

Congress of the United States
House of Representatives
Washington, D.C. 20515

February 22, 2022

The Honorable Mary Gay Scanlon
Chairwoman
Communication Standards Commission
1307 Longworth House Office Building
Washington, DC, 20515

Chairwoman Scanlon:

I am writing to inform you of my decision that, pursuant to Rule 7 of the *Rules of Practice and Procedure of the House Communications Standards Commission*,¹ further review of the February 1, 2022, Communication Standards complaint brought against Representative Val Demings by Americans for Public Trust is warranted.

This complaint presents a reasonable justification to warrant further review. The Member's lack of any active management or control over congressional mailings sent using the Frank, as well as her decision not to familiarize herself with her vendor's business practices or to review its decisions made on her behalf each deserves attention by the whole Commission body.

Although vendor mistakes do happen,² Members themselves are charged by federal law with the duty to use federal taxpayer dollars wisely, which includes ensuring that any staff or vendors employed by the Member comply with the law and Commission rules.³ In particular, a Member's candidacy for statewide office is a prime reason these rules exist and why Members must take extra caution to have adequate controls and maintain oversight of vendors operating on their behalf to ensure that their mass mailings are not sent outside of their current Congressional districts.

Here, even though the Member is a candidate for statewide office, she appears to have engaged in little to no oversight of her vendor's operations, explaining that she was so unaware of its operations that she neither reviewed nor approved final mailing lists to ensure compliance, did not know and did not inquire concerning the vendor's mailing practices, and was overall so uninformed about the process that she did not know a violation had occurred until Americans for Public trust filed the underlying complaint.⁴ The Member's own response to the Complaint states;

¹ "Upon a decision by *either the Chair and/or the Ranking Member* that further review of the complaint is warranted to determine if a violation has occurred, the respondent shall be given notice of further review. Rule 7, *Rules of Practice and Procedure of the House Communications Standards Commission*.

² Had the Member come forward to the Commission on her own accord, it is likely that the Commission would have accepted appropriate restitution and considered the matter closed, dismissing any future complaints on the subject that might later be filed.

³ 39 U.S.C. § 3210.

⁴ The matter at hand is clearly distinguishable from the cited *Knaus v. Tancredo* precedent. In *Knaus*, the Member apparently exercised appropriate direction and control over his mailing vendor with respect to compliance with federal law and Commission rules and an appropriate address data file was created. Here, the Member appears to have ignored her responsibility to instruct the vendor appropriately and check the vendor's work, leading to the current situation.

*The Representative and her office were unaware that this was the subvendor's standard practice for all mailings until receiving this complaint. The Representative and her office did not authorize any mail being sent outside the 10th Congressional District, and were in fact unaware until now that this had even occurred.*⁵

Further, despite these clear questions concerning the Member's exercise of any actual oversight over her vendor's operations, the vendor has claimed responsibility and is alleged to have provided a check in the amount of \$1,181.48 as restitution to the Department of Treasury for the postage costs attributed to the mailings that were distributed outside of the Member's district.

In order to verify the amount provided is accurate, the Commission must know:

1. How many total pieces of the mailing were distributed?
2. How many of pieces of the mailing were sent outside of the Member's current district?
3. What was the total cost of the mailing, including production, printing, and postage?

In light of the Member's hands-off approach, the Commission should consider whether restitution by the vendor is sufficient in this case. Moreover, the Commission should consider the fact that other Members utilizing this vendor may be in similar situations and should determine what the best course of action is to address potential violations by other Members who contract with this vendor.

The Commission should also inquire as to what kind of funds can be used for counsel to represent Respondents in their initial responses for mass communication complaints. The *Members' Congressional Handbook* does not allow for use of the Members' Representational Allowance for this purpose. While Members may use campaign funds to pay for a counsel to represent them in an Ethics inquiry, the Commission should consult with the Ethics Committee on the permissibility of using personal or campaign funds for legal expenses as it relates to official communications, since there is currently no specific guidance.

Upon receipt of a valid complaint under 2 U.S.C. § 501(e), the Commission has thirty days to issue a written decision if a violation did occur—which for the complaint in question against Representative Demings is March 3, 2022.

Pursuant to Rule 7, the Commission must now inform Representative Demings of its decision that further review of the complaint is warranted. Further, the Commission should request additional information from the Respondent in order to complete the record and facilitate our further review in an expedient manner.

I look forward to the Commission's prompt notice to Representative Demings.

Sincerely,

A handwritten signature in blue ink that reads "Kat Cammack". The signature is written in a cursive, flowing style.

Kat Cammack
Ranking Member
Communications Standards Commission

⁵ Demings Response 2, *Americans for Public Trust v. Demings*.