

CONFIDENTIAL

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110<sup>th</sup> Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**REPORT**

Review No. 17-7171

The Board of the Office of Congressional Ethics (hereafter “the Board”), by a vote of no less than four members, on May 5, 2017, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives.

SUBJECT: Representative John Conyers

NATURE OF THE ALLEGED VIOLATION: Representative Conyers may have paid compensation to his Chief of Staff Cynthia Martin during a time when the services she performed were not commensurate with her level of compensation.

If Representative Conyers provided a member of his congressional staff with compensation that was not commensurate with the work she performed, then he may have violated House rules and standards of conduct.

RECOMMENDATION: The Board recommends that the Committee on Ethics further review the above allegation because there is substantial reason to believe that Representative Conyers provided a member of his congressional staff with compensation that was not commensurate with the work she performed, in violation House rules and standards of conduct.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 0

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

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**FINDINGS OF FACT AND CITATIONS TO LAW**

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OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**FINDINGS OF FACT AND CITATIONS TO LAW**

Review No. 17-7171

On May 5, 2017, the Board of the Office of Congressional Ethics (hereafter “the Board”) adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

**I. INTRODUCTION**

**A. Summary of Allegations**

1. From April 20, 2016 to August 25, 2016, Cynthia Martin was compensated by the House of Representatives during a time when she may not have conducted any official work commensurate with her pay. Representative Conyers, as her employing Member, authorized pay to Ms. Martin during this time.
2. The Board recommends that the Committee on Ethics further review the above allegation because there is substantial reason to believe that Representative Conyers provided a member of his congressional staff with compensation that was not commensurate with the work she performed, in violation of House rules and standards of conduct.

**B. Jurisdiction Statement**

3. The allegations that were the subject of this review concern Representative John Conyers, a Member of the United States House of Representatives from the 13th District of Michigan. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter “OCE”) directs that, “[n]o review shall be undertaken... by the board of any alleged violation that occurred before the date of adoption of this resolution.”<sup>1</sup> 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.

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

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**C. Procedural History**

4. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on February 3, 2017. The preliminary review commenced on February 4, 2017.<sup>2</sup> The preliminary review was scheduled to end on March 5, 2017.
5. On February 7, 2017, the OCE notified Representative Conyers 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.
6. At least three members of the Board voted to initiate a second-phase review in this matter on March 3, 2017. The second-phase review commenced on March 6, 2017. The second-phase review was scheduled to end on April 19, 2017.
7. On March 6, 2017, the OCE notified Representative Conyers of the initiation of the second-phase review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.
8. The Board voted to refer the matter to the Committee on Ethics for further review and adopted these findings on May 5, 2017.
9. The report and its findings in this matter were transmitted to the Committee on Ethics on May 11, 2017.

**D. Summary of Investigative Activity**

10. The OCE requested testimonial and documentary information from Representative Conyers.
11. Representative Conyers refused to cooperate with the OCE's review.

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<sup>2</sup> 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 110<sup>th</sup> 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.

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## **II. REPRESENTATIVE CONYERS MAY HAVE VIOLATED HOUSE RULES AND STANDARDS OF CONDUCT BY AUTHORIZING PAY TO CYNTHIA MARTIN DURING A TIME WHEN MS. MARTIN DID NOT PERFORM OFFICIAL WORK**

### **A. Applicable Law, Rules, and Standards of Conduct**

#### 12. House Rules

*House Rule 23, Clause 8 states that “[a] Member . . . of the House may not retain an employee who does not perform duties for the offices of the employing authority commensurate with the compensation such employee receives.”*<sup>3</sup>

#### 13. House Ethics Manual

*According to the House Ethics Manual, “[c]ompensation may be received only for duties performed within the preceding month.”*<sup>4</sup>

*“The underlying standard for the receipt of compensation by an employee of the House is that the employee has regularly performed official duties commensurate with the compensation received. The Code of Ethics for Government Service instructs every employee to ‘[g]ive a full day’s labor for a full day’s pay; giving to the performance of his duties his earnest effort and best thought.’ Employees are paid United States Treasury funds to perform public duties. Appropriated funds are to be used solely for the purposes for which appropriated. Funds appropriated for congressional staff to perform official duties should be used only for assisting a Member in his or her legislative and representational duties, working on committee business, or performing other congressional functions. Employees may not be compensated from public funds to perform nonofficial, personal, or campaign activities on behalf of the Member, the employee, or anyone else.”*<sup>5</sup>

*“The regulations of the Committee on House Administration require employing Members to provide monthly salary certifications for their staff. A salary may be disbursed to an employee only upon submission of a signed statement by the appropriate Member certifying that the Office of Human Resources has correctly listed the name and salary of each employee, and that the employees have certified that they have no relationship to any current Member of Congress, unless specifically noted. Compensation may be received only for duties performed within the preceding month.”*<sup>6</sup>

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<sup>3</sup> House Rule 23, Clause 8(a).

<sup>4</sup> House Ethics Manual (2008) at 278.

<sup>5</sup> *Id.* at 279 (citations omitted).

<sup>6</sup> *Id.* at 277-278.

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**B. Cynthia Martin May Have Been Compensated at a Time When She Was Not Performing Official Work**

14. On March 30, 2016, Cynthia Martin, Representative Conyers' then Chief of Staff, pleaded guilty to a misdemeanor in District of Columbia Superior Court as part of a deferred sentencing agreement.<sup>7</sup>
15. On April 4, 2016, Representative Conyers filed a Payroll Authorization Form with the House of Representatives' Office of Payroll and Finance, placing Ms. Martin on Leave Without Pay ("LWOP") status, for approximately a three-month period, effective from April 5 to June 30, 2016.<sup>8</sup>
16. On April 20, 2016, Representative Conyers filed a superseding Payroll Authorization Form, shortening Ms. Martin's LWOP period to two weeks, effective from April 5 to April 19, 2016.<sup>9</sup> Accordingly, as of April 20, 2016, Ms. Martin resumed receiving her annual compensation of \$160,000, or \$13,333.33 per month.<sup>10</sup>
17. On June 27, 2016, during the course of its review into allegations of misconduct by Ms. Martin, the OCE staff attempted to reach Ms. Martin at Representative Conyers' congressional office to inform her of the initiation of an OCE review. The OCE staff was informed by Representative Conyers' congressional staff that Ms. Martin no longer worked in the office. When OCE staff attempted to deliver to Ms. Martin notice of her right to appear before the Board, the OCE staff was again told that Ms. Martin no longer worked in the office.
18. On August 11, 2016, during the OCE's review of Ms. Martin, Representative Conyers filed another Payroll Authorization Form, placing Ms. Martin on LWOP status from August 25 to October 25, 2016.<sup>11</sup> On October 7, 2016, Representative Conyers filed a final Payroll Authorization Form, terminating Ms. Martin's employment with the House of Representatives, effective October 25, 2016.<sup>12</sup>
19. Based on the information discussed above, from April 20, 2016 to August 25, 2016, Ms. Martin was compensated by the House of Representatives during a time when she may

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<sup>7</sup> See OCE Review No. 16-1190, available at, <https://oce.house.gov/oce-referral-regarding-ms-cynthia-martin/>.

<sup>8</sup> U.S. House of Representatives Payroll Authorization Form, filed Apr. 4, 2016 (Exhibit 1 at 17-7171\_0002).

<sup>9</sup> U.S. House of Representatives Payroll Authorization Form, filed Apr. 20, 2016 (Exhibit 2 at 17-7171\_0004).

<sup>10</sup> *Id.*

<sup>11</sup> U.S. House of Representatives Payroll Authorization Form, filed Aug. 11, 2016 (Exhibit 3 at 17-7171\_0006).

<sup>12</sup> U.S. House of Representatives Payroll Authorization Form, filed Oct. 7, 2016 (Exhibit 4 at 17-7171\_0008).

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not have conducted any official work commensurate with her pay. Representative Conyers, as her employing Member, authorized pay to Ms. Martin during this time.

20. The OCE requested cooperation from Representative Conyers so that he could provide information about whether Ms. Martin was paid during a time when she was not performing official work. Representative Conyers refused to cooperate with the OCE's review.

### **III. CONCLUSION**

21. For the reasons stated above, the Board recommends that the Committee on Ethics further review the above allegation because there is substantial reason to believe that Representative Conyers provided a member of his congressional staff with compensation that was not commensurate with the work she performed, in violation House rules and standards of conduct.

### **IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATION FOR THE ISSUANCE OF A SUBPOENA**

22. Representative Conyers refused to cooperate with the OCE's review.

23. The Board recommends that the Committee on Ethics issue a subpoena to Representative Conyers.