

IN THE MATTER OF
REPRESENTATIVE CHARLES B. RANGEL

November 16, 2010: The Adjudicatory Subcommittee from the
Committee on Standards of Official Conduct submitted the following:

REPORT

The Adjudicatory Subcommittee of the Committee on Standards of Official Conduct submits this report to the full Committee pursuant to Committee Rule 23(p). The Report summarizes the Adjudicatory Subcommittee's findings in *In the Matter of Representative Charles B. Rangel*. The Adjudicatory Subcommittee is transmitting with this report all motions, transcripts of evidence, correspondence, and other relevant items generated or received by the Adjudicatory Subcommittee during these proceedings.

PROCEDURAL HISTORY

On July 22, 2010, after receiving the Statement of Alleged Violation and associated pleadings and responses from the Investigative Subcommittee in this matter, and acting pursuant to Committee Rule 23, the Chair designated an Adjudicatory Subcommittee and Representative Rangel was informed of the designation. On October 7, 2010, by public statement the Chair of the Adjudicatory Subcommittee set November 15, 2010, at 9 a.m., as the date and time for the Adjudicatory Subcommittee to convene its public hearing. By letter to the parties on October 12, 2010, the Adjudicatory Subcommittee gave Representative Rangel and Committee Counsel notice of the schedule and procedures for the adjudicatory hearing as set forth in Committee Rule 23.

On November 15, 2010, pursuant to Committee Rule 23 and consistent with the other Committee and House Rules governing these proceedings, the Adjudicatory Subcommittee commenced a hearing to determine whether any counts in the Statement of Alleged Violation have been proven by clear and convincing evidence. Committee Counsel made motions to introduce exhibits and witness affidavits into the record, both of which were granted. Committee Counsel then made motions that there were no issues of material fact as to any of the thirteen counts alleged in the Statement of Alleged Violation and seeking to commit the matter to the Adjudicatory Subcommittee for its deliberation and vote. By unanimous vote the Adjudicatory Subcommittee granted those motions.

After the hearing was adjourned, the Adjudicatory Subcommittee began its deliberations in executive session. At the conclusion of several hours of deliberation, the Adjudicatory Subcommittee made the following findings with regard to the counts in the Statement of Alleged Violation, pursuant to the vote requirements of Committee Rule 23(o).

FINDINGS

Count I

The Adjudicatory Subcommittee found that Count I of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that between 2005 and 2008, Representative Rangel personally signed and sent form letters to over 100 foundations, including, *inter alia*, the Verizon Foundation, New York Life Foundation, The Starr Foundation, Ford Foundation, AT&T Foundation, Citi Foundation, JPMorgan Chase Foundation, Merrill Lynch & Co. Foundation, MetLife Foundation, Bristol-Meyers Squibb Foundation, Goldman Sachs Foundation, and Wachovia Foundation, soliciting donations to the

City College of New York (CCNY), an entity qualified under § 170(c) of the Internal Revenue Code, for the Charles B. Rangel Center for Public Service (Rangel Center). The Adjudicatory Subcommittee also found that Representative Rangel sent personal letters to David Rockefeller, Donald Trump, and Hank Greenberg seeking donations to CCNY for the Rangel Center. The Adjudicatory Subcommittee found that each of these entities and individuals had interests that could have been substantially affected by the performance or nonperformance of Representative Rangel's official duties as a Member of the United States House of Representatives and the Committee on Ways and Means in particular. These letters were written on congressional letterhead bearing the words "United States Congress" and "House of Representatives." Enclosed with many of the letters was a brochure that requested a gift of "\$30,000,000 or \$6,000,000/year for five years." Through this course of conduct, Representative Rangel violated the solicitation ban enumerated in 5 U.S.C. § 7353.

Count II

The Adjudicatory Subcommittee found that Count II of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that Representative Rangel solicited donations for the Rangel Center from individuals and entities with business before the House of Representatives and the Committee on Ways and Means and that many of these individuals and entities gave money to CCNY for the Rangel Center simply because Representative Rangel asked. The Adjudicatory Subcommittee also found that Representative Rangel solicited donations from individuals and entities during a period when Representative Rangel and his staff were also communicating with those persons' representatives about legislation that could impact their interests. The Adjudicatory Subcommittee found that these donations were a favor or benefit to Representative Rangel,

which may be construed by reasonable persons as influencing the performance of his official duties. Through this course of conduct, Representative Rangel violated the Code of Ethics for Government Service, clause 5.

Count III

A majority of the Adjudicatory Subcommittee was unable to find that Count III of the Statement of Alleged Violation was proven by clear and convincing evidence.

Count IV

The Adjudicatory Subcommittee found that Count IV of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that Representative Rangel used his Frank to send a letter and brochure to the New York Stock Exchange Foundation's Leon Panetta soliciting a donation to CCNY for the Rangel Center. The Adjudicatory Subcommittee also found evidence in the record that Representative Rangel used his Frank to send other mailings related to the Rangel Center based on his Chief of Staff George Dalley's uncontested testimony before the Investigative Subcommittee. The Adjudicatory Subcommittee found that Representative Rangel was a person entitled to use the Frank who permitted its use for the benefit or use of CCNY. Through this course of conduct, Representative Rangel violated Sections 3210 and 3215 of Title 39 of the United States Code, as well as the Franking regulations.

Count V

The conduct underlying Count V of the Statement of Alleged Violation is the same conduct underlying Count IV. The Adjudicatory Subcommittee is taking no action with regard

to Count V because the Adjudicatory Subcommittee believes the jurisdiction to charge and find a violation of this criminal statute more properly lies with the executive branch and judicial branch.

Count VI

The Adjudicatory Subcommittee found that Count VI of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that, between 2005 and 2008, Representative Rangel prepared more than 100 letters soliciting on behalf of CCNY for the Rangel Center from Representative Rangel's Washington, D.C., congressional office. Testimony provided by Representative Rangel's Chief of Staff indicates that these letters were stored in electronic form on computers owned by the House of Representatives and in hard copy in Representative Rangel's Washington, D.C., congressional office. Through this course of conduct, Representative Rangel violated the House Office Building Commission regulations.

Count VII

The Adjudicatory Subcommittee found that Count VII of the Statement of Alleged Violation was proven by clear and convincing evidence. Representative Rangel used official House resources to support fundraising efforts for the Rangel Center. Those resources included: staff time; House telephones, computers, printers, and fax machines; stationery and other office supplies; and franking expenses. Through this course of conduct, Representative Rangel violated the Purpose Law and Member's Handbook.

Count VIII

The Adjudicatory Subcommittee found that Count VIII of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that Representative Rangel wrote letters regarding the Rangel Center, including solicitations, using letterhead bearing the words “Congress of the United States” and “House of Representatives.” Representative Rangel used his official letterhead to send these letters on numerous occasions throughout 2005, 2006, and 2007. The Adjudicatory Subcommittee found that Representative Rangel’s conduct created the appearance that the Rangel Center was a project endorsed by the government. Through this course of conduct, Representative Rangel violated clause 11 of House Rule XXIII.

Count IX

The Adjudicatory Subcommittee found that Count IX of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that Representative Rangel’s Financial Disclosure Statements for the years 1998 through 2008 contained numerous errors and omissions. As a result, Representative Rangel’s filings did not “include a full and complete statement” as required by the Ethics in Government Act. Through this course of conduct, Representative Rangel violated § 102 of the Ethics in Government Act (5 U.S.C. app. 4 § 101 *et. seq.*) and House Rule XXVI.

Count X

The Adjudicatory Subcommittee found that Count X of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that the landlord’s tolerance of Representative Rangel’s use of an apartment as an office for his

campaign in violation of the terms of the lease and the New York City zoning regulations and building code was a favor or benefit to Representative Rangel, which may be construed by reasonable persons as influencing the performance of his official duties. Through this course of conduct, Representative Rangel violated the Code of Ethics for Government Service, clause 5.

Count XI

The Adjudicatory Subcommittee found that Count XI of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that Representative Rangel also violated tax laws by failing, for 17 years, to report, and pay tax on, rental income on a beach villa in Punta Cana, Dominican Republic. In addition, as discussed previously, Representative Rangel's conduct violated other laws and regulations including the solicitation ban (5 U.S.C. § 7353), postal service laws (39 U.S.C. § 3215), the Franking Commission regulations, the Purpose Law (31 U.S.C. § 1301), Member's Congressional Handbook, and the Ethics in Government Act (5 U.S.C. app. 4 § 101 *et. seq.*). Through this course of conduct, Representative Rangel violated the Code of Ethics for Government Service, clause 2.

Count XII

The Adjudicatory Subcommittee found that Count XII of the Statement of Alleged Violation was proven by clear and convincing evidence. The Adjudicatory Subcommittee found that Representative Rangel solicited donations for the Rangel Center from individuals and entities with business before the House of Representatives and the Committee on Ways and Means and that many of these individuals and entities gave money to CCNY for the Rangel Center simply because Representative Rangel asked.

Pursuant to House Rule XXIII, clause 4, a Member “may not accept gifts except as provided by clause 5 of rule XXV.” House Rule XXV, clause 5(a)(1)(A)(1), provides that a Member “may not knowingly accept a gift as provided” in the House Gift Rule. Under the House Gift Rule, a “gift” is defined as “a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or any other item having monetary value.” The House Gift Rule prohibits both direct gifts and indirect gifts. An indirect gift is one that is “given with the knowledge and acquiescence of the Member . . . and the Member . . . has reason to believe that the gift was given because of the Member’s position.”¹ Under the precedents of the House of Representatives, an indirect gift, when that gift has been made to a § 170(c) organization, has never been found where there was no direct financial benefit to the Member.

Although a majority of the Adjudicatory Subcommittee did not find that the House Gift Rule was violated by any contribution made to CCNY for the Rangel Center, the Adjudicatory Subcommittee is concerned that the contributions that resulted from the solicitations are suspect and they were given, in some instances, with the hope that the donation might influence Representative Rangel. Through this course of conduct, Representative Rangel failed to adhere to the spirit of the House Rules and the rules of duly constituted committees of the House in violation of clause 2 of the Code of Official Conduct (House Rule XXIII).

In addition, as set forth above, Representative Rangel violated applicable provisions of House Rule XXIII, clause 11; House Rule XXVI; the Franking Commission regulations; the House Office Building Commission regulations; and the Member’s Handbook. Through this course of conduct, Representative Rangel failed to adhere to the spirit and letter of the House

¹ House Rule XXV, clause 5(a)(2)(B)(i).

Rules and the rules of committees of the House in violation of clause 2 of the Code of Official Conduct (House Rule XXIII).

Count XIII

Considering the violations found, a majority of the Adjudicatory Subcommittee concluded that the totality of Representative Rangel's conduct represented an ongoing pattern of behavior, as opposed to isolated incidents. In addition, the Adjudicatory Subcommittee notes that Representative Rangel served at various times in highly visible and influential positions as both Chairman and Ranking Member of the Ways and Means Committee. Indeed, as Representative Rangel himself has observed, because of the substantial responsibilities of his position, it is appropriate to hold him to a higher standard. Consequently, the Adjudicatory Subcommittee found that Count XIII was proven by clear and convincing evidence because Representative Rangel's actions and the accumulation of his actions reflected poorly on the institution of the House and, thereby, brought discredit to the House, in violation of clause 1 of the Code of Official Conduct (House Rule XXIII).