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Joan Claybrook, President

June 17, 2003

Noel Hillman, Chief
Department of Justice
Criminal Division
Public Integrity Section
1400 New York Ave NW
Washington, D.C. 20005

Re: Possible Violations of 18 U.S.C. § 201(b)(2):
U.S. Representative Tom DeLay (R-Texas)
U.S. Representative W.J. "Billy" Tauzin (R-La.)
U.S. Representative Joe Barton (R-Texas)

Re: Possible Violations of 18 U.S.C. § 201(b)(1):
David C. Wittig
Douglas T. Lake
Douglas R. Sterbenz
Douglas R. Lawrence
Anita Jo Hunt
Caroline A. Williams
Richard A. Dixon
Kelly B. Harrison
Larry D. Irick
Peggy Loyd
Bruce Akin
Paul R. Geist
Richard H. Bornemann
William D. Kenworthy

Dear Mr. Hillman:

We are writing to inform the Department of Justice (DOJ) of information suggesting the possibility of violations of 18 U.S.C. § 201 ("Bribery of public officials and witnesses") by U.S. Representatives Tom DeLay, W.J. "Billy" Tauzin and Joe Barton and the above-named executives and lobbyists of Westar Energy (previously known as Western Resources). Internal communications released by Westar Energy (Westar) as a result of an internal investigation of the conduct of corporate officials indicate that the named members of Congress may have suggested that \$50,000 in campaign contributions be made to themselves or to their designees in exchange for congressional consideration of legislation that would

Ralph Nader, Founder

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have provided the company an exemption to a shareholder-protection statute enforced by the Securities and Exchange Commission (SEC). The campaign contributions were in fact made, and the Westar exemption was in fact inserted into the requested legislation by Rep. Barton and supported by the proxy votes of Reps. DeLay and Tauzin. Public Citizen therefore requests that the DOJ formally investigate this matter.

The Westar documents providing the information that is the subject of this letter were released as attachments to a report by a special committee of the Westar board of directors that was appointed to investigate a variety of allegations of unlawful conduct by Westar officers and employees. The relevant documents, as well as other relevant events, are described in detail in the attached Chronology of Events, based on information that is currently available publicly. The crux of the matter, however, is that internal communications written by Douglas Lawrence, Westar's Vice President of Public Affairs in 2002, state that:

- Westar executives were “working on getting our grandfather provision on PUHCA [Public Utility Holding Company Act] repeal into ... the energy bill” in the spring and summer of 2002.
- The executives, including Westar CEO David Wittig, developed “a plan for participation to get a seat at the table” by contributing to “a group of candidates associated with Tom Delay [*sic*], Billy Tauzin, Joe Barton and Senator Richard Shelby” for the objective of getting the exemption into the energy bill.
- The plan detailed a schedule of hard money and soft money campaign contributions from Westar Corporation and its executives to specified Republican congressional leaders for achieving this legislative objective.
- Lawrence wrote that U.S. Representatives Tauzin and Barton were “key House Conferees on our legislation” and that Representative DeLay’s “agreement is necessary before the House Conferees can push the language we have in place in the House bill.”
- Lawrence further told other Westar executives that Representatives Tauzin and Barton had requested that contributions from Westar be directed to a specified Republican congressional candidate “in lieu of contributions made to their own campaigns.”

Evidence suggests that the plan described in the memos was carried out. Government records show that DeLay, Tauzin and Barton either received campaign money from Westar or that campaign money from Westar went to candidates they supported. Then, using their leadership positions in the House, DeLay, Tauzin and Barton inserted and supported language during the 2002 House energy conference committee that would have provided Westar the exemption it sought from the Investment Company Act:

- The requested contributions from Westar Energy and its executives were made to DeLay, Tauzin and Barton and to the Republican congressional candidates Lawrence’s memo said were designated by Delay, Tauzin and Barton, as well as to other candidates for whom Tauzin and Barton raised campaign funds..
- Representative Barton inserted a special exemption into the House conferees’ version of the energy bill, which exemption he later stated only applied to Westar Energy, without holding a vote on September 18, 2002.
- When Rep. Ed Markey (D-MA) offered an amendment on September 19, 2002 to strike the language providing Westar the exemption, Barton voted against the amendment for himself and, by proxy, on behalf of DeLay, Tauzin, and five other Republican Members of Congress, thereby preserving Westar’s exemption. Their support for the exemption was only withdrawn in early

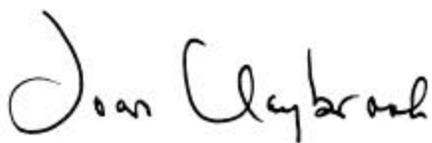
October 2002 after Westar announced it was under investigation for fraud by the DOJ and SEC.

The section of the bribery code Public Citizen believes may be applicable is 201(b)(2), which provides that whoever “being a public official [including Members of Congress] or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for being influenced in the performance of any official act” has violated the statute and can be imprisoned for up to 15 years.

In addition, current and former Westar executives David C. Wittig, Douglas Lawrence, Douglas T. Lake, Douglas R. Sterbenz, Douglas R. Lawrence, Anita Jo Hunt, Caroline A. Williams, Richard A. Dixon, Kelly B. Harrison, Larry D. Irick, Peggy Loyd, Bruce Akin and Paul R. Geist may have violated 18 U.S.C. § 201(b)(1) for offering or promising something of value to a member of Congress in exchange for a favor. In addition, several employees (including Richard H. Bornemann and William D. Kenworthy) of Governmental Strategies, Inc.—the Virginia-based lobbying firm hired by Westar —may have also violated 18 U.S.C. § 201(b)(1).

In light of this evidence that money may have been exchanged for preferential legislative treatment for Westar, Public Citizen requests that the Department of Justice investigate whether any of the public officials or corporate executives and lobbyists involved violated federal anti-bribery statutes.

Sincerely,



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