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RULE XXXVI<sup>67</sup>

## OUTSIDE EARNED INCOME

For purposes of this rule, the provisions of section 501 of the Ethics in Government Act of 1978 (5 U.S.C. App. § 501) shall be deemed to be a rule of the Senate as it pertains to Members, officers, and employees of the Senate.

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## RULE XXXVII

## CONFLICT OF INTEREST

- 37.1 1. A Member, officer, or employee of the Senate shall not receive any compensation, nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt or accrual of which would occur by virtue of influence improperly exerted from his position as a Member, officer, or employee.
- 37.2 2. No Member, officer, or employee shall engage in any outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties.
- 37.3 3. No officer or employee shall engage in any outside business or professional activity or employment for compensation unless he has reported in writing when such activity or employment commences and on May 15 of each year thereafter so long as such activity or employment continues, the nature of such activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate.
- 37.4 4. No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

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<sup>67</sup> Previous provisions of rule XXXVI were repealed by S. Res. 512, 97-2, Dec. 14, 1982, effective Jan. 1, 1983. New rule XXXVI language established by S. Res. 192, 102-1, Oct. 31, 1991, effective Aug. 14, 1991.

5. (a)<sup>68</sup> No Member, officer, or employee of the Senate **37.5a** compensated at a rate in excess of \$25,000 per annum and employed for more than ninety days in a calendar year shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such a firm, partnership, association or corporation; or (3) practice a profession for compensation to any extent during regular office hours of the Senate office in which employed. For the purposes of this paragraph, "professional services" shall include but not be limited to those which involve a fiduciary relationship.

(b) A Member or an officer or employee whose rate of **37.5b** basic pay is equal to or greater than 120 percent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule shall not—

(1) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship;

(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

(3) receive compensation for practicing a profession which involves a fiduciary relationship; or

(4) receive compensation for teaching, without the prior notification and approval of the Select<sup>69</sup> Committee on Ethics.

6. (a)<sup>70</sup> No Member, officer, or employee of the Senate **37.6a** compensated at a rate in excess of \$25,000 per annum and employed for more than ninety days in a calendar year shall serve as an officer or member of the board of any publicly held or publicly regulated corporation, financial institution, or business entity. The preceding sentence shall not apply to service of a Member, officer, or employee as—

(1) an officer or member of the board of an organization which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954, if such service is performed without compensation;

<sup>68</sup> Paragraph 5 renumbered 5(a) and subparagraph (b) added by S. Res. 192, 102-1, Oct. 31, 1991.

<sup>69</sup> Added by S. Res. 299, 106-2, Apr. 27, 2000.

<sup>70</sup> Paragraph 6 renumbered 6(a) and subparagraph (b) added by S. Res. 192, 102-1, Oct. 31, 1991.

(2) an officer or member of the board of an institution or organization which is principally available to Members, officers, or employees of the Senate, or their families, if such service is performed without compensation; or

(3) a member of the board of a corporation, institution, or other business entity, if (A) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate, (B) the amount of time required to perform such service is minimal, and (C) the Member, officer, or employee is not a member of, or a member of the staff of any Senate committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.

- 37.6b** (b) A Member or an officer or employee whose rate of basic pay is equal to or greater than 120 percent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule shall not serve for compensation as an officer or member of the board of any association, corporation, or other entity.
- 37.7** 7. An employee on the staff of a committee who is compensated at a rate in excess of \$25,000 per annum and employed for more than ninety days in a calendar year shall divest himself of any substantial holdings which may be directly affected by the actions of the committee for which he works, unless the Select Committee, after consultation with the employee's supervisor, grants permission in writing to retain such holdings or the employee makes other arrangements acceptable to the Select Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest, or the appearance thereof.
- 37.8** 8.<sup>71</sup> If a Member, upon leaving office, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist or an entity that employs or retains a registered lobbyist for the purpose of influencing legislation, he shall not lobby Members, offi-

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<sup>71</sup> Paragraphs 8 and 9 amended by Pub. L. 110-81, Sep. 14, 2007.

cers, or employees of the Senate for a period of two years after leaving office.

9. (a) If an employee on the staff of a Member, upon leaving that position, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist or an entity that employs or retains a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the Member for whom he worked or that Member's staff for a period of one year after leaving that position. **37.9a**

(b) If an employee on the staff of a committee, upon leaving his position, becomes such a registered lobbyist or is employed or retained by such a registered lobbyist or an entity that employs or retains a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the members of the committee for which he worked, or the staff of that committee, for a period of one year after leaving his position. **37.9b**

(c)<sup>72</sup> If an officer of the Senate or an employee on the staff of a Member or on the staff of a committee whose rate of pay is equal to or greater than 75 percent of the rate of pay of a Member and employed at such rate for more than 60 days in a calendar year, upon leaving that position, becomes a registered lobbyist, or is employed or retained by such a registered lobbyist or an entity that employs or retains a registered lobbyist for the purpose of influencing legislation, such employee may not lobby any Member, officer, or employee of the Senate for a period of 1 year after leaving that position. **37.9c**

10. <sup>73</sup> Paragraphs 8 and 9 shall not apply to contacts with the staff of the Secretary of the Senate regarding compliance with the lobbying disclosure requirements of the Lobbying Disclosure Act of 1995. **37.10**

11. (a) If a Member's spouse or immediate family member is a registered lobbyist, or is employed or retained by such a registered lobbyist or an entity that hires or retains a registered lobbyist for the purpose of influencing legislation, the Member shall prohibit all staff employed or supervised by that Member (including staff in personal, committee, and leadership offices) from having any contact **37.11a**

<sup>72</sup> Paragraph 9(c) shall apply to individuals who leave the office or employment to which such paragraph applies on or after Dec. 31, 2007. Sec. 531 of Pub. L. 110-81, Sep. 14, 2007.

<sup>73</sup> Paragraphs 10 and 11 added by Pub. L. 110-81, Sep. 14, 2007.

- with the Member's spouse or immediate family member that constitutes a lobbying contact as defined by section 3 of the Lobbying Disclosure Act of 1995 by such person.
- 37.11b** (b) Members and employees on the staff of a Member (including staff in personal, committee, and leadership offices) shall be prohibited from having any contact that constitutes a lobbying contact as defined by section 3 of the Lobbying Disclosure Act of 1995 by any spouse of a Member who is a registered lobbyist, or is employed or retained by such a registered lobbyist.
- 37.11c** (c) The prohibition in subparagraph (b) shall not apply to the spouse of a Member who was serving as a registered lobbyist at least 1 year prior to the most recent election of that Member to office or at least 1 year prior to his or her marriage to that Member.
- 37.12a** 12. (a)<sup>74</sup> Except as provided by subparagraph (b), any employee of the Senate who is required to file a report pursuant to rule XXXIV shall refrain from participating personally and substantially as an employee of the Senate in any contact with any agency of the executive or judicial branch of Government with respect to non-legislative matters affecting any non-governmental person in which the employee has a significant financial interest.
- 37.12b** (b) Subparagraph (a) shall not apply if an employee first advises his supervising authority of his significant financial interest and obtains from his employing authority a written waiver stating that the participation of the employee is necessary. A copy of each such waiver shall be filed with the Select Committee.
- 37.13** 13.<sup>75</sup> For purposes of this rule—
- 37.13a** (a) “employee of the Senate” includes an employee or individual described in paragraphs 2, 3, and 4(c) of rule XLI;
- 37.13b** (b) an individual who is an employee on the staff of a subcommittee of a committee shall be treated as an employee on the staff of such committee; and
- 37.13c** (c) the term “lobbying” means any oral or written communication to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation; but does not include—

<sup>74</sup> Paragraphs 10 and 11 were renumbered as 11 and 12 respectively and paragraph 10 was added by S. Res. 236, 101–2, Jan. 30, 1990. Paragraph renumbered by Pub. L. 110–81, Sep. 14, 2007.

<sup>75</sup> Paragraph 13 renumbered pursuant to Pub. L. 110–81, Sep. 14, 2007.

(1) a communication (i) made in the form of testimony given before a committee or office of the Congress, or (ii) submitted for inclusion in the public record, public docket, or public file of a hearing; or

(2) a communication by an individual, acting solely on his own behalf, for redress of personal grievances, or to express his personal opinion.

14. <sup>76</sup>(a) A Member shall not negotiate or have any arrangement concerning prospective private employment until after his or her successor has been elected, unless such Member files a signed statement with the Secretary of the Senate, for public disclosure, regarding such negotiations or arrangements not later than 3 business days after the commencement of such negotiation or arrangement, including the name of the private entity or entities involved in such negotiations or arrangements, and the date such negotiations or arrangements commenced. **37.14a**

(b) A Member shall not negotiate or have any arrangement concerning prospective employment for a job involving lobbying activities as defined by the Lobbying Disclosure Act of 1995 until after his or her successor has been elected. **37.14b**

(c)(1) An employee of the Senate earning in excess of 75 percent of the salary paid to a Senator shall notify the Select Committee on Ethics that he or she is negotiating or has any arrangement concerning prospective private employment. **37.14c**

(2) The notification under this subparagraph shall be made not later than 3 business days after the commencement of such negotiation or arrangement.

(3) An employee to whom this subparagraph applies shall—

(A) recuse himself or herself from—

(i) any contact or communication with the prospective employer on issues of legislative interest to the prospective employer; and

(ii) any legislative matter in which there is a conflict of interest or an appearance of a conflict for that employee under this subparagraph; and

(B) notify the Select Committee on Ethics of such recusal.

<sup>76</sup> Paragraph 14 added by Pub. L. 110–81, Sep. 14, 2007.

- 37.15** 15. <sup>77</sup> For purposes of this rule—
- 37.15a** (a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;
- 37.15b** (b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;
- 37.15c** (c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;
- 37.15d** (d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;
- 37.15e** (e) the Secretary of the Senate is the supervisor of the employees of his office;
- 37.15f** (f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;
- 37.15g** (g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices;
- 37.15h** (h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and
- 37.15i** (i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.

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## RULE XXXVIII

## PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

- 38.1a** 1. (a) <sup>78</sup> No Member may maintain or have maintained for his use an unofficial office account. The term “unofficial office account” means an account or repository into which funds are received for the purpose, at least in part, of de-

<sup>77</sup> Paragraph 15 renumbered by Pub. L. 110–81, Sep. 14, 2007.

<sup>78</sup> Paragraph 1 was renumbered 1(a) and subparagraph (b) was added by S. Res. 192, 102–1, Oct. 31, 1991. Effective date revised to May 1, 1992, by Pub. L. 102–229, Dec. 12, 1991.