

U.S. House of Representatives

COMMITTEE ON ETHICS

Washington, DC 20515

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September 25, 2012

STATEMENT OF THE ACTING CHAIRMAN AND ACTING RANKING MEMBER OF THE COMMITTEE ON ETHICS REGARDING REPRESENTATIVE MAXINE WATERS

Pursuant to Committee Rule 7(g), the Committee on Ethics (Committee) determined on September 25, 2012, to release the following statement:

On July 24, 2009, the Office of Congressional Ethics (OCE) forwarded to the Committee on Ethics (Committee) a Report and Findings related to Representative Maxine Waters' alleged violation of House rules and precedent regarding conflicts of interest with respect to certain actions taken on behalf of OneUnited Bank, in which Representative Waters' husband held stock and for which he had previously served on the Board of Directors.

On September 21, 2012, the Committee adopted, by a unanimous 10-0 vote, a Report based on its independent review, which resolves the allegations addressed by OCE. The Committee has unanimously determined that the evidence does not establish, to the standard of clear and convincing evidence, that Representative Waters violated House rules. It appears that Representative Waters recognized and made efforts to avoid a conflict of interest with respect to OneUnited. However, the Committee has also unanimously determined that Representative Waters' Chief of Staff, Mikael Moore, took certain actions on behalf of OneUnited when he knew, or should have known, of Representative Waters' personal financial interest, despite Representative Waters' instructions to avoid the conflict. Accordingly, the Committee unanimously voted to issue a letter of reproof to Mr. Moore for his conduct. The Committee, in reaching its conclusions, relied heavily on the work performed by outside counsel William R. "Billy" Martin, who conducted a thorough and impartial investigation into the facts of this matter, as well as allegations regarding the Committee's own conduct in the course of the investigation of Representative Waters during the 111th Congress. Mr. Martin has submitted a report, which concludes that Representative Waters' due process rights were not violated by the Committee's investigation, and contains findings and recommendations regarding the facts of this case which are consistent with the Committee's conclusions. The Committee has unanimously agreed to release Mr. Martin's report.

Before the Committee concludes this matter – and the six substitute Members selected to serve on the Committee solely for this matter conclude their service – we take note of certain lessons learned in the course of this investigation, and make the following nine recommendations to the House community.

First, the proper function of this Committee requires individual Members to act and rely on their individual expertise and background in shaping their opinions regarding matters pending

before the Committee. Unlike any other Committee, this Committee avoids partisan legislative concerns and policies, and must have bipartisan cooperation for the Committee to fulfill its constitutional mandate to police the Members, officers and employees of the House. That mission calls upon Members to step out of their partisan framework and approach the work of the Committee without regard to their party. It is our recommendation for any Member that serves on this Committee that he or she constantly evaluate their actions on the Committee, to ensure that they are living up to the highest standards of this Committee.

Second, while the nonpartisan professional staff of the Committee is, and must be, available to Committee Members for the internal work of the Committee, we recommend that Committee Members be sensitive to appearances that may be created if only particular staff members are routinely relied upon by Members of a particular party. Accordingly, if Committee Members find that distrust is arising along party lines with respect to particular staff members, that distrust should raise a red flag – and frank bipartisan discussions within the Committee should occur.

Third, in a similar vein, the principle of open, frank communication should also apply to allegations of inappropriate remarks by Committee staff, whether the remarks are racially insensitive or otherwise improper. At the point the Committee's leadership or staff become aware of insensitive or inappropriate comments related to bias, it is incumbent on them to deal with such allegations in an open, frank, and bipartisan or nonpartisan manner.

Fourth, we recommend that the Committee follow the recommendations of the Investigative Subcommittee in *The Matter of the Investigation into Officially Connected Travel of House Members to Attend the Carib News Foundation Multinational Business Conferences in 2007 and 2008*, and establish written policies and procedures as to the duties and responsibilities of the designated counsels to the Chairman and Ranking Member of the Committee. These policies should reduce the possibility or the appearance that the nonpartisan work of the Committee might be improperly impacted by the partisan considerations, backgrounds, or suspicions of the designees.

Fifth, because one of the causes of suspicion and distrust within the Committee during the 111th Congress was the former Chief Counsel's association with partisan political activity, we recommend that the Committee avoid hiring professional staff who have previously served as partisan staff. Even if both Committee leaders and the individuals themselves believe they could serve on the nonpartisan, professional staff in a fair and unbiased fashion, Members or other staff are far more likely to begin to view any disagreement as a partisan issue, leading to suspicion and distrust.

Sixth, we believe the full Committee, or the House, should consider adoption of policies or Rules such that, in instances where a Member has determined that they should no longer be involved in advocacy on behalf of a particular person or entity because of a potential conflict of interest, the Member should take steps to inform all members of their staff, as well as the entity concerned, of the decision to recuse their office from further action. We recognize that the office may provide the entity with contact information for a Senator, a Representative of any other district in which that entity is a constituent, or a Committee.

Seventh, we believe the full Committee, or the House, should consider adopting policies or Rules to the effect that a Member should proactively notify staff of any financial or other conflicts of interest with constituent entities, so that staff does not take inappropriate official action on behalf of such entities or persons. This is even more important where a Member is intimately involved in representing a particular industry, policy interest, or other defined constituency, and the Member holds a personal financial interest in an entity within that constituency.

Eighth, we recommend that the Committee on Ethics provide a greater focus on conflicts of interest in their training and education materials. While the guidance that currently exists was certainly clear enough to make plain that the conflicts at issue should have been avoided, as Representative Waters recognized, an even greater focus may still be warranted.

Ninth, we believe that the full Committee, or the House, should consider adopting policies that recognize that employer/employee relationships with grandchildren can be just as fraught with risk as other familial relationships in the workplace, some of which are prohibited within the House by rule or statute.

We hope that the report and result in this matter, the significant attention to the matter in the House and the public, and the recommendations we have shared, will result in greater attention being paid to the issue of conflicts and, thereby, greater trust by all of our constituents. Given the adoption of the Committee's Report, no further action is warranted, and the Committee considers this matter closed.

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