AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

House Calendar No. 167

111TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 111–423

IN THE MATTER OF ALLEGATIONS RELATING TO THE LOBBYING ACTIVITIES OF PAUL MAGLIOCCHETTI AND ASSOCIATES GROUP, INC. (PMA)

REPORT

OF THE

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

FEBRUARY 26, 2010.—Referred to the House Calendar and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

89–006 WASHINGTON : 2010

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

ZOE LOFGREN, California
Chair
BEN CHANDLER, Kentucky
G.K. BUTTERFIELD, North Carolina
KATHY CASTOR, Florida
PETER WELCH, Vermont

JO BONNER, Alabama
Ranking Republican Member
MIKE CONAWAY, Texas
CHARLES DENT, Pennsylvania
GREGG HARPER, Mississippi
MICHAEL MCCAUL, Texas

R. BLAKE CHISAM, *Chief Counsel/Staff Director*
C. MORGAN KIM, *Deputy Chief Counsel*
DANIEL J. TAYLOR, *Counsel to the Chair*
KELLE STRICKLAND, *Counsel to the Ranking Republican Member*
MARC BORODIN, *Counsel*
FRANK DAVIES, *Senior Investigator*
AMELIA JOHNSON, *Investigative Clerk*

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, February 26, 2010.

Hon. LORRAINE C. MILLER,
Clerk, House of Representatives,
Washington, DC.

DEAR MS. MILLER: Pursuant to clauses 3(a)(2) and 3(b) of rule XI of the Rules of the House of Representatives, we herewith transmit the attached Report, "In the Matter of Allegations Relating to the Lobbying Activities of Paul Magliocchetti and Associates Group, Inc., (PMA)."

Sincerely,

ZOE LOFGREN,
Chair.
JO BONNER,
Ranking Republican Member.

CONTENTS

	Page
I. INTRODUCTION	1
II. FINDINGS AND CONCLUSIONS	2
III. STATEMENT UNDER RULE 13, CLAUSE 3(c) OF THE RULES OF THE HOUSE OF REPRESENTATIVES	5
APPENDIX A: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE NORMAN DICKS (Review No. 09–9063)	6
APPENDIX B: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE MARCY KAPTUR (Review No. 09–9064)	42
APPENDIX C: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE JAMES MORAN (Review No. 09–9075)	80
APPENDIX D: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING FORMER REPRESENTATIVE JOHN MURTHA (Review No. 09–9099)	112
APPENDIX E: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE TODD TIAHRT (Review No. 09–9012)	155
APPENDIX F: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE PETER VISCLOSKY (Review No. 09–4486)	208
APPENDIX G: REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE C.W. BILL YOUNG (Review No. 09–1583)	252
APPENDIX H: REPRESENTATIVE TODD TIAHRT'S RESPONSE TO THE REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS	278
APPENDIX I: REPRESENTATIVE PETER VISCLOSKY'S RESPONSE TO THE REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS	290

111TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT 111–423

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

IN THE MATTER OF ALLEGATIONS RELATING TO THE LOBBYING ACTIVITIES OF PAUL MAGLIOCCHETTI AND ASSOCIATES GROUP, INC. (PMA)

FEBRUARY 26, 2010.—Referred to the House Calendar and ordered to be printed

Ms. LOFGREN, from the Committee on Standards of Official Conduct, submitted the following

R E P O R T

I. INTRODUCTION

The Committee on Standards of Official Conduct (Standards Committee) initiated an investigation in the above-captioned matter in the spring of 2009. The investigation was commenced and conducted pursuant to Standards Committee Rule 18(a).[1]

On June 3, 2009, the House of Representatives referred H. Res. 500 to the Standards Committee for its consideration.[2] H. Res. 500, if adopted by the House, would have directed the Standards Committee to report to the House actions taken regarding any misconduct of Members and staff in connection with the Paul Magliocchetti and Associates Group, Inc. (PMA), a now-shuttered lobbying firm. Because the Standards Committee was already investigating the matter that was the subject of H. Res. 500, the Standards Committee took no action on the resolution and has not reported it back to the House. On June 11, 2009, the Chair and Ranking Republican Member of the Standards Committee issued a public statement acknowledging the Standards Committee's ongoing investigation relating to the PMA matter.

The Standards Committee continued its investigation into allegations related to PMA's lobbying activities and whether those allega-

[1] Pursuant to Standards Committee Rule 18(a), the Chair and Ranking Republican Member of the Standards Committee authorized a review of allegations that related to this matter.
[2] H. Res. 500, 111th Cong. (2009).

tions implicated issues within the Standards Committee's jurisdiction.[3]

Approximately six months later, on December 2, 2009, the Office of Congressional Ethics (OCE) forwarded to the Standards Committee reports and findings in seven separate matters involving alleged potential connections between defense subcommittee earmarks and campaign contributions.[4] Each of those matters concerned allegations related to the activities of PMA. OCE's Board recommended dismissal in five matters. Those matters involved Representatives Norman Dicks, Marcy Kaptur, James Moran, John Murtha, and C.W. Bill Young. In the other two matters, which concerned Representatives Todd Tiahrt and Peter Visclosky, OCE's Board recommended that the Standards Committee further review OCE's allegations.

In early December 2009, the Standards Committee provided Representatives Tiahrt and Visclosky with OCE's respective Reports and Findings relating to them and offered each the opportunity to respond to OCE's allegations. Representative Tiahrt's counsel submitted a response on December 22, 2009, which Representative Tiahrt formally adopted by oath or affirmation.[5] On December 28, 2009, Representative Visclosky's counsel submitted a response, which Representative Visclosky likewise formally adopted by oath or affirmation.[6]

On January 15, 2010, the Chair and Ranking Republican Member of the Standards Committee issued a statement announcing they had jointly decided to extend the Committee's consideration of OCE's transmittals regarding Representatives Tiahrt and Visclosky for a 45-day period.[7]

This Report resolves both the Standards Committee's independent investigation and the seven matters forwarded by OCE. The Standards Committee has unanimously determined that the evidence presently before the Committee does not support a determination that any House Member or employee violated any law, regulation, rule or other applicable standard of conduct.

Accordingly, the Standards Committee hereby closes its investigation in the above-captioned matter and dismisses the seven matters OCE forwarded to the Standards Committee.

II. FINDINGS AND CONCLUSIONS

The Standards Committee's investigation in the above-captioned matter over the past nine months included extensive document reviews and interviews with numerous witnesses. The Standards

---

[3] The Standards Committee has jurisdiction over the conduct of Members, officers, and employees of the House. *See* House Rule X, clause 1(q); House Rule XI, clauses 3(a)(2) and 3(b); and Standards Committee Rule 18. It has no jurisdiction to independently investigate private entities, such as PMA.

[4] OCE's Reports and Findings of Fact and Citations to Law (Reports and Findings) regarding the seven matters can be found at the following Appendices: Representative Dicks, Review No. 09–9063 (Appendix A); Representative Kaptur, Review No. 09–9064 (Appendix B); Representative Moran, Review No. 09–9075 (Appendix C); former Representative Murtha, Review No. 09–9099 (Appendix D); Representative Tiahrt, Review No. 09–9012 (Appendix E); Representative Visclosky, Review No. 09–4486 (Appendix F); and Representative Young, Review No. 09–1583 (Appendix G).

[5] Representative Tiahrt's response to OCE's allegations against him in OCE's Report and Findings can be found at Appendix H.

[6] Representative Visclosky's response to OCE's allegations against him in OCE's Report and Findings can be found at Appendix I.

[7] House Rule XI, clause 3(b)(8)(A), and Standards Committee Rules 17A(b)(1) and 17A(c)(1).

Committee's staff reviewed close to one-quarter of a million pages of documents. The investigation covered more than 40 companies with ties to PMA and more than 25 Member offices. It involved interviews with CEOs of companies, and chiefs of staff and military legislative aides to Members, among other staffers.

As a result of its own investigation and OCE's seven separate Reports and Findings, which were drawn from more than 79,000 documents, the Standards Committee has reached the following findings and conclusions.

First, the Standards Committee found no evidence that Members or their official staff considered campaign contributions as a factor when requesting earmarks. The Standards Committee further found no evidence that Members or their official staff were directly or indirectly engaged in seeking contributions in return for earmarks. Rather, the evidence showed that earmarks were evaluated based upon criteria independent of campaign contributions, such as the number of jobs created in the Member's district or the value to the taxpayer or the U.S. military, and without Members or their official staff linking, or being aware that companies may have intended to link, contributions with earmarks.

Members are elected to serve their constituents and to legislate. Under our system of government, these duties may include appropriations requests commonly referred to as earmarks. However, simply because a Member sponsors an earmark for an entity that also happens to be a campaign contributor does not, on these two facts alone, support a claim that a Member's actions are being influenced by campaign contributions.[8] As the Supreme Court has observed in other contexts, "[t]o hold otherwise would open to prosecution not only conduct that has long been thought to be well within the law but also conduct that in a very real sense is unavoidable so long as election campaigns are financed by private contributions or expenditures, as they have been from the beginning of the Nation."[9]

Second, the Standards Committee's investigation uncovered troubling aspects to PMA's conduct. The evidence revealed instances in which PMA employed "strong-arm" tactics, threatening to withdraw financial support or encourage businesses to relocate out of a Member's district if Members did not reverse policies opposing earmarks. In these instances, Members and their staff refused to change their positions and, in one case, notified the Standards Committee.

The evidence also showed that PMA's lobbyists pushed or directed company executives to maximize personal or Political Action Committee (PAC) campaign contributions and to attend specific

---

[8] *See* Memorandum attached to Statement of House Comm. on Standards of Official Conduct, regarding disposition of the complaint filed against Representative Tom DeLay, 108th Cong., 2nd Sess. (2004), at 22. Moreover, contributions for the purpose of engendering goodwill with a Member because of his or her official position do not run afoul of laws covering illegal gratuities and bribery. *See United States v. Sun-Diamond Growers,* 526 U.S. 398, 404–408 (1999) (holding that establishing a violation of federal gratuity statute requires proof beyond a gift given by reason of the recipient's official position, but rather must be linked to a specific official act; and establishing a violation of federal bribery statute requires proof of a *quid pro quo* involving a specific official act). While the standards of conduct are broader than prohibitions under federal criminal statutes, as discussed above, the record did not show evidence of any direct or indirect link by a Member or their official staff between earmarks and contributions.

[9] *McCormick v. United States,* 500 U.S. 257, 272 (1991) (reversing conviction for extortion, under 18 U.S.C. 1951, in absence of *quid pro quo*, regardless of whether campaign contributions were legitimate).

fundraisers while pursuing earmarks.[10] However, the evidence did not show that Members or their official staff were included in discussions or correspondence about, coordinated with PMA on, or knew of these strategies.

The Standards Committee's investigation did find that there is a widespread perception among corporations and lobbyists that campaign contributions provide enhanced access to Members or a greater chance of obtaining earmarks. However, the record indicates that Members, by and large, take great care to separate their official and campaign functions, particularly with respect to earmark requests.[11] Significantly, the evidence showed equal, if not more, instances of companies questioning why they had not obtained an earmark after making substantial campaign contributions to Members.

Finally, with respect to the specific matters forwarded by OCE, the Standards Committee found that the evidence in each of the seven matters OCE reviewed did not differ materially from one case to the next. Each of the subject Members cooperated with OCE, providing detailed responses to OCE's requests for documents. All but two of the Members and their staff were interviewed by OCE. It was in these two matters that OCE found "probable cause"[12] to recommend further review as opposed to a "substantial reason to believe the allegations." OCE's recommendations in those two matters rested largely upon the fact that the Members, for differing reasons, were not interviewed.[13] In any event, neither the evidence cited in OCE's findings for the seven Members, nor the evidence in the record before the Standards Committee, provides a substantial reason to believe the Members violated applicable standards of conduct.[14]

---

[10] To the extent documents referenced contributions amounts, the available evidence showed that those specific amounts were driven by PMA or internally by companies. No evidence reflected that these amounts were determined in consultation with Members or their official staff, or with their knowledge.

[11] This finding in this matter is consistent with the Committee's historical experience that, with rare exception, "Members do *not* violate the basic prohibitions that apply in this area, *i.e.,* Members do *not* enter into agreements, either explicit or implicit, to trade their votes or other official actions for campaign contributions, and Members do *not* take a particular official action merely because a campaign donor has requested them to do so." Memorandum attached to Statement of House Comm. on Standards of Official Conduct, regarding disposition of the complaint filed against Representative Tom DeLay, 108th Cong., 2nd Sess. (2004), at 22 (emphasis in original).

[12] OCE applied this more relaxed standard of review, notwithstanding the fact that the two Members appear to have cooperated significantly in providing documents and offering OCE testimony, albeit in a manner or under conditions different than OCE preferred. Representative Tiahrt provided a written statement under oath, subject to criminal penalties for perjury, in which he flatly denied all of OCE's allegations. Representative Visclosky, through counsel, offered to be interviewed by OCE, if OCE provided assurances that those portions of an interview that touched upon privileged legislative matters be kept confidential within the Legislative Branch. OCE apparently did not view this manner of cooperation as sufficient when it reached its conclusion that a more relaxed standard was appropriate because it "was unable to obtain information necessary to reach" that "there is a substantial reason to believe the allegations based on all the information then known to the Board." OCE Rule 9.

[13] *See* OCE Findings ¶¶1, 56–57, relating to Representative Tiahrt (Appendix E); and OCE Findings ¶¶ 1, 49, 53–54, relating to Representative Visclosky (Appendix F). The only discernible difference supporting OCE's use of a more relaxed standard appears to have been OCE's judgment that these Members failed to cooperate in OCE's preferred manner. OCE apparently did not conclude that either Representative Tiahrt or Representative Visclosky refused to cooperate. OCE Rule 6.

[14] Indeed, a full examination of the materials did not establish probable cause of a *quid pro quo,* or of illegitimate political solicitations by Members or official staff. Nor did the materials reviewed establish that Members or their staff had any knowledge of links that PMA or companies may have associated between contributions and earmark requests. In many instances, Members did not ultimately request of the House Appropriations Committee earmarks for projects supported by contributors, including, for example, the earmark request in fiscal year

In light of the foregoing, the Standards Committee, by a unanimous vote of its Members, hereby closes its investigation in the above-captioned matter and dismisses each of the seven OCE matters referenced above, which were forwarded to the Standards Committee.

The Chair is directed, upon providing the notices required pursuant to House Rule XI, clause 3(b)(8)(A), and Committee Rule 17A(a)(2), to file this Report with the House, together with copies of OCE's seven Reports and Findings in this matter, along with any responses filed, all of which are made a part of this Report and appended hereto.[15] The filing of this Report, along with its publication on the Standards Committee's Web site, shall serve as publication of OCE's Reports and Findings in this matter, pursuant to House Rule XI, clause 3(b)(8)(A), and Committee Rule 17A(b)(3) and 17A(c)(2). No other version of OCE's Reports and Findings in this matter is authorized and any publication of OCE's Reports and Findings independent of this Report is not authorized.[16]

III. STATEMENT UNDER RULE 13, CLAUSE 3(c) OF THE RULES OF THE HOUSE OF REPRESENTATIVES

The Standards Committee made no special oversight findings in this Report. No budget statement is submitted. No funding is authorized by any measure in this Report.

2009, that is the heart of OCE's allegations against Representative Tiahrt in OCE's Findings and documents appended thereto (Appendix E).

[15] House Rule XI, clauses 3(a)(2) and 3(b). While the Committee is not required to make public OCE's Reports and Findings in this matter in which OCE also recommended dismissal, *see* House Rule XI, clause 3(b)(8)(B)(i) and Standards Committee Rule 17A(e), the Committee has exercised its authority, pursuant to Standards Committee Rule 7, to release these materials due to the House's and the public's interest in this matter.

[16] *See* House Rule XI, clause 3(b)(8)(A); Standard Committee Rule 17A; and H. Res. 895, Section 1, clause 1(f) (2008) (enacted).

APPENDIX A:
REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING
REPRESENTATIVE NORMAN DICKS (Review No. 09-9063)

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 09-9063

The Board of the Office of Congressional Ethics (hereafter the "Board"), by a vote of no less than four members, on November 20, 2009, adopted the following report and ordered it to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives.

SUBJECT: Representative Norman Dicks

NATURE OF THE ALLEGED VIOLATION: In Fiscal Year 2009, Representative Norman Dicks authored several earmarks for clients of PMA Group, Inc. (hereafter "PMA"). During campaign cycles 2008 and 2010, Representative Dicks received contributions to his campaign committee and "Leadership PAC" from PMA's PAC, PMA employees, the PACs of PMA clients for whom he authored earmarks, and the employees of those clients.

If Representative Dicks solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Dicks may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 (Gifts to Federal Employees), and House Rules and Standards of Conduct.

RECOMMENDATION: The Board of the Office of Congressional Ethics recommends that the Committee on Standards of Official Conduct dismiss the above allegations.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Leo Wise, Staff Director & Chief Counsel.

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9063

Table of Contents

I. INTRODUCTION 3

A. Summary of Allegations 3

B. Jurisdictional Statement 3

C. Procedural History 4

D. Summary of Investigative Activity 4

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE DICKS REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS THAT HE RECEIVED 8

A. Relevant Law, Regulations, Rules or Standard of Conduct 8

B. Earmark Process 11

C. Campaign Fundraising 12

D. Relationship with PMA 13

E. Perception of Corporate Donors 14

F. Contributions Linked to Official Acts by Outside Entities 15

III. CONCLUSION 16

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS 16

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9063

On November 20, 2009, the Board of the Office of Congressional Ethics (hereafter the "Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination as to whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. There is not substantial reason to believe that Representative Dicks solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act.

B. Jurisdictional Statement

2. The allegations that were the subject of this review concern Representative Norman Dicks, a Member of the United States House of Representatives from the 6th District of Washington. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter the "OCE") directs that, "[n]o review shall be undertaken…by the board of any alleged violation that occurred before the date of adoption of this resolution."[1] The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

[1] H. Res 895, 110th Cong. §1(e) (2008) (as amended).

C. Procedural History

3. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 6, 2009. The preliminary review commenced on that date.[2] The preliminary review was scheduled to end on August 5, 2009.

4. At least three members of the Board voted to initiate a second phase review in this matter on August 5, 2009. The second phase review commenced on August 6, 2009.[3] The second-phase review was scheduled to end on September 20, 2009

5. The Board voted to extend the 45-day second phase review by an additional 14 days, as provided by the Resolution, on September 17, 2009. Following the extension, the second-phase review was scheduled to end on October 5, 2009.[4]

6. The Board voted to refer the matter to the Committee on Standards of Official Conduct for dismissal and adopted these findings on November 20, 2009.

7. This report and findings were transmitted to the Committee on Standards of Official Conduct on December 2, 2009.

D. Summary of Investigative Activity

8. Due to the nature of the allegations in this review, the OCE's investigation required the collection of information from a number of sources.

9. The OCE reviewed publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense (hereafter the "Defense Subcommittee") from recipients of earmarks during the 2008 and 2010 campaign cycles. The review included campaign contributions to the leadership political action committees (hereafter "PACs"), if any, of these Members.

10. Specifically, the OCE reviewed campaign contributions to these Members from donors that were affiliated with the lobbying firm of Paul Magliocchetti and Associates Group, Inc.

---

[2] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is "received" by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (hereafter "the Resolution'), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[3] According to the Resolution, the Board must vote on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase begins when the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

[4] *Id.* at § 1(c)(2)(A)(ii) (2008).

(hereafter "PMA"), *i.e.*, contributions from the PMA PAC, PMA employees, the PACs of corporate clients of PMA (hereafter "PMA clients") and employees of PMA clients.

11. The OCE also reviewed campaign contributions to Members of the Defense Subcommittee from PACs of non-PMA clients, and employees of non-PMA clients.

12. Beyond Members of the Defense Subcommittee, the investigation included a review of campaign contributions from PMA clients and non-PMA clients to Representatives who are not on the Defense Subcommittee, but authored defense earmarks for PMA clients and non-PMA clients.

13. The OCE requested information from forty PMA clients that received earmarks from Members of the Defense Subcommittee for fiscal years 2008 to 2010.

14. All of the PMA clients that the OCE contacted cooperated with the investigation, except for two.

15. Aeroflex and Kimball and Associates are the only PMA client that refused to cooperate with the investigation.

16. Thirty-eight PMA clients and Representatives' offices produced documents totaling approximately 200,000 pages. These PMA clients also made witnesses available for interviews upon request of the OCE.

17. Based on the information discovered during the review of the produced documents, the OCE interviewed twenty-six individual PMA client witnesses.

18. In addition, the OCE interviewed six witnesses who were formerly employed as lobbyists with PMA during the 2008 and 2010 campaign cycles.

19. In sum, the OCE requested and received documentary, and in some cases testimonial, information from the following sources:

(1) 21st Century Systems, Inc.;
(2) AAR Composites;
(3) Advanced Acoustic Concepts;
(4) Advanced Concepts & Technologies Intl.;
(5) Aircraft Interior Products;
(6) Applied Global Technologies;
(7) Argon ST;
(8) Boeing Corporation;

(9) Carnegie Mellon University;
(10) Coda Octopus Group;
(11) Concurrent Technologies Corporation;
(12) Conemaugh Health Systems;
(13) Cryptek;
(14) DDL OMNI Engineering;
(15) DRS Technologies;
(16) EM Solutions;
(17) General Atomics;
(18) General Dynamics;
(19) Goodrich Corporation;
(20) Innovative Concepts, Inc.;
(21) ITT Corporation;
(22) Lockheed Martin Corporation;
(23) MobilVox;
(24) NuVant Systems, Inc.;
(25) Optimal Solutions & Technologies;
(26) Parametric Technology Corporation;
(27) Planning Systems Inc.;
(28) Profile Systems;
(29) Prologic, Inc.;
(30) QTL Biosystems;
(31) RaySat Antenna Systems;
(32) Rockwell Collins;
(33) Samueli Institute;
(34) Sierra Nevada Corporation;
(35) Teledyne Continental Motors, Inc.;
(36) Teledyne Controls;
(37) Windber Research Institute;
(38) Xunlight Corporation;
(39) Vice President, 21st Century Systems, Inc.;
(40) Chief Administrative Officer, 21st Century Systems, Inc.;
(41) Vice President for Communications, 21st Century Systems, Inc.;
(42) PAC Treasurer, 21st Century Systems, Inc.;
(43) General Manager, AAR Composites;
(44) Chief Operating Officer, AAR Composites;
(45) Chief Executive Officer, Applied Global Technologies;
(46) Vice President, Applied Global Technologies;

(47) PAC Treasurer, DRS Technologies;
(48) President, DRS Technologies;
(49) Chief Operating Officers, Optimal Solutions & Technologies;
(50) Chief Executive Officer, Optimal Solutions & Technologies;
(51) Director, Optimal Solutions & Technologies;
(52) CEO, Samueli Institute;
(53) Vice President, Sierra Nevada Corporation;
(54) Congressional Affairs Director, Sierra Nevada Corporation;
(55) Assistant to Business Development Director, Teledyne Continental Motors, Inc.;
(56) Business Development Director, Teledyne Continental Motors, Inc.;
(57) PAC Treasurer, Teledyne Controls;
(58) General Manager, Teledyne Controls;
(59) Vice President, Teledyne Controls;
(60) Director of Contracts, Teledyne Controls;
(61) Contract Administrator, Teledyne Controls;
(62) Legislative Affairs Director, Teledyne Controls;
(63) Associate General Counsel, Teledyne Controls;
(64) President, Teledyne Controls;
(65) PMA Lobbyist 1;
(66) PMA Lobbyist 2;
(67) PMA Lobbyist 3;
(68) PMA Lobbyist 4;
(69) PMA Lobbyist 5;
(70) PMA Lobbyist 6;
(71) Representative Norman Dicks;
(72) Press Secretary for Norman Dicks;
(73) Military Legislative Assistant for Norman Dicks;
(74) District Director for Representative Norman Dicks;
(75) President of Helen Milby & Co.; and
(76) Employee of Helen Milby & Co.

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE DICKS REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS THAT HE RECEIVED

A. Relevant Law, Regulations, Rules or Standard of Conduct

20. *18 U.S.C. § 201(b) - Bribery of public officials and witnesses*

"(b) Whoever-

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act . . . ."

21. *18 U.S.C.A. § 201(c) - Illegal Gratuities*

"(c) Whoever-

(1) otherwise than as provided by law for the proper discharge of official duty—

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person . . . ."

22. *"An illegal gratuity...may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken."*[5]

23. *House Rules and Standards of Conduct*

"[T]he scope of the House standards of conduct in this area is broader than that of the criminal bribery statute... the House standards of conduct generally preclude any link between the solicitation or receipt of a contribution and a specific official action."[6]

---

[5] House Ethics Manual (2008) at 79. See also United States v. Sun-Diamond Growers, 526 U.S. 398, 404 (1999).
[6] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.

"Put another way, there are fundraising activities that do not violate any criminal statute but well may violate House standards of conduct."[7]

"[T]here are certain proffered campaign contributions that must be declined, and certain fundraising opportunities that must be forgone, solely because they create an appearance of improper conduct."[8]

"[N]o solicitation of a campaign or political contribution may be linked to an action taken or to be taken by a Member or employee in his or her official capacity."[9] *In addition, a Member may not accept any contribution that is linked with any specific official action taken or to be taken by that Member."*[10]

"It is probably not wrong for the campaign managers of a legislator...to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff as the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. The Standards Committee has long advised Members and staff that they should always exercise caution to avoid even the appearance that solicitations of campaign contributions are connected in any way with an action taken or to be taken in their official capacity."[11]

"[A] Member should not sponsor or participate in any solicitation that offers donors any special access to the Member in the Member's official capacity."[12]

"[G]overnment officials should 'never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not."[13]

"'[P]ublic office is a public trust,' and the public has a right to expect House Members and staff to exercise impartial judgment in performing their duties."[14]

---

[7] *Id.*
[8] *Id.*
[9] House Ethics Manual (2008) at 147.
[10] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[11] *Id.*
[12] *Id.*
[13] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 5).
[14] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 10).

24. *5 U.S.C. § 7353 – Gifts to Federal Employees*

"(a) Except as permitted by subsection (b), no Member of Congress...shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with...the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules and regulations established by such individual's supervising ethics office pursuant to paragraph (1)

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of an official act."

25. *House Ethics Manual – Soliciting Campaign and Political Contributions*

While the federal gift statute (5 U.S.C. § 7353) broadly restricts the ability of

House Members and staff to solicit things of value from virtually anyone, even when no personal benefit to the solicitor is involved, legislative materials concerning the statute state that it does not apply to the solicitation of political contributions. Consistent with those materials, the Standards Committee has long taken the position that the restrictions on solicitation set forth in that statute do not apply to political solicitations. However, in soliciting campaign or political contributions, Members and staff are subject to a number of other restrictions, as follows.

A Contribution linked to an Official Action May Not Be Accepted

... no solicitation of a campaign or political contribution may be linked to any action taken or to be taken by a Member or employee in his or her official capacity.

In a similar vein, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. In this respect, a campaign or political contribution is treated like any other gift, and acceptance of a contribution in these circumstances may implicate a provision of the federal gift statute (5 U.S.C. § 7353) or the criminal statutes on bribery and illegal gratuities.

26. Based on the facts collected by the OCE, the Board concludes there is not substantial reason to believe the allegations that are the subject of this review.[15]

B. Earmark Process

26. Representative Norman Dicks represents the 6th Congressional District of Washington.

27. Representative Dicks is a Member of the House Committee on Appropriations, Subcommittee on Defense.

28. The process for handling Representative Dicks' requests for earmarks for the Subcommittee on Defense is managed by Representative Dicks' Military Legislative Assistant.[16]

29. When vetting earmark requests, Representative Dicks' Military Legislative Assistant reviews each request for "soundness" and the ability to bring value to the military.[17] He also reviews the history of the project because Representative Dicks places a priority on completing prior projects.[18] Representative Dicks' Military Legislative Assistant informed the OCE staff that Representative Dicks prefers to see that companies have created a program of record and that they have received funding from sources other than earmarks.[19]

30. In a particular cycle, Representative Dicks' office receives an average of 120-150 national and non-national earmark requests.[20] Approximately one-third of the requests are for national programs and two-thirds of the requests are for non-national projects.[21] A national request project has the support of the President, non-national projects are non-established programs of record in the Department of Defense.[22]

31. Representative Dicks' Military Legislative Assistant is responsible for separating the national program requests from the non-national project requests and creating a two-tiered list of the non-national project requests.[23] The first tier of the non-national projects

[15] Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009) provides that "[t]he Board shall refer a matter to the Standards Committee for further review if it determines there is a substantial reason to believe the allegation based on all the information then known to the Board."
[16] Memorandum of Interview of Representative Norman Dicks, July 31, 2009, ("Dicks' MOI") (Exhibit 1 at ¶ 2).
[17] Memorandum of Interview of Representative Norman Dicks' Military Legislative Assistant, July 30, 2009, ("MLA MOI") (Exhibit 2 at ¶ 7).
[18] *Id.*
[19] *Id.* at ¶ 21.
[20] *Id.* at ¶ 7.
[21] *Id.*
[22] *Id.*
[23] *Id.* at ¶ 20.

list includes projects that received support in the past and the second tier includes the remaining requests.[24]

32. After the list is created, Representative Dicks' Military Legislative Assistant schedules meetings for Representative Dicks with representatives of the companies that have submitted requests.[25] Representative Dicks meets with each company's representative for a briefing on each request.[26] The meetings are generally attended by a company official and at times the company's lobbyist and a program manager from the Department of Defense.[27]

33. Representative Dicks asks each company representative for the names of the individuals that they are working with at the Department of Defense so that he can check with the Department to ensure that the agency is interested in the project.[28]

34. Representative Dicks informed the OCE staff that he has served on the Appropriations Subcommittee on Defense for 31 years and that he has always evaluated each request to determine if it was a meritorious project, whether it would diversify the economy of his district, and whether it would build up the private sector economy.[29]

C. Campaign Fundraising

34. During the time period of the 2008 and 2010 campaign cycles, Representative Dicks accepted approximately $56,000 in campaign contributions from PMA's PAC and employees and from the PAC and employees of PMA clients.[30]

35. Representative Dicks informed the OCE staff that he does very little fundraising; he does not review FEC filings to determine who has contributed to his campaign; and he does not make campaign calls.[31] He explained that he had not been in a competitive race since 1982, and therefore, he did not have to spend his time fundraising.[32]

---

[24] *Id.*
[25] Dicks' MOI (Exhibit 1 at ¶ 2).
[26] *Id.*
[27] *Id.*
[28] *Id.* at ¶ 3.
[29] *Id.* at ¶ 4,5.
[30] Contribution amounts are derived from reports filed with the Federal Election Commission by Norm Dicks for Congress and Retain the Majority.
[31] *Id.* at ¶ 14,15.
[32] *Id.* at ¶ 14.

36. Representative Dicks Press Secretary informed the OCE staff that Representative Dicks' office did not have an internal policy regarding contributions and earmark requests.[33] He explained that Representative Dicks did not know who made contributions or when contributions were made to his campaign.[34]

37. Representative Dicks' campaign fundraising is primarily handled by Helen Milby & Company.[35] The company handles all of the Congressman's fundraising events that are held in Washington, DC.[36] The company does not handle the events that are held in his district.[37]

38. Representative Dicks typically holds two fundraising breakfasts per year.[38] One is held early in the year and the other is held at the end of the year.[39] The campaign also holds a spring or fall event at the Washington Athletic Club and an event in August at the Kiona Lodge in the Congressman's home state.[40] There is also an event held in Tacoma, Washington and several smaller events, such as receptions, that are held at various times of the year.

39. Representative Dicks' PAC, the National Organization to Retain the Majority, was established on June 16, 2008.[41] Fundraising for the PAC is handled by Representative Dicks' fundraising consultant.[42] The fundraising consultant holds approximately one fundraising event per month for the Congressman.[43]

D. <u>Relationship with PMA</u>

38. During the time period of the 2008 and 2010 campaign cycles, four corporate clients of PMA were awarded earmarks requested by Representative Dicks.

39. The PMA clients that received earmarks during this period are:

(a) Concurrent Technologies Corp. (Requested, $11,400,000)

---

[33] Memorandum of Interview of Representative Norman Dicks' Press Secretary, July 31, 2009, ("Press Secretary MOI") (Exhibit 3 at ¶ 4).
[34] *Id.*
[35] Memorandum of Interview of Representative Norman Dicks' Fundraising Consultant, July 31, 2009, ("Consultant MOI") (Exhibit 4 at ¶ 2).
[36] *Id.*
[37] *Id.*
[38] Dicks' MOI (Exhibit 1 at ¶ 7).
[39] *Id.*
[40] *Id.* at ¶ 8.
[41] *Id.* at ¶ 11.
[42] Consultant MOI (Exhibit 4 at ¶ 2).
[43] *Id.* at ¶ 5.

(b) 21st Century Systems, Inc. (Requested, $3,200,000)

(c) Advanced Acoustics Concepts (Requested, $2,800,000)

(d) Planning Systems, Inc. (Requested, $$2,400,000)[44]

40. Representative Dicks informed the OCE staff that he knew Mr. Paul Magliocchetti and that he saw him at social events and possibly at some fundraisers.[45] He further stated that there was no one person at PMA that he dealt with more than any other.[46]

41. Representative Dicks' Military Legislative Assistant informed the OCE staff that he rarely dealt with Mr. Magliocchetti and that he normally met with Mr. Sean Fogharty or Ms. Julie Giardino.[47] He further stated that Representative Dicks had expressed the view that PMA had dealt with the office in a professional matter.[48]

42. Representative Dicks' Military Legislative Assistant further stated that for the last two earmark cycles, Representative Dicks wanted to reduce the office's number of earmark requests and wanted the office to only focus on those projects that were located in his district.[49] He also informed the OCE staff that Concurrent Technologies Corp., 21st Century Systems, Inc., Advanced Acoustics Concepts, and Planning Systems Inc. all have offices located in Bremerton, Washington.[50]

43. Representative Dicks informed the OCE staff that in his review of earmark requests, he looks to see if the military is interested in the project, if the company has a presence in his District, and whether the request is for a meritorious project.[51]

E. Perception of Corporate Donors

40. There is evidence that the commercial entities seeking earmarks from Members of Congress believe that a political donation to the Member has an impact on the Member's decision to author an earmark for that donor.[52]

---

[44] H.R. 3222, Pub. L. 110-116 (2008); H.R. 2638, Pub. L. 110-329 (2009); and H.R. 3326, 111 Cong. (2009).
[45] *Id.* at ¶ 13.
[46] *Id.* at ¶ 6.
[47] MLA MOI (Exhibit 2 at ¶ 8).
[48] *Id.* at ¶ 24.
[49] *Id.* at ¶ 5.
[50] *Id.* at ¶ 9-12.
[51] Dicks' MOI (Exhibit 1 at ¶ 3-4).
[52] Century Systems, Inc. Proposed CY 2008 Congressional Campaign Contributions (Exhibit 5).

41. Representative Dicks credibly articulated a process that separates his legislative activities and his campaign fundraising activities. Representative Dicks has achieved this separation by reducing or eliminating his and his legislative staff's exposure to information from the campaign's fundraising operation.[53] Similarly, to the extent Representative Dicks has campaign staff or retains a professional fundraiser, his campaign staff and professional fundraiser are isolated from his legislative agenda.[54] As a result, neither the campaign nor Representative Dicks' legislative staff is aware of what the other is doing.

42. Representative Dicks explained to the OCE that he operates his campaign and Congressional office in this manner to prevent even the appearance that his legislative acts are influenced by contributions to his campaign or PAC. One risk associated with this type of operation is the possibility of an appearance of a conflict of interest if, out of ignorance, the Member's campaign accepts a contribution near in time to a legislative act that impacts the individual or entity making the contribution. This potential for an appearance of a conflict may explain why companies requesting an earmark appear to think that a contribution to the respective campaign or PAC affects the ultimate receipt of the earmark. The House Ethics Manual is unclear as to what obligations, if any, are placed on a Member to discourage or disabuse a company of that impression.

F. Contributions Linked to Official Acts by Outside Entities

43. In several instances, the OCE uncovered evidence that commercial entities seeking earmarks from Members of Congress appear to have linked contributions to Members' campaigns and/or PACs to specific legislative acts.[55] These documents were internal to the companies and there is no evidence they were shared with Members.

44. The federal gift statute, 5 U.S.C. § 7353, prohibits the solicitation or acceptance of anything of value from a person seeking official action from or doing business with the House, or from someone whose interests may be substantially affected by the performance or nonperformance of a Member's, officer's or staff member's official duties. The statute also provides that the Committee on Standards of Official Conduct may enact reasonable exceptions to the prohibition. According to the Ethics Manual, the Standards Committee has long taken the position that the restrictions on solicitation set

[53] Dicks' MOI (Exhibit 1 at ¶ 15).
[54] MLA MOI (Exhibit 2 at ¶ 18).
[55] Century Systems, Inc. Proposed CY 2008 Congressional Campaign Contributions (Exhibit 5).

forth in the statute do not apply to political solicitations. However, Members and staff are subject to a number of other restrictions regarding the solicitation of campaign or political contributions under the rules of the House.

45. Under House rules, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. If a donor's contribution is linked to any official action, it is treated like any other gift and may be subject as such to the federal gift statute and the criminal statutes on bribery and illegal gratuities.

46. The Board notes that the examples provided in the Ethics Manual of instances where a Member may be in violation of the House's rule against accepting a contribution linked to an official action are all instances in which the Member has some degree of knowledge of the link. As a result, it stands to reason that it is unlikely a violation of the rule could occur unless and until a Member is aware of the link and does nothing to remedy the situation.

47. The Board finds nothing in the factual record to indicate the Member was aware that the donor linked the contribution to an official act. As such, the Board concludes there is not a substantial reason to believe that a violation of either 5 U.S.C. § 7353 or the applicable House rules occurred. However once the Member becomes aware of the link, if the matter is not remedied by either by the Member or by formal advice from the Standards Committee declaring the contribution acceptable, then a violation may occur.

III. CONCLUSION

43. For these reasons, the Board recommends that the Standards Committee dismiss the above described allegations concerning Representative Dicks.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS

44. In every instance, the OCE asked the recipient of an OCE request for information to identify any information they withheld and the reason for doing so. However, absent the authority to subpoena the evidence in possession of the witness, it is impossible for the OCE to verify if information was withheld, but not documented.

45. In some instances documents were redacted or specific information was not provided. For instance, PMA Client 15 provided evidence responsive to the OCE's Request for

Information but indicated they would not provide any information regarding their "Legislative Strategy."

46. In at least one instance, the OCE had reason to believe a witness withheld information requested, but did not comply with the OCE's request that they identify what was being withheld. Specifically, PMA Client 8 represented that they had fully cooperated. However, the PMA Client 8 indicated that they had no electronic mail responsive to the OCE's Request for Information. The OCE then received, from another source, electronic mail to and from PMA Client 8 that were in fact responsive to the OCE's request.

47. The Board also notes that while the OCE was able to interview six former employees of PMA that provided general information on PMA and its business practices, many remaining former employees refused to consent to interviews. In addition, the OCE was unable to obtain any evidence within PMA's possession.

48. The Board makes the recommendation contained in this referral based on the factual record before it. Given its recommendation to dismiss, the Board does not recommend the issuance of subpoenas, but recognizes that the Committee on Standards of Official Conduct may determine otherwise.

EXHIBIT 1

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Norman Dicks
REVIEW #:	09-9063
DATE:	July 31, 2009
LOCATION:	Office of Representative Norm Dicks 2467 Rayburn House Office Building Washington, DC 20515
TIME:	10 a.m. (approximately)
PARTICIPANTS:	Elizabeth Horton Omar Ashmawy Stan Brand Andrew Herman

SUMMARY: Representative Norman Dicks represents that 6th District of Washington state. He was interviewed pursuant to Review 09-9063. The OCE requested an interview with Representative Dicks on July 10, 2009, and he consented to an interview. Representative Dicks made the following statements in response to our questioning:

1. Representative Dicks was given an 18 U.S.C. § 1001 warning and consented to an interview. Representative Dicks signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. Representative Dicks stated that his Military Legislative Assistant (hereafter "MLA") reviews the requests for federal funding. When a partial list has been put together, Congressman Dicks then tells his MLA to schedule meetings with the companies making the request because he "wants to see these people" and he "wants to talk to them directly." These meetings are attended by a company official and/or the program manager from the Department of Defense. A lobbyist does not always attend the meeting.

3. During these meeting the Member asks the company representatives who they are working with at the Department of Defense and generally he looks to see if the military wants the project. He also looks for companies with a presence in his District. When they get a final list of requests, they send it to the Appropriations Subcommittee on Defense.

4. Representative Dicks said that he has served on the Appropriations Subcommittee on Defense for 31 years and tried to evaluate these requests to determine if it is a good, meritorious project.

5. One of his major goals as a Congressman is to diversify the economy of his district and build up the private sector economy.

6. Regarding PMA, there was no one employee that the Congressman dealt with more than any other employee.

7. Regarding fundraisers, he usually held two breakfasts, one early in the year and one in the fall. There was no particular reason for this except that it seems to work.

8. An event is held at the Washington Athletic Club in the district. There is also an event at the Kiona Lodge that is held in August, it is a community event. The Congressman's fundraisers work on it, but members of the community put it together. A local businessman helps organize the August event.

9. In addition there is a fundraising event in Tacoma and there are smaller receptions as well.

10. The only private company fundraising event that was held was sponsored by Lockheed.

11. Representative Dicks' political action committee (hereafter "PAC") is new. It was created in the last few years (on June 16, 2008).

12. Representative Dicks stated that out of 12 appropriation bills, over 50% of the companies seeking funding do not have lobbyists.

13. Representative Dicks stated that he did not have a personal relationship with Paul Magliocchetti, he only saw him at events or fundraisers.

14. Representative Dicks stated that he does very little fundraising and that he had not been in a competitive race since 1982. He further stated that he does not make calls to solicit campaign contributions – he never has, he has been in office over 30 years, and that won't change.

15. Representative Dicks stated that he doesn't look at FEC filings to see who contributes and that he is not aware of who is contributing or what amounts are being contributed. He sees people at fundraising events and assumes they have contributed something if they are attending the event but otherwise he would not know whether any contribution was made or the amount that was made. The Congressman doesn't know how much someone has paid since people don't always give what the campaign asks for to attend a particular event. Representative Dicks stated that he would never know about a contribution that was mailed to the campaign.

16. Representative Dicks stated that if anyone asked for an earmark at a fundraising event, he would have that person removed from the event.

This memorandum was prepared on September 8, 2009, based on the notes that the OCE staff prepared during the interview with Representative Dicks on July 31, 2009. I certify that this memorandum contains all pertinent matter discussed with Representative Dicks on July 31, 2009.

Elizabeth Horton
Investigative Counsel

EXHIBIT 2

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Norman Dicks' Military Legislative Assistant
REVIEW #:	09-9063
DATE:	July 30, 2009
LOCATION:	Office of Representative Norman Dicks 2344 Rayburn House Office Building Washington, DC 20515
TIME:	10:15 a.m. – 11:10 a.m. (approximately)
PARTICIPANTS:	Elizabeth Horton Omar Ashmawy Stan Brand Andrew Herman

SUMMARY: Representative Norman Dicks' Military Legislative Assistant (hereafter the "witness") was interviewed pursuant to Review 09-9063. The OCE requested an interview with the witness on July 10, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. The witness signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. Every year the timing of earmark requests is dictated by the Appropriations Committee. The Defense Subcommittee sets its own deadlines as well. The office doesn't have to inform the entities requesting earmarks as the word gets out and they become aware of the deadlines on their own.

3. Generally speaking, specific offices, like Representative Dicks' office, will set a deadline approximately two weeks before the committee's deadline. This allows for time to review the requests, interact with the Member, and get ready to present the requests to the committee. There are standard types of information that the committee requests from Members' offices. Congressman Dicks' office has typically followed the committee's standards without asking for additional information. Other office may ask for more information such as the number of jobs a particular earmark will create or the number of employees an entity has.

4. The office will receive inquiries from a lot of people asking for the office's deadline followed by a request for an appointment to present their request. These appointments are usually attended by both a representative of the company and a lobbyist. An appointment attended by just a lobbyist is the exception. The same is true even for small companies.

5. Ultimately, the Member decides which requests to support. When asked what Congressman Dicks based his decision on, the witness stated that he could only say that in the last two cycles, the Congressman told him they needed to reduce the number of projects. In this most recent cycle, in addition to reducing the number of projects, the Congressman said he wanted to focus on only those projects that are very local to the district. Previously, some of the projects were not in his district but elsewhere in the Peugeot Sound region. The witness said that he did not know if the Congressman had requested any earmarks for projects outside the Peugeot Sound region.

6. There was no specific discussion between the witness and the Congressman as to why he had made the decision to reduce the number of requests and focus on his district, but the witness's theory was that it had something to do with the additional scrutiny of earmarks and that the leadership of the House of Representatives had said that the number of earmarks should be reduced.

7. When vetting the requests, the witness would look at what the office had done with a particular project in the past, placing a priority on completing a project that had already been started. He also would ask if it sounds like a solid project that would bring value to the military. In a particular cycle the office receives an average of 120-150 national and non-national requests. An example of a national request is a Boeing project that has the support of the President, such as the Boeing P-8 Poseidon aircraft. Non-national projects are non-established programs of record in the Department of Defense. Approximately 1/3 of the requests are for national programs and 2/3 of the requests are for non-national projects.

8. There were a handful of companies that made annual requests and lobbyists he saw on a more regular basis. He would regularly speak with or meet with Sean Foggerty, a lobbyist who worked for PMA at the time, in particular. He also would often speak with Julie Giardino, another former PMA lobbyist. The four companies that regularly make requests are Concurrent Technologies Corporation, 21st Century Systems, Inc, Advanced Acoustics Concepts and Planning Systems Inc. Each of these companies was represented by PMA.

9. Concurrent Technologies is located in Bremerton, Washington but is headquartered in Pennsylvania. The office located in Bremerton employs 40-45 people that work on analysis. The earmark Representative Dicks authored for Concurrent Technologies related to work performed by the employees in Bremerton.

10. 21 Century also has an office in Bremerton, which employs roughly 5-15 employees. The company is headquartered in Nebraska. The employees in Bremerton have some direct participation in projects as well as serving a broader dedicated function for the company at large in areas such as quality assurance. A couple of the employees work on sub-systems for ship security.

11. Advanced Acoustic Concepts also has an office in Bremerton which employs 5-10 people. The company has a long history of working with the Navy on "ASW" systems based with aircraft carriers.

12. Planning Systems Inc. has an office in Bremerton that employs approximately 12 people. The company is working on an initiative to help make submarine navigation more efficient.

13. When meeting about earmarks requested by these companies sometimes the witness would meet with a PMA lobbyist and a company representative and sometimes with just a PMA lobbyist. The Congressman would sometimes attend the meeting as well.

14. The committee's deadline is typically at the end of March or early April, but it depends on what timeline they think they will have to get requests to the full committee.

15. The witness explained that some companies do not get their request in by the committee's deadline. One such company, Angeles Composite Technologies, was represented by someone who was not a professional lobbyist and did not know the appropriations process. The company approached the office because it felt that it could be a potential supplier to the military and, therefore, could bring jobs to the district. However, due to the lack of knowledge on the part of the individual representing the company, the company missed the deadline for submitting their request. Ultimately, the company came back to ask about a supplemental request. The office instead had the company talk with Lockheed directly.

16. The witness stated that the office generally follows up with companies who have requested funding; however, he felt that doing so led some companies to think that they are in line to receive funding when in fact they are not.

17. The witness rarely met with Mr. Paul Magliocchetti. He usually met with Mr. Magliocchetti's employees instead. On 1 or 2 occasions Mr. Magliocchetti met with the member on matters that had nothing to do with these particular earmarks in question.

18. The witness had previously attended fundraisers for Congressman Dicks' campaign. One example was a lunch for Lockheed executives. He did not recall any specific request to attend the lunch but assumed he'd attend to answer any of their questions. Otherwise he did not volunteer for the campaign had no knowledge of contributions made to the campaign.

19. The witness was not aware of any office policy regarding the timing of legislative action and the solicitation or receipt of a contribution to the campaign.

20. The witness stated that he was responsible for creating the list for earmark requests for the office. He would separate the national requests from the non-national requests. The first cut generally included projects that were supported in the past because they were typically worth considering. The second tier included the remaining requests so that the Congressman was aware of what was submitted to the office. Representative Dicks then would make adjustments to the list. His emphasis was on the district.

21. The witness stated that Representative Dicks had a strong affinity for Boeing when reviewing national requests and that he liked to see funding for non-national requests go to companies that had delivered on projects in the past. The witness explained that Representative Dicks liked to see companies "graduate" and have programs of record that receive funding through other sources.

22. The witness stated that Representative Dicks changed the funding list about 20% of the time.

23. The witness stated that he could not say whether during the last cycle of earmarks that PMA affected Representative Dicks' judgment on the selection of companies to receive funding. However, he had the impression that clients of PMA were viewed in a negative light.

24. The witness stated that he had heard Representative Dicks express the view that PMA had dealt with him and the office in a professional manner.

25. The witness stated when he first started he would run his decisions by George Behan but that he now worked directly with the Congressman.

This memorandum was prepared on August 26, 2009, based on the notes that the OCE staff prepared during the interview with the witness. I certify that this memorandum contains all pertinent matter discussed with the witness on July 30, 2009.

Elizabeth Horton
Investigative Counsel

EXHIBIT 3

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Norm Dicks' Press Secretary
REVIEW #:	09-9063
DATE:	July 31, 2009
LOCATION:	Office of Representative Norm Dicks 2467 Rayburn House Office Building Washington, DC 20515
TIME:	11 a.m. (approximately)
PARTICIPANTS:	Elizabeth Horton Omar Ashmawy Stan Brand Andrew Herman

SUMMARY: Representative Norm Dicks' Press Secretary (hereafter the "witness") was interviewed pursuant to Review 09-9063. The OCE requested an interview with the witness on July 10, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness's role in the earmark process was to assure all the Legislative Assistants in the office knew the general area of interest the Member had had over the years. He also oversaw the various types of requests and made sure that the office met the committee deadlines.

3. When the office's current Military Legislative Assistant (hereafter "MLA") was first hired, the witness sat in on a lot of the meetings, but he has not done so in several years. He is aware though that Representative Dicks wants to be briefed on the requests and that these meetings typically are between the member, the MLA, a representative from the company and their lobbyist.

4. The office does not have any internal policy regarding a timing relationship between a contribution and an earmark request. The office wouldn't do it and will not do it. Congressman Dicks does not know about contributions. There is no policy to make sure contributions are not accepted around legislative acts that may relate to the entity or

individual making the contribution. Congressman Dicks has two separate tracks – political and official.

5. The decision making regarding earmarks is exclusively between the Member and the MLA. The witness is aware of what is going on because he sees everything sent to the committee.

6. He did not interact with PMA employees regarding defense appropriations. He knew Paul Magliocchetti from his time on the Appropriations Committee and he knew a few people who worked for Mr. Magliocchetti, but he did not have any meetings with any PMA employees regarding defense. He met with some people on energy and telecom issues.

7. The witness attends all the Member's fundraisers with few exceptions. He also takes a couple of afternoons off for two to three weeks every year to help raise money for the Democratic Congressional Campaign Committee. Representative Dicks does not make calls for campaign contributions. They are not in a competitive district. The witness is not tasked with calling any specific individuals. He generally attends breakfast events, dinners and receptions.

8. The only company sponsored fundraiser he could recall was one held by Lockheed Martin. The CEO wanted to hold a lunch for the Member. The witness thought they just wanted to get to know the Congressman personally.

9. Generally, Helen Milby generates the call lists. The witness's only influence is when he knows of a retirement (i.e. to take someone off a list) or he gives Ms. Milby a business card. The witness does not have to do more as Ms. Milby "does all that."

10. At the fundraisers, the witness has not heard any discussion about earmarks. He stated that any such talk would be inappropriate and that he or Representative Dicks would say as much. If someone wanted to come to a fundraiser to talk about a project, he would tell them to make an appointment to talk to the MLA.

This memorandum was prepared on August 26, 2009 based on the notes that the OCE staff prepared during the interview with the witness on July 31, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on July 31, 2009.

Elizabeth Horton
Investigative Counsel

EXHIBIT 4

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Norman Dicks' Fundraising Consultant
REVIEW #:	09-9063
DATE:	July 31, 2009
LOCATION:	Office of Representative Norm Dicks 2467 Rayburn House Office Building Washington, DC 20515
TIME:	12:30 p.m. (approximately)
PARTICIPANTS:	Elizabeth Horton Omar Ashmawy Stan Brand Andrew Herman

SUMMARY: Representative Norman Dicks' Fundraising Consultant (hereafter the "witness") was interviewed pursuant to Review 09-9063. The OCE requested an interview with the witness on July 10, 2009, and she consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. The witness signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. Her company is the external fundraising consultant for Congressman Dicks. They do all of the Member's fundraising except for what is done in the district.

3. She sets up events, sends out emails, collects the money, and sends it along to the campaign. In doing this, she uses a general Washington, DC PAC list that she uses for all her clients.

4. While at first the campaign provided her with names from their database, the campaign staff does not really help with developing the list anymore. She generates the list she uses.

5. She tries to do one fundraising event for Congressman Dicks a month. Her only interaction with his staff is to coordinate a date with his scheduler. After a date is coordinated, she "takes it and runs with it."

6. She does some smaller events and some larger events for the Congressman. The larger events include about 100-150 people and the smaller events have about 10-25 attendees. The smaller events typically take the form of receptions, dinners or breakfasts.

7. When planning a larger event she will invite everyone, but when planning a smaller event she will sometimes utilize "hosts" or focus on a particular community such as the arts community, the defense community or the healthcare community. Typically there is a defense community event about once a quarter.

8. The witness was brought on as a consultant because the Congressman liked her and wanted to have a professional fundraising staff. Fundraising, however, is not a huge priority for him. She has to beg the Congressman for dates to hold events. She has encouraged him to focus more on national fundraising, but he has refused.

9. The witness was shown an email from Elizabeth Trigs regarding a PMA contribution. The witness said that she was never told to not accept money from former PMA employees, but it seemed like it was prudent. When some of the former PMA employees started a new group, Flagship, she was not sure if they were legitimate so she emailed George Behan to see what he thought. She was told it was ok to accept the contribution.

This memorandum was prepared on September 8, 2009, based on the notes that the OCE staff prepared during the interview with the witness on July 31, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on July 31, 2009.

Elizabeth Horton
Investigative Counsel

EXHIBIT 5

Proposed CY2008
Congressional Campaign Contributions

State/Member (Re-election Year)	*Contributions Made this Cycle**	*Proposed CY08 Contribution*	*Possible Programs*
[redacted]			
Washington			
Dicks	1,000	2,000	ASW TDA
[redacted]			
[redacted]			
[redacted]			
[redacted]			
[redacted]			
[redacted]			
	Total	34,600	

09-9063_17

	Unprogrammed	5,000	
	Carry Over	5,000	
	Grand Total	44,600	

* A "cycle" differs between House members and Senators.
- For House members, cycle = 2 years (2007 & 2008)
- For Senators, a cycle = their 6 year term which is staggered. (Recall that 1/3 of the Senate is up for re-election every 2 years.
- Maximum contributions allowed:
  - $4600/cycle for Member/Senator's re-election campaign
  - $5000/calendar year for Member's leadership PAC

** Anticipate single fundraiser event ~$20K

APPENDIX B:
REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE MARCY KAPTUR (Review No. 09-9064)

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 09-9064

The Board of the Office of Congressional Ethics (hereafter the "Board"), by a vote of no less than four members, on November 20, 2009, adopted the following report and ordered it to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives.

SUBJECT: Representative Marcy Kaptur

NATURE OF THE ALLEGED VIOLATION: Representative Marcy Kaptur authored several fiscal year 2009 earmarks for clients of PMA Group, Inc. (hereafter "PMA"). During campaign cycles 2008 and 2010, Representative Kaptur received contributions to her campaign committee from PMA's PAC, PMA employees, the PACs of PMA clients for whom she authored earmarks, and the employees of those clients.

If Representative Kaptur solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Kaptur may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 (Gifts), and House Rules and Standards of Conduct.

RECOMMENDATION: The Board of the Office of Congressional Ethics recommends that the Committee on Standards of Official Conduct dismiss the above allegations.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Leo Wise, Staff Director & Chief Counsel.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9064

Table of Contents

I. INTRODUCTION 3

A. Summary of Allegations 3

B. Jurisdictional Statement 3

C. Procedural History 4

D. Summary of Investigative Activity 4

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE KAPTUR REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS THAT SHE RECEIVED 8

A. Applicable Law, Rules, and Standards of Conduct 8

B. Representative Kaptur's Evaluation of Earmark Requests 11

C. Representative Kaptur's Campaign Fundraising 13

D. Representative Kaptur's Relationship with PMA 14

E. Perception of Corporate Donors 15

F. Contributions Linked to Official Acts by Outside Entities 16

III. CONCLUSION 17

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS 18

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9064

On November 20, 2009, the Board of the Office of Congressional Ethics (hereafter the "Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. There is not substantial reason to believe that Representative Kaptur solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act. [1]

B. Jurisdictional Statement

2. The allegations that are the subject of this review concern Representative Kaptur, a Member of the United State House of Representatives from the 9th District of Ohio. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter the "OCE") directs that, "[n]o review shall be undertaken ... by the board of any alleged violation that occurred before the date of adoption of this resolution." The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

[1] Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009) provides that "[t]he Board shall refer a matter to the Standards Committee for further review if it determines there is a substantial reason to believe the allegation based on all the information then known to the Board."

C. Procedural History

3. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 6, 2009. The preliminary review commenced on that date.[2] The preliminary review was scheduled to end on August 5, 2009.

4. At least three members of the Board voted to initiate a second phase review in this matter on August 5, 2009. The second phase review commenced on August 6, 2009.[3] The second-phase review was scheduled to end on September 20, 2009.

5. The Board voted to extend the 45-day second phase review by an additional 14 days on September 17, 2009, as provided for under H. Res 895. The extension was scheduled to end on October 5, 2009.[4]

6. The Board voted to refer the matter to the Committee on Standards of Official Conduct for further review and adopted these findings on November 20, 2009.

7. This report and findings in this matter were transmitted to the Committee on Standards of Official Conduct on December 2, 2009.

D. Summary of Investigative Activity

8. Due to the nature of the allegations in this review, the OCE's investigation required the collection of information from a number of sources.

9. The OCE reviewed publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense (hereafter "Defense Subcommittee") from recipients of earmarks during the 2008 and 2010 campaign cycles. The review included campaign contributions to the leadership political action committees (hereafter "PACs"), if any, of these Members.

10. Specifically, the OCE reviewed campaign contributions to these Members from donors that were affiliated with the lobbying firm of PMA Group, Inc. (hereafter "PMA"), *i.e.*,

[2] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is "received" by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (hereafter "the Resolution'), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[3] According to the Resolution, the Board must vote on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase begins when the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

[4] *Id.* at § 1(c)(2)(A)(ii) (2008).

contributions from the PMA PAC, PMA employees, the PACs of corporate clients of PMA (hereafter "PMA clients") and employees of PMA clients.

11. The OCE also reviewed campaign contributions to Members of the Defense Subcommittee from PACs of non-PMA clients, and employees of non-PMA clients.

12. Beyond Members of the Defense Subcommittee, the investigation included a review of campaign contributions from PMA clients and non-PMA clients to Representatives who are not on the Defense Subcommittee, but authored defense earmarks PMA clients and non-PMA clients.

13. The OCE requested information from forty PMA clients that received earmarks from Members of the Defense Subcommittee for fiscal years 2008 to 2010.

14. All of the PMA clients that the OCE contacted cooperated with the investigation, except for two.

15. Aeroflex and Kimball and Associates are the only PMA clients that refused to cooperate with the investigation.

16. Thirty-eight PMA clients and Representatives' offices produced documents totaling approximately 200,000 pages. These PMA clients also made witnesses available for interviews upon request of the OCE.

17. Based on the information discovered during the review of the produced documents, the OCE interviewed twenty-six individual PMA client witnesses.

18. In addition, the OCE interviewed six witnesses who were formerly employed as lobbyists with PMA during the 2008 and 2010 campaign cycles.

19. In sum, the OCE requested and received documentary, and in some cases testimonial, information from the following sources:

    (1) 21st Century Systems, Inc.;

    (2) AAR Composites;

    (3) Advanced Acoustic Concepts;

    (4) Advanced Concepts & Technologies Intl.;

    (5) Aircraft Interior Products;

    (6) Applied Global Technologies;

    (7) Argon ST;

(8) Boeing Corporation;

(9) Carnegie Mellon University;

(10) Coda Octopus Group;

(11) Concurrent Technologies Corporation;

(12) Conemaugh Health Systems;

(13) Cryptek;

(14) DDL OMNI Engineering;

(15) DRS Technologies;

(16) EM Solutions;

(17) General Atomics;

(18) General Dynamics;

(19) Goodrich Corporation;

(20) Innovative Concepts, Inc.;

(21) ITT Corporation;

(22) Lockheed Martin Corporation;

(23) MobilVox;

(24) NuVant Systems, Inc.;

(25) Optimal Solutions & Technologies;

(26) Parametric Technology Corporation;

(27) Planning Systems Inc.;

(28) Profile Systems;

(29) Prologic, Inc.;

(30) QTL Biosystems;

(31) RaySat Antenna Systems;

(32) Rockwell Collins;

(33) Samueli Institute;

(34) Sierra Nevada Corporation;

(35) Teledyne Continental Motors, Inc.;

(36) Teledyne Controls;

(37) Windber Research Institute;

(38) Xunlight Corporation;

(39) Vice President, 21st Century Systems, Inc.;

(40) Chief Administrative Officer, 21st Century Systems, Inc.;

(41) Vice President for Communications, 21st Century Systems, Inc.;

(42) PAC Treasurer, 21st Century Systems, Inc.;

(43) General Manager, AAR Composites;

(44) Chief Operating Officer, AAR Composites;

(45) Chief Executive Officer, Applied Global Technologies;

(46) Vice President, Applied Global Technologies;

(47) PAC Treasurer, DRS Technologies;

(48) President, DRS Technologies;

(49) Chief Operating Officers, Optimal Solutions & Technologies;

(50) Chief Executive Officer, Optimal Solutions & Technologies;

(51) Director, Optimal Solutions & Technologies;

(52) CEO, Samueli Institute;

(53) Vice President, Sierra Nevada Corporation;

(54) Congressional Affairs Director, Sierra Nevada Corporation;

(55) Assistant to Business Development Director, Teledyne Continental Motors, Inc.;

(56) Business Development Director, Teledyne Continental Motors, Inc.;

(57) PAC Treasurer, Teledyne Controls;

(58) General Manager, Teledyne Controls;

(59) Vice President, Teledyne Controls;

(60) Director of Contracts, Teledyne Controls;

(61) Contract Administrator, Teledyne Controls;

(62) Legislative Affairs Director, Teledyne Controls;

(63) Associate General Counsel, Teledyne Controls;

(64) President, Teledyne Controls;

(65) PMA Lobbyist 1;

(66) PMA Lobbyist 2;

(67) PMA Lobbyist 3;

(68) PMA Lobbyist 4;

(69) PMA Lobbyist 5;

(70) PMA Lobbyist 6;

(71) Representative Kaptur;

(72) Representative Kaptur's Chief of Staff; and

(73) Representative Kaptur's Deputy Chief of Staff.

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE KAPTUR REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS THAT SHE RECEIVED

A. Applicable Law, Rules, and Standards of Conduct

20. *18 U.S.C. § 201(b) - Bribery of public officials and witnesses*

"(b) Whoever-

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act . . . ."

21. *18 U.S.C.A. § 201(c) - Illegal Gratuities*

"(c) Whoever-

(1) otherwise than as provided by law for the proper discharge of official duty—

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person . . . ."

22. *"An illegal gratuity . . . may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken."*[5]

23. *House Rules and Standards of Conduct*

"[T]he scope of the House standards of conduct in this area is broader than that of the criminal bribery statute . . . the House standards of conduct generally preclude any link between the solicitation or receipt of a contribution and a specific official action."[6]

"Put another way, there are fundraising activities that do not violate any criminal statute but well may violate House standards of conduct."[7]

"[T]here are certain proffered campaign contributions that must be declined, and certain fundraising opportunities that must be forgone, solely because they create an appearance of improper conduct."[8]

"[N]o solicitation of a campaign or political contribution may be linked to an action taken or to be taken by a Member or employee in his or her official capacity."[9] *In addition, a Member may not accept any contribution that is linked with any specific official action taken or to be taken by that Member."*[10]

"It is probably not wrong for the campaign managers of a legislator...to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff as the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. The Standards Committee has long advised Members and staff that they should always exercise caution to avoid even the appearance that solicitations of campaign contributions are connected in any way with an action taken or to be taken in their official capacity."[11]

---

[5] House Ethics Manual (2008) at 79. *See also United States v. Sun-Diamond Growers*, 526 U.S. 398, 404 (1999).
[6] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[7] *Id.*
[8] *Id.*
[9] House Ethics Manual (2008) at 147.
[10] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[11] *Id.*

"[A] Member should not sponsor or participate in any solicitation that offers donors any special access to the Member in the Member's official capacity."[12]

"[G]overnment officials should 'never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not."[13]

"'[P]ublic office is a public trust,' and the public has a right to expect House Members and staff to exercise impartial judgment in performing their duties."[14]

24. *5 U.S.C. § 7353 – Gifts to Federal Employees*

"(a) Except as permitted by subsection (b), no Member of Congress . . . shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with . . . the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules and regulations established by such individual's supervising ethics office pursuant to paragraph (1)

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of an official act."

25. *House Ethics Manual – Soliciting Campaign and Political Contributions*

While the federal gift statute (5 U.S.C. § 7353) broadly restricts the ability of

House Members and staff to solicit things of value from virtually anyone, even when no personal benefit to the solicitor is involved, legislative materials concerning the statute state that it does not apply to the solicitation of political contributions. Consistent with those materials, the Standards Committee has long taken the position that the restrictions on solicitation set forth in that statute do not apply to political solicitations. However, in

[12] *Id.*
[13] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 5).
[14] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 10).

soliciting campaign or political contributions, Members and staff are subject to a number of other restrictions, as follows.

A Contribution linked to an Official Action May Not Be Accepted

... no solicitation of a campaign or political contribution may be linked to any action taken or to be taken by a Member or employee in his or her official capacity.

In a similar vein, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. In this respect, a campaign or political contribution is treated like any other gift, and acceptance of a contribution in these circumstances may implicate a provision of the federal gift statute (5 U.S.C. § 7353) or the criminal statutes on bribery and illegal gratuities.

B. Representative Kaptur's Evaluation of Earmark Requests

26. Representative Kaptur is a Member of the House Appropriations Subcommittee on Defense (hereafter the "Defense Subcommittee"). She has developed an informal process for evaluating the various requests that she receives for earmarks.[15]

27. Representative Kaptur explained to the OCE that her support for earmark requests is based on her legislative priorities, which were developed in 2006. These priorities include economic security (*e.g.*, jobs in her district); national security (*e.g.*, U.S. energy independence), and environmental legacy.[16]

28. Representative Kaptur's Deputy Chief of Staff manages the requests that the office receives for earmarks.[17]

29. The office usually begins receiving earmark requests annually in January.[18]

30. The initial evaluations of the earmark requests are done by Representative Kaptur's staff based on certain criteria, including the nature of the project, the organizational capabilities of the requesting entity, and the relevance of the project to the Defense Subcommittee.[19]

[15] Memorandum of Interview of Representative Marcy Kaptur, October 25, 2009 ("Kaptur MOI") (Exhibit 1 at 09-9064_2).
[16] *Id.*; Email from Representative Kaptur to Staff, dated March 8, 2006 (Exhibit 2 at 09-9064_5-6).
[17] Memorandum of Interview of Representative Kaptur's Deputy Chief of Staff, October 15, 2009 ("Deputy COS MOI") (Exhibit 3 at 09-9064_8).
[18] *Id.*
[19] *Id.* at 09-9064_9.

31. A significant factor in the evaluation process is whether the proposed project contributes to economic development and jobs.[20]

32. Representative Kaptur is specifically supportive of earmark requests that involve alternative energy sources and urban redevelopment.[21]

33. In contrast, Representative Kaptur is not supportive of earmark requests for projects that are not in her district and projects without a connection to Ohio.[22]

34. In addition to evaluating earmarks requests that are brought to the office, the office also self-initiates earmark requests if the Representative or staff notices certain needs in the district.[23] For example, if there are issues with infrastructure, such as dilapidated bridges, Representative Kaptur may direct her staff to research any funding assistance that may be available.[24]

35. After the staff has evaluated the earmark requests, the Deputy Chief of Staff meets with Representative Kaptur to discuss the staff recommendations. Representative Kaptur typically makes changes to the suggestions and may add more requests.[25]

36. The staff revises their suggestions based on Representative Kaptur's changes, and then the suggestions are sent to her at least one more time for any additional changes.[26] Following any additional changes, the requests for earmarks are finalized and submitted to the House Appropriations Defense Subcommittee.

37. Representative Kaptur's Deputy Chief of Staff is not involved in soliciting campaign contributions for Representative Kaptur's campaign. He told the OCE that the process for evaluating earmark requests does not include any consideration of campaign contributions from the requesting entities.[27]

38. With respect to specific earmark requests that Representative Kaptur submitted on behalf of PMA clients, Representative Kaptur explained her rationale for supporting the decisions during her interview. She explained in detail the origin of the projects and their

[20] *Id.*
[21] *Id.*
[22] *Id.*
[23] *Id.* at 09-9064_8.
[24] *Id.*
[25] *Id.* 09-9064_9.
[26] *Id.*
[27] *Id.* at 09-9064_10.

benefit to her district as well as the relationship to her legislative priorities (*e.g.*, alternative energy initiatives).[28]

39. For example, Representative Kaptur explained that Xunlight Corporation existed many years before the PMA firm was founded and that she interacts directly with the management of the company, not PMA. She supports earmarks for the company because it creates new technology related to solar power. In addition, the company collaborates with the local university in her district. The university's investment in the company creates local jobs and helps to keep the company in the district.[29]

40. Similarly, she requested earmarks for Imaging System Technology because the company creates jobs in her district related to the manufacture of high tech computer screens. Representative Kaptur is concerned about the fact that no televisions are manufactured in the United States and she believes that her support of the company may result in it becoming a television manufacturer.[30]

41. Representative Kaptur also told the OCE that she has established relationships with the principals of the companies for whom she requests earmarks and in many cases was not aware that the companies were represented by PMA.[31]

C. Representative Kaptur's Campaign Fundraising

42. During campaign cycles 2008 and 2010, Representative Kaptur accepted approximately $56,000 in campaign contributions from PMA's PAC and employees and from the PAC and employees of PMA clients.[32]

43. Representative Kaptur does not have any full time campaign staff.[33]

44. Her staff person who was most involved with the campaign passed away in early 2009.

45. Representative Kaptur's Chief of Staff is responsible for the hiring of part-time campaign staff during election years.[34]

---

[28] Kaptur MOI (Exhibit 1 at 09-9064_3).
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] Contribution amounts are derived from reports filed with the Federal Election Commission by Kaptur for Congress.
[33] Memorandum of Interview of Representative Kaptur's Chief of Staff, October 15, 2009 (Exhibit 4 at 09-9064_12).
[34] *Id.*

46. He explained to the OCE that approximately 95 percent of the fundraising is done through "blast" faxes that the Democratic Congressional Campaign Committee sends out at the request of Representative Kaptur's campaign.[35]

47. The remaining 5 percent of fundraisers are done by various hosts who request to hold fundraisers for the Congresswoman.

48. According to Representative Kaptur's Chief of Staff, campaign contribution solicitations do not target entities requesting earmarks from Representative Kaptur. Solicitations are sent to various people who give the office business cards throughout the year. These business cards are collected in a box and used to make a mailing list. As a result, some of those business cards may include entities that have requested earmarks.[36]

49. The campaign typically hosts fundraising events in the spring and the fall. The reason for the timing of such events is because this is when the Representative is in Washington, D.C.

D. Representative Kaptur's Relationship with PMA

50. During the time period of the 2008 and 2010 campaign cycles, six corporate clients of PMA were awarded earmarks requested by Representative Kaptur.

51. The PMA clients for which Representative Kaptur requested earmarks during this period are:

    (a) Imaging System Technology, Inc. ($8,400,000);

    (b) Advanced Concepts & Technologies Intl. ($5,900,000);

    (c) Parametric Technology Corporation ($1,200,000);

    (d) Teledyne Continental Motors, Inc./ Teledyne Technologies ($3,200,000); and

    (e) Xunlight Corporation ($2,800,000).[37]

52. Representative Kaptur explained to the OCE that she did not know that any of the six were clients of PMA. According to Representative Kaptur, her interaction with the companies, if any, is directly with management of the companies.[38]

---

[35] *Id.*
[36] *Id.*
[37] H.R. 3222, Pub. L. 110-116 (2008); H.R. 2638, Pub. L. 110-329 (2009); and H.R. 3326, 111 Cong. (2009).
[38] Kaptur MOI (Exhibit 1 at 09-9064_3).

53. Representative Kaptur's contact with PMA lobbyists was limited to approximately once per year, when she saw lobbyists at fundraising events.

54. The staff person who was the primary contact with PMA was Representative Kaptur's Deputy Chief of Staff.

55. Representative Kaptur's Deputy Chief of Staff interacted with PMA lobbyists during the appropriations season, which began in January. He met with the lobbyists to discuss earmark request for their clients.[39]

56. During the meetings, the PMA lobbyists did not discuss campaign contributions with him. He does not have a role with Representative Kaptur's campaign and he does not solicit contributions.[40]

57. Representative Kaptur's Deputy Chief of Staff, who manages the evaluation process of the earmark requests, told the OCE that that two (*i.e.*, Teledyne Continental Motors, Inc. and Teledyne Controls) of the six companies contacted requested the earmark directly and PMA did not represent them before their office.[41] Therefore, he did not consider these two companies to be PMA clients.

58. The Deputy Chief of Staff attends Representative Kaptur's fundraisers and he has interacted with PMA lobbyists during these events. His discussion with the lobbyists may have involved the schedule for mark-ups on earmarks, but the conversations did not involve suggestions that their earmarks should be supported because of campaign contributions.[42]

E. Perception of Corporate Donors

59. There is evidence that the commercial entities seeking earmarks from Members of Congress believe that a political donation to the Member has an impact on the Member's decision to author an earmark for that donor.[43]

60. Representative Kaptur and her staff credibly articulated a process that separates her legislative activities and her campaign fundraising activities. She achieves this separation by reducing or eliminating her and her legislative staff's exposure to information from

[39] Deputy COS MOI (Exhibit 3 at 09-9064_8).
[40] *Id.* at 09-9064_9.
[41] *Id.*
[42] *Id. at* 09-9064_10.
[43] Memorandum of Interview of Legislative Affairs Director, Teledyne Controls, October 6, 2009 (Exhibit 6 at 09-9064_19).

the campaign's fundraising operation. Similarly, Representative Kaptur's campaign staff is isolated from her legislative agenda. As a result, neither the campaign nor the legislative staff is aware of what the other is doing. In each case, both legislative staff and campaign staff corroborated the Representative Kaptur's account.

61. Representative Kaptur and her staff's descriptions of how she operates her campaign and Congressional office establish that she attempts to prevent even the appearance that the legislative acts are influenced by contributions to the campaign. One risk associated with this type of operation is the possibility of an appearance of a conflict of interest if, out of ignorance, the her campaign accepts a contribution near in time to a legislative act that impacts the individual or entity making the contribution. This potential for an appearance of a conflict may explain why companies requesting an earmark appear to think that a contribution to the respective campaign or PAC affects the ultimate receipt of the earmark. The House Ethics Manual is unclear as to what obligations, if any, are placed on a Member to discourage or disabuse a company of that impression.

F. Contributions Linked to Official Acts by Outside Entities

62. In several instances, the OCE uncovered evidence that commercial entities seeking earmarks from Members of Congress appear to have linked contributions to Members' campaigns and/or PACs to specific legislative acts. These documents were internal to the companies and there is no evidence they were shared with Members.[44]

63. The federal gift statute, 5 U.S.C. § 7353, prohibits the solicitation or acceptance of anything of value from a person seeking official action from or doing business with the House, or from someone whose interests may be substantially affected by the performance or nonperformance of a Member's, Officer's or staff member's official duties. The statute also provides that the Committee on Standards of Official Conduct may enact reasonable exceptions to the prohibition. According to the Ethics Manual, the Standards Committee has long taken the position that the restrictions on solicitation set forth in the statute do not apply to political solicitations. However, Members and staff are subject to a number of other restrictions regarding the solicitation of campaign or political contributions under the rules of the House.

64. Under House rules, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. If a donor's contribution is linked to any official action, it is treated like

[44] Teledyne PAC Contribution Request (Exhibit 5 at 09-9064_16).

any other gift and may be subject as such to the federal gift statute and the criminal statutes on bribery and illegal gratuities.

65. The Board notes that the examples provided in the Ethics Manual of instances where a Member may be in violation of the House's rule against accepting a contribution linked to an official action are all instances in which the Member has some degree of knowledge of the link. As a result, it stands to reason that it is unlikely a violation of the rule could occur unless and until a Member is aware of the link and does nothing to remedy the situation.

66. The Board finds nothing in the factual record to indicate the Member was aware that the donor linked the contribution to an official act. As such, the Board concludes there is not a substantial reason to believe that a violation of either 5 U.S.C. § 7353, or the applicable House rules occurred. However once the Member becomes aware of the link, if the matter is not remedied by either by the Member or by formal advice from the Standards Committee declaring the contribution acceptable, then a violation may occur.

III. CONCLUSION

67. Representative Kaptur and her staff explained to the OCE in detail why she requested earmarks for PMA clients for fiscal years 2008 to 2010.

68. Representative Kaptur's support for the earmarks complied with her general policy of requesting earmarks that are consistent with her legislative priorities and constituent concerns.

69. Based on the information that the OCE collected during this review, the operation of Representative Kaptur's campaign is separate from her earmark evaluation process and the campaign does not influence her decisions on earmarks.

70. As a result, there is not substantial reason to believe that Representative Kaptur solicited or accepted campaign contributions for the earmark requests on behalf of PMA clients.

71. For these reasons, the Board recommends that the Standards Committee dismiss the above described allegations concerning Representative Kaptur.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS

72. In every instance the OCE asked the recipient of an OCE request for information to identify any information they withheld and the reason for doing so. However, absent the authority to subpoena the evidence in possession of the witness, it is impossible for the OCE to verify if information was withheld, but not documented.

73. In some instances documents were redacted or specific information was not provided. For instance, DRS Technologies provided evidence responsive to the OCE's Request for Information but indicated they would not provide any information regarding their "Legislative Strategy."

74. In at least one instance, the OCE had reason to believe that a witness withheld information requested, but did not comply with the OCE's request that they identify what was being withheld. Specifically, Boeing Corporation represented that they had fully cooperated. However, Boeing Corporation indicated that they had no electronic mail responsive to the OCE's Request for Information. The OCE then received, from another source, electronic mail to and from Boeing Corporation that were in fact responsive to the OCE's request.

75. The Board also notes that while the OCE was able to interview six former employees of PMA that provided general information on PMA and its business practices, many remaining former employees refused to consent to interviews. In addition, the OCE was unable to obtain any evidence within PMA's possession.

76. The Board makes the recommendation contained in this referral based on the factual record before it. Given its recommendation to dismiss, the Board does not recommend the issuance of subpoenas.

EXHIBIT 1

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Marcy Kaptur
REVIEW No.:	09-9064
DATE:	October 15, 2009
LOCATION:	Office of Representative Kaptur 2186 Rayburn HOB
TIME:	12:45 p.m. to 2 p.m. (approximately)
PARTICIPANTS:	Kedric L. Payne Paul Solis Nathan Facey Steve Katich

SUMMARY: Representative Marcy Kaptur is a Member of the United States House of Representatives and represents the 9th District of Ohio. She was interviewed pursuant to Review No. 09-9064. The OCE requested an interview with Representative Kaptur on July 10, 2009, and she consented to an interview. Representative Kaptur made the following statements in response to our questioning:

1. Representative Kaptur was given an 18 U.S.C. § 1001 warning and consented to an interview. She signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. Representative Kaptur describes her support for certain appropriations requests as "legislative priorities" and not "earmarks".

3. Her ideas on legislative priorities come from her constituents and she incorporates these ideas into legislation.

4. She also takes local ideas and incorporates them into national projects.

5. The factors she considers when evaluating earmarks are her legislative priorities, which are listed in a document that her office created in 2006.

6. Alternative energy technology is one of her priorities. She is also concerned with tangible goods, such as industry and agriculture.

7. If a proposed project does not fit her priorities, she does not support it with an earmark.

8. The office receives hundreds of requests for earmarks.

9. Representative Kaptur is not looking for major business to support. Instead, she is interested in supporting ideas. She also focuses on helping undeveloped industry sectors.

10. She is familiar with the corporate clients of the PMA Group, Inc. (hereafter "PMA") for which she requested earmarks. However, she did not personally recall that they were represented by PMA because she interacted with management of the companies directly.

11. Representative Kaptur did not know that Imaging System Technology was a client of PMA. She supported an earmark for the company because they created technology for plasma screens. She is concerned that televisions are no longer manufactured in the United States and her hope is that the technology could increase the country's presence in the industry.

12. Teledyne Controls is a company that collaborates with the university in her district and she meets with the company approximately once per year. She interacts with management of Teledyne Controls directly and not through PMA. She supported the company because it is a local project.

13. Parametric Technology Corporation was a company that requested an earmark in conjunction with the Ohio National Guard. Representative Kaptur remembers the company as being affiliated with the Ohio National Guard and not PMA.

14. Xunlight Corporation is a company that Representative Kaptur recalls as existing well before PMA. She supports the company because it works in conjunction with the local university to create solar power technology. The company also keeps jobs in her district.

15. Representative Kaptur did not interact with PMA concerning earmarks that she requested for PMA clients.

This memorandum was prepared on November 18, 2009, based on the notes that the OCE staff prepared during the interview with Representative Kaptur on October 15, 2009. I certify that this memorandum contains all pertinent matter discussed with Representative Kaptur on October 15, 2009.

Kedric L. Payne
Investigative Counsel

EXHIBIT 2

From: Katich, Steve
Sent: Wednesday, October 28, 2009 11:58 AM
To: Payne, Kedric
Subject: Agenda - Themes/Priorities...to be incorporated into all press, letters, op ends, floor statements, leg initiatives, project announcements etc

Hello Kedric,

Looking over my notes from last week and realized I had intended to send the attached document we discussed. As you can see, it is a member driven outline of priorities that we assign to initiatives in which the office will becomes involved. Our measuring stick, if you will.

Please advise what else may be required.

Thanks, Kedric.

From: Kaptur, Marcy
Sent: Wednesday, March 08, 2006 1:17 PM
To: Kaptur - All Staff
Subject: FW: 2006 Agenda - Themes/Priorities...to be incorporated into all press, letters, op ends, floor statements, leg initiatives, project announcements etc

---

From: Kaptur, Marcy
Sent: Thursday, February 16, 2006 8:38 PM
To: Kaptur, Marcy
Cc: Katich, Steve; Szemraj, Roger
Subject: Agenda - Themes/Priorities...to be incorporated into all press, letters, op ends, floor statements, leg initiatives, project announcements etc

Restoring America's Promise....Restoring America's Independence

Economic Security

o Create and Retain Good Jobs through Economic Development
--- Invest in Jobs and Firms in America/District
--- Balance the Budget
--- Make Pensions and Health benefits secure
--- Reform Unfair Trade Agreements
--- Modernize Transportation Systems (Seaway, Airports, Roadways, Rail)
--- Support Local, Value-Added Agriculture and Rural Life
--- Empower Small Business
--- Encourage Self-Help or Faith-Based Community Orgs. to Sponsor Human Development/ Housing Projects
--- Upgrade Historic and Downtown Neighborhoods

National Security

o Defend America and Protect the Homeland
--- Modernize defense systems, including Guard and Reserve
--- Provide finest training and equipment to Armed Forces, and our local first responders police/fire
--- Meet our obligations to veterans' health care and benefits

o Restore America's Energy Independence
--- Make our coastal region the first "green community" in the United States
--- Spur projects that restore energy independence
--- Convert local public transit and public fleets to renewable energy to spur an industry
--- Brand our region as "America's New Age Auto Center" ;invent new prototype vehicles/power systems

Environmental Legacy

o Champion Conservation/Stewardship of Nat'l Resources (water, land, air, fish, wildlife and nat'l systems)
--- Enhance environmental assets/Coastal Ohio/Lake Erie Islands as Midwest's Hilton Head/Cape Cod
--- Improve Maumee River to Ft. Wayne Heritage Corridor
--- Protect our region's fresh water through watershed inventory and reservoir enhancements

Human Development

o Advance human progress
--- Make education excellent and affordable to children and people of all ages and from all walks of life
--- Strengthen and Protect Social Security and Medicare
--- Completely revamp the confusing Rx Prescription Drug plan; allow for negotiated pricing as does Dept. VA
--- Make health insurance affordable for small business and the uninsured (our bill)
--- Expand research on serious Mental Illness as unexplored horizon of neuro-chemical and genetic interface
--- Emphasize prevention and intervention projects for at risk youth through Justice and Education systems

Clean Up Political Corruption

o Reform Campaign Finance to severely cap spending
o Require free time for candidates as a condition of FCC licensing
o Ban high ranking government officials from working for foreign interests upon leaving public service, 5 years for lobbying Congress

World Peace

o Build bridges internationally through people to people exchanges, development, and education
o Emphasize foreign language and intercultural education for our students
o Create an U.S. Institute for Democracy and Development dedicated to such international efforts (replace WESTNIS)

EXHIBIT 3

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Kaptur's Deputy Chief of Staff
REVIEW #:	09-9064
DATE:	October 15, 2009
LOCATION:	Office of Representative Kaptur 2186 Rayburn HOB
TIME:	11 a.m. to 12 p.m. (approximately)
PARTICIPANTS:	Kedric L. Payne Paul Solis

SUMMARY: Representative Kaptur's Deputy Chief of Staff (hereafter the "witness") was interviewed pursuant to Review 09-9064. The OCE requested an interview with the witness on July 10, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file for this review.

2. The witness is responsible for managing Representative Kaptur's earmark requests for the House Appropriations Committee.

3. The earmark request process occurs during the appropriations "season", which begins in January. The earmark requests are initiated in one of two ways. One way is that the project is self-initiated by the office if the staff or Member recognizes a specific need in the district.

4. For example, Representative Kaptur may see a road or bridge in the district in need of repair and she may request that her staff research any possible funding for repairing the problem. Also, Representative Kaptur's constituents may approach her informally in the district and suggest federal assistance for certain projects and Representative Kaptur may relay these ideas to her staff to research.

5. The other way that the earmark request process begins is that an entity or individual contacts the office with a formal request for a specific project.

6. All earmark requests are evaluated on certain criteria, which include the organizational capabilities of the requesting entity. The staff also considers the priorities of

Representative Kaptur which are alternative energy initiatives and urban redevelopment. In addition, the project's impact on jobs is important. The earmark request also must be consistent with the requirements of the committee. For example, the request must fall under a category such as justice or educational. The overall goal is to support economic development and jobs.

7. If an earmark requests is not from an entity located in Representative Kaptur's district and the project does not have any connection with the state, the staff does not recommend the project to Representative Kaptur.

8. The witness meets with those requesting entities in the office to discuss their projects. Such meetings included those with PMA Group, Inc. (hereafter "PMA") and its clients.

9. After researching the projects and meeting with the requesting entities, the witness and another staff person, Matt Kaplan, meet with Representative Kaptur to discuss staff recommendations for earmarks.

10. The meeting about the earmark requests is usually detailed and may extend for a few hours. Representative Kaptur adds her comments to the earmark requests and she may also include additional earmark requests.

11. The revised earmark requests are sent to staff for additional research and then the staff sends the revisions back to Representative Kaptur.

12. Once the requests are finalized, they are sent to the Appropriations Committee.

13. The witness did not know that a few of PMA's clients were represented by PMA because the companies had a history with Representative Kaptur's office and contacted staff directly. Specifically, Teledyne Controls, and Kimball & Associates worked directly with the office.

14. During his interaction with PMA about earmark requests for their clients, PMA employees did not mention campaign contributions or their prior support for Representative Kaptur.

15. The witness has no role in the campaign and does not solicit contributions for the campaign. He attended fundraisers for the Member and he spoke with PMA representatives at these fundraisers. The conversation was limited to exchanging information about the process and schedule for mark-ups.

16. PMA did not have any discussions about the witness suggesting that an earmark should be approved because of campaign contributions and Representative Kaptur would have been very angry if anything like that ever happened.

This memorandum was prepared on November 19, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 15, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 15, 2009.

Kedric L. Payne
Investigative Counsel

EXHIBIT 4

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Kaptur's Chief of Staff
REVIEW #:	09-9064
DATE:	October 15, 2009
LOCATION:	Office of Representative Kaptur 2186 Rayburn HOB
TIME:	10 a.m. to 11 a.m. (approximately)
PARTICIPANTS:	Kedric L. Payne Paul Solis

SUMMARY: Representative Kaptur's Chief of Staff (hereafter the "witness") was interviewed pursuant to Review No. 09-9064. The OCE requested an interview with the witness on July 10, 2009 and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed into the case file in this review.

2. The witness is based out of Representative Kaptur's district office. He is not greatly involved in earmark requests that are sent to Representative Kaptur. He is involved in fundraising for Representative Kaptur's campaign but there is no full time campaign staff. He is also responsible for hiring the part-time staff for the campaign.

3. The vast majority (*i.e.*, 95%) of the fundraising events held by the campaign are organized through "blast" faxes that the campaign has the Democratic Congressional Campaign Committee send to its donor lists. Solicitations are also sent to various visitors to the office who leave their business cards. The business cards are collected in a box and the information becomes part of the office's mailing list. The business cards may include entities that have requested earmarks.

4. The remaining fundraising events are hosted by donors who contact the campaign and ask to hold such fundraisers.

5. The campaign typically has fundraising events in the spring and the fall. According to the witness the timing of these events is based on the presence of Representative Kaptur in Washington unlike other times of the year.

6. The office receives approximately 100 earmark requests per year.

7. The witness does not handle any evaluation of the earmark requests. Instead, he sends requests that are received in the district office to the appropriate legislative assistant that handles the particular request.

8. The facts that are considered when evaluating earmark requests are the capacity of the company to perform the project and the relevancy of the project with Representative Kaptur's legislative priorities.

This memorandum was prepared on November 18, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 15, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 15, 2009.

Kedric L. Payne
Investigative Counsel

EXHIBIT 5

Request for TDY-PAC Contribution

Requestor: John Braun, VP, Washington Operations

Company: Teledyne Brown Engineering

For contributions from the TDY PAC, the following should be provided:

1. **Candidate Name: Marcy Kaptur**
2. **Political Party: Democrat**
3. **Current Office Held: 9th District; U.S. Representative (OH)**
4. **Candidate Address: P.O. Box 899**
   Toledo, OH 43697
5. **Purpose of Disbursement(*): Request from member**
6. **Office Sought: Relection**
7. **Indicate if for Primary, General or Other (describe): General**
8. **Indicate date of election: November 2008**
9. **Date of Disbursement: Immediate**
10. **Check Payable to: Kaptur for Congress**
11. **Amount of Disbursement: $1,000.00**
12. **Provide an ID or FEC # for the Candidate: C00154625**
13. **Telephone Number of Candidate: 419-693-0078**
14. **Indicate who should receive the signed check and by what date:**
    John Braun, as soon as possible.
15. **Indicate if a late contribution report is necessary: No**
    If necessary, provide the appropriate form to report the contribution.

- Provide any and all literature or fund-raising request information from the candidate

C:\DOCUME~1\mrudy\LOCALS~1\Temp\notes661326\Kaptur PAC Request.doc 08/04/09 9:59 AM

Request for TDY-PAC Contribution

Candidate Name: Marcy Kaptur

Indicate why supporting the candidate is consistent with the mission of TDY-PAC

In what capacity does the candidate serve in their political role (as a committee member/appropriations function etc?)?

Committee on Appropriations: Subcommittee on Defense; Subcommittee on Transportation, Housing and Urban Development and Related Agencies; Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies.

How important is the candidate's sponsorship any programs we are involved in?

Represents the district where Teledyne Turbine Engines is located, and is a member of the subcommittee allocating Defense funding.

How big are the programs, if any, the candidate supports?

N/A

Who is the competition for the programs?

N/A

What dollar revenue does the program bring to Teledyne Technologies?

Upward of $100 million.

Is the candidate in a position to lawfully influence the funding or the ultimate awardee/recipient of the government?

Absolutely.

Has TDY interacted with the candidate in the past?

Yes.

Any other information that is relevant.

EXHIBIT 6

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Legislative Affairs Director for Teledyne Controls
REVIEW #s:	09-1583; 09-4486; 09-9063; 09-9064; 09-9075; 09-9099
DATE:	October 6, 2009
LOCATION:	Teledyne Controls 501 Continental Boulevard El Segundo, CA 90245
TIME:	2 p.m. to 3 p.m. (approximately)
PARTICIPANTS:	Kedric L. Payne Omar Ashmawy Melanie Cibik David Berardinelli

SUMMARY: The Legislative Affairs Director for Teledyne Controls (hereafter the "witness") was interviewed pursuant to the above referenced Review Numbers. The OCE requested an interview with the witness on July 22, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness has been employed with Teledyne Controls since 1996. He is responsible for researching potential projects where the company can compete for business.

3. He is involved with the company's political action committee (hereafter "PAC"), which he helped to create in 2001. He promotes the PAC within the company and is responsible for arranging the payroll deductions for the PAC.

4. The reason for establishing the PAC was to support the Members of Congress who supported the company's business objectives. The PAC is for business development and access to Members.

5. PMA advised the company with setting up the PAC and the idea was that the PAC would assist with putting the company on the radar of Members who could assist the company with federal funding, specifically defense appropriations.

6. By contributing, the company's representatives attended fundraisers and could see the members of Congress and discuss the path of potential legislation.

7. PMA's advice on how the PAC should contribute was based on the past support the Representative provided to the company and the committee on which they served.

8. The specific amount that PMA recommended for the contributions was based on the amount of money that the Member was trying to raise.

9. For example, the witness attended a fundraiser for Representative Murtha and he was able to speak to the Member and he believes that he influenced him in a "good way".

10. PMA did not suggest that Members were pressuring companies to make contributions. However, he could deduce that the level of contributions had an impact on obtaining earmarks from PMA's perspective. PMA did not specifically say that you must contribute to get an earmark.

11. When making contributions, the witness says that it does go through your mind whether you are buying influence.

12. PMA advised the company's PAC on one occasion not to contribute because there would be no face time with the Member.

13. The witness recalls attending the fundraiser for Representative Tiahrt. The witness told Representative Tiahrt about the specifics of the company's project. The witness also attended a fundraiser at a hockey game for Representative Tiahrt. Representative Tiahrt's Military Legislative Assistant attended all of the fundraisers.

This memorandum was prepared on November 19, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 6, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 6, 2009.

Kedric L. Payne
Investigative Counsel

APPENDIX C:
REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE JAMES MORAN (Review No. 09-9075)

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 09-9075

The Board of the Office of Congressional Ethics (hereafter the "Board"), by a vote of no less than four members, on November 20, 2009, adopted the following report and ordered it to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives (hereafter the "Committee").

SUBJECT: Representative Jim Moran

NATURE OF THE ALLEGED VIOLATION: In Fiscal Year 2009, Representative Jim Moran authored several earmarks for clients of PMA Group, Inc. (hereafter "PMA"). During campaign cycles 2008 and 2010, Representative Moran received contributions to his campaign committee and "Leadership PAC" from PMA's PAC, PMA employees, the PACs of PMA clients for whom he authored earmarks, and the employees of those clients.

If Representative Moran solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Moran may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 (Gifts to Federal Employees), and House Rules and Standards of Conduct.

RECOMMENDATION: The Board of the Office of Congressional Ethics recommends that the Committee on Standards of Official Conduct dismiss the above allegations.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Leo Wise, Staff Director & Chief Counsel.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9075

Table of Contents

I. INTRODUCTION 3

A. Summary of Allegations 3

B. Jurisdiction Statement 3

C. Procedural History 4

D. Summary of Investigative Activity 4

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE MORAN REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS THAT HE RECEIVED 7

A. Relevant Law, Regulation, Rules, and Standards of Conduct 7

B. Earmark Process 10

C. Campaign Fundraising 11

D. Relationship with PMA 12

E. Perception of Corporate Donors 13

F. Contributions Linked to Official Acts by Outside Entities 14

III. CONCLUSION 15

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS 15

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9075

On November 20, 2009, the Board of the Office of Congressional Ethics (hereafter the "Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. There is not substantial reason to believe that Representative Jim Moran solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act

B. Jurisdiction Statement

2. The allegations that were the subject of this review concern Representative Jim Moran, a Member of the United States House of Representatives from the 8th District of Virginia. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter the "OCE") directs that, "[n]o review shall be undertaken... by the board of any alleged violation that occurred before the date of adoption of this resolution."[1] The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

[1] H. Res 895, 110th Cong. §1(e) (2008) (as amended).

C. Procedural History

3. The OCE received a written request for preliminary review in this matter signed by at least two members of the Board on July 6, 2009. The preliminary review commended on that date.[2] The preliminary review was scheduled to end on August 5, 2009.

4. At least three members of the Board voted to initiate a second-phase review in this matter on August 5, 2009. The second-phase review commenced on August 6, 2009.[3] The second-phase review was scheduled to end on September 20, 2009.[4]

5. The Board voted to extend the 45-day second-phase review by an additional 14 days on September 17, 2009, as provided for under the Resolution. Following the extension, the second-phase review was scheduled to end on October 5, 2009.[5]

6. The Board voted to refer the matter to the Committee on Standards of Official Conduct for dismissal and adopted these findings on November 20, 2009.

7. The report and its findings in this matter were transmitted to the Committee on Standards for Official Conduct on December 2, 2009.

D. Summary of Investigative Activity

8. Due to the nature of the allegations in this review, the OCE's investigation required the collection of information from a number of sources.

9. The OCE reviewed publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense (hereafter "Defense Subcommittee") from recipients of earmarks during the 2008 and 2010 campaign cycles. The review included campaign contributions to the leadership political action committees (hereafter "PACs"), if any, of these Members.

10. Specifically, the OCE reviewed campaign contributions to these Members from donors that were affiliated with the lobbying firm of Paul Magliocchetti and Associates Group, Inc.

[2] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is received by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (hereafter "the Resolution'), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[3] According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase commences the day after the preliminary review ends.

[4] According to the Resolution, the Board must vote on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase begins when the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

[5] The 14-day extension expires after the 45-day second-phase review ends. The 14-day extension does not begin on the date of the Board vote.

(hereafter "PMA"), *i.e.*, contributions from the PMA PAC, PMA employees, the PACs of corporate clients of PMA (hereafter "PMA clients") and employees of PMA clients.

11. The OCE also reviewed campaign contributions to Members of the Defense Subcommittee from PACs of non-PMA clients, and employees of non-PMA clients.

12. Beyond Members of the Defense Subcommittee, the investigation included a review of campaign contributions from PMA clients and non-PMA clients to Representatives who are not on the Defense Subcommittee, but authored defense earmarks PMA clients and non-PMA clients.

13. The OCE requested information from forty PMA clients that received earmarks from Members of the Defense Subcommittee for fiscal years 2008 to 2010.

14. All of the PMA clients that the OCE contacted cooperated with the investigation, except for two.

15. Aeroflex and Kimball and Associates are the only PMA client that refused to cooperate with the investigation.

16. Thirty-eight PMA clients and Representatives' offices produced documents totaling approximately 200,000 pages. These PMA clients also made witnesses available for interviews upon request of the OCE.

17. Based on the information discovered during the review of the produced documents, the OCE interviewed twenty-six individual PMA client witnesses.

18. In addition, the OCE interviewed six witnesses who were formerly employed as lobbyists with PMA during the 2008 and 2010 campaign cycles.

19. In sum, the OCE requested and received documentary, and in some cases testimonial, information from the following sources:

    (1) 21st Century Systems, Inc.;
    (2) AAR Composites;
    (3) Advanced Acoustic Concepts;
    (4) Advanced Concepts & Technologies Intl.;
    (5) Aircraft Interior Products;
    (6) Applied Global Technologies;
    (7) Argon ST;
    (8) Boeing Corporation;
    (9) Carnegie Mellon University;
    (10) Coda Octopus Group;
    (11) Concurrent Technologies Corporation;
    (12) Conemaugh Health Systems;

(13) Cryptek;
(14) DDL OMNI Engineering;
(15) DRS Technologies;
(16) EM Solutions;
(17) General Atomics;
(18) General Dynamics;
(19) Goodrich Corporation;
(20) Innovative Concepts, Inc.;
(21) ITT Corporation;
(22) Lockheed Martin Corporation;
(23) MobilVox;
(24) NuVant Systems, Inc.;
(25) Optimal Solutions & Technologies;
(26) Parametric Technology Corporation;
(27) Planning Systems Inc.;
(28) Profile Systems;
(29) Prologic, Inc.;
(30) QTL Biosystems;
(31) RaySat Antenna Systems;
(32) Rockwell Collins;
(33) Samueli Institute;
(34) Sierra Nevada Corporation;
(35) Teledyne Continental Motors, Inc.;
(36) Teledyne Controls;
(37) Windber Research Institute;
(38) Xunlight Corporation;
(39) Vice President, 21st Century Systems, Inc.;
(40) Chief Administrative Officer, 21st Century Systems, Inc.;
(41) Vice President for Communications, 21st Century Systems, Inc.;
(42) PAC Treasurer, 21st Century Systems, Inc.;
(43) General Manager, AAR Composites;
(44) Chief Operating Officer, AAR Composites;
(45) Chief Executive Officer, Applied Global Technologies;
(46) Vice President, Applied Global Technologies;
(47) PAC Treasurer, DRS Technologies;
(48) President, DRS Technologies;
(49) Chief Operating Officers, Optimal Solutions & Technologies;
(50) Chief Executive Officer, Optimal Solutions & Technologies;
(51) Director, Optimal Solutions & Technologies;
(52) CEO, Samueli Institute;
(53) Vice President, Sierra Nevada Corporation;
(54) Congressional Affairs Director, Sierra Nevada Corporation;
(55) Assistant to Business Development Director, Teledyne Continental Motors, Inc.;
(56) Business Development Director, Teledyne Continental Motors, Inc.;

(57) PAC Treasurer, Teledyne Controls;
(58) General Manager, Teledyne Controls;
(59) Vice President, Teledyne Controls;
(60) Director of Contracts, Teledyne Controls;
(61) Contract Administrator, Teledyne Controls;
(62) Legislative Affairs Director, Teledyne Controls;
(63) Associate General Counsel, Teledyne Controls;
(64) President, Teledyne Controls;
(65) PMA Lobbyist 1;
(66) PMA Lobbyist 2;
(67) PMA Lobbyist 3;
(68) PMA Lobbyist 4;
(69) PMA Lobbyist 5;
(70) PMA Lobbyist 6
(71) Representative Jim Moran
(72) Representative Moran's Former Military Legislative Analyst
(73) Finance Director for Moran for Congress and Representative Moran's Virginia Leadership PAC

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE MORAN REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS THAT HE RECEIVED

A. Relevant Law, Regulation, Rules, and Standards of Conduct

20. *18 U.S.C. § 201(b) - Bribery of public officials and witnesses*

"(b) Whoever-

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act . . . ."

21. *18 U.S.C.A. § 201(c) – Illegal Gratuities*

"(c) Whoever-

(1) otherwise than as provided by law for the proper discharge of official duty—

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive

or accept anything of value personally for or because of any official act performed or to be performed by such official or person . . . ."

22. *"An illegal gratuity...may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken."*[6]

23. *House Rules and Standards of Conduct*

"[T]he scope of the House standards of conduct in this area is broader than that of the criminal bribery statute... the House standards of conduct generally preclude any link between the solicitation or receipt of a contribution and a specific official action."[7]

"Put another way, there are fundraising activities that do not violate any criminal statute but well may violate House standards of conduct."[8]

"[T]here are certain proffered campaign contributions that must be declined, and certain fundraising opportunities that must be forgone, solely because they create an appearance of improper conduct."[9]

"[N]o solicitation of a campaign or political contribution may be linked to an action taken or to be taken by a Member or employee in his or her official capacity."[10] *In addition, a Member may not accept any contribution that is linked with any specific official action taken or to be taken by that Member."*[11]

"It is probably not wrong for the campaign managers of a legislator...to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff as the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. The Standards Committee has long advised Members and staff that they should always exercise caution to avoid even the appearance that solicitations of campaign contributions are connected in any way with an action taken or to be taken in their official capacity."[12]

---

[6] House Ethics Manual (2008) at 79. See also United States v. Sun-Diamond Growers, 526 U.S. 398, 404 (1999).
[7] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[8] *Id.*
[9] *Id.*
[10] House Ethics Manual (2008) at 147.
[11] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[12] *Id.*

"[A] Member should not sponsor or participate in any solicitation that offers donors any special access to the Member in the Member's official capacity."[13]

"[G]overnment officials should 'never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not."[14]

"'[P]ublic office is a public trust,' and the public has a right to expect House Members and staff to exercise impartial judgment in performing their duties."[15]

24. *5 U.S.C. § 7353 – Gifts to Federal Employees*

"(a) Except as permitted by subsection (b), no Member of Congress...shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with...the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules and regulations established by such individual's supervising ethics office pursuant to paragraph (1)

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of an official act."

25. *House Ethics Manual – Soliciting Campaign and Political Contributions*

While the federal gift statute (5 U.S.C. § 7353) broadly restricts the ability of

House Members and staff to solicit things of value from virtually anyone, even when no personal benefit to the solicitor is involved, legislative materials concerning the statute state that it does not apply to the solicitation of political contributions. Consistent with those materials, the Standards Committee has long taken the position that the restrictions on solicitation set forth in that statute do not apply to political solicitations. However, in soliciting campaign or political contributions, Members and staff are subject to a number of other restrictions, as follows.

---

[13] *Id.*
[14] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 5).
[15] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 10).

A Contribution linked to an Official Action May Not Be Accepted

... no solicitation of a campaign or political contribution may be linked to any action taken or to be taken by a Member or employee in his or her official capacity.

In a similar vein, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. In this respect, a campaign or political contribution is treated like any other gift, and acceptance of a contribution in these circumstances may implicate a provision of the federal gift statute (5 U.S.C. § 7353) or the criminal statutes on bribery and illegal gratuities.

26. Based on the facts collected by the OCE, the Board concludes there is not substantial reason to believe the allegations that are the subject of this review.[16]

B. Earmark Process

27. Representative Jim Moran represents the 8th Congressional District of Virginia.

26. Representative Moran is a Member of the House Committee on Appropriations, Subcommittee on Defense.

28. The process for handling Representative Moran's requests for earmarks for the Subcommittee on Defense is initially managed by his Congressional office staff.[17] Representative Moran's former Military Legislative Assistant reviewed all earmark requests prior to his departure in July of 2009.[18] However, Representative Moran made the ultimate decision as to which funding requests were submitted to the Subcommittee.[19]

29. Because the Pentagon in located in Representative Moran's district, his office received a significant number of funding requests. [20] Representative Moran informed the OCE staff that he reviewed roughly 300-500 requests and only 60 or so of that number ultimately received funding.[21]

30. Representative Moran's former Military Legislative Analyst met with the companies' representatives and lobbyists to discuss potential funding requests.[22] Based on the

[16] Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009) provides that "[t]he Board shall refer a matter to the Standards Committee for further review if it determines there is a substantial reason to believe the allegation based on all the information then known to the Board."
[17] Memorandum of Interview of Representative James Moran, October 5, 2009, ("Moran MOI") (Exhibit 1 at ¶ 8).
[18] Memorandum of Interview of Representative Moran's former Military Legislative Assistant, October 5, 2009, ("Former MLA MOI") (Exhibit 2 at ¶ 25).
[19] Moran MOI (Exhibit 1 at ¶ 4).
[20] *Id.* at ¶ 2.
[21] *Id.* at ¶ 8.
[22] Former MLA MOI, (Exhibit 2 at ¶ 9).

information presented in the meetings, Representative Moran's former Military Legislative Analyst would assess whether each request met Representative Moran's criteria for funding which included: the success of any past projects; whether the Department of Defense was interested in the project; and how many jobs the project would bring to the Congressman's district.[23] He would then create a list of potential funding requests for Representative Moran's review.[24]

31. Representative Moran would review the list of potential earmark requests making changes to both the order of the requests and, at times, the requested dollar amounts.[25] The list was then submitted to the Subcommittee.[26]

C. Campaign Fundraising

32. During the time period of the 2008 and 2010 campaign cycles, Representative Moran accepted approximately $180,200 in campaign contributions from PMA's PAC and employees and from the PAC and employees of PMA clients.[27]

33. Representative Moran's fundraising is handled by the Finance Director for the Congressman's campaign committees, Moran for Congress and Virginia Leadership PAC. The Finance Director has held that position with both entities for the past twelve years.[28]

34. The Finance Director develops a yearly budget for the campaign committee and PAC and arranges the campaign's fundraising schedule which includes receptions, breakfasts and a theater night.[29] In addition, various individuals host fundraising dinners in their homes or other events such as wine tastings or athletic events.[30]

35. Fundraising correspondence is sent out to donor lists the campaign has received from the Democratic Congressional Campaign Committee, donor lists purchased from the "Washington Rep book", and to lists of individuals who have previously attended events or made contributions to the campaign in the past.[31]

---

[23] *Id.* at ¶ 25.
[24] *Id.* at ¶ 26.
[25] *Id.*
[26] *Id.*
[27] Contribution amounts are derived from reports filed with the Federal Election Commission by Moran for Congress and Virginia Leadership PAC.
[28] Memorandum of Representative Moran's Finance Director, October 5, 2009, ("Finance Director MOI") (Exhibit 3 at ¶ 2).
[29] *Id.* at ¶ 3.
[30] *Id.* at ¶ 6.
[31] *Id.* at ¶ 9.

36. Representative Moran also spends two to three afternoons per week making phone calls to individuals who have previously contributed to his campaign.[32]

37. Representative Moran fundraises for his campaign throughout the year in order to raise approximately $600,000 to $1,000,000 in a given cycle.[33]

38. Representative Moran told the OCE that he did not know who made donations or what amounts were made to his campaign and that he did not want to know.[34] He further stated that he did not believe that having such information was appropriate.[35] He explained that he did not want to abstain from a vote because he was notified of a contribution.[36] He stated that after 19 years, his votes are reasonably predictable and that contributions make no difference in his voting decisions.[37]

D. Relationship with PMA

39. During the time period of the 2008 and 2010 campaign cycles, 13 corporate clients of PMA were awarded earmarks requested by Representative Moran.

40. The PMA clients that received earmarks during this period are:

(a) Argon ST Inc., (Requested, $6,200,000)
(b) Planning Systems, Inc., ($Requested, $4,700,000)
(c) MobilVox, (Requested, $4,200,000)
(d) General Dynamics, (Requested, $4,000,000)
(e) ITT Corp., (Requested, $3,200,000)
(f) Samueli Institute, (Requested, $3,000,000)
(g) DDL OMNI Engineering, LLC, (Requested, $2,000,000)
(h) EM Solutions, (Requested, $2,000,000)
(i) Artis, LLC, (Requested, $1,600,000)
(j) Innovative Concepts, Inc., (Requested, $1,600,000)
(k) Prologic, Inc., (Requested, $1,600,000)
(l) RaySat Antenna Systems, (Requested, $800,000)
(m)Rockwell Collins, (Requested, $400,000)[38]

[32] Moran MOI (Exhibit 1 at ¶ 13).
[33] *Id.*
[34] Moran MOI (Exhibit 1 at ¶ 17).
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] H.R. 3222, Pub. L. 110-116 (2008); H.R. 2638, Pub. L. 110-329 (2009); and H.R. 3326, 111 Cong. (2009).

41. Representative Moran informed the OCE staff that he knew Mr. Paul Magliocchetti and several of the people that worked for PMA.[39] However, he did not have frequent contact with Mr. Magliocchetti or PMA.[40] He further stated that he saw Mr. Magliocchetti at fundraisers but said that he did not know him socially.[41] He dealt with Mark Magliocchetti on occasion but most interaction with PMA employees occurred through his staff.[42]

42. Representative Moran stated that PMA knew the appropriations process, and that they knew what the military was looking for and the benefit that could be derived from certain projects.[43]

43. Representative Moran's former Military Legislative Analyst informed the OCE staff that he dealt most frequently with John Veltri or Julie Giardino at PMA.[44] He stated that he met with eight to twelve PMA clients in a given cycle and that less than three-quarters but more than one-half of those clients received funding.[45] He further explained that PMA's clients' project proposals were good in that they had support from the Pentagon, they were easy to understand, and had identifiable military benefit.[46]

E. Perception of Corporate Donors

44. There is evidence that some of the commercial entities seeking earmarks from Representative Moran believe that a political donation to him has an impact on his decision to author an earmark for that donor.[47]

45. However, Representative Moran credibly articulated a process that separates his legislative activities from campaign fundraising activities. Representative Moran achieves this separation by eliminating his and his legislative staff's exposure to information from the campaign's fundraising operation.[48] Similarly, since Representative Moran retains a professional fundraiser, his professional fundraiser is isolated from the Member's legislative activities.[49] As result, neither the campaign nor Representative Moran's legislative staff is aware of what the other is doing.

---

[39] *Id.* at ¶ 10.
[40] *Id.*
[41] *Id.*
[42] *Id.*
[43] *Id.* at ¶ 12.
[44] Former MLA MOI, (Exhibit 2 at ¶ 17).
[45] *Id.* at ¶ 17,18.
[46] *Id.* at ¶ 22.
[47] Century Systems, Inc. Proposed CY 2008 Congressional Campaign Contributions (Exhibit 4).
[48] Moran MOI (Exhibit 1 at ¶ 15).
[49] Finance Director MOI") (Exhibit 3 at ¶15).

46. Representative Moran explained to the OCE that he operates his campaign and Congressional office in this manner to prevent even the appearance that his legislative acts are influenced by contributions to their campaign or PAC.[50] One risk associated with this is the possibility of an appearance of a conflict of interest if, out of ignorance, the Member's campaign accepts a contribution near in time to a legislative act that has an impact on the individual or entity making the contribution. This potential for an appearance of a conflict may explain why companies requesting an earmark appear to think that a contribution to the respective campaign or PAC affects the ultimate receipt of an earmark. The House Ethics Manual is unclear as to what obligations, if any, are placed on a Member to discourage or disabuse an entity of that impression.

F. Contributions Linked to Official Acts by Outside Entities

47. In several instances, the OCE uncovered evidence that commercial entities seeking earmarks from Members of Congress appear to have linked contributions to Members' campaigns and/or PACs to specific legislative acts.[51] These documents were internal to the companies and there is no evidence they were shared with Members.

48. The federal gift statute, 5 U.S.C. § 7353, prohibits the solicitation or acceptance of anything of value from a person seeking official action from or doing business with the House, or from someone whose interests may be substantially affected by the performance or nonperformance of a Member's, officer's or staff member's official duties. The statute also provides that the Committee on Standards of Official Conduct may enact reasonable exceptions to the prohibition. According to the Ethics Manual, the Standards Committee has long taken the position that the restrictions on solicitation set forth in the statute do not apply to political solicitations. However, Members and staff are subject to a number of other restrictions regarding the solicitation of campaign or political contributions under the rules of the House.

49. Under House rules, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. If a donor's contribution is linked to any official action, it is treated like any other gift and may be subject as such to the federal gift statute and the criminal statutes on bribery and illegal gratuities.

50. The Board notes that the examples provided in the Ethics Manual of instances where a Member may be in violation of the House's rule against accepting a contribution linked to an official action are all instances in which the Member has some degree of knowledge of

[50] Moran MOI (Exhibit 1 at ¶ 17)
[51] Century Systems, Inc. Proposed CY 2008 Congressional Campaign Contributions (Exhibit 4).

the link. As a result, it stands to reason that it is unlikely a violation of the rule could occur unless and until a Member is aware of the link and does nothing to remedy the situation.

51. The Board finds nothing in the factual record to indicate the Member was aware that the donor linked the contribution to an official act. As such, the Board concludes there is not a substantial reason to believe that a violation of either 5 U.S.C. § 7353 or the applicable House rules occurred. However once the Member becomes aware of the link, if the matter is not remedied by either by the Member or by formal advice from the Standards Committee declaring the contribution acceptable, then a violation may occur.

III. CONCLUSION

52. For these reasons, the Board recommends that the Standards Committee dismiss the above described allegations concerning Representative Moran.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS

53. In every instance, the OCE asked the recipient of an OCE request for information to identify any information they withheld and the reason for doing so. However, absent the authority to subpoena the evidence in possession of the witness, it is impossible for the OCE to verify if information was withheld, but not documented.

54. In some instances, documents were redacted or specific information was not provided. For instance, PMA Client 15 provided evidence responsive to the OCE's Request for Information but indicated they would not provide any information regarding their "Legislative Strategy."

55. In at least one instance, the OCE had reason to believe a witness withheld information requested, but did not comply with the OCE's request that they identify what was being withheld. Specifically, PMA Client 8 represented that they had fully cooperated. However, the PMA Client 8 indicated that they had no electronic mail responsive to the OCE's Request for Information. The OCE then received, from another source, electronic mail to and from PMA Client 8 that were in fact responsive to OCE's request.

56. The Board also notes that while the OCE was able to interview six former employees of PMA that provided general information on PMA and its business practices, many remaining former employees refused to consent to interviews. In addition, the OCE was unable to obtain any evidence within PMA's possession.

57. The Board makes the recommendation contained in this referral based on the factual record before it. Given its recommendation to dismiss, the Board does not recommend the issuance of subpoenas, but recognizes that the Committee on Standards of Official Conduct may determine otherwise.

EXHIBIT 1

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative James Moran
REVIEW #:	09-9075
DATE:	October 5, 2009
LOCATION:	2339 Rayburn HOB Washington, DC 20515
TIME:	11 p.m. to 12 p.m. (approximate)
PARTICIPANTS:	Elizabeth Horton Omar Ashmawy Leslie J. Kerman (with the Waverly Group, Inc.)

SUMMARY: Representative James Moran is the Representative from the 8th District of Virginia. The OCE requested an interview with Representative Moran on July 10, 2009, and he consented to an interview. Representative Moran made the following statements in response to our questioning:

1. Representative Moran was given an 18 U.S.C. § 1001 warning and consented to an interview. Representative Moran signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. Because the Pentagon is in his District, it is typical for defense companies to locate there. As a result, he receives thousands of earmark requests each year. The office cannot possibly respond to all the requests they get.

3. Those requests go to his staff. Anyone who makes a request is provided a form and asked to fill it out. The office then reviews these requests very thoroughly. The office vets the requests with the Department of Defense (hereafter "DOD") – typically with the relevant DOD program manager.

4. He is not interested in earmarking funds that won't help his district. He makes the ultimate decision on earmarks. He stated that earmarks are given every year to someone who has not contributed to his campaign.

5. The Appropriations Sub-committee on Defense also has its own form and conducts its own review.

6. Often the companies requesting the earmark have gone to the Pentagon and spoken to a program manager who indicated their interest in the proposed project. The

Congressman's office checks with the program managers. If the program manager says they are not interested in the project or they do not like the company or any other problem, then Representative Moran's office will decline the request.

7. Furthermore, when the office decides to include an earmark in the appropriations bill, it is a fraction of what the requestor wanted. The sub-committee also winnows down their requests. The office may ask for twice as much as they get.

8. Representative Moran does not normally see the earmark requests until his staff narrows them down based on DOD's needs. He will see approximately three hundred to five hundred earmark requests; maybe 60 of which are approved and forwarded to the Subcommittee.

9. The Congressman doesn't typically include earmarks for national programs or initiatives. He understands that other Members of Congress have fewer requests, but for higher dollar amounts -- $20-30 million for only two, three, or four contractors. The Congressman makes more requests, but only for $1-2 million each.

10. Regarding his relationship to Paul Magliocchetti and Paul Magliocchetti and Associates (hereafter "PMA"), the Member explained that he knew Mr. Magliocchetti and several of the people who worked with him. However, he said that there was not much interaction between himself and PMA. He dealt with Mark Magliocchetti on occasion but most interaction with PMA employees occurred through his staff. He further stated that he saw Mr. Magliocchetti at fundraisers but that he did not know him socially.

11. Early on, Mr. Magliocchetti would come to the Congressman and say, "You only gave $1 million...my client needs $10 million." The Congressman would reply, "Hey! There are only so many...I represent a lot of contractors..." Over time, Mr. Magliocchetti realized that there was only so much the member could do and realized the Member was being fair.

12. Mr. Magliocchetti was a good advocate for his clients, especially if he really believed in them. He knew how to run the traps, he knew what the military was looking for and the benefit the project would derive if funded.

13. When asked if there were "seasons" to fundraisers, the Congressman replied that it's really all year. His elections cost approximately between $600,000 and $1 million. He also spends a lot of money on DCCC dues – approximately $250,000. In addition, he is expected to contribute to "Frontline" democratic candidates who are in contested races. He stated that he spends two to three afternoons per week making phone calls to individuals on behalf of his campaign.

14. He typically holds a theater night fundraiser each year and he will spend 2-3 afternoons making calls to individuals that have contributed to him in the past. He also a couple of breakfasts, a baseball game, and wine tasting.

15. Representative Moran understood the need to keep his fundraising and Congressional office separate. He thought there were Congressional ethics or even laws that required it, but he knew his office had to keep the two separate and so they keep it separate.

16. He has heard stories from friends of people sitting down with Members of Congress to talk about an earmark and then getting a call the next day for a contribution. That does not happen in his office.

17. His office does not have a process to check potential conflict created by the timing of a contribution. Representative Moran stated that he does not want to know who contributes to his campaign and when or how much they contribute because he does not want to be placed in a position to not vote for something he believes in. He further stated that he did not believe that having such information was appropriate. The Congressman also said that he would not consider whether someone contributed before casting a vote. After 19 years in Congress, the Member said that his votes are pretty predictable.

18. Generally, Representative Moran is only aware of how much someone contributes when it is in response to his personal requests. Otherwise, he only sees a list of attendees for his fundraising events. He would not be able to distinguish the amounts contributed. He may also see campaign contributions at the end of the quarter, but only sometimes. He does not always review them. Regardless, he said that it is hard to keep these things in your mind when you vote.

This memorandum was prepared on November 16, 2009, based on the notes that the OCE staff prepared during the interview with Representative Moran on October 5, 2009. I certify that this memorandum contains all pertinent matter discussed with Representative Moran on October 5, 2009.

Omar Ashmawy
Investigative Counsel

EXHIBIT 2

CONFIDENTIAL
Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Moran's Former Military Legislative Assistant
REVIEW #:	09-9075
DATE:	October 5, 2009
LOCATION:	2339 Rayburn HOB Washington, DC 20515
TIME:	12 p.m. (approximate)
PARTICIPANTS:	Elizabeth Horton Leo Wise Leslie J. Kerman (with the Waverly Group, Inc.)

SUMMARY: Representative Moran's Former Military Legislative Assistant (hereafter the "witness") was interviewed pursuant to Review 09-9075. The OCE requested an interview with the witness on July 10, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. The witness signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness was initially hired as a Legislative Correspondent for the office in October of 2004. He became the Military Legislative Assistant (hereafter "MLA") in November of 2005.

3. As the MLA, he was responsible for all policy matters related to the Department of Defense (hereafter "DOD"). Specifically, he handled all hearings (approximately 30 per year), all policy requests for bills, researched and evaluated all earmark requests, acted as the contact for all professional committee staff, worked on the defense authorization bills, veterans' affairs issues, and homeland security issues.

4. The company or its lobbyist would contact the office and ask for a meeting to discuss an earmark.

5. Approximately 100 to 125 entities request earmarks during a give cycle.

6. The office uses a specific form for requesting earmarks. Most of the time the company would have filled out the form prior to the meeting and brought it to the meeting. The form would then inform the conversation during the meeting.

7. The office started using its own form in 2006 because the committee form did not require enough information about the company that was requesting an earmark. The committee earmark did not require the company's address and location of offices, previous earmarks received by the company, or any contact at the program level with DOD.

8. Not everyone that requested funding also requested a meeting; however, the people that were serious about funding asked for in-person meetings.

9. He would generally meet with the contractor and their lobbyist if they were represented. Representative Moran would sometimes also participate in the meeting.

10. The purpose of the meeting was to determine the footprint of the company in Northern Virginia and learn what the project was about. He wanted to understand enough about the request so that he could talk intelligently with the Congressman and DOD.

11. He met with close to 75% of the companies that were requesting funding. Some of the companies had multiple requests that would be covered in a single meeting.

12. After meeting with a company, he would contact the program manager at DOD that was in charge of the issue to get information on the merits or demerits of the request. From there he would begin to weigh the merits of the request.

13. The criteria used to weigh each request included whether the project was supported in the past, if it was a university located in Northern Virginia that was doing worthwhile research, how excited DOD was about the project, how many jobs would be created by the project in the district, and whether it added value to the military. However, there was no set standard other than the project had to be in Northern Virginia and was blessed by the program manager at DOD.

14. After the requests were submitted to the Subcommittee, the office would receive notice of how many requests each member would receive or the total dollar limit of the requests. A senior Member may get more than a less senior Member.

15. The office received so many requests that were good so they would sometimes allocate less to each request in order to fund more requests.

16. National requests differ from congressionally directed earmarks in that National requests are part of the President's budget.

17. He worked with Tom Veltri and PMA initially and then with Julie Giardino. PMA represented approximately 8-12 clients in a given cycle. PMA would attend meetings with their client if the office was not familiar with the client. If the office was familiar with a particular client, PMA would just bring the request forms to the office.

18. Less than ¾ but more than ½ of PMA's clients received funding.

19. No other lobbying firm represented as many clients as PMA. The next size firm represented approximately 2-4 clients. Congressional Strategies and former Congressman Charlie Rose represented about 2-4 clients.

20. The success of Congressional Strategies' clients varied each year, approximately 75% of their clients received funding. If they had four clients, 2 to 3 may receive funding. Congressman Rose's clients' success depended on the year.

21. Samueli Institute dropped PMA and still received funding after they released PMA. The company hired a PMA employee as their in-house lobbyist.

22. PMA was unique in that they brought good projects to the table which had support from the Pentagon. The projects were easy to understand, they captured your imagination, you could see the military benefit, they met the criteria the office set forth, and they met the deadlines for submission.

23. Tom Veltri was in the Air Force prior to joining PMA. He did not recall if Mr. Veltri worked for a Member. Ms. Giardino worked for Representative Murtha prior to working for PMA. Most of PMA's employees came from the Pentagon or the Hill. Prior to the news articles they would not have been associated with anyone in particular. However, he knew Paul Magliocchetti had worked for Representative Murtha.

24. Mr. Magliocchetti would come to meetings with new clients if the client was meeting with the office for the first time. He may have shown up 1 out of 4 times.

25. He evaluated all requests and created a list ranking the requests based on whether DoD liked the project, the number of jobs the project created in the district, whether the company had previous projects that turned out well, and whether the project was for a university or non-profit (he preferred a balance between for-profits and non-profits).

26. After the list was created, it was given to Representative Moran. The Congressman would then change the priority and dollar figures, adding or deleting requests. He may reshuffle 25% of the list. The list would then be sent to the subcommittee. The requests that went to the committee were ultimately the Congressman's decision.

27. The committee would also edit the list at times and he would then sit down with the Congressman and ask if the list was still okay. The committee would change about 10%.

28. Each Member received an allocation based on seniority. The leadership determined how many earmarks the office would get and the dollar amount. The office tried to submit what the committee was expecting.

29. The budget resolution sets the ceiling for funding and the office had to be under the ceiling. The Democrats wanted to reduce the number and dollar amount of earmarks.

30. He and the Congressman did not discuss any of the executives at the companies. They would talk about the success of prior projects or the merit of the project for DOD. There was no discussion as to whether anyone at the company supported the campaign.

31. He attended some fundraisers. He attended the Murtha breakfast. Representative Moran gives tickets to his event at the Kennedy Center to staff. He also attended the AEPCO breakfast and the fundraiser at Alpine.

32. He had seen PMA employees at fundraisers but he tried not to talk about work at fundraisers. If anyone tried to talk about official matters, he would tell the person to schedule a meeting because he was attending the event as a guest and not as staff.

33. Other lobbying firms were also present at fundraisers as well as representatives from various companies.

34. He has volunteered for Representative Moran's campaign as well as the Presidential election.

35. He has a Bachelor of Arts in Political Science from Wake Forest and he is currently studying law at Georgetown.

36. Prior to working for Representative Moran, he was a legislative assistant to a delegate in Virginia for two and a half years, and prior to that was a staff assistant for Alliance for Healthcare Reform for six months.

37. He has had no coursework or special training in project evaluation and he has not served in the military.

38. He is currently working at Boeing as the Director of Legislative Affairs. He has been with Boeing since July of 2009.

This memorandum was prepared on November 19, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 5, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 5, 2009.

Elizabeth Horton
Investigative Counsel

EXHIBIT 3

CONFIDENTIAL
Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Moran's Finance Director for Fundraising
REVIEW #:	09-9075
DATE:	October 5, 2009
LOCATION:	2339 Rayburn HOB Washington, DC 20515
TIME:	12:00 p.m. (approximate)
PARTICIPANTS:	Elizabeth Horton Leo Wise Leslie J. Kerman (with the Waverly Group, Inc.)

SUMMARY: Representative Moran's Finance Director for Fundraising (hereafter the "witness") was interviewed pursuant to Review 09-9075. The OCE requested an interview with the witness on July 10, 2009, and she consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. She signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness has worked for the Congressman for the past 12 years. She works for Moran for Congress and the Congressman's Virginia Leadership PAC. She took over the position as Finance Director in 2003. Maime Reiley held the position before she stepped in.

3. Her responsibilities include developing the budget each year, putting the fundraising schedule together for receptions, breakfasts, and the theater night.

4. They hold approximately five events per year. She only makes calls in relation to the events.

5. The campaign has had only one letter writing campaign, which was held in 2007.

6. Various individuals also host fundraising dinners or receptions in their homes. Lobbying groups have also held fundraising events. PMA was involved with hosting a wine tasting event in conjunction with Lou Brown. Melissa Koloszar and Mark Magliocchetti both helped with the event. Approximately 25-50 people attended the event. A baseball event was also sponsored by Steve Hartell with EMC.

7. Not all individuals who are invited to events actually attend - approximately 5% may send a representative on their behalf.

8. The Congressman's leadership PAC held events in 2007 and 2008. PMA helped with one of the events in 2008.

9. The campaign is given lists of contributors from the Democratic Congressional Campaign Committee ("DCCC"). The lists are categorized into industries such as labor, realtors, defense, and technology companies. The campaign also compiles lists of former donors and individuals who request to be placed on the mailing list and purchases donor lists from the Washington Rep book. The Congressman sometimes hands her cards of individuals that have asked to be placed on a mailing list or to be included on an invitation list to a certain event.

10. The invitation list to events varies depending on what type of event that is being held. The cost of the event and prior donations are two of the main criteria in determining the list.

11. The campaign compiles a list of attendees at events and quarterly reports. Lists of attendees are given to the Congressman before an event. He is also given copies of the quarterly reports.

12. She will give the Congressman a list of the coming year's event so that they can decide which events he will make solicitations. She lets him go through the list and call who he chooses. She stated that the Congressman does not like to call friends.

13. She could not recall a time when the Congressman asked her to invite anyone to an event.

14. She provides the Representative Moran with information on the campaign's income and expenditures. She state that the Congressman may ask questions about expenditures.

15. She stated that she only contacts Representative Moran's official office for scheduling purposes and that no one from the office calls her.

This memorandum was prepared on November 19, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 5, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 5, 2009.

Elizabeth Horton
Investigative Counsel

EXHIBIT 4

Proposed CY2008
Congressional Campaign Contributions

State/Member (Re-election Year)	*Contributions Made this Cycle**	*Proposed CY08 Contribution*	*Possible Programs*
[redacted]			
[redacted]			
[redacted]			
[redacted]			
[redacted]			
[redacted]			
[redacted]			
[redacted]			
Moran	2,500	2,500	Webster
	Total	**34,600**	

09-9075_14

	Unprogrammed	5,000	
	Carry Over	5,000	
	Grand Total	44,600	

* A "cycle" differs between House members and Senators.
- For House members, cycle = 2 years (2007 & 2008)
- For Senators, a cycle = their 6 year term which is staggered. (Recall that 1/3 of the Senate is up for re-election every 2 years.
- Maximum contributions allowed:
  - $4600/cycle for Member/Senator's re-election campaign
  - $5000/calendar year for Member's leadership PAC

** Anticipate single fundraiser event ~$20K

APPENDIX D:
REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING FORMER REPRESENTATIVE JOHN MURTHA (Review No. 09-9099)

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 09-9099

The Board of the Office of Congressional Ethics (hereafter the "Board"), by a vote of no less than four members, on November 20, 2009, adopted the following report and ordered it to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives.

SUBJECT: Representative John Murtha

NATURE OF THE ALLEGED VIOLATION: In Fiscal Year 2009, Representative John Murtha authored several earmarks for clients of PMA Group, Inc. (hereafter "PMA"). During campaign cycles 2008 and 2010, Representative Murtha received contributions to his campaign committee and "Leadership PAC" from PMA's PAC, PMA employees, the PACs of PMA clients for whom he authored earmarks, and the employees of those clients.

If Representative Murtha solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Murtha may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 (Gifts to Federal Employees), and House Rules and Standards of Conduct.

RECOMMENDATION: The Board of the Office of Congressional Ethics recommends that the Committee on Standards of Official Conduct dismiss the above allegations.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Leo Wise, Staff Director & Chief Counsel.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9099

Table of Contents

I. INTRODUCTION 3

A. Summary of Allegations 3

B. Jurisdictional Statement 3

C. Procedural History 4

D. Summary of Investigative Activity 4

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE MURTHA REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS HE RECEIVED 8

A. Relevant Law, Regulations, Rules or Standards of Conduct 8

B. Earmark Process 11

C. Campaign Fundraising 12

D. Relationship with PMA 14

E. Perception of Corporate Donors 15

F. Contributions Linked to Official Acts By Outside Entities 16

III. CONCLUSION 17

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS 17

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9099

On November 20, 2009, the Board of the Office of Congressional Ethics (hereafter the "Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. There is not substantial reason to believe that Representative Murtha solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act.

B. Jurisdictional Statement

2. The allegations that were the subject of this review concern Representative John Murtha, a Member of the United States House of Representatives from the 12th District of Pennsylvania. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter the "OCE") directs that, "[n]o review shall be undertaken...by the board of any alleged violation that occurred before the date of adoption of this resolution."[1] The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

[1] H. Res 895, 110th Cong. §1(e) (2008) (as amended).

C. Procedural History

3. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 6, 2009. The preliminary review commenced on that date.[2] The preliminary review was scheduled to end on August 5, 2009.

4. At least three members of the Board voted to initiate a second phase review in this matter on August 5, 2009. The second phase review commenced on August 6, 2009.[3] The second-phase review was scheduled to end on September 20, 2009

5. The Board voted to extend the 45-day second phase review by an additional 14 days, as provided by the Resolution, on September 17, 2009. Following the extension, the second-phase review was scheduled to end on October 5, 2009.[4]

6. The Board voted to refer the matter to the Committee on Standards of Official Conduct for dismissal and adopted these findings on November 20, 2009.

7. This report and findings were transmitted to the Committee on Standards of Official Conduct on December 2, 2009.

D. Summary of Investigative Activity

8. Due to the nature of the allegations in this review, the OCE's investigation required the collection of information from a number of sources.

9. The OCE reviewed publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense (hereafter "Defense Subcommittee") from recipients of earmarks during the 2008 and 2010 campaign cycles. The review included campaign contributions to the leadership political action committees (hereafter "PACs"), if any, of these Members.

10. Specifically, the OCE reviewed campaign contributions to these Members from donors that were affiliated with the lobbying firm of Paul Magliocchetti and Associates Group, Inc. (hereafter "PMA"), *i.e.*, contributions from the PMA PAC, PMA employees, the PACs of corporate clients of PMA (hereafter "PMA clients") and employees of PMA clients.

---

[2] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is "received" by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (hereafter "the Resolution'), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[3] According to the Resolution, the Board must vote on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase begins when the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

[4] *Id.* at § 1(c)(2)(A)(ii) (2008).

11. The OCE also reviewed campaign contributions to Members of the Defense Subcommittee from PACs of non-PMA clients, and employees of non-PMA clients.

12. Beyond Members of the Defense Subcommittee, the investigation included a review of campaign contributions from PMA clients and non-PMA clients to Representatives who are not on the Defense Subcommittee, but authored defense earmarks for PMA clients and non-PMA clients.

13. The OCE requested information from forty PMA clients that received earmarks from Members of the Defense Subcommittee for fiscal years 2008 to 2010.

14. All of the PMA clients that the OCE contacted cooperated with the investigation, except for two.

15. Aeroflex and Kimball and Associates are the only PMA client that refused to cooperate with the investigation.

16. Thirty-eight PMA clients and Representatives' offices produced documents totaling approximately 200,000 pages. These PMA clients also made witnesses available for interviews upon request of the OCE.

17. Based on the information discovered during the review of the produced documents, the OCE interviewed twenty-six individual PMA client witnesses.

18. In addition, the OCE interviewed six witnesses who were formerly employed as lobbyists with PMA during the 2008 and 2010 campaign cycles.

19. In sum, the OCE requested and received documentary, and in some cases testimonial, information from the following sources:

    (1) 21st Century Systems, Inc.;

    (2) AAR Composites;

    (3) Advanced Acoustic Concepts;

    (4) Advanced Concepts & Technologies Intl.;

    (5) Aircraft Interior Products;

    (6) Applied Global Technologies;

    (7) Argon ST;

    (8) Boeing Corporation;

    (9) Carnegie Mellon University;

    (10) Coda Octopus Group;

(11) Concurrent Technologies Corporation;

(12) Conemaugh Health Systems;

(13) Cryptek;

(14) DDL OMNI Engineering;

(15) DRS Technologies;

(16) EM Solutions;

(17) General Atomics;

(18) General Dynamics;

(19) Goodrich Corporation;

(20) Innovative Concepts, Inc.;

(21) ITT Corporation;

(22) Lockheed Martin Corporation;

(23) MobilVox;

(24) NuVant Systems, Inc.;

(25) Optimal Solutions & Technologies;

(26) Parametric Technology Corporation;

(27) Planning Systems Inc.;

(28) Profile Systems;

(29) Prologic, Inc.;

(30) QTL Biosystems;

(31) RaySat Antenna Systems;

(32) Rockwell Collins;

(33) Samueli Institute;

(34) Sierra Nevada Corporation;

(35) Teledyne Continental Motors, Inc.;

(36) Teledyne Controls;

(37) Windber Research Institute;

(38) Xunlight Corporation;

(39) Vice President, 21st Century Systems, Inc.;

(40) Chief Administrative Officer, 21st Century Systems, Inc.;

(41) Vice President for Communications, 21st Century Systems, Inc.;

(42) PAC Treasurer, 21st Century Systems, Inc.;

(43) General Manager, AAR Composites;

(44) Chief Operating Officer, AAR Composites;

(45) Chief Executive Officer, Applied Global Technologies;

(46) Vice President, Applied Global Technologies;

(47) PAC Treasurer, DRS Technologies;

(48) President, DRS Technologies;

(49) Chief Operating Officers, Optimal Solutions & Technologies;

(50) Chief Executive Officer, Optimal Solutions & Technologies;

(51) Director, Optimal Solutions & Technologies;

(52) CEO, Samueli Institute;

(53) Vice President, Sierra Nevada Corporation;

(54) Congressional Affairs Director, Sierra Nevada Corporation;

(55) Assistant to Business Development Director, Teledyne Continental Motors, Inc.;

(56) Business Development Director, Teledyne Continental Motors, Inc.;

(57) PAC Treasurer, Teledyne Controls;

(58) General Manager, Teledyne Controls;

(59) Vice President, Teledyne Controls;

(60) Director of Contracts, Teledyne Controls;

(61) Contract Administrator, Teledyne Controls;

(62) Legislative Affairs Director, Teledyne Controls;

(63) Associate General Counsel, Teledyne Controls;

(64) President, Teledyne Controls;

(65) PMA Lobbyist 1;

(66) PMA Lobbyist 2;

(67) PMA Lobbyist 3;

(68) PMA Lobbyist 4;

(69) PMA Lobbyist 5;

(70) PMA Lobbyist 6;

(71) Representative Murtha's Chief of Staff;
(72) Representative Murtha's District Director;
(73) Representative Murtha's Campaign Coordinator;
(74) Representative Murtha's PAC Coordinator;
(75) Representative Murtha's Staffer; and
(76) Representative Murtha.

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE MURTHA REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS HE RECEIVED

A. Relevant Law, Regulations, Rules or Standards of Conduct

20. *18 U.S.C. § 201(b) - Bribery of public officials and witnesses*

"(b) Whoever-

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act . . . ."

21. *18 U.S.C.A. § 201(c) - Illegal Gratuities*

"(c) Whoever-

(1) otherwise than as provided by law for the proper discharge of official duty—

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person . . . ."

22. *"An illegal gratuity...may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken."*[5]

[5] House Ethics Manual (2008) at 79. See also United States v. Sun-Diamond Growers, 526 U.S. 398, 404 (1999).

23. *House Rules and Standards of Conduct*

"[T]he scope of the House standards of conduct in this area is broader than that of the criminal bribery statute... the House standards of conduct generally preclude any link between the solicitation or receipt of a contribution and a specific official action."[6]

"Put another way, there are fundraising activities that do not violate any criminal statute but well may violate House standards of conduct."[7]

"[T]here are certain proffered campaign contributions that must be declined, and certain fundraising opportunities that must be forgone, solely because they create an appearance of improper conduct."[8]

"[N]o solicitation of a campaign or political contribution may be linked to an action taken or to be taken by a Member or employee in his or her official capacity."[9] *In addition, a Member may not accept any contribution that is linked with any specific official action taken or to be taken by that Member."*[10]

"It is probably not wrong for the campaign managers of a legislator...to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff as the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. The Standards Committee has long advised Members and staff that they should always exercise caution to avoid even the appearance that solicitations of campaign contributions are connected in any way with an action taken or to be taken in their official capacity."[11]

"[A] Member should not sponsor or participate in any solicitation that offers donors any special access to the Member in the Member's official capacity."[12]

"[G]overnment officials should 'never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not."[13]

---

[6] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[7] *Id.*
[8] *Id.*
[9] House Ethics Manual (2008) at 147.
[10] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[11] *Id.*
[12] *Id.*

"'[P]ublic office is a public trust,' and the public has a right to expect House Members and staff to exercise impartial judgment in performing their duties."[14]

24. *5 U.S.C. § 7353 – Gifts to Federal Employees*

"(a) Except as permitted by subsection (b), no Member of Congress...shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with...the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules and regulations established by such individual's supervising ethics office pursuant to paragraph (1)

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of an official act."

25. *House Ethics Manual – Soliciting Campaign and Political Contributions*

While the federal gift statute (5 U.S.C. § 7353) broadly restricts the ability of

House Members and staff to solicit things of value from virtually anyone, even when no personal benefit to the solicitor is involved, legislative materials concerning the statute state that it does not apply to the solicitation of political contributions. Consistent with those materials, the Standards Committee has long taken the position that the restrictions on solicitation set forth in that statute do not apply to political solicitations. However, in soliciting campaign or political contributions, Members and staff are subject to a number of other restrictions, as follows.

A Contribution linked to an Official Action May Not Be Accepted

... no solicitation of a campaign or political contribution may be linked to any action taken or to be taken by a Member or employee in his or her official capacity.

In a similar vein, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. In this respect, a campaign or political contribution is treated like any other gift,

[13] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 5).
[14] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 10).

and acceptance of a contribution in these circumstances may implicate a provision of the federal gift statute (5 U.S.C. § 7353) or the criminal statutes on bribery and illegal gratuities.

26. Based on the facts collected by the OCE, the Board concludes there is not substantial reason to believe the allegations that are the subject of this review.[15]

B. Earmark Process

27. Representative John Murtha represents the 12th Congressional District of Pennsylvania.

28. The process for handling Representative Murtha's requests for earmarks for the House Defense Appropriations Subcommittee is managed by his Congressional office staff.[16] Originally two individuals were directly responsible for the process, Mr. Charles Horner and Representative Murtha's Staffer. However, Mr. Horner recently retired and Representative Murtha's Staffer is currently responsible for managing the process.[17]

29. The initial evaluation of the earmark requests are done by Representative Murtha's Staffer. The requests are evaluated based on certain criteria and the overall merit of the request.[18]

30. Representative Murtha's Staffer reviews the nature of the project, the recipient and the impact the project will have on the Congressman's district.[19] Aside from the project's merit, the primary criteria for evaluating earmark requests is whether the project contributes to economic development and jobs in the Member's district.[20]

31. Representative Murtha's Staffer explained that the process for evaluating earmark requests does not include the consideration of campaign contributions from the entities requesting the earmark.[21] Representative Murtha's Staffer does not know who contributes to Representative Murtha's campaign. He has never asked for that information and that information has never been provided to him, nor has he ever been instructed to consider campaign contributions when vetting the earmark requests.[22]

---

[15] Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009) provides that "[t]he Board shall refer a matter to the Standards Committee for further review if it determines there is a substantial reason to believe the allegation based on all the information then known to the Board."
[16] Memorandum of Interview of Rep. Murtha (Exhibit 1 at 09-9099_3).
[17] Memorandum of Interview of Representative Murtha's Staffer (Exhibit 2 at 09-9099_6).
[18] *Id.* at 09-9099_7.
[19] *Id.*
[20] *Id.*
[21] *Id.* at 09-9099_8.
[22] *Id.* at 09-9099_7.

While Representative Murtha's Staffer has attended Representative Murtha's fundraisers in the past, he has no role in the fundraising process.[23]

32. Representative Murtha's office receives hundreds of earmark requests annually. Entities typically begin making earmark requests in January.[24] Those requests either go directly to Representative Murtha's Staffer or the district office. If a request goes to the district office, it is sent to the Washington, DC, office for further review.[25]

33. Other than providing general guidelines to his staff on how to evaluate the projects, Representative Murtha does not participate in the vetting process.[26] Instead, his staff evaluates the earmark requests and prepares a final list of 25-30 individual requests for the Congressman.[27]

34. The list is provided to the Congressman for his review, but it is approved by the Member without any changes.[28]

35. Representative Murtha explained to the OCE that his earmark process is completely staff driven.[29] His guidance to staff is to focus primarily on the merit of the project and the positive impact it will have on the economic development of his district. According to the Congressman, the process for evaluating earmark requests does not include any consideration of campaign contributions from the requesting entities.[30]

C. Campaign Fundraising

36. During campaign cycles 2008 and 2010, Representative Murtha accepted approximately $390,180 in campaign contributions from PMA's PAC and employees and from the PAC and employees of PMA clients.[31]

37. Representative Murtha spends approximately $50,000 per month to run a full time campaign office. He explained to the OCE that one of the reasons he does this is to ensure a full separation between his legislative activities and his campaign activities.[32]

---

[23] *Id.*
[24] *Id.*
[25] Memorandum of Interview of Representative Murtha's Chief of Staff (Exhibit 3 at 09-9099_10).
[26] Memorandum of Interview of Rep. Murtha (Exhibit 1 at 09-9099_3).
[27] Memorandum of Interview of Representative Murtha's Staffer (Exhibit 2 at 09-9099_7).
[28] *Id.*
[29] Memorandum of Interview of Rep. Murtha (Exhibit 1 at 09-9099_3).
[30] *Id.* at 09-9099_3.
[31] Contribution amounts are derived from reports filed with the Federal Election Commission by Murtha for Congress and Majority PAC.
[32] *Id.* at 09-9099_4.

38. The campaign typically hosts a large fundraising event in February. The reason for the timing of the event is because it corresponds to the month in which Representative Murtha was first elected to the House of Representatives in a special election.[33]

39. Representative Murtha has a professional fundraiser who manages his campaign's fundraising efforts. According to Representative Murtha, in his entire career he has never called an individual or entity and requested a campaign contribution.[34]

40. Representative Murtha has a full time campaign coordinator. Representative Murtha's Campaign Coordinator's job duties include managing a database of contributors, Federal Election Commission compliance, and assisting with local fundraisers. Representative Murtha's Campaign Coordinator explained that to her knowledge, the defense firms in the Congressman's district have not sponsored any local fundraisers.[35]

41. Representative Murtha's Campaign Coordinator told the OCE that no one from the Washington, DC, congressional office has ever asked her about individual contributors.[36] The only person who works in the Congressional office who may see a list of contributors is Representative Murtha's Chief of Staff.[37] However, according to both the Congressman and his Chief of Staff, Representative Murtha's Chief of Staff has no role in the appropriations process.[38]

42. Representative Murtha also has a full-time campaign coordinator for his political action committee, "Majority PAC." That individual has held the position since 2007.[39] Prior to that position, she was the Congressman's campaign coordinator for the previous 15 years. The campaign coordinator for the Congressman's PAC told the OCE that no legislative staffer from the Washington, DC, office has called her concerning individual contributors to the campaign or PAC. Similarly, no one from the Congressman's Washington, DC, staff has ever asked to add or delete a name from the list of individuals to solicit.[40]

43. Representative Murtha confirmed the statement by Representative Murtha's Campaign Coordinator and the campaign coordinator of his PAC. Representative Murtha told the OCE that he knew some companies thought that contributing to his campaign might increase the likelihood of receiving an earmark, but the reality is that he often did not

---

[33] *Id.* at 09-9099_4.
[34] *Id.* 09-9099_3.
[35] Memorandum of Interview of Representative Murtha's Campaign Coordinator (Exhibit 4 at 09-9099_13).
[36] *Id.* at 09-9099_14.
[37] *Id.* at 09-9099_13.
[38] Memorandum of Interview of Rep. Murtha (Exhibit 1 at09-9099_4) and Memorandum of Interview of Representative Murtha's Chief of Staff (Exhibit 3 at 09-9099_09-9099_10).
[39] Memorandum of Interview of Representative Murtha's PAC Coordinator (Exhibit 5 at 09-9099_16).
[40] *Id.* at 09-9099_16.

even recognize the individuals who attend his fundraisers.[41] Representative Murtha candidly explained that he did not know who gave to his campaign and he has never seen a list of contributors.[42] His involvement in his campaign's fundraising activities is essentially limited to attending events.[43]

D. Relationship with PMA

44. During the time period of the 2008 and 2010 campaign cycles, fifteen corporate clients of PMA were awarded earmarks requested by Representative Murtha.

45. The PMA clients that received earmarks during this period are:

    (a) Argon ST (Requested, $16,000,000);
    (b) Advanced Acoustic Concepts (Requested, $13,500,000);
    (c) DRS Technologies (Requested, $12,000,000);
    (d) Windber research Institute (Requested, $12,000,000);
    (e) Conemaugh Health Systems (Requested, $9,600,000);
    (f) Concurrent Technologies Corporation (Requested, $8,000,000);
    (g) QTL Biosystems (Requested, $6,500,000);
    (h) Parametric Technology Corporation (Requested, $5,000,000);
    (i) Prologic, Inc. (Requested, $2,400,000);
    (j) Planning Systems Inc. (Requested, $2,300,000);
    (k) Goodrich Corporation (Requested, $1,000,000);
    (l) Carnegie Mellon University (Requested, $800,000);
    (m) Ardiem Medical, Inc. (Requested, $1,600,000);
    (n) Washington and Jefferson College (Requested, $2,400,000); and
    (o) MTS Technologies, Inc. (Requested, $14,800,000).[44]

46. As previously addressed, Representative Murtha told the OCE that his earmark selection process is staff driven.[45] While these are earmarks authored by Representative Murtha, the evidence before the Board indicates the Congressman did not actually select them.

[41] Memorandum of Interview of Rep. Murtha (Exhibit 1 at09-9099_3).
[42] *Id.*
[43] *Id.* at 09-9099_4.
[44] H.R. 3222, Pub. L. 110-116 (2008); H.R. 2638, Pub. L. 110-329 (2009); and H.R. 3326, 111 Cong. (2009).

47. When asked about how PMA was different than other lobbying firms, Representative Murtha stated that PMA hired good people and their lobbyists were "as good as you could find."[46] According to Representative Murtha, PMA hired individuals who had worked in government and the military and who knew the issues as well as or better than anyone.[47] Mr. Paul Magliocchetti, according to Representative Murtha, was smarter than the average lobbyist and understood what was important to Members. For instance, Mr. Magliocchetti knew that the economic development of Representative Murtha's district was a high priority for the Congressman and therefore brought good projects that created jobs to the Congressman for his support.[48]

48. Representative Murtha knew Mr. Magliocchetti from the time Mr. Magliocchetti worked on the Appropriations Subcommittee on Defense. He has seen Mr. Magliocchetti at numerous fundraisers and has interacted with him professionally and socially over the years. He has not spoken with Mr. Magliocchetti since shortly after the FBI raided PMA's offices.

49. Representative Murtha has a personal relationship with Mr. Dan Cunningham, a former PMA lobbyist. The Congressman has spent time with Mr. Cunningham since PMA went out of business, but Representative Murtha and Mr. Cunningham have not spoken about the FBI raid of PMA's office. Mr. Cunningham has never addressed the subject with the Congressman and the Congressman has not inquired about what happened.

E. Perception of Corporate Donors

50. There is evidence that some of the commercial entities seeking earmarks from Representative Murtha believe that a political donation to him has an impact on his decision to author an earmark for that donor.[49]

51. However, Representative Murtha credibly articulated a process that separates his legislative activities from campaign fundraising activities. Representative Murtha achieves this separation by eliminating his and his legislative staff's exposure to information from the campaign's fundraising operation. Similarly, since Representative Murtha has full-time campaign staff, his campaign staff is isolated from his legislative activities. As result, neither the campaign nor Representative Murtha's legislative staff is aware of what the other is doing. In each case, both legislative staff and campaign staff corroborated Representative Murtha's account.

[45] Memorandum of Interview of Rep. Murtha (Exhibit 1 at 09-9099_3).
[46] *Id.* at 09-9099_2.
[47] *Id.*
[48] *Id.* at 09-9099_3
[49] Teledyne PAC Contribution Request (Exhibit 6 at 09-9099_20).

52. Representative Murtha explained to the OCE that he operates his campaign and Congressional office in this manner to prevent even the appearance that their legislative acts are influenced by contributions to their campaign or PAC.[50]

53. The Board notes that one risk associated with this is the possibility of an appearance of a conflict of interest if, out of ignorance, the Member's campaign accepts a contribution near in time to a legislative act that has an impact on the individual or entity making the contribution. This potential for an appearance of a conflict may explain why companies requesting an earmark appear to think that a contribution to the respective campaign or PAC affects the ultimate receipt of an earmark. The House Ethics Manual is unclear as to what obligations, if any, are placed on a Member to discourage or disabuse an entity of that impression.

F. Contributions Linked to Official Acts By Outside Entities

54. In several instances, the OCE uncovered evidence that commercial entities seeking earmarks from Members of Congress appear to have linked contributions to Representative Murtha's campaign and/or PAC to specific legislative acts. These documents were internal to the companies and there is no evidence they were shared with Representative Murtha or his staff.[51]

55. The federal gift statute, 5 U.S.C. § 7353, prohibits the solicitation or acceptance of anything of value from a person seeking official action from or doing business with the House, or from someone whose interests may be substantially affected by the performance or nonperformance of a Member's, Officer's or staff member's official duties. The statute also provides that the Committee on Standards of Official Conduct may enact reasonable exceptions to the prohibition. According to the Ethics Manual, the Standards Committee has long taken the position that the restrictions on solicitation set forth in the statute do not apply to political solicitations. However, Members and staff are subject to a number of other restrictions regarding the solicitation of campaign or political contributions under the rules of the House.

56. Under House rules, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. If a donor's contribution is linked to any official action, it is treated like any other gift and may be subject as such to the federal gift statute and the criminal statutes on bribery and illegal gratuities.

[50] Memorandum of Interview of Rep. Murtha (Exhibit 1 at 09-9099_4).
[51] Email from Argon ST, dated February 22, 2008 (Exhibit 7 at 09-9099_22) and Email from Argon ST, dated September 19, 2008 (Exhibit 8 at 09-9099_24).

57. The Board notes that the examples provided in the Ethics Manual of instances where a Member may be in violation of the House's rule against accepting a contribution linked to an official action are all instances in which the Member has some degree of knowledge of the link. As a result, it stands to reason that it is unlikely a violation of the rule could occur unless and until a Member is aware of the link and does nothing to remedy the situation.

58. The Board finds nothing in the factual record to indicate the Representative Murtha was aware that the donor linked the contribution to an official act. As such, the Board concludes there is not a substantial reason to believe that a violation of either 5 U.S.C. § 7353 or the applicable House rules occurred. However once the Congressman becomes aware of the link, if the matter is not remedied by either by the Member or by formal advice from the Standards Committee declaring the contribution acceptable, then a violation may occur.

III. CONCLUSION

59. For these reasons, the Board recommends that the Standards Committee dismiss of the above described allegations concerning Representative Murtha.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS

60. In every instance, the OCE asked the recipient of an OCE request for information to identify any information they withheld and the reason they were withholding it. However, absent the authority to subpoena the evidence in possession of the witness, it is impossible for the OCE to verify if information was withheld, but not documented.

61. In some instances documents were redacted or specific information was not provided. For instance, PMA Client 15 provided evidence responsive to the OCE's Request for Information but indicated they would not provide any information regarding their "Legislative Strategy."

62. In at least instance, the OCE had reason to believe a witness withheld information requested, but did not comply with the OCE's request that they identify what was being withheld. Specifically, PMA Client 8 represented that they had fully cooperated. However, the PMA Client 8 indicated that they had no electronic mail responsive to OCE's Request for Information. The OCE then received, from another source, electronic mail to and from PMA Client 8 that were in fact responsive to the OCE's request.

63. The Board also notes that while the OCE was able to interview six former employees of PMA that provided general information on PMA and its business practices, many remaining former employees either refused to consent to interviews or did not return calls from the OCE. In addition, the OCE was unable to obtain any evidence within PMA's possession.

64. The Board makes the recommendation contained in this referral based on the factual record before it. Given its recommendation to dismiss, the Board does not recommend the issuance of subpoenas, but recognizes that the Committee on Standards of Official Conduct may determine otherwise.

EXHIBIT 1

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative John Murtha
REVIEW #:	09-9099
DATE:	November 6, 2009
LOCATION:	United States Capitol H-140
TIME:	10 a.m. – 11 a.m. (approximately)
PARTICIPANTS:	Omar Ashmawy Leo Wise Representative John Murtha

SUMMARY: Representative John Murtha represents the 12th Congressional District of Pennsylvania. The OCE requested an interview with Representative Murtha on July 20, 2009, and he consented to an interview. Representative Murtha made the following statements in response to our questioning:

1. Representative Murtha was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. Representative Murtha was first elected to Congress in a special election on February 5, 1974. Since he has held the office, he served 34 years on the Appropriations Committee and 25 years on the Appropriation Sub-committee for Defense.

3. When asked generally about earmarks, the Member said that small business gets left out of the appropriations process and that is what earmarks are for. The United States Constitution says that earmarks are appropriate for the country and appropriate to take care of the district.

4. When the news of the FBI's raid on Paul Magliocchetti's lobbying firm, PMA, became public and accusations of wrongdoing surfaced, staff on the committee thought the committee should take out the earmarks for PMA clients. Despite the fact that Representative Obey wanted to take them out as well, Representative Murtha would not.

5. The Congressman explained that the appropriations process can't work without a good lobbyist, and PMA had as good lobbyists as you can find. This is how PMA differed from other lobbying firms. PMA hired individuals who had worked in government and the military and who knew the issues as well as or better than anyone. Mr. Paul Magliocchetti was smarter than the average lobbyist and understood what was important

to Members. For instance, Mr. Magliocchetti knew that the economic development of Representative Murtha's district was a high priority for the Congressman and therefore brought good projects that created jobs to the Congressman for his support.

6. Congressman Murtha knew Mr. Magliocchetti from the time Mr. Magliocchetti worked on the Appropriations Subcommittee on Defense. He has seen Mr. Magliocchetti at numerous fundraisers and has interacted with him professionally and socially over the years. He has not spoken with Mr. Magliocchetti since shortly after the FBI raided PMA's offices.

7. Representative Murtha has a personal relationship with Mr. Dan Cunningham who was a former PMA lobbyist. He has spent time with Mr. Cunningham since PMA went out of business, but Representative Murtha and Mr. Cunningham have not spoken about the FBI raid of PMA's office. Mr. Cunningham has never talked about the subject with the Congressman and the Congressman has not asked about what happened.

8. The Member explained that his earmark selection process is entirely staff driven. Everybody who submits a request gets considered and he seldom intercedes for a particular earmark. Instead, he delegates the selection process to his staff. In addition, the "big staff" of the committee also looks over the requests. The primary guidance he gives his staff when vetting earmark requests is to be fair and look for projects that produce 1) jobs for his district and 2) worthwhile projects. Congressman Murtha considers it his job to produce for his district. Contributions are not part of the criteria.

9. Representative Murtha highlighted earmarks that have saved the country money, and explained that the process has to be competitive under the new provision the committee has adopted.

10. When asked about the role of PMA in the earmark process, the Congressman told the OCE that PMA helped small business. As an example, he pointed to DRS Technologies. When DRS started they had 24 people. After they were given a number of projects, it has since grown into a large company and is now one of the fastest growing defense contractors.

11. On the topic of fundraising, Congressman Murtha "does not have a clue who donates" to him. He is less interested in contributions and more interested in investment in his district. Representative Murtha told the OCE that he knew some companies thought that contributing to his campaign might increase the likelihood of receiving an earmark, but in reality he often did not even recognize the individuals who attend his fundraisers.

12. He has never called a person or company and asked for a contribution. Instead, Ms. Susan O'Neil is his full-time fundraising consultant. She manages his fundraising efforts. Representative Murtha stated that he did not know who gave to his campaign and he has

never seen a list of contributors. His involvement in his campaign's fundraising activities is essentially limited to attending events.

13. The Congressman spends approximately $50,000 a month for a campaign office. He spends that much in order to keep his legislative activities and his campaign activities separate. He does not get nor has not even seen a report on his fundraising activities. The reason the Congressman has his large, annual fundraiser in February is because it is the anniversary of the special election that first brought him to Congress.

14. No one on the Appropriations Subcommittee has ever approached the Congressman and said they need an earmark for a project for a political ally or someone who contributed to their campaign.

15. Representative Murtha's Chief of Staff is his "unofficial campaign manager." He has nothing to do with the appropriations process and the Congressman proactively keeps him away from it.

The memorandum was prepared on November 19, 2009, based on the notes that the OCE staff prepared during the interview with Representative Murtha on November 6, 2009. I certify that this memorandum contains all pertinent matter discussed with Representative Murtha on November 6, 2009.

Omar Ashmawy
Investigative Counsel

EXHIBIT 2

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Murtha's Staffer
REVIEW #:	09-9099
DATE:	November 2, 2009
LOCATION:	Office of OCE 1017 Longworth HOB Washington, DC 20515
TIME:	10:50 a.m. – 11:50 a.m. (approximately)
PARTICIPANTS:	Omar Ashmawy Kedric L. Payne

SUMMARY: The associate staff for Representative John Murtha's office (hereafter the "witness") was interviewed pursuant to Review No. 09-9099. The OCE requested an interview with the witness and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness is staff for Representative Murtha's personal office. Originally two individuals were directly responsible for the process, Mr. Charles Horner and the witness. However, Mr. Horner recently retired. The witness is now responsible for all appropriations issues.

3. His defense appropriations duties involve writing memoranda on new issues; communicating with the committee; handling earmark requests; and attending hearings.

4. The witness has meetings concerning earmark requests from mid-January to the beginning of March. During this period, he may have up to ten meetings with entities requesting earmarks. He receives hundreds of earmark requests.

5. Evaluating the earmark request may be done by simply reviewing the submission, such as a letter of support from the Department of Defense.

6. He speaks with Mark Chris in the district office when seeking input from the district.

7. On other occasions, he my meet with the requesting entity to learn more about the project. He also may communicate with the district staff who may have visited the site.

8. The final decision on earmarks has two stages. First, the witness and Charlie Horner will evaluate the requests and make decisions. A final list of about 25-30 earmark requests is created and then this list is presented to Representative Murtha. Representative Murtha routinely approves the list without making any changes.

9. The witness estimates that the office receives hundreds and hundreds of earmark requests annually. The requests typically begin coming in January. Of those requests, approximately less than 10% of the requests submitted to the office reach Representative Murtha.

10. Representative Murtha's guidance for evaluating earmarks is to select "good projects". The witness interprets this to mean that the following factors should be considered: the merits of the project; the location of the project in the district; the amount of jobs created; and the support of the Department of Defense.

11. The witness believes that "good projects" are those that help the district and help the Department of Defense.

12. During the earmark evaluation process, the witness had many meetings with lobbyists of PMA Group, Inc. (hereafter "PMA") and their clients.

13. Less than 25% of the meetings with lobbyists overall were with PMA lobbyists.

14. The reputation of the company requesting the earmark is more important to evaluating the request than the reputation of the lobbying firm representing the company.

15. He did not have a personal relationship with any of the PMA lobbyists.

16. The witness attended fundraisers for Representative Murtha where he interacted with PMA lobbyists.

17. Over a year ago, he attended a lunch at the Alpine with Representative Murtha and PMA lobbyists.

18. He attends fundraisers for Representative Murtha once every few months, but he has no formal role in the fundraising process. However, he does not know who does and does not contribute to Representative Murtha's campaign. He has never asked for that information and that information has never been given to him. He has never been instructed to consider campaign contributions when vetting the earmark requests.

19. Representative Murtha has a fundraiser annually in February that is the anniversary of his special election.

20. The witness does not discuss specifics of earmark requests with lobbyists at fundraisers. He also does not know the amount that attendees at the fundraisers contribute. He has not seen anything that appears to be "pay-to-play" at the fundraisers. The list of earmark requests is evaluated without any information about campaign contributions.

21. His meetings with lobbyists are usually in the office and last approximately thirty minutes. The conversation is typically with an employee of the company who attends and not the lobbyist. Anyone from the district can schedule a meeting with the office.

22. His meetings with PMA lobbyists are similar to meetings with any lobbyist. He did not know that the following were PMA clients: Argon, Goodrich, Lockheed, and CMU. He knew that the following were PMA clients: QTL, CTC, Conemaugh, and DRS.

This memorandum was prepared on November 19, 2009, based on the notes that the OCE staff prepared during the interview with the witness on November 2, 2009. This memorandum contains all pertinent matter discussed with the witness on November 2, 2009.

Kedric L. Payne
Investigative Counsel

EXHIBIT 3

CONFIDENTIAL
Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Murtha's Chief of Staff
REVIEW #:	09-9099
DATE:	October 27, 2009
LOCATION:	District Office of Congressman Murtha Johnstown, PA
TIME:	12:30 p.m. to 1:30 p.m. (approximate)
PARTICIPANTS:	Paul Solis Omar Ashmawy Representative Murtha's Chief of Staff

SUMMARY: Representative John Murtha's Chief of Staff (hereafter the "witness") was interviewed pursuant to Review No. 09-9099. The OCE requested an interview with the witness on July 20, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. The witness signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness has worked on staff for the Representative Murtha for 22 years. He began as a District Director then moved to Chief of Staff in 2003. His work is based out of Johnstown, PA.

3. Concerning earmark requests, the witness receives the request after the District Director receives a request in the field. After review, the request is sent to the Washington DC office for further review and assessment. Anything dealing with appropriations is sent to DC. The witness stated that he wants the DC staff to discuss appropriations matters with the Congressman. He also stated that most requests go to DC after his review, except those that are patently insufficient or unclear. Anything dealing with defense appropriation requests goes straight to DC. Once there, the request is reviewed by a Legislative Assistant and an Appropriations Committee staffer. The witness stated that years ago, he and the Congressman agreed that the Chief of Staff would only handle district operations and assist in fundraising efforts.

4. The witness stated that the Congressman makes decisions on earmark requests based on discussions with other Members of the Defense Subcommittee.

5. Concerning fundraising, defense contractors do not hold fundraisers for the Congressman but attend them, in Johnstown, PA.

6. The witness stated that he knows Paul Magliocchetti and his son, Mark Magliocchetti. When asked about a connection between Paul Magliocchetti, earmarks, and contributions, the witness stated that if a PMA client was worthy of receiving an earmark for the value of the project

7. The witness stated that Paul Magliocchetti never went to him directly to discuss a client-related issue, but instead went directly to the Congressman. When asked if it was easier for Paul Magliocchetti to get a meeting with the Congressman or his staff, the witness stated that, yes, it was easier because of personal relationships.

8. The witness stated that he has not heard from Paul Magliocchetti or Mark Magliocchetti since PMA disbanded.

9. The witness stated that the appropriations process will continue in Congress forever and that earmarking is what Congressmen do. He stated that if Congressman Murtha was doing something improper with his earmarks, the House floor votes on appropriations bills would not be starkly in favor of the bill.

10. When asked generally about the defense contractors specifically coming to Johnstown, PA, the witness stated that companies like Lockheed Martin are too big to care about pressure or benefits from Congressman Murtha.

This memorandum was prepared on November 5, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 27, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 27, 2009.

Paul Solis
Investigative Counsel

EXHIBIT 4

CONFIDENTIAL
Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Murtha's Campaign Coordinator
REVIEW #:	09-9099
DATE:	October 27, 2009
LOCATION:	District Office of Congressman Murtha Johnstown, PA
TIME:	1:30 p.m. to 2 p.m. (approximate)
PARTICIPANTS:	Paul Solis Omar Ashmawy Representative Murtha's Campaign Coordinator

SUMMARY: Representative Murtha's Campaign Coordinator (hereafter the "witness") was interviewed pursuant to Review No. 09-9099. The OCE requested an interview with the witness on July 20, 2009, and she consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. She signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness is the campaign coordinator for the Johnstown district office since May of 2007. Her job duties include managing a database of contributors and overseeing whether contribution checks and information comply with Federal Election Commission guidelines. She also helps to establish local fundraisers for the Congressman and is a campaign volunteer coordinator.

3. The witness recalled that during prior to the 2008 election, some employees of the former PMA lobbying firm came to the Johnstown office to volunteer with campaign work. She specifically recalled seeing the son of Paul Magliocchetti, Mark Magliocchetti, aiding campaign staff. Mark Magliocchetti would assist campaign staff with online searches of contributors.

4. When asked what defense firms make frequent appearances or contributions to fundraisers in the district, the witness recalled that Northrop Grumman makes frequent contributions from their Political Action Committee. She stated that to her knowledge no Johnstown area defense firm sponsors a local fundraiser.

5. The witness stated that after an event in the Congressman's district took place, a list of attendees and contributors would be generated and sent to the Chief of Staff. The Chief of Staff would then add or delete names for future events upon his discretion.

6. The witness stated that she does not know the legislative schedule in the Washington, D.C. office.

7. Fundraising events in Washington, D.C are administered by Susan O'Neill.

8. The witness stated that of she receives a campaign check with a note thanking the Congressman for support; she does not notify the Congressman in any way.

9. When asked if she receives calls from the Washington, DC congressional office about individual contributors, the witness stated that she does not.

This memorandum was prepared on November 10, 2009, based upon the notes that the OCE staff prepared during the interview with the witness on October 27, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 27, 2009.

Paul Solis
Investigative Counsel

EXHIBIT 5

CONFIDENTIAL
Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Campaign Coordinator for Representative Murtha's Majority PAC
REVIEW #:	09-9099
DATE:	October 27, 2009
LOCATION:	District Office of Congressman Murtha Johnstown, PA
TIME:	2 p.m. to 2:30 p.m. (approximate)
PARTICIPANTS:	Paul Solis Omar Ashmawy Campaign Coordinator for Representative Murtha's Majority PAC

SUMMARY: The Campaign Coordinator for Congressman Murtha's Majority PAC (hereafter the "witness") was interviewed pursuant to Review No. 09-9099. The OCE requested an interview with the witness and she consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. She signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness has been the Campaign Coordinator for Congressman Murtha's Majority PAC since 2007. Prior to that position, she was Congressman Murtha's campaign and district office coordinator for 15 years. Her job duties include checking daily obituaries for information on past contributors, scheduling local fundraisers, sending invitations, and administering the submission of contribution checks to the Majority PAC.

3. The witness stated that no legislative staffer from the Washington DC office calls her concerning any individual contributors or whether to add/delete names to lists. Those decisions are made by the Chief of Staff and Susan O'Neill.

4. The witness recalled Mark Magliocchetti assisting with Congressman Murtha's 2008 campaign.

5. The witness stated that has never received a telephone call from a PMA employee.

6. The witness stated that she knows nothing about the appropriations process or any requests that are sent to the Washington DC office.

This memorandum was prepared on November 10, 2009, based upon the notes of the OCE staff prepared during the interview with the witness on October 27, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 27, 2009.

Paul Solis
Investigative Counsel

EXHIBIT 6

Request for TDY-PAC Contribution

Requestor: John Canton
Company: Teledyne Controls

For contributions from the TDY PAC, the following should be provided:

1. **Candidate Name:** Congressman John P. Murtha
2. **Political Party:** Democrat
3. **Current Office Held:** 12th/PA
4. **Candidate Address:** C/0 Susan O"Neill & Associates, 4701 Sangamore Road, Suite 212N, Bethesda MD 20816
5. **Purpose of Disbursement(*):** Murtha for Congress Committee
6. **Indicate if for Primary, General or Other (describe):** General
7. **Indicate date of election:** Nov 2008
8. **Date of Disbursement:** 3/14/08
9. **Check Payable to:** Murtha for Congress
10. **Amount of Disbursement:** $2,500
11. **Provide an ID or FEC # for the Candidate:** C 00019075
12. **Telephone Number of Candidate:** 301 320 8232
13. **Indicate who should receive the signed check and by what date:** Mail to above address by 3/14/08
14. **Indicate if a late contribution report is necessary** No
    If necessary, provide the appropriate form to report the contribution.

- Provide any and all literature or fund-raising request information from the candidate

C:\DOCUME~1\adixon\LOCALS~1\Temp\notes6030C8\Murtha PAC request 3.08.doc 03/12/08 8:45 AM

Request for TDY-PAC Contribution

Candidate Name: John P. Murtha

Indicate why supporting the candidate is consistent with the mission of TDY-PAC

In what capacity does the candidate serve in their political role (as a committee member/approprations function etc?)?

He is the Ranking Member of the House Appropriations Defense Sub-committee.

How important is the candidates sponsorship any programs we are involved in?

Very important.

How big are the programs, if any, the candidate supports?

He is a major supporter of many of the largest defense programs.

Who is the competition for the programs?

N/A

What dollar revenue does the program bring to Teledyne Technologies?

Approximately $3-4 million.

Is the candidate in a position to lawfully influence the funding or the ultimate awardee/recipient of the government?

He has oversight for the House Majority for all appropriations in the annual Defense appropriations bill.

Has TDY interacted with the candidate in the past?

Yes.

Any other information that is relevant.

C:\DOCUME~1\adixon\LOCALS~1\Temp\notes6030C8\Murtha PAC request 3.08.doc 03/12/08 8:45 AM

EXHIBIT 7

From: Grove, Jay
Sent: Monday, September 22, 2008 04:02:06 AM
To: Carruth, Gabrielle
Subject: RE:

Gabrielle –

Sorry for delayed response, I am struggling with the death of a family member and getting from CA to FL to CA to OH to take care of her business.

I appreciate the timing and understand the need, but I can't personally help this time.

Jay

From: Carruth, Gabrielle
Sent: Friday, September 19, 2008 3:59 PM
To: Grove, Jay
Subject:

Jay congrats on the 6.0 mil for OT-TES. As a company Congress helped us out with 29.6 million dollars of enhancements, most coming from Mr. Murtha. He has having one last fundraiser at the Army and Navy club Tuesday. I really could use your help with a contribution- Please let me know if you will help.

Thanks,
Gabrielle

EXHIBIT 8

From: Ianieri, Rick
Sent: Friday, February 22, 2008 05:19:32 PM
To: Carruth, Gabrielle
Subject: Re: Chairman Murtha fundraising events

Hey,

I hope CA was Great!!

I assume for me, I attend and contribute as "Coherent" to both events...

Assume we are still going to try to push both the Argon and "Coherent" agenda(s), at least for this year??

Rick Ianieri
VP, Business Development
ArgonST
215.534[redacted]
NASDAQ: STST

-----Original Message-----
From: Carruth, Gabrielle
To: Collins, Terry; Rowe, Kerry; Ianieri, Rick; Ross, Jim; Sellier, Vic; Daniels, Aaron; Hettmann, Mike; Harmon, Keith; Carlin, Joe; Tamaru, Robert; Grove, Jay
Sent: Fri Feb 22 12:06:47 2008
Subject: Chairman Murtha fundraising events

Gentlemen,

Wed evening Congressman Murtha is holding a fundraiser dinner at the Ritz Carlton in Pentagon City. We have a table reserved and I am looking for at least 2 others to sit at our table. It will be an excellent chance to have a one on one with the Chairman and I would be honored to make personal introductions. We have maxed out our PAC contributions so I am also looking for personal contributions to his campaign and to this Leadership PAC. In regard to his Leadership PAC (which he uses to help other members of Congress in their re-election endeavors), we will max out to that as well with another $1,000 contribution to that on Thursday morning. If you cannot make the dinner please consider coming to his Leadership PAC breakfast, same place, on Thursday morning. It starts at 0800 but I will be there (as well as everybody else) on Murtha time, so by 0630.

Please let me know if you can contribute and/or whether you can join me at the dinner or breakfast. Please forward this email or talk to your directors, or others who you may feel would like to contribute and/or participate in these important events. The Chairman has been very helpful to us over the years and we will again be asking for his support this year on a number of issues important our company and industry.

I look forward to your response.

Sincerely,
Gabrielle Carruth

APPENDIX E:
REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE TODD TIAHRT (Review No. 09-9012)

CONFIDENTIAL
Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 09-9012

The Board of the Office of Congressional Ethics (the "Board"), by a vote of no less than four members, on November 20, 2009, adopted the following report and findings and ordered them to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives.

SUBJECT: Representative Todd Tiahrt.

NATURE OF THE ALLEGED VIOLATION: In Fiscal Year 2009, Representative Todd Tiahrt authored earmarks for clients of the PMA Group, Inc. ("PMA"). During campaign cycles 2008 and 2010, Representative Tiahrt received contributions to his campaign committee and Leadership PAC from PMA's Political Action Committee ("PAC"), PMA employees, the PACs of PMA clients for whom he authored an earmark, and the employees of those clients.

If Representative Tiahrt solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Tiahrt may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 (Gifts), and House Rules and Standards of Conduct.

RECOMMENDATION: The Board recommends that the Committee on Standards of Official Conduct further review the above allegations.

VOTES IN THE AFFIRMATIVE: 4

VOTES IN THE NEGATIVE: 0

ABSTENTIONS: 2

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE STANDARDS COMMITTEE: Leo Wise, Staff Director & Chief Counsel.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9012

Table of Contents

I. **INTRODUCTION** 3

A. Summary of Allegations 3

B. Jurisdictional Statement 3

C. Procedural History 4

D. Summary of Investigative Activity 4

II. **REPRESENATIVE TIAHRT'S EARMARK PROCESS, CAMPAIGN FUNDRAISING, AND RELATIONSHIP TO PMA** 8

A. Relevant Law, Regulations, Rules or Standards of Conduct 8

B. Earmark Process 11

C. Campaign Fundraising 14

D. Relationship to PMA & PMA Clients 15

E. Contributions Linked to Official Acts by Outside Entities 20

III. CONCLUSION 21

IV. **INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMNEDATIONS FOR THE ISSUANCE OF SUBPOENAS** 21

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-9012

On November 20, 2009, the Board of the Office of Congressional Ethics (the "Board" and the "OCE") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination that a violation actually occurred.

I. INTRODUCTION

1. Representative Tiahrt would not consent to an interview with the OCE, nor would he allow members of his staff, the Chief of Staff and Military Legislative Assistant ("MLA"), to be interviewed by the OCE.

A. Summary of Allegations

2. If Representative Tiahrt solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Tiahrt may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 (Gifts), and House Rules and Standards of Conduct.

B. Jurisdictional Statement

3. The OCE has jurisdiction to review any alleged violation by a Member, officer, or employee of the House of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities.[1] The allegations that are the subject of this review concern Representative Tiahrt, a Member of the United States House of Representatives from Kansas. The Resolution the United States House of Representatives adopted creating the OCE directs that, "[n]o review shall be undertaken...by the board of any alleged violation that occurred before the date of adoption of this resolution."[2] The House adopted this Resolution on March 11, 2008.

[1] H. Res 895, 110th Cong. (2008) ("the Resolution").
[2] *Id.* at §1(e) (2008).

Because the conduct under review occurred or relates to actions taken after March 11, 2008, review by the OCE is in accordance with the Resolution.

C. Procedural History

4. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 6, 2009. The preliminary review commenced on that date (July 6, 2009).[3] The preliminary review was scheduled to end on August 5, 2009.

5. At least three members of the Board voted to initiate a second-phase review in this matter on August 5, 2009. The second phase review commenced on August 6, 2009.[4] The second-phase review was scheduled to end on September 20, 2009.

6. The Board voted to extend the 45-day second-phase review by an additional 14 days on September 17, 2009, as provided for under H. Res 895.[5] Following the extension, the second-phase review was scheduled to end on October 5, 2009.[6]

7. Representative Tiahrt presented a statement to the Board, under Rule 9(B) of the OCE's Rules for the Conduct of Investigations, on November 9, 2009.

8. The Board voted to refer the matter to the Committee on Standards of Official Conduct for further review and adopted these findings on November 20, 2009.

9. This report and findings in this matter were transmitted to the Committee on Standards of Official Conduct on December 2, 2009.

D. Summary of Investigative Activity

10. Due to the nature of the allegations in this review, the OCE's investigation required the collection of information from a number of sources.

11. The OCE reviewed publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense from recipients of earmarks during the 2008 and 2010 campaign cycles. The review included campaign contributions to the leadership PACs, if any, of these Members.

---

[3] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is "received" by the OCE on a date certain. According to the Resolution, the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[4] According to the Resolution, the Board must vote (as opposed to make a written authorization) on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase commences the day after the preliminary review ends.

[5] *Id.* at § 1(c)(2)(A)(ii) (2008).

[6] The 14-day extension expires after the 45-day second-phase review ends. The 14-day extension does not begin on the date of the Board vote.

12. Specifically, the OCE reviewed campaign contributions to these Members from donors that were affiliated with the lobbying firm of PMA, *i.e.*, contributions from the PMA PAC, PMA employees, the PACs of corporate clients of PMA and employees of PMA clients.

13. The OCE also reviewed campaign contributions to Members of the Defense Subcommittee from PACs of non-PMA clients, and employees of non-PMA clients.

14. Beyond Members of the Defense Subcommittee, the investigation included a review of campaign contributions from PMA clients and non-PMA clients to Representatives who are not on the Defense Subcommittee, but authored defense earmarks PMA clients and non-PMA clients.

15. The OCE requested information from forty PMA clients that received earmarks from Members of the Defense Subcommittee for fiscal years 2008 to 2010.

16. All of the PMA clients that the OCE contacted cooperated with the investigation, except for two.

17. Aeroflex and Kimball and Associates are the only PMA clients that refused to cooperate with the investigation.

18. Thirty-eight PMA clients and Representatives' offices produced documents totaling approximately 200,000 pages. These PMA clients also made witnesses available for interviews upon request of the OCE.

19. Based on the information discovered during the review of the produced documents, the OCE interviewed twenty-six individual PMA client witnesses.

20. In addition, the OCE interviewed six witnesses who were formerly employed as lobbyists with PMA during the 2008 and 2010 campaign cycles.

21. In sum, the OCE requested and received documentary, and in some cases testimonial, information from the following sources:

    1) 21st Century Systems, Inc.;

    2) AAR Composites;

    3) Advanced Acoustic Concepts;

    4) Advanced Concepts & Technologies Intl.;

    5) Aircraft Interior Products;

    6) Applied Global Technologies;

7) Argon ST;

8) Boeing Corporation;

9) Carnegie Mellon University;

10) Coda Octopus Group;

11) Concurrent Technologies Corporation;

12) Conemaugh Health Systems;

13) Cryptek;

14) DDL OMNI Engineering;

15) DRS Technologies;

16) EM Solutions;

17) General Atomics;

18) General Dynamics;

19) Goodrich Corporation;

20) Innovative Concepts, Inc.;

21) ITT Corporation;

22) Lockheed Martin Corporation;

23) MobilVox;

24) NuVant Systems, Inc.;

25) Optimal Solutions & Technologies;

26) Parametric Technology Corporation;

27) Planning Systems Inc.;

28) Profile Systems;

29) Prologic, Inc.;

30) QTL Biosystems;

31) RaySat Antenna Systems;

32) Rockwell Collins;

33) Samueli Institute;

34) Sierra Nevada Corporation;

35) Teledyne Continental Motors, Inc.;

36) Teledyne Controls;

37) Windber Research Institute;

38) Xunlight Corporation;

39) Vice President, 21st Century Systems, Inc.;

40) Chief Administrative Officer, 21st Century Systems, Inc.;

41) Vice President for Communications, 21st Century Systems, Inc.;

42) PAC Treasurer, 21st Century Systems, Inc.;

43) General Manager, AAR Composites;

44) Chief Operating Officer, AAR Composites;

45) Chief Executive Officer, Applied Global Technologies;

46) Vice President, Applied Global Technologies;

47) PAC Treasurer, DRS Technologies;

48) President, DRS Technologies;

49) Chief Operating Officers, Optimal Solutions & Technologies;

50) Chief Executive Officer, Optimal Solutions & Technologies;

51) Director, Optimal Solutions & Technologies;

52) CEO, Samueli Institute;

53) Vice President, Sierra Nevada Corporation;

54) Congressional Affairs Director, Sierra Nevada Corporation;

55) Assistant to Business Development Director, Teledyne Continental Motors, Inc.;

56) Business Development Director, Teledyne Continental Motors, Inc.;

57) PAC Treasurer, Teledyne Controls;

58) General Manager, Teledyne Controls;

59) Vice President, Teledyne Controls;

60) Director of Contracts, Teledyne Controls;

61) Contract Administrator, Teledyne Controls;

62) Legislative Affairs Director, Teledyne Controls;

63) Associate General Counsel, Teledyne Controls;

64) President, Teledyne Controls;

65) PMA Lobbyist 1;

66) PMA Lobbyist 2;

67) PMA Lobbyist 3;

68) PMA Lobbyist 4;

69) PMA Lobbyist 5; and

70) PMA Lobbyist 6.

II. REPRESENATIVE TIAHRT'S EARMARK PROCESS, CAMPAIGN FUNDRAISING, AND RELATIONSHIP TO PMA

A. Relevant Law, Regulations, Rules or Standards of Conduct

22. *18 U.S.C. § 201(b) – Bribery of public officials and witnesses*

"(b) Whoever-

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act . . . ."

23. *18 U.S.C. § 201(c) – Illegal Gratuities*

"(c) Whoever-

(1) otherwise than as provided by law for the proper discharge of official duty—

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person . . . ."

24. *"An illegal gratuity...may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken."*[7]

25. *House Rules and Standards of Conduct*

"[T]he scope of the House standards of conduct in this area is broader than that of the criminal bribery statute... the House standards of conduct generally preclude any link between the solicitation or receipt of a contribution and a specific official action."[8]

"Put another way, there are fundraising activities that do not violate any criminal statute but well may violate House standards of conduct."[9]

"[T]here are certain proffered campaign contributions that must be declined, and certain fundraising opportunities that must be forgone, solely because they create an appearance of improper conduct."[10]

"[N]o solicitation of a campaign or political contribution may be linked to an action taken or to be taken by a Member or employee in his or her official capacity."[11] *In addition, a Member may not accept any contribution that is linked with any specific official action taken or to be taken by that Member."*[12]

"It is probably not wrong for the campaign managers of a legislator...to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff as the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. The Standards Committee has long advised Members and staff that they should always exercise caution to avoid even the appearance that solicitations of campaign

---

[7] House Ethics Manual (2008) at 79. See also United States v. Sun-Diamond Growers, 526 U.S. 398, 404 (1999).
[8] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[9] *Id.*
[10] *Id.*
[11] House Ethics Manual (2008) at 147.
[12] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.

contributions are connected in any way with an action taken or to be taken in their official capacity."[13]

"[A] Member should not sponsor or participate in any solicitation that offers donors any special access to the Member in the Member's official capacity."[14]

"[G]overnment officials should 'never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not."[15]

"'[P]ublic office is a public trust,' and the public has a right to expect House Members and staff to exercise impartial judgment in performing their duties."[16]

"'Ethics rules, if reasonably drafted and reliably enforced, increase the likelihood that legislators (and other officials) will make decisions and policies on the basis of the merits of issues, rather than on the basis of factors (such as personal gain) that should be irrelevant."[17]

26. *5 U.S.C. § 7353 – Gifts to Federal Employees*

"(a) Except as permitted by subsection (b), no Member of Congress...shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with...the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules and regulations established by such individual's supervising ethics office pursuant to paragraph (1)

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of an official act."

---

[13] *Id.*
[14] *Id.*
[15] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 5).
[16] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 10).
[17] *Id.* at 151 (citing Congressional Ethics Reform: Hearing Before the Bipartisan Task Force on Ethics, U.S. House of Representatives, 101st Cong., 1st Sess. 113 (1989)).

27. *House Ethics Manual – Soliciting Campaign and Political Contributions*

While the federal gift statute (5 U.S.C. § 7353) broadly restricts the ability of House Members and staff to solicit things of value from virtually anyone, even when no personal benefit to the solicitor is involved, legislative materials concerning the statute state that it does not apply to the solicitation of political contributions. Consistent with those materials, the Standards Committee has long taken the position that the restrictions on solicitation set forth in that statute do not apply to political solicitations. However, in soliciting campaign or political contributions, Members and staff are subject to a number of other restrictions, as follows.

"A Contribution linked to an Official Action May Not Be Accepted

... no solicitation of a campaign or political contribution may be linked to any action taken or to be taken by a Member or employee in his or her official capacity.

In a similar vein, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. In this respect, a campaign or political contribution is treated like any other gift, and acceptance of a contribution in these circumstances may implicate a provision of the federal gift statute (5 U.S.C. § 7353) or the criminal statutes on bribery and illegal gratuities."[18]

B. <u>Earmark Process</u>

28. The Board notes that Representative Tiahrt would not consent to an interview with the OCE, nor would he allow members of his staff, including the Chief of Staff, Jeff Kahrs, and the MLA, Jim Richardson, to be interviewed by the OCE. Representative Tiahrt's counsel submitted a written memorandum that she prepared and represented was an outline for his process for vetting and reviewing appropriations requests.[19] However, the Board notes that this attorney has no personal knowledge of the earmarks under review and therefore, the submitted outline is not considered evidence.

29. During the time period of the 2008 and 2010 election cycles, Representative Tiahrt authored three earmarks for PMA clients.

30. The PMA clients that received earmarks during this period are Boeing ($9M) and Aeroflex ($1M and $2.4M).[20]

31. In response to the OCE's Request for Information ("RFI"), Representative Tiahrt produced internal documents related to appropriations requests and earmarks.

---

[18] House Ethics Manual (2008) at 150.
[19] This process is also on Representative Tiahrt's website, available at, http://www.house.gov/toddtiahrt/pdf/defense_project_vetting_process.pdf.
[20] H.R. 2638, Pub. L. 110-329 (2009).

32. The documents include emails between entities requesting appropriation earmarks and Jim Richardson, Representative Tiahrt's MLA or "Defense Appropriations Aide."[21]

[21] See example in attached Exhibit 1.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

33. Representative Tiahrt submitted the following document to the OCE which is titled "Congressman Todd Tiahrt Defense Appropriations Form."

Congressman Todd Tiahrt Defense Appropriations Form
Staff Contact: Jim Richardson | 202.225[redacted] | Jim.Richardson@mail.house.gov
**** ALL REQUESTS DUE MARCH 1st ****

General Information

Name, Short Description of Project:

Benefit to DoD: (250 characters or less):

Support PM/Agency Name and Contact: _____

Amount/Language Requested: _____ Minimum Funding Needed to Execute: _____

Name of Intended Recipient: _____

Physical Address of Recipient (KS, if possible): _____

POC at Recipient (Name, Ph #, E-mail): _____

Government Affairs Representative (if applicable)

Name: _____ Phone: _____

E-mail Address: _____

Project Information

Appropriations Account: _____ Budget Line Detail (PE/R-1/P-1): _____

Has this project been authorized, if yes, please describe: _____

Other Congressional Offices approached with reques:: _____

Previous Years Funding: FY09: _____ FY08: _____ FY07: _____ Previous: _____

Kansas Connection

Kansas Benefit/Connection (include work percentage for various partners, if applicable): _____

Total % of work in Kansas: _____

Number of Kansas employees (if applicable): _____

Number of Kansans directly affected by request (if applicable): _____

34. In addition, the Board notes the following email that appears to describe part of the defense appropriations process.

> **Richardson, Jim**
> **From:** Richardson, Jim
> **Sent:** Monday, March 17, 2008 5:58 PM
> **To:** 'Wyman, Jill'; 'Thomas Bezas'
> **Subject:** financial plan and earmark request form. .
>
> **Attachments:** recipient request certification form.doc
>
> Tom and Jill – because your requests would be classified as earmarks – I need you to filled-out this form with an attached financial plan. The financial plans do not have to be extensive, but must include anticipated sources of the funding for the duration of the project; percent and source of required matching fund; and justification for use of federal taxpayer dollars. Please include who and what percentage would be receiving funding from this request. Both the form and financial plans need to be e-mail to me. I need this by COB tomorrow. Sorry for the late notice. Please let me know if you have any questions. – Jim
>
> James L. Richardson
> Defense Appropriations Aide
> Office of Congressman Todd Tiahrt

35. Representative Tiahrt, Jim Richardson and Jeff Kahrs also submitted written, signed statements to the OCE briefly discussing their general roles and responsibilities.[22] All three denied any wrongdoing. The OCE did not request these documents, nor were they accepted in lieu of witness interviews.

36. The Board notes that the Legislative Affairs Director of Teledyne Controls, when interviewed by the OCE, stated that Jim Richardson, Representative Tiahrt's MLA, was present at all fundraisers he attended.[23]

37. Because Representative Tiahrt would not make Jim Richardson available for an interview with the OCE, the Board does not know why Richardson was present or, more specifically, whether he discussed earmarks with campaign contributors at these fundraisers.

C. Campaign Fundraising

38. During the 2008 and 2010 campaign cycles, Representative Tiahrt's campaign committee, "Kansans for Tiahrt," received $8,950 in contributions from PMA's PAC and employees. Kansans for Tiahrt and Tiahrt's Leadership PAC, "Heart PAC" also received $32,300 in contributions from Boeing's PAC and employees. Heart PAC also received

[22] Letter from Todd Tiahrt to Leo Wise, July 31, 2009; Letter from Jeff Kahrs to Leo Wise, July 31, 2009; Letter from Jim Richardson to Leo Wise, July 31, 2009.

[23] Memorandum of Interview of Teledyne Controls Legislative Affairs Director, October 6, 2009 (Exhibit 2 at 09-9012_5).

$2,700 in contributions from AeroPAC. Teledyne Technologies Inc.[24] PAC has contributed $4,000 corresponding to the 2008 election cycle.[25]

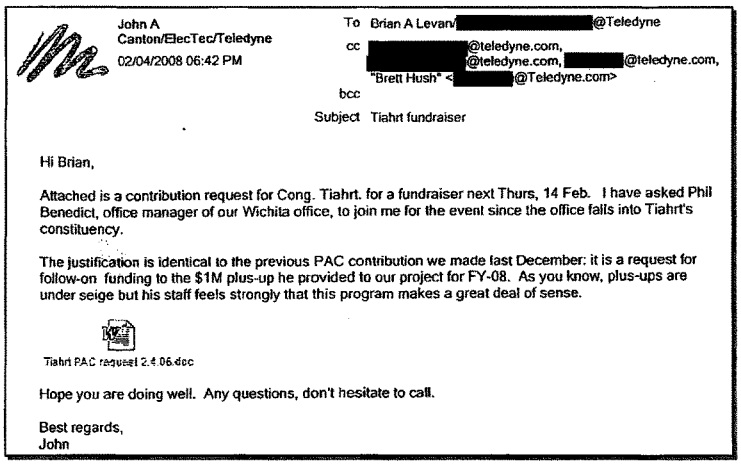
39. In response to the OCE's RFI, Representative Tiahrt produced internal documents related to fundraising. The documents included emails, invitations to fundraisers, and fundraiser flyers. However, because Representative Tiahrt did not make himself available for an interview, the OCE has an incomplete factual record related to fundraising processes.

40. Many of the emails submitted to the OCE concerning fundraising were authored by the Jeff Kahrs, Chief of Staff.[26]

D. <u>Relationship to PMA & PMA Clients</u>

41. The OCE obtained documents in which PMA clients discuss making campaign contributions to Representative Tiahrt and also discuss the receipt of earmarks authored by Representative Tiahrt.

42. A February 4, 2008 email[27] contains a statement that the "justification" for a contribution from the PMA client's PAC to Representative Tiahrt is a "follow-on" for a $1 million earmark authored by Representative Tiahrt.



John A
Canton/ElecTec/Teledyne
02/04/2008 06:42 PM

To Brian A Levan/[redacted]@Teledyne
cc [redacted]@teledyne.com, [redacted]@teledyne.com, [redacted]@teledyne.com, "Brett Hush" <[redacted]@Teledyne.com>
bcc
Subject Tiahrt fundraiser

Hi Brian,

Attached is a contribution request for Cong. Tiahrt. for a fundraiser next Thurs, 14 Feb. I have asked Phil Benedict, office manager of our Wichita office, to join me for the event since the office falls into Tiahrt's constituency.

The justification is identical to the previous PAC contribution we made last December: it is a request for follow-on funding to the $1M plus-up he provided to our project for FY-08. As you know, plus-ups are under seige but his staff feels strongly that this program makes a great deal of sense.

Tiahrt PAC request 2.4.06.doc

Hope you are doing well. Any questions, don't hesitate to call.

Best regards,
John

[24] Teledyne Controls and Teledyne Continental Motors Inc. are business units of Teledyne Technologies Inc.
[25] The contribution amounts are from the reports that Representative Tiahrt filed with the Federal Election Commission.
[26] See example in attached Exhibit 3.
[27] The email was created in February 2008 and discusses contributions and appropriations in Fiscal Year 08.

43. An April 13, 2007 email connects a PAC request with Representative Tiahrt's interest in supporting a Teledyne project.[28] Within the same paragraph, a PAC contribution and Representative Tiahrt's project support are discussed. Further, the email demonstrates the PAC treasurer's action based on the request.

Brian A Levan/Headquarters/Teledyne
04/13/2007 11:43 AM

To John T Kuelbs/[redacted]@Teledyne, Dale A Schnittjer/[redacted]@Teledyne, [redacted]@tbe.com, Robyn E
cc
bcc
Subject Fw: PAC contribution request

All,

Attached is a Controls request for a $1,000 TDY PAC check to Cong. Tiahrt.

The TDY PAC gave $2,000 in 2004 to Cong. Tiahrt.

Let me know if you object.

Brian Levan
805-373-[redacted]

---- Forwarded by Brian A Levan/Headquarters/Teledyne on 04/13/2007 11:40 AM ----

John A Canton/ElecTec/Teledyne
04/03/2007 12:55 PM

To Brian A Levan/[redacted]@Teledyne
cc [redacted]@teledyne.com, "Brett Hush" <[redacted]@Teledyne.com>
Subject PAC contribution request

Hi Brian,

Hope your move to the valley went well; the parking lot sure has a lot of empty spaces now.

Here's a PAC request for Cong. Tiahrt. We have an office in his district, Wichita, and he is interested in supporting our effort to upgrade the Navy C-130s' flight data acquisition systems.

The fundraiser has already been held and I couldn't attend but promised I would submit a fundraiser request.

TT Steak Out 3.28.07.pdf

PHA email of Tiahrt PAC request.doc Tiahrt PAC request.doc

Any questions, please call any time.

John Canton
Director of Business Development
Government Programs &
Legislative Affairs

[28] The email was created in 2007 and discusses a contribution submitted for the 2008 election cycle.

44. In addition, the Board notes that a February 7, 2008 "Request for TDY-PAC Contribution" evidences a similar linkage. Teledyne Controls highlights the FY-08 "plus-up" request and $1 million earmark obtained from Representative Tiahrt. The document also contains a statement that Teledyne Controls intends to seek additional project funding for Fiscal Year 09.

Request for TDY-PAC Contribution

Candidate Name:____Todd Tiahrt_____

Indicate why supporting the candidate is consistent with the mission of TDY-PAC

In what capacity does the candidate serve in their political role (as a committee member/appropriations function etc?)?
Ranking Member of the House Appropriations Defense subcommittee

How important is the candidate's sponsorship any programs we are involved in?
Very important for the success for our system to be qualified on board Navy C-130 H and J aircraft.

How big are the programs, if any, the candidate supports?
Our request is that he support a program anticipated to be in the $5M range.

Who is the competition for the programs?
Smiths Aerospace, Honeywell, L-3

What dollar revenue does the program bring to Teledyne Technologies
Approx. $3M for the C-130T model, with potential to rise considerably with application to the "J" model.

Is the candidate in a position to lawfully influence the funding or the ultimate awardee/recipient of the government?
Yes, as the ranking Republican on the Defense Appropriations Defense Subcommittee, he can lawfully exert a great deal of influence in this area.

Has TDY interacted with the candidate in the past?
-Yes, we have briefed his Legislative Staff on the Navy/USMC unfunded requirement for a new C-130 flight data acquisition system.
-Cong. Tiahrt supported our FY-08 plus-up request and was successful in obtaining a $1M earmark for the C-130 AHMS. We intend to request production funding for FY-09.

Any other information that is relevant.
The NAVAIR program manager, was pleased with the news of the 08 earmark and is supportive of continued future funding for the production program.

45. When interviewed about the document, the Teledyne Controls PAC Treasurer stated that he created the form.[29] The questions attempt to address how the PAC contribution will benefit Teledyne Controls' business; the questions are listed in order of importance to Teledyne Controls.[30]

[29] Memorandum of Interview of Teledyne Controls PAC Treasurer, October 6, 2009 (Exhibit 4 at 09-9012_10).
[30] *Id.* at 09-9012_10-11.

46. Another "Request for TDY-PAC Contribution," dated March 28, 2008, contains a statement that MLA Jim Richardson told Teledyne that Representative Tiahrt intended to support the funding request. The Board notes that this information is included in an internal Teledyne document, the purpose of which is to cause the Teledyne PAC to make a contribution to Representative Tiahrt.

Request for TDY-PAC Contribution

Candidate Name:____Todd Tiahrt_____

Indicate why supporting the candidate is consistent with the mission of TDY-PAC

In what capacity does the candidate serve in their political role (as a committee member/approprations function etc?)?
Ranking Member of the House Appropriations Defense subcommittee

How important is the candidate's sponsorship any programs we are involved in?
Very important for the success for our system to be qualified on board Navy C-130 H and J aircraft.

How big are the programs, if any, the candidate supports?
Our request is that he support a program anticipated to be in the $5M range.

Who is the competition for the programs?
Smiths Aerospace, Honeywell, L-3

What dollar revenue does the program bring to Teledyne Technologies
Approx. $3M to start, with potential to rise

Is the candidate in a position to lawfully influence the funding or the ultimate awardee/recipient of the government?
Yes, as the ranking Republican on the Defense Appropriations Defense Subcommittee, he can lawfully exert a great deal of influence in this area.

Has TDY interacted with the candidate in the past?
Yes, we have briefed his Legislative Staff on the Navy/USMC unfunded requirement for a new C-130 flight data acquisition system.

Any other information that is relevant.

Jim Richardson, his senior legislative staffer has already confirmed the requirement with the NAVAIR program manager and has expressed Cong. Tiahrt's intention to support our position.

47. When interviewed about the role of earmarks in PAC decisions, Teledyne Continental Motors, Inc.'s Business Development Director stated that Teledyne would be more likely to support the campaigns of those Members that supported the company; however the witness stated that he never engaged in a "quid pro quo" during his time as a lobbyist. The witness stated that in his experience, Members are very careful about separating legislative actions from campaign actions. He stated that no Member has ever "leaned on him" for contributions.[31]

48. Teledyne Continental Motors, Inc.'s Business Development Director stated that he has a "familiar" relationship with Representative Tiahrt and that he has personally received several telephone calls from Representative Tiahrt himself soliciting campaign contributions. These calls occurred roughly two to three years ago. During these calls, the witness stated that Representative Tiahrt never discussed a Teledyne project.[32]

49. The Board notes that the witness' statements are inconsistent with the content of the Teledyne emails and PAC documents referenced in findings 45, 47, and 49.

50. When interviewed, Teledyne Controls' Legislative Affairs Director stated that he recalled attending a fundraiser for Representative Tiahrt and told Representative Tiahrt about the specifics of one of the company's projects.[33]

[31] Memorandum of Interview of Teledyne Continental Motors, Inc. Business Development Director, October 5, 2009 (Exhibit 5 at 09-9012_15).
[32] *Id.*
[33] Memorandum of Interview of Teledyne Controls Legislative Affairs Director, October 6, 2009 (Exhibit 2 at 09-9012_5).

51. The OCE has also obtained documents that discuss meetings, briefings, and other communications between Representative Tiahrt, his staff, and former PMA employees concerning earmarks and fundraising.[34]

E. Contributions Linked to Official Acts by Outside Entities

52. The OCE found evidence that entities seeking earmarks from Members of Congress appear to have linked contributions to Members' campaigns and/or PACs to specific legislative acts.

53. The federal gift statute, 5 U.S.C. § 7353, prohibits the solicitation or acceptance of anything of value from a person seeking official action from or doing business with the House, or from someone whose interests may be substantially affected by the performance or nonperformance of a Member's, Officer's or staff member's official duties. The statute also provides that the Committee on Standards of Official Conduct may enact reasonable exceptions to the prohibition. According to the Ethics Manual, the Standards Committee has long taken the position that the restrictions on solicitation set forth in the statute do not apply to political solicitations. However, Members and staff are subject to a number of other restrictions regarding the solicitation of campaign or political contributions under the rules of the House.

54. Under House rules, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. If a donor's contribution is linked to any official action, it is treated like any other gift and may be subject as such to the federal gift statute and the criminal statutes on bribery and illegal gratuities.

55. The Board notes that the examples provided in the Ethics Manual of instances where a Member may be in violation of the House's rule against accepting a contribution linked to an official action are all instances in which the Member has some degree of knowledge of the link. As a result, it stands to reason that it is unlikely a violation of the rule could occur unless and until a Member is aware of the link and does nothing to remedy the situation.

56. The Board notes that because the OCE was unable to interview Representative Tiahrt or his staff, the Board is unable to conclude whether the Member was aware or not that the donor linked the contribution to an official act.

[34] See examples in attached Exhibit 6. All screen captures displayed within the findings of fact are contained in attached Exhibit 7.

III. CONCLUSION

57. Given that the documents the OCE has obtained through its investigation show potential connections between appropriations requests from former PMA clients and campaign contributions from the same clients to Representative Tiahrt, without further information that can only be obtained through witness interviews, the OCE cannot fully assess Representative Tiahrt's role in the former clients' intentions to make contributions based on receipt of earmarks. In the event that the OCE is unable to obtain information necessary to reach this determination, and there is probable cause to believe the allegations based on obtained evidence, the Board may refer the matter to the Standards Committee for further review. The Board finds that the evidence gathered in the OCE's review supports a finding of probable cause.

58. For the above reasons, the Board recommends that the Standards Committee further review the above described allegations concerning Representative Tiahrt.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMNEDATIONS FOR THE ISSUANCE OF SUBPOENAS

59. The OCE was unable to interview Representative Tiahrt, Representative Tiahrt's Chief of Staff, or Representative Tiahrt's MLA.

60. In every instance, the OCE asked the recipient of an OCE request for information to identify any information they withheld and the reason they were withholding it. However, absent the authority to subpoena the evidence in possession of the witness, it is impossible for the OCE to verify if information was withheld, but not documented.

61. In some instances documents were redacted or specific information was not provided. For instance, DRS Technologies provided evidence responsive to the OCE's Request for Information but indicated they would not provide any information regarding their "Legislative Strategy."

62. In at one least instance, the OCE had reason to believe a witness withheld information requested, but did not comply with the OCE's request that they identify what was being withheld. Specifically Boeing represented that they had fully cooperated. However, the Boeing indicated that they had no electronic mail responsive to the OCE's Request for Information. The OCE then received, from another source, electronic mail to and from Boeing that were in fact responsive to the OCE's request.

63. The Board also notes that while the OCE was able to interview six former employees of PMA that provided general information on PMA and its business practices, many remaining former employees either refused to consent to interviews or did not return calls

from the OCE. In addition, the OCE was unable to obtain any evidence within PMA's possession.

64. The Board recommends that the Standards Committee seek releases from or issue subpoenas to Representative Tiahrt, Representative Tiahrt's Chief of Staff, Representative Tiahrt's MLA.

EXHIBIT 1

Richardson, Jim

3

From: Richardson, Jim
Sent: Monday, February 23, 2009 12:09 PM
To: Richardson, Jim
Subject: FY10 Defense Appropriations Form
Attachments: FY10 Member Request Form.doc; Fy2010 Tiahrt Defense Approps Form.doc

Folks –

Attached is the Committee's FY10 Appropriations Request Form and Mr. Tiahrt's internal Defense Appropriations form.

Mr. Tiahrt's Defense Appropriations deadline remains March 1st.

Please let me know if you have any questions or need a deadline extension. I look forward to a productive year.

Best regards,
Jim

James L. Richardson
Defense Appropriations Aide
Office of Congressman Todd Tiahrt
Phone: 202.225.6216 Fax: 202.225.3489

EXHIBIT 2

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Legislative Affairs Director for Teledyne Controls
REVIEW #s:	09-1583; 09-4486; 09-9063; 09-9064; 09-9075; 09-9099
DATE:	October 6, 2009
LOCATION:	Teledyne Controls 501 Continental Boulevard El Segundo, CA 90245
TIME:	2 p.m. to 3 p.m. (approximately)
PARTICIPANTS:	Kedric L. Payne Omar Ashmawy Melanie Cibik David Berardinelli

SUMMARY: The Legislative Affairs Director for Teledyne Controls (hereafter the "witness") was interviewed pursuant to the above referenced Review Numbers. The OCE requested an interview with the witness on July 22, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness has been employed with Teledyne Controls since 1996. He is responsible for researching potential projects where the company can compete for business.

3. He is involved with the company's political action committee (hereafter "PAC"), which he helped to create in 2001. He promotes the PAC within the company and is responsible for arranging the payroll deductions for the PAC.

4. The reason for establishing the PAC was to support the Members of Congress who supported the company's business objectives. The PAC is for business development and access to Members.

5. PMA advised the company with setting up the PAC and the idea was that the PAC would assist with putting the company on the radar of Members who could assist the company with federal funding, specifically defense appropriations.

6. By contributing, the company's representatives attended fundraisers and could see the members of Congress and discuss the path of potential legislation.

7. PMA's advice on how the PAC should contribute was based on the past support the Representative provided to the company and the committee on which they served.

8. The specific amount that PMA recommended for the contributions was based on the amount of money that the Member was trying to raise.

9. For example, the witness attended a fundraiser for Representative Murtha and he was able to speak to the Member and he believes that he influenced him in a "good way".

10. PMA did not suggest that Members were pressuring companies to make contributions. However, he could deduce that the level of contributions had an impact on obtaining earmarks from PMA's perspective. PMA did not specifically say that you must contribute to get an earmark.

11. When making contributions, the witness says that it does go through your mind whether you are buying influence.

12. PMA advised the company's PAC on one occasion not to contribute because there would be no face time with the Member.

13. The witness recalls attending the fundraiser for Representative Tiahrt. The witness told Representative Tiahrt about the specifics of the company's project. The witness also attended a fundraiser at a hockey game for Representative Tiahrt. Representative Tiahrt's Military Legislative Assistant attended all of the fundraisers.

This memorandum was prepared on November 19, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 6, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 6, 2009.

Kedric L. Payne
Investigative Counsel

EXHIBIT 3

From: wjkahrs@netscape.net
To: tim.keating@boeing.com; philip.e.ruter@boeing.com
Subject: April 20th Chicago Hastert Event for Congressman Tiahrt
Date: Wed, Apr 8, 2009 2:00 pm
Attachments: Tiahrt_Hastert_4.20_invite.docx (28K)

Men---

I wanted to pass along to you the invite for the event that Speaker Hastert is holding on behalf of Todd a week from Monday in Chicago. Any help you all can provide would be appreciated.

Thanks,

JEFF KAHRS

New Deals on Dell Netbooks - Now starting at $299

EXHIBIT 4

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	PAC Treasurer, Teledyne Controls
REVIEW #s:	09-1583; 09-9063; 09-9099; 09-4486; 09-9064; 09-9012; 09-9075
DATE:	October 6, 2009
LOCATION:	Teledyne Controls 501 Continental Boulevard El Segundo, CA 90245
TIME:	9:35 a.m. – 10:45 a.m. (approximately)
PARTICIPANTS:	Omar Ashmawy Kedric Payne Melanie Cibik David Berardinelli

SUMMARY: The PAC Treasurer and Director of External Financial Reports and Assistant Controller for Teledyne Controls (hereafter the "witness") was interviewed pursuant to the above referenced Review Numbers. The OCE requested an interview with the witness on July 22, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. The witness signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness has been employed with Teledyne Controls since 2000. His job title was initially Assistant Controller. Eventually his job title was changed to Director of External Financial Reports and Assistant Controller. He is also the treasurer of the Teledyne Controls political action committee (hereafter "PAC").

3. The witness has been the treasurer of the Teledyne PAC since the PAC was formed in early 2002. He also helped the company form the PAC.

4. As treasurer, he maintains the PAC account and manages the required FEC filings. He also receives requests for contributions and sends them out to the PAC committee. In general he facilitates the process the committee uses to decide who to contribute to. He also manages the reports to PAC contributors and reviews information about the PAC that is provided to the employees of Teledyne Controls. He does not solicit the restricted class.

5. Employees at Teledyne Controls can request that the company's PAC contribute to candidates and elected officials. When a request for a contribution is made to the PAC,

the witness does a background check on the candidate. This background check consists of searching the internet. If he sees something negative he will do a little more research to see if the negative information is true.

6. If he finds no issues, then he can generally send out the request to the rest of the committee. If he does have an issue with the request, then he will speak with the Chairman of committee, Mr. John Kuelbs. They may change the amount of the request.

7. The witness then sends the request to the other committee members with any information he has found. If no one objects in about a week's time, he writes a check and it is given to the employee who made the request. About 1 percent of the time the check goes directly to the campaign.

8. Essentially only two employees make requests to the Teledyne PAC – Mr. John Braun of Teledyne Brown Engineering and the witness. Teledyne Brown engineering and Teledyne Controls are two business units of Teledyne. The witness trusts that these two individuals will give the PAC money to the right people.

9. The witness has zero interaction with the campaigns and the elected representatives. All the contact is done thru the two business units.

10. He did not know what the role of other lobbyists was in the PAC or deciding PAC contributions. He thought it was minimal. The fact that PMA was involved with a request to the PAC was not more or less a justification for the witness. He recalled an example in which PMA had requested the Teledyne PAC give $5,000 to Representative Visclosky's Calumet PAC, but the witness and the PAC chairman reduced it to $2,500. The witness recalled PMA's response to Teledyne's decision as, "We had hoped for $5,000, but we'll try to smooth it over." He did not know what PMA meant by this comment.

11. The OCE showed the witness the questionnaire Teledyne asks their employees to submit when requesting a contribution be made. The witness created the questions on the form. When making the decision to whom to give PAC money, the first qualification is what committee the Representative is on – for example, the Appropriations Subcommittee on Defense. Individual projects will also be mentioned, however, the witness did not look too closely at that. However, they do look to see if the Representative can help give Teledyne business. When asked if Teledyne has not given a contribution to a Member of Congress because they were not on the right committee, he said no because Teledyne trusts heavily in Mr. Braun and Mr. Canton.

12. When asked further about the form, the witness at first said he did not look at the forms and then said that he should not say that and that he did look at them to see what was

there. He also said that the questions go down in the order of magnitude – i.e. the most important questions were first.

13. When asked specifically about the question "is the candidate in a position to lawfully influence the funding or the alternate awardee/recipient of the government," the witness said that he has never seen a request where the answer was no. If there a request and the answer to that question was no, then he would ask why it made sense to give the money.

14. He did not remember if he ever received current earmark information when a request to the PAC came in. When asked why Teledyne contributes through its PAC, he said that the only value is access – so they know you exist. But he thought Teledyne would be ok without a PAC.

15. The witness is not involved in Teledyne's requests for federal funding or the request or receipt of earmarks.

This memorandum was prepared on November 9, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 6, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 6, 2009.

Omar S. Ashmawy
Investigative Counsel

EXHIBIT 5

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

In Re:	Business Development Director, Teledyne Brown Engineering
Review #:	09-1583; 09-9063; 09-9099; 09-4486; 09-9064; 09-9012; 09-9075
Date:	October 5, 2009
Location:	Teledyne Brown Engineering 2101 N. Wilson Blvd. Arlington, VA
Time:	11:30 a.m. – 12:30 p.m. (approximate)
Participants:	Paul Solis Kedric Payne David Berardinelli (Teledyne Counsel) Melanie Cibik (Teledyne Counsel)

Summary: The Business Development Director and Vice President of Washington Operations in Teledyne's Washington DC office was interview pursuant to the above referenced review numbers. The OCE requested an interview with the witness on July 22, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness has been a lobbyist for Teledyne since June of 2001, starting with the title of Director of Business Development. His job duties include: being the public face of the company in Washington; operational control over the DC area; business development and government affairs work; and keeping relationships up with the Executive and Legislative Branches of the federal government.

3. The Teledyne Political Action Committee (hereafter "PAC") is administered from the Thousand Oaks, CA office; however, the witness is the PAC's most active participant. He is responsible for making contribution requests. Brian Levan is the PAC treasurer.

4. 60% of Teledyne's work is government related, including weapons systems.

5. The process for seeking federal money begins with establishing a need within the company. Then, the witness makes a calculation as to whether Congress would be amenable to "plus-ups" for a specific set of projects. The requests are made thereafter.

6. On the Hill, the witness meets with staff of Member offices and the relevant representative from Teledyne who has knowledge of a specific project. The witness prepares the Teledyne employee for the meeting with congressional staff. A presentation is made to staff with documents and white papers. The witness has had meetings with Members on occasion. He typically has meetings on the Hill with Member offices one to two times per month.

7. Teledyne also hired outside lobbyists including Brown & Associates, SMI, Main Street Strategies, and PMA. One of the reasons the Teledyne chose PMA is because the company wanted a relationship with Congressman Murtha's office. The witness would contact PMA two to three times per year, five to six conversations per period of contact.

8. The witness continued to recommend PMA to Teledyne executives because he felt that Paul Magliocchetti was a very effective lobbyist who had access, knew the legislative process well, was politically connected, and had strong personal relationships with Member offices.

9. PMA had no major role in Teledyne PAC contribution decisions. PMA lobbyists would simply ask the witness if he would like to attend certain fundraisers.

10. The witness stated that Teledyne's PAC supported Members who supported Teledyne's interests and Members who were in key positions in Congress; key positions being leadership and appropriations positions.

11. The witness stated that the vast extent, maybe 90%, of contributions from Teledyne PAC go to Members who are in key leadership positions or who are not representing a district where Teledyne has facilities.

12. The witness recalled a specific fundraiser for Representative Moran. He stated that the Speaker of the House was contacting all appropriators and informing them that they were responsible for raising certain funds for the DCCC. The witness attended the event with individuals from Boeing. Boeing did not have a relationship with Moran, which the witness thought was illogical because Boeing has many assets in Moran's district and because Moran is an appropriator. At the event, there were no discussions of Teledyne projects with Mr. Moran.

13. The witness recalled another fundraising event for Representative Murtha which he didn't sponsor but possibly hosted. He stated that he did not assist in holding the fundraiser because Murtha sponsored a Teledyne earmark; Teledyne would have supported Murtha anyway.

14. The witness recalled several contributions made to Representative Kaptur from Teledyne PAC. He stated that Teledyne made the contributions because Ms. Kaptur rarely raises funds and because she was very supportive of Teledyne, very receptive, and a great congresswoman for northern Ohio. The witness stated that he did not want to "snub" Representative Kaptur and show as if Teledyne did not support her re-election efforts. The witness also recalled working with Representative Kaptur and her staff on a consent decree between the EPA and Teledyne in Ohio.

15. When asked why a contribution request was made on the same day as the witness notified a colleague that Teledyne had just received a Kaptur-sponsored earmark, the witness stated that the timing was coincidental and that there was no solicitation from Representative Kaptur's office.

16. When asked about the role of earmarks in PAC decisions, the witness stated that Teledyne would be more likely to support the campaigns of those Members that supported Teledyne; however the witness stated that there was no "quid pro quo" occurring. He stated that in his experience, Members are very careful about separating legislative actions from campaign actions. He stated that no Member has ever "leaned on him" for contributions.

17. The witness stated that over three years ago, Representative Tiahrt made several calls to him personally, soliciting for fundraisers. No projects were ever discussed during the fundraising phone calls. He stated that he has a "familiar" relationship with Tiahrt.

This memorandum was prepared on October 16, 2009, based on the notes that the OCE staff prepared during the interview with the witness on October 5, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on October 5, 2009.

Paul Solis
Investigative Counsel

EXHIBIT 6

John A
Canton/ElecTec/Teledyne
02/15/2008 10:58 AM

To [redacted]@teledyne.com
cc "Brett Hush" <[redacted]@Teledyne.com>,
[redacted]@teledyne.com, [redacted]@teledyne.com
bcc
Subject Legislative Action

2/14/08 meetings on the Hill with Kevin Miller, PMA

Todd Tihrt, R. Kan: breakfast fundraiser. we arrived early, at the same time as Tihrt and were able to have a private discussion for about 20 min. before other arrivals. Phil sat next to him during the meal. All in all, a great deal of "face-time." Phil invited him to visit the Wichita facility: probably will happen this summer.

Meeting at Tihrt's office: Jim Richardson, Legislative lead for defense issues: Kevin and I explained the current funding situation regarding the C-130 AHMS: that we haven't received funding yet and may not actually get into discussions with the PM until the AMPS program has been decided.

However, I had earlier proposed to Kevin that we exploit NAVAIR Structures interest in getting our box on the "J" model, so we explained to Jim that we intended to expand the effort to include the "J." I provided him an estimate of $1M for the NRE-through testing for the "J" so that would explain our keeping our request for 09 at $5M. $1M for the "J" and $4M for the "T" model production. Production for the "J" could be forward fit. We would look at retrofit as we go.

He was positive about the program and acknowledged, but very tentative about the success of any earmarks this year.

Sen. Pat Roberts, Kans: we briefed Libby Burgess, Military Legislative Asst.. This is a new program for her but with Tihrt and Richardson on board, it is a good possibility he will support it. This may solidify our position if the issue goes to Conference.

Phil, we did not know that, just after we arrived at the Capitol, there was a taxi strike. That is why you were having difficulty finding a cab. I hope your made it back OK. It affected us too, with slippages in our meeting schedule at the Senate; and, it turns-out that the weather in San Diego went down the tubes and I ended up with a real late arrival.

Other meeting reports to follow.
JAC

John A
Canton/ElecTec/Teledyne
05/22/2008 09:04 AM

To [redacted]@teledyne.com
cc [redacted]@teledyne.com,
[redacted]@teledyne.com, [redacted]@teledyne.com,
"Brett Hush" <[redacted]@Teledyne.com>,
bcc
Subject DC. Prelim Trip report

1. C-40: PMA 207 is moving out nicely but they still haven't received confirmation that the funding has been reprogrammed into the C-40 line. Kevin Miller will try to make contact with his budget contact in the Pentagon to ensure the $1M has been transferred.

I am working closely with Bill Fleming, the lead for this project, about just what we will be providing. He is slowly coming up-to-speed on MFOQA and the situation at PMA-209. He now understands that they have "an agenda" will not be his friend in this effort. He does not intend to describe our program in terms of "providing MFOQA" but that it is intended to equip the aircraft to acquire the data necessary for MFOQA. What we do in terms of MFOQA analysis we will provide as engineering services in support of the equipment installation. Bill is arranging a technical discussion between his group and Jody Thursday morning. They will likely access Wiley Labs for a PO.

2. Leg. Action: breakfast with Todd Tihrt. We are very well placed with Todd. I was able to sit next to him and continue to build up our profile with he and his staff. He confirmed that he will visit our Wichita office during Aug. He is solidly behind a legislative initiative to make sure Boeing obtains a tanker contract. In fact, he expressed amazment at some of the things that have gone on in the AF about the selection decision.

C-130: Tihrt's staff are proceeding with support of our request for another plus-up for the C-130 for '09. Kevin will schedule another discussion with the CO of PMA 207 to discuss implementation strategy. I have asked him to stress the carry-over nature of our C-40 effort; that the infrastructure set in-place would also support other aircraft 207 is responsibile for.

3. FAMS: we are stil in limbo. Gfter my conversation with Todd Trafford last Friday and his request that I call and see him this week, we have another void. We were supposed to meet at noon today but that is becoming doubtful. Carolyn Hanna has also not received any word.

4. E-6B: Jim Land is in Wichita for the Red Team review. I spoke with Scott Frisell (Boeing Bus Dev) about competition and communicated the belief that Smiths may be trying to make a run at this. Scott said Boeing has communicated to NAVAIR about the RFP statement that the OEM would have to be contacted for technical data: that they have not been contacted by anyone and, indeed, there is proprietary data that would have to be transferred. NAVAIR has not yet responded. We also discussed how to find an appropriate way to communicate the fact that our proposal is based on firm, technical data and any other proposal would be based largely on speculation.

John Canton
Director of Business Development
Government Programs &
Legislative Affairs

(310) 765-[redacted]
(310)765-3604 fax
[redacted] cell

Destination Control Statement (DCS)
These commodities, technologies, and/or software are exported from the United States in accordance with the US Export Administration Regulations. Diversion contrary to U.S. law is prohibited. U.S. law prohibits disposition of these commodities to any end user for any end use related to the design, development,

cc

Subject Fw: KC-X Another Congressional Hearing

Kevin, please confer internally (perhaps Briggs, Brian, Rich, etc).

I would like to know what PMA thinks of the subcommittee's "open session" including the composition of the subcommittee. Is Tihrt and the Wash. State, St. Louis delegations involved?

During the Murtha fundraiser and our breakfast with Tihrt, both expressed firm committment to award to a US company.

JAC

---- Forwarded by John A Canton/ElecTec/Teledyne on 07/03/2008 01:18 PM ----

"Stanton, Joe"
<[redacted]@tbe.com>
07/03/2008 11:41 AM

To <[redacted]@teledyne.com>
cc
Subject KC-X Another Congressional Hearing

John,
The list of hearings on the KC-X tanker program continues to increase. The House Armed Services Air and Land Forces subcommittee announced plans yesterday to convene an open session on July 10th to discuss the tanker program. The Pentagon Acquisition Chief John Young, Air Force Acquisition executive Sue Payton, GAO Counsel Gary Kepplinger, and GAO procurement law expert Michael Golden are expected to testify. Congressional lawmakers intend to monitor developments more closely on how to proceed with the program. That should add a little more molasses to the procurement process.
Joe

John A
Canton/ElecTec/Teledyne
07/29/2008 01:13 PM

To "Kevin Miller" <[redacted]@thepmagroup.com>
cc
bcc
Subject Re: 08 events

Perfect, Kevin, can you provide one other set of info.

The names of Roberts and Tiahrt's staffers we briefed.o 14 Feb.

Many thanks,
John

"Kevin Miller" <[redacted]@thepmagroup.com>

"Kevin Miller"
<[redacted]@thepmagroup .com>

07/29/2008 01:05 PM

To <[redacted]@teledyne.com>
cc
Subject 08 events

John, we briefed Tiahrt and Roberts' staffs 14 Feb.

You and I also attended a Tiahrt event that morning: I went on the PMA PAC.

I attended a Tiahrt event 13 March on the PMA PAC – don't think you did, despite the fact that we had a meeting at Pax that morning. I may have attended one 14 May…check your records for that one because I can't find it.

The San Diego event was 27 March at the Hotel del.

Think that's it…hope it helps.

San Diego skyline still intact.
Kevin

EXHIBIT 7

Brian A Levan/Headquarters/Teledyne
04/13/2007 11:43 AM

To John T Kuelbs/[redacted]@Teledyne, Dale A Schnittjer/[redacted]@Teledyne, [redacted]@tbe.com, Robyn E
cc
bcc
Subject Fw: PAC contribution request

All,

Attached is a Controls request for a $1,000 TDY PAC check to Cong. Tiahrt.

The TDY PAC gave $2,000 in 2004 to Cong. Tiahrt.

Let me know if you object.

Brian Levan
805-373-[redacted]

---- Forwarded by Brian A Levan/Headquarters/Teledyne on 04/13/2007 11:40 AM ----

John A Canton/ElecTec/Teledyne
04/03/2007 12:55 PM

To Brian A Levan/[redacted]@Teledyne
cc [redacted]@teledyne.com, "Brett Hush" <[redacted]@Teledyne.com>
Subject PAC contribution request

Hi Brian,

Hope your move to the valley went well; the parking lot sure has a lot of empty spaces now.

Here's a PAC request for Cong. Tiahrt. We have an office in his district, Wichita, and he is interested in supporting our effort to upgrade the Navy C-130s' flight data acquisition systems.

The fundraiser has already been held and I couldn't attend but promised I would submit a fundraiser request.

TT Steak Out 3.28.07.pdf

PMA email of Tiahrt PAC request.doc

Tiahrt PAC request.doc

Any questions, please call any time.

John Canton
Director of Business Development
Government Programs &
Legislative Affairs

(310) 442-[redacted]

TDY 11118

John A
Canton/ElecTec/Teledyne
02/04/2008 06:42 PM

To Brian A Levan/[redacted]@Teledyne
cc [redacted]@teledyne.com, [redacted]@teledyne.com, [redacted]@teledyne.com, "Brett Hush" <[redacted]@Teledyne.com>
bcc
Subject Tiahrt fundraiser

Hi Brian,

Attached is a contribution request for Cong. Tiahrt. for a fundraiser next Thurs, 14 Feb. I have asked Phil Benedict, office manager of our Wichita office, to join me for the event since the office falls into Tiahrt's constituency.

The justification is identical to the previous PAC contribution we made last December: it is a request for follow-on funding to the $1M plus-up he provided to our project for FY-08. As you know, plus-ups are under seige but his staff feels strongly that this program makes a great deal of sense.

Tiahrt PAC request 2.4.08.doc

Hope you are doing well. Any questions, don't hesitate to call.

Best regards,
John

TDY 09775

09-9012_23

Request for TDY-PAC Contribution

Requestor: _____John Canton_____

Company: _____Teledyne Controls_____

For contributions from the TDY PAC, the following should be provided:

1. **Candidate Name:**_____**Todd Tiahrt**_____
2. **Political Party:**_____**Republican**_____
3. **Current Office Held:**_____**Rep. US Congress**_____

   Candidate Address:___ 2250 N. Rock Road #118A
   Wichita, KS 67226____
4. **Purpose of Disbursement(*):**__**fundraiser for next election**
5. **Indicate if for Primary, General or Other (describe): General**
6. **Indicate date of election**_____**2008**_
7. **Date of Disbursement:** _____**7 Feb. 2008** _____

   Check Payable to: ____ Kansans for Tiahrt
   2250 N. Rock Road #118A
   Wichita, KS 67226_____
8. **Amount of Disbursement:** _____**$1,000**___
9. **Provide an ID or FEC # for the Candidate:**___**FEC: C00295592**
10. **Telephone Number of Candidate:** _ 202-215-9383 ____
11. **Indicate who should receive the signed check and by what date:**

    _____**mail to above address: by 7 Feb. 2008**
12. **Indicate if a late contribution report is necessary**__**no**__

    <u>If necessary, provide the appropriate form to report the contribution.</u>

- Provide any and all literature or fund-raising request information from the candidate

C:\DOCUME~1\BWORTH~1\LOCALS~1\Temp\notes4B1C36\Tiahrt PAC request 2.4.08.doc 08/05/09 12:44 PM

Request for TDY-PAC Contribution

Candidate Name:____Todd Tiahrt_____

Indicate why supporting the candidate is consistent with the mission of TDY-PAC

In what capacity does the candidate serve in their political role (as a committee member/approprations function etc?)?
Ranking Member of the House Appropriations Defense subcommittee

How important is the candidate's sponsorship any programs we are involved in?
Very important for the success for our system to be qualified on board Navy C-130 H and J aircraft.

How big are the programs, if any, the candidate supports?
Our request is that he support a program anticipated to be in the $5M range.

Who is the competition for the programs?
Smiths Aerospace, Honeywell, L-3

What dollar revenue does the program bring to Teledyne Technologies
Approx. $3M for the C-130T model, with potential to rise considerably with application to the "J" model.

Is the candidate in a position to lawfully influence the funding or the ultimate awardee/recipient of the government?
Yes, as the ranking Republican on the Defense Appropriations Defense Subcommittee, he can lawfully exert a great deal of influence in this area.

Has TDY interacted with the candidate in the past?
-Yes, we have briefed his Legislative Staff on the Navy/USMC unfunded requirement for a new C-130 flight data acquisition system.
-Cong. Tiahrt supported our FY-08 plus-up request and was successful in obtaining a $1M earmark for the C-130 AHMS. We intend to request production funding for FY-09.

Any other information that is relevant.
The NAVAIR program manager, was pleased with the news of the 08 earmark and is supportive of continued future funding for the production program.

Richardson, Jim
From: Richardson, Jim
Sent: Monday, March 17, 2008 5:58 PM
To: 'Wyman, Jill'; 'Thomas Bezas'
Subject: financial plan and earmark request form...

Attachments: recipient request certification form.doc

5

Tom and Jill – because your requests would be classified as earmarks – I need you to filled-out this form with an attached financial plan. The financial plans do not have to be extensive, but must include anticipated sources of the funding for the duration of the project; percent and source of required matching fund; and justification for use of federal taxpayer dollars. Please include who and what percentage would be receiving funding from this request. Both the form and financial plans need to be e-mail to me. I need this by COB tomorrow. Sorry for the late notice. Please let me know if you have any questions. – Jim

James L. Richardson
Defense Appropriations Aide
Office of Congressman Todd Tiahrt
Phone: 202.225.6216 Fax: 202.225.3489

recipient request certificatio...

Congressman Todd Tiahrt Defense Appropriations Form
Staff Contact: Jim Richardson | 202.225.6216 | Jim.Richardson@ mail.house.gov
**** ALL REQUESTS DUE MARCH 1st ****

General Information

Name, Short Description of Project:

Benefit to DoD: (250 characters or less):

Support PM/Agency Name and Contact: _____

Amount/Language Requested: _____ Minimum Funding Needed to Execute: _____

Name of Intended Recipient: _____

Physical Address of Recipient (KS, if possible): _____

POC at Recipient (Name, Ph #, E-mail): _____

Government Affairs Representative (if applicable)

Name: _____ Phone: _____

E-mail Address: _____

Project Information

Appropriations Account: _____ Budget Line Detail (PE/R-1/P-1): _____

Has this project been authorized, if yes, please describe: _____

Other Congressional Offices approached with request: _____

Previous Years Funding: FY09: _____ FY08: _____ FY07: _____ Previous: _____

Kansas Connection

Kansas Benefit/Connection (include work percentage for various partners, if applicable): _____

_____

Total % of work in Kansas: _____

Number of Kansas employees (if applicable): _____

Number of Kansans directly affected by request (if applicable): _____

Request for TDY-PAC Contribution

Requestor: _____John Canton_____

Company: _____Teledyne Controls_____

For contributions from the TDY PAC, the following should be provided:

1. **Candidate Name:_____Todd Tiahrt_____**
2. **Political Party:_____Republican_____**
3. **Current Office Held:_____Rep. US Congress_____**
4. **Candidate Address:___P.O. Box 29576, Wash DC 20017____**
5. **Purpose of Disbursement(*):__fundraiser for next election**
6. **Indicate if for Primary, General or Other (describe): Primary**
7. **Indicate date of election_____2008_**
8. **Date of Disbursement: _____28 March _____**
9. **Check Payable to: ____ Tiahrt for Congress_____**
10. **Amount of Disbursement: _____$1,000___**
11. **Provide an ID or FEC # for the Candidate:___FEC: C00295592**
12. **Telephone Number of Candidate: _202 526-1845____**
13. **Indicate who should receive the signed check and by what date:**
    _____mail to above post office address: by 6 April
14. **Indicate if a late contribution report is necessary__no__**
    If necessary, provide the appropriate form to report the contribution.

- Provide any and all literature or fund-raising request information from the candidate

C:\DOCUME~1\BWORTH~1\LOCALS~1\Temp\notes4B1C36\Tiahrt PAC request.doc 08/07/09 2:14 PM

Request for TDY-PAC Contribution

Candidate Name:____Todd Tiahrt_____

Indicate why supporting the candidate is consistent with the mission of TDY-PAC

In what capacity does the candidate serve in their political role (as a committee member/approprations function etc?)?
Ranking Member of the House Appropriations Defense subcommittee

How important is the candidate's sponsorship any programs we are involved in?
Very important for the success for our system to be qualified on board Navy C-130 H and J aircraft.

How big are the programs, if any, the candidate supports?
Our request is that he support a program anticipated to be in the $5M range.

Who is the competition for the programs?
Smiths Aerospace, Honeywell, L-3

What dollar revenue does the program bring to Teledyne Technologies
Approx. $3M to start, with potential to rise

Is the candidate in a position to lawfully influence the funding or the ultimate awardee/recipient of the government?
Yes, as the ranking Republican on the Defense Appropriations Defense Subcommittee, he can lawfully exert a great deal of influence in this area.

Has TDY interacted with the candidate in the past?
Yes, we have briefed his Legislative Staff on the Navy/USMC unfunded requirement for a new C-130 flight data acquisition system.

Any other information that is relevant.

C:\DOCUME~1\BWORTH~1\LOCALS~1\Temp\notes4B1C36\Tiahrt PAC request.doc 08/07/09 2:14 PM

Jim Richardson, his senior legislative staffer has already confirmed the requirement with the NAVAIR program manager and has expressed Cong. Tiahrt's intention to support our position.

C:\DOCUME~1\BWORTH~1\LOCALS~1\Temp\notes4B1C36\Tiahrt PAC request.doc 08/07/09 2:14 PM

APPENDIX F:
REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE PETER VISCLOSKY (Review No. 09-4486)

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 09-4486

The Board of the Office of Congressional Ethics (hereafter "the Board"), by a vote of no less than four members, on November 20, 2009, adopted the following report and ordered it to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives.

SUBJECT: Representative Peter Visclosky

NATURE OF THE ALLEGED VIOLATION: In fiscal year 2009, Representative Peter Visclosky authored several earmarks for clients of PMA Group, Inc. (hereafter "PMA"). During campaign cycles 2008 and 2010, Representative Visclosky received contributions to his campaign committee and Leadership PAC from PMA's PAC, PMA employees, the PACs of PMA clients for whom he authored earmarks, and the employees of those clients. In March 2008, Representative Visclosky solicited PMA clients for campaign contributions and provided them with special access to him and his staff one week before authoring their earmarks.

If Representative Visclosky solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Visclosky may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 *(Gifts),* and House Rules and Standards of Conduct.

RECOMMENDATION: The Board of the Office of Congressional Ethics recommends that the Committee on Standards of Official Conduct further review the above allegations.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Leo Wise, Staff Director & Chief Counsel.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-4486

Table of Contents

I. INTRODUCTION 3

A. Summary of Allegations 3

B. Jurisdictional Statement 3

C. Procedural History 4

D. Summary of Investigative Activity 4

II. REPRESENTATIVE VISCLOSKY SOLICITED PMA CLIENTS FOR CAMPAIGN CONTRIBUTIONS AND PROVIDED THEM WITH SPECIAL ACCESS TO HIM AND HIS STAFF ONE WEEK BEFORE AUTHORING THEIR EARMARKS 8

A. Applicable Law, Rules, and Standards of Conduct 8

B. Representative Visclosky's Staff Instructed PMA Clients to Submit Their Fiscal Year 2009 Earmark Requests to His Office by February 15, 2008 11

C. Representative Visclosky's Campaign Solicited PMA Clients for Campaign Contributions on February 27, 2008 13

D. Representative Visclosky Hosted a Fundraiser Specifically for PMA Clients and Other Defense Contractors Requesting Earmarks on March 12, 2008 15

E. Representative Visclosky Requested Earmarks for PMA Clients on March 19, 2008 16

F. PMA Clients' Perceptions of Link Between Campaign Contributions and Earmark Requests 18

III. CONCLUSION 21

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS 22

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-4486

On November 20, 2009, the Board of the Office of Congressional Ethics ("Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination of whether or not a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. There is probable cause to believe that Representative Visclosky solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act. Because Representative Visclosky, his former Chief of Staff, and his former Appropriations Director, have declined to interview with the OCE, and because the OCE cannot compel their cooperation, the OCE is unable to determine whether there is a substantial reason to believe these allegations.[1]

B. Jurisdictional Statement

2. The allegations that were the subject of this review concern Representative Visclosky, a Member of the United State House of Representatives from the 1st District of Indiana. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter "OCE") directs that, "[n]o review shall be undertaken . . . by the board of any alleged violation that occurred before the date of adoption of this resolution." The House adopted this Resolution on March 11, 2008. Because the

[1] As per Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009), "in the event the Office is unable to obtain information necessary to reach that determination [that there is substantial reason to believe the allegations], but the Board does determine there is *probable cause* to believe the allegations, the Board may refer the matter to the Standards Committee for further review." *See also* H. Res 895, 110th Cong. §1(c)(2)(B) (2008) (as amended).

conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

C. Procedural History

3. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 6, 2009. The preliminary review commenced on that date.[2] The preliminary review was scheduled to end on August 5, 2009.

4. At least three members of the Board voted to initiate a second phase review in this matter on August 5, 2009. The second phase review commenced on August 6, 2009.[3] The second-phase review was scheduled to end on September 20, 2009.

5. The Board voted to extend the 45-day second phase review by an additional 14 days on September 17, 2009, as provided for under H. Res 895. Following the extension, the second-phase review was scheduled to end on October 5, 2009.[4]

6. The Board voted to refer the matter to the Committee on Standards of Official Conduct for further review and adopted these findings on November 20, 2009.

7. This report and findings in this matter were transmitted to the Committee on Standards of Official Conduct on December 2, 2009.

D. Summary of Investigative Activity

8. Due to the nature of the allegations in this review, the OCE's investigation required the collection of information from a number of sources.

9. The OCE reviewed publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense (hereafter "Defense Subcommittee") from recipients of earmarks during the 2008 and 2010 campaign cycles. The review included campaign contributions to the leadership political action committees (hereafter "PACs"), if any, of these Members.

---

[2] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is "received" by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (hereafter "the Resolution'), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[3] According to the Resolution, the Board must vote on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase begins when the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

[4] *Id.* at § 1(c)(2)(A)(ii) (2008).

10. Specifically, the OCE reviewed campaign contributions to these Members from donors that were affiliated with the lobbying firm of Paul Magliocchetti and Associates Group, Inc. (hereafter "PMA"), *i.e.*, contributions from the PMA PAC, PMA employees, the PACs of corporate clients of PMA (hereafter "PMA clients") and employees of PMA clients.

11. The OCE also reviewed campaign contributions to Members of the Defense Subcommittee from PACs of non-PMA clients, and employees of non-PMA clients.

12. Beyond Members of the Defense Subcommittee, the investigation included a review of campaign contributions from PMA clients and non-PMA clients to Representatives who are not on the Defense Subcommittee, but authored defense earmarks PMA clients and non-PMA clients.

13. The OCE requested information from forty PMA clients that received earmarks from Members of the Defense Subcommittee for fiscal years 2008 to 2010.

14. All of the PMA clients that the OCE contacted cooperated with the investigation, except for two.

15. Aeroflex and Kimball and Associates are the only PMA client that refused to cooperate with the investigation.

16. Thirty-eight PMA clients and Representatives' offices produced documents totaling approximately 200,000 pages. These PMA clients also made witnesses available for interviews upon request of the OCE.

17. Based on the information discovered during the review of the produced documents, the OCE interviewed twenty-six individual PMA client witnesses.

18. In addition, the OCE interviewed six witnesses who were formerly employed as lobbyists with PMA during the 2008 and 2010 campaign cycles.

19. In sum, the OCE requested and received documentary, and in some cases testimonial, information from the following sources:

    (1) 21st Century Systems, Inc.;

    (2) AAR Composites;

    (3) Advanced Acoustic Concepts;

    (4) Advanced Concepts & Technologies Intl.;

    (5) Aircraft Interior Products;

    (6) Applied Global Technologies;

(7) Argon ST;

(8) Boeing Corporation;

(9) Carnegie Mellon University;

(10) Coda Octopus Group;

(11) Concurrent Technologies Corporation;

(12) Conemaugh Health Systems;

(13) Cryptek;

(14) DDL OMNI Engineering;

(15) DRS Technologies;

(16) EM Solutions;

(17) General Atomics;

(18) General Dynamics;

(19) Goodrich Corporation;

(20) Innovative Concepts, Inc.;

(21) ITT Corporation;

(22) Lockheed Martin Corporation;

(23) MobilVox;

(24) NuVant Systems, Inc.;

(25) Optimal Solutions & Technologies;

(26) Parametric Technology Corporation;

(27) Planning Systems Inc.;

(28) Profile Systems;

(29) Prologic, Inc.;

(30) QTL Biosystems;

(31) RaySat Antenna Systems;

(32) Rockwell Collins;

(33) Samueli Institute;

(34) Sierra Nevada Corporation;

(35) Teledyne Continental Motors, Inc.;

(36) Teledyne Controls;

(37) Windber Research Institute;

(38) Xunlight Corporation;

(39) Vice President, 21st Century Systems, Inc.;

(40) Chief Administrative Officer, 21st Century Systems, Inc.;

(41) Vice President for Communications, 21st Century Systems, Inc.;

(42) PAC Treasurer, 21st Century Systems, Inc.;

(43) General Manager, AAR Composites;

(44) Chief Operating Officer, AAR Composites;

(45) Chief Executive Officer, Applied Global Technologies;

(46) Vice President, Applied Global Technologies;

(47) PAC Treasurer, DRS Technologies;

(48) President, DRS Technologies;

(49) Chief Operating Officers, Optimal Solutions & Technologies;

(50) Chief Executive Officer, Optimal Solutions & Technologies;

(51) Director, Optimal Solutions & Technologies;

(52) CEO, Samueli Institute;

(53) Vice President, Sierra Nevada Corporation;

(54) Congressional Affairs Director, Sierra Nevada Corporation;

(55) Assistant to Business Development Director, Teledyne Continental Motors, Inc.;

(56) Business Development Director, Teledyne Continental Motors, Inc.;

(57) PAC Treasurer, Teledyne Controls;

(58) General Manager, Teledyne Controls;

(59) Vice President, Teledyne Controls;

(60) Director of Contracts, Teledyne Controls;

(61) Contract Administrator, Teledyne Controls;

(62) Legislative Affairs Director, Teledyne Controls;

(63) Associate General Counsel, Teledyne Controls;

(64) President, Teledyne Controls;

(65) PMA Lobbyist 1;

(66) PMA Lobbyist 2;

(67) PMA Lobbyist 3;

(68) PMA Lobbyist 4;

(69) PMA Lobbyist 5; and

(70) PMA Lobbyist 6;

II. REPRESENTATIVE VISCLOSKY SOLICITED PMA CLIENTS FOR CAMPAIGN CONTRIBUTIONS AND PROVIDED THEM WITH SPECIAL ACCESS TO HIM AND HIS STAFF ONE WEEK BEFORE AUTHORING THEIR EARMARKS

A. Applicable Law, Rules, and Standards of Conduct

20. *18 U.S.C. § 201(b) - Bribery of public officials and witnesses*

"(b) Whoever-

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act . . . ."

21. *18 U.S.C.A. § 201(c) - Illegal Gratuities*

"(c) Whoever-

(1) otherwise than as provided by law for the proper discharge of official duty—

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person . . . ."

22. *"An illegal gratuity . . . may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken."*[5]

23. *House Rules and Standards of Conduct*

[5] House Ethics Manual (2008) at 79. *See also United States v. Sun-Diamond Growers*, 526 U.S. 398, 404 (1999).

"[T]he scope of the House standards of conduct in this area is broader than that of the criminal bribery statute . . . the House standards of conduct generally preclude any link between the solicitation or receipt of a contribution and a specific official action."[6]

"Put another way, there are fundraising activities that do not violate any criminal statute but well may violate House standards of conduct."[7]

"[T]here are certain proffered campaign contributions that must be declined, and certain fundraising opportunities that must be forgone, solely because they create an appearance of improper conduct."[8]

"[N]o solicitation of a campaign or political contribution may be linked to an action taken or to be taken by a Member or employee in his or her official capacity."[9] *In addition, a Member may not accept any contribution that is linked with any specific official action taken or to be taken by that Member."*[10]

"It is probably not wrong for the campaign managers of a legislator . . . to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff as the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. The Standards Committee has long advised Members and staff that they should always exercise caution to avoid even the appearance that solicitations of campaign contributions are connected in any way with an action taken or to be taken in their official capacity."[11]

"[A] Member should not sponsor or participate in any solicitation that offers donors any special access to the Member in the Member's official capacity."[12]

"[G]overnment officials should 'never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not."[13]

---

[6] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay ("DeLay Report"). Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[7] *Id.*
[8] *Id.*
[9] House Ethics Manual (2008) at 147.
[10] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18 ("Ethics Committee DeLay Report").
[11] *Id.*
[12] *Id.*
[13] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 5).

"'[P]ublic office is a public trust,' and the public has a right to expect House Members and staff to exercise impartial judgment in performing their duties."[14]

24. *5 U.S.C. § 7353 – Gifts to Federal Employees*

"(a) Except as permitted by subsection (b), no Member of Congress...shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with . . . the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules and regulations established by such individual's supervising ethics office pursuant to paragraph (1)

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of an official act."

25. *House Ethics Manual – Soliciting Campaign and Political Contributions*

While the federal gift statute (5 U.S.C. § 7353) broadly restricts the ability of

House Members and staff to solicit things of value from virtually anyone, even when no personal benefit to the solicitor is involved, legislative materials concerning the statute state that it does not apply to the solicitation of political contributions. Consistent with those materials, the Standards Committee has long taken the position that the restrictions on solicitation set forth in that statute do not apply to political solicitations. However, in soliciting campaign or political contributions, Members and staff are subject to a number of other restrictions, as follows.

A Contribution linked to an Official Action May Not Be Accepted

. . . no solicitation of a campaign or political contribution may be linked to any action taken or to be taken by a Member or employee in his or her official capacity.

[14] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 10).

In a similar vein, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. In this respect, a campaign or political contribution is treated like any other gift, and acceptance of a contribution in these circumstances may implicate a provision of the federal gift statute (5 U.S.C. § 7353) or the criminal statutes on bribery and illegal gratuities.

B. Representative Visclosky's Staff Instructed PMA Clients to Submit Their Fiscal Year 2009 Earmark Requests to His Office by February 15, 2008

26. Representative Visclosky is a member of the House Appropriations Subcommittee on Defense.

27. On January 15, 2008,[15] Representative Visclosky's Appropriations Director sent an email to companies that had previously contacted the office regarding defense appropriations requests.[16]

28. The email notified the recipients that any defense appropriations requests must be submitted to Representative Visclosky's office by February 15, 2008.

[15] The Board recognizes that this email is dated prior to March 11, 2008. Nevertheless, this event is within the OCE's jurisdiction because it is directly related to Representative Visclosky's earmark requests that he submitted on March 19, 2008.

[16] Email from Shari Davenport to undisclosed recipients, dated January 15, 2008 (Exhibit 1 at 09-4486-2).

29. Recipients of the email included PMA, which in turn forwarded the email to its clients.[17]

From: "Brian Morgan" <[redacted]@thepmagroup.com>
To: "Virgil McCaleb" <[redacted]@act-i.com>; "Niggel, Michael A CTR OUSD (AT&L) JSF" <[redacted]@jsf.mil>
Sent: Tuesday, January 15, 2008 11:41 AM
Attach: FY09 Visclosky Defense Form.doc
Subject: FW: Rep. Visclosky Defense Appropriations Requests

Mike,

Mags will be setting up mtg dates w/ Shari soon

From: Mark Magliocchetti
Sent: Tuesday, January 15, 2008 10:28 AM
To: THEPMAGROUP2K
Subject: FW: Rep. Visclosky Defense Appropriations Requests

From: Davenport, Shari Taylor [mailto:Shari.Davenport@mail.house.gov]
Sent: Tuesday, January 15, 2008 10:25 AM
To: Davenport, Shari Taylor
Subject: Defense Appropriations Requests

You are receiving this email because you have previously contacted Congressman Visclosky's office regarding a Defense Appropriations request. The purpose of this email is to inform you about the process to submit a request for FY 2009. If you intend to submit a project for the Congressman's consideration, please provide to the following information by **February 15th**:

- Letter from the requesting entity to the Congressman about their project request (must include contact information)
- Completed form (attached) or HAC-D
- Detailed background materials

You are also encouraged to contact the office to personally discuss your request. Please note there is a different process for non-defense appropriations projects. Should you have any questions please feel free to contact me.

Thank you for your interest. –Shari

<<FY09 Visclosky Defense Form.doc>>

Shari Taylor Davenport

Appropriations Director

Office of Congressman Peter Visclosky

2256 Rayburn, Washington, DC 20515

---

[17] *Id.*

C. Representative Visclosky's Campaign Solicited PMA Clients for Campaign Contributions on February 27, 2008

30. On February 27, 2008,[18] Representative Visclosky's campaign manager sent a campaign contribution solicitation to a select group of entities. These entities were those "requesting support from Rep. Visclosky on a Defense issue."[19]

31. PMA and PMA clients received this campaign contribution solicitation.

[18] The Board recognizes that this solicitation was sent prior to March 11, 2008. Nevertheless, this event is within the OCE's jurisdiction because it is directly related to Representative Visclosky's campaign fundraiser that he held on March 12, 2008.

[19] Email from Brian Morgan to Mike Niggel, dated February 27, 2008 (Exhibit 2 at 09-4486-6).

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

32. The solicitation invited donors to attend a dinner in honor of Representative Visclosky at a restaurant in Washington, DC, on March 12, 2008.

From: "Brian Morgan" <[redacted]@thepmagroup.com>
To: "Mike Niggel" <[redacted]@act-i.com>
Sent: Wednesday, February 27, 2008 7:55 PM
Attach: 2008_3_12_ Fundraiser Invitation.doc
Subject: FW: Congressman Pete Visclosky Dinner

-----Original Message-----
From: Mark Magliocchetti
Sent: Wednesday, February 27, 2008 12:39 PM
To: THEPMAGROUP2K
Subject: Fw: Congressman Pete Visclosky Dinner

-----Original Message-----
From: Mark Magliocchetti
Sent: Wednesday, February 27, 2008 12:39 PM
To: THEPMAGROUP2K
Subject: Fw: Congressman Pete Visclosky Dinner

Fyi - This invite went out to client representatives requesting support from Rep. Visclosky on a Defense issue.

----- Original Message -----
From: Cindy Wagner <[redacted]@visclosky forcongress.us>
To: [redacted]@visclosky forcongress.us <[redacted]@visclosky forcongress.us>
Sent: Wed Feb 27 11:40:53 2008
Subject: Congressman Pete Visclosky Dinner

Good afternoon.

I am pleased to invite you to a dinner in honor of Congressman Pete Visclosky on Wednesday, March 12th. Attached please find the invitation listing the event details. I ask that you kindly RSVP to me at your earliest convenience, and please do not hesitate to contact me with any questions.

Regards,

Cindy Wagner

Campaign Manager
219-736-[redacted] office
[redacted] cell
cindy.wagner@visclosky forcongress.us

PLEASE JOIN
FOR A DINNER IN HONOR OF

CONGRESSMAN PETER J. VISCLOSKY
D- IN, 1ST District
COMMITTEE ON APPROPRIATIONS
CHAIRMAN, ENERGY AND WATER SUBCOMMITTEE
DEFENSE SUBCOMMITTEE

WEDNESDAY, MARCH 12TH

6:30 P.M.

Bobby Van's Grill
1201 New York Avenue, NW
Washington, DC 20005

Please RSVP to Cindy Wagner
219-736-[redacted]
[redacted]@visclosky forcongress.us

Please make checks payable to "Visclosky for Congress" C00166504

Authorized and paid for by Visclosky for Congress

Contributions are not deductible for federal income tax purposes. Corporate contributions and donations from foreign nationals are prohibited. Federal law requires the campaign to report the full name, address, occupation & employer for each individual whose contributions aggregate in excess of $200 in an election cycle. Federal Campaign Law permits personal contributions up to $2,300 per election and $4,600 per two year election cycle.

D. Representative Visclosky Hosted a Fundraiser Specifically for PMA Clients and Other Defense Contractors Requesting Earmarks on March 12, 2008

33. On March 12, 2008, Representative Visclosky's campaign hosted the dinner in his honor.

34. The Board notes that Mark Magliocchetti, in his February 26, 2008 email to "THEPMAGROUP2K", states that the March 12th event is for "Defense" and that another Visclosky event will be held on April 16th for "E&W".[20] The Board infers that "E&W" refers to the Energy and Water Subcommittee of the House Appropriations Committee. Representative Visclosky is the chairman of this subcommittee and requests earmarks in the appropriations bill reported by the subcommittee.

From: "Mike Niggel" <[redacted]@act-i.com>
To: "Brian Morgan" <[redacted]@thepmagroup.com>
Sent: Tuesday, February 26, 2008 5:30 PM
Subject: RE: Rep. Visclosky Event

Thanks, I wait for flyer to send to my folks

From: Brian Morgan [mailto:[redacted]@thepmagroup.com]
Sent: Tuesday, February 26, 2008 4:15 PM
To: Mike Niggel
Subject: FW: Rep. Visclosky Event

From: Mark Magliocchetti
Sent: Tuesday, February 26, 2008 11:27 AM
To: THEPMAGROUP2K
Subject: Rep. Visclosky Event

The invites for the event should be sent out this week. As an FYI, the March 12 (Defense) event will be at 6:30 PM @ Bobby Van's Grille and the April 16 (E&W) event will be at Johnny's Half Shell @ 6:30 PM.

Mark Magliocchetti
The PMA Group
2345 Crystal Drive
Suite 300
Arlington, VA 22202

Phone (703) 415-[redacted]
Fax (703) 415-0182

35. Representative Visclosky had a similar dinner in March 2007.[21] A PMA client that attended the dinner in 2007 commented that the CEO of the defense contractor "was given the 'honorary' seat at the head table sitting directly adjacent to Representative

[20] Email from Mike Niggel to Brian Morgan, dated February 26, 2008 (Exhibit 3 at 09-4486-9).
[21] The Board recognizes that this dinner occurred prior to March 11, 2008. Nevertheless, this is relevant because it explains what was expected to occur at the March 2008 fundraiser.

Visclosky and thus given the opportunity to talk about a variety of [the company's] ongoing and proposed projects."[22]

36. The PMA client further explains to the company's employees that "this opportunity to spend more than 2 hours with the congressman and his staff (both chief of staff and defense aid) would not have been possible without your generous contributions to the member and the company's PAC."[23]

From: Bill Berl [[redacted]@21csi.com]
Sent: Thursday, March 29, 2007 9:26 AM
To: 'Bob Wichlinski'; 'Roger Meisinger'; 'Seth A Stennett'; 'Adolf Neumann'; 'Jeffrey D. Hicks'; 'Jeffrey Clark'; 'Ramón C. Montelongo, LOGCOP Program Manager'; 'Terry Schaefer'; Warren.Noll@21csi.com; steve.morse@21csi.com; 'Kevin Blenkhorn'; 'James (Kimo) Scott'; 'Mike Luginbuhl'; 'John M. Scorsine, Esq.'; 'Matt Stebbins'; 'David Andersen'; 'Dr. Plamen V. Petrov'; 'Mark Wootten'; 'Larry Jackson'
Cc: 'Bill Berl'
Subject: 21CSI PAC & Rep. Visclosky Fundraiser

Attachments: image001.jpg
All,
Last night, Jeff Hicks and I attended a dinner in support of Rep. Pete Visclosky (D-IN) who represents the district that includes our Crown Point office. Jeff was given the "honorary" seat at the head table sitting directly adjacent to Mr. Visclosky and thus was given the opportunity to talk about a variety of our ongoing and proposed projects to include MCOTTS, SubTAM, Intelligent Distributed Command and Control (IDC2), and TRACS. This opportunity to spend more than 2 hours with the congressman and his staff (both chief of staff and defense aide) would not have been possible without your generous contributions to the member and the company's PAC. I appreciate your willingness to participate in this process and to step up financially especially under such short notice. I believe your leadership in this matter will help tremendously as we continue to market the company and its technology to senior decision makers throughout the government. Please contact Jeff or me should you have any questions about the event or our intended follow on interactions with the congressman.

Bob W. – the congressman spoke very highly of you and your wide ranging efforts to improve the economic vitality in the region. Keep it up.

Bill Berl
Treasurer
21CSI PAC

E. Representative Visclosky Requested Earmarks for PMA Clients on March 19, 2008

37. In March 2008, Representative Visclosky's campaign and Leadership PAC received campaign contributions totaling approximately $35,300 from PMA clients. This includes contributions from the PAC of PMA clients and from employees of PMA clients. The contributions were from 21st Century Systems, Inc. ($18,500); Advanced Concepts & Technologies Intl. ($7,000); Planning Systems, Inc. ($7,800); and Sierra Nevada Corporation ($2,000).[24]

[22] Email from PAC Treasurer, 21st Century Systems, Inc., to Bob Wichlinski, *et al.*, dated February 26, 2008 (Exhibit 4 at 09-4486-11).
[23] *Id.*
[24] The contribution amounts are derived from the reports that Visclosky for Congress and Calumet PAC filed with the Federal Election Commission.

38. During the same month, Representative Visclosky's campaign and Leadership PAC received campaign contributions totaling $12,000 from PMA's PAC and the company's employees.

39. On March 19, 2008, Representative Visclosky requested earmarks for six PMA clients in letters to Representative David Obey, Chairman, and Representative Jerry Lewis, Ranking Member, of the House Committee on Appropriations.[25]

PETER J. VISCLOSKY
1ST DISTRICT, INDIANA

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON DEFENSE
ENERGY AND WATER DEVELOPMENT
FINANCIAL SERVICES

CONGRESSIONAL STEEL CAUCUS
CHAIRMAN

U.S. HOUSE LAW ENFORCEMENT CAUCUS

Congress of the United States
House of Representatives
Washington, DC 20515-1401

March 19, 2008

The Honorable David Obey, Chairman
The Honorable Jerry Lewis, Ranking Member
Committee on Appropriations
H-218-The Capitol
Washington, D.C. 20515

Dear Chairman Obey and Ranking Member Lewis:

I am requesting funding for a **Photo Catalytic Oxidation (PCO) Demonstration for Water Reuse** in fiscal year 2009. The entity to receive funding for this project is **Advanced Concepts and Technologies International (ACT-I)**, located at:

ACT-I
9800 Connecticut Drive
Crown Point, Indiana 46410

The funding for this project will be used to develop a **prototype that will remove contaminants from drinking water through photo catalytic technology**.

. I certify that neither I nor my spouse has any financial interest in this project.

Sincerely,

Peter J. Visclosky
Member of Congress

40. The requested earmarks totaled $14,400,000, and were allocated as follows:

(a) 21st Century Systems, Inc., $2,400,000;

(b) Advanced Concepts & Technologies Intl., $2,400,000;

(c) General Atomics, $2,400,000;

(d) NuVant Systems, Inc., $2,400,000;

(e) Planning Systems Inc., $2,400,000; and

[25] For example, Letter from Representative Peter J. Visclosky to Representative David Obey, Chairman, and Representative Jerry Lewis, Ranking Member, of the House Committee on Appropriations, dated March 19, 2008 (Exhibit 5 at 09-4486-13).

(f) Profile Systems, $2,400,000.[26]

41. The Board notes that the evidence above is primarily relevant to the allegation that Representative Visclosky solicited or accepted contributions in a manner which gave the appearance that the contributions were linked to an official act. In addition, the evidence is relevant to the allegation that Representative Visclosky solicited or accepted contributions in exchange for or because of an official act *(i.e.,* the allegations concerning bribery and illegal gratuities). However, because the OCE was unable to interview Representative Visclosky and his staff, the evidence is incomplete as to whether he in fact solicited or accepted contributions in exchange for or because of the earmark requests. As explained in Part III, below, the Board finds that the available evidence establishes that there is probable cause to believe that Representative Visclosky solicited or accepted contributions in exchange for or because of an official act.

F. PMA Clients' Perceptions of Link Between Campaign Contributions and Earmark Requests

42. The OCE has acquired evidence that PMA clients seeking earmarks from Representative Visclosky linked contributions to his campaign to specific legislative acts.

43. However, whether these documents or the information in the documents was shared with Representative Visclosky because he declined to interview with the OCE.

[26] H.R. 2638, Pub. L. 110-329 (2009).

44. 21st Century Systems, Inc. created a table of "Proposed CY2008" campaign contributions, which indicates the proposed contribution that the PAC will make followed by the "possible program", which is an earmark that Representative Visclosky requested for fiscal year 2009.[27]

Proposed CY2008
Congressional Campaign Contributions

State/Member (Re-election Year)	*Contributions Made this Cycle**	*Proposed CY08 Contribution*	*Possible Programs*
[redacted]			
Indiana			
Visclosky**	-	4,600	IDC2
Visclosky PAC	-	5,000	IDC2

[27] 21st Century Systems, Inc. Proposed CY 2008 Congressional Campaign Contributions (Exhibit 6 at 09-4486-15).

45. The Vice President of another company justifies a $20,000 contribution to Representative Visclosky because "[w]e have gotten over 10M in adds from him."[28]

From: Dave Klingler
Sent: Friday, February 23, 2007 9:42 AM
To: John Campbell <[redacted]@JCampbellinc.com>
Subject: Re: Contributions requirement for remainder of CY07

That's what each of the companies working with PMA and Visclosky have been asked to contribute. He has been a good supporter of SNC. We have gotten over 10M in adds from him. Let me know if we need to discuss further.

----- Original Message -----
From: John Campbell [[redacted]@JCampbellinc.com]
Sent: 02/23/2007 04:17 AM
To: Dave Klingler
Cc: Renee Velasco; Chuck Litz
Subject: FW: Contributions requirement for remainder of CY07

Dave: Can you give me some justification for giving $20K to Visclosky?
John

46. The federal gift statute, 5 U.S.C. § 7353, prohibits the solicitation or acceptance of anything of value from a person seeking official action from or doing business with the House, or from someone whose interests may be substantially affected by the performance or nonperformance of a Member's, Officer's or staff member's official duties. The statute also provides that the Committee on Standards of Official Conduct may enact reasonable exceptions to the prohibition. According to the Ethics Manual, the Standards Committee has long taken the position that the restrictions on solicitation set forth in the statute do not apply to political solicitations. However, Members and staff are subject to a number of other restrictions regarding the solicitation of campaign or political contributions under the rules of the House.

[28] Email from Vice President, Sierra Nevada Corporation, to John Campbell, dated February 23, 2007 (Exhibit 7 at 09-4486-18). The Board recognizes that this email is dated prior to March 11, 2008. Nevertheless, this is instructive as to the state of mind of the PMA client when it contributed to Representative Visclosky in 2008 with a pending earmark request for fiscal year 2009.

47. Under House rules, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. If a donor's contribution is linked to any official action, it is treated like any other gift and may be subject as such to the federal gift statute and the criminal statutes on bribery and illegal gratuities.

48. The Board notes that the examples provided in the Ethics Manual of instances where a Member may be in violation of the House's rule against accepting a contribution linked to an official action are all instances in which the Member has some degree of knowledge of the link. As a result, it stands to reason that it is unlikely a violation of the rule could occur unless and until a Member is aware of the link and does nothing to remedy the situation.

49. The Board notes that because the OCE was unable to interview Representative Visclosky or his staff, the Board is unable to conclude whether the Member was aware or not that the donor linked the contribution to an official act.

III. CONCLUSION

50. According to the Committee on Standards of Official Conduct ("Standards Committee"), a "Member should not participate in a fundraising event that gives even the appearance that special treatment or special access to the Member in his or her official capacity is being provided to donors."[29]

51. Specifically, the Standards Committee has found that a Member's fundraising efforts warranted a letter of admonition because of factors including: (1) the "timing of the fundraiser" before pending legislation; (2) the "limited number of attendees" at the fundraiser; and (3) the "presence at the fundraiser of two key staff members from [The Member's office]".[30]

52. Based on the information available to the OCE, Representative Visclosky's actions in March 2008 were similar to those that the Ethics Committee admonished in the past because: (1) the timing of the fundraiser was one week before he took official action on behalf of the donors; (2) the attendees at the fundraiser were limited to defense contractors with pending earmark requests before the Representative Visclosky; and (3) Representative Visclosky's Chief of Staff and Appropriations Director attended the fundraiser.

[29] Ethics Committee DeLay Report at 15.
[30] *Id.*

53. Also, the documents the OCE obtained through its investigation show that PMA clients perceived a connection between appropriations requests and campaign contributions to Representative Visclosky. Without further information that can only be obtained through witness interviews with Representative Visclosky, the OCE cannot fully assess his role in or knowledge of what appears to be the linking of contributions to the receipt of earmarks.

54. The Board recognizes that it does not have all of the information necessary to make a determination of whether there is substantial reason to believe that a violation occurred because Representative Visclosky, his former Chief of Staff, and his former Appropriations Director, have declined to interview with the OCE.

55. However, the Board finds that there is probable cause to believe that Representative Visclosky solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act.

56. For these reasons, the Board recommends that the Standards Committee further review the above described allegations concerning Representative Visclosky.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS

57. In every instance the OCE asked the recipient of an OCE request for information to identify any information they withheld and the reason they were withholding it. However, absent the authority to subpoena the evidence in possession of the witness, it is impossible for the OCE to verify if information was withheld, but not documented.

58. In some instances documents were redacted or specific information was not provided. For instance, DRS Technologies provided evidence responsive to OCE's Request for Information but indicated they would not provide any information regarding their "Legislative Strategy."

59. In at least one instance, the OCE had reason to believe that a witness withheld information requested, but did not comply with the OCE's request that they identify what was being withheld. Specifically, Boeing Corporation represented that they had fully cooperated. However, Boeing Corporation indicated that they had no electronic mail responsive to OCE's Request for Information. The OCE then received, from another source, electronic mail to and from Boeing Corporation that were in fact responsive to OCE's request.

60. The Board also notes that while the OCE was able to interview six former employees of PMA that provided general information on PMA and its business practices, many remaining former employees refused to consent to interviews. In addition, the OCE was unable to obtain any evidence within PMA's possession.

61. Representative Visclosky declined to provide the OCE with an interview. Representative Visclosky produced documents in response to the OCE's request for information. However, the documents primarily consisted of earmark requests submitted to the Member's office without any clear explanation of how Representative Visclosky and his staff determined which requests that the Member supported. In addition, the documents included information from Representative Visclosky's campaign, much of which is publically available from the Federal Election Commission.

62. Representative Visclosky's former Chief of Staff, Chuck Brimmer, and his former Appropriations Director, Shari Davenport, declined an interview with the OCE.

63. The Board makes the recommendation contained in this referral based on the factual record before it. The Board recommends the issuance of subpoenas.

EXHIBIT 1

From: "Brian Morgan" <[redacted]@thepmagroup.com>
To: "Virgil McCaleb" <[redacted]@act-i.com>; "Niggel, Michael A CTR OUSD (AT&L) JSF" <[redacted]@jsf.mil>
Sent: Tuesday, January 15, 2008 11:41 AM
Attach: FY09 Visclosky Defense Form.doc
Subject: FW: Rep. Visclosky Defense Appropriations Requests

Mike,

Mags will be setting up mtg dates w/ Shari soon

From: Mark Magliocchetti
Sent: Tuesday, January 15, 2008 10:28 AM
To: THEPMAGROUP2K
Subject: FW: Rep. Visclosky Defense Appropriations Requests

From: Davenport, Shari Taylor [mailto:Shari.Davenport@mail.house.gov]
Sent: Tuesday, January 15, 2008 10:25 AM
To: Davenport, Shari Taylor
Subject: Defense Appropriations Requests

You are receiving this email because you have previously contacted Congressman Visclosky's office regarding a Defense Appropriations request. The purpose of this email is to inform you about the process to submit a request for FY 2009. If you intend to submit a project for the Congressman's consideration, please provide to the following information by **February 15th**:

- Letter from the requesting entity to the Congressman about their project request (must include contact information)
- Completed form (attached) or HAC-D
- Detailed background materials

You are also encouraged to contact the office to personally discuss your request. Please note there is a different process for non-defense appropriations projects. Should you have any questions please feel free to contact me.

Thank you for your interest. –Shari

<<FY09 Visclosky Defense Form.doc>>

Shari Taylor Davenport

Appropriations Director

Office of Congressman Peter Visclosky

2256 Rayburn, Washington, DC 20515

(202) 225-[redacted]

House Appropriations, Subcommittee on Defense
(All Fields are Required for Project Consideration. One Project Request per Page)

Member's Office: **Congressman Peter J. Visclosky**
Staff Contact: **Shari Taylor Davenport**
Phone Number: **202-225-[redacted]**

Service/Component:

Appropriation Account (provide only one)**:**

2009 Budget Line Title (from DoD Program Justification Materials: M1, O1, P1, or R1)**:**

Provide only one of the following:

Military Personnel, O&M	Procurement	RDTE	Intel
Budget Activity #: _____	P-1 Line	R-1 Line Number: _____	MIP/
Sub-activity ID #: _____	Number: _____	PE #: _____	NIP _____

Name of Project Requested:

Program Description (must include a clear description of military requirement and no longer than **250 characters**)**:**

Benefit to DoD (no longer than **250 characters**)**:**

Congressional Funding History:	FY 2008	FY 2007	FY 2006	FY 2005	FY 2004

DoD Supporting Program Manager/Agency (office contact information):

FY 2009 Budget Amount (if applicable)**:**

Your FY 2009 Request (attach bill/report lang if applicable)**:**

Contact information of requesting entity (name, address, phone):

ACT I-000091

09-4486-4

EXHIBIT 2

From: "Brian Morgan" <[redacted]@thepmagroup.com>
To: "Mike Niggel" <[redacted]@act-i.com>
Sent: Wednesday, February 27, 2008 7:55 PM
Attach: 2008_3_12_ Fundraiser Invitation.doc
Subject: FW: Congressman Pete Visclosky Dinner

-----Original Message-----
From: Mark Magliocchetti
Sent: Wednesday, February 27, 2008 12:39 PM
To: THEPMAGROUP2K
Subject: Fw: Congressman Pete Visclosky Dinner

-----Original Message-----
From: Mark Magliocchetti
Sent: Wednesday, February 27, 2008 12:39 PM
To: THEPMAGROUP2K
Subject: Fw: Congressman Pete Visclosky Dinner

Fyi - This invite went out to client representatives requesting support from Rep. Visclosky on a Defense issue.

----- Original Message -----
From: Cindy Wagner <[redacted]@visclosky forcongress.us>
To: [redacted]@visclosky forcongress.us <[redacted]@visclosky forcongress.us>
Sent: Wed Feb 27 11:40:53 2008
Subject: Congressman Pete Visclosky Dinner

Good afternoon.

I am pleased to invite you to a dinner in honor of Congressman Pete Visclosky on Wednesday, March 12th. Attached please find the invitation listing the event details. I ask that you kindly RSVP to me at your earliest convenience, and please do not hesitate to contact me with any questions.

Regards,

Cindy Wagner

Campaign Manager
219-736-[redacted] office
[redacted] cell
[redacted]@visclosky forcongress.us

PLEASE JOIN
FOR A DINNER IN HONOR OF

CONGRESSMAN PETER J. VISCLOSKY
D- IN, 1ST District

COMMITTEE ON APPROPRIATIONS
CHAIRMAN, ENERGY AND WATER SUBCOMMITTEE
DEFENSE SUBCOMMITTEE

WEDNESDAY, MARCH 12TH

6:30 P.M.

Bobby Van's Grill
1201 New York Avenue, NW
Washington, DC 20005

Please RSVP to Cindy Wagner
219-736-[redacted]
[redacted]@viscloskyforcongress.us

Please make checks payable to "Visclosky for Congress" C00166504

Authorized and paid for by Visclosky for Congress

Contributions are not deductible for federal income tax purposes. Corporate contributions and donations from foreign nationals are prohibited. Federal law requires the campaign to report the full name, address, occupation & employer for each individual whose contributions aggregate in excess of $200 in an election cycle. Federal Campaign Law permits personal contributions up to $2,300 per election and $4,600 per two year election cycle.

ACT I-000112

EXHIBIT 3

From: "Mike Niggel" <[redacted]@act-i.com>
To: "Brian Morgan" <[redacted]@thepmagroup.com>
Sent: Tuesday, February 26, 2008 5:30 PM
Subject: RE: Rep. Visclosky Event

Thanks, I wait for flyer to send to my folks

From: Brian Morgan [mailto:[redacted]@thepmagroup.com]
Sent: Tuesday, February 26, 2008 4:15 PM
To: Mike Niggel
Subject: FW: Rep. Visclosky Event

From: Mark Magliocchetti
Sent: Tuesday, February 26, 2008 11:27 AM
To: THEPMAGROUP2K
Subject: Rep. Visclosky Event

The invites for the event should be sent out this week. As an FYI, the March 12 (Defense) event will be at 6:30 PM @ Bobby Van's Grille and the April 16 (E&W) event will be at Johnny's Half Shell @ 6:30 PM.

Mark Magliocchetti
The PMA Group
2345 Crystal Drive
Suite 300
Arlington, VA 22202

Phone (703) 415-[redacted]
Fax (703) 415-0182

This e-mail (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If the reader of this e-mail is not the intended recipient or the employee or agent responsible for delivering the e-mail to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this e-mail or its contents is strictly prohibited. If you have received this e-mail in error, please notify us immediately by replying to this message, and please destroy all copies of this e-mail.

EXHIBIT 4

From: Bill Berl [[redacted]@21csi.com]
Sent: Thursday, March 29, 2007 9:26 AM
To: 'Bob Wichlinski'; 'Roger Meisinger'; 'Seth A Stennett'; 'Adolf Neumann'; 'Jeffrey D. Hicks'; 'Jeffrey Clark'; 'Ramón C. Montelongo, LOGCOP Program Manager'; 'Terry Schaefer'; Warren.Noll@21csi.com; steve.morse@21csi.com; 'Kevin Blenkhorn'; 'James (Kimo) Scott'; 'Mike Luginbuhl'; 'John M. Scorsine, Esq.'; 'Matt Stebbins'; 'David Andersen'; 'Dr. Plamen V. Petrov'; 'Mark Wootten'; 'Larry Jackson'
Cc: 'Bill Berl'
Subject: 21CSI PAC & Rep. Visclosky Fundraiser

Attachments: image001.jpg

All,

Last night, Jeff Hicks and I attended a dinner in support of Rep. Pete Visclosky (D-IN) who represents the district that includes our Crown Point office. Jeff was given the "honorary" seat at the head table sitting directly adjacent to Mr. Visclosky and thus was given the opportunity to talk about a variety of our ongoing and proposed projects to include MCOTTS, SubTAM, Intelligent Distributed Command and Control (IDC2), and TRACS. This opportunity to spend more than 2 hours with the congressman and his staff (both chief of staff and defense aide) would not have been possible without your generous contributions to the member and the company's PAC. I appreciate your willingness to participate in this process and to step up financially especially under such short notice. I believe your leadership in this matter will help tremendously as we continue to market the company and its technology to senior decision makers throughout the government. Please contact Jeff or me should you have any questions about the event or our intended follow on interactions with the congressman.

Bob W. – the congressman spoke very highly of you and your wide ranging efforts to improve the economic vitality in the region. Keep it up.

Bill Berl
Treasurer
21CSI PAC

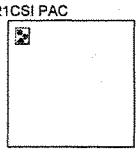


EXHIBIT 5

PETER J. VISCLOSKY
1ST DISTRICT, INDIANA

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
DEFENSE
ENERGY AND WATER DEVELOPMENT
FINANCIAL SERVICES

CONGRESSIONAL STEEL CAUCUS
CHAIRMAN

U.S. HOUSE LAW ENFORCEMENT CAUCUS

Congress of the United States
House of Representatives
Washington, DC 20515-1401

2186 RAYBURN BUILDING
WASHINGTON, DC 20515-1401
(202) 225-2461

701 EAST 83RD AVENUE, SUITE 9
MERRILLVILLE, IN 46410
(219) 795-1844

Call Toll Free
1 888 423 PETE
(1 888 423-7383)

INTERNET:
http://www.house.gov/visclosky/

March 19, 2008

The Honorable David Obey, Chairman
The Honorable Jerry Lewis, Ranking Member
Committee on Appropriations
H-218-The Capitol
Washington, D.C. 20515

Dear Chairman Obey and Ranking Member Lewis:

I am requesting funding for a **Photo Catalytic Oxidation (PCO) Demonstration for Water Reuse** in fiscal year 2009. The entity to receive funding for this project is **Advanced Concepts and Technologies International (ACT-I)**, located at:

ACT-I
9800 Connecticut Drive
Crown Point, Indiana 46410

The funding for this project will be used to develop a **prototype that will remove contaminants from drinking water through photo catalytic technology**.

I certify that neither I nor my spouse has any financial interest in this project.

Sincerely,

Peter J. Visclosky
Member of Congress

PJV:sd

THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

EXHIBIT 6

Proposed CY2008
Congressional Campaign Contributions

State/Member (Re-election Year)	*Contributions Made this Cycle**	*Proposed CY08 Contribution*	*Possible Programs*
[redacted]			
[redacted]			
[redacted]			
[redacted]			
Indiana			
Visclosky**	-	4,600	IDC2
Visclosky PAC	-	5,000	IDC2
[redacted]			
[redacted]			
[redacted]			
	Total	34,600	

	Unprogrammed	5,000	
	Carry Over	5,000	
	Grand Total	44,600	

* A "cycle" differs between House members and Senators.
- For House members, cycle = 2 years (2007 & 2008)
- For Senators, a cycle = their 6 year term which is staggered. (Recall that 1/3 of the Senate is up for re-election every 2 years.
- Maximum contributions allowed:
  - $4600/cycle for Member/Senator's re-election campaign
  - $5000/calendar year for Member's leadership PAC

** Anticipate single fundraiser event ~$20K

EXHIBIT 7

From: Dave Klingler
Sent: Friday, February 23, 2007 9:42 AM
To: John Campbell <[redacted]@JCampbellinc.com>
Subject: Re: Contributions requirement for remainder of CY07

That's what each of the companies working with PMA and Visclosky have been asked to contribute. He has been a good supporter of SNC. We have gotten over 10M in adds from him. Let me know if we need to discuss further.

----- Original Message -----
From: John Campbell [[redacted]@JCampbellinc.com]
Sent: 02/23/2007 04:17 AM
To: Dave Klingler
Cc: Renee Velasco; Chuck Litz
Subject: FW: Contributions requirement for remainder of CY07

Dave: Can you give me some justification for giving $20K to Visclosky?
John

------ Forwarded Message
From: John Campbell <[redacted]@JCampbellinc.com>
Date: Thu, 22 Feb 2007 17:13:12 -0500
To: Dave Klingler <[redacted]@sncorp.com>
Conversation: Contributions requirement for remainder of CY07
Subject: Re: Contributions requirement for remainder of CY07

Dave: Sorry. Thanks for sending it again. John

on 2/22/07 2:45 PM, Dave Klingler at [redacted]@sncorp.com wrote:

> Hi John,
>
> Here it is. I send it out back in January but I think you were having
> e-mail issues and it might not have gotten thru to you. Let me know if
> you need anything else.
>
> Thanks,
>
> Dave
>
>
>
>
>

> Dave Klingler/SNC/SNCorp
> 01/23/2007 09:57 AM
>
> To
> Renee Velasco/[redacted]@sncorp
> cc
> [redacted]@jcampbellinc.com
> Subject
> PAC Plan
>
>
>
>
>
> Hi Renee,
>
> Tis' the fundraiser season again. Here is the PAC plan supporting our
> FY08 pursuits. Note we have Visclosky and Murtha events coming up
> quickly.
>
> Visclosky $20K 28 March (I suggest $5K PAC to Visclosky for
> Congress, $5K PAC to Calumet PAC, $10K of personal from Fatih, Eren and
> SVO)
> Murtha $10K 28 Feb ($5K PAC to Majority PAC) / 1 Mar ($5K PAC
> to Murtha for Congress)
> Feinstein $5K
> Hobson $5K
> Matsui $2.5K
> Campbell $2K
> Pelosi $2K
> Other $2K
>
> Dave
>
>
>
>
>
>
>
> John Campbell <[redacted]@JCampbellinc.com>
> 02/21/2007 10:36 AM
>
> To
> Dave Klingler <[redacted]@sncorp.com>
> cc
> Renee Velasco <[redacted]@sncorp.com>, Chuck Litz
> <[redacted]@sncorp.com>
> Subject
> Contributions requirement for remainder of CY07
>
>
>
>

>
>
> Dave:
>
> I am tring to assist Renee, Eren and Fatih to get our arms around what we
> think the requirement will be for contributions for the rest of the CY.
>
> I support the amounts you have recommended in your email of 2/14, but
> could
> you put together what you believe that SNC (PAC and other contributions
> combined) should contribute for the rest of the year with an eye toward
> supporting PMA.
>
> Thanks
>
> John Campbell
>
>
>
>

------ End of Forwarded Message

APPENDIX G:
REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS REGARDING REPRESENTATIVE C.W. BILL YOUNG (Review No. 09-1583)

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

REPORT

Review No. 09-1583

The Board of the Office of Congressional Ethics (hereafter the "Board"), by a vote of no less than four members, on November 20, 2009, adopted the following report and ordered it to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives.

SUBJECT: Representative C.W. Bill Young

NATURE OF THE ALLEGED VIOLATION: In Fiscal Year 2009, Representative C.W. Bill Young authored several earmarks for clients of PMA Group, Inc. (hereafter "PMA"). During campaign cycles 2008 and 2010, Representative Young received contributions to his campaign committee and "Leadership PAC" from PMA's PAC, PMA employees, the PACs of PMA clients for whom he authored earmarks, and the employees of those clients.

If Representative Young solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Young may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 (Gifts to Federal Employees), and House Rules and Standards of Conduct.

RECOMMENDATION: The Board of the Office of Congressional Ethics recommends that the Committee on Standards of Official Conduct dismiss the above allegations.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Leo Wise, Staff Director & Chief Counsel.

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-1583

Table of Contents

I. INTRODUCTION 3

A. Summary of Allegations 3

B. Jurisdictional Statement 3

C. Procedural History 4

D. Summary of Investigative Activity 4

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE YOUNG REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS HE RECEIVED 8

A. Relevant Law, Regulations, Rules or Standards of Conduct 8

B. Earmark Process 11

C. Campaign Fundraising 12

D. Relationship with PMA 13

E. Perception of Corporate Donors 14

III. CONCLUSION 15

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS 15

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

FINDINGS OF FACT AND CITATIONS TO LAW

Review No. 09-1583

On November 20, 2009, the Board of the Office of Congressional Ethics (hereafter the "Board") adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination that a violation actually occurred.

I. INTRODUCTION

A. Summary of Allegations

1. There is not substantial reason to believe that Representative Young solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act.

B. Jurisdictional Statement

2. The allegations that were the subject of this review concern Representative C.W. Bill Young, a Member of the United States House of Representatives from the 10th District of Florida. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter "OCE") directs that, "[n]o review shall be undertaken...by the board of any alleged violation that occurred before the date of adoption of this resolution."[1] The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

[1] H. Res 895, 110th Cong. §1(e) (2008) (as amended).

C. Procedural History

3. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 6, 2009. The preliminary review commenced on that date.[2] The preliminary review was scheduled to end on August 5, 2009.

4. At least three members of the Board voted to initiate a second phase review in this matter on August 5, 2009. The second phase review commenced on August 6, 2009.[3] The second-phase review was scheduled to end on September 20, 2009

5. The Board voted to extend the 45-day second phase review by an additional 14 days, as provided by the Resolution, on September 17, 2009. Following the extension, the second-phase review was scheduled to end on October 5, 2009.[4]

6. The Board voted to refer the matter to the Committee on Standards of Official Conduct for dismissal and adopted these findings on November 20, 2009.

7. This report and findings were transmitted to the Committee on Standards of Official Conduct on December 2, 2009.

D. Summary of Investigative Activity

8. Due to the nature of the allegations in this review, the OCE's investigation required the collection of information from a number of sources.

9. The OCE reviewed publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense (hereafter "Defense Subcommittee") from recipients of earmarks during the 2008 and 2010 campaign cycles. The review included campaign contributions to the leadership political action committees (hereafter "PACs"), if any, of these Members.

10. Specifically, the OCE reviewed campaign contributions to these Members from donors that were affiliated with the lobbying firm of Paul Magliocchetti and Associates Group,

[2] A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is "received" by the OCE on a date certain. According to H. Res. 895 of the 110th Congress (hereafter "the Resolution'), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

[3] According to the Resolution, the Board must vote on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase begins when the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

[4] *Id.* at § 1(c)(2)(A)(ii) (2008).

Inc. (hereafter "PMA"), *i.e.*, contributions from the PMA PAC, PMA employees, the PACs of corporate clients of PMA ("PMA clients") and employees of PMA clients.

11. The OCE also reviewed campaign contributions to Members of the Defense Subcommittee from PACs of non-PMA clients, and employees of non-PMA clients.

12. Beyond Members of the Defense Subcommittee, the investigation included a review of campaign contributions from PMA clients and non-PMA clients to Representatives who are not on the Defense Subcommittee, but authored defense earmarks PMA clients and non-PMA clients.

13. The OCE requested information from forty PMA clients that received earmarks from Members of the Defense Subcommittee for fiscal years 2008 to 2010.

14. All of the PMA clients that the OCE contacted cooperated with the investigation, except for two.

15. Aeroflex and Kimball and Associates are the only PMA client that refused to cooperate with the investigation.

16. Thirty-eight PMA clients and Representatives' offices produced documents totaling approximately 200,000 pages. These PMA clients also made witnesses available for interviews upon request of the OCE.

17. Based on the information discovered during the review of the produced documents, the OCE interviewed twenty-six individual PMA client witnesses.

18. In addition, the OCE interviewed six witnesses who were formerly employed as lobbyists with PMA during the 2008 and 2010 campaign cycles.

19. In sum, the OCE requested and received documentary, and in some cases testimonial, information from the following sources:

    (1) 21st Century Systems, Inc.;

    (2) AAR Composites;

    (3) Advanced Acoustic Concepts;

    (4) Advanced Concepts & Technologies Intl.;

    (5) Aircraft Interior Products;

    (6) Applied Global Technologies;

    (7) Argon ST;

(8) Boeing Corporation;

(9) Carnegie Mellon University;

(10) Coda Octopus Group;

(11) Concurrent Technologies Corporation;

(12) Conemaugh Health Systems;

(13) Cryptek;

(14) DDL OMNI Engineering;

(15) DRS Technologies;

(16) EM Solutions;

(17) General Atomics;

(18) General Dynamics;

(19) Goodrich Corporation;

(20) Innovative Concepts, Inc.;

(21) ITT Corporation;

(22) Lockheed Martin Corporation;

(23) MobilVox;

(24) NuVant Systems, Inc.;

(25) Optimal Solutions & Technologies;

(26) Parametric Technology Corporation;

(27) Planning Systems Inc.;

(28) Profile Systems;

(29) Prologic, Inc.;

(30) QTL Biosystems;

(31) RaySat Antenna Systems;

(32) Rockwell Collins;

(33) Samueli Institute;

(34) Sierra Nevada Corporation;

(35) Teledyne Continental Motors, Inc.;

(36) Teledyne Controls;

(37) Windber Research Institute;

(38) Xunlight Corporation;

(39) Vice President, 21st Century Systems, Inc.;

(40) Chief Administrative Officer, 21st Century Systems, Inc.;

(41) Vice President for Communications, 21st Century Systems, Inc.;

(42) PAC Treasurer, 21st Century Systems, Inc.;

(43) General Manager, AAR Composites;

(44) Chief Operating Officer, AAR Composites;

(45) Chief Executive Officer, Applied Global Technologies;

(46) Vice President, Applied Global Technologies;

(47) PAC Treasurer, DRS Technologies;

(48) President, DRS Technologies;

(49) Chief Operating Officers, Optimal Solutions & Technologies;

(50) Chief Executive Officer, Optimal Solutions & Technologies;

(51) Director, Optimal Solutions & Technologies;

(52) CEO, Samueli Institute;

(53) Vice President, Sierra Nevada Corporation;

(54) Congressional Affairs Director, Sierra Nevada Corporation;

(55) Assistant to Business Development Director, Teledyne Continental Motors, Inc.;

(56) Business Development Director, Teledyne Continental Motors, Inc.;

(57) PAC Treasurer, Teledyne Controls;

(58) General Manager, Teledyne Controls;

(59) Vice President, Teledyne Controls;

(60) Director of Contracts, Teledyne Controls;

(61) Contract Administrator, Teledyne Controls;

(62) Legislative Affairs Director, Teledyne Controls;

(63) Associate General Counsel, Teledyne Controls;

(64) President, Teledyne Controls;

(65) PMA Lobbyist 1;

(66) PMA Lobbyist 2;

(67) PMA Lobbyist 3;

(68) PMA Lobbyist 4;

(69) PMA Lobbyist 5;

(70) PMA Lobbyist 6;

(71) The Chief of Staff of Representative Young; and

(72) Representative Young.

II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE YOUNG REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS HE RECEIVED

A. Relevant Law, Regulations, Rules or Standards of Conduct

20. *18 U.S.C. § 201(b) - Bribery of public officials and witnesses*

"(b) Whoever-

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act . . . ."

21. *18 U.S.C.A. § 201(c) - Illegal Gratuities*

"(c) Whoever-

(1) otherwise than as provided by law for the proper discharge of official duty—

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person . . . ."

22. *"An illegal gratuity...may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken."*[5]

23. *House Rules and Standards of Conduct*

"[T]he scope of the House standards of conduct in this area is broader than that of the criminal bribery statute... the House standards of conduct generally preclude any link between the solicitation or receipt of a contribution and a specific official action."[6]

"Put another way, there are fundraising activities that do not violate any criminal statute but well may violate House standards of conduct."[7]

"[T]here are certain proffered campaign contributions that must be declined, and certain fundraising opportunities that must be forgone, solely because they create an appearance of improper conduct."[8]

"[N]o solicitation of a campaign or political contribution may be linked to an action taken or to be taken by a Member or employee in his or her official capacity."[9] *In addition, a Member may not accept any contribution that is linked with any specific official action taken or to be taken by that Member."*[10]

"It is probably not wrong for the campaign managers of a legislator...to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff as the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. The Standards Committee has long advised Members and staff that they should always exercise caution to avoid even the appearance that solicitations of campaign contributions are connected in any way with an action taken or to be taken in their official capacity."[11]

---

[5] House Ethics Manual (2008) at 79. See also United States v. Sun-Diamond Growers, 526 U.S. 398, 404 (1999).
[6] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[7] *Id.*
[8] *Id.*
[9] House Ethics Manual (2008) at 147.
[10] Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at http://ethics.house.gov/Investigations/Default.aspx?Section=18.
[11] *Id.*

"[A] Member should not sponsor or participate in any solicitation that offers donors any special access to the Member in the Member's official capacity."[12]

"[G]overnment officials should 'never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not."[13]

"'[P]ublic office is a public trust,' and the public has a right to expect House Members and staff to exercise impartial judgment in performing their duties."[14]

24. *5 U.S.C. § 7353 – Gifts to Federal Employees*

"(a) Except as permitted by subsection (b), no Member of Congress...shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with...the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules and regulations established by such individual's supervising ethics office pursuant to paragraph (1)

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of an official act."

25. *House Ethics Manual – Soliciting Campaign and Political Contributions*

While the federal gift statute (5 U.S.C. § 7353) broadly restricts the ability of

House Members and staff to solicit things of value from virtually anyone, even when no personal benefit to the solicitor is involved, legislative materials concerning the statute state that it does not apply to the solicitation of political contributions. Consistent with those materials, the Standards Committee has long taken the position that the restrictions on solicitation set forth in that statute do not apply to political solicitations. However, in

[12] *Id.*
[13] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 5).
[14] *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 10).

soliciting campaign or political contributions, Members and staff are subject to a number of other restrictions, as follows.

A Contribution linked to an Official Action May Not Be Accepted

... no solicitation of a campaign or political contribution may be linked to any action taken or to be taken by a Member or employee in his or her official capacity.

In a similar vein, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. In this respect, a campaign or political contribution is treated like any other gift, and acceptance of a contribution in these circumstances may implicate a provision of the federal gift statute (5 U.S.C. § 7353) or the criminal statutes on bribery and illegal gratuities.

26. Based on the facts collected by the OCE, the Board concludes there is not substantial reason to believe the allegations that are the subject of this review.[15]

B. Earmark Process

27. Representative C.W. Bill Young represents the 10th Congressional District of Florida.

28. The process for handling Representative Young's requests for earmarks to the House Defense Appropriations Subcommittee is initially managed by his Congressional office staff.[16] However, he reviews every request and meets with the representatives of the companies on whose behalf he makes the request.[17]

29. Representative Young refuses to meet with lobbyists and repeatedly pointed out to the OCE that he does not meet with any lobbyists – to include former employees of PMA.[18] When he meets with the representatives of companies for whom he requests earmarks, it is his practice to meet only with the companies' principals without a lobbyist present. This practice carries to even brief interactions with lobbyists.[19] According to Representative Young, if a lobbyist makes contact with him regarding a project or an earmark request, the Congressman tells the lobbyist to send his client instead.[20]

[15] Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009) provides that "[t]he Board shall refer a matter to the Standards Committee for further review if it determines there is a substantial reason to believe the allegation based on all the information then known to the Board."
[16] Memorandum of Interview of Rep. Young (Exhibit 1 at 09-1583_2).
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.*

30. While members of his staff might have had interactions with PMA lobbyists, Representative Young has never met with a PMA lobbyist on any matter and could not recall an instance when a PMA lobbyist attempted to lobby him.[21]

31. Representative Young's office only requests earmarks for companies in his district.[22] In vetting those requests, his office has several rules. Representative Young's primary rule is that the request must be for a project that the Department of Defense wants. Representative Young's policy is to not request earmarks for "start-up" ideas.[23]

32. Whether a company has contributed to his campaign is not a factor in the Congressman's decision whether or not to request an earmark for a particular entity.[24]

33. Representative Young's Chief of Staff also explained that on a number of occasions companies who were clients of PMA did not use PMA to lobby their office. Instead, the company would use lobbyists from a different firm or no lobbyist at all.[25]

C. Campaign Fundraising

34. During campaign cycles 2008 and 2010, Representative Murtha accepted approximately $68,600 in campaign contributions from PMA's PAC and employees and from the PAC and employees of PMA clients.[26]

35. Congressman Young does not have full-time, ongoing fundraising process.[27] According to the Congressman, he does not raise significant amounts of money, in comparison to his peers, for his campaign and does not contribute "dues" to the National Republican Congressional Committee as is expected of him.[28]

36. The Congressman does not organize fundraisers and does not make phone calls or write letters requesting contributions.[29] Representative Young's Chief of Staff is the individual who is primarily responsible for directing the Congressman's campaign and fundraising activities. He does this in his "free time."[30] Representative Young's Chief of Staff

[21] *Id.* at 09-1583_3.
[22] *Id.* at 09-1583_2.
[23] *Id.* at 09-1583_2
[24] *Id.* at 09-1583_3
[25] Memorandum of Interview of Representative Young's Chief of Staff (Exhibit 2 at 09-1583_5)
[26] Contribution amounts are derived from reports filed with the Federal Election Commission by Congressman Bill Young Campaign Committee and Victory PAC.
[27] *Id.*
[28] Memorandum of Interview of Rep. Young (Exhibit 1 at 09-1583_3).
[29] *Id.*
[30] Memorandum of Interview of Representative Young's Chief of Staff (Exhibit 2 at 09-1583_5)

confirmed that the Congressman does not actively fundraise.[31] Instead, community members will offer to hold a fundraising event to benefit his campaign and Representative Young will participate.[32]

37. As a matter of policy, Representative Young does not have fundraising events during the defense bill mark-up.[33]

D. Relationship with PMA

38. During the time period of the 2008 and 2010 campaign cycles, six corporate clients of PMA were awarded earmarks requested by Representative Young.

39. The PMA clients that received earmarks during this period are:

    (a) DRS Technologies (Requested, $19,800,000);

    (b) General Dynamics (Requested, $16,200,000);

    (c) Concurrent Technologies Corporation (Requested, $7,200,000);

    (d) Coda Octopus Group (Requested, $4,000,000);

    (e) AAR Composites (Requested, $1,600,000); and

    (f) Information Technology and Application Corp. (Requested, $1,600,000).[34]

40. Representative Young explained to the OCE that his interaction with the companies, if any, was directly with employees of the companies.[35] Congressman Young's Chief of Staff indicated that in some instances their office was not approached by PMA, but by another lobbying agency representing the entity.[36]

41. While Representative Young knew Mr. Paul Magliocchetti from when Mr. Magliocchetti worked for the committee, he has no personal relationship with him or with any other former PMA principal or employee.[37]

---

[31] *Id.*
[32] *Id.*
[33] Memorandum of Interview of Representative Young (Exhibit 1 at 09-1583_3)
[34] H.R. 3222, Pub. L. 110-116 (2008); H.R. 2638, Pub. L. 110-329 (2009); and H.R. 3326, 111 Cong. (2009).
[35] Memorandum of Interview of Representative Young (Exhibit 1 at 09-1583_2)
[36] Memorandum of Interview of Representative Young's Chief of Staff (Exhibit 2 at 09-1583_5)
[37] Memorandum of Interview of Representative Young (Exhibit 1 at 09-1583_3)

42. Representative Young's only interaction with a former PMA employee was an individual who served as an escort on several Congressional Delegation trips.[38] However, the individual left PMA before the issues that are the subject of this Review began.[39] With this exception, Representative Young has had no personal interaction with PMA or its lobbyists.

43. PMA has only contributed to Congressman Young campaign on one occasion.[40] Mr. Rich Efford, a former PMA lobbyist, attended a fundraising event and made a contribution from PMA's PAC.[41] Representative Young highlighted the fact that Mr. Efford had not been invited to the event and came of his own accord.[42] Mr. Efford had never lobbied the Congressman on a project previous to the event or afterwards.[43]

E. Perception of Corporate Donors

44. There is evidence that some of the commercial entities seeking earmarks from Representative Young believe that a political donation to him has an impact on his decision to author an earmark for that donor.[44]

45. However, Representative Young and his Chief of Staff credibly articulated a process that separates the Member's legislative activities and his campaign fundraising activities.[45] Representative Young achieves this separation by eliminating his and his legislative staff's role campaign's fundraising operation.[46] Representative Young further separates his fundraising and legislative activities by not holding fundraisers during the mark-up of the appropriations bill.[47]

46. Representative Young explained to the OCE that he operates their campaign and Congressional office in this manner to prevent even the appearance that their legislative acts are influenced by contributions to their campaign or PAC.[48]

47. The Board notes that one risk associated with this is the possibility of an appearance of a conflict of interest if, out of ignorance, the Member's campaign accepts a contribution

[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] *Id.*
[43] *Id.*
[44] Email from AAR, dated May 6, 2008 (Exhibit 3 at 09-1583_8).
[45] Memorandum of Interview of Representative Young (Exhibit 1 at 09-1583_3)
[46] Memorandum of Interview of Representative Young's Chief of Staff (Exhibit 2 at 09-1583_5)
[47] Memorandum of Interview of Representative Young (Exhibit 1 at 09-1583_3)
[48] *Id.*

near in time to a legislative act that has an impact on the individual or entity making the contribution. This potential for an appearance of a conflict may explain why companies requesting an earmark appear to think that a contribution to the respective campaign or PAC affects the ultimate receipt of an earmark. The House Ethics Manual is unclear as to what obligations, if any, are placed on a Member to discourage or disabuse an entity of that impression.

III. CONCLUSION

48. For these reasons, the Board recommends that the Standards Committee dismiss of the above described allegations concerning Representative Young.

IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS

49. In every instance, the OCE asked the recipient of an OCE request for information to identify any information they withheld and the reason they were withholding it. However, absent the authority to subpoena the evidence in possession of the witness, it is impossible for the OCE to verify if information was withheld, but not documented.

50. In some instances documents were redacted or specific information was not provided. For instance, PMA Client 15 provided evidence responsive to the OCE's Request for Information but indicated they would not provide any information regarding their "Legislative Strategy."

51. In at least instance, the OCE had reason to believe a witness withheld information requested, but did not comply with the OCE's request that they identify what was being withheld. Specifically, PMA Client 8 represented that they had fully cooperated. However, the PMA Client 8 indicated that they had no electronic mail responsive to the OCE's Request for Information. The OCE then received, from another source, electronic mail to and from PMA Client 8 that were in fact responsive to the OCE's request.

52. The Board also notes that while the OCE was able to interview six former employees of PMA that provided general information on PMA and its business practices, many remaining former employees either refused to consent to interviews or did not return calls from the OCE. In addition, the OCE was unable to obtain any evidence within PMA's possession.

53. The Board makes the recommendation contained in this referral based on the factual record before it. Given its recommendation to dismiss, the Board does not recommend the issuance of subpoenas, but recognizes that the Committee on Standards of Official Conduct may determine otherwise.

EXHIBIT 1

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative C.W. Bill Young
REVIEW #:	09-1583
DATE:	October 29, 2009
LOCATION:	Office of Representative Young 2407 Rayburn HOB Washington, DC 20515
TIME:	2:10 p.m. – 3 p.m. (approximately)
PARTICIPANTS:	Omar Ashmawy Kedric L. Payne Harry Glenn Tom Rice

SUMMARY: Representative C.W. Bill Young is a Member of the United States House of Representatives for the 10th District of Florida. He was interviewed pursuant to Review No. 09-1583. The OCE requested an interview with Representative Young on July 6, 2009, and he consented to an interview. Representative Young made the following statements in response to our questioning:

1. Representative Young was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. Representative Young explained that his office accepts for consideration every earmark requests that comes to his office.

3. The earmark requests are initially reviewed by his staff and then he is provided with the requests. He vets all of the requests and he turns down a large number.

4. His practice for all earmark requests is that he does not speak to lobbyists about the requests. Instead, he has the lobbyists send in the principles of the company that is requesting the earmark. He does this even when a lobbyist tried to speak with him briefly at events.

5. He only provides earmarks to entities that are located in his district.

6. His office follows several rules. The earmark request must also have a connection with the Department of Defense. He does not simply assist start-up companies with acquiring federal grants.

7. If the earmark request is legitimate, he supports it. Contributions to his campaign are not a factor in the Congressman's decision whether or not to request an earmark.

8. One example of an earmark that he supported was for the STAR center, which creates triggers for atomic weapons. The STAR center maintains jobs in his district and he requests earmarks for it.

9. He did not have any relationship with PMA Group, Inc. (hereafter "PMA"), but he knew Paul Magliocchetti when he was a staffer for the House Appropriations Committee. He had no social interaction with Mr. Magliocchetti or any other PMA employee. In general, Representative Young rarely has any social engagements.

10. Representative Young has never met with a PMA lobbyist on any project and did not recall a time when a PMA lobbyist tried to lobby him, individually, on any topic.

11. Representative Young's campaign received one check from PMA. This occurred at an event where PMA was not invited. The PMA representative that attended was Rich Efford.

12. Mr. Efford did not attend the fundraiser to lobby Representative Young. PMA never lobbied Representative Young.

13. The PMA lobbyist may have discussions with Representative Young's staff.

14. Representative Young mentioned that Leo Clark escorted him on various Codels, but Mr. Clark left PMA well before the current scandal surfaced.

15. Representative Young does not organize fundraisers, make phone calls, or write letter to solicit contributions. He does not raise significant amounts of money, in comparison to his peers, for his campaign and does not contribute "dues" to the National Republican Congressional Committee as is expected of him.

16. He also does not have fundraisers during the defense bill mark ups. He does this to prevent the appearance that his decisions are influenced by contributions.

17. He does not tell anyone to give him a contribution for any act.

This memorandum was prepared on November 19, 2009, based on the notes that the OCE staff prepared during the interview with Representative Young on October 29, 2009. I certify that this memorandum contains all pertinent matter discussed with Representative Young on October 29, 2009.

Kedric L. Payne
Investigative Counsel

EXHIBIT 2

CONFIDENTIAL

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS
UNITED STATES HOUSE OF REPRESENTATIVES

MEMORANDUM OF INTERVIEW

IN RE:	Representative Young's Chief of Staff
REVIEW #:	09-1583
DATE:	September 11, 2009
LOCATION:	Office of Representative Young 2407 Rayburn HOB Washington, DC 20515
TIME:	9:30 a.m. – 10:30 a.m. (approximately)
PARTICIPANTS:	Omar Ashmawy Kedric L. Payne

SUMMARY: Representative C.W. Bill Young's Chief of Staff (hereafter the "witness") was interviewed pursuant to Review No. 09-1583. The OCE requested an interview with the witness on July 6, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.

2. The witness explained that in many instances companies who may have hired PMA to lobby for them, did use PMA when approaching the Congressman's office. The companies either approached the office without a lobbyist or with a non-PMA lobbyist.

3. Congressman Young does not have a professional fundraiser working with his campaign. In fact, the Congressman does not have a full-time fundraising process. Instead, from time to time individuals in the Congressman's district will offer to hold fundraising event for the Member.

4. The witness is the liaison for those fundraising events. He does this in his free time.

5. PMA has never had a fundraising event for Congressman Young. PMA has never asked to hold a fundraising event or co-hosted a fundraising event for the Member. There has only been one PMA contribution to the Congressman or his PAC since 2007. That contribution was unsolicited.

This memorandum was typed on November 19, 2009, based on the notes that the OCE staff prepared during the interview with the witness on September 11, 2009. This memorandum contains all pertinent matter discussed with the witness on September 11, 2009.

Omar S. Ashmawy
Investigative Counsel

EXHIBIT 3

From: Bill Cole
Sent: Tuesday, May 06, 2008 3:41 PM
To: Tim Romenesko
Subject: RE: AAR Composites - Visit

They are not asking. I have provided personal contributions in the past knowing that the resulting contacts could help our business--and in the case of Congressman Young I believe it has to some extent. I assume from your message you are thinking along the same lines rather than a Corporate contribution.

-----Original Message-----
From: Tim Romenesko
Sent: Tuesday, May 06, 2008 2:57 PM
To: Bill Cole
Subject: Re: AAR Composites - Visit

Let me know if they are asking for contributions.

----- Original Message -----
From: Bill Cole
To: Terry Stinson; Tim Romenesko; Chris Mason
Sent: Tue May 06 13:49:17 2008
Subject: FW: AAR Composites - Visit

The meeting with Shahra Anderson, Regional Director for Senator Bill Nelson here in Tampa, went very well. Enclosed is the presentation we used to introduce our Corporation and our Composites F-22 efforts. She is now working to get us a meeting with the Legislative Aids and Senator Nelson himself in DC. She, and we, would like to explore the potential for a Town Hall Meeting here at our facility.

I will keep you informed of our progress.

Tnx,

Bill

From: Bill Cole
Sent: Tuesday, May 06, 2008 12:53 PM
To: Shahra_Anderson@billnelson.senate.gov
Subject: AAR Composites - Visit

Dear Shahra,

We all appreciate the time you spent with us today learning about AAR Composites and hope that you enjoyed the visit as much as we did. Enclosed is the presentation we shared to introducing ourselves and our relationship with the F-22 Raptor program.

As discussed, we are very interested in meeting with your Legislative Aids or other member of Senator Nelson's team who you think would

benefit from further discussions regarding the F-22 funding and its relationship to our employees and our nation in general.

Again, we certainly appreciate your visit and look forward to speaking with you in the future.

Truly yours,

Bill Cole
General Manager
AAR Composites
14201 Myerlake Circle
Clearwater, Florida, USA 33760
Phone: 727-533-[redacted]
Fax: 727-533-3233
[redacted]

APPENDIX H:
REPRESENTATIVE TODD TIAHRT'S RESPONSE TO THE REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS

FOLEY
FOLEY & LARDNER LLP

ATTORNEYS AT LAW
WASHINGTON HARBOUR
3000 K STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20007-5109
202.672.5300 TEL
202.672.5399 FAX
foley.com

December 22, 2009

CLIENT/MATTER NUMBER
999100-0130

CONFIDENTIAL

VIA HAND DELIVERY

RECEIVED
2009 DEC 22 PM 2:40
COMMITTEE ON STANDARDS

The Honorable Zoe Lofgren, Chairman
The Honorable Jo Bonner, Ranking Member
House Committee on Standards of Official Conduct
HT-4 United States Capitol
Washington, DC 20515

Re: Response to Report of Office of Congressional Ethics Review No. 09-9018

Dear Rep. Lofgren and Rep. Bonner:

On December 2, 2009, Rep. Todd Tiahrt (R-KS) was notified that the Office of Congressional Ethics ("OCE") had referred the above-referenced matter to the House Committee on Standards of Official Conduct ("the Committee") for 'further review'. *See* OCE Letter Dated December 2, 2009.

However, as the Committee is reminded, Rep. Tiahrt had already requested in his Confidential submission to the Committee on November 9, 2009, that the Committee assume responsibility for the OCE matter regarding Rep. Tiahrt and his office. *See* Confidential Submission to the Committee on Standards of Official Conduct, November 9, 2009.

As Rep. Tiahrt has advised the Committee several times, he is willing to meet with the Committee at any time, but decided some time ago not to participate further in the OCE's fundamentally flawed and questionable process.

The problems with OCE and its procedures are evident from the plain reading of this "referral". See Report of the Office of Congressional Ethics, Review Nol. 09-9012, November 20, 2009 ("the Report")

The OCE's "referral" is *supposed* to be based on some factual evidence to warrant referral to the Committee. Here, however, the "referral" is made because OCE was *unable* to obtain any evidence of wrongdoing or possible violations by Rep. Tiahrt.

In other words, the referral is based on the absence of facts showing any violation by Rep. Tiahrt of House rules or other laws.

Strip away the unfounded innuendo and it is clear that OCE's obvious irritation with Rep. Tiahrt for refusing to consent to interviews with the malfunctioning OCE has resulted in the referral.

The Report contains absolutely nothing demonstrating any wrongdoing or misdeeds by Rep. Tiahrt or any of the Kansas companies or entities who received defense-related appropriations.

SUMMARY OF RESPONSE TO OCE REPORT:

- OCE concluded that Rep. Tiahrt was responsible for requesting earmarks for Aeroflex and Boeing. See Report, p. 11, ¶30. (Both are Wichita, KS employers).

- There is not a single document or fact contained in the Report referencing a linkage between any campaign contribution to Rep. Tiahrt and the defense appropriations requested by Rep. Tiahrt for either Boeing or Aeroflex. **NONE.**

- What OCE *did* include in its report, as "justification" for its referral of this matter to the Committee are a dozen pages of internal documents from Teledyne Controls regarding contributions to Rep. Tiahrt or attendance by Teledyne employees at Tiahrt events, as well as interviews with three (3) Teledyne Controls employees. **NONE** of the documents or events negatively implicates Rep. Tiahrt, but rather appear to be standard internal requests for checks from a corporate PAC and reports by company lobbyists of their work on behalf of the company.

- OCE acknowledges that there is NO evidence that Rep. Tiahrt was ever privy to the internal Teledyne documents, but referred the matter anyway *because* Rep. Tiahrt didn't submit to an interview with OCE to tell them that

- One Teledyne witness told OCE that during fundraising calls, Rep. Tiahrt "never discussed a Teledyne project". See Report @ p. 19, ¶ 48. The statement is not refuted by any other witness or document in the Report.

- **Rep. Tiahrt did not recommend and Teledyne did not receive an earmark.** See Report, p. 11, ¶30.

- OCE acknowledged in the Report that Teledyne was not a recipient of a Tiahrt recommended earmark, but inexplicably (based on the facts) referred the matter to the Committee anyway

- That fact *alone* should have resulted in termination of this review, but OCE made good on its promise to punish Rep. Tiahrt if he didn't consent to an interview with OCE.

- The absence of even a hint of wrongdoing or any violation of House rules or federal law by Rep. Tiahrt is apparent from the Report itself.

THE COMMITTEE SHOULD DISMISS THE CASE BECAUSE THERE IS NO EVIDENCE IN THE REPORT OF ANY VIOLATION OF HOUSE RULES OR ANY LAW BY REP. TIAHRT

1. **It turns out that the origin of the OCE 'review' was OCE itself, *sua sponte,* with no allegation, suggestion, report, complaint or hint of any improper conduct by Rep. Tiahrt from *any* source.**

OCE admits in the opening paragraphs of its Report that this was initiated by OCE's review of **"publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense from recipients of earmarks during the 2008 and 2010 campaign cycles[1]."** See Report @ p. 4, ¶11.

With absolutely no indication from any source suggesting any wrongdoing or violation by Rep. Tiahrt, the OCE took it upon itself to go in search of facts to support its theory that all House members serving on the Defense Appropriations subcommittee, who also must raise funds for their reelections, *must* be committing wrongful acts.

Thus began this 'review', which was not initiated by any complaining witness, and which had no basis in fact from the outset, *other* than Rep. Tiahrt's service on the House Defense Appropriations Subcommittee.

[1] It is telling that OCE refers throughout the Report to 'earmarks' and appropriations being made on an "election cycle", rather than on a fiscal year basis, which underscores the prejudice with which OCE undertook and conducted this Review.

While OCE describes this 'review' as one involving the lobbying firm PMA, it admits in the Report that OCE 'reviewed' *all* campaign contributions to all Members of the Defense Appropriations Subcommittee ("OCE reviewed...donors affiliated with the lobbying firm PMA....PMA PAC and employees, PMA's clients' PACs and employees of PMA clients...also...campaign contributions to Members of the Defense Appropriations Subcommittee from PACs of non-PMA clients and employees of non-PMA clients"). See Report @ p. 5, ¶¶12 and 13.

In other words, OCE admits that it "investigated" all campaign contributions to members of the Defense Appropriations Subcommittee, eventually giving rise to this burdensome and damaging attack on Rep. Tiahrt's integrity, notwithstanding the absence of a single underlying fact to warrant initiating such an investigation in the first place.

Rep. Tiahrt served as one of eight House Members on the Special Task Force on Ethics Enforcement ("Task Force"), which ultimately led to the creation of the OCE. During his tenure on the Task Force, Rep. Tiahrt became concerned about the potential for OCE to be hijacked by political forces, opponents of House members and organizations with political agendas to raise funds attacking the integrity of House members. Rep. Tiahrt ultimately argued on the floor of the House of Representatives *against* the creation of OCE:

> "Now, why should we be concerned that this was hijacked by the outside groups? These outside special interest groups exist to chastise and press charges against Members of Congress. That's how they raise their money. That's why they exist. And they're on both sides of the political spectrum; so all of us are vulnerable. These groups take sides in political battles, and use any scrap of evidence they can find to try to press charges against Members of Congress....So we're all vulnerable by these politically motivated people being incorporated into this whole process to make sure that all of us have a chance to face charges, whether justified or not. ..(T)his proposal jettisons the basic and fundamental right of democracy and fair play..." *See* 110 Congr. Rec. H1525, (March 11, 2008).

For those reasons, Rep, Tiahrt voted against the creation of the OCE. See 110 *Congr. Rec.* H1524 (March 11, 2008).

The concerns expressed by Rep. Tiahrt and others about the potential abuse that could result from an out-of-control, agenda-driven OCE were prescient, and are palpably evident in the Report, starting with the fact that OCE initiated a review of him solely by virtue of his membership on the House Defense Appropriations Subcommittee and the fact that *some* recipients of earmarks also contributed to his reelection and leadership PAC committees[2].

[2] OCE's Report (@ p. 14, ¶38) contains inflated and incorrect information regarding contributions to Rep. Tiahrt, adding contributions received well before the time period covered by the OCE investigation. Since there is no evidence whatsoever of any linkage between campaign contributions and official acts, there is no

The Center for Responsive Politics is one of several active organizations in Washington, dedicated to the belief that Members of Congress make their decisions and take actions based solely or largely on campaign contributions. Another similar organization is Common Cause which was one of the leading pressure groups responsible for OCE's creation in 2008. These groups see a linkage between political contributions and virtually every official action by legislators in a belief that privately financed political campaigns are inherently evil and should be replaced by taxpayer funding of political campaigns.[3] OCE appears to have adopted that same philosophy in initiating this review, since there was no accusation or complaint received at any time about Rep. Tiahrt.

Yet, even a source as philosophically different from Rep. Tiahrt as the Center for Responsive Politics has published a report regarding earmarks requested by Members of Congress and the 'links' to campaign contributions. The report referencing Rep. Tiahrt reflects several important points[4]:

- Rep. Tiahrt requests for earmarks are *only* for Kansas facilities and interests
- Rarely have *any* of the recipient entities made contributions to Rep. Tiahrt's campaigns
- A majority of the contributors to Rep. Tiahrt from Kansas entities and interests receiving project earmarks have been small dollar contributions from employees of the recipient
- The largest source of contributions to Rep. Tiahrt is from Kansas interests receiving *no* earmarks whatsoever.

OCE has totally disregarded the facts related to Rep. Tiahrt in making this referral. It is despicable and must be dismissed on the merits.

---

point in correcting the record; however, should the Committee wish the actual information, Rep. Tiahrt will provide that to the Committee.

[3] From the Common Cause website: " In 2008, Common Cause led the charge to create the first-ever, independent office to oversee House ethics. The new Office of Congressional Ethics is comprised of a six-member panel of non-lawmakers and has the power to initiate and conduct ethics investigations and issue reports and recommendations to the House Ethics Committee." *See* http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=4773593; Also from the Common Cause website: "The pay-to-play political game must come to an end. Common Cause's top priority is to pass the Fair Elections Now Act for Congress". *See* http://www.commoncause.org/site/pp.asp?c=dkLNK1MQIwG&b=4764307

[4] See "Todd Tiahrt: Earmarks (Fiscal Year 2009) See Center for Responsive Politics website: http://www.opensecrets.org/politicians/earmarks.php?cid=N00008144

2. **The only reason this Report has been 'referred' to the Committee is because Rep. Tiahrt refused to be interviewed by OCE due to its flawed procedures and its willful failure to follow the rules established under the Authorizing Resolution.**

Rep. Tiahrt was well aware that his refusal to meet with OCE would result in this referral, because OCE threatened Rep. Tiahrt with various reprisals (including this referral) if he refused to allow OCE to interview him and his staff.

Indeed, Paragraph #1 of the OCE Report begins with OCE's report to the Committee that Rep. Tiahrt would not consent to an interview with OCE, nor would he allow members of his staff to be interviewed. See Report @ p. 3, ¶1.

OCE notes over and over its vexation that Rep. Tiahrt said "no" to the repeated demands for an interview. See Report @ p. 11, ¶28 ("Rep. Tiahrt would not consent to an interview"); See Report @ p.14, ¶35 ("The OCE did not request these documents, nor were they accepted in lieu of witness interviews"); See Report @ p. 14, ¶37 ("Because Rep. Tiahrt would not make Jim Richardson available for an interview…"); See Report @ p. 15, ¶39 ("…Because Rep. Tiahrt did not make himself available for an interview…"); See Report @ p. 20, ¶ 56 ("…because OCE was unable to interview Rep. Tiahrt"); See Report @ p. 21, ¶ 57 ("…without further information that can only be obtained through witness interviews…"). See Report @ p. 21, ¶59 ("OCE was unable to interview Rep. Tiahrt, Rep. Tiahrt's Chief of Staff and Rep. Tiahrt's MLA...").

It is a fact that Rep. Tiahrt did not meet with OCE, and that was for one simple reason: His work with the Task Force resulting in OCE's creation made him well-versed in the procedures that OCE is *supposed* to follow, and which were the basis on which the House of Representatives approved the creation of OCE.

It became obvious during the course of this review that OCE was completely disregarding the operating procedures, requirements and deadlines governing OCE as set forth in its authorizing resolution, H. Res. 895 ("Authorizing Resolution").

Rep. Tiahrt was threatened repeatedly by OCE that his failure to submit to interviews would be deemed evidence of "non-cooperation", which would lead to adverse consequences against him in the outcome of the Review.

Any suggestion of 'non-cooperation' by Rep. Tiahrt is wholly false. Rep. Tiahrt and his Chief of Staff met with OCE staff on July 10, 2009, who personally delivered and discussed with Rep. Tiahrt OCE's Request for Information. The request contained five (5) pages of multi-part requests for documents and materials related to the subjects of earmarks, earmark requests, campaign and leadership PAC fundraising, both generally and with

regard to three PMA "clients": Boeing, Aeroflex and Teledyne Controls. All three companies happen to be constituent companies in Rep. Tiahrt's district.

In response to the OCE's request for documents and information, Rep. Tiahrt and his staff conducted an exhaustive search for documents, emails, materials and information, and produced hundreds of pages of documents, materials and information responsive to the OCE request, on an expedited basis, three (3) weeks of receipt of the OCE request. Five staff members spent more than fifty (50) hours searching for, locating and producing documents and materials responsive to the OCE requests.

Additionally, knowing of the truncated time frame for termination of the Preliminary Review period, and that no witness interviews had been requested or would be conducted prior to the expiration of the Preliminary Review Period, and as evidence of good faith and cooperation, Rep. Tiahrt, his Chief of Staff and his Military Legislative Assistant ("MLA") each submitted separate statements[5], in which they described the substantial vetting process by which all defense-related earmark requests submitted by Rep. Tiahrt are received, reviewed and processed in the Tiahrt official office and further documenting the fundraising procedures for Rep. Tiahrt's campaign committee and leadership PAC, together with documentation that fundraising is handled completely separately and wholly apart from the work of the official office generally and defense appropriations subcommittee specifically[6].

OCE absolutely refused to acknowledge the receipt of the documentary materials as evidence of 'cooperation', insisting that *only* in-person interviews with Rep. Tiahrt and his staff would suffice. In fact, OCE chastised Rep. Tiahrt's counsel for submitting written statements which OCE had not 'requested'. The OCE Report reiterated that "*The OCE did not request these documents nor were they accepted in lieu of witness interviews*" *See* Report @ p. 14, ¶35.

OCE didn't just refuse to 'accept' the written statements of Rep. Tiahrt and his staff members, provided voluntarily and with acknowledgement of 18 U.S.C. §1001; OCE completely disregarded the statements, which had been voluntarily furnished to *assist* OCE in its review and to provide additional background information regarding the procedures ostensibly at issue in the Review.

Not only did OCE reject the statements of Rep. Tiahrt and his staff members (because OCE hadn't asked for them!), but OCE also rejected the submission of Rep. Tiahrt through his counsel which underscored and amplified the evidentiary materials submitted

[5] The statements specifically included written acknowledgement of the provisions of 18 U.S.C. §1001 and that all statements were made in accordance with that knowledge.

[6] See Attached Statements of Rep. Tiahrt, Chief of Staff William Jeff Kahrs and Jim Richardson, Military Legislative Assistant, furnished to OCE on July 31, 2009

by Rep. Tiahrt and his staff in the document production and contained in their written statements provided to OCE in July, on the rather curious grounds that submission by an attorney on behalf of a client cannot be considered. See Report @ p. 11, ¶28.

Of the hundreds and hundreds of pages of materials submitted to OCE by Rep. Tiahrt in July, 2009 and again on November 9, 2009, only four documents from the July document production were transmitted by OCE to the Committee: a copy of the blank Defense Appropriations Request Form used in the Tiahrt office for receiving and processing defense appropriations, an email from the Tiahrt MLA to two companies (Boeing & Aeroflex) regarding submission of their application forms for project funding (neither of which contain any reference to campaign or other contributions) and an email from the Chief of Staff from his non-official email account regarding a possible fundraising event for Rep. Tiahrt in Chicago (an event which did not materialize).

OCE has taken the rather startling position that the only evidence acceptable to it from a House member is through in-person interviews, *unless* there is written information from the Member or some other source that reflects negatively on the Member and whatever theory has given rise to OCE's investigation (since we now know that OCE conjures up theories and initiates its reviews entirely on its own, without complaining witnesses or evidence suggesting a violation of a law or House rules).

Let there be no mistake: Rep. Tiahrt was not willing to meet with OCE because he came to believe that OCE's process was fundamentally flawed, unprofessional and being conducted outside the parameters of the Authorizing Resolution, not because of any problems addressing the underlying facts.

As the Committee is aware, Rep. Tiahrt and his staff members have advised the Committee of their willingness to meet with Committee staff and members at any time to discuss the contents of the OCE Report.

3. OCE's Process Violated H. Res. 895.

Rep. Tiahrt renews and incorporates by reference its November 9, 2009 request to the Committee to undertake its own review of the facts associated with the OCE Review. *See* November 9, 2009 Confidential Submission to House Committee on Standards of Official Conduct.

The Committee should take note that since Rep. Tiahrt submitted the detailed analysis of the myriad of ways in which OCE violated the Authorizing Resolution in the conduct of this Review, OCE has conveniently *altered* the dates on which it claims that this process began.

On July 10, 2009, Rep. Tiahrt received a formal letter from OCE which stated as follows:

"This Request for Information is pursuant to a Preliminary Review authorized by the Board of the Office of Congressional Ethics (OCE) on June 26, 2009." See July 10, 2009 Letter from OCE to Rep. Todd Tiahrt.

Rep. Tiahrt documented to OCE on November 9, 2009 the many violations by OCE of the mandatory timetable and deadlines imposed on OCE by the Authorizing Resolution.

The June 26, 2009 action of the OCE seems to have vanished from the record, and is not even *referenced* in the Report. *See* Report @ p. 4, ¶4 ("The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 6, 2009"). What happened to the June 26, 2009 commencement date referenced in the OCE's July 10, 2009 letter to Rep. Tiahrt?

It is now completely absent from the Report to the Committee, because OCE failed to meet the mandatory deadlines from and after its June 26, 2009 action. Such indifference by OCE to the framework established by the House for its operations is exactly why Rep. Tiahrt concluded that dealing with OCE was pointless. Further, OCE's failure to follow the mandatory timeline set forth in the Authorizing Resolution renders this matter moot.

Rep. Tiahrt's decision to decline the repeated insistence by OCE that he submit to interviews was based in large part on OCE's utter disregard for the rules under which it is supposed to operate. That contempt for basic procedural due process and fairness created sufficient concerns about the integrity of OCE's operations so as to cause Rep. Tiahrt to decide against further participation with OCE in this matter.

The violation by OCE of the Authorizing Resolution is additional grounds for the Committee to grant Rep. Tiahrt's November 9, 2009 request that it remove this matter from OCE and conduct its own review, to be conducted within well-established rules and procedures, rather than OCE's random and untethered process.

Conclusion. The initiation of this matter by OCE was unwarranted, there is not a shred of evidence supporting any finding of a violation of law or House rules, and Rep. Tiahrt respectfully moves for dismissal of the matter at the earliest possible date.

FOLEY

FOLEY & LARDNER LLP

December 22, 2009
Page 10

Rep. Tiahrt, his staff and counsel stand ready to cooperate in any way with the Committee and its staff in bringing this matter to a proper conclusion.

Thank you.

Sincerely,

Cleta Mitchell

Cleta Mitchell, Esq.
Counsel, Rep. Todd Tiahrt

Enclosures

The Honorable Todd Tiahrt

I, Representative Todd Tiahrt, declare (certify, verify or state) under penalty of perjury that the response and factual assertions contained in the attached letter from my counsel dated 12/22, 2009, relating to my response to the Report and Findings of the Office of Congressional Ethics, are true and correct.

Signature: Todd Tiahrt

Printed Name: Todd Tiahrt

Date: December 18, 2009

APPENDIX I:
REPRESENTATIVE PETER VISCLOSKY'S RESPONSE TO THE REPORT AND FINDINGS OF THE OFFICE OF CONGRESSIONAL ETHICS

STEPTOE & JOHNSON LLP
ATTORNEYS AT LAW

Reid H. Weingarten
202.429.6238
rweingarten@steptoe.com

Brian M. Heberlig
202.429.8134
bheberlig@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202.429.3000
Fax 202.429.3902
steptoe.com

December 28, 2009

Via Email and Overnight Delivery

The Honorable Zoe Lofgren
Chairwoman
The Honorable Jo Bonner
Ranking Republican Member
Committee on Standards of Official Conduct
HT-2, The Capitol
Washington, DC 20515

Re: Office of Congressional Ethics Report No. 09-4486

Dear Chairwoman Lofgren and Ranking Member Bonner:

We write regarding the Office of Congressional Ethics ("OCE") investigation of Representative Pete Visclosky for an alleged violation of federal laws and the House Rules and Standards of Conduct ("House Rules") in connection with his authoring earmarks for clients of the Paul Magliocchetti and Associates Group, Inc. ("PMA"). OCE commenced its investigation pursuant to a request for a preliminary review from two members of the OCE's Board. OCE Report No. 09-4486 ("Report") at 4 ¶ 3. OCE issued wide-ranging document requests to Representative Visclosky and numerous other individuals and entities. *Id.* at 4-7. In addition, OCE reviewed public records of campaign contributions and interviewed more than 30 witnesses. *Id.* at 4-5. At the conclusion of this exhaustive and time-consuming investigation, OCE issued the 23-page Report stating that OCE was "unable to determine whether there is a substantial reason to believe" that Representative Visclosky violated federal laws or House Rules. *Id.* at 3. Of the tens of thousands of documents collected by OCE, only seven documents are attached to the Report. Notwithstanding that OCE was unable to determine whether Representative Visclosky's alleged conduct was improper, OCE referred the allegations against Representative Visclosky to the Committee on Standards of Official Conduct ("the Committee") for further review. *Id.* at 1.

The only reason OCE gives in its Report for being unable to determine whether Representative Visclosky acted improperly is that Representative Visclosky and former members of his staff declined to be interviewed. *Id.* at 3 ¶ 1; 18 at ¶ 41; 21 at ¶ 49; 22 at ¶¶ 53-54. Representative Visclosky does not, of course, have the power to compel former members of his staff to submit to an interview with OCE. However, Representative Visclosky produced thousands of documents to OCE from his congressional files, *including all privileged responsive documents that OCE requested*, and cooperated with OCE's investigation fully in all other respects. It is patently unfair for OCE to refer the allegations it investigated to the Committee for further review solely because Representative Visclosky decided not to interview particularly when, as here, (1) OCE conducted an exhaustive investigation and received Representative Visclosky's full cooperation in responding to OCE's document requests, (2) Representative Visclosky informed OCE that his decision was informed by recent media reports that the Committee was already investigating PMA-related matters, and (3) any interview with OCE would have effectively resulted in Representative Visclosky waiving his Speech or Debate Clause privilege in related proceedings because OCE declined to give any assurances that the privileged information to be discussed in his interview would remain confidential within the Legislative Branch.

We therefore respectfully urge the Committee to dismiss the OCE referral and, in light of the inconclusive and ultimately flawed findings in the OCE Report, we ask that the Report not be made public. In the event that the Committee concludes that it must publicly release the Report, however, we respectfully request that the Committee include this letter in any public disclosure.

I. Representative Visclosky's Cooperation With OCE's Investigation And Document Requests

The Report indicates that OCE took a comprehensive and exhaustive approach in its investigation of Representative Visclosky. Specifically, OCE: (1) reviewed publicly available information about Representative Visclosky's acceptance of campaign contributions from PMA clients, (2) "requested information from forty PMA clients" and received cooperation from all but two, (3) requested that Representative Visclosky produce documents covering 54 different subjects, resulting in Representative Visclosky producing over 70,000 pages of responsive documents from his office files, (4) reviewed approximately 200,000 pages of documents OCE received from Representative Visclosky and other sources, including former PMA clients, and (5) interviewed more than 30 witnesses, including former PMA clients and former PMA employees. *Id.* at 4-6. In sum, OCE received documents or testimony from over 70 different individuals and entities. *Id.* at 5-8.

OCE does not acknowledge the extent of Representative Visclosky's cooperation in its investigation. Instead, OCE negatively characterizes the documents that Representative Visclosky produced as being somehow unhelpful because they "primarily consisted of earmark requests submitted to the Member's office without any clear explanation of how Representative Visclosky and his staff determined which requests that the Member supported" and "information from Representative Visclosky's campaign." *Id.* at 23. Of course, Representative Visclosky did not draft OCE's extremely broad document requests nor did he selectively disclose responsive documents. Thus, to the extent OCE views the documents responsive to its requests as unhelpful, only OCE is to blame. In any event, we

disagree with OCE that the documents Representative Visclosky produced consisted primarily of documents falling into these two categories. In addition to searching for responsive electronic documents maintained on Representative Visclosky's office computers and servers, we also provided OCE investigators with access to six boxes of hard copy documents that represented the vast majority of Representative Visclosky's legislative files pertinent to the relevant earmark requests.[1] OCE investigators scheduled time to review these materials but selected only one redweld folder from the six boxes of documents for use in their investigation. Therefore, to the extent that the documents produced were not what OCE believes were necessary for a fulsome investigation, that problem is due to OCE's overbroad document requests and failure to identify and select the relevant documents. There is no justification for OCE's insinuation that Representative Visclosky was anything less than completely forthcoming in response to OCE's document requests.

II. OCE's Claimed Inability To Determine Whether Representative Visclosky Engaged In Misconduct

After spending five months investigating Representative Visclosky, reviewing approximately 200,000 pages of documents, and interviewing over 30 witnesses, OCE issued the Report claiming that it is still "unable to determine whether there is a substantial reason to believe" the allegations. OCE claims that it is unable to resolve the allegations because Representative Visclosky, his former Chief of Staff, and his former Appropriations Director all declined to be interviewed by OCE investigators. *Id.* at 3 ¶ 1; 18 at ¶ 41; 21 at ¶ 49; 22 at ¶¶ 53-54. OCE's decision to refer this matter to the Committee solely because Representative Visclosky and his former staff elected not to submit to an interview creates a dangerous and unfair precedent.

A. Even though Representative Visclosky asserted his Speech or Debate Clause privilege in related proceedings OCE would not provide any assurances that his interview would be kept confidential

In addition to providing Members with immunity from prosecution for their legislative acts, the Speech or Debate Clause contains a non-disclosure privilege that protects Members from being questioned about their legislative acts and from disclosing the motivation for their legislative acts to the Executive Branch. U.S. Const. art. I, § 6, cl. 1. *See United States v. Rayburn House Office Bldg.*, 497 F.3d 654, 660 (D.C. Cir. 2007); *Miller v. Transamerican Press, Inc.*, 709 F.2d 524, 528 (9th Cir. 1983). Representative Visclosky's authorship of and motivation for earmark legislation, and his legislative fact-

[1] The six boxes of documents appeared to Representative Visclosky's counsel to be the most relevant documents to OCE's investigation. For that reason, Representative Visclosky's counsel suggested to OCE that its investigators review the documents in hard copy form in order to expedite the discovery process.

finding and investigation in furtherance of earmark legislation, are protected legislative acts under the Speech or Debate Clause.[2]

Shortly before OCE began its investigation, the Department of Justice issued grand jury subpoenas to Representative Visclosky's office and campaign committee seeking the same or similar documents as those later requested by OCE. Because the documents the Department of Justice sought were primarily related to constitutionally protected legislative acts, such as Representative Visclosky's motivation for and authorship of earmark legislation, Representative Visclosky asserted his Speech or Debate Clause privilege and declined to produce privileged documents outside of the Legislative Branch. However, because OCE is a quasi-legislative body, Representative Visclosky responded fully to OCE's document request. As a result, OCE received a number of documents that are privileged under the Speech or Debate Clause and protected from disclosure to the Executive Branch.

After receiving these privileged documents, OCE requested that Representative Visclosky submit to an interview. Counsel for Representative Visclosky explained to OCE that Representative Visclosky had asserted his Speech or Debate Clause privilege in related proceedings with the Department of Justice. Because it was all but certain that OCE would ask questions about privileged topics and documents in an interview, counsel for Representative Visclosky asked for assurances that the portions of the interview covering privileged legislative matters would be kept confidential within the Legislative Branch. OCE refused to provide such assurances and instead stated that OCE would prepare a memorandum of the interview, that the memorandum would be attached to OCE's Report, and that the Report and the memorandum would likely be made public under the applicable mandatory disclosure rules.[3]

---

[2] *See United States v. Johnson*, 383 U.S. 169, 180 (1966) (holding that a charge that a congressman's legislative acts were "improperly motivated . . . is precisely what the Speech or Debate Clause generally forecloses from executive and judicial inquiry."); *Miller*, 709 F.2d at 530 (holding that a congressman's legislative fact-finding and information gathering activities are entitled to full Speech or Debate Clause protections); *United States v. Biaggi*, 853 F.2d 89, 103 (2d Cir. 1988) (same); *Gov't of Virgin Islands v. Lee*, 775 F.2d 514, 521 (3d Cir. 1985) (same).

[3] In another recent matter, for instance, OCE attached a memorandum of its interview with Representative Sam Graves to the Report it submitted to the Committee, which was subsequently published on the Internet. *See* Report of the Committee on Standards in The Matter of Sam Graves, 111th Congress, 1st Session, Report 111-320 (Oct. 29, 2009) (hereafter "Graves Report") at 323.

B. Members should not be forced to choose between asserting their Speech or Debate Clause privilege and being subjected to further investigation through the threat of an OCE referral

Representative Visclosky was thus faced with a decision over whether to effectively waive his Speech or Debate Clause privilege and submit to an interview discussing privileged matters that would be publicly released or to decline OCE's interview request. Representative Visclosky's decision was also informed by his having produced to OCE all the privileged responsive documents it requested and by the fact that it appeared from media reports that the Committee was already investigating PMA-related matters. In light of these considerations, and confident that OCE would not need to interview him personally to determine that he had not engaged in misconduct, Representative Visclosky chose the latter course.

As the OCE Report makes clear, however, it was this decision that caused OCE to refer the allegations against Representative Visclosky to the Committee for further investigation. Thus, after conducting a five-month long investigation in which it reviewed approximately 200,000 pages of documents, interviewed over 30 witnesses, and received information from over 70 different individuals and entities, including 70,000 pages of privileged and unprivileged documents from Representative Visclosky, OCE reports that it was unable to determine if the allegations against Representative Visclosky are true because Representative Visclosky and his former staff did not submit to interviews. *See* Report at 3 ¶ 1; 18 at ¶ 41; 21 at ¶ 49; 22 at ¶¶ 53-54. According to OCE, the critical information that would have been gleaned from an interview with Representative Visclosky and which was supposedly missing from the documents Representative Visclosky produced is a "clear explanation of how Representative Visclosky and his staff determined which requests that the Member supported." *Id.* at 23 ¶ 61.

The Speech or Debate Clause's fundamental purpose is to protect the free speech and deliberative process of Members from the chilling effect that would be caused by having to disclose to the Executive Branch their motivation for supporting and drafting legislation. OCE's Report proves that the interview it sought with Representative Visclosky was designed to elicit precisely such information (*i.e.* an "explanation" of why Representative Visclosky decided to support certain earmark legislation). OCE's refusal to provide any assurances to Representative Visclosky that the privileged information it sought would not be disclosed publicly forced Representative Visclosky to make the unacceptable choice between effectively waiving his Speech or Debate Clause privilege and having OCE refer the allegations against him to the Committee. The Committee should dismiss OCE's referral in a full repudiation of OCE's tactics.

C. OCE did not need to interview Representative Visclosky to determine that the allegations against him were false

OCE's Report is flawed because OCE did not need to interview Representative Visclosky to determine that the allegations against him were false. As we have noted throughout this letter, OCE's investigation was exhaustive and wide-ranging, and Representative Visclosky provided the entirety of

his responsive privileged and unprivileged documents to OCE. Thus, there is scant information that Representative Visclosky could have provided to OCE that OCE did not already have in its possession. Moreover, in a meeting with OCE, counsel for Representative Visclosky explained Representative Visclosky's position with respect to the allegations under investigation, stating that Representative Visclosky categorically denies that he ever solicited a campaign contribution in exchange for sponsoring legislation and that the earmarks he sponsored funded important and consequential projects. OCE was thus fully aware of Representative Visclosky's position, and an interview would have simply confirmed that which OCE already knew.

III. OCE's Probable Cause Determination

While OCE did not find a "substantial reason" to believe the allegations against Representative Visclosky, OCE did find that "there is probable cause to believe that Representative Visclosky solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act." Report at 3. We categorically disagree with OCE's findings. Not only did OCE misapply the relevant legal standards but it also failed to support its findings with documentary or testimonial evidence.

For example, OCE found probable cause to believe that Representative Visclosky violated the federal bribery and gratuity statutes. However, it is black-letter law that evidence of an explicit *quid pro quo* is required to find that a Member's acceptance of a campaign contribution amounts to bribery. As the Supreme Court explained in *McCormick v. United States*, 500 U.S. 257, 272-73 (1991):

> Serving constituents and supporting legislation that will benefit the district and individuals and groups therein is the everyday business of a legislator. It is also true that campaigns must be run and financed. Money is constantly being solicited on behalf of candidates, who run on platforms and who claim support on the basis of their views and what they intend to do or have done. Whatever ethical considerations and appearances may indicate, to hold that legislators commit the federal crime of extortion when they act for the benefit of constituents or support legislation furthering the interests of some of their constituents, shortly before or after campaign contributions are solicited and received from those beneficiaries, is an unrealistic assessment of what Congress could have meant by making it a crime to obtain property from another, with his consent, "under color of official right." To hold otherwise would open to prosecution not only conduct that has long been thought to be well within the law but also conduct that in a very real sense is unavoidable so long as election campaigns are financed by private contributions or expenditures, as they have been from the beginning of the Nation.

See also United States v. Allen, 10 F.3d 405, 411 (7th Cir. 1993) (in a RICO case based on bribery: "accepting a campaign contribution does not equal taking a bribe unless the payment is made in exchange for an explicit promise to perform an official act. Vague expectations of some future benefit should not be sufficient to make a payment a bribe."). Even though evidence of an explicit *quid pro quo*

is thus required to establish the crimes which OCE investigated, OCE determined that there was probable cause to believe that Representative Visclosky accepted an illegal bribe or gratuity without citing to any evidence that such an explicit agreement ever existed. OCE's conclusions are rendered all the more bare and speculative in light of OCE's claim to having reviewed approximately 200,000 pages of documents. OCE cites only seven documents to support its conclusion, none of which contains any suggestion that Representative Visclosky corruptly took official action in exchange for campaign contributions.

OCE also determined that there was probable cause to believe that Representative Visclosky's fundraising activities violated federal gift laws. Report at 1 (citing 5 U.S.C. § 7353). However, OCE later admits that the Committee has "long taken the position that the restrictions on solicitations set forth in the statute do not apply to political solicitations." *Id.* at 20. Having admitted in its Report that Representative Visclosky's fundraising does not implicate the federal gift statute, there was no basis for OCE to find probable cause to believe that Representative Visclosky's conduct violated that statute.

Finally, OCE also wrongly concluded that there was probable cause to believe that Representative Visclosky created an appearance of impropriety in soliciting campaign contributions from PMA clients. Apparently, OCE is operating under the assumption that the House Ethics Manual or a disciplinary report involving a different Member and different facts somehow provide the relevant authority proving that Representative Visclosky violated House Rules. But as the Committee recently explained:

> The House Ethics Manual provides guidance to assist Members, officers, and staff in complying with the Code of Official Conduct or any law, rule, regulation, or other standard applicable to their conduct in the performance of their duties or the discharge of their responsibilities. The House Ethics Manual does not create independent duties outside of the rules and other standards discussed therein.

Graves Report at 14-15. OCE does not cite to a specific House Rule that Representative Visclosky is alleged to have violated. While it is undoubtedly true that the House Ethics Manual provides guidance to Members on avoiding appearances of impropriety, Representative Visclosky's fundraising activities as described in the OCE Report are not contrary to that guidance. Rather, they are examples of typical fundraising practices that Members have historically engaged in on a widespread and routine basis without recrimination.

For all of these reasons, we respectfully urge the Committee to dismiss the OCE referral and, in light of the inconclusive and ultimately flawed findings in the OCE Report, we ask that the Report not be made public. In the event that the Committee concludes that it must publicly release the Report, however, we respectfully request that the Committee include this letter in any public disclosure.

Please contact us if you would like to discuss these matters. Thank you for your consideration.

Sincerely,

Reid H. Weingarten
Brian M. Heberlig

cc: The Honorable Pete Visclosky

I, Representative Peter J. Visclosky, declare (certify, verify or state) under penalty of perjury that the response and factual assertions contained in the attached letter from my counsel dated Dec. 28, 2009, relating to my response to the Report and Findings of the Office of Congressional Ethics, are true and correct.

Signature:

Printed Name: Peter J. Visclosky

Date: ~~December, 2009~~
February 23, 2010

○