



FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

March 11, 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

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 North Carolina Representative Kathy Manning for violating federal law and House ethics rules.

Federal law and House ethics rules require House Members to 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 report that provides a “full and complete” statement of the Member’s assets, debts, and income, as well as any positions held outside the House.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 incorporated into House rules and Members are specifically

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, at 1; *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.*

informed of the law.⁵ Each Member has an affirmative duty to ensure compliance with the law. There is no excuse for inaccurate, incomplete, or late filings, and every violation has consequences.⁶

Contrary to this legal requirement, it was recently reported that Representative Manning failed to properly disclose stock trades in violation of federal law.⁷ Representative Manning and her spouse made 51 trades throughout 2021 and did not disclose those trades until February 11, 2022.⁸ The stocks had a total value between \$275,051 and \$1.25 million.⁹ Additionally, Manning's trades involved stock in companies that were related to Congressional action and Manning's official action:

“Many of the trades were in tech stocks including Meta, Amazon, Netflix, and Nvidia that could be dramatically impacted by legislative battles that have been playing out in Congress over the past year. Companies like Amazon and Meta could have their business practices challenged by a slate of technology-focused antitrust bills that have been winding their ways through the legislative process, while semiconductor companies like Nvidia may benefit from billions in subsidies that the House recently approved in the America COMPETES Act. In June, Manning was one of eight House representatives who signed a letter to Democratic leaders asking for the package of antitrust bills to be delayed from moving forward in a House Judiciary Committee markup.”¹⁰

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.”); 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 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).”).

⁷ Donald Shaw, *Rep. Manning Violated the STOCK Act 51 Times Last Year*, Sludge, Feb. 14, 2022, available at: <https://readsludge.com/2022/02/14/rep-manning-violated-the-stock-act-51-times-last-year/>.

⁸ Kathy Manning, Periodic Transaction Report, Clerk Of The House Of Representatives, Filed Feb. 11, 2022, available at: https://disclosures-clerk.house.gov/public_disc/ptr-pdfs/2022/20020423.pdf.

⁹ *Id.*

¹⁰ Donald Shaw, *Rep. Manning Violated the STOCK Act 51 Times Last Year*, Sludge, Feb. 14, 2022, available at: <https://readsludge.com/2022/02/14/rep-manning-violated-the-stock-act-51-times-last-year/>.

This law is extremely important and it must be strictly enforced to determine whether a Member has used nonpublic information for profit.¹¹ There is no excuse for violating this law, and if Members were allowed to claim they did not know about transactions then the law would be completely ineffectual and unenforceable. The failure of Members to follow the most basic ethics rules they created leads to public distrust in our elected officials as a whole.¹²

The OCE must act to ensure compliance with the most fundamental ethics requirements and to maintain the public's trust. In cases where a Member not only fails to make timely and accurate disclosures and the Member's stock trades were related to official action, the OCE must investigate both conflict of interest and late disclosure violations. We request the OCE investigate Rep. Manning'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

¹¹ 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).

¹² 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).