AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Union Calendar No. 500

107TH CONGRESS *2d Session*	HOUSE OF REPRESENTATIVES	REPORT 107–799

SUMMARY OF ACTIVITIES ONE HUNDRED SEVENTH CONGRESS

A REPORT

OF THE

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT HOUSE OF REPRESENTATIVES

JANUARY 2, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE

19–006 WASHINGTON : 2003

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

JOEL HEFLEY, Colorado, *Chairman*

DOC HASTINGS, Washington
JUDY BIGGERT, Illinois
KENNY C. HULSHOF, Missouri
STEPHEN C. LATOURETTE, Ohio

HOWARD L. BERMAN, California, *Ranking Minority Member*
ED PASTOR, Arizona
ZOE LOFGREN, California
STEPHANIE TUBBS JONES, Ohio
GENE GREEN, Texas

ROBERT L. WALKER, *Chief Counsel/Staff Director*
VIRGINIA H. JOHNSON, *Counsel to the Chairman*
BARI L. SCHWARTZ, *Counsel to the Ranking Minority Member*
JOHN E. VARGO, *Director, Office of Advice and Education*
CAROL E. DIXON, *Counsel*
KENNETH E. KELLNER, *Counsel*
PAUL M. LEWIS, *Counsel*
BERNADETTE C. SARGEANT, *Counsel*
JOHN SASSAMAN, Jr., *Counsel*
REED D. SLACK, *Counsel*
PRESTON JOHNSON, *Staff Assistant*
CHRISTINE A. STEVENS, *Systems Administrator*
JOANNE WHITE, *Administrative Assistant*

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, January 2, 2003.

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 107th Congress.

Sincerely,

JOEL HEFLEY,
Chairman.
HOWARD L. BERMAN,
Ranking Minority Member.

CONTENTS

	Page
I. Introduction	1
II. Advice and Education	5
Publications	6
Briefings	8
Advisory Opinion Letters	8
III. Financial Disclosure, Foreign Gifts and Decorations, and Travel Disclosure	8
IV. Committee Rules	10
V. Investigations	10
Representative Earl F. Hilliard	11
Representative James A. Traficant, Jr.	14
Appendix I	21
Appendix II	28

Union Calendar No. 500

107TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 107–799

SUMMARY OF ACTIVITIES—ONE HUNDRED SEVENTH CONGRESS

JANUARY 2, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HEFLEY from the Committee on Standards of Official Conduct, submitted the following

R E P O R T

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 XXV, 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

19–006

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

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 XXIII.

(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 XXV, 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.

In addition, a number of provisions of statutory law confer authority on the Committee. Specifically, for purposes of the statutes on gifts to Federal employees (5 U.S.C. § 7353) and gifts to superiors (5 U.S.C. § 7351), both the Committee and the House of Representatives are the "supervising ethics office" of House Members, officers and employees. In addition, as discussed further in Part III below, for House Members and staff, the Committee is both the "supervising ethics office" with regard to financial disclosure and the "employing agency" for certain purposes under the Foreign Gifts and Decorations Act. Finally, the outside employment and earned income limitations are administered by the Committee with respect to House Members and staff (5 U.S.C. app. 4 § 503(1)(A)).

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 and employees on the laws, rules and other standards of conduct applicable to them in their official capacities, including the interpretations and advisory opinions issued by the Committee;
- Drafting 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;

- Drafting 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.

The duties of the Office of Advice and Education are also addressed in Committee Rule 3, and in addition that rule sets out requirements and procedures for this issuance of Committee advisory opinions.

As an inducement to Members and staff to seek Committee advice whenever they have any uncertainty on the applicable laws, rules or standards, statutory law (2 U.S.C. § 29d(i)(4)) 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.

A further inducement for Members and staff to seek Committee guidance is that under Committee Rule 3(i), the Committee will keep confidential any request for advice from a Member, officer or employee, as well as any response to such a request. In addition, it is the Committee's understanding 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 a broad, active program for advice and education is 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 107th Congress are set forth below. In addition, on practically a daily basis Committee staff attorneys provided informal advice in response to inquiries received from Members, staff persons and others in telephone calls and e-mails directed to the Committee office, and in meetings.

Publications

In December 2001 the Committee issued a major publication, *Laws, Rules and Standards of Conduct on Campaign Activity,* which provides a current statement of the authorities applicable to House Members and staff when they engage in campaign or political activity. The booklet superceded the chapter of the 1992 *House Ethics Manual* on campaign activity (Chapter 8), as well as the advisory memoranda on campaign activity that the Committee had issued since 1992. In April 2000 the Committee had issued a similar booklet on the rules on gifts and travel.

On subjects other than campaign activity, and gifts and travel, the major Committee publications are the 1992 Manual and advisory memoranda that update and expand upon the Manual. The following advisory opinions were issued during the 107th Congress:

- Salary Levels at which the Outside Earned Income Limitation, the Outside Employment Limitations, the Financial Dis-

closure Requirement, and the Post- Employment Restrictions Apply for Calendar Year 2001 (January 31, 2001),

• Prohibition Against Private Subsidy of Conferences, Meetings and Other Events Sponsored by a House Office (September 28, 2001),

• Classified Information Oath (October 12, 2001),

• Olympics Tickets Under the Gift Rule (December 20, 2001),

• Salary Levels at which the Outside Earned Income Limitation, the Outside Employment Limitations, the Financial Disclosure Requirement, and the Post-Employment Restrictions Apply for Calendar Year 2002 (January 24, 2002),

• Member Office Activities in Areas Added by Redistricting (February 15, 2002),

• Member Use of Campaign Funds to Pay Food and Beverage Expenses at Events Sponsored by Their Office and Other Official House Events (May 8, 2002),

• Applicability of the Financial Disclosure Reporting Requirement, the Outside Employment and Earned Income Restrictions, and the Post-Employment Restrictions to House Employees (October 2, 2002),

• Gift Rule Provisions on Meals, Entertainment and Recreational Activities from Lobbyists (November 14, 2002),

• Post-Employment and Related Restrictions for Members and Officers (November 25, 2002), and

• Post-Employment and Related Restrictions for Staff (November 25, 2002).

In addition, the Chairman and Ranking Minority Member of the Standards Committee joined the Chairman and Ranking Minority Member of the House Administration Committee in issuing a joint Dear Colleague letter of May 24, 2001 on the use of official resources in connection with activities relating to congressional redistricting.

The advisory memorandum of May 8, 2002 announced the establishment of a new policy under which Members are allowed to use funds of their principal campaign committee to pay food and beverage expenses at official House events, including, for example, their town hall meetings and similar events for constituents, and meetings of congressional caucuses. This change was a significant one, in that up to then, the Committee had administered the pertinent House Rules in a manner that strictly prohibited the use of campaign funds to pay congressionally related expenses. At the same time that the Committee approved that change, it also proposed amending statutory law and the House Rules so as to grant Members certain additional, albeit limited, authority to use funds of their principal campaign committee to pay congressionally related expenses. That proposal was not enacted during the 107th Congress.

The two memoranda on the post-employment restrictions issued November 25, 2002 supercede similar memoranda that the Committee had issued on October 22, 1998.

In addition to the campaign activity booklet and the advisory memoranda listed above, the Committee issued updated versions of its summary memorandum, *Highlights of the House Ethics Rules,* in January 2001 and February 2002.

Briefings

As part of its outreach and educational efforts during the 107th Congress, the Committee conducted numerous briefings for House Members and staff on the ethics rules. These included briefings to which all House Members and staff were invited, as well as briefings for individual Member, committee and other House offices. Committee staff also participated in briefings sponsored by the Congressional Research Service for district office staff members and in briefings sponsored by outside organizations, and the Committee had an information booth at the annual House Services Fair held by the CAO.

In addition to briefings on financial disclosure (discussed further in the next section), Committee staff held five briefings during 2002 that were open to all House Members, officers and employees. Three of those briefings, held February 26th, April 16th, and October 15th, provided a general overview of the ethics rules. The other two briefings, held March 21st and September 24th, were focused on the rules applicable to campaign activity. The Committee will continue this outreach activity in the 108th Congress.

The Committee also made a presentation to the Members-elect of the 108th Congress as part of the New Member Orientation. Copies of the *Highlights of the House Ethics Rules* memorandum and a memorandum noting points of particular interest to Members-elect were provided to each new Member as part of the orientation process, and each was offered an individual briefing for the Member and his or her staff.

Staff also received numerous requests for briefings from visiting international dignitaries. Visitors from Great Britain and from countries in Eastern Europe, Africa and Asia were particularly interested in the House ethics rules and procedures.

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 700 private advisory opinions during the 107th Congress. Opinions issued by the Committee in the 107th 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 and employment limitations, 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 (§§ 101–111), requires certain officials in all branches of the Federal Government, as well as candidates for Federal office, to file publicly available statements that set out financial information regarding themselves and their families. On May 15th of each year, the covered officials are required to file a statement that provides information for the preceding calendar year.

The Act designates the Committee as the "supervising ethics office" of House Members, officers and employees for purposes of fi-

nancial disclosure and provides that the Committee is to administer the Act with regard to those officials. 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.

Each year the Committee publishes a detailed instruction booklet that is sent to each person required to file with the Clerk of the House. Prior to the May 15th filing date, the Committee also provides briefings on the financial disclosure requirements that are open to all Members, officers and employees, as well as a briefing for Members only. In addition, Committee staff members are available to respond to questions on financial disclosure, and the Committee encourages Members and staff to submit statements in draft form to staff for review prior to filing with the Clerk, in order to reduce errors and the need for amendments.

In calendar years 2001 and 2002, the Legislative Resource Center referred a total of 5,143 financial disclosure statements to the Committee for review under the statute, including statements of candidates for the House. Where the Committee review indicates that a filed statement has a deficiency, such as a failure to include required information, the Committee requests an amendment from the filer. The Committee also follows up with any filer whose statement indicates non-compliance with applicable law, such as the outside employment and earned income limitations. Where the Committee finds that a Member or staff person has received income in violation of any of these limitations, the Committee determines the appropriate remedy for the violation, which may include a requirement that the individual repay the amount that was improperly received.

Pursuant to its responsibilities under 5 U.S.C. §7342, the Committee also continued its activities in 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 regulations that the Committee has issued under the Act are published in the Committee's *Gifts & Travel* booklet. 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. Where a violation of the gift rule is found, the Committee determines the appropriate remedy, which will usually include a requirement that the individual pay the full value of the improper gift with personal funds.

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 XXV, cl. 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 March 14, 2001, the Committee adopted the Committee Rules for the 107th Congress. These rules were substantially identical to the Committee Rules in effect for the 106th Congress, with two amendments. In the Committee Rules adopted for the 107th Congress a new clause (c) was added to Committee Rule 8—on "Subcommittees-General Policy and Structure"—which new clause provided that "the Chairman and Ranking Minority Member of the Committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to information before a subcommittee with whom they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee"; former clauses (c) through (e) of this rule were renumbered accordingly. This amendment to Committee Rule 8 was consistent with authorizing language in sec. 3(a), H. Res. 5, Jan. 3, 2001.

In its rules adopted for the 107th Congress the Committee also added language to Committee Rule 15—on "Committee Authority to Investigate-General Policy"—stating the Committee's authority to investigate "certain unauthorized disclosures of intelligence-related information, pursuant to House Rule X, clauses 11(g)(4) and (g)(5)." Under House Rules the Committee had such authority to investigate in previous congresses. The language was added to Committee Rule 15 in the 107th Congress to note this authority in the Committee Rules.

V. Investigations

At its organizational meeting on March 14, 2001, the Committee voted to carry over into the 107th Congress the formal inquiry regarding Representative Earl F. Hilliard; this matter ultimately resulted in the Committee issuing a Letter of Reproval to Representative Hilliard. In addition to this formal investigation carried over from the 106th Congress, on April 17, 2002, the Committee voted to establish an Investigative Subcommittee regarding Representative James A. Traficant, Jr. This matter was subsequently referred to an Adjudicatory Subcommittee and ultimately to the full House of Representatives, which, by a vote of 420 to 1, with nine Members voting Present, expelled Representative Traficant on July 24, 2002.

In addition to these matters, and as previously disclosed on the public record, on July 13, 2001, the Committee received a letter from Representative Bob Barr requesting that the Committee begin an inquiry regarding Representative Gary Condit. In a July 19, 2001, letter of response, the Chairman and Ranking Minority Member of the Committee, after noting that Representative Barr's letter did not appear to meet the formal requirements of a complaint as set forth in Committee Rules, informed Representative Barr that, pursuant to Committee Rules and to longstanding Committee policy, the determination had been made that it was appropriate for the Committee to defer action on the allegations contained in his letter because, based on public accounts, it appeared that relevant law enforcement entities were reviewing those allegations. The letter of response noted that the determination to defer should not be taken as any indication of the Committee's position on the merit,

or lack thereof, of the allegations contained in Representative Barr's letter. Also as previously disclosed on the public record, the Committee on August 21, 2001, voted to dismiss in full a complaint that had been filed against Representative Steve Buyer by Representative Peter Deutsch on July 16, 2001; the Committee released to the public its August 1, 2001, letter completely dismissing this matter as to all allegations against the Member.

As a general matter, pursuant to Committee Rule 12, unless otherwise disclosed publicly pursuant to authorization by the Committee, the Committee maintains the confidentiality of any information regarding its investigative proceedings, including, but not limited to, the fact or nature of any complaints and any other information or allegation respecting the conduct of a Member, officer or employee.

In the Matter of Representative Earl F. Hilliard

By unanimous vote on June 20, 2001, the Committee on Standards of Official Conduct voted to sanction Representative Earl F. Hilliard 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 Violations consisted of three counts, each setting forth that Representative Hilliard engaged in a pattern and practice of conduct in which he expended funds from his campaign account for purposes not attributable to bona fide campaign or political purposes and converted campaign contributions to personal use in violation of Clause 6 of the Code of Official Conduct, formerly House Rule 43 (now Rule 23); and which conduct 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 23). The Committee, through its Letter of Reproval, notified Representative Hilliard, *inter alia,* that he "engaged in serious official misconduct that brought discredit to the House of Representatives."

On September 22, 1999, the Committee on Standards of Official Conduct voted, in accordance with House Rule XI, 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 F. Hilliard. The Investigative Subcommittee was established to investigate specific matters related to Representative Hilliard that came to the attention of the Committee following publication of certain newspaper reports. Specifically, 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 of 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 1993–1994 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 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 served as Chairman of the Investigative Subcommittee, and Representative Martin Olav Sabo served as its Ranking Minority Member. The other two members of the Subcommittee were Representative Kenny C. Hulshof and Representative James E. Clyburn, who were not members of the Committee on Standards of Official Conduct, but were appointed to the Investigative Subcommittee pursuant to House Rule X, Clause 5(a)(4).

On June 8, 2000, pursuant to Committee Rule 20(c), the Investigative Subcommittee voted unanimously to expand its jurisdiction to encompass the following matters that came to the Investigative Subcommittee's attention during its inquiry:

> Whether Representative Hilliard violated the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities, with respect to:
>
> 1. The use of campaign funds to: (a) pay salaries, wages, or other compensation to Rita Hall (Patterson), Elizabeth Redmond (Turner), and Yolanda Williams during the period of 1992–1996; (b) make loans or other disbursements to the Alabama Film & Entertainment Council in 1993; and (c) make reported expenditures for rent during the period of August through December 1996 in connection with the campaign's use or occupancy of premises in Montgomery, Alabama; and
>
> 2. The financial relationships between, and transactions relating to, American Trust Corporation, American Trust Life Insurance Company, Inc., Representative Hilliard's campaign organization, and the African-American Institute, a non-profit corporation under section 501(c)(3) of the Internal Revenue Code.

On June 14, 2000, the full Committee voted unanimously to expand the Investigative Subcommittee's jurisdiction to include these issues.

During the course of its inquiry, the Investigative Subcommittee approved the issues of approximately 50 subpoenas for documents. In addition to subpoenaed materials, documents were also voluntarily supplied to the Investigative Subcommittee from public sources such as government agencies. More than ten thousand pages of documents were obtained and reviewed by the Investigative Subcommittee in this matter, including thousands of items from banking institutions. During its inquiry, the Investigative Subcommittee also formally deposed 11 individuals regarding the inquiry, resulting in approximately 1454 pages of transcribed testimony. In addition, counsel for the Investigative Subcommittee interviewed or otherwise received information from approximately 85 individuals.

In December 2000, the Investigative Subcommittee and Representative Hilliard reached mutually agreeable settlement terms, which terms were reaffirmed by the parties during the 107th Congress. The Investigative Subcommittee agreed to adopt the Statement of Violation negotiated by the parties conditioned on Representative Hilliard's agreement to admit unconditionally to the

charges contained in the document. Representative Hilliard and the Investigative Subcommittee agreed as part of their settlement that the Investigative Subcommittee would recommend to the full Committee on Standards of Official Conduct that the Committee impose a Letter of Reproval as a sanction against Representative Hilliard. On April 4, 2001, pursuant to the settlement agreement with Representative Hilliard, the Investigative Subcommittee, by unanimous vote, adopted the Statement of Alleged Violation in this matter. The Investigative Subcommittee subsequently received Representative Hilliard's answer, dated April 5, 2001, admitting to the charges contained in the Statement of Alleged Violation. Representative Hilliard waived both an adjudicatory hearing and a sanction hearing in this matter.

The conduct to which Representative Hilliard admitted as set forth in the Statement of Alleged Violation is summarized as follows:

1. During the period April 1993 to March 1994, Representative Hilliard engaged in a pattern and practice of conduct whereby, at his authorization and instruction, the Hilliard for Congress Campaign (hereafter "HFCC"), the political committee authorized by him to receive contributions or make expenditures on his behalf, made loans totaling more than $16,000 to three individuals for purposes not attributable to any bona fide campaign or political purpose.

2. During the period July 1992 to August 1996, Representative Hilliard engaged in a pattern and practice of conduct whereby, with his knowledge, HFCC made expenditures to three individuals for salary and benefits for performing services for corporations owned or controlled by Representative Hilliard and members of his family. In this manner, Representative Hilliard converted campaign funds to personal use in excess of reimbursement for legitimate campaign expenditures and expended campaign funds for a purpose not attributable to bona fide campaign or political purposes.

3. During the period 1993 through 1996, Representative Hilliard engaged in a pattern and practice of conduct in which HFCC funds were converted to personal use by him in excess of reimbursement for legitimate and verifiable campaign expenditures and expended by him for purposes not attributable to bona fide campaign or political purposes. Representative Hilliard's pattern and practice of conduct included (a) causing HFCC to make expenditures totaling $8,000 to pay rent owed pursuant to a lease Representative Hilliard guaranteed for a corporation owned in substantial part by him and members of his family; (b) causing HFCC to make expenditures for rent substantially in excess of fair market value to a Section 501(c)(3) corporation operated and controlled by members of Representative Hilliard's family, which in turn transmitted these funds to a corporation owned and controlled by him and members of his family; (c) causing HFCC to make expenditures for rent substantially in excess of fair market value directly to corporations owned or controlled by Representa-

> tive Hilliard and members of his family; and (d) causing HFCC to make expenditures to pay utility expenses incurred by corporations owned or controlled by Representative Hilliard and members of his family.

By admitting to the Statement of Alleged Violation, Representative Hilliard agreed that with respect to each pattern and practice of conduct separately described above, he violated (1) Clause 6 of the Code of Official Conduct, former Rule 43 (current Rule 23) of the House of Representatives, which 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 the campaign account not attributable to bona fide campaign or political purposes;" and (2) Clause 1 of the Code of Official Conduct, former Rule 43 (current Rule 23) of the House of Representatives, which provided 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."

By unanimous vote on June 20, 2001, the Committee on Standards of Official Conduct adopted the Report of the Investigative Subcommittee in this matter. By unanimous vote on that same date, the Committee also voted to sanction Representative Hilliard by issuing a Letter of Reproval to him in connection with the Statement of Alleged violation to which he admitted. The Committee, through its Letter of Reproval, notified Representative Hilliard that

> In knowing violation of the Code of Official Conduct, you expended funds from your campaign account for purposes not attributable to bona fide campaign or political purposes *and* you converted campaign contributions to personal use. Your improper use and conversion of campaign funds were accomplished through several distinct means and over a period of years. Through this extended conduct, monies contributed to your campaign for your campaign were, instead, put by you to your personal use and benefit and to the use and benefit of members of your family.
>
> You engaged in serious official misconduct that brought discredit to the House of Representatives.

The Report of the Committee on Standards of Official Conduct on this matter was transmitted to the House of Representatives on July 10, 2001. The Report contained the Letter of Reproval, the Statement of Alleged Violation, and the 103 page Report of the Investigative Subcommittee (including two attachments and 101 exhibits) which was adopted by the full Committee. The Investigative Subcommittee's Report included the results of its inquiry regarding conduct by Representative Hilliard that was not charged in the Statement of Alleged Violation. The full text of the Statement of Alleged Violation and the Letter of Reproval in this matter is included in Appendix I to this Summary of Activities.

In the Matter of Representative James A. Traficant, Jr.

By a vote of 420–1, with nine Members voting Present, on July 24, 2002, Representative James A. Traficant, Jr. was expelled from the House of Representatives pursuant to H. Res. 495. This action followed the unanimous vote of the Committee on Standards of Of-

ficial Conduct on July 18, 2002 to recommend that the House of Representatives adopt a resolution that Representative Traficant be expelled. The Committee's recommendation followed an investigative and adjudicatory process that began after Representative Traficant was found guilty by a jury of ten felony offenses on April 11, 2002 in a criminal trial before the United States District Court of the Northern District of Ohio. The outcome of Representative Traficant's criminal trial led to the formation of an Investigative Subcommittee which ultimately adopted a ten count Statement of Alleged Violations charging that Representative Traficant committed multiple violations of the Code of Official Conduct and of the Code of Ethics for Government Service. Subsequently, an Adjudicatory Subcommittee found that each of Counts I through IX of the Statement of Alleged Violations were proven by clear and convincing evidence. In voting to recommend that Representative Traficant be expelled, the Committee concluded that the violations committed by Representative Traficant were of the most serious character and merited the strongest possible congressional response.

On April 17, 2002, in accordance with Clause 3 of House Rule XI, Committee Rule 15 and Committee Rule 19(e), which provides discretion to the Committee to establish an Investigative Subcommittee prior to sentencing when a Member has been convicted of a felony, the Committee on Standards of Official Conduct voted to establish an Investigative Subcommittee to conduct a formal inquiry regarding Representative James A. Traficant, Jr. The Committee gave the Investigative Subcommittee jurisdiction to determine whether Representative Traficant violated the Code of Official Conduct, or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities, with respect to any or all of the matters for which Representative Traficant stood trial in *United States* v. *James A. Traficant, Jr.,* Case No. 4:01CR207 (N.D.Ohio). In that criminal matter, Representative Traficant was found guilty by a jury of ten felony offenses on April 11, 2002.

Representative Doc Hastings served as Chairman of the Investigative Subcommittee, and Representative Zoe Lofgren served as its Ranking Minority Member. The other two members of the Subcommittee were Representative Roger Wicker and Representative John Lewis, who were not members of the Committee on Standards of Official Conduct, but were appointed to the Investigative Subcommittee pursuant to House Rule X, Clause 5(a)(4).

During its inquiry, the Investigative Subcommittee obtained and reviewed a complete certified transcript of Representative Traficant's trial, as well as certified copies of all exhibits admitted into evidence during that trial. The Investigative Subcommittee also obtained and reviewed materials from the U.S. Department of Justice that that department represented were furnished to the government by Representative Traficant in connection with the criminal prosecution.

On May 8, 2002, pursuant to Committee Rule 27(c), the Investigative Subcommittee provided Representative Traficant with a copy of a Statement of Alleged Violations it intended to adopt in this matter. On that date, the Investigative Subcommittee further advised Representative Traficant, *inter alia,* that the copies of cer-

tified transcripts and exhibits it had previously furnished to him constituted all the evidence it intended to use to prove the charges set forth in the Statement of Alleged Violations that the Investigative Subcommittee intended to adopt.

On May 22, 2002, the Investigative Subcommittee unanimously voted to adopt the Statement of Alleged Violations, finding substantial reason to believe that Representative Traficant committed multiple violations of the Code of Official Conduct and of the Code of Ethics for Government Service. Subsequent to this event, Representative Traficant filed a Motion for a Bill of Particulars and a Motion to Dismiss, to each of which the Investigative Subcommittee responded.

On June 27, 2002, pursuant to Rule 23(g) of the Rules of the Committee on Standards of Official Conduct, the Investigative Subcommittee transmitted the Statement of Alleged Violations adopted unanimously by the Investigative Subcommittee in this matter to the full Committee. Also transmitted to the full Committee at this time were the Answer of the Respondent to the Statement of Alleged Violations dated June 27, 2002 (denying the allegations in all ten counts of the Statement of Alleged Violations); the Respondent's Motion for a Bill of Particulars dated June 3, 2002; the Investigative Subcommittee's response to the Motion for a Bill of Particulars dated June 4, 2002 (granting the motion in part and denying the motion in part); the Respondent's Motion to Dismiss dated June 14, 2002; and the Investigative Subcommittee's response to the Motion to Dismiss dated June 17, 2002 (denying the motion).

The Investigative Subcommittee also transmitted to the full Committee the evidence relied upon by the Investigative Subcommittee to prove the charges set forth in the Statement of Alleged Violations, which materials consisted of the certified trial transcript in *United States of America* v. *James A. Traficant, Jr.,* Criminal No. 4:01CR207 (N.D. Ohio) (Eastern Division), and certified copies of exhibits admitted into evidence in that trial. A letter of transmittal, which constituted the Report of the Investigative Subcommittee to the full Committee, also accompanied the aforementioned documents.

Count I of the Statement of Alleged Violations charged that Representative Traficant agreed to and did perform official acts on behalf of Anthony Bucci, Robert Bucci, and companies they controlled, for which Anthony Bucci, Robert Bucci, companies they controlled, and others acting at their request agreed to and did provide Representative Traficant with things of value, including free labor, materials, supplies, or equipment for use at Representative Traficant's farm.

Count II of the Statement of Alleged Violations charged that Representative Traficant agreed to and did perform official acts on behalf of Arthur David Sugar, Sugar's son, and companies Sugar controlled, for which Arthur David Sugar, companies he controlled, and others acting at his request agreed to and did provide Representative Traficant with things of value, including free labor, materials, supplies, or equipment for use at Representative Traficant's farm.

Count III of the Statement of Alleged Violations charged that Representative Traficant agreed to and did perform official acts on behalf of John J. Cafaro, U.S. Aerospace Group, LLC, and/or other

persons or entities affiliated with that entity, for which John J. Cafaro, companies he controlled, and others acting at his request, agreed to and did provide Representative Traficant with things of value.

Counts IV and V of the Statement of Alleged Violations charged Representative Traficant in connection with a course of conduct in which he employed attorney Raymond Allen Sinclair as a member of his congressional district staff, in exchange for Mr. Sinclair's agreement to rent additional office space to Representative Traficant for use as a congressional district office, and to pay Representative Traficant $2,500 per month of his congressional salary.

Count VI of the Statement of Alleged Violations charged that Representative Traficant endeavored to persuade Raymond Allen Sinclair to destroy evidence and to provide false testimony and information to a federal grand jury.

Count VII of the Statement of Alleged Violations charged Representative Traficant with engaging in a course of conduct in which he defrauded the United States of money and property (1) by soliciting and accepting payments from the salaries of congressional employees (including Raymond Allen Sinclair, former administrative assistant Henry DiBlasio, and former district director Charles O'Nesti), which salaries were drawn from the funds of the United States Treasury; (2) by directing members of his congressional staff to perform personal labor and services to maintain and repair Representative Traficant's boat; and (3) by having members of his congressional staff perform personal labor and services at Representative Traficant's farm.

Counts VIII and IX of the Statement of Alleged Violations charged that Representative Traficant filed two false income tax returns with the Internal Revenue Service that failed to report the substantial income accrued to him in connection with the gratuities and/or bribes and salary kickbacks he received and accepted during the calendar years 1998 and 1999.

Count X of the Statement of Alleged Violations charged that Representative Traficant engaged in a continuing pattern and practice of official misconduct, through which he misused his office for personal gain, and which comprised the following instances of conduct, or any combination thereof: the instances of conduct alleged in each of Counts I, II, III, IV, V, and VII of the Statement of Alleged Violations, separately and inclusive; and/or the course of conduct in which Representative Traficant agreed to and did perform official acts on behalf of Bernard "Pete" Bucheit, for which Bucheit and companies he controlled agreed to and did provide Representative Traficant with things of value.

Based on the conduct alleged in the Statement of Alleged violations, Representative Traficant was charged with violating multiple provisions of the Code of Official Conduct (current House Rule 23), as well as a provision of the Code of Ethics for Government Service. With respect to the conduct alleged in each and every one of the ten Counts in the Statement of Alleged Violations, Representative Traficant was charged with violating Clause I of the Code of Official Conduct (current House Rule 23), which provides that "[a] Member of the House shall conduct himself at all times in a manner that shall reflect creditably on the House." With respect to the conduct alleged in each of Counts, I, II, III, IV, V, VI, VII, and X,

Representative Traficant was charged with violating Clause 2 of the Code of Official Conduct (current House Rule 23), which provides that "[a] Member of the House shall adhere to the spirit and letter of the Rules of the House and to the rules of duly constituted committees thereof." With respect to the conduct alleged in each of Counts I, II, III, IV, V, VII, and X, Representative Traficant was charged with violating Clause 3 of the Code of Official Conduct (current House Rule 23), which provides that "[a] Member * * * of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress." Finally, with respect to Counts VI, VIII, IX, and X, Representative Traficant was charged with violating Clause 2 of the Code of Ethics for Government Service, which provides that "[a]ny person in Government service should * * * [u]phold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion."

In its report to the full Committee, the Investigative Subcommittee stated that through his conduct, Representative Traficant violated the letter and spirit of each of the aforementioned standards of conduct, and that in its view, the charges in the Statement of Alleged Violations were of the most serious nature. In its report, the Investigative Subcommittee also noted other violations by Representative Traficant potentially supported by the evidence in the trial record, including apparent violations of clause 5(a)(1)(A) of current House Rule 25 (the "Gift Rule") in connection with Representative Traficant's apparent receipt of gifts in the form of gratuities, and of Clause 2 of current House Rule 26 and Title I of the Ethics in Government Act of 1978, in connection with Representative Traficant's failure to report apparent gifts and other information on his annual financial disclosure statements. For reasons set forth in its report, the Investigative Subcommittee determined not to pursue separate allegations based on the aforementioned apparent Gift Rule and other violations.

On June 27, 2002, after receiving the Statement of Alleged Violations and associated pleadings and responses from the Investigative Subcommittee in this matter, and acting pursuant to Committee Rule 24, the Committee established an Adjudicatory Subcommittee and set July 15, 2002 as the date for the Adjudicatory Subcommittee to convene its public hearing. Pursuant to Committee Rule 24, the members of the Committee on Standards of Official Conduct who did not serve on the Investigative Subcommittee served on the Adjudicatory Subcommittee. Representative Joel Hefley, Chairman of the Committee on Standards of Official Conduct, served as Chairman of the Adjudicatory Subcommittee, and Representative Howard L. Berman, Ranking Minority Member of the Committee, served as Ranking Minority Member of the Adjudicatory Subcommittee. Also serving on the Adjudicatory Subcommittee was Representative Judy Biggert, Representative Ed Pastor, Representative Kenny C. Hulshof, Representative Stephanie Tubbs Jones, Representative Steven C. LaTourette, and Representative Gene Green.

On July 15, 2002, pursuant to Committee Rule 24(c) and consistent with the other Committee and House Rules governing these

proceedings, the Adjudicatory Subcommittee commenced a hearing to determine whether any counts in the Statement of Alleged Violations have been proven by clear and convincing evidence. The adjudicatory hearing continued through July 17, 2002. At the hearing, Committee counsel presented evidence in support of the counts in the Statement of Alleged Violations and Representative Traficant presented evidence in his defense. Committee counsel relied on certified copies of the transcript and exhibits entered into evidence at the trial of *United States* v. *James A. Traficant, Jr.*, Case No. 4:01 CR207 (N.D.Ohio). Representative Traficant entered several exhibits, including affidavits, audiotapes, transcripts and other documentary evidence, into evidence at the hearing. Representative Traficant called four witnesses who testified at the hearing: Linda Kovachik, Sandra Ferrante, Michael Robertson and Richard Detore. Presentation of evidence and argument from Committee counsel and Representative Traficant ended on July 17, 2002.

After the hearing was adjourned, the Adjudicatory Subcommittee began its deliberations in executive session. At the conclusion of several hours of deliberation, the Subcommittee made findings with regard to the counts in the Statement of Alleged Violations, pursuant to the vote requirements of Committee Rule 10. The Adjudicatory Subcommittee found that each of Counts I through IX of the Statement of Alleged Violations were proven by clear and convincing evidence. The Adjudicatory Subcommittee found that Count X was not proven by clear and convincing evidence, and the Adjudicatory Subcommittee dismissed Count X of the Statement of Alleged Violations. Pursuant to Committee Rule 24(p), the Adjudicatory Subcommittee transmitted a report containing its findings to the Committee on Standards of Official Conduct on July 18, 2002, along with all motions, transcripts of evidence, correspondence and other relevant items generated or received by the Subcommittee during the adjudicatory proceedings.

On that same day, the Committee on Standards of Official Conduct held a Sanctions Hearing at which counsel for the Committee and Representative Traficant made oral submissions regarding the sanction the Committee should recommend to the House of Representatives. Following the hearing, the Committee met in executive session to deliberate on what, if any, sanction should be recommended to the House of Representatives, pursuant to Committee Rule 25(c). After carefully considering the report of the Adjudicatory Subcommittee—which was adopted by the Committee—the Committee concluded that the violations committed by Representative Traficant were of the most serious character and merited the strongest possible congressional response. Accordingly, the Committee agreed by a unanimous vote to recommend that the House adopt the following resolution:

HOUSE RESOLUTION

> *Resolved,* That pursuant to Article I, Section 5, Clause 2 of the United States Constitution, Representative Traficant James A. Traficant, Jr., be, and hereby is, expelled from the House of Representatives.

On July 19, 2002, pursuant to Committee Rule 25(h), the Committee transmitted a report to the House of Representatives to ac-

company the resolution. The report contained a summary of the evidence and the reasons for adopting the recommended resolution.

On July 24, 2002, by a vote of 420 to 1, with nine Members voting Present, Representative Traficant was expelled from the House of Representatives pursuant to H. Res. 495.

The full text of the July 18, 2002, Report of the Adjudicatory Subcommittee to the Committee, of the June 27, 2002, Letter of Transmittal from the Investigative Subcommittee to the Committee, and of the May 22, 2002, Statement of Alleged Violations adopted by the Investigative Subcommittee in this matter, are included at Appendix II to this summary of activities.

APPENDIX I

U.S. House of Representatives, Committee on Standards of Official Conduct, In the Matter of Representative Earl F. Hilliard, April 4, 2001—Statement of Alleged Violation

I. SUMMARY OF RELEVANT STANDARDS OF CONDUCT

At all times relevant to the violations hereafter alleged (except as otherwise noted), the pertinent provisions of law and House Rules are summarized as follows: Clause 6 of former House Rule 43 (now House Rule 23) stated, *inter alia,* 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." Clause 1 of former House Rule 43 (now House Rule 23) 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."

II. ALLEGED VIOLATIONS

For each of the following alleged violations, the Investigative Subcommittee has determined 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." See Rule 20(e), Rules of the Committee on Standards of Official Conduct.

At all times relevant to this Statement of Alleged Violation, Earl F. Hilliard was a Member of the United States House of Representatives representing the Seventh District of Alabama. References to the Hilliard for Congress Campaign ("HFCC") refer to the authorized committee of Representative Earl F. Hilliard, i.e. the political committee authorized by Representative Hilliard under 2 U.S.C. § 432(e)(1) to receive contributions or make expenditures on behalf of Representative Hilliard. *See* 2 U.S.C. § 431(6).

Count I: Pattern and Practice of Conduct in Violation of Former House Rule 43, Clause 6 and Former House Rule 43, Clause I

Circumstances Relating to Alleged Violation: Loans of Campaign Funds to Three Individuals.

During the period approximately April 1993 to March of 1994, with the authorization and at the instruction of Representative Hilliard, HFCC made at least nine loans totaling approximately $16,205.04 to three individuals. Approximately $13,205.04 of the

loans was to one individual, and of this amount, $7,452 has not been repaid.

The remaining $3,000 in loans by HFCC were made to two individuals employed in the Congressional District office of Representative Hilliard located in Birmingham, Alabama. Each of the remaining two loan recipients received $1,500. One of the loan recipients fully repaid the $1,500 loan from HFCC. The other loan recipient has repaid only $35 of the $1,500 loan. None of the above-described loans was attributable to any bona fide campaign or political purpose. Although the Investigative Subcommittee received no evidence that Representative Hilliard benefited financially from any of the disbursements in question, each of the loans was for the personal purposes of the recipient and was therefore improper.

Alleged Violation

As described above, with the authorization and at the instruction of Representative Hilliard, HFCC made loans totaling approximately $16,205.04 to three individuals for purposes not attributable to any bona fide campaign or political purpose of Representative Hilliard. In this manner, Representative Hilliard expended campaign funds for purposes not attributable to bona fide campaign or political purposes, in violation of former Rule 43, Clause 6 of the House of Representatives, and through this described patter and practice of conduct, Representative Hilliard acted in a manner which did not reflect creditably on the House of Representatives in violation of former House Rule 43, Clause I.

Count II: Pattern and Practice of Conduct in Violation of Former House Rule 43, Clause 6 and Former House Rule 43, Clause 1

Circumstances Relating to Alleged Violation: Expenditures of Campaign Funds for Wages, Salaries, and or Benefits to Three Individuals for Work Performed for Corporations Owned or Controlled by Representative Earl F. Hilliard and Members of His Family.

From approximately July 1992 until August 1996, with the knowledge of Representative Hilliard, HFCC made expenditures for salary and benefits to three individuals for performing services for corporations owned or controlled by Representative Hilliard and members of his family; while receiving these salary and benefit expenditures these individuals did also perform certain functions for HFCC. One of the three individuals received regular expenditures from HFCC from approximately July 1992 until January 1994. The disbursements to this individual totaled approximately $23,961.67. Another of the three individuals received regular expenditures from HFCC from approximately August 1993 until May 1994. The disbursements to this individual totaled approximately $7,945.12. The third of the three individuals received regular disbursements from HFCC from approximately April 1994 until August 1996. The disbursements to this individual totaled approximately $25,242.30. Including disbursements for health care benefits, HFCC made over $60,000 in disbursements related to these individuals during approximately July 1992 until August 1996.

While paid by HFCC, these three individuals did perform certain functions for HFCC; however, at the same time, these three individuals also routinely performed administrative, secretarial, book-

keeping, and other services for corporations owned or controlled by Representative Hilliard, for which services the payments from HFCC were also intended as compensation. The corporations involved included American Trust Life Insurance Company, American Trust Corporation, and American First Bonding Corporation (also known as American First Bail Bonding Corporation).

Alleged Violation

From approximately July 1992 until August 1996, HFCC made expenditures to three individuals for performing services for corporations owned or controlled by Representative Hilliard and members of his family. In this manner, Representative Hilliard converted campaign funds to personal use in excess of reimbursement for legitimate campaign expenditures and expended campaign funds for a purpose not attributable to bona fide campaign or political purposes, in violation of former Rule 43, Clause 6 of the House of Representatives, and through this described pattern and practice of conduct, Representative Hilliard acted in a manner which did not reflect creditably on the House of Representatives in violation of former House Rule 43, Clause 1.

Count III: Patter and Practice of Conduct in Violation of Former House Rule 43, Clause 6 and Former House Rule 43, Clause 1

Circumstances Relating to Alleged Violation: Expenditures of Campaign Funds Relating To Use and/or Occupancy or Purported Use and/or Occupancy of Office Space by the Campaign.

During approximately 1993 through 1996, Representative Hilliard engaged in a pattern and practice of conduct in which HFCC funds were converted to personal use by Representative Hilliard in excess of reimbursement for legitimate and verifiable campaign expenditures and expended by Representative Hilliard for purposes not attributable to bona fide campaign or political purposes.

First, during September through December 1996, at the direction of Representative Hilliard, HFCC made expenditures of $8,000 of HFCC funds to pay rent for office space in Montgomery, Alabama owed pursuant to a lease Representative Hilliard guaranteed for a private corporation, the American Management and Marketing Corporation, that was owned in substantial part by corporations owned or controlled by Representative Hilliard and his family. While Representative Hilliard stated through counsel that HFCC occupied this office space on a part-time basis and provided to the Investigative Subcommittee copies of brief declarations from two individuals for the purpose of corroborating that statement, there is substantial reason for the Investigative Subcommittee to believe that HFCC did not lease, sublease, or occupy this office space during the relevant period.

Second, during October 1993 through April 1995, at the direction of Representative Hilliard, HFCC made expenditures for rent substantially in excess of fair market value to the African American Institute, a Section 501(c)(3) corporation operated and controlled by members of Representative Hilliard's family, which in turn transmitted these funds to a corporation owned or controlled by Representative Hilliard and members of his family.

Specifically, as early as 1992, HFCC began to make expenditures of $600 per month for rent of space within a building located in Birmingham, Alabama owned by the American Trust Life Insurance Company ("ATLIC"), a corporation owned and controlled at the time by Representative Hilliard and members of his family. Beginning in April 1993, HFCC began to make rent payments of $1,000 per month for rent of space in the Birmingham, Alabama building; however no rent payments were made in July or September 1993. Thereafter, in September 1993, ATLIC sold the building at issue to the African American Institute, a 501(c)(3) operated and controlled by members of his family. There was no exchange of money in connection with the sale of the building, and the sale was not an arms length transaction.

Following the sale of the building, HFCC began to make monthly payments of rent to the African American Institute of $1,500 per month, an amount that substantially exceeded fair market value for rent. The fair market value for space utilized by HFCC within the building at issue was as low as $290 per month depending on the amount and quality of space utilized by HFCC. In addition, following the sale of the building to the African American Institute, there was a pattern of sets of payments between HFCC, ATLIC and the African American Institute relating to monthly rent and mortgage payments. HFCC would issue a check for $1,500 to the African American Institute for rent; ATLIC would also issue a check for $1,500 to the African American Institute rent; and the African American Institute would issue a check to ATLIC for $3,000 for payment on the mortgage note held by ATLIC. Per this pattern, while ATLIC would write a check to the African American Institute for $1,500 for a month's rent, these funds were returned to ATLIC as part of a $3,000 mortgage payment paid by the African American Institute.

Third, at the direction of Representative Hilliard, following the resale of the building from the African American Institute back to the American Trust Life Insurance Company in April 1995 and continuing through July 1996, HFCC continued to make expenditures for rent substantially in excess of fair market value, but made such payments directly to corporations owned and controlled by Representative Hilliard and members of his family.

The aforementioned payments of rent by HFCC to the African American Institute and to corporations owned and controlled by Representative Hilliard and members of his family were not the result of arms length negotiations by independent parties with independent interests in the ordinary course of business. During the period approximately October 1993 through July 1996 alone, HFCC made approximately 29 expenditures of rent that totaled at least $53,100, a substantial portion of which represented rent payments in excess of fair market value. To the extent that rent payments in excess of fair market value were paid by HFCC directly to corporations owned or controlled by Representative Hilliard, and to the extent that such rent payments were made indirectly to ATLIC through the African American Institute, these payments represent a conversion of HFCC funds to entities owned or controlled by Representative Hilliard and members of his family.

Fourth, at the direction of Representative Hilliard, during the time period that HFCC paid rent in connection with the building purchased by the African American Institute from the American Trust Life Insurance Company, HFCC subsidized the other occupants in the building by paying utility expenses incurred for the entire building. Those other occupants were corporations owned and controlled by Representative Hilliard and members of his family. Specifically, at least during the period October 1993 through December 1994, no occupant of the building other than HFCC made payments to the Alabama Power Company, the Alabama Gas Company, Birmingham Water Works, or BellSouth for utility services for the building in Birmingham, Alabama. During that time period, HFCC made expenditures of over $11,0000 to the aforementioned utility companies for which HFCC received no reimbursement from any of the other occupants of the building.

Alleged Violation

As described above, during approximately 1993 through 1996, Representative Hilliard engaged in a pattern and practice of conduct in which HFCC funds were converted to personal use by Representative Hilliard and members of his family in excess of reimbursement for legitimate and verifiable campaign expenditures and were expended by Representative Hilliard for purposes not attributable to bona fide campaign or political purposes. This conduct included (1) the expenditure of $8,000 of HFCC funds to pay rent owed pursuant to a lease Representative Hilliard guaranteed for the American Management and Marketing Corporation in Montgomery, Alabama; (2) expenditures for rent substantially in excess of fair market value by HFCC made to a Section 501(c)(3) corporation, operated and controlled by members of Representative Hilliard's family, which in turn transmitted these rent expenditures to a corporation owned and control by Representative Hilliard and members of his family; (3) expenditures for rent by HFCC substantially in excess of fair market value made directly to corporations owned or controlled by Representative Hilliard and members of his family; and (4) the expenditure of HFCC funds to pay utility expenses incurred by corporations owned or controlled by Representative Hilliard and members of his family. In this manner, Representative Hilliard converted campaign funds for personal use in excess of reimbursement for legitimate campaign expenditures and expended campaign funds for purposes not attributable to bona fide campaign or political purposes, in violation of former Rule 43, Clause 6 of the House of Representatives, and through this described pattern and practice of conduct, Representative Hilliard acted in a manner which did not reflect creditably on the House of Representatives in violation of former House Rule 43, Clause 1.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, June 20, 2001.

Hon. EARL F. HILLIARD,
Longworth House Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HILLIARD: By this letter, the Committee on Standards of Official Conduct formally and publicly reproves you for violations of the Code of Official Conduct of the House of Representatives.

Your conduct in violation of the Code of Official Conduct is described in detail in the Statement of Alleged Violation adopted by the Investigative Subcommittee and in the Report of the Investigative Subcommittee. You have admitted to the Statement of Alleged Violation, and to the factual allegations therein, under penalty of perjury.

The conduct for which you are hereby sanctioned is summarized below:

1. During the period April 1993 to March 1994, you engaged in a pattern and practice of conduct whereby, at your authorization and instruction, the Hilliard for Congress Campaign (hereafter "HFCC"), the political committee authorized by you to receive contributions or make expenditures on your behalf, made loans totaling more than $16,000 to three individuals for purposes not attributable to any bona fide campaign or political purpose.

2. During the period July 1992 to August 1996, you engaged in a pattern and practice of conduct whereby, with your knowledge, HFCC made expenditures to three individuals for salary and benefits for performing services for corporations owned or controlled by you and members of your family. In this manner, you converted campaign funds to personal use in excess of reimbursement for legitimate campaign expenditures and expended campaign funds for a purpose not attributable to bona fide campaign or political purposes.

3. During the period 1993 through 1996, you engaged in a pattern and practice of conduct in which HFCC funds were converted to personal use by you in excess of reimbursement for legitimate and verifiable campaign expenditures and expended by you for purposes not attributable to bona fide campaign or political purposes. Your pattern and practice of conduct included (a) causing HFCC to make expenditures totaling $8,000 to pay rent owed pursuant to a lease you guaranteed for a corporation owned in substantial part by you and members of your family; (b) causing HFCC to make expenditures for rent substantially in excess of fair market value to a Section 501(c)(3) corporation operated and controlled by members of your family, which in turn transmitted these funds to a corporation owned and controlled by you and members of your family; (c) causing HFCC to make expenditures for rent substantially in excess of fair market value directly to corporations owned or controlled by you and members of your family; and (d) causing HFCC to make expenditures to pay utility expenses incurred by corporations owned or controlled by you and members of your family.

With respect to each pattern and practice of conduct separately described above, you violated Clause 6 of the Code of Official Con-

duct, former Rule 43 (current Rule 23) of the House of Representatives, which 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 the campaign account not attributable to bona fide campaign or political purposes." With respect to each pattern and practice of conduct separately described above, you also violated Clause 1 of the Code of Official Conduct, former Rule 43 (current Rule 23) of the House of Representatives, which provided 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."

In knowing violation of the Code of Official Conduct, you expended funds from your campaign account for purposes not attributable to bona fide campaign or political purposes and you converted campaign contributions to personal use. Your improper use and conversion of campaign funds were accomplished through several distinct means and over a period of years. Through this extended conduct, monies contributed to your campaign for our campaign were, instead, put by you to your personal use and benefit and to the use and benefit of members of your family.

You engaged in serious official misconduct that brought discredit to the House of Representatives. The Investigative Subcommittee and the full Committee duly considered that misconduct. The Members of both bodies determined that you should be publicly sanctioned. Your willingness, ultimately, to admit to the misconduct set forth in the Statement of Alleged Violation, summarized above, and to enter into a settlement of this matter was significant in the Committee's determination to accept the recommendation of the Investigative Subcommittee and sanction you through a Letter or Reproval. We emphasize that a Letter of Reproval is a formal sanction 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.

Sincerely,

JOEL HEFLEY,
Chairman.
HOWARD L. BERMAN,
Ranking Minority Member.

APPENDIX II

IN THE MATTER OF REPRESENTATIVE JAMES A. TRAFICANT, JR.

The Adjudicatory Subcommittee of the Committee on Standards of Official Conduct submits this Report to the full Committee pursuant to Committee Rule 24(p). This Report summarizes the Subcommittee's findings in *In the Matter of Representative James A. Traficant, Jr.* The Subcommittee is transmitting with this report all motions, transcripts of evidence, correspondence and other relevant items generated or received by the Subcommittee during these adjudicatory proceedings.

PROCEDURAL HISTORY

On June 27, 2002, after receiving the Statement of Alleged Violations (SAV) and associated pleadings and responses from the Investigative Subcommittee in this matter, and acting pursuant to Committee Rule 24, the Committee established an Adjudicatory Subcommittee and set July 15, 2002, at 10 a.m. as the date and time for the Adjudicatory Subcommittee to convene its public hearing. By letter to Mr. Traficant on June 27, 2002, the Subcommittee notified Mr. Traficant of the designation of the Adjudicatory Subcommittee and gave him notice of procedures for the adjudicatory hearing as set forth in Committee Rule 24.

On July 15, 2002, pursuant to Committee Rule 24(c) and consistent with the other Committee and House Rules governing these proceedings, the Adjudicatory Subcommittee commenced a hearing to determine whether any counts in the SAV have been proved by clear and convincing evidence. The adjudicatory hearing continued through July 17, 2002. At the hearing, Committee counsel presented evidence in support of the counts in the SAV and Mr. Traficant presented evidence in his defense. Committee counsel relied on certified copies of the transcript and exhibits entered into evidence at the trial of *United States* v. *James A. Traficant, Jr.,* Case No. 4:01 CF 207 (N.D.OH). Mr. Traficant entered several exhibits, including affidavits, audiotapes, transcripts and other documentary evidence, into evidence at the hearing. Mr. Traficant called four witnesses who testified at the hearing, Linda Kovachik, Sandra Ferrante, Michael Robertson and Richard Detore. Presentation of evidence and argument from Committee counsel and Mr. Traficant ended on July 17, 2002.

After the hearing was adjourned, the Adjudicatory Subcommittee began its deliberations in executive session. At the conclusion of several hours of deliberation, the Subcommittee made the following findings with regard to the counts in the SAV, pursuant to the vote requirements of Committee Rule 10. The Subcommittee determined

that, as to the counts which were proven by clear and convincing evidence, those violations are of the most serious nature.

Count I

The Adjudicatory Subcommittee found that Count I was proven by clear and convincing evidence. The Subcommittee found that from approximately December 1986 through approximately October 1996, Representative Traficant engaged in a course of conduct in which he agreed to and did perform official acts on behalf of Anthony Bucci, Robert Bucci, and companies they controlled, for which Anthony Bucci, Robert Bucci, companies they controlled, and others acting at their request agreed to and did provide Representative Traficant with things of value, including free labor, materials, supplies, or equipment for use at Representative Traficant's farm. Through this course of conduct—for which Representative Traficant was convicted of conspiracy to violate the federal bribery statute (see 18 U.S.C. §§ 201(b)(1)(A), 201(b)(2)(A), and 371—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count II

The Adjudicatory Subcommittee found that Count II was proven by clear and convincing evidence. The Subcommittee found that from approximately April 1999 through approximately late April 2000, Representative Traficant engaged in a course of conduct in which he agreed to and did perform official acts on behalf of Arthur David Sugar, Mr. Sugar's son, and companies Mr. Sugar controlled, for which Arthur David Sugar and companies he controlled, and others acting at his request, agreed to and did provide Representative Traficant with things of value, including free labor, materials, supplies, or equipment for use at Representative Traficant's farm. Through this course of conduct—for which Representative Traficant was convicted of conspiracy to violate the federal bribery statute (see 18 U.S.C. §§ 201(c) and 371)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count III

The Adjudicatory Subcommittee found that Count III was proven by clear and convincing evidence. The Subcommittee found that from approximately November 1997 through approximately March 2000, Representative Traficant engaged in a course of conduct in which he agreed to and did perform official acts on behalf of James J. Cafaro, U.S. Aerospace Group, LLC ("USAG"), and/or other persons or entities affiliated with USAG, for which James J. Cafaro, companies he controlled, and others acting at his request, agreed to and did provide Representative Traficant with things of value. The aforementioned things of value included numerous meals, the loan or provision of automobiles, and/or the payment for repairs, slip fees, and related expenses for Representative Traficant's boat. As part of the aforementioned course of conduct, Representative Traficant, John J. Cafaro, and others engaged in a scheme under which John J. Cafaro would use his own or company funds to purchase Representative Traficant's boat, but make it falsely appear that an employee of USAG was purchasing the boat in his individual capacity. In connection with this scheme, John J. Cafaro provided the funds necessary to reimburse the employee for thousands of dollars in funds expended for boat repairs and slip fees, and gave Representative Traficant an envelope containing $13,000 in cash, representing approximately one-half of the purchase price of the boat. Through this course of conduct—for which Representative Traficant was convicted of conspiracy to violate the federal bribery statute (see 18 U.S.C. §§ 201(c) and 371)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count IV

The Adjudicatory Subcommittee found that Count IV was proven by clear and convincing evidence. The Subcommittee found that from approximately November 1998 through approximately January 2000, Representative Traficant engaged in a course in which he agreed to and did employ Raymond Allen Sinclair as a member of Representative Traficant's congressional district staff, for which Raymond Allen Sinclair agreed to and did provide Representative Traficant with things of value, including (1) an agreement to rent additional office space to Representative Traficant for use as a congressional district office, and (2) the payment by Raymond Allen Sinclair of $2,500 per month of his congressional salary to Representative Traficant. Through this course of conduct—for which Representative Traficant was convicted of conspiracy to violate the federal bribery statute (see 18 U.S.C. §§ 201(c) and 371)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed

to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count V

The Adjudicatory Subcommittee found that Count V was proven by clear and convincing evidence. The Subcommittee found that from approximately November 1998 through approximately January 2000, Representative Traficant demanded, sought, received, accepted and agreed to receive and accept $2,500 per month from the congressional salary of Raymond Allen Sinclair for or because of Representative Traficant's official acts of hiring and continuing to employ Raymond Allen Sinclair on his congressional staff and of renting and continuing to rent space used by Representative Traficant as a congressional office. Through this conduct—for which Representative Traficant was convicted of receiving an illegal gratuity in violation of the federal bribery statute (see 18 U.S.C. § 201(c)(1)(B))—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count VI

The Adjudicatory Subcommittee found that Count VI was proven by clear and convincing evidence. The Subcommittee found that from approximately January 21, 2000 until approximately February 29, 2000, Representative Traficant endeavored to persuade Raymond Allen Sinclair to destroy evidence and to provide false testimony and information to a federal grand jury. Through this conduct—for which Representative Traficant was convicted of violating the federal obstruction of justice statute (see 18 U.S.C. § 1503)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) acted to evade the laws and legal regulations of the United States in violation of Clause 2 of the Code of Ethics for Government Service.

Count VII

The Adjudicatory Subcommittee found that Count VII was proven by clear and convincing evidence. The Subcommittee found that from approximately the late 1980's until approximately early 2000,

Representative Traficant engaged in a course of conduct in which he defrauded the United States of money and property (1) by soliciting and accepting payments from the salaries of congressional employees (including Raymond Allen Sinclair), which salaries were drawn from funds of the United States Treasury; (2) by directing members of his congressional staff to perform personal labor and services to maintain and repair Representative Traficant's boat, and which personal labor and services were performed by members of his congressional staff for no compensation other than their congressional salaries; and (3) by having members of his congressional staff perform personal labor and services at Representative Traficant's farm, which personal labor and services were performed by members of his congressional staff for no compensation other than their congressional salaries, and which labor and services included baling hay, running and repairing farm equipment, maintaining and repairing structures on the farm, building a horse corral, converting a corn crib to another use, electrical repair, or plumbing repair. Through this conduct—for which Representative Traficant was convicted of conspiracy to defraud the United States (see 18 U.S.C. § 371)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count VIII

The Adjudicatory Subcommittee found that Count VIII was proven by clear and convincing evidence. The Subcommittee found that on approximately April 15, 1999, Representative Traficant made and subscribed a joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his wife for the calendar year 1998, which income tax return was verified by a written declaration by Representative Traficant that was made under the penalties of perjury, and was filed with the Internal Revenue Service. Representative Traficant did not believe the aforementioned income tax return to be true and correct as to every material matter in that he knew and believed that the true and correct amount of his and his wife's total income was in excess of the reported amount of $138,985. Through this conduct—for which Representative Traficant was convicted of filing a false tax return (see 26 U.S.C. § 7206(1))—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); and (2) acted to evade the laws and legal regulations of the United States in violation of Clause 2 of the Code of Ethics for Government Service.

Count IX

The Adjudicatory Subcommittee found that Count IX was proven by clear and convincing evidence. On approximately October 16, 2000, Representative Traficant made and subscribed a joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his wife for the calendar year 1999, which income tax return was verified by a written declaration by Representative Traficant that was made under the penalties of perjury, and was filed with the Internal Revenue Service. Representative Traficant did not believe the aforementioned income tax return to be true and correct as to every material matter in that he knew and believed that the true and correct amount of his and his wife's total income was in excess of the reported amount of $140,163. Through this conduct—for which Representative Traficant was convicted of filing a false tax return (see 26 U.S.C. § 7206(1))—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); and (2) acted to evade the laws and legal regulations of the United States in violation of Clause 2 of the Code of Ethics for Government Service.

Count X

The Adjudicatory Subcommittee found that Count X was not proven by clear and convincing evidence. The Subcommittee dismissed Count X of the SAV.

Pursuant to Committee Rule 24(p), the Adjudicatory Subcommittee reported its findings to the Committee on Standards of Official Conduct on July 18, 2002, which concluded the work of the Adjudicatory Subcommittee.

U.S. House of Representatives, Committee on Standards of Official Conduct, In the Matter of Representative James A. Traficant, Jr., May 22, 2002—Statement of Alleged Violations

I. SUMMARY OF RELEVANT STANDARDS OF CONDUCT

At all times relevant to the violations hereafter alleged, the following provisions of law and House Rules, as summarized, are relevant:

Clause 1 of Code of Official Conduct (current House Rule 23) provides that "[a] Member . . . of the House shall conduct himself at all times in a manner that shall reflect creditably on the House."

Clause 2 of the Code of Official Conduct (current House Rule 23) provides that "[a] Member . . . of the House shall adhere to the spirit and the letter of the Rules of the House and to the rules of duly constituted committees thereof."

Clause 3 of the Code of Official Conduct (current House Rule 23) provides that "[a] Member . . . of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress."

Clause 2 of the Code of Ethics for Government Service provides that "[a]ny person in Government service should . . . [u]phold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion."

18 U.S.C. § 201(b)(1)(A) provides, in pertinent part, that "[w]hoever . . . directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent . . . to influence any official act" shall be fined or imprisoned, or both, as provided in Title 18 of the United States Code.

18 U.S.C. § 201(b)(1)(A) provides, in pertinent part, that "[w]hoever . . . being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for . . . being influenced in the performance of any official act" shall be fined or imprisoned, or both, as provided in Title 18 of the United States Code.

18 U.S.C. § 201(c)(1) provides, in pertinent part, that

> Whoever . . . otherwise than as provided by law for the proper discharge of official duty—
>
> (A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or
>
> (B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for proper discharge of official duty, directly or indirectly demands seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

shall be fined or imprisoned, or both, as provided in Title 18 of the United States Code.

18 U.S.C. § 371 provides that "[i]f two or more persons conspire to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both."

18 U.S.C. § 1503 provides, in pertinent part, that "[w]hoever . . . corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be punished as provided in" Title 18 of the United States Code.

26 U.S.C. § 7206 provides in pertinent part that "[a]ny person who . . . [w]illfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he

does not believe to be true and correct as to every material matter . . . shall be guilty of a felony and" shall be fined or imprisoned, or both, as provided in Title 18 of the United States Code.

II. ALLEGED VIOLATIONS

For each of the following alleged violations, the Investigative Subcommittee has determined 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." See Rule 20(e), Rules of the Committee on Standards of Official Conduct.

At all times relevant to this Statement of Alleged Violation, James A. Traficant, Jr. was a Member of the United States House of Representatives representing the 17th District of Ohio. References to Representative Traficant's farm refer to a farm located in or in the vicinity of Greenford, Ohio, operated by Representative Traficant and owned by Representative Traficant or a member or members of his family. References to Representative Traficant's convictions of a criminal offense refer to the jury verdict in *United States of America* v. *James A. Traficant, Jr.,* Criminal No. 4:01CR207, in the United States Court for the Northern District of Ohio, Eastern Division.

Count 1: Conduct in Violation of Clause 1, Clause 2, and Clause 3 of the Code of Official Conduct (current House Rule 23)

From approximately December 1986 through approximately October 1996, Representative Traficant engaged in a course of conduct in which he agreed to and did perform official acts on behalf of Anthony Bucci, Robert Bucci, and companies they controlled, for which Anthony Bucci, Robert Bucci, companies they controlled, and others acting at their request agreed to and did provide Representative Traficant with things of value, including free labor, materials, supplies, or equipment for use at Representative Traficant's farm. Through this course of conduct—for which Representative Traficant was convicted of conspiracy to violate the federal bribery statute (see 18 U.S.C. § 201(b)(1)(A), 201(b)(2)(A), and 371)—Representative Traficant (1) acted in a manner that did not reflect creditablly on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House rule 23).

Count II: Conduct in Violation of Clause 1, Clause 2, and Clause 3 of the Code of Official Conduct (Current House Rule 23)

From approximately April 1999 through approximately late April 2000, Representative Traficant engaged in a course of conduct in which he agreed to and did perform official acts on behalf of Arthur

David Sugar, Mr. Sugar's son, and companies Mr. Sugar controlled, for which Arthur David Sugar and companies he controlled, and others acting at his request, agreed to and did provide Representative Traficant with things of value, including free labor, materials, supplies, or equipment for use at Representative Traficant's farm. Through this course of conduct—for which Representative Traficant was convicted of conspiracy to violate the federal bribery statute (see 18 U.S.C. §§ 201(c) and 371)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count III: Conduct in Violation of Clause 1, Clause 2, and Clause 3 of the Code of Official Conduct (Current House Rule 23)

From approximately November 1997 through approximately March 2000, Representative Traficant engaged in a course of conduct in which he agreed to and did perform official acts on behalf of James J. Cafaro, U.S. Aerospace Group, LLC ("USAG"), and/or other persons or entities affiliated with USAG, for which James J. Cafaro, companies he controlled, and others acting at his request, agreed to and did provide Representative Traficant with things of value. The aforementioned things of value included numerous meals, a welder, a generator, the loan or provision of automobiles, and/or the payment for repairs, slip fees, and related expenses for Representative Traficant's boat. As part of the aforementioned course of conduct, Representative Traficant, John J. Cafaro, and others engaged in a scheme under which John J. Cafaro would use his own or company funds to purchase Representative Traficant's boat, but make it falsely appear that an employee of USAG was purchasing the boat in his individual capacity. In connection with this scheme, John J. Cafaro provided that funds necessary to reimburse the employee for thousands of dollars in funds expended for boat repairs and slip fees, and gave Representative Traficant an envelope containing $13,000 in cash, representing approximately one-half of the purchase price of the boat. Through this course of conduct—for which Representative Traficant was convicted of conspiracy to violate the federal bribery statute (see 18 U.S.C. §§ 201(c) and 371)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count IV: Conduct in Violation of Clause 1, Clause 2, and Clause 3 of the Code of Official Conduct (Current House Rule 23)

From approximately November 1998 through approximately January 2000, Representative Traficant engaged in a course of conduct in which he agreed to and did employ Raymond Allen Sinclair as a member of Representative Traficant's congressional district staff, for which Raymond Allen Sinclair agreed to and did provide Representative Traficant with things of value, including (1) an agreement to rent additional office space to Representative Traficant for use as a congressional district office, and (2) the payment by Raymond Allen Sinclair of $2,500 per month of his congressional salary to Representative Traficant. Through this course of conduct—for which Representative Traficant was convicted of conspiracy to violate the federal bribery statute (see 18 U.S.C. §§ 201(c) and 371)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count V: Conduct in Violation of Clause 1, Clause 2, and Clause 3 of the Code of Official Conduct (Current House Rule 23)

From approximately November 1998 through approximately January 2000, Representative Traficant demanded, sought, received, accepted and agreed to receive and accept $2,500 per month from the congressional salary of Raymond Allen Sinclair for or because of Representative Traficant's official acts of hiring and continuing to employ Raymond Allen Sinclair on his congressional staff and of renting and continuing to rent space used by Representative Traficant as a congressional office. Through this conduct—for which Representative Traficant was convicted of receiving an illegal gratuity in violation of the federal bribery statute (see 18 U.S.C. § 201(c)(1)(B))—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count VI: Conduct in Violation of Clause I and Clause 2 of the Code of Official Conduct (Current House Rule 23), and Clause 2 of the Code of Ethics for Government Service

From approximately January 21, 2000 until approximately February 29, 2000, Representative Traficant endeavored to persuade Raymond Allen Sinclair to destroy evidence and to provide false

testimony and information to a federal grand jury. Through this conduct—for which Representative Traficant was convicted of violating the federal obstruction of justice statute (see 18 U.S.C. § 1503)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) acted to evade the laws and legal regulations of the United States in violation of Clause 2 of the Code of Ethics for Government Service.

Count VII: Conduct in Violation of Clause 1, Clause 2, and Clause 3 of the Code of Official Conduct (Current House Rule 23)

From approximately the late 1980's until approximately early 2000, Representative Traficant engaged in a course of conduct in which he defrauded the United States of money and property (1) by soliciting and accepting payments from the salaries of congressional employees (including Raymond Allen Sinclair), which salaries were drawn from funds of the United States Treasury; (2) by directing members of his congressional staff to perform personal labor and services to maintain and repair Representative Traficant's boat, and which personal labor and services were performed by members of his congressional staff for no compensation other than their congressional salaries; and (3) by having members of his congressional staff perform personal labor and services at Representative Traficant's farm, which personal labor and services were performed by members of his congressional staff for no compensation other than their congressional salaries, and which labor and services included baling hay, running and repairing farm equipment, maintaining and repairing structures on the farm, building a horse corral, converting a corn crib to another use, electrical repair, or plumbing repair. Through this conduct—for which Representative Traficant was convicted of conspiracy to defraud the United States (see 18 U.S.C. 371)—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); and (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23).

Count VIII: Conduct in Violation of Clause 1 of the Code of Official Conduct (Current House Rule 23), and Clause 2 of the Code of Ethics for Government Service

On approximately April 15, 1999, Representative Traficant made and subscribed a joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his wife for the calendar year 1998, which income tax return was verified by a written declaration by Representative Traficant that was made under the penalties of perjury, and was filed with the Internal Revenue Service. Representa-

tive Traficant did not believe the aforementioned income tax return to be true and correct as to every material matter in that he knew and believed that the true and correct amount of his and his wife's total income was substantially in excess of the reported amount of $138,985. Through this conduct—for which Representative Traficant was convicted of filing a false tax return (see 26 U.S.C. § 7206(1))—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); and (2) acted to evade the laws and legal regulations of the United States in violation of Clause 2 of the Code of Ethics for Government Service.

Count IX: Conduct in Violation of Clause 1 of the Code of Official Conduct (Current House Rule 23), and Clause 2 of the Code of Ethics for Government Service

On approximately October 16, 2000, Representative Traficant made and subscribed a joint U.S. Individual Income Tax Return, Form 1040 on behalf of himself and his wife for the calendar year 1999, which income tax return was verified by a written declaration by Representative Traficant that was made under the penalties of perjury, and was filed with the Internal Revenue Service. Representative Traficant did not believe the aforementioned income tax return to be true and correct as to every material matter in that he knew and believed that the true and correct amount of his and his wife's total income was substantially in excess of the reported amount of $140,163. Through this conduct—for which Representative Traficant was convicted of filing a false tax return (see 26 U.S.C. § 7206(1))—Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current House Rule 23); and (2) acted to evade the laws and legal regulations of the United States in violation of Clause 2 of the Code of Ethics for Government Service.

Count X: Continuing Pattern and Practice of Conduct in Violation of Clause 1, Clause 2, and Clause 3 of the Code of Official Conduct (Current House Rule 23), and Clause 2 of the Code of Ethics for Government Service

Representative Traficant engaged in a continuing pattern and practice of official misconduct, through which he misused his office for personal gain, and which comprised the following instances of conduct, or any combination thereof: the instances of conduct alleged in each of Counts I, II, III, IV, V and VII, above, separately and inclusive, and/or the course of conduct, during approximately 1990 through approximately 1998, in which Representative Traficant agreed to and did perform official acts on behalf of Pete Bucheit, for which Bernard "Pete" Bucheit and companies he controlled agreed to and did provide Representative Traficant with things of value, including free labor and materials for use at Representative Traficant's farm. Through this continuing pattern and practice of misconduct Representative Traficant (1) acted in a manner that did not reflect creditably on the House of Representatives in violation of Clause 1 of the Code of Official Conduct (current

House Rule 23); (2) failed to adhere to the spirit and letter of the Rules of the House in violation of Clause 2 of the Code of Official Conduct (current House Rule 23); (3) received compensation and permitted compensation to accrue to his beneficial interest, the receipt of which occurred by virtue of influence improperly exerted from his position in Congress in violation of Clause 3 of the Code of Official Conduct (current House Rule 23); and (4) failed to uphold the laws and legal regulations of the United States in violation of Clause 2 of the Code of Ethics for Government Service.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, June 27, 2002.

Hon. JOEL HEFLEY,
Chairman,

Hon. HOWARD L. BERMAN,
Ranking Minority Member,
Committee on Standards of Official Conduct, The Capitol, Washington, DC.

Re In the Matter of Representative James A. Traficant, Jr.

DEAR CHAIRMAN HEFLEY AND RANKING MINORITY MEMBER BERMAN: Pursuant to Rule 23(g) of the Rules of the Committee on Standards of Official Conduct, we herewith transmit the attached Statement of Alleged Violations adopted unanimously by the Investigative Subcommittee in the above-captioned matter. Also attached is the Answer of the Respondent to the Statement of Alleged Violations, and the following pleadings of the Respondent and related responses of the Investigative Subcommittee: the Respondent's Motion for a Bill of Particulars dated June 3, 2002; the Investigative Subcommittee's response to the Motion for a Bill of Particulars dated June 4, 2002 (granting the motion in part and denying the motion in part); the Respondent's Motion to Dismiss dated June 14, 2002; and the Investigative Subcommittee's response to the Motion to Dismiss dated June 17, 2002 (denying the motion).

We also herewith transmit the evidence relied upon by the Investigative Subcommittee to provide the charges set forth in the Statement of Alleged Violations, which materials consist of the certified trial transcript in *United States of America* v. *James A. Traficant, Jr.,* Criminal No. 4:01CR207 (N.D. Ohio) (Eastern Division), and certified copies of exhibits admitted into evidence in that trial.

In addition to memorializing the transmittal of the aforementioned documents, this letter also constitutes the Report of the Investigative Subcommittee to the full Committee regarding this inquiry.

Background

This Investigative Subcommittee was established on April 17, 2002, and was given jurisdiction to determine whether Representative Traficant violated the Code of Official Conduct, or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities, with respect to any or all of the matters for which Representative Traficant stood trial in *United States of America* v.

James A. Traficant, Jr., Criminal No. 4:01CR207 (N.D. Ohio) (Eastern Division).

During its inquiry, the Investigative Subcommittee obtained and reviewed a complete certified transcript of Representative Traficant's trial, as well as certified copies of all exhibits admitted into evidence during that trial. The Investigative Subcommittee also obtained and reviewed materials from the U.S. Department of Justice that that department represented were furnished to the government by Representative Traficant in connection with his criminal prosecution. Those materials included audio tapes, apparent bank records, and other documents.

In accordance with Committee Rule 20(a)(3), the Investigative Subcommittee provided Representative Traficant with "an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the inquiry." By letter dated April 24, 2002, Representative Traficant was invited to appear before the Investigative Subcommittee at the offices of the Committee on Standards of Official Conduct on May 1, 2002 at 3:00 p.m. As an alternative, Representative Traficant was invited to submit a written statement to the Investigative Subcommittee by May 1, 2002. Representative Traficant did not provide any written notification to the Subcommittee as to whether he would decline his opportunity to submit a written statement or make an oral statement, and in fact he did not submit a written statement by May 1, 2002.[1] Absent any notification or response from Representative Traficant, and in the event that he would appear to make an oral statement at the time scheduled, the Investigative Subcommittee convened at 3:00 p.m. on May 1, 2002 for the purpose of hearing from Representative Traficant. As the record of that meeting reflects, Representative Traficant did not appear that day to make an oral statement, nor did he submit a written statement pursuant to Committee Rule 20(a)(3).

At a time after the adjournment of the aforementioned meeting of the Investigative Subcommittee, the Investigative Subcommittee received a letter from Representative Traficant requesting that the Investigative Subcommittee furnish him with a copy of the transcript of his criminal trial, and further that he be granted a "a 30-day extension from the time [he] receive[d] the transcript to respond."[2] After considering his letter and the circumstances presented, the Investigative Subcommittee determined to deny Representative Traficant's request for a 30-day extension. The Investigative Subcommittee determined, however, the particular interests of proceeding expeditiously in this matter would be well-served by granting his request for a copy of the trial transcript. Accordingly, on May 3, 2002, the Investigative Subcommittee transmitted to Representative Traficant a complete set of copies of the certified trial transcript in *United States of America* v. *James A. Traficant, Jr.,* Criminal No. 4:01CR207 (N.D. Ohio) (Eastern Division), as

[1] It was requested of Representative Traficant, in writing, that he inform the Investigative Subcommittee by April 30, 2002 if he did not intend to present a statement (either orally or in writing) pursuant to Committee Rule 20(a)(3).

[2] Absent from Representative Traficant's request was a specific indication as to what aspect of the Investigative Subcommittee's proceedings his requested extension would apply.

well as a complete set of copies of certified copies of the exhibits admitted into evidence during the trial.[3]

On May 8, 2002, pursuant to Committee Rule 27(c), the Investigative Subcommittee provided Representative Traficant with a copy of a Statement of Alleged Violations ("SAV") it intended to adopt in this matter.[4] On that date, the Investigative Subcommittee further advised Representative Traficant, *inter alia,* that the copies of certified transcripts and exhibits it had previously furnished to him constituted all the evidence it intended to use to prove the charges set forth in the SAV that the Investigative Subcommittee intended to adopt.[5] In addition, although not obligated to do so under any Committee or House Rule, in the interest of full disclosure, the Investigative Subcommittee also determined to, and did, make the materials furnished by the U.S. Department of Justice in this matter available for inspection by Representative Traficant at the offices of the Committee on Standards of Official Conduct.[6]

On May 22, 2002, the Investigative Subcommittee voted to adopt the attached SAV. Subsequent to this event, Representative Traficant filed the aforementioned Motion for a Bill of Particulars and Motion to Dismiss, to each of which the Investigative Subcommittee responded. Representative Traficant filed an Answer to the SAV on June 27, 2002.

Discussion of Statement of Alleged Violations

Dozens of witnesses gave sworn testimony during Representative Traficant's criminal trial, and hundreds of pages of documentary evidence were admitted into evidence during that proceeding. Although the Investigative Subcommittee took notice of the fact that Representative Traficant was indicted and found guilty of ten felony offenses, the charges in the SAV are based on the certified transcript of and the certified copies of the exhibits from his trial. We note for your information that under Committee Rules, an investigative subcommittee may adopt a Statement of Alleged Violations only if it determines "that there is a *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 responsibility

[3] The Investigative Subcommittee also provided Representative Traficant with a compact disc containing uncertified copies of the trial transcripts.

[4] In its accompanying letter to Representative Traficant, the Investigative Subcommittee also notified him that it was considering proceeding pursuant to Committee Rule 23(e)(2), which permits an investigative subcommittee to reduce the time periods set forth in Committee Rule 23 for a respondent to file an answer or motions. After consideration of the issue and after receipt of a letter from Representative Traficant objecting to a reduction in the aforementioned time periods, the Investigative Subcommittee determined not to alter the time periods set forth in Committee Rule 23.

[5] The Investigative Subcommittee waived the requirement under Committee Rule 27(f) that evidence provided pursuant to Committee Rule 27(c) shall be made available to a respondent only after the respondent (and the respondent's counsel, if any) agrees in writing that none of the evidence shall be made public until the time specified under Committee Rule 27(f). The fact that the evidence in this matter was already publicly known and available was a factor considered by the Investigative Subcommittee in waiving Committee Rule 27(f) in the instant matter.

[6] The Investigative Subcommittee similarly offered to make available to Representative Traficant the copies of the publicly available motions, court orders, and other filings it possessed from Representative Traficant's criminal trial. Representative Traficant was further advised that although the Investigative Subcommittee did not make a determination that it possessed any exculpatory evidence in this matter, by providing him with, or making available to him, all the evidentiary records in its possession, the Investigative Subcommittee had complied with Committee Rule 26, concerning exculpatory evidence.

by a Member, officer, or employee of the House of Representatives has occurred." See Committee Rule 20(e) (emphasis added). It is the unanimous opinion of the Investigative Subcommittee, however, that the trial testimony and other evidence far exceeded this evidentiary standard.[7]

Each of the counts in the SAV alleges egregious conduct that reflects directly on Representative Traficant's official and representative responsibilities. As charged in Count X of the SAV, and as shown by the trial testimony and evidence, during the time periods alleged in the SAV, Representative Traficant engaged in a continuing pattern and practice of official misconduct, through which he misused his office for personal gain. To illuminate the nature of Representative Traficant's conduct in this matter, several specific examples of his conduct are summarized below.

First, as set forth in Count I of the SAV, Representative Traficant agreed to and did perform official acts on behalf of Anthony Bucci, Robert Bucci, and companies they controlled, for which Anthony Bucci, Robert Bucci, companies they controlled, and other acting at their request agreed to and did provide Representative Traficant with things of value, including free labor, materials, supplies, or equipment for use at Representative Traficant's farm. Among other official acts, on behalf of the Buccis and companies they controlled, Representative Traficant intervened in matters pending before the Ohio Department of Transportation and the United States Department of Labor. David Dreger, a former deputy director within the Ohio Department of Transportation testified that at a meeting with Representative Traficant, Representative Traficant communicated to him that there would be trouble for that department if, in its enforcement of a contract with the Buccis, it "caused the Bucci brothers to lose their business." Indeed, Anthony Bucci testified that in exchange for the things of value provided by him and his brother to Representative Traficant (including forgiveness of a nearly $13,000 debt owed by Representative Traficant to the Buccis), "we were going to own him."

As set forth in Count II of the SAV, Representative Traficant agreed to and did perform official acts on behalf of Arthur David Sugar, Sugar's son, and companies Sugar controlled, for which Arthur David Sugar, companies he controlled, and other acting at his request agreed to and did provide Representative Traficant with things of value, including free labor, materials, supplies, or equipment for use at Representative Traficant's farm. Among other official acts performed by Representative Traficant for the Sugars, Representative Traficant took actions in connection with the incarceration of Arthur David Sugar's son following a DUI conviction. For example, Representative Traficant wrote a letter for attachment to a bond motion to be filed with the Licking County Court for Common Pleas, and directed a staff member to contact the director of a Youngstown half-way house regarding Arthur David Sugar's son. After learning he was under investigation, Representative Traficant gave Sugar an unsolicited check for $1,142 and took

[7] We note that it was upon the same evidence that Representative Traficant was found guilty *beyond a reasonable doubt* of ten felony offenses in his criminal trial, a higher burden of proof than either "substantial reason to believe" or "clear and convincing evidence," which is the standard that would be applicable in an adjudicatory hearing in this matter.

other steps to conceal his request for and acceptance of free labor and materials from the Sugars.

As described in Count III of the SAV, Representative Traficant agreed to and did perform official acts on behalf of John J. Cafaro, U.S. Aerospace Group, LLC ("USAG"), and/or other persons or entities affiliated with USAG, for which John J. Cafaro, companies he controlled, and others acting at his request, agreed to and did provide Representative Traficant with things of value. The aforementioned things of value included numerous meals (worth approximately $3,675), a welder and related supplies (worth approximately $3,050), a generator (worth approximately $2,700), the loan or provision of four automobiles, and/or the payment for repairs, slip fees, and related expenses for Representative Traficant's boat (worth approximately $26,000). As part of the aforementioned course of conduct, Representative Traficant, John J. Cafaro, and others engaged in a scheme under which Mr. Cafaro would use his own, or company funds to purchase Representative Traficant's boat, but make it falsely appear that an employee of USAG was purchasing the boat in his individual capacity. In connection with this scheme, Mr. Cafaro provided the funds necessary to reimburse the employee for thousands of dollars in funds expended for boat repairs and slip fees. Moreover, in addition to the other expenditures he made or authorized regarding Representative Traficant's boat, Mr. Cafaro gave Representative Traficant an envelope containing $13,000 in cash, representing approximately one-half of the purchase price of the boat. In exchange for the aforementioned things of value, Representative Traficant took numerous official actions to promote the laser-guided technology marketed by USAG, including facilitating a meeting between USAG officials and the Chairman of the Federal Aviation Administration during which this technology was flight-tested. When John J. Cafaro was asked during the trial "[w]hat, if any, promises was the Congressman making with regard to Army—the potential for Army contracts for USAG?", he testified that Representative Traficant "said he had great relationships with the military and armed forces subcommittee, and that it was possible to get funding for this type of equipment through that particular subcommittee."

Counts IV and V of the SAV each relate to a course of conduct by Representative Traficant in which he employed attorney Raymond Allen Sinclair as a member of his congressional district staff, in exchange for Mr. Sinclair's agreement to rent additional office space to Representative Traficant for use as a congressional district office, and to pay Representative Traficant $2,500 per month for his congressional salary. In his testimony, Mr. Sinclair described in detail how he placed $2,500 in an envelope each month which he deposited under the door of Representative Traficant's private office, and how he continued to maintain his full-time private law practice while a salaried congressional employee of Representative Traficant. Also in connection with this conduct, Count VI of the SAV addresses Representative Traficant's effort to persuade Mr. Sinclair to destroy evidence of salary kickbacks and to provide false testimony to a federal grand jury. Mr. Sinclair detailed in his testimony how at the direction of Representative Traficant and in Representative Traficant's presence, envelopes used to transmit such

funds to Representative Traficant were burned in a tub in the basement of Mr. Sinclair's office building. The partially burned envelopes were admitted into evidence during Representative Traficant's trial.

Count VII of the SAV relates to a course of conduct in which Representative Traficant defrauded the United States of money and property (1) by soliciting and accepting payments from the salaries of congressional employees (including Raymond Allen Sinclair, former administrative assistant Henry DiBlasio, and former district director Charles O'Nesti), which salaries were drawn from the funds of the United States Treasury; (2) by directing members of his congressional staff to perform personal labor and services to maintain and repair Representative Traficant's boat; and (3) by having members of his congressional staff perform personal labor and services at Representative Traficant's farm. The personal labor and services of Representative Traficant's congressional staff were performed at his farm and/or boat for no compensation other than their congressional salaries. The labor and services on behalf of Representative Traficant at his farm included baling hay, running, and repairing farm equipment, maintaining and repairing structures on the farm, building a horse corral, converting a corn crib to another use, among other labor and services. Among other witnesses that testified on this subject, one former member of Representative Traficant's congressional district staff, George Bucella, testified that be termed going to the farm as "going south," and that he did so to perform work at Representative Traficant's farm between 100 and 300 different days. Richard Rovnak, a part-time employee in Representative Traficant's district office, testified that at Representative Traficant's direction, he spent most of his time at Representative Traficant's farm doing work that included plumbing, wiring, and other "handyman" work. Rovnak also spent time in Washington, D.C. as part of his part-time employment for Representative Traficant, but he performed no duties at Representative Traficant's congressional office. Instead, he performed work on Representative Traficant's boat that included painting, varnishing, and replacing brass fittings.

Counts VIII and IX relate to federal income tax returns for the calendar years 1998 and 1999, which were made and subscribed by Representative Traficant on behalf of himself and his wife, and which income tax returns were verified by written declarations by Representative Traficant that were verified under penalties of perjury, and were filed with the Internal Revenue Service. As set forth in these Counts, Representative Traficant did not believe the income tax returns to be true and accurate as to every material fact in that he knew he and his wife's total income was substantially in excess of the amounts reported in those returns. In essence, Representative Traficant filed two false income tax returns with the Internal Revenue Service that failed to report the substantial income accrued to him in connection with the gratuities and/or bribes and salary kickbacks he received and accepted during the calendar years 1998 and 1999.

Finally, as noted, Count X of the SAV charges Representative Traficant with engaging in a continuing pattern and practice of official misconduct, through which he misused his office for personal

gain, and which comprised the following instances of conduct, or any combination thereof: the instances of conduct alleged in each of Counts I, II, III, IV, V, and VII of the SAV, separately and inclusive; and/or the course of conduct in which Representative Traficant agreed to and did perform official acts on behalf of Bernard "Pete" Bucheit, for which Bucheit and companies he controlled agreed to and did provide Representative Traficant with things of value. On behalf of Bucheit, Representative Traficant intervened with United States government authorities with respect to a contract dispute between Bucheit's company and Prince Mishaal of Saudi Arabia, and/or with respect to an investment in the Gaza Strip. Officials contacted by Representative Traficant on behalf of Bucheit included Vice President Al Gore, Secretary of State Madeline Albright, Secretary of State James Baker, United States Ambassador to Saudi Arabia Charles Friedman, and United States Ambassador to Kuwait Ryan Crocker, among other high ranking United States officials. In exchange for these official acts, Representative Traficant received free labor and materials for use at Representative Traficant's farm. Among others who testified they performed work at Representative Traficant's farm at at the expense of Bucheit, David Manevich testified that he repaired a wooden deck at Representative Traficant's farm, as well as constructed a privacy fence, enclosed a room on the deck, and built a gazebo, for which he was paid $26,994 by Bucheit.

Based on the conduct alleged in the SAV, Representative Traficant is charged in that document with violating multiple provisions of the Code of Official Conduct (current House Rule 23), as well as a provision of the Code of Ethics for Government Service. As charged in the SAV, with respect to the conduct alleged in each and every one of the ten Counts in the Statement of Alleged Violations, Representative Traficant violated Clause 1 of the Code of Official Conduct (current House Rule 23), which provides that "[a] Member of the House shall conduct himself at all times in a manner that shall reflect creditably on the House." In addition, with respect to the conduct alleged in each of Counts I, II, III, IV, V, VI, VII, and X of the SAV, Representative Traficant is charged with violating Clause 2 of the Code of Official Conduct (current House Rule 23), which provides that "[a] Member of the House shall adhere to the spirit and letter of the Rules of the House and to the rules of duly constituted committees thereof." With respect to the conduct alleged in each of Counts I, II, III, IV, V, VII, and X of the SAV, Representative Traficant is charged with violating Clause 3 of the Code of Official Conduct (current House Rule 23), which provides that "[a] Member . . . of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress." Finally, with respect to Counts VI, VIII, IX, and X of the SAV, Representative Traficant is charged with violating Clause 2 of the Code of Ethics for Government Service, which provides that "[a]ny person in Government service should . . . [u]phold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion."

In the view of the Investigative Subcommittee, Representative Traficant violated the letter and spirit of each of the aforementioned standards of conduct. Indeed, as noted previously, the examples of Representative Traficant's misconduct set forth in this letter are only a partial list of the egregious misconduct for which Representative Traficant is charged in the Statement of Alleged Violations. The charges in the Statement of Alleged Violations are of the most serious nature and are abundantly supported by the evidence in the record, and which evidence demonstrates that Representative Traficant continually traded his office and the duties he swore to uphold for money and a wide range of other things of value.

Violations Not Charged in the Statement of Alleged Violations

As noted, the Investigative Subcommittee's jurisdiction encompassed any and all of the matters for which Representative Traficant recently stood trial. To the extent possible, in the interests of clarity and in conducting its inquiry expeditiously, the Investigative Subcommittee focused its examination of the evidence to that relating to matters for which Representative Traficant was indicted by a grand jury and, subsequently, found guilty by a jury.

Specifically, the Investigative Subcommittee examined the record to determine whether the evidence abduced during the trial that resulted in Representative Traficant's conviction of ten felony offenses also supported findings that Representative Traficant committed violations of the Code of Official Conduct, or any law, rule, regulation, or other standard of conduct applicable to his conduct in the performance of his duties or the discharge of his responsibilities. See Committee Rule 19(a). Although Representative Traficant was convicted of all ten felony offenses for which he was indicted, with respect to Count 10 of the indictment—the "racketeering" count—the jury found that Representative Traficant committed only eight of the 11 "racketeering acts" alleged.[8] While the Investigative Subcommittee reviewed the evidence pertaining to the remaining three "racketeering acts," and considered whether the evidence regarding those acts supported independent findings that Representative Traficant violated the Code of Official Conduct (among other violations for which he could be sanctioned by the House), it ultimately determined not to charge those acts in the SAV. This determination was made not because the evidence would not support a finding of a violation, but to avoid any unnecessary controversy that may have arisen as a result of the Investigative Subcommittee charging a violation for the same acts that a jury did not conclude Representative Traficant committed based upon the same evidence. The Investigative Subcommittee made this determination notwithstanding the different standards, precedents, and burden of proof applicable to this ethics process. In brief, the Investigative Subcommittee was satisfied that the Statement of Alleged Violations it adopted more than amply describes and encompasses, even without additional charges, the wide range of ongoing official misconduct engaged in by Representative Traficant, through which

[8] According to the "Special RICO Verdict Form" executed by the jury, Representative Traficant committed numbers 1, 2, 4, 5, 7, 9, 10, and 11 of the 11 alleged racketeering acts in the indictment. In order to reach its finding of guilt, the jury had to conclude that Representative Traficant committed a minimum of two of the 11 racketeering acts alleged by the federal grand jury.

he repeatedly misused his office for personal gain. The fact that additional charges were not adopted should not preclude consideration or charging of similar matters in future Committee inquiries.

Indeed, again in the interest of expediting proceeding where a Member has been found guilty of ten felony offenses, the Investigative Subcommittee did not pursue to conclusion other violations by Representative Traficant potentially supported by the evidence in the trial record. For example, clause 5(a)(1)(A) of current House Rule 25 (the "Gift Rule") provides that a Member may not knowingly accept a gift except as provided in clause 5 of House Rule 25. Clause 5(a)(2)(A) defines the term "gift" as "a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value," as well as "gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred." In the view of the Investigative Subcommittee, the same evidence in the trial record that supported the charges in the SAV, in all likelihood, could have supported a finding that Representative Traficant received scores of gifts in violation of the Gift Rule in the form of money, meals, automobiles, farm equipment, free labor at his farm, and/or free labor to repair and maintain his boat, among other gifts.[9] The record did not support a finding that Representative Traficant's acceptance of these items fell within any exception contained in the Gift Rule. Compounding the mere receipt of these apparent gifts—potential violations in and of themselves—was the fact that the gifts were often solicited by Representative Traficant, and were in connection with official favors he performed for those who gave him the gifts.

In connection with his apparent receipt of gifts, and in apparent violation of Clause 2 of current House Rule 26, and of Title I of the Ethics in Government Act of 1978, and despite the instructions provided to him, Representative Traficant failed to disclose the source, a brief description, and the value of the aforementioned gifts on his annual financial disclosure statements. We note that Representative Traficant certified on each of his annual financial disclosure statements that his statements thereon and on all attached schedules were "true, complete and correct to the best of [his] knowledge and belief."[10]

Other possible violations of the Code of Official Conduct or other rules stem from testimony indicating that Representative Traficant may have lived in his congressional district office with the rent for that office being borne by taxpayers, and indicia in the trial record that a member of Representative Traficant's congressional staff may have provided Representative Traficant with trial assistance,

[9] The trial record evinces other apparent gifts that may have been received by Representative Traficant. For example, a licensed private investigator who was a defense witness for Representative Traficant testified that while his standard fee to clients was as high as $150 per hour, he was only charging Representative Traficant a total of one dollar. The Investigative Subcommittee was also concerned that Representative Traficant may have received free or discounted aid from one or more attorneys during his criminal trial.

[10] The failure to disclose his receipt of gifts was not Representative Traficant's only apparent violation of Clause 2 of current House Rule 26. For example, during trial testimony it was revealed that Representative Traficant had liabilities, such as a debt of approximately $13,000 owed to Anthony Bucci or a company controlled by him, that were not disclosed on his annual financial disclosure statements as required by Title I of the Ethics in Government Act of 1978.

possibly in lieu of her official duties.[11] This list is not intended to be exhaustive.

As we noted, the Investigative Subcommittee determined not to pursue separate allegations based on the aforementioned apparent Gift Rule and other violations. The core conduct of Representative Traficant for which he stood trial and which the Investigative Subcommittee was established to investigate—that is, his misuse of his official office for personal gain—is fully encompassed in the Statement of Alleged Violations. To pursue other avenues further would have required the Investigative Subcommittee to undertake new and time-consuming avenues of inquiry, and possibly to seek expansion of its jurisdiction. It was the unanimous opinion of the Investigative Subcommittee that the interests of the House would be best served by proceeding as rapidly as possible to the adjudicatory stage of the ethics process with respect to the matters alleged in the Statement of Alleged Violations.

Recommendation

In light of the need to preserve public confidence in the legislative process when a Member of Congress has been convicted of ten felony offenses relating directly to his misuse of public office, the Investigative Subcommittee recommends that this matter proceed to an adjudicatory hearing as expeditiously as possible.

Sincerely,

DOC HASTINGS,
Chairman.
ZOE LOFGREN,
Ranking Minority Member.
ROGER F. WICKER,
Member.
JOHN LEWIS,
Member.

○

[11] Pending before the trial judge is a motion by the government to find Representative Traficant in contempt of court for his conduct during his criminal trial. While not explored by the Investigative Subcommittee, conduct that would constitute contempt of court is also a matter for which the House could sanction Representative Traficant. See Clause 1 of current House Rule 23 (providing that "[a] Member . . . of the House shall conduct himself at all times in a manner that shall reflect creditably on the House.")