

**UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT  
INVESTIGATIVE SUBCOMMITTEE**

\_\_\_\_\_)  
In the Matter of \_\_\_\_\_)  
REPRESENTATIVE MAXINE WATERS, \_\_\_\_\_)  
Respondent. \_\_\_\_\_)  
\_\_\_\_\_)

**ORDER**

This investigative subcommittee having considered Respondent's Motion for a Bill of Particulars, Memorandum of Points and Authorities, and the entire record herein, hereby finds:

1. Each count of the Statement of Alleged Violation contains a plain and concise statement of the alleged facts of the violation.
2. Each count of the Statement of Alleged Violation includes a reference to the provision of the Code of Official Conduct or law, rule, regulation or other applicable standard of conduct governing the performance of duties or discharge of responsibilities alleged to have been violated.
3. Each count of the Statement of Alleged Violation contains information sufficient to advise Respondent of the allegations against her, and sufficient to afford her a meaningful opportunity to respond to those allegations. Accordingly,

It is by the Investigative Subcommittee this 15<sup>th</sup> day of July, 2010, ORDERED

That the Motion is DENIED.

  
\_\_\_\_\_  
Kathy Castor  
Chair

  
\_\_\_\_\_  
Mike Conaway  
Ranking Republican Member

Copies to:

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REPRESENTATIVE MAXINE WATERS, )  
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Respondent. )  
\_\_\_\_\_ )

**MEMORANDUM IN SUPPORT OF ORDER**

On June 30, 2010, Respondent submitted to the Investigative Subcommittee a Motion for Bill of Particulars with respect to the Statement of Alleged Violation adopted by the subcommittee and transmitted to Respondent on June 15, 2010. By a separate Order, the Investigative Subcommittee denied Respondent’s Motion for Bill of Particulars on July 1, 2010. Through this Memorandum the Investigative Subcommittee sets forth the bases for its Order denying Respondent’s motion.<sup>1</sup>

**STANDARD OF REVIEW**

Pursuant to Rule 19(f) of the Rules of the Committee on Standards of Official Conduct (Standards Committee Rules), each count of a Statement of Alleged Violation: (1) “shall relate to a separate violation,” (2) “shall contain a plain and concise statement of the alleged facts of such violation,” and (3) “shall include a reference to the provision of the Code of Official Conduct or law, rule, regulation or other applicable standards of conduct governing the performance of duties or discharge of responsibilities alleged to have been violated.”<sup>2</sup>

Standards Committee Rule 22(b) permits a Respondent to “file a Motion for a Bill of Particulars within 10 days of the date of transmittal of the Statement of Alleged Violation.”<sup>3</sup> A Bill of Particulars “is essentially a procedural device used to inform a defendant of the nature of the charge against [her], to enable [her] to prepare a defense, to avoid or minimize danger of surprise at trial, and to enable [her] to plead double jeopardy in the event of subsequent

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<sup>1</sup> The investigative subcommittee notes that Respondent requested an “Oral Hearing” on its Motion for a Bill of Particulars. After reviewing Respondents motion and the Memorandum of Points and Authorities in Support of the motion, the investigative subcommittee determined that such a hearing was unnecessary, and thus that request is denied.

<sup>2</sup> Rules of the Committee on Standards of Official Conduct (Standards Committee Rules), Rule 19(f).

<sup>3</sup> Standards Committee Rule 22(b). On June 23, 2010, Respondent requested an extension of time within which to file her Motion for Bill of Particulars, which request was granted by the Chair of the Investigative Subcommittee pursuant to Standards Committee Rule 22(e)(1). Accordingly, Respondent’s motion is timely.

prosecution for the same offense.”<sup>4</sup> A Statement of Alleged Violation must be sufficiently particularized to advise a Respondent of the allegations against her and to afford her a meaningful opportunity to respond to those allegations.<sup>5</sup> A Motion for a Bill of Particulars may be denied where the Investigative Subcommittee determines that its Statement of Alleged Violation meets this standard.<sup>6</sup>

A Bill of Particulars “is to be distinguished from methods of ‘discovery.’ In the context of criminal prosecutions, courts have regularly held that government attorneys will not be forced to reveal their entire case in response to a motion of this sort.”<sup>7</sup> Additionally, “conclusions of law or legal theories are not a proper subject of” a motion for a Bill of Particulars.<sup>8</sup>

### **RESPONSE TO INDIVIDUAL REQUESTS**

For the reasons set forth below, the Investigative Subcommittee has found that the Statement of Alleged Violation adopted by the Investigative Subcommittee on June 15, 2010, provides Respondent with sufficient notice of the allegations against her and affords Respondent a meaningful opportunity to respond to those allegations. Therefore, Respondent’s Motion for a Bill of Particulars is denied.

With respect to each request in Respondent’s Motion for Bill of Particulars, the investigative subcommittee finds as follows:

1. **Statement of Facts in Support of Alleged Violation**

- a. This request is denied because “relevancy” is not a proper subject of a Bill of Particulars.
- b. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraph 16 of the Statement of Alleged Violation. The investigative subcommittee notes that it requested more particularity from Respondent on this point, but Respondent was unable to provide it.
- c. This request is denied because “relevancy” is not a proper subject of a Bill of Particulars.

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<sup>4</sup> Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson*, H. Rep. 96-930, 96<sup>th</sup> Cong., 2d Sess. at 64 (May 8, 1980) (hereinafter *Wilson*).

<sup>5</sup> Comm. on Standards of Official Conduct, *In the Matter of Representative Jay Kim*, H. Rep. 105-797, 105<sup>th</sup> Cong., 2d Sess. at 806 (Oct. 8, 1998); *see also* Comm. on Standards of Official Conduct, *In the Matter of Representative Barbara-Rose Collins*, H. Rep. 104-876, 104<sup>th</sup> Cong., 2d Sess. at 100 (Jan. 2, 1997).

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

<sup>7</sup> *Wilson*, at 64.

<sup>8</sup> *Id.*, at 65.

- d. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraph 20 of the Statement of Alleged Violation.

2. Count I of the Statement of Alleged Violation

- a. This request is denied because conclusions of law or legal theories are not a proper subject of a Bill of Particulars and are more properly asserted in a Motion to Dismiss.
- b. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 1 to 3 of the Statement of Alleged Violation.
- c. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 24 to 31 of the Statement of Alleged Violation.
- d. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 24 to 31 of the Statement of Alleged Violation.
- e. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 10, 11, 20, 21, 22, 25, 26, 28, and 33 of the Statement of Alleged Violation.
- f. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 35 to 38 of the Statement of Alleged Violation.
- g. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 9 and 21 to 31 of the Statement of Alleged Violation. The investigative subcommittee additionally notes the following:
  - i. Respondent's Chief of Staff told the investigative subcommittee that he was the "main point of contact after, after the Congresswoman spoke to Mr. Paulson." (CSOC.WAT.TRANS.000423.)

- ii. Paragraph 4 of the Memorandum of the Office of Congressional Ethics' Interview of Respondent's Chief of Staff states, "Representative Waters asked The Chief of Staff to Representative Maxine Waters to follow up with the Treasury Department about the meeting."
- iii. Respondent's Chief of Staff told the investigative subcommittee that after the meeting "there was no specific direction" regarding follow up after the meeting. (CSOC.WAT.TRANS.000475.)
- iv. Respondent told the investigative subcommittee that after her conversation with Representative Frank, she understood Representative Frank "would certainly take the lead responsibility. What is not easily understood sometimes is how staffs talk to each other, ask each other questions. One Member's staff will call another member's staff if they think they know something or have information they need. And to that extent, I don't know, but I know Frank's office was in charge of this." (CSOC.WAT.TRANS.000675 to 676.)
- v. Respondent's Chief of Staff told the investigative subcommittee that Respondent expressed "no concern" after her conversation with Representative Frank. (CSOC.WAT.TRANS.000485.)
- vi. Respondent told the investigative subcommittee that the only discussions she had with her Chief of Staff about OneUnited "would have been the day that they came to the office unannounced, alarmed about the situation of minority banks." (CSOC.WAT.TRANS.000000668.)
- vii. Respondent's Chief of Staff told the investigative subcommittee that Respondent "wasn't aware" that he was receiving email from OneUnited executives after the meeting. (CSOC.WAT.TRANS.000475.)
- viii. Respondent told the investigative subcommittee that she did not know but was "not surprised" that her Chief of Staff was exchanging emails and attending meetings with OneUnited executives after the meeting. (CSOC.WAT.TRANS.000000659, 662, and 665.)
- h. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 24 to 31 of the Statement of Alleged Violation.
- i. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 24 to 31 of the Statement of Alleged Violation.

3. Count II of the Statement of Alleged Violation

- a. This request is denied because conclusions of law or legal theories are not a proper subject of a Motion for a Bill of Particulars and are more properly asserted in a Motion to Dismiss.
- b. This request is denied because conclusions of law or legal theories are not a proper subject of a Motion for a Bill of Particulars and are more properly asserted in a Motion to Dismiss.
- c. This request is denied because conclusions of law or legal theories are not a proper subject of a Motion for a Bill of Particulars and are more properly asserted in a Motion to Dismiss.
- d. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 24 to 31 of the Statement of Alleged Violation.
- e. This request is denied because conclusions of law or legal theories are not a proper subject of a Motion for a Bill of Particulars and are more properly asserted in a Motion to Dismiss.

4. Count III of the Statement of Alleged Violation

- a. This request is denied because conclusions of law or legal theories are not a proper subject of a Motion for a Bill of Particulars and are more properly asserted in a Motion to Dismiss.
- b. This request is denied because conclusions of law or legal theories are not a proper subject of a Motion for a Bill of Particulars and are more properly asserted in a Motion to Dismiss.
- c. This request is denied because conclusions of law or legal theories are not a proper subject of a Motion for a Bill of Particulars and are more properly asserted in a Motion to Dismiss.
- d. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 24 to 31 of the Statement of Alleged Violation.
- e. This request is denied because information related to this request that is sufficiently particularized to advise Respondent of the allegations against her and to afford her a meaningful opportunity to respond is contained in paragraphs 24 to 31 of the Statement of Alleged Violation.

CONCLUSION

In light of the foregoing, the Investigative Subcommittee finds that Respondent's Motion for Bill of Particulars does not state a sufficient basis requiring further particularization of the Statement of Alleged Violation. Accordingly, the Respondent's Motion for Bill of Particulars is denied.

  
\_\_\_\_\_  
Kathy Castor  
Chair

  
\_\_\_\_\_  
Mike Conaway  
Ranking Republican Member

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