



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

September 1, 2022

Omar Ashmawy
Chief Counsel
Office of Congressional Ethics
U.S. House of Representatives
P.O. Box 895
Washington, DC 20515-0895

Email: oce@mail.house.gov

RE: Rep. Susie Lee (Nevada)

Dear Mr. Ashmawy,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We request the Office of Congressional Ethics immediately investigate Nevada Representative Susie Lee for violating federal law and House ethics rules.

Federal law and House ethics rules require House Members disclose their financial information to the public.¹ The disclosure requirements are an integral part of an ethical and transparent government: accurate and timely filing is the only method for citizens to determine whether Members have conflicts of interest or are wrongfully profiting from their position.²

Under the public disclosure requirements, each Member must file an annual financial disclosure report that provides a “full and complete” statement of the Member’s assets, debts, and income.³ In addition to the annual report, a Member must file a periodic report to disclose any financial transaction that exceeds \$1,000 within 30 days of notice of the transaction (but never more than 45 days after the transaction).⁴ This federal law is extremely important, thus it is directly

¹ 5 U.S.C. app 4 sec. 101-111 (disclosure requirements); sec. 102(a)(5) (requirement for disclosure of financial transactions over \$1,000); House Rule 26.

² It is a foundational principal and embodied in numerous laws and ethics rules that Members “should not in any way use their office for private gain.” House Ethics Manual, Comm. on Standards of Official Conduct, U.S. House of Reps., at 1 (2008 ed.); *see also* House Ethics Manual, at 123-24 (Members cannot use official resources for any campaign or political purpose).

³ 5 U.S.C. app 4 sec. 101-111 (disclosure requirements); sec. 102(a)(5) (requirement for disclosure of financial transactions over \$1,000); House Rule 26.

⁴ *Id.*

incorporated into House ethics rules, and Members are specifically informed of the law.⁵ Each Member has an affirmative duty to ensure compliance with the law.⁶ There is no excuse for inaccurate, incomplete, or late filings, and every violation has consequences.⁷

Contrary to this legal requirement, it was recently reported that Representative Lee has again failed to properly disclose stock trades in violation of federal law.⁸ On August 13, 2022, Lee disclosed that she traded eight stocks between January and September 2021 valued at up to \$155,000.⁹ These transactions were disclosed ten to eighteen months late and involved companies subject to congressional legislation such as financial institutions.¹⁰

Lee has repeatedly failed to make disclosures as required by law—there are numerous other known instances where she disclosed stock transactions months or years late.¹¹ In 2020 and

⁵ U.S. House of Reps. Rules (2019), r. 26, cl.2 (“For the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be considered Rules of the House as they pertain to Members, Delegates, the Resident Commissioner, officers, and employees of the House.”). Members receive ethics training on the STOCK Act after being sworn in and thereafter on an annual basis, as well as detailed instructions with the form and on the Ethics Committee website and significant press coverage of their duties. *See, e.g.*, U.S. House of Reps. Comm. on Ethics 116th Cong., *Memo Re. Reminder of STOCK Act Requirements, Prohibition Against Insider Trading & New Certification Requirement*, at 3 (June 11, 2020), available at: https://ethics.house.gov/sites/ethics.house.gov/files/wysiwyg_uploaded/STOCK%20Act%206.11.2020%20Final.pdf.

The law is both well publicized and part of ethics training for Members of Congress. *See, e.g.* U.S. House of Reps. Comm. on Ethics, *Training*, <https://ethics.house.gov/training>.

⁶ *See, e.g.*, Comm. on Ethics, *Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports* (CY 2021), at 9, 43, available at <https://ethics.house.gov/sites/ethics.house.gov/files/documents/FINAL%202021%20FD%20Instructions.pdf>

⁷ The Ethics in Government Act does not allow Members to break the law without consequence. *See, e.g.*, 5 U.S.C. app 4 sec. 104(a)(1) (providing for a civil penalty not to exceed \$50,000); sec. 104(a)(2) (making it unlawful for any person to knowingly and willfully fail to file or report any information required under section 102, with penalties of up to \$50,000 and imprisonment of not more than one year); sec. 104(d) (providing for a late filing fee of \$200); *see also* Committee on Ethics, U.S. House of Rep., available at <https://ethics.house.gov/financial-disclosure/general-information-about-financial-disclosure> (“A \$200 late filing fee shall be assessed against any individual who files more than 30 days after the due date of a report or amendment (or the due date of any extension).”).

⁸ Madison Hall and Bryan Metzger, *4 House Democrats just violated a federal conflict-of-interest law with late financial disclosures*, Business Insider, Aug. 16, 2022, available at <https://www.businessinsider.com/stock-act-democrats-congress-violations-gottheimer-scanlon-susie-lee-schneider-2022-8>.

⁹ Susie Lee, *Periodic Transaction Report, Clerk Of The House Of Representatives*, Filed Aug. 13, 2022, available at https://disclosures-clerk.house.gov/public_disc/ptr-pdfs/2022/20021550.pdf.

¹⁰ *Id.*

¹¹ *Ethics Watchdog Calls For Investigation Into Nevada Rep. Susie Lee*, Foundation For Accountability And Civic Trust, Oct. 4, 2021, available at <https://www.factdc.org/post/ethics-watchdog-calls-for-investigation-into-nevada-rep-susie-lee>; Dace Levinthal, *Rep. Susie Lee, A Democrat From Nevada, Failed To Properly Disclose Stock Trades Worth As Much As \$3.3 Million*, Business Insider, Sep. 17, 2021, available at <https://www.businessinsider.com/susie-lee-nevada-congress-stock-act-trades-disclosure-2021-9>.

2021, Lee failed to timely disclose more than 200 stock transactions.¹² These transactions were valued at up to \$3.3 million and were all disclosed late across multiple filings.¹³

This law is extremely important and it must be strictly enforced to determine whether a Member has used nonpublic information for profit or whether their personal investments influenced any official action.¹⁴ There is no excuse for violating this law even one time, but this case is even more egregious because this was not an “inadvertent error or omission.”¹⁵ Rather, Lee’s knowledge of the law and her repeated failure to comply with it demonstrate knowing and willful violations. The repeated late filings show Lee does not take the law and her duties to the public seriously—obviously if she did she would not have continued to disclose trades beyond the reporting deadlines.

In fact, Lee’s office responded to her most recent violations by stating she does not make the stock trades herself and that she has since been in contact with the House Committee on Ethics.¹⁶ This response is irrelevant. It does not matter whether Lee or someone on her behalf makes the trade—she is responsible for following the law and her holdings can present a conflict of interest regardless of who executes the trades.

Additionally, Lee’s response that she’s been in contact with the House Committee on Ethics raises the question of whether she has paid the appropriate fine. A report is deemed legally insufficient and not properly filed if the correct fine is not paid with the late report.¹⁷ Lee should have already paid a fine, and one greater than \$200 for multiple offenses. Nevertheless, even if paid, a fine does not remedy the breach of the ethics rules for a Member consistently not following the law.

The failure of Members to follow the most basic ethics rules they themselves created leads to public distrust in our elected officials as a whole.¹⁸ The OCE must act to ensure compliance with the most fundamental ethics requirements and to maintain the public’s trust. We request the OCE

¹² *Id.*

¹³ *Id.*

¹⁴ Members may obtain nonpublic information about a company or economic sector during the course of the official duties. U.S. House of Reps. Comm. on Ethics 116th Cong., *Memo Re. Reminder of STOCK Act Requirements, Prohibition Against Insider Trading & New Certification Requirement*, at 3 (June 11, 2020).

¹⁵ See, e.g., *In the Matter of Allegations Relating to Representative Vernon G. Buchanan*, 112th Cong., 2nd Sess. (July 10, 2012) at 5.

¹⁶ Madison Hall and Bryan Metzger, *4 House Democrats just violated a federal conflict-of-interest law with late financial disclosures*, Business Insider, Aug. 16, 2022, available at <https://www.businessinsider.com/stock-act-democrats-congress-violations-gottheimer-scanlon-susie-lee-schneider-2022-8>.

¹⁷ Comm. on Ethics, *Instruction Guide: Financial Disclosure Statements and Periodic Transaction Reports (CY 2021)*, at 8, available at: <https://ethics.house.gov/sites/ethics.house.gov/files/documents/FINAL%202021%20FD%20Instructions.pdf>.

¹⁸ See, e.g., Tim Mak, *TikTokers Are Trading Stocks By Copying What Members Of Congress Do*, NPR, Sept. 21, 2021, available at: <https://www.npr.org/2021/09/21/1039313011/tiktokers-are-trading-stocks-by-watching-what-members-of-congress-do> (discussing that a portion of the public has lost trust in government to the extent they believe Members’ stock trades are based on corruption and it would be financially beneficial to copy the Members’ trades).

investigate Rep. Lee's stock trades and apparent failure to file the required timely and accurate disclosures, and impose any appropriate sanctions.

To the best of my knowledge and ability, all evidence submitted was not obtained in violation of any law, rule, or regulation. Further, I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,

/s/Kendra Arnold

Kendra Arnold
Executive Director, Foundation for Accountability & Civic Trust