



Testimony of

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Before the

U.S. House of Representatives
Committee on Rules

Lobbying Reform: Accountability Through
Transparency

Thursday, March 2, 2006

Mr. Chairman, Ranking Member and members of the Committee, my name is Paul Miller and I serve as the President of the American League of Lobbyists (ALL) and am a principal in the firm Miller-Wenhold Capitol Strategies, LLC. I am pleased to be here today to discuss greater transparency in our legislative process.

As this Committee knows, lobbying Congress is not only a completely legitimate part of our democratic process. It is also essential to its effectiveness.

Lobbying is a fundamental right guaranteed by our Constitution, and professional lobbyists such as ALL's members perform a critically important role in helping citizens communicate factual information and in advocating their interests and concerns to public officials.

Regrettably, a widespread misperception exists today about what lobbying involves and what lobbyists do. This misperception is not new, but it has been elevated to an extraordinary level as a result of the activities of Mr. Abramoff and his associates.

Those activities not only strike at the heart of our democracy. They also have damaged severely the vast majority of lobbying professionals who perform their role in our democracy in an ethical and totally legitimate way.

Members of our profession are as disgusted and appalled by what Mr. Abramoff has done as you are. But we should not allow the actions of one man to paint our entire profession as corrupt individuals who will stop at nothing to have their way with members of Congress.

Mr. Chairman, I understand and sympathize with the outrage we have witnessed outside the Beltway. At the same time, though, I must say that I am also saddened by the reaction we have seen inside the Beltway.

Our government is not "corrupt." Lobbyists are not "bribing" people; and members of Congress are not being "bought" for campaign contributions.

One man broke the law by lying, cheating, and stealing from his clients. Unfortunately, he called himself a lobbyist. But regardless of how he might have described himself, I want to say for the record that Jack Abramoff was not a lobbyist. By definition, Jack Abramoff is a crook not a lobbyist.

Like any profession, we have bad apples. No matter what rules we put in place, there will always be those who choose to break them. This is no different from the legal profession, accounting, journalism, medicine or any other profession.

Unfortunately, we often find our bad apples on the front page of every newspaper, because frankly, scandal sells.

Ironically, perhaps, all of us have lobbied someone for something during our lifetimes; we just don't consider it lobbying.

A child lobbies for a higher allowance or for extending his or her curfew. Adults lobby when they sign a petition in support of a cause or in protest against it. When we do something like that, however, we may not think of it in terms of lobbying. But lobbying it is.

The overwhelming majority of lobbyists are not sinister, corrupt individuals. That is just a stereotype that has emerged from the intense media coverage of the Abramoff scandal. And if we are to overcome that stereotype, we need to break down what a lobbyist is and does in the simplest of terms, so that everyone all across the country understands.

Lobbyists represent the interests of every American, from the small rural towns to the big cities. If you were ever a member of the Girl Scouts ...if you ever used a library ... if you ever rode a snowmobile ... if you ever played on a sports team ... if you own a gun or if you think ordinary people should not be allowed to own guns ... if you're pro-life or pro-choice ... if you're 65 or older ... if you work in a steel mill or own a steel mill.

If you have done any of these activities, if you share any of these characteristics, you have been represented at some time or another by a lobbyist. And that lobbyist was ethical, professional and fulfilling a vital role in our democracy.

Virtually everyone in our democracy, whether they are aware of it or not, has had a lobbyist working on their behalf at one time or another, in a way that is quite legitimate and that enjoys the protection of our Constitution. You could say that lobbying, when it is practiced ethically, is as American as "Mom and apple pie" to this country.

In Washington you will often hear about "special interests." Typically, the phrase is used in a negative way and the person using it more often than not is talking about a group of people he or she disagrees with.

But a special interest in reality is nothing more than a group of people with a clearly defined point of view who have come together to petition their government in a way that has been sanctioned by the Constitution from the earliest days of our country.

Our Founding Fathers recognized a legitimate role for the people's participation in our legislative process by conferring a First Amendment right on citizens to petition the government for redress of grievances. Citizens caught up in the demands of day-to-day living delegate these "petition" duties to professionals and those professionals are known as lobbyists.

History has proven that legislators need lobbyists.

It's not for the so-called "special interest money." It's for the research and other resources they bring to the table.

Over 4,000 bills have been introduced in the 108th Congress. That makes it simply impossible for any member or his or her staff to know all the nuances of every bill introduced. This is why the role of a lobbyist is so critical.

With so many pieces of legislation and so many different interpretations of any legislative proposal, lobbyists on all sides play a key role by helping members and their staffs weed through it all. The information that lobbyists provide on particular legislation, both for and against, is critical if members are to be able to cast their votes in the best interest of their constituents and the country.

Lobbying is a legitimate and necessary part of our democratic political process. Government decisions affect both people and organizations, and information must be provided in order to produce informed decisions. Public officials cannot make fair and informed decisions without considering information from a broad range of interested parties. All sides of an issue must be explored in order to produce equitable government policies. In a nutshell, this is a vital role we play.

Effective lobbying is NOT about access or money. It's about forthright, ethical communications on issues that impact the livelihood of legitimate businesses and constituents back home. Its principal elements include research and analysis on legislation or regulatory proposals; monitoring and reporting on developments; attending congressional or regulatory hearings; working with coalitions interested in the same issues; and educating not only government officials but also employees and corporate officers on the implications of various changes.

What most lay people view as lobbying—the actual communication with government officials—represents the smallest portion of a lobbyist's time. A far greater proportion is devoted to those other activities of preparation, information and communication.

Those activities, Mr. Chairman, are essential to the fabric of our democracy. And when they are abused and corrupted, we all suffer.

But before any new lobbying reforms are enacted, we would urge Congress to not allow the egregious actions of one man provoke a knee-jerk reaction that may result in more damage to the system.

I think we can all agree what Jack Abramoff did is appalling. But it is simply not realistic to suggest that all the new rules being proposed would somehow have prevented this abuse or indeed, will stop it from happening again in the future. There will always be those who break the law no matter what rules are in place.

The critical need is a system that will catch those who break the law and, just as importantly, protect and support those—at all levels of our legislative process—who respect the rules and abide by them.

Congress cannot legislate values.

I was talking with one of my colleagues recently about the current situation and he said something that captures exactly what we are talking about here.

Before he acts, he told me, he asks himself, "What would my Mom think."

As we all know, there's a tremendous amount of cynicism that surrounds our political and legislative processes today and no doubt some will find that statement corny. But to me, it says it all.

You can pass all the rules you like but there will still be some people who won't follow them.

And let's keep in mind that we are here today and having this debate because one man broke the law and got caught.

He got caught.

We have to remember this. Jack Abramoff got caught by the system.

Before we rush to judgment on an entire profession, we need to step back, take a closer look at just what happened and realistically evaluate the current rules in place governing the lobbying profession.

If we do this, I think we will find that the system does work. It caught the illegal activities of Mr. Abramoff.

Certainly, it's not perfect. But, I would suggest, it is a system more in need of improvement and enhancements than total overhaul.

We need a better and easier way for the public to gain access to information on what we do as lobbyists. And that can be achieved in the framework of the current system.

If Congress can step back and look at this issue objectively, we can provide a solution that may not necessarily be particularly sexy by Washington standards, but it will be one that the American people will come to truly appreciate and understand.

To make the system more transparent, I would like to offer you eight principles that would truly make a difference. These are simple ideas, but they would have an immediate impact on transparency and represent an effective response to the public's call for reform.

The first step has to be a comprehensive review of the current rules to see what if any of these rules aren't working.

Right now, I don't think we can say with certainty that the current system is broken.

We can't know if the current rules work or not because we don't have an enforcement mechanism in place to gauge this.

No matter how well intentioned a reform effort may be, it will be meaningless to the American people if we first don't begin by talking about enforcement of the current rules. Otherwise, without that critical first step, we risk finding ourselves back here again next year, facing a similar scandal and with the public even more outraged. And they will have every right to feel that way!

If we can solve the enforcement issue, we then have to discuss the current rules and regulations.

We are here today because one lobbyist and a PR consultant broke the law. This is not a widespread scandal that has lots of lobbyists caught up in breaking the law. It's one lobbyist. I think this is important to keep in mind as we debate the need for reform.

Absent an effective enforcement mechanism, we really don't know if the current rules are truly as inadequate as some critics have suggested. Before we create new ones, therefore, we would urge Congress to undertake a detailed review of what's currently in place, to see how effective those rules and regulations would be with enforcement.

In terms of rules and regulations, I should mention the American League of Lobbyists' own Code of Ethics. This document, which I have attached as part of my testimony, is a source of great pride for ALL members. It is a voluntary code but one that our members respect and live up to and value for the way it so clearly defines the boundaries of appropriate lobbying.

It is a Code that makes our profession stronger and better. And for the record, Mr. Abramoff is not and never was a member of ours.

In terms of education and training for the profession, ALL has been working for the past 19 months in partnership with George Mason University's New Century College on an ambitious new lobbying certification program. It can no longer be acceptable just to fill out the right forms and submit them on time in order to call yourself a lobbyist.

We have to do better and we will do better. We need standards to guide our profession and the work we do. We believe our new Lobbying Certification Program will begin to set that standard. In addition, our Lobbyist Toolkit, which I have brought with me, provides all lobbyists with valuable information on staying compliant in an ever changing profession.

This training, however, cannot just be for lobbyists. We need to provide regular training for congressional staff as well. If people don't know the current rules and aren't able or willing to keep up with new rules, that becomes a problem that affects us all.

We need to change attitudes throughout the entire legislative structure by making this education and training available to everyone.

Finally, if Congress believes reforms are necessary, we need to make sure that these reforms do not limit or impair anyone from exercising their guaranteed Constitutional rights of petitioning their government, even if that means using a lobbyist to do so. This is so important.

Our Founding Fathers believed that the right to petition government was critical to an open democracy. That is just as vital in today's environment as it was over 200 years ago. If reforms are needed, I believe we can get to those reforms without limiting a person's right to petition their government. We hope Congress will agree.

Because of what's a stake here, we should not be in a hurry to implement new reforms. We should take as much time as is needed to ensure that any reforms are done right. I think the American people will understand and be better served if we all work together to get this right the first time.

We are not here because we are looking to create loopholes in any reforms Congress proposes. It's quite the opposite. We want to ensure that any new reforms achieve their stated objectives without creating any unintended consequences. Our organization was in the forefront of lobbying reform prior to the 1995 LDA and we are prepared and willing to serve as a resource again.

Mr. Chairman, I would also urge Congress to avoid adding campaign finance issues to any lobbying reform legislation.

If you begin adding in these provisions to a lobbying reform bill, you will only complicate this issue and end up with a package that will be confusing and loaded up with amendments like the appropriations bills we have been hearing so much about lately.

If money in politics is the issue, then Congress should focus its attention on campaign finance issues.

Lobbying reform and campaign finance are two very different issues and should be treated as such.

Mesh these two issues together and what you will get will be a complex bill that no one will be able to figure out or enforce and that will fail to address either issue as effectively as we all would like to see.

Our organization welcomes the opportunity to work with you and your colleagues on this issue. We look forward to a process by which we will be able to submit the current LDA to a thoughtful and rigorous review and find ways to make it more effective. And we are confident that working together, we will restore our people's faith in government and in the legislative process. We owe them no less.

Mr. Chairman, if I can leave here today with one request, it is that members of Congress should not run from us or use this issue to gain political points.

For more than two hundred years, the lobbying profession has played a critical role in the political life of our country. It continues to play that role today and members of Congress should not be afraid to say that.

I want to thank you for the opportunity today and am happy to answer any questions at this time.

Attachment 1

Lobbying Reform Principles

If Congress is going to draft meaningful reform that provides the transparency and openness the public wants, I believe it must take into consideration the following:

1. Rules and Regulations Should Apply to All

- I. All those involved in advocacy-related activities have to be held to the same standard. This should include grassroots and PR consultants. We should not include those who come to town as part of their company or association legislative day, but we should include those professionals who are in the business of trying to impact policy at all levels.
- II. To achieve more transparency, regulations must be applied across the board to all those involved in advocacy activities of any kind that relates to the federal legislative and political processes.
- III. Current loopholes that exempt various groups from filing lobbying disclosure forms should be closed. The current system allows church groups, state and local governments, and public relations professionals to avoid disclosure under the LDA, even though their activities may be identical to professional lobbyists. It is inappropriate for different individuals or organizations to be held to different standards.
- IV. All those involved in advocacy activities should be required to comply with the standards set by the LDA. If the goal is to give the public a genuine, comprehensive understanding of how our processes work, then they need access to information on *all* advocacy activities, not only those performed by professional lobbyists.

2. Review and Enforcement

- I. Congress should support a review and enforcement of the current Lobbying Disclosure Act.
- II. Before Congress imposes a new set of regulations with potential loopholes, we urge Congress to carefully review the current LDA to determine if and where problems may exist.
- III. If the current LDA is not being enforced, adding additional penalties and rules without proper enforcement will not have any real effect.
- IV. Review the idea of a Commission to review current rules and report back to Congress on any new proposals for change. Commission should be made up of current members of Congress, former member who do not lobby, practicing lobbyists, public interest groups, and a representative from the general public with no political ties, affiliations, or ties to any group currently represented on the Commission.

3. Uniform Electronic Filing System

- I. In an era of more openness and transparency both the House and Senate should create a uniform filing system that will make more transparency possible.
- II. Under the current electronic filing system, lobbyists must file two distinctly different LDA forms. By creating a single uniform filing system Congress will put an end to the most serious criticism levied against Congress and lobbyists – lack of transparency. A uniform system of filing would give the public access to all registered lobbyist filings in real time, which is not available under the current system. A uniform system of filing should not mean more frequent filings. Rather, it should mean greater real time access to the current semi-annual filings.
- III. The only way true transparency can be achieved is through a uniform system in the House and Senate for reporting semi-annual lobbying disclosure forms.

4. Full Online Disclosure

- I. LDA reports should be posted online in real time.
- II. The general public has come to believe that politicians and lobbyists deliberately seek to operate in a furtive and largely covert manner. This perception, whether right or wrong, has contributed in large measure to the antipathy and distrust that exists towards our system of government and those in the lobbying profession. In an effort to try and change this perception, ALL supports full online access to all lobbying disclosure forms.

- III. Making available to the general public all current lobbying disclosure forms the public will have a better understanding of the role of the lobbying profession in our system of government and the value it brings to lawmakers and the overall legislative process.

5. Travel

- I. Strict new rules would be placed on publicly funded travel.
- II. Members would be required to submit requests to Ethics Committee for approval. If a new body is created to review lobbying regulations, this body would need to vet trips as well.
- III. Public group initiating the invitation must submit itinerary, travel plans and accommodations and costs of travel to ethics committee and review body if one is created to oversee lobbying disclosure.
- IV. Travel must be made public within 1 month of the trip by the member of Congress.

6. Lobbyist Identification Card

- I. Each registered lobbyist would be required to apply for a personal identification card. This card would be worn or carried with you while lobbying any member of Congress or agency. This card would be similar to those currently worn by congressional staffers.
- II. A member of Congress or staff could require verifying person is a registered lobbyist before each meeting. If the person does not have a registered identification card, the member or staff could refuse to meet with that person.

7. Mandatory Ethics Class

- I. Every congressional staffer, member of Congress and registered lobbyist would be required to take a 3 hour mandatory ethics seminar every two years to comply with Federal law. This requirement must be met or a fine of \$1,000 will be issued to those not completing this seminar as required.

8. Individual Lobbying Identification Number

- I. Each registered lobbyist should be given their own personal identification number.
- II. Each LDA filed semi-annually would be required to list all lobbying identification numbers and not just the registrants number as currently required.
- III. Under the current system it is the registrant like associations or company's that file to receive a lobbying identification number. This number is listed on the semi-annual LDA form, but does not detail who the lobbyists are under this identification. It would be helpful to the public to see all lobbyists listed on this form by their personal identification number.

Attachment 2

ALL Code of Ethics Approved by the ALL Board February 28, 2000

The ALL Code of Ethics is utilized as a model by various organizations and serves to strengthen our image and enhance our role as a vital and respected link in the democratic process.

Lobbying is an integral part of our nation's democratic process and is a constitutionally guaranteed right. Government officials are continuously making public policy decisions that affect the vital interests of individuals, corporations, labor organizations, religious groups, charitable institutions and other entities. Public officials need to receive factual information from affected interests and to know such parties' views in order to make informed policy judgments. In exercising their rights to try to influence public policy, interests often choose to employ professional representatives to monitor developments and advocate their positions, or to use lobbyists through their membership in trade associations and other membership organizations. Tens of thousands of men and women now are professional lobbyists and represent virtually every type of interest. With over 4,000 pieces of legislation introduced in the last Congress, members and staff must rely on input from a variety of experts on those issues.

To help preserve and advance public trust and confidence in our democratic institutions and the public policy advocacy process, professional lobbyists have a strong obligation to act always in the highest ethical and moral manner in their dealings with all parties. Lobbyists also have a duty to advance public understanding of the lobbying profession. The American League of Lobbyists, accordingly, has adopted the following "Code of Lobbying Ethics" to provide basic guidelines and standards for lobbyists' conduct. In general, this Code is intended to apply to independent lobbyists who are retained to represent third party clients' interests and to lobbyists employed on the staff of corporations, labor organizations, associations and other entities where their employer is in effect their "client." Lobbyists are strongly urged to comply with this Code and to seek always to practice the highest ethical conduct in their lobbying endeavors. Individual members of American League of Lobbyists affirm their commitment to abide by this code.

ARTICLE I - HONESTY & INTEGRITY

A lobbyist should conduct lobbying activities with honesty and integrity.

1.1. A lobbyist should be truthful in communicating with public officials and with other interested persons and should seek to provide factually correct, current and accurate information.

1.2. If a lobbyist determines that the lobbyist has provided a public official or other interested person with factually inaccurate information of a significant, relevant, and material nature, the lobbyist should promptly provide the factually accurate information to the interested person.

1.3. If a material change in factual information that the lobbyist provided previously to a public official causes the information to become inaccurate and the lobbyist knows the public official may still be relying upon the information, the lobbyist should provide accurate and updated information to the public official.

ARTICLE II - COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS & RULES

A lobbyist should seek to comply fully with all laws, regulations and rules applicable to the lobbyist.

2.1. A lobbyist should be familiar with laws, regulations and rules applicable to the lobbying profession and should not engage in any violation of such laws, regulations and rules.

2.2. A lobbyist should not cause a public official to violate any law, regulation or rule applicable to such public official.

ARTICLE III - PROFESSIONALISM

A lobbyist should conduct lobbying activities in a fair and professional manner.

3.1. A lobbyist should have a basic understanding of the legislative and governmental process and such specialized knowledge as is necessary to represent clients or an employer in a competent, professional manner.

3.2. A lobbyist should maintain the lobbyist's understanding of governmental processes and specialized knowledge through appropriate methods such as continuing study, seminars and similar sessions in order to represent clients or an employer in a competent, professional manner.

3.3. A lobbyist should treat others - both allies and adversaries - with respect and civility.

ARTICLE IV - CONFLICTS OF INTEREST

A lobbyist should not continue or undertake representations that may create conflicts of interest without the informed consent of the client or potential client involved.

4.1. A lobbyist should avoid advocating a position on an issue if the lobbyist is also representing another client on the same issue with a conflicting position.

4.2. If a lobbyist's work for one client on an issue may have a significant adverse impact on another client's interests, the lobbyist should inform and obtain consent from the other client whose interests may be affected of this fact even if the lobbyist is not representing the other client on the same issue.

4.3. A lobbyist should disclose all potential conflicts to the client or prospective client and discuss and resolve the conflict issues promptly.

4.4. A lobbyist should inform the client if any other person is receiving a direct or indirect referral or consulting fee from the lobbyist due to or in connection with the client's work and the amount of such fee or payment.

ARTICLE V - DUE DILIGENCE & BEST EFFORTS

A lobbyist should vigorously and diligently advance and advocate the client's or employer's interests.

5.1. A lobbyist should devote adequate time, attention, and resources to the client's or employer's interests.

5.2. A lobbyist should exercise loyalty to the client's or employer's interests.

5.3. A lobbyist should keep the client or employer informed regarding the work that the lobbyist is undertaking and, to the extent possible, should give the client the opportunity to choose between various options and strategies.

ARTICLE VI - COMPENSATION AND ENGAGEMENT TERMS

An independent lobbyist who is retained by a client should have a written agreement with the client regarding the terms and conditions for the lobbyist's services, including the amount of and basis for compensation.

ARTICLE VII - CONFIDENTIALITY

A lobbyist should maintain appropriate confidentiality of client or employer information.

7.1. A lobbyist should not disclose confidential information without the client's or employer's informed consent.

7.2. A lobbyist should not use confidential client information against the interests of a client or employer or for any purpose not contemplated by the engagement or terms of employment.

ARTICLE VIII - PUBLIC EDUCATION

A lobbyist should seek to ensure better public understanding and appreciation of the nature, legitimacy and necessity of lobbying in our democratic governmental process. This includes the First Amendment right to "petition the government for redress of grievances."

ARTICLE IX - DUTY TO GOVERNMENTAL INSTITUTIONS

In addition to fulfilling duties and responsibilities to the client or employer, a lobbyist should exhibit proper respect for the governmental institutions before which the lobbyist represents and advocates clients' interests.

9.1. A lobbyist should not act in any manner that will undermine public confidence and trust in the democratic governmental process.

9.2. A lobbyist should not act in a manner that shows disrespect for government institutions.