

January 29, 2017

Omar Ashmawy  
Chief Counsel and Staff Director  
Office of Congressional Ethics  
U.S. House of Representatives  
P.O. Box 895  
Washington, D.C. 20515

**Re: Request for Investigation of Representative David Schweikert (R-AZ)**

Dear Mr. Ashmawy:

We respectfully request that the Office of Congressional Ethics (“OCE”) immediately launch an investigation into Representative David Schweikert for apparently violating the Rules of the House of Representatives (“House Rules”) by accepting illegal campaign contributions from his Chief of Staff, Oliver Schwab.<sup>1</sup> According to public reports filed with the Federal Election Commission (“FEC” or “Commission”) Rep. Schweikert’s principal campaign committee accepted illegal contributions from Oliver Schwab on numerous occasions over the course of several years. Such contributions are expressly prohibited by federal law,<sup>2</sup> yet Rep. Schweikert’s campaign apparently accepted and condoned them.

We also request that the OCE investigate Oliver Schwab for apparently violating federal law by making illegal contributions to his boss’s principal campaign committee and receiving earned income in excess of the outside earned income limit for senior staffers in calendar year 2014, and we further urge the OCE to investigate the likelihood that Mr. Schwab’s outside earned income exceeded the statutory limit in calendar years 2015 and 2016. Finally, we request that the OCE investigate Mr. Schwab for failing to provide a “full and complete statement” of his income on his calendar year 2015 Financial Disclosure Statement (“FD Statement”), as required by the Ethics in Government Act of 1978, as amended (the “Act”). We urge the OCE investigate these claims and take appropriate remedial action against Rep. Schweikert and Mr. Schwab.

**I. Factual Background**

Rep. Schweikert currently serves as the U.S. Representative for Arizona’s 6th congressional district.<sup>3</sup> His current principal campaign committee is Friends of David Schweikert.<sup>4</sup> Schweikert for Congress<sup>5</sup> was registered with the FEC as Rep. Schweikert’s previous principal campaign committee through 2013. In addition to his principal campaign committee, several other committees registered with the Commission are authorized by Rep. Schweikert (collectively, “the Schweikert campaign entities”). Defending America’s Values Everywhere (Team Dave) is

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<sup>1</sup> See Committee on Standards of Official Conduct, 110th Congress, 2d Session, House Ethics Manual, at 138, available at [https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008\\_House\\_Ethics\\_Manual.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf) [hereinafter, “House Ethics Manual”].

<sup>2</sup> 18 U.S.C. § 603.

<sup>3</sup> Full Biography, U.S. House of Representatives, available at <https://schweikert.house.gov/about/full-biography>.

<sup>4</sup> See Friends of David Schweikert FEC Form 1, Statement of Organization (amended June 9, 2017).

<sup>5</sup> See Schweikert for Congress FEC Form 1, Statement of Organization (amended May 29, 2013).

registered with the Commission as Schweikert's leadership PAC<sup>6</sup>, and Schweikert Victory Committee<sup>7</sup> is registered as a joint fundraising committee for Friends of David Schweikert, the National Republican Congressional Committee, and Defending America's Values Everywhere (Team Dave).

Oliver Schwab has served as Rep. Schweikert's Chief of Staff from 2011 through the present.<sup>8</sup> His congressional salary for 2015<sup>9</sup> and 2016<sup>10</sup> was \$168,411, and his salary in 2014 was \$127,561.79.<sup>11</sup> Along with the official salary he receives as Rep. Schweikert's Chief of Staff, Mr. Schwab also earns income from a consulting company called Chartwell Associates, LLC ("Chartwell").<sup>12</sup> Schwab admits that Chartwell is a "one-man-shop" that he founded and operates on his own to provide consulting services.<sup>13</sup> Sources indicate that Chartwell is run "out of [Schwab's] Alexandria condo . . . mostly at night after work."<sup>14</sup> Chartwell has been paid by several of Rep. Schweikert's campaign entities dating back to 2014. In 2014, Friends of David

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<sup>6</sup> See Defending America's Values Everywhere (Team Dave) FEC Form 1, Statement of Organization (amended February 27, 2014).

<sup>7</sup> See Schweikert Victory Committee FEC Form 1, Statement of Organization (amended June 9, 2017).

<sup>8</sup> See House Document No. 112-15, Statement of Disbursements of the House, January 1, 2011 to March 31, 2011, 2385, available at [https://www.house.gov/sites/default/files/uploads/documents/2011q1\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2011q1_singlevolume.pdf); House Document 115-70, July 1, 2017 to September 30, 2017, 1850, available at [https://www.house.gov/sites/default/files/uploads/documents/SODs/2017q3\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/SODs/2017q3_singlevolume.pdf).

<sup>9</sup> See House Document No. 114-29, Statement of Disbursements of the House, January 1, 2015 to March 31, 2015, 2056, available at [https://www.house.gov/sites/default/files/uploads/documents/2015q1\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2015q1_singlevolume.pdf); House Document No. 114-52, Statement of Disbursements of the House, April 1, 2015 to June 30, 2015, 1849, available at [https://www.house.gov/sites/default/files/uploads/documents/2015q2\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2015q2_singlevolume.pdf); House Document No. 114-61, Statement of Disbursements of the House, July 1, 2015 to September 30, 2015, 1747, available at [https://www.house.gov/sites/default/files/uploads/documents/2015q3\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2015q3_singlevolume.pdf); House Document No. 114-82, Statement of Disbursements of the House, October 1, 2015 to December 31, 2015, 1800, available at [https://www.house.gov/sites/default/files/uploads/documents/2015q4\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2015q4_singlevolume.pdf) [hereinafter, "2015 House Documents"].

<sup>10</sup> See House Document No. 114-20, Statement of Disbursements of the House, January 1, 2016 to March 31, 2016, 2044, available at [https://www.house.gov/sites/default/files/uploads/documents/2016q1\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2016q1_singlevolume.pdf); House Document No. 114-149, Statement of Disbursements of the House, April 1, 2016 to June 30, 2016, 1958, available at [https://www.house.gov/sites/default/files/uploads/documents/2016q2\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2016q2_singlevolume.pdf); House Document No. 114-182, Statement of Disbursements of the House, July 1, 2016 to September 30, 2016, 1753, available at [https://www.house.gov/sites/default/files/uploads/documents/2016q3\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2016q3_singlevolume.pdf); House Document No. 114-191, Statement of Disbursements of the House, October 1, 2016 to December 31, 2016, 1701, available at [https://www.house.gov/sites/default/files/uploads/documents/2016q4\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2016q4_singlevolume.pdf) [hereinafter "2016 House Documents"].

<sup>11</sup> See House Document No. 113-104, Statement of Disbursements of the House, January 1, 2014 to March 31, 2014, 2053, available at [https://www.house.gov/sites/default/files/uploads/documents/2014q1\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2014q1_singlevolume.pdf); House Document No. 113-141, Statement of Disbursements of the House, April 1, 2014 to June 30, 2014, 1855, available at [https://www.house.gov/sites/default/files/uploads/documents/2014q2\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2014q2_singlevolume.pdf); House Document No. 113-156, Statement of Disbursements of the House, July 1, 2014 to September 30, 2014, 1755, available at [https://www.house.gov/sites/default/files/uploads/documents/2014q3\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2014q3_singlevolume.pdf); House Document No. 114-8, Statement of Disbursements of the House, October 1, 2014 to December 31, 2014, 1745, available at [https://www.house.gov/sites/default/files/uploads/documents/2014q4\\_singlevolume.pdf](https://www.house.gov/sites/default/files/uploads/documents/2014q4_singlevolume.pdf) [hereinafter, "2014 House Documents"].

<sup>12</sup> Philip Wegmann, *A lot of cash is flowing to David Schweikert's chief of staff Oliver Schwab*, WASHINGTON EXAMINER (Nov. 2, 2017), available at <http://www.washingtonexaminer.com/a-lot-of-cash-is-flowing-to-david-schweikerts-chief-of-staff-oliver-schwab/article/2639483>.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

Schweikert<sup>15</sup> and Defending America's Values Everywhere (Team Dave)<sup>16</sup> collectively paid Chartwell \$109,500 over the course of the calendar year through disbursements labeled as "strategic/fundraising consulting, "strategic consulting" and "political strategy consulting." In 2015, Friends of David Schweikert<sup>17</sup> and Schweikert Victory Committee<sup>18</sup> paid Chartwell a total of \$13,814.84 in "strategic/fundraising consulting" fees. Finally, in 2016, Friends of David Schweikert<sup>19</sup> and Defending America's Values Everywhere (Team Dave)<sup>20</sup> paid Chartwell a combined \$10,000 in "strategic consulting" fees. In addition, the Schweikert campaign entities also reported paying Chartwell \$32,850.52 in 2016 and \$25,095.77 in 2015 in "strategic consulting/travel" fees.<sup>21</sup> It is not clear from this disbursement description what portion of these payments represented consulting fees and what portion constituted reimbursements for travel. Mr. Schwab has acquiesced that the consulting fees paid to Chartwell represent income to him personally. He has not only reported this income as "earned income" on Schedule I of his FD Statements for calendar years 2015 and 2016,<sup>22</sup> but when questioned about the payments, Schwab is also quoted as indignantly responding, "[d]o you want me to be doing all this campaign stuff as a volunteer?"<sup>23</sup>

While Mr. Schwab has reported Chartwell fees as earned income on his FD Statements, the amount that he reported for calendar year 2015 is significantly less than what the campaign entities reported paying him in 2015 on their disclosures to the Commission. Mr. Schwab's calendar year 2015 FD Statement disclosed only \$12,000 in earned income from Chartwell, while the campaign entities reported paying a combined \$13,814.84 to Chartwell for "strategic/fundraising consulting" and an additional \$25,095.77 in "strategic consulting/travel" fees that same year.<sup>24</sup>

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<sup>15</sup> See Friends of David Schweikert, April Quarterly Report 2014, at 52 (filed April 15, 2014); July Quarterly Report 2014, at 58 (filed July 14, 2014); 12-Day Pre-Primary Election Report 2014, at 25 (filed August 14, 2014); October Quarterly Report 2014, at 35, 39 (filed October 14, 2014); 12-Day Pre-General Election Report 2014, at 12, 17 (filed October 23, 2014); Year-End Report 2014, at 7 (filed January 26, 2015) [hereinafter, "2014 Friends of David Schweikert Chartwell payments"].

<sup>16</sup> See Defending America's Values Everywhere (Team Dave), 12-Day Pre-Primary Election Report 2014, at 7 (filed May 21, 2014); 30-Day Post-General Election Report 2014, at 9 (filed December 4, 2014) [hereinafter, "2014 Team Dave Chartwell payments"].

<sup>17</sup> See Friends of David Schweikert, Year-End Report 2015, at 36-37, 39, 41 (filed January 29, 2016) [hereinafter, "2015 Friends of David Schweikert Chartwell payments"].

<sup>18</sup> See Schweikert Victory Committee, October Quarterly Report 2015, at 13 (filed October 14, 2015); Year-End Report 2015, at 9 (filed January 29, 2016) [hereinafter, "Schweikert Victory Committee Chartwell payments"].

<sup>19</sup> See Friends of David Schweikert, April Quarterly Report 2016, at 26, 29, 31, 36, 40 (filed April 14, 2016); July Quarterly Report 2016, at 31, 34-36 (filed July 15, 2016); 30-Day Post-Election Report 2016, at 32 (filed December 8, 2016) [hereinafter, "2016 Friends of David Schweikert Chartwell payments"].

<sup>20</sup> See Defending America's Values Everywhere (Team Dave), April Quarterly Report 2016, at 8 (filed April 13, 2016) [hereinafter, "2016 Team Dave Chartwell payments"].

<sup>21</sup> See 2015 Friends of David Schweikert Chartwell payments, *supra* note 17; Schweikert Victory Committee Chartwell payments, *supra* note 18; 2016 Friends of David Schweikert Chartwell payments, *supra* note 19; 2016 Team Dave Chartwell payments, *supra* note 20.

<sup>22</sup> See United States House of Representatives, Calendar Year 2015 Financial Disclosure Statement, Richard Oliver Schwab (submitted August 11, 2016); Calendar Year 2016 Financial Disclosure Statement, Richard Oliver Schwab (submitted October 30, 2017) [hereinafter, "Schwab FDs"].

<sup>23</sup> See Wegmann, *supra* note 12.

<sup>24</sup> See 2015 Friends of David Schweikert Chartwell payments, *supra* note 17; Schweikert Victory Committee Chartwell payments, *supra* note 18.

Mr. Schwab has also received numerous reimbursements from Friends of David Schweikert,<sup>25</sup> Schweikert Victory Committee,<sup>26</sup> and Schweikert for Congress<sup>27</sup> in his personal capacity since 2011, according to each committee's FEC reports. At the time Friends of David Schweikert and Schweikert for Congress reported the reimbursements to Mr. Schwab, each committee served as Rep. Schweikert's principal campaign committee.<sup>28</sup> Mr. Schwab was reimbursed by Friends of David Schweikert for \$80.90 in 2016 and \$14,245.84 in 2015.<sup>29</sup> In 2012, Schweikert for Congress reimbursed him for \$1,305.84, and this amount was \$2,090.01 in 2011.<sup>30</sup> While the disbursement descriptions vary, many of the reimbursements are described using similar terms such as "reimb food for event," "reimb food exp," "reimb food & postage," "reimb office supplies & food," or some variation of these descriptions. The fact that these payments to Mr. Schwab are labelled as "reimbursements" on the FEC reports indicates that Mr. Schwab originally paid for these items on behalf of the campaign using his own funds.

## II. Legal Analysis

### A. Rep. Schweikert's Chief of Staff failed to make a full and complete disclosure on his calendar year 2015 FD Statement

Despite a statutory obligation to provide a "full and complete" statement of his income, it appears that Mr. Schwab neglected to report all of his earned income in calendar year 2015. House employees whose rate of basic pay qualifies them as "senior staff" are required to file an annual FD Statement with the House Ethics Committee.<sup>31</sup> The Act requires such filers to make a "full and complete statement" of income derived "from any source."<sup>32</sup> As House "senior staff" in calendar year 2015, Mr. Schwab filed a 2015 FD Statement reporting \$12,000 in "earned income" from Chartwell.<sup>33</sup>

On their FEC reports, Friends of David Schweikert<sup>34</sup> and Schweikert Victory Committee<sup>35</sup> reported paying Chartwell a combined total of \$13,814.84 in "strategic/fundraising consulting"

<sup>25</sup> See Friends of David Schweikert, 12-Day Pre-General Election Report 2016, at 11 (filed October 26, 2016); July Quarterly Report 2015, at 36 (filed July 14, 2015) [hereinafter, "Friends of David Schweikert Reimbursements"].

<sup>26</sup> See Schweikert Victory Committee, July Quarterly Report 2015, at 12 (filed July 14, 2015) [hereinafter, "Schweikert Victory Committee Reimbursements"].

<sup>27</sup> See Schweikert for Congress, April Quarterly Report 2012, at 71, 106 (filed April 15, 2012); July Quarterly Report 2012, at 157 (filed July 15, 2012); April Quarterly Report 2011, at 56 (filed April 15, 2011); July Quarterly Report 2011, at 102, 105, 111 (filed July 15, 2011); October Quarterly Report 2011, at 102 (filed October 15, 2011) [hereinafter, "Schweikert for Congress Reimbursements"].

<sup>28</sup> See Friends of David Schweikert FEC Form 1, Statement of Organization (amended October 14, 2014); Schweikert for Congress FEC Form 1, Statement of Organization (filed January 21, 2011).

<sup>29</sup> See Friends of David Schweikert Reimbursements, *supra* note 24.

<sup>30</sup> See Schweikert for Congress, April Quarterly Report 2012, at 71, 106 (filed April 15, 2012); July Quarterly Report 2012, at 157 (filed July 15, 2012); April Quarterly Report 2011, at 56 (filed April 15, 2011); July Quarterly Report 2011, at 102, 105, 111 (filed July 15, 2011); October Quarterly Report 2011, at 102 (filed October 15, 2011).

<sup>31</sup> 5 U.S.C. app. 4 §§ 101(c); 109(13)(B)(i).

<sup>32</sup> *Id.* § 102(a).

<sup>33</sup> See U.S. House of Representatives Committee on Ethics, "Memorandum for All Members, Officers, and Employees: The 2015 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees" (January 21, 2015), available at <https://ethics.house.gov/sites/ethics.house.gov/files/PinkSheet.pdf> [hereinafter "2015 Memorandum"].

<sup>34</sup> See 2015 Friends of David Schweikert Chartwell payments, *supra* note 17.

<sup>35</sup> See Schweikert Victory Committee Chartwell payments, *supra* note 18.

fees in 2015. Moreover, the Schweikert campaign entities reported paying Chartwell an additional \$25,095.77 in “strategic consulting/travel” fees in calendar year 2015.<sup>36</sup> While it is not clear which portion of this \$25,095.77 is “earned income,” the Schweikert campaign entities’ FEC reports establish that Mr. Schwab understated his earned income for calendar year 2015 by at least \$1,814.84 on his FD Statement, and perhaps significantly more.

Mr. Schwab likely underreported his earned income on his 2016 calendar year FD Statement as well. His 2016 FD Statement reported \$12,000 in earned income, while the disbursements to Chartwell labeled “strategic consulting/travel” reported on the Schweikert campaign entity FEC reports totaled \$25,095.77 that year.<sup>37</sup> If as little as \$2,000 of these disbursements represents consulting fees, then Mr. Schwab likely received more than the \$12,000 in earned income that he reported on his 2016 FD Statement. It is critical that Mr. Schwab comply with the Act and make a “full and complete disclosure” of his earned income so that the public is granted an accurate picture of his finances.

### **B. Rep. Schweikert’s Chief of Staff earned excessive outside earned income in 2014 and potentially in 2015 and 2016, in violation of federal law and House Rules**

Oliver Schwab received earned income in calendar year 2014 that exceeded the outside earned income limit for employees that qualify as “senior staff” for that year. In addition, FEC reports filed by the Schweikert campaign entities show that Mr. Schwab received payments in calendar years 2015 and 2016 that may also put him over the outside earned income limit for these years.

Federal law and House Rules restricts the amount of outside earned income that Members and certain “senior staff” may receive while employed by the House.<sup>38</sup> This restriction is in place in order to ensure that “Members and staff do not use the influence or prestige of their position with the House for personal gain, and to preclude conflicts of interest.”<sup>39</sup> The outside earned income limit is equal to fifteen percent of the rate of basic pay for Executive Schedule Level II in effect on January 1 of any given year.<sup>40</sup> “Outside earned income” is defined as “wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered.”<sup>41</sup>

The senior staff rate, outside earned income limitation, official salary paid to Mr. Schwab, earned income reported on Mr. Schwab’s FD Statements, and fees paid to Chartwell were as follows for calendar years 2014, 2015, and 2016:<sup>42</sup>

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<sup>36</sup> See 2015 Friends of David Schweikert Chartwell payments, *supra* note 17; Schweikert Victory Committee Chartwell payments, *supra* note 18.

<sup>37</sup> *Id.*

<sup>38</sup> 5 U.S.C. app. § 501(a)(1); House Rule 25, cl. 1(a)(1) and 4(a)(1).

<sup>39</sup> House Ethics Manual, at 212.

<sup>40</sup> 5 U.S.C. app. § 501(a).

<sup>41</sup> House Rule 25, cl. 4(d)(1).

<sup>42</sup> See U.S. House of Representatives Committee on Ethics, “Memorandum for All Members, Officers, and Employees: The 2014 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees” (January 15, 2014), *available at* [https://ethics.house.gov/sites/ethics.house.gov/files/2014%20pay%20pink%20sh\\_0.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/2014%20pay%20pink%20sh_0.pdf); 2015 Memorandum, *supra* note 32; U.S. House of Representatives Committee on Ethics, “Memorandum for All Members, Officers, and Employees: The 2016 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement

Year	Senior staff rate	Oliver Schwab congressional salary	Outside earned income limit	Fees paid to Chartwell for “strategic consulting” or “fundraising consulting” <sup>43</sup>
2014	\$120,749	\$127,561.79	\$26,955	\$109,500.00
2015	\$121,956	\$168,411.00	\$27,225	\$13,814.84
2016	\$123,175	\$168,411.00	\$27,495	\$10,000

Oliver Schwab’s congressional salary for 2015<sup>44</sup> and 2016<sup>45</sup> was \$167,475.38, and it was \$127,651.79 in 2014.<sup>46</sup> In each of these three years, Mr. Schwab’s congressional pay rendered him “senior staff” subject to the outside earned income limit. Yet, FEC reports filed by Rep. Schweikert’s campaign entities provide unmistakable evidence that Mr. Schwab received earned income from these committees that totaled well over the outside earned income limit in 2014, as detailed above.

Mr. Schwab has reported income from Chartwell as “earned income” on his FD Statements<sup>47</sup> and has also stated in no uncertain terms that “anytime you see Chartwell that’s Oliver Schwab.”<sup>48</sup> Thus, it is clear that the income he receives from Chartwell represents “outside earned income” to Mr. Schwab. In 2014, the “strategic consulting” fees paid to Chartwell by the Schweikert campaign entities totaling \$109,500 vastly exceeded the outside earned income limit of \$26,955 for that year. While the Chartwell earned income reported on the 2015 and 2016 FD Statements is within the outside earned income limits for those years, evidence suggests that Mr. Schwab received additional income from the Schweikert campaign entities that should have been disclosed on these FD Statements. In addition to the \$13,814.84 and \$10,000 that the Schweikert campaign entities paid Chartwell in “strategic consulting” fees in calendar years 2015 and 2016, the Schweikert campaign entities also reported paying Chartwell \$32,850.52 in 2016 and \$25,095.77 in 2015 in “strategic consulting/travel” fees.<sup>49</sup> This imprecise disbursement description leaves open the possibility that a considerable portion of these 2015 and 2016 payments represent consulting fees that are earned income to Mr. Schwab, in excess of the limit for these years. We urge the OCE to investigate these apparent violations of federal law and the House Rules and to take appropriate remedial action against Mr. Schwab.

### **C. Rep. Schweikert’s Chief of Staff made, and Rep. Schweikert accepted, illegal campaign contributions to Rep. Schweikert’s authorized committees**

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and Post-Employment Restrictions Applicable to House Officers and Employees” (January 5, 2016), available at <https://ethics.house.gov/sites/ethics.house.gov/files/Outside%20Earned%20Income%20Pink%20Sheet.pdf>.

<sup>43</sup> See 2014 Friends of David Schweikert Chartwell payments, *supra* note 15; 2014 Team Dave Chartwell payments, *supra* note 17; 2015 Friends of David Schweikert Chartwell payments, *supra* note 18; Schweikert Victory Committee Chartwell payments, *supra* note 18; 2016 Friends of David Schweikert Chartwell payments, *supra* note 19; 2016 Team Dave Chartwell payments, *supra* note 20.

<sup>44</sup> See 2015 House Documents, *supra* note 9.

<sup>45</sup> See 2016 House Documents, *supra* note 10.

<sup>46</sup> See 2014 House Documents, *supra* note 11.

<sup>47</sup> See Schwab FDs, *supra* note 21.

<sup>48</sup> See Wegmann, *supra* note 12.

<sup>49</sup> See 2015 Friends of David Schweikert Chartwell payments, *supra* note 17; Schweikert Victory Committee Chartwell payments, *supra* note 18; 2016 Friends of David Schweikert Chartwell payments, *supra* note 19; 2016 Team Dave Chartwell payments, *supra* note 20.

In creating the requirement that Representatives “behave...in a manner that...reflect[s] creditably on the House,”<sup>50</sup> the intent was to create a standard “that would have a deterrent effect against improper conduct” and would protect “the House collectively, its safety, dignity, and the integrity of its proceedings; and ... the rights, reputation, and conduct of Members individually, in their representative capacity.”<sup>51</sup> When a Member violates federal law or condones staff violations of federal law, the Member’s behavior does not reflect creditably on the House.

Federal law prohibits “an officer or employee of the United States ... to make any contribution ... to any Senator or Representative in ... Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution.”<sup>52</sup> In applying this law to the House of Representatives, the House Ethics Manual (“Ethics Manual”) explains that the ban is “absolute” as it applies to House employees and their employing Members.<sup>53</sup> The Ethics Manual clearly states that “even if the contribution was entirely unsolicited and the employee genuinely wishes to make the contribution,” they are still prohibited from doing so under federal law.<sup>54</sup> The Ethics Manual also advises staffers who work simultaneously in congressional and campaign offices to be familiar with the definition of “contribution” under federal law, to ensure that they do not violate this prohibition.<sup>55</sup>

FEC regulations define “contribution” as “gift, subscription, loan...advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”<sup>56</sup> Recognizing the breadth of this definition, the Ethics Manual explicitly states that “staff members should be aware that under FEC regulations, most outlays that an individual makes on behalf of a campaign are deemed to be a contribution to that campaign from that individual. *This is so even if it is intended that the campaign will reimburse the individual promptly.*”<sup>57</sup> The law also makes clear that a contribution to a committee authorized by a candidate “shall be considered a contribution to the individual who has authorized such committee.”<sup>58</sup>

In the facts at hand, FEC reports clearly demonstrate that three committees authorized by Rep. Schweikert – Friends of David Schweikert,<sup>59</sup> Schweikert Victory Committee,<sup>60</sup> and Schweikert for Congress<sup>61</sup> – reimbursed Mr. Schwab for expenditures he incurred on behalf of the

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<sup>50</sup> House Code of Official Conduct (currently codified at Rules of the House of Representatives 23, Clause 1).

<sup>51</sup> Final Committee on the Organization of Congress, Enforcement of Ethical Standards in Congress, FN 18 (Dec. 1993) (quoting H.R. Rep. No. 90-1176, 90th Cong., 2d Sess. (1968)), available at <http://archives.democrats.rules.house.gov/Archives/jcoc2.htm>.

<sup>52</sup> 18 U.S.C. § 603.

<sup>53</sup> House Ethics Manual, at 138.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* 138-39.

<sup>56</sup> 52 U.S.C. § 30101(8)(A)(i); see also 11 C.F.R. § 100.52.2(a).

<sup>57</sup> House Ethics Manual, at 139 (emphasis in original). The Ethics Manual explains that the one exception to this rule is for “outlays that an individual makes to cover expenses that he or she incurs in traveling on behalf of a campaign,” which does not apply to office supplies and does not necessarily apply to event food or beverages, as is the case here.

<sup>58</sup> 18 U.S.C. § 603(b).

<sup>59</sup> See Friends of David Schweikert Reimbursements, *supra* note 24.

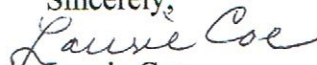
<sup>60</sup> See Schweikert Victory Committee Reimbursements, *supra* note 25.

<sup>61</sup> See Schweikert for Congress Reimbursements, *supra* note 26.

committees. These expenses represented in-kind contributions to Rep. Schweikert's authorized committees at the time Mr. Schwab paid them. The law draws a bright line; as Rep. Schweikert's congressional staffer, Mr. Schwab may not legally contribute to Rep. Schweikert's authorized committees. Yet the FEC reports show that Mr. Schwab flouted this rule on numerous occasions. Moreover, instead of refunding these illegal contributions, Rep. Schweikert's authorized committees allowed Mr. Schwab to continue paying for campaign expenses out of his own pocket, as evidenced by reimbursements spanning three calendar years. Such behavior on the part of Rep. Schweikert and Mr. Schwab represents a pattern of flagrant violations of federal law and House Rules, which undermines the integrity of the House.

The Committee should commence an immediate investigation into Representative Schweikert's conduct and actions as well as the conduct and actions of his Chief of Staff, Oliver Schwab.

Sincerely,



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