

May 10, 2019

Omar Ashmawy
Chief Counsel
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, S.W. Suite 1110
Washington, DC 20024

Dear Mr. Ashmawy,

We respectfully request that the Office of Congressional Ethics (“OCE”) investigate whether Representative Terrance John Cox (a.k.a. “TJ”) of California’s 21st Congressional District, elected in 2018, failed to disclose “true, complete, and correct” statements on his Candidate Financial Disclosure Report, filed on May 15, 2018, as required by 5 U.S.C. App. 4, §101(b).¹ This is in violation of House Rule 23, Clause 6(a) and stands in contravention to the Code of Conduct established by House Rule 23.²

I. Background

On November 28, 2018, the race between TJ Cox and incumbent Representative David Valadao was decided by a manual audit.³ With a less than a 900 vote advantage, Mr. Cox edged past then-Representative Valadao to succeed him in representing California’s 21st Congressional District.⁴ Prior to the election, Representative Cox had initially announced his candidacy for California’s 10th Congressional District and then in 2018,⁵ Representative Cox announced he would be running in California’s 21st Congressional District.

As required by the Ethics in Government Act of 1978, Representative Cox filed his first financial disclosure report on October 30, 2017 as a candidate for California’s 10th Congressional District.⁶ On May 15, 2018, Representative Cox then filed a financial disclosure report as a candidate for California’s 21st Congressional District.⁷

¹ California Secretary of State, Statement of Vote, November 6, 2018 General Election, 8 (Dec. 14, 2018), [hereinafter Election Results], <https://elections.cdn.sos.ca.gov/sov/2018-general/sov/2018-complete-sov.pdf>; Clerk of the U.S. House of Representatives, TJ Cox, 2018 Financial Disclosure Report (May 15, 2018) [hereinafter 2018 Financial Disclosure], http://clerk.house.gov/public_disc/financial-pdfs/2018/10022358.pdf.

² U.S. House Committee on Rules, Rules of the U.S. House of Representatives, 116th Congress, Rule 23, Cl. 2. (Jan. 11, 2019).

³ Rory Appleton & Lewis Griswold, *Cox declares victory after adding to lead over Valadao in last contested Congressional race*, The Fresno Bee (Nov. 28, 2018), <https://www.fresnobee.com/news/politics-government/election/local-election/article222265235.html>.

⁴ *Id.*

⁵ Casey Tolan, *Candidates wanted: Can Dems conquer Central Valley congressional seat?*, The Mercury News (Mar. 8, 2018), <https://www.mercurynews.com/2018/03/08/tj-cox-congress-david-valadao-central-valley/>.

⁶ Clerk of the U.S. House of Representatives, TJ Cox, 2017 Financial Disclosure Report (Oct. 30, 2017) [hereinafter 2017 Financial Disclosure], http://clerk.house.gov/public_disc/financial-pdfs/2017/10019182.pdf.

⁷ 2018 Financial Disclosure, *supra* note 1.

On the 2018 filing, filed in May of that year, Representative Cox listed twenty-three entities with which he was serving under Schedule E: Positions.⁸ However, he failed to disclose his involvement with the below five organizations on his filings.⁹

According to media outlets, government records show Representative Cox served in some capacity with five business entities:

- In California, he is currently listed with Troy Investment Partners, LLC as manager;
- California records also list him as an agent for Troy Equipment Leasing, LLC;
- Additionally, he is listed as the owner of CMSS I LP, a now-defunct property development company;
- JET Equipment, an Alaska-based company dissolved in 2016, lists Representative Cox as its sole owner and manager; and
- He sits on the board of Constellation Mines, Ltd., a Canadian mining company.¹⁰

Additionally, Representative Cox was the secretary/treasurer for the Central Valley Sports Foundation (“CVCSF”) and also listed himself as a “Director” for the foundation.¹¹ In 2016, 2017, 2018, and 2019, the California attorney general’s office notified CVCSF that it was delinquent with the Registry of Charitable Trusts, in part for failing to submit required annual fee reports.¹² CVCSF also assumed two notes payable to Central Valley NMTC, LLC, a multimillion-dollar business in which Representative Cox is the president of, in the combined amount of \$327,747.¹³

In February of 2019, a local audit regarding CVCSF was released by the city of Fresno. The audit was triggered by a request by the foundation, six months ahead of schedule, for an additional \$150,000 that the city had agreed to provide for annual operations. The executive summary of the audit was released in February and notes that “the nonprofit has not established effective procedures for monitoring revenues earned and expenses incurred.” The audit also revealed that there was no method for contracting with third-party vendors, lacked documentation for expense and income items, and CVCSF was essentially unable to balance their checkbook. Additionally, the audit cites that two of the Corporate Officers of CVCSF withdrew \$145,140.76 and \$75,000 as loan payments; yet, at the time, the documentation for these loans had not been provided.¹⁴ Following the audit, a document filed March 7, 2019 with the California Secretary of State shows Cox has subsequently removed himself from CVCSF.¹⁵

⁸ 2018 Financial Disclosure, *supra* note 1.

⁹ Rory Appleton, *Cox failed to disclose several business interests, including a foreign tie, during candidacy*, The Fresno Bee, (Apr. 1, 2019), <https://www.fresnobee.com/news/politics-government/article228487214.html>.

¹⁰ Appleton, *supra* note 9.

¹¹ 2018 Financial Disclosure, *supra* note 1; 2017 Financial Disclosure, *supra* note 6; Pablo Lopez, *Fresno has taken back one park already from developer. Is Granite Park next?*, The Fresno Bee, (Sept. 12, 2018), <https://www.fresnobee.com/news/local/article217999125.html>.

¹² Brianna Calix and Kate Irby, *Granite Park, AlleyWave operators delinquent with tax filings, but city says business as usual*, The Fresno Bee, (Mar. 22, 2019), <https://www.fresnobee.com/news/local/article228288344.html>.

¹³ California Department of Justice, Verification, Registrant Details, Central Valley Community Sports Foundation, <http://rct.doi.ca.gov/Verification/Web/>. (Apr. 4, 2019), [hereinafter Central Valley]; Pablo Lopez, *Fresno has taken back one park already from developer. Is Granite Park next?*, The Fresno Bee, (Sept. 12, 2018), <https://www.fresnobee.com/news/local/article217999125.html>.

¹⁴ Todd Shepherd, *Audit Raises Tough Questions for Freshman California Democrat T.J. Cox*, The Washington Free Beacon, (Feb. 13, 2019), <https://freebeacon.com/politics/audit-raises-tough-questions-for-freshman-california-democrat-t-j-cox/>.

¹⁵ Todd Shepherd, *CA Dem T.J. Cox Failed to Disclose Business Ties, Including to Foreign Biz*, The Washington Free Beacon, (Apr. 2, 2019), <https://freebeacon.com/issues/ca-dem-t-j-cox-failed-to-disclose-business-ties-including-to-foreign-biz/>.

According to media outlets, Representative Cox has encountered other legal issues regarding his personal financial situation. In a notarized document, he claimed his second home in Maryland as his principal residence, while also claiming his home in Fresno as his principal residence, though federal tax laws do not allow more than one home to be designated. Representative Cox claimed his Maryland home was his principal residence for three years, and for this designation, he received a tax credit in June of 2018.¹⁶ In 2014, 2015, and 2017, Representative Cox's Fresno home was listed for rent on Zillow; yet, he received the Fresno County property tax exemption each year—a tax break not available to owners who rent out their homes.¹⁷ In 2015, Representative Cox was subject to a court ordered payment to his attorneys for not paying a \$49,000 legal bill, including interest.¹⁸ In 2017, Representative Cox and his wife were subject to an IRS tax lien for unpaid income tax in the amount of \$48,362.¹⁹

II. Law

Pursuant to 5 U.S.C. App. 4, §101(b) The Ethics in Government Act of 1978 requires candidates to file a personal financial disclosure report.

Under 5 U.S.C. App. 4 §102(a), each report is required to provide a “full and complete statement” with respect to income.

Under 5 U.S.C. App. 4 § 102(a)(6)(A) an individual is required to disclose all positions held with an organization during the calendar year, and the two years preceding for the first filing

§104(a)(2)(A) makes it unlawful for any person to knowingly and willfully fail to file or report any information required under §102, with civil penalties assessed by the Attorney General in a civil action.

Additionally, the Code of Ethics for Government Service, holds that any person in government service should uphold the Constitution, the laws, and regulations of the U.S. and not evade them.²⁰

The Rules of the House of Representatives for the 116th Congress, Code of Conduct, also set forth guidelines governing the behavior and conduct of members:

- Under Rule XXIII, Clause 1, a member, shall behave at all times that shall reflect credibly on the House.
- Members are expected to adhere to the spirit and the letter of the Rules of the House.²¹

¹⁶ Rory Appleton, *TJ Cox signed document claiming Maryland as residence; campaign calls it 'bonest mistake'*, The Fresno Bee, (Oct. 2, 2018), <https://www.fresnobee.com/news/politics-government/politics-columns-blogs/political-notebook/article219337805.html>.

¹⁷ Appleton, *supra* note 9.

¹⁸ Shepherd, *supra* note 15.

¹⁹ *Id.*

²⁰ 34 CFR Appendix to_part_73 - Code of Ethics for Government Service.

²¹ U.S. House Committee on Rules, Rules of the House of Representatives, 116th Congress (January 11, 2019), Rule 23, Cl. 2.

The House Ethics Manual provides additional guidance for members, establishing a code of conduct that “[a]ppropriate standards of conduct enhance the legislative process and build citizen confidence” and to ensure that members “work earnestly and thoughtfully for their salary, and that they may not seek to profit by virtue of their public office, allow themselves to be improperly influenced.”²²

III. Analysis

At issue is whether Representative Cox complied with U.S. House requirements established for members and candidates for failing to provide a “full and complete statement” of his financial ties and holdings on either of his financial disclosure statements. By failing to include his roles with at least five known business entities, Representative Cox is in violation of 52 U.S.C. App. 4 § 102(a)(6)(A). On his 2018 filing, under Schedule E, Representative Cox did not disclose his role as manager for Troy Investment Partners, LLC; as agent for Troy Equipment Leasing, LLC; as owner of CMSS I, LP; as owner/manager with JET Equipment; and his role on the board of Constellation Mines, Ltd.²³

Public statements by Representative Cox clearly demonstrate that he was aware of the requirements to disclose his financial involvement under Schedule E. When questioned about his lack of disclosure, he told reporters that dissolving his interests was a complicated issue and that “You don’t put together 10 or 15 years worth of businesses and get out overnight.” While he publicly expressed a desire to be as open and transparent as possible and not leave any doubts over any potential conflicts of interests, the reality was that he failed to make known to the public, his ties with five companies, including a foreign owned mining company.²⁴ Representative Cox’s acknowledgement of the law and failure to comply is a “knowingly and willfully” violation under 5 U.S.C. App. 4 § 104(a)(2)(A).

In addition to the mandatory disclosure requirements of the House of Representatives, the House Ethics Handbook further establishes standards for transparency, stating in relevant part that “[in] all instances, filers may disclose additional information or explanation at their discretion.”²⁵ Representative Cox’s past financial history and business involvements warrant full public disclosure. For failing to pay a significant amount of attorney fees, Representative Cox was sued by his own legal representation and was subject to court enforcement.²⁶ Representative Cox also failed to pay federal income taxes owed and was subject to a \$48,362 tax lien.²⁷ Additionally, he signed a notarized document which claimed his second home was his principal residence, for which he received undue tax benefits, and potential received a Fresno tax break that was not available to him.²⁸ Most recently, a non-profit that he has personal ties to was audited and was found to be lacking basic accounting controls.²⁹ This information is critical to public knowledge to ensure a fully informed electorate.

²² U.S. House of Representatives Ethics Manual, 110th Congress, 2d Session, 2008 Edition, (p. 2). *See* https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf.

²³ Appleton, *supra* note 9.

²⁴ Appleton, *supra* note 9; 2018 Financial Disclosure, *supra* note 1.

²⁵ U.S. House of Representatives Ethics Manual, 110th Congress, 2d Session, 2008 Edition, (p. 252). *See* https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf.

²⁶ Shepherd, *supra* note 15.

²⁷ *Id.*

²⁸ Appleton, *supra* note 16; Appleton, *supra* note 9.

²⁹ Shepherd, *supra* note 14.

Representative Cox, however, failed to provide significant details regarding his financial dealings and legal issues to the public prior to the election.

The House of Representatives requires that all members and candidates and senior staff file a financial disclosure to ensure that conflicts of interest do not exist between an individual's financial situation and public service. According to the House Handbook on Ethics, "[p]ublic disclosure is intended to provide the information necessary to allow Members' constituencies to judge their official conduct in light of possible financial conflicts with private holdings."³⁰ Representative Cox's failure to disclose his interests in these five business entities failed to provide his constituency and the voters with an accurate and complete picture of his current financial holdings. He did not disclose facts that indicated he was out of compliance with federal tax law, his non-profit used questionable accounting and documentation processes, and he failed to honor contractual personal agreements.³¹ These are all critical for the public to assess and evaluate when electing a candidate.

The U.S. House holds members to "[a]ppropriate standards of conduct enhance the legislative process and build citizen confidence."³² For citizen confidence to exist, the public must have knowledge of Representative Cox's past financial transactions and current business ties; he has, however, failed to provide such disclosures.³³

IV. Request for Action

Representative Cox has substantial holdings across many business ventures for which he has not made publicly available, in violation of federal law, in violation of standards of public transparency, and conduct established by the House of Representatives.³⁴ He has failed to honor a contractual agreement and his non-profit was audited which showed questionable financial practices.³⁵ By failing to be forthcoming prior to the 2018 election, for which he won by a very small margin, he is in contravention to the spirit and standard of the U.S. House.³⁶

At best, Representative Cox was grossly negligent in complying with the financial disclosure requirements and in failing to provide voters with complete and accurate information to make an informed selection of a candidate. At worst, Representative Cox willfully concealed accurate financial information regarding current ties and past legal issues. Therefore, we respectfully urge OCE to commence an investigation into the financial disclosure reports, under 5 U.S.C. App. 4 §102(a), made by Representative Cox and any potential violations of federal law.

³⁰ U.S. House of Representatives Ethics Manual, 110th Congress, 2d Session, 2008 Edition, (p. 251). See https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf.

³¹ Shepherd, *supra* note 14; Appleton, *supra* note 16.

³² U.S. House of Representatives Ethics Manual, 110th Congress, 2d Session, 2008 Edition, (p. 2). See https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf.

³³ 2018 Financial Disclosure, *supra* note 1

³⁴ *Id.*; Appleton, *supra* note 9.

³⁵ Shepherd, *supra* note 14.

³⁶ U.S. House of Representatives Committee on Rules, Rules of the House of Representatives, 116th Congress (January 11, 2019), Rule 23, Cl. 2; Election Results, *supra* note 1.

Sincerely,

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