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Weekly Lobbying Articles
October 5, 2017

St. Louis Post-Dispatch
October 4, 2017

Missouri mega-donor targeted in ethics complaint

http://www.stltoday.com/news/local/govt-and-politics/missouri-mega-donor-targeted-in-ethics-complaint/article_ef81499f-4178-59cb-9888-110277a2b4f5.html

A Democratic state lawmaker is calling on Missouri ethics regulators to levy fines totaling $320,000 against a major Republican campaign donor.

In a complaint drafted Sept. 29, Rep. Mark Ellebracht of Liberty said Joplin roofing company magnate David Humphreys employed a lobbyist for the past two years who was not registered with the Missouri Ethics Commission.

The lobbyist, Paul Mouton, earlier admitted to the commission that he worked for Humphreys and discussed proposed legislation with state lawmakers and their staff members during the 2016 and 2017 legislative sessions.

Mouton was fined $2,000 for not registering but will only have to pay $200 if he does not violate state lobbying laws within the next two years.

Based on records showing Mouton used a parking space in the Capitol garage 32 times, Ellebracht said Humphreys should be fined the maximum of $10,000 for each instance for a total of $320,000. Use of the parking space reserved for Senate President Pro Tem Ron Richard, R-Joplin, was first reported by the Kansas City Star.

“Given Humphreys’ blatant disregard for the law and the state’s interest in transparency of those influencing our state’s elected officials, the Missouri Ethics Commission should pursue an action against David Humphreys for all 32 of his recorded violations,” Ellebracht wrote in a letter to the ethics commission.

The complaint is the latest accusation levied against Mouton and Humphreys, after the owner of TAMKO Building Products and his relatives poured $14 million in campaign donations to GOP candidates during the 2016 election cycle.

Last month, a government watchdog group called on Cole County Prosecutor Mark Richardson to investigate Mouton for violations of state ethics violations.

The organization, Campaign for Accountability, called the fine a slap on the wrist for a “flagrant violation of state law.”

Ellebracht has been critical of the relationship between Richard and Humphreys after the Senate leader sponsored pro-business legislation that could benefit TAMKO and then later received a $100,000 contribution from Humphreys.

The measure, which did not advance, was seen by opponents as an example of pay-to-play politics. It would have limited the ability for people to sue companies for deceptive business practices. It came as TAMKO was embroiled in a lawsuit alleging it sold defective roofing shingles.

In the complaint, a memo from Senate administrators confirmed that Mouton had reserved Richard's parking spot 32 times, but said the senator's staff, not Richard, requested the perk. It further noted that Richard met with Mouton in his Capitol office only once during that period.

In a statement Wednesday, Humphreys' spokesman Ken Spain downplayed the complaint.

"David Humphreys has chosen to support causes and policies that he strongly believes in. Unfortunately, those who disagree with him have decided to engage in personal attacks to further their own political agenda."

Seattle Weekly
October 3, 2017

"Honest Elections" Rules on Political Money Makes Waves in Mayors' Race

http://www.seattleweekly.com/news/honest-elections-rules-on-political-money-make-waves-in-mayors-race/

The Honest Elections ballot initiative that Seattle voters passed in 2015 is making waves in the 2017 mayor's race, even though mayoral candidates can't participate in the most notable part of the initiative—Democracy Vouchers, publicly-funded coupons that voters can donate to candidates of their choice.

That's because Honest Elections also placed harsher limits on who can donate to candidates, and how. On Tuesday, The Seattle Times reported that mayoral candidate Jenny Durkan accepted donations "from two companies that have recieved more than $250,000 in payments from the city in roughly the past two years"—Ash Grove Cement and Microsoft. While the contributions were relatively small, at least one and possibly both were prohibited by the new campaign finance rules created via Honest Elections—"possibly," because the city doesn't yet have a definitive list of its major contractors. Throughout her camapaign, Durkan has been criticized as too cozy with business and establishment interests.

On Monday, before news of the contributions broke, the architects of Honest Elections filed a complaint with the Seattle Ethics and Elections Commission against Durkan over the contributions. Estevan Munoz-Howard, Crystal Lee-Anguay Reed, and Rory O'Sullivan wrote in a letter to SEEC director Wayne Barnett that "as members of the original committee that helped develop the initiative known as Honest Elections Seattle…we are disappointed to see these violations of the law."

The letter alleges that Durkan accepted money from not only city contractors but also from "regulated corporations/industries that hire lobbyists" via those corporations' owners: Clise Properties owner Alfred Clise and from City Investors LLC owner Paul Allen. Durkan also took money from Washington Hospitality's PAC, Seattle Hospitality for Progress, which pays lobbyists at city hall.

Moon took money from two executives, but not owners, at two environmental firms contracted by the city.

The Durkan campaign responded to request for an interview with a written statement by spokesperson Stephanie Formas that read in part, “Jenny strongly supports the state and Seattle campaign finance laws…The campaign has devoted resources to compliance and is committed to complying fully with Seattle’s strong campaign finance and disclosure laws. As a first time candidate, Jenny has received overwhelming grassroots support from volunteers as well as more than 3,050 supporters.” According to the Durkan campaign, they immediately returned the two illegal donations when they found out about them.

Moon campaign spokesperson Heather Weiner says that as a lawyer, Durkan should have known better. “I’m sure she would not have accepted the word ‘oversight’ or ‘mistake’ from some of the people she prosecuted,” Weiner said. “Many will point out that when they’re onstage, it sounds like they’re saying a lot of the same things, and that’s true, and that’s been very interesting to watch, but when it comes to ethics and integrity, Cary … has said, ‘I will not take corporate contributions, period,’ and she hasn’t.” Consequently, Weiner says, the Moon campaign doesn’t need to finely cull illicit donations from licit ones. So far, the Moon campaign has raised almost $200,000; about half of that is her own money.

Since she announced her candidacy, Durkan has struggled to prove her progressive bona fides in light of strong financial support from entrenched business interests. For example, at a Candidate Jeopardy forum orchestrated in June by Seattle Weekly and others, Durkan drew hisses from the crowd regarding her fundraising after she responded to a question about whether she’d received contributions from corporations or developers by saying, “Corporations? I don’t know. I don’t look at the list.”

The Hill
October 3, 2017

Google critic takes on tech giants

http://thehill.com/policy/technology/353526-google-critic-takes-on-tech-giants

Barry Lynn has been pushing the government to crack down on corporate power for 16 years, but his ideas never received as much attention as when they cost him his job at a Google-sponsored think tank.

After parting ways with New America over the summer, Lynn has launched a new independent group to raise awareness about the threats posed by corporate giants.

Lawmakers are increasingly willing to confront tech leaders on a growing list of issues, and Lynn’s transition comes as authorities are investigating whether Russians used Google, Facebook and Twitter to sow division during last year’s election.

“I think people are understanding just how poorly structured these institutions are, how sloppily they were built,” Lynn tells The Hill. “It’s not just a matter of the fact that these people have too much power, it’s also that they are sloppy in the use of their power.”

Lynn’s argument found the spotlight in August, when The New York Times reported that he and his Open Markets team had been ousted from New America after clashing with Anne-Marie Slaughter, the think tank’s president. Slaughter was angry about a statement Lynn had issued praising the European Union’s decision to hit Google with a record $2.83 billion fine for antitrust violations.

According to the Times, Google, one of the think tank's biggest funders, had complained to Slaughter about the statement, leading to her firing Lynn and his team of scholars. Slaughter has disputed the Times story, insisting that the decision to part ways with Open Markets had nothing to do with Google.

"New America chose to part ways with Mr. Lynn because he couldn't work with his colleagues in respectful, honest and cooperative manner," a spokesperson said in a statement to The Hill. "New America is a growing, dynamic and diverse organization of over 200 staff and fellows who work on a wide variety of important issues. Just 12 percent of our funding comes from corporate sources, and at no time would any funder be allowed to dictate the intellectual beliefs of our organization."

Google has also denied trying to get Lynn fired.

Still, the episode has given new momentum to Lynn's view that the power held by tech giants constitutes a threat to Americans' political and economic liberty. These companies have effectively taken control of the ways in which people communicate, Lynn argues, without any real checks on their power.

"Perhaps the most pressing thing of all is that Google, Facebook and to certain degrees also Amazon have captured the flow of information and ideas between citizen and citizen," Lynn said.

"Our ability to communicate freely with one another in this country, which is the primary basis for being able to protect our democracy, is now threatened in very real ways today," he added. "This is not a theoretical threat; this is a threat that exists today."

In a shared office space a block away from the White House, Lynn spoke with The Hill about the new independent think tank he's launched, called the Open Markets Institute, and the group's mission to change how the country thinks about competition policy.

Lynn and his team of scholars have been arguing that the approach to antitrust enforcement in vogue for decades has led to massive corporate consolidation, which in turn is responsible for corrupting the nation's politics, increasing wealth inequality and stifling innovation fostered by genuine competition.

Since the 1980s, antitrust policy in the U.S. has largely drawn from what's known as the Chicago School, which holds that competition regulators should focus on how consumers are impacted by issues like pricing when deciding whether to take action against a company. The new antitrust movement argues that framework is too narrow and that regulators also need to take into account a company's effects on its competition.

Before antitrust policy became the focus of his career, Lynn covered the rise of globalization as a journalist. In 1984, he began working for wire services covering political crises in Peru and Venezuela. He later edited the magazine Global Business, and it was there that he began studying the effects of corporate consolidation.

The turning point came in 1999, after a devastating earthquake in Taiwan killed 2,400 people. What surprised Lynn was that the earthquake also took a toll on the American economy. The burgeoning tech industry at the time had been relying on Taiwan for imported computer components to the extent that U.S. factories were forced to shut down days after the earthquake hit.

That a single event in a faraway country could have such severe ripple effects domestically made Lynn wonder why the system was set up in a way that exposed it to such risks.

"So I just became fascinated with this event, understanding this event and what it meant and how we got a point of putting all of our eggs in one basket," he said. "Did people in the White House understand this? Did people in [the Defense Department] understand this? Did people in Treasury understand this?"

The focus on concentration led him to study antitrust policy, and in 2001 he took a fellowship with New America to focus on the issue. In 2010, he began expanding the Open Markets team and taking on the role of an editor, overseeing its efforts to raise awareness about corporate concentration through investigative journalism, historical analysis and research. Lynn says the independent Open Markets team will be run much the same way, spurning the traditional think tank model.

Many Washington think tanks are staffed by policy analysts who are in between government jobs, and Lynn says that they spend much of their time at those institutions learning how to write in a way that helps them sell their ideas to a larger audience.

"When New America was created, the idea was to flip that on its head and bring in really smart young reporters and editors and thinkers and academics — people who already know how to write, know how to tell stories — and get them to see themselves as policy people," he said. "They have an idea, and they're not ashamed about pushing an idea out."

Lynn thinks that building a staff around those principles will be his biggest challenge as he works to get the organization off the ground. He said that he and his team have no use for economists because "anyone who was trained in an economics program has been trained in the wrong way to work with us."

Open Markets has eight people on staff, counting Lynn. They include Matt Stoller, a researcher and former congressional aide, and Lina Khan, who as a law student at Yale University unsettled the tech world with a paper advocating antitrust action against Amazon earlier this year. Heading up the group's advocacy efforts is Sarah Miller, a veteran Democratic staffer who's worked for John Podesta, Hillary Clinton and the Treasury Department.

Lynn and his team have been encouraged by the reception they've gotten from lawmakers, even if the Trump administration hasn't shown much interest in their work. Lynn said that given the "chaos" in the White House, their best hope for their ideas to catch on is to partner with members of Congress, grass roots organizations and state attorneys general.

And though the acrimonious break with New America has undoubtedly boosted his new organization's profile, Lynn says he's not interested in rehashing the controversy and said he has nothing but the "greatest respect" for Slaughter.

"This is a huge problem in America," he said, "and we are just completely overwhelmed by the interest in our work from people on the Hill, from people in academia, from people in Europe, from people in the press. That's what we're focusing on. We're not looking back."

The Hill
October 2, 2017

As CEOs engage in politics, regulators keep watchful eye

http://thehill.com/opinion/campaign/353455-as-ceos-engage-in-politics-regulators-keep-watchful-eye

In recent months, American CEOs have spoken out on social and political issues like never before, placing the businesses squarely within the national debate. Much of the newfound resolve among executives to engage in the cultural disputes of the day is a result of the pressures that CEOs feel from employees and customers to communicate a message of social and moral responsibility on behalf of the company.

As CEOs speak out, federal and state regulators remain permitted to police the bounds of a wide range of corporate political activity. The pressure that the 24-hour news cycle places on companies to respond immediately to developing events puts business leaders at risk of acting without realizing that their statements approach the line of regulated, or prohibited, corporate political activity. Most activities that executives have engaged in to date, such as stepping down from advisory councils, signing public letters urging administrative action, or publicly supporting rights of employees to peaceably protest, do not cross the line into the morass of ethics laws that govern corporate political activity.

The First Amendment ensures a certain amount of leeway for executives and others to criticize or support the statements of elected officials, speak out on social issues, and engage with employees and customers to communicate their company's social or political values. In many cases, these protections apply whether the CEO is speaking out personally or in their role as a company leader. As some executives have recently learned, however, regulation of their social and political activities still exists.

Speaking out on policy and social issues

Corporations have long pursued political objectives as a means of helping achieve their business goals. They hire consultants to speak out on legislation, they host elected officials at company events, and they form political action committees (PACs) to make contributions to candidates. Today, the dual pressures to have a voice on social values and do so in a visible manner add complexity to these longstanding practices. When CEOs act as the voice of the company on political matters, regulation can step in.

While all jurisdictions permit companies to attempt to influence government officials, many regulators require companies to register their lobbyists and disclose information about their lobbying activity. The challenge for CEOs who may speak out in a way that meets the legal definition of "lobbying" is that these disclosure rules vary widely across jurisdictions. While traditional influence campaigns directed as swaying legislation or regulations count as lobbying, some jurisdictions regulate any attempt to obtain an official's "goodwill" as lobbying. CEOs who speak out on social issues on behalf of the company without understanding where the state draws these regulatory lines risk both legal penalties and public relations crises.

Under the federal Lobbying Disclosure Act, for example, a CEO wouldn't be required to register as a lobbyist unless he or she spends 20 percent of his or her time engaged in federal lobbying activities and makes two lobbying contacts. This is a threshold that executives may not meet. As recent cases demonstrate, however, executives who communicate with local officials could unwittingly put their companies at risk of fines and reputational harm starting with their very first lobbying communication. The Chicago Tribune recently uncovered alleged lobbying communications by a dozen executives who did not register as lobbyist, spurring a flurry of investigations by the Chicago Board of Ethics into possible violations of the city's lobbying ordinance.

Looking ahead to the 2018 and 2020 elections

If corporate America's recent willingness to speak out on social issues is any indication, we can expect to see CEOs endorsing candidates and engaging in election-related conversations as the next election cycles approach. Most companies encourage their executives and team members to participate in the political process in a personal capacity. Corporate executives, like other citizens, have the right to make political contributions, bundle contributions for a campaign, or host fundraising events.

However, there is much less leeway when CEOs act on behalf of their company rather than in their personal capacities, or when CEOs attempt to use company resources for political purposes. A corporation's office space, computer equipment and contact lists are all corporate resources that federal (and many state) laws prohibit from being used in furtherance of personal political activity. This ban extends to directing staff to assist in political activities. Use of these resources must be paid for, often in advance, by the candidate's campaign. President Trump has already filed his statement of candidacy for 2020, an early indication of the urgency with which the coming election season is approaching. In the flurry of the campaign, executives must be careful not to marshal corporate resources when engaging in political activities.

Savvier CEOs will know to leverage the legal exceptions that allow a corporation limited ability to speak its political mind. If certain conditions are met, the law permits corporations and their executives to support a corporate PAC, send campaign messages to a restricted class of executive and administrative employees, host fundraising events on corporate premises, engage employees in voter registration campaigns, and even publicly endorse candidates. Engaging in these election-related activities with knowledge of applicable rules, which vary across states and localities, can provide CEOs a powerful outlet to convey the social and political values of their companies within the bounds of the law.

Being smart about building goodwill

One tool available to CEOs to set the tone for social and political discussion inside the company is to issue a political activities policy as part of the company's code of conduct. This will offer some assurance that all executives and team members are operating from the same playbook as they engage in political activities. The CEOs who will most successfully navigate our new era of corporate political engagement will be those who signal to team members that their personal political activity is supported and encouraged, but also set limits on engaging in such activities in a way that places the company at risk of being taken off message by having to respond to an ethical inquiry.

ctpost
October 1, 2017

Connecticut's public campaign financing spared – for now

http://www.ctpost.com/local/article/Connecticut-s-public-campaign-financing-spared-12243424.php

Scores of Connecticut politicians reliant on public campaign financing got a stay of execution when Gov. Dannel P. Malloy vetoed the Republican budget last week, but some are still making contingency plans during the ongoing impasse over the state's $3.6 billion deficit.

The fluid nature of the negotiations, which are entering their fourth month, has cast uncertainty over the state's decade-old clean-elections program.

The GOP's budget fix called for raiding $35 million from the Citizens' Election Fund for 2018, creating potential upheaval for state office hopefuls who have spent as much as a year raising qualifying contributions for public aid.

A record number of candidates up and down the ballot are on pace to qualify for funds, including more than half a dozen gubernatorial hopefuls, who must each raise a total of $250,000 from at least 2,500 individual donors. That would unlock $1.4 million for the primary and $6.5 million for each party's nominee in the general election.

A hallmark of the program is the $100 cap on individual contributions to curb the influence of special interests.

"We've already put in place a preliminary contingency plan in the event that the Citizens' Election Program is eliminated," said Tim Herbst, the Republican first selectman of Trumbull and candidate for governor. "I think it's to recognize those people who wanted to give more than $100, but couldn't and go back and ask for more."

Toward ending abuses

Jolted by a pay-to-play scandal that led to the resignation and imprisonment of Gov. John G. Rowland, the state created the program to wean candidates off special-interest money and free them from the time required for fundraising. The program's popularity has been on the rise, with $33.4 million awarded to 287 candidates for statewide office and the Legislature in 2014. Nearly half of that total — $15.8 million — was spent on the governor's race.

Democrats almost universally howled when the Republican caucus leaders in the House (Themis Klarides) and Senate (Len Fasano) targeted the public campaign finance system for cuts. Among them is Chris Mattei, who led the prosecution of Rowland and is exploring a run for governor.

"Frankly, if the program was not in effect, people like me just wouldn't be able to run," said Mattei, who is from Hartford.

Elona Vaisnys, founder of CEProud, a League of Women Voters of Connecticut initiative to protect clean elections, said the investment is one worth making.

"It's so basic to get special interest money out of elections," said Vaisnys, who is from North Haven. "I'm hoping that CEP, it'll be one of the negotiable parts of the budget that the Republicans will be convinced to keep for us."

GOP leaders are warning of a $10 million shortfall in the program for 2018, however. Until now, the program has relied on proceeds from the sale of abandoned property and unclaimed bottle deposits to cover its cost.

Klarides said Republicans are open to compromise on suspending the program, but will try to override Malloy's veto when legislators reconvene Oct. 10. Despite being a recipient of public funds herself in past elections, Klarides said the state simply doesn't have the money to pay for campaign swag such as bumper stickers and water bottles, not at the expense of funding the social safety net.

"We still maintain that our budget is the best thing for the state of Connecticut, and we are pushing for the override," said Klarides, who is weighing a run for governor.

There is at least one Democrat who seemingly stands to benefit if lawmakers suspend the program: Bridgeport Mayor Joe Ganim.

Exploring a run for governor, the mayor of the state's largest city has been ruled ineligible for public funds by the state Elections Enforcement Commission because of his conviction for public corruption during his first stint at City Hall. Ganim is suing the commission, arguing that his exclusion is unconstitutional and tilts the playing field toward other gubernatorial contenders.

"You really can't have a fair election for voters or even a fair primary if you have one candidate getting $8 million and another candidate getting zero dollars," Ganim said. "I'm a very real and credible candidate in the democratic process garnering support around the state."

Not counting in the money

Known for his fundraising chops, Ganim isn't rooting for the demise of the program.

"I certainly support and laud the goals of the program that's been put in place," he said.

But Liz Kurantowicz, a former chief of staff for the Connecticut GOP and political consultant from Fairfield, said it would be unwise for candidates to assume the public money will be there.

"The thing about a campaign is you have to be nimble and capable of handling, whatever the circumstances throw at you," she said. Kurantowicz served as finance director during the 2006 governor’s race for Republican incumbent M. Jodi Rell, who was elected to her first full term after taking over for Rowland in 2004.

“Governor Rell announced her candidacy ... about 10 months before the 2006 election and she raised $4.1 million, with no primary contributions, and without accepting donations from lobbyists, state contractors or prospective state contractors,” Kurantowicz said. “So clearly it can be done.”

Herbst, who has raised about $200,000, said his campaign is prepared to recast its net for contributions outside Connecticut if the program is suspended. The current cap on out-of-state money is $25,000.

“I cannot blame Senator Fasano and Representative Klarides for putting this on the table,” Herbst said. “If I were in their position, I probably would have done the same thing.”

But Herbst said lawmakers should take into account how far along so many candidates on both sides of the aisle are in trying to qualify.

“So what I would recommend is, if they’re going to put it back on the chopping block, that they examine a plan to phase it out after the 2018 cycle,” Herbst said.