

Please correct the record if this is not correct. . . . The [COI] Committee found that you have a significant financial interest in GSK because your consulting fees are more than the de minimis amount established by Emory's University Policy, the AAMC guidelines, and PHS regulations, which is currently \$10,000 annually. . . . In order to manage this conflict of interest, the [COI] Committee requires that you keep your consulting fees from GSK to an amount equal to or less than \$10,000 on an annual basis throughout the grant period, its renewals, and final collection of data.

In response, Dr. Nemeroff sent a letter to the executive associate dean on August 4, 2004. Dr. Nemeroff wrote: However, to reiterate, I have already taken the necessary steps to be in compliance with the recommendations of the COI Committee, namely my consulting fees from GSK will be less than \$10,000 per year throughout the period of this NIH grant, its renewals and final collections of data. GSK has been informed of this change and certainly understand the reasons for this decision and is supportive of my compliance with the university recommendations.

According to GSK reports, Dr. Nemeroff exceeded the \$10,000 limit within that very same month. On August 23, 2004, Dr. Nemeroff was paid \$3,500 for a teleconference with the Louisiana State University Psychiatry Department. GSK reports that this was a "non product" talk. However, Dr. Nemeroff gave talks on the 25th and 26th at two restaurants in New York regarding Paxil—one at Passion Fish Restaurant in Woodbury and the second at Burton and Doyles in Great Neck. For each talk, GSK paid Dr. Nemeroff a \$3,500 speaking honorarium. On August 31, 2004, Dr. Nemeroff held a "non product" teleconference for an additional \$3,500.

On October 29, 2004, the assistant dean for administration sent Dr. Nemeroff a letter concerning his grants. Relying on Dr. Nemeroff's promise to maintain his consulting fees from GSK below \$10,000, Emory informed him that he did not have a conflict with the Emory-GSK-NIH Collaborative Mood Disorders Institute.

However, GSK reports that Dr. Nemeroff's final lecture on Paxil was given on January 26, 2006. That day he gave two talks in Springfield, Missouri. He gave one lecture at the Burrell Behavioral Health and the second at Mille's Turn of the Century Café. GSK paid Dr. Nemeroff \$7,000 for the lectures along with \$174.98 in expenses.

Based upon information provided to me, it appears that Dr. Nemeroff denied giving these lectures. For instance in a letter on November 20, 2006, Dr. Nemeroff wrote the following to the Emory dean about his outside activities:

"I was somewhat surprised by the suggestion that I serve as [primary investigator] or co-PI in any research protocols funded by a company with which I have a financial relationship. This is absolutely untrue. Quite some time ago, I made that decision based on the 2004 letter from Dr. Adkison and have stuck to it. Thus, this is not an issue."

However, during the years that Dr. Nemeroff served as the primary investigator of the Emory/GSK/NIMH Initiative it seems he failed to report approximately half a million dollars in fees and expenses from GSK. These fees covered dozens of talks given to promote drugs sold by the company.

Accordingly, I request that your institution respond to the following questions and requests for information. For each response, please repeat the enumerated request and follow with the appropriate answer.

(1) For each year that the Emory/GSK/NIMH grant was active, please provide the following:

- a. Total amount of grant;
- b. Amount provided to Emory for overhead; and
- c. Amount of grant provided as salary to Dr. Nemeroff.

(2) Please provide all communications regarding this investigation and/or Dr. Nemeroff's outside consulting. This information may be held by Dr. Nemeroff and/or his assistant and/or supervisors to Dr. Nemeroff. The time span of this request covers November 2007 to the present.

(3) According to documents provided to us by Emory, Dr. Nemeroff wrote a memo to himself on the letterhead of the journal Depression and Anxiety, stating that he was paying himself \$3,000 to write a supplement for that journal. Dr. Nemeroff then filled out an Emory form for payment, with the money being withdrawn from Emory account 9-30410-2170. Please provide documents and explanation for the source of funds that were placed in this account.

Thank you again for your continued cooperation and assistance in this matter. As you know, in cooperating with the Committee's review, no documents, records, data or information related to these matters shall be destroyed, modified, removed or otherwise made inaccessible to the Committee.

I look forward to hearing from you by no later than October 16, 2008. All documents responsive to this request should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov. If you have any questions, please do not hesitate to contact Paul Thacker at (202) 224-4515.

Sincerely,

CHARLES E. GRASSLEY,
Ranking Member.

Attachment.

DR. CHARLES NEMEROFF'S DISCLOSURES ON GLAXOSMITHKLINE

Year	Company	Disclosure filed in March 2008	Amount company reported
2000	GlaxoSmithKline	No amount provided ¹	\$190,918
2001	GlaxoSmithKline	No amount provided ¹	135,460
2002	GlaxoSmithKline	\$15,000	232,248
2003	GlaxoSmithKline	Not reported	119,756
2004	GlaxoSmithKline	\$9,999	171,031
2005	GlaxoSmithKline	\$9,999	78,097
2006	GlaxoSmithKline	No amount provided ²	32,978

¹ Consulting agreement for two weekends a year.

² Speaker's Bureau, \$3,500 per talk; \$5,250 for rotating speakers series.
Note 1: When a Physician named a company in a disclosure but did not provide an amount, the text reads "no amount reported." When a Physician did not list the company in the disclosure, the column read "not reported."

REPORT OF THE SBA INSPECTOR GENERAL

Mr. KERRY. Mr. President, on behalf of Senator SNOWE and myself, I rise today to express our concern that the Small Business Administration has taken steps to hide from public view the details of one of the largest lending scandals in that agency's history. As chairman and ranking member of the Senate Committee on Small Business and Entrepreneurship, we take our oversight role of the SBA seriously, and we believe that transparency is vital to a well-functioning government.

On July 11, 2007, the SBA's Office of Inspector General issued a report on the agency's oversight of Business Loan Center, LLC, otherwise known as BLX. That report was not made publicly available until October of the same year, in a heavily redacted form. BLX was one of SBA's largest 7(a) lenders

when the \$76 million in fraudulent loans it made was exposed in January 2007. An OIG investigation regarding allegations of the fraudulent loans helped lead to the arrest of a BLX executive vice president and 18 other individuals, who were not BLX employees. OIG followed up the investigation by releasing the report on SBA's oversight of BLX. Despite the obvious need for more, not less, transparency of SBA's oversight activities, when the report was made publicly available in October of that year, it was heavily redacted and virtually useless to the public in trying to determine what the SBA is doing to address the multimillion dollar loan fraud that took place under its watch.

To further underscore the damage that took place, it is important to note that, in the time that has elapsed since the report was issued, BLX—now called Ciena Capital has declared bankruptcy. According to the company, it will continue to manage its assets as a "debtor in possession" under the jurisdiction of the bankruptcy court. However, we are still concerned that the former BLX will not fulfill its obligations to the SBA and the American taxpayer, in turn.

Even so, as detailed in hearings on SBA lender oversight, our committee remains very concerned by the number and breadth of the redactions of the BLX report. At the lender oversight hearing on November 13, 2007, then SBA Administrator Steven Preston promised to work with the committee to make more of the report publicly available. To date, there has been no agreement on a meaningful release of redacted material.

In the context of conducting oversight, it has become apparent to the committee that the OIG did not exercise independent authority on what was redacted and instead let the agency it was investigating dictate that large sections of the report be redacted. This is contrary to the usual process that occurs with SBA OIG reports. Of the 15 reports that the OIG has released this year, there have been none with a volume of redactions even close to those in the BLX report. Of the 30 reports OIG issued in 2007, only 3 reports have a comparable amount of text redacted and those are all reports regarding agency information security.

In this statement, I will bring to light the OIG's first three recommendations to the SBA and a summary of the SBA's comments on the recommendations, which were redacted in the publicly released report. There is nothing in this material that should have been withheld. In fact, on August 3, 2008, the New York Times reported in an article that revealed the substance of the three redacted recommendations that "With the American taxpayer assuming responsibility for all manner of bad loans made by reckless lenders, it's puzzling that a scathing 2007 audit of the Small Business Administration's

oversight of one of its top private lenders remains hidden from view.” Additionally, even if there had been a reason to withhold this information, the public interest would outweigh that. Given the crisis in the credit market, it is more important than ever that the public have confidence that SBA can handle its lender oversight responsibilities.

The redacted portion is a recommendation on how to go forward in improving SBA's lender oversight and is illustrative of a process that broke down in this instance and needlessly made information confidential without due consideration.

According to both the SBA's Office of General Counsel and the OIG, the SBA followed a preemptive Freedom of Information Act process when preparing for the public release of the BLX report. At its heart, the FOIA is a disclosure statute, with certain outlined exemptions. Indeed, although FOIA responsiveness has been problematic at best under the Bush administration, it has at least recognized FOIA's importance on paper as a tool to increase accountability of Government. As is stated in former Attorney General John Ashcroft's FOIA memo of October 12, 2001, which set the policy standard for FOIA compliance for the Administration: “It is only through a well-informed citizenry that the leaders of our nation remain accountable to the governed and the American people can be assured that neither fraud nor government waste is concealed.”

Unfortunately, discussions with the OIG and OGC make clear that neither office fully evaluated each redaction with the above-mentioned guidance in mind. The OIG faced a large number of requested redactions from the OGC and, rather than challenge the OGC on them, simply decided to release the report with SBA's huge number of requested redactions intact. The OGC expressed surprise the OIG did not push back more on their requested redactions and seemed to have clearly acted on the instinct to ask for more redactions they expected to have made. The end result was a report that did nothing to increase transparency of Government and was virtually useless to the public.

As I mentioned earlier, the treatment of this report is in stark contrast to that of other OIG reports, which tend to have few redactions. Indeed, the followup report on lender oversight that was released by OIG in May 2008 had comparatively few redactions. However, in the BLX report, the redactions were so severe that the OIG felt compelled to write a summary as a cover page because the extensive redactions made the report difficult to understand. Without question, the nature of this report also contributed to the number of redactions, since it concentrated on SBA's oversight of one company. Even so, a more thorough process would have undoubtedly resulted in far fewer redactions being

made to the public version of this report. That said, Senator SNOWE and I would like to see the OIG write reports in a manner that allows for the maximum availability of information for the public whenever possible.

The redacted passages that the committee is making public, in accordance with both Senate and committee rules, are those that the committee believes will be the most useful to the public and that were redacted under privileges that, given the passages themselves, are outweighed by the public good that can be gained by their disclosure. The SBA asserted that the first three recommendations and the summary paragraph in its response should be redacted due to the “deliberative process privilege,” and for the first recommendation they also included the bank examination FOIA exemption and privilege. The deliberative process privilege is exemption (b)(5) of the FOIA and covers “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” It traditionally covers the advice, recommendations and subjective evaluation that agency staff make in the performance of their duties. In this case, the public can see from the release of this information how the SBA and its OIG were interacting in the investigation of SBA's failed oversight of BLX, a lender making Government-backed loans. Regarding the “bank examination” FOIA exemption (b)(8) and privilege claim, that exemption only pertained to a portion of recommendation No. 1, for which SBA indicated it believed it could approve the release of an unredacted version.

SBA claims that the deliberative process privilege exemption applies because the OIG is a part of the agency. However, we believe that applying the exemption to the OIG—which is an independent office created within the SBA by law to conduct and supervise audits, inspections, and investigations relating to SBA programs and supporting operations; and to detect and prevent waste, fraud, and abuse—in the blanket manner SBA has done has the potential to render the OIG useless. If the deliberative process privilege exemption is as broad as SBA asserts, then the recommendations in the reports that preceded this one, as well as the two recommendations in the BLX report it did not redact, should have also been redacted. If that were the case, there would be virtually no use in having an OIG.

We are very concerned that the SBA's actions in redacting key information and recommendations in the BLX could undermine the future authority and efficacy of the OIG. The OIG is an independent office created within the SBA by law to conduct and supervise audits, inspections, and investigations relating to SBA programs and supporting operations; to detect and prevent waste, fraud, and abuse;

and to promote economy, efficiency, and effectiveness in the administration and management of SBA programs. According to the SBA Web site, the SBA inspector general “keeps the SBA Administrator and the Congress fully informed of any problems, recommends corrective actions, and monitors progress in the implementation of such actions.”

To resolve this situation, the committee has engaged in staff discussions with OIG and OGC with the intention of coming to an agreement with the OGC on additional portions of the report that could be released. However, OGC has simply not been responsive. Even when made aware of the committee's concern about the adequacy of its response, in subsequent followup by the committee, OGC did not address critical issues and did not agree to make any new releases of information. It also continued asserting Executive Privilege which, as the committee has previously pointed out, must be, and has not been, asserted by the President personally.

Therefore, to put an end to this matter, the committee is putting on the record some information that was withheld to serve as an example of a process gone wrong that prevented accountability in Government by keeping from the public information about the oversight capabilities of an agency that, though comparatively small, can have a huge impact on our economy. BLX made over \$76 million in fraudulent Government-backed loans despite SBA's oversight of their lending activities. More transparency, not less, is called for to explain to the American people what happened and how it will be prevented in the future.

Without objection, I ask to have the redacted portion of the OIG's recommendations printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

We recommend that the Associate Administrator for Capital Access take further action to mitigate the risk posed by BLX and to promote consistent and uniform enforcement actions by:

1. Setting specific performance goals and target dates for BLX to demonstrate improvement. At a minimum, the goals should require BLX to obtain a risk rating of at least “3.”
2. Reducing the guaranty percentages for all new loans originated by BLX, until such time as BLX has demonstrated the required level of performance.
3. Suspending BLX's delegated lending authorities until the goals in recommendation one are met.

The SBA's comments on those recommendations were completely redacted. These sentences are from the first paragraph of the section that summarizes the SBA's response.

SBA management partially agreed with recommendation 1, neither agreed nor disagreed with recommendation 2, provided a conflicting and unclear response to recommendation 4, and disagreed with recommendations 3 and 5. Management noted that it recently created a new Office of Credit Risk Management (OCRM) out of the

former OLO, which is now responsible for lender oversight.)

While the former BLX's bankruptcy makes the contents of the report moot to that particular company, we want to set the record straight on how this matter was handled so that, hopefully, SBA will handle such reports with more openness in the future.

Thank you, Mr. President.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

We have tried to have a fair amount of expendable income for emergencies and unexpected expenses, but with the rising gas prices we have seen this "buffer" disappear. We are both employed outside the home and must drive a fair distance to get to work. We have owned the same vehicles for over four years. We do not have a lot of options to lower our fuel costs. We cannot sell our home and move closer to our jobs. We cannot sell our vehicles and buy more fuel efficient vehicles so we are kind of stuck. For the first time in our lives, we have had to resort to putting gasoline on credit cards to get from paycheck to paycheck. It is not just the gas prices, but I have seen a 400% increase in my power bill that I have no explanation for. Nothing has changed in my usage and, in fact, I switched to a gas dryer to try to decrease consumption. But, last year my average power bill was \$30 a month. This year it is \$120 a month. Also, I have found that the \$100 per week I spend on groceries only buys half of what it used to. The rising gas prices have affected many areas of my life and my budget. In fact, my husband was asked to take a 10% cut in pay about two months ago because the construction company he works for was having a difficult time keeping up with rising costs in construction. It seems like every aspect of our lives is being affected by the rising gas prices, and we are powerless to do anything about it. What is even more frustrating is knowing that the problem could be remedied by the federal government if they would be willing to take action. There are options available to use our own resources and refuse to have an entire nation held prisoner by foreign oil. I am aware of the concerns by environmentalists, but I believe we have the technology to remove these resources with minimal effect on the environment. It is wrong to allow one

group of individuals to have the power to adversely affect an entire nation just because they have the time and resources to scream in the government's ear while the rest of America is too busy just fighting to survive.

We are lucky because we have good-paying jobs and are able, so far, to absorb the cost. But I worry about my children who are struggling to make ends meet and raising their children and are being forced sometimes to choose between buying food or paying their utilities and putting gas in their car to get to work. We all need help—now.

JANE, *Iona.*

Thank you for the opportunity to respond on the rising cost of gasoline, food, energy, etc. I am amazed at how much everything has risen in the past six months. My electricity bill is on level pay (I do not like surprises so I opt to have a set amount each month). This past month my level pay went up \$24 a month! I am already paying \$95 a month for natural gas to heat my home and water. Our city has just raised the cost of water, garbage and sewer by \$12 a month; at least that is how much my bill went up.

Gasoline—boy, where do I start! When it started going up three years ago, I started cutting back then; now there really is not a lot that I can do. I plan my day around where I need to go. I try to do everything in one day so that I am not running into town for one item. We are walking or riding our bikes to places that do not require us to carry a lot. If I have a doctor's appointment, I try to make other appointments the same day and spend the day going from one to the other—doing shopping, errands, etc. all in that day. It makes for a very long day, but then I do not drive anywhere for two or three days. I think it saves me in the long run. I do belong to a fitness club and try to carpool with my cousin to that. We take turns driving and if we have errands to do, we do them together if it is in the same area—saves us both on gas.

I have a small business where I have to travel to people's homes. I have had to charge a service call of \$25 if it is out of Pocatello. I used to give free estimates all around the area, but I cannot afford it any more. If the clients purchase from me, then I will apply the \$25 to their order. It is the only way I can afford to run my business. What else can I do?

My two adult sons purchased scooters three years ago and some of their friends at ISU laughed at them—now my sons are the ones that are laughing as their friends tell them how smart they were to get those scooters when they did, because the price of them have doubled! My husband rides his motorcycle to work (a 22-mile round trip) every day when the weather is good. It saves us about \$100 a month because we are not filling his truck up weekly.

I wish that the government would listen to the people, not those environmentalist wackos who are tree huggers. I want more refineries in our country. I want more drilling in our country. I do not like the fact that our money goes to those foreign countries who hate America! Why are we supporting them? They take our money, control the oil prices and are out to get us one way or another! We need to become independent of them—we do not need them—let's use the resources that are in our own country! Let us make America great and the super power we once was.

I wonder why the car manufacturers do not design a car that gets better gas mileage! I know that the technology is there. I heard about 25 years ago that a gentleman had developed a car that got better gas mileage and the car manufacturers and gas companies paid him millions for his plans and the rights

to them and he sold them to them. So I think that car manufacturers are in cahoots with the gas companies too!

Another thing—we do not need to help those countries that hate us. Stop sending aid to countries that want us dead! Let them help themselves—we have our own problems here that we really need to take care of—do not worry about these other countries—take care of us!!

DEBBIE.

Thank you for your concerns. It is appreciated. High fuel prices have affected every single item we purchase and everyday living. We spend roughly around \$500 per month just traveling to work and back home. We only travel when it is absolutely necessary. We had planned a family reunion in Washington State this summer, but have cancelled due to the higher and ever increasing cost of fuel. We turn off our oil furnace unless it is too cold that we cannot get by with extra blankets. Our heating fuel cost for 1½ month is up to \$668. Food and necessities are up 20% from four months ago, on most items. Clothing prices are up as much as 40% on some items. Everything is costing more.

I am employed with a state entity. I received a 4% increase, which I am grateful for, just enough of an increase to cover the increase in cost of our health insurance. As you can see, it does not cover the cost of inflation. My husband and I now worry if we are going to have to save less for our retirement in order to just live!

Our children have families of their own. It is even harder for them. Even though Idaho has increased the wages, it still does not seem to be in line with the continuing increases in the cost of living. I do not see things getting any better in the near future. In fact, I feel they will just get worse.

ANNA.

This e-mail is in response to your recent e-newsletter on energy prices.

Stories: Our church is investing in modern, high-efficiency heating and improved insulation including blinds over windows that we believe will reduce energy use and cost. The downside is that the money for these improvements and high energy costs will not be spent on community mission work in Pocatello and beyond.

Individual persons and families we know are changing habits. We held a group discussion at worship to invite ideas and solutions. Examples are: more use of bikes with emphasis on Pocatello Free Bikes (rebuilt by teenagers) for people with less money for new bikes; more thoughtful planning of shopping trips such as combining stops rather than multiple home-store trips; use of mass transit and calls for more organized carpooling in Pocatello; calls for coordination between bus fleet operators (Pocatello, School District 25, ISU, etc.) to increase flexibility and service. We all lose some choices in how we use our time.

Some commuters (Pocatello to Blackfoot or Idaho Falls) are looking for work closer to home. Pocatello is a poor city with average per capita income only about ¾ the national average. Workers who accept lower pay in Pocatello to compensate for high motor fuel costs simply reduce the disposable income in town. The long-term effect will be local businesses further in decline (or not growing and expanding) and a shift of economy to grey-market (you help me fix my car; I'll help fix your deck) that is outside normal commerce and taxation. So this impact will begin to reduce government income.

There is more discussion among thoughtful people about sustainability than I have heard in years. People are asking questions about an energy-intensive economy that will