

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 17-4790

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: Representative David Schweikert

NATURE OF THE ALLEGED VIOLATION: Rep. David Schweikert may have authorized expenditures from his Members’ Representational Allowance (“MRA”), made by or on behalf of his Chief of Staff Oliver Schwab, that were not for permissible official expenses. If Rep. Schweikert authorized impermissible MRA expenditures, then he may have violated House rules, standards of conduct, and federal law.

Rep. Schweikert’s campaign committees may have accepted contributions from an individual who was employed in Rep. Schweikert’s congressional office, in the form of individual outlays that later were reimbursed by the campaign committees. If Rep. Schweikert failed to ensure that his campaign committee complied with applicable rules regarding contributions from congressional employees, 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 Rep. Schweikert because there is substantial reason to believe that Rep. Schweikert authorized expenditures from his MRA, made by or on behalf of his Chief of Staff Oliver Schwab, that were not for permissible official expenses.

The Board recommends that the Committee further review the above allegations concerning Rep. Schweikert because there is substantial reason to believe that Rep. Schweikert failed to ensure that his campaign committee complied with applicable rules regarding contributions from congressional employees.

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.

FINDINGS OF FACT AND CITATIONS TO LAW

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OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 17-4790

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. Rep. David Schweikert may have authorized expenditures from his Members’ Representational Allowance (“MRA”), made by or on behalf of his Chief of Staff Oliver Schwab, that were not for permissible official expenses. If Rep. Schweikert authorized impermissible MRA expenditures, then he may have violated House rules, standards of conduct, and federal law.
2. The Board recommends that the Committee further review the above allegations concerning Rep. Schweikert because there is substantial reason to believe that Rep. Schweikert authorized expenditures from his MRA, made by or on behalf of his Chief of Staff Oliver Schwab, that were not for permissible official expenses.
3. Rep. Schweikert’s campaign committees may have accepted contributions from an individual who was employed in Rep. Schweikert’s congressional office, in the form of individual outlays that later were reimbursed by the campaign committees. If Rep. Schweikert failed to ensure that his campaign committee complied with applicable rules regarding contributions from congressional employees, 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 Rep. Schweikert because there is substantial reason to believe that Rep. Schweikert failed to ensure that his campaign committee complied with applicable rules regarding contributions from congressional employees.

B. Jurisdiction Statement

5. The allegations that were the subject of this review concern Rep. David Schweikert, a Member of the United States House of Representatives from the 6th District of Arizona. 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

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended of any alleged violation that occurred before the date of adoption of this resolution.”¹ 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

6. 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, 2017.²
7. On November 27, 2017, the OCE notified Rep. Schweikert 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.³
8. 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, 2017.⁴ The second-phase review was scheduled to end on January 29, 2018.
9. On December 15, 2017, the OCE notified Rep. Schweikert 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.⁵
10. 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.
11. The Board voted to refer the matter to the Committee for further review and adopted these findings on April 5, 2018.

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

² 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.

³ Letter from Omar S. Ashmawy, Chief Counsel and Staff Director, Office of Congressional Ethics, to Rep. Schweikert, November 27, 2017. The OCE initially communicated with Rep. Schweikert’s office on Thursday, November 16, 2017. It provided the office a letter noting that the Board had “taken an action concerning [Rep. Schweikert]” and asked for the opportunity to speak with Rep. Schweikert that week. The OCE followed up on this initial contact on Friday, November 17, 2017, Monday, November 20, 2017, and Tuesday, November 21, 2017. On Monday, November 27, 2017, immediately after the Thanksgiving holiday, the OCE called Rep. Schweikert’s office again to follow up on these prior communications. On Monday, November 27, 2017, the OCE was finally contacted by Rep. Schweikert’s counsel. Immediately after receiving a designation of counsel form, the OCE provided Rep. Schweikert’s counsel with the above-described notification.

⁴ 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.

⁵ Letter from Paul Solis, Deputy Chief Counsel, Office of Congressional Ethics, to Rep. Schweikert, December 15, 2017.

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12. The report and its findings in this matter were transmitted to the Committee on April 16, 2018.

D. Summary of Investigative Activity

13. The OCE requested documentary and testimonial information from the following sources:

- (1) Rep. David Schweikert;
- (2) Oliver Schwab;
- (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;
- (17) Hilton Worldwide Holdings, Inc.; and

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(18) Hyatt Hotels Corporation.

14. The following individuals and entities refused to cooperate with the OCE's review:

- (1) Rep. David Schweikert;
- (2) Oliver Schwab;
- (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; and
- (13) Forrest Schwab.

II. REP. SCHWEIKERT MAY HAVE AUTHORIZED MRA DISBURSEMENTS FOR IMPERMISSIBLE, UNOFFICIAL EXPENSES

A. Applicable Law, Rules, and Standards of Conduct

15. 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.”

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16. 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.”⁶

“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. . . . Committee on House Administration regulations require Members to certify and document all expenses before funds may be disbursed from the MRA. The use of money received by submitting such a voucher for other than official expenses may involve a fraud against the government, in violation of 18 U.S.C. § 1001 (prohibiting making any false, fictitious, or fraudulent statements or using false writings, documents, or entries, concerning any matter within the jurisdiction of any agency or department of the United States).”⁷

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.”⁸

17. 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.

⁶ House Ethics Manual (2008) at 323.

⁷ *Id.* at 331-32.

⁸ *Id.* at 116.

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7. *The MRA may not pay for campaign-related political party expenses.*⁹

*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.*¹⁰

*"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."*¹¹

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."*¹²

⁹ Committee on House Administration, Members' Congressional Handbook, 115th Congress (Feb. 27, 2018), at 2; *see also* Committee on House Administration, Members' Congressional Handbook, 114th Congress (March 16, 2016), at 1-2 (containing the same guidance); Committee on House Administration, Members' Congressional Handbook, 113th Congress (Dec. 16, 2011), at 1-2 (containing the same guidance).

¹⁰ Committee on House Administration, Members' Congressional Handbook, 115th Congress (Feb. 27, 2018), at 43; *see also* Committee on House Administration, Members' Congressional Handbook, 114th Congress (March 16, 2016), at 38 (containing the same guidance); Committee on House Administration, Members' Congressional Handbook, 113th Congress (Dec. 16, 2011), at 32 (containing the same guidance).

¹¹ Committee on House Administration, Members' Congressional Handbook, 115th Congress (Feb. 27, 2018), at 37; *see also* Committee on House Administration, Members' Congressional Handbook, 114th Congress (March 16, 2016), at 33 (containing the same guidance).

¹² Committee on House Administration, Members' Congressional Handbook, 115th Congress (Feb. 27, 2018), at 36-37; *see also* Committee on House Administration, Members' Congressional Handbook, 114th Congress (March 16, 2016), at 32-33 (containing the same guidance); Committee on House Administration, Members' Congressional Handbook, 113th Congress (Dec. 16, 2011), at 28.

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*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."*¹³

18. Committee Reports

As the Committee explained in In the Matter of Allegations Relating to Representative Luis V. Gutiérrez, "where Members have used official funds for impermissible purposes, the Committee has regularly directed them to repay any misspent funds. This requirement has most frequently arisen in circumstances where official funds were used for a Member's personal benefit or to benefit their campaign . . . However, the Committee has also made clear that a Member is responsible to repay MRA funds used for impermissible purposes, even where neither the Member nor the Member's campaign benefitted from the use of official funds."¹⁴ This is the case when a Member fails to properly supervise staff and the lack of appropriate oversight results in the misspent MRA funds.¹⁵

B. Rep. Schweikert May Have Authorized MRA Expenditures for Personal or Campaign-Related Expenses

19. The OCE examined MRA disbursement documents and data in order to determine whether Rep. Schweikert approved the disbursement of MRA funds to Oliver Schwab for any improper purposes. 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, and whether Rep. Schweikert certified that any of these expenses were for official, representational duties when in fact they were not.
20. Despite extensive non-cooperation from numerous witnesses, 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.

¹³ Committee on House Administration, Members' Congressional Handbook, 115th 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, 114th Congress (March 16, 2016), at 14-15 (containing the same guidance).

¹⁴ *In the Matter of Allegations Relating to Representative Luis V. Gutiérrez*, 115th Congress, 2d Sess. (2018) at 27-28.

¹⁵ *Id.* at 26; 31; 32.

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

21. 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.”¹⁶
22. 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.¹⁷ Instead, Rep. Schweikert designated certain individuals as authorized signers who would sign MRA disbursement documentation on his behalf.¹⁸
23. 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 Rep. Schweikert was not involved in the MRA disbursement process and recalled frequently signing certifications for Rep. Schweikert.¹⁹ 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.²⁰
24. Former Financial Administrator, a financial administrator in Rep. Schweikert’s office between October 2014 and January 2017, 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.²¹ 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.²² 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.”²³

¹⁶ Committee on House Administration, Members’ Congressional Handbook at 43 (2018); *see also* House Ethics Manual at 332; Committee on House Administration, Voucher Documentation Standards (Oct. 1, 2016) at 3 (“All vouchers must contain the name and signature of the voucher preparer and the signature of the Member/Chair/Office.”).

¹⁷ Transcript of Interview of Former Deputy Chief of Staff, Jan. 18, 2018 (“Former Deputy Chief of Staff Transcript, Part 1”) (Exhibit 1 at 17-4790_0021); Transcript of Interview of Former Financial Administrator, Jan. 23, 2018 (“Former Financial Administrator Transcript”) (Exhibit 2 at 17-4790_055-56); Transcript of Interview of Former Legislative Director, Jan. 31, 2018 (“Former Legislative Director Transcript”) (Exhibit 3 at 17-4790_079). This includes requested reimbursements for travel, office supplies, training, and other official expenditures. *Id*; *see also e.g.* Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0015; 0019); Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0055).

¹⁸ Former Financial Administrator Transcript (Exhibit 2 at 17-4790_55-56); Former Legislative Director Transcript (Exhibit 3 at 17-4790_0079); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0020-21).

¹⁹ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0020-21).

²⁰ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0015-22).

²¹ Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0055-56).

²² Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0048-49).

²³ Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0058).

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25. Former Legislative Director, a Legislative Assistant and then Legislative Director in Rep. Schweikert's office between February 2011 and January 2017, also told the OCE that Rep. Schweikert was uninvolved in the MRA disbursement process.²⁴ He indicated that Mr. Schwab and Former Deputy Chief of Staff would have signed MRA reimbursement requests on Rep. Schweikert's behalf.²⁵
26. 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."²⁶ However, he also acknowledged that, "in hindsight," he felt there "should have been more supervision" on Mr. Schwab's spending practices.²⁷
27. When asked whether there were always two independent individuals reviewing and signing MRA disbursement requests before they were submitted, Former Financial Administrator said yes, but acknowledged that she would sometimes be the only one reviewing requests from Mr. Schwab.²⁸
28. Former Legislative Director told the OCE that Mr. Schwab maintained control over office finances.²⁹ 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.³⁰ He described Mr. Schwab as having "full carte blanche authority to manage the MRA disbursements and the office finances as he deemed necessary."³¹
29. 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]."³²

²⁴ Former Legislative Director Transcript (Exhibit 3 at 17-4790_0079-80; 0096).

²⁵ *Id.*

²⁶ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0009); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0034) ("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 1 at 17-4790_0038) (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 1 at 17-4790_0003-0010; 0030)]; *see also* Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0038) ("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.").

²⁷ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0015).

²⁸ Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0058).

²⁹ Former Legislative Director Transcript (Exhibit 3 at 17-4790_0079-80; 0096).

³⁰ Former Legislative Director Transcript (Exhibit 3 at 17-4790_0078-80; 0096).

³¹ Former Legislative Director Transcript (Exhibit 3 at 17-4790_0096).

³² *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 3 at 17-4790_0107-08); Transcript of Interview of Former

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ii. The Arizona Trip

30. 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.³³ This includes the cost of his flight, accommodations, a rental car, and various gas, parking, and food expenses.³⁴
31. These Arizona Trip expenses were reimbursed pursuant to MRA disbursement requests that required Rep. Schweikert’s certification.³⁵ Given the non-cooperation by Rep. Schweikert, the OCE was not able to determine whether Rep. Schweikert signed these documents personally or whether the documents were signed on his behalf.³⁶ Regardless, Rep. Schweikert is responsible for ensuring that MRA disbursements are made only for official, representational purposes.
32. 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

33. Mr. Schwab flew from Baltimore-Washington International Airport to Phoenix, Arizona on Wednesday, January 28, 2015.³⁷ The round trip flight cost \$920.20.³⁸
34. After landing in Arizona late Wednesday evening, Mr. Schwab rented a Ford Focus from Alamo Rent A Car.³⁹ 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.⁴⁰
35. 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, 2015.⁴¹ The cost of

Deputy Chief of Staff, Feb. 8, 2018 (“Former Deputy Chief of Staff Transcript, Part 2”) (Exhibit 4 at 17-4790_0130-31).

³³ Arizona Trip Reimbursement Chart (Exhibit 5 at 17-4790_0134-36).

³⁴ *Id.*

³⁵ Arizona Trip Voucher Documents (Exhibit 6 at 17-4790_0138-94).

³⁶ Former Deputy Chief of Staff told at the OCE that he believed at least some of the Arizona Trip reimbursement requests were signed by him on Rep. Schweikert’s behalf. Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0020-21).

³⁷ Arizona Trip Reimbursement Chart (Exhibit 5 at 17-4790_0134-36).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *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.

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this five-night stay was \$4,027.07, or \$805.41 per night.⁴² 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, 2015.⁴³

36. Billing receipts from Hilton establish that two people stayed in Mr. Schwab's room.⁴⁴ Former Deputy Chief of Staff told the OCE that Mr. Schwab's wife (then-fiancée) was in Arizona with him during the Arizona Trip.⁴⁵ 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.⁴⁶

b. Evidence of Official Activities

37. Rep. Schweikert, Mr. Schwab, and other 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.
38. 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.
39. Former Financial Administrator told the OCE that the Arizona Trip was presented to her as an official trip.⁴⁷ 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.⁴⁸

40. 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].”⁴⁹ He recalled

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*; see also Arizona Trip Voucher Documents (Exhibit 6 at 17-4790_0156; 0186; 0189-90; 0192).

⁴⁵ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0025-26). 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 3 at 17-4790_0082-83).

⁴⁶ Super Bowl Photos (Exhibit 7 at 17-4790_0196-200); Examiner Article.

⁴⁷ Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0063; 0066).

⁴⁸ Email between Former Financial Administrator and Oliver Schwab, Jan. 24, 2015 (Exhibit 8 at 17-4790_0203); Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0062-63).

⁴⁹ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0024).

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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.⁵⁰ He acknowledged that these recollections were based primarily upon representations made to him by Mr. Schwab,⁵¹ but also said he had no reason to believe Mr. Schwab was making any misrepresentations to him.⁵²

c. Evidence of Personal or Campaign Activities

41. Pursuant to House rules, standards of conduct, and federal law, it would have been improper for Rep. Schweikert to authorize the use of 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.
42. Despite the non-cooperation from Rep. Schweikert, Rep. Schweikert's campaign and political action committees, Mr. Schwab, 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 campaign or personal activities during at least three of the four full days of the Arizona Trip.
43. 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."⁵³ The letter also represented that Mr. Schwab will be repaying – from his personal funds – the cost of the Arizona Trip.⁵⁴ The letter plainly indicates that the OCE would have found additional evidence of misuse had it received cooperation during its review.⁵⁵

⁵⁰ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0024-25).

⁵¹ *Id.*

⁵² Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0034).

⁵³ Letter from Jason Torchinsky, Counsel to Rep. Schweikert, to Paul Solis, Deputy Chief Counsel, Office of Congressional Ethics, Jan. 29, 2018 (Exhibit 9 at 17-4790_0205-06). This letter contains two points that the OCE felt obligated to clarify in a subsequent communication to Mr. Torchinsky. First, as discussed above at footnote 3, any delays associated with Rep. Schweikert receiving notice of this review were solely the result of Rep. Schweikert or his counsel's decision not to respond to OCE communications between November 16, 2017 and November 27, 2017. Second, any suggestion that Mr. Schweikert "was not the subject of this review" is plainly mistaken, as Review No. 17-4790 was specifically opened to review conduct by Rep. Schweikert. In OCE's November 27, 2017 letter, Rep. Schweikert was advised that the OCE "has initiated a preliminary review into a matter concerning [him]" and further explained that Rep. Schweikert "may have violated House rules, standards of conduct, and federal law" by authorizing impermissible MRA expenditures.

⁵⁴ *Id.*

⁵⁵ *Id.*

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Friday January 30, 2015

44. 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.
45. On Friday morning, Mr. Schwab parked his rental car at a downtown Phoenix parking garage located at 112 N. 2nd Street, Phoenix, Arizona.⁵⁶ 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.⁵⁷
46. 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).⁵⁸
47. Additionally, Mr. Schwab parked at a 2401 E. Camelback Road parking complex, which is The Camby Hotel's parking facility.⁵⁹ 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.^{60, 61}

⁵⁶ Arizona Trip Voucher Documents (Exhibit 6 at 17-4790_0149). 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 5 at 17-4790_0134-36). 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.

⁵⁷ 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).

⁵⁸ Arizona Trip Voucher Documents (Exhibit 6 at 17-4790_0148; 0159; 0184; 0188; 0194). 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.*

⁵⁹ Arizona Trip Reimbursement Chart (Exhibit 5 at 17-4790_0134-36); The Camby Hotel, *Home*, <https://www.thecamby.com/> (last visited Feb. 26, 2018) (noting the address as 2401 E. Camelback Rd.).

⁶⁰ The Camby Hotel, *Local Area*, <https://www.thecamby.com/local-area> (last visited Feb. 26, 2018).

⁶¹ 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.

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Saturday January 31, 2015

48. 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.⁶²
49. 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,⁶³ and that the private box was sponsored by an industry group, which he attended as a guest of his wife.⁶⁴
50. The OCE found evidence that the McCarthy Victory Fund sponsored a fundraiser at the Phoenix Open,⁶⁵ and as discussed above, Mr. Schwab told colleagues that he was needed in Arizona to "host events with the House Majority Leader."⁶⁶

Sunday February 1, 2015

51. 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, 2015.⁶⁷
52. 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.⁶⁸ While Mr. Schwab initially

⁶² 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.

⁶³ 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.

⁶⁴ Examiner Article.

⁶⁵ On January 22, 2015, the McCarthy Victory Fund spent \$3,660.48 on lodging at the Hyatt Regency Scottsdale Resort & Spa. 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 16th 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 16th Street, Suite 100, Phoenix, Arizona. Thunderbirds Charities Website (Exhibit 10 at 17-4790_0208-09). 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 1 at 17-4790_0024; 0027-28). 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 1 at 17-4790_0028).

⁶⁶ See *supra*, footnote 48.

⁶⁷ 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.

⁶⁸ Arizona Trip Voucher Documents (Exhibit 6 at 17-4790_0149; 0155).

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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.⁶⁹

53. Former Deputy Chief of Staff confirmed that Mr. Schwab, along with his wife and Rep. Schweikert, attended the Super Bowl on Sunday afternoon.⁷⁰ The OCE also obtained photographs of Mr. Schwab’s mother and brother at Super Bowl XLIX.⁷¹

iii. Office Supplies

54. The OCE examined office supply purchases and practices in Rep. Schweikert’s office in order to determine whether Mr. Schwab was improperly reimbursed with Rep. Schweikert’s MRA funds for any office supply purchases that did not have official purposes.
55. Rep. Schweikert’s office did not have a formal office policy or procedure regarding the purchase of office supplies or reimbursement for such purchases.⁷² 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,⁷³ and that individual staff members would purchase supplies from either the House office supply store or a third party vendor such as Amazon.⁷⁴
56. 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,”⁷⁵ but that he had no reason to believe Mr. Schwab was purchasing office supplies for his personal benefit.⁷⁶ 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.⁷⁷

⁶⁹ Compare Arizona Trip Voucher Documents (Exhibit 6 at 17-4790_0149; 0155) 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 65.

⁷⁰ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0025-26).

⁷¹ Super Bowl Photos (Exhibit 7 at 17-4790_0196-200). The OCE also found that Mr. Schwab spent \$3,625.00 on January 25, 2015 on a purchase from the “NTL Football League.” Arizona Trip Voucher Documents (Exhibit 6 at 17-4790_0148; 0159; 0184). 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.

⁷² Former Legislative Director Transcript (Exhibit 3 at 17-4790_0091); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0019).

⁷³ Former Legislative Director Transcript (Exhibit 3 at 17-4790_0092); Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0019).

⁷⁴ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0019); Former Legislative Director Transcript (Exhibit 3 at 17-4790_0091).

⁷⁵ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0009).

⁷⁶ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0009; 0028-29).

⁷⁷ Former Deputy Chief of Staff Transcript, Part 1 (Exhibit 1 at 17-4790_0009; 0028-29; 0036).

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57. Former Financial Administrator told the OCE that she thought Mr. Schwab's spending habits were a joke in Rep. Schweikert's office.⁷⁸ She noted that Rep. Schweikert would jokingly ask her if Mr. Schwab was spending too much money on office supplies,⁷⁹ and she would jokingly ask Mr. Schwab whether he "[had] Amazon on speed dial."⁸⁰ 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.⁸¹
58. 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.⁸² The chart revealed that his office "spent significantly more than other offices."⁸³
59. 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.⁸⁴
60. 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.

iv. Training

61. The OCE examined educational expenditures in Rep. Schweikert's office in order to determine whether Mr. Schwab was improperly reimbursed with Rep. Schweikert's MRA funds for any training programs he attended as Chief of Staff.
62. 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."⁸⁵ The cost of the course was \$7,400.00.⁸⁶
63. 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.⁸⁷

⁷⁸ Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0051).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0051; 0067-68).

⁸² Former Financial Administrator Transcript (Exhibit 2 at 17-4790_0059).

⁸³ *Id.*

⁸⁴ Former Legislative Director Transcript (Exhibit 3 at 17-4790_0099).

⁸⁵ Harvard Executive Education Course Materials (Exhibit 11 at 17-4790_0211-22). 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.*

⁸⁶ *Id.*

⁸⁷ *Id.*

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64. On October 29, 2016, Mr. Schwab emailed Former Financial Administrator and asked whether this sort of program was reimbursable.⁸⁸ 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.”⁸⁹
65. In response, Former Financial Administrator told Mr. Schwab that the course may be reimbursable if it primarily benefited the office (and not him personally).⁹⁰ 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.”⁹¹
66. 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.”⁹² The \$7,400.00 was reimbursed to Mr. Schwab thereafter.⁹³
67. Although Mr. Schwab did not cooperate with this review and Former Financial Administrator raised concerns about reimbursement for this course, given the curriculum,⁹⁴ the intended audience,⁹⁵ and the fact that it is 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.

68. 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 Rep. Schweikert – as the individual responsible for ensuring his staff’s compliance with all MRA rules and regulations – improperly certified to the disbursement of MRA funds for campaign or personal expenses.

⁸⁸ Emails between Former Financial Administrator and Oliver Schwab, Oct. 29, 2016 (Exhibit 12 at 17-4790_0224-26).

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Harvard Executive Education Course Materials (Exhibit 11 at 17-4790_0211).

⁹³ Statement of Disbursements of the House, January 1, 2016 – March 31, 2016.

⁹⁴ 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).

⁹⁵ 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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III. REP. SCHWEIKERT MAY HAVE ACCEPTED IMPROPER CAMPAIGN CONTRIBUTIONS FROM A CONGRESSIONAL EMPLOYEE

A. Applicable Law, Rules, and Standards of Conduct

69. Federal Law

Under 18 U.S.C. § 602, “[i]t shall be unlawful for . . . an individual elected to or serving in the office of Senator or Representative . . . to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person.”⁹⁶

Under 18 U.S.C. § 603(a), “[i]t 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 . . . Senator or Representative in . . . the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution.”⁹⁷

70. House Ethics Manual

“A provision of the federal criminal code, 18 U.S.C. § 603, makes it unlawful for any federal officer or employee to make certain campaign contributions to ‘the employer or employing authority of the person making the contribution.’ Accordingly, an employee of a Member office is prohibited from making a ‘contribution’ . . . to his or her employing Member.”⁹⁸

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.”⁹⁹

*“The definition of the term contribution in the FECA is quite detailed . . . [U]nder 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*

⁹⁶ “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).

⁹⁷ 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.”

⁹⁸ House Ethics Manual (2008) at 137-38.

⁹⁹ *Id.* at 138.

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*a campaign.”¹⁰⁰ Assuming certain travel outlays are reimbursed within specified time periods,
they will not be considered “contributions.”¹⁰¹*

*The House Ethics Manual also states that a Member “must take reasonable steps to ensure that
any outside organization over which he or she exercises control – including the individual’s own
authorized campaign committee . . . – operates in compliance with applicable law.”¹⁰²*

**B. Rep. Schweikert May Have Accepted Campaign Contributions from his Chief of
Staff, Oliver Schwab**

71. 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.
72. 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.¹⁰³
73. Between 2011 and 2016, while also employed in Rep. Schweikert’s congressional office, Mr. Schwab made various personal outlays on behalf of Rep. Schweikert’s campaign committees that were subsequently reimbursed to him.¹⁰⁴ 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;¹⁰⁵ however, the OCE could not determine a definitive figure given the non-cooperation by Rep. Schweikert, Rep. Schweikert’s affiliated campaign entities, and Oliver Schwab.
74. 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.¹⁰⁶

¹⁰⁰ *Id.* at 138-39 (emphasis in original).

¹⁰¹ *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).

¹⁰² House Ethics Manual at 123.

¹⁰³ 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 Rep. Schweikert’s refusal to cooperate with this review.

¹⁰⁴ FEC Disbursement Chart (Exhibit 13 at 17-4790_0228-32). Friends of David Schweikert is Rep. Schweikert’s current principal campaign committee and Schweikert for Congress was a prior principal campaign committee.

¹⁰⁵ FEC Disbursement Chart (Exhibit 13 at 17-4790_0228-32). 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. *See supra*, footnote 103.

¹⁰⁶ *See supra*, Section III.A.

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However, several of Mr. Schwab's personal outlays, including outlays for "Office Supplies," "Food/Beverage," and "Postage," appear to be improper contributions.¹⁰⁷

75. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Schweikert failed to ensure that his campaign committee complied with applicable rules regarding contributions from congressional employees.

IV. CONCLUSION

76. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Schweikert authorized expenditures from his MRA, made by or on behalf of his Chief of Staff Oliver Schwab, that were not for permissible official expenses.
77. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Schweikert failed to ensure that his campaign committee complied with applicable rules regarding contributions from congressional employees.
78. Accordingly, the Board recommends that the Committee further review the above allegations concerning Rep. Schweikert.

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

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

Rep. Schweikert

80. 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.

Oliver Schwab

81. 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.

Keith A. Davis

82. 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

¹⁰⁷ See FEC Disbursement Chart (Exhibit 13 at 17-4790_0227-32).

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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.¹⁰⁸ In response, the OCE explained that its request included any responsive email communications, or other documents, still currently accessible to Mr. Davis.¹⁰⁹ 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

83. 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

84. Kevin Knight is Rep. Schweikert's Deputy Chief of Staff. Mr. Knight did not respond to OCE requests for an interview.
85. Katherina Dimenstein is Rep. Schweikert's Legislative Director. Ms. Dimenstein, through counsel, declined to interview with the OCE.
86. Ashley Sylvester is Rep. Schweikert's Officer Manager and Press Assistant. Ms. Sylvester, through counsel, declined to interview with the OCE.
87. 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.

Former Congressional Staff Members

88. 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.¹¹⁰
89. 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, 2018.¹¹¹ On January 17, 2018, Mr. Leander informed the OCE that the interview no longer

¹⁰⁸ Email from Keith A. Davis to Jeffrey L. Brown, Investigative Counsel, Dec. 14, 2017.

¹⁰⁹ Email from Jeffrey L. Brown, Investigative Counsel, to Keith A. Davis, Dec. 14, 2017.

¹¹⁰ Former Deputy Chief of Staff Transcript, Part 2 (Exhibit 4 at 17-4790_0127-28).

¹¹¹ Email from Tommy Leander to Jeffrey Brown, Investigative Counsel, Jan. 11, 2018.

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended worked with his schedule and that he did not wish to reschedule the interview.¹¹² He did not respond to subsequent communications from the OCE.

Mr. Schwab's Family

90. 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.
91. Jennifer Casey Schwab, Mr. Schwab's mother, did not respond to the OCE's requests for information and request for an interview.
92. 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.

¹¹² Email from Tommy Leander to Jeffrey Brown, Investigative Counsel, Jan. 17, 2018.