

Democracy North Carolina

1821 Green St., Durham, NC 27705 • 919-286-6000 or 489-1931 • democracy-nc.org

For Release: Monday, June 13, 2005

Contact: Bob Hall, 919-489-1931

HUNDREDS OF EXPENSE REPORTS MISSING FROM SPECIAL INTERESTS THAT LOBBY IN RALEIGH

Weak Law, Scarce Resources Lead to Poor Compliance

The NC Beer & Wine Wholesalers Association and the Christian Action League often oppose one another when they lobby lawmakers in Raleigh. But the two groups have one thing in common: The Secretary of State's office has no record that either group submitted any of the required reports listing payments to their lobbyists for 2003 and 2004.

The two organizations are not alone, according to an in-depth analysis by Democracy North Carolina, a nonpartisan watchdog group based in Carrboro. Focusing only on the expense reports due twice a year from clients or "principals," rather than from their lobbyists, the analysis found that **341 of the nearly 2,700 reports required for 2003-2004 are missing. At least one report is missing for 201 of the 717 groups and businesses with a registered lobbyist in that period.**

There are no client disclosure reports at all on file from hog producer Murphy-Brown or from its frequent opponent on environment issues, the NC Wildlife Federation; both registered lobbyists in 2003 for the biennium and both should have filed four client reports. Nor are there any from Teamsters Local No. 391 in the Triad or their adversaries, the anti-union Employers' Coalition of North Carolina; they both registered lobbyists in 2004 and owed two reports each.

The list goes on. Client expense reports are completely missing for the NC Symphony, Sun Microsystems, NC Forestry Association, Evercom Inc., Association of Mortgage Professionals, NC Sporting Dog Association, NC Heating & Air Conditioning Contractors and a dozen others.

The lobbyists for these interests include some the biggest names in the business – Don Beason, Marvin Musselwhite, Joe McClees, Al Adams, Teresa Kostrzewa, and Glenn Jernigan. They generally filed their own expense reports as hired lobbyists, although most say they spent nothing, according to Democracy North Carolina's review.

Rather than focus on the lobbyists, the watchdog group's researchers searched the reports and databases maintained by the Secretary of State to determine if each client listed by a lobbyist had its reports properly filed. Those reports should disclose the compensation paid to the lobbyists and other lobbying-related expenditures.

A previous analysis by Democracy North Carolina revealed that 93% of the clients' reports showed no spending at all for food or entertainment for legislators, largely because the state's weak regulations exempt disclosure if no legislation is directly discussed – the so-called "goodwill lobbying" loophole.

That earlier analysis also found that clients paid their lobbyists \$18.6 million for 2003 and 2004. But Democracy North Carolina says its latest study indicates \$500,000 to \$1 million could be undisclosed because of missing reports.

“It’s hard to tell how much money is hidden,” said Bob Hall, research director of Democracy North Carolina. “Many reports would likely be zeros, but others would add significantly to the overall totals.”

For example, the lottery operator GTECH, which paid its four lobbyists more than \$80,000 in 2001-2002, only reported paying them \$16,000 on its one report for 2003-2004; the other three reports are missing, including those for the periods when the General Assembly was in session.

Hall pointed out that the NC Beer and Wine Wholesalers Association paid its lobbyists \$45,000 in 1999-2000 and likely paid them at least that much for 2003-2004. (All four reports from the trade group are also missing for 2001-2002, he noted.) Similarly, previous reports indicate that Evercom Inc., a Texas-based supplier of telephone systems in prisons, paid its lobbyist more than \$30,000 during a two-year period.

Among other special interests with missing reports that might include useful information, Hall listed the American Council of Engineers (3 reports missing), Assisted Living Association (3 reports missing), Charlotte-Mecklenburg Board of Education (1 report missing), Eastern Band of Cherokees (3), Economic Development Group (2), NC Hotel and Lodging Association (3), and NC Press Association (2).

Hall confirmed many of the missing reports with the staff person at the Secretary of State’s office who handles lobbyist registration and reporting. *[note: Lynn Behan]*

According to the staff, the computer software used to post reports to the Secretary of State’s website and prepare summary lists does not make it feasible to generate a list of special interests or “principals” who fail to submit reports. As a consequence, follow-up notices are not systematically sent and penalties for non-compliance are routinely not assessed. State law provides for a late penalty of \$50 a day, up to a maximum of \$500, but a violator can continue to hire lobbyists to work the halls of the General Assembly, said Hall.

“If you send in a report late, you can be fined, but if you don’t send one at all, you could fall through the cracks in the system,” he said. “It’s a system that lacks the staffing, equipment and penalties needed to enforce the law. The office will tell you that they don’t have the resources to review reports for compliance with the law. It’s basically an honor system that relies on self-enforcement.”

The state Senate passed a bill in April to require more disclosure, greater scrutiny of reports, and new regulations covering lobbying executive branch officials. But the bill did not include any new funding for the Secretary of State to implement its provisions.

“The current system truly is a mess,” said Hall. “Some of changes will be fairly cheap, but others would require new computer software that allows for on-line reporting, compliance review, and rapid public disclosure, such as what you see in Washington state and Wisconsin.”

Hall noted that the legislature raised the lobbyist registration fee from \$75 to \$200 a few years ago, but the increased funds went into the General Fund, not to help the Secretary of State. “There’s already a backlog of several hundred thousand dollars from those fees that should go toward creating a disclosure and regulatory system that serves the public interest,” he said. “Without a significant change, North Carolina will continue to have a system and a law that people view as a joke.”

DETAILS FROM DEMOCRACY NORTH CAROLINA'S ANALYSIS OF MISSING DISCLOSURE REPORTS

North Carolina's law regulating lobbying activities has many weaknesses, but one part is crystal clear: Any business or organization (the client or "principal") that pays someone (the "lobbyist") to influence, or attempt to influence, legislative action must file disclosure reports twice a year during the entire biennium or until the lobbyist files a resignation with the Secretary of State. Reports are due even if nothing is spent that needs to be listed. Indeed, thousands of reports are filed at the Secretary of State's office with only zeros, followed by a signature.

One report is due 60 days after the regular legislative session ends each year, covering the period from January 1 through the last day of the session; a second report covering the remainder of the year is due 59 days after the end of the year (on Feb. 28).

For a group whose lobbyist registers for the "long" session, this law (NC General Statute 120-47.7) means the principal must file four reports during the two-year biennium of the General Assembly. If the lobbyist only registers during the "short" session, the principal owes two disclosure reports for that year. The principal owes fewer reports if the lobbyist resigns or registers after a session. (State law, NCGS 120-47.6, also requires the lobbyist to file two reports a year or a total of four if they represent a principal for the entire biennium. **This study only focuses on the reports filed by the principals, not by the lobbyists.**)

These disclosure reports are a window into the world of interactions between special interests and lawmakers. Without the reports, there is no "open" in "open government." Full disclosure means complete information delivered frequently in a form that is understandable and readily accessible to the public. It goes without saying that the reports must be filed.

As it turns out, our research shows that North Carolina is not even meeting this most basic level of disclosure. Hundreds of reports from principals are missing for the latest biennium, covering 2003-2004. We matched all the lobbyists who registered during this two-year period with all the principal reports included in a

database from the Secretary of the State and/or posted on the Secretary of State's website for the same period. Perhaps a report was misfiled or got lost in the mail, but it appears that in many cases the principal simply did not file the reports, in violation of the law.

Our research found that:

- **341 reports of the required 2,680 from principals during 2003-2004 are missing (13%).**
- **201 of the 717 principals for 2003-2004 had at least 1 report missing (28%).**
- **27 of the principals have no reports at all on file with the Secretary of State.**
- **We estimate that the missing reports would add from \$500,000 to \$1 million to the \$18.6 million in disclosed compensation paid to lobbyists for 2003-2004.**

Unfortunately, the Secretary of State's office does not have the resources to conduct desk audits or systematically review reports for compliance with the law, even though the registration fee for a lobbyist jumped from \$75 to \$200 a few years ago. The new revenue did not go to the department, according to senior staff.

As a result, the staff who process the lobbyist registrations and reports have little time to do more than act as filing clerks; they lack the resources and computerized software to systematically track compliance, send reminder notices (as called for in the law), pursue delinquent filers, and send notices about basic reporting errors or inconsistencies.

Under the current law, a lobbyist who fails to file a report after a reminder has his or her registration revoked and can't continue to lobby, but the principal faces no such penalty. That's one gap the new regulations now being debated in the General Assembly should fix. The new law should also provide adequate funding for processing and enforcing regulations that require rapid disclosure of all lobbying expenditures benefiting policymakers, with reports filled out on-line using software similar to that in Washington state and Wisconsin.

THE MISSING REPORTS

27 PRINCIPALS WITH NO REPORTS ON FILE

(report is due because a lobbyist is registered for the period)

Name of Client/Principal	Reports Missing				Total
	1 st	2 nd	3 rd	4 th	
Ameresco	■	■	■	■	4
Beer & Wine Wholesalers Assoc.	■	■	■	■	4
CGI-AMS, Inc.				■	1
Capital Parking Inc.	■	■	■	■	4
Caremark RX, Inc.				■	1
Christian Action League of NC	■	■	■	■	4
Datatel	■				1
Edmisten & Webb Law Firm	■	■			2
Employers' Coalition of NC			■	■	2
Evercom Inc.	■	■	■	■	4
GMAC Insurance Mgmt. Corp.			■	■	2
Krueger International Inc.	■	■	■	■	4
Murphy-Brown LLC	■	■	■	■	4
NC Assn. of County Dirs. Social Svcs.	■	■	■	■	4
NC Assn. of Mortgage Professionals	■	■	■	■	4
NC Comm. Support Providers Coun.			■	■	2
NC Forestry Assoc.	■	■	■	■	4
NC Heating & A/C Contractors	■	■			2
NC Sporting Dog Assoc.			■	■	2
NC Symphony		■	■	■	3
NC Wildlife Federation	■	■	■	■	4
Parker Poe Adams & Bernstein LLP			■	■	2
Piper Rudnick LLP	■	■	■	■	4
SecureNet Infor. Prot. Solutions	■	■			2
Strategic Systems Group	■	■	■	■	4
Sun Microsystems	■	■	■	■	4
Teamsters Local Union No. 391			■	■	2

OTHER PRINCIPALS

AIM Healthcare Services	■				1
ASPCA			■		1
ADT Offender Monitoring Service				■	1
AdvancePCS				■	1
Agricultural Alliance of NC	■				1
Alice Aycock Poe Ctr For Healthcare			■		1
Alley Associates	■				1
Alliance of American Insurers	■	■	■		3
Allied Domecq Spirits			■		1
Alternative Brands				■	1
Amateur Sports/State Games of NC			■		1
American Cancer Society	■	■	■		3
American Council of Engineers	■	■	■		3
American Farmers of the Sea	■	■			2
American International Group				■	1
American Legion	■	■			2
American Massage Therapy	■				1
Aqua North Carolina	■	■			2

Name of Client/Principal

1st 2nd 3rd 4th Total

Arteva Specialties			■		1
Assisted Living Assn.	■		■	■	3
Association & Soc. Insurance Co.				■	1
Autism Foundation & Society of NC		■			1
Automotive Service Assn of NC		■		■	2
Bio-Medical Applications of Clinton		■			1
Bio-Medical Applications of Fay'ville		■			1
Bio-Medical Applications of NC		■			1
Boehringer Ingelheim Pharmaceutical	■				1
CIGNA Corp				■	1
CITMA				■	1
CPAs Assn.		■			1
Cape Hatteras Electric Membership	■				1
Carolina Ind. Grp. for Fair Utility Rates		■	■	■	3
Celanese		■			1
Centex Homes			■		1
Cert. Fee-Based Pastoral Counselors				■	1
Charles P. Wilkins				■	1
Charlotte Chamber of Commerce				■	1
Charlotte Regional Partnership				■	1
Charlotte-Mecklenburg Bd. of Educ.				■	1
Check into Cash	■				1
Child Advocacy Institute			■		1
Cisco Systems Inc.				■	1
Citizens for a Sound Economy				■	1
Coalition Against Sexual Assault				■	1
Coalition for Patient's Rights		■			1
Coalition of Insurance Agents			■	■	2
Coalition of Police		■	■	■	3
Coastal Communities Inc.			■		1
Collectors Assn.				■	1
Community College Trustees Assn.		■		■	2
Conference of Superior Ct. Judges	■			■	2
Connectinc Inc.			■		1
DIECA Communications		■			1
Defense Attorneys Assn.		■			1
Dental Hygiene Assn.				■	1
Distilled Spirits (Discus)		■			1
Div. TEACCH, UNC Psychiatry Dept.		■			1
E. I. duPont de Nemours		■		■	2
Eastern Band of Cherokees		■	■	■	3
Eckerd Youth Alternatives, Inc.				■	1
Economic Developers Assn.	■			■	2
Economic Development Group	■	■			2
Employ America			■		1
Enterprise Corp., The NC				■	1
Environmental System Products	■		■	■	3
Fairway Outdoor Advertising		■			1
Firearms Dealers Group		■			1
First Carolina Finance				■	1

Free Clinics, NC Assn	■	■	■	2	Nantahala Outdoor Center	■	■	1
Funeral Director & Morticians Assn.	■	■	■	3	National Heritage Academies	■	■	2
GTECH Corp.	■	■	■	3	Nations Express			1
Greater Raleigh Chamber of Comm.		■		1	Natl. Federation of Indep. Business			1
Health Care Resources		■	■	2	Naturopathic Physicians	■	■	2
Health Management Communications	■		■	2	New Hanover Rent A Car	■		1
High School Athletic Assn.		■	■	2	Nextel Communications		■	2
Holiday Trav-L-Park			■	2	North Caro. Against Gun Violence		■	2
Hosiery Government Affairs Council	■	■		2	Operators Distributing	■	■	2
IATSE			■	1	Patterson Business Systems		■	2
Independent Auto Body Assn.		■		1	Pepsi Bottling Ventures			1
Independent Garage Owners		■		1	Petroleum Marketers Assn.		■	1
Infiltrator Systems	■	■		2	PhyTrust			1
Integrative Medical Society			■	1	Portable Toilet Group	■	■	3
International Paper		■		1	Printing Industry of the Carolinas			1
Intuit		■	■	2	Professional Educators of NC		■	2
John Deere		■		1	Professional Engineers of NC		■	2
Johnson & Wales Univ.			■	1	Public Library Directors Assn		■	1
Kaplan Early Learning Co.		■	■	2	Publishers for Tax Equity			1
Land Loss Prevention Project	■		■	2	Raleigh Regional Assn. Of Realtors	■		1
Land Title Assn. NC			■	1	Recording Industry Assn. of America		■	2
Latin American Resource Center			■	1	Rent-A-Center Inc.			1
License Plate Agents	■	■	■	3	Resident Lenders of NC		■	2
Life Insurance Companies Assn. NC			■	1	Residential Services Inc.		■	1
Licensed Professional Counselors	■	■		2	Roche			1
Locksmith Association, NC	■	■	■	3	Rose Acre Farms Inc.		■	1
Lowes Companies			■	1	Royal Purple Transportation	■		3
Manufactured Housing Institute			■	1	Run Lightning			1
March of Dimes	■			1	Sepracor Inc.		■	2
McLane Company		■	■	2	Siemens Energy & Automation	■	■	2
Mediation Network of NC		■	■	2	Sierra Club	■	■	2
Medimmune			■	1	Small Rural Schools Consortium	■		1
Mining Assn.	■			1	Society of Surveyors		■	1
Mission St. Joseph's Healthcare		■	■	2	Southeast Ticketing Assn.			1
Motorcycle Dealers			■	1	Southeastern Equipment Dealers		■	2
Mountain Air Development	■		■	2	State School Nurse Assn.	■	■	2
NC Assn. of Naturopathic Physicians	■	■		2	Student Action with Farmworkers			1
NC Assn. of Private Investigators			■	2	Taylor, Penry, Rash & Riemann			1
NC Assn. of Self-Insurers			■	1	The ARC/NC		■	1
NC Assn. of Teacher Assistants		■		1	The Deer/Elk Farmer's Assn.			1
NC Hotel & Lodging Assn.	■	■	■	3	Town of Clayton	■		1
NC Manufacturers Assn.			■	1	Town of Kitty Hawk	■		2
NC Metropolitan Coalition		■		1	Triangle Transit Authority		■	1
NC Motorsports Assn.	■	■	■	3	Two Way Radio	■	■	2
NC Northeast Partnership			■	1	US Airways			1
NC Opticians Assn			■	2	US LEC Corp		■	2
NC Police Executive Assn.	■	■	■	3	United Cerebral Palsy	■		2
NC Press Assn.		■	■	2	United Way of NC			1
NC Pumper Group		■		1	Utility Contractors Assn., NC	■		1
NC RV Dealers Assn.	■		■	2	Verizon Wireless	■	■	3
NC Sheriffs Assn.		■		1	Victim Assistance Network, NC		■	2
NC State Optometric Society			■	1	WARN		■	1
NC Vending Association	■		■	2	Wallace & Graham		■	2

PERIOD COVERED BY REPORTS: 1ST – 1/1-7/20/2003 2ND – 7/21-12/31/2003 3rd – 1/1-7/18/2004 4th – 7/19-12/31/2004
Prepared by Democracy North Carolina, June 2005, based on reports in the NC Secretary of State's database and website