

REPRESENTATIVE JOHN P. MURTHA

Representative John P. Murtha (D-PA) is a nineteen-term member of Congress, representing Pennsylvania's 12th congressional district. Rep. Murtha chairs the Defense Appropriations Subcommittee of the House Appropriations Committee. Rep. Murtha's ethics issues and violations stem from (1) his ties to the PMA Group, a now defunct lobbying firm under federal investigation; (2) his ties to Kuchera Industries, a defense contractor under federal investigation; (3) his ties to defense executives and former military personnel convicted of skimming money from government contracts; (4) actions he may have taken on behalf of his brother's lobbying clients; and (5) his chief of staff's threats to a political opponent.

Rep. Murtha's failure to become majority leader in the House is attributed in large part to the ethical questions about his conduct.¹ Rep. Murtha was included in CREW's 2006, 2007, and 2008 reports on congressional corruption.

PMA Group

Paul Magliocchetti worked with Rep. Murtha as a senior staffer on the Defense appropriations subcommittee for ten years.² After leaving the committee, Mr. Magliocchetti founded the PMA Group, which has become a prominent Washington, D.C. defense lobbying firm.³ 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 \$274,649.⁴ In the 2004 and 2002 cycles, PMA and nine of the firm's clients ranked in the top twenty contributors having given \$236,799⁵ and \$279,074,⁶ respectively. *Roll Call* has reported that PMA employees and clients contributed \$800,000 to Rep. Murtha's campaigns during a six-year period.⁷

So far in the 2008 election cycle, the PMA group and its clients have contributed \$106,000 to Rep. Murtha's campaign committee and PAC.⁸ Of the PMA clients listed as contributors for the 2008 cycle, nine were ranked in the top 20 donors to Rep. Murtha for the

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

² Howard Kurtz, Targeting Murtha, *Washington Post*, November 15, 2006 (Exhibit 2).

³ Id.

⁴ The Center for Responsive Politics, John P. Murtha: Top Contributors, 2006 election cycle, www.opensecrets.org (Exhibit 3).

⁵ The Center for Responsive Politics, John P. Murtha: Top Contributors, 2004 election cycle, www.opensecrets.org (Exhibit 4).

⁶ The Center for Responsive Politics, John P. Murtha: Top Contributors, 2002 election cycle, www.opensecrets.org (Exhibit 5).

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

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

2006 election cycle.⁹

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.¹⁰

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.¹¹ 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.¹² The Center is apparently a subsidiary of Concurrent Technology Corporation (CTC), a non-profit technology innovation center in Rep. Murtha's district which has received hundreds of millions of dollars in earmarks in recent years.¹³ 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.¹⁴

CTC describes itself as an "independent, non-profit, applied research and development professional services organization providing innovative management and technology-based solutions."¹⁵ The corporation has 1,500 employees and a number of buildings, including the John P. Murtha Technology Center.¹⁶ According to the organization's 2005 tax forms, it received \$243,960,365 in 2005, of which \$212,739,257 consisted of government grants.¹⁷ 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 \$374,208.¹⁸ The organization paid the PMA Group \$452,659, but claimed to spend only \$302,392 on lobbying.¹⁹ It also paid Sarkady, "a global consulting company, committed to developing courageous, visionary leaders who can transform

⁹ The Center for Responsive Politics, John P. Murtha: Top Contributors, 2006 election cycle, www.opensecrets.org.

¹⁰ 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).

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

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ www.ctc.com (Exhibit 11).

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

¹⁷ Concurrent Technologies Corporation, 2005 Tax Form 990, filed December 4, 2006 (Exhibit 13).

¹⁸ Id.

¹⁹ Id.

corporations into high performance engines of financial wealth and social value,”²⁰ \$285,327.²¹

Since 2000, CTC employees, board members, and their families have donated \$113,375 to Rep. Murtha’s election campaigns²² and since 2006, have donated \$3,250 to his political action committee, Majority PAC.²³ 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.²⁴

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

Since 2002, Conemaugh Health System employees, board members and their family members have contributed \$47,750 to Rep. Murtha’s campaign committee.²⁶

Since 2000, employees of DRS Technologies and their family members have donated \$83,500 to Rep. Murtha.²⁷ Since 2002, the firm’s political action committee, DRS Technology Good Government Fund, has donated \$35,000 to Rep. Murtha’s campaign committee and his PAC.²⁸

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

²⁰ www.sarkadyprocess.com (Exhibit 14).

²¹ See Concurrent Technologies Corporation, 2005 Tax Form 990, filed Dec. 4, 2006.

²² Murtha for Congress Committee, FEC Form 3 Reports, 2000-2007 (pages listing contributions attached, Exhibit 15).

²³ 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).

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

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

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

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

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

²⁹ 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).

Since 2002, employees of L. Robert Kimball and Associates and their families have donated \$33,700 to Rep. Murtha's campaign committee.³⁰ Since 2006, Employees of the firm have also donated \$6,000 to Rep. Murtha's PAC.³¹

Since 2002, employees of Kuchera Defense Industries and their family members have donated \$61,400 to Rep. Murtha's campaign committee³² and since 2006, they have contributed an additional \$6,000 to his PAC.³³

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

Since 2000, Northrop Grumman's PAC has contributed a total of \$34,500 to Rep. Murtha's campaign committee and PAC.³⁶

Since 2000, employees of St. Francis University and their families have donated \$15,500 to Rep. Murtha's campaign campaign.³⁷

Since 2000, employees, board members, and family member of Windber Research Institute have donated \$21,250 to Rep. Murtha's campaign committee and PAC.³⁸ Additionally, since 2006, employees of Windber Research Institute have also contributed \$2,200 to Rep. Murtha's political action committee.³⁹

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

³¹ 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).

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

³³ 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).

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

³⁵ 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).

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

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

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

³⁹ 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.⁴⁰ It is well-settled that accepting a contribution to a political campaign can constitute a bribe if a *quid pro quo* can be demonstrated.⁴¹

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 CTC 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.⁴² 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, 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.⁴³ 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.⁴⁴

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

⁴⁰ 18 U.S.C. § 201(b)(2)(A).

⁴¹ *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).

⁴² *See Information*, *United States v. Jack A. Abramoff*, CA 1:06-cr-00001(D.D.C. Jan. 3, 2006), ¶ 26.

⁴³ 18 U.S.C. § 201(c)(1)(B).

⁴⁴ *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398 (1999).

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.⁴⁵

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.”⁴⁶ 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, CTC 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.”⁴⁷ 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.

⁴⁵ *In the Matter of Representative Mario Biaggi*, H.R. Rep. No. 100-506, 100th Cong., 2d Sess. (1988) (recommending expulsion of the member from the House); *In the Matter of Representative Daniel J. Flood*, H.R. Rep. No. 96-856, 96th Cong., 2d Sess. (1980).

⁴⁶ 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.

⁴⁷ 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.

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.”⁴⁸

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 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.”⁴⁹ This ethics standard is considered to be “the most comprehensive provision” of the code.⁵⁰ 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.⁵¹ 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,⁵² making false statements to the Committee,⁵³ criminal convictions for bribery,⁵⁴ or accepting illegal gratuities,⁵⁵ and accepting gifts from persons with interest in legislation in violation of the gift rule.⁵⁶

⁴⁸ Id.

⁴⁹ Rule 23, clause 1.

⁵⁰ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 12.

⁵¹ 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).

⁵² 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).

⁵³ 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).

⁵⁴ 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)).

⁵⁵ 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).

⁵⁶ 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).

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 23, 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."⁵⁷ 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."⁵⁸

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."⁵⁹ On May 22, 2007, a resolution aimed at reprimanding Rep. Murtha for threatening Rep. Rogers' earmark was permanently tabled on a 219-189 vote.⁶⁰ Rep. Michael Doyle (D-PA) was the only member of the House ethics committee to vote to table the resolution.⁶¹ The other members of the committee voted present, except for Chair Stephanie Tubbs Jones (D-OH) who did not vote.⁶² Finally, on May 23, 2007, Rep. Murtha apologized to Rep. Rogers for his "outburst."⁶³

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.⁶⁴ 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.⁶⁵ 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.⁶⁶ After his conversation with

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

⁵⁸ Id.

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

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

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

⁶² Id.

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

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

⁶⁵ Id.

⁶⁶ Id.

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.⁶⁷

House Rules

House Rule 23, 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, 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 21.

Rule 21, 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 23, clause 16 and do not reflect creditably on the House.

2008 UPDATE

PMA Group

PMA clients have continued to donate and receive federal funding. The fiscal year 2008 Defense Appropriations Bill steered at least \$100.5 million to PMA clients.⁶⁸ The bill included 36 projects for 24 of their clients.⁶⁹ So far in the 2008 cycle, 10 of Rep. Murtha's top 20 donors

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

⁶⁸ Tory Newmyer, Ample Earmarks Aid PMA Clients, *Roll Call*, September 17, 2007 (Exhibit 41).

⁶⁹ Id.

are PMA clients.⁷⁰ Those PMA clients, the PMA Group itself, as well as other PMA clients including, Conemaugh Health Systems, Windber Research Institute and L. Robert Kimball have all donated a combined \$190,880 to Rep. Murtha's campaign committee and PAC since the second quarter of 2007.⁷¹

Concurrent Technologies Corporation

Concurrent Technologies Corporation (CTC) employees and executives have donated \$9,050 to Rep. Murtha's campaign committee⁷² and \$2,000 to his PAC since the second quarter of 2007.⁷³ According to CTC's 2006 IRS 990 form, the non-profit received \$225,589,223 in funding from the federal government.⁷⁴ CTC the PMA Group \$456,349⁷⁵ for consulting but claimed lobbying expenditures of \$316,892.⁷⁶ Daniel DeVos, the president and chief executive officer, received compensation of \$638,816; John Pursley, Jr., the executive vice president, received \$519,131; Michael Katz, senior vice president and chief operating officer, received \$454,254; Edward Sheehan, Jr., senior vice president and chief financial officer, received \$442,330; and 14 other top compensated employees received between \$222,350 and \$392,613.⁷⁷

Critics of CTC have charged that earmarked federal funds have resulted in few new developments.⁷⁸ A Pentagon inspector general audit found that CTC subsidiary, the National

⁷⁰ Center for Responsive Politics, John P. Murtha: Top Contributors, 2008 election cycle, www.opensecrets.org ; The PMA Group, Lobbying Disclosures, Second Quarter 2008, Secretary of the Senate, Office of Public Record (Exhibit 42).

⁷¹ See Murtha for Congress Committee, FEC Form 3 Reports, 2007-2008, (pages listing contributions attached Exhibit 7); 21st Century Systems Inc PAC, FEC Form 3, Mid-Year Report 2007, July 30, 2007, pp. 15-17; Radix Technologies Inc PAC (Argon St), FEC Form 3, Year-End Report 2007, April 2, 2008, p. 1; General Dynamics Voluntary Political Contribution Plan, FEC Form 3, October Monthly Report 2007, October 9, 2007, p. 193; General Dynamics Voluntary Political Contribution Plan, FEC Form 3, March Monthly Report 2008, March 14, 2008, pp. 33, 34; General Dynamics Voluntary Political Contribution Plan, FEC Form 3, April Monthly Report 2008, April 10, 2008, p. 78; Lockheed Martin Employees PAC, FEC Form 3, April Monthly Report 2007, April 20, 2007, p. 149; Lockheed Martin Employees PAC, FEC Form 3, November Monthly Report 2007, November 20, 2007, p. 457; Lockheed Martin Employees PAC, FEC Form 3, April Monthly Report 2008, April 17, 2008, pp. 140, 153; Majority PAC, FEC Form 3, April Quarterly Report 2007, April 5, 2007, p. 6; Majority PAC, FEC Form 3, Year-End Report 2007, January 26, 2008, p. 6; Majority PAC, FEC Form 3, April Quarterly Report 2008, July 10, 2008, pp. 6, 15 (Exhibit 43).

⁷² Murtha for Congress Committee, FEC Form 3, October Quarterly Report 2007, October 11, 2007, pp. 6, 8, 10; Murtha for Congress Committee, FEC Form 3, Year-End Report 2007, July 25, 2008, pp. 64-66; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2008, July 25, 2008, pp. 26, 36, 83, 89 (Exhibit 44).

⁷³ Majority PAC, FEC Form 3, April Quarterly Report 2007, April 5, 2007, p. 21; Majority PAC, FEC Form 3, April Quarterly Report 2008, July 10, 2008, p. 21 (Exhibit 45).

⁷⁴ Concurrent Technologies Corporation, 2006 Tax Form 990, filed November 15, 2007 (Exhibit 46).

⁷⁵ Id.

⁷⁶ Id.

⁷⁷ Id.

⁷⁸ Robert O'Harrow Jr., A Contractor, Charity and Magnet for Federal Earmarks, *Washington Post*, November 2, 2007 (Exhibit 47).

Defense Center for Environmental Excellence, had demonstrated 63 technologies between 1990 and 2000, of which only a third were transferred over to the Defense Department,⁷⁹ and of those only one technology has been used at more than one site.⁸⁰ In that ten year period the center received \$212 million in appropriations.⁸¹ A former CTC director characterized much of the non-profit's work as never getting off the planning table.⁸²

Although, CTC continues to maintain a close relationship with Rep. Murtha, the non-profit has built other relationships on the Hill.⁸³ It has opened offices in both Democratic and Republican districts leading to more sources of federal funding.⁸⁴ Congress has earmarked at least \$226 million for CTC since 2003.⁸⁵

Another CTC subsidiary to draw scrutiny is the non-profit Commonwealth Research Institute (CRI). In the fall of 2007, it was revealed that CRI hired a civilian Air Force employee for two months while the official awaited White House approval for his appointment.⁸⁶ The employee, Charles Riechers, testified before the Senate Armed Service Committee that while being paid a salary of \$13,400 a month by CRI he did not actually do any work for the group.⁸⁷ In fact, Mr. Riechers was hired as a senior technical advisor before he had even met CRI executives.⁸⁸

In April of 2008, the FBI and the Pentagon Defense Criminal Investigation Service issued subpoenas seeking information regarding contracts awarded to CRI and its parent company CTC.⁸⁹ Investigators sought information about seven contracts,⁹⁰ four of which were awarded to CTC over several weeks in May and June 2002 and worth up to \$130 million.⁹¹ Investigators also wanted information regarding a 2002 CRI deal worth \$10 million and a 2006 no-bid contract worth up to \$45 million.⁹² Investigators retrieved computers and contracting

⁷⁹ OFFICE OF INSPECTOR GENERAL, DEPARTMENT OF DEFENSE: AUDIT ON IMPLEMENTATION OF NATIONAL DEFENSE CENTER FOR ENVIRONMENTAL EXCELLENCE PROJECTS, REPORT NO. D-2001-105 [hereinafter IG AUDIT ON NATIONAL DEFENSE CENTER FOR ENVIRONMENTAL EXCELLENCE] at 1 (April 25, 2001) (Exhibit 48).

⁸⁰ O'Harrow, *Washington Post*, Nov. 2, 2007.

⁸¹ IG AUDIT ON NATIONAL DEFENSE CENTER FOR ENVIRONMENTAL EXCELLENCE.

⁸² O'Harrow, *Washington Post*, Nov. 2, 2007.

⁸³ Id.

⁸⁴ Id.

⁸⁵ Id.

⁸⁶ Robert O'Harrow Jr., Air Force Told to Detail No-Work Deal, *Washington Post*, October 6, 2007 (Exhibit 49).

⁸⁷ Id.

⁸⁸ Id.

⁸⁹ Robert O'Harrow Jr., Pentagon, FBI Probing Air Force Contracts, *Washington Post*, April 18, 2008 (Exhibit 50).

⁹⁰ Robert O'Harrow Jr., Government Probes at Least 7 Defense Contracts for Charity, *Washington Post*, June 7, 2008 (Exhibit 51).

⁹¹ Id.

⁹² Id.

records to investigate whether an Air Force contract with CRI was properly awarded.⁹³ All contracts were issued by the Department of the Interior's National Business Center, other audits have found that the department has issued contracts without competition or checks to determine if prices were reasonable.⁹⁴ The Defense Department's inspector general's office is also investigating the relationship between the Air Force and CRI.⁹⁵

Additionally, in 2007, Sen. Charles Grassley began an inquiry into why CTC has been considered a tax exempt charity.⁹⁶

ProLogic Earmarks

Rep. Murtha has also earmarked for ProLogic, Inc., a small software company under federal investigation for allegedly diverting federal funds to develop software for commercial sale.⁹⁷ Despite the federal probe investigating the abuse of taxpayer money, Rep. Murtha inserted a \$2.4 million earmark for the company for fiscal year 2008.⁹⁸ Since 2002, executives and spouses of ProLogic have donated \$42,900 to Rep. Murtha's campaign committee,⁹⁹ and \$10,000 to Rep. Murtha's PAC.¹⁰⁰ Additionally, ProLogic's PAC has donated \$18,000 to both Rep. Murtha's campaign committee and PAC.¹⁰¹ ProLogic was a PMA client.¹⁰²

⁹³ Id.

⁹⁴ O'Harrow *Washington Post*, June 7, 2008.

⁹⁵ Id.

⁹⁶ Robert O'Harrow Jr, Murtha Backed Center of Little Use to Pentagon, *Washington Post*, December 30, 2007 (Exhibit 52).

⁹⁷ John R. Wilke, How Lawmaker Rebuilt Hometown On Earmarks, *Wall Street Journal*, October 30, 2007 (Exhibit 53).

⁹⁸ Sharyl Attkisson, Follow the Money, *CBS News*, January 11, 2008 (Exhibit 54).

⁹⁹ Murtha for Congress Committee, FEC Form 3, July Quarterly Report 2002, July 10, 2002, pp. 118, 119; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2002, October 2, 2002, pp. 90, 91, 155; Murtha for Congress Committee, FEC Form 3, July Quarterly Report 2003, September 15, 2003, pp. 27, 56; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2004, July 7, 2004, pp. 69, 154; Murtha for Congress Committee, FEC Form 3, July Quarterly Report 2005, August 31, 2005, pp. 70, 154, 157; Murtha for Congress Committee, FEC Form 3, July Quarterly Report 2006, pp. 59, 122, 123; Murtha for Congress Committee, FEC Form 3, April Quarterly Report 2007, September 13, 2007, pp. 23, 32, 81, 82 (Exhibit 55).

¹⁰⁰ Majority PAC, FEC Form 3, October Quarterly Report 2006, October 12, 2006, p. 8; Majority PAC, FEC Form 3, April Quarterly Report 2007, April 5, 2007, p. 6 (Exhibit 56).

¹⁰¹ ProLogic Inc PAC, FEC Form 3, March Monthly Report 2004, March 4, 2004, p. 8; ProLogic Inc PAC, FEC Form 3, July Monthly Report 2005, March 1, 2006, p. 9; ProLogic Inc PAC, FEC Form 3, June Monthly Report 2006, June 19, 2006, p. 12; ProLogic Inc PAC, FEC Form 3, September Monthly Report 2006, September 19, 2006, p. 15; ProLogic Inc PAC, FEC Form 3, April Monthly Report 2007, April 18, 2007, p. 12 (Exhibit 57).

¹⁰² PMA Group, Lobbying Reports Second Quarter 2008, Secretary of the Senate, Office of Public Record (Exhibit 58).

Other Earmarks

Companies that received earmarks in the fiscal year 2008 Defense Appropriation Bill have continued to donate to Rep. Murtha's campaign committee and PAC. Among them, Advanced Acoustic Concepts, Conemaugh Health Systems, DRS Technologies, L. Robert Kimball, MTS Technologies, and Windber Research Institute, have also retained the services of the PMA Group.¹⁰³

Since 2002, executives of Advanced Acoustic Concepts have donated \$28,500 to Rep. Murtha's campaign committee.¹⁰⁴ In addition, since 2003, Advanced Acoustic Concepts' corporate PAC has donated \$40,000 to Rep. Murtha.¹⁰⁵

Since the second quarter of 2007, employees of Conemaugh Health Systems have donated \$6,000 to Rep. Murtha.¹⁰⁶

Since the second quarter of 2007, executives of DRS have donated \$16,700 to Rep. Murtha's campaign committee.¹⁰⁷ Also during that period, DRS's corporate PAC has donated \$10,000 to Rep. Murtha's campaign committee¹⁰⁸ and \$10,000 to his PAC.¹⁰⁹

¹⁰³ PMA Group, Lobbying Reports Second Quarter 2008, Secretary of the Senate, Office of Public Record (Exhibit 59).

¹⁰⁴ Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2002, October 2, 2002, pp. 34, 35, 135, 136, 247, 248; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2004, July 7, 2004, pp. 25, 108, 109, 199; Murtha for Congress Committee, FEC Form 3, July Quarterly Report 2005, August 31, 2005, pp. 27, 111, 161, 193, 194; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2008, July 25, 2008, p. 17 (Exhibit 60).

¹⁰⁵ Advanced Acoustic Concepts PAC, FEC Form 3, Year-End Report 2003, February 6, 2004, p. 2; Advanced Acoustic Concepts PAC, FEC Form 3, April Quarterly Report 2004, April 14, 2004, p. 40; Advanced Acoustic Concepts PAC, FEC Form 3, Mid-Year Report 2005, July 20, 2005, p. 177; Advanced Acoustic Concepts PAC, FEC Form 3, Mid-Year Report 2007, July 31, 2007, pp. 178, 179; Advanced Acoustic Concepts PAC, FEC Form 3, Year-End Report 2007, April 15, 2008, p. 206; Advanced Acoustic Concepts PAC, FEC Form 3, April Quarterly Report 2008, April 15, 2008, p. 26 (Exhibit 61).

¹⁰⁶ Murtha for Congress Committee, FEC Form 3, October Quarterly Report 2007, October 11, 2007, pp. 5, 6, 8; Murtha for Congress Committee, FEC Form 3, Year-End Report 2007, July 25, 2008, p. 18; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2008, July 25, 2008, pp. 8, 59 (Exhibit 62).

¹⁰⁷ Murtha for Congress Committee, FEC Form 3, April Quarterly Report 2007, September 13, 2007, p. 109; Murtha for Congress Committee, FEC Form 3, October Quarterly Report 2007, October 11, 2007, pp. 15, 23; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2008, July 25, 2008, pp. 11, 13, 35, 37, 42, 66, 87, 92, 93, 106, 108; Murtha for Congress Committee, FEC Form 3, July Quarterly Report 2008, July 11, 2008, pp. 12, 21, 33 (Exhibit 63).

¹⁰⁸ DRS Technologies Inc. Good Government Fund, FEC Form 3, Mid-Year Report 2007, January 28, 2008, p. 73; DRS Technologies Inc. Good Government Fund, FEC Form 3, March Monthly Report 2008, March 19, 2008, p. 27 (Exhibit 64).

¹⁰⁹ DRS Technologies Inc. Good Government Fund, FEC Form 3, Mid-Year Report 2007, January 28, 2008, p. 58; DRS Technologies Inc. Good Government Fund, FEC Form 3, March Monthly Report 2008, March 19, 2008, p. 22 (Exhibit 65).

Since the third quarter of 2007, executives of L. Robert Kimball and Associates have donated \$3,500 to Rep. Murtha's campaign committee.¹¹⁰

Since the second quarter of 2007, executives of MTS Technologies have donated \$7,100 to Rep. Murtha's campaign committee.¹¹¹

Since the third quarter of 2007, employees and executives of the former Windber Research Institute, have donated \$5,480 to Rep. Murtha's campaign committee.¹¹²

Since the second quarter of 2007, employees of Kuchera Defense have donated \$11,500 to Rep. Murtha campaign committee.¹¹³ Additionally, in 2008, William Kuchera, President of Kuchera Defense Systems, donated \$1,000 to Rep. Murtha's PAC.¹¹⁴

2009 UPDATE

PMA Group

In November 2008, federal authorities raided the offices of the PMA Group and the home of its founder, Paul Magliocchetti.¹¹⁵ The PMA Group is being investigated for allegedly violating campaign finance laws by using "straw" donors to make contributions to lawmakers, concealing the true source of the money.¹¹⁶ In some cases, lawmakers received contributions from individuals listed as PMA lobbyists despite the fact that the individuals were never employees of the firm.¹¹⁷ Additionally, Mr. Magliocchetti may have reimbursed his employees for contributions made to candidates.¹¹⁸ After news of the raid broke, the lobbying shop closed its doors on March 31, 2009.¹¹⁹

¹¹⁰ Murtha for Congress Committee, FEC Form 3, October Quarterly Report 2008, October 11, 2007, p. 13; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2008, July 25, 2008, pp. 54, 55 (Exhibit 66).

¹¹¹ Murtha for Congress Committee, FEC Form 3, Year-End Report 2007, July 25, 2008, pp. 53, 70, 75; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2008, July 25, 2008, pp. 78, 107 (Exhibit 67).

¹¹² Murtha for Congress Committee, FEC Form 3, October Quarterly Report 2007, October 11, 2007, pp. 12, 20; Murtha for Congress Committee, FEC Form 3, Year-End Report 2007, July 25, 2008, pp. 30-32, 49; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2008, July 25, 2008, pp. 30, 31, 50 (Exhibit 68).

¹¹³ Murtha for Congress Committee, FEC Form 3, Year-End Report 2007, July 25, 2008, pp. 38, 64 (Exhibit 69).

¹¹⁴ Majority PAC, FEC Form 3, April Quarterly Report 2008, July 10, 2008, p. 15 (Exhibit 70).

¹¹⁵ David Kirkpatrick and Charlie Savage, Star Lobbyist Close Shop Amid F.B.I. Inquiry, *New York Times*, March 30, 2009 (Exhibit 71).

¹¹⁶ Sarah Fitzpatrick, Amid PMA Probe, Rep. Visclosky Relinquished Chairmanship, *Washington Post*, June 2, 2009 (Exhibit 72).

¹¹⁷ Carol D. Leonnig, Despite Listing, Donors Don't Work for Firm Being Probed, *Washington Post*, February 14, 2009 (Exhibit 73).

¹¹⁸ Id.

¹¹⁹ Roxana Tiron, Visclosky Steers Clear of PMA Earmarks, *The Hill*, April 3, 2009 (Exhibit 74).

Since February 2009, Rep. Jeff Flake (R-AZ) has offered at least eight privileged resolutions about the PMA Group and asked for a House Ethics Committee investigation of the link between earmarks and campaign contributions.¹²⁰ Rep. Flake's first resolution did not seek any action related to any one member or any specific lobbying firm and called only for an investigation into "the relationship between earmark requests already made by Members and the source and timing of past campaign contributions."¹²¹ But Rep. Flake's second resolution, made in March 2009, called for an investigation into the "relationship between earmark requests on the behalf of clients of the raided firm [the PMA Group] already made by Members and the source and timing of past campaign contributions related to such requests."¹²² Rep. Flake continued offering these resolutions periodically, but withheld his ninth resolution in deference to a similar measure put forward by House Majority Leader Steny Hoyer (D-MD) in June 2009.¹²³ With each new resolution Rep. Flake attracted an increasing numbers of Democratic supporters, including Rep. Pete Visclosky (D-IN) a potential target of an Ethics Committee investigation.¹²⁴

On June 3, Rep. Hoyer brought his resolution, H. Res. 500, to the floor, which directed the Ethics Committee "to report to the House of Representatives on the actions the Committee has taken concerning any misconduct of Members and employees of the House in connection with the activities of the PMA Group."¹²⁵ The resolution came after months of Democratic resistance to Rep. Flake's efforts to compel an Ethics Committee investigation of the PMA Group.¹²⁶ The Democratic measure asked the Ethics Committee to disclose what, if any, action it had taken concerning the PMA Group, but did not require the committee to conduct an investigation, as Rep. Flake and House Republicans wanted.¹²⁷ The vote on Rep. Hoyer's resolution was largely along party lines with 17 members, including those on the Ethics Committee, voting present.¹²⁸ The resolution gave the Ethics Committee 45 day to respond to the House of Representatives.¹²⁹ On June 11, the Ethics Committee responded that it was investigating "certain, specific allegations within the committee's jurisdiction" relating to the

¹²⁰ Patrick O'Conner and John Bresnahan, Dems Fear Defections in PMA Probe, *Politico*, March 30, 2009; Press Release, Office of Rep. Jeff Flake, Congressman Flake to Offer Privileged Resolution on Earmarks This Week, June 1, 2009 (Exhibit 75).

¹²¹ H.R. Res. 189, 111TH Cong. (2009) (Exhibit 76).

¹²² H.R. Res. 212, 111TH Cong. (2009) (Exhibit 77).

¹²³ Press Release, Office of Rep. Jeff Flake, House Punts Again on PMA Investigation, June 3, 2009 (Exhibit 78).

¹²⁴ O'Conner and Bresnahan, *Politico*, Mar. 30, 2009.

¹²⁵ H.R. Res. 500, 111TH Cong. (2009) (Exhibit 79).

¹²⁶ John Bresnahan, Dems Push Through PMA Resolution, *Politico*, June 3, 2009 (Exhibit 80).

¹²⁷ Id.

¹²⁸ Id.

¹²⁹ *See* H.R. Res. 500, 111TH Cong. (2009).

PMA Group¹³⁰ The Ethics Committee's statement did not mention any specific lawmaker by name, and Rep. Murtha's spokesperson said the committee had not contacted his office.¹³¹

Prior to that, in April 2009, four good-government groups – Democracy 21, Common Cause, Public Citizen and U.S. PIRG – wrote the House Ethics Committee urging the committee to open an investigation into the activities of the PMA Group and Rep. Murtha, Rep. Pete Visclosky (D-PA), and Rep. James Moran (D-VA).¹³² The groups asked the committee to examine whether these members were influenced by campaign contributions in exchange for earmarks for the PMA Group clients.¹³³

Despite the investigations into PMA's practices, lawmakers have continued to earmark for the firm's former clients.¹³⁴ Thus far in fiscal year 2009, former PMA Group clients have received \$317 million in earmarks, with Rep. Murtha requesting \$16.2 million of that total for Parametric Technology Corporation; Ardiem Medical; MobilVox; DRS Technologies; and MTS Technologies.¹³⁵ In exchange, these companies made contributions to Rep. Murtha's campaign committee and political action committee:

Since 2005, Parametric Technology Corporation's political action committee has donated \$25,000 to Rep. Murtha's campaign committee and political action committee.¹³⁶

Since 2007, employees of Adriem Medical have donated \$3,500 to Rep. Murtha's campaign committee.¹³⁷

Since 2002, employees of MobilVox have donated \$33,400 to Rep. Murtha's campaign

¹³⁰ Press Release, Committee on Standards of Official Conduct, U.S. House of Representatives, June 11, 2009; Glenn Thrush, Ethics Committee Launches PMA Probe, *Politico*, June 11, 2009 (Exhibit 81).

¹³¹ Id.

¹³² Letter from Democracy 21, Common Cause, Public Citizen and U.S. PIRG to Chairwoman Zoe Lofgren and Ranking Member Jo Bonner, House Committee on Standards of Official Conduct, April 30, 2009 (Exhibit 82).

¹³³ Id.

¹³⁴ Roxana Tiron, PMA's Clients Win \$317M in Earmarks, *The Hill*, June 25, 2009 (Exhibit 83).

¹³⁵ Id.

¹³⁶ Parametric Technology Corporation PAC, FEC Form 3, June Monthly Report 2005, June 20, 2005, p. 7; Parametric Technology Corporation PAC, FEC Form 3, June Monthly Report 2006, July 20, 2006, p. 7; Parametric Technology Corporation PAC, FEC Form 3, October Monthly Report 2006, October 20, 2006, p. 7; Parametric Technology Corporation PAC, FEC Form 3, Post-General Report 2006, June 20, 2006, p. 8; Parametric Technology Corporation PAC, FEC Form 3, April Monthly Report 2007, April 20, 2007, p. 8; Parametric Technology Corporation PAC, FEC Form 3, March Monthly Report 2008, March 21, 2008, p. 8; Parametric Technology Corporation PAC, FEC Form 3, October Monthly Report 2008, June 22, 2009, p. 6 (Exhibit 84).

¹³⁷ Murtha for Congress Committee, FEC Form 3, April Quarterly Report 2007, April 13, 2007, p. 87; Murtha for Congress Committee, FEC Form 3, Pre-Primary Report 2008, July 25, 2008, p. 22; Murtha for Congress Committee, FEC Form 3, October Quarterly Report 2008, October 14, 2008, p. 25 (Exhibit 85).

committee and political action committee.¹³⁸

Since the third quarter of 2008, employees of DRS Technologies have donated \$6,600 to Rep. Murtha's campaign committee.¹³⁹ In total, employees of DRS Technologies have donated \$90,100 to Rep. Murtha since 2000.¹⁴⁰ The company'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 2002.¹⁴¹

Since the third quarter of 2008, employees of MTS Technologies have donated \$2,000 to Rep. Murtha's campaign committee.¹⁴² In total, employees of MTS technology have donated \$76,200 to Rep. Murtha since 2001.¹⁴³ In addition, since 2006, employees of MTS have contributed \$9,000 to Rep. Murtha's political action committee.¹⁴⁴

Since 1998, Rep. Murtha has accepted \$2,378,552 from PMA Group employees and clients of the firm, making him the biggest recipient of contributions from the firm.¹⁴⁵

Electro-Optics Center Investigation

The Electro-Optics Center (EOC) is a joint program between the University of Pennsylvania and the Office of Naval Research established in 1999 with the assistance of Rep. Murtha.¹⁴⁶ The EOC was intended to generate high-tech jobs in western Pennsylvania and has received nearly \$250 million in funding from Rep. Murtha.¹⁴⁷

¹³⁸ Murtha for Congress Committee, FEC Form 3 Reports, 2002-2009 (pages listing contributions attached, Exhibit 86).

¹³⁹ Murtha for Congress Committee, FEC Form 3, Post-General Report 2008, December 2, 2008, pp. 20, 100, 112, 168 (Exhibit 87).

¹⁴⁰ Id.; See Murtha for Congress Committee, FEC Form 3 Reports, 2000-2007 (pages listing contributions attached, Exhibit 21).

¹⁴¹ See Murtha for Congress Committee, FEC Form 3 Reports, 2001-2007 (pages listing contributions attached, Exhibit 22).

¹⁴² Murtha for Congress Committee, FEC Form 3, Post-General Report 2008, December 2, 2008, pp. 115, 150 (Exhibit 88).

¹⁴³ Id.; See Murtha for Congress Committee, FEC Form 3 Reports, 2001-2007 (pages listing contributions attached, Exhibit 28).

¹⁴⁴ See 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).

¹⁴⁵ Congressmen Overseeing Defense Budget Got \$8 Million from PMA Group and Clients, *Center for Responsive Politics: Capital Eye Blog*, March 2, 2009 (Exhibit 89).

¹⁴⁶ John Bresnahan, Inside Murtha's 'Earmark Factory', *Politico*, March 11, 2009; Carol D. Leonnig, Research Center's Role Faces Scrutiny, *Washington Post*, March 17, 2009 (Exhibit 90).

¹⁴⁷ Id.

Federal investigators are examining the EOC as part of their larger probe of the PMA Group.¹⁴⁸ Records indicate the EOC worked with two individuals closely tied to Rep. Murtha, one a PMA Group lobbyist, Daniel Cunningham, the other a long time friend of the lawmaker now working on his staff, Charlie Horner.¹⁴⁹ Together they guided a large portion of the EOC's funding to firms that had made contributions to the lawmaker.¹⁵⁰ The EOC director worked with the two men to come up with a "wish list" of appropriation earmarks that were delivered to Rep. Murtha's office.¹⁵¹ The EOC heavily favored PMA Group clients when distributing its funding.¹⁵² In fact, one company, nLight, had its request for funding rejected after it dropped the PMA Group as its lobbyist.¹⁵³

According to lobbying disclosures, despite working closely with a PMA Group lobbyist, the EOC did not retain the services of the firm. Rep. Murtha's office has stated that it will not be making any funding requests for the EOC in fiscal year 2009; going forward it will receive its funding directly from military through a competitive bidding process.¹⁵⁴

Concurrent Technologies Corp Tax Status Investigation

Federal authorities continue their investigation into Concurrent Technologies Corporation (CTC) and its subsidiary, Commonwealth Research Institute (CRI).¹⁵⁵ CRI is under particular scrutiny concerning the process in which it was awarded its non-profit status.¹⁵⁶ When CRI petitioned the IRS for tax-exempt status the IRS questioned whether the group's purpose as a research institute was adequate rationale for tax-exempt status and noted that "research results must be made available to the interested public."¹⁵⁷ CRI responded that it planned to work primarily with government contracts, only a small portion of which would be classified; but in the nine years since the group petitioned the government for tax-exempt status it has not published any of its government backed research.¹⁵⁸

Previously, CRI caught the attention of the Pentagon's Office of Inspector General (IG), which was investigating payments made by CRI to an Air Force official awaiting confirmation

¹⁴⁸ Id.

¹⁴⁹ Id.

¹⁵⁰ Leonnig, *Washington Post*, Mar. 17, 2009.

¹⁵¹ Id.

¹⁵² Bresnahan, *Politico*, Mar. 11, 2009.

¹⁵³ Id.

¹⁵⁴ Id.

¹⁵⁵ Robert O'Harrow Jr., Pentagon, FBI Probing Air Force Contracts, *Washington Post*, April 18, 2008 (Exhibit 91).

¹⁵⁶ Sharyl Attkisson and Laura Strickler, FBI Eyes Charity Linked to Rep. Murtha, *CBS News*, June 2, 2009 (Exhibit 92).

¹⁵⁷ Id.

¹⁵⁸ Id.

for work that was never done.¹⁵⁹ Shortly after admitting to a *Washington Post* reporter that he was being paid, but not doing any work in return, the official committed suicide.¹⁶⁰ The IG's investigation has been placed on hold pending the outcome of other probes into Rep. Murtha related entities.¹⁶¹

According to CTC's 2007 IRS 990, the non-profit received \$220,423,075 in funding from the federal government.¹⁶² The group's 990 also indicates that it paid the PMA Group \$461,334 for consulting services.¹⁶³

According to CRI's 2007 IRS 990, the non-profit received \$5,104,829 in funding from the federal government.¹⁶⁴ Since 2003, the group's total funding has jumped from \$632,884 to just over \$5 million.¹⁶⁵

Since the third quarter of 2008, employees of CTC have donated \$2,100 to Rep. Murtha's campaign committee.¹⁶⁶ Federal Election Commission data does not indicate that employees of CRI have made donations to Rep. Murtha. According to Rep. Murtha's congressional website, the lawmaker has not requested any earmarks for CTC or CRI in fiscal year 2010 spending bills.¹⁶⁷

Other Former PMA Group Clients

Since the third quarter of 2008, employees of Advanced Acoustic Concepts have donated \$15,100 to Rep. Murtha's campaign committee.¹⁶⁸

Since the third quarter of 2008, employees of Conemaugh Health Systems have donated \$7,150 to Rep. Murtha's campaign committee.¹⁶⁹

¹⁵⁹ Id.

¹⁶⁰ Attkisson, *CBS News*, Jun. 2, 2009.

¹⁶¹ Id.

¹⁶² Concurrent Technologies Corporation, 2007 Tax Form 990 (Exhibit 93).

¹⁶³ Id.

¹⁶⁴ Commonwealth Research Institute, 2007 Tax Form 990 (Exhibit 94).

¹⁶⁵ Id.

¹⁶⁶ Murtha for Congress Committee, FEC Form 3, October Quarterly Report 2008, October 14, 2008, p. 87; Murtha for Congress Committee, FEC Form 3, Post-General Report 2008, December 2, 2009, p. 45 (Exhibit 95).

¹⁶⁷ Press Release, Office of Rep. John Murtha, Appropriations Fiscal Year 2010 (Exhibit 96).

¹⁶⁸ Murtha for Congress Committee, FEC Form 3, Post-General Report 2008, December 2, 2008, pp. 18, 26, 92, 167; Murtha for Congress Committee, FEC Form 3, Pre-General Report 2008, November 20, 2008, pp. 5, 6, 7, 9 (Exhibit 97).

¹⁶⁹ Murtha for Congress Committee, FEC Form 3, Post-General Report 2008, December 2, 2008, pp. 14, 25, 38, 43, 91, 100, 127, 142, 171; Murtha for Congress Committee, FEC Form 3, October Quarterly Report 2008, October 14, 2008, p. 51 (Exhibit 98).

Since the third quarter of 2008, L. Robert Kimball and Associates's chairman, L. Robert Kimball, has donated \$2,300 to Rep. Murtha's campaign committee.¹⁷⁰

Kuchera Corporation

In January 2009, federal investigators raided the headquarters of Kuchera Corporation as well as the homes of the company's two top executives.¹⁷¹ The investigation concerns the misuse of corporate funds to finance a private ranch owned by the company's president, Bill Kuchera,¹⁷² and contract fraud.¹⁷³ In August 2008, Rep. Murtha held a fundraiser at the ranch, but failed to report any payments or in-kind donations related to the event, in violation of campaign finance law.¹⁷⁴ In response to the investigation surrounding the firm, the U.S. Navy placed the company on its Excluded Parties List, barring the firm from receiving any more federal contracts.¹⁷⁵ The suspension was revoked, however, after Kuchera agreed to alter some of its accounting practices.¹⁷⁶

In 1982, Mr. Kuchera pleaded guilty to a single felony count related to drug trafficking and spent less than a year in prison.¹⁷⁷ After his release Mr. Kuchera approached his uncle, then the owner of Kuchera Industries, based in Racine, Wisconsin for a job.¹⁷⁸ When Mr. Kuchera's partner in the drug-running operation, Peter Whorley, was released from prison in 1986, he approached Mr. Kuchera and invested \$50,000 in the fledgling company in exchange for a share of the profits.¹⁷⁹ Mr. Whorley also help connect Kuchera Industries with government contracts from the Census Bureau.¹⁸⁰ Later, Mr. Whorley was again convicted of selling drugs and sent to prison.¹⁸¹

¹⁷⁰ Murtha for Congress Committee, FEC Form 3, Post-General Report 2008, December 2, 2008, p. 84 (Exhibit 99).

¹⁷¹ Paul Singer, Murtha Had Long Relationship With Defense Firm, *Roll Call*, January 23, 2009 (Exhibit 100).

¹⁷² Shawn Piatek, Federal Probe Focuses on Kuchera Corporate Officers, LBK Game Ranch, *Tribune-Democrat*, January 23, 2009 (Exhibit 101).

¹⁷³ Dennis B. Roddy, Defense Firm Head Admits Early Role in Illegal Drugs, *Pittsburgh Post-Gazette*, June 5, 2009 (Exhibit 102).

¹⁷⁴ Susan Crabtree, Fundraiser for Murtha May Have Broken Campaign Finance Rules, *The Hill*, February 17, 2009 (Exhibit 103).

¹⁷⁵ Kuchera Appeals Order Banning Work with Navy, *Tribune-Democrat*, May 28, 2009 (Exhibit 104).

¹⁷⁶ Pete Yost, Suspension Lifted for Contractor Tied to Murtha, *Associated Press*, August 14, 2009 (Exhibit 105).

¹⁷⁷ Roddy, *Pittsburgh Post-Gazette*, Jun. 5, 2009.

¹⁷⁸ Carol D. Leonnig and Alice Crites, Firms Tied to Murtha Have Troubled Past, *Washington Post*, June 5, 2009 (Exhibit 106).

¹⁷⁹ Id.

¹⁸⁰ Id.

¹⁸¹ Id.

In 1993, Mr. Kuchera joined with his brother Ron Kuchera and misled their uncle into selling Kuchera Industries to a shell company controlled by the brothers.¹⁸² The following year, the brothers moved the company to Windber, Pennsylvania into Rep. Murtha's district, with the goal of winning defense contracts from the lawmaker.¹⁸³ With encouragement from Rep. Murtha, Kuchera Industries partnered with Hughes Aircraft and started winning contracts from the government.¹⁸⁴ Mr. Kuchera's felony conviction never barred his company from winning contracts to handle sensitive government work.¹⁸⁵

Kuchera Industries also qualified as a small, disadvantaged business because at least 20% of its employees are disabled.¹⁸⁶ In fact, Mr. Kuchera for a time served on the board of the Pennsylvania Association for Individuals with Disabilities (PAID), a non-profit with the mission to help disabled people find work in western Pennsylvania.¹⁸⁷ PAID was founded with the assistance of Rep. Murtha in partnership with a former aide to the lawmaker and current lobbyist for KSA Consulting, Carmen Scialabba.¹⁸⁸

Since 2001, Rep. Murtha has directed approximately \$50 million in earmarks to Kuchera Industries.¹⁸⁹ In turn, since 2002, employees of Kuchera Industries and their families have donated to \$90,500 to Rep. Murtha's campaign committee.¹⁹⁰ Additionally, since 2006, employees as well as their families have donated \$7,000 to Rep. Murtha's PAC.¹⁹¹ Kuchera Industries shares links with a host of other Rep. Murtha connected organizations, including lobbyists and defense contractors.¹⁹²

KSA Consulting

KSA Consulting is a lobbying firm that has employed Rep. Murtha's brother, Robert "Kit" Murtha, as well as Mr. Scialabba.¹⁹³ Mr. Scialabba joined KSA Consulting after leaving

¹⁸² Leonnig and Crites, *Washington Post*, June 5, 2009.

¹⁸³ Id.

¹⁸⁴ Id.

¹⁸⁵ Randy Griffith, Kuchera Haunted by '82 Drug Conviction, *Tribune-Democrat*, June 6, 2009 (Exhibit 107).

¹⁸⁶ Leonnig and Crites, *Washington Post*, June 5, 2009.

¹⁸⁷ Jonathan Weismann, Nonprofit Connects Murtha, Lobbyists, *Washington Post*, December 25, 2006 (Exhibit 108).

¹⁸⁸ Id.

¹⁸⁹ Leonnig and Crites, *Washington Post*, June 5, 2009.

¹⁹⁰ Murtha for Congress Committee, FEC Form 3 Reports, 2002-2008 (pages listing contributions attached, Exhibit 109).

¹⁹¹ Majority PAC, FEC Form 3, October Quarterly Report 2006, October 12, 2006, pp. 19, 20; Majority PAC, FEC Form 3, April Quarterly Report 2007, July 11, 2007, p. 14; Majority PAC, FEC Form 3, April Quarterly Report 2008, July 10, 2008, p. 15 (Exhibit 110).

¹⁹² Yost, *Associated Press*, Aug. 14, 2009.

¹⁹³ Ken Silverstein and Richard Simon, Lobbyist's Brother Guided House Bill, *Los Angeles Times*, June 13, 2005 (Exhibit 111).

the House Appropriations Committee where he worked as an aide to Rep. Murtha.¹⁹⁴ Clients of the lobbying firm that have received earmarks from Rep. Murtha include Aeptec Microsystems, Coherent Systems International, MountainTop Technologies, and KDH Technologies.¹⁹⁵

Mr. Murtha was personally invited to join KSA Consulting as a lobbyist in 2002 by Mr. Scialabba, where he established a reputation as an “earmark specialist.”¹⁹⁶ In 2004, Congress passed a \$417 billion defense appropriations bill, which included earmarks benefitting at least 10 companies represented by KSA Consulting.¹⁹⁷ Records show that KSA Consulting directly lobbied Rep. Murtha’s office for seven of those companies.¹⁹⁸ Mr. Murtha retired from KSA Consulting in 2006.¹⁹⁹

Pennsylvania Association for Individuals with Disabilities (PAID)

In 2001, Mr. Scialabba with the help of Rep. Murtha, who was instrumental in securing the \$500,000 in start-up funds, founded the Pennsylvania Association for Individuals with Disabilities (PAID).²⁰⁰ The non-profit’s purpose is to help disabled workers find work in rural Pennsylvania, but it also serves as another conduit for lobbyists and defense contractors to connect with Rep. Murtha.²⁰¹ At one time, PAID’s board of directors included five government contractors, including Ron Kuchera of Kuchera Industries, and at least three KSA lobbyists sat on its advisory board.²⁰²

MountainTop Technologies

MountainTop Technologies (MTT) is a defense contractor that primarily develops content for web-based training programs, but has in recent years diversified to provide other services.²⁰³ The company was a client of KSA Consulting until 2004, and “Kit” Murtha lobbied

¹⁹⁴ Weisman, *Washington Post*, Dec. 25, 2006.

¹⁹⁵ Paul Singer, Companies Follow Murtha’s Earmark Trial, *Roll Call*, June 25, 2007; KSA Consulting, Lobbying Termination 2004, Client: Aeptec Microsystems, Secretary of the Senate, Office of Public Records; KSA Consulting, Lobbying Termination 2008, Client: Coherent Systems International, Secretary of the Senate, Office of Public Records; KSA Consulting, Lobbying Termination 2004, Client: MountainTop Technologies, Secretary of the Senate, Office of Public Records (Exhibit 112).

¹⁹⁶ Silverstein and Simon, *Los Angeles Times*, Jun. 13, 2005; Meet the New Boss, *Wall Street Journal*, November 15, 2006 (Exhibit 113).

¹⁹⁷ Silverstein and Simon, *Los Angeles Times*, Jun. 13, 2005.

¹⁹⁸ Id.

¹⁹⁹ *Wall Street Journal*, Nov. 15, 2006.

²⁰⁰ Weisman, *Washington Post*, Dec. 25, 2006

²⁰¹ <http://www.paid-online.org/aboutpaid.htm>; Weisman, *Washington Post*, Dec. 25, 2006 (Exhibit 114)

²⁰² Id.

²⁰³ <http://www.mntntp.com/about/index.htm> (Exhibit 115).

for the company.²⁰⁴ In the past five years, MTT, based in Rep. Murtha's district, has been awarded at least \$36 million in contracts, most without competition.²⁰⁵ The Justice Department is investigating how a company with little experience in law-enforcement was selected to administer \$10 million in Justice Department grants distributed to local Pennsylvania police departments.²⁰⁶ Rep. Murtha selected MTT via a succession of earmarks to administer the program and distribute the funds, which often were handed out before fall elections and with the explanation that it was made possible by the lawmaker.²⁰⁷ MTT has grown significantly since it was first founded in 1993 and has branched out to military and aviation related work, but often has to hire outside specialists to help complete its contracted work.²⁰⁸

KDH Technologies

KDH Technologies received its first government contract in 2004, sewing bullet-proof vests for the U.S. Navy, before the company even had a manufacturing facility.²⁰⁹ The company had, however, expressed interest in opening a facility in Rep. Murtha's district.²¹⁰ In 2003, KDH became a client of KSA Consulting and Rep. Murtha's brother lobbied for the company until his retirement in 2006.²¹¹

Rep. Murtha earmarked at least \$3 million for KDH to develop an underwater sonar system to detect swimmers for the Navy, although the company has no expertise in building sonar systems.²¹² In 2004, KDH president David Herbener made a presentation to Department of Defense about the project and claimed he had already secured an earmark worth \$1 million in fiscal year 2005 from Rep. Murtha.²¹³ Also at that meeting, Mr. Herbener claimed that KDH intended to partner with two other Johnstown based contractors, Kuchera Industries and Coherent Systems International (CSI).²¹⁴ Those plans never came to fruition; lawyers for Kuchera contend they never worked with KDH and CSI dropped out of the deal within days of the contract signing.²¹⁵ Instead, KDH eventually partnered with a British company, Curtis

²⁰⁴ See KSA Consulting, Termination Report 2005, Client: MountainTop Technologies, Secretary of the Senate, Office of Public Records.

²⁰⁵ Carol D. Leonnig, Justice Dept. Investigates Pa. Contractor Tied to Murtha, *Washington Post*, May 25, 2009 (Exhibit 116).

²⁰⁶ Id.

²⁰⁷ Id.

²⁰⁸ Id.

²⁰⁹ Singer, *Roll Call*, June 25, 2007.

²¹⁰ Id.

²¹¹ Silverstein and Simon, *Los Angeles Times*, Jun.13, 2005; KSA Consulting, Lobbying Report 2009, Client: KDH Technologies, Secretary of the Senate, Office of Public Records; KSA Consulting, Lobbying Report 2003, 2006, Client: KDH Technologies, Secretary of the Senate, Office of Public Records (Exhibit 117).

²¹² Paul Singer, Murtha Earmarks Funded Garment Company's Sonar Project, *Roll Call*, July 7, 2009 (Exhibit 118).

²¹³ Id.

²¹⁴ Id.

²¹⁵ Id.

Technology, an expert in sonar, to finish the engineering work, but the project was continually delayed, and the partnership resulted in a court battle.²¹⁶ In the interim, the Navy decided to purchase a system from another company.²¹⁷

Despite losing its customer, KDH saw its contract move from the Navy to the Army when the procurement officer in charge of the sonar project moved from the Navy to the Army.²¹⁸ Finally, last fall KDH completed a prototype, but said it would have to be re-engineered before it could be mass produced.²¹⁹

Aeptec Microsystems, Coherent Systems International and Schaller Engineering

Aeptec Microsystems is a defense contractor based in Rockville, Maryland.²²⁰ In 2004, the company opened an office in Rep. Murtha's district, but never moved in to it.²²¹ Aeptec retained the services of KSA Consulting and Rep. Murtha's brother.²²² At one time the company was also a client of the PMA Group.²²³ From 2000 through 2004 the company saw its federal grants jump from \$13 million to \$33 million.²²⁴ The firm maintained other ties with Rep. Murtha, it was as an early supporter of PAID, the non-profit the lawmaker formed with his aide, Mr. Scialabba.²²⁵

In 2005, the House passed a military spending bill securing funding for countries coping with the aftermath of the December 2004 tsunami.²²⁶ Included in that bill was an earmark worth \$8.2 million for Coherent Systems International (CSI) to build a unified battlefield communications platform, but the project had earlier been awarded to Aeptec.²²⁷ For unknown reasons the relationship between Rep. Murtha and Aeptec dissolved and the company saw its

²¹⁶ Singer, *Roll Call*, Jul. 7, 2009.

²¹⁷ Id.

²¹⁸ Id.

²¹⁹ Id.

²²⁰ Singer, *Roll Call*, Jun. 25, 2007.

²²¹ Id.

²²² KSA Consulting, Lobbying Report 2004, Client: Aeptec Microsystems, Secretary of the Senate, Office of Public Records (Exhibit 119).

²²³ Singer, *Roll Call*, Jun. 25, 2007.

²²⁴ Id.

²²⁵ Paul Singer, Murtha Apparently Moved Earmark Between Brother's Clients, *Roll Call*, June 3, 2009 (Exhibit 120).

²²⁶ Id.

²²⁷ Id.

funding stripped, allegedly by Rep. Murtha's office, and transferred to CSI.²²⁸ Also, in the end of 2004, KSA Consulting filed termination papers ending its relationship with Aeptec.²²⁹

According to court documents and a plea agreement, after CSI received the battlefield communications system earmark that had been stripped from Aeptec, the company's president, Richard Ianieri, sub-contracted the work out to five other firms.²³⁰ All five firms, including Kuchera Industries, have worked with lobbying firms tied to Rep. Murtha.²³¹ Prosecutors allege that work was either never completed on the project, or work was done for projects unrelated to the original earmark.²³² In July 2009, Mr. Ianieri pleaded guilty to charges that he accepted \$200,000 in bribes from an employee of Kuchera Industries.²³³ CSI and Kuchera had very close ties; in fact in 2006 Rep. Murtha touted the relationship, claiming the two companies were working "virtually as one."²³⁴

Schaller Engineering, owned by Richard Schaller, was sub-contracted by Mr. Ianieri to provide tracking systems²³⁵ at a price of \$200,000.²³⁶ In July 2009, Mr. Schaller was found guilty of destroying records and perjuring himself before a grand jury.²³⁷ The government accused Mr. Schaller, his business partner, Theodore Sumrall, and the defense department procurement officer in charge of the project, Mark O'Hair, of splitting the money between themselves and not delivering the devices.²³⁸ Just prior to his trial, Mr. O'Hair pleaded guilty to charges he had skimmed money from the contract.²³⁹ Schaller Engineering was a client of the PMA Group in 2005 and 2006.²⁴⁰

²²⁸ Id.

²²⁹ See KSA Consulting, Termination Report 2004, Client: Aeptec Microsystems, Secretary of the Senate, Office of Public Records.

²³⁰ Carol D. Leonnig, New Charges for Man Tied to Rep. Murtha, *Washington Post*, July 10, 2009 (Exhibit 121).

²³¹ Id.

²³² Id.

²³³ *Testimony of Richard S. Ianieri*, United States of America v. Richard Schaller, Crim No. 3:08cr75/LAC (N.D. Fla. 29, 2009) p. 4 ¶¶ 1, 4 (Exhibit 122).

²³⁴ Carol D. Leonnig, Bribery Plea in Probe of Firm With Murtha Ties, *Washington Post*, July 8, 2009 (Exhibit 123).

²³⁵ Paul Singer, Murtha-Linked Firm Charged, *Roll Call*, July 8, 2009 (Exhibit 124).

²³⁶ Melissa Nelson, Ex-Air Force Officer Guilty of Lying on Contracts, *Associated Press*, July 31, 2009 (Exhibit 125).

²³⁷ Id.

²³⁸ Singer, *Roll Call*, Jul. 8, 2009.

²³⁹ Paul Singer, Ex-Air Force Employee Pleads Guilty in Case Tied to Murtha Earmark, *Roll Call*, July 20, 2009 (Exhibit 126).

²⁴⁰ The PMA Group, Lobbying Registration 2005, Client: Schaller Engineering, Secretary of the Senate, Office of Public Records; The PMA Group, Termination Report 2006, Client: Schaller Engineering, Secretary of the Senate, Office of Public Records (Exhibit 127).

In September 2005, Mr. Kuchera, Mr. Schaller, Mr. Ianieri and Mr. O’Hair, along with two lobbyists from KSA, met with a staffer from Rep. Murtha’s district office to discuss opportunities to provide communication equipment to the military.²⁴¹

Threats to Political Opponents

John Hugya is Rep. Murth’s chief of staff.²⁴² At a National Rifle Association meeting in March 2009, Mr. Hugya approached Rep. Murtha’s Republican opponent in the 2008 election, William Russell, and threatened to have him recalled to active duty to face prosecution.²⁴³ Mr. Hugya had earlier made a similar threat to Mr. Russell’s former commanding officer.²⁴⁴ Mr. Russell retired from the U.S. Army Reserves in June 2008, but was on active duty for part of the congressional race.²⁴⁵ Regulations prohibit members of the military from campaigning for political office while serving.²⁴⁶

Robert C. Murtha, Jr.

Rep. Murtha’s nephew, Robert C. Murtha, Jr., operates Murtech Inc., a warehouse management and engineering services firm.²⁴⁷ Mr. Murtha’s company received \$4 million in Pentagon contracts in 2008 alone.²⁴⁸ At least one early Murtech contract, worth \$1.4 million, was awarded without competition.²⁴⁹ Documents obtained by the *Washington Post* showed that Mr. Murtha used his uncle’s position to leverage his business, an accusation he firmly denies.²⁵⁰ In one e-mail Mr. Murtha warned that unless the work was moved to Johnstown, PA “financial rewards” would be endangered for everyone.²⁵¹ Furthermore, Mr. Murtha and his company have been accused of not doing any real work on the federal contacts he received, and that the role his company played in the federal work was unnecessary.²⁵²

²⁴¹ Singer, *Roll Call*, Jul. 20, 2009.

²⁴² John Bresnahan, John Murtha Opponent Says Aide Threatened Him, *Politico*, May 13, 2009 (Exhibit 128).

²⁴³ Id.

²⁴⁴ Id.

²⁴⁵ Id.

²⁴⁶ Mike Faher, 6 Months After Election, Russell Still Sparring with Murtha Camp, *Tribune-Democrat*, May 8, 2009 (Exhibit 129).

²⁴⁷ David Kirkpatrick, Murtha’s Nephew Named a Lobbyist for the Marines, *New York Times*, May 1, 2009 (Exhibit 130).

²⁴⁸ Carol D. Leonnig and Alice Crites, Murtha’s Nephew Got Defense Contracts, *Washington Post*, May 5, 2009 (Exhibit 131).

²⁴⁹ Id.

²⁵⁰ Carol D. Leonnig, Nephew Mentioned Rep. Murtha in Dealings as Contractor, *Washington Post*, May 12, 2009. (Exhibit 132).

²⁵¹ Id.

²⁵² Id.

Former Staffers

In addition to Mr. Magliocchetti and Mr. Scialabba, at least five former aides to the lawmaker have gone on to lucrative careers in lobbying:²⁵³

David Morrison is a former staff assistant for the House Defense Appropriations Subcommittee and, since 2008, a lobbyist for the Podesta Group.²⁵⁴ One of Mr. Morrison's clients is the University of Pittsburgh.²⁵⁵ In a fiscal year 2010 appropriations bill, Rep. Murtha requested a \$3 million earmark for the school for a program to digitize health records.²⁵⁶

Greg Dalhberg is a former staff assistant for the House Defense Appropriations subcommittee and, since 2003, a lobbyist for Lockheed Martin.²⁵⁷

Greg Walters is a former staff assistant for the House Defense Appropriations Subcommittee.²⁵⁸ From 2003 to 2004, Mr. Walters was a registered lobbyist for the PMA Group, and since 2005, he has been a registered lobbyist for Lockheed Martin.²⁵⁹

David Kilian is a former minority staff assistant for the House Appropriations Committee.²⁶⁰ Since 2004, Mr. Kilian has been registered to lobby for Innovative Federal Strategies, f/k/a Copeland Lowery Jacquez Denton & White.²⁶¹ In 2005 and 2006, Mr. Kilian was also registered to lobby for his own company, David Kilian Strategies.²⁶² From 2006 through 2009, Mr. Kilian has lobbied on behalf of MountainTop

²⁵³ Susan Crabtree, PMA's Fallout Shines Spotlight on Revolving Door of Lobbyist, *The Hill*, June 22, 2009 (Exhibit 133).

²⁵⁴ http://www.legistorm.com/person/David_H_Morrison/18735.html; Podesta Group, Lobbying Report 2009, Client: University of Pittsburgh Medical Center, Secretary of the Senate, Office of Public Record (Exhibit 134).

²⁵⁵ Id.

²⁵⁶ Crabtree, *The Hill*, June 22, 2009.

²⁵⁷ http://www.legistorm.com/person/Gregory_R_Dahlberg/55214.html; Lockheed Martin, Lobbying Report 2004, Client: Self, Secretary of the Senate, Office of Public Records (Exhibit 135).

²⁵⁸ http://www.legistorm.com/person/Gregory_J_Walters/55216.html (Exhibit 136).

²⁵⁹ PMA Group, Lobbying Report 2003, Client: Government Relations and Legislative Counsel, Secretary of the Senate, Office of Public Records; PMA Group, Termination Report 2004, Client: Noesis Inc, Secretary of the Senate, Office of Public Records; (Exhibit 137); *See* Lockheed Martin, Lobbying Report 2005, Client: Self, Secretary of the Senate, Office of Public Records (Exhibit 135).

²⁶⁰ http://www.legistorm.com/person/David_F_Kilian/48098.html (Exhibit 138).

²⁶¹ Innovative Federal Strategies, Lobbying Registration 2004, Client: Biotech-Pharma Advisory, LLC., Secretary of the Senate, Office of Public Records (Exhibit 139).

²⁶² David Kilian Consulting Services, Lobbying Registration 2005, Client: Self, Secretary of the Senate, Office of Public Records; David Kilian Consulting Services, Lobbying Termination 2006, Client: MountainTop Technologies, Secretary of the Senate, Office of Public Records (Exhibit 140).

Technologies while working for both firms.²⁶³

Scott Harshman worked for Rep. Murtha in various capacities starting in 1994 until 2003, when he left his job as district economic development coordinator to start his own lobbying firm, Harshman Consulting.²⁶⁴ One of Mr. Harshman's clients is Nokomis Inc., a defense contractor for which Rep. Murtha has requested earmarks worth \$6 million for anti-improvised explosive device technology.²⁶⁵

Gabrielle Carruth is a former member of the House Appropriations associate staff, after she left the committee, she joined Argon ST as the company's first in-house lobbyist.²⁶⁶ In 2009, she terminated her lobbying registration with the company and registered to lobby with Lockheed Martin.²⁶⁷

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.²⁶⁸ It is well-settled that accepting a contribution to a political campaign can constitute a bribe if a *quid pro quo* can be demonstrated.²⁶⁹

If, as it appears, Rep. Murtha accepted donations to his campaign and political action committees in direct exchange for earmarking federal funds, 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.²⁷⁰ By using

²⁶³ Id.; David Kilian Consulting Services, Lobbying Termination 2006, Client: MountainTop Technologies, Secretary of the Senate, Office of Public Records; Innovative Federal Strategies, Lobbying Registration 2006, Client: MountainTop Technologies, Secretary of the Senate, Office of Public Records; Innovative Federal Strategies, Lobbying Termination 2009, Client: MountainTop Technologies, Secretary of the Senate, Office of Public Records (Exhibit 141)

²⁶⁴ Crabtree, *The Hill*, June 22, 2009.

²⁶⁵ Id.

²⁶⁶ Paul Singer, Argon Talks to the Feds, *Roll Call*, May 14, 2009; Argon ST, Lobbying Registration 2008, Client: Self, Secretary of the Senate, Office of Public Records (Exhibit 142).

²⁶⁷ Argon ST, Lobbying Termination 2009, Client: Self, Secretary of the Senate, Office of Public Records; Lockheed Martin, Lobbying Report 2009, Client: Self, Secretary of the Senate, Office of Public Records (Exhibit 143).

²⁶⁸ 18 U.S.C. § 201(b)(2)(A).

²⁶⁹ 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).

²⁷⁰ *See Information*, United States v. Jack A. Abramoff, CA 1:06-cr-00001(D.D.C. Jan. 3, 2006), ¶ 26.

his position as a member of Congress to financially benefit clients of lobbying firms run by people close to him, 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, 1346.

Similarly, if Rep. Murtha directed earmarks to companies for the financial benefit of his nephew, he may have engaged in honest services fraud.

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.²⁷¹ If a link is established between Rep. Murtha's earmarking federal funds for clients of particular lobbying groups 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.²⁷²

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."²⁷³ 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 in exchange for earmarks, he likely violated 5 U.S.C. § 7353 and House Rule XXIII.

²⁷¹ 18 U.S.C. § 201(c)(1)(B).

²⁷² *In the Matter of Representative Mario Biaggi*, H.R. Rep. No. 100-506, 100th Cong., 2d Sess. (1988) (recommending expulsion of the member from the House); *In the Matter of Representative Daniel J. Flood*, H.R. Rep. No. 96-856, 96th Cong., 2d Sess. (1980).

²⁷³ 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.

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.”²⁷⁴ 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.”²⁷⁵

By funneling federal funds to clients of particular lobbying firms and by directing business to a firm that hired his nephew, Rep. Murtha may have dispensed special favors in violation of 5 C.F.R. § 2635.702(a).

Conduct Not Reflecting Creditably on the House

In addition, Rule 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.”²⁷⁶ 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 addition, if Rep. Murtha had his chief of staff threaten to have a political rival recalled to active duty if he again challenged Rep. Murtha, such conduct would not reflect creditably on the House.

²⁷⁴ 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.

²⁷⁵ Id.

²⁷⁶ Rule 23, clause 1.