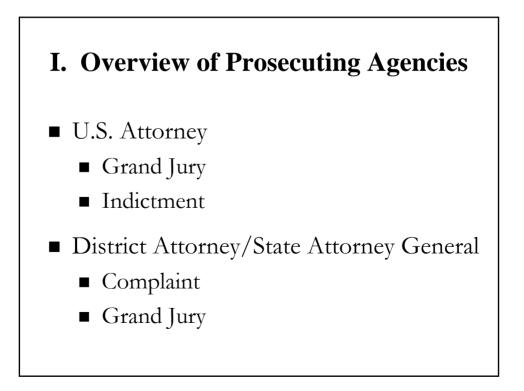
# Anatomy of a Corruption Case

presented by

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# **II.** How A Prosecution Gets Started

- Undercover Operation
  - Bri-Spec
  - D.C. operation ABScam
    - Murtha on YouTube
- Anonymous Informant
  - Quackenbush/Grays unexplained wealth
  - FPPC fields calls anonymously
- Disgruntled Staffer
- Cooperating Defendant
- Disgruntled Contributor
  - Strip clubs; liquor licensees; others seeking favors for money
  - Scorned wife/husband



# **III.** How Evidence is Gathered

- Witness interviews
- Do not count on Code of Silence
- Document subpoenas

# **IV. Potential Charges**

# Bribery

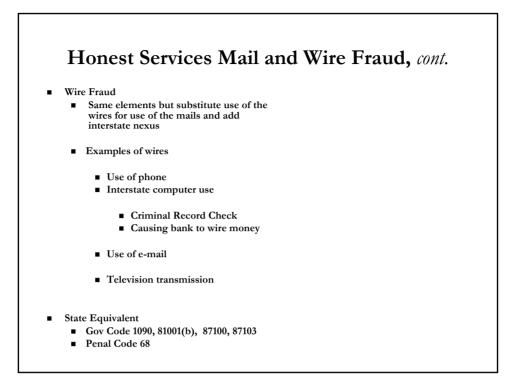
Section 666. Theft or bribery concerning programs receiving Federal funds

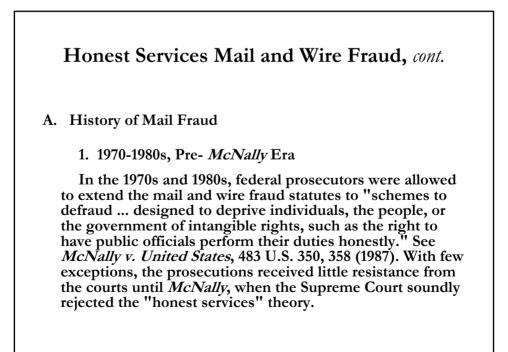
(a) Whoever, if the circumstance described in subsection (b) of this section exists -

(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of \$5,000 or more; or

# Bribery, cont. Section 666, cont. (2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of \$5,000 or more; shall be fined under this title, imprisoned not more than 10 years, or both. Little Used These Days in favor of Honest Services Mail/Wire Fraud







### Honest Services Mail and Wire Fraud, cont.

#### 2. U.S. v. McNally Case

In McNally, a Kentucky public official and others were convicted of mail fraud under 18 U.S.C. Section 1341 by conspiring to funnel insurance commissions from the company which handled Kentucky's workman's compensation insurance to a company they controlled. The Supreme Court overturned the convictions of a Kentucky public official and a private individual who had participated in the patronage scheme.

While acknowledging that the defendants may have deprived citizens of Kentucky of "certain 'intangible rights,' such as the right to have [Kentucky's] affairs conducted honestly," the Court employed the rule of lenity, adopted the less "harsh" interpretation of the mail fraud statute, and held that it was "limited in scope" to the protection of property rights, and did not encompass schemes to defraud citizens of their intangible rights of honest services and impartial government.

#### Honest Services Mail and Wire Fraud, cont.

#### 3. Post McNally Legislation

In November 1988, Congress effectively overruled *McNally* by enacting §1346, in large part to ensure that mail and wire would again reach the deprivation of citizen's rights to the honest services of their public officials. The so-called honest services statute provides:

For the purposes of this chapter [i.e., the mail and wire fraud statutes], the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right of honest services.

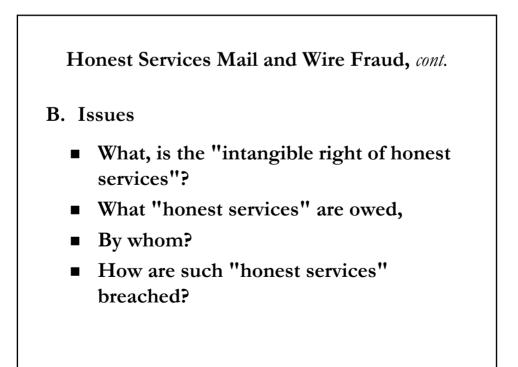
## Honest Services Mail and Wire Fraud, cont.

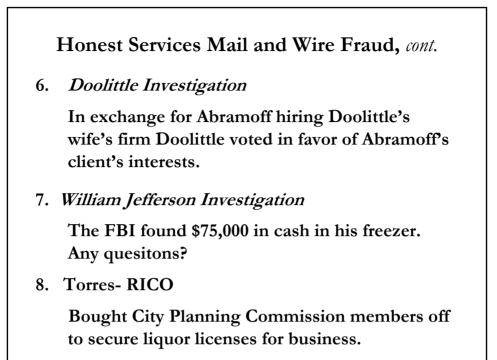
#### 2. Congressman Randy "Duke" Cunningham

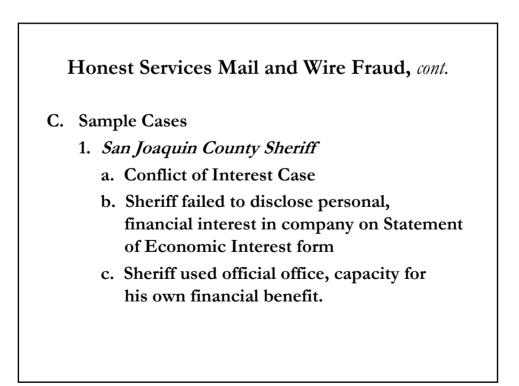
The government spelled out its definition of honestservices fraud. The defendant "conspired and agreed to devise a material scheme to defraud the United States of its right to defendant's honest services, including its right to his conscientious, loyal, faithful, disinterested, unbiased service, to be performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud and corruption."

Classic Public Corruption/Honest Services Mail Fraud

- a. Trading votes for money/property
- b. Citizens of San Diego entitled to his honest vote, not one paid for and influenced by defense contractors.







## Honest Services Mail and Wire Fraud, cont.

## 3. SDCERS Case

The defendants were charged with conspiring to deprive the city and pensioners of their right to honest services by illegally obtaining enhanced retirement benefits for themselves in exchange for allowing the financially strapped city to under fund the pension system.

- 1. Personal/financial benefit obtained
- 2. Self-dealing
- 3. Failure to disclose material information that showed the public official benefited personally
  - a. Similar to Statement of Economic Interest.

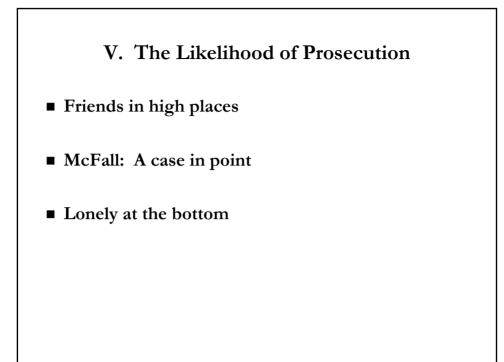
## Honest Services Mail and Wire Fraud, cont.

#### 4. Quackenbush Investigation

Department of Insurance Commissioner and Deputy Commissioner investigated for using money obtained as a result of settlement monies paid by insurance companies after earthquake for personal and political reasons.

#### 5. Jack Abramoff

Charged with Conspiracy, Honest Services Mail Fraud and Tax Evasion for illegally giving gifts and making campaign donations to legislators in return for votes or support of legislation.



# VI. How To Avoid Being Indicted For Corruption

a. Avoid the appearance of conflicts of interest.

- Do not have an "on the side" consulting business where you could potentially vote on legislation that touches on your side consulting business.
- Avoid conflict with family members.
- Do not do anything that gives the appearance that you are using public money for private gain. The appearance is enough to get you in trouble.
- Seek outside counsel advice.
- b. Avoid the appearance of any self-dealing, no matter how slight.
  - If you have to ask, you have a problem.

# How To Avoid Being Indicted For Corruption, *cont*.

- c. Disclose all information that could possibly touch on your conflict of interest or that of any other official..
  - Cover up becomes the crime
  - Martha Stewart, Scooter Libby
  - Statement of Economic Interest
    - Federal Jurisdictional hook
    - FPPC

## **VII.** Potential Sentences

- Bring your toothbrush
- McFall 10 years
- Abramoff 5 years 10 months
- BriSpec sentences
  - Sen. Paul Carpenter 87 months
  - Sen. Joseph Montoya 78 months
  - Assemblyman Patrick Nolan 25 months
  - Assemblyman Frank Hill 46 months
  - Costal Commr. Mark Nathanson 60 months
  - Lobbyist Clay Jackson 78 months
- Scooter Libby 30 months
- Troy Ellerman 30 months



- Perception is everything
- Quackenbush
- Criminalization of Politics
- Letter of the Law Defense

# IX. Why They Do It

- Hollywood Syndrome
- Simple Greed
- Caught Up In The Process/Lost Personal Compass
- Fast Crowd/Peer Pressure