



Chairman George V. Voinovich
Vice Chairman Tim Johnson
The Select Committee on Ethics
220 Hart Building
United States Senate
Washington, DC 20510

Dear Chairman Voinovich and Vice Chairman Johnson:

Common Cause filed a complaint with the Senate Ethics Committee against Senate Majority Leader Bill Frist (R-TN) on September 27, 2005. To date, we have not received any response from the Committee nor seen any indication that the committee intends to initiate an investigation.

Common Cause called on the Senate Ethics Committee to investigate whether Senator Frist violated Senate ethics rules by directing trustees to sell his HCA, Inc. stock held in a blind trust. Additionally, we asked the Committee to clarify how the numerous communications between the senator and trustees of his blind trust – during a period when the senator was working on legislation of interest to HCA – did not qualify as a conflict of interest at the time.

According to the *Senate Ethics Manual*:

Any member or staff member of the Committee shall report to the Committee, and any other person may report to the Committee, a sworn complaint or other allegation or information, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate.

Our letter of September 27 cited published reports alleging that Senator Frist may have violated a rule of the Senate relating to his conduct in the performance of his duty.

Senate rules require senators who set up blind trusts to surrender control of those accounts to private trustees, except under extraordinary circumstances. The model blind trust agreement available on the Committee's website states that there shall be no "direct

or indirect communication” between senators and trustees unless the senator is directing the trustee “to sell all of an asset . . . [which] creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties” by the senator.

Our September 27 complaint described how Senator Frist appears to have had regular contact with trustees concerning the contents of the qualified blind trusts and exercised an unusual level of control over the assets in the trusts. Our letter also questioned what would qualify for Senator Frist as a “subsequent assumption of duties,” which would have allowed him to intervene in the management of a qualified blind trust, given his role as senate majority leader for the past three years.

Since you received our original complaint, more information about Senator Frist’s ownership of HCA stock has emerged. On October 11, 2005, the *Associated Press* reported that Senator Frist has held HCA stock in an investment partnership in addition to the HCA stock held in his blind trusts covered by Senate ethics rules:

...ethics experts say a partnership arrangement shown in documents obtained by The Associated Press raises serious doubts about whether the senator truly avoided a conflict.

In that case, the HCA stock was accumulated by a family investment partnership started by the senator's late parents and later overseen by his brother, Thomas Frist. The brother served as president of the partnership's management company and as a top officer of HCA. Sen. Frist holds no position with the company.

The senator's share of the partnership was placed in a Tennessee blind trust between 1998 and 2002 that was separate from those governed by Senate ethics rules. Frist reported Bowling Avenue Partners, made up mostly of non-public HCA stock, earned him \$265,495 in dividends and other income over the four years.

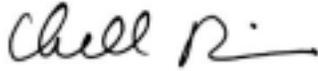
A variety of ethics experts have argued that Senator Frist’s additional trusts did not insulate him from a conflict of interest because “the senator or his brother were advised of transactions and could influence decisions.” It seems apparent from the facts reported about Senator Frist’s investments that a genuine conflict of interest existed for the senator long before his recent sale of HCA stock. Yet, the Committee’s approval of that sale was premised on the notion that he might face a future conflict of interest.

At a minimum, it seems clear that the Committee’s oversight of Senator Frist’s handling of HCA stock, and the possible conflicts of interest it might have created has been inconsistent, if not negligent.

We trust that you will give our complaint of September 27, as well as this more recent information, serious consideration and ask that you inform us as to your decision about whether to proceed with an investigation. If the Committee dismisses this request, we ask that you state publicly the Committee’s reasons for not investigating.

As we mentioned in our last letter, blind trusts are used to avoid a conflict of interest by keeping senators “at arm’s length” from investments that might conflict with their official duties. Therefore, it is critical that the Senate Ethics Committee exercise effective oversight and enforcement of rules relating to the use of blind trusts in order to maintain public credibility and avoid conflicts of interest or the appearance thereof.

Sincerely,

A handwritten signature in black ink that reads "Chellie P." with a stylized flourish at the end.

Chellie Pingree
President
Common Cause

cc: Senator Pat Roberts (R-KS)
Senator Craig Thomas (R-WY)
Senator Daniel Akaka (D-HI)
Senator Mark Pryor (D-AK)