

No. 07-079

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

JAMES STEVEN GRILES,

Defendant.

UNITED STATES' MEMORANDUM IN AID OF SENTENCING

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UNITED STATES' MEMORANDUM IN AID OF SENTENCING

In accordance with the Court's March 23, 2007 directive, as memorialized in the Court's order dated May 2, 2007, the United States respectfully submits this response to the sentencing memorandum filed by defendant James Steven Griles on June 8, 2006. For the reasons set forth herein, as well as those to be articulated by Government counsel during the June 26, 2007 sentencing hearing, the United States respectfully requests that the Court: (1) deny defendant Griles' request for a downward variance under 18 U.S.C. § 3553(a); and, consistent with the Plea Agreement, (2) sentence defendant Griles to serve a "split sentence" of ten (10) months imprisonment consistent with U.S.S.G. § 5C1.1(d)(2). With respect to the issue of the fine to be imposed, the United States respectfully requests that the Court impose a \$25,000 fine consistent with U.S.S.G. § 5E1.2(c)(3).

The purpose of this sentencing memorandum is to counter defendant Griles' request for leniency beyond the Government's recommended sentence which, we submit, reflects the gravity of the defendant's criminal conduct and generously accounts for the mitigating factors averred by the defense in seeking a downward variance. At bottom, defendant Griles' obstructive conduct warrants the imposition of a term of incarceration and a significant fine. In support of the United States' sentencing position, this filing: (1) examines the seriousness of defendant Griles' criminal and obstructive conduct and its direct and negative impact on the United States Senate's power of inquiry; (2) documents what the Senate Committee likely would have found had the defendant not lied to, and withheld material information from, Senate investigators and senators; and (3) details how the secretive triangular relationship involving defendant Griles, former Washington, D.C., lobbyist Jack A. Abramoff, and their conduit, Italia Federici,¹ concealed from officials within the United States Department of the Interior ("DOI") the true nature and extent of Abramoff's relationship with, and unfettered access to, DOI's second highest-ranking official.

I. INTRODUCTION

On March 23, 2007, defendant Griles pleaded guilty to a one-count criminal Information charging him with Obstruction of United States Senate Proceedings in violation of Title 18, United States Code, Section 1505. The charge stems from the defendant's October 20, 2005, and November 5, 2005 appearances before investigators and members of the United States Senate Committee on Indian Affairs ("Senate Committee"), respectively, to answer questions and give testimony about his relationship and dealings with former Washington, D.C., lobbyist Jack A.

¹ In the Information and related plea documents filed in this matter, Federici is identified by the pseudonym "Person A" because she had not been charged as of the date defendant Griles entered his guilty plea.

Abramoff. The Senate Committee was investigating serious allegations that Abramoff had unfettered access to, and undue influence over, certain officials within DOI, including defendant Griles immediately prior to and during his tenure as Deputy Secretary.

In pleading guilty, defendant Griles admitted that he obstructed the Senate's power of inquiry into these public corruption allegations. The defendant admitted that although he knew the seriousness of the investigation and what information the Senate Committee sought, he purposely and repeatedly lied to, and withheld material information from, Senate investigators and senators about: (a) the nature and extent of his relationship with the person who introduced him to Abramoff; (b) how and why his relationship with Abramoff thereafter developed; and (c) the nature of Abramoff's access to him. The United States submits that the defendant's criminal acts perverted the congressional inquiry by preventing the Senate Committee from discovering: (a) the true extent of Abramoff's access to defendant Griles; (b) the true number and type of official acts and favors defendant Griles performed for Abramoff; (c) the true number and type of return favors defendant Griles requested of Abramoff; and (4) the true extent of the employment negotiations between defendant Griles and Abramoff.

For the commission of the crime to which defendant Griles has pleaded guilty, there is no dispute that the proper calculation of the applicable United States Sentencing Guidelines results in a Total Offense Level of 12, and a sentencing range of 10 to 16 months (Zone C).² In his June 8, 2007 filing, the defendant seeks a variance from the undisputed Sentencing Guideline calculation in an effort to avoid a prison term and, in lieu thereof, secure a sentence of probation with three (3) months of home confinement, a period of community service, and a \$15,000 fine.

² This Sentencing Guideline calculation includes a two-point reduction for acceptance of responsibility under U.S.S.G. § 3E1.1.

In this filing, the United States responds to defendant Griles' request for a downward variance and substantiates the Government's position that the defendant's criminal conduct warrants a term of incarceration and a more substantial fine.

Notwithstanding the purported mitigating factors defendant Griles cites in support of his motion, as detailed herein, the defendant's criminal and obstructive conduct substantially interfered with the Senate investigation. The United States submits that had defendant Griles not lied and withheld material information, the Senate Committee would not have credited the defendant's testimony in precipitously concluding its investigation into Abramoff's alleged influence and access within DOI. Rather, the Senate Committee would have dug deeper and probed further and likely would have discovered the truth about the extent of Abramoff's access to the second highest-ranking official within DOI. This filing summarizes the laundry list of examples where Abramoff sought and received – both directly and through Italia Federici – defendant Griles' intervention on matters within the jurisdiction of DOI that directly affected Abramoff and his clients.

The facts detailed in the next section of this sentencing memorandum, supported by the documentary evidence contained in the Appendix accompanying this filing, are the facts defendant Griles' obstructive behavior precluded the Senate Committee from discovering in assessing the defendant's credibility and, ultimately, making its findings and conclusions; specifically, the secret, unique, sustained, and unfettered access Abramoff had to the self-proclaimed "Chief Operating Officer" of DOI. See Def.'s App. Vol. II(C)(2) at 90, 92.³

³ "Def.'s App. Vol. ____ at ____" is a citation to defendant Griles' two volume Appendix to his June 8, 2007 sentencing memorandum. The specific page references are to the original text.

And, contrary to the argument advanced by defendant Griles, the true nature and extent of the relationship and dealings between defendant Griles and Abramoff are relevant to these sentencing proceedings. See 18 U.S.C. § 3661 (“No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.”), quoted in United States v. Bras, 483 F.3d 103, 109-12 (D.C. Cir. 2007) (upholding sentencing court’s reliance upon testimonial hearsay evidence not subject to cross-examination).

Although the individual communications between Abramoff, Federici, and defendant Griles were not illegal per se, the United States disputes the defendant’s global characterization that they were not “unlawful or improper.” See Def.’s Br. at 6-7, 18⁴; accord id. at 4, 54-55. When viewed as a whole rather than in isolation, they raise significant questions about the lawfulness and propriety of defendant Griles’ dealings with Abramoff. An illustrative example lies in Abramoff’s engagement of the defendant in five months of employment negotiations. See infra Section II(D). Those communications were not illegal per se. However, when viewed in connection with evidence that defendant Griles simultaneously was interceding on Abramoff’s behalf in his official DOI position, the legality and propriety of their dealings is called into serious question. See 18 U.S.C. §§ 208(a) & 216(a) (Criminal Conflict of Interest statutes).

Moreover, contrary to the repeated assertions by defendant Griles in his June 8, 2007 filing, the defendant’s purported truthfulness in answering the Senate’s questions about his substantive dealings with Abramoff was not resolved by the parties’ plea agreement. See, e.g.,

⁴ “Def.’s Br. at ____” is a citation to defendant Griles’ June 8, 2007 Memorandum in Aid of Sentencing.

Def.'s Br. at 3, 6-7 & n.6, 19 & n.40. Indeed, just as the Plea Agreement and attached Factual Basis for the Plea do not state that defendant Griles lied and/or withheld material information from the Senate investigators and senators about his substantive dealings with Abramoff, the negotiated documents do not state that defendant Griles was truthful and forthcoming on these issues. While the Government agreed not to further prosecute defendant Griles in connection with his Senate interview and testimony in exchange for his guilty plea, the United States did not exonerate defendant Griles of any uncharged conduct. The Government believes that the Court, by examining the documentary evidence presented, reviewing the transcript of defendant Griles' October 20, 2005 investigative interview, and viewing the enclosed DVD of his November 2, 2005 public testimony, is in the best position to assess defendant Griles' candor before the Senate Committee for purposes of this sentencing proceeding.⁵

Given the seriousness of defendant Griles' criminal conduct, and the consequences that flowed directly therefrom, we deem it necessary to note the single reason why the United States agreed to recommend a non-binding "split sentence" of ten (10) months imprisonment. Simply put, to date, the United States has uncovered no evidence that defendant Griles personally accepted any money or gifts from Abramoff. That said, had we discovered otherwise, the charge(s) and the sentencing recommendation would not have been so limited. It is for all the reasons stated herein that we urge the Court to deny defendant Griles' request for a variance upon the grounds that the prison sentence recommended by the Government properly takes into account all of the sentencing factors enumerated in 18 U.S.C. § 3553(a).

⁵ A DVD of defendant Griles' November 2, 2005 testimony before the Senate Committee may be found at "Section – N" of the Government's Appendix.

II. THE TRUE NATURE AND EXTENT OF THE RELATIONSHIP AND DEALINGS BETWEEN GRILES AND ABRAMOFF

A. The Defendant and Individuals Relevant to His Criminal Conduct

1. The Defendant: James Steven (“Steve”) Griles

On March 8, 2001, defendant Griles was nominated by the President to serve as the Deputy Secretary of DOI, the Federal agency responsible for, among other things, such Native American matters as tribal recognition, gaming compacts and applications to place land into trust for gaming purposes, and distributing Federal program funds.⁶ G-FBP ¶ 1.⁷ The defendant was confirmed by the United States Senate on July 12, 2001, and upon being sworn in on July 17, 2001, served as the second-highest ranking official within DOI until he resigned effective January 31, 2005. Id. Defendant Griles then returned to the private sector as a lobbyist.

2. The Washington, D.C., Lobbyist: Jack A. Abramoff

From 1994, through 2004, Jack A. Abramoff worked as a registered, Washington, D.C., lobbyist. Relevant to these proceedings, in January 2001, Abramoff joined a Washington, D.C., law and lobbying firm identified herein as “Firm A.” G-FBP ¶ 2. Abramoff’s client list included Native American tribal governments operating, interested in operating, and preventing nearby competitors from operating gaming operations on designated Federal land, as well as other Indian Tribes seeking Federal recognition and program funds. Id. Abramoff also represented other entities subject to DOI oversight. Id. For his alleged services, Abramoff and his firm collected

⁶ Defendant Griles previously worked for DOI from 1981 through January 1989, in a series of appointed positions.

⁷ “G-FBP ¶ ____” is a citation to the Factual Basis for the Plea executed by defendant Griles on March 20, 2007.

millions of dollars in fees, most of which were generated through the tribes' gaming operations.⁸ Consequently, Abramoff and his clients had a substantial and recurring interest in decisions made by DOI and its officials. Id.

On January 3, 2006, Abramoff pleaded guilty to a three-count criminal Information filed in this District, charging him with conspiracy to corrupt public officials as well as substantive corruption and tax evasion charges relating to his corrupt dealings with lawmakers and other public officials as well as his fraudulent treatment of his Native American tribal clients. United States v. Abramoff, Crim. No. 06-001 (D.D.C.). The following day, January 4, 2006, Abramoff pleaded guilty to a separate two-count criminal Information filed in the United States District Court for the Southern District of Florida, charging him with conspiracy to commit mail and wire fraud as well as a substantive wire fraud charge, related to his fraudulent business venture with SunCruz Casinos. United States v. Abramoff, Crim. No. 05-60204 (S.D. Fla.). On March 29, 2006, Abramoff was sentenced by the district court in Miami to seventy (70) months in prison and ordered to pay restitution of more than \$21 million. Abramoff began serving his prison sentence on November 15, 2006, and he continues to cooperate with Government officials in this ongoing criminal investigation. He has not yet been sentenced by this Court.

3. The Conduit: Italia Federici

Founded in Colorado in January 1997 by Italia Federici, the Council of Republicans for Environmental Advocacy ("CREA"),⁹ purports to be a tax-exempt organization pursuant to

⁸ According to the National Indian Gaming Association, tribal governments generated \$22.6 billion in gross revenues in 2005 as a result of gaming operations.

⁹ When originally founded, the acronym CREA stood for "Coalition of Republicans for Environmental Activists." F-FBP ¶ 1. "F-FBP ¶ ____" is a citation to the Factual Basis for

Section 501(c)(4) of the Internal Revenue Code. G-FBP ¶ 3; F-FBP ¶¶ 1 & 3. According to the entity's website: "CREA's mission is to foster environmental protection by promoting fair, community-based solutions to environmental challenges, highlighting Republican environmental accomplishments and building on our Republican tradition of conservation." See www.crea-online.org. CREA has two employees, including Federici, who serves as the organization's President. F-FBP ¶¶ 1 & 3. After initially operating from proceeds Federici received from an inheritance, CREA thereafter operated primarily through donations. G-FBP ¶ 3; F-FBP ¶ 1.

In 1997, Federici was introduced to defendant Griles at a CREA advisory board meeting in Washington, D.C. In June of the following year, the defendant helped Federici organize a CREA fund-raising gala in Washington, D.C., and thereafter played a significant role in assisting in the relocation of the entity to Washington, D.C., and raising funds to support CREA. G-FBP ¶ 3; F-FBP ¶ 2. From sometime in 1998, and continuing through 2004, defendant Griles and Federici had a personal and, at times, romantic relationship. G-FBP ¶ 3; F-FBP ¶ 2. In early 2005, the defendant went to Federici's apartment and informed her that they could no longer speak in light of the developing Abramoff corruption scandal.

Federici met Abramoff in late 2000, when she contacted him on behalf of a family friend about a possible business venture. Although Abramoff expressed some interest, nothing concrete ever came of that business venture. However, Federici and Abramoff thereafter remained in regular contact. Relevant to this prosecution, after introducing defendant Griles to Abramoff, Federici served as a conduit for information between Abramoff and defendant Griles. In this

the Plea executed by Federici on June 5, 2007. For the Court's convenience, a copy of the document is included in "Section – O" of the Appendix to this filing.

role, Federici would communicate in-depth with Abramoff about his clients and the issues and concerns applicable to Abramoff's clients, and then communicate in-depth with defendant Griles about these issues and/or forward to the defendant white papers and other information and documents Abramoff supplied. F-FBP ¶ 7.

On June 8, 2007, Federici pleaded guilty to a two-count criminal Information filed in this District, charging her with Tax Evasion and Obstruction of United States Senate Proceedings – the same congressional inquiry at issue in this prosecution – relating to her extensive dealings with Abramoff and defendant Griles. United States v. Federici, Crim. No. 07-145 (D.D.C.). Federici's sentencing is scheduled for November 16, 2007. Like Abramoff, and unlike Griles, Federici is cooperating in this ongoing criminal investigation.

B. Griles' Introduction to Abramoff: Pre-Confirmation Favors

The Griles-Federici-Abramoff relationship began when defendant Griles was introduced to Abramoff by Federici over breakfast at The Hay Adams hotel restaurant on March 1, 2001, a week prior to the defendant's nomination to serve as DOI Deputy Secretary. A-1¹⁰; G-FBP ¶ 4; F-FBP ¶ 5. During this hour-long meeting, the three discussed a host of issues relating to defendant Griles' impending nomination, Abramoff's interests in DOI issues and placing colleagues in high-level DOI positions, and Federici's CREA organization. G-FBP ¶ 4; F-FBP ¶ 5. Following this meeting, at the defendant's suggestion, Abramoff sent defendant Griles the résumés of several colleagues for specific DOI positions as well as a memorandum (known as a

¹⁰ "[Letter]-[Number]" is a citation to a document reproduced in the Appendix to this filing. We note that the publicly filed Appendix is redacted in an effort to protect the identities of persons/entities not implicated in the Abramoff corruption scandal. An unredacted version of the Government's Appendix has been filed under seal and served on defense counsel.

“white paper”) advocating the position of one of Abramoff’s clients in a tribal insurance matter pending before the DOI Bureau of Indian Affairs (“BIA”).¹¹ A-2 to A-6; A-14. The defendant was receptive to these and future communications from Abramoff and, as detailed below, provided Abramoff with advice and internal DOI information and, in certain instances, took official action favorable to Abramoff personally and on behalf of his clients.¹² E.g., A-7 (Griles’ response to Abramoff white paper addressing tribal insurance matter pending before DOI/BIA); A-26 to A-27 (Abramoff e-mail to Counselor to DOI Secretary sent on advice of Griles and invoking the defendant’s name to prompt immediate attention); A-8 to A-9 (Griles’ response to Abramoff request for list of senior Environmental Protection Agency officials identified by name, position, and pay grade); A-12 to A-13 (Griles and Abramoff schedule meeting to discuss potential candidacy of Abramoff colleague to serve in high-ranking DOI position); A-30 (Griles invites Abramoff to call him and schedule a meeting at DOI).

As admitted by defendant Griles in pleading guilty, as a result of his personal relationship with Federici, her introduction of Abramoff to him gave Abramoff more credibility as a lobbyist than Abramoff ordinarily would have had with the defendant and facilitated the building of a

¹¹ “White papers” generally do not identify the author, which (1) prevents the reader from knowing the author’s interest in, or bias towards, the issue; and (2) allows the recipient to pass along the document as his/her work product.

¹² Although the candidates pushed by Abramoff did not receive DOI appointments, it was not due to the lack of any effort by defendant Griles. For example, at Abramoff’s request and the defendant’s direction, Abramoff’s candidate for Assistant Secretary of Indian Affairs was added to the DOI Secretary’s December 2002 holiday party guest list. A-10 to A-11. A week later, the candidate was formally interviewed by the DOI Secretary and defendant Griles. The individual eventually withdrew his candidacy because he did not want to get involved with the Native American tribes’ trust fund litigation pending in this District, Cobell v. Kempthorne, Civ. No. 96-1285 (D.D.C.).

professional relationship between Abramoff and defendant Griles that ordinarily would have taken years to develop. G-FBP ¶ 5. Having cultivated a relationship with defendant Griles, and with his blessing, Abramoff and Federici began lobbying Congress and various environmental groups in an effort to secure the defendant's controversial confirmation as DOI Deputy Secretary. See, e.g., A-15 to A-25; A-28 to A-30.

C. Post-Confirmation Relationship Between Griles and Abramoff

Throughout defendant Griles' tenure as DOI Deputy Secretary, Abramoff continued to seek and receive – both directly and through Federici – the defendant's advice and intervention on a host of issues that directly affected Abramoff and his clients. G-FBP ¶ 6; F-FBP ¶¶ 7-8 (listing issues within DOI jurisdiction defendant Griles, Abramoff, and Federici communicated in-depth about between March 2001 and May 2003). In turn, as addressed in Section II(C)(2), below, defendant Griles was not shy about asking Abramoff for return favors for the benefit of others close to him. Notable among them was the defendant's pre-confirmation request that Abramoff raise \$100,000 in funds for CREA. In the end, Abramoff personally and through his clients donated \$500,000 to CREA. G-FBP ¶ 4; F-FBP ¶ 6. It stands to reason that Abramoff did so in an effort to maintain his access to defendant Griles. And, as detailed in Section II(D), below, during his tenure as DOI Deputy Secretary, Abramoff engaged defendant Griles in serious employment negotiations in an effort to lure the defendant to Firm A.¹³

¹³ Defendant Griles' acknowledgment that Abramoff invited him to "go on the infamous Scotland [golfing] trip" belies the defendant's assertions that their dealings were trivial and infrequent. See Def.'s Br. at 54-55. Abramoff invited only a limited number of guests, most of whom were high-ranking Government officials.

1. Abramoff's Requests of Griles for Access to DOI Officials and Official Action

a. CREA Dinner

On September 24, 2001, CREA hosted a dinner party at a private Washington, D.C., residence. B-2 to B-4. Federici, Abramoff, and defendant Griles (directly and through his Special Assistant) organized the event. See B-1 to B-10; F-FBP ¶ 8(B). The purpose of this event was two-fold. First, it was a fundraising event for CREA. B-17 to B-19. Second, it was a way for Abramoff and his clients to socialize with, and gain access to, high-ranking officials within DOI.¹⁴ B-3; B-11; F-FBP ¶ 8(B).

With regard to the invitation list, Abramoff and Federici selected the non-DOI guests, which included some of Abramoff's Native American tribe clients. B-4 to B-5. For his part, defendant Griles attended the event and facilitated the attendance of other high-ranking DOI officials, including: the Secretary; the Solicitor; the Assistant Secretary for Policy, Management, and Budget; the Assistant Secretary for Water and Science; and the future/nominated Director of the Bureau of Land Management. B-1 to B-9; B-12 to B-16; B-20. This was consistent with the promise defendant Griles made to Federici months earlier, which she memorialized in a July 30, 2001 e-mail to Abramoff entitled "Interior Dinner":

We are all set [to] go with a series of CREA trustees dinners. The first one of course, Interior. Steve [Griles] told me that he'd get ALL of the Assistant Secretaries there, too. . . .

B-10; see also B-11 (Federici e-mail jokingly bemoaning to Abramoff that Griles secured the

¹⁴ On March 6, 2001, CREA hosted a small cocktail party at the same private residence to welcome the new DOI Secretary to Washington, D.C. B-21. Abramoff was invited by Federici with the approval of defendant Griles following their March 1, 2001 introduction. Id.

attendance of too many high-ranking DOI officials). Even the seating chart – which placed the DOI Secretary and DOI Solicitor at the same table as Abramoff and one of his clients – was cleared through Griles’ office. B-8 to B-9.

**b. Coushatta Tribe of Louisiana Land Dispute:
DOI’s Release of \$1.3 Million in Settlement Funds**

During the September 24, 2001 fundraising dinner hosted by CREA, defendant Griles spoke with the legal counsel to the Coushatta Tribe of Louisiana, a client of Abramoff. See C-1. This conversation centered on DOI’s alleged refusal to release \$1.3 million in appropriated funds earmarked as payment for a negotiated settlement the United States purportedly reached with the tribe in connection with a land dispute. Id.

On October 18, 2001, in follow-up to defendant Griles’ discussion with the Coushatta Tribe’s legal counsel at the CREA dinner, and a subsequent telephone conversation between Abramoff and defendant Griles, Abramoff wrote the defendant on Firm A letterhead and attached a white paper advocating the release of the \$1.3 million in settlement proceeds. C-1 to C-2. Within a week of receiving Abramoff’s letter, defendant Griles took official action. Compare C-1 with C-2; see F-FBP ¶ 8(C). On October 23, 2001, defendant Griles handwrote the following note to the DOI Deputy Assistant Secretary for Indian Affairs directly on the white paper attached to Abramoff’s October 18, 2001 letter:

This package was given to me by [the legal counsel] representing the Coushatta Tribe.

Please provide me a report on why the distribution of the \$1.3 million to the tribe has not occurred?

Steve Griles
Deputy Secretary

C-2. Notably absent from defendant Griles’ missive was any reference to Abramoff. See id.

c. **CNMI Governor's Race: Presidential *Non-Endorsement***

In his October 18, 2001 letter requesting that defendant Griles facilitate DOI's release of the \$1.3 million in land dispute settlement proceeds to his client, discussed above, Abramoff also sought the defendant's intervention in an unrelated matter – i.e., the upcoming gubernatorial election in the Commonwealth of the Northern Mariana Islands ("CNMI"). C-1. Specifically, Abramoff wrote defendant Griles:

Thanks for calling me today. I appreciate your help with the CNMI governor's race and ensuring that the President does NOT endorse anyone in the race, in particular the liberal "Republican" [candidate], who is running against the Speaker and former chairman of the Bush campaign there

Id. On October 25, 2001, defendant Griles wrote, signed, and sent a letter to the Associate Director of the White House's Office of Cabinet Affairs on DOI Office of the Secretary letterhead advancing Abramoff's position under his own name. C-3. In the letter, Griles wrote:

I am concerned that the President may be asked to make an endorsement in the Commonwealth of Northern Marianas [sic] Islands (CNMI) Governor's race. In particular, the liberal "Republican," [candidate], who is running against the speaker and former chairman of the Bush Campaign there Politics in the CNMI are always difficult, but I hope we don't let the President get caught up in this local race.

Id. Abramoff received a blind-copy of the defendant's letter. Id.

During this time-frame, defendant Griles also assisted Abramoff in seeking to cancel a meeting/"photo-op" with the DOI Secretary for the above-referenced "liberal 'Republican'" CNMI gubernatorial candidate. F-FBP ¶ 8(D). Abramoff was upset that a similar meeting/"photo-op" scheduled for his candidate had been cancelled. Id. Abramoff feared that the rival candidate would use the meeting and photograph to suggest to voters that he had been endorsed by the DOI Secretary and/or the Administration. Id. In the end, the Administration did not endorse the Republican candidate in the CNMI governor's race.

d. The Jena Band of Choctaw Indians: Abramoff's Efforts to Block the Tribe's Proposed Casino

The Jena Band of Choctaw Indians ("Jena Band"), based in Louisiana, obtained Federal recognition in October 1994. Since that time, the tribe has sought to place land into trust in several states upon which to build and operate a casino. Relevant to this prosecution, in early 2002, the Jena Band submitted to DOI a gaming compact negotiated with the Governor of Louisiana in support of the tribe's pending application to place land into trust for gaming purposes in that state. Concomitantly, the tribe was seeking an alternative casino site in Mississippi. Two of Abramoff's clients – i.e., the Coushatta Tribe of Louisiana and the Mississippi Band of Choctaw Indians – opposed the Jena Band's gaming efforts because the proposed locations of the Jena Band casino would create competition for their existing casinos and diminish their revenues. Abramoff's mission was to preserve his clients' market share of the casino industry.

On January 27, 2002, Abramoff requested Federici's advice on whether to seek defendant Griles' intervention on this issue. D-1. The next day, Abramoff contacted the defendant directly with the following request sent by facsimile transmission:

I hope this letter finds you well. [The] Chief . . . of the Mississippi Band of Choctaw Indians has asked me to write to you while he is traveling to express his regret at having missed last year's CREA dinner and the chance to have a visit with [the DOI] Secretary . . . and you at that time.

He will be in Washington, DC on February 5, 200[2,] and would be honored to have an opportunity for us to come by and pay a courtesy call to you, and the Secretary, at your convenience.

Please let me know if this would work with your schedule. I look forward to seeing you soon.

D-2. In passing along Abramoff's request to his Special Assistant and secretary, defendant

Griles handwrote the following notes in the margin of Abramoff's letter: "I would like 5/10 minute quick drop by photo with Sec[retary] since he missed her at this dinner!" and "need [to] let Jack [Abramoff] know if this can happen!" Id. The defendant's Special Assistant immediately coordinated the February 5, 2002 event, scheduling a 30-minute meeting with defendant Griles, followed by a photo-op with the DOI Secretary. D-3 to D-8.

On February 5, 2002, defendant Griles, accompanied by the DOI Deputy Assistant Secretary of Indian Affairs, met in the Deputy Secretary's conference room with Abramoff and representatives of the Mississippi Band of Choctaw Indians, including the Tribal Chief, his Special Assistant, and the Tribal Attorney. D-6 to D-9. Abramoff and his clients used the occasion to voice their objections to the Jena Band's efforts to build a casino in Mississippi. Defendant Griles responded by assuring them that "state lines do matter" – a phrase that Abramoff, his clients, and the BIA official understood to mean that the Jena Band would not be allowed to cross state lines (i.e., from Louisiana to Mississippi) in order to obtain land upon which to build a casino. Following this meeting, the group had their photographs taken with the DOI Secretary.

Another notable exchange took place between defendant Griles and Abramoff during their February 5, 2002 meeting. At one point, the defendant pulled Abramoff aside and warned him that the Jena Band's application to place land into trust for gaming purposes in the tribe's home state of Louisiana was on the fast track at DOI, thereby affecting another of Abramoff's clients (i.e., the Coushatta Tribe of Louisiana). D-10. The defendant's disclosure enabled Abramoff to take action. In a February 5, 2002 e-mail entitled "Interior" to a member of his

lobbying team, and copied to then-fellow lobbyist (now-convicted felon) Michael P. S. Scanlon,¹⁵

Abramoff wrote:

I just returned from meeting the Dep[uty] Sec[retary]. [T]he Jena compact is moving fast, and there is a land in[to] trust application with it from the Governor [of Louisiana]. If we don't get some movement from the delegation very quickly, we are going to lose this. [R]ight now, they are moving to approve it, based on the comments they made.

Id. In a follow-up e-mail to Scanlon dated February 15, 2002, Abramoff wrote:

I just got a call from Italia [Federici]. Steve [Griles] told her that, as of now, [the DOI Secretary] is going to sign the Jena deal. We have to rachet this up. . . . We have to turn up the heat on this. [W]e cannot lose this. . . .

D-16. In the interim, Abramoff and his lobbying team solicited the assistance of, among others, the Executive Director of an entity identified herein as "National Organization A" to mobilize the organization to campaign against the DOI Secretary's planned approval of the Jena Band application. E.g., D-11 to D-18.

On Thursday, February 28, 2002, in response to a complaint from defendant Griles regarding the perceived "[DOI Secretary] Bashing Campaign," Abramoff faxed the defendant the following note:

There is likely going to be a major development over the weekend which might make the decision for the Secretary regarding the Jena [Band] compact/land into trust an easier matter to deal with. Please make sure you guys hold tight on this and I'll call you Monday (or Sunday if you give me a number) with some news.

D-24 to D-26; see D-19 to D-23. An hour later, Abramoff faxed a white paper to defendant Griles specifying the reasons why DOI should deny the Jena Band's application to place land into trust for gaming purposes in both Mississippi and Louisiana. D-27. On Monday, March 4, 2002,

¹⁵ Scanlon was the first person convicted in the Abramoff corruption scandal. See United States v. Scanlon, Crim. No. 05-411 (D.D.C.).

Abramoff sent defendant Griles another white paper advocating DOI's rejection of the Jena Band's efforts to operate a casino in Louisiana, suggesting that "this compact needs to find the dustbin." D-27 to D-28. Three days later, by letter dated March 7, 2002, the DOI/BIA disapproved the Tribal-State Compact between Louisiana and the Jena Band, citing as its principle reason the purportedly excessive tribal contribution to the state required under the compact (i.e., the cost-sharing provision) – one of the reasons listed by Abramoff in his March 4, 2002 white paper to defendant Griles.¹⁶ D-30 to D-32.

Six months later, on September 9, 2002, defendant Griles had dinner with Abramoff and Federici in a private room of "Signatures," a restaurant owned by Abramoff. D-33 to D-35. During this meal, the defendant and Abramoff discussed a number of DOI issues affecting Abramoff's clients, including the progress the Jena Band was making on its continuing effort to acquire Federal land for gaming purposes in Louisiana. D-35. In the ensuing months, Abramoff reached out to defendant Griles through Federici whenever he heard rumors that the Jena Band was making progress in its bid to build a casino. See, e.g., D-36 to D-41¹⁷; see F-FBP ¶ 8(F).

¹⁶ The Jena Band's proposed alternative site in Mississippi was never given serious consideration by DOI.

¹⁷ In an e-mail dated June 2, 2003, Abramoff asked Federici to speak to defendant Griles and "get a sense as to where we are" on a number of tribal government issues pending before DOI, including the Jena Band's gaming efforts and the status of DOI's decision on whether to federally recognize the Mashpee Wampanoag Tribe (of Massachusetts) ("Mashpee Tribe"). D-41. Previously, in January 2003, in deciding whether to accept the Mashpee Tribe as a client, Abramoff had asked Federici whether she could:

discreetly find out [from defendant Griles] whether th[e Mashpee Tribe] recognition is being held up by one of our guys, or one of the bureaucrats? They want me to help, but I don't want to get into something which might cause any problems for Steve or the Secretary. Thanks so much!

P-1. Federici agree and thereafter communicated in-depth with Abramoff and defendant Griles about the status of the internal DOI decision. F-FBP ¶ 8(G); see P-1 to P-11.

By November 2003, the Jena Band's application to place land into trust had reached the highest levels of DOI. To promote his agenda, Abramoff and his lobbying staff created a binder of materials highly critical of the Jena Band's gaming efforts ("Jena Binder"). D-42 to D-43 (Jena Binder cover memorandum). The Jena Binder contained, among other things, numerous letters obtained by Abramoff from various congressional and local officials in purported opposition to the Jena Band's proposed casino. See id. The author of the November 10, 2003 cover memorandum and the creator of the binder were purposely omitted, and the fax numbers and other information identifying the true source of the materials were removed. Compare D-42 with D44. The e-mails suggest that Abramoff's plan was to have defendant Griles present the Jena Binder to the DOI Secretary while she considered the Jena Band's application to place land into trust for gaming purposes in Louisiana.

On November 13, 2003, Abramoff sent the Jena Binder by courier to defendant Griles at his DOI Office. D-44 to D-46. That evening, defendant Griles spoke with Abramoff by telephone. D-47 to D-48. Immediately following his November 13, 2003 conversation with the defendant, Abramoff sent the following e-mail to members of his lobbying team:

[Congressman A] is our problem. His staff is telling D[O]I that they want this deal to happen. Steve [Griles] recommends that we get [Congressman B] to call him directly and ask him to support [Congressman B] in opposing this. [I]f he can get that commitment (even if it's a lie by [Congressman A]), he then needs to call [the DOI Secretary] and tell her that Congressman A has backed off. Either way, Steve is going to stall this out until [the] Saturday [Louisiana gubernatorial run-off election] is over. [O]nce that happens, we need to get the winner to immediately communicate to [the DOI Secretary] that they are withdrawing the request. Who is close to [Louisiana Gubernatorial Candidate A] among our group?^{18]}

¹⁸ The incumbent governor, who was not running for reelection, publicly supported the proposed Jena Band casino. As the e-mails reflect, Abramoff's plan was to have the governor-elect seek to withdraw the state's support for the Jena Band casino.

D-47. The next day, November 14, 2003, defendant Griles presented the Jena Binder to the Counselor to the DOI Secretary responsible for Indian gaming issues and requested that the materials be added to the official record to be considered by the DOI Secretary in deciding the Jena Band's application. Def.'s App. Vol. II(C)(2) at 90 to 92, 105; see D-42 (Counselor to the DOI Secretary handwritten note on the Jena Binder cover memorandum: "This Binder was provided to me by Steve Griles." (alteration to capitalization)).

Thereafter, in an e-mail dated December 18, 2003, Abramoff forwarded to defendant Griles the "Latest information" he had received regarding DOI's decision on the Jena Band's land into trust application; specifically, that a decision was expected "before Christmas." D-49. In a December 23, 2003 follow-up e-mail to defendant Griles entitled "Tip Re Jena Band," Abramoff forwarded additional intelligence received by a member of his lobbying team. D-50. Consistent with Abramoff's inside information, on December 24, 2003, the DOI/BIA approved the Jena Band's application to place land into trust for gaming purposes, subject to the newly elected Louisiana governor signing a State-Tribal Compact. D-51 to D-52. The governor refused to sign the compact.

e. Gun Lake Tribe (of Michigan): Abramoff's Efforts to Block the Tribe's Proposed Casino

The Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians of Michigan, commonly known as the "Gun Lake Tribe," obtained Federal recognition in October 1998. Three years later, in August 2001, the tribe submitted an application to place land into trust for gaming purposes in Michigan. In connection with its application, the performance of an Environmental Assessment ("EA") of the potential environmental consequences of the planned \$100 million

casino was required. In December 2002, the Gun Lake Tribe submitted to DOI/BIA an EA supporting a finding of “no significant impact” on the local community. Relevant to this prosecution, Abramoff represented the Saginaw Chippewa Indian Tribe of Michigan (“Saginaw Tribe”), which had an existing casino in the area of the planned Gun Lake Tribe casino. Consequently, Abramoff, on behalf of the Saginaw Tribe, opposed the Gun Lake Tribe’s application in an effort to protect the Saginaw Tribe’s market share. See F-FBP ¶ 8(E).

On December 4, 2002, in response to a news account that the Gun Lake Tribe’s pending application to place land into trust for gaming purposes was nearing approval, Abramoff sent the following e-mail to Federici:

Hi. This is a disaster in the making. This is the casino we discussed with Steve [Griles] and he said that it would not happen. [I]t seems to be happening! The way to stop it is for Interior to say they are not satisfied with the Environmental [Assessment]. Can you get him to stop this one asap? They are moving fast. Thanks Italia. This is a direct assault on our guys, Saginaw Chippewa.

E-1. Federici immediately responded: “I will call him asap.” Id. In a subsequent reply to Federici, Abramoff curiously wrote: “The important part is that Steve [Griles] clearly understands what a great friend he has in you. [H]e is a great guy and we need to make sure he is always protected. . . .” Id. Two days later, appended to an e-mail dated December 5, 2002, Abramoff forwarded another news article to Federici entitled “New Hope for Gun Lake Casino.” E-2. In the accompanying e-mail, Abramoff wrote: “This is what we have to stop.” Id. Federici responded that she was meeting defendant Griles that afternoon. Id.

The following week, on December 12, 2002, defendant Griles met Abramoff for lunch at Stacks Delicatessen, another restaurant owned by Abramoff. E-3 to E-4; E-19. Prior to this lunch meeting with the defendant, Abramoff tasked his lobbying team to draft “Talking Points”

for certain issues, including bases upon which to stop the Gun Lake Tribe casino. E-3. In a December 12, 2002 post-lunch e-mail to Federici, Abramoff wrote: "I had lunch with Steve [Griles] today, but we did not really chat about [the Gun Lake Tribe casino]. [W]ill you be at the party tonight?" E-4 to E-5. The party referenced in Abramoff's e-mail was to the DOI Secretary's annual holiday party. E-19 (defendant Griles' calendar cleared for "Secretary's Holiday Party"). That evening, in the midst of the DOI Secretary's holiday party, Abramoff and defendant Griles discussed ways to derail the Gun Lake Tribe's application to place land into trust for gaming purposes, including DOI requiring the tribe to perform the more onerous Environmental Impact Statement ("EIS") in lieu of the EA submitted. See E-10.

The next day, in an e-mail dated December 13, 2002, entitled "Michigan Indian gaming expansion we are hoping to stop," Abramoff forwarded to Federici a fax from a member of the United States Congress addressed to the DOI Secretary critical of the EA submitted by the Gun Lake Tribe. E-6 to E-9. Abramoff asked Federici if she could "pass [it] on to Steve [Griles] directly?" Id. Abramoff followed-up with a December 17, 2002 e-mail to Federici forwarding a news account of the Congressman's opposition to the Gun Lake Tribe's proposed casino. E-11. In the accompanying e-mail, Abramoff wrote: "This is a really important article for Steve [Griles] to see. Thanks." Id. In response to the Congressman's request, DOI/BIA extended the public comment period on the EA submitted by the Gun Lake Tribe. See E-12 to E-13. In another e-mail to Federici, Abramoff wrote: "This is very good. With this extension, they can now kill it by ruling that the E[A] shows they should not move forward." Id. In follow-up e-mails dated December 20-21, 2002, Abramoff sent Federici a number of attachments critical of the Gun Lake Tribe EA. E-14. Federici passed this information along to defendant Griles

and spoke with the defendant about Abramoff's concerns.¹⁹ F-FBP ¶ 8(E).

**f. Saginaw Chippewa Indian Tribe (of Michigan):
\$3 Million School Cost Share Program Funds**

The Saginaw Tribe, an Abramoff client, has a zero percent unemployment rate and no tribal members live below the national poverty threshold. These significant statistics are, in large measure, due to the fact that each adult member receives an annual share of the revenue from the tribe's gaming operations.

Relevant to this prosecution, the Fiscal Year 2003 DOI Appropriations Bill included a line-item appropriation of approximately \$3 million to fund the Tribal School Construction Demonstration Program administered by DOI/BIA. F-1 to F-2. This program, also known as the "School Cost Share Program," generally allows federally recognized Native American tribal governments to receive matching funds for school construction. *Id.* Abramoff and his team lobbied Congress to include this earmark for the benefit of the Saginaw Tribe for use in building an elementary school. F-3 to F-4, F-19; *see* F-1 to F-2.

By late January 2003, Abramoff learned that the DOI/BIA was opposed to the Saginaw Tribe receiving the Federal matching funds for school construction due to the tribe's failure to satisfy two conditions precedent: (1) the Federal matching funds generally went to tribes who operated schools within the DOI/BIA school system; and (2) the Saginaw Tribe was not on the DOI/BIA-approved priority list which is largely based on need. F-5 to F-7; F-17 to F-18.

¹⁹ On October 23, 2006, although the Governor of Michigan had not, and has not to this date, signed the Tribal-State Compact, DOI/BIA approved the Gun Lake Tribe's application to place land into trust for gaming purposes. E-15 to E-18. The issue remains in litigation in this District, Michigan Gambling Opposition v. Kempthorne, Civ. No. 05-1181 (D.D.C.).

In a January 31, 2003, e-mail to Federici entitled "Cost Share," Abramoff wrote: "How did this happen? I thought Steve [Griles] was going to take care of this." F-5 (alteration to capitalization).

Thereafter, in a series of e-mails dated March 6, 2003, a member of the Abramoff lobbying team wrote Abramoff: "Griles is going to have to call [the DOI Acting Assistant Secretary for Indian Affairs] in and read her the riot act on this." F-7. Abramoff's response: "Get me an e[-]mail I can send to Italia [Federici] to speak with Steve [Griles]." F-6 to F-7. After receiving an e-mail outlining the School Cost Share Program issue and the Saginaw Tribe's claimed entitlement to the Federal matching funds, Abramoff forwarded the e-mail to Federici with the following note: "Please let me know if you can call Steve [Griles] on this. Thanks so much Italia!" F-8. Federici immediately contacted defendant Griles by telephone and secured his cooperation. E.g., F-9 to F-12; see F-FBP ¶ 8(C).

Indeed, just four days later, on March 10, 2003, Abramoff wrote a cryptic e-mail to a member of his lobbying team: "She spoke with the man who will tomorrow speak with the woman over there and, hopefully, put an end to this problem." F-9. The United States has learned that "She" referred to Federici, "the man" referred to defendant Griles, "the woman over there" to whom the e-mail refers was the DOI Acting Assistant Secretary for Indian Affairs, and "this problem" referred to DOI/BIA's stance on the Saginaw Tribe's entitlement to the Federal matching funds under the School Cost Share Program. Then, in an e-mail entitled "Italia [Federici]" dated March 25, 2003, Abramoff wrote:

Just got off the phone with [Federici]. If you are here, come up and see me. If not, here is what they are going to do. [Griles] has instructed [the DOI Acting Assistant Secretary for Indian Affairs] to write a letter to the appropriators

[in Congress] requesting clarification from them. [T]he letter will note that they previously asked for the [School Cost Share P]rogram to be terminated, but that the recent move seems to be in favor of the Sag[inaw Tribe] project. Then we will get the appropriators to re-instruct [DOI] and they will then clear the decks. Italia [Federici] thinks this will happen as soon as possible, but it is possible that the way things move over there that it could take up to 2 weeks.

F-13. Six days later, in an e-mail entitled "Griles" dated March 31, 2003, Abramoff reported to a member of his lobbying team that the defendant had just contacted Abramoff by telephone to discuss the School Cost Share Program letter to Congress being drafted by DOI/BIA at defendant Griles' direction. F-14. In the course of that conversation, Griles gave Abramoff assurances that he would provide Abramoff with a copy of the letter as soon as it was drafted to give Abramoff "a head start." Id.

In the interim, in late March 2003, Abramoff and his lobbying team, with the assistance of Federici, arranged for defendant Griles to speak by telephone with a staff member of the Senate Appropriations Committee. F-15 to F-16. The purpose of the call was for the defendant to use the congressional contact to push Abramoff's agenda within DOI and facilitate the release of the \$3 million in Federal matching funds to the Saginaw Tribe. Id.

Concomitantly, in late March/early April 2003, at Abramoff's request, defendant Griles directed the DOI Acting Assistant Secretary for Indian Affairs to draft a letter to Congress seeking clarification and further guidance in an effort to facilitate the release of the School Cost Share matching funds to the Saginaw Tribe. F-20 to F-21. After seeing a draft dated April 9, 2003, wherein DOI reiterated its position that the Saginaw Tribe was not eligible to receive the Federal matching funds in issue, defendant Griles handwrote the following note to the DOI Acting Assistant Secretary for Indian Affairs: "[T]his is not the conclusion I thought we were making? Has this gone out? Steve." F-20. The defendant directed his Special Assistant to "check ASAP." Id. Defendant Griles then summoned the Counselor to the Acting Assistant

Secretary for Indian Affairs (i.e., the author of the draft letter to Congress) to his office and took her to the proverbial woodshed about the tone and content of the draft letter, making it clear that he wanted the funds to be distributed to the Saginaw Tribe despite DOI/BIA's opposition.

The School Cost Share letter drafted by the Counselor to the Acting Assistant Secretary for Indian Affairs was never sent. Instead, a toned down letter dated April 23, 2003, signed by the DOI Assistant Secretary for Policy, Management, and Budget, was sent to Congress in its place. Compare id. with F-22 to F-23. More in line with defendant Griles' directives to the Acting Assistant Secretary for Indian Affairs and her Counselor, the letter signed by the Assistant Secretary for Policy, Management, and Budget essentially told Congress that DOI/BIA's hands were tied by existing legislation, and that the DOI welcomed clarification and further legislative guidance and directives.²⁰ F-22 to F-23.

g. The Filming of National Treasure

On September 24, 2003, Touchstone Pictures/Declaration Productions, Inc. was filming the 2004 motion picture "National Treasure" on the grounds of the United States Navy Memorial located in Washington, D.C. G-1 to G-4. The Navy Memorial, built on Federal land and under the jurisdiction of the DOI National Park Service, was steps away from the entrance to Signatures. Abramoff was upset that the film crew and its trailers and equipment were blocking the valet parking area abutting his restaurant. G-7. Because the film crew had a valid permit, they ignored Abramoff's demands to move away from his restaurant. G-1 to G-4.

²⁰ In the end, Congress again included the \$3 million line-item appropriation to fund the Saginaw Tribe's pending Tribal School Construction Demonstration Program application in the Fiscal Year 2004 DOI Appropriations Bill. F-24. In the wake of the Abramoff corruption scandal, the tribal government declined to accept the Federal matching funds and requested that Congress redirect the funds to cover DOI programs subject to spending reductions. See id.

Knowing that the Navy Memorial was built on Federal land, Abramoff telephoned defendant Griles. G-7. The defendant, in turn, contacted the Special Assistant to the Director of the National Park Service and asked the Government official to investigate Abramoff's complaint. G-5 to G-6. The National Park Service official went to the restaurant, spoke with both the manager of Signatures and a representative of the film crew, and directed the film crew to move their equipment away from the restaurant's valet parking area.

h. Coushatta Tribe of Louisiana: Leadership Dispute

In February 2004, a leadership dispute arose within the Coushatta Tribe of Louisiana. H-1 to H-6. Claiming that the Tribal Chairman and a Tribal Councilman had resigned during a February 7, 2004 community meeting, rival Tribal Councilmen instigated a coup d'état. Id. The dispute erupted, in part, because some members of the tribe grew angry after reading/hearing news accounts that their tribal leaders had paid \$18 million in lobbying fees to Abramoff and his firm. H-5. Thus, it was important to Abramoff that the current administration remain in power.

In mid-February 2004, at Abramoff's request, defendant Griles intervened by twice directing the DOI Acting Assistant Secretary for Indian Affairs to contact Abramoff and try to resolve the Tribal dispute. Def.'s App. Vol. II(C)(2) at 90. Reluctantly, the DOI Acting Assistant Secretary for Indian Affairs complied with defendant Griles' directives. Ultimately, unbeknownst to the DOI Acting Assistant Secretary for Indian Affairs, the DOI/BIA Regional Director sent a letter to the ousted Tribal Chairman recognizing his administration.²¹ Compare H-6 to H-7 with H-8.

²¹ The letter did nothing to quell the tribal controversy as it continued unabated for months.

2. Griles' Requests of Abramoff for Return Favors

After meeting Abramoff in March 2001, and periodically throughout his tenure at DOI, defendant Griles was not shy about asking Abramoff for return favors. Indeed, as demonstrated by the following examples, the defendant would contact Abramoff on behalf of his close, personal friends with requests that Abramoff and his Native American Indian tribal clients contribute funds to an organization and charity run by these women and that Abramoff and Firm A interview and hire these women.

a. Italia Federici: CREA Contributions

During his March 1, 2001 introduction to the defendant, and in subsequent conversations with the defendant and Federici, Abramoff was left with the distinct impression that CREA was important to Griles. Abramoff also thought that if he and his clients contributed money to CREA, then Abramoff would be afforded special access to defendant Griles through Federici. The documentary evidence supports Abramoff's understanding of this triangular relationship.

Indeed, as memorialized by Abramoff in a March 21, 2001 e-mail to Federici:

... I just met with Steve [Griles] and [my candidate for a high-ranking DOI position]. Great meeting. Steve mentioned the meeting went well at the [White] H[ouse] yesterday and that we need \$100K asap. Please get me a mini budget and request letter and I'll see if I can break some funds free from the tribes.

I-1 (emphasis added).²² Seven days later, on March 28, 2001, CREA received through Abramoff a \$50,000 check from the Coushatta Tribe of Louisiana, and noticed that the balance of \$50,000

²² The meeting referenced in the above-quoted e-mail was attended by both Federici and defendant Griles. The purpose of the meeting was for CREA to obtain an advanced copy of the Vice President's Energy Task Force Report and offer to conduct a favorable study and public opinion polling.

would be remitted from Mississippi Band of Choctaw Indians.²³ I-2; I-7 to I-9. As detailed in Section II(C)(1)(d), these were the two tribal clients of Abramoff opposed to the opening of a casino by the Jena Band.

The following month, in an e-mail captioned “Chief of the Coushattas” dated April 19, 2001, Abramoff wrote Federici:

He will be coming [o]n May 9 to DC. Do you think we could get him a meeting with [the DOI] Secretary . . . and Steve [Griles]? I’d also like him to meet you, since I want to go back to the well and get more \$ from them soon for CREA.

I-3. Federici responded: “I will get to work on this with Steve [Griles]. I’d very much like to meet him and I’m sure Steve and [the DOI Secretary] will too.” Id. After discussing some of the projects CREA has been working on, Federici added: “That is what the money from last month went to and I think you’ll be very pleased with the fresh slant on things. Thank you again for all your help!” Id.

That defendant Griles was aware of Abramoff’s continuing efforts to drum up CREA donations from his Indian tribal clients is evidenced in an October 24, 2001 e-mail Abramoff sent to the Tribal Planner to the Mississippi Band of Choctaw Indians, wherein he wrote under the heading “[DOI] Secretary []”:

I saw her Deputy Secretary today (an hour after I gave CREA that contribution) and he told me that she was absolutely gushing about Choctaw and how grateful she is. Nice to hear at least someone is grateful these days! We’ll organize the Chief to go see her when he is next here. Regards.

I-4.²⁴ Thereafter, in an e-mail dated September 24, 2002, Abramoff made the following request of defendant Griles through Federici:

²³ As detailed below, at Abramoff’s directive, the Mississippi Band of Choctaw made two \$50,000 donations to CREA, the first on October 22, 2001, and the second on March 13, 2002. I-16 to I-17; I-24 to I-25.

²⁴ The DOI Secretary was the former National Chairperson of CREA.

The Chief of the Cherokees is meeting with Steve Griles tomorrow afternoon. This is the one I have talked to about representation and giving to CREA. If Steve could mention both your name and mine to him it would be a big help. He can just say "we have mutual friends" or something if that is possible. [I]t would really help. Thanks so much!!!

I-5. Federici's response: "I will remind him about that and I'm sure he'd love to mention your help. I will let you know when we talk." Id. Defendant' Griles' DOI calendar documents his September 25, 2002 meeting with the Chief of the Cherokee Tribe of Oklahoma. I-34.

With regard to Federici's continued role as the proverbial middleman, over time, as Abramoff built a personal relationship with defendant Griles, Abramoff became less reliant upon Federici as his means of access to the defendant. Nevertheless, Abramoff continued to make and solicit contributions for CREA in an effort to please defendant Griles. The following chart documents the CREA contributions made by Abramoff personally and through his clients totaling \$500,000:

Date	Abramoff/Client	Amount
Mar. 28, 2001	Coushatta Tribe of Louisiana	\$ 50,000
Apr. 30, 2001	Concorde Garment Mfg. Corp. (CNMI)	\$ 10,000
Aug. 27, 2001	Chitimacha Tribe of Louisiana	\$ 10,000
Oct. 16, 2001	Abramoff (personally)	\$ 5,000
Oct. 22, 2001	Mississippi Band of Choctaw Indians	\$ 50,000
Mar. 04, 2002	Tigua Indian Tribe	\$ 25,000
Mar. 06, 2002	Coushatta Tribe of Louisiana	\$100,000
Mar. 06, 2002	Saginaw Chippewa Indian Tribe (of Michigan)	\$ 50,000
Mar. 13, 2002	Mississippi Band of Choctaw Indians	\$ 50,000
Feb. 04, 2003	Mashpee Wampanoag Tribe (of Massachusetts)	\$ 50,000
Apr. 16, 2003	Kaygold LLC – Abramoff (personally)	\$ 10,000

May 12, 2003	Kaygold LLC – Abramoff (personally)	\$ 15,000
May 23, 2003	Saginaw Chippewa Indian Tribe (of Michigan)	\$ 25,000
May 30, 2003	Sac and Fox of the Mississippi (in Iowa)	\$ 50,000
TOTAL		\$500,000

I-7 to I-33; F-FBP ¶ 6. It is significant to note that, from March 2001, through May 2003, the charted contributions totaling \$500,000 comprised 67% of CREA's income.

In mid-2003, Federici decided that she no longer wished to serve as the conduit between Abramoff and defendant Griles. F-FBP ¶ 9. Fearing that Abramoff would not take “no” for an answer, Federici sought defendant Griles' counsel. *Id.* The defendant told Federici to simply inform Abramoff that defendant Griles was no longer dealing with Native American tribal matters at DOI. *Id.*; *see* I-6 (Abramoff e-mail challenging Federici representation defendant Griles was no longer dealing with tribal matters at DOI).²⁵ With that, Abramoff significantly curtailed his communications with Federici and, concomitantly, both Abramoff and his clients stopped contributing to CREA.

b. Person B: Funding and Legal Services for a Proposed Education Trust Fund for Children of Military Soldiers

In October 2002, defendant Griles attended a social event and met a Northern Virginian business owner identified herein as “Person B.” The two thereafter became close, personal friends. Relevant to this prosecution, in early 2003, defendant Griles and Person B came up with the idea of establishing an education trust fund to benefit the children of American military

²⁵ As detailed throughout this filing, and in contrast to the defendant's persistent reliance upon this e-mail in an effort to distance himself from Abramoff, *see* Def.'s Br. at 16, defendant Griles' purported self-imposed moratorium on communicating with Abramoff and assisting the lobbyist with the affairs of his clients was short-lived.

troops killed in Afghanistan and Iraq. J-1. In an e-mail dated April 14, 2003, the defendant solicited Abramoff's assistance in establishing a non-profit legal entity and getting the education trust fund off the ground financially. Id. Abramoff immediately agreed to provide the necessary legal work and financial backing and requested a meeting. J-2 to J-5.

Thereafter, in an e-mail entitled "Steve Griles" dated April 30, 2003, an Abramoff assistant sent Abramoff the following message:

[Griles'] ass[istan]t called and said you and Steve [Griles] talked about setting up lunch this week. [Person B] is available [Friday] -- she is the woman that he wanted you to get acquainted with, to discuss setting up the Education Trust Fund for soldier's children. He is available Friday, but you are golfing. Maybe a late lunch? [H]e would also like to meet with the attorney who will be setting up the fund -- either before, after, or during the lunch. Please advise.

J-6. After a series of follow-up telephone calls and e-mails dealing with scheduling issues, on May 2, 2004, Abramoff, defendant Griles, and Person B had lunch at Signatures to discuss Person B's planned charitable organization. J-6 to J-10. During their lunch meeting, Abramoff proposed raising the necessary money to fund the project through donations from his Indian tribal clients.

Four days later, in a May 6, 2004 e-mail entitled "Trust fund project" addressed to both defendant Griles and Person B, Abramoff broke the news that

Fox news just had an interview with [the] Senior Exec[utive] V[ice] P[resident] of MBNA, announcing the Forces Family Scholarship and Assistance Fund. He said that they are raising \$50,000 for the children of the fallen US troops, and also the other coalition troops (he mentioned the UK several times) to use for education. He said that once they do that, they will address other needs of the military families. He said he had the cooperation of the Chairman of the Joint Chiefs, the other service chiefs and the Sec[retary of] Def[ense]. It seems that [the Senior Executive Vice President of MBNA] overheard our lunch! Also, he indicated that NASCAR has been supporting this effort and collecting funds already.

Not sure it makes sense for us to do the same thing these guys are doing. Should we try to get on a call together and figure out the next step?

J-11. Defendant Griles responded:

I heard the report last night also and [Person B] and I briefly discussed. It is disappointing that we didn't get this done because [I] believe the approach we discussed at lunch was better. Thanks for agreeing to help. [T]alk to you later.

PS need to send you check for lunch so please let me know the amount. [I]t was a great lunch.

J-12. In the end, Person B, defendant Griles, and Abramoff collectively decided to abandon the project. See J-13 to J-14.

c. Attorneys for Hire (by Firm A)

1. Person C: The "Woman from West Virginia"

On November 21, 2002, defendant Griles contacted Abramoff to discuss the possibility of Firm A employing an attorney identified herein as "Person C," who was practicing law in West Virginia. K-1 to K-6. The defendant and Person C were close, personal friends. K-9 to K-10. Immediately following their November 21, 2002 discussion, defendant Griles faxed Abramoff a copy of Person C's résumé using an official DOI facsimile transmission cover sheet, with a simple message: "Per our discussion." K-1 to K-3.

Five days later, on November 26, 2002, one Abramoff assistant sent the following e-mail to a second Abramoff assistant regarding the "woman from West Virginia":

[A third Abramoff assistant] passed a resume to you from a woman from West Virginia from Steve Griles. [Abramoff] can't remember the name of the woman, but no one has called her office yet to set up the interview. Her number is 304-[XXX-XXXX] cell and 304-[XXX-XXXX] home. Jack wants to get it set up ASAP. Can you call her please?

K-4. As a favor to defendant Griles, Abramoff met with Person C on December 5, 2002.²⁶ K-5

²⁶ In an e-mail dated December 5, 2002, Abramoff sent the following instructions to the maître d' at Signatures: "If [S]teve [G]riles or [Person C] come in tonite [sic], pl[ea]s[e] comp them." K-6.

to K-7. Thereafter, by letter dated December 9, 2002, Person C reported the following to defendant Griles about her meeting with Abramoff:

. . . thank you for scheduling . . . Jack [Abramoff] to see me. . . .
Meeting with Jack . . . was a rather pleasant surprise; the way that you described his success story, I was anticipating a pompous self-centered individual, which could not be more from the truth. He and I appeared to hit-it-off from the start and I really enjoyed talking with him; I only hope that your "recommendation" was not so high that I cannot live up to it!

K-9 to K-10. In the end, Person C did not go to work for Firm A.

2. Person D: The Senate Staffer

In the Fall of 2003, defendant Griles approached Abramoff about the possibility of Firm A employing a person identified herein as "Person D," an attorney employed as the Legislative Director to a United States Senator. At the time, defendant Griles and Person D, who were close, personal friends, were out to dinner at Kinhead's restaurant in Washington, D.C. Abramoff happened by their table and engaged defendant Griles in conversation. It was during that conversation that defendant Griles asked Abramoff about the prospect of Firm A employing Person D, who was looking for a new job at the time.

In an e-mail entitled "[Person D]" dated December 15, 2003, an Abramoff assistant informed Abramoff:

Steve Griles['] office called. He said he spoke to you about meeting with this woman to talk about her possibly coming to work for the firm. Do you want me to set something up?

L-1. Abramoff immediately responded: "Yes." Id. The following day, on December 16, 2003, defendant Griles sent Abramoff an untitled e-mail asking: "did you talk to [Person D]?" L-2. Before responding to Griles, Abramoff forwarded the message to one of his assistants, asking: "Did we get this set up?" L-3. Then, in an e-mail response to defendant Griles, Abramoff asked:

“By the way, [Person D] is the one who worked for the Senate, right?” L-4. To which the defendant replied:

Yes[. S]he has been interviewed by three other law firms. She ran the Senate for [two other Senators]. [She h]as the best personal relationships with many Senators than any who has come out. She will make you lots of money. She has one client from New [M]exico who has large sums and wants into Indian gambling. She is a lawyer who will be very good for most firms. Jack[,] at least talk to her and I think you will make her an offer. Others are. Call me if you want to discuss.

L-5.²⁷ Abramoff immediately responded:

I definitely want to meet with her and am very interested. I asked [one of my assistants] to set this up. I hope that was done and will check on it this morning. Thanks so much Steve. . . .

L-6.

The next week, on December 23, 2003, Abramoff met with Person D at his Firm A office for a formal, hour-long interview. L-10. The time slot is marked in Abramoff’s calendar as: “[Person D] -- per Steve Griles.” Id.; see also L-11 (Abramoff calendar entry for January 15, 2004 lists “Drinks with [Person D at] Sigs”); L-12 (Abramoff telephone message from Person D dated February 5, 2004). In the end, Person D did not go to work for Firm A.

D. Griles’ Employment Negotiations with Abramoff

In the Spring of 2003, defendant Griles began contemplating his return to the private sector. In an April 27, 2003 e-mail to a person identified herein as “Person E,” for example, defendant Griles bemoaned the cost of tuition at the colleges his child was considering. M-1. Noting the \$40,0000 a year cost of each institution, defendant Griles wrote: “Time for me to hit the r[oa]d to the money game.” Id. Defendant Griles had similar discussions with Person B,

²⁷ Notably, when Abramoff forwarded this e-mail chain to members of his lobbying team, one member responded: “This guy should worry about killing Jena, not pawning off new hires on us. Having said that, maybe she would be good. Let’s discuss. . . .” L-8.

discussed in Section II(C)(2)(b), above, mentioning to her that he might either return to his old lobbying firm or go to work with Abramoff at Firm A. See M-28.

During this time, defendant Griles was the subject of a well-reported DOI internal investigation, unrelated to this matter, in which it was alleged that the defendant participated in DOI meetings on oil and gas leases in which the clients of his former lobbying firm had significant financial interests. M-2 to M-4. On April 3, 2003, after reading an article published on www.FOXNews.com and circulated by Abramoff to his team, one team member responded: "I doubt this even phases him. . . . The dem[ocrat]s have been whacking him for two years. If he wants out . . . let's hire him. Shit, he brings in some []quid." M-2.

On September 9, 2003, defendant Griles met Abramoff after work "for drinks" at Signatures. M-5 to M-6. During that meeting, the two engaged in extensive employment negotiations and, at one point, defendant Griles asked Abramoff for a list of Abramoff and Firm A's clients so that defendant Griles could begin the process of recusing himself. See M-7 to M-11 (discussed below). Later that evening, Abramoff sent the following e-mail entitled "Griles" to his lobbying team at Firm A:

This cannot be shared with anyone not on this distribution list. I met with him tonight. He is ready to leave Interior and will most likely be coming to join us. He had a nice size[] practice before joining Interior, and expects to get that and more rather soon. I expect he will be with us in 90-120 days. This will restrict what he can do for us in the meantime, but he gave me some suggestions on how to get Meskwati [sic] through²⁸ and the [School C]ost [S]hare [Program] done.

M-7. On September 12, 2003, in follow-up to their employment discussions, Abramoff sent defendant Griles the following letter on Firm A letterhead:

²⁸ The misspelled reference to Meshwaki is a reference to another of Abramoff's tribal clients, the Sac & Fox Tribe of the Mississippi (in Iowa).

Per our discussion, here is a full list of all clients for which [Firm A] lobbies. I have put an asterisk next to the clients of my team.

M-8 to M-11; accord M-24 to M-26. Attached to the two-line missive was a three-page, single-spaced, alphabetized listing of clients for which Lobbying Reports were filed by Firm A between January 1, 2003, and June 30, 2003. M-8 to M-11; see M-24 to M-26. As noted in the letter, a number of the listed clients are asterisked. M-8 to M-11; M-24 to M-26. Upon his receipt of the Abramoff letter and attached client list, defendant Griles discussed with his Special Assistant the prospect of working with Abramoff and placed the document in his desk drawer.

Thereafter, in a December 16, 2003 e-mail exchange, defendant Griles pressed Abramoff about Firm A's delay in interviewing/hiring Person D (detailed in Section II(C)(2)(d) above).

Abramoff responded to the defendant as follows:

I definitely want to meet with her and am very interested. I asked [one of my assistants] to set this up. I hope that was done and will check on it this morning. Thanks so much Steve. Now, about you . . . let's get that done!

M-12 (emphasis added). Defendant Griles' reply: "[Our assistants] are in charge." Id.

Abramoff's retort: "And thank G-D for it." Id.

Thereafter, in response to questions posed by his lobbying team regarding the status of the employment negotiations with defendant Griles, Abramoff wrote on December 17, 2003:

He and I were supposed to have dinner Monday night, but it is being rescheduled since we will be [in Michigan meeting with the] Saginaw [Tribe]. He is bringing a secretary and a more junior guy (I think it's his c[hief] o[f] s[taff]) from [I]nterior).²⁹ They will aid him in building a practice. His mission will be to reconstruct his old practice, and build on it from his Interior experience, as well assist us. [H]e is very plugged in on the Hill and throughout the [A]dministration.

M-14. The rescheduling of the above-referenced December 22, 2003 employment negotiations

²⁹ The reference to defendant Griles' Chief-of-Staff was to the DOI Associate Deputy Secretary.

dinner between Abramoff and defendant Griles was memorialized in a December 16, 2003

e-mail from Abramoff to Griles, wherein he wrote:

... Did my [assistant] and yours get our dinner for the 22nd rescheduled? I have to be in Michigan, but we really need to meet soon. By the way, we just hired [the] C[hief] O[f] S[taff] for [a United States Senator].

M-23.

On January 12, 2004, defendant Griles met with Abramoff and the Managing Shareholder and Chair of the National Governmental Affairs Practice of Firm A, at Signatures for drinks to discuss defendant Griles' future employment with Firm A. M-17 to M-20. Firm A's Managing Shareholder, who works in the firm's Florida office, was in Washington, D.C., on other business. It was after this meeting, despite the previous five months of ongoing employment negotiations between defendant Griles and Abramoff, that the defendant purportedly sought the advice from the DOI Ethics Office about his need to recuse himself from Firm A matters.³⁰

Ten days later, on January 22, 2004, Abramoff sent defendant Griles an e-mail entitled "future," wherein Abramoff wrote:

Hi Steve. I wanted to see if we can meet or chat on the phone regarding the prospects of getting you over here. [W]e have some potentially big hires in the wings, but yours is the most important to me. Like the salary cap in sports, however, I am not certain I can do all the hires if you would agree to join us (believe me, I would gladly forego all of them to get you here!), so I need to have more of a substantive discussion with you as soon as you can, allowing me to figure out compensation for you and timing. Can we do that chat/meeting?

³⁰ There is no evidence that defendant Griles disclosed to the DOI Ethics Office the true extent of his employment negotiations with Abramoff, including his September 12, 2003 receipt of Abramoff and Firm A's client list. With regard to defendant Griles' claimed adherence to the governing rules of ethical behavior, see Def.'s Br. at 16 n.36, 37 n.51, we note the following. Shortly after he began serving as DOI Deputy Secretary, the defendant's "Ethics Screener" was his direct subordinate and longtime friend. In November 2002, when this arrangement was met with criticism, defendant Griles named a replacement for the remainder of his tenure – another close, personal friend identified herein as "Person E." See M-27.

M-21. In a February 3, 2004 e-mail entitled "Griles," Abramoff informed his lobbying team at Firm A that defendant Griles "[h]as decided he cannot leave the [A]dministration before the election." M-22. Shortly thereafter, the Abramoff corruption scandal broke in the media and all communication between Abramoff and defendant Griles ceased. M-28 (March 31, 2004 e-mail from defendant Griles to Person B referencing newspaper articles about Abramoff corruption scandal and noting his decision to remain at DOI until after the November 2004 election).

III. ANALYSIS OF THE RELEVANT SENTENCING FACTORS AND RESPONSE TO DEFENDANT'S REQUEST FOR A VARIANCE

Title 18, United States Code, Section 3553(a), identifies the factors that must be considered in imposing a sentence. Of most relevance to this case are:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed –
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - ...
- (3) the kinds of sentences available;
- (4) the kinds of sentence and the sentencing range established for –
 - (A) the applicable category of offense committed by the applicable category of defendant as set forth in the [U.S. Sentencing G]uidelines ...
 - ...
- (5) any pertinent policy statement . . . issued by the Sentencing Commission [and]

- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct

18 U.S.C. § 3553(a). It is respectfully submitted that the recommended “split sentence” of ten (10) months imprisonment, authorized by the applicable Sentencing Guideline, is both reasonable and appropriate in this case.

A. The Nature and Circumstances of the Offense

The seriousness of defendant Griles’ criminal conduct as detailed throughout this filing, and its direct and adverse impact upon Congress’ power of inquiry, call for the imposition of a term of imprisonment and negate the requested sentencing variance. Defendant Griles’ lies and withholding of material information perverted the congressional investigation into the alleged access and influence Abramoff had at DOI during the defendant’s tenure as Deputy Secretary; and, in so doing, prevented the Senate Committee from discovering the true nature and extent of the triangular relationship between defendant Griles, Abramoff, and Federici. Consider, for example, the following passage from the Senate Committee’s September 6, 2006 Final Report:

Based on the information in its possession, the Committee cannot definitively conclude what, if anything, Griles did to assist Abramoff’s clients on matters then pending at Interior. In its totality, the information described above supports relatively modest propositions, namely, that Abramoff believed that he had influence over Griles, either directly or through Federici; that Abramoff told others that he had a robust relationship with Griles or had some influence over decision-making at Interior; and that it was likely on that basis that he may have directed his Tribal clients to “contribute” to CREA. However, it must be carefully said that, without more evidence, it is plausible that, in fact relying on his relationship with Federici, Abramoff may have simply exaggerated his access to Griles to his clients.

In any event, given the paucity of evidence in the Committee’s possession, the Committee is unable to arrive at any definitive conclusions as to the veracity of Griles’ testimony on his relationship, and interaction, with Abramoff during all times relevant. And, without a good faith basis for concern that Griles may have been untruthful with the Committee, further exploration is beyond the scope of the investigation. . . .

...

... Unfortunately, the extent to which Federici actually sought to influence Interior on pending matters affecting Abramoff's clients remains unclear. Also unclear is what, if anything, Griles (who Abramoff believed was Federici's contact at Interior) might have done on behalf of Abramoff's clients at Interior and (if Griles did anything) what his motives for doing so might have been.

"Gimme Five" – Investigation of Tribal Lobbying Matters, S. Rep. No. 109-325, at 244-45 (2006) (Final Report before the United States Senate on Indian Affairs) (emphasis in original). As defendant Griles admitted in his guilty plea, had he been truthful in his October 20, 2005 Senate interview and his November 2, 2005 Senate testimony, the Committee may have explored further and found that Abramoff, in fact, had lobbied Griles directly and through Federici. G-FBP ¶ 12.

Moreover, defendant Griles' utter disregard for the law and Congress' power of inquiry was not isolated to one moment of weakness. Rather, the defendant has admitted that his criminal conduct spanned at least two weeks and two fora. On October 20, 2005, the defendant voluntarily participated in an investigative interview conducted by Senate investigators, wherein he admittedly lied and withheld material information. G-FBP ¶ 8. Two weeks later, on November 2, 2005, the defendant voluntarily gave testimony in a public hearing before Senate Committee members, wherein he admittedly repeated those and similar lies and continued to withhold material information. Id. ¶ 10. The United States submits that defendant Griles' obstructive conduct continued in the ensuing months.

On January 3, 2006, after having reviewed the transcripts of both his October 20, 2005 investigative interview, and his November 2, 2005 public testimony, defendant Griles, through counsel, filed a seven-page, single-spaced letter to the Chairman of the Senate Committee further disavowing any relationship/dealings with Abramoff and requesting that the letter be included in

the official record of the Senate Committee proceedings. Def.'s App. Vol. II(C)(2) at 116-22. Notably absent from the "follow-up to his testimony at the U.S. Senate Committee on Indian Affairs on November 2, 2005," was any attempt by defendant Griles' to correct his admittedly false and misleading testimony. See id. Three months latter, in a letter dated April 6, 2006, defendant Griles, through counsel, again wrote to the Senate Committee in a further effort to disavow any relationship/dealings with Abramoff. Def.'s App. Vol. II(C)(12). As with his previous letter, the defendant made no effort to correct his false and misleading testimony. See id. And, when the Senate Committee's report was publicly released on September 5, 2006, defendant Griles made no effort to correct the above-quoted Senate Committee's findings and conclusions, which credited his admittedly false and misleading testimony in prematurely concluding the congressional investigation.

At each turn, defendant Griles had (and made) choices. First and foremost, he could have told the complete truth to Senate investigators and Senate Committee members.³¹ Alternatively, he could have refused to be interviewed by Senate investigators and/or give public testimony before members of the Senate Committee.³² Another option was to answer certain questions

³¹ Defendant Griles' complaints that he was denied access to documents by both DOI and the Senate Committee in advance of his October 20, 2005 investigative interview and his November 2, 2005 public testimony, and his request that this denial of documents serve as a "mitigating factor," are inconsistent with his sentencing arguments. See Def.'s Br. at 3-4, 7 n.6, 9-10 & n.9, 13-15 & nn. 30-31, 18. The cited documents have nothing whatever to do with the lies to, and the withholding of information from, the Senate Committee that defendant Griles has admitted in pleading guilty. Rather, the documents memorialize the defendant's substantive dealings with Abramoff – the subject matter the defendant urges the Court not to consider even though he claims to have been truthful and forthcoming to the Senate Committee in testifying about them. See id. at 3, 7 & n.6, 19 & n.40.

³² In fact, defendant Griles initially declined to be interviewed by Senate investigators when his request for documents and other information were reportedly denied. See Def.'s Br. at 9-10 (citing Def.'s App. Vol. II(C)(4)). The defendant chose to voluntarily appear when advised that he would be subpoenaed. See id. (citing Def.'s App. Vol. II(C)(5)).

truthfully and completely and refuse to answer others by disputing their propriety or relevance,³³ and/or invoking his Fifth Amendment right against self-incrimination.³⁴ He also could have directed his counsel to correct the congressional record instead of continuing his obstructive conduct. After all, the defendant is a well-educated, savvy individual who was represented by able counsel throughout each congressional proceeding. Instead, defendant Griles made the conscious choice to take the calculated risk to lie to, and withhold material information from, the Senate Committee in furtherance of his personal agenda – saving his lucrative lobbying practice from the taint of the Abramoff corruption scandal.

B. The History and Characteristics of the Defendant

The defendant devotes a significant portion of his sentencing memorandum chronicling his life and years of public and community service. See Def.'s Br. at 19-44. The United States does not challenge those aspects of the defendant's filing which address his family life, his philanthropic and volunteer service, or his years of public service which predate his tenure as DOI Deputy Secretary. Indeed, as noted at the outset, the sentencing recommendation contained herein generously accounts for defendant Griles' good works and public and charitable service. His history and characteristics simply do not warrant a variance under Section 3553(a)(1).³⁵

³³ On the advise of counsel, defendant Griles refused to answer a number of questions in the course of his October 20, 2005 investigative interview. See, e.g., Def.'s App. Vol. II(C)(7) at 19-20, 24-25, 26-27, 28-29, 52, 61, 67-69, 76, 84-86, 100-02, 107-08, 131.

³⁴ Defendant Griles knew that he and his dealings with Abramoff and Federici were the subject of a criminal investigation being conducted by the Department of Justice at the time he was interviewed by Senate investigators and then testified before the Senate Committee. See Def.'s Br. at 11 n.11.

³⁵ On at least two occasions, defendant Griles uses the word "aberrant" and the derivative "aberrational" to describe his criminal conduct. See Def.'s Br. at 19, 36. To the extent that the defendant is seeking a downward departure pursuant to U.S.S.G. § 5K2.20, it should be denied. First, the parties' plea agreement does not allow for such a filing. Second, as detailed herein, the

In his November 2, 2005 opening statement to the Senate Committee, defendant Griles similarly invoked his two decades of public service in an effort to bolster his credibility with the senators. Def.'s App. Vol. II(C)(2) at 88. Then, with righteous indignation, the defendant immediately began lying to the Senate Committee, knowingly making his first of a series of false statements:

... [Abramoff] also apparently has claimed to have special access to my office on behalf of his Indian gaming clients. That is outrageous, and it is not true.

Id.

Defendant Griles' current assertion to this Court that Abramoff was just another lobbyist that had contacted the defendant "about a variety of issues that occurred three to five years before he was asked to testify," similarly rings hollow given the weight of the evidence to the contrary. Compare Def.'s Br. at 3 with supra Section II (detailing true relationship and extensive dealings between defendant Griles and Abramoff's between March 2001 and February 2004). In turn, the defendant's claim "that it was part of [his] job to be receptive to inquiries about [DOI] activities from many lobbyists, private individuals, and public officials," see Def.'s Br. at 17 & n.38, begs the question: *Why were defendant Griles' dealings with Abramoff shrouded in secrecy?* See supra Section II (documenting use of "white papers," "blind copies," anonymous binders, etc.).

C. The Need for the Sentence Imposed

Contrary to the arguments advanced by defendant Griles, a prison sentence is absolutely necessary to accomplish the relevant purposes of 18 U.S.C. § 3553(a)(2); that is: "(A) to reflect

defendant did not commit, as required under U.S.S.G. § 5K2.20(b), "a single criminal occurrence or single criminal transaction that (1) was committed without significant planning; [and] (2) was of limited duration" Id.; see U.S.S.G. § 5K2.20(b) at n.2 ("Repetitious or significant, planned behavior does not meet the requirements of subsection (b)."). Defendant Griles' "motivation for committing the offense," and his failure "to mitigate the effects of the acts," further warrant the denial of any such downward departure motion. See id. n.3.

the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; [and] (B) to afford adequate deterrence to criminal conduct[.]” Id. The defendant took a series of calculated risks in obstructing Congress’ power of inquiry. In the short term, they paid off – the Senate Committee wrongly credited defendant Griles’ false and misleading testimony in precipitously concluding its investigation into Abramoff’s access to and influence at DOI. Moreover, but for this criminal investigation, the defendant might well have succeeded in lying to Congress with impunity. The proposed punishment in this case – a term of incarceration as prescribed by the applicable Sentencing Guidelines – fits the defendant’s crime.

From the standpoint of general deterrence, moreover, a sentence of incarceration will send a message to all would-be congressional witnesses that they are expected to testify fully and completely, or face serious punitive consequences. Like the judiciary, the Legislative Branch only benefits when presented truthful and complete testimony. Indeed, it is within the province of Congress – not the unilateral decision-making of witnesses like defendant Griles who have a vested interest in a certain outcome of the legislative inquiry – to decide what witnesses and information are necessary in furtherance of the inquiry at hand.³⁶

**D. The Kinds of Sentences Available and the Applicable
Advisory Sentencing Guideline Range**

As readily acknowledged by defendant Griles in both his Plea Agreement and in his sentencing memorandum, the crime of Obstruction of Senate Proceedings carries with it a maximum sentence of five years in prison and a \$250,000 fine. See Def.’s Br. at 47. In turn, the governing Sentencing Guideline, U.S.S.G. § 2J1.2 (Obstruction of Justice), as adjusted to

³⁶ The defendant avers that a prison sentence “could deter others from testifying before Congress.” See Def.’s Br. at 46. To this we note the following. As this case demonstrates, the interests of Congress are not served by witnesses who volunteer false and misleading testimony or otherwise obstruct a legislative inquiry.

reflect the two-level Offense Level decrease for acceptance of responsibility under U.S.S.G. § 3E1.1(a), recommends a prison sentence of 10 to 16 months. In this case, the United States agreed to recommend a non-binding “split sentence” of 10 months imprisonment consistent with U.S.S.G. § 5C1.1(d)(2). Defendant Griles has declined the United States’ invitation to cooperate in this ongoing criminal investigation, precluding him from receiving a substantial assistance departure under U.S.S.G. § 5K1.1. We have thus reached the proverbial floor of the applicable advisory Sentencing Guideline range and there is no basis in fact or in law to dig into the basement.³⁷

E. The Need to Avoid Unwarranted Sentence Disparities among Defendants with Similar Records who have been Found Guilty of Similar Conduct

Contrary to the arguments advanced by defendant Griles, a prison sentence for his Section 1505 violation is entirely consistent with similar sentences recently handed down in this District. Curiously absent from the decisions the defendant cites in support of his request for probation is perhaps the single-most relevant obstruction of justice case in recent memory in this District, United States v. Libby, Crim. No. 05-394 (D.D.C.). There, as here, the defendant’s lies and concealment of material information prevented investigators from learning the truth about what was being investigated. The defendant in Libby was sentenced to thirty (30) months imprisonment and fined \$250,000. Incarceration for defendant Griles’ lies and concealment is also consonant with the eighteen (18) month prison term that was recently imposed in United States v. Safavian, Crim. No. 05-370 (D.D.C.), a sentence which defendant cites but incorrectly characterizes as being incongruous to this case and more severe than what is needed here.

³⁷ With regard to defendant Griles’ proposed community service, the United States leaves to the Court’s discretion whether to order it as a condition of supervised release once defendant Griles has served his prison sentence.

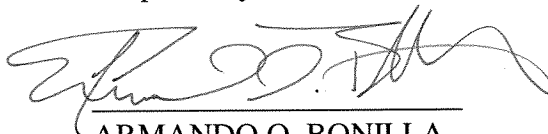
As in Libby and Safavian, the sentence in this case should weigh the seriousness of the defendant's offense, promote respect for the law, and send the message that officials who occupy positions of responsibility cannot pick and choose the moments when they decide to be truthful when providing testimony in furtherance of a valid congressional inquiry. Since the defendant pleaded guilty pre-indictment, the Government submits that a ten (10) month "split-sentence" accomplishes these goals and is thus consistent with the sentences imposed recently in this District on other Section 1505 defendants.

IV. CONCLUSION

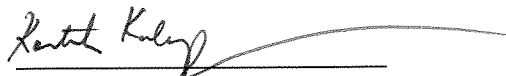
For the foregoing reasons, the United States respectfully requests that the Court deny defendant Griles' request for a downward variance and further recommends that the Court sentence the defendant to serve a "split sentence" of ten (10) months imprisonment consistent with U.S.S.G. § 5C1.1(d)(2) and pay a \$25,000 fine.

WILLIAM M. WELCH, II
Chief
Public Integrity Section

Respectfully submitted,



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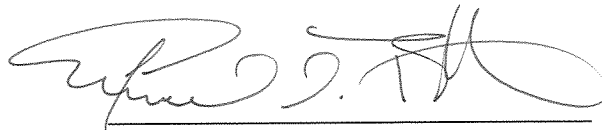
June 15, 2007

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 15th day of June, 2007, I caused to be electronically filed with the Clerk of the Court using the CM/ECF system a complete copy of this filing, entitled "United States' Memorandum in Aid of Sentencing," and the accompanying Appendix (redacted version), which will automatically send e-mail notification of this filing to the identified attorneys of record for the defendant, James Steven Griles.

I, the undersigned, further hereby certify that on this 15th day of June, 2007, I caused to be served by Hand Delivery a complete copy of this filing, entitled "United States' Memorandum in Aid of Sentencing," and the accompanying Appendix (redacted version – Filed Under Seal) addressed as follows:

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A handwritten signature in black ink, appearing to read "Armando O. Bonilla", written over a horizontal line.

Armando O. Bonilla
Trial Attorney
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