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### Hastert, Weller get subpoenas in bribe case

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WASHINGTON

Former Speaker Dennis Hastert (R-Ill.), Rep. Jerry Weller (R-Ill.) and 11 of their House colleagues are fighting subpoenas to testify in a criminal case linked to disgraced former Rep. Randy "Duke" Cunningham of California.

In addition, Weller has landed on a Washington watchdog group's list of the "22 most corrupt" members of Congress.

Weller's spokesman declined comment on the list Tuesday and referred questions about the subpoenas to House counsel.

The subpoenas center on a criminal case against Brent Wilkes, the defense contractor who faces a variety of charges linked to his alleged bribing of Cunningham — who is already in prison after pleading guilty to accepting bribes. The congressmen disclosed their subpoenas, and their plans to fight them, in letters to House Speaker Nancy Pelosi, which were entered into the House record late Monday.

"After consultation with the Office of General Counsel," Weller and Hastert each wrote in separate letters, "I have determined that compliance with the subpoena is inconsistent with the precedents and privileges of the House."

The "most corrupt" list is an annual compilation put together by Citizens for Responsibility and Ethics.

The Washington-based watchdog group, known as CREW, is a nonprofit that says it is "dedicated to promoting ethics and accountability in government and public life by targeting government officials — regardless of party affiliation — who sacrifice the common good to special interests."

The group has targeted Democrats and Republicans, but the bulk of the congressional ethics complaints it has filed in the last year have targeted Republicans. It has repeatedly sued the Bush administration for access to documents.

The "most corrupt" list includes several congressmen and senators reportedly under investigation for ethical issues, including Reps. John Doolittle (R-Calif.), Alan Mollohan (D-W.Va.) and William Jefferson (D-La.) and Sen. Ted Stevens (R-Alaska).

Weller makes the list, the group said, for several ethical issues, including his failure to report some Nicaraguan land deals on his financial disclosure form. The group alleged those omissions violated the Ethics in Government Act and House rules.

The group also said that Weller appears to have used his position to boost interests in Puerto Rico and Belize in exchange for campaign contributions. It called on the House ethics committee to investigate whether he also violated ethics rules by declining to disclose his wife's finances in his annual filings.

The Tribune reported this month that Weller failed to disclose at least seven Nicaraguan land transactions on House filings.

It also reported that a non-profit organization formed by Weller's wife, a member of the Guatemalan Congress, includes Weller family members and a business associate on its board of directors, raising questions about whether the couple's finances are sufficiently separate to merit a disclosure exemption.

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## REP. JERRY WELLER

Rep. Jerry Weller (R-IL) is a seventh-term member of Congress, representing the 11<sup>th</sup> district of Illinois. He serves on the House Ways and Means Committee and until 2006, served on the House International Relations Committee. Rep. Weller's ethical issues stem from his repeated failure to report assets he bought and sold in Nicaragua, the misuse of his position to sell some of his foreign land holdings, his acceptance of campaign contributions from Puerto Rican interests in apparent exchange for supporting legislation that benefitted Puerto Rico and his acceptance of campaign contributions from Jeffrey Prosser in apparent exchange for assisting Mr. Prosser in his legal battle with the government of Belize. In addition, there is a substantial question of whether Rep. Weller qualifies for a waiver from including his wife's assets and liabilities on his financial disclosure forms.

### Nicaraguan Land Holdings

In 2002, Rep. Weller made his first official congressional trip to Nicaragua.<sup>1</sup> That same year, he bought the first of the numerous lots of ocean-view property in the township of San Juan del Sur, Nicaragua that he would eventually purchase.<sup>2</sup> According to Rep. Weller's 2002 financial disclosure form, the first lot he purchased was worth between \$50,000 and \$100,000.<sup>3</sup> Property records at the registrar's office in Rivas, the seat for San Juan, show that on December 7, 2002, Rep. Weller paid only about \$4,333 for a lot measuring four-tenths of an acre.<sup>4</sup> The *Chicago Tribune* has reported that buyers of property on Nicaragua's Pacific Coast frequently reported artificially low purchase prices "to lessen the bite of local taxes."<sup>5</sup>

Within a year of this purchase Rep. Weller was seated on the House International Relations Committee and Western Hemisphere Subcommittee, which has a focus on Latin America.<sup>6</sup> That same year, while traveling in Guatemala, Rep. Weller met Zury Rios Sosa, a

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<sup>1</sup> Andrew Zajac, Oscar Avila and Jim Tankersley, Illinois Lawmaker Benefits From Trade Accord, Fails To Report Extent Of His Ocean-View Holdings, *Chicago Tribune*, September 7, 2007 (Exhibit 1).

<sup>2</sup> Id.

<sup>3</sup> Rep. Jerry Weller, Financial Disclosure Statement 2002, filed May 12, 2003 (Exhibit 2).

<sup>4</sup> Zajac, Avila and Tankersley, *Chicago Tribune*, Sept. 7, 2007.

<sup>5</sup> Id.

<sup>6</sup> Frank Smyth, Is Jerry Weller's Beach An Ethics Breach?, *Chicago Reader*, October 27, 2006 (Exhibit 3); Zajac, Avila and Tankersley, *Chicago Tribune*, Sept. 7, 2007.

legislator in Guatemala's congress and the daughter of former dictator General Efraim Rios Montt.<sup>7</sup> Eleven months later Rep. Weller announced their engagement.<sup>8</sup>

Following this announcement, Rep. Weller began buying and selling various assets, including the purchase of a second beach property in Nicaragua's San Juan del Sur township.<sup>9</sup> Rep. Weller's 2004 financial disclosure form lists the value of this property as between \$50,000 and \$100,000, while the value of his previously-purchased lot is now listed as between \$101,000 and \$250,000.<sup>10</sup> According to a notarized bill of sale, however, Rep. Weller paid only \$3,150 for the second lot.<sup>11</sup>

The *Chicago Tribune* reported recently that in addition to this second lot, Rep. Weller purchased and sold at least eight different pieces of land in Nicaragua, disclosing only one purchase on his financial disclosure forms.<sup>12</sup> In the first four months of 2005 alone, Rep. Weller bought two separate lots at Playa Coco, Nicaragua, he purchased a third lot in June and sold another that same month.<sup>13</sup> In August 2005, Rep. Weller sold another lot in Nicaragua, he sold two additional lots in September, and in December, in partnership with two others, purchased another property, which was the only transaction of all of these transactions that was included on his 2005 disclosure report.<sup>14</sup> An earlier report in the *Chicago Reader* catalogued two additional lots purchased in 2005, but not reported on his 2005 financial disclosure form.<sup>15</sup> Also missing from Rep. Weller's 2005 financial disclosure form was the February 2005 sale for about \$95,000 of the first lot he purchased in 2002.<sup>16</sup>

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<sup>7</sup> Frank Smyth, The Congressman And The Dictator's Daughter, *Chicago Reader*, August 25, 2006 (Exhibit 4).

<sup>8</sup> Smyth, *Chicago Reader*, Oct. 27, 2006.

<sup>9</sup> Id.

<sup>10</sup> Rep. Jerry Weller, Financial Disclosure Statement 2004, filed May 13, 2005 (Exhibit 5).

<sup>11</sup> Smyth, *Chicago Reader*, Oct. 27, 2006.

<sup>12</sup> Zajac, Avila and Tankersley, *Chicago Tribune*, Sept. 7, 2007; Rep. Gerald C. Weller, U.S. House of Representatives, Financial Disclosure Statement 2005, filed May 12, 2006 (Exhibit 6).

<sup>13</sup> Zajac, Avila and Tankersley, *Chicago Tribune*, Sept. 7, 2007.

<sup>14</sup> Id.

<sup>15</sup> Smyth, *Chicago Reader*, Octo 27, 2006.

<sup>16</sup> Zajac, Avila and Tankersley, *Chicago Tribune*, Sept. 7, 2007; Rep. Gerald C. Weller, U.S. House of Representatives, Financial Disclosure Statement 2005, filed May 12, 2006.

In 2005, Rep. Weller also publicly pushed for passage of the Central America Free Trade Agreement (“CAFTA”), which was approved by the House in July 2005 by only two votes.<sup>17</sup> At no time during the congressional debate on CAFTA did Rep. Weller disclose his considerable Nicaraguan investments, even though a provision of CAFTA gave added legal protection to American investors, including those who purchased lots from Rep. Weller.<sup>18</sup>

Rep. Weller’s 2006 financial disclosure form contains a much more detailed listing of his Nicaraguan land holdings. The three previously disclosed lots were consolidated into one property and then subdivided into 37 separate properties, eleven of which he sold for between \$275,008 and \$700,000.<sup>19</sup> According to a purchaser of two of these lots, the salesman stated about the property: “This is being developed by U.S. Congressman Jerry Weller. He’s on the Ways and Means Committee. It should be a clean deal.”<sup>20</sup>

### Financial Disclosure Requirements

The Ethics in Government Act of 1967<sup>21</sup> requires all members of Congress to file financial disclosure reports. Under the statute, the Attorney General may seek a civil penalty of up to \$11,000 against any individual who knowingly and willfully falsifies or fails to file or report any information required by the Act.<sup>22</sup>

In addition, 18 U.S.C. § 1001 prohibits Members of Congress from making “any materially false, fictitious, or fraudulent statement or representation”<sup>23</sup> on “a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch.”<sup>24</sup>

Rep. Weller’s failure to disclose the purchase and sale of several pieces of ocean view property in Nicaragua during the past five years appears to be a violation of the Ethics in Government Act. In addition, his failure to include multiple transactions violates House rules. Pursuant to 5 U.S.C. app. 4 § 101(a)(1)(B), Members of Congress must disclose all real property

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<sup>17</sup> Zajac, Avila and Tankersley, *Chicago Tribune*, Sept. 7, 2007.

<sup>18</sup> Id.

<sup>19</sup> Rep. Jerry Weller, Financial Disclosure Statement 2006, filed May 14, 2007 (Exhibit 7).

<sup>20</sup> Zajac, Avila and Tankersley, *Chicago Tribune*, Sept. 7, 2007.

<sup>21</sup> Pub. L. No. 95-521, 92 Stat. 1824 (Oct. 26, 1978).

<sup>22</sup> 5 U.S.C. app. 4, § 104.

<sup>23</sup> 18 U.S.C. § 1001(a)(2).

<sup>24</sup> Id. at § 1001(c)(2).

held for investment. The instruction booklet accompanying the House financial disclosure forms explains that the Rules require disclosure of “real and personal property held for investment or production of income and valued at more than \$1,000 at the close of the reporting period.”<sup>25</sup> By failing to report on his financial disclosure forms all real property he held in Nicaragua for investment, Rep. Weller violated House rules.

In addition, the discrepancies between the value Rep. Weller assigned to those Nicaraguan properties that he did report and the value of the properties listed in the bills of sale and other Nicaraguan property records suggest that Rep. Weller may not have truthfully reported the properties’ value on his financial disclosure forms, which would be a violation of 18 U.S.C. § 1001.

5 C.F.R. § 2635.702(a)

A “fundamental rule of ethics” for members of the House is that they are prohibited from “taking any official actions for the prospect of personal gain for themselves or anyone else.”<sup>26</sup> House members are directed to adhere to 5 C.F.R. § 2635.702(a), issued by the U.S. Office of Government Ethics for the Executive Branch, which provides:

An employee shall not use or permit use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person . . . to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

By allowing salesmen of his properties in Nicaragua to use Rep. Weller’s congressional position to boost sales, Rep. Weller appears to have violated 5 C.F.R. § 2635.702(a).

Conduct Not Reflecting Creditably on the House

Rule XXIII of the House Ethics Manual requires all members of the House to conduct themselves “at all times in a manner that reflects creditably on the House.”<sup>27</sup> This ethics standard is considered to be “the most comprehensive provision of the code.”<sup>28</sup> When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th

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<sup>25</sup> House Comm. On Standards of Official Conduct, “Assets and Unearned Income,” Financial Disclosure Instruction Booklet.

<sup>26</sup> House Comm. on Standards of Official Conduct, “Memorandum For All Members, Officers and Employees,” Prohibition Against Linking Official Actions to Partisan or Political Considerations, or Personal Gain, May 11, 1999.

<sup>27</sup> Rule XXIII, cl. 1.

<sup>28</sup> House Comm. on Standards of Official Conduct, House Ethics Manual.

Congress noted that it was included within the Code to deal with “flagrant” violations of the law that reflect on “Congress as a whole,” and that might otherwise go unpunished.<sup>29</sup> This rule has been relied on by the Ethics Committee in numerous prior cases in which the committee found unethical conduct including: the failure to report campaign contributions,<sup>30</sup> making false statements to the Committee,<sup>31</sup> criminal convictions for bribery,<sup>32</sup> or accepting illegal gratuities,<sup>33</sup> and accepting gifts from persons with interest in legislation in violation of the gift rule.<sup>34</sup>

Rep. Weller’s failure to comply with the financial disclosure requirements of the Ethics in Government Act and the use of his position on the House Ways and Means Committee to sell lots he owned in Nicaragua do not reflect creditably on the House.

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<sup>29</sup> House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

<sup>30</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rep. No. 95-1742, 95th Cong., 2d Sess. 2-3 (1978) (Count 1); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978).

<sup>31</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); H. Rep. No. 95-1743 (Counts 3-4).

<sup>32</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H. Rep. No. 96-1387, 96th Cong., 2d Sess. 2, 5 (1980); see 126 Cong. Rec. 28953-78 (Oct. 2, 1980) (debate and vote of expulsion); *In the Matter of Representative John W. Jenrette, Jr.*, H. Rep. No. 96-1537, 96th Cong., 2d Sess. 4 (1980) (Member resigned); *In the Matter of Representative Raymond F. Lederer*, H. Rep. No. 97-110, 97th Cong., 1st Sess. 4, 16-17 (1981) (Member resigned after Committee recommended expulsion). In another case, the Committee issued a Statement of Alleged Violation concerning bribery and perjury, but took no further action when the Member resigned (*In the Matter of Representative Daniel J. Flood*, H. Rep. No. 96-856, 96th Cong., 2d Sess. 4-16, 125-126 (1980)).

<sup>33</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. No. 100-506, 100th Cong., 2d Sess. 7, 9 (1988) (Member resigned while expulsion resolution was pending).

<sup>34</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 96-930, 96th Cong. 2d Sess. 4-5 (1980); see 126 Cong. Rec. 13801-20 (June 10, 1980) (debate and vote of censure).

## Marriage to Zury Rios Sosa

Rep. Weller's marriage to Zury Rios Sosa has generated considerable controversy.<sup>35</sup> She has been described as "the most powerful woman in Guatemala's controversial FRG party," the party her dictator father, Rios Montt, founded and still leads.<sup>36</sup> Her father came to power in a military coup in 1982, and during his 17 months in office up to 70,000 civilians were killed.<sup>37</sup>

Rep. Weller ignored suggestions that he should resign from his seat on the International Relations Committee after his marriage, although he reportedly sought advice from the House ethics committee.<sup>38</sup> Until early 2006, his wife sat on Guatemala's foreign affairs committee, the counterpart to Rep. Weller's committee.<sup>39</sup>

Despite the fact that the couple now have a daughter together, at no time since his 2004 marriage to Zury Rios Sosa has Rep. Weller included his wife's assets on his financial disclosure statements. Instead, starting with his 2004 financial disclosure form, Rep. Weller has claimed an exemption for her assets and liabilities.<sup>40</sup> In a letter dated May 14, 2007 to Chairwoman Stephanie Tubbs Jones of the House Committee on Standards of Official Conduct, Rep. Weller claimed that although he is "aware" that his wife "may possess assets in her native Guatemala," he does not know what those assets are and has not inquired about them.<sup>41</sup> He also claimed that he has not contributed to any of her assets, has not received any financial or economic benefit from her assets, and will not inherit any of her assets.<sup>42</sup> Only one other House member, Rep. David Wu (D-OR), claimed the exemption for his wife's assets and liabilities in 2006.<sup>43</sup>

The claim that Rep. Weller's finances are completely separate from his wife's is further undercut by the fact that she started an American not-for-profit corporation, the Zury Rios Fund,

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<sup>35</sup> Dave Newbart and Abdon M. Pallasch, Is Dictator's Daughter A Conflict?, *The Chicago-Sun Times*, October 31, 2006 (Exhibit 8).

<sup>36</sup> Smyth, *Chicago Reader*, Aug. 25, 2006.

<sup>37</sup> Id.

<sup>38</sup> Id.

<sup>39</sup> Id.

<sup>40</sup> *See Exhibits 5, 6, 7.*

<sup>41</sup> Letter from Jerry Weller to Chairwoman Stephanie Tubbs Jones, Committee on Standards of Official Conduct, May 14, 2007 (Exhibit 9).

<sup>42</sup> Id.

<sup>43</sup> Zajac, Avila and Tankersley, *Chicago Tribune*, Sept. 7, 2007.

to help children in Guatemala.<sup>44</sup> The organization is registered in Illinois and its board of directors includes Rep. Weller's mother, his brother and his business partner, Karl Rozak, who has partnered with Rep. Weller to buy land in Nicaragua.<sup>45</sup> The fund reportedly started with no money, but expects to raise more than \$10,000 this year alone.<sup>46</sup>

Rep. Weller's assertions that after nearly three years of marriage he continues to have no information whatsoever about any of his wife's assets and liabilities are implausible. Moreover, his wife, as a very powerful and prominent member of the Guatemalan congress, is likely to have considerable assets, some of which may raise difficult questions for Rep. Weller. Accordingly, the ethics committee should investigate the merits of Rep. Weller's exemption claim to determine whether he violated the Ethics in Government Act and 18 U.S. C. § 1001.

### **Support for Puerto Rican Interests**

Despite the fact that Rep. Weller represents a rural district in Illinois, he has been a strong advocate for Puerto Rico and has used his position on the Ways and Means Committee to push for Puerto Rican interests.<sup>47</sup> Rep. Weller's successes on this front include getting more federal money for Puerto Rican hospitals and securing a lower manufacturing tax that business interests claimed prevented U.S. businesses from locating in Puerto Rico.<sup>48</sup>

Within two months of a trip to Puerto Rico in July 2003 -- funded by the Puerto Rico Bankers Association<sup>49</sup> -- Rep. Weller received over \$11,000 in Puerto Rican-based campaign donations.<sup>50</sup> He did not receive any more such contributions until two years later when, on May 4, 2005, Rep. Weller received \$16,000 from 17 individuals with various interests in Puerto

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<sup>44</sup> Jim Tankersley, Board Complicates Weller Asset Claim, *The Chicago Tribune*, September 15, 2007 (Exhibit 10).

<sup>45</sup> Id.

<sup>46</sup> Id.

<sup>47</sup> Dennis Conrad, Illinois' Weller: Puerto Rico's Go-Go Guy, *The Associated Press*, August 28, 2006 (Exhibit 11).

<sup>48</sup> Id.

<sup>49</sup> Gerald C. Weller, U.S. House of Representatives, Member/Officer Travel Disclosure Form, August 12, 2003 (Exhibit 12).

<sup>50</sup> Jerry Weller for Congress, Inc., FEC Form 3, October Quarterly Report 2003, February 12, 2004, pp. 24, 30, 35, 50, 57, 61, 65, 68, 80 (Exhibit 13); Jerry Weller for Congress, Inc., FEC Form 3, Year-End Report 2003, March 4, 2004, pp. 35, 51, 55, 56 (Exhibit 14). *The Associated Press* reported the amount of these contributions to Rep. Weller as totaling \$15,550: Conrad, *The Associated Press*, Aug. 28, 2006.

Rico.<sup>51</sup> These included high-ranking officials from Popular Inc. and its subsidiary, Banco Popular.<sup>52</sup> The following day, a bill backed by Puerto Rico's business interests as well as Resident Commissioner Luis Fortuno and subsequently co-sponsored by Rep. Weller was sent to the House Ways and Means Committee.<sup>53</sup> At a November hearing, Mr. Fortuno thanked Rep. Weller for backing the bill and showing "leadership in this process."<sup>54</sup>

Of the approximately 698,000 residents in Rep. Weller's congressional district, only between 677 and 3,589 are Puerto Rican.<sup>55</sup>

### **Assistance for Telecommunications Executive**

Rep. Weller also used his congressional influence to assist a telecommunications executive, Jeffrey Prosser, when the government of Belize seized Mr. Prosser's business assets.<sup>56</sup> Mr. Prosser was involved in a legal dispute over a government-run telephone company in which he owned a controlling share in Belize that resulted in the government seizing control of the company.<sup>57</sup> In response, Rep. Weller hand-delivered a letter to government officials in Belize suggesting that the government's decision to seize Mr. Prosser's business assets might hurt future investments in that country.<sup>58</sup> During that same year, Rep. Weller received campaign contributions totaling \$4,200 from Mr. Prosser and his wife.<sup>59</sup>

This is not the first time campaign contributions to Rep. Weller have raised questions. In 2006, Rep. Weller was pressured to return contributions he had received from now-convicted

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<sup>51</sup> Jerry Weller for Congress, Inc., FEC Form 3, July Quarterly Report 2005, July 15, 2005, pp. 46, 47, 49-51, 54-58, 60, 64, 65, 68, 69 (Exhibit 15).

<sup>52</sup> Id.; Conrad, *The Associated Press*, Aug. 28, 2006.

<sup>53</sup> Id.

<sup>54</sup> Id.

<sup>55</sup> Conrad, *The Associated Press*, Aug. 28, 2006.

<sup>56</sup> Christi Parsons, Donation Stirs Campaign Dispute: Democrat Pavich Hits Help Given by Weller, *Chicago Tribune*, September 2, 2006 (Exhibit 16).

<sup>57</sup> Id.

<sup>58</sup> Id.

<sup>59</sup> Jerry Weller for Congress, Inc., FEC Form 3, July Quarterly Report 2005, July 15, 2007, pp. 62, 75 (Exhibit 17).

lobbyist Jack Abramoff and former Rep. Randy “Duke” Cunningham.<sup>60</sup> And in December 2005, a spokesperson for Rep. Weller admitted that Rep. Weller’s campaign had failed to report the receipt of a leased luxury suite for a fundraiser, donated by a California Indian tribe the preceding year.<sup>61</sup>

### Acceptance of a Bribe

Federal law prohibits public officials from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to receive or accept anything of value in return for being influenced in the performance of an official act.<sup>62</sup> It is well-settled that accepting a contribution to a political campaign can constitute a bribe if a *quid pro quo* can be demonstrated.<sup>63</sup>

If, as it appears, Rep. Weller accepted campaign donations from individuals and entities with interests in Puerto Rico in direct exchange for providing legislative assistance to Puerto Rico, he may have violated the bribery statute.

If, as it appears, Rep. Weller accepted campaign donations in direct exchange for assisting Mr. Prosser in his dispute with the Belizean government he may have violated the bribery statute.

### Honest Services Fraud

Federal law prohibits a member of Congress from depriving his constituents, the House of Representatives, and the United States of the right of honest service, including conscientious, loyal, faithful, disinterested, unbiased service, performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud and corruption.<sup>64</sup> By using his position as a member of Congress to financially benefit individuals and entities with financial interests in Puerto Rico as well as Mr. Prosser, Rep. Weller may be depriving his constituents, the House of Representatives and the United States of his honest services in violation of 18 U.S.C. § 1341.

### Illegal Gratuity

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<sup>60</sup> Hal Dardick, Foe Pressures Weller to Return ‘Tainted Funds’: Pavich Says \$35,000 is Linked to Scandals, *Chicago Tribune*, January 11, 2006 (Exhibit 18).

<sup>61</sup> Dennis Conrad, Weller Failed to Report Indian Contribution, *The Associated Press*, December 5, 2005 (Exhibit 19).

<sup>62</sup> 18 U.S.C. § 201(b)(2)(A).

<sup>63</sup> McCormick v. U.S., 500 U.S. 257, 273 (1991); United States v. Biaggi, 909 F.2d 662, 605 (2d Cir. 1990), *cert. denied*, 499 U.S. 904 (1991).

<sup>64</sup> 18 U.S.C. § 1341.

The illegal gratuity statute prohibits a public official from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to accept anything of value personally for or because of any official act performed or to be performed by such official.<sup>65</sup> In considering this statute, the Supreme Court has held that a link must be established between the gratuity and a specific action taken by or to be taken by the government official.<sup>66</sup>

If a link is established between Rep. Weller's sponsorship of legislation that assisted Puerto Rico and campaign contributions entities and individuals with economic interests in Puerto Rico made to him, Rep. Weller may be in violation of the illegal gratuity statute.

If a link is established between the campaign donations Rep. Weller received from Mr. and Mrs. Prosser and Rep. Weller's intervention with the government of Belize on behalf of Mr. Prosser and his business interests there, Rep. Weller may be in violation of the illegal gratuity statute.

In addition, the Committee on Standards of Official Conduct has used the acceptance of bribes and gratuities under these statutes as a basis for disciplinary proceedings and punishment of members, including expulsion.<sup>67</sup>

#### 5 U.S.C. § 7353 and House Rules

A provision of the Ethics Reform Act of 1989, 5 U.S.C. § 7353, prohibits members of the House, officers, and employees from asking for anything of value from a broad range of people, including "anyone who seeks official action from the House, does business with the House, or has interests which may be substantially affected by the performance of official duties."<sup>68</sup> House Rule XXIII, clause 3, similarly provides:

A Member, Delegate, Resident Commissioner, or employee of the House may not receive compensation and may not permit compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

Rep. Weller's acceptance of campaign contributions from Mr. and Mrs. Prosser and

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<sup>65</sup> 18 U.S.C. § 201(c)(1)(B).

<sup>66</sup> United States v. Sun-Diamond Growers of Cal., 526 U.S. 398 (1999).

<sup>67</sup> *In the Matter of Representative Mario Biaggi*, H.R. Rep. No. 100-506, 100<sup>th</sup> Cong., 2d Sess. (1988) (recommending expulsion of the member from the House); *In the Matter of Representative Daniel J. Flood*, H.R. Rep. No. 96-856, 96<sup>th</sup> Cong., 2d Sess. (1980).

<sup>68</sup> See House Comm. on Standards of Official Conduct, "Memorandum For All Members, Officers and Employees," Rules Governing (1) Solicitation by Members, Officers and Employees in General, and (2) Political Fundraising Activity in House Offices, April 25, 1997.

individuals and entities with interests in Puerto Rico in return for his legislative assistance likely violated 5 U.S.C. § 7353 and House Rule XXIII.

*Conduct Not Reflecting Creditably on the House*

Rep. Weller's apparent acceptance of campaign contributions in return for legislative favors does not reflect creditably on the House and, therefore, violates House Rule XXIII, clause 1.

**Legal Fees**

Although Rep. Weller's campaign manager has denied the congressman is under investigation,<sup>69</sup> Rep. Weller has spent almost \$98,000 on legal fees since 2005.<sup>70</sup> Some of Rep. Weller's legal expenses were incurred to respond to allegations of corruption.<sup>71</sup>

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<sup>69</sup> Susan Davis, Members Shell Out For Legal Help, *Roll Call*, April 17, 2007 (Exhibit 20).

<sup>70</sup> Jerry Weller for Congress, Inc., FEC Form 3, April Quarterly Report 2005, May 18, 2005, p. 92 (Exhibit 21); Jerry Weller for Congress, Inc., FEC Form 3, July Quarterly Report 2005, July 15, 2005, pp. 95, 97, 98 (Exhibit 22); Jerry Weller for Congress, Inc., FEC Form 3, October Quarterly Report 2005, October 15, 2005, p. 114 (Exhibit 23); Jerry Weller for Congress, Inc., FEC Form 3, Year-End Report 2005, January 31, 2006, p. 99 (Exhibit 24); Jerry Weller for Congress, Inc., FEC Form 3, April Quarterly Report 2006, July 14, 2006, p. 85 (Exhibit 25); Jerry Weller for Congress, Inc., FEC Form 3, July Quarterly Report 2006, September 5, 2006, p. 116 (Exhibit 26); Jerry Weller for Congress, Inc., FEC Form 3, October Quarterly Report, December 11, 2006, p. 144 (Exhibit 27); Jerry Weller for Congress, Inc., FEC Form 3, Post General Election Report 2006, February 20, 2007, p. 75 (Exhibit 28); Jerry Weller for Congress, Inc., FEC Form 3, Year-End Report 2006, August 1, 2007, pp. 16, 17 (Exhibit 29); Jerry Weller for Congress, Inc., FEC Form 3, April Quarterly Report 2007, April 14, 2007, p. 69 (Exhibit 30); Jerry Weller for Congress, Inc., FEC Form 3, July Quarterly Report 2007, July 15, 2007, p. 110 (Exhibit 31).

<sup>71</sup> Davis, *Roll Call*, Apr. 17, 2007.