

December 4, 2023

Dr. Steve A. Cook
Council on Foreign Relations
1777 F Street, NW
Washington, DC 20006
scook@cfr.org

Dear Dr. Cook:

We read your recent article, *Why I'm Not Surprised Turkey Is at the Center of the Eric Adams Scandal*,¹ with great interest and equal dismay. The article suggests that the Turkish Coalition of America ("TCA") is or was an agent the government of Türkiye.²

To support your thesis regarding TCA you briefly mention a controversy concerning former Representative Jean Schmidt that dates back a full 15 years. Yet, the quarrel was not about whether TCA's legal advocacy arm, which openly represented Rep. Schmidt, was acting on behalf of the Turkish government, but whether Rep. Schmidt had properly sought and obtained permission from the House Ethics Committee to receive free legal services. A useful discussion of the absurdity of Rep. Schmidt's related denials, which apparently pacified a credulous House Ethics Committee, can be found in the attached Oct. 26, 2011 letter from the Citizens for Responsibility and Ethics in Washington to the Office of Congressional Ethics.

You next write, "The TCA is formally independent, but like so much during the era of Turkish President Recep Tayyip Erdoğan, it can be hard to tell because its work seems geared toward advancing Turkish [governmental] interests in Washington." First, it is only hard to tell how TCA is organized and operates when one makes zero effort to contact TCA to ask it about its activities or to review its extensive public information, annual reports and tax returns, which I surmise you did not. Had you not jumped to a conspiracy-minded conclusion, you would have learned that TCA always has been legally and actually independent of the government of Türkiye. That is, there is no formal or informal relationship between the two. TCA is privately funded from the United States by United States citizens. Nor does TCA play any role in Turkish domestic politics or has ever endorsed candidates or parties there.

Your assertions about TCA appear based on the inane supposition that those who express national pride are per se agents of the state and supporters of whichever party or politicians are in power. Of course it should strike every American's ears as odd to be told that to be a proud American is to support whoever won the last election and blindly agree with that administration's policies. Correspondingly, not every organization that seeks beneficial relations between the United States and Türkiye, or that seeks to educate Americans about Türkiye, or represent the rights of United States citizens of Turkish origin, or

¹ Available at: <https://www.politico.com/news/magazine/2023/11/23/eric-adams-turkey-scandal-00128318>.

² TCA takes no position on other groups or events mentioned in your article.

that promotes Turkish culture is pro-Erdogan or indeed has any interest in Turkish domestic politics. To suggest such is disingenuous.³

While much about the investigation into Eric Adams' mayoral campaign remains unknown, TCA is deeply concerned that Turkish Americans as a class are being tarred by dragnet tactics. It seems that to be Turkish ethnically or nationally is now to be suspect in the United States. You, like many others writing breathlessly about the Adams case, propel the false narrative that a Turk, no matter how many years a citizen or permanent resident here, may secretly be acting in the service of the government of Türkiye and is therefore inherently disloyal to the United States. Please consider the chilling effect this is having on Turkish Americans participating in American electoral processes as is their constitutional right. Sadly, TCA believes that, regardless of where the Adams case leads, much of the reporting on it will lead to the marginalization of Turkish Americans.

In light of the above, TCA requests that you revise your story to remove TCA from the text.

Should you have any questions regarding the above, please do not hesitate to contact me at

[REDACTED]

Sincerely,

David Saltzman, Counsel
TURKISH COALITION OF AMERICA
TURKISH CULTURAL FOUNDATION
P.O. BOX 611
BEDFORD, MA 01730

³ As you certainly understand, the Turkish electorate is every bit as divided as that of the U.S. The last three Turkish presidential elections were closely decided, with the winning candidate earning 52, 53, and 52 percent of the votes respectively. The Turks are, therefore, hardly unanimous about their choice for president. One should expect an equal diversity of political opinions among Turkish Americans despite their generic support for their ethnic homeland and pride in Turkish culture.

October 26, 2011

Omar Ashmawy
Staff Director and Chief Counsel
Office of Congressional Ethics
1017 Longworth HOB
Washington, DC 20515

Re: Request for Investigation into Conduct of Rep. Jean Schmidt (R-OH)

Dear Mr. Ashmawy:

Citizens for Responsibility and Ethics in Washington respectfully requests that the Office of Congressional Ethics (“OCE”) investigate whether Rep. Jean Schmidt violated federal law and House rules by lying to OCE and the House Ethics Committee during previous investigations of her acceptance of free legal services and her failure to report those services as gifts on her personal financial disclosure statements.

Background

During OCE’s investigation of Rep. Schmidt earlier this year, the congresswoman provided OCE information in an interview in which she was warned that making any materially false statement would violate federal law.¹ After OCE recommended the House Ethics Committee further review allegations against Rep. Schmidt, she wrote the committee a letter in which she swore, under penalty of perjury, that her factual assertions were true and correct.² Several of Rep. Schmidt’s statements to OCE and the House Ethics Committee, however, are contradicted or seriously called into question by the public record.

As you know, from 2008 through 2011, Rep. Schmidt accepted legal services provided by lawyers associated with the Turkish American Legal Defense Fund (“TALDF”) in four separate legal proceedings.³ The TALDF lawyers were paid by the Turkish Coalition of America (“TCA”), TALDF’s umbrella organization.⁴ The House Ethics Committee concluded in August Rep. Schmidt improperly accepted nearly \$500,000 in gifts and failed to report the gifts on her personal financial disclosure forms.⁵ The committee, however, decided not to sanction her, concluding that

¹ Office of Congressional Ethics, Memorandum of Interview of Rep. Jean Schmidt, March 31, 2011 (“Schmidt MOI”), ¶ 2 (attached as Exhibit A).

² Letter from Rep. Jean Schmidt to Daniel A. Schwager, Chief Counsel/Staff Director, House Ethics Committee, May 27, 2011 (“Schmidt letter”) (attached as Exhibit B).

³ House Committee on Ethics, 112th Congress, *Report in the Matter of Allegations Relating to Representative Jean Schmidt*, August 5, 2011 (“House Ethics Committee Report”), p. 3.

⁴ *Id.*, p. 9.

⁵ *Id.*, pp. 16-20.

she was not aware of the payment arrangement between TCA and TALDF.⁶ This decision was based in part on several of her statements that do not appear to be true.

As OCE reported, in her March 31, 2011 interview, Rep. Schmidt told OCE investigators that “TALDF did not offer to provide legal services to her for free.”⁷ Similarly, she explained “there was an understanding that she would pay for all of the legal services rendered.”⁸ Further, in a May 27, 2011 letter to the House Ethics Committee she said she “never expected anyone other than me, my campaign, or my legal trust to be responsible for paying my legal bills.”⁹

Moreover, Rep. Schmidt told the House Ethics Committee she did not know TCA was paying her TALDF-associated lawyers, claiming “I would have learned of the allegations that TCA was paying TALDF lawyers for my case directly at the same time and in the same manner as the Committee – through press reports and allegations sent by the Defendant in the Ohio cases.”¹⁰

These statements are directly contradicted by Bruce Fein, one of the TALDF lawyers who represented Rep. Schmidt. According to OCE, Mr. Fein told OCE investigators that during a November 2008 meeting with the congresswoman he had “explained that TALDF’s legal services were provided at no charge to Representative Schmidt and that was his understanding at their first meeting.”¹¹ Similarly, in a sworn deposition taken on August 31, 2009 in regard to the Ohio Ethics Commission matter, Mr. Fein said he told Rep. Schmidt TALDF would not charge Rep. Schmidt’s campaign for the representation. “We stated that we would do this and we would not charge them legal fees,” he said.¹²

In another deposition in the same matter, taken the same day, Rep. Schmidt’s chief of staff, Barry Bennett, confirmed her office knew TALDF would not charge Rep. Schmidt for the legal services. Asked if it raised any ethics issues for TALDF to pay Rep. Schmidt’s legal bills, Mr. Bennett responded: “No, not that I’m aware of.”¹³

The public record also casts serious doubt on Rep. Schmidt’s assertion that she was not aware of TCA’s relationship with TALDF through most of her legal proceedings. Rep. Schmidt

⁶ *Id.*, pp. 16-18.

⁷ Schmidt MOI, ¶ 6.

⁸ *Id.*, ¶ 15.

⁹ Schmidt letter, p. 1.

¹⁰ *Id.*

¹¹ Office of Congressional Ethics, Memorandum of Interview of Bruce Fein, (“Fein MOI”), ¶ 15 (attached as Exhibit C).

¹² Transcript of Deposition of Bruce Fein, August 31, 2009, pp. 59-60 (excerpts attached as Exhibit D).

¹³ Transcript of Deposition of Barry Bennett, August 31, 2009, p. 49 (excerpts attached as Exhibit E). Mr. Bennett later told OCE Mr. Fein never talked about providing legal services at no charge, Office of Congressional Ethics, Memorandum of Interview of Barry Bennett, ¶ 17 (attached as Exhibit F), and told the House Ethics Committee Rep. Schmidt always planned to pay the legal bills, House Ethics Committee Report, pp. 8, 10-11.

was put on notice there were questions about how her lawyers were being paid no later than August 2009, when she – like Mr. Fein and Mr. Bennett – was asked about it in a deposition in the Ohio Elections Commission case.¹⁴ Now personally aware of these questions, it is difficult to believe Rep. Schmidt did not learn about TCA’s relationship with TALDF. As Rep. Schmidt herself acknowledged, information about their relationship was easily and publicly available around the same time. TALDF’s website clearly stated, at least in early 2010, that TALDF is a project of TCA.¹⁵ Public databases contained similar information.¹⁶ Rep. Schmidt was made aware of this information no later than February 26, 2010, when the House Ethics Committee sent her a letter describing it.¹⁷ In addition, Rep. Schmidt acknowledged this information was easily available at the time, pointing to it in her May 27, 2011 letter to the House Ethics Committee as evidence that the committee was aware of TALDF’s relationship with TCA.¹⁸

Questions about how her lawyers were paid also were raised repeatedly over time by the House Ethics Committee, in an OCE complaint filed by Mr. Krikorian, and in the press. Nevertheless, Rep. Schmidt never asked the TALDF-associated attorneys how they were being paid,¹⁹ suggesting the congresswoman was deliberately avoiding confronting the matter.

In addition, it appears from the public record Rep. Schmidt never asked her lawyers about basic details of legal representation, such as their hourly rates, which most people facing potentially large legal bills would find highly relevant. As the House Ethics Committee noted, Rep. Schmidt and the TALDF-associated lawyers never came to a final understanding of how their fees would be paid.²⁰ Failing to discuss these details strongly suggests the TALDF-associated lawyers offered to provide legal services to Rep. Schmidt for free and that she did not intend to pay the legal bills herself.

Similarly, it appears Rep. Schmidt never requested any bills from her lawyers, again suggesting she did not intend to pay them. Rep. Schmidt’s lawyers, following their standard arrangement for TALDF clients, never submitted bills to her, but instead sent them to TCA.²¹ In her letter to the House Ethics Committee, Rep. Schmidt explained she “complied with the Committee’s advice not to accept a bill until a responsible entity that would be liable for payment is formed.”²² Yet this purported advice could not have been given before September 10, 2009, when Rep. Schmidt’s chief of staff, Barry Bennett, first contacted the House Ethics Committee for

¹⁴ Transcript of Deposition of Jean Schmidt, August 22, 2009, p. 82 (excerpts attached as Exhibit G). Rep. Schmidt did not provide an answer based on her lawyer’s objection.

¹⁵ Letter from House Ethics Committee to Rep. Jean Schmidt, February 26, 2010 (attached as Exhibit H).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Schmidt letter, p. 3.

¹⁹ House Ethics Committee Report, p. 18.

²⁰ *Id.*, p. 4.

²¹ *Id.*, pp. 9, 17; Fein MOI, ¶7.

²² Schmidt letter, p. 1.

guidance on how to pay her lawyers.²³ By that time, Rep. Schmidt's lawyers had worked for her for nine months, drafting and filing a complaint with the Ohio Elections Commission, conducting extensive discovery in that proceeding, and litigating the case in a full day hearing.²⁴ This work alone cost hundreds of thousands of dollars.²⁵

Violations

False Statements and Perjury

Federal law prohibits anyone from "knowingly and willfully" making "any materially false, fictitious, or fraudulent statement or representation," or making or using "any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry," in "any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress."²⁶ At the outset of her OCE interview, Rep. Schmidt was "given an 18 U.S.C. § 1001 warning," consented to the interview, and signed a written acknowledgment of the warning.²⁷

By making false statements in her OCE interview and in her letter to the House Ethics Committee regarding payment of her legal bills, Rep. Schmidt may have violated 18 U.S.C. § 1001.

In addition, the federal perjury statute prohibits anyone from "willfully subscrib[ing] as true any material matter which he does not believe to be true" in any "declaration, certificate, verification, or statement under penalty of perjury as permitted under" 28 U.S.C. § 1746.²⁸ Because Rep. Schmidt's letter to the House Ethics Committee was sworn using the language of that statute,²⁹ by providing false statements regarding payment of her legal bills, she may have committed perjury.

House Rule 23

Rule 23 of the House Ethics Manual requires all members of the House to conduct themselves "at all times in a manner that reflects creditably on the House."³⁰ This ethics standard

²³ House Ethics Committee Report, p. 5.

²⁴ See Stephen Majors, Ohio Elections Panel Hears Lawmaker's Complaint, *Associated Press*, September 4, 2009 (attached as Exhibit I).

²⁵ Office of Congressional Ethics, 112th Congress, *Report and Findings Related to Rep. Jean Schmidt*, Review No. 11-6574, April 29, 2011, ¶¶ 45, 52.

²⁶ 18 U.S.C. §§ 1001(a), (c).

²⁷ Schmidt MOI, ¶ 1.

²⁸ 18 U.S.C. § 1621.

²⁹ Schmidt letter, p. 4 (declaration signed May 31, 2011).

³⁰ Rule 23, cl. 1.

Mr. Omar Ashmawy
October 26, 2011
Page 5

is considered to be “the most comprehensive provision” of the code.³¹ When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted it was included within the Code to deal with “flagrant” violations of the law that reflect on “Congress as a whole,” and that might otherwise go unpunished.³² This rule has been relied on by the Ethics Committee in numerous prior cases in which the committee found unethical conduct including making false statements to the committee.³³

By making false statements to the OCE and the House Ethics Committee in the course of the investigations into her non-payment of legal bills and failure to include the legal services as gifts on her personal financial disclosure forms, Rep. Schmidt engaged in conduct that does not reflect creditably on the House.

Conclusion

The public record suggests Rep. Schmidt may have undermined two ethics investigations into her acceptance of nearly a half million dollars in gifts by making false statements to OCE and the House Ethics Committee. OCE should commence an immediate investigation and forward this matter to the House Ethics Committee and any other relevant government authorities for appropriate action.

I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Executive Director
Citizens for Responsibility and
Ethics in Washington

Encls.

³¹ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 12.

³² House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

³³ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978) (Counts 3-4).

EXHIBIT A

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE: Representative Jean Schmidt
REVIEW No.: 11-6574
DATE: March 31, 2011
LOCATION: 2464 Rayburn HOB
Washington, DC 20515
TIME: 10:40 a.m. to 11:40 a.m. (approximately)
PARTICIPANTS: Kedric L. Payne
Paul J. Solis
Joe Jansen

SUMMARY: Representative Jean Schmidt is a Member of the United States House of Representatives and represents the 2nd District of Ohio. The OCE requested an interview with Representative Schmidt on March 31, 2011, and she consented to an interview. Representative Schmidt (the “witness”) made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. She signed a written acknowledgement of the warning, which will be placed in the case file in this review.
2. The witness told the OCE that she decided that she wanted to file a complaint with the Ohio Election Commission (“OEC”) against Mr. Krikorian in November 2008. This decision was the result of an extended period of time of Mr. Krikorian making public statements criticizing the witness. At that point the witness felt she had to do something about Mr. Krikorian’s statements.
3. She knew Bruce Fein from her years of serving in Congress. Mr. Fein was aware of Mr. Krikorian’s public statements about the witness. He offered the legal services of the Turkish American Legal Defense Fund (“TALDF”) to assist the witness with the complaint against Mr. Krikorian. She could not recall how or when these discussions with Mr. Fein began.
4. The witness has known Lincoln McCurdy, president of the Turkish Coalition of America (“TCA”), for about four or five years from his work on Capitol Hill. The witness stated that she did not have a discussion with Mr. McCurdy about TALDF’s legal representation but does not know whether her previous Chief of Staff had such discussions.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

5. The witness was familiar with the TCA through the Congressional Turkish Caucus, which she joined.
6. The witness told the OCE that TALDF did not offer to provide the legal services to her for free. She discussed with Mr. Fein the possibility of a contingency fee, but this option was not pursued. She is not sure why it was not pursued and she does not recall when these conversations occurred.
7. The witness stated that, between her and TALDF, she was the first to discuss paying for the legal services.
8. The parties also discussed the possibility of having the witnesses' campaign committee pay for the legal services or establish a legal expense fund.
9. When asked if she instructed the TALDF attorneys to delay filing the OEC complaint, the witness stated that she did not.
10. The witness stated that Mr. Fein selected the local counsel, Donald Brey. She told the OCE that she knew of Mr. Brey for many years from his work with the Ohio Republican Party. She told the OCE that she did not recommend him and was surprised to learn that he was local counsel.
11. The witness continues to work with the Committee on Ethics to establish a legal expense fund, but the issue has not been finalized because the Committee on Ethics is uncomfortable with the trustee that she initially selected.
12. She told the OCE that ethics advice concerning payment for the TALDF legal expenses was first requested during the summer of 2009. Her then Chief of Staff, Barry Bennett, informally asked for this advice. The advice was requested in order to determine whether everything was right and proper with accepting TALDF legal services.
13. Later in September 2009, a formal written request was submitted to the Committee on Ethics. When asked why she waited until September 2009 to make the formal request, the witness stated that it just felt like the right time to do it.
14. The witness received an advisory opinion from the Committee on Ethics in February 2010. When asked why there was a delay between her receipt of the advisory opinion and her July 2010 request for approval of a legal expense trust, the witness stated that she and Mr. Bennett were trying to select a trustee.
15. Concerning the later legal actions taken by TALDF on her behalf, the witness stated that TALDF continued to be her legal counsel because she did not want to change attorneys

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

unless necessary. The witness stated that there was an understanding that she would pay for all of the legal services rendered.

16. Mr. Bennett was the primary point of contact between the witness' office and TALDF.

This memorandum was prepared on April 4, 2011, based on the notes that the OCE staff prepared during the interview with the witness on March 31, 2011. I certify that this memorandum contains all pertinent matter discussed with the witness on March 31, 2011.

Kedric L. Payne
Investigative Counsel

EXHIBIT B



Congress of the United States
House of Representatives

Jean Schmidt
2nd District of Ohio

2404 Rayburn House Office Building
Washington, DC 20515
(202) 225-3184

May 27, 2011

Daniel A. Schwager
Chief Counsel/Staff Director
Committee on Ethics
Washington, DC 20515-6328

Dear Mr. Schwager:

Thank you for the opportunity to respond to the Office of Congressional Ethics' (OCE) report and findings.

Since initiating legal action in the Ohio Elections Commission, I have sought to remain in compliance with all applicable laws and House rules. Shortly after filing a complaint with the Ohio Elections Commission (OEC), my staff contacted the Committee regarding payment of legal fees. At the Committee's urging, I decided to pursue the establishment of a legal expense trust. In so doing, I have relied heavily on the expertise of the Committee.

Throughout this process, my office has provided the Committee with all the information in our possession. If the Committee requested more information, we responded quickly and honestly to the request. At the same time, the Committee supplemented its knowledge through its own research. When questions or concerns were raised, my office responded. At all times, I have followed the Committee's advice whenever and however given.

I look forward to continuing to work with the Committee in the same good faith manner as we seek to resolve any outstanding issues.

Pro-Bono Legal Services

Of all of the charges leveled against me over the past two years, this is the most exasperating and frustrating. I never expected anything other than me, my campaign, or my legal trust to be responsible for paying my legal bills. It has been almost two years since my office contacted the Committee. In that time, Ethics Committee Chairs have come and gone; at least three different professional staff members have been assigned to my case; I have endured an "investigation" by the Office of Congressional Ethics; and, I am still not certain that we are any closer to resolving this issue. One thing has remained constant over that time: I have complied with the Committee's advice to not accept a bill until a responsible entity that would be liable for payment is formed. When the Ethics Committee gives me the necessary guidance and approval, I will pay these fees.

District Offices

8044 Montgomery Road
Suite 170
Cincinnati, Ohio 45238
(513) 781-0381

602 Chillicothe Street
Suite 304
Perrysburg, Ohio 43082
(740) 354-1440

www.house.gov/schmidt

Committee on Agriculture
Chairman, Subcommittee on Nutrition
and Horticulture
Committee on Transportation
and Infrastructure
Committee on Foreign
Affairs

RECEIVED
2011 MAY 31 PM 1:17
COMMITTEE ON ETHICS

I neither sought nor received pro-bono legal services. With all due respect to the Office of Congressional Ethics, any suggestion that I did not plan to pay for legal services runs contrary to available evidence and logic. Shortly after filing a complaint with the OEC, my staff contacted the Committee to discuss ways to pay for these legal services. I submitted a letter in 2009 seeking an advisory opinion regarding appropriate ways to pay fees and services. In 2010, I submitted letters seeking formal approval to establish a legal expense trust and guidance on the permissibility of entering into a contingency fee agreement to pay for the civil portion of these legal proceedings. Additionally, I have provided both the House Ethics Committee and OCE two separate proposed contingency fee agreements. Both proposals reference TALDF's principal attorneys, the cases before the OEC and in Ohio state courts, and one is on Turkish American Legal Defense Fund (TALDF) letterhead and is signed by both Bruce Fein and David Saltzman.

Relevant and Material Information May Not Have Been Provided to the Committee

Any suggestion that I withheld relevant and material information from the Committee would seem to demonstrate a lack of understanding of the process that led to my 2010 request for approval of a legal expense trust. Throughout this process, my office has worked cooperatively with the Committee to provide all relevant and material information. My office relied heavily upon the Committee's expertise in determining what information is actually relevant and material. We answered all Committee questions fully and honestly. In most instances, I understand that the Committee supplemented its knowledge by performing its own research.

The Committee was well aware of the relationship between TALDF and the Turkish Coalition of America (TCA). In fact, I suspect that the Committee knew more relevant and material information regarding this relationship than I did. According to the advisory opinion provided to my office on February 26, 2010, this was an instance where the Committee supplemented its knowledge through its own research. On page 2, the letter states, "According to information in public databases and Web sites, TALDF is a project of the Turkish Coalition of America (TCA)." Any such Web site search would have involved going to TALDF's own site a portion of which reads, "The Turkish American Legal Defense Fund is supported by the Turkish Coalition of America (TCA), a public charitable, educational US organization which works to foster understanding of the Turkish American issues through public education . . ." (<http://www.taldf.org/support.html>) It goes on to direct those that want to support TALDF to send checks to TCA and that donations to TCA are tax deductible.

Further proof that the Committee was aware of the relationship between TALDF and TCA can be found on page 6 of the advisory opinion. Here, the Committee writes, "Finally, as a reminder, you should be cautious to avoid any appearance of special favors or additional access for TALDF or TCA based on your *business relationship* with these groups." (emphasis added) The only business relationship I could have possibly have had with TCA would have been through its close affiliation with and support of TALDF.

As I have maintained throughout this process, I am being represented by TALDF. None of the discussions regarding payment of legal fees have involved TCA. In fact, both proposed contingency fee agreements submitted to the Committee mention only TALDF and me. I would

have learned of allegations that TCA was paying TALDF lawyers for my case directly at the same time and in the same manner as the Committee – through press reports and allegations sent by the Defendant in the Ohio cases. In this instance, again, the Committee may have actually had more information about the allegations than I did. According to an article in the *Armenian Weekly* it was reported that the Defendant sent letters last November to “the chief legal counsel of the Ethics Committee, the legal counsel for the Ranking Republican member Jo Bonner, as well as the legal counsel for the Ranking Democratic Chair Zoe Lofgren.”

To the extent that the allegations contained in press reports and mailings of the defendant were relevant and material, given TCA’s support of TALDF, I relied on the Committee’s advisory opinion and expertise. Despite numerous staff contacts and past experience showing that the Committee is not shy about expressing concerns when warranted, this issue was never raised -- even when my office asked whether any “substantive issues” were delaying approval of the legal expense trust.

Finally, I have not solicited or accepted donations to cover past and future legal expenses. Any payment of legal fees that may have occurred, occurred through the regular course of support that TCA provides TALDF.

I have been working with the Committee for approximately two years to resolve this matter. In the interest of time, I have not answered each and every one of the findings of the OCE. Should you need more detailed responses or clarification of any response included herein, please do not hesitate to contact me or my Chief of Staff, Joe Jansen.

Sincerely,



Jean Schmidt
Member of Congress

Cc: Ms. Kelle A. Strickland
Mr. Thomas A. Rust

Declaration

I, Representative Jean Schmidt, declare (certify, verify or state) under penalty of perjury that the response and factual assertions contained in the attached letter dated May 27, 2011, relating to my response to the Report and Findings of the Office of Congressional Ethics, are true and correct.

Signature: 

Printed Name: Jean Schmidt

Date: May 31, 2011

EXHIBIT C

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE: TALDF Lawyer 1
REVIEW No.: 11-6574
DATE: March 28, 2011
LOCATION: Bruce Fein & Associates, Inc.
1025 Connecticut Avenue, NW
Washington, DC 20036
TIME: 10:00 a.m. to 10:45 a.m. (approximately)
PARTICIPANTS: Kedric L. Payne
Paul J. Solis

SUMMARY: The OCE requested an interview TALDF Lawyer 1, who is an attorney with the Turkish American Legal Defense Fund (“TALDF”), on March 28, 2011, and he consented to an interview. TALDF Lawyer 1 (the “witness”) made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.
2. The witness explained that TALDF is a unit of the Turkish Coalition of America (“TCA”). The witness believes that TCA was established in 2005 or 2006 and TALDF was established in 2007 or 2008.
3. His firm, Bruce Fein & Associates, Inc. is his current employer. TCA pays the firm for the work that the witness performs on behalf of TALDF. The witness explained that he is more like an independent contractor with TALDF.
4. TALDF was created to protect the legal rights of Turkish Americans and focuses on free speech cases. TALDF receives various requests from individuals requesting legal services.
5. The witness screens potential cases and determines if the cases are consistent with the TALDF mission.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

6. The witness told the OCE that a case usually aligns with the TALDF mission if it supports Turkish Americans being able to participate in open public discourse and protects Turkish Americans from any type of discrimination.
7. TCA funds TALDF. As a result, the witness' law firm bills TCA for the hours he works on behalf of TALDF and TCA pays the law firm. There is no retainer agreement and the bills are based on the amount of time the witness spends working on a matter.
8. TALDF provides legal services at no charge to its clients, on a "*pro bono*" basis. The witness stated that its customary to think *pro bono*, although TCA and the client may share damage awards in a specific case.
9. If there is a legal matter where a TALDF client wins a monetary judgment, the money is divided between TCA and the client. Neither the witness nor his TALDF colleague receives any portion of monetary damages awarded in a legal matter.
10. Examples of TALDF clients include a professor who has a defamation suit and a student who has a civil rights case.
11. TALDF has not represented any federal, state, or local or public official other than Representative Schmidt.
12. The witness believes that he first met Representative Schmidt in November 2008.
13. He first learned of Representative Schmidt from Lincoln McCurdy, who is the President of TCA. Mr. McCurdy told the witness that Representative Schmidt was interested in filing a complaint with the Ohio Election Commission against David Krikorian. The witness does not know who initiated the contact between Mr. McCurdy and Representative Schmidt.
14. Near the end of November 2008, the witness met with Representative Schmidt in her Washington, DC office to discuss the complaint. He believes that her current Chief of Staff, Joe Jansen and her former Chief of Staff, Barry Bennett attended the meeting. The witness believes that Joe Jansen was acting as her lawyer at the time. At the meeting, they discussed filing a case with the Ohio Elections Commission.
15. The witness explained that TALDF's legal services were provided at no charge to Representative Schmidt and that was his understanding at their first meeting.
16. Although the complaint was discussed in November 2008, it was not filed until April 2009 because TALDF was waiting for "ethics" approval.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

17. The witness did not know at the time whether “ethics” approval meant approval from a congressional entity or the Federal Election Commission. He did not know what aspect of the representation had to be approved.
18. In April 2009, Mr. Bennett told the witness that ethics approval had been received and action could be filed because it was approved by ethics.
19. The witness had been working on the case while waiting for client approval.
20. The witness hired Donald Brey as local counsel for the Ohio Election Commission matter. The witness told the OCE that Representative Schmidt referred Mr. Brey to him. TCA pays Mr. Brey’s legal fees.
21. TALDF represented Representative Schmidt in matters involving Mr. Krikorian’s appeal of the Ohio Election Commission decision, an amicus brief in federal court, and a defamation suit against Mr. Krikorian. Representative Schmidt was alerted to all of these actions.
22. With all of these matters, the witness understood that TALDF was providing *pro bono* services to Representative Schmidt. Further, there was no written agreement for scope of services to be provided to Representative Schmidt.
23. He considered each of the matters to be related to the Ohio Election Commission complaint that was discussed in the first meeting of November 2008. The defamation suit was contemplated at the time of the Ohio Election Commission complaint and at other times during discussions with Representative Schmidt.
24. The witness stated that the legal services for the defamation suit are not part of a contingency fee agreement. The services are *pro bono* like the other services provided. However, there is an understanding that if there is a monetary judgment, it will be equally divided between Representative Schmidt and TCA. The witness will not receive any part of a monetary judgment.
25. When asked about a complaint that Representative Schmidt’s campaign filed before the Federal Election Commission against Mr. Krikorian in 2009, the witness said that he was not involved in this matter.
26. Mr. Bennett mentioned a legal trust fund to the witness, but the witness “does not care one way or the other if a fund pays for the legal expenses.” He will not receive the money, but it will reimburse TCA. The witness stated that the back and forth with ethics lawyers over a legal trust fund was “not an inflection point” in the battery of litigation.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

This memorandum was prepared on March 29, 2011, based on the notes that the OCE staff prepared during the interview with the witness on March 28, 2011. I certify that this memorandum contains all pertinent matter discussed with the witness on March 28, 2011.

Kedric L. Payne
Investigative Counsel

EXHIBIT D

BEFORE THE OHIO ELECTIONS COMMISSION

- - - - -

Jean Schmidt and	:	
Schmidt for Congress,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case No. 2009E-003
	:	
Mr. David Krikorian,	:	
	:	
Respondent.	:	

- - - - -

DEPOSITION OF BRUCE FEIN

- - - - -

Taken at Chester Willcox & Saxbe, LLP
65 East State Street, Ste. 1000
Columbus, OH 43215
August 31, 2009, 9:55 a.m.

- - - - -

Spectrum Reporting LLC
333 Stewart Avenue, Columbus, Ohio 43206
614-444-1000 or 800-635-9071
www.spectrumreporting.com

- - - - -

1 A. My understanding is Jean Schmidt did or
2 Barry Bennett did.

3 Q. And who told you that?

4 A. I think Barry did.

5 Q. And did you talk first with -- who was
6 the first person you met, Barry Bennett or Jean
7 Schmidt?

8 A. I think I may have met both of them.

9 Q. At the same time?

10 A. Yeah.

11 Q. And when you met both of them at the
12 same time, did you tell them that you wanted to
13 draft a complaint or file a complaint in Ohio?

14 A. That's privileged material.

15 Q. Barry Bennett's your client?

16 A. He is -- represents the Jean Schmidt
17 campaign committee, so we're representing Jean
18 individually on the campaign committee.

19 Q. And the campaign committee is being
20 represented by the Turkish American Legal Defense
21 Fund?

22 A. Yes.

23 Q. And the Turkish American Legal Defense
24 Fund, have they charged the campaign committee any

1 money for their representation?

2 MR. BREY: I would object. I think
3 that's privileged.

4 A. Well, and it was ruled irrelevant. The
5 answer is no. We stated that we would do this and
6 we would not charge them legal fees.

7 Q. Okay. How many hours would you say
8 that the Turkish American Legal Defense Fund has
9 spent in prosecuting this claim against
10 Mr. Krikorian?

11 MR. BREY: Objection, privileged.

12 A. Privileged.

13 Q. Privileged what?

14 A. Privileged information.

15 Q. The amount of time you've spent is
16 privileged?

17 A. Yes.

18 Q. So you're not going to answer that?

19 A. I'm not answering.

20 MR. BREY: It's also irrelevant.

21 Q. Did you travel here to Ohio today?

22 MR. BREY: Objection. Irrelevant.

23 A. Do you see me across the table, sir?

24 Q. I do. To a moral certainty I see you

EXHIBIT E

BEFORE THE OHIO ELECTIONS COMMISSION

Jean Schmidt and :
 Schmidt for Congress, :
 Complainants, :
 vs. : Case No. 2009E-003

Mr. David Krikorian, :
 Respondent. :

DEPOSITION OF BARRY P. BENNETT

Taken at Chester Willcox & Saxbe, LLP
 65 East State Street, Ste. 1000
 Columbus, OH 43215
 August 31, 2009, 3:23 p.m.

Spectrum Reporting LLC
 333 Stewart Avenue, Columbus, Ohio 43206
 614-444-1000 or 800-635-9071
 www.spectrumreporting.com

1

A P P E A R A N C E S

ON BEHALF OF COMPLAINANT:

Chester Willcox & Saxbe, LLP
 65 East State Street, Ste. 1000
 Columbus, OH 43215
 By Donald C. Brey, Esq.

ON BEHALF OF THE COMPLAINANT:

Fein & Fein
 910 Seventeenth Street, N.W., Suite 800
 Washington, DC 20006
 By Bruce Fein, Esq.

ON BEHALF OF RESPONDENT:

Finney Stagnaro Saba & Patterson
 2623 Erie Avenue
 Cincinnati, OH 45208
 By Christopher P. Finney, Esq.

ALSO PRESENT:

David Krikorian

2

Barry Bennett

August 31, 2009

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 district. Why would all of these people who don't
 2 live in Ms. Schmidt's district have such a great
 3 interest in her race?

4 A. I don't know. I don't know, you'd have
 5 to ask them that question.

6 Q. Let's talk about the complaint that was
 7 brought in this matter. Mr. Fein testified at
 8 length I guess that you made some kind of a filing
 9 with the House Ethics Committee that would allow
 10 the Turkish American Legal Defense Fund to fund
 11 this legal action against Mr. Krikorian; is that
 12 right?

13 A. There's no -- the Ethics doesn't have
 14 any per se [sic] over FEC rules.

15 Q. Well, I didn't say they did. I'm just
 16 telling you --

17 A. You said we made a filing. No, there's
 18 -- no such filing was made.

19 Q. I'm just telling you what Mr. Fein told
 20 me. Mr. Fein tells us that the reason -- let me
 21 just try to relate to you in summary what Mr. Fein
 22 said. He said shortly after the November 2008
 23 election, he pursued legal action against
 24 Mr. Krikorian by trying to get him criminally

1 prosecuted by the attorney general of the state of
 2 Ohio and the Hamilton County prosecutor, both of
 3 which were unsuccessful.

4 A. Uh-huh.
 5 Q. He said the reason for the delay in

6 April of '09 of filing this complaint was that in
 7 the meantime they were awaiting an opinion from
 8 the House Ethics Committee that would allow the
 9 Turkish American Legal Defense Fund to fund the
 10 legal action against Mr. Krikorian. That
 11 essentially summarizes what Mr. Fein testified to
 12 this morning and early this afternoon.

13 A. Uh-huh.
 14 Q. Do you know anything about that?

15 A. No.
 16 Q. You made no filing, no attempt to --

17 A. The House Ethics Committee deals with
 18 the House, not with the campaign.

19 Q. Well, how does this deal with
 20 campaigns?

21 A. With the -- this happened in the course
 22 of the campaign. The -- the commission where this
 23 is filed deals with the campaigns, not the House
 24 of Representatives.

1 Q. And there's no ethics issue associated
 2 with Turkish American Legal Defense Funds paying
 3 for Ms. Schmidt's legal fees?
 4 A. No, not that I'm aware of.
 5 Q. Okay. And you've neither sought nor
 6 received any clearance or approval from the House
 7 Ethics Committee to allow that to proceed?
 8 A. No, not that I'm aware of.
 9 Q. Okay. Whose idea was it to bring this
 10 complaint to begin with?
 11 A. Congresswoman Schmidt's.
 12 Q. Explain that to me.
 13 A. It was her idea to begin doing this.
 14 Q. And so at some point she related that
 15 to you?
 16 A. Yes.
 17 Q. And when was that?
 18 A. I think soon after it happened, soon
 19 after the flyers were put on the Catholic churches
 20 -- cars in the parking lots in Catholic churches.
 21 She was adamant about not allowing someone to lie
 22 about her and say that she had committed a crime.
 23 Q. Okay. And then at some point you
 24 retained legal counsel to represent Mrs. Schmidt

1 in this matter?
 2 A. Uh-huh.
 3 Q. So you -- you then contacted someone or
 4 someone contacted you about that?
 5 A. I think I talked to Lincoln McCurdy who
 6 introduced me to Bruce I believe.
 7 Q. And then -- so you had a meeting with
 8 Mr. Fein?
 9 A. Yes.
 10 Q. And was Ms. Schmidt present at that
 11 meeting?
 12 A. Yes.
 13 Q. And when was that?
 14 A. I believe it was in -- it's before the
 15 year was out. I would guess early December, but I
 16 can't give you an exact date.
 17 Q. Early December 2008?
 18 A. Yes.
 19 Q. Okay. And with respect to the
 20 arrangement for the payment of -- is there a
 21 retainer letter between you -- is there some kind
 22 of engagement --
 23 MR. BREY: Objection.
 24 MR. FINNEY: Let me finish the question

EXHIBIT F

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE: Representative Schmidt's Chief of Staff
REVIEW No.: 11-6574
DATE: April 6, 2011
LOCATION: 425 3rd St., SW
Washington, DC 20024
TIME: 2:00 p.m. to 2:55 p.m. (approximately)
PARTICIPANTS: Kedric L. Payne
Paul J. Solis

SUMMARY: The OCE requested an interview with Representative Schmidt's Chief of Staff, who is now her former Chief of Staff, on April 6, 2011, and he consented to an interview. Representative Jean Schmidt, who is a Member of the United States House of Representatives and represents the 2nd District of Ohio. Representative Schmidt's Chief of Staff made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.
2. The witness is currently a partner at BKM Consulting, which provides various services to political campaigns.
3. He has been employed there since approximately May 2010, which is when he left his employment with Representative Schmidt.
4. He became employed with Representative Schmidt shortly after she was elected in 2005. He served as her Chief of Staff from that time until he left in 2010. As Chief of Staff, the witness supervised all functions of the congressional office.
5. Prior to working for Representative Schmidt, the witness worked for at least three other House Members including Representative Kevin DeWine.
6. The witness told the OCE that he volunteered for Representative Schmidt's campaign committee, but the campaign never employed him.
7. The witness first met David Krikorian in Representative Schmidt's office in 2006 or 2007. The witness told the OCE that Mr. Krikorian came to the office claiming he was the President of the Ohio Armenian Association.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

8. Mr. Krikorian came to the office to ask Representative Schmidt to support the Armenian genocide resolution. During the meeting with Representative Schmidt, Mr. Krikorian became belligerent because Representative Schmidt would not commit to voting for the resolution.
9. The witness told the OCE that in 2008 Mr. Krikorian campaigned against Representative Schmidt and constantly attacked her in the Armenian media.
10. During the week before the election in November 2008, Mr. Krikorian put pamphlets on cars at Representative Schmidt's church. The pamphlets criticized Representative Schmidt and included allegations that she accepted "blood money" from the Turkish government. These types of statements occurred after the election as well.
11. As a result of Mr. Krikorian's pamphlets and other statements that he made about Representative Schmidt, the witness and Representative Schmidt began considering possible legal actions against Mr. Krikorian following the election in November 2008. The witness told the OCE that he and Representative Schmidt took no action until January 2009.
12. In January 2009, Mr. Krikorian continued to make public statements about Representative Schmidt.
13. The witness was familiar with the Ohio Election Commission ("OEC") and its ability to adjudicate false statements partly because Mr. Krikorian had filed complaints against Representative Schmidt with the OEC.
14. During the first quarter of 2009, Bruce Fein called the witness and said that he wanted to help Representative Schmidt pursue legal action against Mr. Krikorian and said he worked for the Turkish American Legal Defense Fund ("TALDF"). The witness knew Bruce Fein from his work with Representative DeWine. Mr. Fein then visited Representative Schmidt's office to meet.
15. The witness told the OCE that Mr. Fein suggested that the legal fee arrangement should be a contingency fee. Mr. Fein suggested that Representative Schmidt could sue Mr. Krikorian for millions of dollars based on his statements about her.
16. The witness was not certain whether the services could be provided under a contingency fee based on House ethics rules and federal election law. He contacted the Federal Election Commission ("FEC"), the House General Counsel's Office, and the House Committee on Ethics to get approval of the arrangement for legal services.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

17. The witness explained to the OCE that Mr. Fein “never” talked about providing legal services at no charge and “definitely wanted to do a contingency fee.” Mr. Fein was the first person to suggest a contingency fee.
18. The witness knew Mr. Fein because Mr. Fein had previously worked for Representative Mike DeWine. The witness had worked for Representative DeWine’s campaign.
19. The witness also knew Lincoln McCurdy of the Turkish Coalition of America (“TCA”). Mr. McCurdy had visited the witness in Representative Schmidt’s office to lobby him on the Armenian genocide resolution. He met Mr. McCurdy in 2007 or 2008.
20. The witness never discussed the possibility of filing a complaint against Mr. Krikorian with Mr. McCurdy.
21. Although he was waiting for ethics approval on the legal fees, he did not instruct Bruce Fein to delay filing the complaint with the OEC. The witness stated that at the time he did not know who would pay for the services, but Representative Schmidt wanted to go to court. The witness told the OCE that if the legal services were not approved by the Committee on Ethics he expected that Representative Schmidt would use personal funds to pay for the legal services.
22. The FEC told him that campaign funds could be used to pay for the legal services if the Committee on Ethics approved such use.
23. The witness contacted the Committee on Ethics and had numerous conversations with the staff about how to draft a letter requesting approval of the legal services.
24. The witness asked whether Representative Schmidt could pay for legal expenses with campaign money or have a contingency fee agreement. These conversations lasted several weeks to months.
25. The Committee on Ethics explained to him the possibility of establishing a legal expense fund. At that time, the witness’ personal understanding was that legal expense funds had never been used other than for defense issues. However, the Committee on Ethics’ counsel told him that she thought the fund could be used for Representative Schmidt’s situation as well.
26. The witness told the OCE that the Committee on Ethics counsels told him not to accept any bill for the legal services during this time.
27. The witness’ first formal request for Committee on Ethics approval of the legal fees is in a letter dated September 17, 2009 (Schmidt_0029). He drafted the letter to the

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

Committee on Ethics on behalf of Representative Schmidt requesting approval of the legal fees.

28. When asked why there was a time lapse between the first meeting with Mr. Fein and the September 17, 2009 request, the witness stated that he was waiting for the Committee on Ethics to provide him with the final language for the request letter.
29. In response to the letter, the Committee on Ethics asked the witness for information about the amount of hours the attorneys had worked on the legal matters.
30. As a result, the witness wrote a letter to the Committee on Ethics, dated October 8, 2009 (Schmidt_0031), explaining that the attorneys had worked "just shy of 200 hours".
31. The witness also provided the Committee on Ethics with a letter from Bruce Fein to Representative Schmidt stating that the attorneys agreed to represent her on a contingency fee basis. The witness does not know when this letter about the contingency fee was written.
32. The witness told the OCE that he believes on January 21, 2010, he sent a letter or email to the Committee on Ethics to amend the request for approval of a contingency fee. He said that the Committee on Ethics advised him that the approval of the legal services could happen quicker if he removed the request for a contingency fee.
33. He explained that the TALDF attorneys provided legal services for the appeal of the OEC matter as part of the representation in filing the complaint with the OEC.
34. TALDF submitted an amicus brief on behalf of Representative Schmidt in federal court in Ohio without the witness knowing that the brief was going to be filed. He was not alerted to the filing until after it had been done.
35. Although the witness received the advisory opinion from the Committee on Ethics in February 2010, he was not involved in establishing a legal expense fund. He does not know why the request for approval of legal expense fund was not sent to the Committee on Ethics until July 2010. He explained that he was no longer employed with Representative Schmidt by July 2010.

This memorandum was prepared on April 7, 2011, based on the notes that the OCE staff prepared during the interview with the witness on April 6, 2011. I certify that this memorandum contains all pertinent matter discussed with the witness on April 6, 2011.

Kedric L. Payne
Investigative Counsel

EXHIBIT G

Jean Schmidt rough draft (2)

Rough Draft

IN THE OHIO ELECTIONS COMMISSION
CASE NOS. 2009E-003 AND 2009E-012

JEAN SCHMIDT

COMPLAINANT

VS.

DAVID KRIKORIAN

RESPONDENT

DEPOSITION FOR THE RESPONDENT

DEPONENT: JEAN SCHMIDT

DATE: AUGUST 24, 2009

REPORTER: ANNEMARIE GRANT

□

Rough Draft

EXHIBITS

- A TODAY'S ZAMAN
- B COMPLAINT RECEIVED BY THE OEC ON 7/21/09
- C COMPLAINT RECEIVED BY THE OEC ON 4/29/09
- D SUMMARY OF UN DEFINITION OF GENOCIDE
- E ARTICLE BY MR. FEIN FOR THE TAC

Jean Schmidt rough draft (2)
F COMPOSITE EXHIBIT PRODUCED IN RESPONSE TO SUBPOENA
G DOCUMENT DESCRIBING THREE TURKISH FUNDRAISERS
H PHOTOS FROM TURKISH AMERICAN FUNDRAISER
I CONTRIBUTION RECORDS RELATING TO TURKISH DONORS
J COPY OF HOUSE RESOLUTION 106 BEFORE THE 110TH CONGRESS
K COPY OF HOUSE RESOLUTION 252 BEFORE THE 111TH CONGRESS
L ARTICLE BY SOUTHERN POVERTY LAW CENTER
M E-MAIL TO BARRY BENNETT DATED MARCH 10, 2008
N CALENDAR ENTRY FOR 11/17/08 FROM JENNIFER PIELSTICKER
O CALENDAR ENTRY FOR 3/22/07 FROM JENNIFER PIELSTICKER

□

Rough Draft

THE VIDEOGRAPHER: We are now on the video record. My name is Stephen Troncone, and I'm the video technician today. We will record today's testimony under the firm Kentuckiana Reporters. Today is the 24th day of August, 2009. The time on the video monitor is approximately 10:55 a.m. We are at the Sheridan Hotel to take the deposition of Jean Schmidt in the matter of Jean Schmidt versus David Krikorian pending before the Ohio Elections Commission, case number 2009E-003 and 2009E-012.

THE VIDEOGRAPHER: Will counsel please identify themselves for the record?

MR. FINNEY: My name is Christopher Finney, F-I-N-N-E-Y, attorney for Respondent, David Krikorian.

MR. BOLINGER: Joshua Bolinger, B-O-L-I-N-G-E-R, attorney for David Krikorian.

MR. HARTMAN: Curt -- Curt Hartman, counsel for Mr. Krikorian.

MR. BREY: Donald Brey, B-R-E-Y, counsel for

Jean Schmidt rough draft (2)

Q. So at that time, Mr. Bennett had to spend his time on congressional activities instead this on this complaint is that, right?

A. In part yes.

Q. Is that the only reason?

A. You would have to ask him.

Q. Okay. Because you had nothing to do with that preparation except by and through Mr. Bennett?

A. Correct.

Q. You didn't talk to any third party about it other than your own attorneys?

A. Other than my own attorneys? When we were preparing it, we talked to the attorneys.

Q. And do you know in what month you retained Mr. Brey and Mr. Bennett -- or Mr. Fein?

A. No.

Q. Was it shortly before filing the complaint or was it closer to the election?

A. I don't know.

(CERTIFIED QUESTION)

□

Q. And how is Mr. Brey and Mr. Bennett -- Mr. Fein being paid for these legal services?

MR. BREY: Objection. I instruct the witness not to answer.

MR. FINNEY: Okay. Certify that question and we'll take this up with Mr. Richter.

MR. BREY: I will tell you an identical question was objected to in another deposition.

MR. FINNEY: I heard that it was. What's the basis

EXHIBIT H

ROB LORENZEN, CALIFORNIA
CHAIR
REN CHANDLER, KENTUCKY
C. K. BUTTERFIELD, NORTH CAROLINA
KATHY CASTLE, FLORIDA
PETER WELCH, VERMONT
DANIEL J. FAYLON,
COUNSEL TO THE CHAIR
J. BLAKE CRISMAN,
CHIEF COUNSEL AND STAFF DIRECTOR

JO EGINNELL, ALABAMA
RANKING REPUBLICAN MEMBER
N. MICHAEL CCHAWAY, TEXAS
CHARLES W. BENT, PENNSYLVANIA
GREGG HARRIS, MISSISSIPPI
MICHAEL T. MCCALL, TEXAS
NELLIE A. STECKLAND,
COUNSEL TO THE BANKING
REPUBLICAN MEMBER
SUITE 1101, THE CAPITOL
202-226-7115

ONE HUNDRED ELEVENTH CONGRESS
U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515-6329

February 26, 2010

The Honorable Jean Schmidt
U.S. House of Representatives
238 Cannon House Office Building
Washington, DC 20515

Dear Colleague:

This responds to your letter of September 17, 2009, seeking an advisory opinion regarding two options for payment of legal expenses incurred in connection with a case you filed in 2009 regarding false campaign statements.¹ As discussed below, the establishment of a legal expense fund and the use of campaign funds are both permissible options for payment of legal expenses in connection with both past and future proceedings, subject to the limitations below.

FACTUAL BACKGROUND

According to your letter and additional information provided to Committee counsel, the background in this matter is as follows. In the final days of the 2008 general election campaign, one of your opponents, David Krikorian, distributed materials accusing you of accepting a \$30,000 bribe from the Government of Turkey in exchange for denying or covering up the genocide of Armenians in Turkey during World War I. The campaign materials also called for your immediate resignation from your congressional seat and/or your defeat at the polls in the 2008 general election. You were re-elected in the November 2008 general election.

In April 2009, you filed a sworn complaint against Mr. Krikorian with the Ohio Elections Commission (Election Commission), which has jurisdiction over false campaign statements under Ohio law. *See* Ohio Rev. Code § 3517.21. Based on the Election Commission's jurisdiction, you filed the complaint as a candidate with your campaign committee address. That complaint sought: (1) a finding by the Elections Commission that Mr. Krikorian violated § 3517.21 by making false campaign statements; (2) a public reprimand; and (3) any other appropriate relief. On or about October 1, 2009, you received a finding of fact from the Elections Commission that there was clear and convincing evidence that Mr. Krikorian made false statements with malice.

Under Ohio law, you were required to file any civil action seeking damages in the Ohio Court of Common Pleas (Ohio Court) no later than one year from the date of infraction. As that

¹ Your request for guidance was amended by your staff on your behalf on January 21, 2010, due to changed circumstances since your letter was submitted.

time period has expired, you will not be filing a civil action to recover damages in this matter. However, Mr. Krikorian has filed an appeal in the Ohio Court seeking to overturn the administrative ruling by the Election Commission. Both you and the Ohio Attorney General are named parties in the appeal, and you will incur additional legal fees to participate in those proceedings. Finally, Mr. Krikorian has also filed a civil suit in federal court challenging the constitutionality of the Elections Commission ruling. You are not a named party to this federal court case and do not anticipate any involvement in that separate litigation.

You have not used your House staff or campaign staff to support this litigation. Barry Bennett, your chief of staff, is familiar with the case, but his official involvement has been limited to assisting House General Counsel with regard to discovery request responses, being deposed concerning such discovery requests, and working with the Committee to obtain guidance on the issues in your September 17, 2009, letter.

Your attorney in this matter has been Bruce Fein of the Turkish American Legal Defense Fund (TALDF). You have not signed any retainer or representation agreement with Mr. Fein, but he did provide you with a proposed contingency fee contract. Because you are not filing any civil action to recover damages, you will not be entering into the contingency fee contract with Mr. Fein. To date, Mr. Fein estimates that 200 hours have been worked by the attorneys in your case, but you have not yet been billed as you are awaiting this Committee's guidance regarding the permissibility of the proposed options for payment of legal expenses in this matter.

According to information in public databases and Web sites, TALDF is a project of the Turkish Coalition of America (TCA). TCA is a § 501(c)(3) organization under the Internal Revenue Code, which has employed registered federal lobbyists under the Lobbying Disclosure Act in the past.² It appears that TALDF issued a press release and request for a criminal investigation against Mr. Krikorian on November 3, 2008, regarding the same allegations of false campaign statements that underlie your complaint with the Elections Commission. Both TALDF and TCA issued statements regarding the favorable ruling in your case on October 2, 2009.

You seek Committee guidance regarding two options for paying legal expenses both for legal work already completed during the Elections Commission proceedings, and future legal work on your behalf in the appellate case in the Ohio Court:

1. Establishing a Legal Expense Fund under the Committee's regulations; or
2. Using campaign funds from your principal campaign committee.

You have not yet contacted the Federal Election Committee (FEC) regarding either of these options, but intend to consult with the FEC after you receive the Committee's opinion as to what is permissible under House rules. Each of these options are discussed separately below.

² Lobbying disclosure act filings reflect individuals registered to lobby on behalf of TCA in 2008, but that registration was terminated as of December 31, 2008.

LEGAL BACKGROUND

1. Legal Expense Fund

Under a provision of the gift rule, a Member, officer, or employee may accept "a contribution or other payment to a legal expense fund established for the benefit of [the official] that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct."³ Under the Committee's Legal Expense Fund regulations, a Member may not receive or solicit donations to such a fund without prior approval of the Trust agreement by the Committee.⁴

Under the Committee's regulations, a fund may be established only when the legal expenses arise in connection with one of the following matters:

- The individual's candidacy for or election to federal office;
- The individual's official duties or position in Congress (including a matter before the Standards Committee);
- A criminal prosecution; or
- A civil matter bearing on the individual's reputation or fitness for office.⁵

The Committee will not grant permission to establish a fund when legal expenses arise in connection with a matter that is primarily personal in nature, such as a matrimonial action.⁶ The rules governing the operation of a Legal Expense Fund include:

- No contribution may be solicited for or accepted by a fund prior to the Committee's written approval of the completed trust document and the trustee;⁷
- A fund must be established as a trust, administered by a trustee who is entirely independent of the Member and has no family, business or employment relationship with the Member;⁸
- Trust funds can be used only to pay legal expenses, or the expenses incurred in soliciting for or administering the trust;⁹

³ See House Rule 25, clause 5(a)(3)(E). See generally *2008 House Ethics Manual* at 63-65.

⁴ See Standards Committee Legal Expense Fund Regulations ¶¶ 1, 11 (June 1996), reprinted in Appendix to the *2008 House Ethics Manual* at 394 (LEF Regulations).

⁵ LEF Regulations ¶ 2.

⁶ LEF Regulations ¶ 3.

⁷ LEF Regulations ¶ 11.

⁸ LEF Regulations ¶¶ 5-6.

- A fund may not accept more than \$5,000 in a calendar year from any individual or organization, but, in accordance with the gift rule, no contribution may be accepted from a registered lobbyist or foreign agent;¹⁰
- Excess funds must be returned to the contributors;¹¹ and
- A fund may not pay for legal services for anyone other than the named beneficiary except with the Committee's written permission. Written Committee permission is also required for any amendment of the trust document and any change in the trustee.¹²

Once a Legal Expense Trust agreement has been approved by the Committee, the Member must file an executed copy with the Office of the Clerk, Legislative Resource Center which is placed on the public record.¹³ In addition, Members must file quarterly reports on the public record regarding certain contributions and expenditures under the Committee's regulations.¹⁴

2. Use of Campaign Funds

The Committee has long advised Members to consult with the Committee prior to using campaign funds for legal expenses to ensure that the legal services are ones that the Member may properly pay with campaign funds. House Rule 23, clause 6 provides as follows:

A Member, Delegate, or Resident Commissioner-----

- (a) shall keep the campaign funds of such individual separate from the personal funds of such individual;
- (b) may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures; and
- (c) except as provided in clause 1(b) of rule [24], may not expend funds from a campaign account[] of such individual that are not attributable to bona fide campaign or political purposes.

While the rule permits the use of campaign funds for "bona fide campaign or political purposes," it does not include a definition of that phrase. The Committee has long advised that

⁹ LEF Regulations ¶ 7.

¹⁰ LEF Regulations ¶¶ 8-9.

¹¹ LEF Regulations ¶ 7.

¹² LEF Regulations ¶ 11.

¹³ LEF Regulations ¶ 12.

¹⁴ LEF Regulations ¶ 13.

Members have wide discretion to determine whether any particular expenditure would serve such purposes, provided that the Member does not convert campaign funds to personal or official uses (other than as permitted by House Rule 24, clause 1(b)).¹⁵ Put another way, the rule is not interpreted "to limit the use of campaign funds strictly to a Member's reelection campaign," but instead is interpreted "broadly to encompass the traditional politically-related activities of Members of Congress."¹⁶

In accordance with these principles, the Committee has determined that it is generally permissible under House rules for a Member to use campaign funds to pay for the Member's own legal fees which arise in connection with the Member's campaign, election, or the performance of official duties.¹⁷

ANALYSIS

1. Legal Expense Fund

The legal expenses you incurred in connection with the Elections Commission action were directly related to your candidacy for federal office in 2008 – one of the specific permissible types of actions under the Committee's Legal Expense Fund regulations. Therefore, it would be generally permissible for you to establish and solicit for a legal expense fund to pay these fees already incurred. Moreover, the legal expenses to be incurred in the Ohio Court case that appeals the Election Commission's ruling are also directly related to your candidacy for federal office in 2008. Therefore, it would be generally permissible for you to solicit for a legal expense fund to pay these current and future legal fees as well.

There is no restriction under the Committee's Legal Expense Fund Regulations that would bar the establishment of such a trust fund to pay past legal expenses, so long as no solicitation or receipt of donations occurred before the Committee's written approval of the trust agreement. Thus, before you may begin accepting or soliciting for donations to cover past and future legal expenses as described above, the Committee must approve your proposed trust agreement. If you are interested in pursuing this option, please contact the Committee with a letter seeking approval of a specific legal expense fund with a draft trust agreement and nomination of a trustee pursuant to the Committee's regulations discussed above.

2. Use of Campaign Funds

As an alternative, we conclude that it is within your discretion to use campaign funds for your legal expenses already incurred in connection with the Elections Commission action because these expenses are for a legal action arising out of your candidacy for federal office, as well as your official duties and responsibilities. Since no money damages were awarded in this case, the payment of legal expenses for this action does not implicate the prohibition on

¹⁵ See Comm. on Standards of Official Conduct, Advisory Opinion No. 6, reprinted in Appendix to 2008 House Ethics Manual at 375, 376.

¹⁶ House Select Comm. on Ethics, *Final Report*, H. Rep. 95-1837, 95th Cong., 2d Sess. (1979) at 16.

¹⁷ See 2008 House Ethics Manual at 156-57.

conversion of campaign funds to personal use. It is also within your discretion to use campaign funds for your legal expenses in connection with the pending Ohio Court case that appeals the Election Commission's ruling matter because these expenses are for a legal action arising out of the same facts relating to your candidacy and official duties at issue in the Election Commission action. This authority extends to expenditure of funds from your principal campaign committee for past legal expenses in connection with the proceedings at the Elections Commission and for current and future legal expenses in connection with the Ohio Court case appealing the Election Commission ruling.

Finally, as a reminder, you should be cautious to avoid any appearance of special favors or additional access for TALDF or TCA based on your business relationship with these groups.¹⁸ TCA did employ registered lobbyists in the past, and very likely will continue to have issues pending before Congress.¹⁹ Accordingly, we advise you to keep in mind these standards of conduct during the time you are working with TALDF.

LIMITATIONS

Pursuant to the Federal Election Campaign Act, the FEC administers a separate set of restrictions on the use of campaign funds. Although our understanding is that the FEC generally permits the use of campaign funds and the establishment of legal expense funds for legal expenses arising out of a Member's congressional campaign and official duties, interpretation of FEC regulations is outside this Committee's jurisdiction. If you have not already done so, you should consult with the FEC to determine whether either course of conduct is permissible under the applicable law and regulations.

The response above constitutes an advisory opinion concerning the application of House Rules 23 and 25 and the Code of Ethics for Government Service. The following limitations apply to this opinion:

- This advisory opinion is issued only to Representative Jean Schmidt, the requestor of this opinion. This advisory opinion cannot be relied upon by any other individual or entity.
- This advisory opinion is limited to the provisions of the House rules and the Code of Ethics for Government Service specifically noted above. No opinion is expressed or implied herein regarding the application of any other federal, state, or local statute, rule, regulation, ordinance, or other law that may be applicable to the proposed conduct described in this letter, including, without limitation, the Internal Revenue Code and the Federal Election Campaign Act.

¹⁸ The Code of Ethics for Government Service states that all government employees, including Members, may "never discriminate unfairly by the dispensing of special favors or privileges whether for remuneration or not." Code of Ethics for Government Service ¶ 5.

¹⁹ In addition, we note that you accepted a privately-sponsored trip to Turkey from TCA in 2009, which must be disclosed on your Financial Disclosure Statement in May 2010.

- This advisory opinion will not bind or obligate any entity other than the Committee on Standards of Official Conduct of the United States House of Representatives.
- This advisory opinion is limited in scope to the specific proposed conduct described in this letter and does not apply to any other conduct, including that which appears similar in nature or scope to that described in this letter.

The Committee will take no adverse action against you in regard to any conduct that you undertake, or have undertaken, in good faith reliance upon this advisory opinion, so long as you have presented a complete and accurate statement of all material facts relied upon herein, and the proposed conduct in practice conforms with the information you provided, as addressed in this opinion.

Changes or other developments in the law (including, but not limited to, the Code of Official Conduct, House rules, Committee guidance, advisory opinions, statutes, regulations or case law) may affect the analysis or conclusions drawn in this advisory opinion. The Committee reserves the right to reconsider the questions and issues raised in this advisory opinion and to rescind, modify, or terminate this opinion if required by the interests of the House. However, the Committee will rescind an advisory opinion only if relevant and material facts were not completely and accurately disclosed to the Committee at the time the opinion was issued. In the event that this advisory opinion is modified or terminated, the Committee will not take any adverse action against you with respect to any action taken in good faith reliance upon this advisory opinion so long as such conduct or such action was promptly discontinued upon notification of the modification or termination of this advisory opinion.

If you have any further questions, please contact the Committee's Office of Advice and Education at extension 5-7103.



Zoe Lofgren
Chair

Sincerely,



Jo Bonner
Ranking Republican Member

ZL/JB:pgp

EXHIBIT I



55 of 147 DOCUMENTS

Copyright 2009 Associated Press
All Rights Reserved
The Associated Press

September 4, 2009 Friday 03:56 AM GMT

SECTION: DOMESTIC NEWS

LENGTH: 552 words

HEADLINE: Ohio elections panel hears lawmaker's complaint

BYLINE: By STEPHEN MAJORS, Associated Press Writer

DATELINE: COLUMBUS, Ohio

BODY:

The Turkish government covertly funneled campaign money to an Ohio congresswoman in return for her denials that the mass killings of Armenians during World War I constituted genocide, an Armenian American and his high-powered attorney argued at a state hearing Thursday.

U.S. Rep. Jean Schmidt, a Republican, wants the Ohio Elections Commission to find that David Krikorian violated election law when he said in campaign materials during the 2008 campaign that she had accepted "blood money" from the Turkish government in return for her genocide denial.

After roughly seven hours of testimony Thursday, the commission ran out of time and will resume the hearing in October.

The commission has the power to fine Krikorian, but the case could end up in the formal court system.

Commission members repeatedly asked Krikorian's attorneys to show proof that Turkish interests had given \$30,000 in campaign money to Schmidt through legal campaign committees and lobbyists. It's illegal for foreign governments to contribute to U.S. politicians.

Los Angeles attorney Mark Geragos, whose past clients include the late pop star Michael Jackson and actress Winona Ryder, took up the case at Krikorian's invitation. Geragos is also an Armenian-American.

The commission is first trying to establish whether it can be proved that the Turkish government, or government-sponsored political action committees, gave money to Schmidt. If the commission decides there is no proof, it must then determine whether Krikorian made the statements in a reckless disregard of the truth.

Schmidt and Krikorian, who plans to challenge her again in 2010, were both questioned during Thursday's proceedings. Schmidt said she has not accepted money from the Turkish government, while Krikorian, based on his own research and other publications, said he believed Schmidt was taking Turkish government money through back channels in return for her genocide denials.

"These statements are all false," said Schmidt attorney Donald Brey. "She never took money from Turkish government-sponsored political action committees."

Krikorian believes his assertions are protected political speech, while Schmidt said he made a false campaign statement.

"I felt that these contributions were sponsored by the Turkish government," Krikorian said. "I think it's freedom of speech."

Geragos said he thought Krikorian had already proven that Schmidt had received money from Turkish interests, but that at the next hearing he would present evidence of a direct link.

Krikorian said Turkish interests, which he said are trying to fend off a congressional resolution declaring the killings of Armenians in 1915 as genocide, were trying to reward Schmidt for her public position that she does not have enough information to make a decision.

Schmidt's unwillingness to proclaim what many history scholars regard as fact is also shared by the U.S. government. The U.S. foreign policy establishment's careful positioning on the issue is driven by the importance of maintaining productive relations with a moderate ally in the Middle East.

Turkey denies that the deaths of an estimated 1.5 million Armenians constituted genocide, contending the toll has been inflated and that the casualties were victims of civil war. It says Turks also suffered losses in the hands of Armenian gangs.

LOAD-DATE: September 4, 2009