

September 2 , 2020

Mr. Omar Ashmawy
Chief Counsel and Staff Director
Office of Congressional Ethics
U.S. House of Representatives
P.O. Box 895
Washington, D.C. 20515

Re: Request for Investigation into House Minority Whip Representative Steve Scalise (LA-1)

Dear Mr. Ashmawy,

I respectfully request that the Office of Congressional Ethics (“OCE”) initiate a preliminary review into Representative Steve Scalise of Louisiana’s 22nd Congressional District for violating House Rules by distributing a “deep fake” video through his official Twitter account on Sunday, August 30, 2020.

To attack the Democratic presidential nominee less than ten weeks before the election, while using official resources, Representative Scalise distributed a fake video that edited a question asked by a person with a nervous system disease, to make it appear he said something he had not. After news organizations caught the fabrication, after Twitter labeled it “manipulated media,” and after the person depicted in the video requested an apology, Representative Scalise continued to defend the manipulation as truthful.

Representative Scalise’s conduct flies in the face of express guidance, issued by the House Ethics Committee in January, that warned Members not to do precisely what he did. By ignoring the Committee’s direct instructions, taking advantage of an unelected citizen’s disability, abusing official resources for political purposes, and continuing to justify his outrageous conduct, Representative Scalise has brought discredit on the U.S. House of Representatives and violated multiple laws, rules and standards of conduct.

FACTUAL BACKGROUND

Representative Steve Scalise has represented Louisiana’s 1st Congressional District in the U.S. House of Representatives since 2008.¹ Representative Scalise also holds the second highest position in House Republican leadership, acting as the Minority Whip.²

On July 11, 2020, NowThis News posted a video on its YouTube channel.³ In the video, Ady Barkan, a progressive organizer for the Center for Popular Democracy and the founder of Be a

¹ *About Steve*, STEVE SCALISE REPUBLICAN WHIP, <https://www.republicanwhip.gov/about-steve/> (last visited Aug. 30, 2020).

² *Id.*

³ *Joe Biden and Ady Barkan Discuss Police Reform and Mental Health Care*, YOUTUBE (July 11, 2020), <https://www.youtube.com/watch?v=EEIPXpdeia8&feature=youtu.be> (“Original Interview”).

Hero PAC,⁴ interviewed Vice President Joe Biden, the 2020 Democratic nominee for President.⁵ Mr. Barkan, who has amyotrophic lateral sclerosis (“ALS”), can no longer use his natural voice and speaks with the assistance of a computer-generated voice.⁶ During the course of the interview, Mr. Barkan and Vice President Biden discussed mental health care and police reform.⁷ At one point, when Vice President Biden described reforms he would make to police departments, Mr. Barkan asked: “But do you agree that we can redirect some of the funding?”⁸ Vice President Biden responded, “Yes . . . absolutely.”⁹

On August 30, 2020, Representative Scalise posted a video to his official Twitter account, using footage from the interview.¹⁰ However, instead of posting the interview as it actually occurred, Representative Scalise posted a fabricated version.¹¹ Using the same computerized voice in which Mr. Barkan speaks, the producer of the forged video distributed by Representative Scalise placed additional words into Mr. Barkan’s question quoted above.¹² The forged version has Mr. Barkan ask: “But do you agree that we can redirect some of the funding *for the police*?”¹³ When he tweeted the forged video, Representative Scalise used this spurious dialogue to attack Vice President Biden, saying: “No police. Mob rule. Total Chaos. That’s the result of the Democrat agenda. Ask yourself: Is this what you want in your town next?”¹⁴ Representative Scalise sent this tweet from a Twitter account that directly links to “republicanwhip.gov,” one of his official House of Representatives website.¹⁵ “Republicanwhip.gov” and “scalise.house.gov” also link back to the Twitter account.¹⁶

Careful viewers immediately noticed the difference between the original and forged videos. NowThis News, the owner of the original footage, stepped forward to say that the video had been

⁴ *Ady Barkan*, CTR. FOR POPULAR DEMOCRACY, <https://populardemocracy.org/ady-barkan> (last visited Aug. 30, 2020); *Our Story*, BE A HERO, <https://beaherofund.com/story/> (last visited Aug. 30, 2020).

⁵ Original Interview, *supra* note 3.

⁶ Hunter, *Rep. Steve Scalise Tweets Fake Video, Spokesman Claims It Is ‘Common Practice’ When Called Out*, DAILY KOS (Aug. 30, 2020), <https://www.dailykos.com/stories/2020/8/30/1973619/-Rep-Steve-Scalise-tweets-faked-video-spokesman-claims-it-is-common-practice-when-called-out> (“Daily Kos”).

⁷ See Original Interview, *supra* note 3.

⁸ *Id.* This exchange occurs at minute 2:56. *Id.*

⁹ *Id.*

¹⁰ @SteveScalise, TWITTER (Aug. 30, 2020), <https://twitter.com/SteveScalise>. The video itself has now been removed and is unviewable (“Scalise Tweet”).

¹¹ *Video of Ady Barkan is Manipulated to Add Words in a Joe Biden Interview*, TWITTER (Aug. 30, 2020), <https://twitter.com/i/events/1300111971027542016> (“Twitter Statement”).

¹² Zack Budryk, *Twitter Slaps ‘Manipulated Media’ Tag on Video Shared by Scalise that Alters Activist’s Question to Biden*, THE HILL (Aug. 30, 2020), <https://thehill.com/policy/technology/514346-twitter-slaps-manipulated-media-tag-on-video-shared-by-scalise-that-alters>.

¹³ Daily Kos, *supra* note 6.

¹⁴ Scalise Tweet, *supra* note 10.

¹⁵ See @SteveScalise, TWITTER, <https://twitter.com/SteveScalise> (last visited Aug. 31, 2020).

¹⁶ STEVE SCALISE REPUBLICAN WHIP, <https://www.republicanwhip.gov/> (last visited Aug. 31, 2020); CONGRESSMAN STEVE SCALISE, <https://scalise.house.gov/> (last visited Aug. 31, 2020). As House rules state that a Member’s official website may only link to websites related to “the Member’s official and representational duties,” the Twitter account is an official account. See Comm. on House Administration, *Members’ Congressional Handbook* 33 (July 25, 2018), https://cha.house.gov/sites/democrats.cha.house.gov/files/documents/116th%20Members%27%20Congressional%20Handbook_0.pdf

altered.¹⁷ Twitter moved swiftly to label the video “manipulated media.”¹⁸ Mr. Barkan even tweeted the following emotional plea at Representative Scalise: “These are not my words. I have lost my ability to speak, but not my agency or my thoughts. You and your team have doctored my words for your own political gain. Please remove this video immediately. You owe the entire disability community an apology.”¹⁹

But Representative Scalise did not apologize, even while failing to deny the forgery. One of his official spokespeople, Lauren Fine, claimed that “we condensed” the interview as is “common practice for clips run on TV and social media.”²⁰ Representative Scalise himself even took to Twitter to criticize “Dems & their partners” for their reaction to the alterations and to claim that his video accurately conveyed Vice President Biden’s views.²¹ When he finally announced under pressure that he would remove the deep fake from Twitter, Representative Scalise continued to defend the edits as a truthful representation of the interview.²² He did not admit that it “shouldn’t have been edited” until Monday, August 31, but the bell could not be unrung.²³

LEGAL ANALYSIS

The first rule in the House Code of Official Conduct is that a Member “of the House shall behave at all times in a manner that shall reflect creditably on the House.”²⁴ The House Committee on Ethics warned Members just seven months ago, through a “pink sheet” that garnered substantial attention and comment, that creating and/or circulating “deep fakes,” defined as “realistic photo, audio, video, and other forgeries generated with artificial intelligence (AI) technologies,” violates this rule.²⁵ The House Communications Standards Manual also squarely prohibits the

¹⁷ Twitter Statement, *supra* note 11.

¹⁸ Scalise Tweet, *supra* note 10.

¹⁹ @AdyBarkan, TWITTER (Aug. 30, 2020), <https://twitter.com/AdyBarkan/status/1300159116942274560>.

²⁰ @versharma, TWITTER (Aug. 30, 2020), <https://twitter.com/versharma/status/1300148225702326277>; Kim Lyons, *Republican Leader Shares Faked Video of Disabled Activist on Twitter*, THE VERGE (Aug. 30, 2020),

<https://www.theverge.com/2020/8/30/21407613/twitter-labels-tweet-scalise-video-ady-barkan-manipulated>; *see also*

Scalise Names Lauren Fine Communications Director, CONGRESSMAN STEVE SCALISE (Mar. 12, 2019),

<https://scalise.house.gov/media/press-releases/scalise-names-lauren-fine-communications-director> (identifying the spokesperson as a member of Representative Scalise’s congressional staff).

²¹ @SteveScalise, TWITTER (Aug. 30, 2020), <https://twitter.com/SteveScalise/status/1300170990320787458>.

²² @SteveScalise, TWITTER (Aug. 30, 2020), <https://twitter.com/SteveScalise/status/1300247672268509187>.

²³ Carla Herreria Russo, *Steve Scalise Defends His Use of Altered Biden Interview with Activist*, HuffPost (Aug. 31, 2020), https://www.huffpost.com/entry/steve-scalise-defends-biden-video_n_5f4c5acac5b6cf66b2b9aed8?ncid=tweetInkushpmg00000016§ion=politics&gucounter=1&guce_referer=aHR0cHM6Ly90LmNvL1ZuaHFIOVZuNVM_YW1wPTE&guce_referrer_sig=AQAAADcnsPGV92uVAxg4FuUod6g2EEvtJtv6sTb6c5rBIMMv7DMMLQ2uPNG3wjkdA-zUUDMDZ5L2Oivigv8sf4sVOd-QCLeMvmWWbZoyWy_7TGob3Oz3Zp_ncNIHVptfZ_npArHtjF5Pnwc69Dw0F0quKCA7GwLow2y174NqUwADGrS.

²⁴ House Rule XXIII, Cl. 1.

²⁵ House Comm. on Ethics, Memorandum for all Members, Officers, and Employees Regarding Intentional Use of Audio-Visual Distortions & Deep Fakes (Jan. 28, 2020), https://ethics.house.gov/sites/ethics.house.gov/files/wysiwyg_uploaded/Deep%20Fakes%20Pink%20Sheet%20Guidance-Final.pdf (“Deep Fake Pink Sheet”).

use of official channels of communication, such as an official Twitter account, to convey “misrepresentations of other individuals, including but not limited to ‘deep fake’ technology.”²⁶

The House Ethics Committee explained the special dangers posed by deep fakes: “Members have a duty, and a First Amendment right, to contribute to the public discourse,” and posting deep fakes “can harm that discourse” and “erode public trust, affect public discourse, or sway an election.”²⁷ Members who share “manipulation[s] of images and videos that are intended to mislead the public” dishonor their high office and damage the integrity of the American political system.²⁸ And it matters not whether the Member or a staffer created or disseminated the deep fake: “Members are responsible for the actions of their staff.”²⁹

Representative Scalise defied this rule, abusing official resources to fabricate a disabled private citizen’s voice in order to influence an election. By editing Mr. Barkan’s voice to add words he never said, he altered the meaning of Vice President Biden’s response, and then used the forged colloquy to attack the Democratic presidential candidate. This was a brazen attempt to mislead the public and a clear violation of the rules.

While Representative Scalise’s conduct would be wrong by any measure, Mr. Barkan’s status as a private citizen and his disability are gravely aggravating factors. Because Mr. Barkan has ALS, he must use computer technology to speak. That means that his voice can be more easily faked with a computer program, because it is computer-generated to begin with. Representative Scalise thus used a citizen’s disability for his own private political gain. Worse yet, when Mr. Barkan asked for an apology, Representative Scalise refused and doubled-down on the nonsensical defense of his actions. Nothing about Representative Scalise’s conduct “reflect[s] creditably on the House.”

Representative Scalise’s willful abuse of public resources is another aggravating factor. Under federal law, appropriations must be “applied only to the objects for which the appropriations were made.”³⁰ As the House Ethics Committee explains, “official resources of the House must, as a general rule, be used for the performance of official business of the House, and hence those resources may *not* be used for campaign or political purposes.”³¹ Official resources “[c]ertainly” include “the funds appropriated for Member, committee, and other House offices” and “congressional staff time.”³² The prohibition extends “not only to any Member campaign for re-election, but rather to *any* campaign or political undertaking.”³³

²⁶ House Comm’n on Congressional Mailing Standards, The House of Representatives Communications Standards Manual 3 (Jan. 7, 2020), https://republicans-cha.house.gov/sites/republicans.cha.house.gov/files/documents/Communications%20Standards%20Manual_12-19.pdf (“Members may not use official communications to provide visual misrepresentations of other individuals, including but not limited to ‘deep fake’ technology.”).

²⁷ Deep Fake Pink Sheet, *supra* note 25, at 1-2.

²⁸ *See id.*

²⁹ *Id.* at 2.

³⁰ 31 U.S.C. § 1301(a).

³¹ House Comm. on Standards of Official Conduct, House Ethics Manual 123 (2008) (emphasis in original).

³² *Id.*

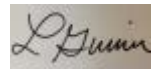
³³ *Id.* at 124 (emphasis in original).

Here, Representative Scalise posted this deep fake using a Twitter account that bore indicia of official status, that appears to have been created by his official U.S. House of Representatives office, and is supported with official government funds. His House of Representative websites link to the Twitter account, and the account links to republicanwhip.gov. His official House of Representatives Communications Director, Lauren Fine, who is paid with U.S. taxpayer funds, said “we condensed” the video. The House Ethics Committee has long warned Members that they cannot use official resources to attack political opponents in the heat of a campaign,³⁴ but Representative Scalise ignored that Committee warning, too.

A full investigation of Representative Scalise’s “deep fake” is necessary, for several reasons. First, OCE and the Committee must determine the extent of his knowledge of, and willful disregard for, the relevant standards of conduct. Second, they must determine the full extent to which official resources were abused to create and distribute the errant video. Third, the public record requires a full understanding of how this deception came to occur: who encouraged it, who knew about it, and who else might have violated applicable laws, rules and standards of conduct. Finally, the obstinate conduct of Representative Scalise and his staff after the discovery of the fraud requires a clear, forceful and unambiguous rebuke.³⁵

In accordance with 18 U.S.C. § 1001, I affirm that, to the best of my knowledge and ability, all evidence submitted was not obtained in violation of any law, rule, or regulation.

Sincerely,



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³⁴ See, e.g., H. Rep. 104-886, at 22-23 (1997) (finding violations when Members issued dueling official press releases while running against each other for U.S. Senate).

³⁵ Any OCE investigation should also include an examination of the circumstances surrounding the use of footage of House Speaker Nancy Pelosi that Representative Scalise included in his Twitter video as well. The video appears to weave together out-of-context snippets of Speaker Pelosi speaking, so that her message is different than what she actually said. See @SteveScalise, TWITTER (Aug. 30, 2020), <https://twitter.com/SteveScalise/status/1300251058665644033> (displaying a re-cut video that omits the Barkan/Biden interview but still includes false Speaker Pelosi footage). These out-of-context snippets appear to also be a direct violation of the same federal laws, House ethics rules, and Committee guidance discussed throughout this Complaint, and reflect a disturbing pattern of misconduct on the part of Representative Scalise.