

June 30, 2000, Friday, Final Edition

SECTION: A SECTION; Pg. A01

LENGTH: 1752 words

HEADLINE: Judges' Free Trips Go Unreported; U.S. Jurists Say They Forgot To Comply With Ethics Law

BYLINE: Joe Stephens , Washington Post Staff Writer

BODY:

Federal judges took more than a dozen expense-paid trips to seminars put on by conservative groups but failed to disclose the resort trips on their annual financial reports, as required by federal ethics laws, documents and interviews show.

The excursions, some of which lasted two weeks and cost thousands of dollars, were devoted to discussions of economics and the environment. But the privately financed sessions also offered judges time for golf and horseback riding at the island resort and historic Western retreats where they were held.

The judicial seminars have become controversial since The Washington Post reported on them two years ago. Some public interest groups have called for judges to turn down the trips, complaining that the sponsors accept funding from corporate foundations and conservative organizations that have an interest in federal litigation.

The judges who didn't report the trips said they weren't trying to hide them, they simply forgot to list the excursions when filling out their annual reports.

"It just slipped through," said Judge Michael Boudin of the 1st U.S. Circuit Court of Appeals in Boston. He failed to report that he took a two-week trip to Hilton Head Island, S.C., sponsored by the Law & Economics Center.

District Judge John S. Rhoades of San Diego attended two Law & Economics Center seminars but disclosed neither. "I goofed," he admitted. But the judge said he had no qualms about accepting such gifts.

"They're in nice places," Rhoades said of the seminars. "I learned a lot. Like, if you build a car and make it absolutely safe, can anybody afford to buy it? Stuff like that."

A review of seminar participation lists obtained by The Post shows at least 19 judges who did not publicly disclose attending the sessions. Although judges need not report every event they attend, federal law directs them to disclose any gift or expense reimbursement valued at \$ 250 or more.

The sponsors of the trips--the Law & Economics Center at George Mason University and a Montana nonprofit known as the Foundation for Research on Economics and the Environment (FREE)--acknowledged in interviews that they picked up travel, lodging, food and tuition expenses for virtually every participating judge.

Twelve of the nondisclosing judges confirmed in interviews that the sponsors paid their way to 14 seminars held at various resorts; three other judges acknowledged attending but said they could not remember who picked up the cost. Four judges did not respond to requests for clarification.

Ethics experts said they knew of no instance where a judge had been disciplined for not disclosing a trip.

As their financial disclosure forms have come under increased scrutiny in recent years, federal judges have balked at making them publicly available, as required by law. The judges have cited security concerns in arguing that the

Judges' Free Trips Go Unreported; U.S. Jurists Say They Forgot To C

forms--which contain no addresses or telephone numbers--should not be posted on the Internet. Last month, Chief Justice William H. Rehnquist announced that the judiciary may seek to amend the nation's disclosure laws.

"The problem is not that the judges are disclosing too much," complained Doug Kendall, who heads the Community Rights Counsel of Washington, a public interest law firm that provided lists of seminar participants to The Post. "Judges are omitting basic information."

After the first news reports about the seminars two years ago, the policymaking U.S. Judicial Conference reminded every judge of the disclosure law. "Judges who have accepted such trips and not reported them on their financial disclosure forms in past years should immediately file amended reports," warned a memo.

News reports and the warning prompted nine judges to belatedly amend their forms; at least three others did so within the last year. Others continued to ignore the warning.

As of January 1999--the last date for which reports were readily available--about one out of every nine judges on the seminar participation lists had failed to disclose taking part, Kendall said. Among them was Judge Richard W. Goldberg, one of several whose names appeared on the original warning sent to judges.

Goldberg, of the Court of International Trade in New York, at the time sat on the judiciary's disclosure committee. Goldberg acknowledged last week that he "probably" should have reported his 1992 trip to Tucson, paid for by the Law & Economics Center.

Judges who did report the gifts included few details. In fact, the office that receives the disclosure forms has advised judges not to list the dollar value of the trips.

In September 1996, records show, Judge Bruce Selya of the 1st U.S. Circuit Court of Appeals in Rhode Island wrote the judge who oversaw the disclosure office to offer thanks "for pointing out that the actual dollar amount of expense reimbursements is not required" on the reports.

A long-standing opinion issued by a Judicial Conference committee holds that judges must report the dollar value of all gifts, including those of tuition and other expenses associated with seminars. Kendall said his group scoured the disclosure reports of 34 judges who reported attending FREE seminars in 1998 and discovered only three listed a gift value.

A spokesman for the Administrative Office of the U.S. Courts said the office's position is that federal law requires public officials to disclose the value of "gifts" and not of "reimbursements."

Whatever the law, judges still should disclose the cost so the public can gauge the potential conflict of interest, argued Stephen Gillers, a legal ethicist at New York University. "Without it, the user of the information cannot know the generosity that the judge enjoyed," he said.

Some judges acknowledged in interviews that they took along their spouse or a child, but all said they paid for the additional expenses. Ralph B. Guy Jr. of the 6th Circuit Court of Appeals in Ann Arbor, Mich., said that between classes at a FREE seminar he enjoyed an afternoon of horseback riding. Then he and his wife remained in Montana for a few days after the seminar to soak up the rustic scenery.

"I know it's controversial, but I'm perfectly willing to admit I went," Guy said. "That should have been reported. It's an oversight on my part."

Seminar sponsors describe their programs as unbiased courses on the basic principles of economics and science. Most judges agreed, although a few described the sessions as emphasizing a corporate or conservative viewpoint.

The Law & Economics Center is offering six week-long institutes this year, covering topics that include "Real Science vs. Junk Science" and "The Assault on Scientific Truth." The center will spend about \$ 4,500 on each judge attending its programs, said program director Francis H. Buckley.

Private foundations cover most of the costs, he said, but he refused to identify them. The center's financial backers have included the Ford Motor Co. Fund, the Procter & Gamble Fund and the conservative Sarah Scaife Foundation.

The center says one-third of the current federal bench has attended its seminars, held at resorts in places such as Amelia Island and Marco Island in Florida. Participants have included Ruth Bader Ginsburg and Clarence Thomas (both attended before ascending to the Supreme Court) and 67 members of the federal Court of Appeals.

Judges' Free Trips Go Unreported; U.S. Jurists Say They Forgot To C

At FREE, the cost of housing and feeding each judge runs about \$ 180 a day, an official said. The group also pays for transportation, speakers' expenses and other costs.

FREE seminars have been held at a restored 1927 railroad hotel near Bozeman, Mont., and at Elkhorn Ranch, Mont., a traditional dude ranch outside Yellowstone National Park. A 1996 letter from FREE describes its seminars as focusing on "the role of property rights, incentives, and voluntary cooperation in achieving environmental goals."

The letter added: "Conference and travel expenses are paid and time is provided for cycling, fishing, golfing, hiking and horseback riding."

FREE has accepted funding from the Carthage Foundation, headed by conservative publisher Richard Mellon Scaife; foundations controlled by Charles and David Koch, conservative brothers who run an oil and gas company known as Koch Industries; and foundations associated with Amoco, Burlington Resources and Shell Oil.

FREE Chairman John A. Baden said money from those foundations was not spent on the seminars, a distinction that did not quiet critics.

"If judges need education, taxpayers should fund it," said Mike Casey, vice president of the Environmental Working Group of Washington, a watchdog organization. Casey described the trips as "influence peddling" on behalf of anti-environmental forces. If education is needed, Casey said, "Send them a book; send them a tape."

Tom Stagg, a district judge in Shreveport, La., dismissed complaints about propriety and said he was eager for a second stay at an island resort.

"The food was wonderful; the teachers were wonderful," Stagg said of his 1993 trip to Hilton Head for a Law & Economics Center seminar. "If somebody doesn't like it, I'm sorry."

No Disclosure

Following are federal judges who are named on lists of people attending seminars in resort locations. None of the judges listed the trip on his or her annual personal financial disclosure report for the relevant year.

* Judges referred to by state serve on the lower federal court in that state.

* Judges referred to by circuit serve on courts of appeals.

Judge Court

Marvin E. Aspen Illinois

Bobby Baldock* 10th Circuit

Peter Beer Louisiana

Stanley F. Birch Jr.** 11th Circuit

Michael Boudin 1st Circuit

James L. Buckley D.C. Circuit

B. Avant Edenfield* Georgia

Paul Gadola* Michigan

Edward J. Garcia California

Richard W. Goldberg International Trade

Judge Court

Ralph Guy Jr. 6th Circuit

Charles A. Legge** California

Boyce F. Martin Jr.** 6th circuit

Michael B. Mukasey New York

Graham C. Mullen North Carolina

Judges' Free Trips Go Unreported; U.S. Jurists Say They Forgot To C

John S. Rhoades California

G. Kendall Sharp* Florida

Tom Stagg Louisiana

Anne E. Thompson New Jersey

* Did not return phone calls from The Post.

** Cannot remember who paid for the trip.

SOURCES: Law & Economics Center, Foundation for Research on Economics and the Environment.

GRAPHIC: Chart, The Washington Post

LOAD-DATE: June 30, 2000