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IN THE MATTER OF ALLEGATIONS RELATING TO REPRESENTATIVE GREGORY MEEKS

REPORT

OF THE

COMMITTEE ON ETHICS

DECEMBER 20, 2012.—Referred to the House Calendar and ordered to be printed

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LETTER OF SUBMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ETHICS,
Washington, DC, December 20, 2012.

Hon. KAREN L. HAAS,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. HAAS: Pursuant to clauses 3(a)(2) and 3(b) of Rule XI of the Rules of the House of Representatives, we herewith transmit the attached Report, "In the Matter of Allegations Relating to Representative Gregory Meeks."

Sincerely,

JO BONNER,
Chairman.

LINDA T. SÁNCHEZ,
Ranking Member.

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Mr. BONNER, from the Committee on Ethics, submitted the following

R E P O R T

I. INTRODUCTION

On May 18, 2011, the Office of Congressional Ethics (OCE) submitted a Report and Findings to the Committee on Ethics (Committee) regarding a $40,000 loan that Representative Meeks received from Edul Ahmad (Ahmad loan) and a separate $59,650 loan that Representative Meeks obtained from a private investment firm (investment firm loan), which Representative Meeks used to repay the Ahmad loan with interest.[1] In its Report and Findings, OCE recommended that the Committee dismiss the allegations regarding the investment firm loan because it had all the "normal indicia of a legitimate loan," and was thus not an improper gift that would violate the House gift rule. However, OCE recommended further review of the allegations that the Ahmad loan was and should have been disclosed as a gift on Representative Meeks' Financial Disclosure Statements for 2007, 2008, and 2009. OCE's Report and Findings did not address whether Representative Meeks violated the House gift rule by accepting the alleged "gift" from Mr. Ahmad.[2]

On August 1, 2011, the Committee voted to dismiss the allegation regarding the investment firm loan. At that time, the Committee indicated that it had "accepted the OCE's recommendation for further review of an allegation that Representative Meeks failed

[1] *See* Office of Congressional Ethics, Report and Findings regarding Representative Gregory Meeks, Review No. 11–1048 (Report and Findings).

[2] *See id.* at n. 58 ("The Board reiterates that, due to its lack of jurisdiction, it does not find a substantial reason to believe that Representative Meeks violated House gift rules in 2007 by accepting the $40,000, which is a separate and distinct violation from financial disclosure requirements.") (emphasis in original.)

to disclose a payment he received in 2007 in a timely manner" and was "continuing to review that allegation pursuant to Committee Rule 18(a)."[3] This Report summarizes the Committee's resolution of the allegations regarding the Ahmad loan that OCE referred to the Committee for further review.

II. HOUSE RULES, LAWS, REGULATIONS, AND OTHER STANDARDS OF CONDUCT

House Rule XXVI, clause 2 provides that Title I of the Ethics in Government Act (EIGA) of 1978 "shall be considered Rules of the House as they pertain to Members, Delegates, the Resident Commissioner, officers, and employees of the House." The EIGA, codified at 5 U.S.C. app. 4 § 101 *et. seq*., provides that Members, officers, and certain staff of the House are required to file an annual Financial Disclosure Statement and to make a "full and complete" statement with respect to several categories relating to their financial status, including certain liabilities over $10,000 and all gifts from a single source in a calendar year that are valued at more than $335. House Rule XXV, clause 5(a)(3)(R)(v), states that Members may not accept gifts, except that they may accept benefits "in the form of loans from banks and other financial institutions on terms generally available to the public." Finally, House Rule XXIII, clause 1, requires that Members and staff "behave at all times in a manner that reflects creditably on the House."

III. ANALYSIS

A. Allegation that Representative Meeks Failed to Disclose the Ahmad Loan as a Gift on His Financial Disclosure Statements

Representative Meeks' original 2007, 2008, and 2009 Financial Disclosure Statements did not disclose the Ahmad loan as a gift to Representative Meeks. Representative Meeks did disclose the Ahmad loan as a liability, for the first time, on his 2009 Financial Disclosure Statement. On June 18, 2010, Representative Meeks filed amendments to his 2007 and 2008 Financial Disclosure Statements, disclosing the Ahmad loan as a liability on those statements as well.

Representative Meeks has admitted that he failed to disclose the Ahmad loan, as either a liability or a gift, on his 2007 and 2008 Financial Disclosure Statements. Representative Meeks has asserted that his failure to report the Ahmad loan as a liability was inadvertent and "in good faith," and stated that he promptly corrected the error when he discovered it.[4]

In a June 24, 2010, email to Committee staff, Representative Meeks' Chief of Staff (COS) stated that Representative Meeks' failure to disclose the Ahmad loan on his Financial Disclosure Statements was a "good faith oversight[] that [was] not identified until very recently" and that the loan was reported "as soon as practicable upon discovery." The COS added that Representative

[3] Statement of the Chairman and Ranking Member Regarding Representative Gregory Meeks, Aug. 5, 2011.

[4] Letter from Representative Meeks to Chairman Bonner and Ranking Member Sánchez, Sept. 9, 2011, at 6–7.

Meeks, who has been a Member since 1998, had no reportable liabilities until 2007, and "until recently thought of [financial disclosures] as an asset reporting tool." The COS expressed that Representative Meeks "sincerely regret[ted] these oversights." The COS further indicated that Representative Meeks "conducted a thorough review of all the financial disclosure statutes, rules and guidance offered in the House Ethics Manual, including appendices, to ensure future compliance."

The Committee's investigation confirmed that Representative Meeks failed to disclose the Ahmad loan as a liability on his 2007 and 2008 Financial Disclosure Statements. Thus, even assuming that the Ahmad loan was, in fact, a loan and not a gift, Representative Meeks was not in compliance with EIGA and House Rule XXVI, clause 2, which incorporated EIGA into the House Rules.[5] However, as discussed in Section IV, the Committee found that Representative Meeks' non-compliance with EIGA and House Rule XXVI, clause 2, was inadvertent and in good faith.

B. Allegation That the Ahmad Loan Constituted an Impermissible Gift

In January 2007, Representative Meeks obtained a $40,000 loan from Mr. Ahmad, a businessman based in Representative Meeks' congressional district.[6] Mr. Ahmad is the CEO of the Ahmad Group, a company made up of an assortment of businesses mostly related to the real estate industry, including a real estate agency, a mortgage brokerage, and an importer and supplier of building materials. Mr. Ahmad has been described as a friend of Representative Meeks.

On July 8, 2010, the New York Daily News, citing two anonymous sources, reported that Representative Meeks obtained the Ahmad loan without any "discussion about interest rates, due dates or collateral requirements for the loan."[7] In the press report, Representative Meeks denied this account, and stated that the "loan carried an annual interest rate of 12.5%, and was due within 10 years."[8] He also said that there were documents for the loan, but he did not have them on hand.[9] On June 19, 2010, Representative Meeks reportedly sent a check for $59,684 to Mr. Ahmad to "repay the original loan with an annual interest rate of about 12.5%."[10]

While Members are not prohibited from obtaining a loan from a friend or any other non-financial institution, to be permissible such loans must satisfy certain criteria as set out in the House Ethics Manual (Ethics Manual). Specifically, the Ethics Manual states that Members "may accept a loan from a person other than a financial institution, provided that the loan is on commercially reasonable terms, including requirements for repayment and a reasonable

[5] Of course, if the $40,000 from Mr. Ahmad was actually a gift, Representative Meeks did not comply with EIGA and House Rule XXVI, clause 2, by failing to report the gift on his 2007, 2008, and 2009 Financial Disclosure Statements. However, as Section III discusses, the Committee did not conclude that the Ahmad loan was actually a gift.

[6] Letter from Representative Meeks to Chairman Bonner and Ranking Member Sánchez, Sept. 9, 2011, at 2.

[7] Greg B. Smith, FBI Looks Into Secret $40,000 Personal Loan to Queens Pol Gregory Meeks, N.Y. Daily News, July 8, 2010.

[8] *Id.*

[9] *Id.*

[10] Report and Findings at 11.

rate of interest."[11] Committee precedent holds that other "normal indicia of a loan" include "a written loan agreement or note [and a] maturity date."[12]

The Ethics Manual cautions Members that the determination "[w]hether a loan from a person other than a financial institution is on terms that are 'commercially reasonable,' and hence acceptable under the Committee's determination, will depend on a number of facts and circumstances. Thus, before entering into a loan arrangement with a person other than a financial institution, Members and staff should contact the Committee for a review of the proposed terms."[13] Representative Meeks did not request such a determination from the Committee before accepting the Ahmad loan. Thus, if the Ahmad loan was not provided on "commercially reasonable terms," then Representative Meeks may have violated House Rule XXV, clause 5(a)(3)(R)(v), which states that Members may not accept gifts, except that they may accept benefits "in the form of loans from banks and other financial institutions on terms generally available to the public."[14]

Representative Meeks has represented to the Committee that he obtained a personal loan in the amount of $40,000 from Mr. Ahmad on January 29, 2007.[15] According to Representative Meeks, "the loan was an unsecured balloon loan to be paid, with interest, within 10 years" and "the loan was recorded on a form loan agreement."[16] Representative Meeks further informed the Committee that he "tried to locate the agreement but could not, and believes it is lost."[17] Representative Meeks stated that when he elected to repay the loan, which he did on June 19, 2010, he was thus required to estimate the interest due.[18] Representative Meeks stated that he ultimately paid an interest rate of 12.5%, compounded annually, which Representative Meeks' representatives had determined was the market rate for an unsecured loan in the 2007–2010 timeframe.[19]

Committee staff questioned Representative Meeks' COS about the Ahmad loan on two occasions. In June 2010, the COS indicated that the COS would produce the loan agreement to the Committee, but then informed Committee staff that, after consulting with Representative Meeks, a copy of the loan document could not be found. The COS further advised Committee staff to contact Mr. Ahmad directly in order to obtain it. In November 2011, the COS told Committee staff that, after initially being told by Representative Meeks that a written copy of the loan existed, Representative Meeks informed the COS that he could not find it. The COS stated that Representative Meeks said the contract was a standard document that Representative Meeks had purchased at a store and that he was very angry at himself for having lost it.

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[11] House Ethics Manual (2008) at 68.

[12] In the Matter of Representative Charles H. Wilson, H. Rep. No. 96–930, 96th Congress 2d Sess. 4 (1980).

[13] House Ethics Manual at 69 (emphasis in original).

[14] House Rule XXV, clause 5(a)(3)(A), clarifies that Members may accept "[a]nything for which the Member . . . pays the market value . . ."

[15] Letter from Representative Meeks to Chairman Bonner and Ranking Member Sánchez, Sept. 9, 2011, at 2.

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.*

The Committee staff has not been able to interview Mr. Ahmad. This is because Mr. Ahmad currently has a federal criminal case pending against him for conspiracy to commit bank and wire fraud and Mr. Ahmad's attorney has informed Committee staff that Mr. Ahmad would decline any request for a voluntary interview with the Committee, and, if subpoenaed, Mr. Ahmad would invoke his Fifth Amendment rights unless the Committee gave him immunity from criminal prosecution.[20] Although Committee staff has not spoken with Mr. Ahmad, Committee staff did talk with Mr. Ahmad's attorney on October 6, 2010, and again in August 2012. In October 2010, the attorney told the Committee staff that "the facts are the facts" and that "there was no loan document signed by Representative Meeks and there was no fixed interest rate." In August 2012, staff followed up with the attorney to determine if there was any documentary evidence to corroborate these statements. The attorney informed Committee staff that, to his knowledge, there are no such documents.

IV. FINDINGS AND CONCLUSION

As discussed in Section III.A, even assuming that the Ahmad loan was, in fact, a loan and not a gift, Representative Meeks did not disclose the loan as a liability on his 2007 and 2008, Financial Disclosure Statements, and thus did not comply with EIGA and House Rule XXVI, clause 2, which incorporated EIGA into the House Rules. In analyzing Representative Meeks' omission, it is important to recognize that inadvertent errors on Financial Disclosure Statements are "not uncommon," as the Committee noted in a recent report:

> [B]etween 30% and 50% of all Financial Disclosure Statements reviewed by the Committee each year contain errors or require a corrected statement. For over 95% of these inaccurate Financial Disclosure Statements, the filer appears to be unaware of the errors until they are notified by the Committee. Some filers also appear to become aware of errors after being notified by members of the media or outside groups who review the statements and other public records. Generally, unless there is some evidence that errors or omissions are knowing or willful, or appear to be significantly related to other potential violations, the Committee notifies the filer of the error and requires that he or she submit an amendment, which is then publicly filed. Once the amendment is properly submitted, the Committee takes no further action.[21]

Representative Meeks has stated that he made a good faith effort to comply with the financial disclosure requirements and that his failure to disclose the Ahmad loan as a liability on his Financial Disclosure Statements was the result of an inadvertent oversight. If the Committee had identified evidence sufficient to establish that the Ahmad loan was actually an impermissible gift, then the Committee could have inferred that Representative Meeks' failure to

[20] Mr. Ahmad was arrested on June 22, 2011, and indicted on August 18, 2011. On September 22, 2011, the Department of Justice asked the Committee to refrain from contacting Mr. Ahmad.

[21] House Comm. on Ethics, In the Matter of Allegations Relating to Representative Vernon G. Buchanan, H. Rpt. 112–588, 112th Congress, 2d Session, 2012, at 5.

disclose the gift was knowing or willful. The Committee cautions that each Member is responsible for filing timely and accurate Financial Disclosure Statements, and proper disclosure is necessary to be in compliance with House Rules and federal law. However, as discussed below, the Committee determined that the evidence did not establish that the Ahmad loan was an impermissible gift. Further, there is no evidence that Representative Meeks' failure to disclose the Ahmad loan as a liability on his Financial Disclosure Statements was in bad faith or was knowing or willful. The Committee's practice in such cases is to notify a Member of the identified errors on their Financial Disclosure Statements and require them to publicly amend their Statements. In this case, Representative Meeks has already publicly amended his Financial Disclosure Statements to properly disclose the Ahmad loan. Therefore, the Committee concludes that no further action is necessary with respect to Representative Meeks' failure to disclose the Ahmad loan, and considers the investigation of this allegation closed.

The record is less clear with respect to the allegation that the Ahmad loan was an impermissible gift. As discussed in Section III.B, Committee staff has not been able to interview Mr. Ahmad. However, Representative Meeks has consistently represented to the Committee, to his COS, and to the Managing Member of the investment firm that provided the loan used to satisfy the Ahmad loan, that the loan was memorialized in writing and had a set repayment schedule and rate of interest. Representative Meeks has asserted that he cannot produce the loan document now because he has misplaced it. Thus, even if the Committee was able to interview Mr. Ahmad, and Mr. Ahmad contradicted Representative Meeks' version of events regarding the Ahmad loan, the Committee would be left with a "swearing contest" between a Member and a person who has pled guilty to conspiracy to commit bank and wire fraud, and is awaiting sentencing. Unless Mr. Ahmad was able to provide some documentary evidence indicating that the payment to Representative Meeks was not a loan—or that it did not have the standard indicia of commercial reasonability, such as written terms and a commercially reasonable rate of interest—it would be unreasonable for the Committee to conclude, on the basis of his testimony alone, that Representative Meeks was lying to the Committee.

Given this situation, and in light of the representations from Mr. Ahmad's attorney that Mr. Ahmad has no documents to support the allegation that the loan had no written terms or set interest rate, and that Mr. Ahmad would assert his Fifth Amendment rights if the Committee issued a subpoena for his testimony, the Committee has decided to close its investigation regarding the allegation that Representative Meeks received an improper gift from Mr. Ahmad.

V. STATEMENT UNDER RULE XIII, CLAUSE 3(c) OF THE RULES OF THE HOUSE OF REPRESENTATIVES

The Committee made no special oversight findings in this Report. No budget statement is submitted. No funding is authorized by any measure in this Report. No oversight findings are considered pertinent.

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