

APPENDIX A

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

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 14-1891

The Board of the Office of Congressional Ethics (the "Board"), by a vote of no less than four members, on June 27, 2014, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives.

SUBJECT: Representative Thomas E. Petri

NATURE OF THE ALLEGED VIOLATION: From 2008 to 2013, Representative Thomas Petri and his congressional office performed official actions on behalf of the Oshkosh Corporation, the Manitowoc Company, and the Plum Creek Timber Company. At the time that Representative Petri and his congressional office took these official actions, he or his wife owned stock in each of the companies.

If Representative Petri or his congressional office improperly performed an official act on behalf of a company in which he had a financial interest, then he may have violated House rules and standards of conduct.

RECOMMENDATION: The Board recommends that the Committee on Ethics further review the allegation, as there is substantial reason to believe that Representative Petri improperly performed official acts on behalf of companies in which he had a financial interest, in violation of House rules and standards of conduct.

VOTES IN THE AFFIRMATIVE: 5

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 1

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

FINDINGS OF FACT AND CITATIONS TO LAW

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OFFICE OF CONGRESSIONAL ETHICS
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FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 14-1891

On June 27, 2014, the Board of the Office of Congressional Ethics (hereafter “the Board”) adopted the following findings of fact and accompanying citations to laws, regulations, rules and standards of conduct (*in italics*).

The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. From 2008 to 2013, Representative Thomas Petri and his congressional office provided assistance to the Oshkosh Corporation, the Manitowoc Company, and the Plum Creek Timber Company. At the time that Representative Petri and his congressional office took these official actions, he or his wife owned stock in each of the companies.¹
2. If Representative Petri or his congressional office improperly performed an official act on behalf of a company in which he had a financial interest, then he may have violated House rules and standards of conduct.
3. The Board finds that there is substantial reason to believe that Representative Petri improperly performed official acts on behalf of companies in which he had a financial interest, in violation of House rules and standards of conduct.

B. Jurisdictional Statement

4. The allegations that were the subject of this review concern Representative Thomas Petri, a Member of the United States House of Representatives from the 6th District of Wisconsin. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics directs that, “[n]o review shall be undertaken . . . by the board of any alleged violation that occurred before the date of adoption of this resolution.”² The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

¹ During the course of the investigation, the OCE reviewed whether Representative Petri may have taken official action on behalf of the Danaher Corporation at a time when he held stock in the company. The OCE did not find any instances of improper conflicts of interest with respect to this company.

² H. Res 895, 110th Cong. §1(e) (2008) (as amended).

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C. Procedural History

5. On February 16, 2014, Representative Petri, responding to news reports concerning official acts he performed on behalf of companies in which he had financial interests, requested that the Committee on Ethics formally review the matter.
6. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on February 27, 2014. The preliminary review commenced on February 28, 2014.³ The preliminary review was scheduled to end on March 29, 2014.
7. At least three members of the Board voted to initiate a second-phase review in this matter on March 28, 2014. The second-phase review commenced on March 30, 2014.⁴ The second-phase review was scheduled to end on May 13, 2014.
8. The Board voted to extend the second-phase review by an additional period of fourteen days on April 24, 2014. The additional period ended on May 27, 2014.
9. The Board voted to refer the matter to the Committee on Ethics and adopted these findings on June 27, 2014.
10. The report and its findings in this matter were transmitted to the Committee on Ethics on July 2, 2014.

D. Summary of Investigative Activity

11. The OCE requested documentary and, in some cases, testimonial information from the following sources:
 - (1) Representative Thomas Petri;
 - (2) Representative Petri's Chief of Staff;
 - (3) Representative Petri's Legislative Assistant;
 - (4) Representative Petri's Former Legislative Assistant;
 - (5) Office of the Secretary of Defense;
 - (6) Former Secretary of Defense;
 - (7) Office of the Secretary of the Army;

³ A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is received by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (hereafter "the Resolution"), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

⁴ According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase commences the day after the preliminary review ends.

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- (8) Secretary of the Army;
- (9) House Armed Services Committee;
- (10) House Armed Services Committee Chairman;
- (11) House Armed Services Committee Ranking Member;
- (12) House Appropriations Committee;
- (13) House Appropriations Committee Staff Director;
- (14) Government Accountability Office (“GAO”);
- (15) Environmental Protection Agency (“EPA”);
- (16) EPA Office of Congressional and Intergovernmental Relations Official (“EPA Official”);
- (17) Oshkosh Corporation (“Oshkosh”);
- (18) Oshkosh Corporation Executive Vice President for Government Operations and Industry Relations (“Oshkosh EVP”);
- (19) Manitowoc Company (“Manitowoc”);
- (20) Manitowoc Company Senior Vice President for Washington Operations and Global Security (“Manitowoc SVP”);
- (21) Plum Creek Timber Company (“Plum Creek”); and
- (22) Lobbyist for Plum Creek Timber Company (“Plum Creek Lobbyist”).

II. REPRESENTATIVE PETRI AND HIS CONGRESSIONAL OFFICE PERFORMED OFFICIAL ACTS FOR VARIOUS COMPANIES AT A TIME WHEN HE HAD A FINANCIAL INTEREST IN THOSE COMPANIES

A. Applicable Laws, Rules, and Standards of Conduct

12. House Rules

Pursuant to House Rule 23, clause 1, Members “shall behave at all times in a manner that shall reflect creditably on the House.”

Under House Rule 23, clause 2, Members “shall adhere to the spirit and the letter of the Rules of the House”

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Under House Rule 23, clause 3, Members “may not permit compensation⁵ to accrue to the beneficial interest of such individual from any source, the receipt of which would occur by virtue of influence improperly exerted from the position of such individual in Congress.”

Under Section 5 of the Code of Ethics for Government Service, “Any person in Government Service should . . . [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.”

13. House Ethics Manual and Precedent

According to the House Ethics Manual, a Member’s action in “sponsoring legislation, advocating or participating in an action by a House Committee, or contacting an executive branch agency” entails “a degree of advocacy above and beyond that involved in voting, and thus a Member’s decision on whether to take any such action on a matter that may affect his or her personal financial interests requires added circumspection.”⁶ A Member who considers advocating on a matter that may affect his “personal financial interest . . . should first contact the Standards Committee for guidance.”⁷

The House Ethics Manual further notes that “such actions may implicate the rules and standards . . . that prohibit the use of one’s official position for personal gain.”⁸ The Manual advises that “[t]he rules and standards that prohibit the use of one’s official position for personal gain . . . are fully applicable to Members and staff persons with regard to their spouse’s employment. Specifically, a provision of the House Code of Official Conduct, prohibits a Member from receiving any compensation, or allowing any compensation to accrue to the Member’s beneficial interest, from any source as a result of an improper exercise of official influence (House Rule 23, cl. 3).”⁹

The Committee on Ethics has advised that “it is improper to ‘provid[e] official assistance to entities in which the Member has a significant financial interest.’”¹⁰ “[O]fficial action under this definition may be improper even where it is not independently wrongful . . . the impropriety of official action in this context would be based solely on whether the action would inure to their narrow personal financial benefit.”¹¹ However, “[i]f a Member seeks to act on a matter where he might benefit as

⁵ The Committee on Ethics has interpreted “compensation” to include “the service of a Member’s own ‘narrow, financial interests as distinct from those of their constituents.’” House Committee on Ethics, *In the Matter of Allegations Relating to Representative Shelley Berkley*, 112th Cong., 2nd Sess. (2012) (“In the Matter of Shelley Berkley”) at 38 (quoting House Ethics Manual (2008) at 314).

⁶ House Ethics Manual at 237.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 245 (emphasis omitted).

¹⁰ In the Matter of Shelley Berkley at 39 (quoting *In the Matter of Allegations Related to Representative Maxine Waters*, H. Rep. 112-690, 112th Cong., 2d Sess. (2012) (“In the Matter of Maxine Waters”) at 15).

¹¹ *Id.* at 39.

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a member of a large class, the Committee has taken the position that such action does not require recusal.”¹² The Committee has also advised that its precedents “should not be read to permit Members free rein to act on behalf of a single entity in which they have a publicly disclosed financial interest, merely because there are numerous shareholders.”¹³

“Precedents on conflicts of interest do contemplate that disclosure, especially in instances where a Member’s interests are in line with the Member’s constituents, is the ‘preferred method of regulating possible conflicts of interest.’ However, such disclosure must be full and complete and, even if complete, does not always alleviate a conflict or permit a Member to act.”¹⁴

The Committee on Ethics “has warned Members that the failure to establish policies that inculcate ethical behavior can result in discipline.”¹⁵ The Committee recommended reproof in a previous matter when “problematic conduct” was traceable “to the lack of any discernible policy with respect to conflicts of interest, or a procedure for interactions with” entities with whom there may be a conflict.¹⁶

B. Representative Petri Performed Official Acts on Behalf of the Oshkosh Corporation at the Time He Held a Financial Interest in the Company

14. As of December 31, 2006, Representative Petri reported owning between \$100,000 and \$250,000 worth of stock in Oshkosh.¹⁷ As of December 31, 2007, he reported owning between \$100,000 and \$250,000 worth of Oshkosh stock.¹⁸ As of December 31, 2008, he reported owning between \$15,000 and \$50,000 worth of Oshkosh stock.¹⁹ As of December 31, 2009, he reported owning between \$250,000 and \$500,000 worth of Oshkosh stock.²⁰ As of December 31, 2010, he reported owning between \$250,000 and \$500,000 worth of Oshkosh stock.²¹ As of December 31, 2011, he reported owning between \$100,000 and \$250,000 worth of Oshkosh stock.²² As of December 31, 2012, he reported owning between \$250,000 and \$500,000 worth of Oshkosh stock.²³ As of the December 31, 2013, Representative Petri reported owning between \$500,000 and \$1,000,000 worth of stock in Oshkosh.²⁴
15. Representative Petri’s Chief of Staff told the OCE that she learned of Representative Petri’s ownership of Oshkosh stock in early 2007, when she and Representative Petri

¹² *Id.*

¹³ In the Matter of Maxine Waters at 14.

¹⁴ *Id.* at 42 (citations omitted).

¹⁵ *Id.* at 48. *See also In the Matter of Allegations Relating to Representative Don Young*, 113th Cong., 2d Sess. (2014) at 52-54.

¹⁶ *Id.*

¹⁷ *See* Calendar Year 2006 Financial Disclosure Statement for Representative Petri, dated April 30, 2007.

¹⁸ *See* Calendar Year 2007 Financial Disclosure Statement for Representative Petri, dated May 6, 2008.

¹⁹ *See* Calendar Year 2008 Financial Disclosure Statement for Representative Petri, dated May 6, 2009.

²⁰ *See* Calendar Year 2009 Financial Disclosure Statement for Representative Petri, dated May 2010.

²¹ *See* Calendar Year 2010 Financial Disclosure Statement for Representative Petri, dated May 6, 2011.

²² *See* Calendar Year 2011 Financial Disclosure Statement for Representative Petri, dated May 9, 2012.

²³ *See* Calendar Year 2012 Financial Disclosure Statement for Representative Petri, dated April 22, 2013.

²⁴ *See* Calendar Year 2013 Financial Disclosure Statement for Representative Petri, dated May 7, 2014.

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were completing an earmark request form, which required the Member to certify that he or she has no financial interest in the entity on whose behalf a request is submitted.²⁵

16. The Chief of Staff said that she had a conversation with Representative Petri at that time about the potential impact that his stock ownership might have on actions taken by his congressional office.²⁶ She said that they discussed the need to “be careful as we proceeded in the future that anything we did was consistent with [H]ouse rules”²⁷
17. The Chief of Staff said that, after becoming aware of this issue, no additional training was provided to Representative Petri or his staff about the ethics rules related to official acts performed for companies in which the Member owned stock.²⁸
18. Both Representative Petri’s Legislative Assistant and his Former Legislative Assistant told the OCE that there were no written office policies or training specifically related to handling requests for official action by companies in which Representative Petri owned stock.²⁹ The Legislative Assistant said that the Chief of Staff “was aware of those things and would help flag potential issues.”³⁰ The Former Legislative Assistant explained that such situations were generally identified during weekly staff meetings and that the Chief of Staff would ensure they were “handled appropriately.”³¹
19. When asked if he ever discussed his stock ownership with representatives of Oshkosh, Representative Petri said that he had.³² When asked what was discussed, Representative Petri said, “I say I bought it at 15. It went down to 3. This is not – it’s – overall it’s been one of my less successful investments”³³
20. As discussed below, during the time when Representative Petri had a financial interest in Oshkosh through his stock ownership, he and his congressional office performed official actions on behalf of the company.
21. While Representative Petri and his congressional office sought Committee on Ethics guidance on many of the occasions on which assistance was provided to Oshkosh, on at least one occasion, it appears that the Committee was not provided accurate information about the content of a delegation letter to the Secretary of Defense. Further, on several other occasions, neither Representative Petri nor his congressional office sought Committee guidance before taking action on Oshkosh’s behalf.

²⁵ Transcript of Interview of Representative Petri’s Chief of Staff, May 27, 2014 (“Chief of Staff Transcript”) (Exhibit 1 at 14-1891_0006-0007).

²⁶ *Id.* at 14-1891_0005-0006.

²⁷ *Id.* at 14-1891_0005.

²⁸ *Id.* at 14-1891_0007.

²⁹ Transcript of Interview of Representative Petri’s Legislative Assistant, May 22, 2014 (“Legislative Assistant Transcript”) (Exhibit 2 at 14-1891_0089-0090); Transcript of Interview of Representative Petri’s Former Legislative Assistant, May 22, 2014 (“Former Legislative Assistant Transcript”) (Exhibit 3 at 14-1891_0146-0147).

³⁰ Legislative Assistant Transcript (Exhibit 2 at 14-1891_0089).

³¹ Former Legislative Assistant Transcript (Exhibit 3 at 14-1891_0147).

³² Transcript of Interview of Representative Thomas Petri, May 27, 2014 (“Rep. Petri Transcript”) (Exhibit 4 at 14-1891_0201).

³³ *Id.*

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a. Army Contract for Production of Family of Medium Tactical Vehicles

22. On August 26, 2009, Oshkosh was awarded a \$3 billion contract to produce vehicles from the Family of Medium Tactical Vehicles (“FMTV”) for the United States Army.³⁴
23. In September 2009, the losing bidders filed protests with the Government Accountability Office (“GAO”), challenging the award of the FMTV contract to Oshkosh.³⁵
24. Shortly after the protests were filed, members of the Texas congressional delegation took several actions – including sending a letter to the Secretary of Defense – on behalf of one of the losing bidders, a company based in Sealy, Texas, to raise concerns with the FMTV contract award to Oshkosh.³⁶
25. Oshkosh then sought assistance from the Wisconsin congressional delegation, including Representative Petri, to counter the efforts of the Texas congressional delegation.³⁷
26. Representative Petri thereafter performed several official acts on behalf of Oshkosh, outlined below, with respect to the FMTV contract. When asked if he or his congressional office sought guidance from the Committee on Ethics before providing such assistance to Oshkosh, Representative Petri said, “I believe we checked every step with the ethics committee. . . . We wouldn’t have taken any action without reaching out in advance. It was always done through the Chief of Staff.”³⁸

Contact with House Armed Services Committee Ranking Member

27. At some point in late September 2009, Representative Petri had a conversation with the House Armed Services Committee (“HASC”) Chairman (then-Ranking Member), on the floor of the House, about the FMTV contract award and subsequent protest.³⁹
28. According to Representative Petri, he provided the HASC Chairman with a memorandum and told him, “[T]his will explain what our interest is. I appreciate you taking a look at it

³⁴ Government Accountability Office, *Decision in the Matter of Navistar Defense, LLC; BAE Systems, Tactical Vehicle Systems LP*, Dec. 14, 2009, at 5-6 (“GAO Report”).

³⁵ GAO Press Release, *Decision on Bid Protest by Navistar Defense and BAE Systems Regarding Army Truck Award to Oshkosh*, Dec. 14, 2009, available at http://www.gao.gov/press/navistar_2009dec14.html.

³⁶ Chief of Staff Transcript (Exhibit 1 at 14-1891_0014); see also Roxana Tiron, *Wisconsin Lawmakers Fight Back Critics of Oshkosh Truck Contract*, The Hill, Oct. 13, 2009, available at <http://thehill.com/homenews/campaign/62863-wisconsin-lawmakers-fight-back-critics-of-oshkosh-truck-contract>.

³⁷ Transcript of Interview of Oshkosh EVP, May 29, 2014 (“Oshkosh EVP Transcript”) (Exhibit 5 at 14-1891_0276-0277); Chief of Staff Transcript (Exhibit 1 at 14-1891_0013-0014); Former Legislative Assistant Transcript (Exhibit 3 at 14-1891_0159, 0167).

³⁸ Rep. Petri Transcript (Exhibit 4 at 14-1891_0206-0207).

³⁹ *Id.* at 14-1891_0208-0209; Chief of Staff Transcript (Exhibit 1 at 14-1891_0014-0016).

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or giving it to your aides”⁴⁰ The HASC Chairman had no recollection of the conversation or memorandum.⁴¹

29. The memorandum from Representative Petri, entitled “Army Procurement – Family of Medium Tactical Vehicles,” explained that the FMTV contract “was awarded through a competitive bid,” but that the losing bidders had filed a protest.⁴² It went on to note that “efforts may be underway by some members of the Texas and Mississippi delegations to circumvent the GAO protest process and insert language regarding the contract award in the DOD authorization and/or appropriations conference report.”⁴³
30. The memorandum asks that “the established, fair process and procedures” in place for the protest review be followed and further requests “that no language regarding this procurement be included in the final agreement approved by conferees.”⁴⁴
31. The final paragraph of the memorandum disclosed Representative Petri’s ownership of Oshkosh stock:⁴⁵

In the interests of full disclosure, I do own some stock in Oshkosh. I was not involved in any way and did not weigh in on this contract award in any way. This is a major employer in my congressional district, and I am simply requesting fair treatment and that that we follow established procedure for my constituents.

32. Representative Petri did not know why the disclosure was included in the memorandum, suggesting that his Chief of Staff would know.⁴⁶
33. Representative Petri’s Chief of Staff told the OCE that she drafted the memorandum and that the disclosure of Representative Petri’s stock ownership was included as a result of her consultation with the Committee on Ethics.⁴⁷
34. According to the Chief of Staff, the Committee on Ethics advised that Representative Petri, when discussing the Oshkosh contract, should disclose that he owns Oshkosh stock, state that he had not weighed in on the original contract award, and explain that he was only seeking to let the process in place proceed without any political interference.⁴⁸ This

⁴⁰ Rep. Petri Transcript (Exhibit 4 at 14-1891_0209); Memorandum from Rep. Thomas Petri to House Armed Services Committee Chairman, “Army Procurement – Family of Medium Tactical Vehicles (FMTV)” (undated) (“HASC Memo”) (Exhibit 6 at 14-1891_0317).

⁴¹ Memorandum of Interview of House Armed Services Committee Chairman, May 23, 2014 (“HASC Chairman MOI”) (Exhibit 7 at 14-1891_0319).

⁴² HASC Memo (Exhibit 6 at 14-1891_0317) (emphasis omitted).

⁴³ *Id.*

⁴⁴ *Id.* (emphasis in original).

⁴⁵ *Id.*

⁴⁶ Rep. Petri Transcript (Exhibit 4 at 14-1891_0210).

⁴⁷ Chief of Staff Transcript (Exhibit 1 at 14-1891_0015-0016).

⁴⁸ *Id.* at 14-1891_0017.

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guidance appears to be reflected in handwritten notes taken by the Chief of Staff during or around the time of her contact with the Committee on Ethics.⁴⁹

35. In addition to Representative Petri's contact with the HASC Chairman, an email from Representative Petri's Chief of Staff to an outside lobbyist for Oshkosh suggests that there were staff-level contacts regarding the FMTV contract: "I am trading calls with [the HASC Chairman's] personal [Chief of Staff] . . . to reinforce the Member conversation about leave the process alone and let it play out."⁵⁰
36. The Oshkosh EVP told the OCE that he had no recollection of any outreach by Representative Petri to the HASC leadership.⁵¹
37. On May 21, 2014, the Committee on Ethics provided Representative Petri with a letter memorializing the communications Representative Petri or his staff had with Committee staff regarding the matters that are the subject of this review; Representative Petri subsequently provided that letter to the OCE.⁵²
38. The Ethics Committee's memorialization of advice provided does not include any advice relating to Representative Petri's contact with the HASC Chairman.⁵³

October 9, 2009 Wisconsin Delegation Letter to Secretary of Defense

39. Representative Petri signed, and his congressional office coordinated, an October 9, 2009 letter from the Wisconsin congressional delegation to the Secretary of Defense, on behalf of Oshkosh.⁵⁴
40. The delegation letter asked the Secretary for "assistance in preserving the integrity of the defense acquisition process as it relates to the U.S. Army's Family of Medium Tactical Vehicles," expressing concern "with recent efforts . . . to publicly criticize the Army's contract award to Oshkosh Corporation"⁵⁵

⁴⁹ See Chief of Staff Handwritten Notes (Exhibit 8 at 14-1891_0322); Chief of Staff Transcript (Exhibit 1 at 14-1891_0023-0025).

⁵⁰ Email from Chief of Staff to Oshkosh Outside Lobbyist, Sept. 29, 2009 (Exhibit 9 at 14-1891_0324).

⁵¹ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0284).

⁵² Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0327-0329). The Committee's letter notes that the information provided may not represent all guidance given, as the Committee's records over the course of more than eight years may not be complete.

⁵³ *Id.*

⁵⁴ Letter from Wisconsin Congressional Delegation to Secretary of Defense, Oct. 9, 2009 (Exhibit 11 at 14-1891_0331-0332); Chief of Staff Transcript (Exhibit 1 at 14-1891_0018); Former Legislative Assistant Transcript (Exhibit 3 at 14-1891_0159-0160).

⁵⁵ Letter from Wisconsin Congressional Delegation to Secretary of Defense, Oct. 9, 2009 (Exhibit 11 at 14-1891_0331).

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41. The delegation letter was initiated and drafted by Oshkosh.⁵⁶ Representative Petri's office took the lead in distributing the letter to the other Wisconsin House members and collecting signatures on the final draft sent to the Secretary.⁵⁷
42. The Oshkosh EVP described the letter as part of "an active publicity campaign to counteract . . . misinformation that was being put out" by the losing bidders.⁵⁸ He explained that he did not believe that anyone at the Department of Defense or in Congress "would do anything to improperly influence the GAO's decision . . . this was more of a publicity thing than anything else . . .".⁵⁹
43. Representative Petri did not recall how the delegation letter was initiated.⁶⁰ When asked if he or his office consulted with the Ethics Committee about the letter, he said it would have been the office's "general policy" to reach out to the Committee on "anything dealing with Oshkosh probably."⁶¹ When asked if he had any conversations with his Chief of Staff about guidance from the Committee, he said, "She would report what they advised, and I'd say follow their advice."⁶²
44. On October 1, 2009, Representative Petri's Chief of Staff sent Representative Petri's Former Legislative Assistant, who was at the time responsible for military issues in Representative Petri's office, an email with the subject "oshkosh letter":⁶³

<p>From: Gebhardt, Debbie</p> <p>Sent: Thursday, October 01, 2009 12:25:22 PM</p> <p>To: Fenlon, James</p> <p>Subject: oshkosh letter</p> <p>once we get the language, I'll run it by ethics committee just so we can say we got clearance if anyone raises anything.</p>

45. According to the Chief of Staff, the contact with the Committee on Ethics was prompted by Representative Petri's ownership of Oshkosh stock: "[T]here was talk of the delegation letter so I wanted to be sure because he owned the stock, would this be okay to do on behalf of this constituent company that we have that was under attack . . .".⁶⁴

⁵⁶ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0277-0279); Chief of Staff Transcript (Exhibit 1 at 14-1891_0018).

⁵⁷ Chief of Staff Transcript (Exhibit 1 at 14-1891_0018); Former Legislative Assistant Transcript (Exhibit 3 at 14-1891_0160).

⁵⁸ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0280).

⁵⁹ *Id.* at 14-1891_0279-0280.

⁶⁰ Rep. Petri Transcript (Exhibit 4 at 14-1891_0207).

⁶¹ *Id.* at 14-1891_0207-0208.

⁶² *Id.* at 14-1891_00208.

⁶³ Email from Chief of Staff to Former Legislative Assistant, Oct. 1, 2009 (Exhibit 12 at 14-1891_0334).

⁶⁴ Chief of Staff Transcript (Exhibit 1 at 14-1891_0020).

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46. Later on October 1, 2009, the Chief of Staff again emailed the Former Legislative Assistant to report on her conversation with the Committee on Ethics.⁶⁵

From: Gebhardt, Debbie
Sent: Thursday, October 01, 2009 3:49 PM
To: Fenlon, James
Subject: RE: oshkosh letter

Actually I talked to ethics and they said no problem -- as long as it says let the process that is in place proceed , etc.

47. While the Chief of Staff could not recall the specific guidance she was given by the Committee on Ethics, she said that, “based on this email I’d say okay, as long as the message is let the process in place proceed.”⁶⁶
48. The delegation letter to the Secretary of Defense did not include any disclosure of Representative Petri’s financial interest in Oshkosh.⁶⁷
49. When asked if the need for disclosure of Representative Petri’s stock ownership was discussed with the Committee on Ethics, the Chief of Staff said, “I don’t recall if I discussed it, but I assume if they said to disclose for this delegation letter I would have done that if that was the understanding I had or if they suggested that.”⁶⁸
50. When asked why Representative Petri’s stock ownership was not disclosed to the Secretary of Defense when it had been disclosed in the memorandum to the HASC Chairman, the Chief of Staff said, “Because ethics committee did not suggest doing that.”⁶⁹
51. An October 14, 2009 press release noted that “Petri, with the help of Sen. Herb Kohl, organized a letter to Defense Secretary Robert Gates from the entire Wisconsin delegation”⁷⁰ In the release, Representative Petri is quoted as saying, “Oshkosh Corp. won this contract fair and square, but the losers are trying to take it away.”⁷¹

⁶⁵ Email from Chief of Staff to Former Legislative Assistant, Oct. 1, 2009 (Exhibit 12 at 14-1891_0334).

⁶⁶ Chief of Staff Transcript (Exhibit 1 at 14-1891_0021).

⁶⁷ Letter from Wisconsin Congressional Delegation to Secretary of Defense, Oct. 9, 2009 (Exhibit 11 at 14-1891_0331-0332).

⁶⁸ Chief of Staff Transcript (Exhibit 1 at 14-1891_0021).

⁶⁹ *Id.* at 14-1891_0022.

⁷⁰ Media Advisory, *Wisconsin Congressional Delegation Defends Oshkosh Corp., Jobs*, Oct. 14, 2009 (Exhibit 13 at 14-1891_0336).

⁷¹ *Id.*

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52. The Ethics Committee letter to Representative Petri, memorializing the advice provided on the topics of this review, indicates that Representative Petri's staff contacted the Committee regarding this delegation letter:⁷²

- On or around October 1, 2009, a member of your staff contacted Committee staff regarding a request to sign a letter from the Wisconsin congressional delegation to the Secretary of Defense regarding a military truck contract that was awarded to Oshkosh Corporation. Committee staff has no record of whether or not your staff mentioned your financial interest in Oshkosh Corporation. Your staff said that the Texas congressional delegation was signing a letter supporting the entities that did not win the contract, and the Wisconsin delegation was preparing to sign its own letter asking the Secretary of Defense to allow the bid protest process to proceed pursuant to normal Department of Defense policy and not allow outside intervention in the process. Your staff further said that the letter would not mention Oshkosh Corporation specifically. Committee staff provided informal, staff-level guidance that you could sign onto the Wisconsin delegation letter.

53. However, while the Ethics Committee's memorialization indicates that the Committee had been told that the letter "would not mention Oshkosh Corporation specifically,"⁷³ the version sent to the Secretary includes several references to the company. The letter first notes that the signers "are concerned with recent efforts, based on inaccurate and incomplete information, to publicly criticize the Army's contract award to Oshkosh Corporation"⁷⁴

54. The delegation letter goes on to include a paragraph of additional information about Oshkosh and its historical relationship with the Department of Defense:⁷⁵

Finally, we believe the ongoing public relations campaign initiated by disappointed parties has disseminated a significant amount of incomplete and inaccurate information regarding the FMTV competition. Oshkosh Corporation is a strong, diverse company that has produced over 67,000 military vehicles for use by our armed forces, and is well situated to reliably serve the Department of Defense for decades to come. Oshkosh officials assure us that they have more than enough capacity to handle the anticipated FMTV production, as well as any surge production that might be required, with no impact on its existing contracts. In fact, the DOD scrutinized and confirmed Oshkosh's manufacturing capacity and capability in two separate reviews this year, during both the M-ATV and FMTV competitions. Over its 80-year history of manufacturing vehicles for the Department of Defense, Oshkosh and its highly-skilled union workforce has proven its capability to delivery quality products on schedule while keeping costs low to the government.

⁷² Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0328).

⁷³ *Id.*

⁷⁴ Letter from Wisconsin Congressional Delegation to Secretary of Defense, Oct. 9, 2009 (Exhibit 11 at 14-1891_0331).

⁷⁵ *Id.*

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December 9, 2009 Telephone Conversation with Secretary of the Army

55. On December 9, 2009, Representative Petri had a telephone conversation with the Secretary of the Army about the FMTV contract.⁷⁶
56. Representative Petri said that his Chief of Staff may have suggested that he contact the Secretary of the Army.⁷⁷ The Oshkosh EVP told the OCE that he “was not privy to” Representative Petri’s call to the Secretary of the Army.⁷⁸
57. Representative Petri said that, in the telephone conversation, he “urged the Secretary to follow the rules, stick by the guns and not, because of political pressure, reverse the decision that they’ve made on the merits.”⁷⁹
58. Representative Petri did not recall, but does not believe, that he disclosed his ownership of Oshkosh stock to the Secretary of the Army during the call.⁸⁰
59. According to Representative Petri, the Secretary’s response was, “Thank you very much,” and that the Secretary indicated he was “very aware of the issue.”⁸¹
60. The Secretary of the Army told the OCE that Representative Petri requested the telephone conversation, and that, during the call, Representative Petri expressed his concern about the protest lodged by the losing FMTV contract bidders and urged that the Army move expeditiously to implement the contract after the protest was resolved.⁸²
61. According to the Secretary of the Army, Representative Petri’s contact was similar to roughly a dozen of contacts he receives from Members of Congress each week, noting that it was established practice for Members to advocate for companies in their districts.⁸³ He noted that he believes Representative Petri may have asked for a telephone call because Oshkosh was located in his congressional district.⁸⁴
62. The Secretary of the Army said that he was not aware that Representative Petri owned stock in Oshkosh at the time of the call; he only learned about Representative Petri’s financial interest as a result of the OCE’s review.⁸⁵ He said that knowledge of Representative Petri’s financial interest would not have affected how he handled the FMTV contract or protest.⁸⁶

⁷⁶ Rep. Petri Transcript (Exhibit 4 at 14-1891_0211); Chief of Staff Transcript (Exhibit 1 at 14-1891_0026).

⁷⁷ Rep. Petri Transcript (Exhibit 4 at 14-1891_0211).

⁷⁸ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0284).

⁷⁹ Rep. Petri Transcript (Exhibit 4 at 14-1891_0211).

⁸⁰ *Id.* at 14-1891_0212-0213.

⁸¹ *Id.* at 14-1891_0211.

⁸² Memorandum of Interview of Secretary of the Army, May 27, 2014 (“Secretary of the Army MOI”) (Exhibit 14 at 14-1891_0340).

⁸³ *Id.*

⁸⁴ *Id.* at 14-1891_0341.

⁸⁵ *Id.* at 14-1891_0340.

⁸⁶ *Id.*

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63. The Chief of Staff was able to hear Representative Petri's side of the conversation with the Secretary.⁸⁷ The Chief of Staff said of the call: "the primary purpose was the same message that the delegation had been sending and the concerns that were raised about the political pressure being put on by the Texas delegation, and there was concern that should the Wisconsin delegation continue or be a counterbalance to that"⁸⁸
64. Reviewing her handwritten notes from the call, the Chief of Staff further explained that, "the message [was to] follow the regular order, let the GAO process continue without political interference."⁸⁹
65. The Chief of Staff did not recall consulting with the Committee on Ethics regarding this call.⁹⁰ The Chief of Staff did not recall whether Representative Petri disclosed his ownership of Oshkosh stock during the call.⁹¹
66. The OCE did not find any evidence suggesting that Representative Petri's office consulted with the Ethics Committee regarding this call, and the letter from the Ethics Committee summarizing its advice to Representative Petri on this matter does not mention this call.⁹²

December 22, 2009 Wisconsin Delegation Letter to Secretary of the Army

67. On December 14, 2009, GAO issued its decision on the protests filed by the FMTV contract losing bidders.⁹³ GAO sustained the protests and recommended that the Army reevaluate certain aspects of the proposals submitted by the three bidders.⁹⁴
68. On December 22, 2009, Representative Petri and the other Members of the Wisconsin delegation sent a letter to the Secretary of the Army urging him "to move quickly to implement the recent recommendations of the [GAO] regarding the pending contract with Oshkosh Corporation to produce the Army's Family of Medium Tactical Vehicles."⁹⁵
69. Representative Petri did not recall how the letter was initiated or whether the Ethics Committee was consulted prior to sending the letter, suggesting that his Chief of Staff would likely know the answers to both questions.⁹⁶
70. The letter was drafted by and sent at the request of Oshkosh.⁹⁷ Representative Petri's office took a lead role in circulating the draft letter to Members of the Wisconsin delegation.⁹⁸

⁸⁷ Chief of Staff Transcript (Exhibit 1 at 14-1891_0026).

⁸⁸ *Id.* at 14-1891_0026-0027.

⁸⁹ *Id.* at 14-1891_0027; *see also* Chief of Staff Handwritten Notes (Exhibit 15 at 14-1891_0343).

⁹⁰ Chief of Staff Transcript (Exhibit 1 at 14-1891_0030).

⁹¹ *Id.*

⁹² Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0327-0329).

⁹³ GAO Report at 1.

⁹⁴ *Id.* at 23.

⁹⁵ Letter from Wisconsin Congressional Delegation to Secretary of the Army, Dec. 22, 2009 (Exhibit 16 at 14-1891_0345).

⁹⁶ Rep. Petri Transcript (Exhibit 4 at 14-1891_0214).

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71. Prior to sending the letter to the Secretary of the Army, the Chief of Staff contacted the Committee on Ethics for review of the letter.⁹⁹ According to the Chief of Staff, while she could not recall the specific conversation, in her initial telephone call with the Ethics Committee staff, she told them: “[T]his is another delegation letter that we’re contemplating sending, given the fact that Congressman Petri owned stock and I’m going to send you the letter and is it okay for him to sign the, send the letter.”¹⁰⁰
72. On December 18, 2009, the Chief of Staff emailed a copy of the draft letter to the Ethics Committee staff, asking, “[I]et me know what you think – again, this is a major constituent company in our district that Mr. Petri would be defending no matter what!”¹⁰¹
73. Later that same day, the Chief of Staff sent a slightly revised version of the letter for the Ethics Committee staff member to review.¹⁰² The Ethics Committee staff member emailed back: “That change is fine – I re-read the whole letter.”¹⁰³
74. The Chief of Staff told the OCE that while she had disclosed to the Ethics Committee staff the fact of Representative Petri’s stock ownership, “there was not any mention from the ethics committee that he needed to disclose it.”¹⁰⁴

⁹⁷ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0281); Chief of Staff Transcript (Exhibit 1 at 14-1891_0031-0032).

⁹⁸ See Former Legislative Assistant Transcript (Exhibit 3 at 14-1891_0167-0168); email from Former Legislative Assistant to Wisconsin Delegation Staff, Dec. 17, 2009 (Exhibit 17 at 14-1891_0349-0350); email from Former Legislative Assistant to Wisconsin Delegation Staff, Dec. 18, 2009 (Exhibit 18 at 14-1891_0353).

⁹⁹ Chief of Staff Transcript (Exhibit 1 at 14-1891_0032-0034).

¹⁰⁰ *Id.* at 14-1891_0034.

¹⁰¹ Email from Chief of Staff to Committee on Ethics Staff Member, Dec. 18, 2009 (Exhibit 19 at 14-1891_0357).

¹⁰² Email from Chief of Staff to Committee on Ethics Staff Member, Dec. 18, 2009 (Exhibit 20 at 14-1891_0359).

¹⁰³ Email from Committee on Ethics Staff Member to Chief of Staff, Dec. 18, 2009 (Exhibit 20 at 14-1891_0359).

The Ethics Committee staff raised another issue with the letter, unrelated to this matter: the staff advised that each Member signing the letter should have some official connection to the subject matter. See Chief of Staff Transcript (Exhibit 1 at 14-1891_0032-0033). This issue was resolved before the letter was sent. See email from Chief of Staff to Committee on Ethics Staff Member, Dec. 18, 2009 (“apparently every district has some kind of connection to Oshkosh – checked that out”) (Exhibit 20 at 14-1891_0359).

¹⁰⁴ Chief of Staff Transcript (Exhibit 1 at 14-1891_0035).

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75. The Ethics Committee's memorialization of advice provided to Representative Petri indicates that Representative Petri's staff consulted with the Committee regarding this letter:¹⁰⁵

- On or around December 18, 2009, a member of your staff contacted Committee staff regarding a request to sign another Wisconsin delegation letter to the Secretary of Defense following publication of the Department of Defense decision in the reexamination of the Oshkosh Corporation defense contract. Again, Committee staff has no record of whether or not your staff mentioned your financial interest in Oshkosh Corporation. Committee staff reviewed the letter, and provided informal, staff-level guidance suggesting one small edit to the letter after which you could sign onto the letter.

February 26, 2010 Letter from Representative Petri to Secretary of the Army

76. On February 12, 2010, the Army announced that, after reevaluating the various proposals, it was affirming the award of the FMTV contract to Oshkosh.¹⁰⁶ That same day, Representative Petri issued a news release noting that he was "pleased but . . . not surprised" with the Army's decision.¹⁰⁷

77. On February 26, 2010, Representative Petri sent a letter to the Secretary of the Army, thanking him for "conducting the [FMTV] procurement in such a fair and professional manner . . ."¹⁰⁸ Representative Petri went on to ask that the Secretary "reject efforts to award an additional bridge contract to the losing incumbent" and "notify me of any activity by the Army to initiate an additional bridge contract to the losing incumbent."¹⁰⁹

78. Representative Petri did not recall what prompted his letter to the Secretary, nor did he recall any consultation with the Committee on Ethics about the letter.¹¹⁰

79. According to the Oshkosh EVP, the letter was drafted by Oshkosh.¹¹¹

¹⁰⁵ Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0328).

¹⁰⁶ Department of the Army, Re-Evaluation Contract Announcement, Feb. 12, 2010 (Exhibit 21 at 14-1891_0361).

¹⁰⁷ Rep. Thomas Petri News Release, *Army Reaffirms Oshkosh Contract*, Feb. 12, 2010 (Exhibit 22 at 14-1891_0363).

¹⁰⁸ Letter from Rep. Thomas Petri to Secretary of the Army, Feb. 26, 2009 (Exhibit 23 at 14-1891_0366).

¹⁰⁹ *Id.*

¹¹⁰ Rep. Petri Transcript (Exhibit 4 at 14-1891_0214-0215).

¹¹¹ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0282).

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80. Before the letter was sent to the Secretary of the Army, Representative Petri's Chief of Staff sent the proposed letter to Committee on Ethics staff for review, noting Representative Petri's ownership of Oshkosh stock:¹¹²

From: Gebhardt, Debbie
Sent: Friday, February 26, 2010 1:46 PM
To: Dixon, Carol
Subject: Army Contract and Oshkosh Corp

Hi Carol --

Here is the proposed letter to Army Secretary just flagging the potential push for a "bridge" contract on the part of BAE. Again, the only place we have seen this mentioned is in Texas newspapers. So again, given Rep. Petri's stock ownership issue (though in the scheme of things not that much), wanted to make sure it was OK to send as part of his representing one of our largest employers/constituents.

Thanks!

Debbie

*Debra Gebhardt
Chief of Staff
Rep. Thomas E. Petri*

81. Later that same day, the Chief of Staff again emailed the Ethics Committee staff to acknowledge that she "received [her] voice mail message approving the letter."¹¹³ According to the Chief of Staff, the Ethics Committee staff did not provide any additional guidance or suggestions regarding the letter; rather, "she said it was okay to send."¹¹⁴
82. When asked about this letter from Representative Petri, the Secretary of the Army told the OCE that he has received dozens of similar letters from Members of Congress.¹¹⁵ He said that Representative Petri's letter had no impact on the Army's ultimate decision not to award a bridge contract to the losing incumbent bidder.¹¹⁶

¹¹² Email from Chief of Staff to Committee on Ethics Staff Member, Feb. 26, 2010 (Exhibit 24 at 14-1891_0368).

¹¹³ Email from Chief of Staff to Committee on Ethics Staff Member, Feb. 26, 2010 (Exhibit 24 at 14-1891_0368).

¹¹⁴ Chief of Staff Transcript (Exhibit 1 at 14-1891_0037).

¹¹⁵ Secretary of the Army MOI (Exhibit 14 at 14-1891_0341).

¹¹⁶ *Id.*

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83. The Ethics Committee's memorialization of advice provided to Representative Petri indicates that Representative Petri's staff consulted with the Committee regarding this letter:¹¹⁷

- On or around February 26, 2010, a member of your staff contacted Committee staff regarding a request to sign onto a third letter from the Wisconsin delegation to the Secretary of Defense regarding the Oshkosh Corporation contract bid dispute. Again, Committee staff has no record of whether or not your staff mentioned your financial interest in Oshkosh Corporation. This letter urged the Army not to award a one-year bridge contract to another defense contractor while Oshkosh Corporation geared up for its contract. Committee staff reviewed the draft letter and provided informal, staff-level guidance saying that you could sign onto the letter.

b. Department of Defense Proposed Omnibus Reprogramming Action

84. On June 10, 2013, Representative Petri and seven other Members of the House sent a joint letter to the Chair and Ranking Members of both the House Armed Services Committee and the House Defense Appropriations Subcommittee, expressing concerns about a proposed Department of Defense Omnibus Reprogramming Action, which would have impacted funding for the Army's tactical wheeled vehicle programs.¹¹⁸
85. Representative Petri and the other Members requested that the Committee leaders "reject DOD's request to reprogram any fiscal year 2013 funding for the Army's Family of Medium and Heavy tactical wheeled vehicles."¹¹⁹

¹¹⁷ Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0328).

¹¹⁸ Letter from Rep. Thomas Petri, *et al.*, to Chairman and Ranking Member, House Armed Services Committee and Chairman and Ranking Member, House Defense Appropriations Subcommittee, June 10, 2013 (Exhibit 25 at 14-1891_0370-0371).

¹¹⁹ *Id.* at 14-1891_0371.

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86. Included with the letter was a separate memo from Representative Petri disclosing his ownership of Oshkosh stock.¹²⁰

Memo

Date: June 10, 2013

To: Chairman McKeon
Chairman Young
Ranking Member Smith
Ranking Member Visclosky

From: Congressman Tom Petri

In the interest of full disclosure and at the suggestion of the House Committee on Ethics, I would like to note my ownership of shares in Oshkosh Corporation, a major employer in my Congressional district that contributes to the tactical wheeled vehicle industrial base. I give similar consideration and support to issues affecting other constituent companies in my district.

87. In his interview with the OCE, Representative Petri said that he did not recall either the letter or the attached memorandum.¹²¹

88. According to both the Oshkosh EVP and Representative Petri's Chief of Staff, the letter was initiated by Oshkosh.¹²² In a May 22, 2013 email to the Chief of Staff and another former legislative assistant, the Oshkosh EVP outlined his plans for the letter, noting, "[T]his is very important for the company."¹²³

89. The Chief of Staff told the OCE that she consulted with the Committee on Ethics before this letter was sent, and that her contact with the Committee was prompted by Representative Petri's ownership of Oshkosh stock.¹²⁴

90. While she could not recall the specific conversation, the Chief of Staff said that the Ethics Committee advised that Representative Petri disclose his ownership of Oshkosh stock to the recipients of the letter.¹²⁵

91. The Ethics Committee letter memorializing the advice provided to Representative Petri and his congressional office does not include any advice relating to Representative Petri's letter on the reprogramming request.¹²⁶

¹²⁰ Memorandum from Rep. Thomas Petri to Chairman and Ranking Member, House Armed Services Committee and Chairman and Ranking Member, House Defense Appropriations Subcommittee, June 10, 2013 (Exhibit 25 at 14-1891_0372).

¹²¹ Rep. Petri Transcript (Exhibit 4 at 14-1891_0215-0216).

¹²² Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0288); Chief of Staff Transcript (Exhibit 1 at 14-1891_0038).

¹²³ Email from Oshkosh EVP to Chief of Staff, *et al.*, May 22, 2013 (Exhibit 26 at 14-1891_0374).

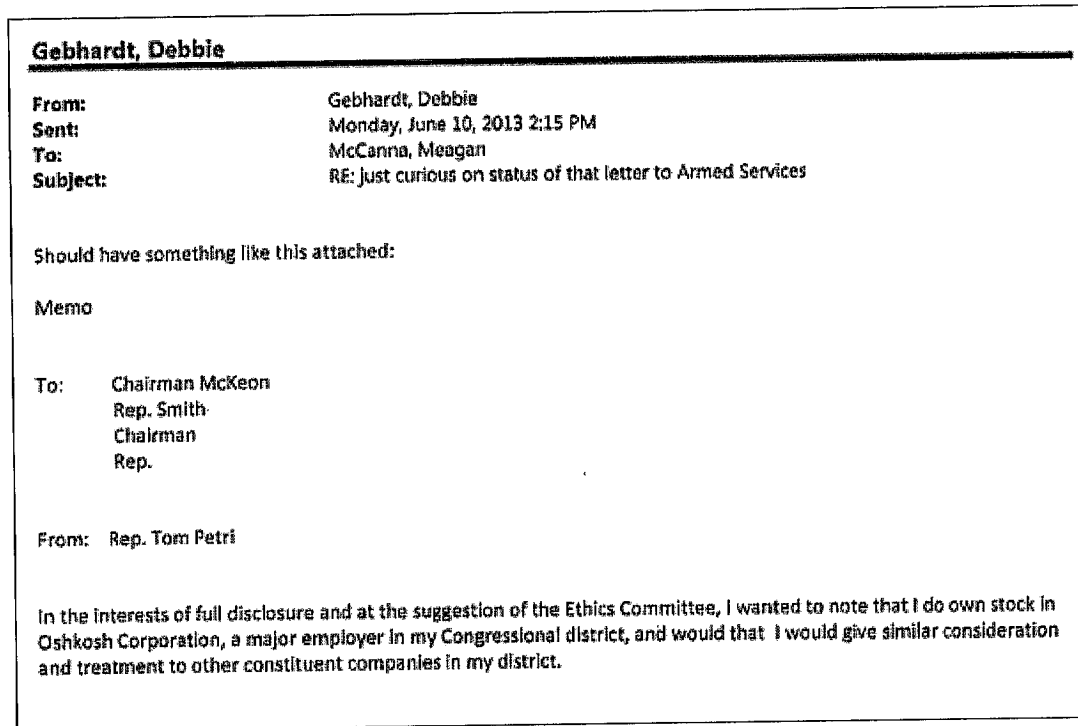
¹²⁴ Chief of Staff Transcript (Exhibit 1 at 14-1891_0038).

¹²⁵ *Id.*

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92. Ethics Committee advice, however, appears to be reflected in a June 7, 2013 email from the Chief of Staff to the former legislative assistant: "Again, ethics suggested we put that note on it so don't want to forget that."¹²⁷ On June 10, 2013, the Chief of Staff emailed the former legislative assistant a draft attachment.¹²⁸



93. The Chief of Staff told the OCE that she did not recall any discussion with the Ethics Committee about why disclosure of Representative Petri's stock ownership was appropriate in some cases but not required in others.¹²⁹ Rather, the Chief of Staff "looked at each instance based on what their advice was for that. . . . If they'd said do it I would have done it as we did do when they said to do it."¹³⁰
94. The Chief of Staff did not recall any other assistance provided to Oshkosh with respect to the reprogramming request.¹³¹

¹²⁶ Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0327-0329).

¹²⁷ Email from Chief of Staff to Meagan McCanna, June 7, 2013 (Exhibit 27 at 14-1891_0379).

¹²⁸ Email from Chief of Staff to Meagan McCanna, June 10, 2013 (Exhibit 27 at 14-1891_0378).

¹²⁹ Chief of Staff Transcript (Exhibit 1 at 14-1891_0039).

¹³⁰ *Id.* at 14-1891_0039-0041.

¹³¹ *Id.* at 14-1891_0041-0042.

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95. The HASC Chairman told the OCE that he did not recall receiving either the letter or the attached memorandum.¹³² He did not recall any other contacts with Representative Petri related to this reprogramming request.¹³³

c. Truck Weight Limits

96. Pierce Manufacturing (“Pierce”) is an Oshkosh subsidiary that manufactures fire trucks and related equipment.¹³⁴

97. In November 2011, Representative Petri’s Chief of Staff communicated with representatives of Oshkosh regarding federal truck weight limits as they applied to the delivery of fire engines manufactured by Pierce.¹³⁵

98. On November 29, 2011, the Chief of Staff reported back to the Oshkosh representatives: “Alright – talked to Jennifer on the [Highways and Transit] Subcommittee and passed on Petri’s interest and support for addressing.”¹³⁶

99. The Chief of Staff told the OCE that she “had talked to a member of the subcommittee staff, other members had expressed support and were working on this issue . . . So just although I can’t recall the exact conversation like I said this was something that Congressman Petri had an interest in as well.”¹³⁷

100. The Chief of Staff noted that the legislative change sought by Pierce was of importance to a broad range of companies: “My understanding is this wasn’t just Oshkosh, it was in general the fire and emergency vehicle association, the whole community. . . . I think it affected the emergency vehicle industry.”¹³⁸

101. The Chief of Staff said that she did not believe that she sought Ethics Committee advice, nor did she disclose Representative Petri’s ownership of Oshkosh stock, before or during the conversation with the subcommittee staff.¹³⁹

102. The letter from the Ethics Committee summarizing its advice to Representative Petri on this matter does not mention this contact.¹⁴⁰

d. Sale to United Arab Emirates

103. At some point prior to July 2012, Oshkosh signed an agreement with the United Arab Emirates (“UAE”) for the sale of Oshkosh-produced military vehicles.¹⁴¹ Before that

¹³² HASC Chairman MOI (Exhibit 7 at 14-1891_0319).

¹³³ *Id.*

¹³⁴ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0254).

¹³⁵ See email exchange between Chief of Staff and Will Stone, Nov. 28-29, 2011 (Exhibit 28 at 14-1891_0381-0385); Chief of Staff Transcript (Exhibit 1 at 14-1891_0044).

¹³⁶ Email from Chief of Staff to Will Stone, Nov. 29, 2011 (Exhibit 28 at 14-1891_0381).

¹³⁷ Chief of Staff Transcript (Exhibit 1 at 14-1891_0045-0046).

¹³⁸ *Id.* at 14-1891_0044.

¹³⁹ *Id.* at 14-1891_0046.

¹⁴⁰ Letter from Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0327-0329).

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sale could proceed, it required approval from the House Foreign Affairs and the Senate Foreign Relations Committees.¹⁴²

104. On July 11, 2012, the Oshkosh EVP emailed Representative Petri's Chief of Staff asking for assistance with determining whether the House Foreign Affairs Committee had been notified about the pending sale and whether he could arrange a briefing for Committee staff.¹⁴³

From: ██████████@oshkoshcorp.com
Sent: Wednesday, July 11, 2012 04:13:44 PM
To: Gebhardt, Debbie
Subject: Call to Foreign Affairs

[This message has been archived. View the original item](#)

Debbie,

We have a contract to sell the MRAP All Terrain Vehicle (MATV) to UAE -- as I mentioned, this is not public information yet so I must ask you to not disclose publically. The DSP-5 case number is ██████████. What I am trying to determine is if the Committee has been "informally notified" about this pending case and if so, may I make an appointment with the right person to brief them on the potential sale and answer any questions they may have.

Many Thanks for your assistance on this.

Jay Kimmitt
Executive Vice President
Oshkosh Corporation
(703) 525-████████

105. After receiving the request from Oshkosh, the Chief of Staff contacted the Foreign Affairs Committee staff to ask whether "the state department sent up the request and if so if you have any questions, you know, [the Oshkosh EVP] will be available to answer them" ¹⁴⁴ Later that day, she reported to the Oshkosh EVP that, "They are checking on who handles this at the Committee. Will let you know." ¹⁴⁵ The Oshkosh EVP thanked her, noting that "this program is very important to the company." ¹⁴⁶

106. On July 12, 2012, the Chief of Staff again emailed the Oshkosh EVP: "Heard back from committee, they said case hasn't come up yet for preconsultation. They don't expect it to generate controversy when it does." ¹⁴⁷ She later added, "I asked them if I could check periodically on status." ¹⁴⁸

¹⁴¹ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0265).

¹⁴² *Id.*

¹⁴³ Email from Oshkosh EVP to Chief of Staff, July 11, 2012 (Exhibit 29 at 14-1891_0387).

¹⁴⁴ Chief of Staff Transcript (Exhibit 1 at 14-1891_0048).

¹⁴⁵ Email from Chief of Staff to Oshkosh EVP, July 11, 2012 (Exhibit 30 at 14-1891_0390).

¹⁴⁶ Email from Oshkosh EVP to Chief of Staff, July 11, 2012 (Exhibit 30 at 14-1891_0389-0390).

¹⁴⁷ Email from Chief of Staff to Oshkosh EVP, July 12, 2012 (Exhibit 31 at 14-1891_0393).

¹⁴⁸ Email from Chief of Staff to Oshkosh EVP, July 12, 2012 (Exhibit 31 at 14-1891_0393).

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107. The Oshkosh EVP described the assistance provided by Representative Petri's congressional office as primarily "to tell me who in the [H]ouse we needed to talk to and . . . she told us that the case had not come – if I remember correctly, pre-notification or pre-clearance had not hit the Hill yet."¹⁴⁹ He added that the Chief of Staff "helped educate me on the process."¹⁵⁰
108. The Chief of Staff told the OCE that she did not consult with the Ethics Committee before providing this assistance to Oshkosh, stating, "It was simply checking on the status of something."¹⁵¹
109. The Ethics Committee letter memorializing the advice provided to Representative Petri and his congressional office does not include any advice relating to this matter.¹⁵²

e. Meetings with Egyptian Officials

110. The Oshkosh EVP recalled two official meetings between Representative Petri and representatives from the Egyptian government in which he participated.¹⁵³
111. According to the Oshkosh EVP, the first meeting took place in or around May 2006:¹⁵⁴

This was an Egyptian delegation and Mr. Petri invited me to come up. . . . I don't recall exactly what Mr. Petri's interest in Egypt is, but he has – my recollection is he has a specific interest in Egypt and has good relationships with, you know, Egyptian officials. We also had contracts with Egypt and had built trucks for Egypt and Egypt was also building our truck in – in their Egyptian – the old Egyptian M-1 tank facility. So we had a relationship with Egypt. He invited me into his office when this delegation came in and he introduced me as a representative of Oshkosh Truck Corporation, which our name at that time was, and I met all of these folks. I couldn't tell you right now a single name or a person or a position. I sat there during their discussions and when they all left, I shook their hands and smiled and off I went.¹⁵⁵

112. According to the Oshkosh EVP, the discussions were "not substantive."¹⁵⁶ He described them as "a lot of diplomatic latitudes as I recall."¹⁵⁷ He said that there was no discussion of Oshkosh's commercial relationship with Egypt, and that the meeting did not lead to later communications between Oshkosh and Egyptian officials.¹⁵⁸ The

¹⁴⁹ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0267).

¹⁵⁰ *Id.*

¹⁵¹ Chief of Staff Transcript (Exhibit 1 at 14-1891_0048-0049).

¹⁵² Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0327-0329).

¹⁵³ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0296-0297, 0299).

¹⁵⁴ The Board notes that the first meeting falls outside of the OCE's jurisdiction.

¹⁵⁵ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0297-0298).

¹⁵⁶ *Id.* at 14-1891_0298.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

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Oshkosh EVP said that he thought Representative Petri “was just trying to bring someone up to meet these guys so he wouldn’t have to meet them alone.”¹⁵⁹

113. An email from the Oshkosh EVP to Representative Petri’s Chief of Staff, however, suggests that Oshkosh may have sought out the opportunity to participate in the meeting:¹⁶⁰

-----Original Message-----

From: Jay Kimmitt [REDACTED]@oshtruck.com]

Sent: Monday, May 08, 2006 5:11 PM

To: Gebhardt, Debbie

Subject: Egyptian Military Visit

Debbie,

We would like to participate in the meeting with the Egyptian military visit to Mr. Petri if you accept their offer. Happy to host a lunch for the group and Mr. Petri if this is how he would like to do the visit. Let me know if we can work this out.

Many thanks,

Jay Kimmitt

Senior Vice President, Washington Operations Oshkosh Truck Corporation 1300 North 17th Street, Suite

1040 Arlington, VA 22209-3801 703.525. [REDACTED]

703.525.8408 (fax)

114. Sometime after the meeting, talking points were prepared for Representative Petri for use at a Hilbert Economic Summit on August 16, 2007; the talking points highlight an Oshkosh contract to sell military trucks to Egypt as a “Specific Wisconsin Success Stor[y].”¹⁶¹

- Oshkosh Truck has enjoyed international success. Earlier this year, the company signed a contract with the Egyptian Defense ministry for specially designed military trucks - expanding their markets and creating opportunities for other Wisconsin companies

¹⁵⁹ *Id.*

¹⁶⁰ Email from Oshkosh EVP to Chief of Staff, May 8, 2006 (Exhibit 32 at 14-1891_0398-0399).

¹⁶¹ Talking Points, Rep. Tom Petri, Hilbert Economic Summit, Suggested Topic: “Perspectives on the Region and Beyond,” Aug. 16, 2007 (Exhibit 33 at 14-1891_0405).

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115. The second meeting occurred on or around May 15, 2008.¹⁶² An email from Representative Petri's Chief of Staff to the Oshkosh EVP indicates that Representative Petri initiated the idea of Oshkosh's participation in this meeting:¹⁶³

From: Gebhardt, Debbie
Sent: Wednesday, May 07, 2008 01:53:16 PM
To: [REDACTED]@oshtruck.com'
Subject: Egyptians

Hi Jay:

As you may recall, you joined Rep. Petri for a meeting that the Egyptian Office of the Defense Attache requested for the Egyptian White Paper delegation (senior Armed Forces officials) to discuss security and military objectives.

We haven't set up meeting yet, but he was wondering if you guys would be interested in joining us again for the meeting?

They are here next week.

Debbie

116. Two days later, the Oshkosh EVP replied to the Chief of Staff: "please let me know when the meeting is and i would like to make it. most appreciate. thanks."¹⁶⁴
117. The Oshkosh EVP told the OCE, "I recall I went to another grip and grin, as I call it, with Egyptian officials in his office with the same explanation and result."¹⁶⁵ He said that there was no discussion of Oshkosh's business with Egypt at that meeting, nor did any follow-up communications result from the meeting.¹⁶⁶
118. The Oshkosh EVP told the OCE that he had no recollection of Representative Petri ever being involved in communications that Oshkosh had with Egyptian officials about its business with that country.¹⁶⁷

¹⁶² See Rep. Petri Calendar Entry, Delegates of the Egyptian Office of the Defense Attaché, May 15, 2008 (Exhibit 34 at 14-1891_0409); Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0299).

¹⁶³ Email from Chief of Staff to Oshkosh EVP, May 7, 2008 (Exhibit 35 at 14-1891_0411).

¹⁶⁴ Email from Oshkosh EVP to Chief of Staff, May 9, 2008 (Exhibit 36 at 14-1891_0413).

¹⁶⁵ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0299). The Board notes that a May 15, 2008 email from one of Representative Petri's staff members to the Chief of Staff and a legislative assistant notes: "[Oshkosh EVP] just called [-] he can't make it to the egyptian attaché meeting" (Exhibit 37 at 14-1891_0416).

¹⁶⁶ Oshkosh EVP Transcript (Exhibit 5 at 14-1891_0299).

¹⁶⁷ *Id.* at 14-1891_0300.

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119. According to an entry from Representative Petri's schedule, he was to meet with delegates of the Egyptian Office of the Defense Attaché.¹⁶⁸ The calendar entry noted that the Oshkosh EVP would be joining the meeting.¹⁶⁹

Subject:	Copy: Delegates of the Egyptian Office of the Defense Attaché
Start:	Thu 05/15/2008 04:00 PM
End:	Thu 05/15/2008 04:30 PM
Recurrence:	{none}
Meeting Status:	Not yet Responded
Required Attendees:	Schwartz, Tyler

*Also joining is Jay Kimmitt of Oshkosh Corporation
*To discuss the status of the US-Egyptian strategic relationship in light of the situation in Iraq, Iran-Israeli & Palestinian negotiations, and developments in Sudan and terrorist issues

120. When asked why the Oshkosh EVP joined this meeting, Representative Petri's Chief of Staff told the OCE, "Because Oshkosh Corporation or Egyptians had bought Oshkosh trucks or will buy Oshkosh trucks."¹⁷⁰ She recalled that "Oshkosh Corporation had sat in previously" with Egyptian officials.¹⁷¹
121. The Chief of Staff did not know what role the Oshkosh EVP was to have during the meeting, nor did she know whether there was any discussion of Oshkosh's sale of vehicles to Egypt.¹⁷²
122. Neither documents provided to the OCE nor the Ethics Committee letter memorializing the advice provided to Representative Petri and his congressional office indicate that advice relating to this matter was sought or provided.¹⁷³

* * *

123. In sum, although Representative Petri and his congressional staff sought Committee on Ethics advice and received Committee approval prior to several communications with executive branch officials and House committee leadership on behalf of Oshkosh, in several instances, advice was not sought or the advice provided was based on incomplete or inaccurate information.¹⁷⁴

¹⁶⁸ Rep. Petri Calendar Entry, Delegates of the Egyptian Office of the Defense Attaché, May 15, 2008 (Exhibit 34 at 14-1891_0409).

¹⁶⁹ *Id.*

¹⁷⁰ Chief of Staff Transcript (Exhibit 1 at 14-1891_0049).

¹⁷¹ *Id.* at 14-1891_0050.

¹⁷² *Id.*

¹⁷³ Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0327-0329).

¹⁷⁴ Pursuant to Committee on Ethics rules, the Committee "may take no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts in the opinion." Committee on Ethics Rule 3(k), 113th Cong. (Feb. 5, 2013).

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124. In the case of the October 9, 2009 delegation letter to the Secretary of Defense, it appears that Committee on Ethics was not given accurate information about the content of the letter prior to advising Representative Petri's staff that he could sign the letter.
125. Representative Petri's office did not seek Ethics Committee advice prior to Representative Petri's telephone call with the Secretary of the Army regarding Oshkosh's FMTV contract award; the Chief of Staff's communications with Transportation Committee staff regarding Representative Petri's support for an exemption in truck weight limits for emergency vehicle deliveries; the Chief of Staff's communications with Foreign Affairs Committee staff regarding Oshkosh's sale of vehicles to the UAE; or the Oshkosh EVP's participation in official meetings with Egyptian officials.

C. Representative Petri Performed Official Acts on Behalf of the Manitowoc Company at the Time He Held a Financial Interest in the Company

126. As of December 31, 2006, Representative Petri reported owning between \$100,000 and \$250,000 worth of stock in Manitowoc.¹⁷⁵ As of December 31, 2007, he reported owning between \$250,000 and \$500,000 worth of Manitowoc stock.¹⁷⁶ As of December 31, 2008, he reported owning between \$50,000 and \$100,000 worth of Manitowoc stock.¹⁷⁷ As of December 31, 2009, he reported owning between \$100,000 and \$250,000 worth of Manitowoc stock.¹⁷⁸ As of December 31, 2010, he reported owning between \$100,000 and \$250,000 worth of Manitowoc stock.¹⁷⁹ As of December 31, 2011, he reported owning between \$100,000 and \$250,000 worth of Manitowoc stock.¹⁸⁰ As of December 31, 2012, he reported owning between \$100,000 and \$250,000 worth of Manitowoc stock.¹⁸¹ As of the December 31, 2013, Representative Petri reported owning between \$250,000 and \$500,000 worth of Manitowoc stock.¹⁸²
127. Since Representative Petri purchased stock in Manitowoc, he and his congressional office have performed official acts on behalf of the company.¹⁸³

¹⁷⁵ See Calendar Year 2006 Financial Disclosure Statement for Representative Petri, dated April 30, 2007.

¹⁷⁶ See Calendar Year 2007 Financial Disclosure Statement for Representative Petri, dated May 6, 2008.

¹⁷⁷ See Calendar Year 2008 Financial Disclosure Statement for Representative Petri, dated May 6, 2009.

¹⁷⁸ See Calendar Year 2009 Financial Disclosure Statement for Representative Petri, dated May 2010.

¹⁷⁹ See Calendar Year 2010 Financial Disclosure Statement for Representative Petri, dated May 6, 2011.

¹⁸⁰ See Calendar Year 2011 Financial Disclosure Statement for Representative Petri, dated May 9, 2012.

¹⁸¹ See Calendar Year 2012 Financial Disclosure Statement for Representative Petri, dated April 22, 2013.

¹⁸² See Calendar Year 2013 Financial Disclosure Statement for Representative Petri, dated May 7, 2014.

¹⁸³ Representative Petri's congressional office provided assistance to Manitowoc on another occasion prior to the OCE's jurisdiction. In early 2007, Representative Petri's staff arranged and attended a meeting between Manitowoc and the Office of Management and Budget ("OMB"), so that Manitowoc could present its views on a proposed Environmental Protection Agency ("EPA") rule phasing out certain chemicals. See Transcript of Interview of Manitowoc SVP ("Manitowoc SVP Transcript") (Exhibit 38 at 14-1891_0432-0433); Chief of Staff Transcript (Exhibit 1 at 14-1891_0057-0058); emails from Lindsay Bowers to Chief of Staff, Jan. 16, 2007 (Exhibit 39 at 14-1891_0460-0462). The Manitowoc SVP told the Chief of Staff that "[t]his could not have been done without the Congressman's assistance in getting our concerns across to EPA and OMB." Email from Manitowoc SVP to Chief of Staff, Feb. 14, 2007 (Exhibit 39 at 14-1891_0463). The Manitowoc SVP told the OCE that "if we didn't get to

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128. The Chief of Staff told the OCE that she learned of Representative Petri's ownership of Manitowoc stock in early 2007, at the same time that she learned of his ownership of Oshkosh stock.¹⁸⁴
129. According to the Chief of Staff, there were no specific changes to office policies or procedures as they related to requests for assistance from Manitowoc, "other than again trying to be aware if there were requests."¹⁸⁵
130. The Chief of Staff explained that when the congressional office received a request for assistance from Manitowoc, "the hope would be that we'd consider did we need to consult with ethics or could we take this action."¹⁸⁶ She discussed the need for this additional consideration with Representative Petri and other staff members.¹⁸⁷ However, as detailed below, this consultation did not occur.
131. In September 2012, the Manitowoc SVP contacted Representative Petri's congressional office seeking assistance in getting clarification about a hardship exemption the company was seeking regarding certain diesel engines used in its cranes.¹⁸⁸
132. According to the Manitowoc SVP, the exemption would "literally prevent Manitowoc from losing roughly \$500 [million] in revenue and laying off workers!"¹⁸⁹
133. The initial request for assistance came by email from the Manitowoc SVP to Representative Petri's Chief of Staff, who forwarded the request to the Legislative Assistant responsible for handling the issue.¹⁹⁰
134. When asked if she sought Ethics Committee guidance after receiving the request for assistance from Manitowoc, the Chief of Staff told the OCE, "I apparently did not."¹⁹¹
135. According to the Legislative Assistant, the congressional office provided "two bursts" of assistance to Manitowoc with respect to the hardship exemption application.¹⁹²
136. First, after consulting with the Manitowoc SVP, the Legislative Assistant initiated a series of email and telephone contacts with the EPA seeking a status update on Manitowoc's application.¹⁹³

say our say, it would have been . . . we would have been noncompetitive for a couple years . . ." Manitowoc SVP Transcript (Exhibit 38 at 14-1891_0440). The Chief of Staff told the OCE that the congressional office did not seek Ethics Committee guidance before contacting OMB. Chief of Staff Transcript (Exhibit 1 at 14-1891_0059).

¹⁸⁴ Chief of Staff Transcript (Exhibit 1 at 14-1891_0053).

¹⁸⁵ *Id.* at 14-1891-0053-0054.

¹⁸⁶ *Id.* at 14-1891_0054.

¹⁸⁷ *Id.*

¹⁸⁸ Manitowoc SVP Transcript (Exhibit 38 at 14-1891_0433-0434).

¹⁸⁹ Email from Manitowoc SVP to Legislative Assistant, Nov. 15, 2012 (Exhibit 40 at 14-1891_0467).

¹⁹⁰ Email from Manitowoc SVP to Chief of Staff, Sept. 19, 2012 (Exhibit 41 at 14-1891_0472); email from Chief of Staff to Manitowoc SVP and Legislative Assistant, Sept. 19, 2012 (Exhibit 41 at 14-1891_0472).

¹⁹¹ Chief of Staff Transcript (Exhibit 1 at 14-1891_0056).

¹⁹² Legislative Assistant Transcript (Exhibit 2 at 14-1891_0106).

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137. According to the EPA Official with whom the Legislative Assistant corresponded, the request from Representative Petri's office was no different from requests he receives from other Members' offices on a daily basis.¹⁹⁴
138. In addition to contacting the EPA, the Legislative Assistant said that he may have had a conversation with staff of the National Association of Manufacturers, who had experience with these types of issues and with whom Manitowoc had been working.¹⁹⁵
139. The Legislative Assistant said that, after his contacts with the EPA, "Manitowoc got back to us and said that it seemed to be fine; that they had enough of a comfort level based on their conversations with EPA that they were comfortable."¹⁹⁶
140. On November 15, 2012, the Manitowoc SVP emailed Representative Petri's Legislative Assistant and Chief of Staff with an update on the matter, noting that they had reached "the best possible result":¹⁹⁷

From: Bernard, Al J ([REDACTED]@manitowoc.com)
Sent: Thursday, November 15, 2012 5:52 PM
To: James, Kevin
Cc: Gebhardt, Debbie
Subject: Re: Tier IV Engines -- Hardship Request

Kevin,
We kept "hounding" them for some documentation that they would consider us for exemption at the appropriate time, and they did! I think it's unprecedented. I'll forward it to you under another e-mail. This is really the best possible result. Thank you for your help and we will keep you apprised.
Best,
Al

141. The Manitowoc SVP later told Representative Petri's Chief of Staff that the result "[c]ouldn't have happen [*sic*] w/o Mr. Petri's staff."¹⁹⁸
142. The second "burst" of assistance from Representative Petri's office came approximately eight months later, when Manitowoc was still seeking clarification regarding the status of the hardship exemption application.¹⁹⁹

¹⁹³ *Id.*; Transcript of Interview of EPA Official, May 27, 2014 ("EPA Official Transcript") (Exhibit 42 at 14-1891_0477-0479); email from Legislative Assistant to EPA Official, Sept. 26, 2012 (Exhibit 43 at 14-1891_0493); email from EPA Official to Legislative Assistant, Oct. 5, 2012 (Exhibit 43 at 14-1891_0492-0493); email from Legislative Assistant to EPA Official, Oct. 15, 2012 (Exhibit 43 at 14-1891_0492).

¹⁹⁴ EPA Official Transcript (Exhibit 42 at 14-1891_0480-0481).

¹⁹⁵ Legislative Assistant Transcript (Exhibit 2 at 14-1891_0113-0114).

¹⁹⁶ *Id.* at 14-1891_0113.

¹⁹⁷ Email from Manitowoc SVP to Legislative Assistant and Chief of Staff, Nov. 15, 2012 (Exhibit 44 at 14-1891_0495).

¹⁹⁸ Email from Manitowoc SVP to Chief of Staff, Nov. 15, 2012 (Exhibit 41 at 14-1891_0470).

¹⁹⁹ Legislative Assistant Transcript (Exhibit 2 at 14-1891_0114-0115); Letter from Representative Thomas Petri to EPA Regional Administrator – Region 5, Aug. 8, 2013 (Exhibit 45 at 14-1891_0499-0500).

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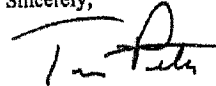
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143. On August 8, 2013, Representative Petri sent a letter to an EPA Regional Administrator, explaining that he had again been contacted by Manitowoc regarding the pending application for a hardship exemption.²⁰⁰
144. In the letter to the EPA, Representative Petri “urge[d] that full consideration be given to Manitowoc’s application for an exemption,” noting that, “from what I have been told, significant revenue and jobs are at stake” should the exemption be delayed.²⁰¹

I strongly urge that full consideration be given to Manitowoc’s application for an exemption under this process. I understand that the company has worked proactively on this process for over two years and, from what I have been told, significant revenue and jobs are at stake should they not be able to fulfill orders early next year.

Please don’t hesitate to contact Kevin James in my office at kevin.james@mail.house.gov or 202-225-████ if we can be of assistance in any way.

Sincerely,



Thomas E. Petri

145. When asked if she sought Ethics Committee review of the letter before it was sent, Representative Petri’s Chief of Staff told the OCE, “I don’t believe I did.”²⁰² She also did not believe that Representative Petri’s ownership of Manitowoc stock was disclosed to the EPA when this letter was sent.²⁰³
146. The Ethics Committee letter memorializing the advice provided to Representative Petri and his congressional office does not include any advice relating to this matter.²⁰⁴
147. When asked if he was aware that Manitowoc was facing this issue relating to its diesel engines, Representative Petri said, “I’m sure they discussed it with me, but I don’t recall anything specific about it.”²⁰⁵
148. Representative Petri did not recall being aware of the assistance his office provided.²⁰⁶ When asked if he was part of any discussion about the assistance he or his office could

²⁰⁰ Letter from Representative Thomas Petri to EPA Regional Administrator – Region 5, Aug. 8, 2013 (Exhibit 45 at 14-1891_0499-500).

²⁰¹ *Id.* at 14-1891_0500.

²⁰² Chief of Staff Transcript (Exhibit 1 at 14-1891_0063).

²⁰³ *Id.*

²⁰⁴ Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0327-0239).

²⁰⁵ Rep. Petri Transcript (Exhibit 4 at 14-1891_0226).

²⁰⁶ *Id.* at 14-1891_0222-0224.

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provide Manitowoc, Representative Petri said, “We would have, I assume, done whatever we would do with any company.”²⁰⁷

149. The Chief of Staff recalled discussing the letter to the EPA with the Legislative Assistant, but she did not recall sharing the letter with Representative Petri.²⁰⁸
150. However, the Legislative Assistant recalled receiving Representative Petri’s approval for the assistance provided to Manitowoc: “[A]t some point in the process I recall that I basically got his approval to – I filled him in on the situation and got his approval to proceed essentially with assisting them through the EPA.”²⁰⁹
151. On September 16, 2013, the Manitowoc SVP reported to Representative Petri’s Legislative Assistant that EPA “did comment verbally that it was ‘good’ that ‘Congress’ chimed in our behalf”²¹⁰
152. The EPA Official who worked with Representative Petri’s staff on this matter told the OCE that Representative Petri’s stock ownership was not disclosed to him during the initial contacts or in the subsequent letter from Representative Petri.²¹¹
153. The EPA Official said that he has never been faced with a situation in which a Member disclosed ownership of stock in a company on whose behalf his or her office was contacting the EPA; he said that if such a situation did arise, “it might set off some sort of flag in [his] mind, and [he] might actually consult with others” at the EPA.²¹²
154. According to the Manitowoc SVP, as of the date of his interview with the OCE, the EPA was still considering the company’s request for a hardship exemption.²¹³

D. Representative Petri Performed Official Acts on Behalf of the Plum Creek Timber Company at the Time He or His Wife Held a Financial Interest in the Company

155. As of December 31, 2012, Representative Petri reported owning between \$50,000 and \$100,000 worth of stock in Plum Creek.²¹⁴ As of December 31, 2013, he reported owning between \$100,000 and \$250,000 worth of stock in Plum Creek.²¹⁵

²⁰⁷ *Id.* at 14-1891_0223.

²⁰⁸ Chief of Staff Transcript (Exhibit 1 at 14-1891_0062-0063).

²⁰⁹ Legislative Assistant Transcript (Exhibit 2 at 14-1891_0117).

²¹⁰ Email from Manitowoc SVP to Legislative Assistant, Sept. 16, 2013 (Exhibit 46 at 14-1891_0502).

²¹¹ EPA Official Transcript (Exhibit 42 at 14-1891_0479-0480; 0485-0486).

²¹² *Id.* at 14-1891_00480.

²¹³ Manitowoc SVP Transcript (Exhibit 38 at 14-1891_0435).

²¹⁴ See Calendar Year 2012 Financial Disclosure Statement for Representative Petri, dated April 22, 2013.

²¹⁵ See Calendar Year 2013 Financial Disclosure Statement for Representative Petri, dated May 7, 2014. In his Calendar Year 2013 Financial Disclosure Statement, Representative Petri reported that his spouse purchased between \$50,000 and \$100,000 in Plum Creek stock on March 13, 2013. In the same report, Representative Petri reported that he held between \$100,000 and \$250,000 in Plum Creek stock; he did not identify this asset as held by his spouse or held jointly.

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156. Prior to the most recent redistricting in Wisconsin, Plum Creek owned forest land in Representative Petri's congressional district.²¹⁶
157. Since Representative Petri's wife purchased Plum Creek stock, Representative Petri and his congressional office have performed official acts on behalf of Plum Creek. It appears that in one case, Representative Petri's office sought guidance from the Ethics Committee before taking the action requested by Plum Creek, but that the office did not seek Ethics Committee guidance in other instances.
- a. Support for the Land and Water Conservation Fund ("LWCF")
158. The LWCF provides funding to federal, state, and local governments to purchase land for conservation and recreation purposes.²¹⁷ According to one organization, since its inception in 1965, the LWCF has helped state and local communities acquire over 7 million acres of land and has underwritten the development of more than 41,000 state and local parks and recreation areas.²¹⁸
159. On May 15, 2012, the Plum Creek Lobbyist emailed Representative Petri's Legislative Assistant to ask for Representative Petri's support of an LWCF legislative provision.²¹⁹
160. On May 17, 2012, several days after Representative Petri's wife purchased Plum Creek stock, the Legislative Assistant responded to the request by noting that Representative Petri "agreed to sign the LWCF letter."²²⁰
161. The Legislative Assistant said that Representative Petri "is generally supportive of conservation and has signed a lot of letters in the past in support of LWCF."²²¹
162. According to both the Legislative Assistant and the Plum Creek Lobbyist, the LWCF is important to a number of entities. The Legislative Assistant told the OCE, "Typically with the Land and Water Conservation Fund, we actually would be contacted by a lot of public lands group, Trust for Public Land and some others. And so there was a lot of different constituent groups who reached out to us to ask for support" of the LWCF.²²² The Plum Creek Lobbyist said that he works "with a coalition of folks from the conservation community" on the LWCF.²²³

²¹⁶ Rep. Petri Transcript (Exhibit 4 at 14-1891_0226); Chief of Staff Transcript (Exhibit 1 at 14-1891_0065).

²¹⁷ See U.S. Forest Service, LWCF Purchases – About the Fund, *available at*

<http://www.fs.fed.us/land/staff/LWCF/about.shtml>.

²¹⁸ See Trust for Public Land, LWCF, *available at* <http://www.tpl.org/land-and-water-conservation-fund-lwcf>.

²¹⁹ Email from Plum Creek Lobbyist to Legislative Assistant, May 15, 2012 (Exhibit 47 at 14-1891_0504).

²²⁰ Email from Legislative Assistant to Plum Creek Lobbyist, May 17, 2012 (Exhibit 47 at 14-1891_0504).

²²¹ Legislative Assistant Transcript (Exhibit 2 at 14-1891_0123).

²²² *Id.*

²²³ Transcript of Interview of Plum Creek Lobbyist, May 23, 2014 ("Plum Creek Lobbyist Transcript") (Exhibit 48 at 14-1891_0518).

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163. Representative Petri's Chief of Staff told the OCE, "Again, the land and water conservation fund is a large, they have millions of dollars supporting a lot of different types of projects around the country."²²⁴
164. The Chief of Staff told the OCE that she could not recall whether there was any contact with the Ethics Committee seeking guidance as to whether it was appropriate for Representative Petri to take the action requested by Plum Creek.²²⁵
165. The Ethics Committee letter memorializing the advice provided to Representative Petri and his congressional office does not include any advice relating to this matter.²²⁶

b. Forest Roads Legislation

166. In July 2012, the Plum Creek Lobbyist emailed the Legislative Assistant to ask for Representative Petri's support of legislation regarding the regulation of forest roads by the EPA under the Clean Water Act.²²⁷
167. Later that same day, a former legislative assistant for Representative Petri emailed the Plum Creek Lobbyist: "I'm happy to let you know that Congressman Petri is a cosponsor of the bill and will surely support it in Committee."²²⁸
168. According to the Plum Creek Lobbyist, the company undertook its efforts in support of the forest roads legislation in conjunction with other companies and organizations, including the National Alliance of Forest Owners ("NAFO").²²⁹ The Plum Creek Lobbyist said this issue involved a very broad coalition of interested parties.²³⁰

c. Truck Weight Limits

169. The Plum Creek Lobbyist told the OCE that he has had no contacts with Representative Petri or his congressional office on the issue of truck weight limits since Representative Petri or his spouse purchased stock in the company.²³¹
170. Representative Petri's Chief of Staff told the OCE that she was only made aware of Plum Creek's interest in the truck weight limits issue through news reports about Representative Petri's stock ownership, noting that she had "never specifically considered that."²³² She added, "I can remember that they had an interest like literally hundreds of companies around the country do. . . . Any company that's moving goods on the highways could potentially be impacted"²³³

²²⁴ Chief of Staff Transcript (Exhibit 1 at 14-1891_0071).

²²⁵ *Id.*

²²⁶ Letter from the Chief Counsel and Staff Director, Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0327-0329).

²²⁷ Email from Plum Creek Lobbyist to Chief of Staff and Legislative Assistant, July 24, 2012 (Exhibit 49 at 14-1891_0537-0538).

²²⁸ Email from Meagan McCanna to Plum Creek Lobbyist, July 24, 2012 (Exhibit 49 at 14-1891_0537).

²²⁹ Plum Creek Lobbyist Transcript (Exhibit 48 at 14-1891_0522-0523).

²³⁰ *Id.* at 14-1891_0523.

²³¹ *Id.* at 14-1891_0520.

²³² Chief of Staff Transcript (Exhibit 1 at 14-1891_0065).

²³³ *Id.* at 14-1891_0065-0066.

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171. The Chief of Staff noted that the truck weight limits issue “is an issue before the highway and transit subcommittee [currently chaired by Representative Petri] as it has been for literally years. . . . [S]ize and weight issues, they’re constant issues before the committee.”²³⁴

d. Timber Tax Provisions

172. In April 2013, the Plum Creek Lobbyist had an email sent to Representative Petri’s staff to request that Representative Petri sign on to a multi-Member letter to the House Ways and Means Committee leadership in support of three tax provisions important to the timber industry.²³⁵

173. According to the Plum Creek Lobbyist, the company was working with its “allies in the industry under the leadership of NAFO.”²³⁶ He estimated that NAFO may have between 40 to 80 companies as members.²³⁷ The NAFO website identifies more than 70 organizations as members.²³⁸

174. On April 15, 2013, one of Representative Petri’s legislative assistants emailed the Plum Creek Lobbyist “to let [him] know that Rep. Petri has agreed to sign this letter.”²³⁹

175. The Chief of Staff told the OCE that the legislative assistant sought advice from the Committee on Ethics prior to Representative Petri agreeing to sign the letter to the Ways and Means Committee leadership.²⁴⁰

176. The Chief of Staff explained that the legislative assistant approached either her or Representative Petri to say that he had been contacted by Plum Creek about signing the letter.²⁴¹ She said that either she or Representative Petri told the legislative assistant that, because Representative Petri’s wife owned Plum Creek stock, “we’d better contact the ethics committee to see if it would be okay for him to sign the letter.”²⁴²

177. Representative Petri had no recollection of this letter, but noted that if someone did contact the Ethics Committee about the letter, it was to follow “our policy just to attempt to abide by the rules and not do anything that would raise any question.”²⁴³ He added that the Committee, “[m]ust have said it was all right, from the point of view of the ethics committee, or we wouldn’t have signed it.”²⁴⁴

178. The legislative assistant was tasked with contacting the Committee on Ethics, and he reported to the Chief of Staff that the Committee had advised that, because the issue

²³⁴ *Id.* at 14-1891_0066.

²³⁵ Email from Carrie Crossfield to Legislative Assistant, Apr. 5, 2013 (Exhibit 50 at 14-1891_0540).

²³⁶ Plum Creek Lobbyist Transcript (Exhibit 48 at 14-1891_0526).

²³⁷ *Id.* at 14-1819_0526-0527.

²³⁸ See <http://www.nafoalliance.org/about/our-members>.

²³⁹ Email from Richard Markowitz to Plum Creek Lobbyist, Apr. 15, 2013 (Exhibit 51 at 14-1891_0542); Letter from Rep. Thomas Petri, *et al.*, to House Ways and Means Committee Chairman and Ranking Member, Apr. 15, 2013 (Exhibit 52 at 14-1891_0544-0546).

²⁴⁰ Chief of Staff Transcript (Exhibit 1 at 14-1891_0068).

²⁴¹ *Id.* at 14-1891_0068-0069.

²⁴² *Id.* at 14-1891_0069.

²⁴³ Rep. Petri Transcript (Exhibit 4 at 14-1891_0228).

²⁴⁴ *Id.*

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had an industry-wide impact, not just affecting Plum Creek, Representative Petri could sign the letter.²⁴⁵

179. The letter provided to Representative Petri by the Committee on Ethics summarizing the guidance it provided to him reflects this advice:²⁴⁶

- On or around April 15, 2013, a member of your staff contacted Committee staff regarding a request from a timber company, of which your wife is a stockholder. The timber company requested that you sign onto a letter being circulated by other Members and addressed to the Committee on Ways and Means. The letter supported tax revisions that would benefit the timber industry as a whole. Your staff asked if the effect of signing such a letter would impact your financial interests as a member of a class or as an individual. Committee staff provided informal, staff-level guidance that the tax revisions as described would impact the timber industry nationwide, rather than impacting or benefiting the specific timber company.

180. The Board notes that the classes affected by the official acts taken on behalf of Plum Creek include large numbers of entities.

III. CONCLUSION

181. During the time that Representative Petri owned Oshkosh stock, he and his congressional office performed official acts on behalf of the company. On many occasions, Representative Petri and his staff appropriately sought and received Ethics Committee advice prior to providing official assistance to the company. He did not, however, seek advice before taking all official acts. Further, on at least one occasion, the advice he received from the Ethics Committee appears to have been based on incomplete or inaccurate information.

182. The Board finds that there is substantial reason to believe that Representative Petri violated House rules and standards of conduct by improperly performing official acts on behalf of Oshkosh at a time when he had a financial interest in the company.

183. During the time that Representative Petri owned Manitowoc stock, he and his congressional office performed official acts on behalf of the company. In 2012 and 2013, he and his congressional office contacted the EPA on Manitowoc's behalf regarding an application for a hardship exemption that the company was seeking.

184. The Board finds that there is substantial reason to believe that Representative Petri violated House rules and standards of conduct by improperly performing official acts on behalf of Manitowoc at a time when he had a financial interest in the company.

²⁴⁵ Chief of Staff Transcript (Exhibit 1 at 14-1891_0069-0070).

²⁴⁶ Letter from Chief Counsel and Staff Director, House Committee on Ethics, to Rep. Thomas Petri, May 21, 2014 (Exhibit 10 at 14-1891_0329).

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185. During the time that Representative Petri or his spouse owned Plum Creek stock, he and his congressional office performed official actions on behalf of the company. The classes of companies affected by these official acts include large numbers of entities.
186. The Board finds that there is not substantial reason to believe that Representative Petri violated House rules and standards of conduct by improperly performing official acts on behalf of Plum Creek at a time when he had a financial interest in the company.
187. Accordingly, the Board recommends that the Committee on Ethics further review the allegation, as there is substantial reason to believe that Representative Petri improperly performed official acts on behalf of companies in which he had a financial interest, in violation of House rules and standards of conduct.