁷ Exhibit 100.

⁵⁰⁸ Exhibit 101.

in the district was related to his official duties.⁵⁰⁹ However, the primary purpose for going to Phoenix, as well as his travel on the two weekend days—including the day of the Super Bowl—was not officially-connected.

On January 24, 2015, Mr. Schwab emailed the financial administrator for Representative Schweikert’s congressional office and another employee the following message regarding his Phoenix Trip:

I wanted to give a heads up that my trip out next week will end up being about \$4,000 for the hotel and about \$1,000 for the rental car. Being Phoenix open and Superbowl weekend in Phoenix, I apologize for this -- but it’s a priority for [Representative Schweikert] that I’m on the ground to help as we host events with the House Majority Leader, other visiting Members, and I’ve got those 2 personel [sic] issues we need to get out of the way.⁵¹⁰

Despite Mr. Schwab’s assertions, the financial administrator could not find any documentation of personnel changes involving district staff around this time.⁵¹¹

Mr. Schwab initially testified that the primary purpose of his trip was to perform “constituency activities,” but later acknowledged that he had “always intended” to be in Arizona at this time so that Representative Schweikert could host a fundraiser at the Phoenix Open to raise his National Republican Campaign Committee dues.⁵¹²

Mr. Schwab engaged in some official activities during the weekday portions the Phoenix trip, including attending to a personnel matter; however, the only official activity he could recall potentially performing during the weekend portion of the trip was an industry event on Saturday morning and attending a dinner.⁵¹³ The shared office calendar for this time period did not reflect Mr. Schwab engaging in any official activities.⁵¹⁴

Mr. Schwab admitted to performing the following non-official activities during his Phoenix Trip: having meals with his mother, brother, and wife, who were also visiting Phoenix at the same time; and attending a theater production with his wife.⁵¹⁵ Mr. Schwab’s credit card records for the same period also showed that he engaged in retail shopping during the day on Friday, January 30, 2015.⁵¹⁶ Mr. Schwab also attended a political event that Representative Schweikert co-hosted with

⁵⁰⁹ ISC Interview of Oliver Schwab.

⁵¹⁰ Exhibit 101.

⁵¹¹ ISC Interview of Financial Administrator.

⁵¹² ISC Interview of Oliver Schwab. Mr. Schwab also said that, even if the Phoenix Open had not taken place that weekend, he still would have made the trip, as the personnel matter “needed to be dealt with that Friday.” *Id.*

⁵¹³ *Id.*

⁵¹⁴ Exhibit 102.

⁵¹⁵ ISC Interview of Oliver Schwab.

⁵¹⁶ Exhibit 103.

the majority leader.⁵¹⁷ Mr. Schwab testified that he did not attend the Super Bowl, though he did purchase tickets to the event for members of his family.⁵¹⁸

Representative Schweikert testified that Mr. Schwab had autonomy over the use of MRA funds for travel and said he had “no idea” what the primary purpose of Mr. Schwab’s Phoenix trip was. He further asserted: “all I can say is if he came to Arizona and use[d] the MRA, he better darn well have had official business. And I assume he did.”⁵¹⁹

On or about June 13, 2018, Mr. Schwab sent a check for \$5,068 to the U.S. Treasury for expenses associated with the Phoenix Trip as “repayment for travel/out of abundance of caution.”⁵²⁰ Mr. Schwab testified that this amount included costs associated with his flight, hotel and rental car.⁵²¹ He decided to reimburse the Treasury on his own initiative, following the publication of a news article questioning his spending, because, “[i]f, in a taxpayer-funded role, it’s deemed that I misspent dollars, which was alleged in the paper, I’m happy to repay it.”⁵²²

ii. Relevant Laws, Rules, and Other Standards of Conduct

The “Purpose Law,” 31 U.S.C. § 1301(a), states that “[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.” 2 U.S.C. § 5341(a) states that “[t]here is established for the House of Representatives a single allowance, to be known as the ‘Members’ Representational Allowance’, which shall be available to support the conduct of the official and representational duties of a Member of the House of Representatives with respect to the district from which the Member is elected.”

MRA expenditures are reimbursable according to regulations contained in the *Members’ Handbook*, which provides examples of items for which reimbursement may be permitted, as well as a list of prohibited expenditures.⁵²³ Generally, the MRA “may only be used for official and representational expenses,” and “may not be used to pay for any expenses related to activities or events that are primarily social in nature, personal expenses, campaign or political expenses, or House committee expenses.”⁵²⁴ The *Ethics Manual* states: “Members may be personally liable for misspent funds or expenditures exceeding the MRA.”⁵²⁵

The *Ethics Manual* further explains that, with respect to mixed purpose trips:

⁵¹⁷ ISC Interview of Representative Schweikert; ISC Interview of Oliver Schwab.

⁵¹⁸ ISC Interview of Oliver Schwab.

⁵¹⁹ ISC Interview of Representative Schweikert.

⁵²⁰ On June 8, 2018, the Committee advised Mr. Schwab that refunding portions of this trip that were official could be a violation of House Rule XXIV, which provides that outside funds generally may not be used to pay the official expenses of a congressional office. Exhibit 3.

⁵²¹ ISC Interview of Oliver Schwab.

⁵²² *Id.*

⁵²³ *Members’ Handbook*.

⁵²⁴ *Ethics Manual* at 323.

⁵²⁵ *Id.* See *Members’ Handbook* (“Each 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.”).

[T]he Member, officer, or employee must determine the primary purpose of the trip. The source associated with that primary purpose – for example, a political committee for campaign or political activity, the federal government for official business, or the traveler’s own funds for personal business – must pay for the airfare (or other long-distance transportation expense), and all other travel expenses incurred in accomplishing that purpose. 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. The determination of the primary purpose of a trip must be made in a reasonable manner, and one relevant factor in making that determination is the number of days to be devoted to each purpose. That is, often the primary purpose of a trip is the one to which the greater or greatest number of days is devoted.⁵²⁶

iii. Findings

The ISC determined that at least two days of Mr. Schwab’s trip to Phoenix were primarily spent on non-official activities. Representative Schweikert’s MRA should not have been used to fund those portions of his trip, as the *Ethics Manual* makes clear that, “any additional meal, lodging, or other expenses” incurred in serving a secondary purpose of a mixed purpose trip should be paid by the source associated with that secondary purpose.

While Members are free to delegate certain oversight responsibilities regarding travel expenditures to their staff, they should exercise caution and clearly communicate expectations regarding the proper use of MRA to the staff who are given such authority. Representative Schweikert, however, did not apparently, clearly communicate such expectations to Mr. Schwab, when providing him autonomy over the use of MRA for travel, he only “assume[d]” Mr. Schwab would only use the MRA for official purposes.⁵²⁷ The risk of misuse due to such inattention was heightened when coupled with Mr. Schwab’s substantial involvement with the campaign.

Members must reimburse the U.S. Treasury for impermissible disbursements from the MRA, even where the exact amount of such disbursements cannot be determined.⁵²⁸ In this matter, the ISC could not precisely quantify the value of official resources used for Mr. Schwab’s personal benefit or for political purposes, but because Mr. Schwab has already refunded the U.S. Treasury \$5,068, to account for any misspent funds associated with his trip, no further steps are required.⁵²⁹

⁵²⁶ *Ethics Manual* at 116.

⁵²⁷ ISC Interview of Representative Schweikert.

⁵²⁸ Comm. on Ethics, *In the Matter of Allegations Relating to Representative Luis V. Gutiérrez*, H. Rept. 115-617, 115th Cong. 2d Sess. 28 (2018) (hereinafter *Gutiérrez*); Comm. on Ethics, *In the Matter of Allegations Relating to Representative Bobby L. Rush*, H. Rept. 115-618, 115th Cong. 2d Sess. 14-23 (2018).

⁵²⁹ ISC Interview of Oliver Schwab. Although Members are ultimately liable for impermissible disbursements, the *Ethics Manual* also advises that any additional meals, 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. *Ethics Manual* at 116. In this case, it was appropriate for Mr. Schwab to reimburse the portions of his trip that were connected to his personal activities.

The ISC determined that the misuse of Representative Schweikert’s MRA to fully fund Mr. Schwab’s mixed-purpose trip fell within the broader pattern of misuse of resources for non-official purposes that was facilitated by Representative Schweikert’s failure to adequately supervise staff. Although the mixed-use trip on its own may not merit a finding of a violation of the Code of Official Conduct, the systemic misuse of official resources, led to the ISC’s determination that Representative Schweikert failed to uphold the laws and regulations of the United States, including 31 U.S.C. § 1301 and other standards of conduct, including the implementing policies contained in the *Members’ Handbook*, and was a party to their non-compliance, in violation of paragraph 2 of the Code of Ethics for Government Service and did not act in a manner that reflected creditably on the House, in violation of House Rule XXIII, clause 1.

5. Findings Related to Allegations of MRA Misuse

i. Background

The ISC also considered allegations that Representative Schweikert’s MRA was misused, at Mr. Schwab’s direction, for office supply purchases and a training program.

Representative Schweikert’s MRA was used to pay \$7,400 for Mr. Schwab to attend a Harvard Executive Education course titled “Leadership Decision Making: Optimizing Organizational Performance” from October 23 to October 28, 2016.⁵³⁰ On October 29, 2016, Mr. Schwab asked the congressional office’s financial administrator if he could be reimbursed for the training after learning from another public official who attended the event that that their employer had paid for them to attend.⁵³¹ Financial Administrator advised him that training may be paid by the House if it primarily benefits the office (rather than the individual), but noted that given the size of the training, it should have been budgeted beforehand.⁵³² Mr. Schwab was reimbursed for this training on December 30, 2016.⁵³³

Between 2011 and 2018, Mr. Schwab regularly received reimbursements from Representative Schweikert’s MRA for office supply purchases. These purchases ranged from standing desks to cutting boards.⁵³⁴ Over the course of eight years, Mr. Schwab was reimbursed by the MRA for over \$50,000 worth of items, including food and beverage purchases (\$3,847.24), office supplies (\$29,821.43), and publications and reference material (\$19,267.74).⁵³⁵

Representative Schweikert was not involved in the day-to-day management of his office operations, including management of his MRA, but he did generally inquire about the office’s

⁵³⁰ See Exhibit 104. The course included sessions on conflict resolution, ethics and decision making, and operational decision challenges. *Id.*

⁵³¹ Exhibit 105.

⁵³² Exhibit 106.

⁵³³ Statement of Disbursements of the House, (Oct. 1, 2016 – Dec. 31, 2016), at 1704.

⁵³⁴ Exhibit 107; Exhibit 108.

⁵³⁵ Exhibit 121.

overall finances and instruct staff to stay under budget.⁵³⁶ As one former staff member testified, Representative Schweikert “liked to stay above the day-to-day operations in his office. He didn’t want to get down in the weeds on a lot of things, a lot of how things were produced and things like that. As long as it didn’t blow back and touch him directly, he was really a hands-off Member in terms of day-to-day operations.”⁵³⁷

Representative Schweikert testified that he was “shocked” to learn from a news article that Mr. Schwab was reimbursed by the MRA for tens of thousands of dollars’ worth of office supplies.⁵³⁸ However, he was generally aware of Mr. Schwab’s office spending as it was occurring, as two former staff members recalled Representative Schweikert sometimes laughed or joked about Mr. Schwab’s spending habits.⁵³⁹ In addition, in 2014 or 2015, Representative Schweikert’s campaign manager raised concerns with Representative Schweikert about the volume of reimbursements that Mr. Schwab was receiving from the congressional office.⁵⁴⁰ Representative Schweikert said that he would look into the issue; however, the frequency and amounts of Mr. Schwab’s reimbursements did not subside after that conversation.⁵⁴¹

Representative Schweikert has now expressed concerns that Mr. Schwab’s reimbursements may have been driven by a desire to accrue airline miles on his credit card.⁵⁴² Mr. Schwab, however, denied that he made purchases for the office that could be reimbursed through the MRA to benefit his credit card points or airline miles.⁵⁴³ Some staff members also questioned the propriety of certain purchases Mr. Schwab made for the office. For example, Employee B testified that he argued with Mr. Schwab over a Dyson air fan that was bought for the office but which cost hundreds of dollars,⁵⁴⁴ and Employee E said he believed that an electronic heating unit Mr. Schwab purchased was unnecessary.⁵⁴⁵ The former financial administrator also testified that she raised

⁵³⁶ ISC Interview of Financial Administrator. On one occasion in 2016, Representative Schweikert asked his financial administrator to prepare a chart comparing the spending of his office to other congressional offices. *Id.* The ISC did not receive evidence indicating that the office ever went over its allotted budget. ISC Interview of Employee A; ISC Interview of Financial Administrator.

⁵³⁷ OCE Interview of 2012 Campaign Manager (OCE’s Second Referral, Exhibit 6); *see* ISC Interview of Employee H.

⁵³⁸ ISC Interview of Representative Schweikert (referencing the Nov. 2, 2017 *Washington Examiner Article*).

⁵³⁹ ISC Interview of Employee B; ISC Interview of Financial Administrator.

⁵⁴⁰ ISC Interview of Campaign Consultant. Mr. Schwab also raised concerns with Representative Schweikert that Campaign Consultant was paid by the campaign and MRA for work that was not performed. According to Representative Schweikert, Campaign Consultant and Mr. Schwab “would run hot and cold” and often “fussed at each other.” ISC Interview of Representative Schweikert.

⁵⁴¹ ISC Interview of Campaign Consultant.

⁵⁴² ISC Interview of Representative Schweikert.

⁵⁴³ ISC Interview of Oliver Schwab. Mr. Schwab also testified that Representative Schweikert requested that Mr. Schwab use his airline miles for campaign travel under the logic that the points had been accrued through credit card spending that had come as a result of reimbursements from the MRA or campaign. *Id.* Representative Schweikert generally denied making such comments. ISC Interview of Representative Schweikert. The ISC did find instances in which Mr. Schwab may have received duplicate reimbursements from the campaign and MRA for items used in the congressional office. Mr. Schwab testified that this was an unintended mistake. ISC Interview of Oliver Schwab.

⁵⁴⁴ ISC Interview of Employee B; Exhibit 109.

⁵⁴⁵ ISC Interview of Employee C.

issues with Mr. Schwab about purchasing items that could have been bought from the House supply store or obtained for free from the House.⁵⁴⁶

No staffer, however, testified that they believed Mr. Schwab was reimbursed for items that were not used in the office.⁵⁴⁷ The ISC also received testimony and documents indicating that members of Representative Schweikert's staff frequently sought guidance from Committee on House Administration staff or House Finance in connection with Mr. Schwab's reimbursement requests.⁵⁴⁸

After the initiation of OCE's investigation into spending practices in his congressional office, Representative Schweikert enacted steps to limit the practice of staff receiving reimbursements for office supply purchases.⁵⁴⁹

ii. Relevant Laws, Rules, and Other Applicable Standards of Conduct

Federal law mandates that “[a]ppropriations shall be applied only to the objects for which the appropriations were made . . .” MRA expenditures are reimbursable according to regulations contained in the *Members' Handbook*, which provides examples of items for which reimbursement may be permitted, as well as a list of prohibited expenditures.⁵⁵⁰

The *Members' Handbook* provides:

Ordinary and necessary expenses for Members or employees to attend vendor-sponsored conferences, seminars, briefings, professional training, and informational programs related to the official and representational duties to the district from which he or she is elected are reimbursable.

Reimbursements are not permissible for expenses “to attend educational programs in order to obtain a primary, secondary, graduate, postgraduate, or professional degree” or those associated “with acquiring or maintaining professional certification or licensing are not reimbursable, except for basic first-aid, CPR, or notary certifications.”⁵⁵¹

Regarding purchases for office items, the *Members' Handbook* explains that “[o]ffice supplies to support the conduct of the Member's official and representational duties are reimbursable.”⁵⁵² Certain items, such as furniture, are not reimbursable for congressional offices based in Washington, D.C., and other items, such as paint require pre-approval prior being purchased.

⁵⁴⁶ ISC Interview of Financial Administrator.

⁵⁴⁷ See e.g., ISC Interview of Employee B; Interview of Employee A (noting she never had concerns that Mr. Schwab was spending too much on office supplies).

⁵⁴⁸ See e.g., Exhibit 110; ISC interview of Financial Administrator (noting that the House finance office can reject reimbursement requests).

⁵⁴⁹ ISC Interview of Employee H; ISC Interview of Employee A.

⁵⁵⁰ *Members' Handbook*.

⁵⁵¹ *Id.*

⁵⁵² *Id.*

iii. Findings

The ISC did not find substantial reason to believe that Representative Schweikert's MRA was misused to pay for a \$7,400 training program Mr. Schwab attended. The *Members' Handbook* explicitly allows for expenditures connected to professional trainings as well as seminars and briefings, so long as the expenses are not incurred in connection with obtaining a professional degree or professional certification. Mr. Schwab maintained that the course was "100% better management and human resources decision making" and testified that it was not taken in connection with obtaining any advanced degrees or professional certifications.⁵⁵³ The training curriculum, which included courses on operational decision challenges is consistent with Mr. Schwab's testimony. Accordingly, the ISC did not conclude that funds were misspent in connection with this program.

Although Mr. Schwab received a significant amount of reimbursements for office purchases from Representative Schweikert's MRA, the ISC did not receive evidence that the purchases were not used for the benefit of the congressional office or that the items were not used to support Representative Schweikert's representational duties. On the contrary, witnesses testified that while they may have questioned the volume of Mr. Schwab's purchases and certain items, they had no reason to believe that he used the items for his own personal benefit.⁵⁵⁴ In addition, the ISC notes that members of Representative Schweikert's staff frequently corresponded with staff at the Committee on House Administration if they had questions about Mr. Schwab's reimbursement requests.⁵⁵⁵ On this record, the ISC did not find substantial reason to believe that Representative Schweikert's MRA was misused in connection with office supply purchases. The ISC notes, however, that Representative Schweikert should have engaged in more proactive supervision of Mr. Schwab's spending in this context, as with the others areas discussed in this Report, particularly in light of the substantial sum of money that Mr. Schwab was spending and concerns that were raised directly with him about that sum.

6. Allegations that Representative Schweikert May Have Authorized an Improper "Severance" Payment to Employee B

i. Background

As discussed above, Employee B alleged that, in October 2016, Mr. Schwab offered him the option of staying in the office with a 40 percent pay cut while his performance would be judged on fundraising; according to Employee B, as an alternative, he could take a six-month severance package.⁵⁵⁶ Employee B chose to accept the severance offer, which was originally intended to begin in January 2017.⁵⁵⁷

⁵⁵³ ISC Interview of Oliver Schwab; Exhibit 106.

⁵⁵⁴ OCE Interview of Employee B (OCE's First Referrals, Exhibit 4); OCE Interview of 2012 Campaign Manager (OCE's Second Referral, Exhibit 6) ("I do not recall a specific time where I saw [Mr. Schwab] directly using MRA funds in a way that was inappropriate, illegal, or anything like that.").

⁵⁵⁵ ISC Interview of Financial Administrator; ISC Interview of Employee A.

⁵⁵⁶ ISC Interview of Employee B.

⁵⁵⁷ OCE interview of Employee B (Second Referral, Exhibit 3).

Employee B testified that, in November 2016, Mr. Schwab informed Employee B that the office would not be able to honor the severance agreement and that his last day in the office would be January 3, 2017.⁵⁵⁸ At that time Mr. Schwab stated that Employee B's presence in the office was causing "confusion" and that he did not want him to come in any more.⁵⁵⁹ Employee B's last physical day in the office was November 21, 2016 and he was paid a full salary up until January 3, 2017.⁵⁶⁰

Despite instructing Employee B not to come into the office, Mr. Schwab made clear to Employee B and other staff that he expected him to be available perform official work as needed. On November 22, 2016, Mr. Schwab noted in an email to another staff member that, "as long as [Employee B] is on payroll," he would continue to forward outside requests to him.⁵⁶¹ On November 30, 2016, Mr. Schwab assured Employee B that he would continue to be compensated until January 3, 2017, but noted that it was still important that they "have an open line of communication" and that Employee B "document any official responsibilities . . . done in service to the office" as Employee B "continue[d] to be compensated by the office."⁵⁶² In response, Employee B thanked Mr. Schwab for committing to his compensation and advised that he would not seek additional compensation from the office after January 3, 2017.⁵⁶³

Employee B did perform some official tasks between November 21, 2016 and January 3, 2017. He originally estimated that he worked on an official project over the course of two or three days but then noted, "[i]t may have been longer."⁵⁶⁴ Employee B also performed a series of other official tasks on an *ad hoc* basis, including corresponding with other legislative staff members and meeting with outside individuals,⁵⁶⁵ as well as tasks related to his transition out of the office.⁵⁶⁶ Between November 21, 2016 and January 3, 2017, Employee B also took a pre-planned two week vacation and the office was closed on Wednesday through Friday of Thanksgiving week and the week of Christmas.⁵⁶⁷

Mr. Schwab testified that he generally sought assistance from the Office of House Employment Counsel (OHEC) in connection with staff terminations, including Employee B's.⁵⁶⁸ Mr. Schwab also consulted with the office's Financial Administrator regarding Employee B's

⁵⁵⁸ *Id.*

⁵⁵⁹ *Id.*

⁵⁶⁰ ISC Interview of Employee B; Exhibit 114.

⁵⁶¹ Exhibit 111.

⁵⁶² Exhibit 112.

⁵⁶³ Exhibit 113.

⁵⁶⁴ ISC Interview of Employee B.

⁵⁶⁵ *Id.*; ISC Interview of Employee A ("From the best of my recollection [Employee B] was still sending emails in November and December."); *see e.g.* Exhibit 115 (Dec. 6, 2016 email from Employee B to staff regarding Trills and Long Term Bonds); Exhibit 116 (Nov. 29, 2016 email to Mr. Schwab attaching a memorandum Employee B prepared); Exhibit 117 (Nov. 30, 2016 email noting that he attended a meeting related to a project Representative Schweikert assigned).

⁵⁶⁶ *See e.g.*, Exhibit 118.

⁵⁶⁷ ISC interview of Employee B.

⁵⁶⁸ ISC Interview of Oliver Schwab.

departure, and she was aware that Employee B was not going to be showing up to the office for several weeks.⁵⁶⁹

Representative Schweikert could not recall a time in which Employee B was kept on payroll while not coming into the office, but testified that Mr. Schwab informed him at the time that Employee B's departure was "approved by House personnel."⁵⁷⁰ There was evidence that Mr. Schwab sought OHEC's assistance in prior employee separations, however, relevant OHEC records related to Employee B's separation, to the extent any existed, were not preserved by the congressional office. On May 21, 2019, Representative Schweikert's counsel informed the ISC that the congressman's staff contacted OHEC to request a "personnel file" for Employee B and that OHEC advised "they only provide guidance, and that they do not serve as repository for personnel documents."⁵⁷¹

ii. Relevant Laws, Rules, and Other Applicable Standards of Conduct

Federal law requires that appropriated funds "be applied only to the objects for which the appropriations were made except as otherwise provided by law."⁵⁷² House Rule XXIII, clause 8 states "[a] Member . . . of the House may not retain an employee who does not perform duties for the offices of the employing authority commensurate with the compensation such employee receives." The Code of Ethics for Government Service further instructs every employee to "[g]ive a full day's labor for a full day's pay,"⁵⁷³ and CHA regulations require employing Members to submit monthly salary certifications for their staff to ensure compliance with applicable regulations.⁵⁷⁴

House Rule XXIII, clause 8 aims to prevent fraud or misuse of the House payroll, particularly the use of "ghost employee" schemes. In such schemes, an employee is recorded on the payroll, but—with the Member's knowledge—does not perform official work equivalent to the earnings he or she collects. The "ghost employee" may be a real individual, or a fictitious person who is misrepresented on payroll records as a *bona fide* employee, whose wage or salary payments are then used for some impermissible purpose.⁵⁷⁵ The Committee has found violations of the "ghost employee" rule in cases even where a Member did not profit or otherwise obtain a financial benefit from the misuse of official funds appropriated for staff compensation, but retained and paid

⁵⁶⁹ ISC Interview of Financial Administrator.

⁵⁷⁰ ISC Interview of Representative Schweikert.

⁵⁷¹ Exhibit 119 (May 21, 2019 letter to ISC); *see* ISC Interview of Employee H ("I reached out to [OHEC], asking for documents in general. I was really surprised to learn that they don't really seem to keep them.")

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

⁵⁷³ Code of Ethics for Government Service ¶ 3.

⁵⁷⁴ *Members' Handbook*. *See also Ethics Manual* at 277.

⁵⁷⁵ *See U.S. v. Robinson*, 903 F. Supp. 2d 766, 791 (E.D. Mo. 2012) ("[A]n employee who receives salary money for time in which he did not work or perform services is a 'ghost' employee who is not receiving bona fide salary or wages."); *U.S. v. Harloff*, 815 F. Supp. 618, 619 (W.D.N.Y. 1993) (citing *U.S. v. Stout*, 1990 U.S. Dist. LEXIS 12343) (E.D. Pa. 1990) (noting that 18 U.S.C. § 666(c) authorizes prosecution based on "ghost employees," or situations in which an employee "invents fictitious workers and collects their 'wages' for his/her own use.").

an employee when the Member knew the employee was not physically present to perform official work.⁵⁷⁶

iii. Findings

The ISC did not find substantial reason to believe that a House Rule XXIII, clause 8 violation occurred in connection with the office's payments to Employee B during a six-week period in which he did not physically come into the office. The record demonstrates that Employee B performed official work during that period and that the payments within that timeframe were not intended to serve as severance. Indeed, Mr. Schwab's communications with Employee B indicated that Employee B was expected to continue to work as long as he was compensated by the office.⁵⁷⁷

In more recent matters, the Committee has clarified that a lump sum payment of severance does not necessarily run afoul of House Rule XXIII, clause 8, but leaving an employee on House payroll when they are not working does. In the *Matter of Representative Mark Meadows*, the Committee found that Representative Meadows' payment of "severance," by keeping an employee on House payroll for two months without performing any work, violated the letter and spirit of House Rule XXIII, clause 8, in part because Representative Meadows sought no guidance from OHEC, the Committee, or any of the other appropriate source in determining the amount, terms, or conditions of the "severance," and because "Representative Meadows [] did not obtain anything of discernable value to the House in exchange for the 'severance' he paid."⁵⁷⁸ In that matter, the Committee noted that the employee's pay, which lasted a two and a half month period, "was in no way *de minimis*."⁵⁷⁹

The Committee, however, has recognized that not all severance payments violate House Rule XXIII, clause 8.⁵⁸⁰ In the *Matter of Elizabeth Esty*, the Committee found that she did not violate any House Rules in connection with a severance agreement because "Representative Esty paid a lump sum payment to [staffer], relying on the advice of OHEC, in exchange for his waiver of any legal claims and various additional commitments to ensure a smooth transition, such as writing an exit memo and surrendering all his passwords and equipment."⁵⁸¹ In reaching this

⁵⁷⁶ In *Murphy*, the Committee recommended, and the House voted to issue, a reprimand to Representative Murphy for various violations of law and House rules, including hiring and retaining an individual on his subcommittee staff who did not perform duties that commensurate with the compensation he received. In *Collins*, the Committee found Representative Collins violated House Rule XXIII, cl. 8, by providing several of her staff members with temporary salary raises that did not commensurate with official duties they performed. In *The Matter of Representative Charles H. Wilson*, the Committee found Representative Wilson hired a person whose salary was not commensurate with duties performed, in violation of XXIII, cl. 8, when he employed a friend and political supporter as a congressional staffer. Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson*, H. Rept. 96-930, 96th Cong. 2d. Sess. 2 (1980).

⁵⁷⁷ Exhibit 112.

⁵⁷⁸ Comm. on Ethics, *In the Matter of Allegations of Relating to Representative Mark Meadows*, H. Rept. 115-1042, 115th Cong. 2d. Sess. 35 (2018) (hereinafter *Meadows*).

⁵⁷⁹ *Id.* at 36.

⁵⁸⁰ See Comm. on Ethics, *In the Matter of Allegations of Relating to Representative Elizabeth Esty*, H. Rept. 115-1093, 115th Cong. 2d. Sess. 28-30 (2018).

⁵⁸¹ *Id.* at 30.

conclusion, the Committee noted that the question of the permissibility of severance under House Rule XXIII, clause 8 has been a longstanding subject of discussion and inconsistent guidance.⁵⁸²

The amount of time Employee B remained on payroll without performing official duties is minimal when accounting for the periods of time in which the office was closed for Thanksgiving and Christmas holiday periods, Employee B's pre-planned two-week vacation, and the time he actually spent performing official work.⁵⁸³ In addition, the evidence does not indicate that the compensation Employee B received during this period was truly a "severance," as he continued to perform work and help with his transitioned out of the office. Moreover, the ISC received evidence indicating that Employee B's termination was, at a minimum, effectuated with the knowledge of the office's Financial Administrator and that Representative Schweikert believed it was done in consultation with OHEC. In light of these circumstances, the ISC declined to find a House Rule XXIII, clause 8 violation.

C. Findings Relating to Financial Disclosure Statements

i. Background

OCE's Second Referral detailed a number of alleged errors and omissions in Representative Schweikert's Financial Disclosures including: (1) the failure to disclose the existence and/or purchase of certain rental properties as well as liabilities associated with the properties; (2) discrepancies related to real estate income reported on his tax returns and financial disclosure statements; (3) the omission of bank accounts; and (4) the omission of certain credit card liabilities.⁵⁸⁴

In December 2017, Representative Schweikert retained Compliance Firm 2 to assist in reviewing issues related to his campaign's acceptance of outlays from members of his staff. As Compliance Firm 2's review was underway, their role was expanded to assist in reviewing and amending Representative Schweikert's financial disclosure reports.⁵⁸⁵ On October 3, 2018, Representative Schweikert advised the Committee that, with respect to his financial disclosure statements, "Congressman Schweikert acknowledges that he inadvertently made some mistakes in his filings, and he is working diligently to correct those mistakes and amend the appropriate disclosure statements."⁵⁸⁶

Compliance Firm 2 undertook a thorough review of his prior financial disclosures. Following a document subpoena issued by the ISC, Compliance Firm 2 informed the ISC on June 7, 2019 that its work assisting with reviewing and amending Representative Schweikert's Financial Disclosure statements took "longer than expected, given the complexity of the information and the

⁵⁸² *Id.* at 30 n. 215.

⁵⁸³ Compare to *Meadows* at 36 (noting that employee's pay which lasted two and a half months period, during which time no work was performed, "was in no way *de minimis*").

⁵⁸⁴ OCE's Second Referral at 34-41.

⁵⁸⁵ Exhibit 120.

⁵⁸⁶ Exhibit 91.

need to locate old documents, some of which we understand were destroyed in a flood.”⁵⁸⁷ At that time, Compliance Firm 2 provided the ISC with a detailed memorandum summarizing anticipated amendments to Representative Schweikert’s Financial Statements as well as verification reports and underlying documentation in support of the amendments.⁵⁸⁸ In September 2019, Representative Schweikert’s prior Financial Disclosure statements were amended to address the omissions detailed in OCE’s Second Referral and additional errors identified in the course of Compliance Firm 2’s review.⁵⁸⁹

Representative Schweikert denied ever intentionally omitting or misreporting information in his Financial Disclosure statements.⁵⁹⁰ The omissions in his Financial Disclosures were a byproduct of putting his life on “autopilot,” which led him to copy information from year to year: “my sin was taking that financial disclosure saying I haven’t changed anything, I haven’t moved anything I’ve done, copy it and make that the next year.”⁵⁹¹

ii. Relevant Laws, Rules, and Other Applicable Standards of Conduct

Title I of the Ethics in Government Act (EIGA) requires annual financial disclosures by all senior federal personnel, including all Members of the House, candidates for the House, and senior House employees.⁵⁹² Members, officers, and certain employees must annually disclose personal financial interests, including investments, income, and liabilities.⁵⁹³

EIGA requires financial disclosure reports to include “[t]he identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year . . . ,”⁵⁹⁴ “the identity and category of value of the total liabilities owed to any creditor . . . which exceed \$10,000 at any time during the preceding calendar year. . . ,”⁵⁹⁵ and “a brief description, the date, and category of value of any purchase,

⁵⁸⁷ Exhibit 120.

⁵⁸⁸ *Id.*

⁵⁸⁹ See 2010-2017 Amended Financial Disclosures of Representative Schweikert, http://clerk.house.gov/public_disc/financial.aspx. See also Compliance Firm 2 Memorandum and Verification Reports on file with the ISC. Compliance Firm 2 noted that it maintained the asset valuation or income for Sheridan Holdings LLC reported on Representative Schweikert’s original Financial Disclosure because it did not receive asset or income information. Representative Schweikert advised the ISC the income discrepancies between his tax statements and his Financial Disclosures were due to him offsetting income in his tax returns for expenses. He noted that in addition to rental income, his companies may have received commission payments on legacy leases. ISC Interview of Representative Schweikert. The ISC notes that there was additional gross income reported in Representative Schweikert’s 2010 tax return, beyond the \$10,988 amount reported by the OCE, that was attributable to Sheridan Equities. Tax and financial information on file with the ISC.

⁵⁹⁰ ISC Interview of Representative Schweikert.

⁵⁹¹ *Id.* Representative Schweikert advised the ISC that he handed his Financial Disclosures to Mr. Schwab, who advised that he had someone else review it. Mr. Schwab advised the ISC that he was not aware of any information being omitted willfully from Representative Schweikert’s Financial Disclosure statements. ISC Interview of Oliver Schwab.

⁵⁹² Ethics in Government Act of 1978, as amended, 5 U.S.C. app. 4 § 101 *et seq.*

⁵⁹³ *Id.* at §§ 101-111.

⁵⁹⁴ *Id.* § 102(a)(3).

⁵⁹⁵ *Id.* § 102(a)(4).

sale or exchange during the preceding calendar year which exceeds \$1,000- (A) in real property, other than property used solely as a personal residence of the reporting; (B) in stocks, bonds, commodities futures, and other forms of securities.”⁵⁹⁶ House Rule XXVI adopts Title I of EIGA as a rule of the House.⁵⁹⁷

Violations of the laws governing House Financial Disclosure Statements may implicate House Rule XXIII, clauses 1 and 2, which state, “[a] Member . . . of the House shall behave at all times in a manner that shall reflect creditably on the House,” and “shall adhere to the spirit and the letter of the Rules of the House.” If a filer knowingly and willfully falsifies or fails to file or to report any required information, the Committee may take appropriate action.⁵⁹⁸ The EIGA also authorizes the Attorney General to seek a civil penalty.⁵⁹⁹

iii. Findings

Representative Schweikert’s 2010 through 2017 Financial Disclosure statements omitted various information that should have been disclosed, including details related to his real-estate holdings, bank accounts, and liabilities. In some instances, he disclosed some but not all of his real estate holdings, or only disclosed certain bank accounts in some years but not others. Prior to being notified of all the alleged omissions by OCE in September 2018, he sought assistance from Compliance Firm 2 to address any errors. In September 2019, he amended his 2010 through 2017 Financial Disclosure Statements to not only address omissions identified by OCE, but make additional disclosures based on additional omissions that were discovered in the course of Compliance Firm 2’s review.

Absent evidence that errors or omissions on financial disclosures are knowing and willful, the Committee’s general practice is to notify the filer of the error and require that the filer submit an amendment.⁶⁰⁰ Once the amendment is properly submitted, the Committee typically takes no further action.⁶⁰¹ As discussed above, Representative Schweikert amended his 2010 through 2017 Financial Disclosure statements in September 2019 following a thorough review of by Compliance Firm 2.

Representative Schweikert’s amendments to his Financial Disclosures Statements are not uncommon. Between 20 percent and 30 percent of all Financial Disclosure Statements reviewed by the Committee contain errors or require a corrected statement. The ISC did not find evidence that Representative Schweikert’s Financial Statements were knowing or willful. Moreover, his amendments, which not only addressed issues raised by OCE, but made additional disclosures, show his good faith effort to comply with disclosure requirements. Consistent with this precedent, the ISC determined that no further action is required with respect to Representative Schweikert’s Financial Disclosure errors.

⁵⁹⁶ *Id.* § 102(a)(5).

⁵⁹⁷ *See* House Rule XXVI.

⁵⁹⁸ 5 U.S.C. app. 4 § 104(c); *Ethics Manual* at 265.

⁵⁹⁹ 5 U.S.C. app. 4 § 104(a)(1); *Ethics Manual* at 265. Federal criminal law may also be implicated. 5 U.S.C. app. 4 § 104(a)(2).

⁶⁰⁰ Comm. on Ethics Instruction Guide Financial Disclosure Statements and Periodic Transaction Reports (2018), at 8; *see Buchanan*.

⁶⁰¹ *Buchanan* at 5.

D. Lack of Candor and Diligence During the Investigation

i. Background

At the outset of this matter, Representative Schweikert advised the Committee that he intended to cooperate in order to reach an expeditious resolution. To that end, he made multiple submissions of written answers and produced thousands of documents in response to the ISC's requests for information, and encouraged witnesses to cooperate and offered to pay costs (and has paid costs) for staffers to engage an attorney of their own choosing and made himself available for an interview.

While these steps were appreciated and consistent with the general efforts all Members are expected to make in response to the Committee's investigations, the ISC did not believe that Representative Schweikert treated the allegations of misconduct raised by OCE's Referral with sufficient seriousness. His actions instead suggested that he was more concerned with bringing the matter to a close as quickly as possible, while not inclined to actually familiarize himself with all of the allegations or take proactive steps to remedy prior FEC reporting errors.

As a preliminary matter, some of Representative Schweikert's responses to OCE's requests for information were misleading. Rather than produce documents, he directed the OCE to FEC reports even though the information within the reports was inaccurate, as he knew or had reason to know.⁶⁰² Following the receipt of OCE's Second Referral, he offered the Committee vague assurances that he was working with the FEC to correct reporting errors, while not specifically addressing what the specific reporting errors were, and not actually taking meaningful action to address many of the errors raised in OCE's referral. Notably, Representative Schweikert did not advise the FEC of certain reporting errors until January 27, 2020, a year and a half after OCE inquired about those errors. On that date, Representative Schweikert's counsel advised the FEC that he had discovered potential reporting violations "in the course of the ongoing congressional investigation," seeming to suggest that the errors had just been uncovered, and that they were making the disclosure in an effort to be fully transparent, even though the errors were "well beyond FECA's 5-year statute of limitations."⁶⁰³ Yet Representative Schweikert's own dilatory response ensured the statute of limitations had passed.⁶⁰⁴

Although Representative Schweikert produced over 16,003 pages of documents to the ISC in response to its requests for information, he took over a year to produce those documents. The ISC raised concerns about the level of his cooperation in May 2019, when it advised his counsel:

⁶⁰² In addition, through counsel, Representative Schweikert called allegations in a blog entry that questioned whether MPB funds were being used for his campaign "unfounded," when he knew that he had obtained a line of credit from MPB in support of his campaign.

⁶⁰³ Exhibit 8.

⁶⁰⁴ Some of the reporting errors detailed in OCE's Second Referral were within the applicable five-year limitations period. For example, at the time Representative Schweikert received OCE's Second Referral, five years had not elapsed since (1) the filing of his September 2013 memorandum that inaccurately stated that the December 25, 2011 \$100,000 loan had been forgiven and (2) the MPB line of credit obtained in support of his campaign was not repaid until February 2015.

Although you have informed us that Representative Schweikert intends to fully cooperate with the ISC’s investigation, the pace of his response to the RFIs does not reflect such an intent. You have also noted your client’s desire for this matter to be resolved expeditiously, but these delays impede the ISC’s ability to do so.⁶⁰⁵

The ISC further advised that, while it is not uncommon for respondents to experience production delays due to technological issues or the need to review a significant volume of documents, the extent of Representative Schweikert’s delays had gone “beyond what is reasonable.”⁶⁰⁶

The ISC accommodated Representative Schweikert’s request that his interview be conducted as early as practicable and agreed to move-up his interview by two-weeks. During his interview, however, Representative Schweikert was ill-prepared to address many of the allegations under review. During some parts of his testimony, he appeared to be completely unfamiliar with some of the reporting allegations,⁶⁰⁷ and at other times he made statements that could not be reconciled with the evidence.

For example, Representative Schweikert began his testimony by noting, “[r]ember, I’m the person who’s never asked for a reimbursement,” and provided a lengthy response to a question regarding whether congressional staff bought him food, by noting, among other things: “but you don’t understand how absurd that question is, I never even asked for reimbursement, so if I was money-oriented and worried about, I would be billing every little Uber and taxi, and this, and that. I have never, ever requested reimbursement.”⁶⁰⁸ The ISC obtained testimony from multiple staff members that Representative Schweikert was, in fact, money conscious, and it obtained records showing that he sought reimbursements, including a reimbursement for over \$20,000 in home security expenses from his campaign.⁶⁰⁹

Representative Schweikert also denied that members of his congressional staff ever babysat his child in the office, paid for babysitters on his behalf, took his clothes to be dry cleaned, or were stuck with a bill for a staff dinner after Representative Schweikert left the restaurant without paying.⁶¹⁰ As explained previously, the ISC’s record demonstrates that, contrary to his testimony, this conduct did occur.

ii. Relevant Laws, Rules, and Other Applicable Standards of Conduct

Article I, Section 5 of the Constitution grants each chamber of Congress the power to “punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.” The Committee is designated by House rule as the body which conducts the

⁶⁰⁵ Exhibit 122.

⁶⁰⁶ *Id.* In addition to these delays, Representative Schweikert’s overall document productions omitted numerous relevant records, including email communications he was copied on relating to staff’s performance of campaign work. *See supra* n. 414.

⁶⁰⁷ ISC Interview of Representative Schweikert.

⁶⁰⁸ *Id.*

⁶⁰⁹ ISC Interview of 2012 Campaign Manager; Exhibit 32.

⁶¹⁰ ISC Interview of Representative Schweikert; *see supra* Section III(a)(7).

investigative and adjudicatory functions which usually precede a vote by the full House regarding such punishment or expulsion.

House Rule XXIII, clause 1, provides that Members are required to act at all times in a manner that reflects creditably on the House.

iii. Findings

Every Respondent is entitled to mount a defense when confronted with allegations of misconduct, but the Ethics Committee is not an adversarial courtroom and Members owe a duty of candor to the House and the public. Public office is a public trust, and as part of that public trust, public officials should take seriously allegations that threaten the integrity of the institution and seek to be forthright and cooperative with the body designated to review such allegations. Representative Schweikert's delays and deficiencies in responding to requests for information by the ISC, as well as in informing the FEC of reporting errors, were inconsistent with the level of diligence Members should exercise when faced with allegations of unethical conduct. It is the nature of a self-regulatory body to strive to collegially review allegations of misconduct and, accordingly, the Committee's longstanding practice is to seek voluntary cooperation from respondents. When that cooperation is less than fulsome, that threatens to undermine the foundations of that self-regulation.

The Committee has previously explained that "the support of the Members, officers and employees of the House for the work of this committee is crucial to its continuing effectiveness."⁶¹¹ As such, the public's trust in the integrity of the House is at risk when a respondent demonstrates "such little respect for the internal discipline of the House that [the respondent] would attempt to evade its questioning, rather than submitting to the fact gathering process in good faith."⁶¹² When a Member's actions undermine the efforts of the Committee and its subcommittees to investigate the allegations brought before it, such actions do not reflect creditably on the House.⁶¹³

The ISC found Representative Schweikert's conduct during its investigation troubling. He did not always provide candid responses to the ISC's questions, and he made repeated assurances that he had taken steps to correct reporting errors, when in fact he had not, and then appeared to be unfamiliar with some of those errors when he was asked about them during his testimony. The ISC was struck by how little Representative Schweikert seemed to appreciate the severity of the allegations raised in OCE's Second Referral in particular.

In his response, Representative Schweikert maintains that his own misleading testimony is the product of the ISC's "questioning strategy" and takes issue with the fact that the ISC did not disclose information it had in its possession to refresh his recollection when he was making

⁶¹¹ Comm. on Standards of Official Conduct, *Korean Influence Investigation*, H. Rept. 95-1817, 95th Cong. 2d Sess. 122 (1978).

⁶¹² See *Richardson* at 95.

⁶¹³ The Committee found that a Member violated House Rule XXIII, cl. 1 when the Member advised two material witnesses that the creation of a document was not an improper use of official resources and then only produced the document to the Committee in response to the Committee's third request for information. Comm. on Ethics, *In the Matter of Allegations Relating to Representative Judy Chu*, H. Rept. 113-665, 113th Cong. 2d Sess. 10-11 (2014).

statements that were not supported by the evidence.⁶¹⁴ As a preliminary matter, many of Representative Schweikert's statements were not in response to any questions posed by ISC counsel but his own affirmative attempts to get ahead of the evidence by making blanket statements that were not entirely forthright. As is common in any investigation, Representative Schweikert was questioned about his own independent recollection; he was not simply asked to corroborate the testimony of others.

The ISC recognizes that memories are not always perfect and does not expect any witness to speculate or guess if they do not know the answer to a question posed. All the ISC sought was honest and candid testimony from Representative Schweikert, and if he did not recall or know the answer to a question posed, he was free to state that he did not recall or did not know. Rather than do that, however, he sought, proactively, to portray himself in a light that was not supported by the evidence and now attempts to blame the ISC for his own problematic testimony.

The ISC's finding with respect to lack of candor, however, was not based solely on a few memory lapses, but based on numerous blanket statements that the Member has never and would never take certain actions, despite testimony and documentation from multiple witnesses to the contrary, and a failure to address substantial campaign finance reporting allegations for over a year, despite the ISC's repeated requests in that regard.

Moreover, the ISC recognizes that Representative Schweikert did make substantial efforts to cooperate, and it did not find that Representative Schweikert actively intended to lie or mislead the ISC or obstruct its investigation. Representative Schweikert also points to the money his campaign spent reviewing and producing documents to excuse any issues with his level of cooperation. The ISC appreciates that he committed significant resources to document review; however, there is no number of pages produced or dollars spent on lawyers that can substitute for actually acknowledging and providing candid responses to specific allegations of unethical conduct. Representative Schweikert has ultimately accepted responsibility for his conduct, and the ISC has factored that acceptance into its determination that the lowest level House sanction is appropriate in this matter. Nonetheless, Representative Schweikert's overall lack of candor and diligence in connection with the investigation compromised the ISC's ability to investigate the allegations and did not reflect creditably on the House. Therefore, the ISC determined that Representative Schweikert violated House Rule XXIII, clause 1, in connection with such conduct.

IV. RECOMMENDATION FOR SANCTION OF REPRESENTATIVE SCHWEIKERT

In investigating alleged violations by a Member of the House, the Committee is charged with making recommendations for final disposition of such investigations to the House as it may consider appropriate in the circumstances.⁶¹⁵ This includes recommendations for sanctioning Members. The Committee's rules state that "[w]ith respect to the sanctions that the Committee may recommend, reprimand is appropriate for serious violations, censure is appropriate for more

⁶¹⁴ Appendix E.

⁶¹⁵ House Rule XI, cl. 3(a).

serious violations, and expulsion of a Member . . . is appropriate for the most serious violations.”⁶¹⁶ Not all “serious” violations result in a sanction recommendation to the House; the Committee can, and frequently does, issue its own reproof in lieu of making a recommendation to the full body. There are many reasons why the Committee might address violations with reproof rather than submitting a resolution to the House. For one, the Committee’s rules generally provide for a House-level sanction after an investigative subcommittee has been impaneled and a Statement of Alleged Violation has been adopted; most of the matters resolved through reproof are never sent to an investigative subcommittee. In some instances, a subcommittee was established but no Statement of Alleged Violation was adopted, such as matters where the Member’s violations were found to be unintentional,⁶¹⁷ and where the Member took “swift action” to bring himself into compliance with applicable rules.⁶¹⁸

The Committee has recognized, however, that some matters call for “more severe action” than reproof, particularly where misconduct is “profound and pervasive.”⁶¹⁹ In the *Richardson* matter, the investigative subcommittee determined that the Member’s misuse of House resources and compelled campaign work, as well as her failure to act with complete candor during the investigation, merited a reprimand and a \$10,000 fine. In this matter, the ISC also found misuse of resources, compelled campaign work, and insufficient candor; and while those particular violations were not as flagrant as in the *Richardson* matter, they also represented only a fraction of the total misconduct.

The ISC believes a House-level sanction is required in this matter. In determining that a Committee-level reproof would be insufficient, the ISC considered that this matter contains many component violations that on their own have historically merited at minimum a Committee reproof, and a stronger response is therefore warranted in light of the aggregation of misconduct. For example, the Committee has reproved Members where it has found they failed to define and communicate boundaries leading to “inadvertent misuses of MRA funds,”⁶²⁰ “failed to comprehend the importance of setting boundaries and limits . . . and thus did not take the proper precautions to avoid improper interactions or the appearance of impropriety,”⁶²¹ and failed to adequately supervise staff’s use of both official and campaign resources.⁶²² In another matter, the Committee determined reproof was appropriate where a Member’s campaign made loans following discussions with the FEC, which were properly disclosed to the FEC, but were nonetheless found to be inconsistent with House rules regarding personal use of campaign funds.⁶²³ In that instance, the Committee noted that there was “no evidence of any improper intent” on the

⁶¹⁶ Committee Rule 24(g).

⁶¹⁷ Comm. on Ethics, *In the Matter of Allegations Related to Representative Ed Whitfield*, H. Rept. 114-687, 114th Cong. 2d Sess. 4 (2016) (hereinafter *Whitfield*).

⁶¹⁸ Comm. on Ethics, *In the Matter of Allegations Relating to Representative Don Young*, H. Rept. 113-487, 113th Cong. 2d Sess. 4 (2014).

⁶¹⁹ *Richardson* at 98.

⁶²⁰ *Gutiérrez* at 32.

⁶²¹ *Whitfield* at 8.

⁶²² See *Rodgers*.

⁶²³ See House Comm. on Standards of Official Conduct, *In the Matter of Representative Richard H. Stallings*, H. Rept. 100-382, 100th Cong. 1st Sess. 5-6 (1987) (hereinafter *Stallings*).

part of the Member, and that the Member took corrective action “as soon as he became aware of his oversight.”⁶²⁴

When viewed as a whole, Representative Schweikert’s conduct is more egregious than that of the Members before him who have been reprimanded. While the ISC did not find evidence indicating that Representative Schweikert was aware of the full extent of the misconduct, it would not be fair to characterize the sum of the violations as merely unintentional or inadvertent. Moreover, while Representative Schweikert did fail to exercise adequate supervision, the larger picture was one of something more than mere mismanagement or inattention. The ISC found that Representative Schweikert’s conduct was, at best, a product of willful ignorance and an abdication of responsibility.

The Committee has a long history of recommending reprimands of Members in cases involving serious failures to make disclosures required by law.⁶²⁵ Consistent with that history, the ISC has voted to recommend the Committee reprimand Representative Schweikert. The ISC considered whether Representative Schweikert should instead be censured, as the Committee previously recommended censure based on the “cumulative nature” of violations on a “continuous and prolonged basis.”⁶²⁶ The ISC ultimately agreed to recommend a lesser sanction, due in large part to the congressman’s willingness to accept responsibility and agreement to pay a substantial monetary fine.⁶²⁷ Although Representative Schweikert has made efforts to remediate many of the violations that led to misappropriated official and campaign funds, some of the most concerning conduct—particularly the misreporting in connection with Representative Schweikert’s loans around the time of his 2012 congressional election—is past the point of remediation. The ISC believes a significant monetary fine is fitting in light of the significant though not fully quantifiable benefits that Representative Schweikert’s campaigns received as a result of much of the misconduct discussed above.

Based on the sum of the violations, the ISC recommends that Representative Schweikert be reprimanded and directed to pay a fine of \$50,000.⁶²⁸ Representative Schweikert has agreed to accept this sanction recommendation. As discussed further below, it is the ISC’s sincere hope that this matter will serve as a cautionary tale for all House Members, and the ISC believes this sanction is warranted to effectively convey that message to the whole body.

⁶²⁴ *Id.*

⁶²⁵ Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rept. 95-1742, 95th Cong. 2d Sess. (Oct. 6, 1978) (reprimanding the Member for failure to report receiving a \$3,000 campaign contribution); Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson*, H. Rept. 95-1741, 95th Cong. 2d Sess. at 1 (Oct. 6, 1978) (reprimanding the Member for false disclosures in response to the Committee’s investigative questionnaire); Comm. on Standards of Official Conduct, *In the Matter of a Complaint Against Representative Robert L. F. Sikes*, H. Rept. 94-1364, 94th Cong. 2d Sess. at 4 (July 23, 1976) (reprimanding the Member for failure to report stock ownership and conflict of interest violations).

⁶²⁶ Comm. on Standards of Official Conduct, *In the Matter of Representative Charles B. Rangel*, H. Rept. 111-661, 111th Cong. 2d Sess. 2 (2010).

⁶²⁷ Although one circumstance in which a fine is appropriate is where “it is likely that the violation was committed to secure a personal financial benefit,” Committee Rule 24(g), the Committee has also imposed a fine on a Member as part of a negotiated resolution involving misused resources, even where a personal financial motive was not central to the misconduct. See *Richardson*.

⁶²⁸ To the extent Committee accepts this recommendation, the ISC further recommends that Representative Schweikert be required to pay the fine no later than October 30, 2020.

V. ADVISORY RECOMMENDATIONS

Many of the pitfalls Representative Schweikert succumbed to could have been avoided with proper oversight. It is the ISC's belief that all Members of the House, particularly incoming new Members, would benefit from a stronger emphasis on their oversight obligations, and therefore takes this opportunity to recommend several advisory actions to the Committee.

The ISC acknowledges that the demands of maintaining a congressional campaign make it unreasonable to expect candidates to review every campaign-related transaction themselves to ensure its compliance with applicable FEC rules and regulations. It is, accordingly, reasonable to rely on professionals to help ensure compliance. It is important, however, to ensure that those professionals receive the information necessary, such as requested access to campaign bank accounts, to ensure that filings are accurate.

Reliance on professionals, however, does not absolve Members from all oversight responsibility, especially when Members are made aware of concerns about conduct within their campaign operation or congressional offices. Members and candidates have an obligation to investigate and take remedial measures to correct violations and abuses, and to create safeguards to ensure those errors are not repeated. The ISC found that Representative Schweikert was made aware of FEC reporting errors and, through his inaction, allowed those reporting errors to continue for years into subsequent reporting cycles. Likewise, the ISC found that Representative Schweikert was made aware of improper campaign spending and, through his inaction, allowed additional campaign finance violations to occur. While Representative Schweikert may attempt to lay the blame with others, his own failure to provide basic oversight, and to take corrective action when issues were raised, helped facilitate additional violations and warrants a reprimand by the House of Representatives and a \$50,000 fine.

Members and candidates have resources available to help them accomplish their oversight obligations. The Committee provides the *Ethics Manual* as an "educational resource" to assist Members, officers, and staff "in conforming their conduct to the high ethical standards they must meet."⁶²⁹ The Committee updates and expands upon the materials in the *Ethics Manual* through the issuance of advisory memoranda on numerous topics, ranging from cryptocurrencies to campaign activity. Committee staff is also available to answer questions as they arise, conducts required trainings for new Members and employees, issues advisory opinions upon request, and provides in-person trainings for Members or their staff upon request. The Committee also publishes reports of its investigations which detail when and why the Committee finds violations of laws or other standards of conduct. The resources offered to Members and candidates can help them avoid Representative Schweikert's mistakes.

The ISC is aware, however, of the large influx of information that Members receive, particularly when they first become a Member of the House. By providing more specific and emphatic guidance on some of the ethical obligations implicated by this matter, the House may be able to prevent more matters like this one.

⁶²⁹ *Ethics Manual* at Preface.

To that end, the ISC recommends the Committee (1) incorporate this matter as a case study in New Member Orientation training, and (2) issue an advisory memorandum to the House community (known as a “Pink Sheet”) regarding several of the topics raised in this matter. The ISC recommends the Committee consider the follow topics and best practices for such a Pink Sheet:

- ***Supervision:*** Members and candidates who employ a hands-off management style should exercise caution when delegating significant responsibilities to another individual; not only should they take reasonable steps to ensure the individual to whom they delegate such responsibilities is familiar with relevant rules, they should clearly communicate their expectations and seek to confirm—rather than assume—the individual is following those expectations. It is not unusual for Members to place a significant amount of trust in such individuals, but Members must take care to cultivate an environment where other staff are able to raise concerns directly with the Member, including concerns regarding the individual to whom the Member delegated significant responsibilities. Members should also take care not to allow personal feelings to overshadow professional boundaries and responsibilities; concerns regarding individuals to whom Members have entrusted significant responsibilities should be treated with the utmost seriousness.
- ***Outlays by Congressional Staff:*** Given the “absolute” prohibition on staff making non-travel outlays and contributions, Members should take proactive steps to ensure their congressional staffers do not make impermissible outlays or contributions on behalf of their campaign. Such steps may include ensuring the campaign treasurer and staff are aware of the prohibition against staff from making such expenditures and obtaining a campaign committee credit or debit card for use by congressional staff who assist the campaign. Based on the lack of the familiarity with this restriction that the ISC encountered during its review, the ISC believes this area in particular is one where the House community would benefit from a refresher on the prohibition.
- ***Campaign Treasurers, Filings, and Recordkeeping:*** Members should exercise care when selecting an individual to serve as campaign treasurer. If a Member chooses to use family members and/or friends who lack the training or time to ensure FEC compliance, the Member should take additional steps to address their campaign committee’s compliance obligations. Members also must be mindful that House Rule XXIII, clause 6(b), imposes a verification requirement which is separate from, and in addition to, the recordkeeping requirements imposed by the FEC.
- ***Office Manuals and Policies:*** To the extent a congressional office issues handbooks or manuals to staff, such materials should generally conform to the practices actually employed in the office or risk causing confusion or undermining relevant rules and standards of conduct. To the extent a Member’s office allows staff to engage in campaign work during official hours, the office should have measures in place to ensure staff is still putting in a full day’s work, such as having a system for tracking the time an employee spends working for the campaign and/or making up time, while also

ensuring that such arrangement does not interfere with the functioning of the official office.

The ISC further hopes that this report will serve as a guide for Members, candidates, and the House community regarding applicable rules and expectations.

VI. CONCLUSION

During his interview with the ISC, Representative Schweikert attempted to portray himself as a good person who was deceived or let down by others around him, repeatedly referring to his reliance on those individuals as his “sins”:

[T]hat is my sin for thinking we had hired a professional compliance firm to watch things and someone who’d been . . . supposed to be a star as a chief of staff . . .⁶³⁰

I guess I made the sin of thinking I had good people.⁶³¹

The sin here was having given so much autonomy to the campaign manager, Mr. Schwab, or the consultant . . .⁶³²

[M]y greatest sin may be my arrogance of thinking I was one of the good guys.⁶³³

Representative Schweikert’s primary ethical failing, however, was not that he thought he was a “good guy” or that he delegated authority to staffers, consultants, or other professionals that failed to do their jobs properly. It was that he abdicated all responsibility for ensuring they did their jobs properly or enabling them to do so. Representative Schweikert came closer to the mark one other time during his testimony:

And this may be my sin, I didn’t ask. I just -- I assumed. I didn’t even assume. I didn’t think about it.⁶³⁴

When running for or heading a public office, it is not acceptable to not even think about the ethical obligations that must be followed. Members cannot bury their head in the sand and claim innocence when rules and laws are violated around them; as government officials, they are charged with upholding the laws and regulations of the country, and as such, they have a duty to

⁶³⁰ ISC Interview of Representative Schweikert (stating why he believed he had been taken advantage of).

⁶³¹ *Id.* (when asked why he didn’t seek to understand what expenses were being charged to the campaign and how).

⁶³² *Id.* (when explaining that a poll his campaign paid for to explore a Senate run was based on “options that others had in their hopes for [him] to think about”).

⁶³³ *Id.* (in his opening statement to the ISC, explaining, “I thought I had been so incredibly careful in not touching things, let other people do that . . .”).

⁶³⁴ *Id.* (when asked whether he received any guidance as to whether the MPB loan needed to be disclosed).

take steps to ensure the offices working under their supervision are in compliance with those laws and regulations.

The ISC further notes that this was not a matter solely about a wayward chief of staff or inattentive compliance firm. Some of the most serious allegations had nothing to do with the chief of staff or the compliance firm and were instead the result of direct conduct by Representative Schweikert and his spouse. With respect to those allegations in particular, including the \$100,000 loan that was reported but never made and several additional campaign finance reporting violations, the ISC found Representative Schweikert endeavored to keep his head in the sand through most of the ISC's investigation, rather than approach the matter with the level of diligence and candor that he should have. The ISC acknowledges that Representative Schweikert did make substantial efforts to cooperate, particularly with respect to the allegations where he felt he was "taken advantage of," but believes that, as evidenced by his misplaced notion that his "greatest sin" was thinking he was a "good guy," Representative Schweikert did not treat the allegations before the ISC with sufficient seriousness.

Representative Schweikert has now accepted responsibility for the violations found by the ISC and agreed to accept a robust sanction and waive further procedural steps to bring this matter to a close. The ISC commends him for this, as well as the remedial steps he took at the outset of the review. It is the ISC's hope that not only will Representative Schweikert have learned that he has an obligation to "think about" the ethical issues discussed in this Report, but that all Members will take such a lesson from his experience.