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April 13, 2010

**VIA OVERNIGHT DELIVERY**

Jeff S. Jordan, Esquire  
Supervisory Attorney  
Complaints Examination & Legal Administration  
Federal Election Commission  
999 E Street N.W.  
Washington DC 20463

Re: MUR - 6253

Dear Mr. Jordan:

Our firm represents Harold W. ("Trey") Gowdy III, Gowdy for Congress, Gowdy for Solicitor, Wesley Donchum and Under the Power Lines ("UTPL") in the above-referenced matter. The purpose of this letter is to (1) provide information requested by the Commission in your letters to our clients and (2) rebut all allegations made in complaints filed by Mr. Jeffrey J. Parker.

As you may know, Congressman Bob Inglis and Solicitor Trey Gowdy are locked in a heated primary battle in South Carolina for the 4<sup>th</sup> congressional seat currently held by Mr. Inglis. On or about February 25, 2010, Mr. Jeffrey J. Parker, Treasurer for Bob Inglis for Congress, filed a complaint, with no evidence, questioning certain items on Mr. Gowdy's federal campaign disclosures. The original complaint was later amended or supplemented by Mr. Parker on or about March 4, 2010, again with no evidence provided.

Mr. Parker's complaints allege two specific types of conduct. First, Parker suggests that Gowdy for Congress utilized state campaign resources from Gowdy for Solicitor or public funds in furtherance of Mr. Gowdy's congressional campaign. Second, Parker suggests, that Gowdy for Solicitor has somehow been under-billed by UTPL for services provided to the federal campaign. Both of these allegations are false and, unfortunately, come on the heels of another frivolous complaint filed by Mr. Parker with the South Carolina Ethics Commission ("SEC") making similar allegations. The SEC rejected Mr. Parker's complaint, finding no merit to the allegations asserted.<sup>1</sup> In the SEC matter, the Inglis campaign may have breached the confidentiality requirements of South Carolina law by linking the state complaint to the media in violation of S.C. Code Section 8-13-320(16)(g).<sup>2</sup>

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The enclosed affidavits categorically reject and disprove Mr. Parker's allegations in the following particulars. First, Gowdy for Solicitor campaign funds have never been used in connection with Mr. Gowdy's congressional campaign,<sup>3</sup> nor have any public funds been used by Mr. Gowdy to promote any state or federal campaign.<sup>4</sup> All fees paid by Gowdy for Solicitor to UTPL on April 9, 2009, were for services UTPL rendered in developing a website for Mr. Gowdy in his capacity as 7<sup>th</sup> Circuit Solicitor and Chairman of the South Carolina Prosecution Commission.<sup>5</sup> In fact, a new website was designed and developed for Mr. Gowdy's congressional campaign, and the website was paid for exclusively by Gowdy for Congress.<sup>6</sup> Further, all video created for the website was prepared specifically and exclusively for Mr. Gowdy's responsibilities as 7<sup>th</sup> Circuit Solicitor and Chairman of the South Carolina Prosecution Commission.<sup>7</sup>

Second, the same is true for other expenditures made by Gowdy for Solicitor in the same time period. For instance, Gowdy for Solicitor made payments to "A&A Interactive" for the production of pamphlets and to "Design Labs" for tee shirts, both of which are reflected in Gowdy for Solicitor campaign disclosures on file with the SEC. Neither the pamphlets, nor the tee shirts have been used in conjunction with Mr. Gowdy's congressional campaign.<sup>8</sup> An extra tee shirt is enclosed for your reference, and it clearly bears no connection to Mr. Gowdy's federal campaign.<sup>9</sup>

Third, the cell phone used by Mr. Gowdy is not owned by the County of Spartanburg or Gowdy for Solicitor. It is owned by Mr. Gowdy personally, having been received by him as a gift in 2008. In the late winter and early spring of 2009, Gowdy for Solicitor began reimbursing the Solicitor's Office for his cell phone usage fees and office related travel, a practice expressly authorized by the South Carolina Code of Laws. This decision was made by Mr. Gowdy in an effort to offset budgetary restrictions in Spartanburg County and to mitigate the impact of furloughs being imposed on county employees at that time. Mr. Gowdy's decision had nothing to do with a run for Congress. In November 2009, Mr. Gowdy began using his own personal funds, not Gowdy for Solicitor funds, to pay cell phone usage charges.<sup>10</sup>

Mr. Gowdy's cell phone is used to conduct Solicitor's Office business, South Carolina Prosecution Commission business, personal calls, Gowdy for Solicitor calls, as well as initiating and receiving some Gowdy for Congress calls. The usage plan for Mr. Gowdy's phone was a flat rate plan with a certain allotment of minutes. The bill was the same whether Mr. Gowdy made one call or a hundred calls, so long as the allotted minutes were not exceeded. Mr. Gowdy never exceeded his allotted minutes.<sup>11</sup>

The information set forth above and enclosed herewith establishes clearly that Tray Gowdy, Gowdy for Congress, Gowdy for Solicitor, Under the Power Lines and Wesley Donchase have at all times acted appropriately and in compliance with the Federal Election Campaign Act.

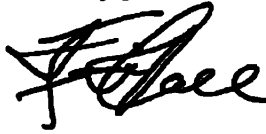
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Jeff S. Jordan, Esquire  
April 13, 2010  
Page 2

Therefore, we respectfully request that no action be taken by the Commission and that this matter be dismissed with prejudice. We would be glad to provide any additional information you might need or to answer any questions you might have.

With kind regards, I am,

Sincerely yours,



Kevin A. Hall

KAH/dj  
Enclosures

<sup>1</sup> See Decision and Order of the South Carolina Ethics Commission regarding Complaint No. C2010 - 095, dated March 24, 2010, copy attached.

<sup>2</sup> See Robert W. Dalton, Spartanburg Herald Journal, February 22, 2010, copy attached.

<sup>3</sup> See affidavit of Trey Gowdy (para. 2) and affidavit of Wesley Donehue (para. 2-5).

<sup>4</sup> See affidavits of M. Todd Wilson (para. 2-4), Terry K. Davis (para. 2-4), and Melissa S. House (para. 2-6).

<sup>5</sup> See Gowdy affidavit (para. 3, 4) and Donehue affidavit (para. 2-5).

<sup>6</sup> See Gowdy affidavit (para. 5) and Donehue affidavit (para. 2-5).

<sup>7</sup> See affidavits of Eric Williams (para. 2-5) and attached DVD containing video, as well as affidavit of A. Murray Glenn (para. 2-5).

<sup>8</sup> See Gowdy affidavit (para. 5).

<sup>9</sup> See House affidavit (para. 2-6) and enclosed tee shirt.

<sup>10</sup> See Gowdy affidavit (para. 6) and Davis affidavit (para. 2-4).

<sup>11</sup> See Gowdy affidavit (para. 7) and Davis affidavit (para. 2-4).

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STATE OF SOUTH CAROLINA )

COUNTY OF RICHLAND )

IN THE MATTER OF: )

COMPLAINT C2010-095 )

Jeffrey J. Parker,  
Complainant;

vs. )

Harold W. Gowdy, III,  
Respondent. )

OFFICE OF GENERAL COUNSEL  
BEFORE THE STATE ETHICS COMMISSION

DECISION AND ORDER



STATE ETHICS  
COMMISSION

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Pursuant to Section 8-13-320(10)(i), Code of Laws for South Carolina, 1976, as amended, the State Ethics Commission reviewed the above captioned complaint on March 17, 2010, charging the Respondent, Harold W. Gowdy, III, with a violation of 8-13-1370 (A) (1) and 8-13-1348 (A), Code of Laws for South Carolina, 1976, as amended.

Present at the meeting were Commission Members Phillip Florence, Jr., Vice Chair, Edward E. Duryea, Priscilla L. Tanner, E. Kay Biermann-Brohl, G. Carlton Manley, JB Holeman, Jonathan H. Burnett. Also present were the Commission's Executive Director, Herbert R. Hayden, Jr., and his immediate staff.

The following allegations were considered:

### ALLEGATIONS

On February 11, 2010 the State Ethics Commission received a complaint filed by Jeffrey J. Parker of Greenville, SC against Harold W. Gowdy III, Solicitor, Spartanburg County. The complaint contains the following allegation: Section 8-13-765 and Section 8-13-1346 specifically prohibit anyone from using "government personnel, equipment, materials, or an

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Decision and Order  
C2010-095 Harold W. Gowdy, III  
Page 2 of 4

office building in an election campaign" and makes no mention of any circumstances where an agreement can be made for reimbursement thereof.

According to the line items underlined on Attachment 1, which is a copy of the public disclosure required by all election committees under the jurisdiction of the SC State Ethics Commission, it appears the Harold W. Gowdy, III (aka Trey Gowdy) 7<sup>th</sup> District Solicitor's Campaign has been willfully violating the Sections mentioned above in fact and spirit for at least the duration covered by the line items underlined on Attachment 1.

Reimbursement of office expenses, supplies and phone bills may not accurately reflect the true value of these items and associated overhead, and furthermore extends the Gowdy Solicitor Campaign a non-interest bearing loan for the time it takes for such reimbursement.

Therefore, the legislation governing these items wisely makes no allowance for such reimbursement under any circumstances.

#### FINDINGS OF FACT

Having carefully reviewed the evidence presented, the Commission finds as fact:

1. The Respondent did file Campaign Disclosure Forms with the State Ethics Commission in 2009 on which he listed expenditures to Spartanburg County for "Office Related Expenses and Supplies", "Office Supplies and Equipment", "Phone bill and office supply reimbursement", et al.
2. According to the Respondent funds from his campaign account were used to defray ordinary and necessary expenses incurred in connection with the duties of his public office. The payments to his office were not reimbursements for campaign related

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Decision and Order  
C2010-095 Harold W. Gowdy, III  
Page 3 of 4

expenses. Instead the payments were voluntary donations to help defray the costs of operating the Solicitor's office.

3. Sections 8-13-1370 and 8-13-1348 (A) allows candidates to use campaign funds to defray ordinary and necessary expenses incurred in connection with his duties in his public office.
4. Other than assumptions made after reviewing the Respondent's disclosure reports, the Complainant had no information to add.

**CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Commission concludes, as a matter of law:

1. The Respondent is a public official as defined in Section 8-13-100 (27) and is therefore within the jurisdiction of the State Ethics Commission.
2. Section 8-13-1370 (A) (1) states contributions received by a candidate that are in excess of expenditures during an election cycle must be used by the candidate upon final disbursement to defray ordinary and necessary expenses incurred in connection with his duties in his public office.

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3. Section 8-13-1348 (A) states no candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal

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Decision and Order  
C2010-095 Harold W. Gowdy, III  
Page 4 of 4

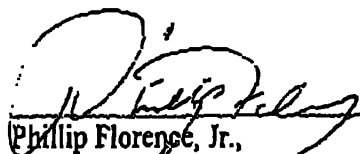
use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual's duties as a holder of elective office.

**DECISION**

After careful review of the facts and law in this complaint matter the Commission has determined that the expenditures made by the Respondent to his office from his campaign account are allowable payments, in that they were used to defray ordinary expenses incurred in connection with the duties of the Solicitor's office. THEREFORE, based upon evidence presented, the State Ethics Commission has determined that there is not probable cause to indicate that the Respondent, Harold W. Gowdy, III, violated Section 8-13-1370 (A) (1) and 8-13-1348 (A), S.C. Code Ann., 1976, as amended. The Commission has therefore dismissed the charges in accordance with Section 8-13-320(10)(i), Code of Laws for South Carolina, 1976, as amended, and the rules and regulations promulgated thereunder.

IT IS SO ORDERED THIS 23<sup>RD</sup> DAY OF MARCH, 2010.

STATE ETHICS COMMISSION

  
Phillip Florence, Jr.,  
Vice Chair

COLUMBIA, SOUTH CAROLINA

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## Gowdy, Inglis spar over campaign ethics

*Board to scrutinize complaint on violation*

By Robert W. Dalton  
bob.dalton@shj.com

*Published: Monday, February 22, 2010 at 3:15 a.m.  
Last Modified: Sunday, February 21, 2010 at 11:50 p.m.*

U.S. Rep. Bob Inglis' campaign might have violated state ethics laws when a staffer told the Herald-Journal a complaint had been filed claiming 7th Circuit Solicitor Trey Gowdy had violated state ethics laws.

Gowdy is challenging Inglis in the Republican primary for the 4th District seat.

Herb Hayden, executive director of the state Ethics Commission, would not comment specifically on Inglis' complaint -- or even acknowledge that one existed. But, in general, he said once a complaint is received and stamped by his office, the parties are barred from disclosing any information unless the respondent -- in this case Gowdy -- waives the confidentiality requirement.

"It may be a matter of timing," Hayden said. "But the date it's stamped it is officially filed, and at that point, it's confidential."

According to a copy obtained by the Herald-Journal, the complaint was signed by Jeffrey Parker, Inglis' campaign treasurer, and was stamped at 12:34 p.m. Feb. 11. Later that afternoon, Parker told the Herald-Journal that the Inglis campaign had filed the complaint and had mailed it on Feb. 10.

State law says that all investigations, inquiries, hearings and documents are confidential until a final sanction is reached. The "willful release" of such information is a misdemeanor, carrying a penalty of up to a year in jail and a fine of up to \$1,000.

The confidentiality clause is printed on the complaint form, just above the signature line.

The Inglis campaign also said it had filed a federal complaint against Gowdy, but there is no prohibition against revealing a federal complaint. The federal complaint, which Parker supplied to the Herald-Journal, questions whether Gowdy is using public buildings, supplies and facilities to run for Congress and whether he is paying for that run using state campaign funds.

The state complaint contains the same allegations.

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When asked whether the Inglis campaign was aware that it might have violated state ethics laws, spokesman Price Atkinson said he would have to get Inglis on the phone. Atkinson later e-mailed a statement to the Herald-Journal accusing Gowdy of trying to intimidate his opposition.

"Solicitor Gowdy continues to evade the question of using county courthouse resources for his campaign and state campaign funds for his federal work, all of which is against federal law and outlined in the federal complaint," Atkinson said. "Rather, he seems to think he can intimidate his adversaries. In this case, the law is not on his side because we're free to discuss the contents of the federal complaint."

When asked again about announcing that a state complaint had been filed, Atkinson said the campaign had only discussed the substance of the federal complaint, so it had not broken the law.

"Since every state violation was included in the federal complaint, there's nothing we did wrong," Atkinson said via e-mail.

But that statement in itself is a potential violation, because it acknowledges the state complaint and indirectly reveals its contents. When asked about that possibility, Atkinson said: "The media made the connection, not us. We've discussed only the substance of the (federal) complaint."

Gowdy, in an e-mail, would not comment on the complaint, citing the state law. He also would not comment when asked whether he planned to file a complaint against the Inglis campaign.

"While I understand some take the position that comment before any hypothetical filing is not covered by the letter of the law, it is violative of the spirit of the law," Gowdy said. "Hence, no comment."

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