

BY HAND-DELIVERY

November 16, 2011

The Honorable Jo Bonner
Chairman
The Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

The Honorable Linda T. Sanchez
Ranking Member
The Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

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COMMITTEE ON ETHICS

RE: Response to the Office of Congressional Ethics' Report Concerning Review No. 11-6736

Dear Chairman Bonner and Ranking Member Sanchez:

I appreciate the opportunity to respond to the Report regarding Review No. 11-6736 ("Report") of the Office of Congressional Ethics ("OCE"), adopted September 27, 2011.

Since this matter came to my attention, I have repeatedly expressed my dismay at the allegations that now have been referred by OCE to the Committee on Ethics ("Committee"). In the strongest possible terms, I deny the allegations made by Winsome Packer (the "complainant") and am deeply saddened and frustrated that this inquiry has progressed to this point. I have cooperated fully with every investigative body that has reviewed the complainant's allegations because I have nothing to hide. While I have stated it many times, it bears repeating: the complainant's accusations that I sexually harassed her are absolutely false. I never have had a romantic or sexual interest in the complainant, nor did I ever express or otherwise intimate that I had any such interest in her; and her suggestions to the contrary are, to be blunt, fictitious. I am extremely disappointed that OCE now has referred this matter for further review despite the ample evidence contradicting the complainant's spurious allegations.

As disheartening as the baseless allegations made by the complainant, however, is the manner in which OCE investigated the matter and decided that a referral was appropriate. OCE justifies its referral by noting that four witnesses apparently declined to submit to an interview, but gives short shrift to the fact that most, if not all, of the witnesses were interviewed previously by an independent body investigating the complainant's allegations and that two of the four witnesses are involved in parallel litigation concerning these allegations – one as a defendant and the other as General Counsel for a defendant. Nor does OCE acknowledge that, during its investigation, it failed even to attempt to interview certain key witnesses. For example, OCE's so-called "findings" reference Alex Johnson no fewer than nine times, but nowhere does OCE suggest that it called Mr. Johnson for an interview. OCE failed to contact Mr. Johnson, a witness that the complainant herself identified as having observed, first-hand, essential elements of her story – yet credits the testimony of an unnamed "FBI agent" who, in a classic example of

unreliable hearsay, merely heard the complainant's biased re-telling of events that only she maintains occurred. And if that were not enough, the Report fails to note the multitude of inconsistencies in the complainant's narratives, and the many instances in which her allegations were contradicted by unbiased third parties. To be blunt, OCE conducted a shoddy investigation, and now I am left to pay the price for its lack of diligence and poor investigative techniques.

I urge the Committee to dismiss this matter because, despite having almost five months to perform its investigation, OCE was unable to develop *any* evidence that substantiates the complainant's allegations of harassment and retaliation. To the contrary, the Report is rife with evidence that contradicts the complainant's claims. OCE did not give proper consideration to this evidence, nor did it faithfully perform its duties to examine critically the available evidence. If the Committee reviews the information that was before OCE, I am confident that it will conclude that the record is sufficient to dismiss the matter. Indeed, other House entities, including the Office of House Employment Counsel ("OHEC") and the Office of the House General Counsel, already have reviewed the complainant's allegations and concluded that they are meritless. Indeed, in a communication to the U.S. Department of Justice, OHEC and the House General Counsel wrote that the complainant "grossly distorts the events and circumstances in order to support the fiction that she experienced unlawful sexual harassment and retaliation. . . . We do not believe that [the complainant] experienced sexual harassment." (Report, Exhibit 15, at 11-6736_0103.) They continued: "[W]hile some of [the complainant's] allegations begin with a kernel of truth, when looked at in context, [the complainant] grossly distorts the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation." (Report, Exhibit 15, at 11-6736-0103.) On the record already developed by OCE, the Committee has before it the evidence to conclude, as others before it have, that the complainant's charges lack credibility.

Further, as described in more detail below, OCE abandoned the standard requiring a finding that there is "substantial reason to believe the allegations" before referring a matter to the Committee. (OCE Rule 9(A).) Rather, it has referred the matter on the far lesser showing of probable cause, and on the tenuous ground that it had to do so because certain information apparently was unavailable to it. In truth, no credible evidence supports the complainant's story, and several unbiased sources completely undermine it. Based on the record that OCE advances, not only is there no "substantial reason to believe the allegations," there also is no probable cause. For this additional reason, I urge the Committee to dismiss the referral.

I. OCE Abandoned The Standard Requiring "Substantial Reason" To Believe That Wrongdoing Has Occurred And Referred The Matter To The Committee On A Far Lesser Showing.

Typically, OCE makes a referral to the Committee if it finds that there is "*substantial reason* to believe the allegations." OCE Rule 9(A). They failed to do so in this case. Despite having almost five months to consider the matter, OCE did not find substantial reason to believe the allegations. Instead, its referral cites the lower "*probable cause* to believe" standard, which allows OCE to refer a matter to the Committee only in the event that OCE is "unable to obtain information necessary to reach th[e] determination" that "there is a substantial reason to believe

the allegations.” (OCE Rule 9(A).) And, as discussed in more detail below, even OCE’s application of this lower “probable cause” standard is riddled with error.

As an initial matter, it bears emphasis that OCE did *not* find substantial reason to believe the complainant’s allegations, notwithstanding that it interviewed her for over three hours and reviewed all of the documents and evidence she submitted. The “substantial reason” standard is not difficult to meet. Under OCE’s Rules, “[a] substantial reason to believe exists where there is such relevant evidence a reasonable mind *might accept as adequate* to support a conclusion.” (OCE Rule 9(A) (emphasis added).) By relying on the lower “probable cause” standard, the Report makes clear that the complainant’s own testimony and evidence do not allow a reasonable person to conclude that her allegations are true. OCE nevertheless recommends further review, and the Report provides three reasons to support OCE’s use of the lower standard: *first*, that “the refusal of key witnesses to cooperate *may* have left it without a complete and accurate factual record of the interactions between [the complainant] and Representative Hastings” (Report ¶ 3 (emphasis added)); *second*, that “some of [the complainant’s] allegations [were] corroborated by other evidence” (Report ¶ 4); and *third*, “in view of the seriousness of the allegations.” (Report ¶ 4.) None of these reasons permit the referral, and OCE has completely misapplied the provision that allows it to refer a matter on the basis of probable cause alone.

First, the Rules do not permit OCE to refer a matter merely because it believes that the Committee may be able to produce a more “complete and accurate factual record.” (Report ¶ 3.) If that were an appropriate standard for referral, every matter investigated by OCE would warrant referral for the simple reason that the Committee’s process allows it to obtain more information than OCE. Instead, in order to refer a matter for further review based on the lower probable cause standard, OCE Rule 9(A) requires that OCE identify information that is both (a) unobtainable by OCE and (b) “necessary to reach th[e] determination” that “there is a substantial reason to believe the allegations.” (OCE Rule 9(A).) As explained below, OCE did not, and cannot, satisfy the second requirement.

With respect to the refusal of key witnesses to cooperate, the Report identifies four non-cooperating witnesses. (Report ¶ 15.) But the Report does not even purport to explain how the testimony of the four witnesses identified as non-cooperating was necessary to a determination that there exists a substantial reason to believe the complainant’s allegations. Indeed, no one maintains that these four witnesses would corroborate the complainant’s story. To the contrary, most, if not all, of these witnesses (and several others) were interviewed by OHEC when it “investigated the substantive allegations [the complainant] presented.” (Report, Exhibit 15, at 11-6736_0102.) Based upon its review, OHEC concluded that “[the complainant] did not experience conduct that rises to the level of sexual harassment.” (Report, Exhibit 15, at 11-6736_0103.) Importantly, OHEC also noted that its investigation, including its interview of these witnesses, did not “result[] in the identification of *any* witness who corroborates [the complainant’s] substantive allegations that she experienced legally-actionable harassing or retaliatory conduct.” (Report, Exhibit 15, at 11-6736_0103.) Moreover, all four of the allegedly non-cooperating witnesses are employees of the U.S. Commission on Security and Cooperation in Europe (“Commission”), which is a co-defendant along with Fred Turner and me in the civil lawsuit filed by the complainant. The Commission, following its own investigation of her

claims, filed an Answer in the lawsuit. Although the Report does not even mention the Commission's Answer (even though it was available to OCE), that document is replete with denials of various allegations in the complaint. (Answer of Defendant Commission on Security and Cooperation in Europe to Plaintiff's Complaint for Declaratory and Monetary Relief and Jury Demand, *Packer v. U.S. Commission on Security and Cooperation in Europe, et al.*, (D.D.C., 2011) (No. 1:11-cv-00485).) Accordingly, by every indication, the testimony of these four witnesses would contradict rather than support the complainant's substantive allegations.

Of course, OCE never actually claims that the testimony of these witnesses would support the complainant's allegations. Instead, OCE uses these witnesses' refusal to be interviewed yet again by another House authority to draw a negative inference against me. But that negative inference is both illogical and unjust. It is illogical for the reasons already noted — an adverse inference only makes sense where there is a reasonable basis to conclude that the testimony being withheld would support the complainant's position, and here it plainly does not do so. It is unjust because I have cooperated fully with OCE's investigation¹ — supplying documents in response to its overbroad requests and agreeing to be interviewed — and never have discouraged anyone from submitting to OCE's request for an interview. Yet, for reasons that are beyond my control and because of actions taken by others, OCE has drawn a negative inference against me, with no consideration of the fairness or appropriateness of such an action. Federal courts reject the use of a negative inference where, as here, the party against whom the inference is to be drawn does not control the non-cooperating witness. *See, e.g., U.S. ex rel Hockett v. Columbia/HCA Healthcare Corp.*, 498 F. Supp. 2d 25, 61 n.25 (D.D.C. 2007). Yet, OCE unapologetically embraces such a practice.

Although OCE is indeed permitted under Rule 6 to draw such a negative inference against a non-cooperating witness, the Rules do not permit OCE to find—as it did here—that other witnesses' non-cooperation is grounds to make a negative inference against me. In short, what OCE ultimately has done is to conflate Rule 9(A), which allows for a referral to the Committee where OCE identifies information that it was unable to obtain and that is necessary to a finding that the allegations were adequately proven, with Rule 6, which permits OCE to draw a negative inference against a non-cooperating witness. Under Rule 9(A), OCE is not permitted to

¹ I cooperated fully with OCE throughout the course of its investigation despite my deep reservation that OCE's process undermined my ability to properly defend the civil lawsuit filed by the complainant. Indeed, at the start of OCE's review, my litigation counsel wrote to OCE regarding our concern that its parallel investigation would impair my ability to mount a proper defense to the litigation. (*See* Letter from Tonya Robinson to Paul J. Solis, Investigative Counsel, Office of Congressional Ethics, May 13, 2011, attached hereto as Exhibit A.) To prevent any prejudice to my defense, we requested that OCE stay its investigation until the conclusion of the judicial action. OCE declined to stay its investigation. Notwithstanding the concerns regarding my defense of the civil action, I participated in an extensive in-person interview with OCE and produced numerous documents to assist their investigation. I did so both because I have nothing to hide and because OCE's investigation placed me in the untenable position of being forced to respond on the record in this investigation or be subjected to the negative inference with which OCE repeatedly threatened me and others. It should also be noted that OCE's statement (Report ¶ 92) that I did not submit the False Statements Act certification form is misleading, since I expressly included in my September 23, 2011 submission to OCE an acknowledgment that I understand that 18 U.S.C. § 1001 applies to my statement. (Letter from Alcee L. Hastings to Paul J. Solis, Investigative Counsel, Office of Congressional Ethics, September 23, 2011, attached hereto as Exhibit B.)

make a referral on the basis of a negative inference against witnesses other than me. Rather, it was required to consider whether the testimony it believed was unobtainable was necessary to determine that there is a substantial reason to believe the complainant's allegations. If Rule 9(A) were as OCE suggests, any complainant could manipulate the process badly by naming a number of supposed witnesses whom he/she also encourages to decline to cooperate with OCE; under OCE's apparent view of the Rule, a referral to the Committee would be guaranteed, and only the Member under investigation would be penalized for the non-cooperating witnesses' lack of cooperation. Of course, in this case, all indications suggest that the testimony of the so-called "non-cooperating witnesses" would support my position; yet, here too, OCE uses events entirely out of my control to make determinations against me and guarantee a referral. It is patently unfair to penalize me for the conduct of others.²

Lastly, OCE's reliance on the refusal of four witnesses to cooperate is particularly troublesome in light of the fact that OCE did not even attempt to meet with numerous witnesses identified by the complainant during her interview or in her civil complaint. *See* Report, Exhibit 8. For example, OCE failed to interview Alex Johnson (Complaint ¶¶ 28, 29, 36, 47, 55), Janice Helwig (Complaint ¶ 28), Edward Joseph (Complaint ¶ 48), Orest Deychakiwsky (Complaint ¶ 55), Carol Fuller (Complaint at ¶ 56), Sam Lauechly (Report, Exhibit 1, at 11-6736_0006), and Anna Chernova (Report, Exhibit 1, at 11-6736_0009)—all of whom were known to OCE. In light of the significance placed on the existence of so-called non-cooperating witnesses, one would assume that OCE, in the interest of fairness, would have attempted to interview the relevant witnesses. It did not.

Second, OCE maintains that its referral is justified because "some of [the complainant's] allegations [were] corroborated by other evidence." (Report ¶ 4.) As I explain in greater detail below, *none* of the complainant's substantive allegations have been corroborated, and most have been shown to be spurious. That said, it is not at all clear that OCE is even referring to actionable allegations—meaning, allegations that would constitute a violation of any rule, standard of conduct, or law, assuming they were true. Instead, OCE appears to base its referral

² I must also respond to the suggestion that Mr. Turner and Ms. Marlene Kaufmann somehow impeded OCE's investigation, which is completely unfounded and based on factual inaccuracies. Foremost, the accusations that Mr. Turner refused to return his Commission laptop and that Ms. Kaufmann returned her laptop with its hard drive completely erased (Report ¶ 15) are patently false. Indeed, according to Ms. Kaufmann, she did not have a Commission laptop, and she communicated as much by email to the Commission's chief of staff. The so-called "finding" suggesting that Mr. Turner refused to return his Commission laptop also is untrue, as evidenced by the attached letter from Mr. Turner's litigation counsel outlining the actual series of events. (Letter from Charles S. Leeper, Counsel for Mr. Turner to Tonya Robinson, Counsel for Mr. Hastings, November 15, 2011, attached hereto as Exhibit C.) With respect to their cooperation generally, it must be appreciated that Mr. Turner and Ms. Kaufmann are a party and the General Counsel of a party, respectively, in the pending civil lawsuit filed by the complainant. It is not only understandable, but it would be expected, that Mr. Turner would not provide testimony to OCE, so as not to prejudice his defense in the pending lawsuit. As noted, when I agreed to be interviewed by OCE, I was well aware that doing so may undermine my defense in the civil lawsuit. Similarly, any testimony that Ms. Kaufmann could provide would be heavily circumscribed by her ethical obligations to protect any information covered by the attorney-client privilege or attorney work product doctrine. It is, to put it mildly, unfair and misleading to taint these individuals as "non-cooperating" and imply that their conduct is obstructionist under these circumstances.

on the fact that some of the completely *innocuous* allegations made by the complainant have been corroborated. Although I appreciate that OCE may be unfamiliar with investigating allegations of harassment, common sense and fair play dictate that the evidence must be judged in light of the violation alleged, and the corroboration of allegations other than those which amount to sexual harassment (e.g., taking a picture, offering an "air" greeting, giving a colleague a gift) cannot warrant a referral.

Third, the final basis on which OCE makes the referral is "the seriousness of the allegations." (Report ¶ 4.) Here, again, OCE grounds its decision on an improper basis, as neither Rule 9(A) nor any other provision allows for referral based merely on the "seriousness" of the allegations. More importantly, referring the matter based on the seriousness of the allegations turns Rule 9(A) on its head: the standard of proof exists to ensure that the most serious of allegations do *not* get referred unless the required level of proof is established. If OCE's position is to be credited, any complainant could assert serious but outlandish charges and be assured a referral – indeed, the more troublesome the charges, the more likely a referral.

In short, none of the grounds on which OCE justifies its use of the probable cause standard is proper. For that reason, I urge the Committee to dismiss the referral as improvidently made and in violation of the Rules.

II. The Evidence Does Not Show Probable Cause To Believe the Allegations.

Even assuming that OCE could properly rely on the probable cause standard in this instance, the allegations that have been referred to the Committee do not satisfy even that standard and consequently do not warrant further review. For that reason, the Committee should dismiss the matter on the record already developed by OCE.

OCE conducted its inquiry from May 3, 2011 to September 27, 2011, yet it found no evidence to support the complainant's accusations apart from the allegations themselves. No witnesses or documents corroborated the substantive allegations made by the complainant. (See Report ¶ 2 ("no third party witness testimony was available to directly ... confirm *any* of [the complainant's] allegations with first-hand observations" (emphasis added)).) Instead, the most that any witness could say in support of the complainant's allegations was that the complainant had told the witness the allegations at some point, or the witness had heard that the complainant made the allegations. Nor did OCE make any credibility determination regarding the testimony provided. To the contrary, the Report expressly notes that its "findings" are merely the complainant's "account of the events forming the basis of her allegations ... compared, chronologically, with witness testimony from other sources." (Report ¶.22 n.17.) Where, as here, there is no third-party confirmation of the complainant's allegations and no crediting of her testimony as truthful, even the lower probable cause standard cannot be met. (See Rule 8(A) ("Probable cause exists if the evidence is sufficient to lead *a person of ordinary caution and prudence* to believe or entertain a strong suspicion that a Member, officer or employee committed a violation." (emphasis added)).) For that reason alone, the Committee should dismiss the matter.

In any event, there is ample evidence in the record contradicting the complainant's allegations and casting doubt on her credibility. OCE completely failed to assess that evidence. Thus, when the Report states that "no third party witness testimony was available to directly rebut or confirm any of [the complainant's] allegations" (Report ¶ 2), that only gets it half right: although no third party testimony confirmed the complainant's allegations, there was plenty of testimony to rebut these allegations. For example, the only two witnesses who were interviewed by OCE and had an opportunity to observe my interactions with the complainant directly undermined the complainant's allegations. The testimony of those witnesses, which was based on personal observation rather than hearsay, was described by OCE as follows:

- The witness "never noticed any unusual interactions between [the complainant] and Representative Hastings." (Report, Exhibit 11, at 11-6736_0083.)
- "[I]n his travel with Representative Hastings and [the complainant] he did not see Representative Hastings make any sexual advances or make sexually related comments towards [the complainant] ... [or] towards anyone else." (Report, Exhibit 7, at 11-6736_0036.)
- "Representative Hastings' interactions with [the complainant] were no different than with any other staffer, cordial and professional, sometimes laid back." (Report, Exhibit 7, at 11-6736_0036.)
- "[I]f [the complainant] felt uncomfortable around Representative Hastings, she had a weird way of showing it and ... she was certainly not trying to disengage in the situation." (Report, Exhibit 7, at 11-6736_0038.)

Similarly, Senator Ben Cardin's Chief of Staff directly contradicted the complainant's allegations in a number of respects. First, the complainant claims in her complaint that she reported the harassment to Edward Joseph, who was the Deputy Staff Director of the Commission and was appointed by Senator Cardin. (Complaint ¶ 48.) According to the complaint, Mr. Joseph later told the complainant that he had reported the alleged harassment to Senator Cardin's Chief of Staff, who recommended that the complainant contact the Office of Compliance. (Complaint ¶ 64.) In his interview with OCE, however, Senator Cardin's Chief of Staff stated that he was "next to sure" that Mr. Joseph never spoke with him about the complainant's allegations. (Report, Exhibit 3, at 11-6736_0023.) Second, in her complaint, the complainant alleges that, as a result of making her complaints about me known, she was retaliated against, and that one manner of this retaliation was that she was not allowed to return to her position as Policy Advisor in Washington, D.C. at the time that she wanted. (Complaint ¶ 98.) Senator Cardin's Chief of Staff told OCE, however, that the complainant "was allowed to move back to Washington, DC at the *exact time she preferred*." (Report, Exhibit 3, at 11-6736_0023 (emphasis added).) Third, the complainant claimed that another form of retaliation she suffered was her being intentionally marginalized from the rest of the U.S. Mission to the Organization for Security and Co-operation in Europe. (Complaint ¶ 98.) Senator Cardin's Chief of Staff, who was intimately aware of the circumstances of the complainant's employment,

told OCE that she "has not suffered in terms of her job assignment or pay," and he "stated that he felt no retaliation occurred against [the complainant]." (Report, Exhibit 3, at 11-6736_0023.)

OCE also failed to give proper consideration to the testimony of third parties regarding some of the complainant's most absurd charges: namely, that I singled her out with gifts, that I pressured her to give me gifts, and that her being asked to take a picture with me in my signature pose was somehow sexual or even unique. Although I frequently present gifts to my staff, male and female, from my travels as a token of my appreciation, I have never pressured a staff member to give me a gift. Thus, David Goldenberg told OCE that, although he and I bought each other small gifts (e.g., books, ties), it was reciprocal and I "never pressured him to buy gifts or asked him to." (Report, Exhibit 7, at 11-6736_0037.) And my pose, the wide-armed pose that the complainant and I struck for a picture, is my trademark. I invented the pose years ago after my late mother advised me that, as I traveled around the world, I should do something that distinguished me. In my many years in public life, I have struck that pose with countless men and women. As Mr. Goldenberg told OCE, "that is just how Representative Hastings takes pictures." (Report, Exhibit 7, at 11-6736_0037.) And although OCE omits the fact from its Report, during OCE's interview of me, I showed OCE's counsel dozens of pictures of me striking that very signature pose. The suggestion that such an innocent pose is sexual or somehow unique to the complainant is absurd. The allegation concerning the picture is not unlike the complainant's allegations regarding my hugging her. In truth, I have greeted numerous people, including staff members, constituents, and heads of state, male and female alike, with a hug or cheek-to-cheek greeting. When a gift I would buy any staffer, a pose I strike in any location with any person and my typical greeting are construed as sexual in nature, it is clear that the complainant has taken simple everyday encounters and twisted them into something unrecognizable and untrue.

OCE also failed to give sufficient weight to the prior, thorough investigation into the matter by OHEC, and the resulting conclusions of OHEC and the General Counsel of U.S. House of Representatives that the complainant's allegations lack merit. In connection with the complainant's administrative claims, OHEC "investigated the substantive allegations," including conducting witness interviews of me and others and reviewing emails and documents. Following that investigation, House General Counsel and House Employment Counsel issued a joint letter to the U.S. Department of Justice on February 15, 2011, in which they concluded:

- "Based on OHEC's review to date, we do not believe that [the complainant] experienced sexual harassment." (Report, Exhibit 15, at 11-6736_0103.)
- "[W]hile some of [the complainant's] allegations begin with a kernel of truth, when looked at in context, [the complainant] grossly distorts the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation." (Report, Exhibit 15, at 11-6736_0103.)
- "[The complainant's] view of reality is skewed. Indeed, there are communications over the course of [the complainant's] employment with the Helsinki Commission that contradict a number of her allegations." (Report, Exhibit 15, 11-6736_0103.)

Surprisingly, OCE did not even mention these strong statements contradicting the complainant's story in its Report. Worse yet, there is no indication that OCE made any inquiry regarding the investigation performed by OHEC or the witnesses and evidence on which its conclusions were based.

Not only did OCE fail to critically assess the third-party testimony and prior investigation that contradict the complainant's allegations, OCE also failed to independently assess the complainant's credibility. As should have been readily apparent to OCE if it compared the complainant's testimony with the lawsuit she filed previously, the changing nature of her narrative casts considerable doubt on her honesty. For example:

- The complainant claimed in her complaint that in Vienna in May 2008, I told her that I had been dating one of my former staff members but she was "not worthy." In response, the complainant claims she changed the subject of conversation. (Complaint at ¶ 27.) In her interview with OCE, however, she claimed that she responded by telling me "that the conversation was not appropriate," at which point she says that I got frustrated and told her to leave. (Report, Exhibit 1, at 11-6736_0006.)
- The complainant claimed in her complaint that following a dinner in Vienna in May 2008, after commenting that I did not understand how Members of Congress could wear the same underwear from the time the House of Representatives went into session in the morning until it recessed late at night, I asked the complainant, in front of Ms. Thompson and Mr. Johnson, what kind of underwear she was wearing. (Complaint ¶ 29.) In her interview with OCE, she described the conversation but did not state that I asked her what kind of underwear she was wearing (which I of course did not). (Report, Exhibit 1, at 11-6736_0006.)
- In her complaint, the complainant described a conversation in Sintra, Portugal in April 2009, during which I allegedly told her I liked her. She claims that, after telling me that she did not want an intimate relationship, "Mr. Turner then arrived and the conversation ended." (Complaint ¶ 42) In contrast, in her OCE interview, she stated that, after Mr. Turner arrived, she said we should get back to Lisbon, and I then "exploded" and got very angry. (Report, Exhibit 1, at 11-6736_0009.)
- In her complaint, the complainant alleges that Mr. Turner began to retaliate against her in the fall of 2009. (Complaint ¶ 50.) In her OCE interview, the complainant alleged that the retaliation by Mr. Turner began in April 2009. (Report, Exhibit 1, at 11-6736_0010.)

Indeed, this list does not include the other inconsistencies showing the complainant's tendency to embellish. For example, the complainant claimed that my former Chief of Staff "took many trips to Vienna" (Report, Exhibit 1, at 11-6736_0006), when in fact he has only been there "once in his life" (Report, Exhibit 7, at 11-6736_0036). Or, as another example, the complainant claimed

in her complaint that, in March 2007, she met me on the street and I told her that I "was in a position to appoint her to the Commission staff" (Complaint at ¶ 11), whereas she allegedly told OCE that I only said "the Commission was hiring" and she thought I "would make a call to an NGO or some similar organization" (Report, Exhibit 1, at 11-6736_0003).

Nor is this the first instance in which such inconsistencies in the complainant's various narratives have been noticed. In the letter that House General Counsel and House Employment Counsel sent to the U.S. Department of Justice, they noted that the complainant's initial written narrative was "not identical" to a subsequent list of allegations. (Report, Exhibit 15, at 11-6736_0102 n.7.) Indeed, I too had noticed the inconsistencies between the complainant's initial version of events and her subsequent allegations, and for that reason I made OCE aware of such inconsistencies during my interview with OCE. (See Report, Exhibit 2, at 11-6736_0019.)

OCE also failed to properly evaluate some of the documentary evidence provided by the complainant. For example, OCE implies that the complainant took notes of our interactions in response to advice received from Ms. Jony Madden, a personal friend of the complainant who also apparently is an agent of the FBI. The complainant claims that Ms. Madden advised her to document my supposed harassment. (Report ¶¶ 39-41.) But Ms. Madden evidently could not recall giving the complainant that advice, saying only that "it sounded like something she would have told someone to do." (Report ¶ 40(f).) Moreover, even if the notes were in fact taken in response to what the complainant perceived as actual events, these notes primarily serve to illustrate the degree to which the complainant has fabricated and embellished. The majority of the allegations in the complainant's civil complaint are *not* in her notes, which take up only a page, as compared to the more than thirty-three pages of allegations in her complaint.

OCE further failed to critically examine the complainant's own statements and conduct. Indeed, the Report presents evidence, not previously known to me, that the complainant wrote to Mr. Turner in November 2007 that she "had a crush on [me] since [she] first met [me]." (Report, Exhibit 4, at 11-6736_0026.) In another email included in the Report, the complainant, after meeting with me in March 2009, told Mr. Turner that I was "truly amazing." (Report, Exhibit 10, at 11-673_0080.) Nevertheless, OCE never asked the complainant about either statement. Although OCE claims that the statements were only provided to it after OCE already had interviewed the complainant (Report ¶ 28 n.32; *id.* ¶ 61 n.182), OCE does not even attempt to explain why it could not have scheduled another meeting with the complainant. OCE's failure to question the complainant about these statements underscores the recklessness and lack of diligence with which it investigated this matter.

OCE also failed to independently assess the complainant's motivations. Others familiar with the complainant's allegations have questioned, as I do, whether her motivation is connected to her self-published book titled *A Personal Agenda*, which she has stated was "inspired by her own experiences" and "seeks to provoke its readers by examining ... sexual harassment in Congress."³ In fact, OHEC's investigation found that the complainant began publicizing her book in June 2010, shortly before she lodged her administrative complaint against me. (Report,

³ See <http://www.nmdnewswire.com/winsome-packer-8783.html>.

Exhibit 15, at 11-6736_0104.) When interviewed on *Smile Jamaica* in December 2010, the complainant explained that she was aggressively marketing her book, which she hoped would provide her with the financial flexibility to retire in Jamaica.⁴ Thus, OHEC suggested that the complainant's true motivation was to promote her own "personal agenda," including increasing sales of her novel. (Report, Exhibit 15, at 11-6736_0104.) OCE does not appear to have explored the connection between the complainant's allegations and her side career as a novelist. Indeed, when I asked Mr. Paul Solis, OCE's lead investigative counsel, if he had read the complainant's novel, which again by her own account "examin[es]... sexual harassment in Congress," I was stunned when he replied that he had not.

It should also be considered that the complainant is represented by Judicial Watch, a self-described conservative organization, which has targeted Democrats in general and me in particular. This lawsuit marks Judicial Watch's fourth attempt to malign me. In 2007, Judicial Watch sued me for an alleged due process violation, when I and other Helsinki Commissioners insisted that personnel selections be made consistent with the legislation establishing the Commission. Ultimately, that action was voluntarily dismissed with prejudice. Judicial Watch also has targeted me in other ways: the organization lobbied against my ascendancy to the chairmanship of the Intelligence Committee, and also called for an ethics investigation into my *per diem* use during international travel. As the Committee is well aware, it did investigate the *per diem* allegations and found no violation of any law, regulation, rule, or other applicable standard of conduct.⁵

Ultimately, OCE failed to assess the evidence in its possession—evidence that contradicts the complainant's allegations, supports my testimony, and casts doubt on the complainant's credibility and motivations. I do not know whether OCE's recommendation of further review results from an uncritical investigative and review process, OCE's lack of experience with issues of harassment and retaliation, or a desire to pass the buck to the Committee. What is clear from the record developed by OCE, however, is that the allegations warrant no further action by the Committee. For that reason, I urge the Committee to dismiss the matter on the record before it.

III. If The Committee Does Not Dismiss The Action, Which Is Warranted Here, It Should Defer Any Review By An Investigative Subcommittee.

The Committee should dismiss this matter for the reasons described above. If, however, the Committee does not vote to dismiss the referral, I strongly urge it to defer the matter until the complainant's civil lawsuit is resolved or, at a minimum, is at a more advanced stage. The U.S. District Court for the District of Columbia has under review my motion to dismiss the claims against me, which means that I am under no obligation to answer the complainant's allegations until the Court rules on my motion. While I fully expect that the Court will dismiss the

⁴ See televisionjamaica.com/vd-1000-WINSOMEPACKER.aspx and televisionjamaica.com/vd-1303-PROFILE-WINSOMEAPACKER.aspx.

⁵ See Staff of H. Comm. On Standard of Official Conduct, Report in the Matter of Allegations Relating to the Use of Per Diem on Official Trips, at 2, 111th Cong., 2d Sess. (Dec. 30, 2010), www.ethics.house.gov/Media/PDF/Per_Diem_Report.pdf (last visited July 8, 2011).

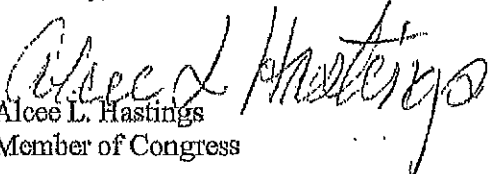
Letter to Chairman Bonner and Ranking Member Sanchez
November 16, 2011
Page 12 of 12

complainant's baseless claims against me, a parallel investigation by the Committee will unfairly jeopardize my defense of the litigation by forcing me to provide testimony and other information before I am required to do so in the civil litigation.

These concerns are particularly acute in this instance because the complainant and Judicial Watch have asserted legal claims for money damages against me in my personal capacity. To commence an investigation before the Court has the opportunity to evaluate the legal sufficiency of the complainant's claims against me in my personal capacity would be unfair and unjust.

Please do not hesitate to contact me if you have further questions or need clarification. Thank you for your consideration.

Sincerely,


Alcee L. Hastings
Member of Congress

Cc: Dan Schwager, Esq., Staff Director & Chief Counsel, Committee on Ethics

EXHIBIT

A

WILMERHALE

CONFIDENTIAL TREATMENT REQUESTED

May 13, 2011

Tonya Robinson

+1 202 [REDACTED]
+1 202 683 8333(f)
[REDACTED]@wilmerhal.com

BY ELECTRONIC MAIL

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, SW, Suite 1110
Washington, DC 20024
[REDACTED]@mail.house.gov

Re: Confidential Preliminary Review No. 11-6736

Dear Mr. Solis:

I am writing as follow-up to our telephone discussion on May 10, 2011, regarding the confidential matter referenced above. It was good to speak with you. I appreciate the helpful guidance that you provided and your willingness to present my client's concerns to the Board of the Office of Congressional Ethics ("OCE" or "Office").

As I mentioned, my client is eager to cooperate with OCE, as he has done with the other entities that have investigated the very allegations that now are the focus of your preliminary review. He understands the seriousness of the allegations, vigorously denies any wrongdoing, and would want nothing more than to put the charges to rest immediately. Unfortunately, the timing and scope of OCE's review presents significant challenges, since these charges also are the subject of a complaint that was filed in the U.S. District Court for the District of Columbia on March 7, 2011. Any extra-judicial statements at this time regarding the allegations would substantially impair my client's ability to mount a proper defense in the litigation, especially since, by order of the Court, he is not obliged to respond on the record to the complaint before July 9, 2011. With that in mind, I ask that, under Rule 7(F) and Rule 16 of the OCE Rules of Conduct of Investigation, the OCE Board consider two options: (1) terminate the review, based on the extensive investigation of the same allegations by the Office of House Employment Counsel ("OHEC") and the concurrent employment counseling and mediation in which the complainant and the defendants named in the pending litigation (including my client) participated; or (2) stay the review until the close of the civil litigation.

First, the U.S. Congress Office of Compliance (OCC), to which I understand OCE could refer this matter, has already held and completed extensive proceedings relating to the exact same allegations. In August 2010, the complainant filed a request for counseling with OCC pursuant to the Congressional Accountability Act, 2 U.S.C. §§ 1301, *et seq.* She received the requested counseling and, in September 2010, requested mediation, which she also received. In

Paul J. Solis, Esq.
May 13, 2011
Page 2

the context of OCC's mediation process, OHEC investigated the substantive allegations that the complainant presented -- interviewing my client and several others and also reviewing e-mails and other documents provided by the U.S. Commission on Security and Cooperation in Europe.

Following the investigation, Mr. Kerry Kircher, General Counsel of the U.S. House of Representatives ("House"), and Ms. Gloria Lett, House Employment Counsel, wrote to Assistant Attorney General Tony West, explaining that it was in the interest of the United States to defend against the allegations. In that letter, which is attached hereto as Attachment A, Mr. Kircher and Ms. Lett concluded that "*while some of [the complainant's] allegations begin with a kernel of truth, when looked at in context, [the complainant] grossly distorts [] events and circumstances in order to support the fiction that she experienced unlawful sexual harassment and retaliation.*"¹ They further noted that OHEC's investigation did not result in the identification of "any witness who corroborates [the complainant's] substantive allegations that she experienced legally-actionable harassing or retaliatory conduct."² Indeed, following their thorough review of the complainant's claims, Mr. Kircher and Ms. Lett wrote that they "do not believe that [the complainant] experienced sexual harassment."³ In short, the allegations that OCE now is considering have been addressed comprehensively through the House's investigative channels. That earlier investigation demonstrates that there is not sufficient basis to conduct even a preliminary review under the OCE Rules, which require the existence of a "*reasonable basis to believe the allegation.*"⁴ The attached letter confirms that there is no such reasonable basis. On this ground, I ask that the OCE Board terminate the review.

Second, OCE's review and process are in tension with the judicial process that governs the pending litigation. We are particularly concerned by the impact that OCE's review may have on the witnesses relevant to substantiating or disproving the complainant's allegations. These witnesses have been interviewed in the course of OHEC's investigation; so, to the extent that OCE's review involves additional interviews or communications with these third parties, it would be duplicative and may discourage cooperation when their further testimony is needed in the litigation. To be clear, my client respects and appreciates the important role that OCE plays and, consistent with the Office's mission, is hopeful that we can find some accommodation that does not put OCE's review at odds with fair judicial process.

¹ Letter from Kerry Kircher and Gloria Lett to Tony West, Assistant Attorney General, February 15, 2011, at 7.

² *Id.*

³ *Id.*

⁴ OCE Rule of Conduct of Investigation ("OCE Rule") 7(A).

CONFIDENTIAL TREATMENT REQUESTED

Paul J. Solis, Esq.
May 13, 2011
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Finally, the conflicting schedules of the OCE review and the pending litigation also would impair my client's ability to defend against the allegations in court. In the court proceeding, my client is entitled to investigate and present his response to the allegations for the first time on July 9, 2011, at the earliest. By that time, OCE would have completed its preliminary review. If OCE's review proceeds as currently scheduled, it would force my client and the other relevant parties to respond on the record to the facts alleged in the complaint before they have an opportunity to do so in the underlying litigation. The review, as it is now contemplated, puts my client in the untenable position of, on one hand, handicapping his defense by agreeing to provide testimony and other information to OCE prematurely or, on the other hand, preserving his rights in his litigation but risking an adverse inference in the OCE review.⁵ OCE's rules and procedures do not appear to anticipate this Hobson's choice, short of allowing for an alternative procedure under OCE Rule 16, which I would request that the Board authorize here. If the Board declines to terminate the review altogether based on OHEC's compelling findings, I would request that it stay the review until at least the close of the judicial action, when the impact on the parties' rights will be less prejudicial.

Let me reiterate my client's every wish and intention to cooperate with OCE as it conducts its review. He only seeks a mechanism by which he can do so without foregoing rights that he is afforded in the civil litigation or otherwise prejudicing his defense. Either of the two options presented above achieves that objective, while enabling OCE to fully perform its duties as authorized.

Thank you for your consideration. I look forward to your response.

I understand that OCE will treat information that it receives or otherwise collects during its preliminary review confidentially, except to the extent it is obligated to provide certain information to my client. I ask that this correspondence also be treated confidentially, be maintained in confidence by OCE, and be used solely for the purpose of this inquiry. If any other person (including any governmental employee) should request an opportunity to inspect or copy this letter, or if you or anyone else contemplates the disclosure of this letter or the information contained herein to any other person, I request that I be notified immediately, be furnished with a copy of all written material pertaining to any such request, and be given a hearing or other opportunity to prevent disclosure. The enclosed information is made available

⁵ OCE Rule 6.

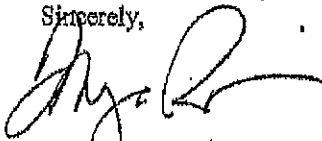
CONFIDENTIAL TREATMENT REQUESTED

WILMERHALE

Paul J. Solis, Esq.
May 13, 2011
Page 4

to you and OCE without prejudice to any privileges which my client may have, including the attorney-client and work-product privileges, which privileges are expressly reserved.

Sincerely,



Tonya Robinson

TR:tno

CONFIDENTIAL TREATMENT REQUESTED

ATTACHMENT A

KERRY W. KIRCHNER
GENERAL COUNSEL

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE GENERAL COUNSEL
219 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6532
(202) [REDACTED]
FAX: (202) 226-1360

JOHN D. YLAMOR
SENIOR ASSISTANT COUNSEL

CHRISTINE DAVENPORT
SENIOR ASSISTANT COUNSEL

KATHERINE B. MCCARRON
ASSISTANT COUNSEL

WILLIAM B. PITTARD
ASSISTANT COUNSEL

PRIVILEGED AND CONFIDENTIAL

February 15, 2011

BY FEDERAL EXPRESS

The Honorable Tony West, Assistant Attorney General
Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: *Winsome Packer v. The United States Commission on Security
and Cooperation in Europe, et al., No. ____ (D.D.C.)*

Dear Mr. West:

Pursuant to 28 C.F.R. §§ 50.15, 50.16, we write to request that the Department of Justice provide representation to, or authorize representation by private counsel for, the Honorable Alcee L. Hastings, U.S. Representative for the 23rd congressional district of Florida -- and also Co-Chairman of the United States Commission on Security and Cooperation in Europe ("Helsinki Commission") during the 111th Congress -- and Fred L. Turner, Chief of Staff to the Helsinki Commission.¹

Congressman Hastings and Mr. Turner have been identified as putative individual-capacity defendants in two counts of a draft Complaint prepared by attorneys for Winsome Packer, a Policy Advisor to the Helsinki Commission. See Draft Complaint for Declaratory and Monetary Relief and Jury Demand (Jan. __, 2011) (Counts Three and Four), attached as Exhibit 1. Count Three alleges sexual harassment in violation of the Fifth Amendment as against Congressman Hastings, *id.* ¶¶ 90-94, and Count Four alleges

¹ The Helsinki Commission is an independent government entity, created by statute enacted in 1976, which consists of nine Members of the House of Representatives, nine Members of the Senate, and three representatives of the executive branch. See 22 U.S.C. § 3003(a), *et seq.* It is responsible for, among other things, monitoring the activities of the signatories to, and encouraging their compliance with, the Final Act of the Conference on Security and Cooperation in Europe, 22 U.S.C. § 3002, and reporting to Congress on matters covered by the statute. *Id.* § 3006.

Tony West, Assistant Attorney General
February 15, 2011
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retaliation in violation of the First and Fifth Amendments as against the Congressman and Mr. Turner. *Id.* §§ 95-100. The draft Complaint purports to seek compensatory damages in an amount not less than \$300,000, and punitive damages in an amount not less than \$1,000,000. *Id.* at 33.

For the reasons set forth below, we believe Congressman Hastings and Mr. Turner were acting within the scope of their employment at all pertinent times and that the provision of representation is in the interest of the United States, within the meaning of 28 C.F.R. § 50.15(a)(1), (2). Accordingly, we recommend that representation be provided.

We understand that the Complaint, at present, is only in draft form, and that the Department cannot make a final determination until a complaint is actually filed with the district court. However, we expect that a complaint will in fact be filed within the next several weeks in substantially the form in which it now appears, and we will promptly advise you when that happens. Pending that occurrence, we urge the Department to begin the review process now so that a final determination as to representation can be made as quickly as possible.

PROCEDURAL BACKGROUND

The Congressional Accountability Act

In 1995, Congress enacted the Congressional Accountability Act, 2 U.S.C. §§ 1301, *et seq.* ("CAA"), a comprehensive remedial and procedural statute which makes Title VII and eleven other labor and employment laws applicable to the legislative branch. *Id.* § 1302(a); 42 U.S.C. § 2000ff-6(c). Under the CAA, a "covered employee" may — after exhausting specified counseling and mediation requirements — proceed against her "employing office" for violations of the applicable law(s), either in federal district court or in an administrative proceeding before the Office of Compliance. 2 U.S.C. § 1404. The Office of Compliance is an independent office within the legislative branch that performs a variety of functions under the CAA. *Id.* § 1381.

Cases initiated under the CAA proceed against the "employing office," not against an individual Member or legislative branch employee. *Id.* §§ 1301(9), 1405(a), 1408(b). The CAA created the concept of an "employing office" to mirror the fact that Congressional offices operate as separate employers in practice and for the purpose of shielding Members and legislative branch employees from personal monetary liability. See H.R. Rep. No. 103-650, pt. 2, at 8, 15, 24 (1994).

Tony West, Assistant Attorney General
February 15, 2011
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Office of Compliance Proceedings

In August 2010, pursuant to § 1402(a) of the CAA, Ms. Packer filed a request for counseling with the Office of Compliance, asserting claims of sexual harassment and retaliation against the Helsinki Commission. See Draft Complaint ¶ 74. The counseling period ends after 30 days, 2 U.S.C. § 1402(b), which, in this case, was on September 8, 2010. Draft Complaint ¶ 75. Ms. Packer then requested mediation pursuant to § 1403 of the CAA. The mediation period also ends after 30 days, 2 U.S.C. § 1403(c).² In this case, because the parties jointly requested several extensions, the mediation period ended on December 8, 2010. Draft Complaint ¶ 76. Ms. Packer has 90 days from the date on which she received notice of the end of the mediation period, or until approximately March 8, 2011,³ to elect to proceed against the Helsinki Commission, in federal district court or before the Office of Compliance, *id.* § 1404, if she wishes to assert a claim(s) under the CAA.⁴

THE DRAFT COMPLAINT

The Draft Complaint indicates that Ms. Packer *does* intend to assert CAA claims against the Helsinki Commission. See Draft Complaint ¶¶ 77-82 (Count One – discrimination on basis of sex in violation of CAA as against Commission), ¶¶ 73-89 (Count Two – retaliation in violation of CAA as against Commission). However, the question of whether the CAA even applies to Ms. Packer and/or the Helsinki Commission is unsettled. Compare 2 U.S.C. § 1301(3), (9) with 22 U.S.C. § 3008(d). Ms. Packer's

² Information regarding statements and representations made during Office of Compliance mediation sessions is provided solely for the purpose of providing the Department of Justice with necessary background information. The CAA mandates that all such information is "strictly confidential." 2 U.S.C. § 1416. Accordingly, this information is provided under the "common interest" privilege and its confidentiality must be maintained.

³ At present, we do not know the exact date Ms. Packer received the notice; accordingly the deadline for filing may be slightly earlier or later than March 8, 2011.

⁴ At the mediation, the Commission asserted that Ms. Packer was not a "covered employee" under 2 U.S.C. § 1301(3) and that the Commission was not an "employing office" under 2 U.S.C. § 1301(9). However, because the statute authorizing the Commission, 22 U.S.C. § 3008(d), creates some ambiguity regarding how the CAA definition of a "covered employee" applies in the context of a claim brought against the Commission, and because the mediation was an opportunity to assess Ms. Packer's allegations and ascertain whether a negotiated resolution was possible, the Commission voluntarily participated in the mediation.

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February 15, 2011
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attorneys were made aware of this uncertainty at the mediation sessions, and we suspect it is for that reason that they plan to assert constitutional tort claims against Congressman Hastings and Mr. Turner in Counts Three and Four.

According to the Draft Complaint, Congressman Hastings offered Ms. Packer a position at the Commission in April 2007, and she has worked as a Policy Advisor for the Commission since May 7, 2007. Draft Complaint ¶¶ 13, 14.⁵ Within a year of her hire, Ms. Packer was appointed to be the Commission's representative to the U.S. Mission to the Organization for Security and Cooperation in Europe ("OSCE") in Vienna, Austria. *Id.* ¶ 15. Ms. Packer moved to Vienna on February 15, 2008, *id.* ¶ 19, and remained there until July 31, 2010, when she returned to Washington, D.C. to resume her duties as a Policy Advisor to the Commission. *Id.* ¶ 73. As a Policy Advisor, Ms. Packer's annual salary was \$80,000. While serving in Vienna, Ms. Packer's annual income was \$165,000. *Id.* ¶ 19.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer's sexual harassment and retaliation claims against Congressman Hastings. We have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

In and Around Washington, D.C. – Hastings

- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 16, 18.
- Congressman Hastings allegedly said he would come to Ms. Packer's home in Alexandria, Virginia to "check up on her." *Id.* ¶ 18.
- Congressman Hastings allegedly called Ms. Packer in Vienna frequently. According to Ms. Packer, these calls were "under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other." *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman allegedly hugged Ms. Packer on occasion when greeting her. *Id.* ¶¶ 39, 46.

⁵ Notwithstanding the implication that Congressman Hastings hired Ms. Packer himself, the statute provides that all Commission hiring decisions are made by a majority vote of a four-person Personnel Committee consisting of the Chair, the Co-Chair and the ranking minority Members from the House and Senate. *See* 22 U.S.C. § 3008(a), (b). In 2007, Congressman Hastings was the Chairman of the Commission.

Europe--Hastings

- Congressman Hastings gave Ms. Packer a music box from the Czech Republic as a gift in front of work colleagues. *Id.* ¶ 20.
- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 21, 30.
- Congressman Hastings allegedly frequently called Ms. Packer. According to Ms. Packer, these calls were “under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other.” *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman hugged Ms. Packer. *Id.* ¶ 25 (Vienna at a meeting), ¶ 28 (Vienna), ¶ 35 (Kazakhstan in delegation hospitality room), ¶ 47 (Vilnius, Lithuania), ¶¶ 65-66 (Vienna).
- Congressman Hastings allegedly made sexual comments to and around Ms. Packer. *Id.* ¶¶ 26-27, 29.
- Congressman Hastings allegedly linked Ms. Packer’s career progress to a personal relationship with him. *Id.* ¶¶ 35, 38, 42-44.
- Congressman Hastings allegedly complained to Ms. Packer that “she was not ‘a sport’ because she knew that he ‘liked’ her and that he had helped her professionally . . . [and] explained to her that he had ‘come to [her] as a man does to a woman.’” *Id.* ¶ 43.
- Congressman Hastings allegedly asked Ms. Packer if she would like to come to his hotel room when they were attending a Parliamentary Assembly Bureau meeting in Lisbon, Portugal. *Id.* ¶ 44.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer’s retaliation claim against Mr. Turner. Again, we have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

Tony West, Assistant Attorney General
February 15, 2011
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In and Around Washington, D.C. -- Turner

- Mr. Turner allegedly "refused to take any action to protect her." *Id.* ¶ 38.
- Mr. Turner allegedly denied Ms. Packer's request to return to Washington, D.C. after she had worked overseas for one year. *Id.* ¶ 41.
- Mr. Turner allegedly assigned work from Ms. Packer's portfolio to her colleagues and withheld from her important information that was pertinent to the performance of her job duties. *Id.* ¶ 50.
- In response to Ms. Packer's request to return to Washington, D.C., Mr. Turner allegedly informed her "that Mr. Hastings would be coming to Vienna in February 2010 and would speak to her at that time about her future." *Id.* ¶ 52.
- When Ms. Packer submitted travel requests for meetings, Mr. Turner allegedly responded that "she would have to work very hard to convince Senator Cardin [then Commission Chairman] that she should be able to travel since she had decided to return to Washington, D.C. in July." *Id.* ¶ 70.

Europe -- Turner

- Mr. Turner allegedly told Ms. Packer there was nothing he could do about Congressman Hastings' alleged inappropriate conduct. *Id.* ¶ 45.⁶

THE FACTS AS HOUSE EMPLOYMENT COUNSEL UNDERSTANDS THEM

In preparing to participate in the Office of Compliance mediation process on behalf of the Helsinki Commission, the Office of House Employment Counsel ("OHEC") investigated the substantive allegations Ms. Packer presented at that time.⁷ Among other things, OHEC interviewed Congressman Hastings, Mr. Turner and several other individuals. OHEC also reviewed relevant emails and other documents provided by the

⁶ There are a number of allegations in the Draft Complaint that run contrary to Ms. Packer's claim that Congressman Hastings and Mr. Turner retaliated against her. See, e.g., Draft Complaint ¶¶ 15, 22, 38, 44, 57, 58, 61-63.

⁷ As part of the mediation process, Ms. Packer, through her first attorney, submitted a narrative that detailed her factual allegations. OHEC's investigation was based on this narrative. After the first mediation session, Ms. Packer retained new counsel and the Draft Complaint was prepared by this new counsel. The allegations in the Draft Complaint are substantially similar, although not identical, to the allegations in the initial narrative.

Tony West, Assistant Attorney General

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Commission. The information OHBC has reviewed to date supports the conclusion that Ms. Packer did not experience conduct that rises to the level of sexual harassment or retaliation under applicable federal law. Furthermore, a number of Ms. Packer's substantive allegations have been strongly refuted by some of the very individuals she identified as witnesses to the alleged harassment and/or retaliation. OHBC's interviews and document review have not yielded any indication of a personal relationship between Ms. Packer and Congressman Hastings, nor has OHBC's investigation resulted in the identification of any witness who corroborates Ms. Packer's substantive allegations that she experienced legally-actionable harassing or retaliatory conduct. In short, OHBC is not aware of any readily available information which indicates that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings and/or Mr. Turner have been untruthful in their denial of the allegations.

It is important to note that many of the underlying allegations regarding events, trips, dinners, etc., are factually accurate and it does appear that Ms. Packer did make statements to others while in Vienna about what she claimed was inappropriate conduct on the part of Congressman Hastings. Ms. Packer also makes a number of assertions that are factually accurate, but are taken out of context. For instance, Congressman Hastings readily admits that he hugged Ms. Packer. Individuals OHBC interviewed confirmed this, but also that Congressman Hastings hugs most everyone. Similarly, Congressman Hastings did give a music box as a gift to Ms. Packer; however, Congressman Hastings and the witnesses OHBC spoke with stated that Congressman Hastings regularly bought gifts for his staff - male and female. OHBC's investigation shows that while some of Ms. Packer's allegations begin with a kernel of truth, when looked at in context, Ms. Packer grossly distorts the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation. Based on OHBC's review to date, we do not believe that Ms. Packer experienced sexual harassment. *See Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993) (in order to establish a prima facie case of a hostile work environment, a plaintiff must produce evidence that "the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter conditions of the victim's employment and create an abusive working environment").

Rather, OHBC's interviews and review of documents indicate that Ms. Packer's view of reality is skewed. Indeed, there are communications over the course of Ms. Packer's employment with the Helsinki Commission that contradict a number of her allegations and clearly indicate that she has difficulty developing and maintaining productive and cooperative relationships with colleagues and superiors. Given the diplomatic element of the Commission's purpose and Ms. Packer's role in advancing that purpose, it is little wonder that her inability to foster cooperative relationships has been an ongoing issue.

Tony West, Assistant Attorney General
February 15, 2011
Page 8

OHEC's view of the falsity of Ms. Packer's substantive allegations, as discussed above, is strongly influenced by OHEC's assessment of Ms. Packer's true motivation. Her self-serving and distorted interpretation of events and conversations during her tenure with the Commission can be best summed up in the title of her recently self-published novel: *A Personal Agenda*. Indeed, it appears that Ms. Packer began publicizing her book in June 2010, shortly before she initiated proceedings against the Commission under the CAA. Furthermore, in a press release she appears to have written at the time, Ms. Packer states that her book was "inspired by her own experiences" and "seeks to provoke its readers by examining . . . sexual harassment in Congress."⁸ Furthermore, in two recent television interviews available on the Internet, Ms. Packer acknowledges that she is working aggressively to seek publicity to promote her novel.⁹

OHEC also believes that Congressman Hastings and Mr. Turner are the subject of Ms. Packer's claims in large part because of their respective official positions as her superiors, i.e., the Congressman as Chairman and Co-Chairman of the Commission (during the 110th and 111th Congresses, respectively), and Mr. Turner as Ms. Packer's immediate supervisor.

DISCUSSION

Scope of Employment

Because 28 C.F.R. § 50.15(a) does not define the elements of an employee's scope of employment, we look by analogy to the scope certification conducted under the Federal Tort Claims Act ("FTCA"), as amended by the Westfall Act, 28 U.S.C. §§ 2671 *et seq.* In the FTCA context, the question of whether a federal officer is acting within the scope of his employment is determined by the law of the state where the alleged tort occurred. 28 U.S.C. § 1346(b)(1); *Williams v. United States*, 350 U.S. 857, 857 (1955); *Haddon v. United States*, 68 F.3d 1420, 1423 (D.C. Cir. 1995). In this case, the alleged tortious conduct of Congressman Hastings and Mr. Turner occurred in Washington, D.C. and Europe. Since the FTCA does not apply to claims arising in a foreign country, 28 U.S.C. § 2680(k), we look to the law of the District of Columbia.¹⁰

⁸ A copy of this June 2010 press release can be found at <http://www.mmdnewswire.com/winsome-packer-8783.html>.

⁹ These interviews are available at <http://televisionjamaica.com/vd-1000-WINSOMEPACKER.aspx> and <http://televisionjamaica.com/vd-1303-PROFILE-WinsomeAPacker.aspx>.

¹⁰ For purposes of this letter of recommendation, we assume that actions of Congressman Hastings and Mr. Turner that allegedly occurred abroad may be considered for purposes of determining whether they acted within the scope of their employment.

Tony West, Assistant Attorney General
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According to District of Columbia law, an individual is acting within the scope of his employment if the conduct: (1) is of a kind he is employed to perform; (2) occurs substantially within authorized time and space limits; and (3) is actuated, at least in part, by a purpose to serve the master. *Haddon*, 68 F.3d at 1423-24 (citing Restatement (Second) of Agency § 228). The District takes a very broad view of "the scope of employment." See, e.g., *Lyon v. Carey*, 533 F.2d 649, 654 (D.C. Cir. 1976); *Johnson v. Weinberg*, 434 A.2d 404, 408-09 (D.C. 1981).

A. Congressman Hastings

Nature of Activities. The official duties of Members of Congress include an extremely broad range of legislative and representational activities, and plainly include activities such as service on official governmental entities such as the Helsinki Commission. See, e.g., *U.S. v. Brewster*, 408 U.S. 501, 512 (1972); *U.S. v. Rostenkowski*, 59 F.3d 1291, 1309-12 (D.C. Cir. 1995). It is clear, under the statute, that Members of Congress are appointed to the Commission because they are Members of Congress, and that they serve in that capacity. See 22 U.S.C. § 3003.

Time/Place. The Draft Complaint suggests that all, or virtually all, of the activities in which Congressman Hastings is alleged to have engaged occurred at or during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chair or Co-Chair of the Commission. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Leaving aside the many self-serving characterizations that populate the Draft Complaint, it is transparently clear that Congressman Hastings's many interactions with Ms. Packer, as described in the Complaint, were motivated at least in part by a desire to carry out his official and supervisory responsibilities as Chair or Co-Chair of the Commission. And so long as at least one purpose of Congressman Hastings's activities was official in nature, the courts – quite appropriately – have refused to try to determine whether there may have been other motivations or even a "predominant" motive. See, e.g., *Council on Am. Islamic Relations, Inc. v. Ballenger*, 366 F. Supp. 2d 31-32 (D.D.C. 2005), *aff'd*, 444 F.3d 659 (D.C. Cir. 2006); *Operation Rescue Nat'l v. U.S.*, 975 F. Supp. 92, 107 (D. Mass. 1997), *aff'd*, 147 F.3d 68 (1st Cir. 1998).

In the *Operation Rescue* case, for example, Senator Kennedy, in the course of speaking to the press after participating in an event to raise funds for an upcoming re-election campaign, stated that certain legislation was needed because "we have a national organization like Operation Rescue that has as a matter of national policy firebombing and even murder." 975 F. Supp. at 94-95. Senator Kennedy, who was then

sued for defamation by Operation Rescue, took the position that he was acting within the scope of his employment when he uttered those remarks. The district court held that, even if Senator Kennedy were motivated in part by a personal desire to advance his re-election prospects, it was not appropriate for the court, in making the scope of employment determination, to attempt to determine a "predominant" motive for an elected official's remarks. "In our electoral system . . . such public and personal motives are essentially inseparable because it is natural for public officials to believe that their own success . . . [is] inextricably linked to the public interest." *Id.* at 95. Rather, the court said, only when an official acts from "purely personal motives that were in no way connected to his official duties" would the official be held to have acted outside the scope of his employment. *Id.* See also W. Prosser & W. Keeton, *Torts* 506 (5th ed. 1984) (only if an employee "acts from purely personal motives in no way connected with the employer's interests, [is he] considered in the ordinary case to have departed from his employment.").

Absence of Bad Faith. As described above, as a result of OHEC's factual investigation, we are not aware of any readily available information to indicate that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Congressman Hastings was acting within the scope of his official responsibilities.

B. Fred Turner

Nature of Activities. Mr. Turner's responsibilities as Commission Chief of Staff include managing the day-to-day operations of the Commission, and directing and supervising a staff of approximately 18 employees in the areas of public policy, media affairs, correspondence, scheduling, and communications. The allegations in the Draft Complaint leave little doubt that Mr. Turner was acting in his official capacity as Commission Chief of Staff at the time of his various interactions with Ms. Packer.

Time/Place. The Draft Complaint suggests that most of the activities in which Mr. Turner is alleged to have engaged occurred while he was working in the Commission's offices in Washington, D.C. during normal business hours, and that the balance occurred during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chief of Staff. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Once again leaving aside the many self-serving characterizations that populate the Draft Complaint, it is abundantly clear that Mr. Turner's interactions with Ms. Packer, as described in the Draft Complaint, were

Tony West, Assistant Attorney General
February 15, 2011
Page 11

certainly motivated at least in part by a desire to carry out his official responsibilities as Chief of Staff, *See supra* at 8.

Absence of Bad Faith. As described above, as a result of OHEC's factual investigation, we are not aware of any readily available information to indicate that the claim for retaliation has any merit, or that Mr. Turner has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Mr. Turner was acting within the scope of his official responsibilities.

The Interests of the United States

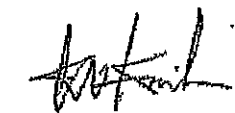
For the reasons described more fully above in the section entitled "The Facts as House Employment Counsel Understands Them," we believe it is in the interest of the United States that the Department provide representation to Congressman Hastings and Mr. Turner in their individual capacities in this matter.

CONCLUSION

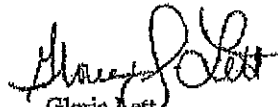
For all the foregoing reasons, we respectfully request that the Department determine that Congressman Hastings and Mr. Turner were acting within the scope of their employment at all relevant times, and that it is in the interest of the United States to provide representation to them in this action.

Thank you for your attention. We look forward to hearing from you, and please contact us if there is anything further we can do to assist in this matter.

Sincerely,



Kerry W. Kircher
General Counsel
202- [REDACTED] (phone)



Gloria Neft
House Employment Counsel
202- [REDACTED] (phone)

Attachment.

cc: Timothy P. Garren, Director
Torts Branch, Civil Division
U.S. Department of Justice

EXHIBIT

B

September 23, 2011

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, NW, Suite 110
Washington, DC 20024

RE: Confidential Review No. 11-6736

Dear Mr. Solis:

In response to the letter I received from Kedric L. Payne, Deputy Chief Counsel, Office of Congressional Ethics ("OCE"), dated September 13, 2011, and pursuant to Section 1(f)(3) of House Resolution 895 of the 110th Congress, I hereby submit the following written statement to the Board of OCE (the "Board") in connection with the second-phase review it has been conducting in the above-referenced matter.

Let me begin by expressing how deeply troubled I am by the charges that now are the subject of OCE's review. Not only are the allegations distasteful, but they also offend any sense of honor and fair play. I have spent a lifetime championing civil rights, and nothing could be more disheartening than now to be accused of violating the very protections that I have fought to obtain for others and hold so dear. I have stated it many times, but let me again reiterate it here: Ms. Winsome Packer's allegations that I sexually harassed her are absolutely false. I never have had a romantic or sexual interest in Ms. Packer, nor ever expressed or otherwise intimated that I had any such interest in her; and her suggestions to the contrary are, to be blunt, fictitious.

Indeed, disinterested parties who have reviewed Ms. Packer's allegations and had occasion to test her accusations have concluded that her claims lack merit. For example, as you know, the Office of House Employment Counsel ("OHEC") investigated Ms. Packer's charges and concluded that Ms. Packer never experienced sexual harassment nor retaliation by the Commission, Mr. Turner, or me. (See Letter from Kerry Kiroher and Gloria Lett ("Kiroher/Lett Letter") to Tony West, Assistant Attorney General, Civil Division, U.S. Dep't of Justice, February 15, 2011, attached hereto as Exhibit A.) In August 2010, Ms. Packer filed a request for counseling with the Office of Compliance in connection with her allegations of sexual harassment and retaliation involving the Commission, Mr. Turner and me. Following the counseling period, in September 2010, Ms. Packer requested mediation. In connection with its representation of the Commission during the mediation process, OHEC interviewed Mr. Turner, other relevant witnesses and me, and reviewed documents related to Ms. Packer's claims. OHEC concluded that Ms. Packer had "grossly distort[ed] the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation." (See Kiroher/Lett Letter, p.7.)

Indeed, as I hope you now appreciate given your review of the allegations, Ms. Packer's claims are absolutely spurious. Most of her allegations are complete fabrications created from whole cloth. In other instances, she twists the truth so incredibly that the facts, as presented, are

CONFIDENTIAL TREATMENT REQUESTED

nearly unrecognizable. For example, she insists that "cheek-to-cheek" greetings or hugs that, frankly, I have shared with many people, including other staff members, constituents and friends, amount to expressions of sexual interest. Nothing could be further from the truth. She also has suggested that I have singled her out for special gifts and treatment. Again, not true. As your interviews undoubtedly have uncovered, I often give staff and friends small gifts from my travels as a friendly gesture and token of my appreciation. Never are those tokens intended as a sexual overture, and, in the decades that I have maintained the practice, never have they be interpreted as such. Ms. Packer even complained about a wide-armed pose that I and others often strike for pictures, suggesting that it was an intimate event between her and me. This charge, perhaps more than any other, illustrates the absurdity of Ms. Packer's claims. In truth, the "signature" pose has become my trademark, which I started using many years ago following my late mother's advice that I do something that distinguished me. I have been photographed hundreds, if not thousands, of times, striking the same pose with countless men, women, and children. Indeed, as you have observed, my office is riddled with pictures of me and others striking the same, innocent position - including pictures with staff, who are known to hop into the position just for fun. To intimate that the gesture is sexual in nature or unique to Ms. Packer is ludicrous and against the substantial weight of evidence to the contrary.

Others have questioned, as I do, Ms. Packer's motivation in lodging these baseless allegations given her self-published book titled "A Personal Agenda," which she has stated was "inspired by her own experiences," and which "examines racial tensions, corruption and sexual harassment in Congress." (See <http://www.mmdnewswire.com/winsome-packer-8783.html>.) In fact, when interviewed on *Smile Jamaica*, Ms. Packer stated that her book required a lot of marketing and that she hoped it would provide her with the financial flexibility to retire in Jamaica. (See televisionjamaica.com/vd-1000-WINSOMEPACKER.aspx and televisionjamaica.com/vd-1303-PROFILE-WINSOMEAPACKER.aspx.) Ms. Packer's false allegations surely have generated the media attention that she desired and spurred book sales.

In closing, I would like to remind the Board that I have cooperated fully with OCE as it conducts its investigation - producing documents and agreeing to an extensive in-person interview, even though OCE's investigation has undermined my ability to defend myself properly in the civil lawsuit that Ms. Packer filed against the U.S. Commission on Security and Cooperation in Europe ("Commission"), Fred Turner (the current Deputy Chief of Staff at the Commission), and me when she did not get the relief she desired in the administrative forum. (See Complaint No. 1:11-cv-00485, D.D.C.) While I expect that the court will dismiss Ms. Packer's baseless claims against me, the Board's parallel investigation unfairly jeopardizes my position in that matter, as my litigation counsel described in correspondence to you dated May 13, 2011. (See Letter from Tonya Robinson to Paul J. Solis, Investigative Counsel, Office of Congressional Ethics, May 13, 2011, attached hereto as Exhibit A.) Currently, the court has under review Mr. Turner's and my separate motions to dismiss the action, which, as you know, means that I am under no obligation in that context to answer the plaintiff's baseless accusations until the court rules on my motion. The Federal Rules of Civil Procedure quite sensibly guard against exposing defendants to the rigors of federal litigation, including the need to respond to the complaint and discovery obligations, until after a plaintiff's claims have been screened and their merits assessed. The OCE process has no such screen and effectively robs me of the protections afforded in the civil action: I have been put in the untenable position of being forced to respond on the record in this investigation or be subjected to a negative inference (see OCE

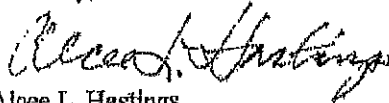
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Rule 6) that may result in an unfavorable finding against me by the OCE. Moreover, OCE's investigation into Ms. Packer's charges, which I understand you believe you are authorized and duty-bound to conduct, has resulted in substantial media attention, including hundreds of news stories. As I hope you can appreciate, that unwanted publicity is a difficult pill to swallow where the investigation ostensibly is confidential and where the OCE essentially is reviewing allegations that other credible offices within the U.S. Congress and U.S. Department of Justice already have evaluated. Despite the damage to my reputation and the potentially prejudicial impact on the pending litigation, I have cooperated fully with OCE because I have nothing to hide and am hopeful that full disclosure on my part will lead the Board to a finding that the plaintiff's allegations are unfounded.

Please do not hesitate to contact me if you have further questions or need clarification. Thank you for your consideration.

My signature below represents my acknowledgement that I understand that 18 U.S.C. § 1001 (False Statement Act) applies to this written statement.

Sincerely,



Alice L. Hastings
Member of Congress

CONFIDENTIAL TREATMENT REQUESTED

KERRY W. KIRCHER
GENERAL COUNSEL

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE GENERAL COUNSEL
219 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6532
(202) [REDACTED]
FAX: (202) 226-1360

JOHN D. HILAMOR
SENIOR ASSISTANT COUNSEL

CHRISTINE DAVENPORT
SENIOR ASSISTANT COUNSEL

KATHLEEN E. MCCARRON
ASSISTANT COUNSEL

WILLIAM B. FITTARD
ASSISTANT COUNSEL

PRIVILEGED AND CONFIDENTIAL

February 15, 2011

BY FEDERAL EXPRESS

The Honorable Tony West, Assistant Attorney General
Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: *Winsome Packer v. The United States Commission on Security
and Cooperation in Europe, et al.*, No. _____ (D.D.C.)

Dear Mr. West:

Pursuant to 28 C.F.R. §§ 50.15, 50.16, we write to request that the Department of Justice provide representation to, or authorize representation by private counsel for, the Honorable Alcea L. Hastings, U.S. Representative for the 23rd congressional district of Florida — and also Co-Chairman of the United States Commission on Security and Cooperation in Europe (“Helsinki Commission”) during the 111th Congress — and Fred L. Turner, Chief of Staff to the Helsinki Commission.¹

Congressman Hastings and Mr. Turner have been identified as putative individual-capacity defendants in two counts of a draft Complaint prepared by attorneys for Winsome Packer, a Policy Advisor to the Helsinki Commission. See Draft Complaint for Declaratory and Monetary Relief and Jury Demand (Jan. __, 2011) (Counts Three and Four), attached as Exhibit 1. Count Three alleges sexual harassment in violation of the Fifth Amendment as against Congressman Hastings, *id.* ¶¶ 20-24, and Count Four alleges

¹ The Helsinki Commission is an independent government entity, created by statute enacted in 1976, which consists of nine Members of the House of Representatives, nine Members of the Senate, and three representatives of the executive branch. See 22 U.S.C. § 3003(a), *et seq.* It is responsible for, among other things, monitoring the activities of the signatories to, and encouraging their compliance with, the Final Act of the Conference on Security and Cooperation in Europe, 22 U.S.C. § 3002, and reporting to Congress on matters covered by the statute. *Id.* § 3006.

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retaliation in violation of the First and Fifth Amendments as against the Congressman and Mr. Turner. *Id.* ¶¶ 95-100. The draft Complaint purports to seek compensatory damages in an amount not less than \$300,000, and punitive damages in an amount not less than \$1,000,000. *Id.* at 33.

For the reasons set forth below, we believe Congressman Hastings and Mr. Turner were acting within the scope of their employment at all pertinent times and that the provision of representation is in the interest of the United States, within the meaning of 28 C.F.R. § 50.15(a)(1), (2). Accordingly, we recommend that representation be provided.

We understand that the Complaint, at present, is only in draft form, and that the Department cannot make a final determination until a complaint is actually filed with the district court. However, we expect that a complaint will in fact be filed within the next several weeks in substantially the form in which it now appears, and we will promptly advise you when that happens. Pending that occurrence, we urge the Department to begin the review process now so that a final determination as to representation can be made as quickly as possible.

PROCEDURAL BACKGROUND

The Congressional Accountability Act

In 1995, Congress enacted the Congressional Accountability Act, 2 U.S.C. §§ 1301, *et seq.* ("CAA"), a comprehensive remedial and procedural statute which makes Title VII and eleven other labor and employment laws applicable to the legislative branch. *Id.* § 1302(a), 42 U.S.C. § 2000ff-6(c). Under the CAA, a "covered employee" may — after exhausting specified counseling and mediation requirements — proceed against her "employing office" for violations of the applicable law(s), either in federal district court or in an administrative proceeding before the Office of Compliance. 2 U.S.C. § 1404. The Office of Compliance is an independent office within the legislative branch that performs a variety of functions under the CAA. *Id.* § 1381.

Cases initiated under the CAA proceed against the "employing office," not against an individual Member or legislative branch employee. *Id.* §§ 1301(9), 1403(a), 1408(b). The CAA created the concept of an "employing office" to mirror the fact that Congressional offices operate as separate employers in practice and for the purpose of shielding Members and legislative branch employees from personal monetary liability. See H.R. Rep. No. 103-650, pt. 2, at 8, 13, 24 (1994).

Tony West, Assistant Attorney General
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Office of Compliance Proceedings

In August 2010, pursuant to § 1402(a) of the CAA, Ms. Packer filed a request for counseling with the Office of Compliance, asserting claims of sexual harassment and retaliation against the Helsinki Commission. See Draft Complaint ¶ 74. The counseling period ends after 30 days, 2 U.S.C. § 1402(b), which, in this case, was on September 8, 2010. Draft Complaint ¶ 75. Ms. Packer then requested mediation pursuant to § 1403 of the CAA. The mediation period also ends after 30 days, 2 U.S.C. § 1403(e).² In this case, because the parties jointly requested several extensions, the mediation period ended on December 8, 2010. Draft Complaint ¶ 76. Ms. Packer has 90 days from the date on which she received notice of the end of the mediation period, or until approximately March 8, 2011,³ to elect to proceed against the Helsinki Commission, in federal district court or before the Office of Compliance, *id.* § 1404, if she wishes to assert a claim(s) under the CAA.⁴

THE DRAFT COMPLAINT

The Draft Complaint indicates that Ms. Packer *does* intend to assert CAA claims against the Helsinki Commission. See Draft Complaint ¶¶ 77-82 (Count One – discrimination on basis of sex in violation of CAA as against Commission), ¶¶ 73-89 (Count Two – retaliation in violation of CAA as against Commission). However, the question of whether the CAA even applies to Ms. Packer and/or the Helsinki Commission is unsettled. Compare 2 U.S.C. § 1301(3), (9) with 22 U.S.C. § 3008(d). Ms. Packer's

² Information regarding statements and representations made during Office of Compliance mediation sessions is provided solely for the purpose of providing the Department of Justice with necessary background information. The CAA mandates that all such information is "strictly confidential." 2 U.S.C. § 1416. Accordingly, this information is provided under the "common interest" privilege and its confidentiality must be maintained.

³ At present, we do not know the exact date Ms. Packer received the notice; accordingly the deadline for filing may be slightly earlier or later than March 8, 2011.

⁴ At the mediation, the Commission asserted that Ms. Packer was not a "covered employee" under 2 U.S.C. § 1301(3) and that the Commission was not an "employing office" under 2 U.S.C. § 1301(9). However, because the statute authorizing the Commission, 22 U.S.C. § 3008(d), creates some ambiguity regarding how the CAA definition of a "covered employee" applies in the context of a claim brought against the Commission, and because the mediation was an opportunity to assess Ms. Packer's allegations and ascertain whether a negotiated resolution was possible, the Commission voluntarily participated in the mediation.

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attorneys were made aware of this uncertainty at the mediation sessions, and we suspect it is for that reason that they plan to assert constitutional tort claims against Congressman Hastings and Mr. Turner in Counts Three and Four.

According to the Draft Complaint, Congressman Hastings offered Ms. Packer a position at the Commission in April 2007, and she has worked as a Policy Advisor for the Commission since May 7, 2007. Draft Complaint ¶¶ 13, 14.⁵ Within a year of her hire, Ms. Packer was appointed to be the Commission's representative to the U.S. Mission to the Organization for Security and Cooperation in Europe ("OSCE") in Vienna, Austria. *Id.* ¶ 15. Ms. Packer moved to Vienna on February 15, 2008, *id.* ¶ 19, and remained there until July 31, 2010, when she returned to Washington, D.C. to resume her duties as a Policy Advisor to the Commission. *Id.* ¶ 73. As a Policy Advisor, Ms. Packer's annual salary was \$80,000. While serving in Vienna, Ms. Packer's annual income was \$165,000. *Id.* ¶ 19.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer's sexual harassment and retaliation claims against Congressman Hastings. We have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

In and Around Washington, D.C. – Hastings

- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 15, 18.
- Congressman Hastings allegedly said he would come to Ms. Packer's home in Alexandria, Virginia to "check up on her." *Id.* ¶ 18.
- Congressman Hastings allegedly called Ms. Packer in Vienna frequently. According to Ms. Packer, these calls were "under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other." *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman allegedly hugged Ms. Packer on occasion when greeting her. *Id.* ¶¶ 39, 46.

⁵ Notwithstanding the implication that Congressman Hastings hired Ms. Packer himself, the statute provides that all Commission hiring decisions are made by a majority vote of a four-person Personnel Committee consisting of the Chair, the Co-Chair and the ranking minority Members from the House and Senate. *See* 22 U.S.C. § 3008(a), (b). In 2007, Congressman Hastings was the Chairman of the Commission.

Europe – Hastings

- Congressman Hastings gave Ms. Packer a music box from the Czech Republic as a gift in front of work colleagues. *Id.* ¶ 20.
- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 21, 30.
- Congressman Hastings allegedly frequently called Ms. Packer. According to Ms. Packer, these calls were “under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other.” *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman hugged Ms. Packer. *Id.* ¶ 25 (Vienna at a meeting), ¶ 28 (Vienna), ¶ 35 (Kazakhstan in delegation hospitality room), ¶ 47 (Vilnius, Lithuania), ¶¶ 65-66 (Vienna).
- Congressman Hastings allegedly made sexual comments to and around Ms. Packer. *Id.* ¶¶ 26-27, 29.
- Congressman Hastings allegedly linked Ms. Packer’s career progress to a personal relationship with him. *Id.* ¶¶ 35, 38, 42-44.
- Congressman Hastings allegedly complained to Ms. Packer that “she was not ‘a sport’ because she knew that he ‘liked’ her and that he had helped her professionally . . . [and] explained to her that he had ‘come to [her] as a man does to a woman.’” *Id.* ¶ 43.
- Congressman Hastings allegedly asked Ms. Packer if she would like to come to his hotel room when they were attending a Parliamentary Assembly Bureau meeting in Lisbon, Portugal. *Id.* ¶ 44.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer’s retaliation claim against Mr. Turner. Again, we have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

In and Around Washington, D.C. -- Turner

- Mr. Turner allegedly "refused to take any action to protect her." *Id.* ¶ 38.
- Mr. Turner allegedly denied Ms. Packer's request to return to Washington, D.C. after she had worked overseas for one year. *Id.* ¶ 41.
- Mr. Turner allegedly assigned work from Ms. Packer's portfolio to her colleagues and withheld from her important information that was pertinent to the performance of her job duties. *Id.* ¶ 50.
- In response to Ms. Packer's request to return to Washington, D.C., Mr. Turner allegedly informed her "that Mr. Hastings would be coming to Vienna in February 2010 and would speak to her at that time about her future." *Id.* ¶ 52.
- When Ms. Packer submitted travel requests for meetings, Mr. Turner allegedly responded that "she would have to work very hard to convince Senator Cardin [then Commission Chairman] that she should be able to travel since she had decided to return to Washington, D.C. in July." *Id.* ¶ 70.

Europe -- Turner

- Mr. Turner allegedly told Ms. Packer there was nothing he could do about Congressman Hastings' alleged inappropriate conduct. *Id.* ¶ 45.⁶

THE FACTS AS HOUSE EMPLOYMENT COUNSEL UNDERSTANDS THEM

In preparing to participate in the Office of Compliance mediation process on behalf of the Helsinki Commission, the Office of House Employment Counsel ("OHEC") investigated the substantive allegations Ms. Packer presented at that time.⁷ Among other things, OHEC interviewed Congressman Hastings, Mr. Turner and several other individuals. OHEC also reviewed relevant emails and other documents provided by the

⁶ There are a number of allegations in the Draft Complaint that run contrary to Ms. Packer's claim that Congressman Hastings and Mr. Turner retaliated against her. See, e.g., Draft Complaint ¶¶ 15, 22, 38, 44, 57, 58, 61-63.

⁷ As part of the mediation process, Ms. Packer, through her first attorney, submitted a narrative that detailed her factual allegations. OHEC's investigation was based on this narrative. After the first mediation session, Ms. Packer retained new counsel and the Draft Complaint was prepared by this new counsel. The allegations in the Draft Complaint are substantially similar, although not identical, to the allegations in the initial narrative.

Tony West, Assistant Attorney General
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Commission. The information OHEC has reviewed to date supports the conclusion that Ms. Packer did not experience conduct that rises to the level of sexual harassment or retaliation under applicable federal law. Furthermore, a number of Ms. Packer's substantive allegations have been strongly refuted by some of the very individuals she identified as witnesses to the alleged harassment and/or retaliation. OHEC's interviews and document review have not yielded any indication of a personal relationship between Ms. Packer and Congressman Hastings, nor has OHEC's investigation resulted in the identification of any witness who corroborates Ms. Packer's substantive allegations that she experienced legally-actionable harassing or retaliatory conduct. In short, OHEC is not aware of any readily-available information which indicates that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings and/or Mr. Turner have been untruthful in their denial of the allegations.

It is important to note that many of the underlying allegations regarding events, trips, dinners, etc., are factually accurate and it does appear that Ms. Packer did make statements to others while in Vienna about what she claimed was inappropriate conduct on the part of Congressman Hastings. Ms. Packer also makes a number of assertions that are factually accurate, but are taken out of context. For instance, Congressman Hastings readily admits that he hugged Ms. Packer. Individuals OHEC interviewed confirmed this, but also that Congressman Hastings hugs most everyone. Similarly, Congressman Hastings did give a music box as a gift to Ms. Packer; however, Congressman Hastings and the witnesses OHEC spoke with stated that Congressman Hastings regularly bought gifts for his staff -- male and female. OHEC's investigation shows that while some of Ms. Packer's allegations begin with a kernel of truth, when looked at in context, Ms. Packer grossly distorts the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation. Based on OHEC's review to date, we do not believe that Ms. Packer experienced sexual harassment. *See Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993) (in order to establish a prima facie case of a hostile work environment, a plaintiff must produce evidence that "the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter conditions of the victim's employment and create an abusive working environment").

Rather, OHEC's interviews and review of documents indicate that Ms. Packer's view of reality is skewed. Indeed, there are communications over the course of Ms. Packer's employment with the Helsinki Commission that contradict a number of her allegations and clearly indicate that she has difficulty developing and maintaining productive and cooperative relationships with colleagues and superiors. Given the diplomatic element of the Commission's purpose and Ms. Packer's role in advancing that purpose, it is little wonder that her inability to foster cooperative relationships has been an ongoing issue.

Tony West, Assistant Attorney General
February 15, 2011
Page 8

QHEC's view of the falsity of Ms. Packer's substantive allegations, as discussed above, is strongly influenced by QHEC's assessment of Ms. Packer's true motivation. Her self-serving and distorted interpretation of events and conversations during her tenure with the Commission can be best summed up in the title of her recently self-published novel: *A Personal Agenda*. Indeed, it appears that Ms. Packer began publicizing her book in June 2010, shortly before she initiated proceedings against the Commission under the CAA. Furthermore, in a press release she appears to have written at the time, Ms. Packer states that her book was "inspired by her own experiences" and "seeks to provoke its readers by examining . . . sexual harassment in Congress."⁸ Furthermore, in two recent television interviews available on the Internet, Ms. Packer acknowledges that she is working aggressively to seek publicity to promote her novel.⁹

QHEC also believes that Congressman Hastings and Mr. Turner are the subject of Ms. Packer's claims in large part because of their respective official positions as her superiors, *i.e.*, the Congressman as Chairman and Co-Chairman of the Commission (during the 110th and 111th Congresses, respectively), and Mr. Turner as Ms. Packer's immediate supervisor.

DISCUSSION

Scope of Employment

Because 28 C.F.R. § 50.15(a) does not define the elements of an employee's scope of employment, we look by analogy to the scope certification conducted under the Federal Tort Claims Act ("FTCA"), as amended by the Westfall Act, 28 U.S.C. §§ 2671 *et seq.* In the FTCA context, the question of whether a federal officer is acting within the scope of his employment is determined by the law of the state where the alleged tort occurred. 28 U.S.C. § 1346(b)(1); *Williams v. United States*, 350 U.S. 857, 857 (1956); *Haddon v. United States*, 68 F.3d 1420, 1423 (D.C. Cir. 1995). In this case, the alleged tortious conduct of Congressman Hastings and Mr. Turner occurred in Washington, D.C. and Europe. Since the FTCA does not apply to claims arising in a foreign country, 28 U.S.C. § 2680(k), we look to the law of the District of Columbia.¹⁰

⁸ A copy of this June 2010 press release can be found at <http://www.mmdnewswire.com/winsome-packer-8783.html>.

⁹ These interviews are available at <http://televisionjamaica.com/vd-1000-WINSOMEPACKER.aspx> and <http://televisionjamaica.com/vd-1303-PROFILE-WinsomeAPacker.aspx>.

¹⁰ For purposes of this letter of recommendation, we assume that actions of Congressman Hastings and Mr. Turner that allegedly occurred abroad may be considered for purposes of determining whether they acted within the scope of their employment.

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According to District of Columbia law, an individual is acting within the scope of his employment if the conduct: (1) is of a kind he is employed to perform; (2) occurs substantially within authorized time and space limits; and (3) is actuated, at least in part, by a purpose to serve the master. *Haddon*, 68 F.3d at 1423-24 (citing Restatement (Second) of Agency § 228). The District takes a very broad view of "the scope of employment." See, e.g., *Lyon v. Carey*, 533 F.2d 649, 654 (D.C. Cir. 1976); *Johnson v. Weinberg*, 434 A.2d 404, 408-09 (D.C. 1981).

A. Congressman Hastings

Nature of Activities. The official duties of Members of Congress include an extremely broad range of legislative and representational activities, and plainly include activities such as service on official governmental entities such as the Helsinki Commission. See, e.g.; *U.S. v. Brewster*, 408 U.S. 501, 512 (1972); *U.S. v. Rostenkowski*, 59 F.3d 1291, 1309-12 (D.C. Cir. 1995). It is clear, under the statute, that Members of Congress are appointed to the Commission, because they are Members of Congress, and that they serve in that capacity. See 22 U.S.C. § 3003.

Time/Place. The Draft Complaint suggests that all, or virtually all, of the activities in which Congressman Hastings is alleged to have engaged occurred at or during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chair or Co-Chair of the Commission. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Leaving aside the many self-serving characterizations that populate the Draft Complaint, it is transparently clear that Congressman Hastings' many interactions with Ms. Paeker, as described in the Complaint, were motivated at least in part by a desire to carry out his official and supervisory responsibilities as Chair or Co-Chair of the Commission. And so long as at least one purpose of Congressman Hastings' activities was official in nature, the courts -- quite appropriately -- have refused to try to determine whether there may have been other motivations or even a "predominant" motive. See, e.g., *Council on Am. Islamic Relations, Inc. v. Ballenger*, 366 F. Supp. 2d 31-32 (D.D.C. 2005), *aff'd*, 444 F.3d 659 (D.C. Cir. 2006); *Operation Rescue Nat'l v. U.S.*, 975 F. Supp. 92, 107 (D. Mass 1997), *aff'd*, 147 F.3d 68 (1st Cir. 1998).

In the *Operation Rescue* case, for example, Senator Kennedy, in the course of speaking to the press after participating in an event to raise funds for an upcoming re-election campaign, stated that certain legislation was needed because "we have a national organization like Operation Rescue that has as a matter of national policy firebombing and even murder." 975 F. Supp. at 94-95. Senator Kennedy, who was then

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sued for defamation by Operation Rescue, took the position that he was acting within the scope of his employment when he uttered those remarks. The district court held that, even if Senator Kennedy were motivated in part by a personal desire to advance his re-election prospects, it was not appropriate for the court, in making the scope of employment determination, to attempt to determine a "predominant" motive for an elected official's remarks. "In our electoral system . . . such public and personal motives are essentially inseparable because it is natural for public officials to believe that their own success . . . [is] inextricably linked to the public interest." *Id.* at 95. Rather, the court said, only when an official acts from "purely personal motives that were in no way connected to his official duties" would the official be held to have acted outside the scope of his employment. *Id.* See also W. Prosser & W. Keeton, *Torts* 506 (5th ed. 1984) (only if an employee "acts from purely personal motives in no way connected with the employer's interests, [is he] considered in the ordinary case to have departed from his employment.").

Absence of Bad Faith. As described above, as a result of OHBC's factual investigation, we are not aware of any readily available information to indicate that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Congressman Hastings was acting within the scope of his official responsibilities.

B. Fred Turner

Nature of Activities. Mr. Turner's responsibilities as Commission Chief of Staff include managing the day-to-day operations of the Commission, and directing and supervising a staff of approximately 18 employees in the areas of public policy, media affairs, correspondence, scheduling, and communications. The allegations in the Draft Complaint leave little doubt that Mr. Turner was acting in his official capacity as Commission Chief of Staff at the time of his various interactions with Ms. Packer.

Time/Place. The Draft Complaint suggests that most of the activities in which Mr. Turner is alleged to have engaged occurred while he was working in the Commission's offices in Washington, D.C. during normal business hours, and that the balance occurred during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chief of Staff. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Once again leaving aside the many self-serving characterizations that populate the Draft Complaint, it is abundantly clear that Mr. Turner's interactions with Ms. Packer, as described in the Draft Complaint, were

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certainly motivated at least in part by a desire to carry out his official responsibilities as Chief of Staff. *See supra* at 8.

Absence of Bad Faith. As described above, as a result of OHEC's factual investigation, we are not aware of any readily available information to indicate that the claim for retaliation has any merit, or that Mr. Turner has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Mr. Turner was acting within the scope of his official responsibilities.

The Interests of the United States

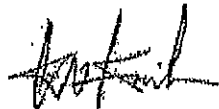
For the reasons described more fully above in the section entitled "The Facts as House Employment Counsel Understands Them," we believe it is in the interest of the United States that the Department provide representation to Congressman Hastings and Mr. Turner in their individual capacities in this matter.

CONCLUSION

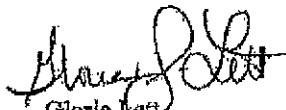
For all the foregoing reasons, we respectfully request that the Department determine that Congressman Hastings and Mr. Turner were acting within the scope of their employment at all relevant times, and that it is in the interest of the United States to provide representation to them in this action.

Thank you for your attention. We look forward to hearing from you, and please contact us if there is anything further we can do to assist in this matter.

Sincerely,



Kerry W. Kircher
General Counsel
202-██████████ (phone)



Gloria Best
House Employment Counsel
202-██████████ (phone)

Attachment

cc: Timothy P. Garrett, Director
Torts Branch, Civil Division
U.S. Department of Justice

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WINSOME PACKER,
[REDACTED]

Plaintiff,

v.

THE UNITED STATES
COMMISSION ON SECURITY
AND COOPERATION IN EUROPE
234 Ford House Office Building
Washington, DC 20515

and

ALCEE L. HASTINGS
[REDACTED]

and

FRED TURNER
[REDACTED]

Defendants.

Case: 1:11-cv-00485
Assigned To: Collyer, Rosemary M.
Assign. Date: 3/7/2011
Description: Employment discrimination

COMPLAINT FOR DECLARATORY
AND MONETARY RELIEF AND JURY DEMAND

Preliminary Statement

1. This is a civil action against the United States Commission on Security and Cooperation in Europe ("the Commission"), U.S. Representative Alcee L. Hastings, and Fred Turner for declaratory and equitable relief and monetary damages for injuries plaintiff Winsome

Packer has sustained as a result of Mr. Hastings's sexual harassment of her and the subsequent retaliation against her for complaining about the unlawful harassment, in violation of the Section 201 and 207 of the Congressional Accountability Act, 2 U.S.C. §1311, *et seq.*, and the First and Fifth Amendments of the Constitution of the United States.

2. For over two years, from January 2008 through February 19, 2010, Ms. Packer was forced to endure unwelcome sexual advances, crude sexual comments, and unwelcome touching by Mr. Hastings while serving as the Representative of the Commission to the United States Mission to the Organization for Security and Cooperation in Europe. Although Ms. Packer repeatedly rejected Mr. Hastings' sexual attention and repeatedly complained about the harassment to the Commission Staff Director, Fred Turner, Mr. Hastings refused to stop sexually harassing her. Rather, Mr. Hastings and Mr. Turner began to retaliate against Ms. Packer—including making threats of termination—because she continued to object to Mr. Hastings' conduct. Ms. Packer was particularly vulnerable to such threats because she was a Republican working for the Democratically-controlled Commission, a point that both Mr. Hastings and Mr. Turner used to threaten and intimidate her. Eventually, the emotional distress, anxiety, and humiliation caused by the sexual harassment and retaliation caused Ms. Packer to suffer severe health problems and forced her to leave her prestigious position.

Jurisdiction and Venue

3. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331 and 2 U.S.C. § 1408.

4. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Ms. Packer's claims occurred in the District of Columbia. In the alternative, venue is proper in this district under 28 U.S.C. § 1391(b)(3)

because the Commission can be found in the District of Columbia and there is no other district in which the action may otherwise be brought.

Parties

5. Winsome Packer is a citizen of the Commonwealth of Virginia who resides at [REDACTED]. Ms. Packer became an employee of the Commission on Security and Cooperation in Europe on May 7, 2007. Ms. Packer is a "covered employee" under 2 U.S.C. §1301(3).

6. The United States Commission on the Security and Cooperation in Europe is plaintiff's "employing office" under 2 U.S.C. § 1301(9)(B) and/or § 1301(9)(C).

7. Alcee L. Hastings is a citizen of the State of Florida who resides at [REDACTED]. Mr. Hastings represents the 23rd Congressional District of Florida and served as the Chairman of the Commission during the 110th Congress, which was from January 3, 2007, through January 3, 2009. In the 111th Congress, Mr. Hastings served as the Co-Chairman of the Commission, which was from January 4, 2009, through January 3, 2011.

8. Fred Turner is a citizen of the State of Maryland who resides at [REDACTED]. At all times relevant to this complaint and Ms. Packer's claims, Mr. Turner served as the Staff Director of the Committee and was Ms. Packer's direct supervisor.

Factual Allegations

9. Ms. Packer is a highly educated and experienced professional, who has dedicated her career to policy work. Ms. Packer holds a Bachelor of Arts in International Affairs and a Master of Public Administration. She has extensive experience as a professional staff member—first for the Committee on Veterans' Affairs for the U.S. House of Representatives and later for

the Committee on Homeland Security for the U.S. House of Representatives. Among her many other professional accomplishments, she was appointed as a United States Delegate to the United Nations Commission on the Status of Women and has worked for various policy think tanks.

10. From 2003 through December 2006, Ms. Packer served as a Republican Professional Staff Member for the Committee on Homeland Security. During this time, the Republican Party controlled the U.S. House of Representatives. In the 2006 national election, however, the Democrats won a majority of seats in the House of Representatives, allowing them to gain control of that chamber of Congress. Pursuant to the change in leadership, Ms. Packer's position was eliminated and she became unemployed starting in January 2007.

11. In March 2007, while walking down C Street SW in Washington, D.C., Ms. Packer encountered Representative Alcee L. Hastings. Ms. Packer and Mr. Hastings were acquainted with each other through a friend of Ms. Packer who had served as a staff member in Mr. Hastings' office for many years. During their conversation, Mr. Hastings learned that Ms. Packer was unemployed. In response to this news, Mr. Hastings informed her that, as the new Chair of the U.S. Commission on Security and Cooperation in Europe, he was in a position to appoint her to the Commission staff. He then recommended that she schedule an appointment to speak with him about applying for a position.

12. Although very interested in the work of the Commission, Ms. Packer initially chose not to contact Mr. Hastings about the position because he was a Democrat and she was a Republican. However, by April 2007, Ms. Packer still had no firm employment leads, so she scheduled a meeting with Mr. Hastings to speak further about a potential position. Prior to meeting with Mr. Hastings, Ms. Packer provided him with a copy of her resume, which clearly indicated her political affiliation with the Republican Party.

13. At the interview, Mr. Hastings did not discuss or question Ms. Packer about her qualifications for a position with the Commission or her political affiliation. Instead, he simply explained that, as the new Chair of the Commission, he wanted to make significant staffing changes. Despite her political affiliation, Mr. Hastings offered Ms. Packer a position during that April 2007 meeting.

14. Ms. Packer began working at the Commission on May 7, 2007, as a Policy Advisor. Fred Turner, the Staff Director, was, and continued to be, her supervisor at the Commission until February 14, 2010. Prior to Mr. Hastings appointing him as Staff Director, Mr. Turner had served on Mr. Hastings' staff for over ten years. On a number of occasions, during her first few months at the Commission, Mr. Turner indirectly questioned Ms. Packer's loyalty to Mr. Hastings because she was a Republican. For example, Mr. Turner accused Ms. Packer of writing a better speech for a Republican member of the Commission in comparison to the speech she had written for Mr. Hastings. On another occasion, he chastised her for including positive comments about U.S. Representative Christopher Smith, a Republican Member of Congress, in a letter of recommendation from Mr. Hastings to the President of the Organization for Security and Cooperation in Europe Parliamentary Assembly and requested that she remove those comments. In addition to verbally assuring Mr. Turner of her loyalty, Ms. Packer worked extremely hard to produce quality work in order to demonstrate that she was dedicated to her position and loyal to Mr. Hastings. Mr. Turner's conduct, however, made clear to Ms. Packer that, as a Republican, she was more vulnerable in her position than other staff members of the Commission.

15. In December 2007, Mr. Turner met with Ms. Packer to inform her that Mr. Hastings wanted to appoint Ms. Packer to be the Representative of the Commission to the U.S.

Mission to the Organization for Security and Cooperation in Europe. This position was posted in Vienna, Austria, and was considered by many to be the most prestigious staff position at the Commission. Mr. Turner explained that Mr. Hastings believed her to be the most qualified staff member for the position because of the quality of her work and her international work experience. Although flattered by the offer, Ms. Packer had reservations regarding the position and expressed them in the meeting. Mr. Turner, however, strongly recommended that Ms. Packer try the position for a year and promised that, if she wished to return to her position as Policy Advisor, she could return at the end of the year. With this guarantee, Ms. Packer agreed to take the position.

16. Ms. Packer was scheduled to assume her post in Vienna as the Representative of the Commission in February 2008. In January 2008, as Ms. Packer was preparing for departure, Mr. Hastings invited her and Mischa Thompson, a fellow staff member at the Commission, to dine with him alone. When making the invitation, Mr. Hastings expressly requested that they not inform Mr. Turner about the dinner. Ms. Packer found this request strange, but since the invitation also included Ms. Thompson, she accepted. After dinner, while Ms. Packer and Mr. Hastings walked from the restaurant, with Mischa Thompson a few paces behind, Mr. Hastings told Ms. Packer that once she had found and settled into her new apartment in Vienna, he would come to Vienna to stay with her for a week. This comment made Ms. Packer extremely uncomfortable because Mr. Hastings seemed to be inviting himself to visit her in a personal and romantic capacity, not as the Chairman of the Committee, since the Chair would never stay at a staff member's apartment in lieu of having lodging of his own. Wishing to avoid upsetting Mr. Hastings, Ms. Packer simply ignored the comment and said nothing.

17. The next day, however, Ms. Packer did inform her officemate, Shelly Han, about the incident and expressed her concern about Mr. Hastings' advances. Ms. Han advised her to speak with Mr. Turner about Mr. Hastings' conduct, but Ms. Packer hesitated to do so out of fear that, given her status as a Republican, such a complaint would further complicate her relationship with Mr. Hastings and Mr. Turner.

18. Within a week of the dinner detailed in Paragraph 16, Mr. Hastings called Ms. Packer at the Commission and inquired about the progress of her preparations for departure. After only a few minutes of discussing her departure, Mr. Hastings repeated that when she was settled in Vienna, he would come and stay with her for a week. Mr. Hastings' comment again made Ms. Packer uncomfortable because of the implication that he was pursuing a romantic relationship with her. Ms. Packer's suspicions were further confirmed when he asked where she was currently living. When Ms. Packer replied that she lived in Alexandria, Virginia, Mr. Hastings announced that he should come over to "check up on her." Since Ms. Packer was not interested in hosting Mr. Hastings alone in her house, especially given his earlier statements that indicated his romantic interest in her, she responded that she would be happy to have Mr. Hastings and Mr. Turner to dinner before she left for Vienna. Mr. Hastings responded, "That's all right," and immediately ended the phone call.

19. Ms. Packer moved to Vienna on February 15, 2008, and immediately began working. As a Policy Advisor, Ms. Packer's annual salary was \$80,000. In her new position, Ms. Packer received a *per diem* that raised her yearly income to \$165,000.

20. In February 2008, shortly after Ms. Packer arrived in Vienna, Mr. Hastings traveled to Vienna as a member of a congressional delegation. Ms. Packer was sitting with several colleagues in the delegation room when she first encountered Mr. Hastings during the

trip. Upon entering the room, Mr. Hastings immediately walked over to Ms. Packer on the other side of the room and handed her a small bag, which contained a music box that he had purchased for her in the Czech Republic. Mr. Hastings did not bring gifts to any other staff member. Ms. Packer was embarrassed by the special attention paid to her by the Chairman and was offended that he continued to pursue her romantically, since she had not responded to his earlier attempts to initiate a relationship. Ms. Packer later gave the music box to her co-worker, Mischa Thompson, and told her that she was very uncomfortable with the fact that Mr. Hastings had given the gift and that he had done so in public.

21. Approximately an hour after Mr. Hastings arrived, he asked Ms. Packer to fetch him some ice. He then followed her across the room and, once they had reached an area where they were out of earshot of others, he again told her that once she had an apartment he would come to stay with her for a week. His continued pursuit of a romantic relationship with her upset Ms. Packer, especially since he was now making advances in professional settings.

22. Fifteen minutes after Mr. Hastings made the comment referenced in Paragraph 21, Ms. Packer asked Mr. Turner, who had accompanied Mr. Hastings on the congressional delegation, to speak privately. Once they had walked to a private room, Ms. Packer detailed Mr. Hastings' recent conduct towards her. She explained that in the last month Mr. Hastings had invited himself three times to stay with her in Vienna for a week and that he also had invited himself to visit her at her home in Alexandria, Virginia. Mr. Turner's first response was to ask Ms. Packer if she had ever had a romantic relationship with Mr. Hastings. Ms. Packer responded that she had never had anything but a professional relationship with Mr. Hastings, that she did not welcome his advances, and did not want to engage in a romantic relationship with him. Mr. Turner initially looked surprised, but then assured Ms. Packer that he was glad she came to him

about the matter and that he would speak to Mr. Hastings and would ensure that he knew her feelings on the matter. Mr. Turner also instructed her to call him immediately if Mr. Hastings ever called to tell her that he was "getting on a plane to visit [her]."

23. From March through September 2008, even though Mr. Turner had promised Ms. Packer that he would speak to Mr. Hastings about the Congressman's attentions towards her, Mr. Hastings began to call her approximately every other week under the pretense of work-related matters. However, within a minute or two of conversation, Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other. Prior to Mr. Hastings' expressions of a romantic interest in Ms. Packer, the Congressman had never called on a regular basis about either personal or work-related matters. Upon information and belief, Mr. Hastings did not call other staff members in a similar fashion.

24. The first time Mr. Hastings called Ms. Packer was in March 2008. On the call, he informed her that he would be attending an OSCE Parliamentary Assembly Bureau meeting in Copenhagen and requested that she join him at the meeting. After his advances during his visit a few weeks before, Ms. Packer was not comfortable traveling with him to a non-mandatory meeting such as the one in Copenhagen, so she told him that she was still settling in and learning her new job responsibilities, which made her unsure if she would be able to travel to Copenhagen. After the call ended, Ms. Packer immediately called Mr. Turner and informed him of Mr. Hastings' request that she join him in Copenhagen and expressed her concern about traveling with the Congressman. Mr. Turner counseled Ms. Packer to explain to Mr. Hastings that Mr. Turner had determined that she was not needed at the meeting because she was too busy in Vienna. Ms. Packer relayed this information to Mr. Hastings and she did not attend the Copenhagen meeting.

25. In May 2008, Mr. Hastings traveled to Vienna for another meeting. This was the first time that Ms. Packer had been around him since the meeting in February 2008, when Mr. Turner promised to speak to Mr. Hastings about ceasing any romantic advances towards her. When Ms. Packer saw Mr. Hastings at the meeting, he immediately approached her, hugged her with both arms, pressed his body against her body and pressed his face against her face. Prior to that instant, Mr. Hastings had never hugged her in such a manner. Ms. Packer was uncomfortable with this intimate touching and was particularly upset it was done in front of her colleagues and after Mr. Turner had allegedly counseled him against making any romantic advances.

26. On the same day in May 2008, as referred to in Paragraph 25, Mr. Hastings repeatedly made sexual comments to and around Ms. Packer. First, as they rode in a car alone together to a meeting in Vienna, Mr. Hastings complained to Ms. Packer that he was having trouble sleeping. Ms. Packer sympathized with Mr. Hastings and replied that, when she has had trouble sleeping in the past, she found exercise helpful. Mr. Hastings replied that while exercise worked for some people, "even after sex, I continue to be wide awake." His sexual remark made Ms. Packer uncomfortable, especially after his earlier intimate hug and his prior romantic advances.

27. At dinner that same evening, in a conversation initiated by Mr. Hastings, he commented to Ms. Packer that the only reason he was dating Patricia Williams, the Deputy District Director, was because she had been his counsel in his bribery and impeachment trials that resulted in his impeachment and removal from the federal bench. He also confided to her that he had been dating another staff member, Vanessa Griddine, but that she was "not worthy."

Ms. Packer refused to discuss Mr. Hastings' romantic involvement with other staff members and changed the topic of conversation.

28. Later that evening, however, while Mr. Hastings, Ms. Packer, and several Commission staff members, including the Chief of Staff for Mr. Hastings' congressional office, David Goldenberg, another Commission staff member, Alex Johnson, and Ms. Thompson, were at the bar of the Marriott Hotel, Mr. Hastings remarked to Ms. Packer in front of her colleagues that Janice Helwig, Ms. Packer's predecessor in Vienna, had told other people that Ms. Packer was Mr. Hastings' girlfriend. Mr. Hastings then put his arm around Ms. Packer's shoulder and said: "She flatters me." Ms. Packer was embarrassed by Mr. Hastings' comment and demeanor that falsely implied that a romantic relationship existed between them.

29. As the night progressed and Mr. Hastings consumed more alcohol, he began to make crude comments to Ms. Packer, Ms. Thompson, and Mr. Johnson. Specifically, Mr. Hastings remarked that he did not understand how female Members of Congress could wear the same underwear from the time the House of Representatives went into session in the morning until it recessed late at night. He then stated that for that reason he could never take a female Representative "home with him." He then looked directly at Ms. Packer and asked her, "What kind of underwear are you wearing?" Ms. Thompson and Mr. Johnson both clearly heard the question because they laughed in response. Ms. Packer, however, was angry and humiliated both by his question and by his offensive comments about female Members of Congress. That night, Ms. Packer called Mr. Turner and complained about Mr. Hastings' conduct that day, including about his vulgar questioning of her.

30. During this trip, Mr. Hastings reiterated his desire to visit Ms. Packer's apartment. Ms. Packer attempted to avoid such a visit by explaining to him that she did not have sufficient

furniture to host guests. Mr. Hastings, however, renewed his request the next day while they were in a van with other staff members. Ms. Packer responded that she would be happy to take everyone in the van to visit her apartment on their way to their destination. Mr. Hastings immediately declined her offer.

31. For the duration of Mr. Hastings' time in Vienna on that trip, Ms. Packer experienced very high levels of stress when in the presence of Mr. Hastings and attempted to avoid interacting with him because she feared he would make additional comments and sexual advances towards her.

32. For several months after Mr. Hastings' May 2008 trip to Vienna, he continued to call Ms. Packer regularly. Ms. Packer would often not answer the phone in order to avoid his calls.

33. In July 2008, a congressional delegation including Mr. Hastings was scheduled to attend the annual meeting of the OSCE Parliamentary Assembly in Astana, Kazakhstan. Ms. Packer had scheduled her arrival to follow Mr. Hastings' arrival by several hours. Prior to the trip, however, Mr. Turner requested that Ms. Packer change her flight to arrive a day earlier than the other members of the delegation because Mr. Hastings had decided to travel independent of the other Members of Congress and, instead, would be arriving a day before the delegation. Since he was traveling independently, Mr. Hastings needed a staff member to facilitate his trip, especially one to coordinate travel and administrative matters with the U.S. Embassy or the Kazakhstani government.

34. This request caused Ms. Packer significant stress and anxiety because she was fearful that Mr. Hastings would take advantage of their being in the country alone and again make sexual advances towards her. She was also upset that Mr. Turner assigned her to staff Mr.

Hastings alone after her multiple complaints about his conduct towards her, especially because six other Commission staff members were scheduled to staff Mr. Hastings on that trip and Mr. Turner could easily have assigned anyone of them to staff Mr. Hastings and avoided forcing Ms. Packer to spend a day alone with Mr. Hastings. Nevertheless, Ms. Packer complied with Mr. Turner's request.

35. Ms. Packer arrived to Astana, Kazakhstan at 4:00 a.m. and on the way to the hotel, the mobile phone of her escort from the U.S. Embassy rang. After he answered it, he informed her that the call was from Mr. Hastings and he had requested that she meet him immediately upon arriving. As soon as she arrived at the hotel, Ms. Packer met the Congressman, who was alone in the delegation hospitality room. Mr. Hastings immediately again embraced her closely with both arms, pressing his body against her body, and pressing his face against hers. This unwelcome touching was very unpleasant for Ms. Packer and made her very uncomfortable. Mr. Hastings then commented: "You look really good." He followed this comment by telling her that he had always liked her and wanted to "look out for [her] career." Mr. Hastings' intention was crystal clear: he was sexually attracted to Ms. Packer, wanted a sexual relationship with her, and would help progress her career if she acquiesced to his sexual advances. Ms. Packer responded that while she was grateful that he wanted to help her, she wanted to be taken seriously as a professional and did not think it was appropriate for her to have a personal relationship with him. Mr. Hastings argued that no one would treat her less than professionally because they had a personal relationship and that she would continue to be taken seriously. Ms. Packer continued to insist that she was uninterested in a personal relationship with him. At no point in the conversation did Mr. Hastings discuss a single work-related matter

with her. The sole purpose of the meeting was for him to reinitiate his sexual overtures, even though she had repeatedly denied his advances.

36. Later that same morning, Mr. Hastings required Ms. Packer to shop with him in the shopping arcades in Astana. While they shopped, Mr. Hastings repeatedly complained that Mr. Turner was cheap and only once had purchased a gift for him, which was an inexpensive tie. He contrasted Mr. Turner with Mr. Goldenberg and Mr. Johnson who he explained had given him many expensive gifts. Mr. Hastings repeated statements made clear to Ms. Packer that he had brought her shopping so that she would purchase him a gift. Upset and anxious about the effect that her rejection of Mr. Hastings would have on her career, Ms. Packer felt no other choice but to purchase him a shirt and tie.

37. For the remainder of their trip in Kazakhstan, Ms. Packer suffered from severe stress and anxiety because she feared Mr. Hastings' further advances if they were alone. During this trip, Ms. Packer's blood pressure rose so precipitously that she was forced to see a military doctor. She explained to the doctor that her stress was caused by Mr. Hastings' unwelcome sexual advances. He offered her vitamin B complex and a sleeping aid to help her combat the symptoms of her stress.

38. As stated in paragraph 32, throughout the summer of 2008, Mr. Hastings was regularly calling Ms. Packer when he was not around her. After Mr. Hastings' repeated sexual advances in May and July and his continued telephone calls, Ms. Packer informed Mr. Turner that she was unhappy in her position and wished to return to Washington, D.C. By this point, however, Ms. Packer had become fearful of retaliation, because in Kazakhstan Mr. Hastings directly linked her career progress with her having a personal relationship with him and because she had repeatedly complained to Mr. Turner about Mr. Hastings' conduct yet Mr. Turner had

refused to take any action to protect her. Ms. Packer, therefore, told Mr. Turner that she wished to return to Washington, D.C., because she felt that the other U.S. Mission representatives, particularly the State Department officials, marginalized her and prevented her from being able to fully perform her duties. Although the issue of marginalization had been a recurring problem during her first year in Vienna and had contributed to some of Ms. Packer's dissatisfaction with her position during the first few months of her tenure in the position, the real reason she requested the transfer back to Washington, D.C., was to remove Mr. Hastings' apparent sense of entitlement for sexual favors from Ms. Packer because he had given her the Vienna posting. Ms. Packer hoped that returning to the Commission's office in Washington, D.C., would minimize Mr. Hastings' unwelcome advances. Mr. Turner responded that he would talk with Mr. Hastings about a possible reassignment for her at a later time.

39. Throughout the fall of 2008, Ms. Packer traveled back to Washington, D.C., for consultations every three months and sometimes encountered Mr. Hastings at meetings and hearings. During these visits, upon first seeing Ms. Packer, Mr. Hastings would insist on hugging her with both arms, pressing his body against her body and his face against her face. Mr. Hastings did not hug others in the same manner. Given Mr. Hastings' overt sexual advances, Ms. Packer was made uncomfortable by this unwelcome touching.

40. In January 2009, with the opening of the 111th Congress, Senator Benjamin Cardin was appointed Chairman of the Committee and Mr. Hastings was appointed the Co-Chair. This shift in leadership meant that Mr. Cardin now led the Commission and was the ultimate decision maker in regards to personnel issues.

41. In February 2009, Ms. Packer had completed a full year in her position in Vienna, the time period she had originally agreed to "try out" the position. Since Mr. Hastings'

unwelcome sexual attention had continued, Ms. Packer still wanted to return to Washington, D.C. Ms. Packer again asked Mr. Turner to allow her to return to her old position in Washington, D.C., as he had originally promised. Since she continued to be concerned about retaliation, Ms. Packer again explained that her desire to return was caused by her dislike of being marginalized by the State Department officials of the U.S. Mission. Mr. Turner, however, flatly denied her request without providing any explanation. Since on several occasions Mr. Hastings complained to Ms. Packer that none of his staff had ever contributed to his campaign or given anything back to him, feeling extremely pressured, Ms. Packer contributed \$1,000 to his campaign fund.

42. In April 2009, Ms. Packer attended a Parliamentary Assembly Bureau meeting in Lisbon, Portugal, with Mr. Hastings and Mr. Turner. In the afternoon of the first day of the meeting, Mr. Hastings traveled to Sintra, a city north of Lisbon, accompanied by Mr. Turner and Ms. Packer. He went into a bar upon their arrival and Mr. Turner and Ms. Packer separated to look around the town. After sightseeing, Ms. Packer found Mr. Hastings in the bar alone. When she arrived, he was clearly inebriated. Mr. Hastings again told her that he had liked her ever since they had first met and that she did not appreciate the help that he had given to her career. Ms. Packer was very upset that he continued to pursue a sexual relationship with her and explicitly told him that she did not want an intimate relationship with him. Mr. Turner then arrived and the conversation ended.

43. Later that same night after a Commission-related dinner, when Ms. Packer arrived at the hotel, Mr. Hastings was sitting in the hotel lobby facing the door, apparently awaiting her arrival. Because Mr. Hastings had left the dinner upset, Ms. Packer immediately walked over to him and inquired if he was alright. Mr. Hastings responded by launching into a 40 minute,

profanity-laced rant, in which he told Ms. Packer that she was not "a sport" because she knew that he "liked" her and that he had helped her professionally. He then explained to her that he had "come to [her] as a man does to a woman" and that he was very upset that she had informed Mr. Turner about his advances.

44. He then scolded her: "How dare you complain about me! You had better forget about being a Republican." Ms. Packer had kept her head down during his tirade, but at this last statement she looked up at him. In response, he snidely said: "Don't worry. Your job is not in any danger." Scared that she would lose her job because she rejected his advances and complained about his conduct, Ms. Packer apologized for not living up to his expectations. In response he asked her: "Would you like to accompany me to my room?" Ms. Packer immediately responded: "no." He then asked whether she would like him to accompany her to her own room. She again said: "no." Clearly exasperated by her continued rejections of his advances, he exclaimed: "Well, what is your room number?" The emotional distress and humiliation caused by this exchange had made Ms. Packer nauseous and she felt physically weak, but she managed to respond: "Excuse me sir. I have to call my son." She then rose and walked away in tears.

45. The next morning, Ms. Packer found Mr. Turner and detailed to him the events of the prior day, both the fact that Mr. Hastings continued to make sexual advances towards her and that he had implicitly threatened her job. Mr. Turner responded that, while he was sorry that she had to endure this treatment, there was nothing he could do about it. Ms. Packer was devastated by the fact that Mr. Turner would not do anything to protect her from Mr. Hastings' sexual harassment.

46. Ms. Packer next saw Mr. Hastings in May 2009 at a Commission meeting in Washington, D.C. At the meeting, Mr. Hastings rose from where he was sitting with the other Members of Congress, crossed the room, approached her, and asked her to go outside in the hallway to speak with him. Ms. Packer felt she had no other choice but to accompany him. Once in the hallway, Mr. Hastings opened his arms wide and told her to give him a hug. Ms. Packer felt humiliated by the demand, but Mr. Hastings had already implicitly threatened her job, so she acquiesced and hugged him. As usual, Mr. Hastings pressed the front of his body against hers and pressed his face against hers. Ms. Hastings' unwelcome touching caused Ms. Packer to feel physically ill and experience significant emotional distress. Mr. Hastings ended the conversation by telling Ms. Packer to come by his office to see him. Ms. Packer was so upset that she could not respond and instead just walked away. She did not, however, visit him in his office as he requested.

47. In July 2009, both Ms. Packer and Mr. Hastings attended a Parliamentary Assembly annual meeting in Vilnius, Lithuania. The first day of the meeting, Ms. Packer entered the meeting hall with a colleague from the Parliamentary Assembly. Mr. Hastings was standing with the Secretary General of the Parliamentary Assembly. Ms. Packer acknowledged both officials by saying "Hello" and waving. Mr. Hastings replied, "What do you mean 'hello'? Come over here and give me a hug." Ms. Packer felt that refusing would have caused an embarrassing situation, so she walked over and allowed him to hug her. He again embraced her with both arms, pressed his body against her body, and pressed his face against her face. This unwelcome touching again caused Ms. Packer serious emotional distress. Later, during another meeting, Mr. Johnson approached her and informed her that Mr. Hastings wanted her to accompany him back to his hotel in his car. Ms. Packer explained to Mr. Johnson that she was

needed in the meeting because she was the lead staff member on the issues addressed in the meeting. Ms. Packer was so distressed by Mr. Hastings' continued sexual harassment that she declined the opportunity to dine with the other Committee staff and Mr. Hastings.

48. After Mr. Hastings' conduct in Lithuania, which demonstrated that Mr. Turner was not willing to protect her from Mr. Hastings, Ms. Packer reported Mr. Hastings' sexual harassment of her to Edward Joseph, who was the Deputy Staff Director of the Commission at the time and had been appointed to that position by Senator Cardin. Ms. Packer hoped that, if Senator Cardin learned about the harassment she was being subjected to, he would act to protect her. Mr. Joseph responded that he was shocked and sorry that she had to go through such an experience. He asked if he could raise the matter with Senator Cardin's staff and Ms. Packer granted him permission. Within a week, Mr. Joseph emailed Ms. Packer directing her to file a complaint with the Office of Compliance.

49. The stress of Mr. Hastings' continued sexual advances and attention, and her fear that he would begin retaliating against her once he realized that she would not succumb to his advances, became so severe that she began to suffer from high blood pressure and evidenced symptoms of early coronary artery disease. By August 2009, her health had degraded to a point that she began to be treated by a cardiologist in Vienna, who prescribed her medications to counter the high blood pressure and address the coronary artery disease. She had severe side effects from one of these medications, which made her ill for weeks after she began taking it. Since Ms. Packer's health insurance did not cover international medical care, she incurred substantial medical costs because of these health problems.

50. By the fall of 2009, Ms. Packer's fears of retaliation were confirmed. Mr. Turner began to assign work from her portfolio to other colleagues, and began to withhold from her

important information necessary for her to perform her job. For example, as the Commission's Representative at the U.S. Mission in Vienna, one of her duties was to inform her State Department colleagues of the Commission's activities. On a number of occasions, however, Mr. Turner would plan certain meetings or travel plans for the Commission's members, but would not inform Ms. Packer about the plans. Ms. Packer, instead, learned the information from other sources and sometimes through colleagues from the State Department, which negatively affected her professional reputation and prevented her from adequately performing her responsibilities. Another example of Mr. Turner not informing her of important information was when the OSCE Commission was planning to hold a hearing involving the U.S. State and Defense Departments. Mr. Turner assigned the hearing preparations to another Policy Advisor, who personally contacted the Department of Defense about the hearing even though Ms. Packer was responsible for military security issues and, as such, should have served as the liaison. Ms. Packer only learned about the hearing because a Defense Department colleague mentioned it to her. When Ms. Packer asked Mr. Turner why he had kept this information from her, he refused to explain and instead responded by blaming her for the problems between the Commission's Representative and the other U.S. Mission delegation, even though he had previously acknowledged that it had been the U.S. Mission delegation that had marginalized her.

51. After several months of enduring Mr. Turner's retaliatory conduct, Ms. Packer reported Mr. Hastings' sexual harassment and Mr. Turner's retaliatory harassment to Marlene Kaufmann, the Commission's counsel. Ms. Kaufmann responded to Ms. Packer's complaint by explaining to her that "maybe [Mr. Turner] couldn't do anything about [Mr. Hastings' conduct] because he had his own job to worry about." Ms. Kaufmann did not offer Ms. Packer any assistance or even suggest that she would investigate the issue.

52. Seeing no end in sight to the harassment and retaliation, Ms. Packer renewed her request to Mr. Turner to allow her to return to Washington, D.C., since she was already approaching two years in her position in Vienna and had only committed to one year. Mr. Turner responded to the request by informing her that Mr. Hastings would be coming to Vienna in February 2010 and would speak to her at that time about her future. By informing Ms. Packer that the Congressman would be determining her future at the Commission, even though Senator Cardin served as the Chair and, as such, should have made such personnel decisions, Mr. Turner was implicitly threatening Ms. Packer's job.

53. The stress of Mr. Hastings' harassment, Mr. Turner's retaliation, Ms. Kaufmann's refusal to help, and the implicit threats to her job exacerbated Ms. Packer's high blood pressure problems. At the end of December 2009, while visiting her family in Virginia, Ms. Packer collapsed and was rushed to an emergency room. While Ms. Packer recovered enough to be released from the hospital that day, the stress was becoming more than her body could handle.

54. In November 2009, Ms. Packer signed up to serve as an election observer for the Ukrainian Presidential Election, which was to be held in January. In December 2009, however, Ms. Packer learned that Mr. Hastings had decided to observe the election as well. Upon learning this information, Ms. Packer contacted the person charged with assigning staff to specific in-country sites and requested that she be placed in a different location than Mr. Hastings. Ms. Packer was assigned to Odessa and Mr. Hastings was placed in Kiev.

55. In January 2010, when Ms. Packer arrived in Kiev, Ukraine, en route to Odessa, Ukraine, Mr. Johnson informed her that Mr. Hastings was insisting that all Commission staff, except one person, remain in Kiev, allegedly for safety reasons. Mr. Johnson then informed her that he had canceled her hotel reservation in Odessa. Ms. Packer became very upset about the

prospect of having to be around Mr. Hastings and eventually broke down to Orest Deychakivsky, a Commission staff member. She informed him that Mr. Hastings had been sexually harassing her for almost two years and that Mr. Turner was now retaliating against her because she rejected Mr. Hastings and complained about his conduct. Once she calmed down, Ms. Packer emailed Mr. Turner to discuss how to handle the situation. Mr. Turner advised her to go to Odessa despite Mr. Hastings' directive and to not tell either Mr. Hastings or Mr. Johnson that she was leaving Kiev. Ms. Packer followed Mr. Turner's direction, but experienced further stress stemming from her concern that she would be punished for disobeying Mr. Hastings' directive.

56. Ms. Packer's stress level was so high that she experienced chest pain that first night in Odessa. The next day, Ms. Packer emailed Mr. Turner asking if she could call him to speak about her concerns and illness, but he did not reply. When she returned to Vienna, Ms. Packer continued to experience chest pains and emailed Mr. Turner and Ms. Kaufmann about her medical problem and asked to speak with Mr. Turner that day. Mr. Turner responded that he would call her the next day. The next morning, however, before Ms. Packer and Mr. Turner spoke, Ms. Packer fainted in the middle of a meeting. When she was resuscitated, the emergency personnel informed her that her blood pressure was in the range where she could have suffered a stroke or a heart attack. Extremely upset by the events of that day and the day before, Ms. Packer confided in Carol Fuller, the Charge de Affaires for the U.S. Mission to the OSCE, about Mr. Hastings' sexual harassment and her anxieties about the retaliation she had been enduring. Because of the episode, Ms. Packer was placed on additional medication.

57. That night, Mr. Turner called Ms. Packer and immediately put Mr. Hastings on the phone, even though Ms. Packer had just survived a very dangerous health episode that was

caused by Mr. Hastings' conduct towards her. Mr. Hastings explained that he had heard about her medical episode and wanted to assure her that her job was secure and that she should just let him know what she needed in order to address her health problems. The phone was passed to Mr. Turner at that point and Ms. Packer told him that she was going to consult with her doctors, but that she wanted to return to Washington, D.C., in July 2010. Mr. Turner agreed that she could return to Washington, D.C. by July 31, 2010. Mr. Turner also agreed to have a telephone conference with Ms. Packer and Ms. Kaufmann to discuss the harassment issues.

58. Over the next several days in January 2010, Ms. Packer, Mr. Turner, and Ms. Kaufmann had several conferences about the harassment and they agreed to take the matter seriously. They assured Ms. Packer that they had counseled Mr. Hastings to stop making unwelcome advances towards her and, in particular, to refrain from hugging her.

59. In January 2010, after the trip to Ukraine, Ms. Packer also called Christopher Lynch, the Chief of Staff for Senator Cardin's personal office, because she could not trust that Mr. Turner was actually communicating the harassment problem to the Senator. Ms. Packer detailed the harassment that she had suffered at the hands of Mr. Hastings. Mr. Lynch assured Ms. Packer that Senator Cardin was committed to the Committee maintaining a harassment-free environment and that Ms. Packer would not lose her job because she rejected Mr. Hastings' advances and complained about his harassing conduct. Mr. Lynch, however, did not indicate that the Senator would take any action to assist Ms. Packer.

60. Shortly after Ms. Packer spoke to Mr. Lynch, Ms. Kaufmann confronted her over the telephone. Ms. Kaufmann told her that Senate Legal Counsel had called her telling her that an employee in Vienna was asserting that she had been subjected to harassment and retaliation. Ms. Kaufmann accused Ms. Packer of contacting the Senate Legal Counsel and then exclaimed

angrily to Ms. Packer: "No one is retaliating against you!" Ms. Packer explained that she did not call Senate Legal Counsel, but had contacted Mr. Lynch and informed him of the harassment and retaliation. Ms. Kaufmann kept arguing that no one was retaliating against her and that her job was secure. Ms. Kaufmann ended the conversation by insisting that they set up another telephone conference between Ms. Packer, Mr. Turner, and her to discuss the matter.

61. A few days later, a telephone conference took place between Ms. Packer, Mr. Turner, and Ms. Kaufmann. Mr. Turner and Ms. Kaufmann again assured Ms. Packer that they had spoken to Mr. Hastings and that she no longer had to worry about Mr. Hastings acting inappropriately towards her. In response, Ms. Packer again requested that she be permitted to return to Washington, D.C.

62. On or around February 4, 2010, during a meeting with Mr. Turner, Ms. Kaufman, and Ms. Packer, Mr. Turner informed Ms. Packer that he had Mr. Hastings' District Director, who was a longtime friend of Mr. Hastings, speak to Mr. Hastings about his conduct towards Ms. Packer. Mr. Turner then counseled her that it was not in her interest or Mr. Hastings' interest for her to go public with a complaint and that she should allow him to handle the situation. Mr. Turner's comment was clearly intended to be an implicit threat to Ms. Packer, which just further heightened her stress levels and further jeopardized her health.

63. On February 5, 2010, Ms. Kaufmann wrote to Ms. Packer informing her that Mr. Turner had spoken to Mr. Hastings about her harassment complaint and that Mr. Hastings had promised to be "sensitive to [her] concerns and [to] proceed accordingly." Ms. Kaufmann also informed Ms. Packer that both Mr. Turner and Mr. Hastings were "satisfied with [Ms. Packer's] job performance." She then confirmed that Ms. Packer would be allowed to return to Washington, D.C., before the end of the year, likely in July:

64. During the beginning of February 2010, while Ms. Packer was in Washington, D.C., for medical treatment, she had Mr. Joseph over for dinner because he was leaving the Commission. Mr. Joseph inquired about whether the sexual harassment and retaliation continued, to which Ms. Packer informed him that it did and updated him on Ms. Hastings' and Mr. Turner's misconduct since July 2009. Mr. Joseph then informed her that in July 2009, he had reported the sexual harassment and retaliation to Mr. Lynch, who had recommended that Ms. Packer contact the Office of Compliance. Mr. Joseph explained that Senator Cardin needed to get along with Mr. Hastings and that Mr. Turner was protected by Mr. Hastings.

65. On February 18, 2010, Mr. Hastings returned to Vienna for the winter meeting of the OSCE Commission. As soon as Mr. Hastings saw Ms. Packer, he approached her and again pressed his face against hers. This conduct confirmed for Ms. Packer that Mr. Hastings would not change his conduct towards her, even after being counseled by multiple people not to make sexual advances towards her and not to hug her.

66. Mr. Hastings upset Ms. Packer again the next day, February 19, 2010. In front of the entire congressional delegation in attendance for the meeting in Vienna, Mr. Hastings demanded that Ms. Packer have her photograph taken with him in "[their] favorite pose." In order to not make a scene, Ms. Packer agreed to take the photograph with him, even though it required her to place one of her arms around him and to allow him to do the same to her. Ms. Packer was particularly distressed by this conduct because she felt that Mr. Hastings was attempting to create an impression of intimacy between them amongst the members of the delegation. Additionally, Mr. Hastings had been counseled that she did not want to be touched by him, yet he still insisted on using his control over her to force her to pose in a way that

required they touch. After two years of unwelcome sexual advances and touching, this additional unwelcome touching caused her extreme emotional distress.

67. That evening, Ms. Packer complained in writing to Mr. Turner and Ms. Kaufmann about Mr. Hastings' conduct earlier that day and the day before. Ms. Packer informed them that if Mr. Hastings continued to touch her, she would pursue legal action against him. Mr. Turner responded that he would speak with her about the issue in the morning, but that Mr. Hastings would be leaving early the next morning, so she did not need to worry about encountering him again.

68. The following week, Ms. Packer contacted the Office of Representative Christopher Smith, the Ranking Republican Member of the Commission, to request Mr. Smith's assistance in addressing Mr. Hastings' sexual harassment. Ms. Packer explained in detail to Mr. Smith's Chief of Staff, Mary McDermott, that she had been suffering harassment at the hands of Mr. Hastings and now was suffering retaliation. Ms. McDermott advised her to contact the Office of Compliance about Mr. Hastings' and Mr. Turner's conduct.

69. Since it was clear to Ms. Packer that Mr. Turner and Ms. Kaufmann were unwilling or unable to stop Mr. Hastings from sexually harassing her, Ms. Packer contacted the Office of Compliance from Vienna. She explained to Jennifer McCulston, the Office of Compliance Representative on the phone, that she was an employee with the Commission and was being sexually harassed by Mr. Hastings and retaliated against by her Staff Director. Ms. McCulston informed her that she had 180 days to file a Request for Counseling based upon this sexual harassment and retaliation.

70. In March 2010, Mr. Turner again began to retaliate against Ms. Packer. Ms. Packer informed Mr. Turner that she intended to submit several travel requests for meetings. Mr.

Turner responded by informing her that she would have to work very hard to convince Senator Cardin that she should be able to travel since she had decided to return to Washington, D.C., in July, even though the Commission staff manual required that all staff travel as part of their fulfillment of their portfolio duties. Ms. Packer responded that Mr. Lynch had promised her that she would not face any adverse consequences if she chose to return to her position in Washington, D.C. Mr. Turner refused to respond and the conversation ended.

71. Because of this retaliatory conduct, on April 11, 2010, Ms. Packer complained in writing to Mr. Lynch about Mr. Turner's conduct, detailing both his attempt to prevent her from traveling and his earlier retaliation of excluding her from Commission correspondence. Mr. Lynch reiterated that Senator Cardin was committed to ensure she did not face retaliatory action because of her complaints. The next staff meeting after she complained to Mr. Lynch, Mr. Turner indicated that her travel requests had now been approved.

72. As Ms. Packer awaited her return to Washington, D.C. in July, she continued to have chest pains and on June 15, 2010, was treated at the hospital. Her physician informed her that the chest pains were caused by stress.

73. Ms. Packer returned to Washington, D.C., and resumed her position as a Policy Advisor for the Committee at the end of July 2010.

74. On August 9, 2010, Ms. Packer filed a complaint with the Office of Compliance asserting claims of sexual harassment and retaliation.

75. On September 8, 2010, Ms. Packer's counseling period ended.

76. On September 17, 2010, Ms. Packer requested mediation. On December 8, 2010, her mediation period ended.

COUNT ONE -- DISCRIMINATION ON THE BASIS OF SEX IN VIOLATION OF THE CONGRESSIONAL ACCOUNTABILITY ACT, 2 U.S.C. §1311 ET SEQ. AGAINST DEFENDANT THE UNITED STATES COMMISSION ON SECURITY AND COOPERATION IN EUROPE.

77. Plaintiff hereby incorporates as though restated each of the factual allegations set forth in paragraphs 1 through 76 above.

78. The Congressional Accountability Act ("CAA") prohibits discrimination against an employee on the basis of sex in the enjoyment of all benefits, privileges, terms, and conditions of employment.

79. At all times relevant to this Complaint, Plaintiff, as an employee of the United States Commission on Security and Cooperation in Europe, was an "employee" within the meaning of the CAA.

80. Mr. Hastings regularly subjected Ms. Packer to unwelcome sexual advances, sexually explicit remarks, and unwelcome touching. Even though Ms. Packer repeatedly rejected his advances and complained to her direct supervisor about Mr. Hastings' conduct, Mr. Hastings refused to stop making sexual advances towards her and touching her. Instead, Mr. Hastings and his Staff Director, Mr. Turner, repeatedly threatened her job. Mr. Hastings' sexual conduct towards Ms. Packer and the later retaliatory threats by Mr. Turner and Mr. Hastings was so severe and pervasive that it altered the conditions of Ms. Packer's employment and created a sexually hostile work environment, in violation of the CAA.

81. As a direct and proximate result of the unlawful sexual harassment, Ms. Packer experienced insomnia, anxiety, depression, high-blood pressure, and developed symptoms of coronary artery disease. Ms. Packer has been prescribed medication and is under the care of a physician because of the severity of her heart problems.

82. Defendant's actions have directly and proximately caused Ms. Packer substantial damage to her future career and professional reputation, humiliation, and pain and suffering. Defendant's actions were wanton, reckless, or in willful disregard of Ms. Packer's legal rights.

COUNT TWO -- RETALIATION IN VIOLATION OF THE CONGRESSIONAL ACCOUNTABILITY ACT, 2 U.S.C. § 1311 ET SEQ. AGAINST DEFENDANT THE UNITED STATES COMMISSION ON SECURITY AND COOPERATION IN EUROPE.

83. Plaintiff hereby incorporates as though restated each of the factual allegations set forth in paragraphs 1 through 82 above.

84. The CAA prohibits retaliation against any employee for engaging in opposition to what she reasonably in good faith believes constitutes unlawful discrimination under the CAA, including the rejection of sexual advances and other forms of sexual harassment.

85. Ms. Packer repeatedly engaged in protected activity by opposing treatment she reasonably believed constituted unlawful discrimination, including repeatedly rejecting Mr. Hastings' unwelcomed sexual advances and reporting Mr. Hastings' harassing behavior to Mr. Turner, the Commission Staff Director and her immediate supervisor; Mr. Joseph, the Commission Deputy Staff Director; Ms. Kaufmann, the Commission Legal Counsel; Mr. Lynch, the Chief of Staff for the then Chairman of the Commission Senator Cardin; and Ms. McDermott, the Chief of Staff for the then Ranking Member for the Commission Representative Smith.

86. Defendant took adverse retaliatory actions against Ms. Packer by repeatedly threatening her job at the Commission, by refusing to allow her to return to her position as Policy Advisor in Washington, D.C., and by intentionally marginalizing her from the rest of the U.S.

Mission to the OSCE. Defendant's retaliatory actions were so adverse that they would have dissuaded a reasonable employee from making or supporting a charge of discrimination.

87. Defendant's retaliatory actions were causally connected to Ms. Packer's protected activity.

88. As a direct and proximate result of the unlawful retaliation, Ms. Packer experienced insomnia, anxiety, depression, high-blood pressure, and developed symptoms of coronary artery disease, for which she has been prescribed medication. Ms. Packer remains under the care of a physician.

89. Defendant's actions have directly and proximately caused Ms. Packer substantial damage to her career and professional reputation, humiliation, and pain and suffering.

Defendant's actions were wanton, reckless, or in willful indifference to Ms. Packer's legal rights.

**COUNT THREE -- SEXUAL HARASSMENT IN VIOLATION OF THE
FIFTH AMENDMENT OF THE CONSTITUTION OF
THE UNITED STATES AGAINST DEFENDANT
ALCHEL L. HASTINGS.**

90. Plaintiff hereby incorporates as though restated each of the factual allegations set forth in paragraphs 1 through 89 above.

91. The guarantee to equal protection of the law embodied in the Fifth Amendment to the Constitution of the United States prohibits discrimination in employment based upon a person's sex, which includes sexual harassment and the creation of a sexually hostile work environment.

92. Mr. Hastings regularly subjected Ms. Packer to unwelcome sexual advances, sexually explicit remarks, and unwelcome touching. Even though Ms. Packer repeatedly rejected his advances and complained to her direct supervisor about Mr. Hastings' conduct, Mr. Hastings refused to stop making sexual advances towards her and touching her. Instead, Mr.

Hastings and his Staff Director, Mr. Turner, repeatedly threatened her job. Mr. Hastings' sexual conduct towards Ms. Packer and the later retaliatory threats by Mr. Turner and Mr. Hastings were so severe and pervasive that they altered the conditions of Ms. Packer's employment and created a sexually hostile work environment. Defendant did not subject male employees to the same work environment.

93. As a direct and proximate result of the unlawful sexual harassment, Ms. Packer experienced insomnia, anxiety, depression, high-blood pressure, and developed symptoms of coronary artery disease. Ms. Packer has been prescribed medication and is under the care of a physician because of the severity of her heart problems.

94. Defendant's actions have directly and proximately caused Ms. Packer substantial humiliation and pain and suffering. Defendant's actions were wanton, reckless, or in willful disregard of Ms. Packer's legal rights.

COUNT FOUR -- RETALIATION IN VIOLATION OF THE FIRST AND FIFTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AGAINST DEFENDANTS ALCEE L. HASTINGS AND FRED TURNER.

95. Plaintiff hereby incorporates as though restated each of the factual allegations set forth in paragraphs 1 through 94 above.

96. The First Amendment of the Constitution of the United States prohibits the Federal Government from infringing on a person's speech unless for a compelling interest and provided that the restriction is both narrowly tailored to achieve that goal or interest and is the least restrictive means for achieving that interest. Likewise, the Fifth Amendment prohibits retaliation against an employee for reporting or otherwise opposing unlawful sexual harassment.

97. Ms. Packer repeatedly engaged in speech acts that opposed unlawful sexual harassment by repeatedly rejecting Mr. Hastings' unwelcomed sexual advances and reporting

Mr. Hastings' harassing behavior to Mr. Turner, the Commission Staff Director and her immediate supervisor; Mr. Joseph, the Commission Deputy Staff Director; Ms. Kaufmann, the Commission Legal Counsel; Mr. Lynch, the Chief of Staff for the then Chairman of the Commission Senator Cardin; and Ms. McDermott, the Chief of Staff for the then Ranking Member for the Commission Representative Smith.

98. Defendants took adverse retaliatory actions against Ms. Packer by creating a hostile work environment by repeatedly threatening her job at the Commission, by refusing to allow her to return to her position as Policy Advisor in Washington, D.C., and by intentionally marginalizing her from the rest of the U.S. Mission to the OSCE.

99. As a direct and proximate result of the unlawful retaliation, Ms. Packer experienced insomnia, anxiety, depression, high-blood pressure, and developed symptoms of coronary artery disease, for which she has been prescribed medication. Ms. Packer remains under the care of a physician.

100. Defendants' actions have directly and proximately caused Ms. Packer substantial humiliation, and pain and suffering. Defendants' actions were wanton, reckless, or in willful indifference to Ms. Packer's legal rights.

REQUESTED RELIEF

WHEREFORE, Plaintiff prays this Court for the following relief:

1. Enter a judgment in Plaintiff's favor and against the United States Commission on Security and Cooperation in Europe for discrimination on the basis of sex in violation of the Congressional Accountability Act, 2 U.S.C. § 1311 *et seq.*

2. Enter a judgment in Plaintiff's favor and against the United States Commission on Security and Cooperation in Europe for retaliation in violation of the Congressional Accountability Act, 2 U.S.C. § 1311 *et seq.*;

3. Enter a judgment in Plaintiff's favor and against Defendant Alice L. Hastings for discrimination on the basis of sex in violation of the Fifth Amendment of the Constitution of the United States;

4. Enter a judgment in Plaintiff's favor and against Defendant Alice L. Hastings for retaliation in violation of the First and Fifth Amendments of the Constitution of the United States;

5. Enter judgment in Plaintiff's favor and against Defendant Fred Turner for retaliation in violation of the First and Fifth Amendments of the Constitution of the United States;

6. An award to Plaintiff of back pay in an amount to be proven at trial;

7. An award to Plaintiff of compensatory damages in an amount to be proven at trial;

8. An award to Plaintiff of punitive damages in an amount to be proven at trial;


9. An award of reasonable attorneys' fees and costs; and

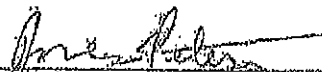
10. All other relief the court deems just.

Dated: March 7, 2011

Respectfully submitted,

JUDICIAL WATCH, INC.


Paul J. Orfanedes (D.C. Bar No. 429716)


Jeffrey P. Peterson (D.C. Bar No. 450171)
425 Third Street, S.W., Suite 800
Washington, D.C. 20024
(202) [REDACTED]
(202) 646-5199 (fax)

Attorneys for Plaintiff Winsome A. Pacler

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WINSOME PACKER,
[REDACTED]

Plaintiff,

v.

THE UNITED STATES
COMMISSION ON SECURITY
AND COOPERATION IN EUROPE
234 Ford House Office Building
Washington, DC 20515

and

ALCEE L. HASTINGS
[REDACTED]

and

FRED TURNER
[REDACTED]

Defendants.

Civil Action No. _____

JURY DEMAND

Plaintiff demands a jury trial on all claims so triable.

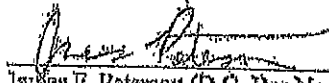
Dated: March 7, 2011

Respectfully submitted,

JUDICIAL WATCH, INC.



Paul J. Orfanedes (D.C. Bar No. 429716)



James P. Peterson (D.C. Bar No. 450171)

425 Third Street, S.W., Suite 800
Washington, D.C. 20024

(202) [REDACTED]

(202) 646-5199 (fax)

Attorneys for Plaintiff Winsome A. Packer

WILMERHALE

CONFIDENTIAL TREATMENT REQUESTED

May 13, 2011

Tony Robinson

+1 202 [REDACTED]
+1 202 638 6283(f)
[REDACTED]@wilmerhale.com

BY ELECTRONIC MAIL

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, SW, Suite 1110
Washington, DC 20024
[REDACTED]@mail.house.gov

Re: Confidential Preliminary Review No. 11-6736

Dear Mr. Solis:

I am writing as follow-up to our telephone discussion on May 10, 2011, regarding the confidential matter referenced above. It was good to speak with you. I appreciate the helpful guidance that you provided and your willingness to present my client's concerns to the Board of the Office of Congressional Ethics ("OCE" or "Office").

As I mentioned, my client is eager to cooperate with OCE, as he has done with the other entities that have investigated the very allegations that now are the focus of your preliminary review. He understands the seriousness of the allegations, vigorously denies any wrongdoing, and would want nothing more than to put the charges to rest immediately. Unfortunately, the timing and scope of OCE's review presents significant challenges, since these charges also are the subject of a complaint that was filed in the U.S. District Court for the District of Columbia on March 7, 2011. Any extra-judicial statements at this time regarding the allegations would substantially impair my client's ability to mount a proper defense in the litigation, especially since, by order of the Court, he is not obliged to respond on the record to the complaint before July 9, 2011. With that in mind, I ask that, under Rule 7(F) and Rule 16 of the OCE Rules of Conduct of Investigation, the OCE Board consider two options: (1) terminate the review, based on the extensive investigation of the same allegations by the Office of House Employment Counsel ("OHEC") and the concurrent employment counseling and mediation in which the complainant and the defendants named in the pending litigation (including my client) participated; or (2) stay the review until the close of the civil litigation.

First, the U.S. Congress Office of Compliance (OCC), to which I understand OCE could refer this matter, has already held and completed extensive proceedings relating to the exact same allegations. In August 2010, the complainant filed a request for counseling with OCC pursuant to the Congressional Accountability Act, 2 U.S.C. §§ 1301, *et seq.* She received the requested counseling and, in September 2010, requested mediation, which she also received. In

Paul J. Solis, Esq.
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the context of OCC's mediation process, OHEC investigated the substantive allegations that the complainant presented -- interviewing my client and several others and also reviewing e-mails and other documents provided by the U.S. Commission on Security and Cooperation in Europe.

Following the investigation, Mr. Kerry Kircher, General Counsel of the U.S. House of Representatives ("House"), and Ms. Gloria Lett, House Employment Counsel, wrote to Assistant Attorney General Tony West, explaining that it was in the interest of the United States to defend against the allegations. In that letter, which is attached hereto as Attachment A, Mr. Kircher and Ms. Lett concluded that "*while some of [the complainant's] allegations begin with a kernel of truth, when looked at in context, [the complainant] grossly distorts [] events and circumstances in order to support the fiction that she experienced unlawful sexual harassment and retaliation.*"¹ They further noted that OHEC's investigation did not result in the identification of "any witness who corroborates [the complainant's] substantive allegations that she experienced legally-actionable harassing or retaliatory conduct."² Indeed, following their thorough review of the complainant's claims, Mr. Kircher and Ms. Lett wrote that they "do not believe that [the complainant] experienced sexual harassment."³ In short, the allegations that OCE now is considering have been addressed comprehensively through the House's investigative channels. That earlier investigation demonstrates that there is not sufficient basis to conduct even a preliminary review under the OCE Rules, which require the existence of a "*reasonable basis* to believe the allegation."⁴ The attached letter confirms that there is no such reasonable basis. On this ground, I ask that the OCE Board terminate the review.

Second, OCE's review and process are in tension with the judicial process that governs the pending litigation. We are particularly concerned by the impact that OCE's review may have on the witnesses relevant to substantiating or disproving the complainant's allegations. These witnesses have been interviewed in the course of OHEC's investigation; so, to the extent that OCE's review involves additional interviews or communications with these third parties, it would be duplicative and may discourage cooperation when their further testimony is needed in the litigation. To be clear, my client respects and appreciates the important role that OCE plays and, consistent with the Office's mission, is hopeful that we can find some accommodation that does not put OCE's review at odds with fair judicial process.

¹ Letter from Kerry Kircher and Gloria Lett to Tony West, Assistant Attorney General, February 15, 2011, at 7.

² *Id.*

³ *Id.*

⁴ OCE Rule of Conduct of Investigation ("OCE Rule") 7(A).

CONFIDENTIAL TREATMENT REQUESTED

WILMERHALE

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Finally, the conflicting schedules of the OCE review and the pending litigation also would impair my client's ability to defend against the allegations in court. In the court proceeding, my client is entitled to investigate and present his response to the allegations for the first time on July 9, 2011, at the earliest. By that time, OCE would have completed its preliminary review. If OCE's review proceeds as currently scheduled, it would force my client and the other relevant parties to respond on the record to the facts alleged in the complaint before they have an opportunity to do so in the underlying litigation. The review, as it is now contemplated, puts my client in the untenable position of, on one hand, handicapping his defense by agreeing to provide testimony and other information to OCE prematurely or, on the other hand, preserving his rights in the litigation but risking an adverse inference in the OCE review.⁵ OCE's rules and procedures do not appear to anticipate this Hobson's choice, short of allowing for an alternative procedure under OCE Rule 16, which I would request that the Board authorize here. If the Board declines to terminate the review altogether based on OHRC's compelling findings, I would request that it stay the review until at least the close of the judicial action, when the impact on the parties' rights will be less prejudicial.

Let me reiterate my client's every wish and intention to cooperate with OCE as it conducts its review. He only seeks a mechanism by which he can do so without foregoing rights that he is afforded in the civil litigation or otherwise prejudicing his defense. Either of the two options presented above achieves that objective, while enabling OCE to fully perform its duties as authorized.

Thank you for your consideration. I look forward to your response.

I understand that OCE will treat information that it receives or otherwise collects during its preliminary review confidentially, except to the extent it is obligated to provide certain information to my client. I ask that this correspondence also be treated confidentially, be maintained in confidence by OCE, and be used solely for the purpose of this inquiry. If any other person (including any governmental employee) should request an opportunity to inspect or copy this letter, or if you or anyone else contemplates the disclosure of this letter or the information contained herein to any other person, I request that I be notified immediately, be furnished with a copy of all written material pertaining to any such request, and be given a hearing or other opportunity to prevent disclosure. The enclosed information is made available

⁵ OCE Rule 6.

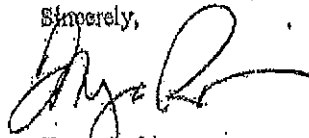
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to you and OCE without prejudice to any privileges which my client may have, including the attorney-client and work-product privileges, which privileges are expressly reserved.

Sincerely,



Tonya Robinson

TR:tno

CONFIDENTIAL TREATMENT REQUESTED

ATTACHMENT A

NERRY W. KIRCHER
GENERAL COUNSEL

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE GENERAL COUNSEL
219 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6532
(202) [REDACTED]
FAX: (202) 726-4360

JOHN D. BLAMOR
SENIOR ASSISTANT COUNSEL
CHRISTINE DAVENPORT
SENIOR ASSISTANT COUNSEL
KATHERINE E. MCCARRON
ASSISTANT COUNSEL
WILLIAM B. PITTARO
ASSISTANT COUNSEL

PRIVILEGED AND CONFIDENTIAL

February 15, 2011

BY FEDERAL EXPRESS

The Honorable Tony West, Assistant Attorney General
Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: *Winsome Packer v. The United States Commission on Security
and Cooperation in Europe, et al.*, No. ____ (D.D.C.)

Dear Mr. West:

Pursuant to 28 C.F.R. §§ 50.15, 50.16, we write to request that the Department of Justice provide representation to, or authorize representation by private counsel for, the Honorable Alcee L. Hastings, U.S. Representative for the 23rd congressional district of Florida -- and also Co-Chairman of the United States Commission on Security and Cooperation in Europe ("Helsinki Commission") during the 111th Congress -- and Fred L. Turner, Chief of Staff to the Helsinki Commission.¹

Congressman Hastings and Mr. Turner have been identified as putative individual-capacity defendants in two counts of a draft Complaint prepared by attorneys for Winsome Packer, a Policy Advisor to the Helsinki Commission. See Draft Complaint for Declaratory and Monetary Relief and Jury Demand (Jan. ____, 2011) (Counts Three and Four), attached as Exhibit 1. Count Three alleges sexual harassment in violation of the Fifth Amendment as against Congressman Hastings, *id.* ¶¶ 90-94, and Count Four alleges

¹ The Helsinki Commission is an independent government entity, created by statute enacted in 1976, which consists of nine Members of the House of Representatives, nine Members of the Senate, and three representatives of the executive branch. See 22 U.S.C. § 3003(a), *et seq.* It is responsible for, among other things, monitoring the activities of the signatories to, and encouraging their compliance with, the Final Act of the Conference on Security and Cooperation in Europe, 22 U.S.C. § 3002, and reporting to Congress on matters covered by the statute. *Id.* § 3006.

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retaliation in violation of the First and Fifth Amendments as against the Congressman and Mr. Turner. *Id.* ¶¶ 95-100. The draft Complaint purports to seek compensatory damages in an amount not less than \$300,000, and punitive damages in an amount not less than \$1,000,000. *Id.* at 33.

For the reasons set forth below, we believe Congressman Hastings and Mr. Turner were acting within the scope of their employment at all pertinent times and that the provision of representation is in the interest of the United States, within the meaning of 28 C.F.R. § 50.15(a)(1), (2). Accordingly, we recommend that representation be provided.

We understand that the Complaint, at present, is only in draft form, and that the Department cannot make a final determination until a complaint is actually filed with the district court. However, we expect that a complaint will in fact be filed within the next several weeks in substantially the form in which it now appears, and we will promptly advise you when that happens. Pending that occurrence, we urge the Department to begin the review process now so that a final determination as to representation can be made as quickly as possible.

PROCEDURAL BACKGROUND

The Congressional Accountability Act

In 1995, Congress enacted the Congressional Accountability Act, 2 U.S.C. §§ 1301, *et seq.* ("CAA"), a comprehensive remedial and procedural statute which makes Title VII and eleven other labor and employment laws applicable to the legislative branch. *Id.* § 1302(a); 42 U.S.C. § 2000ff-6(c). Under the CAA, a "covered employee" may — after exhausting specified counseling and mediation requirements — proceed against her "employing office" for violations of the applicable law(s), either in federal district court or in an administrative proceeding before the Office of Compliance. 2 U.S.C. § 1404. The Office of Compliance is an independent office within the legislative branch that performs a variety of functions under the CAA. *Id.* § 1381.

Cases initiated under the CAA proceed against the "employing office," not against an individual Member or legislative branch employee. *Id.* §§ 1301(9), 1405(a), 1406(b). The CAA created the concept of an "employing office" to mirror the fact that Congressional offices operate as separate employers in practice and for the purpose of shielding Members and legislative branch employees from personal monetary liability. See H.R. Rep. No. 103-650, pt. 2, at 8, 15, 24 (1994).

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Office of Compliance Proceedings

In August 2010, pursuant to § 1402(a) of the CAA, Ms. Packer filed a request for counseling with the Office of Compliance, asserting claims of sexual harassment and retaliation against the Helsinki Commission. See Draft Complaint ¶ 74. The counseling period ends after 30 days, 2 U.S.C. § 1402(b), which, in this case, was on September 8, 2010. Draft Complaint ¶ 75. Ms. Packer then requested mediation pursuant to § 1403 of the CAA. The mediation period also ends after 30 days, 2 U.S.C. § 1403(c).² In this case, because the parties jointly requested several extensions, the mediation period ended on December 8, 2010. Draft Complaint ¶ 76. Ms. Packer has 90 days from the date on which she received notice of the end of the mediation period, or until approximately March 8, 2011,³ to elect to proceed against the Helsinki Commission, in federal district court or before the Office of Compliance, *id.* § 1404, if she wishes to assert a claim(s) under the CAA.⁴

THE DRAFT COMPLAINT

The Draft Complaint indicates that Ms. Packer *does* intend to assert CAA claims against the Helsinki Commission. See Draft Complaint ¶¶ 77-82 (Count One -- discrimination on basis of sex in violation of CAA as against Commission), ¶¶ 73-89 (Count Two -- retaliation in violation of CAA as against Commission). However, the question of whether the CAA even applies to Ms. Packer and/or the Helsinki Commission is unsettled. Compare 2 U.S.C. § 1301(3), (9) with 22 U.S.C. § 3008(d). Ms. Packer's

² Information regarding statements and representations made during Office of Compliance mediation sessions is provided solely for the purpose of providing the Department of Justice with necessary background information. The CAA mandates that all such information is "strictly confidential." 2 U.S.C. § 1416. Accordingly, this information is provided under the "common interest" privilege and its confidentiality must be maintained.

³ At present, we do not know the exact date Ms. Packer received the notice; accordingly the deadline for filing may be slightly earlier or later than March 8, 2011.

⁴ At the mediation, the Commission asserted that Ms. Packer was not a "covered employee" under 2 U.S.C. § 1301(3) and that the Commission was not an "employing office" under 2 U.S.C. § 1301(9). However, because the statute authorizing the Commission, 22 U.S.C. § 3008(d), creates some ambiguity regarding how the CAA definition of a "covered employee" applies in the context of a claim brought against the Commission, and because the mediation was an opportunity to assess Ms. Packer's allegations and ascertain whether a negotiated resolution was possible, the Commission voluntarily participated in the mediation.

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attorneys were made aware of this uncertainty at the mediation sessions, and we suspect it is for that reason that they plan to assert constitutional tort claims against Congressman Hastings and Mr. Turner in Counts Three and Four.

According to the Draft Complaint, Congressman Hastings offered Ms. Packer a position at the Commission in April 2007, and she has worked as a Policy Advisor for the Commission since May 7, 2007. Draft Complaint ¶¶ 13, 14.⁵ Within a year of her hire, Ms. Packer was appointed to be the Commission's representative to the U.S. Mission to the Organization for Security and Cooperation in Europe ("OSCE") in Vienna, Austria. *Id.* ¶ 15. Ms. Packer moved to Vienna on February 15, 2008, *id.* ¶ 19, and remained there until July 31, 2010, when she returned to Washington, D.C. to resume her duties as a Policy Advisor to the Commission. *Id.* ¶ 73. As a Policy Advisor, Ms. Packer's annual salary was \$80,000. While serving in Vienna, Ms. Packer's annual income was \$165,000. *Id.* ¶ 19.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer's sexual harassment and retaliation claims against Congressman Hastings. We have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

In and Around Washington, D.C. -- Hastings

- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 16, 18.
- Congressman Hastings allegedly said he would come to Ms. Packer's home in Alexandria, Virginia to "check up on her." *Id.* ¶ 18.
- Congressman Hastings allegedly called Ms. Packer in Vienna frequently. According to Ms. Packer, these calls were "under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other." *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman allegedly hugged Ms. Packer on occasion when greeting her. *Id.* ¶¶ 39, 46.

⁵ Notwithstanding the implication that Congressman Hastings hired Ms. Packer himself, the statute provides that all Commission hiring decisions are made by a majority vote of a four-person Personnel Committee consisting of the Chair, the Co-Chair and the ranking minority Members from the House and Senate. *See* 22 U.S.C. § 3008(a), (b). In 2007, Congressman Hastings was the Chairman of the Commission.

Europe – Hastings

- Congressman Hastings gave Ms. Packer a music box from the Czech Republic as a gift in front of work colleagues. *Id.* ¶ 20.
- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 21, 30.
- Congressman Hastings allegedly frequently called Ms. Packer. According to Ms. Packer, these calls were “under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other.” *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman hugged Ms. Packer. *Id.* ¶ 25 (Vienna at a meeting), ¶ 28 (Vienna), ¶ 35 (Kazakhstan in delegation hospitality room), ¶ 47 (Vilnius, Lithuania), ¶¶ 63-66 (Vienna).
- Congressman Hastings allegedly made sexual comments to and around Ms. Packer. *Id.* ¶¶ 26-27, 29.
- Congressman Hastings allegedly linked Ms. Packer’s career progress to a personal relationship with him. *Id.* ¶¶ 35, 38, 42-44.
- Congressman Hastings allegedly complained to Ms. Packer that “she was not ‘a sport’ because she knew that he ‘liked’ her and that he had helped her professionally . . . [and] explained to her that he had ‘come to [her] as a man does to a woman.’” *Id.* ¶ 43.
- Congressman Hastings allegedly asked Ms. Packer if she would like to come to his hotel room when they were attending a Parliamentary Assembly Bureau meeting in Lisbon, Portugal. *Id.* ¶ 44.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer’s retaliation claim against Mr. Tutuer. Again, we have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

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In and Around Washington, D.C. – Turner

- Mr. Turner allegedly “refused to take any action to protect her.” *Id.* ¶ 38.
- Mr. Turner allegedly denied Ms. Packer’s request to return to Washington, D.C. after she had worked overseas for one year. *Id.* ¶ 41.
- Mr. Turner allegedly assigned work from Ms. Packer’s portfolio to her colleagues and withheld from her important information that was pertinent to the performance of her job duties. *Id.* ¶ 50.
- In response to Ms. Packer’s request to return to Washington, D.C., Mr. Turner allegedly informed her “that Mr. Hastings would be coming to Vienna in February 2010 and would speak to her at that time about her future.” *Id.* ¶ 52.
- When Ms. Packer submitted travel requests for meetings, Mr. Turner allegedly responded that “she would have to work very hard to convince Senator Cardin [then Commission Chairman] that she should be able to travel since she had decided to return to Washington, D.C. in July.” *Id.* ¶ 70.

Europe – Turner

- Mr. Turner allegedly told Ms. Packer there was nothing he could do about Congressman Hastings’ alleged inappropriate conduct. *Id.* ¶ 45.⁶

THE FACTS AS HOUSE EMPLOYMENT COUNSEL UNDERSTANDS THEM

In preparing to participate in the Office of Compliance mediation process on behalf of the Helsinki Commission, the Office of House Employment Counsel (“OHEC”) investigated the substantive allegations Ms. Packer presented at that time.⁷ Among other things, OHEC interviewed Congressman Hastings, Mr. Turner and several other individuals. OHEC also reviewed relevant emails and other documents provided by the

⁶ There are a number of allegations in the Draft Complaint that run contrary to Ms. Packer’s claim that Congressman Hastings and Mr. Turner retaliated against her. See, e.g., Draft Complaint ¶¶ 15, 22, 38, 44, 57, 58, 61-63.

⁷ As part of the mediation process, Ms. Packer, through her first attorney, submitted a narrative that detailed her factual allegations. OHEC’s investigation was based on this narrative. After the first mediation session, Ms. Packer retained new counsel and the Draft Complaint was prepared by this new counsel. The allegations in the Draft Complaint are substantially similar, although not identical, to the allegations in the initial narrative.

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Commission. The information OHEC has reviewed to date supports the conclusion that Ms. Packer did not experience conduct that rises to the level of sexual harassment or retaliation under applicable federal law. Furthermore, a number of Ms. Packer's substantive allegations have been strongly refuted by some of the very individuals she identified as witnesses to the alleged harassment and/or retaliation. OHEC's interviews and document review have not yielded any indication of a personal relationship between Ms. Packer and Congressman Hastings, nor has OHEC's investigation resulted in the identification of any witness who corroborates Ms. Packer's substantive allegations that she experienced legally-actionable harassing or retaliatory conduct. In short, OHEC is not aware of any readily available information which indicates that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings and/or Mr. Turner have been untruthful in their denial of the allegations.

It is important to note that many of the underlying allegations regarding events, trips, dinners, etc., are factually accurate and it does appear that Ms. Packer did make statements to others while in Vienna about what she claimed was inappropriate conduct on the part of Congressman Hastings. Ms. Packer also makes a number of assertions that are factually accurate, but are taken out of context. For instance, Congressman Hastings readily admits that he hugged Ms. Packer. Individuals OHEC interviewed confirmed this, but also that Congressman Hastings hugs most everyone. Similarly, Congressman Hastings did give a music box as a gift to Ms. Packer; however, Congressman Hastings and the witnesses OHEC spoke with stated that Congressman Hastings regularly bought gifts for his staff - male and female. OHEC's investigation shows that while some of Ms. Packer's allegations begin with a kernel of truth, when looked at in context, Ms. Packer grossly distorts the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation. Based on OHEC's review to date, we do not believe that Ms. Packer experienced sexual harassment. *See Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993) (in order to establish a prima facie case of a hostile work environment, a plaintiff must produce evidence that "the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter conditions of the victim's employment and create an abusive working environment").

Rather, OHEC's interviews and review of documents indicate that Ms. Packer's view of reality is skewed. Indeed, there are communications over the course of Ms. Packer's employment with the Helsinki Commission that contradict a number of her allegations and clearly indicate that she has difficulty developing and maintaining productive and cooperative relationships with colleagues and superiors. Given the diplomatic element of the Commission's purpose and Ms. Packer's role in advancing that purpose, it is little wonder that her inability to foster cooperative relationships has been an ongoing issue.

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OHEC's view of the falsity of Ms. Packer's substantive allegations, as discussed above, is strongly influenced by OHEC's assessment of Ms. Packer's true motivation. Her self-serving and distorted interpretation of events and conversations during her tenure with the Commission can be best summed up in the title of her recently self-published novel: *A Personal Agenda*. Indeed, it appears that Ms. Packer began publicizing her book in June 2010, shortly before she initiated proceedings against the Commission under the CAA. Furthermore, in a press release she appears to have written at the time, Ms. Packer states that her book was "inspired by her own experiences" and "seeks to provoke its readers by examining . . . sexual harassment in Congress."⁸ Furthermore, in two recent television interviews available on the Internet, Ms. Packer acknowledges that she is working aggressively to seek publicity to promote her novel.⁹

OHEC also believes that Congressman Hastings and Mr. Turner are the subject of Ms. Packer's claims in large part because of their respective official positions as her superiors, i.e., the Congressman as Chairman and Co-Chairman of the Commission (during the 110th and 111th Congresses, respectively), and Mr. Turner as Ms. Packer's immediate supervisor.

DISCUSSION

Scope of Employment

Because 28 C.F.R. § 50.15(a) does not define the elements of an employee's scope of employment, we look by analogy to the scope certification conducted under the Federal Tort Claims Act ("FTCA"), as amended by the Westfall Act, 28 U.S.C. §§ 2671 *et seq.* In the FTCA context, the question of whether a federal officer is acting within the scope of his employment is determined by the law of the state where the alleged tort occurred. 28 U.S.C. § 1346(b)(1); *Williams v. United States*, 350 U.S. 857, 857 (1955); *Haddon v. United States*, 68 F.3d 1420, 1423 (D.C. Cir. 1995). In this case, the alleged tortious conduct of Congressman Hastings and Mr. Turner occurred in Washington, D.C. and Europe. Since the FTCA does not apply to claims arising in a foreign country, 28 U.S.C. § 2680(c), we look to the law of the District of Columbia.¹⁰

⁸ A copy of this June 2010 press release can be found at <http://www.mundnewswire.com/winsome-packer-8783.html>.

⁹ These interviews are available at <http://televisionjamaica.com/vd-1000-WINSOMEPACKER.aspx> and <http://televisionjamaica.com/vd-1303-PROFILE-WinsomeAPacker.aspx>.

¹⁰ For purposes of this letter of recommendation, we assume that notions of Congressman Hastings and Mr. Turner that allegedly occurred abroad may be considered for purposes of determining whether they acted within the scope of their employment.

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According to District of Columbia law, an individual is acting within the scope of his employment if the conduct: (1) is of a kind he is employed to perform; (2) occurs substantially within authorized time and space limits; and (3) is actuated, at least in part, by a purpose to serve the master. *Haddon*, 68 F.3d at 1423-24 (citing Restatement (Second) of Agency § 228). The District takes a very broad view of "the scope of employment." See, e.g., *Lyon v. Carey*, 533 F.2d 649, 654 (D.C. Cir. 1976); *Johnson v. Weinberg*, 434 A.2d 404, 408-09 (D.C. 1981).

A. Congressman Hastings

Nature of Activities. The official duties of Members of Congress include an extremely broad range of legislative and representational activities, and plainly include activities such as service on official governmental entities such as the Helsinki Commission. See, e.g., *U.S. v. Brewster*, 408 U.S. 501, 512 (1972); *U.S. v. Rostenkowski*, 59 F.3d 1291, 1309-12 (D.C. Cir. 1995). It is clear, under the statute, that Members of Congress are appointed to the Commission because they are Members of Congress, and that they serve in that capacity. See 22 U.S.C. § 3003.

Time/Place. The Draft Complaint suggests that all, or virtually all, of the activities in which Congressman Hastings is alleged to have engaged occurred at or during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chair or Co-Chair of the Commission. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Leaving aside the many self-serving characterizations that populate the Draft Complaint, it is transparently clear that Congressman Hastings's many interactions with Ms. Paolker, as described in the Complaint, were motivated at least in part by a desire to carry out his official and supervisory responsibilities as Chair or Co-Chair of the Commission. And so long as at least one purpose of Congressman Hastings's activities was official in nature, the courts -- quite appropriately -- have refused to try to determine whether there may have been other motivations or even a "predominant" motive. See, e.g., *Council on Am. Islamic Relations, Inc. v. Ballenger*, 386 F. Supp. 2d 31-32 (D.D.C. 2005), *aff'd*, 444 F.3d 639 (D.C. Cir. 2006); *Operation Rescue Nat'l v. U.S.*, 975 F. Supp. 92, 107 (D. Mass. 1997), *aff'd*, 147 F.3d 68 (1st Cir. 1998).

In the *Operation Rescue* case, for example, Senator Kennedy, in the course of speaking to the press after participating in an event to raise funds for an upcoming re-election campaign, stated that certain legislation was needed because "we have a national organization like Operation Rescue that has as a matter of national policy firebombing and even murder." 975 F. Supp. at 94-95. Senator Kennedy, who was then

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sued for defamation by Operation Rescue, took the position that he was acting within the scope of his employment when he uttered those remarks. The district court held that, even if Senator Kennedy were motivated in part by a personal desire to advance his re-election prospects, it was not appropriate for the court, in making the scope of employment determination, to attempt to determine a "predominant" motive for an elected official's remarks. "In our electoral system . . . such public and personal motives are essentially inseparable because it is natural for public officials to believe that their own success . . . [is] inextricably linked to the public interest." *Id.* at 95. Rather, the court said, only when an official acts from "purely personal motives that were in no way connected to his official duties" would the official be held to have acted outside the scope of his employment. *Id.* See also W. Prosser & W. Keeton, *Torts* 506 (5th ed. 1984) (only if an employee "acts from purely personal motives in no way connected with the employer's interests, [is he] considered in the ordinary case to have departed from his employment.").

Absence of Bad Faith. As described above, as a result of OHBC's factual investigation, we are not aware of any readily available information to indicate that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Congressman Hastings was acting within the scope of his official responsibilities.

B. Fred Turner

Nature of Activities. Mr. Turner's responsibilities as Commission Chief of Staff include managing the day-to-day operations of the Commission, and directing and supervising a staff of approximately 18 employees in the areas of public policy, media affairs, correspondence, scheduling, and communications. The allegations in the Draft Complaint leave little doubt that Mr. Turner was acting in his official capacity as Commission Chief of Staff at the time of his various interactions with Ms. Packer.

Time/Place. The Draft Complaint suggests that most of the activities in which Mr. Turner is alleged to have engaged occurred while he was working in the Commission's offices in Washington, D.C. during normal business hours, and that the balance occurred during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chief of Staff. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Once again leaving aside the many self-serving characterizations that populate the Draft Complaint, it is abundantly clear that Mr. Turner's interactions with Ms. Packer, as described in the Draft Complaint, were

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certainly motivated at least in part by a desire to carry out his official responsibilities as Chief of Staff. *See supra* at 8.

Absence of Bad Faith. As described above, as a result of OHEC's factual investigation, we are not aware of any readily available information to indicate that the claim for retaliation has any merit, or that Mr. Turner has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Mr. Turner was acting within the scope of his official responsibilities.

The Interests of the United States

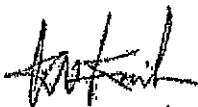
For the reasons described more fully above in the section entitled "The Facts as House Employment Counsel Understands Them," we believe it is in the interest of the United States that the Department provide representation to Congressman Hastings and Mr. Turner in their individual capacities in this matter.

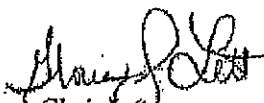
CONCLUSION

For all the foregoing reasons, we respectfully request that the Department determine that Congressman Hastings and Mr. Turner were acting within the scope of their employment at all relevant times, and that it is in the interest of the United States to provide representation to them in this action.

Thank you for your attention. We look forward to hearing from you, and please contact us if there is anything further we can do to assist in this matter.

Sincerely,


Kerry W. Kitcher
General Counsel
202-██████████ (phone)


Gloria Aeff
House Employment Counsel
202-██████████ (phone)

Attachment

cc: Timothy P. Garren, Director
Torts Branch, Civil Division
U.S. Department of Justice

EXHIBIT

C

Drinker Biddle & Reath

Charles S. Leeper
Partner
202-842-8465 Direct
202-842-8465 Fax
@dbr.com

LAW OFFICES

1500 K Street, N.W.
Washington, DC
20005-1209
202-842-8800 phone
202-842-8465 fax
www.drinkerbiddle.com

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DELAWARE
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WISCONSIN

November 15, 2011

Ms. Tonya T. Robinson
WilmerHale
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Re: Preliminary Report of the Office of Congressional Ethics Regarding
Representative Alcee Hastings

Dear Ms. Robinson:

As you know, we represent Fred Turner in the matter captioned *Packer v. United States Commission on Security and Cooperation in Europe, et al.*, 1:11-cv-00485 (RMC), which is currently pending in the United States District Court for the District of Columbia. We are writing to correct what appears to be a serious error in the preliminary report of the Office of Congressional Ethics ("OCE") regarding Representative Alcee Hastings (the "Report") as it relates to our client's cooperation with OCE. Specifically, it is our understanding that the Report states, "Despite repeated requests by the current Helsinki Commission Chief of Staff, Mr. Turner also refused to return his Commission laptop computer." This is untrue.

The Commission issued two laptop computers to Mr. Turner. This past summer, Commission Chief of Staff Mark Milosch asked Mr. Turner to bring those laptops to the Commission for data preservation. Within a week of that request, Mr. Turner turned over each laptop (on separate occasions) to the Commission IT staff ("IT"). The laptops were then returned to Mr. Turner. Mr. Turner was never told that there had been any problems securing his files and since he provided his computers to IT, he has received no further requests in that regard.

Mr. Turner remains willing to assist the Commission and OCE in their data preservation efforts. To that end, Mr. Turner is willing to again produce his Commission-issued laptops to IT for imaging, upon request.

We hope this letter provides clarity on this issue and we trust that OCE, once it is made aware of this mistake in its report, will take all steps to make the necessary corrections before releasing the report to the public. Please let me know if we can provide any additional information.

Very truly yours,

Charles S. Leeper /csl
Charles S. Leeper

Established 1849

CSL/cmp

RECEIVED
2011 NOV 16 PM 12:42
COMMITTEE ON ETHICS

BY HAND-DELIVERY

November 16, 2011

The Honorable Jo Bonner
Chairman
The Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

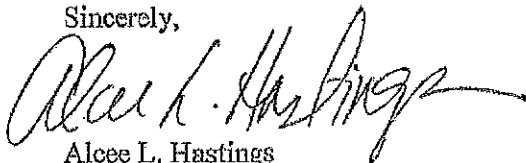
The Honorable Linda T. Sanchez
Ranking Member
The Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

Dear Chairman Bonner and Ranking Member Sanchez:

Just in case the attached photograph was not included in the materials provided to you by the Office of Congressional Ethics (OCE), I have enclosed a copy for your records.

Thank you for your consideration.

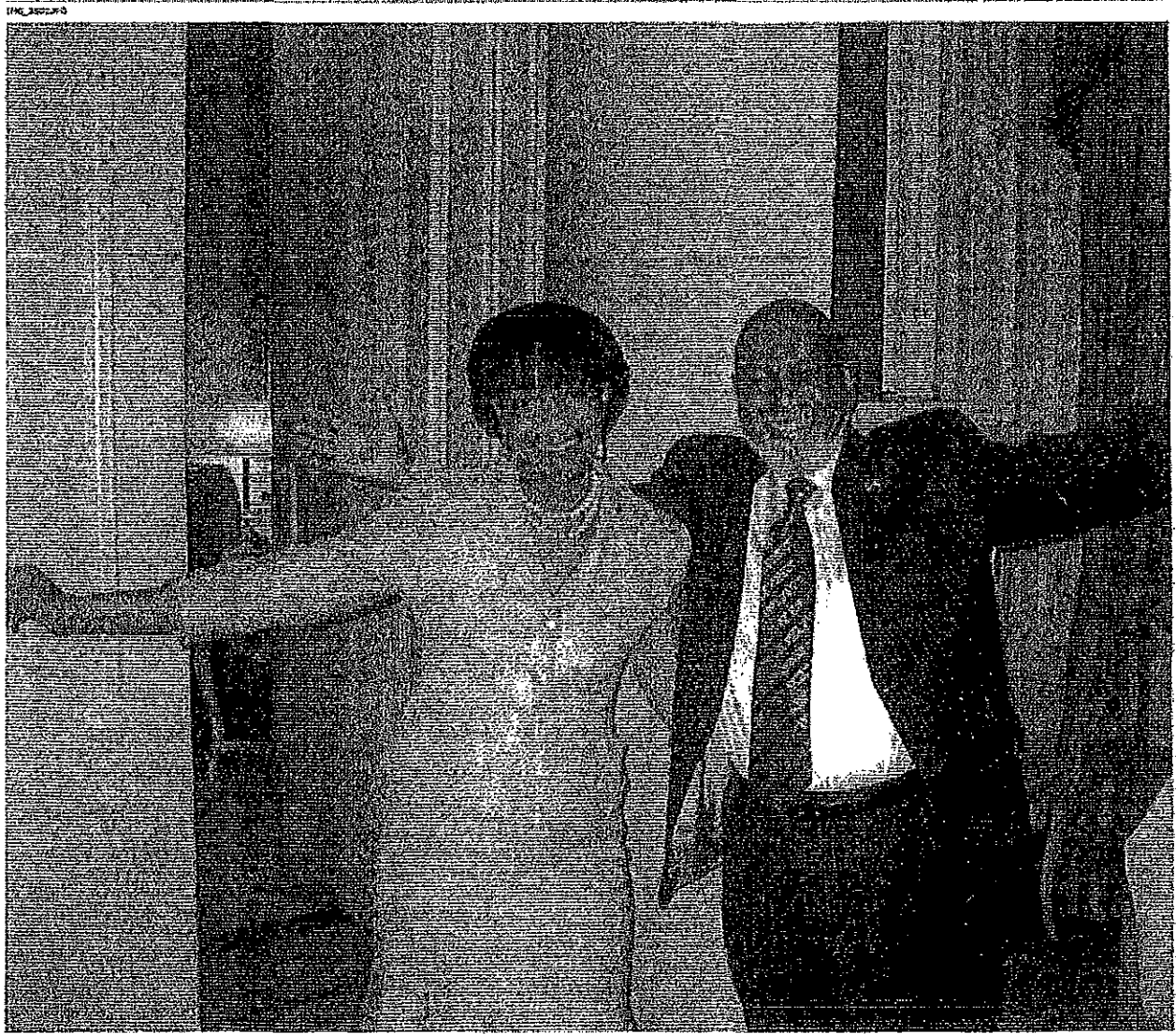
Sincerely,



Alee L. Hastings
Member of Congress

Cc: Dan Schwager, Esq., Staff Director & Chief Counsel, Committee on Ethics

Zimbra



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BY HAND-DELIVERY

November 18, 2011

The Honorable Jo Bonner
Chairman
The Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

The Honorable Linda T. Sanchez
Ranking Member
The Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

Dear Chairman Bonner and Ranking Member Sanchez:

I write to bring to your attention the answers filed by the Office of House Employment Counsel to Ms. Packer's complaint.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Alcee L. Hastings". The signature is written in black ink and includes a long horizontal flourish at the end.

Alcee L. Hastings
Member of Congress

Cc: Dan Schwager, Esq., Staff Director & Chief Counsel, Committee on Ethics

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WINSOME PACKER,

Plaintiff,

v.

THE UNITED STATES COMMISSION ON
SECURITY AND COOPERATION IN EUROPE,
ET AL.,

Defendants.

No. 11-cv-0485 (RMC)

**ANSWER OF DEFENDANT COMMISSION ON SECURITY AND COOPERATION IN
EUROPE TO PLAINTIFF'S COMPLAINT FOR DECLARATORY AND MONETARY
RELIEF AND JURY DEMAND**

Defendant, the Commission on Security and Cooperation in Europe ("the Helsinki Commission" or "the Commission"), by its undersigned counsel hereby answers the allegations contained in Plaintiff's Complaint in the above-captioned matter.

Preliminary Statement

1. Plaintiff's allegations in paragraph one are legal conclusions and do not require a response from Defendant. To the extent a response is deemed required, Defendant admits that the Complaint purports to be a civil action against the named Defendants, but denies that Plaintiff suffered any injuries as alleged, denies that the cited statutory provisions have been violated, denies that the United States Constitution has been

violated, denies that Plaintiff was sexually harassed or retaliated against, and otherwise denies the allegations contained in this paragraph.

2. Defendant denies the allegations of the first sentence of paragraph two, except Defendant admits that Plaintiff served as the Representative of the Commission to the United States Mission to the Organization for Security and Cooperation in Europe. Defendant denies the allegations of the second sentence, except admits that Plaintiff did mention to Mr. Turner that she believed Mr. Hastings had engaged in conduct which she found to be inappropriate; however, Defendant denies that she did so "repeatedly" during the dates identified in paragraph two. Defendant denies the allegations of the third sentence. Answering the fourth sentence, Defendant acknowledges that Plaintiff represented herself as a Republican at that time and that the Chair and Co-Chair at the time were Democrats. Defendant denies all other allegations of the fourth sentence. Defendant denies the allegations of the fifth sentence and avers that Plaintiff remains employed by the Commission since her hiring in May 2007.

Jurisdiction and Venue

3. Defendant does not contest jurisdiction. *See* 22 U.S.C. §3008(d).
4. Defendant does not contest venue; however, Defendant denies that the events and/or omissions alleged in the Complaint occurred as alleged by Plaintiff.

Parties

5. Defendant admits the first and second sentences of paragraph five. Defendant does not contest Plaintiff's status as a covered employee. *See* 22 U.S.C. §3008(d).
6. Defendant does not contest its status as an employing office. *See* 22 U.S.C. §3008(d).

7. Defendant admits the allegations of paragraph seven, except denies that Plaintiff has correctly stated Representative Hastings' address or has correctly stated the dates of the 110th and 111th Congresses.
8. Defendant admits the allegations of the first sentence of paragraph eight. Defendant admits the allegations of the second sentence, except denies any suggestion that Mr. Turner had the authority to terminate Plaintiff's employment. 22 U.S.C. § 3008(b)(2).

Factual Allegations

9. The self-serving terms "highly educated," "experienced professional," "dedicated," and "policy work" in the first sentence of paragraph nine are undefined and, on that basis, Defendant is unable to admit or deny those allegations. Answering the second sentence, Defendant admits that Plaintiff's resume appears to reflect the educational background identified in the second sentence. Answering the third sentence, Defendant admits that Plaintiff held several positions with the House of Representatives, including the two she chose to identify in paragraph nine of her Complaint, but is unable to admit or deny whether that experience is "extensive" because that term is undefined. Answering the fourth sentence, Defendant admits that Plaintiff's resume appears to reflect that she served as a delegate to the United Nations Commission on the Status of Women and that she worked for The Heritage Foundation and The International Republican Institute, among other prior employers. Defendant is otherwise unable to respond to the allegation in the fourth sentence regarding "her many other professional accomplishments" because that phrase is undefined.
10. Defendant admits the allegations in the first sentence of paragraph ten, except Defendant notes that Plaintiff's resume reflects that she worked for the Homeland Security

Committee from "2003-2007" (not "[f]rom 2003 through December 2006" as alleged) and identifies her position there as "Professional Staff Member" (not "Republican Professional Staff Member" as alleged). Defendant admits the allegations in the second and third sentences. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph ten.

11. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in the first sentence of paragraph eleven that the meeting took place in March 2007 or that Plaintiff was walking down C Street, S.W. Defendant admits the remaining allegations of the first sentence, and admits the allegations of the second and third sentences. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the fourth and fifth sentences.
12. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph twelve, except to admit that Representative Hastings is a Democrat, that Plaintiff did write a letter, dated April 22, 2007, to Representative Hastings and Senator Cardin expressing a "strong interest" in working for the Commission, touting her accomplishments and stating that she "look[ed] forward to hearing from" them. Defendant also admits that Plaintiff provided the Commission with a copy of her resume, but denies that the resume "clearly indicated" an exclusive political affiliation with the Republican Party. Defendant further admits that Plaintiff represented herself to be a Republican.

13. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in paragraph thirteen, except that Defendant admits that, at some point, Representative Hastings indicated that he felt it was important that the Commission employ some African-American employees.
14. Defendant admits the allegations of the first, second and third sentences of paragraph fourteen. Defendant denies the allegations of the fourth sentence. Defendant denies the allegations of the fifth and sixth sentences as stated. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph fourteen, except Defendant denies any suggestion that Plaintiff was "more vulnerable" in her position than any other staff member of the Commission.
15. Defendant denies the allegations of the first sentence of paragraph fifteen as stated. Further answering the first sentence, Defendant admits that, on or about December 2007, Mr. Turner discussed with Plaintiff the possibility of her serving as the Commission's Representative to the U.S. Mission to the Organization for Security and Cooperation in Europe. The terms "many" and "most" in the second sentence are vague and undefined and Defendant is therefore without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence, except to admit that the position was posted in Vienna, Austria. Defendant denies the allegations of the third sentence. Answering the fourth sentence, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegations regarding whether Plaintiff was flattered and/or had reservations. Defendant denies that Plaintiff expressed reservations at the meeting and denies the

remaining allegations of the fourth sentence. Defendant denies the allegations of the fifth and sixth sentences as stated. Answering the fifth and sixth sentences further, Defendant avers that Mr. Turner wanted Plaintiff to accept the position and made clear to her that if, after trying it out, she decided she wanted to return to the United States, she would be permitted to do so.

16. Defendant admits the allegations of the first sentence of paragraph sixteen. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the second, third and fourth sentences. Defendant denies the allegations in the fifth sentence. Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff was extremely uncomfortable, as alleged in the sixth sentence and, on that basis, denies that allegation. Defendant denies the remaining allegations of the sixth sentence, except admits that in January 2008, Mr. Hastings was the Chairman of the Commission. Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff wished to avoid upsetting Representative Hastings, as alleged in the seventh sentence and, on that basis denies that allegation. Defendant denies the remaining allegations of the seventh sentence.

17. Defendant denies the allegation in the first sentence of paragraph seventeen that Representative Hastings made "advances." Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph seventeen.

18. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the first sentence of paragraph eighteen.

Defendant denies the allegations in the second sentence. Defendant denies the allegation in the third sentence that Mr. Hastings commented or implied that he was pursuing a romantic relationship with Plaintiff. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations in the third sentence. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph eighteen, except Defendant denies that Representative Hastings expressed any interest in a romantic relationship with Plaintiff.

19. Defendant admits the allegation in the first sentence of paragraph nineteen that Plaintiff moved to Vienna on or around February 15, 2008, but is without sufficient knowledge or information to form a belief as to the truth of the allegation that she "immediately" began working. Defendant admits the allegation in the second sentence, but clarifies that Plaintiff's annual salary was \$80,000 from May 2007 until May 2008. Answering the third sentence of paragraph nineteen, Defendant admits that Plaintiff received a per diem, but denies that the per diem is income or that it functioned as a blanket salary supplement as appears to be alleged in paragraph nineteen.

20. Defendant admits the allegations in the first sentence of paragraph twenty. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the second sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the third sentence, except that Defendant admits that Mr. Hastings had purchased gifts for staff members while in the Czech Republic and that one of those gifts was a music box which he gave to Plaintiff. Defendant denies the allegations of the

fourth sentence. Defendant denies the allegations of the fifth sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation that Plaintiff was embarrassed. Defendant further denies that Representative Hastings pursued Plaintiff romantically or that he had attempted to initiate a romantic relationship with her. Defendant admits the allegations of the sixth sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, that Plaintiff conveyed to Ms. Thompson that the public nature of the gift giving made her uncomfortable.

21. Defendant denies the allegations of paragraph twenty-one, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies the allegation that Representative Hastings asked Plaintiff to get some ice and the allegation that Plaintiff was upset. Defendant denies that Representative Hastings pursued a romantic relationship with Plaintiff and denies that Representative Hastings made advances towards Plaintiff in professional settings or otherwise.
22. Defendant denies the allegations of paragraph twenty-two, except admits that Mr. Turner traveled to Vienna in February 2008. Defendant denies that Plaintiff made any comment to Mr. Turner on this trip regarding any alleged discomfort regarding Representative Hastings, or that Mr. Turner ever asked Plaintiff if she had a romantic relationship with Representative Hastings. Answering further, Defendant avers that Plaintiff had suggested to a number of individuals that they should visit her apartment when they were traveling to Vienna; that, at one point on or about the Spring of 2008, Plaintiff told Mr. Turner that Representative Hastings had mentioned that he wanted to see her apartment as well and she said that made her uncomfortable; and that Mr. Turner responded to Plaintiff that it

was typical for Representative Hastings to look after or inquire of staff in such a manner, but that if it made her uncomfortable and he did so again, that Plaintiff should let Mr. Turner know.

23. Defendant denies the allegations of paragraph twenty-three. Defendant notes that the fourth sentence is ambiguous. Defendant denies any implication that Representative Hastings made inappropriate telephone calls to any Commission staff member.
24. Answering the first, second, and third sentences of paragraph twenty-four, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, those allegations; except that Defendant denies that Representative Hastings made advances towards Plaintiff. Defendant denies the allegations of the fourth and fifth sentences. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the sixth sentence, except Defendant admits that Plaintiff did not attend the Copenhagen meeting.
25. Defendant admits the allegations in the first sentence of paragraph twenty-five. Answering the second sentence, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding whether this was the first time Plaintiff had been around Representative Hastings since February 2008. Defendant denies the remaining allegations of the second sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph twenty-five, except that Defendant denies that Representative Hastings engaged in "intimate touching" or that he had made "romantic advances" or that Mr. Turner had been asked to or did "counsel" him during the time period referred to in paragraph twenty-five.

26. Defendant denies the allegations of the first sentence of paragraph twenty-six. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph twenty-six, except that Defendant admits that, at some point, Representative Hastings and Plaintiff discussed difficulty sleeping and the effects of various activities on the ability to sleep, and that Representative Hastings may have made some comment similar to that alleged in the fourth sentence. Defendant avers that Representative Hastings did not intend the conversation to be offensive. Defendant denies that Representative Hastings had engaged in an "intimate hug" with or made "romantic advances" towards Plaintiff.
27. Defendant denies the allegations of the first and second sentences of paragraph twenty-seven. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the third sentence.
28. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph twenty-eight, except Defendant admits that there was a time in May 2008 when Representative Hastings, Plaintiff, Mr. Goldenberg, Mr. Johnson and Ms. Thompson were all together in the lounge area of the Marriott Hotel in Vienna; that, at that time, Mr. Goldenberg was Representative Hastings' Chief of Staff; that Mr. Johnson and Ms. Thompson were and are Commission staff members; and that, at some point, Representative Hastings may have said "she flatters me" in response to the suggestion that another employee had said that Plaintiff was Representative Hastings' girlfriend. Defendant denies that a romantic relationship existed between Plaintiff and Representative Hastings, or that Representative Hastings commented or implied, or that his demeanor suggested, that such a relationship existed.

29. Answering the first sentence of paragraph twenty-nine, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Representative Hastings “consumed more alcohol” that evening.
- Furthermore, the term “crude comments” in the first sentence is undefined and subjective and, on that basis, Defendant is unable to respond to that allegation. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences, except that Defendant admits that a generic and non-specific statement regarding female Members of Congress may have been made. Defendant denies the allegations of the fourth and fifth sentences and specifically denies that Representative Hastings asked Plaintiff a question regarding her underwear and denies that Ms. Thompson or Mr. Johnson heard such a question.
- Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the sixth sentence, except Defendant denies that Representative Hastings asked Plaintiff the question alleged. Answering the seventh sentence, Defendant denies that Plaintiff complained about “vulgar questioning” and is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the seventh sentence.
30. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph thirty, except that Defendant denies the implication that Representative Hastings’ alleged conduct was a sexual advance toward Plaintiff.

31. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph thirty-one, except Defendant denies that Representative Hastings made sexual advances to Plaintiff.
32. The first sentence of paragraph thirty-two is redundant and duplicative of paragraph twenty-three and, by repeating the same allegation again later in the Complaint, appears intended to give the false impression that the alleged conduct was pervasive. Defendant responds to the first sentence by referring to and incorporating its response to paragraph twenty-three. Responding further, Defendant denies the allegations of paragraph thirty-two, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding whether Plaintiff would often not answer her telephone and her reasons for such behavior.
33. Defendant admits the allegations of the first, third and fourth sentences of paragraph thirty-three, except avers that the Congressional delegation trip began in June 2008. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.
34. Answering the first sentence of paragraph thirty-four, Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff experienced significant stress and anxiety, whether she was fearful, and the bases for any purported stress, anxiety or fear and, on that basis, denies those allegations. Defendant denies the remaining allegations of the first sentence. Answering the second sentence, Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff was upset; Defendant avers that Plaintiff did not express any reluctance to Mr. Turner. Defendant denies the remaining allegations of the

second sentence as stated. Defendant admits the allegations of the third sentence, except denies the implication intended by the use of the word “nevertheless.”

35. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the first, second, third and fourth sentences of paragraph thirty-five, except that Defendant denies any implication in the fourth sentence that any alleged greeting by Representative Hastings was inappropriate. Answering the fifth sentence, Defendant denies the allegation that the greeting was unwelcome. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the fifth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the sixth and seventh sentences. Defendant denies the remaining allegations of paragraph thirty-five.
36. Defendant denies the allegations of the first sentence of paragraph thirty-six. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences. Defendant is without sufficient knowledge or information to form a belief regarding what Plaintiff perceived to have been “made clear” to her, and on that basis denies the allegations of the fourth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the fifth sentence, except that Defendant denies the implication that Representative Hastings engaged in any conduct that would cause a reasonable person to believe that her career was in jeopardy or that she had “no other choice” but to purchase a gift for Representative Hastings.

37. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the allegations of paragraph thirty-seven, except that Defendant denies that Representative Hastings had made "advances."
38. The first sentence of paragraph thirty-eight is redundant and duplicative of paragraphs twenty-three and thirty-two and, by repeating the same allegation over and over again, Plaintiff appears to be intending to give the false impression that the alleged conduct was pervasive. Defendant responds to the first sentence by referring to and incorporating its response to paragraph twenty-three and paragraph thirty-two. Defendant denies the allegations of the second sentence that Representative Hastings made "repeated sexual advances," that he made "continued telephone calls" and that Plaintiff made the request to return to Washington, D.C. during the time period identified in paragraph thirty-eight. Defendant denies the remaining allegations of the second sentence. Defendant denies all allegations of the third sentence, except that Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff had become fearful, but Defendant denies that she had any reasonable basis for such fear. Answering the fourth sentence, Defendant denies that Plaintiff told Mr. Turner that she wished to return to Washington, D.C. at that time. Defendant admits that Plaintiff stated she felt she was marginalized and prevented from fully performing her duties by State Department officials. Defendant denies any remaining allegations of the fourth sentence. Defendant denies the allegations of the fifth sentence, except Defendant admits that Plaintiff expressed concern about feeling marginalized by State Department personnel (over whom the Commission had no control). Defendant avers that any such marginalization had nothing to do with the actions of the Commission, Mr. Turner, or Representative Hastings, but may have been

partly attributable to Plaintiff's inappropriate, condescending and acerbic comments and statements to others, such as the comment Plaintiff made in writing to a colleague: "I think you are misunderstanding your place with me." Defendant denies the allegations of the sixth sentence, except Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the allegation regarding Plaintiff's "hope." Defendant denies the allegations of the seventh sentence. Defendant avers that when Plaintiff did make her request to return to Washington, D.C., Mr. Turner agreed to the request and asked her to tell him what date she wanted to return.

39. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the first and second sentences of paragraph thirty-nine, except Defendant denies the allegation that Representative Hastings "insist[ed] on hugging" Plaintiff and the implication that there was something inappropriate about the greetings. Defendant denies the allegations of the third and fourth sentences, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether Plaintiff was uncomfortable. Defendant avers that Plaintiff had no reasonable basis for being uncomfortable.

40. Defendant admits the allegations of the first sentence of paragraph forty. Defendant denies the allegations of the second sentence as stated. *See* 22 U.S.C. §3008(b).

41. Defendant admits the allegations of the first sentence of paragraph forty-one, except Defendant denies that Plaintiff had ever agreed to try out the position for any specified period of time. Defendant denies the allegations of the second sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth

of, and on that basis denies, the allegation regarding what Plaintiff purportedly "wanted." Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the third sentence, except Defendant admits that Mr. Turner had told Plaintiff that he would allow her to return home upon request. Defendant denies the allegations of the fourth and fifth sentences, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff "continued to be concerned" but denies that there was any reasonable basis for such concern. Defendant avers that Plaintiff had expressed concerns about alleged marginalization by State Department officials and refers to its response to paragraph thirty-eight. Defendant further avers that Plaintiff's contemporaneous writing to Mr. Turner (an email she sent to Mr. Turner on January 29, 2009, in which she stated: "Fred, thanks for your support and friendship. You know, I love you, Winsome") is inconsistent with the implication of the allegations of the fifth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegations of the sixth sentence, except Defendant admits that Representative Hastings returned a campaign contribution made to him by Plaintiff and referred the matter to the Federal Election Commission, which found no basis for investigation under the Federal Election Campaign Act.

42. Defendant admits the allegations of the first sentence of paragraph forty-two, except Defendant avers that Representative Hastings, Mr. Turner, and Plaintiff were not the only attendees. Defendant admits the allegations of the second sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether the trip to Sintra occurred on the first day of the

meeting. Answering further, Defendant avers that Plaintiff, Mr. Turner, and Representative Hastings were not the only individuals on the trip to Sintra. Answering the third sentence, Defendant denies that Plaintiff and Mr. Turner immediately separated to look around town on their own; Defendant avers that Plaintiff and Mr. Turner walked around together at first. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the remaining allegations of the third sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the fourth, fifth and sixth sentences, except that Defendant denies any implication that Representative Hastings' alleged statements were of a sexual or romantic nature or that Representative Hastings was "clearly inebriated." Defendant denies the allegations of the seventh sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff was upset. Defendant avers that Plaintiff had no reasonable basis to be upset. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eighth sentence as stated.

43. Defendant denies the allegation in the first sentence of paragraph forty-three that Representative Hastings was "awaiting her arrival." Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the first sentence. Defendant denies the allegation in the second sentence that Representative Hastings had left the dinner upset. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis

denies, the remaining allegations of the second sentence. Defendant denies the remaining allegations of paragraph forty-three.

44. Defendant denies the allegations of the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and eleventh sentences of paragraph forty-four. Defendant admits that Plaintiff may have made a statement similar to the one alleged in the tenth sentence (regarding calling her son) and states that it is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation in the tenth sentence that Plaintiff was "nauseous" and "physically weak," and denies all other allegations of the tenth sentence.
45. Defendant denies the allegations of paragraph forty-five, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation that Plaintiff was "devastated." Defendant avers that Plaintiff had no reasonable basis to be devastated as alleged in paragraph forty-five.
46. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph forty-six. Defendant avers that its review of Commission records does not indicate that Plaintiff traveled from Vienna to Washington, D.C. in May 2009. Defendant denies the allegation that Representative Hastings engaged in inappropriate conduct as implied by paragraph forty-six or that he threatened Plaintiff's job (implicitly or otherwise). Defendant avers that Plaintiff had no reasonable basis to feel humiliated, to become upset, to suffer any "emotional distress," or to become "physically ill" as alleged in paragraph forty-six.
47. Defendant admits the allegations of the first sentence of paragraph forty-seven, except Defendant avers that Plaintiff and Representative Hastings were not the only individuals

attending the meeting in Vilnius, and Defendant further avers that the Vilnius trip began in June 2009 and continued into July 2009. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second, third, fourth, fifth, sixth and seventh sentences, except Defendant denies any implication that the greeting was inappropriate. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eighth sentence, except Defendant denies that any alleged touching was unwelcome or that Plaintiff had any reasonable basis to experience emotional distress based on the alleged touching. Defendant denies the allegations of the ninth and tenth sentences as stated. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eleventh sentence, except Defendant denies that Representative Hastings engaged in any sexual harassment or that Plaintiff had any reasonable basis to be distressed by any conduct or statements of Representative Hastings.

48. Defendant denies the allegations of the first two clauses of the first sentence of paragraph forty-eight as stated, and denies that Representative Hastings engaged in inappropriate conduct as alleged. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph forty-eight, except Defendant denies the allegations that Representative Hastings engaged in sexual harassment.
49. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph forty-nine, except that Defendant denies that Representative Hastings engaged in sexual advances or retaliation. Defendant

avers that there was no reasonable basis for any fear of retaliation that Plaintiff may have had as alleged in paragraph forty-nine and that the high blood pressure, coronary artery disease, and/or other health problems Plaintiff may have experienced were not caused by any conduct or actions of Defendant, Representative Hastings or Fred Turner.

50. Defendant denies the allegations of the first and second sentences of paragraph fifty. Defendant admits the allegations of the third sentence, but denies any implication that other Commission staff members also did not have similar duties. Answering the fourth sentence, Defendant states that the phrase "[o]n a number of occasions" is vague and undefined and Defendant is therefore unable to respond to the allegations of the fourth sentence. Answering further, Defendant avers that Plaintiff's position does not require knowledge of each and every meeting and each and every travel plan of each and every member of the Commission. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in the fifth sentence, except that Defendant denies that any action by Mr. Turner was the cause of any reputational harm that Plaintiff may have experienced or any inability to perform her duties. Defendant denies the allegations of the sixth sentence as stated. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the seventh and eighth sentences. Defendant denies the allegations of the ninth sentence as stated, but Defendant admits that Mr. Turner had supported Plaintiff when she asserted that she was marginalized by the State Department personnel (over whom Defendant has no control) and, as reflected, *inter alia*, by Plaintiff's January 29, 2009 email to Mr. Turner. See Defendant's response to paragraph forty-one.

51. Defendant denies the allegations of the first and second sentences of paragraph fifty-one, except Defendant admits that Marlene Kaufmann is the Commission's General Counsel and that Plaintiff and Ms. Kaufmann discussed Plaintiff's allegations in January 2010. Defendant denies the allegations of the third sentence and avers that when Ms. Kaufman and Plaintiff discussed Plaintiff's allegations against Representative Hastings in January 2010, Ms. Kaufman told Plaintiff she would investigate the allegations.
52. Defendant denies the allegations of paragraph fifty-two. Defendant responds by quoting from an email that Plaintiff sent to Mr. Turner on January 21, 2010 stating: "I would like to ask you if you could allow me to return permanently to Washington in the next few months. I need to be in proximity to my US doctors to receive consistent medical treatment." Defendant further responds by quoting from an email Mr. Turner sent to Winsome that same day stating: "Winsome, Hope you're resting comfortably and the long weekend will do you some good. I mentioned to Mr. Hastings that I was going to call you to check-in and when I did, as you saw, he took the phone to chat himself. In any event, Mr. Hastings and I did chat about your circumstances and I will also chat with Chairman Cardin. I don't think there will be any problem with your request to return to Washington permanently. I'll look forward to discussing this with you when you're here next week."
53. Defendant denies the allegations in the first sentence of paragraph fifty-three that Representative Hastings engaged in alleged harassment, that Mr. Turner engaged in alleged retaliation, that Ms. Kaufmann allegedly refused to help, and that her job was threatened. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph fifty-three.

Defendant avers that any stress or high blood pressure Plaintiff experienced was not the result of any conduct of the Commission, Representative Hastings, Mr. Turner, or Ms. Kaufmann as alleged in paragraph fifty-three.

54. Answering the first sentence of paragraph fifty-four, Defendant admits that Plaintiff requested to travel to Ukraine to observe the presidential election. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences. Defendant admits the fourth sentence.
55. Defendant admits the allegations of the first sentence of paragraph fifty-five, but denies the implication that the safety reasons stated were not the true reasons. Defendant admits the allegations of the second sentence. Defendant denies the allegations of the third sentence, except admits that Plaintiff did speak to Orest Deychakiwsky who is a Commission staff member. Answering the fourth sentence, Defendant admits that Plaintiff told Mr. Deychakiwsky of her allegations that Representative Hastings had engaged in sexual harassment. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that she told him of Mr. Turner's alleged retaliation. Defendant denies that Representative Hastings or Mr. Turner engaged in the conduct alleged and denies the remaining allegations of the fourth sentence. Defendant denies the fifth and sixth sentences as stated. Defendant avers that Plaintiff did speak to Mr. Turner, that Mr. Turner agreed that she could travel to Odessa, and that Mr. Turner said he would handle letting Representative Hastings and Mr. Johnson know. Answering the seventh sentence, Defendant admits that Plaintiff did travel to Odessa, but otherwise denies the allegations as stated. Defendant is without

sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff experienced stress. Defendant avers that there was no reasonable basis for Plaintiff to experience stress as alleged in paragraph fifty-five.

56. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph fifty-six, except Defendant admits that Plaintiff did send emails to Mr. Turner and Ms. Kaufmann, that Mr. Turner did respond to Plaintiff, that Carol Fuller was the Charge de Affaires for the U.S. Mission to the OSCE, and that Carol Fuller advised Mr. Turner that Plaintiff had allegedly fainted. Defendant denies the allegations of sexual harassment and retaliation in the seventh sentence. Defendant further avers that any medical condition(s) or stress that Plaintiff experienced were not the result of any action by the Commission, Representative Hastings, Mr. Turner or Ms. Kaufmann.

57. Defendant denies the allegations of the first and second sentences of paragraph fifty-seven as stated. Defendant admits that, after Mr. Turner and Representative Hastings learned from Carol Fuller that Plaintiff had allegedly fainted, they were concerned about Plaintiff and, accordingly, Mr. Turner called Plaintiff and both he and Representative Hastings spoke to Plaintiff to advise her of their concern about her health and to tell her to focus on her health and not to worry about work. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegation in the third sentence that Plaintiff told Mr. Turner she was going to consult with her doctors and Defendant denies the allegation that Plaintiff provided a date certain when she would return to Washington, D.C. Answering further, Defendant avers that, on January 21, 2010, Plaintiff sent an email to Mr. Turner, in which she stated "I would like

to ask you if you could allow me to return permanently to Washington in the next few months." Answering the fourth sentence, Defendant admits that Mr. Turner agreed that Plaintiff could return, but denies that the July 31, 2010 date was discussed at that time, as Plaintiff had stated only that she wished to return "in the next few months," which phrase is non-specific and is also inconsistent with a July 31, 2010 return date which is more than five months later. Defendant denies the allegations of the fifth sentence and denies that Plaintiff raised any allegations of harassment during the phone call.

58. The allegations in paragraph fifty-eight are vague as to time and appear to compress several different conversations and meetings. Subject to the foregoing, Defendant responds as follows. Defendant denies the allegations of paragraph fifty-eight as stated. Defendant admits that Mr. Turner and Ms. Kaufmann first became aware that Plaintiff was making allegations of sexual harassment on or about January 2010, that Ms. Kaufmann discussed Plaintiff's allegations with Plaintiff, including on the phone on January 22, 2010, that Ms. Kaufmann and Mr. Turner discussed Plaintiff's allegations with Plaintiff on the phone on January 25, 2010, that Ms. Kaufmann discussed Plaintiff's allegations with Plaintiff again on January 28, 2010, and that Ms. Kaufmann and Mr. Turner met with Plaintiff in Washington, D.C. on February 4, 2010, to discuss her allegations. Defendant further admits that they told Plaintiff that they took her allegations seriously, that they told her that they looked into her allegations, that they told her that -- although Representative Hastings denied ever engaging in inappropriate behavior towards Plaintiff -- that he would have as little interaction with her as possible, and that that they told her she could return to Washington, D.C. Defendant denies that Representative Hastings had made any unwelcome advances.

59. The allegations of paragraph fifty-nine are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant admits the allegations in the first sentence that Plaintiff contacted Mr. Lynch on January 20, 2010, and admits that Mr. Lynch was and is the Chief of Staff for Senator Cardin's personal office. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding Plaintiff's ability to "trust." Defendant denies the remaining allegations of the first sentence, and denies the implication in the last clause of the first sentence that there was a "harassment problem," the implication that Plaintiff had previously communicated her allegations to Mr. Turner, and the implication that Mr. Turner would not have taken those allegations seriously had Plaintiff previously brought them to his attention. Defendant denies the allegations of the second sentence. Defendant admits the allegations of the third sentence, except denies that Representative Hastings had made advances or engaged in harassing conduct. Defendant denies the remaining allegations of paragraph fifty-nine.

60. The allegations of paragraph sixty are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant denies the allegations of the first sentence of paragraph sixty, except admits that Ms. Kaufmann contacted Plaintiff on January 22, 2010, which was two days after Plaintiff had contacted Chris Lynch. Defendant denies the allegations of the second sentence as stated, except Defendant admits that Ms. Kaufmann contacted Plaintiff to discuss her allegations, that Ms. Kaufmann conveyed this to Plaintiff, and that Ms. Kaufmann gathered information from Plaintiff regarding her allegations. Defendant denies the remaining allegations of paragraph sixty as stated, and Defendant denies that Ms. Kaufmann was accusatory, that Ms. Kaufmann argued with

Plaintiff, or that Ms. Kaufmann was angry. Defendant avers that Ms. Kaufmann and Plaintiff set up a subsequent telephone call to discuss the matter further.

61. The allegations in paragraph sixty-one are vague as to time and appear to compress several different conversations and meetings. Subject to the foregoing, Defendant responds as follows. Defendant states that Ms. Kaufmann, Mr. Turner and Plaintiff had a telephone conversation on January 25, 2010. Defendant denies the remaining allegations of paragraph sixty-one as stated, and refers to and incorporates its response to paragraph fifty-eight. Defendant denies that Representative Hastings had acted inappropriately towards Plaintiff.
62. Some of the allegations of paragraph sixty-two appear to be duplicative of allegations contained in paragraphs fifty-eight, sixty, and sixty-one and Defendant refers to and incorporates its responses to those paragraphs. Answering further, Defendant admits the allegations of the first sentence, except denies the implication that Representative Hastings had engaged in any inappropriate conduct towards Plaintiff. Defendant denies the second sentence as stated. Defendant avers that Plaintiff -- who was then in the process of self-publishing and/or promoting (or would soon be promoting) her book "A Personal Agenda" (which involves allegations of sexual harassment involving an African-American Member of Congress) -- threatened to go to the press with the allegations she was making against Representative Hastings and to file a lawsuit, among other things. Defendant admits that Mr. Turner suggested that the better way would be for her to allow the Commission to handle the matter now that Commission management had been made aware of her allegations. Defendant denies the implication that Mr.

Turner told Plaintiff not to file a lawsuit or that he suggested that she would be retaliated against if she did so. Defendant denies the remaining allegations of paragraph sixty-two.

63. Defendant responds to paragraph sixty-three by quoting, in its entirety, the February 25, 2010 email Ms. Kaufmann sent to Plaintiff: "Hi Winsome, I hope you had a smooth flight back to Vienna. I just wanted to confirm with you the conversation we had with Fred yesterday afternoon and ensure that we're all on the same page going forward. Fred described his conversation with Mr. Hastings regarding the issues you had raised and indicated that, while Mr. Hastings said he had a different assessment of the situation, Mr. Hastings is sensitive to your concerns and will proceed accordingly. Fred also indicated that both he and Mr. Hastings are satisfied with your job performance and support your decision to leave Vienna and resume your work full-time in Washington before the end of the year -- most likely in July. It is our hope and expectation that if you have any further concerns regarding the matters we discussed, or any other issues, you will contact us immediately." To the extent Plaintiff's allegations in paragraph sixty-three are inconsistent with the February 5, 2010 email, the allegations are denied.

64. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph sixty-four, except Defendant denies that sexual harassment or retaliation occurred or that Mr. Joseph told Mr. Lynch of any such allegations in July 2009. Defendant further avers that Senator Cardin is committed to a harassment-free working environment and denies the implication in the fourth sentence that Senator Cardin would subjugate that commitment as the Complaint implies.

65. Defendant admits the first sentence of paragraph sixty-five. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence, except Defendant denies that there was anything inappropriate about the greeting. Defendant denies the remaining allegations of paragraph sixty-five as stated.
66. The first sentence of paragraph sixty-six is vague and ambiguous and Defendant is incapable of formulating a response. To the extent a response is deemed required, the allegations of the first sentence are denied. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second, third and fourth sentences, except that Defendant denies the allegation that Representative Hastings "demanded" that Plaintiff do anything, and denies that Representative Hastings was attempting to create an impression of intimacy. Defendant denies the first clause of the fifth sentence as stated. Defendant denies the remaining allegations of the fifth sentence. Defendant denies the remaining allegations of paragraph sixty-six, except Defendant states that it is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the final allegation that Plaintiff experienced extreme emotional distress.
67. Defendant admits the allegations of paragraph sixty-seven, except denies the allegation that Representative Hastings engaged in inappropriate behavior.
68. The allegations of paragraph sixty-eight are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant admits the allegations of the first sentence, except denies that Representative Hastings had engaged in sexual harassment or that Plaintiff initiated contact "the following week." Defendant avers that Representative

Smith, who is the current Chairman of the Commission, was the ranking Republican member from the House of Representatives during the time period referred to in paragraph sixty-eight. Defendant avers that the contact referred to in the first sentence occurred in January 2010. Answering the second sentence, Defendant denies that Representative Hastings had engaged in harassment or that Plaintiff was suffering retaliation. Defendant otherwise admits the allegations of the second sentence, except avers that Representative Smith's Chief of Staff is Mary McDermott Noonan, and that Plaintiff's purported explanation "in detail" referred to in the second sentence may have occurred in March 2010. Defendant denies the allegations in the final sentence that Ms. Noonan "advised" Plaintiff, as Ms. Noonan made clear that she was not providing legal advice to Plaintiff. Defendant admits that Ms. Noonan and Plaintiff discussed the Office of Compliance. Answering further, Defendant avers that Ms. Noonan told Plaintiff that Representative Smith has zero tolerance for sexual harassment.

69. Defendant denies the allegations of the first sentence of paragraph sixty-nine, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether Plaintiff contacted the Office of Compliance from Vienna. Plaintiff's statements in the second and third sentences of paragraph sixty-nine violate 2 U.S.C. §1416(a) and should be stricken. *See Taylor v. Office of Rep. John J. Duncan, Jr.*, 2011 WL 826170 at *6 (E.D. Tenn. March 2, 2011). To the extent a response is nonetheless deemed required, Defendant is without sufficient information to form a belief as to the truth of, and thus denies, the remaining allegations of paragraph sixty-nine.

70. Defendant denies the allegations of the first sentence of paragraph seventy. Defendant denies the allegations of the second and third sentences as stated. Defendant denies the allegations in the fourth sentence as stated, and further denies that Plaintiff experienced any adverse consequences or that Mr. Turner threatened her with any adverse consequences. Defendant denies the allegations of the fifth sentence as stated.
71. Defendant denies that there was any retaliatory conduct as alleged in the first and second sentences of paragraph seventy-one. Defendant admits that Plaintiff communicated concerns to Mr. Lynch about Mr. Turner's alleged conduct. Defendant admits the allegations of the second sentence. Defendant admits the allegations of the third sentence that the travel was approved.
72. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in paragraph seventy-two.
73. Defendant admits the allegations of paragraph seventy-three.
74. Defendant denies the allegations of paragraph seventy-four.
75. Defendant admits the allegations of paragraph seventy-five.
76. Defendant admits the allegations of paragraph seventy-six.

COUNT ONE

77. Defendant hereby refers to and incorporates its responses to paragraphs one through seventy-six above.
78. The allegations of paragraph seventy-eight contain legal conclusions which do not require a response.

79. The allegations of paragraph seventy-nine contain legal conclusions which do not require a response. Defendant does not contest that Plaintiff was an "employee" within the meaning of the CAA.

80. Defendant denies the allegations of paragraph eighty.

81. Defendant denies the allegations of the first sentence of paragraph eighty-one. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.

82. Defendant denies the allegations of paragraph eighty-two.

COUNT TWO

83. Defendant hereby refers to and incorporates its responses to paragraphs one through eighty-two above.

84. The allegations of paragraph eighty-four contain legal conclusions which do not require a response.

85. Defendant denies the allegations of paragraph eighty-five as stated.

86. Defendant denies the allegations of paragraph eighty-six.

87. Defendant denies the allegations of paragraph eighty-seven.

88. Defendant denies the allegations of the first sentence of paragraph eighty-eight.

Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.

89. Defendant denies the allegations of paragraph eighty-nine.

COUNTS THREE AND FOUR

90. -100. Paragraphs ninety through one hundred are claims brought exclusively against Defendants other than the Commission and therefore do not require a response from the

Commission. To the extent a response is deemed required, the allegations in these paragraphs are denied.

REQUESTED RELIEF

1. Defendant denies that Plaintiff is entitled to the judgment requested in paragraph one of the Prayer.
2. Defendant denies that Plaintiff is entitled to the judgment requested in paragraph two of the Prayer.
3. - 5. Paragraphs three, four, and five of the Prayer concern requests for judgment against Defendants other than the answering Defendant and, therefore, do not require a response from the Commission. To the extent a response is deemed required, the allegations in these paragraphs are denied.
6. Defendant denies that Plaintiff is entitled to back pay. Defendant further notes that Plaintiff's employment has not been terminated.
7. Defendant denies that Plaintiff is entitled to compensatory damages.
8. Defendant denies that Plaintiff is entitled to an award of punitive damages.
9. Defendant denies that Plaintiff is entitled to her attorneys' fees and costs.
10. Defendant denies that Plaintiff is entitled to any other relief.

Any and all allegations not heretofore expressly admitted are denied.

AFFIRMATIVE DEFENSES

By pleading the following as Affirmative Defenses, Defendant does not concede that each of the matters covered by the numbered defenses is to be proven by Defendant, and Defendant reserves its position that Plaintiff retains the burden of proof on all matters necessary to establish the claims asserted in the Complaint, including her alleged damages.

FIRST AFFIRMATIVE DEFENSE

The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to exhaust her administrative remedies on one or more allegations in her Complaint and they should be dismissed accordingly.

THIRD AFFIRMATIVE DEFENSE

Some or all of Plaintiff's claims are untimely.

FOURTH AFFIRMATIVE DEFENSE

On information and belief, Plaintiff has failed to mitigate her alleged damages.

FIFTH AFFIRMATIVE DEFENSE

Defendant and its employees acted reasonably and in good faith at all times.

SIXTH AFFIRMATIVE DEFENSE

Defendant took prompt, remedial, and corrective action after Plaintiff complained of alleged sexual harassment.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff cannot establish a prima facie case of sexual harassment or retaliation.

Defendant reserves the right to prepare and to present additional affirmative defenses and to supplement or amend Defendant's Answer.

Respectfully submitted,

By: _____ /s/
Gloria J. Lett D.C. Bar #293365
Ann R. Rogers D.C. Bar # 441622
Russell H. Gore D.C. Bar #449231
Office of House Employment Counsel
1036 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515
(202) [REDACTED]

Attorneys for the Defendant,
The Commission on Security and Cooperation
in Europe

Dated: July 8, 2011

December 1, 2011

The Honorable Jo Bonner
Chairman
The Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

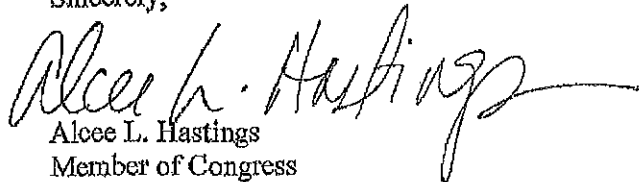
The Honorable Linda T. Sanchez
Ranking Member
The Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

Dear Chairman Bonner and Ranking Member Sanchez:

I write to provide you a courtesy copy of the communication from Marlene Kaufmann, General Counsel of the U.S. Helsinki Commission to Omar Ashmawy at the Office of Congressional Ethics.

Thank you for your consideration.

Sincerely,


Alcee L. Hastings
Member of Congress

[REDACTED]

November 23, 2011

Omar Ashmawy, Esq.
Staff Director and Chief Counsel
Office of Congressional Ethics
425 3rd Street, SW
Suite 1110
Washington, DC 20024

Dear Mr. Ashmawy:

I understand that a report you have submitted to the Committee on Ethics contains the following statement:

"Ms. Kaufmann returned her laptop computer to the Helsinki Commission with its hard drive completely erased."

This statement is absolutely false. I demand that you retract it and so notify the Committee on Ethics.

In response to the Commission Staff Director's request of July 20, 2011 that laptops be returned for e-data preservation, I informed him that I did not have a Commission laptop.

I did take a Commission laptop home in early June of this year when my personal desktop broke down. However, I never used that laptop as it would not enable me to log on and I returned it to the Commission in June. As to what the Commission's IT person, or a subsequent user, did with that laptop after I returned it to the Commission, I do not know.

I intend to pursue this matter through all means available to me until it is corrected.

Sincerely,


Marlene M. Kaufmann

July 7, 2011

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, NW, Suite 1110
Washington, DC 20024

RE: Confidential Preliminary Review No. 11-6736

Dear Mr. Solis:

I write to make an inquiry regarding matters that follow in this letter.

Two of the questions have already been raised with your good offices by Ms. Tonya Robinson, Esq. To my knowledge no written answers have been submitted to her. Most respectfully, I request written answers to the following:

1. You notified me that this confidential investigation was commenced against me by the Office of Congressional Ethics (OCE) on May 2, 2011. I am curious as to how a little more than a month later, the fact of this dated, confidential investigation became a high profile news item. Did you or some member of your staff leak the fact of this investigation to the media?
2. Judicial Watch is the conservative organization to whom my accuser resorted to, after retaining two other attorneys, to get her sexual harassment complaint filed in federal court. Judicial Watch and I share no political ideology or philosophical leanings. As you must know, Judicial Watch has targeted me in the past. Have you or your staff communicated with Judicial Watch regarding anything outside of Ms. Packer's complaint? Have you had any discussions with Judicial Watch regarding the leaking of this investigation to the media? If so, I should be informed of these conversations.
3. Ms. Packer has written a book which she describes as autobiographical about sexual harassment in Congress. It is entitled, "A Personal Agenda," and in a promotional video produced in Jamaica, she explains that her character is the heroine in the book and she states that her book was "inspired by her own experiences" and "seeks to provoke its readers by examining...sexual harassment in Congress." The heroine kills congressmen with whom she has had what she perceives as bad sexual relationships. I have read this book and no character in it remotely resembles me. However, it is revelatory about Ms. Packer and her character. Does this book form part of your investigation? It most certainly should, especially Part II which is a psychological examination of the heroine. Will this book be considered evidence in this investigation?

4. Will Ms. Packer appear before the Board for questioning? If so, will I be allowed to be present? Will I or my attorney on my behalf be allowed to ask questions of Ms. Packer?
5. Will the board permit me to appear in an open, transparent proceeding to answer questions? Since the confidentiality of these proceedings have been irreparably breached, an open and transparent process would seem to be the only way to go.
6. According to OCE's Rules for the Conduct of Investigations, this case at the conclusion of the ethics investigation may be referred to the Office of Compliance which is charged with investigating workplace rights in the Legislative Branch. As you are aware, the Office of Compliance and U.S. Department of Justice, Civil Division has already conducted a full and extensive investigation of Ms. Packer's allegations and found them to be without merit. Do these investigations form parts of the evidence being considered by your organization? Shouldn't they be?

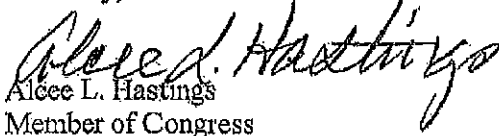
The leaks to the media have harmed me and may hamper my ability to defend myself in the parallel judicial proceedings.

Further, they call into question the ability of you, Mr. Omar S. Ashmawy, and your staff to protect the confidentiality of an investigation. Are you investigating these leaks? If not, why not? And does the fact that confidentiality may have been breached by Judicial Watch carry with it any negative inferences?

This whole matter deeply alarms me, but I am particularly concerned about the duplicity, circuitry, and integrity of this investigation. As has been pointed out there has been a full-fledged federal investigation of the same facts presently under investigation by you and your staff. This matter could and should have been referred back to the body that has already investigated and disposed of it in a manner unfavorable to Ms. Packer.

I would appreciate your answering the questions posed. In this way my concerns and your response to them become an official part of the record of this case. If not now perhaps at some point these concerns will be fully addressed.

Sincerely,


Alcee L. Hastings
Member of Congress

P.S. Regarding the harm to me referenced above, I have enclosed a sampling for your perusal. Further, I would like your take on the matter.

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Rep. Hastings facing congressional ethics review

Newsday (subscription) - Andrew Miga - 18 hours ago

(AP) -- A conservative legal group said Wednesday the congressional ethics office is looking into allegations that Florida congressman Alcee Hastings sexually harassed a female former aide. Tom Fitton, president of ...

Alcee Hastings Sexual Harassment Allegation Investigated By Ethics Panel

Huffington Post - 17 hours ago

A congressional ethics panel is looking into claims that Rep. Alcee Hastings (D-Calif.) sexually harassed one of his staff members, the Wall Street Journal reports. The investigation comes on the heels of a lawsuit filed by Winsome Packer alleging ...

Independent ethics panel probing Rep. Alcee Hastings for sexual harassment

CBS News - Lucy Madtson - 20 hours ago

An independent ethics organization is looking into allegations that Rep. Alcee Hastings, sexually harassed a female staff member, according to the conservative watchdog group Judicial Watch, which brought the suit against the Florida Democrat. ...

Florida Democrat Hastings faces ethics probe

msnbc.com - Shawna Thomas - 20 hours ago

The Office of Congressional Ethics (OCE) has had at least one meeting with a former congressional aide who is suing Florida Democrat Rep. Alcee Hastings for sexual harassment, according to conservative watchdog Judicial Watch. ...



Alcee Hastings faces congressional ethics probe

Politico - Jennifer Epstein - Jun 22, 2011

Florida Democratic Rep. Alcee Hastings faces a House ethics investigation over sexual harassment charges made by a female former member of his staff. An inquiry by the Office of ...

Florida Lawmaker Faces Ethics Review

Wall Street Journal - Gary Fields, Brody Mullins - Jun 21, 2011

WASHINGTON—A congressional ethics panel is investigating allegations that Florida Democratic Rep. Alcee Hastings sexually harassed a member of his staff, according to people familiar with the matter. ...



Another sex scandal hits Capitol Hill

Press TV - 1 hour ago

Florida Democrat Congressman Alcee Hastings is under review by an ethics investigation over sexual harassment charges made by a female former member of his staff. The probe comes on the heels of a lawsuit filed by Winsome Packer, a former staffer on ...

Florida Lawmaker Faces Ethics Probe over Alleged Sexual Harassment

KBOI - 4 hours ago

AlceeHastings [dot] House [dot] gov(WASHINGTON) -- Just when House Democrats thought they had the sexting scandal involving former New York Congressman Anthony Weiner behind them, another potential mess has surfaced. There were reports Wednesday that ...

Nation Digest: Bachmann to launch 2012 presidential bid; Southwest suspended ...

Austin American-Statesman - 9 hours ago

Rep. Michele Bachmann of Minnesota will make her 2012 presidential bid for the Republican nomination official next week with an announcement tour that will start in her birthplace of Waterloo, Iowa, and continue with six stops in the critical early ...

Politics Today: Bachmann Presidential Announcement, Palin Quits Bus Tour?, And ...

Neon Tommy - Tracy Bloom - 14 hours ago

In case you were confused by Michele Bachmann's appearance in last week's Republican presidential debate, the Minnesota congresswoman and Tea Party favorite will formally announce she's running for president next Monday in Iowa. ...



Alcee Hastings Under Review For Alleged Sexual Harassment

ThirdAge - Emily Jacobson - 15 hours ago

Judicial Watch President Tom Fitton, and plaintiff Winsome Packer (L to R) participate in a news conference where Judicial Watch announced Packer's sexual harassment lawsuit against Rep. Alcee Hastings, D-FL, in Washington on March 7, ...



Here we go again?

Waterbury Republican American (blog) - 15 hours ago

Rep. Alcee Hastings, D-Fla., is one of the most bizarre, slippery members of Congress. He was appointed a judge of the US District Court by President Jimmy Carter in 1979, but 10 years later, became one of only a handful of federal judges in American ...

Rep. Hastings Faces Charges of Sexual Harassment

NewsMax.com - Dan Weil - 16 hours ago

The Office of Congressional Ethics is looking into allegations that Rep. Alcee Hastings, D-Fla., sexually harassed a female staff member, people familiar with the matter told The Wall Street Journal. The investigation began at least a month ...

Alcee Hastings Faces Sexual Harassment Investigation

Newsler - Kevin Spak - 17 hours ago

(Newsler) - The Office of Congressional Ethics is investigating allegations that Democrat Alcee Hastings sexually harassed a staffer on a panel he chaired, the Wall Street Journal reports. The investigation began at least a ...

Alcee Hastings Sexual Harassment Charge Another Distraction for Congress ...

Bayoubuzz - 19 hours ago

COMMENTARY | If the House Democrats thought they were finally out of the woods with the resignation of Anthony Weiner, it appears they have thought wrong. The latest congressman to be involved in a sex scandal is Rep. Alcee Hastings, D-Fla. ...



Panel looks into Hastings alleged sex harassment

Sun-Sentinel (blog) - William Gibson - 20 hours ago

A House advisory panel is looking into allegations of sexual harassment against South Florida Congressman Alcee Hastings, according to the conservative watchdog group Judicial Watch. ...

Wall Street Journal: Hastings faces ethics probe

Florida Independent - Travis Pillow - 20 hours ago

It began at least a month ago after Judicial Watch, a conservative group, filed a lawsuit as the legal counsel for Winsome Packer, a staffer on a commission Mr. Hastings headed. She alleged that she had been ...

Judicial Watch Statement on Congressional Ethics Panel Investigation of Rep...

PR Newswire (press release) - 20 hours ago

WASHINGTON, June 22, 2011 /PRNewswire-USNewswire/ -- Judicial Watch President Tom Fitton issued the following statement in response to media reports regarding the investigation by the Office of Congressional Ethics (OCE) of sexual harassment and other ...

Alcee Hastings Faces Ethics Investigation; Allegedly Too Touchy-Feely With Ex ...

Broward-Palm Beach New Times (blog) - Matthew Hendley - 20 hours ago

Miramar's Democratic Rep. Alcee Hastings faces a House ethics investigation after he was allegedly a little too hands-on with a former female staffer, Winsome Packer – who worked on the US Commission ...

Florida Rep. Alcee Hastings Investigated For Sexual Harassment

Human Events - John Hayward - 21 hours ago

Back in March, Congressman Alcee Hastings (D-FL) was sued for sexual harassment by the wonderfully named Winsome Packer, a staffer for the US Commission on Security and Cooperation in Europe, which Hastings chaired. ...

Chronicles of alleged congressional sex scandals: Alcee Hastings edition

Daily Caller - Caroline May - 21 hours ago

Reaffirming the ongoing perception that sex scandals and Congress go together like bacon and eggs, Florida Democratic Rep. Alcee Hastings is now facing an ethics investigation over allegations of sexual harassment. ...

Florida Democratic Rep. Alcee Hastings Faces Ethics Review Over Sexual ...

Medialite.com - Alex Alvarez - 21 hours ago

A congressional ethics panel has been tasked with looking into allegations that Democratic Florida Congressman Alcee Hastings sexually harassed a former member of his staff. The Office of Congressional Ethics ...

Yet Another Congressional Sex Scandal: Florida Rep. Accused Of Sexual Harassment

Jezebel - 22 hours ago

Margaret Hartmann —Anthony Weiner has only been out of office for one day, and we already have another Congressional sex scandal on our hands. Rep. Alcee Hastings, a Florida Democrat, is being investigated for allegedly sexually harassing a staff ...

Rep. Alcee Hastings investigated for sexual harassment

Yahoo! News Blogs (blog) - Rachel Rose Hartman - Jun 22, 2011

Hours after Rep. Anthony Weiner's resignation became official, a sexual harassment case involving Rep. Alcee Hastings (D-Fla.) resurfaced. Gary Fields and Brody Mullins report for the Wall Street Journal that the independent ...

Report: Congressman Sexually Harassed Staff Member

WPBF West Palm Beach - Jun 22, 2011

PALM BEACH GARDENS, Fla. -- A South Florida congressman is being investigated amid allegations that he sexually harassed a member of his staff, according to a report in The Wall Street Journal. The House Office of Congressional Ethics is investigating ...

Alcee Hastings' (D, FL-23) sexual harassment investigation.

RedState - Moe Lane - Jun 22, 2011

This is a preliminary investigation by the Office of Congressional Ethics, and it's done in the wake of a March lawsuit filed by Judicial Watch on behalf of former US Commission on Security and Cooperation in Europe (also known as the Helsinki ...

South Florida Congressman Alcee Hastings facing ethics probe

WPTV - Jun 22, 2011



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Congressional ethics office reviews sexual harassment complaint against Hastings

Palm Beach Post - [George Bennett](#) - Jun 22, 2011

Hastings has vehemently denied the claims by Winsome Packer, a staffer on the US Commission on Security and Cooperation in Europe. Hastings is a member of the commission and a former chairman. ...

Rep. Hastings faces ethics office probe

The Hill (blog) - [Jordy Yager](#) - Jun 22, 2011

Tom Fitton, the president of the conservative watchdog group Judicial Watch, confirmed that Rep. Alcee Hastings (D-Fla.) is being investigated by the Office of Congressional Ethics (OCE) for allegations that he ...

Dems Gone Wild: Rep. Alcee Hastings investigated for Sexual Harassment

Big Government - Jun 21, 2011

by Publius The House's independent ethics office is looking into sexual-harassment claims leveled months ago against Rep. Alcee Hastings, D-Fla., the Wall Street Journal is reporting. Citing sources familiar with the inquiry, the investigation, ...

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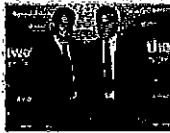
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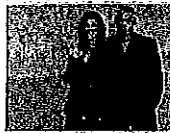
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Independent ethics panel probing Rep. Alcee Hastings for sexual harassment

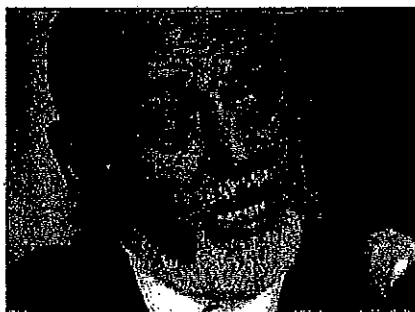
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Rep. Alcee Hastings, D-Fla.

(Credit: Getty Images/Mandel Ngan)

An independent ethics organization is looking into allegations that Rep. Alcee Hastings, sexually harassed a female staff member, according to the conservative watchdog group Judicial Watch, which brought the suit against the Florida Democrat.

Tom Fitton, Judicial Watch president, said that investigators with the Office of Congressional Ethics (OCE), contacted plaintiff Winsome Packer about the case in May.

"They contacted Ms. Packer and she's fully cooperating," Fitton told Hotsheet on Wednesday.

Packer, a staffer on the Commission on Security and Cooperation in Europe (CSCE), filed a law suit against Hastings in March, alleging that she received "unwelcome sexual advances, crude sexual comments and unwelcome touching by Mr. Hastings" between 2008 and 2010, while he was co-chairman of the commission.

The lawsuit also alleges that Fred Turner, Hastings's former chief of staff and a former staff director for the CSCE, tried to retaliate against Packer and issued "threats of termination" as a result of her continued complaints against Hastings. Both Turner and the CSCE are also named as defendants in the lawsuit.

Hastings has strongly denied the allegations against him, and suggested that "personal agendas" are at play.

"I will win this lawsuit. That is a certainty," Hastings said in March, when the suit was brought against him. "In a race with a lie, the truth always wins. And when the truth comes to light and the personal agendas of my accusers are exposed, I will be vindicated."

Hastings's lawyer, Tonya Robinson, reiterated the denial this week, noting that Hastings, "in the strongest terms, denies the charges."

"He is confident that he will be fully exonerated," Robinson told the Wall Street Journal. "Mr. Hastings has stated unequivocally that the record will show that the plaintiff's claims are untruthful and without merit."

The OCE has 90 days to investigate the case before issuing a recommendation as to whether or not the Ethics Committee should continue the investigation. The OCE is not authorized to comment on the case during the investigatory period.

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Lucy Madison is a political reporter for CBSNews.com.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WINSOME PACKER,)	
)	
)	
Plaintiff,)	
)	
v.)	
)	
THE UNITED STATES COMMISSION ON)	No. 11-cv-0485 (RMC)
SECURITY AND COOPERATION IN EUROPE,)	
<i>ET AL.</i> ,)	
)	
Defendants.)	
)	
_____)	

**ANSWER OF DEFENDANT COMMISSION ON SECURITY AND COOPERATION IN
EUROPE TO PLAINTIFF'S COMPLAINT FOR DECLARATORY AND MONETARY
RELIEF AND JURY DEMAND**

Defendant, the Commission on Security and Cooperation in Europe ("the Helsinki Commission" or "the Commission"), by its undersigned counsel hereby answers the allegations contained in Plaintiff's Complaint in the above-captioned matter.

Preliminary Statement

1. Plaintiff's allegations in paragraph one are legal conclusions and do not require a response from Defendant. To the extent a response is deemed required, Defendant admits that the Complaint purports to be a civil action against the named Defendants, but denies that Plaintiff suffered any injuries as alleged, denies that the cited statutory provisions have been violated, denies that the United States Constitution has been

violated, denies that Plaintiff was sexually harassed or retaliated against, and otherwise denies the allegations contained in this paragraph.

2. Defendant denies the allegations of the first sentence of paragraph two, except Defendant admits that Plaintiff served as the Representative of the Commission to the United States Mission to the Organization for Security and Cooperation in Europe. Defendant denies the allegations of the second sentence, except admits that Plaintiff did mention to Mr. Turner that she believed Mr. Hastings had engaged in conduct which she found to be inappropriate; however, Defendant denies that she did so "repeatedly" during the dates identified in paragraph two. Defendant denies the allegations of the third sentence. Answering the fourth sentence, Defendant acknowledges that Plaintiff represented herself as a Republican at that time and that the Chair and Co-Chair at the time were Democrats. Defendant denies all other allegations of the fourth sentence. Defendant denies the allegations of the fifth sentence and avers that Plaintiff remains employed by the Commission since her hiring in May 2007.

Jurisdiction and Venue

3. Defendant does not contest jurisdiction. *See* 22 U.S.C. §3008(d).
4. Defendant does not contest venue; however, Defendant denies that the events and/or omissions alleged in the Complaint occurred as alleged by Plaintiff.

Parties

5. Defendant admits the first and second sentences of paragraph five. Defendant does not contest Plaintiff's status as a covered employee. *See* 22 U.S.C. §3008(d).
6. Defendant does not contest its status as an employing office. *See* 22 U.S.C. §3008(d).

7. Defendant admits the allegations of paragraph seven, except denies that Plaintiff has correctly stated Representative Hastings' address or has correctly stated the dates of the 110th and 111th Congresses.
8. Defendant admits the allegations of the first sentence of paragraph eight. Defendant admits the allegations of the second sentence, except denies any suggestion that Mr. Turner had the authority to terminate Plaintiff's employment. 22 U.S.C. § 3008(b)(2).

Factual Allegations

9. The self-serving terms "highly educated," "experienced professional," "dedicated," and "policy work" in the first sentence of paragraph nine are undefined and, on that basis, Defendant is unable to admit or deny those allegations. Answering the second sentence, Defendant admits that Plaintiff's resume appears to reflect the educational background identified in the second sentence. Answering the third sentence, Defendant admits that Plaintiff held several positions with the House of Representatives, including the two she chose to identify in paragraph nine of her Complaint, but is unable to admit or deny whether that experience is "extensive" because that term is undefined. Answering the fourth sentence, Defendant admits that Plaintiff's resume appears to reflect that she served as a delegate to the United Nations Commission on the Status of Women and that she worked for The Heritage Foundation and The International Republican Institute, among other prior employers. Defendant is otherwise unable to respond to the allegation in the fourth sentence regarding "her many other professional accomplishments" because that phrase is undefined.
10. Defendant admits the allegations in the first sentence of paragraph ten, except Defendant notes that Plaintiff's resume reflects that she worked for the Homeland Security

Committee from “2003-2007” (not “[f]rom 2003 through December 2006” as alleged) and identifies her position there as “Professional Staff Member” (not “Republican Professional Staff Member” as alleged). Defendant admits the allegations in the second and third sentences. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph ten.

11. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in the first sentence of paragraph eleven that the meeting took place in March 2007 or that Plaintiff was walking down C Street, S.W. Defendant admits the remaining allegations of the first sentence, and admits the allegations of the second and third sentences. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the fourth and fifth sentences.
12. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph twelve, except to admit that Representative Hastings is a Democrat, that Plaintiff did write a letter, dated April 22, 2007, to Representative Hastings and Senator Cardin expressing a “strong interest” in working for the Commission, touting her accomplishments and stating that she “look[ed] forward to hearing from” them. Defendant also admits that Plaintiff provided the Commission with a copy of her resume, but denies that the resume “clearly indicated” an exclusive political affiliation with the Republican Party. Defendant further admits that Plaintiff represented herself to be a Republican.

13. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in paragraph thirteen, except that Defendant admits that, at some point, Representative Hastings indicated that he felt it was important that the Commission employ some African-American employees.
14. Defendant admits the allegations of the first, second and third sentences of paragraph fourteen. Defendant denies the allegations of the fourth sentence. Defendant denies the allegations of the fifth and sixth sentences as stated. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph fourteen, except Defendant denies any suggestion that Plaintiff was "more vulnerable" in her position than any other staff member of the Commission.
15. Defendant denies the allegations of the first sentence of paragraph fifteen as stated. Further answering the first sentence, Defendant admits that, on or about December 2007, Mr. Turner discussed with Plaintiff the possibility of her serving as the Commission's Representative to the U.S. Mission to the Organization for Security and Cooperation in Europe. The terms "many" and "most" in the second sentence are vague and undefined and Defendant is therefore without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence, except to admit that the position was posted in Vienna, Austria. Defendant denies the allegations of the third sentence. Answering the fourth sentence, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegations regarding whether Plaintiff was flattered and/or had reservations. Defendant denies that Plaintiff expressed reservations at the meeting and denies the

remaining allegations of the fourth sentence. Defendant denies the allegations of the fifth and sixth sentences as stated. Answering the fifth and sixth sentences further, Defendant avers that Mr. Turner wanted Plaintiff to accept the position and made clear to her that if, after trying it out, she decided she wanted to return to the United States, she would be permitted to do so.

16. Defendant admits the allegations of the first sentence of paragraph sixteen. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the second, third and fourth sentences. Defendant denies the allegations in the fifth sentence. Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff was extremely uncomfortable, as alleged in the sixth sentence and, on that basis, denies that allegation. Defendant denies the remaining allegations of the sixth sentence, except admits that in January 2008, Mr. Hastings was the Chairman of the Commission. Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff wished to avoid upsetting Representative Hastings, as alleged in the seventh sentence and, on that basis denies that allegation. Defendant denies the remaining allegations of the seventh sentence.

17. Defendant denies the allegation in the first sentence of paragraph seventeen that Representative Hastings made "advances." Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph seventeen.

18. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the first sentence of paragraph eighteen.

Defendant denies the allegations in the second sentence. Defendant denies the allegation in the third sentence that Mr. Hastings commented or implied that he was pursuing a romantic relationship with Plaintiff. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations in the third sentence. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph eighteen, except Defendant denies that Representative Hastings expressed any interest in a romantic relationship with Plaintiff.

19. Defendant admits the allegation in the first sentence of paragraph nineteen that Plaintiff moved to Vienna on or around February 15, 2008, but is without sufficient knowledge or information to form a belief as to the truth of the allegation that she “immediately” began working. Defendant admits the allegation in the second sentence, but clarifies that Plaintiff’s annual salary was \$80,000 from May 2007 until May 2008. Answering the third sentence of paragraph nineteen, Defendant admits that Plaintiff received a per diem, but denies that the per diem is income or that it functioned as a blanket salary supplement as appears to be alleged in paragraph nineteen.
20. Defendant admits the allegations in the first sentence of paragraph twenty. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the second sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the third sentence, except that Defendant admits that Mr. Hastings had purchased gifts for staff members while in the Czech Republic and that one of those gifts was a music box which he gave to Plaintiff. Defendant denies the allegations of the

fourth sentence. Defendant denies the allegations of the fifth sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation that Plaintiff was embarrassed. Defendant further denies that Representative Hastings pursued Plaintiff romantically or that he had attempted to initiate a romantic relationship with her. Defendant admits the allegations of the sixth sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, that Plaintiff conveyed to Ms. Thompson that the public nature of the gift giving made her uncomfortable.

21. Defendant denies the allegations of paragraph twenty-one, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies the allegation that Representative Hastings asked Plaintiff to get some ice and the allegation that Plaintiff was upset. Defendant denies that Representative Hastings pursued a romantic relationship with Plaintiff and denies that Representative Hastings made advances towards Plaintiff in professional settings or otherwise.
22. Defendant denies the allegations of paragraph twenty-two, except admits that Mr. Turner traveled to Vienna in February 2008. Defendant denies that Plaintiff made any comment to Mr. Turner on this trip regarding any alleged discomfort regarding Representative Hastings, or that Mr. Turner ever asked Plaintiff if she had a romantic relationship with Representative Hastings. Answering further, Defendant avers that Plaintiff had suggested to a number of individuals that they should visit her apartment when they were traveling to Vienna; that, at one point on or about the Spring of 2008, Plaintiff told Mr. Turner that Representative Hastings had mentioned that he wanted to see her apartment as well and she said that made her uncomfortable; and that Mr. Turner responded to Plaintiff that it

was typical for Representative Hastings to look after or inquire of staff in such a manner, but that if it made her uncomfortable and he did so again, that Plaintiff should let Mr. Turner know.

23. Defendant denies the allegations of paragraph twenty-three. Defendant notes that the fourth sentence is ambiguous. Defendant denies any implication that Representative Hastings made inappropriate telephone calls to any Commission staff member.
24. Answering the first, second, and third sentences of paragraph twenty-four, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, those allegations; except that Defendant denies that Representative Hastings made advances towards Plaintiff. Defendant denies the allegations of the fourth and fifth sentences. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the sixth sentence, except Defendant admits that Plaintiff did not attend the Copenhagen meeting.
25. Defendant admits the allegations in the first sentence of paragraph twenty-five. Answering the second sentence, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding whether this was the first time Plaintiff had been around Representative Hastings since February 2008. Defendant denies the remaining allegations of the second sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph twenty-five, except that Defendant denies that Representative Hastings engaged in "intimate touching" or that he had made "romantic advances" or that Mr. Turner had been asked to or did "counsel" him during the time period referred to in paragraph twenty-five.

26. Defendant denies the allegations of the first sentence of paragraph twenty-six. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph twenty-six, except that Defendant admits that, at some point, Representative Hastings and Plaintiff discussed difficulty sleeping and the effects of various activities on the ability to sleep, and that Representative Hastings may have made some comment similar to that alleged in the fourth sentence. Defendant avers that Representative Hastings did not intend the conversation to be offensive. Defendant denies that Representative Hastings had engaged in an "intimate hug" with or made "romantic advances" towards Plaintiff.
27. Defendant denies the allegations of the first and second sentences of paragraph twenty-seven. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the third sentence.
28. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph twenty-eight, except Defendant admits that there was a time in May 2008 when Representative Hastings, Plaintiff, Mr. Goldenberg, Mr. Johnson and Ms. Thompson were all together in the lounge area of the Marriott Hotel in Vienna; that, at that time, Mr. Goldenberg was Representative Hastings' Chief of Staff; that Mr. Johnson and Ms. Thompson were and are Commission staff members; and that, at some point, Representative Hastings may have said "she flatters me" in response to the suggestion that another employee had said that Plaintiff was Representative Hastings' girlfriend. Defendant denies that a romantic relationship existed between Plaintiff and Representative Hastings, or that Representative Hastings commented or implied, or that his demeanor suggested, that such a relationship existed.

29. Answering the first sentence of paragraph twenty-nine, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Representative Hastings “consumed more alcohol” that evening. Furthermore, the term “crude comments” in the first sentence is undefined and subjective and, on that basis, Defendant is unable to respond to that allegation. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences, except that Defendant admits that a generic and non-specific statement regarding female Members of Congress may have been made. Defendant denies the allegations of the fourth and fifth sentences and specifically denies that Representative Hastings asked Plaintiff a question regarding her underwear and denies that Ms. Thompson or Mr. Johnson heard such a question. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the sixth sentence, except Defendant denies that Representative Hastings asked Plaintiff the question alleged. Answering the seventh sentence, Defendant denies that Plaintiff complained about “vulgar questioning” and is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the seventh sentence.
30. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph thirty, except that Defendant denies the implication that Representative Hastings’ alleged conduct was a sexual advance toward Plaintiff.

31. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph thirty-one, except Defendant denies that Representative Hastings made sexual advances to Plaintiff.
32. The first sentence of paragraph thirty-two is redundant and duplicative of paragraph twenty-three and, by repeating the same allegation again later in the Complaint, appears intended to give the false impression that the alleged conduct was pervasive. Defendant responds to the first sentence by referring to and incorporating its response to paragraph twenty-three. Responding further, Defendant denies the allegations of paragraph thirty-two, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding whether Plaintiff would often not answer her telephone and her reasons for such behavior.
33. Defendant admits the allegations of the first, third and fourth sentences of paragraph thirty-three, except avers that the Congressional delegation trip began in June 2008. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.
34. Answering the first sentence of paragraph thirty-four, Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff experienced significant stress and anxiety, whether she was fearful, and the bases for any purported stress, anxiety or fear and, on that basis, denies those allegations. Defendant denies the remaining allegations of the first sentence. Answering the second sentence, Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff was upset; Defendant avers that Plaintiff did not express any reluctance to Mr. Turner. Defendant denies the remaining allegations of the

second sentence as stated. Defendant admits the allegations of the third sentence, except denies the implication intended by the use of the word “nevertheless.”

35. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the first, second, third and fourth sentences of paragraph thirty-five, except that Defendant denies any implication in the fourth sentence that any alleged greeting by Representative Hastings was inappropriate.

Answering the fifth sentence, Defendant denies the allegation that the greeting was unwelcome. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the fifth sentence.

Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the sixth and seventh sentences. Defendant denies the remaining allegations of paragraph thirty-five.

36. Defendant denies the allegations of the first sentence of paragraph thirty-six. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences. Defendant is without sufficient knowledge or information to form a belief regarding what Plaintiff perceived to have been “made clear” to her, and on that basis denies the allegations of the fourth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the fifth sentence, except that Defendant denies the implication that Representative Hastings engaged in any conduct that would cause a reasonable person to believe that her career was in jeopardy or that she had “no other choice” but to purchase a gift for Representative Hastings.

37. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the allegations of paragraph thirty-seven, except that Defendant denies that Representative Hastings had made "advances."
38. The first sentence of paragraph thirty-eight is redundant and duplicative of paragraphs twenty-three and thirty-two and, by repeating the same allegation over and over again, Plaintiff appears to be intending to give the false impression that the alleged conduct was pervasive. Defendant responds to the first sentence by referring to and incorporating its response to paragraph twenty-three and paragraph thirty-two. Defendant denies the allegations of the second sentence that Representative Hastings made "repeated sexual advances," that he made "continued telephone calls" and that Plaintiff made the request to return to Washington, D.C. during the time period identified in paragraph thirty-eight. Defendant denies the remaining allegations of the second sentence. Defendant denies all allegations of the third sentence, except that Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff had become fearful, but Defendant denies that she had any reasonable basis for such fear. Answering the fourth sentence, Defendant denies that Plaintiff told Mr. Turner that she wished to return to Washington, D.C. at that time. Defendant admits that Plaintiff stated she felt she was marginalized and prevented from fully performing her duties by State Department officials. Defendant denies any remaining allegations of the fourth sentence. Defendant denies the allegations of the fifth sentence, except Defendant admits that Plaintiff expressed concern about feeling marginalized by State Department personnel (over whom the Commission had no control). Defendant avers that any such marginalization had nothing to do with the actions of the Commission, Mr. Turner, or Representative Hastings, but may have been

partly attributable to Plaintiff's inappropriate, condescending and acerbic comments and statements to others, such as the comment Plaintiff made in writing to a colleague: "I think you are misunderstanding your place with me." Defendant denies the allegations of the sixth sentence, except Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the allegation regarding Plaintiff's "hope." Defendant denies the allegations of the seventh sentence. Defendant avers that when Plaintiff did make her request to return to Washington, D.C., Mr. Turner agreed to the request and asked her to tell him what date she wanted to return.

39. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the first and second sentences of paragraph thirty-nine, except Defendant denies the allegation that Representative Hastings "insist[ed] on hugging" Plaintiff and the implication that there was something inappropriate about the greetings. Defendant denies the allegations of the third and fourth sentences, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether Plaintiff was uncomfortable. Defendant avers that Plaintiff had no reasonable basis for being uncomfortable.

40. Defendant admits the allegations of the first sentence of paragraph forty. Defendant denies the allegations of the second sentence as stated. *See* 22 U.S.C. §3008(b).

41. Defendant admits the allegations of the first sentence of paragraph forty-one, except Defendant denies that Plaintiff had ever agreed to try out the position for any specified period of time. Defendant denies the allegations of the second sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth

of, and on that basis denies, the allegation regarding what Plaintiff purportedly “wanted.” Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the third sentence, except Defendant admits that Mr. Turner had told Plaintiff that he would allow her to return home upon request. Defendant denies the allegations of the fourth and fifth sentences, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff “continued to be concerned” but denies that there was any reasonable basis for such concern. Defendant avers that Plaintiff had expressed concerns about alleged marginalization by State Department officials and refers to its response to paragraph thirty-eight. Defendant further avers that Plaintiff’s contemporaneous writing to Mr. Turner (an email she sent to Mr. Turner on January 29, 2009, in which she stated: “Fred, thanks for your support and friendship. You know, I love you. Winsome”) is inconsistent with the implication of the allegations of the fifth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegations of the sixth sentence, except Defendant admits that Representative Hastings returned a campaign contribution made to him by Plaintiff and referred the matter to the Federal Election Commission, which found no basis for investigation under the Federal Election Campaign Act.

42. Defendant admits the allegations of the first sentence of paragraph forty-two, except Defendant avers that Representative Hastings, Mr. Turner, and Plaintiff were not the only attendees. Defendant admits the allegations of the second sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether the trip to Sintra occurred on the first day of the

meeting. Answering further, Defendant avers that Plaintiff, Mr. Turner, and Representative Hastings were not the only individuals on the trip to Sintra. Answering the third sentence, Defendant denies that Plaintiff and Mr. Turner immediately separated to look around town on their own; Defendant avers that Plaintiff and Mr. Turner walked around together at first. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the remaining allegations of the third sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the fourth, fifth and sixth sentences, except that Defendant denies any implication that Representative Hastings' alleged statements were of a sexual or romantic nature or that Representative Hastings was "clearly inebriated." Defendant denies the allegations of the seventh sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff was upset. Defendant avers that Plaintiff had no reasonable basis to be upset. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eighth sentence as stated.

43. Defendant denies the allegation in the first sentence of paragraph forty-three that Representative Hastings was "awaiting her arrival." Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the first sentence. Defendant denies the allegation in the second sentence that Representative Hastings had left the dinner upset. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis

denies, the remaining allegations of the second sentence. Defendant denies the remaining allegations of paragraph forty-three.

44. Defendant denies the allegations of the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and eleventh sentences of paragraph forty-four. Defendant admits that Plaintiff may have made a statement similar to the one alleged in the tenth sentence (regarding calling her son) and states that it is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation in the tenth sentence that Plaintiff was “nauseous” and “physically weak,” and denies all other allegations of the tenth sentence.
45. Defendant denies the allegations of paragraph forty-five, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation that Plaintiff was “devastated.” Defendant avers that Plaintiff had no reasonable basis to be devastated as alleged in paragraph forty-five.
46. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph forty-six. Defendant avers that its review of Commission records does not indicate that Plaintiff traveled from Vienna to Washington, D.C. in May 2009. Defendant denies the allegation that Representative Hastings engaged in inappropriate conduct as implied by paragraph forty-six or that he threatened Plaintiff’s job (implicitly or otherwise). Defendant avers that Plaintiff had no reasonable basis to feel humiliated, to become upset, to suffer any “emotional distress,” or to become “physically ill” as alleged in paragraph forty-six.
47. Defendant admits the allegations of the first sentence of paragraph forty-seven, except Defendant avers that Plaintiff and Representative Hastings were not the only individuals

attending the meeting in Vilnius, and Defendant further avers that the Vilnius trip began in June 2009 and continued into July 2009. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second, third, fourth, fifth, sixth and seventh sentences, except Defendant denies any implication that the greeting was inappropriate. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eighth sentence, except Defendant denies that any alleged touching was unwelcome or that Plaintiff had any reasonable basis to experience emotional distress based on the alleged touching. Defendant denies the allegations of the ninth and tenth sentences as stated. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eleventh sentence, except Defendant denies that Representative Hastings engaged in any sexual harassment or that Plaintiff had any reasonable basis to be distressed by any conduct or statements of Representative Hastings.

48. Defendant denies the allegations of the first two clauses of the first sentence of paragraph forty-eight as stated, and denies that Representative Hastings engaged in inappropriate conduct as alleged. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph forty-eight, except Defendant denies the allegations that Representative Hastings engaged in sexual harassment.
49. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph forty-nine, except that Defendant denies that Representative Hastings engaged in sexual advances or retaliation. Defendant

avers that there was no reasonable basis for any fear of retaliation that Plaintiff may have had as alleged in paragraph forty-nine and that the high blood pressure, coronary artery disease, and/or other health problems Plaintiff may have experienced were not caused by any conduct or actions of Defendant, Representative Hastings or Fred Turner.

50. Defendant denies the allegations of the first and second sentences of paragraph fifty.

Defendant admits the allegations of the third sentence, but denies any implication that other Commission staff members also did not have similar duties. Answering the fourth sentence, Defendant states that the phrase “[o]n a number of occasions” is vague and undefined and Defendant is therefore unable to respond to the allegations of the fourth sentence. Answering further, Defendant avers that Plaintiff’s position does not require knowledge of each and every meeting and each and every travel plan of each and every member of the Commission. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in the fifth sentence, except that Defendant denies that any action by Mr. Turner was the cause of any reputational harm that Plaintiff may have experienced or any inability to perform her duties. Defendant denies the allegations of the sixth sentence as stated. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the seventh and eighth sentences. Defendant denies the allegations of the ninth sentence as stated, but Defendant admits that Mr. Turner had supported Plaintiff when she asserted that she was marginalized by the State Department personnel (over whom Defendant has no control) and, as reflected, *inter alia*, by Plaintiff’s January 29, 2009 email to Mr. Turner. See Defendant’s response to paragraph forty-one.

51. Defendant denies the allegations of the first and second sentences of paragraph fifty-one, except Defendant admits that Marlene Kaufmann is the Commission's General Counsel and that Plaintiff and Ms. Kaufmann discussed Plaintiff's allegations in January 2010. Defendant denies the allegations of the third sentence and avers that when Ms. Kaufman and Plaintiff discussed Plaintiff's allegations against Representative Hastings in January 2010, Ms. Kaufman told Plaintiff she would investigate the allegations.
52. Defendant denies the allegations of paragraph fifty-two. Defendant responds by quoting from an email that Plaintiff sent to Mr. Turner on January 21, 2010 stating: "I would like to ask you if you could allow me to return permanently to Washington in the next few months. I need to be in proximity to my US doctors to receive consistent medical treatment." Defendant further responds by quoting from an email Mr. Turner sent to Winsome that same day stating: "Winsome, Hope you're resting comfortably and the long weekend will do you some good. I mentioned to Mr. Hastings that I was going to call you to check-in and when I did, as you saw, he took the phone to chat himself. In any event, Mr. Hastings and I did chat about your circumstances and I will also chat with Chairman Cardin. I don't think there will be any problem with your request to return to Washington permanently. I'll look forward to discussing this with you when you're here next week."
53. Defendant denies the allegations in the first sentence of paragraph fifty-three that Representative Hastings engaged in alleged harassment, that Mr. Turner engaged in alleged retaliation, that Ms. Kaufmann allegedly refused to help, and that her job was threatened. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph fifty-three.

Defendant avers that any stress or high blood pressure Plaintiff experienced was not the result of any conduct of the Commission, Representative Hastings, Mr. Turner, or Ms. Kaufmann as alleged in paragraph fifty-three.

54. Answering the first sentence of paragraph fifty-four, Defendant admits that Plaintiff requested to travel to Ukraine to observe the presidential election. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences. Defendant admits the fourth sentence.
55. Defendant admits the allegations of the first sentence of paragraph fifty-five, but denies the implication that the safety reasons stated were not the true reasons. Defendant admits the allegations of the second sentence. Defendant denies the allegations of the third sentence, except admits that Plaintiff did speak to Orest Deychakiwsky who is a Commission staff member. Answering the fourth sentence, Defendant admits that Plaintiff told Mr. Deychakiwsky of her allegations that Representative Hastings had engaged in sexual harassment. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that she told him of Mr. Turner's alleged retaliation. Defendant denies that Representative Hastings or Mr. Turner engaged in the conduct alleged and denies the remaining allegations of the fourth sentence. Defendant denies the fifth and sixth sentences as stated. Defendant avers that Plaintiff did speak to Mr. Turner, that Mr. Turner agreed that she could travel to Odessa, and that Mr. Turner said he would handle letting Representative Hastings and Mr. Johnson know. Answering the seventh sentence, Defendant admits that Plaintiff did travel to Odessa, but otherwise denies the allegations as stated. Defendant is without

sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff experienced stress. Defendant avers that there was no reasonable basis for Plaintiff to experience stress as alleged in paragraph fifty-five.

56. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph fifty-six, except Defendant admits that Plaintiff did send emails to Mr. Turner and Ms. Kaufmann, that Mr. Turner did respond to Plaintiff, that Carol Fuller was the Charge de Affaires for the U.S. Mission to the OSCE, and that Carol Fuller advised Mr. Turner that Plaintiff had allegedly fainted. Defendant denies the allegations of sexual harassment and retaliation in the seventh sentence. Defendant further avers that any medical condition(s) or stress that Plaintiff experienced were not the result of any action by the Commission, Representative Hastings, Mr. Turner or Ms. Kaufmann.

57. Defendant denies the allegations of the first and second sentences of paragraph fifty-seven as stated. Defendant admits that, after Mr. Turner and Representative Hastings learned from Carol Fuller that Plaintiff had allegedly fainted, they were concerned about Plaintiff and, accordingly, Mr. Turner called Plaintiff and both he and Representative Hastings spoke to Plaintiff to advise her of their concern about her health and to tell her to focus on her health and not to worry about work. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegation in the third sentence that Plaintiff told Mr. Turner she was going to consult with her doctors and Defendant denies the allegation that Plaintiff provided a date certain when she would return to Washington, D.C. Answering further, Defendant avers that, on January 21, 2010, Plaintiff sent an email to Mr. Turner, in which she stated "I would like

to ask you if you could allow me to return permanently to Washington in the next few months.” Answering the fourth sentence, Defendant admits that Mr. Turner agreed that Plaintiff could return, but denies that the July 31, 2010 date was discussed at that time, as Plaintiff had stated only that she wished to return “in the next few months,” which phrase is non-specific and is also inconsistent with a July 31, 2010 return date which is more than five months later. Defendant denies the allegations of the fifth sentence and denies that Plaintiff raised any allegations of harassment during the phone call.

58. The allegations in paragraph fifty-eight are vague as to time and appear to compress several different conversations and meetings. Subject to the foregoing, Defendant responds as follows. Defendant denies the allegations of paragraph fifty-eight as stated. Defendant admits that Mr. Turner and Ms. Kaufmann first became aware that Plaintiff was making allegations of sexual harassment on or about January 2010, that Ms. Kaufmann discussed Plaintiff’s allegations with Plaintiff, including on the phone on January 22, 2010, that Ms. Kaufmann and Mr. Turner discussed Plaintiff’s allegations with Plaintiff on the phone on January 25, 2010, that Ms. Kaufmann discussed Plaintiff’s allegations with Plaintiff again on January 28, 2010, and that Ms. Kaufmann and Mr. Turner met with Plaintiff in Washington, D.C. on February 4, 2010, to discuss her allegations. Defendant further admits that they told Plaintiff that they took her allegations seriously, that they told her that they looked into her allegations, that they told her that -- although Representative Hastings denied ever engaging in inappropriate behavior towards Plaintiff -- that he would have as little interaction with her as possible, and that that they told her she could return to Washington, D.C. Defendant denies that Representative Hastings had made any unwelcome advances.

59. The allegations of paragraph fifty-nine are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant admits the allegations in the first sentence that Plaintiff contacted Mr. Lynch on January 20, 2010, and admits that Mr. Lynch was and is the Chief of Staff for Senator Cardin's personal office. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding Plaintiff's ability to "trust." Defendant denies the remaining allegations of the first sentence, and denies the implication in the last clause of the first sentence that there was a "harassment problem," the implication that Plaintiff had previously communicated her allegations to Mr. Turner, and the implication that Mr. Turner would not have taken those allegations seriously had Plaintiff previously brought them to his attention. Defendant denies the allegations of the second sentence. Defendant admits the allegations of the third sentence, except denies that Representative Hastings had made advances or engaged in harassing conduct. Defendant denies the remaining allegations of paragraph fifty-nine.

60. The allegations of paragraph sixty are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant denies the allegations of the first sentence of paragraph sixty, except admits that Ms. Kaufmann contacted Plaintiff on January 22, 2010, which was two days after Plaintiff had contacted Chris Lynch. Defendant denies the allegations of the second sentence as stated, except Defendant admits that Ms. Kaufmann contacted Plaintiff to discuss her allegations, that Ms. Kaufmann conveyed this to Plaintiff, and that Ms. Kaufmann gathered information from Plaintiff regarding her allegations. Defendant denies the remaining allegations of paragraph sixty as stated, and Defendant denies that Ms. Kaufmann was accusatory, that Ms. Kaufmann argued with

Plaintiff, or that Ms. Kaufmann was angry. Defendant avers that Ms. Kaufmann and Plaintiff set up a subsequent telephone call to discuss the matter further.

61. The allegations in paragraph sixty-one are vague as to time and appear to compress several different conversations and meetings. Subject to the foregoing, Defendant responds as follows. Defendant states that Ms. Kaufmann, Mr. Turner and Plaintiff had a telephone conversation on January 25, 2010. Defendant denies the remaining allegations of paragraph sixty-one as stated, and refers to and incorporates its response to paragraph fifty-eight. Defendant denies that Representative Hastings had acted inappropriately towards Plaintiff.
62. Some of the allegations of paragraph sixty-two appear to be duplicative of allegations contained in paragraphs fifty-eight, sixty, and sixty-one and Defendant refers to and incorporates its responses to those paragraphs. Answering further, Defendant admits the allegations of the first sentence, except denies the implication that Representative Hastings had engaged in any inappropriate conduct towards Plaintiff. Defendant denies the second sentence as stated. Defendant avers that Plaintiff -- who was then in the process of self-publishing and/or promoting (or would soon be promoting) her book "A Personal Agenda" (which involves allegations of sexual harassment involving an African-American Member of Congress) -- threatened to go to the press with the allegations she was making against Representative Hastings and to file a lawsuit, among other things. Defendant admits that Mr. Turner suggested that the better way would be for her to allow the Commission to handle the matter now that Commission management had been made aware of her allegations. Defendant denies the implication that Mr.

Turner told Plaintiff not to file a lawsuit or that he suggested that she would be retaliated against if she did so. Defendant denies the remaining allegations of paragraph sixty-two.

63. Defendant responds to paragraph sixty-three by quoting, in its entirety, the February 25, 2010 email Ms. Kaufmann sent to Plaintiff: "Hi Winsome, I hope you had a smooth flight back to Vienna. I just wanted to confirm with you the conversation we had with Fred yesterday afternoon and ensure that we're all on the same page going forward. Fred described his conversation with Mr. Hastings regarding the issues you had raised and indicated that, while Mr. Hastings said he had a different assessment of the situation, Mr. Hastings is sensitive to your concerns and will proceed accordingly. Fred also indicated that both he and Mr. Hastings are satisfied with your job performance and support your decision to leave Vienna and resume your work full-time in Washington before the end of the year -- most likely in July. It is our hope and expectation that if you have any further concerns regarding the matters we discussed, or any other issues, you will contact us immediately." To the extent Plaintiff's allegations in paragraph sixty-three are inconsistent with the February 5, 2010 email, the allegations are denied.

64. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph sixty-four, except Defendant denies that sexual harassment or retaliation occurred or that Mr. Joseph told Mr. Lynch of any such allegations in July 2009. Defendant further avers that Senator Cardin is committed to a harassment-free working environment and denies the implication in the fourth sentence that Senator Cardin would subjugate that commitment as the Complaint implies.

65. Defendant admits the first sentence of paragraph sixty-five. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence, except Defendant denies that there was anything inappropriate about the greeting. Defendant denies the remaining allegations of paragraph sixty-five as stated.
66. The first sentence of paragraph sixty-six is vague and ambiguous and Defendant is incapable of formulating a response. To the extent a response is deemed required, the allegations of the first sentence are denied. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second, third and fourth sentences, except that Defendant denies the allegation that Representative Hastings "demanded" that Plaintiff do anything, and denies that Representative Hastings was attempting to create an impression of intimacy. Defendant denies the first clause of the fifth sentence as stated. Defendant denies the remaining allegations of the fifth sentence. Defendant denies the remaining allegations of paragraph sixty-six, except Defendant states that it is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the final allegation that Plaintiff experienced extreme emotional distress.
67. Defendant admits the allegations of paragraph sixty-seven, except denies the allegation that Representative Hastings engaged in inappropriate behavior.
68. The allegations of paragraph sixty-eight are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant admits the allegations of the first sentence, except denies that Representative Hastings had engaged in sexual harassment or that Plaintiff initiated contact "the following week." Defendant avers that Representative

Smith, who is the current Chairman of the Commission, was the ranking Republican member from the House of Representatives during the time period referred to in paragraph sixty-eight. Defendant avers that the contact referred to in the first sentence occurred in January 2010. Answering the second sentence, Defendant denies that Representative Hastings had engaged in harassment or that Plaintiff was suffering retaliation. Defendant otherwise admits the allegations of the second sentence, except avers that Representative Smith's Chief of Staff is Mary McDermott Noonan, and that Plaintiff's purported explanation "in detail" referred to in the second sentence may have occurred in March 2010. Defendant denies the allegations in the final sentence that Ms. Noonan "advised" Plaintiff, as Ms. Noonan made clear that she was not providing legal advice to Plaintiff. Defendant admits that Ms. Noonan and Plaintiff discussed the Office of Compliance. Answering further, Defendant avers that Ms. Noonan told Plaintiff that Representative Smith has zero tolerance for sexual harassment.

69. Defendant denies the allegations of the first sentence of paragraph sixty-nine, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether Plaintiff contacted the Office of Compliance from Vienna. Plaintiff's statements in the second and third sentences of paragraph sixty-nine violate 2 U.S.C. §1416(a) and should be stricken. *See Taylor v. Office of Rep. John J. Duncan, Jr.*, 2011 WL 826170 at *6 (E.D. Tenn. March 2, 2011). To the extent a response is nonetheless deemed required, Defendant is without sufficient information to form a belief as to the truth of, and thus denies, the remaining allegations of paragraph sixty-nine.

70. Defendant denies the allegations of the first sentence of paragraph seventy. Defendant denies the allegations of the second and third sentences as stated. Defendant denies the allegations in the fourth sentence as stated, and further denies that Plaintiff experienced any adverse consequences or that Mr. Turner threatened her with any adverse consequences. Defendant denies the allegations of the fifth sentence as stated.
71. Defendant denies that there was any retaliatory conduct as alleged in the first and second sentences of paragraph seventy-one. Defendant admits that Plaintiff communicated concerns to Mr. Lynch about Mr. Turner's alleged conduct. Defendant admits the allegations of the second sentence. Defendant admits the allegations of the third sentence that the travel was approved.
72. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in paragraph seventy-two.
73. Defendant admits the allegations of paragraph seventy-three.
74. Defendant denies the allegations of paragraph seventy-four.
75. Defendant admits the allegations of paragraph seventy-five.
76. Defendant admits the allegations of paragraph seventy-six.

COUNT ONE

77. Defendant hereby refers to and incorporates its responses to paragraphs one through seventy-six above.
78. The allegations of paragraph seventy-eight contain legal conclusions which do not require a response.

79. The allegations of paragraph seventy-nine contain legal conclusions which do not require a response. Defendant does not contest that Plaintiff was an "employee" within the meaning of the CAA.
80. Defendant denies the allegations of paragraph eighty.
81. Defendant denies the allegations of the first sentence of paragraph eighty-one. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.
82. Defendant denies the allegations of paragraph eighty-two.

COUNT TWO

83. Defendant hereby refers to and incorporates its responses to paragraphs one through eighty-two above.
84. The allegations of paragraph eighty-four contain legal conclusions which do not require a response.
85. Defendant denies the allegations of paragraph eighty-five as stated.
86. Defendant denies the allegations of paragraph eighty-six.
87. Defendant denies the allegations of paragraph eighty-seven.
88. Defendant denies the allegations of the first sentence of paragraph eighty-eight.
Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.
89. Defendant denies the allegations of paragraph eighty-nine.

COUNTS THREE AND FOUR

90. -100. Paragraphs ninety through one hundred are claims brought exclusively against Defendants other than the Commission and therefore do not require a response from the

Commission. To the extent a response is deemed required, the allegations in these paragraphs are denied.

REQUESTED RELIEF

1. Defendant denies that Plaintiff is entitled to the judgment requested in paragraph one of the Prayer.
2. Defendant denies that Plaintiff is entitled to the judgment requested in paragraph two of the Prayer.
3. - 5. Paragraphs three, four, and five of the Prayer concern requests for judgment against Defendants other than the answering Defendant and, therefore, do not require a response from the Commission. To the extent a response is deemed required, the allegations in these paragraphs are denied.
6. Defendant denies that Plaintiff is entitled to back pay. Defendant further notes that Plaintiff's employment has not been terminated.
7. Defendant denies that Plaintiff is entitled to compensatory damages.
8. Defendant denies that Plaintiff is entitled to an award of punitive damages.
9. Defendant denies that Plaintiff is entitled to her attorneys' fees and costs.
10. Defendant denies that Plaintiff is entitled to any other relief.

Any and all allegations not heretofore expressly admitted are denied.

AFFIRMATIVE DEFENSES

By pleading the following as Affirmative Defenses, Defendant does not concede that each of the matters covered by the numbered defenses is to be proven by Defendant, and Defendant reserves its position that Plaintiff retains the burden of proof on all matters necessary to establish the claims asserted in the Complaint, including her alleged damages.

FIRST AFFIRMATIVE DEFENSE

The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to exhaust her administrative remedies on one or more allegations in her Complaint and they should be dismissed accordingly.

THIRD AFFIRMATIVE DEFENSE

Some or all of Plaintiff's claims are untimely.

FOURTH AFFIRMATIVE DEFENSE

On information and belief, Plaintiff has failed to mitigate her alleged damages.

FIFTH AFFIRMATIVE DEFENSE

Defendant and its employees acted reasonably and in good faith at all times.

SIXTH AFFIRMATIVE DEFENSE

Defendant took prompt, remedial, and corrective action after Plaintiff complained of alleged sexual harassment.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff cannot establish a prima facie case of sexual harassment or retaliation.

Defendant reserves the right to prepare and to present additional affirmative defenses and to supplement or amend Defendant's Answer.

Respectfully submitted,

By: _____ /s/
Gloria J. Lett D.C. Bar #293365
Ann R. Rogers D.C. Bar # 441622
Russell H. Gore D.C. Bar #449231
Office of House Employment Counsel
1036 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515
(202) [REDACTED]

Attorneys for the Defendant,
The Commission on Security and Cooperation
in Europe

Dated: July 8, 2011

Board
Porter Goss, Chair
Jay Eagen
William Franzel
Abner Mikou
Omar S. Ashunawy, Staff Director & Chief Counsel
David Skaggs, Co-Chair
Yvonne Burke
Karan English
Allison Hayward
oco.house.gov
oco@mail.house.gov

Congress of the United States
House of Representatives
OFFICE OF CONGRESSIONAL ETHICS
Washington, DC 20515

Mailing Address:
P.O. Box 893
Washington, DC 20515-0895

Office Address:
425 3rd Street, SW
Suite 1110
Washington, DC 20024

(202) [REDACTED]
(202) 226-0997 (FAX)

CONFIDENTIAL

July 11, 2011

The Honorable Alcee Hastings
2353 Rayburn HOB
Washington, DC 20515

Dear Representative Hastings:

This letter responds to your letters dated July 7, 2011 and July 11, 2011 to the Office of Congressional Ethics ("OCE"). In those letters you made several inquiries and made several claims that require attention.

First, under H. Res. 895 of the 110th Congress, as amended (the "Resolution"), no information obtained by the OCE during the course of its reviews may be disclosed to any person or entity outside the office except as authorized by the Board as necessary to conduct official business or pursuant to its rules. *See* Resolution section 1(f)(B). Further, the OCE Board may act only in executive session and cannot disclose information discussed or obtained during those sessions. *See* Resolution section 1(c)(2)(D). In this matter, as in every single matter the OCE has reviewed since its inception, the OCE has acted in accordance with the Resolution and its rules. In short, there has been no breach of confidentiality by the OCE in any way.

Second, concerning your inquiries about what entities or individuals the OCE contacts to obtain information and the substance of those contacts, under the Resolution discussed above, the OCE cannot disclose this information to you. *See* Resolution section 1(f)(B); section 1(c)(2)(D). Similarly, the OCE cannot disclose the nature and substance of any evidence it may obtain during the course of a review. *Id.* However, as a practical and procedural matter, the Board does not conduct interviews. All witness statements and other evidence is collected at the Board's direction by OCE Investigative Counsels.

Third, before the Board votes on a recommendation or statement to be transmitted to the Committee on Ethics, you will have the opportunity to present orally or in writing, a statement to the Board. *See* Resolution section 1(f)(3). As previously explained, this opportunity, as with all Board deliberations, may only occur in executive session.

Fourth, upon referral to the Committee on Ethics recommending either further review or dismissal, you will be provided with a copy of the transmitted report. *See* Resolution section 1(c)(2)(C)(ii).

Rep. Hastings
July 11, 2011
Page 2 of 2

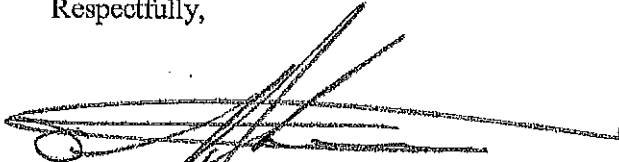
Fifth, I speak for myself and my staff when I affirm to you that the rights and reputations of all parties to this review are, as always, of deep concern to us. This review, as with all reviews performed by the OCE, is conducted without regard to political or ideological affiliation. Moreover, the integrity of the OCE's review in this matter has, as always, been maintained, free of any duplicity, and there has been no fundamental rights jeopardized in any way by the OCE.

Lastly, as noted in the OCE's May 10, 2011 Request for Information, the OCE welcomes any submission of specific information you feel may be relevant to this review.

The OCE also reiterates its request to interview you at a mutually convenient time.

If you have any further questions please contact Paul Solis, Investigative Counsel, at (202) 226-1408.

Respectfully,

A handwritten signature in black ink, appearing to read 'Omar S. Ashmawy', with a long horizontal flourish extending to the right.

Omar S. Ashmawy
Staff Director and Chief Counsel

July 13, 2011

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, NW, Suite 1110
Washington, DC 20024

RE: Confidential Preliminary Review No. 11-6736

Dear Mr. Solis:

The quote that follows was placed on Ms. Winsome Packer's Facebook page on Sunday, July 10, 2011.

It was brought to my attention yesterday, July 13. And I pass it on to you for whatever its worth.

"The career criminal masquerading as an "upstanding congressman" does not trust the federal court to hear the complaint because he knows that the corrupt and hypocritical members of congress that have protected him so far are likely to continue to do so."

Sincerely,

A handwritten signature in cursive script that reads "Alcee L. Hastings".

Alcee L. Hastings
Member of Congress

P.S. Please find enclosed a copy of the answers filed by the Office of House Employment Counsel to Ms. Packer's complaint.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WINSOME PACKER,

Plaintiff,

v.

THE UNITED STATES COMMISSION ON
SECURITY AND COOPERATION IN EUROPE,
ET AL.,

Defendants.

No. 11-cv-0485 (RMC)

**ANSWER OF DEFENDANT COMMISSION ON SECURITY AND COOPERATION IN
EUROPE TO PLAINTIFF'S COMPLAINT FOR DECLARATORY AND MONETARY
RELIEF AND JURY DEMAND**

Defendant, the Commission on Security and Cooperation in Europe ("the Helsinki Commission" or "the Commission"), by its undersigned counsel hereby answers the allegations contained in Plaintiff's Complaint in the above-captioned matter.

Preliminary Statement

1. Plaintiff's allegations in paragraph one are legal conclusions and do not require a response from Defendant. To the extent a response is deemed required, Defendant admits that the Complaint purports to be a civil action against the named Defendants, but denies that Plaintiff suffered any injuries as alleged, denies that the cited statutory provisions have been violated, denies that the United States Constitution has been

violated, denies that Plaintiff was sexually harassed or retaliated against, and otherwise denies the allegations contained in this paragraph.

2. Defendant denies the allegations of the first sentence of paragraph two, except Defendant admits that Plaintiff served as the Representative of the Commission to the United States Mission to the Organization for Security and Cooperation in Europe. Defendant denies the allegations of the second sentence, except admits that Plaintiff did mention to Mr. Turner that she believed Mr. Hastings had engaged in conduct which she found to be inappropriate; however, Defendant denies that she did so "repeatedly" during the dates identified in paragraph two. Defendant denies the allegations of the third sentence. Answering the fourth sentence, Defendant acknowledges that Plaintiff represented herself as a Republican at that time and that the Chair and Co-Chair at the time were Democrats. Defendant denies all other allegations of the fourth sentence. Defendant denies the allegations of the fifth sentence and avers that Plaintiff remains employed by the Commission since her hiring in May 2007.

Jurisdiction and Venue

3. Defendant does not contest jurisdiction. *See* 22 U.S.C. §3008(d).
4. Defendant does not contest venue; however, Defendant denies that the events and/or omissions alleged in the Complaint occurred as alleged by Plaintiff.

Parties

5. Defendant admits the first and second sentences of paragraph five. Defendant does not contest Plaintiff's status as a covered employee. *See* 22 U.S.C. §3008(d).
6. Defendant does not contest its status as an employing office. *See* 22 U.S.C. §3008(d).

7. Defendant admits the allegations of paragraph seven, except denies that Plaintiff has correctly stated Representative Hastings' address or has correctly stated the dates of the 110th and 111th Congresses.
8. Defendant admits the allegations of the first sentence of paragraph eight. Defendant admits the allegations of the second sentence, except denies any suggestion that Mr. Turner had the authority to terminate Plaintiff's employment. 22 U.S.C. § 3008(b)(2).

Factual Allegations

9. The self-serving terms "highly educated," "experienced professional," "dedicated," and "policy work" in the first sentence of paragraph nine are undefined and, on that basis, Defendant is unable to admit or deny those allegations. Answering the second sentence, Defendant admits that Plaintiff's resume appears to reflect the educational background identified in the second sentence. Answering the third sentence, Defendant admits that Plaintiff held several positions with the House of Representatives, including the two she chose to identify in paragraph nine of her Complaint, but is unable to admit or deny whether that experience is "extensive" because that term is undefined. Answering the fourth sentence, Defendant admits that Plaintiff's resume appears to reflect that she served as a delegate to the United Nations Commission on the Status of Women and that she worked for The Heritage Foundation and The International Republican Institute, among other prior employers. Defendant is otherwise unable to respond to the allegation in the fourth sentence regarding "her many other professional accomplishments" because that phrase is undefined.
10. Defendant admits the allegations in the first sentence of paragraph ten, except Defendant notes that Plaintiff's resume reflects that she worked for the Homeland Security

Committee from “2003-2007” (not “[f]rom 2003 through December 2006” as alleged) and identifies her position there as “Professional Staff Member” (not “Republican Professional Staff Member” as alleged). Defendant admits the allegations in the second and third sentences. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph ten.

11. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in the first sentence of paragraph eleven that the meeting took place in March 2007 or that Plaintiff was walking down C Street, S.W. Defendant admits the remaining allegations of the first sentence, and admits the allegations of the second and third sentences. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the fourth and fifth sentences.
12. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph twelve, except to admit that Representative Hastings is a Democrat, that Plaintiff did write a letter, dated April 22, 2007, to Representative Hastings and Senator Cardin expressing a “strong interest” in working for the Commission, touting her accomplishments and stating that she “look[ed] forward to hearing from” them. Defendant also admits that Plaintiff provided the Commission with a copy of her resume, but denies that the resume “clearly indicated” an exclusive political affiliation with the Republican Party. Defendant further admits that Plaintiff represented herself to be a Republican.

13. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in paragraph thirteen, except that Defendant admits that, at some point, Representative Hastings indicated that he felt it was important that the Commission employ some African-American employees.
14. Defendant admits the allegations of the first, second and third sentences of paragraph fourteen. Defendant denies the allegations of the fourth sentence. Defendant denies the allegations of the fifth and sixth sentences as stated. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph fourteen, except Defendant denies any suggestion that Plaintiff was "more vulnerable" in her position than any other staff member of the Commission.
15. Defendant denies the allegations of the first sentence of paragraph fifteen as stated. Further answering the first sentence, Defendant admits that, on or about December 2007, Mr. Turner discussed with Plaintiff the possibility of her serving as the Commission's Representative to the U.S. Mission to the Organization for Security and Cooperation in Europe. The terms "many" and "most" in the second sentence are vague and undefined and Defendant is therefore without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence, except to admit that the position was posted in Vienna, Austria. Defendant denies the allegations of the third sentence. Answering the fourth sentence, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegations regarding whether Plaintiff was flattered and/or had reservations. Defendant denies that Plaintiff expressed reservations at the meeting and denies the

remaining allegations of the fourth sentence. Defendant denies the allegations of the fifth and sixth sentences as stated. Answering the fifth and sixth sentences further, Defendant avers that Mr. Turner wanted Plaintiff to accept the position and made clear to her that if, after trying it out, she decided she wanted to return to the United States, she would be permitted to do so.

16. Defendant admits the allegations of the first sentence of paragraph sixteen. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the second, third and fourth sentences. Defendant denies the allegations in the fifth sentence. Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff was extremely uncomfortable, as alleged in the sixth sentence and, on that basis, denies that allegation. Defendant denies the remaining allegations of the sixth sentence, except admits that in January 2008, Mr. Hastings was the Chairman of the Commission. Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff wished to avoid upsetting Representative Hastings, as alleged in the seventh sentence and, on that basis denies that allegation. Defendant denies the remaining allegations of the seventh sentence.

17. Defendant denies the allegation in the first sentence of paragraph seventeen that Representative Hastings made "advances." Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph seventeen.

18. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the first sentence of paragraph eighteen.

Defendant denies the allegations in the second sentence. Defendant denies the allegation in the third sentence that Mr. Hastings commented or implied that he was pursuing a romantic relationship with Plaintiff. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations in the third sentence. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph eighteen, except Defendant denies that Representative Hastings expressed any interest in a romantic relationship with Plaintiff.

19. Defendant admits the allegation in the first sentence of paragraph nineteen that Plaintiff moved to Vienna on or around February 15, 2008, but is without sufficient knowledge or information to form a belief as to the truth of the allegation that she "immediately" began working. Defendant admits the allegation in the second sentence, but clarifies that Plaintiff's annual salary was \$80,000 from May 2007 until May 2008. Answering the third sentence of paragraph nineteen, Defendant admits that Plaintiff received a per diem, but denies that the per diem is income or that it functioned as a blanket salary supplement as appears to be alleged in paragraph nineteen.

20. Defendant admits the allegations in the first sentence of paragraph twenty. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the second sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the third sentence, except that Defendant admits that Mr. Hastings had purchased gifts for staff members while in the Czech Republic and that one of those gifts was a music box which he gave to Plaintiff. Defendant denies the allegations of the

fourth sentence. Defendant denies the allegations of the fifth sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation that Plaintiff was embarrassed. Defendant further denies that Representative Hastings pursued Plaintiff romantically or that he had attempted to initiate a romantic relationship with her. Defendant admits the allegations of the sixth sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, that Plaintiff conveyed to Ms. Thompson that the public nature of the gift giving made her uncomfortable.

21. Defendant denies the allegations of paragraph twenty-one, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies the allegation that Representative Hastings asked Plaintiff to get some ice and the allegation that Plaintiff was upset. Defendant denies that Representative Hastings pursued a romantic relationship with Plaintiff and denies that Representative Hastings made advances towards Plaintiff in professional settings or otherwise.
22. Defendant denies the allegations of paragraph twenty-two, except admits that Mr. Turner traveled to Vienna in February 2008. Defendant denies that Plaintiff made any comment to Mr. Turner on this trip regarding any alleged discomfort regarding Representative Hastings, or that Mr. Turner ever asked Plaintiff if she had a romantic relationship with Representative Hastings. Answering further, Defendant avers that Plaintiff had suggested to a number of individuals that they should visit her apartment when they were traveling to Vienna; that, at one point on or about the Spring of 2008, Plaintiff told Mr. Turner that Representative Hastings had mentioned that he wanted to see her apartment as well and she said that made her uncomfortable; and that Mr. Turner responded to Plaintiff that it

was typical for Representative Hastings to look after or inquire of staff in such a manner, but that if it made her uncomfortable and he did so again, that Plaintiff should let Mr. Turner know.

23. Defendant denies the allegations of paragraph twenty-three. Defendant notes that the fourth sentence is ambiguous. Defendant denies any implication that Representative Hastings made inappropriate telephone calls to any Commission staff member.
24. Answering the first, second, and third sentences of paragraph twenty-four, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, those allegations; except that Defendant denies that Representative Hastings made advances towards Plaintiff. Defendant denies the allegations of the fourth and fifth sentences. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the sixth sentence, except Defendant admits that Plaintiff did not attend the Copenhagen meeting.
25. Defendant admits the allegations in the first sentence of paragraph twenty-five. Answering the second sentence, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding whether this was the first time Plaintiff had been around Representative Hastings since February 2008. Defendant denies the remaining allegations of the second sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph twenty-five, except that Defendant denies that Representative Hastings engaged in "intimate touching" or that he had made "romantic advances" or that Mr. Turner had been asked to or did "counsel" him during the time period referred to in paragraph twenty-five.

26. Defendant denies the allegations of the first sentence of paragraph twenty-six. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph twenty-six, except that Defendant admits that, at some point, Representative Hastings and Plaintiff discussed difficulty sleeping and the effects of various activities on the ability to sleep, and that Representative Hastings may have made some comment similar to that alleged in the fourth sentence. Defendant avers that Representative Hastings did not intend the conversation to be offensive. Defendant denies that Representative Hastings had engaged in an "intimate hug" with or made "romantic advances" towards Plaintiff.
27. Defendant denies the allegations of the first and second sentences of paragraph twenty-seven. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the third sentence.
28. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph twenty-eight, except Defendant admits that there was a time in May 2008 when Representative Hastings, Plaintiff, Mr. Goldenberg, Mr. Johnson and Ms. Thompson were all together in the lounge area of the Marriott Hotel in Vienna; that, at that time, Mr. Goldenberg was Representative Hastings' Chief of Staff; that Mr. Johnson and Ms. Thompson were and are Commission staff members; and that, at some point, Representative Hastings may have said "she flatters me" in response to the suggestion that another employee had said that Plaintiff was Representative Hastings' girlfriend. Defendant denies that a romantic relationship existed between Plaintiff and Representative Hastings, or that Representative Hastings commented or implied, or that his demeanor suggested, that such a relationship existed.

29. Answering the first sentence of paragraph twenty-nine, Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Representative Hastings "consumed more alcohol" that evening. Furthermore, the term "crude comments" in the first sentence is undefined and subjective and, on that basis, Defendant is unable to respond to that allegation. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences, except that Defendant admits that a generic and non-specific statement regarding female Members of Congress may have been made. Defendant denies the allegations of the fourth and fifth sentences and specifically denies that Representative Hastings asked Plaintiff a question regarding her underwear and denies that Ms. Thompson or Mr. Johnson heard such a question. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the sixth sentence, except Defendant denies that Representative Hastings asked Plaintiff the question alleged. Answering the seventh sentence, Defendant denies that Plaintiff complained about "vulgar questioning" and is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the seventh sentence.
30. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph thirty, except that Defendant denies the implication that Representative Hastings' alleged conduct was a sexual advance toward Plaintiff.

31. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of paragraph thirty-one, except Defendant denies that Representative Hastings made sexual advances to Plaintiff.
32. The first sentence of paragraph thirty-two is redundant and duplicative of paragraph twenty-three and, by repeating the same allegation again later in the Complaint, appears intended to give the false impression that the alleged conduct was pervasive. Defendant responds to the first sentence by referring to and incorporating its response to paragraph twenty-three. Responding further, Defendant denies the allegations of paragraph thirty-two, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding whether Plaintiff would often not answer her telephone and her reasons for such behavior.
33. Defendant admits the allegations of the first, third and fourth sentences of paragraph thirty-three, except avers that the Congressional delegation trip began in June 2008. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.
34. Answering the first sentence of paragraph thirty-four, Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff experienced significant stress and anxiety, whether she was fearful, and the bases for any purported stress, anxiety or fear and, on that basis, denies those allegations. Defendant denies the remaining allegations of the first sentence. Answering the second sentence, Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff was upset; Defendant avers that Plaintiff did not express any reluctance to Mr. Turner. Defendant denies the remaining allegations of the

second sentence as stated. Defendant admits the allegations of the third sentence, except denies the implication intended by the use of the word "nevertheless."

35. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the first, second, third and fourth sentences of paragraph thirty-five, except that Defendant denies any implication in the fourth sentence that any alleged greeting by Representative Hastings was inappropriate.

Answering the fifth sentence, Defendant denies the allegation that the greeting was unwelcome. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the fifth sentence.

Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the sixth and seventh sentences. Defendant denies the remaining allegations of paragraph thirty-five.

36. Defendant denies the allegations of the first sentence of paragraph thirty-six. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences. Defendant is without sufficient knowledge or information to form a belief regarding what Plaintiff perceived to have been "made clear" to her, and on that basis denies the allegations of the fourth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the fifth sentence, except that Defendant denies the implication that Representative Hastings engaged in any conduct that would cause a reasonable person to believe that her career was in jeopardy or that she had "no other choice" but to purchase a gift for Representative Hastings.

37. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the allegations of paragraph thirty-seven, except that Defendant denies that Representative Hastings had made "advances."
38. The first sentence of paragraph thirty-eight is redundant and duplicative of paragraphs twenty-three and thirty-two and, by repeating the same allegation over and over again, Plaintiff appears to be intending to give the false impression that the alleged conduct was pervasive. Defendant responds to the first sentence by referring to and incorporating its response to paragraph twenty-three and paragraph thirty-two. Defendant denies the allegations of the second sentence that Representative Hastings made "repeated sexual advances," that he made "continued telephone calls" and that Plaintiff made the request to return to Washington, D.C. during the time period identified in paragraph thirty-eight. Defendant denies the remaining allegations of the second sentence. Defendant denies all allegations of the third sentence, except that Defendant is without sufficient knowledge or information to form a belief as to whether Plaintiff had become fearful, but Defendant denies that she had any reasonable basis for such fear. Answering the fourth sentence, Defendant denies that Plaintiff told Mr. Turner that she wished to return to Washington, D.C. at that time. Defendant admits that Plaintiff stated she felt she was marginalized and prevented from fully performing her duties by State Department officials. Defendant denies any remaining allegations of the fourth sentence. Defendant denies the allegations of the fifth sentence, except Defendant admits that Plaintiff expressed concern about feeling marginalized by State Department personnel (over whom the Commission had no control). Defendant avers that any such marginalization had nothing to do with the actions of the Commission, Mr. Turner, or Representative Hastings, but may have been

partly attributable to Plaintiff's inappropriate, condescending and acerbic comments and statements to others, such as the comment Plaintiff made in writing to a colleague: "I think you are misunderstanding your place with me." Defendant denies the allegations of the sixth sentence, except Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the allegation regarding Plaintiff's "hope." Defendant denies the allegations of the seventh sentence. Defendant avers that when Plaintiff did make her request to return to Washington, D.C., Mr. Turner agreed to the request and asked her to tell him what date she wanted to return.

39. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the first and second sentences of paragraph thirty-nine, except Defendant denies the allegation that Representative Hastings "insist[ed] on hugging" Plaintiff and the implication that there was something inappropriate about the greetings. Defendant denies the allegations of the third and fourth sentences, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether Plaintiff was uncomfortable. Defendant avers that Plaintiff had no reasonable basis for being uncomfortable.

40. Defendant admits the allegations of the first sentence of paragraph forty. Defendant denies the allegations of the second sentence as stated. *See* 22 U.S.C. §3008(b).

41. Defendant admits the allegations of the first sentence of paragraph forty-one, except Defendant denies that Plaintiff had ever agreed to try out the position for any specified period of time. Defendant denies the allegations of the second sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth

of, and on that basis denies, the allegation regarding what Plaintiff purportedly “wanted.” Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the third sentence, except Defendant admits that Mr. Turner had told Plaintiff that he would allow her to return home upon request. Defendant denies the allegations of the fourth and fifth sentences, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff “continued to be concerned” but denies that there was any reasonable basis for such concern. Defendant avers that Plaintiff had expressed concerns about alleged marginalization by State Department officials and refers to its response to paragraph thirty-eight. Defendant further avers that Plaintiff’s contemporaneous writing to Mr. Turner (an email she sent to Mr. Turner on January 29, 2009, in which she stated: “Fred, thanks for your support and friendship. You know, I love you. Winsome”) is inconsistent with the implication of the allegations of the fifth sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegations of the sixth sentence, except Defendant admits that Representative Hastings returned a campaign contribution made to him by Plaintiff and referred the matter to the Federal Election Commission, which found no basis for investigation under the Federal Election Campaign Act.

42. Defendant admits the allegations of the first sentence of paragraph forty-two, except Defendant avers that Representative Hastings, Mr. Turner, and Plaintiff were not the only attendees. Defendant admits the allegations of the second sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether the trip to Sintra occurred on the first day of the

meeting. Answering further, Defendant avers that Plaintiff, Mr. Turner, and Representative Hastings were not the only individuals on the trip to Sintra. Answering the third sentence, Defendant denies that Plaintiff and Mr. Turner immediately separated to look around town on their own; Defendant avers that Plaintiff and Mr. Turner walked around together at first. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and thus denies, the remaining allegations of the third sentence. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the fourth, fifth and sixth sentences, except that Defendant denies any implication that Representative Hastings' alleged statements were of a sexual or romantic nature or that Representative Hastings was "clearly inebriated." Defendant denies the allegations of the seventh sentence, except that Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff was upset. Defendant avers that Plaintiff had no reasonable basis to be upset. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eighth sentence as stated.

43. Defendant denies the allegation in the first sentence of paragraph forty-three that Representative Hastings was "awaiting her arrival." Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of the first sentence. Defendant denies the allegation in the second sentence that Representative Hastings had left the dinner upset. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis

denies, the remaining allegations of the second sentence. Defendant denies the remaining allegations of paragraph forty-three.

44. Defendant denies the allegations of the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, and eleventh sentences of paragraph forty-four. Defendant admits that Plaintiff may have made a statement similar to the one alleged in the tenth sentence (regarding calling her son) and states that it is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation in the tenth sentence that Plaintiff was “nauseous” and “physically weak,” and denies all other allegations of the tenth sentence.
45. Defendant denies the allegations of paragraph forty-five, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and thus denies, the allegation that Plaintiff was “devastated.” Defendant avers that Plaintiff had no reasonable basis to be devastated as alleged in paragraph forty-five.
46. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph forty-six. Defendant avers that its review of Commission records does not indicate that Plaintiff traveled from Vienna to Washington, D.C. in May 2009. Defendant denies the allegation that Representative Hastings engaged in inappropriate conduct as implied by paragraph forty-six or that he threatened Plaintiff’s job (implicitly or otherwise). Defendant avers that Plaintiff had no reasonable basis to feel humiliated, to become upset, to suffer any “emotional distress,” or to become “physically ill” as alleged in paragraph forty-six.
47. Defendant admits the allegations of the first sentence of paragraph forty-seven, except Defendant avers that Plaintiff and Representative Hastings were not the only individuals

attending the meeting in Vilnius, and Defendant further avers that the Vilnius trip began in June 2009 and continued into July 2009. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second, third, fourth, fifth, sixth and seventh sentences, except Defendant denies any implication that the greeting was inappropriate. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eighth sentence, except Defendant denies that any alleged touching was unwelcome or that Plaintiff had any reasonable basis to experience emotional distress based on the alleged touching. Defendant denies the allegations of the ninth and tenth sentences as stated. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the eleventh sentence, except Defendant denies that Representative Hastings engaged in any sexual harassment or that Plaintiff had any reasonable basis to be distressed by any conduct or statements of Representative Hastings.

48. Defendant denies the allegations of the first two clauses of the first sentence of paragraph forty-eight as stated, and denies that Representative Hastings engaged in inappropriate conduct as alleged. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph forty-eight, except Defendant denies the allegations that Representative Hastings engaged in sexual harassment.
49. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph forty-nine, except that Defendant denies that Representative Hastings engaged in sexual advances or retaliation. Defendant

averts that there was no reasonable basis for any fear of retaliation that Plaintiff may have had as alleged in paragraph forty-nine and that the high blood pressure, coronary artery disease, and/or other health problems Plaintiff may have experienced were not caused by any conduct or actions of Defendant, Representative Hastings or Fred Turner.

50. Defendant denies the allegations of the first and second sentences of paragraph fifty.

Defendant admits the allegations of the third sentence, but denies any implication that other Commission staff members also did not have similar duties. Answering the fourth sentence, Defendant states that the phrase “[o]n a number of occasions” is vague and undefined and Defendant is therefore unable to respond to the allegations of the fourth sentence. Answering further, Defendant avers that Plaintiff’s position does not require knowledge of each and every meeting and each and every travel plan of each and every member of the Commission. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegations in the fifth sentence, except that Defendant denies that any action by Mr. Turner was the cause of any reputational harm that Plaintiff may have experienced or any inability to perform her duties. Defendant denies the allegations of the sixth sentence as stated. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in the seventh and eighth sentences. Defendant denies the allegations of the ninth sentence as stated, but Defendant admits that Mr. Turner had supported Plaintiff when she asserted that she was marginalized by the State Department personnel (over whom Defendant has no control) and, as reflected, *inter alia*, by Plaintiff’s January 29, 2009 email to Mr. Turner. See Defendant’s response to paragraph forty-one.

51. Defendant denies the allegations of the first and second sentences of paragraph fifty-one, except Defendant admits that Marlene Kaufmann is the Commission's General Counsel and that Plaintiff and Ms. Kaufmann discussed Plaintiff's allegations in January 2010. Defendant denies the allegations of the third sentence and avers that when Ms. Kaufman and Plaintiff discussed Plaintiff's allegations against Representative Hastings in January 2010, Ms. Kaufman told Plaintiff she would investigate the allegations.
52. Defendant denies the allegations of paragraph fifty-two. Defendant responds by quoting from an email that Plaintiff sent to Mr. Turner on January 21, 2010 stating: "I would like to ask you if you could allow me to return permanently to Washington in the next few months. I need to be in proximity to my US doctors to receive consistent medical treatment." Defendant further responds by quoting from an email Mr. Turner sent to Winsome that same day stating: "Winsome, Hope you're resting comfortably and the long weekend will do you some good. I mentioned to Mr. Hastings that I was going to call you to check-in and when I did, as you saw, he took the phone to chat himself. In any event, Mr. Hastings and I did chat about your circumstances and I will also chat with Chairman Cardin. I don't think there will be any problem with your request to return to Washington permanently. I'll look forward to discussing this with you when you're here next week."
53. Defendant denies the allegations in the first sentence of paragraph fifty-three that Representative Hastings engaged in alleged harassment, that Mr. Turner engaged in alleged retaliation, that Ms. Kaufmann allegedly refused to help, and that her job was threatened. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the remaining allegations of paragraph fifty-three.

Defendant avers that any stress or high blood pressure Plaintiff experienced was not the result of any conduct of the Commission, Representative Hastings, Mr. Turner, or Ms. Kaufmann as alleged in paragraph fifty-three.

54. Answering the first sentence of paragraph fifty-four, Defendant admits that Plaintiff requested to travel to Ukraine to observe the presidential election. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second and third sentences. Defendant admits the fourth sentence.
55. Defendant admits the allegations of the first sentence of paragraph fifty-five, but denies the implication that the safety reasons stated were not the true reasons. Defendant admits the allegations of the second sentence. Defendant denies the allegations of the third sentence, except admits that Plaintiff did speak to Orest Deychakiwsky who is a Commission staff member. Answering the fourth sentence, Defendant admits that Plaintiff told Mr. Deychakiwsky of her allegations that Representative Hastings had engaged in sexual harassment. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that she told him of Mr. Turner's alleged retaliation. Defendant denies that Representative Hastings or Mr. Turner engaged in the conduct alleged and denies the remaining allegations of the fourth sentence. Defendant denies the fifth and sixth sentences as stated. Defendant avers that Plaintiff did speak to Mr. Turner, that Mr. Turner agreed that she could travel to Odessa, and that Mr. Turner said he would handle letting Representative Hastings and Mr. Johnson know. Answering the seventh sentence, Defendant admits that Plaintiff did travel to Odessa, but otherwise denies the allegations as stated. Defendant is without

sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation that Plaintiff experienced stress. Defendant avers that there was no reasonable basis for Plaintiff to experience stress as alleged in paragraph fifty-five.

56. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph fifty-six, except Defendant admits that Plaintiff did send emails to Mr. Turner and Ms. Kaufmann, that Mr. Turner did respond to Plaintiff, that Carol Fuller was the Charge de Affaires for the U.S. Mission to the OSCE, and that Carol Fuller advised Mr. Turner that Plaintiff had allegedly fainted. Defendant denies the allegations of sexual harassment and retaliation in the seventh sentence. Defendant further avers that any medical condition(s) or stress that Plaintiff experienced were not the result of any action by the Commission, Representative Hastings, Mr. Turner or Ms. Kaufmann.

57. Defendant denies the allegations of the first and second sentences of paragraph fifty-seven as stated. Defendant admits that, after Mr. Turner and Representative Hastings learned from Carol Fuller that Plaintiff had allegedly fainted, they were concerned about Plaintiff and, accordingly, Mr. Turner called Plaintiff and both he and Representative Hastings spoke to Plaintiff to advise her of their concern about her health and to tell her to focus on her health and not to worry about work. Defendant is without sufficient information or knowledge to form a belief as to the truth of, and on that basis denies, the allegation in the third sentence that Plaintiff told Mr. Turner she was going to consult with her doctors and Defendant denies the allegation that Plaintiff provided a date certain when she would return to Washington, D.C. Answering further, Defendant avers that, on January 21, 2010, Plaintiff sent an email to Mr. Turner, in which she stated "I would like

to ask you if you could allow me to return permanently to Washington in the next few months.” Answering the fourth sentence, Defendant admits that Mr. Turner agreed that Plaintiff could return, but denies that the July 31, 2010 date was discussed at that time, as Plaintiff had stated only that she wished to return “in the next few months,” which phrase is non-specific and is also inconsistent with a July 31, 2010 return date which is more than five months later. Defendant denies the allegations of the fifth sentence and denies that Plaintiff raised any allegations of harassment during the phone call.

58. The allegations in paragraph fifty-eight are vague as to time and appear to compress several different conversations and meetings. Subject to the foregoing, Defendant responds as follows. Defendant denies the allegations of paragraph fifty-eight as stated. Defendant admits that Mr. Turner and Ms. Kaufmann first became aware that Plaintiff was making allegations of sexual harassment on or about January 2010, that Ms. Kaufmann discussed Plaintiff’s allegations with Plaintiff, including on the phone on January 22, 2010, that Ms. Kaufmann and Mr. Turner discussed Plaintiff’s allegations with Plaintiff on the phone on January 25, 2010, that Ms. Kaufmann discussed Plaintiff’s allegations with Plaintiff again on January 28, 2010, and that Ms. Kaufmann and Mr. Turner met with Plaintiff in Washington, D.C. on February 4, 2010, to discuss her allegations. Defendant further admits that they told Plaintiff that they took her allegations seriously, that they told her that they looked into her allegations, that they told her that -- although Representative Hastings denied ever engaging in inappropriate behavior towards Plaintiff -- that he would have as little interaction with her as possible, and that that they told her she could return to Washington, D.C. Defendant denies that Representative Hastings had made any unwelcome advances.

59. The allegations of paragraph fifty-nine are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant admits the allegations in the first sentence that Plaintiff contacted Mr. Lynch on January 20, 2010, and admits that Mr. Lynch was and is the Chief of Staff for Senator Cardin's personal office. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegation regarding Plaintiff's ability to "trust." Defendant denies the remaining allegations of the first sentence, and denies the implication in the last clause of the first sentence that there was a "harassment problem," the implication that Plaintiff had previously communicated her allegations to Mr. Turner, and the implication that Mr. Turner would not have taken those allegations seriously had Plaintiff previously brought them to his attention. Defendant denies the allegations of the second sentence. Defendant admits the allegations of the third sentence, except denies that Representative Hastings had made advances or engaged in harassing conduct. Defendant denies the remaining allegations of paragraph fifty-nine.

60. The allegations of paragraph sixty are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant denies the allegations of the first sentence of paragraph sixty, except admits that Ms. Kaufmann contacted Plaintiff on January 22, 2010, which was two days after Plaintiff had contacted Chris Lynch. Defendant denies the allegations of the second sentence as stated, except Defendant admits that Ms. Kaufmann contacted Plaintiff to discuss her allegations, that Ms. Kaufmann conveyed this to Plaintiff, and that Ms. Kaufmann gathered information from Plaintiff regarding her allegations. Defendant denies the remaining allegations of paragraph sixty as stated, and Defendant denies that Ms. Kaufmann was accusatory, that Ms. Kaufmann argued with

Plaintiff, or that Ms. Kaufmann was angry. Defendant avers that Ms. Kaufmann and Plaintiff set up a subsequent telephone call to discuss the matter further.

61. The allegations in paragraph sixty-one are vague as to time and appear to compress several different conversations and meetings. Subject to the foregoing, Defendant responds as follows. Defendant states that Ms. Kaufmann, Mr. Turner and Plaintiff had a telephone conversation on January 25, 2010. Defendant denies the remaining allegations of paragraph sixty-one as stated, and refers to and incorporates its response to paragraph fifty-eight. Defendant denies that Representative Hastings had acted inappropriately towards Plaintiff.
62. Some of the allegations of paragraph sixty-two appear to be duplicative of allegations contained in paragraphs fifty-eight, sixty, and sixty-one and Defendant refers to and incorporates its responses to those paragraphs. Answering further, Defendant admits the allegations of the first sentence, except denies the implication that Representative Hastings had engaged in any inappropriate conduct towards Plaintiff. Defendant denies the second sentence as stated. Defendant avers that Plaintiff -- who was then in the process of self-publishing and/or promoting (or would soon be promoting) her book "A Personal Agenda" (which involves allegations of sexual harassment involving an African-American Member of Congress) -- threatened to go to the press with the allegations she was making against Representative Hastings and to file a lawsuit, among other things. Defendant admits that Mr. Turner suggested that the better way would be for her to allow the Commission to handle the matter now that Commission management had been made aware of her allegations. Defendant denies the implication that Mr.

- Turner told Plaintiff not to file a lawsuit or that he suggested that she would be retaliated against if she did so. Defendant denies the remaining allegations of paragraph sixty-two.
63. Defendant responds to paragraph sixty-three by quoting, in its entirety, the February 25, 2010 email Ms. Kaufmann sent to Plaintiff: “Hi Winsome, I hope you had a smooth flight back to Vienna. I just wanted to confirm with you the conversation we had with Fred yesterday afternoon and ensure that we’re all on the same page going forward. Fred described his conversation with Mr. Hastings regarding the issues you had raised and indicated that, while Mr. Hastings said he had a different assessment of the situation, Mr. Hastings is sensitive to your concerns and will proceed accordingly. Fred also indicated that both he and Mr. Hastings are satisfied with your job performance and support your decision to leave Vienna and resume your work full-time in Washington before the end of the year – most likely in July. It is our hope and expectation that if you have any further concerns regarding the matters we discussed, or any other issues, you will contact us immediately.” To the extent Plaintiff’s allegations in paragraph sixty-three are inconsistent with the February 5, 2010 email, the allegations are denied.
64. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of paragraph sixty-four, except Defendant denies that sexual harassment or retaliation occurred or that Mr. Joseph told Mr. Lynch of any such allegations in July 2009. Defendant further avers that Senator Cardin is committed to a harassment-free working environment and denies the implication in the fourth sentence that Senator Cardin would subjugate that commitment as the Complaint implies.

65. Defendant admits the first sentence of paragraph sixty-five. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence, except Defendant denies that there was anything inappropriate about the greeting. Defendant denies the remaining allegations of paragraph sixty-five as stated.
66. The first sentence of paragraph sixty-six is vague and ambiguous and Defendant is incapable of formulating a response. To the extent a response is deemed required, the allegations of the first sentence are denied. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second, third and fourth sentences, except that Defendant denies the allegation that Representative Hastings “demanded” that Plaintiff do anything, and denies that Representative Hastings was attempting to create an impression of intimacy. Defendant denies the first clause of the fifth sentence as stated. Defendant denies the remaining allegations of the fifth sentence. Defendant denies the remaining allegations of paragraph sixty-six, except Defendant states that it is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the final allegation that Plaintiff experienced extreme emotional distress.
67. Defendant admits the allegations of paragraph sixty-seven, except denies the allegation that Representative Hastings engaged in inappropriate behavior.
68. The allegations of paragraph sixty-eight are vague as to time. Subject to the foregoing, Defendant responds as follows. Defendant admits the allegations of the first sentence, except denies that Representative Hastings had engaged in sexual harassment or that Plaintiff initiated contact “the following week.” Defendant avers that Representative

Smith, who is the current Chairman of the Commission, was the ranking Republican member from the House of Representatives during the time period referred to in paragraph sixty-eight. Defendant avers that the contact referred to in the first sentence occurred in January 2010. Answering the second sentence, Defendant denies that Representative Hastings had engaged in harassment or that Plaintiff was suffering retaliation. Defendant otherwise admits the allegations of the second sentence, except avers that Representative Smith's Chief of Staff is Mary McDermott Noonan, and that Plaintiff's purported explanation "in detail" referred to in the second sentence may have occurred in March 2010. Defendant denies the allegations in the final sentence that Ms. Noonan "advised" Plaintiff, as Ms. Noonan made clear that she was not providing legal advice to Plaintiff. Defendant admits that Ms. Noonan and Plaintiff discussed the Office of Compliance. Answering further, Defendant avers that Ms. Noonan told Plaintiff that Representative Smith has zero tolerance for sexual harassment.

69. Defendant denies the allegations of the first sentence of paragraph sixty-nine, except Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, whether Plaintiff contacted the Office of Compliance from Vienna. Plaintiff's statements in the second and third sentences of paragraph sixty-nine violate 2 U.S.C. §1416(a) and should be stricken. *See Taylor v. Office of Rep. John J. Duncan, Jr.*, 2011 WL 826170 at *6 (E.D. Tenn. March 2, 2011). To the extent a response is nonetheless deemed required, Defendant is without sufficient information to form a belief as to the truth of, and thus denies, the remaining allegations of paragraph sixty-nine.

70. Defendant denies the allegations of the first sentence of paragraph seventy. Defendant denies the allegations of the second and third sentences as stated. Defendant denies the allegations in the fourth sentence as stated, and further denies that Plaintiff experienced any adverse consequences or that Mr. Turner threatened her with any adverse consequences. Defendant denies the allegations of the fifth sentence as stated.
71. Defendant denies that there was any retaliatory conduct as alleged in the first and second sentences of paragraph seventy-one. Defendant admits that Plaintiff communicated concerns to Mr. Lynch about Mr. Turner's alleged conduct. Defendant admits the allegations of the second sentence. Defendant admits the allegations of the third sentence that the travel was approved.
72. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations in paragraph seventy-two.
73. Defendant admits the allegations of paragraph seventy-three.
74. Defendant denies the allegations of paragraph seventy-four.
75. Defendant admits the allegations of paragraph seventy-five.
76. Defendant admits the allegations of paragraph seventy-six.

COUNT ONE

77. Defendant hereby refers to and incorporates its responses to paragraphs one through seventy-six above.
78. The allegations of paragraph seventy-eight contain legal conclusions which do not require a response.

79. The allegations of paragraph seventy-nine contain legal conclusions which do not require a response. Defendant does not contest that Plaintiff was an "employee" within the meaning of the CAA.

80. Defendant denies the allegations of paragraph eighty.

81. Defendant denies the allegations of the first sentence of paragraph eighty-one. Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.

82. Defendant denies the allegations of paragraph eighty-two.

COUNT TWO

83. Defendant hereby refers to and incorporates its responses to paragraphs one through eighty-two above.

84. The allegations of paragraph eighty-four contain legal conclusions which do not require a response.

85. Defendant denies the allegations of paragraph eighty-five as stated.

86. Defendant denies the allegations of paragraph eighty-six.

87. Defendant denies the allegations of paragraph eighty-seven.

88. Defendant denies the allegations of the first sentence of paragraph eighty-eight.

Defendant is without sufficient knowledge or information to form a belief as to the truth of, and on that basis denies, the allegations of the second sentence.

89. Defendant denies the allegations of paragraph eighty-nine.

COUNTS THREE AND FOUR

90. -100. Paragraphs ninety through one hundred are claims brought exclusively against Defendants other than the Commission and therefore do not require a response from the

Commission. To the extent a response is deemed required, the allegations in these paragraphs are denied.

REQUESTED RELIEF

1. Defendant denies that Plaintiff is entitled to the judgment requested in paragraph one of the Prayer.
2. Defendant denies that Plaintiff is entitled to the judgment requested in paragraph two of the Prayer.
3. - 5. Paragraphs three, four, and five of the Prayer concern requests for judgment against Defendants other than the answering Defendant and, therefore, do not require a response from the Commission. To the extent a response is deemed required, the allegations in these paragraphs are denied.
6. Defendant denies that Plaintiff is entitled to back pay. Defendant further notes that Plaintiff's employment has not been terminated.
7. Defendant denies that Plaintiff is entitled to compensatory damages.
8. Defendant denies that Plaintiff is entitled to an award of punitive damages.
9. Defendant denies that Plaintiff is entitled to her attorneys' fees and costs.
10. Defendant denies that Plaintiff is entitled to any other relief.

Any and all allegations not heretofore expressly admitted are denied.

AFFIRMATIVE DEFENSES

By pleading the following as Affirmative Defenses, Defendant does not concede that each of the matters covered by the numbered defenses is to be proven by Defendant, and Defendant reserves its position that Plaintiff retains the burden of proof on all matters necessary to establish the claims asserted in the Complaint, including her alleged damages.

FIRST AFFIRMATIVE DEFENSE

The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to exhaust her administrative remedies on one or more allegations in her Complaint and they should be dismissed accordingly.

THIRD AFFIRMATIVE DEFENSE

Some or all of Plaintiff's claims are untimely.

FOURTH AFFIRMATIVE DEFENSE

On information and belief, Plaintiff has failed to mitigate her alleged damages.

FIFTH AFFIRMATIVE DEFENSE

Defendant and its employees acted reasonably and in good faith at all times.

SIXTH AFFIRMATIVE DEFENSE

Defendant took prompt, remedial, and corrective action after Plaintiff complained of alleged sexual harassment.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff cannot establish a prima facie case of sexual harassment or retaliation.

Defendant reserves the right to prepare and to present additional affirmative defenses and to supplement or amend Defendant's Answer.

Respectfully submitted,

By: _____ /s/
Gloria J. Lett D.C. Bar #293365
Ann R. Rogers D.C. Bar # 441622
Russell H. Gore D.C. Bar #449231
Office of House Employment Counsel
1036 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515
(202) [REDACTED]

Attorneys for the Defendant,
The Commission on Security and Cooperation
in Europe

Dated: July 8, 2011

July 22, 2011

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, NW, Suite 1110
Washington, DC 20024

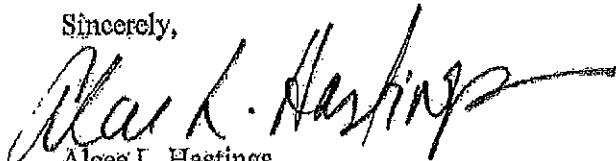
RE: Confidential Preliminary Review No. 11-6736

Dear Mr. Solis:

Pursuant to your request to interview me, I am available on Wednesday, July 27th at 9:30 AM. As you know, my office is located in room 2353 of the Rayburn House Office Building.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Alcee L. Hastings". The signature is written in a cursive style with a long horizontal stroke at the end.

Alcee L. Hastings
Member of Congress

Cc: Omar S. Ashmawy, Staff Director and Chief Counsel, OCE

July 28, 2011

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, NW, Suite 1110
Washington, DC 20024

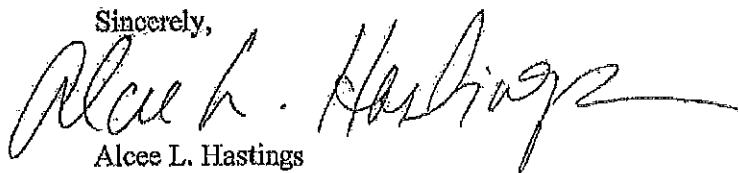
Kedric L. Payne
Deputy Chief Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, NW, Suite 1110
Washington, DC 20024

Dear Mr. Solis and Mr. Payne:

Thank you for your courtesies in the interview yesterday. Expecting that I will be given an opportunity to make a statement to the Board, and in order to prepare should I accept such an offer, I beseech you to provide me with any exculpatory information that you may have discovered during the course of your 89-day investigation. Additionally, I am hopeful that you allow that I have a copy of your report to the Board previous to the time that I may make a statement.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Alcee L. Hastings". The signature is written in black ink and is positioned above the printed name and title.

Alcee L. Hastings
Member of Congress

August 2, 2011

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, NW, Suite 1110
Washington, DC 20024

RE: Confidential Preliminary Review No. 11-6736

Dear Mr. Solis:

I write to inform you that for most of August, I will be out of the country. Also Ms. Lale Mamaux, my designee, will not be available to receive information from your good offices from August 22-26, 2011.

My home fax number in Florida is 954- [REDACTED] I do not use email.

I would appreciate knowing when the Board will meet to receive your report and any statement that I may choose to make. Finally, when you interviewed me, I asked if you had read Ms. Packer's book entitled, "A Personal Agenda." In fairness to me, you and/or your colleagues should read the book, and at the least provide the Board with a review or summary of the book.

Thank you for your consideration.

Sincerely,



Alcee L. Hastings
Member of Congress

Cc: Omar Ashmawy, Staff Director and Chief Counsel
Kedric L. Payne, Deputy Chief Counsel

Board
Porter Goss, Chair *David Skaggs, Co-Chair*
Jay Byrum *Yvonne Burke*
William Frenzel *Karan English*
Abner Mikva *Allison Hayward*

Omar S. Ashmawy, Staff Director & Chief Counsel

oce.house.gov
oce@mail.house.gov

Congress of the United States
House of Representatives
OFFICE OF CONGRESSIONAL ETHICS
Washington, DC 20515

Mailing Address:
P.O. Box 895
Washington, DC 20515-0895

Office Address:
425 3rd Street, SW
Suite 1110
Washington, DC 20024
(202) [REDACTED]
(202) 226-0997 (FAX)

CONFIDENTIAL

August 9, 2011

The Honorable Alcee Hastings
2353 Rayburn HOB
Washington, DC 20515

RE: Rule 4(F) and Release of Report

Dear Representative Hastings:

Thank you for your letters dated July 28, 2011 and August 2, 2011. In those letters, you requested that the Office of Congressional Ethics ("OCE") provide you with "any exculpatory information discovered during the course of [our] 89-day investigation." You also stated that you are "hopeful" that the OCE provides you with a copy of a staff report to the OCE Board prior to a statement you may make to the Board.

Rule 4(F) of the OCE Rules for the Conduct of Investigations ("OCE Rules") states that "Staff shall promptly provide to a subject any exculpatory information received." Should staff receive and become aware of exculpatory information, you will be promptly provided such information as is required under the OCE Rules.

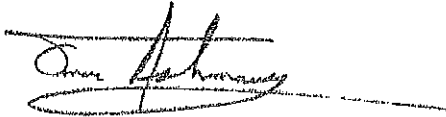
Concerning your request to receive a report prior to a statement to the Board, the OCE understands your request to be in reference to the staff report discussed in OCE Rule 8(D). Under H. Res. 895 of the 110th Congress, as amended (the "Resolution"), the Board is not permitted to provide this staff report to you. See Resolution §§ 1(c)(2)(C)(ii), 1(f)(1)(B).

You also requested the date of the OCE Board's next scheduled meeting. You will receive a formal written invitation to present a statement to the Board at its next meeting approximately two weeks before the date of the meeting. That next meeting is currently scheduled for Tuesday, September 27, 2011. Although unlikely, please note that date is subject to change.

Rep. Hastings
August 9, 2011
Page 2 of 2

If you have any questions please contact Paul Solis, Investigative Counsel, at (202) [REDACTED]

Respectfully,

A handwritten signature in black ink, appearing to read "Omar S. Ashmawy", written over a horizontal line.

Omar S. Ashmawy
Staff Director and Chief Counsel

Board
Porter Gross, Chair *David Skaggs, Co-Chair*
Jay Eagen *Yvonne Burke*
William Frenzel *Karan English*
Abner Mikva *Allison Hayward*
Omar S. Ashunavey, Staff Director & Chief Counsel

oce.house.gov
oce@mail.house.gov

Congress of the United States
House of Representatives
OFFICE OF CONGRESSIONAL ETHICS
Washington, DC 20515

Mailing Address:
P.O. Box 895
Washington, DC 20515-0895

Office Address:
425 3rd Street, SW
Suite 1110
Washington, DC 20024

(202) [REDACTED]
(202) 226-0997 (FAX)

CONFIDENTIAL

September 13, 2011

Honorable Alcee L. Hastings
2353 Rayburn HOB
Washington, DC 20515

Re: Review No. 11-6736

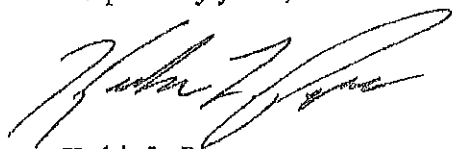
Dear Representative Hastings:

Pursuant to Section 1(f)(3) of House Resolution 895 of the 110th Congress, as amended, (the "Resolution") and Office of Congressional Ethics Rule 9(B), you are entitled to address the Board of the Office of Congressional Ethics before the Board votes on a recommendation to be transmitted to the Committee on Ethics.

The Board's next meeting will occur on September 27, 2011. The agenda for that meeting includes voting on a recommendation to be transmitted to the Committee on Ethics in the above-referenced matter. The Board members have reserved time in the morning for you to address them, if you choose to do so, prior to any voting in this matter. Under the Resolution you may also submit a written statement. Any statement, oral or written, must be given under the provisions of 18 U.S.C. § 1001 (popularly known as the False Statement Act).

If you would like to address the Board on September 27, 2011, please contact Paul Solis, Investigative Counsel, by September 23, 2011 to schedule your appearance. Alternatively, if you decide to provide a written statement, please do so by September 23, 2011, so that it may be included in the materials presented to the Board at its meeting on September 27, 2011. Thank you for your assistance and cooperation.

Respectfully yours,



Kedric L. Payne
Deputy Chief Counsel

September 23, 2011

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, NW, Suite 110
Washington, DC 20024

RE: Confidential Review No. 11-6736

Dear Mr. Solis:

In response to the letter I received from Kedric L. Payne, Deputy Chief Counsel, Office of Congressional Ethics ("OCE"), dated September 13, 2011, and pursuant to Section 1(f)(3) of House Resolution 895 of the 110th Congress, I hereby submit the following written statement to the Board of OCE (the "Board") in connection with the second-phase review it has been conducting in the above-referenced matter.

Let me begin by expressing how deeply troubled I am by the charges that now are the subject of OCE's review. Not only are the allegations distasteful, but they also offend any sense of honor and fair play. I have spent a lifetime championing civil rights, and nothing could be more disheartening than now to be accused of violating the very protections that I have fought to obtain for others and hold so dear. I have stated it many times, but let me again reiterate it here: Ms. Winsome Packer's allegations that I sexually harassed her are absolutely false. I never have had a romantic or sexual interest in Ms. Packer, nor ever expressed or otherwise intimated that I had any such interest in her; and her suggestions to the contrary are, to be blunt, fictitious.

Indeed, disinterested parties who have reviewed Ms. Packer's allegations and had occasion to test her accusations have concluded that her claims lack merit. For example, as you know, the Office of House Employment Counsel ("OHEC") investigated Ms. Packer's charges and concluded that Ms. Packer never experienced sexual harassment nor retaliation by the Commission, Mr. Turner, or me. (*See* Letter from Kerry Kircher and Gloria Lett ("Kircher/Lett Letter") to Tony West, Assistant Attorney General, Civil Division, U.S. Dep't of Justice, February 15, 2011, attached hereto as Exhibit A.) In August 2010, Ms. Packer filed a request for counseling with the Office of Compliance in connection with her allegations of sexual harassment and retaliation involving the Commission, Mr. Turner and me. Following the counseling period, in September 2010, Ms. Packer requested mediation. In connection with its representation of the Commission during the mediation process, OHEC interviewed Mr. Turner, other relevant witnesses and me, and reviewed documents related to Ms. Packer's claims. OHEC concluded that Ms. Packer had "grossly distort[ed] the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation." (*See* Kircher/Lett Letter, p.7.)

Indeed, as I hope you now appreciate given your review of the allegations, Ms. Packer's claims are absolutely spurious. Most of her allegations are complete fabrications created from whole cloth. In other instances, she twists the truth so incredibly that the facts, as presented, are

CONFIDENTIAL TREATMENT REQUESTED

nearly unrecognizable. For example, she insists that "cheek-to-cheek" greetings or hugs that, frankly, I have shared with many people, including other staff members, constituents and friends, amount to expressions of sexual interest. Nothing could be further from the truth. She also has suggested that I have singled her out for special gifts and treatment. Again, not true. As your interviews undoubtedly have uncovered, I often give staff and friends small gifts from my travels as a friendly gesture and token of my appreciation. Never are those tokens intended as a sexual overture, and, in the decades that I have maintained the practice, never have they be interpreted as such. Ms. Packer even complained about a wide-armed pose that I and others often strike for pictures, suggesting that it was an intimate event between her and me. This charge, perhaps more than any other, illustrates the absurdity of Ms. Packer's claims. In truth, the "signature" pose has become my trademark, which I started using many years ago following my late mother's advice that I do something that distinguished me. I have been photographed hundreds, if not thousands, of times, striking the same pose with countless men, women, and children. Indeed, as you have observed, my office is riddled with pictures of me and others striking the same, innocent position -- including pictures with staff, who are known to hop into the position just for fun. To intimate that the gesture is sexual in nature or unique to Ms. Packer is ludicrous and against the substantial weight of evidence to the contrary.

Others have questioned, as I do, Ms. Packer's motivation in lodging these baseless allegations given her self-published book titled "A Personal Agenda," which she has stated was "inspired by her own experiences," and which "examines racial tensions, corruption and sexual harassment in Congress." (See <http://www.mmdnewswire.com/winsome-packer-8783.html>.) In fact, when interviewed on *Smile Jamaica*, Ms. Packer stated that her book required a lot of marketing and that she hoped it would provide her with the financial flexibility to retire in Jamaica. (See televisionjamaica.com/vd-1000-WINSOMEPACKER.aspx and televisionjamaica.com/vd-1303-PROFILE-WINSOMEAPACKER.aspx.) Ms. Packer's false allegations surely have generated the media attention that she desired and spurred book sales.

In closing, I would like to remind the Board that I have cooperated fully with OCE as it conducts its investigation -- producing documents and agreeing to an extensive in-person interview, even though OCE's investigation has undermined my ability to defend myself properly in the civil lawsuit that Ms. Packer filed against the U.S. Commission on Security and Cooperation in Europe ("Commission"), Fred Turner (the current Deputy Chief of Staff at the Commission), and me when she did not get the relief she desired in the administrative forum. (See Complaint No. 1:11-cv-00485, D.D.C.) While I expect that the court will dismiss Ms. Packer's baseless claims against me, the Board's parallel investigation unfairly jeopardizes my position in that matter, as my litigation counsel described in correspondence to you dated May 13, 2011. (See Letter from Tonya Robinson to Paul J. Solis, Investigative Counsel, Office of Congressional Ethics, May 13, 2011, attached hereto as Exhibit A.) Currently, the court has under review Mr. Turner's and my separate motions to dismiss the action, which, as you know, means that I am under no obligation in that context to answer the plaintiff's baseless accusations until the court rules on my motion. The Federal Rules of Civil Procedure quite sensibly guard against exposing defendants to the rigors of federal litigation, including the need to respond to the complaint and discovery obligations, until after a plaintiff's claims have been screened and their merits assessed. The OCE process has no such screen and effectively robs me of the protections afforded in the civil action: I have been put in the untenable position of being forced to respond on the record in this investigation or be subjected to a negative inference (see OCE

CONFIDENTIAL TREATMENT REQUESTED

Rule 6) that may result in an unfavorable finding against me by the OCE. Moreover, OCE's investigation into Ms. Packer's charges, which I understand you believe you are authorized and duty-bound to conduct, has resulted in substantial media attention, including hundreds of news stories. As I hope you can appreciate, that unwanted publicity is a difficult pill to swallow where the investigation ostensibly is confidential and where the OCE essentially is reviewing allegations that other credible offices within the U.S. Congress and U.S. Department of Justice already have evaluated. Despite the damage to my reputation and the potentially prejudicial impact on the pending litigation, I have cooperated fully with OCE because I have nothing to hide and am hopeful that full disclosure on my part will lead the Board to a finding that the plaintiff's allegations are unfounded.

Please do not hesitate to contact me if you have further questions or need clarification. Thank you for your consideration.

My signature below represents my acknowledgement that I understand that 18 U.S.C. § 1001 (False Statement Act) applies to this written statement.

Sincerely,



Alcee L. Hastings
Member of Congress

CONFIDENTIAL TREATMENT REQUESTED

KERRY W. KIRCHER
GENERAL COUNSEL

JOHN D. FILAMOR
SENIOR ASSISTANT COUNSEL

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE GENERAL COUNSEL
219 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6532
(202) [REDACTED]
FAX: (202) 226-1360

CHRISTINE DAVENPORT
SENIOR ASSISTANT COUNSEL

KATHERINE E. MCCARRON
ASSISTANT COUNSEL

WILLIAM B. FITTARD
ASSISTANT COUNSEL

PRIVILEGED AND CONFIDENTIAL

February 15, 2011

BY FEDERAL EXPRESS

The Honorable Tony West, Assistant Attorney General
Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: *Winsome Packer v. The United States Commission on Security
and Cooperation in Europe, et al.*, No. ____ (D.D.C.)

Dear Mr. West:

Pursuant to 28 C.F.R. §§ 50.15, 50.16, we write to request that the Department of Justice provide representation to, or authorize representation by private counsel for, the Honorable Alcee L. Hastings, U.S. Representative for the 23rd congressional district of Florida – and also Co-Chairman of the United States Commission on Security and Cooperation in Europe (“Helsinki Commission”) during the 111th Congress – and Fred L. Turner, Chief of Staff to the Helsinki Commission.¹

Congressman Hastings and Mr. Turner have been identified as putative individual-capacity defendants in two counts of a draft Complaint prepared by attorneys for Winsome Packer, a Policy Advisor to the Helsinki Commission. See Draft Complaint for Declaratory and Monetary Relief and Jury Demand (Jan. __, 2011) (Counts Three and Four), attached as Exhibit 1. Count Three alleges sexual harassment in violation of the Fifth Amendment as against Congressman Hastings, *id.* ¶¶ 90-94, and Count Four alleges

¹ The Helsinki Commission is an independent government entity, created by statute enacted in 1976, which consists of nine Members of the House of Representatives, nine Members of the Senate, and three representatives of the executive branch. See 22 U.S.C. § 3003(a), *et seq.* It is responsible for, among other things, monitoring the activities of the signatories to, and encouraging their compliance with, the Final Act of the Conference on Security and Cooperation in Europe, 22 U.S.C. § 3002, and reporting to Congress on matters covered by the statute. *Id.* § 3006.

Tony West, Assistant Attorney General
February 15, 2011
Page 2

retaliation in violation of the First and Fifth Amendments as against the Congressman and Mr. Turner. *Id.* ¶¶ 95-100. The draft Complaint purports to seek compensatory damages in an amount not less than \$300,000, and punitive damages in an amount not less than \$1,000,000. *Id.* at 33.

For the reasons set forth below, we believe Congressman Hastings and Mr. Turner were acting within the scope of their employment at all pertinent times and that the provision of representation is in the interest of the United States, within the meaning of 28 C.F.R. § 50.15(a)(1), (2). Accordingly, we recommend that representation be provided.

We understand that the Complaint, at present, is only in draft form, and that the Department cannot make a final determination until a complaint is actually filed with the district court. However, we expect that a complaint will in fact be filed within the next several weeks in substantially the form in which it now appears, and we will promptly advise you when that happens. Pending that occurrence, we urge the Department to begin the review process now so that a final determination as to representation can be made as quickly as possible.

PROCEDURAL BACKGROUND

The Congressional Accountability Act

In 1995, Congress enacted the Congressional Accountability Act, 2 U.S.C. §§ 1301, *et seq.* ("CAA"), a comprehensive remedial and procedural statute which makes Title VII and eleven other labor and employment laws applicable to the legislative branch. *Id.* § 1302(a); 42 U.S.C. § 2000ff-6(c). Under the CAA, a "covered employee" may – after exhausting specified counseling and mediation requirements – proceed against her "employing office" for violations of the applicable law(s), either in federal district court or in an administrative proceeding before the Office of Compliance. 2 U.S.C. § 1404. The Office of Compliance is an independent office within the legislative branch that performs a variety of functions under the CAA. *Id.* § 1381.

Cases initiated under the CAA proceed against the "employing office," not against an individual Member or legislative branch employee. *Id.* §§ 1301(9), 1405(a), 1408(b). The CAA created the concept of an "employing office" to mirror the fact that Congressional offices operate as separate employers in practice and for the purpose of shielding Members and legislative branch employees from personal monetary liability. See H.R. Rep. No. 103-650, pt. 2, at 8, 15, 24 (1994).

Office of Compliance Proceedings

In August 2010, pursuant to § 1402(a) of the CAA, Ms. Packer filed a request for counseling with the Office of Compliance, asserting claims of sexual harassment and retaliation against the Helsinki Commission. See Draft Complaint ¶ 74. The counseling period ends after 30 days, 2 U.S.C. § 1402(b), which, in this case, was on September 8, 2010. Draft Complaint ¶ 75. Ms. Packer then requested mediation pursuant to § 1403 of the CAA. The mediation period also ends after 30 days, 2 U.S.C. § 1403(e).² In this case, because the parties jointly requested several extensions, the mediation period ended on December 8, 2010. Draft Complaint ¶ 76. Ms. Packer has 90 days from the date on which she received notice of the end of the mediation period, or until approximately March 8, 2011,³ to elect to proceed against the Helsinki Commission, in federal district court or before the Office of Compliance, *id.* § 1404, if she wishes to assert a claim(s) under the CAA.⁴

THE DRAFT COMPLAINT

The Draft Complaint indicates that Ms. Packer *does* intend to assert CAA claims against the Helsinki Commission. See Draft Complaint ¶¶ 77-82 (Count One – discrimination on basis of sex in violation of CAA as against Commission), ¶¶ 73-89 (Count Two – retaliation in violation of CAA as against Commission). However, the question of whether the CAA even applies to Ms. Packer and/or the Helsinki Commission is unsettled. Compare 2 U.S.C. § 1301(3), (9) with 22 U.S.C. § 3008(d). Ms. Packer's

² Information regarding statements and representations made during Office of Compliance mediation sessions is provided solely for the purpose of providing the Department of Justice with necessary background information. The CAA mandates that all such information is "strictly confidential." 2 U.S.C. § 1416. Accordingly, this information is provided under the "common interest" privilege and its confidentiality must be maintained.

³ At present, we do not know the exact date Ms. Packer received the notice; accordingly the deadline for filing may be slightly earlier or later than March 8, 2011.

⁴ At the mediation, the Commission asserted that Ms. Packer was not a "covered employee" under 2 U.S.C. § 1301(3) and that the Commission was not an "employing office" under 2 U.S.C. § 1301(9). However, because the statute authorizing the Commission, 22 U.S.C. § 3008(d), creates some ambiguity regarding how the CAA definition of a "covered employee" applies in the context of a claim brought against the Commission, and because the mediation was an opportunity to assess Ms. Packer's allegations and ascertain whether a negotiated resolution was possible, the Commission voluntarily participated in the mediation.

attorneys were made aware of this uncertainty at the mediation sessions, and we suspect it is for that reason that they plan to assert constitutional tort claims against Congressman Hastings and Mr. Turner in Counts Three and Four.

According to the Draft Complaint, Congressman Hastings offered Ms. Packer a position at the Commission in April 2007, and she has worked as a Policy Advisor for the Commission since May 7, 2007. Draft Complaint ¶¶ 13, 14.⁵ Within a year of her hire, Ms. Packer was appointed to be the Commission's representative to the U.S. Mission to the Organization for Security and Cooperation in Europe ("OSCE") in Vienna, Austria. *Id.* ¶ 15. Ms. Packer moved to Vienna on February 15, 2008, *id.* ¶ 19, and remained there until July 31, 2010, when she returned to Washington, D.C. to resume her duties as a Policy Advisor to the Commission. *Id.* ¶ 73. As a Policy Advisor, Ms. Packer's annual salary was \$80,000. While serving in Vienna, Ms. Packer's annual income was \$165,000. *Id.* ¶ 19.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer's sexual harassment and retaliation claims against Congressman Hastings. We have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

In and Around Washington, D.C. – Hastings

- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 16, 18.
- Congressman Hastings allegedly said he would come to Ms. Packer's home in Alexandria, Virginia to "check up on her." *Id.* ¶ 18.
- Congressman Hastings allegedly called Ms. Packer in Vienna frequently. According to Ms. Packer, these calls were "under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other." *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman allegedly hugged Ms. Packer on occasion when greeting her. *Id.* ¶¶ 39, 46.

⁵ Notwithstanding the implication that Congressman Hastings hired Ms. Packer himself, the statute provides that all Commission hiring decisions are made by a majority vote of a four-person Personnel Committee consisting of the Chair, the Co-Chair and the ranking minority Members from the House and Senate. *See* 22 U.S.C. § 3008(a), (b). In 2007, Congressman Hastings was the Chairman of the Commission.

Europe – Hastings

- Congressman Hastings gave Ms. Packer a music box from the Czech Republic as a gift in front of work colleagues. *Id.* ¶ 20.
- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 21, 30.
- Congressman Hastings allegedly frequently called Ms. Packer. According to Ms. Packer, these calls were “under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other.” *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman hugged Ms. Packer. *Id.* ¶ 25 (Vienna at a meeting), ¶ 28 (Vienna), ¶ 35 (Kazakhstan in delegation hospitality room), ¶ 47 (Vilnius, Lithuania), ¶¶ 65-66 (Vienna).
- Congressman Hastings allegedly made sexual comments to and around Ms. Packer. *Id.* ¶¶ 26-27, 29.
- Congressman Hastings allegedly linked Ms. Packer’s career progress to a personal relationship with him. *Id.* ¶¶ 35, 38, 42-44.
- Congressman Hastings allegedly complained to Ms. Packer that “she was not ‘a sport’ because she knew that he ‘liked’ her and that he had helped her professionally . . . [and] explained to her that he had ‘come to [her] as a man does to a woman.’” *Id.* ¶ 43.
- Congressman Hastings allegedly asked Ms. Packer if she would like to come to his hotel room when they were attending a Parliamentary Assembly Bureau meeting in Lisbon, Portugal. *Id.* ¶ 44.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer’s retaliation claim against Mr. Turner. Again, we have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

In and Around Washington, D.C. – Turner

- Mr. Turner allegedly “refused to take any action to protect her.” *Id.* ¶ 38.
- Mr. Turner allegedly denied Ms. Packer’s request to return to Washington, D.C. after she had worked overseas for one year. *Id.* ¶ 41.
- Mr. Turner allegedly assigned work from Ms. Packer’s portfolio to her colleagues and withheld from her important information that was pertinent to the performance of her job duties. *Id.* ¶ 50.
- In response to Ms. Packer’s request to return to Washington, D.C., Mr. Turner allegedly informed her “that Mr. Hastings would be coming to Vienna in February 2010 and would speak to her at that time about her future.” *Id.* ¶ 52.
- When Ms. Packer submitted travel requests for meetings, Mr. Turner allegedly responded that “she would have to work very hard to convince Senator Cardin [then Commission Chairman] that she should be able to travel since she had decided to return to Washington, D.C. in July.” *Id.* ¶ 70.

Europe – Turner

- Mr. Turner allegedly told Ms. Packer there was nothing he could do about Congressman Hastings’ alleged inappropriate conduct. *Id.* ¶ 45.⁶

THE FACTS AS HOUSE EMPLOYMENT COUNSEL UNDERSTANDS THEM

In preparing to participate in the Office of Compliance mediation process on behalf of the Helsinki Commission, the Office of House Employment Counsel (“OHEC”) investigated the substantive allegations Ms. Packer presented at that time.⁷ Among other things, OHEC interviewed Congressman Hastings, Mr. Turner and several other individuals. OHEC also reviewed relevant emails and other documents provided by the

⁶ There are a number of allegations in the Draft Complaint that run contrary to Ms. Packer’s claim that Congressman Hastings and Mr. Turner retaliated against her. *See, e.g.*, Draft Complaint ¶¶ 15, 22, 38, 44, 57, 58, 61-63.

⁷ As part of the mediation process, Ms. Packer, through her first attorney, submitted a narrative that detailed her factual allegations. OHEC’s investigation was based on this narrative. After the first mediation session, Ms. Packer retained new counsel and the Draft Complaint was prepared by this new counsel. The allegations in the Draft Complaint are substantially similar, although not identical, to the allegations in the initial narrative.

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Commission. The information OHEC has reviewed to date supports the conclusion that Ms. Packer did not experience conduct that rises to the level of sexual harassment or retaliation under applicable federal law. Furthermore, a number of Ms. Packer's substantive allegations have been strongly refuted by some of the very individuals she identified as witnesses to the alleged harassment and/or retaliation. OHEC's interviews and document review have not yielded any indication of a personal relationship between Ms. Packer and Congressman Hastings, nor has OHEC's investigation resulted in the identification of any witness who corroborates Ms. Packer's substantive allegations that she experienced legally-actionable harassing or retaliatory conduct. In short, OHEC is not aware of any readily available information which indicates that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings and/or Mr. Turner have been untruthful in their denial of the allegations.

It is important to note that many of the underlying allegations regarding events, trips, dinners, etc., are factually accurate and it does appear that Ms. Packer did make statements to others while in Vienna about what she claimed was inappropriate conduct on the part of Congressman Hastings. Ms. Packer also makes a number of assertions that are factually accurate, but are taken out of context. For instance, Congressman Hastings readily admits that he hugged Ms. Packer. Individuals OHEC interviewed confirmed this, but also that Congressman Hastings hugs most everyone. Similarly, Congressman Hastings did give a music box as a gift to Ms. Packer; however, Congressman Hastings and the witnesses OHEC spoke with stated that Congressman Hastings regularly bought gifts for his staff - male and female. OHEC's investigation shows that while some of Ms. Packer's allegations begin with a kernel of truth, when looked at in context, Ms. Packer grossly distorts the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation. Based on OHEC's review to date, we do not believe that Ms. Packer experienced sexual harassment. See *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993) (in order to establish a prima facie case of a hostile work environment, a plaintiff must produce evidence that "the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter conditions of the victim's employment and create an abusive working environment").

Rather, OHEC's interviews and review of documents indicate that Ms. Packer's view of reality is skewed. Indeed, there are communications over the course of Ms. Packer's employment with the Helsinki Commission that contradict a number of her allegations and clearly indicate that she has difficulty developing and maintaining productive and cooperative relationships with colleagues and superiors. Given the diplomatic element of the Commission's purpose and Ms. Packer's role in advancing that purpose, it is little wonder that her inability to foster cooperative relationships has been an ongoing issue.

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OHEC's view of the falsity of Ms. Packer's substantive allegations, as discussed above, is strongly influenced by OHEC's assessment of Ms. Packer's true motivation. Her self-serving and distorted interpretation of events and conversations during her tenure with the Commission can be best summed up in the title of her recently self-published novel: *A Personal Agenda*. Indeed, it appears that Ms. Packer began publicizing her book in June 2010, shortly before she initiated proceedings against the Commission under the C.A.A. Furthermore, in a press release she appears to have written at the time, Ms. Packer states that her book was "inspired by her own experiences" and "seeks to provoke its readers by examining . . . sexual harassment in Congress."⁸ Furthermore, in two recent television interviews available on the Internet, Ms. Packer acknowledges that she is working aggressively to seek publicity to promote her novel.⁹

OHEC also believes that Congressman Hastings and Mr. Turner are the subject of Ms. Packer's claims in large part because of their respective official positions as her superiors, *i.e.*, the Congressman as Chairman and Co-Chairman of the Commission (during the 110th and 111th Congresses, respectively), and Mr. Turner as Ms. Packer's immediate supervisor.

DISCUSSION

Scope of Employment

Because 28 C.F.R. § 50.15(a) does not define the elements of an employee's scope of employment, we look by analogy to the scope certification conducted under the Federal Tort Claims Act ("FTCA"), as amended by the Westfall Act, 28 U.S.C. §§ 2671 *et seq.* In the FTCA context, the question of whether a federal officer is acting within the scope of his employment is determined by the law of the state where the alleged tort occurred. 28 U.S.C. § 1346(b)(1); *Williams v. United States*, 350 U.S. 857, 857 (1955); *Haddon v. United States*, 68 F.3d 1420, 1423 (D.C. Cir. 1995). In this case, the alleged tortious conduct of Congressman Hastings and Mr. Turner occurred in Washington, D.C. and Europe. Since the FTCA does not apply to claims arising in a foreign country, 28 U.S.C. § 2680(k), we look to the law of the District of Columbia.¹⁰

⁸ A copy of this June 2010 press release can be found at <http://www.mmdnewswire.com/winsome-packer-8783.html>.

⁹ These interviews are available at <http://televisionjamaica.com/vd-1000-WINSOMEPACKER.aspx> and <http://televisionjamaica.com/vd-1303-PROFILE-WinsomeAPacker.aspx>.

¹⁰ For purposes of this letter of recommendation, we assume that actions of Congressman Hastings and Mr. Turner that allegedly occurred abroad may be considered for purposes of determining whether they acted within the scope of their employment.

According to District of Columbia law, an individual is acting within the scope of his employment if the conduct: (1) is of a kind he is employed to perform; (2) occurs substantially within authorized time and space limits; and (3) is actuated, at least in part, by a purpose to serve the master. *Haddon*, 68 F.3d at 1423-24 (citing Restatement (Second) of Agency § 228). The District takes a very broad view of "the scope of employment." See, e.g., *Lyon v. Carey*, 533 F.2d 649, 654 (D.C. Cir. 1976); *Johnson v. Weinberg*, 434 A.2d 404, 408-09 (D.C. 1981).

A. Congressman Hastings

Nature of Activities. The official duties of Members of Congress include an extremely broad range of legislative and representational activities, and plainly include activities such as service on official governmental entities such as the Helsinki Commission. See, e.g., *U.S. v. Brewster*, 408 U.S. 501, 512 (1972); *U.S. v. Rostenkowski*, 59 F.3d 1291, 1309-12 (D.C. Cir. 1995). It is clear, under the statute, that Members of Congress are appointed to the Commission because they are Members of Congress, and that they serve in that capacity. See 22 U.S.C. § 3003.

Time/Place. The Draft Complaint suggests that all, or virtually all, of the activities in which Congressman Hastings is alleged to have engaged occurred at or during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chair or Co-Chair of the Commission. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Leaving aside the many self-serving characterizations that populate the Draft Complaint, it is transparently clear that Congressman Hastings's many interactions with Ms. Packer, as described in the Complaint, were motivated at least in part by a desire to carry out his official and supervisory responsibilities as Chair or Co-Chair of the Commission. And so long as at least one purpose of Congressman Hastings's activities was official in nature, the courts – quite appropriately – have refused to try to determine whether there may have been other motivations or even a "predominant" motive. See, e.g., *Council on Am. Islamic Relations, Inc. v. Ballenger*, 366 F. Supp. 2d 31-32 (D.D.C. 2005), *aff'd*, 444 F.3d 659 (D.C. Cir. 2006); *Operation Rescue Nat'l v. U.S.*, 975 F. Supp. 92, 107 (D. Mass 1997), *aff'd*, 147 F.3d 68 (1st Cir. 1998).

In the *Operation Rescue* case, for example, Senator Kennedy, in the course of speaking to the press after participating in an event to raise funds for an upcoming re-election campaign, stated that certain legislation was needed because "we have a national organization like Operation Rescue that has as a matter of national policy firebombing and even murder." 975 F. Supp. at 94-95. Senator Kennedy, who was then

sued for defamation by Operation Rescue, took the position that he was acting within the scope of his employment when he uttered those remarks. The district court held that, even if Senator Kennedy were motivated in part by a personal desire to advance his re-election prospects, it was not appropriate for the court, in making the scope of employment determination, to attempt to determine a "predominant" motive for an elected official's remarks. "In our electoral system . . . such public and personal motives are essentially inseparable because it is natural for public officials to believe that their own success . . . [is] inextricably linked to the public interest." *Id.* at 95. Rather, the court said, only when an official acts from "purely personal motives that were in no way connected to his official duties" would the official be held to have acted outside the scope of his employment. *Id.* See also W. Prosser & W. Keeton, *Torts* 506 (5th ed. 1984) (only if an employee "acts from purely personal motives in no way connected with the employer's interests, [is he] considered in the ordinary case to have departed from his employment.").

Absence of Bad Faith. As described above, as a result of OHEC's factual investigation, we are not aware of any readily available information to indicate that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Congressman Hastings was acting within the scope of his official responsibilities.

B. Fred Turner

Nature of Activities. Mr. Turner's responsibilities as Commission Chief of Staff include managing the day-to-day operations of the Commission, and directing and supervising a staff of approximately 18 employees in the areas of public policy, media affairs, correspondence, scheduling, and communications. The allegations in the Draft Complaint leave little doubt that Mr. Turner was acting in his official capacity as Commission Chief of Staff at the time of his various interactions with Ms. Packer.

Time/Place. The Draft Complaint suggests that most of the activities in which Mr. Turner is alleged to have engaged occurred while he was working in the Commission's offices in Washington, D.C., during normal business hours, and that the balance occurred during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chief of Staff. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Once again leaving aside the many self-serving characterizations that populate the Draft Complaint, it is abundantly clear that Mr. Turner's interactions with Ms. Packer, as described in the Draft Complaint, were

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certainly motivated at least in part by a desire to carry out his official responsibilities as Chief of Staff. *See supra* at 8.

Absence of Bad Faith. As described above, as a result of OHEC's factual investigation, we are not aware of any readily available information to indicate that the claim for retaliation has any merit, or that Mr. Turner has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Mr. Turner was acting within the scope of his official responsibilities.

The Interests of the United States

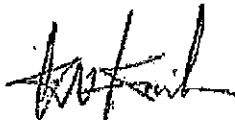
For the reasons described more fully above in the section entitled "The Facts as House Employment Counsel Understands Them," we believe it is in the interest of the United States that the Department provide representation to Congressman Hastings and Mr. Turner in their individual capacities in this matter.

CONCLUSION

For all the foregoing reasons, we respectfully request that the Department determine that Congressman Hastings and Mr. Turner were acting within the scope of their employment at all relevant times, and that it is in the interest of the United States to provide representation to them in this action.

Thank you for your attention. We look forward to hearing from you, and please contact us if there is anything further we can do to assist in this matter.

Sincerely,



Kerry W. Kircher
General Counsel
202-██████████ (phone)



Gloria Lett
House Employment Counsel
202-██████████ (phone)

Attachment

cc: Timothy P. Garren, Director
Torts Branch, Civil Division
U.S. Department of Justice

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WINSOME PACKER,
[REDACTED]

Plaintiff,

v.

THE UNITED STATES
COMMISSION ON SECURITY
AND COOPERATION IN EUROPE
234 Ford House Office Building
Washington, DC 20515

and

ALCEE L. HASTINGS
[REDACTED]

and

FRED TURNER
[REDACTED]

Defendants.

Case: 1:11-cv-00485
Assigned To : Collyer, Rosemary M.
Assign. Date : 3/7/2011
Description: Employment discrimination

COMPLAINT FOR DECLARATORY
AND MONETARY RELIEF AND JURY DEMAND

Preliminary Statement

1. This is a civil action against the United States Commission on Security and Cooperation in Europe ("the Commission"), U.S. Representative Alcee L. Hastings, and Fred Turner for declaratory and equitable relief and monetary damages for injuries plaintiff Winsome

Packer has sustained as a result of Mr. Hastings's sexual harassment of her and the subsequent retaliation against her for complaining about the unlawful harassment, in violation of the Section 201 and 207 of the Congressional Accountability Act, 2 U.S.C. §1311, *et seq.* and the First and Fifth Amendments of the Constitution of the United States.

2. For over two years, from January 2008 through February 19, 2010, Ms. Packer was forced to endure unwelcome sexual advances, crude sexual comments, and unwelcome touching by Mr. Hastings while serving as the Representative of the Commission to the United States Mission to the Organization for Security and Cooperation in Europe. Although Ms. Packer repeatedly rejected Mr. Hastings' sexual attention and repeatedly complained about the harassment to the Commission Staff Director, Fred Turner, Mr. Hastings refused to stop sexually harassing her. Rather, Mr. Hastings and Mr. Turner began to retaliate against Ms. Packer—including making threats of termination—because she continued to object to Mr. Hastings' conduct. Ms. Packer was particularly vulnerable to such threats because she was a Republican working for the Democratically-controlled Commission, a point that both Mr. Hastings and Mr. Turner used to threaten and intimidate her. Eventually, the emotional distress, anxiety, and humiliation caused by the sexual harassment and retaliation caused Ms. Packer to suffer severe health problems and forced her to leave her prestigious position.

Jurisdiction and Venue

3. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331 and 2 U.S.C. § 1408.

4. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Ms. Packer's claims occurred in the District of Columbia. In the alternative, venue is proper in this district under 28 U.S.C. § 1391(b)(3)

because the Commission can be found in the District of Columbia and there is no other district in which the action may otherwise be brought.

Parties

5. Winsome Packer is a citizen of the Commonwealth of Virginia who resides at [REDACTED]. Ms. Packer became an employee of the Commission on Security and Cooperation in Europe on May 7, 2007. Ms. Packer is a "covered employee" under 2 U.S.C. §1301(3).

6. The United States Commission on the Security and Cooperation in Europe is plaintiff's "employing office" under 2 U.S.C. § 1301(9)(B) and/or § 1301(9)(C).

7. Alcee L. Hastings is a citizen of the State of Florida who resides at [REDACTED]. Mr. Hastings represents the 23rd Congressional District of Florida and served as the Chairman of the Commission during the 110th Congress, which was from January 3, 2007, through January 3, 2009. In the 111th Congress, Mr. Hastings served as the Co-Chairman of the Commission, which was from January 4, 2009, through January 3, 2011.

8. Fred Turner is a citizen of the State of Maryland who resides at [REDACTED]. At all times relevant to this complaint and Ms. Packer's claims, Mr. Turner served as the Staff Director of the Committee and was Ms. Packer's direct supervisor.

Factual Allegations

9. Ms. Packer is a highly educated and experienced professional, who has dedicated her career to policy work. Ms. Packer holds a Bachelor of Arts in International Affairs and a Master of Public Administration. She has extensive experience as a professional staff member—first for the Committee on Veterans' Affairs for the U.S. House of Representatives and later for

the Committee on Homeland Security for the U.S. House of Representatives. Among her many other professional accomplishments, she was appointed as a United States Delegate to the United Nations Commission on the Status of Women and has worked for various policy think tanks.

10. From 2003 through December 2006, Ms. Packer served as a Republican Professional Staff Member for the Committee on Homeland Security. During this time, the Republican Party controlled the U.S. House of Representatives. In the 2006 national election, however, the Democrats won a majority of seats in the House of Representatives, allowing them to gain control of that chamber of Congress. Pursuant to the change in leadership, Ms. Packer's position was eliminated and she became unemployed starting in January 2007.

11. In March 2007, while walking down C Street SW in Washington, D.C., Ms. Packer encountered Representative Alcee L. Hastings. Ms. Packer and Mr. Hastings were acquainted with each other through a friend of Ms. Packer who had served as a staff member in Mr. Hastings' office for many years. During their conversation, Mr. Hastings learned that Ms. Packer was unemployed. In response to this news, Mr. Hastings informed her that, as the new Chair of the U.S. Commission on Security and Cooperation in Europe, he was in a position to appoint her to the Commission staff. He then recommended that she schedule an appointment to speak with him about applying for a position.

12. Although very interested in the work of the Commission, Ms. Packer initially chose not to contact Mr. Hastings about the position because he was a Democrat and she was a Republican. However, by April 2007, Ms. Packer still had no firm employment leads, so she scheduled a meeting with Mr. Hastings to speak further about a potential position. Prior to meeting with Mr. Hastings, Ms. Packer provided him with a copy of her resume, which clearly indicated her political affiliation with the Republican Party.

13. At the interview, Mr. Hastings did not discuss or question Ms. Packer about her qualifications for a position with the Commission or her political affiliation. Instead, he simply explained that, as the new Chair of the Commission, he wanted to make significant staffing changes. Despite her political affiliation, Mr. Hastings offered Ms. Packer a position during that April 2007 meeting.

14. Ms. Packer began working at the Commission on May 7, 2007, as a Policy Advisor. Fred Turner, the Staff Director, was, and continued to be, her supervisor at the Commission until February 14, 2010. Prior to Mr. Hastings appointing him as Staff Director, Mr. Turner had served on Mr. Hastings' staff for over ten years. On a number of occasions, during her first few months at the Commission, Mr. Turner indirectly questioned Ms. Packer's loyalty to Mr. Hastings because she was a Republican. For example, Mr. Turner accused Ms. Packer of writing a better speech for a Republican member of the Commission in comparison to the speech she had written for Mr. Hastings. On another occasion, he chastised her for including positive comments about U.S. Representative Christopher Smith, a Republican Member of Congress, in a letter of recommendation from Mr. Hastings to the President of the Organization for Security and Cooperation in Europe Parliamentary Assembly and requested that she remove those comments. In addition to verbally assuring Mr. Turner of her loyalty, Ms. Packer worked extremely hard to produce quality work in order to demonstrate that she was dedicated to her position and loyal to Mr. Hastings. Mr. Turner's conduct, however, made clear to Ms. Packer that, as a Republican, she was more vulnerable in her position than other staff members of the Commission.

15. In December 2007, Mr. Turner met with Ms. Packer to inform her that Mr. Hastings wanted to appoint Ms. Packer to be the Representative of the Commission to the U.S.

Mission to the Organization for Security and Cooperation in Europe. This position was posted in Vienna, Austria, and was considered by many to be the most prestigious staff position at the Commission. Mr. Turner explained that Mr. Hastings believed her to be the most qualified staff member for the position because of the quality of her work and her international work experience. Although flattered by the offer, Ms. Packer had reservations regarding the position and expressed them in the meeting. Mr. Turner, however, strongly recommended that Ms. Packer try the position for a year and promised that, if she wished to return to her position as Policy Advisor, she could return at the end of the year. With this guarantee, Ms. Packer agreed to take the position.

16. Ms. Packer was scheduled to assume her post in Vienna as the Representative of the Commission in February 2008. In January 2008, as Ms. Packer was preparing for departure, Mr. Hastings invited her and Mischa Thompson, a fellow staff member at the Commission, to dine with him alone. When making the invitation, Mr. Hastings expressly requested that they not inform Mr. Turner about the dinner. Ms. Packer found this request strange, but since the invitation also included Ms. Thompson, she accepted. After dinner, while Ms. Packer and Mr. Hastings walked from the restaurant, with Mischa Thompson a few paces behind, Mr. Hastings told Ms. Packer that once she had found and settled into her new apartment in Vienna, he would come to Vienna to stay with her for a week. This comment made Ms. Packer extremely uncomfortable because Mr. Hastings seemed to be inviting himself to visit her in a personal and romantic capacity, not as the Chairman of the Committee, since the Chair would never stay at a staff member's apartment in lieu of having lodging of his own. Wishing to avoid upsetting Mr. Hastings, Ms. Packer simply ignored the comment and said nothing.

17. The next day, however, Ms. Packer did inform her officemate, Shelly Han, about the incident and expressed her concern about Mr. Hastings' advances. Ms. Han advised her to speak with Mr. Turner about Mr. Hastings' conduct, but Ms. Packer hesitated to do so out of fear that, given her status as a Republican, such a complaint would further complicate her relationship with Mr. Hastings and Mr. Turner.

18. Within a week of the dinner detailed in Paragraph 16, Mr. Hastings called Ms. Packer at the Commission and inquired about the progress of her preparations for departure. After only a few minutes of discussing her departure, Mr. Hastings repeated that when she was settled in Vienna, he would come and stay with her for a week. Mr. Hastings' comment again made Ms. Packer uncomfortable because of the implication that he was pursuing a romantic relationship with her. Ms. Packer's suspicions were further confirmed when he asked where she was currently living. When Ms. Packer replied that she lived in Alexandria, Virginia, Mr. Hastings announced that he should come over to "check up on her." Since Ms. Packer was not interested in hosting Mr. Hastings alone in her house, especially given his earlier statements that indicated his romantic interest in her, she responded that she would be happy to have Mr. Hastings and Mr. Turner to dinner before she left for Vienna. Mr. Hastings responded, "That's all right," and immediately ended the phone call.

19. Ms. Packer moved to Vienna on February 15, 2008, and immediately began working. As a Policy Advisor, Ms. Packer's annual salary was \$80,000. In her new position, Ms. Packer received a *per diem* that raised her yearly income to \$165,000.

20. In February 2008, shortly after Ms. Packer arrived in Vienna, Mr. Hastings traveled to Vienna as a member of a congressional delegation. Ms. Packer was sitting with several colleagues in the delegation room when she first encountered Mr. Hastings during the

trip. Upon entering the room, Mr. Hastings immediately walked over to Ms. Packer on the other side of the room and handed her a small bag, which contained a music box that he had purchased for her in the Czech Republic. Mr. Hastings did not bring gifts to any other staff member. Ms. Packer was embarrassed by the special attention paid to her by the Chairman and was offended that he continued to pursue her romantically, since she had not responded to his earlier attempts to initiate a relationship. Ms. Packer later gave the music box to her co-worker, Mischa Thompson, and told her that she was very uncomfortable with the fact that Mr. Hastings had given the gift and that he had done so in public.

21. Approximately an hour after Mr. Hastings arrived, he asked Ms. Packer to fetch him some ice. He then followed her across the room and, once they had reached an area where they were out of earshot of others, he again told her that once she had an apartment he would come to stay with her for a week. His continued pursuit of a romantic relationship with her upset Ms. Packer, especially since he was now making advances in professional settings.

22. Fifteen minutes after Mr. Hastings made the comment referenced in Paragraph 21, Ms. Packer asked Mr. Turner, who had accompanied Mr. Hastings on the congressional delegation, to speak privately. Once they had walked to a private room, Ms. Packer detailed Mr. Hastings' recent conduct towards her. She explained that in the last month Mr. Hastings had invited himself three times to stay with her in Vienna for a week and that he also had invited himself to visit her at her home in Alexandria, Virginia. Mr. Turner's first response was to ask Ms. Packer if she had ever had a romantic relationship with Mr. Hastings. Ms. Packer responded that she had never had anything but a professional relationship with Mr. Hastings, that she did not welcome his advances, and did not want to engage in a romantic relationship with him. Mr. Turner initially looked surprised, but then assured Ms. Packer that he was glad she came to him

about the matter and that he would speak to Mr. Hastings and would ensure that he knew her feelings on the matter. Mr. Turner also instructed her to call him immediately if Mr. Hastings ever called to tell her that he was "getting on a plane to visit [her]."

23. From March through September 2008, even though Mr. Turner had promised Ms. Packer that he would speak to Mr. Hastings about the Congressman's attentions towards her, Mr. Hastings began to call her approximately every other week under the pretense of work-related matters. However, within a minute or two of conversation, Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other. Prior to Mr. Hastings' expressions of a romantic interest in Ms. Packer, the Congressman had never called on a regular basis about either personal or work-related matters. Upon information and belief, Mr. Hastings did not call other staff members in a similar fashion.

24. The first time Mr. Hastings called Ms. Packer was in March 2008. On the call, he informed her that he would be attending an OSCE Parliamentary Assembly Bureau meeting in Copenhagen and requested that she join him at the meeting. After his advances during his visit a few weeks before, Ms. Packer was not comfortable traveling with him to a non-mandatory meeting such as the one in Copenhagen, so she told him that she was still settling in and learning her new job responsibilities, which made her unsure if she would be able to travel to Copenhagen. After the call ended, Ms. Packer immediately called Mr. Turner and informed him of Mr. Hastings' request that she join him in Copenhagen and expressed her concern about traveling with the Congressman. Mr. Turner counseled Ms. Packer to explain to Mr. Hastings that Mr. Turner had determined that she was not needed at the meeting because she was too busy in Vienna. Ms. Packer relayed this information to Mr. Hastings and she did not attend the Copenhagen meeting.

25. In May 2008, Mr. Hastings traveled to Vienna for another meeting. This was the first time that Ms. Packer had been around him since the meeting in February 2008, when Mr. Turner promised to speak to Mr. Hastings about ceasing any romantic advances towards her. When Ms. Packer saw Mr. Hastings at the meeting, he immediately approached her, hugged her with both arms, pressed his body against her body and pressed his face against her face. Prior to that instant, Mr. Hastings had never hugged her in such a manner. Ms. Packer was uncomfortable with this intimate touching and was particularly upset it was done in front of her colleagues and after Mr. Turner had allegedly counseled him against making any romantic advances.

26. On the same day in May 2008, as referred to in Paragraph 25, Mr. Hastings repeatedly made sexual comments to and around Ms. Packer. First, as they rode in a car alone together to a meeting in Vienna, Mr. Hastings complained to Ms. Packer that he was having trouble sleeping. Ms. Packer sympathized with Mr. Hastings and replied that, when she has had trouble sleeping in the past, she found exercise helpful. Mr. Hastings replied that while exercise worked for some people, "even after sex, I continue to be wide awake." His sexual remark made Ms. Packer uncomfortable, especially after his earlier intimate hug and his prior romantic advances.

27. At dinner that same evening, in a conversation initiated by Mr. Hastings, he commented to Ms. Packer that the only reason he was dating Patricia Williams, the Deputy District Director, was because she had been his counsel in his bribery and impeachment trials that resulted in his impeachment and removal from the federal bench. He also confided to her that he had been dating another staff member, Vanessa Griddine, but that she was "not worthy."

Ms. Packer refused to discuss Mr. Hastings' romantic involvement with other staff members and changed the topic of conversation.

28. . . Later that evening, however, while Mr. Hastings, Ms. Packer, and several Commission staff members, including the Chief of Staff for Mr. Hastings' congressional office, David Goldenberg, another Commission staff member, Alex Johnson, and Ms. Thompson, were at the bar of the Marriott Hotel, Mr. Hastings remarked to Ms. Packer in front of her colleagues that Janice Helwig, Ms. Packer's predecessor in Vienna, had told other people that Ms. Packer was Mr. Hastings' girlfriend. Mr. Hastings then put his arm around Ms. Packer's shoulder and said: "She flatters me." Ms. Packer was embarrassed by Mr. Hastings' comment and demeanor that falsely implied that a romantic relationship existed between them.

29. . . As the night progressed and Mr. Hastings consumed more alcohol, he began to make crude comments to Ms. Packer, Ms. Thompson, and Mr. Johnson. Specifically, Mr. Hastings remarked that he did not understand how female Members of Congress could wear the same underwear from the time the House of Representatives went into session in the morning until it recessed late at night. He then stated that for that reason he could never take a female Representative "home with him." He then looked directly at Ms. Packer and asked her, "What kind of underwear are you wearing?" Ms. Thompson and Mr. Johnson both clearly heard the question because they laughed in response. Ms. Packer, however, was angry and humiliated both by his question and by his offensive comments about female Members of Congress. That night, Ms. Packer called Mr. Turner and complained about Mr. Hastings' conduct that day, including about his vulgar questioning of her.

30. . . During this trip, Mr. Hastings reiterated his desire to visit Ms. Packer's apartment. Ms. Packer attempted to avoid such a visit by explaining to him that she did not have sufficient

furniture to host guests. Mr. Hastings, however, renewed his request the next day while they were in a van with other staff members. Ms. Packer responded that she would be happy to take everyone in the van to visit her apartment on their way to their destination. Mr. Hastings immediately declined her offer.

31. For the duration of Mr. Hastings' time in Vienna on that trip, Ms. Packer experienced very high levels of stress when in the presence of Mr. Hastings and attempted to avoid interacting with him because she feared he would make additional comments and sexual advances towards her.

32. For several months after Mr. Hastings May 2008 trip to Vienna, he continued to call Ms. Packer regularly. Ms. Packer would often not answer the phone in order to avoid his calls.

33. In July 2008, a congressional delegation including Mr. Hastings was scheduled to attend the annual meeting of the OSEC Parliamentary Assembly in Astana, Kazakhstan. Ms. Packer had scheduled her arrival to follow Mr. Hastings' arrival by several hours. Prior to the trip, however, Mr. Turner requested that Ms. Packer change her flight to arrive a day earlier than the other members of the delegation because Mr. Hastings had decided to travel independent of the other Members of Congress and, instead, would be arriving a day before the delegation. Since he was traveling independently, Mr. Hastings needed a staff member to facilitate his trip, especially one to coordinate travel and administrative matters with the U.S. Embassy or the Kazakhstani government.

34. This request caused Ms. Packer significant stress and anxiety because she was fearful that Mr. Hastings would take advantage of their being in the country alone and again make sexual advances towards her. She was also upset that Mr. Turner assigned her to staff Mr.

Hastings alone after her multiple complaints about his conduct towards her, especially because six other Commission staff members were scheduled to staff Mr. Hastings on that trip and Mr. Turner could easily have assigned anyone of them to staff Mr. Hastings and avoided forcing Ms. Packer to spend a day alone with Mr. Hastings. Nevertheless, Ms. Packer complied with Mr. Turner's request.

35. Ms. Packer arrived to Astana, Kazakhstan at 4:00 a.m. and on the way to the hotel, the mobile phone of her escort from the U.S. Embassy rang. After he answered it, he informed her that the call was from Mr. Hastings and he had requested that she meet him immediately upon arriving. As soon as she arrived at the hotel, Ms. Packer met the Congressman, who was alone in the delegation hospitality room. Mr. Hastings immediately again embraced her closely with both arms, pressing his body against her body, and pressing his face against hers. This unwelcome touching was very unpleasant for Ms. Packer and made her very uncomfortable. Mr. Hastings then commented: "You look really good." He followed this comment by telling her that he had always liked her and wanted to "look out for [her] career." Mr. Hastings intention was crystal clear: he was sexually attracted to Ms. Packer, wanted a sexual relationship with her, and would help progress her career if she acquiesced to his sexual advances. Ms. Packer responded that while she was grateful that he wanted to help her, she wanted to be taken seriously as a professional and did not think it was appropriate for her to have a personal relationship with him. Mr. Hastings argued that no one would treat her less than professionally because they had a personal relationship and that she would continue to be taken seriously. Ms. Packer continued to insist that she was uninterested in a personal relationship with him. At no point in the conversation did Mr. Hastings discuss a single work-related matter

with her. The sole purpose of the meeting was for him to reinstate his sexual overtures, even though she had repeatedly denied his advances.

36. Later that same morning, Mr. Hastings required Ms. Packer to shop with him in the shopping arcades in Astana. While they shopped, Mr. Hastings repeatedly complained that Mr. Turner was cheap and only once had purchased a gift for him, which was an inexpensive tie. He contrasted Mr. Turner with Mr. Goldenberg and Mr. Johnson who he explained had given him many expensive gifts. Mr. Hastings repeated statements made clear to Ms. Packer that he had brought her shopping so that she would purchase him a gift. Upset and anxious about the effect that her rejection of Mr. Hastings would have on her career, Ms. Packer felt no other choice but to purchase him a shirt and tie.

37. For the remainder of their trip in Kazakhstan, Ms. Packer suffered from severe stress and anxiety because she feared Mr. Hastings' further advances if they were alone. During this trip, Ms. Packer's blood pressure rose so precipitously that she was forced to see a military doctor. She explained to the doctor that her stress was caused by Mr. Hastings' unwelcome sexual advances. He offered her vitamin B complex and a sleeping aid to help her combat the symptoms of her stress.

38. As stated in paragraph 32, throughout the summer of 2008, Mr. Hastings was regularly calling Ms. Packer when he was not around her. After Mr. Hastings' repeated sexual advances in May and July and his continued telephone calls, Ms. Packer informed Mr. Turner that she was unhappy in her position and wished to return to Washington, D.C. By this point, however, Ms. Packer had become fearful of retaliation, because in Kazakhstan Mr. Hastings directly linked her career progress with her having a personal relationship with him and because she had repeatedly complained to Mr. Turner about Mr. Hastings' conduct yet Mr. Turner had

refused to take any action to protect her. Ms. Packer, therefore, told Mr. Turner that she wished to return to Washington, D.C., because she felt that the other U.S. Mission representatives, particularly the State Department officials, marginalized her and prevented her from being able to fully perform her duties. Although the issue of marginalization had been a reoccurring problem during her first year in Vienna and had contributed to some of Ms. Packer's dissatisfaction with her position during the first few months of her tenure in the position, the real reason she requested the transfer back to Washington, D.C., was to remove Mr. Hastings' apparent sense of entitlement for sexual favors from Ms. Packer because he had given her the Vienna posting. Ms. Packer hoped that returning to the Commission's office in Washington, D.C., would minimize Mr. Hastings' unwelcome advances. Mr. Turner responded that he would talk with Mr. Hastings about a possible reassignment for her at a later time.

39. Throughout the fall of 2008, Ms. Packer traveled back to Washington, D.C., for consultations every three months and sometimes encountered Mr. Hastings at meetings and hearings. During these visits, upon first seeing Ms. Packer, Mr. Hastings would insist on hugging her with both arms, pressing his body against her body and his face against her face. Mr. Hastings did not hug others in the same manner. Given Mr. Hastings' overt sexual advances, Ms. Packer was made uncomfortable by this unwelcome touching.

40. In January 2009, with the opening of the 111th Congress, Senator Benjamin Cardin was appointed Chairman of the Committee and Mr. Hastings was appointed the Co-Chair. This shift in leadership meant that Mr. Cardin now led the Commission and was the ultimate decision maker in regards to personnel issues.

41. In February 2009, Ms. Packer had completed a full year in her position in Vienna, the time period she had originally agreed to "try out" the position. Since Mr. Hastings'

unwelcome sexual attention had continued, Ms. Packer still wanted to return to Washington, D.C. Ms. Packer again asked Mr. Turner to allow her to return to her old position in Washington, D.C., as he had originally promised. Since she continued to be concerned about retaliation, Ms. Packer again explained that her desire to return was caused by her dislike of being marginalized by the State Department officials of the U.S. Mission. Mr. Turner, however, flatly denied her request without providing any explanation. Since on several occasions Mr. Hastings complained to Ms. Packer that none of his staff had ever contributed to his campaign or given anything back to him, feeling extremely pressured, Ms. Packer contributed \$1,000 to his campaign fund.

42. In April 2009, Ms. Packer attended a Parliamentary Assembly Bureau meeting in Lisbon, Portugal, with Mr. Hastings and Mr. Turner. In the afternoon of the first day of the meeting, Mr. Hastings traveled to Sintra, a city north of Lisbon, accompanied by Mr. Turner and Ms. Packer. He went into a bar upon their arrival and Mr. Turner and Ms. Packer separated to look around the town. After sightseeing, Ms. Packer found Mr. Hastings in the bar alone. When she arrived, he was clearly inebriated. Mr. Hastings again told her that he had liked her ever since they had first met and that she did not appreciate the help that he had given to her career. Ms. Packer was very upset that he continued to pursue a sexual relationship with her and explicitly told him that she did not want an intimate relationship with him. Mr. Turner then arrived and the conversation ended.

43. Later that same night after a Commission-related dinner, when Ms. Packer arrived at the hotel, Mr. Hastings was sitting in the hotel lobby facing the door, apparently awaiting her arrival. Because Mr. Hastings had left the dinner upset, Ms. Packer immediately walked over to him and inquired if he was alright. Mr. Hastings responded by launching into a 40 minute,

profanity-laced rant, in which he told Ms. Packer that she was not "a sport" because she knew that he "liked" her and that he had helped her professionally. He then explained to her that he had "come to [her] as a man does to a woman" and that he was very upset that she had informed Mr. Turner about his advances.

44. He then scolded her: "How dare you complain about me! You had better forget about being a Republican." Ms. Packer had kept her head down during his tirade, but at this last statement she looked up at him. In response, he snidely said: "Don't worry. Your job is not in any danger." Scared that she would lose her job because she rejected his advances and complained about his conduct, Ms. Packer apologized for not living up to his expectations. In response he asked her: "Would you like to accompany me to my room?" Ms. Packer immediately responded: "no." He then asked whether she would like him to accompany her to her own room. She again said: "no." Clearly exasperated by her continued rejections of his advances, he exclaimed: "Well, what is your room number?" The emotional distress and humiliation caused by this exchange had made Ms. Packer nauseous and she felt physically weak, but she managed to respond: "Excuse me sir. I have to call my son." She then rose and walked away in tears.

45. The next morning, Ms. Packer found Mr. Turner and detailed to him the events of the prior day, both the fact that Mr. Hastings continued to make sexual advances towards her and that he had implicitly threatened her job. Mr. Turner responded that, while he was sorry that she had to endure this treatment, there was nothing he could do about it. Ms. Packer was devastated by the fact that Mr. Turner would not do anything to protect her from Mr. Hastings' sexual harassment.

46. Ms. Packer next saw Mr. Hastings in May 2009 at a Commission meeting in Washington, D.C. At the meeting, Mr. Hastings rose from where he was sitting with the other Members of Congress, crossed the room, approached her, and asked her to go outside in the hallway to speak with him. Ms. Packer felt she had no other choice but to accompany him. Once in the hallway, Mr. Hastings opened his arms wide and told her to give him a hug. Ms. Packer felt humiliated by the demand, but Mr. Hastings had already implicitly threatened her job, so she acquiesced and hugged him. As usual, Mr. Hastings pressed the front of his body against hers and pressed his face against hers. Ms. Hastings' unwelcome touching caused Ms. Packer to feel physically ill and experience significant emotional distress. Mr. Hastings ended the conversation by telling Ms. Packer to come by his office to see him. Ms. Packer was so upset that she could not respond and instead just walked away. She did not, however, visit him in his office as he requested.

47. In July 2009, both Ms. Packer and Mr. Hastings attended a Parliamentary Assembly annual meeting in Vilnius, Lithuania. The first day of the meeting, Ms. Packer entered the meeting hall with a colleague from the Parliamentary Assembly. Mr. Hastings was standing with the Secretary General of the Parliamentary Assembly. Ms. Packer acknowledged both officials by saying "Hello" and waving. Mr. Hastings replied, "What do you mean 'hello'? Come over here and give me a hug." Ms. Packer felt that refusing would have caused an embarrassing situation, so she walked over and allowed him to hug her. He again embraced her with both arms, pressed his body against her body, and pressed his face against her face. This unwelcome touching again caused Ms. Packer serious emotional distress. Later, during another meeting, Mr. Johnson approached her and informed her that Mr. Hastings wanted her to accompany him back to his hotel in his car. Ms. Packer explained to Mr. Johnson that she was

needed in the meeting because she was the lead staff member on the issues addressed in the meeting. Ms. Packer was so distressed by Mr. Hastings' continued sexual harassment that she declined the opportunity to dine with the other Committee staff and Mr. Hastings.

48. After Mr. Hastings' conduct in Lithuania, which demonstrated that Mr. Turner was not willing to protect her from Mr. Hastings, Ms. Packer reported Mr. Hastings' sexual harassment of her to Edward Joseph, who was the Deputy Staff Director of the Commission at the time and had been appointed to that position by Senator Cardin. Ms. Packer hoped that, if Senator Cardin learned about the harassment she was being subjected to, he would act to protect her. Mr. Joseph responded that he was shocked and sorry that she had to go through such an experience. He asked if he could raise the matter with Senator Cardin's staff and Ms. Packer granted him permission. Within a week, Mr. Joseph emailed Ms. Packer directing her to file a complaint with the Office of Compliance.

49. The stress of Mr. Hastings' continued sexual advances and attention, and her fear that he would begin retaliating against her once he realized that she would not succumb to his advances, became so severe that she began to suffer from high blood pressure and evidenced symptoms of early coronary artery disease. By August 2009, her health had degraded to a point that she began to be treated by a cardiologist in Vienna, who prescribed her medications to counter the high blood pressure and address the coronary artery disease. She had severe side effects from one of these medications, which made her ill for weeks after she began taking it. Since Ms. Packer's health insurance did not cover international medical care, she incurred substantial medical costs because of these health problems.

50. By the fall of 2009, Ms. Packer's fears of retaliation were confirmed. Mr. Turner began to assign work from her portfolio to other colleagues, and began to withhold from her

important information necessary for her to perform her job. For example, as the Commission's Representative at the U.S. Mission in Vienna, one of her duties was to inform her State Department colleagues of the Commission's activities. On a number of occasions, however, Mr. Turner would plan certain meetings or travel plans for the Commission's members, but would not inform Ms. Packer about the plans. Ms. Packer, instead, learned the information from other sources and sometimes through colleagues from the State Department, which negatively affected her professional reputation and prevented her from adequately performing her responsibilities. Another example of Mr. Turner not informing her of important information was when the CSCB Commission was planning to hold a hearing involving the U.S. State and Defense Departments. Mr. Turner assigned the hearing preparations to another Policy Advisor, who personally contacted the Department of Defense about the hearing even though Ms. Packer was responsible for military security issues and, as such, should have served as the liaison. Ms. Packer only learned about the hearing because a Defense Department colleague mentioned it to her. When Ms. Packer asked Mr. Turner why he had kept this information from her, he refused to explain and instead responded by blaming her for the problems between the Commission's Representative and the other U.S. Mission delegation, even though he had previously acknowledged that it had been the U.S. Mission delegation that had marginalized her.

51. After several months of enduring Mr. Turner's retaliatory conduct, Ms. Packer reported Mr. Hastings' sexual harassment and Mr. Turner's retaliatory harassment to Marlene Kaufmann, the Commission's counsel. Ms. Kaufmann responded to Ms. Packer's complaint by explaining to her that "maybe [Mr. Turner] couldn't do anything about [Mr. Hastings' conduct] because he had his own job to worry about." Ms. Kaufmann did not offer Ms. Packer any assistance or even suggest that she would investigate the issue.

52. Seeing no end in sight to the harassment and retaliation, Ms. Packer renewed her request to Mr. Turner to allow her to return to Washington, D.C., since she was already approaching two years in her position in Vienna and had only committed to one year. Mr. Turner responded to the request by informing her that Mr. Hastings would be coming to Vienna in February 2010 and would speak to her at that time about her future. By informing Ms. Packer that the Congressman would be determining her future at the Commission, even though Senator Cardin served as the Chair and, as such, should have made such personnel decisions, Mr. Turner was implicitly threatening Ms. Packer's job.

53. The stress of Mr. Hastings' harassment, Mr. Turner's retaliation, Ms. Kaufmann's refusal to help, and the implicit threats to her job exacerbated Ms. Packer's high blood pressure problems. At the end of December 2009, while visiting her family in Virginia, Ms. Packer collapsed and was rushed to an emergency room. While Ms. Packer recovered enough to be released from the hospital that day, the stress was becoming more than her body could handle.

54. In November 2009, Ms. Packer signed up to serve as an election observer for the Ukrainian Presidential Election, which was to be held in January. In December 2009, however, Ms. Packer learned that Mr. Hastings had decided to observe the election as well. Upon learning this information, Ms. Packer contacted the person charged with assigning staff to specific in-country sites and requested that she be placed in a different location than Mr. Hastings. Ms. Packer was assigned to Odessa and Mr. Hastings was placed in Kiev.

55. In January 2010, when Ms. Packer arrived in Kiev, Ukraine, en route to Odessa, Ukraine, Mr. Johnson informed her that Mr. Hastings was insisting that all Commission staff, except one person, remain in Kiev, allegedly for safety reasons. Mr. Johnson then informed her that he had canceled her hotel reservation in Odessa. Ms. Packer became very upset about the

prospect of having to be around Mr. Hastings and eventually broke down to Orest Deychakiwsky, a Commission staff member. She informed him that Mr. Hastings had been sexually harassing her for almost two years and that Mr. Turner was now retaliating against her because she rejected Mr. Hastings and complained about his conduct. Once she calmed down, Ms. Packer emailed Mr. Turner to discuss how to handle the situation. Mr. Turner advised her to go to Odessa despite Mr. Hastings' directive and to not tell either Mr. Hastings or Mr. Johnson that she was leaving Kiev. Ms. Packer followed Mr. Turner's direction, but experienced further stress stemming from her concern that she would be punished for disobeying Mr. Hastings' directive.

56. Ms. Packer's stress level was so high that she experienced chest pain that first night in Odessa. The next day, Ms. Packer emailed Mr. Turner asking if she could call him to speak about her concerns and illness, but he did not reply. When she returned to Vienna, Ms. Packer continued to experience chest pains and emailed Mr. Turner and Ms. Kaufmann about her medical problem and asked to speak with Mr. Turner that day. Mr. Turner responded that he would call her the next day. The next morning, however, before Ms. Packer and Mr. Turner spoke, Ms. Packer fainted in the middle of a meeting. When she was resuscitated, the emergency personnel informed her that her blood pressure was in the range where she could have suffered a stroke or a heart attack. Extremely upset by the events of that day and the day before, Ms. Packer confided in Carol Fuller, the Charge de Affaires for the U.S. Mission to the OSCE, about Mr. Hastings' sexual harassment and her anxieties about the retaliation she had been enduring. Because of the episode, Ms. Packer was placed on additional medication.

57. That night, Mr. Turner called Ms. Packer and immediately put Mr. Hastings on the phone, even though Ms. Parker had just survived a very dangerous health episode that was

caused by Mr. Hastings' conduct towards her. Mr. Hastings explained that he had heard about her medical episode and wanted to assure her that her job was secure and that she should just let him know what she needed in order to address her health problems. The phone was passed to Mr. Turner at that point and Ms. Packer told him that she was going to consult with her doctors, but that she wanted to return to Washington, D.C., in July 2010. Mr. Turner agreed that she could return to Washington, D.C. by July 31, 2010. Mr. Turner also agreed to have a telephone conference with Ms. Packer and Ms. Kaufmann to discuss the harassment issues.

58. Over the next several days in January 2010, Ms. Packer, Mr. Turner, and Ms. Kaufmann had several conferences about the harassment and they agreed to take the matter seriously. They assured Ms. Packer that they had counseled Mr. Hastings to stop making unwelcome advances towards her and, in particular, to refrain from hugging her.

59. In January 2010, after the trip to Ukraine, Ms. Packer also called Christopher Lynch, the Chief of Staff for Senator Cardin's personal office, because she could not trust that Mr. Turner was actually communicating the harassment problem to the Senator. Ms. Packer detailed the harassment that she had suffered at the hands of Mr. Hastings. Mr. Lynch assured Ms. Packer that Senator Cardin was committed to the Committee maintaining a harassment-free environment and that Ms. Packer would not lose her job because she rejected Mr. Hastings' advances and complained about his harassing conduct. Mr. Lynch, however, did not indicate that the Senator would take any action to assist Ms. Packer.

60. Shortly after Ms. Packer spoke to Mr. Lynch, Ms. Kaufmann confronted her over the telephone. Ms. Kaufmann told her that Senate Legal Counsel had called her telling her that an employee in Vienna was asserting that she had been subjected to harassment and retaliation. Ms. Kaufman accused Ms. Packer of contacting the Senate Legal Counsel and then exclaimed

angrily to Ms. Packer: "No one is retaliating against you!" Ms. Packer explained that she did not call Senate Legal Counsel, but had contacted Mr. Lynch and informed him of the harassment and retaliation. Ms. Kaufmann kept arguing that no one was retaliating against her and that her job was secure. Ms. Kaufmann ended the conversation by insisting that they set up another telephone conference between Ms. Packer, Mr. Turner, and her to discuss the matter.

61. A few days later, a telephone conference took place between Ms. Packer, Mr. Turner, and Ms. Kaufmann. Mr. Turner and Ms. Kaufmann again assured Ms. Packer that they had spoken to Mr. Hastings and that she no longer had to worry about Mr. Hastings acting inappropriately towards her. In response, Ms. Packer again requested that she be permitted to return to Washington, D.C.

62. On or around February 4, 2010, during a meeting with Mr. Turner, Ms. Kaufman, and Ms. Packer, Mr. Turner informed Ms. Packer that he had Mr. Hastings' District Director, who was a longtime friend of Mr. Hastings, speak to Mr. Hastings about his conduct towards Ms. Packer. Mr. Turner then counseled her that it was not in her interest or Mr. Hastings' interest for her to go public with a complaint and that she should allow him to handle the situation. Mr. Turner's comment was clearly intended to be an implicit threat to Ms. Packer, which just further heightened her stress levels and further jeopardized her health.

63. On February 5, 2010, Ms. Kaufmann wrote to Ms. Packer informing her that Mr. Turner had spoken to Mr. Hastings about her harassment complaint and that Mr. Hastings had promised to be "sensitive to [her] concerns and [to] proceed accordingly." Ms. Kaufmann also informed Ms. Packer that both Mr. Turner and Mr. Hastings were "satisfied with [Ms. Packer's] job performance." She then confirmed that Ms. Packer would be allowed to return to Washington, D.C., before the end of the year, likely in July.

64. During the beginning of February 2010, while Ms. Packer was in Washington, D.C., for medical treatment, she had Mr. Joseph over for dinner because he was leaving the Commission. Mr. Joseph inquired about whether the sexual harassment and retaliation continued, to which Ms. Packer informed him that it did and updated him on Ms. Hastings' and Mr. Turner's misconduct since July 2009. Mr. Joseph then informed her that in July 2009, he had reported the sexual harassment and retaliation to Mr. Lynch, who had recommended that Ms. Packer contact the Office of Compliance. Mr. Joseph explained that Senator Cardin needed to get along with Mr. Hastings and that Mr. Turner was protected by Mr. Hastings.

65. On February 18, 2010, Mr. Hastings returned to Vienna for the winter meeting of the OSCE Commission. As soon as Mr. Hastings saw Ms. Packer, he approached her and again pressed his face against hers. This conduct confirmed for Ms. Packer that Mr. Hastings would not change his conduct towards her, even after being counseled by multiple people not to make sexual advances towards her and not to hug her.

66. Mr. Hastings upset Ms. Packer again the next day, February 19, 2010. In front of the entire congressional delegation in attendance for the meeting in Vienna, Mr. Hastings demanded that Ms. Packer have her photograph taken with him in "[their] favorite pose." In order to not make a scene, Ms. Packer agreed to take the photograph with him, even though it required her to place one of her arms around him and to allow him to do the same to her. Ms. Packer was particularly distressed by this conduct because she felt that Mr. Hastings was attempting to create an impression of intimacy between them amongst the members of the delegation. Additionally, Mr. Hastings had been counseled that she did not want to be touched by him, yet he still insisted on using his control over her to force her to pose in a way that

required they touch. After two years of unwelcome sexual advances and touching, this additional unwelcome touching caused her extreme emotional distress.

67. That evening, Ms. Packer complained in writing to Mr. Turner and Ms. Kaufmann about Mr. Hastings' conduct earlier that day and the day before. Ms. Packer informed them that if Mr. Hastings continued to touch her, she would pursue legal action against him. Mr. Turner responded that he would speak with her about the issue in the morning, but that Mr. Hastings would be leaving early the next morning, so she did not need to worry about encountering him again.

68. The following week, Ms. Packer contacted the Office of Representative Christopher Smith, the Ranking Republican Member of the Commission, to request Mr. Smith's assistance in addressing Mr. Hastings' sexual harassment. Ms. Packer explained in detail to Mr. Smith's Chief of Staff, Mary McDermott, that she had been suffering harassment at the hands of Mr. Hastings and now was suffering retaliation. Ms. McDermott advised her to contact the Office of Compliance about Mr. Hastings' and Mr. Turner's conduct.

69. Since it was clear to Ms. Packer that Mr. Turner and Ms. Kaufmann were unwilling or unable to stop Mr. Hastings from sexually harassing her, Ms. Packer contacted the Office of Compliance from Vienna. She explained to Jennifer McCuiston, the Office of Compliance Representative on the phone, that she was an employee with the Commission and was being sexually harassed by Mr. Hastings and retaliated against by her Staff Director. Ms. McCuiston informed her that she had 180 days to file a Request for Counseling based upon this sexual harassment and retaliation.

70. In March 2010, Mr. Turner again began to retaliate against Ms. Packer. Ms. Packer informed Mr. Turner that she intended to submit several travel requests for meetings. Mr.

Turner responded by informing her that she would have to work very hard to convince Senator Cardin that she should be able to travel since she had decided to return to Washington, D.C., in July, even though the Commission staff manual required that all staff travel as part of their fulfillment of their portfolio duties. Ms. Packer responded that Mr. Lynch had promised her that she would not face any adverse consequences if she chose to return to her position in Washington, D.C. Mr. Turner refused to respond and the conversation ended.

71. Because of this retaliatory conduct, on April 11, 2010, Ms. Packer complained in writing to Mr. Lynch about Mr. Turner's conduct, detailing both his attempt to prevent her from traveling and his earlier retaliation of excluding her from Commission correspondence. Mr. Lynch reiterated that Senator Cardin was committed to ensure she did not face retaliatory action because of her complaints. The next staff meeting after she complained to Mr. Lynch, Mr. Turner indicated that her travel requests had now been approved.

72. As Ms. Packer awaited her return to Washington, D.C. in July, she continued to have chest pains and on June 15, 2010, was treated at the hospital. Her physician informed her that the chest pains were caused by stress.

73. Ms. Packer returned to Washington, D.C., and resumed her position as a Policy Advisor for the Committee at the end of July 2010.

74. On August 9, 2010, Ms. Packer filed a complaint with the Office of Compliance asserting claims of sexual harassment and retaliation.

75. On September 8, 2010, Ms. Packer's counseling period ended.

76. On September 17, 2010, Ms. Packer requested mediation. On December 8, 2010, her mediation period ended.

**COUNT ONE -- DISCRIMINATION ON THE BASIS OF SEX IN
VIOLATION OF THE CONGRESSIONAL
ACCOUNTABILITY ACT, 2 U.S.C. §1311 ET SEQ.
AGAINST DEFENDANT THE UNITED STATES
COMMISSION ON SECURITY AND COOPERATION IN
EUROPE.**

77. Plaintiff hereby incorporates as though restated each of the factual allegations set forth in paragraphs 1 through 76 above.

78. The Congressional Accountability Act ("CAA") prohibits discrimination against an employee on the basis of sex in the enjoyment of all benefits, privileges, terms, and conditions of employment.

79. At all times relevant to this Complaint, Plaintiff, as an employee of the United States Commission on Security and Cooperation in Europe, was an "employee" within the meaning of the CAA.

80. Mr. Hastings regularly subjected Ms. Packer to unwelcome sexual advances, sexually explicit remarks, and unwelcome touching. Even though Ms. Packer repeatedly rejected his advances and complained to her direct supervisor about Mr. Hastings' conduct, Mr. Hastings refused to stop making sexual advances towards her and touching her. Instead, Mr. Hastings and his Staff Director, Mr. Turner, repeatedly threatened her job. Mr. Hastings' sexual conduct towards Ms. Packer and the later retaliatory threats by Mr. Turner and Mr. Hastings was so severe and pervasive that it altered the conditions of Ms. Packer's employment and created a sexually hostile work environment, in violation of the CAA.

81. As a direct and proximate result of the unlawful sexual harassment, Ms. Packer experienced insomnia, anxiety, depression, high-blood pressure, and developed symptoms of coronary artery disease. Ms. Packer has been prescribed medication and is under the care of a physician because of the severity of her heart problems.

82. Defendant's actions have directly and proximately caused Ms. Packer substantial damage to her future career and professional reputation, humiliation, and pain and suffering. Defendant's actions were wanton, reckless, or in willful disregard of Ms. Packer's legal rights.

**COUNT TWO -- RETALIATION IN VIOLATION OF THE
CONGRESSIONAL ACCOUNTABILITY ACT, 2 U.S.C. §
1311 ET SEQ. AGAINST DEFENDANT THE UNITED
STATES COMMISSION ON SECURITY AND
COOPERATION IN EUROPE.**

83. Plaintiff hereby incorporates as though restated each of the factual allegations set forth in paragraphs 1 through 82 above.

84. The CAA prohibits retaliation against any employee for engaging in opposition to what she reasonably in good faith believes constitutes unlawful discrimination under the CAA, including the rejection of sexual advances and other forms of sexual harassment.

85. Ms. Packer repeatedly engaged in protected activity by opposing treatment she reasonably believed constituted unlawful discrimination, including repeatedly rejecting Mr. Hastings' unwelcomed sexual advances and reporting Mr. Hastings' harassing behavior to Mr. Turner, the Commission Staff Director and her immediate supervisor; Mr. Joseph, the Commission Deputy Staff Director; Ms. Kaufmann, the Commission Legal Counsel; Mr. Lynch, the Chief of Staff for the then Chairman of the Commission Senator Cardin; and Ms. McDermott, the Chief of Staff for the then Ranking Member for the Commission Representative Smith.

86. Defendant took adverse retaliatory actions against Ms. Packer by repeatedly threatening her job at the Commission, by refusing to allow her to return to her position as Policy Advisor in Washington, D.C., and by intentionally marginalizing her from the rest of the U.S.

Mission to the OSCE. Defendant's retaliatory actions were so adverse that they would have dissuaded a reasonable employee from making or supporting a charge of discrimination.

87. Defendant's retaliatory actions were causally connected to Ms. Packer's protected activity.

88. As a direct and proximate result of the unlawful retaliation, Ms. Packer experienced insomnia, anxiety, depression, high-blood pressure, and developed symptoms of coronary artery disease, for which she has been prescribed medication. Ms. Packer remains under the care of a physician.

89. Defendant's actions have directly and proximately caused Ms. Packer substantial damage to her career and professional reputation, humiliation, and pain and suffering.

Defendant's actions were wanton, reckless, or in willful indifference to Ms. Packer's legal rights.

**COUNT THREE -- SEXUAL HARASSMENT IN VIOLATION OF THE
FIFTH AMENDMENT OF THE CONSTITUTION OF
THE UNITED STATES AGAINST DEFENDANT
ALCEE L. HASTINGS.**

90. Plaintiff hereby incorporates as though restated each of the factual allegations set forth in paragraphs 1 through 89 above.

91. The guarantee to equal protection of the law embodied in the Fifth Amendment to the Constitution of the United States prohibits discrimination in employment based upon a person's sex, which includes sexual harassment and the creation of a sexually hostile work environment.

92. Mr. Hastings regularly subjected Ms. Packer to unwelcome sexual advances, sexually explicit remarks, and unwelcome touching. Even though Ms. Packer repeatedly rejected his advances and complained to her direct supervisor about Mr. Hastings' conduct, Mr. Hastings refused to stop making sexual advances towards her and touching her. Instead, Mr.

Hastings and his Staff Director, Mr. Turner, repeatedly threatened her job. Mr. Hastings' sexual conduct towards Ms. Packer and the later retaliatory threats by Mr. Turner and Mr. Hastings were so severe and pervasive that they altered the conditions of Ms. Packer's employment and created a sexually hostile work environment. Defendant did not subject male employees to the same work environment.

93. As a direct and proximate result of the unlawful sexual harassment, Ms. Packer experienced insomnia, anxiety, depression, high-blood pressure, and developed symptoms of coronary artery disease. Ms. Packer has been prescribed medication and is under the care of a physician because of the severity of her heart problems.

94. Defendant's actions have directly and proximately caused Ms. Packer substantial humiliation and pain and suffering. Defendant's actions were wanton, reckless, or in willful disregard of Ms. Packer's legal rights.

COUNT FOUR -- RETALIATION IN VIOLATION OF THE FIRST AND FIFTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AGAINST DEFENDANTS ALCEE L. HASTINGS AND FRED TURNER.

95. Plaintiff hereby incorporates as though restated each of the factual allegations set forth in paragraphs 1 through 94 above.

96. The First Amendment of the Constitution of the United States prohibits the Federal Government from infringing on a person's speech unless for a compelling interest and provided that the restriction is both narrowly tailored to achieve that goal or interest and is the least restrictive means for achieving that interest. Likewise, the Fifth Amendment prohibits retaliation against an employee for reporting or otherwise opposing unlawful sexual harassment.

97. Ms. Packer repeatedly engaged in speech acts that opposed unlawful sexual harassment by repeatedly rejecting Mr. Hastings' unwelcomed sexual advances and reporting

Mr. Hastings' harassing behavior to Mr. Turner, the Commission Staff Director and her immediate supervisor; Mr. Joseph, the Commission Deputy Staff Director; Ms. Kaufmann, the Commission Legal Counsel; Mr. Lynch, the Chief of Staff for the then Chairman of the Commission Senator Cardin; and Ms. McDermott, the Chief of Staff for the then Ranking Member for the Commission Representative Smith.

98. Defendants took adverse retaliatory actions against Ms. Packer by creating a hostile work environment by repeatedly threatening her job at the Commission, by refusing to allow her to return to her position as Policy Advisor in Washington, D.C., and by intentionally marginalizing her from the rest of the U.S. Mission to the OSCE.

99. As a direct and proximate result of the unlawful retaliation, Ms. Packer experienced insomnia, anxiety, depression, high-blood pressure, and developed symptoms of coronary artery disease, for which she has been prescribed medication. Ms. Packer remains under the care of a physician.

100. Defendants' actions have directly and proximately caused Ms. Packer substantial humiliation, and pain and suffering. Defendants' actions were wanton, reckless, or in willful indifference to Ms. Packer's legal rights.

REQUESTED RELIEF

WHEREFORE, Plaintiff prays this Court for the following relief:

1. Enter a judgment in Plaintiff's favor and against the United States Commission on Security and Cooperation in Europe for discrimination on the basis of sex in violation of the Congressional Accountability Act, 2 U.S.C. § 1311 *et seq.*;

2. Enter a judgment in Plaintiff's favor and against the United States Commission on Security and Cooperation in Europe for retaliation in violation of the Congressional Accountability Act, 2 U.S.C. § 1311 *et seq.*;

3. Enter a judgment in Plaintiff's favor and against Defendant Alcee L. Hastings for discrimination on the basis of sex in violation of the Fifth Amendment of the Constitution of the United States;

4. Enter a judgment in Plaintiff's favor and against Defendant Alcee L. Hastings for retaliation in violation of the First and Fifth Amendments of the Constitution of the United States;

5. Enter judgment in Plaintiff's favor and against Defendant Fred Turner for retaliation in violation of the First and Fifth Amendments of the Constitution of the United States;

6. An award to Plaintiff of back pay in an amount to be proven at trial;

7. An award to Plaintiff of compensatory damages in an amount to be proven at trial;

8. An award to Plaintiff of punitive damages in an amount to be proven at trial;

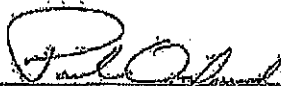
9. An award of reasonable attorneys' fees and costs; and

10. All other relief the court deems just.

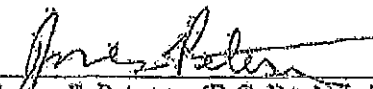
Dated: March 7, 2011

Respectfully submitted,

JUDICIAL WATCH, INC.



Paul J. Orfanedes (D.C. Bar No. 429716)



James F. Peterson (D.C. Bar No. 450171)

425 Third Street, S.W., Suite 800

Washington, D.C. 20024

(202) [REDACTED]

(202) 646-5199 (fax)

Attorneys for Plaintiff Winsome A. Packer

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WINSOME PACKER,
[REDACTED]

Plaintiff,

v.

THE UNITED STATES
COMMISSION ON SECURITY
AND COOPERATION IN EUROPE
234 Ford House Office Building
Washington, DC 20515

and

ALCEE L. HASTINGS
[REDACTED]

and

FRED TURNER
[REDACTED]

Defendants.

Civil Action No. _____

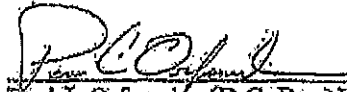
JURY DEMAND

Plaintiff demands a jury trial on all claims so triable.

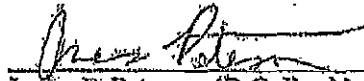
Dated: March 7, 2011

Respectfully submitted,

JUDICIAL WATCH, INC.



Paul J. Orfanedes (D.C. Bar No. 429716)



James E. Peterson (D.C. Bar No. 450171)
425 Third Street, S.W., Suite 800
Washington, D.C. 20024
(202) [REDACTED]
(202) 646-5199 (fax)

Attorneys for Plaintiff Winsome A. Packer

WILMERHALE

CONFIDENTIAL TREATMENT REQUESTED

May 13, 2011

Tonya Robinson

+1 202 [REDACTED]
+1 202 633 6363(f)
[REDACTED]@wilmerhale.com

BY ELECTRONIC MAIL

Paul J. Solis, Esq.
Investigative Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, SW, Suite 1110
Washington, DC 20024
[REDACTED]@mail.house.gov

Re: Confidential Preliminary Review No. 11-6736

Dear Mr. Solis:

I am writing as follow-up to our telephone discussion on May 10, 2011, regarding the confidential matter referenced above. It was good to speak with you. I appreciate the helpful guidance that you provided and your willingness to present my client's concerns to the Board of the Office of Congressional Ethics ("OCE" or "Office").

As I mentioned, my client is eager to cooperate with OCE, as he has done with the other entities that have investigated the very allegations that now are the focus of your preliminary review. He understands the seriousness of the allegations, vigorously denies any wrongdoing, and would want nothing more than to put the charges to rest immediately. Unfortunately, the timing and scope of OCE's review presents significant challenges, since these charges also are the subject of a complaint that was filed in the U.S. District Court for the District of Columbia on March 7, 2011. Any extra-judicial statements at this time regarding the allegations would substantially impair my client's ability to mount a proper defense in the litigation, especially since, by order of the Court, he is not obliged to respond on the record to the complaint before July 9, 2011. With that in mind, I ask that, under Rule 7(F) and Rule 16 of the OCE Rules of Conduct of Investigation, the OCE Board consider two options: (1) terminate the review, based on the extensive investigation of the same allegations by the Office of House Employment Counsel ("OHEC") and the concurrent employment counseling and mediation in which the complainant and the defendants named in the pending litigation (including my client) participated; or (2) stay the review until the close of the civil litigation.

First, the U.S. Congress Office of Compliance (OCC), to which I understand OCE could refer this matter, has already held and completed extensive proceedings relating to the exact same allegations. In August 2010, the complainant filed a request for counseling with OCC pursuant to the Congressional Accountability Act, 2 U.S.C. §§ 1301, *et seq.* She received the requested counseling and, in September 2010, requested mediation, which she also received. In

Paul J. Solis, Esq.
May 13, 2011
Page 2

the context of OCC's mediation process, OHEC investigated the substantive allegations that the complainant presented – interviewing my client and several others and also reviewing e-mails and other documents provided by the U.S. Commission on Security and Cooperation in Europe.

Following the investigation, Mr. Kerry Kircher, General Counsel of the U.S. House of Representatives ("House"), and Ms. Gloria Lett, House Employment Counsel, wrote to Assistant Attorney General Tony West, explaining that it was in the interest of the United States to defend against the allegations. In that letter, which is attached hereto as Attachment A, Mr. Kircher and Ms. Lett concluded that "*while some of [the complainant's] allegations begin with a kernel of truth, when looked at in context, [the complainant] grossly distorts [] events and circumstances in order to support the fiction that she experienced unlawful sexual harassment and retaliation.*"¹ They further noted that OHEC's investigation did not result in the identification of "any witness who corroborates [the complainant's] substantive allegations that she experienced legally-actionable harassing or retaliatory conduct."² Indeed, following their thorough review of the complainant's claims, Mr. Kircher and Ms. Lett wrote that they "do not believe that [the complainant] experienced sexual harassment."³ In short, the allegations that OCE now is considering have been addressed comprehensively through the House's investigative channels. That earlier investigation demonstrates that there is not sufficient basis to conduct even a preliminary review under the OCE Rules, which require the existence of a "*reasonable basis to believe the allegation.*"⁴ The attached letter confirms that there is no such reasonable basis. On this ground, I ask that the OCE Board terminate the review.

Second, OCE's review and process are in tension with the judicial process that governs the pending litigation. We are particularly concerned by the impact that OCE's review may have on the witnesses relevant to substantiating or disproving the complainant's allegations. These witnesses have been interviewed in the course of OHEC's investigation; so, to the extent that OCE's review involves additional interviews or communications with these third parties, it would be duplicative and may discourage cooperation when their further testimony is needed in the litigation. To be clear, my client respects and appreciates the important role that OCE plays and, consistent with the Office's mission, is hopeful that we can find some accommodation that does not put OCE's review at odds with fair judicial process.

¹ Letter from Kerry Kircher and Gloria Lett to Tony West, Assistant Attorney General, February 15, 2011, at 7.

² *Id.*

³ *Id.*

⁴ OCE Rule of Conduct of Investigation ("OCE Rule") 7(A).

Paul J. Solis, Esq.
May 13, 2011
Page 3

Finally, the conflicting schedules of the OCE review and the pending litigation also would impair my client's ability to defend against the allegations in court. In the court proceeding, my client is entitled to investigate and present his response to the allegations for the first time on July 9, 2011, at the earliest. By that time, OCE would have completed its preliminary review. If OCE's review proceeds as currently scheduled, it would force my client and the other relevant parties to respond on the record to the facts alleged in the complaint before they have an opportunity to do so in the underlying litigation. The review, as it is now contemplated, puts my client in the untenable position of, on one hand, handicapping his defense by agreeing to provide testimony and other information to OCE prematurely or, on the other hand, preserving his rights in the litigation but risking an adverse inference in the OCE review.⁵ OCE's rules and procedures do not appear to anticipate this Hobson's choice, short of allowing for an alternative procedure under OCE Rule 16, which I would request that the Board authorize here. If the Board declines to terminate the review altogether based on OHEC's compelling findings, I would request that it stay the review until at least the close of the judicial action, when the impact on the parties' rights will be less prejudicial.

Let me reiterate my client's every wish and intention to cooperate with OCE as it conducts its review. He only seeks a mechanism by which he can do so without foregoing rights that he is afforded in the civil litigation or otherwise prejudicing his defense. Either of the two options presented above achieves that objective, while enabling OCE to fully perform its duties as authorized.

Thank you for your consideration. I look forward to your response.

I understand that OCE will treat information that it receives or otherwise collects during its preliminary review confidentially, except to the extent it is obligated to provide certain information to my client. I ask that this correspondence also be treated confidentially, be maintained in confidence by OCE, and be used solely for the purpose of this inquiry. If any other person (including any governmental employee) should request an opportunity to inspect or copy this letter, or if you or anyone else contemplates the disclosure of this letter or the information contained herein to any other person, I request that I be notified immediately, be furnished with a copy of all written material pertaining to any such request, and be given a hearing or other opportunity to prevent disclosure. The enclosed information is made available

⁵ OCE Rule 6.

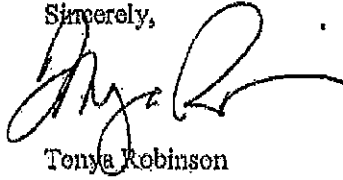
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WILMERHALE

Paul J. Sohs, Esq.
May 13, 2011
Page 4

to you and OCE without prejudice to any privileges which my client may have, including the attorney-client and work-product privileges, which privileges are expressly reserved.

Sincerely,

A handwritten signature in black ink, appearing to read "Tonya Robinson", with a long, sweeping horizontal stroke extending to the right.

Tonya Robinson

TR:tnc

CONFIDENTIAL TREATMENT REQUESTED

ATTACHMENT A

KERRY W. KIRCHER
GENERAL COUNSEL

U.S. HOUSE OF REPRESENTATIVES
OFFICE OF THE GENERAL COUNSEL
219 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6532
(202) [REDACTED]
FAX: (202) 226-1360

JOHN D. FLAMOR
SENIOR ASSISTANT COUNSEL

CHRISTINE DAVENPORT
SENIOR ASSISTANT COUNSEL

KATHERINE E. MCCARRON
ASSISTANT COUNSEL

WILLIAM B. PITTARD
ASSISTANT COUNSEL

PRIVILEGED AND CONFIDENTIAL

February 15, 2011

BY FEDERAL EXPRESS

The Honorable Tony West, Assistant Attorney General
Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: *Winsome Packer v. The United States Commission on Security
and Cooperation in Europe, et al.*, No. ____ (D.D.C.)

Dear Mr. West:

Pursuant to 28 C.F.R. §§ 50.15, 50.16, we write to request that the Department of Justice provide representation to, or authorize representation by private counsel for, the Honorable Alcee L. Hastings, U.S. Representative for the 23rd congressional district of Florida – and also Co-Chairman of the United States Commission on Security and Cooperation in Europe (“Helsinki Commission”) during the 111th Congress – and Fred L. Turner, Chief of Staff to the Helsinki Commission.¹

Congressman Hastings and Mr. Turner have been identified as putative individual-capacity defendants in two counts of a draft Complaint prepared by attorneys for Winsome Packer, a Policy Advisor to the Helsinki Commission. See Draft Complaint for Declaratory and Monetary Relief and Jury Demand (Jan. __, 2011) (Counts Three and Four), attached as Exhibit I. Count Three alleges sexual harassment in violation of the Fifth Amendment as against Congressman Hastings, *id.* ¶¶ 90-94, and Count Four alleges

¹ The Helsinki Commission is an independent government entity, created by statute enacted in 1976, which consists of nine Members of the House of Representatives, nine Members of the Senate, and three representatives of the executive branch. See 22 U.S.C. § 3003(a), *et seq.* It is responsible for, among other things, monitoring the activities of the signatories to, and encouraging their compliance with, the Final Act of the Conference on Security and Cooperation in Europe, 22 U.S.C. § 3002, and reporting to Congress on matters covered by the statute. *Id.* § 3006.

Tony West, Assistant Attorney General
February 15, 2011
Page 2

retaliation in violation of the First and Fifth Amendments as against the Congressman and Mr. Turner. *Id.* ¶¶ 95-100. The draft Complaint purports to seek compensatory damages in an amount not less than \$300,000, and punitive damages in an amount not less than \$1,000,000. *Id.* at 33.

For the reasons set forth below, we believe Congressman Hastings and Mr. Turner were acting within the scope of their employment at all pertinent times and that the provision of representation is in the interest of the United States, within the meaning of 28 C.F.R. § 50.15(a)(1), (2). Accordingly, we recommend that representation be provided.

We understand that the Complaint, at present, is only in draft form, and that the Department cannot make a final determination until a complaint is actually filed with the district court. However, we expect that a complaint will in fact be filed within the next several weeks in substantially the form in which it now appears, and we will promptly advise you when that happens. Pending that occurrence, we urge the Department to begin the review process now so that a final determination as to representation can be made as quickly as possible.

PROCEDURAL BACKGROUND

The Congressional Accountability Act

In 1995, Congress enacted the Congressional Accountability Act, 2 U.S.C. §§ 1301, *et seq.* ("CAA"), a comprehensive remedial and procedural statute which makes Title VII and eleven other labor and employment laws applicable to the legislative branch. *Id.* § 1302(a); 42 U.S.C. § 2000ff-6(c). Under the CAA, a "covered employee" may — after exhausting specified counseling and mediation requirements — proceed against her "employing office" for violations of the applicable law(s), *either* in federal district court or in an administrative proceeding before the Office of Compliance. 2 U.S.C. § 1404. The Office of Compliance is an independent office within the legislative branch that performs a variety of functions under the CAA. *Id.* § 1381.

Cases initiated under the CAA proceed against the "employing office," not against an individual Member or legislative branch employee. *Id.* §§ 1301(9), 1405(a), 1408(b). The CAA created the concept of an "employing office" to mirror the fact that Congressional offices operate as separate employers in practice and for the purpose of shielding Members and legislative branch employees from personal monetary liability. See H.R. Rep. No. 103-650, pt. 2, at 8, 15, 24 (1994).

Tony West, Assistant Attorney General
February 15, 2011
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Office of Compliance Proceedings

In August 2010, pursuant to § 1402(a) of the CAA, Ms. Packer filed a request for counseling with the Office of Compliance, asserting claims of sexual harassment and retaliation against the Helsinki Commission. See Draft Complaint ¶ 74. The counseling period ends after 30 days, 2 U.S.C. § 1402(b), which, in this case, was on September 8, 2010. Draft Complaint ¶ 75. Ms. Packer then requested mediation pursuant to § 1403 of the CAA. The mediation period also ends after 30 days, 2 U.S.C. § 1403(c).² In this case, because the parties jointly requested several extensions, the mediation period ended on December 8, 2010. Draft Complaint ¶ 76. Ms. Packer has 90 days from the date on which she received notice of the end of the mediation period, or until approximately March 8, 2011,³ to elect to proceed against the Helsinki Commission, in federal district court or before the Office of Compliance, *id.* § 1404, if she wishes to assert a claim(s) under the CAA.⁴

THE DRAFT COMPLAINT

The Draft Complaint indicates that Ms. Packer *does* intend to assert CAA claims against the Helsinki Commission. See Draft Complaint ¶¶ 77-82 (Count One – discrimination on basis of sex in violation of CAA as against Commission), ¶¶ 73-89 (Count Two – retaliation in violation of CAA as against Commission). However, the question of whether the CAA even applies to Ms. Packer and/or the Helsinki Commission is unsettled. Compare 2 U.S.C. § 1301(3), (9) with 22 U.S.C. § 3008(d). Ms. Packer's

² Information regarding statements and representations made during Office of Compliance mediation sessions is provided solely for the purpose of providing the Department of Justice with necessary background information. The CAA mandates that all such information is "strictly confidential." 2 U.S.C. § 1416. Accordingly, this information is provided under the "common interest" privilege and its confidentiality must be maintained.

³ At present, we do not know the exact date Ms. Packer received the notice; accordingly the deadline for filing may be slightly earlier or later than March 8, 2011.

⁴ At the mediation, the Commission asserted that Ms. Packer was not a "covered employee" under 2 U.S.C. § 1301(3) and that the Commission was not an "employing office" under 2 U.S.C. § 1301(9). However, because the statute authorizing the Commission, 22 U.S.C. § 3008(d), creates some ambiguity regarding how the CAA definition of a "covered employee" applies in the context of a claim brought against the Commission, and because the mediation was an opportunity to assess Ms. Packer's allegations and ascertain whether a negotiated resolution was possible, the Commission voluntarily participated in the mediation.

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attorneys were made aware of this uncertainty at the mediation sessions, and we suspect it is for that reason that they plan to assert constitutional tort claims against Congressman Hastings and Mr. Turner in Counts Three and Four.

According to the Draft Complaint, Congressman Hastings offered Ms. Packer a position at the Commission in April 2007, and she has worked as a Policy Advisor for the Commission since May 7, 2007. Draft Complaint ¶¶ 13, 14.⁵ Within a year of her hire, Ms. Packer was appointed to be the Commission's representative to the U.S. Mission to the Organization for Security and Cooperation in Europe ("OSCE") in Vienna, Austria. *Id.* ¶ 15. Ms. Packer moved to Vienna on February 15, 2008, *id.* ¶ 19, and remained there until July 31, 2010, when she returned to Washington, D.C. to resume her duties as a Policy Advisor to the Commission. *Id.* ¶ 73. As a Policy Advisor, Ms. Packer's annual salary was \$80,000. While serving in Vienna, Ms. Packer's annual income was \$165,000. *Id.* ¶ 19.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer's sexual harassment and retaliation claims against Congressman Hastings. We have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

In and Around Washington, D.C. – Hastings

- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 16, 18.
- Congressman Hastings allegedly said he would come to Ms. Packer's home in Alexandria, Virginia to "check up on her." *Id.* ¶ 18.
- Congressman Hastings allegedly called Ms. Packer in Vienna frequently. According to Ms. Packer, these calls were "under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other." *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman allegedly hugged Ms. Packer on occasion when greeting her. *Id.* ¶¶ 39, 46.

⁵ Notwithstanding the implication that Congressman Hastings hired Ms. Packer himself, the statute provides that all Commission hiring decisions are made by a majority vote of a four-person Personnel Committee consisting of the Chair, the Co-Chair and the ranking minority Members from the House and Senate. *See* 22 U.S.C. § 3008(a), (b). In 2007, Congressman Hastings was the Chairman of the Commission.

Europe -- Hastings

- Congressman Hastings gave Ms. Packer a music box from the Czech Republic as a gift in front of work colleagues. *Id.* ¶ 20.
- Congressman Hastings allegedly invited himself to visit Ms. Packer in her apartment in Vienna. *Id.* ¶¶ 21, 30.
- Congressman Hastings allegedly frequently called Ms. Packer. According to Ms. Packer, these calls were “under the auspices of work-related matters . . . Mr. Hastings would deviate to personal matters or try to arrange a time for them to see each other.” *Id.* ¶ 23. *See also id.* ¶¶ 32, 38.
- The Congressman hugged Ms. Packer. *Id.* ¶ 25 (Vienna at a meeting), ¶ 28 (Vienna), ¶ 35 (Kazakhstan in delegation hospitality room), ¶ 47 (Vilnius, Lithuania), ¶¶ 65-66 (Vienna).
- Congressman Hastings allegedly made sexual comments to and around Ms. Packer. *Id.* ¶¶ 26-27, 29.
- Congressman Hastings allegedly linked Ms. Packer’s career progress to a personal relationship with him. *Id.* ¶¶ 35, 38, 42-44.
- Congressman Hastings allegedly complained to Ms. Packer that “she was not ‘a sport’ because she knew that he ‘liked’ her and that he had helped her professionally . . . [and] explained to her that he had ‘come to [her] as a man does to a woman.’” *Id.* ¶ 43.
- Congressman Hastings allegedly asked Ms. Packer if she would like to come to his hotel room when they were attending a Parliamentary Assembly Bureau meeting in Lisbon, Portugal. *Id.* ¶ 44.

The following allegations in the Draft Complaint relate to, and appear intended to support, Ms. Packer’s retaliation claim against Mr. Turner. Again, we have divided these allegations between those that are alleged to have occurred in and around Washington, D.C., and those that are alleged to have occurred in Europe.

In and Around Washington, D.C. -- Turner

- Mr. Turner allegedly "refused to take any action to protect her." *Id.* ¶ 38.
- Mr. Turner allegedly denied Ms. Packer's request to return to Washington, D.C. after she had worked overseas for one year. *Id.* ¶ 41.
- Mr. Turner allegedly assigned work from Ms. Packer's portfolio to her colleagues and withheld from her important information that was pertinent to the performance of her job duties. *Id.* ¶ 50.
- In response to Ms. Packer's request to return to Washington, D.C., Mr. Turner allegedly informed her "that Mr. Hastings would be coming to Vienna in February 2010 and would speak to her at that time about her future." *Id.* ¶ 52.
- When Ms. Packer submitted travel requests for meetings, Mr. Turner allegedly responded that "she would have to work very hard to convince Senator Cardin [then Commission Chairman] that she should be able to travel since she had decided to return to Washington, D.C. in July." *Id.* ¶ 70.

Europe -- Turner

- Mr. Turner allegedly told Ms. Packer there was nothing he could do about Congressman Hastings' alleged inappropriate conduct. *Id.* ¶ 45.⁶

THE FACTS AS HOUSE EMPLOYMENT COUNSEL UNDERSTANDS THEM

In preparing to participate in the Office of Compliance mediation process on behalf of the Helsinki Commission, the Office of House Employment Counsel ("OHEC") investigated the substantive allegations Ms. Packer presented at that time.⁷ Among other things, OHEC interviewed Congressman Hastings, Mr. Turner and several other individuals. OHEC also reviewed relevant emails and other documents provided by the

⁶ There are a number of allegations in the Draft Complaint that run contrary to Ms. Packer's claim that Congressman Hastings and Mr. Turner retaliated against her. See, e.g., Draft Complaint ¶¶ 15, 22, 38, 44, 57, 58, 61-63.

⁷ As part of the mediation process, Ms. Packer, through her first attorney, submitted a narrative that detailed her factual allegations. OHEC's investigation was based on this narrative. After the first mediation session, Ms. Packer retained new counsel and the Draft Complaint was prepared by this new counsel. The allegations in the Draft Complaint are substantially similar, although not identical, to the allegations in the initial narrative.

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Commission. The information OHEC has reviewed to date supports the conclusion that Ms. Packer did not experience conduct that rises to the level of sexual harassment or retaliation under applicable federal law. Furthermore, a number of Ms. Packer's substantive allegations have been strongly refuted by some of the very individuals she identified as witnesses to the alleged harassment and/or retaliation. OHEC's interviews and document review have not yielded any indication of a personal relationship between Ms. Packer and Congressman Hastings, nor has OHEC's investigation resulted in the identification of any witness who corroborates Ms. Packer's substantive allegations that she experienced legally-actionable harassing or retaliatory conduct. In short, OHEC is not aware of any readily available information which indicates that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings and/or Mr. Turner have been untruthful in their denial of the allegations.

It is important to note that many of the underlying allegations regarding events, trips, dinners, etc., are factually accurate and it does appear that Ms. Packer did make statements to others while in Vienna about what she claimed was inappropriate conduct on the part of Congressman Hastings. Ms. Packer also makes a number of assertions that are factually accurate, but are taken out of context. For instance, Congressman Hastings readily admits that he hugged Ms. Packer. Individuals OHEC interviewed confirmed this, but also that Congressman Hastings hugs most everyone. Similarly, Congressman Hastings did give a music box as a gift to Ms. Packer; however, Congressman Hastings and the witnesses OHEC spoke with stated that Congressman Hastings regularly bought gifts for his staff -- male and female. OHEC's investigation shows that while some of Ms. Packer's allegations begin with a kernel of truth, when looked at in context, Ms. Packer grossly distorts the events and circumstances in order to support a fiction that she experienced unlawful sexual harassment and retaliation. Based on OHEC's review to date, we do not believe that Ms. Packer experienced sexual harassment. *See Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 21 (1993) (in order to establish a prima facie case of a hostile work environment, a plaintiff must produce evidence that "the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter conditions of the victim's employment and create an abusive working environment").

Rather, OHEC's interviews and review of documents indicate that Ms. Packer's view of reality is skewed. Indeed, there are communications over the course of Ms. Packer's employment with the Helsinki Commission that contradict a number of her allegations and clearly indicate that she has difficulty developing and maintaining productive and cooperative relationships with colleagues and superiors. Given the diplomatic element of the Commission's purpose and Ms. Packer's role in advancing that purpose, it is little wonder that her inability to foster cooperative relationships has been an ongoing issue.

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OHEC's view of the falsity of Ms. Packer's substantive allegations, as discussed above, is strongly influenced by OHEC's assessment of Ms. Packer's true motivation. Her self-serving and distorted interpretation of events and conversations during her tenure with the Commission can be best summed up in the title of her recently self-published novel: *A Personal Agenda*. Indeed, it appears that Ms. Packer began publicizing her book in June 2010, shortly before she initiated proceedings against the Commission under the CAA. Furthermore, in a press release she appears to have written at the time, Ms. Packer states that her book was "inspired by her own experiences" and "seeks to provoke its readers by examining . . . sexual harassment in Congress."⁸ Furthermore, in two recent television interviews available on the Internet, Ms. Packer acknowledges that she is working aggressively to seek publicity to promote her novel.⁹

OHEC also believes that Congressman Hastings and Mr. Turner are the subject of Ms. Packer's claims in large part because of their respective official positions as her superiors, *i.e.*, the Congressman as Chairman and Co-Chairman of the Commission (during the 110th and 111th Congresses, respectively), and Mr. Turner as Ms. Packer's immediate supervisor.

DISCUSSION

Scope of Employment

Because 28 C.F.R. § 50.15(a) does not define the elements of an employee's scope of employment, we look by analogy to the scope certification conducted under the Federal Tort Claims Act ("FTCA"), as amended by the Westfall Act, 28 U.S.C. §§ 2671 *et seq.* In the FTCA context, the question of whether a federal officer is acting within the scope of his employment is determined by the law of the state where the alleged tort occurred. 28 U.S.C. § 1346(b)(1); *Williams v. United States*, 350 U.S. 857, 857 (1955); *Haddon v. United States*, 68 F.3d 1420, 1423 (D.C. Cir. 1995). In this case, the alleged tortious conduct of Congressman Hastings and Mr. Turner occurred in Washington, D.C. and Europe. Since the FTCA does not apply to claims arising in a foreign country, 28 U.S.C. § 2680(k), we look to the law of the District of Columbia.¹⁰

⁸ A copy of this June 2010 press release can be found at <http://www.mmdnewswire.com/winsome-packer-8783.html>.

⁹ These interviews are available at <http://televisionjamaica.com/vid-1000-WINSOMEPACKER.aspx> and <http://televisionjamaica.com/vid-1303-PROFILE-WinsomeAPacker.aspx>.

¹⁰ For purposes of this letter of recommendation, we assume that actions of Congressman Hastings and Mr. Turner that allegedly occurred abroad may be considered for purposes of determining whether they acted within the scope of their employment.

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According to District of Columbia law, an individual is acting within the scope of his employment if the conduct: (1) is of a kind he is employed to perform; (2) occurs substantially within authorized time and space limits; and (3) is actuated, at least in part, by a purpose to serve the master. *Haddon*, 68 F.3d at 1423-24 (citing Restatement (Second) of Agency § 228). The District takes a very broad view of "the scope of employment." See, e.g., *Lyon v. Carey*, 533 F.2d 649, 654 (D.C. Cir. 1976); *Johnson v. Weinberg*, 434 A.2d 404, 408-09 (D.C. 1981).

A. Congressman Hastings

Nature of Activities. The official duties of Members of Congress include an extremely broad range of legislative and representational activities, and plainly include activities such as service on official governmental entities such as the Helsinki Commission. See, e.g., *U.S. v. Brewster*, 408 U.S. 501, 512 (1972); *U.S. v. Rostenkowski*, 59 F.3d 1291, 1309-12 (D.C. Cir. 1995). It is clear, under the statute, that Members of Congress are appointed to the Commission because they are Members of Congress, and that they serve in that capacity. See 22 U.S.C. § 3003.

Time/Place. The Draft Complaint suggests that all, or virtually all, of the activities in which Congressman Hastings is alleged to have engaged occurred at or during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chair or Co-Chair of the Commission. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Leaving aside the many self-serving characterizations that populate the Draft Complaint, it is transparently clear that Congressman Hastings's many interactions with Ms. Packer, as described in the Complaint, were motivated at least in part by a desire to carry out his official and supervisory responsibilities as Chair or Co-Chair of the Commission. And so long as at least one purpose of Congressman Hastings's activities was official in nature, the courts – quite appropriately – have refused to try to determine whether there may have been other motivations or even a "predominant" motive. See, e.g., *Council on Am. Islamic Relations, Inc. v. Ballenger*, 366 F. Supp. 2d 31-32 (D.D.C. 2005), *aff'd*, 444 F.3d 659 (D.C. Cir. 2006); *Operation Rescue Nat'l v. U.S.*, 975 F. Supp. 92, 107 (D. Mass 1997), *aff'd*, 147 F.3d 68 (1st Cir. 1998).

In the *Operation Rescue* case, for example, Senator Kennedy, in the course of speaking to the press after participating in an event to raise funds for an upcoming re-election campaign, stated that certain legislation was needed because "we have a national organization like Operation Rescue that has as a matter of national policy firebombing and even murder." 975 F. Supp. at 94-95. Senator Kennedy, who was then

sued for defamation by Operation Rescue, took the position that he was acting within the scope of his employment when he uttered those remarks. The district court held that, even if Senator Kennedy were motivated in part by a personal desire to advance his re-election prospects, it was not appropriate for the court, in making the scope of employment determination, to attempt to determine a "predominant" motive for an elected official's remarks. "In our electoral system . . . such public and personal motives are essentially inseparable because it is natural for public officials to believe that their own success . . . [is] inextricably linked to the public interest." *Id.* at 95. Rather, the court said, only when an official acts from "purely personal motives that were in no way connected to his official duties" would the official be held to have acted outside the scope of his employment. *Id.* See also W. Prosser & W. Keeton, *Torts* 506 (5th ed. 1984) (only if an employee "acts from purely personal motives in no way connected with the employer's interests, [is he] considered in the ordinary case to have departed from his employment.").

Absence of Bad Faith. As described above, as a result of OHEC's factual investigation, we are not aware of any readily available information to indicate that the claims for sexual harassment or retaliation have merit, or that Congressman Hastings has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Congressman Hastings was acting within the scope of his official responsibilities.

B. Fred Turner

Nature of Activities. Mr. Turner's responsibilities as Commission Chief of Staff include managing the day-to-day operations of the Commission, and directing and supervising a staff of approximately 18 employees in the areas of public policy, media affairs, correspondence, scheduling, and communications. The allegations in the Draft Complaint leave little doubt that Mr. Turner was acting in his official capacity as Commission Chief of Staff at the time of his various interactions with Ms. Packer.

Time/Place. The Draft Complaint suggests that most of the activities in which Mr. Turner is alleged to have engaged occurred while he was working in the Commission's offices in Washington, D.C. during normal business hours, and that the balance occurred during official Commission functions, meetings, hearings or travel while he was acting in his official capacity as Chief of Staff. Accordingly, the authorized time/space element described in *Haddon*, 68 F.3d at 1423-24, has been satisfied.

Purpose or Motivation. Once again leaving aside the many self-serving characterizations that populate the Draft Complaint, it is abundantly clear that Mr. Turner's interactions with Ms. Packer, as described in the Draft Complaint, were

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certainly motivated at least in part by a desire to carry out his official responsibilities as Chief of Staff. *See supra* at 8.

Absence of Bad Faith. As described above, as a result of OHEC's factual investigation, we are not aware of any readily available information to indicate that the claim for retaliation has any merit, or that Mr. Turner has not been truthful in his denial of the allegations.

Accordingly, we believe that, as a matter of D.C. law, Mr. Turner was acting within the scope of his official responsibilities.

The Interests of the United States

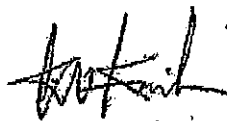
For the reasons described more fully above in the section entitled "The Facts as House Employment Counsel Understands Them," we believe it is in the interest of the United States that the Department provide representation to Congressman Hastings and Mr. Turner in their individual capacities in this matter.

CONCLUSION

For all the foregoing reasons, we respectfully request that the Department determine that Congressman Hastings and Mr. Turner were acting within the scope of their employment at all relevant times, and that it is in the interest of the United States to provide representation to them in this action.

Thank you for your attention. We look forward to hearing from you, and please contact us if there is anything further we can do to assist in this matter.

Sincerely,



Kerry W. Kiroher
General Counsel
202- [REDACTED] (phone)



Gloria Nett
House Employment Counsel
202- [REDACTED] (phone)

Attachment

cc: Timothy P. Garren, Director
Torts Branch, Civil Division
U.S. Department of Justice

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Mamaux, Lale

From: Bennett, George (CMG-WestPalm) [redacted]@pbpost.com]
Sent: Monday, October 31, 2011 2:22 PM
To: Mamaux, Lale
Subject: Hastings on Herman Cain?

Lale:

Nice to see you at Dem convention. Any chance of getting Rep. Hastings to comment on the Herman Cain matter?

I'm interested in his perspective as someone who's the defendant in a harassment lawsuit.

Thanks,

George Bennett
Staff writer
The Palm Beach Post
PostOnPolitics.com
Twitter.com/gbennettpost
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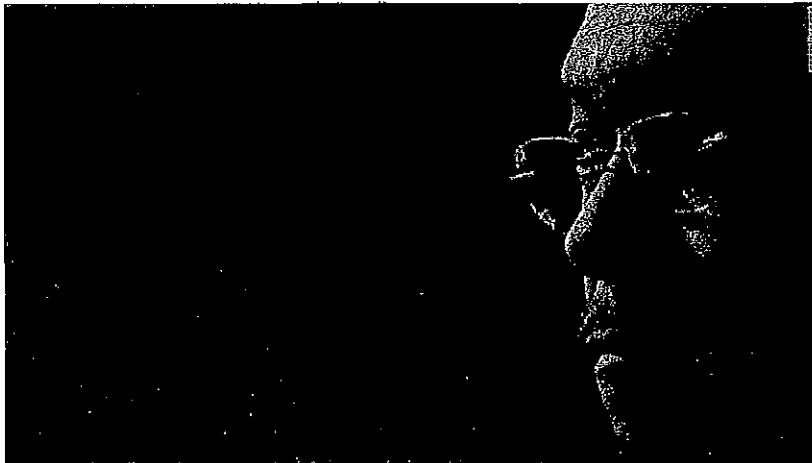
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Sexual harassment isn't red or blue

By Sally Kohn, Special to CNN
updated 10:50 AM EST, Wed November 2, 2011

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Herman Cain speaks at the National Press Club on Monday, where he called the accusations against him "a witch hunt."



STORY HIGHLIGHTS

Allegations surfaced that Herman Cain was accused of sexual harassment

Sally Kohn: The gravity of sexual harassment is lost as politics dominate discussion

Cain supporters even condemn women who report harassment, Kohn writes

Kohn: Harassment is not a Democratic or Republican issue. It's just wrong

Editor's note: Sally Kohn is a strategist and political commentator. She is the founder and chief education officer of the Movement Vision Lab, a progressive grassroots think tank that promotes the ideas of local communities to solve national problems, and a contributor to American Prospect magazine.

New York (CNN) -- This week, Politico reported that two female employees accused GOP presidential candidate Herman Cain of sexual harassment when he was chair of the National Restaurant Association. "The women complained of sexually suggestive behavior by Cain that made them angry and uncomfortable," Politico reported, "and they signed agreements with the restaurant group that gave them financial payouts to leave the association."

The evening the story broke, even before Cain had addressed the allegations himself, conservatives were out in force defending Cain and attacking his supposed victims. In the most stunning of such displays, conservative commentator Ann Coulter -- who made her career by attacking Bill Clinton for his affair with Monica Lewinsky -- accused the left of "high-tech lynching" against Cain, a black conservative. "There's nothing liberals fear more than a black conservative," Coulter said. "Ask Allen West, ask Michael Steele, and ask Clarence Thomas."

To be fair, liberals can be racist just like conservatives can be racist -- consciously or unconsciously treating black and brown candidates more harshly than whites. But at the same time, conservatives can be sexist pigs just like liberals can be sexist pigs. When anyone of

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any party or any race or, for that matter, gender, is accused of sexually inappropriate behavior, shouldn't we put aside partisanship and be equally concerned?

Disregard for a second what Cain did or did not do. There's certainly enough evidence from Cain's own admissions to justify taking the allegations seriously. During the course of a Fox television interview on the topic, Cain contradicted himself repeatedly, veering between saying he did and did not remember the alleged victim or the alleged accusations of harassment. And while Cain has denied any inappropriate conduct, he admits money was paid to one of the women. Politico reports both were paid. That raises the question whether something unseemly might have happened. Voters are at least justified in investigating whether the potential leader of our nation has an inappropriate relationship with the truth.



But more than fodder for partisan pundits, these are learning moments. Sexual harassment is a serious issue. One in six Americans reports having been sexually harassed in the workplace, according to an AOL survey. Two thirds of those who experienced harassment didn't report it. Although sexual harassment can be limited to inappropriate jokes, it can also mean losing your job for rejecting sexual advances. And much, much worse. In one highly documented case, a manager of a rent-to-own store in Missouri started with lewd jokes directed at a female employee, which escalated to pinching, which escalated to the manager hitting the woman with his genitals and masturbating over her while he held her body on the ground. For women like Coulter to imply that sexual harassment claims are simply whiny women saying "Ooh, I don't like that he called me honey" suggests that women should be complacent in the face of harassment, no matter how minor or extreme.

Commenting on the Cain situation for the National Review Online, conservative anti-feminist Suzanne Venker wrote, "That women now have the power to ruin men's lives using a boatload of resentment but no evidence to speak of tells

you all you need to know about feminism and its effect on our society."

Rather than, uh, protecting working women such as herself from the sort of unwanted sexual advances and quid pro quo that dominated the workforce of the mid-20th century, Venker argues that sexual harassment laws threaten "the reputation and livelihood of countless unsuspecting college guys, adult men and fathers." Is that the kind of world we want to raise our children in, where men and boys can be free to express whatever inappropriate sentiments they want while women and girls are made to feel ashamed and blamed?

Bill Clinton had an affair with a young and impressionable intern over whom he had enormously disproportionate power. Arnold Schwarzenegger had an affair with a housekeeper over whom he had enormously disproportionate power. Former Republican Rep. Mark Foley sent sexually suggestive e-mails to young congressional pages. Former Democratic Rep. Anthony Weiner sent sexually suggestive texts to young supporters.

And earlier this year, Democratic Rep. Alcee Hastings was sued by a conservative legal organization on behalf of a Republican female employee who said Hastings sexually harassed her -- which Hastings denied.

Cain may rise or fall depending on how this story plays out. Frankly, I don't care. What I do care about is whether, in the way we talk about this story, we're creating a climate in which sexual harassment is allowed to fester --- letting it slide because we like the offender's politics or, at our own workplaces, think the guy is nice and don't want to shove political correctness down his throat. Wanting a world in which men and women can work alongside each other equally

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without fear of harassment is not political correctness. It's just correct.

The opinions expressed in this commentary are solely those of Sally Kohn.

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Silentway

Most Sexual Harassment investigations come up with nothing because most of the complaint are bogus attempts to get money. I don't work HR but I bet 90% of the complaints are from women about men if not a higher percentage, I could tell a woman she looks nice in a jacket and she could complain, that's... more
1 hour ago | Like | Report abuse



Bishadi

It seems that if this is NEWS to CNN, that CNN is not the best source of NEWS. Cain, is the only candidate that is seeking to actually make a difference that is not just a career a career politician. This 'sexual harassment' issue is nothing compared to what happens on TV every day of the week. ... more
3 hours ago | Like | Report abuse



roche56655

By the look of her photograph I bet she has harassed a few women.
4 hours ago | Like | Report abuse



curtisfan

stupid remark
4 hours ago | Like | Report abuse



deceeman

30 million American women said there were harassed, or wished they were, after viewing my spicy commercial. Here is an oyster...with two tickets inside to your favorite thing. Now they've turned to diamonds. I'm on a horse.
5 hours ago | Like (1) | Report abuse



theuglypaupe

Winsome Packer Attorneys'

First Attorney

George M. Chuzi
Kalijarvi, Chuzi & Newman PC
1901 L Street, NW
Suite 610
Washington, DC 20036
202-██████████ (phone)

Second Attorney

Debra Katz
Katz, Marshall & Banks, LLP
1718 Connecticut Avenue, NW
6th Floor
Washington, DC 20009
202-██████████ (phone)

Alexis H. Rickher
Katz, Marshall & Banks, LLP
1718 Connecticut Avenue, NW
6th Floor
Washington, DC 20009
202-██████████ (phone)

Third Attorney

James F. Peterson
Judicial Watch
425 Third Street, SW
Suite 800
Washington, DC 20024
202-██████████ (phone)

December 7, 2011

Mr. Daniel A. Schwager
Staff Director & Chief Counsel
Committee on Ethics
1015 Longworth House Office Building
Washington, DC 20515

RECEIVED
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COMMITTEE ON ETHICS

Dear Mr. Schwager:

Pursuant to our conversation on Monday, December 7th, I ask that you convey to the Committee my sentiments, as expressed to you, regarding the upcoming mandated publication requirements.

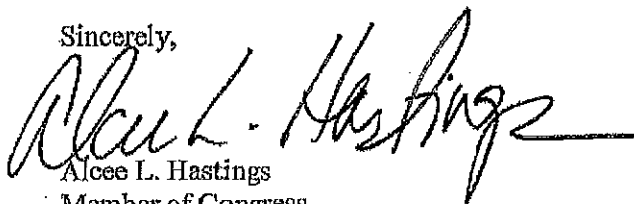
I fully understand that the decision rests solely with the Committee. I await and will abide their decision.

I do have great concern regarding errata that exists in OCE's so called Report and Findings of Fact.

I intend to amplify these matters in a separate letter.

Thank you in advance.

Sincerely,


Alcee L. Hastings
Member of Congress

