

## REP. JOHN P. MURTHA

Rep. John P. Murtha (D-PA) is an 18th-term member of Congress, representing Pennsylvania's 12<sup>th</sup> congressional district. Rep. Murtha chairs the Defense Appropriations Subcommittee of the House Appropriations Committee. Rep. Murtha's ethics violations stem from abuse of his position on the subcommittee to benefit the lobbying firm of a former long-term staffer. In addition, Rep. Murtha violated House rules when he threatened to deny any further spending projects to another committee member who challenged him over an earmark. Rep. Murtha's failure to become majority leader in the House is attributed in large part to the ethical questions about his conduct.<sup>1</sup>

### PMA Group

Paul Magliocchetti worked with Rep. Murtha as a senior staffer on the Defense appropriations subcommittee for ten years.<sup>2</sup> After leaving the committee, Mr. Magliocchetti founded the PMA Group, which has become one of the prominent Washington, D.C. defense lobbying firms.<sup>3</sup> According to the Center for Responsive Politics, in the 2006 campaign cycle, the PMA Group and eleven of the firm's clients ranked in the top 20 contributors to Rep. Murtha, having made campaign contributions totaling \$274,649.<sup>4</sup> In the 2004 and 2002 cycles, PMA and nine of the firm's clients ranked in the top twenty contributors having given \$236,799<sup>5</sup> and \$279,074,<sup>6</sup> respectively. *Roll Call* has reported that PMA employees and clients contributed \$800,000 to Rep. Murtha's campaigns during a six-year period.<sup>7</sup>

So far in the 2008 election cycle, the PMA group and its clients have contributed

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<sup>1</sup> See, e.g., Jerome L. Sherman, Murtha Under Siege; Lobbying Allegations Cloud Bid For Majority Leader, *Pittsburgh Post-Gazette*, November 16, 2006 (Exhibit 1).

<sup>2</sup> Howard Kurtz, Targeting Murtha, *The Washington Post*, November 15, 2006 (Exhibit 2).

<sup>3</sup> Id.

<sup>4</sup> The Center for Responsive Politics, John P. Mutha: Top Contributors, 2006 election cycle (Exhibit 3).

<sup>5</sup> The Center for Responsive Politics, John P. Mutha: Top Contributors, 2004 election cycle (Exhibit 4).

<sup>6</sup> The Center for Responsive Politics, John P. Mutha: Top Contributors, 2002 election cycle (Exhibit 5).

<sup>7</sup> Nicole Duran, NRCC Hopes To Turn Tables on Ethics, *Roll Call*, June 19, 2007 (Exhibit 6).

\$106,000 to Rep. Murtha's campaign committee and PAC.<sup>8</sup> Of the PMA clients listed as contributors for the 2008 cycle, nine were ranked in the top 20 donors to Rep. Murtha for the 2006 election cycle.<sup>9</sup>

In turn, many of PMA's clients have benefited significantly from Rep. Murtha's earmarks. In the 2006 Defense Appropriations bill, PMA clients received at least 60 earmarks, totaling \$95.1 million.<sup>10</sup>

### **Concurrent Technologies Corporation**

In 2007, Rep. Murtha inserted into the Energy and Water Appropriations bill a \$1 million earmark to establish the Center for Instrumented Critical Infrastructure.<sup>11</sup> Rep. Murtha claimed that the Department of Energy supported this earmark for a project in his district protecting natural gas pipelines, but the Department denied supporting the request.<sup>12</sup> The Center is apparently a subsidiary of Concurrent Technology Corporation ("CTC"), a non-profit technology innovation center in Rep. Murtha's district that has received hundreds of millions of dollars in earmarks in recent years.<sup>13</sup> According to the Department of Energy, the Department decided not to support the provision when it was initially included in a 2007 appropriations bill and has not changed its position.<sup>14</sup>

CTC describes itself as an "independent, non-profit, applied research and development professional services organization providing innovative management and technology-based solutions."<sup>15</sup> The corporation has 1,500 employees and a number of buildings, including the

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<sup>8</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2000-2007, (pages listing contributions attached, Exhibit 7).

<sup>9</sup> PMA Lobbying Disclosure Report for 2006 cycle; [www.opensecrets.com](http://www.opensecrets.com) (see Exhibit 3).

<sup>10</sup> Roxana Tiron, Hill Ties Reap Rewards For Top Defense Firms, *The Hill*, June 15, 2006 (Exhibit 8); see also Kim Isaac Eisler, Hired Guns, *Washingtonian*, June 2007 (Exhibit 9).

<sup>11</sup> Susan Crabtree, Department Of Energy Disputes Rep. Murtha's Claim On Earmark Request, *The Hill*, July 19, 2007 (Exhibit 10).

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> [www.ctc.com](http://www.ctc.com) (Exhibit 11).

John P. Murtha Technology Center.<sup>16</sup> According to the organization's 2005 tax forms, it received \$243,960,365 in 2005, of which \$212,739,257 consisted of government grants.<sup>17</sup> Daniel DeVos, the president and chief executive officer, received compensation of \$587,296, John Pursley, Jr., the executive vice president, received \$488,009, Michael Katz, senior vice president and chief operating officer, received \$430,511, Edward Sheehan, Jr., senior vice president and chief financial officer, received \$415,954, and twelve other top compensated employees received between \$213,600 and \$374,208.<sup>18</sup> The organization paid lobbying firm PMA Group \$452,659, but claimed to spend only \$302,392 on lobbying.<sup>19</sup> It also paid Sarkady, "a global consulting company, committed to developing courageous, visionary leaders who can transform corporations into high performance engines of financial wealth and social value,"<sup>20</sup> \$285,327.<sup>21</sup>

Since 2000, CTC employees, board members, and their families have donated \$113,375 to Rep. Murtha's election campaigns<sup>22</sup> and since 2006, have donated \$3,250 to his political action committee, Majority PAC.<sup>23</sup> Notably, Mr. DeVos has recognized Rep. Murtha's significance to his business and has stated that he has been preparing for life after Rep. Murtha for about a decade.<sup>24</sup>

### **Other Earmarks**

A number of other Johnstown companies also received earmarks in the Fiscal Year 2008 Defense Appropriations Bill: Conemaugh Health System, DRS Technologies, KDH Defense

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<sup>16</sup> Paul Singer, Companies Follow Murtha's Earmark Trail, *Roll Call*, June 25, 2007 (Exhibit 12).

<sup>17</sup> Concurrent Technologies Corporation, 2005 Tax Form 990, filed Dec. 4, 2006 (Exhibit 13).

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> www.sarkadyprocess.com (Exhibit 14).

<sup>21</sup> Concurrent Technologies Corporation, 2005 Tax Form 990, filed Dec. 4, 2006 (*see* Exhibit 13).

<sup>22</sup> *See* Murtha for Congress Committee, FEC Form 3 Reports, 2000-2007 (pages listing contributions attached, Exhibit 15).

<sup>23</sup> Majority PAC, FEC Form 3 October Quarterly 2006, October 12, 2006, pp. 9,11,29 (Exhibit 16); FEC Form 3 April Quarterly 2007, April 5, 2007, p. 21 (Exhibit 17).

<sup>24</sup> Shawn Piatek, Business Prepares for Life After Murtha, *The Tribune-Democrat*, July 9, 2006 (Exhibit 18).

Systems, Kuchera Defense Systems, L. Robert Kimball and Associates, MTS Technologies, Northrop Grumman, St. Francis University's Center for Excellence and Windber Research Institute.<sup>25</sup> As it happens, all have contributed generously to Rep. Murtha's campaign committee and his political action committee:

Conemaugh Health System employees, board members and their family members have contributed \$47,750 to Rep. Murtha's campaign since 2002.<sup>26</sup>

Employees of DRS Technologies and their family members have donated \$83,500 to Rep. Murtha since 2000.<sup>27</sup> The firm's political action committee, DRS Technology Good Government Fund, has donated \$35,000 to Rep. Murtha's election committee and his political action committee since 2002.<sup>28</sup>

Since 2003, KDH Defense system President David E. Herbener has donated \$7,200 to Rep. Murtha's campaign committee.<sup>29</sup>

Employees of L. Robert Kimball and Associates and their families have donated \$33,700 to Rep. Murtha's campaign since 2002.<sup>30</sup> Employees of the firm have also donated \$6,000 to Rep. Murtha's political action committee since 2006.<sup>31</sup>

Employees of Kuchera Defense Industries and their family members have donated

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<sup>25</sup> \$406b Defense Bill to Benefit Local Organizations, *The Tribune-Democrat*, August 5, 2007 (Exhibit 19).

<sup>26</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2002-2007 (pages listing contributions attached, Exhibit 20).

<sup>27</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2001-2007 (pages listing contributions attached, Exhibit 21).

<sup>28</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2001-2007 (pages listing contributions attached, Exhibit 22).

<sup>29</sup> Murtha for Congress Committee, FEC Form 3 October Quarterly 2003, October 13, 2003, p. 28; FEC Form 3 July Quarterly 2006, July 12, 2006, p. 76; FEC Form 3 April Quarterly 2007, April 13, 2007, pp. 40,41 (Exhibit 23).

<sup>30</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2001-2007 (pages listing contributions attached, Exhibit 24).

<sup>31</sup> Majority PAC, FEC Form 3 October Quarterly 2006, October 12, 2006, p.17; FEC Form 3 Pre-General 2006, October 24, 2006, p.12; FEC Form 3 April Quarterly 2007, April 5, 2007, p.13 (Exhibit 25).

\$61,400 to Rep. Murtha's election committee since 2002<sup>32</sup> and have contributed an additional \$6,000 to his political action committee since 2006.<sup>33</sup>

MTS Technologies' employees, board members and their families have contributed \$74,200 to Rep. Murtha's campaign committee since 2001.<sup>34</sup> In addition, since 2006, employees of MTS have contributed \$9,000 to Rep. Murtha's political action committee.<sup>35</sup>

Northrop Grumman's PAC has contributed a total of \$34,500 to Rep. Murtha since 2000.<sup>36</sup>

Employees of St. Francis University and their families have donated \$15,500 to Rep. Murtha's election campaign since 2000.<sup>37</sup>

Since 2000, Rep. Murtha has received \$21,250 in donations from employees and board members of the Windber Research Institute and their families.<sup>38</sup> Additionally, since 2006, employees of Windber Research Institute have also contributed \$2,200 to Rep. Murtha's political action committee.<sup>39</sup>

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<sup>32</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2001-2007 (pages listing contributions attached, Exhibit 26).

<sup>33</sup> Majority PAC, FEC Form 3 October Quarterly 2006, October 12, 2006, pp.19,20; FEC Form 3 April Quarterly 2007, April 5, 2007, p.14 (Exhibit 27).

<sup>34</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2001-2007 (pages listing contributions attached, Exhibit 28).

<sup>35</sup> Majority PAC, FEC Form 3 October Quarterly 2006, October 12, 2006, pp.26,32; FEC Form 3 Post-General 2006, December 6, 2006, pp. 15, 10; FEC Form 3 April Quarterly 2007, April 5, 2007, pp.18,19 (Exhibit 29).

<sup>36</sup> See Employees of Northrop Grumman Corporation, FEC Form 3 Reports, 2000-2007, (pages listing contributions attached, Exhibit 30).

<sup>37</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2001-2007 (pages listing contributions attached, Exhibit 31).

<sup>38</sup> See Murtha for Congress Committee, FEC Form 3 Reports, 2002-2007 (pages listing contributions attached, Exhibit 32).

<sup>39</sup> Majority PAC, FEC Form 3 October Quarterly 2006, October 12, 2006, p. 15; FEC Form 3 July Quarterly 2007, July 11, 2007, pp. 8,11 (Exhibit 33).

### 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.<sup>40</sup> It is well-settled that accepting a contribution to a political campaign can constitute a bribe if a *quid pro quo* can be demonstrated.<sup>41</sup>

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

If, as it appears, Rep. Murtha accepted donations to his campaign committee and political action committee in direct exchange for earmarking federal funds for Concurrent Technologies and other entities, 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.<sup>42</sup> 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, and by earmarking federal funds in apparent exchange for campaign contributions, Rep. Murtha 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.<sup>43</sup> 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.<sup>44</sup>

If a link is established between Rep. Murtha's earmarking federal funds for the PMA

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<sup>40</sup> 18 U.S.C. § 201(b)(2)(A).

<sup>41</sup> 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).

<sup>42</sup> 18 U.S.C. § 1341.

<sup>43</sup> 18 U.S.C. § 201(c)(1)(B).

<sup>44</sup> United States v. Sun-Diamond Growers of Cal., 526 U.S. 398 (1999).

Group's clients, Concurrent Technologies and other entities, and the contributions made by employees of those entities to his campaign committee and PAC, he may have violated 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.<sup>45</sup>

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."<sup>46</sup> 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. Murtha accepted campaign contributions from the PMA Group and its clients, Concurrent Technologies Corporation or anyone else in return for legislative assistance by way of federal earmarks, he likely violated 5 U.S.C. § 7353 and House Rule XXIII.

5 C.F.R. § 2635.702(a)

Members of the House are prohibited from "taking any official actions for the prospect of personal gain for themselves or anyone else."<sup>47</sup> 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:

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<sup>45</sup> *In the Matter of Representative Mario Biaggi*, H.R. Rep. No. 100-506, 100<sup>th</sup> 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, 96<sup>th</sup> Cong., 2d Sess. (1980).

<sup>46</sup> 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.

<sup>47</sup> 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.

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.”<sup>48</sup>

By funneling federal funds to clients of the PMA Group, the lobbying firm of a former staff member, Rep. Murtha may have dispensed special favors and violated 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.”<sup>49</sup> This ethics standard is considered to be “the most comprehensive provision of the code.”<sup>50</sup> 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 that reflect on “Congress as a whole,” and that might otherwise go unpunished.<sup>51</sup> 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,<sup>52</sup> making false

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<sup>48</sup> Id.

<sup>49</sup> Rule XXIII, clause 1.

<sup>50</sup> House Comm. on Standards of Official Conduct, House Ethics Manual.

<sup>51</sup> 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).

<sup>52</sup> 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).

statements to the Committee,<sup>53</sup> criminal convictions for bribery,<sup>54</sup> or accepting illegal gratuities,<sup>55</sup> and accepting gifts from persons with interest in legislation in violation of the gift rule.<sup>56</sup>

If Rep. Murtha accepted campaign contributions in return for legislative favors in the form of earmarks, his conduct would not reflect creditably on the House in violation of Rule XXIII, clause 1.

### **Threat to Deny Spending Projects**

After Rep. Mike Rogers (R-MI) offered a procedural motion on May 10, 2007, that would have stripped a \$23 million earmark from the intelligence authorization bill designated for the National Drug Intelligence Center (“NDIC”) and have the Department of Justice’s Inspector General audit the effectiveness of the center, located in Rep. Murtha’s district, Rep. Murtha approached Rep. Rogers on the House floor and stated, “I hope you don’t have any earmarks in the defense appropriations bills because they are gone, and you will not get any earmarks now and forever.”<sup>57</sup> Rep. Rogers replied, “This is not the way we do things here,” and, “is that supposed to make me afraid of you?” Rep. Murtha retorted, “That’s the way I do it.”<sup>58</sup>

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<sup>53</sup> 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).

<sup>54</sup> 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)).

<sup>55</sup> 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).

<sup>56</sup> 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).

<sup>57</sup> Jake Tapper, Dem. Rep. Murtha Accused Of Ethics Violation, *ABC News*, May 18, 2007 (Exhibit 34).

<sup>58</sup> Id.

Although Rep. Rogers declined to file a formal ethics complaint, he described Rep. Murtha's actions as "cajoling, bullying, threatening intimidation and they crossed a line."<sup>59</sup> On May 22, 2007, a resolution aimed at reprimanding Rep. Murtha for threatening Rep. Rogers' earmark was permanently tabled on a 219-189 vote.<sup>60</sup> Rep. Michael Doyle (D-PA) was the only member of the House ethics committee to vote to table the resolution.<sup>61</sup> The other members of the committee voted present, except for Chair Stephanie Tubbs Jones (D-OH) who did not vote.<sup>62</sup> Finally, on May 23, 2007, Rep. Murtha apologized to Rep. Rogers for his "outburst."<sup>63</sup>

Earlier in May, Rep. Murtha had threatened Rep. Todd Tiahrt (R-KS), the only Republican member to sit on both the House Intelligence Committee and the Defense Appropriations Committee, for voting in favor of Rep. Rogers' amendment to kill the NDIC in the intelligence committee mark-up.<sup>64</sup> Rep. Murtha approached Rep. Tiahrt on the House floor and unleashed a finger-pointing tirade at the other lawmaker, during which he [Rep. Murtha] threatened to withdraw his support from a defense project associated with the Boeing company in Rep. Tiahrt's district.<sup>65</sup> When confronted, Rep. Tiahrt explained that he had not known the earmark had been inserted by Rep. Murtha. Asked about the issue later, Rep. Tiahrt claimed, "It was a little misunderstanding," and refused to discuss the matter.<sup>66</sup> After his conversation with Rep. Murtha, Rep. Tiahrt apparently changed his position regarding the NDIC earmark; despite having voted for Rep. Rogers' amendment in committee, he voted against it on the House floor.<sup>67</sup>

House Rule XXIII, Clause 16 provides:

A Member, Delegate, or Resident Commissioner may not condition the inclusion of language to provide funding for a congressional earmark, a limited tax benefit,

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<sup>59</sup> Susan Davis, Rogers, Murtha To Battle, *Roll Call*, May 21, 2007 (Exhibit 35).

<sup>60</sup> Democratic Earmark Reforms Lasted 100 Days, *Las Vegas Review-Journal*, June 5, 2007 (Exhibit 36).

<sup>61</sup> Jonathan Kaplan and Jackie Kucinich, Dems Save Murtha A Slap, *The Hill*, May 23, 2007 (Exhibit 37).

<sup>62</sup> Id.

<sup>63</sup> Jackie Kucinich, Rep. Murtha Apologizes To Rep. Rogers, *The Hill*, May 24, 2007 (Exhibit 38).

<sup>64</sup> Alexander Bolton, Tiahrt Vote On Project Irks Murtha, *The Hill*, May 7, 2007 (Exhibit 39).

<sup>65</sup> Id.

<sup>66</sup> Id.

<sup>67</sup> Intelligence Authorization Act for FY 2008, Vote on Motion to Recommit, May 10, 2007 (Exhibit 40).

or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint explanatory statement of managers) on any vote cast by another Member, Delegate, or Resident Commissioner. For purposes of this clause and clause 17, the terms "congressional earmark," "limited tax benefit," and "limited tariff benefit" shall have the meanings given them in clause 9 of rule XXI.

Rule XXI, clause 9(d) provides:

For the purpose of this clause, the term "congressional earmark" means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula driven or competitive award process.

Rep. Murtha's threat to block any congressional earmarks requested by Rep. Rogers in retaliation for Rep. Rogers' efforts to strip Rep. Murtha's earmark out of legislation and his threat to withdraw his support for a project in Rep. Tiahart's district in retaliation for Rep. Tiahrt's committee vote to kill the NDIC violate Rule XXIII, clause 16 and do not reflect creditably on the House.