OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 17-3509

The Board of the Office of Congressional Ethics ("the Board"), by a vote of no less than four members, on July 7, 2017, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives.

SUBJECT: Representative Chris Collins

NATURE OF THE ALLEGED VIOLATION: Representative Collins is a board member of Innate Immunotherapeutics Limited ("Innate") and holds stock in the company. Representative Collins may have shared material nonpublic information in the purchase of Innate stock. If Representative Collins shared material nonpublic information in the purchase of Innate stock, then he may have violated House rules, standards of conduct, and federal law.

Representative Collins may have also purchased discounted Innate stock that was not available to the public and that was offered to him based on his status as a Member of the House of Representatives. If Representative Collins purchased discounted stock that was not available to the public and that was offered to him based on his status as a Member of the House of Representatives, then he may have violated House rules, standards of conduct, and federal law.

Representative Collins attended a meeting at the National Institutes of Health ("NIH") in November 2013. In that meeting, Representative Collins discussed Innate and requested that an NIH employee meet with Innate employees to discuss clinical trial designs. If Representative Collins took official actions or requested official actions that would assist a single entity in which he had a significant financial interest, then he may have violated House rules and standards of conduct.

RECOMMENDATION: The Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Collins shared material nonpublic information in the purchase of Innate stock, in violation of House rules, standards of conduct, and federal law.

The Board recommends that the Committee on Ethics dismiss the above allegation because there is not a substantial reason to believe that Representative Collins purchased discounted stock that was not available to the public and that was offered to him based on his status as a Member of the House of Representatives, in violation of House rules, standards of conduct, and federal law.

The Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Collins took official actions or requested official actions that would assist a single entity in which he had a significant financial interest, in violation of House rules and standards of conduct.

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. 17-3509

On July 7, 2017, the Board of the Office of Congressional Ethics ("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. Representative Collins is a board member of Innate Immunotherapeutics Limited ("Innate") and holds stock in the company. Representative Collins may have shared material nonpublic information in the purchase of Innate stock. If Representative Collins shared material nonpublic information in the purchase of Innate stock, then he may have violated House rules, standards of conduct, and federal law.

2. Representative Collins may have also purchased discounted Innate stock that was not available to the public and that was offered to him based on his status as a Member of the House of Representatives. If Representative Collins purchased discounted stock that was not available to the public and that was offered to him based on his status as a Member of the House of Representatives, then he may have violated House rules, standards of conduct, and federal law.

3. Representative Collins attended a meeting at the National Institutes of Health ("NIH") in November 2013. In that meeting, Representative Collins discussed Innate and requested that an NIH employee meet with Innate employees to assist in Innate's trial designs. If Representative Collins took official actions that would assist a single entity in which he had a significant financial interest, then he may have violated House rules and standards of conduct.

4. The Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Collins shared material nonpublic information in the purchase of Innate stock, in violation of House rules, standards of conduct, and federal law.

5. The Board recommends that the Committee on Ethics dismiss the above allegation because there is not a substantial reason to believe that Representative Collins purchased discounted stock that was not available to the public and that was offered to him based on his status as a Member of the House of Representatives, in violation of House rules, standards of conduct, and federal law.

6. The Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Collins took official actions or requested official actions that would assist a single entity in which he had a significant financial interest, in violation of House rules and standards of conduct.

B. Jurisdiction Statement

7. The allegations that were the subject of this review concern Representative Collins, a Member of the United States House of Representatives from the 27th District of New York. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (the "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."[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

8. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on March 8, 2017. The preliminary review commenced on March 9, 2017.[2] The preliminary review was scheduled to end on April 7, 2017.

9. On March 10, 2017, the OCE notified Representative Collins 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.

10. At least three members of the Board voted to initiate a second-phase review in this matter on April 7, 2017.[3] The second-phase review commenced on April 8, 2017. The second-phase review was scheduled to end on May 22, 2017.

11. On April 10, 2017, the OCE notified Representative Collins of the initiation of the second-phase 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.

12. On May 5, 2017, the Board voted to extend the second-phase review by an additional 14 days.

[1] H. Res. 895, 110th Cong. §1(e) (2008) (as amended) ("the Resolution").
[2] 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] 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. The second-phase review does not begin on the date of the Board vote.

13. The Board voted to refer the matter to the Committee on Ethics for further review, and dismissal, and adopted these findings on July 7, 2017.

14. The report and its findings in this matter were transmitted to the Committee on Ethics on July 14, 2017.

D. Summary of Investigative Activity

15. The OCE requested documentary and in some cases testimonial information from the following sources:

(1) Representative Collins;
(2) Innate Investor 1;
(3) Innate Investor 2;
(4) Innate Investor 3;
(5) Innate Investor 4;
(6) Roswell Park Cancer Institute;
(7) Roswell Park Cancer Institute Physician 1;
(8) NIH Employee 1; and
(9) NIH Employee 2.

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

(1) Tom Price, Secretary of the Department of Health and Human Services;
(2) Innate;
(3) Simon Wilkinson, Innate Chief Executive Officer;
(4) Jeff Freeland, Representative Collins' former Legislative Assistant;
(5) Chris Graham;
(6) Dr. Mark Lema;
(7) William Grove;
(8) Marcia Grove;
(9) L. William Paxon; and
(10) Guy Agostinelli.

II. REPRESENTATIVE COLLINS AND THE SHARING OF INNATE MATERIAL NONPUBLIC INFORMATION

A. Applicable Law, Rules, and Standards of Conduct

17. STOCK Act, Pub. L. No. 112-105, 126 Stat. 291 (2012)

> *(a) AFFIRMATION OF NONEXEMPTION—Members of Congress and employees of Congress are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.*[4]

18. Committee on Ethics Guidance

> *"If the Member or employee chooses to trade on [material nonpublic] information, they may have engaged in insider trading."*[5] *Members and employees could also incur liability through a practice known as tipping."*[6]
>
> *"Material nonpublic information is any information concerning a company, security, industry or economic sector, or real or personal property that is not available to the general public* ***and*** *which an investor would likely consider important in making an investment decision. A good rule of thumb to determine whether information may be material nonpublic information is whether or not the release of that information to the public would have an effect on the price of the security or property."*[7]

B. Representative Collins' Connection to Innate

19. Prior to his election to Congress, Representative Collins, along with a partner, owned and managed ZeptoMetrix Corporation ("ZeptoMetrix").[8] ZeptoMetrix is (and was prior to Representative Collins' election to Congress) a privately held company that grows and

[4] *See* 15 U.S.C § 78j(b); 17 C.F.R. § 240.10b-5. *See also SEC v. Obus*, 693 F.3d 276, 286 (2d Cir. 2012) (explaining the elements of "tipper" liability); *Dirks v. SEC*, 463 U.S. 646, 664 (1983) ("The elements of fiduciary duty and exploitation of nonpublic information also exist when an insider makes a gift of confidential information to a trading relative or friend."). Although Innate stock is not traded on any U.S. exchange, the Dodd-Frank Wall Street Reform and Consumer Protection Act section 929P extends securities enforcement jurisdiction to "conduct within the United States that constitutes significant steps in furtherance of the violation, even if the securities transaction occurs outside the United States and involves only foreign investors" or "conduct occurring outside the United States that has a foreseeable substantial effect within the United States." *See, e.g., SEC v. Traffic Monsoon, LLC*, 2017 U.S. Dist. LEXIS 45908 (D. Utah Mar. 28, 2017); *SEC v. Brown*, 2015 U.S. Dist. LEXIS 25787 (N.D. Ill. Mar. 4, 2015); *Ulrich v. Moody's Corp.*, 2014 U.S. Dist. LEXIS 145898 (S.D.N.Y. Mar. 31, 2014).

[5] Memorandum from the Chair and Ranking Member of the Comm. on Ethics, *New Ethics Requirements Resulting from the STOCK Act*, Apr. 4, 2012 (emphasis in original).

[6] Memorandum from the Chair and Ranking Member of the Comm. on Ethics, *Rules Regarding Personal Financial Transactions*, Nov. 29, 2011.

[7] *Id.*

[8] Transcript of Interview of Rep. Collins, Jun. 5, 2017 ("Rep. Collins TOI") (Exhibit 1 at 17-3509_000003). At the time of his interview with the OCE, Representative Collins' wife and daughter owned half of ZeptoMetrix. *Id.*

maintains an inventory of bacteria, viruses, parasites, and other similar clinical specimens.[9] ZeptoMetrix sells those specimens to organizations for research purposes.[10]

20. In the 1990s, ZeptoMetrix supplied HIV to Virionyx Corporation ("Virionyx"), a New Zealand-based company that was working to establish a cure for HIV/AIDS.[11]

21. In or around December 2005, Virionyx was looking to raise money from U.S. investors.[12] Given his familiarity with the company, Representative Collins invited Virionyx CEO Simon Wilkinson to pitch his Buffalo, New York-based friends and acquaintances on investing in Virionyx.[13]

22. Representative Collins and several other Buffalo-based investors contributed approximately $6-8 million dollars to Virionyx in December 2005.[14] Representative Collins was also appointed to the Virionyx Board of Directors around this time.[15]

23. In April 2009, Virionyx changed its name to Innate Therapeutics Limited.[16] As Representative Collins explained to the OCE, Virionyx's HIV/AIDS efforts had failed, and the name change resulted from the company's desire to "introduce [a] standalone drug for secondary progressive [multiple sclerosis]."[17]

24. Innate Therapeutics Limited – now known as Innate Immunotherapeutics Limited – currently describes itself as a medical biotechnology company with offices in both Sydney, Australia and Auckland, New Zealand.[18]

25. Innate refused to cooperate with the OCE's review. Much of the background information on Innate, discussed below, was gathered from public sources.

26. According to the company's website, Innate "has designed and manufactured a unique immunomodulatory micropartical technology . . . that can be used to induce the human immune system to fight certain cancers and infections, or modulate certain immune mechanisms implicated in autoimmune diseases such as Multiple Sclerosis."[19] The first

[9] ZeptoMetrix, *homepage*, http://www.zeptometrix.com/ (last visited Jul. 5, 2017); Rep. Collins TOI (Exhibit 1 at 17-3509_000003).
[10] *Id.*
[11] Rep. Collins TOI (Exhibit 1 at 17-3509_000003).
[12] *Id.* at 17-3509_000006.
[13] *Id.* at 17-3509_000006-7.
[14] *Id.*
[15] *Id.* at 17-3509_000008.
[16] *Virionyx Changes Name to Innate Therapeutics, Advances Novel Immune Stimulant, MIS416, to Clinical Trials*, BUSINESS WIRE (Apr. 17, 2009), http://www.businesswire.com/news/home/20090417005089/en/Virionyx-Innate-Therapeutics-Advances-Immune-Stimulant-MIS416.
[17] Rep. Collins TOI (Exhibit 1 at 17-3509_000010).
[18] Innate, *homepage*, http://www.innateimmuno.com/irm/content/default.aspx (last visited Jul. 5, 2017).
[19] *Id.*

drug candidate developed by Innate using this technology is MIS416.[20] The initial clinical target for MIS416 is secondary progressive multiple sclerosis ("SPMS").[21]

27. Innate asserts that MIS416 can trigger "anti-inflammatory and reparative functions inside the central nervous system" making "MIS416 a highly relevant drug candidate for the treatment of [SPMS] and other neurological conditions where inflammation inside the [central nervous system] contributes to disease pathology."[22] Innate also claims that there "are currently no approved drugs for the effective ongoing treatment of SPMS" and therefore MIS416 would address an "important unmet medical need" and represent a "significant commercial opportunity."[23]

28. In 2014, Innate commenced a Phase 2B randomized, double-blind, placebo-controlled trial designed to test the efficacy and safety of MIS416 in subjects with SPMS.[24] The trial was conducted at sites in Australia and New Zealand.[25]

29. In April 2016, Innate completed enrollment in the Phase 2B trial, with 93 patients having enrolled in the study.[26] The trial officially concluded in April 2017, and a final report on the results of the trial was expected in August or September 2017.[27] On June 27, 2017, Innate announced top line Phase 2B results, that the drug "did not show clinically meaningful or statistically significant outcomes."[28]

30. In addition to the above-discussed clinical trial, Innate has also made MIS416 available to New Zealand-based SPMS sufferers on a "compassionate use" basis since 2008.[29]

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[20] Innate, *Company Overview*, http://www.innateimmuno.com/irm/content/company-overview.aspx?RID=299&RedirectCount=1 (last visited Jul. 5, 2017).
[21] *Id.*
[22] Completion of Phase 2B trial of MIS416 in patients with secondary progressive multiple sclerosis, INNATE (Apr. 20, 2017), http://www.innateimmuno.com/irm/PDF/1408_0/CompletionofPhase2BTrialofMIS416.
[23] *Id.*
[24] Innate, *Company Overview*, http://www.innateimmuno.com/irm/content/company-overview.aspx?RID=299&RedirectCount=1 (last visited Jul. 5, 2017); Innate, *Clinical Trials*, http://www.innateimmuno.com/irm/content/clinical-trials.aspx?RID=307 (last visited Jul. 5, 2017).
[25] Innate, *Clinical Trials*, http://www.innateimmuno.com/irm/content/clinical-trials.aspx?RID=307 (last visited Jul. 5, 2017).
[26] Innate Immunotherapeutics announces clinical trial fully enrolled and receives strong interest from potential Pharma partners, INNATE (Apr. 13, 2016), http://www.innateimmuno.com/irm/PDF/1219_0/ClinicalTrialFullyEnrolledandStrongInterest; Rep. Collins TOI (Exhibit 1 at 17-3509_000018).
[27] Completion of Phase 2B trial of MIS416 in patients with secondary progressive multiple sclerosis, INNATE (Apr. 20, 2017), http://www.innateimmuno.com/irm/PDF/1408_0/CompletionofPhase2BTrialofMIS416; Rep. Collins TOI (Exhibit 1 at 17-3509_000003).
[28] Innate Immunotherapeutics announces top-line results for trial of MIS416 in patients with secondary progressive multiple sclerosis, INNATE (Jun. 27, 2017), http://www.innateimmuno.com/irm/PDF/1424_0/TopLineResultsforTrialofMIS416.
[29] More patients access Innate's MIS416 drug on compassionate grounds, INNATE (Dec. 12, 2014), http://www.innateimmuno.com/irm/PDF/1083/CompassionateUseProgramUpdate; Compassionate use patients continue to report favourable responses, INNATE (May 20, 2015), http://www.innateimmuno.com/irm/PDF/1129_0/CompassionateUseProgramUpdate; Initial compassionate use patient approaches eight years of treatment, INNATE (Sept. 25, 2015),

Under New Zealand law, doctors may prescribe unapproved or experimental medicines to their patients "on compassionate grounds" with a patient's consent and approval from the requisite governmental bodies.[30] Innate reviewed the "compassionate data" on a weekly basis and discussed the data at board meetings.[31]

31. Innate has also made MIS416 available to researchers around the world, including at the Roswell Park Cancer Institute ("RPCI").[32] RPCI doctors planned to use MIS416 in ovarian cancer trials and were waiting on the U.S. Food & Drug Administration's ("FDA") approval of Innate's investigational new drug ("IND") application before proceeding with trials.[33]

32. Innate is a public company that trades under the symbol "ILL" on the Australian Securities Exchange.[34] Currently, Innate stock may be purchased by U.S. investors in an "over the counter pink sheet unregulated" environment.[35] Representative Collins told the OCE that this "market popped up maybe a year ago."[36]

33. Evidence obtained by the OCE suggests that many individuals based in the U.S. purchased Innate stock prior to the "pink sheet" "market" Representative Collins discussed. These purchases were not part of any private placement offering. For example, former Representative Tom Price made three purchases of Innate stock in January 2015.[37] Innate Investor 1, a U.S. investor, also told the OCE that he purchased Innate stock through a broker on the Australian Securities Exchange.[38]

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http://www.innateimmuno.com/irm/PDF/1178_0/CompassionateUseProgramUpdate; Rep. Collins TOI (Exhibit 1 at 17-3509_000024).

[30] *Id.*

[31] Rep. Collins TOI (Exhibit 1 at 17-3509_000022, 25-26).

[32] Transcript of Interview of Roswell Park Cancer Institute Physician 1, May 17, 2017 ("RPCI Physician 1 TOI") (Exhibit 2 at 17-3509_000063-64); *see also* Rep. Collins TOI (Exhibit 1 at 17-3509_000021).

[33] *Id.* When asked whether Innate filed an IND with the FDA, Rep. Collins stated that he "did not think so." Rep. Collins TOI (Exhibit 1 at 17-3509_000020). Additionally, Rep. Collins explained that RPCI would file any necessary IND associated with its ovarian cancer trials. *Id.* at 17-3509_000021-22. Contrary to Rep. Collins' explanations to the OCE, Innate filed an IND with the FDA that was approved in June 2017, after the OCE's review. *See* Innate Immunotherapeutics receives FDA clearance for MIS416 Investigational New Drug application, INNATE (Jun. 21, 2017), http://www.innateimmuno.com/irm/PDF/1419_0/FDAClearanceMIS416InvestigationalNewDrugApplication. As RPCI Physician 1 explained to the OCE, Innate was responsible for filing the IND application with the FDA, and RPCI could not begin its trials prior to Innate obtaining this approval. *See* RPCI Physician 1 TOI (Exhibit 2 at 17-3509_000064, 68-69, 71-72).

[34] Innate, *Investor Fact Sheet*, http://www.innateimmuno.com/irm/content/investor-fact-sheet.aspx?RID=312 (last visited Jul. 5, 2017).

[35] Rep. Collins TOI (Exhibit 1 at 17-3509_000013).

[36] *Id.*

[37] *See* House of Representatives Periodic Transaction Report for former Rep. Tom Price, filed Feb. 10, 2015. Rep. Collins told the OCE that Sec. Price had purchased Innate stock "unbeknownst" to him, prior to any private placement offering. Rep. Collins TOI (Exhibit 1 at 17-3509_000045-46).

[38] Transcript of Interview of Innate Investor 1, May 17, 2017 ("Innate Investor 1 TOI") (Exhibit 3 at 17-3509_000080).

34. Since his initial investment in December 2005, Representative Collins has made several loans to Innate and also purchased additional stock in Innate.[39] As of the date of Representative Collins' interview with the OCE, he was Innate's largest shareholder, owning approximately 16.80% of Innate stock.[40] Representative Collins remains on Innate's Board of Directors and serves in an uncompensated role.[41]

35. Representative Collins' children also own Innate stock. Two own approximately 2.30% each of the company's stock.[42] Representative Collins also told the OCE that "most" of his congressional staff owns Innate stock.[43] When asked about his communications with Members of Congress and staff regarding Innate, Representative Collins responded that "the bigger question would be, who haven't I talked to?"[44] Representative Collins provided the OCE with names of several Members with whom he recalled discussing Innate.

C. Representative Collins Updated Innate Shareholders With Information That Was Public and Information That Was Likely Nonpublic

36. Representative Collins frequently updated Innate shareholders on the company's activities, financial status, business strategies, and industry news. The OCE identified examples of the type of communications Representative Collins made to U.S. investors containing public and nonpublic information. According to Representative Collins, the investors he contacted in the emails below were primarily his friends.[45]

37. Because Innate refused to cooperate with the review, the OCE relied heavily on Innate's public disclosures available on its website and compared those disclosures with documents submitted to the Australian Securities Exchange.[46]

38. The Board notes that in all but one instance, emails from Representative Collins to U.S.-based Innate investors were produced to the OCE exclusively from third party witnesses and not from Representative Collins. Representative Collins explained to the OCE that he deletes his emails and texts "generally three times a day."[47]

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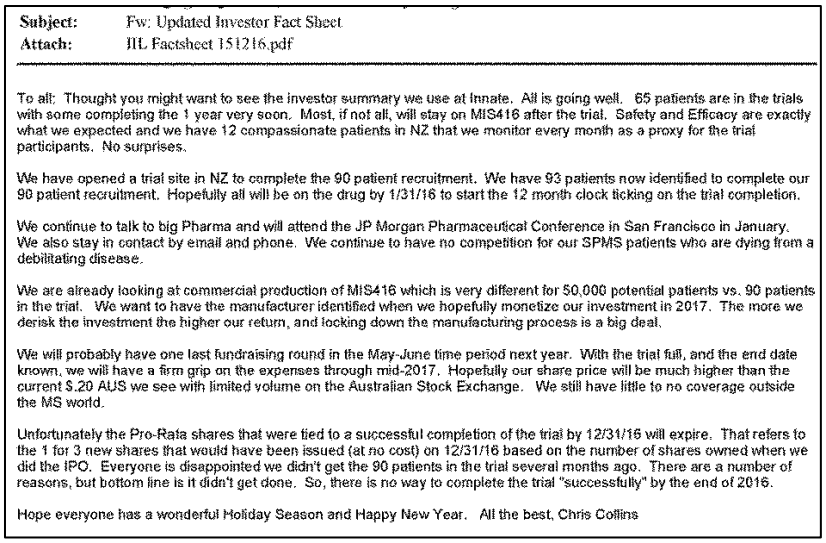
[39] Rep. Collins TOI (Exhibit 1 at 17-3509_000007, 9-12). *See generally* House of Representatives Periodic Transaction Reports for Rep. Chris Collins, 2013, 2014, 2016.
[40] Innate, *Top 20 Shareholders*, http://www.innateimmuno.com/irm/content/top-20-shareholders.aspx?RID=313 (last visited Jul. 5, 2017).
[41] Innate, *Investor Fact Sheet*, http://www.innateimmuno.com/irm/content/investor-fact-sheet.aspx?RID=312 (last visited Jul. 5, 2017); Rep. Collins TOI (Exhibit 1 at 17-3509_000008, 12).
[42] Innate, *Top 20 Shareholders*, http://www.innateimmuno.com/irm/content/top-20-shareholders.aspx?RID=313 (last visited Jul. 5, 2017); Rep. Collins TOI (Exhibit 1 at 17-3509_000015).
[43] Rep. Collins TOI (Exhibit 1 at 17-3509_000015).
[44] *Id*.
[45] Rep. Collins TOI (Exhibit 1 at 17-3509_000024, 44).
[46] ASX Announcements, http://www.asx.com.au/asx/statistics/announcements.do (last visited Jul. 5, 2017). Rep. Collins told the OCE that some information was disclosed publicly during "presentation slide deck[s]" by Simon Wilkinson. Rep. Collins TOI (Exhibit 1 at 17-3509_000034, 39). Without Innate's cooperation, the OCE could not verify these alleged occurrences.
[47] Rep. Collins TOI (Exhibit 1 at 17-3509_000024).

Example of Shareholder Update 1

39. On December 16, 2015, Representative Collins wrote to multiple U.S.-based Innate investors with the subject line "Fw: Updated Investor Fact Sheet."[48] He wrote in the email:

> Thought you might want to see the investor summary we use at Innate. All is going well. 65 patients are in the trials with some completing the 1 year very soon. Most, if not all, will stay on MIS416 after the trial. Safety and Efficacy are exactly what we expected and we have 12 compassionate patients in NZ that we monitor every month as a proxy for the trial participants. No Surprises.[49]



Subject: Fw: Updated Investor Fact Sheet
Attach: IIL Factsheet 151216.pdf

To all: Thought you might want to see the investor summary we use at Innate. All is going well. 65 patients are in the trials with some completing the 1 year very soon. Most, if not all, will stay on MIS416 after the trial. Safety and Efficacy are exactly what we expected and we have 12 compassionate patients in NZ that we monitor every month as a proxy for the trial participants. No surprises.

We have opened a trial site in NZ to complete the 90 patient recruitment. We have 93 patients now identified to complete our 90 patient recruitment. Hopefully all will be on the drug by 1/31/16 to start the 12 month clock ticking on the trial completion.

We continue to talk to big Pharma and will attend the JP Morgan Pharmaceutical Conference in San Francisco in January. We also stay in contact by email and phone. We continue to have no competition for our SPMS patients who are dying from a debilitating disease.

We are already looking at commercial production of MIS416 which is very different for 50,000 potential patients vs. 90 patients in the trial. We want to have the manufacturer identified when we hopefully monetize our investment in 2017. The more we derisk the investment the higher our return, and locking down the manufacturing process is a big deal.

We will probably have one last fundraising round in the May-June time period next year. With the trial full, and the end date known, we will have a firm grip on the expenses through mid-2017. Hopefully our share price will be much higher than the current $.20 AUS we see with limited volume on the Australian Stock Exchange. We still have little to no coverage outside the MS world.

Unfortunately the Pro-Rata shares that were tied to a successful completion of the trial by 12/31/16 will expire. That refers to the 1 for 3 new shares that would have been issued (at no cost) on 12/31/16 based on the number of shares owned when we did the IPO. Everyone is disappointed we didn't get the 90 patients in the trial several months ago. There are a number of reasons, but bottom line is it didn't get done. So, there is no way to complete the trial "successfully" by the end of 2016.

Hope everyone has a wonderful Holiday Season and Happy New Year. All the best, Chris Collins

40. Representative Collins also stated in the email that "[w]e have opened up a trial site in NZ to complete the 90 patient recruitment. We have 93 patients now identified to complete our 90 patient recruitment."[50] He went on to state that "[w]e continue to talk to big Pharma and will attend the JP Morgan Pharmaceutical Conference in San Francisco in January . . . We continue to have no competition for our SPMS patients who are dying from a debilitating disease."[51]

41. When asked about nature of trial enrollment numbers, Representative Collins told the OCE that "it was never an exact [number], but in that estimate."[52] He further stated that "much of [the numbers] would be on the website, sometimes it could be a presentation slide deck that Simon would use. He was talking to pharmaceutical companies; it was never anything really confidential."[53] Representative Collins told the OCE that he

[48] Email from Rep. Collins to U.S. Innate investors, Dec. 16, 2015 (Exhibit 4 at 17-3509_000094).
[49] *Id.*
[50] *Id.*
[51] *Id.*
[52] Rep. Collins TOI (Exhibit 1 at 17-3509_000039). Representative Collins also told the OCE that Mr. Wilkinson attended the meetings with pharmaceutical companies "on a regular basis" for eight to ten years. *Id.* at 17-3509_000037. Representative Collins stated that he did not attend these meetings. *Id.*
[53] *Id.* at 17-3509_000039.

received information regarding Phase 2B enrollment from Simon Wilkinson during Innate board meetings.[54]

42. Representative Collins also told the OCE that it was always Innate's intention to "sell the program" to a large pharmaceutical company.[55]

43. Representative Collins wrote further in the email that "[w]e are already looking at commercial production of MIS416 which is very different for 50,000 potential patients vs. 90 patients in the trial. We want to have the manufacturer identified when we hopefully monetize our investment in 2017. The more we derisk the investment the higher our return, and locking down the manufacturing process is a big deal."[56]

Public Information Related to Example 1

44. The "Investor Fact Sheet" is a consistently updated public document that was available on Innate's website prior to the December 2015 email above.[57]

45. The OCE confirmed that Innate had publicly announced its intention to partner with, or become acquired by, "big pharma" on multiple occasions in 2013 and 2014.[58] These public statements were issued prior to any statements or communications made by Representative Collins to Innate shareholders that were obtained by the OCE.

46. Innate's participation in New Zealand's "compassionate" program was also publicly disclosed prior to any email from Representative Collins to Innate shareholders that was obtained by the OCE. In December 2014, roughly a year before the email above, Innate announced its decision to provide MIS416 to additional SPMS patients, providing details on the compassionate program.[59] Information on patient feedback, patient conditions, and patient numbers was also disclosed in the same announcement.[60]

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[54] *Id.*
[55] Rep. Collins TOI (Exhibit 1 at 17-3509_000027-28, 36-37).
[56] Email from Rep. Collins to U.S. Innate investors, Dec. 16, 2015 (Exhibit 4 at 17-3509_000094).
[57] Investor Fact Sheet, INNATE (Sept. 27, 2016), http://www.innateimmuno.com/irm/company/showpage.aspx/PDFs/1334-72653175/InvestorFactSheet. The OCE found different versions of the "Fact Sheet" that had been modified over time. Rep. Collins told the OCE that Mr. Wilkinson and his team are responsible for developing the information on the sheet and placing it on the website, which is where Rep. Collins obtained the document before attaching to the email shown above. Rep. Collins TOI (Exhibit 1 at 17-3509_000040).
[58] *See, e.g.*, Replacement Prospectus, INNATE (Nov. 25, 2013), http://www.innateimmuno.com/irm/PDF/937_0/InnateImmunotherapeuticsLimitedReplacementProspectus; Investor Presentation, INNATE (Dec. 2014), http://www.innateimmuno.com/irm/PDF/1105_0/InvestorPresentationNovember2014.
[59] More patients access Innate's MIS416 drug on compassionate grounds, INNATE (Dec. 12, 2014), http://www.innateimmuno.com/irm/PDF/1083/CompassionateUseProgramUpdate.
[60] *Id.*; Initial compassionate use patient approaches eight years of treatment, INNATE (Sept. 25, 2015), http://www.innateimmuno.com/irm/PDF/1178_0/CompassionateUseProgramUpdate. To date, Innate has continuously updated public information on patient data in the compassionate program. Rep. Collins told the OCE that videos of patient testimonials are "gold" for recruitment purposes. Rep Collins TOI (Exhibit 1 at 17-3509_000048).

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

47. Innate publicly disclosed an intention to "start the drug manufacturing scale up planning" in October 2015, [61] although the information concerning "commercial production" Representative Collins provided to investors is significantly more detailed in the December 2015 email above.

Nonpublic Information Related to Example 1

48. The OCE did not obtain any information showing public disclosure of the number of Phase 2B trial participants, or their status in a trial, that reflect the numbers in Representative Collins' December 2015 email to investors. Similarly, Innate did not publicly disclose any information concerning "safety and efficacy" pertaining to the sixty-five "on drug" patients identified in the email.[62]

49. Innate announced publicly in July 2015, that "45 patients (50% of the target 90 patients) are now enrolled . . ." in the Phase 2B trial,[63] and in November 2015 that "eighty of the target 90 patients are now currently either on treatment, being screened, or coming off previous medications in readiness to be enrolled in the study."[64] However, the OCE did not obtain any information showing public disclosure of enrollment completion or recruitment completion numbers for the Phase 2B trial prior to the December 2015 email to investors.

50. On January 29, 2016, roughly one month later, Innate disclosed that "a total of ninety-three subjects have now either been enrolled, are being screened, or are coming off previous medications in order to be eligible for enrolment into the study. The Company expects to close enrolment by the end of the current quarter."[65]

[61] 4C Quarterly Cash Flow Report, INNATE (Oct. 30, 2015), http://www.innateimmuno.com/irm/PDF/1188_0/Appendix4CQuarterlyCashFlowReportSept15Qtr.
[62] In a December 16, 2015 publicly available Investor Fact Sheet, Innate stated that "[c]ompleted Phase 1B/2A trials of MIS416 have demonstrated an acceptable safety and tolerability profile . . . ." Investor Fact Sheet, INNATE (Dec. 16, 2015), http://www.innateimmuno.com/irm/PDF/1204_0/InvestorFactSheet. However, in Rep. Collins' email to investors, he discusses "safety and efficacy" immediately after discussing the sixty-five patients "on drug." Email from Rep. Collins to U.S. Innate investors, Dec. 16, 2015 (Exhibit 4 at 17-3509_000094).
[63] Bioshares Investment Summit Presentation, INNATE (Jul. 20, 2015), http://www.innateimmuno.com/irm/PDF/1152_0/2015BiosharesInvestmentSummitPresentation.
[64] Half Year Report, INNATE (Nov. 11, 2015), http://www.innateimmuno.com/irm/PDF/1198_0/HalfYearlyReportandAccounts.
[65] 4C Quarterly Cash Flow Report, INNATE (Jan. 29, 2016), http://www.innateimmuno.com/irm/PDF/1210_0/Appendix4CDec2015QuarterlyCashFlowReport.

Example of Shareholder Update 2

51. On January 28, 2016, in another email to multiple U.S.-based, Innate shareholders, with subject line "Trial Update," Representative Collins stated that "[w]e currently have 93 patients signed up for the trial . . . [a]pproximately 80 are 'on drug' and 13 are waiting to complete evaluation and have their first dose of MIS 416. It will probably be the end of Feb or first week of March when the 90th patient is 'on drug' which starts the 12 month clock ticking to complete Phase II B trial."[66] Representative Collins then stated that "[w]e continue to have very promising conversations with big pharma."[67]

Subject: Trial Update

To all: We currently have 93 patients signed up for the trial. Yea - a long time coming ! Approximately 80 are "on drug" and 13 are waiting to complete evaluation and have their first dose of MIS 416. It will probably be the end of Feb or first week in March when the 90th patient is "on drug" which starts the 12 month clock ticking to complete the Phase II B trial.

We continue to have very promising conversations with big pharma. MS seems to be in the news more than ever with one high profile person after another being diagnosed with MS. We are the ONLY drug that treats SPMS. And it is recognized that we have a potential $2 billion drug based on the market size and sales of the 8 - 10 RRMS drugs on the market with annual sales in the $10 billion range.

We have been urged by big pharma to move forward with a plan for large scale manufacturing of MIS 416. Our drug is not a "pill" that is easily produced in a traditional pharma facility. We grow our drug in bacteria and have to have a sterile process from start to finish to satisfy FDA. You can't sterilize MIS 416 at the end of production. As an injectable, facilities needed for our drug are not as common as traditional pill manufacturing. But, we are talking with several and doing our due diligence to chose a suitable manufacturer. We will be spending $$ to move this forward as it is a significant factor in the final value of Innate. The further along we are with the large scale manufacturing, the more desirable ($$$) our company.

I continue to have a very positive outlook for Innate.

All the best, Chris Collins

52. Representative Collins went on to state that "[w]e have been urged by big pharma to move forward with a plan for large scale manufacturing of MIS416 . . . We grow our drug in bacteria and have to have a sterile process from start to finish to satisfy FDA . . . [W]e are talking to several [manufacturing facilities] and doing our due diligence to choose a suitable manufacturer. We will be spending $$ to move this forward as it is a significant factor in the final value of Innate. The further along we are with the large scale manufacturing, the more desirable ($$$) our company."[68]

53. Representative Collins told the OCE that during Innate board meetings, he became aware of the status of discussions with "big pharma."[69] Concerning the FDA, he also stated that "ultimately, whoever buys our company is going to go to the FDA. The big market's in the U.S."[70]

[66] Email from Rep. Collins to U.S. Innate investors, Jan. 28, 2016 (Exhibit 5 at 17-3509_000096).
[67] *Id.*
[68] *Id.*
[69] Rep. Collins TOI (Exhibit 1 at 17-3509_000041).
[70] *Id.* at 17-3509_000042.

Public Information Related to Example 2

54. On January 29, 2016, Innate announced the identification of "ninety-three subjects" eligible for the Phase 2B trial.[71]

55. As stated previously, the OCE confirmed that Innate had publicly discussed its intention to partner with, or become acquired by, "big pharma" on multiple occasions in 2013 and 2014.[72] These public statements were issued prior to any statement made by Representative Collins to shareholders that were obtained by the OCE.

56. Innate publicly disclosed an intention to "start the drug manufacturing scale up planning" in October 2015, roughly three months prior to the January 2016 email above.[73]

Nonpublic Information Related to Example 2

57. The OCE did not obtain any information showing public disclosure of the number of Phase 2B trial participants "on drug," and those awaiting further evaluation, that reflect the numbers in Representative Collins' January 2016 email to investors.

58. Similarly, Representative Collins' statement that "[i]t will probably be the end of Feb or first week of March when the 90th patient is 'on drug' which starts the 12 month clock ticking to complete Phase II B trial" was not disclosed publicly by Innate prior to the January 2016 email to investors.

59. As discussed above, although Innate had announced an intention to "scale up" manufacturing of MIS416, public disclosures did not include information on any "urg[ing]" by "big pharma to move forward with a plan" for scaled up manufacturing.

[71] 4C Quarterly Cash Flow Report, INNATE (Jan. 29, 2016), http://www.innateimmuno.com/irm/PDF/1210_0/Appendix4CDec2015QuarterlyCashFlowReport. Though Rep. Collins' email is dated Jan. 28, 2016, and Innate's announcement is dated Jan. 29, 2016, Australia's time and date differences may explain the discrepancy.

[72] *See, e.g.*, Replacement Prospectus, INNATE (Nov. 25, 2013), http://www.innateimmuno.com/irm/PDF/937_0/InnateImmunotherapeuticsLimitedReplacementProspectus; Investor Presentation, INNATE (Dec. 2014), http://www.innateimmuno.com/irm/PDF/1105_0/InvestorPresentationNovember2014.

[73] 4C Quarterly Cash Flow Report, INNATE (Oct. 30, 2015), http://www.innateimmuno.com/irm/PDF/1188_0/Appendix4CQuarterlyCashFlowReportSept15Qtr.

Example of Shareholder Update 3

60. In a June 1, 2016 email to multiple U.S.-based, Innate shareholders with the subject "Next Offering," Representative Collins wrote "[t]enatively the IIL offer will launch July 15 or thereabouts. Tentative price of $.25 AUS or $.18 US. 20 million new shares or 10% of outstanding shares. 10% dilution if current shareholders don't participate."[74]

Subject: Next Offering

To all: Tentatively the IIL offer will launch July 15 or thereabouts. Tentative price of $.25 AUS or $.18 US. 20 million new shares or 10% of outstanding shares. 10% dilution if current shareholders don't participate.

Raise $5 million AUS to carry the company 18 months and allow for investment in manufacturing scale up. Plan is to monetize our investment in that time frame. So this is the last planned offering.

This offering will be to existing NZ/AUS shareholders or US investors I identify. There will be a lead underwriter in NZ/AUS. He will be paid a 6% fee and will be required to purchase any unsold shares.

US investors will be considered underwriters and will get a 6% fee or discount in line with the underwriter down under.

Price is a 10% discount to the 20 day weighted average price.

Actual details and paperwork will be provided end of June or early July.

Since US investors will be considered underwriters we will have to know who is participating and they will be part of the offering documents to NZ/AUS investors. We are doing this because the legal costs to do an actual offering in the US is prohibitive. This is our workaround.

Please let me know your level of interest. I believe you have the Gordon Capital Research report that was done in anticipation of this last round of funding. If, for any reason, you don't have the report, let me know and I can forward to you. It's very detailed and fully explains the upside prospects.

At last, the end is in sight.

Thanks to all for your past support. All the best, Chris

61. Representative Collins further stated in the email that the purpose of the offer was to "[r]aise $5 million AUS to carry the company 18 months and allow for investment in manufacturing scale up. Plan is to monetize our investment in that time frame. So this is the last planned offering. This offering will be to existing NZ/AUS shareholders or US investors I identify. . . Price is a 10% discount to the 20 day weighted average price."[75]

62. Representative Collins told the OCE that the content of this email, regarding a private placement offering, "really got the scrutiny of everyone . . . ."[76] This was the first "private placement" offer of 2016.[77] Representative Collins confirmed that the recipients of the email were existing U.S.-based Innate shareholders.[78]

63. On June 7, 2016, Representative Collins sent a similar group of investors an email "offering US investors the opportunity to subscribe for shares in the next 2 days . . . ."[79] He stated that "the new offer situation has now been finalized with a slightly different offer to US investors than investors in AUS or NZ."[80]

[74] Email from Rep. Collins to U.S. Innate investors, Jun. 1, 2016 (Exhibit 6 at 17-3509_000098).
[75] *Id.*
[76] Rep. Collins TOI (Exhibit 1 at 17-3509_000043).
[77] *Id.*
[78] *Id.*
[79] Email from Rep. Collins to U.S. Innate investors, Jun. 7, 2016 (Exhibit 7 at 17-3509_000100-01).
[80] *Id.*

Public Information Related to Example 3

64. Innate publicly disclosed an intention to "start the drug manufacturing scale up planning" in October 2015.[81] In addition, Innate publicly disclosed in May 2016 "a project to make MIS416 ready for manufacturing on a commercial scale."[82] Innate also disclosed that the "Company will need to raise between A$3 to A$5 million before the end of the current calendar year."[83]

Nonpublic Information Related to Example 3

65. The OCE did not obtain any information showing public disclosure of the details of the private placement offer prior to the June 1, 2016 email from Representative Collins to investors. Innate had publicly disclosed general information on its website about previous private placements and an "additional capital program,"[84] but did not disclose any public information concerning the terms and details of a proposed 2016 private placement offering.[85]

66. On June 10, 2016, nine days after the email above, Innate publicly announced the private placement offer terms to U.S. investors and a "rights issue" to shareholders in Australia and New Zealand.[86]

67. Innate's announcement stated that "[t]he Placement of 10,009,032 ordinary shares at US$0.18 per share has been effected with sophisticated U.S. investors to raise US$1,801,635 being approximately A$2.4 million. The issue price of US$0.18 per share equates to approximately A$0.25 or NZ$0.27 and represents a 12% discount . . . ."[87]

D. The Nonpublic Information Representative Collins Shared With Innate Investors May Have Been Material

68. Some information Representative Collins shared with Innate investors was likely nonpublic and may have been important to investors making a decision on whether to purchase Innate stock.

69. In this review, the OCE employed an expert consultant in the global healthcare and life sciences regulatory environment. In making these findings, the OCE relied on the

[81] 4C Quarterly Cash Flow Report, INNATE (Oct. 30, 2015), http://www.innateimmuno.com/irm/PDF/1188_0/Appendix4CQuarterlyCashFlowReportSept15Qtr.
[82] Gordon Capital Research Coverage, INNATE (May 2016), http://www.innateimmuno.com/irm/PDF/1248_0/InitiationofCoverageGordonCapitalReseach.
[83] *Id.*
[84] *Id.*
[85] Advance knowledge of a private placement and its terms can constitute material nonpublic information. *See, e.g.*, *SEC v. Lyon*, 529 F. Supp. 2d 444, 447 (S.D.N.Y. 2008).
[86] Private Placement and Rights Issue to raise Additional Working Capital, INNATE (Jun. 10, 2016), http://www.innateimmuno.com/irm/PDF/1250_0/PlacementampRightsIssuetoRaiseAdditionalWorkingCapital.
[87] *Id.*

evidence obtained during the review and was informed by the opinions of the expert concerning the materiality of certain nonpublic information.

70. Innate's ability to identify and enroll patients into the Phase 2B trial was a key issue for the company and something that Representative Collins and Innate mentioned on multiple occasions to investors and in public announcements.[88] According to Representative Collins, the 90th patient "starts the 12 month clock ticking to complete the Phase II B trial."[89] Increased numbers of patients "on drug" or identified as eligible for trial were necessary to trial completion.

71. The completion of the Phase 2B trial was significant to Innate's financial strategy. Representative Collins told the OCE that pharmaceutical companies' "investment point is at the end of 2B."[90] Similarly, information regarding communications with pharmaceutical companies and their direction to scale up manufacturing was "a significant factor in the final value of Innate." Representative Collins explained to investors that manufacturing abilities correlated to increased value and desirability of acquiring Innate.

72. Given Innate's intention to partner with, or become acquired by a large pharmaceutical company, updates on patient enrollment, the eventual completion of enrollment, and specific communications with pharmaceutical companies were likely important facts for investors making a decision about whether to purchase or sell Innate stock.

73. The information Representative Collins provided U.S. investors regarding the private placement offering, nine days before the public announcement of the offering, gave investors ample time to purchase or sell stock on an open market. Representative Collins specifically discussed the consequences of share "dilution" if current shareholders did not participate in the offering.

74. Representative Collins did not ask the investors to keep the information confidential prior to the private placement offer's public announcement. The terms of the offer prior to public announcement were likely important facts for investors making a decision on whether to purchase or sell Innate stock.

[88] *See, e.g.*, Email from Rep. Collins to U.S. Innate investors, May 4, 2015 (Exhibit 8 at 17-3509_000105) ("We continue with enrollment in our Phase 2B trial at 5 sites. 3 of the sites are doing well, with the other 2 a little slow with recruitment."); 4C Quarterly Cash Flow Report, INNATE (Apr. 30, 2015), http://www.innateimmuno.com/irm/PDF/1119_0/Appendix4CMarch2015Quarterly (discussing the "slower" pace of patient enrollment).

[89] Email from Rep. Collins to U.S. Innate investors, Jan. 28, 2016 (Exhibit 9 at 17-3509_000107).

[90] Rep. Collins TOI (Exhibit 1 at 17-3509_000036).

III. REPRESENTATIVE COLLINS AND INNATE'S PRIVATE PLACEMENT OFFERINGS

A. Applicable Law, Rules, and Standards of Conduct

75. *House Rules*

House Rule 25, clause 5 states that "[a] Member . . . may not knowingly accept a gift except as provided in this clause." Clause 5 defines the term "gift" broadly to include any "gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value," and also including "gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred."

76. Committee on Ethics Guidance

Committee on Ethics guidance also states that "Members and employees may accept opportunities, like discounted investments, that are 'available to the public or to a class consisting of all Federal employees.'"[91] *In addition, "Members and employees may also accept opportunities that are '[o]ffered to members of a group or class in which membership is unrelated to congressional employment.'*[92] *. . . If, however, the Member or employee took advantage of an investment opportunity received solely because of their congressional status and the opportunity was offered and accepted at less than fair market value, then the Member or employee received an impermissible gift."*[93]

B. Innate Offered a Private Placement to Qualified U.S. Investors That Was Unrelated to Congressional Status

77. In June 2016, Innate sought to raise additional capital in order to fund, among other things, its Phase 2B clinical trial.[94] In a June 10, 2016 press release, Innate explained that it had raised approximately $1,801,635 (USD) via a private placement offer to U.S. investors and was undertaking a rights issue to Australian and New Zealand investors in the hopes of raising another $3,025,000 (AUS).[95]

78. Both the U.S. investors taking part in the private placement and the Australian and New Zealand investors taking part in the rights offer received, approximately, a 12% discount on Innate shares.[96] As Representative Collins explained, this "was a slight discount to the

[91] Memorandum from the Chair and Ranking Member of the Comm. on Ethics, *Rules Regarding Personal Financial Transactions*, Nov. 29, 2011.
[92] *Id.*
[93] *Id.*
[94] Private Placement and Rights Issue to raise Additional Working Capital, INNATE (Jun. 10, 2016), http://www.innateimmuno.com/irm/PDF/1250_0/PlacementampRightsIssuetoRaiseAdditionalWorkingCapital.
[95] *Id.*
[96] *Id.*

closing share price of [Innate stock for] the prior 30 days," which was designed to incentivize participation in the current offering.[97]

79. According to Representative Collins, the private placement offer was available to any accredited U.S. investors, and he was tasked with identifying those individuals as "the lead in the U.S."[98] Representative Collins received 4,000,000 shares at the discounted price for the first private placement.[99]

80. Evidence obtained by the OCE indicates that these offers were made to numerous Buffalo-based associates of Representative Collins.[100] Innate Investor 1, a Buffalo-based investor, took part in the private placement offering and had no connection to Representative Collins' congressional office.[101] Other Innate investors that submitted information to the OCE also had no connection to Representative Collins' congressional office.

81. Because the initial rights offer was oversubscribed, certain U.S. investors were unable to purchase shares at the original discounted price. Innate then opted to do a further private placement in July 2016.[102] This secondary private placement was also offered at a discount.[103] Like the initial private placement, the second offer was made to numerous individuals associated with Representative Collins and was not provided to Representative Collins or his staff based on his status as a Member of Congress.[104]

[97] Rep. Collins TOI (Exhibit 1 at 17-3509_000044). Without the discount, potential investors could simply purchase shares on the open market. *See id*.
[98] Rep. Collins TOI (Exhibit 1 at 17-3509_000044, 47-48).
[99] Notice of Annual General Meeting and Explanatory Statement, INNATE (Aug. 31, 2016), http://www.innateimmuno.com/irm/PDF/1285_0/NoticeofAnnualGeneralMeetingProxyForm; House of Representatives Periodic Transaction Report for Rep. Chris Collins, filed Sept. 7, 2016.
[100] *See, e.g.*, Emails from Rep. Collins to U.S. Innate investors, Dec. 2016, Jan. 2016, Jun. 2016 (Exhibit 4 at 17-3509_000094); (Exhibit 5 at 17-3509_000096); (Exhibit 6 at 17-3509_000098).
[101] Innate Investor 1 TOI (Exhibit 3 at 17-3509_000076, 78).
[102] Email from Rep. Collins to U.S. Innate investors (Jul. 13, 2016) (Exhibit 9 at 17-3509_000107); Rights Issue Strongly Supported, INNATE (Jul. 7, 2016), http://www.innateimmuno.com/irm/PDF/1265_0/RightsIssueStronglySupported.
[103] *Id.*
[104] *Id.*; *see also* Final stage of Capital Raising Programme Completed, INNATE (Jul. 20, 2016), http://www.innateimmuno.com/irm/PDF/1274_0/FinalStageofCapitalRaisingProgrammeCompleted.

IV. REPRESENTATIVE COLLINS' MEETINGS WITH NIH EMPLOYEES REGARDING INNATE

A. Applicable Law, Rules, and Standards of Conduct

82. House Rules

House Rule 23, Clause 3 states that "A Member, Delegate, Resident Commissioner, officer, or employee of the House may not receive compensation and may not permit compensation to accrue to the beneficial interest of such individual from any source, the receipt of which would occur by virtue of influence improperly exerted from the position of such individual in Congress."

House Rule 23, clause 12 states that "(a) Except as provided in paragraph (b), an employee of the House who is required to file a report under rule XXVI may not participate personally and substantially as an employee of the House in a contact with an agency of the executive or judicial branches of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest. (b) Paragraph (a) does not apply if an employee first advises the employing authority of such employee of a significant financial interest described in paragraph (a) and obtains from such employing authority a written waiver stating that the participation of the employee in the activity described in paragraph (a) is necessary. A copy of each such waiver shall be filed."

83. Code of Ethics for Government Service § 5

"Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties."

84. Committee on Ethics Reports

"In The Matter of Representative Maxine Waters, the Committee reiterated the commonly understood guidance that Members 'cannot take official actions that would assist a single entity in which the member has a significant financial interest, particularly when that interest would clearly be affected by the assistance sought.'"[105]

"[T]his Committee recognizes that '[a]n important aspect of a House Member's representative function is to act as a 'go-between' or conduit between the Member's constituents and administrative agencies of the federal government.' However, '[i]n taking such action, a Member of staff person must observe certain ethical principles,'

[105] *In the Matter of Allegations Relating to Representative Phillip Gingrey*, 113th Cong., 2d Sess. (2014) at 12.

including the prohibition in Section 5, clause 1, on 'discriminat[ing] unfairly by the dispensing of special favor or privileges to anyone, whether for remuneration or not.'"[106]

"When analyzing actions by Members that impact non-constituents, the Committee looks to whether there is 'substantial evidence' that the Member treated the non-constituent 'and its representatives differently than other non-constituents based on [the Member's] financial investment . . . and position on the board of directors.'"[107]

"When analyzing actions by Members that impact non-constituents, the Committee has indicated that providing assistance to a non-constituent entity in which the Member has a financial interest 'is particularly troubling.'"[108]

85. House Ethics Manual

"In assisting a private enterprise, a Member should be mindful that congressional allowances, including those for staff, are available only for conducting official business. Assistance should not extend so far that the congressional office is actually doing the work of the private business, rather than of the Congress."[109]

"A provision of the rules issued by the House Administration Committee allows minor, incidental personal use of House equipment and supplies. However, the Standards Committee understands that this provision allows such use of those resources for personal purposes only, and does not allow their use for outside employment or business purposes."[110]

B. Representative Collins Was Invited to the NIH During a July 2013 Science, Space, & Technology Committee Hearing

86. On July 31, 2013, the Research and Technology Subcommittee of the House Committee on Science, Space, & Technology held a hearing entitled "The Frontiers of Human Brain Research."[111] During that hearing, Dr. Story Landis, then-Director of the National Institute of Neurological Disorders and Stroke ("NINDS"), provided testimony to the Subcommittee.[112]

87. Representative Collins, a member of the House Committee on Science, Space, & Technology, asked Dr. Landis a question and made statements during the hearing. He stated at the hearing, "I do know there is one drug, MIS416, which is a microparticle

[106] *Id*. at 13-14
[107] *Id*. at 14.
[108] *Id*. at 17.
[109] House Ethics Manual (2008) at 310.
[110] *Id*. at 197.
[111] *The Frontiers of Human Brain Research*: Hearing before H. Comm. on Science, Space, & Technology, Subcomm. on Research and Technology, 113th Cong. (2013), https://science.house.gov/legislation/hearings/subcommittee-research-and-technology-hearing-frontiers-human-brain-research (last visited Jul. 5, 2017).
[112] *Id*.

immune stimulant that is in Phase 2B trials that has promise . . . ."[113] Representative Collins did not identify Innate or his connection to the company during the hearing.[114]

88. Dr. Landis later stated to Representative Collins at the hearing that "if you would like to come visit the intramural program, we have several investigators working on MS and would be pleased to have you come and meet with them and see the labs and some of the kind of approaches we are taking."[115] Representative Collins responded "I definitely would like to take you up on that. It is an important part of what is going on in western New York and thank you very much."[116]

89. On August 5, 2013, Representative Collins' former Legislative Assistant, Jeff Freeland, emailed a staff member on the House Committee on Science, Space, & Technology.[117] He wrote "[w]hen my boss asked his question to Dr. Landis, she mentioned that he's welcome to come out to their intramural labs that are working on M.S. research. Could you link me up with one of the NIH government liaison folks?"[118]

90. The same day, on August 5, 2013, the Committee staff member emailed Mr. Freeland with an introduction to a NIH government liaison.[119] That NIH liaison then emailed two other NIH employees to introduce Mr. Freeland to specific staff members at NIH who handle legislative affairs.[120]

91. On August 6, 2013, NIH Employee 1, one of the cc'd individuals on the email discussed above, emailed Mr. Freeland and invited Representative Collins to the NIH intramural labs.[121]

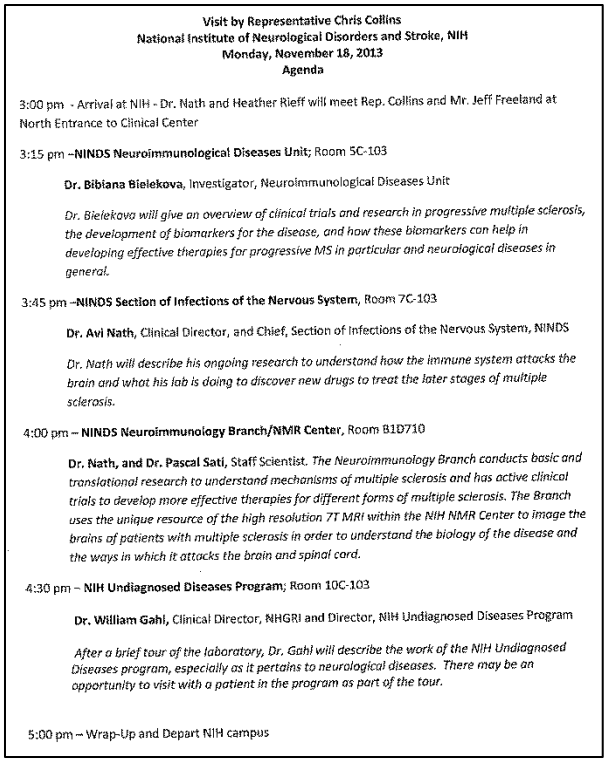
C. Representative Collins Had a Meeting With NIH Employees That Was Scheduled and Staffed by His Congressional Office

92. On August 22, 2013, Representative Collins' Scheduler emailed NIH Employee 1 to inquire about dates for Representative Collins' visit to NIH.[122] The Scheduler and NIH Employee 1 emailed additional times to set a date, eventually settling on November 18, 2013.[123]

[113] *The Frontiers of Human Brain Research* Hearing Transcript (Jul. 31, 2013), https://www.gpo.gov/fdsys/pkg/CHRG-113hhrg82224/pdf/CHRG-113hhrg82224.pdf.
[114] *Id*.
[115] *Id*.
[116] *Id*.
[117] Emails between Rep. Collins' Scheduler, Jeff Freeland, NIH employees, and H. Comm. on Science, Space, & Technology staff, Aug. 5-6, 2013 (Exhibit 10 at 17-3509_000109-11).
[118] *Id*. at 17-3509_000111.
[119] *Id*.
[120] *Id*. at 17-3509_000110.
[121] *Id*. at 17-3509_000109.
[122] *Id*.
[123] Email from NIH Employee 1 to Rep. Collins' Scheduler, Oct. 30, 2013 (Exhibit 11 at 17-3509_000113).

93. NIH Employee 1 is a health science policy analyst in NINDS's Office of Science Policy and Planning.[124] Her main role in that position is managing interactions with Congress.[125] She interfaces with congressional staff, sets up times for congressional visits, shares draft agendas with congressional staff, and assists with logistical support in receiving the members of Congress.[126] She was present at the July 31, 2013 "The Frontiers of Human Brain Research" hearing discussed above and assisted Dr. Landis in her hearing preparation.[127]

94. On November 15, 2013, in preparation for Representative Collins' visit to NIH, NIH Employee 1 emailed a final agenda to Representative Collins' Scheduler and Jeff Freeland.[128] The agenda's title reads: "Visit by Representative Chris Collins National Institute of Neurological Disorders and Stroke, NIH Monday, November 18, 2013 Agenda."[129]



Visit by Representative Chris Collins
National Institute of Neurological Disorders and Stroke, NIH
Monday, November 18, 2013
Agenda

3:00 pm - Arrival at NIH - Dr. Nath and Heather Rieff will meet Rep. Collins and Mr. Jeff Freeland at North Entrance to Clinical Center

3:15 pm –**NINDS Neuroimmunological Diseases Unit**; Room 5C-103

Dr. Bibiana Bielekova, Investigator, Neuroimmunological Diseases Unit

Dr. Bielekova will give an overview of clinical trials and research in progressive multiple sclerosis, the development of biomarkers for the disease, and how these biomarkers can help in developing effective therapies for progressive MS in particular and neurological diseases in general.

3:45 pm –**NINDS Section of Infections of the Nervous System**, Room 7C-103

Dr. Avi Nath, Clinical Director, and Chief, Section of Infections of the Nervous System, NINDS

Dr. Nath will describe his ongoing research to understand how the immune system attacks the brain and what his lab is doing to discover new drugs to treat the later stages of multiple sclerosis.

4:00 pm – **NINDS Neuroimmunology Branch/NMR Center**, Room B1D710

Dr. Nath, and Dr. Pascal Sati, Staff Scientist. *The Neuroimmunology Branch conducts basic and translational research to understand mechanisms of multiple sclerosis and has active clinical trials to develop more effective therapies for different forms of multiple sclerosis. The Branch uses the unique resource of the high resolution 7T MRI within the NIH NMR Center to image the brains of patients with multiple sclerosis in order to understand the biology of the disease and the ways in which it attacks the brain and spinal cord.*

4:30 pm – **NIH Undiagnosed Diseases Program**; Room 10C-103

Dr. William Gahl, Clinical Director, NHGRI and Director, NIH Undiagnosed Diseases Program

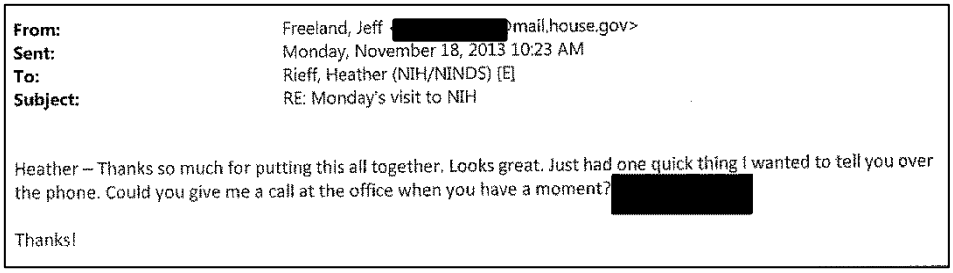
After a brief tour of the laboratory, Dr. Gahl will describe the work of the NIH Undiagnosed Diseases program, especially as it pertains to neurological diseases. There may be an opportunity to visit with a patient in the program as part of the tour.

5:00 pm – Wrap-Up and Depart NIH campus

95. The agenda identifies that Representative Collins' and Mr. Freeland were scheduled to attend meetings with NINDS staff and other NIH personnel.[130]

[124] Transcript of Interview of NIH Employee 1, May 19, 2017 ("NIH Employee 1 TOI") (Exhibit 12 at 17-3509_000115).
[125] *Id*.
[126] *Id*. at 17-3509_000116-17.
[127] *Id*. at 17-3509_000118-19.
[128] Email from NIH Employee 1 to Rep. Collins' Scheduler and Jeff Freeland, Nov. 15, 2013 (Exhibit 13 at 17-3509_000134).
[129] Visit by Rep. Collins Final Agenda, Nov. 18, 2013 (Exhibit 14 at 17-3509_000136).
[130] *Id*.

96. On the morning of November 18, 2013, the same day Representative Collins was scheduled to visit NIH, Mr. Freeland wrote to NIH Employee 1, "[j]ust had one quick thing I wanted to tell you over the phone. Could you give me a call at the office when you have a moment?"[131]



From: Freeland, Jeff [redacted]@mail.house.gov>
Sent: Monday, November 18, 2013 10:23 AM
To: Rieff, Heather (NIH/NINDS) [E]
Subject: RE: Monday's visit to NIH

Heather – Thanks so much for putting this all together. Looks great. Just had one quick thing I wanted to tell you over the phone. Could you give me a call at the office when you have a moment? [redacted]

Thanks!

97. Representative Collins told the OCE that he did not ask Mr. Freeland to have the telephone call with NIH Employee 1 and did not know what the subject of the call was.[132]

98. NIH Employee 1 told the OCE that in response to the request from Jeff Freeland in the email, she placed a telephone call to Mr. Freeland.[133] In that telephone conversation, Mr. Freeland told NIH Employee 1 that he wanted her "to be aware of Collins' involvement in the Innate Immunotherapeutics company, and that it was a company that was developing, trying to develop, a drug for MS."[134]

99. NIH Employee 1 stated that Mr. Freeland "didn't tell me anything in that conversation on the phone that I did not already know."[135] She stated that in preparing for Representative Collins' visit, she "pulled together information on Representative Collins and his involvement in this company."[136] She then informed the NINDS personnel scheduled to attend the meeting about Representative Collins' involvement with Innate.[137]

100. According to NIH Employee 1, aside from the personnel listed on the agenda, the meeting attendees were Representative Collins, Jeff Freeland, herself, and another NIH legislative liaison.[138]

101. The OCE asked Representative Collins repeatedly why he scheduled and attended the meetings at NIH on November 18, 2013. He provided the OCE with varying responses. He described his visit as a "tour," a "high school field trip," and like going "to the

[131] Email from Jeff Freeland to NIH Employee 1, Nov. 18, 2013 (Exhibit 15 at 17-3509_000138).
[132] Rep. Collins TOI (Exhibit 1 at 17-3509_000055-56).
[133] NIH Employee 1 TOI (Exhibit 12 at 17-3509_000121).
[134] *Id*. at 17-3509_000120.
[135] *Id*.
[136] *Id*.
[137] *Id*.
[138] *Id*. at 17-3509_000127.

Smithsonian."[139] He also stated that he went to the NIH as a private citizen and that his visit had no relation to any official duties.[140]

102. Based on those responses, the OCE asked Representative Collins why he would be accompanied by his former Legislative Assistant at the NIH meeting. Representative Collins responded: "I don't go anywhere alone."[141]

D. Representative Collins Discussed Innate With the NIH Employees and Requested That an NIH Researcher Meet With Innate's Chief Scientific Officer

103. NIH Employee 2 participated in Representative Collins' visit to the NIH on November 18, 2013.[142] She is a physician and Investigator at NINDS that runs clinical trials in progressive multiple sclerosis.[143] NIH Employee 2 told the OCE that "probably from NIH I know most about immunology of progressive multiple sclerosis."[144]

104. NIH Employee 2 stated that NIH Employee 1 organized the November 18, 2013 meeting.[145] NIH Employee 1 told NIH Employee 2 that "this Congressman is coming, he's really interested in multiple sclerosis, would you be willing to talk about your research program, and give a small presentation. And answer questions?"[146] NIH Employee 2 agreed to NIH Employee 1's request.[147]

105. During the visit, other NIH personnel participated in the meeting with Representative Collins.[148] NIH Employee 2 recalled giving a "five minute Power Point presentation" on her research and work.[149] She stated that she did not think she was ever alone with Representative Collins and recalled NIH Employee 1 being present in the meetings.[150]

106. NIH Employee 2 told the OCE that during the visit, Representative Collins "basically said that he [was] somehow associated with this Innate Immunotherapuetics group" and "they need some help with the design of the next Phase 2 trial and he asked me whether I would be willing to help them and I said yes."[151]

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[139] Rep. Collins TOI (Exhibit 1 at 17-3509_000050-51).
[140] *Id*. at 17-3509_000049, 51.
[141] *Id*. at 17-3509_000051.
[142] Transcript of Interview of NIH Employee 2, May 10, 2017 "(NIH Employee 2 TOI") (Exhibit 16 at 17-3509_000141-42).
[143] *Id*. at 17-3509_000141.
[144] *Id*.
[145] *Id*. at 17-3509_000142.
[146] *Id*.
[147] *Id*. NIH Employee 2 stated that she has participated in only two congressional visits during her time at NIH. *Id*.
[148] *Id*. at 17-3509_000143.
[149] *Id*. at 17-3509_000143-44.
[150] *Id*. at 17-3509_000143.
[151] *Id*. at 17-3509_000147.

107. NIH Employee 2 stated further that "he was asking me whether I am aware of [Innate's] drug. I wasn't, I wasn't aware of his company and he asked me what are the difficulties with setting up clinical trial for progressive MS . . . ."[152]

108. According to NIH Employee 2, she did not recall Representative Collins bringing any constituents with him or discussing any legislation addressing multiple sclerosis.[153]

109. NIH Employee 1 corroborated this information, telling the OCE that she recalled Representative Collins asking NIH Employee 2 "if she would be willing to meet with some of the people from [Innate]."[154]

110. After the meeting ended, NIH Employee 2 stated that Representative Collins handed her "like some congressional stamp or whatever . . . it wasn't a stamp . . . like a coin" with "wording about U.S. Congress."[155] Representative Collins then asked for her business card and she gave him her card.[156]

111. NIH Employee 2 stated that she has met with Innate's Chief Scientific Officer on three occasions.[157] The first meeting occurred at NIH after Representative Collins requested that the two meet.[158] The second and third meetings occurred at conferences in Montana and Boston, respectively.[159] She stated that the second and third meetings were not planned but that the first meeting, at NIH, was a direct result of the request by Representative Collins.[160]

112. Representative Collins confirmed to the OCE that he was "sure" he would have discussed Innate at the NIH meeting on November 18, 2013.[161] However, Representative Collins stated that he could not recall any specific conversations with NIH Employee 2 and did not believe he asked NIH Employee 2 to meet with any Innate employees, nor did he recall handing anything to her.[162]

V. CONCLUSION

113. Based on the information obtained in this review, the Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Collins shared material nonpublic information in the

[152] *Id*. at 17-3509_000150.
[153] *Id*.
[154] NIH Employee 1 TOI (Exhibit 12 at 17-3509_000125).
[155] NIH Employee 2 TOI (Exhibit 16 at 17-3509_000147).
[156] *Id*.
[157] *Id*. at 17-3509_000140.
[158] *Id*.
[159] *Id*.
[160] *Id*. at 17-3509_000140-41.
[161] Rep. Collins TOI (Exhibit 1 at 17-3509_000052).
[162] *Id*. 17-3509_000051-52.

purchase of Innate stock, in violation of House rules, standards of conduct, and federal law.

114. Based on the information obtained in this review, the Board recommends that the Committee on Ethics dismiss the above allegation because there is not a substantial reason to believe that Representative Collins purchased discounted stock that was not available to the public and that was offered to him based on his status as a Member of the House of Representatives, in violation of House rules, standards of conduct, and federal law.

115. Based on the information obtained in this review, the Board recommends that the Committee on Ethics further review the above allegation because there is a substantial reason to believe that Representative Collins took official actions or requested official actions that would assist a single entity in which he had a significant financial interest, in violation of House rules and standards of conduct.

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

116. The following individuals refused to cooperate with the OCE's review:

(1) Tom Price;
(2) Innate;
(3) Simon Wilkinson;
(4) Jeff Freeland;
(5) Chris Graham;
(6) Dr. Mark Lema;
(7) William Grove;
(8) Marcia Grove;
(9) L. William Paxon; and
(10) Guy Agostinelli.

117. The Board recommends that the Committee on Ethics issue subpoenas to the above listed individuals and entities.