



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

July 6, 2021

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

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 recently submitted an ethics complaint against New Jersey Representative Tom Malinowski for violating United States House of Representatives ethics rules. We write today to set forth additional evidence for the Office of Congressional Ethics to consider in its proceedings.

As set forth in FACT's complaint dated March 5, 2021, Representative Malinowski failed to disclose about 90 stock trades worth between \$671,000 and \$2.67 million in 2020 as required by law. In an unrelated April 2020 interview, right at the time of these undisclosed stock trades, Malinowski stated, "This is not the time for anybody to be profiting off of selling ventilators, vaccines, drugs, treatments, PPE (personal protective equipment), anywhere in the world."¹ Yet it was Malinowski who, without disclosing it, was actually purchasing and selling stocks that were directly related to the pandemic—including the stock of a medical diagnostic company that manufactured COVID-19 tests and manufacturers of shelf-stable food and exercise equipment.² It appears Malinowski was secretly trading stocks related to a national crisis and was preventing the public from evaluating whether the transactions were based upon information he obtained from his official position.

¹ Celine Castronuovo, *Rep. Malinowski Traded As Much As \$1M In Medical, Tech Stocks That Had Stake In COVID-19 Response*, The Hill, May 21, 2021.

² Brian Slodysko, *As Pandemic Spread Pain And Panic, Congressman Chased Profit*, Associated Press, May 21, 2021; Dave Levinthal, *Democratic Rep. Tom Malinowski, A Champion For Transparency, Failed To Disclose Dozens Of Stock Transactions Worth At Least \$671,000 In Apparent Violation Of Federal Law*, Business Insider, Mar. 4, 2021.

Even after this was publicly discovered and FACT filed its complaint, Malinowski affirmatively chose to trade stocks without ensuring the transactions were disclosed. Recently it was reported that Malinowski “took more than the legally required time to report nine stock transactions worth up [to] at least \$186,000 this month and in some cases nearly two months after the transaction. The nine stock transactions occurred in April and Malinowski was notified of them at the end of that month.”³ Ultimately he disclosed the stock purchases and sales on June 12, 2021, well past the legal deadline of reporting trades within 45 days of the transactions.⁴ This case is especially egregious in multiple respects, but Malinowski’s disregard for the disclosure requirements is clear.

The disclosure requirements are an integral part of an ethical and transparent government. Timely and accurate filings are the only method for citizens to determine whether Members have conflicts of interest or are wrongly profiting from their position—and there are consequences for failing to follow this law.⁵ Should the Office of Congressional Ethics and Ethics Committee find that Malinowski has repeatedly failed to file the proper disclosures, then it must impose appropriate sanctions that are commensurate with the multiple violations.

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,



Kendra Arnold
Executive Director
Foundation for Accountability & Civic Trust

³ David Wildstein, *Despite Scrutiny, Malinowski Missed June Stock Trade Disclosure Deadline*, New Jersey Globe, June 23, 2021; see also David Levinthal, *Rep. Tom Malinowski Continues To Aggressively Trade Stocks Despite A Congressional Ethics Investigation*, Business Insider, June 21, 2021.

⁴ Representative Tom Malinowski, Periodic Transaction Report, filed June 12, 2021, available at: https://disclosures-clerk.house.gov/public_disc/ptr-pdfs/2021/20018792.pdf.

⁵ 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).”).