

National Legal and Policy Center

"promoting ethics in public life"



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July 24, 2007

The Honorable Barbara Boxer, Chairman
The Honorable John Cornyn, Vice Chairman
Select Committee on Ethics
U.S. Senate
Room 220, Senate Hart Office Building
Washington, D.C. 20510

VIA FAX (202) 224-7416 & Certified Mail #7005 1160 0004 8557 8744

Re: Request for an Investigation of Senator Lisa Murkowski's Land Deal

Dear Chairman Boxer and Vice Chairman Cornyn:

The National Legal and Policy Center (NLPC), a non-profit, non-partisan organization which promotes ethics and accountability in government and public life, requests that you begin an investigation into the facts and circumstances of a December 2006 land transaction undertaken by Sen. Lisa Murkowski as well as her subsequent failure to properly disclose the transaction in her 2006 Financial Disclosure Report. NLPC brings this complaint pursuant to the provisions of the Senate Ethics Manual, Appendix C, Part II, Rule 2, "Procedures for Complaints, Allegations, or Information."

The facts of the case are available from the public record, chiefly media accounts and publicly available records. All such sources are cited and some are attached as exhibits.

During December 2006, Sen. Lisa Murkowski and her husband purchased a 1.27 acre vacant parcel of land from real estate developer Bob Penney.¹ Mr. Penney is a longtime family friend of and political contributor to Sen. Murkowski. The property is situated on the banks of the Kenai River, an area with rapidly appreciating real estate values.

¹ "Sen. Murkowski involved in questionable land deal," Associated Press, July 19, 2007; information from KTUU-TV, <http://www.ktuu.com>

On May 14, 2007, Sen. Murkowski filed her Financial Disclosure Report covering the year 2006, as required by the Ethics in Government Act of 1978.² (2006 Financial Disclosure Report attached as Exhibit A) The Report failed to disclose the real estate transaction under Part IV, "Transactions." The Transaction page instructs filers to

"Report any purchase, sale, or exchange by you, your spouse, or dependent child during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000." (Exhibit A at page 8)

Under Schedule Part VII, "Liabilities," Sen. Murkowski disclosed that First Bank was a creditor with respect to a "mortgage on undeveloped land." The "Date Incurred" column was filled in with "11/0" (sic). The "Term if Applicable" column was filled in "15-year." The "Category of Amount of Value" columns, which require those using the Report to pick a range of dollar values within which the proper response fits was left blank. (Exhibit A at page 9)

On July 16, 2007, Laura McGann of TPM Muckraker.com, a popular Internet site specializing in coverage of political corruption issues, ran an article about the land deal.³ The article stated that real estate developer Bob Penney, who had testified before a grand jury regarding his relationship with Sen. Ted Stevens (R-AK), was now in a financial relationship with Alaska's other senator, Lisa Murkowski. The article disclosed the land deal involving the prime piece of riverfront property between Penney and Murkowski but stated that the purchase price was not disclosed in the senator's 2006 Financial Disclosure Report.

Both Penney and Sen. Murkowski's office refused to disclose the sale price to reporter Laura McGann. In a phone interview, Penney was quite blunt:

"Why should I tell you?" Penney said. I have sold millions of dollars worth of property. I consider that a private transaction."

Adding context to the transaction, the story cited the fact that Penney was a business partner of Sen. Stevens in a Utah land deal that "turned a \$15,000 investment into \$100,000 for the senator."⁴ Other news articles state that the \$15,000 Utah land deal Stevens made with Penney was even more profitable with Stevens ultimately selling his share for \$150,000. Equally notable was the reason Penney allowed Stevens in on such an especially lucrative deal:

² Pub. L. No. 95-521, 92 Stat. 1824 (Oct. 26, 1978).

³ "Murkowski Land Deal with Stevens Biz Associate Raises Questions," by Laura McGann, July 16, 2007, <http://www.tpmuckraker.com/archives/003649.php>.

⁴ Id.; See also "Stevens-Penney venture pays well, at least on paper; Development: Utah project cost senator \$15,000; now it's worth at least \$100,000," by Liz Ruskin, Anchorage Daily News, June 21, 2004, page A1.

In 2004, Stevens told a *Daily News* reporter that he and his business partners invited Stevens to join them in “appreciation for all he’s done for Alaska and the country.”⁵

The July 16, 2007 TPM Muckraker article also cited the fact that Stevens and Penney

“...own stakes in a racehorse with former Veco executive Bill Allen, who recently pleaded guilty to federal bribery and conspiracy charges in a cash-for-votes scheme involving state lawmakers.”⁶

Despite the refusal of both Penney and Murkowski to disclose the sale price for the land, the local media quickly learned that the sale price was the same as the previous year’s assessment from the Kenai Peninsula Borough, \$179,400.⁷ The media also reported that the most recent assessment for the land was \$214,900.⁸ Indeed, the assessment of \$214,900 came just three days after the sale of the property.⁹

Notably, the media quickly learned that the actual value of the property appeared to be significantly higher:

- Jason Moore of KTUU-TV reported on a July 18, 2007 broadcast that Martin Radvansky, owner of Soldatna Realty, said that an examination of the Multiple Listing Service since January 2006 found similar lots selling for between \$250,000 and \$350,000.¹⁰
- Another Soldatna real-estate broker, Linda Lane of the Ron Moore Co., told Brandon Loomis of the *Anchorage Daily News* that riverfront properties typically sell for more than the borough’s assessed value and that a sale price of \$179,000 would generally be low for a parcel on the Kenai River of the size of Penney’s lot.¹¹
- Laura McGann of TPM Muckraker also found real estate agents in the area

⁵ “Senator’s land deal scrutinized; Murkowski: Purchase of tract along Kenai River for \$179,400 draws questions and criticism,” by Brandon Loomis, Anchorage Daily News, July 19, 2007.

⁶ “Murkowski Land Deal with Stevens Biz Associate Raises Questions,” by Laura McGann, July 16, 2007, <http://www.tpmuckraker.com/archives/003649.php>

⁷ “Senator’s land deal scrutinized; Murkowski: Purchase of tract along Kenai River for \$179,400 draws questions and criticism,” by Brandon Loomis, Anchorage Daily News, July 19, 2007.

⁸ *Id.*

⁹ “Sen. Murkowski defends price paid for Kenai land,” by Brandon Loomis and Erika Bolstad, Anchorage Daily News, July 20, 2007.

¹⁰ “Murkowski land deal questioned,” by Jason Moore, July 18, 2007, <http://www.ktuu.com/Global/story.asp?S=6810012>

¹¹ “Senator’s land deal scrutinized; Murkowski: Purchase of tract along Kenai River for \$179,400 draws questions and criticism,” by Brandon Loomis, Anchorage Daily News, July 19, 2007.

telling her that the assessed value of \$214,000 was well below what Penney could have gotten had he sold the property on the open market.¹²

- An *Anchorage Daily News* article on July 20, 2007 interviewed Judy Cloud, a Kenai realtor and president of the Alaska Association of Realtors, and quoted her as saying little property on the world-class salmon river is available and when property does go on the market, it increases rapidly in value. “If you are able to get it at assessed value, that’s a wonderful thing,” she said.¹³
- Only one Kenai riverfront parcel is currently for sale. The asking price is \$399,000 and it’s only an acre which makes it smaller than the Murkowski property.

In an editorial, “Lisa’s Deal,” the *Anchorage Daily News* weighed in with this commentary:

Three days after the borough recorded the Murkowskis’ purchase, the assessed value went up to \$214,900. So right off the bat, it looks like she got a discount of 20 percent.

In fact, her friendly political discount was probably far bigger. The online real estate listing service for Alaska has one Kenai riverfront lot. The parcel is only an acre – a quarter of an acre less than Sen. Murkowski’s – but the asking price is \$399,000. Per acre, that is almost three times what the senator paid for hers.¹⁴

Bob Penney appeared ignorant at reports of the value of the land deal as contrasted with the sale price:

“Word of honor, I did not know what the assessed value was,” he said. “I thought it was still \$120,000.”¹⁵

Penney’s professed surprise at the value was underscored by his exclamation:

“Who the hell would ever think it would jump like that?,” Penney said.¹⁶

¹² “Murkowski Land Deal with Stevens Biz Associate Raises Questions,” by Laura McGann, July 16, 2007, <http://www.tpmuckraker.com/archives/003649.php>

¹³ “Sen. Murkowski defends price paid for Kenai land,” by Brandon Loomis and Erika Bolstad, *Anchorage Daily News*, July 20, 2007.

¹⁴ “Lisa’s Deal,” *Anchorage Daily News*, July 19, 2007.

¹⁵ “Senator’s land deal scrutinized; Murkowski: Purchase of tract along Kenai River for \$179,400 draws questions and criticism,” by Brandon Loomis, *Anchorage Daily News*, July 19, 2007.

¹⁶ *Id.*

This claim by a multimillionaire real estate developer that he did not know the value of land that he owned right next to his own home on the Kenai River was not considered as very credible by those in the media following the story. Laura McGann, the TPMuckraker reporter who broke the story, located an audio tape of Bob Penney testifying at a hearing on the economic impact of sport fishing. McGann wrote that Penney “seemed much more familiar with assessments in the area.” The audio tape statement by Penney appears to show a real estate developer who is extremely well-informed about land values on the Kenai River:

The economic value of the land along the Kenai River privately held from Skilak to Ames bridge; three years ago the assessed value to the borough of only the privately owned land was three hundred and thirty-five million dollars. As Mr. Busey just said to you, it's increased since then. Now, I know it's well over five-hundred, but we haven't seen what the borough's assessed it. But gentlemen and ma'm, all that assessment in value came from one reason; cause there's fish in the river. And you put the fish in the river, and you put the fish in the inlet, and you give the opportunity for the public you'll see the economic engine run hard.¹⁷

The McGann article also undercut Penney's “word of honor” statement that he thought the assessment was just \$120,000 by reporting that, “...Penney would have received notice of the new \$179,400 assessment in March 2006, some nine months before he sold the property to Murkowski.”¹⁸

The questionable land deal appears to have even made Sen. Murkowski nervous as it was being done. In an interview with local radio talk show host Rick Rydell, Sen. Murkowski's husband, Verne Martell, referred to his wife's reservations as to the deal as follows:

“But, yeah, when we signed the loan, Lisa signed on it and said, you know, ‘This might come back and bite us. Well, you know, we'll deal with that when it comes,’”
Martell said.¹⁹

The ethical questions regarding the controversial land deal between the real estate developer and the senator do not end with the issues as to whether the sale price constituted a sweetheart deal between an elected official and a developer known to have made another senator richer with a land deal. Also raising ethical issues is the financing Sen. Murkowski obtained for the land deal.

¹⁷ “Penney told a different story at sport fishing hearing,” by Laura McGann, <http://www.tpmuckraker.com/archives/003740.php>, July 20, 2007

¹⁸ *Id.*

¹⁹ “Murkowski's Husband Fears Ethics Investigation,” by Laura McGann, July 23, 2007, <http://www.tpmuckraker.com/archives/003647.php>

Jason Moore of KTUU-TV reported on July 20, 2007 about an unusual feature of the loan: it has a January 1, 2046 maturity date making it a 39-year loan. When KTUU-TV questioned First Bank about its policies for undeveloped land loans, the bank told them that the standard loan for undeveloped property had a maximum seven-year maturity.

Sen. Murkowski's 2006 Financial Disclosure Report (under Part VII, "Liabilities") stated that the term of the loan was "15-yr."²⁰

It appears that Sen. Murkowski received a loan with terms and conditions not available generally to the public and then misrepresented the term on her Financial Disclosure Report as being fifteen years instead of thirty-nine years.

One possible reason that Sen. Murkowski obtained financing from First Bank in Ketchikan as opposed to a bank closer to the property appears to be that she once served on First Bank's board of directors, her sister currently does, her father (former governor Frank Murkowski) once sat on the board, and her grandfather had been bank president many years ago.²¹

When I was questioned about the apparently favorable conditions of the bank loan by Mr. Moore for the story, my response was:

"There's one legal issue here and the legal issue is: did the senator get terms and conditions on her financial transaction that are not available generally to the public? If she did, then it could be a violation of the gift rule the Senate has," said Ken Boehm, National Legal and Policy Center."²²

Apparent Omissions and Misrepresentations on Sen. Murkowski's 2006 Financial Disclosure Report

Financial Disclosure Reports are required to be filed by all Members of Congress pursuant to the Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824 (Oct. 26, 1978). The Statute provides that the Attorney General may seek a civil penalty of up to \$11,000 against any individual who knowingly and willfully falsifies or fails to file or report any information required by the Act (5 U.S.C. app. 4, §104).

The first Financial Disclosure Report issue is whether Sen. Murkowski was required to disclose her purchase of land from Bob Penney on her 2006 Financial Disclosure Report.

²⁰ Exhibit A, at page 9.

²¹ "Senator defends land purchase," by Jason Moore, July 20, 2007, <http://www.ktuu.com/Global/story.asp?S=6820560>

²² *Id.*

Sen. Murkowski appears to take the position that the land deal was somehow exempt from disclosure because it was to be maintained for recreational or personal reasons. The following is from the initial article on this story:

Murkowski's office called the purchase exempt from Senate financial disclosure, citing a clause in the ethics manual which says "property which is held or maintained solely for recreational or personal reasons does not have to be reported."²³

The problem with that citation to the Senate Ethics Manual is that it is taken from the section on the reporting of assets.²⁴

Sen. Murkowski failed to disclose the purchase of the land under Part IV, "Transactions" of her 2006 Financial Disclosure Report.²⁵ The definition of transactions to be disclosed has no exemption for real property to be used for recreational or personal reasons. The requirement for the disclosure of transactions is taken directly from federal law.²⁶ The Senate Ethics Manual states the rule succinctly:

Senate Members, officers and employees must include in the Report a brief description, the date, and the category of value of any purchase, sale, or exchange of real property, stocks, Bonds, excepted investment fund (e.g., mutual fund) shares, commodities futures, or other forms of securities (including trust assets) that exceeds \$1,000. The category of value to be reported is the total purchase or sale price (or the fair market value in the case of an exchange), regardless of any capital gain or loss on the transaction.²⁷

There are no exceptions to the reporting requirements for transactions for land held for recreational or personal purposes in either the Senate Ethics Manual or the instructional manual for filing the Financial Disclosure Reports.²⁸

The second Financial Disclosure Report issue is whether Sen. Murkowski correctly and fully disclosed all necessary information regarding her financing of the land deal under Part VII, "liabilities" of her 2006 Financial Disclosure Report.

There are three distinct issues regarding the liability information disclosed:

²³ "Murkowski Land Deal with Stevens Biz Associate Raises Questions," by Laura McGann, July 16, 2007, <http://www.tpmuckraker.com/archives/003649.php>.

²⁴ "Types of Assets and Unearned Income Sources," Senate Ethics Manual, 108th Congress, 1st Session, 2003 Edition, pages 130-131

²⁵ Exhibit A, at page 8.

²⁶ 5 U.S.C., app. § 102(a)(5)

²⁷ "Part IV: Transactions," Senate Ethics Manual, 108th Congress, 1st Session, 2003 Edition, page 133.

²⁸ Instructions: Public Financial Disclosure Report for the United States Senate, at page 14

- **Date Incurred** - the filing was “11/0” which maybe a typo but certainly is not a date
- **Term if Applicable** – the filing was “15-yr” despite the fact that the maturity date on the financing records indicate a maturity date of January 1, 2046 which would indicate a 39-year term, not a 15-year term.²⁹ As KYUU-TV reported that First Bank had a maximum seven-year maturity date for loans for undeveloped land and senators are precluded under Senate Rule 35 (supra) from obtaining loans on conditions not available to the general public, misrepresenting the actual term of the loan may appear to be an attempt to hide the questionable special financing obtained by a senator on an otherwise questionable land deal.³⁰
- **Category of Amount of Value** – Sen. Murkowski was required to disclose the purchase price for the land within a series of categories of amount of value as part of her Part VII “Liabilities” disclosure. She failed to check any category.³¹ If the purpose of this omission was to hide the purchase price, it is certainly consistent with her failure to disclose sale price information under “Transactions” and her refusal (along with Mr. Penney’s) to disclose the sale price when first asked by reporter Laura McGann. It appears that Sen. Murkowski was sensitive to the fact that she had purchased a valuable property for significantly below its true market value from a controversial real estate developer whose previous real estate venture with Alaska’s other senator had brought a very critical reaction from the media and the public. Such sensitivity is consistent with Verne Martell’s candid remark that his wife was concerned the land deal might “come back and bite us.”³²

Apparent Violations Of the Senate’s Gift Rule

The gravamen of this complaint is that a U.S. Senator purchased a valuable riverfront property for significantly less than its market value.

Senate Rule 35, paragraph 1(a)(1) of the Senate Code of Official Conduct provides that:

No Member, officer or employee of the Senate shall knowingly accept a gift except as provided in this rule.³³

²⁹ “Senator defends land purchase,” by Jason Moore, July 20, 2007, <http://www.ktuu.com/Global/story.asp?S=6820560>

³⁰ *Id.*

³¹ Exhibit A, at page 9.

³² “Murkowski’s Husband Fears Ethics Investigation,” by Laura McGann, July 23, 2007, <http://www.tpmmuckraker.com/archives/003647.php>

³³ Senate Ethics Manual, Select Committee on Ethics, U.S. Senate, p. 314 (2003 ed.), p. 22.

Under Senate Rule 35, paragraph 2(b)(1) the word “gift” is construed very broadly and includes any “item having monetary value.”³⁴ There is no doubt that equity in property has “monetary value” nor is there any doubt that special loan terms not available to the public also has “monetary value” within the meaning of Senate Rule 35.

The facts in this case are clear. Sen. Murkowski purchased a very desirable riverfront property from Bob Penney at a price that appears significantly below the fair market value for the property. From the statements of realtors cited earlier who are very familiar with the Kenai River area we know that comparable properties of a similar size in the area sold since early 2006 sold for between \$250,000 and \$350,000. Those prices represent a range of value of \$70,600 to \$170,600 over the \$179,400 paid to Bob Penney from Sen. Murkowski. In effect, there is a gift of equity worth \$70,600 to \$170,600 to a United States Senator.

In any factual situation, the context often helps clarify the meaning of the facts. The context here is especially helpful. Consider the following questions:

Did Mr. Penney offer Sen. Murkowski a sweetheart land deal because of her position as a U.S. Senator?

The Senate Ethics Manual addresses this type of situation in a straightforward way by stating:

One should always be wary of accepting any gift, favor, or benefit that may not be offered “but for” one’s position in the Senate.³⁵

In this case, Mr. Penney did not offer the property to sale to the general public but rather to Sen. Murkowski exclusively at a price well below what most knowledgeable realtors in the area felt such a parcel might fetch.

We don’t have to wonder whether Mr. Penney is the type of person to offer an incredibly lucrative land deal to a senator because this is not the first time he has done so. In an Associated Press story, “Stevens investment grows at least 566 percent,” the lead sentence sums up how a land deal offered by Penney to Sen. Stevens turned out;

Sen. Ted Stevens has turned a \$15,000 investment into at least \$100,000, and perhaps as much as \$250,000.³⁶

Penney left little doubt that the sweetheart land deal he offered Sen. Stevens was linked to the senator’s position when he told a reporter that he invited Stevens into the deal in “appreciation for all he’s done for Alaska and the country.”³⁷

³⁴ Senate Ethics Manual, Select Committee on Ethics, U.S. Senate, p. 314 (2003 ed.), p. 25.

³⁵ Senate Ethics Manual, Select Committee on Ethics, U.S. Senate, p. 314 (2003 ed.), p. 22.

³⁶ “Stevens investment grows at least 566%,” Associated Press, June 21, 2004

³⁷ “Senator’s land deal scrutinized; Murkowski: Purchase of tract along Kenai River for \$179,400

Mr. Penney's generosity to U.S. Senators does not end there. An *Anchorage Daily News* story from February 2007 recounts how Sen. Stevens was a repeated guest at The Golden Horn Lodge, an expensive Bristol Bay resort. Bob Penney was one of the four owners of the lodge when Sen. Stevens was staying there free of charge. When it was disclosed that Stevens had not paid, he quickly sent checks to cover his visits there in 2001 and 2003.³⁸

As previously noted, Stevens was also a business partner with Sen. Stevens in a racehorse along with former Veco executive Bill Allen, "who recently pleaded guilty to Federal bribery and conspiracy charges in a cash-for-votes scheme involving state lawmakers."³⁹

Additionally, Bob Penney was subpoenaed to testify recently before the grand jury which is part of an expanding federal investigation in political corruption in Alaska.⁴⁰

There appears to be very little doubt that Mr. Penney offered the valuable riverfront property to Sen. Murkowski at a price significantly below its market price precisely because of her position as a U.S. Senator.

Did Mr. Penney and Sen. Murkowski seek to hide their knowledge of the true value of the land?

Sen. Murkowski's failure to disclose the land transaction on her Financial Disclosure Report has already been reviewed.

Add to that, the fact that both she and Mr. Penney initially refused to tell reporters the sale price with Penney, going so far as to say "Why should I tell you?"⁴¹

The denial of knowledge of the value of a prime piece of real estate by a multi-millionaire developer who lived next to the property and an attorney/real estate investor turned U.S. Senator took on comic opera overtones when Penney told the press:

**"Word of honor, I did not know what the assessed value was,"
he said. "I thought it was still \$120,000."**

As noted, Penney had testified before a state hearing just months before about the surging property values along the Kenai River and had specifically noted that the value of

draws questions and criticism," by Brandon Loomis, *Anchorage Daily News*, July 19, 2007.

³⁸ "An invited guest, Stevens pays costs; Fishing Lodge: Senator pays bills from '01 and '03 to resolve any questions," by Lisa Demer, *Anchorage Daily News*, Feb. 11, 2007, page B1.

³⁹ "Murkowski Land Deal with Stevens Biz Associate Raises Questions," by Laura McGann, July 16, 2007, <http://www.tpmuckraker.com/archives/003649.php>

⁴⁰ "Justice Expands Stevens Investigation," by Matt Apuzzo, Associated Press, June 18, 2007.

⁴¹ "Murkowski Land Deal with Stevens Biz Associate Raises Questions," by Laura McGann, July 16, 2007, <http://www.tpmuckraker.com/archives/003649.php>

privately owned land had escalated from three hundred and thirty-five million dollars to “well over five hundred” in just three years.⁴² And the Kenai borough assessment showing the assessed value to be well over the \$120,000 assessed value which Penney was citing was sent out to him in March 2006.⁴³

For her part, Sen. Murkowski claims – without any specific evidence – that she paid fair market value for the property.⁴⁴

Again, the local media has done an excellent job of digging out and analyzing the facts. Here’s the *Anchorage Daily News* assessment of Murkowski’s claims:

In the Kenai River land sale, Sen. Murkowski “paid what she thought was a fair price for it at the time, based on what the borough said it was worth,” according to Murkowski spokesman Sweeney.

That defense just doesn’t wash. It’s well known at the Kenai borough that its assessments lag behind market prices. Anyone who sells Kenai River real estate at the assessed value is either a fool or doing somebody a favor. Anyone who buys it at assessed value knows – or should know – she is getting a sweet deal.

When discussions about the price of this deal began, Sen. Murkowski should have offered to pay the going rate. Instead, she accepted a personal favor worth tens of thousands of dollars.⁴⁵

Were the terms of Sen. Murkowski’s First Bank loan available to the general public?

On its face, a senator purchasing a prime piece of property for substantially less than its market value – especially when the sales offer was made exclusively to her and not the general public – constitutes a violation of the Senate Gift Rule. But it is not the only apparent violation of the rule in this case.

Just as Sen. Murkowski failed to properly disclose the sale price of the land, she also failed to properly disclose the terms of her loan from First Bank for the financing of the land deal.

⁴² “Penney told a different story at sport fishing hearing,” by Laura McGann, <http://www.tpmuckraker.com/archives/003740.php>, July 20, 2007

⁴³ *Id.*

⁴⁴ “Murkowski knew land deal was questionable,” by Jason Moore, July 24, 2007, <http://www.ktuu.com/global/category.asp?c=81466>

⁴⁵ “Lisa’s Deal,” *Anchorage Daily News*, July 19, 2007.

The definition of “gift” in the Senate Ethics Manual defines gift broadly as “anything of value” and it specifically lists loans as a possible gift.⁴⁶

Since loans have historically been used to facilitate corrupt relationships between elected officials and those seeking special favors,⁴⁷ loans are subject to scrutiny as possible violations of Senate Rule 35, the Gift Rule, when they appear to single elected officials out for special terms and conditions not available to the general public.

In this case, Sen. Murkowski received a loan from First Bank for undeveloped property with a stated maturity date of January 1, 2046, indicating a 39-year term.⁴⁸

First Bank’s makes loans for undeveloped property available only with a maximum seven-year maturity.⁴⁹

It appears that Sen. Murkowski received loan terms not available to the general public.

Rule 35, paragraph 1(c)(19)(E) permits Members, officers and employees to accept opportunities and benefits that are available to a wide group, specifically stating that they may accept “loans from banks and other financial institutions on terms general available to the public.”⁵⁰

As a former director of First Bank, Sen. Murkowski must be presumed to be familiar with the bank’s policies for loans and must have known that a 39-year term was 32 years longer than the maximum term length available to the general public.

Perhaps even more telling is the fact that Sen. Murkowski then falsely reported on her 2006 Financial Disclosure Report that the term of the loan was 15 years.

It is also telling that her husband reported the following statement from his wife *when she signed the loan*:

“But, yeah, when we signed the loan, Lisa signed on it and said, you know, ‘This might come back and bite us. Well, you know, we’ll deal with that when it comes,’”
Martell said.⁵¹

⁴⁶ Senate Rule 35, paragraph 2(b)(1)

⁴⁷ “Justice Dept. rebuts Rep. Hansen of Idaho,” *The New York Times*, Nov. 9, 1984; Rep. Hansen was convicted in April 1984 of failing to report \$333,978 in loans on his annual financial disclosure report.

⁴⁸ “Senator defends land purchase,” by Jason Moore, July 20, 2007, <http://www.ktuu.com/Global/story.asp?S=6820560>

⁴⁹ *Id.*

⁵⁰ Senate Ethics Manual at 40.

⁵¹ “Murkowski’s Husband Fears Ethics Investigation,” by Laura McGann, July 23, 2007, <http://www.tpmuckraker.com/archives/003647.php>

These facts all combine to present a picture of a Senator with a background as a bank director knowingly obtaining a loan with a term far beyond the maximum term available to the public and then misrepresenting the term on her financial disclosure report by falsely stating the term as 15 years instead of 39 years.

While there is no indication that Sen. Murkowski used her position as a U.S. Senator to improperly favor the bank, the acceptance of a loan on terms not available to the general public certainly creates just the type of appearance of impropriety that the Senate Gift Rule was enacted to prevent.

The facts in this case are so strong that it is hard to imagine a more compelling case for violation of the Senate Gift Rule.

- A multi-millionaire real estate developer with a penchant for helping elected officials financially has sold a property to a senator at a price far below its market value.
- The property is next to his home and there is an audiotape of the same developer just months before the transaction stating how quickly the land in the very area of the transaction is appreciating.
- The developer denies knowing what the assessed value of the property was.
- Both the developer and the senator initially refuse to divulge the sale price.
- The senator fails to disclose the real estate transaction on her financial disclosure.
- The senator misrepresents the term of her financing while failing to disclose the financing amount, as required by the Ethics in Government Act.
- The senator tells her husband at the time of the deal, "This might come back and bite us."

Finally, the senator's husband is quoted as telling the media that they have started clearing the land to build on the property but the clearing has stalled because the couple expects a Senate ethics investigation.⁵²

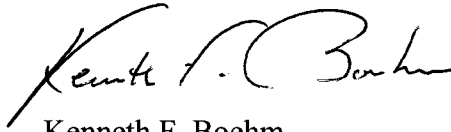
As Sen. Sam Ervin used to say, "Sometimes things are what they look like." This case looks like improper gifts being covered up with explanations so weak as to be

⁵² "Murkowski knew land deal was questionable," by Jason Moore, July 24, 2007, <http://www.ktuu.com/global/category.asp?c=81466>

laughable and misrepresentations and omissions on a Financial Disclosure Report to hide the transaction from the public.

The National Legal and Policy Center requests that the Senate Select Committee on Ethics conduct a thorough investigation into the matters set forth herein and take all appropriate disciplinary action.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth F. Boehm". The signature is fluid and cursive, with the first name "Kenneth" and last name "Boehm" being clearly legible.

Kenneth F. Boehm
Chairman

Attachment: 2006 Financial Disclosure Report for Sen. Lisa Murkowski

EXHIBIT A

2006 Financial Disclosure Report
of
Sen. Lisa Murkowski

UNITED STATES SENATE FINANCIAL DISCLOSURE REPORT FOR ANNUAL AND TERMINATION REPORTS

First Name and Middle Initial	Annual Report Calendar Year Covered by Report:	Senate Office / Agency in Which Employed
LISA	2006	UNITED STATES SENATE
Senate Office Address (Number, Street, City, State, and ZIP Code)	Termination Report Termination Date (mm/dd/yyyy):	Prior Office / Agency in Which Employed
SH-709, WASHINGTON, DC 20510		


AFTER READING THE INSTRUCTIONS - ANSWER EACH OF THESE QUESTIONS AND ATTACH THE RELEVANT PART

	YES	NO	YES	NO
Did any individual or organization make a donation to charity in lieu of paying you for a speech, appearance, or article in the reporting period? If Yes, Complete and Attach PART I.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you or your spouse have earned income (e.g., salaries or fees) or non-investment income of more than \$200 from any reportable source in the reporting period? If Yes, Complete and Attach PART II.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you, your spouse, or dependent child hold any reportable asset worth more than \$1,000 at the end of the period, or receive unearned or investment income of more than \$200 in the reporting period? If Yes, Complete & Attach PART IIIA and/or IIIB.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you, your spouse, or dependent child purchase, sell, or exchange any reportable asset worth more than \$1,000 in the reporting period? If Yes, Complete and Attach PART IV.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you, your spouse, or dependent child receive any reportable gift in the reporting period (i.e., aggregating more than \$305 and not otherwise exempt)? If Yes, Complete and Attach PART V.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Did you, your spouse, or dependent child receive any reportable travel or reimbursements for travel in the reporting period (i.e., worth more than \$305 from one source)? If Yes, Complete and Attach PART VI.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Did you, your spouse, or dependent child have any reportable liability (more than \$10,000) during the reporting period? If Yes, Complete and Attach PART VII.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you hold any reportable positions on or before the date of filing in the current calendar year? If Yes, Complete and Attach PART VIII.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Do you have any reportable agreement or arrangement with an outside entity? If Yes, Complete and Attach PART IX.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If this is your FIRST Report: Did you receive compensation of more than \$5,000 from a single source in the two prior years? If Yes, Complete and Attach PART X.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Each question must be answered and the appropriate PART attached for each YES response.

File this report and any amendments with the Secretary of the Senate, Office of Public Records, Room 232, Hart Senate Office Building, U.S. Senate, Washington, DC 20510. \$200 Penalty for filing more than 30 days after due date.

This Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The statement will be made available by the Office of the Secretary of the Senate to any requesting person upon written application and will be reviewed by the Select Committee on Ethics. Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file this report may be subject to civil and criminal sanctions. (See 5 U.S.C. app. 6, 104, and 18 U.S.C. 1001.)

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.		5/14/07
It is the Opinion of the reviewer that the statements made in this form are in compliance with Title I of the Ethics in Government Act.	Signature of Reviewing Official	Date (Month, Day, Year)

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PART IIIA. PUBLICLY TRADED ASSETS AND UNEARNED INCOME SOURCES

BLOCK A

**Identity of Publicly Traded Assets
And Unearned Income Sources**

Report the complete name of each publicly traded asset held by you, your spouse, or your dependent child. (See p.3, **CONTENTS OF REPORTS Part B of Instructions**) for reproduction of income or investment which:

(1) had a value exceeding \$1,000 at the close of the reporting period; and/or

(2) generated over \$200 in "unearned" income during the reporting period.

Include on this PART IIIA a complete identification of each public bond, mutual fund, publicly traded partnership interest, excepted investment funds, bank accounts, excepted and qualified blind trusts, and publicly traded assets of a retirement plan.

BLOCK A

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S, Example: DC,	IBM Corp. (stock)
	(S) Keystone Fund

MS S&P 500 Index Fund

	MS American Fund Op B
--	-----------------------

3	nc	MS S&P 500 Index Fund
---	----	-----------------------

MS American Fund Op B

5	DC	T Rowe Price College Savings Plan
---	----	-----------------------------------

Wells Fargo (shares)

7	DC	Walla Farm (ehangs)
---	----	---------------------

8	T	MS S&P 500 Index
---	---	------------------

9 T Rowe Price Equity Income Fund

Masters Select Intl. Fund

EXEMPTION TEST (see instructions before marking box): If you omitted any asset because it meets the three-part test for exemption described in the instructions, please check box to the right.

*** This category applies only if the asset is/was held independently by the spouse or dependent child. If the asset is/was either held by the filer or jointly held, use the other categories of value, as appropriate.

PART IIIA. PUBLICLY TRADED ASSETS AND UNEARNED INCOME SOURCES

BLOCK A

Identity of Publicly Traded Assets And Unearned Income Sources

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Exclude on this PART IIIA a complete identification of each public bond, mutual fund, publicly traded partnership interest, excepted investment funds, bank accounts, excepted and qualified blind trusts, and publicly traded assets of a retirement plan.

BLOCK B

Valuation of Assets

At the close of reporting period.
If None, or less than \$1,001,
Check the first column.

[illegible]

BLOCK C

Type and Amount of Income

If "None (or less than \$201)" is Checked, no other entry is needed in Block C for that item. This includes income received or accrued to the benefit of the individual.

[illegible]

EXEMPTION TEST (see instructions before marking box): If you omitted any asset because it meets the three-part test for exemption described in the instructions, please check box to the right.

*** This category applies only if the asset is/was held independently by the spouse or dependent child. If the asset is/was either held by the filer or jointly held, use the other categories of value, as appropriate.



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Reporting Individual's Name
BURKOWSKI, LISA

PART IIIA. PUBLICLY TRADED ASSETS AND UNEARNED INCOME SOURCES

Page Number

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BLOCK A Identity of Publicly Traded Assets And Unearned Income Sources		BLOCK B Valuation of Assets										BLOCK C Type and Amount of Income									
Report the complete name of each publicly traded asset held by you, your spouse, or your dependent child. (See p. 3, CONTENTS OF REPORTS Part B of Instructions) for production of income or investment which: (1) had a value exceeding \$1,000 at the close of the reporting period; and/or (2) generated over \$200 in "unearned" income during the reporting period. Exclude on this PART IIIA a complete identification of each public bond, mutual fund, publicly traded partnership interest, excepted investment funds, bank accounts, excepted and qualified blind trusts, and publicly traded assets of a retirement plan.		At the close of reporting period. If None, or less than \$1,001, Check the first column.										If "None (or less than \$201)" is checked, no other entry is needed in Block C for that item. This includes income received or accrued to the benefit of the individual.									
		Type of Income										Amount of Income									
		Dividends	Rent	Interest	Capital Gains	Excepted Investment Fund	Excepted Trust	Qualified Blind Trust	Other (Specify Type)	None (or less than \$201)	\$201 - \$1,000	\$1,001 - \$2,500	\$2,501 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$1,000,000	Over \$1,000,000***	Actual Amount Required if "Other" Specified		
Example: DC, S, or J (S) IBM Corp. (stock)		X		X					Example	X							Over \$5,000,000				
Example: DC, S, or J (S) Keystone Fund					X				Example	X							Over \$1,000,000***				
1	TCW Galileo Value Op																				
2	MS Dividend Growth Securities B																				
3	TCW Dividend Focus Fund (TGIGX)																				
4	Fidelity Small Cap (Mutual Fund)																				
5	Johnson Bank CD (matured 06)																				
6	Fidelity Small Cap (Mutual Fund)																				
7	MS S&P 500 (Mutual Fund)																				
8	Fidelity Small Cap (Mutual Fund)																				
9	MS S&P 500 (Mutual Fund)																				
10	Morgan Stanley Money Market																				

EXEMPTION TEST (see Instructions before marking box): If you omitted any asset because it meets the three-part test for exemption described in the instructions, please check box to the right.
*** This category applies only if the asset is/was held independently by the spouse or dependent child. If the asset is/was either held by the filer or jointly held, use the other categories of value, as appropriate.

BLOCK A

Identity of Publicly Traded Assets And Unearned Income Sources

Report the complete name of each publicly traded asset held by you, your spouse, or your dependent child. (See p. 3, **CONTENTS OF REPORTS Part B of Instructions**) for production of income or investment which:

- (1) had a value exceeding \$1,000 at the close of the reporting period; and/or
- (2) generated over \$200 in "unearned" income during the reporting period.

Include on this PART IIIA a complete identification of each public bond, mutual fund, publicly traded partnership interest, excepted investment funds, bank accounts, excepted and qualified blind trusts, and publicly traded assets of a retirement plan.

BLOCK B

Valuation of Assets

At the close of reporting period.
If None, or less than \$1,001,
Check the first column.

[illegible]

BLOCK C

Type and Amount of Income

If "None (or less than \$201)" is Checked, no other entry is needed in Block C for that item. This includes income received or accrued to the benefit of the individual.

Type of Income	Amount of Income
Dividends	None (or less than \$201)
Rent	\$201 - \$1,000
Interest	\$1,001 - \$2,500
Capital Gains	\$2,501 - \$5,000
Excepted Investment Fund	\$5,001 - \$15,000
Excepted Trust	\$15,001 - \$50,000
Qualified Blind Trust	\$50,001 - \$100,000
Other (Specify Type)	\$100,001 - \$1,000,000
	Over \$1,000,000***
	\$1,000,001 - \$5,000,000
	Over \$5,000,000
	Actual Amount Required if "Other" Specified

EXEMPTION TEST (see instructions before marking box): If you omitted any asset because it meets the three-part test for exemption described in the instructions, please check box to the right.

*** This category applies only if the asset is/was held independently by the spouse or dependent child. If the asset is/was either held by the filer or jointly held, use the other categories of value, as appropriate.

to Report any purchase, sale, or exchange by you, your spouse, or dependent child (See p.3 CONTENTS OF REPORTS Part B of Instructions) during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded \$1,000. Do not include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse, or dependent child. Please clarify which two properties are involved in any reportable exchange.

Identification of Assets

S,	IBM Corp. (stock) NYSE
Example: DC,	(DC) Microsoft (stock) NASDAQ/OTC

[illegible]

EXEMPTION TEST (see instructions before marking box): If you omitted any asset because it meets the three-part test for exemption described in the instructions, please check box to the right.



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Reporting Individual's Name
MURKOWSKI, LISA

PART VII. LIABILITIES

Page Number

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Report liabilities over \$10,000 owed by you, your spouse, or dependent child (See p.3
CONTENTS OF REPORTS Part B of Instructions), to any one creditor at any time
during the reporting period. Check the highest amount owed during the reporting
period. Exclude: (1) Mortgages on your personal residences unless rented; (2) loans
secured by automobiles, household furniture or appliances; and (3) liabilities owed to
certain relatives listed in Instructions. See Instructions for reporting revolving charge
accounts.

Name of Creditor		Address	Type of Liability	Date Incurred	Interest Rate	Term if Applicable	Category of Amount of Value (x)											
S, DC, or J							\$10,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	\$500,001 - \$1,000,000	Over \$1,000,000***	\$1,000,001 - \$5,000,000	\$5,000,001 - \$25,000,000	\$25,000,001 - \$50,000,000	Over \$50,000,000	
1	J	First District Bank	Wash., DC	Mortgage on undeveloped land	1991	13%	25yrs		X		E	X		A	M	P	L	E
		(J) John Jones	Wash., DC	Promissory Note	1999	10%	On demand			X	E	X		A	M	P	L	E
2	J	Wells Fargo	Anchorage, AK	Mortgage on commercial property	6/99	Prime	15-yr.											
3		First Bank	Kenai, AK	Mortgage on undeveloped land	11/0	7%	15-yr.											
4																		
5																		
6																		
7																		
8																		
9																		
10																		
11																		
12																		

EXEMPTION TEST (see instructions before marking box): If you omitted any asset because it meets the three-part test for exemption described in the instructions, please check box to the right.
*** This category applies only if the asset is/was held independently by the spouse or dependent child. If the asset is/was held jointly by the filer or jointly held, use the other categories of value, as appropriate.



PART VIII. POSITIONS HELD OUTSIDE U.S. GOVERNMENT

Report any positions held by you during the applicable reporting period whether compensated or not. Positions include, but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Both the year and month must be reported for the period of time that the position was held.

Exclude: Positions with federal government, religious, social, fraternal, or political entities, and those solely of an honorary nature.

Name of Organization		Address (City, State)		Type of Organization	Position Held	From (Mo/Yr)	To (Mo/Yr)
Example:	National Assn. of Rock Collectors	NY, NY	EXAMPLE	Non-profit education	President	6 / 90	Present
	Jones & Smith	Hometown, USA	EXAMPLE	Law Firm	Partner	7 / 85	11 / 0X
1	U. S. Japan Friendship Commission	Washington, DC		Ind. Federal Agency	Member	2005	present
2	New Frontiers Ventures LLC	Anchorage, AK		Real Estate	Member	1999	present
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							

Compensation in excess of \$200 from any position must be reported in Part II.