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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**REPORT**

Review No. 09-9063

The Board of the Office of Congressional Ethics (hereafter the “Board”), by a vote of no less than four members, on November 20, 2009, adopted the following report and ordered it to be transmitted to the Committee on Standards of Official Conduct of the United States House of Representatives.

SUBJECT: Representative Norman Dicks

NATURE OF THE ALLEGED VIOLATION: In Fiscal Year 2009, Representative Norman Dicks authored several earmarks for clients of PMA Group, Inc. (hereafter “PMA”). During campaign cycles 2008 and 2010, Representative Dicks received contributions to his campaign committee and “Leadership PAC” from PMA’s PAC, PMA employees, the PACs of PMA clients for whom he authored earmarks, and the employees of those clients.

If Representative Dicks solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act, then Representative Dicks may have violated 18 U.S.C. § 201(b) (Bribery), 18 U.S.C. § 201(c) (Illegal Gratuities), 5 U.S.C. § 7353 (Gifts to Federal Employees), and House Rules and Standards of Conduct.

RECOMMENDATION: The Board of the Office of Congressional Ethics recommends that the Committee on Standards of Official Conduct dismiss the above allegations.

VOTES IN THE AFFIRMATIVE: 6

VOTES IN THE NEGATIVE: 0

MEMBER OF THE BOARD OR STAFF DESIGNATED TO PRESENT THIS REPORT TO THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Leo Wise, Staff Director & Chief Counsel.

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**FINDINGS OF FACT AND CITATIONS TO LAW**

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OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**FINDINGS OF FACT AND CITATIONS TO LAW**

Review No. 09-9063

On November 20, 2009, the Board of the Office of Congressional Ethics (hereafter the “Board”) adopted the following findings of fact and accompanying citations to law, regulations, rules and standards of conduct (*in italics*). The Board notes that these findings do not constitute a determination as to whether or not a violation actually occurred.

**I. INTRODUCTION**

**A. Summary of Allegations**

1. There is not substantial reason to believe that Representative Dicks solicited or accepted contributions or other items of value in exchange for or because of an official act, or solicited or accepted contributions or other items of value in a manner which gave the appearance that the contributions were linked to an official act.

**B. Jurisdictional Statement**

2. The allegations that were the subject of this review concern Representative Norman Dicks, a Member of the United States House of Representatives from the 6<sup>th</sup> District of Washington. The Resolution the United States House of Representatives adopted creating the Office of Congressional Ethics (hereafter the “OCE”) directs that, “[n]o review shall be undertaken...by the board of any alleged violation that occurred before the date of adoption of this resolution.”<sup>1</sup> The House adopted this Resolution on March 11, 2008. Because the conduct under review occurred after March 11, 2008, review by the Board is in accordance with the Resolution.

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<sup>1</sup> H. Res 895, 110th Cong. §1(e) (2008) (as amended).

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**C. Procedural History**

3. The OCE received a written request for a preliminary review in this matter signed by at least two members of the Board on July 6, 2009. The preliminary review commenced on that date.<sup>2</sup> The preliminary review was scheduled to end on August 5, 2009.
4. At least three members of the Board voted to initiate a second phase review in this matter on August 5, 2009. The second phase review commenced on August 6, 2009.<sup>3</sup> The second-phase review was scheduled to end on September 20, 2009
5. The Board voted to extend the 45-day second phase review by an additional 14 days, as provided by the Resolution, on September 17, 2009. Following the extension, the second-phase review was scheduled to end on October 5, 2009.<sup>4</sup>
6. The Board voted to refer the matter to the Committee on Standards of Official Conduct for dismissal and adopted these findings on November 20, 2009.
7. This report and findings were transmitted to the Committee on Standards of Official Conduct on December 2, 2009.

**D. Summary of Investigative Activity**

8. Due to the nature of the allegations in this review, the OCE's investigation required the collection of information from a number of sources.
9. The OCE reviewed publically available records of campaign contributions to the campaign committees of Members of the House Appropriations Subcommittee on Defense (hereafter the "Defense Subcommittee") from recipients of earmarks during the 2008 and 2010 campaign cycles. The review included campaign contributions to the leadership political action committees (hereafter "PACs"), if any, of these Members.
10. Specifically, the OCE reviewed campaign contributions to these Members from donors that were affiliated with the lobbying firm of Paul Magliocchetti and Associates Group, Inc.

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<sup>2</sup> A preliminary review is "requested" in writing by members of the Board of the OCE. The request for a preliminary review is "received" by the OCE on a date certain. According to H. Res. 895 of the 110<sup>th</sup> Congress (hereafter "the Resolution"), the timeframe for conducting a preliminary review is 30 days from the date of receipt of the Board's request.

<sup>3</sup> According to the Resolution, the Board must vote on whether to conduct a second-phase review in a matter before the expiration of the 30-day preliminary review. If the Board votes for a second-phase, the second-phase begins when the preliminary review ends. The second-phase review does not begin on the date of the Board vote.

<sup>4</sup> *Id.* at § 1(c)(2)(A)(ii) (2008).

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(hereafter “PMA”), *i.e.*, contributions from the PMA PAC, PMA employees, the PACs of corporate clients of PMA (hereafter “PMA clients”) and employees of PMA clients.

11. The OCE also reviewed campaign contributions to Members of the Defense Subcommittee from PACs of non-PMA clients, and employees of non-PMA clients.
12. Beyond Members of the Defense Subcommittee, the investigation included a review of campaign contributions from PMA clients and non-PMA clients to Representatives who are not on the Defense Subcommittee, but authored defense earmarks for PMA clients and non-PMA clients.
13. The OCE requested information from forty PMA clients that received earmarks from Members of the Defense Subcommittee for fiscal years 2008 to 2010.
14. All of the PMA clients that the OCE contacted cooperated with the investigation, except for two.
15. Aeroflex and Kimball and Associates are the only PMA client that refused to cooperate with the investigation.
16. Thirty-eight PMA clients and Representatives’ offices produced documents totaling approximately 200,000 pages. These PMA clients also made witnesses available for interviews upon request of the OCE.
17. Based on the information discovered during the review of the produced documents, the OCE interviewed twenty-six individual PMA client witnesses.
18. In addition, the OCE interviewed six witnesses who were formerly employed as lobbyists with PMA during the 2008 and 2010 campaign cycles.
19. In sum, the OCE requested and received documentary, and in some cases testimonial, information from the following sources:

- (1) 21st Century Systems, Inc.;
- (2) AAR Composites;
- (3) Advanced Acoustic Concepts;
- (4) Advanced Concepts & Technologies Intl.;
- (5) Aircraft Interior Products;
- (6) Applied Global Technologies;
- (7) Argon ST;
- (8) Boeing Corporation;

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- (9) Carnegie Mellon University;
- (10) Coda Octopus Group;
- (11) Concurrent Technologies Corporation;
- (12) Conemaugh Health Systems;
- (13) Cryptek;
- (14) DDL OMNI Engineering;
- (15) DRS Technologies;
- (16) EM Solutions;
- (17) General Atomics;
- (18) General Dynamics;
- (19) Goodrich Corporation;
- (20) Innovative Concepts, Inc.;
- (21) ITT Corporation;
- (22) Lockheed Martin Corporation;
- (23) MobilVox;
- (24) NuVant Systems, Inc.;
- (25) Optimal Solutions & Technologies;
- (26) Parametric Technology Corporation;
- (27) Planning Systems Inc.;
- (28) Profile Systems;
- (29) Prologic, Inc.;
- (30) QTL Biosystems;
- (31) RaySat Antenna Systems;
- (32) Rockwell Collins;
- (33) Samueli Institute;
- (34) Sierra Nevada Corporation;
- (35) Teledyne Continental Motors, Inc.;
- (36) Teledyne Controls;
- (37) Windber Research Institute;
- (38) Xunlight Corporation;
- (39) Vice President, 21<sup>st</sup> Century Systems, Inc.;
- (40) Chief Administrative Officer, 21<sup>st</sup> Century Systems, Inc.;
- (41) Vice President for Communications, 21<sup>st</sup> Century Systems, Inc.;
- (42) PAC Treasurer, 21<sup>st</sup> Century Systems, Inc.;
- (43) General Manager, AAR Composites;
- (44) Chief Operating Officer, AAR Composites;
- (45) Chief Executive Officer, Applied Global Technologies;
- (46) Vice President, Applied Global Technologies;

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- (47) PAC Treasurer, DRS Technologies;
- (48) President, DRS Technologies;
- (49) Chief Operating Officers, Optimal Solutions & Technologies;
- (50) Chief Executive Officer, Optimal Solutions & Technologies;
- (51) Director, Optimal Solutions & Technologies;
- (52) CEO, Samueli Institute;
- (53) Vice President, Sierra Nevada Corporation;
- (54) Congressional Affairs Director, Sierra Nevada Corporation;
- (55) Assistant to Business Development Director, Teledyne Continental Motors, Inc.;
- (56) Business Development Director, Teledyne Continental Motors, Inc.;
- (57) PAC Treasurer, Teledyne Controls;
- (58) General Manager, Teledyne Controls;
- (59) Vice President, Teledyne Controls;
- (60) Director of Contracts, Teledyne Controls;
- (61) Contract Administrator, Teledyne Controls;
- (62) Legislative Affairs Director, Teledyne Controls;
- (63) Associate General Counsel, Teledyne Controls;
- (64) President, Teledyne Controls;
- (65) PMA Lobbyist 1;
- (66) PMA Lobbyist 2;
- (67) PMA Lobbyist 3;
- (68) PMA Lobbyist 4;
- (69) PMA Lobbyist 5;
- (70) PMA Lobbyist 6;
- (71) Representative Norman Dicks;
- (72) Press Secretary for Norman Dicks;
- (73) Military Legislative Assistant for Norman Dicks;
- (74) District Director for Representative Norman Dicks;
- (75) President of Helen Milby & Co.; and
- (76) Employee of Helen Milby & Co.

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**II. THE OCE UNCOVERED NO EVIDENCE THAT REPRESENTATIVE DICKS REQUESTED EARMARKS FOR PMA CLIENTS IN CONNECTION WITH CAMPAIGN CONTRIBUTIONS THAT HE RECEIVED**

**A. Relevant Law, Regulations, Rules or Standard of Conduct**

20. *18 U.S.C. § 201(b) - Bribery of public officials and witnesses*

*“(b) Whoever-*

*(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:*

*(A) being influenced in the performance of any official act . . . .”*

21. *18 U.S.C.A. § 201(c) - Illegal Gratuities*

*“(c) Whoever-*

*(1) otherwise than as provided by law for the proper discharge of official duty—*

*(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person . . . .”*

22. *“An illegal gratuity...may constitute merely a reward for some future act that the public official will take (and may have already determined to take), or for a past act that he has already taken.”<sup>5</sup>*

23. *House Rules and Standards of Conduct*

*“[T]he scope of the House standards of conduct in this area is broader than that of the criminal bribery statute... the House standards of conduct generally preclude any link between the solicitation or receipt of a contribution and a specific official action.”<sup>6</sup>*

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<sup>5</sup> House Ethics Manual (2008) at 79. See also United States v. Sun-Diamond Growers, 526 U.S. 398, 404 (1999).

<sup>6</sup> Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at <http://ethics.house.gov/Investigations/Default.aspx?Section=18>.

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*“Put another way, there are fundraising activities that do not violate any criminal statute but well may violate House standards of conduct.”*<sup>7</sup>

*“[T]here are certain proffered campaign contributions that must be declined, and certain fundraising opportunities that must be forgone, solely because they create an appearance of improper conduct.”*<sup>8</sup>

*“[N]o solicitation of a campaign or political contribution may be linked to an action taken or to be taken by a Member or employee in his or her official capacity.”*<sup>9</sup> In addition, a Member may not accept any contribution that is linked with any specific official action taken or to be taken by that Member.<sup>10</sup>

*“It is probably not wrong for the campaign managers of a legislator...to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff as the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. The Standards Committee has long advised Members and staff that they should always exercise caution to avoid even the appearance that solicitations of campaign contributions are connected in any way with an action taken or to be taken in their official capacity.”*<sup>11</sup>

*“[A] Member should not sponsor or participate in any solicitation that offers donors any special access to the Member in the Member’s official capacity.”*<sup>12</sup>

*“[G]overnment officials should ‘never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not.’”*<sup>13</sup>

*“‘[P]ublic office is a public trust,’ and the public has a right to expect House Members and staff to exercise impartial judgment in performing their duties.”*<sup>14</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> House Ethics Manual (2008) at 147.

<sup>10</sup> Memorandum of the Chairman and Ranking Minority Member, Recommendations for disposition of the complaint filed against Representative DeLay. Accessed online on June 24, 2009 at <http://ethics.house.gov/Investigations/Default.aspx?Section=18>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 5).

<sup>14</sup> *Id.* at 151 (citing Code of Ethics for Government Service, ¶ 10).

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24. 5 U.S.C. § 7353 – *Gifts to Federal Employees*

*“(a) Except as permitted by subsection (b), no Member of Congress...shall solicit or accept anything of value from a person—*

*(1) seeking official action from, doing business with...the individual’s employing entity; or*

*(2) whose interests may be substantially affected by the performance or nonperformance of the individual’s official duties.*

*(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing reasonable exceptions as may be appropriate.*

*(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules and regulations established by such individual’s supervising ethics office pursuant to paragraph (1)*

*(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of an official act.”*

25. *House Ethics Manual – Soliciting Campaign and Political Contributions*

*While the federal gift statute (5 U.S.C. § 7353) broadly restricts the ability of*

*House Members and staff to solicit things of value from virtually anyone, even when no personal benefit to the solicitor is involved, legislative materials concerning the statute state that it does not apply to the solicitation of political contributions. Consistent with those materials, the Standards Committee has long taken the position that the restrictions on solicitation set forth in that statute do not apply to political solicitations. However, in soliciting campaign or political contributions, Members and staff are subject to a number of other restrictions, as follows.*

*A Contribution linked to an Official Action May Not Be Accepted*

*... no solicitation of a campaign or political contribution may be linked to any action taken or to be taken by a Member or employee in his or her official capacity.*

*In a similar vein, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. In this respect, a campaign or political contribution is treated like any other gift, and acceptance of a contribution in these circumstances may implicate a provision of the federal gift statute (5 U.S.C. § 7353) or the criminal statutes on bribery and illegal gratuities.*

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26. Based on the facts collected by the OCE, the Board concludes there is not substantial reason to believe the allegations that are the subject of this review.<sup>15</sup>

**B. Earmark Process**

26. Representative Norman Dicks represents the 6<sup>th</sup> Congressional District of Washington.

27. Representative Dicks is a Member of the House Committee on Appropriations, Subcommittee on Defense.

28. The process for handling Representative Dicks' requests for earmarks for the Subcommittee on Defense is managed by Representative Dicks' Military Legislative Assistant.<sup>16</sup>

29. When vetting earmark requests, Representative Dicks' Military Legislative Assistant reviews each request for "soundness" and the ability to bring value to the military.<sup>17</sup> He also reviews the history of the project because Representative Dicks places a priority on completing prior projects.<sup>18</sup> Representative Dicks' Military Legislative Assistant informed the OCE staff that Representative Dicks prefers to see that companies have created a program of record and that they have received funding from sources other than earmarks.<sup>19</sup>

30. In a particular cycle, Representative Dicks' office receives an average of 120-150 national and non-national earmark requests.<sup>20</sup> Approximately one-third of the requests are for national programs and two-thirds of the requests are for non-national projects.<sup>21</sup> A national request project has the support of the President, non-national projects are non-established programs of record in the Department of Defense.<sup>22</sup>

31. Representative Dicks' Military Legislative Assistant is responsible for separating the national program requests from the non-national project requests and creating a two-tiered list of the non-national project requests.<sup>23</sup> The first tier of the non-national projects

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<sup>15</sup> Rule 9 of the OFFICE OF CONGRESSIONAL ETHICS, RULES FOR THE CONDUCT OF INVESTIGATIONS 11 (2009) provides that "[t]he Board shall refer a matter to the Standards Committee for further review if it determines there is a substantial reason to believe the allegation based on all the information then known to the Board."

<sup>16</sup> Memorandum of Interview of Representative Norman Dicks, July 31, 2009, ("Dicks' MOI") (Exhibit 1 at ¶ 2).

<sup>17</sup> Memorandum of Interview of Representative Norman Dicks' Military Legislative Assistant, July 30, 2009, ("MLA MOI") (Exhibit 2 at ¶ 7).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at ¶ 21.

<sup>20</sup> *Id.* at ¶ 7.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at ¶ 20.

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list includes projects that received support in the past and the second tier includes the remaining requests.<sup>24</sup>

32. After the list is created, Representative Dicks' Military Legislative Assistant schedules meetings for Representative Dicks with representatives of the companies that have submitted requests.<sup>25</sup> Representative Dicks meets with each company's representative for a briefing on each request.<sup>26</sup> The meetings are generally attended by a company official and at times the company's lobbyist and a program manager from the Department of Defense.<sup>27</sup>
33. Representative Dicks asks each company representative for the names of the individuals that they are working with at the Department of Defense so that he can check with the Department to ensure that the agency is interested in the project.<sup>28</sup>
34. Representative Dicks informed the OCE staff that he has served on the Appropriations Subcommittee on Defense for 31 years and that he has always evaluated each request to determine if it was a meritorious project, whether it would diversify the economy of his district, and whether it would build up the private sector economy.<sup>29</sup>

### **C. Campaign Fundraising**

34. During the time period of the 2008 and 2010 campaign cycles, Representative Dicks accepted approximately \$56,000 in campaign contributions from PMA's PAC and employees and from the PAC and employees of PMA clients.<sup>30</sup>
35. Representative Dicks informed the OCE staff that he does very little fundraising; he does not review FEC filings to determine who has contributed to his campaign; and he does not make campaign calls.<sup>31</sup> He explained that he had not been in a competitive race since 1982, and therefore, he did not have to spend his time fundraising.<sup>32</sup>

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<sup>24</sup> *Id.*

<sup>25</sup> Dicks' MOI (Exhibit 1 at ¶ 2).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at ¶ 3.

<sup>29</sup> *Id.* at ¶ 4,5.

<sup>30</sup> Contribution amounts are derived from reports filed with the Federal Election Commission by Norm Dicks for Congress and Retain the Majority.

<sup>31</sup> *Id.* at ¶ 14,15.

<sup>32</sup> *Id.* at ¶ 14.

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36. Representative Dicks Press Secretary informed the OCE staff that Representative Dicks' office did not have an internal policy regarding contributions and earmark requests.<sup>33</sup> He explained that Representative Dicks did not know who made contributions or when contributions were made to his campaign.<sup>34</sup>
37. Representative Dicks' campaign fundraising is primarily handled by Helen Milby & Company.<sup>35</sup> The company handles all of the Congressman's fundraising events that are held in Washington, DC.<sup>36</sup> The company does not handle the events that are held in his district.<sup>37</sup>
38. Representative Dicks typically holds two fundraising breakfasts per year.<sup>38</sup> One is held early in the year and the other is held at the end of the year.<sup>39</sup> The campaign also holds a spring or fall event at the Washington Athletic Club and an event in August at the Kiona Lodge in the Congressman's home state.<sup>40</sup> There is also an event held in Tacoma, Washington and several smaller events, such as receptions, that are held at various times of the year.
39. Representative Dicks' PAC, the National Organization to Retain the Majority, was established on June 16, 2008.<sup>41</sup> Fundraising for the PAC is handled by Representative Dicks' fundraising consultant.<sup>42</sup> The fundraising consultant holds approximately one fundraising event per month for the Congressman.<sup>43</sup>

**D. Relationship with PMA**

38. During the time period of the 2008 and 2010 campaign cycles, four corporate clients of PMA were awarded earmarks requested by Representative Dicks.
39. The PMA clients that received earmarks during this period are:

(a) Concurrent Technologies Corp. (Requested, \$11,400,000)

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<sup>33</sup> Memorandum of Interview of Representative Norman Dicks' Press Secretary, July 31, 2009, ("Press Secretary MOI") (Exhibit 3 at ¶ 4).

<sup>34</sup> *Id.*

<sup>35</sup> Memorandum of Interview of Representative Norman Dicks' Fundraising Consultant, July 31, 2009, ("Consultant MOI") (Exhibit 4 at ¶ 2).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Dicks' MOI (Exhibit 1 at ¶ 7).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at ¶ 8.

<sup>41</sup> *Id.* at ¶ 11.

<sup>42</sup> Consultant MOI (Exhibit 4 at ¶ 2).

<sup>43</sup> *Id.* at ¶ 5.

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(b) 21<sup>st</sup> Century Systems, Inc. (Requested, \$3,200,000)

(c) Advanced Acoustics Concepts (Requested, \$2,800,000)

(d) Planning Systems, Inc. (Requested, \$2,400,000)<sup>44</sup>

40. Representative Dicks informed the OCE staff that he knew Mr. Paul Magliocchetti and that he saw him at social events and possibly at some fundraisers.<sup>45</sup> He further stated that there was no one person at PMA that he dealt with more than any other.<sup>46</sup>

41. Representative Dicks' Military Legislative Assistant informed the OCE staff that he rarely dealt with Mr. Magliocchetti and that he normally met with Mr. Sean Fogharty or Ms. Julie Giardino.<sup>47</sup> He further stated that Representative Dicks had expressed the view that PMA had dealt with the office in a professional matter.<sup>48</sup>

42. Representative Dicks' Military Legislative Assistant further stated that for the last two earmark cycles, Representative Dicks wanted to reduce the office's number of earmark requests and wanted the office to only focus on those projects that were located in his district.<sup>49</sup> He also informed the OCE staff that Concurrent Technologies Corp., 21<sup>st</sup> Century Systems, Inc., Advanced Acoustics Concepts, and Planning Systems Inc. all have offices located in Bremerton, Washington.<sup>50</sup>

43. Representative Dicks informed the OCE staff that in his review of earmark requests, he looks to see if the military is interested in the project, if the company has a presence in his District, and whether the request is for a meritorious project.<sup>51</sup>

#### **E. Perception of Corporate Donors**

40. There is evidence that the commercial entities seeking earmarks from Members of Congress believe that a political donation to the Member has an impact on the Member's decision to author an earmark for that donor.<sup>52</sup>

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<sup>44</sup> H.R. 3222, Pub. L. 110-116 (2008); H.R. 2638, Pub. L. 110-329 (2009); and H.R. 3326, 111 Cong. (2009).

<sup>45</sup> *Id.* at ¶ 13.

<sup>46</sup> *Id.* at ¶ 6.

<sup>47</sup> MLA MOI (Exhibit 2 at ¶ 8).

<sup>48</sup> *Id.* at ¶ 24.

<sup>49</sup> *Id.* at ¶ 5.

<sup>50</sup> *Id.* at ¶ 9-12.

<sup>51</sup> Dicks' MOI (Exhibit 1 at ¶ 3-4).

<sup>52</sup> Century Systems, Inc. Proposed CY 2008 Congressional Campaign Contributions (Exhibit 5).

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41. Representative Dicks credibly articulated a process that separates his legislative activities and his campaign fundraising activities. Representative Dicks has achieved this separation by reducing or eliminating his and his legislative staff's exposure to information from the campaign's fundraising operation.<sup>53</sup> Similarly, to the extent Representative Dicks has campaign staff or retains a professional fundraiser, his campaign staff and professional fundraiser are isolated from his legislative agenda.<sup>54</sup> As a result, neither the campaign nor Representative Dicks' legislative staff is aware of what the other is doing.
42. Representative Dicks explained to the OCE that he operates his campaign and Congressional office in this manner to prevent even the appearance that his legislative acts are influenced by contributions to his campaign or PAC. One risk associated with this type of operation is the possibility of an appearance of a conflict of interest if, out of ignorance, the Member's campaign accepts a contribution near in time to a legislative act that impacts the individual or entity making the contribution. This potential for an appearance of a conflict may explain why companies requesting an earmark appear to think that a contribution to the respective campaign or PAC affects the ultimate receipt of the earmark. The House Ethics Manual is unclear as to what obligations, if any, are placed on a Member to discourage or disabuse a company of that impression.

**F. Contributions Linked to Official Acts by Outside Entities**

43. In several instances, the OCE uncovered evidence that commercial entities seeking earmarks from Members of Congress appear to have linked contributions to Members' campaigns and/or PACs to specific legislative acts.<sup>55</sup> These documents were internal to the companies and there is no evidence they were shared with Members.
44. The federal gift statute, 5 U.S.C. § 7353, prohibits the solicitation or acceptance of anything of value from a person seeking official action from or doing business with the House, or from someone whose interests may be substantially affected by the performance or nonperformance of a Member's, officer's or staff member's official duties. The statute also provides that the Committee on Standards of Official Conduct may enact reasonable exceptions to the prohibition. According to the Ethics Manual, the Standards Committee has long taken the position that the restrictions on solicitation set

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<sup>53</sup> Dicks' MOI (Exhibit 1 at ¶ 15).

<sup>54</sup> MLA MOI (Exhibit 2 at ¶ 18).

<sup>55</sup> Century Systems, Inc. Proposed CY 2008 Congressional Campaign Contributions (Exhibit 5).

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forth in the statute do not apply to political solicitations. However, Members and staff are subject to a number of other restrictions regarding the solicitation of campaign or political contributions under the rules of the House.

45. Under House rules, a Member or employee may not accept any contribution that the donor links to any official action that the Member or employee has taken, or is being asked to take. If a donor's contribution is linked to any official action, it is treated like any other gift and may be subject as such to the federal gift statute and the criminal statutes on bribery and illegal gratuities.
46. The Board notes that the examples provided in the Ethics Manual of instances where a Member may be in violation of the House's rule against accepting a contribution linked to an official action are all instances in which the Member has some degree of knowledge of the link. As a result, it stands to reason that it is unlikely a violation of the rule could occur unless and until a Member is aware of the link and does nothing to remedy the situation.
47. The Board finds nothing in the factual record to indicate the Member was aware that the donor linked the contribution to an official act. As such, the Board concludes there is not a substantial reason to believe that a violation of either 5 U.S.C. § 7353 or the applicable House rules occurred. However once the Member becomes aware of the link, if the matter is not remedied by either by the Member or by formal advice from the Standards Committee declaring the contribution acceptable, then a violation may occur.

### **III. CONCLUSION**

43. For these reasons, the Board recommends that the Standards Committee dismiss the above described allegations concerning Representative Dicks.

### **IV. INFORMATION THE OCE WAS UNABLE TO OBTAIN AND RECOMMENDATIONS FOR THE ISSUANCE OF SUBPOENAS**

44. In every instance, the OCE asked the recipient of an OCE request for information to identify any information they withheld and the reason for doing so. However, absent the authority to subpoena the evidence in possession of the witness, it is impossible for the OCE to verify if information was withheld, but not documented.
45. In some instances documents were redacted or specific information was not provided. For instance, PMA Client 15 provided evidence responsive to the OCE's Request for

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Information but indicated they would not provide any information regarding their “Legislative Strategy.”

46. In at least one instance, the OCE had reason to believe a witness withheld information requested, but did not comply with the OCE’s request that they identify what was being withheld. Specifically, PMA Client 8 represented that they had fully cooperated. However, the PMA Client 8 indicated that they had no electronic mail responsive to the OCE’s Request for Information. The OCE then received, from another source, electronic mail to and from PMA Client 8 that were in fact responsive to the OCE’s request.
47. The Board also notes that while the OCE was able to interview six former employees of PMA that provided general information on PMA and its business practices, many remaining former employees refused to consent to interviews. In addition, the OCE was unable to obtain any evidence within PMA’s possession.
48. The Board makes the recommendation contained in this referral based on the factual record before it. Given its recommendation to dismiss, the Board does not recommend the issuance of subpoenas, but recognizes that the Committee on Standards of Official Conduct may determine otherwise.

# **EXHIBIT 1**

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**MEMORANDUM OF INTERVIEW**

IN RE: Representative Norman Dicks  
REVIEW #: 09-9063  
DATE: July 31, 2009  
LOCATION: Office of Representative Norm Dicks  
2467 Rayburn House Office Building  
Washington, DC 20515  
TIME: 10 a.m. (approximately)  
PARTICIPANTS: Elizabeth Horton  
Omar Ashmawy  
Stan Brand  
Andrew Herman

**SUMMARY:** Representative Norman Dicks represents that 6th District of Washington state. He was interviewed pursuant to Review 09-9063. The OCE requested an interview with Representative Dicks on July 10, 2009, and he consented to an interview. Representative Dicks made the following statements in response to our questioning:

1. Representative Dicks was given an 18 U.S.C. § 1001 warning and consented to an interview. Representative Dicks signed a written acknowledgement of the warning, which will be placed in the case file in this review.
2. Representative Dicks stated that his Military Legislative Assistant (hereafter "MLA") reviews the requests for federal funding. When a partial list has been put together, Congressman Dicks then tells his MLA to schedule meetings with the companies making the request because he "wants to see these people" and he "wants to talk to them directly." These meetings are attended by a company official and/or the program manager from the Department of Defense. A lobbyist does not always attend the meeting.
3. During these meeting the Member asks the company representatives who they are working with at the Department of Defense and generally he looks to see if the military wants the project. He also looks for companies with a presence in his District. When they get a final list of requests, they send it to the Appropriations Subcommittee on Defense.
4. Representative Dicks said that he has served on the Appropriations Subcommittee on Defense for 31 years and tried to evaluate these requests to determine if it is a good, meritorious project.

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5. One of his major goals as a Congressman is to diversify the economy of his district and build up the private sector economy.
6. Regarding PMA, there was no one employee that the Congressman dealt with more than any other employee.
7. Regarding fundraisers, he usually held two breakfasts, one early in the year and one in the fall. There was no particular reason for this except that it seems to work.
8. An event is held at the Washington Athletic Club in the district. There is also an event at the Kiona Lodge that is held in August, it is a community event. The Congressman's fundraisers work on it, but members of the community put it together. A local businessman helps organize the August event.
9. In addition there is a fundraising event in Tacoma and there are smaller receptions as well.
10. The only private company fundraising event that was held was sponsored by Lockheed.
11. Representative Dicks' political action committee (hereafter "PAC") is new. It was created in the last few years (on June 16, 2008).
12. Representative Dicks stated that out of 12 appropriation bills, over 50% of the companies seeking funding do not have lobbyists.
13. Representative Dicks stated that he did not have a personal relationship with Paul Magliocchetti, he only saw him at events or fundraisers.
14. Representative Dicks stated that he does very little fundraising and that he had not been in a competitive race since 1982. He further stated that he does not make calls to solicit campaign contributions – he never has, he has been in office over 30 years, and that won't change.
15. Representative Dicks stated that he doesn't look at FEC filings to see who contributes and that he is not aware of who is contributing or what amounts are being contributed. He sees people at fundraising events and assumes they have contributed something if they are attending the event but otherwise he would not know whether any contribution was made or the amount that was made. The Congressman doesn't know how much someone has paid since people don't always give what the campaign asks for to attend a particular event. Representative Dicks stated that he would never know about a contribution that was mailed to the campaign.
16. Representative Dicks stated that if anyone asked for an earmark at a fundraising event, he would have that person removed from the event.

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

This memorandum was prepared on September 8, 2009, based on the notes that the OCE staff prepared during the interview with Representative Dicks on July 31, 2009. I certify that this memorandum contains all pertinent matter discussed with Representative Dicks on July 31, 2009.

Elizabeth Horton  
Investigative Counsel

# **EXHIBIT 2**

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**MEMORANDUM OF INTERVIEW**

IN RE: Representative Norman Dicks' Military Legislative Assistant  
REVIEW #: 09-9063  
DATE: July 30, 2009  
LOCATION: Office of Representative Norman Dicks  
2344 Rayburn House Office Building  
Washington, DC 20515  
TIME: 10:15 a.m. – 11:10 a.m. (approximately)  
PARTICIPANTS: Elizabeth Horton  
Omar Ashmawy  
Stan Brand  
Andrew Herman

**SUMMARY:** Representative Norman Dicks' Military Legislative Assistant (hereafter the "witness") was interviewed pursuant to Review 09-9063. The OCE requested an interview with the witness on July 10, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. The witness signed a written acknowledgement of the warning, which will be placed in the case file in this review.
2. Every year the timing of earmark requests is dictated by the Appropriations Committee. The Defense Subcommittee sets its own deadlines as well. The office doesn't have to inform the entities requesting earmarks as the word gets out and they become aware of the deadlines on their own.
3. Generally speaking, specific offices, like Representative Dicks' office, will set a deadline approximately two weeks before the committee's deadline. This allows for time to review the requests, interact with the Member, and get ready to present the requests to the committee. There are standard types of information that the committee requests from Members' offices. Congressman Dicks' office has typically followed the committee's standards without asking for additional information. Other office may ask for more information such as the number of jobs a particular earmark will create or the number of employees an entity has.

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4. The office will receive inquiries from a lot of people asking for the office's deadline followed by a request for an appointment to present their request. These appointments are usually attended by both a representative of the company and a lobbyist. An appointment attended by just a lobbyist is the exception. The same is true even for small companies.
5. Ultimately, the Member decides which requests to support. When asked what Congressman Dicks based his decision on, the witness stated that he could only say that in the last two cycles, the Congressman told him they needed to reduce the number of projects. In this most recent cycle, in addition to reducing the number of projects, the Congressman said he wanted to focus on only those projects that are very local to the district. Previously, some of the projects were not in his district but elsewhere in the Peugeot Sound region. The witness said that he did not know if the Congressman had requested any earmarks for projects outside the Peugeot Sound region.
6. There was no specific discussion between the witness and the Congressman as to why he had made the decision to reduce the number of requests and focus on his district, but the witness's theory was that it had something to do with the additional scrutiny of earmarks and that the leadership of the House of Representatives had said that the number of earmarks should be reduced.
7. When vetting the requests, the witness would look at what the office had done with a particular project in the past, placing a priority on completing a project that had already been started. He also would ask if it sounds like a solid project that would bring value to the military. In a particular cycle the office receives an average of 120-150 national and non-national requests. An example of a national request is a Boeing project that has the support of the President, such as the Boeing P-8 Poseidon aircraft. Non-national projects are non-established programs of record in the Department of Defense. Approximately 1/3 of the requests are for national programs and 2/3 of the requests are for non-national projects.
8. There were a handful of companies that made annual requests and lobbyists he saw on a more regular basis. He would regularly speak with or meet with Sean Foggerty, a lobbyist who worked for PMA at the time, in particular. He also would often speak with Julie Giardino, another former PMA lobbyist. The four companies that regularly make requests are Concurrent Technologies Corporation, 21st Century Systems, Inc, Advanced Acoustics Concepts and Planning Systems Inc. Each of these companies was represented by PMA.
9. Concurrent Technologies is located in Bremerton, Washington but is headquartered in Pennsylvania. The office located in Bremerton employs 40-45 people that work on analysis. The earmark Representative Dicks authored for Concurrent Technologies related to work performed by the employees in Bremerton.

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10. 21 Century also has an office in Bremerton, which employs roughly 5-15 employees. The company is headquartered in Nebraska. The employees in Bremerton have some direct participation in projects as well as serving a broader dedicated function for the company at large in areas such as quality assurance. A couple of the employees work on sub-systems for ship security.
11. Advanced Acoustic Concepts also has an office in Bremerton which employs 5-10 people. The company has a long history of working with the Navy on "ASW" systems based with aircraft carriers.
12. Planning Systems Inc. has an office in Bremerton that employs approximately 12 people. The company is working on an initiative to help make submarine navigation more efficient.
13. When meeting about earmarks requested by these companies sometimes the witness would meet with a PMA lobbyist and a company representative and sometimes with just a PMA lobbyist. The Congressman would sometimes attend the meeting as well.
14. The committee's deadline is typically at the end of March or early April, but it depends on what timeline they think they will have to get requests to the full committee.
15. The witness explained that some companies do not get their request in by the committee's deadline. One such company, Angeles Composite Technologies, was represented by someone who was not a professional lobbyist and did not know the appropriations process. The company approached the office because it felt that it could be a potential supplier to the military and, therefore, could bring jobs to the district. However, due to the lack of knowledge on the part of the individual representing the company, the company missed the deadline for submitting their request. Ultimately, the company came back to ask about a supplemental request. The office instead had the company talk with Lockheed directly.
16. The witness stated that the office generally follows up with companies who have requested funding; however, he felt that doing so led some companies to think that they are in line to receive funding when in fact they are not.
17. The witness rarely met with Mr. Paul Magliocchetti. He usually met with Mr. Magliocchetti's employees instead. On 1 or 2 occasions Mr. Magliocchetti met with the member on matters that had nothing to do with these particular earmarks in question.
18. The witness had previously attended fundraisers for Congressman Dicks' campaign. One example was a lunch for Lockheed executives. He did not recall any specific request to attend the lunch but assumed he'd attend to answer any of their questions. Otherwise he did not volunteer for the campaign had no knowledge of contributions made to the campaign.

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

19. The witness was not aware of any office policy regarding the timing of legislative action and the solicitation or receipt of a contribution to the campaign.
20. The witness stated that he was responsible for creating the list for earmark requests for the office. He would separate the national requests from the non-national requests. The first cut generally included projects that were supported in the past because they were typically worth considering. The second tier included the remaining requests so that the Congressman was aware of what was submitted to the office. Representative Dicks then would make adjustments to the list. His emphasis was on the district.
21. The witness stated that Representative Dicks had a strong affinity for Boeing when reviewing national requests and that he liked to see funding for non-national requests go to companies that had delivered on projects in the past. The witness explained that Representative Dicks liked to see companies “graduate” and have programs of record that receive funding through other sources.
22. The witness stated that Representative Dicks changed the funding list about 20% of the time.
23. The witness stated that he could not say whether during the last cycle of earmarks that PMA affected Representative Dicks’ judgment on the selection of companies to receive funding. However, he had the impression that clients of PMA were viewed in a negative light.
24. The witness stated that he had heard Representative Dicks express the view that PMA had dealt with him and the office in a professional manner.
25. The witness stated when he first started he would run his decisions by George Behan but that he now worked directly with the Congressman.

This memorandum was prepared on August 26, 2009, based on the notes that the OCE staff prepared during the interview with the witness. I certify that this memorandum contains all pertinent matter discussed with the witness on July 30, 2009.

Elizabeth Horton  
Investigative Counsel

# **EXHIBIT 3**

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**MEMORANDUM OF INTERVIEW**

IN RE: Representative Norm Dicks' Press Secretary  
REVIEW #: 09-9063  
DATE: July 31, 2009  
LOCATION: Office of Representative Norm Dicks  
2467 Rayburn House Office Building  
Washington, DC 20515  
TIME: 11 a.m. (approximately)  
PARTICIPANTS: Elizabeth Horton  
Omar Ashmawy  
Stan Brand  
Andrew Herman

**SUMMARY:** Representative Norm Dicks' Press Secretary (hereafter the "witness") was interviewed pursuant to Review 09-9063. The OCE requested an interview with the witness on July 10, 2009, and he consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. He signed a written acknowledgement of the warning, which will be placed in the case file in this review.
2. The witness's role in the earmark process was to assure all the Legislative Assistants in the office knew the general area of interest the Member had had over the years. He also oversaw the various types of requests and made sure that the office met the committee deadlines.
3. When the office's current Military Legislative Assistant (hereafter "MLA") was first hired, the witness sat in on a lot of the meetings, but he has not done so in several years. He is aware though that Representative Dicks wants to be briefed on the requests and that these meetings typically are between the member, the MLA, a representative from the company and their lobbyist.
4. The office does not have any internal policy regarding a timing relationship between a contribution and an earmark request. The office wouldn't do it and will not do it. Congressman Dicks does not know about contributions. There is no policy to make sure contributions are not accepted around legislative acts that may relate to the entity or

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individual making the contribution. Congressman Dicks has two separate tracks – political and official.

5. The decision making regarding earmarks is exclusively between the Member and the MLA. The witness is aware of what is going on because he sees everything sent to the committee.
6. He did not interact with PMA employees regarding defense appropriations. He knew Paul Magliocchetti from his time on the Appropriations Committee and he knew a few people who worked for Mr. Magliocchetti, but he did not have any meetings with any PMA employees regarding defense. He met with some people on energy and telecom issues.
7. The witness attends all the Member's fundraisers with few exceptions. He also takes a couple of afternoons off for two to three weeks every year to help raise money for the Democratic Congressional Campaign Committee. Representative Dicks does not make calls for campaign contributions. They are not in a competitive district. The witness is not tasked with calling any specific individuals. He generally attends breakfast events, dinners and receptions.
8. The only company sponsored fundraiser he could recall was one held by Lockheed Martin. The CEO wanted to hold a lunch for the Member. The witness thought they just wanted to get to know the Congressman personally.
9. Generally, Helen Milby generates the call lists. The witness's only influence is when he knows of a retirement (i.e. to take someone off a list) or he gives Ms. Milby a business card. The witness does not have to do more as Ms. Milby "does all that."
10. At the fundraisers, the witness has not heard any discussion about earmarks. He stated that any such talk would be inappropriate and that he or Representative Dicks would say as much. If someone wanted to come to a fundraiser to talk about a project, he would tell them to make an appointment to talk to the MLA.

This memorandum was prepared on August 26, 2009 based on the notes that the OCE staff prepared during the interview with the witness on July 31, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on July 31, 2009.

Elizabeth Horton  
Investigative Counsel

# **EXHIBIT 4**

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Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

OFFICE OF CONGRESSIONAL ETHICS  
UNITED STATES HOUSE OF REPRESENTATIVES

**MEMORANDUM OF INTERVIEW**

IN RE: Representative Norman Dicks' Fundraising Consultant  
REVIEW #: 09-9063  
DATE: July 31, 2009  
LOCATION: Office of Representative Norm Dicks  
2467 Rayburn House Office Building  
Washington, DC 20515  
TIME: 12:30 p.m. (approximately)  
PARTICIPANTS: Elizabeth Horton  
Omar Ashmawy  
Stan Brand  
Andrew Herman

**SUMMARY:** Representative Norman Dicks' Fundraising Consultant (hereafter the "witness") was interviewed pursuant to Review 09-9063. The OCE requested an interview with the witness on July 10, 2009, and she consented to an interview. The witness made the following statements in response to our questioning:

1. The witness was given an 18 U.S.C. § 1001 warning and consented to an interview. The witness signed a written acknowledgement of the warning, which will be placed in the case file in this review.
2. Her company is the external fundraising consultant for Congressman Dicks. They do all of the Member's fundraising except for what is done in the district.
3. She sets up events, sends out emails, collects the money, and sends it along to the campaign. In doing this, she uses a general Washington, DC PAC list that she uses for all her clients.
4. While at first the campaign provided her with names from their database, the campaign staff does not really help with developing the list anymore. She generates the list she uses.
5. She tries to do one fundraising event for Congressman Dicks a month. Her only interaction with his staff is to coordinate a date with his scheduler. After a date is coordinated, she "takes it and runs with it."

Subject to the Nondisclosure Provisions of H. Res. 895 of the 110th Congress as Amended

6. She does some smaller events and some larger events for the Congressman. The larger events include about 100-150 people and the smaller events have about 10-25 attendees. The smaller events typically take the form of receptions, dinners or breakfasts.
7. When planning a larger event she will invite everyone, but when planning a smaller event she will sometimes utilize “hosts” or focus on a particular community such as the arts community, the defense community or the healthcare community. Typically there is a defense community event about once a quarter.
8. The witness was brought on as a consultant because the Congressman liked her and wanted to have a professional fundraising staff. Fundraising, however, is not a huge priority for him. She has to beg the Congressman for dates to hold events. She has encouraged him to focus more on national fundraising, but he has refused.
9. The witness was shown an email from Elizabeth Trigs regarding a PMA contribution. The witness said that she was never told to not accept money from former PMA employees, but it seemed like it was prudent. When some of the former PMA employees started a new group, Flagship, she was not sure if they were legitimate so she emailed George Behan to see what he thought. She was told it was ok to accept the contribution.

This memorandum was prepared on September 8, 2009, based on the notes that the OCE staff prepared during the interview with the witness on July 31, 2009. I certify that this memorandum contains all pertinent matter discussed with the witness on July 31, 2009.

Elizabeth Horton  
Investigative Counsel

# **EXHIBIT 5**



	<b>Unprogrammed</b>	5,000	
	<b>Carry Over</b>	5,000	
	<b>Grand Total</b>	44,600	

- \* A “cycle” differs between House members and Senators.
  - For House members, cycle = 2 years (2007 & 2008)
  - For Senators, a cycle = their 6 year term which is staggered. (Recall that 1/3 of the Senate is up for re-election every 2 years.)
  - Maximum contributions allowed:
    - \$4600/cycle for Member/Senator’s re-election campaign
    - \$5000/calendar year for Member’s leadership PAC
- \*\* Anticipate single fundraiser event ~\$20K