

SENATOR MITCH MCCONNELL

Senator Mitch McConnell (R-KY) is a five-term senator from Kentucky. He is the minority leader in the 111th Congress and sits on the Senate Appropriations Committee. Sen. McConnell's ethics issues stem from earmarks he has inserted into legislation for clients of his former chief of staff in exchange for campaign contributions and the misuse of his nonprofit McConnell Center for Political Leadership at the University of Louisville. Sen. McConnell was included in CREW's 2007 and 2008 congressional corruption reports.

Gordon Hunter Bates and the Bates Capitol Group LLC

Gordon Hunter Bates served as Sen. McConnell's chief legal counsel and chief of staff from 1997 to 2002.¹ After a 2003 lawsuit ended his bid for lieutenant governor of Kentucky he opened a lobbying firm, Bates Capitol Group LLC (Bates Capitol).² Mr. Bates' business has been aided by his connection to Sen. McConnell. Rusty Thompson, a Versailles, Kentucky tobacco farmer and board member of the Burley Tobacco Cooperative, a Bates Capitol client, said that Sen. McConnell told him "you need to hire Hunter Bates, I can work with Hunter Bates."³ The Bates Capitol Group has employed other former staffers of Sen. McConnell including: Holly Piper, wife of Sen. McConnell's chief of staff Bill Piper and a former Sen. McConnell aide herself, Patrick Jennings and Lesley Elliot.⁴ Bates Capitol clients include E-Cavern, Voice for Humanity, Appriss Inc. and Boardpoint LLC, all of which have received earmarks thanks to Sen. McConnell.⁵ In addition, the senator rewrote legislation to help another Bates Group client, UPS Inc.⁶ All of these companies have made substantial contributions to Sen. McConnell's campaigns.⁷

E-Cavern

In tandem with the University of Louisville and the University of Kentucky, E-Cavern has been attempting to build an underground computer data storage center near the Louisville Airport.⁸ E-Cavern unsuccessfully lobbied the Kentucky congressional delegation to support

¹ <http://www.batescapitol.com/bio.htm> (Exhibit 1).

² John Cheves, A Lucrative Connection: Lobbyist's Close Ties To Senator Pay Off For Them Both And Client, *Lexington Herald-Leader*, October 22, 2006 (Exhibit 2).

³ Id.

⁴ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006; Matt Kelley and Peter Eisler, Relatives Have 'Inside Track' In Lobbying for Tax Dollars; No Laws Prevent Family Members From Trying To Influence Lawmakers Or Top Congressional Staffers, *USA Today*, October 17, 2006 (Exhibit 3).

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006; Senator McConnell Secures Over \$13 Million In Funding For Transit Project In Kentucky, *US Fed News*, November 18, 2005 (Exhibit 4).

this project for three years before hiring Bates Capitol in 2003.⁹ Soon after E-Cavern hired Bates Capitol, Sen. McConnell earmarked \$1 million for the underground project in the fiscal year 2005 Omnibus Appropriations Conference Report.¹⁰ In 2005, Sen. McConnell inserted an additional \$1.5 million earmark for E-Cavern into the fiscal year 2006 Transportation, Judiciary and Housing and Urban Development Appropriations Conference Report.¹¹ In 2006, Sen. McConnell earmarked \$1 million for E-Cavern in the fiscal year 2007 Transportation, Treasury, and Housing and Urban Development Appropriations bill.¹² In July of 2007, Sen. McConnell took credit for another \$1 million earmark for the E-Cavern project in the fiscal year 2008 Senate Financial Services and General Government Appropriations bill.¹³

Between July 2003 and December 2006, E-Cavern paid Bates Capitol \$460,000 for lobbying.¹⁴ In August of 2005, E-Cavern president Mark Roy and executive James Philpolt each contributed \$1,000 to the McConnell Senate Committee.¹⁵ Between August of 2004 and August 2006, Mr. Philpolt and Mr. Roy donated \$8,500 to the McConnell Senate Committee and Sen. McConnell's leadership PAC, the Bluegrass Committee.¹⁶ FEC records reflect that neither Mr. Philpolt nor Mr. Roy previously contributed to Sen. McConnell's campaign committee or PAC.

Boardpoint LLC

Boardpoint LLC hired Bates Capitol in early 2004, paying between \$280,000 and \$290,000 in lobbying fees through December 2006.¹⁷ In December of 2005, Sen. McConnell announced a \$2.1 million earmark from the Department of Defense for Accella Learning, a division of Boardpoint, to create an "intelligent tutoring system" for medical personnel.¹⁸ Just

⁹ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006.

¹⁰ Sen. McConnell Secures Funding For E-Cavern Project, *US Fed News*, November 22, 2004 (Exhibit 5).

¹¹ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006; *States News Service*, Nov. 18, 2005.

¹² Congress Passes Transportation, Treasury, Housing, And Urban Development Appropriations Measure, *US Fed News*, June 17, 2006 (Exhibit 6).

¹³ Senator McConnell Secures Funding For Two University Of Kentucky Financial Services Projects, *States News Service*, July 12, 2007 (Exhibit 7).

¹⁴ Bates Capitol Group, LLC, Lobbying Reports 2003-2006, Secretary of the Senate, Office of Public Record (Exhibit 8).

¹⁵ McConnell Senate Committee, FEC Form 3, October Quarterly Report 2005, October 14, 2005, pp. 270, 282 (Exhibit 9).

¹⁶ Bluegrass Committee, FEC Form 3, October Quarterly Report 2004, October 15, 2004, p. 156 (Exhibit 10); McConnell Senate Committee, FEC Form 3, October Quarterly Report 2005, October 14, 2005, pp. 270, 282 (See Exhibit 9); Bluegrass Committee, FEC Form 3, October Quarterly Report 2006, October 13, 2006, pp. 87, 93, 94 (Exhibit 11). Notably, Mark Roy's contributions to the Bluegrass Committee were designated Earmarked Intermediary Out (EIO), meaning they were passed along by Sen. McConnell's Bluegrass Committee to another political committee.

¹⁷ The Bates Capitol Group LLC, Lobbying Report 2004-2006, Secretary of the Senate, Office of Public Record (Exhibit 12).

¹⁸ McConnell Secures \$95 million In Funding for Kentucky in FY'06 DOD Appropriations Bill, *States News Service*, December 22, 2005 (Exhibit 13).

two months earlier, Boardpoint Director Joe Coons donated \$2,100 to the McConnell Senate Committee.¹⁹

Voice for Humanity

Voice for Humanity a non-profit organization,²⁰ was originally formed by two Lexington businessmen to spread the word of Christ throughout the world.²¹ Their mission changed, however, when they began receiving federal funding in 2004 thanks to earmarks introduced by Sen. McConnell in his role as chair of the Senate Appropriations Subcommittee on Foreign Operations.²² The company began creating small audio devices that are sent to third world countries to play messages promoting democracy and warning about the dangers of HIV/AIDS.²³

Voice for Humanity hired Bates Capitol in July 2003, paying the lobbying firm between \$240,000 and \$260,000 in lobbying fees between 2003 and 2006.²⁴ In October 2003, Sen. McConnell delivered a speech on the Senate floor praising Voice for Humanity.²⁵ Between 2003 and December 2005, Sen. McConnell steered \$8.3 million in federal funds to the organization from the State Department for devices to be sent to Afghanistan and Nigeria.²⁶ A program evaluation conducted by USAID found that the organization's programs produced mixed results.²⁷ Nevertheless, Sen. McConnell recommended an additional \$15 million for Voice for Humanity to extend its work into Iran and North Korea.²⁸

FEC records reflect that Voice for Humanity founder Michael Kane never contributed to Sen. McConnell's campaigns before the senator began earmarking for the organization, but in 2004 he donated \$1,000 to Sen. McConnell's leadership PAC, and in 2005 donated \$4,200 to his campaign committee.²⁹ Voice for Humanity director Samuel Mitchell, who like Mr. Kane previously had not contributed to Sen. McConnell's campaigns, has contributed a total of \$9,600 to the McConnell Senate Committee and to Sen. McConnell's joint fund-raising committee, the

¹⁹ McConnell Senate Committee FEC Form 3, Year End Report 2005, January 1, 2006, p. 15 (Exhibit 14).

²⁰ Voice for Humanity, IRS 2005 Form 990, October 27, 2006 (Exhibit 15).

²¹ Linda B. Blackford, Voice For Humanity Finds Friendly Ears In Washington, *Lexington Herald-Leader*, December 18, 2005 (Exhibit 16).

²² Id.

²³ Id.

²⁴ The Bates Capitol Group LLC Lobbying Report 2003-2006, Secretary of the Senate, Office of Public Record (Exhibit 17).

²⁵ Blackford, *Lexington Herald-Leader*, Dec.18, 2005.

²⁶ Id.

²⁷ Id.

²⁸ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006.

²⁹ Bluegrass Committee, FEC Form 3, October Quarterly Report 2004, October 15, 2004, p. 119 (Exhibit 18). Notably, this contribution was marked EIO; McConnell Senate Committee, FEC Form 3, July Quarterly Report 2006, July 14, 2006, p. 40 (Exhibit 19).

McConnell Majority Committee.³⁰

Appriss Inc.

Appriss Inc. is a Louisville based company that sells communication technology to law enforcement and owns VINE, the National Victim Notification Network.³¹ VINE was the largest data network providing victim notification systems in the country.³² Appriss has been providing technology such as VINE since 1994.³³ VINE data network technology did not become widely used, however, until after Appriss hired Bates Capitol.³⁴

After Appriss hired Bates Capitol in 2004, Sen. McConnell praised Appriss in a 2004 news conference.³⁵ Between 2004 and 2006, Appriss paid Bates Capitol \$320,000.³⁶ During the same period, Sen. McConnell sat on a small Senate budget negotiations team that earmarked \$17 million in the Department of Justice's budget to purchase victim notification systems.³⁷ Between January and September 2006, four states signed contracts to use VINE and Appriss expected to add six more state-wide contracts by the end of 2006.³⁸ The increase in VINE contracts can be attributed to the increase in federal funding earmarked for victim-notifications programs.³⁹

Since 2004, ApprissPAC as well as individual Appriss employees and their spouses contributed \$55,000 to Sen. McConnell's leadership PAC, joint fundraising committee, and campaign committee.⁴⁰ Dating back to 1997, Appriss CEO Douglass Cobb and his wife, Gena

³⁰ McConnell Senate Committee, FEC Form 3, April Quarterly Report 2007, April 13, 2007, pp. 223, 331 (Exhibit 20); McConnell Majority Committee, FEC Form 3, April Quarterly Report 2007, April 12, 2007, p. 107 (Exhibit 21).

³¹ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006.

³² <http://www.appriss.com/sitedocs/VINECutSheet.pdf> (Exhibit 22).

³³ <http://www.appriss.com/> (Exhibit 23).

³⁴ Sarah Jeffords, Appriss Adds Contracts, Products, Workers, *Business First of Louisville*, September 25, 2006 (Exhibit 24).

³⁵ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006.

³⁶ The Bates Capitol Group LLC, Lobbying Report, Mid Year 2004 through Year End 2006 (Exhibit 25).

³⁷ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006.

³⁸ Jeffords, *Business First of Louisville*, Sept. 25, 2006.

³⁹ Id.

⁴⁰ Appriss Inc. PAC, FEC Form 3, April Quarterly Report 2007, April 16, 2007, p. 8 (Exhibit 26); Bluegrass Committee, FEC Form 3, April Quarterly Report 2004, April 15, 2004, pp. 6, 10 (Exhibit 27); Bluegrass Committee, FEC Form 3, October Quarterly Report 2004, October 15, 2004, pp. 11, 73, 74, 83 (Exhibit 28). All 2004 contributions but the Appriss PAC contribution to the Bluegrass Committee were marked EIO; Bluegrass Committee, FEC Form 3, July Quarterly Report 2006, July 14, 2006, pp. 29, 30 (Exhibit 29). Both 2006 contributions to the Bluegrass Committee were marked EIO; McConnell Majority Committee, FEC Form 3, April Quarterly Report 2007, April 12, 2007, pp. 33, 42, 115, 133, 164, 169 (Exhibit 30); McConnell Senate Committee, FEC Form 3, October Quarterly Report 2005, October 14, 2005, pp. 122, 173, 243, 278, 291, 330, 331 (Exhibit 31); McConnell Senate Committee, FEC Form 3, April Quarterly Report 2007, April 13, 2007, pp. 259, 395, 422 (Exhibit 32).

Cobb, have contributed \$29,000 to Sen. McConnell: \$12,000 between 1997 and 2002, \$6,000 in 2003, and \$11,000 since early 2004.⁴¹ Appriss director David Grissom donated \$5,000 to Sen. McConnell's Bluegrass Committee in 2003 and donated \$3,000 to the McConnell Senate Committee in 2005.⁴²

UPS

UPS has been a Bates Capitol client since 2003, having paid the firm \$320,000 as of the end of 2006.⁴³ In 2004, Sen. McConnell lobbied President Bush to include the UPS pension fund in a bill that allowed large employers to delay pension fund contributions for two years because of stock market losses.⁴⁴ The UPS PAC contributed \$10,000 to the McConnell Senate Committee between July 2004 and August 2005⁴⁵ and the company has donated \$400,000 to the McConnell Center for Political Leadership at the University of Louisville.⁴⁶

The McConnell Center for Political Leadership

The McConnell Center for Political Leadership was founded by Sen. McConnell in 1991⁴⁷ as a non-profit organization for which the senator raises funds.⁴⁸ The University of Louisville Foundation was sued by the *Courier Journal* of Louisville, Kentucky because the center insisted on maintaining the anonymity of its donors.⁴⁹ In November 2004, a Kentucky court ordered the foundation to release the names of corporate donors, including donations made

⁴¹ Bluegrass Committee, FEC Form 3, Year-End Report 1997, January 30, 1998, p. 4 (Exhibit 33); Bluegrass Committee, FEC Form 3, Mid-Year Report 1999, July 30, 1999, p. 7 (Exhibit 34); Bluegrass Committee, FEC Form 3, Year-End Report 2003, January 30, 2004, p. 54 (Exhibit 35); Bluegrass Committee, FEC Form 3, October Quarterly Report 2004, October 15, 2004, pp. 73, 74 (Exhibit 36); Bluegrass Committee, FEC Form 3, October Quarterly Report 2006, October 13, 2006, pp. 29, 30 (Exhibit 37); McConnell Majority Committee, FEC Form 3, April Quarterly Report 2007, April 12, 2007, p. 33 (Exhibit 38); McConnell Senate Committee, FEC Form 3, Year-End Report 2001, January 31, 2002, p. 23 (Exhibit 39); McConnell Senate Committee, FEC Form 3, July Quarterly Report 2003, July 15, 2003, p. 1 (Exhibit 40); McConnell Senate Committee, FEC Form 3, October Quarterly Report 2005, October 14, 2005, p. 173 (Exhibit 41).

⁴² Churchill Downs Incorporated Conducts 2007 Annual Meeting, *Business Wire*, June 28, 2007 (Exhibit 42); Bluegrass Committee, FEC Form 3, Mid-Year Report 2003, July 15, 2003, p. 9 (Exhibit 43); McConnell Senate Committee, FEC Form 3 October Quarterly Report 2005, October 14, 2005, p. 291 (Exhibit 44).

⁴³ The Bates Capitol Group LLC, Lobbying Report 2003-2006, Secretary of the Senate, Office of Public Record (Exhibit 45).

⁴⁴ Cheves, *Lexington Herald-Leader*, Oct. 22, 2006.

⁴⁵ United Parcel Service Inc. PAC, FEC Form 3, August Monthly Report 2004, August 19, 2004, p. 151 (Exhibit 46); United Parcel Service Inc. PAC, FEC Form 3, September Monthly Report 2005, September 19, 2005, p. 331 (Exhibit 47).

⁴⁶ Mark Pitsch, Foundation Releases Donor List; U Of L Includes McConnell Center Gifts, *Courier-Journal*, December 14, 2004 (Exhibit 48).

⁴⁷ <http://louisville.edu/mcconnellcenter/about/> (Exhibit 49).

⁴⁸ The Money Funnels, *www.kentucky.com*, October 15, 2006 (Exhibit 50).

⁴⁹ Pitsch, *Courier-Journal*, Dec. 14, 2004.

to the McConnell Center.⁵⁰ Sen. McConnell and the University of Louisville Foundation had maintained that donors' identities were kept confidential at the request of donors, although an official from at least one corporate donor, Toyota Motor Manufacturing of North America, said, "Toyota's never made any secret of our contribution to the McConnell program."⁵¹ Two of the largest donors to the McConnell Center are Ashland Inc. and UPS, which have donated \$500,000 and \$400,000 respectively.⁵² Some donations to the McConnell Center have been delivered to Sen. McConnell's Capitol Hill office.⁵³

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.⁵⁴ It is well-settled that accepting a contribution to a political campaign can constitute a bribe if a *quid pro quo* can be demonstrated.⁵⁵

If, as it appears, Sen. McConnell accepted donations to his campaign and political action committees in direct exchange for earmarking federal funds to clients of Bates Capitol, he may have violated the bribery statute. Similarly, if he provided legislative assistance in return for contributions to the McConnell Center he may have violated the bribery statute.

Honest Services Fraud

Federal law prohibits a member of Congress from depriving his constituents, the United States Senate, 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.⁵⁶ By using his position as a member of Congress to financially benefit clients of a lobbying firm owned by his former staff member, Sen. McConnell may be depriving his constituents, the United States Senate and the United States of his honest services in violation of 18 U.S.C. §§ 1341, 1346.

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

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ www.kentucky.com, Oct.15, 2006.

⁵⁴ 18 U.S.C. § 201(b)(2)(A).

⁵⁵ 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).

⁵⁶ *See Information*, United States v. Jack A. Abramoff, CA 1:06-cr-00001(D.D.C. Jan. 3, 2006), ¶ 26.

or because of any official act performed or to be performed by such official.⁵⁷ 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.⁵⁸

If a link is established between Sen. McConnell's actions to earmark funds for clients of Bates Capitol and the campaign donations and donations made to his PAC by Bates Capitol's clients, or if a link is established between contributions made to the McConnell Center and legislative assistance provided by Sen. McConnell, Sen. McConnell would be in violation of 18 U.S.C. § 201(c)(1)(B).

5 U.S.C. § 7353

A provision of the Ethics Reform Act of 1989, 5 U.S.C. § 7353, prohibits members of the Congress, officers, and employees from asking for anything of value from a broad range of people, including "anyone seeking official action from, doing business with, or . . . conducting activities regulated by the individual's employing entity; or whose interests may be substantially affected by the performance or nonperformance of the individual's official duties."

If Sen. McConnell sought campaign contributions from either Bates Capitol or any of the organizations for which he inserted earmarks, including E-Cavern, Boardpoint, Voice for Humanity or Appriss, Inc., in exchange for those earmarks, he may have violated 5 U.S.C. § 7353. Similarly, if he sought contributions for the McConnell Center in return for legislative assistance, Sen. McConnell may have violated 5 U.S.C. § 7353.

5 C.F.R. § 2635.702(a)

5 C.F.R. § 2635.702(a) prohibits government employees, including members of the Senate from "taking any official actions for the prospect of personal gain for themselves or anyone else." Specifically, 5 C.F.R. § 2635.702(a), issued by the U.S. Office of Government Ethics for the Executive Branch, 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.

By funneling federal funds to clients of Bates Capitol, the lobbying firm of his former aide, Gordon Hunter Bates, Sen. McConnell may have dispensed special favors in violation of 5 C.F.R. § 2635.702(a).

⁵⁷ 18 U.S.C. § 201(c)(1)(B).

⁵⁸ United States v. Sun-Diamond Growers of Cal., 526 U.S. 398 (1999).

Senate Rule Prohibiting Improper Conduct

The Senate Ethics Manual provides that “[c]ertain conduct has been deemed by the Senate in prior cases to be unethical and improper even though such conduct may not necessarily have violated any written law, or Senate rule or regulation. Such conduct has been characterized as “improper conduct which may reflect upon the Senate.”⁵⁹ This rule is intended to protect the integrity and reputation of the Senate as a whole.⁶⁰ The Ethics Manual explains that “improper conduct” is given meaning by considering “generally accepted standards of conduct, the letter and spirit of laws and Rules. . .”⁶¹

In 1991, the Senate Select Committee on Ethics concluded that Sen. Alan Cranston had engaged in improper conduct which reflected on the Senate by “engaging in an impermissible pattern of conduct in which fund raising and official activities were substantially linked.”⁶² Although the committee found that none of Sen. Cranston’s activities violated any particular law or Senate rule, the committee nonetheless found Sen. Cranston’s conduct “violated established norms of behavior in the Senate, and was improper conduct that reflects upon the Senate . . .”⁶³ As a result, the committee issued a reprimand to Sen. Cranston.⁶⁴

In addition, the Senate Select Committee on Ethics’ Rules specifically list the Code of Ethics for Government Service as a source for committee jurisdiction.⁶⁵ The code states that a person in government service should “never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.”⁶⁶

If Sen. McConnell accepted campaign contributions or contributions to the McConnell Center from companies such as E-Cavern, Boardpoint, Voice for Humanity, Appriss and UPS in return for legislative assistance, he may have engaged in improper conduct which reflects upon the Senate.

⁵⁹ *Improper Conduct Reflecting Upon the Senate and General Principles of Public Service*, Senate Ethics Manual, Appendix E, p. 432.

⁶⁰ Id.

⁶¹ Id. at 433; *see also* fn. 10 citing a 1964 investigation into the activities of Bobby Baker, then Secretary to the Majority of the Senate, the Committee on Rules and Administration, which stated, “It is possible for anyone to follow the ‘letter of the law’ and avoid being indicted for a criminal act, but in the case of employees of the Senate, they are expected, and rightly so, to follow not only the ‘letter’ but also the ‘spirit’ of the law.” S. Rep. No. 1175, 88th Cong., 2d Sess. 5 (1964).

⁶² Senate Ethics Manual, p. 434.

⁶³ Id. at 435.

⁶⁴ Id.

⁶⁵ Id. at 436.

⁶⁶ Id. (*citing* H. Con. Res. 175, 85th Cong., 2d Sess., July 11, 1958 (72 Stat. B12)).

2008 UPDATE

BAE Systems Earmarks

Since 1997, Sen. McConnell has earmarked \$336 million for United Defense,⁶⁷ a defense contracting firm purchased by BAE Systems in 2005.⁶⁸ In October 2007, Sen. McConnell earmarked \$25 million in federal funds for BAE Systems after the Defense Department failed to include the money in its own budget request.⁶⁹ BAE Systems is now under investigation by the Justice Department for bribery.⁷⁰

Prior to its acquisition by BAE, United Defense's corporate PAC donated \$9,000 to Sen. McConnell's campaign committee between 2001 to 2004.⁷¹ United Defense's PAC donated an additional \$9,000 to Sen. McConnell's PAC in 2003 and 2004.⁷² Finally, employees of United Defense donated \$6,275 to Sen. McConnell's campaign committee from 2001 through 2005⁷³ and gave \$5,000 to his leadership PAC in 2003.⁷⁴ United Defense pledged \$500,000 to the McConnell Center at the University of Louisville,⁷⁵ making it one of the top donors.⁷⁶

Since 2005, after BAE Systems purchased United Defense, employees of BAE have donated \$7,000 to Sen. McConnell's campaign committee.⁷⁷ BAE's corporate PAC has donated

⁶⁷ James Carroll, Funds for Naval Guns Questioned, *Courier-Journal*, November 4, 2007 (Exhibit 51).

⁶⁸ Id.

⁶⁹ John Cheves, McConnell Marks Funds for Contractor: Firm Under Investigation for Bribery, *Lexington Herald-Leader*, October 27, 2007 (Exhibit 52).

⁷⁰ Id.

⁷¹ United Defense, L.P. Employee PAC, FEC Form 3, Mid-Year Report 2001, July 23, 2001, pp. 14, 15; United Defense, L.P. Employee PAC, FEC Form 3, Year-End Report 2001, May 1, 2002, p. 54; United Defense, L.P. Employee PAC, FEC Form 3, April Quarterly Report 2002, April 10, 2002, p. 17; United Defense, L.P. Employee PAC, FEC Form 3, October Quarterly Report 2002, October 9, 2002, p. 59; United Defense, L.P. Employee PAC, FEC Form 3, Mid-Year Report 2003, July 30, 2003, p. 71 (Exhibit 53).

⁷² United Defense, L.P. Employee PAC, FEC Form 3, Year-End Report 2003, January 28, 2004, p. 115; United Defense, L.P. Employee PAC, FEC Form 3, October Quarterly Report 2004, October 13, 2004, p. 94 (Exhibit 54).

⁷³ McConnell Senate Committee 08, FEC Form 3, Mid-Year Report 2001, July 31, 2001, pp. 12, 95, 196, 234, 264, 277, 278, 280, 357, 418, 484; McConnell Senate Committee 08, FEC Form 3, April Quarterly Report 2002, April 22, 2002, p. 32; McConnell Senate Committee 08, FEC Form 3, October Quarterly Report 2005, October 14, 2005, pp. 184, 313 (Exhibit 55).

⁷⁴ Bluegrass Committee, FEC Form 3, Year-End Report 2003, June 8, 2003, pp. 66, 70, 73-75 (Exhibit 56).

⁷⁵ Cheves, *Lexington Herald-Leader*, Oct. 27, 2007.

⁷⁶ Pitsch, *Courier-Journal*, Dec. 14, 2004.

⁷⁷ McConnell Senate Committee 08, FEC Form 3, October Quarterly Report 2005, October 14, 2005, pp. 154, 163; McConnell Senate Committee 08, FEC Form 3, April Quarterly Report 2006, April 13, 2006, p. 17; McConnell Senate Committee 08, FEC Form 3, April Quarterly Report 2008, May 8, 2008, p. 92 (Exhibit 57).

\$10,000 Sen. McConnell's campaign committee⁷⁸ and \$12,000 to his leadership PAC since 2005.⁷⁹

Between the two companies, Sen. McConnell has received more than \$58,000 in contributions to his campaign committee and leadership PAC since 2001.

Bates Capitol Group

Appriss, Inc. and Boardpoint both continued to retain the lobbying services of the Bates Capitol Group according to 2008 lobbying records.⁸⁰

Appriss, Inc

Executives and employees of Appriss, Inc have donated \$10,000 to Sen. McConnell's joint fund raising committee in the 2008 cycle.⁸¹

Voice for Humanity

Voice for Humanity founder, Michael Kane, donated \$600 to Sen. McConnell's campaign committee in the 2008 cycle, \$200 of which appears to have been refunded.⁸²

The McConnell Center for Political Leadership

In a lawsuit brought by the *Courier-Journal* for records of donations made to the McConnell Center for Political Leadership, the Kentucky Supreme court ruled in August that the University of Louisville could not withhold information about donors from public records requests.⁸³ The court agreed with the newspaper that "certain donors may not simply wish to conceal their identities, but rather may wish to conceal the true purposes of their donations."⁸⁴ Though the court ruled that the identities of 62 donors who requested their donations be

⁷⁸ BAE Systems North America Inc., FEC Form 3, June Monthly Report 2004, June 18, 2004, p. 60; BAE Systems North America Inc., FEC Form 3, Year-End Report 2005, January 27, 2006, p. 95; BAE Systems North America Inc., FEC Form 3, July Monthly Report 2006, July 19, 2006, pp. 107, 108; BAE Systems North America Inc., FEC Form 3, April Monthly Report 2007, April 18, 2007, p. 62; BAE Systems North America Inc., FEC Form 3, May Monthly Report 2007, May 17, 2007, p. 70 (Exhibit 58).

⁷⁹ BAE Systems United Defense Employees, FEC Form 3, October Monthly Report 2005, October 20, 2005, p. 70; BAE Systems North America Inc., FEC Form 3, September Monthly Report 2006, September 15, 2006, p. 122; BAE Systems North America Inc., FEC Form 3, April Monthly Report 2007, April 18, 2007, p. 51 (Exhibit 59).

⁸⁰ Bates Capitol Group LLC, Lobbying Reports 2008, Secretary of the Senate, Office of Public Record (Exhibit 60).

⁸¹ McConnell Majority Committee, FEC Form 3, April Quarterly Report 2007, April 12, 2007, pp. 29, 38, 42, 115, 133, 184 (Exhibit 61).

⁸² McConnell Senate Committee '08, FEC Form 3, October Quarterly Report 2007, October 15, 2007, pp. 184, 185 (Exhibit 62).

⁸³ Cape Publications, Inc. v. University of Louisville Foundation, Inc., Case No. 2005-SC-000454-DG, 2008 KY Lexis 176 (Ky. August 21, 2008) (Exhibit 63).

⁸⁴ Id., *8.

anonymous need not be revealed, future donors will not be permitted to make anonymous donations.⁸⁵

2009 UPDATE

BAE Systems

The Department of Justice's (DOJ) investigation into British defense contractor, BAE Systems, concerning allegations that the company bribed members of the Saudi Royal family, including the Saudi Ambassador to the United States, in support of an arms-for-oil barter, is ongoing.⁸⁶ Press reports from August 2008 and February 2009 indicate that the DOJ may have come close to reaching a deal with BAE, but the agency has refused to comment publicly.⁸⁷

The United Kingdom's Serious Fraud Office (SFO), which was also investigating BAE over those same allegations of bribery, dropped the investigation when ordered to do so by then Prime Minister Tony Blair in 2006, amid concerns that it would tread too close to members of the Saudi Royal family and endanger national security.⁸⁸ After the SFO tried to access Swiss bank records, including those of the Saudi Royal family, the Saudi government allegedly threatened to "withdraw terrorism-related intelligence cooperation" and to cancel a then-pending sale of British fighter-jets to the Kingdom.⁸⁹ Approximately half of BAE's business is now done with the United States government, but the decision of the SFO to drop its investigation into the company has hampered the DOJ's probe.⁹⁰ The United States government lodged two official diplomatic protests over the scuttling of the SFO's investigation.⁹¹

The Austrian government, is expected, however, to bring charges in connection with its investigation of BAE.⁹² That investigation concerns the action of an Austrian aristocrat who secretly worked for the defense contractor and made "aggressive incentive payments to key decision-makers."⁹³

For fiscal year 2010, Sen. McConnell requested three earmarks for BAE worth a

⁸⁵ Id., *14.

⁸⁶ CONGRESSIONAL RESEARCH SERVICE, SAUDI ARABIA: BACKGROUND AND U.S. RELATIONS, CHRISTOPHER M. BLANCHARD, at 18 (July 9, 2009) (Exhibit 64).

⁸⁷ Id.

⁸⁸ Id.

⁸⁹ Id.

⁹⁰ David Leigh, BAE Judgement: Firm's Future: US Investigators Continue to Pursue New Regime, *Guardian*, July 31, 2008 (Exhibit 65).

⁹¹ Swiss Confirm BAE Investigation, *New York Times*, May 14, 2007 (Exhibit 66).

⁹² David Leigh and Rob Evans, Austria Set to Prosecute Over BAE Arms Sales, *Guardian*, June 19, 2009 (Exhibit 67).

⁹³ Id.

combined \$17 million dollars.⁹⁴ The requests are for various gun assemblies manufactured by BAE at its Louisville, Kentucky facility.⁹⁵ Since the third quarter of 2008, employees of BAE Systems have donated \$3,400 to Sen. McConnell's campaign committee.⁹⁶

G. Hunter Bates

According to lobbying disclosures Mr. Bates joined the C2 Group, LLC., as a lobbyist beginning in September 2007.⁹⁷ Mr. Bates brought at least two of his former clients to his new firm, Appriss Inc.,⁹⁸ and Boardpoint.⁹⁹ As of July 2009, Mr. Bates had donated \$2,700 to Sen. McConnell's PAC.¹⁰⁰ FEC records do not indicate that employees of Appriss or Boardpoint made contributions to Sen. McConnell's campaign committee or PAC in this cycle.

McConnell Center for Political Leadership

Since winning its lawsuit in 2008,¹⁰¹ the *Courier-Journal* has maintained an online database of all donations made to the University of Louisville Foundation, which manages all donations made to the school, including those made to the McConnell Center.¹⁰² Funding for the McConnell Center has dropped precipitously, according to the database it has only received \$31,125 in contributions since 2004.¹⁰³

⁹⁴ Press Release, Office of Sen. Mitch McConnell, Senator Mitch McConnell's FY 2010 Appropriations Requests (Exhibit 68).

⁹⁵ Id.

⁹⁶ McConnell Senate Committee 08, FEC Form 3, October Quarterly Report 2008, October 15, 2008, p. 885; McConnell Senate Committee 08, FEC Form 3, Pre-General Report 2008, December 4, 2008, pp. 83, 145, 166 (Exhibit 69).

⁹⁷ C2 Group, LLC., Lobbying Registration 2007, Client: Appriss Inc., Senate Office of Public Record, Secretary of the Senate (Exhibit 70).

⁹⁸ Id.

⁹⁹ C2 Group, LLC., Lobbying Registration 2007, Client: Broadpoint, LLC., Senate Office of Public Record, Secretary of the Senate; C2 Group, LLC., Lobbying Termination 2009, Client: Broadpoint, LLC., Senate Office of Public Record, Secretary of the Senate (Exhibit 71).

¹⁰⁰ Bluegrass Committee, FEC Form 3, Pre-Special Election Report 2009, March 19, 2009, p. 14 (Exhibit 72).

¹⁰¹ See Cape Publications, Inc. v. University of Louisville Foundation, Inc., Case No. 2005-SC-000454-DG, 2008 KY Lexis 176 (Ky. August 21, 2008).

¹⁰² <http://datacenter.courier-journal.com/uofldonors/> (Exhibit 73).

¹⁰³ Id.