

April 7, 2010

Thomasenia Duncan, Esquire  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

MUR # 6277

OFFICE OF GENERAL  
COUNSEL

2010 APR 20 AM 9:02

RECEIVED  
FEDERAL ELECTION  
COMMISSION

Re: Ronald Kirkland, Kirkland for Congress and Robert Kirkland

Dear Ms. Duncan:

Pursuant to 2 USC § 437g(a)(1) and 11 CFR § 111.4, please accept this letter as a Complaint against Ronald Kirkland ("Kirkland"), Kirkland for Congress ("the Committee,") and Robert Kirkland for operating in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC" or "Commission") regulations, and more specifically, for making and accepting contributions in excess of federal limits as set forth in 2 USC § 441 a(a) and improperly reporting coordinated communications as set forth in 11 CFR § 109.21.

Facts

Kirkland for Congress is the authorized principal campaign committee for Ronald Kirkland, a candidate for Tennessee's 8<sup>th</sup> Congressional District. Kirkland filed an FEC Form 2 Statement of Candidacy on January 13, 2010. The Committee filed an FEC Form 1 Statement of Organization on January 13, 2010, for the 2009-2010 election cycle.

Kirkland and the Committee have a website at [www.votekirkland.com](http://www.votekirkland.com). The opening banner of the website contains a photograph of Kirkland and the words, "Proven," "Trusted," and "Conservative." See Attachment 1.

Similarly, Kirkland and the Committee have sent, at least one email to supporters utilizing a banner with a photo of Kirkland and the words "Proven," "Trusted," and "Conservative." See Attachment 2.

Robert Kirkland is the brother of Kirkland. Robert Kirkland filed an FEC Form 5 Report of Independent Expenditures Made and Contributions Received on March 28, 2010. The FEC Form 5 reported \$82,878.35 in expenditures supporting Kirkland. These expenditures included research, polling, political and media consulting, website design and legal fees.

Not seven weeks before filing the FEC Form 5 with the Commission, Robert Kirkland was actively fundraising for Kirkland and the Committee. Robert Kirkland sent at least two emails, the first on February 6, 2010, and the second on February 10, 2010, praising, "My little brother Dr. Ron Kirkland is running for Representative to Congress" and encouraging supporters to give the maximum contribution because

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Kirkland's "gonna win." Both emails contained the subject line "Ron Kirkland/Bob Kirkland" and discussed contributions to send checks to the Committee. See Attachment 3.

According to forms obtained from WTJS in Jackson, TN, Robert Kirkland began airing a radio advertisement ("Radio Ad") as early as March 22, 2010. The purpose of the Radio Ad was listed on the form as "Name Recognition of Ron Kirkland paid for by Robert Kirkland - Issue \$." See Attachment 4.

The text of the Radio Ad read, in part, as follows:

"... That's why Ronald Kirkland is running for U.S. Congress. Proven. Tested. Conservative. Ronald Kirkland served his country in Vietnam. He'll defend our national security. He worked his way through college, and then medical school. Dr. Kirkland was named one of America's best physicians. He's helped bring jobs to his community, been an advocate for children's causes. Pro-life, Pro-Second Amendment, a natural leader who will defend our conservative values. Ron Kirkland: focused on reclaiming Congress and getting America back on the right path. Robert Kirkland is responsible for the content of this advertisement. Paid for by Robert Kirkland and not authorized by any candidate or candidate committee. Go to [www.ivoteconservative.com](http://www.ivoteconservative.com)."

According to forms obtained from WMBJ-TV in Jackson, TN, Robert Kirkland began airing a television advertisement ("Television Ad") on April 6, 2010. The purpose of the television ad was listed as "Name recognition of Ron Kirkland paid for by Robert Kirkland - Issue \$\$." See Attachment 5.

The Television Ad features Kirkland's nephew, Chris Kirkland. The script of the Television Ad, in part, is as follows:

"In my family, supporting one another is important. That's why we are supporting Ron Kirkland. He's a Vietnam veteran, one of the best doctors in America, and an experienced leader I trust with my future. As the father of two small children, I worry constantly about their future. I want someone in Congress I know I can trust. Ron Kirkland is a man of character and integrity. He will care about your family and protect the values of West Tennessee."

The website, [www.ivoteconservative.com](http://www.ivoteconservative.com), ("Website") contains a large banner which reads "Ron Kirkland Conservative for Congress Join a Proven, Trusted, Conservative fighting for Tennessee values." The text of the Website contains the phrase "proven, trusted, conservative," which is supplemented with bullet points highlighting Kirkland's background and views. The disclaimer on the Website states "Paid for by Robert Kirkland. Not authorized by any candidate or candidate's committee. [www.ivoteconservative.com](http://www.ivoteconservative.com)." See Attachment 6. The Website was registered to Robert Kirkland on March 22, 2010. See Attachment 7.

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Kirkland's campaign manager, Brent Leatherwood, has publically discussed the expenditures by Robert Kirkland. An April 7, 2010, article in The Commercial Appeal stated, "[c]ertainly Mr. Robert decided that he wanted to do an independent effort," Robert Kirkland's campaign manager, Brent Leatherwood, said today. "He wanted to do it to level the playing field, probably wanted to do that because of all the special interest and Washington insider money that is going to be backing our opponents." See Attachment 8.

### Relevant Law

A payment for a coordinated communication made for the purpose of influencing a Federal election is an in-kind contribution to the candidate or authorized committee with whom or which it was made. 11 CFR § 109.21 (b)(2). In-kind contributions, like other contributions, are subject to federal contribution limits. For the 2009-2010 election cycle, individuals are subject to a contribution limit of \$2,400 per election. 2 USC § 441a(a), 11 CFR § 110.1(b).

A coordinated communication is a communication that satisfies a three pronged test. This test considers (1) the source of payment ("the payment prong"), (2) the subject matter of the communication ("the content prong") and (3) the interaction between the person paying for the communication and the candidate or political party committee ("the conduct prong"). 11 CFR § 109.21(a).

The payment prong is satisfied when the coordinated communication is paid for in whole or in part, by a person other than the candidate, an authorized committee or a political party committee with whom the communication is coordinated. 11 CFR § 109.21(a)(1).

The content prong is satisfied, among other instances, when a public communication disseminates, distributes, or republishes, in whole or in part, campaign materials prepared by a candidate or the candidate's authorized committee. 11 CFR § 109.21(c)(2). The content prong is also satisfied when a public communication expressly advocates the election or defeat of a clearly identified candidate for federal office. 11 CFR § 109.21(c)(3).

The conduct prong may be satisfied in several ways, including the following:

First, the conduct prong is satisfied where the candidate requests or suggests the production or the distribution of the communication or where the person paying for the communication suggests the creation, production or distribution of the communication and the candidate, authorized committee, political party committee or agent of any of the above and the candidate or political party committee assents to the suggestions. 11 CFR § 109.21(d)(1).

Second, it is satisfied where a candidate, authorized committee or political party committee is materially involved in decisions regarding the content, intended audience,

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the means or mode, the specific media outlet used, the timing or frequency or the size, prominence or duration of the communication. 11 CFR § 109.21(d)(2).

Third, it is satisfied where the communication is created, produced or distributed after one or more substantial discussions about the communication between the person paying for the communication and the candidate clearly identified in the communication or the candidate's authorized committee. A discussion is substantial if information about the candidates' campaign plans, projects, activities, or needs is conveyed to a person paying for the communication and that information is material to the creation production or distribution of the communication. 11 CFR § 109.21 (d)(3).

Fourth, where a communication disseminates, distributes or republishes campaign material after the original preparation of the campaign materials, the content prong may be satisfied where there was a sequent or discussion, material involvement or substantial discussion as discussed above. 11 CFR § 109.21(d)(5).

### Legal Analysis

The Television Ad, Radio Ad and Website are coordinated communications between Kirkland, the Committee and Robert Kirkland. First, the disclaimers on the Television Ad, Radio Ad and Website all state that they were paid for by Robert Kirkland, who is neither the candidate, nor the candidate's authorized committee. This prong satisfies the prong of the coordinated communications test.

Second, the Radio Ad includes the statement "that's why Ronald Kirkland is running for U.S. Congress." Kirkland is a clearly identified candidate for federal office and the Radio Ad plainly advocates for Kirkland's election to federal office. The Television Ad also advocates for Kirkland's election to federal office by touting Kirkland and a graphic at the end of the ad stating "Ron Kirkland for Congress." Similarly, the Website expressly advocates for Kirkland's election to federal office through its use of the banner stating "Ron Kirkland Conservative for Congress." These statements satisfy the content prong of the test.

Additionally, the Radio Ad and Website repeatedly make use of the campaign slogan, "proven, trusted, conservative," which is used by Kirkland and the Committee. The Committee has used this slogan on its own website, [www.votekirkland.com](http://www.votekirkland.com), and on at least one email sent to Kirkland supporters. This use of Kirkland's and the Committee's slogan is the dissemination, distribution, or republishing of campaign materials prepared by a candidate or the candidate's authorized committee, which further satisfies the content prong of the test.

Finally, statements made by Kirkland's own campaign manager show that Robert Kirkland suggested making independent expenditures on the Committee's behalf and that Kirkland and/or the Committee assented to the suggestion. Kirkland's campaign manager said "Early on, Robert decided that he wanted to do an independent effort," Ronald Kirkland's campaign manager, Brent Leatherwood, said today. "He wanted to do

it to level the playing field, probably wanted to do that because of all the special interest and Washington insider money that is going to be backing our opponents."

But beyond those statements, the close familial tie between Kirkland and his brother insinuates that the Radio Ad, Television Ad, and/or the Website were created with material involvement and/or substantial discussion by Kirkland or the Committee. Robert Kirkland's enthusiastic support of Kirkland's candidacy in early February indicates that Robert Kirkland was materially involved in his brother's campaign prior to the creation of the Radio Ad, Television Ad and Website. In fact, the stated purpose for the Radio Ad and the Television Ad was to increase "name recognition."

Additionally, the Radio Ad and the Website made use of the very same slogan used by Kirkland and the Committee. Certainly, at a minimum, Kirkland's and the Committee's campaign plans, projects, activities, or needs were conveyed to Robert Kirkland before he created the Radio Ad, Television Ad and Website, which meets the third prong of the coordinated communication test.

The Television Ad, Radio Ad and Website are clearly coordinated communications. Coordinated communications must be reported as in-kind contributions to the candidate or authorized committee that they benefit. In-kind contributions are subject to the same federal contribution limits set for individual contributors.

Robert Kirkland has already spent over \$12,000 on coordinated communications for Kirkland and the Committee. Robert Kirkland has not only improperly reported coordinated communications as an independent expenditures, he has grossly exceeded the federal contribution limit of \$2,400 per election for individual contributors. Similarly, Kirkland and the Committee have accepted contributions from Robert Kirkland that exceed federal contribution limits.

#### IV. Conclusion

Upon information and belief, and based upon the facts relayed herein, Ronald Kirkland, Kirkland for Congress and Robert Kirkland have violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations. Accordingly, I respectfully request that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

Respectfully submitted,

  
John D. Stevens

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Sworn to and subscribed before me this 12<sup>th</sup> day of April, 2010.

Meredith Diaz  
Notary Public  
My Commission Expires



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# Attachment 1

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**CONSERVATIVE DEMOCRAT**  
**KIRKLAND**  
**CONGRESS**

**INVEST IN RON**  
 Ronald Reagan has supported the  
 most important legislation of the  
 1980s

**STAY EMPLOYED**  
 Ronald Reagan's support of free trade  
 has helped create jobs

**SAVE**  
**CULTY**  
**BYE**

**Save**



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# Attachment 2

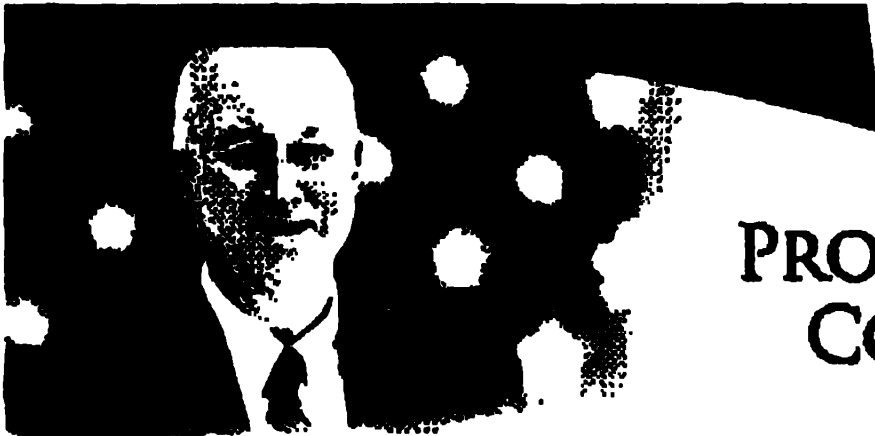
----- Forwarded message -----

From: Dr. Ron Kirkland <[ron@votekirkland.com](mailto:ron@votekirkland.com)>

Date: Sun, Apr 4, 2010 at 2:15 PM

Subject: Easter Message from Ron Kirkland

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REPUBLICAN  
**KIRKLAND**  
CONGRESS

**PROVEN. TRUSTED.  
CONSERVATIVE**

2 Corinthians 3:17 - "Now the Spirit is the Lord and where the Spirit of the Lord is, there is Liberty."

Friends:

For many of us, this weekend is an occasion to gather with family and friends. It is a time to remember the blessings in our lives and, most importantly, it provides an opportunity to reflect on the sacrifice made on our behalf.

Easter is a time of renewed hope -- for our country, our loved ones, and our Creator. Because of this, we can treat each day as a new beginning.

Have a wonderful Sunday and a blessed Easter.

# INVEST IN RON

This message was sent from Dr. Ron Kridand to. It was sent from: Ron Kridand, P. O. Box 11235, Jackson, TN 38308. You can modify/update your subscription via the link below.

**DIGITAL  VICTORY**  
ECAMPAIGNS FOR CONSERVATIVES

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# Attachment 3

**From:** Robert Kirkland  
**Sent:** Saturday, February 06, 2010 5:32 PM  
**Subject:** Ron Kirkland /Bob Kirkland

Hello All,

My little brother Dr. Ron Kirkland is running for Representative to Congress. He started late, the 1st of January 2010. His opponents started in July of 2009. They each have raised over \$600,000 in 7 months, quite a haul, indicating a lively race in the 8th District. In one month, however, Ron Kirkland has raised over \$200,000, a record in the top ten for the United States. The momentum is with him to defeat the supporters of Nancy Pelosi, Harry Reid, Barry Frank and President Obama. But it takes money. Here is his speech at a meeting of voters in Jackson, TN. If you like what he says, send a check to: Kirkland for Congress, PO Box 11236, Jackson TN. 38308. A Democrat has held this seat since the 1920s. They've gotten more and more liberal. Tax, spend, government bail-out and ownership of business. Isn't it time for a good old boy who's values reflect yours to go to Washington?

Maximum contribution per person is \$4600, that's \$9200 per couple. One of the benefits you get from giving the maximum is you won't be bothered anymore during this campaign cycle.

Thanks, He's gonna win. Click below:

Bob Kirkland  
<http://www.youtube.com/watch?v=e4yXQuIZYk>

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From: \_\_\_\_\_  
To: \_\_\_\_\_  
Sent: Wed, Feb 10, 2010 9:29 am  
Subject: Fw: FW: Ron Kirkland /Bob Kirkland]

Subject: Ron Kirkland /Bob Kirkland

Hello All,

My little brother Dr. Ron Kirkland is running for Representative to Congress. He started late, the 1st of January 2010. His opponents started in July of 2009. They each have raised over \$600,000 in 7 months, quite a haul, indicating a lively race in the 8th District. In one month, however, Ron Kirkland has raised over \$300,000, a record in the top ten for the United States. The momentum is with him to defeat the supporters of Nancy Pelosi, Harry Reid, Barney Frank and President Obama. But it takes money. Here is his speech at a meeting of voters in Jackson, TN. If you like what he says, send a check to: Kirkland for Congress, PO Box 11236, Jackson TN. 38206. A Democrat has held this seat since the 1820s. They've gotten more and more liberal. Tax, spend, government bail-out and ownership of business. Isn't it time for a good old boy who's values reflect yours to go to Washington?

Maximum contribution per person is \$4800, that's \$9600 per couple. One of the benefits you get from giving the maximum is you won't be bothered anymore during this campaign cycle.

Thanks, He's gonna win. Click below.

Bob Kirkland

<http://www.youtube.com/watch?v=e4yXQUZyk>

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# Attachment 4

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# Attachment 5



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# Attachment 6

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RON  
 KIRKLAND  
 CONSERVATIVE FOR CONGRESS  
 PROVEN • TRUSTED • CONSERVATIVE

**PROVEN**

- Faithful Husband of 41 Years, Father of Four and Ordained Deacon
- Earned the Honor of Being Selected One of "America's Top Physicians"
- Veteran Who Served the United States in Army Intelligence

**TRUSTED**

- Elected by Colleagues to Chair the State's Largest Private Multi-Specialty Clinic
- Business-Minded Doctor Who Has Created Jobs
- Served as Chairman of UT's National Alumni Association

**CONSERVATIVE**

- Pro-Life, Pro-Traditional Marriage, Pro-Right to Keep and Bear Arms
- Supports Free Markets and Less Government
- Strongly Supports/Defends Our Constitution

Paid for by Robert Kirkland. Not authorized by any candidate or candidate's committee.  
[www.ivoteconservative.com](http://www.ivoteconservative.com)

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# Attachment 7

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**NOTECONSERVATIVE.COM**

Show All My Products

Check to add these alternate *NOTECONSERVATIVE* domain names.

Select All

| SEE 01034996  | SEE 01034996 | SEE 01034996                          | SEE 01034996 | SEE 01034996                         | SEE 01034996 |
|---|--------------|---------------------------------------|--------------|--------------------------------------|--------------|
| Check to add these similar <i>NOTECONSERVATIVE.COM</i> domain names |              |                                       |              |                                      |              |
| <a href="#">- THENOTECONSERVAT</a>                                  | \$19.99/yr   | <a href="#">BYNOTECONSERVATI</a>      | \$19.99/yr   | <a href="#">NEWNOTECONSERVAT</a>     | \$19.99/yr   |
| <a href="#">PRENOTECONSERVA</a>                                     | \$19.99/yr   | <a href="#">BESTNOTECONSERVA</a>      | \$19.99/yr   | <a href="#">NEWVATIVE.COM</a>        | \$19.99/yr   |
| <a href="#">ONOTECONSERVATV</a>                                     | \$19.99/yr   | <a href="#">JNOTECONSERVATV.COM</a>   | \$19.99/yr   | <a href="#">STNOTECONSERVA</a>       | \$19.99/yr   |
| <a href="#">.NEWVATIVESTORE.COM</a>                                 | \$19.99/yr   | <a href="#">ONLINEVATIVECONSER</a>    | \$19.99/yr   | <a href="#">.JNOTECONSERVATV.COM</a> | \$19.99/yr   |
| Check to add these Premium domain names. <input type="checkbox"/>   |              |                                       |              |                                      |              |
| <a href="#">ClassConservative.com</a>                               | \$1,500.00   | <a href="#">ConservativeClass.com</a> | \$1,500.00   | <a href="#">NewConservative.com</a>  | \$999.00     |
| <a href="#">ConservativeInfo.com</a>                                | \$1,199.00   | <a href="#">Conservative.com</a>      | \$999.00     | <a href="#">Conservative.com</a>     | \$2,199.00   |

**ADD TO CART**

\*The availability of .us is per month since year  
 \*\*All checks must all be registered through Go Daddy Domain Check in a CIRA certified register

The search I used to sell online and make millions. PLUS - a amazing NOT (Google) Portfolio info with great presentation. - Also See

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The data contained in GoDaddy.com, Inc.'s WHOIS database, which is believed by the company to be reliable, is provided "as is" with no guarantee or warranty regarding its accuracy. The information is provided for the sole purpose of assisting you in identifying businesses about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of GoDaddy.com, Inc. by submitting an inquiry.

You agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and solicitations of any kind, including spam. You further agree not to use the data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including selling this data for your own personal or commercial purposes.

Please note the registrant of the domain name is specified in the "registrant" field. In most cases, GoDaddy.com, Inc. is not the registrant of domain names listed in this database.

Registrant  
Robert Hildner  
700 Sanders Chapel Road  
Union City, Tennessee 38201  
United States

Registered through: GoDaddy.com, Inc. (http://www.godaddy.com)  
Domain Name: RGTBCONSUMERWORLD.COM  
Created on: 22-Mar-10  
Expires on: 22-Mar-11  
Last Updated on: 22-Mar-10

Administrative Contact  
Hildner, Robert prmhiln@goal.com  
700 Sanders Chapel Road  
Union City, Tennessee 38201  
United States

Sign up for special offers:  Enter your email address

- Account Manager
- My Account
- My Network
- My Upgrade
- Account Settings
- Customer Information
- Order History
- Create Account

- Shopping
- Order Confirmation
- Domain Search
- Product Catalog
- Product Advisor
- Gift Cards
- Go Daddy Mobile
- Today's Offers

- Resources
- Whois
- WHOIS search
- ICANN Coordination
- Articles
- Connect with Us
- Contact Us/Help
- Site Map

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- Technical Support & Sales
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# Attachment 8

# THE COMMERCIAL APPEAL

Memphis Tennessee Read more at [commercialappeal.com](http://commercialappeal.com)

## Tennessee congressional candidate gets 'silent' help from brother

By Bartholomew Sullivan

Wednesday, April 7, 2010

WASHINGTON — Tennessee 8th Congressional District candidate Ronald Kirkland is getting a lot of help these days from his brother, Robert, but the two aren't talking to one another.

That's because Robert Kirkland has set himself up under Federal Election Commission guidelines to make independent expenditures on behalf of his brother's campaign. In records filed so far, that has amounted to \$82,876.

Under federal campaign finance law, a politician's campaign committee cannot coordinate activities with those making independent expenditures in its behalf.

Ronald Kirkland, a medical doctor in Jackson, is running against Shelby County physician George Flier and Crainfield County gospel-singing farmer Stephen Fincher in the August GOP primary. Fincher is getting strong support from the Washington-based National Republican Congressional Committee.

"Early on, Robert decided that he wanted to do an independent effort," Ronald Kirkland's campaign manager, Brent Leatherwood, said today. "He wanted to do it to level the playing field, probably wanted to do that because of all the special interest and Washington insider money that is going to be backing our opponents."

"On the retransmission of legal counsel, they have cut off all communication," Leatherwood said of the two brothers. "We as a campaign have no knowledge of what is being done there and what he's planning to do."

Robert Kirkwood has produced at least one television ad for an amount that will be disclosed to the FEC later today and radio advertising costing \$25,579 on his brother's behalf, FEC records show. The television ad is running on WHBQ-Channel 13 in Memphis.

In addition, he has paid political strategy consultant Brad Greer of Jackson, Tenn., \$11,200 and a polling firm \$14,955.

Greer said the money is coming from Robert Kirkland's "personal funds," adding, "more

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Independent expenditures are on the way."



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