

Congress of the United States

Washington, DC 20515

October 6, 2005

The Honorable Alberto Gonzales
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

We write to request that the U.S. Department of Justice immediately appoint an outside special counsel to investigate two instances of potential political manipulation by Justice Department officials in criminal and immigration matters concerning Guam and the U.S. Commonwealth of the Northern Mariana Islands (CNMI).

First, we believe an outside special counsel is needed to investigate the circumstances surrounding the November 2002 demotion of former Acting United States Attorney for Guam and CNMI, Frederick A. Black.

At the time U.S. Attorney Black was demoted, and replaced by Leonardo Rapadas, Mr. Black was reportedly directing a long-term investigation into allegations of public corruption within the Government of Guam. The demotion came just one day after a federal grand jury subpoena had been issued in a criminal investigation initiated by Mr. Black into Jack Abramoff's lobbying activities for the Guam Superior Court.¹ According to a *Los Angeles Times* article, Mr. Rapadas had been "recommended by the Guam Republican Party." Specifically, it was reported that a Republican lobbyist said he carried that recommendation to Karl Rove, White House Deputy Chief of Staff, in early 2003.² Since taking office, U.S. Attorney Rapadas has excused himself from the ongoing public corruption case involving the Government of Guam due to a conflict of interest – namely that he is the cousin of a target of the public corruption investigation. Former Acting U.S. Attorney Black, who now serves as an Assistant U.S. Attorney in Guam, has been reportedly barred from pursuing public corruption cases.³

¹Walter F. Roche, Jr., Inquiry Into Lobbyist Sputters After Demotion, *Los Angeles Times*, August 7, 2005.

²*Id.*

³Philip Shenon, Demotion of a Prosecutor is Investigated, *New York Times*, September 27, 2005.

Second, we believe an outside special counsel is needed to investigate whether Jack Abramoff used his personal influence within the Justice Department to gain knowledge and attempt to prevent the release of a classified review of Guam and CNMI immigration laws. Mr. Black had ordered the review in the wake of the September 11th terrorist attacks to determine whether loopholes in these laws constituted a security risk for the United States.⁴

In an e-mail exchange dated October 1, 2001, Mr. Abramoff reportedly informed his client contact at the CNMI that “the bad guys at who still work there [at the Justice Department had] ... started a drum beat that the CNMI had to be taken over, because a loophole in the federal immigration network, and that, as such, was a threat on terrorism.” Mr. Abramoff further explained that “we had the COS of the Justice Department in our box at today’s Redskins game and it seems there might be a classified document floating in the department which deals with this matter.”⁵

Mr. Abramoff assured his client that he was “supposed to see the Attorney General next week” and that another lobbyist in his group “was slated to play basketball with him before them” and that they will “both mention this to him.” He noted that while the “AG will be fine” the “underlings are a worrisome matter.”⁶

As you are aware, under Department of Justice regulations, the Attorney General must appoint a special counsel when (1) a “criminal investigation of a person or matter is warranted,” (2) the investigation “by a United States Attorney Office or litigating Division of the Department of Justice would present a conflict of interest for the Department,” and (3) “it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter.”⁷ In the present case, all three requirements have been met.

First, there is little question that a criminal investigation is clearly warranted in the present case. As a matter of fact, with regard to the demotion of Mr. Black, a September 27, 2005, *New York Times* report indicates that the Federal Bureau of Investigation is looking into

⁴Roche, *supra* note 1.

⁵ Email from abramoffj@gtlaw.com to maya@saipan.com, October 1, 2001, on file with the United States House of Representatives, Committee on the Judiciary, Minority Office.

⁶*Id.*

⁷28 C.F.R. § 600.1 (2002).

possible misconduct in connection with this demotion.⁸ As it pertains to the matter of Mr. Abramoff, his access to a classified Justice Department report may well constitute several violations of the Espionage Act.⁹ As you know, it is a crime for anyone who has lawful possession of classified information to communicate that information to any person that is not entitled to receive it. It is also a crime for any person who has unauthorized access to classified information to communicate that information to any person that is not entitled to receive it.

Second, there is an obvious conflict of interest in the Department of Justice pursuing an investigation into possible misconduct by DOJ and Administration officials with regard to the demotion of Mr. Black and the possible dissemination of classified information by Department of Justice personnel. It is simply unacceptable for the Department to be investigating whether employees of the Department, or other high ranking individuals within the Administration, were responsible for demoting Mr. Black in order to limit a criminal investigation for political reasons. Press accounts indicate that officials from the Republican Party of Guam and White House Deputy Chief of Staff Karl Rove played a key role in securing a replacement for U.S. Attorney Black, providing further evidence of a political conflict of interest.¹⁰

Third, there can be no doubt that the public interest will be served by a special counsel's independent and thorough investigation into these matters. Given the highly charged political nature of the investigation, the public would clearly benefit from having a respected, non-political prosecutor reviewing the allegations of misconduct in the demotion of Mr. Black and the apparent diminishment or termination of the criminal investigation into Mr. Abramoff's

⁸Shenon, *supra* note 3. The article also indicates that the Department of Justice Inspector General is looking into this matter. On August 23, 2005, Reps. John Conyers, Jr. and Madeleine Z. Bordallo asked the Inspector General to investigate the circumstances surrounding the demotion.

⁹18 U.S.C. § 793.

¹⁰Walter F. Roche, Jr., *supra* note 1. In 2000, Abramoff and his lobbying team logged nearly 200 contacts with the Administration. By mid-2003, he had raised at least \$100,000 for President Bush's reelection campaign, making him one of the President's famed "pioneers." Donors on the Northern Mariana Islands, Abramoff's client, also contributed significant amounts to the reelection campaign. CBS News, Lobbyist Had Close W. House Ties, May 6, 2005, available at <http://www.cbsnews.com/stories/2005/05/06/politics/printable693628.shtml>.

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activities in Guam and the CNMI. The entire justice system lacks credibility when prosecutors are removed in order to subvert an investigation. Regarding the potential improper influence of a lobbyist's quashing the immigration report, again, the public interest would be served by determining whether a potential improvement to American national security was rejected based on legitimate analysis of its security value or because of influence peddling by a lobbyist with proven ties throughout the Administration based on classified information.

We look forward to your prompt response as to whether you will appoint a special counsel on these matters, and if not, the reasons for your decision. Please reply through the House Judiciary Committee Minority Office, 2142 Rayburn House Office Building, Washington, DC 20515 (tel: 202-225-6504; fax: 202-225-4423).

Sincerely,







