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BUSINESS | UNDER COVER

Congressman's Favors for Friend Include Help in Secret Budget

With Rep. Gibbons's Backing, An Ex-Trader for Milken Wins Millions in
Contracts

By JOHN R. WILKE

Updated Nov. 1, 2006 11:59 p.m. ET

This article was published on Nov. 1, 2006.

On a lavish, weeklong Caribbean cruise last year, software entrepreneur Warren Trepp wined and dined friends and business partners aboard the 560-foot Seven Seas Navigator.

Among Mr. Trepp's guests on the cruise ship: Rep. Jim Gibbons of Nevada and his family. The two men have enjoyed a long friendship that has been good for both. Mr. Trepp has been a big contributor to Mr. Gibbons's campaigns, and the congressman has used his clout to intervene on behalf of Mr. Trepp's company, according to congressional records, court documents and interviews. The tiny Reno, Nev., company, eTreppid Technologies, has won millions of dollars in classified federal software contracts from the Air Force, U.S. Special Operations Command and the Central Intelligence Agency.

At a time of rising concern over lawmakers who direct or "earmark" federal spending to their supporters and business partners, a growing part of the budget is shielded from scrutiny. This is the "black budget," mostly for defense and intelligence, which is disclosed only in the vaguest terms. The ties between Mr. Trepp and Mr. Gibbons raise questions about an influential politician in America's fastest-growing state, and also offer a rare glimpse of contracts in this secret budget being awarded to a politically connected businessman without competitive bidding.



Jim Gibbons

Mr. Gibbons, a 61-year-old Republican, has been elected to five terms in the House and has served on the Intelligence and Armed Services committees. A former combat pilot and decorated Vietnam veteran, he is stepping down at the end of this term and is running for governor of Nevada in next week's election. His wife, Dawn, ran unsuccessfully in the Republican primary for the House seat being vacated by her husband.

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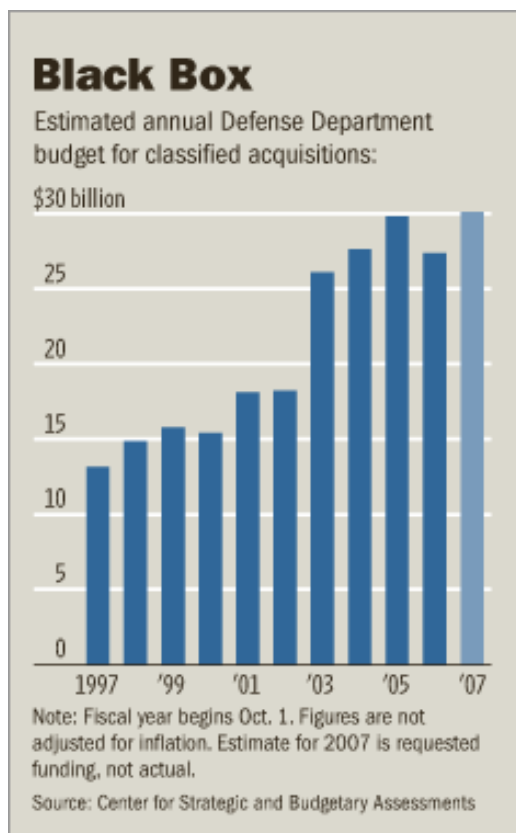
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Mr. Gibbons is in a tight and bitterly fought race. He held a double-digit lead until two weeks ago, when a cocktail waitress said he accosted her after a night of drinking. Mr. Gibbons has forcefully denied the claim, which is unproven, but details of the case have been page-one news in Nevada, and his lead slipped to six points in a weekend poll.

Mr. Trepp, 56, is known on Wall Street as the one-time chief trader for Michael Milken at Drexel Burnham Lambert, which collapsed in 1990 following a criminal investigation of junk-bond abuses.

In an interview Sunday, Mr. Gibbons said he helped open doors in Washington for his friend but did nothing improper. He said eTreppid won its business on the merits. "I had nothing to do with any classified contracts," Mr. Gibbons said. "My connection was to get people to evaluate the technology." Of Mr. Trepp, he said: "He is like a younger brother to me, we have dinner, we play golf, we've been friends for years, and our wives are best friends."

Mr. Trepp said Mr. Gibbons acted at all times in the nation's best interests. "If a member of Congress becomes aware of a technology they believe will be beneficial to the country, don't they have a duty to bring it to the attention of the appropriate governmental agencies?" he asked in an emailed response to questions. "Given my longstanding personal relationship with Jim and his position on the Intelligence Committee, it was natural for me to show him our technology."



Public records show that Mr. Trepp has been a generous supporter of Mr. Gibbons's campaigns. Nevada law prohibits individuals or corporations from giving more than \$10,000 to a candidate in a single election cycle. Companies and partnerships that Mr. Trepp incorporated or controls have given almost \$100,000 to Mr. Gibbons. These entities, many of which list the same mailing address, gave the maximum amount on the same day last year. Mr. Gibbons said the campaign contributions didn't violate Nevada law because they came through different corporate entities.

Mr. Trepp said he believes all the contributions complied with state law. "Whatever contributions I made for Jim's gubernatorial candidacy have nothing to do at all with any federal contracts," he said, adding that the company has no new federal contracts on the

way.

Suit's 'Outrageous' Claims

Mr. Gibbons also got other, unreported gifts of cash and casino chips from Mr. Trepp, according to sworn testimony in a civil lawsuit brought by a former executive at eTreppid, Dennis Montgomery. The suit, filed in February in federal court in Reno, involves a dispute between Messrs. Trepp and Montgomery over the rights to certain software code. Both Mr. Gibbons and Mr. Trepp deny unreported payments. Mr. Gibbons called the claims "outrageous," adding, "I am not hiding a damn thing, and Warren is not the kind of person who'd do anything like that."

The suit has raised alarms in Washington because of concern that national secrets will be revealed if it goes to trial. For example, one of the entities that funded eTreppid is code-named Big Safari and is a classified program, documents in the case show. The nation's top intelligence official, John D. Negroponte, recently filed a statement with the court seeking to seal the case. He wrote that after personally reviewing the matter, he has concluded that disclosure of some information connected with the case could do "exceptionally grave damage" to national security.

The legal dispute, which hasn't been previously reported, sheds light on the shadowy world of black-budget contracting and on Mr. Gibbons's efforts to help fund programs in which eTreppid was involved.

Mr. Gibbons himself touted one earmark in a June 2004 news release. In the release, Mr. Gibbons's office said he "specifically requested" a program that would pay \$3 million for eTreppid's automatic target-recognition technology, a computerized technique for picking out objects from a stream of video images. The release also said the technology had "great potential" for other federal applications, including satellite intelligence gathering.

In the following year, an email from an eTreppid executive to Mr. Trepp and others at the company described a \$1.5 million "plus-up," or earmark, that the company's Washington lobbyist "helped us get through Jim Gibbons." The money was for a subcontract on a secret program, code-named "Eaglevision," involving satellite transmission of high-resolution video images. Mr. Trepp acknowledged getting help from Mr. Gibbons on this contract but added, "The specific contract which resulted from Jim's introduction was for approximately \$1.17 million."

Earmarks have attracted intense scrutiny this year and figured in a series of public-corruption probes. Traditionally, programs are funded based on requests from departments and agencies to Congress, which then appropriates money. Earmarks are different because lawmakers can directly insert them into spending bills.



Image Photo Services/Image Group

Nevada Rep. Jim Gibbons, circled at top, and Warren Trepp, circled at bottom, with families, business partners and friends on a Caribbean cruise last year. To the right of Mr. Trepp is actor Patrick Swayze and, behind him, actor John O'Hurley of 'Seinfeld' fame.

The eTreppid story adds a twist because, as with the Eaglevision contract, some programs that got funded with Mr. Gibbons's help are classified. The U.S. Constitution says "a regular statement and account of receipts and expenditures of all public money shall be published," but since the Cold War era a growing number of programs for national defense or intelligence have been listed in the federal budget with only vague descriptions. This black-budget spending has more than doubled in inflation-adjusted dollars since 1995, to more than \$30.1 billion in the current fiscal year, according to the Center for Strategic and Budgetary Assessments, a nonpartisan Washington policy group.

"The problem with earmarks is that they don't go through the normal oversight process -- a problem that is much worse in black programs, which have less congressional oversight and obviously no public scrutiny," says Steven Kosiak, a researcher at the center.

Source of Secret Funds

One source of secret funds for eTreppid and other companies is the Special Operations Command. Based in Tampa, Fla., the command fields special-operations military and intelligence forces around the globe and is at the forefront of the fight in Iraq and Afghanistan. It has also been rocked by a criminal investigation of a former contracting officer. The investigation is continuing, according to a spokesman for the U.S. attorney in Tampa.

In a separate inquiry, Pentagon investigators last year found evidence that the command kept special accounts for "unrequested congressional plus-ups," or earmarks. The plus-ups were used to reward lawmakers with projects in their districts, according to declassified investigators' notes reviewed by The Wall Street Journal. The Pentagon's inspector general closed the inquiry after finding that the accounts weren't illegal.

Mr. Trepp said eTreppid won classified work on its merits and already had a number of government contracts before Mr. Gibbons starting making introductions on the company's behalf. Mr. Gibbons's campaign manager, Robert Uithoven, said the congressman has been a strong supporter of new defense technology, particularly after 9/11. But he said there was "no quid pro quo whatsoever" for contributions from contractors. And while some funding was secret, "it was because of the sensitive nature of the work," Mr. Uithoven said, not to avoid public scrutiny.

For Mr. Trepp, eTreppid's success at winning multimillion-dollar federal contracts marks a comeback from his Drexel days. He sat at Mr. Milken's right arm on the firm's famous X-shaped trading desk in Beverly Hills, sometimes trading as much as \$2 billion in securities a day. Federal regulators filed a civil securities-fraud claim against him in 1995, and a Securities and Exchange Commission administrative judge found that his violations had been "egregious, recurring and intentional." But she dismissed the proceeding against him, noting that the allegations were old and he had left the securities business years earlier.

Mr. Trepp, a Drexel partner, later paid an estimated \$19 million to help settle civil claims against the firm, without admitting culpability in the case. But he emerged with most of his fortune intact, and landed on the shores of Lake Tahoe, in Nevada, where he played high-stakes baccarat, started a family and lived in a waterfront compound he later sold for \$32 million. He funded a community-philanthropy foundation in Lake Tahoe and invested in films and Broadway plays. Mr. Trepp's latest show, "The Times They Are A-Changin'," choreographed by Twyla Tharp with music by Bob Dylan, opened last week on Broadway.

Mr. Trepp jumped into the technology boom in 1998, founding eTreppid in Reno with Mr. Montgomery, a software developer who served as chief technology officer, according to court papers. Its first product converted casino-surveillance tapes into digital data that could be stored and searched, based on data-compression and pattern-recognition software written by Mr. Montgomery. It was tested in casinos in Reno and Las Vegas and was eventually licensed to a unit of General Electric Co., in 2002.

By the following year, eTreppid shifted its focus to winning federal contracts for its data-compression technology. At the time, military and intelligence officials were looking for software that could store and search video taken by unmanned aircraft such as the Predator. In early 2003, Mr. Montgomery was granted a security clearance and asked to search for specific people, vehicles and other objects in battlefield video images, court documents show.

The largest publicly known contract award to eTreppid was noted in a routine announcement in 2004 by the Special Operations Command. The command described it as an "indefinite-delivery/indefinite quantity...sole source," or no-bid, contract, with a value of as much as \$30 million.

Arranging Meetings

Between 2003 and 2005, Mr. Gibbons repeatedly arranged meetings and demonstrations for eTreppid executives with top Air Force generals, both in Washington and Reno, according to congressional staff and company documents.

On Sept. 25, 2003, the congressman had breakfast with the Air Force vice chief of staff, where he pitched the promise of eTreppid's technology, according to a memo from a Gibbons staff member to an eTreppid executive. Also in September, Mr. Gibbons, in an email to an eTreppid executive, offered to try to set up a meeting with the National Security Agency. It isn't known if the meeting took place.

In May 2004, a lobbyist acting for eTreppid in Washington reported in another email, "Congressman Gibbons certainly came through for eTreppid!" She said Mr. Gibbons secured a \$7 million appropriation for the company, although she warned in the email that the amount might be reduced as the legislation moved along. The next month Mr. Gibbons publicly announced the \$3 million appropriation, which was directed to eTreppid for its video compression and target-recognition technology. The project was among several in Nevada that Mr. Gibbons said that he had specifically requested.

House records show that in 2004, the lobbyist pushed for eTreppid's interests in the defense-authorization and intelligence bills. Mr. Gibbons served on both of those committees. Mr. Trepp says eTreppid never paid for a lobbyist in Washington.

eTreppid executives even sought help from Mr. Gibbons on routine problems. In 2004, they asked for his help in getting a top official at the Department of Homeland Security to return their phone calls, according to company emails reviewed by The Wall Street Journal. And last year, an eTreppid executive, Patty Gray, wrote to Mr. Gibbons that the company hadn't yet received funds in a "congressional appropriation that you helped us with." Mr. Gibbons immediately assigned a staff member to prod the General Services Administration for the funds, according to a later email.

On the Caribbean cruise in March last year, photos taken on board and at the Atlantis casino in the Bahamas show the Gibbons and Trepp families together at dinners and parties. Also on the cruise were actors Patrick Swayze and John O'Hurley, who played the role of J. Peterman in the "Seinfeld" television series. The group flew back to Nevada after the cruise on a chartered Boeing 727 paid for by Mr. Trepp.

Mrs. Gibbons says she helped pay for the trip by giving a \$1,654 check to Mr. Trepp's wife and putting \$1,508 on her credit card for on-board expenses. An agent for the cruise line estimated the cost of a comparable cruise for a family of three at more than \$10,000, excluding airfare.

Required Disclosure

Federal ethics rules require a public disclosure by members of Congress when they receive gifts or make reimbursements. Mr. Gibbons says he believed the cruise was an exception because he and Mr. Trepp are longtime friends. Kenneth Gross, a former Federal Election Commission attorney now at Skadden, Arps, Slate, Meagher & Flom LLP in Washington, says there is a friendship exemption but anything valued at more than \$250 must get written approval from the House ethics committee and in most cases be publicly reported.

Documents make clear that the government found some of eTrepid's work valuable. In a letter to Mr. Montgomery's lawyer earlier this summer, after the breakup with Mr. Trepp, a top Air Force lawyer asked that Mr. Montgomery urgently return to work on technology he had been developing for the military, even as the parties in the suit bitterly argued over who owned the technology.

In the civil suit, Mr. Montgomery says he was pushed out of the company by Mr. Trepp in January of this year when he refused to provide his source code to Mr. Trepp. Mr. Montgomery was using the code on highly classified government work, the suit says. Mr. Trepp, in turn, charged that Mr. Montgomery stole classified tapes from eTrepid when he left. Agents in the local office of the Federal Bureau of Investigation began to look into the matter.

On March 1, FBI agents raided Mr. Montgomery's home. They seized computers and disks, but didn't find any classified material, court records in the civil suit show. Mr. Montgomery has sought the return of his property, alleging that Mr. Trepp used his political influence in the state to get local FBI agents to intervene in what was essentially a private business and copyright dispute. Mr. Trepp denies Mr. Montgomery's claims and says he will fight the lawsuit.

Court proceedings on the theft allegation and the FBI raid have taken place in secret. The case is described in broad terms in the pending civil suit, which the government has asked to seal as well.

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