CASE STUDY

SERVICE IS ITS OWN REWARD?
THE REVOLVING DOOR FROM LAWMAKER TO LOBBYIST

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Note: This case study was commissioned early in the reform process prior to resolution of the issue in Congress so as to solicit comments by respondents that were unbiased by legislative outcomes.

In March, 2004, Ben Nighthorse Campbell, the nation’s first Native American United States Senator, abruptly ended his bid for reelection to a third term in the Senate. In his eighteen years on Capitol Hill, Campbell earned a reputation as a colorful maverick and “straight-shooter.”

Easily distinguishable on the Senate floor by his long braided ponytail, western-cut suits, and bolo ties, Campbell was just as conspicuous on the streets of Washington, D.C., riding his Harley Davidson. The former rancher, expert jewelry designer, horse trainer, teacher, and captain of the 1964 U.S. Olympic Judo Team was now saying goodbye to the Senate after 12 years.

Wide speculation since his retirement from the Senate that Campbell might seek the Republican nomination for Governor in 2006 was quashed at a recent press conference. The following is an abridged portion of the story about the press conference run by the Rocky Mountain News on January 4th, 2006:

Who wants to be governor of Colorado? Not as many people as want to be a millionaire, apparently.

Former U.S. Senator Ben Nighthorse Campbell said Tuesday he would rather get rich than try to win the Republican nomination . . .

“Very frankly, a governor’s seat in this state is a very unappealing job,” Campbell said. “It’s long hours, low pay, high stress, there’s no advancement and you’re under constant attack . . .”
Since leaving office, Campbell has worked representing the lobbying firm Holland & Knight in its dealings with American Indian tribes. He also has endorsed a line of outdoor equipment, makes paid appearances as a motivational speaker and has described his total annual compensation as a “seven-figure” package.

“Having a life again is good,” Campbell said.

Campbell is not alone in the sentiment. A recent study by Public Citizen, a Washington, D.C.-based government watchdog group, found that lobbying is by far the number one career choice of former federal lawmakers. The study found that 43% of those who have left Congress since 1998 have become lobbyists; 42% of House members and 50% of departing Senators.1

Among those who have made the move to K Street are Zell Miller, Dick Gephardt, Bob Dole, Tom Daschle, Billy Tauzin, John Breaux, Bob Livingston, and Greg Hiatt, to name a few of the more notable.2 In fact, the move from lawmaker to lobbyist has become so commonplace that the phenomenon has earned the label “the Revolving Door.”3

The reason clients are eager to hire former members of Congress seems clear: they have long established professional ties and friendships with their former colleagues and therefore enjoy a significant advantage as lobbyists. They also enjoy personal relationships with members of Congress that most ordinary lobbyists will never establish. Indeed, they have even been referred to as “super lobbyists.”4

Some have argued that the effectiveness of these “super lobbyists” goes beyond simple bonds of friendship and collegiality. A former committee chair or leadership member may have doled out a substantial number of favors over his or her legislative career and may thus have plenty of favors to call in on Capitol Hill. Even former back benchers will have co-sponsored and assisted in the passage of legislation which may make some current members feel a sense of indebtedness. Of course, the extent and specifics of the behind-doors tactics of these super lobbyists is mostly speculation by outsiders.5

Yet, if dollar signs are any indicator, former legislators do indeed have an advantage. Former Rep. Billy Tauzin (R-La., and former chairman of the House Energy and Commerce Committee), for example, recently turned down an offer from the Motion Picture Association of America with a salary offer of over a million dollars a year, only to eventually take a position as the head of the Pharmaceutical Research Manu-
facturers of America with a salary of over two million dollars a year, plus benefits. While Tauzin’s presents an extreme case, any former member of Congress can expect to more than double his or her congressional salary as an entering lobbyist.6

Many of the more prominent former lawmakers are also able to go into business for themselves by starting up their own lobbying shops. Many of the most profitable lobbying firms on K Street are headed by former lawmakers, including Rep. Bob Livingston’s (R-La.) Livingston Group, LLC, and Thomas J. Downey (D-N.Y.) and Raymond J. McGrath (R-N.Y.) of the Downey McGrath Group.7

While the transition from lawmaker to lobbyist is not new to the Capitol, the percentage of those who make the switch is. In the 1970s only about 3% of lawmakers made the switch, compared to 43% today.8 The increasing speed of the revolving door can be attributed in part to the skyrocketing salaries and a gradual de-stigmatization of the career move,9 but other factors are involved as well. Some have tried to argue partisan reasons, such as the “K Street Project,” as an explanation.

The K Street Project was the brainchild of Republican activist Grover Norquist and former House Majority Leader Tom DeLay. The idea was to promote the placement of former Republican lawmakers, congressional staffers, and other Federal employees in lobbying firms. The Project has sought to persuade firms by offering access to those who comply and threats to those who resist.10

In all actuality the increase in members of Congress turned lobbyists has been one of the few truly bipartisan efforts of the past quarter century. Many of the most successful lobbying firms are headed by a duo or quartet of equally matched Republican and Democratic ex-lawmakers. While more Republicans have been hired than Democrats over the past decade, this probably has more to do with Republican dominance of the House, Senate, and White House, than with the efforts of the K Street Project.11

Many government watchdog organizations, journalists, former lawmakers and others are disturbed by the trend, and worry that public office has ceased to be about public service. Joan Claybrook, President of Public Citizen, voiced this concern: “People used to run for Congress to serve the greater good and help the public, now Congress has become a way station to wealth. Members use it for job training and networking so they can leave office and cash in on the connections they forged as elected officials.”12 Regardless of whether her observation is true, this
increasingly prevalent perception is eroding the public’s already thin trust in lawmakers.13

Lobbyists counter that their profession (with or without ex-lawmakers) is not only honorable, it is also constitutionally protected. Enshrined in the First Amendment beside Freedom of Speech and Expression, is the right of the people to “petition the government for a redress of grievances.” What is more, lobbyists argue, they serve an important role in educating lawmakers and their staff about nuanced implications of the hundreds of pieces of legislation that they are expected to make an educated decision about every year. Lobbyists are often the experts that decision-makers rely upon in understanding complex issues and even serve as “an ‘extension’ of [the] congressional office staff.”14

If lobbyists in general play a critical role, then the importance of ex-lawmakers turned lobbyists to the system becomes even more apparent. Former lawmakers (particularly those who served as committee chairs) hold a level of expertise that would make them effective consultants to legislators and invaluable advocates to the organizations they represent.

Former lawmakers can be exceptionally persuasive for those issues about which they are passionate. It would be difficult to find, for example, a more effective advocate than Ben Nighthorse Campbell on Native American issues. The position of many of these former lawmakers seems to be that if it permits them to continue to effectively shape policy on issues they care about, while making a comfortable living, why not lobby?

As former House Appropriations Committee Chairman Bob Livingston explained “My pitch (to prospective clients) was, I’ve been working for the state for (more than 20 years) and I know what has to be done in Congress and I can keep doing it. But now I am going to do it as a private person, and you’re going to have to pay me for it.”15

The lobbying industry, however, is finding itself under intense scrutiny in the wake of the still unfolding scandal involving lobbyist Jack Abramoff. Abramoff, who recently pleaded guilty to four felony charges involving wire fraud, conspiracy to defraud his clients, schemes to corrupt public officials, and tax evasion, has brought political reform to the forefront in a way not seen in decades.16 At the time of writing, Republicans and Democrats in both chambers of Congress are hammering out various lobbyist reform proposals in order to respond to public outrage over the scandal.

Of the many lobbyist reform packages being discussed inside Congress and out, almost all contain reforming the revolving door as a central point.17 Currently the law prohibits former members of Congress
from actively lobbying current members, officers, or employees of either House of Congress for one year after leaving office. This proscription, however, does not prevent them from directing other lobbyists in their legislative activities, or in consulting clients. Many lawmakers sign contracts while still in office, and are on the payroll of lobbying firms well before their one year “cooling off” period has expired.

Some of the possible revolving door reforms being suggested are:

- Increasing the cooling off period before a former lawmaker can actively lobby from one year to two (though some in the past have suggested five years).
- Prohibit former lawmakers from directing or supervising other lobbyists during the cooling off period.
- Prohibit lawmakers from signing contracts with lobbying firms (or require full disclosure of contracts) while still in office.
- Revoke former members’ access to the Floor of the House and Senate, and the congressional gymnasium (at present, the House has already voted to suspend these privileges).
- Prohibit contributions from lobbyists to those whom they lobby, or when legislation for which they are advocating is before Congress.
- Restrict former lawmakers from hosting fund raisers.

While many lawmakers and government watchdog organizations see these as essential reforms, they are usually touted only as ways of slowing down the revolving door rather than as means of removing it. With the First Amendment protection of lobbying, it may well prove impossible to effectively stop the revolving door.

Accordingly, some lawmakers and much of the lobbying industry view the need for these revolving door reforms as unnecessary and even harmful to an efficiently running government. Newly elected House Majority Leader John Boehner has in effect stated that heavy handed prohibitions are unnecessary and that he will instead push for reforms that merely involve maximizing disclosure. Some lobbyists agree, arguing that disclosure will provide the public light and pressure necessary to prevent another “Abramoff scandal.”

Still others argue that even greater disclosure is not necessary. They argue that the system works and needs no reform, only more zealous enforcement of the laws already on the books. They point out, correctly, that Abramoff broke laws that were already in place, and that the majority of lobbyists follow these laws. Thus, law abiding lobbyists should not be burdened by further restrictions because of one rogue agent. More-
over, Abramoff — who was never a public official — certainly should not be used to justify stricter laws on former lawmakers turned lobbyists.23

Amidst the partisan wrangling, and the competing parties and interests, it is difficult to see how any ground for consensus can be found. Is it possible (much less useful) to slow the revolving door, and if so, will the proposed changes accomplish that goal? Can lawmakers, lobbyists, and lawmakers turned lobbyists be regulated into behaving ethically?

One popular argument is that there needs to be a change in the beltway culture. Many lobbyists, watchdogs, and legislators contend that the proposed changes will serve at best as a suture to stop the bleeding, but will not address the deeper and more inherent problem of money and politics in this age of big government.

Former Rep. Bob Walker (R-Pa.), now a lobbyist, argues this very point. He believes the real root of the problem lies with “the vast amount of money that members are required to raise to run campaigns and to be seen as viable inside the process. The ability to raise money is seen as a sign of success, and that’s coloring the process in perverse ways.”24

Walker is not alone in his opinion; along with several other lobbyists who have spoken out on the issue of lobbying and revolving door reform, a coalition of government watchdog organizations has iterated the same need for campaign finance reform. A coalition comprised of the Campaign Legal Center, the League of Women Voters, Common Cause, the U.S. PIRG, Democracy 21, Public Campaign, and Public Citizen, recently endorsed a document titled “Six Benchmarks for Lobbying Reform.” The benchmarks provide broad proposals for responding to the need for lobbyist reform including “Slowing the Revolving Door.”

Prior to discussing the six benchmarks, however, the document makes the following noteworthy disclaimer,

While we are focusing primarily on lobbying reforms today, we want to make clear that campaign contributions are at the heart of the lobbying and corruption scandals now engulfing Congress. In addition to the immediate battle for lobbying reforms, it is essential in the end to achieve fundamental campaign finance reforms, most importantly public financing of elections, if we are to restore the integrity and health of our democracy.25

Clearly the notion that campaign finance overhauls are essential to true reform, presents a possible area for building consensus.
It is difficult to predict what effects the unfolding scandal and corresponding reforms will have on the revolving door. Regardless of the outcome, however, the ethical questions will most likely remain the same. In the absence or presence of strong regulations, is it desirable for a former lawmaker to profit from his or her legislative connections and expertise?

NOTES


2 Ibid, 31-34.

3 Ibid, 6.


5 Ibid.


7 Ibid.


13 Katherine M. Skiba, “Roth Enjoys Privileged Access as Lobbyist; Former Congressman Also has Campaign War Chest to Disburse,” *Milwaukee Journal Sentinel*. (May 26, 2002): 01A.


looked for a silver lining in his misdeeds and travails: “The exposure of my lobbying practice, the absurd amount of media coverage, and the focus — for the first time — on this sausage-making factory that we call Washington will ultimately help reform the system, or at least so I hope.”

17 For a side-by-side analysis, see http://www.campaignlegalcenter.org/attachments/1510.pdf

18 18 U.S.C. sec. 207(c)(1).


20 For the purposes of this case study we have focused on former lawmakers, but it is important to note that many see the revolving door as extending to legislative staffers and executive branch employees as well, and as a result many proposals extend some of these prohibitions to cover them.


25 Campaign Legal Center, *Six Benchmarks for Lobbying Reform* [Online].

The Six Benchmarks are:

1) Break the Nexus Between Lobbyists, Money and Lawmakers

2) Prevent Private Interests from Financing Trips and from Subsidizing Travel for Members of Congress and Staff and Executive Branch Officials and Federal Judges

3) Ban Gifts to Members of Congress and Staff

4) Oversee and Enforce Ethics Rules and Lobbying Laws through an Independent Congressional Office of Public Integrity and Increase Penalties for Violations

5) Slow the Revolving Door

6) Place Sunshine on Lobbying Activities and Financial Disclosure Reports