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U.S. House of Representatives

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MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Standards of Official Conduct
Stephanie Tubbs Jones, Chairwoman
Doc Hastings, Ranking Republican Member

SUBJECT: Paid Employment of Family Members by Member-controlled
Campaign Organizations

The purpose of the memorandum is to ensure that House Members are familiar with existing rules and standards regarding the personal use of campaign funds, as well as to provide additional guidance and direction to House Members who employ or intend to employ members of their families for compensation in campaign organizations.

Summary of Rules Regarding the Personal Use of Campaign Funds

Clause 6 of House Rule 23 (the House Code of Official Conduct) restricts Members' use of campaign funds. The rule states that:

A Member, Delegate, or Resident Commissioner—

- (a) shall keep his campaign funds separate from his personal funds;
- (b) may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures; and
- (c) except as provided in clause 1(b) of rule XXIV [regarding the use of campaign funds for official purposes], may not expend funds from his campaign account that are not attributable to bona fide campaign or political purposes.

Additional House rules are implicated by a Member's failure to comply with the above provision of the Code of Official Conduct, including Clause 1 of House Rule 23 (requiring that Members conduct themselves "at all times in a manner that shall reflect creditably on the House") and Clause 2 of House Rule 23 (obligating Members to adhere to not only the letter, but also the spirit of House rules). In addition, laws and regulations

under the enforcement jurisdiction of the Federal Election Commission place additional restrictions on the use of campaign funds.¹ As emphasized in the 2008 edition of the *House Ethics Manual*, Clause 6 of House Rule 23 requires that campaign outlays by a Member not only be “legitimate,” but “verifiable.”² *Id.* at 170. The verification requirements under House rules are separate from, and in addition to recordkeeping requirements imposed by the FEC. *Id.* at 165.

Guidance and Recommendations

While the employment of family members by a Member’s campaign organization is not prohibited under Clause 6 of House Rule 23, such employment arrangements should be entered into with caution and in accordance with House rules and the guidance herein. Compensation paid to a family member that exceeds fair market value may be considered “personal use,” and may constitute a violation of the House rules described above.³ This guidance applies when family members are either employees or contractors of a Member’s principal campaign committee, as well as when they are employed or contracted by any other campaign organization under the Member’s control, including so-called “leadership” committees.

A Member’s campaign organization must be able to verify and demonstrate that compensation to family members is reasonable for the work performed. The Committee recommends that the Member’s campaign maintain employment records, agreements, or other documentation that clearly describes the type of work and the position for which a family member is being hired, the rate of compensation, and the method and basis used for determining the rate of compensation. Additional records should verify that compensation corresponds to actual work performed.

In circumstances when a Member’s campaign hires a family member as a vendor to perform specific services for a campaign, such as fundraising, consulting, polling, etc., particular care should be taken to maintain a written agreement and other records verifying that the amount paid to the family member rendering services as a vendor is for “bona fide” services provided to the campaign at a rate not exceeding the fair market value for such services obtainable from other vendors.

¹ The Federal Election Campaign Act prohibits expressly the conversion of campaign funds to personal use. *See* 2 U.S.C. § 439a(b)(1). Preventing the personal use of campaign funds in either a direct or indirect manner also has been a concern of the FEC as reflected in advisory opinions addressing expenditures by campaign committees to organizations in which the candidate or members of his family play leadership roles. *See, e.g.*, FEC Advisory Opinion 1999-1 and FEC Advisory Opinion 1994-8.

² “Absent a requirement for verification, the prohibition against converting campaign funds to personal use would be nullified in part,” and “[f]urthermore, the verification requirement should serve to cause Members and their campaign staffs to exercise caution in spending campaign funds, and to ensure that no outlay is for an impermissible personal purpose.” *2008 House Ethics Manual* at 164-165.

³ Such compensation may also violate FEC regulations that define the personal use of campaign funds to include “[s]alary payments made to a member of a candidate’s family, unless the family member is providing *bona fide* services to the campaign.” 11 C.F.R. § 113.1(g)(1)(i)(H) (emphasis added). The regulation further provides that “[i]f a family member provides bona fide services to the campaign, any salary payment in excess of fair market value of the services provided is personal use.” *Id.*

Moreover, if compensation for such services is calculated or paid based on a percentage of campaign funds raised, such an arrangement should be clearly described in a written agreement or other record to verify the employed family member's compensation. Nonetheless, as in all matters, Members should at all times conduct themselves in a manner that reflects creditably on the House.

Members should avoid the appearance of a personal financial gain resulting from compensation paid to a family member for campaign services.

The Committee is available to provide guidance to any Members with questions about the propriety of proposed compensation arrangements between a member of their family and a campaign organization under that Member's control. Any questions on these matters should be directed to the Committee's Office of Advice and Education at (202) 225-7103.