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## SECOND QUARTER 2011 REPORT

April 2011 – June 2011

### I. INTRODUCTION

The Office of Congressional Ethics (“OCE”) is an independent, non-partisan entity charged with reviewing allegations of misconduct against Members, Officers and staff of the House and, when appropriate, referring matters to the Committee on Ethics (“Committee”). In all but one set of circumstances, the report and findings of the OCE Board included in a referral to the Committee must be publicly released.

The mission of the OCE and its Board is to assist the United States House of Representatives in upholding high standards of ethical conduct for its Members, Officers and staff and, in so doing, to serve the American people.

The following is a report of the OCE’s work in the second quarter of 2011.

### II. SUBMISSIONS

Any member of the public may bring a matter of suspected misconduct involving a Member, Officer or staff of the House to the attention of the OCE. Approximately 65 private citizens have contacted the OCE in the April through June 2011 period. These contacts were of two types: (1) requests for information on the OCE and its procedures and (2) allegations of misconduct. Staff or any Board member may also submit information regarding an alleged violation for consideration by the Board. The OCE requests all submissions of information be made in writing.

### III. BOARD ACTIONS

The OCE’s investigations have two stages: (1) a preliminary review, which must be completed in 30 days and (2) a second-phase review, which must be completed in 45 days, with the option of a 14-day extension. Two Board members (one appointed by the Speaker of the House and one appointed by the Minority Leader) may authorize a preliminary review if all available information provides a *reasonable basis* to believe that a violation may have occurred.

Three Board members may authorize a second-phase review if all available information provides *probable cause* to believe a violation may have occurred.

A decision to undertake a preliminary review or second-phase review should not be misconstrued. Historically, the majority of reviews have resulted in termination or dismissal of the matter.

At the end of any second-phase review, the Board must recommend to the Committee on Ethics either that the matter warrants further review by the Committee or that the Committee should dismiss the matter. A recommendation for further review does not constitute a determination that a violation occurred. Similarly, a recommendation for dismissal does not constitute a determination that a violation did not occur, but only that the information available to OCE does not provide a substantial reason to believe a violation occurred; *substantial reason* is the standard of proof required under OCE Rules to refer a matter to the Committee for further review. The OCE is not authorized to sanction Members, officers or employees of the House or to recommend any sanctions. The Committee has the exclusive authority to determine if a violation has occurred and, if so, what sanction may be in order.

When it makes its recommendation, the OCE Board may also transmit to the Committee on Ethics findings that include, among other things, findings of fact and citations to laws, rules or regulations that may have been violated. A chart depicting the OCE's review process is available on the OCE website at <http://oce.house.gov>.

The following is a statistical summary of the Board's actions in the second quarter of 2011.

| <b>Type of Action</b><br><b>Date</b>       | <b>Commence Preliminary Review</b> | <b>Vote to Terminate Matter</b> | <b>Commence Phase II Review</b> | <b>Commence Phase II Review Extension</b> | <b>Transmit Referral for Review</b> | <b>Transmit Referral for Dismissal</b> |
|--|------------------------------------|---------------------------------|---------------------------------|---|-------------------------------------|--|
| April 10                                   | 0                                  | 0                               | 0                               | 2   | 0                                   | 0                                      |
| May 2                                      | 1                                  | 0                               | 0                               | 0   | 0                                   | 0                                      |
| May 18                                     | 0                                  | 0                               | 0                               | 0   | 4                                   | 1                                      |
| Jun 2                                      | 0                                  | 0                               | 1                               | 0   | 0                                   | 0                                      |
| Jun 23                                     | 6                                  | 0                               | 0                               | 0   | 0                                   | 0                                      |
| <b>Total for Quarter</b>                   | <b>7</b>                           | <b>0</b>                        | <b>1</b>                        | <b>2</b>                                  | <b>4</b>                            | <b>1</b>                               |
| <b>Total for 112<sup>th</sup> Congress</b> | <b>13</b>                          | <b>1</b>                        | <b>6</b>                        | <b>2</b>                                  | <b>4</b>                            | <b>1</b>                               |

#### IV. SCHEDULE OF PUBLIC RELEASE OF OCE REPORTS AND FINDINGS

The OCE transmitted 26 matters to the Committee on Ethics for further review since it was established. The OCE's reports and findings in those matters must be made public according to the schedule contained in House Resolution 895 of the 110<sup>th</sup> Congress, as amended.

A chart depicting this schedule for public disclosure of OCE reports is available on the OCE website at <http://oce.house.gov>. The following is a summary of the various matters pending release that the OCE has referred to the Committee on Ethics.

| Review No. | Status  | Release Date  |
|------------|---|---|
| 09-9812    | On November 15, 2010, the Committee on Ethics announced that the U.S. Department of Justice requested that the Committee continue to defer consideration of this matter and the Committee voted to do so. | The Committee on Ethics must announce if the continued deferral exceeds 1 year  |
| 11-1048    | On July 1, 2011, the Chair and Ranking of the Committee on Ethics announced that the Committee is taking an additional 45 days to consider the matter.  | By August 16, 2011, the Committee on Ethics must release the OCE report or make a public announcement that (1) the Committee has voted to empanel an investigative subcommittee or (2) the Department of Justice has asked the Committee to defer and the Committee has voted to defer. |
| 11-4518    |   |   |
| 11-6574    |   |   |
| 11-7238    |   |   |

#### V. STAFFING UPDATE

During the second quarter 2011, the OCE hired Scott Gast as an investigative counsel. Previously, Mr. Gast was an attorney at the law firm Covington & Burling LLP, where his practice focused on political law and white collar criminal defense and investigations. He advised clients on compliance with government ethics, campaign finance, and lobbying regulations, and represented clients in investigations conducted by numerous government agencies, including the Department of Justice's Public Integrity Section, the Federal Election Commission, and the congressional ethics committees. Mr. Gast is a graduate from the University of Michigan and the University of Virginia School of Law, where he was a member of the Virginia Law Review.