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Statement of Chairwoman Zoe Lofgren Adjudicatory Subcommittee on the matter of Rep. Charles B. Rangel July 29, 2010 *(as prepared)*

This meeting of the Adjudicatory Subcommittee in the Matter of Representative Charles B. Rangel will come to order.

The Constitution authorizes the House to discipline its members. The importance of that authority was described in the Federalist Papers by James Madison, who wrote:

The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust.

The Code of Government Ethics also states clearly that a “public office is a public trust.”

We live in a time where public skepticism about the institutions in our country is very high. It has been the goal of our Ethics Committee throughout this Congress to, by our actions, rebuild and earn trust by the public and our colleagues.

To do so we have to date in every case acted unanimously even though as we all know we live in an intensely partisan environment and even though our Committee is the only one in the Congress that is evenly divided, with 5 Democrats and 5 Republicans.

We are also a committee that operates with a professional non-partisan staff. This staff was selected unanimously by the bipartisan committee and answers equally to us all.

Bound as we are by the precedents of the House, our obligation is to act fairly and without bias or partisanship. To do anything less would dishonor this House and would be a disservice to our country.

In the House, the Committee on Standards of Official Conduct is charged with recommending and enforcing ethical standards that ensure that members and staff act in a manner befitting that public trust. It is under that authority that we are meeting here today.

The purpose of this meeting is organizational. The agenda for today includes hearing from the investigative subcommittee in this matter. Representatives Gene Green and Jo Bonner, who led that subcommittee as chair and ranking member, will share with the members of this subcommittee a summary of what they learned during the course of their investigation.

First, though, I would like to provide an overview of 1) how we got to this stage in the ethics process in this particular matter, and 2) what an adjudicatory subcommittee is, and what our role is in the process.

Rangel matter background

Nearly two years ago, Representative Rangel asked the Ethics Committee to investigate various allegations that had been made regarding his conduct. After conducting a preliminary investigation, on September 24, 2008, the Committee voted to empanel an investigative subcommittee to conduct an investigation into the conduct of Mr. Rangel. Representatives Gene Green, Doc Hastings, Bobby Scott, and Jo Bonner were selected to serve on the subcommittee. At that time, Representative Green was the chair of the subcommittee and Representative Hastings was its ranking member.

As the investigation took its course, the Committee twice voted to expand the jurisdiction of the subcommittee, first on December 9, 2008, and again on October 8, 2009.

Over the course of the investigation, the investigative subcommittee found "substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member" has occurred.

Accordingly, on July 22, 2010, the Investigative Subcommittee transmitted a Statement of Alleged Violation, or SAV, to the Committee. Pursuant to Committee rules, as the Chair of the Committee, I then appointed the members of this adjudicatory subcommittee.

That transmittal completed the work of the investigative subcommittee. I would like to take a moment to thank all four members of the investigative subcommittee. Over the course of two years, they gave substantial time and effort to this challenging task. On behalf of the rest of the Committee, thank you.

Role of adjudicatory subcommittee

With the investigative subcommittee's work completed, the work of the adjudicatory subcommittee begins. Since this phase of the ethics process is unfamiliar to many, I think it's important to briefly describe for the benefit of our colleagues in the House and to the public the role of this subcommittee.

The role of the adjudicatory subcommittee is to determine, at a hearing, whether any count in the Statement of Alleged Violation has been proved by clear and convincing evidence. As part of this process, the adjudicatory subcommittee would make findings of fact.

The Ethics Committee's non-partisan professional staff would act as the moving party under those proceedings, making the case for the violations alleged by the Investigative Subcommittee. Mr. Rangel's counsel would present his side of the story.

The adjudicatory hearing may include witness testimony and other evidence. By rule, the adjudicatory hearing would be open to the public, unless the subcommittee determines that the hearing, or any part of it, should be closed.

At the conclusion of the adjudicatory hearing, the adjudicatory subcommittee would determine, by a vote of at least five members, which would necessarily be a bipartisan vote, whether each count in the Statement of Alleged Violation has been proved.

The findings of the adjudicatory subcommittee would then be reported to the Committee. If the adjudicatory subcommittee finds that any count in the Statement of Alleged Violation has been proved, the Committee would proceed with the sanction phase in this matter.

As a clarifying note, two members of the Committee are not serving on the adjudicatory subcommittee. First, our colleague and the Ranking Member of the full Committee, Jo Bonner, served on the investigative subcommittee. Under our rules, members who serve on that subcommittee may not then serve on the adjudicatory subcommittee.

Second, ordinarily, two members of the Committee serve on an investigative subcommittee. Representative Green, who served as chair of the investigative subcommittee, was acting chair of the full Committee at the time he took on this assignment. Since then, his committee assignments have changed, and he is no longer on the committee. With Mr. Bonner ineligible to serve on the adjudicatory subcommittee, we would have an uneven 5-4 split between Democrats and Republicans on the subcommittee. Since our rules require balanced representation, I designated four Democrats and four Republicans to serve on the subcommittee.

These rules serve an important purpose. The point is to bifurcate the investigative portion of the ethics process from the adjudicative phase. One group of members leads an investigation, to determine if there's a basis to believe that a violation may have occurred. When that subcommittee concludes that there is a substantial reason to believe that a violation occurred, a separate group of members who were not involved in the investigation hears and weighs evidence, makes findings of fact, and determines whether any violation has been proved.

The eight of us did not learn of the substantive conclusions of the investigative subcommittee until it concluded its work last week and sent its Statement of Alleged Violations to the full membership of the Ethics Committee last Thursday.

The rules separate it out this way so that we are not influenced by the proceedings of the Investigative Subcommittee whose work preceded ours. Furthermore it is our obligation to decide, if facts are established, whether those facts make up a violation of the rules of the House.

The members of this subcommittee reflect the breadth and diversity of the House. My colleagues to either side of me, Representatives McCaul and Butterfield, are a former prosecutor and a former judge.

However, as members of the Adjudicatory Subcommittee we are neither accusers nor are we defenders of our colleague, Mr. Rangel. Our job is to act impartially as finders of fact and law. We are honor bound to do so without regard to partisanship or bias of any sort. We are required to act honestly and fairly based on the evidence presented to us during the adjudicatory hearing.

As I noted earlier, a "public office is a public trust." Our task is to determine whether Representative Rangel's conduct met that standard.

As I chair these proceedings, I plan to do so in the fairest way possible to all parties involved, as well as to the House.