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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. 15-0034

The Board of the Office of Congressional Ethics (the “Board”), by a vote of no less than four members, on March 17, 2016, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives.

SUBJECT: David Bowser

NATURE OF THE ALLEGED VIOLATION: David Bowser served as the Chief of Staff to Representative Paul Broun in 2014, at the time that the Office of Congressional Ethics (“OCE”) was conducting a review of the allegation that Representative Broun misused official funds to pay a communications advisor for work performed for his congressional campaigns.

During the course of the OCE’s review of Representative Broun, the OCE interviewed both Mr. Bowser and the communications advisor. The communications advisor subsequently pleaded guilty to making false statements to the OCE during his interview. Court filings indicate that Mr. Bowser may have attempted to influence the communications advisor’s testimony to the OCE and may have made false statements to the OCE during his own interview.

If Mr. Bowser attempted to obstruct the OCE’s review, persuaded or conspired with the communications advisor to make false statements to the OCE, or himself made false statements to the OCE, then he may have violated federal law and House rules.

RECOMMENDATION: The Board recommends that the Committee on Ethics further review the allegation that Mr. Bowser attempted to obstruct the OCE’s review of Representative Broun, by persuading or conspiring with the communications advisor to make false statements to the OCE, as there is substantial reason to believe that Mr. Bowser did so, in violation of federal law and House rules.

The Board further recommends that the Committee on Ethics further review the allegation that Mr. Bowser himself made false statements to the OCE, as there is substantial reason to believe that Mr. Bowser made false statements during an interview with the OCE, 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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FINDINGS OF FACT AND CITATIONS TO LAW

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On March 17, 2016, the Board of the Office of Congressional Ethics (hereafter “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

A. Summary of Allegations

1. David Bowser served as the Chief of Staff to Representative Paul Broun in 2014, at the time that the Office of Congressional Ethics (“OCE”) was conducting a review of the allegation that Representative Broun misused official funds to pay a communications advisor for work performed for his congressional campaigns.
2. During the course of the OCE’s review of Representative Broun, the OCE interviewed both Mr. Bowser and the communications advisor. The communications advisor subsequently pleaded guilty to making false statements to the OCE during his interview. Court filings indicate that Mr. Bowser may have attempted to influence the communications advisor’s testimony to the OCE and may have made false statements to the OCE during his own interview.
3. If Mr. Bowser attempted to obstruct the OCE’s review, persuaded or conspired with the communications advisor to make false statements to the OCE, or himself made false statements to the OCE, then he may have violated federal law and House rules.
4. The Board recommends that the Committee on Ethics further review the allegation that Mr. Bowser attempted to obstruct the OCE’s review of Representative Broun, by persuading or conspiring with the Communications Advisor to make false statements to the OCE, as there is substantial reason to believe that Mr. Bowser did so, in violation of federal law and House rules.
5. The Board recommends that the Committee on Ethics further review the allegation that Mr. Bowser himself made false statements to the OCE, as there is substantial reason to believe that Mr. Bowser made false statements during an interview with the OCE, in violation of federal law and House rules.

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B. Jurisdictional Statement

6. The allegations that were the subject of this review concern David Bowser, a staff member of the United States House of Representatives. 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 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 October 23, 2015. The preliminary review commenced on October 24, 2015.² The preliminary review was scheduled to end on November 22, 2015.
8. On October 26, 2015, the OCE notified Mr. Bowser of the initiation of the preliminary review, provided him with a statement of the nature of the review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.³
9. At least three members of the Board voted to initiate a second-phase review in this matter on November 20, 2015. The second-phase review commenced on November 23, 2015.⁴ The second-phase review was scheduled to end on January 6, 2016.
10. On November 23, 2015, the OCE notified Mr. Bowser of the initiation of the second-phase review, again notified him of his right to be represented by counsel in this matter, and notified him that invoking that right would not be held negatively against him.⁵
11. The Board voted to extend the second-phase review by an additional period of fourteen days on December 18, 2015. The additional period ended on January 20, 2016.
12. The Board voted to refer the matter to the Committee on Ethics and adopted these findings on March 17, 2016.
13. The report and its findings in this matter were transmitted to the Committee on Ethics on March 23, 2016.

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 H. Res. 895 of the 110th Congress, as amended (hereafter “the Resolution”), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board’s request.

³ Letter from OCE Staff Director and Chief Counsel to David Bowser, Oct. 26, 2015.

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

⁵ Letter from OCE Staff Director and Chief Counsel to David Bowser, Nov. 23, 2015.

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D. Summary of Investigative Activity

14. The OCE requested information from the following sources:

- (1) David Bowser; and
- (2) Communications Advisor.

II. DAVID BOWSER MAY HAVE ATTEMPTED TO OBSTRUCT THE OCE'S REVIEW OF REPRESENTATIVE BROUN BY PERSUADING OR CONSPIRING WITH ANOTHER TO MAKE FALSE STATEMENTS TO THE OCE, OR MAY HAVE MADE FALSE STATEMENTS HIMSELF TO THE OCE, IN VIOLATION OF FEDERAL LAW AND HOUSE RULES

A. Applicable Laws, Rules, and Standards of Conduct

15. House Rules

House Rule 23, clause 1, provides that employees of the House "shall behave at all times in a manner that shall reflect creditably on the House."

16. False Statements Act (18 U.S.C. §1001)

"[W]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully...makes any materially false, fictitious, or fraudulent statement or representation . . . shall be fined under this title, [or] imprisoned. . . ."

17. Conspiracy (18 U.S.C. § 371)

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both."

18. Obstruction of Justice (18 U.S.C. § 1505)

"Whoever corruptly . . . influences, obstructs, or impedes or endeavors to influence, obstruct or impede . . . the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress . . . shall be fined . . . [or] imprisoned"

19. Witness Tampering (18 U.S.C. § 1512(b))

"Whoever knowingly . . . corruptly persuades another person, or attempts to do so . . . with intent to . . . influence . . . the testimony of any person in an official proceeding . . . shall be fined . . . or imprisoned."

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B. David Bowser May Have Attempted to Obstruct the OCE's Review of Representative Paul Broun by Conspiring with or Persuading a Witness to Make False Statements to the OCE

20. David Bowser served as the Chief of Staff for former Representative Paul Broun from January 2009 to December 2014.⁶
21. Communications Advisor is a communications consultant who has advised presidential, gubernatorial, and United States Senate candidates, and who has been described as the “best political debate coach” in the country.⁷
22. In or around June 2012, Communications Advisor entered into a consulting agreement with Representative Broun’s congressional office “to render . . . consulting services associated with media interview/public speaking/message/debate preparation”⁸ The consulting relationship continued through approximately April 2014.⁹
23. In March 2014, the OCE initiated a review of the allegation that Representative Broun improperly used funds from his official Members’ Representational Allowance (“MRA”) to pay Communications Advisor for communications services provided to his 2012 House and 2014 Senate election campaigns.¹⁰ The OCE Board ultimately found substantial reason to believe that Representative Broun used official funds from his MRA to pay for services provided by Communications Advisor to his election campaigns, in violation of House rules and federal law.¹¹
24. During the course of its review of Representative Broun, the OCE interviewed Representative Broun, Mr. Bowser, and Communications Advisor about the services that Communications Advisor provided to Representative Broun’s congressional office and to Representative Broun’s election campaigns.¹²
25. In his interview with the OCE, Communications Advisor told the OCE that he was hired by Representative Broun’s congressional office “to provide communications services” to Representative Broun, including “[a]ssisting him in doing better with

⁶ Chief Admin. Officer, Statement of Disbursements of the House, H.R. Doc. No. 111-26, at 509 (1st Sess. 2009); Chief Admin. Officer, Statement of Disbursements of the House, H.R. Doc. No. 114-29, at 344 (1st Sess. 2015).

⁷ See Brett O’Donnell Biography, available at http://odacomunications.com/Meet_Brett_O_Donnell.html.

⁸ Consulting Agreement between Communications Advisor and Rep. Paul Broun, June 16, 2016 (Exhibit 1 at 15-0034_002).

⁹ Transcript of Interview of David Bowser, Chief of Staff for Rep. Paul Broun, June 24, 2014 (“Bowser Transcript”) (Exhibit 2 at 15-0034_0083-84).

¹⁰ Referral, Review No. 14-2533, *In the Matter of Rep. Paul Broun*, Ofc. of Cong. Ethics, July 25, 2015 (hereafter “Broun Referral”) (Exhibit 3 at 15-0034_0118).

¹¹ *Id.* at 15-0034_0117.

¹² *Id.* at 15-0034_0119, 0122-0123; Transcript of Interview of Rep. Paul Broun, June 25, 2014 (Exhibit 4 at 15-0034_0162); Bowser Transcript (Exhibit 2 at 15-0034_0007); Transcript of Interview of Communications Advisor, June 3, 2014 (“Communications Advisor Transcript”) (Exhibit 5 at 15-0034_0236).

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media interviews, speeches, things related to this [*sic*] official duties as a Congressman, floor speeches.”¹³

26. Communications Advisor told the OCE that he provided similar communications services to Representative Broun’s congressional campaigns, but on a volunteer basis: “I did volunteer stuff for him but I had no official role.”¹⁴

27. On September 3, 2015, Communications Advisor entered a plea of guilty to one count of violating the False Statements Act, 18 U.S.C. § 1001, for making false statements to OCE attorneys during his interview with the OCE.¹⁵

28. The Factual Basis for Communications Advisor’s guilty plea (“Factual Basis”) identified “several false statements to OCE in an effort to minimize, and conceal the true nature and scope of, his role as it related to [Representative Broun’s]¹⁶ campaigns, and to conceal interactions he had with [David Bowser]¹⁷ regarding [Communications Advisor’s] role with the campaigns.”¹⁸ These statements include:

- “I never felt like any of campaign work was expected as part of my duties.”
- “I did campaign activities, but I didn’t think my payment expected those duties of me.”
- “I was working for [Representative Broun], but my contract specified duties that were related to his official business and not one time did I think, ‘If I say no to helping you with a speech or getting ready for a debate did I think you’re going to fire me because you’re not doing your contract.’”

29. The Factual Basis states that, “contrary to his statements to OCE during the interview, [Communications Advisor] knew at the time he made the statements that by at least in or around December 2013, [Representative Broun’s] office expected him to work on [Representative Broun’s] campaign.”¹⁹

¹³ Communications Advisor Transcript at 4, 6 (Exhibit 5 at 15-0034_0239, 0241). *See also id.* at 15-0034_0246 (stating that the consulting agreement he had with Rep. Broun’s congressional office accurately described the services he provided: “Public speaking, debate, message media, strategy, media interview preparation”).

¹⁴ *Id.* at 15-0034_0265 (also noting that he provided services to Representative Broun’s campaigns “on a volunteer basis.”). *See also id.* at 15-0034_0309-0310.

¹⁵ Plea Agreement, United States v. O’Donnell, Crim. No. 5:15-CR-34 (M.D. Ga., Sept. 3, 2015) (“Plea Agreement”) (Exhibit 6 at 15-0034_0335); Factual Basis for Guilty Plea, United States v. O’Donnell, Crim. No. 5:15-CR-34 (M.D. Ga., Sept. 3, 2015) (“Factual Basis”) (Exhibit 7 at 15-0034_0352).

¹⁶ The facts and circumstances described in the Factual Basis, as well as the facts and circumstances described in the referral in OCE’s review of Representative Broun, indicate that the individual identified as “Congressman A” in the Factual Basis is Representative Broun.

¹⁷ The facts and circumstances described in the Factual Basis, as well as the facts and circumstances described in the referral in OCE’s review of Representative Broun, indicate that the individual identified as “Person A” in the Factual Basis is David Bowser.

¹⁸ Factual Basis (Exhibit 7 at 15-0034_0358-0359).

¹⁹ *Id.* at 15-0034_0359.

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30. The Factual Basis further states that “contrary to his statements to OCE, [Communications Advisor] knew at the time he made the statements that he had spoken to [David Bowser] on at least two occasions about [Communications Advisor] doing too much for [Representative Broun’s] Senate campaign and being compensated for his services to the Senate campaign”²⁰
31. The Factual Basis describes the conversations between Communications Advisor and Mr. Bowser:

In or around early 2013 and then again in or around late 2013, [Communications Advisor] spoke to [David Bowser] about receiving financial compensation from [Representative Broun’s] Senate campaign for all the work [Communications Advisor] was providing to the Senate campaign. [David Bowser] told [Communications Advisor] that the campaign could not afford to pay [Communications Advisor] for his services, but that [Communications Advisor] should ‘hang on’ until after the Senate party primary in May 2014. Significantly, [Representative Broun’s] office was still paying [Communications Advisor] a fixed monthly fee, and [Communications Advisor] understood [David Bowser’s] statement as a promise of future, additional payment for his expanded services. [Communications Advisor] believed that if he refused to supply consulting services to [Representative Broun] in support of his Senate campaign that [David Bowser], on behalf of [Representative Broun’s] office, would terminate [Communication Advisor’s] month-to-month contractual agreement with the office.²¹

32. The Factual Basis further describes a conversation that Communications Advisor had with David Bowser prior to Communication Advisor’s interview with the OCE:

On one occasion before [Communication Advisor’s] scheduled interview with OCE, [Communications Advisor] spoke with [David Bowser]. Among other things, [David Bowser] told [Communications Advisor] that OCE could go ‘f@@@k themselves’ and again told [Communications Advisor] that he had been a ‘volunteer’ on the campaigns. [Communications Advisor] understood that [David Bowser] was telling [Communications Advisor] how he should characterize his role on [Representative Broun’s] political campaigns in his interview with OCE.²²

33. Given the foregoing information, the Board finds that there is substantial reason to believe that Mr. Bowser attempted to obstruct the OCE’s review by persuading or conspiring with Communications Advisor to make false statements to the OCE, in violation of federal law and House rules.

²⁰ *Id.*

²¹ *Id.* at 15-0034_0355.

²² *Id.* at 15-0034_0358.

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C. David Bowser May Have Made False Statements to the OCE

34. On June 24, 2014, the OCE interviewed Mr. Bowser as part of its review of the allegations involving Representative Broun.²³ During his interview, Mr. Bowser repeatedly stated that while Communications Advisor had been retained by Representative Broun's congressional office to provide communications services relating to official duties, Communications Advisor also provided communications services to Representative Broun's election campaigns on a volunteer basis.
35. Mr. Bowser told the OCE that Communications Advisor was retained by Representative Broun's congressional office to assist Representative Broun with messaging skills relating to his official duties: "[T]he idea being that, you know, when he gave floor statements, when he did press interviews, especially media interviews tended to go not as well as he liked them to go . . . and the whole idea was improving on his message delivery."²⁴
36. Mr. Bowser told the OCE that Communications Advisor was not expected to provide communications services to Representative Broun's election campaigns pursuant to the consulting agreement with the congressional office: "[A]t no point did we ever entertain the idea this would be a political adventure. This was purely on the official side. . . . Mainly, we are looking at . . . floor debate in the House . . . hearings in the Oversight Committee . . . as well as media interviews and town halls."²⁵
37. When asked how Communications Advisor became involved with Representative Broun's election campaigns, Mr. Bowser told the OCE: "I recall a specific time where he indicated to us that he'd be happy to volunteer on the campaign side if we needed him to do anything."²⁶
38. When asked to describe Communications Advisor's role with Representative Broun's campaigns, Mr. Bowser said that Communications Advisor "volunteered to help out whenever he could. . . . Again, this was all on the volunteer side on his own time."²⁷
39. Mr. Bowser said that Communications Advisor affirmatively told him that he wanted to volunteer for Representative Broun's Senate campaign.²⁸ He explained, "[W]hen Dr. Broun . . . announced to the staff and team that he was gonna [*sic*] run for the Senate, everybody said they'd be happy to help in any way they could, and that's when [Communications Advisor] did it, I believe."²⁹
40. When asked if he had a conversation with Communications Advisor about whether he was willing to volunteer for Representative Broun's campaigns, Mr. Bowser told the

²³ Bowser Transcript (Exhibit 2 at 15-0034_0007).

²⁴ *Id.* at 15-0034_0019.

²⁵ *Id.* at 15-0034_0022.

²⁶ *Id.* at 15-0034_0032.

²⁷ *Id.* at 15-0034_0050-0051.

²⁸ *Id.* at 15-0034_0051.

²⁹ *Id.*

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OCE: “I think he just offered it. . . . He offered it out on his own.”³⁰ Mr. Bowser explained that the Communications Advisor “offered to volunteer, we took him up on his offer at one point and it just sort of came more and more involved”³¹

41. Mr. Bowser’s repeated assertions to the OCE that Communications Advisor provided communications services to Representative Broun’s congressional campaigns on a volunteer basis conflict with statements in the Factual Basis for Communication Advisor’s guilty plea.
42. The Factual Basis states that in or around February 2014, Communications Advisor “understood that [David Bowser], on behalf of [Representative Broun], had hired [Communications Advisor] to supply campaign-related consulting services to [Representative Broun] and was causing [Communications Advisor] to be paid from [Representative Broun’s] appropriated funds on a month-to-month basis to do so.”³²
43. The Factual Basis states that in or around March 2014, Mr. Bowser met with Communications Advisor to tell him that Representative Broun’s office was terminating its relationship with Communications Advisor.³³ According to the Factual Basis, during this discussion, Mr. Bowser told Communications Advisor: “‘Now remember your role with the campaign was as a volunteer.’”³⁴ The Factual Basis notes: “That was the first time that [Mr. Bowser] had told [Communications Advisor] that he was a ‘volunteer’ on the campaigns.”³⁵
44. The Board notes that, because of ongoing investigations, the information contained in this referral may not constitute the complete factual record; therefore, Mr. Bowser may have committed other violations of law, House rules, or standards of conduct.
45. Given the foregoing information, the Board finds that there is substantial reason to believe that Mr. Bowser, during his interview with the OCE, made false statements to the OCE, in violation of federal law and House rules.

III. CONCLUSION

46. The Board recommends that the Committee on Ethics further review the allegation that Mr. Bowser attempted to obstruct the OCE’s review of Representative Broun, by persuading or conspiring with the Communications Advisor to make false statements to the OCE, as there is substantial reason to believe that Mr. Bowser did so, in violation of federal law and House rules.
47. The Board recommends that the Committee on Ethics further review the allegation that Mr. Bowser himself made false statements to the OCE, as there is substantial reason to

³⁰ *Id.* at 15-0034_0063-0064.

³¹ *Id.* at 15-0034_0099.

³² Factual Basis (Exhibit 7 at 15-0034_0356).

³³ *Id.* at 15-0034_0356.

³⁴ *Id.*

³⁵ *Id.*

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believe that Mr. Bowser made false statements during his interview with the OCE, in violation of federal law and House rules.