

# APPENDIX A

K. Michael Conaway, Texas  
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Linda T. Sánchez, California  
*Ranking Member*

Charles W. Dent, Pennsylvania  
Patrick Meehan, Pennsylvania  
Trey Gowdy, South Carolina  
Susan W. Brooks, Indiana

Pedro R. Pierluisi, Puerto Rico  
Michael E. Capuano, Massachusetts  
Yvette D. Clarke, New York  
Ted Deutch, Florida



ONE HUNDRED THIRTEENTH CONGRESS

## U.S. House of Representatives

COMMITTEE ON ETHICS

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December 11, 2014

The Honorable Phil Gingrey  
U.S. House of Representatives  
442 Cannon House Office Building  
Washington, DC 20515

Dear Representative Gingrey:

On December 10, 2014, the Committee on Ethics (Committee) voted unanimously to issue you this letter of reproof as a result of your taking official actions on behalf of Bank of Ellijay, an entity in which you had a substantial financial interest. The Committee has also voted unanimously to adopt and publish the attached Report to the House of Representatives.

The conduct for which you are being reproofed includes:

You arranged for representatives of Bank of Ellijay, who did not reside in your congressional district, to meet with Treasury Department officials, the then-Ranking Member of the House Financial Services Committee, and a Counsel to the then-Chairman of the House Financial Services Committee, regarding the bank's application for funding from the Troubled Asset Relief Program (TARP), when the bank's receipt of federal financial assistance could have significantly affected your financial interests.

With respect to the conduct described above, you violated paragraph 5 of the Code of Ethics for Government Service (Code of Ethics), which provides that a government employee may "[n]ever discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties." The *House Ethics Manual* notes that the Committee "has cautioned all Members 'to avoid situations in which even an inference might be drawn suggesting improper action.'" In failing to comport with this standard, you also violated House Rule XXIII, clauses 1 and 2, which state that "[a] Member . . . shall behave at all times in a manner that shall reflect creditably on the House," and "shall adhere to the spirit and the letter of the Rules of the House." Further, your inconsistent responses to the Committee's questions and requests for information regarding your actions substantially extended the Committee's investigation, and delayed its resolution of the matter.

The Committee found that in 2006, Bank of Ellijay provided you the opportunity to invest in the bank, through the purchase of stock warrants. You accepted this opportunity, and invested \$250,000 in the bank. You also served on the bank's board of directors until the bank failed and was closed in September 2010.

The Committee further found that, at the request of Bank of Ellijay's Chief Financial Officer (CFO), you arranged several meetings for the bank's CFO, Chairman, and President and Chief Executive Officer in Washington, D.C. Those meetings occurred on January 15, 2009, and were related to the bank's pending application for TARP funds. One meeting was with officials from the Treasury Department who were responsible for administering the TARP program. You also arranged separate meetings for the bank's representatives with the then-Ranking Member of the House Financial Services Committee, which had drafted the TARP legislation, and a Counsel on the staff of the then-Chairman of that Committee. You told the Committee that the purpose of these meetings was twofold: to allow Bank of Ellijay to inquire about the status of its TARP application, and to provide a forum for Bank of Ellijay representatives to advocate for distribution of TARP funds to community banks generally.

You have maintained, and others who attended the meetings confirmed, that the bank's representatives did not make any explicit request for approval of the bank's own TARP application. However, the bank's representatives did point to the bank's own financial difficulties as an illustration of why community banks needed TARP funds. You have also explained that Bank of Ellijay did not receive any TARP funding or other federal financial assistance as a result of the meetings you arranged, and that you also received no financial benefit from the meetings. However, it is clear that you had a substantial financial interest in the subject of the meetings you arranged for Bank of Ellijay, both because of your significant investment in the bank and because the bank was in desperate need of federal financial assistance. In light of this financial interest, the Committee found that your actions on behalf of Bank of Ellijay violated several standards of conduct that all Members are expected to know and act in accordance with.

With respect to the Code of Ethics, the Committee found that you provided "special favors or privileges" to Bank of Ellijay and its representatives by arranging for the representatives to meet with high-level Treasury Department and House staff, as well as with the then-Ranking Member of the House Financial Services Committee. In reaching this conclusion, the Committee found it significant that neither the Bank of Ellijay nor its representatives who requested or attended the meetings were your constituents, because they were not located in or residents of your congressional district. The Committee has long cautioned that, with certain limited exceptions which are not applicable here, Members should not take official actions on behalf of non-constituents. Indeed, consistent with this guidance, your own congressional Web site advises non-constituents that you are "unable to reply to any email from constituents outside the 11<sup>th</sup> District of Georgia." The Committee was also troubled by your Chief of Staff's use of your name and his family connection to the then-Treasurer of the United States to arrange the Treasury Department meeting. Thus, the Committee found that the circumstances of your official actions on behalf of Bank of Ellijay, in light of your substantial financial interest in the bank, supported the Committee's finding that you provided special favors or benefits to the bank.

The Committee also found that, by providing Bank of Ellijay representatives with access to high-level Treasury Department and congressional meetings, after accepting the opportunity to make a substantial financial investment in Bank of Ellijay, you accepted “favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of [your] governmental duties.” It is true that you received no compensation or financial benefits as a result of these meetings. Further, the Committee did not establish that you arranged the meetings solely because of your investment in, and association with, Bank of Ellijay. However, there is no question that reasonable persons might infer such a connection, given the size of your financial investment in the bank. Indeed, you testified that you were aware you had a conflict of interest with respect to the bank. Given that conflict of interest, you should have taken greater care to avoid creating the appearance of improper official actions by, for example, referring the bank’s CFO to the Representative for the district he resided in or consulting the Committee before responding to the CFO’s request.

Finally, and for the reasons previously discussed, the Committee found that your actions did not reflect creditably on the House or comply with the spirit of Section 5 of the Code of Ethics. In so finding, the Committee credited your statements that you believed merely arranging meetings for Bank of Ellijay representatives, where the representatives would inquire about the status of the bank’s TARP application and advocate for distribution of TARP funds to community banks generally, was consistent with the House Rules. However, the Committee found that this belief was mistaken, and contrary to the Committee’s longstanding caution to Members to avoid actions that would create even an appearance of conflicted, improper actions. That advice is particularly appropriate where, as here, a Member’s actions could appear to be motivated by a substantial financial interest in the entity the Member acts to assist. Accordingly, based on your conduct in this matter, the Committee has determined that you should be publicly reprovved. Now that this letter has issued and the Committee has publicly noted its reprovval of your conduct, the Committee has determined that this matter is closed.

Sincerely,



K. Michael Conaway  
Chairman



Linda T. Sánchez  
Ranking Member

Enclosure