



Judicial Watch

Because no one is above the law!

March 31, 2010

The Honorable Barbara Boxer, Chairman
The Honorable Johnny Isakson, Vice Chairman
The Honorable Mark L. Pryor, Member
The Honorable Sherrod Brown, Member
The Honorable Pat Roberts, Member
The Honorable James E. Risch, Member
United States Senate Select Committee on Ethics
220 Hart Senate Office Building
Washington, DC 20510

**Re: Complaint Regarding Unused Congressional Travel
Per Diems Converted to Personal Use**

Dear Senators:

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 complaint under the provisions of the Senate Ethics Manual, Appendix C (Rules of Procedure, Senate Ethics Committee), Part II (Supplementary Procedural Rules), Rule 2 (Procedures for Complaints, Allegations or Information) for violation of the provisions governing per diem payments for foreign travel under the Rules of the Senate, Rule XXXIX, and The Honest Leadership and Open Government Act.

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

2. No Member, officer, or employee engaged in foreign travel may claim payment or accept funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) for any expense for which the individual has received reimbursement from any other source; nor may such Member, officer, or employee receive reimbursement for the same

expense more than once from the United States Government. No Member, officer, or employee shall use any funds furnished to him to defray ordinary and necessary expenses of foreign travel for any purpose other than the purpose or purposes for which such funds were furnished.

3. A per diem allowance provided a Member, officer, or employee in connection with foreign travel shall be used solely for lodging, food, and related expenses and it is the responsibility of the Member, officer, or employee receiving such an allowance to return to the United States Government that portion of the allowance received which is not actually used for necessary lodging, food, and related expenses.¹

Although the rules are clear, some Senators have ignored them and may have misappropriated taxpayer monies. 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."³

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

¹ See Exhibit 1, Committee on Rules and Administration, Rules of the Senate, Rule XXXIX, Foreign Travel, paragraphs 2 and 3 <<http://rules.senate.gov/public/index.cfm?p=RuleXXXIX>,> accessed March 2, 2010.

² See Exhibit 2, 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.*

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.⁴

The Senate Ethics Manual sets forth the duty of this Committee regarding these allegations and the importance of maintaining the public trust as discussed under the “General Principles of Public Service.”

Further, it is a federal criminal offense to convert public money for personal use.⁵

Accordingly, Judicial Watch requests a full investigation and audit of Senate 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 provided by this Committee 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.

Thank you for your prompt attention to this matter.

Sincerely,



Thomas Fitton
President

Enclosures

By: Fax (w/o Exhibits) and Mail
cc: Honorable Nancy Erikson,
Secretary of the Senate

⁴ See Exhibit 2, Brody Mullins and T. W. Farnum, “Lawmakers Keep the Change.”

⁵ See 18 USC §§ 641, 643, 648.

Exhibit 1

United States Senate Committee on Rules and Administration



How Congress Works

Rules of the Senate

FOREIGN TRAVEL

1. (a) Unless authorized by the Senate (or by the President of the United States after an adjournment sine die), no funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) shall be received for the purpose of travel outside the United States by any Member of the Senate whose term will expire at the end of a Congress after

(1) the date of the general election in which his successor is elected; or

(2) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the second regular session of that Congress.

(b) The travel restrictions provided by subparagraph (a) with respect to a Member of the Senate whose term will expire at the end of a Congress shall apply to travel by

(1) any employee of the Member;

(2) any elected officer of the Senate whose employment will terminate at the end of a Congress; and

(3) any employee of a committee whose employment will terminate at the end of a Congress.

2. No Member, officer, or employee engaged in foreign travel may claim payment or accept funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) for any expense for which the individual has received reimbursement from any other source; nor may such Member, officer, or employee receive reimbursement for the same expense more than once from the United States Government. No Member, officer, or employee shall use any funds furnished to him to defray ordinary and necessary expenses of foreign travel for any purpose other than the purpose or purposes for which such funds were furnished.

3. A per diem allowance provided a Member, officer, or employee in connection with foreign travel shall be used solely for lodging, food, and related expenses and it is the responsibility of the Member, officer, or employee receiving such an allowance to return to the United States Government that portion of the allowance received which is not actually used for necessary lodging, food, and related expenses.

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Committee Information

305 Russell Senate Office Building

Washington, DC 20510

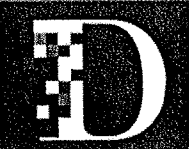
202.224.6352 **Main Number**

202.224.1912 Administrative Fax

202.224.5400 Democratic Fax

202.224.3036 Republican Fax

Exhibit 2

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.

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