Congress of the United States
Washington, DC 20515

January 25, 2006

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

We are writing to ask you to open an investigation into the role that the Alexander Strategy Group, a lobbying firm closely linked to Tom DeLay and Jack Abramoff, played in crafting the Medicare Prescription Drug Act of 2003 and the budget reconciliation bill currently pending before Congress.

The Medicare Prescription Drug Act, which has caused so much confusion and havoc since January 1, was a product of a corrupt legislative process. When the bill passed, we knew that Democratic members had been denied opportunities to offer amendments and that the vote had been held open for hours in the dead of night to twist arms. Afterwards, we learned that crucial cost estimates were illegally withheld from Democratic members; that the key Administration official responsible for writing the bill was simultaneously negotiating a high-paying job representing drug and insurance companies; and that the Republican chairman responsible for steering the legislation through Congress subsequently accepted a lucrative job in the pharmaceutical industry. We further learned about a Republican member who had alleged that a bribe had been offered him on the House floor.

Recently, with the indictments of Tom DeLay and Jack Abramoff, new questions have arisen about the role of the Alexander Strategy Group in this dishonest process. We know from lobby disclosure forms that the largest single client of the Alexander Strategy Group was the pharmaceutical industry, which paid the small firm over $2.5 million, including nearly $1 million in 2003 when the prescription drug law was being written. We also know from these records that the primary lobbyist for the drug industry at Alexander Strategy Group was Tony Rudy, who previously worked for both Mr. DeLay and Mr. Abramoff and who is identified as "Staffer A" in Mr. Abramoff's indictment. And we know from multiple accounts in the news media that the Alexander Strategy Group has been deeply implicated in the scandals now sweeping through Washington.

These facts, taken together, provide more than a sufficient basis for further investigation. We therefore ask you to direct a congressional committee of jurisdiction to examine the process that produced the Medicare Prescription Drug Act, with a special focus on the role of the Alexander Strategy Group.

The Medicare Prescription Drug Act symbolizes all that has gone wrong in Congress. The bill's monstrous complexity frustrates nearly everyone, and its high drug prices enrich the pharmaceutical industry at the expense of seniors and taxpayers. The primary beneficiaries of the legislation have become the special interests that gave millions to Republicans in Congress, not the millions of seniors and persons with disabilities that the legislation was supposed to help.

We have an obligation to the public — and especially to the seniors of America — to find out how the legislative process went astray and to hold those responsible to account.

We also urge you to extend this investigation to examine the role of the Alexander Strategy Group in the pharmaceutical provisions of the pending budget reconciliation legislation and to delay the final vote on the reconciliation bill until this investigation is complete.

The Medicare Prescription Drug Act of 2003

The Medicare Prescription Drug Act, which went into effect on January 1, is a product of the culture of corruption that has infected Washington. Over a year ago, senior Democrats in the House and the Senate asked you and Senate Majority Leader Frist to investigate some of the serious irregularities in the process.[1] You both failed to respond, and there has been no official investigation into the how the bill was enacted. Even so, there is abundant evidence that the process was dishonest and deeply flawed.

At this point, we know:

(1) **Key Cost Estimates Were Withheld from Democrats.** During the legislative debate, President Bush, Secretary of Health and Human Services Tommy Thompson, and Centers for Medicare and Medicaid Services (CMS) Administrator Tom Scully repeatedly assured Congress and the public that the Medicare drug benefit would not cost more than $400 billion over ten years.[2] In fact, the Medicare actuary, Richard Foster,

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[1] Letter from Sen. Tom Daschle, Rep. Nancy Pelosi, Sen. Edward M. Kennedy, Rep. Henry A. Waxman, Sen. Bob Graham, Rep. John D. Dingell, Sen. Frank Lautenberg, Rep. Charles B. Rangel, Sen. Hillary Rodham Clinton, Rep. Fortney Pete Stark, Sen. John D. Rockefeller IV, Rep. Steny H. Hoyer, Rep. Sherrod Brown, and Sen. Tim Johnson to Senate Majority Leader William H. Frist and House Speaker J. Dennis Hastert (Sep. 8, 2004).

[2] *See. e.g.,* The White House, *President Bush Meets With Congressional Leaders on Medicare* (Nov. 17, 2003); House Committee on Energy and Commerce, Testimony of the Honorable Tommy Thompson, Secretary, U.S. Department of Health and Human Services, *Hearing on Review of the Administration FY2004 Health Care Priorities*, 108th Cong., 24 (Feb. 12, 2003) (Serial No. 108-8). *See also, e.g.*, The White House, *President Announces Framework to Modernize and Improve Medicare* (March 4, 2003); *Special Report With Brit Hume*, Fox News Network (Nov. 24, 2003); The White House, *Ask the White House* (Sep. 25, 2003); House Committee on Ways and Means, Testimony of Mitchell J. Daniels, Director, White House Office of Management and Budget, *Hearing on the President's Fiscal 2004 Budget With OMB Director Daniels*, 108th Cong., 43 (Feb. 5, 2003) (Serial No. 108-1); Senate Committee on Finance, Testimony of Thomas Scully, Director, Centers for Medicare and Medicaid Services, *Hearing on Strengthening and Improving the Medicare Program*, 108th Cong. (June 6, 2003).

was correctly predicting that the legislation would cost far more, perhaps as much as $600 billion.[3] Mr. Scully threatened Mr. Foster with the loss of his job if he shared this information with congressional Democrats.[4] According to the Government Accountability Office, this action and the withholding of the cost estimates violated multiple federal laws.[5]

(2) **Democrats Were Denied Opportunities to Offer Amendments.** On June 26, 2003, the House passed H. Res. 299, the rule for consideration of H.R. 1, the Medicare Prescription Drug Act. In this rule, Democrats were allowed to introduce only one amendment, an amendment in the nature of a substitute.[6] No other amendments were permitted, effectively denying Democratic members the opportunity to address the deficiencies in the bill.

(3) **The Vote Was Held Open for Three Hours in the Dead of Night.** H.R. 1 was brought before the House for final passage at 3 a.m. on Saturday, November 22, 2003. Instead of the 15 minutes usually reserved for roll call votes, the House Republican leadership held open the vote for an unprecedented three hours while pressuring Republican members to change their votes.[7] During the vote, the Republican leadership abandoned the traditions of the House by permitting a member of the President's cabinet, HHS Secretary Thompson, to be present on the floor to persuade members.[8]

(4) **The Lead Administration Negotiator Was Simultaneously Pursuing Job Representing Drug and Insurance Companies.** During the time the Medicare bill was being drafted and considered, the Bush Administration's lead negotiator, CMS Administrator Tom Scully, was negotiating possible jobs representing the pharmaceutical

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[3] *White House Says Congressional Estimate of New Medicare Costs Was Too Low,* New York Times (Feb. 2, 2004).

[4] House Committee on Ways and Means, Testimony of Richard Foster, *Hearing on Board of Trustees 2004 Annual Reports,* 108th Cong. (Mar. 24, 2004).

[5] Government Accountability Office, *Report from GAO General Counsel Anthony H. Hamboa to Sens. Frank R. Lautenberg, Tom Daschle, Edward M. Kennedy, et al., Re: Department of Health and Human Services — Chief Actuary's Communications with Congress* (Sept. 7, 2004) (B-302911).

[6] H.Res. 299, 108th Cong. (2003).

[7] *Medicare Bill Squeezes Through House at Dawn,* Washington Post (Nov. 23, 2004).

[8] *Time Was GOP's Ally on the Vote*, Washington Post (Nov. 23, 2003). *See also,* House Committee on Standards of Official Conduct, *Investigation of Certain Allegations Related to Voting on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003* (Sept. 30, 2004).

and insurance industries.[9] These negotiations were sanctioned by the Administration, which granted Mr. Scully a waiver from the normal ethics rules.[10] After the legislation was signed into law, Mr. Scully left CMS to take a job at Alston & Bird, a firm that represents multiple pharmaceutical companies, where he registered as a lobbyist for these companies.[11]

(5) **Key Republican Chairmen Accepted Lucrative Jobs with the Pharmaceutical Industry.** Two key Republican chairmen also accepted jobs representing the pharmaceutical industry after passage of the Medicare Prescription Drug Act. Former Rep. Billy Tauzin, who was the Chairman of the House Energy and Commerce Committee and the lead House sponsor of the bill, left Congress to become the president of the Pharmaceutical Research and Manufacturers of America (PhRMA), the drug industry's biggest trade group.[12] Former Rep. James Greenwood, who was the Chairman of the House Energy and Commerce Oversight and Investigations Subcommittee, left Congress to become the president the Biotechnology Industry Organization, the trade association of the biotechnology industry.[13]

(6) **A Republican Member Said He Was Offered a Bribe on the House Floor.** Former Rep. Nick Smith alleged that during the floor vote, former Majority Leader Tom DeLay offered him a bribe in return for his vote on the bill. According to Mr. Smith, Mr. DeLay offered campaign support for Mr. Smith's son, who planned to run for Rep. Smith's seat upon his retirement.[14] Mr. DeLay was later admonished by the Ethics Committee for his role in this incident.[15]

The final bill reflects this deplorable breakdown in the legislative process. The extraordinary complexity of the legislation is a direct result of political decisions made by

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[9] *Health Industry Bidding to Hire Medicaid Chief*, New York Times (Dec. 3, 2003).

[10] *Id.*

[11] Lobbying Disclosure Forms Filed by Alston & Bird with the Senate Office of Public Affairs. The drug companies for which Mr. Scully registered as a lobbyist in 2004 included Aventis, Abbott Laboratories, and Praecis Pharmaceuticals.

[12] *House's Author of Drug Benefit Joins Lobbyists*, New York Times (Dec. 16, 2004).

[13] *Congressman to Lead Biotech Trade Group*, New York Times (July 23, 2004).

[14] *House Ethics Panel Says DeLay Tried to Trade Favor for a Vote*, New York Times (Oct. 1, 2004).

[15] House Committee on Standards of Official Conduct, *Investigation of Certain Allegations Related to Voting on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003* (Sept. 30, 2004).

Republicans in Congress.[16] These choices benefit the drug and insurance industries, but they are profoundly disruptive for seniors. Moreover, because the Republican-controlled Congress rejected Democratic proposals to allow Medicare to negotiate for low drug prices, the legislation has produced exceptionally high pharmaceutical prices. According to one study, the drug prices currently available under the Medicare drug plans are over 80% more expensive than those negotiated by the federal government and over 60% more expensive than in Canada.[17]

In effect, millions of seniors and the U.S. taxpayer are paying a costly "corruption tax." The triumph of the special interests produced a drug benefit that is far more complicated than necessary and far less helpful to seniors than possible.

The Involvement of the Alexander Strategy Group

On January 9, 2006, the Alexander Strategy Group announced that it would shut its lobbying operations at the end of January 2006 because of extensive reporting linking the lobby firm to Tom DeLay and Jack Abramoff, both of whom have been indicted in political corruption cases.[18] As one paper reported, "the firm had fallen victim to the ever expanding lobbying and corruption scandal."[19]

The Alexander Strategy Group was formed in 1998 by Ed Buckham, a licensed minister who also served as Chief of Staff and personal pastor to then-House Majority Whip Tom DeLay.[20] The group's startup was funded through a large contract that Rep. DeLay secured from Enron.[21] Among the individuals with close ties to Mr. DeLay who worked for the Alexander Strategy Group were Tony Rudy, a former deputy chief of staff to Mr. DeLay; Karl Gallant, a former director of Americans for a Republican Majority PAC (ARMPAC), Mr. DeLay's leadership PAC; and Mr. DeLay's wife, Christine, who was on the Alexander payroll for four

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[16] House Committee on Government Reform, *Minority Briefing on the Implementation of the New Medicare Drug Benefit*, Statement of Jack Hoadley, Ph.D., Research Professor, Health Policy Institute, Georgetown University (Jan. 20, 2006).

[17] Minority Staff, House Committee on Government Reform, *New Medicare Drug Plans Fail to Provide Meaningful Drug Discounts* (Nov. 2005) (online at www.democrats.reform.house.gov/story.asp?ID=975&Issue=Medicaid+and+Medicare)

[18] *Lobby Firm Is Scandal Casualty*, Washington Post (Jan. 10, 2006).

[19] *Key Clients Quit Alexander Strategy Group; Others Weigh Options*, Roll Call (Jan. 10, 2006).

[20] *DeLay and Company,* Time Magazine (Mar. 21, 2005).

[21] *Tom DeLay's Tammany Fall,* The New Republic (June 20, 2005).

years.[22] The wives of other prominent Republican members, including Rep. John T. Doolittle, were also hired at various points by the Alexander Strategy Group.[23]

Alexander Strategy Group has been described as "one of the crown jewels of the … 'K Street project.'"[24] Other reports have linked the firm or its lobbyists to an expanding number of scandals. These include suspect arrangements involving Indian gambling,[25] the U.S. Family Network,[26] the Northern Marianas Islands,[27] defrauding clients,[28] and corrupt schemes to stop legislation involving internet gambling and to oppose postal rate increases.[29] Tom DeLay and Jack Abramoff figure prominently in these scandals.

What has not been explored, however, is the relationship between the Alexander Strategy Group and its largest client, the pharmaceutical industry. In particular, there has been little investigation of the role played by the Alexander Strategy Group in passage of the Medicare Prescription Drug Act. We do know enough, though, to raise serious questions.

According to lobby disclosure reports, the pharmaceutical industry has been the largest client of the Alexander Strategy Group over the last six years. During this period, the industry's trade association, PhRMA, paid $1.7 million to Alexander Strategy Group,[30] while individual drug companies have paid an additional $840,000.[31] During 2003 alone, the year the Medicare Prescription Drug Act passed, Alexander Strategy Group received $960,000 from the drug

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[22] *Id., See also, Lobby Firm Is Scandal Casualty, supra* note 18.

[23] *Lobbying Firm Is Scandal Casualty, supra* note 18.

[24] *Officials Focus on a 2nd Firm Tied to DeLay*, New York Times (Jan. 7, 2006).

[25] *See, e.g., Insiders Worked Both Sides of Gaming Issue,* Washington Post (Sep. 28, 2004).

[26] *The Man Who Bought Washington*, Time Magazine (Jan. 16, 2006).

[27] *A Question of Influence*, Los Angeles Times (May 6, 2005).

[28] Defendant's Plea Agreement, *U.S. vs. Jack Abramoff*, D.D.C., 7-8 (Jan. 3, 2006).

[29] Defendant's Plea Agreement, *U.S. vs. Jack Abramoff*, D.D.C., 9-14 (Jan. 3, 2006).

[30] This number was derived from analysis of Alexander Strategy Group's lobbying disclosure forms, on file with the Senate Office of Public Records, for PhRMA from 2000 through 2005.

[31] This number was derived from analysis of Alexander Strategy Group's lobbying disclosure forms, filed with the Senate Office of Public Records, for Eli Lilly from 2002 through 2005, Amgen from 2004 through 2005, and AstraZeneca for 2005.

industry, representing 15% of the firm's revenue.[32] According to the disclosure forms, the Alexander Strategy Group was hired specifically to lobby the House and Senate on prescription drug issues and Medicare.[33]

Not only was the drug industry the largest client of the Alexander Strategy Group, the group was also the drug industry's most highly paid outside lobbyist. In 2003, PhRMA paid the Alexander Strategy Group $720,000, far more than PhRMA paid any of the other seven lobby firms it hired that year.[34] These payments represented nearly 50% of PhRMA's annual budget for outside lobbyists.[35]

Moreover, the lobby disclosure forms reveal that the primary lobbyist representing PhRMA and Eli Lilly during consideration of the Medicare Prescription Drug Act was Tony Rudy.[36] Mr. Rudy is perhaps the Alexander Strategy Group lobbyist most implicated in scandal. In addition to being the former deputy chief of staff for Mr. DeLay, Mr. Rudy worked for Mr. Abramoff from 2001 to 2002, where he helped raise the funds that were diverted to pay for a golfing trip to Scotland, which included Rep. Bob Ney, indicted former White House procurement chief David Safavian, and Republican activist Ralph Reed.[37] In Mr. Abramoff's indictment, Mr. Rudy is identified as "Staffer A." According to several news reports, he used his position in Mr. DeLay's office to influence internet gambling legislation and postal rates in exchange for $50,000 payments to his wife.[38] Criminal investigators are also looking into possible conflicts of interest during the time Mr. Rudy was negotiating his departure from Rep. DeLay's office to work for Mr. Abramoff.[39]

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[32] Analysis of Alexander Strategy Group's lobbying disclosure forms for 2003 show that the firm was paid a total of $6,486,000 by its clients for lobbying activities, of which $960,000 was paid by PhRMA and Eli Lilly, or 15%.

[33] Lobbying Disclosure Midyear and Year End Reports filed by Alexander Strategy Group with the Senate Office of Public Records (Aug. 14, 2003 and Feb. 17, 2004).

[34] Lobbying Disclosure Midyear and Year End Reports filed by Alexander Strategy Group, Bergner Bockorny Castagnetti Hawkins & Brain, C2 Group, Capitol Hill Strategies, Clark & Weinstock, Gorlin Group, Murphy & Associates, and Wise & Associates with the Senate Office of Public Records (Aug. 2003 and Feb. 2004).

[35] *Id.*

[36] Lobbying Disclosure Midyear and Year End Reports filed by Alexander Strategy Group with the Senate Office of Public Records (Aug. 14, 2003 and Feb. 17, 2004).

[37] Defendant's Plea Agreement, *U.S. vs. Jack Abramoff*, D.D.C., 7-8 (Jan. 3, 2006). *See also, Foundation Funds Diverted From Mission,* Washington Post (Sep. 28, 2004).

[38] *Lobby Firm Is Scandal Casualty, supra* note 18.

[39] *As the Revolving Door Turns,* BusinessWeek (July 11, 2005).

The Need for a Congressional Investigation

These facts urgently call for further investigation. The Medicare Prescription Drug Act is deeply tainted legislation, and the Alexander Strategy Group, the lobby firm most mired in the on-going corruption scandals, was intimately involved in its passage. The millions of American seniors who are confounded by the Act's complex provisions and are paying inflated drug prices deserve to know what went wrong and what role the Alexander Strategy Group played in the process.

There are multiple committees in Congress that could undertake this investigation, including the Energy and Commerce Committee, the Ways and Means Committee, the Government Reform Committee, and the Committee on Standards of Official Conduct. These Committees, however, have all resisted Democratic requests to examine the legislative process that led to passage of the Act.[40] They will not act on their own initiative.

Your personal intervention is needed to spur action. We therefore urge you to direct one of these committees to commence an immediate investigation into the involvement of the Alexander Strategy Group's role in the development and passage of this legislation.

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[40]Democrats have made a number of efforts to get these Committees to investigate the illegal withholding of the Medicare cost estimates. In the House, Democrats introduced H. Res. 776, which would have required the Administration to turn over information relating to the Medicare cost estimates. This resolution was rejected by the House Committee on Energy and Commerce and the House Committee on Ways and Means. (House Committee on Energy and Commerce, *Adverse Report to Accompany H. Res. 776* (Oct. 8, 2004) (H. Rept. 108-754); (House Committee on Ways and Means, *Adverse Report to Accompany H. Res 776)* (Oct. 7, 2004) (H. Rept. 108-754)). The Chairman of the House Government Reform Committee also turned down a request by the Ranking Member for an investigation (Letter from Rep. Henry A. Waxman to Government Reform Committee Chairman Tom Davis (Mar. 17, 2004)). In addition, the Republicans on the House Ways and Means Committee voted down motions to subpoena two key witnesses, including Mr. Scully, who refused to appear voluntarily (House Committee on Ways and Means Democrats, New Release, *Ways and Means Republicans Allow Scully and the White House to Avoid Answering Questions on Medicare Estimate Coverup* (Apr. 1, 2004)). In the Senate, the Senate Finance committee never held hearings on this issue, despite two letters from Democrats requesting public hearings. (*E.g.,* Letters from Senators Tom Daschle, Bob Graham, and Kent Conrad to Senate Committee on Finance Chairman Chalres Grassley and Ranking minority Member Max Baucus (Jan. 30, 2004); Letter from Senators Tom Daschle, Bob Graham, John Kerry, Jay Rockefeller *et al.* to Senate Committee on Finance Chairman Charles Grassley and Ranking Minority Member Max Baucus (Mar. 26, 2004)).

Congressional Investigation of the Budget Reconciliation Bill

The Medicare Prescription Drug Act is not the only major piece of pharmaceutical legislation with which the Alexander Strategy Group has been involved. In the first six months of 2005, the group was paid $180,000 to represent PhRMA to lobby on Medicare, Medicaid, prescription drug issues, and the budget process.[41] Alexander Strategy Group was also paid an additional $300,000 during the first six months of last year to lobby on prescription drug issues by pharmaceutical companies Eli Lilly, AstraZeneca, and Amgen.[42] During this period, the primary legislation affecting prescription drugs, Medicaid, and the budget process was the budget reconciliation legislation.

The budget reconciliation bill has not yet been passed by Congress. But its final contours are known, and the conference report is scheduled for imminent floor action, perhaps as soon as next week. Like the Medicare legislation, the reconciliation bill sacrifices the interests of low-income families to preserve drug industry profits.

The Senate version of the budget reconciliation bill had several provisions that would have required drug companies to share the burden of reducing Medicaid's costs. These provisions would have increased the minimum rebate for brand-name drugs and extended the rebate to drugs dispensed through Medicaid managed care plans. In total, these provisions would have saved over $10 billion over 10 years.[43]

These provisions were mysteriously dropped from the conference agreement, however. Instead, the legislation takes the budget savings directly from the pockets of the low-income beneficiaries served by Medicaid. The legislation specifically authorizes states to raise the co-payments Medicaid beneficiaries have to pay for prescription drugs to up to 20% of the total prescription costs. These provisions are estimated to cost low-income beneficiaries up to $5.3 billion.[44]

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[41] Lobbying Disclosure Midyear Report filed by Alexander Strategy Group with the Senate Office of Public Records (Aug. 15, 2005).

[42] *Id.*

[43] Center on Budget and Policy Priorities, *Assessing the Effects of the Budget Conference Agreement on Low-Income Families and Individuals* (Jan. 9, 2006).

[44] Minority Staff, House Committee on Budget, *Summary and Analysis of Reconciliation Conference Report* (Dec. 22, 2005), at 4 (online at http://www.house.gov/budget_democrats/analyses/06reconciliation_conference_report.pdf). The total cost was derived by adding the provisions for increasing cost-sharing and premiums, eliminating federal benefit standards, and tightening asset rules and other changes to long-term care, then subtracting the cuts that already existed in the Senate version of the bill. *See also,* Center on Budget and Policy Priorities, *supra* note 43.

We believe that any investigation into the Alexander Strategy Group should also examine what role the firm played in the budget reconciliation bill, specifically with regard to the prescription drug provisions. We further urge you not to bring the reconciliation bill before Congress until after this investigation is completed. The lobbying disclosure filings that cover the period of the conference will be available on February 15. At a minimum, Congress should not consider the legislation until these filings have been studied.

Conclusion

The image and integrity of Congress have been called into serious question. To restore public faith in Congress, the institution must initiate a careful examination of how corrupt practices have influenced the legislative process. Understanding what went wrong is a prerequisite to accountability and reform.

For these reasons, we urge you to direct an immediate investigation into the legislative process that produced the Medicare Prescription Drug Act, the drafting of the pharmaceutical provisions in the pending budget reconciliation bill, and the role of the Alexander Strategy Group.

Sincerely,

Nancy Pelosi
Democratic Leader

Steny H. Hoyer
Democratic Whip

Henry A. Waxman
Ranking Minority Member
Committee on
Government Reform