

Whittemore's attorneys file for dismissal

By Jeff German and Francis McCabe, Las Vegas Review-Journal

Defense lawyers for Harvey Whittemore filed court papers Friday seeking to suppress evidence in the high-profile federal case charging the one-time power broker in a scheme to unlawfully funnel \$138,000 in campaign contributions to Senate Majority Leader Harry Reid.

The lawyers argued the evidence – including a note from the Nevada Democrat thanking Whittemore – was unlawfully obtained without a warrant.

The court papers included motions to dismiss the case against the longtime legislative lobbyist because of a lack of evidence.

Whittemore, 59, who once wielded influence within the state's political hierarchy, faces four felony charges, including making excessive campaign contributions, making contributions in the name of another and making a false statement to a federal agency. His trial is set for Feb. 26 before U.S. District Judge Larry Hicks in Reno.

In a motion to suppress, Las Vegas attorney Dominic Gentile sought to toss out all evidence found without a court-approved warrant in 81 boxes taken from Whittemore's offices after his business partners cut ties with him.

The boxes contained documents identifying the surrogate contributors Whittemore is alleged to have used in the scheme and his reimbursements to the contributors, a book about campaign finance law, a note to Reid and a note from Reid.

An FBI agent told the grand jury Reid authenticated his note

to Whittemore that read, "Harvey, you're a man of your word" and "You are a true friend now and for all days."

According to the indictment, Whittemore duped Reid's campaign committee into believing the contributions came legally from family members and associates.

Reid has distanced himself from Whittemore since the Las Vegas Review-Journal first reported in February that he was the subject of a federal investigation.

In one defense motion seeking to dismiss the case, Gentile argued the government cannot prove Whittemore knowingly violated the campaign laws.

"The indictment is devoid of any factual allegations that Mr. Whittemore knew the specific laws with which he is charged of violating," Gentile wrote. "Thus, the court should dismiss the indictment in full because the government has failed to allege the essential facts constituting the element of willfulness."

The indictment alleges Whittemore met with Reid in February 2007 in Las Vegas and agreed to raise \$150,000 by the March 31, 2007, campaign finance deadline.

Whittemore unlawfully used family members and associates as conduits for contributions to the senator's campaign and then reimbursed them, the indictment alleges.

But Gentile argued Whittemore's conduct supports the conclusion that he did not believe he was breaking the law.

"These are all people that Mr. Whittemore cared deeply about and would be the last people that he would put in harm's way, if he believed his conduct was illegal," Gentile wrote.

"It is unfathomable that he would knowingly and willfully expose his children to criminal liability just to make a few extra campaign donations."

Evidence presented to the grand jury included testimony about the boxes filled with the contents of Whittemore's offices with his former company, Wingfield Nevada Group Holding Co., according to the suppression motion.

After Thomas and Albert Seeno, two wealthy California brothers who partnered with Whittemore in Wingfield Nevada, removed him from the company, his offices were sealed, and the contents were boxed and delivered to the Las Vegas law firm of Pisanelli Bice.

James Pisanelli told a county judge hearing a lawsuit over the failed business partnership that the FBI had subpoenaed the boxes and ordered the firm to keep them, according to Gentile's motion.

Gentile argued that Whittemore was never served with the "purported subpoena" that allowed the FBI to examine the boxes.

Because the search "led directly to the alleged discovery of the very acts and transactions which are the basis" of the indictment, all evidence derived from the illegal search must be suppressed, Gentile wrote.

The investigation became public Feb. 9, as FBI agents fanned out across the state at some 30 locations to serve subpoenas on Whittemore business associates, family members and employees.

Allegations had surfaced that employees of Wingfield Nevada and its subsidiaries were used to donate to political campaigns and were later reimbursed by Whittemore with company money.

In recent years, Whittemore turned his attention away from lobbying to land development.

At the time of his big push to contribute money to Reid's

campaign, Whittemore was orchestrating the development of Coyote Springs, a master-planned community in Southern Nevada.

With the help of Reid and other members of the Nevada congressional delegation, Whittemore sought to overcome several government hurdles because of county water and federal land issues.

But in 2008, the 43,000-acre development stalled because of the housing crash and economic recession and has languished ever since.