

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. 21-7096

The Board of the Office of Congressional Ethics (hereafter “the Board”), by a vote of no less than four members, on August 20, 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: John Sample

NATURE OF THE ALLEGED VIOLATION: John Sample may have been involved in and benefited from the use of official funds to procure services from companies owned or controlled by congressional staff members, including himself. If John Sample participated in procuring services from staff-owned companies, then John Sample may have violated House rules, standards of conduct, and federal law.

RECOMMENDATION: The Board recommends that the Committee further review the above allegation because there is substantial reason to believe that John Sample may have been involved in and benefited from the use of official funds to procure services from companies owned or controlled by congressional staff members, including himself.

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.

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

FINDINGS OF FACT AND CITATIONS TO LAW

TABLE OF CONTENTS

I.	INTRODUCTION	3
	A. Summary of Allegations.....	3
	B. Jurisdictional Statement	4
	C. Procedural History.....	4
	D. Summary of Investigative Activity	5
II.	JOHN SAMPLE MAY HAVE PARTICIPATED IN AND BENEFITED FROM GRANTING CONTRACTS TO A COMPANY HE OWNED	5
	A. Applicable Law, Rules, and Standards of Conduct.....	5
	B. \$456,686.38 of Official Congressional Funds Spent on Franked Mail and Printing Services	6
	i. Background and Information Concerning Former Chief of Staff, Peter Su.....	7
	ii. Sample and Su's Efforts to Illegally Profit from Official Contracts	8
	a. Contracting Decisions with Abernathy West and Invocq	8
	b. Ownership of Invocq and Abernathy West	11
III.	INDIVIDUALS AND ENTITIES THAT REFUSED TO COOPERATE WITH THE OCE REVIEW.....	13
IV.	CONCLUSION	14
V.	INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATION FOR THE ISSUANCE OF SUBPOENAS.....	15

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

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 21-7096

On August 20, 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. In a related matter, Review No. 21-7750, the Office of Congressional Ethics (“OCE”) reviewed allegations that Rep. Hagedorn allowed official funds to be directed to companies owned by two of his employees, John Sample and Peter Su. Su is no longer an employee of the House of Representatives and is therefore outside of the OCE’s jurisdiction. Sample remains a part-time employee in Rep. Hagedorn’s congressional office.
2. During this review, the OCE found evidence that Sample owned one of the companies with which Rep. Hagedorn’s office contracted for franked mail and printing services and that he overcharged for those services. Further, evidence shows that Sample concealed his ownership interest in the company while contracting decisions were being made. Because Sample refused to cooperate with Review No. 21-7750 and because the evidence gathered in that matter showed that Sample concealed his ownership interest and may have fraudulently benefited from the award of contracts to his company, the OCE initiated the instant review.¹ Below is the specific issue considered in this review and the Board’s recommendation:
3. John Sample may have been involved in and benefited from the use of official funds to procure services from companies owned or controlled by congressional staff members, including himself. If John Sample participated in procuring services from staff-owned companies, then John Sample may have violated House rules, standards of conduct, and federal law.
4. The Board recommends that the Committee on Ethics of the United States House of Representatives (“the Committee”) further review the above allegation concerning Sample because there is substantial reason to believe that Sample may have been involved in and benefited from the use of official funds to procure services from companies owned or controlled by congressional staff members, including himself.

¹ In accordance with OCE Rules for the Conduct of Investigations, Rule 3(A), Sample was notified during Review No. 21-7750 that evidence showed he may have benefited from contracts he directed to a company he owned, and that the OCE was seeking further evidence related to this allegation.

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

B. Jurisdictional Statement

5. The allegations that were the subject of this review concern John Sample, an employee of United States House of Representatives. 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.”² 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.

C. Procedural History

6. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on May 7, 2021. The preliminary review commenced on May 8, 2021.³
7. On May 11, 2021, the OCE notified Sample 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.⁴
8. At least three members of the Board voted to initiate a second-phase review in this matter on June 4, 2021. The second-phase review commenced on June 7, 2021.⁵ The second-phase review was scheduled to end on July 21, 2021.
9. On June 7, 2021, the OCE notified Sample 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.⁶
10. The Board voted to refer the matter to the Committee for further review and adopted these findings on August 20, 2021.
11. The report and its findings in this matter were transmitted to the Committee on Ethics on August 27, 2021.

² H. Res. 895 of the 110th Congress § 1(e) (2008) (as amended) (hereafter “the Resolution”).

³ 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.

⁴ Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to John Sample (May 11, 2021).

⁵ 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.

⁶ Letter from Omar S. Ashmawy, Chief Counsel and Staff Dir., Office of Cong. Ethics, to John Sample (June 7, 2021).

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

D. Summary of Investigative Activity

12. The OCE requested documentary and in some cases testimonial information from the following sources in this review:⁷

(1) John Sample

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

(1) John Sample

II. JOHN SAMPLE MAY HAVE PARTICIPATED IN AND BENEFITED FROM GRANTING CONTRACTS TO A COMPANY HE OWNED

A. Applicable Law, Rules, and Standards of Conduct

14. Federal Statutes

2 U.S.C. § 5341(a) states that "[t]here is established for the House of Representatives a single allowance, to be known as the 'Members' Representational Allowance', which shall be available to support the conduct of the official and representational duties of a Member of the House of Representatives with respect to the district from which the Member is elected."

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

15. Members' Congressional Handbook

*"Unless specifically authorized by an applicable provision of federal law, House Rules, or Committee Regulations, no Member, relative of the Member, or anyone with whom the Member has a professional or legal relationship may directly benefit from the expenditure of the MRA."*⁸

*Disbursements from the MRA are made on a reimbursement or direct payment basis and require specific documentation and Member certification as to accuracy and compliance with applicable federal laws, House Rules, and Committee regulations."*⁹

16. House Ethics Manual

*Citing the Members' Congressional Handbook rule above, the Manual states that "it appears that these rules preclude a Member or committee from contracting with a staff member for the acquisition of goods, or of any services outside of the employment context."*¹⁰

⁷ Because Sample was notified in Review No. 21-7750, under Rule 3, that the OCE was collecting evidence related to the allegations in the instant matter, the evidence gathered in Review No. 21-7750 was used here.

⁸ Committee on House Administration, Members' Congressional Handbook, 116th Cong. (updated Nov. 6, 2020) at 2.

⁹ *Id.* at 3.

¹⁰ House Ethics Manual (2008) at 202.

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

Citing Federal Acquisitions Regulations, 48 C.F.R. §§ 3.601-3.603, the Manual further states that those regulations “provide that a contract may not knowingly be awarded to a federal employee (including an officer or employee of the House), or a firm substantially owned or controlled by one or more federal employees, except ‘if there is a most compelling reason to do so, such as when the government’s needs cannot reasonably be otherwise met.’”¹¹

*Additionally, in describing standards for MRA spending, the Manual gives the following example: “Member B’s district manager is part owner of a building in the district. B may **not** rent space in the employee’s building for the congressional district office.”¹²*

B. \$456,686.38 of Official Congressional Funds Spent on Franked Mail and Printing Services

17. The OCE reviewed allegations concerning Rep. Hagedorn’s unusually high spending on franked mail and printing services with a company owned by his employee, John Sample. The OCE found, consistent with Rep. Hagedorn’s own internal review of the same issues, that the spending was in violation of House rules and federal law forbidding Members from contracting with staff members for the acquisition of any goods or services.
18. House Statements of Disbursements show that Rep. Hagedorn spent at least \$453,686.38 of his MRA funds on “printing and reproduction” for franked mail to constituents between May 29, 2019 and April 16, 2020. Of that \$453,686.38, Rep. Hagedorn spent \$114,189.00 with a Texas-based company called Invocq Technologies LLC (“Invocq”). A Delaware-based company called Abernathy West LLC (“Abernathy West”) received the remaining \$339,497.38.¹³
19. Those figures garnered media attention, and on June 8, 2020 Legistorm published a short article noting that Rep. Hagedorn had spent 19% of his annual budget on franked mail in the first quarter of 2020, as compared to the average Member who had spent .8% of their budget on franked mail during that same period.¹⁴
20. Shortly after the June 8, 2020 Legistorm article, on June 18, 2020, Rep. Hagedorn retained outside counsel to conduct an internal review of his franked mail practices. That review resulted in a report issued on September 5, 2020 (“the internal review report”).¹⁵
21. The internal review report made several findings: 1) Invocq was owned by John Sample, a part-time digital media staffer in Rep. Hagedorn’s office; 2) Abernathy West was likely

¹¹ *Id.*

¹² *Id.* at 324 (emphasis in original).

¹³ Figures compiled from Statements of Disbursements of the House.

¹⁴ Keturah Hetrick, *Caught or Eye: Rep. Hagedorn spent 40 percent of his 2020 budget in just 3 months*, LEGISTORM (June 8, 2020), https://www.legistorm.com/pro_news/2586/rep-hagedorn-spent-40-percent-of-his-2020-budget-in-just-3-months.html.

¹⁵ Internal Review of Office of Congressman Hagedorn Franking Issues (“Internal Review Report”), Sept. 5, 2020 (Exhibit 1 at 21-7096_0002-6).

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

owned by, Szu-Nien Su, the brother of Rep. Hagedorn's Chief of Staff, Peter Su;¹⁶ and 3) the two companies charged Rep. Hagedorn's office "significantly more than the fair market for franking services."¹⁷

22. Peter Su and John Sample were both suspended shortly after the above-mentioned public reporting and the initiation of Rep. Hagedorn's internal review. Su's suspension was made permanent on June 19, 2020. Sample's suspension was lifted on July 9, 2020 and he returned to part-time employment in Rep. Hagedorn's office, where he remains an employee.¹⁸
23. The OCE set out to verify the internal review report's findings and gather additional information regarding Rep. Hagedorn's franked mail practices and Sample's involvement in contracting decisions. That effort was significantly hampered by Sample and Rep. Hagedorn's refusal to cooperate with the OCE's review, and Su's obstructive behavior, explained below. However, the OCE collected evidence from third parties that corroborated some of the internal review report's findings and demonstrated others to be inaccurate. As explained in detail below, the evidence shows that Sample and Su sought to benefit themselves financially, and to that end were engaged in an effort to secure franked mail and printing services contracts for companies that they or their family members owned. Further, Su testified that Sample actively concealed his ownership interest in Invocq. Because Rep. Hagedorn refused to cooperate in Review No. 21-7750, the extent to which he was aware of or involved in these efforts remains unclear, but several factors, explained in the report and referral in Review No. 21-7750 indicate that he should have been aware and was negligent in overseeing these substantial contracting decisions.

i. Background and Information Concerning Former Chief of Staff, Peter Su

24. Peter Su did not cooperate with Rep. Hagedorn's internal review,¹⁹ but the OCE was able to obtain Su's partial cooperation. Su interviewed with OCE staff and provided relevant background information regarding his relationship with Sample and accused Sample of concealing his ownership interest in Invocq.
25. However, the veracity of some of the information provided by Su and the authenticity of the small set of documents he provided are in doubt. The OCE could not wholly rely on much of the documentary or testimonial evidence offered by Su because, as discussed in detail below, during his cooperation, it became clear that Su was intentionally misleading OCE investigators and made a number of materially false statements during his interview. The OCE made every attempt to corroborate or disprove Su's statements where needed and has attempted to appropriately weigh the usefulness of his cooperation against the contaminating effect of his obstructive behavior.
26. Because both Sample and Rep. Hagedorn refused to cooperate with the OCE, the statements made against Sample by Su are largely uncontroverted in the record of this review.

¹⁶ The internal review report did not reach a definitive conclusion as to the ownership of Abernathy West because neither Peter Su nor Szu-Nien Su cooperated with Rep. Hagedorn's internal review. *See infra* para. 29.

¹⁷ Internal Review Report (Exhibit 1 at 21-7096_0003).

¹⁸ *Id.* at 3-5.

¹⁹ *Id.* at 4.

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

ii. Sample's Efforts to Illegally Profit from Official Contracts

27. The evidence indicates that Sample and Su's plan to profit from Rep. Hagedorn's franked mail program may have predated either of their employment in his congressional office.
28. Su stated that he met Sample around 2010, while the two were employed together in Virginia state government, in the Department of Minority Business Enterprises.²⁰ Su left that position and the two had limited contact from 2010 to 2018.²¹ However, in 2018, while then-candidate Hagedorn was running for Congress, Sample contacted Su to comment on the poor quality of candidate Hagedorn's digital media and suggested he (*i.e.*, Sample) could do a better job.²² Su says that he told Sample he would introduce him to Rep. Hagedorn if he won his seat, so that Sample could offer his services as a digital media consultant.²³ Shortly after Rep. Hagedorn's swearing in, Su was hired as Chief of Staff, and eventually Sample was hired as a part-time digital media consultant.²⁴
29. Throughout the interview, Su equivocated as to whose idea it was to hire Sample. Initially Su indicated that Rep. Hagedorn knew Sample and had made the initial contact on his own.²⁵ Later, Su stated that he made the initial introduction.²⁶ Su openly acknowledges that he and Sample discussed the possibility of providing some type of media or constituent contact services to Rep. Hagedorn before either were hired by Rep. Hagedorn.²⁷

a. Contracting Decisions with Abernathy West and Invocq

30. Su stated that, early in their employment, Rep. Hagedorn directed Sample and him to engage a Minnesota company called Blue Earth Graphics to produce printed constituent mailers.²⁸ However, according to Su, as the volume requirements for the mailers increased around the middle part of 2019, Blue Earth Graphics was unable to keep up with the new demand.²⁹ Su also explained that Blue Earth Graphics did not provide the level of customization in graphic and printing choices that Rep. Hagedorn required.³⁰ As a result, Sample suggested another company, Invocq, that might be able to meet the demands.
31. The OCE reached out to Blue Earth Graphics to corroborate Su's claim that the company was unable to meet Rep. Hagedorn's volume and customization needs. Blue Earth Graphics stated that service requests from Rep. Hagedorn's office abruptly ended with no explanation. Further, Blue Earth Graphics explained that their printed mail offerings were fully customizable and that they had never received requests from Rep. Hagedorn that they were unable to fulfill.

²⁰ Transcript of Interview of Peter Su ("Su Transcript"), April 30, 2021 (Exhibit 2 at 21-7096_0107-108)

²¹ *Id.* at 109.

²² *Id.* at 110.

²³ *Id.*

²⁴ *Id.* at 24-26.

²⁵ *Id.* at 25-26.

²⁶ *Id.* at 108-109.

²⁷ *Id.* at 110.

²⁸ *Id.* at 55.

²⁹ *Id.* at 73.

³⁰ *Id.* at 55-57.

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

32. Thus, evidence reviewed by the OCE indicates that the reason for any dissatisfaction with Blue Earth Graphics was pretextual, and that the true interest was in transitioning to a vendor in which Sample or Su had a financial interest.
33. Su claims that when Sample first suggested the transition to Invocq, he directed Sample to “go check with Melissa. Go make sure the company can do business.”³¹ Su explained that Melissa Carr is a financial administrator and budget analyst that Rep. Hagedorn shares with other Members, and stated that “she comes with a lot of knowledge of what is authorized spending and what is not. And whenever there’s a question she goes and asks House Administration, and House Finance, and gets that clarified.”³²
34. Su claimed he was not aware that Sample owned Invocq and repeatedly attempted to blame Carr for failing to determine that a contractual relationship with Invocq would be prohibited.³³ Though Carr refused to cooperate with the OCE’s review and submit to an interview, she stated in initial conversations with OCE investigators that it was not within the scope of her duties to verify that all contractors and service contracts complied with all House rules and federal law. Specifically, she stated that it was not her practice or responsibility to investigate the ownership interests in companies providing services to Member offices, and that she was never informed that there were staffers who may have had direct or familial interests in Invocq or Abernathy West. Su agreed that sort of information was not shared with Carr.³⁴ Nevertheless, according to Su, Sample and Carr determined there were no impediments hiring Invocq.³⁵
35. Shortly thereafter, Rep. Hagedorn’s office engaged Invocq Technologies.³⁶
36. House Statements of Disbursements provide a reliable timeline of the vendor selections. Those records show that Blue Earth Graphics provided “printing and reproduction” services for Rep. Hagedorn for the first six months of his term, through June 2019. After that date, Blue Earth Graphics no longer provided services to Rep. Hagedorn’s office, and instead Invocq began providing those services in early September of 2019.³⁷
37. The first disbursement to Invocq occurred on September 18, 2019 in the amount of \$41,088.00, for services rendered on September 4, 2019.³⁸
38. Prior to that date, Rep. Hagedorn’s office had spent relatively little with Blue Earth Graphics, a total of \$4,754.94, spread over three disbursements and service periods between March and June of 2019.³⁹

³¹ *Id.* at 60, 73.

³² *Id.* at 87.

³³ *See, e.g., id.* at 60-61.

³⁴ *Id.* at 90.

³⁵ *See generally, id.* at 91-92.

³⁶ *Id.* at 60-61.

³⁷ Figures compiled from Statements of Disbursements of the House.

³⁸ *Id.*

³⁹ *Id.*

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

39. Statements of Disbursements show that shortly thereafter, about three weeks after Invocq was retained, Rep. Hagedorn's office also started awarding large work orders to Abernathy West. Three disbursements totaling \$24,935.65 were made from Rep. Hagedorn's MRA account for services rendered by Abernathy West on September 25, 2019.⁴⁰
40. Despite having no history of performance or experience in the industry,⁴¹ payments to Abernathy West immediately began outstripping those made to Invocq and any other design-print company retained by any other member of Congress.⁴² After the above-mentioned September services, Abernathy West received a total of \$133,129.60 in the months of October, November, and December of 2019.⁴³ Invocq did not receive another payment until January 27, 2020, which was in the amount of \$31,968.00 for services provided in that same month.⁴⁴
41. Payments, which eventually totaled \$453,686.38, continued to both Abernathy West and Invocq until April 2020.⁴⁵ This spending continued until public reports emerged in June of 2020, despite bi-weekly MRA budget meetings in which Su and Carr briefed Rep. Hagedorn on the various categories of MRA spending.⁴⁶
42. Rep. Hagedorn's internal review report also concluded that not only were these service contracts being awarded to Invocq and Abernathy West despite the financial conflicts of interest described below, but also that the two companies were defrauding Rep. Hagedorn's office by charging "significantly more than the fair market for franking services."⁴⁷ Among the overages charged were an \$8,800 payment and a \$7,700 payment from Rep. Hagedorn's MRA to Invocq for postage on the franked mail.⁴⁸ Because Abernathy West did not participate in the internal review or the OCE's review, it remains unclear whether that company also erroneously charged Rep. Hagedorn for postage on franked mail.
43. The internal review report states that the postage charges were inadvertent, and that Sample has agreed to repay the postage charges.⁴⁹ According to the report, Rep. Hagedorn has requested guidance from the Ethics Committee for how to effectuate the refund and is awaiting the Committee's response.⁵⁰ Statements of Disbursements do not show any such refund as of the writing of this report.

⁴⁰ *Id.*

⁴¹ Mr. Su did testify that his brother, the alleged owner of Abernathy West, was "involved in graphic design work before, right out of college." Su Transcript (Exhibit 2 at 21-7096_0044).

⁴² See Statements of Disbursements of the House; see also Hetrick, *supra* note 12.

⁴³ Figure compiled from Statements of Disbursements of the House.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Su Transcript (Exhibit 2 at 21-7096_0037).

⁴⁷ Internal Review Report (Exhibit 1 at 21-7096_0004).

⁴⁸ *Id.* at 5.

⁴⁹ *Id.*

⁵⁰ *Id.*

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

b. Ownership of Invocq and Abernathy West

44. As discussed above, Sample maintains an ownership interest in Invocq and there is evidence to suggest that Su's brother wholly owns, or claims to own, Abernathy West. Below is additional detail concerning the ownership of these companies and the financial interests that Sample and Su maintained, or may have maintained, in the two companies.
45. According to Texas business registration documents, Invocq was formed in 2011 and designated John Sample as its registered agent.⁵¹ Rep. Hagedorn's own internal review report and public documents confirm that at the time Invocq began performing services for Rep. Hagedorn, Invocq was owned by both John Sample and his business partner, Catherine Keszei.⁵²
46. According to public documents, Keszei died on December 28, 2019.⁵³ The internal review report claims that Keszei "performed the actual services for the LLC," and that she passed "after Invocq completed its work."⁵⁴ Further, the internal review report alleges that "her passing rendered Invocq essentially defunct and with no financial assets."⁵⁵
47. However, House Statements of Disbursements indicate that those portions of the internal review report are incorrect. Invocq continued to receive disbursements from Rep. Hagedorn's MRA in 2020 for work purportedly done in that year, after Keszei's passing.⁵⁶ Invocq received one payment in the amount of \$31,968.00 on January 27, 2020, for work performed on January 14, 2020.⁵⁷ The company received a second payment for \$10,431.00 on April 16, 2020 for work performed on February 25, 2020.⁵⁸
48. Thus, it appears that Invocq continued to function, perform work, and take in payments from Rep. Hagedorn's office while Sample was the sole owner of the company.
49. Su claimed, in his interview, that he was not aware that Sample was an owner of Invocq, and that, when asked, Sample stated that Keszei was the owner.⁵⁹ However, the evidence supports the conclusion that at least Su was aware of Sample's ownership interest in Invocq. First, Su facilitated Sample's hiring for the very purpose of having him work on Rep. Hagedorn's media and graphic products.⁶⁰ Su also explained that shortly after Rep. Hagedorn's office retained Invocq, Su had to have conversations with Sample about not doing work for other companies while he was supposed to be conducting official business for

⁵¹ Texas Office of the Comptroller, Franchise Tax Account Status for Invocq Technologies LLC (Exhibit 3 at 21-7096_0183).

⁵² Internal Review Report (Exhibit 1 at 21-7096_0004).

⁵³ Catherine Ann Keszei Obituary, Stemm-Lawson-Peterson Funeral Home, available at <https://www.stemmlawsonpeterson.com/obituary/Catherine-Keszei> (last accessed July 21, 2021).

⁵⁴ Internal Review Report (Exhibit 1 at 21-7096_0005).

⁵⁵ *Id.*

⁵⁶ Information compiled from Statements of Disbursements of the House.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Su Transcript (Exhibit 2 at 21-7096_0094).

⁶⁰ *Id.* at 110.

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

Rep. Hagedorn.⁶¹ While he claims those conversations were not specifically about Invocq, the timing of the conversation and Invocq's hiring casts doubt on that claim. Finally, Sample himself claims that he did disclose his ownership in Invocq to Su, as detailed in the internal review report.⁶²

50. Thus, a review of the evidence indicates that Su was aware of Sample's ownership of Invocq and attempted to conceal that knowledge from OCE investigators. Again, the extent to which Rep. Hagedorn was aware of Sample's ownership interest remains unclear because he refused to cooperate with the OCE's review. However, appropriate oversight would have likely uncovered some of the contracting irregularities described above.
51. As to Abernathy West, the OCE was unable to obtain conclusive evidence about the true ownership of the company. Because Abernathy West is incorporated in Delaware, its formation documents are not a matter of public record. Su repeatedly disavowed any interest in or knowledge of Abernathy West, which he alleges is wholly owned by his brother Szu-Nien Su. During the review, he informed OCE investigators that he could produce proof of his brother's 100% ownership interest in the company.
52. As proof, Su then sent an email with two individual PDF pages attached: 1) a print out of the Delaware State's summary of the "Entity Details" for Abernathy West,⁶³ and 2) a document titled "Exhibit A – Members," which purports to show that Szu-Nien Su has a 100% ownership interest in Abernathy West ("the ownership document").⁶⁴ The ownership document has a page number "14" displayed at the bottom of the document, but the preceding pages were not included in Su's production.⁶⁵
53. The OCE attempted to verify the authenticity of the ownership document during Su's interview, at which point it became apparent that Su had intentionally misrepresented the origin of the document. When asked about how he obtained the document, he originally claimed that he requested and received it from the State of Delaware:⁶⁶
- OCE:** Okay. And how did you obtain this document?
Su: Same thing. You asked for incorporation documents and percentage of ownership. They file a report and that's the report that I got, the page that shows the ownership.
OCE: And you're telling me that somebody from Delaware sent you this document?
Su: Yes.
OCE: From the State of Delaware?
Su: Yeah. I already said that, yeah.
54. Later in the interview it was explained to Su that the ownership document was not publicly available from the State of Delaware and that he could not have obtained it in the manner he

⁶¹ *Id.* at 73, 96-105.

⁶² Internal Review Report (Exhibit 1 at 21-7096_0005).

⁶³ State of Delaware, Entity Details (Exhibit 4 at 21-7096_0185).

⁶⁴ Page 14 of Alleged Corporate Documents, "Members" (Exhibit 5 at 21-7096_0187).

⁶⁵ *Id.*

⁶⁶ Su Transcript (Exhibit 2 at 21-7096_0070).

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

had earlier described.⁶⁷ He then admitted that he had actually obtained the document directly from his brother Szu-Nien Su.⁶⁸ When asked why he had misrepresented the source of the document he stated, “there was no rhyme or reason. It’s a factual document.”⁶⁹

55. While the OCE did not uncover any direct evidence that Su either owned Abernathy West or financially benefited from the service contracts awarded to the company, there is substantial circumstantial evidence supporting either of those conclusions. Su’s apparent deceitfulness coupled with his familial interest in Abernathy West suggests he could have an undisclosed financial interest.
56. Further, given Sample and Su’s prior relationship, and their joint financial interest in continuing to direct contracts to Invocq and Abernathy West, the record in this review strongly indicates that the two were involved in a scheme to enrich themselves through the fulfillment of franked mail contracts at above-market rates. The extent to which Rep. Hagedorn was aware, or should have been aware, of this scheme is the subject of OCE Review No. 21-7750.
57. Based on the foregoing information, the Board finds that there is substantial reason to believe that John Sample may have been involved in and benefited from the use official funds to procure services from companies owned or controlled by congressional staff members, including himself.

III. INDIVIDUALS AND ENTITIES THAT REFUSED TO COOPERATE WITH THE OCE REVIEW

58. The below individuals either did not participate in this review or the related review of Rep. Hagedorn, OCE Review Number 21-7750, which focused on the same issues concerning Invocq and Abernathy West. While Sample was provided with a Request for Information (“RFI”) in the current review, the other individuals addressed below were not provided an RFI because they had already refused to cooperate in OCE Review Number 21-7750, which largely ran concurrently with the instant review. These witnesses showed no indication that they would participate in this separate but substantially similar review.

⁶⁷ *Id.* at 157.

⁶⁸ *Id.* at 158.

⁶⁹ *Id.* at 160.

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

John Sample

59. In a preliminary phone call with the OCE, during Review Number 21-7750, Sample indicated that he would cooperate with the OCE's review. The OCE sent Sample an RFI on March 30, 2021. After that communication Sample stopped responding to the OCE's attempts to make contact. Sample was provided with the Rule 3 notice described above in OCE Review Number 21-7750,⁷⁰ and with the required notices throughout the instant review.

Rep. Hagedorn

60. Upon receiving notice of the initiation of OCE Review Number 21-7750, Rep. Hagedorn immediately informed the OCE, through counsel, that he would not be cooperating with the review.

Peter Su

61. The OCE delivered an RFI to Su seeking documentary evidence and seeking an interview during Review Number 21-7750. Su did not respond to a majority of the OCE's documentary requests. Instead, he offered only two documents and made material misrepresentations to the OCE about the origins and authenticity of those documents, as described in detail above.⁷¹ When he submitted to an interview, he continued to make materially false statements, attempted to mislead OCE investigators, and generally obstruct the investigation. While the OCE generally considers third parties that submit to an interview cooperative, Su's deceptive behavior throughout this review and during his interview cannot be considered cooperative conduct.

Melissa Carr

62. The OCE sought documents and an interview from Carr in Review Number 21-7750, but after numerous conversations attempting to obtain her cooperation, Carr stopped responding to the OCE. Carr expressed reservations about the potential for retaliation should she decide to cooperate with the OCE's review.

Blue Earth Graphics

63. The OCE requested an interview with Blue Earth Graphics in Review Number 21-7750. Though one of the company's owners offered some substantive information in initial conversations, detailed above,⁷² Blue Earth ultimately declined to submit to an interview.

IV. CONCLUSION

64. Based on the foregoing information, the Board finds that there is substantial reason to believe that John Sample was involved in and benefited from the use of official funds to procure

⁷⁰ *Supra* notes 1, 7.

⁷¹ *Supra* paras. 52-54.

⁷² *Supra* para. 31.

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

services from companies owned or controlled by congressional staff members, including himself.

65. Accordingly, the Board recommends that the Committee further review the above allegation that John participated in procuring services from staff-owned companies.

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

66. The following witnesses, by declining to provide requested information in either this matter or the related matter, OCE Review Number 21-7750, did not cooperate with the OCE review:
- a. John Sample
 - b. Rep. Hagedorn;
 - c. Peter Su;
 - d. Melissa Carr; and
 - e. Blue Earth Graphics.
67. The Board recommends that the Committee on Ethics issue subpoenas to John Sample, Rep. Hagedorn, Peter Su, Melissa Carr, and Blue Earth Graphics.