

1750 OCEAN PARK BOULEVARD, #200, SANTA MONICA, CA 90405 - 4938
TEL: 310-392-0522 • FAX: 310-392-8874 • NET: CONSUMERWATCHDOG.ORG

February 13, 2008

Chairman Ross Johnson
Commissioners Hodson, Huguenin, Leidigh and Remy
Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

Via Facsimile

Re: Item #15 on Feb. 14, 2008 Agenda:
Reporting an Expenditure for a Gift, a Meal, or Out-of-State Travel

Dear Chairman Johnson & Commissioners:

We support as a great improvement the Commission's proposed regulation to strengthen disclosure rules so the public can determine whether candidate-controlled campaign funds are being spent in accordance with the law. However, we do not believe the proposal goes far enough to ensure that uncooperative candidates do not skirt the law.

We urge you to amend your proposal as follows:

- ⇒ Indicate in 18421.7 that "briefly describe" requires a specific explanation of the political, legislative or government purpose of the activity, and cannot be interpreted as a license to use vague or generic phrases;
- ⇒ Include reporting of travel itineraries and participant names;
- ⇒ Add new codes for "meal", "gift", and "golf" and require explanation of the ambiguous "office expense" code on Form 460;
- ⇒ Consider setting guidelines for the appropriate use of campaign funds for in-state travel.

These amendments are important to ensure full disclosure of the political, legislative or governmental purpose of expenditures.

The San Francisco Chronicle reported on Monday that lawmakers spent almost \$700,000 of campaign money on travel, gifts and dining between 2005 and mid-2007. Every

lawmaker quoted by the Chronicle said that he had followed the Commission's regulations. Nevertheless, their disclosures were unsatisfyingly vague, and most refused to provide any additional detail. This is a clear indication that most politicians are unwilling to provide more information than they must. As proposed, your regulation would allow candidates to mask the purpose of many expenditures.

One of the most startling revelations in the Chronicle account is the amount of campaign money that California politicians spent golfing. Nearly \$164,000 was spent "on greens fees and other expenses at golf courses in California, Nevada and Hawaii."

The golf expenditures provide a good example of why the proposed regulations require some amendment.

- Given the amount of campaign-funded golfing, the Commission should create a "golf" expenditure category and require that all golfing expenses include an explanation of the political, legislative or governmental purpose of the round on the links.
- The large amounts candidates spent on golf and similar items within the state that have no obvious political, legislative or governmental purpose make it clear that the misuse of campaign funds can occur just as easily within California as without. The exemption of in-state travel from new disclosures would allow a candidate to remain silent on many questionable expenditures. Perversely, it could actually encourage less disclosure if lawmakers attempt to obscure their out-of-state travel by paying all expenses within California, to a travel agency for example.
- Under your proposal, if a member spends campaign funds golfing in Hawaii he would be required to provide a description of the political, legislative or governmental purpose of the travel, and report a number of details about the trip. However, we are concerned that the required description has been narrowed from "facts sufficient to demonstrate" the purpose of an expenditure to "briefly describe" the purpose of the expenditure. We understand that you do not want candidates to feel they have to submit legal treatises on each expenditure with their campaign statements. At the same time, candidates should not consider a two-word explanation sufficient to explain why, for example, a ten-day, \$10,000 trip to Hawaii on contributors' dime is justified. If the candidate were to name the expenditure a "policy conference" would the description be accepted? What about "meetings with health care experts"? Neither provides enough information to determine if a ten-day vacation which clearly benefits the candidate personally is "directly related" to a political, legislative or governmental purpose.
- Itineraries and participant lists must also be disclosed. It would be difficult to argue that a foreign jaunt is justified if it includes just one hour-long meeting a day. Similarly, if a lawmaker is at a health policy conference with only representatives of the pharmaceutical industry, the public may question whether the public's interest is being served by the lawmaker's presence. None of this information can be determined by either the public or the Commission if itineraries and participant lists are not also disclosed.

- The regulation as written does not specifically add disclosure categories for gifts or meals to campaign forms. It is apparent that many expenditures that get reported as meetings, travel or fundraising, such as those at golf courses, casinos and wineries, often also include meals or gifts. An uncooperative candidate could use this loophole to buy services at golf courses or other venues, report them as travel, fundraising or meeting expenses, and never disclose the additional information required for gifts or meals that the regulation requires.

As we wrote in December, we believe that campaign funds should be limited to political uses, and that foreign relations and travel on the people's business are correctly paid for by the state. Campaign committees are meant to help politicians get elected, not sustain an extravagant lifestyle once they are in office. The distinction would eliminate an avenue of undue influence for campaign contributors who can currently claim credit for sending candidates around the world, in addition to getting them elected. However, until such change is effected in statute, the disclosure within the Commission's power to demand can be a strong deterrent to abuse.

Thank you for considering our views.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carmen Balber", with a long horizontal flourish extending to the right.

Carmen Balber

cc: Brian G. Lau, Commission Counsel
Scott Hallabrin, General Counsel

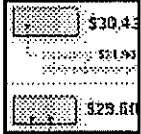
San Francisco Chronicle

NORTHERN CALIFORNIA'S LARGEST NEWSPAPER

Lawmakers defend spending on golf, at casinos

Tom Chorneau, Erin McCormick, Chronicle Sacramento
Bureau

Monday, February 11, 2008



(02-11) 04:00 PST Sacramento -- California

state legislators spent nearly \$700,000 in donations from corporations and special interests within the past three years to pay for international junkets, meals and lodging at domestic resorts and for entertainment and gifts without justifying how the expenses were related to their jobs.

A review by The Chronicle of more than 10,000 credit card statements filed with the secretary of state from January 2005 to July found that lawmakers spent:

- Nearly \$164,000 on greens fees and other expenses at golf courses in California, Nevada and Hawaii.
- More than \$50,000 at casino hotels in Las Vegas, Reno and on California Indian reservations.
- More than \$80,000 on trips to Hawaii.
- More than \$44,000 at wineries.

Lawmakers declared that all of the spending was reasonably related to legislative, governmental or political purposes, as mandated by state law. But because there is no requirement that legislators provide any details explaining how the spending was job-related, taxpayers and voters have no way of judging for themselves if the expenses were appropriate.

San Ramon Assemblyman Guy Houston, for example, spent \$125 in campaign money at a Jet Ski rental shop on Maui, justifying the expense in public reports only as candidate travel.

Fremont Assemblyman Alberto Torrico used \$185 in donor money for a round of golf in Napa, while Orange County Assemblyman Todd Spitzer used \$139 in contributor money to buy a wedding gift for one of his campaign aides - also without detailed explanations.

The state's political watchdog agency will move to close that loophole at a hearing this week, when it considers new rules requiring elected officials to provide more details about their spending.

Under the rules, lawmakers will have to report how many people benefited from a specific expense - such as a lunch or dinner. They also must disclose whether they, members of their family or their campaign committee chair benefited from the spending, and provide a brief explanation why the spending is job-related.

The new Fair Political Practices Commission rules come as private activist groups are increasingly scrutinizing an election system under which incumbents remain mostly unchallenged once in office but still raise piles of campaign cash they don't usually need for electioneering.

A coalition led by the League of California Women Voters, California Common Cause and Gov. Arnold Schwarzenegger is pushing a ballot measure for November that would change how legislative districts are drawn in an effort to create more competition in the election process. Backers of the initiative also hope it would help break the hold big special-interest money has on legislative races.

Meanwhile, political ethicists strongly suspect that campaign money is being used to support lavish lifestyles.

"They're taking trips, buying expensive items and giving gifts," said Robert Stern president of the Center for Governmental Studies, a government watchdog group in Southern California. "They're not using the money on campaigns."

The issue came to a head last fall, after news reports raised questions about Assembly Speaker Fabian Núñez' spending tens of thousands of dollars in campaign money while on trips overseas.

The spending included \$5,149 for a meeting at a wine shop in Bordeaux, France, and \$2,562 for office expenses at a Louis Vuitton store in Paris.

While a recent audit completed by the state Franchise Tax Board found Núñez had substantially complied with campaign record-keeping rules, questions remain about his and other legislators' use of campaign money.

Los Angeles County Sen. Ron Calderon, for example, spent nearly \$85,000 on more than a dozen trips to resort hotels in Maui, Las Vegas, Mexico, even Taiwan, according to The Chronicle's review of his spending through the end of 2007.

During the second half of last year, the Montebello Democrat ran up expenses at Bandon Dunes golf course in Oregon, the Bacara Spa in Santa Barbara and Caesars and the Palms in Las Vegas; the Pebble Beach Resort; the Fairmont and the Four Seasons hotels in Maui; the Hotel Del Coronado near San Diego; the Four Points Sheraton in Los Angeles; the Hollywood Roosevelt; and the Parker in Palm Springs.

Meanwhile, the senator accepted more than \$130,000 into his primary campaign account during the second half of 2007 from a variety of sources, including such corporations as Exxon Mobil, Philip

Morris and Countrywide Financial Corp.

In a statement, Calderon declined to detail his spending but said all of it was lawful and "made within current FPPC regulations," he said. "If new regulations are approved requiring a more detailed accounting of campaign expenditures I will gladly adhere to those regulations."

Assemblyman Houston, a Republican who will be termed out of office at the end of this year, spent \$15,000 on gifts and travel expenses from 2005 to 2007. The trips included an annual sojourn to Maui with his family for a legislative conference sponsored in part by corporations and labor groups with business before the Legislature.

Houston said he uses campaign money lawfully but said he was not prepared to provide an explanation of every expense. He said he believed the Jet Ski rental was related to the Hawaiian conference but could not recall any details.

"If the rules are changed and we have to log everything - that's what we will do," he said. "I think I've followed the law."

Houston said he uses campaign money from time to time to buy equipment for the state Capitol's Republican softball team, of which he is the captain.

"There's some things that you look at and it might look strange but as long as there is a connection to what we do and how we engaged with people, it's appropriate," he said.

Democratic Assemblyman Torrico was one of the few legislators who agreed to review his spending line by line and give an explanation.

Statements show that Torrico spent more than \$28,000 in campaign contributions for travel expenses and gifts over the past three years. That included \$2,478 at MGM Grand in Las Vegas; \$394 at the Thunder Valley Casino in Lincoln (Placer County); and \$214 at the Pechanga Casino in Southern California.

He said all of it related to his job as a legislator: The trip to the MGM in Las Vegas was for a fundraiser. The dinner at Thunder Valley was attended by two other legislators and several lobbyists. The overnight stay for himself and his chief of staff at the Pechanga hotel was to talk to the tribal leaders about their agreement with the state on gambling revenues.

"I take my reporting seriously," he said. "People need to know who is raising money and how people are spending money - they have the right to know."

He said that to be successful in Sacramento, lawmakers have to be able to talk freely to lobbyists, union representatives, business leaders and other politicians. He said dinners at expensive restaurants are not uncommon and he'd rather use campaign money than let someone else buy his meal.

"Politics is a business of relationships and people," he said. "So a lot of times, (the spending) is just so that we can get to know each other."

Republican Assemblyman Spitzer said his job demands that he exchange gifts sometimes with supporters and staffers - just like any business executive. He defended his use of campaign money to buy a wedding gift for a campaign aide, saying their relationship was professional not social.

"She was my fundraiser, and it makes perfect sense to me to use campaign money to buy her gift," he said.

Ross Johnson, chairman of the state's political watchdog commission, said the key flaw in the current reporting law is that there is no way for the public to determine if an expense is legitimate.

"The statute is very clear," he said. "(But) unless through regulation we say you've got to provide some brief description of what was the legislative, governmental or political purpose for an expenditure - the law is meaningless."

Johnson, a former California state legislator, declined to comment on specific candidates' expenses, saying that his agency plays a judicial role over election activities. But he said he hopes the new rules make it easier for candidates to know when to use campaign money and when not to.

"In my heart, if it is a legislative or governmental purpose, the taxpayers ought to pay for it," he said. "And if you can't justify that expense to the taxpayers, then maybe you ought not to engage in that expense."

The new disclosure rules will apply only to travel spending of campaign funds outside California. Officials said they wanted to focus first on spending outside the state because they believe that misspending is more likely to occur far from home.

But The Chronicle analysis found more than half of the legislators' travel spending - \$395,000 - took place in California, at plush hotels and casinos, golf courses and wineries.

There are also questions about campaign money that is spent by lawmakers at the end of their legislative careers or who left office years ago.

Former Democratic Assemblyman Rod Wright of Los Angeles was termed out of the Legislature in 2002. But records show that he spent more than \$8,000 in campaign funds that remained in an active account in 2007 - mostly for meals in fine restaurants in the southland including Wolfgang Puck's Chinois on Main in Santa Monica.

Wright said all of the expenses were appropriate because he plans to run again this spring - for a seat in the state Senate.

E-mail the writers at tchorneau@sfgchronicle.com and emecormick@sfgchronicle.com.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/02/11/MN12UQHG2.DTL>

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