

United States Senate

SELECT COMMITTEE ON ETHICS

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July 30, 2002

Letter of Admonition

The Honorable Robert G. Torricelli
United States Senate
Washington, D.C. 20510

Dear Senator Torricelli:

The Committee takes this action pursuant to Section 2(d)(3) of Senate Resolution 338, 88th Congress, 2nd Session (1964), as amended by Senate Resolution 222, 106th Cong., 1st Session(1999) and its Supplemental Rules of Procedure Rule 3(g)(2).

By letter dated January 3, 2002, the U.S. Attorney for the Southern District of New York advised the Committee that she was closing her investigation of you without filing criminal charges and referring the matter to the Committee. In her referral, the U.S. Attorney stated that "after an extensive investigation, we have concluded that there is not a reasonable possibility that the Government could prevail at a trial where the burden of proof would be beyond a reasonable doubt." Nonetheless, under Senate Ethics Rules, this Justice Department referral initiated a preliminary inquiry into your conduct.

After receiving this letter, the Committee took steps to determine whether any of the events and transactions underlying the Department of Justice referral violated Senate Rules. Accordingly, the Committee obtained and reviewed witness interviews memorialized in reports prepared by the U. S. Attorney, the Federal Bureau of Investigation and the Internal Revenue Service. It also obtained and reviewed documents and other tangible evidence seized pursuant to search warrants. The Committee also obtained and reviewed materials kept by the U. S. Department of State. Pursuant to the Federal Rules of Criminal Procedure, the Committee obtained and reviewed transcripts of grand jury testimony and third party business records. It also obtained and reviewed records kept by your Senate office and had available to it an analysis of third party bank records and your personal financial records. The Committee also obtained and considered information and explanations from you including your sworn testimony.

Moreover, the Committee obtained criminal pleadings relating to Mr. David Chang and Ms. Audrey Yu, and plea and sentencing hearing transcripts and carefully weighed this and the other extensive evidence outlined above in its evaluation of the credibility of the allegations and

your response. In its evaluation of the credibility of various assertions, the Committee considered, among other things, a witness's criminal record, his or her stake in the outcome of this preliminary inquiry, any bias against or in favor of you, any other possible motivation to shade the truth, prior inconsistent statements and whether an assertion or statement could be corroborated or reconciled with other evidence, including evidence from disinterested parties. In its evaluation of the credibility of the allegations and your response, the Committee considered evidence from many sources, rather than simply relying on the allegations of one or more principal witnesses.

The Committee notes that the record of the Department of Justice investigation made available to the Committee, consisting of thousands of pages of information, disclosed an investigation which was sweeping in scope, exceedingly detailed and thorough, and obviously the product of substantial investment of government resources. The quality of this record renders unnecessary any attempt by this Committee to duplicate the Department of Justice investigation.

Based upon and in consideration of the totality of the circumstances evident from the extensive investigative record, as well as additional information provided in your sworn deposition before Committee counsel and in your response to questions of Committee Members, the Committee has concluded as follows:

- 1) Your acceptance of a television and stereo CD player upon payment to David Chang of an amount you understood to be the cost to Mr. Chang, rather than fair market retail value evidenced poor judgment, displayed a lack of due regard for Senate Rules and resulted in a violation of the Senate Gifts Rule (35) and, consequently, a violation of your public disclosure obligations under Senate Rule 34 (Title I of the Ethics in Government Act);
- 2) Your acceptance on loan from Mr. Chang of bronze statues (eagle and bronco buster) for display in your Senate office under your office's policy of accepting the loan of home state artwork was not consistent with Senate Rules governing such loans, evidenced poor judgment, displayed a lack of due regard for Senate Rules and resulted in a violation of the Senate Gifts Rule (35) and, consequently, a violation of your public disclosure obligations under Senate Rule 34 (Title I of the Ethics in Government Act);
- 3) Your failure to act to prevent the acceptance of or to pay for gifts of earrings from Mr. Chang to individuals (your sister, an employee, and a friend) in your home at Christmas on the mistaken belief that such items were of little value or were not gifts to you under the circumstances, evidenced poor judgment, displayed a lack of due regard for Senate Rules and resulted in a violation of the Senate Gifts Rule (35) and, consequently, a violation of your public disclosure obligations under Senate Rule 34 (Title I of the Ethics in Government Act);
- 4) Continuation of a personal and official relationship with Mr. Chang under circumstances where you knew that he was attempting to ingratiate himself, in part through a pattern of attempts to provide you and those around you with gifts over a period of several years when you and your Senate office were taking official actions of benefit to Mr. Chang (contacting United States government officials, writing letters to foreign government officials, and involving Mr. Chang or his representatives in situations where you were meeting with officials of foreign governments)

evidenced poor judgment; and

5) The Committee has also considered that the principal source of the allegations against you is David Chang, a witness whose credibility has been called into question by the Department of Justice, a U. S. District Judge and his own conduct. In court documents, the Government noted that Mr. Chang could not be trusted. On May 23, 2002, Mr. Chang was convicted of attempting to corruptly persuade a witness to give false testimony, a conspiracy to violate the federal election law and four separate violations of the federal election law. During his sentencing hearing, the sentencing judge stated that Mr. Chang's "conduct, when placed in juxtaposition with Chang's public statements to the press, reduces his usefulness, weakens his credibility and eviscerates his viability for future use as a witness." United States v. Chang, Cr. No. 99-726-02 (D. N.J. May 23, 2002).

6) After evaluating the extensive body of evidence before it and your testimony, the Committee is troubled by incongruities, inconsistencies, and conflicts, particularly concerning actions taken by you which were or could have been of potential benefit to Mr. Chang.

Therefore, the Senate Select Committee on Ethics, on behalf of and pursuant to authority granted by the United States Senate, expresses its determination that your actions and failure to act led to violations of Senate Rules (and related statutes) and created at least the appearance of impropriety, and you are hereby severely admonished.

Further, the Committee notes section 1(c)(1) of the Senate Gifts Rule (35) concerning anything which is paid for at market value or returned (see also p.27 of the *Senate Ethics Manual*, Sept. 2000) as well as your commitment to pay for any items which the Committee might conclude were in violation of the Rules, and has further concluded that you must pay Mr. Chang an amount sufficient to bring the total to fair market retail value of the TV and CD player, as well as the fair market retail value of the earrings given to the three individuals at your home, with appropriate interest. The Committee understands that you have previously delivered the bronze statues to the Department of Justice, from whence they should be returned to Mr. Chang.

Sincerely,



Daniel K. Inouye
Chairman



Blanche Lincoln, Member



Jack Reed, Member



Pat Roberts
Vice Chairman



George Voinovich, Member



Craig Thomas, Member