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Capital Bits & Pieces

DELAY, INC.

A Democracy 21 Report on House Majority Leader Tom DeLay and His Money Machine (2000-2002)

U.S. House Majority Leader Tom DeLay (R-TX), aka “The Hammer,” is known for his hardball approach to politics and policy, and to money.

“Tom DeLay is the king of congressional influence money,” said Democracy 21 President Fred Wertheimer. “In DeLay’s vision of democracy, the operating rule is you have to pay to play. If you want to understand the power and influence of Tom DeLay in Washington, you have to understand the role played by DELAY, INC., his multimillion-dollar money machine.”

Democracy 21 is issuing DELAY, INC., a report examining DeLay’s influence-money empire. The report is divided into two parts. Part One shows the DeLay “rules” in action and how DELAY, INC. raised \$14 million, including soft and hard money, during the period January 2000 to December 2002. Part Two examines how DeLay’s hardball and intimidation tactics concerning money and influence have involved him in a number of controversies.

The DeLay controversies include a pending criminal investigation of TRMPAC, his Texas soft money arm; misuse and abuse of his office to improperly involve a federal agency in a partisan political battle; the Westar influence-money scandal; a stealth rollback of an important House ethics

rule to benefit his foundation's golf tournament; and an admonishment by the House Ethics Committee for inappropriate strong-arm tactics with Washington lobbying groups.

"In terms of the new ban on soft money, it's also unclear whether DeLay has actually separated himself from 'directly or indirectly' controlling any soft money groups, as he is required to do by the new campaign finance law," Wertheimer said.

Part One **DeLay and Influence Money**

During the period January 2000 through December 2002, DeLay used a cluster of five political fundraising arms associated with him to raise a reported \$12.6 million – with much of the money coming from Corporate America, business executives, and Washington influence seekers, according to Democracy 21.

Three of the five groups in DeLay's political-money operation raised soft money and the other two raised hard money, or funds legal in federal elections, during the three-year period.

DeLay also had two other entities that raised substantial funds during the period – his charitable foundation and his legal defense fund.

Overall, during the three-year period, the seven DeLay-sponsored entities raised \$14 million from corporations, lobbyists, influence seekers, political action committees (PACs), and others. In a number of cases, donors made contributions to two or more DeLay-sponsored entities. (In addition, DeLay raised untold sums of money from these sources for the House Republican fundraising committee and for Republican Members of Congress.)

Democracy 21's DELAY, INC. report identifies contributors of \$10,000 or more to DeLay's five political fundraising arms during the period 2000 through 2002 (*see attached chart*) and provides a classic illustration of the intersection of money, power, and politics in the nation's capital.

Who's Who Of Corporate America

The list of top soft money contributions from corporations to DELAY, INC. reads like a Who's Who of Corporate America. The list includes:

- SBC Communications, \$221,999;
- Enron (*including contributions from Kenneth Lay and Joseph Sutton*), \$140,000;
- Philip Morris, \$138,000;
- Union Pacific, \$106,000;
- UST Inc., \$94,718;
- Reliant Energy, \$75,000;

- AT&T, \$67,000;
- Mortgage Insurance Cos. of America (*trade association*), \$60,000;
- RJ Reynolds, \$57,000;
- Burlington Northern and Santa Fe Railway, \$51,000;
- Sears Roebuck & Co., \$50,000;
- Bellsouth, \$46,000;
- Continental Airlines, \$42,548;
- Bacardi USA Inc, \$40,000;
- Eli Lilly (*including the company PAC*), \$33,000;
- United States Telecom, \$30,000;
- American International Group, Inc. \$30,000;
- Qualcomm, \$30,000; and
- Federal Express PAC, \$30,000.

Other corporations that made substantial soft money contributions to DELAY, INC. during the period, according to Democracy 21, include Pitney Bowes, International Paper, Texaco, Inc., Westar Energy, Golden Rule Insurance, Kmart Corporation, Waste Management Service Center, Compaq, Anschutz Corporation, AMEC, QWest, Verizon Wireless and Southwest Airlines.

The top contributors to DELAY, INC. during the period, according to Democracy 21, were:

- Bob Perry Homes (*including Bob Perry and Will Perry*), \$427,000;
- Rich DeVos, \$265,000;
- SBC Communications, \$221,999;
- Farmers Employee and Agent PAC of Texas, \$150,000;
- Enron (*including contributions from Kenneth Lay and Joseph Sutton*), \$140,000;
- James Leininger, \$140,000;
- Phillip Morris, \$138,000;
- El Paso Energy Service Co., \$111,000;
- Union Pacific, \$106,000;
- Alliance for Quality Nursing Home Care, \$100,000; and
- John Walton, \$100,000.

Bob Perry is the CEO of Houston-based Bob Perry Homes and one of the largest builders in Texas. He was the top political donor in Texas in the 2000 and 2002 election cycles and set a Texas record for state races in the 2002 cycle, giving \$3.8 million, according to the *Houston Chronicle*, (December 22, 2002).

Rich DeVos, a co-founder and retired president of Amway, is the owner of the Orlando Magic.

James Leininger is the founder of Kinetic Concepts, a specialty medical-bed company.

Leininger was the top political donor in Texas in the 1996 and 1998 election cycles according to *Texas Monthly* (November 2002), which described him as “the most influential Republican in Texas.”

John Walton runs Quantum Partners and is the son of Wal-Mart founder Sam Walton.

(The attached chart lists donors who gave \$10,000 or more in soft and hard money combined, and the amounts they gave, to one or more of DeLay’s five political fundraising arms. The chart covers the period 1/2000 through 12/2002 and is based on disclosure reports filed with the Federal Election Commission and the Internal Revenue Service and on information provided by the Center for Responsive Politics. The list may not include every donor who gave a combined total of \$10,000 or more, or every contribution made, during the period. The IRS requirement for political committees to file soft money disclosure reports, for example, did not become effective until 7/1/2000.)

\$12,785-A-Day Money Machine

During the three-year period, DeLay’s money machine raised an average of \$12,785-a-day, or \$14 million, for his seven sponsored entities, according to Democracy 21. This included:

- \$5,846,728 for the hard money arm of Americans for a Republican Majority PAC (ARMPAC), DeLay’s leadership PAC;
- \$2,338,945 for the soft money arm of ARMPAC¹;
- \$1,971,848 for DeLay for Congress, DeLay’s hard money campaign committee;
- \$1,514,445 for Texans for a Republican Majority (TRMPAC), the soft money PAC formed by DeLay and two Texas politicians to raise soft money for Texas legislative races²;
- \$970,953 for the Republican Majority Issues Committee (RMIC), a soft money political committee associated with DeLay³;
- \$1,004,658 for the DeLay Foundation for Kids⁴; and
- \$460,000 for the DeLay Legal Expense Trust⁵.

Notes

¹ ARMPAC filed its first IRS soft money disclosure report on 10/25/2000, for the period beginning 10/1/2000.

² TRMPAC filed its first IRS soft money disclosure report on 2/24/2002 for the period beginning 9/5/2001.

³ RMIC filed its final IRS soft money disclosure report on 4/15/2002 for the period ending 3/31/2002.

⁴ This figure is based on IRS foundation reports filed through 6/30/2001.

⁵ This figure is based on disclosure reports filed with the House of Representatives for the period 7/1/2000 through 12/31/2001. Contributions to this fund were subject to a \$5,000 annual limit and came from individuals, corporations, and PACs.

Now You See DeLay, Now You Don’t

Under the Bipartisan Campaign Reform Act of 2002, federal officeholders are prohibited from raising or spending soft money, or from directly or indirectly controlling any group that raises or spends soft money.

“DeLay has ‘formally’ separated himself from his soft money operations. Whether DeLay has ‘actually’ separated himself from his soft money fundraising arms, however, is another question,” according to Wertheimer.

For example, DeLay resigned from the board of directors of TRMPAC, the soft money arm he formed to influence Texas legislative races. DeLay’s close longtime aide, James W. Ellis, however, continues to run TRMPAC while also continuing to direct the hard money arm of DeLay’s ARMPAC.

According to media reports, DeLay ended his ties with ARMPAC’s soft money arm, as did Ellis, who had served as its director, when the new law took effect. This soft money arm, however, was turned over to another DeLay associate, his former deputy chief of staff, Tony Rudy.

And, while Ellis is no longer running the ARMPAC soft money operation, he told *Roll Call* in November 2002 (November 14) that he was considering using ARMPAC soft money to fund the GOP’s STOMP program to increase voter turnout. STOMP was previously funded by soft money through the National Republican Congressional Committee (NRCC), the House Republican fundraising group.

A third DeLay associate, Susan Hirschmann, who served as DeLay’s chief of staff until August 2002, was named shortly thereafter to head the Leadership Forum, a “shadow” party soft money group created just before the November 6, 2002 effective date of the new law. A story in *The Washington Post* on November 5, 2002 described the Leadership Forum as “a new GOP committee to channel soft money to House campaigns.”

The Leadership Forum was started with a seed-money transfer of \$1 million in soft money from the NRCC shortly before November 6, 2002.

Following a complaint filed with the Federal Election Commission (FEC) by Democracy 21, Common Cause, the Campaign Legal Center and the Center for Responsive Politics against the NRCC and Leadership Forum for violating the new soft money ban, the Leadership Forum returned the \$1 million to the NRCC. In response to the complaint, the FEC found reason to believe the NRCC had violated the new law and sent the NRCC a letter of admonishment.

The FEC General Counsel, in a report on the complaint, went on to note the “apparent close and continuing ties that persons associated with the Forum have with the NRCC and House Republican leadership” and warned the Forum that it “would do well to ensure that it is thoroughly familiar” with the Commission’s affiliation rules if it begins to undertake any activities in the future.

According to an article in *Roll Call* (July 7, 2003), Republican sources said the Forum has been inactive for the first sixth months of 2003 but is preparing to “ramp up” its activities in the coming weeks.

Part Two

The Hammer and Hardball Controversies

“When it comes to money and influence, DeLay’s hardball and intimidation tactics have involved him in a number of controversies,” Wertheimer said.

Exhibit A

The Texas Redistricting Affair

DeLay formed TRMPAC, a soft money PAC, in 2001 to help Republicans take control of the Texas House of Representatives in 2002, with the goal of having a new Republican-controlled Texas legislature redistrict the Texas seats in the U.S. House to give House Republicans more seats in Congress.

In the 2002 elections, with the support of TRMPAC, Republicans took control of the Texas House of Representatives for the first time since 1872, giving them control of both Texas houses and setting the stage for the congressional redistricting battle that has unfolded this year and is currently playing out in a special session of the Texas legislature.

According to *Associated Press* (May 6, 2003), DeLay has said about this redistricting battle, in which he is playing a central role, that “I’m the Majority Leader and we want more seats.”

A number of corporations helped fund DeLay’s Texas soft money operation, including:

- Questerra Corp., a Virginia software company, \$50,000;
- Diversified Collection Service, Inc., a California company, \$50,000;
- Burlington Northern and Santa Fe Railway, \$26,000;
- Phillip Morris, \$25,000;
- Sears Roebuck & Co., \$25,000;
- Westar Energy Corp., a Kansas company, \$25,000;
- AT&T, \$20,000;
- United Parcel Service PAC, \$20,000; and
- Bacardi USA, Inc., \$20,000.

In addition, the Alliance for Quality Nursing Home Care, a Massachusetts association, gave \$100,000 to help influence these Texas legislative races.

“It may not be clear why non-Texas corporations would be financially supporting local candidates for the Texas legislature, but it’s perfectly clear why they would be interested in helping and currying favor with the powerful and influential DeLay,” Wertheimer said.

As the *Houston Chronicle* (June 21, 2003) noted, “Most of the corporate donors to [TRMPAC] weren’t Texans at all, but out-of-state businesses trying to win favor with House Majority Leader Tom DeLay.”

DeLay’s TRMPAC is the subject of a criminal investigation by the Travis County District Attorney in Texas into whether it illegally spent funds in the 2002 Texas legislative elections.

In addition, DeLay abused his public office to involve the federal government in the fierce partisan redistricting battle going on between local Texas Democratic and Republican legislators.

After Texas Democrats went AWOL in May as a means to deny the state legislature a quorum and, thus, prevent Republicans from redistricting the Texas congressional seats, the federal government, including the Department of Homeland Security and the Federal Aviation Agency, was improperly called on to help track them down.

According to published reports, DeLay’s office originally denied any involvement with the federal government on this matter other than relaying a question from Texas Republicans as to whether the Justice Department could help in the search for the House Democrats.

This denial was not true, however, and DeLay later admitted that he and his office had been involved in using the FAA to obtain information for Texas Republican legislators to use in their partisan battle with the Democrats over redistricting.

According to *The Washington Post* (June 7, 2003), DeLay said he personally informed the Texas House Republican Speaker where the plane was, after his office received this information from the FAA. According to the Texas Speaker, this was how Texas Republicans found the missing Texas Democratic legislators.

According to another story in *The Washington Post* (July 12, 2003), “A request from the office of House Majority Leader Tom DeLay (R-Tex.) for information about an airplane he suspected was carrying Texas Democrats from the state legislature ultimately led the Federal Aviation Agency to issue a special lookout for the plane in May, U.S. officials said yesterday.”

“In the Texas redistricting affair, Tom DeLay abused his congressional office and misused a federal government agency for partisan purposes and to gain partisan advantage,” Wertheimer said.

Exhibit B **The Westar Influence-Money Scandal**

According to published reports, Westar Energy Inc., a Kansas-based corporation, gave \$56,000 in campaign contributions last year to benefit DeLay and three other House Republican Members in order to have included in energy legislation an amendment to exempt the corporation from certain federal regulations.

The largest contribution, a \$25,000 corporate soft money contribution, went to DeLay's Texas soft money operation, TRMPAC.

The contributions were given, according to an internal Westar email, "to get a seat at the table," referring to a House-Senate conference on the energy legislation where the effort would be made to ensure the amendment would be part of the final energy bill.

Westar Executive Vice President Douglas T. Lake questioned the rationale for making the soft money contribution to DeLay in an email to Westar Vice President Douglas Lawrence. He asked, "DeLay is from TX. What is our connection?" Lawrence replied that DeLay is the House Majority Leader (*note: DeLay was actually House Majority Whip at the time*) and "[h]is agreement is necessary before the House conferees can push the language we have in place in the House bill."

The Westar-backed amendment was originally put into the energy legislation by Representative Joe Barton (R-TX), another Member who benefited from the Westar contributions, according to *The Washington Post* (June 6, 2003), but the conference committee later dropped it from the agreement after it became known that Westar was the subject of a grand jury investigation into, among other things, alleged securities fraud.

According to *Associated Press* (June 20, 2003), shortly after making their \$25,000 soft money contribution to DeLay's TRMPAC, Westar officials joined other energy company executives at a two-day get-together with DeLay at a Virginia resort in June 2002. The event was described as a "golf fund-raising event" by a DeLay spokesman, according to the *AP* story, and as an "energy issues round-table" by some participants in the event.

"If you were a contributor to ARMPAC or TRMPAC of \$25,000 or more, you could get invited [to the event]," DeLay spokesman Stuart Roy said, according to the *AP* story.

In response to questions raised by reporters about Westar's contributions and the Westar emails that said they were made to gain favorable congressional action, DeLay recently said, "It never ceases to amaze me that people are so cynical that they want to tie money to issues, money to bills, money to amendments," according to *The Washington Post* (June 14, 2003).

A different view of the “cynicism” associated with soft money contributions, however, was provided by former Republican Senator Warren Rudman (NH) when he submitted an affidavit in support of the new law banning soft money.

Rudman stated in his affidavit, “The soft money system not only distorts the legislative process, it breeds deep cynicism in the minds of the public.” Rudman added that larger donations, “effectively ‘purchase’ greater benefits for donors,” and “affect whom Senators and House members see, whom they spend their time with, what input they get, and – make no mistake about it – this money affects outcomes as well.”

In response to DeLay’s statement about the Westar contributions, an editorial in *The Houston Chronicle* (June 30, 2003) stated, “The congressman’s remark either betrays the height of cynicism or reveals a pathological failure to comprehend what’s going on. Given DeLay’s history of wily maneuver and relentless, sometimes secret fund-raising, the odds favor the former.”

The editorial concluded:

A former exterminator, DeLay may be sincere in his belief that spreading poison around the environment does everyone a world of good. He also blames school violence on the teaching of modern biology. Businesses, however, do not support DeLay with campaign cash because they want biology teachers fired. They support DeLay because he is the third-most powerful figure in Washington and is in a position to increase their profits, with or without a stated *quid pro quo*.

Exhibit C **Charity Begins In The House**

When DeLay saw a House Ethics rule interfering with his desire to finance a golf and vacation trip for his House colleagues and their families with contributions to his foundation from corporations, Washington lobbyists, and others, he came up with a simple solution: DeLay got rid of the ethics rule.

In January 2003, DeLay pushed through a change in the House ethics rules, rolling back an important rule adopted in 1995 to prevent Representatives from taking golf, tennis, and other vacation trips paid for by lobbyists and other special interests in the guise of attending charitable events.

DeLay got the ethics rollback inserted into the proposed House rules for the current Congress just before the rules were sent to the House for a vote on the opening day of the session, thereby avoiding a separate vote on the retreat in ethics standards.

A *Washington Post* article (January 21, 2003) quoted “a GOP lobbyist close to DeLay” as saying, “We will all drive a Mack truck through this loophole,” and predicting that “younger lawmakers who

don't have the big budgets that leaders like DeLay have will be most attracted to the free vacations that corporations plan to provide.”

According to the *Post* article, House Ethics Committee Chairman Joel Hefley (R-CO) said he was blindsided by the ethics reversals and stated, “I see my job as to keep people out of trouble. We don't want to have the impression, nor the reality, that we're trying to weasel around ways to live high at someone else's expense.”

According to an article in *Roll Call* (January 29, 2003), “DeLay has acknowledged that he engineered the rules change without consulting the House ethics committee so that more lawmakers would attend the DeLay Foundation golf event, which provides money to support abused children.”

During the year period ending June 30, 2001, contributors gave a total of \$972,663 to the DeLay Foundation for Kids, according to *The Miami Daily Business Review* (April 9, 2003). “More than half of [the \$972,663] was raised from six contributors at the foundation's spring 2001 golf tournament. The names of these contributors, one of whom gave \$250,000 were excised legally from the IRS Form 990 forms that were made public,” according to the article.

In April 2003 DeLay sponsored his “charity golf tournament” for the DeLay Foundation For Kids at a South Florida resort known as “Fantasy Island.” The online registration form for the Golf Tournament Invitation read like a soft money invitation, with suggested contribution amounts beginning at \$10,000 at the “Crystal Level” and up to \$100,000 at the “Gold Level” and \$250,000 “Platinum Level.”

DeLay raised \$1.1 million for his foundation through his golf tournament this year, according to an article in *The Miami Daily Business Review* (April 9, 2003). The article stated, “About 40 corporations, individuals and organizations have paid between \$10,000 and \$250,000 to sponsor the DeLay Foundation for Kids' Charitable Golf Tournament and Family Vacation. That's a cool fundraising gross of \$1.1 million.”

DeLay rejected requests to voluntarily disclose the contributors to his “Fantasy Island” golfing adventure – so it is not possible to determine how many corporations, Washington lobbyists and others who donated to DeLay's political fundraising arms also responded to his solicitations for the DeLay foundation.

DeLay had a different view about disclosure in this area in 1995, however, when the ethics rule prohibiting lobbyists and other special interests from financing golf and other vacation trips for House Members was first adopted – the same ethics rule that DeLay undermined at the beginning of this year.

DeLay opposed the 1995 ethics rule banning special-interest financed vacation trips for Members and instead proposed full disclosure as the appropriate approach for dealing with the issue. On November 16, 1995, during House floor debate on the proposed ethics rule, DeLay stated:

The time has come that the American people know exactly what their Representatives are doing here in Washington. Are they feeding at the public trough, taking lobbyist paid vacations, getting wined and dined by special interest groups? Or are they working hard to represent their constituents? The people, the American people have a right to know.

I say the best disinfectant is full disclosure, not isolation.

Why do we not let the people decide what is right and what is wrong? Why do we not just tell the people what gifts we get, through full disclosure, and stop the ridiculous charade of public virtue at the expense of common sense.

However, when it came to disclosing the donors who were funding his foundation's Florida golf tournament and vacation trip, DeLay said no.

Exhibit D **The Hammer & K Street**

DeLay is an original founder of the "K Street Strategy."

His mission from the beginning has been clear – to pressure, intimidate and otherwise "persuade" the Washington lobbying community to hire Republican lobbyists, get rid of Democratic lobbyists, and give all of their political money to Republicans.

In 1995, the first year of the Republican takeover of the House, DeLay created and used a book listing the amounts and percentages of money the top 400 PACs had given to Republicans and Democrats, to send a warning message to corporate and other interest-group lobbyists that he expected a lot more money to be given to the Republicans, according to a *Washington Post* article (November 27, 1995).

According to the 1995 *Post* article, DeLay also "launched what has come to be known as the 'K Street Strategy,' named for the downtown Washington avenue lined with lobbying headquarters, law firms and trade associations. The strategy is to pressure those firms to remove Democrats from top jobs and replace them with Republicans."

That "strategy" continues to this day.

DeLay's philosophy as quoted in the *Post* article was, "If you want to play in our revolution, you have to live by our rules."

An editorial in *The Washington Post* (December 3, 1995) noted about DeLay and his PAC lists, “Opponents of reforming the political money game can make all the arguments they want. But please, no more claims that political money has no effect on the business of legislating. Tom DeLay, sitting right there in his office with his lists, would be the first to tell you otherwise.”

In 1996, then-Republican National Committee (RNC) Chairman Haley Barbour and the House Republican leadership organized a meeting with business executives, according to an article in *The Washington Monthly* (July/August 2003). According to the article, “‘They assembled several large company CEOs and made it clear to them that they were expected to purge their Washington offices of Democrats and replace them with Republicans,’ says a veteran steel lobbyist. The Republicans also demanded more campaign money and help for the upcoming election. The meeting descended into a shouting match, and the CEOs, most of them Republicans, stormed out.”

In 1999, DeLay was admonished by the House Ethics Committee for “threatening a Washington trade association with retaliation last year for hiring a prominent Democrat as its president,” according to an article in *The Washington Post* (May 14, 1999).

DeLay’s strong-arming tactics reportedly went so far as to hold up legislation supported by the Electronic Industries Alliance (EIA) because the group had passed over a Republican candidate and hired former Democratic Representative Dave McCurdy (OK) as its president. DeLay reportedly held up the legislation to force EIA to fire McCurdy and hire former GOP Representative Bill Paxon (NY) in his place.

In admonishing DeLay, the House Ethics Committee did not make public its communication with DeLay, but the Committee circulated a public memo that reportedly mirrored its letter to DeLay. The public memo warned Representatives and House employees that they “are prohibited from taking or withholding any official action on the basis of the partisan affiliation or the campaign contributions or support of involved individuals, or the prospect of personal gain either for oneself or anyone else.”

The public memo also stated, “House Members and staff are likewise prohibited from threatening punitive action on the basis of such considerations.”

Despite the Ethics Committee warning, DeLay’s “K Street Strategy” continues successfully to this day. *National Journal* reported in early 2003 (January 14, 2003) that, “it is now routine to sound out DeLay, his staff, or those familiar with his thinking, about potential lobbying hires.” One Republican lobbyist told *National Journal*, “DeLay wields so much influence over the congressional agenda that antagonizing him over hiring decisions is widely considered self-destructive.”