



Utah

New allegation: John Swallow asked for \$120K from jailed businessman

New recording, texts show worries about keeping information secret

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For the **Deseret News**

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SALT LAKE CITY — A Utah attorney claims that John Swallow — while he was chief deputy attorney general — asked for \$120,000 from a jailed St. George businessman to help him fight his legal troubles.

Travis Marker's allegations are part of a declaration he was asked to provide to members of the House committee investigating allegations of wrongdoing against Swallow, who resigned as attorney general last month.

Marker alleges that Swallow asked for money from his client, Jeremy Johnson, months after Johnson and an associate initially paid \$250,000 to Swallow's former boss in a failed deal to enlist help from federal power players. The Federal Trade Commission sued Johnson's online marketing company, iWorks, weeks after the money was paid.

In addition to the signed declaration from Marker dated Dec. 17, the Deseret News and KSL have also obtained emails, text messages and an audio recording that appear to reveal, among other information, efforts to avoid public leaks of information involving Swallow.

Marker, a St. George attorney, was Johnson's personal lawyer during the period of time when Johnson was jailed in the summer of 2011, arrested on a criminal mail fraud charge in connection with the FTC civil lawsuit alleging that iWorks defrauded customers through their Internet marketing practices.

In Marker's declaration to the House committee, he says he met with Swallow "two or three times" during that summer and believed him to be a personal friend of Johnson.

Marker says he sought the initial meeting on Johnson's behalf "wanting to know if there were more options with the lobbyists" based on the \$250,000 payment that had been made and Johnson's ongoing battles with lawsuits on two fronts.

"Mr. Swallow gave me the impression that there were no more options via the lobbyists," Marker wrote in his declaration.

But it was in a subsequent meeting, which Marker says took place in a room just off the Senate cafeteria at the state Capitol, that Swallow suggested more money might make a difference.

"John Swallow indicated that if Jeremy Johnson could provide him more money, he may have more options. I believe the amount requested by John Swallow was \$120,000, but I cannot recall exactly the amount he requested," Marker wrote.

"My response to Mr. Swallow was that Jeremy Johnson had no further financial resources that could produce that type of money because of the injunction in the Nevada case (the FTC lawsuit that effectively froze Johnson's assets)," Marker said in the declaration.

"Mr. Swallow did not indicate how that money would be spent other than to indicate it might help solve Jeremy Johnson's legal situation in Utah and potentially Nevada."

In his declaration to the House committee, Marker also said he is “concerned” that the \$120,000 request “may not have been for legitimate lobbying purposes” but added that he couldn’t confirm that suspicion.

Marker also said Swallow appeared to be “very supportive” of Johnson and his family during their meetings. “He never showed anything but genuine concern for Mr. Johnson.”

Attempts to reach Swallow for comment through his attorney were unsuccessful Wednesday.

Marker’s allegations conflict with Swallow’s steadfast claims that he did nothing more than put Johnson in touch with his former boss, the late Check City owner Richard Rawle, whom he believed could help Johnson with his legal troubles by linking him with well-connected lobbyists.

In the face of the initial allegations in January that the target of the lobbying was a close contact to Senate Majority Leader Harry Reid, and Johnson’s assertions that he was promised help from the powerful senator himself in battling the FTC, Swallow distanced himself from the deal altogether.

“I told Jeremy I could not and would not intervene with the FTC on his behalf, given my position with the state (as attorney general),” Swallow told the Salt Lake Tribune in January.

Reid has denied any knowledge of the deal.

The subsequent release of an audio recording dated April 30, 2012, of a meeting between Swallow and Johnson at a Krispy Kreme shop in Orem — recorded by Johnson — forced the newly elected attorney general to acknowledge some political and ethical missteps, but he has maintained his innocence of allegations that he negotiated the price tag of Johnson’s deal or played any significant role.

Swallow also has previously told the Deseret News that he never talked to federal prosecutors or pressured them to back off Johnson’s criminal case, nor did he talk to anyone at the FTC about the civil lawsuit.

“The answer is categorically no. Nor would I,” Swallow said.

Johnson and four others currently face an 86-count criminal indictment in connection with iWorks.

Before scandal erupted

In February 2012 — nearly three months before the doughnut shop meeting and 10 months before the election — Johnson met with Swallow’s campaign manager, Jason Powers, and recorded the conversation. The audio was released to the Deseret News and KSL by iWorks civil attorney Karra Porter.

Powers’ purpose appears to be a meeting of the minds on how to keep his candidate out of unsavory headlines.

“You kind of understand the situation, the quieter we keep things for a little while,” says Powers.

“I understand it, believe me,” Johnson replies.

Both sides, it appears, are motivated to keep under wraps information about the deal in which Johnson and his associate paid \$250,000 to Swallow’s former boss, Rawle.

In the recording, Johnson and Powers discuss a partial refund of the payment on behalf of Johnson’s associate, who paid the bulk of the money and was threatening to sue to get a portion of it back.

A settlement price of \$20,000 is suggested by Powers, which Johnson rejects, saying he does not believe his associate will accept it. They discuss how to hold off any negotiations until after the election, suggesting that a lawsuit by Johnson’s associate would “drag (Swallow) into something that — it’s a bad time,” says Johnson.

"It's a very bad time, which is why I'm here to talk to you," Powers agrees.

Also on the recording, Powers and Johnson are heard doing a search on Johnson's computer for any email exchanges between Johnson and Swallow that might be of concern to the campaign.

"I have a ton of emails. I didn't realize I emailed him so much," Johnson says.

Documents obtained by KSL and the Desert News reveal Swallow used as many as four different email addresses from 2009 to 2012.

Powers did not respond to a request for comment.

Porter, in releasing the audio, says its mere existence — along with the emails it references — raises questions about the thoroughness of the Department of Justice investigation of Swallow, which concluded in September without any finding of wrongdoing.

"I was mystified that the feds closed their investigation of Mr. Swallow without even contacting us to see if we might have relevant information and apparently without learning that years' worth of Mr. Swallow's emails were unavailable," Porter said, referring to the House committee's revelation that large portions of data connected with Swallow's electronic devices are missing.

"I don't know what that says about the federal investigation," she said.

Text exchange

Other emails and communications between Swallow and Johnson the Deseret News obtained date back to 2009, when Swallow was the lead fundraiser for Shurtleff's brief run for U.S. Senate. Johnson was a lead fundraiser for Shurtleff's campaign, as well as Mike Lee's successful bid for the same seat in 2010.

The email exchanges discuss a range of topics from business opportunities involving iWorks to humanitarian efforts. Together, Johnson and Swallow helped a Utah teen get badly needed medical care.

In March 2011 — three months before Johnson was arrested and four months after his company, iWorks, was sued by the FTC — a series of text messages between Swallow and Johnson appear to show that Swallow is concerned about privacy after Johnson suggests they talk on the phone rather than in person.

"NP. Just didn't know if anyone would be listening," Swallow writes in an exchange of text messages dated March 16, 2011.

"This is my costa rica phone no way anyone is listening here. And I think it's very unlikely (sic) anyone is on any other phone too," Johnson replies.

"OK. Wanted to talk to you about a recent trip to DC. I am travelling (sic) in rural Utah today and tomorrow. I'll try to call Friday," Swallow texted.

Whether any phone call took place is unknown.

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