# APPENDIX

# APPENDIX

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## APPENDIX A

**In the**
**United States Court of Appeals**
**For the Seventh Circuit**

**No. 17-3277**

**[Filed May 30, 2018]**

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| UNITED STATES OF AMERICA, *Plaintiff-Appellee*, | ) |
| *v.* | ) |
| AARON J. SCHOCK, *Defendant-Appellant*. | ) |

Appeal from the United States District Court
for the Central District of Illinois.
No. 16-CR-30061 — **Colin S. Bruce**, *Judge*.

ARGUED APRIL 18, 2018 — DECIDED MAY 30, 2018

Before WOOD, *Chief Judge*, and FLAUM and EASTERBROOK, *Circuit Judges*.

EASTERBROOK, *Circuit Judge*. Aaron Schock resigned from Congress on March 31, 2015, after his constituents responded adversely to disclosures about trips he took at public expense, the expense of his elaborate office furnishings, and how he had applied campaign funds. Twenty months later, Schock was

charged in a federal indictment with mail and wire fraud, theft of government funds, making false statements to Congress and the Federal Elections Commission, and filing false tax returns. The grand jury charged Schock with filing false or otherwise improper claims for reimbursement for his travel and furnishings, and with failing to report correctly (and pay tax on) those receipts that count as personal income. Details do not matter to this appeal.

Schock moved to dismiss the indictment. He contended that the charges are inconsistent with the Constitution's Speech or Debate Clause and with the House of Representatives' constitutional authority to determine the rules of its proceedings. The district court denied the motion, 2017 U.S. Dist. LEXIS 174830 (C.D. Ill. Oct. 23, 2017), and Schock immediately appealed.

The Speech or Debate Clause (Art. I §6 cl. 1) provides: "for any Speech or Debate in either House, [Members of Congress] shall not be questioned in any other Place." The Supreme Court understands this as an immunity from litigation, which permits an interlocutory appeal asserting a right not to be tried. *Helstoski v. Meanor*, 442 U.S. 500 (1979). On the merits, however, the Speech or Debate Clause does not help Schock, for a simple reason: the indictment arises out of applications for reimbursements, which are not speeches, debates, or any other part of the legislative process.

Although the immunity covers committee investigations and other matters within the legislative purview, see *Gravel v. United States*, 408 U.S. 606, 625 (1972), and therefore would protect the making of each

chamber's rules about reimbursement, the indictment charges Schock with presenting false claims. Submitting a claim under established rules differs from the formulation of those rules. Charges of the kind brought against Schock have featured in criminal prosecutions of other legislators, and Speech-or-Debate defenses to those charges have failed. See *United States v. Rostenkowski*, 59 F.3d 1291, 1302–03 (D.C. Cir. 1995); *United States v. Biaggi*, 853 F.2d 89, 104 (2d Cir. 1988); *United States v. James*, 888 F.3d 42 (3d Cir. 2018). We have nothing to add to the analysis in these decisions. See also *United States v. Brewster*, 408 U.S. 501, 528 (1972) ("The Speech or Debate Clause does not prohibit inquiry into illegal conduct simply because it has some nexus to legislative functions.").

Schock's principal argument rests on the Rulemaking Clause (Art. I §5 cl. 2): "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member." The rules about reimbursable expenses were adopted under this clause and, Schock insists, because only the House may adopt or amend its rules, only the House may interpret them. Ambiguity in any rule (or in how a rule applies to a given claim for reimbursement) makes a prosecution impossible, Schock concludes, because that would require a judge to interpret the rules.

The foundation for Schock's argument—the proposition that if Body A has sole power to make a rule, then Body A has sole power to interpret that rule—does not represent established doctrine. Microsoft Corporation has the sole power to establish rules about how much its employees will be reimbursed

for travel expenses, but no one thinks that this prevents a criminal prosecution of persons who submit fraudulent claims for reimbursement or fail to pay tax on the difference between their actual expenses and the amount they receive from Microsoft.

Or consider reimbursement rules promulgated by the President for federal employees. Again no one thinks that the Executive Branch's power over rulemaking makes it the rules' sole interpreter. Judges regularly interpret, apply, and occasionally nullify rules promulgated by the President or another part of the Executive Branch, as well as statutes enacted by the Legislative Branch; why would reimbursement rules be different? That each House has sole authority to set its own rules does not distinguish rules from legislation; the two Houses acting jointly have authority to determine the contents of statutes (overriding presidential vetoes if necessary), yet a big part of the judiciary's daily work is the interpretation and application of these enactments. *Yellin v. United States,* 374 U.S. 109, 114 (1963), says that the rules of Congress are "judicially cognizable", which implies a power to interpret and apply them.

We need not come to closure on the question whether there is something special about legislative rules—as some courts have held, see *United States v. Durenberger*, 48 F.3d 1239 (D.C. Cir. 1995)—unless we have appellate jurisdiction. Otherwise final resolution of Schock's arguments must await an appeal from a final decision, should he be convicted. The Supreme Court has not held that arguments based on the Rulemaking Clause may be presented on appeal before final decision. Four courts of appeals have concluded

that criminal defendants may take interlocutory appeals to make arguments about the separation of powers. See *United States v. Rose*, 28 F.3d 181, 185–86 (D.C. Cir. 1994); *United States v. Claiborne*, 727 F.2d 842, 844–45 (9th Cir. 1984); *United States v. Hastings*, 681 F.2d 706, 708–09 (11th Cir. 1982); *United States v. Myers*, 635 F.2d 932, 935–36 (2d Cir. 1980). But those decisions do not persuade us on that broad proposition.

Our reason can be stated in one paragraph: Neither the separation of powers generally, nor the Rulemaking Clause in particular, establishes a personal immunity from prosecution or trial. The separation of powers is about the allocation of authority among the branches of the federal government. It is an institutional doctrine rather than a personal one. The Speech or Debate Clause, by contrast, sets up a personal immunity for each legislator. The Supreme Court limits interlocutory appeals to litigants who have a personal immunity—a "right not to be tried." No personal immunity, no interlocutory appeal.

The link between a personal immunity and an interlocutory appeal in a criminal prosecution was stressed in *Midland Asphalt Corp. v. United States*, 489 U.S. 794 (1989). A criminal defendant contended that public disclosure of grand jury materials spoiled the prosecution and insisted that it could appeal from the rejection of that contention because a conviction at trial would render harmless any grand jury violation, so if the right was to be vindicated that had to occur before trial. But the Justices unanimously held that an immediate appeal is forbidden by the final-decision rule, even on the assumption that this would mean no appellate consideration of the claim. That is so, the

Court held, because the right does not entail an immunity from prosecution. The Court distinguished between rights that entail the dismissal of the charge (such as a contention that the indictment does not state an offense) and a right not to be tried. The fact that a right is vindicated by dismissing a charge does not imply a right not to be tried.

To show this, the Court relied on *United States v. Mac-Donald*, 435 U.S. 850 (1978), which held that a claim based on the Speedy Trial Clause must await the final decision, even though such a claim is vindicated by dismissing the indictment, and *United States v. Hollywood Motor Car Co.*, 458 U.S. 263 (1982), which held that a claim of vindictive prosecution must await the final decision, even though it too is vindicated (if successful) by dismissing the indictment.

> Even when the vindication of the defendant's rights requires dismissal of charges altogether, the conditions justifying an interlocutory appeal are not necessarily satisfied. In *MacDonald*, for example, we declined to permit a defendant whose speedy trial motion had been denied before trial to obtain interlocutory appellate review, despite our recognition that "an accused who does successfully establish a speedy trial claim before trial will not be tried." … This holding reflects the crucial distinction between a right not to be tried and a right whose remedy requires the dismissal of charges. … The former necessarily falls into the category of rights that can be enjoyed only if vindicated prior to trial. The latter does not.

458 U.S. at 269. See also *Midland Asphalt*, 489 U.S. at 801: "One must be careful … not to play word games with the concept of a 'right not to be tried.' … [A]ny legal rule can be said to give rise to a 'right not to be tried' if failure to observe it requires the trial court to dismiss the indictment or terminate the trial. But that is assuredly not the sense relevant for purposes of the exception to the final judgment rule."

Of the four decisions permitting separation-of-powers arguments to support an interlocutory appeal, only *Rose* postdates *Midland Asphalt*. Yet *Rose* did not mention that decision. *Rostenkowski* and *Durenberger*, which follow the jurisdictional holding of *Rose*, do not discuss the difference between institutional and personal rights. *Myers* postdates *MacDonald*, which it does not mention.

*Hastings* speaks of the separation of powers but is best read as addressing a claim of personal immunity. The defendant, a federal judge, contended that he had a right not to be tried for any crime until he had first been impeached by the House and convicted by the Senate. The court of appeals held that there is no such right, but if there were one it would fit the mold of *Helstoski*, which allowed an appeal of a claim based on the Speech or Debate Clause. *Claiborne*, too, involved a claim by a federal judge to a personal immunity from prosecution while still in office. Only *Rose* and *Myers* present institutional separation-of-powers defenses, and neither of those decisions is compatible with *MacDonald*, *Hollywood Motor Car*, or *Midland Asphalt*.

Schock maintains that the collateral-order doctrine of *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S.

541 (1949), permits this pretrial appeal because it presents an issue independent of the merits, too important to be postponed, that cannot be vindicated on appeal from the final decision. Yet Schock's position can be vindicated on appeal from a final decision. Just as in *MacDonald*, *Hollywood Motor Car*, and *Midland Asphalt*, the fact that a victory for Schock on this contention would lead to the dismissal of charges does not mean that it entails a "right not to be tried."

*Midland Asphalt* observed that "[w]e have interpreted the collateral order exception with the utmost strictness in criminal cases." 489 U.S. at 799 (internal citation and quotation marks omitted). See also *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009) (extending that strictness to novel collateral-order arguments in civil cases). *Midland Asphalt* identified only three topics as within the scope of the collateral-order doctrine in criminal cases: release on bail before trial (an issue now covered by statute, 18 U.S.C. §3145); the Speech or Debate Clause; and the Double Jeopardy Clause. See 489 U.S. at 799, citing *Stack v. Boyle*, 342 U.S. 1 (1951) (bail); *Abney v. United States*, 431 U.S. 651 (1977) (double jeopardy); and *Helstoski*. More recently the Court allowed interlocutory review of a criminal defendant's objection to psychotropic medication. *Sell v. United States*, 539 U.S. 166 (2003). Bail and involuntary medication are independent of the merits and unreviewable on appeal from a conviction, while the other two situations exemplify rights not to be tried. The Speech or Debate Clause provides, after all, that no member of Congress may "be questioned in any other Place" about a speech or debate, and the Fifth Amendment says that no "person [may] be subject for the same offence to be

twice put in jeopardy of life or limb". Arguments about the allocation of authority among different branches of government do not entail such personal rights. See *Raines v. Byrd*, 521 U.S. 811 (1997) (individual members of Congress lack standing to assert the prerogatives of Congress as an institution).

This interlocutory appeal must be dismissed to the extent it involves the Rulemaking Clause. Because this opinion creates a conflict among the circuits about interlocutory appeals, in criminal cases, based on institutional arguments about the separation of powers, it was circulated before release to all judges in active service. See Circuit Rule 40(e). None favored a hearing en banc.

Schock's reliance on *United States v. Bolden*, 353 F.3d 870 (10th Cir. 2003), has not been overlooked. *Bolden* accepted an interlocutory appeal in a dispute about the separation of powers—but that appeal was filed by the United States, which may pursue kinds of interlocutory relief closed to defendants. See *United States v. Davis*, 793 F.3d 712 (7th Cir. 2015) (en banc). When a defendant took an interlocutory appeal to make separation-of-powers arguments, the court of appeals dismissed it. *United States v. Wampler*, 624 F.3d 1330 (10th Cir. 2010) (Gorsuch, J.). *Wampler* might be distinguished on the ground that the appeal did not depend on the defendant's current or former governmental position, but *Wampler* shows at a minimum that the law in the Tenth Circuit does not unambiguously allow an interlocutory appeal in a situation such as ours.

Schock contends that, because we do have jurisdiction over arguments based on the Speech or

Debate Clause, we should address his other arguments under the rubric of "pendent appellate jurisdiction." Yet that possibility has been disparaged by the Supreme Court, see *Swint v. Chambers County Commission*, 514 U.S. 35, 43–51 (1995), and whatever scope it retains after *Swint* is limited to compelling situations in civil cases. Cf. *Breuder v. Board of Trustees*, 888 F.3d 266, 271 (7th Cir. 2018). The reasons that *Midland Asphalt* gave for a strict application of the collateral-order doctrine in criminal cases apply equally well to a request that we entertain pendent appellate jurisdiction. In *Abney* the Court stated that legal defenses other than personal immunities could not be added to interlocutory criminal appeals. 431 U.S. at 662–63. It did not employ the phrase "pendent appellate jurisdiction" but effectively foreclosed its use in criminal prosecutions.

If Schock is convicted, he may assert his Rulemaking Clause arguments on appeal from the final decision. Similarly, he may argue that the Rule of Lenity prevents conviction if the House rules about reimbursement are genuinely ambiguous as applied to his situation.

The district court's decision with respect to the Speech or Debate Clause is affirmed, and the appeal otherwise is dismissed.

**UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT**

Everett McKinley Dirksen
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**FINAL JUDGMENT**

May 30, 2018

Before: DIANE P. WOOD, Chief Judge
JOEL M. FLAUM, Circuit Judge
FRANK H. EASTERBROOK, Circuit Judge

| | |
|---|---|
| No. 17-3277 | UNITED STATES OF AMERICA,<br>Plaintiff - Appellee<br><br>v.<br><br>AARON J. SCHOCK,<br>Defendant - Appellant |
| **Originating Case Information:** | |
| District Court No: 3:16-cr-30061-CSB-TSH-1<br>Central District of Illinois<br>District Judge Colin S. Bruce | |

The district court's decision with respect to the Speech or Debate Clause is **AFFIRMED**, and the appeal

otherwise is **DISMISSED** in accordance with the decision of this court entered on this date.

form name: **c7_FinalJudgment**(form ID: **132**)

## APPENDIX B

**UNITED STATES DISTRICT COURT**
**CENTRAL DISTRICT OF ILLINOIS**
**URBANA DIVISION**

**Case No. 16-CR-30061**

**[Filed October 23, 2017]**

| | |
|---|---|
| UNITED STATES OF AMERICA, | ) |
| | ) |
| Plaintiff, | ) |
| v. | ) |
| | ) |
| AARON SCHOCK, | ) |
| | ) |
| Defendant. | ) |
| | ) |

## OPINION

This case is currently before the court for rulings on Defendant's Motions to Dismiss (#76), (#78), and (#86). The court has thoroughly reviewed the motions as well as the consolidated response and reply filed by the Government and Defendant respectively. For the following reasons, Defendant's Motion to Dismiss (#76) is GRANTED in part and DENIED in part; Defendant's Motion to Dismiss (#78) is DENIED; and Defendant's Motion to Dismiss (#86) is GRANTED.

## BACKGROUND

On November 10, 2016, the Government filed a twenty-four count indictment ("Indictment") against Defendant, Aaron Schock ("Defendant"). The Indictment included nine counts of wire fraud, six counts of filing false federal tax returns, five counts alleging the falsification of Federal Election Commission filings, two counts of making false statements, and one count each of mail fraud and theft of government funds. The alleged conduct all occurred while Defendant was a member of the United States House of Representatives.

At a hearing on May 19, 2017, the court set a deadline of August 1, 2017 for the filing of all non-evidentiary pretrial motions. Numerous motions were filed by the parties by that deadline. The court has already ruled on some of the motions. Others were just recently fully briefed. This order will address three motions, Defendant's Motions to Dismiss (#76), (#78), and (#86).

Defendant's first Motion to Dismiss (#76) is premised on the United States Constitution and argues that the Indictment fails to state an offense because the prosecution of this case is barred by the Rulemaking Clause, Speech or Debate Clause, or Due Process Clause.

Defendant's second Motion to Dismiss (#78) argues that counts fourteen through eighteen (which allege the fabrication of FEC filings) fail to state an offense because they upset the careful legal and regulatory framework Congress has crafted in the Federal

Election Campaign Act and infringe upon Defendant's constitutional rights.

Defendant's third Motion to Dismiss (#86) argues that Count 11 should be dismissed as duplicitous.

On June 2, 2017, the Government filed a consolidated response to the three motions to dismiss outlined above. Defendant filed a consolidated reply on June 23, 2017. Defendant's Motions to Dismiss (#76), (#78), and (#86) are therefore fully briefed and ready for a ruling.

## ANALYSIS

### I. Motion to Dismiss Standard

Rule 12(b)(1) of the Federal Rules of Criminal Procedure allows a party to "raise by pretrial motion any defense, objection, or request that the court can determine without a trial on the merits." Motions, which allege a defect in the indictment such as those currently before the court, must be made before trial. Fed.R.Crim.P. 12(b)(3)(B)(i), (v).

In order "[t]o successfully challenge the sufficiency of an indictment, a defendant must demonstrate that the indictment did not satisfy one or more of the required elements and that he suffered prejudice from the alleged deficiency." *United States v. Vaughn*, 722 F.3d 918, 925 (7th Cir. 2013). One way a defendant can establish that the indictment fails to state an offense is "if the specific facts alleged in the charging document fall beyond the scope of the relevant criminal statute, as a matter of statutory interpretation." *United States v. Carroll*, 320 F.Supp.2d 748, 752 (S.D.Ill. 2004),

quoting *United States v. Panarella*, 277 F.3d 678, 685 (3rd Cir. 2002).

Importantly, pretrial motions to dismiss test only the "sufficiency to charge an offense, regardless of the strength or weakness of the government's case." *United States v. Risk*, 843, 1059, 1061 (7th Cir. 1988). Therefore, this order should not be read in any manner as an attempt by the court to decide the underlying merits of the charges contained in the Indictment. *Id.*

## II. Speech or Debate Clause, Rulemaking Clause, Due Process Clause

Defendant's first Motion to Dismiss (#76) raises three separate constitutional grounds for dismissal.

The first two grounds, brought under the Rulemaking Clause and the Speech or Debate Clause, are premised on the constitutional principle of separation of powers. This important principle ensures that the three branches of federal government are able to act independently of each other. This principle serves to limit the power of any one branch over another. This case, as charged, appears to test this principle; Defendant, a former member of the legislative branch, is being prosecuted by the executive branch in the courts of the judicial branch. Thus, the case is rife with potential issues related to the separation of powers. See *Gravel v. United States*, 408 U.S. 606, 617 (1972) (the constitution seeks "to prevent intimidation of legislators by the Executive and accountability before a possibly hostile judiciary").

Defendant's third constitutional argument is premised on the Due Process Clause. The court will address each of Defendant's concerns in turn.

A. Rulemaking Clause

Defendant contends that numerous counts contained within the Indictment are non-justiciable because their prosecution would require the invocation and interpretation of ambiguous rules of the House of Representatives. Because of this, Defendant argues that prosecution of these counts would violate the Rulemaking Clause contained in Article I, Section 5, Clause 2 of the United States Constitution.

The Rulemaking Clause states:

> Each House may determine the Rules of its Proceedings, punish its members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

U.S. Const. art. I, § 5, cl. 2.

In this case, the House Rules mentioned in the Indictment all relate to administrative functions of the House and its members and do not deal directly with legislative proceedings. Due to the language of the clause, specifically its reference to "Rules of its Proceedings," the court questioned whether the Rulemaking Clause should apply to administrative rules at all. Unfortunately, neither the court nor the parties were able to find a case where the United States Supreme Court applied the Rulemaking Clause to administrative rules. Instead, it appears the Supreme Court's application of the Rulemaking Clause has so far been limited to rules directly related to legislative proceedings or the punishment of a member. See *U.S. v. Ballin*, 144 U.S. 1 (1892) (voting issues in the House); *Christoffel v. U.S.*, 338 U.S. 84 (1949) (use of parliamentary practice); *Yellin v. U.S.*, 374 U.S. 109

(1963) (rules for committee hearings); *U.S. v. Brewster*, 408 U.S. 501 (1972) (punishing members).

Despite the court's concern, other courts, most notably, the United States Court of Appeals for the District of Columbia, applied the Rulemaking Clause to administrative rules of the legislative branch. *See U.S. v. Durenberger*, 48 F.3d 1239 (D.C. Cir. 1995); *U.S. v. Rostenkowski*, 59 F.3d 1291 (D.C. Cir. 1995). Based on those decisions, and a lack of authority from the Supreme Court and the Seventh Circuit Court of Appeals, this court will proceed under the premise that the Rulemaking Clause is applicable to the administrative House Rules at issue in this case.[1]

The Rulemaking Clause is not an absolute bar to judicial interpretation of House Rules. *Rostenkowski*, 59 F.3d at 1305. It also does not allow Members of Congress to "defraud the Government without subjecting themselves to statutory liabilities." *Durenberger*, 48 F.3d at 1245, citing *Joseph v. Cannon*, 642 F.2d 1373, 1385 (D.C.Cir. 1981). However, any time a House Rule is used in a prosecution, there is a potential that the prosecution may run afoul of the Rulemaking Clause. See *Rostenkowski*, 59 F.3d at 1306 ("judicial interpretation of an ambiguous House Rule runs the risk of the court intruding into the sphere of

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[1] Even if the Rulemaking Clause were not applicable, the court's interpretation of ambiguous House Rules, even those related to administrative tasks, would violate the constitutional principle of separation of powers. See generally *Baker v. Carr*, 369 U.S. 186, 217 (1962). Thus, the court is certain that its conclusion and analysis are correct regardless of the means used to arrive at these determinations.

influence reserved to the legislative branch under the Constitution").

*Rostenkowski* stands for the proposition that a House Rule that is sufficiently ambiguous is non-justiciable; while a rule that requires no interpretation, i.e. one that is "sufficiently clear that [a court] can be confident in [its] interpretation," is justiciable. *Rostenkowski*, 59 F.3d at 1306. However, even if the Government cites to ambiguous House Rules in an indictment, the case may be justiciable if the underlying charge is grounded in a substantive federal statute and a conviction does not rely on an interpretation of the ambiguous rule. See *Durenberger*, 48 F.2d at 1245.

In determining whether a prosecution which invokes House Rules violates the Rulemaking Clause, *Rostenkowski* and *Durenberger* suggest that the court must answer the following questions. First, does the success of the prosecution require the Government to rely on the application of any House Rule? If the answer to that question is no, then the case is justiciable since a conviction may be obtained without utilizing, let alone interpreting, House Rules. See *Durenberger*, 48 F.2d at 1245-46. However, if the answer to that question is yes, then the court must answer a second question: are the House Rules at issue ambiguous? See *Rostenkowski*, 59 F.3d at 1307. If the rules are ambiguous, the case is non-justiciable. *Id.* at 1306. However, if the rules are sufficiently clear that a court can be confident in its interpretation, it is possible that the prosecution can proceed. *Id.*

In order to determine whether the Rulemaking Clause is a bar to prosecution in this case, the court

must first determine whether the counts, as charged in the Indictment, require the application of House Rules. In this case, there are ten counts which Defendant argues invoke House Rules (Counts 1-5, 8-10, 12-13). All ten counts are premised on federal statutes. Seven of the ten counts allege wire fraud pursuant to 18 U.S.C. § 1343. The remaining counts allege mail fraud pursuant to 18 U.S.C. § 1341, and the making of false statements pursuant to 18 U.S.C. §§ 1001(a)(2)and (c)(1). Following *Rostenkowski* and *Durenberger*, the court will address each category of charges in order to determine whether any count requires the use of House Rules. If House Rules are necessary for the success of the prosecution, the court will then determine whether the rules at issue are ambiguous.

*Wire Fraud (Counts 1-5, 8-9)*

Counts 1-5 and 8-9 charge Defendant with wire fraud under 18 U.S.C. § 1343. Section 1343 states:

> Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both.

18 U.S.C. § 1343

Here, in order to succeed in its prosecution of Counts 1-5 and 8-9, the Government must prove that

Defendant devised or intended to devise a scheme to obtain money by means of false or fraudulent pretenses or representations.[2] The court's initial inquiry is whether the counts charged under § 1343 require the application of any House Rule.[3]

*-Counts 1-5-*

The first five counts contained in the Indictment charge Defendant with wire fraud based on Defendant's receipt of funds following his submission of allegedly fraudulent mileage reimbursement claims to the House of Representatives. These counts include the following reimbursements:

Count 1 - January 21, 2012 - $1,292.85

Count 2 - July 9, 2012 - $1,428.00

Count 3 - September 9, 2013 - $1,925.00

Count 4 - April 17, 2014 - $1,313.76

Count 5 - October 14, 2014 - $1,218.00

All five counts rest on the assertion that Defendant submitted false mileage reimbursement claims to the

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[2] "To convict a person under § 1343, the government must prove that he '(1) was involved in a scheme to defraud; (2) had an intent to defraud; and (3) used the wires in furtherance of that scheme.'" *United States v. Weimar*, 819 F.3d 351, 354 (7th Cir. 2016).

[3] Defendant has not argued, and the court does not find, that House Rules are necessary for the Government to prove that Defendant used "wires" in furtherance of the alleged scheme. Therefore, although the Government must prove this element at trial in order to obtain a conviction on Counts 1-5 and 8-9, the court need not analyze this particular element here.

House in order to obtain money. The House Rules provide the mechanism by which Defendant received the money. Also important is the fact that the House Rules determine the appropriateness of mileage reimbursements. To this end, Defendant argues that the Government cannot proceed on these counts without interpreting ambiguous House Rules and running afoul of the Rulemaking Clause. As Defendant has argued: "How much documentation is required for mileage vouchers? Ambiguous. When is travel official as opposed to personal? Ambiguous."

The court agrees with Defendant that determining whether each transaction outlined above represented a proper distribution of House money pursuant to House Rules would necessitate the application and interpretation of House Rules. However, for the reasons outlined below, the court concludes that it is possible that the appropriateness of the disbursements at issue need not be established in order to obtain a conviction on Counts 1-5. Thus, as pled in the Indictment, the Government need not interpret House Rules in order to succeed on these counts.

In order to obtain a conviction on Counts 1-5, the Government can prove that Defendant submitted false claims in an effort to obtain money. This can conceivably be accomplished without any reliance on House Rules. The Government can prove that the mileage claims submitted by Defendant were false simply by establishing the amount of mileage claimed by Defendant and then producing evidence that the mileage claims were not truthful.

For instance, the Government can succeed on this element if it can produce evidence that Defendant's

mileage reimbursement form claimed Y miles when, in fact, Defendant only traveled X miles. In doing so, the Government would rely on evidence related to the claim itself, and would not need to rely on any interpretation of House Rules. In fact, it would be of no consequence whether the claims underlying the mileage reimbursement submissions would be covered under House Rules. Instead, the veracity of the claim itself, and not the House Rules related to reimbursement, would be all that is necessary to establish whether the claims were truthful.

Likewise, the fact that Defendant made the reimbursement claims in order to obtain money can also be established without any reliance on House Rules. Such a determination would presumably be apparent from the face of the mileage reimbursement forms submitted by Defendant. Even if the Government must establish that the form was used to obtain money from the House, such a finding would not depend on an application or interpretation of House Rules.

Lastly, the Government may be able to show that Defendant sought to obtain money by establishing that Defendant did in fact receive money in the amounts listed above. If the Government can prove that the House issued money to Defendant in response to his reimbursement claims, a jury could conclude that Defendant used those claims in an effort to obtain money. Such a conclusion is possible without any reliance on House Rules.

The court finds the prosecution of Counts 1-5 very similar to the circumstances presented in *Durenberger*. In that case, the D.C. Circuit Court allowed the prosecution of a Senator who provided false

information on claims for reimbursements for lodging. Although the prosecution required reference to Senate Rules, the court concluded that the interpretation of Senate rules was not necessary. Therefore, the court held that maintenance of the action did not place the court in the position of political overseer of the another branch of government. *Durenberger*, 48 F.3d at 1245.

As explained by the court in *Durenberger*,

> The question is not whether Durenberger was entitled to reimbursement if he had submitted truthful vouchers, but whether the false statements in his vouchers were material because they were "capable of influencing" the Senate's reimbursement decision.

*Durenberger*, 48 F.3d at 1244 (citations omitted)

The court in *Durenberger* went on to find that the prosecution "does not require the district court to 'develop rules of behavior for the Legislative Branch,' nor does it ask the court to 'interject itself into practically every facet of [a coordinate] Branch of the federal government, on a continuing basis.' Rather, the district court is called upon simply to determine whether untruths in a Senator's travel vouchers could influence the Senate's reimbursement decision." *Durenberger*, 48 F.3d at 1245 (internal citations omitted).

Here, similar to *Durenberger*, in Counts 1-5, the court is simply called upon to determine whether Defendant made false statements in his mileage reimbursement claims and whether those false statements were part of a scheme for obtaining money. See 18 U.S.C. § 1343. As discussed above, these

findings can be made without any reliance on, let alone an interpretation of House Rules.[4] Therefore, as in *Durenberger*, Counts 1-5 do not automatically force the court to oversee the rules of the legislative branch or to develop that branch's rules of behavior. See *Durenberger*, 48 F.3d at 1245.

In finding that the case is similar to *Durenberger*, the court is not concluding that *Rostenkowski* was wrongly decided. Instead, the court concludes that the concerns related to the Rulemaking Clause as explained in *Rostenkowski* simply do not apply to Counts 1-5. In *Rostenkowski*, the court outlined its concern as follows:

> At trial, the Government will almost certainly rely upon the House Rules in its effort to prove the statutory violations it has alleged. Often, in a prosecution for fraud or embezzlement, the Government must show that the defendant diverted the funds of an institution—such as his employer—from an authorized to an unauthorized purpose. In order to make that showing it is typically necessary to enter into evidence the institution's internal rules governing the expenditure of funds. * * * A congressman's prosecution for fraud and embezzlement of official funds is no different: in order to prove several of the counts against Rostenkowski, the Government must show that he diverted congressional funds from authorized

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[4] Of course, this presumes that the Government's case is *not* premised upon its own interpretation of the House Rules concerning the type of mileage subject to reimbursement.

> to unauthorized purposes. As the regulations governing the use of official funds by a congressman, the House Rules are necessary and proper evidence to make that showing.

*Rostenkowski*, 59 F.3d at 1305 (internal citations omitted).

Here, as explained above, in order to obtain a conviction on Counts 1-5, the Government is not required to prove whether the House disbursements at issue were appropriate under House Rules. Thus, contrary to Defendant's argument, the prosecution of Counts 1-5 would not require the court to determine the proper amount of documentation required for mileage vouchers nor to determine the types of travel for which mileage reimbursements are allowed. Further, unlike in *Rostenkowski*, the prosecution of Counts 1-5 does not necessarily require the Government to prove that Defendant diverted congressional funds from authorized to unauthorized purposes. For these reasons, the court finds the prosecution of Counts 1-5 (if it proceeds as outlined above) does not raise the same concerns as those found in *Rostenkowski*. Still, the court wants to be clear that it finds *Rostenkowski* distinguishable, not erroneously decided.[5]

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[5] The court acknowledges that separation of powers is an important constitutional principle. Therefore, its analysis necessitates serious consideration. However, as stated above, the Rulemaking Clause itself does not allow Members of Congress to "defraud the Government without subjecting themselves to statutory liabilities." See *Durenberger*, 48 F.3d at 1245, citing *Cannon*, 642 F.2d at 1385. Where, as here, the prosecution does not necessitate the interpretation of any internal House Rules, the

For all of the reasons stated herein, the court finds that the prosecution of Counts 1-5 does not require the application of any House Rule. Therefore, the prosecution of these counts, as charged in the Indictment, is not prohibited by the Rulemaking Clause. See *Durenberger*, 48 F.2d at 1245-46. However, before moving on, the court must make an important point.

This court's ruling does not foreclose the possibility that the prosecution of Counts 1-5 may ultimately run afoul of the Rulemaking Clause. At this stage in the litigation, the court is simply concerned with the sufficiency of the Indictment. See *Vaughn*, 722 F.3d at 925-26. Thus, because Counts 1-5 can be established without reliance on House Rules, as outlined above, they are not subject to dismissal under the Rulemaking Clause at this time. However, because the court is not yet privy to the evidence the Government will rely upon during trial, it is possible that this issue may need to be revisited.

If the Government's evidence seeks only to establish that the claimed mileage did not accrue, as explained above, the Rulemaking Clause will not be implicated. However, if the Government's evidence instead focuses on the appropriateness of certain mileage claims as they relate to House Rules, the prosecution will likely run afoul of the Rulemaking Clause. For example, if the Government seeks to establish that Defendant submitted a mileage voucher for 1,000 miles, and then

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concerns expressed in *Rostenkowski* are not applicable. Without such concerns, the clause simply does not protect legislators from prosecution for fraudulent behavior.

asserts that 200 of those miles were falsely claimed because, under House Rules, those miles involved personal, non-reimbursable travel, the prosecution would likely fall within the scope of *Rostenkowski*.

At this stage, it is simply too early to determine the evidence the Government will produce to establish the elements contained in § 1343. For the reasons contained herein, Defendant's motion to dismiss as it relates to Counts 1-5 is denied. However, if at any time it becomes apparent that the prosecution will rely upon evidence that requires the interpretation of House Rules, Defendant may resubmit this issue to the court for consideration at that time.[6]

*-Count 8-*

Count 8 charges Defendant with wire fraud as it relates to a House interstate payment of $15,000 to an Illinois designer/decorator. The Indictment claims that as part of the submission of vouchers and claims related to the designer/decorator, Defendant, "through his Executive Assistant, made false representations that the claims were 'for services to assist the member in setting up our district and DC offices' and 'includes using materials from our district and rearranging/designing/structuring the space to best suit the member and staff's needs.'" Thus, the Indictment alleges that Defendant's submissions to the House for reimbursement were false and that the

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[6] To be clear, if the Government attempts to rely on any House Rule in order to establish that a statement made by Defendant was false, this court will be forced to reevaluate the issue. This is true for Counts 1-5 as well as Counts 8, 10, and 12-13.

House did in fact make a payment to the designer/decorator based on these representations.

Defendant argues that this count should be barred by the Rulemaking Clause because its prosecution would require the interpretation of ambiguous House Rules. As an example, Defendant notes that House Rules allow for the reimbursement of decorations of "nominal value." Defendant then ponders: "What does 'nominal' value mean? Ambiguous." However, for similar reasons as those stated above, the court finds that prosecution of Count 8 does not require the interpretation of this or any House Rule.

As with Counts 1-5, a conviction under Count 8 can be achieved if the Government can show that the submission of vouchers and claims for reimbursement related to the designer/decorator contained false statements or misrepresentations and that the statements contained therein were used in an effort to obtain money. In order to show that the vouchers or claims contained false statements, the Government can simply rely on the submitted documentation and evidence surrounding the truthfulness of the statements contained in the documents. Such evidence would not necessitate the application or interpretation of any House Rule. Further, as with Counts 1-5, the fact that Defendant's statements were made in an effort to obtain money could be proven by the face of the document or by the fact that payment was made in accordance with the voucher or claim. Again, these facts can be established without any reference to House Rules.

By use of the evidence explained above, a conviction on Count 8 can be obtained without any determination

of whether the House payment at issue was appropriate under House Rules. Therefore, the court need not bother itself with the meaning of terms such as "nominal value" contained within the rules. Instead, what is important in this case is whether Defendant made false statements in an attempt to obtain money. Because the veracity of Defendant's statements and the fact that money was sought or obtained can be established without reliance on House Rules, the concerns contained in *Rostenkowski* are not found here. See *Rostenkowski*, 59 F.3d at 1305. Since the application of House Rules is not necessary, the court finds the prosecution of Count 8 is appropriate and is not barred by the Rulemaking Clause. See *Durenberger*, 48 F.2d at 1245-46. However, as with Counts 1-5, if the Government seeks to establish any element with evidence that necessitates the application of House Rules, this issue may be revisited at the appropriate time.

*-Count 9-*

Count 9 charges Defendant with wire fraud as it relates to his participation in an annual "Congressman Aaron Schock Washington, DC Fly-In" event. The Government alleges that the event, which began in 2011, invited constituents to travel to Washington D.C., at their own expense, and attend various meetings with political leaders arranged by Defendant and his staff. As part of the solicitation for the fly-in events, Defendant distributed an advertisement which represented that event participants would be charged a "Fly-in Conference Fee" to cover the two day event, meals, and program materials. It was not disclosed to

the public that Defendant intended to personally profit from the payment of excess registration fees.

The Government alleges that funds recovered from the 2011 event were placed into a bank account in Florida which Defendant had asked a friend to establish and which was setup under the fictitious name "Global Travel International." In September of 2011, Defendant allegedly caused $4,482.21 in excess funds from the event to be paid to himself personally. In doing so, the Government alleges that Defendant "violated the House Rules, which prohibited him from using his official position for personal gain and which required him to return any excess funds to the fly-in participants or donate such funds to charity." The Government further alleged that Defendant "failed to disclose this additional income on his annual financial disclosure form."

The Indictment goes on to allege that by 2014, the Florida bank account was closed and Defendant asked another friend in Illinois to utilize her account to administer receipt of event fees and payment of event expenses. In December of 2014, Defendant allegedly "attempted to personally profit again from the fly-in event by submitting a false and fraudulent invoice in the amount of $11,000 for 'Services Rendered' in the name of his limited liability corporation, Menards Peoria LLC, for payment from excess fly-in funds." Pursuant to the invoice, Defendant directed a check for $11,000 to be mailed to him at his residence in Peoria, Illinois.

As with the other counts brought under § 1343, in order to obtain a conviction for wire fraud on Count 9, the Government must establish that Defendant devised

or intended to devise a scheme to obtain money by means of false or fraudulent pretenses or representations. 18 U.S.C. § 1343. Defendant argues that, as charged in the Indictment, the only way the Government can prove that he devised a scheme to obtain money by means of false of fraudulent pretenses is with reliance on House Rules. For the following reasons, the court agrees.

In Count 9, the Government outlines the scheme to defraud using the allegations stated in the above paragraphs. The indictment then goes on to specifically allege wire fraud based upon Defendant's invoice for $11,000, which the Government claims was false or fraudulent.[7] As with other counts in the Indictment,

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[7] In its response, the Government claims that the Indictment also alleges that, as part of the scheme, Defendant lied "to his own constituents by fraudulently soliciting funds from them for registration fees and diverting the excess funds to his personal use." However, the court does not read the Indictment the same way as the Government. Indeed, although the Indictment makes the claim that Defendant intended to personally profit from the fly-in fees, there are no allegations that Defendant's failure to disclose this fact was fraudulent. The simple fact that Defendant could have profited from fees is not sufficient to allege fraud. Finding so would mean that all individuals who profit from fees anonymously could be violating § 1343. Almost all events, whether political, sporting, or otherwise, in the current time frame, charge those buying tickets certain fees. There are always individuals who profit from those fees, however, the identity of these individuals is rarely, if ever, disclosed. Further, in this case, the Government has specifically alleged that Defendant and his staff arranged various meetings and otherwise participated in the fly-in events. Based on his participation, it should not surprise anyone that some of the fees might have gone to Defendant. Simply put, the Indictment does not sufficiently plead fraud on event participants or

the court finds that establishing the veracity of the claim made in Defendant's invoice would be apparent from the invoice itself and evidence related to the claim. Here, the invoice was for "Services Rendered" by Defendant's corporation, Menards Peoria LLC. If the Government can prove that Menards Peoria LLC did not render services for which the $11,000 could apply, then it could establish that the claim is false without any reliance on House Rules. However, while House Rules may not be necessary to establish the veracity of the claim, the facts pled in the Indictment suggest that House Rules are necessary to establish that the claim was part of a scheme to obtain money through false or fraudulent pretenses.

The Government's reliance on House Rules to prove that the claim contained in the $11,000 invoice was part of a scheme to obtain money through false or fraudulent pretenses is evident from the facts pled in the Indictment. As the following paragraphs illustrate, the facts provided by the Government establish that the sole purpose of the claim was to allow Defendant to circumvent House Rules which, according to the Government, would have prevented him from profiting from the annual fly-in event. For this reason, the Government's reliance on House Rules is absolutely necessary.

According to the Government's theory of the case, the $11,000 at issue in Count 9 originated from a bank

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Defendant's constituents. Therefore, the court will not entertain the Government's revisionist pleading as expressed in its response. Thus, the only allegation of fraud properly pled in the Indictment relates to the $11,000 invoice.

account belonging to Defendant's friend. The Government alleged that Defendant instructed his friend to utilize her account to "administer receipt of fly-in fees and payment of fly-in expenses" and that it was Defendant, not the friend, who directed the $11,000 check be mailed to Defendant's residence. These facts establish that Defendant's friend was involved in the alleged scheme at the direction of Defendant. As such, Defendant would have had no reason to submit a false claim in order to obtain money from his friend's account. In fact, there are no allegations in the Indictment that Defendant needed to make such a claim in order to receive a payment from the account. These facts distinguish Count 9 from all other counts analyzed herein.

Unlike Counts 1-5, 8, and 10, which allege that Defendant received money from the United States Congress as a result of fabricated reimbursement claims, the allegations contained in Count 9 suggest that Defendant did not have to make a false claim in order to obtain the funds at issue. Instead, as pled, a false claim was necessary for the sole purpose of converting money Defendant already controlled through a third party to his personal use without triggering the prohibitions allegedly contained in House Rules. In fact, the only allegations in the Indictment related to the need for a false claim stem from Defendant's alleged desire to circumvent the House Rules cited by the Government. As such, the facts alleged in the Indictment establish that the Government must rely on House Rules in order to prove that the claim contained in the $11,000 invoice

was part of a scheme to obtain money through false or fraudulent pretenses.[8]

The Government's reliance on House Rules is also evident from the wording of the allegations themselves. While describing the alleged scheme giving rise to Count 9, the Government specifically claims that Defendant "violated the House Rules, which prohibited him from using his official position for personal gain," and that Defendant "failed to disclose this additional income on his annual financial disclosure form." The court assumes that the language used by the Government in an indictment is not superfluous. Therefore, the reference to House Rules directly in Count 9 shows that the rules are important in establishing the alleged scheme.

For all of the reasons stated herein, and after a thorough review of the allegations contained in the Indictment, this court concludes that the House Rules cited by the Government in Count 9 provide the only basis for determining whether the claim contained in the $11,000 invoice was part of a scheme to obtain money by means of false or fraudulent pretenses. As such, it will be necessary for the Government to rely upon and interpret House Rules in order to obtain a

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[8] If the House Rules cited by the Government prohibited Defendant from receiving money from the fly-in events, the Government could establish that the claim was an attempt to fraudulently circumvent House Rules in order to obtain money. However, if House Rules allowed Defendant to profit from the fly-in events, the Government would not be able to establish a scheme to obtain money by false or fraudulent pretenses since there are no other allegations which would necessitate a false claim being made by Defendant in order to receive the $11,000 from his friends account.

conviction on Count 9. Therefore, the court must shift its focus to a discussion of whether the House Rules at issue are ambiguous. If the rules are not sufficiently clear, the court must conclude that Count 9 is non-justiciable. See *Rostenkowski*, 59 F.3d at 1306; *Durenberger*, 48 F.2d at 1245; *Baker*, 369 U.S. at 217.

After a review of the Indictment, the court concludes that the House Rules relied upon by the Government are ambiguous for two reasons. First, the Government does not provide any citation to or quotations from the specific rules it references in the Indictment. In fact, the Government simply states that House Rules "prohibited [Defendant] from using his official position for personal gain" and "required [Defendant] to return any excess funds to the fly-in participants or donate such funds to charity." The Government also claims that Defendant "failed to disclose this additional income on his annual financial disclosure form." However, despite these allegations, the court is left to speculate as to which House Rules the Government is relying upon. This is not acceptable. The Government's failure to identify the specific House Rules at issue renders the application of any rule ambiguous as pled in the Indictment.

Second, even assuming that the Government correctly stated the wording of the rules upon which it relied, the application of those rules is ambiguous. The wording the Government provided related to the rule which would prohibit Defendant from "using his official position for personal gain," is lacking in specifics.[9]

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[9] Although not cited by the Government, Defendant believes that the actual rule the Government is relying upon is House Rule

Whether Defendant's receipt of excess fly-in event fees is a situation where Defendant is "using his official position for personal gain" is not sufficiently clear. While it is certainly one conclusion which the House could make, it is possible the rule is meant to apply to more serious situations, such as a member receiving or demanding a bribe.[10] However, because it is unclear, determining whether the House meant the rule to apply to the facts pled in the Indictment would place the court in the position of political overseer of the legislative branch and require it to develop that branch's rules of behavior. This is something which the court may not do. See *Durenberger*, 48 F.3d at 1245; *Baker*, 369 U.S. at 217.

Also ambiguous is the rule requiring Defendant to "disclose this additional income on his annual financial disclosure form." The Government failed to state with specificity the detailed information this rule allegedly requires members to disclose in their annual financial disclosures. Without more, the court must conclude that the rule, as pled by the Government, is clearly ambiguous and again would require the court to develop rules of behavior for the legislative branch.

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XXIII(3) which states:

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

[10] This is especially true if the Government is relying upon House Rule XXIII(3).

Thus, its application in this prosecution is not appropriate. See *Durenberger*, 48 F.3d at 1245; *Baker*, 369 U.S. at 217.

As pled, the prosecution of Count 9 requires the interpretation of ambiguous House Rules. For this reason, the prosecution of Count 9 violates both the Rulemaking Clause and the constitutional principle of separation of powers. See *Durenberger*, 48 F.3d 1239; *Rostenkowski*, 59 F.3d 1291; *Baker*, 369 U.S. at 217. Therefore, Count 9 must be dismissed.

*Mail Fraud (Count 10)*

Count 10 charges Defendant with mail fraud in violation of 18 U.S.C. § 1341. Section 1341 states:

> Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises * * * places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both.

18 U.S.C. § 1341.

As part of the court's analysis, § 1341 contains similar elements to § 1343 which the court considered above. Applied in this prosecution, under both statutes, the Government must prove that Defendant devised or intended to devise a scheme for obtaining money by means of false or fraudulent pretenses, representations, or promises. See 18 U.S.C. §§ 1341, 1343. The primary difference between the two statutes is that in order to be convicted under § 1341, a defendant must use a postal service instead of wire, radio, or television communications.[11] With similar elements to those found in § 1343, the court's analysis of the Rulemaking Clause's application to Count 10 follows a similar path as its analysis of Counts 1-5 and 8-9 above.

In Count 10, the Government alleges that Defendant committed mail fraud when he "knowingly caused to be delivered by UPS * * * a shipment/mailing, from B & H Photo in New York to Defendant Schock's Congressional Office in Peoria, Illinois." The factual allegations contained in the Indictment allege that: (1) Defendant used his personal credit card to purchase $29,021.45 in camera equipment from B & H Photo in New York; (2) thereafter, Defendant submitted false invoices for "multimedia services" in the amount of $29,021.45 to the House for reimbursement; (3) as a result of the representations in the false voucher and invoices, the

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[11] Like the wire fraud counts, there is no argument that House Rules are necessary for the Government to prove the element that Defendant used the postal service or any private or commercial interstate carrier. Therefore, the court will focus its analysis of the Rulemaking Clause on the other elements contained in § 1341.

House authorized a payment of $29,021.45 on December 15, 2014; and (4) the funds were deposited in a staff member's bank account and then used to make direct payments to Defendant's personal credit card.

The Government can obtain a conviction on Count 10 if it can prove that the claims contained on vouchers submitted by Defendant (or at his direction) were false and that the vouchers were used to obtain money. Establishing the truthfulness of the claims does not rely on an interpretation of any House Rule. Instead, the claim itself and evidence surrounding the claim is all that is needed. As with Counts 1-5 and 8 discussed above, the court need not concern itself with the appropriateness of the claims as they relate to House Rules. In fact, whether the camera equipment was reimbursable under House Rules is of no consequence. What is important in establishing whether the claim was false or fraudulent is whether Defendant was truthful when he made his claim for reimbursement. See *Durenberger*, 48 F.3d at 1245.

Still, Defendant argues that in order to determine whether his voucher submission was truthful, the Government must prove that the voucher contained a label choice that was inaccurate under the applicable Voucher Documentation Standards established by House Rules. The court does not agree.

While the label choice certainly goes to the veracity of Defendant's claim, it is the label Defendant used in the voucher, and not a label he *could have* used, which is important. Whether the label and claims contained within the voucher could describe camera equipment will be a question for the jury and their conclusion will be based upon the claims made by Defendant and the

evidence surrounding the actual use of the money. If the jury finds that the money was spent on camera equipment and that the claims made in the voucher submission did not represent such an expenditure, then the veracity of the statements will be evident from the voucher claims themselves. Concluding that the claimed expenditure and the actual expenditure are the same or different requires no interpretation of House Rules and does not depend on the various labels Defendant could have used in accordance with such rules.

House Rules are also not necessary to establish whether the allegedly untruthful vouchers were used by Defendant as part of a scheme for obtaining money. Instead, this element can be proven simply by establishing that Defendant submitted a voucher request for $29,021.45 and received a payment from the House for $29,021.45. As with the counts above, the fact that the House made a payment to Defendant is a fact in and of itself and no interpretation of House Rules is necessary to establish that a payment was made. If the Government can establish the above facts, it is possible for a jury to conclude that the vouchers submitted by Defendant were part of a scheme for obtaining money through false or fraudulent pretenses. The jury could make that conclusion without any discussion of House Rules.

For all of the reasons stated herein, the court concludes that the elements necessary for a conviction on Count 10 can be established without the application of House Rules. As such, the prosecution of this count does not place the court in the position of political overseer of another branch of government. See

*Durenberger*, 48 F.3d at 1245. It also does not raise the same concerns expressed by the D.C. Circuit Court in *Rostenkowski*. See *Rostenkowski*, 59 F.3d at 1305. Therefore, the Rulemaking Clause does not bar prosecution of Count 10. However, as with the counts above, if the Government seeks to establish any element with evidence that necessitates the interpretation of House Rules, this issue may be revisited at the appropriate time.

*False Statements (Counts 12-13)*[12]

Counts 12 and 13 charge Defendant with the making of false statements in violation of 18 U.S.C. §§ 1001(a)(2), (c)(1). In order to obtain a conviction on these counts, the Government must prove that Defendant knowingly and wilfully made a materially false, fictitious, or fraudulent statement or representation in any matter within the jurisdiction of any branch of the federal government. 18 U.S.C. § 1001(a)(2). Because this matter is within the jurisdiction of the legislative branch, the Government must also prove that the statements at issue apply to

[12] Defendant's arguments regarding the Rulemaking Clause's application to Counts 12 and 13 are slightly confusing. In his Memorandum in Support (#77), Defendant did not argue that Counts 12 and 13 require the interpretation of House Rules but that they should be dismissed simply because they incorporate and rely upon counts that do. However, in his Consolidated Reply Memorandum (#99), Defendant did argue, albeit briefly, that Counts 12 and 13 themselves require the interpretation of House Rules and thus invoke the Rulemaking Clause. Therefore, despite the confusion in his filings, the court will err on the side of caution and address the application of the Rulemaking clause on Counts 12 and 13.

administrative matters such as "a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch." 18 U.S.C. § 1001(c)(1).

As charged in the Indictment, Count 12 relates to Defendant's allegedly false statement regarding the $29,021.45 voucher submission labeled "WEB DEV HST, EMAIL & RELTD SERV" which the Government contends was actually spent on camera equipment. Count 13 relates to the $15,000 voucher submission labeled "NON-TECHNOLOGY SERVICE CONTR" which was paid to an Illinois designer/decorator and which, according to the Government, was actually used to pay Defendant's personal expenses associated with the design and furnishing of his Congressional Office. Both counts allege that Defendant made false, fictitious, and fraudulent statements and representations when submitting documentation related to his claims for payment to the legislative branch.

Here, in order to succeed on Counts 12 and 13, the Government only needs to prove that Defendant made materially false, fictitious, or fraudulent statements or representations on his claims for payment to the legislative branch. Determining whether the statements are false or fictitious requires reliance on the claims themselves and evidence surrounding their

veracity.[13] Concluding that the claim was submitted to the legislative branch for payment requires reliance only upon the voucher claim itself. Neither finding requires any interpretation or discussion of House Rules. Therefore, the court finds that the prosecution of Counts 12 and 13 does not automatically violate the Rulemaking Clause. See *Durenberger*, 48 F.3d at 1245. However, for the reasons addressed above, if, at any time, the Government seeks to establish the veracity of any claim with evidence that necessitates the application of House Rules, this issue may be revisited.

B. Speech or Debate Clause

Defendant next argues that the prosecution of this case implicates the Speech or Debate Clause, which states:

> The Senators and Representatives [] shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

U.S. Const. art. I, § 6, cl. 1.

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[13] For reasons stated above, the court does not agree with Defendant's argument that Count 12 requires the court to interpret ambiguous House Rules regarding how media services should be labeled (as in Count 10) or that Count 13 requires the interpretation of House Rules regarding what "nominal" value means (as in Count 8).

"The Speech or Debate Clause was designed to assure a co-equal branch of the government wide freedom of speech, debate, and deliberation without intimidation or threats from the Executive Branch." *Gravel v. United States*, 408 U.S. 606, 616 (1972). As such, the clause "protects Members [of Congress] against prosecutions that directly impinge upon or threaten the legislative process." *Gravel*, 408 U.S. at 616.

The protections provided by the Speech and Debate Clause extend to all matters that are "an integral part of the deliberative and communicative process by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." *Gravel*, 408 U.S. at 625; see also *Rostenkowski*, 59 F.3d at 1302. However, the clause's extension to matters beyond pure speech or debate is limited to situations where such protection is "necessary to prevent direct impairment of such deliberations." *Gravel*, 408 U.S. at 625 (internal quotations omitted). Thus, while the Speech or Debate Clause is a member of Congress's primary source of constitutional protection from criminal prosecution, its protection does not extend beyond what is necessary to preserve the integrity of the legislative process itself. See *Rostenkowski*, 59 F.3d at 1302.

In *Gravel*, the Supreme Court noted that, "[w]hile the Speech or Debate Clause recognizes speech, voting, and other legislative acts as exempt from liability that might otherwise attach, it does not privilege either [Congressman] or aide to violate an otherwise valid

criminal law in preparing for or implementing legislative acts." *Gravel*, 408 U.S. at 626. The Court added that "legislators ought not to stand above the law they create but ought generally" be bound by it "as are ordinary persons." *Gravel*, 408 U.S. at 615. For this reason, the Court has concluded that "[t]he Speech or Debate Clause does not prohibit inquiry into illegal conduct simply because it has some nexus to legislative functions." *United States v. Brewster*, 408 U.S. 501, 528 (1972). Instead, to be privileged, the speech must be part of the legislative process itself. *Brewster*, 408 U.S. at 528.

Defendant argues that the Speech or Debate Clause prohibits the prosecution of this case because it would require Defendant to answer for his speech on matters within the jurisdiction of the House of Representatives. Defendant's argument is based on two theories. First, Defendant claims the allegations in the Indictment rely on his speech undertaken in accordance with his authority as a member of Congress to engage in congressional rulemaking. Second, Defendant claims that the prosecution of this case requires evidence related to his speech regarding his understanding of House Rules related to the submission of vouchers. The court will address each theory in turn.

Defendant's first theory is based on a legal principle that has no application to the facts alleged in the Indictment. Defendant cites to *Consumers Union of United States, Inc. v. Periodical Correspondents' Association*, 515 F.2d 1341 (D.C. Cir. 1975), for the proposition that rulemaking is just as much a legislative act as voting on bills and, therefore, a member's participation in rulemaking enjoys the

protections provided by the Speech or Debate Clause. While this legal theory may be sound, its application is only appropriate when a member is actually participating in congressional rulemaking.

In *Consumers Union*, the D.C. Circuit Court concluded that the Periodical Correspondents' Association (Association) was enforcing internal rules of Congress when it refused to accredit Consumers Union's publication and allow its representative access to the Association's congressional press galleries. *Consumers Union*, 515 F.2d at 1350. Because the Association was tasked with enforcing congressional rules and because the challenged conduct related to the "execution of internal rules," the D.C. Circuit Court found that the Association's actions were immune from inquiry under the Speech or Debate Clause. *Consumers Union*, 515 F.2d at 1351.

Here, by contrast, Defendant is not alleged to have engaged in any conduct related to the "execution of internal rules." In fact, the Indictment does not allege any facts in which Defendant, or anyone else, was acting within their authority or the authority of Congress to make or enforce congressional rules. Instead, Defendant's conduct, as charged in the Indictment, would be better characterized as rule-breaking, not rulemaking. While the Constitution gives Congress the authority to make and enforce its own rules, it does not provide members of Congress with the authority to circumvent those rules unilaterally through lies or false statements. Such conduct, much like bribery, "is, obviously, no part of the legislative process or function; it is not a legislative act." *Brewster*, 408 U.S. 501. Therefore, because this case does not

involve any allegations related to Defendant's actual participation in congressional rulemaking, Defendant's claim, as it relates to *Consumers Union*, that his alleged conduct was within the legislative sphere, is not convincing.

Defendant next claims that the prosecution of this case would require the production of evidence related to his speech with aides regarding the proper submission of vouchers pursuant to House Rules. The court has already concluded that the Government need not establish the appropriateness of the House disbursements at issue in determining whether Defendant violated 18 U.S.C. §§ 1343, 1341, 1001(a)(2), (c)(1). Therefore, evidence related to Defendant's speech regarding his interpretation or application of House Rules is not necessary. To the extent that Defendant himself chooses to present evidence related to his discussions regarding House Rules, "the constitutional protection against his being 'questioned' for his legislative acts 'does not prevent [him] from offering such acts in his own defense, even though he thereby subjects himself to cross-examination.'" *Rostenkowski*, 59 F.3d at 1303, quoting *United States v. McDade*, 28 F.3d 283, 295 (3rd Cir. 1994); see also *United States v. Myers*, 635 F.2d 932, 942 (2nd Cir. 1980).

For the reasons stated above, and after a thorough and comprehensive review of the Indictment, the court concludes that the prosecution of Defendant does not require any inquiry into speech which occurred in the House or any speech which is necessary to preserve the integrity of the legislative process itself. See U.S. Const. art. I, § 6, cl. 1.; *Rostenkowski*, 59 F.3d at 1302.

Nor does the prosecution of this case require any inquiry into legislative acts or the motivation for legislative acts. See *Brewster*, 408 U.S. at 525. Therefore, the court finds that the prosecution of Defendant, under the Indictment in this case, is not prohibited by the Speech or Debate Clause.

C. Due Process Clause

Defendant's final constitutional argument contained in his first motion to dismiss is based on the fifth amendment's Due Process Clause. See U.S. Const. amend. V.[14] Defendant's argument rests upon his contention that the prosecution of the fraud and false statement counts contained in the Indictment are premised on allegations that Defendant violated ambiguous House Rules. However, the court finds Defendant's argument fails for one simple reason. As stated above, the fraud and false statement counts which have survived Defendant's motion to dismiss may not rely on the application or interpretation of House Rules. Therefore, even if those rules are ambiguous, the Due Process Clause is not implicated. For this reason, the court concludes that the prosecution of the remaining fraud and false statement counts does not violate the Due Process Clause.

D. Incorporation of Unconstitutional Allegations

Defendant has argued that Counts 14-24 should be dismissed because they incorporate and rely upon the

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[14] In his second Motion to Dismiss (#78), Defendant has argued that the counts brought under 18 U.S.C. § 1519 also violate the Due Process Clause. The court will address that argument, and all arguments regarding § 1519, in the next section.

allegedly unconstitutional allegations contained in the counts before them. While this argument may have been convincing had the court dismissed Counts 1-13, that is not the case. Because the court has found that only one count, Count 9, should be dismissed based on the constitutional concerns raised in Defendant's first motion to dismiss, the court does not believe that the remaining counts warrant dismissal for the reasons stated in Defendant's brief.

For all the reasons stated herein, Defendant's Motion to Dismiss (#76) is GRANTED in part and DENIED in part. Count 9 of the indictment is hereby dismissed.

III. Failure to State an Offense, Counts 14-18

Defendant's second Motion to Dismiss (#78) argues that Counts 14-18 should be dismissed for failure to state an offense. Counts 14-18 rest upon allegations that Defendant participated in the falsification of Federal Election Commission (FEC) filings. Despite their reliance on documents filed with the FEC, Counts 14-18 do not allege violations of the Federal Election Campaign Act (FECA). Instead, these counts are premised on 18 U.S.C. § 1519. Section 1519 states:

> Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under

> this title, imprisoned not more than 20 years, or both.

18 U.S.C. § 1519.

Defendant argues that the prosecution of Counts 14-18 under § 1519 is improper as it would upset the careful legal and regulatory framework Congress crafted in the FECA and would infringe upon Defendant's constitutional rights. Defendant has made many arguments to support these two contentions. The court will address each argument in turn.

Defendant first contends that the application of § 1519 to the facts contained in Counts 14-18 would upset the carefully crafted balance Congress sought to achieve with the FECA. To support this claim, Defendant argues that, unlike § 1519, the FECA was designed to safeguard against concerns related to the separation of powers and core political speech protected by the First Amendment. Also, unlike § 1519, the FECA takes into account that mistakes in FEC filings are inevitable. Further, Defendant argues that adjudication under the FECA is more appropriate because the FECA contains a lesser proof requirement and provides less serious penalties than § 1519; and because there is no established practice for applying § 1519 to the passive receipt of FEC documents.

For the reasons that follow, although the court agrees with Defendant's characterization and purpose of § 1519, the court concludes that Defendant's arguments do not support the dismissal of Counts 14-18 for failure to state an offense. Most of the arguments advanced by Defendant, as outlined above, support Defendant's contention that the allegations contained

in Counts 14-18 would be more appropriate if brought under the FECA as opposed to § 1519. However, even if this is true, the court cannot dismiss these counts simply because a more appropriate avenue of prosecution exists. The United States Supreme Court has long recognized that the decision "to prosecute and what charge to file or bring before a grand jury are decisions that generally rest in the prosecutor's discretion." *United States v. Batchelder*, 442 U.S. 114, 124 (1979). Accordingly, "when an act violates more than one criminal statute, the Government may prosecute under either so long as it does not discriminate against any class of defendants." *Batchelder*, 442 U.S. at 123-24.

A prosecutor's discretion extends to cases involving two distinct statutes with different proof requirements and penalties. In *Batchelder*, the Court concluded that "there is no appreciable difference between the discretion a prosecutor exercises when deciding whether to charge under one of two statutes with different elements and the discretion he exercises when choosing one of two statutes with identical elements." *Batchelder*, 442 U.S. at 125. The Court went on to find that, while a "prosecutor may be influenced by the penalties available upon conviction, [] this fact, standing alone, does not give rise to a violation of the Equal Protection or Due Process Clause." *Batchelder*, 442 U.S. at 125. "Just as a defendant has no constitutional right to elect which of two applicable federal statutes shall be the basis of his indictment and prosecution neither is he entitled to choose the penalty scheme under which he will be sentenced." *Batchelder*, 442 U.S. at 125.

Based on the precedent outlined in *Batchelder*, the court cannot concern itself with the many options available to the Government in a criminal prosecution, nor with the fact that one option may have a greater proof requirement and a more serious penalty. Instead, when dealing with a motion to dismiss for failure to state an offense, the court must focus on whether the specific facts alleged in the charging document are within the scope of the relevant criminal statute. See *Carroll*, 320 F.Supp.2d at 752. Where as here, Defendant's arguments do not address the appropriateness of § 1519, but instead only support his claim that adjudication under the FECA is superior, dismissal is not warranted. See *Batchelder*, 442 U.S. at 123-24.

To the extent that Defendant's arguments reach beyond matters committed to the sound discretion of the prosecutor, the court is not convinced by Defendant's claims. Counts 14-18 charge Defendant with the knowing falsification of FEC documents. Such allegations negate Defendant's arguments with respect to the First Amendment since, as the Seventh Circuit has noted, "[s]peech which is false and misleading is not protected by the First Amendment's right to freedom of speech." *United States v. Cueto*, 151 F.3d 620, 634 n. 11 (7th Cir. 1998). Allegations of knowing falsification also render moot Defendant's numerous arguments related to the FECA's protections for errors, mistakes, and omissions in FEC filings. While it may be true that the FECA anticipated errors, mistakes, and omissions, this prosecution does not deal with such incidents. Instead, this prosecution centers on allegations of *knowing* falsehoods. Neither the FECA nor § 1519 protects against a knowing falsehood.

Also not convincing is Defendant's claim that dismissal is warranted because there is no established practice of applying § 1519 to the passive receipt of FEC filings.[15] Defendant argues that, without an established practice, there is no support for the application of § 1519 to the allegations in the Indictment. The court does not agree. The lack of an established practice alone does not support a conclusion that the application of certain facts to a statute is improper. If this were the case, every statute would be found wanting during its first attempted application. As a common colloquialism notes, there is a first time for everything. Therefore, when ruling on a motion to dismiss for failure to state an offense, the court is not as concerned with the lack of an established practice as much as it is concerned with the proper scope of the statute. See *Carroll*, 320 F.Supp.2d at 752. Here, because Defendant's argument on this point relates solely to the lack of an established practice, and not to the proper scope of § 1519, dismissal for failure to state an offense is not warranted.

For all of the reasons stated above, the court is not convinced by Defendant's argument that dismissal is appropriate because the prosecution of Counts 14-18 under § 1519 would upset the balance created by Congress in the FECA. Therefore, the court will turn its attention to Defendant's second contention.

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[15] Despite this claim, Defendant cites two cases where § 1519 *was used* in a prosecution related to FEC filings. See *United States v. Fattah*, 223 F.Supp.3d 336 (E.D.Pa. 2016); Superseding Indictment, *United States v. Jesse Benton*, No. 4:15-CR-103 (S.D. Iowa Nov. 19, 2015).

Defendant's second contention is that, as applied in this prosecution, Counts 14-18 violate his constitutional right to due process. See U.S. Const. amend. V. Defendant's argument is premised on his assertion that, as applied, § 1519 is unconstitutionally vague. According to Defendant, the application of § 1519 to the facts charged in the Indictment would require Defendant, and all political candidates and politicians, to comply with "the unannounced reporting standards of nearly a hundred different prosecutorial offices" and would allow for "arbitrary and discriminatory enforcement in an arena already ripe for political gamesmanship." Defendant argues that there are "many errors that could support a prosecution on the government's theory of the case." And that allowing the application of § 1519 to the allegations in the Indictment would give "prosecutors extraordinary leeway to arbitrarily pick candidates to target under Section 1519." For the following reasons, the court does not agree with Defendant.

Due process requires that criminal statutes provide "a person of ordinary intelligence fair notice that his contemplated conduct is forbidden." *United States v. Harriss*, 347 U.S. 612, 617 (1954). "The underlying principle is that no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed." *Harriss*, 347 U.S. at 617. The Due Process Clause also protects against statutes which provide inadequate direction to law enforcement authorities and, thereby, "authorize [or] encourage arbitrary and discriminatory enforcement." *Chicago v. Morales*, 527 U.S. 41, 56 (1999). Where, as here, First Amendment rights are potentially involved, an even

"greater degree of specificity" is required. *Smith v. Goguen*, 415 U.S. 566, 573 (1974).

In determining whether a statute is unconstitutionally vague, the court must first consider whether the statute provides fair notice to a person of ordinary intelligence. To this end, the Supreme Court "has long recognized that the constitutionality of a vague statutory standard is closely related to whether that standard incorporates a requirement of *mens rea*." *Colautti v. Franklin*, 439 U.S. 379, 395 (1979). Where a statute contains a scienter requirement (requiring that a person act with intent or knowledge of wrongdoing), concerns regarding the notice to an individual with ordinary intelligence are ameliorated. *Hill v. Colorado*, 530 U.S. 703, 705 (2000).

Applying this standard to the case at hand, the court concludes that an individual of ordinary intelligence would have been on notice that the allegations contained in the Indictment were forbidden by § 1519. Section 1519 clearly requires that a person act knowingly and with intent. See 18 U.S.C. § 1519. Based on these requirements, and the plain language of § 1519, it is "unlikely that anyone would not understand the common words used in the statute." *Hill*, 530 U.S. at 705.

It is also unlikely that anyone would not understand that the allegations, as charged in Counts 14-18, represent conduct proscribed by § 1519. Unlike the hypothetical situations presented by Defendant, the Indictment clearly alleges *intentional* falsification,

not mistakes or errors.[16] Further, despite Defendant's claims to the contrary, the prosecution does not allege a violation of FEC (or an individual prosecutor's) reporting standards. Instead, the Indictment simply alleges that Defendant knowingly filed documents containing false entries with a government agency with the intent to influence that agency's proper administration of a matter within its jurisdiction. This is exactly the type of situation forbidden by the plain language of § 1519.

The court is also not convinced by Defendant's claim that § 1519 provides inadequate direction to law enforcement authorities. Defendant's argument is based on his assertion that, as applied in this case, § 1519 would allow for the arbitrary prosecution of any error, omission, or misstatement in any document filed with a government agency. This application, according to Defendant, would authorize, or even encourage, a prosecutor to arbitrarily use § 1519 to prosecute political adversaries and anyone who does not meet their individualized reporting standards for government filings. However, for the reasons that follow, the court does not interpret § 1519 the same way as Defendant.

By its plain language, § 1519 only allows for the prosecution of an individual who "knowingly alters,

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[16] The hypothetical situations presented by Defendant do "not support a facial attack on a statute that is surely valid in the vast majority of its intended applications." *Hill*, 530 U.S. at 705; see also *United States v. Philips*, 645 F.3d 859, 863 (7th Cir. 2011) ("when we are presented with an as-applied challenge, we examine only the facts of the case before us and not any set of hypothetical facts under which the statute might be unconstitutional").

destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object." 18 U.S.C. § 1519. As such, the statute does not allow for the prosecution of mistakes, errors, or unintentional omissions. The statute also does not allow for a prosecution based on filings that, although truthful, are in violation of the reporting standards of a federal agency. Therefore, contrary to Defendant's claims, § 1519 does not allow a prosecutor to establish individualized reporting standards for FEC filings.

Section 1519 also states that the knowing action, outlined in the above paragraph, must be made "with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States." 18 U.S.C. § 1519. This requirement further provides direction to law enforcement authorities and limits their ability to arbitrarily enforce the statute. For all of these reasons, and based on its plain language and limitations, the court finds that § 1519 provides adequate direction to law enforcement authorities and does not authorize or encourage arbitrary and discriminatory enforcement.

Having concluded that § 1519 provides adequate notice that the allegations contained in Counts 14-18 were forbidden by the statute, and having concluded that the statute provides adequate direction for law enforcement authorities, the court finds that the application of § 1519 in this case is not unconstitutionally vague.[17] Therefore, the court rejects

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[17] Although the court does not agree with Defendant's argument that Counts 14-18 are unconstitutionally vague, the court does

Defendant's as-applied vagueness challenge under the Due Process Clause. However, before moving on, the court must address a secondary argument raised by Defendant.

Defendant has argued that the application of § 1519 in this case further violates his rights to due process because, when properly constructed, § 1519 does not apply to the allegations in the Indictment. Defendant's position is based on his assertion that the FEC's passive receipt of documents does not constitute the "proper administration" of a "matter" as required under § 1519. Instead, Defendant argues that the term "matter" in § 1519 should be construed to mean a "formal exercise of governmental power that is similar in nature to a lawsuit before a court, a determination before an agency, or a hearing before a committee." See *McDonnell v. United States*, 136 S.Ct. 2355, 2372 (2016). And that "proper administration" as used in § 1519 requires more than passive receipt and must include active enforcement or adjudicative processes. However, while Defendant raises interesting points, his argument contains one major flaw.

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agree with Defendant that some allegations contained therein are confusing. For instance, in Count 15, the Government claims that Defendant's FEC filing labeled "PAC Legal Fees" was actually a payment made to Defendant and a "Washington DC law firm." Similarly, in Count 17, the Government alleges that an FEC filing which was labeled as a "transportation expense" was actually for the purchase of vehicles used by Defendant and his District Chief of Staff. The court is not sure how the Government seeks to prove that a payment to a law firm should not be labeled as a legal fee or that labeling the purchase of vehicles as "transportation expenses" is false. However, these are issues that the jury, not the court, will take up.

Counts 14-18 do not allege that the passive receipt of documents by the FEC is a matter within the commission's jurisdiction. Instead, all five counts simply allege that Defendant "with the intent to impede, obstruct, or influence the proper administration of a matter within the jurisdiction of the FEC and in contemplation of such matter" filed documents containing false entries with the commission. Based on the construction of the Indictment, the "proper administration" of a "matter" for which Defendant is alleged to have attempted to impede, obstruct, or influence is not clear and will only become apparent at trial. Thus, while it is possible the Government's evidence will focus solely on the FEC's passive receipt of documents, it is also possible that the Government will attempt to prove that Defendant filed documents containing false entries with the intent to impede an FEC audit or field investigation. See 52 U.S.C. § 30111(b). Audits and field investigations, unlike the passive receipt of documents, would certainly fit under Defendant's proposed construction of "matter" and "proper administration" as contained in § 1519.

Based upon the information currently before the court, it is simply too early to determine whether the Government's evidence regarding the "proper administration" of a "matter" within the jurisdiction of the FEC fits within the confines of § 1519. Instead, as with the cases cited by Defendant, this issue would be better addressed at the conclusion of the trial. See *Yates v. United States*, 135 S.Ct. 1074 (2015); *McDonnell v. United States*, 136 S.Ct. 2355 (2016). Therefore, the court finds that Defendant's request to limit the construction of § 1519 is premature. As such,

the court declines to address the issue. However, if necessary, Defendant may raise the issue at a more appropriate time.

For all the reasons stated herein, Defendant's second Motion to Dismiss (#78) is DENIED.

IV. Duplicitous, Count 11

Defendant's third Motion to Dismiss (#86) argues that Count 11 of the Indictment should be dismissed as duplicitous pursuant to Federal Rule of Criminal Procedure 12(b)(3)(B)(i). "An indictment is duplicitous if it charges two or more offenses in a single count." *United States v. Pansier*, 576 F.3d 726, 734 (7th Cir. 2009). The Seventh Circuit has stated that "[t]he dangers of a duplicitous indictment are that the defendant may not understand the charges against him, might be convicted by less than a unanimous jury, may be prejudiced by evidentiary rulings at trial, or may be subjected to double jeopardy." *United States v. Davis*, 471 F.3d 783, 790 (7th Cir. 2006).

In this case, Count 11 charges a single offense of theft of government funds in violation of 18 U.S.C. § 641. The Indictment alleges that this single count occurred "[f]rom in or about 2010, and continuing to on or about March 31, 2015, in the Central District of Illinois and elsewhere" and that Defendant "did knowingly embezzle, steal, purloin, and convert to the use of another more than $1,000 of money of the United States." Other than incorporating by reference "[p]aragraphs 1 through 74 of Counts 1 through 8," the Indictment does not provide any further information related to the charged offense.

Defendant argues that Count 11 is an improper attempt by the Government to lump five years' worth of alleged thefts into a single count. As such, Defendant contends that Count 11 is duplicitous. The Government's consolidated response does not address Defendant's arguments regarding duplicity. Instead, the Government's sole contention is that "[e]ven assuming any of [Defendant's] arguments are correct, dismissal of Count 11 is not the appropriate remedy."[18]

The court agrees with Defendant that Count 11 is duplicitous. As charged, Count 11 is an attempt to group numerous transactions into a single theft count. The allowable unit of prosecution under § 641 "is each individual transaction in which government money is received, even if the transaction is a part of an overarching scheme." *United States v. Reagan*, 596 F.3d 251, 254 (5th Cir. 2010). As such, offenses under § 641 cannot last for a period of years. *Reagan*, 596 F.3d at 254; see also *United States v. Yasher* 166 F.3d 873, 875 (7th Cir. 1999); *United States v. Hendrikson*, 191 F.Supp.3d 999, 1004 (D.S.D. 2016) ("[t]heft of government property as contained in the first paragraph of § 641 does not constitute a continuing offense"). Instead, each theft of government funds occurs at a single point in time, when the funds are received by a defendant. See *Reagan*, 596 F.3d at 254. Here, because the Government alleged that a single offense under § 641 occurred "[f]rom in or about 2010, and continuing to on or about March 31, 2015, in the Central District of Illinois and elsewhere," it is clear

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[18] While the Government's consolidated response to Defendant's motions to dismiss consists of 92 pages, only one page is devoted to this issue.

that the Government seeks to charge Defendant with multiple violations of § 641.

Further supporting the court's conclusion that Count 11 is duplicitous is the fact that the Government did not allege specific facts related to the individual charge. Instead, the Government incorporated by reference "[p]aragraphs 1 through 74 of Counts 1 through 8." Those 74 paragraphs contain numerous allegations relating to various requests for reimbursement which resulted in multiple disbursements of government funds. Any one of those disbursements could have given rise to the alleged violation of § 641 contained in Count 11. By incorporating all 74 paragraphs, the Government has made it impossible for Defendant (and the court) to determine which disbursement gave rise to the allegations contained in Count 11. The Indictment, therefore, does not give Defendant fair notice of the charged offense and the dangers expressed by the Seventh Circuit in *Davis* are clearly present. See *Davis*, 471 F.3d at 790.

In its consolidated response, the Government suggests that it could "limit its evidence as to Count 11 only to conduct that occurred after November 10, 2011 (within five years of the indictment), and that it will further limit its proof of Count 11 to evidence of false mileage claims and the fraudulent purchase of and payment for the camera equipment in 2014." However, in crafting the Indictment, the Government made a choice as to what conduct it would prosecute. That choice, as it pertains to Count 11, included a lack of specific facts and a claim that the alleged theft of government funds occurred "[f]rom in or about 2010,

and continuing to on or about March 31, 2015, in the Central District of Illinois and elsewhere." The Government chose the language contained in Count 11. The Government cannot now edit that language in order to avoid dismissal of the count as duplicitous.

For the reasons stated above, the court concludes that, as pled, Count 11 seeks to charge two or more offenses in a single count. As such, Count 11 is duplicitous and dismissal is warranted. See *Pansier*, 576 F.3d at 734; *United States v. Bessigano*, 2008 WL 4833110 (N.D. Ind. Nov. 4, 2008) ("because defendant properly raised this issue before trial, the proper remedy is dismissal of the duplicitous count"). Defendant's Motion to Dismiss (#86) is therefore granted and Count 11 is hereby dismissed.

IT IS THEREFORE ORDERED THAT:

(1) Defendant's Motion to Dismiss (#76) is GRANTED in part and DENIED in part. Count 9 of the indictment is hereby dismissed.

(2) Defendant's Motion to Dismiss (#78) is DENIED.

(3) Defendant's Motion to Dismiss (#86) is GRANTED. Count 11 of the indictment is hereby dismissed.

(4) Numerous motions remain pending before the court. The court will address these motions in due time.

(5) This case remains set for a final pretrial conference on January 12, 2018 and a jury trial beginning on January 22, 2018.

ENTERED this 23rd day of October, 2017.

s/COLIN S. BRUCE
U.S. DISTRICT JUDGE

## APPENDIX C

**UNITED STATES DISTRICT COURT**
**CENTRAL DISTRICT OF ILLINOIS**
**SPRINGFIELD DIVISION**

**Cause No.16-30061**

**[Filed November 10, 2016]**

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|---|---|
| UNITED STATES OF AMERICA, | ) |
| | ) |
| Plaintiff, | ) |
| | ) |
| v. | ) |
| | ) |
| AARON J. SCHOCK, | ) |
| | ) |
| Defendant. | ) |
| | ) |

18 U.S.C. § 1341
18 U.S.C. § 1343
18 U.S.C. § 641
18 U.S.C. § 2
18 U.S.C. §§ 1001(a)(2), (c)(1)
18 U.S.C. § 1519
26 U.S.C. § 7206(1)

**INDICTMENT**

**THE GRAND JURY CHARGES:**

**COUNTS 1-8**
**18 U.S.C. § 1343**
**(Wire Fraud)**

## I. The Defendant

1. Defendant Aaron J. Schock (Schock) was a resident of Peoria and a graduate of Bradley University with a degree in Finance. From 2004 to 2008, he was a Representative in the Illinois House of Representatives and in 2008 was elected to the U.S. House of Representatives (House) as a Representative for the 18th Congressional District of Illinois. The 18th Congressional District is within the Central District of Illinois. Defendant Schock was reelected in 2010, 2012, and 2014. He maintained District Congressional offices in Peoria, Springfield, and Jacksonville, Illinois and a Congressional Office and an apartment in Washington, DC.

## II. Background

### A. Members of Congress Are Prohibited From Using Their Official Positions for Personal Gain

2. The House Ethics Manual recognizes that "public office is a public trust." To uphold this trust, Members of Congress were subject to various federal laws, House rules, and standards of conduct, and were prohibited from using their official positions for personal gain.

**B. Operation of Congressional Office: Members' Representational Allowance**

3. In their official capacity as Members of Congress, each Member, including Defendant Schock, exercised almost complete authority and autonomy over the hiring of personnel for his Congressional office (often called "staffers") and the spending of funds to support that office.

4. During each session of Congress, each Member of Congress was allocated funds to allow the Member to run his or her office and to perform and support their official and representational duties, both in Washington as well as in the district from which each Member is elected. This appropriation or allocation of funds was called the "Members' Representational Allowance" or simply, the "MRA."

5. The MRA was funded through fiscal year appropriations and authorized annually by the House of Representatives Committee on House Administration. During each year Defendant Schock was in Congress, each Member's budget was in excess of $1,000,000 per year and was not transferable between legislative years, so any balance did not carry over to the next year. The Chief Administrative Officer (CAO), through the House Finance Office, accounted for this fund, and the Clerk of the House published a quarterly Statement of Disbursements, which listed the MRA expenditures of each Member.

6. The proper uses of federal funds under MRA were set forth in regulations, which were published by the Committee on House Administration and contained within a Members' Congressional Handbook

(Handbook). In addition to House regulations, and since the MRA consists solely of federal funds, federal law also governed the use of these funds, including Title 18, United States Code, Section 641, which prohibits any person from embezzling, stealing, or converting to personal use any money or thing of value of the United States, and Section 1001(a), which prohibits any person from making any materially false or fraudulent statement or representation in connection with a claim for payment or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch.

7. Among the rules and regulations contained in the Handbook relevant to the MRA were the following:

a. Ordinary and necessary expenses incurred by the Member or the Member's employees in support of the conduct of the Member's official and representational duties to the district from which he or she is elected are reimbursable in accordance with the regulations contained in the Handbook. "Ordinary and necessary" means reasonable expenditures in support of official and representational duties to the district from which he or she is elected that are consistent with all applicable federal laws, Rules of the House of Representatives and regulations of the Committee on House Administration.

b. To be reimbursable with federal funds under the MRA, the primary purpose of the expense must be official and representational and incurred in accordance with the Handbook. Specifically:

- The MRA may only be used for official and representational expenses.
- The MRA may not be used to pay for any expenses related to activities or events that are primarily social in nature.
- The MRA may not pay for personal expenses.
- The MRA may not pay for political campaign expenses.
- The MRA may not pay for campaign-related political party expenses.
- Except where authorized by the Committee on Ethics, campaign funds may not pay for a Member's official and representational expenses.
- A Member may not maintain, or have maintained for his use, an unofficial office account for the purpose of defraying or reimbursing ordinary and necessary expenses incurred in support of a Member's official and representational duties.
- A Member may not accept from any private source in-kind support having monetary value for an official activity.
- Unless specifically authorized by an applicable provision of federal laws, House Rules, or Committee Regulations, no Member, relative of the Member, or anyone with whom the Member has a professional or legal relationship may directly benefit from the expenditure of the MRA.

- Each Member is personally responsible for the payments of any official and representational expenses incurred that exceed the provided MRA or that are incurred but are not reimbursable under (the regulations).

- Furniture is not reimbursable for the Washington DC, congressional office. In addition, only decorations of "nominal value" are reimbursable.

c. Disbursements (or payments) from the MRA are made on a reimbursement or direct payment basis and must be supported with specific documentation. To request a reimbursement or payment, each Member must provide a certification as to the accuracy of the charge and its compliance with applicable federal laws, House Rules, and Committee regulations. This certification is on a "voucher" that is submitted to the House Finance Office and contains the following:

> I certify (1) that the above articles have been received in good condition and are of the quality and in the quantity above specified, or the services were performed as stated; (2) that they are in accordance with the orders therefore; (3) that the prices charged are just; (4) that they are for use in my office in the discharge of my duties; and (5) that these are true copies and will be the only submission for payment.

d. Reimbursements and payments from the MRA may be made only to the Member, the Member's employees, or a vendor providing services to support the operation of the Member's offices.

e. Ordinary and necessary expenses associated with "official travel" are reimbursable.

f. Official travel includes local travel and travel away from home overnight to conduct "official and representational duties."

g. Living expenses and commuting expenses are not reimbursable. "Living expenses" include meals, housing, and other personal expenses incurred at the Member's or employee's residence or duty station. "Commuting expenses" are transportation expenses incurred by the Member or employee while commuting between their residence and duty station.

h. Members are required to file an annual Financial Disclosure Statement.

8. Official travel, paid for with the MRA, could not be for personal, campaign-related political party, or committee purposes. There is an "absolute prohibition" on the use of the MRA for reimbursement for "private travel."

9. As part of the restriction of using government funds for political activity, "official" travel could not originate from or terminate at a campaign event. Furthermore, official travel could not be combined with or related to travel or travel-related expenses paid for with campaign funds.

10. The Government Travel Card was available for a Member and his employees for use for official travel only. Use of the Government Travel Card "for any personal or non-official purchases is prohibited."

11. The costs of transportation by a Member or employee using a "privately owned" or "privately leased" vehicle while on official and representational business was reimbursable on a per mile basis. Gasoline purchased for privately owned vehicles is not reimbursable.

12. Each Member was an employing authority for their office; the Member determined the terms and conditions of employment and service for their staff within the regulations set by the government. The terms and conditions must be consistent with applicable federal laws and House Rules. A Member may not retain an employee on the Member's payroll who does not perform official duties commensurate with the compensation received for the offices of the employing authority.

**C. Federal Campaign Funds**

13. The Federal Election Campaign Act of 1971, as amended, Title 52, United States Code, Sections 30101, *et seq.,* (Election Act) applied to the election of candidates for federal office, including the Office of U.S. Congressman, and provides, in part, as follows:

a. The Election Act required the authorized campaign committee of a candidate for federal office to accurately report certain donations and expenditures by that committee to the Federal Election Commission (FEC), an agency of the United States government with jurisdiction to enforce the Election Act.

b. The Election Act required the FEC to publicly report accurate information provided by the campaign committees.

c. The Election Act, federal regulations, and House rules prohibited the use of campaign funds for personal use.

14. Defendant Schock established three separate committees between August of 2007 and October of 2009: "Schock for Congress," "Schock Victory Committee," and "GOP Generation Y Fund" (hereinafter collectively referred to as "Committees"). At all times material to this indictment, Defendant Schock exercised authority and control over the hiring of staff for his political campaign committees as well as the expenditure of campaign funds on behalf of the campaigns.

15. Defendant Schock's principal campaign committee, Schock for Congress (SFC), was established on August 15, 2007, and was the main vehicle used to fund his personal campaigns for Congress. The Statement of Organization filed with the FEC listed its principal address to be P.O. Box 10555, Peoria, IL. SFC maintained bank accounts at CEFCU, Peoria, IL, and SunTrust, Atlanta, GA. The FEC filing also listed "Mr. Aaron Jon Schock" as the "Name of Candidate," and identified its treasurer as located in Peoria and a successor treasurer as located in Athens, GA. Defendant Schock was an authorized signatory on the SFC bank account.

16. Defendant Schock also established a Joint Fundraising Committee named "Schock Victory Committee" (SVC) on or about October 20, 2009. Joint Fundraising Committees are typically set up to conduct fundraising activities on behalf of one or more other political committees or unregistered organizations. According to the FEC filings, SVC conducted

fundraising activities on behalf of SFC, Gen Y, and others. As of February 2015, SVC listed an address of P.O. Box 9058, Peoria, IL, with a bank account at CEFCU, Peoria, IL. SVC identified its treasurer as being located in Athens, GA.

17. Defendant Schock established a leadership PAC (Political Action Committee) named "GOP Generation Y Fund" (Gen Y) on April 3, 2008, with the stated purpose to support candidates (not himself) for various federal and nonfederal offices. The Statement of Organization for Gen Y filed with the FEC listed P.O. Box 9055, Peoria, IL as its address with bank accounts at CEFCU, Peoria, IL, and SunTrust, Atlanta, GA. It further listed "Mr. Aaron Jon Schock" as the "Name of Any Connected Organization, Affiliated Committee, Joint Fundraising Representative, or Leadership PAC Sponsor." It also listed its treasurer as located in Peoria and a successor treasurer as located in Athens, GA.

## III. The Scheme to Defraud

18. Beginning as early as 2008, and continuing to at least October 2015, in the Central District of Illinois, and elsewhere, the defendant,

**AARON J. SCHOCK,**

knowingly, and with the intent to defraud, devised and participated in, and caused others to participate in, a scheme and artifice to defraud the United States of America, Schock's Committees (SFC, SVC, and Gen Y), and others and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises, and omissions.

## A. The Goal of the Scheme

19. The main goal of the scheme to defraud and to obtain money and property was for Defendant Schock to enrich himself, and others, at his discretion, by embezzling, stealing, misapplying, and converting without authority public funds from his MRA and funds from his various Committees for his own direct personal benefit and for the direct personal benefit of others with whom he had a professional or personal relationship.

## B. Manner and Means of the Scheme

**Fraudulent Mileage Reimbursements**

20. Prior to and following his election to Congress, Defendant Schock owned a 2005 GMC Envoy. In November 2009, while a Member of Congress, he purchased a 2010 Chevrolet Tahoe for approximately $56,483, which he financed through GMAC. He had a monthly car payment of approximately $1,134.10.

21. As part of the scheme, Defendant Schock repeatedly submitted and caused to be submitted false and fraudulent mileage reimbursement claims to the House and to his various Committees for reimbursement of "official" and "campaign-related" travel that substantially exceeded the amount of the actual travel, and that even substantially exceeded the overall total number of miles the vehicle was actually driven.

22. As part of the scheme, and despite House and FEC standards that required documentation of the actual number and nature of official and campaign-

related miles driven, Defendant Schock repeatedly submitted and, through his Congressional and campaign staffs, repeatedly caused to be submitted, materially false and fraudulent mileage reimbursement claims to the House and to his Committees that contained false or intentionally incomplete documentation of the amount and nature of the mileage for which he sought payment.

23. As part of the scheme, Defendant Schock directed and caused employees on his Congressional staff to submit materially false and fraudulent mileage vouchers to the House, with little or no documentation, including directing staff members to cause his mileage reimbursements to average approximately $1,200 per month, which was enough to cover his car payment, but to vary it each month so as to not make it "obvious."

24. In addition, and during the same time period in which he was receiving fraudulent mileage reimbursements from the House, Defendant Schock repeatedly submitted false and fraudulent mileage reimbursement claims to members of his campaign staff for payment by his Committees to him. Finally, during the same time period in which he was receiving fraudulent mileage reimbursements from the House and his Committees, Defendant Schock also caused the House and his Committees to pay for various fuel expenditures, totaling as much as approximately $7,000 for the years 2008 to 2014.

25. In 2008, Defendant Schock was a member of the Illinois House of Representatives and received mileage reimbursements from the Illinois House and was also a candidate for U.S. Representative. As part of the scheme, and from as early as 2008, and

continuing to about October 2014, Defendant Schock repeatedly submitted and caused to be submitted false and fraudulent claims for mileage reimbursements to the House and his Committees, which resulted in approximately $86,352.59 in total payments to him from the House and approximately $52,310.54 in total payments from his Committees, for total mileage payments of approximately $138,663.13.

26. As part of the scheme, and even assuming all of the miles driven on Defendant Schock's vehicles were official and campaign-related miles, and absolutely no personal miles were driven at all during this period of time, Defendant Schock caused the House and his Committees to reimburse him for approximately 150,000 miles more than the vehicles for which he sought reimbursement were actually driven.

27. As a further part of the scheme, in July 2014, Defendant Schock traded-in his personal 2010 Chevrolet Tahoe and purchased a new 2015 Chevrolet Tahoe. In doing so, he paid for the 2015 Tahoe with SFC funds, but caused the 2015 Tahoe to be titled in Defendant Schock's name. Despite this, on or about August 14, 2014, Defendant Schock caused SFC to issue him a mileage reimbursement check for $9,433.20, and on or about September 3, 2014, Defendant Schock caused Gen Y to issue him a mileage reimbursement check for $8,921.36. Additionally, he made no effort to reimburse SFC for any personal use of the 2015 Tahoe, as required by the FEC. Finally, Defendant Schock caused two additional and false mileage reimbursement claims to be submitted to and paid by the House for $1,150 and $1,218.

28. As part of the scheme and to conceal and cover it up, Defendant Schock caused his Committees, SFC and Gen Y, and their treasurer to file false reports with the FEC, falsely reporting the payments to Defendant Schock as actual "mileage reimbursement" expenses.

**Fraudulent Claims for Reimbursement for the Purchase of Camera Equipment**

29. As part of the scheme, Defendant Schock fraudulently caused the House to reimburse him for his purchase of $29,021.45 in camera equipment from B & H Photo in New York for his use and the use of a Congressional and campaign staff member, who was also Defendant Schock's personal photographer and videographer.

30. Specifically, on or about September 1, 2014, Defendant Schock hired an individual to work on Defendant Schock's Congressional and campaign staff, including to do work as his personal photographer and videographer. Within weeks of that hiring, on or about September 24, 2014, Defendant Schock, his Political Director, and the staff member ordered and purchased, during an interstate telephone call, camera equipment from B & H Photo in New York at a cost of $29,021.45. The equipment was paid for using Defendant Schock's personal credit card, and shipped via UPS, Next Day Air, from B & H Photo in New York, to Schock's Congressional Office in Peoria.

31. On or about November 7, 2014, and after payment for the camera equipment on Defendant Schock's credit card became due, Defendant Schock instructed the staff member to create and submit to

Defendant Schock's Congressional office a false invoice for "multimedia services" in the amount of $29,021.45, the exact cost of the camera equipment. Following Defendant Schock's instruction, the staff member created an invoice, falsely reflecting "Multimedia Services" in the amount of $29,021.45 provided to "Aaron Schock, 100 NE Monroe, Suite 100, Peoria, Illinois 61602," which was the address of Schock's Congressional Office in Peoria. The invoice listed these services as being performed between the dates of September 1, 2014, to December 27, 2014, a time period that had not yet fully occurred, and one that followed the hiring of the staff member as a federal employee. Defendant Schock caused this invoice to be sent via an interstate email communication from the staff member in Peoria to Defendant Schock.

32. On or about November 10, 2014, Defendant Schock sent an interstate e-mail communication to the staff member, further instructing him to "change the project date to August 1, 2014, through October 31, 2014 [a]nd send back to me ASAP!." This period still included time during which the staff member was a federal employee. The staff member again followed Defendant Schock's instruction, and submitted an additional false invoice, which Defendant Schock then forwarded to his Executive Assistant in Washington DC, and instructed the Executive Assistant to "get this paid ASAP."

33. On or about November 12, 2014, Defendant Schock's Executive Assistant in Washington sent an interstate email communication to the Congressional and campaign staff member, instructing him to submit a third "invoice for the dates 07/01/2014 to 08/31/14,"

which was for a period during which the staff member was not a federal employee and might be represented to have been a contractor or vendor with Defendant Schock's Congressional office. The staff member again complied, and submitted the revised invoice via an interstate e-mail communication to Defendant Schock's Executive Assistant in Washington DC.

34. On or about November 12, 2014, Defendant Schock caused his Executive Assistant to submit a voucher to the House, for payment to the staff member through Defendant Schock's MRA account, and to attach the third-revised invoice, falsely representing that the services provided by the staff member were "Web Dev, HST, EMAIL & RLTD SERV." Despite the fact that the staff member never provided such services, Defendant Schock caused the voucher to be submitted under his name and certified as accurate.

35. As part of the scheme, and based on the representations in the false voucher and accompanying invoice Defendant Schock caused to be submitted to the House, the House authorized a payment of $29,021.45 in federal funds on or about December 15, 2014, to the staff member. The funds were later deposited in the staff member's bank account, and later used by the staff member to make direct payments to Defendant Schock's personal credit card account for the purchase of the camera equipment.

**Purchase of Vehicle for District Office Chief of Staff**

36. As a further part of the scheme, on or about September 12, 2014, Defendant Schock caused SFC, his principal campaign committee, to purchase a 2014 Ford

Fusion for $27,533.41 for his District Chief of Staff in Peoria, and to pay for the District Chief of Staff's fuel, insurance, and car rental expenses, knowing that it would be used for few, if any, campaign events. At no time was the District Chief of Staff an employee of SFC. As a result, Defendant Schock caused a loss to SFC.

a. On or about September 1, 2014, Defendant Schock hired a friend as his District Chief of Staff in Peoria. As part of the hiring, Defendant Schock committed that he would provide a car to the individual, despite the fact that federal law and FEC guidelines prohibit the use of campaign funds for personal use.

b. To conceal and cover up his actions, Defendant Schock caused SFC to file a report with the FEC, falsely representing the car purchase as a "transportation expense" of SFC.

**November 2014 trip to Chicago Bears Game**

37. In or about November 2014, Defendant Schock was offered several skybox tickets for a Chicago Bears football game in Chicago at no cost to himself. He invited others, including two staff members, to attend the game with him. Defendant Schock then hired the pilot of a private plane to fly the group from Peoria to Chicago.

38. Following their arrival in Chicago, Defendant Schock, his staffers, and the pilot traveled by Uber to a Chicago restaurant for dinner and then rented five hotel rooms. The next day, the group attended the football game in the skybox, returned to the airport, and were flown by the pilot back to Peoria. The total

costs for the weekend trip were approximately $3,293.96.

39. As part of the scheme, Defendant Schock caused the House, through the use of his government travel card, submission of false vouchers for payment on the travel card, and direct payment to the pilot to pay for the flight expenses of $1,190, pilot meal expenses of $47, and Uber expenses of approximately $248 for the Chicago trip with federal funds, as if they were legitimate expenses of his official office.

40. As a part of the scheme, Defendant Schock caused SVC, through payment to his personal credit card, to pay for the restaurant expense of $1,271.41 and hotel expenses of $536.95 for the Chicago trip with campaign funds, as if they were legitimate campaign expenses.

41. As a part of the scheme and to conceal and cover it up, Defendant Schock caused SVC to file a false report with the FEC, falsely representing that the expenses associated with the Chicago trip were for "JFC [Joint Fundraising Committee] Event Catering" and "JFC Lodging" expenses, as if they were legitimate campaign-related expenses.

**Other Private Airplane Expenses**

42. Defendant Schock repeatedly used the services of a private airplane and helicopter and private pilot at a much greater cost rather than fly on a commercial airline. He then paid for the cost of these trips, including personal trips, with federal funds or campaign funds or not at all.

43. As a further part of the scheme, Defendant Schock used campaign funds of SFC and SVC to pay part of a personal vacation travel expense. In or about August 2013, he arranged to meet a friend at Dulles airport in Washington, D.C., where they departed for a personal vacation, booked through American Express Travel, in Europe. Because of delays in the commercial flights from Peoria, Defendant Schock was at risk of missing a connecting flight to D.C., so he retained the services of a private aircraft company to fly him to Dulles airport at a cost of $8,054.42. He later instructed his political director to pay this expense, split between SFC and SVC funds, even though the expense was purely personal and for his own convenience.

44. As a part of the scheme and to conceal and cover it up, Defendant Schock caused SFC and SVC to file false reports with the FEC, falsely representing that the travel expense associated with this flight was for "Transportation" and "JFC Airfare" expenses, as if it were a legitimate campaign-related expense.

**Super Bowl and World Series Tickets**

45. Prior to entering Congress, Defendant Schock periodically earned money as a ticket broker. While in Congress, and between 2009 and 2013, Defendant Schock purchased tickets for the Super Bowl and World Series, which he then resold for a profit. For example, in 2009, Defendant Schock purchased six World Series tickets for $900, which he then sold for $2,100, making a profit of $1,200. In 2011, Defendant Schock purchased 16 World Series tickets for $4,800, which he then sold for $7,200, making a profit of $2,400. In 2012, Defendant Schock purchased four Super Bowl tickets

for $3,625, which he then sold for $16,250, making a profit of $12,625. In 2013, Defendant Schock purchased four Super Bowl tickets for $3,825, which he then sold for $6,400, making a profit of $2,575. In 2013, Defendant Schock purchased 24 World Series tickets for $6,200, which he then sold for $9,825, making a profit of $3,625.

2014 Super Bowl Tickets

46. As part of the scheme, in January 2014, Defendant Schock purchased four Super Bowl tickets for $10,025 and caused SVC to pay for such tickets by an electronic payment from SVC's bank account in Peoria to Defendant Schock's personal credit card account. As part of the scheme, Defendant Schock thereafter sold the tickets to a ticket broker in California for $12,000, making a profit of $1,975. He then kept the entire $12,000 from the sale of the tickets as profit without reimbursing SVC for the cost.

47. As part of the scheme, and to conceal and cover it up, Defendant Schock caused SVC to file a false report with the FEC, falsely representing the purchase of the Super Bowl tickets, which Defendant Schock personally sold for a profit, as "JFC [Joint Fundraising Committee] Event Tickets."

2015 Super Bowl Tickets

48. As part of the scheme, in January 2015, Defendant Schock caused a staff member to purchase four Super Bowl tickets for $10,050, two in the name of Defendant Schock and two in the name of another individual.

49. As part of the scheme, and similar to 2014, Defendant Schock caused one of his Committees, this time SFC, to pay for the tickets by personally writing "SFC fundraising" next to the charges for the tickets on his credit card account statement. He thereafter sold the tickets to a ticket broker for $18,000, making a profit of $7,950, and resulting in a total benefit to Defendant Schock of $18,000.

50. As part of the scheme and to conceal and cover it up, and only after the initiation of media scrutiny of his House and campaign expenditures and after he had sold the tickets for a profit, Defendant Schock reimbursed SFC for the tickets by making an offsetting payment to his personal credit card the following month. He also failed to report the original expenditure by SFC on his disclosure reports to the FEC.

**Payment of Former Staffer's Legal Fees (and Reimbursement with Campaign Funds)**

51. In late 2013, Defendant Schock accused a former staffer of inappropriately accessing his friend's social media account and falsely advised the former staffer that the FBI and Capitol Police were investigating the matter. As a result of Defendant Schock's accusation and false representation of a law enforcement investigation, the former staffer retained legal counsel and incurred legal fees of more than $10,000, which were paid by the former staffer's father. Defendant Schock later acknowledged that his representation of a law enforcement investigation was false, and he agreed, after being confronted by the former staffer's father, to reimburse the staffer's father for $7,500 of the legal fees.

52. As part of the scheme, on or about February 23, 2014, Defendant Schock wrote a check in the amount of $7,500, payable to the former staffer's father for reimbursement of attorney's fees.

53. As part of the scheme, on or about April 21, 2014, Defendant Schock caused his Political Director to issue a check from Gen Y in the amount of $7,500 made payable to "Aaron J. Schock" to reimburse himself for the money he paid to the former staffer's father weeks earlier.

54. As part of the scheme, and to conceal and cover it up, Defendant Schock caused Gen Y to file a false report with the FEC, falsely reporting that the $7,500 payment to Defendant Schock was for payment to a Washington DC attorney for "PAC Legal Fees."

55. As part of the scheme, and to conceal and cover it up, Defendant Schock caused Gen Y to pay legal expenses that he personally incurred and to file additional false reports with the FEC, falsely reporting that the payment of such expenses was for "PAC Legal Fees."

**SFC Purchase of 2015 Chevrolet Tahoe**

56. As part of the scheme, Defendant Schock caused SFC to purchase a 2015 Chevrolet Tahoe titled in his name, resulting in an additional loss to SFC.

57. As part of the sche1ne, on or about July 18, 2014, Defendant Schock caused SFC to purchase for him a new 2015 Chevrolet Tahoe at a total cost to SFC of $73,896.96. To accomplish the purchase, Defendant Schock caused SFC to purchase the 2010 Tahoe from Defendant Schock for $31,621.99. He then caused SFC

to trade in the 2010 Tahoe with only a $26,000 used car or trade-in allowance and wrote a SFC check to the dealership for $73,896.96 for the entire purchase of the 2015 Tahoe, thus causing a loss to SFC. Despite this, Defendant Schock caused the 2015 Tahoe to be titled in the name of Aaron Schock.

58. As part of the scheme, and to conceal and cover it up, Defendant Schock caused SFC to file a false report with the FEC, falsely reporting that the entire $73,896.96 payment for the purchase of the 2015 Tahoe was for a "transportation expense" of SFC rather than for the purchase of a vehicle for the exclusive use of Defendant Schock.

59. As part of the scheme, and following the purchase of the 2015 Tahoe and during a period in which Defendant Schock no longer had a personal vehicle that he had actually paid for, he caused two additional and false mileage reimbursement claims to be submitted to and paid by the House for $1,150 and $1,218 and, as described previously, caused two additional mileage reimbursement claims to be submitted to and paid by SFC and Gen Y for $9,433.20 and $8,921.36. Defendant Schock did not reimburse SFC and Gen Y for either of these payments.

**2010 Apartment and Cannon Office Remodeling and 2014 Rayburn Office Remodeling**

60. Members of Congress are provided with a House office in Washington DC in one of the House office buildings (Cannon, Longworth, and Rayburn). Under the regulations in the Handbook, furniture, including rugs, carpet, draperies, repairs, etc. is supplied and maintained by the House CAO. In

addition, only decorating expenses of "nominal value" are reimbursable by the MRA.

61. In 2010, Defendant Schock hired an Illinois decorator/designer to redecorate and provide furnishings for his Peoria apartment at a cost of approximately $31,723/96, including the installation of $2,200 in stereo equipment, and his Cannon office at a cost of approximately $21,737.07, for a total cost of approximately $53,455.03.

62. As part of the scheme, Defendant Schock caused the 2010 redecoration and furnishing of his apartment and Cannon office, but personally paid only $15,000 in total for such benefits. He further caused SFC to pay approximately $3,168 for travel expenses for the Illinois designer/decorator and $2,200 for stereo equipment, which was installed in his apartment.

63. In November 2014, Defendant Schock hired the same Illinois decorator/designer to redecorate and provide furnishings for his Rayburn office at a total cost of approximately $40,000, including the purchase of a $5,000 chandelier.

64. As part of the scheme, Defendant Schock caused the 2014 redecoration and furnishing of his Rayburn office, and caused vouchers and claims to be submitted to the House totaling $25,000 to be paid to the Illinois decorator/designer. As part of the submission of the vouchers and claims, Defendant Schock, through his Executive Assistant, made false representations that the claims were "for services to assist the member in setting up our district and DC offices" and "includes using materials from our district

and rearranging/designing/structuring the space to best suit the member and staff's needs."

65. As part of the scheme, Defendant Schock caused his three Committees (SFC, SVC, and Gen Y) to pay a total of approxi1nately $8,263 in additional costs relating to carpentry, paint, and travel and lodging expenses for the Illinois decorator/designer, who provided no product or service to these Committees.

66. As part of the scheme, and in an attempt to conceal and cover it up, and immediately following the public disclosure of the office redecoration in early-February 2015, Defendant Schock requested a meeting with House officials, during which he falsely represented to them that his Executive Assistant should never have submitted the claims, and acknowledged that the redecoration/ design expenses were "personal" expenses. He further asked the House officials if the payments to the Illinois decorator/designer would be disclosed to the public in the House Statement of Disbursements if he reimbursed the MRA.

**Fraudulent Bonuses/Mileage Reimbursements to House/Campaign Staff**

67. As part of the scheme, Defendant Schock caused excess bonuses to be paid to Congressional and campaign staff members from House and campaign funds, some of which were in the form of false mileage reimbursement claims.

68. In another instance, Defendant Schock caused a fraudulent bonus of $6,000 to be paid to his Chief of Staff in excess of that employee's pay limit by first causing the bonus to be paid to his Executive

Assistant and then directing the Executive Assistant to divert the funds to Defendant Schock's Chief of Staff, with whom Defendant Schock was living and to whom Defendant Schock owed money for rent.

**Misuse of and Theft of Funds from Payments to Government Travel Card and Theft of Campaign Funds**

69. As part of the scheme, and specifically between November 2010 and January 2015, Defendant Schock repeatedly misused the government travel card and embezzled and caused the misapplication and conversion of federal funds from House payments to the government travel card through the payment of personal travel and other expenses for himself, including expenses for transporting himself for a haircut in Bethesda, Maryland, and to a workout facility in Miami Beach, Florida, and for a friend, and others, including his staffer/photographer and his District Chief of Staff and her husband.

70. As part of the scheme, Defendant Schock repeatedly embezzled and converted to his personal use campaign funds from SFC, SVC, and Gen Y to cover his personal travel, meal, lodging, and other expenses, including as much as $7,000 in travel expenses that he incurred following his resignation from Congress on March 31, 2015. As one example, he caused SFC to pay for various expenses while he attended the American Country Music Awards Show in Dallas, Texas, in April 2015, less than one month following his resignation.

71. As a further part of the scheme, and to conceal and cover it up, Defendant Schock caused his Committees to file false reports with the FEC, falsely

reporting the expenses as legitimate campaign expenses.

**Concealment**

72. As part of the scheme, and to conceal and cover it up, Defendant Schock generated income to himself, which he materially omitted from his annual financial disclosure forms.

73. As a result of his scheme, Defendant Schock caused a loss of more than $100,000.

## IV. Executions of the Scheme

74. On or about the dates listed below, in the Central District of Illinois and elsewhere, for each count and as described below, and for the purpose of executing and attempting to execute the above-described scheme to defraud and to obtain money and property, the defendant,

**AARON J. SCHOCK,**

knowingly caused the following writings, signs, signals and sounds to be transmitted by means of wire communications in interstate commerce:

| COUNT | DATE | DESCRIPTION |
|---|---|---|
| 1 (Wire Fraud) | January 21, 2012 | Interstate Wire Transfer of $1,292.85 to Schock's CEFCU account in Peoria for a mileage |

| | | |
|---|---|---|
| | | claim paid by the House |
| 2 (Wire Fraud) | July 9, 2012 | Interstate Wire Transfer of $1,428.00 to Schock's CEFCU account in Peoria for a mileage claim paid by the House |
| 3 (Wire Fraud) | September 9, 2013 | Interstate Wire Transfer of $1,925.00 to Schock's CEFCU account in Peoria for a mileage claim paid by the House |
| 4 (Wire Fraud) | April 17, 2014 | Interstate Wire Transfer of $1,313.76 to Schock's CEFCU account in Peoria for a mileage claim paid by the House |
| 5 (Wire Fraud) | October 14, 2014 | Interstate Wire Transfer of $1,218.00 to Schock's CEFCU account in Peoria for a mileage |

| | | |
|---|---|---|
| | | claim paid by the House |
| 6 (Wire Fraud) | December 7, 2014 | SVC interstate electronic payment to Schock's American Express account for payment of November 2014 Chicago expenses |
| 7 (Wire Fraud) | February 3, 2014 | SVC interstate electronic payment to Schock's American Express account for purchase of 2014 Super Bowl tickets |
| 8 (Wire Fraud) | December 4, 2014 | House interstate payment of $15,000 to Illinois designer / decorator |

All in violation of Title 18, United States Code, Sections 1343 and 2.

**COUNT 9**
**18 U.S.C. § 1343**
**(Wire Fraud)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. Beginning in 2011, Defendant Schock hosted an annual "Congressman Aaron Schock Washington, DC Fly-In" in which constituents traveled to Washington, at their own expense, and attended various meetings with political leaders arranged by Defendant Schock and his staff. As part of the solicitation for the fly-in events, Defendant Schock publicly distributed an advertisement, in which he represented that fly-in participants would be charged a "Fly-in Conference Fee," which covered two days of events, meals, and program materials. At no time did Defendant Schock disclose to the public or fly-in participants that he intended to personally profit from the payment of excess registration fees.

3. As part of administering the collection of registration fees and payment of fly-in expenses, Defendant Schock asked a friend to establish a bank account in Florida under the fictitious name of "Global Travel International." He then caused staff members to deposit fly-in funds into, and pay fly-in expenses out of, the account.

4. Following the June 2011 fly-in event, Defendant Schock, on or about September 9, 2011, caused $4,482.21 in excess fly-in event funds to be paid to him personally. In so doing, he violated the House Rules, which prohibited him from using his official position for

personal gain and which required him to return any excess funds to the fly-in participants or donate such funds to charity. Defendant Schock also failed to disclose this additional income on his annual financial disclosure form.

5. In or about January 2014, after the Florida account was closed, Defendant Schock asked another friend in Illinois to utilize her account to administer receipt of fly-in fees and payment of fly-in expenses.

6. As part of the scheme, following the July 2014 fly-in event, Defendant Schock, on or about December 16, 2014, attempted to personally profit again from the fly-in event by submitting a false and fraudulent invoice in the amount of $11,000 for "Services Rendered" in the name of his limited liability corporation, Menards Peoria LLC, for payment from excess fly-in funds. In doing so, he directed that a check for $11,000 be mailed to him at his residence in Peoria.

7. On or about December 16, 2014, in the Central District of Illinois and elsewhere, for the purpose of executing and attempting to execute the above-described scheme to defraud and to obtain money and property, the defendant,

**AARON J. SCHOCK,**

knowingly caused writings, signs, signals and sounds to be transmitted by means of wire communications in interstate commerce, namely, Defendant Schock sent an interstate email communication containing an $11,000 false invoice and a request for payment of fly-in funds to be paid directly to him.

All in violation of Title 18, United States Code, Sections 1343 and 2.

**COUNT 10**
**18 U.S.C. § 1341**
**(Mail Fraud)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. On or about September 25, 2014, in the Central District of Illinois and elsewhere, for the purpose of executing and attempting to execute the above-described scheme to defraud and to obtain money and property, the defendant,

**AARON J. SCHOCK,**

knowingly caused to be delivered by UPS, a private or commercial interstate carrier, according to the directions provided, a shipment/mailing, from B & H Photo in New York, to Defendant Schock's Congressional Office in Peoria, Illinois

All in violation of Title 18, United States Code, Sections 1341 and 2.

**COUNT 11**
**18 U.S.C. § 641**
**(Theft of Government Funds)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. From in or about 2010, and continuing to on or about March 31, 2015, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did knowingly embezzle, steal, purloin, and convert to the use of another more than $1,000 of money of the United States.

All in violation of Title 18, United States Code, Sections 641 and 2.

**COUNT 12**
**18 U.S.C. §§ 1001(a)(2), (c)(1)**
**(False Statement)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. On or about November 13, 2014, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did knowingly and willfully cause the making of a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the legislative branch of the Government of the United States, namely, an administrative matter and claim for payment in, and a document required by law, rule, or regulation to be submitted to, the U.S. House of Representatives and an office and officer thereof. Specifically, Defendant Schock caused the submission of a voucher for payment of $29,021.45 and accompanying invoice for payment to a staff member for "WEB DEV HST, EMAIL & RELTD SERV" when,

in truth and fact, the expense was to reimburse Defendant Schock for the purchase of $29,021.45 in camera equipment.

All in violation of Title 18, United States Code, Sections 1001(a)(2), (c)(1), and2.

**COUNT 13**
**18 U.S.C. §§ 1001(a)(2), (c)(1)**
**(False Statement)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. On or about November 21, 2014, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did knowingly and willfully cause the making of a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the legislative branch of the Government of the United States, namely, an administrative matter and claim for payment in, and a document required by law, rule, or regulation to be submitted to, the U.S. House of Representatives and an office and officer thereof. Specifically, Defendant Schock caused the submission of a voucher for payment of $15,000 and accompanying invoice for payment to an Illinois designer/decorator for "NON-TECHNOLOGY SERVICE CONTR" and the making of related oral and written statements when, in truth and fact, the expense was to pay for Defendant Schock's personal expenses associated with the design and furnishing of his Rayburn Congressional office in Washington DC.

All in violation of Title 18, United States Code, Sections 1001(a)(2), (c)(1), and 2.

**COUNT 14**
**18 U.S.C. § 1519**
**(Falsification of FEC filing)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. On or about April 15, 2014, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

knowingly caused one or more materially false entries to be made in the records of Schock Victory Committee and in a report filed with the FEC, with the intent to impede, obstruct, or influence the proper administration of a matter within the jurisdiction of the FEC and in relation to and contemplation of such matter, including the fact that Defendant Schock caused Schock Victory Committee's records and the FEC filing to falsely report that a payment of $10,025 to the NFL was a "JFC Event Tickets" expense of SVC, and that a payment of $3,861.92 was a "JFC Airfare" expense of SVC.

All in violation of Title 18, United States Code, Sections 1519 and 2.

**COUNT 15**
**18 U.S.C. § 1519**
**(Falsification of FEC filing)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. On or about May 20, 2014, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

knowingly caused one or more materially false entries to be made in the records of GOP Generation Y Fund and in a report filed with the FEC, with the intent to impede, obstruct, or influence the proper administration of a matter within the jurisdiction of the FEC and in relation to and contemplation of such matter, including the fact that Defendant Schock caused GOP Generation Y Fund's records and the FEC filing to falsely report that a payment of $7,500 to Defendant Schock and a Washington DC law firm was for a "PAC Legal Fees" expense of GOP Generation Y Fund.

All in violation of Title 18, United States Code, Sections 1519 and 2.

**COUNT 16**
**18 U.S.C. § 1519**
**(Falsification of FEC filing)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. On or about August 14, 2014, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

knowingly caused one or more materially false entries to be made in the records of Schock For Congress and in a report filed with the FEC, with the intent to impede, obstruct, or influence the proper administration of a matter within the jurisdiction of the FEC and in relation to and contemplation of such matter, including the fact that Defendant Schock caused Schock For Congress's records and the FEC filing to falsely report that a payment of $4,192.50 was a "Transportation" expense of Schock For Congress.

All in violation of Title 18, United States Code, Sections 1519 and 2.

**COUNT 17**
**18 U.S.C. § 1519**
**(Falsification of FEC filing)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. On or about October 15, 2014, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

knowingly caused one or more materially false entries to be made in the records of Schock For Congress and in a report filed with the FEC, with the intent to impede, obstruct, or influence the proper administration of a matter within the jurisdiction of the FEC and in relation to and contemplation of such

matter, including the fact that Defendant Schock caused Schock For Congress's records and the FEC filing to falsely report that a payment for the purchase of the 2015 Chevrolet Tahoe for Defendant Schock in the amount of $73,896.96 and the payment for a vehicle for his District Chief of Staff in the amount of $27,533.41 was a "transportation expense" of SFC, and that a payment to Defendant Schock in the amount of $9,433.20 was a "mileage reimbursement" expense of SFC.

All in violation of Title 18, United States Code, Sections 1519 and 2.

**COUNT 18**
**18 U.S.C. § 1519**
**(Falsification of FEC filing)**

1. Paragraphs 1 through 74 of Counts 1 through 8 of this Indictment are re-alleged and incorporated herein by reference.

2. On or about October 20, 2014, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

knowingly caused one or more materially false entries to be made in the records of GOP Generation Y Fund and in a report filed with the FEC, with the intent to impede, obstruct, or influence the proper administration of a matter within the jurisdiction of the FEC and in relation to and contemplation of such matter, including the fact that Defendant Schock caused GOP Generation Y Fund's records and the FEC filing to falsely report that a payment to him in the

amount of $8,921.36 was a "PAC mileage reimbursement" expense of GOP Generation Y Fund.

All in violation of Title 18, United States Code, Sections 1519 and 2.

**COUNT 19**
**26 U.S.C. § 7206(1)**
**(Filing a False Federal Tax Return)**

On or about July 30, 2012, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did willfully make and subscribe an Amended United States Individual Income Tax Return, Form 1040X, for the calendar year 2010, which return was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported adjusted gross income of $153,707, as reported on line 1, when, as he then and there well knew. he received additional income that Defendant Schock failed to include on line 1, or report elsewhere on the return.

All in violation of Title 26, United States Code, Section 7206(1).

**COUNT 20**
**26 U.S.C. § 7206(1)**
**(Filing a False Federal Tax Return)**

On or about July 6, 2012, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did willfully make and subscribe a United States Individual Income Tax Return, Form 1040, for the calendar year 2011, which return was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported total income of $153,335, as reported on line 22, when, as he then and there well knew, he received additional income that Defendant Schock failed to include on line 22, or report elsewhere on the return.

All in violation of Title 26, United States Code, Section 7206(1).

**COUNT 21**
**26 U.S.C. § 7206(1)**
**(Filing a False Federal Tax Return)**

On or about October 15, 2013, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did willfully make and subscribe a United States Individual Income Tax Return, Form 1040, for the calendar year 2012, which return was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported total income of $152,762, as reported on line 22, when, as he then and there well knew, he received additional income that Defendant

Schock failed to include on line 22, or report elsewhere on the return.

All in violation of Title 26, United States Code, Section 7206(1).

**COUNT 22**
**26 U.S.C. § 7206(1)**
**(Filing a False Federal Tax Return)**

On or about April 14, 2014, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did willfully make and subscribe a United States Individual Income Tax Return, Form 1040, for the calendar year 2013, which return was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported total income of $181,238, as reported on line 22, when, as he then and there well knew, he received additional income that Defendant Schock failed to include on line 22, or report elsewhere on the return.

All in violation of Title 26, United States Code, Section 7206(1).

**COUNT 23**
**26 U.S.C. § 7206(1)**
**(Filing a False Federal Tax Return)**

On or about October 6, 2015, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did willfully make and subscribe a United States Individual Income Tax Return, Form 1040, for the calendar year 2014, which return was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported total income of $188,619, as reported on line 22, when, as he then and there well knew, he received additional income that Defendant Schock failed to include on line 22, or report elsewhere on the return.

All in violation of Title 26, United States Code, Section 7206(1).

**COUNT 24**
**26 U.S.C. § 7206(1)**
**(Filing a False Federal Tax Return)**

On or about April 15, 2016, in the Central District of Illinois and elsewhere, the defendant,

**AARON J. SCHOCK,**

did willfully make and subscribe a United States Individual Income Tax Return, Form 1040, for the calendar year 2015, which return was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported total income of $142,771, as reported on line 22, when, as he then and there well knew, he received additional income that Defendant

Schock failed to include on line 22, or report elsewhere on the return.

All in violation of Title 26, United States Code, Section 7206(1).

A TRUE BILL,

s/ Foreperson
FOREPERSON

s/ James A. Lewis
JAMES A. LEWIS
UNITED STATES ATTORNEY
(TAB:PDH)