

REPRESENTATIVE CHARLES RANGEL

Representative Charles Rangel (D-NY) is a twenty-term member of the House of Representatives representing New York's 15th district. Rep. Rangel's ethics issues stem from (1) leasing rent controlled apartments; (2) improperly using congressional stationary; (3) failing to report rental income from a vacation property and; (4) trading legislative assistance for contributions to the Rangel Center at City College. Rep. Rangel was included in CREW's 2008 congressional corruption report.

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 insisted, however, that his arrangement as to the other three apartments was fair and legal.⁸

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

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*, July 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).

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 (FEC) regarding this matter¹⁰ and, Rep. Rangel himself sent a letter to the FEC asking for an opinion on its legality.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

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 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

⁹ Hernandez and Kocieniewski, *New York Times*, July 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).

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

¹⁵ Id.

¹⁶ Id.

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 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 stationary to solicit contributions in a direct mail appeal because the use of letterhead conveys the impression that the solicitation is endorsed by the

¹⁷ Kocieniewski, *New York Times*, July 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 constitute 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).

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.

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 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 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

²² Id.

²³ Id.

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

²⁵ Committee on Standards of Official Conduct, Advisory Opinion No. 5.

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 (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.

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. Rangel's lawyer reported that since 1988, Rep. Rangel has earned over \$75,000 in rental income from the property.³⁵ Records indicate 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.³⁷

In 1988, when Rep. Rangel purchased the villa for \$82,750, a mortgage loan was extended to him by the company developing the resort.³⁸ 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.³⁹ The loan remained interest-free until Rep. Rangel paid it off in 2003, 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

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

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

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

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

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

³⁶ Id.

³⁷ Id.

³⁸ David Kocieniewski and David M. Halbfinger, Interest Was Waived for Rangel on Loan for Villa, *New York Times*, September 6, 2008 (Exhibit 16).

³⁹ Id.

⁴⁰ Id.

⁴¹ 18 U.S.C. § 1001(a)(2).

⁴² Id. at § 1001(c)(2).

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 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

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.”⁴⁵ 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.”⁴⁶

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.

⁴³ 5 U.S.C. app. 4 § 101(a)(1)(B).

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.

2009 UPDATE

Nabors Industries

Rep. Rangel apparently helped preserve a tax loophole benefitting Nabors Industries at the same time he was soliciting the company's chief executive for a donation to the Charles B. Rangel School of Public Service at the City College of New York.⁴⁸ In 2002, in response to a public uproar criticizing companies for moving overseas to avoid taxes there was a bi-partisan effort in Congress to prevent companies from taking advantage of tax loopholes.⁴⁹ As public criticism grew, Nabors Industries and three other companies rushed to open offices in the Caribbean to avoid paying millions of dollars in U.S. taxes.⁵⁰ Rep. Rangel joined the bi-partisan effort pushing for legislation to force the companies to pay more taxes and was an outspoken critic of the Bush administration for failing to take swift action against these companies.⁵¹

By October 2004, however, Nabors and three other companies had convinced a group of House Republicans to create a loophole, which would preserve their tax breaks.⁵² Rep. Rangel again opposed legislation favoring tax loopholes and pushed for legislation to make these companies pay more taxes.⁵³

On September 18, 2006, in an attempt to raise money for the Rangel Center, the congressman met with Manhattan District Attorney Robert M. Morgenthau, City College of New York President Gregory H. Williams and Nabors' Chief Executive Eugene M. Isenberg.⁵⁴ By the end of 2006, Mr. Isenberg had committed \$1 million to the school, the project's largest donation.⁵⁵

On February 1, 2007, after Democrats regained control of the House and Rep. Rangel was appointed Chairman of the House Committee on Ways and Means, the Senate overwhelmingly passed a bill that would end the loopholes Nabors was exploiting.⁵⁶ By this time, however, Rep. Rangel had changed his position and was firmly opposed to closing the tax loophole benefitting Nabors.⁵⁷ A week later, while Rep. Rangel was floating a counter proposal that would leave the Nabors' tax loophole intact, Mr. Isenberg wrote a \$100,000 check to City

⁴⁸ David Kocieniewski, The Congressman, the Donor and the Tax Break, *New York Times*, November 25, 2008 (Exhibit 17).

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Kocieniewski, *New York Times*, Nov. 25, 2008.

⁵³ Id.

⁵⁴ Id.

⁵⁵ Kocieniewski, *New York Times*, Nov. 25, 2008.

⁵⁶ Id.

⁵⁷ Id.

College.⁵⁸ On the day of the House bill's mark-up, February 12, 2007, Rep. Rangel met with both Mr. Isenberg to discuss his continued support for the Rangel Center, and with a Nabors' lobbyist to discuss the tax loophole.⁵⁹ Eleven days later, City College cashed Mr. Isenberg's \$100,000 check.⁶⁰ By late April 2007, Rep. Rangel had killed the provision, preserving the tax loophole and saving Nabors tens of millions of dollars annually and an estimated \$1.1 billion in revenues over a decade.⁶¹ Rep. Rangel claimed that Mr. Isenberg's donation played no role in his decision to protect the company or other tax dodgers.⁶²

Acceptance of a Bribe

Federal law prohibits public officials from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to receive or accept anything of value in return for being influenced in the performance of an official act.⁶³ It is well-settled that accepting a contribution to a political campaign can constitute a bribe if a *quid pro quo* can be demonstrated.⁶⁴

If Rep. Rangel accepted a contribution to the Rangel Center, in direct exchange for legislative assistance to Nabors Industries, he may have violated the bribery statute.

Honest Services Fraud

Federal law prohibits a member of Congress from depriving his constituents, the House of Representatives, and the United States of the right of honest service, including conscientious, loyal, faithful, disinterested, unbiased service, performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud and corruption.⁶⁵ By using his position as a member of Congress to offer legislative assistance to Nabors Industries in exchange for contributions for the Rangel Center, Rep. Rangel may have deprived his constituents, the House of Representatives, and the United States of his honest services in violation of 18 U.S.C. §§ 1341, 1346.

Illegal Gratuity

The illegal gratuity statute prohibits a public official from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to accept anything of value personally for

⁵⁸ Id.

⁵⁹ Kocieniewski, *New York Times*, Nov. 25, 2008.

⁶⁰ Id.

⁶¹ Id.

⁶² Id.

⁶³ 18 U.S.C. § 201(b)(2)(A).

⁶⁴ McCormick v. U.S., 500 U.S. 257, 273 (1991); United States v. Biaggi, 909 F.2d 662, 605 (2d Cir. 1990), *cert. denied*, 499 U.S. 904 (1991).

⁶⁵ *See Information, United States v. Jack A. Abramoff*, CA 1:06-cr-00001(D.D.C. Jan. 3, 2006), ¶ 26.

or because of any official act performed or to be performed by such official.⁶⁶ In considering this statute, the Supreme Court has held that a link must be established between the gratuity and a specific action taken by or to be taken by the government official.⁶⁷

If a link is established between Rep. Rangel's actions to preserve a tax loophole for Nabors Industries and the contribution for the Rangel Center, Rep. Rangel may be in violation of the illegal gratuity statute.

In addition, the Committee on Standards of Official Conduct has used the acceptance of bribes and gratuities under these statutes as a basis for disciplinary proceedings and punishment of Members, including expulsion.⁶⁸

5 U.S.C. § 7353 and House Rules

A provision of the Ethics Reform Act of 1989, 5 U.S.C. § 7353, prohibits members of the House, officers, and employees from asking for anything of value from a broad range of people, including "anyone who seeks official action from the House, does business with the House, or has interests which may be substantially affected by the performance of official duties."⁶⁹ House Rule 23, clause 3, similarly provides:

A Member, Delegate, Resident Commissioner, or employee of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

If Rep. Rangel accepted contributions to the Rangel Center in return for preserving a tax loophole for Nabors Industries, he likely violated 5 U.S.C. § 7353 and House Rule 23.

5 C.F.R. § 2635.702(a)

Members of the House are prohibited from "taking any official actions for the prospect of personal gain for themselves or anyone else."⁷⁰ House Members are directed to adhere to 5

⁶⁶ 18 U.S.C. § 201(c)(1)(B).

⁶⁷ *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398 (1999).

⁶⁸ *In the Matter of Representative Mario Biaggi*, H.R. Rep. No. 100-506, 100th Cong., 2d Sess. (1988) (recommending expulsion of the Member from the House); *In the Matter of Representative Daniel J. Flood*, H.R. Rep. No. 96-856, 96th Cong., 2d Sess. (1980).

⁶⁹ See House Comm. on Standards of Official Conduct, "Memorandum For All Members, Officers and Employees," Rules Governing (1) Solicitation by Members, Officers and Employees in General, and (2) Political Fundraising Activity in House Offices, April 25, 1997.

⁷⁰ House Comm. on Standards of Official Conduct, "Memorandum For All Members, Officers and Employees," Prohibition Against Linking Official Actions to Partisan or Political Considerations, or Personal Gain, May 11, 1999.

C.F.R. § 2635.702(a), issued by the U.S. Office of Government Ethics for the Executive Branch, which provides:

An employee shall not use or permit use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person ... to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

The Code of Ethics also provides that government officials should “[n]ever discriminate unfairly by the dispensing of special favors or privileges to anyone whether for remuneration or not.”⁷¹

By preserving a tax loophole for Nabors Industries to persuade Mr. Isenberg to make a substantial contribution to the Rangel Center, Rep. Rangel may have violated 5 C.F.R. § 2635.702(a).

Conduct Not Reflecting Creditably on the House

Rule 23 of the House Ethics Manual requires all members of the House to conduct themselves “at all times in a manner that reflects creditably on the House.”⁷² This ethics standard is considered to be “the most comprehensive provision” of the Code.⁷³ When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted that it was included within the Code to deal with “flagrant” violations of the law that reflect on “Congress as a whole,” and that might otherwise go unpunished.⁷⁴

This rule has been relied on by the Ethics Committee in numerous prior cases in which the Committee found unethical conduct including: the failure to report campaign contributions,⁷⁵ making false statements to the Committee,⁷⁶ criminal convictions for bribery,⁷⁷ or accepting

⁷¹ Id.

⁷² Rule 23, cl. 1.

⁷³ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 12.

⁷⁴ House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

⁷⁵ House Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rep. No. 95-1742, 95th Cong., 2d Sess. 2-3 (1978) (Count 1); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978).

⁷⁶ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); H. Rep. No. 95-1743 (Counts 3-4).

⁷⁷ House Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H. Rep. No. 96-1387, 96th Cong., 2d Sess. 2, 5 (1980); see 126 Cong. Rec. 28953-78 (Oct. 2, 1980) (debate and vote of expulsion); *In the Matter of Representative John W. Jenrette, Jr.*, H. Rep. No. 96-1537, 96th Cong., 2d Sess. 4 (1980) (Member resigned); *In the Matter of Representative Raymond F. Lederer*, H. Rep. No. 97-110, 97th Cong., 1st Sess. 4, 16-17 (1981) (Member resigned after Committee recommended expulsion). In another case, the

illegal gratuities,⁷⁸ and accepting gifts from persons with interest in legislation in violation of the gift rule.⁷⁹

By using his position as chairman of the Ways and Means Committee to preserve a tax loophole that he had previously opposed in apparent exchange for a substantial contribution to the Rangel Center at City College of New York, Rep. Rangel acted in a manner that does not reflect creditably on the House.

Caribbean Trip

The House Ethics Committee is reviewing a trip Rep. Rangel and four other members took to the Caribbean island of St. Maarten from November 6-9, 2008 to attend a conference supposedly sponsored by the Carib News Foundation.⁸⁰ The Carib News Foundation is a non-profit organization affiliated with a newspaper for Caribbean immigrants living in New York City.⁸¹ Rep. Rangel reported the cost of trip as \$990 and that it was paid for by Carib News Foundation.⁸²

Peter Flaherty, the president of National Legal and Policy Center, also traveled to St. Maarten for the event and found evidence the trip was paid for by corporations including Citigroup, IBM, AT&T, Verizon, Pfizer, Macy's and American Airlines.⁸³ Mr. Flaherty reported that the corporate sponsorship of the event was evident throughout the event and, in fact, at the evening session on November 6, Rep. Donald Payne (D-NJ) identified each corporate sponsor by name and asked for a round of applause, noting the conference "can't be done without sponsors."⁸⁴

In response to a request from the Committee on Standards of Official Conduct, Mr. Flaherty submitted the evidence he collected at the conference including photographs of corporate logos, transcripts and a program and a letter requesting the committee investigate the

Committee issued a Statement of Alleged Violation concerning bribery and perjury, but took no further action when the Member resigned (*In the Matter of Representative Daniel J. Flood*, H. Rep. No. 96-856, 96th Cong., 2d Sess. 4-16, 125-126 (1980)).

⁷⁸ House Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. No. 100-506, 100th Cong., 2d Sess. 7, 9 (1988) (Member resigned while expulsion resolution was pending).

⁷⁹ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 96-930, 96th Cong. 2d Sess. 4-5 (1980); see 126 Cong. Rec. 13801-20 (June 10, 1980) (debate and vote of censure).

⁸⁰ Press Release, Committee on Standards and Official Conduct, Statement of the Chair and Ranking Member, June 24, 2009. (Exhibit 18); National Legal and Policy Center Letter to Committee on Standards of Official Conduct, May 29, 2009 (*hereinafter* "National Legal and Policy Center Letter") (Exhibit 19); Member/Officer Travel Disclosure Form, filed by Rep. Rangel, November 24, 2008 (Rep. Rangel's travel disclosure form indicates he arrived at the conference on November 7, not the 6th) (Exhibit 20).

⁸¹ Susan Crabtree, Caribbean Trip Under Scrutiny By House Panel, *The Hill*, June 1, 2009 (Exhibit 21).

⁸² Member/Officer Travel Disclosure Form, filed by Rep. Rangel, November 24, 2008.

⁸³ National Legal and Policy Center Letter.

⁸⁴ Id.

trip.⁸⁵ In the letter Mr. Flaherty stated. “My characterization of the trip as a ‘junket’ is based on my observation that the sessions were lightly attended. Most attendees spent significant time at the beach or the pool. Members of Congress attended the sessions when they had a speaking role.”⁸⁶

Travel Rule Violation

Under travel rules revised in the 110th Congress, members of Congress and staff may only accept necessary travel expenses to attend a one-day event, with a single night’s lodging and meals when the trip is paid for by a private sponsor that retains or employs registered lobbyists.⁸⁷ In addition, the subject matter of the trip must be related to the official duties of the participating member of Congress.⁸⁸ “Events, the activities of which are substantially recreational in nature, are not considered to be in connection with the duties of the individual as an officeholder.”⁸⁹ Additionally, when a nonprofit pays for travel with donations earmarked for the trip, each such donor is considered a “private source” for the trip and must be disclosed as a trip sponsor and must be a proper source of travel expenses.⁹⁰ Expenses may not be accepted from a source that has merely donated monetary or other support to the trip but does not have a significant role in organizing and conducting the trip.⁹¹

Because corporations that employ lobbyists appear to have put up the money for the trip, because these corporations did not have a direct and immediate relationship with the trip and because the trip appears to have largely been recreational in nature, Rep. Rangel likely violated House travel rules by accepting expenses for the trip.

Tax Issues and Financial Disclosures

In September 2008, Rep. Charles Rangel paid \$10,800 in back taxes for his 2004, 2005 and 2006 returns related to the unreported rental income he earned from his Dominican Republic beach house.⁹²

On November 13, 2008, Rep. Rangel hired the forensic accounting firm Watkins, Meegan, Drury & Company LLC to review his tax returns and financial disclosures.⁹³ It is

⁸⁵ Id.

⁸⁶ Id.

⁸⁷ House Committee on Standards of Official Conduct, House Ethics Manual, p. 89.

⁸⁸ Id., p. 90; House Rule 25, clause 5(b)(1)(A).

⁸⁹ Id., p. 91.

⁹⁰ Id., p. 98.

⁹¹ House Ethics Manual, p. 97.

⁹² Devlin Barrett, Rep. Rangel Pays \$10K in Back Taxes, *Associated Press*, September 20, 2008 (Exhibit 22).

⁹³ David Kocieniewski, Rangel Hires Firm to Scour His Tax Returns for Errors, *New York Times*, November 14, 2008 (Exhibit 23).

unclear whether or not the firm was allowed to operate independently and turn over information to the House Ethics Committee or was to report to Rep. Rangel's legal defense team.⁹⁴

On February 4, 2009, the Sunlight Foundation reported Rep. Rangel had a history of failing to report asset transactions on his financial disclosure forms.⁹⁵ The lawmaker failed to report buying, owning or selling assets 28 times since 1978, when members first were required to disclose such information.⁹⁶ According to the report, "Assets worth between \$239,026 and \$831,000 appear or disappear with no disclosure of when they were acquired, how long they were held, or when they were sold, as the operative House rules at the time required."⁹⁷

The Sunlight Foundation also revealed that Rep. Rangel did not report receiving any royalties for his memoir, *And I Haven't Had a Bad Day Since*,⁹⁸ although the book is in its second printing.⁹⁹ Rep. Rangel's spokesperson, Emil Milne, claimed the congressman had not received any proceeds from the book.¹⁰⁰

On August 12, 2009, Rep. Rangel filed an amendment to 2007 personal financial disclosure form.¹⁰¹ The original report failed to disclose between \$512,009 and \$1.18 million in assets.¹⁰² The unreported assets included a Congressional Federal Credit Union checking account the balance of which was between \$250,000 and \$500,000.¹⁰³ Similarly, Rep. Rangel also failed to report between \$39,113 and \$117,800 in other income as well as two empty lots he owns in New Jersey.¹⁰⁴

Rep. Rangel also failed to report up to \$1.3 million in outside income on his financial disclosure forms for 2002-2006.¹⁰⁵ On his 2002 and 2003 forms, Rep. Rangel did not include any transactions, but in the amended forms, he listed transactions worth up to \$310,000 in 2002 and up to \$80,000 in 2003.¹⁰⁶ In 2004, the congressman failed to list up to \$430,000 in

⁹⁴ Id.

⁹⁵ <http://realtime.sunlightprojects.org/2009/02/04/ethics-panel-to-clear-rangel/> (Exhibit 24).

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Susan Crabtree, Rangel Faces Questions About Book Royalties, *The Hill*, February 5, 2009 (Exhibit 25).

¹⁰⁰ David Kocieniewski, Rangel's Financial Disclosures Omitted Data Over 30 Years, A Report Says, *New York Times*, February 5, 2009 (Exhibit 26).

¹⁰¹ Rep. Charles Rangel, Personal Financial Disclosure Statement For Calendar Year 2007, Filed August 12, 2009 (Exhibit 27); Rep. Charles Rangel, Personal Financial Disclosure Statement For Calendar Year 2007, Filed May 14, 2008 (*see* Exhibit 11).

¹⁰² Id.

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ Charles Hurt, Oops! Charlie Forgot This \$1M House, *New York Post*, August 28, 2009 (Exhibit 28).

¹⁰⁶ Id.

transactions.¹⁰⁷ He originally disclosed earning between \$4,000 and \$10,000 in outside income that year, but his amended filing to show his outside income was actually between \$118,000 and \$1.04 million.¹⁰⁸ Additionally, Rep. Rangel amended his financial disclosure forms to show in 2004 he earned between \$500,001 and \$1 million in capital gains and rents on a six-unit row house his wife Alma owned.¹⁰⁹ Rep. Rangel had previously failed to disclose rental income on the 74 W. 132nd Street property from 1993 through 2000, despite the fact that public records showed tenants were living there and paying rent.¹¹⁰ Both reports filed before and after that eight year period show widely inconsistent rental income.¹¹¹

Financial Disclosure Requirements

The Ethics in Government Act of 1967¹¹² requires all members of Congress to file financial disclosure reports. Under the statute, the Attorney General may seek a civil penalty of up to \$11,000 against any individual who knowingly and willfully falsifies or fails to file or report any information required by the Act.¹¹³ House Rule 26 incorporates the financial disclosure provisions of the Ethics in Government Act.¹¹⁴

The House Ethics Manual requires members to disclose income derived from property held for investment or the production of income such as real estate, stock, bonds, savings accounts and retirement accounts if the asset was worth more than \$1,000 or it generated income of more than \$200.¹¹⁵ The rules require the date, total purchase or sale price and description of any property bought or sold all be listed in Part IV of the financial disclosure form.¹¹⁶ All sales must be included on financial disclosure forms as transactions. The instruction booklet provides that filers must include:

A brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds \$1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.¹¹⁷

¹⁰⁷ Id.

¹⁰⁸ Id.

¹⁰⁹ Isabel Vincent and Melissa Klein, Charlie in Rental Di\$order, *New York Post*, September 13, 2009 (Exhibit 29).

¹¹⁰ Id.

¹¹¹ Id.

¹¹² Pub. L. No. 95-521, 92 Stat. 1824 (Oct. 26, 1978).

¹¹³ 5 U.S.C. app. 4, § 104.

¹¹⁴ House Ethics Manual, p. 248.

¹¹⁵ Id., p. 254.

¹¹⁶ Id., p. 257.

¹¹⁷ Instruction Booklet, *Transactions*.

In other words, filers must report each purchase, sale, or exchange of real property or securities by themselves, their spouse, or dependent child when the category of value of the transaction, or series of transactions in one type of property, exceeds \$1,000 in a calendar year.¹¹⁸ “Practically any security or real property that [the filer] purchased, sold, or exchanged during the year will have to be reported on both Schedule III and Schedule IV of FORM A.”¹¹⁹

Rep. Rangel repeatedly failed to disclose all of his assets and unearned income and he failed to report the purchase and sale of property and securities in clear violation of House rules.

18 U.S.C. § 1001

Federal law prohibits Members of Congress from making “any materially false, fictitious, or fraudulent statement or representation”¹²⁰ on “a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch.”¹²¹

If Rep. Rangel knowingly and willfully failed to disclose, or misrepresented, the true value of his personal assets on his financial disclosure forms, he would appear to be in violation of 18 U.S.C. § 1001.

Improper Vehicle Storage

In September 2008, it was reported that Rep. Rangel had been using a parking spot beneath a House office building to store his 1972 Mercedes for several years.¹²² The car was covered by a tarp and did not have license plates.¹²³ Its registration had expired in 2004 and the car did not display a current House parking permit.¹²⁴ The space is valued at \$290 per month, and must be reported to the IRS as imputed income.¹²⁵ Rep. Rangel would not comment on whether or not he reported the value of the space on his taxes.¹²⁶ The car was towed in September 2008.¹²⁷

House Parking Rules

¹¹⁸ Id.

¹¹⁹ Id.

¹²⁰ 18 U.S.C. § 1001(a)(2).

¹²¹ Id. at § 1001(c)(2).

¹²² Daphne Retter, Big Wheel Benz the Rules, *New York Post*, September 18, 2008 (Exhibit 30).

¹²³ Id.

¹²⁴ Id.

¹²⁵ Id.

¹²⁶ Daphne Retter, Tow-Nailing Charlie ‘Parker.’ *New York Post*, September 19, 2008 (Exhibit 31).

¹²⁷ Id.

Each Member is provided one garage parking permit for the member's use; at the prerogative of the Member, this permit may be assigned to staff.¹²⁸ Garage parking spaces may be reserved. If a space is reserved by an authorized permit holder, the permit holder incurs additional taxable income as a working condition fringe benefit. Under the tax code and IRS regulations, Members and their staff have imputed taxable income to the extent that the fair market value of Government-provided parking exceeds \$175.00/month (the value of the parking space is subject to future adjustments).¹²⁹ Parking permit applications for each vehicle must be submitted each Congress to the Office of House Garages and Parking Security. The application forms must include the individual's name, House of Representatives ID number (where applicable), the model, color, and year of the individual's automobile, and the automobile license number and state.¹³⁰

By storing an unlicensed vehicle in a House garage without a valid parking permit, Rep. Rangel violated House rules.

Ongoing Ethics Probe

Since Rep. Rangel initially requested the Committee on Standards of Official Conduct investigate allegations leveled against him, the committee's probe has expanded.¹³¹ It currently is reviewing allegations into his use of congressional letterhead for fund-raising, the income he earned from the Dominican Republic villa, the three rent-controlled apartments he uses as his New York residence and the additional rent controlled apartment he used as a campaign office, his use of House parking facilities, the trip to the Caribbean and the alleged exchange of legislative assistance for a contribution to the Charles B. Rangel School of Public Service.¹³² As a result of this investigation, Rep. Rangel has paid more than \$1 million in legal fees.¹³³

¹²⁸ House Committee on Administration, Member's Handbook, *Parking*.

¹²⁹ Id.

¹³⁰ Id.

¹³¹ Jennifer Yachnin, Rangel Probe Hits 6 Months, *Roll Call*, March 18, 2009 (Exhibit 32).

¹³² Id.; Press Release, Committee on Standards and Official Conduct, June 24, 2009 (*see* Exhibit 18).

¹³³ John Bresnahan, Charlie Rangel Spends \$1M on Legal Bills, *Politico*, August 4, 2009 (Exhibit 33).