

**American Democracy Legal Fund
455 Massachusetts Avenue, NW
Washington, DC 20001**

September 19, 2018

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 of Representative Marsha Blackburn (TN-07)

Dear Mr. Ashmawy:

I respectfully request that the Office of Congressional Ethics (“OCE”) investigate whether Representative Marsha Blackburn of Tennessee’s 7th Congressional District failed to provide a “full and complete statement” of her assets, liabilities, and positions on her 2014, 2015, 2016, and 2017 Financial Disclosure Reports (each a “PFD”) as required by the Ethics in Government Act of 1978, as amended (the “Act”).¹ As detailed below, her PFDs indicate multiple omissions and discrepancies.

I. Background

Marsha Blackburn has represented Tennessee’s 7th Congressional District since 2003.² Rep. Blackburn is also currently a candidate for United State Senate.³ As a sitting Member of Congress, Rep. Blackburn is required under the Ethics in Government Act to file an annual financial disclosure statement.⁴

According to Rep. Blackburn’s 2014 PFD, Rep. Blackburn purchased a one-third interest in Down Yonder LLC (“LLC”) for \$100,001 to \$250,000 on February 23, 2014.⁵ Rep. Blackburn further reported that she held a one-third interest in the LLC’s real estate holdings, reported the value of her interest as the same range as the purchase range, listed real estate as a description of the asset, listed the location of the asset as Nashville, TN, and included a description of the

¹ 5 U.S.C. App. 4, § 102(a).

² See About Marsha, U.S. House of Representatives, <https://blackburn.house.gov/biography/>.

³ See Marsha Blackburn, FEC Form 2, Statement of Candidacy (July 5, 2018), <http://docquery.fec.gov/pdf/390/201807050200479390/201807050200479390.pdf>.

⁴ 5 U.S.C. App. 4, § 102(a).

⁵ See Schedule B, U.S. House of Representatives, Office of the Clerk, Financial Disclosure Reports Database, Marsha Blackburn, 2014 Financial Disclosure Statement (filed Aug. 12, 2015), http://clerk.house.gov/public_disc/financial-pdfs/2014/9107413.pdf (hereinafter “2014 PFD”).

income as rent.⁶ She also disclosed that she was a member of the LLC.⁷ She did not provide any additional detail on the LLC's holdings.

In her 2015 PFD, filed on August 12, 2016, Rep. Blackburn again reported the same one-third interest in the LLC, the fact that the LLC was generating rental income, and added that the rental income yielded between \$2,501 and \$5,000 that year.⁸ She also reported that she was a member of the LLC, and for the first time, she disclosed a mortgage with Capital Bank of \$100,001 to \$250,000 on the property owned by the LLC, taken out in January 2014, the same month that the LLC was formed.⁹ The mortgage was listed for a rental property in Daufuskie Island, South Carolina.¹⁰

In her 2016 PFD, filed on August 3, 2017, Rep. Blackburn did not disclose her interest in the LLC as an asset, as she had done in years past, nor did she disclose any sale of her interest as a transaction.¹¹ Despite not disclosing her interest in any LLC, Rep. Blackburn still disclosed a \$100,001 to \$250,000 mortgage with Capital Bank "on property owned by LLC."¹² She also did not report her position as a member of the LLC.¹³

Finally, in her 2017 PFD, filed on August 3, 2018, Rep. Blackburn did not disclose any of her involvement with the LLC. She did not disclose her one-third interest in the LLC as an asset, did not disclose a sale of her interest in the LLC, did not disclose being a member of the LLC, and did not disclose the \$100,001 to \$250,000 mortgage through Capital Bank that she disclosed on her 2016 PFD. Furthermore, although Rep. Blackburn appears to have co-signed on a \$100,000 revolving line of credit secured by the South Carolina home owned by the LLC in August 2017, she did not disclose this line of credit on her 2017 PFD.¹⁴

II. Law

The Ethics in Government Act requires Members of the U.S. House of Representatives to disclose, with limited exceptions, the following:

⁶ See 2014 PFD, Schedule A. She did not disclose any amount of rent being generated.

⁷ See 2014 PFD, Schedules E.

⁸ See Schedule A, U.S. House of Representatives, Office of the Clerk, Financial Disclosure Reports Database, Marsha Blackburn, FD (filed Aug. 12, 2016), http://clerk.house.gov/public_disc/financial-pdfs/2015/9109859.pdf (hereinafter "2015 PFD")

⁹ 2015 PFD, Schedules D & E.

¹⁰ 2015 PFD, Schedule D.

¹¹ See Schedules A & B, U.S. House of Representatives, Office of the Clerk, Financial Disclosure Reports Database, Marsha Blackburn, FD (filed Aug. 3, 2017), http://clerk.house.gov/public_disc/financial-pdfs/2016/10018289.pdf (hereinafter "2016 PFD").

¹² 2016 PFD, Schedule D.

¹³ 2016 PFD, Schedule E.

¹⁴ See U.S. House of Representatives, Office of the Clerk, Financial Disclosure Reports Database, Marsha Blackburn, FD (Aug. 2018), http://clerk.house.gov/public_disc/financial-pdfs/2017/10021972.pdf; Joel Ebert, *Blackburn did not disclose line of credit of South Carolina house, records show*, NASHVILLE TENNESSEAN, Sept. 5, 2018, <https://www.tennessean.com/story/news/politics/tn-elections/2018/09/05/marsha-blackburn-senate-financial-disclosures/1191052002/>.

- Assets held for investment valued at more than \$1,000 at the close of a reporting period,¹⁵ and any individual purchases or sales involving assets in which the transaction exceeded \$1,000¹⁶;
- Unearned income received during the preceding calendar year in excess of \$200¹⁷; and
- Liabilities owed that exceeded \$10,000 during the preceding calendar year.¹⁸

A Member of Congress must further disclose whether he or she was the member of any limited liability companies, among other positions.¹⁹

When disclosing unearned income and assets, a Member of the House of Representatives must disclose “an ownership interest in a privately-held company that was formed for the purpose of holding investments,” including “each asset held by the company in which the Member’s interest has a value of more than \$1,000 or generated income of more than \$200.”²⁰ When disclosing liabilities, a Member of the House of Representatives must disclose “liabilities of a business if [the Member] is personally liable for the debt.”²¹ “This includes mortgages on rental or investment property held in a . . . limited liability company.”²²

III. Analysis

Rep. Blackburn has repeatedly failed to meet these reporting requirements in several respects.

First, on Schedule A of her 2014 and 2015 PFDs, Rep. Blackburn reported a one-third interest in the Down Yonder LLC,²³ which she had purchased in January 2014, and disclosed on Schedule B of her 2014 PFD.²⁴ Rep. Blackburn further reported that her stake in the LLC generated rental income in both 2014 and 2015, but only listed the amount of income in her 2015 PFD.²⁵ Her 2014 PFD fails to disclose the amount of rental income she received in 2014. Furthermore, her 2014 PFD contains no indication of where this property was located, and indeed implies that the property was located in Nashville, Tennessee. However, her 2015 PFD reveals, in Schedule D, that the property held by the LLC was actually located in South Carolina.²⁶ Although Rep. Blackburn was not required to report the street address of the

¹⁵ *Id.* § 102(a)(3); U.S. House of Representatives Committee on Ethics, Instruction Guide, Financial Disclosure Statements and Periodic Transaction Reports, Calendar Year 2017 (“Instruction Guide”) at 16, https://ethics.house.gov/sites/ethics.house.gov/files/CY%202017%20Instruction%20Guide%20for%20Financial%20Disclosure%20Statements%20and%20PTRs_0.pdf.

¹⁶ *Id.* § 102(a)(5); Instruction Guide at 28.

¹⁷ 5 U.S.C. App. 4, § 102(a)(1)(B); Instruction Guide at 16.

¹⁸ 5 U.S.C. App. 4, § 102(a); Instruction Guide at 16.

¹⁹ *Id.* § 102(a)(6)(A); Instruction Guide at 34.

²⁰ Instruction Guide at 23.

²¹ *Id.* at 32 (emphasis in original).

²² *Id.* at 33.

²³ See 2014 PFD, Schedule A; 2015 PFD, Schedule A.

²⁴ See 2014 PFD, Schedule B.

²⁵ See 2014 PFD, Schedule A; 2015 PFD, Schedule A.

²⁶ See 2015 PFD, Schedule D (reporting a January 2014 mortgage of between \$100,001 and \$250,000 on a rental property in Daufuskie Island, South Carolina).

underlying property, she was required to itemize the assets held by the LLC and provide a description and location (city and state) of each. But she failed to do so in Schedule A of her 2014 and 2015 PFDs, when she disclosed that the LLC was generated rental income, but did not provide a description and accurate location of the underlying property.²⁷ Thus, Rep. Blackburn filed an incomplete Schedule A on her 2014 and 2015 PFDs.

Second, Rep. Blackburn reported that she was a member of the LLC in her 2014 and 2015 reports, but did not report that position in her 2016 and 2017 reports,²⁸ despite the fact that she reported being liable for a mortgage on the property in her 2016 PFD, and appears to have been liable for a different liability on the same property in 2017.²⁹ If Rep. Blackburn was still a member of the LLC in 2016 and 2017, she was required to report that position in Schedule E of her 2016 and 2017 PFDs, even if the property was not generating rental income.³⁰ Conversely, if she had sold her interest in the LLC prior to 2016 and therefore was no longer a member of the LLC, she would have been required to report that sale in her 2015 PFD.³¹ Members of the House are required to report “a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceed[ed] \$1,000 . . . in real property, other than property used solely as a personal residence of the reporting individual or his spouse.”³² In 2015, Rep. Blackburn disclosed that the real property owned by the LLC was being used to generate rental income, and therefore, it was not being used solely as a personal residence.³³ Additionally, given the reported value of her interest in the LLC, it is highly unlikely that any sale of her interest in the LLC would have been less than \$1,001.³⁴ Therefore, had she sold her interest in the LLC, she still would have been required to disclose the sale in Schedule B in her 2015 PFD. Rep. Blackburn did not disclose a sale of her interest in the LLC in any of her PFDs. Given that it appears that Rep. Blackburn still held her one-third interest in the LLC in 2016 and 2017, she should have disclosed her position as a member of the LLC on Schedule E of her 2016 and 2017 PFDs.

Third, Rep. Blackburn’s 2015 and 2016 PFDs report that she was personally liable for a mortgage on the property owned by the LLC which was incurred in January 2014, when the LLC was created.³⁵ However, this mortgage does not appear on her 2014 PFD despite the fact that it was incurred in that calendar year.³⁶ If the LLC incurred the mortgage in 2014 as disclosed on her 2015 and 2016 PFDs, and had a value between \$100,001 and \$250,000 in 2015 and 2016, which appears to be the case, then Rep. Blackburn was required to report the mortgage on Schedule D of her 2014 PFD.³⁷ She failed to do so.

²⁷ Instruction Guide at 17 (explaining that while a filer need not report the exact street address of a property, he or she should provide a brief description of the property as well as the city or state in which it is located).

²⁸ See 2014 PFD, Schedule E; 2015 PFD, Schedule E; 2016 PFD, Schedule E; 2017 PFD, Schedule E.

²⁹ 2016 PFD, Schedule D; see Joel Ebert, *Blackburn did not disclose line of credit of South Carolina house, records show*.

³⁰ 5 U.S.C. App. 4, § 102(a)(6)(A); Instruction Guide at 34.

³¹ 5 U.S.C. App. 4, § 102(a)(5)(A); Instruction Guide at 28.

³² 5 U.S.C. App. 4, § 102(a)(5)(A) (emphasis added); Instruction Guide at 28.

³³ See 2015 PFD, Schedule A.

³⁴ *Id.*

³⁵ See 2015 PFD, Schedule D; 2016 PFD, Schedule D; see also 2014 PFD, Schedule A.

³⁶ See 2014 PFD, Schedule D.

³⁷ See 5 U.S.C. App. 4, § 102(a)(4); Instruction Guide at 32.

Fourth, although Rep. Blackburn appears to have been a co-signer on a \$100,000 revolving line of credit secured by the South Carolina home owned by the LLC in August 2017, she failed to report the line of credit in her 2017 PFD -- even though the House Ethics Committee instructions specifically state that loans on which the filer is a co-signer must be disclosed.³⁸ Additionally, based on the fact that Rep. Blackburn appears to have co-signed for this loan, it follows that she was likely still a member of the LLC in 2017, a position that, as explained above, she did not report in her 2016 and 2017 PFDs.³⁹

A spokeswoman for Rep. Blackburn's senatorial campaign has claimed that Rep. Blackburn was not required to report the 2017 loan because the South Carolina home serving as collateral for the loan went from being a rental property to a personal asset. However, even if the South Carolina home was a personal residence or personal vacation home and generated no rental income in 2017, Members of the U.S. House of Representatives are required to disclose mortgages and home equity loans (including lines of credit) on personal residences.⁴⁰

IV. Request for Action

I respectfully urge OCE to commence an immediate investigation into these discrepancies and omissions. I understand that 18 U.S.C. § 1001 applies to the information I am providing. To the best of my knowledge and ability all evidence submitted was not obtained in violation of any law, rule or regulation.

Sincerely,



Brad Woodhouse

Enclosures

³⁸ Joel Ebert, *Blackburn did not disclose line of credit of South Carolina house, records show*; see 5 U.S.C. App. 4, § 102(a)(4); Instruction Guide at 32.

³⁹ 2016 PFD, Schedule E; 2017 PFD, Schedule E.

⁴⁰ *Id.* at 32-33.

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OFFICE OF THE CLERK U.S. HOUSE OF REPRESENTATIVES

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UNITED STATES HOUSE OF REPRESENTATIVES
2014 FINANCIAL DISCLOSURE STATEMENT

Form A
 For Use by Members, Officers, and Employees

Name: MARSH WERLEWORTH BLAZERS Daytime Telephone: _____

FILER STATUS	<input checked="" type="checkbox"/> Member of or Candidate for U.S. House of Representatives	State: <u>TN</u> District: <u>07</u>	<input type="checkbox"/> Officer or Employee	Employing Office: _____
REPORT TYPE	<input checked="" type="checkbox"/> 2014 Annual (Due: May 15, 2015)	<input type="checkbox"/> Amendment	<input type="checkbox"/> Termination	Date of Termination: _____

PRELIMINARY INFORMATION - ANSWER EACH OF THESE QUESTIONS

A. Did you, your spouse, or your dependent child: a. Own any reportable asset that was worth more than \$1,000 at the end of the reporting period? or b. Make more than \$200 in unearned income from any reportable asset during the reporting period?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
B. Did you, your spouse, or your dependent child purchase, sell, or exchange any securities or reportable real estate in a transaction exceeding \$1,000 during the reporting period?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
C. Did you or your spouse have "earned" income (e.g., salaries, honoraria, or pension/IRA distributions) of \$200 or more during the reporting period?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
D. Did you, your spouse, or your dependent child have any reportable liability (more than \$10,000) at any point during the reporting period?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
E. Did you hold any reportable positions during the reporting period or in the current calendar year up through the date of filing?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

IPO AND EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INFORMATION - ANSWER EACH OF THESE QUESTIONS

IPO - Did you purchase any shares that were allocated as a part of an Initial Public Offering during the reporting period? If you answered "yes" to this question, please contact the Committee on Ethics for further guidance.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
TRUSTS - Details regarding "Qualified Blind Trusts" approved by the Committee on Ethics and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust that benefits you, your spouse, or your dependent child?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
EXEMPTION - Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or your dependent child because they meet all three tests for exemption? Do not answer "yes" unless you have first consulted with the Committee on Ethics.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

SCHEDULE F - AGREEMENTS

Name: MARINA WOODSWORTH BLACKBURN Page 6 of 7

Identify the date, parties to, and general terms of any agreement or arrangement that you have with respect to: future employment; a leave of absence during the period of government service; continuation or deferral of payments by a former or current employer other than the U.S. government; or continuing participation in an employee welfare or benefit plan maintained by a former employer.

Date	Parties to Agreement	Terms of Agreement
12-02	STATE OF TENNESSEE	LEGISLATIVE PENSION

SCHEDULE G - GIFTS

Report the source (by name), a brief description, and the value of all gifts totaling more than \$375 received by you, your spouse, or your dependent child from any source during the year. Exclude: Gifts from relatives; gifts of personal hospitality from an individual; local meals; and gifts to a spouse or dependent child that are totally independent of his or her relationship to you. Gifts with a value of \$150 or less need not be added towards the \$375 disclosure threshold. Note: The gift rule (House Rule 25, clause 6) prohibits acceptance of gifts except as specifically provided in the rule.

Source	Description	Value
Example: Mr. Joseph Smith, Arlington, VA	Other: Platter (determination of personal friendship received from the Ethics Committee)	2400
N/A		

Use additional sheets if more space is required.

