

**Union Calendar No. 489**105TH CONGRESS }  
*2d Session*

HOUSE OF REPRESENTATIVES

{ REPORT  
105-848SUMMARY OF ACTIVITIES  
ONE HUNDRED FIFTH CONGRESS

## A REPORT

OF THE

COMMITTEE ON  
STANDARDS OF OFFICIAL CONDUCT  
HOUSE OF REPRESENTATIVESJANUARY 2, 1999.—Committed to the Committee of the Whole House on  
the State of the Union and ordered to be printed

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COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

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*Ranking Minority Member*

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**LETTER OF TRANSMITTAL**

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,  
*Washington, DC, January 2, 1999.*

Hon. JEFF TRANDAHL,  
*Clerk, House of Representatives,*  
*Washington, DC.*

DEAR MR. TRANDAHL: Pursuant to clause 1(d) of Rule XI of the Rules of the House of Representatives, we hereby submit to the House a report on the Activities of the Committee on Standards of Official Conduct for the 105th Congress.

Sincerely,

JAMES V. HANSEN,  
*Chairman.*  
HOWARD L. BERMAN,  
*Ranking Minority Member.*



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### SUMMARY OF ACTIVITIES—ONE HUNDRED FIFTH CONGRESS

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JANUARY 2, 1999.—Committed to the Committee of the Whole House on the State  
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Mr. HANSEN, from the Committee on Standards of Official Conduct,  
submitted the following

### REPORT

#### I. INTRODUCTION

House Rule XI, Clause 1(d), requires each committee to submit to the House, not later than January 2 of each odd-numbered year, a report on the activities of that committee under that rule and House Rule X during the Congress ending on January 3 of that year.

The jurisdiction of the Committee on Standards of Official Conduct (“Committee”) is defined in House Rule X, Clauses 1(p) and 4(e), which state as follows:

#### COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

##### RULE X, CLAUSE 1(p)

(1) Measures relating to the Code of Conduct. In addition to its legislative jurisdiction under the preceding provision of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in titles I and V of the Ethics in Government Act of 1978 and sections 7342, 7351, and 7353 of title 5, United States Code.

##### RULE X, CLAUSE 4(e)

(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to

time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House, and any letter of reproof or other administrative action of the committee pursuant to an investigation under subdivision (B) shall be issued or implemented as a part of a report required by such subdivision; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing (unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of the two-thirds of the members of the committee, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; (D) to give consideration to the request of any Member, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII.

(2)(A)(i) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made by the Committee on Standards of Official Conduct, and no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee. –

(ii)(I) Upon the receipt of information offered as a complaint that is in compliance with this rule and the committee rules, the chairman and ranking minority member may jointly appoint members to serve as an investigative subcommittee.

(II) The chairman and ranking minority member of the committee may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the chairman and ranking minority member has placed on the commit-

tee agenda the issue of whether to establish an investigative subcommittee.

(B) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, officer, or employee of the House of Representatives only—

(i) upon receipt of information offered as a complaint, in writing and under oath, made by a Member of the House and transmitted to the committee by such Member, or

(ii) upon receipt of information offered as a complaint, in writing and under oath, from an individual not a Member of the House provided that a Member of the House certifies in writing to the committee that he or she believes the information is submitted in good faith and warrants the review and consideration of the committee.

If a complaint is not disposed of within the applicable time periods set forth in the rules of the Committee on Standards of Official Conduct, then the chairman and ranking minority member shall jointly establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if at any time during those periods, either the chairman or the ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation; nor shall any investigation be undertaken by the committee of any alleged violation which occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to any alleged violation which occurred in a more recent Congress.

(D) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House shall designate a Member of the House from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.

(E) A member of the committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial



and unbiased decision in the case in which he seeks to disqualify himself. If the Committee approves and accepts such an affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member of the House from the same political party as the disqualifying member of the committee to act as a member of the committee in any committee proceeding relating to such investigation.

(F) No information or testimony received, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any Committee or staff member unless specifically authorized in each instance by a vote of the full Committee.

(3)(A) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the committee on Standards of Official Conduct or any subcommittee thereof shall occur in executive session, unless the subcommittee or the committee, in open session by an affirmative vote of a majority of its members opens the meeting to the public.

(B) Notwithstanding clause 2(g)(2) of rule XI, hearings of an adjudicatory subcommittee or sanction hearings held by the Committee on Standards of Official Conduct shall be held in open session unless the subcommittee or committee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.

(4) Before any member, officer, or employee of the Committee on Standards of Official Conduct, including members of any subcommittee of the committee selected pursuant to clause 6(a)(3) and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules.

Copies of the executed oath shall be retained by the Clerk of the House as part of the records of the House. This subparagraph establishes a standard of conduct within the meaning of subparagraph (1)(B). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.

(5)(A) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, deems appropriate in the circumstances.

(B) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.

## II. ADVICE AND EDUCATION

The Committee offers educational programs and publications to inform House Members, officers, and employees of the requirements of the various laws, rules and standards that govern their conduct. Additionally, the Committee responds to specific requests for advice from Members, officers and employees—in person and over the telephone, as well as through the mail—on these matters. The Ethics Reform Act of 1989 (“Act”) guarantees that no one may be investigated by the Committee on the basis of information provided to the Committee while seeking an opinion about proposed conduct, if the individual acts in accordance with the Committee’s written advice. In this regard, the Act mandated that a separate Office of Advice and Education be established within the Committee in 1990. The Committee maintains the confidentiality of both the inquiries that it receives from Members, officers and employees, and the advice provided to them. Additionally, courts will consider reliance on a Committee opinion a defense to prosecution by the Department of Justice.

The Committee believes that these advice and education efforts are an extremely important means for attaining understanding of, and compliance with, the rules and standards of conduct. The increasingly technical and complex nature of the ethics rules makes such efforts all the more important.

### *Publications*

Since the *House Ethics Manual* was issued in 1992, the Committee has issued a number of advisory memoranda to Members, officers and employees that serve to update the materials in the manual. The following advisory memoranda were issued during the 105th Congress:

- 1997 Salary Levels for Financial Disclosure & Post Employment (March 6, 1997);
- Rules Governing Solicitation and Political Fundraising (April 25, 1997);
- Gift Rule Provisions Applicable to Loans (May 23, 1997);
- Gifts Presented to Members During Visits (July 28, 1997);
- Financial Disclosure Requirements for Staff (October 9, 1997);
- Travel Issues (December 17, 1997);
- 1998 Salary Levels for Financial Disclosure & Post Employment (Feb. 12, 1998);
- Outside Earned Income Restrictions on Members and Senior Staff (Feb. 23, 1998);
- Answers to the “Top 20 Questions” (March 4, 1998);
- Rules & Standards of Conduct Relating to Campaign Activity (Sep. 14, 1998);
- Employment Recommendations (October 1, 1998);
- Post-Employment and Related Restrictions for Members (October 22, 1998); and

- Post-Employment and Related Restrictions for Staff (October 22, 1998).

The advisory memorandum of February 23, 1998 announced a new, stricter policy regarding the outside earned income restrictions that apply to Members and senior staff. Among other things, those provisions prohibit covered individuals from receiving compensation for practicing any profession that involves a fiduciary relationship. The Committee action in this area was taken because in 1997 the Committee was asked, for the first time, to issue a formal ruling on whether those provisions applied to the practice of medicine by Members and senior staff. The Committee determined these provisions did apply to the practice of medicine, but under the policy announced in the memorandum, Members who are doctors may continue to practice medicine on a limited basis. The memorandum also announced that in implementing the fiduciary relationship provisions, the Committee will no longer use the “three prong” test that is stated on page 103 of the *House Ethics Manual*.

The matter of Member and staff travel under the gift rule is discussed extensively in the advisory memorandum of December 17, 1997. That memorandum also provides a form for the Advance Authorization for Employee Travel that is required under the rule, and revised Member/Officer and Employee Travel Disclosure Forms. Other provisions of the gift rule are discussed in other advisory memoranda issued during the 105th Congress, including the “Top 20 Questions” memorandum.

In addition, in April 1998 the Committee issued a revised version of its summary memorandum, *Highlights of House Ethics Rules*.

### *Briefings*

As part of its outreach and educational efforts, the Committee conducted numerous briefings during the 105th Congress regarding the House ethics rules and standards of conduct and the rules governing financial disclosure. Committee staff also participated in briefings sponsored by the Congressional Research Service and outside organizations.—

The Committee made a presentation to the Members-elect of the 106th Congress as part of the New Member Orientation. Copies of the *House Ethics Manual* and *Highlights of House Ethics Rules* were provided to every new Member of Congress as part the orientation process, and each was offered an individual briefing for the Member and his or her staff.—

In addition, during 1998 each Member of the House was invited to one of a series of Member-only ethics briefings held by Committee staff. A special briefing for Member office and committee chiefs of staff was held on January 21, 1998, and one for Member spouses was held on March 11, 1998 in conjunction with the House Members and Family Committee. Committee staff also provided numerous briefings to individual Member and committee offices. The Committee will continue this outreach effort in the 106th Congress.

Staff also received numerous requests for briefings from visiting international dignitaries. Visitors from the emerging democracies of Eastern Europe and countries in Africa and Asia were particularly interested in our ethics regulations.

### *Advisory opinion letters*

The Committee's Office of Advice and Education, under the direction and supervision of the Committee's Chairman and Ranking Minority Member, prepared over 1,500 private advisory opinions during the 105th Congress. Opinions issued by the Committee in the 105th Congress addressed a wide range of subjects, including various provisions of the gift rule, travel funded by outside entities, Member or staff participation in fund-raising activities of charities and for other purposes, the outside earned income limitation and restrictions, campaign activity by staff, and the post-employment restrictions.

### III. FINANCIAL DISCLOSURE

Title I of the Ethics in Government Act of 1978, as amended (5 U.S.C. app. 4, Sections 101–111), requires officials in all branches of the Federal Government to disclose to the public financial information regarding themselves and their families. In the House of Representatives, the Committee is responsible for administering the Act. The Committee establishes policy, issues instructions, and designs the Financial Disclosure Statements to be filed by Members, officers, legislative branch employees, and candidates for the House. After Statements are filed with the Legislative Resource Center of the Clerk of the House, they are forwarded to the Committee to be reviewed for compliance with the law. Accountants from the General Accounting Office assist the Committee in its review efforts.

Prior to the May 15 due date for annual Financial Disclosure Statements, the Committee provided briefings for persons required to file, including briefings for Members only. The Committee encourages Members and staff to submit draft filings for review by Committee staff, in order to reduce errors and the need for amendments. In calendar years 1997 and 1998, Committee staff reviewed approximately 4,719 Financial Disclosure Statements, including 1,011 Statements from candidates.

Pursuant to its authority under 5 U.S.C. § 7342, the Committee also continued its activities implementing the disclosure and reporting requirements of the Foreign Gifts and Decorations Act, and responded to requests from Members and employees for interpretations of the Act. Reports filed in accordance with this Act are available for public inspection at the Committee office.

### IV. SELECT COMMITTEE ON ETHICS

On January 7, 1997, the House passed H. Res. 5 which reconstituted the Committee from the 104th Congress as a Select Committee on Ethics for the sole purpose of completing their work *In the Matter of Representative Newt Gingrich*. H. Res. 5 provided that the Select Committee ceased to exist upon the House's consideration of the report from the Committee or January 21, 1997.

On December 21, 1996, the Investigative Subcommittee, chaired by Representative Goss, adopted a Statement of Alleged Violations against Representative Gingrich. (See Appendix A). The Statement of Alleged Violation charged Representative Gingrich with violating House Rule 43, clause 1. The Subcommittee found that Representa-

tive Gingrich “failed to take appropriate steps to ensure that the activities [of certain tax exempt organizations] were in accordance with Section 501(c)(3) of the Internal Revenue Code. . . .” The Subcommittee also found that “information was transmitted to the Committee by and on behalf of Mr. Gingrich that was material to the matter under consideration by the Committee, which information, as Mr. Gingrich should have known, was inaccurate, incomplete, and unreliable.”

Representative Gingrich admitted to the violation and waived his right to an adjudicatory hearing.

Before the Sanction Hearing was held, Representatives Bunning and Hobson resigned from the Committee. Representative Lamar Smith was appointed to fill one vacancy. Representative McDermott recused himself from the Sanction Hearing.

Chairwoman Johnson convened the Sanction Hearing on January 17, 1997. James Cole, special counsel to the Subcommittee, presented his findings and the recommendations of the Subcommittee. Representative Gingrich’s attorney, J. Randolph Evans, responded for the respondent.

At the conclusion of the Sanction Hearing, the Committee voted 7–1 to recommend that Representative Gingrich be reprimanded and reimburse the House of Representatives the sum of \$300,000. Representative Gingrich agreed with this recommendation. The Committee further recommended that documents obtained during the investigation be made available to the Internal Revenue Service.

The Committee issued its report and sanction recommendation as H. Res. 31. The House considered H. Res. 31 on January 21, 1997. Without amendment, the House adopted H. Res. 31 by a vote of 395–28, with five Members voting present.

Following the expiration of the Select Committee, James V. Hansen was appointed Chairman and Howard L. Berman was appointed Ranking Minority Member. Following their appointment, the Chairman and Ranking Minority Member reached agreement with Representative Gingrich that he would make four installment payments prior to the conclusion of the 105th Congress to satisfy the \$300,000 cost assessment. Representative Gingrich made three installment payments of \$50,000 each and made a final payment of \$150,000 on December 29, 1998.

The Chairman and Ranking Minority Member also made available to the Internal Revenue Service documents obtained during the course of the investigation.

#### V. ETHICS TASK FORCE

On January 12, 1997, the House named an Ethics Process Task Force. Also announced was a moratorium on the filing of new ethics complaints until April 11, 1997. This moratorium was subsequently extended by unanimous consents until September 10, 1997. Representatives Livingston and Cardin were named co-chairs of the Task Force. Representatives Solomon, Thomas, Goss, Castle, Moakley, Frost, Pelosi, and Stokes were also named to the Task Force. Chairman Hansen and Ranking Minority Member Berman were name ex-officio members.

The Task Force met for several months and issued its recommendations in H. Res. 168. The House adopted two amendments to H. Res. 168. The Tauzin/Murtha amendment required that all non-members filing complaints must have a Member of the House sponsor the complaint. The Bunning/Abercrombie amendment required a majority vote of the full Committee and the investigative Subcommittee to expand the scope of an investigation. It also required that subpoenas be signed by the full Committee Chair and Ranking Minority Member unless otherwise provided by the Committee.

Following the passage of H. Res. 168 (See Appendix B), the full Committee was named on September 29, 1997. Chairman Hansen and Ranking Minority Member Berman were joined by Representatives Lamar Smith, Martin Olav Sabo, Joel Hefley, Ed Pastor, Bob Goodlatte, Chaka Fattah, Joe Knollenberg, and Zoe Lofgren. The Committee organized on September 30, 1997, and voted to carry over the three pending complaints from the 104th Congress.

## VI. INVESTIGATIONS

### *Complaints-*

The Committee had three complaints pending from the 104th Congress. At their organizational meeting in September 1997, the Committee voted to carryover the pending complaints. One complaint was filed by Representative David Bonior against Representative Gingrich. The other two complaints were filed by the Congressional Accountability Project at the end of the 104th Congress. Additional complaints were received by the Committee during the 105th Congress. The Committee considered and took action on the following cases during the 105th Congress.

#### *Representative Tom DeLay-*

The first complaint filed by the Congressional Accountability Project was against Representative Tom DeLay. The complaint alleged Representative DeLay had improperly linked campaign contributions with official actions by more favorably treating in legislative matters those who had made campaign contributions to Republican candidates and had improperly performed political favors for his brother, a registered lobbyist, by assisting him in securing business.

The Committee requested a response from Representative DeLay. After reviewing his response, the Committee voted to dismiss the complaint and sent a letter to Representative DeLay notifying him of the Committee's action. On November 7, 1997, the Committee issued the following press release:

The Committee has dismissed the complaint filed by the Congressional Accountability Project against Representative DeLay.

In dismissing the complaint, the Committee notes that there is no prohibition precluding a family member from being a lobbyist. The Committee found no basis for an investigation based on his relationship with his brother. Rep. DeLay demonstrated in his response that in each issue involving his brother, Rep. DeLay's involvement either pre-

dated his brother's hiring or was consistent with his representation of his district.

The Committee noted that the solicitation of campaign contributions in House office buildings and the Capitol is prohibited and that the subject of campaign contributions should be avoided in those locations. Rep. DeLay was advised that it is particularly important that a Member not make statements that create the impression that the Member would consider an individual's requests for access or for official action based on such campaign contributions.

*Representative Bud Shuster—*

The second complaint filed by the Congressional Accountability Project was against Representative Bud Shuster. After reviewing the response from Representative Shuster the Committee voted on November 14, 1997, to establish an investigative subcommittee. Representative Hefley was named chairman of the subcommittee and Representative Lofgren was named ranking minority member. Pursuant to Section 1 of H. Res. 168, Representatives McCrery and Edwards were also named to the investigative subcommittee.—

The Committee, in consultation with the Investigative Subcommittee and the Department of Justice, announced June 10, 1998, that it would suspend interviews and depositions at the request of the Department of Justice. A further announcement was made by the Committee on December 4, 1998, that the Subcommittee would go forward with interviews and depositions. At the request of the Subcommittee, the full Committee voted to expand the scope of the Subcommittee's jurisdiction to include an examination of whether violations of House Rules and/or federal law were committed with respect to Representative Shuster's 1994, 1996, and 1998 campaigns for election to the U.S. House of Representatives.

*Representative Jay C. Kim*

In August 1997, Representative Kim pleaded guilty to three misdemeanor violations of Federal election campaign laws: (1) knowingly accepting an illegal \$50,000 contribution to his 1992 campaign from a Taiwanese national; (2) knowingly causing the contribution of more than \$83,000 in illegal corporate contributions from JayKim Engineers, Inc. ("JKE") to his 1992 campaign; and (3) knowingly accepting an illegal \$12,000 corporate contribution to his 1992 campaign from Nikko Enterprises, Inc.—

In December 1997, the Chairman and Ranking Minority Member exercised their authority under Committee Rule 17(c) to establish an investigative subcommittee to conduct an inquiry concerning Representative Kim, based on Representative Kim's guilty pleas to criminal violations of Federal election campaign laws and related guilty pleas by Representative Kim's campaign committee and his wife, June Kim.<sup>1</sup>

The original scope of the inquiry included five issues: (1) matters related to the plea agreements that Representative Kim and June Kim entered into with the Department of Justice in July 1997; (2)

<sup>1</sup>A detailed discussion of the inquiry may be found in the Committee's final report, *In the Matter of Representative Jay Kim*, H. Rep. No. 105-797, 105th Cong., 2d Sess. (1998).

alleged improprieties concerning Financial Disclosure Statements that Representative Kim filed pursuant to the Ethics in Government Act; (3) whether the facts relating to the publication of a book by June Kim entitled "There Are Opportunities," and any royalties or other payments tendered in connection with that book, complied with House rules and applicable laws; (3) Representative Kim's failure to comply with an agreement with the Committee to return outside income from the publication of his book, "I'm Conservative," which exceeded the statutory limit of \$20,040; and (5) Representative Kim's knowledge, if any, regarding illegal contributions made to his 1992 congressional campaign by Korean Airlines, Co., Ltd. and other companies.

Representative Lamar Smith served as Chairman of the Investigative Subcommittee, and Representative Ed Pastor served as Ranking Minority Member. Representative Ed Bryant and Representative Robert C. Scott also served on the Investigative Subcommittee pursuant to Clause 6(a)(3) of House Rule 10.

The original scope of the inquiry was expanded four times pursuant to Committee Rule 20(c). On February 25, 1998, the full Committee, upon recommendation of the Subcommittee, voted to expand the Investigative Subcommittee's jurisdiction to include: (1) the possible misuse of official resources with respect to a contract between Representative Kim's congressional office and Image Media Services, Inc.; and (2) whether Representative Kim made false statements in a letter to the Investigative Subcommittee dated January 29, 1998.

On April 22, 1998, the full Committee, upon the recommendation of the Subcommittee, voted to expand the Investigative Subcommittee's jurisdiction to include the issue of whether violations of Federal law were committed with respect to Representative Kim's 1994, 1996, and 1998 campaigns for election to the U.S. House of Representatives. –

On May 22, 1998, the full Committee, upon the recommendation of the Subcommittee, voted to expand the Investigative Subcommittee's jurisdiction to include: (1) whether Representative Kim, or persons acting with his knowledge or approval, obstructed, or tried to obstruct, the discovery of information by investigative authorities; (2) whether Representative Kim, or persons acting with his knowledge or approval, reported false or misleading information to the House of Representatives or the Internal Revenue Service in connection with income relating to books written by Jay Kim and June Kim; (3) whether Representative Kim made false statements in a May 21, 1998, letter to the Honorable Lamar Smith and the Honorable Ed Pastor; and (4) whether Representative Kim received gifts in violation of House Rules during the period of 1993–1998.

On June 19, 1998, the full Committee, upon the recommendation of the Subcommittee, voted to expand the Investigative Subcommittee's jurisdiction to include: (1) whether Representative Kim knowingly made false statements during his testimony before the Investigative Subcommittee; (2) whether JayKim Engineers, Inc., or its successor, reimbursed a company employee for a political contribution to a candidate for Federal election in or about March 1993 with the knowledge and approval of Representative Kim; and (3) whether Representative Kim failed to comply with the terms and



conditions of a letter to him from the Committee on Standards of Official Conduct dated July 28, 1997, concerning the solicitation and acceptance of funds to pay for June Kim's legal expenses.

At the conclusion of the inquiry, the Investigative Subcommittee found substantial reason to believe that Representative Kim committed violations of laws and House rules within the Committee's jurisdiction, and it unanimously adopted a Statement of Alleged Violation. The charges contained in the Statement of Alleged Violation concerned not only conduct to which Representative Kim previously had pleaded guilty in 1997, but also matters outside the scope of the criminal investigation by the Department of Justice.

The Statement of Alleged Violation contained six counts of alleged violations of laws and House rules. Counts I through IV were based on statutory violations to which Representative Kim previously had pleaded guilty, although they also included additional alleged violations, including making false statements to the Investigative Subcommittee and making false statements on his Financial Disclosure Statements:

- Count I charged Representative Kim with causing in-kind corporate contributions in 1992 and 1993 to his campaign committee by JayKim Engineers, Inc. in violation of Clause 1 of House Rule 43, which states that "[a] Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."—

- Count II charged Representative Kim with the acceptance and receipt of a campaign contribution in 1992 by a Taiwanese national in violation of Clause 1 of House Rule 43. In addition, this count charged Representative Kim with (1) making false statements on his Financial Disclosure Statements regarding the illegal foreign contribution in violation of the Ethics in Government Act of 1978 and Clause 2 of House Rule 44; and (2) making false statements to the Investigative Subcommittee regarding the illegal foreign contribution, in violation of Clause 1 of House Rule 43.—

- Count III charged Representative Kim with the acceptance and receipt of a corporate and excessive corporate contribution by Nikko Enterprises, Inc. ("Nikko") totaling \$12,000 in October 1992, in violation of Clause 1 of House Rule 43. This count also charged Representative Kim with making false statements to the Investigative Subcommittee regarding the illegal contribution by Nikko.—

- Count IV charged Representative Kim with making false statements on his Financial Disclosure Statements regarding the illegal Nikko contribution in violation of Clause 2 of House Rule 44.

Counts V and VI of the Statement of Alleged Violation were based on conduct revealed by the Subcommittee's investigation. These counts included charges that Representative Kim received improper gifts totaling over \$63,000, and that he attempted to influence statements by another person to investigators.

- Count V charged Representative Kim with receiving a gift of \$30,000 in January 1994 from Dobum Kim, then an employee of Hanbo Steel and General Construction, a company

headquartered in South Korea, in violation of Clause 4 of then-House Rule 43 and Clause 1 of House Rule 43. This count also charged Representative Kim with (1) attempting to influence statements by Dobum Kim to investigators regarding the \$30,000 payment, in violation of Clause 1 of House Rule 43; (2) failing to report the \$30,000 gift on his Financial Disclosure Statement for calendar year 1994, in violation of the Ethics in Government Act and Clause 2 of House Rule 44; (3) receiving gifts of travel expenses and golf equipment from Hanbo Steel and General Construction in 1994 totaling approximately \$3,640, in violation of Clause 4 of then-House Rule and Clause 1 of House Rule 43; (4) failing to disclose the gifts of travel expenses and golf equipment on his Financial Disclosure Statement for 1994, in violation of the Ethics in Government Act of 1978 and Clause 2 of House Rule 44; and (5) making false statements to the Investigative Subcommittee regarding Dobum Kim.

- Count VI charged Representative Kim with violations of House Rule 51 and Clause 1 of House Rule 43 by receiving gifts in 1997 and 1998 consisting of two cashier's checks totaling \$30,000, which he used to pay partial reimbursement to the U.S. Treasury for excess outside earned income from his 1994 autobiography, "I'm Conservative."

The Investigative Subcommittee also found evidence of other possible misconduct meriting public disclosure that did not result in charges against Representative Kim.

On August 24, 1998, Representative Kim's attorney filed a Motion for a Bill of Particulars on behalf of Representative Kim pursuant to Committee Rule 23(b). Pursuant to the authority delegated to him by the Investigative Subcommittee, the Subcommittee Chairman denied Representative Kim's motion. On September 2, 1998, the Investigative Subcommittee ratified the Subcommittee Chairman's previous denial of the motion by separately voting to deny Representative Kim's motion.

On September 9, 1998, Representative Kim's attorney filed a Motion to Dismiss the Statement of Alleged Violation pursuant to Committee Rule 23(c)(2). On September 10, 1998, the Subcommittee voted to deny the motion by an affirmative vote of a majority of its members.

On September 25, 1998, Representative Kim filed an Answer to the Statement of Alleged Violation, in which he admitted the statutory violations of Federal election campaign laws to which he had pleaded guilty in 1997, but denied all charges by the Investigative Subcommittee, including alleged violations of House Rules based on those statutory violations. Thus, Representative Kim denied all of the charges contained in the Statement of Alleged Violation.<sup>2</sup>

On October 2, 1998, the Subcommittee voted to adopt a final report. On the same day, the Subcommittee Chairman, pursuant to Committee Rule 23(g), transmitted to the Chairman and Ranking Minority Member of the full Committee Statement of Alleged Violation, related motions, replies to those motions, and related plead-

<sup>2</sup>The Investigative Subcommittee charged Representative Kim only with violations of House Rules in connection with the statutory violations to which he had pleaded guilty—not with statutory violations of federal election campaign laws.

ings. The Subcommittee Chairman also transmitted the Subcommittee's report to the Chairman and Ranking Minority Member of the full Committee.

In transmitting the Statement of Alleged Violation and the other referenced materials, the Subcommittee recommended that no adjudicatory subcommittee be established, and that no further action be taken in this matter. The Subcommittee based its recommendation on the fact that Representative Kim had lost his primary election in June 1998, and that the Committee therefore would lose its jurisdiction over him in January 1999.

With the scheduled date for the adjournment of the House fast approaching, the Committee could not complete the adjudication and sanction hearings after receiving the Subcommittee's report and the Statement of Alleged Violation. Given the limited time and the reasons cited by the Subcommittee, the full Committee unanimously voted on October 6, 1998, to adopt the Subcommittee's report and to approve the Subcommittee's recommendation that no further action be taken in this matter.

*Representative Newt Gingrich*

On January 31, 1996, Representatives Bonior, DeLauro, Lewis, Miller, and Schroeder filed a complaint against Representative Gingrich. The complaint alleged that: (1) Representative Gingrich violated the laws governing tax-exempt organizations with respect to the sponsorship and operation of the American Opportunity Workshops, the Abraham Lincoln Opportunity Foundation, and American Citizens' Television; (2) he intervened improperly with the Environmental Protection Agency in 1991 on behalf of Mr. Miller Nichols, a non-constituent, concerning federal asbestos regulations; (3) he intervened improperly with the International Trade Commission in 1989 on behalf of Southdown, Inc., a contributor to GOPAC; (4) he received improper personal benefits from GOPAC in 1990; (5) he personally violated Federal election campaign laws with respect to alleged contributions by GOPAC to his 1990 congressional campaign; (6) he directed that contributions to GOPAC be forwarded to his 1990 election campaign; and (7) he separately violated House Rule 43, Clause 1, based on cumulative alleged conduct cited throughout the complaint.

With respect to count number one of the complaint, involving allegations concerning tax-exempt organizations, the Committee, on August 1, 1996, referred it to the Investigative Subcommittee chaired by Representative Porter Goss. This count was included in the Subcommittee's Statement of Alleged Violation and was ultimately resolved by the Select Committee on Ethics in January 1997.

With respect to counts two and three of the complaint, involving allegations of improperly intervening with federal agencies, the Committee on Standards of Official Conduct for the 104th Congress dismissed the allegations on the grounds that they did not merit further inquiry.

With respect to counts four, five, six, and seven of the complaint, the Committee, on September 27, 1996, submitted a request to the Investigative Subcommittee chaired by Representative Goss asking whether the subcommittee had any information in its possession

relating to the unresolved allegations that Representative Gingrich had received improper personal benefits from GOPAC and that he personally had violated Federal election campaign laws.

On October 8, 1998, the Committee dismissed the remaining four counts of the complaint involving allegations Representative Gingrich had received improper personal benefits from GOPAC in 1990. On October 10, 1998, the Committee wrote a letter to Representative Gingrich notifying him of the actions taken and explaining the reasons for dismissing the remaining counts. The text of that letter, which the Committee voted to release to the public, is quoted in its entirety as follows:

As you are aware, at its meeting on September 10, 1997, the Committee voted to carry over Counts IV, V, and VI of the complaint filed against you on January 31, 1996. Pursuant to Rule 17(e) of the Committee rules, the matters comprised by those counts were placed on the agenda of the Committee in October, 1997. Pursuant to Committee rule 18(f), the Committee hereby provides notice of the committee resolution pertaining to these matters adopted by unanimous vote of the Committee.

In reference to the allegation that you violated House Rule 45's prohibition of unofficial office accounts in 1990-1991, in your use of GOPAC-funded consultants in the operation of the Minority Whip's Office generally, and specifically in the development of your legislative agenda, we conclude that the evidence demonstrate that you committed repeated violations of Rule 45. In particular, we have reviewed substantial documentary evidence establishing that while serving as a paid consultant to GOPAC, Mr. Jeffrey Eisenach provided a wide array of services pertaining to the development and implementation of your legislative agenda, and that he did so at your request.

While the evidence establishes a prima facie case that Rule 45 was violated, the violations occurred in 1990-91, prior to the instances that prompted previous letters of admonition from the Committee concerning Rule 45 violations, namely, the letter of December 1995, concerning Joe Gaylord and March and September 1996, letters concerning Donald Jones, all of which concerned Rule 45 violations during your tenure as Speaker. Because the pending Rule 45 violations occurred so long ago and because we have before us no evidence that Rule 45 problems persist in your office, we will take no further action and have dismissed this allegation. The Committee believes you have been adequately informed and cautioned on Rule 45 issues and anticipates full compliance in the future. We appreciate your efforts to work with Committee staff since the previous committee activity on this issue.

In reference to the allegation that GOPAC improperly subsidized your 1990 congressional campaign by paying consultant salaries, directing large GOPAC donors to contribute to your campaign, and identifying your reelection as a top GOPAC priority, we note that all of these matters were presented to the Federal District Court for its consid-

eration in *FEC v. GOPAC* (917 F. Supp. 851, 1996). While the Committee is not bound by the court's decision to dismiss the charges against GOPAC (a decision which the FEC declined to appeal), we are persuaded by the Court's analysis and defer to its findings. We do so in full awareness that the subject of the FEC proceeding was GOPAC and not you as an individual, but it appears to us that to the extent that GOPAC was exonerated by the court, you are by implication exonerated as well. These portions of the complaint are therefore dismissed.

Finally, in reference to the allegation that you personally benefited from the "Newt Support" furnished by GOPAC and therefore should have reported it as income on your Federal taxes, we find no evidence establishing that the support in question constituted income to you. We therefore dismiss this portion of the complaint.

This concludes the Committee's consideration of the complaint filed against you on January 31, 1996. Please be advised that the Committee will make this letter public, but will issue no further report to the House on this complaint.

*Materials from the Inspector General*

On November 24, 1998, the Committee received a referral from the House Inspector General pertaining to the Clerk of the House. The Clerk announced her resignation from the House on December 21, 1998, effective January 1, 1999; therefore, the Committee took no action on the referral.

## APPENDIX A

STATEMENT OF THE INVESTIGATIVE SUBCOMMITTEE ON BEHALF OF  
THE HOUSE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,  
DECEMBER 21, 1996

The House Committee on Standards of Official Conduct is today releasing a Statement of Alleged Violation issued in the matter of Representative Newt Gingrich. In addition, the Committee is also releasing Mr. Gingrich's answer to the Statement of Alleged Violation, in which he admits to the violation of House Rules contained in the Statement of Alleged Violation.

In light of Mr. Gingrich's answer, the Investigative Subcommittee is of the view that the Rules of the Committee will not require the holding of an adjudicatory hearing to determine whether the violation has been proven. Accordingly, with the concurrence of the Committee, the next proceeding will be a hearing before the full Committee to determine a recommendation to the House for an appropriate resolution. Since this remains a pending matter, there will be no further public comment.

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON STANDARDS OF OFFICIAL  
CONDUCT IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH

RESPONDENT'S ANSWER TO STATEMENT OF ALLEGED VIOLATION

I, Newt Gingrich, admit to the Statement of Alleged Violation dated December 21, 1996.

Representative NEWT GINGRICH,  
*Respondent.*  
J. RANDOLPH EVANS, Esq.,  
*Attorney for Representative*  
*Newt Gingrich.*

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 21, 1996.

Representative NEWT GINGRICH.

HOUSE OF REPRESENTATIVES COMMITTEE ON STANDARDS OF OFFICIAL  
CONDUCT IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH, DE-  
CEMBER 21, 1996

STATEMENT OF ALLEGED VIOLATION

1. At all times relevant to this Statement of Alleged Violation, Newt Gingrich was a Member of the United States House of Representatives representing the Sixth District of Georgia.

2. At all times relevant to this Statement of Alleged Violation, GOPAC was a political action committee within the meaning of section 527 of the Internal Revenue Code dedicated to, among other

things, achieving Republican control of the United States House of Representatives.

3. GOPAC's methods for accomplishing the goal described in paragraph 2 included the development of a political message to appeal to voters and the dissemination of that message as widely as possible. As stated in a draft document dated November 1, 1989, entitled "GOPAC IN THE 1990s":

[GOPAC's] role is to both *create* and *disseminate* the doctrine of a majority Republican party.

The *creation* of a new doctrine is essentially a research function, involving the development of new ideas at the strategic, operational and tactical level. Strategic doctrine, in this context, consists of the language, policies and programs that will define the caring, humanitarian, reform Republican agenda of the 1990s. Operational doctrine consists of the political message and image which will attract voters and elect state and local candidates in support of this new agenda. And, tactical doctrine consists of the specific political techniques Republicans will use to win elections and enact governing conservative policies. (emphasis in the original).

The document then states:

As important as the creation of the new doctrine is its *dissemination*. During the 1980s GOPAC and Newt Gingrich have led the way in applying new technology, from C-SPAN to video tapes, to disseminate information to Republican candidates and political activists.

\* \* \* \* \*

But the Mission Statement demands that we do much more. To create the level of change needed to become a majority, the new Republican doctrine must be communicated to a broader audience, with greater frequency, in a more usable form. GOPAC needs a bigger "microphone." (emphasis in the original).

4. From in or about September 1986 through in or about May 1995, Mr. Gingrich was General Chairman of GOPAC. In that capacity he determined the messages GOPAC used to accomplish its goals.

5. In a document entitled "*Key Factors in a House GOP Majority*," Mr. Gingrich wrote the following:

1. The fact that 50% of all potential voters are currently outside politics (non-voters) creates the possibility that a new appeal might alter the current balance of political power by bringing in a vast number of new voters.

\* \* \* \* \*

3. It is possible to articulate a vision of "an America that can be" which is appealing to most Americans, reflects the broad values of a governing conservatism (basic American values, entrepreneurial Free Enterprise and Technological progress), and is very difficult for the Democrats to co-opt because of their ideology and their interest groups.

4. It is more powerful and more effective to develop a reform movement parallel to the official Republican Party because:

- a. the news media will find it more interesting and cover it more often and more favorably;
- b. the non-voters who are non-political or anti-political will accept a movement more rapidly than they will accept an established party;

\* \* \* \* \*

6. The objective measurable goal is the maximum growth of news coverage of our vision and ideas, the maximum recruitment of new candidates, voters and resources, and the maximum electoral success in winning seats from the most local office to the White House and then using those victories to implement the values of a governing conservatism and to create the best America that can be.

6. In early 1990 GOPAC developed and carried out a project called American Opportunities Workshop ("AOW"). It consisted of producing and broadcasting a television program centered on a citizens' movement to reform government. The movement was based on three tenets:

1. Basic American Values;
2. Entrepreneurial Free Enterprise; and
3. Technological Progress.

The project also involved the recruitment of activists to set up local workshops around the broadcast in order to recruit people to the movement. The project was Mr. Gingrich's idea and he had a high level of involvement in it.

7. While AOW was described as being non-partisan, mailings sent by GOPAC to its supporters described AOW as having partisan, political goals. One letter sent over Mr. Gingrich's name stated the following:

[W]e'll be reaching voters with our message, and helping drive down to the state and local level our politics of realignment.

Through the use of satellite hook-ups, not only can we reach new groups of voters not traditionally associated with our Party, but we'll be able to give them our message straight, without it being filtered and misinterpreted by liberal elements in the media.

The letter ended with the following:

I truly believe that our Party and our President stand on the verge of a tremendous success this year, and that this workshop can be a great election year boost to us.

8. AOW consumed a large portion of GOPAC's financial resources during 1990. After one program the funding and operation of the project was transferred, with Mr. Gingrich's knowledge and approval, to the Abraham Lincoln Opportunity Foundation ("ALOF"), a corporation with a tax-exempt status under section 501(c)(3) of the Internal Revenue Code. ALOF operated out of GOPAC's offices. Its officers consisted of Howard Callaway, the Chairman of



GOPAC, and Kay Riddle, Executive Director of GOPAC. In addition, the people who were listed as working for ALOF were GOPAC employees or consultants. ALOF raised and expended tax-deductible charitable contributions to carry out the project.

9. At ALOF the project was called American Citizens' Television ("ACTV") and had the same goals as AOW. It was also based on the three tenants of Basic American Values, Entrepreneurial Free Enterprise, and Technological Progress and involved the recruiting of activists to set up local workshops around the broadcast to recruit people to the citizens' movement. In a letter sent by GOPAC over Mr. Gingrich's name, ACTV was described as follows:

I am excited about progress of the "American Citizen's Television" project, which will carry the torch of citizen activism begun by our American Opportunities Workshop on May 19th. We mobilized thousands of people across the nation at the grass roots level who as a result of AOW, are now dedicated GOPAC activists. We are making great strides in continuing to recruit activists all across America to become involved with the Republican party. Our efforts are literally snowballing into the activist movement we need to win in '92.

10. ACTV broadcast three programs in 1990 and Mr. Gingrich continued his involvement in the project. The first two were produced by ALOF. They aired on July 21, 1990, and September 29, 1990, and were hosted by Mr. Gingrich. The last program was produced by the Council for Citizens Against Government Waste, a 501(c)(4) organization, and did not include Mr. Gingrich. ALOF expended approximately \$260,000 in regard to these programs.

11. Under the Internal Revenue Code, an organization which is exempt from taxation under section 501(c)(3) must be operated exclusively for exempt purposes. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Conferring a benefit on private interests is a non-exempt purpose. Under the Internal Revenue Code, an organization which is exempt from taxation under section 501(c)(3) is also prohibited from providing any support to a political action committee. These prohibitions reflect Congressional concerns that tax-payer funds not be used to subsidize political activity.

12. Mr. Gingrich did not seek specific legal advice concerning the application of section 501(c)(3) of the Internal Revenue Code in regard to the facts described in paragraphs 2 through 10 and did not take affirmative steps to ensure that such legal advice was obtained by others from an appropriate source.

13. During the Preliminary Inquiry the Investigative Subcommittee ("Subcommittee") consulted with an expert in the law of tax-exempt organizations. Mr. Gingrich's activities on behalf of ALOF and the activities of others on behalf of ALOF with Mr. Gingrich's knowledge and approval were reviewed by the expert. The expert concluded that those activities violated ALOF's status under section 501(c)(3) of the Internal Revenue Code in that, among other things, those activities:

- a. were intended to confer more than insubstantial benefits on GOPAC and Republican entities and candidates; and
- b. provided support to GOPAC.

14. The Subcommittee also heard from tax counsel retained by Mr. Gingrich for the purposes of this Preliminary Inquiry. According to Mr. Gingrich's tax counsel, this type of activity would not violate ALOF's status under section 501(c)(3) of the Internal Revenue Code.

15. Both the Subcommittee's expert and Mr. Gingrich's tax counsel agree that had they been consulted about this type of activity prior to its taking place, they would have advised that it not be conducted under the auspices of an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

16. If the legal advice described in paragraph 15 had been sought and followed, most, if not all, of the tax-deductible charitable contributions would not have been used for the activities described in paragraphs 2 through 10. As a result, the public controversy involving the legality of a Member's involvement with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code concerning activities described in paragraphs 2 through 10 would not have occurred.

17. In December 1992, Mr. Gingrich began to develop a movement which became known as Renewing American Civilization. The goal of this movement was the replacement of the "welfare state" with an "opportunity society."

18. A primary means of achieving this goal was the development of the movement's message and the dissemination of that message as widely as possible. The message was also known by the name of Renewing American Civilization. The heart of that message was that the welfare state had failed, that it could not be repaired but had to be replaced, and that it had to be replaced with an opportunity society that was based on what was called the "five pillars of American Civilization." These were: (1) personal strength; (2) entrepreneurial free enterprise; (3) the spirit of invention; (4) quality as defined by Edwards Deming; and (5) the lessons of American history. The message also concentrated on three substantive areas: These were: (1) jobs and economic growth; (2) health; and (3) saving the inner city.

19. It was intended that a Republican majority would be part of the movement.

20. One aspect of the movement was to "professionalize" the House Republicans. One method for doing this was to use the movement's message to attract voters, resources, and candidates.

21. GOPAC was one of the institutions that was instrumental in developing and disseminating the message of the movement. In early 1993 Mr. Gingrich, as GOPAC's General Chairman, was instrumental in determining that virtually the entire political program for GOPAC in 1993 and 1994 would be centered on developing, disseminating, and using the message of Renewing American Civilization.

22. In late 1992 and through 1993, GOPAC's limited financial resources were not sufficient to enable it to carry out all of the political programs at its usual level.

23. In or about late 1992 or early 1993, Mr. Gingrich decided to teach a course. It was also entitled Renewing American Civilization. The course lasted ten weeks and devoted a separate session to each of the "five pillars" and each of the three substantive areas.

24. GOPAC had a number of roles in regard to the course. They included:

a. Starting in or about February 1993, employees and consultants for GOPAC were involved in developing the course. As of June 1, 1993, Jeffrey Eisenach, GOPAC's Executive Director, and two of his assistants, resigned from their positions at GOPAC to manage the operations of the course. They did, however, maintain a consulting contract under which GOPAC paid one-half of their salaries through September 30, 1993.

b. In a letter sent to all GOPAC Charter Members over Mr. Gingrich's name in June 1993, another aspect of GOPAC's involvement in the course was described as follows:

During our meeting in January, a number of Charter Members were kind enough to take part in a planning session on "Renewing American Civilization." That session not only affected the substance of what the message was to be, but also how best the new message of positive solutions could be disseminated to this nation's decision makers—elected officials, civic and business leaders, the media and individual voters. In addition to my present avenues of communications I decided to add an avenue close to my heart, that being teaching. I have agreed with Kennesaw State College, a 12,000 student graduate and undergraduate college located in my district, to teach "Renewing American Civilization" as a for-credit class four times during the next four years.

c. GOPAC's Charter Member Meeting in April 1993 was entitled "Renewing American Civilization." At that meeting, Charter Members were asked to help develop the ideas contained in the course. A memorandum to the Charter Member attendees described that process as follows:

As you are probably aware, Newt will be teaching a for-credit class at Kennesaw State College this Fall on the topic of "Renewing American Civilization." The class is organized around his "Five Pillars of American Civilization". . .

During the afternoon of Sunday, April 25, we are asking our Charter Members to participate in a set of breakout sessions, with one session focussing on each of the five "pillars." In particular, we will ask you to critique a draft "visions statement" explaining why we believe each pillar is essential to renewing American Civilization. If past experience is any guide, we expect these sessions to dramatically improve both our understanding of the subject and our ability to communicate it.

d. GOPAC employees took part in fundraising for the course.

e. GOPAC was involved in the promotion of the course. In one such instance, GOPAC prepared and sent a letter concerning the

course over Mr. Gingrich's name to College Republicans. The letter included the following:

[C]onservatives today face a challenge larger than stopping President Clinton. We must ask ourselves what the future would be like if we were allowed to define it, and learn to explain that future to the American people in a way that captures first their imagination and then their votes.

In that context, I am going to devote much of the next four years, starting this Fall, to teaching a course entitled "Renewing American Civilization." I am writing to you today to ask you to enroll for the class, and to organize a seminar so that your friends can enroll as well.

\* \* \* \* \*

Let me be clear: This is not about politics as such. But I believe the ground we will cover is essential for anyone who hopes to be involved in politics over the next several decades to understand. American civilization is, after all, the cultural glue that hold us all together. Unless we can understand it, renew it and extend it into the next century, we will never succeed in replacing the Welfare State with an Opportunity Society.

\* \* \* \* \*

I have devoted my life to teaching and acting out a set of principles. As a fellow Republican, I know you share those values. This class will help us all remember what we're about and why it is so essential that we prevail. Please join me this Fall for "Renewing American Civilization."

f. In letters sent to GOPAC, a partisan, political role for the course was described. Two letters sent over Mr. Gingrich's name included the following statements:

i. As we discussed, it is time to lay down a blueprint—which is why in part I am teaching the course on Renewing American Civilization. Hopefully, it will provide the structure to build an offense so that Republicans can break through dramatically in 1996. We have a good chance to make significant gains in 1994, but only if we can reach the point where we are united behind a positive message, as well as critique of the Clinton program.

ii. I am encouraged by your understanding that the welfare state cannot merely be repaired, but must be replaced and have made a goal of activating at least 200,000 citizen activists nationwide through my course, Renewing American Civilization. We hope to educate people with the fact that we are entering the information society. In order to make sense of this society, we must rebuild an opportunistic country. In essence, if we can reach Americans through my course, independent expenditures, GOPAC and other strategies, we just might unseat the Democratic majority in the House in 1994 and make government accountable again.

Another letter sent over GOPAC's Finance Director's name included the following statement:

iii. As the new finance director, I want to introduce myself and to assure you of my commitment and enthusiasm to the recruitment and training of grassroots Republican candidates. In addition, with the course Newt will be teaching in the fall—Renewing American Civilization—I see a very real opportunity to educate the American voting population to Republican ideals, increasing our opportunity to win local, state and Congressional seats.

25. The course was taught at Kennesaw State College in the fall of 1993 and was taught at Reinhardt College in the winters of 1994 and 1995.

26. Each year the course consisted of forty hours of lectures. Mr. Gingrich presented twenty hours of lecture and a co-professor from each of the respective colleges was responsible for the other twenty hours of the course.

27. Each year the course was taught, it was also broadcast throughout the United States via satellite and local cable channels, and distributed via videotape and audiotape. The broadcasts and tapes only encompassed the twenty hours of lectures presented by Mr. Gingrich. Kennesaw State College Foundation and the Progress and Freedom Foundation were responsible for this dissemination of the course; Reinhardt College was not.

28. The money raised and expended for the course was used primarily for the dissemination of the course as described in paragraph 27. In 1993 course expenditures amounted to approximately \$300,000, in 1994 course expenditures amounted to approximately \$450,000, and in 1995 course expenditures amounted to approximately \$450,000.

29. The main message of the course and the main message of the movement was renewing American civilization by replacing the welfare state with an opportunity society. "Renewing American Civilization" was also the main message of GOPAC and the main message of virtually every political and campaign speech made by Mr. Gingrich in 1993 and 1994. The course was, among other things, the primary means for developing and disseminating this message.

30. Mr. Gingrich described the mission of the course and the movement as follows:

We will develop a movement to renew American Civilization using the 5 pillars of 21st Century Freedom so people understand freedom and progress is possible and their practical, daily lives can be far better. Renewing American Civilization must be communicated as an intellectual-cultural message with governmental-political consequences. As people become convinced American civilization must and can be renewed and the 5 pillars will improve their lives we will encourage them and help them to network together and independently, autonomously initiate improvements wherever they want. However, we will focus on economic growth, health, and saving the inner city as the first three key areas to improve. Our emphasis will be on re-

shaping law and government to facilitate improvement in all of american [sic] society. We will emphasize elections, candidates and politics as vehicles for change and the news media as a primary vehicle for communications. To the degree Democrats agree with our goals we will work with them but our emphasis is on the Republican Party as the primary vehicle for renewing American civilization.

31. In a memorandum addressed to "Various Gingrich Staffs," which included GOPAC employees and consultants as well as people involved in Mr. Gingrich's campaign, Mr. Gingrich described the broad application of the Renewing American Civilization message as follows:

I believe the vision of renewing American civilization will allow us to orient and focus our activities for a long time to come.

At every level from the national focus of the Whip office to the 6th district of Georgia focus of the Congressional office to the national political education efforts of GOPAC and the re-election efforts of FONG we should be able to use the ideas, language and concepts of renewing American civilization.

He then described the role of the course in this process.

The course is only one in a series of strategies designed to implement a strategy of renewing American civilization.

Another of Mr. Gingrich's strategies involving the course was:

Getting Republican activists committed to renewing American civilization, to setting up workshops built around the course, and to opening the party up to every citizen who wants to renew American civilization.

32. In writing about the goals of the movement, Mr. Gingrich wrote:

Our overall goal is to develop a blueprint for renewing America by replacing the welfare state, recruit, discover, arouse and network together 200,000 activists including candidates for elected office at all levels, and arouse enough volunteers and contributors to win a sweeping victory in 1996 and then actually implement our victory in the first three months of 1997.

The "sweeping victory" referred to in this document is by Republicans. Mr. Gingrich went on to describe the specific goals within the overall goal, all of which were to be accomplished through the course.

1. By April 1996 have a thorough, practical blueprint for replacing the welfare state that can be understood and supported by voters and activists.

We will teach a course on Renewing American Civilization on ten Saturday mornings this fall and make it available by satellite, by audio and video tape and by computer to interested activists across the country. A month will then be spent redesigning the course based on feedback

and better ideas. Then the course will be retaught in Winter Quarter 1994. It will then be rethought and redesigned for nine months of critical re-evaluation based on active working groups actually apply ideas across the country the course will be taught for one final time in Winter Quarter 1996.

2. Have created a movement and momentum which require the national press corps to actually study the material in order to report the phenomenon thus infecting them with new ideas, new language and new perspectives.

3. Have a cadre of at least 200,000 people committed to the general ideas so they are creating an echo effect on talk radio and in letters to the editor and most of our candidates and campaigns reflect the concepts of renewing America.

Replacing the welfare state will require about 200,000 activists (willing to learn now [sic] to replace the welfare state, to run for office and to actually replace the welfare state once in office) and about six million supporters (willing to write checks, put up yard signs, or do a half day's volunteer work).

33. In a speech at a GOPAC training seminar for candidates at the Virginia Republican Convention in June 1993, Mr. Gingrich described a partisan goal of the movement.

We can't do much about the Democrats. They went too far to the left; they're still too far to the left; that's their problem. But we have a huge burden so that everyone who wants to replace the welfare state and everyone who wants to renew American civilization has a home, and it's called being a Republican. We have to really learn how to bring them all in.

He then discussed the role of the course in the movement and described how the "five pillars" of the Renewing American Civilization course could be applied to political campaigns.

Now, let me start just as a quick overview. First, as I said earlier, American civilization is a civilization. Very important. It is impossible for anyone on the left to debate you on that topic.

\* \* \* \* \*

But the reason I say that is if you go out and you campaign on behalf of American civilization and you want to renew American civilization, it is linguistically impossible to oppose you. And how is your opponent going to get up and say I'm against American civilization?

Near the end of the speech he stated:

I believe, if you take the five pillars I've described, if you find three areas that will really fit you, and are really in a position to help you, that you are then going to have a language to explain how to replace the welfare state, and three topics that are going to arouse volunteers and arouse contributions and help people say, Yes, I want this done.

34. In a number of other instances, Mr. Gingrich applied the ideas of the course to partisan, political purposes. Examples include:

a. In a document entitled "House Republican Focus for 1994" Mr. Gingrich wrote:

The Republican party can offer a better life for virtually everyone if it applies the principles of American civilization to create a more flexible, decentralized market oriented system that uses the Third Wave of change and accepts the disciplines of the world market.

These ideas are outlined in a 20 hour intellectual framework "Renewing American Civilization" available on National Empowerment Television every Wednesday from 1 pm to 3 pm and available on audio tape and video tape from 1-800-TO-RENEW.

b. In a document Mr. Gingrich said was a briefing paper for House Republican Members, he described the movement to renew American civilization. Renewing American civilization required the replacement of the welfare state with an opportunity society. He wrote that doing this will require at least 200,000 "partners for progress" willing to study the principles of American civilization, work on campaigns, run for office, and engage in other activities to further the movement. Under the heading "LEARNING THE PRINCIPLES OF AMERICAN CIVILIZATION" Mr. Gingrich wrote, "The course, 'Renewing American Civilization', is designed as a 20 hours introduction to the principles necessary to replace the welfare state with an opportunity society." On the next page entitled "Connecting the 'Partners' to the 'Principles,'" Mr. Gingrich described where the course was being taught, including the fact that it was being broadcast for fifty weeks during 1994 on National Empowerment Television. He then wrote that, "Our goal is to get every potential partner for progress to take the course and study the principles."

c. In a document entitled "*The 14 Steps* Renewing American Civilization by replacing the welfare state with an opportunity society," Mr. Gingrich described a relationship between the course and the movement. He began with the proposition that the welfare state had failed and needed to be replaced. In describing the replacement, Mr. Gingrich wrote that it:

must be an opportunity society based on the principles of American civilization. . . .

These principles each receive two hours of introduction in "Renewing American Civilization", a course taught at Reinhardt College. The course is available on National Empowerment Television from 1-3 P.M. every Wednesday and by videotape or audiotape by calling 1-800-TO-RENEW.

Mr. Gingrich then wrote:

The Democrats are the party of the welfare state. Too many years in office have led to arrogance of power and to continuing violations of the basic values of self-government.



Only by voting Republican can the welfare state be replaced and an opportunity society be created.

35. From in or about June 1993 through in or about December 1993, the course was funded and operated with tax-exempt funds under the auspices of the Kennesaw State College Foundation, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. From in or about December 1993 through in or about July 1995, the course was funded and operated under the auspices of the Progress and Freedom Foundation, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. In 1994 and 1995 the course was taught at Reinhardt College, an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

36. Under the Internal Revenue Code, an organization which is exempt from taxation under section 501(c)(3) must be operated exclusively for exempt purposes. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Conferring a benefit on private interests is a non-exempt purpose. Under the Internal Revenue Code, an organization which is exempt from taxation under section 501(c)(3) is also prohibited from any participation in a political campaign or from providing any support to a political action committee. These prohibitions reflect Congressional concerns that tax-payer funds not be used to subsidize political activity.

37. Although Mr. Gingrich consulted with the House Committee on Standards of Official Conduct ("Committee") prior to teaching the course, he did not seek specific legal advice concerning the application of section 501(c)(3) of the Internal Revenue Code in regard to the facts described in paragraphs 17 through 35 from an appropriate source and did not take affirmative steps to ensure that such legal advice was obtained by others from an appropriate source.

38. During the Preliminary Inquiry the Subcommittee consulted with an expert in the law of tax-exempt organizations. Mr. Gingrich's activities on behalf of the Kennesaw State College Foundation, the Progress and Freedom Foundation, and Reinhardt College in regard to the course entitled "Renewing American Civilization" and the activities of others on behalf of those organizations with Mr. Gingrich's knowledge and approval were reviewed by the expert. The expert concluded that those activities violated Kennesaw State College Foundation's status under section 501(c)(3) of the Internal Revenue Code, the Progress and Freedom Foundation's status under section 501(c)(3) of the Internal Revenue Code, and Reinhardt College's status under section 501(c)(3) of the Internal Revenue Code in that, among other things, those activities were intended to confer more than insubstantial benefits on Mr. Gingrich, GOPAC, and other Republic entities and candidates.

39. The Subcommittee also heard from tax counsel retained by Mr. Gingrich for the purposes of this Preliminary Inquiry. According to Mr. Gingrich's tax counsel, this type of activity would not violate the status of the Kennesaw State College Foundation, the Progress and Freedom Foundation, or Reinhardt College under section 501(c)(3) of the Internal Revenue Code.

40. Both the Subcommittee's expert and Mr. Gingrich's tax counsel agree that had they been consulted about this type of activity prior to its taking place, they would have advised that it not be conducted under the auspices of an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

41. If the legal advice described in paragraph 40 had been sought and followed, most, if not all, of the tax-deductible charitable contributions would not have been used for the activities described in paragraphs 17 through 35. As a result, the public controversy involving the legality of a Member's involvement with organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code concerning activities described in paragraphs 17 through 35 would not have occurred.

42. On or about September 7, 1994, a complaint was filed against Mr. Gingrich with the Committee. The complaint centered on the course entitled "Renewing American Civilization." Among other things, it alleged that Mr. Gingrich had used his congressional staff to work on the course and that he had misused organizations that were exempt from taxation under section 501(c)(3) of the Internal Revenue Code because the course was a partisan, political project, with significant involvement by GOPAC, and was not a permissible activity for a section 501(c)(3) organization.

43. On or about October 4, 1994, Mr. Gingrich wrote the Committee in response to the complaint and primarily addressed the issues concerning the use of congressional staff for the course. In doing so he stated:

I would like to make it abundantly clear that those who were paid for course preparation were paid by either the Kennesaw State Foundation, [sic] the Progress and Freedom Foundation or GOPAC. . . . Those persons paid by one of the aforementioned groups include: Dr. Jeffrey Eisenach, Mike DuGally, Jana Rogers, Patty Stechschultez [sic], Pamla Prochnow, Dr. Steve Hanser, Joe Gaylord, and Nancy Desmond.

44. On or about December 31, 1994, the Committee sent Mr. Gingrich a letter asking for additional information concerning allegations of misuse of tax-exempt organizations in regard to the course. The Committee also asked for information relating to the involvement of GOPAC in various aspects of the course.

45. Whether any aspects of the course were political or partisan in their motivation, application, or design was material to the Committee's deliberations in regard to the complaint. Whether GOPAC had any involvement with the course was also material to the Committee's deliberations in regard to the complaint.

46. In November 1994, Mr. Gingrich retained counsel to represent him in connection with the Committee's investigation. According to Mr. Gingrich, he then relied on counsel to respond to and otherwise address issues and concerns raised by the Committee. Mr. Gingrich, however, remained ultimately responsible for fully, fairly, and accurately responding to the Committee.

47. Between on or about December 8, 1994, and on or about December 15, 1994, Mr. Gingrich delivered or caused to be delivered to the Committee a letter dated December 8, 1994, signed by Mr.

Gingrich in response to the Committee's letter described in paragraph 44. According to testimony before the Subcommittee, the six-page December 8, 1994 letter was prepared by Mr. Gingrich's attorney and submitted to Mr. Gingrich for review during the transition following the 1994 election. In the December 8, 1994 letter Mr. Gingrich made the following statements:

[The course] was, by design and application, completely nonpartisan. It was and remains about ideas, not politics. (Page 2.)

The idea to teach "Renewing American Civilization" arose wholly independent of GOPAC, because the course, unlike the committee, is non-partisan and apolitical. My motivation for teaching these ideas arose not as a politician, but rather as a former educator and concerned American citizen. . . . (Page 4.)

The fact is, "Renewing American Civilization" and GOPAC have never had any official relationship. (Page 4.)

GOPAC . . . is a political organization whose interests are not directly advanced by this non-partisan educational endeavor. (Page 5.)

As a political committee, GOPAC never participated in the administration of "Renewing American Civilization." (Page 4.)

Where employees of GOPAC simultaneously assisted the project, they did so as private, civic-minded individuals contributing time and effort to a 501(c)(3) organization. (Page 4.)

Anticipating media or political attempts to line the Course to [GOPAC], "Renewing American Civilization" organizers went out of their way to avoid even the appearances of improper association with GOPAC. Before we had raised the first dollar or sent out the first brochure, Course Project Director Jeff Eisenach resigned his position at GOPAC. (Page 4.)

48. On or about January 26, 1995, an amended complaint against Mr. Gingrich was filed with the Committee. The amended complaint encompassed the same allegations as the complaint described in paragraph 42, as well as additional allegations.

49. On or about March 27, 1995, Mr. Gingrich's attorney prepared, signed, and caused a fifty-two page letter dated March 27, 1995, with 31 exhibits to be delivered to the Committee responding to the amended complaint. The March 27, 1995 letter was submitted to Mr. Gingrich shortly before it was filed with the Committee.

50. Prior to the letter from Mr. Gingrich's attorney being delivered to the Committee, Mr. Gingrich reviewed it and approved its submission to the Committee. The ultimate responsibility for the accuracy of information submitted to the Committee remained with Mr. Gingrich.

51. The March 27, 1995 letter contains the full statements:

As Ex. 13 demonstrates, the course solicitation . . . materials are completely non-partisan. (Page 19, footnote 1.)

GOPAC did not become involved in the Speaker's academic affairs because it is a political organization whose

interests are not advanced by this non-partisan educational endeavor. (Page 35.)

The Renewing American Civilization course and GOPAC have never had any relationship, official or otherwise. (Page 35.)

As noted previously, GOPAC has had absolutely no role in funding, promoting, or administering Renewing American Civilization. (Page 34–35.)

GOPAC has not been involved in course fundraising and has never contributed any money or services to the course. (Page 28.)

Anticipating media or political attempts to link the course to GOPAC, course organizers went out of their way to avoid even the appearance of associating with GOPAC. Prior to becoming Course Project Director, Jeffrey Eisenach resigned his position at GOPAC and has not returned. (Page 36.)

52. Mr. Gingrich engaged in conduct that did not reflect creditably on the House of Representatives in that: regardless of the resolution of whether the activities described in paragraphs 2 through 41 constitute a violation of section 501(c)(3) of the Internal Revenue Code, by failing to seek and follow the legal advice described in paragraphs 15 and 40, Mr. Gingrich failed to take appropriate steps to ensure that the activities described in paragraphs 2 through 41 were in accordance with section 501(c)(3) of the Internal Revenue Code; and on or about March 27, 1995, and on or about December 8, 1994, information was transmitted to the Committee by and on behalf of Mr. Gingrich that was material to matters under consideration by the Committee, which information, as Mr. Gingrich should have known, was inaccurate, incomplete, and unreliable.

53. The conduct described in this Statement of Alleged Violation constitutes a violation of Rule 43(1) of the Rules of the United States House of Representatives.

## APPENDIX B

H. RES. 168—IN THE HOUSE OF REPRESENTATIVES, U.S.,  
SEPTEMBER 18, 1997

*Resolved,*

### **SECTION 1. USE OF NON-COMMITTEE MEMBERS.**

(a) RULES AMENDMENT.—Clause 6(a) of rule X of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

“(3)(A) At the beginning of each Congress—

“(i) the Speaker (or his designee) shall designate a list of 10 Members from the majority party; and

“(ii) the minority leader (or his designee) shall designate a list of 10 Members from the minority party;

who are not members of the Committee on Standards of Official Conduct and who may be assigned to serve as a member of an investigative subcommittee of that committee during that Congress. Members so chosen shall be announced to the House.

“(B) Whenever the chairman and ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members designated under subdivision (A) should be assigned to serve on an investigative subcommittee of that committee, they shall each select the same number of Members of his respective party from the list to serve on that subcommittee.”.

(b) CONFORMING RULES AMENDMENT.—Clause 6(b)(2)(A) of rule X of the Rules of the House of Representatives is amended by inserting after the first sentence the following new sentence: “Service on an investigative subcommittee of the Committee on Standards of Official Conduct pursuant to paragraph (a)(3) shall not be counted against the limitation on subcommittee service.”.

### **SEC. 2. DURATION OF SERVICE ON THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.**

The second sentence of clause 6(a)(2) of rule X of the Rules of the House of Representatives is amended to read as follows: “No Member shall serve as a member of the Committee on Standards of Official Conduct for more than two Congresses in any period of three successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that a Member having served on the committee for two Congresses shall be eligible for election to the committee as chairman or ranking minority member for one additional Congress. Not less than two Members from each party shall rotate off the committee at the end of each Congress.”.

**SEC. 3. COMMITTEE AGENDAS.**

The Committee on Standards of Official Conduct shall adopt rules providing that the chairman shall establish the agenda for meetings of the committee, but shall not preclude the ranking minority member from placing any item on the agenda.

**SEC. 4. COMMITTEE STAFF.**

(a) **COMMITTEE RULES.**—The Committee on Standards of Official Conduct shall adopt rules providing that:

(1)(A) The staff is to be assembled and retained as a professional, nonpartisan staff.

(B) Each member of the staff shall be professional and demonstrably qualified for the position for which he is hired.

(C) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(D) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(E) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the committee without specific prior approval from the chairman and ranking minority member.

(F) No member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the committee.

(2)(A) All staff members shall be appointed by an affirmative vote of a majority of the members of the committee. Such vote shall occur at the first meeting of the membership of the committee during each Congress and as necessary during the Congress.

(B) Subject to the approval of Committee on House Oversight, the committee may retain counsel not employed by the House of Representatives whenever the committee determines, by an affirmative vote of a majority of the members of the committee, that the retention of outside counsel is necessary and appropriate.

(C) If the committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(3) Outside counsel may be dismissed prior to the end of a contract between the committee and such counsel only by an affirmative vote of a majority of the members of the committee.

(4) Only subparagraphs (C), (E), and (F) of paragraph (1) shall apply to shared staff.

(b) **ADDITIONAL COMMITTEE STAFF.**—In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee on Standards of Official Conduct, the chairman and ranking minority member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the committee. Such shared staff may assist the chairman

or ranking minority member on any subcommittee on which he serves.

**SEC. 5. MEETINGS AND HEARINGS.**

(a) HOUSE RULES.—(1) Clause 4(e)(3) of rule X of the Rules of the House of Representatives is amended to read as follows:

“(3)(A) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or any subcommittee thereof shall occur in executive session, unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting to the public.

“(B) Notwithstanding clause 2(g)(2) of rule XI, hearings of an adjudicatory subcommittee or sanction hearings held by the Committee on Standards of Official Conduct shall be held in open session unless the subcommittee or committee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.”.

(2)(A) The first sentence of clause 2(g)(1) of rule XI of the Rules of the House of Representatives is amended by inserting “(except the Committee on Standards of Official Conduct)” after “thereof”.

(B) The first sentence of clause 2(g)(2) of rule XI of the Rules of the House of Representatives is amended by inserting “(except the Committee on Standards of Official Conduct)” after “thereof”.

(b) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that—

(1) all meetings of the committee or any subcommittee thereof shall occur in executive session unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting or hearing to the public; and

(2) any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee shall be open to the public unless the committee or subcommittee by an affirmative vote of a majority of its members closes the hearing to the public.

**SEC. 6. CONFIDENTIALITY OATHS.**

Clause 4(e) of rule X of the Rules of the House of Representatives is amended by adding at the end the following:

“(4) Before any member, officer, or employee of the Committee on Standards of Official Conduct, including members of any subcommittee of the committee selected pursuant to clause 6(a)(3) and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

“I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules.”

Copies of the executed oath shall be retained by the Clerk of the House as part of the records of the House. This subparagraph establishes a standard of conduct within the meaning of subparagraph (1)(B). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.’.

**SEC. 7. PUBLIC DISCLOSURE.**

The Committee on Standards of Official Conduct shall adopt rules providing that, unless otherwise determined by a vote of the committee, only the chairman or ranking minority member, after consultation with each other, may make public statements regarding matters before the committee or any subcommittee thereof.

**SEC. 8. CONFIDENTIALITY OF COMMITTEE VOTES.**

(a) **RECORDS.**—The last sentence in clause 2(e)(1) of rule XI of the Rules of the House of Representatives is amended by adding before the period at the end the following: “, except that in the case of rollcall votes in the Committee on Standards of Official Conduct taken in executive session, the result of any such vote shall not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee”.

(b) **REPORTS.**—Clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to votes taken in executive session by the Committee on Standards of Official Conduct.”.

**SEC. 9. FILINGS BY NON-MEMBERS OF INFORMATION OFFERED AS A COMPLAINT.**

(a) **FILINGS SPONSORED BY MEMBERS.**—Clause 4(e)(2)(B) of rule X of the Rules of the House of Representatives is amended by striking “or submitted to”, by striking “a complaint” and inserting “information offered as a complaint”, and by amending clause (ii) to read as follows:

“(ii) upon receipt of information offered as a complaint, in writing and under oath, from an individual not a Member of the House provided that a Member of the House certifies in writing to the committee that he or she believes the information is submitted in good faith and warrants the review and consideration of the committee.”

**SEC. 10. REQUIREMENTS TO CONSTITUTE A COMPLAINT.**

The Committee on Standards of Official Conduct shall amend its rules regarding complaints to provide that whenever information offered as a complaint is submitted to the committee, the chairman and ranking minority member shall have 14 calendar days or 5 legislative days, whichever occurs first, to determine whether the information meets the requirements of the committee’s rules for what constitutes a complaint.

**SEC. 11. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING PROPERLY FILED COMPLAINTS.**

(a) **COMMITTEE RULES.**—The Committee on Standards of Official Conduct shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the committee’s rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the chairman and ranking minority members determine that information filed meets the requirements of the committee’s rules for what constitutes a complaint, unless the committee by an affirmative vote of a majority of its members votes otherwise, to—



(1) recommend to the committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(2) establish an investigative subcommittee; or

(3) request that the committee extend the applicable 45-calendar day or 5-legislative day period by one additional 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1).

(b) HOUSE RULES.—Clause 4(e)(2)(A) of rule X of the Rules of the House of Representatives is amended by inserting “(i)” after “(A)”, by striking “and no” and inserting “and, except as provided by subdivision (ii), no”, and by adding at the end the following:

“(i)(I) Upon the receipt of information offered as a complaint that is in compliance with this rule and the committee rules, the chairman and ranking minority member may jointly appoint members to serve as an investigative subcommittee.

“(II) The chairman and ranking minority member of the committee may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the chairman or ranking minority member has placed on the committee agenda the issue of whether to establish an investigative subcommittee.”

(c) DISPOSITION OF PROPERLY FILED COMPLAINTS BY CHAIRMAN AND RANKING MINORITY MEMBER IF NO ACTION TAKEN BY THEM WITHIN PRESCRIBED TIME LIMIT.—The Committee on Standards of Official Conduct shall adopt rules providing that if the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the committee rules for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subsection (a), then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(d) HOUSE RULES.—Clause 4(e)(2)(B) of rule X of the Rules of the House of Representatives is amended by adding at the end the following new sentences: “If a complaint is not disposed of within the applicable time periods set forth in the rules of the Committee on Standards of Official Conduct, then the chairman and ranking minority member shall jointly establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be es-

established only by an affirmative vote of a majority of the members of the committee.”.

**SEC. 12. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING INFORMATION NOT CONSTITUTING A COMPLAINT.**

The Committee on Standards of Official Conduct shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee does not meet the requirements for what constitutes a compliant set forth in the committee rules, they may—

- (1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the committee rules; or
- (2) recommend to the committee that it authorize the establishment of an investigative subcommittee.

**SEC. 13. INVESTIGATIVE AND ADJUDICATORY SUBCOMMITTEES.**

The Committee on Standards of Official Conduct shall adopt rules providing that—

- (1)(A) investigative subcommittees shall be comprised of 4 Members (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee; and
- (B) adjudicatory subcommittees shall be comprised of the members of the committee who did not serve on the investigative subcommittee (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee;
- (2) at the time of appointment, the chairman shall designate one member of the subcommittee to serve as chairman and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee or adjudicatory subcommittee; and
- (3) the chairman and ranking minority member of the committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex officio members.

**SEC. 14. STANDARD OF PROOF FOR ADOPTION OF STATEMENT OF ALLEGED VIOLATION.**

The Committee on Standards of Official Conduct shall amend its rules to provide that an investigative subcommittee may adopt a statement of alleged violation only if it determines by an affirmative vote of a majority of the members of the committee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred.

**SEC. 15. SUBCOMMITTEE POWERS.**

(a) SUBPOENA POWER—

- (1) HOUSE RULES.—Clause 2(m)(2)(A) of rule XI of the Rules of the House of Representatives is amended in the first sentence by inserting before the period the following: “, except in the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued

only when authorized by an affirmative vote of a majority of its members”.

(2) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that an investigative subcommittee or an adjudicatory subcommittee may authorize and issue subpoenas only when authorized by an affirmative vote of a majority of the members of the subcommittee.

(b) EXPANSION OF SCOPE OF INVESTIGATIONS.—The Committee on Standards of Official Conduct shall adopt rules providing that an investigative subcommittee may, upon an affirmative vote of a majority of its members, expand the scope of its investigation when approved by an affirmative vote of a majority of the members of the committee.

(c) AMENDMENTS OF STATEMENTS OF ALLEGED VIOLATION.—The Committee on Standards of Official Conduct shall adopt rules to provide that—

(1) an investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its statement of alleged violation anytime before the statement of alleged violation is transmitted to the committee; and

(2) if an investigative subcommittee amends its statement of alleged violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended statement of alleged violation.

**SEC. 16. DUE PROCESS RIGHTS OF RESPONDENTS.**

The Committee on Standards of Official Conduct shall amend its rules to provide that—

(1) not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a statement of alleged violation, the subcommittee shall provide the respondent with a copy of the statement of alleged violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness, but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates;

(2) neither the respondent nor his counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (1) except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present;

(3) if, at any time after the issuance of a statement of alleged violation, the committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (1) to prove the charges contained in the statement of alleged violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the committee’s rules;

(4) evidence provided pursuant to paragraph (1) or (3) shall be made available to the respondent and his or her counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until—

(A) such time as a statement of alleged violation is made public by the committee if the respondent has waived the adjudicatory hearing; or

(B) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing; but the failure of respondent and his counsel to so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of a statement of alleged violation at the end of the period referred to in paragraph (1);

(5) a respondent shall receive written notice whenever—

(A) the chairman and ranking minority member determine that information the committee has received constitutes a complaint;

(B) a complaint or allegation is transmitted to an investigative subcommittee;

(C) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

(D) an investigative subcommittee votes to expand the scope of its investigation;

(6) whenever an investigative subcommittee adopts a statement of alleged violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which that statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and respondent's counsel, the chairman and ranking minority member of the subcommittee, and the outside counsel, if any;

(7) statements or information derived solely from a respondent or his counsel during any settlement discussions between the committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the committee or otherwise publicly disclosed without the consent of the respondent; and

(8) whenever a motion to establish an investigative subcommittee does not prevail, the committee shall promptly send a letter to the respondent informing him of such vote.

#### **SEC. 17. COMMITTEE REPORTING REQUIREMENTS.**

The Committee on Standards of Official Conduct shall amend its rules to provide that—

(1) whenever an investigative subcommittee does not adopt a statement of alleged violation and transmits a report to that effect to the committee, the committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives; and

(2) whenever an investigative subcommittee adopts a statement of alleged violation, the respondent admits to the violations set forth in such statement, the respondent waives his or

her right to an adjudicatory hearing, and the respondent's waiver is approved by the committee—

(A) the subcommittee shall prepare a report for transmittal to the committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(B) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 calendar days of receipt of that draft;

(C) the subcommittee shall transmit a report to the committee regarding the statement of alleged violation together with any views submitted by the respondent pursuant to subparagraph (B), and the committee shall make the report together with the respondent's views available to the public before the commencement of any sanction hearing; and

(D) the committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subparagraph (B) and any additional views respondent may submit for attachment to the final report; and

(3) members of the committee shall have not less than 72 hours to review any report transmitted to the committee by an investigative subcommittee before both the commencement of a sanction hearing and the committee vote on whether to adopt the report.

#### **SEC. 18. REFERRALS TO FEDERAL OR STATE AUTHORITIES.**

Clause 4(e)(1)(C) of rule X of the Rules of the House of Representatives is amended by striking "with the approval of the House" and inserting "either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee".

#### **SEC. 19. FRIVOLOUS FILINGS.**

Clause 4(e) of rule X of the Rules of the House of Representatives is amended by adding at the end the following:

"(5)(A) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, deems appropriate in the circumstances.

"(B) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct."

#### **SEC. 20. TECHNICAL AMENDMENTS.**

The Committee on Standards of Official Conduct shall—

(1) clarify its rules to provide that whenever the committee votes to authorize an investigation on its own initiative, the chairman and ranking minority member shall establish an investigative subcommittee to undertake such investigation;

(2) revise its rules to refer to hearings held by an adjudicatory subcommittee as adjudicatory hearings; and

(3) make such other amendments to its rules as necessary to conform such rules to this resolution.

**SEC. 21. EFFECTIVE DATE.**

This resolution and the amendments made by it apply with respect to any complaint or information offered as a complaint that is or has been filed during this Congress.

## APPENDIX C

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### INVESTIGATIVE SUBCOMMITTEE OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN THE MATTER OF REPRESENTATIVE JAY C. KIM

STATEMENT OF ALLEGED VIOLATION, ADOPTED AUGUST 7, 1998

#### I. RELEVANT STANDARDS OF CONDUCT AND LAWS

At all times relevant to the violations hereafter alleged (except as otherwise noted), the pertinent provisions of House Rules and laws stated or provided as follows:

##### *Federal election campaign laws*

- 2 U.S.C. § 441b: It is illegal for a corporation to make a contribution of any amount to a candidate for federal election.
- 2 U.S.C. § 441e: It is illegal for a foreign national to make a contribution of any amount to a candidate for federal election.
- 2 U.S.C. § 441f: It is illegal for any person to make a contribution to a federal candidate by using the name of another person.
- 2 U.S.C. § 437g(d)(1)(A): Any person who knowingly and willfully commits a violation of any provision of the Federal Election Campaign Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating \$2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of \$25,000 or 300 percent of any contribution or expenditure involved in such violation.

##### *Law regarding financial disclosure by candidates and House Members*

- Section 104(a) of the Ethics in Government Act: “The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to report any information that such individual is required to report pursuant to section 102 [of the Act]. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$10,000.”

##### *House Rules*

- House Rule 43, Clause 1: “A Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.”

- Former House Rule 43, Clause 4: “A Member . . . of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of \$100 or less . . . in any calendar year aggregating more than . . . \$250, . . . directly or indirectly, from any person (other than a relative) except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(E) of rule X.” The term “gift” was defined to include “[a] payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received by the donor.”<sup>1</sup> A Member of the House of Representatives was permitted to accept a gift of travel expenses, including lodging, if the gift was in connection with “fact-finding” or events in which the Member “substantially participated.”

- House Rule 44, Clause 2: “For the purposes of this rule, the provisions of Title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the House as it pertains to Members, officers, and employees of the House of Representatives.”

- House Rule 51, Clause 1(a)–(b). “No Member, officer, or employee of the House of Representatives shall knowingly accept a gift except as provided in this rule . . . For purposes of this rule, the term ‘gift’ means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.”

## II. ALLEGED VIOLATIONS

### *Count I: Violation of House Rule 43, Clause 1 (Contributing and Causing In-Kind Contributions from a Corporation)—*

In 1978, JayKim Engineers, Inc., was incorporated in the State of California. Representative Kim was the president and owner of JayKim Engineers, Inc. from 1978 to 1992. During much of this period, Representative Kim contributed to numerous candidates for federal office. On February 10, 1992, Representative Kim filed as a candidate for the U.S. House of Representatives. Between March 1992 and July 1993, the campaign headquarters was located inside the offices of JayKim Engineers, Inc. From March 1992 through July 1993, Representative Kim caused JayKim Engineers, Inc. to make in-kind contributions to the JayKim for Congress Committee. The in-kind contributions included office space, printing expenses, photocopying expenses, postage, use of corporate telephones and computers, janitorial services, secretarial and other personnel services and supplies. In March 1992, Representative Kim initialed and caused to be distributed two memoranda for the employees of JayKim Engineers, Inc. telling them not to work on his campaign during business hours. Yet, numerous employees continued to work for the campaign on company time with Representative Kim’s knowledge.

<sup>1</sup>This rule was in effect at the time Representative Kim became a Member of the House of Representatives in January 1993 and remained in effect until January 1996, when it was superseded by then-House Rule 52.



During the time JayKim Engineers, Inc. made these in-kind contributions to the campaign, Representative Kim supervised the finances of both the corporation and of the campaign. Based on his own previous contributions to federal candidates and briefings by his campaign staff, Representative Kim knew that it was illegal for corporations, including JayKim Engineers, Inc. to make contributions, including in-kind contributions, to federal election campaigns.

On or about July 28, 1997, Representative Kim signed a plea agreement with the United States Attorney's Office for the Central District of California regarding an investigation relating to the financing of his 1992, 1994, and 1996 campaigns for the House of Representatives. Representative Kim agreed to waive indictment by a grand jury and to plead guilty to an information charging him with accepting illegal corporate contributions in violation of 2 U.S.C. §§ 441b and 437g. This plea agreement was filed with the United States District Court for the Central District of California on or about July 31, 1997.

Representative Kim stipulated to the following facts as the factual basis for his plea of guilty:

9. Beginning in or about March, 1992, through in or about July, 1993, defendant JAY KIM caused JayKim Engineers, Inc., to contribute to defendant JAY KIM FOR CONGRESS COMMITTEE approximately \$83,248 in in-kind contributions. The in-kind contributions included office space, printing expenses, automobile expenses, postage, Federal Express expenses, food and travel expenses, janitorial services, and secretarial and other personnel services. The in-kind contributions had an aggregate value of more than \$2,000 in 1992 and more than \$2,000 in 1993. Defendant JAY KIM knew that it was illegal for corporations, including JayKim Engineers, Inc., to make contributions, including in-kind contributions, to federal election campaigns such as his, but he caused JayKim Engineers, Inc., to make those contributions anyway.

On or about August 11, 1997, Representative Kim was convicted pursuant to a plea agreement in the United States District Court for the Central District of California of Count Six of the information in the case of *United States v. Jay C. Kim, et al.* (CR 97-726-RAP). The Assistant United States Attorney summarized the evidence as follows:

The evidence would show beginning in March 1992 and continuing through July 1993, defendant Jay Kim caused JayKim Engineers, Inc. to contribute to defendant Jay Kim for Congress Committee approximately \$83,000 in in-kind corporate resources. The in-kind corporate contributions included office space, printing expenses, automobile expenses, postage, Federal Express expenses, food and travel expenses, janitorial expenses, and secretarial and other personnel services.

Defendant Jay Kim knew that it was illegal for corporations, including JayKim Engineers, Inc., to make contributions, including the in-kind contributions, to federal elec-

tion campaigns such as his. But he caused JayKim Engineers, Inc. to make those contributions anyway.

Representative Kim and his attorney told the court that the above summary by the Assistant United States Attorney was accurate.

On or about January 29, 1998, Representative Kim told the Investigative Subcommittee that he did not dispute any element of the plea agreement or statement of facts.

On or about February 25, 1998, Representative Kim wrote a letter to the Honorable Richard A. Paez, United States District Judge, regarding his sentencing. Representative Kim again acknowledged his guilt regarding Count Six of the information. In addition, in a memorandum submitted to the district court on March 2, 1998, Representative Kim's attorney stated that "in the end, the law was violated and Mr. Kim accepts responsibility for that violation. 'At the sentencing proceeding on March 9, 1998, Representative Kim's attorney stated:

Mr. Kim accepts responsibility. He knows what he did was wrong. He knows it violated the law. And he knew there was a law there at the time. And he knew there were things you could do and things you couldn't do." –

\* \* \* \* \*

He knew there was a law there. But we were trying to explain—and we put it in our papers that same way—the laws are very complicated, but he had an obligation and a responsibility to know that when he took money or loans, or when he used his personal corporation to make contributions, in-kind to the campaign committee, that's wrong. And he accepts responsibility for it.

Finally, Representative Kim told the court at his sentencing hearing that he accepted complete responsibility for his conduct.

On June 8, 1998, when questioned by the Subcommittee, Representative Kim adopted the plea agreement, including the statement of facts regarding Count Six of the information.

At all times during the events described above, it was illegal for a corporation to make a contribution of any amount, including an in-kind contribution, to a candidate for federal office. At all times during the events described above, House Rule 43, Clause 1, stated that "[a] Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

Based on the foregoing, the Investigative Subcommittee found that Representative Kim knowingly and willfully contributed and caused to be contributed \$83,248 in illegal in-kind corporate contributions to the Jay Kim for Congress Committee between March 1992 and July 1993 in violation of 2 U.S.C. §§ 441b and 437g. For that reason, the Investigative Subcommittee has substantial reason to believe that Representative Kim conducted himself in a manner that does not reflect creditably on the House of Representatives, in violation of Clause 1 of Rule 43 of the House of Representatives. The Investigative Subcommittee also has substantial reason to believe that Representative Kim conducted himself in a manner that does not reflect creditably on the House of Representatives on or

about August 11, 1997, when he pleaded guilty to, and was convicted of, a violation of the above federal elections laws and admitted to contributing and causing to be contributed in-kind corporate contributions to his campaign, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*Count II: Violations of House Rule 43, Clause 1; House Rule 44, Clause 2; and Ethics in Government Act of 1978 (Acceptance and Receipt of a Contribution from a Foreign National; False Statements on Financial Disclosure Statements; and False Statements to Investigative Subcommittee)*

*A. Acceptance and receipt of a contribution from a foreign national—*

In approximately May 1992, Representative Kim asked Jerry Yeh, a young businessman in Diamond Bar, California, for a loan to meet the payroll for JayKim Engineers, Inc. Yeh, who did not have the funds himself, asked his father, Song Nien Yeh, for the money.

Song Nien Yeh was a Taiwanese national. Song Nien Yeh agreed to the loan and wired \$50,000 from Taiwan to the United States. On or about May 13, 1992, Representative Kim met with Jerry Yeh and signed a promissory note to Song Nien Yeh, agreeing to repay the \$50,000 loan. According to the terms of the promissory note, Representative Kim was obligated to pay the loan back, without interest, by November 1992. Representative Kim knew the money would come from Jerry Yeh's father. As a result, Jerry Yeh gave Representative Kim a \$50,000 cashier's check. On or about May 22, 1992, Representative Kim deposited a \$50,000 cashier's check into his personal account at the Sunwest bank. On or about May 26, 1992, one week before the primary election on June 2, 1992, a \$50,000 check signed by Representative Kim and drawn from his personal account was written to the Jay Kim for Congress Committee and was deposited into the campaign account.

In approximately late 1992, Representative Kim met Song Nien Yeh and Jerry Yeh together in California. He also met Song Nien Yeh in Taiwan in 1993. Representative Kim failed to pay the loan back as scheduled.

Pursuant to the plea agreement, Representative Kim agreed to plead guilty to an information charging him with accepting an illegal foreign campaign contribution in violation of 2 U.S.C. §§ 441e and 437g.

Representative Kim stipulated to the following facts as the factual basis for his plea of guilty:

15. On or about May 22, 1992, defendant JAY KIM accepted a \$50,000 loan from Song Nien Yeh, whom defendant JAY KIM knew was a Taiwanese national. Defendant JAY KIM deposited the \$50,000 payment into his personal bank account. On May 26, 1992, defendant JAY KIM wrote a \$50,000 check on his personal bank account and deposited the check into the bank account of defendant JAY KIM FOR CONGRESS COMMITTEE. Defendant JAY

KIM knew that the payment from Song Nien Yeh was an illegal excessive and foreign contribution.

On or about August 11, 1997, Representative Kim was convicted pursuant to a plea agreement in the United States District Court for the Central District of California of Count Seven of the information. The Assistant United States Attorney summarized the evidence as follows:

On May 22, 1992, defendant Jay Kim accepted a fifty-thousand dollar loan from Song Nien Yeh, whom Defendant Jay Kim knew was a Taiwanese national.

Defendant Jay Kim deposited the fifty-thousand-dollar payment into his personal bank account.

On May 26, 1992, defendant Jay Kim wrote a fifty-thousand-dollar check on his personal bank account and deposited the check into the bank account of Defendant Jay Kim for Congress Committee.

Defendant Jay Kim knew that the payment from Song Nien Yeh was an illegal, excessive and foreign contribution.

Representative Kim and his attorney told the court that the above summary by the Assistant United States Attorney was accurate.

On or about January 29, 1998, Representative Kim told the Investigative Subcommittee in writing that he did not dispute any element of the plea agreement or statement of facts.

At his sentencing hearing on March 9, 1998, Representative Kim and his attorney accepted responsibility for violation of Count Seven of the information in the sentencing proceedings of his criminal case.

On June 8, 1998, when questioned by the Investigative Subcommittee, Representative Kim testified that he stood by and adopted under oath the plea agreement, including the statement of facts, the proffer offered by the government during the plea hearing and any statements made during the sentencing hearing in federal district court regarding Count Seven of the information.

At all times during the events described above, it was illegal for a foreign national to make a contribution of any amount to a candidate for federal office. Based on the foregoing, the Investigative Subcommittee found that on or about May 26, 1992, Representative Kim knowingly received and accepted an illegal \$50,000 campaign contribution from a foreign national, in violation of 2 U.S.C. §§ 441e and 437g. For that reason, the Investigative Subcommittee has substantial reason to believe that Representative Kim conducted himself in a manner that does not reflect credibly on the House of Representatives, in violation of Clause 1 of Rule 43 of the House of Representatives. The Investigative Subcommittee also has substantial reason to believe that Representative Kim conducted himself in a manner that does not reflect creditably on the House of Representatives on or about August 11, 1997, when he pleaded guilty to, and was convicted of, a violation of the above federal election laws and admitted to knowingly receiving and accepting a campaign contribution from a foreign national, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*B. False statements on financial disclosure statements*

At all times during the events described in Count II, Title I of the Ethics in Government Act of 1978, as amended, required Members of the House of Representatives to file annual Financial Disclosure Statements with the Clerk of the House of Representatives ("Clerk"). At all times during the events described in Count II, House Rule 44, Clause 2, provided that Title I of the Ethics in Government Act shall be deemed to be a Rule of the House insofar as the law pertains to Members, officers, and employees.

On or about May 17, 1993, Representative Kim filed his Financial Disclosure Statement for calendar year 1992 with the Clerk, and did not report a liability owed to Song Nien Yeh.

On or about May 16, 1994, Representative Kim filed his Financial Disclosure Statement for calendar year 1993 with the Clerk and listed "Jerry Yhee" as a creditor for a joint liability in the form of a personal loan in the amount of \$15,001-\$50,000.

On or about May 19, 1994, Representative Kim filed an amendment to his Financial Disclosure Statement for calendar year 1993 with the Clerk. Representative Kim did not amend any information regarding the "Jerry Yhee" loan.

On or about February 24, 1995, Representative Kim filed an amendment to his Financial Disclosure Statement for calendar year 1993 with the Clerk. Representative Kim did not amend any information regarding the "Jerry Yhee" loan.

On or about August 3, 1995, Representative Kim filed his Financial Disclosure Statement for calendar year 1994 with the Clerk. Representative Kim listed "Jerry Yhee" as a creditor for a joint liability in the form of a personal loan in the amount of \$15,000-\$50,000.

On or about May 15, 1996, Representative Kim filed his Financial Disclosure Statement for calendar year 1995 with the Clerk. Representative Kim listed "Jerry Yhee" of Fullerton, California, as a creditor for a joint liability in the form of a personal loan in the amount of \$15,001-\$50,000.

On or about May 15, 1997, Representative Kim filed his Financial Disclosure Statement for calendar year 1996 with the Clerk. Representative Kim listed "Jerry Yhee" of Fullerton, California, as a creditor for a joint liability in the form of a personal loan in the amount of \$15,001-\$50,000.

On or about May 22, 1998, Representative Kim filed a partial Financial Disclosure Statement for calendar year 1997 with the Clerk. Representative Kim listed "Jerry Yhee" of Fullerton, California, as a creditor for a joint liability in the form of a personal loan in the amount of \$15,001-50,000.

As stated above in Section A of Count II, the Investigative Subcommittee has substantial reason to believe that the \$50,000 payment relating to Song Nien Yeh was a political contribution in violation of 2 U.S.C. §§ 441e and 437g. Based on the foregoing, the Committee has substantial reason to believe that on or about May 17, 1993, May 16, 1994, February 24, 1995, August 3, 1995, May 15, 1996, May 15, 1997 and May 22, 1998, Representative Kim made false statements on his Financial Disclosure Statements for calendar years 1993, 1994, 1995, 1996 and 1997 (and amendments thereto), respectively, when he listed the political contribution from

Song Nien Yeh as a personal loan from “Jerry Yhee,” in violation of Title I of the Ethics in Government Act of 1978, as amended, and Clause 2 of Rule 44 of the House of Representatives.

*C. False statements to the investigative subcommittee*

In a December 17, 1997, letter to Representative Kim, the Chairman and Ranking Democratic Member of the Committee asked Representative Kim to explain the “relationship, if any, between the \$50,000 loan from Song Nien Yeh referenced in Paragraph 15 of the Statement of Facts and a loan by Jerry Yhee reported on your Financial Disclosure Statements for calendar years 1993, 1994, 1995, and 1996.”

In a letter to the Investigative Subcommittee dated January 29, 1998, Representative Kim responded in pertinent part as follows:

In May 1992, I obtained a personal loan from Mr. Jerry Yhee of Fullerton, California. (The discrepancy between the spellings of “Yeh” and “Yhee” is due to different English spelling of the translation of the same Chinese family name.) Song Nien Yeh is his real Chinese name. Here in the United States he goes by Jerry.

Jerry Yeh testified under oath that he has never used the name “Song Nien Yeh” and that it is the name of his father. He further testified that when he was introduced to Representative Kim, he was introduced as “Jerry” and not “Song Nien.” Representative Kim did not remember Jerry Yeh using another name.

At all times during the events described above, House Rule 43, Clause 1, stated that “[a] Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.”

Based on the foregoing, the Investigative Subcommittee has substantial reason to believe that Representative Kim knowingly made a false statement to the Investigative Subcommittee on or about January 29, 1998, when he advised the Investigative Subcommittee in writing that Song Nien Yeh and Jerry Yeh are the same individual. For that reason, the Investigative Subcommittee has substantial reason to believe that Representative Kim conducted himself in a manner which does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*Count III: Violations of House Rule 43, Clause 1 (Acceptance and Receipt of an Excessive Corporate Contribution from Nikko Enterprises Inc., and False Statements to the Investigative Subcommittee)*

*A. Acceptance and receipt of an excessive corporate contribution*

On or about September 21, 1992, Representative Kim attended a fundraiser for President Bush at the Waldorf-Astoria in New York City. David Chang, the president of Nikko Enterprises, Inc. (“Nikko”), a New Jersey corporation, who had never met Representative Kim before, agreed to make a contribution to Representative Kim’s campaign. On or about September 28, 1992, David Chang

gave Yung Soo Yoo, a Republican fundraiser, a check for \$12,000 to give to Representative Kim. The payee portion of the check was blank. The memorandum portion of the check indicated it was a political donation. After receiving the check, Yoo called Representative Kim, who directed him to give the check to an acquaintance, Benjamin Limb. Limb sent the check to Representative Kim. On or about October 13, 1993, the \$12,000 check, now endorsed to June O. Kim, was deposited in the Kims' personal account by June Kim.

On December 12, 1994, David Chang was interviewed by the Federal Bureau of Investigation regarding the \$12,000 check from Nikko. After the interview, Chang told Yung Soo Yoo that he had been interviewed by the FBI. On or about December 15, 1994, Yoo's secretary faxed David Chang's address to Representative Kim. At some point between December 13 and December 17, 1994, Representative Kim called David Chang and denied receiving a contribution from him.

In approximately February 1995, Chang returned from a business trip and received a letter from June Kim dated December 17, 1994, along with a \$2,000 check from June Kim payable to Chang personally. The letter, which was mistakenly addressed to Yung Soo Yoo, stated in pertinent part: "Back in 1992, which I borrow from you \$10,000. It is inconvenience to you in delay. I will repay back to you as soon as possible. However, I send you a \$2,000 initially." Chang called Representative Kim and refused the check because the \$12,000 he gave to Representative Kim was not a loan.

Pursuant to his plea agreement, Representative Kim agreed to plead guilty to an information charging him with accepting an illegal and excessive corporate campaign contribution in violation of 2 U.S.C. §§ 441b and 437g.

Representative Kim stipulated to the following facts as the factual basis for his plea of guilty:

18. In September, 1992, defendant JAY KIM attended a fundraising dinner in New York City where the president of Nikko Enterprises, Inc. ("Nikko"), a corporation, told defendant JAY KIM, that he would make a large contribution to defendant JAY KIM's congressional campaign. Shortly thereafter, the president of Nikko caused a Nikko corporate check in the amount of \$12,000 to be issued for the purpose of making a political contribution. The \$12,000 contribution check was forwarded to a New York fundraiser for defendant JAY KIM. The New York fundraiser telephoned defendant JAY KIM and told him that he received the check. Defendant JAY KIM and the New York fundraiser also discussed the amount and corporate nature of the check. The New York fundraiser mailed the \$12,000 contribution check to defendant JAY KIM in Diamond Bar, California. Thereafter, in October, 1992, defendant JAY KIM received and accepted the \$12,000 contribution check, which was then endorsed by defendant JUNE KIM and deposited in defendants JAY KIM's and JUNE KIM's joint personal bank account. Defendant JAY KIM knew that the \$12,000 Nikko contribution check was an illegal corporate and excessive contribution.

On or about August 11, 1997, Representative Kim was convicted of Count Eight of the information pursuant to a plea agreement in the United States District Court for the Central District of California. The Assistant United States Attorney summarized the evidence as follows:

In September 1992, defendant Jay Kim attended a fund-raiser dinner at the Waldorf Astoria Hotel in New York City. At the fund-raiser, the President of Nikko Enterprises, Inc., a corporation, told defendant Jay Kim that he would make a large contribution to defendant Jay Kim's congressional campaign.

Shortly, thereafter, the president of Nikko caused a Nikko corporate check in the amount of \$12,000 to be issued for the purpose of making a political contribution.

The twelve-thousand-dollar contribution check was forwarded to a New York fund-raiser for defendant Jay Kim. The New York fund-raiser telephoned defendant Jay Kim and told him that he had received the check. Defendant Jay Kim and the New York fund-raiser also discussed the amount and the corporate nature of the check. The New York fund-raiser mailed the twelve-thousand-dollar contribution check to defendant Jay Kim in Diamond Bar, California.

Thereafter, in October 1992, defendant Jay Kim received and accepted the twelve-thousand-dollar contribution check, which was then endorsed by defendant June Kim, and deposited in defendant Jay Kim's personal bank account.

Defendant Jay Kim knew that the twelve-thousand-dollar Nikko contribution check was an illegal corporate and excessive contribution.

Representative Kim and his attorney told the court that the above summary by the Assistant United States Attorney was accurate.

On or about January 29, 1998, Representative Kim advised the Investigative Subcommittee in writing that he did not dispute any element of the plea agreement or statement of facts.

At his sentencing hearing on March 9, 1998, Representative Kim and his attorney accepted responsibility for violation of Count Eight of the information in the sentencing proceedings of his criminal case.

On June 8, 1998, when questioned by the Investigative Subcommittee, Representative Kim testified that he stood by and adopted under oath the statement of facts relating to Count Eight of the information.

At all times during the events described above, it was illegal for a corporation to make a contribution of any amount to a candidate for federal election. At all times during the events described above, House Rule 43, Clause 1, stated that "[a] Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

Based on the foregoing, the Investigative Subcommittee found that Representative Kim knowingly received and accepted an ille-



gal corporate campaign contribution in or about October 1992, in violation of 2 U.S.C. §§ 441b and 437g. For that reason, the Investigative Subcommittee has substantial reason to believe that Representative Kim conducted himself in a manner that does not reflect creditably on the House of Representatives. The Investigative Subcommittee also has substantial reason to believe that Representative Kim conducted himself in a manner that does not reflect creditably on the House of Representatives on or about August 11, 1997, when he pleaded guilty to, and was convicted of, the above federal election laws and admitted to knowingly receiving and accepting a corporate contribution to his campaign, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*B. False statement to the investigative subcommittee*

In a December 17, 1997, letter to Representative Kim, the Chairman and Ranking Democratic Member of the Committee asked Representative Kim to explain “[the] relationship, if any, between the \$12,000 payment by Nikko referenced in Paragraph 18 of the Statement of Facts and a loan by David Chang reported in a February 24, 1995, amendment to your Financial Disclosure Statement for calendar year 1993?”

In a reply letter to the Investigative Subcommittee dated January 29, 1998, Representative Kim responded in pertinent part as follows:

As stated in the answer to Question 5, at the time the money was accepted, I was led to believe that Mr. David Chang had agreed to provide me with a \$12,000 personal loan. The loan came in the form of a check from Nikko Enterprises, Inc. \* \* \*. There was no written loan agreement. I recall this was a gentleman’s agreement with a “pay what you can when you can” arrangement.—

\* \* \* \* \*

The \$12,000 loan was reported in my February 23, 1995 [sic] amendment to my 1993 Financial Disclosure. As noted in the February 1995 letter, its previous omission was due to an accounting oversight. In reviewing this matter recently, I realize that I should have also amended my 1992 FD at the time I amended my 1993 FD. Quite frankly, I have no idea why at that time I did not make a complete set of amendments. Insofar as only \$10,000 remained following December 17, 1994, and that only obligations above the \$10,000 threshold need to be reported, I did not report this loan in my 1994 Financial Disclosure. However, in re-reading the disclosure language, I realize I should have also disclosed this in my 1994 FD insofar as I did owe David Chang more than \$10,000 for most of the calendar year 1994. I did report this \$10,000 liability on my 1995 Financial Disclosure, though this was not required. I did not report it in the subsequent 1996 filing because my liability to Mr. Chang was not greater than \$10,000.

In its December 17, 1997, letter to Representative Kim, the Committee also asked Representative Kim, with respect to paragraph

18 of the statement of facts: “[W]hat contemporaneous knowledge did you have that June Kim would, or did, deposit the \$12,000 check from Nikko Enterprises, Inc. (“Nikko”) in the joint personal bank account that you shared at that time with June Kim?”

In his reply letter to the Committee dated January 29, 1998, Representative Kim responded in pertinent part as follows:

I seem to recall that according to Mr. Yung Soo Yoo, an intermediary at the New York fundraiser described in Paragraph 18 of the Statement of Facts, Mr. David Chang of Nikko Enterprises was willing to lend me, personally, \$12,000. Through Mr. Yoo, he sent a \$12,000 check, drawn from Nikko Enterprises, Inc., which my wife endorsed and deposited in our personal bank account. As with the loan from Robert Yu, I was personally liable for repaying the \$12,000 and once it was deposited in our account, it became commingled with other personal funds therein.—

Based on the foregoing, the Investigative Subcommittee has substantial reason to believe that Representative Kim knowingly made false statements in his letter to the Investigative Subcommittee dated January 29, 1998, when he stated in that letter that (1) he received a personal loan from David Chang, rather than a political contribution; (2) the Chang loan was a gentlemen’s agreement with a “pay what you can when you can” arrangement; and (3) the Chang information on the amendment to Representative Kim’s Financial Disclosure Statement for calendar year 1993 was an accounting oversight. For that reason, the Investigative Subcommittee has substantial reason to believe that Representative Kim conducted himself in a manner which does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*Count IV: Violations of House Rule 44, Clause 2 (False Statements on Financial Disclosure Statements Related to the Contribution by Nikko Enterprises, Inc.)*

At all times during the events described below, Title I of the Ethics in Government Act of 1978, as amended, required Members of the House of Representatives to file annual Financial Disclosure Statements with the Clerk of the House of Representatives. At all times during the events described below, House Rule 44, Clause 2, provided that Title I of the Ethics in Government Act shall be deemed to be a Rule of the House insofar as the law pertains to Members, officers, and employees.

As stated in Count III above, on or about September 21, 1992, Representative Kim attended a fundraiser for President Bush at the Waldorf-Astoria in New York City. David Chang, the president of Nikko Enterprises, Inc., a New Jersey corporation, who had never met Representative Kim before, agreed to give a contribution to Representative Kim’s campaign. On or about September 28, 1992, Chang gave Yung Soo Yoo, a Republican fundraiser, a check for \$12,000. The memorandum portion of the check indicated it was a political contribution. After receiving the check, Yoo called Representative Kim, who directed him to give the check to an ac-

quaintance, Benjamin Limb. Limb sent the check to Representative Kim. On or about October 13, 1993, the \$12,000 check, now endorsed to June O. Kim, was deposited in the Kim's personal account by June Kim.

On December 12, 1994, David Chang was interviewed by the Federal Bureau of Investigation regarding the \$12,000 check from Nikko. After the interview, Chang told Yung Soo Yoo that he had been interviewed by the FBI. On or about December 15, 1994, Yoo's secretary faxed David Chang's address to Representative Kim. At some point between December 13 and December 17, 1994, Representative Kim called David Chang and denied receiving a contribution from him.

In February 1995, Chang returned from a business trip and received a letter from June Kim dated December 17, 1994, along with a \$2,000 check from June Kim payable to Chang personally. The letter, which was mistakenly addressed to Yung Soo Yoo, stated in pertinent part: "Back in 1992, which I borrow from you \$10,000. It is inconvenience to you in delay. I will repay back to you as soon as possible. However, I send you a \$2,000 initially." Chang called Representative Kim and refused the check because the \$12,000 he gave to Representative Kim was a political contribution.

Pursuant to his plea agreement, Representative Kim agreed to plead guilty to an information charging him with accepting an illegal and excessive corporate campaign contribution in violation of 2 U.S.C. §§ 441b and 437g.

As stated in Count III above, Representative Kim stipulated to paragraph 18 of the statement of facts as the factual basis for his plea of guilty.

On or about August 11, 1997, Representative Kim was convicted pursuant to a plea agreement of Count Eight of the information and he and his attorney agreed with the summary of the evidence provided by the Assistant United States Attorney.

On or about January 29, 1998, Representative Kim stated in writing that he did not dispute any element of the plea agreement or statement of facts.

At his sentencing hearing on March 9, 1998, Representative Kim and his attorney accepted responsibility for violation of Count Eight of the information in the sentencing proceedings of his criminal case.

On June 8, 1998, when questioned by the Investigative Subcommittee, Representative Kim testified that he stood by and adopted under oath the statement of facts relating to Count Eight of the information.

-On or about May 17, 1993, Representative Kim filed his Financial Disclosure Statement for calendar year 1992 with the Clerk. On or about May 16, 1994, Representative Kim filed his Financial Disclosure Statement for calendar year 1993 with the Clerk and did not report a liability owed to David Chang.

-On or about May 19, 1994, Representative Kim filed an amendment to his Financial Disclosure Statement for calendar year 1993 with the Clerk and did not report a liability owed to David Chang.

-On December 12, 1994, David Chang was interviewed by the FBI regarding the \$12,000 check from Nikko Enterprises, Inc.

In February 1995, Chang returned from a business trip and received a letter from June Kim dated December 17, 1994, along with a \$2,000 check from June Kim payable to Chang personally. The letter, which was mistakenly addressed to Yung Soo Yoo, stated in pertinent part: "Back in 1992, which I borrow from you \$10,000. It is inconvenience to you in delay. I will repay back to you as soon as possible. However, I send you a \$2,000 initially." Chang called Representative Kim and refused the check because the \$12,000 he gave to Representative Kim was a political contribution.

—On or about February 24, 1995, Representative Kim filed an amendment to his Financial Disclosure Statement for calendar year 1993 with the Clerk that stated in part:

In Schedule V (Liabilities), due to an accounting oversight, the final line item in this section is missing. It should have been reported as: JT David Chang (creditor), Personal Loan (Type of Liability), Category B (Amount of Liability). This liability was incurred for only part of 1993.

—On or about August 3, 1995, Representative Kim filed his Financial Disclosure Statement for calendar year 1994 with the Clerk. Despite reporting a personal loan from David Chang as a liability in his amendment to the calendar year 1993 Financial Disclosure Statement filed with the Clerk on February 24, 1995, Representative Kim did not report a liability owed to David Chang on his Financial Disclosure Statement for calendar year 1994.

—On or about May 15, 1996, Representative Kim filed his Financial Disclosure Statement for calendar year 1995 with the Clerk and, on Schedule V (Liabilities), listed David Chang as a creditor for a personal loan in the amount of \$10,001–\$15,000.

—On or about May 15, 1997, Representative Kim filed his Financial Disclosure Statement for calendar year 1996 with the Clerk and did not report a liability owed to David Chang.

—On or about May 22, 1998, Representative Kim filed a partial Financial Disclosure Statement for calendar year 1997 with the Clerk and on Schedule V (Liabilities) listed David Chang as a creditor for a personal loan in the amount of \$10,001–\$15,000.

Based on the foregoing, the Committee has substantial reason to believe that on or about February 24, 1995, May 15, 1996 and May 22, 1998, Representative Kim made false statements in his Financial Disclosure Statements for calendar years 1993, 1995 and 1997, respectively (and amendments thereto), when he listed the political contribution from Nikko Enterprises, Inc. as a personal loan from David Chang, in violation of Title I of the Ethics in Government Act of 1978, as amended, and Clause 2 of Rule 44 of the House of Representatives.

*Count V: Violations of Then-House Rule 43, Clause 4; House Rule 43, Clause 1; Ethics in Government Act of 1978; and House Rule 44, Clause 2 (Improper Gifts from Hanbo Steel and General Construction; Failure to Disclose Gifts on Financial Disclosure Statement; Attempt to Influence Statements to Investigators; and False Statements to Investigative Subcommittee)*

*A. Gifts of travel expenses and golf equipment from Hanbo Steel*

In January 1994, Representative Kim traveled from the United States to Honolulu, Hawaii. On or about January 16, 1994, he flew from Honolulu to Maui. Dobum Kim, who was in charge of the Los Angeles office of Hanbo Steel and General Construction (“Hanbo Steel”), a company headquartered in South Korea, met Representative Kim in Honolulu and escorted him by air to Maui. Dobum Kim purchased Representative Kim’s round-trip airline ticket from Honolulu to Maui at a cost of \$206, charging the ticket to a corporate American Express account of Hanbo Steel.

—After arriving in Maui, Dobum Kim escorted Representative Kim to the Grand Wailea Resort, where Tae Soo Chung, the Chairman of Hanbo Steel, also was staying. According to hotel records, Representative Kim registered at the Grand Wailea Resort as a guest of Dobum Kim. Hotel records also indicate that In Kyu Mok, a secretary to Hanbo Steel Chairman Chung, signed the registration card at the hotel on behalf of Representative Kim, and wrote the address of Hanbo Steel’s corporate headquarters in Seoul, South Korea on the card.—

On or about January 16, 1994, Representative Kim played golf in Maui with Hanbo Steel Chairman Chung, Dobum Kim, and other persons. Prior to playing, Dobum Kim—with the contemporaneous knowledge of Representative Kim—purchased golf clubs and other golf equipment for Representative Kim (including a bag for the clubs) totaling approximately \$2,369. Dobum Kim charged the golf purchases to his personal American Express card and later obtained reimbursement from Hanbo Steel.

—Representative Kim confirmed under oath that he played golf in Hawaii with Hanbo Steel Chairman Chung. He initially testified that he “rented” golf clubs to play with Mr. Chung. When subsequently asked if golf clubs had been purchased for him, he initially testified that he could not remember. Subsequently, he testified that he received a gift of three golf clubs in a souvenir golf bag at the airport before he departed Maui. He denied that anyone purchased golf clubs and a golf bag for him at the pro shop.

According to credible testimony by Dobum Kim, Hanbo Steel also paid for the cost of Representative Kim’s lodging at the Grand Wailea Resort with the contemporaneous knowledge of Representative Kim. His testimony was corroborated by “guest histories” for Jay Kim, Dobum Kim, and Tae Soo Chung provided to the Investigative Subcommittee by the Grand Wailea Resort, which show that the same credit card number was used to guarantee the room charges for all three individuals.<sup>2</sup> The conclusion that Hanbo Steel

<sup>2</sup>According to American Express, the account number appearing on all three guest histories is an American Express account issued outside of the United States.

paid for Representative Kim's hotel bill also is corroborated by the signature on his registration record by In Kyu Mok, the secretary to Hanbo Steel Chairman Chung, and by the indication on that record that Representative Kim's stay at the resort was "care of" Dobum Kim. Finally, the Grand Wailea Resort determined—based on a review of its records by hotel officials—that the credit card actually used to pay the room charges for Jay Kim, Tae Soo Chung, and In Kyu Mok was a corporate VISA card apparently in the name of Hanbo Steel.<sup>3</sup>

According to hotel records, the cost of Representative Kim's lodging at the Grand Wailea Resort totaled approximately \$1,066.

Based on the foregoing, the record indicates that Hanbo Steel paid for travel and lodging expenses and golf equipment for Representative Kim totaling approximately \$3,640.

At all times during the events described above, Clause 4 of House Rule 43 stated that "[a] Member . . . of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of \$100 or less . . . in any calendar year aggregating more than . . . \$250, . . . directly or indirectly, from any person (other than a relative) except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(E) of rule X." The term "gift" was defined to include "[a] payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received by the donor." House Rule 43, clause 4, permitted a Member of the House of Representatives to accept a gift of travel expenses, including lodging, if the gift was in connection with "fact-finding" or events in which the Member "substantially participated."

—At all times during the events described above, House Rule 43, clause 1, stated that "[a] Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

—Representative Kim indicated during his testimony that he traveled to Hawaii to give a speech to a private organization. The Investigative Subcommittee, however, found no credible evidence that Representative Kim's acceptance in 1994 of travel expenses and golf equipment from Hanbo Steel concerned a fact-finding trip or substantial participation in an event as then permitted by House Rule 43, Clause 4. Moreover, as discussed more fully below in Section B of Count 5, Representative Kim did not report any privately funded travel to Hawaii on his Financial Disclosure Statement for calendar year 1994.

—Based on the foregoing, the Investigative Subcommittee has substantial reason to reason to believe that Representative Kim's acceptance of round-trip travel from Honolulu to Maui, lodging at the Grand Wailea Resort, and golf clubs and equipment, as detailed above, constituted gifts to Representative Kim within the meaning

<sup>3</sup>According to the managing director of the Grand Wailea Resort, the VISA card bears the account number "4599 5070 0137 8408," and the imprint of the card, while not fully legible, indicates the account holder is "Han. . . . Gen. Cons. Co. Ltd."

of Clause 4 of then-Rule 43 of the House of Representatives, and that his acceptance of those gifts was in violation of that rule. The Investigative Subcommittee also has substantial reason to believe that, by accepting those gifts, Representative Kim engaged in conduct that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*B. Failure to disclose gifts of travel expenses and golf equipment*

As stated above in Section A of Count 5, the Investigative Subcommittee has substantial reason to believe that Representative Kim received gifts of travel, lodging, and golf equipment from Hanbo Steel in 1994 totalling approximately \$3,640.

At all times during the events described below, Title I of the Ethics in Government Act of 1978, as amended, required Members of the House of Representatives to file annual Financial Disclosure Statements with the Clerk of the House of Representatives. At all times during the events described below in this section of Count 5, House Rule 44, Clause 2, provided that title I of the Ethics in Government Act of 1978 shall be deemed to be a Rule of the House insofar as the law pertains to Members, officers, and employees.

With respect to the Financial Disclosure Statement for 1994, section 102 of the Ethics in Government Act required House Members to "disclose on your Financial Disclosure Statement all gifts totalling more than \$250 from a single source other than a relative." The instructions issued to House Members for completing their Financial Disclosure Statements for 1994 stated that "[t]he value of all gifts from the same source received during the calendar year must be totaled to determine if the reporting threshold of \$250 has been met, except that any gift with a fair market value of \$100 or less need not be counted." The instructions also stated that "[a]ll types of gifts, including travel-related expenses provided for your personal benefit, must be reported on Schedule VI [of the Financial Disclosure Statement]." Members were required to report the receipt of travel expenses for "fact-finding" trips or trips in which they "substantially participated" on Schedule VII of the Financial Disclosure Statement.

Representative Kim did not report the above-specified gifts of travel, lodging, and golf equipment that he received from Hanbo Steel in January 1994 on his Financial Disclosure Statement for 1994, which was filed in August 1995. Based on the foregoing, the Investigative Subcommittee determined that Representative Kim had contemporaneous personal knowledge of each of the gifts in question. The Investigative Subcommittee also determined that Representative Kim knew, or should have known, that each of the gifts was reportable on his Financial Disclosure Statement for 1994. Finally, Representative Kim did not report the payment or reimbursement of any "fact-finding" or "substantial participation" travel expenses on his Financial Disclosure Statement for 1994 with respect to the trip to Hawaii in January 1994. Consequently, the Investigative Subcommittee has substantial reason to believe that Representative Kim violated the Ethics in Government Act of 1978, as amended, and Clause 2 of Rule 44 of the House of Rep-

representatives, when he failed to report the above-specified gifts from Hanbo Steel on his Financial Disclosure Statement for calendar year 1994, filed in August 1995.

*C. Receipt of \$30,000 check from Dobum Kim-*

In approximately 1992, Dobum Kim opened a money market account ("cash maximizer account") at Bank of America at the direction of Tae Soo Chung, the Korean Chairman of Hanbo Steel. Subsequently, Mr. Chung told Dobum Kim to expect transfers to that account of \$100,000 and \$200,000, respectively, by Hanbo Steel officials in other countries. On or about October 18, 1993, \$100,000 was transferred by wire by an official of Hanbo Steel in another country to the above-mentioned Bank of America money market account in the United States in the name of Dobum Kim. On or about October 26, 1993, an additional \$200,000 was transferred by wire into the same account by a Hanbo Steel official in another country.-

While playing golf with Representative Kim and Dobum Kim in Maui on or about January 16, 1994, Hanbo Steel Chairman Tae Soo Chung told Dobum Kim to give \$30,000 to Representative Kim after returning to the continental United States. According to credible testimony by Dobum Kim, Mr. Chung gave this instruction to Dobum Kim in the presence of Representative Kim.

A few days after his return to the continental United States from Hawaii, Dobum Kim received a telephone call directly from Representative Kim. According to credible testimony by Dobum Kim, Representative Kim told him that he would like to meet personally with him at Representative Kim's home in Diamond Bar, California. Dobum Kim understood that Representative Kim wanted the \$30,000 that Tae Soo Chung had told Dobum Kim in Hawaii to give to Representative Kim, although Representative Kim did not mention the money during his telephone call to Dobum Kim. The two men set a date and time for the meeting at Representative Kim's home.

On or about January 29, 1994, Dobum Kim went alone to Representative Kim's home in Diamond Bar, California. Representative Kim and his wife, June Kim, both were present when Dobum Kim arrived.

Dobum Kim told Representative Kim that he had come to pay him the \$30,000 that Tae Soo Chung had directed him in Hawaii to give to Representative Kim. Dobum Kim told Representative Kim that he would write a check in the amount of \$30,000. Representative Kim told Dobum Kim to make the check payable to June Kim.

Dobum Kim expressed concern to Representative Kim about the legality of the payment. According to credible testimony by Dobum Kim, Representative Kim told him not to be concerned because he would be buying books. Dobum Kim asked Representative Kim what he meant. Representative Kim told him that he had written his autobiography, and that it would be published in Korea. Dobum Kim expressed concern about how he could buy books that did not yet exist. Representative Kim told him not to worry, and asked him to write the word "books" in the memorandum portion of the check. According to credible testimony by Dobum Kim, Representative



Kim told him to pretend that he had purchased books in return for the check.

Dobum Kim wrote the check pursuant to Representative Kim's instructions, and gave it directly to Representative Kim. The check was drawn on the money market account that he had established at the Bank of America utilizing funds from Hanbo Steel.<sup>4</sup>

The record indicates that June Kim endorsed the \$30,000 check from Dobum Kim and deposited it on March 2, 1994, into a joint personal savings account at Union Bank in California in the name of Jay C. Kim and June O. Kim. That conclusion is supported by the following evidence:

- The \$30,000 check written by Dobum Kim, made payable to June Kim, is check number 127.
- Representative Kim recognized the signature of endorsement on the back of the check as June Kim's signature.
- A deposit slip bears the handwritten name "June O. Kim," the date of March 2, 1994, the net deposit amount of \$30,000, and the account number 085-3027-365, which corresponds to the account number for a joint savings account at Union Bank in the name of Jay C. Kim and June O. Kim.
- A statement from Bank of America regarding accounts in the name of Dobum Kim, dated March 22, 1994, shows that check number 127 in the amount of \$30,000, drawn on the "cash maximizer" (i.e., money market) account, was paid on March 2, 1994—the same date as the date on the deposit slip for \$30,000 bearing the name "June O. Kim."

According to bank records, three separate withdrawals from the Kims' joint savings account at Union Bank—each in the amount of \$10,000—occurred on March 11, 1994, April 14, 1994, and May 9, 1994, respectively. Bank records also show that the \$30,000 in funds withdrawn from the joint savings account was transferred to a joint checking account at Union Bank in the name of Jay C. Kim and June O. Kim, where the money was commingled with personal funds.

Not until sometime in 1995—several months after the book was published in August 1994—were any books delivered in connection with the \$30,000 check given to Representative Kim by Dobum Kim. At that time, June Kim personally gave a few copies of Representative Kim's book to Hae Eun Kim, Dobum Kim's wife. Dobum Kim was working for Hanbo Steel in Venezuela at the time.

Representative Kim claimed that a large number of books was delivered to the offices of Hanbo Steel in Seoul, South Korea, but he provided no evidence to substantiate his claim, and the Subcommittee is unaware of any credible evidence to corroborate his claim that books were delivered to Hanbo Steel in connection with the \$30,000 payment by Dobum Kim in January 1994.

At all times during the events described above, House Rule 43, clause 4, stated that "[a] Member . . . of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of \$100 or less . . . in any cal-

<sup>4</sup>The account number of the money market account was 21751-33359, which appears at the bottom of the \$30,000 check that Dobum Kim gave to Representative Kim. The Investigative Subcommittee obtained Union Bank records regarding Representative Kim and June Kim from the U.S. Attorney's Office for the Central District of California.

endar year aggregating more than . . . \$250, . . . directly or indirectly, from any person (other than a relative) except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(E) of rule X.” The term “gift” was defined to include “[a] payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received by the donor.” As stated in the *House Ethics Manual*, “a gift to an official’s spouse or dependent is considered an indirect gift to that official unless circumstances make it clear that the gift is truly independent of the spouse’s or dependent’s relationship to the Member or employee.”

At all times during the events described above, House Rule 43, clause 1, stated that “[a] Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.”

Based on the foregoing, the Investigative Subcommittee has substantial reason to believe that the \$30,000 check given by Dobum Kim to Representative Kim in January 1994 constituted a gift to Representative Kim within the meaning of Clause 4 of then-Rule 43 of the House of Representatives, and that his acceptance of the check constituted a violation that rule. The Investigative Subcommittee also has substantial reason to believe that, by accepting the \$30,000 check from Dobum Kim in violation of House Rules, Representative Kim engaged in conduct that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*D. Failure to report gift of \$30,000 on financial disclosure statement*

As stated above in Section C of Count 5, the Investigative Subcommittee has substantial reason to believe that the \$30,000 check given by Dobum Kim to Representative Kim in January 1994 constituted a gift to Representative Kim under then-House Rule 43, Clause 4. The Investigative Subcommittee also has substantial reason to believe that Representative Kim knew, or should have known, that the \$30,000 check constituted a gift that was reportable on Schedule VI of his Financial Disclosure Statement for 1994. Representative Kim did not report the \$30,000 received from Dobum Kim in January 1994 on his Financial Disclosure Report for 1994.

At all times during the events described above, Title I of the Ethics in Government Act of 1978, as amended, required Members of the House of Representatives to file annual Financial Disclosure Statements with the Clerk of the House of Representatives. At all times during the events described above in this section of Count 5, Clause 2 of House Rule 44 provided that title I of the Ethics in Government Act of 1978 shall be deemed to be a Rule of the House insofar as the law pertains to Members, officers, and employees.

With respect to the Financial Disclosure Statement for calendar year 1994, section 102 of the Ethics in Government Act required

House Members to “disclose on your Financial Disclosure Statement all gifts totalling more than \$250 from a single source other than a relative.” Members also were required to “disclose gifts from third parties to your spouse or dependent children unless the gifts are totally independent of the relationship to you.” The instructions issued to House Members for completing their Financial Disclosure Statements for 1994 stated that “[t]he value of all gifts from the same source received during the calendar year must be totaled to determine if the reporting threshold of \$250 has been met, except that any gift with a fair market value of \$100 or less need not be counted.” The instructions also stated that “[a]ll types of gifts, including travel-related expenses provided for your personal benefit, must be reported on Schedule VI [of the Financial Disclosure Statement].”

Based on the foregoing, the Investigative Subcommittee has substantial reason to believe that Representative Kim violated the Ethics in Government Act of 1978, as amended, and Clause 2 of Rule 44 of the House of Representatives, by failing to report the gift of \$30,000 received from Dobum Kim in January 1994 on his Financial Disclosure Statement for calendar year 1994, which was filed in August 1995.

*E. Attempt to influence statements by Dobum Kim to investigators*

As stated above in Section C of Count 5, Dobum Kim personally tendered a check directly to Representative Kim on or about January 29, 1994. According to credible testimony by Dobum Kim, he expressed concern to Representative Kim about how he could buy books that did not yet exist. Representative Kim told Dobum Kim not to worry, asked him to write the word “books” in the memorandum portion of the check, and told him the transaction was “legal.”

According to credible testimony by Dobum Kim, Representative Kim told Dobum Kim to pretend as though he had purchased books in return for the check. Further, Representative Kim told Dobum Kim that if he was questioned later by investigative authorities, he should say that he paid the \$30,000 to purchase copies of Representative Kim’s book.<sup>5</sup> Dobum Kim understood that Representative Kim was asking him to make false statements to investigators if he was questioned later about this matter.

In early 1995, June Kim attempted to contact Dobum Kim by telephone at his residence in California. At the time of June Kim’s telephone call, Dobum Kim was unavailable because he was working for Hanbo Steel in Venezuela. June Kim spoke to Dobum Kim’s wife, Hae Eun Kim, in lieu of speaking to Dobum Kim. June Kim asked Hae Eun Kim to meet her for lunch.

Subsequently, June Kim and Hae Eun Kim had lunch together. After lunch, June Kim told Hae Eun Kim that if representatives of the Federal Bureau of Investigation (“FBI”) asked her if she received books, she should respond that she did, in fact, receive books. Hae Eun Kim understood June Kim to be telling her to convey this message to her husband, Dobum Kim, as she could not think of any reason for someone to ask her about books.

<sup>5</sup> According to credible testimony by Dobum Kim, June Kim was present for that conversation.

In 1997, a Special Agent of the FBI interviewed Dobum Kim in connection with the \$30,000 check he had given to Representative Kim in January 1994. Dobum Kim indicated to the Special Agent that he communicated only with June Kim, rather than Representative Kim, in connection with the purchase of copies of Representative Kim's book. Dobum Kim also told the Special Agent that June Kim had agreed to provide him with 2,000 books, but that he had received only 1,000 books. Dobum Kim acknowledged under oath that the above statements he made to the FBI in 1997 were false, and that he made those false statements because Representative Kim had asked him to pretend that he had purchased books.

At all times during the events described above, House Rule 43, clause 1, stated that "[a] Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

Based on the foregoing, the Investigative Subcommittee has substantial reason to believe that in approximately January 1994 Representative Kim attempted to induce Dobum Kim to give false information to Federal investigative authorities if asked about the \$30,000 check that he had given to Representative Kim. Therefore, the Investigative Subcommittee has substantial reason to believe that Representative Kim conducted himself in a manner that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*F. False statements to investigative subcommittee regarding Dobum Kim*

The Investigative Subcommittee received credible evidence that:

- Dobum Kim, a South Korean national in charge of the Los Angeles office of Hanbo Steel and General Construction, a Korean company, had dinner with Representative Kim in California in June 1993.
- In late October 1993, Dobum Kim met privately with Representative Kim for approximately thirty minutes in his congressional office in Washington, D.C. The two men discussed an upcoming meeting in the Washington, D.C. area between Representative Kim and Tae Soo Chung, the South Korean Chairman of Hanbo Steel.<sup>6</sup> Dobum Kim gave Representative Kim a business card on which the name "Dobum Kim" was printed.
- On or about October 28, 1993, Dobum Kim had dinner with Representative Kim, Tae Soo Chung, one of Tae Soo Chung's sons, and Jennifer Ahn, at the Palm Restaurant in Washington, D.C.
- Following the dinner at the Palm Restaurant, Dobum Kim and Representative Kim went to Tae Soo Chung's suite at the Ritz Carlton Hotel in Arlington, Virginia (Pentagon City).<sup>7</sup> Dobum Kim escorted Representative Kim and Jennifer Ahn downstairs when they departed the hotel later that evening.

<sup>6</sup>Hotel records obtained by the Investigative Subcommittee corroborated Dobum Kim's testimony that he visited the Washington, D.C. area in approximately October 1993.

<sup>7</sup>Dobum Kim's testimony that Tae Soo Chung stayed at the Ritz Carlton in Pentagon City was corroborated by records obtained from that hotel.

- Dobum Kim met Representative Kim in Honolulu on or about January 16, 1994, and accompanied him by air to Maui, where he took Representative Kim to the Grand Wailea Resort.
- While in Maui in January 1994, Dobum Kim had dinner with Representative Kim and Tae Soo Chung.
- At a golf course near the Grand Wailea Resort, Dobum Kim purchased golf clubs and other equipment for Representative Kim in Representative Kim's presence and with his knowledge. Dobum Kim then played golf with Representative Kim and Tae Soo Chung.
- After returning to the United States, Representative Kim personally telephoned Dobum Kim and asked him to come to his home in Diamond Bar, California.
- On or about January 29, 1994, Dobum Kim went to Representative Kim's home in Diamond Bar, California and gave him a \$30,000 check.

In a letter to Representative Kim dated April 2, 1998, the Investigative Subcommittee asked Representative Kim to respond in writing to the following question: "Please describe the circumstances surrounding Mr. Dobum Kim's payment of \$30,000 to buy copies of your book, 'I'm Conservative.' Please describe your relationship, if any, with Mr. Dobum Kim." On or about May 21, 1998, Ralph L. Lotkin, counsel to Representative Kim, submitted a letter to the Chairman and Ranking Democratic Member of the Investigative Subcommittee. Representative Kim personally reviewed, approved, and signed the letter, and he acknowledged that the letter was prepared with the assistance of counsel. In reply to the above-specified question contained in the Subcommittee's letter to Representative Kim dated April 2, 1998, Representative Kim responded as follows: "*I do not know who Dobum Kim is or any of the circumstances subsumed in your question.*" (Emphasis added.)

When questioned about that answer at his deposition on June 18, 1998, Representative Kim stated that "at that time [i.e., May 21, 1998] I didn't know who Dobum Kim was, until you mentioned today Hanbo. . . . At that time I had no idea who Dobum Kim is." Counsel for the Subcommittee then asked: "Even though we asked you [in the May 21, 1998, letter] about a \$30,000 check?" Representative Kim responded: "*I didn't know anything about a \$30,000 check.*" (Emphasis added.)

At all times during the events described above, House Rule 43, clause 1, stated that "[a] Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

Based on the substantial credible evidence discussed above regarding direct personal contact between Dobum Kim and Representative Kim, the Investigative Subcommittee has substantial reason to believe that Representative Kim knowingly submitted false answers regarding Dobum Kim in his May 21, 1998, letter to the Chairman and Ranking Democratic Member of the Investigative Subcommittee and in his testimony on June 18, 1998, regarding his response about Dobum Kim in the May 21, 1998, letter. Therefore, the Investigative Subcommittee has substantial reason to believe that Representative Kim conducted himself in a manner that does not reflect creditably on the House of Representatives, in

violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

As stated above, on June 18, 1998, Representative Kim testified under oath before the Investigative Subcommittee. During his deposition, Representative Kim testified that:

- He did not remember calling Dobum Kim and asking him to come to Representative Kim's home in Diamond Bar, California.
- He denied that he asked Dobum Kim to come to his house to give him money promised by the Chairman of Hanbo Steel.
- He did not remember that the man who accompanied him by air from Honolulu to Maui, or anyone else from Hanbo Steel, came to his home in Diamond Bar. (Subsequently, he qualified his response by stating that, "to the best of my recollection," Dobum Kim did not come to his home.)
- He did not remember Dobum Kim telling him at his home in Diamond Bar that Dobum Kim would write a \$30,000 check. (Subsequently, Representative Kim called this allegation "a wild story.")
- Dobum Kim has never given him a \$30,000 check.
- Dobum Kim did not write out a \$30,000 check at Representative Kim's home in Diamond Bar.
- He did not remember telling Dobum Kim to write the word "books" on the check for \$30,000.
- He did not remember telling Dobum Kim to write "books" on the check in order to create the appearance that he had paid for books.
- He did not tell Dobum Kim what to say to investigators if asked about the \$30,000 check. (Subsequently, Representative Kim stated that "[t]o the best of my recollection, I don't believe I did.")
- He does not know what happened to the proceeds from the \$30,000 check given by Dobum Kim.
- He has no knowledge that a deposit slip in the amount of \$30,000, dated March 2, 1994, and apparently filled out by June Kim, corresponds in any way to the check written by Dobum Kim in the amount of \$30,000 in January 1994.

Based on credible evidence in the record, as discussed above, the Investigative Subcommittee has substantial reason to believe that the above testimony by Representative Kim was knowingly false. Therefore, the Subcommittee has substantial reason to believe that Representative Kim's conduct does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.

*Count VI: Violations of House Rule 51 and House Rule 43, Clause 1 (Receipt of Improper Gifts To Pay Partial Reimbursement to House of Representatives for Excess Outside Earned Income From Book)*

In approximately February 1994, Representative Kim entered into a contract with Sungmoon Publishing Company, a South Korean company, to publish his autobiography. According to Representative Kim, the book was published in August 1994.

On or about February 21, 1995, Representative Kim wrote a letter to the Committee requesting “a ruling on the acceptance of proceeds from a book I wrote.” Other correspondence and communications between Representative Kim and the Committee followed regarding his income from the book.

On or about May 15, 1995, the Committee sent a letter to Representative Kim advising him of its determination that his income from the book, as represented to the Committee, “does not qualify for the exception to the outside earned income limit for copyright royalties received from established publishers pursuant to usual and customary contractual terms.” The Committee expressed particular concern about a purported agreement between Representative Kim and Hun Kim, a South Korean national, pursuant to which Representative Kim purportedly received royalties from Hun Kim consisting of forty percent of the gross proceeds of sales of his book in South Korea by Hun Kim. Representative Kim had first mentioned this royalty arrangement to the Committee in a letter to the Committee dated March 17, 1995. In that letter, he stated that “[f]rom the final price of the book the publisher takes 50% of the proceeds, the book-broker (marketing firm) [i.e., Hun Kim] receives 10% and the remaining 40% represents the royalty I am given. . . .”

In its letter dated May 15, 1995, the Committee advised Representative Kim that “your total book income for 1994 (from both the publisher and the marketing agent), added with any other outside income you may have earned in 1994, is subject to the \$20,040 cap.” Consistent with precedent regarding violations of the cap on outside earned income, the Committee told Representative Kim that “you must either return the earned income you received in 1994 in excess of \$20,040 or make donations to charity in an equivalent sum.”

On or about August 3, 1995, Representative Kim filed his annual Financial Disclosure Statement (“FDS”) for calendar year 1994. He reported earned income from “Book Publishing” of \$132,298, noting on the report that “proceeds being refunded per 5/15/95 Standards Ctte. Communication.”

The next day, Representative Kim sent a letter to the Committee acknowledging that the amount of excess earned income in question was \$112,258, based on the income reported in his FDS for 1994.<sup>8</sup> Based on the information provided by Representative Kim, the Committee reconfirmed that \$112,258 constituted the amount of the required reimbursement in an October 26, 1995, letter of agreement signed by Representative Kim.

On or about December 31, 1997, Representative Kim transmitted three checks to the Committee totaling \$20,000 in partial satisfaction of his obligation to repay excess earned income from his book. The checks consisted of a \$10,000 cashier’s check purchased on December 31, 1997 from First Union National Bank of Virginia, payable to the U.S. Treasury; a personal check in the amount \$4,000 dated December 31, 1997, drawn on the joint account of Jay Changjoon Kim and June Kim at California Korea Bank in Row-

<sup>8</sup>The amount of \$112,258 represents the difference between \$132,298—the amount of income reported by Representative Kim—and the \$20,040 cap on outside income.

land Heights, California; and a personal check in the amount of \$6,000 dated December 31, 1997, drawn on the joint account of Jay Kim and June Kim at the Congressional Federal Credit Union in Washington, D.C.

On or about January 23, 1998, Representative Kim submitted a second cashier's check to the Committee in the amount of \$20,000, payable to the U.S. Treasury, in partial satisfaction of his obligation to repay excess earned income from his book. That cashier's check also was purchased from First Union National Bank of Virginia.

By Representative Kim's own admission, Jennifer Ahn purchased and transmitted to him the two cashier's checks in the amounts of \$10,000 and \$20,000 that he submitted to the Committee on or about December 31, 1997, and January 23, 1998, respectively, in partial reimbursement for excess earned income from his book. Jennifer Ahn confirmed under oath that she purchased both cashier's checks on behalf of Representative Kim. Ms. Ahn, who resides in Northern Virginia, assisted Representative Kim with the marketing of his book in South Korea and the United States, and has helped to raise funds for his campaigns for election to the U.S. House of Representatives. Hun Kim, who purportedly served as a marketing agent for sales of Representative Kim's book in South Korea, is Ms. Ahn's brother-in-law.

Both Jennifer Ahn and Representative Kim testified that the funds Ms. Ahn used to purchase the cashier's checks derived from proceeds from sales of Representative Kim's book to which he was entitled.

Jennifer Ahn testified that in October or November 1997, Representative Kim contacted her and told her that he was required to repay money to the House of Representatives or the Committee on Standards of Official Conduct in connection with his book. According to Ms. Ahn, Representative Kim told her that he wanted Hun Kim to repay to him \$30,000 that he had previously loaned to Hun Kim in order to pay part of the reimbursement owed for excess outside earned income. According to Ms. Ahn, the \$30,000 represented proceeds from sales of Representative Kim's book by Hun Kim to which Representative Kim was entitled. Ms. Ahn testified that in approximately 1995 Hun Kim had asked if he could "borrow" the \$30,000 in sales proceeds because of financial difficulties at the time relating to medical problems.

Jennifer Ahn testified that she conveyed Hun Kim's request to Representative Kim, and that Representative Kim agreed. According to both Jennifer Ahn and Representative Kim, the purported agreement between Hun Kim and Representative Kim regarding deferred payment of the \$30,000 was solely a verbal agreement.

In late 1997, according to Ms. Ahn, Representative Kim told her to "get the money back" that he purportedly had loaned to Hun Kim. According to Ms. Ahn, Hun Kim began to repay the \$30,000 "loan" from Representative Kim in periodic installments beginning in 1996. She testified that sometimes Hun Kim personally paid her in cash in Korea, and sometimes he wired money to her in the United States. She kept no records of any of the payments by Hun Kim, according to her testimony.



According to Ms. Ahn, she already had received repayment from Hun Kim of the entire \$30,000 by the time that Representative Kim asked her to “get the money back” from Hun Kim. She testified that she did not inform Representative Kim she had previously received the money, however, because “[h]e never asked for it.” According to Ms. Ahn, she had been in possession of most of the \$30,000 for a year or more before Representative Kim asked her for the money. Ms. Ahn further testified that she used some of the money that Hun Kim had repaid to pay her own expenses, deposited some of it in a personal financial account, and invested some of it in mutual funds. She testified that she liquidated personal investments to obtain funds with which to purchase the cashier’s check in the amount of \$10,000 in December 1997. She also testified that she used the proceeds from a loan by a close personal friend in South Korea to purchase the cashier’s check in the amount of \$20,000 in January 1998.

Ms. Ahn testified that she gave Representative Kim a cashier’s check for only \$10,000 in December 1997—rather than funds totaling \$30,000—“because that’s all I could afford at the time.” According to Ms. Ahn, Representative Kim asked her when she could pay the remaining \$20,000, and she said she would make the payment as soon as possible.

Representative Kim initially addressed the matter of the cashier’s checks purchased by Ms. Ahn in a May 21, 1998, letter from his attorney—which Representative Kim personally reviewed, approved, and signed—to the Chairman and Ranking Democratic Member of the Investigative Subcommittee. In that letter, Representative Kim stated as follows:

At approximately the time funds were being deposited into my wife’s personal checking account in South Korea as a result of sales of my book, Ms. Ahn’s brother-in-law, Mr. Hong [sic] Kim, inquired if he could borrow approximately \$30,000 because of medical and financial problems. I agreed to lending Mr. Kim the money. Accordingly, Mr. Kim retained \$30,000 of my book proceeds instead of depositing such sums into my wife’s bank account. This was an interest-free loan to be repaid when Mr. Kim was financially able to do so.

Subsequently, Mr. Kim was able to repay me the \$30,000 and I recently learned that he did so by transferring such sums to his sister-in-law, Ms. Ahn, over a period of time. It is my further understanding that the funds were on deposit in one of Ms. Ahn’s equity or other banking accounts. Ms. Ahn did not immediately remit the repayment to me nor did I press her for it. When I became responsible to repay what was considered to be excessive outside earned income as a result of sales of my book, it became necessary to acquire the funds previously repaid by Mr. Hong [sic] Kim. To this end, Ms. Ahn transferred to me the \$30,000 . . . [in the form of] two [cashier’s] checks of \$10,000 and \$20,000.

At his deposition, Representative Kim adopted under oath the statements quoted above from his letter of May 21, 1998.

At all times during the events described above, House Rule 51, clause 1(a), stated that “[n]o Member, officer, or employee of the House of Representatives shall knowingly accept a gift except as provided in this rule.” The term “gift” is defined in clause 1(b)(1) of Rule 51 as “any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.”

At all times during the events described above, House Rule 43, clause 1, stated that “[a] Member, officer or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.”

It is undisputed that Jennifer Ahn purchased and transmitted two cashier’s checks to Representative Kim totalling \$30,000, and that Representative Kim used the cashier’s checks to make a partial reimbursement to the U.S. Treasury for excess earned income from his book. There is no evidence in the record that the \$30,000 received by Representative Kim represents payment for any services rendered by Representative Kim, or investment income earned by Representative Kim.

The Investigative Subcommittee therefore would have to credit representations by Representative Kim and Jennifer Ahn that the cashier’s checks represented deferred income from book sales by Hun Kim in order to find that the cashier’s checks do not constitute improper gifts to Representative Kim.

Based on a review of the record as a whole, the Investigative Subcommittee did not credit Representative Kim’s or Jennifer Ahn’s explanations regarding the origins of the funds that Ms. Ahn used to purchase the cashier’s checks.

First, the only evidence offered in support of the claim that the cashier’s checks represented deferred repayment of a \$30,000 loan by Representative Kim to Hun Kim is the testimony of Representative Kim and Jennifer Ahn, a close associate of Representative Kim. Representative Kim acknowledged that no written agreement existed between himself and Hun Kim, and Ms. Ahn provided no documentary evidence to substantiate her testimony that Hun Kim made periodic loan repayments to her in cash or by wire transfer in connection with Representative Kim’s book.

Second, the Investigative Subcommittee finds it implausible that Representative Kim would have agreed to defer repayment by Hun Kim of \$30,000 during the period in question. According to disclosure reports filed by his campaign with the Federal Election Commission (“FEC”), his campaign owed him more than \$200,000 during the period of November 28, 1994, to September 30, 1996, a period that overlaps with the period in which Hun Kim purportedly owed \$30,000 to Representative Kim. In addition, Representative Kim was confronting legal fees at the time relating to the criminal investigation by the U.S. Attorney’s Office for the Central District of California. In light of the substantial personal debt that he confronted during the relevant time period, the Investigative Subcommittee did not credit the notion that Representative Kim would have foregone repayment of \$30,000.

Third, Hun Kim’s purported debt to Representative Kim is premised upon a purported marketing agreement between Hun Kim and Representative Kim whereby the publisher of Representative Kim’s book was entitled to fifty percent of the revenue from Hun

Kim's sales of the book. The publisher, however, advised counsel to the Investigative Subcommittee that he has no knowledge of such an agreement; that neither Hun Kim nor Sunkyong Bookstore (Hun Kim's business) was under any obligation to remit any percentage of subsequent sales of the book; and that neither Hun Kim nor Sunkyong Bookstore gave any money, either directly or indirectly, to the publishing company in connection with sales of the book by Hun Kim or Sunkyong Bookstore.

Counsel to the Investigative Subcommittee also interviewed Hun Kim by telephone with the assistance of a translator. When asked if he had "any agreements with Jay Kim regarding the sale or marketing of his book," Hun Kim responded, "As far as I remember, I don't think there was one. . . . To the best of my recollection, there was no agreement with Jay Kim." Subsequently, he stated that he "I don't remember exactly whether there was an agreement or not."

Hun Kim also told counsel to the Subcommittee that he could not remember if Representative Kim received any money from his involvement in the sale of Representative Kim's book in Korea. Nor did he have any recollection of retaining a percentage of the proceeds from his sales of Representative Kim's book, or remitting fifty percent of the sales proceeds to the publisher. Finally, Hun Kim told counsel to the Subcommittee that he did not remember whether Representative Kim received any money from his sale of Representative Kim's book.

As stated above, Jennifer Ahn is Hun Kim's sister-in-law and worked with Hun Kim to market Representative Kim's book in South Korea. She testified that she has no knowledge of any agreement or understanding between Hun Kim and Representative Kim regarding how much money Representative Kim would receive from sales of his book in South Korea. She also testified that she has no knowledge of whether Hun Kim received a percentage of the proceeds from sales of Jay Kim's book in South Korea.

-Based on the record as a whole, the Investigative Subcommittee therefore has substantial reason to believe that Representative Kim's acceptance of the cashier's checks purchased by Jennifer Ahn in approximately December 1993 and January 1994 constituted gifts within the meaning of House Rule 51, and that Representative Kim's acceptance of the checks was in violation of House Rule 51. The record further supports the conclusion that Representative Kim used those improper gifts to make a partial reimbursement to the U.S. Treasury in connection with his violation of the limit on outside earned income. For that reason, the Investigative Subcommittee also has substantial reason to believe that, by accepting the cashier's checks, Representative Kim conducted himself in a manner that does not reflect creditably on the House of Representatives, in violation of the Code of Official Conduct as set forth in Clause 1 of Rule 43 of the House of Representatives.