

CONFIDENTIAL

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

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 21-7750

The Board of the Office of Congressional Ethics (hereafter “the Board”), by a vote of no less than four members, on July 16, 2021, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives (hereafter “the Committee”).

SUBJECT: Representative Jim Hagedorn

NATURE OF THE ALLEGED VIOLATION: Rep. Hagedorn may have used official funds to contract for services with companies owned or controlled by his staff members. If Rep. Hagedorn allowed the use of official funds for an impermissible expenditure, then Rep. Hagedorn may have violated House rules, standards of conduct, and federal law.

Rep. Hagedorn’s campaign committee, Friends of Hagedorn, may have used private office space at no cost or for a rate below fair market value. If Rep. Hagedorn’s campaign committee failed to report an in-kind contribution of office space or received an excessive contribution, then Rep. Hagedorn 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. Hagedorn because there is substantial reason to believe that Rep. Hagedorn used official funds to contract for services with companies owned or controlled by his staff members.

The Board recommends that the Committee further review the above allegation concerning Rep. Hagedorn because there is substantial reason to believe that Rep. Hagedorn used private office space at no cost or for a rate below fair market value.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 0

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

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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. 21-7750

On July 16, 2021, 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. The Office of Congressional Ethics (“OCE”) reviewed allegations that Rep. Hagedorn 1) allowed nearly half a million dollars of official funds to be directed to companies owned by his employees and 2) received rent-free or below-market-value use of campaign office space from a political donor.
2. As described below, the OCE found evidence that two of Rep. Hagedorn’s employees owned or had a potential beneficial interest in companies receiving significant amounts of paid work from Rep. Hagedorn’s congressional office, and that Rep. Hagedorn failed to conduct reasonable oversight of the large amounts of official funds being spent with these companies. As to the donor-supplied office space, the OCE found extensive evidence that Rep. Hagedorn not only paid significantly below market value for the campaign office space, but that he also knowingly made materially false statements to the public about his use of that office space when confronted with the allegations.
3. The OCE sought Rep. Hagedorn’s cooperation in reviewing these matters, but he refused to participate. Below are the specific issues considered in this review and the Board’s recommendations:
4. Rep. Hagedorn may have used official funds to contract for services with companies owned or controlled by his staff members. If Rep. Hagedorn allowed the use of official funds for an impermissible expenditure, then Rep. Hagedorn may have violated House rules, standards of conduct, and federal law.
5. The Board recommends that the Committee on Ethics of the United States House of Representatives (“the Committee”) further review above allegation concerning Rep. Hagedorn because there is substantial reason to believe that Rep. Hagedorn used official funds to contract for services with companies owned or controlled by his staff members.
6. Rep. Hagedorn’s campaign committee, Friends of Hagedorn, may have used private office space at no cost or for a rate below fair market value. If Rep. Hagedorn’s campaign committee failed to report an in-kind contribution of office space or received an excessive

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended contribution, then Rep. Hagedorn may have violated House rules, standards of conduct, and federal law.

7. The Board recommends that the Committee further review the above allegation concerning Rep. Hagedorn because there is substantial reason to believe that Rep. Hagedorn used private office space at no cost or for a rate below fair market value.

B. Jurisdictional Statement

8. The allegations that were the subject of this review concern Rep. Hagedorn, a Member of the United States House of Representatives from the 1st District of Minnesota. 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.”¹ 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

9. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on March 8, 2021. The preliminary review commenced on March 9, 2021.²
10. On March 9, 2021, the OCE notified Rep. Hagedorn of the initiation of the preliminary review, provided him with a statement of the nature of the review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.³
11. At least three members of the Board voted to initiate a second-phase review in this matter on April 7, 2021. The second-phase review commenced on April 8, 2021.⁴ The second-phase review was scheduled to end on May 22, 2021.
12. On April 7, 2021, the OCE notified Rep. Hagedorn of the initiation of the second-phase review in this matter, and again notified him of his right to be represented by counsel in this matter, and that invoking that right would not be held negatively against him.⁵
13. The Board voted to extend the second-phase review by an additional period of fourteen days on May 7, 2021. The additional period ended on June 5, 2021.

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

² 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.

³ Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to Rep. Hagedorn (March 9, 2021).

⁴ 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.

⁵ Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to Rep. Hagedorn (April 7, 2021).

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14. The Board voted to refer the matter to the Committee on Ethics for further review and adopted these findings on July 16, 2021.
15. The report and its findings in this matter were transmitted to the Committee on Ethics on July 23, 2021.

D. Summary of Investigative Activity

16. The OCE requested documentary and in some cases testimonial information from the following sources:

- (1) Rep. Hagedorn;
- (2) John Sample, Digital Media Staffer;
- (3) Peter Su, former Chief of Staff;
- (4) Melissa Carr, Budget Analyst;
- (5) Former Owner of 11 Civic Center Plaza;
- (6) Current Owner of 11 Civic Center Plaza;
- (7) Ryan Altman, former RNC Field Organizer; and
- (8) Blue Earth Graphics.

17. The following individuals and entities refused to cooperate with the OCE's review:

- (1) Rep. Hagedorn;
- (2) John Sample;
- (3) Peter Su;
- (4) Melissa Carr;
- (5) Ryan Altman; and
- (6) Blue Earth Graphics.

II. REP. HAGEDORN MAY HAVE USED OFFICIAL FUNDS TO PAY COMPANIES OWNED BY HIS STAFF MEMBERS

A. Applicable Law, Rules, and Standards of Conduct

18. Federal Statutes

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."

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."

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19. Members' Congressional Handbook

*"Unless specifically authorized by an applicable provision of federal law, House Rules, or Committee Regulations, no Member, relative of the Member, or anyone with whom the Member has a professional or legal relationship may directly benefit from the expenditure of the MRA."*⁶

*Disbursements from the MRA are made on a reimbursement or direct payment basis and require specific documentation and Member certification as to accuracy and compliance with applicable federal laws, House Rules, and Committee regulations.*⁷

20. House Ethics Manual

*Citing the Members' Congressional Handbook rule above, the Manual states that "it appears that these rules preclude a Member or committee from contracting with a staff member for the acquisition of goods, or of any services outside of the employment context."*⁸

*Citing Federal Acquisitions Regulations, 48 C.F.R. §§ 3.601-3.603, the Manual further states that those regulations "provide that a contract may not knowingly be awarded to a federal employee (including an officer or employee of the House), or a firm substantially owned or controlled by one or more federal employees, except 'if there is a most compelling reason to do so, such as when the government's needs cannot reasonably be otherwise met.'"*⁹

*Additionally, in describing standards for MRA spending, the Manual gives the following example: "Member B's district manager is part owner of a building in the district. B may **not** rent space in the employee's building for the congressional district office."*¹⁰

B. \$456,686.38 of Official Congressional Funds Spent on Franked Mail and Printing Services

21. The OCE reviewed allegations concerning Rep. Hagedorn's unusually high spending on franked mail and printing services and found, consistent with Rep. Hagedorn's own internal review of the same issues, that at least some of the spending was in violation of House rules and federal law forbidding Members from contracting with staff members for the acquisition of any goods or services.
22. House Statements of Disbursements show that Rep. Hagedorn spent at least \$453,686.38 of his MRA funds on "printing and reproduction" for franked mail to constituents between May 29, 2019 and April 16, 2020. Of that \$453,686.38, Rep. Hagedorn spent \$114,189.00 with a Texas-based company called Invocq Technologies LLC ("Invocq"). A Delaware-based

⁶ Committee on House Administration, Members' Congressional Handbook, 116th Cong. (updated Nov. 6, 2020) at 2.

⁷ *Id.* at 3.

⁸ House Ethics Manual (2008) at 202.

⁹ *Id.*

¹⁰ *Id.* at 324 (emphasis in original).

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company called Abernathy West LLC (“Abernathy West”) received the remaining \$339,497.38.¹¹

23. Those figures garnered media attention, and on June 8, 2020 Legistorm published a short article noting that Rep. Hagedorn had spent 19% of his annual budget on franked mail in the first quarter of 2020, as compared to the average Member who had spent .8% of their budget on franked mail during that same period.¹²
24. Shortly after the June 8, 2020 Legistorm article, on June 18, 2020, Rep. Hagedorn retained outside counsel to conduct an internal review of his franked mail practices. That review resulted in a report issued on September 5, 2020 (“the internal review report”).¹³
25. The internal review report made several findings: 1) Invocq was owned by John Sample, a part-time digital media staffer in Rep. Hagedorn’s office; 2) Abernathy West was likely owned by, Szu-Nien Su, the brother of Rep. Hagedorn’s Chief of Staff, Peter Su;¹⁴ and 3) the two companies charged Rep. Hagedorn’s office “significantly more than the fair market for franking services.”¹⁵ The internal review report also concluded that Rep. Hagedorn had no knowledge of his staff members’ ownership of, or involvement with, either company.¹⁶
26. Peter Su and John Sample were both suspended shortly after the above-mentioned public reporting and the initiation of Rep. Hagedorn’s internal review. Su’s suspension was made permanent on June 19, 2020. Sample’s suspension was lifted on July 9, 2020 and he returned to part-time employment in Rep. Hagedorn’s office, where he remains an employee.¹⁷
27. Rep. Hagedorn shared the results of his internal review with the House Committee on Ethics on August 10, 2020.¹⁸
28. The OCE set out to verify the internal review report’s findings and gather additional information regarding Rep. Hagedorn’s franked mail practices. That effort was significantly hampered by Rep. Hagedorn’s refusal to cooperate with the OCE’s review. However, the OCE collected evidence from third parties that corroborated some of the internal review report’s findings and demonstrated others to be inaccurate. As explained in detail below, it appears likely that at least Peter Su and John Sample sought to benefit themselves financially, and to that end were engaged in an effort to secure franked mail and printing services contracts for companies that they or their family members owned. Because Rep. Hagedorn refused to cooperate in this investigation, the extent to which he was aware of or

¹¹ Figures compiled from Statements of Disbursements of the House.

¹² Keturah Hetrick, *Caught or Eye: Rep. Hagedorn spent 40 percent of his 2020 budget in just 3 months*, LEGISTORM (June 8, 2020), https://www.legistorm.com/pro_news/2586/rep-hagedorn-spent-40-percent-of-his-2020-budget-in-just-3-months.html.

¹³ Internal Review of Office of Congressman Hagedorn Franking Issues (“Internal Review Report”), Sept. 5, 2020 (Exhibit 1 at 21-7750_0002-6).

¹⁴ The internal review report did not reach a definitive conclusion as to the ownership of Abernathy West because neither Peter Su nor Szu-Nien Su cooperated with Rep. Hagedorn’s internal review. *See infra* para. 29.

¹⁵ Internal Review Report (Exhibit 1 at 21-7750_0003).

¹⁶ *Id.*

¹⁷ *Id.* at 3-5.

¹⁸ *Id.* at 2.

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involved in these efforts remains unclear, but several factors indicate, at least, that he should have been aware and was negligent in overseeing these substantial contracting decisions.

i. Background and Information Concerning Former Chief of Staff, Peter Su

29. The internal review report states that while Peter Su and his brother initially agreed to cooperate with Rep. Hagedorn's internal review, the two repeatedly delayed and failed to respond to Rep. Hagedorn's counsel's requests. Without ever obtaining substantive cooperation or information from Su or his brother, the internal review report concluded that "it could not be determined why Mr. Su selected Abernathy West as a vendor or if he had any relationship with it beyond his brother's apparent connection" ¹⁹
30. The OCE was able to obtain Su's partial cooperation. Though he did not provide the complete set of requested documents, he provided two documents that he claims establish his brother's full ownership of Abernathy West. Su also interviewed with OCE staff. In the interview, he provided relevant background information regarding his relationship with John Sample, some information regarding whether Rep. Hagedorn had knowledge of problematic ownership interests in Invocq and Abernathy West, and denied having any ownership or beneficial interest in Abernathy West.
31. However, the veracity of some of the information provided by Su and the authenticity of the small set of documents he provided are in doubt. The OCE could not wholly rely on much of the documentary or testimonial evidence offered by Su because, as explained in detail below, during his cooperation, it became clear that Su was intentionally misleading OCE investigators and made a number of materially false statements during his interview. The OCE made every attempt to corroborate or disprove Su's statements where needed and has attempted to appropriately weigh the usefulness of his cooperation against the contaminating effect of his obstructive behavior.

ii. Su and Sample's Efforts to Illegally Profit from Official Contracts

32. Peter Su was hired as Rep. Hagedorn's Chief of Staff shortly after Rep. Hagedorn was sworn into Congress.²⁰ Su and Rep. Hagedorn were colleagues in the federal government twenty years prior and maintained contact after they left those positions. Initially, during his interview, Su indicated that he had very little to do with Rep. Hagedorn's staff selection. He stated that "[e]verything was already predetermined by Congressman Hagedorn . . . he had already made final decisions on staff hiring" and that by the time Su was hired, the only remaining positions to be filled were low level staff.²¹ However, he acknowledged that Sample had not yet been hired and said that Rep. Hagedorn knew Sample as a "technical savvy person and I believe he came in to ask John to help him set up the office website."²² Su

¹⁹ *Id.* at 4.

²⁰ Transcript of Interview of Peter Su ("Su Transcript"), April 30, 2021 (Exhibit 2 at 21-7750_0024).

²¹ *Id.* at 24-25.

²² *Id.* at 25-26.

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stated that Rep. Hagedorn consulted with him about whether to hire Sample because Su had worked with Sample previously, and Su told Rep. Hagedorn to “try him out.”²³

33. Su stated that he met Sample around 2010, while the two were employed together in Virginia state government, in the Department of Minority Business Enterprises.²⁴ Su left that position and the two had limited contact from 2010 to 2018.²⁵ However, in 2018, while then-candidate Hagedorn was running for Congress, Sample contacted Su to comment on the poor quality of candidate Hagedorn’s digital media and suggested he (i.e., Sample) could do a better job.²⁶ Su says that he told Sample he would introduce him to Rep. Hagedorn if he won his seat, so that Sample could offer his services as a digital media consultant.²⁷
34. Throughout the interview, Su equivocated as to whose idea it was to hire Sample. Initially Su indicated that Rep. Hagedorn knew Sample and had made the initial contact on his own.²⁸ Later, Su stated that he made the initial introduction.²⁹ Su openly acknowledges that he and Sample discussed the possibility of providing some type of media or constituent contact services to Rep. Hagedorn before either were hired by Rep. Hagedorn.³⁰

a. Contracting Decisions with Abernathy West and Invocq

35. Su stated that, early in their employment, Rep. Hagedorn directed Sample and him to engage a Minnesota company called Blue Earth Graphics to produce printed constituent mailers.³¹ However, according to Su, as the volume requirements for the mailers increased around the middle part of 2019, Blue Earth Graphics was unable to keep up with the new demand.³² Su also explained that Blue Earth Graphics did not provide the level of customization in graphic and printing choices that Rep. Hagedorn required.³³ As a result, Sample suggested another company, Invocq, that might be able to meet the demands.
36. The OCE reached out to Blue Earth Graphics to corroborate Su’s claim that the company was unable to meet Rep. Hagedorn’s volume and customization needs. Blue Earth Graphics stated that service requests from Rep. Hagedorn’s office abruptly ended with no explanation. Further, Blue Earth Graphics explained that their printed mail offerings were fully customizable and that they had never received requests from Rep. Hagedorn that they were unable to fulfill.
37. Thus, evidence reviewed by the OCE indicates that the reason for any dissatisfaction with Blue Earth Graphics was pretextual, and that the true interest was in transitioning to a vendor in which Su or Sample had a financial interest.

²³ *Id.*

²⁴ *Id.* at 107-108.

²⁵ *Id.* at 109.

²⁶ *Id.* at 110.

²⁷ *Id.*

²⁸ *Id.* at 25-26.

²⁹ *Id.* at 108-109.

³⁰ *Id.* at 110.

³¹ *Id.* at 55.

³² *Id.* at 73.

³³ *Id.* at 55-57.

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38. Su claims that when Sample first suggested the transition to Invocq, he directed Sample to “go check with Melissa. Go make sure the company can do business.”³⁴ Su explained that Melissa Carr is a financial administrator and budget analyst that Rep. Hagedorn shares with other Members, and stated that “she comes with a lot of knowledge of what is authorized spending and what is not. And whenever there’s a question she goes and asks House Administration, and House Finance, and gets that clarified.”³⁵
39. Su claimed he was not aware that Sample owned Invocq and repeatedly attempted to blame Carr for failing to determine that a contractual relationship with Invocq would be prohibited.³⁶ Though Carr refused to cooperate with the OCE’s review and submit to an interview, she stated in initial conversations with OCE investigators that it was not within the scope of her duties to verify that all contractors and service contracts complied with all House rules and federal law. Specifically, she stated that it was not her practice or responsibility to investigate the ownership interests in companies providing services to Member offices, and that she was never informed that there were staffers who may have had direct or familial interests in Invocq or Abernathy West. Su agreed that sort of information was not shared with Carr.³⁷ Nevertheless, according to Su, Sample and Carr determined there were no impediments hiring Invocq.³⁸
40. Shortly thereafter, Rep. Hagedorn’s office engaged Invocq Technologies.³⁹
41. House Statements of Disbursements provide a reliable timeline of the vendor selections. Those records show that Blue Earth Graphics provided “printing and reproduction” services for Rep. Hagedorn for the first six months of his term, through June 2019. After that date Blue Earth Graphics no longer provided services to Rep. Hagedorn’s office, and instead Invocq began providing those services in early September of 2019.⁴⁰
42. The first disbursement to Invocq occurred on September 18, 2019 in the amount of \$41,088.00, for services rendered on September 4, 2019.⁴¹
43. Prior to that date, Rep. Hagedorn’s office had spent relatively little with Blue Earth Graphics, a total of \$4,754.94, spread over three disbursements and service periods between March and June of 2019.⁴²
44. Su claimed in his interview that Abernathy West’s services were retained much later to supplement the work Invocq was doing because of continued increases in the need for

³⁴ *Id.* at 60, 73.

³⁵ *Id.* at 87.

³⁶ *See, e.g., id.* at 60-61.

³⁷ *Id.* at 90.

³⁸ *See generally, id.* at 91-92.

³⁹ *Id.* at 60-61.

⁴⁰ Information compiled from Statements of Disbursements of the House.

⁴¹ *Id.*

⁴² *Id.*

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franked mail. He stated, “[s]o we went with [Invocq] for a while. But then the volume . . . [a]nd the volume’s still building. So it wasn’t until much later that Abernathy came about.”⁴³

45. However, Statements of Disbursements show that it was only three weeks after Invocq was retained that Rep. Hagedorn’s office also started awarding large work orders to Abernathy West. Three disbursements totaling \$24,935.65 were made from Rep. Hagedorn’s MRA account for services rendered by Abernathy West on September 25, 2019.⁴⁴
46. It is also important to note that Abernathy West is a Delaware corporation that was formed on August 21, 2019, less than a month before it began providing service to Rep. Hagedorn’s office.⁴⁵ Su was not aware of any other Members of Congress or other clients that employed Abernathy West,⁴⁶ and neither the OCE nor Rep. Hagedorn’s internal-review counsel were able to locate any other clients of Abernathy West.⁴⁷ Further, the domain name abernathywest.com is an incomplete single-page website that provides no information about the company’s services or clients, and states simply “Coming Soon.” The only evidence of any other business activity is Su’s testimony that a representative of Abernathy West was present at a congressional vendor fair, though he could not name the representative or identify the date of the vendor fair.⁴⁸
47. The formation date and lack of any evidence of other business activity suggest that Abernathy West was formed for the sole purpose of providing services to Rep. Hagedorn’s office.
48. Despite having no history of performance or experience in the industry,⁴⁹ payments to Abernathy West immediately began outstripping those made to Invocq and any other design-print company retained by any other member of Congress.⁵⁰ After the above-mentioned September services, Abernathy West received a total of \$133,129.60 in the months of October, November, and December of 2019.⁵¹ Invocq did not receive another payment until January 27, 2020, which was in the amount of \$31,968.00 for services provided in that same month.⁵²
49. Payments, which eventually totaled \$453,686.38, continued to both Abernathy West and Invocq until April 2020.⁵³ This spending continued until public reports emerged in June of

⁴³ Su Transcript (Exhibit 2 at 21-7750_0073).

⁴⁴ Figures compiled from Statements of Disbursements of the House.

⁴⁵ Delaware Department of State: Division of Corporations, Entity Details for Abernathy West LLC (Exhibit 4 at 21-7750_0183).

⁴⁶ Su Transcript (Exhibit 2 at 21-7750_0045).

⁴⁷ Internal Review Report (Exhibit 1 at 21-7750_0004).

⁴⁸ Su Transcript (Exhibit 2 at 21-7750_0053-54).

⁴⁹ Mr. Su did testify that his brother, the alleged owner of Abernathy West, was “involved in graphic design work before, right out of college.” *Id.* at 44.

⁵⁰ See Statements of Disbursements of the House; see also Hetrick, *supra* note 12.

⁵¹ Figure compiled from Statements of Disbursements of the House.

⁵² *Id.*

⁵³ *Id.*

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2020, despite bi-weekly MRA budget meetings in which Su and Carr briefed Rep. Hagedorn on the various categories of MRA spending.⁵⁴

50. Rep. Hagedorn's internal review report also concluded that not only were these service contracts being awarded to Invocq and Abernathy West despite the financial conflicts of interest described below, but also that the two companies were defrauding Rep. Hagedorn's office by charging "significantly more than the fair market for franking services."⁵⁵ Among the overages charged were an \$8,800 payment and a \$7,700 payment from Rep. Hagedorn's MRA to Invocq for postage on the franked mail.^{56, 57} Because Abernathy West did not participate in the internal review or the OCE's review, it remains unclear whether that company also erroneously charged Rep. Hagedorn for postage on franked mail.

b. Ownership of Invocq and Abernathy West

51. As discussed above, Sample maintains an ownership interest in Invocq and there is evidence to suggest that Su's brother wholly owns, or claims to own, Abernathy West. Below is additional detail concerning the ownership of these companies and the financial interests that Sample and Su maintained, or may have maintained, in the two companies.
52. According to Texas business registration documents, Invocq was formed in 2011 and designated John Sample as its registered agent.⁵⁸ Rep. Hagedorn's own internal review report and public documents confirm that at the time Invocq began performing services for Rep. Hagedorn, Invocq was owned by both John Sample and his business partner, Catherine Keszei.⁵⁹
53. According to public documents, Keszei died on December 28, 2019.⁶⁰ The internal review report claims that Keszei "performed the actual services for the LLC," and that she passed "after Invocq completed its work."⁶¹ Further, the internal review report alleges that "her passing rendered Invocq essentially defunct and with no financial assets."⁶²
54. However, House Statements of Disbursements indicate that those portions of the internal review report are incorrect. Invocq continued to receive disbursements from Rep. Hagedorn's MRA in 2020 for work purportedly done in that year, after Keszei's passing.⁶³ Invocq received one payment in the amount of \$31,968.00 on January 27, 2020, for work performed

⁵⁴ Su Transcript (Exhibit 2 at 21-7750_0037).

⁵⁵ Internal Review Report (Exhibit 1 at 21-7750_0004).

⁵⁶ *Id.* at 5.

⁵⁷ The internal review report states that the charges were inadvertent, and that Sample has agreed to repay the postage charges. According to the report, Rep. Hagedorn has requested guidance from the Ethics Committee for how to effectuate the refund and is awaiting the Committee's response. *Id.* Because neither Rep. Hagedorn nor Sample participated in this review, the OCE has not determined whether the reimbursement has been made.

⁵⁸ Texas Office of the Comptroller, Franchise Tax Account Status for Invocq Technologies LLC (Exhibit 4 at 21-7750_0185).

⁵⁹ Internal Review Report (Exhibit 1 at 21-7750_0004).

⁶⁰ Catherine Ann Keszei Obituary, Stemm-Lawson-Peterson Funeral Home, available at <https://www.stemmlawsonpeterson.com/obituary/Catherine-Keszei> (last accessed July 21, 2021).

⁶¹ Internal Review Report (Exhibit 1 at 21-7750_0005).

⁶² *Id.*

⁶³ Information compiled from Statements of Disbursements of the House.

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on January 14, 2020.⁶⁴ The company received a second payment for \$10,431.00 on April 16, 2020 for work performed on February 25, 2020.⁶⁵

55. Thus, it appears that Invocq continued to function, perform work, and take in payments from Rep. Hagedorn's office while Sample was the sole owner of the company.
56. Su claimed, in his interview, that he was not aware that Sample was an owner of Invocq, and that, when asked, Sample stated that Keszei was the owner.⁶⁶ However, this claim is not credible given Su's other testimony and other evidence in the case. First, Su facilitated Sample's hiring for the very purpose of having him work on Rep. Hagedorn's media and graphic products.⁶⁷ Su also explained that shortly after Rep. Hagedorn's office retained Invocq, Su had to have conversations with Sample about not doing work for other companies while he was supposed to be conducting official business for Rep. Hagedorn.⁶⁸ While he claims those conversations were not specifically about Invocq, the timing of the conversation and Invocq's hiring casts doubt on that claim. He also alleged that Rep. Hagedorn was present for at least one of those conversations.⁶⁹ Finally, Sample himself claims that he did disclose his ownership in Invocq to Su, as detailed in the internal review report.⁷⁰
57. Thus, a review of the evidence indicates that Su was aware of Sample's ownership of Invocq and attempted to conceal that knowledge from OCE investigators.
58. As to Abernathy West, the OCE was unable to obtain conclusive evidence about the true ownership of the company. Because Abernathy West is incorporated in Delaware, its formation documents are not a matter of public record. Su repeatedly disavowed any interest in or knowledge of Abernathy West, which he alleges is wholly owned by his brother Szu-Nien Su. During the review, he informed OCE investigators that he could produce proof of his brother's 100% ownership interest in the company.
59. As proof, Su then sent an email with two individual PDF pages attached: 1) a print out of the Delaware State's summary of the "Entity Details" for Abernathy West,⁷¹ and 2) a document titled "Exhibit A – Members," which purports to show that Szu-Nien Su has a 100% ownership interest in Abernathy West ("the ownership document").⁷² The ownership document has a page number "14" displayed at the bottom of the document, but the preceding pages were not included in Su's production.⁷³
60. The OCE attempted to verify the authenticity of the ownership document during Su's interview, at which point it became apparent that Su had intentionally misrepresented the

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ Su Transcript (Exhibit 2 at 21-7750_0094).

⁶⁷ *Id.* at 110.

⁶⁸ *Id.* at 73, 96-105.

⁶⁹ *Id.* at 98.

⁷⁰ Internal Review Report (Exhibit 1 at 21-7750_0005).

⁷¹ State of Delaware, Entity Details (Exhibit 5 at 21-7750_0187).

⁷² Page 14 of Alleged Corporate Documents, "Members" (Exhibit 6 at 21-7750_0189).

⁷³ *Id.*

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origin of the document. When asked about how he obtained the document, he originally claimed that he requested and received it from the State of Delaware.⁷⁴

OCE: Okay. And how did you obtain this document?

Su: Same thing. You asked for incorporation documents and percentage of ownership. They file a report and that's the report that I got, the page that shows the ownership.

OCE: And you're telling me that somebody from Delaware sent you this document?

Su: Yes.

OCE: From the State of Delaware?

Su: Yeah. I already said that, yeah.

61. Later in the interview it was explained to Su that the ownership document was not publicly available from the State of Delaware and that he could not have obtained it in the manner he had earlier described.⁷⁵ He then admitted that he had actually obtained the document directly from his brother Szu-Nien Su.⁷⁶ When asked why he had misrepresented the source of the document he stated, "there was no rhyme or reason. It's a factual document."⁷⁷
62. While the OCE did not uncover any direct evidence that Su either owned Abernathy West or financially benefited from the service contracts awarded to the company, there is substantial circumstantial evidence supporting either of those conclusions. Su's apparent deceitfulness coupled with his familial interest in Abernathy West suggests he could have an undisclosed financial interest.

C. Rep. Hagedorn's Knowledge or Negligent Oversight

63. The OCE uncovered evidence that shows Rep. Hagedorn knew or should have known that there were irregularities in his franked mail practices, including unusually high spending, above fair market prices, and potential financial conflicts of interest with regard to Su and Sample.
64. Because Rep. Hagedorn refused to cooperate with the review, the OCE was unable to definitively determine whether he was aware of these issues. While it is possible that Rep. Hagedorn was, to some degree, the victim of Su and Sample's fraudulent conduct, evidence collected by the OCE, and Rep. Hagedorn's refusal to cooperate with this review, suggest Rep. Hagedorn was aware or should have been aware of the irregularities and negligently permitted nearly half a million dollars of improper MRA spending to continue without objection.
65. Regardless of his actual knowledge, the Members' Congressional Handbook requires Members to take steps to verify that their submissions for MRA disbursements comply with House Rules and federal law.⁷⁸ The below evidence indicates that Rep. Hagedorn submitted

⁷⁴ Su Transcript (Exhibit 2 at 21-7750_0070).

⁷⁵ *Id.* at 157.

⁷⁶ *Id.* at 158.

⁷⁷ *Id.* at 160.

⁷⁸ Committee on House Administration, Members' Congressional Handbook, 116th Cong. (updated Nov. 6, 2020) at 3.

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invoices and vouchers for MRA disbursements without conducting reasonable oversight of the large amounts of official funds being spent.

66. First, as noted above, Rep. Hagedorn received periodic briefings regarding MRA budget issues.⁷⁹ With nearly 20% of his total annual budget going to just two vendors in the first quarter of the year, some level of scrutiny was required. This is especially true when the spending was in a category—franked mail—for which the average Member had spent less than 1% of their budget at that time.⁸⁰
67. Second, the internal review report states that Sample disclosed his ownership interest in Invocq to Su when he suggested that his company could take on the work that was allegedly overwhelming Blue Earth Graphics.⁸¹ That admission explains why, as Su stated in his interview, Su had to have conversations with Sample about not conducting outside work on official time. And according to Su, Rep. Hagedorn was present for at least one of the conversations with Sample about those concerns related to Sample's work for Invocq.⁸²
68. Further, it seems that Sample made no secret of his work with Invocq. If the internal review report is correct, Sample was not actually aware of House rules and federal regulations forbidding the sort of self-dealing he was engaged in, so he had no reason to conceal his work with Invocq.⁸³ And evidence shows he did not, as he advocated for the company in the office and apparently discussed his familiarity with Catherine Keszei, the other owner of Invocq.⁸⁴
69. Additionally, Sample's connection to Invocq was a matter of public record and easily searchable on the Texas Comptroller of Public Accounts' Taxable Entity online database.⁸⁵
70. As to Abernathy West, according to Su, Rep. Hagedorn knew his brother, Szu-Nien Su, the purported owner of Abernathy West. Su further claimed that Rep. Hagedorn met with Szu-Nien independently in his office at times.⁸⁶ The internal review report does not directly refute the claim that Rep. Hagedorn and Szu-Nien Su were acquainted. If true, this casts doubt on the internal review report's conclusory statements regarding Rep. Hagedorn's lack of knowledge of the potential conflict of interest. Due to Rep. Hagedorn's non-cooperation, the OCE was unable to test the veracity of Su's claims about Rep. Hagedorn and Szu-Nien Su's relationship.
71. And finally, as to both Abernathy West and Invocq, the internal review report found that Rep. Hagedorn's office was charged "significantly more than the fair market" for the services of both companies.⁸⁷ Su testified that Rep. Hagedorn's office did not compare the prices

⁷⁹ Su Transcript (Exhibit 2 at 21-7750_0034-35).

⁸⁰ Hetrick, *supra* note 12.

⁸¹ Internal Review Report (Exhibit 1 at 21-7750_0005).

⁸² Su Transcript (Exhibit 2 at 21-7750_0098).

⁸³ Internal Review Report (Exhibit 1 at 21-7750_0005).

⁸⁴ *See supra* para. 33-38, 53, 56.

⁸⁵ Texas Office of the Comptroller, Franchise Tax Account Status for Invocq Technologies LLC (Exhibit 4 at 21-7750_0185).

⁸⁶ Su Transcript (Exhibit 2 at 21-7750_0077).

⁸⁷ Internal Review Report (Exhibit 1 at 21-7750_0003).

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being charged by Abernathy West or Invocq to other companies providing similar services.⁸⁸ Had Rep. Hagedorn required this sort of basic due diligence, he might have become aware that his office was being significantly overcharged.

72. This evidence indicates that, even if not actually aware of his staff's direct or potential beneficial interests in Invocq and Abernathy West, Rep. Hagedorn should have conducted more oversight or had better policies and procedures in place to prevent the self-dealing and above-fair-market expenditures that occurred in this matter. The Members' Congressional Handbook and MRA disbursement verification documents placed a duty on Rep. Hagedorn to make efforts to verify just and reasonable prices and compliance with federal law and House Rules, and it appears he did not meet that duty.

73. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Hagedorn used official funds to contract for services with companies owned or controlled by his staff members.

III. REP. HAGEDORN'S CAMPAIGN COMMITTEE, FRIENDS OF HAGEDORN, MAY HAVE USED PRIVATE OFFICE SPACE AT NO COST OR FOR A RATE BELOW FAIR MARKET VALUE

A. Applicable Law, Rules, and Standards of Conduct

74. Federal Statutes

52 U.S.C. § 30104(b)(3)(a) states that, "[e]ach report under this section shall disclose— the identification of each...person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office)"

75. Federal Election Commission Regulations

11 C.F.R. § 100.52(a) states, "[a] 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 is a contribution."

*11 C.F.R. § 100.52(d) further states that "the term **anything of value** includes all in-kind contributions" and that "the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution. Examples of such goods or services include, but are not limited to . . . facilities"*

11 C.F.R. § 110.1(b) states, "[n]o person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office that, in the aggregate, exceed \$2,000."⁸⁹

⁸⁸ Su Transcript (Exhibit 2 at 21-7750_0082-83).

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76. House Rules

House Rule 25, clause 5(a)(1)(A)(i) states that “[a] Member, Delegate, Resident Commissioner, officer, or employee of the House may not knowingly accept a gift except as provided in this clause.”

B. Campaign Use of Suite 7 at 11 Civic Center Plaza

77. The OCE reviewed allegations that Rep. Hagedorn’s campaign committee, Friends of Hagedorn, was using free or below-market-rate office space as its campaign headquarters in violation of House Rules and FEC regulations. As detailed below, statements obtained from individuals who used or visited the office space, as well as documentary evidence and admissions by the owner of the office space, substantiate the allegations.

78. Rep. Hagedorn’s campaign committee listed Suite 7 at 11 Civic Center Plaza, Mankato, MN as its mailing address since its inception in 2013 and until at least February 5, 2021. The campaign committee listed that address through a series of unsuccessful election bids in 2014, and 2016, and during Rep. Hagedorn’s successful efforts to win his seat in 2018 and win reelection in 2020.⁹⁰

79. Despite the campaign’s reported use of Suite 7, there are no FEC filings evidencing rental payments for the space. When Rep. Hagedorn assumed his seat in 2019, he began renting official office space on the third floor of the same building at a rate of approximately \$2,200/month, according to House Statement of Disbursements.⁹¹

80. On October 9, 2020, Politico published an article detailing the allegedly impermissible use of the campaign office space.⁹² Rep. Hagedorn responded to the Politico article through his campaign Facebook account. He claimed that he used the address only as a mailing address, stating “Suite 007 is a P.O. Box address!” He also stated that “no physical location is tied to that address.” In the same post, however, he admitted that the campaign committee “did rent unfurnished space in the basement of [11 Civic Center Plaza] from March 2018 through November 7, 2018. We paid the owner \$100 and listed that on our FEC report. Case closed.”^{93, 94}

⁸⁹ This limit applies to each election the candidate participates in (e.g., primary, general, run-off, etc.) and is adjusted for inflation every two years. See 11 C.F.R. § 110.1(b). The contribution limit for an individual for the 2017-2018 election cycle was \$2,700 per election, and for the 2019-2020 cycle it was \$2,800 per election. The limit for an individual in the current election cycle, 2021-2022, is \$2,900.

⁹⁰ Friends of Hagedorn, FEC Statement of Organization, filed Oct. 17, 2013.

⁹¹ See e.g., Statement of Disbursements of the House, January 1, 2019 – March 31, 2019.

⁹² See Daniel Newhauser, *The mystery of a GOP congressman’s seemingly rent-free campaign office*, POLITICO (Oct. 9, 2020), <https://www.politico.com/news/2020/10/09/jim-hagedorn-may-violated-election-law-428181>.

⁹³ Jim Hagedorn, Facebook post (October 9, 2020) (Exhibit 7 at 21-7750_0191).

⁹⁴ As explained *infra* para. 88, while it does appear that the campaign committee made a one-time \$100 payment to Former Owner of 11 Civic Center Plaza, that payment does not appear on any FEC reports or is misreported such that it cannot be discerned on any report.

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81. About four months later, on February 6, 2021, the campaign committee changed its address to 201 Sioux Rd., Suite 107, Mankato, MN.⁹⁵

i. **Evidence of Suite 7's Use as an Office Space and Headquarters**

82. Despite Rep. Hagedorn's claims that there is "no physical location tied to that address," the OCE compiled substantial evidence to the contrary. The evidence also shows that Rep. Hagedorn used the office space as his campaign headquarters and hosted political and campaign events in the space.

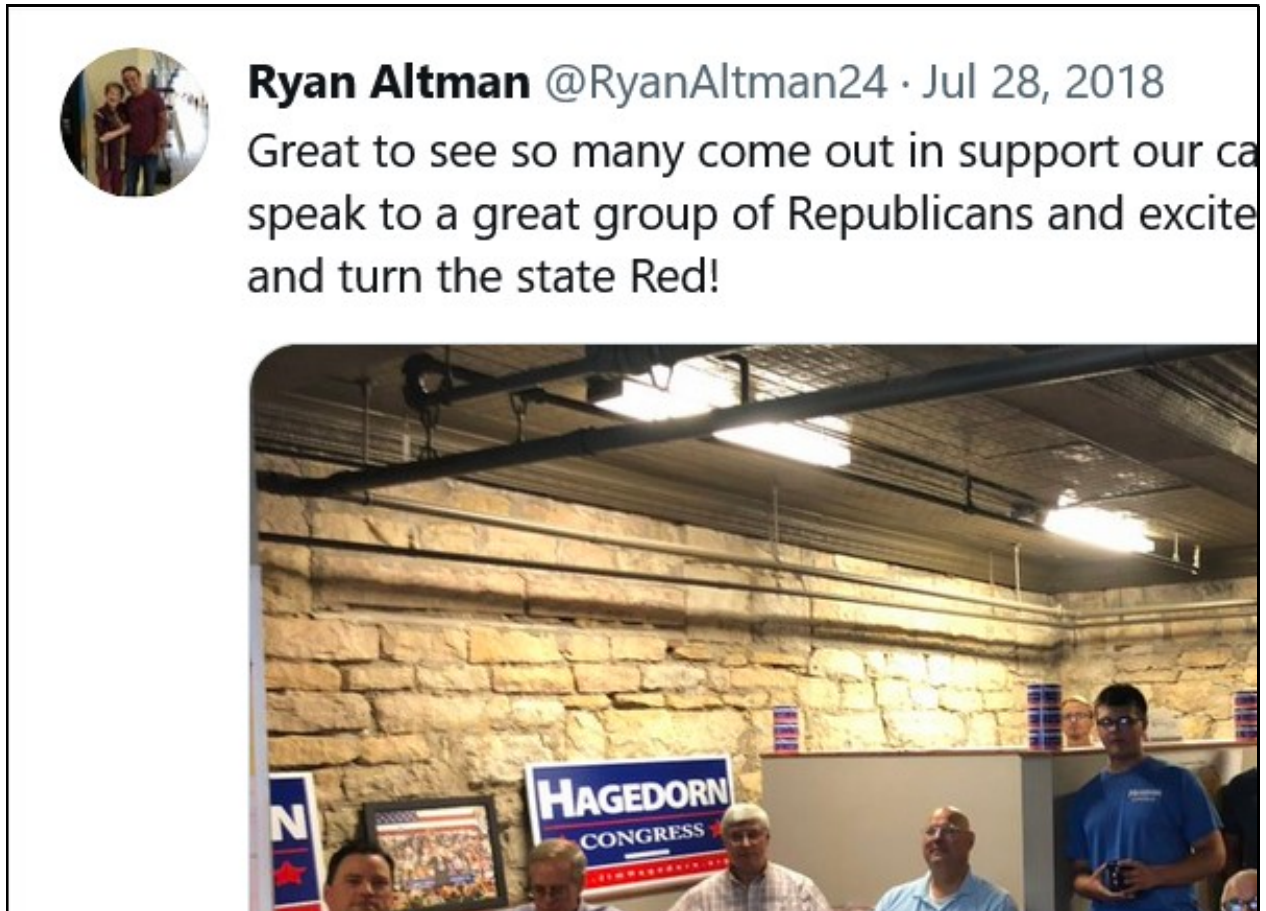
83. Rep. Hagedorn's own campaign Twitter account tweeted a photo of Rep. Hagedorn and several others in the basement office space, describing it as "Hagedorn Headquarters in Mankato":



⁹⁵ Friends of Hagedorn, Amended FEC Statement of Organization, filed Feb. 6, 2021.

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84. Other social media posts confirm this use of the space. A July 28, 2018 event called the “Candidate Meet and Greet and Day of Action!! – Mankato” was advertised on the website and event platform Eventbrite.⁹⁶ The event details list the location of the event as “Hagedorn Campaign Office, 11 Civic Center Drive, Suite 0007.”⁹⁷ At least one tweet about the event shows that Suite 7 was furnished with chairs, desks, cubicles and meeting spaces for campaign employees or volunteers:



85. Ryan Altman, the author of the above tweet, was a field organizer for the Republican National Committee during the 2018 election cycle. Altman told the OCE he was familiar with then-candidate Hagedorn’s campaign operations and understood Suite 7 to be the campaign headquarters. He also confirmed that the photo was taken in the Hagedorn campaign headquarters office space.⁹⁸

⁹⁶ Eventbrite, *Candidate Meet and Greet and Day of Action!! – Mankato*, Event Details, available at https://www.eventbrite.com/e/candidate-meet-greet-and-national-day-of-action-mankato-tickets-48039317893?fbclid=IwAR35_rZuAlf2L8gN7l8h0RJfbtBew_umpn56_dRR0XzvU7XwHwpO__MReHM# (last visited April 21, 2021).

⁹⁷ *Id.*

⁹⁸ See OCE Internal Memorandum, March 30, 2021, on file with OCE.

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86. Peter Su, also told the OCE that when he visited the district office he was given a tour of both the official district office on the third floor of 11 Civic Center Plaza and a campaign office that was housed in the basement of the same building. Su described the office as having desks, cubicles, computers, campaign materials, and campaign mail.⁹⁹ Su's statements appear to be substantiated by the above photographic evidence.

ii. Rental Rates and Agreements for Suite 7 and Other Basement Offices

87. The OCE also collected evidence from the Current Owner and Former Owner of 11 Civic Center Plaza, including the rental agreement entered into by Rep. Hagedorn's campaign committee, as well as ledgers showing the rental rates paid by tenants of the basement office spaces. These documents further confirm that Suite 7 is a physical office that Rep. Hagedorn's campaign committee rented at no cost or below market value.

88. The rental agreement obtained by the OCE describes Suite 7 as an 879 ft² space at 11 Civic Center Plaza. The agreement stipulates that the campaign committee will pay "\$100 in equal monthly payments, in advance, without prior demand on the first day of each calendar month during the term."^{100, 101} The term of the lease is from February 19, 2018 to November 30, 2018. The Former Owner of 11 Civic Center Plaza also produced the single check for \$100 issued by the campaign committee to pay for use of Suite 7 during the rental period.¹⁰²

89. However, other documents produced to the OCE showing the rental rates paid by the few other tenants in basement units indicate that the value of Suite 7 far exceeds \$100 for over nine months of use.

90. As a point of direct comparison, from 2011 to 2014, one tenant appears to have rented the same 879 ft² as Rep. Hagedorn's campaign committee for \$952 per month.^{103, 104}

91. Other entities paid similar rates, averaging around \$1/ft² or slightly more per month compared to the ø1.2/ft² per month paid by Rep. Hagedorn. One entity has leased 277 ft² in the basement from 2011 to present and has paid between \$300 and \$325 per month for the space during that time.¹⁰⁵ Another tenant began renting 324 ft² of basement office space in 2016 at a rate of \$337.50 per month, which was set to increase incrementally each year

⁹⁹ Su Transcript (Exhibit 2 at 21-7750_0172-176).

¹⁰⁰ Lease Agreement (Exhibit 8 at 21-7750_0197-198).

¹⁰¹ The Former Owner of 11 Civic Center Plaza provided further commentary on the lease agreement by email through counsel. The Former Owner stated that he was unsure of whether the lease agreement was intended to set the rental price at \$100 per month, or \$100 to be divided equally on a monthly basis for the rental term. He also stated that "[h]e believes his accountant billed the campaign \$100 per month, but the campaign only reimbursed \$100 total." See Exhibit 9 at 21-7750_0200. If Rep. Hagedorn's campaign was required to pay \$100 a month, the amount would still be far below market value, as explained *infra* para. 90-92, and a lower rate than was apparently set by the landlord.

¹⁰² Exhibit 10 at 21-7750_0222.

¹⁰³ The assumption that the two office spaces are the same is based on the identical square footage reflected in the produced rental documents and the campaign committee's lease agreement.

¹⁰⁴ Compiled Rent Rolls for 11 Civic Center Plaza (Exhibit 11 at 21-7750_0227).

¹⁰⁵ *Id.* at 225, 227.

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92. These comparable rent rates indicate that, conservatively, 9 month's use of the 879 ft² of the basement space at a fair-market rate—about \$1/ft² per month—should have been valued at \$7,911. If the same rate that was charged of the prior tenant for the same office space is applied, then the 9 month's use should be valued at \$8,568.

93. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Hagedorn used private office space at no cost or for a rate below fair market value.

IV. INDIVIDUALS AND ENTITIES THAT REFUSED TO COOPERATE WITH THE OCE REVIEW

Rep. Hagedorn

94. Upon receiving notice of the initiation of this review, Rep. Hagedorn immediately informed the OCE, through counsel, that he would not be cooperating with the review.

Peter Su

95. The OCE delivered a Request for Information to Su seeking documentary evidence and seeking an interview. Su did not respond to a majority of the OCE's documentary requests. Instead he offered only two documents and made material misrepresentations to the OCE about the origins and authenticity of those documents, as described in detail above.¹⁰⁸ When he submitted to an interview, he continued to make materially false statements, attempted to mislead OCE investigators, and generally obstruct the investigation. While the OCE generally considers third parties that submit to an interview cooperative, Su's deceptive behavior throughout this review and during his interview cannot be considered cooperative conduct.

John Sample

96. In a preliminary phone call with the OCE, Sample indicated that he would cooperate with the OCE's review. The OCE sent Sample a Request for Information on March 30, 2021. After that communication Sample stopped responding to the OCE's attempts to make contact.

Melissa Carr

97. The OCE sought documents and an interview from Carr, but after numerous conversations attempting to obtain her cooperation, Carr stopped responding to the OCE. Carr expressed reservations about the potential for retaliation should she decide to cooperate with the OCE's review.

¹⁰⁶ *Id.* at 225, 231.

¹⁰⁷ *Id.* at 225.

¹⁰⁸ *Supra* para. 59-61.

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Ryan Altman

98. The OCE sought documentary evidence and an interview from Altman. In a preliminary phone conversation on March 30, 2021, he offered substantive information confirming the campaign committee's use of the basement office space at 11 Civic Center Plaza and gave the OCE contact information for other key witnesses. He promised further cooperation, stating that he would gather documents responsive to the OCE's Request for Information and submit to an interview. Altman's cooperation never materialized, as numerous additional attempts to contact him went unanswered.

Blue Earth Graphics

99. The OCE requested an interview with Blue Earth Graphics. Though one of the company's owners offered some substantive information in initial conversations, detailed above,¹⁰⁹ Blue Earth ultimately declined to submit to an interview.

V. CONCLUSION

100. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Hagedorn used official funds to contract for services with companies owned or controlled by his staff members.
101. Accordingly, the Board recommends that the Committee further review the above allegation that Rep. Hagedorn allowed the use of official funds for an impermissible expenditure.
102. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Hagedorn's campaign committee used private office space at no cost or for a rate below fair market value.
103. Accordingly, the Board recommends that the Committee further review the above allegation that Rep. Hagedorn's campaign committee failed to report an in-kind contribution of office space or received an excessive contribution

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

104. The following witnesses, by declining to provide requested information to the OCE, did not cooperate with the OCE review:
- a. Rep. Hagedorn;
 - b. Peter Su;
 - c. John Sample;
 - d. Melissa Carr;
 - e. Ryan Altman; and
 - f. Blue Earth Graphics.

¹⁰⁹ *Supra* para. 36.

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105. The Board recommends that the Committee on Ethics issue subpoenas to Rep. Hagedorn, Peter Su, John Sample, Melissa Carr, Ryan Altman, and Blue Earth Graphics.