

REP. TOM FEENEY

Rep. Tom Feeny (R-FL), the former Speaker of the Florida House of Representatives, is a third-term member of Congress, representing Florida's 24th congressional district. Rep. Feeny's ethics violations stem from his relationship with convicted lobbyist Jack Abramoff and three trips he took in apparent violation of House travel and gift rules. Rep. Feeny was included in CREW's 2006 congressional corruption report.

Improper Travel

Golf Trip to Scotland

Rep. Feeny traveled to Scotland -- apparently to play golf -- from August 9-14, 2003. Rep. Feeny initially claimed that the cost of the trip was paid for by the National Center for Public Policy Research,¹ but the Center said that it did not provide "a single dime" for Feeny's trip.² As a result, Rep. Feeny claimed to have discovered recently that the \$5,643 bill was actually paid by lobbyist Jack Abramoff.³ According to Rep. Feeny, he was "misled" and "lied to" about who actually paid for the trip.⁴

Rep. Feeny also claimed that both the trip to Scotland (and the trip to Korea discussed below) were approved verbally by the House Committee on Standards of Official Conduct. According to Rep. Feeny, "[g]iven everything we knew at the time, we didn't make any inappropriate or unethical decisions."⁵ Rep. Feeny acknowledged however, that he had no written proof that the ethics committee approved the trip.⁶

¹ Member/Officer Travel Disclosure Form, filed by Rep. Tom Feeny, December 29, 2003 (Exhibit 1). House rules also require that travel disclosure forms be filed within 30 days after the travel is completed. Rule XXVI, clause 5(b)(1)(A)(ii). Rep. Feeny failed to file the form associated with this trip until January 2004, 4 ½ months after the trip. In addition, whenever a form is filed after the deadline, the rules require that the filer also send a letter to the House Committee on Standards of Official Conduct explaining the reason for the failure to file in a timely manner. Rule XXVI, clause 5(b)(5). No such letter appears to have accompanied this form.

² Chuck Neubauer and Walter F. Roche, Jr., Golf And Playing By The Rules, *Los Angeles Times*, March 9, 2005 (Exhibit 2).

³ Tamara Lytle, Congressman Who Traveled to Scotland, Korea Broke Ethics Rules, *Orlando Sentinel*, March 10, 2005 (Exhibit 3).

⁴ Id.

⁵ Lytle, *Orlando Sentinel*, Mar. 10, 2005.

⁶ Id.

Trip to Korea

Rep. Feeney visited South Korea on a trip sponsored by the Korea-U.S. Exchange Council (KORUSEC), despite the fact that the organization is registered with the Department of Justice under the Foreign Agents Registration Act.⁷ House rules provide that a Member, officer, or employee may **not** accept travel expenses from “a registered lobbyist or agent of a foreign principal.”⁸ A spokesperson for Rep. Feeney told one reporter that the 2003 trip to Korea was “approved by the House ethics committee.”⁹ There is no evidence, however, that the ethics committee actually approved the trip. In addition, Mr. Feeney failed to report the trip on his financial disclosure forms.¹⁰

Trip to West Palm Beach

Rep. Feeney and his wife traveled from Orlando, Florida to West Palm Beach, Florida to speak at “Restoration Weekend” from November 13-16, 2003. According to the travel disclosure form Rep. Feeney originally submitted to the Clerk’s office, this trip, which cost \$1,430, was paid for by Rotterman and Associates.¹¹ Rotterman and Associates was a registered lobbying firm in 2002 and 2003.¹² House rules provide that a Member, officer or employee may **not** accept travel expenses from “a registered lobbyist or agent of a foreign principal.”¹³ Thus, Rep. Feeney appears to have violated the travel rules by allowing Rotterman and Associates to pay for his travel.

A year and a half later, when the scandal over Members’ travel broke and reporters began to question this trip, Rep. Feeney filed a new disclosure form indicating that the Center for the

⁷ John Bresnahan and Amy Keller, Korean Tycoon’s Big Plans, Network Wider Than DeLay, *Roll Call*, March 21, 2005 (Exhibit 4).

⁸ Rule XXVI, cl. 5(b)(1)(A).

⁹ Peter H. Stone, U.S.-Korea Council Payment For Trips Appears To Violate House, *Congress Daily*, March 10, 2005 (Exhibit 5).

¹⁰ The trip was listed neither on Rep. Feeney’s Personal Financial Disclosure Statement 2003, filed May 10, 2004 (Exhibit 6), nor on his amended Personal Financial Disclosure Statement 2003, filed July 13, 2004 (Exhibit 7).

¹¹ Member/Officer Travel Disclosure Form, filed by Rep. Tom Feeney, November 19, 2003 (Exhibit 8).

¹² *See* United States Senate, Office of Public Records, Lobbying Disclosure Records, <http://sopr.senate.gov/> (Exhibit 9).

¹³ Rule XXVI, cl. 5(b)(1)(A).

Study of Popular Culture paid for the trip.¹⁴ Rep. Feeney also indicated that the costs were much higher than he originally reported -- \$1,947 as opposed to \$1,430.¹⁵

Gift and Travel Rules Violations

Golf Trip to Scotland

The golf trip to Scotland also violates several provisions of the House gift and travel rules. House Rules note that among the gift items as to which Members and staff need to be especially careful are small group and one-on-one meals, tickets to (or free attendance at) sporting events and shows, and recreational activities, **such as a round of golf** [emphasis added].¹⁶ The Committee on Standards of Official Conduct posited the following example as a prohibited gift:

A Member has been invited to play golf by an acquaintance who belongs to a country club, and under the rules of the club, the guest of a club member plays without any fee. Nevertheless, the Member's use of the course would be deemed a gift to the Member from his host, having a value of the amount that the country club generally charges for a round of golf.¹⁷

Under this provision, the expenditures made for Rep. Feeney to play golf at St. Andrews appear to constitute a gift accepted by Rep. Feeney in violation of Rule XXVI.

In addition, according to the travel rules:

[L]ike any other gift, travel expenses are subject to the basic gift prohibitions . . . including the prohibition against soliciting a gift -- and they may be accepted only in accordance with the provisions of the gift rule. Indeed, travel may be among the most attractive and expensive gifts, and thus, before accepting travel, a Member, officer or employee should exercise special care to

¹⁴ Rep. Tom Feeney, Personal Financial Disclosure Statement 2003, page 8, filed May 10, 2004 (*see* Exhibit 6), as well as his amended Personal Financial Disclosure Statement 2003, page 8 (*see* Exhibit 7), filed July 13, 2003, both list the National Center for Public Policy Research as paying for his trip to West Palm Beach.

¹⁵ Member/Officer Travel Disclosure Form, filed by Rep. Tom Feeney, April 20, 2005 (Exhibit 10).

¹⁶ Overview of the Gift Rule, Rules of the U.S. House of Representatives on Gifts and Travel.

¹⁷ What is a Gift?, Rules of the U.S. House of Representatives on Gifts and Travel.

ensure compliance with the gift rule and other applicable law.¹⁸

Rule XXVI, clause 5(b)(1)(A) requires that all travel be related to official duties. Here, it appears that the primary, if not the only purpose of Rep. Feeney's trip was to play golf at St. Andrews. This is a clear violation of the rules which provide specifically that "[e]vents, the activities of which are substantially recreational in nature, are not considered to be in connection with the duties of a Member."¹⁹

The way the trip was financed also implicates Rule XXVI. The Committee has long taken the position that a Member, officer or employee may accept expenses for officially connected travel only from a private source that has a direct and immediate relationship with the event or location being visited.²⁰

The rule is concerned with the organization(s) or individual(s) that actually pay for travel. The rule provides:

. . . where a non-profit organization pays for travel with donations that were earmarked, either formally or informally, for the trip, each such donor is deemed a "private source" for the trip and (1) must be publicly disclosed as a trip sponsor on the applicable travel disclosure forms and (2) may itself be required to satisfy the above standards on proper sources of travel expenses. Accordingly, it is advisable for a Member or staff person who is invited on a trip to make inquiry on the source of the funds that will be used to pay for the trip. In addition, the concept of the rule is that a private entity that pays for officially connected travel will both organize and conduct the trip, rather than merely pay for a trip that is in fact organized and conducted by someone else.²¹

Here, it is unclear who really financed Rep. Feeney's trip. Rep. Feeney's travel disclosure form lists the National Center for Public Policy as the funder, though the Center has emphatically denied paying for the trip. Moreover, Rep. Feeney failed to adequately describe the trip's purpose, explaining only that the purpose was a "Congressional Informative Tour."²²

¹⁸ *Travel, Rules of the U.S. House of Representatives on Gifts and Travel*.

¹⁹ Rule XXVI, cl. 5(b)(1)(B).

²⁰ House Comm. on Standards of Official Conduct, *Investigation of Financial Transactions participated in and Gifts of Transportation Accepted by Representative Fernand J. St. Germain*, H. Rep. No. 100-46, 100th Cong., 1st Sess. 5-6 (1987).

²¹ *Proper Sources of Expenses for Officially Connected Travel, Rules of the House of Representatives on Gifts and Travel*.

²² *Member/Officer Travel Disclosure Form*, Dec. 29, 2003. (See Exhibit 1).

A full airing of this matter requires the Committee to consider: 1) who paid for Rep. Feeney's trip to Scotland; 2) what activities Rep. Feeney engaged in while on the trip, other than golf; 3) what was the direct and immediate relationship between the sponsoring organization and the trip; 4) who were the actual sources of funding for the trip; 5) why were these private sources not disclosed as required by House Rules; and 6) did these private sources have a direct and immediate relationship with a golf trip to Scotland.

Next, even if the Committee finds that the sources that funded the trip somehow had a direct and immediate relationship with some aspect of Mr. Feeney's trip, under the travel provisions of the gift rule, one may accept reasonable expenses for transportation, lodging and meals from the private sponsor of an officially connected trip, but may **not** accept recreational activities or entertainment.²³ Thus, the Committee also must ask who paid for Mr. Feeney to play golf at St. Andrews and, given that the green fees were valued at over \$50, the Committee must find him in violation of the gift rule.

Korea Trip

Notably, House rules preclude the ethics committee from "approving" any travel. According to the Committee's travel booklet, this is because the rule places on individual Members and officers -- and not on the Committee -- the burden of making the determination that a particular trip is in connection with official duties and would not create the appearance of using public office for private gain. Thus, contrary to Rep. Feeney's assertions, the ethics committee could not have "approved" his trip.

In addition, House rules provide that a member, officer or employee may not accept travel expenses from "a registered lobbyist or agent of a foreign principal."²⁴ The prohibition against accepting travel expenses from a registered lobbyist, an agent of a foreign principal, or a lobbying firm applies even where the lobbyist, agent, or firm will later be reimbursed for those expenses by a non-lobbyist client.²⁵ Thus, by accepting payment for his trip to Scotland from Mr. Abramoff, a then-registered lobbyist,²⁶ Rep. Feeney appears to have violated Rule XXVI, clause 5(b)(1)(A) of the House.

²³ Rule XXVI, cl. 5(b)(4)(C); *Acceptable Travel Expenses*, Rules of the U.S. House of Representatives on Gifts and Travel.

²⁴ Rule XXVI, cl. 5(b)(1)(A).

²⁵ House Comm. on Standards of Official Conduct, Travel Booklet.

²⁶ See e.g. United States Senate, Office of Public Records, Lobbying Disclosure Records, <http://sopr.senate.gov/> (Exhibit 11).

West Palm Beach Trip

The trip to Palm Beach apparently lasted four days, which is the longest period for which a Member may accept payment for domestic travel. The gift rule further restricts trip length stating that only “necessary transportation, lodging and related expenses for travel” may be accepted.²⁷ The Travel Booklet provides that a Member “may accept only such expenses as are reasonably necessary to accomplish the purpose of the trip, and thus it may not always be proper to accept expenses for the full four- or seven-day period. This is particularly so where the sole purpose of an individual’s travel to an event is to give a speech.”²⁸ The booklet then provides the following example:

Example 3. A trade association invites a Member to give a speech at its annual meeting in Chicago. The annual meeting is scheduled for December 1 through 4, and the Member’s speech is scheduled for December 3. The Member may travel from Washington to Chicago at the association’s expense on December 2, and after he has completed the speech, he should return to Washington or his district as soon as it is practical to do so.²⁹

Thus, it appears that Rep. Feeney may have violated the rules by accepting expenses for longer than necessary to accomplish the purpose of the trip.

Finally, the Committee on Standards of Official Conduct has long taken the position that a Member, officer or employee may accept expenses for officially connected travel only from a private source that has a direct and immediate relationship with the event or location being visited.³⁰ This presents the question of what relationship, if any, either Rotterman and Associates or the Center for the Study of Popular Culture had with Restoration Weekend that allowed Rep. Feeney to accept travel expenses from either organization.

Thus, with regard to Rep. Feeney’s trip to West Palm Beach, the Committee on Standards of Official Conduct should investigate: 1) who actually sponsored the trip; 2) what evidence demonstrates that the trip was paid for by a non-profit and not by a lobbyist; 3) what direct and immediate relationship the Center for the Study of Popular Culture had with Restoration Weekend; 4) whether Rep. Feeney stayed in West Palm Beach longer than necessary to give a speech; and 5) why the cost of the trip changed so dramatically between the two filings.

²⁷ Rule XXVI, cl. 5(b)(1)(A); House Comm. on Standards of Official Conduct, Travel Booklet.

²⁸ Id.

²⁹ Id.

³⁰ House Comm. on Standards of Official Conduct, *Investigation of Financial Transactions participated in and Gifts of Transportation Accepted by Representative Fernand J. St Germain*, H. Rep. No. 100-46, 100th Cong., 1st Sess. 5-6 (1987).

Personal Financial Disclosure Forms

In May 2006, Rep. Feeney reported on his personal financial disclosure form that he was the joint owner of a condominium at the Royal Mansions resort in Cape Canaveral, Florida.³¹ The congressman listed the purchase date as January 2005.³² In fact, records from the Brevard County Appraiser's office show that unit was sold in late 2003 to James A. Fowler, Rep. Feeney's former law partner.³³ Mr. Fowler claims that he and Rep. Feeney jointly bought the property at a total cost of \$175,000.³⁴ Two identically sized units in the development sold for \$450,000 and \$420,000 in 2006.³⁵

Financial Disclosure Form Violations

The Ethics in Government Act of 1967³⁶ requires all members of Congress to file financial disclosure reports. Under the statute, the attorney general may seek a civil penalty of up to \$11,000 against any individual who knowingly and willfully falsifies or fails to file or report any information required by the Act.³⁷ The same reporting requirements attach to any candidate for the office of president, who is required to file the report within 30 days of becoming a candidate.³⁸

In addition, 18 U.S.C. § 1001 prohibits Members of Congress from making "any materially false, fictitious, or fraudulent statement or representation"³⁹ on "a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch."⁴⁰

³¹ Ken Silverstein, Congressman Tom Feeney: An Appreciation, *Harper's Magazine*, July 12, 2006 (Exhibit 12).

³² Id.

³³ Id.

³⁴ Id.

³⁵ Silverstein, *Harper's Magazine*, July 12, 2006.

³⁶ Pub. L. No. 95-521, 92 Stat. 1824 (Oct. 26, 1978).

³⁷ 5 U.S.C. app. 4, § 104.

³⁸ 5 U.S.C. app. § 101(c).

³⁹ 18 U.S.C. § 1001(a)(2).

⁴⁰ Id. at § 1001(c)(2).

Moreover, pursuant to 5 U.S.C. app. 4 § 101(a)(1)(B), members of Congress must disclose all rental property. The instruction booklet accompanying the House financial disclosure forms explains that the rules require disclosure of “unearned” income, which “consists of rents, royalties, dividends, interest, capital gains, and similar amounts received as a return on investment.” The instructions continue, filers “must disclose . . . real and personal property held for investment or production of income and valued at more than \$1,000 at the close of the reporting period.”⁴¹

Rep. Feeney has claimed that he did not report the purchase of the condominium initially because his name was not on the deed.⁴² He has not explained, however, why, given that he was a full co-owner, he was not on the deed.⁴³ Nevertheless, the standard for disclosure is whether or not the filer received rent on the property, not whether he or she was on the deed for the property. According to Mr. Fowler, he and Rep. Feeney co-own the condominium, rent it, and receive income from it. As a result, Rep. Feeney’s failure to include the property on his financial disclosure forms in 2003 and 2004 may violate federal law and clearly violates of House rules.

2007 Update

On January 3, 2007, the Committee on Standards of Official Conduct found that Rep. Feeney had inappropriately accepted the privately funded golf trip to Scotland, which had no official connection to congressional duties.⁴⁴ Rep. Feeney was directed to pay the general Treasury the \$5,643 he had reported the trip cost.⁴⁵

Documents disclosed by the Senate Indian Affairs Committee in April 2007, however, revealed that the trip was paid for by Capital Athletic Foundation, a charity established by Mr. Abramoff.⁴⁶ Additional records released by the Department of Justice further revealed that the actual cost of the trip was \$160,000, putting the individual cost for each of the eight individuals

⁴¹ House Comm. On Standards of Official Conduct, “Assets and Unearned Income,” Financial Disclosure Instruction Booklet.

⁴² Silverstein, *Harper’s Magazine*, July 12, 2006.

⁴³ Id.

⁴⁴ Paul Kane, Ethics Panel Fines Weldon, Feeney For Trips, *Roll Call*, January 3, 2007 (Exhibit 13); Statement of Chairman Doc Hastings and Ranking Minority Member Howard L. Berman Regarding Representative Tom Feeney, January 3, 2007 (Exhibit 14).

⁴⁵ Id.

⁴⁶ Tamara Lytle and Mark K. Matthews, Feeney Trip Tied To Abramoff ‘Slush Fund,’ *Orlando Sentinel*, April 27, 2007 (Exhibit 15).

who attended at significantly more than the \$5,643 Rep. Feeney had reported.⁴⁷

The FBI is now looking into Rep. Feeney's relationship with Mr. Abramoff and into the golf trip.⁴⁸ Federal agents have asked Rep. Feeney for information and have contacted at least three Florida newspapers,⁴⁹ asking the papers for emails sent by Rep. Feeney's office describing the 2003 golfing trip.⁵⁰ Although Rep. Feeney has denied assisting Mr. Abramoff, he was one of several lawmakers who wrote to the Department of Energy in 2003 -- five months before his luxury golf trip to Scotland -- opposing changes to a federal program that were also opposed by one of Mr. Abramoff's clients.⁵¹

In June 2007, Rep. Feeney created a legal defense fund to defray his legal costs⁵² and disclosed that in the first quarter of 2007, he had paid \$23,122 in legal fees to the Washington law firm Patton Boggs, LLP.⁵³

⁴⁷ Id.

⁴⁸ Id.; Anita Kumar, FBI Asking Tom Feeney About Trip With Abramoff, *St. Petersburg Times*, April 24, 2007 (Exhibit 16).

⁴⁹ Lytle and Matthews, *Orlando Sentinel*, Apr. 27, 2007.

⁵⁰ Kumar, *St. Petersburg Times*, Apr. 24, 2007.

⁵¹ Anita Kumar, Rep. Feeney Sought Rule Change Tied To Abramoff, *St. Petersburg Times*, April 28, 2007 (Exhibit 17).

⁵² The Tom Feeney Legal Expense Trust, ¶ A (Exhibit 18).

⁵³ Tom Feeney for Congress Committee, FEC Form 3, April Quarterly Report 2007, April 10, 2007, p. 46 (Exhibit 19).