



September 6, 2019

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California Department of Justice  
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Sacramento, CA 94244-2550

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Honorable George Gascón  
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Sacramento County District Attorney  
901 G Street  
Sacramento, CA 95814

**Re: Investigation Into Theft of Public Monies And Fraud By Insurance  
Commissioner Lara**

Attorney General Becerra and District Attorneys Lacey, Gascón, and Schubert,

We are deeply troubled to report that California Insurance Commissioner Ricardo Lara appears to have committed crimes punishable by up to four years in prison by using public funds for his personal benefit and fraudulently representing expenses for his second home in Sacramento as a legitimate public expense.

This revelation comes amidst a public corruption scandal already surrounding Commissioner Lara. The established facts already show, at a minimum, a pattern

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and practice of dishonesty about his campaign commitments to not accept financial contributions from insurance companies, surreptitious contributions from the associates and spouses of regulated entities, campaign reporting irregularities, and interventions through his public office to help associates of campaign contributors.<sup>1</sup> The cloud hanging over Commissioner Lara's conduct and the new information should compel you to immediately investigate the seemingly illegal and fraudulent payments from taxpayers for Lara's second home, particularly as he has refused to provide further details to the public.

Since his January inauguration, Commissioner Lara has charged taxpayers \$14,160 for his Sacramento apartment, travel costs and other "per diem" expenses according to the records obtained by Politico.com (article attached).

Politico.com reported that Commissioner Lara received taxpayer-funded reimbursements for his rental apartment in Sacramento at a cost of between \$570 and \$700 per month. Though Commissioner Lara refused to be interviewed,

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<sup>1</sup>*Editorial: Insurance Commissioner's Campaign Cash Scandal Raises Troubling Questions*, Sacramento Bee (July 10, 2019), <https://www.sacbee.com/opinion/editorials/article232509952.html>; *see also, e.g.,* Jeff McDonald, *State's Top Insurance Regulator Accepted Tens Of Thousands Of Dollars From Industry Executives, Records Show*, San Diego Union Tribune (July 7, 2019), <https://www.sandiegouniontribune.com/news/watchdog/story/2019-07-05/states-top-insurance-regulator-accepted-tens-of-thousands-of-dollars-from-industry-executives-records-show>; Jeff McDonald, *Insurance Commissioner Will Return Funds From Companies With Ties To Industry He Regulates*, San Diego Union Tribune (July 8, 2019), <https://www.sandiegouniontribune.com/news/watchdog/story/2019-07-08/insurance-commissioner-will-unhand-funds-from-companies-with-ties-to-industry-he-regulates>; *Editorial: Insurance Commissioner Lara Never Should Have Accepted Donations From Those He Regulates*, San Diego Union Tribune (July 8, 2019), <https://www.sandiegouniontribune.com/opinion/editorials/story/2019-07-08/insurance-commissioner-lara-donations-insurance-companies>; Hannah Wiley, *Lara's 'Questionable' Campaign Contributions*, Sacramento Bee (July 10, 2019), <https://www.sacbee.com/site-services/newsletters/capitol-morning/article232453557.html>; *Editorial: Troubling behavior from California's Insurance Commissioner Ricardo Lara*, Los Angeles Times (June 11, 2019), <https://www.latimes.com/opinion/editorials/la-ed-ricardo-lara-insurance-donations-20190711-story.html>; *Editorial: Thumbs down: Ricardo Lara's Broken Promise*, Santa Rosa Press-Democrat (July 12, 2019), <https://www.pressdemocrat.com/opinion/9790544-181/thumbs-down-ricardo-laras-broken>; *Editorial: A Cloud of Suspicion Hangs Over State Insurance Commissioner. Can He Clear The Air?*, Sacramento Bee (July 23, 2019), <https://www.sacbee.com/opinion/editorials/article232988522.html>

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Department spokesperson Michael Soller told Politico.com that Lara had retained the same apartment in Sacramento that he used as state senator.

The Department claims that since Lara spends approximately eight days in Sacramento per month he is able to charge the California taxpayers \$95 per day for lodging, presumably the preferred rate for state workers in a hotel. However, Lara's reimbursement records, obtained from the State Controller's Office, fraudulently accounted for the monthly cost of the apartment as "railroad fare." Spokesperson Soller explained that those entries actually refer to the cost of Commissioner Lara's apartment and were entered in a transportation category because the "accounting department didn't have a field to enter the lodging reimbursement for this purpose."

The reason no field exists for this type of "lodging reimbursement" is because the state law prohibits the Insurance Commissioner from being reimbursed for the cost of his permanent housing and does not provide for a per diem, which is the reimbursement Commissioner Lara appears to have collected from the state.

Using public funds in this way appears to be a violation of law warranting your investigation.

Under Government Code Section 8314(a), elected state officials cannot "use public resources for . . . personal or other purposes which are not authorized by law." "[P]ersonal enjoyment, private gain or advantage" is prohibited. (Gov. Code § 8314(b)(1).) Only incidental personal benefit from public funds is allowed; for example, "an occasional telephone call" made on a state-issued phone. (*Id.*)

First, the state Department of Human Resources Manual mandates that executive branch employees who are required to obtain lodging due to state business "shall only use commercial lodging establishments such as hotels, motels, bed and breakfast inns, public campgrounds, or short-term rentals (such as Airbnb) that cater to the general public."

Second, the advantage of maintaining a full-time second residence in Sacramento is not a permitted "incidental" or minimal personal benefit like making an occasional phone call on a state-issued phone. Though Commissioner Lara appears to be claiming that use of his Sacramento residence is only necessary for approximately eight days of public business each month in Sacramento, by billing taxpayers for the entire cost of the apartment rental Commissioner Lara is benefitting

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from the use of the residence over weekends and other personal visits to Sacramento throughout the rest of the month.

Nor is this violation of law excused by Commissioner Lara's claims that that charges levied on taxpayers for the apartment rental are less than the cost that would have been charged had Commissioner Lara rented a hotel room. At best, Commissioner Lara appears to have overbilled the state for his housing, which costs \$23 per day based on a \$700 per month rental, not \$95 per day. Commissioner Lara's reimbursement documents filed with the state, which for many statewide officers are signed under penalty of perjury, appear to fraudulently categorize his expenses.

As you are aware, personal use of public funds without the authority of law, like Commissioner Lara's taxpayer-funded Sacramento apartment, constitutes the theft of public funds under Penal Code § 424(a)(1). Moreover, "knowingly keep[ing] any false account, or mak[ing] any false entry" or falsifying records related to the use of public funds, like Commissioner Lara's reporting his Sacramento apartment reimbursements as "railroad fare," is also a crime. (Penal Code § 424(a)(3)-(4).) Both crimes are "punishable by imprisonment in the state prison for two, three, or four years" and any person convicted of these crimes "is disqualified from holding any office in this state." (Penal Code § 424(a).)

The public has a right to know what really happened. Only an investigation by the office of a public prosecutor can compel answers about whether the insurance commissioner engaged in criminal activity. No public official should be above the law. All state workers should know that every state employee, including elected officials, are held accountable to the law.

Please contact us if we can assist in your investigation.

Sincerely,



Jamie Court  
President



Jerry Flanagan  
Litigation Director

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Newsom, who endorsed Lara in his run for insurance commissioner, declined to comment Wednesday on Lara's ethical dilemma and legal questions he's facing about use of public funds. | AP Photo

## Insurance commissioner charging rent for second residence to taxpayers

By **CARLA MARINUCCI** and **ANGELA HART** | 09/05/2019 08:01 AM EDT | Updated 09/05/2019 01:01 PM EDT

SACRAMENTO — California's state insurance commissioner has stuck taxpayers with thousands of dollars in bills to cover the cost of renting an apartment in Sacramento while he maintains his primary residence in Los Angeles — a break from other statewide elected officials that is alarming ethics watchdogs.

The revelation could add another headache for Commissioner Ricardo Lara, who is already under scrutiny for his campaign fundraising and perceived coziness with the insurance industry.

POLITICO examined Lara's travel expenditures and his reimbursements from the state in his first six months in the office. During those months, Lara charged taxpayers \$14,160 in total for his apartment in Sacramento, travel costs and other per diem expenses associated with his position, according to the records.

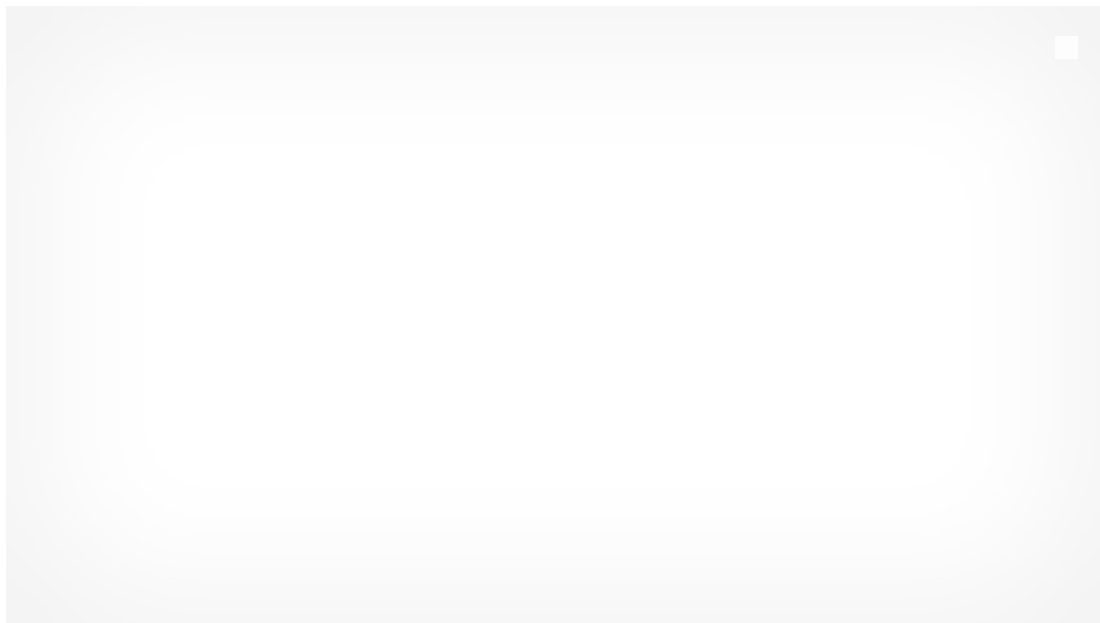
Lara spokesperson Michael Soller defended the charges, saying they don't violate state law, characterizing them as justified expenses, given travel and other demands associated with Lara's new position.

"The department staff vetted this and found it not only violated no laws but it also had the potential to benefit taxpayers by saving on hotel costs," he said.

But watchdogs say the unusual arrangement constitutes an ethical gray area at best.

"For some jobs, you have to move — as millions of Californians will tell you," said Jessica Levinson, a professor of law and ethics at Loyola University in Los Angeles. "The rent is high, and a good percentage of their salary goes to it — and that's how it goes. They don't get the taxpayers to pay for it. And frankly, neither should the insurance commissioner."

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And Lara's decision to file for rental reimbursement breaks precedent with two previous insurance commissioners. Republican Steve Poizner, who is from the Bay Area, did not

charge living expenses to the state during his tenure as insurance commissioner. Neither did Democrat Dave Jones, though he did not have to commute far as a Sacramento resident.

Gov. Arnold Schwarzenegger, whose main residence was in Southern California, lived at the Hyatt Regency while in Sacramento but had his expenses paid by an outside foundation. Gov. Gavin Newsom, a former San Francisco mayor, recently moved from the Bay Area to a Sacramento suburb with his family at his own expense.

Newsom, who endorsed Lara in his run for insurance commissioner, didn't respond to requests for comment Wednesday on Lara's ethical dilemma and legal questions he's facing about use of public funds.

Lara's entries show monthly reimbursement for "lodging" and "rental" costs ranging from \$1,925 to \$3,270 from January through June. Billings specified as "railroad fare," ranging from \$570 to \$700 per month, were also included. Soller said those entries actually "refer to lodging" and were entered in a transportation category because "our accounting department didn't have a field to enter the lodging reimbursement for this purpose."

Lara, a 44-year-old Democrat who earns a \$161,342 annual salary, did not respond to multiple interview requests. He previously served two terms in the state Assembly and was in his second term in the Senate when he was elected last November as insurance commissioner.

Though Lara's primary residence is in Los Angeles — where there is also a state Insurance Commissioner office — "he rents a small studio apartment in Sacramento" for a total cost of \$700 a month, Soller said. He lives in the same apartment he rented as a senator.

"The costs captured [in the bills he's submitted] represent the monthly lodging costs for the commissioner to conduct official state business in Sacramento," he said.

POLITICO obtained Lara's expense records via a public records request to the state controller's office, which said it did not have copies of Lara's receipts. Soller didn't produce receipts for the rental property after several requests from POLITICO, saying they may have to be disclosed as part of a separate public records request.

The state Department of Human Resources manual mandates that executive branch employees who are required to obtain lodging due to state business "shall only use commercial lodging establishments such as hotels, motels, bed and breakfast inns, public campgrounds, or short-term rentals (such as Airbnb) that cater to the general public."

Soller said Department of Insurance legal counsel concluded that Lara's rental expenses comply with state law because he only bills taxpayers for days spent in Sacramento. He declined to provide the legal memo or the name of the lawyer.

He said the commissioner lives alone in the Sacramento apartment — though he declined to provide the address, neighborhood or the property's owner or landlord, saying that request breached the commissioner's right to confidentiality. And he said the expenditure is advantageous to state taxpayers compared with the \$95 a night statewide elected leaders who don't live in Sacramento are entitled to before taxes.

"Department staff determined he could apply this lodging reimbursement to his rental rather than hotel bills," Soller said. "His true costs for lodging would be higher if he weren't renting."

Soller said Lara is "only reimbursed for the time that he's here" at the \$95 daily rate.

Disclosure of the rental reimbursement requests comes after a spate of stories and editorials raising questions about Lara's coziness with insurance industry he regulates — prompting Lara to announce Tuesday he will release his public calendars and institute new fundraising and vetting procedures to deliver more transparency, and to reassure the public that he is meeting "the highest ethical standards."

Lara's case comes a little more than two months after Caltrans Director Laurie Berman stepped down after the Sacramento Bee reported she had been reimbursed for regular flights from her primary home in San Diego to Sacramento, as well as for most of her rent at a Sacramento duplex.

Dan Schnur, who formerly headed the California Fair Political Practices Commission, said Lara may no longer be able to avoid blowback from his own Democratic Party. The spate of recent headlines has established "an overall impression that becomes increasingly hard to get past," he said.

"If he had an otherwise pristine record on ethical questions, this is the type of thing for which a heartfelt apology could allow him to move on without much damage," said Schnur, a former GOP political consultant who is now an independent voter and a professor at USC's Annenberg School of Communications.

Soller said the state controller's office, which is responsible for reimbursing state employees for travel and lodging costs, honored the legal opinion that Lara could obtain reimbursement for his Sacramento residence.



Jennifer Hanson, a spokesperson for Controller Betty Yee, said the Department of Insurance — like each state agency — “has an internal accounting team that reviews travel claims and maintains receipts for auditing purposes.” The spokesperson said the Insurance Department's staff was in charge of approving the travel claim and then forwarding it to the controller's "accounting and disbursements team for processing."

Disclosure of Lara's expenditures comes on the heels of San Diego Union-Tribune reports that raised questions about his coziness with the insurance industry after he reneged on a promise not to accept donations from insurers. Several editorials in major state newspapers have criticized Lara for decisions that have since appeared to benefit some of those industry donors.

Lara also raised eyebrows in Sacramento recently after POLITICO also obtained a video of an unannounced speech to industry executives at a private industry conference in which he assured industry attorneys that he was “receptive” to their ideas, which included allowing insurers access to telematics or vehicle computer data — an idea opposed by consumer advocates.

Lara said in a letter to consumer advocates this week that he takes "full responsibility" for failing to meet the highest ethical standards he set during his campaign, vowing to abide by “a strict moratorium” on political fundraising until year's end and to immediately release his public calendars — a move that he has resisted after several organizations and media outlets, including POLITICO, requested them.

Jamie Court, who heads Consumer Watchdog — an organization that has been critical of Lara's performance in office — said the latest development raises questions that Lara is potentially misusing public funds.

Clearly “the job of the insurance commissioner does not come with a second home in Sacramento," he said, noting Lara's home is within the same state, which means he can “take Southwest” home when the work is done. He said Lara's justification of filing for “per diem” costs is also questionable.

Members of the California Legislature receive \$201 in per diem allowance per day, in addition to their salary, when the Legislature is in session. While statewide officers — including the insurance commissioner — may be reimbursed for costs of doing state business, they do not receive the legislative per diem, according to the State Department of Human Resources.

“It’s perfectly permissible to get reimbursed for overnight stays,” Court said. “But if these living expenses are related to setting up a second home, then this crosses the line of using public funds for private benefit.”

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