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

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 13-0906

The Board of the Office of Congressional Ethics (the “Board”), by a vote of no less than four members, on December 12, 2013, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives.

SUBJECT: Representative Cathy McMorris Rodgers

NATURE OF THE ALLEGED VIOLATIONS: From 2010 to 2012, Representative Cathy McMorris Rodgers allegedly used official resources, including staff, for campaign activities; paid a consultant for official services with funds from political committees; and combined official resources and campaign resources in furtherance of a campaign for a House leadership office.

If Representative McMorris Rodgers used official resources for campaign activities, she may have violated House rules, standards of conduct, and federal law.

If Representative McMorris Rodgers used funds from political committees to pay for official expenses, she may have violated House rules and federal law.

If Representative McMorris Rodgers improperly combined official resources and campaign resources for particular activities in furtherance of a campaign for a House leadership office, she may have violated House standards of conduct.

RECOMMENDATION: The Board recommends that the Committee on Ethics further review the allegations concerning use of official resources for campaign activities because there is substantial reason to believe that Representative McMorris Rodgers used congressional funds, staff, and office space for campaign activities.

The Board recommends that the Committee on Ethics further review the allegation concerning use of political committee funds to pay for official expenses because there is substantial reason to believe that Representative McMorris Rodgers used a campaign consultant to perform official duties.

The Board recommends that the Committee on Ethics further review the allegation concerning the campaign for a House leadership office because there is substantial reason to believe that Representative McMorris Rodgers improperly combined congressional resources and campaign resources to produce a mailing and video for her leadership race.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 0

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

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

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 13-0906

TABLE OF CONTENTS

I. INTRODUCTION 5

A. Summary of Allegations 5

B. Jurisdictional Statement 6

C. Procedural History 6

D. Summary of Investigative Activity 6

II. REPRESENTATIVE MCMORRIS RODGERS MAY HAVE USED OFFICIAL RESOURCES FOR CAMPAIGN ACTIVITY 7

A. Laws, Regulations, Rules, and Standards of Conduct 7

B. Official Resources Used for Campaign Debates 10

C. Official Resources Used for Campaign Speeches and Press Releases 17

D. Official Resources Used for Campaign Events 18

III. REPRESENTATIVE MCMORRIS RODGERS MAY HAVE USED CAMPAIGN FUNDS FOR OFFICIAL ACTIVITIES 25

A. Laws, Regulations, Rules, and Standards of Conduct 25

B. Campaign Communications Consultant Provided Services to the Congressional Office 25

IV. REPERESENTATIVE MCMORRIS RODGERS MAY HAVE IMPROPERLY COMBINED OFFICIAL AND CAMPAIGN RESOURCES FOR HER LEADERSHIP RACE..... 28

A. Laws, Regulations, Rules, and Standards of Conduct 28

B. Official and Campaign Resources Combined for Particular Activity for Leadership Race..... 29

V. PATRICK BELL AND BRETT O'DONNELL REFUSED TO COOPERATE WITH THE OCE 31

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

VI. CONCLUSION..... 31

**VII. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND
RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS 32**

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

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 13-0906

On December 12, 2013, 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 that a violation actually occurred.

I. INTRODUCTION

1. From 2010 to 2012, Representative McMorris Rodgers’ congressional staff assisted her with campaign activities, including campaign debate preparation and drafting campaign speeches in congressional offices.
2. In 2012, her campaign committee paid a communications consultant to assist her with preparing for media appearances for congressional purposes.
3. In 2012, she combined campaign and congressional resources to assist her with her race for Chair of the House Republican Conference.

A. Summary of Allegations

4. Representative McMorris Rodgers may have violated House rules, standards of conduct, and federal law by using official resources for campaign activities.
5. Representative McMorris Rodgers may have violated House rules and federal law by using funds from a political committee to pay for official expenses.
6. Representative McMorris Rodgers may have violated House standards of conduct by improperly combining official House resources and funds from her congressional campaign committee for particular activities in furtherance of her campaign for a House leadership office.
7. The Board recommends that the Committee on Ethics further review the allegations concerning use of official resources for campaign activities because there is substantial reason to believe that Representative McMorris Rodgers used congressional funds, staff, and offices for campaign activities.
8. The Board recommends that the Committee on Ethics further review the allegation concerning use of political committee funds to pay for official expenses because there is substantial reason to believe that Representative McMorris Rodgers used a campaign media consultant to perform official duties.

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

9. The Board recommends that the Committee on Ethics further review the allegation concerning the campaign for a House leadership office because there is substantial reason to believe that Representative McMorris Rodgers improperly combined congressional and campaign resources to produce a mailing and video for her leadership race.

B. Jurisdictional Statement

10. The allegations that are the subject of this review concern Representative Cathy McMorris Rodgers, a Member of the United States House of Representatives for the 5th District of Washington. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (“OCE”) directs that, “[n]o review shall be undertaken . . . by the board of any alleged violation that occurred before the date of adoption of this resolution.”¹ The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, the OCE has jurisdiction in this matter.

C. Procedural History

11. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on August 27, 2013. The preliminary review commenced on August 28, 2013.² The preliminary review was scheduled to end on September 26, 2013.
12. At least three members of the Board voted to initiate a second-phase review in this matter on September 26, 2013. The second-phase review commenced on September 27, 2013.³ The second-phase review was scheduled to end on November 10, 2013.
13. The Board voted to extend the second-phase review for an additional period of fourteen days on October 25, 2013. The second-phase review ended on November 24, 2013.
14. The Board voted to refer the matter to the Committee on Ethics and adopted these findings on December 12, 2013.
15. This report and findings were transmitted to the Committee on Ethics on December 23, 2013.

D. Summary of Investigative Activity

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

(1) Representative Cathy McMorris Rodgers;

¹ H. Res. 895, 110th Cong. §1(e), as amended (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 time frame for conducting a preliminary review is thirty days from the date of receipt of the Board’s request.

³ According to the Resolution, the Board must vote on whether to conduct a second-phase review in a matter before the expiration of the thirty-day preliminary review. If the Board votes for a second-phase, the second-phase begins when the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

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

- (2) Representative McMorris Rodgers' Chief of Staff ("Chief of Staff");
 - (3) Representative McMorris Rodgers' Press Secretary ("Press Secretary");
 - (4) Representative McMorris Rodgers' Legislative Director ("Legislative Director");
 - (5) Representative McMorris Rodgers' Former Communications Director ("Former Communications Director");
 - (6) Representative McMorris Rodgers' Former District Director ("Former District Director");
 - (7) Representative McMorris Rodgers' Constituent Relations Director ("Constituent Relations Director");
 - (8) Representative McMorris Rodgers' Policy Director ("Policy Director");
 - (9) Representative McMorris Rodgers' Campaign Consultant ("Campaign Consultant");
and
 - (10) Brett O'Donnell, Representative McMorris Rodgers' Communications Consultant.
17. Patrick Bell refused to produce documentary and testimonial information in response to OCE requests and the Board determined that he is a non-cooperating witness.
18. Brett O'Donnell did not provide a Request for Information Certification, as required under OCE Rule 4(A)(2), when responding to Requests for Information, and the Board determined that he is a non-cooperating witness.

II. REPRESENTATIVE MCMORRIS RODGERS MAY HAVE USED OFFICIAL RESOURCES FOR CAMPAIGN ACTIVITY

A. Laws, Regulations, Rules, and Standards of Conduct

Restrictions on Use of House Resources

19. *"The misuse of the funds and other resources that the House of Representatives entrusts to Members for the conduct of official House business is a very serious matter. Depending on the circumstances, such conduct may result in not only disciplinary action by the House, but also criminal prosecution. Moreover, while any House employee who makes improper use of House resources is subject to disciplinary action by the Standards Committee, each Member should be aware that he or she may be held responsible for any improper use of resources that occurs in the Member's office. The Standards Committee has long taken the position that each Member is responsible for assuring that*

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

the Member's employees are aware of and adhere to the rules, and for assuring that House resources are used for proper purposes."⁴

20. *According to the House Ethics Manual, "official resources of the House must, as a general rule, be used for the performance of official business of the House, and hence those resources may not be used for campaign or political purposes Accordingly, among the resources that generally may not be used for campaign or political purposes are congressional office equipment (including the computers, telephones, and fax machines), office supplies (including official stationery and envelopes), and congressional staff time Among the specific activities that clearly may not be undertaken in a congressional office or using House resources (including official staff time) are the solicitation of contributions; **the drafting of campaign speeches, statements, press releases or literature**; the completion of FEC reports; the creation or issuance of a campaign mailing; and the **holding of a meeting on campaign business.**"*⁵
21. *"Once House employees have completed their official duties, they are free to engage in campaign activities on their own time, as volunteers or for pay, as long as they do not do so in congressional offices or facilities, or otherwise use official resources."*⁶
22. *"Members must regularly certify that all official funds have been properly spent. A false certification may bring criminal penalties, and the government may recover any amount improperly paid."*⁷
23. *"The press secretary in the congressional office may answer occasional questions on political matters, and may also respond to such questions that are merely incidental to an interview focused on the Member's official activities. However, while in the congressional office, the press secretary should not give an interview that is substantially devoted to the campaign, or initiate any call that is campaign-related. A press secretary wishing to do either of those things should do so outside of the congressional office, and on his or her own time"*⁸
24. *Pursuant to 31 U.S.C. § 1301(a), "[a]ppropriations shall be applied only to the objects for which the appropriations were made"*⁹

⁴ House Ethics Manual (2008) at 124 (citation omitted).

⁵ House Ethics Manual at 123-124 (emphasis added).

⁶ *Id.* at 135.

⁷ *Id.* at 126 (citing 18 U.S.C. § 1001).

⁸ House Ethics Manual at 133.

⁹ 31 U.S.C. § 1301(a)

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

Records of Time Spent on Campaign Activities

25. *“Employees who do campaign work while remaining on the House payroll should keep careful records of the time they spend on official activities and, separately, on campaign activities, and demonstrate that campaign work was not done on official time. There is no set format for maintaining such time records.”*¹⁰
26. *“The rules governing campaign work by House employees were implicated in a Standards Committee disciplinary case that was completed in the 106th Congress. In that case the Committee determined that a Member had violated the House Code of Official Conduct in that his staff members worked for his campaign during regular office hours without taking annual leave or going on Leave Without Pay status, or taking any other steps to ensure that those services were rendered during time that was properly deemed the employee’s own time.”*¹¹
27. *In the Matter of Representative E.G. “Bud” Shuster, the Investigative Subcommittee found substantial reason to believe that congressional staff worked for a campaign “without taking appropriate precautions to ensure that they properly documented the time they were expending out of the congressional office during regular business hours to perform services” for the campaign.*¹² *As a result, there was substantial reason to believe that the congressional staff “routinely received salaries from the House of Representatives on numerous occasions while they were performing services for the [campaign committee].”*¹³

Mixed Purpose Travel

28. *“As to any such mixed purpose trip, 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.”*¹⁴
29. *“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.”*¹⁵

¹⁰ House Ethics Manual at 137.

¹¹ *Id.*

¹² House Committee on Ethics, *In the Matter of Representative E.G. “Bud” Shuster*, H. Rep. 106-979, 106th Cong., 2d Sess. at 63 (2000).

¹³ *Id.* at 63-64.

¹⁴ House Ethics Manual at 116.

¹⁵ *Id.*

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

B. Official Resources Used for Campaign Debates

30. In October 2012, Representative McMorris Rodgers' congressional staff assisted her with preparing for two campaign debates. Specifically, the staff participated in debate preparation sessions and traveled from Washington, DC to Spokane, Washington to attend the debates.
31. As detailed below, the Board finds that there is substantial reason to believe that: (1) a campaign debate preparation session was held in Representative McMorris Rodgers' congressional office; (2) her Members' Representational Allowance ("MRA") was used to reimburse staff for travel to Spokane that was primarily for campaign activity; and (3) congressional staff attended campaign activities during official hours without taking leave or documenting time spent performing debate activities.

Congressional Office Space

32. On October 5, 2012, Chief of Staff sent an email from his personal email account to Representative McMorris Rodgers' campaign and congressional staff regarding "Debate Items." The email attached "a memo on the upcoming debate along with a debate agenda and other supporting documentation."¹⁶ He wrote, "I look forward to . . . our debate prep today, this weekend and in the district."¹⁷
33. The attachment included a list of debate preparation sessions for Friday, October 5 to Tuesday, October 9, 2012.¹⁸ The debate preparation session for Friday was scheduled from 2:00 p.m. to 3:30 p.m.¹⁹ Representative McMorris Rodgers' calendar for October 5, 2012, from 2:00 p.m. to 3:30 p.m, has the following entry: "Debate Prep w/ Brett O'Donnell (via phone call) 2421 RHOB."²⁰ The reference to "2421 RHOB" corresponds to the location of her congressional office in the Rayburn House Office Building in 2012.

¹⁶ Email from Chief of Staff to Former Communications Director, et al, dated October 5, 2012 ("Debate Agenda") (Exhibit 1 at 13-0906_0002).

¹⁷ *Id.*

¹⁸ *Id.* at 13-0906_0004.

¹⁹ *Id.*

²⁰ Calendar Entry for "McMorris Rodgers, Cathy – Calendar in Mailbox," dated October 5, 2012 (Exhibit 2 at 13-0906_0033).

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

34. The debate preparation session for Sunday was scheduled for 3:30 p.m. to 5:30 p.m.²¹ When Mr. O'Donnell asked "Where will prep be?", Former Communications Director replied, "On Sunday, we will be in CMR's office (2421 Rayburn) at 330 pm."²²

From: Todd Winer ([REDACTED]@hotmail.com)
Sent: Fri 10/05/12 6:02 PM
To: Brett [REDACTED]@odacomunications.com); [REDACTED]@aol.com ([REDACTED]@aol.com)

Cool. Thanks. On Sunday, we will be in CMR's office (2421 Rayburn) at 330 pm.
Sent via BlackBerry by AT&T

-----Original Message-----
From: Brett ODonnell <[REDACTED]@odacomunications.com>
Date: Fri, 5 Oct 2012 05:02:50
To: <[REDACTED]@aol.com>; <[REDACTED]@hotmail.com>
Subject: CMR Q and A

Here you go. See you Sunday. Where will prep be?
Brett

35. Representative McMorris Rodgers told the OCE she did not recall a debate preparation session on Friday October 5, 2012, and believed that her calendar may have mislabeled the session.²³ She recalled one debate preparation session was held in her office in the Rayburn House Office Building on a Sunday.²⁴ She said that the session was held in her office because she knew that her home was noisy with her family.²⁵ She also stated that other issues were discussed during the debate session other than the debate.²⁶
36. Representative McMorris Rodgers told the OCE that the congressional staff who assisted with her debate preparation were Chief of Staff, Press Secretary, Former Communications Director, and possibly Legislative Director.²⁷
37. Chief of Staff said that he does not remember the debate preparation session scheduled for October 5, 2012 and it may have been rescheduled for Sunday October 7. He attended a debate preparation session on Sunday, October 7, 2012 in Representative McMorris Rodgers' congressional office.²⁸ He said that the session was held in the

²¹ Debate Agenda (Exhibit 1 at 13-0906_0004).

²² Email from Former Communications Director to Mr. O'Donnell and Chief of Staff, dated October 5, 2012 (Exhibit 3 at 13-0906_0036).

²³ Memorandum of Interview of Representative Cathy McMorris Rodgers, November 8, 2013 ("McMorris Rodgers MOI") (Exhibit 4 at 13-0906_0039).

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 13-0906_0038.

²⁸ Memorandum of Interview of Representative McMorris Rodgers' Chief of Staff, November 8, 2013 ("Chief of Staff MOI") (Exhibit 5 at 13-0906_0050).

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

congressional office because other matters, such as calendar and policy issues, were discussed.²⁹

38. Press Secretary stated that she believes that a 2012 debate preparation session was held in the congressional office, but she did not attend.³⁰ She told the OCE that the session was held in the office as part of a larger meeting and the debate came up.³¹
39. Former Communications Director recalled attending a debate preparation session in October 2012 in the congressional office.³² He stated that the session was held on Friday, October 5 and that the scheduled debate preparation session for Sunday, October 7 did not occur.³³
40. According to Legislative Director, he assisted Representative McMorris Rodgers with preparing for debates in 2012 and he attended a debate preparation session in her congressional office.³⁴ He described the preparation session as a meeting to discuss policies and more of a staff meeting than a debate preparation session.³⁵
41. Mr. O'Donnell told the OCE that in October 2012 he began providing debate preparation services to Representative McMorris Rodgers.³⁶ He did not know whether he attended a debate preparation session on October 5, 2012. He attended a debate preparation session in her congressional office on a Sunday that he believes was October 7, 2012.³⁷ He described the session as primarily concerning the debate, but that the meeting also included a discussion of communications and scheduling matters for the congressional office.³⁸
42. Based on the information that the OCE received, there is substantial reason to believe that on or about October 7, 2012, Representative McMorris Rodgers held a campaign debate preparation session in her congressional office in violation of House rules and standards of conduct.

Congressional Staff Travel Expenses

43. Following the debate preparation session on or about October 7, 2012, the following congressional staff traveled to Spokane, Washington from Monday, October 8 to Friday,

²⁹ *Id.*

³⁰ Memorandum of Interview of Representative McMorris Rodgers' Press Secretary, October 30, 2013 ("Press Secretary MOI") (Exhibit 6 at 13-0906_0059).

³¹ *Id.*

³² Memorandum of Interview of Representative McMorris Rodgers' Former Communication Director, October 14, 2013 ("Former Communications Director MOI") (Exhibit 7 at 13-0906_0074).

³³ *Id.*

³⁴ Memorandum of Interview of Representative McMorris Rodgers' Legislative Director, October 30, 2013 ("Legislative Director MOI") (Exhibit 8 at 13-0906_0085).

³⁵ *Id.*

³⁶ Memorandum of Interview of Mr. O'Donnell, November 12, 2013 ("Mr. O'Donnell MOI") (Exhibit 9 at 13-0906_0092).

³⁷ *Id.*

³⁸ *Id.*

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

October 12, 2012: Chief of Staff, Former Communications Director, Legislative Director, and Patrick Bell.

44. The total cost of travel expenses (*i.e.*, transportation, meals, and incidental expenses) for the four congressional staffers was approximately \$4,794.³⁹
45. The travel expenses for staff were paid by the congressional office, but the trip schedule included various activities related to Representative McMorris Rodgers' congressional campaign.

Staff Travel to District Oct 8 – Oct 12, 2012	Scheduled Activity Related to Campaign Debate and Campaign Media
Monday, October 8 (Columbus Day)	2:00 p.m. – 5:30 p.m.: Debate Preparation
Tuesday, October 9	10:30 a.m. – 11:00 a.m.: Debate Preparation 11:00 a.m. – 12:00 p.m.: Debate at KSPS Public TV
Wednesday, October 10	11:00 a.m. – 11:45 a.m.: Interview with Newspaper Editorial Board
Thursday, October 11	11:00 a.m. – 12:00 p.m.: Interview with Newspaper Editorial Board 1:00 p.m. – 4:00 p.m.: Debate Preparation
Friday, October 12	7:00 a.m. to 9:00 a.m.: Debate

46. The OCE requested documents from Representative McMorris Rodgers' current and former staff concerning work performed for the congressional office and campaign during travel to the district in October 2012.
47. The following documents were produced, providing schedules of activities planned during the staff's travel to Spokane: Debate Agenda, attached to email from Chief of Staff to congressional and campaign staff;⁴⁰ Media Plan Week of October 8, 2012; Memorandum from Former Communications Director to Representative McMorris Rodgers;⁴¹ and "October8Schedule.doc," attached to an email from Constituent Relations Director to Legislative Director.⁴²

³⁹ Records of Travel Expenses for Representative McMorris Rodgers' Congressional Staff (Exhibit 10 at 13-0906_0099).

⁴⁰ Debate Agenda (Exhibit 1 at 13-0906_0004).

⁴¹ Memorandum from Former Communications Director to Representative McMorris Rodgers, dated October 5, 2012 ("October 5 Weekend Binder") (Exhibit 11 at 13-0906_0115-0130).

⁴² Email from Constituent Relations Director to Legislative Director, dated October 9, 2012 (Exhibit 12 at 13-0906_0132-0134).

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

48. Prior to traveling to Spokane, Chief of Staff emailed a memorandum to other staffers on October 5, 2012, regarding “Debate Prep and the Week Ahead.”⁴³ The attached memorandum emphasized that “next week is a very critical week and we must do everything we can to make certain CMR is well prepared for her debates.”⁴⁴
49. Former Communications Director told the OCE that the primary purpose for his travel to the district during the week of October 8, 2012 was campaign activity.⁴⁵ In addition to attending the campaign debate-related activity, Former Communications Director prepared Representative McMorris Rodgers for a phone interview with the Walla Walla Union Bulletin editorial board concerning her re-election campaign.⁴⁶ He did not participate in the phone call.⁴⁷
50. Former Communications Director attended a meeting concerning a campaign endorsement with Representative McMorris Rodgers and the Spokane Spokesman-Review on October 11, 2012.⁴⁸ He told the OCE that he alerted Chief of Staff of his concern, but Chief of Staff told him that there were no issues.⁴⁹

From: **Todd Winer** (██████████@hotmail.com)
Sent: Thu 10/04/12 2:51 PM
To: ██████████@aol.com

One thought on Spokesman ed board interview next week - it might be good to not have any official staff with cmr (perhaps someone from the campaign like Jessica can do it). We're in such a good position right now it might not be worth the risk of a story like "is CMR's staff bending campaign rules?" - also something to consider from a Leadership angle. Or am I overthinking things?

51. Chief of Staff told the OCE that he responded to Former Communications Director’s email either in person or on the phone and told him the office was “not bending campaign rules” because he was volunteering.⁵⁰
52. Legislative Director stated that he participated in debate preparation sessions while in Spokane in October 2012.⁵¹ He also attended Representative McMorris Rodgers’ meeting with the Spokane Spokesman-Review editorial board.⁵² He told the OCE that he

⁴³ Memorandum from Chief of Staff to Former Communications Director, *et al.* dated October 4, 2012 (Exhibit 1 at 13-0906_0005).

⁴⁴ *Id.*

⁴⁵ Former Communications Director MOI (Exhibit 7 at 13-0906_0072).

⁴⁶ *Id.* at 13-0906_0073; October 5 Weekend Binder (Exhibit 10 at 13-0906_0116).

⁴⁷ Former Communications Director MOI (Exhibit 7 at 13-0906_0073).

⁴⁸ *Id.*

⁴⁹ *Id.* at 13-0906_0075; Email from Former Communications Director to Chief of Staff, dated October 4, 2012 (Exhibit 13 at 13-0906_0136).

⁵⁰ Chief of Staff MOI (Exhibit 5 at 13-0906_0056).

⁵¹ Legislative Director MOI (Exhibit 8 at 13-0906_0084-85).

⁵² *Id.*

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

worked normal work hours for the congressional office when he was in the district in October 2012.⁵³

53. Legislative Director was shown a schedule of various events from October 9 to October 12, 2012 that he produced to the OCE. Other than debate preparation sessions and the editorial board meeting, he was only certain of attending three non-campaign related events. He recalled attending two company tours on October 9 and the “Senior Roundtable & Retire Safe Award” event on October 10, 2012.⁵⁴ He did not provide the OCE with any additional documents concerning any official work he did while in the district during that time period.
54. Representative McMorris Rodgers told the OCE that Chief of Staff and Former Communications Director assisted her with debate preparation.⁵⁵ She recalled that Legislative Director may have also assisted with debate preparation.⁵⁶
55. The OCE was unable to determine Patrick Bell’s activities in the district in October 2012 because he refused to cooperate with the OCE.
56. Based on the information before the OCE, the majority of the days of the staff travel to the district from October 8 to October 12, 2012 concerned campaign activity. The schedules and correspondence provided suggest that the two campaign debates and campaign media interviews were priorities. Although official work may have been performed, evidence was not provided to establish that four congressional staffers traveled from Washington, DC to Spokane, Washington to perform any substantial official work in the district.

Congressional Staff Time

57. From October 8 to October 12, 2012, there are no records of Representative McMorris Rodgers’ staff taking leave from work to do campaign activity, nor did staff record any time spent doing campaign activity on their “own time” as the House Ethics Manual advises.
58. Representative McMorris Rodgers told the OCE that her congressional office has a written policy concerning staff performing campaign work.⁵⁷ According to the office policy, congressional staff members are not to do campaign work on official time or with official resources.⁵⁸ Any campaign work must be done on the staffer’s own time, which includes the lunch hour, after-work hours, and time on leave status.⁵⁹ Campaign work must be done outside of the office and without congressional equipment.⁶⁰

⁵³ *Id.* at 13-0906_0086.

⁵⁴ Legislative Director MOI (Exhibit 8 at 13-0906_0083-84).

⁵⁵ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0038).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ McMorris Rodgers Employee Handbook (Exhibit 14 at 13-0906_0211).

⁵⁹ *Id.* at 13-0906_0214.

⁶⁰ *Id.* at 13-0906_0211.

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

59. Representative McMorris Rodgers' Employee Handbook contains guidance similar to the House Ethics Manual concerning the need for staff to record time spent on campaign work such that it can be applied to annual leave. The handbook advises that "[i]f you work in the Office and also on the campaign (which you may do only on your own time), then you must keep a detailed, written, contemporaneous diary recording each segment of time you spend on official duties and each segment of time you spend on campaign activities."⁶¹
60. The OCE requested and received records from Representative McMorris Rodgers' congressional office of time off work, vacation, or leave without pay for Chief of Staff, Legislative Director, Former Communications Director, and Patrick Bell.⁶²
61. The records provided did not include any requests for leave or vacation during the week of October 8 to October 12, 2012.⁶³ The records also did not include any diary of time spent working on any campaign activity during the time period.⁶⁴ Representative McMorris Rodgers' written office policy and House standards of conduct advise that such records should have been maintained.⁶⁵
62. Former Communications Director told the OCE that he did not submit any leave forms for trips to the district where he performed campaign activity because it was "sold" to him that the trips were part of his government duties and there was no need to take leave.⁶⁶ He said that it was up to Chief of Staff to enforce the rules so he did not take time off at his own initiative.⁶⁷ He stated that most employees would not use vacation days for campaign activity unless coerced to do it.⁶⁸
63. Based on the information before the OCE, there is substantial reason to believe that congressional office space, travel expenses, and staff time were used for campaign debates in October 2012.

⁶¹ *Id.* at 13-0906_0214.

⁶² Legislative Director Leave Requests (Exhibit 15 at 13-0906_0220-0224); Patrick Bell Leave Requests (Exhibit 16 at 13-0906_0226-0235); Former Communications Director Leave Requests (Exhibit 17 at 13-0906_0237-0245); Chief of Staff Leave Requests (Exhibit 18 at 13-0906_0247-0252).

⁶³ Legislative Director Leave Requests (Exhibit 15 at 13-0906_0220-0224); Patrick Bell Leave Requests (Exhibit 16 at 13-0906_0226-0235); Former Communications Director Leave Requests (Exhibit 17 at 13-0906_0237-0245); Chief of Staff Leave Requests (Exhibit 18 at 13-0906_0247-0252).

⁶⁴ Legislative Director Leave Requests (Exhibit 15 at 13-0906_0220-0224); Patrick Bell Leave Requests (Exhibit 16 at 13-0906_0226-0235); Former Communications Director Leave Requests (Exhibit 17 at 13-0906_0237-0245); Chief of Staff Leave Requests (Exhibit 18 at 13-0906_0247-0252).

⁶⁵ Representative McMorris Rodgers' Employee Handbook (Exhibit 14 at 13-0906_0214).

⁶⁶ Former Communications Director MOI (Exhibit 7 at 13-0906_0073).

⁶⁷ *Id.* at 13-0906_0074.

⁶⁸ *Id.*

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

C. Official Resources Used for Campaign Speeches and Press Releases

64. From 2010 to 2012, Representative McMorris Rodgers' congressional staff were responsible for drafting her campaign speeches and press releases.⁶⁹
65. Representative McMorris Rodgers told the OCE that her campaign speeches were drafted primarily by Chief of Staff, Former Communications Director, and Campaign Consultant.⁷⁰ She said that she had congressional staff draft campaign speeches because they know her and know what she has been doing.⁷¹ She described it as something they wanted to do to be helpful on their own time outside of the office.⁷²
66. She described the general drafting process as beginning with Former Communications Director taking the lead on a draft.⁷³ She would then sit down and talk about the speech draft with him and discuss anything that should be included.⁷⁴
67. She stated that the conversations with Former Communications Director about the campaign speeches sometimes occurred in the congressional office.⁷⁵ The conversations also occurred at the National Republican Congressional Committee or "wherever we might be."⁷⁶
68. Representative McMorris Rodgers typically provided her comments and edits on a hard copy of the draft.⁷⁷ These hard copies of the speeches were usually compiled in a binder of various items that her congressional staff provided to her before she left the office for the day.⁷⁸ The staff also delivered the binder to her home if she had already left for the day.⁷⁹
69. Former Communications Director told the OCE that Chief of Staff usually asked him to write campaign speeches, but Representative McMorris Rodgers was always involved in

⁶⁹ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0039); Former Communications Director MOI (Exhibit 7 at 13-0906_0068-69). Former Communications Director provided the OCE with numerous speeches that he drafted for Representative McMorris Rodgers. See Collection of Excerpts of Draft Campaign Speeches (Exhibit 19 at 13-0906_0254-0267). In addition, Counsel for Representative McMorris Rodgers notified the OCE that a search revealed hundreds of pages of campaign speeches on her congressional office computer system that appear to have been drafted by Former Communications Director. He told the OCE that the presence of the speeches on the congressional office computer system was previously unknown by Representative McMorris Rodgers. Letter from Elliot Berke to Kedric Payne, dated November 14, 2013 (Exhibit 20 at 13-0906_0269).

⁷⁰ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0039).

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

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

the drafting process.⁸⁰ He sent drafts of speeches directly to Representative McMorris Rodgers but she rarely sent him any comments via email.⁸¹ When Representative McMorris Rodgers had comments on the speeches, she usually had in-person discussions with him in the congressional office.⁸² These discussions were occasionally over the telephone when Representative McMorris Rodgers was in the district.⁸³

70. Former Communications Director told the OCE that he usually drafted campaign speeches on his congressional office computer and during business hours.⁸⁴
71. Based on the information before the OCE, there is substantial reason to believe that Former Communications Director performed campaign activity using official resources with the knowledge of Representative McMorris Rodgers. Her campaign committee did not have an employee responsible for drafting campaign speeches and press releases, instead apparently relying on congressional staff. Even if Representative McMorris Rodgers did not directly know the extent of official resources used, there is substantial reason to believe that she had sufficient knowledge about her meetings with Former Communications Director in the congressional office and congressional staff preparing binders for her containing campaign materials during official hours.

D. Official Resources Used for Campaign Events

72. Representative McMorris Rodgers' congressional staff traveled to assist her with campaign activities that may have been improperly funded with official funds and performed on official time. In 2012, Congressional staff traveled with her to her re-election campaign kickoff events, the Republican National Convention ("RNC"), and events during the final days of her campaign.

2012 Campaign Kick Off Events

73. Press Secretary traveled from Washington, DC to Spokane, Washington at the expense of the congressional office from April 2 to April 6, 2012.⁸⁵
74. She was the press secretary for Representative McMorris Rodgers congressional office.⁸⁶ Representative McMorris Rodgers' campaign committee did not have a press secretary during the 2012 election cycle.

⁸⁰ Former Communications Director MOI (Exhibit 7 at 13-0906_0069).

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

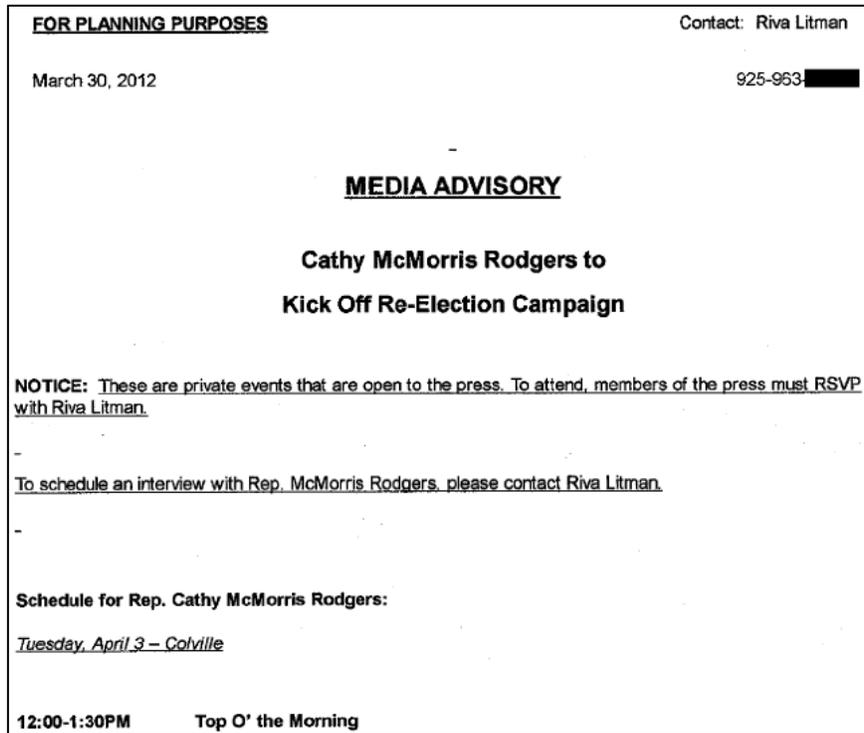
⁸⁴ *Id.* at 13-0906_0068.

⁸⁵ Records of Travel Expenses for Representative McMorris Rodgers' Congressional Staff (Exhibit 10 at 13-0906_0099).

⁸⁶ Press Secretary MOI (Exhibit 6 at 13-0906_0058).

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

75. Prior to traveling to Spokane, Press Secretary was listed as the contact person on a campaign media advisory requesting interviews with media outlets in Spokane during the week of April 2.⁸⁷ Specifically, the media advisory announced, “Cathy McMorris Rodgers to Kick Off Re-Election Campaign.”⁸⁸



76. The campaign media advisory listed “Top O’ the Morning” events, which were campaign-related events held in three cities in Representative McMorris Rodgers’ district, for April 3, April 4, and April 5.⁸⁹

77. Press Secretary provided the OCE with a calendar for her travel from April 2 to April 6.⁹⁰ The calendar shows the “Top O’ the Morning” events and various media interviews scheduled throughout each day.⁹¹

78. Press Secretary stated that she traveled to the district primarily for campaign-related activity.⁹² She also said that there was a mix of official and campaign media activity that

⁸⁷ Email from Former Communications Director to undisclosed recipients, dated March 30, 2012 (“March 30 Email”) (Exhibit 21 at 13-0906_0271).

⁸⁸ Email from Former Communications Director to undisclosed recipients, dated April 2, (Exhibit 22 at 13-0906_0274-0275); March 30 Email (Exhibit 21 at 13-0906_0271-0272).

⁸⁹ March 30 Email (Exhibit 21 at 13-0906_0271-0272).

⁹⁰ Schedule of April 3 – April 6, 2012 (Exhibit 23 at 13-0906_0277-0279).

⁹¹ *Id.*

⁹² Press Secretary MOI (Exhibit 6 at 13-0906_0061). Following her interview with the OCE, Press Secretary’s counsel contacted the OCE and stated that Press Secretary “maintained a full official schedule” during her travel. *See* Email from E. Burke to Kedric Payne, dated November 6, 2013 (Exhibit 24 at 13-0906_0281). The Board notes that representations by counsel do not supersede witness statements made during interviews.

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

took place during the trip.⁹³ She recalled that Representative McMorris Rodgers' campaign fundraiser attended the campaign events with her.⁹⁴

79. When asked whether she requested leave from the congressional office for the time spent doing campaign activity, she said that she believed that she submitted a leave form to Former Communications Director.⁹⁵ She did not recall who paid for her travel expenses, but recalled submitting receipts for reimbursement to a congressional district office staffer.⁹⁶
80. The total cost of Press Secretary's travel expenses from April 2 to April 6, 2012 was approximately \$1,515.⁹⁷
81. According to records provided by Representative McMorris Rodgers, the congressional office paid for Press Secretary's travel expenses.⁹⁸
82. Press Secretary's vacation and leave records do not include any time off from April 2 to April 6, 2012.⁹⁹ The records also do not include any diary of time spent performing campaign related activity on her own time.¹⁰⁰ Representative McMorris Rodgers' written office policy and House standards of conduct advise that such records should have been maintained.¹⁰¹
83. Press Secretary traveled from Washington, DC to Spokane during the week that Representative McMorris Rodgers announced her re-election campaign in the district. Press Secretary was listed as the media contact person for the campaign kick-off and she attended various media interviews with Representative McMorris Rodgers in the district that appear to have been scheduled in response to a campaign media advisory. During her interview with the OCE, Press Secretary indicated that she went to the district to do a mix of campaign and official media.¹⁰² Based on this information, there is substantial reason to believe that congressional funds were used for Press Secretary's travel to the district in April 2012 that was primarily for campaign related activities in violation of House rules, standards of conduct, and federal law.

RNC 2012

84. The 2012 RNC was held from August 27 to August 30, 2012. The following five members of Representative McMorris Rodgers' congressional staff attended the

⁹³ *Id.*

⁹⁴ Press Secretary MOI (Exhibit 6 at 13-0906_0061).

⁹⁵ *Id.* at 13-0906_0062.

⁹⁶ *Id.* at 13-0906_0061.

⁹⁷ Records of Travel Expenses for Representative McMorris Rodgers' Congressional Staff (Exhibit 10 at 13-0906_0099).

⁹⁸ *Id.*

⁹⁹ Press Secretary's Vacation and Leave Records (Exhibit 25 at 13-0906_0283-0292).

¹⁰⁰ *Id.*

¹⁰¹ Representative McMorris Rodgers' Employee Handbook (Exhibit 14 at 13-0906_0214).

¹⁰² Press Secretary MOI (Exhibit 6 at 13-0906_0061).

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

Convention: Chief of Staff, Legislative Director, Former Communications Director, Press Secretary, and Patrick Bell.¹⁰³

85. Representative McMorris Rodgers told the OCE that the congressional staff attended the RNC to assist her with duties related to her role as a hostess of the Convention.¹⁰⁴ The staff also assisted with preparing her for her speeches and media interviews during the Convention.¹⁰⁵
86. When asked how she knew whether the staff attended the RNC on their own time, Representative McMorris Rodgers said that the campaign paid for their hotel and travel expenses.¹⁰⁶ Records of her MRA disbursements do not show any travel expenses incurred during the time of the RNC.¹⁰⁷
87. She said that she understood that they took time off from work and she hopes that they took time off. She said that she is not involved in leave forms for staffers.¹⁰⁸
88. Press Secretary, Chief of Staff, and Legislative Director told the OCE that they requested vacation for the RNC.¹⁰⁹
89. Despite their claim that they were on vacation during the RNC, Press Secretary, Chief of Staff, and Legislative Director did not provide the OCE with any vacation requests, leave requests, or any other records substantiating their claim.¹¹⁰ Representative McMorris Rodgers' written office policy and House standards of conduct advise that such records should have been maintained.¹¹¹
90. As a result of the nature of the congressional staff travel to the RNC where the campaign paid for travel expenses, campaign activity was conducted, and due to the absence of leave or vacation records for the congressional staff in attendance, there is substantial reason to believe that the staff attended the RNC on official time in violation of House rules, standards of conduct, and federal law.

¹⁰³ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0042); Chief of Staff MOI (Exhibit 5 at 13-0906_0051); Legislative Director MOI (Exhibit 8 at 13-0906_0084-85); Press Secretary MOI (Exhibit 6 at 13-0906_0062).

¹⁰⁴ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0042).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ Records of Travel Expenses for Representative McMorris Rodgers' Congressional Staff (Exhibit 10 at 13-0906_0098-0099).

¹⁰⁸ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0042).

¹⁰⁹ Chief of Staff MOI (Exhibit 5 at 13-0906_0051-52); Legislative Director MOI (Exhibit 8 at 13-0906_0085); Press Secretary MOI (Exhibit 6 at 13-0906_0062).

¹¹⁰ *See* Legislative Director Leave Requests (Exhibit 15 at 13-0906_0220-0224); Patrick Bell Leave Requests (Exhibit 16 at 13-0906_0226-0235); Former Communications Director Leave Requests (Exhibit 17 at 13-0906_0237-0245); Chief of Staff Leave Requests (Exhibit 18 at 13-0906_0247-0252); Press Secretary's Vacation and Leave Records (Exhibit 25 at 13-0906_0283-0292).

¹¹¹ Representative McMorris Rodgers' Employee Handbook (Exhibit 14 at 13-0906_0214).

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

November 2012

91. Press Secretary traveled from Washington, DC to Spokane, Washington at the expense of the congressional office from November 5 to November 7, 2012.¹¹² The total cost of travel expenses was approximately \$846.¹¹³
92. Press Secretary stated that her trip to the district from November 5 to November 7, 2012 was related to both the campaign and to official activities, but that the trip was primarily campaign related.¹¹⁴
93. Prior to the Press Secretary traveling to Spokane, Former Communications Director sent out a media advisory announcing Representative McMorris Rodgers' availability for interviews "During Final Week of Campaign," and indicating that Representative McMorris Rodgers would be holding campaign events in Spokane and Davenport, Washington on November 5 and November 6, 2012.¹¹⁵

¹¹² Records of Travel Expenses for Representative McMorris Rodgers' Congressional Staff (Exhibit 10 at 13-0906_0099).

¹¹³ *Id.*

¹¹⁴ Press Secretary MOI (Exhibit 6 at 13-0906_0061). Following her interview with the OCE, Press Secretary's counsel contacted the OCE and stated that Press Secretary "worked a full official schedule" during her travel in November. See Email from E. Burke to Kedric Payne, dated November 6, 2013 (Exhibit 24 at 13-0906_0281). The Board notes that representations by counsel do not supersede witness statements made during interviews.

¹¹⁵ Email from Former Communications Director to undisclosed recipients, dated October 30, 2012 ("October 30 Email") (Exhibit 26 at 13-0906_0294-295).

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

94. Press Secretary provided the OCE with her schedule for November 5 to November 7, 2012.¹¹⁶ This schedule shows that she participated in several media interviews specifically described in the calendar as being related to Representative McMorris Rodgers’ campaign during November 5 to November 7, 2012.¹¹⁷ Other media appearances during this period are not specifically described as campaign media in her calendar, and therefore it is not clear whether they were campaign or official appearances.¹¹⁸ In particular, all of the media appearances on Press Secretary’s schedule for November 7, 2012 were specifically described as campaign related.¹¹⁹

November 07, 2012	
Wednesday	
8:30 AM - 8:40 AM	<p>KXLY TV Interview -- 500 West Boone Avenue Spokane WA 99201-2404 LOCATION: 500 W. Boone</p> <p>POC:Chelsie; 509-386-████ Riva Litman, 925-963-████</p> <p>TOPIC: Your re-election/Presidential campaign</p>
8:40 AM - 8:50 AM	<p>KXLY Radio Interview -- 500 West Boone Avenue Spokane WA 99201-2404 LOCATION: 500 W. Boone</p> <p>POC: Chelsie; 509-386-████ Riva Litman, 925-963-████</p> <p>TOPIC: Your re-election/Presidential campaign</p>
9:00 AM - 9:15 AM	<p>KHQ Interview -- 1201 West Sprague Avenue Spokane WA 99201-4102 LOCATION: 1201 W Sprague Ave</p> <p>POC: Beverley; 509-448-████ Riva Litman, 925-963-████</p> <p>TOPIC: Your re-election/Presidential campaign</p>
9:30 AM - 9:50 AM	<p>KREM Interview -- 4103 South Regal Street Spokane WA 99223-7737 LOCATION: 4103 S. Regal</p> <p>POC: Trinity; 509-838-7350; 509-838-████ Riva Litman, 925-963-████</p> <p>TOPIC: Your re-election/Presidential campaign</p>
1:30 PM - 10:55 PM	<p>*1:30 PM PST* CMR, JDD, SPM & RBL to fly Delta 1488 / 2164 GEG - DCA Dep GEG 1:30 PM PST Arr MSP 6:22 PM CST Dep MSP 7:25 PM CST Arr DCA 10:55 PM EST</p>

95. Legislative Director also traveled to the district from November 1 to November 7, 2012. He provided the OCE with a schedule for his travel to the district during this period.¹²⁰ The schedule indicates that certain campaign events, in addition to the campaign media interviews listed on Press Secretary’s schedule, also occurred during the period of November 5 to November 7, 2012, including a campaign “Victory Party” during the evening on November 6, 2012 and a “thank you brunch” for campaign supporters on November 7, 2012.¹²¹

¹¹⁶ Schedule of November 5 – November 7, 2012 (Exhibit 27 at 13-0906_0297-0300).

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Schedule of November 1 – November 7, 2012 (Exhibit 28 at 13-0906_0302-0304).

¹²¹ *Id.*

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

96. Press Secretary was listed along with Former Communications Director as a point of contact for the election night victory party on a media advisory sent out by Former Communications Director on November 6, 2012.¹²²
97. Documents provided to the OCE indicate that Press Secretary and Former Communications Director were in charge of coordinating Representative McMorris Rodgers' campaign media appearances during the days leading up to the November 6, 2012 election.¹²³ For example, a campaign email sent by Former Communications Director on November 5, 2012 stated that Press Secretary "will be with the Congresswoman and is coordinating her interviews tomorrow," referring to Election Day.¹²⁴
98. Press Secretary stated that she traveled to the district from November 5 to November 7, 2012 at the request of Former Communications Director.¹²⁵
99. Press Secretary emphasized that the work she did for the campaign during the trip was voluntary.¹²⁶ Press Secretary did not identify any official work she completed during the trip.
100. Press Secretary stated that she believes she took leave from the congressional office for the trip; submitting a leave form to Former Communications Director.¹²⁷ Neither Press Secretary nor Representative McMorris Rodgers were able to produce a record of the leave form to the OCE.
101. Press Secretary's vacation and leave records do not include any time off from November 5 to November 7, 2012.¹²⁸ These records also do not include any diary of time spent performing campaign related activity. Representative McMorris Rodgers' written office policy and House standards of conduct advise that such records should have been maintained.¹²⁹
102. Based on the information before the OCE, there is substantial reason to believe that Press Secretary traveled to the district from November 5 to November 7, 2012 primarily for campaign related activities.¹³⁰

¹²² Email from Former Communications Director to several recipients, dated November 6, 2012 (Exhibit 29 at 13-0906_0306-0309).

¹²³ Email from Former Communications Director to Press Secretary, et al., dated November 2, 2012 (Exhibit 30 at 13-0906_0311-0334).

¹²⁴ Email from Former Communications Director to Joe O'Sullivan, dated November 5, 2012 (Exhibit 31 at 13-0906_0336-0338).

¹²⁵ Press Secretary MOI (Exhibit 6 at 13-0906_0061).

¹²⁶ *Id.*

¹²⁷ *Id.* at 13-0906_0062.

¹²⁸ Press Secretary's Vacation and Leave Records (Exhibit 25 at 13-0906_0283-0292).

¹²⁹ Representative McMorris Rodgers' Employee Handbook (Exhibit 14 at 13-0906_0214).

¹³⁰ We also note that it appears Representative McMorris Rodgers' congressional office paid for airfare for Legislative Director for travel occurring from October 17 to November 3, 2012. Records of Travel Expenses for Representative McMorris Rodgers' Congressional Staff (Exhibit 10 at 13-0906_0099). However, Legislative Director requested leave from the congressional office from October 12 through November 3, 2012 to work on a

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

III. REPRESENTATIVE MCMORRIS RODGERS MAY HAVE USED CAMPAIGN FUNDS FOR OFFICIAL ACTIVITIES

A. Laws, Regulations, Rules, and Standards of Conduct

103. Pursuant to 2 U.S.C. § 59e(d), “[n]o Senator or Member of the House of Representatives may maintain or use, directly or indirectly, an unofficial office account or defray official expenses for . . . employee salaries . . . from . . . funds received from a political committee or derived from a contribution or expenditure”¹³¹

104. House Rule 24 provides that “a Member . . . may defray official expenses with funds of the principal campaign committee of such individual . . . The funds . . . may not be used to defray official expenses for . . . compensation for services”¹³²

105. According to the House Ethics Manual, while “Members are restricted in using campaign funds to pay official House expenses, there are a number of activities that may be either ‘official’ or ‘political’ at the Member’s option. The major examples are events sponsored by a Member on legislative or other governmental topics, such as town hall meetings and conferences; statements or releases issued by a Member on a legislative or other governmental issue; and activities relating to a race for a House leadership office. However, the Standards Committee has stated: ‘[O]nce the Member makes his determination [on whether an activity is to be official or political], he is bound by it. A single event cannot, for purposes of the House rules, be treated as both political and official.’”¹³³

B. Campaign Communications Consultant Provided Services to the Congressional Office

106. Representative McMorris Rodgers used the services of a communications consultant for her congressional office that may have been impermissibly paid with campaign funds.

107. Mr. O’Donnell is the president of a company that provides communication consulting services to Members of Congress, congressional committees, corporations, and similar entities.¹³⁴

United States Senate campaign in Washington State. Legislative Director Leave Requests (Exhibit 15 at 13-0906_0220-0224). It thus appears that Representative McMorris Rodgers’ congressional office may have funded travel related to Legislative Director’s campaign work rather than official duties.

¹³¹ 2 U.S.C. § 59e(d).

¹³² House Rule 24, clause 2.

¹³³ House Ethics Manual at 178-79.

¹³⁴ Mr. O’Donnell MOI (Exhibit 9 at 13-0906_0090).

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

108. According to Mr. O'Donnell, Former Communications Director contacted him around March 2012 and asked if he could provide communications consulting services to Representative McMorris Rodgers through her congressional office.¹³⁵
109. Mr. O'Donnell met with Representative McMorris Rodgers and Chief of Staff before he was hired to discuss the services that he was expected to provide, which included assessing Representative McMorris Rodgers' communication skills, preparing her for media appearances, and helping Former Communications Director and Press Secretary with their communications duties for the congressional office.¹³⁶
110. Mr. O'Donnell began working for Representative McMorris Rodgers in April 2012.¹³⁷ He described his services as being provided to Representative McMorris Rodgers in her capacity as a Member of Congress and member of the Republican leadership. He told the OCE that at that time he was not providing services to her congressional campaign or to her in her capacity as a candidate for office.¹³⁸
111. Mr. O'Donnell told the OCE that he had no discussions about providing debate preparation services for Representative McMorris Rodgers until October 2012 when he was asked to attend a debate preparation session.¹³⁹ He said this was the first instance when he was asked to provide campaign services.¹⁴⁰
112. Mr. O'Donnell attended one debate preparation session in October 2012 in person and he attended additional debate preparation sessions over the telephone in advance of the 2012 election.¹⁴¹
113. Mr. O'Donnell also assisted Representative McMorris Rodgers with her race for Republican Conference Chair in September and October of 2012. He said these services were not for her congressional campaign.¹⁴²
114. In December 2012, Mr. O'Donnell assisted Representative McMorris Rodgers with her transition to Conference Chair, including interviewing candidates for a communications director position for the House Republican Conference.¹⁴³ He was also responsible for

¹³⁵ *Id.*

¹³⁶ *Id.* at 13-0906_0091.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.* at 13-0906_0092.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.* at 13-0906_0093.

¹⁴³ *Id.*

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

preparing Representative McMorris Rodgers for various interviews and television appearances.¹⁴⁴

115. The preparation sessions occurred in congressional offices, on the phone, and at television studios.¹⁴⁵

116. Press Secretary and Chief of Staff told the OCE that their participation in the preparation sessions in December was not for Representative McMorris Rodgers' campaign.¹⁴⁶

117. Mr. O'Donnell said that his services in December 2012 were definitely not for Representative McMorris Rodgers' campaign because it was December and past the election.¹⁴⁷

118. According to Mr. O'Donnell, reports filed with the Federal Election Commission, and a schedule of payments for Mr. O'Donnell, the sources of his compensation varied in 2012.¹⁴⁸

Entity	Apr. 2012	May. 2012	Jun. 2012	Jul. 2012	Aug. 2012	Sept. 2012	Oct. 2012	Nov. 2012	Dec. 2012
Cathy for Congress								\$ 2,497.80	\$ 2,000.00
CMR PAC	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00		
Conference									
Personal Office									
Entity	Jan. 2013	Feb. 2013	Mar. 2013	Apr. 2013	May. 2013	Jun. 2013	Jul. 2013	Aug. 2013	Sept. 2013
Cathy for Congress									
CMR PAC					\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	
Conference	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 6,400.00	\$ 4,000.00	\$ 4,000.00	\$ 2,800.00	\$ 2,500.00	\$ 2,500.00
Personal Office	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00						

119. From April to September 2012, when Mr. O'Donnell said that he was assisting the Member in her capacity as Congresswoman and member of the Republican leadership, he was paid by Representative McMorris Rodgers' leadership PAC, CMR PAC.¹⁴⁹

120. Mr. O'Donnell said that he has never been paid by the leadership PACs of other congressional clients and is usually paid from their MRAs or campaign committees.¹⁵⁰

¹⁴⁴ *Id.* at 13-0906_0094.

¹⁴⁵ *Id.*

¹⁴⁶ Press Secretary MOI (Exhibit 6 at 13-0906_0063).

¹⁴⁷ Mr. O'Donnell MOI (Exhibit 9 at 13-0906_0095).

¹⁴⁸ Payment Calendar for Mr. O'Donnell (Exhibit 32 at 13-0906_0340); Itemized Disbursements to O'Donnell & Associates, excerpts from 2012 FEC Reports of CMR Political Action Committee (Exhibit 33 at 13-0906_0342-0345); Excerpts from 2012 FEC Reports of Cathy McMorris Rodgers for Congress (Exhibit 34 at 13-0906_0347).

¹⁴⁹ Mr. O'Donnell MOI (Exhibit 9 at 13-0906_0095-0096).

¹⁵⁰ *Id.* at 13-0906_0091).

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

121. During December 2012, when Mr. O'Donnell provided services to the congressional office, he was paid by Representative McMorris Rodgers' principal campaign committee, Cathy McMorris Rodgers for Congress.¹⁵¹
122. Representative McMorris Rodgers told the OCE that she was aware that Mr. O'Donnell was paid by the campaign in December 2012, but she considered his job as both official and campaign.¹⁵²
123. Based on evidence before the OCE, there is substantial reason to believe that Mr. O'Donnell performed services for Representative McMorris Rodgers' congressional office, but was improperly paid with political funds in April, May, June, July, August, September, and December 2012.

IV. REPERESENTATIVE MCMORRIS RODGERS MAY HAVE IMPROPERLY COMBINED OFFICIAL AND CAMPAIGN RESOURCES FOR HER LEADERSHIP RACE

A. Laws, Regulations, Rules, and Standards of Conduct

124. *“As a general matter, a Member may use campaign funds to pay for activities in furtherance of a campaign for one of the House leadership offices However, when a particular activity related to a leadership race is supported with campaign resources, no official House resources may be devoted to that activity except to the extent noted above.”*¹⁵³
125. *The House Ethics Manual provides the following example: “A Member who is sending a mailing on a leadership race decides to pay the printing and mailing expenses with campaign funds. No official staff time or any other House resources may be used in furtherance of the mailing.”*¹⁵⁴

¹⁵¹ *Id.*; Email from Brett O'Donnell to Sue Carlin, attaching O'Donnell & Associates Invoice, dated November 2, 2012 (Exhibit 35 at 13-0906_0349); Email from Brett O'Donnell to Chief of Staff, attaching O'Donnell & Associates Invoice, dated December 12, 2012) (Exhibit 36 at 13-0906_0349-0353).

¹⁵² McMorris Rodgers MOI (Exhibit 4 at 13-0906_0043).

¹⁵³ House Ethics Manual at 161.

¹⁵⁴ *Id.*

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

B. Official and Campaign Resources Combined for Particular Activity for Leadership Race

126. In 2012, Representative McMorris Rodgers ran for Chair of the House Republican Conference. For the campaign, her congressional staff and campaign staff jointly produced an information packet and video supporting her candidacy.¹⁵⁵
127. Representative McMorris Rodgers told the OCE that the packet and video were a “combined effort” of her campaign staff and congressional staff where Patrick Bell was the manager for her congressional office and Campaign Consultant was the manager for her congressional campaign.¹⁵⁶ Representative McMorris Rodgers received drafts, made recommendations and edits, and was responsible for final approval.¹⁵⁷
128. Campaign Consultant told the OCE that around September 2012, Mr. Bell and Chief of Staff asked him to prepare the packet and video for the leadership race.¹⁵⁸
129. Campaign Consultant said that Mr. Bell served as project manager.¹⁵⁹ Chief of Staff also worked on the project.¹⁶⁰
130. Mr. Bell was responsible for compiling the video, which was largely a collection of video clips.¹⁶¹ Chief of Staff was involved in editing and approving the project.¹⁶²
131. Press Secretary told the OCE that she assisted with creating and editing the packet at the request of Mr. Bell.¹⁶³ She recalled working on the project with Chief of Staff and

¹⁵⁵ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0042). Cathy McMorris Rodgers for Chairman, House Republican Conference Packet (Exhibit 37 at 13-0906_0358-0365); Representative McMorris Rodgers Leadership Race Video (on file with OCE).

¹⁵⁶ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0042). Campaign Consultant began working as an adviser to Representative McMorris Rodgers in her capacity as Chair of the House Republican Conference in December 2012. Memorandum of Interview of Representative McMorris Rodgers’ Campaign Consultant, October 23, 2013 (“Campaign Consultant MOI”) (Exhibit 38 at 13-0906_0372). Campaign Consultant stated that despite being removed from the Conference payroll effective July 2013, he continued and continues to provide services to the Conference on a frequent basis. *Id.* at 13-0906_0374. Specifically, Campaign Consultant stated that he continues to travel to Washington, DC to work for the Conference for approximately ten days each month, and that he communicates with Conference staff via email and telephone multiple times per week and advises the communications staff on communications goals. *Id.* Campaign Consultant stated that he is not receiving any payments or reimbursements for his services to the Conference or for his expenses related to those services, including the expenses for his travel from Washington State to Washington, DC on a monthly basis, but that he would like to be paid for those services. *Id.*

¹⁵⁷ McMorris Rodgers MOI (Exhibit 4 at 13-0906_0042).

¹⁵⁸ Campaign Consultant MOI (Exhibit 38 at 13-0906_0369).

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ Press Secretary MOI (Exhibit 6 at 13-0906_0062).

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

Legislative Director.¹⁶⁴ She also recalled working with Campaign Consultant and the campaign fundraiser.¹⁶⁵ Press Secretary also provided video clips to include in the video and advised on what clips should be included.¹⁶⁶

132. Former Communications Director said that Mr. Bell asked him and Press Secretary to review video clips and select excerpts.¹⁶⁷ Former Communications Director estimated that reviewing the video clips required two hours of his time plus two hours of Press Secretary's time.¹⁶⁸ Former Communications Director spent approximately two hours editing the packet.¹⁶⁹
133. The Board notes that the activities of the congressional staff exceeded simply providing copies of published materials to the campaign staff. The congressional staff managed the project and spent significant time editing materials to produce a new mailing and video.
134. The packet was copied and mailed using funds from Representative McMorris Rodgers' campaign committee.¹⁷⁰ The campaign committee also paid the expenses for the video production.¹⁷¹
135. Chief of Staff said that he consulted the Committee on Ethics on how to pay for mailing the packet and he was referred to Committee on House Administration.¹⁷² He told the OCE that House Administration advised that the packet be sent with campaign resources.¹⁷³ Chief of Staff did not receive any advice on combining official and political resources for the video and packet.¹⁷⁴
136. Based on the information before the OCE, there is substantial reason to believe that official and campaign resources were combined improperly to produce and send the video and packet for Representative McMorris Rodgers' leadership race in violation of House standards of conduct.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ Former Communications Director MOI (Exhibit 7 at 13-0906_0077).

¹⁶⁸ *Id.* at 13-0906_0077-78.

¹⁶⁹ *Id.*

¹⁷⁰ Campaign Consultant MOI (Exhibit 38 at 13-0906_0370).

¹⁷¹ *Id.* at 13-0906_0371; Polis Political Services, Inc. Invoice for Cathy McMorris Rodgers for Congress, October 31, 2012 (Exhibit 39 at 13-0906_0377); Itemized Disbursements for Polis Political Services, excerpt of Cathy McMorris Rodgers for Congress 2012 FEC Reports (Exhibit 40 at 13-0906_0379); Mortimore Productions, Inc. Invoice for Cathy McMorris Rodgers for Congress (Exhibit 41 at 13-0906_0381-0382); Itemized Disbursements for Mortimore Productions, Inc., excerpt of Cathy McMorris Rodgers for Congress 2012 FEC Reports (Exhibit 42 at 13-0906_0384).

¹⁷² Chief of Staff MOI (Exhibit 5 at 13-0906_0053). See Email from Kelle Strickland to Mildred Webber, dated November 3, 2012 (Exhibit 43 at 13-0906_0386-388); Email from Legislative Director to Chief of Staff, dated November 5, 2012 (Exhibit 44 at 13-0906_0390).

¹⁷³ Chief of Staff MOI (Exhibit 5 at 13-0906_0053).

¹⁷⁴ *Id.*

V. PATRICK BELL AND BRETT O'DONNELL REFUSED TO COOPERATE WITH THE OCE

137. Patrick Bell is the former Director of New Media for Representative McMorris Rodgers' congressional office. In 2010 and 2012, he allegedly traveled to Spokane, Washington to perform campaign activities on official time. He also allegedly combined efforts with campaign staff to produce a packet and video for Representative McMorris Rodgers' leadership race.
138. The OCE requested information from Mr. Bell to determine whether he improperly used official resources for campaign activity and for the leadership race.
139. Mr. Bell refused to cooperate with the OCE.
140. Brett O'Donnell is a communications consultant for Representative McMorris Rodgers' and the House Republican Conference. In 2012, he received campaign funds to perform work for Representative McMorris Rodgers' congressional office.
141. The OCE requested information from Mr. O'Donnell to determine whether Representative McMorris Rodgers improperly paid him with campaign funds. Mr. O'Donnell interviewed with the OCE and produced documents, but refused to certify that he provided a complete response to the Request for Information.
142. By refusing to provide a Request for Information Certification, Mr. O'Donnell did not cooperate fully with the OCE.

VI. CONCLUSION

143. Representative McMorris Rodgers' congressional staff prepared her for campaign debates, drafted campaign speeches, traveled to her district for campaign events, and attended the RNC. Based on the information available to the OCE, there is substantial reason to believe Representative McMorris Rodgers' congressional staff performed these campaign activities using official resources.
144. Representative McMorris Rodgers used political funds to pay for: (1) a communications consultant to perform work for her congressional office; and (2) a packet and video for her House leadership race that were produced in concert with her congressional staff.
145. The Board recommends that the Committee on Ethics further review the allegations concerning use of official resources for campaign activities because there is substantial reason to believe that Representative McMorris Rodgers used congressional funds, staff, and offices for campaign activities.
146. The Board recommends that the Committee on Ethics further review the allegation concerning use of political committee funds to pay for official expenses because there is

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

substantial reason to believe that Representative McMorris Rodgers used a campaign media consultant to perform official duties.

147. The Board recommends that the Committee on Ethics further review the allegation concerning the campaign for a House leadership office because there is substantial reason to believe that Representative McMorris Rodgers improperly combined congressional resources and campaign resources to produce a packet and video for her leadership race.

**VII. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND
RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS**

148. By declining to provide documentary and testimonial information in response to the OCE's Request for Information, Patrick Bell did not cooperate with the OCE's review.

149. By declining to provide a Request for Information Certification, as required under OCE Rule 4(A)(2), Brett O'Donnell did not cooperate with the OCE's review.

150. The Board recommends the issuance of a subpoena to Patrick Bell and Brett O'Donnell.