



Testimony of

Paul A. Miller
President of the American League of Lobbyists

Before the

United States Senate
Committee on Homeland Security and Governmental Affairs

Lobbying Reform: Proposals and Issues

Wednesday, January 25, 2006

Madam Chairman and members of the Committee, my name is Paul Miller and I serve as the President of the American League of Lobbyists (ALL). I also am a founding partner in the firm Miller/Wenhold Capitol Strategies, LLC. I am pleased to appear in response to your invitation to comment on the current proposals before Congress dealing with lobbying reform.

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 a few unscrupulous operatives to paint our entire profession as "crooks" or unscrupulous scoundrels who will stop at nothing to have their way with members of Congress.

This is far from the truth and I hope today's hearing will demonstrate that.

The past three weeks have not been easy on anyone. We have seen real and very understandable outrage on the part of the public. They, and we, have been horrified by what they perceive as a profound corruption of their government.

Madam Chairman, I understand and sympathize with that view, but it is not an accurate one.

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 was a lobbyist.

I want to assure this committee and the American people that Mr. Abramoff is not the norm in our profession. He is truly the exception.

Like any profession, we have bad apples and 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.

Three years ago, I was fortunate enough to be asked to speak at Career Day at my nephew's school back in Wisconsin. Like every proud uncle, I was flattered to have been asked, but I was unsure about just how to explain what I do to a group of kids who ranged from second- through eighth- graders.

I began by asking *them* a question: "Does anyone know what a lobbyist is?"

A couple of students raised their hands and one in particular caught my eye. This was a young second-grader who was climbing out of her seat to be called upon.

She knew exactly what a lobbyist does and when I called on her, she didn't hesitate: "You're the guy who carries my bags at the hotel!"

I tell you this story because regardless of age, I don't think the perception this little girl had of a lobbyist is that far off from how the rest of the country sees us. I would venture to guess that if you were to choose 100 people at random from across the country and ask them the same question, you would get a broad array of equally imaginative answers.

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, Madam 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 a few to provoke a knee-jerk reaction that may result in more damage to the system.

We would ask you to work with groups like ALL on any and all reforms to prevent this type of behavior in the future. Our members are harmed by abuse of the lobbying privilege just as much as Congress and the American people in general. We believe that if we are going to get it right, we all need to work together. We owe that to the people who sent us here.

It is our view that any new reforms will have to include four key elements if they are to be effective. They are:

- 1) Enforcement;
- 2) Current Rules and Regulations;
- 3) Education and Training; and
- 4) the Constitution.

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 at 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.

Madam Chairman, we welcome 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.

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

Attachment 1

Lobbying Reform Principles Adopted August 2005 by the American League of Lobbyists

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

- ALL supports more sunshine in the legislative and political processes, but urges Congress to take a careful and thorough look at these issues before acting on pending legislation.
- ALL believes many of the issues Congress is currently seeking to address through legislation can be resolved more effectively by means of simple rule changes within each Chamber.
- Before imposing new regulations on the lobbying profession, ALL asks that Congress work with the profession to identify where change is needed and determine the most appropriate means to effect such change. ALL urges Congress to take into consideration the following principles.
 - I. The American League of Lobbyists supports a review and enforcement of the current Lobbying Disclosure Act by Congress.
 - II. Before Congress imposes a new set of regulations with potential loopholes, ALL hope urges 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.
- Uniform Electronic Filing System
 - I. In an era of more openness, the American League of Lobbyists supports more transparency and urges both the House and Senate to 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.
- Full Online Disclosure
 - I. The American League of Lobbyists supports full online disclosure of lobbying reports.
 - 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. ALL supports the idea of making available to the general public all current lobbying disclosure forms. By doing so, we believe 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.
 - Rules and Regulations Should Apply to All
 - I. The American League of Lobbyists supports the requirement that all those involved in advocacy-related activities be held to the same standard.
 - 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.

- Review and Enforcement
 - I. To help identify lobbyists on Capitol Hill, we urge Congress to consider requiring registered lobbyists to obtain lobbying identification cards, similar to the ones utilized by Capitol Hill staff. This expense could be paid for by lobbyists.
 - II. Lobbyists would be required to display or carry their identification card when making lobbying visits.
 - III. This new identification card will also help identify non registered lobbyists. A member and/or their staff could simply request to see the lobbyists card prior to each meeting. If a "lobbyist" doesn't have a card, means they are not registered and staff or members can and should decline to meet with them.

- Registered Lobbyist Database
 - I. To help track who is lobbying and how many registered lobbyists there are in Washington, we need an accurate database that tracks registered lobbyists; updates changes in marital status, retirements and deaths, something the system doesn't currently track; and makes this information available to the public in real time

- Code of Ethics
 - I. The American League of Lobbyists continues to support and advocate a code of ethics for our profession.
 - II. ALL first promulgated a code of ethics in 1987, long before the current debate on lobbying ethics. This code affirms our commitment to the highest professional standards and makes a strong statement about the importance we assign to ethical practices in advocacy.
 - III. It is our hope that Congress will carefully review the ALL code of ethics and use it as a model for others. If the objective behind the debate on the current LDA is to create greater transparency, broad adoption of the ALL code of ethics would represent major progress towards achieving that objective.
 - IV. ALL will continue its efforts to make its code of ethics the standard for all lobbyists.

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.