

April 4, 2017

Omar Ashmawy
Staff Director and Chief Counsel
Office of Congressional Ethics
1017 Longworth HOB
Washington, D.C. 20515

Re: Request for Investigation of Rep. Justin Amash (R-MI)

Dear Mr. Ashmawy:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Office of Congressional Ethics (“OCE”) investigate whether Rep. Justin Amash (R-MI) violated House rules by using his official Twitter account to raise campaign funds.

Factual Background

Rep. Amash is a member of the House Freedom Caucus and has been a vocal critic of the American Health Care Act (“AHCA”), proposed legislation to replace the Affordable Care Act.¹ After House Speaker Paul Ryan (R-WI) was forced in late March to withdraw the bill from a floor vote due to insufficient support, President Trump turned to Twitter to rail against the House Freedom Caucus and its members,² tweeting: “The Republican House Freedom Caucus was able to snatch defeat from the jaws of victory. After so many bad years they were ready for a win!”³ and “Democrats are smiling in D.C. that the Freedom Caucus, with the help of Club For Growth and Heritage, have saved Planned Parenthood & Ocare!”⁴

The situation escalated last week when Dan Scavino Jr., White House Director of Social Media, attacked Rep. Amash in a series of tweets for opposing the legislation. After Rep. Amash tweeted that “it didn’t take long for the swamp to drain” President Trump,⁵ Mr. Scavino responded by calling Rep. Amash a “Freedom Caucus Troll” and alleging that he “[d]idn’t vote for #AHCA b/c he puts politics before MI.”⁶ Mr. Scavino then encouraged

¹ Tom LoBianco, House Freedom Caucus Member Justin Amash Breaks Vote Streak After Blasting Ryan, Health Care Bill, *CNN*, Mar. 10, 2017, available at <http://www.cnn.com/2017/03/10/politics/justin-amash-voting-streak-broken/>.

² Lauren Fox, Jeremy Diamond, and Phil Mattingly, Trump Calls Out Freedom Caucus Members in Tweetstorm, *CNN*, Mar., 31, 2017, available at <http://www.cnn.com/2017/03/30/politics/freedom-caucus-trump-tweet/index.html>; Deborah Barfield Berry, Trump Takes Aim at Freedom Caucus Over Defeat of GOP Health Care Plan, *USA Today*, Mar. 26, 2017, available at <https://www.usatoday.com/story/news/politics/2017/03/26/trump-takes-aim-freedom-caucus-over-defeat-gop-health-care-plan/99662428/>;

³ See <https://twitter.com/realDonaldTrump/status/846537639167713281>.

⁴ See <https://twitter.com/realDonaldTrump/status/845974102619906048>.

⁵ See <https://twitter.com/justinamash/status/847448570081005568>.

⁶ See <https://twitter.com/DanScavino/status/847663548477997060>.

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Rep. Amash's ouster through a primary challenge, tweeting on April 1, 2017:
"@realDonaldTrump is bringing auto plants & jobs back to Michigan. @justinamash is a big liability.#TrumpTrain, defeat him in primary."⁷

In response, Rep. Amash also turned to Twitter, tweeting that same day: "Trump admin & Establishment have merged into #Trumpstablishment. Same old agenda: Attack conservatives, libertarians & independent thinkers."⁸ Rep. Amash continued more than an hour later, tweeting: "Bring it on. I'll always stand up for liberty, the Constitution & Americans of every background. You can help here: <https://causes.anedot.com/justin-amash>."⁹ Rep. Amash's second tweet linked to a fundraising site for his campaign.¹⁰

Significantly, the Twitter account Rep. Amash used for these tweets appears to be his only active Twitter account. Although there is another account with his name on it, @repjustinamash, it was only established in February 2015 and he apparently has never tweeted from it.¹¹ By contrast, Rep. Amash's @justinamash account was established in January 2011 (the month he was sworn in as a member of the House), identifies him as from the Third District of Michigan, and contains a large quantity of tweets commenting on congressional matters.¹²

Potential Violation

Improper Use of Social Media Account

The *Members' Congressional Handbook* authorizes members to establish social media accounts, defined as

profiles, pages, channels, or any similar presence on third-party sites that allow individual or organizations to offer information about themselves to the public[.]¹³

Social media accounts are subject to the same requirements and limitations as the content of the members' websites.¹⁴ Accordingly, social media accounts – like member websites – “[m]ay not include . . . campaign information.”¹⁵ Reflecting this restriction, the House Ethics Committee has made clear that members and their offices may not include even a link to the member's

⁷ See <https://twitter.com/DanScavino/status/848211792916557824>.

⁸ See <https://twitter.com/justinamash/status/848224129937526786>.

⁹ See <https://twitter.com/justinamash/status/848242383007367168>.

¹⁰ *Id.*

¹¹ See <https://twitter.com/repjustinamash?lang=en>.

¹² See https://twitter.com/justinamash?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor.

¹³ Committee on House Administration, *Members' Congressional Handbook*, 114th Cong., Oct. 21, 2015, at 25, available at https://cha.house.gov/sites/republicans.cha.house.gov/files/documents/Members%20Handbook%20114th_Adopted102115.pdf.

¹⁴ *Id.*

¹⁵ *Id.* at 26.

campaign “in congressional communications, on official Web sites, or on official social/new media.”¹⁶

The House Ethics Manual defines a member’s “official resources” as both funds appropriated for the member and “goods and services purchased with those funds.”¹⁷ Under this definition, a social media account is an “official resource” if it is staffed by a member. As the Congressional Research Service explained in answering the question “What makes a social media account an official resource?”:

Currently, the adoption of most major social media platforms (e.g., Facebook, Twitter, YouTube, Vine, Instagram) does not have a formal financial cost. The use of these services, however, does require Member or staff time to post information and respond to followers. While social media sites might not qualify as an official resource based on cost alone, the use of Member and staff time to maintain the Member’s presence makes social media an official resource under House Ethics guidance.¹⁸

Rep. Amash’s use of his Twitter account to direct followers to his campaign fundraising site appears to violate the *Members Congressional Handbook*. The use of his time to maintain and populate the site qualifies the account as an “official resource.” Further underscoring this conclusion, Rep. Amash’s account identifies him as a member of Congress, and he uses the account to comment on, among other things, issues of legislative importance, such as the AHCA. The contents of his Twitter account are therefore subject to the same limitations as the contents of his official website, which include a prohibition against including or linking to campaign information.

That Rep. Amash may have a separate, long-dormant account in the name @repjustinamash does not alter this conclusion. It appears he has never tweeted from that account, instead using his @justinamash Twitter account since being sworn into office in January 2011. Moreover, his office Twitter account, @amashoffice, often links or retweets his @justinamash account,¹⁹ further evidencing the link between Rep. Amash’s active Twitter account and his official congressional business.

¹⁶ House Committee on Ethics, Campaign Activity Guidance, Aug. 15, 2014, available at <https://ethics.house.gov/sites/ethics.house.gov/files/20140815%20Pink%20Sheet.pdf>.

¹⁷ House Committee on Standards of Official Conduct, *House Ethics Manual*, 110th Cong., 2d Sess. 2008 Edition, available at http://oce.house.gov/pdf/2008_House_Ethics_Manual.pdf.

¹⁸ Jacob R. Straus and Matthew E. Glassman, Cong. Research Serv., R43477, *Social Media in the House of Representatives: Frequently Asked Questions*, Oct. 7, 2016, available at <https://fas.org/sgp/crs/misc/R43477.pdf>.

¹⁹ See <https://twitter.com/amashoffice?lang=en>.

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Conclusion

To ensure that congressional resources are not used for campaign activities, the House has adopted a series of rules and proscriptions that bind all members. Those include a prohibition against using social media accounts to disseminate campaign information. Rep. Amash's use of his Twitter account to in part raise funds for his political campaign appears to violate that rule. The OCE should therefore commence an immediate investigation and forward this matter to the House Ethics Committee for appropriate action.

I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Noah Bookbinder', with a small blue dot to the right of the signature.

Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington