

109TH CONGRESS }
2d Session }

COMMITTEE PRINT

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MINORITY STAFF REPORT
INVESTIGATION OF JACK ABRAMOFF'S USE OF
TAX-EXEMPT ORGANIZATIONS

PREPARED BY THE MINORITY STAFF OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE

CHARLES E. GRASSLEY, *Chairman*
MAX BAUCUS, *Ranking Member*



OCTOBER 2006

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INVESTIGATION OF JACK ABRAMOFF'S USE OF TAX-EXEMPT ORGANIZATIONS

INTRODUCTION

In September 2005, the United States Senate Committee on Finance (“the Committee”) began an investigation into the actions of tax-exempt organizations relating to the lobbying operations of Jack Abramoff. The role tax-exempt organizations played in Mr. Abramoff’s client relationships first came to light during an investigation by the Senate Committee on Indian Affairs. In that investigation, e-mails from and to Mr. Abramoff showed that he furthered his lobbying enterprise with the help of several tax-exempt organizations, which took contributions arranged by Mr. Abramoff and undertook actions on Mr. Abramoff’s clients’ behalf. In the final report on its investigation, the Committee on Indian Affairs observed that tax-exempt organizations were apparently “serving or being used as extensions of for-profit lobbying operations.”¹

The Senate rules give the Committee on Finance jurisdiction over revenue matters, and thus the Committee is responsible for conducting oversight of the administration of the federal tax system, including matters involving abusive acts by tax-exempt organizations. The Committee takes particular interest in ensuring that tax laws affecting donors and exempt organizations operate in a manner that benefits the American public. This investigation has been conducted not only to inform the Committee and the public about the specific organizations connected to Mr. Abramoff, but also to provide a broader picture of issues to be considered by Congress and the public with regard to tax-exempt organizations, including charitable organizations.

On September 22, 2005, Senator Charles Grassley and Senator Max Baucus, Chairman and Ranking Democratic Member of the Committee, authorized, on behalf of the Committee, the issuance of subpoenas to Mr. Abramoff’s former employers, Greenberg Traurig LLP and Preston Gates LLP. The subpoenas sought any and all communications of Jack Abramoff as well as financial records.

Along with the e-mails and other documents provided to the Committee in response to the subpoenas, Committee Minority staff reviewed e-mails made public by the Committee on Indian Affairs. The Committee on Indian Affairs also shared with the Committee e-mails within the jurisdiction of the Committee that the Committee on Indian Affairs had not previously made public.

¹“Gimme Five”—Investigation of Tribal Lobbying Matters, Senate Committee on Indian Affairs, June 22, 2006, hereinafter referred to as the “Gimme Five” report.

In its review of the materials, the Committee's Minority staff discovered actions taken by several tax-exempt organizations that raise serious legal and policy questions. The Minority staff focused on five organizations that appeared, in the context of the reviewed material, to be willing to provide certain services for Mr. Abramoff's clients in exchange for payments. They are:

- Americans for Tax Reform,
- National Center for Public Policy Research,
- Toward Tradition,
- Council of Republicans for Environmental Advocacy, and
- Citizens Against Government Waste.

FINDINGS

The Minority staff found that some officers of these organizations were generally available to carry out Mr. Abramoff's requests for help with his clients in exchange for cash payments. The help they provided varied from organization to organization, but included:

- helping to hide sources of funds by laundering payments and then disbursing funds at Mr. Abramoff's direction,
- taking payments in exchange for writing newspaper columns or press releases that put Mr. Abramoff's clients in a favorable light,
- introducing Mr. Abramoff's clients to government officials in exchange for payment, and
- agreeing to act as a front organization for congressional trips paid for by Mr. Abramoff's clients.

Media reports indicate that employees of other organizations have resigned when similar allegations came to light. In December 2005, a senior fellow at the Cato Institute, Doug Bandow, resigned after admitting that Mr. Abramoff paid him for op-ed articles that were favorable to Mr. Abramoff's clients. Mr. Bandow admitted to taking money for writing between 12 and 24 articles over a period of years, beginning in the mid 1990s. Mr. Bandow called his actions a "lapse in judgment" and resigned.²

E-mails subpoenaed by the Committee do not implicate the Cato Institute. The correspondence clearly shows, however, that the tax-exempt organizations listed above—not just the individuals directly involved—took payments when their employees agreed to write such articles favorable to Mr. Abramoff's clients.

This type of activity indicates that these tax-exempt organizations engaged in what amounted to profit-seeking and private benefit behavior inconsistent with their tax-exempt status. And by virtue of the tax benefits, other taxpayers implicitly subsidized this behavior. Thus, these tax-exempt organizations appear to have perpetrated a fraud on other taxpayers.

² Eamon Javers, *Op Eds for Sale*, BusinessWeek Online, Dec. 16, 2005. See Appendix.

GENERAL OVERVIEW OF THE INVESTIGATION

All the groups in question are organized under sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986 (IRC). Unless otherwise specified, all sections referenced in this report are found in the IRC. The 501(c)(3) organizations are the National Center for Public Policy Research (NCPFR), Toward Tradition and Citizens Against Government Waste (CAGW).³ The 501(c)(4) organizations are Americans for Tax Reform (ATR) and Council of Republicans for Environmental Advocacy (CREA).⁴

In conducting its investigation, the Committee Minority staff:

- reviewed e-mails provided to the Committee in response to subpoenas issued in September 2005,
- reviewed e-mails provided to the Committee by the Senate Committee on Indian Affairs,
- reviewed e-mails that the Committee on Indian Affairs released to the public,
- reviewed publicly available Forms 990, Return of Organization Exempt from Income Tax, for the organizations in question,
- reviewed publicly available information relating to the organizations in question, including reports, financial statements and press releases,
- interviewed representatives of the organizations, both in person and through written questions,⁵
- reviewed media accounts published since the *The Washington Post* first reported on Mr. Abramoff's financial relationships with Indian tribes in February 2004,
- obtained the assistance of the staff of the Joint Committee on Taxation, with respect to technical explanations of present law pertaining to tax-exempt organizations and charitable contributions, and
- obtained the assistance of Senate legal counsel in seeking documents.

LIMITATIONS

The reviewed materials describe scenarios in which current tax law may have been violated. The Minority staff notes, however, that additional information may be required to make such determinations.

³Citizens Against Government Waste is affiliated with a 501(c)(4) organization called Council of Citizens Against Government Waste, but the reviewed materials do not mention Council of Citizens Against Government Waste.

⁴Americans for Tax Reform is affiliated with a 501(c)(3) organization, Americans for Tax Reform Foundation.

⁵Committee staff invited Italia Federici, president of CREA, to be interviewed by staff. Her attorney declined the request on Ms. Federici's behalf, stating that she would plead her Fifth Amendment rights rather than answer staff questions.

CURRENT LAW

Organizations described in IRC section 501(c)(3) generally are exempt from federal income tax and are eligible to receive tax-deductible contributions. A section 501(c)(3) organization must be organized and operated exclusively for one or more tax-exempt purposes constituting the basis of its tax exemption. A section 501(c)(3) organization is not operated exclusively for exempt purposes if more than an insubstantial part of its activities are not in furtherance of an exempt purpose.⁶

The Supreme Court has held that the “presence of a single [non-exempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly [exempt] purposes.”⁷ Applying this test, the Court held that an organization with an “important” nonexempt purpose was subject to tax.

An organization described in section 501(c)(4) must be organized primarily for the promotion of social welfare. This “primary purpose” test is satisfied if an organization is primarily engaged in promoting in some way the common good and general welfare of the people of the community. If an activity that does not promote the social welfare, alone or taken together with other activities that do not promote the social welfare, constitute the primary activities of an organization described in section 501(c)(4), the organization would not be eligible for continued exemption from tax as an organization described in section 501(c)(4). Some courts have held that a section 501(c)(4) organization is not entitled to continued exempt status if its non-exempt activities are “substantial”. See, e.g., *Vision Service Plan v. United States*, 2006–1 U.S.T.C. (CCH) paragraph 50, 173.

Similarly, if a section 501(c)(4) organization’s activities are merely incidental to, or secondary to, benefits provided to private persons, the organization generally would not be eligible for continued exemption from tax as an organization described in section 501(c)(4).

Private Inurement and Private Benefit

Organizations described in section 501(c)(3) and 501(c)(4) are subject to the prohibition against private inurement, under which no part of the net earnings of the organization may inure to the benefit of insiders of the organization, such as officers, directors and key employees. An organization that violates this prohibition may have its exemption revoked. As an alternative, or in addition, to revocation, a violation of the inurement prohibition may give rise to intermediate sanctions under IRC section 4958 against the disqualified person who receives an excess benefit and an organization

⁶Treas. Reg sec. 1.501(c)(3)–1(c)(1).

⁷*Better Business Bureau of Washington, D.C. v. United States*, 326 U.S. 279, 283 (1945).

manager who participates in an “excess benefit transaction” (essentially an inurement transaction) knowing that it is an excess benefit transaction.

In general, section 501(c)(3) (but not section 501(c)(4)) organizations also are prohibited from conferring more than an incidental private benefit on any individual or entity. This private benefit prohibition is broader than the private inurement proscription, in that the private benefit prohibition is not limited to benefits provided to insiders of the organization. If private benefit exists, it must be incidental in both a qualitative and quantitative sense to the public benefit. To be qualitatively incidental, a private benefit must occur as a necessary concomitant of the activity that benefits the public at large; in other words, the benefit to the public cannot be achieved without necessarily benefiting private individuals.⁸ Such benefits might also be characterized as indirect or unintentional. To be qualitatively incidental, a benefit must be insubstantial when viewed in relation to the public benefit conferred by the activity.⁹ If an activity provides a direct benefit to private interests, however, it does not matter if the benefit is qualitatively insubstantial—“the direct benefit is ‘deemed repugnant to the idea of an exclusively public purpose’ and the organization cannot be exempt under section 501(c)(3).”¹⁰

Unrelated Business Income Tax

The unrelated business income tax generally applies to (1) income derived from a trade or business, (2) that is regularly carried on by the organization and (3) that is not substantially related to the performance of the organization’s tax-exempt purposes. In very general terms, to be a trade or business, an activity must be carried on with the intent to earn a profit. To determine whether a trade or business is “regularly carried on,” one generally must compare the activity to similar activities conducted by taxable organizations.¹¹ In general, to be substantially related to an exempt purpose for purposes of unrelated business income tax, there must be a causal relationship, and the activity must contribute importantly to the achievement of the purpose.¹²

Lobbying and Campaign Activities

Organizations described in section 501(c)(4) generally may engage in an unlimited amount of lobbying, provided the lobbying is related to the organization’s exempt purposes. A section 501(c)(4) organization, however, may only engage in lobbying that is unrelated to its exempt purposes provided that such lobbying, together with other “unrelated” activities, are not the primary activities of the organization.

As indicated above, some courts have held that a “substantial” amount of nonexempt activity will defeat exemption as an organization described in section 501(c)(4). Unlike section 501(c)(3) organizations, section 501(c)(4) organizations are not subject to speci-

⁸ See *American Campaign Academy v. Commissioner*, 92 T.C. at 1076.

⁹ Bruce R. Hopkins, *The Law of Tax-Exempt Organizations*, sec. 19.10 (8th ed. 2003).

¹⁰ G.C.M. 37789 (Dec. 18, 1978).

¹¹ See, e.g., Treas. Reg. sec. 1.513-1(c)(2)(i).

¹² Treas. Reg. sec. 1.513-1(d)(2).

fied limits on the amount of lobbying activity that they may undertake; rather, the organization's lobbying activities (like its other activities) are examined to determine whether they are exempt or non-exempt activities for purposes of the section 501(c)(4) primary purpose test.

Other Relevant Tax Penalty Provisions

IRC Section 6701 generally imposes a monetary penalty against any person (1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim or other document, (2) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws and (3) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person. If, for example, it were established that an exempt organization had unrelated business taxable income, but did not report such income, persons involved in the failure to report the income could be liable for aiding and abetting the understatement of tax liability, provided that the specific requirements of section 6701 are met with respect to the assistance or advice provided in connection with the preparation of Form 990 or Form 990-T.

IRC Section 7206 imposes substantial criminal penalties (including monetary fines and/or imprisonment) in the event that a person (among other things) (1) makes and subscribes any return, statement or other document, that contains or is verified by a written declaration that is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or (2) willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim or other document, that is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim or document. If, for example, an exempt organization had, but did not report, unrelated business taxable income, and the person who signed the organization's return under penalty of perjury knew that such income improperly was excluded from the return, then that person potentially could be subject to criminal penalties under section 7206. Also, any person who did not sign the return, but willfully aided in or advised regarding the preparation of a false or fraudulent return, arguably could be subject to penalties under section 7206.¹³

IRC Section 7201 imposes substantial criminal penalties (including fines and/or imprisonment) for tax evasion. Specifically, section 7201 provides that any person who willfully attempts in any manner to evade or defeat any federal tax or the payment of tax shall, in addition to other penalties under law, be guilty of a felony.

Charitable Contribution (and Other) Deductions

Under certain circumstances, a contribution to a membership organization (whether or not a section 501(c)(3) organization) that

¹³See also section 7207 (regarding fraudulent returns, statements or other documents).

would not be deductible as a charitable contribution may be deductible as a business expense under section 162. However, such a deduction generally is disallowed under IRC section 162(e) if the contribution is made for the purposes of facilitating lobbying. In addition, a charitable deduction for a contribution to a section 501(c)(3) organization generally will be denied in situations where the donee organization conducts lobbying activities on a matter of direct financial interest to the donor's trade or business, where a principal purpose of making the contribution is to avoid the lobbying expense disallowance rule under section 162(e).¹⁴

The definition of lobbying under section 162(e) is broader than the definition that is used, for example, for purposes of determining whether a section 501(c)(3) organization exceeded its lobbying limits. For example, under section 162(e), the term "lobbying" includes certain communications with the general public or with executive branch officials.

In general, a section 501(c)(4) organization that incurs lobbying and political expenditures (as described in section 162(e)) must provide notice to its members of the portion of dues allocable to such expenditures and must report such expenditures to the IRS.¹⁵ If a membership organization does not provide the requisite notices to its members, the organization must pay a tax at the highest corporate income tax rate on the amount of such expenditures.¹⁶

¹⁴ Sec. 170(f)(9).

¹⁵ Sec. 6033(e).

¹⁶ Sec. 6033(e)(2).

AMERICANS FOR TAX REFORM

Americans for Tax Reform (“ATR”) describes itself as an organization that advocates for a system in which taxes are “simpler, fairer, flatter, more visible, and lower than they are today.”¹⁷ It states that government’s power to control one’s life derives from its power to tax and that such power should be minimized. On its IRS Form 990, the section 501(c)(4) organization lists its primary exempt purpose as increasing public awareness about the size and regulations of government and rallying support for lower taxes and smaller government.

ATR was founded in 1985 by Grover Norquist, who is its current president. According to media reports, he and Mr. Abramoff have been friends since they were college students in Massachusetts, where they organized support for Ronald Reagan’s presidential candidacy in 1980. When Mr. Abramoff became national chairman of the College Republicans, he made Mr. Norquist his executive director. The two later worked together at the conservative advocacy group Citizens for America (before Mr. Norquist founded ATR).

After Mr. Abramoff became a lobbyist in the mid-1990s, the two corresponded by e-mail, occasionally discussing proposed payments from Mr. Abramoff’s clients and what those clients wanted from ATR. Other ATR employees corresponded with Mr. Abramoff and his colleagues, as well.

Those e-mails from and to Mr. Abramoff, his colleagues and ATR officials indicate that ATR:

- accepted payments from clients of Mr. Abramoff with the agreement to write checks to third parties as Mr. Abramoff directed, with ATR retaining a portion of the funds on at least one occasion,
- accepted payments from clients of Mr. Abramoff with tacit or explicit agreements to perform services such as writing newspaper columns favorable to the clients, and
- accepted payments from clients of Mr. Abramoff while agreeing to introduce them to government officials, including then-White House Senior Advisor Karl Rove.

In the organization’s response to Minority staff questions, ATR’s attorney responded that as long as ATR spends its funds in keeping with its general purpose and permissible activities under the law, “there is no ‘abuse’ of ATR’s tax status by virtue of ATR’s involvement in state level, grassroots campaigns on issues.” ATR declined to respond to questions regarding the identity of, or contributions from, any donor.¹⁸

In an e-mail to Jeffrey Ballabon, then executive vice president of public affairs for Primedia Inc.’s Channel One Network, Mr.

¹⁷ ATR website, <http://www.atr.org/home/about/index.html>.

¹⁸ Letter from Cleta Mitchell, attorney for ATR, July 24, 2006.

Abramoff indicated how much he valued his relationship with Mr. Norquist. Mr. Abramoff told Mr. Ballabon that he strongly opposed putting another lobbyist in contact with Mr. Norquist: “We should not fully (or perhaps even partially) trust this guy and certainly we should not be giving our hard won assets or contacts. The quickest way to lose the interest of Sheldon, Grover et al is to ‘hand them over’ to another lobbyist.” Mr. Ballabon responded, “ABSOLUTELY! We are not sharing our friends.”

A. DISGUIISING THE SOURCE OF FUNDS

According to statements Mr. Abramoff and others made in their e-mail correspondence, ATR received payments from Mr. Abramoff’s clients¹⁹ and then wrote checks for similar amounts to organizations working with Ralph Reed, the president of Century Strategies. Mr. Reed worked with Mr. Abramoff fighting gambling initiatives that could potentially provide competition for Mr. Abramoff’s clients. In e-mails from Mr. Abramoff to his colleagues, Mr. Reed, Mr. Norquist and to himself, Mr. Abramoff discussed initiating and completing “pass through” financial arrangements in which contributions would flow through tax-exempt organizations to disguise the original source of the funds.

Last year Mr. Norquist told the *Boston Globe* that ATR passed along \$1.15 million of the \$1.5 million that ATR received from the Mississippi Band of Choctaw Indians to anti-gambling groups trying to block a casino in Alabama.²⁰ E-mails indicate how those financial arrangements were made.²¹

On September 24, 1999, Mr. Abramoff sent himself a reminder:

Call Ralph re Grover doing pass through

On October 3, 1999, Mr. Abramoff sent another reminder to himself:

Grover and Ralph, we need a check to Ralph by Wednesday

On January 28, 2000, Mr. Abramoff asked Mr. Reed for names of groups through which to pay Mr. Reed:

Rabbi Lapin does not have a c4. Please give me the name of the c4 you want to use (include address) and we’ll divide it among the three groups.

On February 2, 2000, Mr. Abramoff wrote to Mr. Reed regarding Amy Ridenour, president of the National Center for Public Policy Research:

She does not have a c4, only a c3, so we are back to ATR only. . . . Let me know if it will work just to do this through ATR until we can find another group.

¹⁹Lobbying disclosure reports for eLottery Inc. and Mississippi Band of Choctaw Indians indicate that Abramoff represented them at the time of the payments described in the e-mails.

²⁰Michael Kranish, *Antitax activist says he got \$1.5 million from tribes*, *The Boston Globe*, May 13, 2005. See Appendix.

²¹The text of the e-mails included in this report appears as written in the original e-mails. In most cases, only excerpts are included. All e-mails cited in this report are included in the Appendix.

Mr. Reed wrote back:

Yes, it will.

On February 7, 2000, Mr. Abramoff told Mr. Reed:

I need to give Grover something for helping, so the first transfer will be a bit lighter. No fear, though, since I have already started the next transfer.

In her interview with the Committee on Indian Affairs, Nell Rogers with the Choctaw Tribe said she remembered discussing this idea with Mr. Abramoff. The Committee reported that Ms. Rogers said she discussed a vehicle for a pass-through to Century Strategies, "that Jack had told me that Grover would want a management fee. And we agreed to that, frankly didn't know any other way to do it at the time."²²

On February 17, 2000, Mr. Reed told Mr. Abramoff that pro-gambling forces were saturating the radio waves and aggressively lobbying the legislation:

They are now introducing a different local bill each day, trying to keep us on the defensive.

Mr. Abramoff responded by telling Mr. Reed to keep him posted on the anti-gambling initiative they were financing:

ATR will be sending a second \$300K today. How much more do we need? We can't lose this. Thanks.

On February 22, 2000, Mr. Abramoff sent himself a message with the subject line:

grover kept another \$25K!

On March 2, 2000, Mr. Abramoff asked Nell Rogers of the Mississippi Band of Choctaw Indians for a \$300,000 check to Americans for Tax Reform. Someone in his office [redacted]²³ wrote back the following day:

Once ATR gets their check, should the entire \$300k be sent to the Alabama Christian Coalition again?

Mr. Abramoff replied:

Yes, but last time they sent \$275K, so I want to make sure that, before we send it to ATR I speak to Grover to confirm.

On June 22, 2000, Susan Ralston, Mr. Abramoff's assistant, told Mr. Abramoff that she had checks from eLottery Inc., an Abramoff client. She asked about sending money to ATR and to Rev. Louis Sheldon, chairman of Traditional Values Coalition ("TVC"):

(1) 2 checks for \$80K payable to ATR and (2) 1 check to TVC for \$25K. Let me know exactly what to do next. Send to Grover? Send to Rev. Lou?

Mr. Abramoff responded:

²²"Gimme Five" report, p. 27.

²³Redacted by Senate Committee on Indian Affairs.

Copy all. Send TVC check to Lou. Call Grover, tell him I am in Michigan and that I have two checks for him totaling 160 and need a check back for Faith and Family for \$150K. If that is OK, send over to him via courier. If you don't get him or there are any problems, try to get me on the cell constantly.

Tax Issues

The documents reviewed by the Minority staff raise several issues with respect to ATR's compliance with current tax laws. As a threshold issue, many of the activities alleged in the e-mails reviewed by the Minority staff indicate that ATR may not be primarily operating to further social welfare purposes, which is a necessary condition of tax-exempt status as a section 501(c)(4) organization. In addition, the documents raise questions whether ATR should have reported income from some of its activities as taxable income. Finally, the e-mails raise questions as to whether insiders at ATR, including Mr. Norquist, used ATR primarily for their own or Mr. Abramoff's private benefit. Violations such as these could, under certain circumstances, result in penalties under current law, including excise taxes on officers of ATR, revocation of ATR's exempt status, and even criminal tax fraud penalties.

First, if it were established that the transfers through ATR were undertaken for the sole purpose of concealing the identity of the transferors (pro-gambling interests) from the ultimate transferees (anti-gambling interests), ATR's facilitation of such transfers would not further ATR's tax-exempt purposes (or any legitimate social welfare purpose). Second, Ralph Reed told Abramoff that pro-gambling forces were engaging in aggressive lobbying and "introducing a different local bill each day, trying to keep us on the defensive." Abramoff responded, "ATR will be sending a second \$300K today." If it were established that ATR used the \$300,000 for lobbying relating to gambling issues, arguably such activity could be considered as unrelated to ATR's tax-exempt purposes.

If these transactions, together with any other activities that are unrelated to ATR's exempt purposes, constituted the primary activities of ATR, then ATR's primary purpose would not be a social welfare purpose and ATR would not be eligible for continued exemption from tax as an organization described in section 501(c)(4).

In addition, if it were established that the benefits to the community resulting from ATR's activities were merely incidental to, or secondary to, benefits provided to Mr. Norquist and other private persons, ATR might not be eligible for continued exemption from tax as an organization described in section 501(c)(4).

A strong case can be made that the "pass through" of anti-gambling funds was not related to ATR's exempt purposes, and that it constituted a trade or business regularly carried on by ATR. To the extent ATR recognized revenue as a result of the transactions, such revenue would be taxable as unrelated business taxable income. Whether the activity is a trade or business and is regularly carried on would require an inquiry into, among other issues, whether the activity was undertaken for a profit and whether the activity was undertaken with the frequency with which similar activities are undertaken by for-profit organizations.

The e-mails do not contain facts sufficient to show whether Mr. Norquist received more than fair market value compensation for the services he provided to the organization. In one e-mail, Mr. Abramoff states that he “need[s] to give Grover something from helping” with a “pass through” transaction. If it were established that this fee were in fact paid to Mr. Norquist by ATR (or if it were paid directly by Mr. Abramoff to Mr. Norquist for services that ATR provided to Mr. Abramoff or his clients) and Mr. Norquist did not earn the compensation by providing services to ATR with a value equal to or greater than the fee, the payment potentially could have resulted in an excess benefit to Mr. Norquist, who is an insider (or “disqualified person”). Under such circumstances, private inurement arguably also would have occurred, ATR could face revocation of its exempt status, and Mr. Norquist (in his capacity as a disqualified person and also possibly as an organization manager) could face penalty excise taxes (“intermediate sanctions”) under section 4958.

If it were established that contributions by an Abramoff corporate client to ATR were for lobbying within the meaning of section 162(e), then a business expense deduction should not have been claimed for such a contribution.

B. LOBBYING

According to e-mail correspondence, Mr. Norquist and others at ATR appear to have accepted payments to the organization in exchange for taking up the causes of Mr. Abramoff’s clients. There was even a discussion about whether such payments should become public on lobbying disclosure reports. In a January 30, 1996, e-mail, Bruce Heiman, a colleague at Preston Gates, wrote that he “thought that if it would be more than 10K and they were asking ATR to get involved on issues that their contributions to ATR would have to be disclosed.”

In written answers to Minority staff questions, Mr. Norquist and ATR officials declined to disclose information about donors to ATR, whether Mr. Abramoff’s clients contributed and when.

Brown-Forman

On October 22, 1995, one of Mr. Abramoff’s colleagues at Preston Gates suggested that they solicit help from Mr. Norquist as tax reconciliation legislation proceeded to conference. Mr. Abramoff responded by saying that Mr. Norquist did not want to personally represent Brown-Forman; instead, Mr. Norquist wanted a payment to ATR. Of Mr. Norquist, Mr. Abramoff wrote:

He said that, if they want the taxpayer movement, including him, involved on this issue and anything else which will come up over the course of the year or so, they need to become a major player with ATR. He recommended that they make a \$50,000 contribution to ATR. It seems that, on another “sin tax” matter, he is getting a similarly large contribution to get involved. It is possible that we could get away with less—possibly even half—but I’ll have to push, of course. . . . He does not want to do any additional

personal representations. He would prefer donations to ATR. Please let me know what you want to do on this.

The next day, a colleague of Mr. Abramoff's responded, asking what Mr. Norquist would do in exchange for a payment of that amount to ATR. Pamela Garvie at Preston Gates wrote:

For example, would he send letters, make calls, do meetings, and offer advice?

Mr. Abramoff responded on October 24:

Yes, he would do everything they need for him to do to win. He would be very active. What is most important, however, is that this matter is kept discreet. We do not want the opponents to think that we are trying to buy the taxpayer movement. This approach should be kept as close to the vest as possible and, in any event, might be best achieved by doing it indirectly.

Microsoft

On January 30, 1996, Bruce Heiman, a colleague of Mr. Abramoff at Preston Gates, discussed the fact that Microsoft had retained Mr. Norquist as a lobbyist and mentioned that under the then-new Lobbying Disclosure Act, Mr. Norquist would have to register:

That raises other issues (publicity). So one question occurs whether they could instead contribute to ATR. However, I thought that if it would be more than 10K and they were asking ATR to get involved on issues that their contributions to ATR would have to be disclosed.

Business Software Alliance

On May 10, 1998, James Lucier with ATR wrote to Mr. Abramoff asking for help getting money he thought was owed to him from an Abramoff client, Business Software Alliance ("BSA").²⁴ Mr. Lucier complained that the contribution to ATR was meant for him but that he had not received it.

What's more, there is a real risk that I will not get the staff support and resources I need to do the work on encryption that we are committed to do and which BSA, Heiman et al are expecting from us. I am also not getting the staff support I need to help Heiman in his postal issues, despite a \$20,000 contribution to ATR. I think I have a good relationship with Heiman, but sooner or later he is going to be very frustrated and disappointed that he is not getting better results for the inputs he supplies.

Channel One Network

In 1999, as a coalition of opponents sought to remove Channel One from public school classrooms, Mr. Abramoff and his clients looked in part to tax-exempt organizations to provide public sup-

²⁴Lobbying disclosure reports from the period covered in the e-mails indicate that Mr. Abramoff represented Business Software Alliance.

port for Channel One. One argument was that Channel One offered tax savings for state and federal governments.

Mr. Ballabon with Channel One wrote to one of the Preston Gates lobbyists, Amy Berger, on January 12, 1999:

I think that next I want to get credit from the Pentagon public affairs dept & then from ONDCP (office of drug policy) & then from minority groups, &c &c . . . & Grover & CAGW & Rabbi Lapin . . . we should get these guys crazy! & lots & lots of interviews w/members of Congress! At least one press release every week or two

Mr. Ballabon wrote to Mr. Abramoff on January 18, 1999:

The only thing I think Paul really needs before he gets on C-SPAN on Thursday is a statement he can attribute somehow to Grover or CAGW that rebuts Molnar's charge that we are a waste of tax dollars. Can you help us get something somehow (between now and then) that Paul can refer to which argues that we are, in fact, a huge and creative tax savings?

Ms. Berger wrote to Abramoff the next day as a reminder:

Call Council Nedd and/or Tom Schatz or even Grover to get a statement hat Ch 1 is a huge and creative tax savings!!!!

Mr. Abramoff wrote to Mr. Ballabon on January 20, 1999:

I set in motion today a piece by Peter Ferrara (the chief tax counsel of ATR and former fellow of Heritage and Cato) which deals with the cost to taxpayers issue. He'll have a draft real fast for us. It'll run in the Investors Business Daily, and probably reprinted in Human Events.

Mr. Ballabon replied:

Excellent. Thanks, Jack. ALSO—tell Grover he can redeem himself by blasting the coalition in a letter to the NYT responding to today's story.

Mr. Abramoff wrote back and included Ms. Berger:

Good idea. Amy, hold on getting this to Ferrara. Let's draft something from Grover to respond to this and I'll get it to him. Have Daniel draft it up fast. I'll run it by Grover. We'll send it him and voila, it should work. Thanks Jeff.

Ten days later, Mr. Norquist published an op-ed in the *Washington Times* titled "Tuning in to Channel One."²⁵

Mr. Abramoff wrote to Mr. Ballabon on February 3, 1999, regarding providing money to ATR for a dinner series.

. . . especially in light of the huge hit Grover delivered, I think this would be a very nice gesture on your part.

²⁵Grover Norquist, *Tuning in to Channel One*, *Washington Times*, Jan. 30 1999. See Appendix.

On April 20, 1999, Mr. Abramoff wrote that they needed to agree on the price to pay Peter Ferrara at ATR for an economic analysis related to Channel One.

Jeff, we need to agree on the price we are going to pay him. I think he wants \$5K, but we have offered him \$3K. We can put this on our bill as a subcontract, but the firm will not want to have to pay for this out of our fees. Give me some guidance. He is, meanwhile, working on it. . . .

Ms. Berger then wrote to Mr. Abramoff:

i have offered him \$2000 and he said ok!!! I am calling right now to make the appointment.

Mr. Abramoff replied:

You're a bargain shopper! Tell him we'll give him \$3K, but we want him to do press and talk radio on this. That way I don't look like an idiot with Jeff. Wait till I tell Glen what a bargain you can drive!

Dennis Stephens (a government affairs counselor at Preston Gates) wrote to Mr. Abramoff on May 17, 1999, that "Peter with ATR is in," referring to Peter Ferrara at ATR:

When I talked with Peter this morning, he was planning to draft a press release hammering the "anti technology" crowd per Jeff B's request and will also be distributing Grovers nice piece on Channel One. A nice balance, a positive piece on the good guys and a hit piece on the bad guys. Sound good?

On May 19, 1999, ATR published a policy brief authored by Mr. Ferrara entitled "The Clear Benefits of Channel One."²⁶ On May 20, 1999, Mr. Abramoff wrote to Mr. Norquist to say "thanks Grover" after receiving a copy of an ATR press release defending Channel One.

On April 24, 2000, ATR was included in a list of organizations to contact on Channel One:

Grover Norquist (ATR)—Damon in his office is revising K. Ring Draft letter and intends to send out this Friday . . . to all GOP senators and maybe to Dems also—

The same day, Mr. Abramoff wrote to Mr. Norquist to say a need for "a hard-hitting op-ed has arisen" regarding Channel One. Mr. Abramoff asked whether Mr. Norquist would be willing to do it himself:

Ariana Huffington has now joined Ralph Nader and George Miller in attacking Channel One. . . . We want to do an oped which smacks her big time, and also swipes at Nader's guy and the other loonies on this. We have \$1,500 to do this piece and get it placed. Are you interested (we can write it for you)? If not, let me know if I can approach Peter [Ferrara].

²⁶Peter Ferrara, *The Clear Benefits of Channel One*, Americans for Tax Reform policy brief, May 19, 1999. See Appendix.

Mr. Norquist wrote back to Mr. Abramoff the next day:

Jack, yes, go ahead and draft a copy for me. I have just spoken with the head of the Washington Times op-ed about a piece for Bruce Heinman. They said they are full for a while due to Elian article. I will talk to Helle Wed morning and make a case for this piece. yes, ATR will do this piece and push to have it in the Washington Times and the Investors Business Daily. Also I will share it with all our state groups. Grover

Mississippi Band of Choctaw Indians

In its “Gimme Five” report, the Committee on Indian Affairs concluded that Mr. Abramoff reached out to ATR in making the case for the Choctaw tribe to help contact members of the House Ways and Means Committee. Nell Rogers, the tribe’s planner, told the Committee on Indian Affairs that the money was not to support the “general work” of ATR but for specific tax issues important to the tribe. According to the report, the Choctaw paid ATR \$60,000 in 1995 and \$25,000 in 1999.

On May 20, 1999, Mr. Norquist wrote to Mr. Abramoff:

What is the status of the Choctaw stuff. I have a \$75K hole in my budget from last year. ouch.

In its response to Minority staff questions, ATR maintained that it had a long history of working with the Mississippi Choctaw tribe and its representatives.

Magazine Publishers of America

On March 13, 2000, Mr. Heiman of Preston Gates informed colleagues that the lobbying team won a new client, Magazine Publishers of America (MPA). The organization opposed a proposed postal increase. Mr. Heiman’s lobbying budget included a \$20,000 contribution to ATR. On March 15, 2000, Mr. Abramoff sent Mr. Heiman a message with the subject line “Grover”:

Spoke with him this evening and he is very happy. Said he spoke to Gloria. He wants you to be in direct touch with him when we need an op-ed.²⁷

On March 30, 2000, Mr. Heiman told Mr. Abramoff that he met with Mr. Norquist and Damon Ansell at ATR:

Rev’d up and ready to go. Will do ATR fact sheet, letter to leadership and gov reform committee R’s, and oped for Investors Business Daily. Grover outlined his substantive thoughts/approach. sounded good. Damon will draft. Hopefully we can look at/review before it goes out.

DH2 Inc.

In late 2003 and early 2004, e-mails show there was an effort to obtain funds from DH2, Inc., a mutual fund firm and a client of Mr. Abramoff’s, for ATR to publish a newspaper column favorable

²⁷Mr. Norquist published two *Washington Times* op-eds on the subject of postal increases during this time period: *Marvin Runyon: Former postmaster makes a killing*, March 31, 2000; and *Harry Potter Goes Postal*, July 25, 2000. See Appendix.

to DH2's stance on mutual fund legislation pending in Congress. On November 18, 2003, Michael E. Williams with Greenberg Traurig wrote to Mr. Abramoff:

We need to get our notes together on their goals per yesterday's conversation. He discussed it again today with me. Can you get an e-mail with the items and then we'll come up with a list and a strategy? We should also amend the retainer to reflect the next couple of months. He is also going to do a contribution to ATR.

On December 12, 2003, Peter Ferrara with ATR wrote to Mr. Williams to say that he did not feel comfortable signing a newspaper column he had written regarding mutual funds because of his efforts on a separate issue. Mr. Williams wrote back:

Peter, the deal was for ou to place this. If you feel you are conflicted, do you think you can get Grover to put his name on it. Our client read your bio and thought having you author it would add a little punch.

Mr. Ferrara said he would try to get Mr. Norquist to appear as the author of the already-drafted column. Mr. Williams then wrote to Mr. Abramoff, presumably referring to Robert Rubin with DH2:

We will see if he can get Grover to do it. Can you talk to Grover? If Grover signs, we can demand the \$\$\$ from Rubin!!

On December 14, 2003, Mr. Abramoff wrote to Mr. Norquist:

. . . can we take his op-ed and put you on as signatory for submission to the Washington Times? That should free up these guys to move forward. I have attached the draft here for you to review. Please let me know. Thanks.

Mr. Norquist responded the same day:

Almost certainly yes. Dan Clifton of my office will organize this. he is our mutual fund person.

On January 7, 2004, Mr. Williams told Mr. Abramoff that they finalized the op-ed piece:

I told Rubin he needs to round up some \$\$\$ for ATR

Mr. Abramoff wrote to Mr. Williams:

Get the money from Rubin in hand, and then we'll call Grover.

Mr. Williams asked how much. Mr. Abramoff responded:

50K

The next day, Mr. Abramoff wrote to Mr. Williams:

I spoke with Grover tonight and I think we can really start making use of him after we get some money over there. any updates on that? As for the issues, this is fine, but please get me an email going over our party line on all of this. what should we be doing, in your view? Give me a starting point and I'll be able to sound fine. Thanks.

On January 15, 2004, Mr. Williams wrote to administrative assistants at Greenberg Traurig asking for the tax identification number for Americans for Tax Reform:

A client wants to write them a check. Who do they make it out to?? ATR??

On February 10, 2004, Mr. Abramoff wrote to Mr. Norquist:

. . . I have sent over a \$50K contribution from DH2 (the mutual fund client). Any sense as to where we are on the op-ed placement?

Mr. Norquist wrote back:

The Wash Times told me they were running the piece. This is ms. Forbes. I will nudge again. Grover

Investment Banking Coalition

On February 18, 2004, Dan Clifton at ATR apparently was trying to solicit contributions from an investment-banking coalition. Kenneth Newton, a senior director for Commonwealth Capital Advisors, told Mr. Clifton in an e-mail that his coalition was unsure about the arrangement.

The sense of our coalition right now is that we are still unsure whether to try to get ATR directly involved in the fight on economic substance since it has already passed the Senate . . .

Mr. Clifton wrote back:

Thx for the update. We were anxious to get involved in this effort on your behalf.

Mr. Newton responded the next day:

We appreciate very much your interest in our issue and your patience as we develop our strategy. We have determined, however, that we will not ask ATR to step into this on our behalf at this point. Instead, we will wait to see what develops with the Treasury proposals that we expect will be picked up in both houses . . .

Kevin Ring, a Greenberg Traurig lobbyist who received copies of the e-mails, wrote to Mr. Newton that he was surprised to hear the group would not be interested in ATR's help. Mr. Newton responded:

Kevin, we just couldn't reach a consensus on getting Grover on board given what the expected donation would be.

Tax Issues

The activities illustrated by the e-mails in the above section mark a troubling practice by ATR—the use of tax-exempt dollars to further a lobbying agenda through paid advocacy that appears indistinguishable from lobbying undertaken by for-profit, taxable firms. However, to the Committee staff's knowledge ATR did not report any income from these numerous activities as unrelated business taxable income. Further, the quantum of such activities

and the possible benefits to insiders of ATR raise questions about whether excise taxes should apply to such transactions and whether ATR is a bonafide tax-exempt organization.

Actions taken by ATR were arguably not consistent with the organization's exempt purposes, and, if such activities together with other "unrelated" activities described in this report constituted the "primary" activities of ATR, it could be determined that ATR should not qualify for continued exempt status under section 501(c)(4).

Another issue relates to retaining a fee for purposes of publishing articles. If it were determined that the articles were not substantially related to an exempt purpose of ATR, and the activity was a trade or business regularly carried on, then the income from the activity should be taxable as unrelated business taxable income. This would require an inquiry into, among other issues, whether the activity was undertaken for a profit and whether the activity was undertaken with the frequency with which similar activities are undertaken by for-profit organizations.

The e-mails do not appear to contain facts sufficient to indicate whether any officers, directors or other "insiders" of ATR may have received more than fair market value compensation for the services provided to the organization.

Further, if contributions by a corporate client of Mr. Abramoff to ATR were for lobbying within the meaning of section 162(e), a business expense deduction should not have been claimed for such a contribution.

C. INTRODUCING LOBBYING CLIENTS TO GOVERNMENT OFFICIALS

Mr. Norquist told *The Boston Globe* last year²⁸ that Indian tribes were invited to meetings at the White House from 2001 through 2004 because the tribes supported President Bush's tax policies. E-mails show that the tribes were asked to make a donation to ATR in order to be invited; after the donation and invitation the tribes went on record as being in support of the tax policies.

E-mails indicate that ATR invited Mr. Abramoff's tribal clients to take part in the dinners with President Bush and state legislative officials and even arranged a meeting with Karl Rove after Mr. Abramoff promised a donation from an African nation.

White House Meetings

In an April 27, 2001, e-mail to Mr. Abramoff, Mr. Norquist wrote:

Jack, can we get these tribes to endorse the tax bill and pass a resolution like the states did. Then I can insist that the tribal leaders be in the meeting not just as financial supporters of the effort, but as republican leaning governments that endores the bush tax legislation. I intend to get all seven in. . . .

In a September 27, 2002, e-mail, Mr. Abramoff wrote to Terry Martin, a representative of the Chitimacha tribe:

²⁸Michael Kranish, *Antitax activist says he got \$1.5 million from tribes*, *The Boston Globe*, May 13, 2005. See Appendix.

Do you recall last year when Al and you came to that meeting in the White House with Bush, and speakers of the house from across the country, and got pictures with Bush? Grover is hosting a similar meeting this year and has asked me to see if four of the tribes were interested in sponsoring the costs, at \$25K each.

It is not normal practice to charge people or organizations for meetings with the President.

Introductions for Congo Representative

On July 9, 2002, Mr. Abramoff told Mr. Norquist that he needed his help with regard to someone who would be attending a function that night:

I am not sure we can pull it off on our end, but if we can, it will be a representative of the Congo. I have asked them for \$100K for ATR. If they come, I think we'll get it. If he is there, please go up to him (he'll be African) and welcome him. It will probably not be the person with whom I have been dealing (their special Ambassador), but will probably have heard my name from him. If you could introduce him to Karl and make sure he gets a picture, that would be great. I am in California. Please email me tonight if you can as to whether he does come and if it goes smoothly, since I want to hit him fast on the ATR \$. Thanks Grover.

Mr. Norquist wrote back:

Jack. I am assuming this is very important and therefore we are making it happen. It is tough. Remind me: who is the British guy. When I introduce him to Karl Rove, what is the connection I should stress. I will be sure and introduce Chris Petras to Karl. How do I introduce the Congo guy. Which Congo . . . Brazaville or Kinshasa? Grover Norquist.

Mr. Abramoff responded:

The British guy is very friendly with Karl. He has known him for 2 yrs, so no need to intro them. He is however someone I want you to meet since he could be the source of some UK funding for ATR. The intro to Karl of Petras with the connection to my name is important as is the Congo guy. No need for more than a quick intro and pic for either. It is Kinshasa Congo. Thanks Grover.

The next day, Mr. Abramoff wrote to Mr. Norquist:

Grover, thanks so much for accommodating Scott Hamilton and Ambassador Nkashama last night. I am only sorry I was unable to attend. I spoke with the Ambassador today and he is moving my ATR request forward. Hope to see you soon.

Department of the Interior

On November 7, 2003, Michael Smith, a lobbyist at Greenberg Traurig, wrote to Todd Boulanger at Greenberg Traurig:

. . . ATR has done nothing to this point. If there is a way to get Grover to call [Secretary Gale] Norton, I can get the cash gates back open.

Tax Issues

Mr. Norquist's introduction of a client of Mr. Abramoff's to Mr. Rove should be weighed with the other activities that do not further ATR's stated social welfare purposes in order to determine whether these activities constituted the primary activities of ATR. If the primary purpose test is not met, then ATR would not be eligible for continued exemption from tax as an organization described in section 501(c)(4).

If it were established that any payment by Mr. Abramoff's client to ATR was a payment for the service of introducing the client to Mr. Rove, and such service was a trade or business not substantially related to ATR's exempt purposes and was regularly carried on, the payment could be unrelated business taxable income.

NATIONAL CENTER FOR PUBLIC POLICY RESEARCH

The National Center for Public Policy Research (“NCPPr”), which represents itself as a “conservative think tank,” is organized under IRC section 501(c)(3).²⁹ The organization, founded in 1981, describes its primary exempt purpose as educating Americans about the free market solutions to today’s public policy problems. On its website, NCPPr is described as a research organization dedicated to a strong national defense and to providing free-market solutions to today’s public policy problems. The website states: “We believe that the principles of a free market, individual liberty and personal responsibility provide the greatest hope for meeting the challenges facing America in the 21st century.”

Amy Ridenour, NCPPr’s president and a founder of the organization, first met Mr. Abramoff when they were members of the College Republicans. In testimony before the Committee on Indian Affairs and in an interview with Finance Committee staff, Ms. Ridenour said that her organization accepted donations from Mr. Abramoff’s clients and routed money as Mr. Abramoff directed. Mr. Abramoff served on NCPPr’s board of directors.

E-mail exchanges among Ms. Ridenour, Mr. Abramoff, and Mr. Abramoff’s colleagues and clients indicate that CREA/Ms. Ridenour:

- accepted payments from Mr. Abramoff’s clients and then acted as the front organization to pay for trips by members of Congress, their staff members and others,
- accepted payments from Mr. Abramoff’s clients and then wrote checks as Mr. Abramoff directed, and
- accepted contributions from Mr. Abramoff’s clients and then performed services such as writing favorable newspaper columns and speaking in favor of clients’ causes.

A. ACTING AS A FRONT ORGANIZATION FOR TRAVEL

Mr. Abramoff arranged for Members of Congress and others to travel extensively at the expense of clients, while funneling the money through NCPPr, which would then be named as sponsor of the trips on official disclosure forms. Nell Rogers with the Choctaw tribe told the Committee on Indian Affairs that the tribe paid NCPPr \$65,000 in 2000, which apparently was used to help finance a golf trip to Scotland for members of Congress and others. Ms. Rogers told staff of the Committee on Indian Affairs that the money was intended for anti-tax and other work and not for a Scotland trip.³⁰

²⁹National Center for Public Policy Research website, <http://www.nationalcenter.org/>.

³⁰“Gimme Five” report, p. 36.

U.S. Commonwealth of the Northern Mariana Islands

Ms. Ridenour said Mr. Abramoff believed that the “full story” on the U.S. Commonwealth of the Northern Mariana Islands (“CNMI”) was not getting out, so he arranged “fact-finding” trips for employees of think tanks, Members of Congress, congressional staff, and others. She said Mr. Abramoff asked that NCPPR become a sponsor so that Members of Congress and their staffs could attend and abide by the rules. She said she had no objections because she had gone on such a trip and it had been truly educational. “As far as I knew for years, he, they went, sat in a room like I did, talked about OSHA violations, I don’t know,” Ms. Ridenour told Committee staff.

Patrick Pizzella, a colleague of Mr. Abramoff’s at Preston Gates, wrote to Mr. Abramoff on July 1, 1996, to explain how they planned to funnel money to NCPPR to pay expenses related to a trip to the CNMI. Mr. Pizzella is referring to Doug Bandow, who went on the trip:

Jack, the airplane tickets were paid by PG [Preston Gates]; the hotel bills were paid by CNMI (each traveler just signed bill—no credit requested); that leaves basically the fees for Bandow’s services and report; and the reimbursement for the bills he accumulated (mostly hotel and food) in Guam and Samoa. That should come to about \$10,000. That is the amount CNMI should provide as a grant to NCPPR. Then they can cut check to Bandow. I do not see need for us to send airplane bills to NCPPR and then CNMI sending money (\$30,000) to cover those—do you? Let me check further with Doug to nail down amount of bills he accumulated. I would like to finish up the \$\$ aspect of this as soon as possible—it will impress Doug and Amy—both of who we will want to call on again in the future. Thanks.

On December 17, 1999, Mr. Abramoff wrote to Willie Tan, a Saipan garment manufacturer who was a client. Mr. Abramoff said that Mr. Tan needed to wire \$25,577 to NCPPR to pay for a trip to Saipan and Tinian.

As I indicated, this should be wired to the National Center for Public Policy Research so they can pay it. Here is their wiring information. Please confirm to me when this has been sent so I can coordinate it on this side, which will be a bit tricky.

The same day, Ms. Ridenour wrote to Mr. Abramoff:

OK regarding the reimbursables. I’ll do what you want, of course.

On December 29, 1999, Mr. Abramoff told Ms. Ridenour that a wire for \$25,577 was coming her way:

. . . When you receive it, please let me know. Once it is received, please draw two checks: One payable to me in the amount of \$17,488 (for airfare) and one in the amount of \$8,129 to Alexander Strategy Group (for hotel and other

associated costs). Please let me know if you want invoices for these payments. If so, no problem at all. Thanks Amy.

On December 30, 1999, Mr. Abramoff wrote to an associate in his office, Viola Llewellyn, asking her to buy plane tickets for three congressional travelers:

The tickets should not in any way say my name or our firm's name. They should, if possible, say "National Center for Public Policy Research". . . .

Ms. Llewellyn wrote back:

. . . I have stipulated and reminded her that no mention of PGE or Jack Abramoff should show on the tickets. They should, if possible, say "National Center for Public Policy Research."

On January 4, 2000, Ms. Ridenour wrote to Mr. Abramoff to confirm that she would write the checks:

This is not only good for us, but if the IRS should later inquire, it is proof for you and Ed that you do not owe income tax on this money.

Scotland

On January 20, 2000, Mr. Abramoff wrote to Ed Buckham at Alexander Strategy Group to say that he was planning a golf trip to Scotland that clients would sponsor:

Terry and Willie would be the sponsors/hosts, though we would use National Center for Public Policy Research as the organization.

On May 31, 2000, Mr. Abramoff wrote to Ms. Llewellyn asking her to call Ms. Ridenour with information about an invoice for the trip to Scotland:

. . . tell her that this invoice is only for records and they owe me nothing more than the funds which come in. Tell her we are happy to put that in writing if they want, but I didn't think she would want to have that kind of document around. Her call, though.

In July 2003, Mr. Abramoff and his colleagues were planning another Scotland trip. Michael E. Williams at Greenberg Traurig asked if there was any information about the trip he could provide to Representative Chocola, a Member of Congress.

He may be able to do it and he's a 2 handicap. What "official" events do we have?

Mr. Abramoff wrote back:

We don't have paper but the national center for public policy research is hosting a meeting with scottish parliamentarians.

Mr. Williams responded:

What else can I tell him? How is the trip reported?

Mr. Abramoff said it was a trip for an educational meeting with legislators, and Mr. Williams asked:

Who should I tell them is funding the trip?

Mr. Abramoff wrote back:

NCPPR

Tax Issues

The e-mails between Mr. Abramoff and NCPPR indicate that NCPPR functioned as an appendage of Mr. Abramoff's lobbying operation.

A section 501(c)(3) organization must be organized and operated exclusively for exempt purposes. If it could be determined that congressional trips financed through NCPPR, taken alone or together with any other activities that are unrelated to NCPPR's exempt purposes, comprised more than an insubstantial part of NCPPR's activities, this could result in revocation of NCPPR's tax-exempt status. In addition, if it were established that facilitating transfers for private parties became an important purpose of NCPPR, a compelling argument could be made that NCPPR has a substantial nonexempt purpose and is not entitled to tax exemption under section 501(c)(3).

If it were established that NCPPR's financing of congressional trips was not substantially related to NCPPR's exempt purposes and that the activity was a trade or business that was regularly carried on, the income from that activity would be taxable as unrelated business taxable income. This would require an inquiry into, among other issues, whether NCPPR undertook the activity for a profit and whether NCPPR undertook the activity with the frequency with which similar activities are undertaken by for-profit organizations.

With significant additional factual development, it may be possible to show that legislators who participated in trips that were not of an educational nature (but were instead merely golf trips) and those who financed such trips might have received a more than incidental private benefit from NCPPR. The penalty for providing a more than incidental private benefit would be revocation of NCPPR's tax-exempt status.

If it were established that the trips coordinated by NCPPR were undertaken for the purpose of contacting Members of Congress or their staffs about specific legislation, the trips could have constituted lobbying activity for purposes of determining whether NCPPR has exceeded applicable section 501(c)(3) lobbying limits.

If it were established that an Abramoff client received a substantial return benefit for a contribution to NCPPR, the contribution should not have been deductible as a charitable contribution. If NCPPR engaged in lobbying (within the meaning of section 162(e)) on matters of direct financial interest to an Abramoff client and the contributions were made with a principal purpose of avoiding non-deductibility as a business expense under section 162(e), then the contribution should not have been deductible as a charitable contribution. Further, if contributions by a corporate client of Mr. Abramoff to NCPPR were for lobbying within the meaning of sec-

tion 162(e), a business expense should not have been claimed for such a contribution.

B. LOBBYING AND PUBLIC RELATIONS WORK FOR ABRAMOFF CLIENTS

In her interview with Committee staff, Ms. Ridenour said that she thought that Mr. Abramoff and his colleagues would tell clients “that you know, that if you were making donations to think tanks, it’s more likely they’re going to pay attention to you and take you seriously.” E-mails indicate, however, that the lobbyists expected to direct the actions of employees of tax-exempt organizations.

Slate reported on an April 16, 1999, e-mail from Ms. Ridenour to Mr. Abramoff in which Ms. Ridenour stated that she sent a letter to *Insight* magazine regarding labor practices in the CNMI. She states that she sent the letter “at Shawn and Dennis’s request,” referring to members of Mr. Abramoff’s lobbying team.³¹ Twelve days later, she sent the lobbying team a copy of a news release that she wrote on the same subject. “I will mail you some paper copies to Dennis’s attention in case you want pretty ones for the client or circulation anywhere else,” Ms. Ridenour wrote in the e-mail included in the *Slate* article.³²

Channel One Network

E-mails indicate that Ms. Ridenour wrote newspaper columns at the direction of Mr. Abramoff’s client Primedia Inc. She maintains that she did such work “independent of” and “without regard to” Primedia’s contributions.³³

In 1999, Mr. Abramoff and his associates discussed with Jeff Ballabon, who at the time was executive vice president of public affairs for Primedia’s Channel One Network, the best way to fend off a coalition seeking the network’s ouster from public school classrooms.

Mr. Abramoff’s colleague, Amy Berger, wrote on April 12, 1999:

In preparation for hearings on Channel One, it would be extremely useful to have a white paper issued by a conservative think tank group like Heritage or CATO. I know that you have excellent contacts with these think tanks. Would you be able to work with a think tank to produce this type of a paper?

Patrick Pizzella, another colleague, wrote back:

my guess is it would cost about \$5000 and we would want them to promote it. . . . and we ought to use a smaller outfit . . . maybe Amy R., maybe CEI. . . .

Mr. Abramoff replied to Mr. Pizzella:

I think Amy is the way to go. I am meeting with her this week. I’ll raise it with her.

Mr. Abramoff wrote to Mr. Ballabon on May 19, 1999:

³¹ Dennis Stephens and Shawn Vassell were lobbyists at Preston Gates.

³² Timothy Noah, *Think Tanks for Sale*, *Slate*, March 28, 2006. See Appendix.

³³ Committee staff interview with Amy Ridenour, June 26, 2006.

When we are through the hearing, we have to discuss getting Amy a contribution as we discussed. She was going to do 5 pieces for \$10K. We can chat on this next week.

Mr. Ballabon responded:

yup—I have not forgotten (was it \$10?—I wrote it down—whatever it was, she'll get it.)

Mr. Abramoff wrote to Ms. Ridenour the same day:

I just want to thank you again for all you to do help us. Jeff is so grateful and, as soon as the dust clears, is going to make his gratitude tangible. Thanks for all you do!

On May 23, 1999, Mr. Ballabon wrote to Mr. Abramoff saying that Ms. Ridenour “really does deliver.” Mr. Abramoff wrote back:

We should get her a check as soon as we can. She can really help us with the Approps battle (we have used her before for this kind of battle before).

The next day, Mr. Abramoff wrote to Ms. Ridenour:

Amy, can you get me an invoice for a contribution for \$10,000 which I can push through Channel One? Jeff has asked for this so we can get something to you asap. Thanks.

On March 13, 2000, Dennis Stephens forwarded a commentary from R.D. Davis, a member of NCPPR's Project 21, a national leadership network of black conservatives:

I note for the files, that Amy Ridenour has a member of Project 21 who is a writer and radio talk show host in Huntsville, Alabama. With the proper education, etc, he might be recruitable for Channel One support and Metrock bashing. Thoughts?

Mr. Abramoff forwarded the message to Ms. Berger, who responded:

worth keeping in mind—esp. if we get a contract with [Channel One]!

In an interview with Committee staff, Ms. Ridenour denied that NCPPR was engaged in any “Metrock bashing.”

On October 29, 2001, Mr. Ballabon at Primedia wrote to Mr. Abramoff regarding Ms. Ridenour:

Any way to get some paperwork from her on the 50k asap so I can get a check cut?

Mr. Abramoff wrote back with an attached NCPPR invoice requesting a contribution of \$49,000 from Primedia “to support public programs.”

I used one of their other invoices for another project and made it work. Let me know the next step. Please get the check directly to me. Thanks.

Mr. Ballabon wrote back on November 8, 2001, to say that a check had been cut and that he was sending it to Ms. Ridenour. Mr. Abramoff objected:

No! Send it to me. I have to work this through with her carefully.

Magazine Publishers of America

On March 17, 2000, Bruce Heiman at Preston Gates told Mr. Abramoff that a \$10,000 contribution to NCPPR would be part of the lobbying budget for their new client, Magazine Publishers of America:

Would like to get . . . Ridenour to distribute op-ed through Knight Ridder and her National Policy Analysis. . . . Something along the lines of abuse of power—supposed to cover costs but here going way beyond and in fact seem to have ignored identified cost savings.

Ms. Ridenour did write such a column, distributed through Knight-Ridder.³⁴ In her interview with Committee staff, Ms. Ridenour said she would not necessarily have taken Mr. Abramoff's advice on what to write: "So even if they had said, 'Could you write on this,' I would have said, 'Sure, thanks for the advice.' And then I would have wrote what I thought best."

Ukraine

Mr. Abramoff wrote to his colleagues on February 19, 2000, to inform them that they had a new client: Ukraine. Dennis Stephens, a colleague, wrote to Abramoff on February 22:

Will NCPPR be assisting on this client . . . ? Or other think tanks?

Mr. Abramoff responded:

Of course.

In her interview with Committee staff, Ms. Ridenour said that she could not recall anything about Ukraine and had no record of NCPPR doing any work for Ukraine.

Tax Issues

The e-mails cited above show a pattern of NCPPR producing public relations materials favorable to Mr. Abramoff's clients. Actions taken by the organization potentially were not consistent with the organization's exempt purposes, and, if such activities taken alone or together with other unrelated activities including those described in this report, were substantial in relation to exempt activities, or if such activities amount to a substantial nonexempt purpose, it could be argued that the organization should not qualify for continued exempt status under section 501(c)(3).

Another issue is whether one or more private persons received a more than incidental private benefit as a result of the actions of NCPPR. For example it could be argued that Mr. Abramoff or his

³⁴ Amy Ridenour, *Postal Service's exorbitant price increases may stamp cancel on your favorite magazine*, Knight Ridder/Tribune News Service, May 13, 2000. See Appendix.

clients received a substantial private benefit from NCPPR's publication of an article favorable to them. Such an approach would be supported by the finding of additional facts that demonstrate that the organization undertook the activity primarily to benefit Mr. Abramoff or his clients and only secondarily to further exempt purposes.

If it were established that a client of Mr. Abramoff received a substantial return benefit from a contribution to NCPPR, then the contribution should not have been deductible as a charitable contribution. If NCPPR engaged in lobbying (within the meaning of section 162(e)) on matters of direct financial interest to an Abramoff client and the contributions were made to avoid non-deductibility under section 162(e), then the contribution should not have been deductible as a charitable contribution. Further, if contributions by a client of Mr. Abramoff to NCPPR were for lobbying within the meaning of section 162(e), a business expense deduction should not have been claimed for such a contribution.

C. DISGUIISING THE SOURCE OF FUNDS

The e-mails to and from NCPPR indicate that, as with ATR, officers at NCPPR took contributions from Abramoff clients and in turn distributed the money as Mr. Abramoff directed. The money in one example went from Mr. Abramoff's clients through NCPPR and then to Mr. Abramoff's own foundation, to a company operated by a partner in his scheme, Michael Scanlon, and to Ralph Nurnberger, to whom Mr. Abramoff appears to have owed a personal debt. In her interview with Committee staff, Ms. Ridenour said that she did not know why the Choctaw tribe, the source of funds, could not simply write its own checks to those entities. At the time, she said she thought it was possible that the Choctaw tribe did not want to become known as a big donor "because every time you're known as a big donor, people hit you up for money."³⁵

On May 25, 2000, Mr. Abramoff wrote to associates in his office:

Did we receive in Federal Express today a check from eLottery for National Center for Public Policy Research? . . . If we did, please let me know, and then send the check over to David Ridenour at the National Center for Public Policy Research and collect from him a check post dated to Tuesday (or Wednesday if he wants) of next week for \$25K (the amount of the check we are sending to him. Thanks.

Mr. Abramoff wrote to Ms. Ralston on July 11, 2000, saying he had just spoken to Ms. Ridenour:

We should prepare the receipts so that there is \$7K and change left over from the \$40K contribution (I think we now have it that there is just \$5K left over for the National Center). . . .

Ms. Ridenour also apparently asked for such "pass through" arrangements. In an e-mail dated October 1, 2002, Mr. Abramoff wrote to Michael Scanlon:

³⁵ Interview with Ms. Ridenour, June 26, 2006.

Amy Ridenour has asked if we can run any funds through them to pump up their non e-mail donations (they will give us back 100%). Let's run some of the non CAF money through them to the camans.

Michael D. Smith at Greenberg Traurig wrote to Mr. Abramoff on October 9, 2002:

Jack: We need to provide Casini an entity to pay the \$500,000 provided we are succesful. Please let me know what entity you would like to use.

Mr. Abramoff responded:

Probably best to use something like the National Center for Public Policy Research. They are a c4 and can direct money at our discretion, anywhere if you know what I mean. Does that work?

Mr. Abramoff wrote to Ms. Ridenour on October 9, 2002, with the subject line "I might have \$500K for you to run through NCPPR":

Is this still something you want to do? Is NCPPR a c3 or c4?

Ms. Ridenour wrote back:

Yes, we would love to do it. We are a (c)(3).

Mr. Abramoff then asked her to make out an invoice for \$1 million to the Mississippi Band of Choctaw Indians, one of his clients. Ms. Ridenour responded:

A sum of that size **very** definitely will assist us in having better ratios. So I am grateful for the opportunity you have given us here (and very happy to entertain any other similar projects).

Ms. Ridenour told Mr. Abramoff that the money could not be for influencing specific pieces of legislation, and Mr. Abramoff responded:

No problem. It will be payments either to companies for research or to other c3's.

On October 21, 2002, Ms. Ridenour asked for descriptions for her records:

If possible, why don't you tell me very briefly what they really are doing, and I'll write back with a great-sounding phrase for each. I'll promise not to tell anyone about the projects, save if the IRS ever audits us, in which case, what I say will match exactly with what the recipients say if the IRS asks them, and everything would be on the up and up. In the meantime, we'd have nice-sounding by vague phrases in the written files in the (very unlikely) event anyone reads them.

In January 2003, Mr. Abramoff asked Ms. Ridenour if she still needed "transactions like the one we did last year." Ms. Ridenour responded:

Sure, they are always helpful and appreciated. By the way, you and I still need to chat briefly about the past transactions we did because I need to have information about the educational activities we supported through last year's transactions, in case we are ever audited.

Tax Issues

Disguising the source of funds is not a tax-exempt purpose. As Marcus Owens, the former head of the IRS Tax Exempt Organizations Division, recently stated, "It's not a tax-exempt activity to act as a bag man for Jack Abramoff."³⁶ A section 501(c)(3) organization must be organized and operated exclusively for exempt purposes. If it were established that the transfers through NCPPR were undertaken for the sole purpose of concealing the identity of the transferors from the ultimate transferees or from other third parties and/or to enhance NCPPR's financial ratios, the transactions would not further a legitimate section 501(c)(3) tax-exempt purpose. Therefore, if such transfers, taken alone or together with any other activities that are unrelated to NCPPR's exempt purposes, comprise more than an insubstantial part of NCPPR's activities, then NCPPR potentially would not be eligible for continued exemption from tax as an organization described in section 501(c)(3). In addition, if it were established that facilitating transfers for private parties became an important purpose of NCPPR, it could be argued that NCPPR has a substantial nonexempt purpose and is not entitled to tax exemption under section 501(c)(3).

If it were established that NCPPR retained a fee for purposes of facilitating transactions designed solely to disguise the identity of the transferor, and that the activity was a trade or business regularly carried on, then the income from the activity would be taxable as unrelated business taxable income. This would require an inquiry into, among other issues, whether the activity was undertaken for a profit and whether the activity was undertaken with the frequency with which similar activities are undertaken by for-profit organizations.

With additional factual development, it may be possible to show that NCPPR directly provided a more than incidental private benefit to Mr. Abramoff. As mentioned above, certain e-mails suggest that Mr. Abramoff may have owed a personal debt to Ralph Nurnberger and that he satisfied this personal debt by directing that a portion of a \$1 million contribution made by his client to NCPPR be disbursed by NCPPR to Mr. Nurnberger's company. If the use of NCPPR's charitable assets to satisfy Mr. Abramoff's personal debt constituted a prohibited private benefit, then the penalty could be revocation of NCPPR's tax-exempt status.

With additional factual development, it might be determined that the NCPPR transactions conferred a prohibited private benefit on: (1) Ralph Nurnberger or his company; (2) any Abramoff client who benefited from a "pass through" transaction; and/or (3) other recipients of grants from NCPPR that resulted from a pass through

³⁶Susan Schmidt and James Grimaldi, *Non Profit Groups Funneled Money for Abramoff*, Washington Post, June 25, 2006. See Appendix.

transaction designed to conceal the identity of the original contributor.

If it were established that an Abramoff client received a substantial return benefit for a contribution to NCPPR, then the contribution should not be deductible as a charitable contribution. If it were established that NCPPR engaged in lobbying (within the meaning of section 162(e)) on matters of direct financial interest to an Abramoff client and the contributions were made to avoid non-deductibility under section 162(e), then the contribution should not have been deductible as a charitable contribution.

Certain e-mails suggest that Ms. Ridenour undertook certain pass through transactions with the intent of “pumping up” certain of NCPPR’s “ratios.” The e-mails do not make clear what ratios Ms. Ridenour was attempting to inflate. If it were established that such ratios comprised part of NCPPR’s Form 990 or another filing with the IRS (such as a computation of NCPPR’s public support for purposes of its non-private foundation status), then it could be argued that Ms. Ridenour or others at NCPPR could be liable for aiding and abetting the understatement of NCPPR’s tax liability.

In testimony by Ms. Ridenour before the Committee on Indian Affairs (“Gimme Five” report, page 302), she indicated that \$450,000 was to be disbursed by NCPRR to the Capital Athletic Foundation, Mr. Abramoff’s private foundation. If it were established that Mr. Abramoff had contributed such funds to NCPPR and earmarked the funds for distribution to Capital Athletic foundation and obtained a greater charitable deduction than he would have received if he had contributed the money directly to the foundation, it could be argued that Mr. Abramoff should be liable for tax evasion under section 7201. In addition, if it were established that persons affiliated with NCPPR knowingly facilitated the arrangement, it is possible that such persons aided and abetted the understatement of Mr. Abramoff’s income tax liability.

Mr. Abramoff pleaded guilty to conspiracy, mail fraud and tax evasion on January 3, 2006. In pleading guilty to tax evasion, Mr. Abramoff admitted to using a public policy organization (unnamed in the plea agreement) for which he served as director to receive income and to make expenditures for his own personal benefit. “Through these activities, Abramoff and others intended to and did benefit Abramoff, the entities he controlled or financially supported, and the public policy organization.”³⁷

³⁷ Abramoff plea agreement, Jan. 3, 2006. See Appendix.

CITIZENS AGAINST GOVERNMENT WASTE

Citizens Against Government Waste (“CAGW”) reports that its mission is “to eliminate waste, mismanagement and inefficiency in the federal government.”³⁸ It was established in 1984, following the release of the Grace Commission report, a private-sector effort established by President Reagan with an aim of highlighting waste in government spending.

CAGW’s primary exempt purpose, as listed on its IRS Form 990, is “to perform nonpartisan research and analysis on waste and inefficiency in the government and to conduct educational programs to eliminate government waste.” It is organized under section 501(c)(3).

The group is listed in e-mails as one that Mr. Abramoff and his colleagues thought they could turn to for a friendly op-ed piece or letter to the editor in exchange for a payment to the organization. In his response to staff questions, CAGW’s president, Tom Schatz, stated that the organization is independent and nonpartisan and that it was not “affiliated” with Mr. Abramoff and therefore did not play a role in Mr. Abramoff’s client relationships.

Nevertheless, Mr. Abramoff and his colleagues appear in their correspondence to have assumed such a relationship existed. When Mr. Abramoff’s client Magazine Publishers of America (“MPA”) opposed a proposed postal-rate tax increase, and Mr. Abramoff and his colleagues sought public relations help to make the case against the increase to Congress, they turned to CAGW.

Magazine Publishers of America

On March 13, 2000, Bruce Heiman at Preston Gates informed his colleagues that the firm had won a contract to represent MPA. Mr. Heiman suggested that \$80,000 of the budget be used for “think tanks,” with the \$80,000 to be allocated among several groups, including \$10,000 to CAGW. On March 17, 2000, Mr. Heiman wrote to Mr. Abramoff to ask him to approach Tom Schatz, president of CAGW:

would like to get CAGW to put it in their next monthly “Waste Watcher Monthly” . . . I have in mind some angles for each—CAGW would be a cross subsidy argument—[U.S. Postal Service] is zapping magazines (and books and rural newspapers) to pay for ecommerce forays—Leslie Page did a letter to ed of W. Post criticizing USPS ecommerce in February so this is a good follow on. . . . Would also like to make each available to do talk radio (grover too).³⁹

³⁸The Citizens Against Government Waste website is at www.cagw.org.

³⁹Leslie K. Paige, *Mail Monopoly*, CAGW Wastewatcher, May 2000. See Appendix.

In May, Leslie K. Paige, then senior vice president of CAGW, wrote a commentary called "Mail Monopoly" that made the arguments suggested by Mr. Heiman regarding subsidies to pay for the Postal Service "venture" into e-commerce. That same month, the Postal Service was declared the CAGW "Porker of the Month."

Mr. Schatz, in his response to Committee staff's questions, said that CAGW did receive a donation from MPA but would not say how much, other than that it was less than one-half of 1 percent of CAGW's total revenue in 2000. Mr. Schatz said CAGW had a history of working on issues related to perceived waste at the Postal Service and that MPA never required that CAGW undertake a specific activity. He said CAGW did exchange information with representatives of MPA but only as part of its use of a broad array of sources. "However, final decisions to write, edit, and produce specific documents are made exclusively by CAGW staff," Mr. Schatz stated in his written response.

Mr. Schatz said further that magazine publishers may have incidentally benefited but that the primary purpose of CAGW's involvement was to save Americans money.

Channel One Network

In 1999, Mr. Abramoff and his associates solicited help from several tax-exempt organizations, including CAGW, for help serving their client, Channel One Network. In a written response to Minority staff questions, Mr. Schatz said CAGW has never received a contribution from Channel One. He reiterated in a telephone interview that the organization also never received a contribution from Channel One's parent company, Primedia Inc.

On January 25, 1999, Amy Berger wrote to Mr. Abramoff about Council Nedd, at the time a CAGW employee:

Just heard from Council Nedd. He is getting calls from his members about the press release on Channel One including an Alabama member (not Metrock). I faxed him the release and offered to be of help answering questions raised by his members about Channel One. He asked that we keep all of this quiet.

Mr. Abramoff replied:

Is he OK? Which members? Please let me know as soon as possible.

Ms. Berger wrote back later that day:

I just talked to Council. He's ok—at least for now. It turns out that a member of CAGW from Alabama and Jim Metrock called. The message is the usual Metrock stuff. Council was concerned that Tom Schatz would be upset but Schatz is completely fine on this. Council asked me to reassure you that they are fine on their position and I said if there's a problem and/or they need bolstering, we are here!

Mr. Nedd wrote to Mr. Abramoff on March 3, 1999:

I just talked to Tom. He is also going to be on Washington Journal on C-SPAN this morning, and he going to try to get in a plug about Channel One.

Mr. Abramoff forwarded the e-mail to his staff, saying, "Let's run a tape on this one!" But Ms. Berger wrote later that day to Mr. Abramoff and Mr. Ballabon at Channel One:

I talked to Tom Schatz this morning. Just as he was about to mention Channel One on CSpan he was cut off by the House of Representatives! He said that he will mention Channel One in his press conference today on the CAGW pig book. Also, Channel One is in the pig book as an example of an antidote to government waste. I am sending over a messenger to pick up copies and will distribute them.

On May 13, 1999, Ms. Berger wrote to colleague Dennis Stephens with the subject line, "one pagers by conservative groups (ridenauer, ATR, CAGW, TVC):

You may recall that Jack asked you yesterday to arrange for these groups to hand out one pagers following the hearing. With Jack's approval, would you please coordinate this? Thanks.

The next day, Mr. Stephens wrote back to Ms. Berger and Mr. Abramoff:

. . . Council with CAGW is in . . . Hope to get our groups wrapped up today and follow up, follow up all next week.

In an e-mail to Mr. Abramoff on July 28, 1999, Mr. Schatz asked Mr. Abramoff a favor:

First, Shawn McBurney is now on board at CAGW. We are coming over on Monday for the Channel One event and I will make sure to introduce you to him at that time. Second, would you happen to have two or three tickets in your box to see Bruce Springsteen at the MCI Center, either Aug. 31 or Sept. 3? That would be greatly appreciated!!

Mr. Abramoff replied:

Look forward to seeing you Monday. We are oversubscribed at the box at this time for all the concerts, but let me see what I can do. Since we are definitely tight, would two work, or do you need three? Please let me know.

On October 14, 1999, Ms. Berger informed Mr. Abramoff that another lobbyist had discussed soliciting help from CAGW and other organizations. Mr. Abramoff replied:

We should not hand over our friends to this guy. In fact, we should tell our friends to stand clear of him . . .

An October 18, 1999, e-mail from Ms. Berger to Mr. Abramoff indicates that several organizations, including CAGW, had agreed to sign letters to the editor in support of Mr. Abramoff's client Channel One after an article appeared in New Republic. The subject line is "Ok to send these to Jeff [Ballabon?]"

Daniel has drafted these letters to respond to the New Republic piece. Can you review these asap so we can get them to Jeff for his approval? We also may need your help getting Rabbi Lapin and CAGW to submit these letters to the New Republic. Is there anyone else who you think should write a response to the New Republic?

On November 3, 1999, Mr. Abramoff wrote to his assistant regarding Crosby Stills Nash and Young tickets that cost \$211 each:

I would like four tickets and a parking pass. Attending would be Tom Schatz (Pres. Of CAGW and his wife), myself and Carie . . .

Tax Issues

The e-mails show a pattern of CAGW producing public relations materials favorable to Mr. Abramoff's clients. A case can be made that such actions were not consistent with the organization's exempt purposes, and, if it were established that such activities taken alone or together with other unrelated activities were substantial, it could be determined that the organization should not qualify for continued exempt status under section 501(c)(3). In addition, if the articles produced by CAGW were found not to be consistent with the organization's exempt purposes, and it were established that publication of articles was a quid pro quo for contributions or favors by Mr. Abramoff or his clients, it could be argued that the organization had as a substantial nonexempt purpose to help carry out a public relations strategy devised by Mr. Abramoff and his colleagues on behalf of a client.

Another issue is whether one or more private persons who are not insiders of the organization directly received a more than incidental private benefit as a result of the actions of CAGW. For example, depending on the facts, it is possible that Mr. Abramoff or his clients received more than incidental private benefit as a result of CAGW's publication of an article favorable to them. Such an approach might be bolstered by any facts that demonstrated that the organization undertook the activity primarily to benefit Mr. Abramoff or his clients and only secondarily to further exempt purposes.

If it were established that a client of Mr. Abramoff's received a substantial return benefit from a contribution to CAGW, the contribution should not have been deductible as a charitable contribution. If it were established that CAGW engaged in lobbying (within the meaning of section 162(e)) on matters of direct financial interest to a client of Mr. Abramoff and the contributions were made to avoid nondeductibility under section 162(e), the contribution should not have been deductible as a charitable contribution.

COUNCIL OF REPUBLICANS FOR ENVIRONMENTAL ADVOCACY

Council of Republicans for Environmental Advocacy (“CREA”) was founded in 1997 by Italia Federici, with Gale Norton and Grover Norquist as honorary co-chairpersons.⁴⁰ CREA is organized under section 501(c)(4). It lists as its mission “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.”⁴¹

After Ms. Norton became Secretary of the Interior, Mr. Abramoff arranged to meet Ms. Federici⁴² and, e-mails show, directed his clients to make payments to CREA. Later, he referenced those payments when encouraging Ms. Federici to make his clients’ arguments with senior officials at the Department of Interior. In her responses, Ms. Federici seemed eager to comply.

Ms. Federici raised funds from Mr. Abramoff’s clients, and then contributors were given a chance to speak one-on-one with Interior Department officials.

Through her attorney, Ms. Federici declined an interview request by Committee staff investigators.

The Committee on Indian Affairs reported that from 2001 to 2003, Mr. Abramoff arranged for Indian tribes to contribute at least \$250,000 to CREA, sometimes under false pretenses. Ms. Federici told staff of the Committee on Indian Affairs that Mr. Abramoff or his clients contributed about \$500,000 to CREA. The Committee on Indian Affairs’ report concluded that, with the exception of the Choctaw tribe, there is “no evidence that the tribes gave to CREA because of any interest in CREA’s mission. . . . Ample evidence indicates that she [Ms. Federici] repeatedly told Abramoff that she would talk with a particular senior Interior official to help ensure that the concerns of Abramoff’s clients were addressed.”⁴³ Indeed, the Committee on Indian Affairs concluded that documents suggest that Mr. Abramoff helped CREA “because, or in exchange for, special favors that Federici had promised to do for him or his tribal clients at Interior.”⁴⁴

Hiring at the Department of the Interior

On January 30, 2001, Ms. Federici wrote to Mr. Abramoff:

⁴⁰“Gimme Five” report, p. 323.

⁴¹The CREA website is at www.crea-online.org.

⁴²According to the “Gimme Five” report, p. 323, Ms. Federici told staff of the Committee on Indian Affairs that she met Mr. Abramoff at a football game with Mr. Norquist.

⁴³“Gimme Five” report, pages 13 and 14.

⁴⁴*Id.*

I very much appreciate your generous offers regarding CREA and I've been working on the document you requested regarding grassroots and strategy. . . .

Mr. Abramoff wrote back:

Thanks so much Italia. Please let me know what I can do to help Dennis Stephens, Mark Zachares (Office of Insular Affairs) and Tim Martin (Bureau of Indian Affairs) be placed. . . .

Coushatta Tribe

On March 22, 2001, Mr. Abramoff wrote to Kathy Van Hoof, Coushatta attorney:

I met with the Interior guys today and they were ecstatic that the tribe was going to help. If you can get me a check via federal made out to "Council for Republican Environmental Advocacy" for \$50K that would be great. This is really going to help.

Mr. Abramoff wrote to Ms. Federici on April 19, 2001, regarding the chief of the Coushattas:

Do you think we could get him a meeting with Secretary Norton and Steve? 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.

Ms. Federici told him the money from last month went to briefings with government officials:

I think you'll be very pleased with the fresh slant on things.

On April 25, 2001, Mr. Abramoff wrote to Ms. Federici, asking if she could arrange a meeting between Secretary Norton and Coushatta Chairman Lovelin Poncho:

Can you attend the meeting as well? It would be so nice if she could thank him for the contribution. He is in town May 9 and 10 and will see the President as well, as part of Grover's group meeting. They also contributed (less, so don't tell Grover!) to ATR.

Ms. Federici wrote to Mr. Abramoff on May 7, 2001, regarding Poncho:

In the hubbub of trying to get Gale's schedulers to get their act together and getting Steve's endorsements, I didn't even ask . . . is there anything else that I can do for the chief's visit? Is there something else that I can do to say thank you for his support for CREA—besides the time with Secretary Norton?

On June 29, 2001, Abramoff wrote to Ms. Federici:

I just want to thank you for all you do for me. I hope to continue to merit your kind friendship. Please do not for-

get to send me the letter for [redacted]⁴⁵ so I can get that \$ for you. . . .

On July 17, 2001, Tony Rudy, a colleague of Mr. Abramoff's, said he needed Amy Ridenour to send a letter on behalf of the Coughatta and asked if they had offered her any money lately. Mr. Abramoff suggested CREA as well:

Italia Federicci from CREA might also be willing to do something. Coughatta gave her some money. Call her if you think she could help with this.

Trustees Circle

In 2001, CREA put together a Trustees Circle that provided contributors one-on-one access to Interior Department officials for a \$50,000 contribution. On August 7, 2001, Mr. Abramoff wrote to Kevin Ring at Greenberg Traurig:

CREA is putting together a trustees circle which will participate in small dinners throughout the year. The first one will be in September and will include Norton, Griles, McCaleb and a number of other assist secs, including Bennett Raley, asst sec Water and Science, or something like that. Coughatta and Choctaw are already members of the group (\$50K/year). Do you think Hoppi wants to join?

Mr. Ring replied:

The hopi aren't good republicans, but I will check it out.

Mr. Abramoff wrote back on August 8, 2001:

Whether they are good Republicans or not, they need clout with the Interior Dept, I would imagine.

Mr. Ring responded:

Again, I will ask. But my sense is that they will say that's why they hired us. I am not sure they have an extra \$50K lying around. Let me ask this: Besides the September meeting with Norton, Griles, etc, what other events are planned?

Mr. Abramoff stated:

Other dinners will be Senators, Congressmen and White House folks (including Rove).

On August 9, 2001, Mr. Abramoff wrote to Terry Martin of the Chitimacha tribe with suggestions for political contributions:

The CREA contribution helps those inside DOI who helped us on insurance.

Mr. Martin asked for additional information on CREA, and Mr. Abramoff wrote back on August 16, 2001:

This is a 501c4 group which used to be chaired by Gail Norton. They are the unofficial outside advocacy group for DoI and are going to be holding a series of dinner meet-

⁴⁵ Redacted by Senate Committee on Indian Affairs.

ings, the first of which is with Norton, McCaleb, Griles and others. . . . CREA does advocacy for environmental issues and has been incredibly helpful on the insurance issue⁴⁶ (its current head is Italia Federici who is very close to Griles).

Mr. Abramoff served as a fundraiser of sorts for CREA, soliciting funds for the group from his tribal clients. He wrote to Ms. Federici on October 23, 2001, with the subject line “guess what I’m holding”:

I am in Mississippi, returning tonight. I have the \$50K CREA check in hand. You’ll have it tomorrow.

Ms. Federici wrote back:

That’s great news! Thanks you, Thanks you!

Mr. Abramoff replied:

My great pleasure! Now on to Kickapoo, and then to reload for Coshatta!

Acting as a Liaison to Various Federal Agencies

On January 3, 2002, Todd Boulanger at Greenberg Traurig wrote to Mr. Abramoff regarding Ms. Federici:

Can she get some general requests into the President’s budget? Funding for the Choctaw [redacted],⁴⁷ For Homes in Fossil Energy, etc. . . .

Mr. Abramoff replied later:

Put together an email which I can send to her and I’ll see what we can do.

On January 17, 2002, Kevin Ring wrote to Mr. Abramoff asking if Thomas Sansonetti, then an associate attorney general, “might be able to help at Justice.” Mr. Abramoff wrote back:

Yes! Good idea. Call Italia and ask her to help us with this. Choctaw gave them \$50K.

Jena Choctaw issue

On January 27, 2002, Mr. Abramoff wrote to Ms. Federici:

Thanks Italia. Great you are back on line. I have another urgent issue which has come up and which we need to get to Steve immediately. There is a tribe in Mississippi and Louisiana called the “Jena Choctaw.” They are a federally recognized tribe and are trying to get a gambling compact in Mississippi and/or Louisiana. The Jena are also trying to get land put into trust (ostensibly for “economic development,” but really for gambling). This is totally horrible for both the Choctaw in Mississippi and the Coshatta. The Interior Department BIA has sent a letter out (I will fax this to you right now . . .) We have to quash this very, very hard and fast. . . .

⁴⁶“Gimme Five” report indicated, p. 331, that Mr. Abramoff wanted help with the Bureau of Indian Affairs’ tribal insurance policy.

⁴⁷Redacted by Senate Committee on Indian Affairs.

Mr. Abramoff wrote to Ms. Federici on January 30, 2002, with an update:

Just wanted to let you know that I had a great discussion today with the Choctaws and they are moving their next \$50K contribution very quickly. I hope we'll have it very soon. Also, [redacted]⁴⁸ and we expect they will approve it (also \$50K) with this week. Just thought I'd give you some happy news. Regards.

On January 31, 2002, Mr. Abramoff suggested that a \$50,000 contribution be added to list of clients' political contributions:

Please add in \$50,000 for CREA and put a note in the candidate column as follows: Sec. Norton.

On February 12, 2002, Mr. Abramoff discussed a list of political contributions with Todd Boulanger at Greenberg Traurig:

Todd, did we not request money for CREA from them? that's our access to Norton. We need \$ for them more than many of these others. I can't find them on the list. . . .

Mr. Boulanger wrote back, asking in part what CREA stands for. Mr. Abramoff replies:

CREA is Council for Republican Environmental Advocacy [sic]. The trustees group (which the other tribes do) is \$50K. this is the group which Norton was chairman of before she went to DoI and which she supports still. Asking him [Chris Petras at Saginaw Chippewa tribe] for another \$50 is going to knock his socks off. Call him and tell him this was inadvertently left off the list and ask what we should do, since Norton is very soon going to host another dinner of the trustees (he is aware of the last one) and we want to make sure they are included.

On February 20, 2002, Mr. Abramoff wrote to Ms. Federici:

Gale is meeting with Louisiana Governor Foster next week. He is going to lobby her to approve the compact he signed in the dead of the night. She needs to tell him no. how can we get in there?

On December 2, 2002, Mr. Abramoff asked about the Jena issue again:

It seems that the Jena are on the march again. if you can, can you make sure Steve squelches this again? thanks!!

Ms. Federici replied:

Thanks for the update. I'll bring it up asap!

Gun Lake Band of Pottawatomi Indians

Mr. Abramoff solicited Ms. Federici's help in helping his client, the Saginaw Chippewa tribe, fight a casino project proposed by the Gun Lake tribe. Mr. Abramoff called the project a "disaster in the making."

⁴⁸ Redacted by Senate Committee on Indian Affairs.

On December 4, 2002, Mr. Abramoff wrote to Ms. Federici:

This is the casino we discussed with Steve and he said that it would not happen. it seems to be happening! The way to stop it is for Interior to say they are not satisfied with the Environmental Impact Report. 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.

Ms. Federici replied, including updates on other projects they were working on:

I will call him asap. Also, Aurene . . . is not going to be selected for the job being vacated by McCaleb. They will appoint an acting temporarily. He asked for names and I told him about Tim Martin but that you thought they needed someone with real stature. He agreed. If you have any other names let me know. The other issue about the tribe in California has been headed off. He looked into it and it is being handled. All lines of communication are being shut off. A BIG thank you to you!

Mr. Abramoff wrote back:

My pleasure. The important part is that Steve clearly understands what a great friend he has in you. he is a great guy and we need to make sure he is always protected.
...

Two days later, Mr. Abramoff forwarded Ms. Federici a news article about the Gun Lake tribe:

This is what we have to stop.

Ms. Federici replied:

Seeing him at 4pm today

Use of Signatures Restaurant

CREA began hosting dinners at Mr. Abramoff's restaurant, Signatures, and Mr. Abramoff picked up the tab.

Mr. Abramoff wrote to Ms. Federici on April 5, 2002:

Thank you for going to Signatures with Steve and Tom. Wish you had let me know, though, since I want to host you there! I am getting you a Club Card for the place, which will have a private discount for you (don't tell others!). Regards.

In a July 10, 2002 e-mail with "RE: CREA" in the subject line, Rodney Lane at Signatures wrote to Mr. Abramoff:

It looks like the bill was slightly over \$300 plus \$50 tip. What do you want me to do in the future?

Abramoff wrote back:

I might have to cover this if it is not more than once every couple of months.

Federici wrote to Mr. Abramoff on July 19, 2002, to say that CREA planned to file its annual report for the IRS and that it used the same accounting firm that ATR did:

Anyway, the report to the IRS shows that 71.5% of the money we took in went to “fostering environmental education through grassroots education and research—program services.” That’s a good number. We are also on track to show growth for our next report—thanks to you—which is the type of thing that the IRS looks for. Thanks for everything Jack!

Ms. Federici continued hosting events at Signatures at no charge to CREA. Mr. Lane at Signatures wrote to Abramoff on March 17, 2003, to say that CREA planned a party that Thursday that would amount “to a few thousand bucks.” Abramoff replied to Lane:

We have to comp it, but submit the receipt to me and we’ll put it on the SagChip bill . . .

Meeting with Stephen Griles

Mr. Abramoff wrote to Ms. Federici on September 24, 2002:

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. It would really help Thanks so much!!!

Access to the White House

On December 16, 2002, Mr. Abramoff wrote to his former assistant, Susan Ralston, suggesting that her new employer, Karl Rove, meet with Ms. Federici:

They are getting ready to launch a huge effort in some key target states and wants to give a 10 minute briefing to Karl on it. I am raising/have raised a bunch of \$ for them. might be worth his hearing her. They know each other. Can I have her contact you directly? I will not be in this meeting. thanks.

Requesting Assistance for Tribes

On January 6, 2003, Mr. Abramoff asked Ms. Federici for a favor regarding the Mashpee Wampanoag Tribe:

Hi Italia. Is there any way you might be able to discreetly find out whether this recognition is being held 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 . . .

Ms. Federici wrote back the same day:

Hi Jack: I will find out asap . . .

On January 9, 2003, Ms. Federici asked Mr. Abramoff for a favor:

I hate to bother you with this right now, but I was hoping to ask about a possible contribution to CREA. As usual, we budgeted and spent all of our money from last year, on last year, and have started out the new year with practically nada. I thought I'd see if there was any way you could help us reach out to some of your folks who were so generous last year? (. . . and just after you praised our budgeting skills!)

Mr. Abramoff wrote to himself, "get her money," and then replied to her later:

Absolutely. We'll get that moving asap. The Coushattas are coming to DC next Thursday so I'll hit them immediately. By the way Gov. Foster (Louisiana) just sent Gale another letter pushing a new compact he signed for jena. Can you make sure Steve knows about this and puts the kibosh on it?

On February 6, 2003, Mr. Abramoff wrote to Ms. Federici with the subject line "Jena emergency":

[Redacted] just returned from Interior where he was told by the BIA . . . that they were going to approve the Jena compact and land in trust!!! This is a total disaster as you can imagine. Can you call Steve asap and try to get him to stop this. The land these Jena are trying to game on was historical [redacted] (our client) [redacted] land!!!! Please call me as soon as you can.⁴⁹

One of Mr. Abramoff's colleagues, Stephanie Short, wrote to Mr. Abramoff on March 7, 2003:

Can we find out anything from inside BIA on timing?

Mr. Abramoff forwarded the message to Ms. Federici on March 9:

I am not sure what more you can do on this, but it seems it's crunch time on Jena.

Ms. Federici replied:

Hi Jack: I will call you on Monday with whatever I can find out . . .

Mr. Abramoff wrote to Ms. Federici on March 17, 2003, asking for help getting federal recognition for the Mashpee tribe.

Can you read this and let me know if you think this is something we can raise urgently with Steve? It seems like an incredibly reasonable approach and would benefit Interior, but we have to get to him. can we?

Ms. Federici replied the next day:

Hi Jack: I will call Steve tonight—not a problem. . . . Re: Jena—can you get me the most complete list of Congressional opposition to Jena that you have? I heard that there was at least one congressman in support . . . Need to make

⁴⁹Redactions by Senate Committee on Indian Affairs.

sure that congressional opposition—the most update info and their activities—is seen by all. By the way . . . CREA event at Signatures on Thursday evening!

Meanwhile, Ms. Federici was helping make the case to Mr. Griles that the Saginaw Chippewa should get funding for a school even though staff inside the Bureau of Indian Affairs (“BIA”) disagreed. Mr. Abramoff wrote to Ms. Federici on March 24, 2003:

Italia, what’s going on? Is Steve buying the line from the BIA?

Ms. Federici wrote back:

Don’t worry. He just came back with what their line was and I got him the right info. He knew they would say something we disagreed with.

Mr. Abramoff replied:

Phew! Thanks!

On April 28, 2003, Mr. Abramoff wrote to Ms. Federici with news:

Are you around on cell to chat? We were just handed a major screw job from DoI, totally opposite of what Steve told me on the phone. Saginaw does not know yet, but might even terminate our contract over this. I am dumb-founded. Don’t do anything until we chat.

On May 6, 2003, Mr. Abramoff suggested that the Agua Caliente tribe contribute \$50,000 to CREA. His colleague, Duane R. Gibson, said that was “a lot of dough.” Mr. Abramoff responded:

Since CREA is Norton/Griles . . . I would say that it’s probably worth it, no?

Ms. Federici appeared to be helping Mr. Abramoff with many projects for his clients. He wrote to her on June 2, 2003:

Want to see if we can get a sense as to where we are on the following:

1. Sac and Fox (very important and urgent—they are now in town)
 2. Saginaw and Chippewa school cost share program (he got a big time letter from the chairmen of the House and Senate Interior Approps committee; no reaction)
 3. moving the Inspector General from Choctaw Mississippi to Coushatta election (too late since Coushatta election was Saturday, but we need to get that guy (Larry Gill) out of Choctaw.
 4. Mashpee (probably nothing up there)
 5. Jena (just to reconfirm that that is not moving)
- Thanks.

Mr. Abramoff wrote to Ms. Federici on July 31, 2003, regarding the Saginaw Chippewa’s school cost-share:

This is that tribe’s key issue for the year. You might recall that Lynn Scarlett sent that letter, to which the chairmen of House and Senate Interior Approps responded strongly.

Now we have heard nothing. I can't chat with Steve, as you know. what can we do? they are really pissed at me. anything possible?

Tax Issues

It is apparent from e-mail communication that CREA became an extension of Mr. Abramoff's lobbying operation. Mr. Abramoff arranged for his clients to donate to CREA; then he called in favors for those clients through Ms. Federici's connections at the Department of the Interior. Through e-mail correspondence, she appears willing to do Mr. Abramoff's bidding, even asking what else she can do for his clients that she has not done yet.

The "contributions" to CREA described above should be characterized as fees paid by Mr. Abramoff or his clients in exchange for CREA's services in lobbying individuals at the Department of the Interior. Lobbying for a fee should be viewed as inconsistent with CREA's (or any other nonprofit's) tax-exempt purpose. It could be argued that CREA was acting on behalf of Mr. Abramoff's firm for purposes of lobbying the government, which should not be an exempt purpose for CREA. If these activities, taken alone or together with any other activities that are unrelated to CREA's exempt purposes, constituted the primary activities of CREA, CREA arguably should not be eligible for continued exemption from tax as an organization described in section 501(c)(4).

In addition, issues outlined in the Committee on Indian Affairs report raise questions of private inurement. In her deposition to the Committee on Indian Affairs staff, Ms. Federici said she could not recall having drawn a salary from CREA from 1997–2000. "It is noteworthy that Federici's salary from the CREA appears to have spiked during the period that Abramoff's tribal clients contributed to the CREA," the Committee on Indian Affairs concluded.⁵⁰

If, as suggested by the e-mails above, CREA retained a fee in exchange for taking actions that were unrelated to CREA's exempt purposes on behalf of an Abramoff client, the fee income arguably is not derived from an activity that is substantially related to the performance of the organization's tax-exempt purpose. Under such circumstances, if the activity also constitutes a trade or business and is regularly carried on, arguably the income from the activity should be taxable as unrelated business taxable income. This would require an inquiry into, among other issues, whether the activity was undertaken for a profit and whether the activity was undertaken with the frequency with which similar activities are undertaken by for-profit organizations.

If it were established that contributions by a corporate client of Mr. Abramoff's to CREA were for lobbying within the meaning of section 162(e), a business expense deduction should not have been claimed for such contributions.

⁵⁰"Gimme Five" report, p. 323.

TOWARD TRADITION

Toward Tradition describes itself as “working to restore America’s respect for the dignity and morality of business.” Rabbi Daniel Lapin, its director and founder, described Toward Tradition in an e-mail as “essentially an anti-defamation organization defending the institution of business against unfair attack.” A second area of work, he stated, is “building an alliance of Jews, Christians and other Americans to help restore America’s founding ethic of limited government, centrality of the family, and a strong defense.”⁵¹ Toward Tradition is organized under section 501(c)(3).

Mr. Abramoff served on the organization’s board of directors until 2004. He served two terms as its chairman. E-mails show that Mr. Abramoff could turn to Rabbi Lapin for a friendly newspaper column that put a client in a positive light. Indeed, the e-mail communication indicates that Mr. Abramoff planned how best to use Rabbi Lapin as a resource.

For example, in an e-mail exchange with Amy Berger, an associate at Preston Gates, Mr. Abramoff suggested that they avoid having Lapin write a letter on behalf of a client, Channel One Network. Ms. Berger already had a copy of such a letter and wanted to “get them to Jeff [Ballabon, with Channel One] for his approval.” Mr. Abramoff’s response indicates that he needed to use Lapin for another purpose to benefit the same client: “I don’t want Rabbi Lapin to do this. We are going to need him to discreetly call [James] Dobson to get Jeff a meeting, so I don’t want to put him out publicly again yet.”⁵²

In a telephone call with Minority staff, Rabbi Lapin said Toward Tradition is in the process of shutting down as a result of negative publicity related to the investigation of Mr. Abramoff. He said the corporation had not “folded” yet but that legal steps were being taken to do so.⁵³

Channel One Network

On March 11, 1999, Rabbi Lapin sent a copy of a proposed newspaper column to Mr. Abramoff and Mr. Ballabon of Channel One. The op-ed piece⁵⁴ was titled, “Is Making an Honest Living Immoral? Your Children Think So.” Mr. Ballabon wrote back to Lapin and Mr. Abramoff:

First of all, let me say that this is a terrific piece (I’m not surprised, just grateful). . . . I have just one lingering concern: It is important to realize that 10,000 of our 12,000

⁵¹ E-mail from Rabbi Lapin to Susan Ralston, Abramoff’s assistant, May 10, 2000.

⁵² E-mail from Mr. Abramoff to Amy Berger, Oct. 18, 1999.

⁵³ Telephone call with Minority staff, July 17, 2006.

⁵⁴ Rabbi Daniel Lapin, *Channel One and its generosity under attack from those who would prefer to use tax dollars for same equipment*, Knight Ridder/Tribune News Service, April 15, 1999. See Appendix.

schools are, indeed, public schools. There are two places (see my notations in the document itself) where you attack the schools themselves. . . . I think it might be more fruitful to direct your criticism at our real detractors: none of them are educators at all. They are just radical anti-business political operatives and academics who argue against Channel One despite our support from teachers of all kinds of schools with all kinds of philosophies. . . . Rather than drive in a wedge, I'd like to bring them together to attack these outside commie agitators. Once again, I think it is only an issue raised by two comments in the piece, which is magnificent. Jeff

On July 11, 1999, Amy Berger with Preston Gates wrote to Mr. Abramoff:

At last week's meeting with Jeff you suggested getting groups like TVC [Traditional Values Coalition] and Toward Tradition to give awards to Channel One. Is there anything I can do to help facilitate this? For example, there may be some Channel One specials that Toward Tradition would like (but I need to know what Toward Tradition cares about). Your thoughts?

In an August 11, 2006 letter to the Minority staff Rabbi Lapin stated that "I have no recollection of any donations that Toward Tradition received from Channel One Network and/or Primedia." He also stated that "I do not believe that Toward Tradition ever gave any award to Channel One", and that the article on Channel One "never saw the light of day."

Magazine Publishers of America

Toward Tradition is one of the organizations that Mr. Abramoff and his colleagues turned to in 2000 when it needed public-relations help for its client, Magazine Publishers of America.

Mr. Abramoff wrote to Mr. Heiman on May 9, 2000, with the subject line "replacement for Americans for Economic Growth":

As soon as I hear back from you that this is OK, I'll see if I can get Lapin to do a piece for us for free so we have two-fer.

Mr. Heiman wrote back to Mr. Abramoff, discussing the issue of a donation with James Cregan of MPA:

terrific. I don't see a problem. I'll raise with Cregan. Will need something on the group. Is it 501c3? Maybe the theme should be its immoral to keep other people's money—when you know you can save money and won't.

On May 13, 2000, Mr. Abramoff wrote to Susan Ralston on the same subject:

Yes, MPA is going to give to Toward Tradition. Choctaw and elot will give to National Center. Can you call Betty to see how we are doing on turning that check around?

“Awards” for Mr. Abramoff

On September 15, 2000, Mr. Abramoff asked Rabbi Lapin for a list of awards they could say he won to help him get into the Cosmos Club in Washington.

. . . most prospective members have received awards and I have received none. I was wondering if you thought it possible that I could put that I have received an award from Toward Tradition with a sufficiently academic title, perhaps something like Scholar of Talmudic Studies? . . . It would be even better if it were possible that I received these in years past, if you know what I mean. Anyway, I think you see what I am trying to finagle here! . . .

Rabbi Lapin wrote back on September 19, 2000:

Yes, I just need to know what needs to be produced . . . letters? Plaques? Neither?

Mr. Abramoff replied:

Probably just a few clever titles of awards, dates and that’s it. As long as you can be the person to verify them (or we can have someone else verify one and you the other), we should be set. Do you have any creative titles, or should I dip into my bag of tricks?

Mr. Lapin later wrote a column saying that on no occasion did Toward Tradition or any organization he was affiliated with create an award or present one to Mr. Abramoff.⁵⁵ However, in an e-mail Mr. Lapin sent on October 5, 2000, Lapin wrote to Mr. Abramoff saying he had found records of awards at three organizations and that he understood Mr. Abramoff may have trouble finding the “long forgotten (but well deserved)” awards in movers’ boxes:

Pacific Jewish Center, Los Angeles, California.

President: Michael Medved. Rabbi: Daniel Lapin.

In February 1988 you were honored with the award that recognized you as PJC Distinguished Professor of Talmudic Law in recognition of the lectures you delivered during 1987. Very pretty blue granite looking type of plaque if I recall correctly.

Toward Tradition, Mercer Island, Washington.

President: Daniel Lapin. National Director: Yarden Weidenfeld

In the summer of 1994 you were given the award that identified you as Toward Tradition’s Scholar of Biblical and American History.

Canadian Business Institute, Seattle and New York City

President: Lewis Kaufman. Director: Julian Hurst

⁵⁵“Jack Abramoff and Toward Tradition,” by Rabbi Daniel Lapin, www.towardtradition.org/jack_abramoff_and_TT.htm. See Appendix.

In October 1999 you accepted the award that recognized your service in establishing CBI's course in Biblical Mercantile Law in which you served as adjunct professor.

Hope that helps

In the August 11, 2006 letter to the Minority staff Rabbi Lapin stated that Mr. Abramoff had "humorously inquired as to whether I could create an award for him to which I responded equally frivolously along the lines of filling a wall of awards for him."

On December 13, 2000, Mr. Abramoff sent an e-mail to Ms. Ralston:

I told R'Lapin that I probably need to step down as chairman of Toward Tradition.

Tax Issues

If it were established that actions described above taken by Toward Tradition were not consistent with the organization's exempt purposes, and that such activities taken alone or together with other unrelated activities were substantial in relation to exempt activities, or if such activities amount to a substantial nonexempt purpose, it is possible that the organization would not qualify for continued exempt status under section 501(c)(3).

With additional factual development, it may be possible to show that one or more private persons who are not insiders of the organization directly received a more than incidental private benefit as a result of the actions of Toward Tradition. For example, depending on the facts, it may be possible to show that Mr. Abramoff or his clients received a substantial private benefit from Toward Tradition's publication of an article favorable them. Such an argument might be bolstered by any facts that demonstrated that the organization undertook the activity primarily to benefit Mr. Abramoff or his clients and only secondarily to further exempt purposes.

If it were established that an Abramoff client received a substantial return benefit from a contribution to Toward Tradition, the contribution should not have been deductible as a charitable contribution. If it were established that such organizations engaged in lobbying (within the meaning of section 162(e)) on matters of direct financial interest to an Abramoff client and the contributions were made to avoid nondeductibility under section 162(e), the contribution should not have been deductible as a charitable contribution.

CONCLUSIONS AND RECOMMENDATIONS

Sufficiently serious issues have been raised about the behavior of nonprofit organizations, based on the materials reviewed by the Senate Finance Committee's Minority staff, to justify referral of this report to the Department of Treasury, the Internal Revenue Service and the Department of Justice for further review. Final judgments will be reached by those Federal Departments, which have the ultimate responsibility to enforce the law and regulations relating to nonprofits, the personnel to conduct full investigations, and full subpoena power.

The Minority staff found a large number of questionable activities by the nonprofits named in Mr. Abramoff's and other's e-mails. It appears that lobbying, public relations work and, in some cases, disguising the source of funds was conducted by the nonprofits examined in this report. A variety of tax-law standards for the operation of nonprofits may have been violated.

In general, a substantial part of a tax-exempt entity's activities cannot be for the benefit of a for-profit entity. Mr. Abramoff used nonprofit organizations for his lobbying practice. These organizations clearly acted to benefit Mr. Abramoff and his lobbying interests. If it is found that these activities were a substantial or a primary activity of these organizations, then the exemption from taxes for these nonprofit entities could be revoked.

The private inurement and private benefit prohibitions also are at issue. Although the staff did not find direct evidence of violations of these two prohibitions, there are significant indications that such violations occurred.

Substantial issues related to the unrelated business income tax are raised by the e-mails. In general, charities and social welfare organizations are subject to tax on income from for-profit activities that are not substantially related to exempt purposes. Based on the information contained in this report, there is a strong likelihood that lobbying, public relations work and disguising the source of funds for a specific "client" for a fee are not charitable or a social welfare purpose and income from such activities may be subject to the unrelated business income tax.

IRC Section 162(e) provides that business expenses can be deducted, including contributions to nonprofit organizations. However, if a contribution to a section 501(c)(3) or 501(c)(4) organization is made in connection with lobbying by such organizations, then that payment *cannot be deducted*. Did companies or organizations deduct as a business expense payments to nonprofit organizations involved with Mr. Abramoff that were then used to advance a lobbying agenda?

At least three additional provisions of the tax code should be analyzed in light of the materials described in this report:

- Section 6701 generally imposes a monetary penalty against any person who assists in the preparation of a document that understates the liability for tax of another person.
- Section 7206 imposes substantial criminal penalties on a person who produces a tax return made under penalty of perjury which that person does not believe to be true. If it were established that the exempt organization had, but did not report, unrelated business taxable income, and the person who signed the organization's return under penalty of perjury knew that such income improperly was excluded from the return, such person arguably could be subject to criminal penalties under Section 7206.
- Section 7201 imposes substantial criminal penalties for tax evasion—any person who willfully attempts in any manner to evade or defeat any federal tax on the payment of such tax could be guilty of a felony.

Again, law enforcement entities with greater resources should make a final determination on these issues.

Regardless of the outcome of additional investigations, what should not be tolerated are tax breaks given to so-called nonprofit organizations that perform lobbying, public relations and/or disguising the source of funds for a fee. These activities cannot be defended because they violate the principle that these section 501(c)(3) and 501(c)(4) organizations are to be organized for charitable or social welfare purposes.

Activity that is no different from the operations of lobbying and public relations firms—who are paid by clients to lobby and do public relations on a specific issue—should not be treated as a social welfare activity and granted tax-favored status. What is the rationale for allowing tax-favored entities, organized as nonprofits, to engage in the same behavior as lobbying and public relations firms? If this activity is permitted, then should not lobbying firms and public relations firms enjoy the same tax-exempt status?

We recommend the Committee consider legislation clearly addressing the practices exposed in this report. The Minority staff has developed the following options for discussion with the Majority staff and Members of the Finance Committee.

REFORMS RELATING TO SECTION 501(c)(3) ORGANIZATIONS

The following are potential reforms that should be examined in light of the findings of this report:

1. Provide that, for purposes of section 501(c)(3), “lobbying” includes payment of travel, meals, and similar expenses of a government official by a section 501(c)(3) organization if a registered lobbyist (or person related to the lobbyist, including the lobbying firm) is a disqualified person or substantial contributor of the section 501(c)(3) organization.

2. Require section 501(c)(3) organizations that pay the travel, meal, and similar expenses of a government official publicly to disclose (1) their corporate donors, and (2) contributions of a registered lobbyist above a certain amount.

3. Increase the rate of tax on excess lobbying expenses imposed on the organization and on the organization manager under section 4912.

4. Expand the definition of lobbying activity under section 501(c)(3) to cover the lobbying of the Executive branch (including administrative agencies) and lobbying with respect to federal appointments.

5. Provide that, in general, the present law proxy tax (section 6033) would apply to section 501(c)(3) organizations. Under such an approach, a section 501(c)(3) organization would have to calculate the percentage of expenses of the organization that go to lobbying. The 501(c)(3) organization then would either have to inform donors that such percentage of their contribution would not be deductible, or otherwise the organization would have to pay a proxy tax.

6. Consider whether to provide for special rules for section 501(c)(3) organizations with respect to which a Member of Congress is a founder or exercises control (alone or together with related parties and paid staff of the Member). For example, section 501(c)(3) organizations could be required to disclose any contributions made by a corporation or a registered lobbyist.

**REFORMS RELATING TO SECTION 501(c)(4) AND OTHER
501(c) ORGANIZATIONS**

1. Provide that corporate contributions to section 501(c)(4) organizations that engage in lobbying either are not deductible under section 162 as business expenses or are subject to an excise tax or treated as income from an unrelated trade or business.

2. Alternatively, provide that if a contribution is accepted by a section 501(c)(4) organization (whether or not it engages in lobbying activity) with any expectation of a quid pro quo, then the contribution income is treated as income from an unrelated trade or business (and thus is subject to unrelated business income tax).

3. Require that section 501(c)(4) organizations that engage in lobbying publicly disclose all corporate donors.

4. Impose an excise tax on section 501(c) organization managers that knowingly accept and disburse contributions for the primary purpose of facilitating a transaction for the benefit of the contributor if the transaction does not directly further exempt purposes.

