Union Calendar No. 606

106th Congress
2d Session

HOUSE OF REPRESENTATIVES

REPORT
106–1044

SUMMARY OF ACTIVITIES ONE HUNDRED SIX CONGRESS

A REPORT

OF THE

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT HOUSE OF REPRESENTEATIVES

JANUARY 2, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE

89–006 WASHINGTON : 2001

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

LAMAR S. SMITH, Texas, *Chairman*

JOEL HEFLEY, Colorado
JOE KNOLLENBERG, Michigan
ROB PORTMAN, Ohio
DAVE CAMP, Michigan

HOWARD L. BERMAN, California *Ranking Minority Member*
MARTIN OLAV SABO, Minnesota
ED PASTOR, Arizona
CHAKA FATTAH, Pennsylvania
ZOE LOFGREN, California

ROBERT L. WALKER, *Chief Counsel and Staff Director*
JOHN N. LAMPMANN, *Assistant to the Chairman*
BARI SCHWARTZ, *Counsel to the Ranking Minority Member*
JOHN E. VARGO, *Director, Office of Advice and Education*

STACEY P. DUFFY, *Counsel*
VIRGINIA H. JOHNSON, *Counsel*
SEAN KELLEY, *Staff Assistant*
KENNETH E. KELLNER, *Counsel*
PAUL M. LEWIS, *Counsel*
SUSAN J. POHL, *Counsel*
REED D. SLACK, *Counsel*
CHRISTINE STEVENS, *Systems Administrator*
JOANNE WHITE, *Administrative Assistant*

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, January 2, 2001.

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 106th Congress.

Sincerely,

LAMAR SMITH,
Chairman,
HOWARD L. BERMAN,
Ranking Minority Member.

CONTENTS

Union Calendar No. 606

106TH CONGRESS, *2d Session* } HOUSE OF REPRESENTATIVES { REPORT 106–1044

SUMMARY OF ACTIVITIES—ONE HUNDRED SIXTH CONGRESS

JANUARY 2, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, 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 Clauses 1(p) and 11(g)(4) of House Rule X, Clause 3 of House Rule XI, and Clause 5(f) of House Rule XXVI, which state as follows:

RULE X, CLAUSE 1(p)

> 1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. * * *
>
> * * * * * * *
>
> (p) Committee on Standards of Official Conduct.
> The Code of Official Conduct.

RULE X, CLAUSE 11(g)(4)

> (4) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, Delegate, Resident Commissioner, officer, or employee of the House in violation of subparagraph (3) and report to

the House concerning any allegation that it finds to be sustained.

RULE XI, CLAUSE 3

3. (a) The Committee on Standards of Official Conduct has the following functions:

(1) The committee may recommend to the House from time to time such administrative actions as it may consider appropriate to establish or enforce standards of official conduct for Members, Delegates, the Resident Commissioner, officers, and employees of the House. A letter of reproval or other administrative action of the committee pursuant to an investigation under subparagraph (2) shall only be issued or implemented as a part of a report required by such subparagraph.

(2) The committee may investigate, subject to paragraph (b), an alleged violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House of the Code of Official Conduct or of a law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, Delegate, Resident Commissioner, officer, or employee in the performance of his duties or the discharge of his responsibilities. After notice and hearing (unless the right to a hearing is waived by the Member, Delegate, Resident Commissioner, officer, or employee), the committee shall report to the House its findings of fact and recommendations, if any, for the final disposition of any such investigation and such action as the committee may consider appropriate in the circumstances.

(3) The committee may report to the appropriate Federal or State authorities, either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee, any substantial evidence of a violation by a Member, Delegate, Resident Commissioner, officer, or employee of the House, of a law applicable to the performance of his duties or the discharge of his responsibilities that may have been disclosed in a committee investigation.

(4) The committee may consider the request of a Member, Delegate, Resident Commissioner, 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, Delegate, Resident Commissioner, officer, or employee. With appropriate deletions to ensure the privacy of the person concerned, the committee may publish such opinion for the guidance of other Members, Delegates, the Resident Commissioner, officers, and employees of the House.

(5) The committee may consider the request of a Member, Delegate, Resident Commissioner, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XXIV.

(b)(1)(A) Unless approved by an affirmative vote of a majority of its members, the Committee on Standards of Official Conduct may not report a resolution, report, recommendation, or advisory opinion relating to the official

conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House, or, except as provided in subparagraph (2), undertake an investigation of such conduct.

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

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

(2) 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, Delegate, Resident Commissioner, officer, or employee of the House only.

(A) upon receipt of information offered as a complaint, in writing and under oath, from a Member, Delegate, or Resident Commissioner and transmitted to the committee by such Member, Delegate, or Resident Commissioner; or

(B) upon receipt of information offered as a complaint, in writing and under oath, from a person not a Member, Delegate, or Resident Commissioner provided that a Member, Delegate, or Resident Commissioner certifies in writing to the committee that he 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 periods set forth in the rules of the Committee on Standards of Official Conduct, the chairman and ranking minority member shall establish jointly 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.

(3) The committee may not undertake an investigation of an alleged violation of a law, rule, regulation, or standard of conduct that was not in effect at the time of the alleged violation. The committee may not undertake an investigation of such an alleged violation that occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(4) A member of the committee shall be ineligible to participate as a member of the committee in a committee proceeding relating to the member's official conduct. When-

ever a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker shall designate a Member, Delegate, or Resident Commissioner from the same political party as the ineligible member to act in any proceeding of the committee relating to that conduct.

(5) A member of the committee may disqualify himself from participating in an investigation of the conduct of a Member, Delegate, Resident Commissioner, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to be disqualified. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member, Delegate, or Resident Commissioner from the same political party as the disqualifying member to act in any proceeding of the committee relating to that case.

(6) Information or testimony received, or the contents of a complaint or the fact of its filing, may not be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.

(7) The committee shall have the functions designated in titles I and V of the Ethics in Government Act of 1978 [on financial disclosure and the limitations on outside earned income and outside employment], in sections 7342 [the Foreign Gifts and Decorations Act], 7351 [on gifts to superiors], and 7353 [on gifts] of title 5, United States Code, and in clause 11(g)(4) of rule X.

(c)(1) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or a 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.

(2) Notwithstanding clause 2(g)(2) of rule XI, each hearing of an adjudicatory subcommittee or sanction hearing of the Committee on Standards of Official Conduct shall be held in open session unless the committee or subcommittee, 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.

(d) Before a member, officer, or employee of the Committee on Standards of Official Conduct, including members of a subcommittee of the committee selected under clause 5(a)(4) of rule X 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 as part of the records of the House. This paragraph establishes a standard of conduct within the meaning of paragraph (a)(2). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.

(e)(1) 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, considers appropriate in the circumstances.

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

HOUSE RULE XXVI, CLAUSE 5(f)

(f) All the provisions of this clause [the gift rule] shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this clause.

II. ADVICE AND EDUCATION

Pursuant to a provision of the Ethics Reform Act of 1989 (2 U.S.C. § 29d(i)), the Committee maintains an Office of Advice and Education, which is staffed as directed by the Committee's Chairman and Ranking Minority Member. Under the statute, the primary responsibilities of the Office include the following:

- Providing information and guidance to House Members, officers or employees on the laws, rules and other standards of conduct applicable to them in their official capacities, and the interpretations and advisory opinions issued by the Committee;
- Preparing proposed responses to specific advisory opinion requests received from House Members and staff, and submitting them to the Chairman and Ranking Minority Member for review and approval;
- Preparing proposed advisory memoranda on the ethics rules for general distribution to House Members and staff, and submitting them to the Chairman and Ranking Member, or the full Committee, for review and approval; and
- Developing and carrying out periodic educational briefings for Members and staff.

As an inducement to Members and staff to seek Committee advice whenever they have any uncertainty on the applicable laws, rules or standards, the Ethics Reform Act of 1989 further provides that no information provided to the Committee by a Member or staff person when seeking advice on prospective conduct may be used as a basis for initiating a Committee investigation, if the individual acts in accordance with the Committee's written advice. In the same vein, Committee Rule 3(j) provides that the Committee may take no adverse action in regard to any conduct that has been

undertaken in reliance on a written opinion of the Committee if the conduct conforms to the specific facts addressed in the opinion. As an additional inducement for Members and staff to seek Committee advice whenever they have any uncertainty, Committee Rule 3(i) provides that the Committee will keep confidential any request for advice from a Member, officer or employee, as well as any response to such a request. Further, the Committee understands that courts will consider the good faith reliance of a House Member, officer or employee on Committee advice as a defense to any Justice Department prosecution regarding the particular conduct.

The Committee believes that these advice and education offers are an extremely important means for attaining understanding of, and compliance with, the ethics rules. The specifics of the Committee's efforts in the areas of publications, briefings and advisory opinion letters during the 106th Congress are set forth below. In addition, Committee staff attorneys provided informal advice in response to numerous inquiries received from Members, staff persons and others in telephone calls and e-mails directed to the Committee office, and in meetings.

Publications

In April 2000, the Committee issued a major publication, *Rules of the U.S. House of Representatives on Gifts and Travel.* That booklet provides a detailed explanation of the provisions of the gift rule that took effect for House Members, officers and employees on January 1, 1996 and was amended in January 1999. The booklet supercedes the chapter of the 1992 *House Ethics Manual* on gifts and travel (Chapter 2), as well as the numerous advisory memoranda that the Committee had issued on the new gift rule in the period of late 1995 to 1999.

On subjects other than gifts and travel, the major Committee publications are the *House Ethics Manual* that was issued in 1992 and the advisory memoranda issued since then that update and expand upon the Manual. The following advisory memoranda were issued during the 106th Congress:

- Amendment of the House Gift Rule (January 22, 1999) (This memorandum, which concerned the gift rule amendment approved by the House on January 6, 1999, was superseded by the issuance of the Gifts and Travel booklet in April 2000.),
- Salary Levels at which the Outside Earned Income Limitation, Financial Disclosure Requirement, and Post-Employment Restrictions Apply for Calendar year 1999 (February 9, 1999),
- Prohibition Against Linking Official Actions to Partisan or Political Considerations, or Personal Gain (May 11, 1999),
- "Lump Sum" Payments to House Employees (October 15, 1999),
- Salary Levels at which the Outside Earned Income Limitation, financial Disclosure Requirement, and Post-Employment Restrictions Apply for Calendar Year 2000 (February 2, 2000),
- Rules and Standards of Conduct Relating to Campaign Activity (March 2, 2000),
- Rules and Standards of Conduct Relating to Committee Consultants (April 12, 2000), and
- Gift Rule Applicability at the National Political Conventions (June 14, 2000, with addendum of July 27, 2000).

The advisory memorandum of October 15, 1999 addresses the manner in which "lump sum" payments made by House Member and committee offices to their employees are to be treated for purposes of the House Code of Official Conduct (House Rule 24) and other ethics laws, rules and standards, including outside employment restrictions, financial disclosure requirements, and post-employment restrictions. The memorandum of April 12, 2000 on House consultants provides guidance on an amendment to the House rules approved on January 6, 1999 that subjects those consultants to certain basic provisions of the House Code of Official Conduct.

In addition to these advisory memoranda, the Committee also issued in January 1999 and February 2000 updated versions of its summary memorandum, *Highlights of the House Ethics Rules.*

Briefings

As part of its outreach and educational efforts during the 106th Congress, the Committee conducted numerous briefings for House Members and staff regarding the rules and standards governing official conduct and financial disclosure. These included general briefings for all House Members and staff, as well as briefings for individual Member and committee offices. Committee staff also participated in briefings sponsored by the Congressional research Service for House staff embers who serve in district offices and in briefings sponsored by outside organizations.

In addition to the general briefings on financial disclosure, Committee staff held five briefings during 2000 to which all House Members, officers, and employees were invited. Three of those briefings, held February 4th, June 5th and September 18th, provided a general overview of the ethics rules. The other two briefings, held March 9th and July 27th, covered the rules applicable to campaign activity. The Committee will continue this outreach effort in the 107th Congress.

The Committee also made a presentation to the Members-elect of the 107th Congress as part of the New Member Orientation. Copies of the *Highlights of House Ethics Rules* and a memorandum noting points of particular interest to Members-Elect were provided to every new member as part of the orientation process,a and each was offered an individual briefing for the Member and his or her staff.

Staff also received numerous requests for briefings from vising international dignitaries. Visitors from countries in Eastern Europe, 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 900 private advisory opinions during the 106th Congress. Opinions issued by the Committee in the 106th 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, Foreign Gifts and Decorations, and Travel 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 Statement 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 15th due date for annual Financial Disclosure Statements, the Committee publishes a detailed instruction booklet and provides briefings for persons required to file, including a briefing 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 1999 and 2000, Committee staff reviewed approximately 4,974 Financial Disclosure Statements, including 1,042 Statements from candidates. Where a deficiency is found, the Committee requests an amendment from the filer.

Pursuant to its authority under 5 U.S.C. § 7342, the Committee also continued its activities implementing the Foreign Gifts and Decorations Act, including the disclosure and reporting requirements of the Act, and responded to questions from Members and staff regarding the Act. The Gifts & Travel booklet that the Committee published in April 2000 includes a revised and updated version of the regulations that the Committee has issued under the Act. Reports of gifts from foreign governments (including travel and travel expenses) that Members and staff file in accordance with this Act are available for public inspection at the Committee office upon reasonable notice. Pursuant to the Act, the contents of those reports are published in the *Federal Register* on an annual basis.

The Committee staff also reviews the Member Travel Disclosure Forms and the Employee Travel Disclosure Forms that are filed under the gift rule (House Rule XXVI, Clause 5). While those forms are filed with and made publicly available by the Legislative Resource Center, that office forwards copies of the forms as filed to the Committee for review.

IV. Committee Rules

At its organizational meeting on January 20, 1999, the Committee adopted the Committee Rules in effect for the 105th Congress as the Committee Rules for the 106th Congress; however, the Committee anticipated that it would amend its rules in light of the Committee's experience during the 105th Congress, which had been

the first Congress under which the Committee operated by the rules proposed in 1997 by the Ethics Reform Task Force.

In an effort to streamline the investigative process, without diminishing in any way the rights of respondents involved, and to clarify the reporting requirements at the conclusion of an investigation, the Committee amended its rules on March 10, 1999, on April 14, 1999, and on April 12, 2000.

V. INVESTIGATIONS

At its organizational meeting on January 20, 1999, the Committee voted to carryover into the 106th Congress the complaint pending against Representative Bud Shuster from the 105th Congress. In addition to the complaint carried over from the 105th Congress, the Committee also acted, pursuant to House Rule 11, Clause 3 and Committee Rules 15 and 19 (which authorize the Committee to establish an investigative subcommittee on its own initiative), to establish two additional investigative subcommittees to conduct formal inquiries regarding Representative Corrine Brown and Representative Earl F. Hilliard.

Representative Bud Shuster

By unanimous vote on October 4, 2000, the Committee on Standards of Official Conduct voted to sanction Representative E.G. "Bud" Shuster by issuing a Letter of Reproval to him in connection with a Statement of Alleged Violation to which he admitted as part of a negotiated settlement. The Statement of Alleged Violation consisted of one count setting forth that Representative Shuster engaged in a pattern of conduct, in five specific areas, that did not reflect creditably on the House of Representatives, in violation of Clause 1 of the Code of Official Conduct, formerly House Rule 43 (now Rule 24). The Committee, through its Letter of Reproval, notified Representative Shuster, that: "By your actions you have brought discredit to the House of Representatives."

On November 14, 1997, the Chairman and Ranking Minority Member of the Committee on Standards of Official Conduct established an Investigative Subcommittee in this matter pursuant to Committee Rule 17(c)(2). Representative Joel Hefley served as Chairman of the Investigative Subcommittee and Representative Zoe Lofgren served as the Ranking Minority Member. Representative Jim McCrery and Representative Chet Edwards were the other two Members of the Investigative Subcommittee.

The Investigative Subcommittee's inquiry focused on the allegations in a complaint filed by the Congressional Accountability Project and expanded to include an examination of whether Representative Shuster's campaign committee violated House rules and/or federal laws between 1993 and 1998. During the course of its inquiry, the Investigative Subcommittee thoroughly investigated the allegations against Representative Shuster. The Subcommittee issued over 150 subpoenas, counsel interviewed approximately 75 witnesses, and the Subcommittee deposed 33 witnesses. At the conclusion of the inquiry, the Investigative Subcommittee found substantial reason to believe that Representative Shuster had committed violations of House Rules within the Committee's jurisdiction. As detailed in its Report, the Investigative Subcommittee also

resolved a number of the allegations against Representative Shuster without finding violations.

On July 26, 2000, the Investigative Subcommittee unanimously adopted a Statement of Alleged Violation finding that Representative Shuster had engaged in a pattern of conduct that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct, formerly Rule 43 of the House of Representatives. As part of a negotiated settlement, Representative Shuster admitted, under penalty of perjury, to the Statement of Alleged Violation. By voluntarily admitting to the Statement of Alleged Violation in this matter, Representative Shuster agreed that his conduct did not reflect creditably on the House of Representatives. Also as part of the negotiated settlement, the Subcommittee agreed that it would recommend to the full Committee that the Committee impose a Letter of Reproval as the sanction in this matter. Representative Shuster waived both an adjudicatory hearing and a sanction hearing in this matter.

The Statement of Alleged Violation to which Representative Shuster admitted provides that his conduct did not reflect creditably on the House of Representatives in the following manner:

- Representative Shuster engaged in a pattern and practice of knowingly allowing Ann M. Eppard, his former chief of staff, to appear before or communicate with him in his official capacity, during the 12-month period following her resignation from his staff, in a manner that created the appearance that his official decisions might have been improperly affected.
- Representative Shuster violated House Gift Rules by accepting expenses from two sources related to a trip to Puerto Rico with his family in December 1995 and January 1996.
- Representative Shuster violated former House Rule 45 by authorizing and/or accepting the scheduling and advisory services of Ann M. Epard, his former chief of staff, on matters that were official in nature for approximately 18 months after she resigned from his congressional office.
- While under Representative Shuster's supervision and control, employees in his congressional office worked for his campaign committee to the apparent detriment of the time they were required to spend in his congressional office. While under his supervision and control, employees of his congressional office performed services for his campaign in his congressional office.
- The number and dollar amount of expenditures by Representative Shuster's campaign committee for meals designated as "political meetings" and for transportation on chartered aircraft, combined with inadequate recordkeeping practices to verify the legitimate campaign purposes of these expenditures, created the appearance that between 1993 and 1998 certain expenditures of his campaign committee may not have been attributable to bona fide campaign or political purposes.

The Report of the Committee on Standards of Official Conduct on this matter was transmitted to the House of Representatives. That Report contains the Letter of Reproval, the Statement of Alleged Violation, the 147 page Report of the Investigative Subcommittee adopted by the Committee (including 125 exhibits), and the Views submitted by Representative Shuster, through counsel, in response to the Subcommittee's Report. The full text of the Statement of Al-

leged Violation and the Letter of Reproval in this matter are included at Appendix I to this Summary of Activities.

Representative Corrine Brown

On June 9, 1999, the Committee on Standards of Official Conduct voted, pursuant to House Rule 11, Clause 3 and Committee Rules 15 and 19, which authorize the Committee to establish an investigative subcommittee on its own initiative, to establish an investigative subcommittee to conduct a formal inquiry regarding Representative Corrine Brown, and the Committee gave the Investigative Subcommittee jurisdiction to determine whether Representative Brown violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to her conduct in the performance of her duties or the discharge of her responsibilities, with respect to: (1) lodging provided in 1997 to Representative Brown or other persons at premises owned or controlled by Foutanga Dit Babani Sissoko; (2) the gift of a Lexus automobile to Representative Brown's adult daughter, Shantrel Brown, in 1997; and (3) the relationship, if any, between the lodging or car and Representative Brown's status or actions as a Member of Congress.

As a result of information obtained through its informal fact-finding prior to the establishment of the investigative subcommittee, the Committee concluded that no further investigative action was warranted with respect to other issues raised regarding Representative Brown.

Representative Dave Camp served as Chairman of the Investigative Subcommittee, and Representative Chaka Fattah served as the Ranking Minority Member. The other two members of the Subcommittee were Representative Mac Thornberry and Representative Mike Doyle, who were not members of the Committee on Standards of Official Conduct but who were appointed to the Investigative Subcommittee pursuant to House Rule X, Clause 5(a)(4).

For over a year, the Subcommittee investigated the matters within its jurisdiction. Although the evidence developed by the Subcommittee raised concerns as to whether Representative Brown may have violated standards of conduct by her conduct in connection with Foutanga Dit Babani Sissoko, the Subcommittee did not obtain sufficient evidence to enable the Subcommittee to meet the standards of proof required by Committee rules either to adopt or to prove a Statement of Alleged Violation. This was due in large part to the fact that key witnesses who had actual knowledge of the events within the Subcommittee's jurisdiction were beyond the reach of the Committee's subpoena power and could not be compelled to give testimony.

Although the Subcommittee, as noted above, lacked sufficient evidence to adopt and prove a Statement of Alleged Violation, the Subcommittee believed that Representative Brown's actions and associations in connection with Sissoko demonstrated, at the least, poor judgment and created substantial concerns regarding both the appearance of impropriety and the reputation of the House of Representatives.

For the reasons cited, the Subcommittee recommended that no further action be taken against Representative Corrine Brown regarding the matters within the Subcommittee's jurisdiction. On

September 20, 2000, the Committee on Standards of Official Conduct accepted the recommendation of the Subcommittee.

Representative Earl F. Hilliard

On September 22, 1999, the Committee voted, in accordance with House Rule 11, Clause 3 and Committee Rules 15 and 19, to establish an investigative subcommittee on its own initiative to conduct a formal inquiry regarding Representative Earl Hilliard. The investigative subcommittee was charged with jurisdiction to determine whether Representative Hilliard violated the Code of Official Conduct or any law, rule, regulation or other standard conduct applicable to his conduct in performance of his duties or the discharge of his responsibilities, with respect to: (1) loans reportedly made by Representative Hilliard's campaign committee in 1993–94 to certain individuals; (2) occupancy of office space in Birmingham, Alabama, by Representative Hilliard's campaign during the period of 1992–1998, including expenditures by the campaign for rent and utilities; and (3) Representative Hilliard's compliance with financial disclosure requirements during the period of 1992–1999 regarding ownership interests in Hilliards & Company, Inc. and the Birmingham Greater Golf Associates, Inc. or its successor, Birmingham Recreation, Inc.

Representative Rob Portman was named as Chairman of the Investigative Subcommittee, and Representative Martin Sabo was named Ranking Minority Member. The other two members of the Subcommittee are Representative Kenny Hulshof and Representative James Clyburn, who are not members of the Committee on Standards of Official Conduct but who were appointed to the Investigative Subcommittee pursuant to House Rule X, Clause 5(a)(4).

This matter is ongoing.

APPENDIX I

HOUSE OF REPRESENTATIVES COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT IN THE MATTER OF REPRESENTATIVE E. G. "BUD" SHUSTER, JULY 26, 2000—STATEMENT OF ALLEGED VIOLATION

1. At all times relevant to this Statement of Alleged Violation, Representative E.G. "Bud" Shuster ("Representative Shuster") was a Member of the United States House of Representatives representing the 9th District of Pennsylvania.

Count I: Representative Shuster Engaged In A Pattern Of Conduct That Did Not Reflect Creditably On The House Of Representatives In Violation Of Former Rule 43, Clause 1, Of The House of Representatives

SUMMARY AND APPLICABLE STANDARDS

2. The Investigative Subcommittee found that Representative Shuster's conduct as set forth in this Statement of Alleged Violation did not reflect creditably on the House of Representatives. The Investigative Subcommittee found that the conduct set forth in paragraph 4, below, did not reflect creditably on the House of Representatives and violated former House Rule 43, Clause 1.

3. Former House Rule 43, Clause 1 (current House Rule 24, Clause 1) provides that each Member of the House of Representatives shall conduct himself at all times in a manner which reflects creditably on the House of Representatives.

CONDUCT CONSTITUTING ALLEGED VIOLATION

4. Representative Shuster's conduct did not reflect creditably on the House of Representatives between 1993 and 1998, inclusive, in the following manner:

(a) Representative Shuster engaged in a pattern and practice of knowingly allowing Ann M. Eppard to appear before or communicate with him in his official capacity, during the 12-month period following her resignation as his chief of staff, on occasions and in a manner that created the appearance that his official decisions might have been improperly affected;

(b) Representative Shuster violated House Gift Rules [former Rule 43(4) for 1995 and Rule 52 for 1996] by accepting expenses from the Outdoor Advertising Association of America ("OAAA") and Daniel, Mann, Johnson and Mendenhall ("DMJM") related to a trip with his family to Puerto Rico in December 1995 and January 1996;

(c) Representative Shuster violated former House Rule 45 by authorizing and/or accepting the scheduling and advisory services of Ann M. Eppard on matters that were official in nature

for approximately 18 months after she resigned from his congressional office;

(d) While under the supervision and control of Representative Shuster as their employing Member, employees in Representative Shuster's congressional office worked for the Bud Shuster for Congress Committee ("BSCC") to the apparent detriment of the time they were required to spend in the congressional office and performed services for the BSCC in his congressional offices;

(e) The number and dollar amount of expenditures by the Bud Shuster for Congress Committee ("BSCC") for meals designated as "political meetings" and for transportation on chartered airplane flights, as reported in Federal Election Commission reports filed by the BSCC between 1993 and 1998, combined with record-keeping practices followed by the BSCC inadequate to verify the legitimate campaign purposes of these expenditures, created the appearance that certain expenditures may not have been attributable to bona fide campaign or political purposes.

ALLEGED VIOLATION

5. Based on the foregoing paragraph 4, the Investigative Subcommittee found that between 1993 and 1998, inclusive, Representative Shuster conducted himself in a manner that did not reflect creditably on the House of Representatives, in violation of former Rule 43, Clause 1 of the House of Representatives.

JOEL HEFLEY,
Chairman.
ZOE LOFGREN,
Ranking Minority Member.
JIM MCCRERY.
CHET EDWARDS.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, October 4, 2000.

Hon. BUD SHUSTER,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE SHUSTER: By a unanimous vote on October 4, 2000, the Committee on Standards of Official Conduct, acting on behalf of the House of Representatives, voted to issue to you this Letter of Reproval. The Committee unanimously voted to adopt the Report of the Investigative Subcommittee concerning its investigation of the numerous allegations of misconduct lodged against you.

By your actions you have brought discredit to the House of Representatives.

On November 14, 1997, the Chairman and Ranking Minority Member of the Committee on Standards of Official Conduct established an Investigative Subcommittee pursuant to Committee Rule 17(c)(2) in the matter of Representative Bud Shuster. The Investigative Subcommittee's inquiry focused on the allegations in a

complaint filed by the Congressional Accountability Project and expanded to include an examination of whether your campaign committee violated House Rules and/or federal laws between 1993 and 1998. During the course of its inquiry the Investigative Subcommittee thoroughly investigated the allegations against you. The Investigative Subcommittee issued over 150 subpoenas, counsel interviewed approximately 75 witnesses and the Investigative Subcommittee deposed 33 witnesses. At the conclusion of the inquiry, the Investigative Subcommittee found substantial reason to believe that you had committed violations of House Rules within the Committee's jurisdiction. On July 26, 2000, the Investigative Subcommittee unanimously adopted a Statement of Alleged Violation finding that you engaged in a pattern of conduct that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct, former Rule 43 (now Rule 24) of the House of Representatives. As part of a negotiated settlement you admitted, under penalty of perjury, to the Statement of Alleged Violation. By voluntarily admitting to the Statement of Alleged Violation, you agreed that your conduct did not reflect creditably on the House of Representatives through five areas of conduct.

The Statement of Alleged Violation to which you admitted provides that your conduct did not reflect creditably on the House of Representatives in the following manner:

- You engaged in a pattern and practice of knowingly allowing your former chief of staff to appear before or communicate with you in your official capacity, during the 12-month period following her resignation from your staff, in a manner that created the appearance that your official decisions might have been improperly affected.
- You violated House Gift Rules by accepting expenses from two sources related to a trip to Puerto Rico with your family in December 1995 and January 1996.
- You violated former House Rule 45 by authorizing and/or accepting the scheduling and advisory services of your former chief of staff on matters that were official in nature for approximately 18 months after she resigned from your congressional office.
- While under your supervision and control, employees in your congressional office worked for your campaign committee to the apparent detriment of the time they were required to spend in your congressional office. While under your supervision and control employees of your congressional office performed services for your campaign in your congressional office.
- Expenditures for "political meetings" and expenditures for transportation on chartered aircraft by your campaign committee, combined with inadequate record-keeping practices to verify the legitimate campaign purposes of these expenditures, created the appearance that between 1993 and 1998 certain expenditures of your campaign committee may not have been attributable to bona fide campaign or political purposes.

After considering the Report of the Investigative Subcommittee and your Views regarding the Report, the Committee determined that the five separate areas of misconduct that you admitted to in the Statement of Alleged Violation constitute a significant violation

of former Rule 43, Clause 1 of the House of Representatives. Further, the Committee determined that each of the five separate areas of conduct you admitted to constituted misconduct which cannot be described accurately either as technical or *de minimis*, as you attempt to do in your Views submitted in response to the Subcommittee's Report. We address the five areas of conduct below.

The first area of misconduct to which you admitted, constituting conduct that did not reflect creditably on the House of Representatives, involved your pattern and practice of knowingly allowing your former chief of staff, Ann M. Eppard, to appear before or communicate with you in your official capacity, during the 12-month period following her resignation, in a manner that created the appearance that your official decisions might have been improperly affected. The Investigative Subcommittee determined that this pattern of conduct by you involved numerous and regular communications and appearances by Ms. Eppard that created the appearance that your official decisions might have been improperly affected. The public elects Congress to do the public good and to act in the public interest. Confidence in this institution is damaged if Members of the House create even the appearance that special access or influence on official matters has been granted to employees who have recently left their employ to represent private interests for profit.

We note that in your Views submitted in response to the Investigative Subcommittee's Report you state that the "Subcommittee concluded that Representative Shuster did not violate Section 207." This is not accurate. In fact, the Investigative Subcommittee actually stated in its Report that it had "not here determined," and had "not here reached the issue of," whether you or any other person violated or participated in the violation of 18 U.S.C. § 207.

The second area of misconduct to which you admitted involved your violation of former House Gift Rules in December 1995 and January 1996 in connection with your acceptance from private parties of expenses incurred by you and your family during a trip to Puerto Rico. The record establishes that the primary purpose of this trip was recreational. Your participation in extremely limited officially related duties during this trip did not reasonably justify your acceptance of the expenses received from private sources in connection with this trip. Your attempts, in your Views, to minimize the expenses you accepted on this trip are not well founded. Specifically, you state in your Views that, while your family accompanied you on the trip, "the cost of the accommodations provided was comparable to the cost of a hotel room at an area resort, and thus [the sponsors] did not incur any significant additional expense as a result of the family members sharing his accommodations." According to the Subcommittee's Report, however, your sponsors paid for not just a single room but for lodgings that included both a four-bedroom villa and a two-bedroom villa; we find it telling that in your Views you do not actually deny this description of the accommodations provided to your family during this trip.

The Committee determined that this was a significant violation of former Rule 43, Clause 4 of the House of Representatives and former Rule 52 of the House of Representatives. Members of the House are paid an annual salary and are prohibited from accepting

gifts other than as outlined in the House Gift Rule (now Rule 26). When Members violate this rule it undercuts public faith in the institution most important to American representative government. The American people should not be made to question whether, through gifts or favors, the public interest has been subordinated to those with business before the House.

The third area of misconduct to which you admitted, and which constitutes conduct by you that did not reflect creditably on the House of Representatives, involved your violation of former House Rule 45 by authorizing and/or accepting Ms. Eppard's scheduling and advisory services involving your official schedule for approximately 18 months after she resigned from your congressional office. The repeated and prolonged nature of this conduct merits the determination that this violation was significant. The Committee determined that 18 months is not a transitional period, as you suggested in your Views to the Investigative Subcommittee's Report, but instead extends far beyond any reasonable period of transition. Further, we emphasize that the Statement of Alleged Violation to which you have admitted states unequivocally that you authorized and/or accepted Ms. Eppards' scheduling and advisory services, not that you "supposedly" did so, as you suggest in your Views.

The fourth area of misconduct to which you have admitted involved the conduct of your congressional employees while under your supervision and control. The Committee determined that this was a significant violation of former Rule 43, Clause 1 of the House of Representatives. We address later in this letter some of the erroneous assertions made in your Views regarding this violation.

The fifth area of misconduct to which you have admitted, and which constitutes conduct that did not reflect creditably on the House of Representatives, concerned the appearance that certain expenditures by your campaign committee may not have been attributable to bona fide campaign or political purposes. The laws and standards applicable in this area appropriately allow great deference to the decisions made by individual Member candidates in the conduct of political campaigns. These decisions often involve political speech protected under the First Amendment; further, the conduct of campaigns is an essential part of our representative democracy. Nevertheless, federal laws and House Rules do impose some restrictions on the use of campaign funds by Member candidates. Clause 6 of the Code of Conduct of the House of Representatives, Rule XLIII at the time of the conduct at issue, provided, in pertinent part, that a "Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and *verifiable* campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes." (Emphasis added.) Thus, while, as noted in the *House Ethics Manual*, at 271, Members generally have wide discretion as to what constitutes a bona fide political purpose, they may not convert campaign funds to personal uses exceeding reimbursement for campaign expenditures that are not only legitimate, but that are also capable of being verified as such.

The Committee has found nothing in your views submitted in response to the Investigative Subcommittee's Report that gainsays the Subcommittee's underlying factual findings in this area, that

is, that between January 1993 and December 1998, you and/or representatives of your campaign committee used campaign funds to pay for disbursements, described as "political meetings" or with related terms, on more than 675 occasions, totaling approximately $300,000. In addition, the Investigative Subcommittee determined that during the period in question you and/or representatives of your campaign committee used approximately $400,000 in campaign funds to pay for private chartered airplane flights for transportation. We have also found no support in the record before us for your claim that the Investigative Subcommittee faulted you for failing to maintain "detailed documentation regarding each political expense" by your campaign committee during the years in question. First, far from applying a requirement of "detailed" documentation, the Subcommittee noted that your campaign committee did not make "*even the most minimal effort* to document or verify that the expenditures were related to legitimate campaign activity. . . ." (Emphasis added.) Second, as the Subcommittee's report makes clear, this clause of the Statement of Alleged Violation is based only on the expenditures by your campaign committee "for meals designated as 'political meetings' and for transportation on chartered airplane flights," not for any other political or transportation expenses incurred by your campaign committee during the period at issue. The Subcommittee deferred to your judgment regarding other disbursements made by your campaign committee.

The Committee determined that through your campaign committee you engaged in significant misconduct by failing to keep records adequate to verify the legitimacy of an extraordinarily high number and dollar amount of expenditures for certain "political meetings" and/or "political meetings and meals" and for certain chartered airplane flights. Reasonable people—members of the public and Members of the House alike—reviewing the hundreds of thousands of dollars spent by your campaign in expensive restaurants and on chartered air travel, might well ask whether such expenditures were for personal purposes rather than for bona fide campaign purposes. The Subcommittee clearly and forthrightly states in its Report that the evidence before it did not meet the burden of proof—that is, substantial reason to believe—that these campaign funds actually were converted to personal use (thus proving false the claim in your Views that the Subcommittee has unfairly shifted the burden of proof on this issue to you). However, and just as clearly in our view, in admitting to the Statement of Alleged Violation in this matter you admitted that the reasonable questions raised about your campaign's expenditures may and should be ascribed to your failure to properly verify the campaign purposes of these expenditures.

As we have stated, the Committee has adopted the Report of the Investigative Subcommittee in this matter. The Committee has also, of course, given full consideration to the Views submitted by you in response to the Subcommittee's Report. Those Views call for more direct attention and discussion.

The Committee finds the Views submitted by you, through your counsel, to be rife with patently inaccurate and misleading statements of the applicable laws, rules, standards of conduct and Committee guidance. For example, the discussion of 18 U.S.C. § 207 in

your response cites to a regulation of the Office of Government Ethics (5 CFR § 2637.204(d)) which was superceded in 1991 and which interprets § 207(c) of the statute not as it was worded at the time of your conduct in this matter but as it was worded before 1991; the differences in wording are significant and material and your discussion is, as a result, grossly misleading. You also cite an "*11/5/96 OGE Letter*" which interprets subsection *(a)* of § 207, not subsection *(e),* the subsection discussed by the Investigative Subcommittee. Even a cursory reading of the OGE letter you cite, together with a reasonably attentive reading of the law, would show that the letter cited simply does not apply to the concerns raised by your and Ms. Eppard's conduct. You invoke the untimeliness of an October 1998 Memorandum issued by the Committee on post-employment concerns, yet fail to note that substantially and materially similar guidance appears in the *House Ethics Manual,* published in 1992, well before Ms. Eppard left her position in your office. You attempt to confuse the entirely irrelevant standards set forth in the Lobbying Disclosure Act with the relevant standards, discussed in the Subcommittee's Report, applicable in situations raising concerns as to potential post-employment conflicts of interest.

You incorrectly assert in your response that there is no clearly phrased prohibition against congressional employees performing campaign work in a congressional office. We refer you again to the *Ethics Manual,* 1992, at 216, which contains the following clear and straightforward language: "Anything supported with official funds is an official resource, including congressional offices. * * * [A]s is true of all official resources, congressional offices may not be used for the conduct of campaign activity." In the testimony of witnesses, cited in the Investigative Subcommittee's Report, as well as in your response, it was asserted that your congressional employees took so-called "administrative leave" to work on your political campaigns. Upon inquiry the Subcommittee discovered that in your office the term "administrative leave" simply described the situation where employees working on your campaign nonetheless received full pay from your congressional office. This political work by your congressional employees occurred both outside of the premises of the House of Representatives and within the House itself. Despite the attempt to do so in your Views, unacceptable conduct cannot be made acceptable simply by labeling it as such.

Lastly, as to this portion of the Statement of Alleged Violation, your assertion that it is "unfair" to hold you responsible for the activities of your employees as set forth in the Statement of Alleged Violations simply ignores the following plain statement in the *Ethics Manual,* at 320 and citing to two Committee reports: a "Member is responsible for assuring that his or her employees are aware of and adhere to these and other rules, and for assuring that resources provided for support of official duties are applied to the proper purposes."

Your response also contains irrelevant or misleading discussions of other matters investigated and/or reported upon by the Committee in the past. The absence of specific mention in this letter of those discussions, or of the many other distortions of the findings of the Investigative Subcommittee or of the other incorrect state-

ments about applicable standards which fill your Views, should not be taken in any way as a sign of this Committee's agreement. Indeed, the Committee here cautions all other Members, Officers and employees of the House that they should not look to your Views in any way for guidance as to the standards applicable to their conduct. Members, Officers and employees should turn to the Office of Advice and Education of this Committee for accurate and authorized guidance.

The Committee is disturbed not only by the content of your response but by its tone. It is one of blame-shifting about and trivializing of misconduct to which you have admitted and which this Committee does not and can not characterize as *de minimis* or technical, either in whole or in part. You committed substantial violations. That the Committee has decided, nonetheless, to accept the Investigative Subcommittee's recommendation and resolve this matter by imposition of the sanction of a Letter of Reproval is due in part to the Committee's respect for the thorough, fair and thoughtful work done by the Investigative Subcommittee. The Committee believes that the House of Representatives and the public are best served by the repudiation of your conduct and that this Letter of Reproval accomplishes that goal efficiently. Further, you have agreed that your misconduct did not reflect creditably on the House of Representatives.

A Letter of Reproval is a Committee imposed sanction. Unlike a reprimand, or other more severe sanction, a vote of the entire House of Representatives is not required for a Letter of Reproval to be imposed and published. You should understand, however, that the Investigative Subcommittee was accurate when, in its Report, it stated: "[I]t should be emphasized that a Letter of Reproval itself is intended to be a rebuke of a Member's conduct issued by a body of that Member's peers acting, as the Committee on Standards of Official Conduct, on behalf of the House of Representatives."

In our free and democratic system of republican government, it is vital that citizens feel confidence in the integrity of the legislative institutions that make the laws that govern America. Ultimately, individual Members of Congress can undermine respect for the institutions of our government when they engage in official misconduct. You have engaged in serious official misconduct through the violations to which you have admitted under penalty of perjury. Those violations cause this Committee formally and publicly to reprove you for conduct that reflected discredit on the House of Representatives and violated former House Rule 43, Clause 1.

Sincerely,

LAMAR SMITH,
Chairman.
HOWARD L. BERMAN,
Ranking Minority Member.

○