

TAB MAILER CRITICIZED SECRET CASH

INSURANCE COMPANIES QUIETLY GAVE TO BUSINESS GROUP AS IT CRITICIZED LAWYERS FOR HIDING CONTRIBUTIONS. BY LAYLAN COPELIN, AMERICAN-STATESMAN STAFF

The warning about the corrosive influence of money in politics came to Texas voters through the mail.

The color brochure blamed trial lawyers for raising health care costs and insurance rates for homeowners by suing corporations.

"Why are trial lawyers disguising their campaign contributions?" the piece asked. "Trial lawyers are going to great lengths to hide their political contributions, and it's time that those contributions, and there (sic) corrosive influence, were exposed."

The messenger? Insurance companies hiding their money behind the logo of the Texas Association of Business.

In the brochure, TAB President Bill Hammond urged voters to download a copy of the report "Hiding Their Influence: How Texas Trial Lawyers Are Attempting to Dump Millions of Dollars into Texas Political Campaigns Without Leaving Any Fingerprints."

The insurance and business interests could expose the trial lawyers' donations because they were legally made to the Democratic Party or other political committees and reported to the Texas Ethics Commission.

However, the association kept the identity of its insurance backers secret for almost three years as prosecutors investigated whether it committed a felony by spending corporate money in connection with the 2002 legislative campaigns.

Hammond, through his spokeswoman, declined to comment Saturday.

Companies uncovered

In the years following the 2002 election, the insurance industry largely weathered calls for dramatically lower rates and tougher regulation by persuading state lawmakers — many of them the same Republicans who benefited from the association's 4 million mailers — that escalating rates were not its fault.

The investment may still be paying dividends during this summer's special sessions on public school finance: Analysis by the nonpartisan Legislative Budget Board showed that one version of the school tax bill cut taxes — percentagewise — the most for the financial, real estate and insurance industries, although those industries would remain the state's largest taxpayers.

"They tried to buy those politicians secretly, and it paid off," said Craig McDonald of Texans for Public Justice, a group that tracks campaign money.

Rick Gentry, executive director of the Insurance Council of Texas, a trade association, said McDonald and like-minded critics are "sadly misinformed."

The insurance industry's contributions in Texas elections are so small "it's laughable," Gentry said.

State law generally prohibits corporate or union money being spent on campaign

activity, but TAB has argued in several courts that it does not have to disclose its corporate donors because the mailers avoided using electioneering words such as "support" or "oppose."

TAB's corporate donors remained largely anonymous until last week, when the Austin American-Statesman identified 18 of the corporations — 15 of them insurance companies — that financed the 2002 effort to help engineer the Republican takeover of the Legislature. TAB left clues about the corporations' identities among 20,000 pages of documents it was forced to give to former Democratic candidates who sued the business organization.

Another dozen or so corporations remain unidentified, and TAB lawyer Andy Taylor said the organization would continue to fight disclosure of those companies' names.

Some of the state's largest insurance providers gave corporate money to TAB's voter education project. Among them were United HealthCare, Cigna, Aetna, Humana, State Farm and Allstate.

Officials with the companies last week either declined to comment because of the threat of litigation or criminal prosecution or did not respond to calls for comment. Those who commented denied any wrongdoing, echoing TAB's legal defense that the mailers educated voters about issues without specifically advocating the election or defeat of candidates.

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Related News:

One TAB mailer sent out to thousands of Texas voters, backfired.

The mailer promoted Republican incumbent Rick Green of District 45 and bashed the Democratic challenger, Patrick Rose.

The mailer attempted to misinform voters about insurance claims. As it turned out, Rick Green had a mold related claim that was not covered by insurance. His family had developed serious health effects. Rick's claim, even though it was not covered, was paid for by his carrier. Rick Green criticized anyone submitting a claim involving mold remediation and publicly dismissed any related health effects.

This mailer motivated POA to endorse challenger Patrick Rose and Patrick won the House seat in a victory that most would have bet against. District 45 is a heavy Republican district but is now represented by a young Democrat.

The mailer was paid for by insurance companies.

TAB MAILER

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Boosting donations

The Statesman traced at least \$580,000 of TAB's \$1.7 million campaign to 15 insurance companies. The total is likely to be substantially higher once the other corporate donors are identified and all the money is accounted for.

McDonald said \$580,000 is substantial for an industry generally known as a bit player in providing contributions to candidates.

In 2002, McDonald said, insurance companies, through their legal political action committees — which get donations from individuals instead of corporations — reported spending \$1.28 million on candidates.

Insurance agents, who don't always agree with insurance companies, spent about \$900,000 as well.

"What you have them doing secretly is (giving TAB) a big chunk of their 2002 efforts," McDonald said of the insurance companies.

McDonald thinks he knows why insurance companies hid behind the TAB logo on mailers touting Republican candidates and criticizing Democrats.

Homeowners were complaining about insurance rate spiking as much as 200 percent; doctors were considering quitting because of escalating rates for malpractice coverage; and the state's largest insurer, Farmer's Insurance, was threatening to leave the state.

Candidates, including Gov.

Rick Perry and his Democratic opponent, Tony Sanchez, were promising voters they would do something about the insurance crisis.

"I think (insurance companies) realized they didn't have any credibility," he said. "The more they gave on the record to politicians, the less credibility they would have."

Gentry, the Insurance Council of Texas director and an insurance industry spokesman, said he knew nothing about insurance money financing TAB's 2002 efforts until he read it in Friday's newspaper.

He agreed with McDonald that the industry as a whole doesn't give much reportable money to candidates.

"We are notoriously small givers to people in office," he said. "The one exception is Farmer's Insurance Co. Beyond that, we are small players — if at all."

The industry was getting a black eye in 2002, Gentry agreed, particularly because of news reports about mold claims.

"We are an easy target," he said. "We get tied to the political whipping post on a regular basis."

Once the 2002 election was over, Gentry said, the industry persuaded lawmakers that mold claims — not bad insurance practices — were driving up rates.

He denied the contention by consumer groups that lawmakers buckled under to the insurance industry. He noted that the Legislature dictated

rate cuts, although some of the state's larger insurers refused, taking their case to court.

Hand-in-glove tactic

The TAB brochure attacking trial lawyers for hiding their influence is an example of the hand-in-glove operation among several organizations backing Republicans in 2002.

In late 2001, Hammond traveled to Florida to meet with business interests there to learn the nuances of using corporate money without reporting it, according to a source familiar with TAB who asked not to be identified because of the ongoing investigation.

Hammond was unhappy with TAB's past efforts of raising \$40,000 or so from individuals for an election and was determined to increase the influence of the state's largest business organization.

By late 2001, TAB was preparing to solicit money from corporations. At the same time, the Texans for a Republican Majority political action committee, created by U.S. House Majority Leader Tom DeLay of Sugar Land, also began raising and spending unreported corporate money.

On Saturday, Hammond, through his spokeswoman, refused to say whether he shared his blueprint with DeLay's group.

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TAB Mailer

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By the final weeks of the 2002 election, Hammond, TRMPAC Executive Director John Colyandro and lobbyist Mike Toomey, a TAB board member with insurance clients, were running the TAB direct-mail campaign out of the offices of publicist Chuck McDonald.

Texans for Lawsuit Reform, a Toomey client that wanted legislation to curb lawsuits against business, hired McDonald to do the "Hiding Their Influence" report on trial lawyer money.

Then McDonald helped Hammond design the mailers with assistance from Colyandro and Toomey.

Toomey, who would serve as Perry's chief of staff during the 2003 legislative session that included the insurance crisis, also tapped his clients for corporate money. Toomey's clients provided at least \$355,000 of the \$580,000 identified so far.

Toomey, who was unavailable for comment Saturday, has declined in the past to talk about his role with TAB.

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Insurers were TAB's biggest donors

Study of records reveals corporations that contributed to 2002 state election efforts. By Laylan Copelin, American-Statesman Staff

The Texas Association of Business secretly financed its 2002 election effort largely with money from an insurance industry that was trying to fight tougher regulations at the Capitol, the Austin American-Statesman has determined after studying TAB's records.

The state's largest business organization has fought disclosing its corporate donors for almost three years, saying that would violate the companies' First Amendment rights. But among 20,000 pages of documents the business group has released, it left telltale clues that identify 18 corporations — 15 of them insurance companies — that helped finance a Republican takeover of the Legislature.

By disclosing almost two-thirds of its 30 or so corporate donors, TAB may have undercut its arguments to keep secret the other donors' names.

In 2002, insurance companies were besieged by irate ratepayers whose bills had gone up. The following spring, the Legislature approved an insurance bill that consumer groups said fell short of real reform. Lawmakers also passed a lawsuit bill that business and insurance groups had backed.

State law generally prohibits spending corporate or union money on campaign activities, but the association has argued that its mailers, which criticized Democrats and touted Republican candidates, did not advocate the election or defeat of any

candidate because they avoided using words such as "support" or "oppose."

That argument has played out for almost three years as part of a grand jury investigation and at least three lawsuits that losing Democratic candidates filed against the business organization.

Last month, the Texas Supreme Court ordered that TAB must provide documents to the Democrats, but there was no requirement to disclose the corporations that contributed \$1.7 million to send 4 million pieces of mail to voters in 24 pivotal legislative districts.

TAB blacked out the corporations' names and many other identifying marks but left untouched several pieces of information: original documents without the names blacked out, bank account numbers that could be compared to other checks or invoices, and some signatures left exposed.

TAB's lawyer, Andy Taylor, invited reporters to examine the pages, assuring them "nothing's there."

On Thursday, Taylor denied that TAB may have made a mistake in editing the documents, except in two or three instances when original checks or invoices were released without the corporate names adequately blacked out.

He said he had no choice but to follow the court order: "We had to give everything but the names. We didn't have the right to redact any-

thing else."

Identities a surprise

Austin lawyer Buck Wood, who represents the Democrats suing TAB, said he will add those companies as defendants in the lawsuits.

"I was surprised there was information given to me to allow us to identify the donors," Wood said. "I think we'll get them all now."

Among the 18 identified corporate donors, only AT&T Corp., the National Federation of Independent Business and a small data company in the Rio Grande Valley are not involved directly in insurance matters. But those organizations also had an interest in controlling insurance costs and limiting lawsuits.

The insurance firms included giants such as United HealthCare, Cigna, Aetna, Humana, PacifiCare, Blue Cross of California, State Farm and Allstate.

The donations ranged from \$100 to \$300,000, with most of them at least \$40,000 per company.

Officials with most of the corporations either declined to comment because of the threat of litigation or the criminal investigation or did not respond to inquiries from the American-Statesman.

Officials with Liberty Mutual Insurance Co., Allstate Insurance Co. and the business federation confirmed donating to TAB's voter effort. And they emphasized

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that the money was used to educate voters, not to campaign for candidates, which would be illegal.

"Our contribution to TAB was to help the business community, which we are major part of, publicize a pro-growth business agenda in Texas through a voter education project," Liberty Mutual spokesman Joe Cusolito said.

"We certainly wanted to educate voters on business issues that were important to us," Allstate spokesman Joe McCormick said. "If we wanted to contribute to a candidate, we'd do it through our PAC and not an effort like that."

Unlike the other TAB donors, which just donated money for the overall effort, NFIB designated its \$1,000 for a mailer discussing the differences between Supreme Court candidate Dale Wainwright and his opponent.

"We believe we acted within all campaign finance laws," NFIB spokeswoman Nancy St. Pierre said.

Some companies, however, may have not understood the nuances of the ban on corporate money in connection with a campaign.

Allstate, for example, labeled its \$20,000 donation as a "political contribution" on the check stub.

Raising larger sums

As TAB tried to elect a Republican majority in 2002, President Bill Hammond largely abandoned the tradi-

tional method of raising contributions from individuals and focused on tapping corporations because he said it was easier to raise corporate money in large sums.

Hammond found an insurance industry eager to contribute to his plan to help elect Republicans with money that would not be reported to the Texas Ethics Commission.

Homeowners and doctors were complaining of skyrocketing rates, regulators appeared to be cracking down, companies were threatening to leave the state, and candidates were promising to fix the insurance crisis.

Hammond was intent on increasing his association's influence at the Capitol through the voter education program, and its early success bred enthusiasm.

"Bill — Our first check in voter 'education.' Thought you would want to see it!!!" a TAB lobbyist wrote on a \$40,000 check from Aetna.

After the 2002 election and a 2003 legislative session led by TAB-backed Republicans, the insurance industry fended off the harshest regulatory proposals. Industry critics say homeowners and doctors received little — if any — relief in rates.

"It's the insurance companies, not the consumers, the patients or even the doctors, that profit from tort reform," said Alex Winslow, executive director of Texas Watch, a consumer advocacy group.

Tom Bond, an Austin lawyer for many insurance companies, said the 2003 legislative session was "heavier than usual" for the insurance industry. But he said it is not unusual for the industry to participate in the political arena.

Bond, who said he did not participate in TAB's voter education program, said he has worked with the organization on various legislative issues.

"The talk at the time was that TAB was trying to provide an organized way for people to participate (in politics) instead of through their own associations," Bond said. "It was my impression they solicited the whole world, including the insurance firms."

As TAB faced criminal investigation and civil lawsuits, Taylor argued that his client, and its secret donors, have a First Amendment right to educate voters during the elections without disclosing the source of the money to the public.

TAB's critics accuse the organization of committing a felony by spending the corporate money and undermining the campaign disclosure laws.

Resisting disclosure

In November 2002, Travis County District Attorney Ronnie Earle, a Democrat, initiated his investigation within days of a Republican sweep at the polls after Hammond boasted about his organization's "unprecedented show of muscle."

Hammond wrote to TAB's members that they had "blown the doors off" the election by spending \$2 million on pivotal legislative races.

TAB stymied Earle's investigation for a year by fighting attempts to turn over documents or have its leaders testify before the grand jury. Taylor took the fight to several appellate courts, including the state's top criminal and civil courts and the U.S. Supreme Court.

He lost on all counts. TAB turned over eight boxes of documents — without the donors' names — to the grand jury, and a couple of its staffers had to testify behind closed doors.

"I think we made it very clear to our donors that we respect their right to anonymity," Taylor said. "We have fought the good fight to protect their right to confidentiality."

On another front, the defeated Democratic candidates had sued the business association and won the right to force them to surrender documents — again without the names. The Texas Supreme Court ultimately upheld that order.

On Thursday, Taylor said TAB would continue to fight to protect the identities of a handful of corporate donors that remain a mystery.

"TAB has not and will not voluntarily disclose the name of our donors," he said. "We will continue to protect their identities."