

Strayhorn: For Governor or Special Interest Puppet?

“Texas belongs to no special interest group, no special political credo, no special individual. It belongs to all Texans.”¹

So reads the home page of the *Strayhorn for Governor* website. If the philosophy expressed is sincere, this sounds like the type of person anybody should vote for, which is why another page proclaims:

She will put principles above politics, and with your help, we will win this race for all Texans. She will be a ***Governor for all Texans***.² [Emphasis added]

But does this candidate really eschew special interests? Do her campaign contributions support her promises? Would her statements ring true if it was shown that her election bid is heavily funded by a group with a past record of a negative influence in matters of personal liberty for the regular, workaday person?

In an article entitled *Money to Burn*, Bryce noted:

There’s nothing like a few billion dollars to bring out the worst in people. Just look at the ongoing fight over legal fees for the lawyers who represented Texas in the tobacco lawsuit. Indeed, three or more of the seven deadly sins are represented. Filling the role of gluttony are the Big Five tobacco lawyers who want to collect between \$2.3 billion and \$3.3 billion for their two years’ worth of work in the tobacco case.³

Two of the “Big Five tobacco lawyers” listed in the article are Walter Umphrey and John Eddie Williams. These two attorneys account for more than \$1 million in campaign contributions to the *Friends of Carole Keeton Strayhorn* fund since the second half of 2004. Their law firms account for another \$45,500 in contributions from other lawyers working there.⁴ Meanwhile, Rick Perry received no contributions from these two contributors.⁵

A search of *Open Secrets*, the campaign finance web site of the Center for Responsive Politics that tracks campaign contributions for federal election races, reveals that these two attorneys have contributed over \$2.3 million to various campaigns during the last three election cycles: 2002, 2004, and 2006. More interesting is the fact that they mostly contribute to candidates outside Texas. Of the 25 candidates Umphrey donated for federal campaigns between 2002 and 2006, 18 are from other states. Of the 20 candidates Williams donated for federal campaigns between 2002 and 2006, 14 are from other states.⁶ These two are political players on the federal level.

“Big Two” Campaign Contributions and Tort Reform Voting Records

Comparing campaign contributions to voting records on tort reform may give us an indication as to the relationship between money and influence. We will pick a subject that

may be controversial for some, but it is the very contentiousness of the subject that provides certain attorneys a financial opportunity.

In 2005, Congress passed the Protection of Lawful Commerce in Arms Act. This legislation is designed to protect a manufacturer of a legal, non-defective product from being sued only when the basis for the suit was the criminal use of that product by a private individual. While civil liability suits are banned due to injuries and damages resulting from strictly criminal abuse, the bill specifically states that litigation can proceed where:

- damages have resulted from unlawful firearms transfers;
- an action is brought against a seller for negligence;
- a manufacturer or retailer knowingly violated a State or Federal statute applicable to the sale or marketing of the product;
- there is breach of contract or warranty;
- death, physical injuries or property damage resulted directly from a defect in design or manufacture of the product, except where a criminal offense was determined to be the cause.⁷

Much media coverage presented this legislation as some sort of blanket immunity to firearm manufacturers,⁸ but what was not covered was media information sources and the moneyed influence behind the politicking. Nor was much mention given to the fact that both the U.S. Chamber of Commerce and the National Association of Manufacturers came out in favor of this tort reform, as business leaders generally saw this as a wedge issue which would create legal precedent where any non-defective product could become a target for similar litigation.^{9,10} The bottom line is that attorneys poured over \$182 million into the 2004 election cycle, and killing this bill was one of their primary objectives.¹¹

Returning to our “Big Two,” from 2000 through the 2004 federal election cycle, they contributed \$2,309,000 with over 99% going to the Democrat party and its candidates. Of the 17 senators they contributed to who voted on this tort reform bill, 10 voted against and seven in favor, for a 41% Yes vote. The total Senate vote was 65 Yea and 31 Nay, for a 68% Yes vote. The “Big Two” senators who voted for tort reform received an average of \$676,979 in campaign contributions from all lawyers between 2000 and 2004, while those voting against averaged \$1,072,104, 58% more. This is similar to the differential between all senators: those voting against averaged 73% more lawyer contributions than the 65 who voted in favor of tort reform. Splitting “Big Two” senators along party lines, Democrat senators received an average of \$1,001,264, 108%—more than double—the \$480,732 average received by the two Republican and one Independent senators. Overall, the party differential in the Senate shows the Democrats receiving an average of 87% more than Republicans. Senators who voted against tort reform were far more heavily favored by lawyerly largesse.¹²

What's In It for Attorneys?

Investing in congressional candidates to maintain a favorable legal environment for further high-return litigation is partly historical and partly a long-term game plan. The legal profession received billions of dollars in contingency fees from the tobacco litigation of the 1990s, in which manufacturers were held liable for the deliberate actions of consumers. One Texas attorney was awarded \$260 million for his part in the tobacco settlement in 1999.¹³ Levy found that:

Private attorneys in Texas, Mississippi and Florida made out like bandits, fleeing tobacco companies, smokers and taxpayers for \$8.2 billion in legal fees – billions more than the lawyers themselves had demanded!¹⁴

After the tobacco settlement, lawyers and law firms tripled the amount of total contributions to federal candidates and political parties, from \$59 million in 1998 election cycle to over \$182 million in 2004.¹⁵

Recently-released papers from the Clinton Presidential Library confirm this tobacco-firearms litigation link. A *Los Angeles Times* article from October 1998 notes:

New Orleans is expected to file a massive product liability and negligence lawsuit against major handgun makers today, the opening salvo in a campaign against the gun industry by an alliance of anti-tobacco attorneys and local governments.

The suit, which will be announced by New Orleans Mayor Marc Morial, will name 10 manufacturers, including five Southern California firms that make the cheap handguns known as Saturday night specials, said John Coale, a Washington attorney who is part of a nationwide consortium of law firms that has filed two dozen class-action suits against tobacco companies.¹⁶

The *Los Angeles Times* article goes on to describe this consortium and name some of its players:

New Orleans, Coale added, “will be the first of many cities” to sue in the next few months with the help of the Castano group, a nationwide consortium of law firms, and the National Center to Prevent Handgun Violence. The other cities were not identified.

“We’re going to do to this what we did to tobacco,” he said. “It’s going to be a very large war.”

The Castano group, named for the lead plaintiff in one anti-tobacco case, has filed class-action suits against cigarette makers on behalf of millions of allegedly addicted smokers. The cases are pending in various states.¹⁷

The Impact of Such Litigation on Society

The litigation costs had scant punitive effect on tobacco companies; most of them are parts of conglomerates who only need raise prices on products unrelated to smoking in response to the settlements.

For example, Phillip Morris, one of the tobacco companies involved in the settlement, is owned by Altria Group,¹⁸ which also owns Kraft Foods.¹⁹ Settlement payments simply become part of Altria's liabilities on their balance sheet. In 2002, under "*Liabilities: Consumer Products, Accrued liabilities*" is a line item entitled "*Settlement charges*" which cost Altria over \$3 billion annually for 2001 and 2002.²⁰

In order to remain profitable in the face of extensive, long-term compulsory levies by state governments via the tobacco settlement, the costs of products must go up so that income remains higher than expenses. You are essentially paying a "tobacco tax" so that Altria can remain in business while spending billions each year on the tobacco settlement, passing along the expense by raising prices on their other consumer products.

Next, picture yourself as an owner of a small business that manufactures a product for sale to the public. Could you handle a tort lawsuit promoted by an attorney who represents "victims" of your product on contingency? The plaintiffs need not risk any of their own money to initiate the suit, but you will need to spend thousands to defend yourself. If they win, they split the profits with the attorney. If you win, you are still out a ton of money. It is far more difficult for a small business to pass on such costs, because you cannot spread it over a multitude of products.

Most firearm manufacturers are small- to medium-sized businesses. In 2002, only 12% of all manufacturers produced more than 10,000 units. At the other end, 56% of all manufacturers are little more than family-owned businesses, producing less than 100 guns annually.²¹ Meanwhile, attorneys win no matter what. They either put small manufacturers out of business, cash in on settlements with larger manufacturers, or create more case law precedent enabling them to set up the next product for the same type of class action law suit.

Conclusion

Why should you allow your wealth to be transferred to people who are already so economically elite they can toss in half a million dollars on one state election campaign? Is this in line with the American dream of the pursuit of life, liberty, and happiness?

By demonizing and politically ostracizing the next consumer product, thereby making it vulnerable to a "very large [legal] war," this predatory cycle of blaming some inanimate object instead of emphasizing personal responsibility creates precedent for yet another cycle of litigation as lawyers set their sights on the next target, and the next, all while enriching themselves with fat contingency fees, which in turn gives them additional seed money to buy more influence in Washington, D.C.

Attorneys in general spend money on Democrats and those who vote against tort reform. Tobacco attorneys a history of contributing heavily to candidates who support legislation creating a favorable environment for high-dollar tort cases. People who can contribute so much money to one candidate are "special individuals" who expect return on investment. It is reasonable to pause and consider why Strayhorn is the beneficiary of such campaign contributions.

Bio

Howard Nemerov publishes with ChronWatch, News Busters and other sites, and is a frequent guest on NRA News. He can be reached at HNemerov [at sign] Netvista.net.

Endnotes

¹ Strayhorn for Governor, *Welcome*, Copyright 2006 Friends of Carol Keeton Strayhorn. <http://www.carolestrayhorn.com/>

² Strayhorn for Governor, *Thank You for Signing the Petition*, Copyright 2006 Friends of Carol Keeton Strayhorn. <http://www.carolestrayhorn.com/petitionform.aspx>

³ Robert Bryce, Money to Burn, *Austin Chronicle*, October 22, 1999. <http://www.austinchronicle.com/gyrobase/Issue/story?oid=oid%3A74351>

⁴ Compiled from Texas Ethics Commission. Spreadsheet available upon request.

⁵ Texans for Rick Perry main page, Texas Ethics Commission. <http://www.ethics.state.tx.us/php/filer.php?acct=00015741>

⁶ Compiled from Open Secrets, web site of the Center for Responsive Politics. Spreadsheet available upon request.

⁷ Protection of Lawful Commerce in Arms Act, Senate Bill 397, 109th Congress, 1st Session, February 17, 2005. <http://thomas.loc.gov/cgi-bin/query/query>

⁸ The Coalition to Stop Gun Violence, Media Outlets Opposed to Legal Immunity for the Gun Industry. <http://www.csgv.org/issues/immunity/allies/media/index.cfm>

⁹ R. Bruce Josten, *U.S. Chamber of Commerce Letter to Congress*, July 22, 2005. http://www.hsshf.org/share/PLCAA/072205_b.pdf

¹⁰ John Engler, *Letter to Full House*, National Association of Manufacturers, October 17, 2005. http://www.nam.org/s_nam/bin.asp?TrackID=&SID=1&DID=235464&CID=202203&VID=2

¹¹ Howard Nemerov, *Gun Control: Rebuttal to Michael Barnes, Brady Campaign*, August 5, 2005. <http://www.chronwatch.com/content/contentDisplay.asp?aid=16066>

¹² Compiled from Open Secrets, web site of the Center for Responsive Politics. Spreadsheet available upon request.

¹³ John R. Butler, Dan Morales and Marc Murr Have Some Explaining to Do to All Texans, *Houston Chronicle*, May 7, 1999. <http://www.texansforreasonablelegalfees.com/explaining.asp>

¹⁴ Robert Levy, *The Great Tobacco Robbery: Lawyers Grab Billions*, Cato Institute, March 6, 1999. <http://www.cato.org/dailys/03-06-99.html>

¹⁵ Open Secrets, *Lawyers/Law Firms: Long-Term Contribution Trends*, Center for Responsive Politics. <http://www.opensecrets.org/industries/indus.asp?Ind=K01>

¹⁶ Myron Levin, New Orleans Is Expected to Sue Gun Manufacturers, *Los Angeles Times*, October 30, 1998. Collected from Clinton Presidential Library by Judicial Watch, page 2. <http://www.judicialwatch.org/archive/2006/gundocs.pdf>

¹⁷ Ibid.

¹⁸ Financial Information, Philip Morris, USA. http://www.philipmorrisusa.com/en/about_us/financial_information.asp

¹⁹ Investors Overview, Altria. http://www.altria.com/investors/02_00_investorsOver.asp

²⁰ Consolidated Balance Sheet, 2002 Annual Report, Altria, page 25.
http://www.altria.com/AnnualReport2002/AR2002_07_03_0100.asp

²¹ See Table 4.1 in Appendix A.