



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: OFFICE OF THE INDIANA GOVERNOR
TITLE: FINANACIAL DISCLOSURE STATEMENT
CASE ID: 2019-04-0104
DATE: August 5, 2019

Inspector General Lori Torres, after an investigation by Inspector General Special Agent Mike Lepper, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in executive branch agencies of state government. Ind. Code §4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics (Code)¹ violations within state government. Ind. Code §4-2-7-3. The OIG may recommend policies and carry out other activities to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. IC 4-2-7-3(2).

Complaint and Background

On April 12, 2019, the OIG received a complaint alleging that Governor Eric Holcomb or First Lady Janet Holcomb accepted a gift in violation of the Code. The individual who submitted the complaint (the Reporting Party²) referenced a March 28, 2019 article in the *Indianapolis Star (Star)* reporting that in July and November of 2018, Spectacle Entertainment

¹ The Indiana Code of Ethics can be found in Ind. Code 4-2-6 and 42 IAC 1.

² The OIG maintains the confidentiality of the identity of all reporting parties. Pursuant to Ind. Code § 4-2-7-8, the OIG may disclose the identity of the reporting party only if “(1) the inspector general makes a written determination that it is in the public interest to disclose the individual’s identity; or (2) the individual consents in writing to disclosure of the individual’s identity.”

LLC (Spectacle) provided free travel to the Governor and First Lady in a private plane. The complaint noted that the Governor did not disclose the gift on his 2018 Financial Disclosure Statement. The complaint also raised concerns that the flight “included, and apparently required, uninterrupted access to the Governor by those seeking to lobby the State for changes in Indiana’s gaming laws.”

The OIG carefully examined the Code of Ethics and criminal code to determine if any rules within the OIG’s jurisdiction³ were relevant to the complaint. The Code includes a gift rule, which is found in 42 IAC 1-5-1⁴. The gift rule prohibits a state employee, special state appointee or his or her spouse or unemancipated child from knowingly soliciting, accepting or receiving any gift, including travel expenses, from a person who has a business relationship with the employee or special state appointee’s agency or from someone who is seeking to influence an action by the employee or special state appointee in his or her official capacity. The gift rule does not apply to state officers, such as the Governor, or their family members⁵; therefore, the OIG did not investigate the complaint under the gift rule.

The OIG also reviewed other provisions in the Code and criminal code, such as the conflicts of interests rules and confidentiality rules. Unlike the gift rule, most of these provisions apply to state officers; however, none of these rules, with the exception of the financial disclosure statement statute discussed below, applied to the allegations in the Reporting Party’s

³ Special Agent Lepper learned that a complaint was also filed with the Indiana Election Division regarding compliance with Indiana’s election laws. The OIG does not have jurisdiction over these allegations and was not involved in investigating them; however, the OIG obtained copies of the filings in the Election Division case for additional background.

⁴ The gift rule was promulgated in 2005. Although it has been readopted twice since its original adoption, the gift rule has not been amended.

⁵ Prior to 2005, the gift rule, which was found in 40 IAC 2-1-6, only applied to state employees. Executive Order 04-8 also included a prohibition on accepting gifts that only applied to state employees. In 2005, the prohibition in 40 IAC 2-1-6 was extended to special state appointees. At no time has a state statute or rule prohibited state officers from accepting gifts, likely due to the practical difficulties such a prohibition would create.

complaint. For example, none of the Code’s rules or criminal statutes prohibit a lobbying group or any other type of group from having “uninterrupted access” to a publicly elected official.

Ind. Code §4-2-6-8, the financial disclosure statement statute, requires certain individuals, including the Governor, to file a Financial Disclosure Statement with the Inspector General. Ind. Code §4-2-6-8(c)(1) requires filers to disclose “[t]he name and address of any person known: (A) to have a business relationship with the agency of the state officer . . . ; and (B) from whom the state officer . . . or that individual’s spouse . . . received a gift or gifts having a total fair market value in excess of one hundred dollars (\$100).”

Ind. Code § 4-2-6-1(5) defines “business relationship” as follows:

- (A) Dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:
 - (i) a pecuniary interest in a contract or purchase with the agency; or
 - (ii) a license or permit requiring the exercise of judgment or discretion by the agency.
- (B) The relationship a lobbyist has with an agency.
- (C) The relationship an unregistered lobbyist has with an agency.

The financial disclosure statement statute falls within the OIG’s jurisdiction and applies to state officers, such as the Governor. Thus, the OIG opened an investigation into the Reporting Party’s allegation that the Governor failed to disclose information required by the financial disclosure statement statute.

Investigation

Special Agent Lepper began the investigation by reviewing the media accounts related to the complaint and contacting the Reporting Party. The Reporting Party told Special Agent Lepper that he or she did not have any additional information to add to the written complaint. Special Agent Lepper also contacted Kyle Hupfer, the Treasurer for Eric Holcomb for Indiana⁶.

⁶ Governor Holcomb’s campaign is run by Eric Holcomb for Indiana and is supported by Team Holcomb, a Political Action Committee.

Hupfer had authored a memo, which the *Star* included as a link in its March 28, 2019 article, responding to the allegations reported by the *Star*. Hupfer provided some initial information for the investigation, including contact information for the Republican Governors Association (RGA). The RGA describes itself on its website as a political organization with “one primary objective: electing and supporting Republican governors.”

Through the course of the investigation, Special Agent Lepper requested and received information and documentation from the following entities: the RGA; the Office of the Indiana Governor (Governor’s Office); and Eric Holcomb for Indiana, Team Holcomb and the Indiana Republican Party (the Campaign)⁷.

Special Agent Lepper confirmed that the Governor and First Lady flew to two RGA quarterly meetings in July and November of 2018. The Governor and First Lady flew to Aspen, Colorado on July 22, 2018, and departed Aspen on July 25, 2018. They flew to Scottsdale, Arizona on November 27, 2018, and departed Scottsdale on November 29, 2018.

The RGA explained that they hold quarterly meetings for their donors to discuss current events and the political environment. The RGA provided Special Agent Lepper copies of the agendas for both the July and November 2018 meetings. Along with various receptions and dinners, both meetings included policy sessions. For example, the July meeting included sessions on “Tourism in the States: An Economic Powerhouse” and “Polling and Messaging”, and the November meeting included sessions on “Executives and the Judiciary” and “New Governors.”

The Campaign stated that as a member of the RGA, Governor Holcomb is expected to assist the RGA with its mission and to meet with RGA donors. The Campaign explained that the

⁷ Eric Holcomb for Indiana, Team Holcomb and the Indiana Republican Party provided one response through their attorney to Special Agent Lepper’s inquiries.

Governor sits on the RGA's Executive Committee; therefore, he is part of the RGA's leadership and participates in setting goals and policies for the RGA. The Campaign stated that the Governor attended the Aspen meeting as a member of the RGA's Executive Committee and participated in several Executive Committee sessions during the course of the Aspen meeting. The Campaign stated that he similarly attended the Scottsdale meeting as a member of the RGA's Executive Committee and was elected as the RGA's Policy Chairman during the Scottsdale meeting.

The Governor's Office stated that the Governor's role at both of the RGA meetings was to speak on various panels with other governors and attend meetings with RGA members. The Governor's Office confirmed that the Governor attended the RGA Executive Committee meetings with other governors in both Aspen and Scottsdale. They also stated that he attended and participated in various other sessions, meetings and dinners.

The RGA stated that they commonly help facilitate travel arrangements for their governors to attend RGA events, whether by private aircraft, charter flight, commercial flight or a combination of these modes of travel. They explained that the RGA will offer to pay for a governor's travel to a RGA event and will defer to the governor as to the means of travel that best suits his or her schedule and travel needs. The RGA also explained that they often connect a donor willing to provide travel to the governor needing travel. They do not place any restrictions on who donors may or may not choose to invite to travel with them to RGA events. The RGA stated that the staff member who coordinated the Governor's travel for the July and November 2018 meetings no longer works for the RGA so they did not have specific information regarding how the Governor's travel was arranged for those meetings.

The Governor's Office provided the names of individuals within the Governor's Office,

the Office of the First Lady and the Indiana State Police who were involved in coordinating the Governor's, the First Lady's and the security detail's schedules for the two trips⁸. The Governor's Office explained that they received the information regarding the itineraries for both of these trips from a staff member of the Campaign. They also provided copies of emails regarding scheduling and travel plans for these trips. The Governor's Office stated that they did not have information regarding who paid for the flights.

The RGA explained that the flights were donated to the RGA as in-kind contributions⁹. The RGA explained that IRS rules¹⁰ require them to properly capture and report all in-kind contributions made to the RGA for any in-kind flight that is utilized to benefit the RGA. The RGA reported that they received an in-kind donation in the amount of \$21,486.15 from Centaur Gaming¹¹ (Centaur) for the Governor's Aspen flight and received an in-kind donation in the amount of \$33,961.95 from Spectacle for the Governor's Scottsdale flight. The RGA provided Special Agent Lepper with the RGA's IRS Form 8872 for the third quarter of 2018 and an amended IRS Form 8872 for part of the fourth quarter of 2018, which disclosed the in-kind contributions for the Aspen and Scottsdale flights respectively.

The RGA stated that the "the purpose of the Governor's travel was to benefit the RGA, and therefore the in-kind contribution in the amount of the travel was properly made to the RGA." The Campaign similarly stated that "the flights worked to the benefit of the RGA: that is

⁸ Ind. Code 4-2-7-5 (c) provides the following:

A state officer or an individual designated by the state officer may use state materials, funds, property, personnel, facilities, or equipment for the following:

(1) To coordinate the state officer's official, personal, and political calendars.

(2) To provide transportation and security for:

(A) the state officer; and

(B) any employee or special state appointee who accompanies the state officer.

⁹ In-kind contributions are gifts of goods or services, rather than cash gifts.

¹⁰ The OIG does not have jurisdiction over compliance with IRS rules.

¹¹ RGA noted that Centaur Gaming was reflected as New Centaur LLC on the RGA's IRS Form 8872 for this flight.

why the RGA expended the flights to transport Governor Holcomb to RGA events, and that is why the RGA reported the flights, under penalty of perjury, as in-kind donations to the RGA.”

Special Agent Lepper also inquired as to whether the Governor or the Governor’s Office paid dues to become a member of the RGA. The RGA explained that the governors do not pay any dues or incur any other costs to become or remain members of the RGA. The Governor’s Office also stated that neither the Governor nor his office pay dues as a member of the RGA. Special Agent Lepper also learned that the RGA does not have a pecuniary interest in a contract or purchase with the Governor’s office or a license or permit with the State of Indiana.

Conclusion

The OIG found that the Governor received the flights to Aspen and Scottsdale through the RGA. The Governor’s Office coordinated the travel primarily through the Campaign staff. The OIG found no evidence that the Governor’s Office worked directly with Spectacle or Centaur to arrange the flights. Moreover, according to the RGA’s IRS filings, Spectacle and Centaur provided the flights to the RGA as in-kind contributions. As a result, it appears the Governor accepted the flights from the RGA and not from Spectacle or Centaur.

Furthermore, the OIG found that both the RGA and the Campaign believed the flights primarily benefitted the RGA rather than the Governor or First Lady. Although it is likely that the Governor’s attendance at the RGA meetings, and therefore the flights, had some benefit to the Governor and/or First Lady, the OIG found no evidence to dispute the claim that the flights primarily benefitted the RGA. In addition, the RGA stated that they often offer to pay for travel for governors to attend their meetings. This further supports the idea that the flights were gifts to the RGA and not to the Governor or First Lady.

The OIG also looked at whether the RGA has a “business relationship” with the Governor’s Office as defined by the Code. The RGA does not have a financial interest in a contract or purchase with the Governor’s Office, including receiving any membership fees, and it does not receive any licenses or permits from the State. Furthermore, the RGA is not registered as an executive branch lobbyist with the State. Although the term “unregistered lobbyist” is not defined by the Code, the RGA’s mission is to elect and support Republican governors, not to advocate a specific agenda to a specific Governor; therefore, it seems unlikely that the RGA has “the relationship an unregistered lobbyist” has with the Governor’s Office. As a result, the OIG determined that the RGA does not have a business relationship with the Governor’s Office as defined by the Code.

Based on the investigation, the OIG found that neither the Governor nor the First Lady accepted the flights to the RGA events as gifts from an entity or entities with a business relationship with the Governor’s Office. As a result, Special Agent Lepper found insufficient evidence to support an allegation that the Governor failed to disclose information required on his Financial Disclosure Statement with regards to the flights. As such, the OIG is closing this case for insufficient cause.

Dated: August 5, 2019

APPROVED BY:



Lori Torres, Inspector General