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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. 13-7135

The Board of the Office of Congressional Ethics (the “Board”), by a vote of no less than four members, on November 22, 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 Luis Gutierrez

NATURE OF THE ALLEGED VIOLATION: From 2003 to 2013, Representative Luis Gutierrez retained Doug Scofield, his former chief of staff, to provide certain services to his congressional office. Pursuant to the agreement, Mr. Scofield, who had opened his own consulting and lobbying firm, was to provide “training” and other “non-legislative” assistance to the congressional office. Representative Gutierrez’s congressional office paid Mr. Scofield’s firm over \$590,000 since 2003 for these services. Since March 2008, Representative Guteirrez’s congressional office paid Mr. Scofield over \$345,000 for these services.

If Representative Gutierrez used funds from his Members’ Representational Allowance (“MRA”) for an impermissible purpose – to retain an individual to provide services to his congressional office that more closely resembled those provided by an employee or consultant, rather than a contractor – then he may have violated House rules and federal law.

RECOMMENDATION: The Board recommends that the Committee on Ethics further review the allegation, as there is substantial reason to believe that Representative Gutierrez used funds from his MRA for an impermissible purpose – to retain an individual to provide services to his congressional office that more closely resembled those provided by an employee or consultant, rather than a contractor – in violation of federal law and House rules.

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
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FINDINGS OF FACT AND CITATIONS TO LAW

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On November 22, 2013, the Board of the Office of Congressional Ethics (the “Board”) adopted the following findings of fact and accompanying citations to laws, 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

1. In or around April 2003, Representative Luis Gutierrez retained Douglas Scofield, his former chief of staff, to provide certain services to his congressional office.
2. Pursuant to the retainer agreement, Mr. Scofield was to provide Representative Gutierrez’s congressional office with “[s]taff development and training” and other “non-legislative, general office services.” For these services, Mr. Scofield was paid a fee of \$4,500 to \$6,000 per month.
3. The services that Mr. Scofield provided, however, appear to have exceeded the permissible services that non-employees may provide under House rules and regulations.

A. Summary of Allegations

4. Representative Luis Gutierrez may have violated House rules and federal law by using funds from his Members’ Representational Allowance (“MRA”) to compensate his former chief of staff for impermissible services.
5. The OCE Board recommends that the Committee on Ethics further review the allegation, as there is substantial reason to believe that Representative Gutierrez used funds from his MRA for an impermissible purpose – to retain an individual to provide services to his congressional office that more closely resembled those provided by an employee or consultant, rather than a contractor – in violation of federal law and House rules.

B. Jurisdictional Statement

6. The allegations that were the subject of this review concern Representative Luis Gutierrez, a Member of the United States House of Representatives from the 4th District of Illinois. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics directs that, “[n]o review shall be undertaken . . . by the board of any alleged violation that occurred before the date of adoption of this

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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

7. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 25, 2013. The preliminary review commenced on July 26, 2013.² The preliminary review was scheduled to end on August 24, 2013.
8. At least three members of the Board voted to initiate a second-phase review in this matter on August 23, 2013. The second-phase review commenced on August 25, 2013.³ The second-phase review was scheduled to end on October 8, 2013.
9. The Board voted to extend the second-phase review by an additional period of fourteen days on September 26, 2013. The additional period ended on October 22, 2013.
10. The Board voted to refer the matter to the Committee on Ethics and adopted these findings on November 22, 2013.
11. The report and its findings in this matter were transmitted to the Committee on Ethics on December 4, 2013.

D. Summary of Investigative Activity

12. The OCE requested and received testimonial and, in some cases, documentary information from the following sources:
 - (1) Representative Luis Gutierrez;
 - (2) Representative Gutierrez’s Chief of Staff;
 - (3) Representative Gutierrez’s Communications Director;
 - (4) Representative Gutierrez’s Counsel;
 - (5) Representative Gutierrez’s Legislative Assistant;
 - (6) Representative Gutierrez’s Legislative Correspondent;
 - (7) Representative Gutierrez’s District Director;

¹ H. Res 895, 110th Cong. §1(e) (2008) (as amended).

² A preliminary review is “requested” in writing by members of the Board of the OCE. The request for a preliminary review is “received” by the OCE on a date certain. According to the Resolution, the timeframe for conducting a preliminary review is 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.

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- (8) Representative Gutierrez’s Congressional Aide #1;
 - (9) Representative Gutierrez’s Congressional Aide #2;
 - (10) Representative Gutierrez’s Former Senior Legislative Assistant;
 - (11) Representative Gutierrez’s Former Legislative Assistant; and
 - (12) Former Committee on House Administration Administrative Director.
13. Douglas Scofield, Representative Gutierrez’s former chief of staff, who was later retained to provide services to his congressional office, initially provided documents to the OCE in response to a Request for Information. However, Mr. Scofield later declined to be interviewed by the OCE, ceased providing documents in response to the Request for Information, and was determined to be a non-cooperating witness.
14. Representative Gutierrez’s former chief of staff Jennice Fuentes declined to be interviewed by the OCE. Ms. Fuentes was determined to be a non-cooperating witness.
15. Representative Gutierrez’s former deputy chief of staff Enrique Fernandez declined to be interviewed by the OCE. Mr. Fernandez was determined to be a non-cooperating witness.

II. REPRESENTATIVE GUTIERREZ MAY HAVE USED FUNDS FROM HIS MRA TO RETAIN HIS FORMER CHIEF OF STAFF AS AN IMPERMISSIBLE CONSULTANT TO HIS CONGRESSIONAL OFFICE

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

16. 31 U.S.C. § 1301(a)

“Appropriations shall be applied only to the objects for which the appropriations were made”

17. House Rules

Under House Rule 23 clause 1, Members “shall behave at all times in a manner that shall reflect creditably on the House.”

Under House Rule 23 clause 2, Members “shall adhere to the spirit and the letter of the Rules of the House”

18. House Ethics Manual

“The MRA may only be used for official and representational expenses. The MRA may not be used to pay for any expenses related to activities or events that are primarily social in nature, personal expenses, campaign or political expenses, or House committee

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*expenses. Members may be personally liable for misspent funds or expenditures exceeding the MRA.”*⁴

*“The Members’ Handbook provides examples of items for which reimbursement with the official allowances may be permitted, as well as a list of prohibited expenditures Included among impermissible uses are expenditures for . . . consultants.”*⁵

19. Committee on House Administration Members’ Handbook

*“During each session of Congress, each Member has a single Members’ Representational Allowance (‘MRA’) available to support the conduct of official and representational duties to the district from which he or she is elected. Ordinary and necessary expenses incurred by the Member or the Member’s employees within the United States, its territories, and possessions in support of the conduct of the Member’s official and representational duties to the district from which he or she is elected are reimbursable in accordance with the regulations contained in this Members’ Congressional Handbook.”*⁶

*“Pursuant to 2 U.S.C. § 72a, only committees are authorized to procure the temporary services of consultants. Member offices are not authorized to procure consultant services.”*⁷

*“Members may contract with firms or individuals only for general, non-legislative and non-financial, office services (e.g., equipment maintenance, systems integration, data entry, staff training, photography, custodial services, web services) for a specified time period not to exceed the Member’s current term. Such contracts are reimbursable. Such contractors are not employees of the House and are ineligible for government-provided personnel benefits. Contractors do not count against the Member’s Employee Ceiling. Members are advised to consult the Committee on House Administration when entering into such contracts.”*⁸

B. Representative Gutierrez Retained His Former Chief of Staff to Provide Services to His Congressional Office in April 2003

20. Representative Gutierrez initially met Mr. Scofield in 1992, during his first campaign for the United States House of Representatives.⁹ Mr. Scofield managed Representative

⁴ House Ethics Manual (2008) at 323 (citations omitted).

⁵ *Id.* at 325.

⁶ Members Congressional Handbook (2012) at 1.

⁷ *Id.* at 5.

⁸ *Id.*

⁹ Memorandum of Interview of Rep. Luis Gutierrez, Oct. 22, 2013 (“Rep. Gutierrez MOI”) (Exhibit 1 at 13-7135_0002).

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Gutierrez's campaign for that election cycle and, after Representative Gutierrez was elected to the House, became his congressional chief of staff.¹⁰

21. From approximately January 1992 to December 2002, Mr. Scofield was employed by Representative Gutierrez as his congressional chief of staff.¹¹
22. In late 2002, Mr. Scofield left Representative Gutierrez's congressional office to take a position in the administration of the newly elected Illinois governor.¹² Representative Gutierrez's legislative director at the time, Jennice Fuentes, succeeded Mr. Scofield as chief of staff.¹³
23. After only a few months working for the new governor, Mr. Scofield called Representative Gutierrez to tell him that he had made a mistake in joining the governor's administration and intended to resign.¹⁴
24. After resigning his position with the governor, Mr. Scofield and his wife started a consulting firm, the Scofield Company.¹⁵ The Scofield Company is described as a strategic public relations, communications services, online strategy development, and government relations firm.¹⁶
25. The Scofield Company registered as a lobbying entity, and Mr. Scofield registered as a state lobbyist, in Illinois in May 2003.¹⁷ The Scofield Company website listed a number of the firm's clients, including the Chicago Botanic Garden and the Greater Chicago Food Depository.¹⁸
26. When Mr. Scofield called to tell Representative Gutierrez that he was resigning from his position with the governor to start a consulting firm, Representative Gutierrez told Mr. Scofield that he wanted to be one of his first clients.¹⁹
27. Representative Gutierrez told the OCE that he had never wanted to lose Mr. Scofield as a congressional employee, so while he was saddened that the position with the governor had not worked out, he was happy he could "get Doug back."²⁰
28. After speaking with Mr. Scofield, Representative Gutierrez instructed Ms. Fuentes, his new chief of staff, to hire Mr. Scofield.²¹ He told Ms. Fuentes that "we'd have Doug

¹⁰ *Id.*

¹¹ *Id.* at 13-7135_0002-0003.

¹² *Id.* at 13-7135_0003.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* The firm has also been known by the name "Scofield Communications." For ease of understanding, the name "Scofield Company" will be used in this referral.

¹⁶ The Scofield Company, <http://www.scofieldcompany.com>, (archived June 23, 2013).

¹⁷ Scofield Communications Lobbying Entity Search Information, 2003, available at <http://www.ilsos.gov/lobbyistsearch/lobbyistsearch>.

¹⁸ The Scofield Company, Clients, <http://www.scofieldcompany.com/clients/html> (archived June 23, 2013).

¹⁹ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0003).

²⁰ *Id.*

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back on staff,” and that he would be a “consultant.”²² Representative Gutierrez did not recall any further details about his conversation with Ms. Fuentes, nor did he recall any additional discussions with Ms. Fuentes after instructing her to hire Mr. Scofield.²³

29. Representative Gutierrez believes that Ms. Fuentes and Mr. Scofield negotiated the terms of the agreement between the congressional office and Mr. Scofield’s firm, including the fees to be paid to Mr. Scofield.²⁴ He explained that Mr. Scofield had ten years experience as a congressional chief of staff, while Ms. Fuentes was herself a fifteen-year veteran of Congress, so he trusted them to work out the logistics of the relationship.²⁵
30. Because neither Ms. Fuentes nor Mr. Scofield agreed to be interviewed by the OCE as part of this review, the OCE was unable to determine what discussions they may have had at the time the agreement was negotiated.
31. Representative Gutierrez told the OCE that he had no discussions with Mr. Scofield about potential conflicts of interest between work Mr. Scofield was to perform for the congressional office and work he did for other clients.²⁶

²¹ *Id.* at 13-7135_0004.

²² *Id.*

²³ *Id.*


²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

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32. The initial agreement between Representative Gutierrez’s congressional office and Mr. Scofield’s firm was signed by Representative Gutierrez on April 1, 2003.²⁷



**Proposal for Retained Services
Scofield Communications and the
Office of Congressman Luis V. Gutierrez
March 31, 2003**

The Office of Congressman Luis V. Gutierrez will retain Scofield Communications, LLC, to provide non-legislative, general office services to assist Congressman Gutierrez in his efforts to serve the people of the 4th Congressional District of the State of Illinois.

Scofield Communications is an independent contractor with sole responsibility for withholding and paying taxes, with respect to services under this agreement.

Scope of Work

Work may include:

- Staff development and training; which could include the following non-legislative areas:
 - Assisting staff or training staff in the areas of preparing remarks or press events.
 - Assisting or training staff with casework or community outreach efforts.
 - Providing staff with guidance and training as determined necessary by the member of Congress or Chief of Staff.
- Attending non-legislative meetings as determined necessary by the member of Congress or Chief of Staff.
- Assisting or training the staff to publicize programs and activities of Congressman Gutierrez
- Other relevant and appropriate areas as determined by the Member of Congress and Chief of Staff.

Fees

This agreement’s duration, hours and fees are as follows:

From 3/24/03 to 6/30/03

Scofield Communications will provide the services detailed in the “Scope of Work” at a rate of \$5,500 per month.

Beginning 7/1/03

Scofield Communications will provide the services detailed in the “Scope of Work” at a rate of \$4,500 per month.

The client will reimburse Scofield Communications for expenses related to the above work, such as mileage/travel (for distances greater than 10 miles), messenger service and other expenses incurred directly for the purposes of the office of the member of Congress. These expenses will be specifically itemized and documented with biweekly invoices.


This agreement shall continue until terminated by either party on fifteen (15) days written notice.

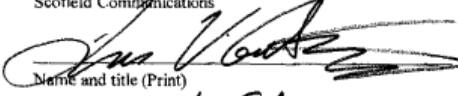
Confidentiality and Ethics

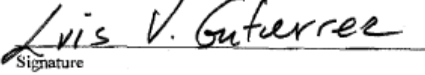
Scofield Communications will solely represent the interests of the Client and will not seek to influence executive, administrative or legislative action on behalf of any third party in the performance of service to the member of Congress.

During and after this agreement, Scofield Communications shall not use for its personal benefit, or disclose to or use for the direct or indirect benefit of any entity other than the member of Congress any confidential information relating to or dealing with business operations or activities of client.

We agree to the provisions of this proposal:


 Doug Scofield
 Scofield Communications


 Name and title (Print)


 Signature

4-1-03
 Date

4/1/03
 Date

33. When asked if he approved the terms of the agreement, Representative Gutierrez said that he must have, as it was his signature on the initial agreement.²⁸ He did not, however, have any specific recollection of signing the agreement.²⁹ He added that he had not read the agreement “with any attention to detail” until after his office received press inquiries about the office’s relationship with Mr. Scofield in or around June 2013.³⁰

34. The agreement provided that Mr. Scofield’s firm was to provide “non-legislative, general office services to assist Congressman Gutierrez in his efforts to serve the people of the

²⁷ Proposal for Retained Services, Scofield Communications and the Office of Congressman Luis V. Gutierrez, April 1, 2003 (“Scofield Agreement”) (Exhibit 2 at 13-7135_0011-0012).

²⁸ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0005).

²⁹ *Id.*

³⁰ *Id.* at 13-7135_0004.

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4th Congressional District of the State of Illinois.”³¹ Specifically, the agreement stated that these services may include the following:

1. Staff development and training; which could include the following non-legislative areas:
 - a. Assisting staff or training staff in the areas of preparing remarks or press events.
 - b. Assisting or training staff with casework or community outreach efforts.
 - c. Providing staff with guidance and training as determined necessary by the member of Congress or Chief of Staff.
 2. Attending non-legislative meetings as determined necessary by the member of Congress or Chief of Staff.
 3. Assisting or training the staff to publicize programs and activities of Congressman Gutierrez.
 4. Other relevant and appropriate areas as determined by the Member of Congress and Chief of Staff.³²
35. The initial agreement was effective as of March 24, 2003, but no end date was specified.³³ When asked if he contemplated a specific period of time in which Mr. Scofield would provide his services, Representative Gutierrez said that Mr. Scofield would still be serving today if not for media reports about the arrangement.³⁴
36. The agreement provided that Mr. Scofield’s firm was to be paid \$5,500 per month through June 30, 2003, and \$4,500 per month thereafter.³⁵ Representative Gutierrez said that while he was not involved in negotiating the terms of the agreement, he knew what Mr. Scofield was being paid and was “OK” with the arrangements.³⁶
37. The agreement included a “Confidentiality and Ethics” provision, which stated that the Scofield firm “will solely represent the interests of the Client and will not seek to influence executive, administrative, or legislative action on behalf of any third party in the performance of service to the member of Congress.”³⁷ This provision also stated that

³¹ Scofield Agreement (Exhibit 2 at 13-7135_0011).

³² *Id.*

³³ *Id.*

³⁴ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0005).

³⁵ Scofield Agreement (Exhibit 2 at 13-7135_0011-0012).

³⁶ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0004-0005).

³⁷ Scofield Agreement (Exhibit 2 at 13-7135_0012).

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the Scofield firm would not use or disclose any confidential information relating to the activities or operations of the congressional office.³⁸

38. The agreement between the congressional office and Mr. Scofield's firm was renewed each Congress.³⁹ The language of the agreement appears to have remained unchanged from its initial version until it was canceled in 2013, a period of over ten years.⁴⁰
39. Mr. Scofield's firm was paid \$4,500 per month for his services from August 2003 through May 2010.⁴¹ Beginning in June 2010, his fee increased to \$6,000 per month and remained at that level until the agreement was canceled.⁴² Representative Gutierrez did not know why the amount of the monthly fee changed.⁴³
40. Since Mr. Scofield was initially retained by Representative Gutierrez's congressional office, he has been paid a total of approximately \$595,000 for his services.⁴⁴ Since March 2008, Mr. Scofield has been paid approximately \$345,000 for his services.⁴⁵

³⁸ *Id.*

³⁹ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0004).

⁴⁰ In addition to the initial agreement, the OCE was provided copies of the agreement for calendar years 2008, 2009, and 2013. *See* Exhibit 3 at 13-7135_0014-0019.

⁴¹ *See* U.S. House of Representatives, Statements of Disbursements of the House, 2003 to 2013, *available at* <http://disbursements.house.gov/>.

⁴² *Id.* According to the Statements of Disbursements of the House, it appears that Mr. Scofield's firm may not have received payments for three months over the course of the relationship with Rep. Gutierrez's office.

⁴³ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0005).

⁴⁴ *See* U.S. House of Representatives, Statements of Disbursements of the House, 2003 to 2013, *available at* <http://disbursements.house.gov/>.

⁴⁵ *Id.*

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41. Documents provided to the OCE by Representative Gutierrez include a fax transmission cover sheet, dated April 1, 2003, from then-chief of staff Jennice Fuentes to a staff member from the Committee on House Administration (“CHA”), asking for review of the proposed agreement with Mr. Scofield.⁴⁶

Congressman Luis V. Gutiérrez
2367 Rayburn HOB
Washington, D.C. 20515
Tel. (202) 225-██████
Fax. (202) 225-7810

Fax Transmission Cover Sheet
DATE: April 1, 2003

TO: Darren Feist, House Administration
FROM: Jennice Fuentes, Chief-of-Staff
FAX: 59957

NUMBER OF PAGES (INCLUDING COVER SHEET): 3

If you have any problems with this transmission, please call (202) 225-██████. Thank you.
NOTE:

As per conversation, please let me know if if this contract falls within what is acceptable under the current regulations.

I appreciate your assistance with this matter.

Jennice Fuentes
225-██████
225-██████ (direct line)

2003 ~~contract~~ docs
when contract
was reviewed
by House Admin

42. The documents provided by Representative Gutierrez do not include any response from the CHA to the request for review of the proposed agreement.⁴⁷

43. Representative Gutierrez’s Chief of Staff expressed her belief that the agreement must have been approved by both CHA and the House Finance Office, as the invoices later submitted by Representative Gutierrez’s congressional office were paid.⁴⁸

⁴⁶ Fax Transmission from Jennice Fuentes, Rep. Gutierrez’s former Chief of Staff, to Staff Member, House Administration Committee, April 1, 2003 (Exhibit 4 at 13-7135_0021).

⁴⁷ As part of this review, OCE staff consulted with current CHA staff regarding the request from Ms. Fuentes, but CHA staff was unable to locate any written response to Ms. Fuentes’ request.

⁴⁸ See e-mail from Representative Gutierrez’s Chief of Staff to CHA Minority Staff Director, *et al.*, June 3, 2013 (“I assume the approval may have been verbal . . . and must have been effectuated because the contract began to be paid soon thereafter.”) (Exhibit 5 at 13-7135_0025).

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44. The CHA staff member to whom the fax was directed had no specific recollection of handling the request from Ms. Fuentes.⁴⁹ He explained that his general practice would have been to refer the request to the CHA officers' team for review.⁵⁰ He did not recall what guidance was provided regarding the agreement.⁵¹
45. Representative Gutierrez told the OCE that he thought Ms. Fuentes reached out to both the CHA and the Committee on Ethics at the time the office retained Mr. Scofield.⁵² Because Ms. Fuentes declined to cooperate with the review, the OCE was unable to determine what actions she took with respect to the retention of Mr. Scofield.

C. Representative Gutierrez Paid Mr. Scofield with Funds from His MRA for Services That May Have Been Beyond Those Permitted by the House

46. The OCE reviewed documents provided by Representative Gutierrez and by Mr. Scofield, and interviewed current and former members of Representative Gutierrez's congressional staff, to determine the scope of services actually provided by Mr. Scofield. The OCE found that the services he performed more closely resembled those performed by an employee or consultant – someone who provides professional advice or services⁵³ – than those performed by a contractor – someone who performs a discrete task or job, such as maintenance, data entry, custodial services, or staff training.⁵⁴
47. According to Representative Gutierrez, Mr. Scofield was retained to assist Ms. Fuentes in her new role as chief of staff; to develop other congressional staff; and to help with media and press matters.⁵⁵ Mr. Scofield was also retained to help Representative Gutierrez draft remarks and speeches and to help him better communicate on issues.⁵⁶
48. Representative Gutierrez said that Mr. Scofield reported to his chief of staff and to him.⁵⁷ He said that Mr. Scofield worked with his chief of staff, communications director, and district staff, but he did not believe that Mr. Scofield worked with the legislative staff.⁵⁸ Representative Gutierrez added that Mr. Scofield would work with anyone on the congressional staff who needed help, noting that Mr. Scofield brought with him his previous experience serving as chief of staff.⁵⁹

⁴⁹ Memorandum of Interview of Former Committee on House Administration Administrative Director, Sept. 23, 2013 (Exhibit 6 at 13-7135_0031).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0004).

⁵³ See <http://www.merriam-webster.com/dictionary/consultant>. The Members' Handbook states that, pursuant to 2 U.S.C. § 72a, only House committees, not Member offices, are authorized to procure consultant services. See Members Congressional Handbook at 5.

⁵⁴ See Members Congressional Handbook at 5.

⁵⁵ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0004).

⁵⁶ *Id.* at 13-7135_0005.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

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49. Representative Gutierrez often worked personally with Mr. Scofield while he was providing services to the congressional office.⁶⁰ He described Mr. Scofield as the type of person he could call at 1:00 a.m. to ask him to draft a speech he needed to give the next day.⁶¹ According to Representative Gutierrez, Mr. Scofield was on call “24/7.”⁶²
50. Representative Gutierrez’s Chief of Staff, who had served as legislative director before assuming the chief of staff position in early 2013, described Mr. Scofield as a general resource for the congressional staff.⁶³ She said that when Mr. Scofield was first retained by the congressional office in 2003, he was described as “there to help.”⁶⁴

Staff Development and Training

51. While Mr. Scofield’s agreement with Representative Gutierrez’s congressional office provides that his services were to include “[s]taff development and training,” it does not appear that formal training was a significant part of the services Mr. Scofield provided.
52. Representative Gutierrez’s Chief of Staff told the OCE that she had never been formally trained by Mr. Scofield; rather, he was available to her and others in the congressional office as a “resource” and a “mentor.”⁶⁵ She recalled participating in only one staff retreat, held in 2004, during her time with Representative Gutierrez; Mr. Scofield served as a facilitator of this retreat.⁶⁶
53. Similarly, Representative Gutierrez’s Communications Director described Mr. Scofield’s role as a resource, noting that his role was more to provide advice than to train.⁶⁷ When asked if he had ever been formally trained by Mr. Scofield, the Communications Director said that he had had a few sessions with Mr. Scofield over the telephone, in which Mr. Scofield walked him through Chicago press and politics.⁶⁸ The Communications Director also noted that Mr. Scofield worked with district staff in setting up a new district office in Cicero, Illinois.⁶⁹
54. In addition to Representative Gutierrez’s Chief of Staff and Communications Director, the OCE interviewed several current and former members of Representative Gutierrez’s

⁶⁰ *Id.*

⁶¹ *Id.* at 13-7135_0004.

⁶² *Id.*

⁶³ Memorandum of Interview of Rep. Gutierrez’s Chief of Staff, Oct. 15, 2013 (“Chief of Staff MOI”) (Exhibit 7 at 13-7135_0034).

⁶⁴ *Id.*

⁶⁵ *Id.* at 13-7135_0034-0036.

⁶⁶ *Id.* at 13-7135_0036.

⁶⁷ Memorandum of Interview of Rep. Gutierrez’s Communications Director, Oct. 15, 2013 (“Communications Director MOI”) (Exhibit 8 at 13-7135_0040-0041).

⁶⁸ *Id.*

⁶⁹ *Id.* at 13-7135_0041.

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congressional staff, including legislative and district staff. Each of the staff members said that they had never been formally trained by Mr. Scofield.⁷⁰

General Office Oversight

55. Mr. Scofield appears to have had some role in overseeing the operations of Representative Gutierrez’s congressional office between 2003 and 2013. For example, after a staff reorganization in the congressional district offices, Representative Gutierrez asked Mr. Scofield and a district staff member, Congressional Aide #1, to work together to ensure that district office operations ran smoothly during the transition.⁷¹
56. Specifically, on August 25, 2012, Representative Gutierrez sent an email to Ms. Fuentes regarding district office operations.⁷² In the email, Representative Gutierrez proposed changes to how the district offices operated.⁷³
57. Representative Gutierrez later forwarded the email he sent to Ms. Fuentes to Mr. Scofield.⁷⁴ When asked why he forwarded the email to Mr. Scofield, Representative Gutierrez said that he did so for training purposes, as Mr. Scofield would be helping Ms. Fuentes – who by that time had served as chief of staff for approximately ten years – to address district office operations.⁷⁵ He added that Mr. Scofield was himself based in Chicago and could bring “fresh eyes” to the situation.⁷⁶

⁷⁰ See Memorandum of Interview of Rep. Gutierrez’s District Director, Oct. 1, 2013 (Exhibit 9 at 13-7135_0045); Memorandum of Interview of Rep. Gutierrez’s Congressional Aide #2, Oct. 1, 2013 (Exhibit 10 at 13-7135_0048); Memorandum of Interview of Rep. Gutierrez’s Counsel, Sept. 27, 2013 (“Counsel MOI”) (Exhibit 11 at 13-7135_0052); Memorandum of Interview of Rep. Gutierrez’s Legislative Assistant, Sept. 27, 2013 (“Legislative Assistant MOI”) (Exhibit 12 at 13-7135_0055); Memorandum of Interview of Rep. Gutierrez’s Legislative Correspondent, Sept. 27, 2013 (“Legislative Correspondent MOI”) (Exhibit 13 at 13-7135_0057); Memorandum of Interview of Rep. Gutierrez’s Former Senior Legislative Assistant, Sept. 19, 2013 (“Former Senior Legislative Assistant MOI”) (Exhibit 14 at 13-7135_0061); and Memorandum of Interview of Rep. Gutierrez’s Former Legislative Assistant, Sept. 24, 2013 (“Former Legislative Assistant MOI”) (Exhibit 15 at 13-7135_0067).

⁷¹ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0005).

⁷² E-mail from Rep. Gutierrez to Jennice Fuentes, Aug. 25, 2012 (Exhibit 16 at 13-7135_0069).

⁷³ *Id.*

⁷⁴ E-mail from Rep. Gutierrez to Doug Scofield, Aug. 25, 2012 (Exhibit 16 at 13-7135_0069).

⁷⁵ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0006).

⁷⁶ *Id.*

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58. In a subsequent email, however, Representative Gutierrez appears to have directed Mr. Scofield to engage in more than training of Ms. Fuentes. On September 3, 2012, Representative Gutierrez sent an email to Mr. Scofield and Ms. Fuentes, informing them of his decision to have Mr. Scofield and Congressional Aide #1 evaluate district office operations.⁷⁷

From: "Luis V. Gutierrez" <[REDACTED]@yahoo.com>
Date: September 3, 2012 9:15:10 PM CDT
To: Jennice Fuentes <Jennice.Fuentes@mail.house.gov>, Doug Scofield <[REDACTED]@scofieldcompany.com>

Sent from my i Effective immediately Theresa Reyes will be in charge of north side office and Geo will be in charge of Cicero office. Slim Coleman will supervise them. Each Monday Coleman will meet with both district directors and cover issues as necessary. Sal will be placed in charge of special projects:his salary will be adjusted accordingly. Doug and Slim will evaluate district operations and report changes and improvements to me. The DC staff will have no supervisory role in the Chicago operations. All staff annual reviews will be conducted by Doug and Slim. The DC staff will have support role only in the Chicago operations. Slim and Doug will prepare an evaluation of Cicero staff at their six month anniversary and make recommendations as to their conditioned employment. Please inform Cicero staff of this upcoming event. Jennice will continue to supervise DC staff.

59. According to Congressional Aide #1, this was a period of transition in the district office leadership, and Representative Gutierrez asked him to participate in meetings with Mr. Scofield and the two new district coordinators to foster a cooperative atmosphere.⁷⁸
60. Congressional Aide #1 said that he met with Mr. Scofield and the district coordinators for about one hour each week, for a period of about five weeks, to develop office policies and procedures, to train the new coordinators, and to make sure that the two district offices were working together.⁷⁹
61. Congressional Aide #1 said that, despite Representative Gutierrez's instruction that Mr. Scofield and he prepare staff evaluations, he did not conduct any staff evaluations, and he did not know if Mr. Scofield evaluated any district staff members.⁸⁰
62. Representative Gutierrez's current Chief of Staff recalled that, around this time, several new district staff members were hired or promoted, and that Mr. Scofield was asked to help "get them up to speed."⁸¹
63. In addition, the Chief of Staff said that she had one or two meetings in the district with district office staff and Mr. Scofield about setting up a new Cicero, Illinois office.⁸²

⁷⁷ E-mail from Rep. Gutierrez to Jennice Fuentes and Doug Scofield, Sept. 3, 2012 (Exhibit 17 at 13-7135_0071).

⁷⁸ Memorandum of Interview of Rep. Gutierrez's Congressional Aide #1 ("Congressional Aide #1 MOI") (Exhibit 18 at 13-7135_0074).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Chief of Staff MOI (Exhibit 7 at 13-7135_0035).

⁸² *Id.*

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According to the Chief of Staff, Mr. Scofield just listened at these meetings; she did not recall him making any specific recommendations as to the running of the new office.⁸³

64. The Chief of Staff said that these meetings in the district were the only meetings she attended with Mr. Scofield.⁸⁴ She could not recall any meetings she attended with Mr. Scofield in Washington, DC.⁸⁵
65. Also on September 3, 2012, Representative Gutierrez sent an email to Ms. Fuentes and Mr. Scofield directing that Ms. Fuentes and the legislative director were not to be absent from the congressional office on the same days.⁸⁶ When asked why he included Mr. Scofield in this administrative directive, Representative Gutierrez said that this was part of Mr. Scofield's training of Ms. Fuentes – who had been in that position since May 2002 – and that Mr. Scofield was helping her with her duties.⁸⁷
66. Representative Gutierrez told the OCE that whenever there was a crisis that needed to be handled, he would direct his staff to “Call Doug.”⁸⁸ His Chief of Staff told the OCE that when “trouble” would hit, Mr. Scofield was there as a resource to the office.⁸⁹

Communications Work

67. Mr. Scofield appears to have had a significant role with respect to the communications function in Representative Gutierrez's congressional office. The Chief of Staff told the OCE that Mr. Scofield worked primarily on communications-related issues, and that she would go to Mr. Scofield with communications-related questions.⁹⁰
68. According to Representative Gutierrez's Communications Director, Mr. Scofield's duties included acting as a resource for him and as a second set of eyes on communications matters.⁹¹ He added that Mr. Scofield was also a resource for the Chief of Staff on communications issues and probably other things, though he could not identify any of the other things.⁹² He described Mr. Scofield as someone whom both the Chief of Staff and Representative Gutierrez trusted.⁹³
69. According to the Communications Director, Mr. Scofield would occasionally review or edit his work, and that sometimes the Communications Director would review written

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ E-mail from Rep. Gutierrez to Jennice Fuentes and Doug Scofield, Sept. 13, 2012 (Exhibit 19 at 13-7135_0076).

⁸⁷ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0005).

⁸⁸ *Id.* at 13-7135_0006.

⁸⁹ Chief of Staff MOI (Exhibit 7 at 13-7135_0035).

⁹⁰ *Id.* at 13-7135_0034.

⁹¹ Communications Director MOI (Exhibit 8 at 13-7135_0040).

⁹² *Id.*

⁹³ *Id.*

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work produced by Mr. Scofield.⁹⁴ Sometimes Representative Gutierrez would ask the Communications Director if he had run a particular draft by Mr. Scofield.⁹⁵

70. A memorandum provided to the OCE, from Representative Gutierrez to both his Communications Director and Mr. Scofield, entitled “Coordinating Vacation Time,” instructs the Communications Director to coordinate his absences from the congressional office with Mr. Scofield “to ensure that [Representative Gutierrez’s] office always has press and communications’ coverage”⁹⁶

MEMORANDUM	
TO:	Doug Rivlin and Doug Scofield
FROM:	Congressman Luis Gutierrez
RE:	Coordinating Vacation Time
<hr/>	
The serves as a reminder that Doug Rivlin should ensure that he coordinates his absences from the office, such as for vacation and time off, with Doug Scofield. My intention with this policy is to ensure that my office always has press and communications' coverage, should an unexpected speech or press inquiry arise while Doug Rivlin is out of the office.	
Thank you for your attention in this matter.	

71. Representative Gutierrez explained that this memorandum was intended to ensure that someone who understood communications work was always present in his office.⁹⁷ He did not, however, recall any occasion when Mr. Scofield acted as press secretary.⁹⁸

Legislative Work

72. The information reviewed by the OCE indicates that Mr. Scofield may have had a significant role in the legislative work in Representative Gutierrez’s office.
73. Representative Gutierrez told the OCE that Mr. Scofield was not involved with his work on the Financial Services, Judiciary, or Intelligence Committees; rather, this work was performed by his legislative director and legislative staff members.⁹⁹ He never had Mr. Scofield review proposed legislative language.¹⁰⁰ He did not know whether Mr. Scofield reviewed or edited materials drafted by legislative staff members.¹⁰¹

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Memorandum from Rep. Gutierrez to Rep. Gutierrez’s Communications Director and Doug Scofield, “Coordinating Vacation Time,” undated (Exhibit 20 at 13-7135_0078).

⁹⁷ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0006).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

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74. Several legislative staff members did not recall working with Mr. Scofield on legislative matters. Representative Gutierrez’s current Counsel told the OCE that she does not believe she worked with Mr. Scofield on any matters, nor does she believe that she submitted work to him for review.¹⁰² However, she said that she thought that Mr. Scofield’s role in the congressional office was to provide guidance to staff on certain issues and perhaps to “consult ideas with” staff members.¹⁰³
75. Representative Gutierrez’s current Legislative Assistant did not recall any communications with Mr. Scofield while serving in this position.¹⁰⁴ She recalled that Mr. Scofield worked primarily with the congressional office’s press staff, noting that major speeches were reviewed by Mr. Scofield.¹⁰⁵
76. Representative Gutierrez’s Legislative Correspondent said he was not aware of Mr. Scofield working on any legislative issues.¹⁰⁶ He did not recall whether he submitted any work to Mr. Scofield, but said that he may have.¹⁰⁷ He estimated that on approximately five occasions, he emailed Mr. Scofield and was sometimes copied on emails between other staff members and Mr. Scofield.¹⁰⁸
77. Representative Gutierrez’s Communications Director told the OCE that he could not remember Mr. Scofield reviewing work by the legislative staff.¹⁰⁹ He did not recall Mr. Scofield’s involvement in drafting testimony or working on House committee matters.¹¹⁰
78. Several other legislative staff members described a more active role played by Mr. Scofield. Several staff members said they were told to send materials to Mr. Scofield for review. For example, a Former Legislative Assistant said that Representative Gutierrez would occasionally tell her to “shoot” material “over to Doug,” but recalled that these were primarily public statements or documents, or “press stuff.”¹¹¹
79. A Former Senior Legislative Assistant recalled being directed by Representative Gutierrez or his chief of staff to seek Mr. Scofield’s advice or input on a “wide range” of issues that would have “come across [her] desk.”¹¹² She described Mr. Scofield’s role in the congressional office as working on “more complicated” and “nuanced” issues, noting that he was a source of the “history” behind many issues, given his past experience with Representative Gutierrez.¹¹³

¹⁰² Counsel MOI (Exhibit 11 at 13-7135_0051-0052).

¹⁰³ *Id.* at 13-7135_0051.

¹⁰⁴ Legislative Assistant MOI (Exhibit 12 at 13-7135_0054).

¹⁰⁵ *Id.* at 13-7135_0054-0055.

¹⁰⁶ Legislative Correspondent MOI (Exhibit 13 at 13-7135_0057).

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ Communications Director MOI (Exhibit 8 at 13-7135_0041).

¹¹⁰ *Id.*

¹¹¹ Former Legislative Assistant MOI (Exhibit 15 at 13-7135_0067).

¹¹² Former Senior Legislative Assistant MOI (Exhibit 14 13-7135_0061).

¹¹³ *Id.* at 13-7135_0060.

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80. The Former Senior Legislative Assistant said that Mr. Scofield would “edit” documents produced by the congressional office; she believed that these documents included press materials and “floor stuff.”¹¹⁴ According to her, the general process was for her to draft something, show it to either Representative Gutierrez or the chief of staff, and they would ask her to “run it by” Mr. Scofield.¹¹⁵ The types of materials she would be asked to run by Mr. Scofield were “public facing” things like speeches, remarks for a hearing, or statements for the record delivered by or attributed to Representative Gutierrez.¹¹⁶
81. When directed to run something by Mr. Scofield, the Former Senior Legislative Assistant would typically contact him by telephone, but also by email.¹¹⁷ Once she provided him with material, she would get back substantive changes.¹¹⁸ She may have then discussed the proposed changes with him.¹¹⁹
82. The Former Senior Legislative Assistant said that Mr. Scofield also provided advice on certain matters that would then be discussed within the congressional office.¹²⁰ She said that if there was uncertainty about what should be done regarding a particular matter, she would often be told, “Ask Doug.”¹²¹
83. Representative Gutierrez’s Chief of Staff told the OCE that, while she served as legislative director from approximately 2003 through 2013, Mr. Scofield never assigned her any projects, nor did she recall submitting work for him to review.¹²² She did not go to Mr. Scofield for advice on legislative strategy or tactics.¹²³
84. However, the Chief of Staff told the OCE that she learned of Mr. Scofield’s role in the congressional office through discrete contacts with him: her predecessor Ms. Fuentes or Representative Gutierrez would tell her to ask Doug about certain things.¹²⁴
85. On January 26, 2013, the Chief of Staff, while still serving as legislative director, prepared a memorandum entitled, “Immigration Happenings and Legislative Update,” outlining the “state of play with regard to legislative developments” and “seeking guidance on some key decisions [Representative Gutierrez] needs to make almost

¹¹⁴ *Id.* at 13-7135_0061.

¹¹⁵ *Id.* at 13-7135_0062.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 13-7135_0061.

¹²¹ *Id.*

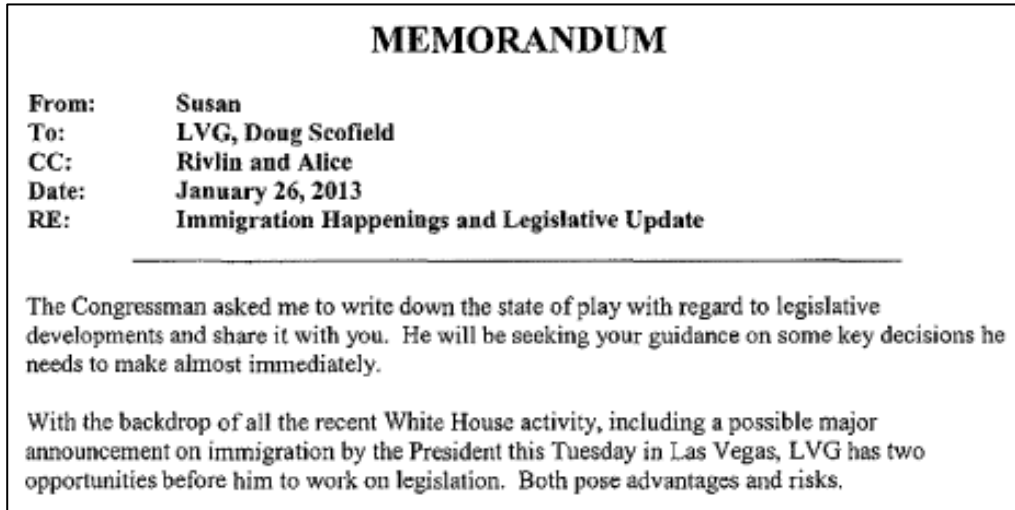
¹²² Chief of Staff MOI (Exhibit 7 at 13-7135_0034).

¹²³ *Id.*

¹²⁴ *Id.*

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immediately.”¹²⁵ The memorandum was addressed to Representative Gutierrez and Mr. Scofield, and copied to the Communications Director and to the Counsel.¹²⁶



86. The Chief of Staff told the OCE that the memorandum was prepared at a time in which Representative Gutierrez had a significant decision to make with respect to immigration policy and that, after thorough discussion, Representative Gutierrez asked her to put down the various points in writing.¹²⁷
87. The Chief of Staff said that she addressed the memorandum to Mr. Scofield at the request of Representative Gutierrez, who had asked her to share it with him.¹²⁸ While she recalled discussing the memorandum with Representative Gutierrez’s Communications Director and Counsel, the Chief of Staff could not recall any general or specific input that Mr. Scofield had on this matter.¹²⁹
88. Representative Gutierrez told the OCE that he did not recall this memorandum, but that he did recall the conversation about the decisions referenced in it.¹³⁰ He said that Mr. Scofield was included on the memorandum because it was more about strategy than it was about the particulars of a specific bill.¹³¹
89. According to the Communications Director, the memorandum concerned Representative Gutierrez’s central issue of immigration and involved a pretty big strategy issue regarding

¹²⁵ Memorandum from Chief of Staff to Rep. Gutierrez and Doug Scofield, copied to Communications Director and Counsel, “Immigration Happenings and Legislative Update,” Jan. 26, 2013 (Exhibit 21 at 13-7135_0080).

¹²⁶ *Id.*

¹²⁷ Chief of Staff MOI (Exhibit 7 at 13-7135_0034).

¹²⁸ *Id.*

¹²⁹ *Id.* at 13-7135_0034-0035.

¹³⁰ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0007).

¹³¹ *Id.*

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positions Representative Gutierrez would take on his signature issue.¹³² Given that, he did not find it odd that Mr. Scofield was included on the memorandum.¹³³

90. In November 2011, Representative Gutierrez's then-chief of staff, Ms. Fuentes, forwarded to him a proposed response to an email exchange she had had with a Senate staff member about a U.S. ambassador nominee.¹³⁴ Representative Gutierrez directed Ms. Fuentes to "[s]end to Doug get review and send to Senator."¹³⁵
91. Representative Gutierrez did not recall why he asked for Mr. Scofield's review of the proposed response but speculated that the matter involved a political/legislative quandary for which he wanted Mr. Scofield's eyes and ears on it.¹³⁶ He explained that Mr. Scofield was there to help with these kinds of issues.¹³⁷
92. In November 2012, Mr. Scofield sent two emails to Representative Gutierrez's Communications Director and then-serving legislative director, discussing "next steps" with respect to the legislative strategy on immigration reform.¹³⁸

-----Original Message-----
From: [REDACTED]@scofieldcompany.com
Sent: Wednesday, November 14, 2012 4:53pm
To: "Rivlin, Douglas" <Douglas.Rivlin@mail.house.gov>
Cc: "Collins, Susan" <susan.collins@mail.house.gov>
Subject: RE: FW: Immigration Reform Should Be the Top Priority in 2013

What's the five-minute status?

What is the Congressman's current thinking on next steps? Is he telling Menendez and Durbin he's introducing a bill? Is there a reason we don't want to put out a call to the groups and then put out a release saying we're introducing our bill? Send around a Dear Colleague to stop lining up sponsors? I don't think we want to be second on this, or give the President too much time to ask everyone to sit around and wait for his plan.

If we do something now, I think it seems like a natural reaction from the Congressman. If we wait for a few weeks of developments, then people might expect us to play along with whatever is happening. It's probably worth making everyone react to his bill.

-----Original Message-----
From: [REDACTED]@scofieldcompany.com [REDACTED]@scofieldcompany.com
Sent: Friday, November 16, 2012 11:17 AM
To: Rivlin, Douglas
Cc: Collins, Susan
Subject: RE: FW: Diaz-Balart Restarts Process of Comprehensive Immigration Bill

Are we doing a bill? I think we need to lay down a marker quickly.

¹³² Communications Director MOI (Exhibit 8 at 13-7135_0042).

¹³³ *Id.*

¹³⁴ E-mail from Jennice Fuentes to Rep. Gutierrez, Nov. 29, 2011 (Exhibit 22 at 13-7135_0085).

¹³⁵ E-mail from Rep. Gutierrez to Jennice Fuentes, Nov. 29, 2011 (Exhibit 22 at 13-7135_0085).

¹³⁶ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0007).

¹³⁷ *Id.*

¹³⁸ E-mail from Doug Scofield to Rep. Gutierrez's Communications Director, copied to Rep. Gutierrez's Chief of Staff, Nov. 14, 2012 (Exhibit 23 at 13-7135_0090); e-mail from Doug Scofield to Rep. Gutierrez's Communications Director, copied to Rep. Gutierrez's Chief of Staff, Nov. 16, 2012 (Exhibit 24 at 13-7135_0093).

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93. In the emails, Mr. Scofield asked the Chief of Staff and Communications Director if Representative Gutierrez was “doing a [comprehensive immigration] bill,” and suggesting that “we need to lay down a marker quickly.”¹³⁹ Mr. Scofield also appears to have encouraged Representative Gutierrez to act quickly to avoid being “second.”¹⁴⁰
94. When asked why Mr. Scofield was discussing legislative strategy and proposed bills with congressional staff, Representative Gutierrez’s Chief of Staff told the OCE that she did not recall these emails, adding that the decision whether or not to introduce a bill was a question for Representative Gutierrez.¹⁴¹
95. Representative Gutierrez’s Communications Director told the OCE that Mr. Scofield did not participate in legislative strategy discussions “very much.”¹⁴² He noted, however, that “the line between communications and legislative strategy is not a bright line,” and that “message and policy are related.”¹⁴³ The Communications Director said that Mr. Scofield was more focused on message.¹⁴⁴
96. Included in the documents produced to the OCE by Mr. Scofield were a number of speeches, including speeches given on the House floor, apparently written or edited by Mr. Scofield.¹⁴⁵
97. Representative Gutierrez told the OCE that Mr. Scofield worked with the Communications Director to draft speeches, “one-minutes,” and other remarks.¹⁴⁶ According to Representative Gutierrez, some of the speeches promoted general policy positions, while others highlighted decisions made by the executive branch or encouraged some executive branch action.¹⁴⁷
98. Representative Gutierrez said that he did not consider Mr. Scofield’s help in drafting speeches to be legislative work; rather, he viewed this as communications work.¹⁴⁸ He noted that the speeches on which Mr. Scofield worked were not always about specific pieces of legislation or matters on the House floor, but were about topics important to him and to his district.¹⁴⁹
99. Representative Gutierrez’s Chief of Staff also told the OCE that Mr. Scofield was involved in drafting remarks given by Representative Gutierrez, including remarks given

¹³⁹ E-mail from Doug Scofield to Rep. Gutierrez’s Communications Director, copied to Rep. Gutierrez’s Chief of Staff, Nov. 16, 2012 (Exhibit 24 at 13-7135_0093).

¹⁴⁰ E-mail from Doug Scofield to Rep. Gutierrez’s Communications Director, copied to Rep. Gutierrez’s Chief of Staff, Nov. 14, 2012 (Exhibit 23 at 13-7135_0090).

¹⁴¹ Chief of Staff MOI (Exhibit 7 at 13-7135_0035).

¹⁴² Communications Director MOI (Exhibit 8 at 13-7135_0041).

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *See* various speeches and remarks (Exhibit 25 at 13-7135_0096-0113).

¹⁴⁶ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0006).

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

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by him at the Sixteenth Street Baptist Church in Alabama and remarks he gave on the House floor about one or two years ago on the subject of immigration.¹⁵⁰

100. The Communications Director said that Mr. Scofield was regularly involved in drafting and editing speeches given by Representative Gutierrez, including speeches given from the House floor.¹⁵¹ He said that Mr. Scofield came up with ideas for floor speeches and sometimes prepared the first draft of speech.¹⁵²
101. Mr. Scofield may have drafted or reviewed letters sent by Representative Gutierrez to administration officials regarding official action. Included in the documents produced to the OCE by Mr. Scofield were a number of letters to administration officials apparently written or edited by Mr. Scofield.¹⁵³
102. Representative Gutierrez told the OCE that he did not recall Mr. Scofield drafting or reviewing letters to administration officials.¹⁵⁴ When shown an October 2012 email exchange among Mr. Scofield, Representative Gutierrez, the Communications Director, and then-deputy chief of staff Enrique Fernandez about potential letters to the Departments of Justice and Labor regarding a Puerto Rican newspaper,¹⁵⁵ Representative Gutierrez said he had no recollection of the letters.¹⁵⁶
103. Representative Gutierrez's Chief of Staff said that, during her time as legislative director, she drafted many letters to administration officials but did not recall sharing any of those letters with Mr. Scofield.¹⁵⁷ When shown several examples of letters that Mr. Scofield produced to the OCE, the Chief of Staff said that the letters involved issues on which she would not have worked.¹⁵⁸
104. The Communications Director told the OCE that Mr. Scofield was occasionally involved in drafting or editing letters to administration officials, especially when the letters involved Puerto Rico, as this was an issue area of particular sensitivity to Representative Gutierrez.¹⁵⁹
105. On October 10, 2012, Mr. Fernandez emailed Representative Gutierrez and Mr. Scofield the "latest interim response" from the Secretary of the Army, responding to a

¹⁵⁰ Chief of Staff MOI (Exhibit 7 at 13-7135_0035).

¹⁵¹ Communications Director MOI (Exhibit 8 at 13-7135_0041).

¹⁵² *Id.*

¹⁵³ *See* various letters to administration officials (Exhibit 26 at 13-7135_0115-0121).

¹⁵⁴ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0006).

¹⁵⁵ *See, e.g.*, e-mail from Doug Scofield to Rep. Gutierrez's Communications Director, Rep. Gutierrez, and Enrique Fernandez, Oct. 19, 2012 (Exhibit 27 at 13-7135_00123).

¹⁵⁶ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0006-0007).

¹⁵⁷ Chief of Staff MOI (Exhibit 7 at 13-7135_0034).

¹⁵⁸ *Id.*

¹⁵⁹ Communications Director MOI (Exhibit 8 at 13-7135_0041).

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letter sent by Representative Gutierrez regarding a natural gas pipeline project in Puerto Rico; Ms. Fuentes and the Communications Director were copied on the email.¹⁶⁰

-----Original Message-----
From: [REDACTED]@scotfieldcompany.com
Sent: Wednesday, October 10, 2012 4:14pm
To: "Fernandez, Enrique" <Enrique.Fernandez@mail.house.gov>
Cc: "Luis V. Gutierrez" <[REDACTED]@yahoo.com>, "Fuentes, Jennice" <jennice.fuentes@mail.house.gov>, "Rivlin, Douglas" <douglas.rivlin@mail.house.gov>
Subject: RE: FW: Via Verde natural gas pipeline project (UNCLASSIFIED)

It makes sense to me to wait. We're a month away from having a clear idea of how to deal with it. Should probably hit them on the conflict of interest at some point, though.

-----Original Message-----
From: "Fernandez, Enrique" <Enrique.Fernandez@mail.house.gov>
Sent: Wednesday, October 10, 2012 3:50pm
To: "Luis V. Gutierrez" <[REDACTED]@yahoo.com>, "doug@scotfieldcompany.com" <[REDACTED]@scotfieldcompany.com>
Cc: "Fuentes, Jennice" <Jennice.Fuentes@mail.house.gov>, "Rivlin, Douglas" <Douglas.Rivlin@mail.house.gov>
Subject: FW: Via Verde natural gas pipeline project (UNCLASSIFIED)

Congressman, Doug:

Attached, please find the "latest interim response" from the Secretary of the Army.

I do not think we should respond at this time.

The Corps is allowing the Regime to submit additional information until November 2, and based on the additional information, decide how to proceed. Whatever the decision, it will be rendered after the elections.

In addition, it is clear they do not want to really investigate the Jacksonville district's conflict of interest with BCPeabody...

Thank you,
Enrique

106. In his email, Mr. Fernandez recommends that Representative Gutierrez not respond at that time.¹⁶¹ In response, Mr. Scofield agreed that, "It makes sense to me to wait."¹⁶²
107. Mr. Fernandez declined to be interviewed by the OCE as part of this review.
108. The Communications Director told the OCE that he and Mr. Scofield had been involved in drafting the initial letter to the Secretary with Mr. Fernandez.¹⁶³ When asked why Mr. Scofield was included in the email, the Communications Director said that the letter was less about policy and more about politics, but he noted that the letter was an attempt to help environmentalists put pressure on the Puerto Rican governor to make changes with regard to the pipeline.¹⁶⁴
109. Given Representative Gutierrez's working relationship with and supervision of Mr. Scofield while Mr. Scofield was retained by his congressional office, the Board finds that Representative Gutierrez knew or should have known that the services provided by Mr. Scofield exceeded those permitted by the House.

¹⁶⁰ E-mail from Enrique Fernandez to Rep. Gutierrez and Doug Scofield, copied to Jennice Fuentes and Rep. Gutierrez's Communications Director, Oct. 10, 2012 (Exhibit 28 at 13-7135_0126).

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ Communications Director MOI (Exhibit 8 at 13-7135_0041).

¹⁶⁴ *Id.*

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D. Mr. Scofield May Have Engaged in Lobbying Activity While He Was Retained by Representative Gutierrez's Congressional Office

110. Representative Gutierrez told the OCE that he knew that Mr. Scofield's firm engaged in lobbying activity, but he did not know what kind of lobbying.¹⁶⁵ Representative Gutierrez's Chief of Staff and his Communications Director said that they were unaware of Mr. Scofield's status as a registered Illinois lobbyist until the issue was raised by a reporter in or around June 2013.¹⁶⁶
111. Representative Gutierrez said that he had no discussions with Mr. Scofield about his other clients or his activities on behalf of those clients, including any lobbying activity, while Mr. Scofield was retained to provide services to his congressional office.¹⁶⁷ He said he never talked with Mr. Scofield about lobbying because those activities were not germane to the congressional office, as all Mr. Scofield's lobbyist clients were state, rather than federal, clients.¹⁶⁸
112. Representative Gutierrez told the OCE that he does not believe that Mr. Scofield worked on appropriations matters, nor does he recall ever discussing appropriations requests with Mr. Scofield.¹⁶⁹ Representative Gutierrez's Chief of Staff told the OCE that she was not aware of any congressional staff members discussing appropriations requests with Mr. Scofield.¹⁷⁰ A Former Legislative Assistant told the OCE that she never discussed appropriations requests with Mr. Scofield.¹⁷¹
113. In June 2013, a news outlet reported that two of Mr. Scofield's clients, the Greater Chicago Food Depository and the Chicago Botanical Garden, sought federal earmarks during the time Mr. Scofield was retained by Representative Gutierrez's office.¹⁷²
114. In March 2004, Representative Gutierrez signed a letter circulated by another Member of Congress in support of a \$2 million earmark for the Greater Chicago Food Depository.¹⁷³ In March 2010, Representative Gutierrez sent his own letter of support for a \$620,000 earmark for the Chicago Botanical Gardens.¹⁷⁴

¹⁶⁵ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0003).

¹⁶⁶ Chief of Staff MOI (Exhibit 7 at 13-7135_0036); Communications Director MOI (Exhibit 8 at 13-7135_0042).

¹⁶⁷ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0004).

¹⁶⁸ *Id.*

¹⁶⁹ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0007).

¹⁷⁰ Chief of Staff MOI (Exhibit 7 at 13-7135_0036).

¹⁷¹ Former Legislative Assistant MOI (Exhibit 15 at 13-7135_0067).

¹⁷² Paul Singer, *Rep. Gutierrez pays Chicago lobbyist with tax dollars*, USA TODAY, June 5, 2013.

¹⁷³ Letter from Rep. William O. Lipinski, *et al.*, to Rep. James T. Walsh, Chairman, Appropriations Subcommittee on Veterans Affairs, Housing and Urban Development, and Independent Agencies, Mar. 31, 2004 (Exhibit 29 at 13-7135_0129-0130). While this particular matter falls outside the jurisdiction of the OCE, it is evidence of the nature of the relationship between Mr. Scofield and Rep. Gutierrez's congressional office.

¹⁷⁴ Letter from Rep. Luis V. Gutierrez to Rep. Rosa DeLauro, Chair, and Rep. Jack Kingston, Ranking Member, Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, Mar. 22, 2010 (Exhibit 30 at 13-7135_0132-0133).

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115. Representative Gutierrez said that Mr. Scofield never requested that he act on behalf of anyone.¹⁷⁵ His Chief of Staff told the OCE that at no time did Mr. Scofield “lobby us in DC.”¹⁷⁶ She said that Mr. Scofield told her that he only lobbied at the state level.¹⁷⁷
116. Representative Gutierrez’s Former Legislative Assistant, who handled appropriations issues in 2010, told the OCE that she was unaware of any contact by Mr. Scofield with the congressional office regarding the Chicago Botanical Garden.¹⁷⁸ However, she recalled that she had met with representatives of the Botanical Garden around this time, and believes that the office made an appropriations request on its behalf.¹⁷⁹
117. Representative Gutierrez noted that he must have discussed the Greater Chicago Food Depository, a client of Mr. Scofield’s firm, with Mr. Scofield, because he knew that Mr. Scofield did work for that organization prior to the June 2013 press inquires.¹⁸⁰ Representative Gutierrez said that he never discussed an appropriations request for the Food Depository with Mr. Scofield.¹⁸¹
118. Evidence provided to the OCE by Representative Gutierrez includes a July 20, 2004 email from Mr. Scofield to Ms. Fuentes, in which Mr. Scofield asks, “What do you think is the timing for any decision regarding the appropriation? Thanks, as always. Also Food Depository success will help me to clear my mind and find a wealthy and handsome husband for you.”¹⁸² Neither Mr. Scofield nor Ms. Fuentes would agree to be interviewed by the OCE as part of this review. Representative Gutierrez said that he did not know anything about this email.¹⁸³

¹⁷⁵ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0008).

¹⁷⁶ Chief of Staff MOI (Exhibit 7 at 13-7135_0036).

¹⁷⁷ *Id.*

¹⁷⁸ Former Legislative Assistant MOI (Exhibit 15 at 13-7135_0067).

¹⁷⁹ *Id.*

¹⁸⁰ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0008).

¹⁸¹ *Id.*

¹⁸² E-mail from Doug Scofield to Jennice Fuentes, July 20, 2004 (Exhibit 31 at 13-7135_0135).

¹⁸³ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0008).

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119. While Mr. Scofield declined to be interviewed by the OCE as part of this review, emails provided by Representative Gutierrez include statements made by Mr. Scofield regarding his work for the Food Depository. In one email discussing how to respond to a reporter's questions, Mr. Scofield states:

On the food depository, I would re-emphasize that I simply did not talk to Luis about money. A member of Congress supporting an appropriation for a food bank that feeds hungry people in his district is both routine and admirable, and in this case not cause or initiated by me – it was led by [Representative William] Lipinski and [Senator Dick] Durbin.¹⁸⁴

120. In another email, Mr. Scofield states, "I think we can be more emphatic – [Representative Gutierrez] and Doug Scofield did not have any discussions about funding for the food depository. I strongly believe that is accurate. I think what I did was talk to him about visiting."¹⁸⁵
121. Mr. Scofield also denied lobbying Representative Gutierrez on behalf of his client the Chicago Botanical Garden:

Well, I never lobbied for the Chicago Botanical Garden and I don't know anything about an earmark for them and had nothing to do with it. They were briefly a pr client. I never personally did any work for them at all – it would have been other staff members of the company, and it wouldn't have had anything to do with Luis. I had no contact, ever, with anyone on the Congressional staff, or Luis, about the Botanical Garden.¹⁸⁶

122. Representative Gutierrez told the OCE that after press inquiries earlier this year regarding Mr. Scofield's status as a registered state lobbyist, he determined that it would be difficult to continue the congressional office's relationship with Mr. Scofield.¹⁸⁷ He explained that it would be difficult to identify and avoid potential conflicts of interest in the future, even if positions he took were wholly independent of Mr. Scofield's lobbying work.¹⁸⁸

¹⁸⁴ E-mail from Doug Scofield to Rep. Gutierrez's Communications Director, copied to Rep. Gutierrez's Chief of Staff, June 4, 2013 (Exhibit 32 at 13-7135_0138).

¹⁸⁵ E-mail from Doug Scofield to Rep. Gutierrez's Chief of Staff, copied to Rep. Gutierrez's Communications Director, June 4, 2013 (Exhibit 33 at 13-7135_0142).

¹⁸⁶ E-mail from Doug Scofield to Rep. Gutierrez's Communications Director, copied to Rep. Gutierrez's Chief of Staff, June 4, 2013 (Exhibit 32 at 14-7135_0137).

¹⁸⁷ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0008).

¹⁸⁸ *Id.*

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E. Representative Gutierrez Terminated the Services of Mr. Scofield in June 2013

123. After receiving press inquires about Mr. Scofield in June 2013, Representative Gutierrez directed his staff to consult with the CHA to determine if the arrangement with Mr. Scofield was consistent with House Rules.¹⁸⁹
124. Representative Gutierrez's Chief of Staff subsequently met with CHA staff to review Mr. Scofield's arrangement with the congressional office.¹⁹⁰ According to the Chief of Staff, CHA staff advised that the agreement with Mr. Scofield needed to be revised or canceled, but recommended that it not be continued in its current form.¹⁹¹ The Chief of Staff said that CHA staff did not identify specific problems with the agreement.¹⁹²
125. After learning of the CHA staff advice, Representative Gutierrez determined that there were only two options: Mr. Scofield could become a full-time employee of his congressional office or he could resign.¹⁹³ Representative Gutierrez said that Mr. Scofield did not accept the offer to become a full-time congressional employee and instead resigned.¹⁹⁴
126. On June 13, 2013, Representative Gutierrez informed Mr. Scofield by letter that he was canceling the agreement with Mr. Scofield's firm.¹⁹⁵

III. DOUGLAS SCOFIELD, JENNICE FUENTES, AND ENRIQUE FERNANDEZ REFUSED TO COOPERATE WITH THE OCE REVIEW

Douglas Scofield

127. Douglas Scofield served as Representative Gutierrez's chief of staff from approximately January 1992 to December 2002. He was later retained to provide services to Representative Gutierrez's congressional office from approximately April 2003 to June 2013.
128. The OCE requested information from Mr. Scofield regarding the services he was retained to provide to Representative Gutierrez's office.
129. Mr. Scofield initially cooperated with the OCE by producing documents requested by the OCE, but he subsequently ceased cooperating, declining to further produce documents or to be interviewed by the OCE.

¹⁸⁹ *Id.*

¹⁹⁰ Chief of Staff MOI (Exhibit 7 at 13-7135_0037). *See also* Letter from Rep. Gutierrez's Chief of Staff to Democratic Staff Director, Committee on House Administration, June 4, 2013 (Exhibit 34 at 13-7135_0145).

¹⁹¹ Chief of Staff MOI (Exhibit 7 at 13-7135_0037).

¹⁹² *Id.*

¹⁹³ Rep. Gutierrez MOI (Exhibit 1 at 13-7135_0009).

¹⁹⁴ *Id.*

¹⁹⁵ Letter from Rep. Gutierrez to Doug Scofield, July 13, 2013 (Exhibit 35 at 13-7135_0147).

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Jennice Fuentes

130. Jennice Fuentes served as Representative Gutierrez's chief of staff from approximately May 2002 to February 2013.
131. The OCE requested information from Ms. Fuentes regarding her role in retaining and supervising Mr. Scofield.
132. Ms. Fuentes refused to cooperate with the OCE.

Enrique Fernandez

133. Enrique Fernandez served as Representative Gutierrez's deputy chief of staff from approximately November 2002 to January 2013.
134. The OCE requested information from Mr. Fernandez regarding his interactions with Mr. Scofield while Mr. Scofield was retained by the congressional office.
135. Mr. Fernandez refused to cooperate with the OCE.

IV. CONCLUSION

136. Based on the foregoing information, the Board finds that there is substantial reason to believe that Representative Gutierrez used funds from his MRA for an impermissible purpose – that is, to retain his former chief of staff as a contractor to his congressional office, when the former chief of staff acted as an employee of or consultant to the office.
137. The OCE Board recommends that the Committee on Ethics further review the allegation, as there is substantial reason to believe that Representative Gutierrez used funds from his MRA for an impermissible purpose – to retain an individual to provide services to his congressional office that more closely resembled those provided by an employee or consultant, rather than a contractor – in violation of federal law and House rules.

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

138. The following witness, by declining to provide documentary or testimonial evidence to the OCE, did not cooperate with the OCE's review:
 - (1) Douglas Scofield;
 - (2) Jennice Fuentes, Representative Gutierrez's former chief of staff; and
 - (3) Enrique Fernandez, Representative Gutierrez's former deputy chief of staff.
139. The Board recommends the issuance of subpoenas to Ms. Fuentes, Mr. Fernandez, and Mr. Scofield.