From:	Attorney General
To:	Schmaler, Tracy (SMO)
Sent:	8/15/2011 10:56:44 AM
Subject:	Re: A Businessman in Congress Helps His District and Himself

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From: Schmaler, Tracy (SMO)
Sent: Monday, August 15, 2011 10:33 AM
To: Attorney General
Subject: A Businessman in Congress Helps His District and Himself

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Sent: Monday, August 15, 2011 10:22 AM
To: Schmaler, Tracy (SMO)
Subject: A Businessman in Congress Helps His District and Himself

A Businessman in Congress Helps His District and Himself

By ERIC LICHTBLAU

VISTA, Calif. — Here on the third floor of a gleaming office building overlooking a golf course in the rugged foothills north of San Diego, Darrell Issa, the entrepreneur, oversees the hub of a growing financial empire worth hundreds of millions of dollars.

Just a few steps down the hall, Representative Darrell Issa, the powerful Republican congressman, runs the local district office where his constituents come for help.

The proximity of the two offices reflects Mr. Issa's dual careers, a meshing of public and private interests rarely seen in government.

Most wealthy members of Congress push their financial activities to the side, with many even placing them in blind trusts to avoid appearances of conflicts of interest. But Mr. Issa (pronounced EYE-suh), one of Washington's richest lawmakers, may be alone in the hands-on role he has played in overseeing a remarkable array of outside business interests since his election in 2000.

Even as he has built a reputation as a forceful Congressional advocate for business, Mr. Issa has bought up office buildings, split a holding company into separate multibillion-dollar businesses, started an insurance company, traded hundreds of millions of dollars in securities, invested in overseas funds, retained an interest in his auto-alarm company and built up a family foundation.

As his private wealth and public power have grown, so too has the overlap between his private and business lives, with at least some of the congressman's government actions helping to make a rich man even richer and raising the potential for conflicts.

He has secured millions of dollars in Congressional earmarks for road work and public works projects that promise improved traffic and other benefits to the many commercial properties he owns here north of San Diego. In one case, more than $800,000 in earmarks he arranged will help widen a busy thoroughfare in front of a medical plaza he bought for $10.3 million.

His constituents cheer the prospect of easing traffic. At the same time, the value of the medical complex and other properties has soared, at least in part because of the government-sponsored road work.

But beyond specific actions that appear to have clearly benefited his businesses, Mr. Issa's interests are so varied that some of the biggest issues making their way through Congress affect him in some way.

After the forced sale of Merrill Lynch in 2008, for instance, he publicly attacked the Treasury Department's handling of the deal without mentioning that Merrill had handled hundreds of millions of dollars in investments for him and lent him many millions more.

And in an era when the auto industry's future has been a big theme of public policy, Mr. Issa has been outspoken on regulatory issues affecting car companies, while maintaining deep ties to the industry through the auto electronics company he founded, DEI Holdings.

He has a seat on its board, and his nonprofit family foundation, which seeks to encourage values like "hard work and selfless philanthropy," has earned millions from stock in DEI, which bears his initials. Mr. Issa's fortune, in fact, was built on his car alarm company, and to this day it is his deep voice on Viper alarms that warns potential burglars to "please step away from the car."

In recent months, The New York Times has examined how some lawmakers have championed particular industries, pushing measures to protect and enrich supporters. In Mr. Issa's case, it is sometimes difficult to separate the business of Congress from the business of Darrell Issa.

Mr. Issa, 57, did not respond to repeated written requests in the last three weeks to discuss his outside interests. In the past, he has said his business background has made him a better lawmaker. In at least one Congressional matter, however, he recused himself after being advised of a potential conflict.

But perhaps his clearest statement on the issue came last year amid Toyota's recalls of millions of automobiles with dangerous acceleration problems. Then, Mr. Issa brushed aside suggestions that his electronics company's role as a major supplier of alarms to Toyota made him go easy on the automaker as he led an investigation into the recalls.

"If anything," the congressman said, "Toyota probably got a harder time by having an automobile supplier sitting up there on the dais saying 'Hold it, I'm not letting you off the hook now.' "

A Powerful Gadfly

As the influential chairman of the House Oversight and Government Reform Committee, Mr. Issa has proven both a reliable friend to business and a constant annoyance to an Obama administration that he sees as anti-business. Even before formally taking over the committee in December, he made headlines by asking 150 businesses and trade groups to identify regulations that they considered overly burdensome, and he has issued numerous subpoenas on his own authority in investigating programs he believes are harmful.

His pro-business policies usually align closely with those of the firms he has worked with in his wide-ranging business career both before and after he joined Congress. Congress has historically had more than its share of millionaires from storied American fortunes, from the Rockefellers to the Kennedys. But typically, those members lower their business profiles considerably and limit their active dealings to avoid potential conflicts of interest and the political repercussions that might follow from private business decisions.

Senator John D. Rockfeller IV, Democrat of West Virginia, for one, has much of his money in blind trusts, run by outside trustees. And Senator John Kerry, Democrat of Massachusetts, has a number of family and marital trusts for money generated largely through the fortune of his wife, Teresa Heinz Kerry.

Mr. Issa, who grew up in a hardscrabble neighborhood near Cleveland and now owns homes north of San Diego and in Washington, has assets totaling as much as $725 million, outstripping by some measures even Mr. Rockefeller and Mr. Kerry. (Because lawmakers must disclose their assets only within broad dollar ranges, public reports do not allow for precise figures.)

According to his filings, Mr. Issa's minimum wealth doubled in the last year, and he appears flush with cash: he bought dozens of mutual funds in 2010 worth as much as $80 million, managed by Wall Street powerhouses, without selling off any securities.

Mr. Issa's transactions cover many pages in his annual disclosure reports, as he has traded huge volumes of stock funds and municipal bonds on a weekly or even daily basis. In 2008 alone, he traded some 360 securities totaling between $650 million and $2 billion.

Those investments have often produced sharp profits.

In one 2008 sale, months before the stock market crashed, his family foundation earned $357,000 on an initial investment of less than $19,000 — a return of nearly 1,900 percent in just seven months, the foundation reported to the Internal Revenue Service. It reported acquiring the security, then known as AIM International Small Company Fund, at a cost basis representing a tiny fraction of the market value.

In addition, Mr. Issa sold at least $1 million in personal holdings in the same fund that year but was not required to report what he paid.

Invesco, as the AIM fund's manager is now known, told The Times it did not provide Mr. Issa's foundation the steep discount. That suggests the foundation may have acquired the shares from a third-party broker.

A former government official said House ethics committee officials quietly inquired into Mr. Issa's business interests last year because of possible conflicts in his electronics connections.

While the exact focus of those inquiries is not known, Mr. Issa's ties to the industry are well established: in each of his first five years in Congress, he reported accepting free trips to Las Vegas from the Consumer Electronics Association for its annual convention. Such corporate-sponsored trips were allowed at the time, but Congressional rules have tightened since.

The inquiries did not produce sufficient evidence of ethics problems to move forward, the former official said.

Standards for determining a financial conflict are murky. House members are generally restricted from using their positions "for personal gain" or on matters in which they have a direct financial interest. But a 2009 ethics committee ruling added to the ambiguity, finding there is no prohibition on the mere "appearance" of a conflict.

There are also restrictions on taking salaries from certain businesses. While Mr. Issa's wife draws a salary at their property management company, Mr. Issa — the firm's president — does not.

A Balancing Act

Lawmakers must also avoid outside work that can pose a "time conflict," and "detract from a member's full time and attention to his official duties," the guidelines say. By all accounts, these rules were designed to promote the notion of a full-time legislature.

Mr. Issa's outside interests certainly appear to have kept him busy. Associates describe him as actively involved in business decisions, particularly in his auto electronics firm. His office did not discuss how he balances the time demands of Congress and his outside businesses. His management company, Greene Properties, which he runs with his wife from the office down the hall from his Congressional office in Vista, has acquired more than two dozen properties in the last five years, valued at up to a total of $80 million.

In nearby Carlsbad, a new office complex he owns advertises for prospective tenants. A few miles away, a Hooters restaurant rents space in another building he owns. Nearby, his medical complex bustles with doctors and patients and has few vacancies.

"Issa's a smart businessman," said Dean Tilton, a local real estate broker. "We haven't seen real estate prices this low in 20 years, and he's taking advantage of that."

The hard-hit San Diego area has also benefited from federal money Mr. Issa brought through earmarks, which allow lawmakers to award money for their own pet projects. Indeed, more than two dozen of Mr. Issa's properties are within five miles of projects he has personally earmarked for road work, sanitation and other improvements, an analysis by The Times shows.

His medical complex, for instance, sits directly along West Vista Way, a busy corridor scheduled for widening with $815,000 in funds Mr. Issa earmarked. The congressman bought the complex in 2008, soon after securing the first of two earmarks for the two-mile project and unsuccessfully seeking millions more. The assessor's office now values the complex at $16 million, a 60 percent appreciation.

Mr. Issa owns a number of commercial properties near the planned $171 million expansion of State Route 76. The project, intended to ease traffic for tens of thousands of commuters, was helped by $245,000 in his earmarks.

A regional transportation official said the earmarks supplemented state financing to move the projects along.

Local leaders say they are just grateful for the money, regardless of any suggestions locally in San Diego that Mr. Issa stands to benefit.

"I don't really blame the guy," said John Aguilera, a Vista city councilman. "As a politician, that's his job to bring a slice of the pie back home, and as a businessman, he's going to invest in the areas that he champions."

Some ethics experts wonder, however, whether Mr. Issa's business interests invite problems.

"The idea is you're supposed to be a full-time congressman," said Robert M. Stern, who runs the nonprofit Center for Governmental Studies in California. "There may not be a direct conflict of interest, but it creates an appearance that he is trying to influence a policy on issues where he has an investment."

In 2009, as earmarks became a damaging symbol of Congressional abuse, Mr. Issa joined other lawmakers in pledging to discontinue them. And in recent weeks, he has attacked "the culture of government overspending" in pushing for deep cuts in the national debt.

Mr. Issa's dual roles reach beyond earmarks.

At a House hearing in 2008 on a much-debated proposal to merge the satellite radio companies Sirius and XM, despite objections on competitive grounds, Mr. Issa praised the "viable combined market" the deal would create as he questioned Sirius's chief executive and talked of opportunities for expansion.

What Mr. Issa did not mention was that his electronics firm was then in a lucrative partnership with Sirius to distribute its audio products.

While Mr. Issa sold off his controlling interest in DEI soon after he was elected, he remains a board member with a half-million shares in the firm held by his family trust. His management firm also receives $2 million a year for leasing DEI its Vista plant.

DEI's partnership with Sirius, which continued after the merger, caused friction with competitors. In a lawsuit settled out of court, U.S. Electronics accused Sirius and DEI of freezing it out of the market through anticompetitive practices that relied on "a web of deception, threats and lies" aimed at "the enrichment of certain of its officers and directors."

When a watchdog group, the Center for Public Integrity, asked Mr. Issa about his role in the merger, his office said the congressman's participation in the House hearing posed no conflict because his founding of DEI was "public knowledge." But after advice from House ethics lawyers, Mr. Issa avoided any votes on the issue afterward.

With its brand-name audio and electronics products, DEI caught the eye of an equity company, Charlesbank Capital, which bought the company in June for $305 million, or $4.45 a share — nearly three times the presale price. The premium promises a payday of at least $2 million for Mr. Issa's foundation, which has already earned more than $10 million from sales of DEI stock. (Mr. Issa is now a defendant in a lawsuit brought by DEI shareholders; the suit claims the deal was structured to give him and other directors a "windfall not shared by other stockholders.")

Ties to Merrill Lynch

The lines between Mr. Issa's many interests have also become entangled in his frequent criticism of regulators and his frequent defense of Wall Street. At a series of hearings in 2009, Mr. Issa accused Treasury officials of a "cover-up" of their role in Bank of America's $50 billion purchase of Merrill Lynch months earlier. Most pointedly, he accused Ben S. Bernanke, chairman of the Federal Reserve, of bullying Bank of America "behind closed doors" into buying Merrill Lynch at bargain rates and then lying about it.

"I for one," Mr. Issa told the Fed chairman, "am looking at Main Street America, the stockholders who in some cases got less than they would have gotten through other means. This includes Chrysler, General Motors and, of course, Bank of America and Merrill Lynch."

Mr. Issa did not mention his own extensive links to Merrill Lynch.

In a television interview days later, however, he said: "I bank at Merrill Lynch. I'm very well aware that every broker there, all the people who were stockholders, were furious that they were in fact being fire-saled to them."

And Mr. Issa is no ordinary Merrill customer.

His transactions there have totaled more than a billion dollars in the last decade, records show. In the aftermath of the firm's acquisition in September 2008, in fact, he bought and sold at least $206 million in Merrill Lynch mutual funds in the next 15 days, records show.

His ties to the bank deepened last year, records show, as Merrill Lynch gave him two "personal notes" for lines of credit worth at least $75 million.

Likewise, Mr. Issa has aggressively defended Goldman Sachs, another Wall Street giant.

When the Securities and Exchange Commission brought a major lawsuit charging Goldman with fraud last year, Mr. Issa fired back by opening an investigation. The timing of the lawsuit, he said, smacked of a "partisan political agenda" meant to help President Obama and bolster a bill overhauling financial regulations.

His charge drew nationwide attention, putting regulators on the defensive, but the S.E.C. inspector general later found "no evidence" of political meddling.

Mr. Issa came to Goldman's defense again last month in a letter to regulators complaining about restrictions on financial firms. Broker dealers "such as Goldman Sachs" faced "a substantial reduction in leverage" because of excessive capital requirements, he wrote.

As with Merrill Lynch, Mr. Issa is keenly interested in Goldman's performance.

A few weeks before opening his inquiry into the Goldman lawsuit, in fact, he bought another large batch of shares in one of the firm's high-yield mutual funds, records show. By the end of the year, his stake in Goldman's fund was worth as much as $25 million.