

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**REPORT**

Review No. 17-4789

The Board of the Office of Congressional Ethics (hereafter “the Board”), by a vote of no less than four members, on April 5, 2018, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives (hereafter “the Committee”).

SUBJECT: Richard Oliver Schwab, Jr.

NATURE OF THE ALLEGED VIOLATION: Richard Oliver Schwab, Jr., Chief of Staff to Rep. David Schweikert, may have received income beyond the House of Representatives’ outside earned income limit for senior staff. If Mr. Schwab received income beyond the outside earned income limit for senior staff, then he may have violated House rules, standards of conduct, and federal law.

Mr. Schwab, while employed in Rep. Schweikert’s congressional office, may have made personal outlays on behalf of Rep. Schweikert’s principal campaign committees, for which he was subsequently reimbursed. If Mr. Schwab made contributions to his employing Member through these personal outlays, then Mr. Schwab may have violated House rules, standards of conduct, and federal law.

Mr. Schwab, as Chief of Staff to Rep. David Schweikert, may have made expenditures or received reimbursements from the Members’ Representational Allowance (“MRA”) that were not for official expenses. If Mr. Schwab made expenditures or received reimbursements from the MRA that were not for official expenses, then he may have violated House rules, standards of conduct, and federal law.

RECOMMENDATION: The Board recommends that the Committee further review the above allegations concerning Mr. Schwab because there is substantial reason to believe that Mr. Schwab received income beyond the House’s outside earned income limit for senior staff.

The Board recommends that the Committee further review the above allegations concerning Mr. Schwab because there is substantial reason to believe that Mr. Schwab made impermissible contributions to his employing Member through reimbursed personal outlays.

The Board recommends that the Committee further review the above allegations concerning Mr. Schwab because there is substantial reason to believe that Mr. Schwab made expenditures or received reimbursements from the MRA that were not for official expenses.

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VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON ETHICS: Omar S. Ashmawy, Staff Director & Chief Counsel.

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**FINDINGS OF FACT AND CITATIONS TO LAW**

**TABLE OF CONTENTS**

I. INTRODUCTION..... 4

    A. Summary of Allegations..... 4

    B. Jurisdiction Statement ..... 5

    C. Procedural History..... 5

    D. Summary of Investigative Activity ..... 6

II. OLIVER SCHWAB MAY HAVE VIOLATED OUTSIDE EARNED INCOME LIMITS FOR SENIOR STAFF..... 8

    A. Applicable Law, Rules, and Standards of Conduct..... 8

    B. Oliver Schwab Qualified as Senior Staff ..... 10

    C. Oliver Schwab May Have Violated Outside Earned Income Limits ..... 11

        i. Mr. Schwab’s Political Consulting and Fundraising Activities ..... 11

        ii. Other Business Activities ..... 14

III. OLIVER SCHWAB MAY HAVE MADE CONTRIBUTIONS TO HIS EMPLOYING MEMBER..... 16

    A. Applicable Law, Rules, and Standards of Conduct..... 16

    B. Oliver Schwab May Have Violated Rules Prohibiting Him from Making Contributions to His Employing Member ..... 17

IV. OLIVER SCHWAB MAY HAVE MISUSED OFFICIAL RESOURCES ..... 18

    A. Applicable Law, Rules, and Standards of Conduct..... 18

    B. Oliver Schwab May Have Misused Official Resources..... 20

        i. Overview of MRA Spending Practices in Rep. Schweikert’s Office ..... 20

        ii. The Arizona Trip ..... 22

        iii. Office Supplies..... 27

        iv. Training ..... 29

V. CONCLUSION ..... 30

VI. INFORMATION THAT THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS ..... 30

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**FINDINGS OF FACT AND CITATIONS TO LAW**

Review No. 17-4789

On April 5, 2018, the Board of the Office of Congressional Ethics (hereafter “the Board”) adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

**I. INTRODUCTION**

**A. Summary of Allegations**

1. Richard Oliver Schwab, Jr. (“Oliver Schwab” or “Mr. Schwab”), Chief of Staff to Rep. David Schweikert, may have received income beyond the House of Representatives’ outside earned income limit for senior staff. If Mr. Schwab received income beyond the outside earned income limit for senior staff, then he may have violated House rules, standards of conduct, and federal law.
2. Mr. Schwab, while employed in Rep. Schweikert’s congressional office, may have made personal outlays on behalf of Rep. Schweikert’s principal campaign committees, for which he was subsequently reimbursed. If Mr. Schwab made contributions to his employing Member through these personal outlays, then Mr. Schwab may have violated House rules, standards of conduct, and federal law.
3. Mr. Schwab, as Chief of Staff to Rep. David Schweikert, may have made expenditures or received reimbursements from the Members’ Representational Allowance (“MRA”) that were not for official expenses. If Mr. Schwab made expenditures or received reimbursements from the MRA that were not for official expenses, then he may have violated House rules, standards of conduct, and federal law.
4. The Board recommends that the Committee further review the above allegations concerning Mr. Schwab because there is substantial reason to believe that Mr. Schwab received income beyond the House’s outside earned income limit for senior staff.
5. The Board recommends that the Committee further review the above allegations concerning Mr. Schwab because there is substantial reason to believe that Mr. Schwab made impermissible contributions to his employing Member through reimbursed personal outlays.
6. The Board recommends that the Committee further review the above allegations concerning Mr. Schwab because there is substantial reason to believe that Mr. Schwab made expenditures or received reimbursements from the MRA that were not for official expenses.

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

**B. Jurisdiction Statement**

7. The allegations that were the subject of this review concern Oliver Schwab, an employee of the United States House of Representatives serving as Chief of Staff to Rep. David Schweikert. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (“OCE”) directs that, “[n]o review shall be undertaken... by the board of any alleged violation that occurred before the date of adoption of this resolution.”<sup>1</sup> The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

**C. Procedural History**

8. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on November 15, 2017. The preliminary review commenced on November 16, 2017.<sup>2</sup>
9. On November 21, 2017, the OCE notified Oliver Schwab of the initiation of the preliminary review, provided him with a statement of the nature of the review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.<sup>3</sup>
10. At least three members of the Board voted to initiate a second-phase review in this matter on December 15, 2017. The second-phase review commenced on December 16, 2017.<sup>4</sup> The second-phase review was scheduled to end on January 29, 2018.
11. On December 15, 2017, the OCE notified Oliver Schwab of the initiation of the second-phase review in this matter, and again notified him of his right to be represented by counsel in this matter, and that invoking that right would not be held negatively against him.<sup>5</sup>
12. The Board voted to extend the second-phase review by an additional period of fourteen days on January 25, 2018. The additional period ended on February 12, 2018.

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<sup>1</sup> H. Res 895 of the 110th Congress §1(e) (2008) (as amended) (hereafter “the Resolution”).

<sup>2</sup> A preliminary review is “requested” in writing by members of the Board of the OCE. The request for a preliminary review is received by the OCE on a date certain. According to the Resolution, the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board’s request.

<sup>3</sup> Letter from Omar S. Ashmawy, Chief Counsel and Staff Director, Office of Congressional Ethics, to Oliver Schwab, November 21, 2017. The OCE initially contacted Mr. Schwab on Thursday, November 16, 2017 and attempted to contact him again on Friday, November 17, 2017 and Monday, November 20, 2017. On Monday, November 20, 2017, the OCE was contacted by Mr. Schwab’s counsel, who provided the OCE with a designation of counsel form later that evening. On Tuesday, November 21, 2017, Mr. Schwab was provided with the above described notification.

<sup>4</sup> According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase commences the day after the preliminary review ends.

<sup>5</sup> Letter from Paul Solis, Deputy Chief Counsel, Office of Congressional Ethics, to Oliver Schwab, December 15, 2017.

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

13. The Board voted to refer the matter to the Committee for further and adopted these findings on April 5, 2018.
14. The report and its findings in this matter were transmitted to the Committee on April 16, 2018.

**D. Summary of Investigative Activity**

15. The OCE requested documentary and testimonial information from the following sources:
  - (1) Oliver Schwab;
  - (2) Rep. David Schweikert;
  - (3) Keith A. Davis, former treasurer to various Rep. Schweikert-affiliated campaign and political action committees;
  - (4) Campaign Financial Services, current treasurer to various Rep. Schweikert-affiliated campaign and political action committees;
  - (5) Former Legislative Director and Deputy Chief of Staff (“Former Deputy Chief of Staff”);
  - (6) Former Financial Administrator;
  - (7) Former Legislative Assistant and Legislative Director (“Former Legislative Director”);
  - (8) Kevin Knight, Rep. Schweikert’s Deputy Chief of Staff;
  - (9) Katherina Dimenstein, Rep. Schweikert’s Legislative Director;
  - (10) Ashley Sylvester, Rep. Schweikert’s Officer Manager and Press Assistant;
  - (11) Ernestina Borquez-Smith, Rep. Schweikert’s Director of Constituent Services and Office Manager;
  - (12) Kelly Roberson, former Rep. Schweikert staff member;
  - (13) Thomas Leander, former Rep. Schweikert staff member;
  - (14) Ana Schwab, wife of Oliver Schwab;
  - (15) Jennifer Casey Schwab, mother of Oliver Schwab;
  - (16) Forrest Schwab, brother of Oliver Schwab;

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

- (17) James Hamilton, Managing Member, Health Wellness Partners, LLC;
- (18) Member, Health Wellness Partners, LLC (“Business Associate 1”);
- (19) Hilton Worldwide Holdings, Inc.; and
- (20) Hyatt Hotels Corporation.

16. The following individuals and entities refused to cooperate with the OCE’s review:

- (1) Oliver Schwab;
- (2) Rep. David Schweikert;
- (3) Keith A. Davis;
- (4) Campaign Financial Services;
- (5) Kevin Knight;
- (6) Katherina Dimenstein;
- (7) Ashley Sylvester;
- (8) Ernestina Borquez-Smith;
- (9) Kelly Roberson;
- (10) Thomas Leander;
- (11) Ana Schwab;
- (12) Jennifer Casey Schwab;
- (13) Forrest Schwab; and
- (14) James Hamilton.

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## II. OLIVER SCHWAB MAY HAVE VIOLATED OUTSIDE EARNED INCOME LIMITS FOR SENIOR STAFF

### A. Applicable Law, Rules, and Standards of Conduct

#### 17. Federal Law

*“[A] Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule, may not in any calendar year have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year.”<sup>6</sup>*

#### 18. House Rules:

*House Rule 25, Clause 1(a)(1) states: “[e]xcept as provided by paragraph (b), a Member, Delegate, Resident Commissioner, officer, or employee of the House may not—*

*(1) have outside earned income attributable to a calendar year that exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of that calendar year . . . .”<sup>7</sup>*

#### 19. House Ethics Manual

*“House Members, as well as officers and employees paid at the ‘senior staff’ rate for more than 90 days in a calendar year, are subject to an annual limitation on the amount of their outside earned income. . . . The limitation applies only to **earned** income, that is, compensation for services, and not to investment income. The term ‘outside earned income’*

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<sup>6</sup> 5 U.S.C. app 4 § 501(a)(1).

<sup>7</sup> “Two major considerations prompted adoption of [House Rule 25]. First, substantial payments to a Member, officer, or senior employee for rendering ‘personal services’ to outside groups presents a significant and avoidable potential for conflict of interest. Second, it is inconsistent with the concept that being a Member, officer, or senior employee of Congress is a full-time job to permit substantial earnings from other employment.” House Select Comm. on Ethics, *Advisory Opinion No. 13* (Oct. 1978). According to the Committee, the following outside earned income limits applied to senior staff: \$27,765.00 for employees paid at or above the rate of \$124,406.00 for more than 90 days in 2017; \$27,495.00 for employees paid at or above the rate of \$123,175.00 for more than 90 days in 2016; \$27,225.00 for employees paid at or above the rate of \$121,956.00 for more than 90 days in 2015; \$26,955.00 for employees paid at or above the rate of \$120,749.00 for more than 90 days in 2014; \$26,955.00 for employees paid at or above the rate of \$119,553.60 for more than 90 days in 2013; \$26,955.00 for employees paid at or above the rate of \$119,553.60 for more than 90 days in 2012; and \$26,955.00 for employees paid at or above the rate of \$119,553.60 for more than 90 days in 2011. See House Committee on Ethics, FAQs About Outside Employment, available at <https://ethics.house.gov/posts/faqs/outside-employment> (last visited February 5, 2018).



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*is defined in the rules as – wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered.”*<sup>8</sup>

*“The [outside earned income] limitation applies by its terms to outside earned income that is ‘attributable’ to a calendar year. In attributing outside earned income, the Standards Committee uses the approach reflected in regulations issued by the U.S. Office of Government Ethics for the executive branch, i.e., ‘[r]egardless of when it is paid, outside earned income is attributable to the calendar year in which the services for which it is paid were provided.’”*<sup>9</sup>

*“The rule explicitly **excludes** the following types of income from the definition of ‘outside earned income,’ and hence from the outside earned income limitation:*

- *The individual’s congressional salary;*
- *Compensation for services ‘actually rendered’ before the individual became a Member or senior employee, or before the effective date of the rule;<sup>10</sup> [and]*
- . . .
- *Amounts received from a family-controlled trade or business in which both personal services and capital are income-producing factors, provided that the personal services actually rendered by the Member or senior employee do not generate a significant amount of income[.]”*<sup>11</sup>

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<sup>8</sup> House Ethics Manual (2008) at 228 (citing House Rule 25, cl. 4(d)(1)) (emphasis in original). In a 1978 Advisory Opinion on the “General Interpretation of House Rule 25,” the Select Committee on Ethics differentiated between earned and unearned income in the following way: “If the compensation received is essentially a return on equity, then it would generally not be considered to be earned income. If the income is not a return on equity, then such income would generally be considered to be earned income and subject to the limitation.” House Select Comm. on Ethics, *Advisory Opinion No. 13* (Oct. 1978).

<sup>9</sup> House Ethics Manual at 228-29 (citing 5 C.F.R. § 2636.304(d) (2006)). “Outside earned income is attributed to the year in which the Member’s, officer’s or employee’s right to receive it becomes certain (*i.e.*, under the accrual method) rather than to the year of receipt.” House Select Comm. on Ethics, *Advisory Opinion No. 13* (Oct. 1978).

<sup>10</sup> “Where an individual becomes a Member, officer, or employee during any calendar year, the Rule applies only to outside earned income of the individual attributable to periods after the effective date of becoming a Member, officer, or employee.” *Id.*

<sup>11</sup> House Ethics Manual at 229 (emphasis in original). “[T]he definition of earned income in Rule 25, which excludes amounts received by a Member from a family controlled business ‘so long as the personal services actually rendered by the individual . . . do not generate a significant amount of income,’ was simply intended to assure Members, officers, and employees that they could continue to make decisions and take actions necessary to manage or protect their equity in a family trade or business, and would not be forced to divest themselves of their family business interests.” *Id.* at 230 (quoting House Select Comm. on Ethics, *Advisory Opinion No. 13* (Oct. 1978)); *see also id.* at 230 (quoting 123 Cong. Rec. 5897 (Mar. 2, 1977) (statement of Rep. Hamilton) (“The debate preceding the adoption of this rule emphasized that personal services that generate income do not come within the exemption and would thus be subject to the earned income limitation: The crucial element in determining whether the limitation applies . . . is this: If the personal services produce the income, then it does not matter whether it is a family business . . . or anything else. If those personal services actually produce the income, then it comes under the limitation.”)).

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

**B. Oliver Schwab Qualified as Senior Staff**

20. Oliver Schwab qualified as senior staff in the United States House of Representatives between 2012 and 2017.
21. Oliver Schwab joined Rep. Schweikert’s congressional office in January 2011 as Chief of Staff.<sup>12</sup> Mr. Schwab briefly left the office in June 2012 in order to assist with Rep. Schweikert’s 2012 reelection campaign.<sup>13</sup> He returned to Rep. Schweikert’s congressional office in September 2012 as a Senior Advisor.<sup>14</sup> In May of 2013, Mr. Schwab resumed his role as Chief of Staff,<sup>15</sup> and he has remained in that position through the date of this report.<sup>16</sup>
22. As the chart below demonstrates, Mr. Schwab has been paid at or above the senior staff rate of pay since 2012:<sup>17</sup>

	2011	2012	2013	2014	2015	2016	2017
<b>Senior Staff Rate of Pay</b>	\$119,553.60	\$119,553.60	\$119,553.60	\$120,749.00	\$121,956.00	\$123,175.00	\$124,406.00
<b>Total Cong. Salary for Oliver Schwab</b>	\$104,416.67	\$93,995.57	\$144,166.67	\$127,651.79	\$168,411.00	\$168,411.00	\$168,411.00
<b>Qualify for Senior Staff Rate of Pay?</b>	No	Yes <sup>18</sup>	Yes	Yes	Yes	Yes	Yes

23. Because Mr. Schwab has been paid at the senior staff rate of pay since 2012, he is subject to the outside earned income restrictions imposed by the United States House of Representatives in those years.

<sup>12</sup> Statement of Disbursements of the House, January 1, 2011 – March 31, 2011; LinkedIn Profile for Oliver Schwab (April 5, 2018) (Exhibit 1 at 17-4789\_0002).

<sup>13</sup> Statement of Disbursements of the House, April 1, 2012 – June 30, 2012; Statement of Disbursements of the House, July 1, 2012 – September 30, 2012; United States House of Representatives Financial Disclosure Statement of Termination for Oliver Schwab (2012) (noting a termination date of June 1, 2012) (Exhibit 2 at 17-4789\_0015); Transcript of Interview of Former Deputy Chief of Staff, Jan. 18, 2018 (“Former Deputy Chief of Staff Transcript, Part 1”) (Exhibit 3 at 17-4789\_0091); Transcript of Interview of Former Legislative Director, Jan. 31, 2018 (“Former Legislative Director Transcript”) (Exhibit 4 at 17-4789\_0128).

<sup>14</sup> Statement of Disbursements of the House, July 1, 2012 – September 30, 2012; Former Deputy Chief of Staff Transcript, Part 1”) (Exhibit 3 at 17-4789\_0091).

<sup>15</sup> Statement of Disbursements of the House, April 1, 2013 – June 30, 2013.

<sup>16</sup> LinkedIn Profile for Oliver Schwab (April 5, 2018) (Exhibit 1 at 17-4789\_0002).

<sup>17</sup> Salary information for Mr. Schwab was compiled from Statement of Disbursements of the House, 2011 – 2017.

<sup>18</sup> Mr. Schwab qualified at the senior staff rate of pay because, between January and March of 2012 (a ninety-one-day period), Mr. Schwab earned \$31,583.34. See Statement of Disbursements of the House, Jan. 1, 2012 – March 31, 2012. This figure translates to a yearly salary of over \$126,333.00, which exceeds the \$119,553.60 senior staff rate of pay for 2012.

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

**C. Oliver Schwab May Have Violated Outside Earned Income Limits**

24. The OCE determined that Oliver Schwab may have violated outside earned income limitations with respect to political consulting and fundraising activities he performed on behalf of Rep. Schweikert-affiliated campaign entities. The OCE also determined that Mr. Schwab is affiliated with several business entities, some of which may have provided him with additional sources of earned income.
25. Former Deputy Chief of Staff, a Legislative Director and then Deputy Chief of Staff in Rep. Schweikert's office between 2012 and 2016, told the OCE that he and Mr. Schwab "talked quite a bit about outside earned income [limits] in the sense that [Mr. Schwab] would complain that the [House of Representatives] doesn't pay enough."<sup>19</sup> Former Deputy Chief of Staff also told the OCE that Mr. Schwab had said, "at one point in time," that he wanted to "focus more . . . on growing a business and spending less time in the office. So he wanted to earn less [than the outside earned income limit] so he could make more money outside of the office."<sup>20</sup>

**i. Mr. Schwab's Political Consulting and Fundraising Activities**

26. In addition to receiving a salary from the United States House of Representatives for work performed as Rep. Schweikert's Chief of Staff, Oliver Schwab earned income for political consulting and fundraising activities he performed on behalf of Rep. Schweikert-affiliated campaign entities.
27. Former Deputy Chief of Staff described Mr. Schwab as having a "dual hat role" in that he worked as both Chief of Staff and as a campaign fundraiser.<sup>21</sup> Former Financial Administrator, a financial administrator in Rep. Schweikert's office between October 2014 and January 2017, told the OCE that she was aware that Mr. Schwab, like other chiefs of staff, "did both official and political things for [Rep. Schweikert]."<sup>22</sup> Former Legislative Director, a Legislative Assistant and then Legislative Director in Rep. Schweikert's office between February 2011 and January 2017, said the "the majority of [Mr. Schwab's] focus was directed towards [Rep. Schweikert's] reelection."<sup>23</sup>
28. In his capacity as a political fundraiser and consultant, Mr. Schwab earned income through a single member LLC called Chartwell Associates ("Chartwell").<sup>24</sup> The OCE determined that

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<sup>19</sup> Transcript of Interview of Former Deputy Chief of Staff, Feb. 8, 2018 ("Former Deputy Chief of Staff Transcript, Part 2") (Exhibit 5 at 17-4789\_0171).

<sup>20</sup> Former Deputy Chief of Staff Transcript, Part 2 (Exhibit 5 at 17-4789\_0172).

<sup>21</sup> Former Deputy Chief of Staff Transcript, Part 2 (Exhibit 5 at 17-4789\_0163).

<sup>22</sup> Transcript of Interview of Former Financial Administrator, Jan. 23, 2018 ("Former Financial Administrator Transcript") (Exhibit 6 at 17-4789\_0192).

<sup>23</sup> Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0144).

<sup>24</sup> Mr. Schwab refers to Chartwell as "The Chartwell Organization," "Chartwell Partners LLC," and other similar names; however, the OCE will refer to this entity as "Chartwell" throughout this report. *See e.g.*, LinkedIn Profile for Oliver Schwab (Nov. 14, 2017) (Exhibit 7 at 17-4789\_0219); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015) (Exhibit 2 at 17-4789\_0054-55); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016) (Exhibit 2 at 17-4789\_0067).

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

Chartwell is Mr. Schwab's political consulting company, and that Mr. Schwab provided services through this company to Rep. Schweikert-affiliated political entities.<sup>25</sup> Federal Election Commission ("FEC") disbursement reports reveal that Mr. Schwab received income through Chartwell (and personally) from Friends of David Schweikert,<sup>26</sup> Schweikert for Congress,<sup>27</sup> Defending America's Values Everywhere (Team Dave),<sup>28</sup> the Schweikert Victory Committee,<sup>29</sup> and National Horizon.<sup>30</sup>

29. Attached at Exhibit 8 is a chart of all FEC disbursements made to Chartwell, and Mr. Schwab personally, between 2011 and 2017. This chart includes FEC "Purpose of Disbursement" descriptions provided for each payment made to Mr. Schwab in these years.<sup>31</sup> The OCE could not definitively determine – given the lack of cooperation by Mr. Schwab, Rep. Schweikert, and Rep. Schweikert's campaign and political action committees – how much compensation Mr. Schwab was paid for his consulting services between 2012 and 2017. However, the OCE

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<sup>25</sup> The OCE was unable to find any active state filings connecting Mr. Schwab to Chartwell; however, Mr. Schwab's LinkedIn profile from November 2017 identified himself as its "Founder & Managing Partner." LinkedIn Profile for Oliver Schwab (Nov. 14, 2017) (Exhibit 7 at 17-4789\_0219). Additionally, Federal Election Commission disbursements to Chartwell, from various Rep. Schweikert-affiliated committees, are directed to Mr. Schwab's home address. Mr. Schwab also reports receiving "political consulting" income from Chartwell on his financial disclosure statements filed with the United States House of Representatives. United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015) (Exhibit 2 at 17-4789\_0054); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016) (Exhibit 2 at 17-4789\_0067). In these statements, Mr. Schwab identified Chartwell as a "single member" LLC. United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2012) (Exhibit 2 at 17-4789\_0029); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015 Amended) (Exhibit 2 at 17-4789\_0082). He also appears to have Publicly acknowledged that Chartwell is a single member entity. See Phillip Wagner, *A lot of cash is flowing to David Schweikert's chief of staff Oliver Schwab*, WASHINGTON EXAMINER (Nov. 2, 2017) <http://www.washingtonexaminer.com/a-lot-of-cash-is-flowing-to-david-schweikerts-chief-of-staff-oliver-schwab/article/2639483> (last visited Feb. 22, 2018) (hereafter, "Examiner Article") ("[Mr. Schwab] admits that Chartwell is a one-man shop — 'anytime you see Chartwell that's Oliver Schwab'"). Thus, any income earned by Chartwell was earned by Mr. Schwab individually. *Id.*

<sup>26</sup> Friends of David Schweikert is Rep. Schweikert's current principal campaign committee. See e.g., Friends of David Schweikert, FEC Form 1 Statement of Organization, Amendment, filed Dec. 20, 2017.

<sup>27</sup> Schweikert for Congress is Rep. Schweikert's prior principal campaign committee. See e.g., Schweikert for Congress, FEC Form 1 Statement of Organization, Amendment, filed May 29, 2013; Letter from Robin Kelly, Senior Campaign Finance Analyst, Federal Election Commission, to Julia Miller, Treasurer of Schweikert for Congress, Nov 5, 2013 (stating that "[y]our committee's filing has been approved as a termination").

<sup>28</sup> Defending America's Values Everywhere (Team Dave) ("Team Dave PAC") is a Rep. Schweikert's leadership PAC. See e.g., Team Dave PAC, FEC Form 1 Statement of Organization, Amendment, filed Dec. 20, 2017.

<sup>29</sup> Schweikert Victory Committee is a joint fundraising committee affiliated with the Friends of David Schweikert, Team Dave PAC, and the National Republican Congressional Committee (NRCC). See e.g., Schweikert Victory Committee, FEC Form 1 Statement of Organization, Amendment, filed Dec. 20, 2017.

<sup>30</sup> National Horizon is a political action committee established in April 2012. See e.g., National Horizon, FEC Form 1 Statement of Organization, filed April 19, 2012. In a 2014 news article, Mr. Schwab explained that National Horizon was created to assist Rep. Schweikert in his 2012 reelection efforts. See Rebekah Sanders, *Spending soars as outside groups seek campaign influence*, THE REPUBLIC (April 7, 2014), <https://www.azcentral.com/story/news/politics/2014/04/06/arizona-campaign-spending-influence-soars/7232395/> (last visited March 8, 2018).

<sup>31</sup> Not every FEC disbursement made to Chartwell or Mr. Schwab was for earned income. Numerous disbursements appear to be reimbursements for personal outlays made by Mr. Schwab on behalf of these various political entities. As discussed below, these reimbursements may also be a violation of House Rules, standards of conduct and federal law.

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

determined, based upon these publically available FEC filings, that Mr. Schwab may have violated outside earned income limitations in 2014, 2015, and 2016.<sup>32</sup>

30. In 2014, when the outside earned income limit was \$26,955.00, Chartwell was paid \$57,950.00 for “Strategic Consulting,” “Strategic/Fundraising Consulting,” and “PAC Political Strategy Consulting Fee[s].”<sup>33</sup> Thus, based on these FEC disbursement descriptions, Mr. Schwab was paid \$30,995.00 over the applicable outside earned income limitation for his “consulting” services provided in 2014.<sup>34</sup>
31. In 2015, when the outside earned income limit was \$27,225.00, Chartwell was paid \$38,910.61 for “Strategic/Fundraising Consulting” and “Strategic Consulting/Travel.”<sup>35</sup> And in 2016, when the outside earned income limit was \$27,495.00, Chartwell was paid \$44,908.67 for “Strategic Consulting,” “PAC Travel, Event Planning, Political Strategy Consulting,” “Strategic Consulting/Travel,” and “PAC Political Strategy Consulting Fee[s].”<sup>36</sup> The OCE could not determine what amount of each disbursement in 2015 and 2016 was allotted to earned income, as opposed to “travel” expenses. However, given the total disbursements made to Mr. Schwab in these years for consulting-related activity, the OCE determined that Mr. Schwab may have violated 2015 and 2016 outside earned income limitations.<sup>37</sup>

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<sup>32</sup> Publicly available documents do not establish that Mr. Schwab violated outside earned income limitations with respect to his political consulting activities in 2012, 2013 or 2017. In 2013 and 2017, FEC disbursement reports do not indicate that Mr. Schwab received income exceeding outside earned income limits. While Mr. Schwab’s earnings exceeded the outside earned income limit in 2012, he was not continuously employed by the House of Representatives during that year. *See supra*, Section II.B. Between June 2, 2012 and August 31, 2012, he supported Rep. Schweikert’s reelection efforts, and he appears to have been paid \$31,013.50 for these efforts. FEC Disbursement Chart (Exhibit 8 at 17-4789\_0223-27). Such income is excluded from outside earned income considerations given its accrual dates. *See supra*, Section II.A.

<sup>33</sup> *See* FEC Disbursement Chart (Exhibit 8 at 17-4789\_0223-27).

<sup>34</sup> Mr. Schwab’s 2014 financial disclosure statement, which requires disclosure of outside earned income, was not Publicly available through the United States House of Representatives Legislative Resource Center. In an email exchange with Former Financial Administrator on November 25, 2015, Mr. Schwab acknowledged not taking his required (initial and annual) ethics trainings. Nov 25, 2015 Email “Re: Ethics Training!” (Exhibit 9 at 17-4789\_0229-31). In the course of that exchange, Mr. Schwab stated that he did not file a financial disclosure statement for 2014 because he “was under the income disclosure [requirements].” *Id.* As discussed above, House Statements of Disbursement from 2014 indicate otherwise. *See supra*, Section II.B.

<sup>35</sup> *See* FEC Disbursement Chart (Exhibit 8 at 17-4789\_0223-27). Given the nature of the descriptions (“Travel, Printing, Postage, Meals”), the OCE excluded July 22, 2015, July 29, 2015, September 8, 2015, and September 24, 2015 disbursements to Chartwell (totaling \$12,579.39). However, the OCE notes that some of portion of these disbursements could have been for personal services.

<sup>36</sup> *See* FEC Disbursement Chart (Exhibit 8 at 17-4789\_0223-27). Given the nature of the descriptions (“PAC Catering,” “PAC Catering, Flags, Event Ticket Fees,” “Printing/Postage/Food/Beverage”), the OCE excluded March 24, 2016, April 21, 2016, and May 19, 2016 disbursements to Chartwell (totaling \$10,538.42). However, the OCE notes that some portion of these disbursements may have been for personal services. *See id.* Additionally, the OCE notes that three FEC disbursements to Chartwell (totaling \$11,659.13) for consulting services/travel were paid on or before January 6, 2016. *See id.* Because earned income is determined on an accrual basis, it is possible that these payments were for work performed in 2015. In that case, this \$11,659.13 worth of potential income would not be attributable to 2016 earned income totals; instead, it would be attributable to 2015, thereby potentially increasing the amount of Mr. Schwab’s earned income in 2015.

<sup>37</sup> If, as these FEC filings suggest, Mr. Schwab earned over the outside earned income limit in 2015 and 2016, the OCE notes that Mr. Schwab also misreported outside earned income on his financial disclosure statements, which he listed at \$12,000.00 in 2015 and \$10,625.00 in 2016. *See* United States House of Representatives Financial

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

**ii. Other Business Activities**

32. In addition to his political consulting activities, Mr. Schwab is affiliated with a variety of other business ventures, some of which may have provided him with additional sources of income. These include real estate entities, a family foundation, and a now-dissolved telemedicine company.
33. Mr. Schwab is involved in several real estate ventures. Massachusetts Secretary of the Commonwealth filings reveal that Mr. Schwab is a “Manager” of Pinkham Management LLC (“Pinkham Management”), a company organized in 2015 to “develop, improve, maintain, own, operate, lease, finance, refinance, sell and otherwise deal with real estate.”<sup>38</sup> His mother and brother are also “Managers” of this company.<sup>39</sup> Additionally, Mr. Schwab is the registered agent for Allerton Property Management, LLC (“Allerton Property Management”), a Virginia company established in May 2015.<sup>40</sup> A November 2017 version of Mr. Schwab’s LinkedIn profile listed himself as the “Managing Partner” of “The Family Offices of Pinkham Management and Allerton Properties.”<sup>41</sup>
34. Mr. Schwab’s financial disclosure statements do not reference Allerton Property Management, but his 2015 and 2016 disclosures list him as the “Managing Member” of Pinkham Management.<sup>42</sup> These statements indicate that Pinkham Management owns and rents properties in Washington, D.C., California, Massachusetts, and Maryland, and that Mr. Schwab owns somewhere between a one-half and one-third interest in any profits earned by the company.<sup>43</sup>

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Disclosure Statement for Oliver Schwab (2015) (Exhibit 2 at 17-4789\_0054); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015 Amendment) (Exhibit 2 at 17-4789\_0082); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016) (Exhibit 2 at 17-4789\_0067); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016 Amendment) (Exhibit 2 at 17-4789\_0075). This is prohibited under House Rules and federal law. *See* House Rule XXVI; 5 U.S.C. app. 4 § 104(a); House Ethics Manual at 265. The OCE notes that Mr. Schwab originally filed his 2015 financial disclosure statement on August 11, 2015. He filed an amended 2015 financial disclosure statement on October 30, 2017, which was two days before the *Washington Examiner* published an article that critically examined Mr. Schwab’s spending habits and consulting earnings.

<sup>38</sup> Certificate of Organization for Pinkham Management, LLC, Commonwealth of Massachusetts, filed July 17, 2015 (Exhibit 10 at 17-4789\_0233-35); 2016 Annual Report for Pinkham Management, LLC, Commonwealth of Massachusetts, filed September 12, 2016 (Exhibit 11 at 17-4789\_0237-39).

<sup>39</sup> Certificate of Organization for Pinkham Management, LLC, Commonwealth of Massachusetts, filed July 17, 2015 (Exhibit 10 at 17-4789\_0233-35); 2016 Annual Report for Pinkham Management, LLC, Commonwealth of Massachusetts, filed September 12, 2016 (Exhibit 11 at 17-4789\_0237-39).

<sup>40</sup> Business Entity Detail for Allerton Property Management, LLC, Commonwealth of Virginia (Nov. 20, 2017), (Exhibit 12 at 17-4789\_0241).

<sup>41</sup> LinkedIn Profile for Oliver Schwab (Nov. 14, 2017) (Exhibit 7 at 17-4789\_0218). Mr. Schwab’s LinkedIn profile has changed several times since the OCE’s review began, and he has removed certain “experience” and “education” entries. *See e.g.* LinkedIn Profile for Oliver Schwab (Nov. 14, 2017) (Exhibit 7 at 17-4789\_0218) and LinkedIn Profile for Oliver Schwab (April 5, 2018) (Exhibit 1 at 17-4789\_0002).

<sup>42</sup> *See* United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2011-2016) (Exhibit 2 at 17-4789\_0005-84).

<sup>43</sup> *See* United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015 Amendment) (Exhibit 2 at 17-4789\_0079-81); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016 Amendment) (Exhibit 2 at 17-4789\_0071-72).

CONFIDENTIAL

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

35. According to these disclosures, Mr. Schwab is not compensated by Pinkham Management and all income generated through the company is passive rental income.<sup>44</sup> Given his non-cooperation, the OCE had no means of independently verifying these assertions or determining the extent to which Mr. Schwab's personal services to the company generated income. The OCE notes that his title of "Managing Member" indicates he may play an active role in the company, and therefore may receive compensation for personal services.
36. Mr. Schwab is also Trustee and Treasurer of the Casey Family Foundation,<sup>45</sup> which colleagues could only generally describe as a foundation associated with his family.<sup>46</sup> Again, Mr. Schwab's financial disclosure statements state that he was uncompensated in these roles,<sup>47</sup> but the OCE was not able to independently verify this assertion.
37. Additionally, Mr. Schwab was a Member of Health Wellness Partners, LLC ("HWP"), a Phoenix, Arizona-based company created in 2014 to market telemedicine services.<sup>48</sup> Documents provided by Business Associate 1, another Member of HWP, suggest that the company did not profit before dissolving in August 2016.<sup>49</sup>
38. The non-cooperation of Mr. Schwab, Mr. Schwab's family, Rep. Schweikert, and Rep. Schweikert's campaign and political action committees prevented the OCE from verifying the amount of earned income Mr. Schwab received from active participation in outside business ventures. This extensive non-cooperation raises concern about the amount of income Mr. Schwab earned between 2012 and 2017 and whether other aspects of his participation in these outside endeavors run afoul of House rules, standards of conduct, and federal law.
39. Based on the foregoing information, the Board finds that there is substantial reason to believe that Oliver Schwab received income beyond the House's outside earned income limit for senior staff.

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<sup>44</sup> See United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015 Amendment) (Exhibit 2 at 17-4789\_0083); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016 Amendment) (Exhibit 2 at 17-4789\_0076).

<sup>45</sup> LinkedIn Profile for Oliver Schwab (Nov. 14, 2017) (Exhibit 7 at 17-4789\_0219); see United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015) (Exhibit 2 at 17-4789\_0055); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015 Amendment) (Exhibit 2 at 17-4789\_0083); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016) (Exhibit 2 at 17-4789\_0068); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016 Amendment) (Exhibit 2 at 17-4789\_0076).

<sup>46</sup> See e.g., Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0114).

<sup>47</sup> United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2015 Amendment) (Exhibit 2 at 17-4789\_0083); United States House of Representatives Financial Disclosure Statement for Oliver Schwab (2016 Amendment) (Exhibit 2 at 17-4789\_0076).

<sup>48</sup> HWP Operating Agreement (Exhibit 13 at 17-4789\_0243); Business Associate 1 RFI Response (Exhibit 14 at 17-4789\_0293); Articles of Organization of Health Wellness Partners, LLC, Arizona Corporation Commission (Jan. 13, 2014) (Exhibit 15 at 17-4789\_0295).

<sup>49</sup> Articles of Termination of Health Wellness Partners, LLC, Arizona Corporation Commission (Aug. 2, 2016) (Exhibit 16 at 17-4789\_0298).

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

### III. OLIVER SCHWAB MAY HAVE MADE CONTRIBUTIONS TO HIS EMPLOYING MEMBER

#### A. Applicable Law, Rules, and Standards of Conduct

##### 40. Federal Law

*Under 18 U.S.C. § 603(a): “It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution.”<sup>50</sup>*

##### 41. House Ethics Manual

*According to the House Ethics Manual, “[t]he prohibition against an employee making . . . a contribution to the individual’s employing Member is absolute. A House employee may not make such a contribution even if the contribution was entirely unsolicited and the employee genuinely wishes to make the contribution.”<sup>51</sup>*

*“The definition of the term contribution in the FECA is quite detailed, setting out a number of items that either do or do not constitute a contribution for purposes of the Act. The definition is elaborated upon in the implementing regulations issued by the Federal Election Commission (‘FEC’). Staff members who do campaign work need to be familiar with those provisions so as to avoid making a prohibited contribution to their employing Member. In particular, staff members should be aware that under FEC regulations, most **outlays** that an individual makes on behalf of a campaign are deemed to be a contribution to that campaign from that individual. **This is so even if it is intended that the campaign will reimburse the individual promptly.** The major exception to this rule is for outlays that an individual makes to cover expenses that he or she incurs in **traveling** on behalf of a campaign.”<sup>52</sup> Assuming certain travel outlays are reimbursed within specified time periods, they will not be considered “contributions.”<sup>53</sup>*

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<sup>50</sup> “The term ‘contribution’ includes (i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A); see also 11 CFR § 100.52(a). Further, under 18 U.S.C. § 603(b), “a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 shall be considered a contribution to the individual who has authorized such committee.”

<sup>51</sup> House Ethics Manual at 138.

<sup>52</sup> *Id.* at 138-39 (emphasis in original).

<sup>53</sup> *Id.* With respect to personal outlays for travel expenses, a “contribution” does not include situations where “the campaign provides reimbursement within 60 days after the expenses are incurred if payment was made by credit card, or within 30 days in all other cases.” *Id.* at 139, n. 27; see also 11 C.F.R. § 116.5(b).



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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

*“Thus, when a House employee undertakes to do campaign work . . . the individual should make appropriate arrangements with the campaign to ensure that he or she will not be called upon to make any improper outlays.”<sup>54</sup>*

**B. Oliver Schwab May Have Violated Rules Prohibiting Him from Making Contributions to His Employing Member**

42. The OCE found that Oliver Schwab made multiple contributions to Rep. Schweikert’s campaign committees. These include a direct contribution to Rep. Schweikert’s campaign in 2012 and routine personal outlays made on behalf of Rep. Schweikert’s campaign committees between 2011 and 2016.
43. On March 3, 2012, while employed as Rep. Schweikert’s Chief of Staff, Mr. Schwab made a \$1,000.00 contribution to Schweikert for Congress, Rep. Schweikert’s then-principal campaign committee.<sup>55</sup>
44. Between 2011 and 2016, while also employed in Rep. Schweikert’s congressional office, Mr. Schwab also made various personal outlays on behalf of Rep. Schweikert’s campaign committees that were subsequently reimbursed to him.<sup>56</sup> The OCE determined that Mr. Schwab was likely reimbursed for at least \$16,886.99 in personal outlays made on behalf of Rep. Schweikert’s campaign committees;<sup>57</sup> however, the OCE could not determine a definitive figure given the non-cooperation by Mr. Schwab, Rep. Schweikert, and Rep. Schweikert’s affiliated campaign entities.
45. Portions of Mr. Schwab’s personal outlays attributable to travel may have been permissible, and not considered improper “contributions,” if reimbursed within the required timeframes.<sup>58</sup> However, several of Mr. Schwab’s personal outlays, including outlays for “Office Supplies,” “Food/Beverage,” and “Postage,” appear to be improper contributions.<sup>59</sup>

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<sup>54</sup> House Ethics Manual at 139.

<sup>55</sup> Schweikert for Congress, FEC Report of Receipts and Disbursements, Apr. 15, 2012 Quarterly Report at 71, filed April 15, 2012. On April 4, 2012, \$1,000.00 was refunded to Mr. Schwab by Schweikert for Congress. Schweikert for Congress, FEC Schedule B Itemized Disbursements, July 15, 2012 Quarterly Report at 158, filed September 6, 2012. Presumably this refund was made in recognition of the illegality of the March 3, 2012 contribution; however, the OCE cannot say with certainty given Mr. Schwab’s refusal to cooperate with this review.

<sup>56</sup> FEC Disbursement Chart (Exhibit 8 at 17-4789\_0223-27). Friends of David Schweikert is Rep. Schweikert’s current principal campaign committee and Schweikert for Congress was a prior principal campaign committee. *See supra*, footnotes 26-27.

<sup>57</sup> FEC Disbursement Chart (Exhibit 8 at 17-4789\_0223-27). The OCE calculated the figure identified above by adding only disbursements from Rep. Schweikert’s campaign committees that specifically referenced a “reimbursement” or “reimb” as the “purpose” of the disbursement. *See id.* The OCE excluded any other disbursements, although it recognizes that other disbursements to Mr. Schwab may qualify as reimbursements for improper personal outlays. The OCE also excluded the April 2, 2012 \$1,000.00 “refund” for the reasons discussed above.

<sup>58</sup> *See supra*, Section III.A.

<sup>59</sup> *See* FEC Disbursement Chart (Exhibit 8 at 17-4789\_0223-27). While none of the disbursements to Chartwell are specifically designated as reimbursements to the company for outlays made on behalf of a Rep. Schweikert’s campaign committee, to the extent that any such outlays were made, they could also qualify as improper campaign contributions. *See* 11 C.F.R. § 110.1(g)(4) (noting that a “contribution by an LLC with a single natural person

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

46. Based on the foregoing information, the Board finds that there is substantial reason to believe that Mr. Schwab made impermissible contributions to his employing Member through reimbursed personal outlays.

#### IV. OLIVER SCHWAB MAY HAVE MISUSED OFFICIAL RESOURCES

##### A. Applicable Law, Rules, and Standards of Conduct

###### 47. Federal Law

*2 U.S.C. § 5341(a) states that “[t]here is established for the House of Representatives a single allowance, to be known as the ‘Members’ Representational Allowance’, which shall be available to support the conduct of the official and representational duties of a Member of the House of Representatives with respect to the district from which the Member is elected.”*

*31 U.S.C. § 1301(a) states that, “[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.”*

###### 48. House Ethics Manual

*“During each session of Congress, each Member has a single MRA available to support the conduct of official and representational duties to the district from which elected. . . . The MRA may only be used for official and representational expenses. The MRA may not be used to pay for any expenses related to activities or events that are primarily social in nature, personal expenses, campaign or political expenses, or House committee expenses.”<sup>60</sup>*

*“Federal law provides that official funds may be used only for the purposes for which they are appropriated. When funds are used other than for their intended purposes, the misused funds may be recovered by the government for repayment to the United States Treasury.”<sup>61</sup>*

*With respect to mixed purpose trips, “the Member, officer, or employee must determine the primary purpose of the trip. The source associated with that primary purpose – for example, a political committee for campaign or political activity, the federal government for official business, or the traveler’s own funds for personal business – must pay for the airfare (or other long-distance transportation expense), and all other travel expenses incurred in accomplishing that purpose. Any additional meal, lodging, or other travel expenses that the Member or staff person incurs in serving a secondary purpose must be paid by the source associated with that secondary purpose. The determination of the primary purpose of a trip must be made in a reasonable manner, and one relevant factor in making that determination is the number of days to be devoted to each purpose. That is, often the primary purpose of a trip is the one to which the greater or greatest number of days is devoted.”<sup>62</sup>*

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member that does not elect to be treated as a corporation by the Internal Revenue Service ... shall be attributed only to that single member”).

<sup>60</sup> House Ethics Manual at 323.

<sup>61</sup> *Id.* at 331.

<sup>62</sup> *Id.* at 116.

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

49. The Committee on House Administration, Members' Congressional Handbook

*According to the Members' Congressional Handbook:*

*"1. The MRA may only be used for official and representational expenses.*

*...*

*4. The MRA may not be used to pay for any expenses related to activities or events that are primarily social in nature (including but not limited to: sporting events, theme park activities, concerts, personal events, etc.).*

*5. The MRA may not pay for personal expenses.*

*6. The MRA may not pay for campaign expenses.*

*7. The MRA may not pay for campaign-related political party expenses."*<sup>63</sup>

*"Mixed purpose trips typically involve travel that includes official, campaign and/or privately-sponsored activities. Often this travel is funded by a mix of official, campaign and/or private funds. If the primary purpose is for a non-official event/purpose, the office cannot schedule official activities around the non-official event/purpose to make the travel eligible for congressional offices to be reimbursed. Mixed purpose trips may need to be approved by the Committee on Ethics."*<sup>64</sup>

*The Members' Congressional Handbook also identifies a travel category called "Combined Travel," and explains: "Combined travel is travel by a Member or their employees for the primary purpose of supporting the official and representational duties of the Member, but includes an intervening destination or an additional time period that is included for personal purposes. Combined travel requires that:*

- 1. The primary purpose of the travel must be official and representational. The personal segment of the combined travel may not be purchased at a government rate or be purchased with a Government Travel Card.*
- 2. The traveler must attach the combined travel form to the voucher submitted for combined travel reimbursement, stating that the official travel and personal travel was combined for personal convenience. (Combined Travel form).*
- 3. All travel must occur within the United States, its territories, or possessions.*

*...*

*In the event of a segment of personal travel, there is an absolute prohibition on reimbursement from official funds for the personal travel segment."*<sup>65</sup>

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<sup>63</sup> Committee on House Administration, Members' Congressional Handbook, 115<sup>th</sup> Congress (Feb. 27, 2018), at 2; *see also* Committee on House Administration, Members' Congressional Handbook, 114<sup>th</sup> Congress (March 16, 2016), at 1-2 (containing the same guidance); Committee on House Administration, Members' Congressional Handbook, 113<sup>th</sup> Congress (Dec. 16, 2011), at 1-2 (containing the same guidance).

<sup>64</sup> Committee on House Administration, Members' Congressional Handbook, 115<sup>th</sup> Congress (Feb. 27, 2018), at 37; *see also* Committee on House Administration, Members' Congressional Handbook, 114<sup>th</sup> Congress (March 16, 2016), at 33 (containing the same guidance).

<sup>65</sup> Committee on House Administration, Members' Congressional Handbook, 115<sup>th</sup> Congress (Feb. 27, 2018), at 36-37; *see also* Committee on House Administration, Members' Congressional Handbook, 114<sup>th</sup> Congress (March 16,

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

*With respect to reimbursements for training and other educational expenses, the Members' Congressional Handbook states the following: "[o]rdinary and necessary expenses for Members or employees to attend vendor-sponsored conferences, seminars, briefings, professional training, and informational programs related to the official and representational duties to the district from which he or she is elected are reimbursable. . . . Members or employees may not be reimbursed for expenses to attend educational programs in order to obtain a primary, secondary, graduate, postgraduate, or professional degree."*<sup>66</sup>

*"Disbursements from the MRA are paid on a reimbursement basis or by direct payment (to vendors) and require: . . . The Member's signature, certifying that the expense was incurred in support of the Member's official and representational duties to the district from which he or she is elected."*<sup>67</sup>

### **B. Oliver Schwab May Have Misused Official Resources**

50. The OCE examined MRA disbursement documents and data in order to determine whether Mr. Schwab misused official funds while serving as Rep. Schweikert's Chief of Staff. Specifically, the OCE examined whether Mr. Schwab improperly sought and received reimbursement for (1) expenses associated with a 2015 trip to Arizona, (2) office supply purchases, or (3) training programs he attended.
51. The OCE found evidence that Mr. Schwab may have received reimbursements from Rep. Schweikert's MRA for campaign or personal expenses associated with a trip to Arizona between January 28, 2015 and February 2, 2015.

#### **i. Overview of MRA Spending Practices in Rep. Schweikert's Office**

52. Rep. Schweikert, like all other Members of Congress, pays for official expenses with MRA funds. The Committee on House Administration requires Members to sign MRA disbursement requests in order to "certify[] that the expense was incurred in support of the Member's official and representational duties to the district from which he or she is elected."<sup>68</sup>

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2016), at 32-33 (containing the same guidance); Committee on House Administration, Members' Congressional Handbook, 113<sup>th</sup> Congress (Dec. 16, 2011), at 28.

<sup>66</sup> Committee on House Administration, Members' Congressional Handbook, 115<sup>th</sup> Congress (Feb. 27, 2018), at 16. "Informational programs are events in which interaction with participants relates to official business, including but not limited to discussions about the federal role of government in various issue areas, discussions involving how the Member may assist constituencies through action from the federal government or seek relief from the government in any manner, discussions of policy matters, etc. Information programs should not be primarily social in nature, including but not limited to awards events not related to official business, galas or balls that are primarily social, or other events in which official interaction is more incidental than is the primary purpose." *Id.*; see also Committee on House Administration, Members' Congressional Handbook, 114<sup>th</sup> Congress (March 16, 2016), at 14-15 (containing the same guidance).

<sup>67</sup> Committee on House Administration, Members' Congressional Handbook, 115<sup>th</sup> Congress (Feb. 27, 2018), at 43; see also Committee on House Administration, Members' Congressional Handbook, 114<sup>th</sup> Congress (March 16, 2016), at 38 (containing the same guidance); Committee on House Administration, Members' Congressional Handbook, 113<sup>th</sup> Congress (Dec. 16, 2011), at 32 (containing the same guidance).

<sup>68</sup> Committee on House Administration, Members' Congressional Handbook, 115<sup>th</sup> Congress (Feb. 27, 2018), at 43; see also House Ethics Manual at 332; Committee on House Administration, Voucher Documentation Standards

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

53. Although Members must certify that all MRA disbursements are for official, representational purposes, former Rep. Schweikert staff members agreed that Rep. Schweikert had little or no involvement in approving MRA disbursement requests.<sup>69</sup> Instead, Rep. Schweikert designated certain individuals as authorized signers who would sign MRA disbursement documentation on his behalf.<sup>70</sup>
54. Former Deputy Chief of Staff told the OCE that Rep. Schweikert was not involved in the MRA disbursement process and recalled frequently signing certifications for Rep. Schweikert.<sup>71</sup> He also told the OCE that he instituted an informal policy, between December 2014 and November 2016 (when he was managing MRA disbursement requests), whereby at least two independent staff members would review and sign disbursement requests before they were submitted to the Office of Finance.<sup>72</sup>
55. With respect to Mr. Schwab's reimbursement requests, Former Deputy Chief of Staff told the OCE on multiple occasions that he "had no reason to believe that [Oliver Schwab] was doing anything unethical with his reimbursements."<sup>73</sup> However, he also acknowledged that, "in hindsight," he felt there "should have been more supervision" on Mr. Schwab's spending practices.<sup>74</sup>
56. Former Financial Administrator believed that most reimbursement requests were signed on Rep. Schweikert's behalf, by either Mr. Schwab or Former Deputy Chief of Staff, both of whom she understood to be authorized signers.<sup>75</sup> When asked whether there were always two independent individuals reviewing and signing MRA disbursement requests before they were submitted, she

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(Oct. 1, 2016) at 3 ("All vouchers must contain the name and signature of the voucher preparer and the signature of the Member/Chair/Officer.").

<sup>69</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0105-06); Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0197-98); Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0129). This includes requested reimbursement for things like travel, office supplies, training, and other official expenditures. *See id*; *see also e.g.* Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0099; 0102-03); Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0193; 0197).

<sup>70</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0197-98); Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0129); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0104-05).

<sup>71</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0104-05).

<sup>72</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0099-106).

<sup>73</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0093); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0118) ("I have always thought that Oliver is pretty good with ethics with a capital E. . . . He had no desire to step over the line, and I had no reason to believe that . . . He never gave me any indication that he would try to step over the line."); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0122) (explaining that he was an individual with involvement in the MRA reimbursement process and Mr. Schwab "never gave [him] any indication that he was doing anything that was not kosher at the time."). Former Deputy Chief of Staff said all this having acknowledged an incentive to speak poorly about Mr. Schwab given the manner in which Mr. Schwab terminated Former Deputy Chief of Staff's employment in the office. *See* Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0088-0095; 0114); *see also* Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0122) ("We did not end on good terms. We ended on very bad terms. I want to make . . . you all aware that, that we ended on very bad terms.").

<sup>74</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0099).

<sup>75</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0198).

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

said yes, but acknowledged that she would sometimes be the only one reviewing requests from Mr. Schwab.<sup>76</sup>

57. Former Financial Administrator told the OCE that, despite her recommendations, Rep. Schweikert's office did not have an employee manual that established policies and procedures regarding office and employee spending.<sup>77</sup> When asked what sort of procedures were in place to ensure that staff members were only reimbursed for legitimate expenses, she said: "I think believing in [the] integrity of the staffers."<sup>78</sup>
58. Former Legislative Director also told the OCE that Rep. Schweikert was uninvolved in the MRA disbursement process.<sup>79</sup> He indicated that Mr. Schwab and Former Deputy Chief of Staff would have signed MRA reimbursement requests on Rep. Schweikert's behalf.<sup>80</sup>
59. Former Legislative Director told the OCE that Mr. Schwab maintained control over office finances.<sup>81</sup> While he acknowledged that Former Deputy Chief of Staff and financial administrators had some role in the MRA disbursement process, Former Legislative Director told the OCE that he did not believe there was a "check and balance" on Mr. Schwab's spending practices.<sup>82</sup> He described Mr. Schwab as having "full carte blanche authority to manage the MRA disbursements and the office finances as he deemed necessary."<sup>83</sup>
60. When asked if there was "appropriate spending and reimbursement oversights in Rep. Schweikert's office," Former Legislative Director responded by saying: "I would say no. . . . The only true oversight was [Mr. Schwab]."<sup>84</sup>

## ii. The Arizona Trip

61. Oliver Schwab spent six days in Arizona between Wednesday, January 28, 2015 and Monday, February 2, 2015, a time period during which Arizona was hosting both the Phoenix Open PGA golf tournament and Super Bowl XLIX ("the Arizona Trip"). The OCE determined that \$6,059.46 in official funds were spent on Mr. Schwab's travel during this timeframe.<sup>85</sup> This includes the cost of his flight, accommodations, a rental car, and various gas, parking, and food expenses.<sup>86</sup>

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<sup>76</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0200).

<sup>77</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0191).

<sup>78</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0200).

<sup>79</sup> Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0129; 0146).

<sup>80</sup> *Id.*

<sup>81</sup> Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0129-30; 0146).

<sup>82</sup> Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0128-30; 0146).

<sup>83</sup> Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0146).

<sup>84</sup> *Id.* The OCE notes that Former Legislative Director was forced out of Rep. Schweikert's office by Mr. Schwab under circumstances that both he, and other staff members, felt to be "inappropriate" or unfitting given his prior service. Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0157-58); Former Deputy Chief of Staff Transcript, Part 2 (Exhibit 5 at 17-4789\_0180-81).

<sup>85</sup> Arizona Trip Reimbursement Chart (Exhibit 17 at 17-4789\_0300-02).

<sup>86</sup> *Id.*

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

62. Evidence obtained by the OCE suggests that Mr. Schwab may have managed various official matters while on the Arizona Trip. Evidence also establishes that Mr. Schwab attended a variety of campaign or personal activities, including the Phoenix Open and Super Bowl XLIX. Mr. Schwab's wife, mother, and brother, who all reside outside of Arizona, were also in Arizona during the Arizona Trip and attended the Super Bowl.

*a. Overall Trip Details*

63. Mr. Schwab flew from Baltimore-Washington International Airport to Phoenix, Arizona on Wednesday, January 28, 2015.<sup>87</sup> The round trip flight cost \$920.20.<sup>88</sup>

64. After landing in Arizona late Wednesday evening, Mr. Schwab rented a Ford Focus from Alamo Rent A Car.<sup>89</sup> He rented the car from Wednesday, January 28, 2015 through Monday, February 2, 2015, and the total cost of the car rental was \$614.21, or \$102.36 per day.<sup>90</sup>

65. Mr. Schwab stayed at the Hilton Garden Inn, located at 8550 East Princess Drive in Scottsdale, Arizona, from Wednesday, January 28, 2015 through Monday, February 2, 2015.<sup>91</sup> The cost of this five-night stay was \$4,027.07, or \$805.41 per night.<sup>92</sup> Additionally, Mr. Schwab was reimbursed for \$146.00 of food expenses incurred at the Hilton Garden Inn between Thursday, January 29, 2015 and Sunday, February 1, 2015.<sup>93</sup>

66. Billing receipts from Hilton establish that two people stayed in Mr. Schwab's room.<sup>94</sup> Former Deputy Chief of Staff told the OCE that Mr. Schwab's wife (then-fiancée) was in Arizona with him during the Arizona Trip.<sup>95</sup> In addition to his wife, Mr. Schwab's mother, who resides in Massachusetts, and brother, who resides in California, were also in Arizona that weekend.<sup>96</sup>

*b. Evidence of Official Activities*

67. Mr. Schwab, Rep. Schweikert, and current staff members from the Washington, D.C. and Arizona offices refused to cooperate with this review. Accordingly, the OCE could not determine the extent to which Mr. Schwab engaged in official activities while on the Arizona Trip.

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<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* The hotel is located approximately six miles north of Rep. Schweikert's District Office, and is located less than one mile east of TPC Scottsdale, where the Phoenix Open is held each year.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*; see also Arizona Trip Voucher Documents (Exhibit 21 at 17-4789\_0334; 0364; 0367-68; 0370).

<sup>95</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0109-10). Former Legislative Director told the OCE that Mr. Schwab's wife would frequently travel with Mr. Schwab to Arizona, although he did not know whether she traveled to the District that weekend. Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0132-33).

<sup>96</sup> Super Bowl Photos (Exhibit 18 at 17-4789\_0304-08); Examiner Article.

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

68. Two witnesses familiar with the Arizona Trip – Former Financial Administrator and Deputy Chief of Staff – indicated that Mr. Schwab handled official matters while in the District. However, neither witness was in Arizona at the time, and therefore they could not verify Mr. Schwab’s activities.
69. Former Financial Administrator told the OCE that the Arizona Trip was presented to her as an official trip.<sup>97</sup> At least part of this understanding came from a January 24, 2015 email Mr. Schwab sent to her and Former Deputy Chief of Staff, in which he stated:

I wanted to give a heads up that my trip out next week will end up being about \$4,000 for the hotel and about \$1,000 for the rental car. Being Phoenix Open and the Superbowl [sic] weekend in Phoenix, I apologize about this—but it’s a priority for [Rep. Schweikert] that I’m on the ground to help as we host events with the House Majority Leader, other visiting Members, and I’ve got those 2 personel [sic] issues we need to get out of the way.<sup>98</sup>

70. Former Deputy Chief of Staff told the OCE that, “[a]s far as [he] knew, [the Arizona Trip] was a mix-use trip with probably ... more official business than unofficial [business].”<sup>99</sup> He recalled Mr. Schwab taking office meetings and attending site tours, and he also believed that Mr. Schwab was working out of the District Office each day of the Arizona Trip.<sup>100</sup> He acknowledged that these recollections were based primarily upon representations made to him by Mr. Schwab,<sup>101</sup> but also said he had no reason to believe Mr. Schwab was making any misrepresentations to him.<sup>102</sup>

*c. Evidence of Personal or Campaign Activities*

71. Pursuant to House rules, standards of conduct, and federal law, it would have been improper for Mr. Schwab to use official funds to finance a trip when its primary purpose was personal or campaign-related. Additionally, if the Arizona Trip’s primary purpose was official, but the trip also involved secondary personal or campaign-related purposes, then the lodging, car rental, gas, and food costs associated with those secondary purposes should have been paid by either Mr. Schwab personally or the appropriate political entity.
72. Despite the non-cooperation from Mr. Schwab, Rep. Schweikert, Rep. Schweikert’s campaign and political action committees, and Mr. Schwab’s family, the OCE found evidence suggesting that Mr. Schwab was reimbursed, with MRA funds, for accommodations, a car rental, and food, gas, and parking expenses that were likely associated with the personal or campaign-related aspects of his trip. As discussed more fully below, Mr. Schwab may have primarily engaged in

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<sup>97</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0205; 0208).

<sup>98</sup> Email between Former Financial Administrator and Oliver Schwab, Jan. 24, 2015 (Exhibit 19 at 17-4789\_0311); Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0205).

<sup>99</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0108).

<sup>100</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0108-109).

<sup>101</sup> *Id.*

<sup>102</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0118).



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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

campaign or personal activities during at least three of the four full days that he was on the Arizona Trip.

73. Preliminarily, the OCE also notes that it received a letter from Rep. Schweikert’s counsel which stated that the OCE’s review had alerted Rep. Schweikert and his various campaign and political committees to certain “remedial measures [that] need to be instituted.”<sup>103</sup> The letter also represented that Mr. Schwab will be repaying – from his personal funds – the cost of the Arizona Trip.<sup>104</sup> The letter plainly indicates that the OCE would have found additional evidence of misuse had it received cooperation during its review.<sup>105</sup>

Friday January 30, 2015

74. Evidence suggests that Mr. Schwab spent the majority of his day away from the District Office on Friday, January 30, 2015. While time away from the District Office is not necessarily indicative of the fact that Mr. Schwab was not performing official duties, several of the destinations could have been personal in nature. Further, his absence from the District Office comports with Rep. Schweikert’s representation concerning the personal nature of the Arizona Trip (made in his letter from counsel discussed above). It also conflicts with Former Deputy Chief of Staff’s recollection about the amount of time Mr. Schwab spent in the District Office during the Arizona Trip.
75. On Friday morning, Mr. Schwab parked his rental car at a downtown Phoenix parking garage located at 112 N. 2nd Street, Phoenix, Arizona.<sup>106</sup> This parking complex is adjacent to the Phoenix Convention Center, which hosted numerous Super Bowl-related activities during the week leading up to Super Bowl XLIX.<sup>107</sup>
76. Later in the day, Mr. Schwab appears to have stopped at several retail establishments. Mr. Schwab’s credit card records suggest that he made purchases at REI (an outdoor clothing and equipment retailer) and London Gold (an Arizona-based jeweler).<sup>108</sup>

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<sup>103</sup> Letter from Jason Torchinsky, Counsel to Rep. Schweikert, to Paul Solis, Deputy Chief Counsel, Office of Congressional Ethics, Jan. 29, 2018 (Exhibit 20 at 17-4789\_0313-14).

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> Arizona Trip Voucher Documents (Exhibit 21 at 17-4789\_0327). Reimbursement requests place Mr. Schwab at a Starbucks in Fountain Hills, Arizona, just after 9:00 AM on Friday morning. Arizona Trip Reimbursement Chart (Exhibit 17 at 17-4789\_0300-02). He left the Starbucks and drove approximately thirty miles southeast to a Circle K gas station located at 966 E. Van Buren Street in downtown Phoenix. *Id.* He purchased gas at the Circle K at 10:13AM. *Id.* The 112 N. 2nd Street parking complex is located less than one mile from the Circle K mentioned above, which suggests Mr. Schwab parked his car here after leaving the Circle K around 10:15 AM.

<sup>107</sup> See e.g., DPJ Staff, *Touchdown Downtown: Phoenix Scores Super Bowl Central*, DOWNTOWN PHOENIX JOURNAL (March 18, 2014), available at <http://downtownphoenixjournal.com/2014/03/18/touchdown-downtown-phoenix-scores-super-bowl-central/> (last visited Feb 26, 2018); Eugene Scott, *2015 Super Bowl could be Valley’ biggest yet*, THE REPUBLIC (March 18, 2014), available at <https://www.azcentral.com/story/news/local/phoenix/2014/03/19/phoenix-super-bowl-financial-impact/6595475/> (last visited Feb. 26, 2018).

<sup>108</sup> Arizona Trip Voucher Documents (Exhibit 21 at 17-4789\_0326; 0337; 0362; 0366; 0372). Mr. Schwab did not seek reimbursements for these expenses. Credit card statements submitted along with Mr. Schwab’s MRA reimbursement requests were obtained by the OCE and provided evidence of these personal expenditures. *Id.*

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77. Additionally, Mr. Schwab parked at a 2401 E. Camelback Road parking complex, which is The Camby Hotel's parking facility.<sup>109</sup> The Camby is a boutique hotel in the Biltmore neighborhood of Phoenix, and it is located within walking distance of the Biltmore Fashion Park, an upscale shopping mall.<sup>110, 111</sup>

Saturday January 31, 2015

78. It was reported that Mr. Schwab, along with his wife and mother, attended the Phoenix Open on Saturday, January 31, 2015, and that Mr. Schwab's brother joined the group later that day in a private box at Talking Stick Resort Arena to watch the Phoenix Suns play the Chicago Bulls.<sup>112</sup>

79. Mr. Schwab appears to have confirmed attendance at both events, stating that he attended the Phoenix Open, along with Rep. Schweikert, as a part of a McCarthy Victory Fund event,<sup>113</sup> and that the private box was sponsored by an industry group, which he attended as a guest of his wife.<sup>114</sup>

80. The OCE found evidence that the McCarthy Victory Fund sponsored a fundraiser at the Phoenix Open,<sup>115</sup> and as discussed above, Mr. Schwab told colleagues that he was needed in Arizona to "host events with the House Majority Leader."<sup>116</sup>

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<sup>109</sup> Arizona Trip Reimbursement Chart (Exhibit 17 at 17-4789\_0300-02); The Camby Hotel, *Home*, <https://www.thecamby.com/> (last visited Feb. 26, 2018) (noting the address as 2401 E. Camelback Rd.).

<sup>110</sup> The Camby Hotel, *Local Area*, <https://www.thecamby.com/local-area> (last visited Feb. 26, 2018).

<sup>111</sup> The OCE recognizes that some or all of the travel or expenditures that occurred on Friday, January 30, 2015 could have been associated with Mr. Schwab's wife or another member of his family. If that was the case, this still raises misuse concerns because it suggests Mr. Schwab may have been seeking reimbursements for car rental, gas, or parking fees associated with a family member's travel.

<sup>112</sup> See e.g., Examiner Article. The Examiner Article relied, at least in part, on social media postings in reporting this. Because Mr. Schwab and others did not cooperate with this review, the OCE was not able to verify whether there were social media posts of Mr. Schwab at either the Phoenix Open or Phoenix Suns game.

<sup>113</sup> While the article reported that Mr. Schwab and Rep. Schweikert attended a McCarthy Victory *Committee* event, the OCE believes it was a McCarthy Victory *Fund* event, as discussed more fully below.

<sup>114</sup> Examiner Article.

<sup>115</sup> On January 22, 2015, the McCarthy Victory Fund spent \$3,660.48 on lodging at the Hyatt Scottsdale Regency. McCarthy Victory Fund, Report of Receipts and Disbursements, April 15, 2015 Quarterly Report at 109, filed July 7, 2015. Additionally, the McCarthy Victory Fund spent \$9,375.00 on a facility rental and \$200.00 on photography services from The Thunderbirds, located at 7226 North 16<sup>th</sup> Street, Suite 100, Phoenix, Arizona. McCarthy Victory Fund, Report of Receipts and Disbursements, April 15, 2015 Quarterly Report at 107; 119, filed July 7, 2015. The Thunderbirds "is a non-profit organization formed in 1986 to distribute monies raised through the Waste Management Phoenix Open golf tournament" with an address of 7226 North 16<sup>th</sup> Street, Suite 100, Phoenix, Arizona. Thunderbirds Charities Website (Exhibit 22 at 17-4789\_0374-75). Additionally, Former Deputy Chief of Staff told the OCE that it "was common knowledge" that Rep. McCarthy or the NRCC was having a fundraising event of some kind in Phoenix during Super Bowl weekend. Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0108; 0111-112). While Former Deputy Chief of Staff could not definitively say whether Mr. Schwab and Rep. Schweikert attended the Phoenix Open or any other fundraiser, he noted that Rep. Schweikert and Rep. McCarthy "are close" and he said he would "almost guarantee" that Rep. Schweikert and Oliver Schwab would have attended if any such an event was held in Phoenix that weekend. Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0112).

<sup>116</sup> See *supra*, footnote 98.

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

Sunday February 1, 2015

81. It was also reported that Mr. Schwab attended brunch with his brother and spent time at the Phoenix Desert Botanical Gardens before attending the Super Bowl on Sunday February 1, 2015.<sup>117</sup>
82. Receipts from the Hyatt Regency Scottsdale Resort & Spa indicate that Mr. Schwab had brunch with three other individuals around 10:00 AM on Sunday morning.<sup>118</sup> While Mr. Schwab initially sought reimbursement for this expense, designating it as a “mtg / constituents food / bev,” he does not appear to have been reimbursed for it, which suggests the brunch may have been a political or personal expenditure.<sup>119</sup>
83. Former Deputy Chief of Staff confirmed that Mr. Schwab, along with his wife and Rep. Schweikert, attended the Super Bowl on Sunday afternoon.<sup>120</sup> The OCE also obtained photographs of Mr. Schwab’s mother and brother at Super Bowl XLIX.<sup>121</sup>

### **iii. Office Supplies**

84. The OCE examined office supply purchases and practices in Rep. Schweikert’s office in order to determine whether Mr. Schwab misused official funds in connection with any office supply purchases.
85. Rep. Schweikert’s office did not have a formal office policy or procedure regarding the purchase of office supplies or reimbursement for such purchases.<sup>122</sup> Former Rep. Schweikert staff members told the OCE that Rep. Schweikert was generally uninvolved in the purchase of office supplies or reimbursement for such purchases,<sup>123</sup> and that individual staff members would

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<sup>117</sup> See e.g., Examiner Article. The Examiner Article relied, at least in part, on social media postings in reporting this. Because Mr. Schwab and others did not cooperate with this review, the OCE was not able to verify whether there were social media posts of Mr. Schwab at brunch, the botanical gardens, or the Super Bowl.

<sup>118</sup> Arizona Trip Voucher Documents (Exhibit 21 at 17-4789\_0327; 0333).

<sup>119</sup> Compare Arizona Trip Voucher Documents (Exhibit 21 at 17-4789\_0327; 0333) with Statements of Disbursement, Jan. 1, 2015 – March 31, 2015. Hyatt Hotels Corporation did not have any record of Mr. Schwab or any of his family members staying at this hotel and could not provide any further detail about who dined at the Hyatt on Sunday, February 1, 2015. As discussed above, FEC disbursement records indicate that the McCarthy Victory Fund purchased lodging at this hotel around this time. See *supra*, footnote 115.

<sup>120</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0108-09).

<sup>121</sup> Super Bowl Photos (Exhibit 18 at 17-4789\_0304-08). The OCE also found that Mr. Schwab spent \$3,625.00 on January 25, 2015 on a purchase from the “NTL Football League[e].” Arizona Trip Voucher Documents (Exhibit 21 at 17-4789\_0326; 0337; 0362). The OCE recognizes that this \$3,625.00 expenditure may not have been for a ticket/s to the Super Bowl, but notes the expenditure suggests Mr. Schwab made a substantial personal investment for something associated with either the game itself or events leading up to the game.

<sup>122</sup> Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0141); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0103).

<sup>123</sup> Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0142); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0103).

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

purchase supplies from either the House office supply store or a third party vendor such as Amazon.<sup>124</sup>

86. Former Deputy Chief of Staff, Former Financial Administrator, and Former Legislative Director all told the OCE that Mr. Schwab may have spent too much money on office supplies. Former Deputy Chief of Staff told the OCE that he thought Mr. Schwab was a “spendthrift,”<sup>125</sup> but that he had no reason to believe Mr. Schwab was purchasing office supplies for his personal benefit.<sup>126</sup> He explained that Mr. Schwab may not have been “studious” with office supply purchases, and he would “rib him” about purchases that he thought were “a waste of money,” but he never felt that Mr. Schwab was acting unethically.<sup>127</sup>
87. Former Financial Administrator told the OCE that she thought Mr. Schwab’s spending habits were a joke in Rep. Schweikert’s office.<sup>128</sup> She noted that Rep. Schweikert would jokingly ask her if Mr. Schwab was spending too much money on office supplies,<sup>129</sup> and she would jokingly ask Mr. Schwab whether he “[had] Amazon on speed dial.”<sup>130</sup> Former Financial Administrator told the OCE that she would raise concerns to Mr. Schwab about the amount of money he spent on office supplies and felt compelled to remind him that he could get materials for free (or much cheaper) from the House.<sup>131</sup>
88. Additionally, she informed the OCE that Rep. Schweikert had her prepare a chart in early 2016 that compared office supply spending in his office with that of other offices.<sup>132</sup> The chart revealed this his office “spent significantly more than other offices.”<sup>133</sup>
89. Former Legislative Director told the OCE that he thought some of Mr. Schwab’s office supply purchases were excessive; however, he acknowledged not knowing whether the purchases were made with official or personal funds.<sup>134</sup>
90. The OCE reviewed approximately two-years of office supply reimbursement requests made by Oliver Schwab and did not find evidence that Mr. Schwab misused MRA funds for his personal benefit with respect to these requests.

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<sup>124</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0103); Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0141).

<sup>125</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0093).

<sup>126</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0093; 0112-13).

<sup>127</sup> Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 3 at 17-4789\_0093; 0112; 0120).

<sup>128</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0193).

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0193; 0209-10).

<sup>132</sup> Former Financial Administrator Transcript (Exhibit 6 at 17-4789\_0201).

<sup>133</sup> *Id.*

<sup>134</sup> Former Legislative Director Transcript (Exhibit 4 at 17-4789\_0149).

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

**iv. Training**

91. The OCE examined educational expenditures in Rep. Schweikert's office in order to determine whether Mr. Schwab misused official funds in connection with any training programs he attended as Chief of Staff.
92. Between Sunday, October 23, 2016 and Friday, October 28, 2016, Mr. Schwab attended a Harvard Executive Education program titled "Leadership Decision Making: Optimizing Organizational Performance."<sup>135</sup> The cost of the course was \$7,400.00.<sup>136</sup>
93. The program, which was held on Harvard's campus and included lodging, generally began with breakfast at 8:00 AM, included various sessions throughout the day on topics such as decision making, negotiations, and conflict resolution, and concluded with dinner around 6:30 PM.<sup>137</sup>
94. On October 29, 2016, Mr. Schwab emailed Former Financial Administrator and asked whether this sort of program was reimbursable.<sup>138</sup> He explained that the "course was comprised of senior government managers from across the government and military" and noted his surprise that he was "the only person who had paid for the course personally."<sup>139</sup>
95. In response, Former Financial Administrator told Mr. Schwab that the course may be reimbursable if it primarily benefited the office (and not him personally).<sup>140</sup> Mr. Schwab thereafter explained that the course was "100% better management and human resources decision making" and that he used Rep. Schweikert's office as his "operational case all week."<sup>141</sup>
96. In December 2016, Mr. Schwab and Former Financial Administrator submitted MRA reimbursement materials "for [a] leadership course to benefit office as a whole, not personal benefit."<sup>142</sup> The \$7,400.00 was reimbursed to Mr. Schwab thereafter.<sup>143</sup>
97. Although Mr. Schwab and Rep. Schweikert would not provide the OCE with information about this expense, given the program's curriculum,<sup>144</sup> the intended audience,<sup>145</sup> and the fact that it is

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<sup>135</sup> Harvard Executive Education Course Materials (Exhibit 23 at 17-4789\_0377-88). The OCE recognizes that invoices indicate that Mr. Schwab paid for a course titled "Leadership in Crisis," held between April 3, 2016 and April 8, 2016, but the OCE believes, based on the other evidence obtained, that Mr. Schwab attended the "Leadership Decision Making" course held in October 2016. *See id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> Emails between Former Financial Administrator and Oliver Schwab, Oct. 29, 2016 (Exhibit 24 at 17-4789\_0390-92).

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> Harvard Executive Education Course Materials (Exhibit 23 at 17-4789\_0377).

<sup>143</sup> Statement of Disbursements of the House, January 1, 2016 – March 31, 2016.

<sup>144</sup> Harvard Kennedy School, Leadership Decision Making: Curriculum, <https://www.hks.harvard.edu/educational-programs/executive-education/leadership-decision-making/curriculum> (last visited March 14, 2018).

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended not a degree program, the OCE does not conclude, based on the facts known to it as of the date of this report, that Mr. Schwab misspent official funds on this program.

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98. Although the Board found insufficient evidence to conclude that Mr. Schwab misused MRA funds with respect to office supply purchases or his October 2016 Harvard training program, the Board finds substantial reason to believe that the Arizona Trip was, at least in part, personal or campaign-related. Therefore, there is substantial reason to believe that Oliver Schwab received reimbursements from Rep. Schweikert's MRA for personal or campaign expenses associated with this trip.
99. Thus, based on the foregoing information, the Board finds that there is substantial reason to believe that Mr. Schwab made expenditures or received reimbursements from the MRA that were not for official expenses.

## **V. CONCLUSION**

100. Based on the foregoing information, the Board finds that there is substantial reason to believe that Mr. Schwab received income beyond the House's outside earned income limit for senior staff.
101. Based on the foregoing information, the Board finds that there is substantial reason to believe that Mr. Schwab made impermissible contributions to his employing Member through reimbursed personal outlays.
102. Based on the foregoing information, the Board finds that there is substantial reason to believe that Mr. Schwab made expenditures or received reimbursements from the MRA that were not for official expenses.
103. Accordingly, the Board recommends that the Committee further review the above allegations concerning Mr. Schwab.

## **VI. INFORMATION THAT THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS**

104. As discussed below, fourteen individuals or entities refused to cooperate with this review. The Board recommends the issuance of subpoenas to the following non-cooperative individuals and entities:

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<sup>145</sup> Harvard Kennedy School, Leadership Decision Making: Who Should Apply, <https://www.hks.harvard.edu/educational-programs/executive-education/leadership-decision-making/who-should-apply> (last visited March 14, 2018).

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

Oliver Schwab

105. The OCE requested information from and the opportunity to interview Mr. Schwab. Mr. Schwab, through counsel, declined to produce any information or interview with the OCE.

Rep. Schweikert

106. The OCE requested information from Rep. Schweikert in his official capacity and from his affiliated campaign and political action committees. The OCE also requested the opportunity to interview Rep. Schweikert. Rep. Schweikert, through counsel, declined to produce any information or interview with the OCE.

Keith A. Davis

107. Keith A. Davis is a former treasurer to various Rep. Schweikert-affiliated campaign and political action committees. Mr. Davis informed the OCE that, as of the date of its December 14, 2017 request for information, he was no longer handling FEC compliance matters for Rep. Schweikert, and he had turned over all files to Campaign Financial Services.<sup>146</sup> In response, the OCE explained that its request included any responsive email communications, or other documents, still currently accessible to Mr. Davis.<sup>147</sup> Mr. Davis did not provide any documents to the OCE and did not provide a certification under 18 U.S.C. § 1001 affirming that he had no responsive documents.

Campaign Financial Services

108. Campaign Financial Services is an FEC compliance firm handling FEC compliance matters for various Rep. Schweikert-affiliated campaign and political action committees. Campaign Financial Services declined to produce any information in response to the OCE's requests for information and declined to interview with the OCE.

Current Congressional Staff Members

109. Kevin Knight is Rep. Schweikert's Deputy Chief of Staff. Mr. Knight did not respond to OCE requests for an interview.
110. Katherina Dimenstein is Rep. Schweikert's Legislative Director. Ms. Dimenstein, through counsel, declined to interview with the OCE.
111. Ashley Sylvester is Rep. Schweikert's Officer Manager and Press Assistant. Ms. Sylvester, through counsel, declined to interview with the OCE.
112. Ernestina Borquez-Smith is Rep. Schweikert's Director of Constituent Services and Office Manager. Ms. Borquez-Smith, through counsel, declined to interview with the OCE.

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<sup>146</sup> Email from Keith A. Davis to Jeffrey L. Brown, Investigative Counsel, Dec. 14, 2017.

<sup>147</sup> Email from Jeffrey L. Brown, Investigative Counsel, to Keith A. Davis, Dec. 14, 2017.

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Former Congressional Staff Members

113. Kelly Roberson was an Intern, District Aide, Director of Operations, and Policy Advisor in Rep. Schweikert's office between September 2011 and December 2016. Ms. Roberson did not respond to OCE requests for an interview. The OCE was informed that on January 19, 2018, prior to the time that the OCE reached out to Ms. Roberson for an interview, Mr. Schwab and Ms. Roberson had lunch together, at Mr. Schwab's invitation.<sup>148</sup>
114. Mr. Thomas Leander was an Intern, Fellow, Staff Assistant, Legislative Correspondent, Legislative Aide, and Legislative Assistant in Rep. Schweikert's office between May 2014 and August 2017. On January 11, 2018, Mr. Leander agreed to interview with the OCE on January 18, 2018.<sup>149</sup> On January 17, 2018, Mr. Leander informed the OCE that the interview no longer worked with his schedule and that he did not wish to reschedule the interview.<sup>150</sup> He did not respond to subsequent communications from the OCE.

Mr. Schwab's Family

115. Ana Schwab, Mr. Schwab's wife, declined, through counsel, to produce any information in response to the OCE's requests for information and declined to interview with the OCE.
116. Jennifer Casey Schwab, Mr. Schwab's mother, did not respond to the OCE's requests for information and request for an interview.
117. Forrest Schwab, Mr. Schwab's brother, declined to produce any information in response to the OCE's requests for information and declined to interview with the OCE.

James Hamilton

118. James Hamilton was formerly a Managing Member of Health Wellness Partners, LLC, a company established by Mr. Hamilton, Mr. Schwab, and Business Associate 1 to market telemedicine services. Mr. Hamilton, through counsel, declined to produce any information in response to the OCE's requests for information and declined to interview with the OCE.

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<sup>148</sup> Former Deputy Chief of Staff Transcript, Part 2 (Exhibit 5 at 17-4789\_0177-78).

<sup>149</sup> Email from Tommy Leander to Jeffrey Brown, Investigative Counsel, Jan. 11, 2018.

<sup>150</sup> Email from Tommy Leander to Jeffrey Brown, Investigative Counsel, Jan. 17, 2018.