

REP. JERRY LEWIS

Rep. Jerry Lewis (R-CA) is a 15th-term member of Congress, representing California's 41st congressional district. Rep. Lewis has been a member of the House Appropriations Committee since 1980, where he served as chairman of the full committee from 2005 to 2006, and currently serves as ranking member. Rep. Lewis also served as chairman of the Defense Appropriations Subcommittee from 1999 to 2005. Rep. Lewis was included in CREW's 2006 report on congressional corruption.

Rep. Lewis' ethics issues stem primarily from misuse of his position on the powerful Appropriations Committee to steer hundreds of millions of dollars in earmarks to family, friends, former employees and corporations in exchange for contributions to his campaign committee and political action committee, Future Leaders PAC. Rep. Lewis is currently under federal investigation by the Department of Justice.

Relationship with Bill Lowery and Copeland Lowery Jacquez Denton & White

Rep. Lewis has a close personal and business relationship with lobbyist and former Congressman Bill Lowery, and his lobbying firm, the now-defunct Copeland Lowery Jacquez Denton & White (Copeland Lowery).¹ The two served on the Appropriations Committee together from 1985 until 1993, when Mr. Lowery left Congress and opened his own lobbying firm.² According to press reports, as chairman of the House Appropriations Committee Rep. Lewis has approved hundreds of millions of dollars in federal projects for Mr. Lowery's clients.³ As a result of those generous earmarks, Copeland Lowery's income more than tripled from 1998 to 2004, and its client size grew from 28 to 101.⁴ In turn, Mr. Lowery, his partners and their spouses contributed \$480,000 to Rep. Lewis' campaign committee and Future Leaders PAC between 2000 and 2005, often giving the maximum contribution allowed under law.⁵

Copeland Lowery's staff included Letitia White, who joined the firm in 2003, after working in Rep. Lewis' office for 22 years, most recently as a staffer to the Appropriations

¹ Jerry Kammer, Close Ties Make Rep. Lewis, lobbyist Lowry a Potent Pair, *Copley News Service* appearing in *San Diego Union-Tribune*, December 23, 2005 (Exhibit 1).

² Id.

³ Id.

⁴ Id.

⁵ Kammer, *Copley News Service*, Dec. 23, 2005.

Committee.⁶ In the year before Ms. White left Rep. Lewis' employ, her salary was cut from the equivalent of \$125,000 per year to about \$113,000.⁷ In this way, Ms. White was able to evade federal conflict-of-interest laws that impose a one-year lobbying ban on any congressional staffer who earns a salary equal to or above 75% of a member's salary.⁸

At Copeland Lowery Ms. White became known as "K Street's Queen of Earmarks."⁹ She quickly built a client list of two dozen defense firms that were seeking earmarks.¹⁰ Within a year, she was earning over \$1 million a year at the firm, her clients were paying almost \$1.5 million in lobbying fees, and they received at least \$22 million in earmarks in the 2004 defense appropriations bill.¹¹ For fiscal year 2006, an analysis by the nonprofit Taxpayers for Common Sense revealed that at least two-thirds of Ms. White's 53 clients received earmarks.¹²

⁶ A one-time San Diego defense contractor, Thomas Casey of Audre Recognition Systems Inc., has alleged that in 1993, while Ms. White was on Rep. Lewis' staff and working on a provision in a spending bill that would have steered \$20 million to Audre, she met with Mr. Casey and another defense contractor, Brent Wilkes. The purpose of the meeting was to draft language for a defense bill that would have secured funding for Audre and limited its competition. The final bill included much of the language that Mr. Casey wrote, although the funding was reduced to \$14 million. One week prior to final passage of the bill, Ms. White bought stock in Audre, according to a November 1994 article in the trade journal *Federal Computer Week*. Under the 1994 earmark, Mr. Casey initially received \$4 million in Pentagon contracts and no further awards. Audre filed for Chapter 11 bankruptcy in 1995. Peter Pae, Tom Hamburger and Richard Simon, Powerful Lawmaker's Relative Linked Financially to Contractor, *Los Angeles Times*, June 23, 2006 (Exhibit 2); Mr. Casey – who also alleged on *NBC News* that Rep. Lewis asked him to provide stock options to the Congressman's friends, including Mr. Lowery – and his associates gave \$9,253 in political contributions to Rep. Lewis in 1993 alone. Dean Calbreath, Ex-contractor Says Lewis Asked Him for Favors, *San Diego Union-Tribune*, June 8, 2006 (Exhibit 3).

⁷ Paul Kane, Pay Cut Let Lewis Aide Dodge Ban, *Roll Call*, July 27, 2006 (Exhibit 4).

⁸ Id.

⁹ David D. Kirkpatrick, Rise of Capitol Lobbyist Shines a Light On House Connections, *The New York Times*, June 3, 2006 (Exhibit 5).

¹⁰ Kammer, *Copley News Service*, Dec. 23, 2005.

¹¹ Kane, *Roll Call*, July 27, 2006.

¹² Kirkpatrick, *The New York Times*, June 3, 2006.

One of Ms. White's first major clients was General Atomics and one of its aeronautics subsidiaries.¹³ The companies received several multimillion-dollar earmarks in the defense spending bill for fiscal year 2004, including \$3 million for General Atomics and \$15.3 million for the aeronautics division.¹⁴ During the 2004 election cycle, General Atomics executives were the second-highest donors to Rep. Lewis' campaign committee, giving \$18,000.¹⁵

When Rep. Lewis took charge of the defense appropriations subcommittee, Richard White, Ms. White's husband and a former tobacco industry lobbyist, switched to defense lobbying.¹⁶ Mr. White secured a \$4.5 million earmark for a project for Tessera Technologies, and in return received \$180,000 in payments from the company in 2003 and 2004.¹⁷ Tessera's partner in the project was Isothermal Systems Research, for which Ms. White was a lobbyist. She charged the company \$120,000 for lobbying services in 2003 and 2004.¹⁸

From 2003 through 2005, the Whites contributed \$30,000 to Rep. Lewis' campaign committee and PAC.¹⁹

Jeffrey Shockey, another staffer for Rep. Lewis until 1999, also left to join Copeland Lowery.²⁰ Mr. Shockey stayed with the firm for six years before returning to Capitol Hill in January 2005, for a second stint with Rep. Lewis as deputy staff director of the Appropriations Committee, at a salary of approximately \$170,000.²¹ To compensate for Mr. Shockey's drop in income, Copeland Lowery paid him nearly \$2 million in departure payments²² and hired his wife, Alexandra Shockey, as a subcontractor.²³ His wife is also a former employee of Rep. Lewis and

¹³ Erica Werner, Receptionist-Turned-Lobbyist Gets Attention of Federal Investigators, *Associated Press*, August 24, 2006 (Exhibit 6).

¹⁴ Id.

¹⁵ Id.

¹⁶ Kammer, *Copley News Service*, Dec. 23, 2005.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Kammer, *Copley News Service*, Dec. 23, 2005.

²¹ Tom Hamburger, Lewis Aide Got \$2-Million Buyout From Lobby Shop; The Firm Paid Jeffrey Shockey as he Returned to Capitol Hill as an Appropriations Staffer, *Los Angeles Times*, June 10, 2006 (Exhibit 7).

²² Id.

²³ Kammer, *Copley News Service*, Dec. 23, 2005.

has her own lobbying firm, Hillscape Associates, with an address identical to that of Copeland Lowery.²⁴ Ms. Shockey has admitted that her client roster includes some of her husband's former clients.²⁵

While Mr. Shockey was with Copeland Lowery he handled the account for Environmental Systems Research Institute Inc. (ESRI).²⁶ ESRI hired Copeland Lowery in June 2000, and paid the firm between \$40,000 and \$80,000 annually.²⁷ ESRI received at least \$55.4 million in earmarks in 2004 and 2005.²⁸ The co-founders and heads of ESRI, Jack and Laura Dagermond, donated over \$23,000 to Rep. Lewis and his PAC in the 2002, 2004 and 2006 election cycles.²⁹

From 1999 through 2006, the Shockeys contributed \$40,000 to Rep. Lewis' campaign committee and PAC.³⁰

Federal officials currently are investigating the cozy relationship between Rep. Lewis and Copeland Lowery and the activities of Ms. White and Mr. Shockey are part of that probe.³¹ The investigators have issued at least 10 subpoenas seeking details on why counties, towns and businesses in Rep. Lewis' Southern California district chose to hire Mr. Lowery's lobbying firm, how much they paid, and the nature of the communications between Copeland Lowery and Rep. Lewis.³²

Cerberus Capital Management

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ Jeremiah Marquez, Defense Contractor Targeted in Lewis Probe, *Associated Press*, June 29, 2006 (Exhibit 8).

²⁸ Id.

²⁹ Id.

³⁰ Kammer, *Copley News Service*, Dec. 23, 2005.

³¹ Werner, *Associated Press*, Aug. 24, 2006; Jerry Kammer, Contractor Adds Layer to Rep. Lewis' Sphere, *Copley News Service*, June 24, 2006 (Exhibit 9).

³² Werner, *Associated Press*, Aug. 24, 2006.

Cerberus Capital Management, a New York investment company, is another defense contractor that has benefitted from Rep. Lewis' earmarks.³³ On July 7, 2003, Cerberus hosted a fundraiser for Rep. Lewis, raising \$110,000 for the congressman's Future Leaders PAC.³⁴ The next day, the House passed a defense spending bill, sponsored by Rep. Lewis, that secured \$160 million for a Navy project critical to Cerberus.³⁵ A few weeks after the vote, Cerberus, former Vice President Dan Quayle and others associated with Cerberus donated to Rep. Lewis' Future Leaders PAC, bringing the monthly contribution total to \$133,000.³⁶ Future Leaders PAC collected a total of \$522,725 in 2003, one-fourth of which was connected to Cerberus.³⁷

According to a *USA Today* analysis, none of the people associated with Cerberus had ever given money to Rep. Lewis or his PAC prior to the fundraiser or the vote on the defense spending bill.³⁸

Relationship to Brent Wilkes and Rep. Duke Cunningham

Rep. Lewis is also under investigation because of his ties to the same contractors who had ties to former Rep. Randy "Duke" Cunningham (R-CA).³⁹ Rep. Cunningham pleaded guilty to taking bribes from contractor Brent Wilkes, who has been identified as a co-conspirator in Rep. Cunningham's plea agreement.⁴⁰ After Rep. Cunningham pleaded guilty, Rep. Lewis resisted an independent investigation of Rep. Cunningham's activities on the Appropriations Committee, stating that his own personal informal review of Rep. Cunningham's earmarks was satisfactory and that the earmarks Rep. Cunningham doled out were legitimate.⁴¹

³³ Matt Kelley, The Congressman & the Hedge Fund, *USA Today*, January 19, 2006 (Exhibit 10).

³⁴ Id.

³⁵ Id.

³⁶ Id.

³⁷ Kelley, *USA Today*, Jan. 19, 2006.

³⁸ Id.

³⁹ Jerry Kammer and Dean Calbreath, Lewis Subject of 'Earmarks' Investigation, Source Says, *Copley News Service*, May 12, 2006 (Exhibit 11).

⁴⁰ Id.

⁴¹ Id.

Rep. Lewis worked with Rep. Cunningham to help secure contracts for Mr. Wilkes' companies, ADCS, Inc. and Perfect Wave Technologies.⁴² In April 1999, three months after becoming chairman of the Defense Appropriations Subcommittee, Rep. Lewis received \$17,000 in campaign contributions from Mr. Wilkes and his associates.⁴³ At the time of these contributions, Mr. Wilkes was seeking a contract to digitize documents for the Pentagon, which did not want to give ADCS, Inc. as much money as Mr. Wilkes was seeking.⁴⁴ In a July 1999 memo to Rep. Cunningham, Mr. Wilkes wrote, "We need \$10 m[illion] more immediately . . . This is very important and if you cannot resolve this others will be calling also."⁴⁵ Following Mr. Wilkes' memo, in a closed-door Appropriations meeting, Reps. Lewis and Cunningham cut funding for the Pentagon's prized F-22 fighter jet. Soon after, the Pentagon found the \$10 million for ADCS' document conversion contract.⁴⁶

Rep. Lewis received \$88,252 from Mr. Wilkes and his associates, making him the third-highest recipient of campaign contributions from Mr. Wilkes, after Reps. Cunningham and John Doolittle (R-CA).⁴⁷

Assistance to Stepdaughter

Rep. Lewis' stepdaughter, Julia Willis-Leon (the daughter of Arlene Lewis, Rep. Lewis' wife and chief of staff), has also benefitted from her relationship with Rep. Lewis. Federal investigators are looking into Rep. Lewis' role in urging defense industry lobbyists to contribute money to a PAC Ms. Willis-Leon runs.⁴⁸

Ms. Willis-Leon has received thousands of dollars in fundraising fees from Small Biz Tech PAC, a political committee headed by defense contractor Nicholas Karangelen.⁴⁹ Mr. Karangelen is the president of Trident Systems, a company that has received earmarks from the House Appropriations Committee and lobbies Rep. Lewis.⁵⁰ Records show that Trident, one of

⁴² Id.

⁴³ Kammer and Calbreath, *Copley News Service*, May 12, 2006.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Kammer and Calbreath, *Copley News Service*, May 12, 2006.

⁴⁸ Editorial, Earmarker in Chief, *The Wall Street Journal*, June 15, 2006 (Exhibit 12).

⁴⁹ Pae, Hamburger and Simon, *The Los Angeles Times*, June 23, 2006.

⁵⁰ Jerry Kammer and Marcus Stern, Political Money From Lobbyist Flows to Lewis' Stepdaughter, *Copley News Service*, June 8, 2006 (Exhibit 13).

Ms. White's lobbying clients, has received at least \$23.6 million in earmarked funds since Rep. Lewis has served on the Appropriations Committee.⁵¹ In 2005 alone, Trident received five contracts and at least one \$9.62 million contract in 2006.⁵² In the three years Ms. White represented Trident, her firm billed the company \$340,000.⁵³

Small Biz Tech PAC was formed one month after Rep. Lewis became chairman of the Appropriations Committee.⁵⁴ Nearly all the money it has raised has come from lobbyists and defense contractors who have business before the Appropriations Committee, and of that total, more than one-third has gone to pay Ms. Willis-Leon's salary and expenses.⁵⁵ The PAC has paid Ms. Willis-Leon \$37,420 in fundraising services, while paying less than half that amount – \$15,600 – to political candidates.⁵⁶ Although Small Biz PAC is run from Ms. Willis-Leon's home in Las Vegas, Nevada, its website lists its street address as a million-dollar Capitol Hill townhouse co-owned by Ms. White and Mr. Karangelen.⁵⁷

In total, Small Biz Tech PAC has raised \$113,700. Of that, \$46,000 came from Ms. White, her husband, and small defense contractors represented by Copeland Lowery.⁵⁸

Acceptance of a Bribe

Federal law prohibits public officials from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to receive or accept anything of value in return for being influenced in the performance of an official act.⁵⁹ It is well-settled that accepting a contribution to a political campaign can constitute a bribe if a *quid pro quo* can be demonstrated.⁶⁰

⁵¹ Kammer, *Copley News Service*, June 24, 2006.

⁵² Pae, Hamburger and Simon, *The Los Angeles Times*, June 23, 2006.

⁵³ Kammer and Stern, *Copley News Service*, June 8, 2006.

⁵⁴ Id.

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Kammer and Stern, *Copley News Service*, June 8, 2006.

⁵⁸ Id.

⁵⁹ 18 U.S.C. § 201(b)(2)(A).

⁶⁰ McCormick v. U.S., 500 U.S. 257, 273 (1991); United States v. Biaggi, 909 F.2d 662, 605 (2d Cir. 1990), *cert. denied*, 499 U.S. 904 (1991).

If, as it appears, Rep. Lewis accepted donations to his campaign and political action committees in direct exchange for earmarking federal funds to clients of Copeland Lowery, he may have violated the bribery statute.

If, as it appears, Rep. Lewis accepted donations to his campaign and political action committees in direct exchange for earmarking federal funds to Cerberus, he may have violated the bribery statute.

If, as it appears, Rep. Lewis accepted campaign donations in direct exchange for earmarking federal funds for an ADCS, Inc. contract, he may have violated the bribery statute.

Honest Services Fraud

Federal law prohibits a member of Congress from depriving his constituents, the House of Representatives, and the United States of the right of honest service, including conscientious, loyal, faithful, disinterested, unbiased service, performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud and corruption.⁶¹ By using his position as a member of Congress to financially benefit clients of a lobbying firm owned by his close friend and staffed by his former associates, Rep. Lewis may be depriving his constituents, the House of Representatives, and the United States of his honest services in violation of 18 U.S.C. § 1341.

Illegal Gratuity

The illegal gratuity statute prohibits a public official from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to accept anything of value personally for or because of any official act performed or to be performed by such official.⁶² In considering this statute, the Supreme Court has held that a link must be established between the gratuity and a specific action taken by or to be taken by the government official.⁶³

If a link is established between Rep. Lewis' earmarking funds for clients of Copeland Lowery and contributions made to his campaign committee and PAC by Copeland Lowery, its employees and associates, Rep. Lewis would be in violation of the illegal gratuity statute.

If a link is established between the campaign donations Rep. Lewis received from Cerberus and its associates and the funds he earmarked for a Navy project critical to the firm, Rep. Lewis would be in violation of the illegal gratuity statute.

⁶¹ 18 U.S.C. § 1341.

⁶² 18 U.S.C. § 201(c)(1)(B).

⁶³ United States v. Sun-Diamond Growers of Cal., 526 U.S. 398 (1999).

If a link is established between the campaign donations Rep. Lewis received from Mr. Wilkes and his associates and the funds Rep. Lewis earmarked for Mr. Wilkes' company, ADCS, Inc., Rep. Lewis would be in violation of the illegal gratuity statute.

In addition, the Committee on Standards of Official Conduct has used the acceptance of bribes and gratuities under these statutes as a basis for disciplinary proceedings and punishment of members, including expulsion.⁶⁴

5 U.S.C. § 7353 and House Rules

A provision of the Ethics Reform Act of 1989, 5 U.S.C. § 7353, prohibits members of the House, officers, and employees from asking for anything of value from a broad range of people, including "anyone who seeks official action from the House, does business with the House, or has interests which may be substantially affected by the performance of official duties."⁶⁵ House Rule XXIII, clause 3, similarly provides:

A Member, Delegate, Resident Commissioner, or employee of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

If Rep. Lewis accepted campaign contributions from Copeland Lowery and its associates in return for legislative assistance by way of earmarking federal funds for the lobbying firm's clients, he likely violated 5 U.S.C. § 7353 and House Rule XXIII.

By accepting hundreds of thousands of dollars in campaign contributions from Cerberus and its associates in apparent exchange for earmarking \$160 million for a Navy project critical to Cerberus, Rep. Lewis likely violated 5 U.S.C. § 7353 and House Rule XXIII.

By accepting thousands of dollars in campaign contributions from Mr. Wilkes and his associates in apparent exchange for earmarks for ADCS, Inc. and affiliated companies, Rep. Lewis likely violated 5 U.S.C. § 7353 and House Rule XXIII.

5 C.F.R. § 2635.702(a)

⁶⁴ *In the Matter of Representative Mario Biaggi*, H.R. Rep. No. 100-506, 100th Cong., 2d Sess. (1988) (recommending expulsion of the member from the House); *In the Matter of Representative Daniel J. Flood*, H.R. Rep. No. 96-856, 96th Cong., 2d Sess. (1980).

⁶⁵ See House Comm. on Standards of Official Conduct, "Memorandum For All Members, Officers and Employees," Rules Governing (1) Solicitation by Members, Officers and Employees in General, and (2) Political Fundraising Activity in House Offices, April 25, 1997.

Members of the House are prohibited from “taking any official actions for the prospect of personal gain for themselves or anyone else.”⁶⁶ House members are directed to adhere to 5 C.F.R. § 2635.702(a), issued by the U.S. Office of Government Ethics for the Executive Branch, which provides:

An employee shall not use or permit use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person . . . to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

The Code of Ethics also provides that government officials should “[n]ever discriminate unfairly by the dispensing of special favors or privileges to anyone whether for remuneration or not.”⁶⁷

By funneling federal funds to clients of Copeland Lowery, the lobbying firm of his close friend and business associate Bill Lowery, Rep. Lewis may have dispensed special favors in violation of 5 C.F.R. § 2635.702(a).

By funneling federal funds to Cerberus, a company that has provided him with very generous campaign contributions, Rep. Lewis may have dispensed special favors in violation of 5 C.F.R. § 2635.702(a).

By funneling federal funds to ADCS, Inc., a company that has provided him with very generous campaign contributions, Rep. Lewis may have dispensed special favors in violation of 5 C.F.R. § 2635.702(a).

Conduct Not Reflecting Creditably on the House

In addition, Rule XXIII of the House Ethics Manual requires all members of the House to conduct themselves “at all times in a manner that reflects creditably on the House.”⁶⁸ This ethics standard is considered to be “the most comprehensive provision of the code.”⁶⁹ When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted that it was included within the Code to deal with “flagrant” violations of the law

⁶⁶ House Comm. on Standards of Official Conduct, “Memorandum For All Members, Officers and Employees,” Prohibition Against Linking Official Actions to Partisan or Political Considerations, or Personal Gain, May 11, 1999.

⁶⁷ Id.

⁶⁸ Rule XXIII, cl. 1.

⁶⁹ House Comm. on Standards of Official Conduct, House Ethics Manual.

that reflect on “Congress as a whole,” and that might otherwise go unpunished.⁷⁰ This rule has been relied on by the Ethics Committee in numerous prior cases in which the Committee found unethical conduct including: the failure to report campaign contributions,⁷¹ making false statements to the Committee,⁷² criminal convictions for bribery,⁷³ or accepting illegal gratuities,⁷⁴ and accepting gifts from persons with interest in legislation in violation of the gift rule.⁷⁵

Rep. Lewis apparently accepted campaign contributions in return for legislative favors that financially benefited personal friends and former staff. Accepting anything of value in exchange for official action does not reflect creditably on the House and, therefore, violates House Rule XXIII, clause 1.

Similarly, Rep. Lewis’ use of his legislative position to ultimately benefit his stepdaughter does not reflect creditably on the House and, therefore, violates House Rule XXIII, clause 1.

Deferral to Department of Justice

⁷⁰ House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

⁷¹ House Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rep. No. 95-1742, 95th Cong., 2d Sess. 2-3 (1978) (Count 1); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978).

⁷² House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); H. Rep. No. 95-1743 (Counts 3-4).

⁷³ House Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H. Rep. No. 96-1387, 96th Cong., 2d Sess. 2, 5 (1980); see 126 Cong. Rec. 28953-78 (Oct. 2, 1980) (debate and vote of expulsion); *In the Matter of Representative John W. Jenrette, Jr.*, H. Rep. No. 96-1537, 96th Cong., 2d Sess. 4 (1980) (Member resigned); *In the Matter of Representative Raymond F. Lederer*, H. Rep. No. 97-110, 97th Cong., 1st Sess. 4, 16-17 (1981) (Member resigned after Committee recommended expulsion). In another case, the Committee issued a Statement of Alleged Violation concerning bribery and perjury, but took no further action when the Member resigned (*In the Matter of Representative Daniel J. Flood*, H. Rep. No. 96-856, 96th Cong., 2d Sess. 4-16, 125-126 (1980)).

⁷⁴ House Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. No. 100-506, 100th Cong., 2d Sess. 7, 9 (1988) (Member resigned while expulsion resolution was pending).

⁷⁵ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 96-930, 96th Cong. 2d Sess. 4-5 (1980); see 126 Cong. Rec. 13801-20 (June 10, 1980) (debate and vote of censure).

The fact that the Department of Justice is currently conducting a criminal investigation of Rep. Lewis and his relationship with Copeland Lowery should not be a basis for the Committee to defer any investigation into, or action on, Rep. Lewis' ethical violations. Under the Committee on Standards of Official Conduct Rule 15(f), the Committee "may defer action on a complaint against a Member" if: 1) "the complaint alleges conduct that the Committee has reason to believe is being reviewed by appropriate law enforcement or regulatory authorities," or 2) "the Committee determines that it is appropriate for the conduct alleged in a complaint to be reviewed initially by law enforcement or regulatory authorities."⁷⁶

A 1975 Committee report explained the Committee's approach in the circumstances of an ongoing investigation by law enforcement authorities as follows:

[W]here an allegation involves a possible violation of statutory law, and the committee is assured that the charges are known to and are being expeditiously acted upon by the appropriate authorities, the policy has been to defer action until the judicial proceedings have run their course. This is not to say the committee abandons concern in statutory matters – rather, it feels it normally should not undertake duplicative investigations pending judicial resolution of such cases.⁷⁷

Under Rule 15(f),

[D]eferral by the Committee where there is an ongoing law enforcement proceeding is not mandatory, but rather is discretionary. Historically, the Committee has been more reluctant to defer where the Member conduct that is at issue is related to the discharge of his or her official duties as a Member of the House.⁷⁸

Rep. Lewis' conduct unquestionably is related to the discharge of his official duties as a member of the House, as it raises the issues of whether he received financial assistance, a bribe,

⁷⁶ House Comm. on Standards of Official Conduct, Committee Rules, Rule 15(f), 109th Cong. (2005); *see also* Statement of Committee regarding Disposition of Complaint Filed Against Tom DeLay: Memorandum of the Chairman and Ranking Member, p. 24, 108th Cong., 2d Sess. (2004).

⁷⁷ Statement of Committee regarding Disposition of Complaint Filed Against Tom DeLay, (*quoting* House Comm. on Standards of Official Conduct, Policy of the House of Representatives with Respect to Actions by Members Convicted of Certain Crimes, H. Rep. 94-76, 94th Cong., 1st Sess. 2 (1975)).

⁷⁸ House Comm. on Standards of Official Conduct, Statement of Committee regarding Disposition of Complaint Filed Against Tom DeLay.

or illegal gratuity as a *quid pro quo* for exercising his congressional powers to benefit the clients of Copeland Lowery and Brent Wilkes. As a result, given the Committee's precedents, a Committee investigation into Rep. Lewis' activities is appropriate.

Security Bank of California

In 2005, shortly after becoming chairman of the Appropriations Committee, Rep. Lewis was asked to buy into an initial public offering of a fledgling bank, Security Bank of California, headed by his close friend James Robinson.⁷⁹ Rep. Lewis' initial investment of \$22,000 for 2,200 stocks in Security Bank was worth nearly \$60,000, in 2006 an increase of almost 300%.⁸⁰

The stock was recommended to Rep. Lewis by Mr. Robinson's wife, a former chair and board member of the Loma Linda University Children's Hospital Foundation, a branch of Loma Linda University Medical Center.⁸¹ Rep. Lewis has helped direct more than \$200 million in federal dollars to the medical center, which has facilities named in his honor.⁸² In June 2006, Rep. Lewis acknowledged that the medical center had benefitted from \$40 million in earmarks.⁸³

Many of Security Bank's board members have also contributed to Rep. Lewis' campaign and are linked to businesses that received federal earmarks.⁸⁴ They include Zareh Sarrafian, an executive with Loma Linda Medical Center and president of the Hospital Foundation's board, and Bruce Varner, a friend of Rep. Lewis' who serves on the board of the National Orange Show Events Center in San Bernardino.⁸⁵ The center has received more than \$800,000 in federal funds.⁸⁶

The Ethics Committee should investigate whether Rep. Lewis received preferential treatment in being offered participation in the initial public offering of Security Bank, given that the offer coincided with his assuming chairmanship of the Appropriations Committee.

⁷⁹ Michael R. Blood, Calif. Congressman Saw Profit From Bank, *Associated Press*, July 19, 2006 (Exhibit 14).

⁸⁰ Id.

⁸¹ Id.

⁸² Id.

⁸³ Blood, *Associated Press*, July 19, 2006.

⁸⁴ Id.

⁸⁵ Id.

⁸⁶ Id.

In addition, if Rep. Lewis repaid the opportunity to personally acquire stock that subsequently proved to be worth considerably more than its initial asking price through earmarking funds for entities associated with Security Bank and its board members, he may be depriving his constituents, the House of Representatives, and the United States of his honest services in violation of 18 U.S.C. § 1341.

Use of Detailee

Marine Lt. Col. Carl Kime is a military officer in the Department of Defense (DOD), who formerly tracked defense appropriations as a staff member for Rep. Lewis.⁸⁷ Lt. Col. Kime's business cards indicated that he worked on appropriations in Rep. Lewis' capitol hill office with primary oversight for earmark requests in the defense appropriations bill.⁸⁸ He remained on the Pentagon's payroll while working in Rep. Lewis' office and did not receive a congressional salary.⁸⁹

According to *The Hill*, its review of House disbursement records dating back to 2001 do not indicate that Lt. Col. Kime served on Rep. Lewis' staff.⁹⁰ Old House phone directories show that Lt. Col. Kime has worked in Rep. Lewis' office since at least spring 2001.⁹¹ From the time of his arrival until the summer 2002, Lt. Col. Kime's title was listed in the directory as military fellow. By the spring of 2003, his title had been changed in the directory to appropriations associate.⁹²

In July 2004, during House consideration of the 2005 fiscal year defense appropriations bill, Rep. Lewis – who was then chairman of the Defense Subcommittee – thanked Lt. Col. Kime for his work on the appropriations process. As reflected in the Congressional Record, Rep. Lewis said, “I must thank Carl Kime, of my personal office, who watches this bill for me and does an outstanding job for me.”⁹³

⁸⁷ Alexander Bolton, Lewis's Use of Military Aide May Break the Rules, *The Hill*, February 2, 2006 (Exhibit 15).

⁸⁸ Id.

⁸⁹ Alexander Bolton, Pentagon Recalled Lewis's Approps Staffer, *The Hill*, February 22, 2006 (Exhibit 16).

⁹⁰ Bolton, *The Hill*, Feb. 2, 2006.

⁹¹ Id.

⁹² Id.

⁹³ Id.

Following *The Hill's* reports on the matter, nearly five years after he joined Rep. Lewis's office, the Pentagon recalled Lt. Col. Kime in February 2006.⁹⁴

2 U.S.C. § 72a(f)

Under federal law, congressional committees are permitted to detail or assign staff from other government departments or agencies, but only with the written permission of the Committee on House Administration (formerly the Committee on House Oversight). 2 U.S.C. § 72a(f). Rules published by the Administration Committee governing expenditures from committee funds interpret this statute to require “*prior* written authorization” of all detailing agreements.⁹⁵ The Committee’s rules specify further that “[d]etailing agreements may not exceed a 12-month period or the end of a Congress, whichever occurs first.”⁹⁶

Department of Defense (DOD) regulations mirror these restrictions. Department directive 1000.17, issued on February 24, 1997, provides that DOD personnel serving in the legislative branch “shall be limited to performing duties for a specific duration, in a specific project and as a member of a staff or a committee of the Congress.”

Rep. Lewis’ use of a detailee from the U.S. Department of Defense for a five-year period appears to violate the 12-month limitation imposed by the Committee on House Administration which implements 2 U.S.C. § 72a(f), and DOD regulations. Moreover, to the extent Rep. Lewis’ use of this detailee was not pursuant to prior written authorization by the Committee on House Administration, he also violated the Committee’s rules.

House Administration Committee Rules also provide that “[d]etailees may not be assigned to a Member office.”⁹⁷ If, as it appears, Rep. Lewis actually assigned Lt. Col. Kime to his office, Rep. Lewis would be in violation of Committee rules, 2 U.S.C. § 72a(f), and DOD regulations.

2007 Update

The Department of Justice continues to investigate Rep. Lewis’ relationship with the lobbying firm Copeland Lowery, which has reorganized after losing two partners and is now

⁹⁴ Bolton, *The Hill*, Feb. 22, 2006.

⁹⁵ Committee on House Administration, Committees’ Congressional Handbook, Detailees (*emphasis added*).

⁹⁶ Committee on House Administration, Committees’ Congressional Handbook, Committee Staff, Consultants, and Detailees, Detailees Guideline 2.

⁹⁷ Committee on House Administration, Committees’ Congressional Handbook, Detailees.

called Innovative Federal Strategies (IFS).⁹⁸ In the Fiscal Year 2008 Defense Appropriations bill, Rep. Lewis sponsored or co-sponsored earmarks totaling \$55 million for clients of IFS.⁹⁹ Letitia White, former appropriations aide to Rep Lewis, and former Rep. Bill Lowery are now employed by IFS.¹⁰⁰

In 2006, Environmental Systems Research Institute Inc. (ESRI) a former client of Rep. Lewis' deputy staff director Jeffrey Shockey, was awarded \$26 million in federal contracts in the congressman's district.¹⁰¹ ESRI's co-founders, Jack and Laura Dangermond, donated \$4,000 to Rep. Lewis' campaign committee in 2006.¹⁰² So far in 2007, Ms. Dangermond has donated \$2,000 to Rep. Lewis' campaign committee.¹⁰³

Rep. Lewis has received a subpoena requesting documents relating to the investigation of former Rep. Randy "Duke" Cunningham and contractor Brent Wilkes.¹⁰⁴ Despite the ongoing investigations, Rep. Lewis has managed to maintain his position as the ranking member on the House Appropriations Committee.¹⁰⁵

⁹⁸ Kevin Bogardus, Lobbying Firm Linked to Rep. Lewis Booms Despite Federal Investigation, *The Hill*, August 15, 2007 (Exhibit 17).

⁹⁹ Id.

¹⁰⁰ Lewis For Congress Committee, FEC Form April Quarterly Report, April 15, 2007, p. 14 (Exhibit 18).

¹⁰¹ www.fedspending.org , August 16, 2007 (Exhibit 19).

¹⁰² Lewis For Congress Committee, FEC Form April Quarterly Report 2006, April 13, 2006, p. 5 (Exhibit 20).

¹⁰³ Lewis For Congress Committee, FEC Form April Quarterly Report 2007, April 15, 2007, p. 5 (Exhibit 21).

¹⁰⁴ Susan Crabtree, Lewis Holds Fast to Approps Seat, *The Hill*, April 25, 2007 (Exhibit 22).

¹⁰⁵ Id.

In 2006, Rep. Lewis' congressional committee, Lewis For Congress Committee, spent \$881,145.83 on legal fees.¹⁰⁶ The campaign committee's quarterly reports filed in April and July 2007 indicate that the committee has spent \$66,561.61 so far this year.¹⁰⁷

¹⁰⁶ Lewis For Congress Committee, FEC Form 3, Pre-Primary Report 2006, July, 15, 2006, p. 63 (Exhibit 23); Lewis For Congress Committee, FEC Form 3, July Quarterly Report 2006, July 15, 2006, p. 23 (Exhibit 24); Lewis For Congress Committee, FEC Form 3, October Quarterly Report 2006, October 31, 2006, pp. 60, 68, 69 (Exhibit 25); Lewis For Congress Committee, FEC Form 3, Pre-General Report 2006, February 27, 2006, p. 21 (Exhibit 26); Lewis for Congress Committee FEC Form 3, Post General Report 2006, April 15, 2006, p. 38 (Exhibit 27); Lewis for Congress Committee FEC Form 3, Year End Report 2006, April 15, 2006, p. 8 (Exhibit 28).

¹⁰⁷ Lewis For Congress Committee, FEC Form 3, April Quarterly Report 2007, July 15, 2007, pp. 30, 35 (Exhibit 29); Lewis For Congress Committee, FEC Form 3, July Quarterly Report 2007, July 15, 2007, pp. 30, 31, 36 (Exhibit 30).