



# FACT

FOUNDATION FOR  
ACCOUNTABILITY  
AND CIVIC TRUST

June 10, 2020

Omar Ashmawy  
Chief Counsel  
Office of Congressional Ethics  
U.S. House of Representatives  
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Washington, DC 20024  
Email: [oce@mail.house.gov](mailto:oce@mail.house.gov)

Dear Mr. Ashmawy,

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We request the Office of Congressional Ethics (“OCE”) immediately investigate Representative Susie Lee for taking official action in violation of House ethics rules.

On April 7, 2020, Lee sent a letter to the Treasury Department and Small Business Administration, lobbying the federal agencies to expand government aid to gaming companies under the Paycheck Protection Program (PPP), which granted forgivable loans to businesses.<sup>1</sup> Lee argued the current PPP regulatory guidelines were “patently contrary to Congressional intent.”<sup>2</sup> On April 28, 2020, the PPP regulatory guidelines were changed as Lee requested.<sup>3</sup>

One company that benefitted from the change for which Lee advocated was Full House Resorts. This is a publicly traded company of which Lee’s husband is the chief executive officer and in which Lee and her husband have a significant financial interest.<sup>4</sup> According to her latest personal financial disclosure filed in 2019, Lee’s spouse earns a salary from Full House and Lee and her spouse own “millions of dollars in Full House stock and stock options through brokerage, trust, and retirement accounts.”<sup>5</sup> The company reportedly had roughly 1,600 employees prior to the pandemic, but two casinos it owned and operated in Indiana and Colorado each had less than 500 employees and qualified for PPP loans once the regulatory guidelines were expanded to include gaming industries.<sup>6</sup> “About two weeks after the SBA made PPP loans

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<sup>1</sup> Lachlan Markay, *Nevada Congresswoman Pushed for COVID Loans for Casinos. Her Husband Got Two.*, The Daily Beast, June 8, 2020 (available at <https://www.thedailybeast.com/nevada-congresswoman-pushed-for-covid-loans-for-casinos-her-husband-got-two>) (attached as Exhibit A).

<sup>2</sup> Susie Lee, *Letter to the U.S. Small Business Administration and U.S. Dept. of the Treasury*, April 7, 2020 (attached as Exhibit B).

<sup>3</sup> Lachlan Markay, *Nevada Congresswoman Pushed for COVID Loans for Casinos. Her Husband Got Two.*, The Daily Beast, June 8, 2020.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*; Susie Lee, Personal Financial Disclosure, filed May 6, 2019, available at [http://clerk.house.gov/public\\_disc/financial-pdfs/2018/10025739.pdf](http://clerk.house.gov/public_disc/financial-pdfs/2018/10025739.pdf).

<sup>6</sup> Lachlan Markay, *Nevada Congresswoman Pushed for COVID Loans for Casinos. Her Husband Got Two.*, The Daily Beast, June 8, 2020.

available to gaming businesses, Full House secured two such loans totaling about \$5.6 million, according to a filing with the Securities and Exchange Commission.”<sup>7</sup> The company’s stock price indicate the financial benefit from the PPP loans: prior to the pandemic it was \$3.59 per share, during the pandemic it declined to \$0.53 in March, but after becoming eligible for the loans recovered to \$2.00 as of June 5.<sup>8</sup>

Prior to the *Daily Beast* story being published, Lee’s spokesperson stated Lee did not participate in Full House’s decision to apply for the loan.<sup>9</sup> But after the *Daily Beast* story was published, “a Lee spokesperson told The Daily Beast that the congresswoman was informed that Full House planned to apply for those loans in the days after the SBA made the change to PPP eligibility, and was notified once the loans were approved.”<sup>10</sup> Additionally, NBC News’ Stephanie Ruhle reported Lee was “told by Democratic donors that it was unethical & unnecessary for [Lee’s] husband to take \$5mm in #PPP for his publicly traded casino business. [She] ignored the warning.”<sup>11</sup>

The House Ethics rules require Members to “conduct themselves at all times in a manner that reflects creditably on the House” and to adhere to the spirit as well as the letter of the ethics rules.<sup>12</sup> Specific rules require Members to refrain from taking official action when the Member has (1) an apparent conflict of interest, or (2) an actual conflict of interest. A conflict of interest exists when a Member’s private affairs appear to, or actually do, conflict with their ability to officially act on behalf of the public interest.<sup>13</sup> “The ultimate concern ‘is risk of impairment of impartial judgment, a risk which arises whenever there is a temptation to serve personal interests.’”<sup>14</sup> Because the integrity of government action is at risk, the ethics rules require Members to refrain from official action where there is even an inference of a conflict, as well as where there is an actual conflict.<sup>15</sup> Thus, a conflict arises when a Member’s personal interest creates doubt the Member can act impartially and in the public interest.<sup>16</sup> Furthermore, a

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* (The story was updated June 9, 2020 “to reflect Lee’s office statement that she did have knowledge of the loans awarded to her husband’s company.”).

<sup>11</sup> Stephanie Ruhle, Twitter, June 9, 2020 (available at <https://twitter.com/SRuhle/status/1270452190826696711>).

<sup>12</sup> House Ethics Manual, Comm. on Standards of Official Conduct, U.S. House of Reps., at 1, 186 (2008 ed.) (available at [https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008\\_House\\_Ethics\\_Manual.pdf](https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf)).

<sup>13</sup> *Id.* at 187. “A conflict of interest is generally defined as a situation in which an official’s private financial interests conflict or appear to conflict with the public interest. . . . At the other extreme, a conflict of interest becomes corruption when an official uses his position of influence to enhance his personal financial interests. Between these extremes are those ambiguous circumstances which may create a real or potential conflict of interest. The problem is identifying those instances in which an official allows his personal economic interests to impair his independence of judgment in the conduct of his public duties.” *Id.* at 250-51.

<sup>14</sup> *Id.* at 187 (citing Association of the Bar of the City of New York Special Comm. on Congressional Ethics, Congress and the Public Trust 39 (1970)).

<sup>15</sup> *Id.* at 186 (the Standards Committee advises Members to “to avoid situations in which even an inference might be drawn suggesting improper conduct.”); *Id.* at 251 (“The Standards Committee has admonished all Members ‘to avoid situations in which even an inference might be drawn suggesting improper action.’”).

<sup>16</sup> *Id.* at 250-51; *see also id.* at 185-86 (citing House Rule 25, clause 1(a)(2)) (stating a “key provision” of the House Code of Official Conduct prohibits a Member from using his official position for personal gain, including pecuniary gain).

Member is prohibited from corruptly using his or her official position for personal or pecuniary gain.<sup>17</sup>

There are two separate types of official action in a conflict of interest analysis: (1) voting on legislation<sup>18</sup> and (2) other official action.<sup>19</sup> With respect to voting, a Member should not vote on legislation in which he or she has “a direct personal or pecuniary interest.”<sup>20</sup> However, a stricter conflict analysis applies to other acts connected to a Member’s official duties, such as sponsoring legislation or “contacting an executive branch agency.”<sup>21</sup> “Such actions entail a degree of advocacy above and beyond that involved in voting, and thus a Member’s decision on whether to take any such action on a matter that may affect his or her personal financial interests requires added circumspection. Moreover, such actions may implicate the rules and standards, discussed above, that prohibit the use of one’s official position for personal gain.”<sup>22</sup> For example, a Member would wrongly use her official position for personal benefit if she contacted an executive branch agency relating to an issue in which the Member has a financial interest.<sup>23</sup> In assessing whether a Member has a conflict that prohibits official action, the Member’s spouse’s employment and investments are fully considered.<sup>24</sup>

This is not a case where Lee simply voted on legislation, but is a case where she used her official position to advocate for an agency to change its regulations. Therefore, the conflict rules must be strictly applied to prevent both an apparent or an actual conflict of interest. Lee holds a financial interest that was directly affected by the changed regulations for which she advocated—she requested the regulations be changed specifically for the gaming industry and her gaming industry interest directly benefitted weeks later. Moreover, the regulatory change also directly affected the company from which her spouse receives a salary. In this instance it is

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<sup>17</sup> *Id.* at 250-51; *see also id.* at 185-86 (citing House Rule 25, clause 1(a)(2)) (stating a “key provision” of the House Code of Official Conduct prohibits a Member from using his official position for personal gain, including pecuniary gain).

<sup>18</sup> “Every Member . . . shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.” *Id.* at 234 (quoting House Rule 3).

<sup>19</sup> *Id.* at 237.

<sup>20</sup> “Since legislation considered by Congress affects such a broad spectrum of business and economic endeavors, a Member of the House may be confronted with the possibility of voting on legislation that would have an impact upon a personal economic interest.” *Id.* at 234. In drawing the distinction of when a Member has a conflict that disqualifies him from voting, the principle generally applied has been “where legislation affected a class as distinct from individuals, a Member might vote.” *Id.* at 234. On the other hand, the Ethics Committee has advised “it would be inappropriate for them to vote or to introduce legislation directly affecting significant and uniquely held financial interests.” *Id.* at 237. Essentially, in determining whether a conflict prohibits voting, the relevant factors to consider are whether the legislation affects a large group and the Member’s interest is small in the group.

<sup>21</sup> *Id.* at 237.

<sup>22</sup> *Id.* at 237.

<sup>23</sup> The House Ethics Manual discusses a case in which a Member “sponsored legislation to remove restrictions on the development of property in which he had a personal financial interest. Thus, the Member was found to have wrongly used his official position for personal benefit.” *Id.* at 186 (citing *In the Matter of a Complaint Against Rep. Robert L.F. Sikes*, H. Rep. 94-1364, 94<sup>th</sup> Cong., 2d Sess. 3-4 (1976)); *see also* James T. Wooten, *Congressman Profited in Land Deals as a Result of His Own Bill*, New York Times, May 22, 1975 (available at <https://www.nytimes.com/1975/05/22/archives/congressman-profited-in-land-deals-as-a-result-of-his-own-bill.html>).

<sup>24</sup> *See, e.g., id.* at 187-88 (“outside employment of a spouse”); *id.* at 244 (employment); *id.* at 245 (spouse’s income generally accrues to Member’s benefit); *id.* at 253 (investments). *See also id.* at 245 (prohibiting a Member’s spouse from lobbying the Member).



both her spouse's employment and their financial interest that results in the conflict—though either one alone would be a conflict.

Moreover, Lee's financial interests and spouse's employment creates doubt that she could act impartially and in the public's best interest. Although a Lee spokesperson stated that Lee did not participate in Full House's decision to apply for the loan, this is completely irrelevant to whether Lee had a conflict of interest.<sup>25</sup> The appropriate question is whether she contacted the executive branch agencies about an issue that "may affect" her personal financial interest.<sup>26</sup> Clearly, she did contact them about an issue that did affect her personal financial interest because Full House became eligible for the PPP loans under the changed regulations. Lee also "was informed that Full House planned to apply for those loans in the days after the SBA made the change to PPP eligibility, and was notified once the loans were approved."<sup>27</sup> Additionally, others reportedly recognized the "unethical" nature of Lee's action, demonstrating the appearance that Lee's private interest conflicted with her ability to act impartially—an apparent conflict of interest.<sup>28</sup>

The ethics rules function to maintain the integrity of government action. Therefore, we urge the Committee to immediately investigate Representative Lee for taking official action in violation of the House conflict of interest rules, and impose any required penalties.

To the best of my knowledge and ability, all evidence submitted was not obtained in violation of any law, rule, or regulation. Further, I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Kendra Arnold

Executive Director, Foundation for Accountability & Civic Trust

<sup>25</sup> Lachlan Markay, *Nevada Congresswoman Pushed for COVID Loans for Casinos. Her Husband Got Two.*, The Daily Beast, June 8, 2020 (available at <https://www.thedailybeast.com/nevada-congresswoman-pushed-for-covid-loans-for-casinos-her-husband-got-two>).

<sup>26</sup> House Ethics Manual, Comm. on Standards of Official Conduct, U.S. House of Reps., at 1, 237 (2008 ed.).

<sup>27</sup> Lachlan Markay, *Nevada Congresswoman Pushed for COVID Loans for Casinos. Her Husband Got Two.*, The Daily Beast, June 8, 2020 (available at <https://www.thedailybeast.com/nevada-congresswoman-pushed-for-covid-loans-for-casinos-her-husband-got-two>).

<sup>28</sup> Stephanie Ruhle, Twitter, June 9, 2020 (available at <https://twitter.com/SRuhle/status/1270452190826696711>).

## Nevada Congresswoman Pushed For COVID Loans For Casinos. Her Husband Got Two.

The Daily Beast | Lachlan Markay | June 8, 2020

This past April, a freshman Nevada congresswoman lobbied the federal government to expand coronavirus aid to her state's gaming industry. Two weeks after the change went into effect, her husband's casino company received millions of dollars in government-backed loans.

In a letter to the heads of the Treasury Department and Small Business Administration, Democrat Rep. Susie Lee urged the agencies tasked with administering the Paycheck Protection Program to reconsider regulatory language that excluded gaming companies from the program's small business aid, which extended forgivable loans to help cover payroll and overhead costs amid the pandemic.

"Every day that passes without relief results in further harm to those businesses' employees and their families," Lee wrote. "For the SBA to take the position that these small businesses are not eligible for needed aid because of their involvement in the gaming industry belies the economic realities of their location and will doom countless small businesses in Nevada to bankruptcy."

Within a couple weeks, federal regulators made the precise change she was seeking. In late April, Treasury and SBA updated their PPP eligibility guidelines to include businesses with fewer than 500 employees that derive more than half of their income from gaming.

"On further consideration," SBA said, "the Administrator, in consultation with the Secretary, believes this approach is more consistent with the policy aim of making PPP loans available to a broad segment of US businesses."

It was a major win for the casino industry and for the Nevada economy generally, which relies heavily not just on casinos but on other businesses that happen to house games such as slot machines. One Nevada-based gaming company that took advantage of the change to the PPP program was Full House Resorts, a casino developer led by chief executive Daniel Lee, Rep. Lee's husband.

About two weeks after the SBA made PPP loans available to gaming businesses, Full House secured two such loans totaling about \$5.6 million, according to a filing with the Securities and Exchange Commission. The company said that the funds would "be used principally to rehire several hundred employees" and to prepare for the reopening of two of its casinos, neither of which were in Nevada: the Rising Star Casino Resort in Indiana and Bronco Billy's Casino in Colorado.

A Lee spokesperson told The Daily Beast that she had no role in or knowledge of the PPP loans awarded to her husband's company. "She is not involved in any aspect of Full House's business or decision making," the spokesperson wrote. "She had no influence over the decision to file the application, and she had no influence over whether or not that application was approved or denied. The conditions and details under which Full House Resorts received its PPP loan are entirely between Full House Resorts and regulators."

Lee's work to expand PPP eligibility for gaming businesses stood to benefit numerous companies, particularly in Nevada, beyond Full House. And she was not the only member of Congress pressing for that change. A day after her letter to Treasury and SBA, Lee signed onto a letter crafted by the entire Nevada congressional delegation urging House and Senate leadership to explicitly include small gaming businesses in future coronavirus relief legislation.

But Lee's direct lobbying of federal regulators appears to have paid off more immediately for gaming businesses looking for federal assistance. Indeed, it's an accomplishment she touts prominently on her website, and her office highlighted those efforts in its statement to The Daily Beast. "Congresswoman Lee has been a strong advocate for Nevada's working families and her work to ensure that our state's main industry was not unfairly excluded from this program demonstrates that commitment to ensuring that working families are protected," her spokesperson said. "Congresswoman Lee will continue to focus on her work in Congress to fight for Nevada's working families who need a helping hand now more than ever."

The congresswoman's push to expand the eligibility of the PPP loan program also underscores how frantic a scramble took place among distressed industries to get government cash in the wake of the pandemic-induced economic slow down—and how clever those industries and their champions were in finding ways to define the term "small business."

Prior to the pandemic, Full House had approximately 1,600 employees, according to its SEC filing—well over the 500-employee limit that was the determination for what constituted a "small business." But casinos it owns and operates, including Rising Star and Bronco Billy's, each have fewer than 500 employees individually and therefore qualify for relief under SBA rules designed to assist franchises or subsidiaries of larger companies.

Like other gaming businesses, Full House was hit hard by the coronavirus pandemic and resulting stay-at-home orders. It laid off or furloughed nearly its entire staff; total Full House employment was down to just 30 in May, according to its SEC filing. From February 21 to March 18, its stock price declined by more than 83 percent, from \$3.59 per share to just \$0.53.

Among the shareholders hit by that decline were Rep. Lee and her husband. According to her personal financial disclosure filing covering 2018 and early 2019, they owned millions of dollars in Full House stock and stock options through brokerage, trust, and retirement accounts.

That stock price is still nowhere near its pre-pandemic high. But since the SBA reversed course and made casinos such as Full House's eligible for PPP loans, the company has recovered a significant portion of its stock value. When Lee sent her letter to Treasury and SBA, Full House shares were trading at \$1.04. When SBA changed its guidelines, the price was up to \$1.17. On Friday, Full House's stock closed at \$2.00 per share.

**SUSIE LEE**

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COMMITTEE ON  
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VETERANS' AFFAIRS

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2803**

April 7, 2020

The Honorable Jovita Carranza  
Administrator  
U.S. Small Business Administration  
409 3rd St, SW  
Washington, DC 20416

The Honorable Steven Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Ave, NW  
Washington, DC 20220

Dear Administrator Carranza &amp; Secretary Mnuchin,

I am writing about the recently established Paycheck Protection Program, and the interim regulatory guidelines issued by the Small Business Administration. Those guidelines currently exclude many small businesses who derive a portion of their revenues from gaming from eligibility. This is patently contrary to Congressional intent. I urge you to update these guidelines to ensure that small businesses in Nevada that have been hit hard by this crisis and derive revenue from legal gaming are not unfairly excluded from economic relief.

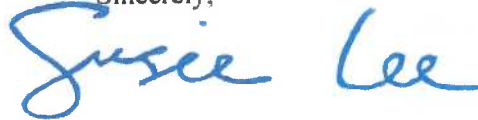
As you are aware, the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act greatly expanded SBA programs to help small businesses across the country survive this unprecedented economic crisis. Southern Nevada's travel and tourism economy, which accounts for nearly 40% of the region's jobs, has been particularly hard hit. With restaurants, bars, entertainment venues, and casinos closed, the economic engine of the nation's 28<sup>th</sup> largest metropolitan area has ground to a halt. In the week ending March 21, Nevada had a staggering 92,238 initial claims for unemployment, a 1300% increase over the previous week. Most of the unemployed are service industry workers, like restaurant servers and bartenders, who directly and indirectly rely on gaming for their livelihoods.

In Nevada, gaming is not confined to the multi-billion-dollar mega resorts on the Las Vegas Strip. Local restaurants and bars often rely on the revenue from a handful of video poker machines to make their businesses keep functioning. Indeed, gaming is an almost mandatory offering at independent bars and restaurants in my district. Today, these businesses have been completely idled, and their workers have been ordered to stay home. Every day that passes without relief results in further harm to those businesses' employees and their families. For the SBA to take the position that these small businesses are not eligible for needed aid because of their involvement in the gaming industry belies the economic realities of their location and will doom countless small businesses in Nevada to bankruptcy.

There is no statutory mandate for excluding gaming small businesses from receiving SBA assistance. That said, the interim regulatory guidelines that SBA issued used out-of-date language that excludes small businesses with gaming revenue from SBA loan eligibility. The Paycheck Protection Program was designed to help keep workers on payroll and return to work quickly after we have successfully overcome this pandemic. Unfortunately, the regulatory guidance as currently written fails to do so for significant portions of southern Nevada's small business community.

I urge you to update the Paycheck Protection Program's regulatory guidelines to reflect Congressional intent and ensure that gaming small businesses in Nevada and across the country are not forced out of business due to the COVID-19 pandemic. Thank you for your consideration, and do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Susie Lee". The signature is fluid and cursive, with the first name "Susie" and the last name "Lee" clearly distinguishable.

Susie Lee  
Member of Congress