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

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**REPORT**

Review No. 21-7423

The Board of the Office of Congressional Ethics (hereafter “the Board”), by a vote of no less than four members, on February 18, 2022, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives (hereafter “the Committee”).

SUBJECT: Rep. John Rutherford

NATURE OF THE ALLEGED VIOLATION: Rep. Rutherford may have failed to file timely Periodic Transaction Reports (“PTRs”) for various reportable transactions. If Rep. Rutherford failed to file PTRs for reportable transactions, then he may have violated House rules, standards of conduct, and federal law.

RECOMMENDATION: The Board recommends that the Committee further review the above allegation concerning Rep. Rutherford because there is substantial reason to believe that Rep. Rutherford failed to file timely PTRs for various reportable transactions.

VOTES IN THE AFFIRMATIVE: 5

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 0

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

**FINDINGS OF FACT AND CITATIONS TO LAW**

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OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**FINDINGS OF FACT AND CITATIONS TO LAW**

Review No. 21-7423

On February 18, 2022, the Board of the Office of Congressional Ethics (hereafter “the Board”) adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

**I. INTRODUCTION**

**A. Summary of Allegations**

1. Rep. John Rutherford may have failed to file timely Periodic Transaction Reports (“PTRs”) for various reportable transactions. If Rep. Rutherford failed to file PTRs for reportable transactions, then he may have violated House rules, standards of conduct, and federal law.
2. The Board recommends that the Committee on Ethics of the United States House of Representatives (“Committee”) further review the above allegation concerning Rep. Rutherford because there is substantial reason to believe that Rep. Rutherford failed to file timely PTRs for various reportable transactions.

**B. Jurisdictional Statement**

3. The allegations that were the subject of this review concern Rep. John Rutherford, a Member of the United States House of Representatives from the 4th Congressional District of Florida. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (“OCE”) directs that, “[n]o review shall be undertaken ... by the [B]oard of any alleged violation that occurred before the date of adoption of this resolution.”<sup>1</sup> The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

**C. Procedural History**

4. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on October 20, 2021. The preliminary review commenced on October 21, 2021.<sup>2</sup>
5. On October 21, 2021, the OCE notified Rep. Rutherford of the initiation of the preliminary review, provided him with a statement of the nature of the review, notified him of his right to

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<sup>1</sup> H. Res. 895 of the 110th Congress § 1(e) (2008) (as amended) (hereafter the “Resolution”).

<sup>2</sup> A preliminary review is “requested” in writing by members of the Board of the OCE. The request for a preliminary review is received by the OCE on a date certain. According to the Resolution, the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board’s request.

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6. At least three members of the Board voted to initiate a second-phase review in this matter on November 19, 2021. The second-phase review commenced on November 20, 2021.<sup>4</sup> The second-phase review was scheduled to end on January 3, 2022.
7. On November 19, 2021, the OCE notified Rep. Rutherford of the initiation of the second-phase review in this matter, and again notified him of his right to be represented by counsel in this matter, and that invoking that right would not be held negatively against him.<sup>5</sup>
8. The Board voted to extend the second-phase review by an additional period of fourteen days on December 17, 2021. The additional period ended on January 17, 2022.
9. The Board voted to refer the matter to the Committee for further review and adopted these findings on February 18, 2022.
10. The report and its findings in this matter were transmitted to the Committee on February 28, 2022.

**D. Summary of Investigative Activity**

11. The OCE requested documentary or testimonial information from the following sources:

- (1) Rep. Rutherford; and
- (2) Jenifer Bradley, Rep. Rutherford's Chief of Staff.

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

- (1) Rep. Rutherford; and
- (2) Jenifer Bradley.

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<sup>3</sup> Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to Rep. Rutherford, Oct. 21, 2021.

<sup>4</sup> According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second phase, the second phase commences the day after the preliminary review ends.

<sup>5</sup> Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to Rep. Rutherford, Nov. 19, 2021.

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## II. REP. RUTHERFORD'S STOCK ACT COMPLIANCE

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

#### 13. Federal Law

The STOCK Act, Pub. L. No. 112-105, 126 Stat. 291 (2012), P.L. 112-105

*The Stop Trading on Congressional Knowledge Act of 2012, Pub. L. No. 112-105, 126 Stat. 291 (2012), P.L. 112-105 ("STOCK Act") amended the Ethics in Government Act of 1978 ("EIGA") to require Members of Congress to file Periodic Transaction Reports ("PTRs") for certain transactions. Pursuant to Section 6, "Section 103 of the Ethics in Government Act of 1978 (5 U.S.C. App. 103) is amended by adding at the end the following subsection: '(l) Not later than 30 days after receiving notification of any transaction required to be reported under section 102(a)(5)(B), but in no case later than 45 days after such transaction, the following persons, if required to file a report under any subsection of section 101, subject to any waivers and exclusions, shall file a report of the transaction: ... (9) A Member of Congress.'*

Ethics in Government Act of 1978, 5 U.S.C. app. §§ 101(d), (f), Individuals Required to File Reports

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

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

...  
*(9) a Member of Congress as defined under section 109(12)."*

Ethics in Government Act of 1978, 5 U.S.C. app. §§ 102(a)(5), The Contents of the Report

*"(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds \$1,000 –*

...  
*(B) in stocks, bonds, commodities futures, and other forms of securities."*

Ethics in Government Act of 1978, 5 U.S.C. app. § 103(l), PTR Filing Timing

*"(l) Not later than 30 days after receiving notification of any transaction required to be reported under section 102(a)(5)(B), but in no case later than 45 days after such transaction, the following persons, if required to file a report under any subsection of section 101, subject to any waivers and exclusions, shall file a report of the transaction:*

...  
*(9) A Member of Congress, as defined under section 109(12).*

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...

*(10) An officer or employee of the Congress, as defined under section 109(13)."*

Ethics in Government Act of 1978, 5 U.S.C. app. §104, Failure to File or Filing False Reports

*"(a)(1) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$50,000.*

*(2)(A) It shall be unlawful for any person to knowingly and willfully—*

*(i) falsify any information that such person is required to report under section 102; and*

*(ii) fail to file or report any information that such person is required to report under section 102.*

*(B) Any person who-*

*(i) violates subparagraph (A)(i) shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both; and*

*(ii) violates subparagraph (A)(ii) shall be fined under title 18, United States Code.*

*(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.*

...

*(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of-*

*(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or*

*(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of \$200. . . .*

*(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances."*

14. House Rules

*House Rule 26, clause 2 states: "For the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be considered Rules of the House as they pertain to Members, Delegates, the Resident Commissioner, officers, and employees of the House."*

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15. House Ethics Committee Guidance: Instruction Guide for 2020 Financial Disclosure Statements and Periodic Transaction Reports

a. Overall PTR Filing Guidance

*The House Committee on Ethics 2020 Instruction Guide for Financial Disclosure Statements and Periodic Transaction Reports (“Instruction Guide”) specifies when Members of Congress, officers, and employees compensated at the senior staff level are required to file PTRs. The Instruction Guide provides that “[q]ualifying transactions must be reported on a PTR **within 30 days of [a Member, officer, or senior staff employee] becoming aware of the transaction, but no later than 45 days after the transaction.**”<sup>6</sup>*

*Regarding “qualifying transactions,” the Instruction Guide explains “you must report on a PTR each purchase, sale, or exchange involving **stocks, bonds, commodities futures, or other securities owned wholly or in part by you, your spouse, or your dependent child when the amount of the transaction exceeds \$1,000.**”<sup>7</sup>*

*The Instruction Guide explains, “[t]he reporting threshold for disclosure of transactions is reached when the gross amount of a single purchase or sale transaction exceeds \$1,000. This includes transactions that result in a net loss. Thus, a sale transaction of an asset for \$5,000 for which you previously paid \$7,000 must be disclosed even though it resulted in a \$2,000 net loss.”<sup>8</sup>*

*The Instruction Guide also explains that “each individual is responsible for the completeness and accuracy of the information contained in the individual’s FD Statement or PTR, even if someone else prepared, or assisted in preparing, all or part of it.”<sup>9</sup> It further explains that “[t]he EIGA provides that the Attorney General may pursue either civil or criminal penalties against an individual who knowingly and willfully falsifies a Statement or fails to file a Statement required by the EIGA.”<sup>10</sup>*

*Additionally, the Instruction Guide emphasizes that “[y]ou must sign and date the PTR . . . after completing it. By your signature, you are certifying that the report is true, complete, and correct to the best of your knowledge and belief. Additionally, you must certify that you have disclosed all transactions as required by the STOCK Act as of the date of your signature. This page must be signed by you personally, not by someone acting on your behalf, even if someone else prepared or assisted you in completing the PTR. Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file, a required PTR may be subject to civil and criminal penalties, including incarceration and/or a fine pursuant to 5 U.S.C. app. § 104, and criminal sanctions under 18 U.S.C. § 1001.”<sup>11</sup>*

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<sup>6</sup> Comm. on Ethics, Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports (CY 2020) at 5 (emphasis in original) (hereafter, “Instruction Guide”).

<sup>7</sup> *Id.* at 41 (emphasis in original).

<sup>8</sup> *Id.* at 42 (emphasis in original).

<sup>9</sup> *Id.* at 9.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 43.

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b. Late Filing Fees

*Regarding late filings, the Instruction Guide provides a fine schedule for late filed PTRs and also designates a grace period in which those fines will not be imposed by the Committee.<sup>12</sup>*

*Specifically, the Instruction Guide states:*

*An individual who files an FD Statement or any Amendment requested by the Committee to a Statement or PTR more than 30 days after the later of (1) the date the report or amendment is required to be filed, or (2) the last day of any filing extension period that has been granted, must pay a late filing fee of \$200.*

*For late PTRs, the following late fee policy applies:*

***1st late PTR filing** (no matter how many missed transactions): \$200.*

***2nd to 4th late PTR filings:** \$200 for each month in which a filer had a late transaction. For example, if the filer failed to file timely reports for transactions that were executed in January, April, and July, but instead reported all such transactions on one PTR in October, then \$600 in late fees is owed. (Transactions filed late in 3 months at \$200 each.)*

***5th late PTR and beyond:** \$200 for each late transaction. For example, if the filer failed to file timely reports for 15 transactions, then \$3,000 in late fees is owed. (15 transactions reported late at \$200 each.)<sup>13</sup>*

*Regarding late filing fees, the Instruction Guide further explains that:*

*The late filing fee shall be paid by check or money order made **payable to the United States Treasury** and submitted to the Clerk at the Legislative Resource Center. Payment of the fee does not preclude the Committee from taking other disciplinary action authorized by law or the rules of the House of Representatives.*

*The Committee has authority to waive the fee, but only in extraordinary circumstances. Fee waiver requests must be directed in writing to the Chair of the Committee, signed by the filer, and state the circumstances believed to justify the waiver. . . . In no case will the request, or the Committee's response, be made publicly available.*

***Any report that is submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed. Thus, you must submit the late filing fee at the time you file your report. The fee will be deposited immediately unless a fee waiver is requested at the time of filing, in which case it will be held by the Clerk and not be deposited until the***

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<sup>12</sup> *Id.* at 7-8 (providing example applications of the “30-day grace period.”).

<sup>13</sup> *Id.* at 7 (emphasis in original).

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*Committee acts on the fee waiver request. If the fee waiver is granted, your check or money order will be returned to you by the Clerk of the House.*<sup>14</sup>

c. Managed Accounts

*According to the Instruction Guide, “Purchase and sale transactions involving assets held within managed accounts, brokerage accounts, and retirement accounts, such as 401(k) plans and IRAs, must be disclosed. For example, if you have a 401(k) plan and direct the plan administrator to sell or purchase stocks, bonds, or other securities, you must separately disclose on a PTR each of these transactions valued over \$1,000. Transfers between currently-held assets within these accounts are also considered purchases and sales transactions for financial disclosure purposes. These types of transfers are commonly referred to as reallocation or rebalancing of funds.”*<sup>15</sup>

16. House Ethics Committee Guidance: Pink Sheets

*In an August 17, 2012 Memorandum regarding Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act, as amended, following the passage of the STOCK Act, the Committee explained, “[e]ven if you do not find out about a transaction until after the 45-day deadline, by statute, the PTR is late. Subject to a 30-day grace period, any required late fee must be attached to the late report, but you may simultaneously seek a waiver of that fee, as discussed below under ‘Late Filing Fee.’”*<sup>16</sup> *The same Memorandum states, “No extensions of the 30- or 45-day time limits will be allowed. No such extensions are permitted by the terms of the STOCK Act.”*<sup>17</sup>

*The August 17, 2012 Memorandum explains, “You are responsible for alerting your broker, investment advisor, trustee, or anyone else who makes reportable transactions on your behalf, or on behalf of your spouse or dependent children, that they must inform you of any reportable transaction in a timely fashion. For example, if you currently receive only quarterly statements from your broker, you may need to change to monthly reports to meet the PTR filing requirement.”*<sup>18</sup>

*In a January 23, 2013 Memorandum regarding Change to Financial Disclosure Reporting Obligations and Reminder Regarding Periodic Transaction Reporting Requirement, the Committee stated: “**IMPORTANT:** For previous filings, if the filer did not direct an investment or retirement account the filer could state on the filing that the account was “not self directed”*

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<sup>14</sup> *Id.* at 8 (emphasis in original).

<sup>15</sup> *Id.* at 41-42 (emphasis in original).

<sup>16</sup> Comm. on Ethics, Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act, as amended, August 17, 2012 at 11. The Memorandum explains, “**Any PTR that is submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed.** Thus, you must submit the late filing fee at the time you file your PTR. The fee will be deposited immediately unless a fee waiver is requested at the time of filing, in which case it will not be deposited until the Committee acts on the fee waiver request. If the fee waiver is granted, your check or money order will be returned to you by Clerk of the House.” *Id.* at 13 (emphasis in original).

<sup>17</sup> *Id.* (emphasis in original).

<sup>18</sup> *Id.* at 11 (emphasis in original).

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended and then not list the holdings or transactions. With this change in guidance, the holdings and transactions must be reported for all investment and retirement accounts on future FD Statements and PTRs.”<sup>19</sup>

17. House Ethics Committee Guidance: Committee Reports

*In the Matter of Allegations Relating to Representative Vernon G. Buchanan, the Committee noted that inadvertent errors and omissions “are not uncommon” in financial disclosure statements.<sup>20</sup> When a filer fully and accurately remedies disclosures errors or omissions and pays a fine (when warranted), the Committee will generally take no additional action.<sup>21</sup> However, the Committee described concern with respect to errors and omissions that are not properly remedied, “are knowing or willful, or appear to be significantly related to other potential violations.”<sup>22</sup> The Committee went on to explain that “accurate and complete reporting on Financial Disclosure Statements should be every filer’s goal and is necessary to be in compliance with House Rules and federal law. All filers are encouraged to promptly file amendments whenever they learn of errors or omissions. Failure to do so may constitute a knowing and willful violation.”<sup>23</sup>*

**B. The STOCK Act and PTR Filing Requirements: Purpose, Enforcement, Training, and Guidance**

18. Title I of the Ethics in Government Act of 1978, as amended, requires Members of the U.S. House of Representatives to file publicly available annual financial disclosure reports with the Clerk of the House.<sup>24</sup> The annual disclosures filed under the EIGA must report securities transactions valued over \$1,000 from the calendar year.<sup>25</sup> Through the annual financial disclosure process, a year-and-a-half may pass between a transaction and the public disclosure filing deadline.

19. The Stop Trading on Congressional Knowledge Act of 2012, the STOCK Act, amended the EIGA to address concerns of insider trading in Congress by requiring that Members publicly report certain securities transactions with greater frequency.<sup>26</sup>

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<sup>19</sup> Comm. on Ethics, Memorandum regarding Change to Financial Disclosure Reporting Obligations and Reminder Regarding Periodic Transaction Reporting Requirement, Jan. 23, 2013 at 3 (emphasis in original).

<sup>20</sup> Comm. on Ethics, *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, 112th Cong., 2nd Sess. (July 10, 2012) at 5.

<sup>21</sup> *Id.* at 1-2, 5-6.

<sup>22</sup> *Id.* at 5.

<sup>23</sup> *Id.* at 6.

<sup>24</sup> See 5 U.S.C. app. §§ 101, et. seq.

<sup>25</sup> 5 U.S.C. app. § 102.

<sup>26</sup> The Stop Trading on Congressional Knowledge Act of 2012, Pub. L. No. 112-105, 126 Stat. 291 (2012), P.L. 112-105 (“STOCK Act”). Discussing information gained in the performance of official duties, the STOCK Act specifically prohibits Members of Congress from engaging in insider trading by “clarifying that a Member of Congress and an employee of Congress may not use nonpublic information derived from such person’s position as a Member of Congress or employee of Congress or gained from the performance of such person’s official responsibilities as a means for making a private profit.” STOCK Act, Sec. 3. The STOCK Act explains, “each Member of Congress or employee of Congress owes a duty arising from a relationship of trust and confidence to the

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20. In several reviews during the 117th Congress, the OCE examined allegations regarding the STOCK Act and untimely transaction reporting.

i. The STOCK Act Requires Prompt Transaction Reporting

21. To address the potential misuse of nonpublic information for private gain, the STOCK Act requires that Members of Congress publicly report certain financial transactions involving stocks, bonds, and other securities shortly after they occur through Periodic Transaction Reports (“PTRs”).<sup>27</sup> The STOCK Act purposefully shortened the period of public disclosure for certain transactions to allow the public and the Securities and Exchange Commission (“SEC”) to more swiftly assess the potential for misuse of congressional knowledge or insider trading.<sup>28</sup>

22. Specifically, Members must file a PTR 30 days after receiving notification of a reportable transaction.<sup>29</sup> Regardless of the timing of when a Member learns of a trade, all reportable transactions must be disclosed by 45 days after such transaction.<sup>30</sup> Failure to report a trade within 30 days of notification or 45 days of the actual transaction is a violation of the STOCK Act, even if a Member learns of the trade after the 45-day deadline.

23. As a result of the 30-day-from-notification and 45-day-from-transaction filing window, the filing deadline for PTRs is context specific and hinges on both the notification date and the date of the specific transaction. While in some cases a PTR must be filed 30 days after the transaction, in other cases it may be filed up to 15 days later.

24. Timely public disclosure of stock transactions in PTRs helps the public evaluate and ensure that Members are not using confidential information gained through their official duties for

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Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information derived from such person’s position as a Member of Congress or employee of Congress or gained from the performance of such person’s official responsibilities.” *Id.*, Sec. 4. See also CRS Report, Jack Maskell, *The STOCK Act, Insider Trading, and Public Financial Reporting by Federal Officials*, April 18, 2013.

<sup>27</sup> 5 U.S.C. app. § 103(l).

<sup>28</sup> During Senate consideration of the STOCK Act, Senator Joseph Lieberman joined Senator Susan Collins in discussing the law. Senator Lieberman explained, “our committee decided the STOCK Act should require Members of Congress and their staffs to file public reports on our purchases or sale of stocks, bonds, commodities, futures, or other financial transactions exceeding \$1,000 in value within 30 days of the transaction. Right now, as the Acting President of the Senate knows, these trades are reported once a year in our annual disclosure statements. This proposal would change that to within 30 days of the trade. More timely reporting of this kind will allow not just the SEC but the public to assess whether there is anything suspicious or wrong about the timing of the trade and conduct in the Senate. That kind of real transparency will be an additional deterrent to unethical or illegal behavior.” Senator Joseph Lieberman (CT). “Stop Trading on Congressional Knowledge Act – Motion to Proceed.” Congressional Record 158:14 (Jan. 30, 2012) at S143.

<sup>29</sup> 5 U.S.C. app. § 103.

<sup>30</sup> As such, if the Member of Congress receives notice of the transaction 10 days after it occurred, then the Member must file a PTR by the 40th day after the transaction. However, if the Member of Congress received notice of the transaction 20 days after it occurred, then the Member still must report it by the 45th day after the transaction. If the Member never received notice, the Member is still responsible for reporting any such transaction by the 45th day after the transaction occurred.

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their own private gain. Delay in reporting pursuant to these statutory guidelines undermines this transparency and violates the STOCK Act.<sup>31</sup>

ii. Transaction Reporting Enforcement and Fines

25. The EIGA sets forth fines for failing to file PTRs regardless of whether the violations were accidental, negligent, or knowing and willful.<sup>32</sup> In the House of Representatives, the Committee is responsible for enforcing the STOCK Act's reporting requirements.<sup>33</sup>
26. Although all late filings are violations, the EIGA provides a 30-day grace period following the required disclosure date before assessing fines on late PTR disclosures.<sup>34</sup> Similar to the date when a Member must file, the application of the grace period is context specific and depends on when the Member was required to report the transaction within the 30- to 45-day window.<sup>35</sup>
27. While the grace period may excuse a fine, regardless of the grace period, any individual who fails to file a PTR for a reportable transaction within the 30- to 45-day reporting window has violated the STOCK Act.
28. The Committee publishes a fine schedule for violations with fine amounts increasing in severity for repeated omissions.<sup>36</sup> Additionally, Committee guidance states that “[a]ny PTR that is submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed.”<sup>37</sup> This means that any PTR filing submitted after the grace period must be accompanied by a fine payment.
29. While information about the payment of fines by Members is not publicly available, the OCE found conflicting evidence about whether the Committee informs Members of the requirement to pay fines or only collects fines when Members proactively decide to pay them. The OCE found that some Members who filed late PTRs were never directed to pay a fine. The OCE also found that the Committee has been inconsistent in the manner in which it has calculated and assessed fines.

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<sup>31</sup> During Senate consideration of the STOCK Act, Senator Susan Collins explained that the legislation, “includes earlier deadlines for financial reporting requirements and greater transparency for financial disclosure statements, as the chairman mentioned, by requiring that they be available online and in a searchable format. I believe we need to reassure a skeptical public that we understand that elective office is a place for public service, not private gain; that it is an honor and a trust we have been given by the people we represent.” Senator Susan Collins (ME). “Stop Trading on Congressional Knowledge Act – Motion to Proceed.” Congressional Record 158:14 (Jan. 30, 2012) at S144.

<sup>32</sup> 5 U.S.C. app. § 104.

<sup>33</sup> *Id.* The EIGA requires that the Committee refer willful violations of the STOCK Act reporting requirements to the Attorney General for prosecution.

<sup>34</sup> *Id.*

<sup>35</sup> For example, an individual who receives notification on the day a transaction occurred has 30 days to file a PTR. If the PTR is not filed within the additional 30-day grace period—60 days total after the transaction—that individual should be fined pursuant to the STOCK Act. In contrast, an individual who is required to file a PTR 45 days after a transaction, must file by 75 days after the transaction to avoid a fine pursuant to the grace period.

<sup>36</sup> Instruction Guide at 7.

<sup>37</sup> Comm. on Ethics, Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act, as amended, Aug. 17, 2012 at 13 (emphasis omitted).

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iii. PTR Training and Guidance

30. In addition to enforcing the STOCK Act and fining violators, the Committee is also tasked with training Members on their disclosure obligations. Since January 2015, all Members of Congress receive ethics training from the Committee within 60 days of when they are first sworn in and, since January 2019, are required to receive additional training annually.<sup>38</sup>
31. The Committee provided the OCE with both copies of recent presentations for Members-Elect, and the annual trainings for Members.<sup>39</sup> While none of the presentation slides go into extensive detail about the PTR filing process, all the presentations place Members on notice that the STOCK Act applies to them and that they are required to file PTRs.<sup>40</sup> Nevertheless, the OCE found that some Members did not leave the trainings with clarity about how PTR filing requirements applied to their financial arrangements.<sup>41</sup>
32. In addition to routine ethics training, guidance for Members and staff on PTRs is published on the Committee's website and has been disseminated through "pink sheets" since 2012.<sup>42</sup> Reminders about these obligations are also routinely sent to Members and staff through House electronic "Dear Colleague" alerts.<sup>43</sup>

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<sup>38</sup> House Rule 11, clause 3(a)(6)(A); House Rule 11, clause 3(a)(6)(B)(i). The requirement for annual Member training was added to the House rules in the 2019 at the beginning of the 116th Congress. Comm. on Ethics, Memorandum regarding Reminder About Annual Ethics Training Requirements for 2019, Nov. 26, 2019. The new Member training requirement was added in 2015 at the beginning of the 114th Congress. Hannah Hess, *House Mandates 1 Hour of Ethics Training for Freshman Class*, ROLL CALL, Jan. 7, 2015, <https://rollcall.com/2015/01/07/house-mandates-1-hour-of-ethics-training-for-freshman-class/>.

<sup>39</sup> See, e.g. Comm. on Ethics, Training for Members on Ethics Laws, Rules, and Standards of Conduct, 117th Cong. (Exhibit 1 at 21-7423\_0002); Comm. on Ethics, Ethics Training for Members-Elect, 117th Cong. (Exhibit 2 at 21-7423\_0042); Comm. on Ethics, Training for House Members on Ethics Laws, Rules, and Standards of Conduct, 116th Cong. (Exhibit 3 at 21-7423\_0080); Comm. on Ethics, Training for Members on Ethics Laws, Rules, and Standards of Conduct, 116th Cong. (Exhibit 4 at 21-7423\_0120); Comm. on Ethics, Ethics Training for Members-Elect, 116th Cong. (Exhibit 5 at 21-7423\_0160).

<sup>40</sup> The Members-Elect training states, "You must file a PTR *not more than 45 days* from the date of the transaction." *Id.* (emphasis in original). However, the OCE notes that in some cases, the PTR must be filed 30 days from the date of the transaction.

<sup>41</sup> These trainings provide a high-level overview of a wide range of important ethics issues in a short period of time. This likely reflects the allotted time period provided by the House for such training, particularly during a busy new Member orientation. Multiple Members told the OCE that they failed to file PTRs because they believed they did not need to report transactions in investment accounts managed by brokers for which they were not involved in daily trading decisions. While the obligations for broker managed accounts were not explicitly addressed in the ethics training slides that the OCE reviewed, this obligation is discussed in the Instruction Guide and other Committee guidance, and it is clear in that guidance that these types of trades must be disclosed.

<sup>42</sup> See, e.g. Instruction Guide; Comm. on Ethics, Memorandum regarding Reminder of STOCK Act Requirements, Prohibition Against Insider Training & New Certification Requirement, June 11, 2020; Comm. on Ethics, Memorandum regarding Change to Financial Disclosure Reporting Obligations and Reminder Regarding Periodic Transaction Reporting Requirement, Jan. 23, 2013; Comm. on Ethics, Memorandum regarding Periodic Reporting of Personal Financial Transactions Pursuant to the STOCK Act, as amended, Aug. 17, 2012.

<sup>43</sup> See, e.g., Comm. on Ethics, e-Dear Colleague Memorandum for All Members, Officers, and Employees regarding Reminder of STOCK Act Requirements, Prohibition Against Insider Trading & New Certification Requirements, June 11, 2020, <https://e-dearcolleague.house.gov/Home/Preview?DCID=302800>; Comm. on Ethics, e-Dear Colleague Memorandum for All Members, Officers, and Employees regarding Reminder of Ethics Requirements for Financial Disclosure Filers, Feb. 8, 2019, <https://e-dearcolleague.house.gov/Home/Preview?DCID=249534>; Comm.

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33. Finally, the OCE notes that there has been widespread media coverage and press attention to issues related to the STOCK Act, placing Members and the public on notice about the applicability of the law in Congress.
34. In several OCE reviews, each related to the STOCK Act and PTR filings, the OCE asked the Members involved to sign waivers releasing to the OCE all documents and communications with the Committee related to PTRs and financial disclosure reports. All but one review subject provided such release. For the Members who completed the waivers, the OCE then requested the Committee provide such documents and communications, in addition to ethics training presentations and materials, and training attendance records. The Committee provided recent training presentations; however, it did not provide the additional materials to the OCE, citing a House rule requiring an affirmative vote of the majority of Committee Members to authorize release, which it presumably did not take in spite of the requests of the Members.<sup>44</sup>
35. In several of the reviews mentioned above, the OCE found that in spite of training, guidance, and media coverage, Members of Congress frequently misunderstand or ignore their duties under the STOCK Act resulting in repeated failure to report their transactions within the 30-to-45-day window. While these reviews examined violations involving specific Members, the issue of STOCK Act non-compliance is pervasive and reflects a culture of delayed filing contrary to the transparency aims of the law.<sup>45</sup> In some cases, the non-compliance points to negligence or lack of care on the part of the Members with regards to their statutory obligations. In other instances, it points to ignorance of their statutory responsibilities and may indicate a need for more robust guidance, training, and enforcement by the House to ensure that the STOCK Act is taken seriously by those to whom it applies, and that its transparency goals to prevent misuse of congressional knowledge for private gain are realized.

### **C. Rep. Rutherford's STOCK Act Compliance**

36. Rep. Rutherford owns and routinely trades securities in IRA accounts managed by NYLIFE Securities and its affiliates.<sup>46</sup> As described below, Rep. Rutherford's publicly filed PTRs

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on Ethics, e-Dear Colleague The 2018 Outside Earned Income Limits and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers, Jan. 5, 2018, <https://e-dearcolleague.house.gov/Home/Preview?DCID=224015>; Comm. on Ethics, e-Dear Colleague Memorandum for All Members, Officers, and Employees regarding the 2017 Outside Earned Income Limit and Salary Thresholds, Jan. 13, 2017, <https://e-dearcolleague.house.gov/Home/Preview?DCID=200237>.

<sup>44</sup> House Rule XI, cl. 3(g)(1)(F).

<sup>45</sup> See, e.g., Dave Levinthal, *54 Members of Congress Have Violated a Law Designed to Stop Insider Trading and Prevent Conflicts of Interest*, INSIDER, Jan. 11, 2022, <https://www.businessinsider.com/congress-stock-act-violations-senate-house-trading-2021-9>.

<sup>46</sup> See Rep. Rutherford Brokerage Statements (on file with OCE). As discussed in more detail below, Rep. Rutherford provided the OCE with financial statements, including three separate IRA accounts managed by NYLIFE Securities and its affiliates. Rep. Rutherford's PTRs disclosed trades from these accounts, and his PTRs specifically reference holdings with "National Financial Services/Fidelity," which appears to be NYLIFE Securities' trade execution and clearing firm. See NYLIFE Securities, *Regulatory Disclosures*, <https://www.newyorklife.com/securities/regulatory-disclosures>. Because Rep. Rutherford did not interview, the

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evidence a pattern of late disclosure of reportable transactions made in these accounts, which continued even after he was on notice of his STOCK Act filing obligations.<sup>47</sup>

37. Rep. Rutherford produced a limited set of documents to the OCE during this review and declined to interview with the OCE. This non-cooperation undermined the OCE's ability to verify Rep. Rutherford's overall STOCK Act compliance and to fully assess the reasons for his late filings.

i. Rep. Rutherford's Late PTR Filings

38. Rep. Rutherford was elected to Congress in November 2016 and sworn in as a Member of the United States House of Representatives on January 3, 2017.<sup>48</sup> Rep. Rutherford did not file his first PTR until August 20, 2018, despite making reportable trades beginning in July 2017.<sup>49</sup>

39. His August 20, 2018 PTR listed 136 late reportable disclosures valued between \$631,000 and \$3.2 million.<sup>50</sup> One hundred and thirty-four of these transactions fell outside of the Committee's grace period, and as discussed more fully below, should have triggered payment of a fine.<sup>51</sup>

40. Rep. Rutherford did not interview, so the OCE could not ask him about the basis for his initial delay in filing, including the extent to which he was trained on his PTR filing obligations after being sworn into Congress. As previously discussed, all new Members are trained on their disclosure obligations within 60 days of their swearing in, and the Committee provides additional guidance thereafter.<sup>52</sup>

41. Following this late disclosure of 136 transactions in August 2018, Rep. Rutherford continued to make late disclosures. These include the following:

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OCE could not confirm the extent to which it was provided relevant financial statements or address the extent to which Rep. Rutherford personally manages any of his investments.

<sup>47</sup> See Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197); see also Rep. Rutherford Aug. 20, 2018 PTR; Rep. Rutherford Aug. 9, 2019 PTR; Rep. Rutherford Dec. 18, 2019 PTR; Rep. Rutherford May 1, 2020 PTR; Rep. Rutherford July 29, 2020 PTR; Rep. Rutherford Oct. 20, 2020 PTR; Rep. Rutherford Feb. 2, 2021 PTR; Rep. Rutherford Nov. 19, 2021 PTR.

<sup>48</sup> Press Release, Rep. Rutherford, *Congressman Rutherford Sworn Into 115th Congress* (Jan. 3, 2017).

<sup>49</sup> Rep. Rutherford Aug. 20, 2018 PTR.

<sup>50</sup> *Id.* The OCE notes that several of these 136 transactions may not have been reportable, including the Fidelity disclosures from July 14-20, 2017 and the Jefferson National disclosure from July 10, 2017. See *id.* Because Rep. Rutherford declined to interview with the OCE and discuss these disclosures, the OCE could not definitively determine whether they should be considered reportable transactions. Given Rep. Rutherford's lack of cooperation in this respect, and the fact that he identified them as reportable transactions, the OCE also does so in this report.

<sup>51</sup> *Id.*; see also Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197). The two late-reported transactions made within the Committee's grace period violated the STOCK Act but did not require payment of a fine.

<sup>52</sup> See *supra*, Section II.B.

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- a. August 9, 2019 PTR: On an August 9, 2019 PTR, Rep. Rutherford disclosed six late transactions, valued between \$6,006 and \$90,000.<sup>53</sup> Three of these transactions were from May 2019, meaning they fell outside of the Committee's grace period and should have triggered payment of a fine.<sup>54</sup>
- b. December 18, 2019 PTR: On a December 18, 2021 PTR, Rep. Rutherford disclosed one late transaction, valued between \$1,001 and \$15,000.<sup>55</sup>
- c. May 1, 2020 PTR: On a May 1, 2020 PTR, Rep. Rutherford disclosed five late transactions, valued between \$5,005 and \$75,000.<sup>56</sup> Two of these transactions were made in February 2020, meaning they fell outside of the Committee's grace period and should have triggered payment of a fine.<sup>57</sup>
- d. July 29, 2020 PTR: On a July 29, 2020 PTR, Rep. Rutherford disclosed two late transactions, valued between \$2,002 and \$30,000.<sup>58</sup> Both of these transactions, made in May 2020, fell outside of the Committee's grace period and should have triggered payment of a fine.<sup>59</sup>
- e. October 20, 2020 PTR: On an October 20, 2020 PTR, Rep. Rutherford disclosed one late transaction, valued between \$1,001 and \$15,000.<sup>60</sup> This August 2020 transaction fell outside of the Committee's grace period and should have triggered payment of a fine.<sup>61</sup>

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<sup>53</sup> Rep. Rutherford Aug. 9, 2019 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>54</sup> Rep. Rutherford Aug. 9, 2019 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>55</sup> Rep. Rutherford Dec. 18, 2019 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197). The disclosure occurred within the grace period. *Id.*

<sup>56</sup> Rep. Rutherford May 1, 2020 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>57</sup> Rep. Rutherford May 1, 2020 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>58</sup> Rep. Rutherford July 29, 2020 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197). Two additional disclosures on the July 29, 2020 PTR appear to be late, specifically the BMY and VALÉ purchases. *See* Rep. Rutherford July 29, 2020 PTR. A review of Rep. Rutherford's brokerage statements confirms that these trades were made in July 2020 and not June 2020 (as initially reported). *See* Rep. Rutherford Brokerage Statements (on file with OCE). Given this time difference and a November 19, 2021 PTR amending these errors, the OCE does not identify them as late disclosures in this report. However, it notes that disclosure of the correct date of a transaction is fundamental to the STOCK Act's disclosure regime, and, as discussed more below, Rep. Rutherford's PTRs appear to consistently list inaccurate transaction dates. *See infra*, par. 43.

<sup>59</sup> Rep. Rutherford July 29, 2020 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>60</sup> Rep. Rutherford Oct. 20, 2020 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>61</sup> Rep. Rutherford Oct. 20, 2020 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

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- f. February 2, 2021 PTR: On a February 2, 2021 PTR, Rep. Rutherford disclosed five late transactions, valued between \$5,005 and \$75,000.<sup>62</sup> Three of these transactions – which occurred between October and November 2020 – fell outside of the Committee’s grace period and should have triggered payment of a fine.<sup>63</sup>
  - g. November 19, 2021 PTR: On a November 19, 2021 PTR, Rep. Rutherford disclosed one late transaction, valued between \$1,001 and \$15,000.<sup>64</sup> This February 2021 transaction fell outside of the Committee’s grace period and should have triggered payment of a fine.<sup>65</sup>
42. In total, between his swearing in and December 2021, Rep. Rutherford’s publicly available PTRs disclose 157 late reported transactions, valued between \$652,000 and \$3.5 million.<sup>66</sup> While the majority of these late filings occurred during his first term, Rep. Rutherford has continued to file late disclosures in more recent years, including after several trainings on his disclosure obligations and while serving on the Committee.<sup>67</sup>
43. NYLIFE Securities IRA statements provided to the OCE by Rep. Rutherford generally reflect the data Rep. Rutherford disclosed in his PTR filings; however, the OCE notes that Rep. Rutherford’s PTR filings generally include transactions dates that are inconsistent with the date provided in his statements.<sup>68</sup>

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<sup>62</sup> Rep. Rutherford Feb. 2, 2021 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>63</sup> Rep. Rutherford Feb. 2, 2021 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>64</sup> Rep. Rutherford Nov. 19, 2021 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197). As discussed *supra*, n.58, this PTR also includes BMV and VALE disclosures meant to amend errors on a prior filing. Given their status as amendments, the OCE does not consider these disclosures as late in this report.

<sup>65</sup> Rep. Rutherford Nov. 19, 2021 PTR; *see also* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197).

<sup>66</sup> *See* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197); *see also* Rep. Rutherford Aug. 20, 2018 PTR; Rep. Rutherford Aug. 9, 2019 PTR; Rep. Rutherford Dec. 18, 2019 PTR; Rep. Rutherford May 1, 2020 PTR; Rep. Rutherford July 29, 2020 PTR; Rep. Rutherford Oct. 20, 2020 PTR; Rep. Rutherford Feb. 2, 2021 PTR; Rep. Rutherford Nov. 19, 2021 PTR.

<sup>67</sup> *See* Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197); *see also* Rep. Rutherford Aug. 20, 2018 PTR; Rep. Rutherford Aug. 9, 2019 PTR; Rep. Rutherford Dec. 18, 2019 PTR; Rep. Rutherford May 1, 2020 PTR; Rep. Rutherford July 29, 2020 PTR; Rep. Rutherford Oct. 20, 2020 PTR; Rep. Rutherford Feb. 2, 2021 PTR; Rep. Rutherford Nov. 19, 2021 PTR.

<sup>68</sup> *Compare* Rep. Rutherford Brokerage Statements (on file with OCE) *with* Rep. Rutherford PTR filings. Because Rep. Rutherford did not certify to providing the OCE with a complete set of requested financial statements, and because he did not interview, the OCE could not definitively determine the extent to which Rep. Rutherford provided the OCE with all responsive brokerage statements and appropriately disclosed reportable transactions from those statements. A review of these filings did, however, reveal inconsistencies between transactions dates disclosed on PTRs and dates in the statements provided, and accordingly the inconsistency is noted here and also detailed in Exhibit 6, the Rep. Rutherford Summary of Late Disclosures. Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197). A review of the statements provided also revealed other financial disclosure errors or omissions, including, a failure to include reportable assets on Schedule A of his annual financial disclosures and improperly including assets on Schedule A that appear to have been sold off prior to the end of the year. *See* Rep. Rutherford Brokerage Statements (on file with OCE).

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ii. Rep. Rutherford's Explanation for His Failure to File PTRs

44. In response to public inquiries about his late filings, in September 2021, Rep. Rutherford's spokesperson said: "Rep. Rutherford is in regular contact with the House Ethics Committee to confirm all disclosure requirements are met in full."<sup>69</sup> Because Rep. Rutherford declined to interview, the OCE could not ask him about this statement or policies he had in place to prevent future filing lapses.<sup>70</sup>

45. Rep. Rutherford's counsel did, however, elaborate on this statement in a December 6, 2021 letter to the OCE. In this letter, counsel stated that Rep. Rutherford's late disclosures:

come[] down to a simple misunderstanding and inadvertent human error. Ms. [Jenifer] Bradley[, Rep. Rutherford's current Chief of Staff,] was tasked with reviewing Rep. Rutherford's IRA statements and preparing [his] PTRs. When she was assigned this task, she did not realize there was a 30/45 day deadline. Therefore ... in 2019 and 2020, she missed the deadline without even realizing it. When she learned about the 30/45 day requirement in February 2021, she immediately contacted the House Ethics Committee staff to determine what needed to be done. She was informed by Committee staff that this is a common occurrence and nothing needed to be done other than filing a PTR for the late transactions, which was submitted on February 2[, 2021].<sup>71</sup>

46. The OCE notes that this explanation fails to account for Rep. Rutherford's initial failure to file timely PTRs. It also raises questions about the manner in which Rep. Rutherford assigned these duties to Ms. Bradley and monitored the work she performed on his behalf. While neither Rep. Rutherford nor Ms. Bradley would sit for an interview to discuss these matters, the statement from counsel suggests that Ms. Bradley was not properly trained on how to carry out these disclosure obligations, and that Rep. Rutherford failed to adequately monitor her work product. Since an understanding of the 30-45 day filing deadline is essential for compliance with the STOCK Act, it appears that Ms. Bradley managed Rep. Rutherford's disclosures for several years without understanding the Act's foundational reporting requirements.

47. The above explanation for the late filings also raises questions about Rep. Rutherford and Ms. Bradley's interactions with the Committee. Despite filing several PTRs with disclosures made outside of the grace period, it does not appear that the Committee addressed Rep. Rutherford's duty to pay a fine. Instead, in contravention of Committee directives, it appears

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<sup>69</sup> Kimberly Leonard, Dave Levinthal, *Four more Republican members of Congress appear to have violated a federal law designed to combat insider trading and conflicts of interest*, INSIDER, Sept. 29, 2021, <https://www.businessinsider.com/stock-act-congress-investments-conflict-of-interest-transparency-spartz-2021-9>.

<sup>70</sup> The OCE notes that Rep. Rutherford failed to disclose at least one reportable transaction after the publication of the statement. See Rep. Rutherford Nov. 19, 2021 PTR.

<sup>71</sup> Letter from Kate Belinski, Counsel to Rep. Fallon, to Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, Dec. 6, 2021. Since this letter is a statement from counsel, and not from a witness subject to 18 U.S.C. § 1001, the OCE gave appropriately limited evidentiary value to this information.

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Rep. Rutherford was permitted to file numerous PTRs without tendering the requisite late filing penalties.<sup>72</sup>

iii. Rep. Rutherford's Fine Payments

48. Given his repeated failure to make timely PTR disclosures, Rep. Rutherford's conduct should have resulted in him paying fines pursuant to the Committee's fine schedule.<sup>73</sup> As discussed above, this did not occur, and in September 2021, Rep. Rutherford's spokesperson acknowledged as much, saying that "[a]ny late periodic transaction reports have been submitted in full and accepted by the House, without fine."<sup>74</sup>
49. In October 2021, at the start of this review, the OCE sought documents and communications related to Rep. Rutherford's payment of any PTR-related fines.<sup>75</sup> While Rep. Rutherford did not fully cooperate with this review, he provided the OCE with documents and communications that confirm that he did not pay any fines in connection with these late disclosures until after the OCE opened its review.
50. Specifically, Rep. Rutherford provided the OCE with an \$800 receipt of payment for "Ethics fees" from the Office of the Clerk.<sup>76</sup> This receipt (below) is dated November 19, 2021, suggesting that Rep. Rutherford made this payment after the OCE commenced this review and inquired about his payment of fines.<sup>77</sup>

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<sup>72</sup> The OCE sought all communications Rep. Rutherford or his staff had with the Committee regarding his PTR filings, and provided the Committee with a release signed by Rep. Rutherford in conjunction with this request. As discussed above, the Committee declined to provide these materials, citing confidentiality provisions. *See supra*, Section II.B. Rep. Rutherford did, however, provide communications his Chief of Staff, Ms. Bradley, had with the Committee. These communications suggest that Ms. Bradley routinely utilized the Committee's annual financial disclosure preclearance process, having Committee staff review Rep. Rutherford's annual filings before officially submitting them. *See Bradley Preclearance Emails (Exhibit 7 at 21-7423\_0204)*. Despite doing so, it does not appear that his above-described PTR-related errors and omissions were identified or addressed by the Committee prior to the OCE opening this review. *Id.*

<sup>73</sup> As discussed above, absent a fee waiver which articulates "extraordinary circumstances," Members with late PTRs are subject to fines of increasing severity for filings falling outside the grace period. *See supra*, Section II.A-B. Additionally, when Members are required to pay a fine, they are required to do that prior to submitting their PTR. *Id.* PTRs submitted without the request fine will be considered "deficient and not properly filed." *See supra*, Section II.A (noting that "any report that is submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed. Thus, you must submit the late filing fee at the time you file your report.").

<sup>74</sup> *See* Kimberly Leonard, Dave Levinthal, *Four more Republican members of Congress appear to have violated a federal law designed to combat insider trading and conflicts of interest*, INSIDER, Sept. 29, 2021, <https://www.businessinsider.com/stock-act-congress-investments-conflict-of-interest-transparency-spartz-2021-9>.

<sup>75</sup> *See* Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to Rep. Rutherford, Oct. 21, 2021.

<sup>76</sup> Rep. Rutherford Nov. 19, 2021 Acknowledgment of Receipt from Office of the Clerk (Exhibit 8 at 21-7423\_0270).

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

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OFFICE OF THE CLERK  
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Organization \_\_\_\_\_ Rep. John Rutherford

Ethics in Government Act-Financial Disclosure Statement  Amendment

Other Ethics fees (\$800.00)

Travel Disclosure:  
 Member  
 Employee

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51. After being provided this \$800 receipt, the OCE sought information regarding the manner in which this fine was calculated and assessed.<sup>78</sup> Rep. Rutherford’s counsel provided the OCE with communications she had with the Committee.<sup>79</sup> These communications reveal that on November 18, 2021, Rep. Rutherford’s counsel reached out to the Committee to “sort out some late-filed PTR issues and figure out what [Rep. Rutherford] owes in fines.”<sup>80</sup> In that email she provided the Committee with a list of late PTRs and suggested that \$800 was the appropriate fine.<sup>81</sup> She then asked them “to confirm [her] understanding and [her] math.”<sup>82</sup>
52. On November 19, 2021, the Committee responded, saying: “Based on the data provided, Rep. Rutherford owes \$800 in fines.”<sup>83</sup> The reference to the “data provided” appears to be a reference to counsel’s written list of late PTRs and her fine calculations. It does not appear that the Committee reviewed any financial information provided by Rep. Rutherford (e.g., brokerage statements) to determine an appropriate fine payment. And it does not appear the Committee independently reviewed Rep. Rutherford’s PTR filings to ensure his counsel correctly tallied the fines.
53. The OCE’s review of this exchange and the relevant PTRs reveals that the initial fine calculations were incorrect in several respects. For instance, the exchange suggests that Rep.

<sup>78</sup> See Emails between Jeffrey Brown, Senior Investigative Counsel, OCE and Kate Belinski, Counsel to Rep. Rutherford, Dec. 7-10, 2021 (on file with OCE). This fine amount did not appear consistent with fine schedule provided by the Committee or the manner in which the Committee had imposed fines on past STOCK Act violators.

<sup>79</sup> See November 2021 Emails between Kate Belinski and Comm. on Ethics Staff (on file with OCE).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

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

<sup>83</sup> *Id.*

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Rutherford's first late PTR filing occurred on August 9, 2019,<sup>84</sup> but as discussed above, he disclosed over a hundred late transactions in August 2018.<sup>85</sup> Additionally, counsel incorrectly tallied the number of grace period violations, meaning she calculated a significantly lesser penalty for the late disclosures.<sup>86</sup>

iv. Rep. Rutherford's Efforts to Ensure Compliance with Future PTR Deadlines

54. Rep. Rutherford, through his attorney, advised the OCE in a December 6, 2021 letter that he has "put into place a new system with his account brokers for reviewing his transactions on a monthly basis in order to ensure that all transactions going forward will be complete, accurate and timely filed."<sup>87</sup> Because Rep. Rutherford declined to interview, the OCE could not determine when this new system was put into place or evaluate its effectiveness. However, the OCE notes that a system of month-end reviews may be insufficient.<sup>88</sup>
55. In summary, evidence collected by the OCE reveals that Rep. Rutherford routinely failed to file timely disclosures pursuant to the STOCK Act. Additionally, his disclosures appear to routinely provide inaccurate transaction dates. Given the lack of cooperation from Rep. Rutherford and his Chief of Staff Jen Bradley, the OCE was not able to fully assess whether and to what extent Rep. Rutherford (a) was trained on and reminded of his disclosure obligations; (b) appropriately delegated his disclosure obligations to Ms. Bradley and monitored her work product; (c) knowingly and willfully filed late PTR transactions between 2018 and 2021; (d) accurately and completely disclosed all his reportable transactions; and (e) was properly penalized for his repeated violations of federal law and House rules.

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<sup>84</sup> *Id.*

<sup>85</sup> See Rep. Rutherford Aug. 20, 2018 PTR.

<sup>86</sup> In her email to the Committee, counsel identified six PTRs – filed between August 9, 2019 and February 2, 2021 – with late disclosures. November 2021 Emails between Kate Belinski and Comm. on Ethics Staff (on file with OCE). She concluded there was a \$200 fine associated with the first late PTR, which she identified as the August 19, 2021 PTR. *Id.* She also identified three separate \$200 fines connected to the February 2, 2021 PTR. *Id.* While the Committee approved an \$800 fine payment based on this explanation, a review of Rep. Rutherford's PTR filings suggests that counsel failed to properly calculate the number of disclosures occurring outside of the grace period and the Committee did not identify her mistakes. As set forth in greater detail above, a review of Rep. Rutherford's PTR filings evidences several additional filings with disclosures that occurred after the expiration of the grace period, thereby warranting fines. See *supra*, par. 41; see also Rep. Rutherford Summary of Late Disclosures (Exhibit 6 at 21-7423\_0197). When confronted with some of these miscalculations, counsel advised the OCE that she would have Rep. Rutherford make additional fine payments. Emails between Jeffrey Brown, Senior Investigative Counsel, OCE and Kate Belinski, Counsel to Rep. Rutherford, Dec. 7-10, 2021 (on file with OCE). The OCE never received information on whether these payments were made and whether they would have been consistent with the OCE's calculations set forth above.

<sup>87</sup> Letter from Kate Belinski, Counsel to Rep. Fallon, to Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, Dec. 6, 2021.

<sup>88</sup> As discussed above, transactions must be disclosed within 30 days of notification. See *supra*, Section II.A-B. Accordingly, if Rep. Rutherford is notified of trades on the day they occur (which it appears does occur), a system for "reviewing his transactions on a monthly basis" may be insufficient as it could result in late disclosures.

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

**III. CONCLUSION**

56. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Rutherford failed to file timely PTRs for various reportable transactions, in violation of federal law and House rules.
57. Accordingly, the Board recommends that the Committee further review the above allegation that Rep. Rutherford failed to file timely PTRs for various reportable transactions.

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

58. The following witnesses, by declining to provide requested information to the OCE, did not cooperate with the OCE review:
- a. Rep. Rutherford; and
  - b. Jen Bradley.
59. The Board recommends that the Committee on Ethics issue subpoenas to Rep. Rutherford and Jen Bradley.