

TANGLED UP IN BILLS

A senator gets snared in a web of legal fees.

TWO YEARS AGO, U.S. senator John Ensign's future was as bright as the Vegas strip. Reelected to a second term in 2006, the silver-haired Nevada Republican was the fourth-highest-ranking GOP senator and was even eyeing a White House run.

Then came the fall. In June 2009 the married, family-values conservative admitted to an affair with a former campaign aide. Next up: allegations that he had broken ethics laws by seeking lobbying work for the woman's husband, a former Senate staffer. Now Ensign, who denies doing anything illegal, faces federal and Senate Ethics Committee investigations, a possible primary challenge in 2012, and—thanks to his mounting legal bills—a nearly barren campaign fund.

Records show that from July

through September, Ensign's campaign committee spent \$550,000 on legal fees, cutting checks to 12 different law firms along the way. (By comparison, Ensign raised just \$18,000 in the same period.) The largest payments went to Wiley Rein (\$244,443; counsel Robert Walker is representing Ensign in the Senate inquiry) and Locke Lord Bissell & Liddell (\$147,516; partner Paul Coggins is handling the criminal probe).

But the campaign cash isn't just paying the senator's bills, an Ensign spokeswoman told the *Las Vegas Review-Journal*: It's also paying lawyers for staffers questioned in the scandal, most of whom have not been publicly named or alleged to have done anything wrong. One who has been identified, ex-chief of staff John Lopez, is being advised by Covington &



Burling partner Robert Kelner. Other firms working on the matter include: Akin Gump Strauss Hauer & Feld; DLA Piper; and Fish & Richardson.

Asked for comment, Ensign's spokeswoman cited her remarks to the *Review-Journal*. Most of the firms and lawyers involved did not return calls. The rest declined to comment. A U.S. Department of Justice spokes-

man also declined to comment.

While federal election law allows campaign funds to go to pay lawyers, Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington, D.C., questions the propriety of a senator paying his aides' tab. "It makes it very difficult for his staffers, who otherwise couldn't afford these legal bills, to turn on their boss or say anything negative about the guy paying the bills," says Sloan, whose group has complained about Ensign to the Justice Department, the Senate ethics panel, and the Federal Election Commission. "In our view, the situation is ripe for manipulation and conflicts of interest."

Legal ethics experts are split on Ensign's approach. Nancy Rapoport, a professor at the Wil-

WILLIAM RIESER (ILLUSTRATION), WINN McNAMEE/GETTY IMAGES (ENSIGN)

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liam S. Boyd School of Law at University of Nevada, Las Vegas, likens it to insurers providing lawyers to policyholders. “You can have a third party pay legal fees as long as that third party is not directing what the lawyers do,” she says. “It comes down to whether the staffers’ lawyers are comfortable telling Ensign to jump in the lake if their interests don’t align. If they aren’t comfortable telling him to mind his business and stay out, then they shouldn’t take the case. Those firms are no shrinking violets, so it shouldn’t be a problem.”

Seton Hall Law School professor Paula Franzese isn’t so sure. “The idea that the employer is picking up the tab raises some concerns regarding the placement of loyalties,” says Franzese, who has served as a New Jersey

election law commissioner and special ethics counsel to former governor Richard Codey.

Things got murkier with Ensign’s creation of the John Ensign Legal Expense Trust Fund. “As difficult as it is for me to ask you,” he wrote in a June letter launching the fund, “I need your help to refute these charges and wage a successful legal defense.” In August he registered the fund as a tax-exempt 527 political organization. Election law experts, who call the move unprecedented, are stumped as to what’s behind it, as it has no clear benefit. Justin Levitt, a Loyola Law School election law professor, has one theory: “Maybe some people want to give him money so he can defend himself, but don’t necessarily want to see him reelected.” Not exactly a vote of confidence. —VICTOR LI

Divorced From Reality



LONDON HAS SEEN PLENTY of high-profile divorce cases in recent years, with Paul McCartney, Roman Abramovich, and Madonna all choosing U.K. courts for their costly separation battles. And though Sandra Hitchins—a 65-year-old retiree from High Wycombe—may not be a Beatle, a Russian billionaire, or the Material Girl, lawyers **Michael Miller** and **Alexander Winterton** of **City Legal Services** nonetheless charged her the A-list fee of **\$235,000** to handle her matrimonial split.

Hitting an elderly woman with such a hefty bill proved costly for Miller and Winterton. After Hitchins complained about them to the Solicitors Regulatory Authority—which was already investigating the pair in connection with a separate matter—the agency opened a new probe. At a subsequent hearing, the SRA labeled its efforts to contact CLS “reminiscent of a farce” and claimed that Miller and Winterton had refused to open their books to the agency. In October a judge disbarred the pair, saying they had overcharged Hitchins by more than 500 percent.

Miller and Winterton could not be reached for comment.

—CHRIS JOHNSON

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