

CONFIDENTIAL

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. 15-1202

The Board of the Office of Congressional Ethics (the “Board”), by a vote of no less than four members, on April 22, 2016, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives.

SUBJECT: Representative Roger Williams

NATURE OF THE ALLEGED VIOLATION: Representative Roger Williams owns an auto dealership in Weatherford, Texas. On November 4, 2015, Rep. Williams offered, and the House of Representatives accepted by voice vote, an amendment to surface transportation reauthorization legislation to limit a provision of the bill that prohibited the renting or loaning of vehicles subject to safety recalls to companies that are “primarily” engaged in the car rental business. His amendment exempted companies not primarily engaged in the car rental business, such as auto dealers, from the prohibition on renting or loaning vehicles subject to safety recalls.

If Representative Williams improperly took official action on a matter in which he had a personal financial interest, then he may have violated House rules and standards of conduct regarding conflicts of interest.

RECOMMENDATION: The Board recommends that the Committee on Ethics further review the allegation that Representative Williams improperly took official action on a matter in which he had a personal financial interest, as there is substantial reason to believe that Representative Williams’ personal financial interest in his auto dealership may be perceived as having influenced his performance of official duties – namely, his decision to offer of an amendment to the surface transportation legislation.

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

Review No. 15-1202

On April 22, 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. Representative Roger Williams owns a car dealership in Weatherford, Texas, which offers rental cars to customers who have their vehicles serviced at the dealership.
2. On November 4, 2015, Rep. Williams offered, and the House of Representatives accepted by voice vote, an amendment to surface transportation reauthorization legislation to limit a provision of the bill that prohibited the renting or loaning of vehicles subject to safety recalls to companies that are “primarily” engaged in the car rental business. His amendment effectively exempted companies not “primarily” engaged in the car rental business, such as auto dealers, from the prohibition on renting or loaning vehicles subject to safety recalls.
3. If Representative Williams improperly took official action on a matter in which he had a personal financial interest, then he may have violated House rules and standards of conduct regarding conflicts of interest.
4. The Board recommends that the Committee on Ethics further review the allegation that Representative Williams improperly took official action on a matter in which he had a personal financial interest, as there is substantial reason to believe that Representative Williams’ personal financial interest in his auto dealership may be perceived as having influenced his performance of official duties – namely, his decision to offer of an amendment to the surface transportation legislation.

B. Jurisdictional Statement

5. The allegations that were the subject of this review concern Representative Roger Williams, a Member of the United States House of Representatives from the 25th District of Texas. 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

6. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on January 4, 2016. The preliminary review commenced on January 5, 2016.² The preliminary review was scheduled to end on February 3, 2016.
7. On January 5, 2016, the OCE notified Representative Williams of the initiation of the preliminary review, provided him with a statement of the nature of the review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.³
8. At least three members of the Board voted to initiate a second-phase review in this matter on January 22, 2016. The second-phase review commenced on February 4, 2016.⁴ The second-phase review was scheduled to end on March 19, 2016.
9. On February 3, 2016, the OCE notified Representative Williams 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
10. The Board voted to extend the second-phase review by an additional period of fourteen days on February 26, 2016. The additional period ended on April 2, 2016.
11. The Board voted to refer the matter to the Committee on Ethics and adopted these findings on April 22, 2016.
12. The report and its findings in this matter were transmitted to the Committee on Ethics on May 13, 2016.

D. Summary of Investigative Activity

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

- (1) Representative Roger Williams; and

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 (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 Representative Williams, January 5, 2016.

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 Representative Williams, February 3, 2016.

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(2) Roger Williams Auto Mall.

14. Representative Williams declined to provide the OCE with information in response to the OCE's requests and was determined to be non-cooperative.

15. The Roger Williams Auto Mall declined to provide any information requested by the OCE. The Auto Mall was determined to be a non-cooperating witness.

II. REPRESENTATIVE WILLIAMS' PERSONAL FINANCIAL INTEREST IN AN AUTO DEALERSHIP MAY BE PERCEIVED AS HAVING INFLUENCED HIS PERFORMANCE OF OFFICIAL DUTIES

A. Applicable Laws, Rules, and Standards of Conduct

16. House Rules

Pursuant to 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"

Under House Rule 23 clause 3, Members "may not permit compensation to accrue to the beneficial interest of such individual from any source, the receipt of which would occur by virtue of influence improperly exerted from the position of such individual in Congress."

17. Code of Ethics for Government Service

Section 5 of the Code of Ethics for Government Service provides: "Any person in Government service should . . . never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties."

18. House Ethics Manual

According to the House Ethics Manual, "Members may not use their congressional position for personal financial benefit."⁶

The Manual further notes that Member actions such as sponsoring legislation or advocating or participating in an action by a House Committee "entail a degree of advocacy above and beyond that involved in voting."⁷ Therefore, a "Member's decision on whether to take any such action on a matter that may affect his or her personal

⁶ House Ethics Manual (2008) at 233.

⁷ *Id.* at 237. With respect to voting, the Manual instructs that Members may vote on a matter unless they have "a direct personal or pecuniary interest" in the matter. *Id.* at 234 (quotation omitted).

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financial interest requires added circumspection.”⁸ The Manual advises that a Member who considers taking such action on a matter that may affect his or her financial interests “should first contact the Standards Committee for guidance.”⁹

19. House Committee on Ethics Precedent

With respect to House Rule 23, clause 3, the Committee on Ethics has advised: “The nature of Members as proxies for their constituents in the federal government makes it impossible to require recusal on every issue in which a Member has a financial interest. . . . If a Member seeks to act on a matter where he might benefit as a member of a large class, such action does not require recusal. . . . By contrast, where a Member’s actions would serve his own narrow financial interests, the Member should refrain from acting. The Committee’s guidance on this point advises Members to engage in ‘added circumspection’ any time a Member is deciding whether to take official action ‘on a matter that may affect his or her personal financial interests.’”¹⁰

With respect to Section 5, clause 1, of the Code of Ethics for Government Service, the Committee on Ethics has found a violation when a Member treats an individual or entity differently than other similarly situated individuals or entities.¹¹ On the other hand, when a Member treats an individual or entity “as any other constituent” and does not “engage in favoritism,” a violation will not be found.¹²

With respect to Section 5, clause 2, of the Code of Ethics for Government Service, the Committee on Ethics has advised that a “quid pro quo” is not necessary to establish a violation, noting that “the Committee has consistently prohibited acting on matters in which a Member has a financial interest precisely because the public would construe such action as self-dealing, whether the Member engaged in the action for that reason or not.”¹³ Rather, “[t]he only question is whether reasonable persons might construe [a Member’s interest] as influencing the performance of his governmental duties” or whether “the public might, and reasonably could, view [the official action] as motivated by his substantial [financial interest.]”¹⁴

“Precedents on conflicts of interest do contemplate that disclosure, especially in instances where a Member’s interests are in line with the Member’s constituents, is the ‘preferred method of regulating possible conflicts of interest.’ However, such disclosure

⁸ *Id.*

⁹ *Id.*

¹⁰ House Comm. on Ethics, In the Matter of Allegations Relating to Representative Phil Gingrey, 113th Cong., 2nd Sess. (2014) at 12 (citations omitted).

¹¹ *Id.* at 14.

¹² *Id.* (citing House Comm. on Ethics, In the Matter of Allegations Relating to Representative Shelley Berkley, 112th Cong., 2nd Sess. (2012) (“In the Matter of Shelley Berkley”) at 54-55; Statement of the Comm. on Standards of Official Conduct Regarding Complaints Against Representative Newt Gingrich, Mar. 8, 1990, at 66)).

¹³ *Id.* at 18 (citing In the Matter of Shelley Berkley at 55).

¹⁴ *Id.* at 20-21 (quotations omitted).

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*must be full and complete and, even if complete, does not always alleviate a conflict or permit a Member to act.*¹⁵

B. Representative Williams Offered an Amendment to a House Transportation Bill That Affected His Personal Financial Interest

20. Representative Roger Williams is the owner and chairman of Roger Williams Chrysler/Dodge/Jeep/Ram/SRT, an automobile dealership in Weatherford, Texas (“Roger Williams Auto Mall”).¹⁶
21. In his 2014 Financial Disclosure Report, Representative Williams identified himself as the Sole Manager and President of Williams Chrysler, LP; Williams Chrysler Holding, LLC; Jack Williams Chevrolet Holding, LLC; and Jack Williams Chevrolet, LP.¹⁷
22. Also in his 2014 Financial Disclosure Report, Representative Williams identified a motor vehicle dealership as an asset worth between \$25 and \$50 million.¹⁸ He identified assets relating to the Jack Williams Chevrolet auto dealership with a combined value of at least several hundred thousand dollars.¹⁹ He reported income relating to the auto dealerships of between \$350,000 and \$3.1 million.²⁰
23. According to the National Auto Dealers Association, there are over 16,000 auto dealers in the United States;²¹ the Texas Auto Dealers Association reports that it represents over 1,300 franchised auto dealerships in the state.²² According to the Texas Department of Motor Vehicles, Representative Williams’ auto dealership was one of at least 2,800 licensed franchised dealerships in Texas in 2015.²³

¹⁵ *In the Matter of Shelley Berkley* at 42 (citations omitted).

¹⁶ See <http://www.rogerwilliams.com/dealership/about.htm>; <http://williams.house.gov/about/full-biography>.

¹⁷ Rep. Roger Williams, 2014 Amended Financial Disclosure Report (Exhibit 1 at 15-1202_0007-0008).

¹⁸ *Id.* at 15-1202_0004.

¹⁹ *Id.* at 15-1202_0002-0006.

²⁰ *Id.*

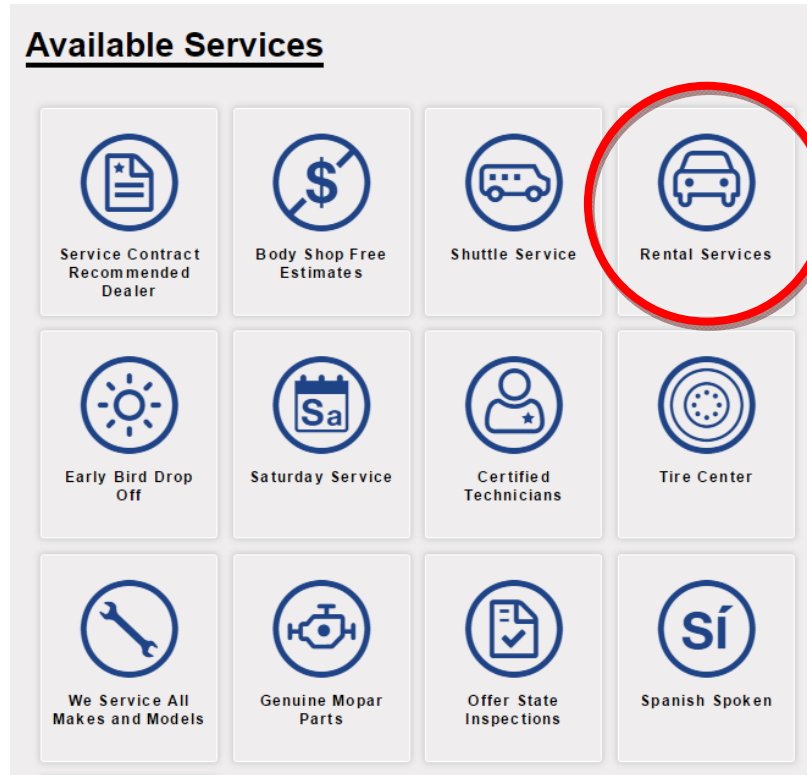
²¹ See <http://www.nada.org/about/>.

²² See <http://www.tada.org/web/Online>.

²³ See <http://www.txdmv.gov/dealers-portal/motor-vehicle-dealers>.

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24. According to its website, the Roger Williams Auto Mall offers customers rental vehicles, advising that “[r]ental vehicles [are] available while your vehicle is being serviced.”²⁴



25. Because neither Representative Williams nor the Roger Williams Auto Mall cooperated with the OCE review, the OCE was unable to determine the extent of the rental services component of the dealership’s business operations, including the number of vehicles available for rent or the revenue generated by the rental business.

26. In November 2015, the House of Representatives considered legislation to reauthorize federal surface transportation programs.²⁵ Included in this legislation was a provision to prohibit certain “rental companies” from renting vehicles subject to safety recalls.²⁶

27. On November 4, 2015, during debate on the transportation legislation, Representative Williams offered an amendment to limit the definition of a covered “rental company.”²⁷ Specifically, Representative Williams’ amendment inserted the word “primarily” before the phrase “engaged in the business of renting covered rental vehicles” in the definition of a covered “rental company,” effectively exempting entities, such as auto dealers, whose primary business is not the renting of vehicles.²⁸

²⁴ <http://www.rogerwilliams.com/service/index.htm>.

²⁵ See 161 CONG. REC. H7412 (daily ed. Nov. 3, 2015) (Exhibit 2 at 15-1202_0011-0012).

²⁶ H.R. 22 (Engrossed Amendment Senate), 114th Cong., § 34209 (Rental Car Safety) (2015) (Exhibit 3 at 15-1202_0014-0022).

²⁷ H.Amdt. 819, 114th Cong. (2015) (Exhibit 4 at 15-1202_0024).

²⁸ *Id.*

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28. At the outset of his floor statement in support of his amendment, Representative Williams identified himself as an auto dealer: “I am a second-generation auto dealer. I have been in the industry for most of my life. I know it well.”²⁹
29. In his floor statement, Representative Williams explained that the purpose of his amendment was to “clarify” the provision’s language “so it only applies to actual rental car companies, like it is supposed to. The definition in the underlying bill . . . is so broad that it sweeps up dealers who offer loaner vehicles or rentals as a convenience for their customers.”³⁰
30. Although two Members of the House spoke in opposition to Representative Williams’ amendment,³¹ the amendment passed the House by voice vote.³²
31. Because Representative Williams declined to cooperate with the OCE review, the OCE was unable to determine whether he or members of his congressional staff sought guidance from the Committee on Ethics prior to offering his amendment.
32. The legislation that was ultimately signed into law included a provision that differed from Representative Williams’ proposal, but which had a similar effect: rather than limiting the prohibition to entities “primarily” engaged in the business of renting vehicles, the enacted provision exempts any “rental company” with a fleet of fewer than 35 vehicles from the prohibition on renting vehicles subject to safety recalls.³³ Representative Williams called the provision included in the final bill “a victory for small businesses.”³⁴
33. When questions of a potential conflict of interest pertaining to the amendment were raised, Representative Williams issued a statement responding to the criticism:

During public debate of the recently passed transportation bill on the floor of the United States House of Representatives, I offered a one word, technical amendment that would affect thousands of auto dealers industry –wide because today, not all automotive recalls are created equal. . . Let’s not forget that my technical amendment passed the House unanimously. . . . I have extensive experience actually running a business Unless a Member is a career politician . . . they have probably had at least one job. Should those Members excuse themselves from engaging in debate that affects the industries or sectors they know best? In my opinion, absolutely not. Are Members of Congress who are doctors engaged in conflicts of interest when they vote on Medicare, Medicaid or NIH funding? Are Members of Congress who are involved

²⁹ 161 CONG. REC. H7721 (daily ed. Nov. 4, 2015) (statement of Rep. Williams) (Exhibit 4 at 15-1202_0024).

³⁰ *Id.*

³¹ *Id.* at H7721-H7722 (daily ed. Nov. 4, 2015) (statements of Rep. Capps and Rep. Schakowsky) (Exhibit 4 at 15-1202_0024-0025).

³² *Id.* at H7722 (Exhibit 4 at 15-1202_0025); *see also* <https://www.congress.gov/amendment/114th-congress/house-amendment/819>.

³³ Pub. L. No. 114-94, § 24109(b) (Dec. 4, 2105) (Exhibit 5 at 15-1202_0027-0030).

³⁴ Maria Recio, *Texas Rep. Williams gets partial car dealer exemption in transportation bill*, McClatchy, Dec. 1, 2015 (*available at* <http://www.mcclatchydc.com/news/politics-government/congress/article47411910.html>).

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in real estate engaged in conflicts of interest when they vote on public housing or tax credits? What about CPAs in Congress who would be affected by tax reform? How about lawyers and tort reform?³⁵

III. CONCLUSION

34. Given the foregoing information, the Board finds that there is substantial reason to believe that Representative Williams' personal financial interest in his auto dealership may be perceived as having influenced his performance of official duties – namely, his decision to offer of an amendment to the surface transportation legislation.

35. Accordingly, the Board recommends that the Committee on Ethics further review the allegation that Representative Williams, by offering his amendment to surface transportation legislation, may have violated House rules and standards of conduct regarding conflicts of interest.

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

36. Representative Williams, by declining to provide information requested by the OCE, did not cooperate with the OCE review.

37. The Roger Williams Auto Mall, by declining to provide information requested by the OCE, did not cooperate with the OCE review.

38. The Board recommends the issuance of subpoenas to Representative Williams and the Roger Williams Auto Mall.

³⁵ Press Release, *Roger Williams Response to Amendment Review*, Nov. 24, 2015 (available at <http://williams.house.gov/media-center/press-releases/roger-williams-response-to-amendment-review>) (Exhibit 6 at 15-1202_0032-0033).