

Boggs sees nothing wrong in FREE(bie) trips, but Congress may

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The question of junkets for judges, provided by the Foundation for Research on Economics and the Environment, or FREE, is back in the news, and that could be bad news for our own Danny Boggs, chief judge of the U.S. 6th Circuit Court of Appeals.

Boggs has been a special target of the reformist Community Rights Counsel (CRC), for taking trips and for remaining on the board of FREE even after other federal judges resigned.

Back in 2006 the Judicial Conference, which makes policy for our federal judiciary, "moved to defuse" bipartisan congressional criticism by "announcing that judges may not accept expense-paid trips to privately funded seminars unless the sponsors first disclose their donors."

Last week, Congress began to take an additional step. ABC News reported, "Federal judges who receive all-expense paid trips and lavish gifts from activist groups may soon find their ability to participate in such trips, which some call junkets, limited. A proposed new amendment (to a judicial pay bill) requires judges to pay their own way in many cases and sets a monetary limit on the amount of gifts judges can accept. Often called fact-finding missions or educational seminars, critics say many of these trips are little more than judicial junkets which often cause serious conflicts of interest."

Doug Kendall, the executive director of the CRC, a public interest law firm, explained, "They take judges to Western resorts and they instruct them how and why to strike down environmental laws." He charged, "This is an issue of fundamental fairness. We file briefs. Meanwhile, our opponents are flying judges to resorts and dissecting our arguments while fly-fishing with the judges in Yellowstone National Park."

The proposed new rules, added to a judicial pay raise bill, set limits. A judge would not be allowed to accept more than \$2,000 in reimbursement for a single trip and no more than \$20,000 in travel reimbursements or gifts in a single year.

The filing of this amendment came shortly after a skirmish in which CRC asked for the release of an ethics opinion concerning judicial trips, which the organization says "has been kept secret by the judiciary, even as two prominent federal judges (one of them Boggs) continued to serve on the board of directors of junket provider FREE."

When I shared the FREE complaint with Boggs, he e-mailed a reply - "In response to press inquiries concerning an opinion allegedly furnished by a Judicial Conference Committee to a federal district judge in another circuit, Chief Judge Boggs indicated that he is unaware of the contents or existence of that opinion. All matters concerning an ethics complaint directed against him on an apparently related basis were dealt with pursuant to judicial complaint procedures and dismissed in an opinion that is publicly available."

In asking for release of this "heretofore secret 2005 opinion finding that it is not appropriate for judges to serve on FREE's Board," the CRC's Kendall said that "the judiciary has managed to keep this ruling about the propriety of sitting on FREE's board secret for over two years, even as a prominent federal judge (Boggs) stayed on the board and one more joined. This silence is troubling and unjustifiable. Junkets have been an ethical blot on the reputation of the judiciary for years. Over the past decade, CRC has methodically documented thousands of junkets taken by hundreds of federal judges and the conflicts of interest that can accompany these expense-paid trips. These trips have been condemned by judicial ethics experts, members of Congress, distinguished current and former judges and the editorial boards of more than 50 major newspapers."

Last week, The Associated Press revealed that U.S. District Judge Andre Davis of Baltimore resigned from the FREE board in 2005 after a judicial ethics panel *recommended* he quit. The AP report added, "Two other judges remain on the board (one of them Boggs), either unaware of the ethics advice or unconcerned by it," while Davis now says he left the FREE board soon after he received a private opinion from the judiciary's Codes of Conduct Committee. The panel concluded, Davis said, that "there was, shall we say, tension between one or more of the canons that applied to federal judges and the appearance of a judge, federal judge, as a member of the board of directors of the foundation."

Boggs remains unmoved. He is relying on 8th Circuit Court of Appeals Judge James Loken's dismissal of a complaint filed against him. Loken found there was nothing to substantiate CRC's charges of an appearance of impropriety. The CRC says that's inconsistent with the still-secret opinion from the judiciary's Codes of Conduct Committee. Stay tuned.

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