

## **REPRESENTATIVE ALAN B. MOLLOHAN**

Representative Alan B. Mollohan (D-WV) is a fourteen-term Member of Congress, representing West Virginia's 1<sup>st</sup> congressional district. He serves on the House Appropriations Committee, where he is chair of the Subcommittee on Commerce, Justice, Science, and Related Agencies; he is also a member of the Subcommittee on Interior, Environment and Related Agencies and the Subcommittee on Homeland Security.

Rep. Mollohan's ethics issues stem primarily from misuse of his position on the powerful Appropriations Committee, from which he has steered hundreds of millions of dollars in earmarks to family, friends, former employees, and corporations in exchange for contributions to his campaign and political action committees. In addition, Rep. Mollohan misreported his personal assets on his financial disclosure forms. He is currently the subject of an investigation by the U.S. Department of Justice. The congressman was included in CREW's 2006, 2007, and 2008 reports on congressional corruption.

### **Earmarking of Funds for Personal Benefit**

From 1996 to 2006, Rep. Mollohan earmarked \$369 million in federal grants to his district for 254 separate projects and programs.<sup>1</sup> Between 1997 and 2006, \$173 million of that total was directed to five non-profit organizations staffed by close associates of the congressman.<sup>2</sup>

The non-profits include: the Institute for Scientific Research; the West Virginia High Technology Consortium Foundation; the Canaan Valley Institute; the Vandalia Heritage Foundation; and, the MountainMade Foundation. All of these organizations are run by the congressman's friends, who contributed regularly to his campaign, his political action committee, Summit PAC, or his family foundation, the Robert H. Mollohan Family Charitable Foundation.<sup>3</sup>

Between 1997 and 2006, top-paid employees, board members, and contractors of these five non-profit organizations gave at least \$397,122 to Rep. Mollohan's campaign and political action committee.<sup>4</sup> Thirty-eight individuals with leadership roles gave the maximum amount allowed, and workers at companies that received subcontracts through these non-profits, such as

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<sup>1</sup> Eric Bowen, Five Nonprofits Reap Big Mollohan Earmarks: Congressman's Creations Net 46% of All his Funding, *Dominion Post*, May 28, 2006 (Exhibit 1).

<sup>2</sup> *Id.*; but see Judi Rudoren, David Johnston and Aron Pilhofer, Special Projects by Congressman Draw Complaints, *New York Times*, April 8, 2006 (Exhibit 2), which reports that Rep. Mollohan funneled \$250 million into the five non-profits.

<sup>3</sup> John R. Wilke, Appropriations, Local Ties and Now a Probe of a Legislator, *Wall Street Journal*, April 7, 2006 (Exhibit 3).

<sup>4</sup> Rudoren, Johnston and Pilhofer, *New York Times*, April 8, 2006.

TMC Technologies and Electronic Warfare Associates, were among Rep. Mollohan's leading contributors.<sup>5</sup>

### **Institute for Scientific Research**

Launched by Rep. Mollohan in 1990, the Institute for Scientific Research (ISR) conducted scientific and software projects for federal agencies.<sup>6</sup> Due to Rep. Mollohan's efforts, ISR won \$108 million in earmarks from 1995 to 2006.<sup>7</sup> A majority of ISR's earmarked funds were used to construct the organization's new headquarters, even though from the outset, ISR was reported to be in disarray.<sup>8</sup> ISR's chief executive resigned after a controversy erupted over his \$500,000 annual compensation, which was paid with earmarked federal money.<sup>9</sup> In 2006, ISR announced its intention to merge with the West Virginia High Technology Consortium Foundation.<sup>10</sup>

### **West Virginia High Technology Consortium Foundation**

The second largest beneficiary of Rep. Mollohan-backed earmarks was the West Virginia High Technology Consortium Foundation (WVHTCF),<sup>11</sup> which is headquartered in the Alan B. Mollohan Innovation Center.<sup>12</sup> Started in 1990, WVHTCF was the largest non-profit set up by Rep. Mollohan. It has received approximately \$35 million in earmarks for education programs, economic development, and construction of its headquarters.<sup>13</sup>

WVHTCF was run by a network of Rep. Mollohan's friends. Jim Estee, a former head of ISR,<sup>14</sup> served as the foundation's president and CEO.<sup>15</sup> Jack Carpenter was the foundation's vice president as well as chairman of another Mollohan-created foundation, MountainMade.<sup>16</sup> Raymond Oliverio was the foundation's executive vice president; he also was the treasurer of the

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<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Rudoren, Johnston, and Pilhofer, *New York Times*, Apr. 8, 2006.

<sup>9</sup> Wilke, *Wall Street Journal*, Apr. 7, 2006.

<sup>10</sup> Research Firm Looking for Tenants for New Building, *Associated Press*, May 22, 2006 (Exhibit 4).

<sup>11</sup> Bowen, *Dominion Post*, May 28, 2006.

<sup>12</sup> Rudoren, Johnston, and Pilhofer, *New York Times*, Apr. 8, 2006.

<sup>13</sup> Bowen, *Dominion Post*, May 28, 2006.

<sup>14</sup> Wilke, *Wall Street Journal*, Apr. 7, 2006.

<sup>15</sup> West Virginia High Technology Consortium Foundation website: <http://www.wvhtf.org/about/leadership/> (Exhibit 5).

<sup>16</sup> Rudoren, Johnston, and Pilhofer, *New York Times*, Apr. 8, 2006.

Alan H. Mollohan Innovation Center.<sup>17</sup> Rep. Mollohan's wife, Barbara, was once on WVHTCF's board of directors.<sup>18</sup>

### **Canaan Valley Institute**

The Canaan Valley Institute (CVI), also established by Rep. Mollohan, worked on stream restoration and wastewater treatment.<sup>19</sup> In 2006, CVI was building a \$33 million headquarters on 3,028 acres of land, which was being paid for with earmarks secured by Rep. Mollohan.<sup>20</sup> Having received at least \$28 million in federal funds since 1995,<sup>21</sup> CVI relied on federal earmarks for 97% of its funding through April 2006.<sup>22</sup>

CVI was housed in the office building of a fourth Mollohan-created non-profit, Vandalia Heritage Foundation.<sup>23</sup> CVI's \$5,100 monthly rent, paid to Vandalia, was covered by earmarks from the Environmental Protection Agency and the National Oceanic Atmospheric Administration.<sup>24</sup>

### **Vandalia Heritage Foundation**

Founded in 1998, Vandalia Heritage Foundation restored historic buildings and invested in devalued property.<sup>25</sup> Relying on earmarks for 92% of its funding, it received \$31.5 million in federal grants from 1999 through 2006.<sup>26</sup> Vandalia coordinated construction of ISR's headquarters building.<sup>27</sup> The foundation's funds decreased after Rep. Mollohan left the subcommittee responsible for appropriating funds for the Department of Housing and Urban Development.<sup>28</sup>

Vandalia Heritage Foundation has been run by Laura Kurtz Kuhns.<sup>29</sup> A former appropriations staffer in Rep. Mollohan's office, Ms. Kuhns was a key player in Rep.

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<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Rudoren, Johnston, and Pilhofer, *New York Times*, Apr. 8, 2006.

<sup>21</sup> Bowen, *Dominion Post*, May 28, 2006.

<sup>22</sup> Rudoren, Johnston, and Pilhofer, *New York Times*, Apr. 8, 2006.

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Wilke, *Wall Street Journal*, Apr. 7, 2006.

<sup>26</sup> Rudoren, Johnston, and Pilhofer, *New York Times*, Apr. 8, 2006.

<sup>27</sup> Wilke, *Wall Street Journal*, Apr. 7, 2006.

<sup>28</sup> Id.

<sup>29</sup> Id.

Mollohan's efforts to earmark funds for West Virginia; she was also the congressman's investment partner.<sup>30</sup>

In addition to Vandalia, Ms. Kuhns has served on the boards of three other non-profits that are funded via earmarks. These include the Mollohan-created foundations MountainMade, ISR, and the National Housing Development Corporation (NHDC), which is the only out-of-state non-profit supported by Rep. Mollohan.<sup>31</sup> NHDC, based in California, received \$31 million in earmarks between 2001 and 2006.<sup>32</sup>

### **MountainMade Foundation**

Created in 2000, MountainMade Foundation was a federally-funded, non-profit dedicated to promoting West Virginia crafts.<sup>33</sup> The smallest of the non-profits funded by the congressman, it received \$3.3 million in earmarks from 1995 to 2006.<sup>34</sup>

MountainMade was housed on the first floor of the Vandalia Heritage Foundation's building; earmarks from the Small Business Administration were used to pay Vandalia its monthly rent of \$5,166.67.<sup>35</sup>

### **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>36</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>37</sup>

If Rep. Mollohan accepted campaign donations, as well as donations to his family foundation, in direct exchange for earmarking federal funds to the non-profits run by these donors, 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,

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<sup>30</sup> Id.

<sup>31</sup> Wilke, *Wall Street Journal*, Apr. 7, 2006.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Bowen, *Dominion Post*, May 28, 2006.

<sup>35</sup> Rudoren, Johnston, and Pilhofer, *New York Times*, Apr. 8, 2006.

<sup>36</sup> 18 U.S.C. § 201(b)(2)(A).

<sup>37</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).

loyal, faithful, disinterested, unbiased service, performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud and corruption.<sup>38</sup> By using his position as a member of Congress to financially benefit clients of a lobbying firm that employed one of his former aides, and by earmarking federal funds in apparent exchange for campaign contributions, Rep. Mollohan may have deprived his constituents, the House of Representatives, 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 or because of any official act performed or to be performed by such official.<sup>39</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>40</sup>

If a link is established between Rep. Mollohan's actions to earmark funds for five non-profits run by friends, and the campaign donations and donations to his family foundation that those friends and their non-profit organizations made, Rep. Mollohan 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.<sup>41</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>42</sup> House Rule 23, clause 3, similarly provides:

A Member, Delegate, Resident Commissioner, or employee  
of the House may not receive compensation and may not permit

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<sup>38</sup> See *Information, United States v. Jack A. Abramoff*, CA 1:06-cr-00001(D.D.C. Jan. 3, 2006), ¶ 26.

<sup>39</sup> 18 U.S.C. § 201(c)(1)(B).

<sup>40</sup> *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398 (1999).

<sup>41</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>42</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.

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. Mollohan accepted campaign contributions in return for legislative assistance by way of earmarking federal funds, he likely violated 5 U.S.C. § 7353 and House Rule 23.

### **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>43</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:

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>44</sup>

By funneling federal funds to non-profits that he established and that help finance his family foundation, Rep. Mollohan may have violated 5 C.F.R. § 2635.702(a).

### **Conduct Not Reflecting Creditably on the House**

Rule 23 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>45</sup> This ethics standard is considered to be “the most comprehensive provision” of the Code.<sup>46</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>47</sup>

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<sup>43</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.

<sup>44</sup> Id.

<sup>45</sup> Rule 23, cl. 1.

<sup>46</sup> House Comm. on Standards of Official Conduct, House Ethics Manual, p. 12.

<sup>47</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).

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>48</sup> making false statements to the Committee,<sup>49</sup> criminal convictions for bribery,<sup>50</sup> or accepting illegal gratuities,<sup>51</sup> and accepting gifts from persons with interest in legislation in violation of the gift rule.<sup>52</sup>

Rep. Mollohan apparently accepted campaign contributions in return for legislative favors that financially benefited campaign contributors and non-profit organizations that he had established. Accepting anything of value in exchange for official action does not reflect creditably on the House and, therefore, violates House Rule 23, clause 1.

### **Trip to Bilboa, Spain**

In June 2004, Rep. Mollohan, his wife, and two top aides took a five-day trip to Bilboa, Spain. The trip, arranged by the West Virginia High Technology Consortium, cost over \$36,000, and was paid for by a group of government contractors to whom Rep. Mollohan funneled more than \$250 million in earmarked funds.<sup>53</sup> Disclosure forms list the sponsor of the Spain trip as the “West Virginia (WV)-01 Trade Delegation,”<sup>54</sup> which, according to Rep. Mollohan’s office, was an *ad hoc* group of 19 government contractors and West Virginia non-profits.<sup>55</sup> Officials affiliated with the non-profit groups donated nearly \$400,000 to Rep. Mollohan’s re-election campaigns from 1997 through 2006.<sup>56</sup>

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<sup>48</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).

<sup>49</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>50</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>51</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>52</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>53</sup> John Bresnahan, W.Va. Firms Footed Mollohan Trip, *Roll Call*, May 8, 2006 (Exhibit 6).

<sup>54</sup> Rep. Alan Mollohan, Member/Officer Travel Disclosure Form, filed July 23, 2004 (Exhibit 7).

<sup>55</sup> Bresnahan, *Roll Call*, May 8, 2006.

<sup>56</sup> Id.

Representatives from TMC Technologies, a West Virginia high-tech firm, also accompanied Rep. Mollohan on the trip.<sup>57</sup> According to a press release issued by TMC on July 28, 2004, the company “was invited by Congressman Alan B. Mollohan to participate in a trade mission to the Biscay region of Spain.”<sup>58</sup> In 2004, TMC donated \$5,000 to Rep. Mollohan’s family foundation.<sup>59</sup> Since 2001, TMC’s President Wade Linger and his wife have given at least \$54,450 to Rep. Mollohan’s PAC and Mr. Linger’s employees have given another \$20,095.<sup>60</sup> A month before the trip, TMC received a \$5 million contract from the National Oceanic and Atmospheric Administration as a result of an earmark from Rep. Mollohan.<sup>61</sup> Since 2001, TMC has secured at least \$10 million in federal contracts; company officials have openly thanked Rep. Mollohan for adding the earmarks into spending bills.<sup>62</sup>

A representative from FMW Composite Systems also accompanied Rep. Mollohan on the Spain trip.<sup>63</sup> FMW’s Chief Executive Officer, Dale McBride, is a life-long friend of the Congressman, and in May 2005, the two purchased a 300-acre farm together in West Virginia.<sup>64</sup> In December 2005, FMW won a \$2.1 million NASA contract from a program funded through a Rep. Mollohan earmark.<sup>65</sup>

Azimuth, Inc., another West Virginia company that provided electronic and software engineering support services, also helped underwrite the Spain trip.<sup>66</sup> Azimuth won a \$20 million contract from the Department of Homeland Security in 2006<sup>67</sup> and its employees gave \$12,600 during the 2006 election cycle, and \$16,000 in the 2004 election cycle, to Rep. Mollohan’s campaign committee.<sup>68</sup>

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<sup>57</sup> Id.

<sup>58</sup> Id.

<sup>59</sup> Michael Forsythe, Mollohan Helped Steer U.S. Contracts to Family-Charity Donors, *Bloomberg*, June 22, 2006 (Exhibit 8).

<sup>60</sup> Id.

<sup>61</sup> Bresnahan, *Roll Call*, May 8, 2006.

<sup>62</sup> John Bresnahan, Mollohan Got \$23K From MZM, *Roll Call*, December 8, 2005 (Exhibit 9).

<sup>63</sup> Bresnahan, *Roll Call*, May 8, 2006.

<sup>64</sup> Id.

<sup>65</sup> Id.

<sup>66</sup> Id.

<sup>67</sup> Bresnahan, *Roll Call*, May 8, 2006.

<sup>68</sup> Alan Mollohan for Congress, FEC Form 3, Mid-Year Report 1998, July 30, 1998, p. 2; Alan Mollohan for Congress, FEC Form 3, Year-End Report 1998, January 26, 1999, p. 1; Alan Mollohan for Congress, FEC Form 3, Year-End Report 2001, January 23, 2002, pp. 43, 48; Alan Mollohan for Congress, FEC Form 3, April Quarterly 2002, April 5, 2002, p. 12; Alan Mollohan for Congress, FEC Form 3, April Quarterly 2004, April 14, 2004 pp. 29, 63, 64, 79; Alan Mollohan for Congress, FEC Form 3, July Quarterly 2005, July 8, 2005 p. 31; Alan Mollohan for Congress, FEC Form 3, April Quarterly 2006, April 10, 2006, pp. 56, 57, 73 (Exhibit 10).

## Illegal Gratuity

If Rep. Mollohan solicited funding for his trip to Spain from TMC Technologies just one month after TMC received a \$5 million contract resulting from an Mollohan earmark, Rep. Mollohan would be in violation of 18 U.S.C. § 201(c)(1)(B). Similarly, the trip's funding by FMW Composite Systems and Azimuth, Inc. – two companies that received government contracts and earmarks from Rep. Mollohan – appears to represent an illegal gratuity.

## Solicitation of Gifts

Rep. Mollohan's conduct also may have violated federal law prohibiting Members from soliciting a gift from any person who has interests before the House.<sup>69</sup> This provision limits not only what government officials may **accept**, but also that for which they may **ask**. The statute provides:

(a) Except as permitted by [applicable gift rules or regulations], no Member of Congress or officer or employee of the executive, legislative, or judicial branch shall **solicit** or accept anything of value from a person –

(1) seeking official action from, doing business with, or ... conducting activities regulated by, the individuals employing agency; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.<sup>70</sup>

The prohibition against solicitation applies to the solicitation not only of money, but “anything of value.” In addition, the prohibition covers solicitations of things for the personal benefit of the Member, officer or employee, as well as things that would involve no personal benefit.

House Rule 23, clause 3, similarly prohibits Members from receiving compensation or asking for anything of value in exchange for exercising influence they enjoy as Members of Congress.

Rep. Mollohan's *'invitation'* to TMC Technologies to participate in the trip to Spain appears to constitute a solicitation for Rep. Mollohan's personal benefit, which is in violation of 5 U.S.C. § 7353. By accepting more than \$74,000 in campaign contributions from TMC Technologies, its president, and employees – as well as by accepting funding for the Spain trip in apparent exchange for helping TMC secure more than \$10 million in federal contracts since 2001 – Rep. Mollohan also likely violated clause 3 of Rule 23.

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<sup>69</sup> 5 U.S.C. § 7353.

<sup>70</sup> *Id.* (emphasis added).

The trip's financing may also involve House Rule 23. The Committee on Standards of Official Conduct has long taken the position that a Member, officer, or employee may accept expenses for officially-connected travel only from a private source that has a direct and immediate relationship with the event or location being visited.<sup>71</sup>

The rule is concerned with the organization(s) or individual(s) that actually pay for travel. "[T]he concept of the rule is that a private entity that pays for officially-connected travel will both organize and conduct the trip, rather than merely pay for a trip that is, in fact, organized and conducted by someone else."<sup>72</sup>

In this instance, the exact role of those financing Rep. Mollohan's trip to Spain is not entirely clear. Rep. Mollohan's travel disclosure forms list the trip sponsor as the West Virginia (WV)-01 Trade Delegation, a group of 19 government contractors and West Virginia-based entities, while the trip itself was arranged by the West Virginia High Technology Consortium Foundation. It is not known whether any of the West Virginia companies and non-profit entities created by Rep. Mollohan, and which sponsored the trip, have any connection to Bilboa, Spain, much less a direct and immediate relationship with the trip. These issues warrant further consideration to determine if Rep. Mollohan's trip violated House Rules.

### **The Robert H. Mollohan Family Charitable Foundation**

In addition to Rep. Mollohan's campaign and political action committees, the Robert H. Mollohan Family Charitable Foundation functioned as a third conduit for donations from government contractors and executives of non-profit organizations to which Rep. Mollohan has steered federal funds.<sup>73</sup> The foundation held an annual charity golf tournament at the Pete Dye Golf Club in Bridgeport, West Virginia – a top-100 course according to *Golf Magazine*.<sup>74</sup> The tournament received \$455,000 in contributions in 2003, and its donors included at least two of Rep. Mollohan's federally-funded non-profits – ISR and Vandalia.<sup>75</sup> Additionally, the West VHTCF provided staff and office services to the Mollohan Family Foundation.<sup>76</sup> Staff includes Raymond Oliverio, who was formerly the WVHTCF's executive vice president, treasurer of the

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<sup>71</sup> House Comm. on Standards of Official Conduct, *Investigation of Financial Transactions Participated in and Gifts of Transportation Accepted by Representative Fernand J. St. Germain*, H. Rep. No. 100-46, 100<sup>th</sup> Cong., 1<sup>st</sup> Sess. 5-6 (1987).

<sup>72</sup> *Proper Sources of Expenses for Officially Connected Travel*, Rules of the House of Representatives on Gifts and Travel.

<sup>73</sup> Wilke, *Wall Street Journal*, Apr. 7, 2006.

<sup>74</sup> Gary Gaylean, Golf Magazine's Ranking of the Top Courses in the U.S. For 2003, *Golf Magazine*, August 11, 2003 (Exhibit 11).

<sup>75</sup> Wilke, *Wall Street Journal*, Apr. 7, 2006.

<sup>76</sup> Id.

Alan H. Mollohan Innovation Center,<sup>77</sup> and treasurer of the Robert H. Mollohan Family Charitable Foundation until at least 2006.<sup>78</sup>

Among those who have profited from making contributions to the foundation is D.N. American, Inc., an information technology company with headquarters in the Alan B. Mollohan Innovation Center.<sup>79</sup> D.N. American gave \$20,000 to the Mollohan Foundation in 2004, and according to a press release from Rep. Mollohan's office, the company received part of a \$3 million government contract in January of that same year.<sup>80</sup>

The foundation had a total donor list of 43 companies, including nine of the top 10 contributors to Rep. Mollohan's 2004 reelection campaign.<sup>81</sup>

### **Acceptance of a Bribe**

Substantial contributions received by Rep. Mollohan's private foundation from companies that benefited from federal contracts earmarked by him, raise a serious question as to whether this was a *quid pro quo* in violation of the bribery statute.

### **Honest Services Fraud**

By using his position as a Member of Congress to financially benefit his private foundation, Rep. Mollohan 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, 1346.

### **Illegal Gratuity**

To the extent Rep. Mollohan has accepted donations to his family charity in exchange for earmarking federal funds to government contractors who make those donations, he may have violated the illegal gratuity statute.

### **5 U.S.C. § 7353 and House Rules**

If Rep. Mollohan accepted donations to his private family charity in exchange for earmarking federal funds to government contractors who make those donations, he may have violated 5 U.S.C. § 7353 and House Rule 23.

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<sup>77</sup> Rudoren, Johnston, and Pilhofer, *New York Times*, Apr. 8, 2006.

<sup>78</sup> Robert H. Mollohan Family Charitable Foundation, Inc., 2006 IRS Form 990, filed May 14, 2007 (Exhibit 12).

<sup>79</sup> Forsythe, *Bloomberg*, June 22, 2006.

<sup>80</sup> Id.

<sup>81</sup> Id.

### **5 C.F.R. § 2635.702(a)**

By funneling federal funds to companies that help finance his family foundation, Rep. Mollohan may also have violated 5 C.F.R. § 2635.702(a) which, as discussed above, prohibits Members from taking actions for the prospect of personal gain for themselves or others.

### **Personal Finances/Real Estate Investments**

Between 2000 and 2004, Rep. Mollohan saw a spike in his personal assets and income from the rental properties he owned.<sup>82</sup> According to the non-profit National Legal and Policy Center (NLPC), between 1996 and 2004, Rep. Mollohan filed financial disclosure forms that showed 260 instances of omitted or undervalued assets, apparently in an effort to disguise the dramatic increase in his personal wealth.<sup>83</sup> Those forms showed a jump in Rep. Mollohan's portfolio, from less than \$500,000 in assets that generated less than \$80,000 in income in 2000, to at least \$6.3 million in assets earning \$200,000 to \$1.2 million in 2004.<sup>84</sup> As of 2005, Rep. Mollohan's reported personal assets were worth at least \$8 million and his liabilities were in excess of \$3.43 million.<sup>85</sup> The congressman credited part of this increase in assets to a sizeable inheritance from his father's estate.<sup>86</sup> On 2006 personal financial disclosures, Mollohan showed at least \$5.9 million in assets that earned at least \$694,700, with at least \$4.4 million in liabilities.<sup>87</sup> The 2007 forms showed assets totaling at least \$5.88 million, which earned \$103,711 and liabilities of at least \$2 million.<sup>88</sup>

Rep. Mollohan's real estate holdings include 17 units in The Remington, a Washington, D.C. condominium complex, which he, along with his wife, Barbara, his third cousin, Joseph L. Jarvis, and Mr. Jarvis' wife, purchased in 1996.<sup>89</sup> Over the ensuing seven years, they added another 10 units,<sup>90</sup> between 1999 and 2003, The Remington increased in value by more than 9,000%.<sup>91</sup> The condos were then valued at \$8 million.<sup>92</sup>

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<sup>82</sup> Rudoren, Johnston and Pilhofer, *New York Times*, Apr. 8, 2006.

<sup>83</sup> Id.

<sup>84</sup> Id.

<sup>85</sup> John Bresnahan, Mollohan Made \$1M-Plus in Real Estate in 2005, *Roll Call*, June 14, 2006 (Exhibit 13).

<sup>86</sup> Id.

<sup>87</sup> Rep. Alan Mollohan, Personal Financial Disclosure Statement For Calendar Year 2006, filed May 17, 2007 (Exhibit 14).

<sup>88</sup> Rep. Alan Mollohan, Personal Financial Disclosure Statement For Calendar Year 2007, filed May 15, 2008 (Exhibit 15).

<sup>89</sup> Eric Bowen, Mollohan Relative Has Past in Government Contracting: 2 Jarvis Companies Brought in \$86M in Fed Contracts, *Dominion Post*, June 25, 2006 (Exhibit 16).

<sup>90</sup> Id.

<sup>91</sup> Bresnahan, *Roll Call*, Jun. 14, 2006.

<sup>92</sup> Jodi Rudoren and Aron Pilhofer, Congressman's Condo Deal Is Examined, *New York Times*, May 17, 2006 (Exhibit 17).

In 2002, Rep. Mollohan and his wife invested in a North Carolina beachfront property with Rep. Mollohan's former staffer, Laura Kurtz Kuhns and her husband, Donald.<sup>93</sup> The two families jointly owned five properties on Baldhead Island, North Carolina, which, in 2006, were listed in local real estate records as having a total value of \$2 million.<sup>94</sup>

In May 2005, Rep. Mollohan and Dale McBride, CEO of FMW, and whom Rep. Mollohan has described as a life-long friend, jointly purchased a 300-acre farm in West Virginia.<sup>95</sup> All of Rep. Mollohan's real estate deals are currently under scrutiny by the U.S. Department of Justice.<sup>96</sup>

In June 2006, in reaction to NLPC's complaint, Rep. Mollohan filed two dozen corrections to his past six financial disclosure forms.<sup>97</sup>

### **18 U.S.C. § 1001**

Federal law prohibits Members of Congress from making "any materially false, fictitious, or fraudulent statement or representation"<sup>98</sup> on "a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch."<sup>99</sup>

If Rep. Mollohan failed to disclose, or misrepresented, the true value of his personal assets on his financial disclosure forms to disguise the dramatic increase in his personal wealth during the past several years, he would appear to be in violation of 18 U.S.C. § 1001.

### **House Rules**

Rep. Mollohan's failure to include property on his financial disclosure forms is a violation of House Rules. Pursuant to 5 U.S.C. app. 4 § 101(a)(1)(B), Members of Congress must disclose all rental property. The instruction booklet accompanying the House financial disclosure forms requires disclosure of "unearned" income, which "consists of rents, royalties, dividends, interest, capital gains, and similar amounts received as a return on investment." The instructions continue, filers "must disclose ... real and personal property held for investment or production of income and valued at more than \$1,000 at the close of the reporting period."<sup>100</sup>

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<sup>93</sup> Wilke, *Wall Street Journal*, Apr. 7, 2006.

<sup>94</sup> Id.

<sup>95</sup> Id.; Bresnahan, *Roll Call*, May 8, 2006.

<sup>96</sup> Rudoren and Pilhofer, *New York Times*, May 17, 2006.

<sup>97</sup> Eric Bowen, Mollohan Fixes Finance Reports: Amendments Correct 'Handful of Mistakes', *Dominion Post*, June 14, 2006 (Exhibit 18); *see also* Letter from Rep. Alan Mollohan to Clerk of the House, June 13, 2006 (Exhibit 19).

<sup>98</sup> 18 U.S.C. § 1001(a)(2).

<sup>99</sup> Id. at § 1001(c)(2).

<sup>100</sup> House Comm. On Standards of Official Conduct, *Assets and Unearned Income*, Financial Disclosure Instruction Booklet.

Rep. Mollohan's failure to include all of his assets on his financial disclosure forms violates House Rules.

### **Deferral to Department of Justice**

The fact that the Department of Justice is currently conducting a criminal investigation of Rep. Mollohan's activities should not be a basis for the Ethics Committee to defer any investigation into, or action on, Rep. Mollohan's 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."<sup>101</sup>

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.<sup>102</sup>

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.<sup>103</sup>

Rep. Mollohan's conduct unquestionably relates 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

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<sup>101</sup> House Comm. on Standards of Official Conduct, Committee Rules, Rule 15(f), 109<sup>th</sup> Cong. (2005); *see also* Statement of Committee regarding Disposition of Complaint Filed Against Tom DeLay: Memorandum of the Chairman and Ranking Member, p. 24, 108<sup>th</sup> Cong., 2d Sess. (2004).

<sup>102</sup> 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, 94<sup>th</sup> Cong., 1<sup>st</sup> Sess. 2 (1975)).

<sup>103</sup> House Comm. on Standards of Official Conduct, Statement of Committee regarding Disposition of Complaint Filed Against Tom DeLay.

bribe, or illegal gratuity as a *quid pro quo* for exercising his congressional powers. As a result, given the Committee's precedents, a Committee investigation into Rep. Mollohan's activities is appropriate.

## 2007 UPDATE

### Department of Justice Investigation

Due to the Department of Justice criminal investigation, in January 2007, when Rep. Mollohan was named chair of the Appropriations Subcommittee on Commerce, Justice, State and Related Agencies, he recused himself from working on matters related to the Department of Justice's budget.<sup>104</sup>

The FBI subpoenaed financial records from the non-profit organizations that have benefitted from federal funding steered to them by Rep. Mollohan.<sup>105</sup> In addition, at least one witness has been subpoenaed to testify before a grand jury about Rep. Mollohan's finances.<sup>106</sup>

Despite the legal questions surrounding some of Rep. Mollohan's previous earmarks, he requested a \$1 million earmark to allow the Department of the Interior to expand a wilderness area abutting property owned by him.<sup>107</sup> The Nature Conservancy and the Conservation Fund both urged the congressman to request the earmark, which was listed as a priority by the U.S. Fish and Wildlife Service.<sup>108</sup> As required by House Rules, Rep. Mollohan certified that neither he nor his spouse has a financial interest in the project.<sup>109</sup> Nevertheless, Rep. Mollohan owns two properties near the boundary of the refuge and, because there is so little land for sale in the area, at least one local real estate agent opined that the value of Rep. Mollohan's property was likely to increase substantially as a result of the earmark.<sup>110</sup>

### 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 services, 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. If Rep. Mollohan used his position as a Member of Congress to include an earmark in legislation for the purpose of increasing the value of his personal property, he may have deprived his constituents and the United States of his honest services in violation of 18 U.S.C. §§ 1341, 1346.

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<sup>104</sup> Andrew Taylor, Congressman Recuses Himself, *Associated Press*, January 10, 2007 (Exhibit 20).

<sup>105</sup> Id.

<sup>106</sup> Beth Gorczyca Ryan, Possible Subpoenas Sent in Mollohan Issue, *State Journal*, March 22, 2007 (Exhibit 21).

<sup>107</sup> Paul Singer, Mollohan Earmarks Nearby Land, *Roll Call*, June 28, 2007 (Exhibit 22).

<sup>108</sup> Id.

<sup>109</sup> Id.

<sup>110</sup> Id.

## 2008 UPDATE

### Canaan Valley Institute

In 2007, as a result of mounting media pressure, Rep. Mollohan stripped all CVI related earmarks out of the fiscal year 2007 Agriculture Bill.<sup>111</sup>

### Trip to Bilbao, Spain

Rep. Mollohan received \$12,500 from Azimuth employees in the 2008 election cycle through June 2008, and has taken at least \$46,000 in total funds over the course of his entire career.<sup>112</sup> Azimuth was a sponsor of the 2004 trip.<sup>113</sup>

### Relationship with ProLogic

ProLogic, a company that made software for fighter jets, was under FBI investigation for using federal funds for profit.<sup>114</sup> Rep. Mollohan used federal funds to set up a business center for ProLogic, and earmarked funds for the company,<sup>115</sup> which had offices at the same address as the West Virginia High Technology Consortium Foundation.<sup>116</sup> Since 1998, Rep. Mollohan received at least \$26,000 in campaign donations from ProLogic employees;<sup>117</sup> additionally, the company was one of the contractors that sponsored Rep. Mollohan's trip to Bilbao, Spain.<sup>118</sup>

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<sup>111</sup> Susan Crabtree, GOP Complains as Mollohan Earmarks Stripped From Bill, *The Hill*, August 3, 2007 (Exhibit 23).

<sup>112</sup> Alan Mollohan for Congress, FEC Form 3, Mid-Year Report 1998, July 30, 1998, p. 2; Alan Mollohan for Congress, FEC Form 3, Year-End Report 1998, January 26, 1999, p. 1; Alan Mollohan for Congress, FEC Form 3, Year-End Report 2001, January 23, 2002, pp. 43, 48; Alan Mollohan for Congress, FEC Form 3, April Quarterly 2002, April 5, 2002, p.12; Alan Mollohan for Congress, FEC Form 3, April Quarterly 2004, April 14, 2004 pp. 29, 63, 64, 79; Alan Mollohan for Congress, FEC Form 3, July Quarterly 2005, July 8, 2005 p. 31; Alan Mollohan for Congress, FEC Form 3, April Quarterly 2006, April 10, 2006, pp. 56, 57, 73; (*see* Exhibit 10); Alan Mollohan for Congress, FEC Form 3, October Quarterly 2007, October 11, 2007 pp. 28, 35; Alan Mollohan for Congress, FEC Form 3, July Quarterly 2008, July 14, 2008, p. 7 (Exhibit 24).

<sup>113</sup> Bresnahan, *Roll Call*, May 8, 2006.

<sup>114</sup> Sharyl Attkisson, The "Pros" Of The Earmark Game, *CBS News*, January 11, 2008 (Exhibit 25).

<sup>115</sup> Id.

<sup>116</sup> ProLogic Website: <http://www.prologic-inc.com> (Exhibit 26).

<sup>117</sup> Alan Mollohan for Congress, FEC Form 3, October Quarterly Report 1998, October 13, 1998, p. 1; Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2000, April 10, 2000, p.1; Alan Mollohan for Congress, FEC Form 3, July Quarterly Report 2000, July 10, 2000, p. 2; Alan Mollohan for Congress, FEC Form 3, October Quarterly Report 2000, October 12, 2000, p. 6; Alan Mollohan for Congress, FEC Form 3, Mid-Year Report 2001, July 17, 2001, p.17; Alan Mollohan for Congress, FEC Form 3, Year End Report 2001, January 23, 2002, pp. 39, 50, 56; Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2004, April 14, 2004, pp. 59, 84, 100; Alan Mollohan for Congress, FEC Form 3, July Quarterly Report 2005, July 8, 2005, p. 23; Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2006, April 10, 2006, pp. 33, 42, 43, 76, 87 (Exhibit 27).

<sup>118</sup> Rep. Alan Mollohan, Member/Officer Travel Disclosure Form, filed on July 23, 2004 (Exhibit 28).

A ProLogic spokesman said that Rep. Mollohan did not earmark for the company in fiscal year 2007 or 2008;<sup>119</sup> however, in fiscal year 2007, the company received over \$55 million dollars in federal contracts. Of that amount, at least \$24 million was allocated to projects in Rep. Mollohan's district.<sup>120</sup>

### **Federal Investigation**

Rep. Mollohan has claimed that he has not been informed by the Justice Department that he is the target of an investigation.<sup>121</sup> Nevertheless, he recused himself from a March 2008 hearing at which FBI Director Robert Mueller testified due to the ongoing investigation.<sup>122</sup>

## **2009 UPDATE**

### **Federal Investigation/Legal Fees**

Rep. Mollohan spent over \$157,000 on legal fees and services in the 2008 election cycle.<sup>123</sup> Despite an ongoing investigation, Rep. Mollohan did not recuse himself from working on the fiscal year 2010 Commerce, Science and Justice appropriations bill, which controls funding of the Justice Department.<sup>124</sup> As of July 2009, Rep. Mollohan had not released a letter he claims to have written, recusing himself from working on these issues in January 2007.<sup>125</sup>

### **West Virginia High Technology Consortium Foundation**

Several additional companies with offices at the WVHTCF run office park have continued to maintain a close relationship with Rep. Mollohan by supporting both his campaign and the Mollohan Family Foundation.<sup>126</sup>

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<sup>119</sup> Bill Byrd, ProLogic 'Believes it Has Acted Responsibly', *Times West Virginian*, January 25, 2008 (Exhibit 29).

<sup>120</sup> Fed Spending Database, Contracts to ProLogic Inc. (FY 2007), [www.FedSpending.org](http://www.FedSpending.org) (Exhibit 30).

<sup>121</sup> Kate Ackley, Rachel Van Dongen and Elizabeth Brotherton, Morning Business, *Roll Call*, October 16, 2007 (Exhibit 31).

<sup>122</sup> Andrew Noyes, FBI Director Grilled On Use of Increase in Funding Level, *Congress Daily*, April 1, 2008 (Exhibit 32).

<sup>123</sup> Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2007, April 12, 2007, p. 59; Alan Mollohan for Congress, FEC Form 3, July Quarterly Report 2007 Amended, August 13, 2007, pp. 49, 50, 56; Alan Mollohan for Congress, FEC Form 3, October Quarterly Report 2007, October 11, 2007, p. 67; Alan Mollohan for Congress, FEC Form 3, Year End Report 2007, January 28, 2008, pp. 28, 32; Alan Mollohan for Congress, FEC Form 3, July Quarterly Report 2008, July 14, 2008, p. 22; Alan Mollohan for Congress, FEC Form 3, Post-General Report 2008, December 3, 2008, p. 34 (Exhibit 33).

<sup>124</sup> John Carlisle, Pelosi AWOL as Mollohan Still Controls Budget of Those Investigating Him, *National Legal and Policy Center Blog Post*, July 16, 2009 (Exhibit 34).

<sup>125</sup> Id.

<sup>126</sup> Paul Singer, Six Degrees of Alan Mollohan, *Roll Call*, January 29, 2009 (Exhibit 35).

## **Information Manufacturing Corporation**

Information Manufacturing Corporation (IMC) is owned by Mineral Holding Company, which is owned by Jim Cava and Robert Hytner.<sup>127</sup> Since 1998, Mr. Cava and Mr. Hytner, their families, and employees of IMC contributed over \$140,000 to Rep. Mollohan's campaign and PAC.<sup>128</sup> This year, Robert and Joanne Hytner each contributed \$2,300 to Rep. Mollohan's campaign committee.<sup>129</sup> IMC also supports the Mollohan Family Foundation, most notably with a \$10,000 donation in 2006.<sup>130</sup>

Perhaps coincidentally, from 2000 to 2008, IMC received millions of dollars in federal contracts including more than \$84 million in contracts from the National Oceanic and Atmospheric Administration (NOAA).<sup>131</sup> The appropriations subcommittee that Rep. Mollohan chairs is responsible for NOAA's budget.<sup>132</sup>

## **Electronic Warfare Associates, Inc.**

Electronic Warfare Associates, Inc. (EWA) is another company with a long relationship with Rep. Mollohan.<sup>133</sup> EWA employees and their family members have contributed over \$161,000 to Rep. Mollohan's campaign and PAC since 1998.<sup>134</sup> In 2006, EWA also contributed \$25,000 to the Mollohan Family Foundation.<sup>135</sup> In addition to having office space at the WVHTCF, Frank Blake, an EWA vice president, sits on the board of the WVHTCF.<sup>136</sup>

EWA received a \$4 million earmark from Rep. Mollohan in 2007.<sup>137</sup> EWA's new offices on the WVHTCF campus were partially financed by the Department of Commerce Economic Development Administration, which falls under the appropriations jurisdiction of Rep. Mollohan's subcommittee.<sup>138</sup>

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<sup>127</sup> Id.

<sup>128</sup> Id.

<sup>129</sup> Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2009, April 9, 2009, pp. 6-7 (Exhibit 36).

<sup>130</sup> Singer, *Roll Call*, Jan. 29, 2009.

<sup>131</sup> Id.; Fed Spending Database, Contracts to Information Manufacturing Corp. (FY 2000- FY 2008), [www.fedspending.org](http://www.fedspending.org) (Exhibit 37).

<sup>132</sup> Singer, *Roll Call*, Jan. 29, 2009.

<sup>133</sup> Id.

<sup>134</sup> Id.

<sup>135</sup> Id.

<sup>136</sup> Singer, *Roll Call*, Jan. 29, 2009; <http://www.wvhtf.org/about/leadership/> (Exhibit 38).

<sup>137</sup> Singer, *Roll Call*, Jan. 29, 2009.

<sup>138</sup> Id.

## **Randall West and Robison International**

Rep. Mollohan had close ties to Robison International, a lobbying firm run by retired Major General Randall L. West.<sup>139</sup> Robison International represented several of Rep. Mollohan's largest campaign donors, including Azimuth, IMC, Lockheed Martin, and Boeing.<sup>140</sup> It also represented FMW Composite Systems, to which Rep. Mollohan helped steer federal funds.<sup>141</sup> FMW's owner is Dale McBride, who invested in real estate with Rep. Mollohan.<sup>142</sup> Finally, Robison International represented the Mollohan-linked non-profits, WVHTCF and ISR.<sup>143</sup>

In 2006, the Mollohan Family Foundation announced it would start accepting money for a fund named after Gen. West.<sup>144</sup> Gen. West admitted to lobbying Rep. Mollohan on behalf of his West Virginia clients.<sup>145</sup>

Employees of Robison International have donated over \$34,000 to Rep. Mollohan's campaigns, including \$6,900, to date, in the 2010 cycle.<sup>146</sup>

## **The Robert H. Mollohan Family Charitable Foundation**

In March 2009, *Roll Call* revealed the WVHTCF provided the Mollohan Family Foundation \$75,000 in free rent and administrative services in 2005, which was around the time Rep. Mollohan was earmarking millions for WVHTCF.<sup>147</sup>

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<sup>139</sup> Ken Silverstein, *Inappropriate Appropriations*, *Harper's*, April 26, 2006 (Exhibit 39).

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

<sup>143</sup> Silverstein, *Harper's*, Apr. 26, 2006.

<sup>144</sup> Paul Singer, *Roll Call*, Jan. 29, 2009.

<sup>145</sup> *Id.*

<sup>146</sup> Alan Mollohan for Congress, FEC Form 3, Pre-Primary Report 1998, May 1, 1998, p. 1; Alan Mollohan for Congress, FEC Form 3, Year End Report 2001, January 23, 2001, p. 46; Alan Mollohan for Congress, FEC Form 3, Pre-Primary Report 2002, April 26, 2002, pp. 6, 8-9; Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2004, April 14, 2004, pp. 49, 118, 119; Alan Mollohan for Congress, FEC Form 3, July Quarterly Report 2005, July 8, 2005, p. 26; Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2006, April 10, 2006, pp. 44, 102; Alan Mollohan for Congress, FEC Form 3, October Quarterly Report 2006, October 10, 2006, p. 69; Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2007, April 12, 2007, p. 34; Alan Mollohan for Congress, FEC Form 3, July Quarterly Report 2007, July 10, 2007, pp. 22, 34; Alan Mollohan for Congress, FEC Form 3, October Quarterly Report 2007, October 11, 2007, pp. 18, 19, 51; Alan Mollohan for Congress, FEC Form 3, April Quarterly Report 2008, April 9, 2008, p. 7; Alan Mollohan for Congress, FEC Form 3, Pre-Primary Report 2008, May 1, 2008 p. 5; Alan Mollohan for Congress, FEC Form 3, Year End Report 2008, April 22, 2009, p. 5; Alan Mollohan for Congress, FEC Form 3, July Quarterly Report 2009, July 14, 2009, p. 5, 7, 11 (Exhibit 40).

<sup>147</sup> Paul Singer, Mollohan Charity Got Rent Deal, *Roll Call*, March 10 2009 (Exhibit 41).

### **Acceptance of a Bribe**

Substantial contributions received by Rep. Mollohan's campaign committee and private foundation from companies that benefited from earmarks inserted by the congressman raise a serious question as to whether there was a direct exchange in violation of the bribery statute.

### **Honest Services Fraud**

By using his position as a Member of Congress to financially benefit his private foundation, Rep. Mollohan 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, 1346.

### **Illegal Gratuity**

To the extent Rep. Mollohan has accepted donations to his family charity in exchange for earmarking federal funds to government contractors who make those donations, he may have violated the illegal gratuity statute.

### **5 U.S.C. § 7353 and House Rules**

If Rep. Mollohan accepted donations to his private family charity or his campaign committee in exchange for earmarking federal funds to government contractors who make those donations, he may have violated 5 U.S.C. § 7353 and House Rule 23.

### **5 C.F.R. § 2635.702(a)**

By funneling federal funds to companies that help finance his family foundation and his campaigns, Rep. Mollohan may also have violated 5 C.F.R. § 2635.702(a), which prohibits members from taking actions for the prospect of personal gain for themselves or others.