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SUITE HT-2, THE CAPITOL
(202) 225-7103

ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

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November 18, 2004

Statement of Chairman Joel Hefley and Ranking Minority Member Alan B. Mollohan on Their Determinations Regarding the Conduct of Representative Karen McCarthy

Late last year we commenced fact-gathering under Committee Rule 18(a) regarding news media reports that Representative Karen McCarthy had used campaign funds to pay for a trip to New York City in February 2003 during which she attended the Grammy Awards ceremony. Our concern was that such use of campaign funds may have violated clause 6 of House Rule 23, which provides that a Member may not convert campaign funds to personal use and must use those funds for "bona fide campaign or political purposes."

While Representative McCarthy, through counsel, made a number of submissions to us asserting that her use of campaign funds to pay the expenses of that trip was proper, she failed to provide information we requested regarding the activities other than attendance at the Grammy Awards in which she engaged while in New York. In view of her failure to establish that her trip had "bona fide campaign or political purposes," we concluded in the middle of this year, and advised Representative McCarthy, that she was required to repay the expenses of that trip to her campaign account using personal funds.

However, to date she has failed to make the required repayment or even to state her intention to do so. Normally such disregard of Committee determinations by a Member would warrant the initiation of a formal disciplinary proceeding against the Member. After careful consideration, we have decided, for two reasons, not to recommend that the Committee initiate such action.

First, Representative McCarthy will be departing the House at the end of this Congress. In view of the timing of this matter, and the various time frames established by Committee Rules for formal proceedings, it was not possible, as a practical matter, for a formal proceeding on this matter to be completed prior to the end of this Congress. Second, the Federal Election Campaign Act includes a prohibition against conversion of campaign funds to personal use that is comparable to the provision of the House Rules,¹ and thus it is possible that this matter will be remedied by action of the Federal Election Commission.

We also wish to reiterate to all Members that use of campaign funds to pay expenses incurred in attending an event that is entertainment in nature, such as the Grammy Awards, is not permissible. The Committee guidance on the prohibition against

¹ 2 U.S.C. § 439a(b).

converting campaign funds to personal use is set out on pp. 50-61 of the Committee's *Campaign Activity* booklet. In particular, under longstanding Committee precedent, the use of campaign funds for a bona fide campaign or political purpose as required by House Rules,

is not established merely because the use of campaign money *might* result in a campaign benefit as an incident to benefits personally realized by the recipient of such funds

[T]he Committee believes that any other interpretation and application of [the rule] would open the door to a potentially wide range of abuse and could result in situations where campaign moneys were expended for personal enjoyment, entertainment, or economic well-being of the individual without any clear nexus that the funds so expended achieved any political benefit to the disbursor (campaign organization) of the funds.²

With regard to the trip that Representative Karen McCarthy made to New York, it occurred from February 20 to 24, 2003 and included her attendance at a number of music industry events in addition to the awards ceremony. If her attendance at those other events served bona fide campaign or political purposes, it would have been permissible for her to pay at least some of the trip expenses with campaign funds. However, Representative McCarthy failed to respond to our requests for information on the nature of those events and her involvement in them, and thus we were unable to determine that her attendance at those events served any bona fide campaign or political purpose.³

² House Comm. on Standards of Official Conduct, *Investigation of Financial Transactions of Rep. James Weaver with His Campaign Organization*, H. Rep. 99-933, 99th Cong., 2d Sess. 13 (1986) (emphasis in original).

³ According to a submission made in behalf of Representative McCarthy, among the other events that she attended in New York were ones that she described as a MusiCares Foundation rehearsal, a Jazz Storytelling session, a Grammy Mentor Session, and a Clive Davis Dinner.