

**FEDERAL ELECTION COMMISSION**  
**FIRST GENERAL COUNSEL'S REPORT**

**PRE-MUR: 612R**

DATE RECEIVED: June 29, 2018

DATE OF SUPPLEMENTS: February 7, 2019

April 23, 2019

October 18, 2019

January 28, 2021

DATE ACTIVATED: September 27, 2019

EXPIRATION OF SOL: September 28, 2021 /

August 5, 2024<sup>2</sup>

ELECTION CYCLES: 2012, 2014, 2016, 2018

**SOURCE:***Sua Sponte* Submission**RESPONDENTS:**Friends of David Schweikert and Valerie Giramberk  
in her official capacity as treasurer<sup>3</sup>

Chartwell Associates LLC

Richard Oliver Schwab

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30102(c)

52 U.S.C. § 30104(b)

52 U.S.C. § 30114(b), (c)

11 C.F.R. § 104.3(b)

11 C.F.R. § 113.1(g)

11 C.F.R. § 113.5(b)

**INTERNAL REPORTS  
CHECKED:**

Disclosure Reports

**AGENCIES CHECKED:**


---

<sup>2</sup> The Schweikert Committee has provided 660 days of tolling, and Schwab and Chartwell Associates LLC have provided 720 days of tolling.

<sup>3</sup> Friends of David Schweikert was formed on January 10, 2013 with Julia Miller as treasurer. On June 9, 2017, Keith A. Davis was named as treasurer; on December 20, 2017, William G. Martin was named as treasurer; and, on April 13, 2018, the current treasurer assumed the position.

## I. INTRODUCTION

Friends of David Schweikert and Valerie Giramberg in her official capacity as treasurer (“the Schweikert Committee”), Oliver Schwab, the former chief of staff and campaign manager for Representative David Schweikert, and Chartwell Associates LLC (“Chartwell”), Schwab’s single-member LLC (collectively, “Respondents”), filed a *sua sponte* submission and three supplements (“the Submissions”) with the Commission identifying potential violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), resulting from disclosure reports the Schweikert Committee filed with the Commission containing insufficiently detailed purpose of disbursements and inaccurate payee information.<sup>4</sup>

While this matter was pending before the Commission, on July 30, 2020, the Committee on Ethics of the U.S. House of Representatives (“Ethics Committee”)<sup>5</sup> issued a report following an investigation into alleged ethical violations of Schweikert and his committees (“Ethics Committee’s Report”).<sup>6</sup> To resolve the Ethics Committee matter, Schweikert agreed “to admit to

---

<sup>4</sup> *Sua Sponte* Submission (June 29, 2018); First Supp. *Sua Sponte* Submission (Feb. 7, 2019) (“First Supp.”); Second Supp. *Sua Sponte* Submission (Apr. 23, 2019) (“Second Supp.”); Third Supp. *Sua Sponte* Submission (Oct. 18, 2019) (“Third Supp.”).

<sup>5</sup> The Ethics Committee is a bipartisan committee charged with, *inter alia*, “investigating and adjudicating any alleged violations of the House rules or any related statutes by House Members, officers, or employees.” Ethics Committee, About Page, <https://ethics.house.gov/about>.

<sup>6</sup> On January 24, 2020, this Office submitted a First General Counsel’s Report, and on September 18, 2020, this Office withdrew the report to incorporate the information contained in the Ethics Committee Report. *See* Memorandum from Lisa Stevenson to the Commission (Sept. 18, 2020). On July 30, 2020, the Ethics Committee voted to adopt a report issued by an Investigative Subcommittee on June 30, 2020. Committee on Ethics, 116th Cong., In The Matter of Allegations Relating to Representative David Schweikert, Report of the Committee on Ethics (July 30, 2020), [https://ethics.house.gov/sites/ethics.house.gov/files/documents/Committee%20Report\\_19.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/Committee%20Report_19.pdf); Investigative Subcommittee of the Ethics Committee of the U.S. House of Representatives, 116th Cong., In The Matter of Allegations Relating to Representative David Schweikert Report at 40 (Jun. 20, 2020), <https://ethics.house.gov/sites/ethics.house.gov/files/documents/ISC%20Report%20-%20Schweikert%20-%20final.pdf> (“Invest. Subcomm. Rpt.”).

all eleven counts in the Statement of Alleged Violations adopted by the [Investigative Subcommittee], accept a sanction of reprimand and a \$50,000 fine, and waive all further procedural rights in this matter provided to him by House or Committee Rule.”<sup>7</sup> The Statement of Alleged Violations accepted by Schweikert included activity that was the subject of this *sua sponte* submission and other activity subject to the Act and Commission regulations, along with violations of other federal laws, and House rules beyond the scope of this report.<sup>8</sup>

Following the release of the Ethics Committee's Report, this Office inquired whether the Schweikert Committee sought to further supplement its submission with the material from the Report or to add any respondents, such as Schweikert's prior campaign committees or Schweikert himself, or to amend its disclosure reports to reflect the Report's findings, but counsel declined to do so. Schwab and Chartwell filed an additional submission, arguing that Schwab originally believed the reimbursements complied with all relevant law and that a compliance firm issued many of the reimbursements, establishing that any violations were the result of mistake.<sup>9</sup>

---

<sup>7</sup> Ethics Committee, Press Release, Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative David Schweikert (July 30, 2020), [https://ethics.house.gov/sites/ethics.house.gov/files/documents/Press%20Release\\_161.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/Press%20Release_161.pdf). Because Schweikert agreed to “admit to the all of the violations” in the Statement of Alleged Violations as part of a negotiated resolution with the Ethics Committee, and each relevant factual allegation is incorporated by reference within the violation, this Report cites to the Statement of Alleged Violations where available. Invest. Subcomm. Rpt. at 2. Although Schweikert submitted a letter in response to receiving the Ethics Committee's Report, stating that he believed that certain allegations in the Statement of Alleged Violations “would be proven false or misleading if subjected to the scrutiny of a full adjudicatory process,” *id.*, Ex. E., the Ethics Committee's Report states that “the ISC does not believe they are in clear contravention of the agreed upon terms of the settlement in this matter.” *Id.* at 2.

<sup>8</sup> Invest. Subcomm. Rpt., Ex A. The Ethics Committee's Report addresses violations of the Act because the Code of Ethics for Government Services requires members to “uphold the laws and legal regulations of the United States, and never be a party to their evasion,” and “[m]embers must also act in a manner that reflects creditably on the House” under House Rules. Invest. Subcomm. Rpt. at 28.

<sup>9</sup> Schwab and Chartwell Supp. Submission at 2-3 (Jan. 28, 2021).

We recommend that the Commission: (1) open a MUR; (2) find reason to believe that the Schweikert Committee knowingly and willfully violated 52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3 (b)(3) and (b)(4) by misreporting the purpose of disbursements; (3) find reason to believe that the Schweikert Committee knowingly and willfully violated 52 U.S.C. § 30104(b)(5) and (b)(6) by misreporting the payees of disbursements; (4) find reason to believe that the Schweikert Committee knowingly and willfully violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to personal use; (5) find reason to believe Schwab violated 52 U.S.C. § 30102(c) by falsifying campaign records; (6) authorize pre-probable cause conciliation with the Schweikert Committee and Schwab; and (7) decline to open a MUR as to Chartwell.

## **II. FACTUAL BACKGROUND**

David Schweikert has been the U.S. Representative for Arizona's 5th or 6th District from 2011 through the present. The Schweikert Committee was Schweikert's principal campaign committee from January 11, 2013 through the present.<sup>10</sup> Schwab was Schweikert's Campaign Manager and Chief of Staff in his House of Representatives office from approximately 2010

---

<sup>10</sup> Friends of David Schweikert, Statement of Organization (Jan. 11, 2013). During the 2012 election, Schweikert for Congress was Schweikert's principal campaign committee. Schweikert for Congress, Statement of Organization (Jan. 20, 2011). The Commission approved the termination of David Schweikert for Congress on November 5, 2013. Schweikert for Congress, Termination Approval 2013 (Nov. 5, 2013). During the 2010 election, David Schweikert for Congress was Schweikert's principal campaign committee. David Schweikert for Congress, Statement of Organization (Sept. 8, 2008).

until July 2018 when Schwab resigned.<sup>11</sup> Chartwell is Schwab's single member LLC consulting firm formed under Virginia law.<sup>12</sup>

### A. Respondents' Submissions

On November 2, 2017, the Washington Examiner published an "opinion" article that alleged that the Committee and several other Schweikert-related entities or accounts including his Members' Representational Allowance ("MRA"), his official officeholder account, made "lavish" disbursements and reimbursements to Schwab both personally and through Chartwell.<sup>13</sup> Following the publication of this article, Schweikert directed an internal review of the subject matter of the article, including engaging counsel, retaining a new treasurer, and hiring a compliance firm.<sup>14</sup>

The review discovered two types of reporting violations, which form the basis for Respondents' Submission: insufficiently detailed purposes for disbursements and a failure to list the correct payee for certain disbursements first made by Schwab, Chartwell or another employee, and reimbursed by the Schweikert Committee. First, out of \$148,760.48 in total reimbursements to Schwab or Chartwell from 2014-2017, the Submission identified \$77,867 in

---

<sup>11</sup> Press Release, Rep. David Schweikert, Congressman David Schweikert Announces Chief of Staff Transition (July 9, 2018), <https://schweikert.house.gov/media-center/press-releases/congressman-david-schweikert-announces-chief-staff-transition>. Specifically, Schwab was Campaign Manager from 2010 until early 2012 and resumed a campaign management role from January 2013 until July 2018. Invest. Subcomm. Rpt. at 6. He was Chief of Staff from January 2011 to June 2012, Senior Adviser from September 2012 to May 2013, and Chief of Staff from May 2013 to July 2018. *Id.*

<sup>12</sup> Virginia State Corporation Commission, Clerk's Information System, <https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=552953&source=FromEntityResult&isSeries=False> (Chartwell is now known as "The Oxford Group, LLC").

<sup>13</sup> Philip Wegman, *A Lot of Cash is Flowing to David Schweikert's Chief of Staff Oliver Schwab*, WASHINGTONEXAMINER.COM, Nov. 2, 2017, <https://www.washingtonexaminer.com/a-lot-of-cash-is-flowing-to-david-schweikerts-chief-of-staff-oliver-schwab>. Many of the allegations in the article concern committees or accounts not at issue in this matter, including Schweikert's MRA.

<sup>14</sup> Submission at 1, Third Supp., Attach. (Email from Emily Hoover to Mike Bayes (Oct. 17, 2019)).

insufficiently detailed purpose of disbursement entries such as “Strategic/Fundraising Consulting,” when the actual expenses related to disbursements such as “Direct Mailing, General Office Supplies, Membership Dues, [and] Email Marketing.”<sup>15</sup> Respondents submitted a “clarified reporting description” that provided more detail about each disbursement.<sup>16</sup> While the Schweikert Committee has not amended disclosure reports to address the purposes of disbursements, it has expressed a willingness to do so in connection with resolving this matter.<sup>17</sup>

Second, the Submission identified \$50,863 in disbursements with misreported payees.<sup>18</sup> The Committee disclosed these payments as disbursements to Chartwell, Schwab, or other staffers in Schweikert’s House office, who served as intermediaries in a transaction, as opposed to the vendor that actually provided the services to the Committee.<sup>19</sup> The Committee unwound the transactions and paid the vendor directly.<sup>20</sup> For those transactions in which Chartwell or Schwab was the intermediary, the Committee sought refunds from the vendor to Chartwell or Schwab and from Chartwell or Schwab to the Committee, and then the Committee made direct payments to the previously undisclosed vendors, which accounted for \$50,372 of the original \$50,863.<sup>21</sup> The Schweikert Committee’s disclosure reports show that Schwab repaid \$50,372 to the Committee on March 31, 2018, labeling the transaction as “repayment[s] for erroneous

---

<sup>15</sup> Submission, Attach. A; Third Supp.

<sup>16</sup> Submission, Attach. A.

<sup>17</sup> *Id.* at 2-3; Second Supp. Attach., Jason Torchinsky Email (Apr. 23, 2019).

<sup>18</sup> Submission, Attachs. B-C. Attachments B and C contain the same type of violation. Attachment B contains the reimbursements from Chartwell and Attachment C identifies approximately \$500 of other staffers’ advances that were reimbursed by the Committee. Those staffers repaid the amounts that the Committee originally reimbursed.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 2-3. It appears that this process was necessary to attempt to avoid liability under House Ethics rules, not to comply with the Act or Commission regulations.

<sup>21</sup> *Id.*; *see also* First Supp. at 3.

reimbursements” from the Committee.<sup>22</sup> Other staffers reimbursed the Committee for the remaining \$491.<sup>23</sup>

Respondents provided spreadsheets from their compliance firm indicating that \$31,522 of these two categories of reporting violations overlap, resulting in entries that both lacked a sufficient purpose of disbursement and the correct payee.<sup>24</sup>

## **B. The Ethics Committee's Investigation and Report**

Shortly after the publication of the Washington Examiner article on November 2, 2017, the Office of Congressional Ethics began to investigate payments made to Schwab and Chartwell, and after receiving a complaint dated January 29, 2018, the Office of Congressional Ethics extended its investigation to allegations that Schweikert and Schwab violated House Ethics rules related to, *inter alia*, Schwab making contributions to the Schweikert Committee, earning excessive outside income, and filing inaccurate financial disclosures.<sup>25</sup> On June 8, 2018, the Ethics Committee advised Schweikert to amend any erroneous reports filed with the

---

<sup>22</sup> See Committee, Contributions, 2018-19, Contributor “Oliver Schwab,” [https://www.fec.gov/data/receipts/?two\\_year\\_transaction\\_period=2018&data\\_type=processed&committee\\_id=C00540617&contributor\\_name=schwab%2C+oliver&min\\_date=01%2F01%2F2017&max\\_date=12%2F31%2F2018](https://www.fec.gov/data/receipts/?two_year_transaction_period=2018&data_type=processed&committee_id=C00540617&contributor_name=schwab%2C+oliver&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018) (containing the memo entry “OFFSET - Repayment of Erroneous Reimbursement”).

<sup>23</sup> Submission, Attach. C.

<sup>24</sup> Second Supp., Attach.; Third Supp. at1, Attachs.

<sup>25</sup> Office of Congressional Ethics (“OCE”) Compl., [https://images.phoenixnewtimes.com/media/pdf/ethics\\_complaint.pdf](https://images.phoenixnewtimes.com/media/pdf/ethics_complaint.pdf). The Complaint is erroneously dated “January 29, 2017.” On April 16, 2018, OCE referred the matter to the Committee on Ethics of the U.S. House of Representatives (“Ethics Committee”) to investigate, *inter alia*, whether the Committee received contributions from an employee and whether Schweikert authorized impermissible expenditures from his MRA, in violation of House Ethics rules. <https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-davi-0>. On June 12, 2019, OCE released its full referral report dated April 5, 2018, stating that Schwab “may have” violated House Ethics rules pertaining to outside employment income, the use of the MRA account, and made contributions to his employing member, and recommended the issuance of subpoenas because many individuals did not voluntarily comply with the investigation, including Schwab and Schweikert. OCE Referral Regarding Mr. Oliver Schwab, OCE, Apr. 5, 2018, <https://oce.house.gov/sites/congressionalethics.house.gov/files/documents/Referral%20OCE%20Rev.%2017-4789%20Oliver%20Schwab.pdf>. The report does not contain any findings pursuant to the Act or Commission regulations.

Commission of which it knew, and encouraged Schweikert to file a *sua sponte* submission.<sup>26</sup>

The Office of Congressional Ethics referred the matter to the Ethics Committee and, on June 28, 2018, the Ethics Committee formed the Investigative Subcommittee (“ISC”) to investigate the allegations.<sup>27</sup> Respondents filed this *sua sponte* with the Commission the following day.

On September 5, 2018, the Office of Congressional Ethics sent Schweikert a second referral, which included a 50-page report with Findings of Facts and Citations to Law, analyzing potential reporting violations in detail, including a previously unreported loan from Metro Phoenix Bank among other misreported loans to Schweikert’s campaign committees.<sup>28</sup> During its investigation, counsel for Schweikert informed the Ethics Committee by email on October 3, 2018, that they had “engaged with FEC staff to work cooperatively to resolve any issues.”<sup>29</sup> But the Schweikert Committee did not initially advise the Commission of any reporting issues with loans. In response to multiple inquiries from this office regarding the scope of the Ethics Committee’s investigation, the Schweikert Committee represented that it produced to the Commission all “FECA-related material” that the Schweikert Committee produced to “Ethics.”<sup>30</sup>

---

<sup>26</sup> Invest. Subcomm. Rpt., Ex. A ¶ 51.

<sup>27</sup> See CHAIRWOMAN SUSAN W. BROOKS, 115TH CONG., Statement of the Chairwoman and Ranking Member of the Committee on Ethics Regarding Representative David Schweikert and Richard Oliver Schwab at 1 (June 28, 2018), <https://ethics.house.gov/press-release/statement-chairwoman-and-ranking-member-committee-ethics-regarding-representative-19>; <https://ethics.house.gov/sites/ethics.house.gov/files/Report%20-%20OCE%20Review%20No.%2017-4790.pdf> (OCE Referral). Following the announcement of the investigation, Schwab resigned as Schweikert’s Chief of Staff. Ronald J. Hansen, *Oliver Schwab, Schweikert’s Chief of Staff, Quits Amid Ethics Probe*, AZCENTRAL.COM, July 9, 2018, <https://www.azcentral.com/story/news/politics/arizona/2018/07/09/arizona-rep-david-schweikert-chief-staff-oliver-schwab-quits-amid-ethics-probe/769669002/>.

<sup>28</sup> Invest. Subcomm. Rpt. at 4-5, 37, Appx. B. The Ethics Committee also found several violations unrelated to Schweikert’s campaigns including the misuse of Schweikert’s official funds, pressuring official staff to do campaign work, failing to exercise “due diligence” in responding to the Ethics Committee’s investigation, and a “lack of candor” to the Ethics Committee.

<sup>29</sup> *Id.* at 27, Ex. A ¶ 79 (quoting Respondent’s email regarding the Metro Phoenix Bank loan); *id.*, Ex. A ¶ 55 (quoting Respondent’s email regarding the “falsely” disclosed \$100,000 loan).

<sup>30</sup> Third Supp. at 1.



1 However, according to the Statement of Alleged Violations to which Schweikert agreed as part  
 2 of his settlement with the Ethics Committee: “Respondent did not work to cure or engage with  
 3 any FEC staff regarding the [misreported Metro Phoenix Bank loan] . . . at that time.”<sup>31</sup> On  
 4 January 6, 2020, Schweikert informed the Ethics Committee that he “inadvertently” failed to  
 5 disclose certain loans.<sup>32</sup> On January 27, 2020, approximately 18 months after the filing of the  
 6 initial Submission, counsel for the Schweikert Committee informed the Commission for the first  
 7 time by email that it “had come across information” that was “well beyond the statute of  
 8 limitations” showing “reporting discrepancies” with respect to three loans.<sup>33</sup>

9 On July 30, 2020, the Ethics Committee adopted its Investigative Subcommittee’s Report  
 10 and recommended that the full House vote to adopt the report.<sup>34</sup> The Ethics Committee’s Report  
 11 is based on a voluminous record, including interviews, deposition testimony, and 200,000 pages  
 12 of documents.<sup>35</sup> Following the issuance of the Ethics Committee’s Report and its several  
 13 findings that Respondents had violated the Act, we offered Respondents the opportunity to  
 14 supplement their narrative submissions. In a call between the Schweikert Committee’s counsel  
 15 and OGC on January 6, 2021, the Schweikert Committee’s counsel represented that they did not  
 16 wish to include any activity from the Ethics Committee’s Report in their *sua sponte* beyond that  
 17 which it had already included in its Submissions. Schwab and Chartwell filed an additional  
 18 submission on January 28, 2021, arguing that Schweikert’s campaign committees were

---

<sup>31</sup> *Id.*, Ex. A ¶ 80 (failure to advise the Commission concerning the Phoenix Metro Loan); *id.*, Ex. A ¶ 54 (failure to advise the Commission concerning the “falsely” disclosed \$100,000 loan).

<sup>32</sup> *Id.*, Ex. A ¶ 84 (quoting Respondent’s email).

<sup>33</sup> Email from Michael Bayes, Counsel for the Schweikert Committee, to Staff Attorney Nicholas Bamman (Jan. 27, 2020); Invest. Subcomm. Rpt., Ex. A ¶¶ 56, 85.

<sup>34</sup> This FGCR refers to the Investigative Subcommittee’s Report as the Ethics Committee’s Report, given that the Ethics Committee adopted the report.

<sup>35</sup> Invest. Subcomm. Rpt. at 5-6.

ultimately responsible for any reporting errors, the Ethics Committee found that Schweikert “facilitated” the reimbursements, Schwab did not initially know that the reimbursements violated any applicable law, and a compliance firm approved all of the reimbursements.<sup>36</sup>

1. The Schweikert Committee's Reimbursements to Chartwell for Campaign Expenses

As previously explained, out of \$148,760.48 in total reimbursements to Schwab or Chartwell from 2014-2017, the Submission identified \$77,867 in insufficiently detailed purpose of disbursement entries and \$50,863 in disbursements with misreported payees. The Ethics Committee's investigation, for its part, identified approximately \$270,000 in reimbursements from Schweikert's campaign committees to Schwab or Chartwell between 2011 and 2018.<sup>37</sup> The Ethics Committee's Report divides the \$270,000 into three categories: (1) \$7,000 in reimbursements to Schwab directly; (2) \$65,000 in reimbursements to Schwab through Chartwell; and (3) \$200,000 in reimbursements to Schwab's personal credit card companies.<sup>38</sup> Three other congressional staffers made smaller outlays totaling \$491.12 for campaign-related expenditures that were subsequently reimbursed.<sup>39</sup> While the \$270,000 appears to describe the same types of violations raised in the Submissions, it is unclear the exact extent of the overlap.

The Ethics Committee's Report, which was based on an extensive investigation that included depositions of the principals, provides a better understanding of the reasons behind the purpose and payee reporting failures. Schwab testified that Schweikert instructed Schwab to

---

<sup>36</sup> Schwab and Chartwell Supp. Submission at 2-4.

<sup>37</sup> The reimbursements themselves were deemed by the House as impermissible contributions from an employee of a House member to his or her employer in violation of 18 U.S.C. § 603. Invest. Subcomm. Rpt. at 41, Ex. A ¶¶ 108-09, 217.

<sup>38</sup> *Id.* at 41, Ex. A ¶¶ 111-113.

<sup>39</sup> *Id.*, Ex. A ¶ 129. This amount appears on Exhibit C of Respondents' initial Submission.

1 seek reimbursement through Chartwell as a consulting fee “to conceal” the purpose of the  
 2 expenditure and Schwab’s involvement.<sup>40</sup> For example, Schwab testified that Schweikert was  
 3 “very adamant that he did not want a whole bunch of dinners in D.C. showing up on his  
 4 FECs.”<sup>41</sup> To conceal those disbursements, Schwab paid for the expense with his personal credit  
 5 card and sought reimbursement from the Schweikert Committee, which disclosed the  
 6 disbursements as consulting fees to Chartwell.<sup>42</sup> In another example, Schwab testified that he  
 7 billed the campaign \$5,000 for “consulting services” in order to conceal the purchase of tickets  
 8 on a charter airplane when Schweikert traveled to Lake Havasu City, Arizona, for a speech.<sup>43</sup>  
 9 For some reimbursements, Schwab directed the Committee to make checks payable to his  
 10 personal credit card companies, such as “Chase Bank,” instead of himself personally, which was  
 11 disclosed in reports filed with the Commission as a disbursement to “Chase Bank,” further  
 12 concealing the true recipient of the Committee’s disbursement.<sup>44</sup> Schwab testified that the  
 13 Schweikert Committee’s treasurer was aware that disbursements labeled as consulting fees were

---

<sup>40</sup> *Id.*, Ex. A ¶ 121 (“Mr. Schwab provided testimony to the ISC asserting that Respondent was aware Mr. Schwab was making expenditures on behalf of Respondent’s campaign using his personal funds, and that Respondent instructed Mr. Schwab to seek reimbursements through Chartwell or his credit card company in order to conceal the fact that Mr. Schwab was responsible for the underlying expenditure.”). The Ethics Committee also identifies an approximate \$5,000 outlay for Schweikert’s travel on a charter plane in 2014. *Id.* at 43.

<sup>41</sup> *Id.* at 42 (quoting Schwab interview).

<sup>42</sup> *Id.* at 42, Ex. A ¶ 121 (“Mr. Schwab provided testimony to the ISC asserting that Respondent was aware Mr. Schwab was making expenditures on behalf of Respondent’s campaign using his personal funds, and that Respondent instructed Mr. Schwab to seek reimbursements through Chartwell or his credit card company in order to conceal the fact that Mr. Schwab was responsible for the underlying expenditure.”).

<sup>43</sup> *Id.* at 43. The Ethics Committee could not find documentary evidence of this disbursement; however, Schweikert did speak at an event in Lake Havasu City on February 7, 2014. *Id.* at 43-44. Schweikert’s campaign committees did not report any disbursements for travel around this time. *Id.* at 44.

<sup>44</sup> *Id.* at 46, Ex. A ¶¶ 109-110. In addition to the reporting discrepancies related to these reimbursements, Schwab testified that Schweikert instructed him to wait until the next reporting quarter to seek reimbursement for certain disbursements to manipulate the Committee’s cash-on-hand and other quarterly financial figures. *Id.* at 44

1 actually for campaign expenses.<sup>45</sup> Schweikert denies that he ever instructed Schwab to seek  
 2 reimbursement through Chartwell; however, the Ethics Committee noted that Schweikert's  
 3 testimony was inconsistent and testimony from other witnesses indicated that Schweikert was  
 4 aware of the practice.<sup>46</sup>

5 Although the Ethics Committee did not make a separate finding based on the Act with  
 6 respect to the \$270,000 in reimbursements, it found that in disclosure reports filed with the  
 7 Commission, the Schweikert Committee did not list the actual recipient of the disbursement,  
 8 instead listing Chartwell, and did not list the actual purpose of the disbursement, instead listing  
 9 "strategic consulting" or another vague description.<sup>47</sup> In some instances, at the direction of  
 10 Schweikert and with the treasurer's knowledge, this obfuscation was intended to conceal  
 11 impermissible or embarrassing disbursements from public view.<sup>48</sup> The Ethics Committee found  
 12 substantial evidence that Schweikert knew about the reimbursements.<sup>49</sup>

---

<sup>45</sup> *Id.* at 44, Ex. A ¶ 126.

<sup>46</sup> *Id.* at 42.

<sup>47</sup> *Id.*, Ex. A ¶ 115 (Statement of Violations) (stating "[w]hen reporting disbursements to Mr. Schwab's personal credit card companies, the campaign did not always disclose the underlying vendor on FEC reports, nor did it disclose that Mr. Schwab had made the underlying disbursements.").

<sup>48</sup> *Id.* at 43-44; *id.*, Ex. A, ¶ 219 (concluding that the reimbursements "hid from public view the true amount of expenditures Mr. Schwab had made on behalf of his campaigns, and in other cases obscured the true nature, date, and underlying recipient of the disbursements"); *see also id.* at 52 ("The ISC further notes that the sheer breadth of this misconduct was obscured from the public, the FEC, and the Committee because Representative Schweikert's campaign committees reported the repayments to Mr. Schwab through various means, including by issuing reimbursements to Mr. Schwab directly, to his single-member LLC, Chartwell Associates, and through payments to his personal credit card companies.").

<sup>49</sup> *Id.* at 51-52; *id.*, Ex. A ¶¶ 121 ("Mr. Schwab provided testimony to the ISC asserting that Respondent was aware Mr. Schwab was making expenditures on behalf of Respondent's campaign using his personal funds, and that Respondent instructed Mr. Schwab to seek reimbursements through Chartwell or his credit card company in order to conceal the fact that Mr. Schwab was responsible for the underlying expenditure."); *id.* ¶ 122 ("Respondent knew or should have known that Mr. Schwab made substantial non-travel expenditures on behalf of the campaign.").

## 2. Misreported Loans

The Ethics Committee found disclosure violations with respect to three loans: (1) a \$75,000 line of credit from Metro Phoenix Bank first made on July 30, 2010 that was never reported; (2) a \$100,000 personal loan from Schweikert to his campaign committee that was disclosed on January 31, 2012, but never actually made, and was then concealed by falsely reporting \$100,000 of disbursements between October and November of 2012; and (3) a \$130,000 loan reported from Schweikert to his campaign committee on August 22, 2012 that was financed by a close relative, and the repayment of which misreported the payor and the timing of the repayments.<sup>50</sup> As discussed earlier in this Report, the respondents did not initially report these violations to the Commission as part of their *sua sponte* submission, and only did so, several months after being instructed to do so by the Ethics Committee.

First, on July 30, 2010, Schweikert, his wife, and Sheridan Equities LLC received a \$75,000 revolving line of credit from Metro Phoenix Bank, an FDIC insured institution, to support Schweikert's campaign, secured by three properties owned by Sheridan Equities LLC.<sup>51</sup> Sheridan Equities LLC is Schweikert's single-member LLC organized under the laws of Arizona.<sup>52</sup> Schweikert was referred by a board member of the bank and received a loan that the Ethics Committee notes was "atypical" because the bank did not usually make such small loans.<sup>53</sup>

---

<sup>50</sup> *Id.*, Ex. A ¶ 17.

<sup>51</sup> *Id.* at 11, Ex. A ¶¶ 60-61. The loan application states that the proceeds may be used for a "marketing campaign" related to "running for congress." *Id.* at Ex. 4 (loan application).

<sup>52</sup> *Id.* at 11; Arizona Corporation Commission, Sheridan Equities LLC, <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=L13023541>.

<sup>53</sup> Invest. Subcomm. Rpt. at 11 n. 25.

Schweikert used the proceeds of the loan to pay for approximately \$62,000 of campaign expenses in August of 2010, which Schweikert's campaign committee at the time, David Schweikert for Congress, reported as disbursements.<sup>54</sup> However, David Schweikert for Congress did not report the existence of the loan or expenditures from the loan as in-kind contributions to David Schweikert for Congress.<sup>55</sup> On February 14, 2011, the line of credit was increased by \$79,000; however, the Ethics Committee did not find evidence that the additional funds were used for campaign purposes.<sup>56</sup> The Schweikerts made payments on the loan from personal funds on a monthly basis from approximately October 2010 to February 2015, and on February 6, 2015, the line of credit was fully repaid.<sup>57</sup> David Schweikert for Congress did not disclose that the Schweikerts repaid the loan.<sup>58</sup>

Schweikert told the Ethics Committee that the Schweikerts were not aware that he had to report the loan.<sup>59</sup> However, the Ethics Committee Report notes that a blog post in 2012 speculated that Metro Phoenix Bank may have been "financing an off-the-books shadow campaign fund for Schweikert."<sup>60</sup> Friends of David Schweikert has not amended its disclosure reports to reflect the loan, and the Schweikert Committee's counsel expressed an unwillingness

---

<sup>54</sup> *Id.* at 12, Ex. A ¶¶ 62-63; David Schweikert for Congress 2010 Pre-primary Report at 40, 43, 45 (Aug. 12, 2010).

<sup>55</sup> Invest. Subcomm. Rpt. at 13, Ex. A ¶ 70.

<sup>56</sup> *Id.* at 12, Ex. A ¶ 66.

<sup>57</sup> *Id.* at 13, Ex. A ¶¶ 68-69.

<sup>58</sup> *Id.*, Ex. A ¶ 70.

<sup>59</sup> *Id.*, Ex. A ¶ 73. At the time Mrs. Schweikert served as the campaign's treasurer. *Id.*, Ex. A ¶ 72.

<sup>60</sup> *Id.* (citing *David Schweikert gives \$130,000 to campaign while involved in real estate loan scam with campaign depository, Metro Phoenix Bank*, POLITICO MAFIOSO, (Aug. 24, 2012), <http://politicomafioso.blogspot.com/2012/08/david-schweikert-gives-130000-to.html>). The blog post was circulated internally at Metro Phoenix Bank, and the Ethics Committee notes that Schwab received an email alert with a link to the blog post. *Id.*

1 to amend reports of Schweikert's prior campaign committees in connection with resolving this  
 2 *sua sponte*.

3 Second, on January 31, 2012, Schweikert for Congress disclosed a \$100,000 personal  
 4 loan from Schweikert that was never actually made.<sup>61</sup> Schweikert testified that he intended to  
 5 apply for a line of credit, but never followed through, and accidentally reported the loan as  
 6 having being made.<sup>62</sup> Despite knowing the loan was not made, Schweikert did not fix the error  
 7 and the "falsely reported \$100,000 loan" inflated Schweikert's campaign cash total, allowing the  
 8 campaign to assert for a news article that it nearly met its financing goals for the 2012 primary  
 9 election.<sup>63</sup> In October and November of 2012, Schweikert for Congress "falsely disclosed" five  
 10 disbursements totaling \$100,000 to Blue Point LLC to balance its books.<sup>64</sup>

11 Mrs. Schweikert entered the information into the campaign's "financial tracking  
 12 software."<sup>65</sup> At the time, the Schweikerts did not tell the campaign's treasurers or other  
 13 professionals that the loan was never in fact made.<sup>66</sup> In early 2013, Schweikert retained a  
 14 compliance firm that also performed treasurer duties, but never told the new compliance firm of  
 15 the "falsely" reported loan and disbursements.<sup>67</sup> Shortly after the new treasurer took over, the  
 16 treasurer identified all outstanding debt to the Schweikerts in an email, including the \$100,000

---

<sup>61</sup> *Id.* at 20 (citing Schweikert for Congress 2011 Year-End Report at 94 (Jan. 31, 2012); *id.*, Ex. A ¶ 29.

<sup>62</sup> *Id.* at 25 ("I had started the paperwork to do a credit line on the house, and in the chaos, maybe it just never got completed, and it [had] already been put down on the FECs. It should not have been done, it was a mistake."); *id.*, Ex. A ¶ 30.

<sup>63</sup> *Id.*, Ex. A ¶¶ 31, 33-34.

<sup>64</sup> *Id.* at 22, Ex. A ¶ 198.

<sup>65</sup> *Id.* at 20, 22, Ex. A ¶ 30.

<sup>66</sup> *Id.*, Ex. A ¶ 32.

<sup>67</sup> *Id.*, Ex. A ¶ 41.

1 loan and the \$130,000 loan discussed below.<sup>68</sup> Mrs. Schweikert did not inform the new treasurer  
 2 that the \$100,000 loan never existed, and appeared to ask the new treasurer via email to transfer  
 3 funds from the campaign account to a personal bank account in repayment of the nonexistent  
 4 loan, although the Ethics Committee did not find that such repayments actually occurred.<sup>69</sup>

5 On October 11, 2013, Schweikert personally filed and signed a termination report  
 6 “falsely” stating: “Please be advised that as of September 30, 2013 I have forgiven the  
 7 outstanding \$100,000 loan, incurred on December 25, 2011, from my personal funds to the  
 8 Schweikert for Congress Committee 2012 Primary Election.”<sup>70</sup> The Ethics Committee  
 9 concluded that the loan and disbursements were falsely reported, Schweikert was at least  
 10 “grossly negligent,” and that “the record raises serious questions as to whether there were efforts  
 11 to conceal the fact that the loan and disbursements had been falsely reported for as long as  
 12 practicable.”<sup>71</sup>

13 Third, on August 22, 2012, Schweikert for Congress reported a \$130,000 loan from  
 14 Schweikert.<sup>72</sup> In fact, the Ethics Committee found that instead of one \$130,000 disbursement  
 15 from Schweikert’s personal funds, Schweikert for Congress received \$130,000 in four separate  
 16 transactions, three from a “Sheridan Holdings account,”<sup>73</sup> which refers to Sheridan Equities

---

<sup>68</sup> *Id.* at 24.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 25 (quoting Schweikert for Congress Miscellaneous Report to FEC 2013 at 1 (Sept. 30, 2013)); *id.*, Ex. A ¶ 194-199 (referring to the disclosure and forgiveness of the loan as “false” disclosures and “false” statements).

<sup>71</sup> *Id.* at 30.

<sup>72</sup> *Id.* at 30 (citing Schweikert for Congress October 2012 Quarterly Report at 71 (Oct. 15, 2012)). Although this loan is set forth in the Ethics Committee’s Report, it is not contained within the Statement of Alleged Violations.

<sup>73</sup> From Schweikert’s 2012 Financial Disclosure Report, this account appears to refer to Sheridan Equities Holdings LLC (“Sheridan Holdings”); Schweikert is the “managing member. See Schweikert, 2012 Financial Disclosure (May 15, 2013), [https://disclosures-clerk.house.gov/public\\_disc/financial-pdfs/2013/9103009.pdf](https://disclosures-clerk.house.gov/public_disc/financial-pdfs/2013/9103009.pdf).



Holdings LLC, a company owned by Schweikert, and a \$17,000 transfer from Mrs. Schweikert.<sup>74</sup> Schweikert told a campaign consultant that the funds came from a retirement account, but \$100,000 of the funds actually came from a cashier's check from a close family relative received by Sheridan Holdings the day before the transfer.<sup>75</sup> Schweikert testified that he customarily received large gifts from this individual, including checks ranging from \$20,000 to \$100,000; however, neither Schweikert nor the individual provided proof to the Ethics Committee that such gifts were customarily made.<sup>76</sup> The Ethics Committee also noted that the transfer was received days before a competitive primary that received "national attention."<sup>77</sup> As to the \$17,000 transfer from Mrs. Schweikert, Schweikert asserted that the account was a "family account" jointly utilized by the Schweikerts.

The Ethics Committee determined that David Schweikert for Congress's bank records did not match disclosure reports of the repayment of the \$130,000 loan.<sup>78</sup> For example, Schweikert for Congress reported repaying the loan from December 2012 to August 2013, but David Schweikert for Congress's bank records show repayment of only approximately \$30,000 between November 2012 and March 2013.<sup>79</sup> The Schweikert Committee, Schweikert for Congress's successor and current campaign committee, repaid the Schweikerts approximately

---

<sup>74</sup> Invest. Subcomm. Rpt., Ex. A ¶ 12.

<sup>75</sup> *Id.* at 31.

<sup>76</sup> *Id.* at 31, 34.

<sup>77</sup> *Id.* at 34.

<sup>78</sup> *Id.* at 31.

<sup>79</sup> *Id.* at 31-32.

\$94,000 between February and August 2013, but reported the activity as transfers to Schweikert for Congress.<sup>80</sup>

The Ethics Committee concluded that Schweikert misreported the \$130,000 loan, although it was merely a “technical” violation.<sup>81</sup> The Ethics Committee considered whether the \$100,000 gift could be considered an excessive contribution, but concluded that “the FEC has been inconsistent on when gifts to a candidate qualify as ‘personal funds’ of the candidate versus a contribution,” and therefore, decided not to find a violation for the receipt of an excessive contribution.<sup>82</sup> The Ethics Committee also considered whether Mrs. Schweikert made an excessive contribution; however, given that Arizona is a community property state, concluded that the \$17,000 could also be considered Schweikert’s property.<sup>83</sup>

### 3. Personal Use

The Ethics Committee determined that Schweikert’s staff paid for Schweikert’s personal expenses, including meals, dry cleaning, and flight upgrades for personal travel, and then were sometimes repaid by Schweikert, but also sometimes repaid from Schweikert’s campaign accounts.<sup>84</sup> Schwab testified that after the personal use expenses became too large, Schweikert “instructed Mr. Schwab to ‘be creative’ and bill the campaign for the expenses.”<sup>85</sup>

Because the Schweikert Committee did not retain adequate records, the only examples the Ethics Committee could specifically identify were disbursements of \$1,476.90 for the child

---

<sup>80</sup> *Id.* at 32.

<sup>81</sup> *Id.* at 35.

<sup>82</sup> *Id.* at 34 (citing MUR 5138 (Ferguson for Congress) and MUR 5321 (Minnesotans for Janet Robert)).

<sup>83</sup> *Id.* at 34-35.

<sup>84</sup> *Id.* at 53.

<sup>85</sup> *Id.*, Ex. A ¶ 137.

care of Schweikert's daughter in 2017, disclosed as "petty cash" and "strategic campaign consulting" in reports filed with the Commission.<sup>86</sup> The Ethics Committee could not reliably calculate the total amount of funds that it concluded Schweikert converted to personal use.<sup>87</sup> However, Schwab testified that he incurred \$5,000 of personal use expenses on behalf of Schweikert, and provided the campaign with "false invoices or instructed the campaign's treasurers to make disbursements for campaign services."<sup>88</sup>

Schweikert denied using campaign funds for babysitting or any other personal use.<sup>89</sup> However, the Ethics Committee found Schweikert's denials unconvincing in light of "several members of his staff who testified otherwise, as well as documents obtained in the course of its investigation, including an email from staff expressing concern at Representative Schweikert's attempt to find an 'unemployed female intern type person' to serve as his daughter's nanny."<sup>90</sup>

#### 4. Failure to Report Receipts and Disbursements

Finally, the Ethics Committee determined that between 2010 and 2013, Schweikert for Congress and David Schweikert for Congress failed to report approximately \$140,000 of receipts and \$25,000 in disbursements in reports filed with the Commission.<sup>91</sup> The Ethics Committee referred to this and other reporting violations as "systemic."<sup>92</sup> In an interview with the Ethics Committee, Schweikert vaguely referred to these violations as "accounting mistakes,"<sup>93</sup> but also

---

<sup>86</sup> *Id.* at 60, Ex. A ¶ 133.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*, Ex. A ¶ 138.

<sup>89</sup> *Id.* at 55-56, Ex. A ¶¶ 139-40.

<sup>90</sup> *Id.* at 59.

<sup>91</sup> *Id.* at 36, Ex. A ¶ 86.

<sup>92</sup> *Id.* at 39.

<sup>93</sup> *Id.* at 37.

1 stated that he could not explain the discrepancies because the campaign “no longer possessed its  
 2 records from this time period because they were beyond the FEC’s record retention period.”<sup>94</sup>

### 3 **III. LEGAL ANALYSIS**

#### 4 **A. Schweikert Committee Violations**

5 The Act and Commission regulations require political committees to report the name and  
 6 address of each person to whom they make expenditures or other disbursements aggregating  
 7 more than \$200 per calendar year, or per election cycle for authorized committees, as well as the  
 8 date, amount, and purpose of such payments.<sup>95</sup>

##### 9 1. Purpose of Disbursements

10 Commission regulations define “purpose” as a “brief statement or description of why the  
 11 disbursement was made.”<sup>96</sup> “The ‘purpose of disbursement’ entry, when considered along with  
 12 the identity of the disbursement recipient, must be sufficiently specific to make the purpose of  
 13 the disbursement clear.”<sup>97</sup> The Commission has determined that the description of purpose  
 14 should be sufficient to allow “a person not associated with the committee [to] easily discern why  
 15 the disbursement was made when reading the name of the recipient and the purpose.”<sup>98</sup>  
 16 Examples of sufficient statements of purpose include, but are not limited to, dinner expenses,  
 17

---

<sup>94</sup> *Id.*, Ex. A ¶ 87.

<sup>95</sup> 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(4)(i), (vi); Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40,625, 40,626-27 (July 8, 2013) (addressing disclosure of ultimate payees with respect to credit card payments).

<sup>96</sup> 11 C.F.R. § 104.3(b)(3)(i)(A)-(B), (b)(4)(i)(A).

<sup>97</sup> *See* Statement of Policy: “Purpose of Disbursement” Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007) (“Purpose Statement of Policy”) (citing 11 C.F.R. §§ 104.3(b)(3)(i)(B), (b)(4)(i)(A)).

<sup>98</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888.

media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs.<sup>99</sup>

Although committees may not merely label a disbursement as “consulting,” they may specify a type of consulting service to ensure that the purpose provided in their reports is considered “adequate” by the Commission, including descriptions such as “strategy consulting” or “fundraising consulting.”<sup>100</sup> For example, the Commission has provided guidance that a description of purpose such as “Consultant-Legal” is sufficient for a disbursement to a consultant; the sufficiency of the description is read in context with the name of the payee.<sup>101</sup>

Here, in Respondents’ Submission, the Schweikert Committee acknowledged that disbursements with generic labels such as “strategic consulting” were actually for purposes such as “advertising,” “website design,” “lodging,” and “food & beverage.”<sup>103</sup> For instance, the Schweikert Committee originally described a disbursement for \$8,119.32 to Chartwell on February 25, 2016 as “Strategic Consulting/Travel;” however, the Committee proposes to amend

---

<sup>99</sup> 11 C.F.R. § 104.3(b)(3)(i)(B), (b)(4)(i)(A).

<sup>100</sup> *Purposes of Disbursement*, FEDERAL ELECTION COMMISSION, <https://www.fec.gov/help-candidates-and-committees/purposes-disbursement> (last visited Jan. 23, 2020) (noting that the lists of inadequate and adequate purposes are not exhaustive and were revised on August 21, 2018).

<sup>101</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888; *see also* FEC Campaign Guide for Congressional Candidates at 103 (June 2014) (the description of purpose must be sufficiently specific such that it makes clear the reason for the disbursement when considered in conjunction with the payee’s identity).

<sup>103</sup> Submission, Attach. A.

the description to “General Office Supplies, Travel, Advertising, Printing, Postage, Web Hosting, Gifts & Mementos, Catering.”<sup>104</sup> Respondents assert that there is approximately \$78,000 in violation for inadequate purpose of disbursements.

The Ethics Committee, however, found that the improper purpose statements were not just inadequately vague descriptions of campaign expenses, but intentional misstatements designed to conceal the real purpose of disbursements and Schwab's involvement in the transaction.<sup>105</sup> Schwab testified that Schweikert instructed him to purposely conceal the purpose of certain disbursements, such as dinners in D.C., so that they would not appear on the Schweikert Committee's “FECs.”<sup>106</sup> Schwab further testified that Schweikert owed him so much money that Schweikert instructed him to “be creative,” and that he submitted false consulting invoices and instructed the campaign's treasurer to make disbursements for “consulting services.”<sup>107</sup> The Ethics Committee did not find a written record of Schweikert instructing Schwab to bill this way, although Schwab also testified that Schweikert purposely conducted business over the phone to avoid a “paper trail.”<sup>108</sup>

Because the Schweikert Committee inadequately described the purpose of certain disbursements, we recommend that the Commission open a MUR and find reason to believe that Friends of David Schweikert and Valerie Giramberk in her official capacity as treasurer violated

---

<sup>104</sup> *Id.*

<sup>105</sup> Invest. Subcomm. Rpt., Ex. A ¶ 114.

<sup>106</sup> *Id.* at 42 (Schweikert was “very adamant that he did not want a whole bunch of dinners in D.C. showing up on his FECs.”) (quoting Schwab interview).

<sup>107</sup> *Id.* at 55, Ex. A ¶¶ 123, 137, 138.

<sup>108</sup> *Id.*

52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3(b)(3) and (b)(4) by misreporting the purpose of disbursements.<sup>109</sup>

## 2. Ultimate Payees

Neither the Act nor the Commission's relevant implementing regulations address the concepts of ultimate payees, vendors, agents, contractors, or subcontractors in the context of payee reporting.<sup>110</sup> The Commission has determined, however, that merely reporting the immediate recipient of a committee's payment will not satisfy the requirements of Section 30104(b)(5) when the facts indicate that the immediate recipient is merely a conduit for the intended recipient of the funds.<sup>111</sup>

The Commission has made reason to believe findings in ultimate payee matters where it had information that a committee undertook efforts to actively conceal the ultimate payee.<sup>112</sup> For example, in MUR 6724 (Bachmann for President), the Bachmann committee paid a consultant through an intermediary in order to conceal the true payee because it believed that state ethics rules prohibited the ultimate payee from receiving the funds.<sup>113</sup> The Commission found reason to believe that the Bachmann committee misreported the ultimate payee because

---

<sup>109</sup> Neither Schwab nor Chartwell had legal responsibility for filing the Committee's reports, and thus we do not recommend that the Commission find that they misreported the purpose of disbursements. *See, e.g.*, Factual and Legal Analysis at 9, MUR 6761 (Barfield).

<sup>110</sup> Advisory Op. 1983-25 (Mondale for President) at 2; 78 Fed. Reg. at 40,626 (clarifying a committee's obligation to report "ultimate payees" in three specific scenarios not articulated in the Act or regulations: reimbursements to individuals who advance personal funds to pay committee expenses; payments to credit card companies; and reimbursements to candidates who use personal funds to pay committee expenses).

<sup>111</sup> Factual and Legal Analysis ("F&LA") at 9, MUR 6724 (Bachmann for President, *et al.*) (citing Conciliation Agreement at 3, MUR 4872 (Jenkins)).

<sup>112</sup> *See, e.g.*, F&LA at 10-11, MUR 6724 (Bachmann for President) (finding reason to believe where a committee used an intermediary to disguise the "true, intended recipient of the disbursements"); Conciliation Agreement at 2-4, MUR 4872 (Jenkins for Senate) (finding reason to believe where a vendor's only role was "to serve as a conduit for payment . . . so as to conceal the transaction").

<sup>113</sup> F&LA at 3, MUR 6724 (Bachmann for President).

the disclosed payee was merely a conduit, “thereby concealing the true, intended recipient of the disbursements.”<sup>114</sup>

Here, the Ethics Committee determined that the Schweikert Committee purposely disclosed erroneous payees both to obscure that Schwab was making large outlays on behalf of the campaign and to obscure “the true nature, date, and underlying recipient of the disbursements.”<sup>115</sup> In some instances Schwab submitted receipts for reimbursement made on a personal credit card, but instructed the treasurer to make the checks payable to “Chase Bank,” which was the payee reflected on disclosure reports filed with the Commission.<sup>116</sup> In many instances, Schwab concealed the true campaign vendor with false consulting invoices payable to Chartwell.<sup>117</sup> The type of activity at issue here, payments for reimbursements to campaign staff and payments to credit card companies, are the types of disbursements where the Commission has required more specific reporting.<sup>118</sup>

Although Respondents identified a violation for misreporting payees in their Submission, they also state that they do not believe that they violated any regulation.<sup>119</sup> Given the chance to amend the Submission in light of the Ethics Committee Report, the Schweikert Committee declined to do so. Respondents identify approximately \$50,000 in disbursements with erroneous

---

<sup>114</sup> *Id.* at 10.

<sup>115</sup> Invest. Subcomm. Rpt. at 43-44. “Mr. Schwab testified that Respondent had preferred reimbursements be reported as payments to Chartwell because it appeared as an arm’s length transaction to a vendor on FEC reports, rather than a payment to his staffer.” *Id.*, Ex. A ¶ 114.

<sup>116</sup> *Id.* at 46, Ex. A ¶¶ 127-28.

<sup>117</sup> *Id.* at 55, Ex. A ¶¶ 123, 138.

<sup>118</sup> In the Ultimate Payee Interpretive Rule, the Commission clarified a committee’s obligation to report “ultimate payees” in three specific scenarios not articulated in the Act or Commission regulations: (1) reimbursements to individuals who advance personal funds to pay committee expenses; (2) payments to credit card companies; and (3) candidates who use personal funds to pay committee expenses without reimbursement. Ultimate Payee Interpretive Rule, 78 Fed. Reg. at 40,626.

<sup>119</sup> Submission at 2.



payees.<sup>120</sup> Accordingly, we recommend that the Commission find reason to believe that Friends of David Schweikert and Valerie Giramberg in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(5) and (b)(6) by misreporting the payees of disbursements.<sup>121</sup>

### 3. Personal Use

Under the Act, a contribution accepted by a candidate may be used for, *inter alia*, “otherwise authorized expenditures in connection with the campaign for Federal office of the candidate,” “for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office,” as well as for “any other lawful purpose” not otherwise prohibited under the Act.<sup>122</sup> However, the Act prohibits the conversion of campaign funds by any person to “personal use.”<sup>123</sup> “Personal use” is the use of funds in a campaign account “to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate’s campaign or duties as a Federal officeholder.”<sup>124</sup> The Act and Commission regulations list certain uses of campaign funds that constitute *per se* conversion to personal use.<sup>125</sup> For other payments, the “Commission will determine, on a case-by-case basis, whether other uses” of campaign funds constitute personal use by applying the “irrespective test,” that is,

---

<sup>120</sup> *Id.*, Attachs. B-C.

<sup>121</sup> Neither Schwab nor Chartwell had legal responsibility for filing the Committee’s reports, and thus we do not recommend that the Commission find that they misreported the payees of disbursements. *See, e.g.*, Factual and Legal Analysis at 9, MUR 6761 (Barfield).

<sup>122</sup> 52 U.S.C. § 30114(a).

<sup>123</sup> *Id.* § 30114(b).

<sup>124</sup> 11 C.F.R. § 113.1(g); *see also* 52 U.S.C. § 30114(b).

<sup>125</sup> 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i).

whether the payment fulfills a commitment, obligation, or expense that would exist irrespective of the candidate's campaign or duties as a federal officeholder.<sup>126</sup>

Here, the Ethics Committee identified a number of disbursements for personal use; however, the only disbursements for which it could identify an amount in violation was \$1,476.90 for child care for Schweikert's daughter.<sup>127</sup> The Commission has addressed childcare in a number of advisory opinions, finding that such expenses are not personal use where the childcare was a direct result of campaign activity.<sup>128</sup> There is no record evidence to suggest that the childcare at issue in this matter resulted from campaign activity. Indeed, the expenses occurred between June and October of 2017, a non-election year, and they were reimbursed, in part, with the memo "strategic campaign consulting" on disclosure reports, suggesting that the Schweikert Committee concealed the disbursement because it knew it was impermissible.

The Ethics Committee Report identifies other categories of disbursements that also constitute personal use under the Act, including disbursements for dry cleaning and flight upgrades for personal travel, although it could not assign a specific amount in violation.<sup>129</sup>

---

<sup>126</sup> 11 C.F.R. § 113.1(g)(1)(ii).

<sup>127</sup> Invest. Subcomm. Rpt. at 60 ("The ISC was unable to calculate the precise amount of campaign funds that were misused for personal purposes because many of these expenses were characterized by Mr. Schwab as consulting expenses or petty cash, and underlying records were not preserved or provided to the campaign."). We do not recommend that the Commission expend further resources investigating the extent of the personal use given that the Ethics Committee has determined that the records do not exist.

<sup>128</sup> *See, e.g.*, Advisory Op. 2019-13 (MJ for Texas) at 3 (childcare expenses must be "a direct result from campaign activity") (quoting Advisory Op. 2018-06 (Liuba for Congress)).

<sup>129</sup> *See* Factual and Legal Analysis at 4, 14, MUR 6766 (Jesse Jackson, Jr.) (finding knowing and willful personal use violations for various categories of disbursements, including travel and dry cleaning, that were purposely concealed on disclosure reports). The Ethics Report does not identify the specific amount of disbursements in these categories.

Accordingly, we recommend that the Commission find reason to believe that the Schweikert Committee violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to personal use.<sup>130</sup>

#### 4. Additional Violations

The Ethics Committee Report identified a number of other transactions that appear to constitute violations of the Act, but which occurred in periods beyond the applicable statute of limitations. First, the Ethics Committee identified the loans from Metro Phoenix Bank and the apparently fictitious loan that Schweikert made to enhance his committee's cash on hand. Under the Act, a "loan" includes a guarantee, endorsement, and any other form of security.<sup>131</sup> A loan that exceeds the contribution limits, or otherwise violates 52 U.S.C. §§ 30116 or 30118, is unlawful, whether or not it is repaid. Political committees must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished.<sup>132</sup> A loan to a political committee or a candidate by a commercial bank is exempt from the definition of contribution, if such loan is made in accordance with applicable law and in the ordinary course of business.<sup>133</sup>

Here, Schweikert admitted misreporting the Metro Phoenix Bank loan and falsely reporting the \$100,000 personal loan in the Statement of Alleged Violations, and the Ethics Committee identified technical violations with respect to the \$130,000 loan. However, the relevant campaign committees are not respondents and the activity is beyond the statute of

---

<sup>130</sup> We do not make any recommendations as to Schweikert as he is not a Respondent in this matter.

<sup>131</sup> 11 C.F.R. § 100.52(b). Although the Ethics Committee describes the transaction as a "line of credit," the loan was secured by real property. Lines of credit are governed under a similar regulation, requiring "commercial reasonableness" in the "normal course" of the lender's business. 11 C.F.R. § 100.83(a).

<sup>132</sup> 52 U.S.C. § 30104(b)(8); 11 C.F.R. §§ 104.3(d), 104.11(a).

<sup>133</sup> 11 C.F.R. § 100.82(a). A loan will be deemed to be made in the ordinary course of business if it: "(1) [b]ears the usual and customary interest rate of the lending institution for the category of loan involved; (2) [i]s made on a basis that assures repayment; (3) [i]s evidenced by a written instrument; and (4) [i]s subject to a due date or amortization schedule. *Id.*

1 limitations.<sup>134</sup> While the Commission could notify Schweikert's prior campaign committees and  
 2 make reason to believe findings to pursue equitable remedies, such as amending disclosure  
 3 reports, we do not believe it is a prudent use of the Commission's resources in these  
 4 circumstances. Accordingly, we make no recommendations with respect to the misreported and  
 5 falsely reported loans.

6 The Ethics Committee also determined that between 2010 and 2013, David Schweikert  
 7 for Congress and Schweikert for Congress failed to report approximately \$140,000 of receipts  
 8 and \$25,000 in disbursements in reports filed with the Commission.<sup>135</sup> Under the Act and  
 9 Commission regulations, a committee must maintain an accurate account of its receipts,  
 10 disbursements, and cash-on-hand balances and must accurately report those amounts in its public  
 11 filings with the Commission.<sup>136</sup> Although Schweikert admitted the violations in the Statement of  
 12 Alleged Violations, similar to the reporting violations above that both contain findings against  
 13 non-respondents and activity that is beyond the statute of limitations, we make no  
 14 recommendations with respect to these unreported receipts and disbursements.<sup>137</sup>

15 Finally, Schwab testified that he billed the Schweikert Committee approximately \$5,000  
 16 to charter a plane for Schweikert to attend a partisan conference in which he was a speaker in  
 17 February 2014.<sup>138</sup> The Honest Leadership and Open Government Act of 2007 ("HLOGA")  
 18 amended the Act to prohibit House candidates from making any expenditure for non-commercial

---

<sup>134</sup> Invest. Subcomm. Rpt., Ex. A, Count II.

<sup>135</sup> *Id.* at 9, 36, Ex. A ¶¶ 86-87.

<sup>136</sup> *See* 52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§104.3, 104.14(d).

<sup>137</sup> Invest. Subcomm. Rpt., Ex. A, Count VI.

<sup>138</sup> *Id.* at 43.

1 air travel.<sup>139</sup> Commission regulations similarly prohibit House candidates from accepting in-  
 2 kind contributions of non-commercial air travel.<sup>140</sup> The prohibition on House candidates' non-  
 3 commercial air travel applies to any "campaign traveler," which includes "any candidate  
 4 traveling in connection with an election for Federal office or any individual traveling in  
 5 connection with an election for Federal office on behalf of a candidate or political committee."<sup>141</sup>  
 6 But the disbursement is beyond the statute of limitations, and the related reporting violation,  
 7 which occurred when the Schweikert Committee filed its 2014 April quarterly report, has almost  
 8 expired. Given the expiration of the statute of limitations, we do not recommend that the  
 9 Commission make a separate reason to believe finding.

10 5. The Commission Should Find that the Schweikert Committee's Violations  
 11 Were Knowing and Willful

12 The Act prescribes additional penalties for violations of the Act that are knowing and  
 13 willful.<sup>142</sup> A violation of the Act is knowing and willful when the respondent acts "with full  
 14 knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>143</sup>  
 15 This standard does not require proving knowledge of the specific statute or regulation the

---

<sup>139</sup> 52 U.S.C. § 30114(c)(2). Two exceptions to the prohibition exist—travel on government-operated aircraft and travel on aircraft owned or leased by the candidate—but neither exception applies here. 52 U.S.C. § 30114(c)(2)(B), (3).

<sup>140</sup> 11 C.F.R. §§ 100.93(c)(2), 113.5(b). Commercial travel is defined as travel aboard "an aircraft operated by an air carrier or commercial operator certificated by the Federal Aviation Administration, provided that the flight is required to be conducted under FAA air carrier safety rules..." 11 C.F.R. § 100.93(a)(3)(iv)(A); *see also* 11 C.F.R. §§ 100.93(a)(3)(v) (defining "non-commercial travel" as travel that is not commercial travel).

<sup>141</sup> *Id.* § 100.93(a)(3)(i)(A).

<sup>142</sup> *See* 52 U.S.C. § 30109(a)(5)(B), (d).

<sup>143</sup> 122 Cong. Rec. 12197, 12199 (daily ed. May 3, 1976) (defining phrase "knowing and willful"); *see also* *FEC v. Novacek*, 739 F. Supp. 2d 957, 961 (N.D. Tex. 2010) (granting Commission's motion for summary judgment where there were no genuine issues of material fact as to the knowing and willful allegations). The Commission has made knowing and willful findings against respondents who have admitted to criminal violations related to the same activity at issue in the enforcement matter. *See, e.g.*, MUR 7225 (Jack Wu); MUR 7132 (Michael David Pitts); MUR 6597 (Kinde Durkee); MUR 6475 (Andrew McCrosson), MUR 6179 (Christopher Ward), MUR 5971 (Jennifer Adams), MURs 5721/5772 (Kenneth Phelps); MUR 5610 (Earl Allen Haywood).

1 respondent allegedly violated.<sup>144</sup> Rather, it is sufficient to demonstrate that a respondent “acted  
 2 voluntarily and was aware that his conduct was unlawful.”<sup>145</sup> This awareness may be shown  
 3 through circumstantial evidence, such as a “defendant’s elaborate scheme for disguising” her  
 4 actions, or other “facts and circumstances from which the jury reasonably could infer [the  
 5 defendant] knew her conduct was unauthorized and illegal.”<sup>146</sup>

6 Here, the Statement of Alleged Violations, to which Schweikert admitted as part of the  
 7 resolution with the Ethics Committee, provides ample support for knowing and willful findings.  
 8 The Ethics Committee noted in particular the “sheer breadth” of the reporting misconduct, which  
 9 obscured from the Commission and the public the scope of the violations.<sup>147</sup>

10 As to the activities that form the basis of the Committee’s initial *sua sponte* submission,  
 11 the Ethics Committee found that the Committee intentionally misreported the purposes of  
 12 expenses to conceal the actual purpose and to hide the actual recipient of the payments. Schwab  
 13 testified that he falsified consulting invoices to conceal the true underlying transaction and that  
 14 Schweikert “preferred reimbursements be reported as payments to Chartwell because it appeared  
 15 as an arm’s length transaction to a vendor on FEC reports, rather than a payment to his  
 16 staffer.”<sup>148</sup> Moreover, with respect to the personal use violation, Schwab stated that, after

---

<sup>144</sup> See *United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 2013) (citing *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish that a violation is willful, the government needs to show only that the defendant acted with knowledge that her conduct was unlawful, not knowledge of the specific statutory provision violated)).

<sup>145</sup> *Id.* (internal quotation marks omitted).

<sup>146</sup> *United States v. Hopkins*, 916 F.2d 207, 213-15 (5th Cir. 1990) (internal quotation marks omitted). As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

<sup>147</sup> Invest. Subcomm. Rpt. at 52.

<sup>148</sup> *Id.*, Ex. A ¶¶ 114.

1 accumulating many expenses, Schweikert directed him to be “creative” in billing the  
 2 campaign.<sup>149</sup> Schwab further testified that he created approximately \$5,000 of false consulting  
 3 invoices to conceal personal use expenditures he made on behalf of Schweikert.<sup>150</sup>

4 The Ethics Committee also found a pattern and practice of deceit by Schweikert  
 5 predating the violations for which we are making recommendations. As set forth in the  
 6 Statement of Alleged Violations, the Schweikert Committee falsely reported a \$100,000 loan that  
 7 did not exist, and rather than concede the error, it falsely reported five disbursements to a  
 8 campaign vendor totaling \$100,000 to balance its books.<sup>151</sup> Schweikert personally filed and  
 9 signed a termination report “falsely” stating that the loan had been forgiven.<sup>152</sup> Indeed,  
 10 Schweikert admitted in the Statement of Alleged Violations to a violation for a “lack of candor  
 11 and diligence,” including “delays in informing the FEC of inaccurate reporting” and written  
 12 submissions to the Commission that “lacked credibility or coherence.”<sup>153</sup>

13 Accordingly, we recommend that the Commission find that the Schweikert Committee's  
 14 violations of 52 U.S.C. §§ 30104(b)(5), (b)(6) and 30114, and 11 C.F.R. §§ 104.3(b)(3), (b)(4)  
 15 and 113.1(g) were knowing and willful.

16 **B. The Commission Should Find Reason to Believe that Schwab Failed to**  
 17 **Maintain Committee Records**

18 Under the Act and Commission regulations, a committee must maintain an accurate  
 19 account of its disbursements and must accurately report those amounts in its public filings with  
 20

---

<sup>149</sup> *Id.* at 55, Ex. A ¶ 138.

<sup>150</sup> *Id.*, Ex. A ¶ 138.

<sup>151</sup> *Supra* Part II.B.2.

<sup>152</sup> Invest. Subcomm. Rpt., Ex. A ¶ 194-199 (referring to the disclosure and forgiveness of the loan as “false” disclosures and “false” statements).

<sup>153</sup> *Id.*, Ex. A ¶¶ 250-51.

1 the Commission.<sup>154</sup> The Commission has further recognized that these obligations apply to the  
 2 treasurer of the committee “or an agent authorized by the treasurer to receive contributions and  
 3 make expenditures.”<sup>155</sup> These reporting requirements are intended to ensure public disclosure of  
 4 “where political campaign money comes from and how it is spent.”<sup>156</sup> For example, in MUR  
 5 6761 (Barfield), the Commission found that a campaign manager who had embezzled funds and  
 6 falsified records to conceal his embezzlement violated Section 30102(c) by preventing accurate  
 7 recordkeeping, although the campaign manager did not violate Section 30104(b) that requires the  
 8 filing of accurate reports because he did not have legal responsibility for filing disclosure reports  
 9 on behalf of the committee.<sup>157</sup>

10 As Campaign Manager, Schwab had the authority to receive contributions and make  
 11 disbursements on behalf of the Schweikert Committee.<sup>158</sup> Schwab testified that he submitted to  
 12 the Committee false consulting invoices for Chartwell in order to conceal the true purpose of  
 13 certain disbursements.<sup>159</sup> He further concealed his own involvement by routing payments  
 14 through Chartwell.<sup>160</sup> Schwab testified that Schweikert was aware of the arrangement, and

---

<sup>154</sup> See 52 U.S.C. §§ 30102(c)(5), 30104(b)(4); 11 C.F.R. §§104.3, 104.14(d).

<sup>155</sup> 11 C.F.R. § 102.9.

<sup>156</sup> *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); *see also Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing the importance of disclosure requirements to serve informational interests, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

<sup>157</sup> Factual and Legal Analysis at 9, MUR 6761 (Barfield).

<sup>158</sup> See generally Invest. Subcomm. Rpt. (detailing 10-year course of conduct of Schwab’s receipts and disbursements on behalf of Schweikert’s campaign committees); *see also* Factual and Legal Analysis, MUR 6761 (Barfield) (analyzing a Section 30102(c) violation: “In his capacity as campaign manager for the Committee, Barfield was authorized to receive contributions and make expenditures.”).

<sup>159</sup> Invest. Subcomm. Rpt. at 55, Ex. A ¶ 138 (“Mr. Schwab sent Respondent’s campaign false invoices or instructed the campaign’s treasurers to make disbursements for campaign services. Mr. Schwab testified that he sought approximately \$5,000 worth of reimbursements for personal expenses he incurred on behalf of Respondent in this manner.”).

<sup>160</sup> *Id.* at 55, Ex. A ¶ 114.



1 instructed him to “be creative” in seeking reimbursement for personal use expenditures.<sup>161</sup>  
2 Schwab’s falsification of records, including submitting false purposes of disbursements and  
3 payee records to the treasurer, undermined the Committee’s ability to file accurate reports with  
4 the Commission.

5 Despite this testimony to the Ethics Committee, Schwab argues in his response that  
6 although it is undisputed that he made outlays on behalf of Schweikert’s campaign committees,  
7 he believed them to comply with all relevant laws and that they “were made with the approval of  
8 Representative Schweikert and vendors for Friends of David Schweikert.”<sup>162</sup> However,  
9 Schwab’s testimony indicates that he knew that he was providing the campaign with false  
10 invoices for consulting services in an effort to obscure the underlying transaction, such as  
11 “dinner in D.C.” and disbursements for Schweikert’s personal use.<sup>163</sup> Schweikert’s alleged  
12 approval of unlawful activity is not a valid defense to Schwab’s failure to maintain records.

13 Indeed, Schweikert was not personally included in some of the communications in which  
14 Schwab made statements to the campaign treasurer that should have alerted the treasurer to the  
15 violations at least in part. Schwab emailed the treasurer, “I have as many as like [\$7,000 in  
16 reimbursements], but will do whatever the right amount i[s] (does this need to be done to [Mr.  
17 Schwab’s spouse] instead of me? Should it be billed as a vendor invoice?).”<sup>164</sup> In another email  
18 to the treasurer, Schwab stated: “Let’s proceed first of the month with the \$15,000 transfer to the  
19 Schweikert’s [debt repayment]. I’ve got 2 big mail pieces in the works right now. I put \$7,000 on

---

<sup>161</sup> *Id.*, Ex. A ¶ 137.

<sup>162</sup> Schwab & Chartwell Resp. at 2.

<sup>163</sup> Invest. Subcomm. Rpt., Ex. A ¶ 138.

<sup>164</sup> *Id.* at 44.

1 my card to get these out which I'll hold for reimbursement well down the road.”<sup>165</sup> The treasurer  
 2 reimbursed Schwab on several occasions by making reimbursement checks payable to “Chase  
 3 Bank,” and disclosing the expenditure as “Chase Bank” on reports with the Commission instead  
 4 of disclosing Schwab as the recipient.<sup>166</sup> According to the Ethics Committee's Report, delaying  
 5 reimbursements to Schwab allowed the campaign to report higher fundraising and cash-on-hand  
 6 totals for quarterly reports.<sup>167</sup>

7 Accordingly, we recommend that the Commission find reason to believe that Schwab  
 8 failed to maintain records in violation of Section 30102(c)(5) by falsifying records relating to the  
 9 Schweikert Committee's disbursements. However, we recommend that the Commission decline  
 10 to open a MUR as to Chartwell given that Schwab – not Chartwell—falsified campaign invoices  
 11 and that Chartwell was merely Schwab's single member LLC.

12 Unlike the Schweikert Committee, we do not recommend that the Commission make  
 13 knowing and willful findings as to Schwab. While the available record would be sufficient to  
 14 support a knowing and willful finding, the Commission may nonetheless “[r]efrain from making  
 15 a formal finding that a violation was knowing and willful” as a matter of policy,<sup>168</sup> particularly  
 16 when a respondent has made a full *sua sponte* submission, cooperated extensively, brought  
 17 substantial information to the attention of the Commission, and voluntarily incorporated  
 18 significant remedial and compliance measures.<sup>169</sup>

---

<sup>165</sup> *Id.* at 47.

<sup>166</sup> *Id.* at 46-47.

<sup>167</sup> *Id.* at 44 (identifying a March 11, 2016 expenditure paid for by Schwab that the Committee did not reimburse to Chartwell until April 25, 2016); *id.*, Ex. A ¶ 125.

<sup>168</sup> *Sua Sponte* Policy, 72 Fed. Reg. at 16,696.

<sup>169</sup> Factual and Legal Analysis at 13-14, MUR 6889 (Nat'l Air Transp. Ass'n).

1           In this matter, Schwab provided information in connection with the Ethics Committee  
2 inquiry, participated in the *sua sponte* submission to the Commission, and tolled the statute of  
3 limitations to allow time for the Commission to consider this matter. Unlike in MUR 6761  
4 (Barfield), where the Commission found reason to believe that the campaign manager knowingly  
5 and willfully embezzled funds, Schwab does not appear to have personally benefited from the  
6 scheme by converting funds to personal use, but rather concealed the activity at the direction of  
7 Schweikert.<sup>170</sup> Additionally, the Statement of Alleged Violations stated that Schwab and other  
8 staff felt pressured to perform campaign work and that Schwab and other Schweikert staffers  
9 made impermissible advances to the campaign that Schweikert knew or should have known  
10 about.<sup>171</sup> These advances, and the Committee's reimbursement of Schwab for these advances,  
11 form the basis of the reporting violations initially raised in the *sua sponte* submission. In light of  
12 the recommendation that the Commission make knowing and willful violations as to the  
13 Schweikert Committee, prudential concerns support non-knowing and willful findings against  
14 Schwab under these facts.

---

<sup>170</sup> Factual and Legal Analysis at 9, MUR 6761 (Barfield).

<sup>171</sup> Invest. Subcomm. Rpt., Ex. A ¶ 122 ("Respondent knew or should have known that Mr. Schwab made substantial non-travel expenditures on behalf of the campaign."); *id.* ¶ 164 ("Mr. Schwab testified that Respondent routinely pressured him to perform campaign work, particularly campaign fundraising.").

Pre-MUR 612R (Friends of David Schweikert, *et al.*)  
First General Counsel's Report  
Page 36 of 41

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

Pre-MUR 612R (Friends of David Schweikert, *et al.*)  
First General Counsel's Report  
Page 37 of 41

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

Pre-MUR 612R (Friends of David Schweikert, *et al.*)  
First General Counsel's Report  
Page 38 of 41

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

Pre-MUR 612R (Friends of David Schweikert, *et al.*)  
First General Counsel's Report  
Page 39 of 41

1

2

3

4

5

6

7

**V. RECOMMENDATIONS**

1. Open a Matter Under Review with respect to Pre-MUR 612R;
2. Find reason to believe that Friends of David Schweikert and Valerie Giramberk in her official capacity as treasurer knowingly and willfully violated 52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3(b)(3) and (b)(4) by misreporting the purpose of disbursements;
3. Find reason to believe that Friends of David Schweikert and Valerie Giramberk in her official capacity as treasurer knowingly and willfully violated 52 U.S.C. § 30104(b)(5) and (b)(6) by misreporting payees;
4. Find reason to believe that Richard Oliver Schwab violated 30102(c)(5) by failing to maintain records;
5. Find reason to believe that Friends of David Schweikert and Valerie Giramberk in her official capacity knowingly and willfully violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to personal use;
6. Decline to open a MUR as to Chartwell Associates LLC;
7. Approve the attached Factual and Legal Analyses;
8. Authorize pre-probable conciliation with Friends of David Schweikert and Valerie Giramberk in her official capacity as treasurer and Richard Oliver Schwab;
9. Approve the attached Conciliation Agreements; and



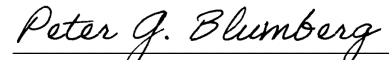
10. Approve the appropriate letters.

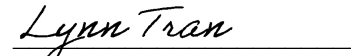
Lisa J. Stevenson  
Acting General Counsel


Charles Kitcher  
Acting Associate General Counsel for  
Enforcement

July 13, 2021

Date

  
Peter G. Blumberg  
Acting Deputy Associate General Counsel  
for Enforcement

  
Lynn Y. Tran  
Assistant General Counsel

  
Nicholas I. Bamman  
Attorney

Attachments:

1. Factual and Legal Analysis for the Schweikert Committee
2. Factual and Legal Analysis for Schwab and Chartwell

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3  
4  
5  
6 RESPONDENT: Friends of David Schweikert and Valerie MUR  
7 Giramberk in her official capacity as treasurer<sup>1</sup>  
8

9 **I. INTRODUCTION**

10 This matter was generated by a *sua sponte* submission filed by Friends of David  
11 Schweikert and Valerie Giramberk in her official capacity as treasurer (“the Schweikert  
12 Committee”) with the Federal Election Commission (the “Commission”) identifying potential  
13 violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), resulting from  
14 disclosure reports the Schweikert Committee filed with the Commission containing insufficiently  
15 detailed purposes of disbursements and inaccurate payee information.<sup>2</sup> While this matter was  
16 pending before the Commission, on July 30, 2020, the Committee on Ethics of the U.S. House of  
17 Representatives (“Ethics Committee”) issued a report following an investigation into alleged  
18 ethical violations of Schweikert and his committees (“Ethics Committee’s Report”), including  
19 activity that was the subject of the *sua sponte* submission and other activity subject to the Act  
20 and Commission regulations.<sup>3</sup>

21 Based on the available information, the Commission finds reason to believe that Friends  
22 of David Schweikert and Valerie Giramberk in her official capacity as treasurer knowingly and

---

<sup>1</sup> Friends of David Schweikert was formed on January 10, 2013 with Julia Miller as treasurer. On June 9, 2017, Keith A. Davis was named as treasurer; on December 20, 2017, William G. Martin was named as treasurer; and on April 13, 2018, the current treasurer assumed the position.

<sup>2</sup> *Sua Sponte* Submission (June 29, 2018); First Supp. *Sua Sponte* Submission (Feb. 7, 2019) (“First Supp.”); Second Supp. *Sua Sponte* Submission (Apr. 23, 2019) (“Second Supp.”); Third Supp. *Sua Sponte* Submission (Oct. 18, 2019) (“Third Supp.”).

<sup>3</sup> Committee on Ethics, 116th Cong., In The Matter of Allegations Relating to Representative David Schweikert, Report of the Committee on Ethics (July 30, 2020), [https://ethics.house.gov/sites/ethics.house.gov/files/documents/Committee%20Report 19.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/Committee%20Report%2019.pdf); Investigative Subcommittee of the Ethics Committee of the U.S. House of Representatives, 116th Cong., In The Matter of

willfully violated: (1) 52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3 (b)(3) and (b)(4) by misreporting the purpose of disbursements; (2) 52 U.S.C. § 30104(b)(5) and (b)(6) by misreporting the payees of disbursements; and (3) 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to personal use.

## II. FACTS

David Schweikert has been the U.S. Representative for Arizona's 5th or 6th District from 2011 through the present. The Schweikert Committee was Schweikert's principal campaign committee from January 11, 2013 through the present.<sup>4</sup> Richard Oliver Schwab was Schweikert's Campaign Manager and Chief of Staff in his House of Representatives office from approximately 2010 until July 2018 when Schwab resigned.<sup>5</sup> Chartwell Associates LLC ("Chartwell") is Schwab's single member LLC consulting firm formed under Virginia law.<sup>6</sup>

---

Allegations Relating to Representative David Schweikert Report at 40 (Jun. 20, 2020) ("Invest. Subcomm. Rpt."), <https://ethics.house.gov/sites/ethics.house.gov/files/documents/ISC%20Report%20-%20Schweikert%20-%20final.pdf>.

<sup>4</sup> Friends of David Schweikert, Statement of Organization (Jan. 11, 2013). During the 2012 election, Schweikert for Congress was Schweikert's principal campaign committee. Schweikert for Congress, Statement of Organization (Jan. 20, 2011). The Commission approved the termination of David Schweikert for Congress on November 5, 2013. Schweikert for Congress, Termination Approval 2013 (Nov. 5, 2013). During the 2010 election, David Schweikert for Congress was Schweikert's principal campaign committee. David Schweikert for Congress, Statement of Organization (Sept. 8, 2008).

<sup>5</sup> Press Release, Rep. David Schweikert, Congressman David Schweikert Announces Chief of Staff Transition (July 9, 2018), <https://schweikert.house.gov/media-center/press-releases/congressman-david-schweikert-announces-chief-staff-transition>. Specifically, Schwab was Campaign Manager from 2010 until early 2012 and resumed a campaign management role from January 2013 until July 2018. Invest. Subcomm. Rpt. at 6. He was Chief of Staff from January 2011 to June 2012, Senior Adviser from September 2012 to May 2013, and Chief of Staff from May 2013 to July 2018. *Id.*

<sup>6</sup> Virginia State Corporation Commission, Clerk's Information System, <https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=552953&source=FromEntityResult&isSeries=False> (Chartwell is now known as "The Oxford Group, LLC").

**A. Respondent's Submissions**

On November 2, 2017, the Washington Examiner published an “opinion” article that alleged that the Committee and several other Schweikert-related entities or accounts including his Members’ Representational Allowance (“MRA”), his official officeholder account, made “lavish” disbursements and reimbursements to Schwab both personally and through Chartwell.<sup>7</sup> Following the publication of this article, Schweikert directed an internal review of the subject matter of the article, including engaging counsel, retaining a new treasurer, and hiring a compliance firm.<sup>8</sup>

The review discovered two types of reporting violations, which form the basis for Respondent’s Submission: insufficiently detailed purposes for disbursements and a failure to list the correct payee for certain disbursements first made by Schwab, Chartwell or another employee and reimbursed by the Schweikert Committee. First, out of \$148,760.48 in total reimbursements to Schwab or Chartwell from 2014-2017, the Submission identified \$77,867 in insufficiently detailed purpose of disbursement entries such as “Strategic/Fundraising Consulting,” when the actual expenses related to disbursements such as “Direct Mailing, General Office Supplies, Membership Dues, [and] Email Marketing.”<sup>9</sup> Respondent submitted a “clarified reporting description” that provided more detail about each disbursement.<sup>10</sup> While the

---

<sup>7</sup> Philip Wegman, *A Lot of Cash is Flowing to David Schweikert’s Chief of Staff Oliver Schwab*, WASHINGTONEXAMINER.COM, Nov. 2, 2017, <https://www.washingtonexaminer.com/a-lot-of-cash-is-flowing-to-david-schweikerts-chief-of-staff-oliver-schwab>. Many of the allegations in the article concern committees or accounts not at issue in this matter, including Schweikert’s MRA.

<sup>8</sup> Submission at 1, Third Supp., Attach. (Email from Emily Hoover to Mike Bayes (Oct. 17, 2019)).

<sup>9</sup> Submission, Attach. A; Third Supp.

<sup>10</sup> Submission, Attach. A.

Schweikert Committee has not amended disclosure reports to address the purposes of disbursements, it has expressed a willingness to do so in connection with resolving this matter.<sup>11</sup>

Second, the Submission identified \$50,863 in disbursements with misreported payees.<sup>12</sup> The Committee disclosed these payments as disbursements to Chartwell, Schwab, or other staffers in Schweikert's House office, who served as intermediaries in a transaction, as opposed to the vendor that actually provided the services to the Committee.<sup>13</sup> The Committee unwound the transactions and paid the vendor directly.<sup>14</sup> For those transactions in which Chartwell or Schwab was the intermediary, the Committee sought refunds from the vendor to Chartwell or Schwab and from Chartwell or Schwab to the Committee, and then the Committee made direct payments to the previously undisclosed vendors, which accounted for \$50,372 of the original \$50,863.<sup>15</sup> The Schweikert Committee's disclosure reports show that Schwab repaid \$50,372 to the Committee on March 31, 2018, labeling his contributions as "repayment[s] for erroneous reimbursements" from the Committee.<sup>16</sup> Other staffers reimbursed the Committee for the remaining \$491.<sup>17</sup>

---

<sup>11</sup> *Id.* at 2-3; Second Supp. Attach., Jason Torchinsky Email (Apr. 23, 2019).

<sup>12</sup> Submission, Attachs. B-C. Attachments B and C contain the same type of violation. Attachment B contains the reimbursements from Chartwell and Attachment C identifies approximately \$500 of other staffers' advances that were reimbursed by the Committee. Those staffers repaid the amounts that the Committee originally reimbursed.

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

<sup>14</sup> *Id.* at 2-3. It appears that this process was necessary to attempt to avoid liability under House Ethics rules, not to comply with the Act or Commission regulations.

<sup>15</sup> *Id.*; *see also* First Supp. at 3.

<sup>16</sup> *See* Committee, Contributions, 2018-19, Contributor "Oliver Schwab," [https://www.fec.gov/data/receipts/?two\\_year\\_transaction\\_period=2018&data\\_type=processed&committee\\_id=C00540617&contributor\\_name=schwab%2C+oliver&min\\_date=01%2F01%2F2017&max\\_date=12%2F31%2F2018](https://www.fec.gov/data/receipts/?two_year_transaction_period=2018&data_type=processed&committee_id=C00540617&contributor_name=schwab%2C+oliver&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018) (containing the memo entry "OFFSET - Repayment of Erroneous Reimbursement").

<sup>17</sup> Submission, Attach. C.

Respondent provided spreadsheets from its compliance firm indicating that \$31,522 of these two categories of reporting violations overlap, resulting in entries that both lacked a sufficient purpose of disbursement and the correct payee.<sup>18</sup>

#### **B. The Ethics Committee's Investigation and Report**

Shortly after the publication of the Washington Examiner article on November 2, 2017, the Office of Congressional Ethics began to investigate payments made to Schwab and Chartwell, and after receiving a complaint dated January 29, 2018, the Office of Congressional Ethics extended its investigation to allegations that Schweikert and Schwab violated House Ethics rules related to, *inter alia*, Schwab making contributions to the Schweikert Committee, earning excessive outside income, and filing inaccurate financial disclosures.<sup>19</sup> On June 8, 2018, the Ethics Committee advised Schweikert to amend any erroneous reports filed with the Commission of which it knew, and encouraged Schweikert to file a *sua sponte* submission.<sup>20</sup> The Office of Congressional Ethics referred the matter to the Ethics Committee and, on June 28, 2018, the Ethics Committee formed the Investigative Subcommittee ("ISC") to investigate the allegations.<sup>21</sup> Respondent filed this *sua sponte* with the Commission the following day.

---

<sup>18</sup> Second Supp., Attach.; Third Supp. at 1, Attachs.

<sup>19</sup> Office of Congressional Ethics ("OCE") Compl., [https://images.phoenixnewtimes.com/media/pdf/ethics\\_complaint.pdf](https://images.phoenixnewtimes.com/media/pdf/ethics_complaint.pdf). The Complaint is erroneously dated "January 29, 2017." On April 16, 2018, OCE referred the matter to the Committee on Ethics of the U.S. House of Representatives ("Ethics Committee") to investigate, *inter alia*, whether the Committee received contributions from an employee and whether Schweikert authorized impermissible expenditures from his MRA, in violation of House Ethics rules. <https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-davi-0>.

<sup>20</sup> Invest. Subcomm. Rpt., Ex A. ¶ 51.

<sup>21</sup> See CHAIRWOMAN SUSAN W. BROOKS, 115TH CONG., Statement of the Chairwoman and Ranking Member of the Committee on Ethics Regarding Representative David Schweikert and Richard Oliver Schwab at 1 (June 28, 2018), <https://ethics.house.gov/press-release/statement-chairwoman-and-ranking-member-committee-ethics-regarding-representative-19>; <https://ethics.house.gov/sites/ethics.house.gov/files/Report%20-%20OCE%20Review%20No.%2017-4790.pdf> ("OCE Referral").

On September 5, 2018, the Office of Congressional Ethics sent Schweikert a second referral, which included a 50-page report with Findings of Facts and Citations to Law, analyzing potential reporting violations in detail, including a previously unreported loan from Metro Phoenix Bank among other misreported loans to Schweikert’s campaign committees.<sup>22</sup> During its investigation, counsel for Schweikert informed the Ethics Committee by email on October 3, 2018, that they had “engaged with FEC staff to work cooperatively to resolve any issues.”<sup>23</sup> But the Schweikert Committee did not initially advise the Commission of any reporting issues with loans. In response to multiple inquiries regarding the scope of the Ethics Committee’s investigation, the Schweikert Committee represented that it produced to the Commission all “FECA-related material” that the Schweikert Committee produced to “Ethics.”<sup>24</sup> However, according to the Statement of Alleged Violations to which Schweikert agreed as part of his settlement with the Ethics Committee: “Respondent did not work to cure or engage with any FEC staff regarding the [misreported Metro Phoenix Bank loan] . . . at that time.”<sup>25</sup> On January 6, 2020, Schweikert informed the Ethics Committee that he “inadvertently” failed to disclose certain loans.<sup>26</sup> On January 27, 2020, approximately 18 months after the filing of the initial Submission, counsel for the Schweikert Committee informed the Commission for the first time

---

<sup>22</sup> Invest. Subcomm. Rpt. at 4-5, 37, Appx. B. The Ethics Committee also found several violations unrelated to Schweikert’s campaigns including the misuse of Schweikert’s official funds, pressuring official staff to do campaign work, failing to exercise “due diligence” in responding to the Ethics Committee’s investigation, and a “lack of candor” to the Ethics Committee.

<sup>23</sup> *Id.* at 27, Ex. A ¶ 79 (quoting Respondent’s email regarding the Metro Phoenix Bank loan); *id.*, Ex. A ¶ 55 (quoting Respondent’s email regarding the “falsely” disclosed \$100,000 loan).

<sup>24</sup> Third Supp. at 1.

<sup>25</sup> *Id.*, Ex. A ¶ 80 (failure to advise the Commission concerning the Phoenix Metro Loan); *id.*, Ex. A ¶ 54 (failure to advise the Commission concerning the “falsely” disclosed \$100,000 loan).

<sup>26</sup> *Id.*, Ex. A ¶ 84 (quoting Respondent’s email).

by email that it “had come across information” that was “well beyond the statute of limitations” showing “reporting discrepancies” with respect to three loans.<sup>27</sup>

On July 30, 2020, the Ethics Committee adopted its Investigative Subcommittee’s Report and recommended that the full House vote to adopt the report.<sup>28</sup> The Ethics Committee’s Report is based on a voluminous record, including interviews, deposition testimony, and 200,000 pages of documents.<sup>29</sup> Following the issuance of the Ethics Committee’s Report and its several findings that Respondent had violated the Act, Respondent declined to amend its submissions. The Commission considered the following information in connection with its review of Respondent’s submission.

1. The Schweikert Committee’s Reimbursements to Chartwell for Campaign Expenses

Out of \$148,760.48 in total reimbursements to Schwab or Chartwell from 2014-2017, the Submission identified \$77,867 in insufficiently detailed purpose of disbursement entries and \$50,863 in disbursements with misreported payees. The Ethics Committee’s investigation, for its part, identified approximately \$270,000 in reimbursements from Schweikert’s campaign committees to Schwab or Chartwell between 2011 and 2018.<sup>30</sup> The Ethics Committee’s Report divides the \$270,000 into three categories: (1) \$7,000 in reimbursements to Schwab directly; (2) \$65,000 in reimbursements to Schwab through Chartwell; and (3) \$200,000 in reimbursements to

---

<sup>27</sup> Email from Michael Bayes, Counsel for the Schweikert Committee, to Staff Attorney Nicholas Bamman (Jan. 27, 2020); Invest. Subcomm. Rpt., Ex. A ¶¶ 56, 85.

<sup>28</sup> This FGCR refers to the Investigative Subcommittee’s Report as the Ethics Committee’s Report, given that the Ethics Committee adopted the report.

<sup>29</sup> Invest. Subcomm. Rpt. at 5-6.

<sup>30</sup> The reimbursements themselves were deemed by the House as impermissible contributions from an employee of a House member to his or her employer in violation of 18 U.S.C. § 603. Invest. Subcomm. Rpt. at 41, Ex. A ¶¶ 108-09, 217.



Schwab's personal credit card companies.<sup>31</sup> Three other congressional staffers made smaller outlays totaling \$491.12 for campaign-related expenditures that were subsequently reimbursed.<sup>32</sup> While the \$270,000 appears to describe the same types of violations raised in the Submissions, it is unclear the exact extent of the overlap.

The Ethics Committee's Report, which was based on an extensive investigation that included depositions of the principals, provides a better understanding of the reasons behind the purpose and payee reporting failures. Schwab testified that Schweikert instructed Schwab to seek reimbursement through Chartwell as a consulting fee "to conceal" the purpose of the expenditure and Schwab's involvement.<sup>33</sup> For example, Schwab testified that Schweikert was "very adamant that he did not want a whole bunch of dinners in D.C. showing up on his FECs."<sup>34</sup> To conceal those disbursements, Schwab paid for the expense with his personal credit card and sought reimbursement from the Schweikert Committee, which disclosed the disbursements as consulting fees to Chartwell.<sup>35</sup> In another example, Schwab testified that he billed the campaign \$5,000 for "consulting services" in order to conceal the purchase of tickets on a charter airplane when Schweikert traveled to Lake Havasu City, Arizona, for a speech.<sup>36</sup>

---

<sup>31</sup> *Id.* at 41, Ex. A ¶¶ 111-113.

<sup>32</sup> *Id.*, Ex. A ¶ 129. This amount appears on Exhibit C of Respondent's initial Submission.

<sup>33</sup> *Id.*, Ex. A ¶ 121 ("Mr. Schwab provided testimony to the ISC asserting that Respondent was aware Mr. Schwab was making expenditures on behalf of Respondent's campaign using his personal funds, and that Respondent instructed Mr. Schwab to seek reimbursements through Chartwell or his credit card company in order to conceal the fact that Mr. Schwab was responsible for the underlying expenditure."). The Ethics Committee also identifies an approximate \$5,000 outlay for Schweikert's travel on a charter plane in 2014. *Id.* at 43.

<sup>34</sup> *Id.* at 42 (quoting Schwab interview).

<sup>35</sup> *Id.* at 42, Ex. A ¶ 121.

<sup>36</sup> *Id.* at 43. The Ethics Committee could not find documentary evidence of this disbursement; however, Schweikert did speak at an event in Lake Havasu City on February 7, 2014. *Id.* at 43-44. Schweikert's campaign committees did not report any disbursements for travel around this time. *Id.* at 44.

For some reimbursements, Schwab directed the Committee to make checks payable to his personal credit card companies, such as “Chase Bank,” instead of himself personally, which was disclosed in reports filed with the Commission as a disbursement to “Chase Bank,” further concealing the true recipient of the Committee’s disbursement.<sup>37</sup> Schwab testified that the Schweikert Committee’s treasurer was aware that disbursements labeled as consulting fees were actually for campaign expenses.<sup>38</sup> Schweikert denies that he ever instructed Schwab to seek reimbursement through Chartwell; however, the Ethics Committee noted that Schweikert’s testimony was inconsistent and testimony from other witnesses indicated that Schweikert was aware of the practice.<sup>39</sup>

Although the Ethics Committee did not make a separate finding based on the Act with respect to the \$270,000 in reimbursements, it found that in disclosure reports filed with the Commission, the Schweikert Committee did not list the actual recipient of the disbursement, instead listing Chartwell, and did not list the actual purpose of the disbursement, instead listing “strategic consulting” or another vague description.<sup>40</sup> In some instances, at the direction of Schweikert and with the treasurer’s knowledge, this obfuscation was intended to conceal

---

<sup>37</sup> *Id.* at 46, Ex. A ¶¶ 109-110. In addition to the reporting discrepancies related to these reimbursements, Schwab testified that Schweikert instructed him to wait until the next reporting quarter to seek reimbursement for certain disbursements to manipulate the Committee’s cash-on-hand and other quarterly financial figures. *Id.* at 44

<sup>38</sup> *Id.* at 44, Ex. A ¶ 126.

<sup>39</sup> *Id.* at 42.

<sup>40</sup> *Id.*, Ex. A ¶ 115 (Statement of Violations) (stating “[w]hen reporting disbursements to Mr. Schwab’s personal credit card companies, the campaign did not always disclose the underlying vendor on FEC reports, nor did it disclose that Mr. Schwab had made the underlying disbursements”).

impermissible or embarrassing disbursements from public view.<sup>41</sup> The Ethics Committee found substantial evidence that Schweikert knew about the reimbursements.<sup>42</sup>

## 2. Personal Use

The Ethics Committee determined that Schweikert's staff paid for Schweikert's personal expenses, including meals, dry cleaning, and flight upgrades for personal travel, and then were sometimes repaid by Schweikert, but also sometimes repaid from Schweikert's campaign accounts.<sup>43</sup> Schwab testified that after the personal use expenses became too large, Schweikert "instructed Mr. Schwab to 'be creative' and bill the campaign for the expenses."<sup>44</sup>

Because the Schweikert Committee did not retain adequate records, the only examples the Ethics Committee could specifically identify were disbursements of \$1,476.90 for the child care of Schweikert's daughter in 2017, disclosed as "petty cash" and "strategic campaign consulting" in reports filed with the Commission.<sup>45</sup> The Ethics Committee could not reliably calculate the total amount of funds that it concluded Schweikert converted to personal use.<sup>46</sup> However, Schwab testified that he incurred \$5,000 of personal use expenses on behalf of

---

<sup>41</sup> *Id.* at 43-44; *id.*, Ex. A, ¶ 219 (concluding that the reimbursements "hid from public view the true amount of expenditures Mr. Schwab had made on behalf of his campaigns, and in other cases obscured the true nature, date, and underlying recipient of the disbursements"); *see also id.* at 52 ("The ISC further notes that the sheer breadth of this misconduct was obscured from the public, the FEC, and the Committee because Representative Schweikert's campaign committees reported the repayments to Mr. Schwab through various means, including by issuing reimbursements to Mr. Schwab directly, to his single-member LLC, Chartwell Associates, and through payments to his personal credit card companies.").

<sup>42</sup> *Id.* at 51-52; *id.*, Ex. A ¶¶ 121 ("Mr. Schwab provided testimony to the ISC asserting that Respondent was aware Mr. Schwab was making expenditures on behalf of Respondent's campaign using his personal funds, and that Respondent instructed Mr. Schwab to seek reimbursements through Chartwell or his credit card company in order to conceal the fact that Mr. Schwab was responsible for the underlying expenditure."); *id.* ¶ 122 ("Respondent knew or should have known that Mr. Schwab made substantial non-travel expenditures on behalf of the campaign.").

<sup>43</sup> *Id.* at 53.

<sup>44</sup> *Id.*, Ex. A ¶ 137.

<sup>45</sup> *Id.* at 60, Ex. A ¶ 133.

<sup>46</sup> *Id.*

Schweikert, and provided the campaign with “false invoices or instructed the campaign’s treasurers to make disbursements for campaign services.”<sup>47</sup>

Schweikert denied using campaign funds for babysitting or any other personal use.<sup>48</sup> However, the Ethics Committee found Schweikert’s denials unconvincing in light of “several members of his staff who testified otherwise, as well as documents obtained in the course of its investigation, including an email from staff expressing concern at Representative Schweikert’s attempt to find an ‘unemployed female intern type person’ to serve as his daughter’s nanny.”<sup>49</sup>

### III. LEGAL ANALYSIS

#### A. Schweikert Committee Violations

The Act and Commission regulations require political committees to report the name and address of each person to whom they make expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees, as well as the date, amount, and purpose of such payments.<sup>50</sup>

##### 1. Purpose of Disbursements

Commission regulations define “purpose” as a “brief statement or description of why the disbursement was made.”<sup>51</sup> “The ‘purpose of disbursement’ entry, when considered along with the identity of the disbursement recipient, must be sufficiently specific to make the purpose of

---

<sup>47</sup> *Id.*, Ex. A ¶ 138.

<sup>48</sup> *Id.* at 55-56, Ex. A ¶¶ 139-40.

<sup>49</sup> *Id.* at 59.

<sup>50</sup> 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(4)(i), (vi); Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40,625, 40,626-27 (July 8, 2013) (addressing disclosure of ultimate payees with respect to credit card payments).

<sup>51</sup> 11 C.F.R. § 104.3(b)(3)(i)(A)-(B), (b)(4)(i)(A).

the disbursement clear.”<sup>52</sup> The Commission has determined that the description of purpose should be sufficient to allow “a person not associated with the committee [to] easily discern why the disbursement was made when reading the name of the recipient and the purpose.”<sup>53</sup> Examples of sufficient statements of purpose include, but are not limited to, dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs.<sup>54</sup>

Although committees may not merely label a disbursement as “consulting,” they may specify a type of consulting service to ensure that the purpose provided in their reports is considered “adequate” by the Commission, including descriptions such as “strategy consulting” or “fundraising consulting.”<sup>55</sup> For example, the Commission has provided guidance that a description of purpose such as “Consultant-Legal” is sufficient for a disbursement to a consultant; the sufficiency of the description is read in context with the name of the payee.<sup>56</sup>

Here, in Respondent’s Submission, the Schweikert Committee acknowledged that disbursements with generic labels such as “strategic consulting” were actually for purposes such as “advertising,” “website design,” “lodging,” and “food & beverage.”<sup>57</sup> For instance, the Schweikert Committee originally described a disbursement for \$8,119.32 to Chartwell on

---

<sup>52</sup> See Statement of Policy: “Purpose of Disbursement” Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007) (“Purpose Statement of Policy”) (citing 11 C.F.R. §§ 104.3(b)(3)(i)(B), (b)(4)(i)(A)).

<sup>53</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888.

<sup>54</sup> 11 C.F.R. § 104.3(b)(3)(i)(B), (b)(4)(i)(A).

<sup>55</sup> *Purposes of Disbursement*, FEDERAL ELECTION COMMISSION, <https://www.fec.gov/help-candidates-and-committees/purposes-disbursement> (last visited Jun. 14, 2021) (noting that the lists of inadequate and adequate purposes are not exhaustive and were revised on August 21, 2018).

<sup>56</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888; *see also* FEC Campaign Guide for Congressional Candidates at 103 (June 2014) (the description of purpose must be sufficiently specific such that it makes clear the reason for the disbursement when considered in conjunction with the payee’s identity).

<sup>57</sup> Submission, Attach. A.

February 25, 2016 as “Strategic Consulting/Travel;” however, the Committee proposes to amend the description to “General Office Supplies, Travel, Advertising, Printing, Postage, Web Hosting, Gifts & Mementos, Catering.”<sup>58</sup> Respondent asserts that there is approximately \$78,000 in violation for inadequate purposes of disbursements.

The Ethics Committee, however, found that the improper purpose statements were not just inadequately vague descriptions of campaign expenses, but intentional misstatements designed to conceal the real purpose of disbursements and Schwab’s involvement in the transaction.<sup>59</sup> Schwab testified that Schweikert instructed him to purposely conceal the purpose of certain disbursements, such as dinners in D.C., so that they would not appear on the Schweikert Committee’s “FECs.”<sup>60</sup> Schwab further testified that Schweikert owed him so much money that Schweikert instructed him to “be creative,” and that he submitted false consulting invoices and instructed the campaign’s treasurer to make disbursements for “consulting services.”<sup>61</sup> The Ethics Committee did not find a written record of Schweikert instructing Schwab to bill this way, although Schwab also testified that Schweikert purposely conducted business over the phone to avoid a “paper trail.”<sup>62</sup>

Because the Schweikert Committee inadequately described the purpose of certain disbursements, the Commission finds reason to believe that Friends of David Schweikert and

---

<sup>58</sup> *Id.*

<sup>59</sup> Invest. Subcomm. Rpt., Ex. A ¶ 114.

<sup>60</sup> *Id.* at 42 (Schweikert was “very adamant that he did not want a whole bunch of dinners in D.C. showing up on his FECs.”) (quoting Schwab interview).

<sup>61</sup> *Id.* at 55, Ex. A ¶¶ 123, 137, 138.

<sup>62</sup> *Id.*

Valerie Giramberk in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(5) and (b)(6) and 11 C.F.R. § 104.3(b)(3) and (b)(4) by misreporting the purpose of disbursements.

## 2. Ultimate Payees

Neither the Act nor the Commission's relevant implementing regulations address the concepts of ultimate payees, vendors, agents, contractors, or subcontractors in the context of payee reporting.<sup>63</sup> The Commission has determined, however, that merely reporting the immediate recipient of a committee's payment will not satisfy the requirements of Section 30104(b)(5) when the facts indicate that the immediate recipient is merely a conduit for the intended recipient of the funds.<sup>64</sup>

The Commission has made reason to believe findings in ultimate payee matters where it had information that a committee undertook efforts to actively conceal the ultimate payee.<sup>65</sup> For example, in MUR 6724 (Bachmann for President), the Bachmann committee paid a consultant through an intermediary in order to conceal the true payee because it believed that state ethics rules prohibited the ultimate payee from receiving the funds.<sup>66</sup> The Commission found reason to believe that the Bachmann committee misreported the ultimate payee because the disclosed

---

<sup>63</sup> Advisory Op. 1983-25 (Mondale for President) at 2; 78 Fed. Reg. at 40,626 (clarifying a committee's obligation to report "ultimate payees" in three specific scenarios not articulated in the Act or regulations: reimbursements to individuals who advance personal funds to pay committee expenses; payments to credit card companies; and reimbursements to candidates who use personal funds to pay committee expenses).

<sup>64</sup> Factual and Legal Analysis at 9, MUR 6724 (Bachmann for President, *et al.*) (citing Conciliation Agreement at 3, MUR 4872 (Jenkins)).

<sup>65</sup> *See, e.g.*, F&LA at 10-11, MUR 6724 (Bachmann for President) (finding reason to believe where a committee used an intermediary to disguise the "true, intended recipient of the disbursements"); Conciliation Agreement at 2-4, MUR 4872 (Jenkins for Senate) (finding reason to believe where a vendor's only role was "to serve as a conduit for payment . . . so as to conceal the transaction").

<sup>66</sup> F&LA at 3, MUR 6724 (Bachmann for President).

1 payee was merely a conduit, “thereby concealing the true, intended recipient of the  
 2 disbursements.”<sup>67</sup>

3 Here, the Ethics Committee determined that the Schweikert Committee purposely  
 4 disclosed erroneous payees both to obscure that Schwab was making large outlays on behalf of  
 5 the campaign and to obscure “the true nature, date, and underlying recipient of the  
 6 disbursements.”<sup>68</sup> In some instances Schwab submitted receipts for reimbursement made on a  
 7 personal credit card, but instructed the treasurer to make the checks payable to “Chase Bank,”  
 8 which was the payee reflected on disclosure reports filed with the Commission.<sup>69</sup> In many  
 9 instances, Schwab concealed the true campaign vendor with false consulting invoices payable to  
 10 Chartwell.<sup>70</sup> The type of activity at issue here, payments for reimbursements to campaign staff  
 11 and payments to credit card companies, are the types of disbursements where the Commission  
 12 has required more specific reporting.<sup>71</sup>

13 Although Respondent identified a violation for misreporting payees in its Submission,  
 14 Respondent also states that it did not believe that it violated any regulation.<sup>72</sup> Given the chance  
 15 to amend the Submission in light of the Ethics Committee Report, the Schweikert Committee

---

<sup>67</sup> *Id.* at 10.

<sup>68</sup> Invest. Subcomm. Rpt. at 43-44. “Mr. Schwab testified that Respondent had preferred reimbursements be reported as payments to Chartwell because it appeared as an arm’s length transaction to a vendor on FEC reports, rather than a payment to his staffer.” *Id.*, Ex. A ¶ 114.

<sup>69</sup> *Id.* at 46, Ex. A ¶¶ 127-28.

<sup>70</sup> *Id.* at 55, Ex. A ¶¶ 123, 138.

<sup>71</sup> In the Ultimate Payee Interpretive Rule, the Commission clarified a committee’s obligation to report “ultimate payees” in three specific scenarios not articulated in the Act or Commission regulations: (1) reimbursements to individuals who advance personal funds to pay committee expenses; (2) payments to credit card companies; and (3) candidates who use personal funds to pay committee expenses without reimbursement. Ultimate Payee Interpretive Rule, 78 Fed. Reg. at 40,626.

<sup>72</sup> Submission at 2.



declined to do so. Respondent identifies approximately \$50,000 in disbursements with erroneous payees.<sup>73</sup> Accordingly, the Commission finds reason to believe that Friends of David Schweikert and Valerie Giramberk in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(5) and (b)(6) by misreporting the payees of disbursements.

### 3. Personal Use

Under the Act, a contribution accepted by a candidate may be used for, *inter alia*, “otherwise authorized expenditures in connection with the campaign for Federal office of the candidate,” “for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office,” as well as for “any other lawful purpose” not otherwise prohibited under the Act.<sup>74</sup> However, the Act prohibits the conversion of campaign funds by any person to “personal use.”<sup>75</sup> “Personal use” is the use of funds in a campaign account “to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate’s campaign or duties as a Federal officeholder.”<sup>76</sup> The Act and Commission regulations list certain uses of campaign funds that constitute *per se* conversion to personal use.<sup>77</sup> For other payments, the “Commission will determine, on a case-by-case basis, whether other uses” of campaign funds constitute personal use by applying the “irrespective test,” that is, whether the

---

<sup>73</sup> *Id.*, Attachs. B-C.

<sup>74</sup> 52 U.S.C. § 30114(a).

<sup>75</sup> *Id.* § 30114(b).

<sup>76</sup> 11 C.F.R. § 113.1(g); *see* 52 U.S.C. § 30114(b).

<sup>77</sup> 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i).

1 payment fulfills a commitment, obligation, or expense that would exist irrespective of the  
 2 candidate's campaign or duties as a federal officeholder.<sup>78</sup>

3 Here, the Ethics Committee identified a number of disbursements for personal use;  
 4 however, the only disbursements for which it could identify an amount in violation was  
 5 \$1,476.90 for child care for Schweikert's daughter.<sup>79</sup> The Commission has addressed childcare  
 6 in a number of advisory opinions, finding that such expenses are not personal use where the  
 7 childcare was a direct result of campaign activity.<sup>80</sup> There is no record evidence to suggest that  
 8 the childcare at issue in this matter resulted from campaign activity. Indeed, the expenses  
 9 occurred between June and October of 2017, a non-election year, and they were reimbursed, in  
 10 part, with the memo "strategic campaign consulting" on disclosure reports, suggesting that the  
 11 Schweikert Committee concealed the disbursement because it knew it was impermissible.

12 The Ethics Committee Report identifies other categories of disbursements that also  
 13 constitute personal use under the Act, including disbursements for dry cleaning and flight  
 14 upgrades for personal travel.<sup>81</sup>

---

<sup>78</sup> 11 C.F.R. § 113.1(g)(1)(ii).

<sup>79</sup> Invest. Subcomm. Rpt. at 60 ("The ISC was unable to calculate the precise amount of campaign funds that were misused for personal purposes because many of these expenses were characterized by Mr. Schwab as consulting expenses or petty cash, and underlying records were not preserved or provided to the campaign.").

<sup>80</sup> See, e.g., Advisory Op. 2019-13 (MJ for Texas) at 3 (child care expenses must be "a direct result from campaign activity") (quoting Advisory Op. 2018-06 (Liuba for Congress)).

<sup>81</sup> See Factual and Legal Analysis at 4, 14, MUR 6766 (Jesse Jackson, Jr.) (finding knowing and willful personal use violations for various categories of disbursements, including travel and dry cleaning, that were purposely concealed on disclosure reports). The Ethics Report does not identify the specific amount of disbursements in these categories.

Accordingly, the Commission finds reason to believe that the Schweikert Committee violated 52 U.S.C. § 30114(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to personal use.<sup>82</sup>

4. The Schweikert Committee's Violations Were Knowing and Willful

The Act prescribes additional penalties for violations of the Act that are knowing and willful.<sup>83</sup> A violation of the Act is knowing and willful when the respondent acts “with full knowledge of all the relevant facts and a recognition that the action is prohibited by law.”<sup>84</sup> This standard does not require proving knowledge of the specific statute or regulation the respondent allegedly violated.<sup>85</sup> Rather, it is sufficient to demonstrate that a respondent “acted voluntarily and was aware that his conduct was unlawful.”<sup>86</sup> This awareness may be shown through circumstantial evidence, such as a “defendant’s elaborate scheme for disguising” her actions, or other “facts and circumstances from which the jury reasonably could infer [the defendant] knew her conduct was unauthorized and illegal.”<sup>87</sup>

---

<sup>82</sup> The Commission does not make findings as to Schweikert because he is not a Respondent in this matter.

<sup>83</sup> See 52 U.S.C. § 30109(a)(5)(B), (d).

<sup>84</sup> 122 Cong. Rec. 12197, 12199 (daily ed. May 3, 1976) (defining phrase “knowing and willful”); see also *FEC v. Novacek*, 739 F. Supp. 2d 957, 961 (N.D. Tex. 2010) (granting Commission’s motion for summary judgment where there were no genuine issues of material fact as to the knowing and willful allegations). The Commission has made knowing and willful findings against respondents who have admitted to criminal violations related to the same activity at issue in the enforcement matter. See, e.g., MUR 7225 (Jack Wu); MUR 7132 (Michael David Pitts); MUR 6597 (Kinde Durkee); MUR 6475 (Andrew McCrosson), MUR 6179 (Christopher Ward), MUR 5971 (Jennifer Adams), MURs 5721/5772 (Kenneth Phelps); MUR 5610 (Earl Allen Haywood).

<sup>85</sup> See *United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 2013) (citing *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish that a violation is willful, the government needs to show only that the defendant acted with knowledge that her conduct was unlawful, not knowledge of the specific statutory provision violated)).

<sup>86</sup> *Id.* (internal quotation marks omitted).

<sup>87</sup> *United States v. Hopkins*, 916 F.2d 207, 213-15 (5th Cir. 1990) (internal quotation marks omitted). As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

1 Here, the Statement of Alleged Violations, to which Schweikert admitted as part of the  
2 resolution with the Ethics Committee, provides ample support for knowing and willful findings.  
3 The Ethics Committee noted in particular the “sheer breadth” of the reporting misconduct, which  
4 obscured from the Commission and the public the scope of the violations.<sup>88</sup>

5 As to the activities that form the basis of the Committee’s initial *sua sponte* submission,  
6 the Ethics Committee found that the Committee intentionally misreported the purposes of  
7 expenses to conceal the actual purpose and to hide the actual recipient of the payments. Schwab  
8 testified that he falsified consulting invoices to conceal the true underlying transaction and that  
9 Schweikert “preferred reimbursements be reported as payments to Chartwell because it appeared  
10 as an arm’s length transaction to a vendor on FEC reports, rather than a payment to his staffer.”<sup>89</sup>  
11 Moreover, with respect to the personal use violation, Schwab stated that, after accumulating  
12 many expenses, Schweikert directed him to be “creative” in billing the campaign.<sup>90</sup> Schwab  
13 further testified that he created approximately \$5,000 of false consulting invoices to conceal  
14 personal use expenditures he made on behalf of Schweikert.<sup>91</sup> Indeed, Schweikert admitted in  
15 the Statement of Alleged Violations to a violation for a “lack of candor and diligence,” including  
16 “delays in informing the FEC of inaccurate reporting” and written submissions to the  
17 Commission that “lacked credibility or coherence.”<sup>92</sup>

---

<sup>88</sup> Invest. Subcomm. Rpt. at 52.

<sup>89</sup> *Id.*, Ex. A ¶¶ 114.

<sup>90</sup> *Id.* at 55, Ex. A ¶ 138.

<sup>91</sup> *Id.*, Ex. A ¶ 138.

<sup>92</sup> *Id.*, Ex. A ¶¶ 250-51.

1           Accordingly, the Commission finds reason to believe that the Schweikert Committee's  
2   violations of 52 U.S.C. §§ 30104(b)(5) and (b)(6), 30114 and 11 C.F.R. §§ 104.3(b)(3) and  
3   (b)(4), and 113.1(g) were knowing and willful.

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3  
4  
5 RESPONDENT: Richard Oliver Schwab

MUR

6  
7 **I. INTRODUCTION**

8 This matter was generated by a *sua sponte* submission filed by Richard Oliver Schwab,  
9 the former chief of staff and campaign manager for Representative David Schweikert, and  
10 Chartwell Associates LLC (“Chartwell”), Schwab’s single-member LLC, (collectively,  
11 “Respondents”) with the Federal Election Commission (the “Commission”) identifying potential  
12 violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), resulting from  
13 disclosure reports Friends of David Schweikert and Valerie Giramberk in her official capacity as  
14 treasurer (the “Schweikert Committee”) filed with the Commission containing insufficiently  
15 detailed purposes of disbursements and inaccurate payee information.<sup>1</sup> While this matter was  
16 pending before the Commission, on July 30, 2020, the Committee on Ethics of the U.S. House of  
17 Representatives (“Ethics Committee”) issued a report following an investigation into alleged  
18 ethical violations of Schweikert and his committees (“Ethics Committee’s Report”), including  
19 activity that was the subject of the *sua sponte* submission and other activity subject to the Act  
20 and Commission regulations.<sup>2</sup> Based on the available information, the Commission finds reason  
21 to believe that Schwab violated 52 U.S.C. § 30102(c) by falsifying campaign records.

---

<sup>1</sup> *Sua Sponte* Submission (June 29, 2018); First Supp. *Sua Sponte* Submission (Feb. 7, 2019) (“First Supp.”); Second Supp. *Sua Sponte* Submission (Apr. 23, 2019) (“Second Supp.”); Third Supp. *Sua Sponte* Submission (Oct. 18, 2019) (“Third Supp.”). The Schweikert Committee joined with Schwab and Chartwell in the submissions to the Commission.

<sup>2</sup> Committee on Ethics, 116th Cong., In The Matter of Allegations Relating to Representative David Schweikert, Report of the Committee on Ethics (July 30, 2020), [https://ethics.house.gov/sites/ethics.house.gov/files/documents/Committee%20Report\\_19.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/Committee%20Report_19.pdf); Investigative Subcommittee of the Ethics Committee of the U.S. House of Representatives, 116th Cong., In The Matter of Allegations Relating to Representative David Schweikert Report at 40 (Jun. 20, 2020) (“Invest. Subcomm. Rpt.”), <https://ethics.house.gov/sites/ethics.house.gov/files/documents/ISC%20Report%20-%20Schweikert%20-%20final.pdf>.

## II. FACTUAL BACKGROUND

David Schweikert has been the U.S. Representative for Arizona's 5th or 6th District from 2011 through the present. The Schweikert Committee was Schweikert's principal campaign committee from January 11, 2013 through the present.<sup>3</sup> Schwab was Schweikert's Campaign Manager and Chief of Staff in his House of Representatives office from approximately 2010 until July 2018 when Schwab resigned.<sup>4</sup> Chartwell is Schwab's single-member LLC consulting firm formed under Virginia law.<sup>5</sup>

### A. Respondent's Submissions

On November 2, 2017, the Washington Examiner published an "opinion" article that alleged that the Committee and several other Schweikert-related entities or accounts including his Members' Representational Allowance ("MRA"), his official officeholder account, made "lavish" disbursements and reimbursements to Schwab both personally and through Chartwell.<sup>6</sup> Following the publication of this article, Schweikert directed an internal review of the subject

---

<sup>3</sup> Friends of David Schweikert, Statement of Organization (Jan. 11, 2013). During the 2012 election, Schweikert for Congress was Schweikert's principal campaign committee. Schweikert for Congress, Statement of Organization (Jan. 20, 2011). The Commission approved the termination of David Schweikert for Congress on November 5, 2013. Schweikert for Congress, Termination Approval 2013 (Nov. 5, 2013). During the 2010 election, David Schweikert for Congress was Schweikert's principal campaign committee. David Schweikert for Congress, Statement of Organization (Sept. 8, 2008).

<sup>4</sup> Press Release, Rep. David Schweikert, Congressman David Schweikert Announces Chief of Staff Transition (July 9, 2018), <https://schweikert.house.gov/media-center/press-releases/congressman-david-schweikert-announces-chief-staff-transition>. Specifically, Schwab was Campaign Manager from 2010 until early 2012 and resumed a campaign management role from January 2013 until July 2018. Invest. Subcomm. Rpt. at 6. He was Chief of Staff from January 2011 to June 2012, Senior Adviser from September 2012 to May 2013, and Chief of Staff from May 2013 to July 2018. *Id.*

<sup>5</sup> Virginia State Corporation Commission, Clerk's Information System, <https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=552953&source=FromEntityResult&isSeries=False> (Chartwell is now known as "The Oxford Group, LLC").

<sup>6</sup> Philip Wegman, *A Lot of Cash is Flowing to David Schweikert's Chief of Staff Oliver Schwab*, WASHINGTONEXAMINER.COM, Nov. 2, 2017, <https://www.washingtonexaminer.com/a-lot-of-cash-is-flowing-to-david-schweikerts-chief-of-staff-oliver-schwab>. Many of the allegations in the article concern committees or accounts not at issue in this matter, including Schweikert's MRA.

1 matter of the article, including engaging counsel, retaining a new treasurer, and hiring a  
 2 compliance firm.<sup>7</sup>

3 The review discovered two types of reporting violations, which form the basis for  
 4 Respondent's Submission: insufficiently detailed purposes for disbursements and a failure to list  
 5 the correct payee for certain disbursements first made by Schwab, Chartwell or another  
 6 employee and reimbursed by the Schweikert Committee. First, out of \$148,760.48 in total  
 7 reimbursements to Schwab or Chartwell from 2014-2017, the Submission identified \$77,867 in  
 8 insufficiently detailed purpose of disbursement entries such as "Strategic/Fundraising  
 9 Consulting," when the actual expenses related to disbursements such as "Direct Mailing, General  
 10 Office Supplies, Membership Dues, [and] Email Marketing."<sup>8</sup>

11 Second, the Submission identified \$50,863 in disbursements with misreported payees.<sup>9</sup>  
 12 The Committee disclosed these payments as disbursements to Chartwell, Schwab, or other  
 13 staffers in Schweikert's House office, who served as intermediaries in a transaction, as opposed  
 14 to the vendor that actually provided the services to the Committee.<sup>10</sup> The Committee planned to  
 15 unwind the transactions and pay the vendor directly.<sup>11</sup> For those transactions in which Chartwell  
 16 or Schwab was the intermediary, the Committee sought refunds from the vendor to Chartwell or  
 17 Schwab and from Chartwell or Schwab to the Committee, and then the Committee made direct

---

<sup>7</sup> Submission at 1, Second Supp., Attach. (Email from Emily Hoover to Mike Bayes (Oct. 17, 2019)).

<sup>8</sup> Submission, Attach. A; Third Supp.

<sup>9</sup> Submission, Attachs. B-C. Attachments B and C contain the same type of violation. Attachment B contains the reimbursements from Chartwell and Attachment C identifies approximately \$500 of other staffers' advances that were reimbursed by the Committee. Those staffers repaid the amounts that the Committee originally reimbursed.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 2-3. It appears that this process was necessary to attempt to avoid liability under House Ethics rules, not to comply with the Act or Commission regulations.



1 payments to the previously undisclosed vendors, which accounted for \$50,372 of the original  
2 \$50,863.<sup>12</sup> The Schweikert Committee’s disclosure reports show that Schwab repaid \$50,372 to  
3 the Committee on March 31, 2018, labeling his contributions as “repayment[s] for erroneous  
4 reimbursements” from the Committee.<sup>13</sup>

5 The Committee provided spreadsheets from the Committee’s compliance firm indicating  
6 that \$31,522 of these two categories of reporting violations overlap, resulting in entries that both  
7 lacked a sufficient purpose of disbursement and the correct payee.<sup>14</sup>

## 8 **B. The Ethics Committee’s Investigation and Report**

9 Shortly after the publication of the Washington Examiner article on November 2, 2017,  
10 the Office of Congressional Ethics began to investigate payments made to Schwab and  
11 Chartwell, and after receiving a complaint dated January 29, 2018, the Office of Congressional  
12 Ethics extended its investigation to allegations that Schweikert and Schwab violated House  
13 Ethics rules related to, *inter alia*, Schwab making contributions to the Schweikert Committee,  
14 earning excessive outside income, and filing inaccurate financial disclosures.<sup>15</sup> On June 8, 2018,

---

<sup>12</sup> *Id.*; see also First Supp. at 3.

<sup>13</sup> See Committee, Contributions, 2018-19, Contributor “Oliver Schwab,”  
[https://www.fec.gov/data/receipts/?two\\_year\\_transaction\\_period=2018&data\\_type=processed&committee\\_id=C00540617&contributor\\_name=schwab%2C+oliver&min\\_date=01%2F01%2F2017&max\\_date=12%2F31%2F2018](https://www.fec.gov/data/receipts/?two_year_transaction_period=2018&data_type=processed&committee_id=C00540617&contributor_name=schwab%2C+oliver&min_date=01%2F01%2F2017&max_date=12%2F31%2F2018)  
(containing the memo entry “OFFSET - Repayment of Erroneous Reimbursement”).

<sup>14</sup> Second Supp., Attach.; Third Supp. at 1, Attachs.

<sup>15</sup> Office of Congressional Ethics (“OCE”) Compl.,  
[https://images.phoenixnewtimes.com/media/pdf/ethics\\_complaint.pdf](https://images.phoenixnewtimes.com/media/pdf/ethics_complaint.pdf). The Complaint is erroneously dated “January 29, 2017.” On April 16, 2018, OCE referred the matter to the Committee on Ethics of the U.S. House of Representatives (“Ethics Committee”) to investigate, *inter alia*, whether the Committee received contributions from an employee and whether Schweikert authorized impermissible expenditures from his MRA, in violation of House Ethics rules. <https://ethics.house.gov/press-release/statement-chairman-and-ranking-member-committee-ethics-regarding-representative-davi-0>. On June 12, 2019, OCE released its full referral report dated April 5, 2018, stating that Schwab “may have” violated House Ethics rules pertaining to outside employment income, the use of the MRA account and contributions to his employing member, and recommended the issuance of subpoenas because many individuals did not voluntarily comply with the investigation, including Schwab and Schweikert. OCE Referral Regarding Mr. Oliver Schwab, OCE, Apr. 5, 2018,

the Ethics Committee advised Schweikert to amend any erroneous reports filed with the Commission of which it knew, and encouraged Schweikert to file a *sua sponte* submission.<sup>16</sup> The Office of Congressional Ethics referred the matter to the Ethics Committee and, on June 28, 2018, the Ethics Committee formed the Investigative Subcommittee (“ISC”) to investigate the allegations.<sup>17</sup> Respondents filed this *sua sponte* with the Commission the following day.

On July 30, 2020, the Ethics Committee adopted its Investigative Subcommittee’s Report and recommended that the full House vote to adopt the report.<sup>18</sup> The Ethics Committee’s Report is based on a voluminous record, including interviews, deposition testimony, and 200,000 pages of documents.<sup>19</sup> Following the issuance of the Ethics Committee’s Report Schwab and Chartwell filed an additional submission on January 28, 2021, arguing that Schweikert’s campaign committees were ultimately responsible for any reporting errors, the Ethics Committee found that Schweikert “facilitated” the reimbursements, Schwab did not initially know that the

---

<https://oce.house.gov/sites/congressionalethics.house.gov/files/documents/Referral%20OCE%20Rev.%2017-4789%20Oliver%20Schwab.pdf>. The report does not contain any findings pursuant to the Act or Commission regulations.

<sup>16</sup> Invest. Subcomm. Rpt., Ex A. ¶ 51.

<sup>17</sup> See CHAIRWOMAN SUSAN W. BROOKS, 115TH CONG., Statement of the Chairwoman and Ranking Member of the Committee on Ethics Regarding Representative David Schweikert and Richard Oliver Schwab at 1 (June 28, 2018), <https://ethics.house.gov/press-release/statement-chairwoman-and-ranking-member-committee-ethics-regarding-representative-19>; <https://ethics.house.gov/sites/ethics.house.gov/files/Report%20-%20OCE%20Review%20No.%2017-4790.pdf> (“OCE Referral”). Following the announcement of the investigation, Schwab resigned as Schweikert’s Chief of Staff. Ronald J. Hansen, *Oliver Schwab, Schweikert’s Chief of Staff, Quits Amid Ethics Probe*, AZCENTRAL.COM, July 9, 2018, <https://www.azcentral.com/story/news/politics/arizona/2018/07/09/arizona-rep-david-schweikert-chief-staff-oliver-schwab-quits-amid-ethics-probe/769669002/>.

<sup>18</sup> This FGCR refers to the Investigative Subcommittee’s Report as the Ethics Committee’s Report, given that the Ethics Committee adopted the report.

<sup>19</sup> Invest. Subcomm. Rpt. at 5-6.

reimbursements violated any applicable law, and a compliance firm approved all of the reimbursements.<sup>20</sup>

### **C. Schwab's Role in the Schweikert Committee's Reports**

Out of \$148,760.48 in total reimbursements to Schwab or Chartwell from 2014-2017, the Submission identified \$77,867 in insufficiently detailed purpose of disbursement entries and \$50,863 in disbursements with misreported payees. The Ethics Committee investigation, for its part, identified approximately \$270,000 in reimbursements from Schweikert's campaign committees to Schwab or Chartwell between 2011 and 2018.<sup>21</sup> The Ethics Committee's Report divides the \$270,000 into three categories: (1) \$7,000 in reimbursements to Schwab directly; (2) \$65,000 in reimbursements to Schwab through Chartwell; and (3) \$200,000 in reimbursements to Schwab's personal credit card companies (indirectly benefiting Schwab).<sup>22</sup> While the \$270,000 appears to describe the same types of violations raised in the Submissions, it is unclear the exact extent of the overlap.

The Ethics Committee's Report, which was based on an extensive investigation that included depositions of the principals, provides a better understanding of the reasons behind the purpose and payee reporting failures. Schwab testified that Schweikert instructed Schwab to seek reimbursement through Chartwell as a consulting fee "to conceal" the purpose of the expenditure and Schwab's involvement.<sup>23</sup> For example, Schwab testified that Schweikert was

---

<sup>20</sup> Schwab and Chartwell Supp. Submission at 2-4.

<sup>21</sup> The reimbursements themselves were deemed by the House as impermissible contributions from an employee of a House member to his or her employer in violation of 18 U.S.C. § 603. Invest. Subcomm. Rpt. at 41, Ex. A ¶¶ 108-09, 217.

<sup>22</sup> *Id.* at 41, Ex. A ¶¶ 111-113.

<sup>23</sup> *Id.*, Ex. A ¶ 121 ("Mr. Schwab provided testimony to the ISC asserting that Respondent was aware Mr. Schwab was making expenditures on behalf of Respondent's campaign using his personal funds, and that Respondent instructed Mr. Schwab to seek reimbursements through Chartwell or his credit card company in order to

1 “very adamant that he did not want a whole bunch of dinners in D.C. showing up on his  
 2 FECs.”<sup>24</sup> To conceal those disbursements, Schwab paid for the expense with his personal credit  
 3 card and sought reimbursement from the Schweikert Committee, which disclosed the  
 4 disbursements as consulting fees to Chartwell.<sup>25</sup> In another example, Schwab testified that he  
 5 billed the campaign \$5,000 for “consulting services” in order to conceal the purchase of tickets  
 6 on a charter airplane when Schweikert traveled to Lake Havasu City, Arizona, for a speech.<sup>26</sup>  
 7 For some reimbursements, Schwab directed the Committee to make checks payable to his  
 8 personal credit card companies, such as “Chase Bank,” instead of himself personally, which was  
 9 disclosed in reports filed with the Commission as a disbursement to “Chase Bank,” further  
 10 concealing the true recipient of the Committee’s disbursement.<sup>27</sup> Schwab testified that the  
 11 Schweikert Committee’s treasurer was aware that disbursements labeled as consulting fees were  
 12 actually for campaign expenses. Schweikert denies that he ever instructed Schwab to seek  
 13 reimbursement through Chartwell; however, the Ethics Committee noted that Schweikert’s  
 14 testimony was inconsistent and testimony from other witnesses indicated that Schweikert was  
 15 aware of the practice.<sup>28</sup>

---

conceal the fact that Mr. Schwab was responsible for the underlying expenditure.”). The Ethics Committee also identifies an approximate \$5,000 outlay for Schweikert’s travel on a charter plane in 2014. *Id.* at 43.

<sup>24</sup> *Id.* at 42 (quoting Schwab interview).

<sup>25</sup> *Id.* at 42, Ex. A ¶ 121 (“Mr. Schwab provided testimony to the ISC asserting that Respondent was aware Mr. Schwab was making expenditures on behalf of Respondent’s campaign using his personal funds, and that Respondent instructed Mr. Schwab to seek reimbursements through Chartwell or his credit card company in order to conceal the fact that Mr. Schwab was responsible for the underlying expenditure.”).

<sup>26</sup> *Id.* at 43. The Ethics Committee could not find documentary evidence of this disbursement; however, Schweikert did speak at an event in Lake Havasu City on February 7, 2014. *Id.* at 43-44. Schweikert’s campaign committees did not report any disbursements for travel around this time. *Id.* at 44.

<sup>27</sup> *Id.* at 46, Ex. A ¶¶ 109-110. In addition to the reporting discrepancies related to these reimbursements, Schwab testified that Schweikert instructed him to wait until the next reporting quarter to seek reimbursement for certain disbursements to manipulate the Committee’s cash-on-hand and other quarterly financial figures. *Id.* at 44

<sup>28</sup> *Id.* at 42.

Although the Ethics Committee did not make a separate finding based on the Act with respect to the \$270,000 in reimbursements, it found that in disclosure reports filed with the Commission, the Schweikert Committee did not list the actual recipient of the disbursement, instead listing Chartwell, and did not list the actual purpose of the disbursement, instead listing “strategic consulting” or another vague description.<sup>29</sup> In some instances, this obfuscation was intended to conceal impermissible or embarrassing disbursements from public view.<sup>30</sup>

### III. LEGAL ANALYSIS

The Act and Commission regulations require political committees to report the name and address of each person to whom they make expenditures or other disbursements aggregating more than \$200 per calendar year, or per election cycle for authorized committees, as well as the date, amount, and purpose of such payments.<sup>31</sup>

Commission regulations define “purpose” as a “brief statement or description of why the disbursement was made.”<sup>32</sup> “The ‘purpose of disbursement’ entry, when considered along with the identity of the disbursement recipient, must be sufficiently specific to make the purpose of

---

<sup>29</sup> *Id.*, Ex. A ¶ 115 (Statement of Violations)(stating “[w]hen reporting disbursements to Mr. Schwab’s personal credit card companies, the campaign did not always disclose the underlying vendor on FEC reports, nor did it disclose that Mr. Schwab had made the underlying disbursements”).

<sup>30</sup> *Id.* at 43-44; *id.*, Ex. A, ¶ 219 (concluding that the reimbursements “hid from public view the true amount of expenditures Mr. Schwab had made on behalf of his campaigns, and in other cases obscured the true nature, date, and underlying recipient of the disbursements”); *see also id.* at 52 (“The ISC further notes that the sheer breadth of this misconduct was obscured from the public, the FEC, and the Committee because Representative Schweikert’s campaign committees reported the repayments to Mr. Schwab through various means, including by issuing reimbursements to Mr. Schwab directly, to his single-member LLC, Chartwell Associates, and through payments to his personal credit card companies.”)..

<sup>31</sup> 52 U.S.C. § 30104(b)(5), (6); 11 C.F.R. § 104.3(b)(4)(i), (vi); Interpretive Rule on Reporting Ultimate Payees of Political Committee Disbursements, 78 Fed. Reg. 40,625, 40,626-27 (July 8, 2013) (addressing disclosure of ultimate payees with respect to credit card payments).

<sup>32</sup> 11 C.F.R. § 104.3(b)(3)(i)(A)-(B), (b)(4)(i)(A).

the disbursement clear.”<sup>33</sup> The Commission has determined that the description of purpose should be sufficient to allow “a person not associated with the committee [to] easily discern why the disbursement was made when reading the name of the recipient and the purpose.”<sup>34</sup> Examples of sufficient statements of purpose include, but are not limited to, dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs.<sup>35</sup>

Although committees may not merely label a disbursement as “consulting,” they may specify a type of consulting service to ensure that the purpose provided in their reports is considered “adequate” by the Commission, including descriptions such as “strategy consulting” or “fundraising consulting.”<sup>36</sup> For example, the Commission has provided guidance that a description of purpose such as “Consultant-Legal” is sufficient for a disbursement to a consultant; the sufficiency of the description is read in context with the name of the payee.<sup>37</sup>

Here, in Respondents’ Submission, Respondents acknowledged that disbursements with generic labels such as “strategic consulting” were actually for purposes such as “advertising,” “website design,” “lodging,” and “food & beverage.”<sup>38</sup> For instance, the Schweikert Committee originally described a disbursement for \$8,119.32 to Chartwell on February 25, 2016 as

---

<sup>33</sup> See Statement of Policy: “Purpose of Disbursement” Entries for Filings with the Commission, 72 Fed. Reg. 887 (Jan. 9, 2007) (“Purpose Statement of Policy”) (citing 11 C.F.R. §§ 104.3(b)(3)(i)(B), (b)(4)(i)(A)).

<sup>34</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888.

<sup>35</sup> 11 C.F.R. § 104.3(b)(3)(i)(B), (b)(4)(i)(A).

<sup>36</sup> *Purposes of Disbursement*, FEDERAL ELECTION COMMISSION, <https://www.fec.gov/help-candidates-and-committees/purposes-disbursement> (last visited Jun. 14, 2021) (noting that the lists of inadequate and adequate purposes are not exhaustive and were revised on August 21, 2018).

<sup>37</sup> Purpose Statement of Policy, 72 Fed. Reg. at 888; *see also* FEC Campaign Guide for Congressional Candidates at 103 (June 2014) (the description of purpose must be sufficiently specific such that it makes clear the reason for the disbursement when considered in conjunction with the payee’s identity).

<sup>38</sup> Submission, Attach. A.

1 “Strategic Consulting/Travel;” however, the Committee proposes to amend the description to  
 2 “General Office Supplies, Travel, Advertising, Printing, Postage, Web Hosting, Gifts &  
 3 Mementos, Catering.”<sup>39</sup> Respondent asserts that there is approximately \$78,000 in violation for  
 4 inadequate purposes of disbursements.

5 The Ethics Committee, however, found that the improper purpose statements were not  
 6 just inadequately vague descriptions of campaign expenses, but intentional misstatements  
 7 designed to conceal the real purpose of disbursements and Schwab’s involvement in the  
 8 transaction.<sup>40</sup> Schwab testified that Schweikert instructed him to purposely conceal the purpose  
 9 of certain disbursements, such as dinners in D.C., so that they would not appear on the  
 10 Schweikert Committee’s “FECs.”<sup>41</sup> Schwab further testified that Schweikert owed him so much  
 11 money that Schweikert instructed him to “be creative,” and that he submitted false consulting  
 12 invoices and instructed the campaign’s treasurer to make disbursements for “consulting  
 13 services.”<sup>42</sup> The Ethics Committee did not find a written record of Schweikert instructing  
 14 Schwab to bill this way, although Schwab also testified that Schweikert purposely conducted  
 15 business over the phone to avoid a “paper trail.”<sup>43</sup>

16 Neither the Act nor the Commission’s relevant implementing regulations address the  
 17 concepts of ultimate payees, vendors, agents, contractors, or subcontractors in the context of

---

<sup>39</sup> *Id.*

<sup>40</sup> Invest. Subcomm. Rpt., Ex. A ¶ 114.

<sup>41</sup> *Id.* at 42 (Schweikert was “very adamant that he did not want a whole bunch of dinners in D.C. showing up on his FECs.”) (quoting Schwab interview).

<sup>42</sup> *Id.* at 55, Ex. A ¶¶ 123, 137, 138.

<sup>43</sup> *Id.*

payee reporting.<sup>44</sup> The Commission has determined, however, that merely reporting the immediate recipient of a committee's payment will not satisfy the requirements of Section 30104(b)(5) when the facts indicate that the immediate recipient is merely a conduit for the intended recipient of the funds.<sup>45</sup>

Here, the Ethics Committee determined that the Schweikert Committee purposely disclosed erroneous payees both to obscure that Schwab was making large outlays on behalf of the campaign and to obscure "the true nature, date, and underlying recipient of the disbursements."<sup>46</sup> In some instances Schwab submitted receipts for reimbursement made on a personal credit card, but instructed the treasurer to make the checks payable to "Chase Bank," which was the payee reflected on disclosure reports filed with the Commission.<sup>47</sup> In many instances, Schwab concealed the true campaign vendor with false consulting invoices payable to Chartwell.<sup>48</sup> The type of activity at issue here, payments for reimbursements to campaign staff and payments to credit card companies, are the types of disbursements where the Commission has required more specific reporting.<sup>49</sup>

---

<sup>44</sup> Advisory Op. 1983-25 (Mondale for President) at 2; 78 Fed. Reg. at 40,626 (clarifying a committee's obligation to report "ultimate payees" in three specific scenarios not articulated in the Act or regulations: reimbursements to individuals who advance personal funds to pay committee expenses; payments to credit card companies; and reimbursements to candidates who use personal funds to pay committee expenses).

<sup>45</sup> Factual and Legal Analysis at 9, MUR 6724 (Bachmann for President, *et al.*) (citing Conciliation Agreement at 3, MUR 4872 (Jenkins)).

<sup>46</sup> Invest. Subcomm. Rpt. at 43-44. "Mr. Schwab testified that Respondent had preferred reimbursements be reported as payments to Chartwell because it appeared as an arm's length transaction to a vendor on FEC reports, rather than a payment to his staffer." *Id.*, Ex. A ¶ 114.

<sup>47</sup> *Id.* at 46, Ex. A ¶¶ 127-28.

<sup>48</sup> *Id.* at 55, Ex. A ¶¶ 123, 138.

<sup>49</sup> In the Ultimate Payee Interpretive Rule, the Commission clarified a committee's obligation to report "ultimate payees" in three specific scenarios not articulated in the Act or Commission regulations: (1) reimbursements to individuals who advance personal funds to pay committee expenses; (2) payments to credit card companies; and (3) candidates who use personal funds to pay committee expenses without reimbursement. Ultimate Payee Interpretive Rule, 78 Fed. Reg. at 40,626.



Under the Act and Commission regulations, a committee must maintain an accurate account of its disbursements and must accurately report those amounts in its public filings with the Commission.<sup>50</sup> The Commission has further recognized that these obligations apply to the treasurer of the committee “or an agent authorized by the treasurer to receive contributions and make expenditures.”<sup>51</sup> These reporting requirements are intended to ensure public disclosure of “where political campaign money comes from and how it is spent.”<sup>52</sup> For example, in MUR 6761 (Barfield), the Commission found that a campaign manager who had embezzled funds and falsified records to conceal his embezzlement violated Section 30102(c) by preventing accurate recordkeeping, although the campaign manager did not violate Section 30104(b) requiring the filing of accurate reports because he did not have legal responsibility for filing disclosure reports on behalf of the committee.<sup>53</sup>

As Campaign Manager, Schwab had the authority to receive contributions and make disbursements on behalf of the Schweikert Committee.<sup>54</sup> Schwab testified that he submitted to the Committee false consulting invoices for Chartwell in order to conceal the true purpose of certain disbursements.<sup>55</sup> He further concealed his own involvement by routing payments

---

<sup>50</sup> See 52 U.S.C. §§ 30102(c)(5), 30104(b)(4), (b)(5); 11 C.F.R. §§ 104.3, 104.14(d).

<sup>51</sup> 11 C.F.R. § 102.9.

<sup>52</sup> *Buckley v. Valeo*, 424 U.S. 1, 66 (1976); see also *Citizens United v. FEC*, 558 U.S. 310, 369-71 (2010) (describing the importance of disclosure requirements to serve informational interests, because “transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages”).

<sup>53</sup> See, e.g., Factual and Legal Analysis at 9, MUR 6761 (Barfield).

<sup>54</sup> See generally Invest. Subcomm. Rpt. (detailing 10-year course of conduct of Schwab’s receipts and disbursements on behalf of Schweikert’s campaign committees); see also Factual and Legal Analysis, MUR 6761 (Barfield) (analyzing a Section 30102(c) violation: “In his capacity as campaign manager for the Committee, Barfield was authorized to receive contributions and make expenditures.”).

<sup>55</sup> Invest. Subcomm. Rpt. at 55, Ex. A ¶ 138 (“Mr. Schwab sent Respondent’s campaign false invoices or instructed the campaign’s treasurers to make disbursements for campaign services. Mr. Schwab testified that he sought approximately \$5,000 worth of reimbursements for personal expenses he incurred on behalf of Respondent in this manner.”).

1 through Chartwell.<sup>56</sup> Schwab testified that Schweikert was aware of the arrangement, and  
2 instructed him to “be creative” in seeking reimbursement for personal use expenditures.<sup>57</sup>  
3 Schwab’s falsification of records, including submitting false purpose of disbursement and payee  
4 records to the treasurer, undermined the Committee’s ability to file accurate reports with the  
5 Commission.

6 Despite this testimony to the Ethics Committee, Schwab argues in his response that  
7 although it is undisputed that he made outlays on behalf of Schweikert’s campaign committees,  
8 he believed them to comply with all relevant laws and that they “were made with the approval of  
9 Representative Schweikert and vendors for Friends of David Schweikert.”<sup>58</sup> However, Schwab’s  
10 testimony indicates that he knew that he was providing the campaign with false invoices for  
11 consulting services in an effort to obscure the underlying transaction, such as “dinners in D.C.”  
12 and disbursements for Schweikert’s personal use.<sup>59</sup> Schweikert’s alleged approval of unlawful  
13 activity is not a valid defense to Schwab’s failure to maintain records.

14 Schwab made statements to the campaign treasurer that should have alerted the treasurer  
15 to the violations at least in part. Schwab emailed the treasurer, “I have as many as like [\$7,000  
16 in reimbursements], but will do whatever the right amount i[s] (does this need to be done to [Mr.  
17 Schwab’s spouse] instead of me? Should it be billed as a vendor invoice?).”<sup>60</sup> In another email  
18 to the treasurer, Schwab stated: “Let’s proceed first of the month with the \$15,000 transfer to the  
19 Schweikert’s [debt repayment]. I’ve got 2 big mail pieces in the works right now. I put \$7,000 on

---

<sup>56</sup> *Id.* at 55, Ex. A ¶ 114.

<sup>57</sup> *Id.*, Ex. A ¶ 137.

<sup>58</sup> Schwab & Chartwell Resp. at 2.

<sup>59</sup> Invest. Subcomm. Rpt., Ex. A ¶ 138.

<sup>60</sup> *Id.* at 44.

1 my card to get these out which I'll hold for reimbursement well down the road.”<sup>61</sup> The treasurer  
2 reimbursed Schwab on several occasions by making reimbursement checks payable to “Chase  
3 Bank,” and disclosing the expenditure as “Chase Bank” on reports with the Commission instead  
4 of disclosing Schwab as the recipient.<sup>62</sup> According to the Ethics Committee’s Report, delaying  
5 reimbursements to Schwab allowed the campaign to report higher fundraising and cash-on-hand  
6 totals for quarterly reports.<sup>63</sup>

7 Accordingly, the Commission finds reason to believe that Schwab failed to maintain  
8 records in violation of 52 § 30102(c)(5) by falsifying records relating to the Schweikert  
9 Committee’s disbursements.

---

<sup>61</sup> *Id.* at 47.

<sup>62</sup> *Id.* at 46-47.

<sup>63</sup> *Id.* at 44 (identifying a March 11, 2016 expenditure paid for by Schwab that the Committee did not reimburse to Chartwell until April 25, 2016); *id.*, Ex. A ¶ 125.