

Dirty Business: How Alabama conspired against its own people

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It was the greatest astroturfing schemes ever brought to light in Alabama, involving every level of government. Now three of its ring leaders are going to prison. *(file)*

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On July 22, a federal jury in Birmingham found Drummond vice president David Roberson and Balch lawyer Joel Gilbert guilty on public corruption charges, including bribery, fraud, money laundering and conspiracy -- all related to bribing former state Rep. Oliver Robinson. This analysis is based on sworn testimony and court documents from that trial, in addition to AL.com reporting during the last two years.

The conspiracy began over a sandwich. It ended with three powerful men on their way to prison.

About four years ago, state Rep. Oliver Robinson drove to Billy's Sports Grill in Liberty Park. There, he met David Roberson, a vice president for Drummond Co. and the company's registered lobbyist.

It was a modest lunch, Robinson would recall on the witness stand. He ate a cheeseburger and fries as Roberson explained his company's problem -- a problem Drummond needed the lawmaker's help to solve.

In north Birmingham, the Environmental Protection Agency had designated an area around the neighborhood of Collegeville a Superfund site. With the encouragement of an environmental activist group, GASP, the EPA wanted to add the site to its National Priorities List.

If that happened, heavy industries in the area, including the Drummond subsidiary, ABC Coke, might have to pay for cleaning toxic soil from the yards of homes, playgrounds and other public spaces there.

Also, the EPA was looking at the nearby city of Tarrant, where it might either expand the north Birmingham Superfund or create a new one -- again putting Drummond in danger of paying cleanup costs.

Roberson wanted to stop both.



Drummond vice president David Roberson.

If Drummond had to clean up those neighborhoods, it could cost the company millions, or even put ABC Coke out of business.

Roberson had been working with a lawyer from the powerful Birmingham law firm Balch & Bingham, Joel Gilbert, on a plan that would involve all levels of government -- from neighborhood leaders all the way up to U.S. senators, all working together to run the EPA out of Birmingham.

But they needed someone from that area to help them -- someone with cachet in those communities, someone a few degrees removed from Drummond, someone who could work the ground in mostly African-American neighborhoods.

Birmingham Mayor William Bell and Congresswoman Terri Sewell were not cooperating with Drummond. Neither was the city councilman from north Birmingham, William Parker.

Roberson wanted to know if Robinson would be their man.

The slow walk

This, according to prosecutors' theory of the case, was where the conspiracy began. But Robinson had been walking slowly toward this cliff's edge for a long time.

Robinson had been a basketball legend at UAB, where he helped one of the school's earliest teams reach the Elite Eight in the NCAA playoffs. He played briefly in the NBA for the San Antonio Spurs before an injury ended his career. But in 1998, Robinson used that stardom to win his first race for the Alabama House -- a seat he held until he resigned abruptly in 2016.

Apart from his public salary, Robinson owned one business, Robinson & Robinson Communications, and controlled a public nonprofit, the Oliver Robinson Foundation which, according to its tax filings, existed to "teach and promote financial responsibility to lower-income families and individuals."



Ex-lawmaker, county official profit from company, political ties

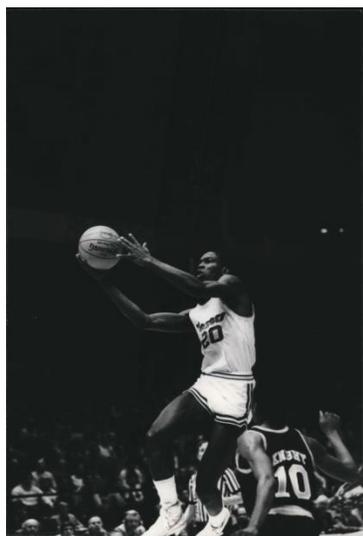
Hillary Clinton campaign chair, Business Council of Alabama have ties to Oliver Robinson, who remains under investigation.

For years, the demarcation between Robinson's public and private work had been fuzzy. His foundation had a magazine, the Community Reinvestor, which featured little more than advertising and advertorial content from some of Alabama's most prominent corporations, including many that had business before the Alabama Legislature.

Sometimes the foundation published that magazine. Sometimes it didn't, skipping some quarterly editions. But it billed those businesses for advertising, just the same.

Through entities he controlled, Robinson also hosted an awards gala honoring successful black business leaders, and also a conference where business interests mingled with the Alabama Legislative Black Caucus.

Many of the same businesses that advertised in Robinson's magazine also sponsored these events, and those sponsors included some of the most recognizable brands in the state -- AT&T Alabama, Alagasco, Brookwood Hospital, Honda, Brasfield & Gorrie, Alabama Power, Blue Cross Blue Shield, the Birmingham Shuttlesworth International Airport, US Steel, Regions Bank, Princeton Baptist Medical Center and BorrowSmart (a payday lending group).



Oliver Robinson leveraged his basketball stardom to win political office.

Robinson has pleaded guilty to pocketing at least \$250,000 from his organizations, and in sworn testimony last month, he said he is still trying to account for which of his organizations' expenses were legitimate and which he used to enrich himself.

Also, testimony in court and court exhibits revealed what many in Montgomery suspected but could never prove: Robinson had been working for years under a confidential contract with Regions Bank at the same time Robinson served on the Alabama House Financial Services Committee. Robinson said under oath that no one at Regions ever asked him to use his office on their behalf.

Robinson also used campaign funds to pay for an affair, investigators later found.

If the Drummond vice president was looking for someone with negotiable ethics, Robinson wasn't hard to find.

World War Balch

Much like Robinson, Gilbert and Roberson had been ambling toward this ledge, too.

When Roberson took over as Drummond's vice president of external affairs, he took the place of one of Alabama's most powerful political figures, Walter Johnsey, who died in 2007.

A former vice president of Alabama Power, Johnsey accepted an "early retirement" there after he was indicted in 1979 for taking part in a scheme to fix coal prices. The federal judge in that case dismissed the charges against Johnsey and his co-defendant, Gary Neil Drummond. A few years later, Johnsey went to work as Drummond's executive vice president. In that job, he made Drummond one of the most politically influential corporations in Alabama.



This Alabama corruption trial is haunted

Walter Johnsey's political manipulations have outlived the late coal executive by at least 10 years.

At Drummond, Johnsey pioneered a new strategy for influencing public policy in the state -- using nonprofits as fronts to advocate for coalitions of business interests, especially developers and heavy polluters.

Among the first of those coalitions, the Business Alliance for Responsible Development (or BARD), derailed efforts by Jefferson County to regulate development of the upper Cahaba River watershed, and it successfully lobbied local governments to withdraw from the Storm Water Management Authority, which monitored runoff into the watershed.

Johnsey began BARD with the help of two people primarily -- public relations consultant Stephen Bradley and a new lawyer at Balch, Joel Gilbert.

After Johnsey died, Roberson took his place at the table, figuratively and literally.

In 2014, Bradley, Roberson and Gilbert met at Balch's office to map out an all-fronts campaign against the EPA. These strategy sessions also included Balch partner Steve McKinney, [future EPA regional administrator Trey Glenn](#) and [Alabama Environmental Management Commissioner Scott Phillips](#).

McKinney's early involvement would lead to his indictment, along with Gilbert and Roberson, although a federal judge would dismiss him as a co-defendant.

Their plan followed Johnsey's BARD template, and it would need backing from business interests in addition to Drummond.

And it required someone -- someone who, frankly, didn't look like those men around the Balch conference table -- going door to door in the affected communities, telling the working class residents there to resist the EPA, too. They needed somebody from that area to push back against the EPA and state environmental regulators.

Roberson said he had someone in mind -- Robinson.

The contract

After the summer lunch meeting at Billy's, Robinson, Gilbert and Roberson continued to meet and exchange emails about how Robinson might help Drummond's cause.

By December 2014, those talks matured into a contract between Balch and Robinson's nonprofit, the Oliver Robinson Foundation.

Robinson asked that the money go to the foundation "because all type of corps support our foundation."

Later prosecutors would seize on two things within this contract.



Balch & Bingham lawyer Joel Gilbert

First, Robinson agreed to confidentiality. He couldn't tell anyone he was working for Balch and Drummond, and no one who worked for him could tell anyone, either. The contract kept their relationship secret.

Second, Robinson agreed to a conflict of interest clause. By signing it, Robinson subordinated all other interests -- including the people of Alabama -- to the interests of Balch and its clients.

Ostensibly, this contract was for "community outreach" and it included a long list of deliverables Robinson never produced, including email newsletters and websites. However, Robinson went to work for Drummond and Balch before any of those outreach efforts ever happened.

In late 2014 and early 2015, Robinson became an outspoken opponent against the EPA in north Birmingham and Tarrant. He met with EPA officials and secretly recorded his conversations with them, and he spoke before the Alabama Environmental Management Commission where he questioned the EPA's efforts in north Birmingham.

When making their case in court, prosecutors pointed to key events during this time as proof of bribery and conspiracy.

First, Roberson and Gilbert rushed to finalize their contract before a meeting Robinson had with EPA officials in December 2014. The men reached an agreement, emails show, but the contract wouldn't be finalized until February, days before Roberson and Gilbert needed Robinson to speak before the AEMC.

Second, Gilbert drafted a letter for Robinson to send to the AEMC requesting to speak. Gilbert began that letter with the words "as a state legislator" and gave it to Robinson to put on his state office letterhead.

Prosecutors used both these facts to prove Gilbert's intent -- that he wanted Robinson to use the mantle of his office to pressure others.

However, Robinson wasn't sure he wanted to speak before the AEMC, and he told Gilbert he was having second thoughts. But Gilbert and Roberson changed his mind - - by finalizing the contract with Robinson and giving Robinson his first check two days before the AEMC meeting.

With talking points prepared by Gilbert, Robinson went to the AEMC meeting, where he questioned the EPA's involvement in north Birmingham, just as Gilbert and Roberson had wanted him to.

In that meeting, Robinson did not tell the commission he was there on anyone's behalf but the people of Alabama. Even a young lawyer Balch sent to monitor the meeting was fooled.

Balch & Bingham puppet show

Robinson was one front in a multi-pronged attack on the EPA. Gilbert and Roberson solicited support from public officials at all levels of government. As he had with Robinson, Gilbert either wrote letters for those officials to send as their own work product or had Balch staff do that for him, with his input.

Public officials who sent letters written or edited by Balch included Sen. Jeff Sessions, Sen. Richard Shelby, Rep. Bradley Byrne, Rep. Gary Palmer, Rep. Martha Roby, Rep. Robert Aderholt, Rep. Mo Brooks, Rep. Mike Rogers, Gov. Robert Bentley, Attorney General Luther Strange, ADEM Director Lance LeFleur and Tarrant Mayor Loxcil Tuck.



Why isn't former AG Luther Strange a defendant?

After public records request, Alabama AG's office denied crucial documents existed, but now those records are exhibits in federal court. Here is what they show.

Gilbert also had Balch staff write letters for residents to send the EPA. He told a young lawyer working for him to dumb the letters down to make them look authentic. At the same time, the Alabama Legislature and the Jefferson County Commission passed resolutions opposing the EPA. Gilbert and his underlings at Balch had written those, too.

Unlike Robinson, none of these officials were paid for their help. However, Strange received two \$25,000 campaign donations from Drummond around the times Gilbert and Roberson asked him to send letters to the EPA.

Altogether, the campaign was one of the most sophisticated astroturfing scams ever brought to light in Alabama.

Corruption-adjacent

There are people and companies in this scheme who should be thankful today they didn't end up behind the defense table with Gilbert and Roberson.

Chief among them are the members of the Alliance for Jobs and the Economy -- Drummond, Thompson Tractor, the American Cast Iron Pipe Company, Nucor Steel and Alabama Power.

These companies might not have been criminally corrupt, but in this scheme they were certainly corruption-adjacent.

Following the BARD template, Gilbert and Roberson recruited these other businesses to help pay for their campaign against the EPA. Each paid dues into the Alliance for Jobs and Economy, a nonprofit Gilbert incorporated in Delaware to keep it further out of sight.

Almost all of the AJE's money paid for Robinson's bribes.

What saved these companies and their executives from prosecution was that Roberson and Gilbert hid Robinson's involvement from AJE members.

Prosecutors would seize on this, too. Hiding a crime, they told the jury, is evidence of corrupt intent.

Gilbert had the Balch billing department scrub the Oliver Robinson Foundations' name from invoices to the AJE -- invoices Robinson and Gilbert shared with the other AJE members.

Executives from those companies testified they did not know Robinson was involved until AL.com reported it last year.

The only executive who said he knew of Robinson's involvement was Drummond CEO Mike Tracy, but he testified that he asked Gilbert whether the work with Robinson was legal.

Gilbert told Tracy that he had already OKed the plan with Balch's ethics law experts, Tracy testified.

However, emails and testimony in court showed Gilbert spoke briefly with one of Balch's experts in Alabama ethics law -- *after* his meeting with Tracy. And staff in Balch's billing department now knew, too, and they were alarmed by Gilbert's orders to scrub the invoices. That was something no one had asked them to do before.

They brought it to the attention of Carolyn Jeff, a new finance director at the firm. Jeff, in turn, alerted Balch's chief operating officer, David Miceli, who then asked Gilbert and others what was going on.

The back and forth between the Balch lawyers and administrators stretched out over several months in late 2016. Miceli told Jeff that he thought Gilbert and Drummond were using attorney-client privilege to keep the contract with Robinson a secret.

Ultimately, no one at Balch told Gilbert to end his work with Robinson. Instead, prosecutors would later show, Gilbert's compensation during the conspiracy rose from \$298,000 in 2014 to \$466,000 in 2016.

Get Smart Tarrant

In 2015, signs appeared along the roadsides in Tarrant like weeds that had grown overnight.

"Get Smart Tarrant," they said. "Don't let EPA fool you!"

The public relations campaign Balch paid Robinson to carry out was actually underway. Run mostly by Robinson's daughter, Amanda, and his business partner John Powe, the campaign went door to door in the community, warning residents against letting the EPA test the soil in their yards for toxins.

If the EPA did, they told people living there, the EPA could label their homes a toxic waste dump and their property values would be destroyed.



Get Smart Tarrant signs appeared on the roadsides, but they didn't say who was paying for the campaign.

Powe and Amanda Robinson also paid Birmingham NAACP President Hezekiah Jackson to take this message into churches, emails and invoices show.

But the literature the Get Smart campaign distributed and the signs it posted by the roadways didn't disclose who was behind it.

Gilbert, in a damaging moment in trial, acknowledged that Get Smart literature lied to residents when it promised full disclosure about community issues.

But the folks at GASP had figured it out, or at the very least, they had a hunch. In January 2016, they approached the EPA with clues they had cobbled together -- Robinson's comments to the AEMC, Get Smart literature, and an auto-reply email from Get Smart with Amanda Robinson's name on it.

The EPA asked the Justice Department figure out what was going on.

Over the edge

Robinson knew he was under investigation.

Rumors spread in Montgomery that something was awry with him, and the lawmakers there did what lawmakers do when they sense something strange about one of their colleagues -- they kept their distance in case he was wearing a wire.

A few days before Thanksgiving in 2016, Robinson resigned from his public office. The reason he gave was that he wanted to make a way for his daughter to accept a job as Governor Bentley's legislative liaison without her having a conflict of interest.

But secretly he hoped his resignation would be enough for the feds to move on to other targets.

They didn't.

The following February, when federal investigators asked Robinson to sit down for an interview, he had an idea what they might ask.

Like his co-conspirators, Robinson had convinced himself he hadn't done anything wrong. If they asked him about his work with Balch and Drummond, he thought he could talk his way out of it.

But there are a lot of crimes you can commit, up to and maybe including murder, before you mess with the government's money. The investigators told Robinson they'd like to talk to him about his taxes.

Robinson wept.

He had been dipping into his nonprofit for years, but he hadn't reported any of it on his tax returns or on his foundation's public disclosures. They had all the proof they needed to put him in prison.

How everything would play out next was clear to him. Robinson asked for a moment to speak privately with his lawyer.



The gross reckoning of an Alabama politician on the take

Prosecutors want to make a neat, simple case for the jury. But there is nothing neat or simple about their key witness, former state Rep. Oliver Robinson.

On June 22, 2017, Robinson pleaded guilty to conspiracy, bribery, fraud and tax evasion. In his plea deal, he agreed to cooperate with prosecutors.

A year later, prosecutors called him to the stand to testify against Roberson and Gilbert in federal court.

On the witness stand, Robinson admitted a horrible truth: That there were people in north Birmingham who needed their soil tested for harmful toxins, but he had used his influence as a public official to convince them not to -- because he'd been paid. The EPA never added the north Birmingham Superfund to the National Priorities List, and it never expanded the Superfund into Tarrant.

Roberson and Gilbert had gotten precisely what they wanted when Robinson sat down for that burger four years ago.

Gilbert and Roberson's lawyers attacked Robinson's credibility. They branded him a tax cheat, and accused him of trying to take down their clients to save himself from a 100-year prison sentence.

"You were willing to sell out your community for chump change?" one defense lawyer asked Robinson.

"Now that I look back on it," Robinson said. "I sure did."

The jury found Gilbert and Roberson guilty.

Triage

In the end, Robinson was a small part of a much larger scheme by special interests who operated in secret to manipulate public officials and thwart state and federal environmental regulators. For the most part, that campaign was successful.

But Robinson was the weakness in their plan -- the load bearing beam compromised by corruption and broken under pressure.

After the verdict, Balch and Drummond were left to cleanup the debris.

Balch quickly announced that it had parted ways with Gilbert.

"We respect the trial process and the jury's verdict. The jury determined that Joel Gilbert engaged in conduct that is contrary to the standards to which each of us at Balch & Bingham is committed and expected to uphold," managing partner Stan Blanton said in a press release. "Although our firm was not a party to the case, I and the rest of our partners, associates and staff are deeply disappointed in any conduct that does not adhere to our commitment to the rule of law and to the communities in which we are fortunate to live and work. We all greatly value the trust our clients place in us and have redoubled our efforts to earn that trust."

The firm did not answer follow-up questions asking when Gilbert and Balch had parted ways. It's unclear whether McKinney, who was acquitted, would return to the firm. Both Gilbert and McKinney's profiles have been removed from Balch's website.

The Drummond Co. was much less contrite. Through a public relations firm, Direct Communications, Drummond defended Roberson and cast blame on Balch.

"We are disappointed by the jury's decision to convict our employee, David Roberson," the company said in a press release. "While we respect the judicial process, we consider David to be a man of integrity who would not knowingly engage in wrongdoing."

"When an environmentalist group raised allegations regarding our operations in the Birmingham area, Drummond responded by hiring one of Alabama's most well-respected environmental law firms. As testimony in the trial showed, we were assured the firm's community outreach efforts on our behalf were legal and proper."



North Birmingham residents 'forgotten' during trial

Some northern Birmingham residents think justice will not be truly served during a federal bribery trial involving a former state representative, a coal company executive and a lawyer.

Outside the courthouse late that Friday afternoon, the lead prosecutor in the case, Assistant United State Attorney George Martin, praised the jury's verdict and thanked the prosecutors and investigators who brought the case to trial.

"We are happy for the citizens of north Birmingham, that someone is finally speaking on their behalf," Martin said. "We are happy that we were able to shine a light into this dark corner of Alabama politics and clean up a little of the pollution that is there."

Politically, Alabama might be a little cleaner after last week.

But the toxins the EPA wanted to remove from the soil -- lead, arsenic and carcinogens -- are still there, in gardens where Birmingham's working poor still grow food and on playgrounds where children still play.

Kyle Whitmire is the state political columnist for the Alabama Media Group.