

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

REPORT

Review No. 21-4329

The Board of the Office of Congressional Ethics (hereafter “the Board”), by a vote of no less than four members, on October 15, 2021, adopted the following report and ordered it to be transmitted to the Committee on Ethics of the United States House of Representatives (hereafter “the Committee”).

SUBJECT: Representative Doug Lamborn

NATURE OF THE ALLEGED VIOLATION: Rep. Lamborn may have misused official resources for personal and non-official purposes. If Rep. Lamborn misused official resources, he may have violated House rules and standards of conduct.

Rep. Lamborn may have solicited or accepted improper gifts from subordinates. If Rep. Lamborn solicited or accepted improper gifts from subordinates, he may have violated House rules, standards of conduct, and federal law.

RECOMMENDATION: The Board recommends that the Committee further review the above allegation concerning Rep. Lamborn because there is substantial reason to believe that Rep. Lamborn misused official resources.

The Board recommends that the Committee further review the above allegation concerning Rep. Lamborn because there is substantial reason to believe that Rep. Lamborn solicited or accepted improper gifts from subordinates.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE: Omar S. Ashmawy, Staff Director & Chief Counsel.

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FINDINGS OF FACT AND CITATIONS TO LAW

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OFFICE OF CONGRESSIONAL ETHICS
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FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 21-4329

On October 15, 2021, the Board of the Office of Congressional Ethics (hereafter “the Board”) adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. Rep. Lamborn may have misused official resources for personal and non-official purposes. If Rep. Lamborn misused official resources, he may have violated House rules and standards of conduct.
2. The Board recommends that the Committee further review the above allegation concerning Rep. Lamborn because there is substantial reason to believe that Rep. Lamborn misused official resources.
3. Rep. Lamborn may have solicited or accepted improper gifts from subordinates. If Rep. Lamborn solicited or accepted improper gifts from subordinates, he may have violated House rules, standards of conduct, and federal law.
4. The Board recommends that the Committee further review the above allegation concerning Rep. Lamborn because there is substantial reason to believe that Rep. Lamborn solicited or accepted improper gifts from subordinates.

B. Jurisdictional Statement

5. The allegations that were the subject of this review concern Representative Doug Lamborn, a Member of the United States House of Representatives from the 5th congressional district of Colorado. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (“OCE”) directs that, “[n]o review shall be undertaken ... by the [B]oard of any alleged violation that occurred before the date of adoption of this resolution.”¹ The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

¹ H. Res. 895 of the 110th Congress § 1(e) (2008) (as amended) (hereafter the “Resolution”).

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C. Procedural History

6. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on June 16, 2021. The preliminary review commenced on June 17, 2021.²
7. On June 17, 2021, the OCE notified Rep. Lamborn of the initiation of the preliminary review, provided him with a statement of the nature of the review, notified him of his right to be represented by counsel in this matter, and notified him that invoking his right to counsel would not be held negatively against him.³
8. At least three members of the Board voted to initiate a second-phase review in this matter on July 16, 2021. The second-phase review commenced on July 17, 2021.⁴ The second-phase review was scheduled to end on August 30, 2021.
9. On July 19, 2021, the OCE notified Rep. Lamborn of the initiation of the second-phase review in this matter, and again notified him of his right to be represented by counsel in this matter, and that invoking that right would not be held negatively against him.⁵
10. The Board voted to extend the second-phase review by an additional period of fourteen days on August 20, 2021. The additional period ended on September 13, 2021.
11. The Board voted to refer the matter to the Committee for further review and adopted these findings on October 15, 2021.
12. The report and its findings in this matter were transmitted to the Committee on October 25, 2021.

D. Summary of Investigative Activity

13. The OCE requested documentary and in some cases testimonial information from the following sources:
 - (1) Rep. Lamborn;
 - (2) Witness 1- Former Congressional Staffer;
 - (3) Witness 2- Current Congressional Staffer;
 - (4) Witness 3- Current Congressional Staffer;
 - (5) Witness 4- Current Congressional Staffer;
 - (6) Witness 5- Former Congressional Staffer;

² A preliminary review is “requested” in writing by members of the Board of the OCE. The request for a preliminary review is received by the OCE on a date certain. According to the Resolution, the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board’s request.

³ Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to Rep. Lamborn, June 17, 2021.

⁴ According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase commences the day after the preliminary review ends.

⁵ Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to Rep. Lamborn, July 16, 2021.

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- (7) Peter Holland;
- (8) Margaret Thraillkill;
- (9) Wesley Harkins; and
- (10) Dale Anderson.

14. The following individuals and entities refused to cooperate with the OCE's review:

- (1) Rep. Lamborn;
- (2) Peter Holland;
- (3) Margaret Thraillkill;
- (4) Wesley Harkins; and
- (5) Dale Anderson.

II. REP. LAMBORN MAY HAVE MISUSED OFFICIAL RESOURCES FOR PERSONAL ERRANDS OR CAMPAIGN PURPOSES AND ACCEPTED GIFTS OF PERSONAL SERVICES

A. Applicable Law, Rules, and Standards of Conduct

15. Federal Statutes

5 U.S.C. § 7351(a) states that "An employee may not—(1) solicit a contribution from another employee for a gift to an official superior; (2) make a donation as a gift or give a gift to an official superior; or (3) accept a gift from an employee receiving less pay than himself."

31 U.S.C. § 1301(a) states, "[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."

16. House Rules

House Rule 25, clause 5 provides that, "[a] Member . . . may not knowingly accept a gift except as provided in this clause." Clause 5 defines the term "gift" broadly to include any "gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value," and also "gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred."

17. The Code of Ethics for Government Service

*According to Paragraph 5 of the Code of Ethics for Government Service, a person in government service should "[n]ever discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties"*⁶

⁶ Code of Ethics for Government Service, ¶ 5.

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18. House Ethics Manual and Guidance

*The House Ethics Manual advises that, “House resources acquired with [official] funds – including the office telephones, computers fax machines and other equipment, office supplies, office space, and staff while on official time – are to be used for the conduct of official House business.”*⁷

*The Manual further provides: “The [Members’ Representational Allowance (“MRA”)] may only be used for official and representational expenses. The MRA may not be used to pay for any expenses related to activities or events that are primarily social in nature, personal expenses, campaign or political expenses, or House committee expenses. Members may be personally liable for misspent funds or expenditures exceeding the MRA.”*⁸

*“The misuse of the funds and other resources that the House of Representatives entrusts to Members for the conduct of official House business is a very serious matter. . . . Moreover, while any House employee who makes improper use of House resources is subject to disciplinary action by the Standards Committee, each Member should be aware that he or she may be held responsible for any improper use of resources that occurs in a Member’s office. The Standards Committee has long taken the position that each Member is responsible for assuring that the Member’s employees are aware of and adhere to the rules, and for assuring that House resources are used for proper purposes.”*⁹

*The House Ethics Manual further explains, “[I]t is permissible for House employees to do campaign work, but only outside of congressional space, without the use of any House resources, and on their own time (as opposed to ‘official’ time for which they are compensated by the House). Accordingly, any House employee who does campaign work must ensure that the work – including any telephone conversations or other communications concerning campaign business – is performed strictly in compliance with these limitations.”*¹⁰

*Regarding gifts from subordinates, the Committee advises: “You may accept a gift from another Member, officer, or employee of the House or Senate if the person giving you the gift is either your direct or indirect supervisor or your peer. You may not accept a gift from someone you supervise unless the gift is given for a special occasion. Special occasions include birthdays, holidays, marriages, births or adoption of children, anniversaries, retirements, deaths, and other similar occasions for which gifts are traditionally given. You should never be pressured to make or contribute to a gift.”*¹¹

According to the Committee’s gift guidance, “[p]roviding personal services without compensation may also be a gift. Supervisors should not accept uncompensated personal services from subordinate staff for services the supervisor would usually pay for if there is no

⁷ House Ethics Manual (2008) at 197.

⁸ *Id.* at 323 (citing to Comm. on House Admin., Members’ Congressional Handbook).

⁹ *Id.* at 124 (internal citations omitted).

¹⁰ *Id.* at 126 (internal emphasis omitted).

¹¹ Committee on Ethics, Gift Guidance, https://ethics.house.gov/house-ethics-manual/gifts#_Gifts_from_other (last visited October 1, 2021) (hereafter the “Committee Gift Guidance”) (internal citations omitted).

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connection to legitimate, official activity.”¹² The Committee provides the following example: “[y]our employing Member asks you to pick up their children from school. Because this activity bears no connection to legitimate, official activity, you should not perform this service for your employing Member.”¹³

As explained in the Ethics Manual, “a Member may accept volunteer services without limit from his or her own immediate family, i.e., spouse, children, or parents.”¹⁴

With respect to a Member’s casework, the Ethics Manual notes that the “Member’s obligations are to all constituents equally, and considerations such as political support, party affiliation, or one’s status as a campaign contributor should not affect either the decision of a Member to provide assistance or the quality of help that is given to a constituent.”¹⁵

The Ethics Manual further explains that, as a general matter, a Member “should not devote official resources to casework for individuals who live outside the district.”¹⁶

In the Matter of Allegations Relating to Representative Thomas Garrett, the Committee staff explained, “[a]s a general matter, Members are responsible for the conduct that occurs in their offices. Members’ immediate family may, as a general matter, volunteer in their congressional offices. While volunteers are not subject to the Code of Official Conduct or within the jurisdiction of the Committee, Members nonetheless bear responsibility for any violations that result from their actions taken in their position as volunteers, including the mistreatment of the Members’ staff. This is uniquely true for a Member’s spouse, who staff are likely to assume speaks with the voice of the Member. In light of these issues, the Committee has long advised that Members and House offices obtain the agreement of anyone who volunteers in a House office that they will conduct themselves in a manner that reflects creditably on the House.”¹⁷

In the Matter of Allegations Relating to Representative Thomas Garrett, the Committee staff advised that, “it would be appropriate for Representative Garrett to reimburse the U.S. Treasury for time his employees spent performing unofficial tasks or services that were unofficial.”¹⁸ In that case, the Committee staff detailed extensive requests by a Member’s spouse to official staff to perform personal services and campaign-related work.¹⁹

In the same Matter, the Committee staff explained that “Representative Garrett accepted gifts of personal services from his staff, including during staff’s personal time. While some of those services had only nominal value, others were potentially of significant monetary value. In their

¹² *Id.* (citing *In the Matter of Allegations Relating to Representative Thomas Garrett*, 115th Cong., 1st Sess. (Jan. 2, 2019) at 5, 32-34).

¹³ Committee Gift Guidance.

¹⁴ House Ethics Manual at 288.

¹⁵ *Id.* at 300.

¹⁶ *Id.* at 310.

¹⁷ *In the Matter of Allegations Relating to Representative Thomas Garrett*, 115th Cong., 1st Sess. (Jan. 2, 2019) at 3.

¹⁸ *Id.* at 36.

¹⁹ *Id.*

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*personal time, Representative Garrett's staff had occasion to dog-sit, help the Garretts move apartments, babysit, and clean the Garretts house, often providing their labor for free.*²⁰

*In the Matter of Allegations Relating to David Schweikert, the Investigative Subcommittee Report explained that a Member had violated 31 U.S.C. § 1301 and House rules by permitting staff to perform campaign tasks using official resources as small as stuffing campaign envelopes within the official office.*²¹ *The Report explained, "[t]here is no de minimis exception to the prohibition on using official resources for campaign or political purposes."*²²

B. Personal Services and Campaign Work Performed During Official Time by Rep. Lamborn's Staff

19. As discussed in more detail below, during this review, the OCE interviewed three current and two former Rep. Lamborn staffers. The OCE also interviewed and received documents from Rep. Lamborn. While several relevant witnesses refused to interview, and Rep. Lamborn refused to provide relevant documents requested as a part of this review, the OCE uncovered evidence showing a pattern and practice in Rep. Lamborn's office of official staff conducting personal and campaign-related tasks for Rep. Lamborn, his wife, and other family members during official work hours, and using official resources.

i. Rep. Lamborn's Wife's Involvement in the Official Office

20. Rep. Lamborn provided documents to the OCE that included email exchanges between staffers, Rep. Lamborn, Mrs. Lamborn, and Dale Anderson, the Chief of Staff. Upon reviewing these documents, the OCE learned that Rep. Lamborn's wife, Jeanie Lamborn, has access to an official House email account.²³

21. Rep. Lamborn acknowledged that Mrs. Lamborn played a substantial role in his official congressional office.²⁴ He also acknowledged she has had an official House email account for some time; however, he did not recall when she first obtained it.²⁵ While it is not unusual for spouses to play a role in a congressional office or have an official email account, evidence obtained by the OCE indicated that Mrs. Lamborn had a role in the office that exceeded what is permissible for spouses.

²⁰ *Id.* at 37.

²¹ *In the Matter of Allegations Relating to Representative David Schweikert*, 116th Cong., 2nd Sess. (June 30, 2020) at 71.

²² *Id.* at 69.

²³ OCE staff confirmed the existence of this email after reviewing documents produced by Rep. Lamborn, as well as the U.S. House email listserv, that includes the email addresses of everyone with a U.S. House of Representatives email address.

²⁴ See discussion *infra* para. 23, 28.

²⁵ Transcript of Interview of Rep. Lamborn, ("Rep. Lamborn Transcript"), September 8, 2021 (Exhibit 1 at 21-4329_0025).

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22. Mrs. Lamborn regularly visits Rep. Lamborn's office and often sleeps in the office with Rep. Lamborn.²⁶ According to testimony from former staffers and Rep. Lamborn, Mrs. Lamborn was deeply involved in all personnel aspects of Rep. Lamborn's office, including but not limited to hiring, firing, and promotions.²⁷ There was a general agreement amongst witnesses interviewed by OCE staff that Mrs. Lamborn had a significant role in the office, including office operations.²⁸
23. Rep. Lamborn specifically acknowledged that Mrs. Lamborn had a role in interviewing certain staffers for their congressional jobs.²⁹
24. Staffers also recalled that Mrs. Lamborn received all Washington, D.C. and district staffer "daily reports." The daily reports were described as summaries of what each district and D.C. staffer worked on for the day, and were used to track office activity generally as well as the work of each staffer specifically. The daily reports were sent to "whoever the office manager of the day is."³⁰
25. Witness 3, a current congressional staffer explained to the OCE that the daily reports "...would go to everyone in the district office, everyone in the D.C. office, and all of the leadership. Basically, an opportunity for everybody to be informed here's what is going on. Here's what we are putting our attention to."³¹
26. At least one current congressional staffer reported running errands for Mrs. Lamborn as an "unofficial errand" in the daily reports during a lunch break.³² Witness 1, a former district director, recalled being instructed by Dale Anderson, "if anybody asked, it was -- we took it on our own lunch but it would last like two or three hours."³³
27. Mrs. Lamborn regularly made requests of staff, which generally fell into two categories: (1) campaign-related matters, such as picking up mail and (2) personal errands or services.
28. When making these requests, Mrs. Lamborn would primarily reach out during official work hours, either by telephone, text message or email communication.³⁴ Rep. Lamborn confirmed this during his interview with OCE staff.³⁵ When asked how Mrs. Lamborn communicates

²⁶ *Id.* (Exhibit 1 at 21-4329_0034).

²⁷ See Witness 5 OCE Internal Memorandum of Record ("Witness 5 OCE Memorandum of Record") August 27, 2021.

²⁸ Transcript of Interview of Witness 1, ("Witness 1 Transcript"), August 25, 2021 (Exhibit 2 at 21-4329_0061-65); Witness 5 OCE Memorandum of Record, August 27, 2021.

²⁹ Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0042).

³⁰ Transcript of Interview of Witness 3, ("Witness 3 Transcript"), September 7, 2021 (Exhibit 3 at 21-4329_0131).

³¹ *Id.* These daily reports were an important source of information, allowing the OCE to corroborate the statements of witnesses who recounted being told to conduct unofficial work during office hours. As further discussed, Rep. Lamborn refused to provide the OCE with a complete record of these daily reports and therefore did not cooperate with this review.

³² Transcript of Interview of Witness 2, ("Witness 2 Transcript"), August 31, 2021 (Exhibit 4 at 21_4329_0176-180).

³³ Witness 1 Transcript (Exhibit 2 at 21-4329_0064).

³⁴ Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0025); Witness 3 Transcript (Exhibit 3 at 21_4329_0163-64); Witness 1 Transcript (Exhibit 2 at 21-4329_0064-67).

³⁵ Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0025).

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with staffers, Rep. Lamborn responded: “either in person or by phone or by text or by email. Pretty much any -- any way that you communicate with anyone around you.”³⁶

29. Mrs. Lamborn’s significant involvement in Rep. Lamborn’s office led former staffers to feel that they were required to comply with her requests. A former staffer explained that Rep. Lamborn’s Chief of Staff, Dale Anderson, made it clear that “Mrs. Lamborn had precedence and that, if -- no matter -- there were certain things that we were doing that were -- we needed all hands helping, and she would always overrule those situations still. So I just -- I was told to understand that that was to be expected... He made it clear several times, where it caused a lot of stress and a lot of operational issues. He would explain that, and then Mrs. Lamborn would say, if mama ain't happy, nobody's happy. . . .”³⁷ Mr. Anderson refused to cooperate with this review.
30. At least five of Rep. Lamborn’s current and former staffers stated that they performed personal tasks for the Lamborns, as discussed in further detail below. Three of the current staffers claimed that any personal tasks performed for Rep. Lamborn or Mrs. Lamborn were done voluntarily.³⁸ Rep. Lamborn similarly stated that staff volunteered to perform certain tasks, specifically campaign-related tasks.³⁹ However, two former staffers disagreed with this assertion, with one staffer credibly citing his unwillingness to perform these tasks as one of the reasons for his termination from Rep. Lamborn’s office.⁴⁰ The Board notes that regardless of whether these activities were voluntary or not, none of the witnesses indicated that the official time used to conduct these tasks was made up, or that any policies or procedures existed that would allow for such an arrangement in the congressional office.⁴¹

a. Picking Up Mail and Other Campaign Related Tasks

31. During an interview with the OCE, Witness 1 explained that district staffers would regularly leave the office to perform tasks for Mrs. Lamborn. “Most of the time, Mrs. Lamborn would call whoever she needed and just dictated to them that she would need them, and then I was told by that staffer that I need to go to Mrs. Lamborn’s house or the Lamborn’s house.”⁴²
32. Witness 1 stated that, on several occasions, Mrs. Lamborn asked Witness 1 for personal favors such as picking up campaign related mail, personal mail, or other related tasks. “There was [sic] personal errands, mailing stuff. There was [sic] campaign things. I ran their petition process in 2020, and then there was sporadic campaign things that I was told to take lunch to do, and then mostly it was staff that did personal things.”⁴³

³⁶ *Id.*

³⁷ Witness 1 Transcript (Exhibit 2 at 21-4329_0067).

³⁸ Witness 2 Transcript (Exhibit 4 at 21_4329_0179-80); Witness 3 Transcript (Exhibit 3 at 21-4329_0163-65); Transcript of Interview of Witness 4, (“Witness 4 Transcript”), September 7, 2021 (Exhibit 5 at 21-4329_0237-38).

³⁹ Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0012-13).

⁴⁰ See Complaint at 5-7, Pope v. Office of Doug Lamborn, No. 1:21-cv-01321 (D.D.C. May 13, 2021).

⁴¹ See *In the Matter of Allegations Relating to Representative Thomas Garrett*, 115th Cong., 1st Sess. (Jan. 2, 2019) at 35 (discussing the difficulty of having policies and procedures in place to allow staff to make up time for voluntary non-official tasks performed during the work day).

⁴² Witness 1 Transcript (Exhibit 2 at 21-4329_0066).

⁴³ *Id.* (Exhibit 2 at 21-4329_0061).

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33. When asked what kind of specific tasks Witness 1 was asked to perform during official work hours, Witness 1 stated: “Stuff envelopes. I had to do research on ZIP codes to target different areas in the district for official mail.”⁴⁴
34. Current staffers corroborated Witness 1’s accounts, however, they claimed that they were not required to do so, but did so voluntarily.⁴⁵ Alternatively, if Mrs. Lamborn or Rep. Lamborn asked them to perform these tasks, these same witnesses stated that they were always exclusively done during their respective lunch hours, which contradicts Witness 1 and Witness 5’s statements.⁴⁶
35. There were some inconsistencies among the statements of some of the witnesses, and the OCE made efforts to assess the credibility of every witness and weigh the evidentiary value of all testimony.
36. For instance, Witness 2, a current congressional staffer, stated that Mrs. Lamborn very rarely asked for any personal errands.⁴⁷
37. Specifically, when asked how many times Mrs. Lamborn reached out to Witness 2 asking for a personal or campaign related favor, Witness 2 stated “...And I would say during the time I’ve worked for them, which is going on my eighth year, it’s been a very, very few instances where I’ve been asked to just keep an eye on the mailbox...You know, over a span of eight years, I would estimate maybe two or three times a year. . . .”⁴⁸
38. The OCE identified several inconsistencies with Witness 2’s testimony during the interview. For instance, when asked if Mrs. Lamborn ever reached out to Witness 2 during official work hours for campaign related tasks or personal errands, Witness 2 responded, “No. I’ve never been asked to do a personal errand.”⁴⁹
39. However, documentary evidence provided by Rep. Lamborn showed that Witness 2 submitted several daily reports from 2019 through 2020 which indicated that Witness 2 ran unofficial errands during the workday.⁵⁰ When asked what these unofficial errands were, Witness 2 confirmed that they were tasks for Mrs. Lamborn.⁵¹
40. Between July 3, 2019 and October 2, 2020, a fifteen-month span, Witness 2 performed an “unofficial errand” for Mrs. Lamborn six times, not the “two or three times a year” Witness 2 described in earlier testimony.⁵²

⁴⁴ *Id.* (Exhibit 2 at 21-4329_0062).

⁴⁵ Witness 2 Transcript (Exhibit 4 at 21-4329_0203); Witness 3 Transcript (Exhibit 3 at 21-4329_0147).

⁴⁶ *Id.*

⁴⁷ *Id.* (Exhibit 4 at 21-4329_0176).

⁴⁸ *Id.* (Exhibit 4 at 21-4329_0177).

⁴⁹ *Id.* (Exhibit 4 at 21-4329_0178).

⁵⁰ See Staff Daily Reports (Exhibit 6 at 21-4329_0261-72).

⁵¹ Witness 2 Transcript (Exhibit 4 at 21-4329_0191-94).

⁵² *Id.* (Exhibit 4 at 21-4329_0178).

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41. In response to the OCE's request, Rep. Lamborn initially provided a limited number of the daily reports. When it was clear that they also tracked unofficial activity conducted by staff during the workday, the OCE made an additional request for all the daily reports — in part to verify whether the quantity of “unofficial errands” that was discovered during the review of the limited production was an outlier. However, when the OCE requested these additional daily reports from Rep. Lamborn, he refused to provide them and therefore did not cooperate with this review.⁵³

b. Moving Furniture and Scheduling Zoom Calls

42. When asked whether Mrs. Lamborn has asked staffers for assistance with personal errands, Rep. Lamborn told the OCE, “My -- my understanding is that my wife would not do that because that's not really allowed under the congressional rules of -- of ethics and she wouldn't want to run afoul of that. You know, we try to follow the rules very carefully and very sincerely. So I don't think she would knowingly do that. I just don't think she would knowingly do that.”⁵⁴
43. During the interview, Rep. Lamborn discussed whether Mrs. Lamborn ever asked a current congressional staffer, Witness 3, to move furniture at Rep. Lamborn's home during personal time and Rep. Lamborn recalled this happening “on at least one or maybe per -- perhaps two occasions.”⁵⁵
44. Contrary to Rep. Lamborn's testimony, Witness 3 recalled specific days when Mrs. Lamborn would reach out during official work hours and ask for Witness 3 to assist her in personal tasks such as moving furniture or scheduling personal Zoom meetings.⁵⁶
45. Specifically, when asked if Mrs. Lamborn ever asked Witness 3 for any personal errands, Witness 3 replied “Sure. Because there was some of that personal friendship that had happened. An example would be a Zoom meeting.”⁵⁷
46. Witness 3 stated that he helped Mrs. Lamborn schedule personal Zoom meetings with her daughter on more than one occasion: “...She was struggling with something, trying to have a

⁵³ Following Witness 2's interview, the OCE made a supplemental Request for Information (RFI). Rep. Lamborn, through counsel responded that he would not be providing the additional documents requested, citing concerns over personal and privileged information being made public. However, Rep. Lamborn previously provided other limited daily reports, in response to an earlier RFI. During interviews with OCE staff, a current staffer, Witness 3 described the daily reports as a staffer's daily work summary. When asked by Rep. Lamborn's Counsel, whether the daily reports contained any sensitive information, Witness 3 answered as follows:

Rep. Lamborn's Counsel: Do you ever put anything in there that is confidential or discloses personal information on anyone?

WITNESS 3: I can't think of any scenario that it would be something confidential. I can't think of any situation that I put something confidential. See Witness 3 Transcript (Exhibit 3 at 21-4329_0160).

⁵⁴ Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0015).

⁵⁵ *Id.* (Exhibit 1 at 21-4329_0046). Rep. Lamborn's home is located approximately 2.6 miles from Rep. Lamborn's district office, with a commute time of approximately eight minutes by vehicle.

⁵⁶ Zoom is a proprietary video conferencing software program. Zoom, www.zoom.us (last visited October 5, 2021).

⁵⁷ Witness 3 Transcript (Exhibit 3 at 21-4329_0129).

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meeting with her daughter. And she would say, Hey, can you help me with the Zoom? And so it was something I was happy to be able to help with on a personal level.”⁵⁸

47. Most of these errands occurred during official work hours. Witness 3 explained that sometimes Mrs. Lamborn would call him during his official work hours and “there were sometimes that I would have office hours; so I would have to leave the office, take a break, and go help her.”⁵⁹

48. Witness 1 corroborated this information:

OCE: Who else was performing these kinds of campaign errands or activities?

WITNESS 1: Mostly Witness 4 and myself, and then Witness 3 did a lot of personal things with Zoom, setting up the computer, working on the computer for Mrs. Lamborn, moving things around. Witness 3 would a lot of times just tell me, Mrs. Lamborn called me. I have to go, and it was understood that, like, that took precedence under [sic] staying in the office.⁶⁰

49. Witness 3 maintained that despite Mrs. Lamborn’s requests, Witness 3 was happy to volunteer and assist Mrs. Lamborn in whatever she needed. In fact, Witness 3 welcomed the interruption to the official workday. “If I was going to give you my personal opinion, I kind of prefer to take a break from my workday to do something like that rather than if it was on a weekend or my day off. To me, it didn’t matter what time it was. If I had a few minutes where I could take a break and go do something personal to help, then that is great.”⁶¹

50. Although Witness 3 ran unofficial errands for Mrs. Lamborn during official work hours, Witness 3 did not report them on the daily reports. Unlike Witness 2, Witness 3 stated that “...it was a personal activity...that is not something that I would report as part of my daily activities.”⁶²

ii. Naturalization Celebration for Rep. Lamborn’s Daughter-in-Law

51. Rep. Lamborn’s daughter-in-law became a naturalized citizen in 2020.⁶³ Upon receiving her citizenship, the Lamborns and Dale Anderson instructed congressional staff to plan and host a celebration of her naturalization in the district office.

52. Witness 1 recalls, “... we had one party, naturalization party, that the [C]ongressman, and Mrs. Lamborn, and Dale told us that we had to have in 2020 for their daughter-in-law. And

⁵⁸ *Id.* (Exhibit 3 at 21-4329_0130).

⁵⁹ *Id.*

⁶⁰ Witness 1 Transcript (Exhibit 2 at 21-4329_0063).

⁶¹ Witness 3 Transcript (Exhibit 3 at 21-4329_0143).

⁶² *Id.* (Exhibit 3 at 21-4329_0144).

⁶³ Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0022).

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so we threw a party and I -- for that one, because of the ethics classes and everything, the day of, I was like, how am I going to get compensated for this? And, again, Dale Anderson just laughed.”⁶⁴

53. When asked about his daughter-in-law’s party, Rep. Lamborn stated he did not recall whether he attended the celebration or not.⁶⁵ He also stated that the celebration was his staff’s idea and that he did not instruct his staff to plan a party.⁶⁶
54. The OCE sought to confirm whether this type of celebration was held or offered for constituents. The information gathered suggests that Rep. Lamborn’s office does not hold celebrations for constituents who become American citizens.⁶⁷ When asked how many times there has been a celebration for a constituent becoming a citizen, Witness 2 stated “none that I can think of”⁶⁸ and Witness 3 stated “[w]e would never do that because it is not a professional -- this was a personal, social group.”⁶⁹

iii. Facilitating Rep. Lamborn’s Son’s Job Application

55. Rep. Lamborn’s son moved to Washington, D.C. from New York City in 2020.⁷⁰
56. When asked about the move, Rep. Lamborn stated that “he was pursuing a job with the Pentagon and ultimately got that job. And he was needing to do interviews and things like that and make a transition from New York City to Washington. And I don’t remember exactly when that was, but that was the circumstances surrounding it.”⁷¹
57. During this time, current and former staffers recall being asked by Rep. Lamborn and Mrs. Lamborn to assist their son with the federal job application process.
58. Rep. Lamborn asserts that he asked staff “to give him the same [sic] -- understanding that this is the same that they would do for any veteran who was also a constituent.”⁷² While Rep. Lamborn states that his son received the same assistance in the job hiring process an ordinary constituent would benefit from, the OCE found testimonial and documentary evidence indicating otherwise.

⁶⁴ Witness 1 Transcript (Exhibit 2 at 21-4329_0073).

⁶⁵ Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0022-23).

⁶⁶ *Id.* (Exhibit 1 at 21-4329_0023).

⁶⁷ However, Rep. Lamborn stated that there had been “celebrations for certain momentous occasions in the district office. For instance, when a gentleman who is -- in the Hanoi Hilton during the Vietnam War. And he was in there with John McCain. They were in the same little area. Anyway, he had never received a Silver Star.” *See* Rep. Lamborn Transcript (Exhibit 1 at 21_4329_0024). Several staffers recalled the celebration for the Vietnam war veteran, but were unable to provide examples of a celebration for constituents similar to that of Rep. Lamborn’s daughter-in-law. *See* Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0022-24); Witness 2 Transcript (Exhibit 4 at 21-4329_0223-24); Witness 3 Transcript (Exhibit 3 at 21-4329_0156-57).

⁶⁸ Witness 2 Transcript (Exhibit 4 at 21-4329_0224).

⁶⁹ Witness 3 Transcript (Exhibit 3 at 21-4329_0157).

⁷⁰ Witness 4 Transcript (Exhibit 5 at 21-4329_0248).

⁷¹ Rep. Lamborn’s Transcript (Exhibit 1 at 21-4329_0038).

⁷² *Id.* (Exhibit 1 at 21-4329_0040).

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59. During a conversation with OCE staff, Witness 5, a former staffer, explained that Dale Anderson informed him that Rep. Lamborn's son would be coming into the office and he was to assist him with whatever he needed regarding the federal job application process.⁷³
60. Witness 5 stated that he spent several hours providing extensive guidance to Rep. Lamborn's son, including but not limited to reviewing his resume, evaluating federal job postings, and assisting with mock interview questions. Witness 5 also stated that he followed up with the son via email after their in-person meeting.⁷⁴
61. When asked whether these were tasks he would perform for ordinary constituents, Witness 5 informed OCE staff that they were not.⁷⁵
62. The OCE was able to corroborate Witness 5's statement through testimony of other witnesses as well as documentary evidence provided by Rep. Lamborn.
63. In an email communication thread between Witness 5 and Rep. Lamborn's son, dated September 3, 2019, Witness 5 sent the son several links to federal job postings.⁷⁶ In emails exchanged between October 4, 2019 to October 7, 2019, Witness 5 and the son followed up on the federal job hiring process. All of these email exchanges are from Witness 5's official House email account.⁷⁷
64. There were at least two other staffers involved with assisting Rep. Lamborn's son with the federal job hiring process. Witness 2 recounted that Mrs. Lamborn requested Witness 2 assist her son: "She said would you mind, or would you be able to provide any information to [my son] regarding the Federal job process through USA jobs, and I said absolutely. I've already got a constituent resource folder ready. I saw it as just helping another constituent, frankly, that just happened to be [their son]"⁷⁸
65. However, when OCE staff asked Witness 2 how often she helps constituents with the federal job hiring process, Witness 2 responded, "...not that often but often enough that I had gathered some things, and then I think that during my Federal job search, I had acquired a couple of things or tips that I just remembered, you know, that I could share."⁷⁹ Additionally, in an interview with the OCE, Witness 5 recalled helping Rep. Lamborn's son with interview preparations over a weekend.⁸⁰
66. There were conflicting opinions amongst staffers on whether the assistance provided to Rep. Lamborn's son was in fact the type of assistance provided to ordinary constituents. In fact, it is unclear whether the son was a constituent of Colorado's 5th congressional district during

⁷³ See Witness 5 OCE Memorandum of Record, August 27, 2021.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ See September 3, 2019 Email between Witness 5 and Rep. Lamborn's son (Exhibit 7 at 21-4329_0274-75).

⁷⁷ See October 4, 2019 Email between Rep. Lamborn's son and Witness 5 (Exhibit 8 at 21-4329_0277-79).

⁷⁸ Witness 2 Transcript (Exhibit 4 at 21-4329_0184).

⁷⁹ *Id.* (Exhibit 4 at 21-4329_0186).

⁸⁰ See Witness 5 OCE Memorandum of Record, August 27, 2021.

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67. Most notably, Witness 2 confirmed that the type of assistance provided to Rep. Lamborn's son would not be provided to other constituents:

OCE: In eight years, how many times do you think you've assisted a constituent with a job search?

WITNESS 2: I would say probably less than a dozen times. Not that often.

OCE: And when you've done it, would you review the constituent's resume?

WITNESS 2: No, nothing like that.

OCE: Would you go through specific job opportunities with them to see if they should apply?

WITNESS 2: No.

OCE: Would you assist them in preparing for interviews?

WITNESS 2: No.

OCE: Do you think that doing any of those things would be something that would be appropriate for you to do or that that's --

WITNESS 2: No, I do not think that that would be appropriate for me to do.⁸²

68. As detailed above, the alleged use of official staff time and resources to perform personal services and campaign work, regardless of whether it was voluntary or not, could constitute misuse of official resources. Additionally, the receipt of personal services from staff may have value and therefore also may violate the House gift rule. Finally, utilizing staff to facilitate a job placement for Rep. Lamborn's son implicates a misuse of staff resources, and potentially amounts to a special favor that would not have been provided to similarly situated constituents.

69. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Lamborn misused official resources for personal and non-official purposes.

III. REP. LAMBORN MAY HAVE SOLICITED OR ACCEPTED IMPROPER GIFTS FROM SUBORDINATES

A. Applicable Law, Rules, and Standards of Conduct

70. Federal Statutes

5 U.S.C. § 7351(a) states that "An employee may not—(1) solicit a contribution from another employee for a gift to an official superior; (2) make a donation as a gift or give a gift to an official superior; or (3) accept a gift from an employee receiving less pay than himself."

⁸¹ The same public search listed Rep. Lamborn's son as having previously lived in Colorado.

⁸² Witness 2 Transcript (Exhibit 4 at 21-4329_0201-02).

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71. House Rules

House Rule 25, clause 5 provides that, “[a] Member . . . may not knowingly accept a gift except as provided in this clause.” Clause 5 defines the term “gift” broadly to include any “gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value,” and also “gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.”

72. House Ethics Manual and Guidance

Regarding gifts from subordinates, the Committee advises: “You may accept a gift from another Member, officer, or employee of the House or Senate if the person giving you the gift is either your direct or indirect supervisor or your peer. You may not accept a gift from someone you supervise unless the gift is given for a special occasion. Special occasions include birthdays, holidays, marriages, births or adoption of children, anniversaries, retirements, deaths, and other similar occasions for which gifts are traditionally given. You should never be pressured to make or contribute to a gift.”⁸³

In the Matter of Allegations Relating to David Schweikert, the Investigative Subcommittee Report explained, “[t]he ISC is well-aware that Members have demanding schedules that do not afford them the time to tend to the minutiae of every campaign transaction or congressional office task to ensure their campaigns and congressional offices operate in full compliance with relevant rules and laws. . . But Members must be held to account when they: know or should know of ethical violations that occur within the organizations they oversee; abdicate their duty to supervise the staff to whom they delegate substantial responsibilities”⁸⁴

B. Rep. Lamborn’s Staff May Have Been Compelled to Provide Gifts on Special Occasions

73. As described below, Rep. Lamborn may have permitted Dale Anderson to solicit gifts on his behalf. While there are circumstances when special occasion gift giving between Members and staff is permissible, it is never permissible for a Member to solicit a gift from a subordinate. To the extent Rep. Lamborn failed to oversee Mr. Anderson’s repeated instruction that staffers provide Rep. Lamborn and his family gifts, Rep. Lamborn may be responsible for solicitation of gifts in violation of federal law.

74. Every year on special occasions, such as Christmas and birthdays, staffers recalled hosting celebrations for Rep. Lamborn and Mrs. Lamborn. A part of these celebrations would involve staffers providing Rep. Lamborn and Mrs. Lamborn with a gift from all staffers at the district office and the D.C. office.⁸⁵ All of the current staffers interviewed explained that they

⁸³ Committee Gift Guidance.

⁸⁴ *In the Matter of Allegations Relating to Representative David Schweikert*, 116th Cong., 2nd Sess. (June 30, 2020) at 14.

⁸⁵ Witness 2 Transcript (Exhibit 4 at 21-4329_0209-12); Witness 1 Transcript (Exhibit 2 at 21-4329_0070-77).

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contributed voluntarily and were not expected to participate in the gift exchange.⁸⁶ However, some prior staffers told the OCE that the gift giving was obligatory.

75. Witness 5 told the OCE that he would receive an email from Dale Anderson before the holidays or Rep. Lamborn's birthday instructing him to provide a gift. He did not interpret it as a voluntary request.⁸⁷
76. Witness 1 recounted feeling compelled by Dale Anderson to cover the expenses for the gifts. Witness 1 explained that around Christmas and birthdays, Dale instructed each office to provide gifts valued between \$125 and \$200 for the Lamborns, and also told them it was preferable to give gifts related to beer and food.⁸⁸
77. Witness 1 testified that both Rep. Lamborn and Mrs. Lamborn would receive gifts. "So the gifts would be for Mrs. Lamborn and the [C]ongressman, and we had to make sure that -- I would tell Dale Anderson what we were getting to make sure that it was his approval and also the dollar amount was high enough, and that the [C]ongressman and Mrs. Lamborn would be okay with it."⁸⁹
78. As previously discussed, Dale Anderson refused to cooperate with this review and did not agree to an interview.
79. Rep. Lamborn acknowledged that he receives gifts on a regular basis from staffers in both offices. Rep. Lamborn testified that "[i]t's been fairly regular, not uniform though, to be -- to receive a surprise Christmas present. And we will kind of do the same for our staff."⁹⁰ However, as described below, the OCE did not find any evidence that staffers received the same type of gifts Rep. Lamborn and Mrs. Lamborn received during special occasions.
80. Rep. Lamborn and Mrs. Lamborn received gifts with values ranging from one hundred and fifty dollars to two hundred dollars. Additionally, staff hosted birthday celebrations for Rep. Lamborn and Mrs. Lamborn in the office.⁹¹ When asked if staffers received the same type of gifts, current staffers interviewed recalled "spreading glitter and balloons...in the person's office,"⁹² and getting "cake and ice cream,"⁹³ but the OCE found, unlike Rep. Lamborn and Mrs. Lamborn, staffers did not receive gifts with the same frequency or of equal or similar value to that of the Lamborns.⁹⁴

⁸⁶ *Id.*

⁸⁷ Witness 5 OCE Memorandum of Record, August 27, 2021.

⁸⁸ Witness 1 (Exhibit 2 at 21-4329_0070-71).

⁸⁹ *Id.* (Exhibit 2 at 21-4329_0073).

⁹⁰ Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0017).

⁹¹ Witness 2 Transcript (Exhibit 4 at 21-4329_0209-12); Witness 1 Transcript (Exhibit 2 at 21-4329_0070-77).

⁹² Rep. Lamborn Transcript (Exhibit 1 at 21-4329_0018-19); Witness 2 Transcript (Exhibit 4 at 21-4329_0210); Witness 3 Transcript (Exhibit 3 at 21-4329_0152-53).

⁹³ *Id.*

⁹⁴ Witness 1 Transcript (Exhibit 2 at 21-4329_0071-72).

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81. According to Witness 5's observations, participating in giving the Lamborns a gift was an expectation and not voluntary.⁹⁵ On occasion, Witness 5 refused to participate and was met with negative pushback and told that "people have been fired for less."⁹⁶

82. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Lamborn solicited or accepted improper gifts from subordinates.

IV. CONCLUSION

83. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Lamborn misused official resources for personal and non-official purposes.

84. Accordingly, the Board recommends that the Committee further review the above allegation concerning Rep. Lamborn.

85. Based on the foregoing information, the Board finds that there is substantial reason to believe that Rep. Lamborn solicited or accepted improper gifts from subordinates.

86. Accordingly, the Board recommends that the Committee further review the above allegation concerning Rep. Lamborn.

V. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATION FOR THE ISSUANCE OF SUBPOENAS

87. The following witnesses, by declining to provide requested information to the OCE, did not cooperate with the OCE review:

- a. Rep. Lamborn;
- b. Peter Holland;
- c. Margaret Thrailkill;
- d. Wesley Harkins; and
- e. Dale Anderson.

88. The Board recommends that the Committee on Ethics issue subpoenas to Rep. Lamborn, Peter Holland, Margaret Thrailkill, Wesley Harkins, and Dale Anderson.

⁹⁵ See Witness 5 OCE Memorandum of Record, August 27, 2021.

⁹⁶ *Id.*