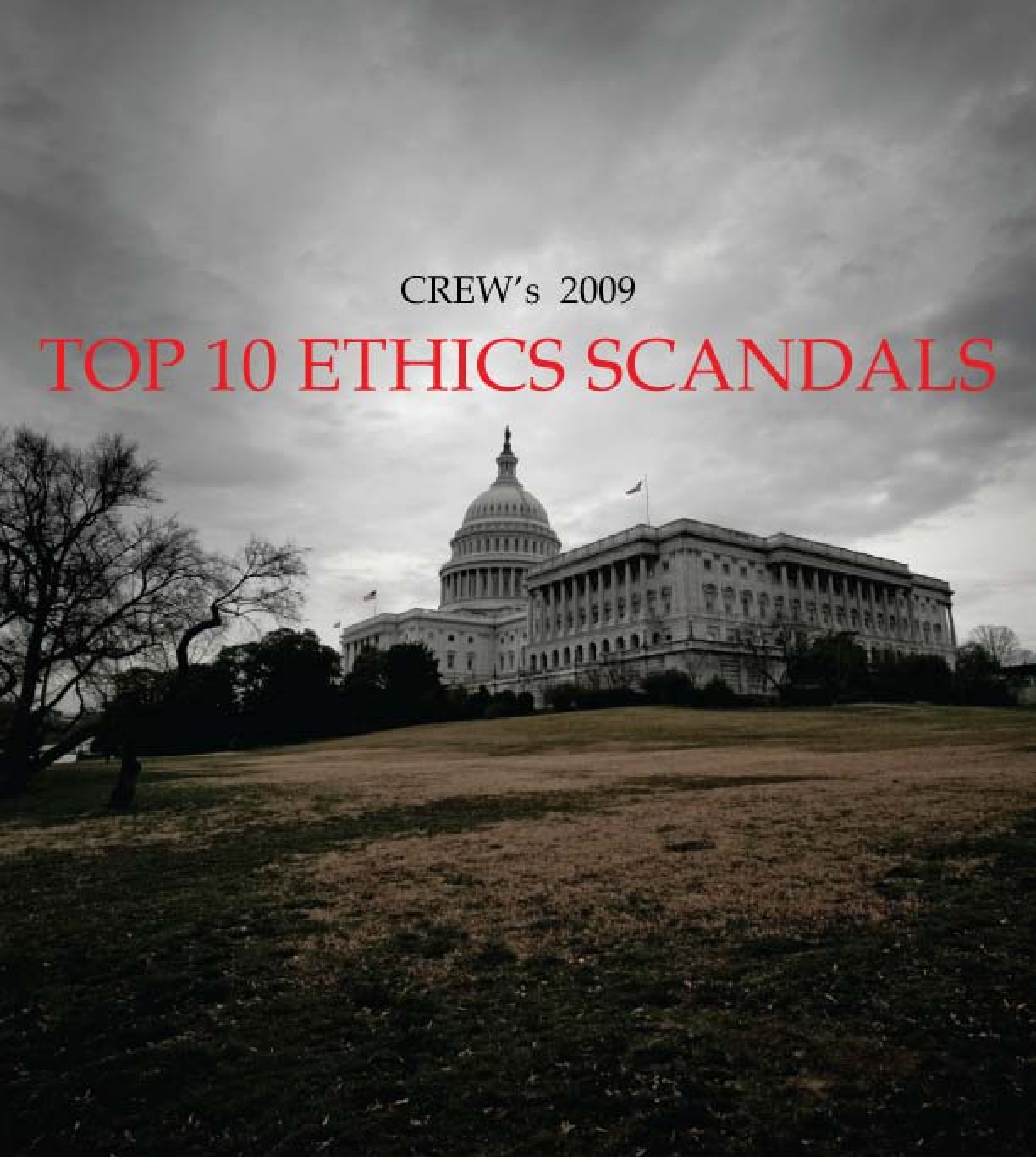
CREW's 2009

TOP 10 ETHICS SCANDALS



A Project of
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CREW'S TOP TEN SCANDALS OF 2009

Let Them Eat Cake!

As the federal government authorized the $700 billion Troubled Asset Relief Program (TARP) to bail out the nation's failing financial institutions, the Wall Street executives responsible for the financial meltdown awarded themselves $18.4 billion in bonuses. AIG, which is now 80% owned by American taxpayers, doled out $165 million in executive bonuses. Merrill Lynch authorized $3.6 billion in bonuses after receiving $10 billion from the government and on the brink of bankruptcy, $209 million of which went to 10 bankers alone. President Obama voiced the public's anger over the bonuses, stating, "It is shameful. And part of what we're going to need is for the folks on Wall Street who are asking for help to show some restraint and show some discipline and show some sense of responsibility."

In June 2009, the White House appointed Kenneth Feinberg the "special master for compensation", more commonly known as the "pay czar", to oversee the compensation for senior executives and the top 100 earners at AIG, Bank of America, Citigroup, General Motors, GMAC, Chrysler and Chrysler Financial, all companies that received money through TARP. Although the pay czar is taking steps to limit bonuses, Wall Street expects to dole out bonuses 40% higher than 2008 levels, totaling an estimated $26 billion, by the end of 2009. The federal pay czar is currently trying to force AIG to cut back on $198 million in bonuses. Meanwhile, the government still awaits TARP repayments from some of these firms.

CREW's holiday wish: For the federal government's pay czar to exert his authority over bailed out firms to stop excessive bonuses, demonstrating that the government really does value the interests of Main Street at least as much as Wall Street.

The SEC: Failing to Catch Madoff Since '92.

A series of reports from the Securities and Exchange Commission's (SEC) Inspector General revealed the complete failure of the SEC to detect and prevent Bernard Madoff's $65 billion Ponzi scheme over a period of at least 16 years. The reports detail deep systemic problems within the SEC's Enforcement Division, the repeated incompetence of SEC staff, and the commission's seeming indifference when confronted time and again with unmistakable evidence of Mr. Madoff's massive fraud.

The first substantive complaint about the Madoff Ponzi scheme was filed in 1992 and resulted in an insufficient and inconclusive SEC inquiry. That complaint was followed by five additional complaints and multiple SEC inquiries that were again poorly executed and indeterminate. One of those complaints was filed by Harry Markopolos, a whistleblower, who first informed the SEC of Madoff's illegal operations in 2000. Mr. Markopolos followed up with the SEC numerous times, providing them with additional analysis and evidence, one of his reports was titled, "The World's Largest Hedge Fund Is a Fraud." After the scandal broke Mr. Markopolos was hailed as a hero. He testified before Congress, calling the SEC, "captive to the industry it regulates," and adding that it "roars like a lion and bites like a flea."

CREW's holiday wish: A new and completely reconstituted SEC with an enforcement division that understands how to enforce the vital laws that protect the public from schemers like Mr. Madoff.

Public Corruption Prosecutions Were So 2009.

In 2009, the Supreme Court accepted three cases challenging honest services law, a provision in the federal mail-fraud statute making it illegal for public or private employees to "deprive another of the intangible right of honest services." This statute is a critical prosecutorial tool for fighting public corruption, having been used to convict former Rep. William Jefferson (D-LA) and a large number of those involved in the Jack Abramoff scandal. During oral arguments, the Supreme Court justices focused on all the ways the statute can misapplied, strongly suggesting they plan to limit the statute's breadth, if not hold it unconstitutional. Already, the prosecutors handling the case of former Illinois Governor Rod Blagojevich have indicated they will re-indict the governor to delete the honest services fraud counts. In addition, Rep. Jefferson plans to ask a court to give him a new trial, though he was convicted of other charges in addition to honest services fraud.

CREW's holiday wish: For the honest services fraud statute to remain intact so the law can continue to be used to convict the likes of former lobbyist Jack Abramoff and former Rep. Jefferson.

What, The FEC Is Supposed to Enforce (Not Gut) Campaign Finance Laws?

The Federal Election Commission (FEC) is failing in its mandated mission to administer and enforce regulations governing the financing of federal elections. Violations of federal campaign finance law are likely to go unpunished thanks to the partisan deadlock that has rendered the FEC ineffectual. With three Republican and three Democratic appointees, the FEC consistently fails to take action against even the most egregious violations. As *The Washington Post* said in an op-ed on June 15th: "The three Republican appointees are turning the commission into The Little Agency That Wouldn't: wouldn't launch investigations, wouldn't bring cases, wouldn't even accept settlements that the staff had already negotiated."

By not taking action against federal candidates who break the rules, the FEC is encouraging unethical campaign tactics that privilege money over principle. The FEC commissioners' failure to take their oversight mission seriously threatens to undermine campaign finance laws and further flood the electoral process with money. With a lack of campaign finance oversight, political influence on Capitol Hill will be bought by the highest bidder and the common good will be sacrificed to special interests.

CREW's holiday wish: A restructured FEC with an odd number of commissioners, as opposed to the current even number of six, would go a long way to ending the deadlock and allow the FEC to effectively enforce campaign finance laws.

How Sen. John Ensign Is Losing Friends and Alienating Constituents.

On June 16, 2009, Sen. John Ensign (R-NV) confessed he had engaged in an affair with Cynthia Hampton, his campaign and PAC treasurer, who is married to Doug Hampton, the senator's then-administrative assistant. In his attempts to cover up the affair, Sen. Ensign likely violated multiple ethics regulations and laws. First, by terminating Mr. and Ms. Hampton after the affair ended, Sen. Ensign may have engaged in sexual harassment. Second, the failure to disclose the $96,000 severance payment made to Ms. Hampton likely was a criminal violation of campaign finance law. Most damning, Sen. Ensign conspired with Mr. Hampton to help him violate the one-year lobbying ban for senior staff. Sen. Tom Coburn (R-OK) does not come out all that well either. He admitted to serving as an intermediary between Sen. Ensign and Mr. Hampton, but ludicrously claimed to be "counseling him as a physician and as an ordained deacon. That is privileged communication that I will never reveal to anybody. Not to the (Senate) Ethics Committee, not to a court of law, not to anybody." Sen. Coburn also helped Mr. Hampton violate the lobbying ban by meeting with Mr. Hampton's lobbying clients at Mr. Hampton's request.

CREW's holiday wish: Sen. Ensign should resign and save us all from more excruciating details about his reprehensible conduct. More realistically, Sens. Ensign and Coburn should be investigated and held accountable for their actions.

Gov. Mark Sanford's Excellent Argentinian Adventure.

In June, it was revealed that conservative Republican South Carolina Gov. Mark Sanford had taken secret trip to Argentina to see his mistress. In an effort to evade discovery, the governor told his staff he was hiking on the Appalachian Trail and cut off all communication, leaving the state without an acting governor, potentially in violation of the state Constitution. Later, Americans learned that Gov. Sanford had visited his mistress on several occasions and may have illegally used state funds to facilitate the affair.

On December 16, 2009, the Judiciary Committee of the South Carolina State House voted not to impeach the governor but instead unanimously proposed censure for abuse of power. The State Ethics Commission is considering 37 charges against the governor for a variety of travel and campaign finance violations, which could result in thousands of dollars in fines and the state Attorney General is considering criminal charges.

When the affair was exposed, Gov. Sanford resigned his post as chair of the Republican Governors Association. The question remains, why was Gov. Sanford's misconduct serious enough to force him to step down as chair of the RGA, but not bad enough for him to resign as governor?

CREW's holiday wish: For the South Carolina's Attorney General and the State Ethics Commission to find the governor violated state laws, forcing him (finally!) to do the honorable thing and resign. This would allow the state's government to focus on serving the citizens of South Carolina, where nearly one in four adults are unemployed.

Rep. Charlie Rangel and the Terrible, Horrible, No Good, Very Bad Year.

In 2009, Rep. Charlie Rangel (D-NY) became the poster child for congressional corruption thanks to his flagrant violations of House rules. The House ethics committee is considering six separate matters: Rep. Rangel's lease of four rent-stabilized properties in New York, one of which he used as a campaign office; his use of congressional stationery to raise funds for the Charles B. Rangel Center at the City College of New York; his failure to report on his financial disclosure forms and to the IRS approximately $75,000 in rental income on a Dominican Republic villa; his legislative support for Nabors Industries in exchange for a donation to the Rangel Center; amendments to his personal financial disclosure records, disclosing at least $600,000 in unreported assets; and misuse of the House garage.

CREW, editorial boards across the country, and some members of Congress — noting the irony of the chairman of the tax writing committee failing to pay taxes and filing inaccurate financial disclosure reports — have called for him to resign his chairmanship pending the outcome of the ethics committee inquiry. As long as Rep. Rangel retains the confidence of House Speaker Nancy Pelosi, however, his position remains secure.

CREW's holiday wish: For Rep. Rangel to resign his chairmanship pending the outcome of the ethics committee's investigation and that he (finally!) be held accountable for his misconduct.

Sure, The Senate Passed Ethics Legislation. Oh, Did You Think That Meant Something?

The Honest Leadership and Open Government Act (HLOGA), which became law in 2007, required senators to identify themselves when using a "hold," a parliamentary maneuver which is frequently used to stall or stop legislation or presidential nominations. Prior to HLOGA, senators had been able to secretly and indefinitely place holds with no questions asked. To see if the new law was being enforced, CREW undertook a day-by-day review of the Senate Calendar, where these disclosures were supposed to be made, and found that a proper disclosure had been made only twice in over two years. Meanwhile, CREW found numerous examples of anonymous senators using this decidedly undemocratic tactic to block nominations and bills, including bills promoting government transparency, from seeing the light of day.

CREW's holiday wish: For the Senate ethics committee to investigate members who have placed secret holds in violation of HLOGA and for senators to abide by their promise – ironically, made in an ethics reform package, but promptly reneged upon – to end this cowardly practice.

Earmarks Traded for Campaign Contributions? CREW is Shocked. Shocked.

CREW has covered the ongoing saga of the now-defunct PMA Group since 2007, when we first added Rep. John Murtha (D-PA) to our *Most Corrupt* report for his involvement with the shady lobbying firm. The PMA Group, founded by former House Defense Appropriations Subcommittee aide Paul Magliocchetti, is under federal investigation for its role in an alleged influence trading and pay-to-play scheme to win contracts for its lobbying clients. Earlier this year it was reported that the PMA Group had been raided by federal agents as part of their investigation into the allegations. In addition to Rep. Murtha, the scandal has ensnared at least six other lawmakers in investigations by both the Office of Congressional Ethics (OCE) and the House ethics committee. Not surprisingly, the OCE advised against a formal investigation into the activities of at least four of those lawmakers, including Rep. Murtha.

CREW's holiday wish: For Congress to institute real ethics reform that would prevent these cozy relationships between lobbyists and members from taking hold in the first place; and for the House ethics committee to hold members involved in these pay-to-play schemes accountable for their actions.

No Really, Congress Will Drain the Swamp Next Year...Promise.

This year, for the first time in Gallup's annual Honesty and Ethics of Professions poll, 55% of Americans said the honesty and ethical standards of "members of Congress" are low or very low. Despite vows to "drain the swamp" Congress continues to protect its own, not a single representative was publicly reprimanded or sanctioned by the House ethics committee in 2009 — and it's not as if there were no offenders to choose from. Moreover, although the Office of Congressional Ethics (OCE) was created to strengthen ethics enforcement, there has been no noticeable change and ethics investigations still drag on for years. For example, after learning he was listed on a leaked House ethics committee memo as under investigation, Rep. Gary Miller (R-CA) — a member CREW has targeted for ethics violations — fumed that he has heard nothing from the ethics committee several years after charges were first leveled. Rep. Miller told *The Hill*, "I gave them three big books of information — proprietary, private information — and I heard nothing back. Not a peep, and now this? To say that I am angry is a vast understatement."

There is also significant confusion regarding the roles of each ethics body, with both members and staffers expressing puzzlement over the dual track with both the ethics committee and the OCE investigating the same matters, such as in the case of members' involvement with the PMA Group. Another problem is the animosity between the two bodies. This fall, the turf battle bubbled into public view over charges against Rep. Sam Graves (R-MO) after the OCE found reason to believe there was an appearance of a conflict of interest, but the ethics committee exonerated the congressman while criticizing the OCE's investigative procedures.

CREW's holiday wish: For both the ethics committee and the OCE to work cooperatively to enforce ethics regulations and restore the public's trust in Congress.