

CREW

**citizens for responsibility
and ethics in washington**

July 17, 2009

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OFFICE OF GENERAL
COUNSEL

Jeff S. Jordan
Supervisory Attorney
Complaints Examination &
Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 6200

Dear Mr. Jordan:

Citizens for Responsibility and Ethics in Washington ("CREW") has become aware of additional information relevant to the complaint we filed on June 24, 2009, MUR 6200. On July 9, 2009, Paul Coggins, an attorney for Senator John Ensign (R-NV), a respondent in that matter, issued the following statement:

In April 2008, Senator John Ensign's parents made gifts to Miss Hampton, Cindy Hampton and two of their children in the form of a check totaling \$96,000. Each gift was limited to \$12,000. The payments were made as gifts, accepted as gifts and complied with tax rules governing gifts.

After the Senator told his parents about the affair, his parents decided to make the gifts out of concern for the well-being of long-time family friends during a difficult time. The gifts are consistent with a pattern of generosity by the Ensign family to the Hamptons and others.

None of the gifts came from campaign or official funds nor were they related to any campaign or official duties. Senator Ensign has complied with all applicable laws and Senate ethics rules.

Paul Coggins
Fish & Richardson P.C.

Counsel for Senator John Ensign

The *Washington Post* subsequently reported that rather than one check totaling \$96,000, "the money was disbursed in April 2008, in eight checks of \$12,000 each, with two checks each for Cynthia Hampton, her husband and their two children. Coggins said." Dan Eggen and Chris Cillizza, Ensign's Parents Made Payments to Mistress, Her Family, *Washington Post*, July 10, 2009 (attached as Exhibit A).

Senator Ensign's office subsequently contacted the *Washington Post* seeking a correction to another story, stating "the alleged \$25,000-plus severance payment to the Hamptons that some critics have questioned is part of the generous \$96,000 gift Ensign's parents decided to give to the Hamptons." Al Kamen, Hillary Clinton, Back After a Break, *Washington Post*, July 15, 2009 (attached as Exhibit B).

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Jeff Jordan, Esq.
July 17, 2009
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Accordingly, it appears that Senator Ensign's parents, Michael and Sharon Ensign, may have each given checks in the amount of \$12,000 to Cindy Harapton as a severance payment for the loss of her positions as treasurer of both Ensign for Senate and the Battle Born Political Action Committee ("PAC"). Those two checks may constitute illegal excessive in-kind contributions by the Ensigs to both Ensign for Senate and the Battle Born PAC.

As you know, the Federal Election Campaign Act limits an individual to contributing \$2,400 per election to a principal campaign committee such as Ensign for Senate. 2 U.S.C. § 441a(a)(1)(A). Similarly, the Act limits an individual to contributing \$5,000 per year to a leadership PAC such as the Battle Born PAC. 2 U.S.C. § 441a(a)(1)(C). Accordingly, the maximum amount Michael and Sharon Ensign together could contribute to Ensign for Senate in the current election cycle is \$9,600. The maximum amount both Michael and Sharon Ensign could have contributed to the Battle Born PAC in 2008 was \$10,000. Accordingly, there is no way Michael and Sharon Ensign could have both made \$12,000 severance payments to Cynthia Harapton without violating the dollar limits of 2 U.S.C. §§ 441a(a)(1)(A) & (C).

In addition, neither Ensign for Senate nor the Battle Born PAC reported receiving any in-kind contributions from either Michael or Sharon Ensign. The failure to report an in-kind contribution is a violation of 2 U.S.C. § 434(b)(3)(A) and 11 C.F.R. § 104.13.

CREW respectfully requests that the Federal Election Commission add Michael and Sharon Ensign as respondents in MUR 6200 and conduct an investigation to determine whether Michael and Sharon Ensign violated the individual dollar limits on contributions to the campaign committee and leadership PAC and whether the campaign committee and PAC violated the law by failing to report the contributions.

Sincerely,

Melanie Sloan
Executive Director

Encls.

Citizens for Responsibility and Ethics in Washington and Melanie Sloan hereby verify that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

Melanie Sloan

District of Columbia: SS

Subscribed and sworn to before me, in my presence,

this 17 day of July, 2009

Notary Public, D.C.

My commission expires June 30, 2011

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EXHIBIT A

The Washington Post

Ensign's Parents Made Payments to Mistress, Her Family

By Dan Eggen and Chris Cillizza
Washington Post Staff Writers
Friday, July 10, 2009

The wealthy parents of Sen. John Ensign (R-Nev.) gave \$96,000 last year to the staffer who was then his mistress and to her family, his attorney said yesterday.

The gifts to Cynthia L. Hampton and her family were given "out of concern for the well-being of longtime family friends during a difficult time," according to the lawyer, Paul Coggins.

The gifts roughly coincided with Hampton's departure as treasurer of Ensign's political committees, as well as with the resignation of her husband, Douglas, as Ensign's chief of staff, on May 1, 2008. Ensign has said that the sexual affair with Cynthia Hampton began in December 2007 and continued until the following August.

The money was disbursed in April 2008, in eight checks of \$12,000 each, with two checks each for Cynthia Hampton, her husband and their two children, Coggins said.

He said the gifts complied with tax rules and did not come from official or campaign funds. "Senator Ensign has complied with all applicable laws and Senate ethics rules," he said.

The disclosure comes a day after Douglas Hampton alleged that Ensign gave his wife a \$25,000 severance payment. Hampton has portrayed Ensign as obsessive in pursuit of his wife, releasing a letter in which Ensign says he "used" Cynthia Hampton for "my own pleasure."

Since Ensign admitted the extramarital affair several weeks ago, he and his defenders have accused the Hamptons of making exorbitant financial demands but denied that Ensign provided any severance payments or other financial assistance for the couple. Ensign has said he has no plans to resign his office.

In an interview this week, Douglas Hampton also alleged that Sen. Tom Coburn (R-Okla.), a close friend of Ensign's, urged Ensign to end the affair early last year and suggested financial compensation for the Hampton family.

Coburn's office acknowledged that he counseled Ensign to end the affair but denied suggesting any financial deal.

Yesterday, Coburn told the Roll Call newspaper that he would refuse any attempts to compel him to testify in court or at the Senate ethics committee about his role. Coburn, an obstetrician, claimed a legal privilege against such testimony as his physician and religious adviser.

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"I was counseling him as a physician and as an ordained deacon," Coburn said. "That is privileged communication that I will never reveal to anybody. Not to the ethics committee, not to a court of law, not to anybody."

But Melanie Sloan, a former federal prosecutor who is now executive director of Citizens for Responsibility and Ethics in Washington, said that neither privilege would apply to Coburn's case because Ensign cannot plausibly be his patient and because being a deacon does not qualify a person as clergy.

Sloan, whose group has filed an ethics complaint against Ensign, also questioned whether the \$96,000 in payments to the Hampton family might be viewed as a way around campaign rules that require reporting severance packages for employees such as Cynthia Hampton.

Ensign's father, Michael, is a former casino executive who earned more than \$130 million in stock sales and stock options while engineering the sale of the Mandalay Resort Group, which he headed, to MGM Mirage. Michael Ensign has more recently sought to get back into the gambling business by teaming up with a development company in Topeka, Kan., to bid on operating a casino in south-central Kansas, according to news reports.

Research editor Alice Crites contributed to this report.

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EXHIBIT B

The Washington Post

Hillary Clinton, Back After a Break

By Al Kamen
Wednesday, July 15, 2009

Secretary of State *Hillary Rodham Clinton* kicks off her worldwide "I'm Ba-sack" tour today, starting with what's being billed as a "major policy address" at the Council on Foreign Relations here. She's then off tomorrow on a week-long trip to India and Thailand.

This will give her a chance to, um, reset her image following a month on the sidelines after breaking her elbow and then some embarrassment this week over a comment she made in May: "The Iranians are building a huge embassy in Managua. And you can only imagine what that's for."

Turns out, as this paper reported Monday, that no one in Managua has been able to find any super-embassy, and they've been looking hard. "We don't have an Iranian mega-embassy," a Nicaraguan official told The Post. "We have an ambassador in a rented house with his wife."

State Department spokesman *Ian Kelly* was obliged to tell reporters Monday that "right now, there is no major Iranian presence in Nicaragua." That jibed with the view of one U.S. diplomat in Nicaragua, who told The Post, "There is no huge Iranian Embassy being built, as far as we can tell." (And this is not *Saddam Hussein's* Iraq or *Mahmoud Ahmadinejad's* Iran. Things in Nicaragua are pretty findable.)

Clinton apparently heard this report from a "foreign counterpart" while attending a summit in Trinidad, we were told. Unclear whether she bothered to check with her staff at the embassy in Nicaragua or at Foggy Bottom before she spoke about it, Kelly said, but this so-called Iranian threat has been making the rounds of think-tank reports, congressional testimony and press accounts for a couple of years. And we don't want to wait for that mushroom cloud . . .

DRAMATIS PERSONAE

Folks watching the not-quite-riveting *Sonia Sotomayor* confirmation hearings this week may have noticed *Cynthia Hogan*, now counsel to *Vice President Biden*, sitting behind the judge's left shoulder. We recall during the explosive *Clarence Thomas* hearings 18 years ago that Hogan, then a top aide to Biden when he chaired the Senate Judiciary Committee, sat behind him, a dozen feet or so from where Thomas sat. This time, she's behind the witness, sitting to Sotomayor's left.

Guess to show you: In this town, the fights may change but the protagonists pretty much stay the same, only moving around to different corners.

Take Sen. *Arlen Specter* (D-Pa.), who just a couple years ago, when he was a Republican, chaired the same committee. He is still there, albeit way down the dais, seated between Sen. *Ted Kaufman* (D-Del.) a former Biden Senate staffer who is warming a seat for the vice president's son *Beau Biden*, and *Stuart*

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Smalley. Must be weird.

10,000 LAKES, 2 PANELISTS

In honor of last night's baseball All-Star Game, we recall that the first Minnesota Twins used to be called the Washington Senators until their move to the Twin Cities -- Minneapolis and St. Paul -- for the 1961 season. They are still happily playing baseball there, fielding a pretty fair team over the years, winning the World Series in 1987 and 1991 and several division titles.

The next Minnesota Twins came into being in 1970, when Justice *Harry A. Blackmun* joined Chief Justice *Warren E. Burger* on the Supreme Court and started voting pretty much in sync with the chief. (That lasted only for a few years, until the late liberal Justice *William J. Brennan Jr.* pried Blackmun left and he became a solid liberal vote.)

The latest Minnesota Twins were unveiled Monday as Democratic Sens. *Amy Klobuchar* and *Al Franken* took their seats Monday, as members of the Senate Judiciary Committee, for the Sotomayor confirmation hearings.

Why is it that Minnesota and Wisconsin each have two members on the committee -- fully one-third of the majority Democrats' 12 seats -- while states such as New York and California have but one and many other states have none at all?

Is Senate Majority Leader *Harry M. Reid* playing around with the assignments? Most likely not. Judiciary might be a high-profile committee, but only during times like these. And membership often involves some heavy lifting, some actual preparation, or you can look like a fool. It is not like Appropriations, which is just a question of shoveling out money to the states or the federal government.

BYE, PARTISAN

Noted in passing. . . .

George W. Bush's guests at Camp David just before he left office included Sen. *Judd Gregg* (R-Vt.) and his wife. They spent the night there just a few weeks before *President Obama* asked him to be his commerce secretary, the Associated Press reported, based on guest lists it has obtained.

But then Gregg changed his mind about joining the Obama Cabinet. Maybe something Bush said . . . ?

THE WAIT IS OVER

It's official: Obama has tapped former Agency for International Development official *Aaron Williams* to be the Peace Corps' new director.

Williams, a former Peace Corps volunteer, is the vice president for international business development with RTI International and has helped develop and manage aid programs in Africa, Latin America, the Middle East and Asia.

CORRECTION

While news accounts have reported that Sen. *John Ensign* (R-Nev.) used the word "extortion" when talking about conversations with his former chief of staff *Doug Hampton* regarding Ensign's affair with

Hampton's wife, we're advised by his office that Ensign has repeatedly declined any comment on this matter and did not use that term himself. An Ensign spokesman had talked of Hampton's "outrageous demands" but didn't use the E-word.

Also, his office says that the alleged \$25,000-plus severance payment to the Hamptons that some critics had questioned is part of the generous \$96,000 gift Ensign's parents decided to give the Hamptons.

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