



Judicial Watch

Because no one is above the law!

March 31, 2010

Leo Wise, Esq.
Staff Director and Chief Counsel
Office of Congressional Ethics
1017 Longworth House Office Building
Washington, DC 20515

**Re: Request for Investigation regarding Unused Congressional
Travel Per Diems Converted to Personal Use**

Dear Mr. Wise:

Judicial Watch, Inc. is a non-profit educational foundation dedicated to promoting transparency, integrity, and accountability in government and fidelity to the rule of law. Judicial Watch has over 600,000 supporters and a fifteen-year record of combatting government corruption.

Judicial Watch, in the public interest, hereby files this request for investigation for violation of the provisions governing per diem payments for travel under the Rules of the House of Representatives, Rule X, Organization of Committees, Travel 8 (b)(1).

The House rules provide concise guidelines for reimbursement of foreign travel expenses by members of the House and state, in relevant part:

(1) A member or employee of a committee may not receive or expend local currencies for subsistence in a country for a day at a rate in excess of the maximum per diem set forth in applicable Federal law. (2) A member or employee shall be reimbursed for his expenses for a day at the lesser of—(A) the per diem set forth in applicable Federal law; or (B) the actual, unreimbursed expenses (other than for transportation) he incurred during that day.¹

¹ Rules of the House of Representatives, One Hundred Eleventh Congress, June 16, 2009, Committee on Rules and Administration, Rule X, Organization of Committees, Travel 8 (b)(1), page 13 <<http://clerk.house.gov/legislative/rules111/111th.pdf>> accessed March 2, 2010.

Although the guidelines are clear, lax to nonexistent accounting requirements for per diem travel expenditures have led to a growing disregard for the law. As recently reported in *The Wall Street Journal*:

Congress has no system for tracking how the cash payments, called per diems, are being spent. Lawmakers aren't required to keep receipts and there are no public records. In the past two years, hundreds of lawmakers spent a total of 5,300 days visiting 130 foreign countries on taxpayer-funded trips, according to congressional travel records.²

The *Journal* interviewed over "20 current and former members of Congress" regarding how they handled money left over from their per diem travel allowance and reported the following:

Sometimes they give it away; sometimes they pocket it. Many lawmakers said they didn't know the rules demand repayment. . . . There's a tacit understanding that if lawmakers don't spend the money, they get to keep it Former Rep. Tom Davis, a Virginia Republican, said lawmakers often used leftover money "for shopping or to buy souvenirs to bring back to constituents. That's fairly standard."

Senators Specter, Durbin, Cardin, and Coburn are the only four lawmakers identified by the *WJS* who returned to the U.S. Treasury surplus cash from their per diems. Senator Specter alone "returned about \$8,500 of the \$25,000 he was given for 11 trips since August 2005." Senator Tom Coburn tried to send surplus cash back to the State Department, but they would not accept it. He sent it instead to the U.S. Treasury.³

Given mounting government debt and the troubled economy, the illicit pocketing of unused cash from per diems that belong to the U.S. Treasury stands out in high relief and serves to further undermine the public's already shaken confidence in Congress and government institutions.

Further, it is a federal criminal offense to convert public money for personal use.⁴

² See Exhibit 1, Brody Mullins and T.W. Farnam, "Lawmakers Keep the Change, Cash Left Over From Official Trips Overseas Is Often Used for Personal Expenses," *The Wall Street Journal*, March 2, 2010 < <http://online.wsj.com/article/SB20001424052748703429304575095592193574752.html> > accessed March 2, 2010.

³ *Id.*

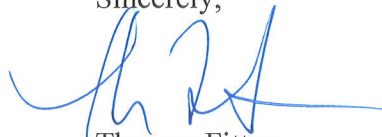
⁴ See 18 USC §§ 641, 643, 648.

Accordingly, Judicial Watch requests a full investigation and audit of House foreign travel expenditures and the pocketing of unused per diems. In the least, there is evidence of a general misunderstanding among lawmakers that unused per diems may be converted for personal use. At worst, members may be illegally pocketing taxpayer funds.

The Ethics in Government Act was enacted by Congress in 1978 to help restore public confidence in its institutions, recognizing that public office is a public trust. Judicial Watch will use the information uncovered by the Office of Congressional Ethics and the Committee on Standards of Official Conduct as a part of its educational outreach and mission to combat corruption in government and in the promotion of ethics and transparency in the nation's public life.

I am aware that the False Statements Act, 18 USC §1001, applies to information submitted to the Office of Congressional Ethics.


Sincerely,



Thomas Fitton
President

Enclosure

Exhibit 1

All Things Digital. Tech and Media News			more stories
Walter S. Mossberg	How to Watch Video, Wirelessly, on Your TV Set	03.04 - 6:03 pm PT	
Peter Kafka	Is the Kindle Finally Ready for the Web?	03.09 - 5:35 am PT	
Kara Swisher	What Is Cisco Announcing This Morning To "Forever Change the..	03.09 - 5:15 am PT	

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MARCH 2, 2010

Lawmakers Keep the Change

Cash Left Over From Official Trips Overseas Is Often Used for Personal Expenses

By BRODY MULLINS And T.W. FARNAM

When lawmakers travel overseas on official business they are given up to \$250 a day in taxpayer funds to cover meals and expenses. Congressional rules say they must return any leftover cash to the government.

They usually don't.

According to interviews with 20 current and former members of Congress, lawmakers use the excess cash for shopping or to defray spouses' travel expenses. Sometimes they give it away; sometimes they pocket it. Many lawmakers said they didn't know the rules demand repayment.

"If that was the policy, you could never get many members traveling," said Rep. Solomon Ortiz, a Texas Democrat. Mr. Ortiz said he had never returned any money.

"There's a tacit understanding that if lawmakers don't spend the money, they get to keep it," said Rep. Sue Kelly, a New York Republican who was defeated in 2006.

Former Rep. Tom Davis, a Virginia Republican, said lawmakers often used leftover money "for shopping or to buy souvenirs to bring back to constituents. That's fairly standard."

Rep. Joe Wilson (R., S.C.) said he once bought marble goblets in the Kabul airport as gifts for constituents. Rep. Mark Souder (R., Ind.) said he dipped into his funds to buy a \$200 painting of an estuary in Turkey, which hung in his office for a while and was now in his house.

Lawmakers who said they sometimes keep excess funds said the amounts were small. "I won't deny that sometimes I have a little left, but it's not much—maybe 80, 90, or 100 dollars," said Rep. G.K. Butterfield (D., N.C.).

Congress has no system for tracking how the cash payments, called per diems, are being spent. Lawmakers aren't required to keep receipts and there are no public records.

In the past two years, hundreds of lawmakers spent a total of 5,300 days visiting 130 foreign countries on taxpayer-funded trips, according to congressional travel records.

House lawmakers received between \$375,000 and \$625,000 in per diem cash over that period, according to a Wall Street Journal estimate based on per diem rates and congressional travel disclosures. There's no documentation for how those funds were spent. Estimates for Senate travel couldn't be calculated.

"You are all concerned about nickels and dimes, and I'm not," said Rep. Alcee Hastings (D., Fla.). "You know, in a taxicab in Kazakhstan, I don't have time to get a receipt—I don't speak Kazakh."

In a subsequent interview, Mr. Hastings said he had time to gather receipts, but didn't.

Mr. Hastings said he sometimes used the extra taxpayer money to buy gifts, meals or drinks for military pilots, security officials and interpreters who travel with him. On a trip earlier this year to the Middle East, Mr. Hastings gave \$100 to an Iraqi refugee, he said.

"I'm a generous spirit and a courteous spirit," Mr. Hastings said. "I stand accused."

Some lawmakers are assiduous about returning surplus cash. Sen. Arlen Specter, a Pennsylvania Democrat, has returned to the U.S. Treasury about \$8,500 of the \$25,000 he was given for 11 trips since August 2005, according to documents provided by his office.

The per diem program is administered by the State Department. According to department officials and publications, when lawmakers arrive in a foreign country, U.S. government officials give them an envelope with cash in the local currency. The total stipend is set by the State Department based on surveys of local prices. It is meant to cover three meals and incidental expenses, which federal travel regulations say include transportation and tips for baggage handling and other services.

The amounts range from \$28 a day in Kabul to more than \$250 a day in Awashima, Japan.

When lawmakers leave the country, U.S. government officials generally meet them to convert any leftover foreign currency back into U.S. dollars.

Many of the lawmakers' daily expenses are picked up by U.S. embassies, foreign governments or military liaisons, according to travel documents and interviews.

House and Senate rules say per diems can be used only for legitimate travel expenses. Any leftover money must be returned. The cash is for lawmakers, not their spouses. Lawmakers can request an extra \$50 a day if they believe the allowance is insufficient.

"The extra money and the plus-ups are really for the spouses," said Mr. Souder, the Indiana Republican.

Last summer, a dozen lawmakers of both parties flew to Lithuania to a conference of the Helsinki Commission, an independent U.S. government agency made up of members of Congress and others that was born during the Cold War to promote democracy, security and human rights. The lawmakers were given \$941 each in local currency to cover expenses for the six-day trip, said one attendee, Sen. Richard Durbin (D., Ill.).

When they got home, Mr. Durbin returned \$401.08 to the Treasury, according to documents provided by his office. Sen. Benjamin Cardin (D., Md.) returned \$86. No one else returned any money, according to travel records for the trip and interviews with the lawmakers.

One lawmaker on the trip, Rep. Robert Aderholt (R., Ala.) said he didn't return cash. "I don't keep up with it penny for penny," he said.

Mr. Butterfield said he didn't recall if he had any leftover funds, and that he sometimes kept the extra cash.

Sen. Tom Coburn (R., Okla.) said he once tried to return surplus cash to the State Department, but "they wouldn't take it. They said, 'We don't have a way to handle that.' " Mr. Coburn said he sent a personal check to the U.S. Treasury.

Write to Brody Mullins at brody.mullins@wsj.com and T.W. Farnam at timothy.farnam@wsj.com

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