

# 9th Circuit hearing Whittemore appeal today

**By Associated Press**

SAN FRANCISCO – Lawyers for a former lobbyist are going before a federal appeals court in San Francisco to try to overturn his conviction for carrying out a scheme to raise money illegally for Senate Majority Leader Harry Reid.

Federal prosecutors and lawyers for Harvey Whittemore, a one-time Nevada political powerbroker who headed a billion-dollar real estate company, each get 20 minutes on Monday to argue their case before the 9th U.S. Circuit Court of Appeals. The 9am hearing was scheduled to last an hour.

Whittemore's lawyers wrote in their appeal that he violated no laws because he didn't force anyone to give any money to Reid. They also argue placing limits on the amount of money he can contribute to candidates is a constitutional violation of his right to free speech – an argument the U.S. Supreme Court has rejected in other cases as recently as April.

Whittemore, 61, began serving a two year prison term in August at a minimum-security prison on the central California Coast on three felony counts related to violations of campaign-contribution laws.

A federal grand jury in Reno indicted him in June 2012 after FBI agents testified that they caught him trying to skirt contribution limits by using family members and employees as "straw donors" to hide the true source of \$133,000 he funneled to Reid's re-election campaign in 2007

A district court jury found Whittemore guilty in May 2013 of making excessive campaign contributions, making contributions in the name of another and causing a false statement to be

made to the Federal Election Commission. The maximum penalty for the three counts combined was up to 15 years in prison.

Reid, D-Nev., was not accused of any wrongdoing, although he was forced to amend his FEC reports for 2007.

Assistant U.S. Attorney Steve Myhre said Whittemore wrote checks only to workers at his real estate company – \$5,000 if single, \$10,000 if married – whom he knew would not refuse the request partly because they were highly dependent on him financially. In each case, they contributed the maximum \$4,600, leaving \$400 to keep for themselves.

Whittemore's lawyers said the checks were "gifts" with no strings attached, and that he merely suggested they consider contributing to one of the most powerful members of Congress in a position to best represent Nevadans.

Dominic Gentile, Whittemore's lead defense counsel, wrote in the appeal that U.S. District Court Judge Larry Hicks erred when he failed to instruct the jury to consider whether Whittemore illegally made contributions "in the name of another" or provided them with the money unconditionally.

"Mr. Whittemore engaged in two perfectly lawful activities. He gave unconditionally of portions of his personal wealth to the object of his bounty. And he likewise exercised his fundamental First Amendment right to advocate and solicit support for the political candidate of his choice," he said.

Prosecutors described Whittemore as the "king of the hill" in Nevada political circles, "the ultimate insider" who had worked his way onto the short list of many U.S. senators and representatives as someone to call when they needed to quickly find donors.

Whittemore once hosted an event for ex-Sen. John Edwards, then a Democratic presidential hopeful, and a fundraiser at Reid's request for then-Senate Majority Leader Tom Daschle. He also

helped arrange a reception attended by President Bill Clinton during an environmental summit at Lake Tahoe.