

Four-Star Hotel, Two-Star Tax?

THE ECONOMIC DOWNTURN has battered the travel industry more than most. Now, as business slowly improves, online travel agencies such as Expedia Inc. and Orbitz Worldwide Inc. say they're worried about a new threat from taxes that cash-starved cities and counties are trying to collect on the full price — rather than any discounted price — of hotel rooms booked online. The Internet companies' solution: Try to persuade Congress to intervene.

Client of the Month Club

True tales of lobbying ... straight from federal disclosure forms

The client: The Judge Rotenberg Center of Canton, Mass.

The lobbyist: **Edward D. Krenik** of Bracewell & Giuliani, an EPA liaison to Congress in the Bush administration and previously the legislative director for Republican Rep. **Rodney Frelinghuysen** of New Jersey.

The work: Persuade senators to provide an exemption — in legislation that would deny federal funding to schools that physically restrain students — for the court-approved electric shocks that the Judge Rotenberg Center uses with some of its students.

The pay: \$20,000 in March, the most recent period for which disclosure forms have been filed.

The back story: The center, in the suburbs south of Boston, serves students with severe emotional problems. In some cases, when a student exhibits serious behavioral problems after a prolonged program of positive inducements, the school — with the permission of parents and the Massachusetts Probate Court — begins a program of electric shock therapy. The treatment is more effective, the school insists, than psychiatric drugs that can have dangerous side effects. But it is highly controversial and effectively would be banned under legislation the House passed in March. A Senate companion bill, by Connecticut Democrat **Christopher J. Dodd**, is pending in committee.



The Interactive Travel Services Association, which represents the companies, late last month launched a website and grass-roots lobbying campaign called TravelersFirst.org. The association's members are asking customers to contact members of Congress and encourage them to support legislation that would curtail the local taxes.

"The issue with this is there are more than 7,000 local tax authorities," says **Andrew Weinstein**, a spokesman for the association. "If each attempts to create its own tax regime, it will create compliance and logistical burdens on the travel sector which will be devastating to tourism."

Cities argue that it's the travel companies that are pulling a fast one: renting rooms cheap from hotel proprietors, selling high to online customers and then paying the hotel occupancy tax only on the lower price.

To this point, most of the battles have played out in court with mixed results. State courts in Texas and California found against the cities of Houston and Anaheim earlier this year. But Expedia last year agreed to settle a class-action suit brought by customers who claimed they'd been overcharged for service fees they believed were being used to pay local hotel taxes. A state court judge in Seattle had previously found the company liable for \$184 million in damages.

Around the same time, New York City passed an ordinance requiring online travel agents to pay hotel occupancy tax on the final amount they bill customers. Washington is considering a similar rule in the nation's capital, and the online agents fear it will become a trend. They want a federal law permitting only states to set rules on how much tax online agents must pay.

Meanwhile, Weinstein's member companies are spending big on lobbying: \$374,000 by Expedia alone in the first quarter of 2010, much of it earmarked for the tax issue. Among its advocates: **Bob Dole**, the former Republican Senate majority Leader, and former Rep. **Robin Tallon**, a South Carolina Democrat.

— SHAWN ZELLER

Classifying Kagan's Candor

THE Washington water-cooler reviews of the **Elena Kagan** confirmation hearings fell largely along predictable party lines: Democrats thought she was candid and insightful in her three days before the Senate Judiciary Committee; Republicans found her evasive and abstruse. But after crunching the numbers, two political science professors who have studied the answers of every nominee for the last half century say Kagan was just as candid as other recent nominees.

Dion Farganis of Elon University and **Justin Wedeking** of the University of Kentucky found that the solicitor general provided complete answers to about two-thirds of the questions posed by committee members, though her candor varied depending on who asked the question.

For instance, the professors classified 100 percent of Kagan's answers to questions from Vermont Democrat **Patrick J. Leahy**, Judiciary's chairman, as "very forthcoming." By contrast, Kagan offered "very forthcoming" answers to only one-third of the queries from Republican-turned-Democrat **Arlen Specter** of Pennsylvania — while providing what they characterized as "non-answers" to another one-third of the former Philadelphia district attorney's questions.

That variation might help explain why Leahy, who has participated in the hearings of all eight justices with whom Kagan would serve, concluded she was the most forthcoming nominee since he'd been in the Senate. Specter, though, lamented that Kagan had "followed the pattern which has been in vogue" since conservative **Robert H. Bork's** excessively candid answers contributed to his failed nomination in 1987.

In their broader study of all Supreme Court confirmations since 1955, released last month, Farganis and Wedeking challenged the conventional wisdom that would-be-justices have become less candid, concluding that nominees have become more explicit about avoiding answering senators' questions while lawmakers have asked more pointed questions and public attention on the process has intensified as the confirmation hearings started to be televised in the 1980s.



ADDING UP:
Elena Kagan

— SETH STERN