

# HOW THE BRIBES WERE PAID IN THE CLEANTECH CRASH AND ENERGY DEPARTMENT GREEN CASH

**From 2006 to 2012 Nancy Pelosi and her staff, Dianne Feinstein and her staff, Harry Reid and his staff and the campaign staff for Barack Obama made more illicit profiteering money on insider stock trading on “Green Energy” deals than the entire U.S. Congress had made, inclusively, since the founding of the USA!**

Senior staffers buy and sell shares in companies that benefit from legislation in their committees.

By [MAGGIE SEVERNS](#)



Taylor Gallery for POLITICO

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On Sept. 28, 2016, three members of the Senate Judiciary Committee sent a letter to the Justice Department suggesting that the drug company Mylan was violating Medicaid laws.

Nine days later, the Justice Department reached a massive \$465 million settlement with the firm.

In between, another action happened almost invisibly: A Judiciary Committee aide to Sen. Dick Durbin (D-Ill.) dropped somewhere between \$4,004 and \$60,000 in Mylan stock from his and his child's portfolios.

If an aide had done the same thing in the executive branch, he or she could be investigated for violating federal conflict-of-interest law. But the Durbin aide's ownership of shares of Mylan, and their timely sale, are reflective of Congress' persistent refusal to crack down on stock trading by staffers, even in firms overseen by their committees.

Durbin's aide, Daniel Swanson, isn't alone. A POLITICO review of federal disclosures for 2015 and 2016 found that some senior aides regularly buy and sell individual stocks that present potential conflicts of interest with their work. A smaller number of staffers trade in companies that lobby Congress and the committees that employ them. In all, approximately 450 aides have bought or sold a stock of more than \$1,001 in value since May 2015.

That's likely just the tip of the iceberg, since most congressional aides aren't required to report their trades. Only those in positions earning more than \$124,406 per year must reveal their investments. Of the 12,500 staffers working for lawmakers, committees and leadership offices, only about 1,700 make that much, according to data compiled by Legistorm and the Brookings Institution.

Government watchdogs say that, at a minimum, staffers should be prevented from buying shares of companies with business before their committees. But they are not. And despite the disparity between the rigorous standards for the executive branch and the laxness of Congress, the House and Senate have taken a permissive approach even to enforcing existing rules.

That's a serious problem, watchdogs say, because aides often have more of a hands-on role than the members themselves in crafting details of legislation that could have enormous consequences for individual companies. And because aides are rarely in the spotlight, there's more potential for ethical lapses to go unnoticed.



[POLITICO Investigation](#)

## **Reckless stock trading leaves Congress rife with conflicts**

By [MAGGIE SEVERNS](#)

“The staff level is actually more dangerous, because they don't get scrutiny and they're not accountable,” said Meredith McGehee, chief of policy at Issue One, a watchdog group for money and politics. “If a member does it, he can get defeated. A staff person can wield enormous amounts of power that isn't seen, and there's really no way to hold that staff accountable.”

Indeed, one of the key findings of the POLITICO review is that senior aides to both Republican and Democratic House leaders, who often have quiet, largely unseen input into the crafting of legislation, are active traders.

At least 11 aides to House leaders have bought and sold multiple stocks in the past two years. David Hoppe, who was Speaker Paul Ryan's chief of staff in late 2015 and 2016, regularly traded stocks. Hoppe and his wife bought shares of the oil companies Occidental Petroleum and Devon Energy shortly before Congress announced plans to lift a years-old ban on oil exports that benefited both corporations.

Diane Dewhirst, deputy chief of staff to House Minority Leader Nancy Pelosi, disclosed her spouse's purchase of stock in two pharmaceutical companies, Astrazeneca and GlaxoSmithKline, in December 2016, shortly before Congress passed a medical research bill that benefited both companies.



[View](#)

### **3 things to know about congressional aide stock trading**

POLITICO reporter Maggie Severns on the investigation into how senior staffers buy and sell shares in companies that benefit from legislation in their committees.

Meanwhile, on the House Energy and Commerce Committee, which sets energy policy and is the main committee overseeing Obamacare, at least six aides have bought and sold stock in companies with interests in the work of the committee. One longtime committee aide in an oversight role bought and sold more than two dozen health care and energy stocks during 2015 and 2016 and sold his stock in Express Scripts, the prescription drug sales company, as the company came under scrutiny over its role in setting drug prices last October.

On the House and Senate appropriations committees, which make broadly influential spending and policy decisions through annual government funding bills, at least 18 House aides and 14 Senate aides have bought or sold at least one stock, through their own accounts or family members'. For example, one senior House Appropriations aide working for a member focused on energy and water funding has,

through various family accounts, bought and sold shares in companies including Royal Dutch Shell, Energy Transfer Partners, Dow Chemical and Emerson Electric. Another longtime aide on the committee's staff who is focused on investigations and research, which are at the heart of the committee's decision-making, holds and trades stock in companies with major interests in the committee's work, including pharmaceutical companies such as GlaxoSmithKline and energy companies such as Occidental Petroleum.

Swanson, Hoppe and some other senior staffers said their brokers are authorized to buy and sell stocks without their involvement, and thus they were not consulted on the trades listed in their disclosure forms. But ethics watchdogs have long frowned on such personal deals, noting that they can be abridged at any time and that outsiders have no way to verify that they're being followed. Aides, like members themselves, can create blind trusts that fully bar them from involvement in any trades. If they don't want to go to the trouble of setting up a blind trust, they could protect themselves from many potential conflicts by investing in publicly traded mutual funds.

Meanwhile, some staffers also defended their trading on the grounds that the congressional actions that affected the companies they bought and sold, including the three senators' letter to the Justice Department about Mylan, were known to the public. Ethics watchdogs, however, say that it's often difficult, if not impossible, to determine whether an aide has information that wouldn't be available to the public, and that any trading of stocks that are directly influenced by their committee work constitutes a conflict of interest.

"It causes the public to question whether personal stock holdings are influencing legislative activity," said Donna Nagy, an Indiana University law professor who has written extensively on the issue. "That doesn't necessarily mean a 'yes' or 'no' vote, as it would a senator or member of Congress. Did personal stock holdings influence the speed or slowness with which a report is written? That's something that would be in staffers' control."

Simply having a financial stake in an industry may make a person more likely to advocate for it, at least in the eyes of taxpayers. That's the premise behind the far tougher requirements for staffers in the executive branch, where employees are required by law to recuse themselves from any investments that could potentially conflict with their work.

Senate committee aides are held to no such legal standard. But a little-recognized Senate rule states that aides should divest themselves "of any substantial holdings which may be directly affected by the actions of [their] committee" unless they have permission from the Senate Ethics Committee.

But the rule is interpreted quite narrowly, watchdogs say: The Senate Ethics Committee often measures a "substantial holding" by the percentage of a company that's owned by the aide, or whether an individual investment constitutes the bulk of an aide's savings — not the amount of money that's invested. So most stock trades aren't covered. The Ethics Committee declined to comment.

And the Ethics Committee rarely probes stock trading by aides. Ethics watchdogs told POLITICO they couldn't think of a single case of an aide being investigated for a conflict of interest. The committee hasn't issued a disciplinary sanction against an aide for any reason in 10 years.

"There does not appear to be an effective system of enforcement in place," concluded Craig Holman, lobbyist at the watchdog group Public Citizen. "This is the type of conflict-of-interest rule that should apply to all members as well as senior staff, enforced by real-time public disclosure or stock trading activity."



"Anybody who's ever met Dan [Swanson] knows that he has conducted himself with the utmost integrity every day of his public service on the Hill," Sen. Dick Durbin's spokesman said. "That may not matter to POLITICO, but it matters in the real world and to Sen. Durbin, and that's what counts." | John Shinkle/POLITICO

Through their brokerage accounts, Swanson, who is Durbin's senior counsel on the Judiciary Committee, and his immediate family bought and sold stocks of at least \$1,000 in value 120 times over 2015 and 2016, according to his financial disclosures. His family's holdings amount to somewhere between a minimum of \$99,043 and a maximum of \$785,000, based on the price ranges in the disclosure form. Some of those purchases and sales were in mutual funds, while others were in companies with significant business interests before Durbin and the Judiciary Committee.

Among a variety of trades made through his and his family's accounts, Swanson bought and sold stock in 2U, a for-profit online education company that bills itself as an alternative to the traditional for-profit colleges that have been heavily criticized by his boss, Durbin. He traded stock in Comcast and Verizon,

both of which have come under Judiciary Committee scrutiny in the past because of proposed deals and mergers. And he held and sold stock in Express Scripts, a company that, like Mylan, has increasingly caught the eye of regulators and lawmakers for its possible role in drug overpricing.

When asked about the trades, Durbin spokesman Ben Marter provided a letter from Swanson's brokerage firm that says trading in Swanson's account is directed by the firm based on "a mutually agreed upon written statement of your objectives" and that the investment firm has "full authority" to make trades without giving Swanson notice.

Swanson declined to comment further.

Durbin himself is among the many House members and senators who avoid buying and selling stocks, in many cases because of the ethical ramifications of being invested in companies while voting on and passing laws. And he introduced a bill earlier this year to force President Donald Trump and Vice President Mike Pence to completely divest themselves of any holdings that could present conflicts of interest.

If Trump dropped such investments, Durbin said, it would let "the American people know with certainty that he is putting America first."

But when it comes to his aides, Durbin stops far short of requiring the sale of investments.

"Anybody who's ever met Dan knows that he has conducted himself with the utmost integrity every day of his public service on the Hill," Durbin spokesman Marter said. "That may not matter to POLITICO, but it matters in the real world and to Sen. Durbin, and that's what counts."

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As Paul Ryan prepared to become speaker of the House in October 2015, he tapped David Hoppe, a fellow Wisconsin native and former Hill aide, to serve as his chief of staff. Hoppe left lobbying jobs with both his own firm, Hoppe Strategies, and the K Street powerhouse Squire Patton Boggs to work for the new speaker. After he moved back through the revolving door, Hoppe continued to trade stock in companies with interests before Congress.

Hoppe, who has a variety of investments in his and his wife's portfolios, traded dozens of stocks between mid-December 2015 and January 2017, when he left Ryan's office. Some of those trades were made days ahead of Congress passing legislation that benefited the companies Hoppe traded in, and at moments when companies were furiously attempting to sway lawmakers.

As Congress finalized a massive tax-and-spending package at the end of 2015, Hoppe and his wife invested in two petroleum companies that were aggressively lobbying Congress to lift the 30-year ban on oil exports, Occidental Petroleum and Devon Energy. Hoppe made the purchases 16 days before Congress announced plans to lift the ban on oil. During the fall of 2016, as Congress finalized and passed a \$6 billion medical research bill, Hoppe's spouse invested in the pharmaceutical companies Merck and Bristol-Myers Squibb.

Such investments can present conflicts of interest, or the appearance of, even if they're not based on inside information.

"It looks terrible. They shouldn't be doing this," said Richard Painter, former ethics lawyer for President George W. Bush, referring to stock trading by aides to House and Senate leaders. "There are two separate problems. One is that if they buy or sell stock based on insider information, they're criminals. But if they make decisions on a bill that could have an effect on their own financial decisions, that might not be a crime — though it is a crime in the executive branch — [but] it stinks to high hell."

In the executive branch, employees are barred from holding investments that pose potential conflicts with their work, and must recuse themselves from decisions that could conflict with their remaining investments. In Congress, however, employees are often left to set their own standards.

Hoppe said in an interview that he doesn't direct trades in the two accounts controlled by him and his wife. Prior to joining Ryan's office, he said, he and his wife asked their brokers to keep him out of any trading decisions.

"There were no directions in which [a broker] called me and said, 'Do you want to trade this? Do you want to trade that?'" said Hoppe. "Has there been a time when they've asked me about something or another? Probably, but I can't remember it, and I can tell you it wasn't when I was working for Paul."

Dewhirst, the top Pelosi aide whose spouse bought stock in pharmaceutical companies shortly before Congress moved to pass the medical research bill, has worked for Pelosi since 2003. She also recorded purchases and sales in energy and technology stocks in the past two years. Nearly all of those transactions were listed to an account controlled by her spouse. A Pelosi spokesperson said in a statement that Dewhirst is not involved with the investments.

"All transactions are made by [Dewhirst's] spouse upon the recommendation of his investment advisor," the Pelosi spokesperson said.

Pelosi is one of few members of House and Senate leadership who actively buys and sells stocks — and she was heavily criticized for it in a 2011 report by "60 Minutes" about the stock trading habits of members of Congress. She has since scaled back the number of stocks that she and her husband buy and sell. An account owned by Pelosi's husband traded 14 stocks in the past two years.

Most senior members of House and Senate leadership avoid the practice because of the potential for conflicts of interest. Ryan, House Majority Leader Kevin McCarthy, House Majority Whip Steve Scalise and House Minority Whip Steny Hoyer all refrain from buying and selling shares of individual companies. Senate Majority Leader Mitch McConnell sold three stocks this year but has otherwise abstained from trading, and Senate Majority Whip John Cornyn made one purchase and one sale in recent years, each in Apple stock.

While they avoid any appearance of conflicts in their own trades, they seem to exercise little restraint on their aides, who are often the real experts on the intricacies of policies. Planned Parenthood



President Cecile Richards described Dewhirst, for example, as “the first person I call if I’m trying to really get the lay of the land on an important issue, particularly on the Hill,” in a 2015 [interview](#).

David Hoppe (left), who was Speaker Paul Ryan’s chief of staff in 2015 and 2016, traded stock in companies with an interest in Congress. | Tom Williams/CQ Roll Call

Some aides who engage in trades, like those on the House Energy and Commerce Committee, are charged with overseeing powerful industries. In the House, committee aides are allowed to do so while holding and trading stocks in those very industries. Meanwhile, they’re sometimes being lobbied by very same companies. The company whose stock Swanson held, Mylan, spent \$315,000 lobbying Capitol Hill last fall, including \$170,000 paid to the Podesta Group solely to lobby on “drug pricing and oversight,” after it was accused of mischaracterizing its drug EpiPen in order to avoid having to pay a federally mandated rebate, according to public filings.

“The very senior staffers ought to be considered very much the same as members. These are policy-making individuals. They’re the people lobbyists want to meet with and influence,” said Holman, of Public Citizen. “It’s their ability to affect public policy that matters, whether or not they receive votes or subject themselves to elections.”

For his part, Hoppe recalled that during an earlier stint on Capitol Hill working for former Senate Majority Leader Trent Lott, he once recused himself from working on an issue involving the Walt Disney Co. because he was a shareholder. But he said he didn’t see any similar conflicts while working for Ryan, and added that he was on only a temporary stint in the speaker’s office, waiting to return to his lobbying job.

“I’m obviously older, and they don’t pay the same on Capitol Hill as I was making in the private sector,” Hoppe said. “My wife likes living in a house as opposed to living in a car.”

Many Capitol Hill aides are young and don’t earn enough money to have large investment portfolios, Hoppe said, and nearly all are drawn to public service for reasons that have nothing to do with making money. But he didn’t rule out the possibility that aides could have access to information that would boost their holdings.

“Is it in the realm of possibility that somebody could do that? Yes. Is it very likely? No,” Hoppe said. “But people who are dishonest will find a way to be dishonest.”

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Though congressional aides are largely invisible to the public’s eye, they have played roles in well-publicized scandals in the past. In the early 1960s, a Senate aide close to Lyndon Johnson named Bobby Baker was investigated for using his office for personal gain, including accepting cash in exchange for promoting legislation, and running a vending-machine company, Serv-U. Baker’s net worth as a Senate aide ballooned from \$11,000 to \$2.5 million over the course of two decades. He was



later convicted of crimes including fraud and tax evasion, and both the House and Senate soon started requiring aides to disclose their finances for the first time.

More recently, since Congress passed the Stock Act, a 2012 law that for the first time formally barred members of Congress from insider trading, the sole Securities and Exchange Commission investigation of a potential Stock Act violation that's known to the public involves the actions of a congressional aide.

The aide, a former Ways and Means Committee staff director, allegedly leaked information about Medicare reimbursement rates that were about to rise. A firm called Height Securities, which specializes in gathering intelligence in Washington and relaying it to Wall Street, sent the information to hedge funds, causing stock to shoot up in a company that benefited from the Medicare rate hike.

The SEC has been investigating the case since 2013, but it was delayed for several years when House counsel refused to comply with SEC subpoenas for testimony and documents related to the investigation.

Though the SEC and the House reached an undisclosed agreement that settled the court case, the SEC hasn't yet announced the results of its investigation. But watchdogs say it shows why the laws governing stock trades by aides need to be tightened: Congress seems intent on protecting its unique status and perks, and the SEC remains mostly silent on stock trading.

"We'd be a lot better off if the SEC would look into it, find out what's going on, and reach the conclusion that there are no serious insider-trading concerns — or, if there are concerns, take enforcement action," Painter said.

And while concerns over separation of powers could make it difficult for the SEC to take some investigative steps, such as seizing congressional documents, Painter said, "there's absolutely no reason not to start an investigation, and I think 99 percent of what they need, they could get without problems."

The potential problems arising from aides trading stocks extend beyond insider trading. There's also the potential that investing in a company could corrupt the views or interests of staff.

New York Republican Rep. Chris Collins, a business titan who is among the House's wealthiest members, garnered headlines earlier this year for appearing to persuade at least five of his fellow House colleagues to invest in a tiny Australian drug company called Innate Immunotherapeutics, on whose board he sits.

Little noticed was the fact that Collins' chief of staff, Michael Hook, has made significant investments of his own that track closely with Collins'.



New York Republican Rep. Chris Collins (pictured) was the subject of many headlines earlier this year for appearing to persuade at least five of his House colleagues to invest in an Australian drug company called Innate Immunotherapeutics, on whose board he sits. Collins' chief of staff, Michael Hook, has made significant investments of his own that track closely with Collins'. | Chip Somodevilla/Getty Images

Hook, who knew Collins before joining the lawmaker's office, owned stock in Innate Immunotherapeutics when he joined Collins as chief of staff in late 2015. During his time working for Collins, Hook aggressively sold off investments in other companies and poured the proceeds into Innate Immunotherapeutics stock in three dozen transactions. Collins was and continues to be a member of Energy and Commerce, the central committee overseeing health care policy in the House. He was reelected to the board of directors of Innate Immunotherapeutics in August 2016, after a failed clinical trial drove down the company's stock.

Hook reported owning at least \$1 million in Innate Immunotherapeutics stock at the end of 2016. This January, Hook unloaded at least a half-million dollars in Innate Immunotherapeutics stock amid the weeks of scrutiny of Rep. Tom Price, President Donald Trump's choice for secretary of Health and Human Services, who had bought stock in the company at Collins' urging. Hook began repurchasing stock in the company at the end of January.

Innate Immunotherapeutics isn't the only company with ties to Collins that Hook has invested in. In November and December 2016, Hook invested at least \$150,002 combined — and as much as \$350,000 — in two real estate LLCs that were raising private capital, Sinatra-Stadt Illinois III LLC and Linda Lane Apt. Group. Both LLCs are owned by Buffalo-area developer Nick Sinatra, who has donated to Collins' campaign every election cycle since Collins first ran for his congressional seat.

The news that Collins had suggested Price invest in Innate Immunotherapeutics set off a firestorm of bad press for the two House Republicans, both of whom served on the main panel in charge of setting health care policy. Further reports of Collins' promotion of the company to his peers — and comments

made near the House floor about "how many millionaires I've made in Buffalo" — sparked an investigation from the House Ethics Committee. The committee plans to announce its course of action by Oct. 12.

Hook's investments don't appear to be part of the probe.

A Hook spokesperson declined a request for comment. The spokesperson also declined to say whether Hook had consulted with the House Ethics Committee on his investment decisions. The committee advises lawmakers and staff on how to comply with the chamber's general guideline that employees' personal actions should not discredit Congress.

"They genuinely don't want to see the body brought into scandal, controversy or disrepute," said Joseph Birkenstock, a former chief counsel for the Democratic National Committee. "That includes things like, is your boss twisting your arm? Are you doing things because you're under some job pressure? Or is there any credible forum where someone could claim that your actions or your boss' actions are connected in any way to the commercial success of this business?"

One reason that Hook's investments have not been closely scrutinized amid all the focus on Collins' and Price's stock trading is that Hook's information — while public — isn't easy to access: It's not online and can be viewed only in person in an office tucked into a House Office Building.

In 2012, when Congress passed the Stock Act, leaders crowed that information about the investments of both lawmakers and senior staff would be available online in an easily searchable format. But a year later, Congress silently passed revisions to the bill that wiped out many of those data requirements.



President Barack Obama celebrates with members of Congress after signing the Stock Act into law on April 4, 2012. The Stock Act bars members of Congress from insider trading. A POLITICO

investigation earlier this year found that while most lawmakers refrain from trading stocks, a small number frequently trade shares in companies they oversee in Congress. | Win McNamee/Getty Images

Information on lawmakers is still available online, but it cannot easily be searched or sorted by date or company traded. The requirement that aides' disclosures be posted online was scrapped from the law, and today such information is available only in person at computer kiosks maintained by the House and Senate.

Individuals seeking the information must log in using their name and other personal details. The documents they seek cannot be downloaded or otherwise taken out of the office in a digital format. They can be printed for 10 cents to 20 cents a page.

"There's little excuse for these barriers, especially in the digital age," said Larry Noble, senior director at the Campaign Legal Center.

"When you have to go to an agency or to Congress to have a document printed out, and you put your name down — all that is to deter people from doing it," said Noble. "All that was outrageous 25 years ago. That's not the way the world works anymore."

Other ethics requirements don't make the same exceptions for staff members. Conflict-of-interest laws governing future employment after leaving Capitol Hill treat staff similarly to members of the House. Both House lawmakers and senior staff must take a "cooling-off" period after leaving their jobs on Capitol Hill before lobbying their former colleagues. (Senators are subject to a two-year cooling-off period, while staff follow the same one-year cooling-off period as House aides.)

"The rules in the House and the Senate on trading stock are very permissive, and essentially don't regulate members and staff who are trading in industries when they work on the committee overseeing those industries," said Kenneth Gross, who leads the political law practice at Skadden, Arps, Slate, Meagher & Flom.

The House Energy and Commerce Committee provides extra guidance on stock trading to staff in its committee handbook. The handbook tells employees to avoid potential conflicts of interest and err on the side of caution by consulting the House Ethics Committee with questions, according to an excerpt provided by a committee spokesperson.

Spokespeople for the House Energy and Commerce Committee and the Senate Judiciary and Appropriations Committees all declined to say what steps, if any, their staffers who trade stocks are making to comply with their Ethics Committee guidelines.

The Senate Appropriations Committee suggested that staffers are largely on their own: "Committee staff are responsible for adhering to Senate Ethics Committee rules and guidelines," committee spokesman Chris Gallegos wrote in an email.

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Despite the public outrage earlier this year over Collins' and Price's trading, Congress has done little to address the rules that allowed the two members of the committee overseeing health care to buy and sell hundreds of shares of health care companies.

Congress rarely changes its ethics laws and rules. Historically, most changes were preceded by well-publicized scandals: The last major ethics reforms took place in 2006, for example, in the wake of the Jack Abramoff scandal, when lawmakers overhauled rules on what lobbyists have to disclose. And 2012's Stock Act, which explicitly barred lawmakers from insider trading, was passed in the wake of the jarring "60 Minutes" report that spotlighted Pelosi's trading.

Earlier this year — and five years after the Stock Act was passed — a POLITICO investigation found that while most lawmakers refrain from trading stocks, a small number frequently trade shares in companies they oversee in Congress. An analysis by Public Citizen this year similarly found that fewer lawmakers appear to be trading stocks, but a dedicated number of senators are regularly trading investments in industries that they partly oversee. POLITICO's findings on congressional aides who are regularly trading stocks raise further questions about whether the Stock Act put a sufficient check on conflicts of interest among lawmakers or their staff, watchdogs said.

Behind the scenes, reform groups have been shopping several proposals that would prevent lawmakers — and their aides — from engaging in such behavior. One idea floated by Issue One would ban lawmakers from trading stocks aside from mutual funds. This would ensure lawmakers have broadly diversified portfolios that they do not control. Public Citizen, meanwhile, would simply apply the much tougher conflict-of-interest rules that apply to the executive branch to members of Congress and their aides.

The groups say they have heard some interest from lawmakers — but no one has stepped forward to introduce either bill. Democrats have been focused on criticizing the Trump White House's apparent ethical lapses. And lawmakers haven't proposed other plans for overhauling the stock trading system — in part, ethics watchdogs say, because they haven't been sufficiently shamed into doing so by the public.

"The more embarrassing the story that comes out, the more pressure there is to do something," Noble said. "A lot of members do honestly believe they should not be trading in stock while they're working in legislation, [but] they may not feel as strongly about it" as the members who disagree.