

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

FILED IN OPEN COURT
2/15/07
Dennis P. Iavarone, Clerk
US District Court
Eastern District of NC

NO. 5:07-CR-42-1-D

UNITED STATES OF AMERICA)
)
 v.)
)
 JAMES BOYCE BLACK)
 a/k/a Jim Black)

FACTUAL BASIS

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby presents to the Court, for its consideration pursuant to Fed. R. Crim. P. 11(b)(3), the Government's proffer of the factual basis for the guilty plea being entered by the defendant, to the offense of corruptly accepting things of value concerning programs receiving federal benefits, in violation of 18 U.S.C. § 666(a)(1)(B). If this matter were contested at trial, the Government would establish by competent evidence the following facts:

1. From 1999 to 2006, the defendant James Boyce Black a/k/a Jim Black served as Speaker of the North Carolina House of Representatives. In such position, he wielded great influence over legislation and other state business, such as the budget of the State of North Carolina. All state laws and appropriations of state funds must pass both houses of the North Carolina General Assembly ("the Legislature"), which consists of the Senate and the House of Representatives.

2. During every one-year period while Jim Black was Speaker,

the State of North Carolina received millions of dollars in benefits under scores of Federal programs involving various forms of Federal assistance. Among such programs receiving such Federal assistance are many that impact health care services, including Medicaid.

3. Speaker Black raised money from many different individuals in interest groups who had an interest in matters before the legislature. Among these groups were individual chiropractors who were members of the North Carolina Chiropractic Association. These chiropractors had several legislative goals during the years that Jim Black served as Speaker, including, but not limited to:

a. "Spinal safety" laws: The chiropractors sought passage in the legislature of laws limiting who would be permitted to treat patients by manipulating their spine so that such acts could only be performed by licensed chiropractors and certain other health care professionals.

b. Patient co-payments: The chiropractors sought legislation prohibiting health insurers from requiring patients to pay higher co-payments for visits to chiropractors than for visits to physicians. During the 2005 legislative session, Speaker Black caused legislation to be drafted to accomplish this goal, and helped get it inserted into the House version of the Budget Bill (Senate Bill 622). The provision was ultimately passed into law. See North Carolina Session Laws, 2005-276, § 6.29, amending N.C. Gen. Stat. § 58-50-30(a3).

c. "Chiropractic Treatment Review": The chiropractors sought legislation requiring that any evaluation of the appropriateness or effectiveness of chiropractic services be performed by licensed chiropractors with an active practice. Legislation was drafted to accomplish this and it was introduced during the 2006 legislative session as House Bill 2869. The legislation would have had broad application to any form of public or private health insurance wherein the medical necessity of treatment was reviewed. Speaker Black helped the bill advance, but then later decided not to bring it to a vote during that session, telling one of the chiropractors that he did not want to cause controversy.

4. Between 2000 and February of 2002, Speaker Black approached two chiropractors and informed them that cash payments would be more helpful than campaign contributions made by check. The two chiropractors agreed to provide Speaker Black with cash payments and ultimately recruited a third chiropractor to provide cash payments to Speaker Black.

5. During the period from February, 2002, through December, 2005, the three chiropractors planned fund-raisers for Speaker Black, met with Speaker Black to discuss legislation relevant to their practice, made in-kind payments for the benefit of Speaker Black which were not reported by Speaker Black to the North Carolina Board of Elections, and delivered cash payments totaling at least

\$25,000 to Speaker Black.

6. In February of 2002, the chiropractors met Speaker Black at a private dining club in Charlotte and delivered \$8,000 in cash to Speaker Black. In December of 2002, the chiropractors again met with Speaker Black at a private dining club in Charlotte and delivered approximately \$10,000 in cash to Speaker Black. On or about February 14, 2004, approximately 15 members of the North Carolina Chiropractic Association held a fund-raiser for Speaker Black at a restaurant in Concord, North Carolina. During this event, two of the chiropractors met Speaker Black in a restroom for the purpose of secretly delivering cash payments totaling at least \$4,000. At the same event, a third chiropractor provided Speaker Black with a check, in the amount of \$4,000, made payable simply to "Jim Black." Speaker Black deposited this check into his personal bank account.

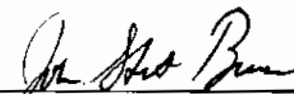
7. On December 3, 2005, a fund-raiser for Speaker Black was held by a group of chiropractors at the Capital Grille in Charlotte, North Carolina. During the fund-raiser, a chiropractor met Speaker Black in a restroom in order to secretly deliver to Speaker Black a \$3,000 cash payment. When a restaurant employee entered the restroom, the chiropractor and Speaker Black stepped just outside the restroom and completed the delivery. Upon receiving the \$3,000 in cash, Speaker Black stated to the chiropractor, "This is just between me and you. Don't you ever tell anybody about this."

8. The three chiropractors who made cash payments to Speaker Black each received a Grand Jury subpoena requiring their appearance before a Federal Grand Jury in Raleigh, on August 16, 2006. On August 15, 2006, Speaker Black personally visited one of the chiropractors. Indicating that he aware of the subpoenas, Speaker Black suggested that the three chiropractors should tell the Grand Jury that the cash payments to Speaker Black consisted of "a little bit of money to help [Black] with expenses along the road while [Black] was out running around the country."

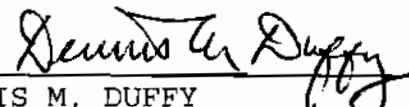
9. Speaker Black did not deposit the aforementioned cash payments totaling at least \$25,000 into the bank account of his campaign and did not report the payments to the North Carolina State Board of Elections as campaign contributions. In receiving these payments and converting them to his own use, Speaker Black intended to be rewarded in connection with the business of state government in which he participated, said state business involving millions of dollars.

Respectfully submitted, this 15th day of February, 2007.

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