

CHAPTER VI
PUEBLO OF SANDIA OF NEW MEXICO

A. INTRODUCTION

The experience of the Pueblo of Sandia with Jack Abramoff and his partner Michael Scanlon is a microcosm of the larger scandal that has been exposed by the Committee during its investigation of lobbying activities associated with six Indian Tribes. The characters and the elements of deception are much the same. However, the financial loss to the Pueblo of Sandia and the subsequent financial gain to Abramoff and Scanlon were, relatively speaking, on a scale considerably smaller than what the other Tribes experienced. This fact was not lost on Abramoff and Scanlon early in their relationship with the Pueblo of Sandia, as evidenced by the following email exchange on March 7, 2002, that was titled “Sandia”:

SCANLON: “[S]2.75 [million] is chump change!!! What [t]he hell were we thinking?”

ABRAMOFF: “No kidding. [then-Abramoff associate Kevin] Ring brought us down! Next time one of these guys brings us something we are not going to listen to their fucking whining.”

SCANLON: “Hey—its still a W—[sic] and I will take the W [sic] any way we can—now a [S]4.5 [million] W [sic] would be nicer—but wait till Thursday when [Coushatta] comes to town!”¹

B. BACKGROUND ON THE TRIBE

In February 2002, the Pueblo of Sandia, a Tribe located on the northern boundary of Albuquerque, was facing perhaps the most significant legal challenge of its 700-year existence in New Mexico.² In the late 1980s, with development beginning to encroach on the sacred Sandia Mountain, the Tribe appealed to the Department of the Interior to correct a survey conducted in 1859.³ The correction would designate the main ridge of the Sandia Mountain as the Pueblo’s eastern boundary.⁴ Years of litigation ensued that involved the Pueblo of Sandia, government agencies, and area residents, culminating in a settlement agreement on April 4, 2000

¹ Email between Jack Abramoff, Greenberg Traurig, and Michael Scanlon, Capitol Campaign Strategies (GTG-E000003033) (March 7, 2002).

² *Sandia Pueblo Mountain Claim*, (visited May 11, 2006) <http://www.sandiapueblo.nsn.us/mountain/mtn_claim.html>; Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

³ *Sandia Pueblo Mountain Claim*, (visited May 11, 2006) <http://www.sandiapueblo.nsn.us/mountain/mtn_claim.html>.

⁴ *Id.*

that, by its terms, required Congressional ratification by November 15, 2002.⁵

The settlement agreement was of monumental importance to the Tribe.⁶ Having the Sandia Mountain as its boundary signified more than a property settlement.⁷ The Mountain's significance is described on the Tribe's web site:

For centuries, the people of Sandia Pueblo have lived in the shadow of the mountain. The mountain has served as our church and our spiritual sustenance for hundreds of years. The mountain is the highest priority of the people of Sandia Pueblo, a sacred responsibility of every generation. This is not a question of ownership for the Pueblo, it is a question of preservation and protection of the mountain, and the ability to practice religious and culture traditions unrestricted by government edict.⁸

According to the former Governor of the Tribe, Stuart Paisano, the Pueblo of Sandia have 481 enrolled members.⁹ They have a traditional government structure in which their religious leaders play an important role in selecting the Tribe's governor and other leadership positions.¹⁰ The Tribe has 23,000 acres and their native language is Tigua.¹¹ Their economy has transitioned in the last thirty years from mining and federal assistance to Class III gaming.¹²

C. THE SEARCH FOR A NEW LOBBYIST

The Pueblo of Sandia had considerable experience with legal counsel through their years of litigation and retained a local law firm that was trusted by the Tribe.¹³ They were also not unsophisticated in the ways of the lobbying world and had, over time, retained several firms in Washington, D.C. to help them on various matters.¹⁴ However, securing Congressional approval of a major lands settlement thrust them into a different political sphere, particularly at a time when the federal political landscape had changed considerably. There was a new Republican administration and a new set of political appointees at the Department of the Interior. The Pueblo of Sandia were uncertain about whether the New Mexico Delegation would support ratification of the settlement.¹⁵ The stakes were high and the clock was ticking.

It was against this backdrop of urgency that David Mielke, a longtime and trusted counsel to the Pueblo of Sandia, suggested that the Tribe consider hiring a lobbyist with Republican connections.

⁵ *Id.*; Greenberg Traurig document production (GTG-E000002775-76) (undated).

⁶ *Sandia Pueblo Mountain Claim*, (visited May 11, 2006) <http://www.sandiapueblo.nsn.us/mountain/mtn_claim.html>.

⁷ *Id.*

⁸ *Why is the Mountain So Important to the People of Sandia?* (visited May 11, 2006) <http://www.sandiapueblo.nsn.us/mountain/what_changes.html#why_important>.

⁹ Interview of Stuart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

¹⁵ Interview of Stuart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

Late in 2001, Governor Paisano, Lieutenant Governor Alex Lujan, and Tribal council member Frank Chaves and Lawrence Avila were tasked with vetting several firms for the job.¹⁶ Ultimately, the search team interviewed several top Washington lobbyists that Mielke identified for the Tribe, including the firm of Quinn Gillespie & Associates and former Senator Bob Dole.¹⁷

One of the Washington lobbyists who was of particular interest to the Tribe was Kevin Ring.¹⁸ Several of Mielke's partners were familiar and impressed with Ring's work for other Tribes.¹⁹ In February 2002, arrangements were made for the Tribal leaders to meet with Ring who was accompanied by his boss, Jack Abramoff. Michael Scanlon was an unexpected participant at the meeting.²⁰ In pitching his services, Abramoff stressed his Republican connections, going back to his days working on grassroots activities for President Reagan.²¹ Scanlon was described as DeLay's former communications director and someone who helped with elections in competitive Congressional districts.²²

Scanlon's price tag for the task was \$2,875,000, most of which, he said, would be the cost of a database to conduct the grassroots effort.²³ In an interview with Committee staff, Mielke recalled that while this amount seemed high, Abramoff said that almost the entire price was costs and that the profits were actually less than 10% of the total proposed price.²⁴

Mielke also recalled that, during these sessions, Scanlon pitched the database as "a key component" of the program.²⁵ Mielke said that Scanlon specifically characterized "the software [as] the army, which would mean 10,000 soldiers who could be counted on."²⁶ Paisano remembered Scanlon describing the database as "customized" and necessary "to effectively do public relations [for the proposed project]."²⁷

Abramoff was intent on having the Tribe sign Scanlon as part of the arrangement, according to both Mielke and Governor Paisano. Abramoff insisted that Scanlon was a *sine qua non* of the federal lobbying efforts Abramoff intended to undertake on the Tribe's behalf. He characterized Scanlon as "part of the package" and an indispensable part of his proposal, if he was to achieve success.²⁸ Abramoff also offered to halve Greenberg Traurig's \$125,000 per month retainer if the Tribe hired Scanlon. And, finally, he proposed, on Scanlon's behalf, a "slight" reduction from how much Scanlon originally wanted to charge the Tribe, plus a success fee.

¹⁶ *Id.*

¹⁷ Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*; Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

²¹ Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

²⁸ Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

But, Abramoff cautioned, he could not go lower because Scanlon's "10% profit margin is locked [into that reduced figure]." ²⁹

Governor Paisano recalled in his interview with Committee staff that Abramoff impressed the Tribal leaders with his aggressive approach, specifically recalling Abramoff "talk[ing] about breaking bones and busting kneecaps." ³⁰ Paisano said he was left with the impression that Scanlon worked for Greenberg Traurig. ³¹

The Pueblo of Sandia and their counsel chafed at the cost of the Scanlon proposal, but they wanted Abramoff and, particularly, Ring on their side. ³² According to Mielke, the Tribe's view was that adequate representation was the most important issue for the Tribe and that cost should not be an issue. ³³ The Tribe considered which prospective lobbyist gave it the greatest assurances: "That was a question: 'can you guarantee this?'" ³⁴ "Abramoff and Scanlon had the most bravado and said that while they couldn't guarantee that, they've never lost," Mielke observed. ³⁵

So, after several rounds of interviews, Tribal leaders were nearly unanimous in their decision to hire Greenberg Traurig, with only Governor Paisano and Council Member Frank Chaves expressing some concerns. ³⁶ Ultimately, the Tribe selected Abramoff and Ring at Greenberg Traurig, and entered into a separate contract with Scanlon to conduct the grassroots effort. ³⁷

D. IMPLEMENTING THE PLAN

On March 19, 2002, Governor Paisano signed a letter of agreement with Scanlon in which the Tribe committed to pay \$2,750,000 for public affairs services. ³⁸ The total payment was due ten days later. ³⁹ As described more thoroughly in Part 2, Chapter 1, of this Report, these funds were wired to an account controlled by Capitol Campaign Strategies, one of Scanlon's companies, from which countless withdrawals were subsequently made to Abramoff (or entities owned or controlled by him). It is notable that, given that part of Scanlon's proposal was to conduct several letter writing campaigns, the letter of agreement, which he drafted, included numerous typographical errors and misspellings. ⁴⁰

²⁹ *Id.*; Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006). The evidence set forth in Part 2, Chapter 1, entitled "Capitol Campaign Strategies," of this Report reflects Abramoff's admission in the plea agreement in his criminal case that Scanlon's profit margin on his contracts with the Tribes was closer to 80%. See Plea Agreement, Factual Basis for the Plea at para. 22, *U.S. v. Jack A. Abramoff* (Dist. D.C., January 3, 2006) (CR-06-001); see also Email between Jack Abramoff, Greenberg Traurig, and Michael Scanlon, Capitol Campaign Strategies (GTG-E000003054) (March 20-21, 2002) ("I told [Ring] that he would split the profit (what I told him was 10%) with you 50-50.").

³⁰ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

³¹ *Id.*

³² Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

³⁷ *Id.*; Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Pueblo of Sandia document production (SP-S 00046-48) (March 14, 2002) (letter of agreement between Scanlon Gould Public Affairs and Pueblo of Sandia of New Mexico for \$2,750,000).

³⁸ Pueblo of Sandia document production (SP-S 00046-48) (March 14, 2002) (letter of agreement between Scanlon Gould Public Affairs and Pueblo of Sandia of New Mexico for \$2,750,000).

³⁹ *Id.*

⁴⁰ *Id.*

Ring's activities focused on the federal legislative effort. On March 20–21, within a few days of the contract being signed, Scanlon and Abramoff had occasion to reflect on their arrangement with him:

SCANLON: [Ring] asked if we got the wire yet in an email. I have no problem telling him yes—what do we owe him again? 10% of profit?

ABRAMOFF: No, 5% of gross. I told him that he would split the profit (which I told him was 10%) with you 50–50.

SCANLON: So we owe him 135k?

ABRAMOFF: Damn I guess so. [sic] Shit, that sucks.

SCANLON: I forgot to tie that amount in [sic] to the sandia [sic] figures—so our numbers are going to come down a little bit.

ABRAMOFF: Finders [sic] fee I guess. ...⁴¹

Ring's "finder's fee" was apparently in violation of an outside income policy at his firm Greenberg Traurig.⁴² In testimony before the Committee on November 2, 2005, Fred Baggett, Managing Shareholder and Chairman of the National Government Affairs Practice at Greenberg Traurig, said that the firm's internal investigation "has found, and as we have informed Federal authorities and I believe this committee, we found a number of other instances where members of Mr. Abramoff's team had received compensation outside of the firm."⁴³ One of those Baggett named was Kevin Ring.⁴⁴ Of course, the most egregious offender of the policy was Abramoff who had plotted with Scanlon to split the Pueblo of Sandia profit as part of their "gimme five" scheme. It should also be noted that Kevin Ring, who the Tribe trusted and respected, did not disclose his financial arrangement with Scanlon to the Tribe until 2004, months after the publication of the *Washington Post* article that initially exposed the Abramoff and Scanlon lobbying scandal.⁴⁵

After spending at least a month hiring their lobbying and grassroots team, the Tribe was eager to start seeing some results. They quickly realized that there was a disconnect between the bravado of the pitch they had received and the quality of Scanlon's work of what was done. As Mielke explained to Committee staff:

Their pitch is that things are sliding quickly. Hire us soon or we are not going to do it. ... The Tribe acted quickly, [and] wired the money to Scanlon. A couple of weeks lapsed and Scanlon sends out three people to New Mexico. They sent me draft letters that were poorly written. It was Chris Cathcart, [CCS associate,] a fairly young woman who turned out to be Scanlon's sister, and another woman. ... These people weren't high dollar, high quality folks. I

⁴¹ Email between Jack Abramoff, Greenberg Traurig, and Michael Scanlon, Capitol Campaign Strategies (GTG-E000003054) (March 20–21, 2002).

⁴² "Tribal Lobbying Matters," Hearings before the Committee on Indian Affairs, 109th Cong. at 23 (November 2, 2005) (testimony of Fred Baggett, Chair, National Governmental Affairs Practice, Greenberg Traurig).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

took the Governor to dinner to express concerns. It didn't take long to question the value of Scanlon. Once these letters started coming in, they were obviously form letters with small variations. One letter went to the *Albuquerque Journal*. Someone from the paper called me and asked what were we [sic] doing. Word circulated. There was no variation in who they would send the letters to, including typos in letters. The Tribe was happy with Ring[.]; he would get back to them[,] seemed on top of things. Abramoff and Scanlon dropped off as soon as the deal was signed. Even the polls I saw weren't works of art.⁴⁶

E. THE DATABASE

As with other Tribal clients, Scanlon's sales pitch centered on the customized database, which he said would be the heart of the grassroots effort. Mielke, in his interview with Committee staff, recalled the following:

... [a] big part of the fee was the software and time and personnel that they would spend in compiling this database ... they said it was going to cost between \$2 and \$3 million for the whole effort and that the database would be a big part. This was just Scanlon. ... Scanlon had a staff of 16 people, talking about 10,000 FedEx packages. This was going to be a sprint, [sic] this money was going to go out immediately for vendors and software.⁴⁷

In fact, in the contract between Scanlon and the Tribe, \$1,857,000 is specifically identified for "Building of National Political Organization."⁴⁸ The scope of work "include[d] acquisition and design of hardware and software, data matching, grassroots development, online applications and political modifications."⁴⁹

However, according to Mielke and Paisano, the database was significantly less than what had been promised.⁵⁰ It appeared to be a simplistic regurgitation of the data that the Tribe had provided to Scanlon.⁵¹ Paisano described the database as "pathetic" and Mielke said it was the "same info that the Tribe gave them; no magic in it."⁵²

As more fully discussed in Part 2, Chapter 1, of this Report, it appears that Scanlon copied (in violation of licensing agreements to which he was a party) elements of a database created by Democracy Data Communications ("DDC"). Scanlon had originally subcontracted DDC to build political databases for other Tribes. The ac-

⁴⁶ Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

⁴⁷ *Id.*

⁴⁸ Pueblo of Sandia document production (SP-S 00046) (March 14, 2002) (letter of agreement between Scanlon Gould Public Affairs and Pueblo of Sandia of New Mexico).

⁴⁹ *Id.*

⁵⁰ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

⁵¹ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

⁵² Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

tual cost of a database developed for the Tribe by another vendor, which was apparently designed to mimic DDC's far more functional database, was nowhere near the \$1,875,000 that the Tribe was charged by Scanlon.⁵³

Understanding the urgency of the situation and acknowledging the fact that Scanlon's grassroots campaign was a failure and an embarrassment—"amateurish" in Mielke's words—Mielke and the Tribe began their own grassroots effort, independent of Scanlon's.⁵⁴ The Tribe also hired a local public relations firm to assist in their efforts.

Mielke and Paisano continued to express concern and criticism of Scanlon's work product.⁵⁵ As an indication of how out of touch he appeared to be, Scanlon actually entertained the idea of asking the Tribe for more money, as evidenced in the following June 25, 2002, email exchange with Kevin Ring and Jack Abramoff:

SCANLON: Hey—I have a few thoughts—1) The land exchange concept was a huge tactical blunder that is going to haunt the tribe for years to come. 2) We need another 3 mil to win this thing now. 3) They should Take [sic] Bingaman and be happy. Wow [,] we are in a pickle now.

RING: Are you on drugs?

SCANLON: Really good ones!

ABRAMOFF: Tell him to recommend some for us to take!

RING: I know. All kidding aside, if he even thinks of asking for more money, they are going to hunt him down and kill him. And then come after us.

ABRAMOFF: Ha ha ha

SCANLON: I'm gonna go for it—Im [sic] gonna schedule a conference cal [sic] and ask for 2 more mil!

ABRAMOFF: I love it!!!!!!⁵⁶

Several months later, when the Tribe was renegotiating its contract with Greenberg Traurig, the lighthearted mood was noticeably absent, as evidenced by the following March 4, 2003 email exchange between Ring and Abramoff:

RING: ... Once again for Sandia, the issue was Scanlon. They said we did a great lobbying job, but since we insisted that they hire him, we bore responsibility for his lack of performance ...

ABRAMOFF: Kevin, this excuse about Scanlon from them is bullshit. I don't care how much they hate him, they paid for a result and they got it. whether [sic] he did what they wanted or not, they got their fucking mountain. And for them to be telling you they won't rehire us because of him is also fucking bullshit. I know that not getting them will be a big hit on you and I am sorry about that, and I sup-

⁵³Interview of B.R. McConnon, president, Democracy Data & Communications, in Washington, D.C. (September 28, 2005).

⁵⁴Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

⁵⁵Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

⁵⁶Email between Jack Abramoff, Greenberg Traurig, Kevin Ring, Greenberg Traurig, and Michael Scanlon, Capitol Campaign Strategies (GTG-E000003258-59) (June 25, 2002).

port whatever you want to do on this, but I think they're already gone and they are using that Scanlon excuse because they are cheap mother fuckers who don't want to pay our fees. I say fuck them and let's go get you a different tribe which appreciates hard work.⁵⁷

As it turned out, the Pueblo of Sandia extended their contract, at a reduced rate, with Greenberg Traurig until the revelations of the *Washington Post* were published in 2004.⁵⁸

F. A HAPPY ENDING, IN SPITE OF ...

The Committee finds that deception was a consistent theme in the Pueblo of Sandia's relationship with Abramoff and Scanlon: the exorbitant fee for a "pathetic" database; the secret financial arrangement between Abramoff and Scanlon; the undisclosed "finder's fee" to Kevin Ring; and the overwhelming incompetency of the grassroots effort.

The Tribe's experience with Scanlon gave new meaning to the phrase "take the money and run." Mielke and Governor Paisano agreed that the Tribe received little of the intended benefit of the millions that the Tribe paid Scanlon.⁵⁹ They also felt that the Tribe was aggrieved by Abramoff and Scanlon's failure to disclose their financial arrangement.⁶⁰ And, they were frustrated by the poor quality of Scanlon's grassroots activities and felt that Scanlon's status reports were inadequate.⁶¹

As the concerns of local citizens were addressed and neutralized by the Tribe and its counsel, the uncertainty about how some members of the New Mexico Delegation felt about the settlement began to fade. The settlement legislation was considered favorably by the Senate Committee on Energy and Natural Resources and the Senate Committee on Indian Affairs. In the end, the combination of support from the New Mexico Delegation and a homegrown grassroots effort was the key to Congressional approval. Success was achieved, but for reasons wholly unrelated to the extraordinarily expensive pretensions of Abramoff and Scanlon.

⁵⁷ Email between Jack Abramoff, Greenberg Traurig, and Kevin Ring, Greenberg Traurig, (GTG-E000003763) (March 4, 2003).

⁵⁸ Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

⁵⁹ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

⁶⁰ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).

⁶¹ Interview of Stewart Paisano, former Governor, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006); Interview of David Mielke, outside counsel, Pueblo of Sandia of New Mexico, in Washington, D.C. (April 18, 2006).