

# Legislative Ethics Board

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## COMPLAINT 2017 – No. 1

In Re Fitzgibbon

March 23, 2017

Gifts – Travel

### DETERMINATION OF NO REASONABLE CAUSE AND ORDER OF DISMISSAL

#### I. Nature of the Complaint

The complaint alleges that Rep. Joe Fitzgibbon accepted gifts of travel, lodging, and subsistence that did not contain a legislative purpose.

Two provisions authorize legislators to accept gifts of travel, lodging and subsistence under limited circumstances:

(d) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

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(f) Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event. ...

#### II. Background

Complaint 2017 – No. 1 was received on January 3, 2017. In his 2016 F-1 Supplement, Rep. Fitzgibbon identified 10 occasions for which he received meals, travel and seminar expenses. Three of those occasions are:

<u>Donor</u>	<u>F-1 Description</u>
United Kingdom	Learn about UK climate change
Progressive States Network	Travel to WA DC for PSN
Scan/Design Foundation	Lodging and meals in Copenhagen Denmark

### III. Jurisdiction

The Board has personal and subject matter jurisdiction. RCW 42.52.320.

### IV. Findings of Fact

1. Rep. Fitzgibbon is a member of the Washington House of Representatives. He has sponsored several bills addressing the challenges of climate change. In 2013-14, he sponsored HB 1910 (Renewable energy tax exemption), HB 2418 (alternative fuel taxation), HB 2803 (carbon pollution tax) and HB 2804 (greenhouse gases). In 2015-16, he sponsored HB 1314 (carbon pollution market), HB 1925 (alternative fuel tax exemption), HB 1929 (electrical vehicle readiness) and HJM 4009 (global climate change).
2. A review of the materials retained by Rep. Fitzgibbon provided additional information regarding the three conferences. These materials included email communications and detailed agendas.
3. In December 2013, Rep. Fitzgibbon received an invitation from the British Embassy in Washington DC to attend a series of meetings in and near London UK, each of which addressed different aspects of climate change and the British government's efforts to address it. Rep. Fitzgibbon was one of five legislators (nationally) selected to attend. Individual legislators from Maine, Massachusetts, Michigan and Oregon also attended.
4. The UK government funded the trip. The representative participated in meetings and other briefings (typically, tours) with national government officials regarding energy production and renewables, visits to examples of green energy facilities in the private sector, briefings and tours of local government energy efficient projects in Bristol, meeting with GLOBE parliamentarians regarding sustainable development, and tours of renewable energy facilities.
5. In October 2013, Rep. Fitzgibbon attended a "Legislative Leadership Retreat" hosted by Progressive States Network (PSN). He received a direct scholarship from PSN that included travel, lodging, conference fees and meals.
6. PSN was a nonprofit organization that promoted progressive policies, with a particular focus on state legislatures.

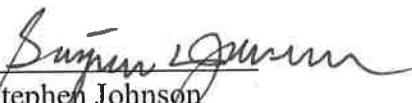
7. The program agenda and post-conference reports indicate that the conference included various states' efforts to address differing approaches to public education, economic security, state implementation of the Affordable Care Act, women's health care, problems arising from federal immigration policies, and legislature-to-legislature strategies.
8. In 2015, Rep. Fitzgibbon attended a "Climate & Energy" conference in Denmark, to highlight Denmark's efforts to achieve fossil fuel independence. He received funding to travel and participate from Scan/Design, one of the organizers of the conference.
9. Scan/Design is a private non-profit foundation supporting cooperation and information sharing between the United States and Denmark. Its efforts include support of pain research, cultural and educational exchange programs, and government-to-government educational programs. In this instance, it partnered with i-Sustain, a separate non-profit organization, to produce the conference.
10. The conference included various tours and meetings regarding Denmark's energy programs and goals. The representative's actions included tours of a public-private entity seeking solutions to various energy and water problems, meeting with the governmental agency primarily responsible for energy development, meeting with business groups about the impact of climate policies, and tours of energy based urban development projects.

## V. Conclusions of Law

1. A legislative purpose for the acceptance of travel is established if the travel has a reasonably objective nexus with a legislator's duties. Complaint 2014 – No. 3 (*In Re Roach*). This is consistent with the Board's earlier rulings that a legislative purpose for travel must be "substantive, not minor," and can be established through an agenda showing that the legislator was required to attend certain functions that are legislative in nature, and that the legislator performed those functions. Advisory Opinion 2002 – No. 1.
2. Each of the three events meets the legislative purpose test, and has a reasonably objective nexus with the representative's duties.
3. Each event met the criteria of RCW 42.52.010, which excludes from the definition of "gift" the following: "Payment of ... reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution." RCW 42.52.010 (9) (f).

VI. Order of Dismissal

It is hereby ORDERED that Complaint 2017 – No. 1 is dismissed.

  
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Sen. Stephen Johnson  
Chair