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May 12, 1998

Rep. James V. Hansen
Chairman
Committee on Standards of Official Conduct
HT-2, The Capitol
Washington, D.C. 20515-6328

Re: Complaint Regarding the Filing of False Financial Disclosure Statements with the House of Representatives

and

Complaint Regarding the Appearance of Impropriety in the Granting of Legislative Favors in Connection With an
Illegal Loan

Dear Chairman Hansen:

Pursuant to clause 4(e)(2)(B) of the Rules of the House of Representatives, which allows the Committee on Standards of Official Conduct, on its own initiative, to establish an investigative subcommittee, this letter constitutes a complaint alleging, with documentary evidence, that a current Member of Congress, Rep. Jon Fox:

(1) Filed false Financial Disclosure Statements with the Clerk of the House of Representatives; and (2) Introduced and supported special legislation in the Committee on Transportation and Infrastructure financially benefiting a real estate developer who had provided an illegal, undisclosed \$25,000 loan to Mr. Fox.

The facts supporting this complaint can be found in materials available to the public. Relevant documents are appended to this complaint as exhibits.

1. Filing of False Financial Disclosure Statements with the Clerk of the House of Representatives: The Failure to Disclose A Liability in Excess of \$10,000 to Mr. Richard McBride

Background

In a letter dated April 10, 1998, the National Legal and Policy Center provided the Committee on Standards of Official Conduct facts and information showing that Jon Fox had received a \$25,000 loan from real estate developer Bruce Toll in 1992 while Mr. Fox was a candidate for Congress in Pennsylvania's 13th Congressional district. The loan was the subject of a complaint to the Federal Election Commission and the case had been designated as F.E.C. Matter Under Review 4705.

The loan had never been disclosed to the Federal Election Commission and the Federal Election Campaign Act forbids personal loans to congressional candidates from individuals in excess of the campaign limit of \$1,000. Since Rep. Fox's chief of staff reported that the \$25,000 loan was made in June 1992 and Fox's Financial Disclosure Form for the period 1/1/91 through 7/31/92 failed to disclose the loan in the section of the form entitled "Part IV - Liabilities," the National Legal and Policy Center filed the April 10, 1998 complaint citing the matter as an apparent violation of the Ethics in Government Act.

New Issues

This central issue in this complaint is whether Mr. Fox filed false Financial Disclosure Forms with the Clerk of the House of Representatives over a period of years when he repeatedly failed to disclose a \$10,000 loan at 6% interest from Richard McBride which he received in 1992 and did not pay off until 1997.

The essential facts regarding the \$10,000 loan should be beyond dispute in that the information comes from forms signed by Mr. Fox as well as Mr. Fox's own recent public statements regarding the loan.

According to a Statement of Financial Interest filed with the State Ethics Commission of Pennsylvania by Mr. Fox on April 30, 1993 for calendar year 1992, he had an outstanding loan carrying a 6% interest rate from "Richard McBride, 2 Village Road, Horsham, PA 19044." Fox was required to file the Statement of Financial Interest in his capacity as a Montgomery County Commissioner. Mr. Fox's Statement of Financial Interest filed for the year 1991 did not disclose any debt to Mr. McBride, indicating that the loan came in 1992.

Both the 1991 and 1992 Statements of Financial Interest were personally signed by Mr. Fox under a printed warning that Pennsylvania law provides for legal penalties against anyone providing false information on the form.

The National Legal and Policy Center filed a complaint with the Federal Election Commission in January 1998 citing the \$10,000 loan from McBride as a violation of the Federal Election Campaign Act. The Federal Election Commission has designated this case as Federal Election Commission Matter Under Review 4712. As with the \$25,000 loan from Mr. Toll to Fox in 1992, McBride was a major donor to the Fox for Congress Committee and Mr. Fox never disclosed the existence of either loan on his reports to the Federal Election Commission.

Following the filing of the Federal Election Commission complaint regarding the McBride loan, Mr. Fox acknowledged to a reporter for The Philadelphia Inquirer, Laura Barnhardt, that he had borrowed \$10,000 from Mr. McBride. He further stated that he paid back Mr. McBride in 1997.

Since the amount of the loan from Mr. McBride was \$10,000 and the loan carried a 6% interest rate, Mr. Fox owed Mr. McBride an amount in excess of \$10,000 from the time the loan was made until it was paid off in 1997.

From 1992 to the present, Mr. Fox was required by the Ethics in Government Act to file Financial Disclosure Forms with the Clerk of the U.S. House of Representatives, first as a congressional candidate and, following his election to the House in 1994, as a Member of Congress. Throughout that period, the Financial Disclosure Form required disclosure of all liabilities "over \$10,000 to any one creditor at any time during the reporting period." A review of Financial Disclosure Forms filed by Mr. Fox from 1992 to 1996 indicated that Mr. Fox never disclosed his loan from Mr. McBride.

While it is not clear when in 1992 McBride made his loan to Fox, the fact that it was not paid off until 1997 meant that it remained an unpaid loan for 1994, 1995 and 1996.

With respect to the \$25,000 loan from real estate developer Bruce Toll, the subject of the April 10, 1998 letter of complaint to the Committee on Standards of Official Conduct, Mr. Fox has sought to argue that his failure to disclose the loan on his 1992 Financial Disclosure Form was because the loan was made in Fall 1992 and his Financial Disclosure Form only covered 1/1/91 through 7/31/92. This explanation contradicts the assertion of Fox's chief of staff that the loan was made in June 1992. Moreover, despite being asked to provide any bank records proving the date of the loan, Fox has steadfastly refused to provide any such documentation. The explanation that releasing such records is not permitted by the Federal Election Commission is flatly false. The Federal Election Commission forbids the release of information regarding their own pending investigation and nothing more. A long series of FEC Advisory Opinions over the years make it crystal clear that respondents to FEC complaints are free to release any information in their own possession which can be used to rebut allegations made in an FEC complaint.

In any case, while the liability to Bruce Toll was belatedly disclosed on Financial Disclosure Forms two years after the loan was made, the liability to Richard McBride was never disclosed. Nor has there been any claim by Mr. Fox that any payments on the loan were made other than the payment in 1997. As with the Toll loan, Mr. Fox has not released any bank records or other documents disclosing the date or payment schedule for the loan. Similarly, Mr. Fox has made no

statement as to the interest rate of the McBride loan, other than the filing with the State Ethics Commission which lists the interest rate at 6%.

Just two months ago, U.S. District Court Judge Royce Lamberth sentenced former Agriculture Secretary Mike Espy's chief of staff Ronald Blackley to 27 months in prison for filing a Financial Disclosure Form which failed to list \$22,000 Blackley received from associates who had dealings with the Agriculture Department. In sentencing Blackley, Judge Lamberth stated:

"This court has a duty to send a message to other high government officials that there is a penalty to be paid for making false statements under oath. Our democracy depends upon trust between the people and government officials."

A Congressman who fails to disclose an illegal \$10,000 personal loan on his Financial Disclosure Form is clearly violating the same law, the Ethics In Government Act, as the federal bureaucrat who fails to list income from individuals doing business with the government.

2. Representative Fox Championed Special Legislative Favors in the Committee on Transportation and the Infrastructure Which Financially Benefited the Real Estate Developer Who Provided the Illegal, Undisclosed \$25,000 Loan to Fox

The \$25,000 loan provided to congressional candidate Jon Fox from real estate developer Bruce Toll in 1992 is the subject of a pending complaint before the Federal Election Commission because personal loans to candidates from political contributors are subject to the same \$1,000 limitation as contributions to the candidate's committee. The fact that the \$25,000 loan was also never disclosed to the Federal Election Commission, as required by the Federal Election Campaign Act, represents further violations of both the law and public trust. The failure of Mr. Fox to disclose the loan on his 1992 Financial Disclosure Form filed with the Clerk of the U.S. House of Representatives was the central issue of the complaint previously filed with the Committee on Standards of Official Conduct.

Since the filing of the earlier complaints, new information has become available largely through the media coverage of the controversial loans. These new disclosures indicate that Mr. Fox, through his membership on the Committee on Transportation and Infrastructure, championed public works projects costing taxpayers in excess of \$10 million in an area immediately adjacent to land owned by real estate developer Bruce Toll. The public works projects have been cited in press accounts as increasing the value of Toll's adjacent real estate holdings at a time when Mr. Fox has admitted that he has not paid back a single penny in principal or interest on the \$25,000 loan he received from Toll in 1992.

The appearance of a political quid pro quo is palpable: a Congressman gets an undisclosed, personal loan for \$25,000 from a real estate developer while the real estate developer benefits from a public works project personally pushed through committee by the Congressman. Both the Congressman and the developer vehemently deny any connection between the sweetheart loan and the public works project which increases the value of the developer's land.

According to press accounts, Mr. Toll denied knowing about the public works project of Rep. Fox, even though Toll serves as finance chairman of Fox's campaign and talks to him weekly. Rep. Fox explicitly denied knowing of any Toll real estate holdings in Towamencin Township, the site of the public works project:

"This is just ridiculous," said Fox. "I am not aware of any property owned by Bruce Toll or Toll Brothers in Towamencin."

Fox's statement that he knew of no Toll property in Towamencin was quickly proven false by a story carried by Gannett News Service that Fox had visited the Toll property next to the proposed Towamencin public works site in February 1998, just a month before Fox's legislative proposal went through the Committee on Transportation and the Infrastructure. According to Bob Deehan, the president of the local community association on one of the two Toll parcels of ground:

"Toll asked Fox to come by to meet with the people," he said. "We didn't seek this out. Toll's people came up to us and said 'hey how would you like to have breakfast with Jon Fox?'"

Since Fox's visit to the gathering had been set up by Toll's people at the suggestion of Toll and was located immediately adjacent to the public works project being promoted by Fox at the very time of the visit, it strains credulity that Fox knew of no Toll real estate in Towamencin.

Further undercutting the credibility of Fox's denial of knowledge of Toll interests in the area is that other Toll employees who are owners of interests in the land are also repeat major donors to the Fox for Congress Committee, according to records on file at the Federal Election Commission. For example, Zvi Barzilay is listed in corporate records on file with the state of Pennsylvania as a principal in the investment group owning the land in question. Mr. Barzilay was recently named chief operating officer of Toll Brothers and has contributed thousands of dollars to the Fox for Congress Committee over several election cycles.

The Gannett News Service article cited a local real estate agent Hiram Hershey as stating that the land would have a higher value to the owners as a result of the improvements being advocated.

There is no doubt that the more than \$10 million in proposed improvements were Fox's doing. He held a news conference on March 30 to take credit for his success in adding the local projects to the \$217 billion transportation bill.

The Toll interests own two parcels of land right near the improvements: one is a 54 acre tract with 248 single family homes for seniors while the other parcel is a 7.75 acre piece of undeveloped land.

Put simply, Fox used more than \$10 million in taxpayer-funded improvements to upgrade the area near where real estate developer Bruce Toll, the man to whom Fox owes \$25,000 and the man who chairs Fox's campaign finance committee, owns major real estate holdings, along with other major donors to Fox's campaign. Fox's attempt to paint this situation as just an incredible coincidence rests on Fox's claim that he knew nothing of Toll's interest in any land in Towamencin. This claim is now "non-operational" since it was revealed that Toll asked Fox to speak to a public gathering on one of the parcels of land in February 1998, that Toll's people then arranged that gathering and that Fox attended the event.

It's hard to imagine a more obvious example of political corruption.

As someone who served many years on the board of directors of a law school, I cannot help but notice the concentration of so much evidence of unethical conduct resembles a law school blue book exam in ethics where the law student is asked to identify and analyze each potential violation. This case has illegal loans never properly disclosed to either the Federal Election Commission or the Clerk of the U.S. House of Representatives, special interest pork barrel projects for political contributors, and transparently false statements denying knowledge of the obvious quid pro quo.

Given the increasing and thoroughly appropriate media scrutiny of this matter, the appearance of impropriety, the compelling pattern of facts pointing to unethical conduct, and the important questions of public confidence in the integrity of its elected officials, I urge the Committee on Standards of Official Conduct to take the necessary steps to investigate and prosecute this case.

Sincerely,

Kenneth F. Boehm, Esq.
Chairman

cc: Members, Committee on Standards of Official Conduct

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