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MOST CORRUPT: REPRESENTATIVE MAXINE WATERS

Representative Maxine Waters (D-CA) is an eleven-term member of Congress, representing California's 35th congressional district. She is a senior member of the House Financial Services Committee. Rep. Waters' ethics issues stem from a meeting she arranged between officials at the Department of Treasury and OneUnited Bank, a bank with which she has financial ties.

In August 2010, an investigative subcommittee of the House Ethics Committee issued a Statement of Alleged Violation charging Rep. Waters with three counts of violating House rules and ethics regulations in connection with her actions regarding OneUnited. Later that year, however, the committee indefinitely postponed a scheduled ethics trial, citing the discovery of new evidence.¹ In addition, news reports raised other questions about the conduct of the committee and its investigators during the Waters investigation, prompting an internal investigation that is still ongoing.² Rep. Waters was included in CREW's 2005 and 2006 congressional corruption reports for unrelated matters, and in CREW's 2009 congressional corruption report for her actions regarding OneUnited.³

Intervention Between OneUnited and Treasury Officials

Rep. Waters has close financial ties to OneUnited Bank, one of the largest black-owned banks in the country.⁴ In March 2004, she and her husband, Sidney Williams, each separately bought OneUnited stock worth between \$250,001 and \$500,000.⁵ Additionally, Mr. Williams maintained separate holdings at OneUnited worth between \$250,001 and \$500,000. In September 2004, Rep. Waters sold her stock in OneUnited, and her husband sold a portion of his

¹ Due to serious questions about the actions of House Ethics Committee staff members involved in the Waters investigation, CREW in July 2011 called for an investigation of the House Ethics Committee and said there can be no confidence in the committee's August 2010 Statement of Alleged Violation. CREW has not used the Statement of Alleged Violation as a source for information about Rep. Waters' actions because of the questions about its validity.

² Jeffrey Smith and Carol D. Leonnig, Infighting Cited in Breakdown of Waters Ethics Probe, *Washington Post*, December 17, 2010; Paul Kane and Carol D. Leonnig, House Ethics Panel in Turmoil As Top Lawyer Resigns, *Washington Post*, December 16, 2010; Press Release, House Committee on Ethics, 112th Congress, Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding the Matter of Representative Maxine Waters, July 20, 2011.

³ Rep. Waters' previous ethics issues stemmed from using her power to financially benefit her daughter, husband, and son. For more information, see Beyond DeLay: The 20 Most Corrupt Members of Congress (and Five to Watch), available at <http://www.crewsmostcorrupt.org/files/BD2006Report.pdf>.

⁴ Eric Lipton and Jim Rutenberg, Congresswoman, Tied to Bank, Helped Seek Funds, *New York Times*, March 13, 2009; Susan Schmidt, Waters Helped Bank Whose Stock She Once Owned, *Wall Street Journal*, March 12, 2009.

⁵ Rep. Maxine Waters, Personal Financial Disclosure Statement for Calendar Year 2004, filed May 13, 2005.

valued between \$250,001 and \$500,000.⁶ That same year, Mr. Williams joined the bank's board, a position he retained until April 21, 2008.⁷ In addition, Mr. Williams owned 3,500 shares of OneUnited preferred stock and 476 shares of the bank's common stock, the value of which was approximately \$350,000 in June 2008.⁸ If OneUnited failed, the stock would have been worthless.⁹

On or about September 8, 2008, Rep. Waters asked then-Secretary of the Treasury Henry Paulson to hold a meeting with minority-owned banks to discuss losses they suffered after the government placed Fannie Mae and Freddie Mac into conservatorship.¹⁰ The subsequent September 9th meeting included several senior Treasury officials, but representatives of just a single bank – OneUnited.¹¹ One attendee, OneUnited's senior counsel Robert Cooper, was then also the incoming chair of the National Bankers Association (NBA), a trade association representing minority-owned banks.¹² Rep. Waters' chief of staff and grandson, Mikael Moore, also attended.¹³

Kevin Cohee, chief executive officer of OneUnited, and Mr. Cooper used the meeting as an opportunity to request bailout funds.¹⁴ In a subsequent email, Mr. Cooper specifically requested more than \$40 million from Treasury to compensate the bank for losses.¹⁵ At the time, the department lacked the legislative authority to bail out the bank.¹⁶ Former Bush White House officials said they were surprised when OneUnited officials asked for bailout funds because they understood the meeting had been arranged to discuss the losses minority-owned banks endured when the federal government took over Fannie Mae and Freddie Mac.¹⁷

In December 2008, Rep. Waters intervened again, asking Treasury to host another meeting to ensure minority-owned banks received part of the \$700 billion allocated under the Troubled Asset Relief Program (TARP).¹⁸ The second meeting focused on minority-owned banks in general, though a OneUnited official was present.¹⁹ On December 19, 2008, OneUnited secured \$12.1 million in bailout funds.²⁰

⁶ *Id.*

⁷ Schmidt, *Wall Street Journal*, Mar. 12, 2009.

⁸ *Id.*

⁹ *Id.*

¹⁰ Office of Congressional Ethics, 111th Congress, *Report and Findings, Maxine Waters*, Review No. 09-2121, August 6, 2009 (OCE Report and Findings); Lipton and Rutenberg, *New York Times*, Mar. 13, 2009.

¹¹ OCE Report and Findings.

¹² *Id.*; Bennett Roth, Waters Denies Improperly Aiding Bank Where Husband Was Board Member, *CQ*, March 13, 2009.

¹³ OCE Report and Findings; Lisa Mascaro, Working for Grandma Waters on Capitol Hill, *Los Angeles Times*, August 12, 2010.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*; Schmidt, *Wall Street Journal*, Mar. 12, 2009.

¹⁷ Roth, *CQ*, Mar. 13, 2009.

¹⁸ Lipton and Rutenberg, *New York Times*, Mar. 13, 2009.

¹⁹ *Id.*

²⁰ Binyamin Appelbaum, Lawmaker Tried to Aid Bank Partly Owned by Husband, *Washington Post*, March 14, 2009.

Rep. Waters did not disclose her financial ties to OneUnited to Treasury officials when she requested meetings between regulators and bank officials.²¹ A former Bush administration official who helped set up the initial meeting stated, “[Learning of the connection] was upsetting to me. This is something that was potentially politically explosive and embarrassing to the administration. They should have at least let us know.”²² Treasury officials claimed that although OneUnited also requested a meeting with regulators regarding Fannie Mae and Freddie Mac losses, it was not until the congresswoman intervened that the Treasury Department approved the initial meeting.²³

Further, sometime in early September 2008, around the same time Rep. Waters asked the Treasury Department to hold the initial meeting, Rep. Waters spoke to Rep. Barney Frank (D-MA) about OneUnited and the fact that Mr. Williams previously had served on the board.²⁴ Rep. Frank advised her to stay out of matters related to OneUnited because of her husband’s ties to the bank.²⁵ Nevertheless, despite Rep. Frank’s advice, Mr. Moore continued to actively assist OneUnited representatives in their quest to receive bailout funds, and worked to craft legislation authorizing Treasury to grant OneUnited’s request.²⁶

Rep. Waters defended her actions, claiming the NBA had asked her to request the initial meeting with Treasury, and she released a letter from Mr. Cooper.²⁷ Neither the former chairman nor the president of the NBA, however, had been aware of Mr. Cooper’s letter, and the organization began an internal investigation.²⁸ Michael A. Grant, the NBA’s president at the time, said it was “absolutely inappropriate” for the letter to go out without the knowledge of the president and the current chairman.²⁹ In March 2009, the NBA board passed a motion affirming that Mr. Cooper acted within his authority, but also created a new policy requiring that all future meetings with government agencies be authorized by the NBA’s president.³⁰

This was not the first time Rep. Waters used her position to advance the interests of the bank.³¹ Mr. Williams became a shareholder in OneUnited in 2001, when it was known as the Boston Bank of Commerce.³² In 2002, Boston Bank of Commerce tried to purchase Family Savings, a minority-owned bank in Los Angeles.³³ Instead, Family Savings turned to a bank in Illinois, FBOP Corp.³⁴ Rep. Waters tried to block the merger by contacting regulators at the

²¹ Lipton and Rutenberg, *New York Times*, Mar. 13, 2009.

²² *Id.*

²³ *Id.*

²⁴ OCE Report and Findings. The Office of Congressional Ethics report refers repeatedly to “Representative A,” identified as the chair of the House Financial Services Committee. At the time of the events described, Rep. Frank chaired the committee.

²⁵ *Id.*

²⁶ OCE Report and Findings.

²⁷ Eric Lipton and Jim Rutenberg, *Congresswoman Lashes Out at Critics of a Bank Meeting*, *New York Times*, March 14, 2009.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *National Bankers Association Addresses Waters Issue*, *Right Vision News*, September 2, 2010.

³¹ Appelbaum, *Washington Post*, Mar. 14, 2009.

³² *Id.*; Rep. Maxine Waters, *Personal Financial Disclosure Statement for Calendar Year 2001*, filed May 15, 2002.

³³ Appelbaum, *Washington Post*, Mar. 14, 2009.

³⁴ *Id.*; Karen Robinson-Jacobs, *Four Submit Offers for Family Savings*, *Los Angeles Times*, February 25, 2002.

Federal Deposit Insurance Corporation (FDIC).³⁵ She publicly stated she did not want a white bank to acquire a minority-owned bank.³⁶ When her efforts with the FDIC proved fruitless, Rep. Waters began a public pressure campaign with other community leaders.³⁷ Ultimately, when Family Savings changed direction and allowed Boston Bank of Commerce to submit a winning bid, Rep. Waters received credit for the merger.³⁸ The combined banks were renamed OneUnited.³⁹

Status of Ethics Investigation

In August 2009, having conducted an investigation following news reports about Rep. Waters' apparent conflict of interest, the Office of Congressional Ethics referred the allegations against Rep. Waters to the House Ethics Committee for further review.⁴⁰ The ethics committee then established an investigatory subcommittee, eventually charging Rep. Waters with three counts of violating House rules and federal ethics regulations.⁴¹

The House Ethics Committee scheduled Rep. Waters' ethics trial for November 29, 2010, but on November 19, 2010, the committee announced it would postpone proceedings indefinitely following the discovery of new evidence.⁴² On the same day, the committee placed two attorneys, who had worked on Rep. Waters' case on indefinite administrative leave.⁴³ One of the attorneys had served as deputy chief counsel and lead attorney on the case.⁴⁴ News reports painted a picture of a committee in near chaos, with staff arguing over which documents should be subpoenaed, intimations that then-chairwoman Rep. Zoe Lofgren (D-CA) had undermined staff efforts to prepare a fair and thorough case, and allegations the committee had failed to obtain and review clearly relevant documents from Rep. Frank and the staff of the House Financial Services Committee.⁴⁵

In March 2011, the new House Ethics Committee chairman, Rep. Jo Bonner (R-AL), denounced what he called a "unilateral" decision by Rep. Lofgren to suspend the attorneys and reinstated both, though neither chose to return to the committee.⁴⁶ No new trial date has been announced.

³⁵ Appelbaum, *Washington Post*, Mar. 14, 2009.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Lipton and Rutenberg, *New York Times*, Mar. 13, 2009.

³⁹ Appelbaum, *Washington Post*, Mar. 14, 2009.

⁴⁰ <http://oce.house.gov/2010/08/august-2-2010---oce-referral-regarding-rep-waters.html>.

⁴¹ Press Release, House Committee on Standards of Official Conduct, 111th Congress, Statement of the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct, August 9, 2010; Committee on Standards of Official Conduct, 111th Congress, 2d Session, *Investigative Subcommittee in the Matter of Representative Maxine Waters, Statement of Alleged Violation*, Adopted June 15, 2010.

⁴² Press Release, House Committee on Standards of Official Conduct, 111th Congress, Statement of the Chair and Ranking Republican Member of the Committee on Standards of Official Conduct Regarding Representative Maxine Waters, November 19, 2010.

⁴³ John Bresnahan, 2 House Ethics Attorneys Suspended, *Politico*, November 30, 2010.

⁴⁴ *Id.*; Larry Margasak, Waters Ethics Trial in Jeopardy For This Year, *Associated Press*, December 1, 2010.

⁴⁵ Smith and Leonnig, *Washington Post*, Dec. 17, 2010; Kane and Leonnig, *Washington Post*, Dec. 16, 2010.

⁴⁶ Jeffrey Smith, House Ethics Chair Blasts Predecessor on Idling of Lawyers in Waters Probe, *Washington Post*, March 14, 2011.

In July 2011, *Politico* obtained House Ethics Committee memos alleging that staff members involved with the Waters investigation had breached confidentiality, failed to provide Rep. Waters' defense with all the material to which it was entitled, and engaged in partisan conduct.⁴⁷ On July 20, 2011, in response to the revelations, the House Ethics Committee hired Washington, D.C. attorney Billy Martin as outside counsel to first review the committee's conduct in the Waters matter and, if the committee decides to proceed with the case against Rep. Waters after hearing the outside counsel's report, to help the committee complete the Waters case as quickly as possible.⁴⁸

Late and Incomplete Travel Disclosure Filing

In May 2011, Legistorm reported Rep. Waters' office filed several travel disclosures nearly a year late.⁴⁹ Travel disclosures for trips funded by a private source must be filed within 15 days of returning from a trip,⁵⁰ although late filing is not uncommon.⁵¹ Rep. Waters' office has disclosed 14 trips taken by the congresswoman since 2007, all of which were filed late.⁵² Her office disclosed another six trips taken by her staff during that time, four of which were filed late.⁵³

In addition, Rep. Waters completely failed to report two trips she took in 2009.⁵⁴ Those trips were, however, included on her 2009 personal financial disclosure forms.⁵⁵

Legal Fees

Rep. Waters is represented in the ethics investigation by attorney Stan Brand, but her campaign committee has not reported any payments to his firm.⁵⁶

⁴⁷ John Bresnahan, Did Ethics Staff Taint Waters Probe?, *Politico*, July 18, 2011. In response, CREW sent a letter to House Speaker John Boehner (R-OH) and Minority Leader Nancy Pelosi (D-CA) requesting an immediate investigation of the House Ethics Committee. See Letter from CREW Executive Director Melanie Sloan to Speaker of the House John Boehner and Minority Leader Nancy Pelosi, July 18, 2011. CREW also called on the committee to discard its previous work in the Waters case, and, if it decides to go forward, start again from the date of the referral by the Office of Congressional Ethics. *Id.*

⁴⁸ Press Release, House Committee on Ethics, 112th Congress, Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding the Matter of Representative Maxine Waters, July 20, 2011.

⁴⁹ Under Scrutiny, Rep. Waters Files Disclosures a Year Late, *Legistorm*, May 9, 2011.

⁵⁰ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 90 (110th Cong., 2d Sess., 2008 ed.).

⁵¹ <http://www.opensecrets.org/travel/index.php?type=D>.

⁵² http://clerk.house.gov/public_disc/giftTravel-search.aspx. Although 22 documents are listed on the clerk's website, two are duplicate filings or postings.

⁵³ http://clerk.house.gov/public_disc/giftTravel-search.aspx.

⁵⁴ Rep. Maxine Waters, Personal Financial Disclosure Statement for Calendar Year 2009, filed May 17, 2010.

⁵⁵ *Id.*

⁵⁶ John Bresnahan, Maxine Waters's Attorneys to Ethics Panel: Back Off, *Politico*, August 26, 2010; Citizens for Waters, FEC Form 3, October Quarterly Report 2008, Amendment, April 15, 2009 through FEC Form 3, April Quarterly Report 2011, April 13, 2011.

Potential Violations

House Rule 23, Clause 3

House Rule 23, clause 3, provides:

A Member, Delegate, Resident Commissioner, or employee of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in Congress.

By arranging a meeting between Treasury Department officials and OneUnited bank officers, after which the bank was awarded bailout funds it otherwise might not have received, Rep. Waters received a benefit through protecting her husband's holdings in the bank, and thereby may have violated House Rule 23.

5 C.F.R. § 2635.702(a)

Members of the House are prohibited from "taking any official actions for the prospect of personal gain for themselves or anyone else."⁵⁷ House members are directed to adhere to 5 C.F.R. § 2635.702(a), issued by the U.S. Office of Government Ethics for the Executive Branch, which provides:

An employee shall not use or permit use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person . . . to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

By using her position to induce Treasury Department officials to meet with OneUnited bank officers, after which the bank was awarded bailout funds it otherwise might not have received, Rep. Waters and her husband received a benefit through the protection of her husband's holdings in the banks, and thereby may have violated 5 C.F.R. § 2635.702(a).

Code of Ethics for Government Service, Clause 5

The Code of Ethics for Government Service provides that government officials should

Never 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

⁵⁷ House Comm. on Standards of Official Conduct, "Memorandum For All Members, Officers and Employees," Prohibition Against Linking Official Actions to Partisan or Political Considerations, or Personal Gain, May 11, 1999.

circumstances which might be construed by reasonable persons as influencing the performance of his official duties.⁵⁸

By arranging a meeting between Treasury Department officials and OneUnited officers, Rep. Waters dispensed special privileges to a bank in which her husband has holdings, and thereby may have violated this provision. Rep. Waters also may have violated this provision by accepting the benefit of the protection of her husband's holdings in the bank, which reasonable persons might construe as influencing her in the performance of her official duties.

Travel Rules

For each trip taken by a member or employee that is funded by a private source, "a travel disclosure form must be completed, signed, and filed with the Clerk of the House within 15 days of returning from the trip."⁵⁹

By repeatedly filing travel disclosure documents more than 15 days after returning from trips, and by failing to file travel disclosure documents for two trips reported on her financial disclosure form, Rep. Waters likely violated House travel rules.

Conduct Not Reflecting Creditably on the House

House Rule 23 requires all members of the House to conduct themselves "at all times in a manner that reflects creditably on the House."⁶⁰ This ethics standard is considered to be "the most comprehensive provision" of the code.⁶¹ When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted it was included within the Code to deal with "flagrant" violations of the law that reflect on "Congress as a whole," and that might otherwise go unpunished.⁶² This rule has been relied on by the committee in numerous prior cases in which the committee found unethical conduct including: the failure to report campaign contributions,⁶³ making false statements to the committee,⁶⁴ criminal convictions for bribery,⁶⁵ or accepting illegal gratuities,⁶⁶ and accepting gifts from persons with interest in legislation in violation of the gift rule.⁶⁷

⁵⁸ 72 Stat., Part 2, B12, H. Res. 175, 85th Cong. (adopted July 11, 1958); House Ethics Manual, p. 20.

⁵⁹ *Id.*, p. 90; House Comm. on Standards of Official Conduct, "Memorandum For All Members, Officers and Employees," New Travel Rules for Officially-Connected Travel Paid for by a Private Source, March 14, 2007.

⁶⁰ Rule 23, cl. 1.

⁶¹ House Ethics Manual, p. 12.

⁶² House Comm. on Standards of Official Conduct, *Report Under the Authority of H. Res. 418*, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

⁶³ House Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rep. No. 95-1742, 95th Cong., 2d Sess. 2-3 (1978) (Count 1); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978).

⁶⁴ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); H. Rep. No. 95-1743 (Counts 3-4).

⁶⁵ House Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H. Rep. No. 96-1387, 96th Cong., 2d Sess. 2, 5 (1980); see 126 Cong. Rec. 28953-78 (Oct. 2, 1980) (debate and vote of expulsion); *In the Matter of Representative John W. Jenrette, Jr.*, H. Rep. No. 96-1537, 96th Cong., 2d Sess. 4 (1980) (member resigned); *In the Matter of Representative Raymond F. Lederer*, H. Rep. No. 97-110, 97th Cong., 1st Sess. 4, 16-17 (1981) (member resigned after Committee recommended expulsion). In another case, the

By arranging a meeting between Treasury Department officials and OneUnited bank officers under false pretenses, asking for federal financial assistance for a bank in which her husband has a financial interest, claiming the National Bankers Association had asked her to request the meeting when neither the chairman nor president of the association was aware of the request, and repeatedly filing travel disclosure forms late, Rep. Waters acted in a manner that does not reflect creditably on the House.

Committee issued a Statement of Alleged Violation concerning bribery and perjury, but took no further action when the member resigned (*In the Matter of Representative Daniel J. Flood*, H. Rep. No. 96-856, 96th Cong., 2d Sess. 4-16, 125-126 (1980)).

⁶⁶ House Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. No. 100-506, 100th Cong., 2d Sess. 7, 9 (1988) (member resigned while expulsion resolution was pending).

⁶⁷ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 96-930, 96th Cong. 2d Sess. 4-5 (1980); see 126 Cong. Rec. 13801-20 (June 10, 1980) (debate and vote of censure).