

REP. CHARLES RANGEL

Representative Charles Rangel (D-NY) is a 15th-term member of the House of Representatives representing New York's 15th district. Rep. Rangel's ethics issues stem from leasing rent controlled apartments, improperly using congressional stationary and failing to report rental income from a vacation property.

Improper Rental Arrangement

Rep. Rangel rented three adjacent apartments at Lenox Terrace, an apartment building in New York City owned by the Olnick Organization, which he uses as his residence.¹ Rep. Rangel paid a total monthly rent of \$3,264 for the three units: \$1,329 for a two bedroom unit, \$1,329 for a one-bedroom unit, and \$606 for a studio.² For new tenants, such apartments would rent for approximately \$2,600, \$1,865, and \$1,300, respectively, for a total of \$5,765.³ In addition, Rep. Rangel's campaign committee and political action committee jointly rented another one-bedroom apartment in the building for office use at a cost of \$630 a month.⁴

Rent-stabilized apartments are common in New York, but under state and city rent regulations, tenants can continue renewing leases in such apartments only as long as the apartments are used as their primary residences.⁵ Landlords routinely require tenants who have more than one rent-stabilized apartments to give up additional units.⁶

After public outcry following news reports of Rep. Rangel's rental agreements, Rep. Rangel decided to move the campaign committee and political action committee out of the Lenox Terrace apartment.⁷ He insists, however, that his arrangement as to the other three apartments is fair and legal.⁸

¹ David Kocieniewski, For Rangel, Four Rent-Stabilized Apartments, *New York Times*, July 11, 2008 (Exhibit 1).

² Id.

³ Id.

⁴ Id.

⁵ Kocieniewski, *New York Times*, Jul. 11, 2008.

⁶ Id.

⁷ Raymond Hernandez and David Kocieniewski, Rangel to Relinquish Apartment Used as Office, *New York Times*, July 15, 2008 (Exhibit 2).

⁸ David Kocieniewski, Rangel Calls Rent Bargain Legal and Fair, *New York Times*, July 12, 2008 (Exhibit 3).

Violation of Federal Election Law

Renting a rent-stabilized apartment for use as an office by campaign and political action committees raises federal election law issues because the committees did not pay fair market rent. The difference between the fair market value of the apartment, \$1,700,⁹ and the rent actually paid by Rep. Rangel's campaign committee and political action committee for the apartment, \$630, is approximately \$1,070 per month. Therefore, the \$1,070 might be considered an in-kind contribution made by the owners of Lenox Terrace, the Olnick Organization. Neither the campaign committee nor the political action committee reported receiving such in-kind contributions, in violation of 2 U.S.C. § 434(b)(3)(A). In addition, given that Rep. Rangel's campaign and political action committees rented the apartment at below market rates for many years, they likely received excessive in-kind contributions in violation of 2 U.S.C. § 441a(a)(1)(A). Finally, if the Olnick Organization is a corporation, the campaign and political action committees may have received illegal corporation contributions in violation of 2 U.S.C. § 441b.

The National Legal and Policy Center filed a complaint with the Federal Election Commission regarding this matter¹⁰ and, Rep. Rangel himself sent a letter to the Federal Election Commission asking for a review of this matter.¹¹

Gift Rule Violation

Rule 25, clause 5(1)(A)(I) of the House rules states that "a Member, Delegate, Resident Commissioner, officer, or employee of the House may not knowingly accept a gift except as provided in this clause."¹² The rules define "gift" to mean "a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred."¹³

⁹ Hernandez and Kocieniewski, *New York Times*, Jul. 15, 2008.

¹⁰ Complaint filed by National Legal and Policy Center, July 14, 2008 (Exhibit 4).

¹¹ Letter from Rep. Charles B. Rangel to Donald McGahn, Chairman, Federal Election Commission, July 21, 2008 (Exhibit 5).

¹² Rules of the House of Representatives, 110th Congress, p. 41.

¹³ House Rule 25, clause 5 (a)(2)(A).

Rep. Rangel has pointed out that two of the three apartments he leases as a primary residence were combined before he occupied them in 1988.¹⁴ The third, however, is an entirely separate unit adjacent to the others, which Rep. Rangel has rented -- presumably under a separate lease -- since approximately 1998.¹⁵ Rep. Rangel has rented the fourth apartment since 1996 for use as a campaign office, but states that he has always paid the maximum lawful rent and that the landlord has never petitioned the State of New York for a higher rent nor asked the congressman to vacate the apartment.¹⁶

Rep. Rangel's renting four apartments at below-market rates raise several questions. First, while New York law permits an individual to rent a single rent-stabilized apartment as long as that apartment is the person's primary residence, it is not clear that the law permits an individual to rent several such apartments and, by combining them, claim all as a primary residence. Moreover, even if the law is unclear on this point if, in fact, it is not the custom of the Olnick Organization to permit such rental agreements but it has made an exception for Rep. Rangel, this would violate the House gifts rule because Rep. Rangel has received a benefit not available to the general public. Finally, the difference between what Rep. Rangel has paid in rent and the fair market value of the apartments might constitute a gift. By paying \$3,894 monthly in 2007 for the four apartments, when the current market rate is between \$7,465 and \$8,125,¹⁷ in 2007 alone, Rep. Rangel may have received a gift of between \$3,571 and \$4,231 each month.

Because lodging clearly falls within the House's definition of "gift," by failing to pay fair-market rent on apartments, Rep. Rangel may have violated the House gifts rule.

Improper Use of Congressional Stationary

Beginning in 2005, Rep. Rangel solicited funds for the Charles B. Rangel Center for Public Service at the City College of New York using his official congressional letterhead.¹⁸ Rep. Rangel confirmed that he sent at least 150 letters on the stationary to individuals and

¹⁴ Letter from Rep. Charles B. Rangel to Stephanie Tubbs Jones, Chair, Committee on Standards of Official Conduct, July 24, 2008 (Exhibit 6).

¹⁵ Id.

¹⁶ Id.

¹⁷ Kocieniewski, *New York Times*, Jul. 11, 2008. Excluding the apartment rented to the campaign and political action committees for \$630 per month, Rep. Rangel's rent drops to \$3,264 per month, which would still constitutes a savings of between \$2,501 and \$3,161.

¹⁸ Christopher Lee, Rangel's Pet Cause Bears His Own Name, *Washington Post*, July 15, 2008 (Exhibit 7).

foundations asking for support for the center.¹⁹ Officials at the City College acknowledge that Rep. Rangel has assisted them in raising funds for the center.²⁰

Unauthorized Use of Letterhead

House Rule 23, clause 11 provides that

A Member . . . may not authorize or otherwise allow an individual, group, or organization not under the direction and control of the House to use the words “Congress of the United States,” “House of Representatives,” or “official business,” or any combination of words thereof, on any letterhead or envelope.²¹

The primary purpose of this clause is to prohibit members from allowing outside organizations to use congressional stationery to solicit contributions in a direct mail appeal because the use of letterhead conveys the impression that the solicitation is endorsed by the Congress.²² The rule prohibits the use of congressional letterhead for any mailing paid for with non-appropriated funds.²³

In a letter to the House ethics committee, Rep. Rangel has claimed that because none of the letters he sent on behalf of City College expressly solicited funds, but rather sought meetings to discuss funding of the Rangel Center, they did not violate rule 23, clause 11.²⁴ The advisory opinion specifically states, however, “it would be a violation of the spirit of that rule if a Member authorized a non-House group to use letterhead that did not contain the words prohibited by clause 11, but which was designed to convey the impression that it is an official communication from Congress.”²⁵

Because Rep. Rangel sent letters on behalf of the Rangel Center at City College of New York on official letterhead – whether or not those letters include overt solicitations of funds – the

¹⁹ Id.

²⁰ Christopher Lee, Rangel Acknowledges Seeking Gifts, *Washington Post*, July 24, 2008 (Exhibit 8).

²¹ Committee on Standards of Official Conduct, Advisory Opinion No. 5, House Ethics Manual, p. 372.

²² Id.

²³ Id.

²⁴ Letter from Rep. Charles B. Rangel to Stephanie Tubbs Jones, Chair, House Committee on Standards of Official Conduct, July 22, 2008 (Exhibit 9).

²⁵ Advisory Opinion No. 5.

letters appear to be official communications from Congress and as such, violate rule 23, clause 11.

On July 31, 2008, the ethics committee announced that, based on Rep. Rangel's requests, the House ethics committee would review both Rep. Rangel's rental arrangements and his use of congressional letterhead on behalf of the Rangel Center.²⁶

Dominican Republic Villa

Rep. Rangel owns a beachfront villa on a Dominican Republic resort.²⁷ The three bedroom villa rents for between \$500 and \$1,100 a night.²⁸ Typically, owners of these villas receive 80% of the rental income.²⁹ Although a reservations manager at the resort told a reporter that Rep. Rangel's villa is generally booked solid in the high season of December 15 through April 15,³⁰ Rep. Rangel did not declare any rental income on his personal financial disclosure forms for the calendar years 2006 and 2007,³¹ nor for the years 1996 through 2000.³² He did, however, declare rental income on some financial disclosure reports.³³

Although when first questioned by the media, Rep. Rangel stated that he did not receive any rental income on the property in 2006 or 2007,³⁴ after reviewing the matter further, Rep.

²⁶ Statement of the Chairwoman and Ranking Member of the Committee on Standards of Official Conduct, July 31, 2008 (Exhibit 10).

²⁷ Rep. Charles Rangel, Financial Disclosure Statement for Calendar Year 2007, filed May 14, 2008, p. 3 (Exhibit 11).

²⁸ Isabel Vincent and Susan Edelman, Tricky Charlie's Carib 'Hideaway', *New York Post*, August 31, 2008 (Exhibit 12).

²⁹ Id.

³⁰ Id.

³¹ See Rep. Charles Rangel, Financial Disclosure Statement for Calendar Year 2007, filed May 14, 2008, p. 3; Rep. Charles Rangel, Financial Disclosure Statement for Calendar Year 2006, filed June 15, 2007, p. 2 (Exhibit 13).

³² David Kocieniewski, House Chairman Failed to Report \$75,000 in Income, *New York Times*, September 5, 2008 (Exhibit 14).

³³ See i.e., Rep. Charles Rangel, Financial Disclosure Statement for Calendar Year 2005, filed May 12, 2006, p. 2; Rep. Charles Rangel, Financial Disclosure Statement for Calendar Year 2004, filed June 15, 2005, p. 2; Rep. Charles Rangel, Financial Disclosure Statement for Calendar Year 2003, filed May 13, 2004, p. 2 (Exhibit 15).

³⁴ Vincent and Edelman, *New York Post*, Aug. 31, 2008.

Rangel's lawyer reported that since 1988, Rep. Rangel has earned over \$75,000 in rental income from the property.³⁵ Records indicate that Rep. Rangel's rental profits varied from year to year and, according to the congressman's lawyer, the money was never sent to the Rangels directly, but was used to pay the mortgage and other costs related to the property.³⁶ Rep. Rangel has asked his accountant to review all the records relating to the villa and, pursuant to the accountant's recommendations, will likely file amendments to his tax returns and personal financial disclosure forms.

In 1988, when Rep. Rangel purchased the villa for \$82,750, a mortgage loan was extended to him by the company developing the resort.³⁷ The loan was to be paid back over seven years at a rate of 10.5%, but in 1990 the interest was waived for seven early investors including Rep. Rangel because the resort was generating less income than projected.³⁸ The loan remained interest-free until Rep. Rangel paid it off in 2003,³⁹ but Rep. Rangel has claimed he was unaware that he was not paying interest on the mortgage.⁴⁰

Improper Reporting on Personal Financial Disclosure Forms

Federal law prohibits members of Congress from making "any materially false, fictitious, or fraudulent statement or representation"⁴¹ on "a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch."⁴² In addition, members of Congress must disclose all rental property.⁴³ The instruction booklet accompanying the House financial disclosure forms requires disclosure of "unearned" income, which "consists of rents, royalties, dividends, interest, capital gains, and similar amounts received as a return on investment." The instructions continue, filers "must disclose . . . real and

³⁵ Kocieniewski, *New York Times*, Sept. 5, 2008.

³⁶ Id.

³⁷ David Kocieniewski and David M. Halbfinger, Interest Was Waived for Rangel on Loan for Villa, *New York Times*, September 6, 2008.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹ 18 U.S.C. § 1001(a)(2).

⁴² Id. at § 1001(c)(2).

⁴³ 5 U.S.C. app. 4 § 101(a)(1)(B).

personal property held for investment or production of income and valued at more than \$1,000 at the close of the reporting period.”⁴⁴

Because Rep. Rangel has earned over \$75,000 in rental income from the Dominican Republic property, but failed to report all of that income on his personal financial disclosure forms, the Committee on Standards of Official Conduct should require Rep. Rangel to amend his reports and, if Rep. Rangel’s misstatements appear intentional rather than accidental, take appropriate disciplinary action.

Gifts Rule Violation

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Rule 25, clause 5(a)(3)(R)(v) allows Members, officers, and employees to accept opportunities and benefits that are available to a wide group, specifically providing that they may accept “loans from banks and other financial institutions on terms generally available to the public.”⁴⁷

If Rep. Rangel was treated the same as all other early investors in the Punta Cana resort, there is no violation of the gifts rule. If, however, the interest on Rep. Rangel’s loan to purchase the villa was waived because he was a member of Congress, he may have received an improper gift in violation of House rules.

⁴⁴ House Comm. On Standards of Official Conduct, *Assets and Unearned Income, Financial Disclosure Instruction Booklet*.

⁴⁵ Rules of the House of Representatives, 110th Congress, p. 41.

⁴⁶ House Rule 25, clause 5 (a)(2)(A).

⁴⁷ House Rules, p. 42.