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VIA US Certified Mail-7010 2780 0003 2262 4624

December 2, 2011

Mr. Anthony Herman, Esq.  
General Counsel  
Federal Election Commission  
999 E. Street, NW  
Washington, D.C. 20463

MUR # 6517

Re. King for Congress, Committee ID C00393702  
Treasurer Statements  
Complainant: Bruce Malott, Treasurer (April 08, 2004 - Jan. 5, 2005)  
Respondent: Gary Kenneth King, ID #: H4NM02056

Dear Mr. Herman:

I am Bruce Malott (*hereinafter* "Malott"), and I am filing this Complaint alleging violations of the Federal Election Campaign Act ("FECA"); 2 U.S.C. § 431 *et seq.* Malott is a former treasurer of the King for Congress political committee (*hereinafter* "King for Congress Committee" or "the Committee"). See, e.g., *Statement of Organization (April 8, 2004)*, PDF. Image of Report at 24038360378, available at <http://query.nictusa.com/cgi->

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bin/fecimg/?C00393702.<sup>1</sup> Malott resigned as treasurer in January 2005. However, the Albuquerque Journal has reported that the King for Congress Committee continued to file campaign finance reports with the Federal Election Commission ("FEC") in Malott's name long after he resigned as treasurer of the Committee. See *Exhibit A* of this Complaint: Thomas J. Cole, *AG Used Malott's Signature*, Albuquerque Journal, June 18, 2001 at 2, available at <http://www.abqjournal.com/main/2011/06/18/upfront/ag-used-malotts-signature.html> (reporting that Malott's electronic signature continued to appear on King for Congress Committee filings with the FEC after Malott resigned).

Accordingly, Malott believes that then-congressional candidate, Gary K. King (hereinafter "Respondent King" or "King") has violated several provisions of the Federal Election Campaign Act ("FECA") and the FEC regulations to FECA. More specifically, Malott alleges that the former congressional candidate Gary King, has violated 2 U.S.C. §§ 432(a), 433(c), and 434(a) and the regulations at 11 C.F.R. § 104.14(a)(2) and 104.18(g).

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<sup>1</sup>Henceforth, Malott will cite to campaign finance reports and data that are available online at the Federal Election Commission's ("FEC") website according to the following convention: the title of the report or data, that date of the report or data, and the page number(s) where the image of the report or data appears on the FEC's Reports Image Index for Campaign Id. No. C00393702. For example, "Request for Additional Information (11/01/05) at 25038921436" represents the pdf. image of a letter from the FEC to the King for Congress Committee, dated November 1, 2005, which begins on page 25038921436 of the FEC's Report Image Index. All citations of this kind are to the electronic archive on the FEC's website, which is available at <http://query.nictusa.com/cgt-bin/fecimg/?C00393702>.

In further support of this complaint, Malott states as follows:

## I. RELEVANT FACTS<sup>2</sup>

*Facts numbered 1-33 and 40-41 are based upon Malott's personal knowledge of the King for Congress campaign. All other facts cited below are based upon his knowledge and belief and authorities supported by his knowledge and belief.*

1. On December 18, 2003, the King for Congress Committee filed its Statement of Organization with the FEC, which stated the following:

a. The Committee was to serve as a campaign committee for Gary K. King, a democratic candidate for the U.S. House of Representatives, from the State of New Mexico, District 1;

b. The Custodian of Records for the Committee was Gary K. King, whose mailing address was P.O. Box 1209 in Carlsbad, New Mexico, 88221-1209; and

c. The Treasurer was Anna R. Harrod, whose mailing address was 13012 Desert Moon Place, NE, Albuquerque, New Mexico 87111. *Statement of Organization (December 19, 2003)* at 23038252682-23038252684.

2. The Statement of Organization did not list a Designated Agent, who could serve in place of the Treasurer. *Id.* at 23038252684.

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<sup>2</sup>Unless otherwise noted in the citations, the facts that appear in this section of the complaint are taken directly from the FEC's digital archive for the King for Congress Committee, which is available at, <http://query.nictusa.com/cgi-bin/fecimg/?C00393702>.

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3. On April 12, 2004, the King for Congress Committee filed an amendment to its Statement of Organization to advise the FEC that Bruce Malott had replaced Anna R. Harrod as Treasurer. *Statement of Organization (April 12, 2004)* at 24038360378.

4. The April 2004 amendment to the Statement of Organization listed Bruce Malott's mailing address as 500 Marquette, NW, Suite 800 in Albuquerque, NM 87102. *Id.* at 24038360380.

5. The April 2004 amendment to the Statement of Organization also identified Kimberly Wood, the Committee's Finance Director, as the Designated Agent for Treasurer Malott. *Id.*

6. Ms. Wood's mailing address was listed as 3260 Venus Street, # 49 in Las Cruces, New Mexico, 88012. *Id.*

7. On April 15, 2004, Malott electronically filed the King for Congress Committee's First Quarterly Report of Receipts and Disbursements for 2004. *April Quarterly (April 15, 2004)* at 24991011991.

8. On May 14, 2004, in response to a Request for Additional Information, dated May 4, 2004, Malott electronically filed an amendment to the Committee's First Quarterly Report of Receipts and Disbursements for 2004. *Request for Additional Information (May 4, 2004)* at 24038402317; *April Quarterly Amend. (May 14, 2004)* at 24961302952.

9. On May 20, 2004, Malott electronically filed the King for Congress Committee's 12-Day Pre-Primary Election Report. *Pre-Primary Report (May 20, 2004)* at 24961444195.

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10. On June 8, 2004, the FEC issued a request for Additional Information concerning the 12-Day Pre-Primary Election Report and thereafter, on July 9, 2004 and July 14, 2004, Malott electronically filed two (2) amendments to the Committee's 12-Day Pre-Primary Election Report. *Request for Additional Information* (June 8, 2004) at 24038423727; *Pre-Primary Report Amend. (July 9, 2004)* at 24961745128; *Pre-Primary Report Amend. (July 14, 2004)* at 24961799303.

11. On July 15, 2004, Malott electronically filed the King for Congress Committee's Second Quarterly Report of Receipts and Disbursements for 2004. *July Quarterly (July 15, 2004)* at 24961853899.

12. On August 10, 2004, the King for Congress Committee received a Request for Additional Information on its Second Quarterly Report of Receipts and Disbursements for 2004. *Request for Additional Information (August 10, 2004)* at 24038493824.

13. On September 8, 2004, Malott electronically filed three (3) amendments to the Committee's Second Quarterly Report of Receipts and Disbursements for 2004. *July Quarterly Amend. (Sept. 8, 2004)* at 24971427515; 24961427734; 24971429327.

14. On September 8, 2004, in response to a Request for Additional Information on the Committee's July 14, 2004 amendment to the 12-Day Pre-Primary Election Report, Malott electronically filed the Committee's third amendment to that Report. *Request for Additional Information (Aug. 10, 2004)* at 24038493828; *Pre-Primary Election Report Amend. (Sept. 8, 2004)* at 24971429282.

15. On November 22, 2004, in further response to the Request for Additional Information on the Committee's July 14, 2004 amendment to the 12-Day Pre-Primary Election

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Report, Malott electronically filed a fourth and final amendment to the 12-Day Pre-Primary Election Report. *Request for Additional Information (Aug. 10, 2004)* at 24038493828; *Pre-Primary Election Report Amend. (Nov. 22, 2004)* at 24971928764.

16. On October 15, 2004, Malott electronically filed the King for Congress Committee's Third Quarterly Report of Receipts and Disbursements for 2004. *October Quarterly (Oct. 15, 2004)* at 24962531059.

17. On October 21, 2004, Malott electronically filed the King for Congress Committee's 12-Day Pre-General Election Report. *12-Day Pre-General Election Report (Oct. 21, 2004)* at 24962670662.

18. On October 28, 2004, the King for Congress Committee received a Request for Additional Information on its Third Quarterly Report Receipts and Disbursements for 2004. *Request for Additional Information (Oct. 28, 2004)* at 24038603967.

19. The General Election was held on November 8, 2004, and King lost his campaign for the U.S. House of Representatives to incumbent Steve Pierce.

20. On November 30, 2004, the King for Congress Committee received a Request for Additional Information on its 12-Day Pre-General Election Report. *Request for Additional Information (Nov. 30, 2004)* at 24038633228.

21. On December 2, 2004, and again on December 16, 2004, Malott electronically filed amendments to the Committee's Third Quarterly Report of Receipts and Disbursements for 2004. *Oct. Quarterly Amend. (Dec. 2, 2004)* at 24981545581; *Oct. Quarterly Amend. (Dec. 16, 2004)* at 24981796418.

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22. On December 2, 2004, Malott also electronically filed the King for Congress Committee's 30-Day Post-General Election Report for 2004. *30-Day Post General Election Report (Dec. 2, 2004)* at 24991456976.

23. On December 16, 2004, Malott electronically filed an amendment to the Committee's 12-Day Pre-General Election Report. *12-Day Pre-General Election Report Amend. (Dec. 16, 2004)* at 24891796418.

24. On December 17, 2004, the King for Congress Committee received a Request for Additional Information on its 30-Day Post General Election Report. *Request for Additional Information (Dec. 17, 2004)* at 24038670243.

25. On January 1, 2005, Malott electronically filed the King for Congress Committee's Year-End Report for 2004. *Year-End Report (Jan. 5, 2005)* at 25980010083.

26. On January 1, 2005, Malott also electronically filed the King for Congress Committee's Amendment to its 30-Day Post General Election Report. *30-Day Post General Election Report Amend. (Jan. 1, 2005)* at 258980010016.

27. Sometime thereafter, in January 2005, then-Governor Bill Richardson held a Prayer Breakfast in Santa Fe, New Mexico, which King and Malott attended. Malott spoke to King at the Prayer Breakfast and advised him that he was resigning effective that day as the King for Congress campaign treasurer now that the campaign was over and he had closed out the Committee's 2004 year-end report.

28. Malott does not remember whether he resigned before the King for Congress Committee received a Request for Additional Information regarding the Committee's January 1,

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2005 Amendment to the 30-Day Post General Election Report. *See Request for Additional Information (Jan. 11, 2005)* at 25038690409.

29. However, Malott is certain that he had resigned before the end of January 2005 because the Governor's Prayer Breakfast coincides with opening of the First Legislative Session of the year, which is typically the third week of January. *See Exhibit B: New Mexico Legislature, Social Calendar, Session Dates*, PDF. file, available at <http://www.nmlegis.gov/len/sescaledars.aspx> (showing future session dates and prior session dates back to 2006 with opening session dates for years 2006-2011 occurring between January 15-20th).

30. Because the King for Congress Committee had until February 30, 2005 to respond to the FEC's January 11, 2005 Request for Additional Information, and the FEC's Report Image Index shows that Response was not filed until February 10, 2005, Malott is certain that he did not electronically file the Response. *See 30-Day Post General Election Report Amend. (Feb. 10, 2005)* at 25980426018.

31. Malott is also certain that he did not receive any subsequent Requests for Additional Information that were sent via U.S. mail and addressed to him as Treasurer at the Committee's address in Moriarty, New Mexico, which was where King lived. *Requests for Additional Information* (March 29, 2005) at 25038763904; (May 24, 2005) at 27039412962; (Nov. 1, 2005) at 25038921436; (April 3, 2006) at 27039412962 and 27039412959; (May 24, 2006) at 27039444641.

32. Malott is equally certain that he did not electronically file any campaign finance reports for the King for Congress Committee after January 2005 such as: the *April Quarterly*

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*Reports, July Quarterly Reports, October Quarterly Reports, Amendments to the Quarterly Reports, Year-End Reports; Amendments to Year End Reports, and Termination Report for years 2005-2010 that appear on the FEC's Reports Image Index for Committee ID No. C00393702. See Exhibit C: FEC's Reports Image Index for Committee ID No. C00393702 at 1-2 (highlighting reports that Bruce Malott did not file electronically after January 2005).*

33. The only individual who was designated to submit the electronic filings to the FEC was Kimberly Wood ("Wood"). *See Statement of Organization Amend. (April 12, 2004) at 24038360378.*

34. However, upon information and belief, Wood did not file any of the campaign finance reports that were tendered after January 2005 either because all of the King for Congress campaign finance reports that were filed after this date were filed electronically in Malott's name and Wood, as the duly designated agent for Malott, could have properly filed the reports under her own name. *See Exhibit C: FEC's Reports Image Index for Committee ID No. C00393702 at 1-2 (highlighting reports filed electronically after January 2005 that bear Malott's signature but were not filed by him).*

35. Upon information and belief, King filed each of the King for Congress Committee's campaign finance reports that were filed after January 2005. *See Exhibit A at 2 (reporting on King's comments during a telephone interview with reporters on June 2, 2011, and noting that King said his "interaction with Malott ended after the 2004 congressional campaign" and that King said "I had to continue filing campaign reports for some period of time after the campaign was over. . . So his [Malott's] name remained on my campaign until the FEC closed it out.").*

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36. All of the King for Congress campaign finance reports that were filed after January 2005 were filed electronically in Malott's name without Malott's authorization. See *Exhibit C: FEC's Reports Image Index for Committee ID No. C00393702 at 1-2* (highlighting reports filed electronically after January 2005 that bear Malott's signature but were not filed by him).

37. Upon information and belief, the King for Congress Committee never appointed a new Treasurer after Malott resigned in January 2005.

38. Upon information and belief, the King for Congress Committee never amended its Statement of Organization in order to advise the FEC that someone other than Malott was serving as the Committee's Treasurer. See *Reports Image Index for Committee ID No. C00393702 at 1-2*, which does not list any amendments to the Statement of Organization in years 2005-2010.

39. Upon information and belief, King was alerted to the fact that the King for Congress Committee reports that were filed after January 2005 were improperly filed using Malott's electronic signature. See *Exhibit A at 2* (quoting Phil Sisneros, a spokesman for King, as saying, he doesn't believe there were any violations of the federal election laws and that King told Sisneros that "he (King) was authorized as the candidate to file the reports. . . and King probably called up forms with Malott's signature, filled them out, then hit 'send.'").

40. Until sometime in April 2011 Malott was unaware that Gary King had filed King for Congress campaign finance reports with the FEC after January 2005, using Malott's electronic signature without authorization.

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41. Malott waited to see if King would file *sua sponte* submission with the FEC to notify it that King had violated the reporting requirements under 2 U.S.C. § 2 U.S.C. §§ 432(a), 433(c), and 434(a) and in the Code of Federal Regulations at 11 C.F.R. § 104.14(a)(2) and 104.18(g).

42. Upon information and belief, to date, King has not filed a *sua sponte* submission with the FEC to report violations of campaign finance laws and to pursue conciliation and the possibility of reduced fines, if applicable. *See FEC Policy Regarding Self-Reporting of Campaign Finance Violations (Sua Sponte Submissions)*, 72 Fed. Reg. 65, 16696 (April 5, 2007); *see also*, FEC, *Enforcement Query System*, available at <http://eqs.sdrdc.com/eqs/searcheqs> (not disclosing any closed Matters Under Review, Administrative Fine or Alternative Dispute Resolution cases filed with FEC regarding Campaign Id. No. C00393702).

43. Upon information and belief, King has not sought an Advisory Opinion from the FEC as to whether he, as the candidate and Custodian of Records for the King for Congress Committee, could file the required campaign finance reports using Malott's electronic signature. *See* 2 U.S.C. § 437f (d) (providing that the FEC shall "make public any request made under subsection (a) of this section for an advisory opinion"); *see also*, FEC Pending Advisory Opinions, available at <http://saos.nictmsa.com/saos/searchao?SUBMIT=pending> (not listing an Advisory Opinion request from King or King for Congress Committee).

## II. APPLICABLE LAW AND REGULATIONS

Section 432 of Title 2 of the United States Code deals with the "[o]rganization of political committees" and it provides, in pertinent part that

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(a) Treasurer; vacancy; official authorizations

Every Political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of the treasurer is vacant. No expenditure shall be made on or behalf of the treasurer or his or her designated agent.

2 U.S.C. § 432(a).

Political committees are expected to file a Statement of Organization no later than ten (10) days after they have been designated in accord with Section 432(e)(1) of Title 2 of the United States Code. 2 U.S.C. § 433(a). The Statement of Organization must list, among other things, the name and address of the treasurer and the name and address of the custodian of the books and accounts of the committee. 2 U.S.C. § 433(b) (3) & (4). If the organization of a political committee changes at any point, Section 433(c) of Title 2 of the United States Code provides that the political committee must report the change no later than ten (10) days after it occurs by filing a new Statement of Organization with the FEC. 2 U.S.C. § 433(c) and 2 U.S.C. § 432(g)(3).

Treasurers of political committees must file reports of receipts and disbursements in accord with the provisions of Section 434 of Title 2 of the United States Code. 2 U.S.C. § 432(a)(1). In any calendar year in which there is a regularly scheduled election for a U.S. Congressional seat, treasurers of political committees for U.S. Congressional candidates must file quarterly reports, a 12-Day Pre-Election Report, a Post General Election Report and in non-election years, they must file quarterly reports. 2 U.S.C. § 432(a)(2). The treasurer must sign each report. 2 U.S.C. § 432(a)(1).

The FEC has promulgated formal signature requirements for campaign finance reports and statements that are filed electronically at 11 C.F.R. § 104.18(g). Those requirements state

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that a political committee's treasurer or any other person having the responsibility to file a designation, reports or statements under subchapter 104 of the Code of Federal Regulations shall verify the filing by submitting either a signed certification on paper or a digitized copy of the signed certification. *Id.* In addition, the requirements advise that

Each verification submitted under this section [§ 104.18(g)] shall certify that the treasurer or other signatory has examined the report or statement and, to the best of the signatory's knowledge and belief, it is true, correct and complete. *Any verification under this section shall be treated for all purposes (including penalties for perjury) in the same manner as verification by signature on a report submitted in paper format.*

11 C.F.R. § 104.18(g) (emphasis added).

### III. ARGUMENT

Malott served as treasurer for the King for Congress Committee from April 08, 2004 through mid-late January 2005 when he gave Respondent King notice that he was resigning his position with the campaign. Malott learned this past spring that King had continued to file campaign finance reports using Malott's electronic signature after Malott had officially resigned as treasurer of the King for Congress Committee in January 2005. *Exhibit A.* Although the FEC addressed several Requests for Additional Information to Malott via U.S. mail after January 2005 at the King for Congress Committee's Moriarty New Mexico post office box, King never forwarded those requests to Malott nor did he inform the FEC that Malott was no longer his treasurer.

It appears that King has violated several different provisions of FECA, and its associated regulations, by electronically filing campaign finance reports in Malott's name after January

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Mr. Anthony Herman, General Counsel  
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2005 and by making disbursements of campaign funds after that point in time. More specifically, it appears that King has violated 2 U.S.C. §§ 432(a), 433(c), and 434(a) and 11 C.F.R. 104.18(g).

Because Malott is aware that the FEC encourages self-reporting of violations of campaign finance laws in an effort to release the administrative burden on the Commission and to expedite investigations, Malott has waited a reasonable period of time<sup>3</sup> to allow King to voluntarily declare that he has violated FECA or to seek an advisory opinion as to possible violations. Nevertheless, although it is clear that King was put on notice of the possibility that he may have violated campaign finance laws and King is an attorney,<sup>4</sup> it does not appear that he has filed a *sua sponte* submission on these matters.

Accordingly, Malott asks the FEC undertake an immediate investigation into whether King knowingly and willfully filed campaign finance reports as the ostensible treasurer of King for Congress after January 2005. It has been reported in the local press that King acknowledged filing campaign finance reports in Malott's name after Malott resigned as treasurer of the King for Congress Committee. The FEC has stated that treasurers play a unique role in the organization of political committees because, without a treasurer, political committees cannot undertake "a host of activities necessary to carrying out their mission, including receiving and disbursing funds and publicly disclosing their finances in periodic reports filed with the

<sup>3</sup>Malott has waited over 150 days from the date that the public learned of the possible violations to give King an opportunity to self-report any violations and to research the record of filings.

<sup>4</sup>In fact, King is not just any attorney; he is the attorney General for the State of New Mexico and a former State legislator. Thus, it is reasonable to assume that he would be more conversant with a wide range of laws, including federal election laws than the average attorney in New Mexico.

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Commission." *FEC, Policy Regarding Self-Reporting of Campaign Finance Violations (Spontaneous Submissions)*, 72 Fed. Reg. No. 65, 16696 (April 5, 2007). Nevertheless, it appears that the King for Congress Committee did conduct a number of activities without a treasurer after January 2005.

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**SWORN NOTARIZATION BY COMPLAINANT BRUCE MALOTT**

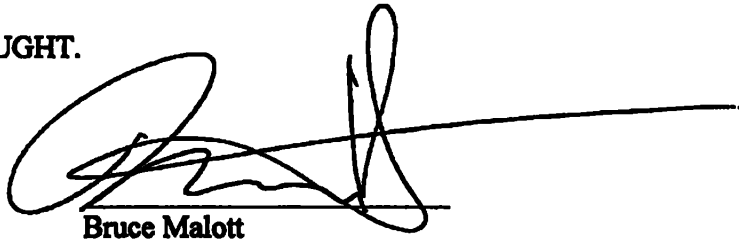
I, Bruce Malott, do hereby swear and affirm that

1. My mailing address is:  
111 Lomas Blvd., NW, Suite 230  
Albuquerque, NM 87102
2. My home mailing address is:  
Albuquerque, NM 87111
3. I served as the Treasurer for King for Congress from April 8, 2004 to mid-late January 2005 when I gave Mr. King notice of my resignation.
4. I have prepared the preceding Complaint, dated November 10, 2004, utilizing research that is available on the FEC's archive of campaign reports for the King for Congress Committee, Committee Id. No. C00393702.
5. The preceding Complaint accurately and truthfully reports the facts of my association with the King for Congress Committee, my filings on behalf of the Committee and all the filings that were made in my name but without my knowledge after January 2005.
6. The preceding Complaint accurately and truthfully reports those facts that are based upon my personal knowledge and those which are based upon information and belief.

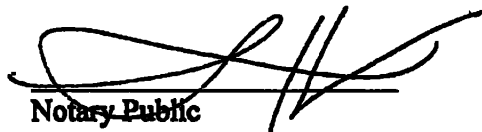
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7. All of the documents that support these allegations appear on the FEC's website and can be retrieved from the FEC Image Index *available at <http://query.nictusa.com/cgi-bin/facing/?C00393702m>*, or they have been attached to this Complaint.

FURTHER AFFIANT SAYETH NAUGHT.

  
Bruce Malott

SUBSCRIBED AND SWORN TO before me this 2 day of December 2011 by Malott.

  
Notary Public

My commission expires:

8/27/14





## Exhibit A

abqjournal.com

<http://www.abqjournal.com/main/2011/06/18/upfront/ag-used-malotts-signature.html>

### ABQJournal Online » AG Used Malott's Signature

To some, the possible violations of federal election law might seem minor.

To others, they might seem more significant because they involve state government's chief lawyer, Attorney General Gary King.

Another player: former Educational Retirement Board Chairman Bruce Malott, who is a defendant in civil lawsuits alleging pay-to-play politics in state investments.

Here's the story:

In late 2003, King created a political committee called King for Congress to finance a campaign for the House. Malott, an Albuquerque accountant, was the committee's treasurer.

King lost the general election in 2004 to incumbent Republican Steve Pearce, and Malott's work for the committee ended shortly thereafter, according to both King and Malott.

But King for Congress was kept alive until 2010. That gave it time to pay off a nearly \$122,000 bank loan.

Here are the potential problems:

♦ After Malott's work for the political committee ended, his electronic signature continued to appear on committee finance reports filed over the Internet with the Federal Election Commission.

Malott said he didn't review the reports and learned only recently that the committee continued to use his electronic signature. People who sign such reports are subject to penalties for false or incomplete information.

♦ King has said he filed the reports that bear Malott's signatures. Federal election law says "treasurers shall file" the reports.

♦ King for Congress was required to report Malott's departure as treasurer to the FEC within 10 days, according to federal law. It didn't do so.

♦ The committee was required by federal law to replace Malott with a new treasurer but didn't. FEC records show Malott is still listed as treasurer.

Between January 2005, when Malott said he left as treasurer, and April 2010, when the King political committee was finally terminated, a total of 32 reports with Malott's signature were filed with the FEC, according to commission records.

Also, during that same period, the FEC sent four letters to Malott requesting additional information. They were mailed to a past office box for King in Moriarty.

King was elected attorney general in 2006 and re-elected last year.

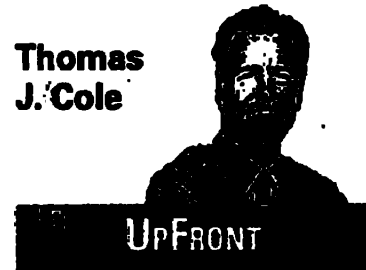
In a telephone interview with reporters on June 2, King said his interaction with Malott ended after the 2004 congressional campaign.

"I had to continue filing campaign reports for some period of time after the campaign was over," he said. "So his name remained on my campaign until the FEC closed it out."

Here are some excerpts from federal election campaign laws and FEC publications based on those laws and related federal rules:

♦ "Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant."

♦ "The committee must report any change in the treasurer's status within 10 days by filing an amendment to the Statement of Organization" filed with the FEC.



Thomas  
J. Cole

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## Exhibit A

♦ "If the treasurer is unable to exercise his or her duties (for example, is not available to sign a report or upload an electronic filing), only an assistant treasurer who has been officially designated ... may assume the treasurer's duties."

Phil Sisneros, a spokesman for King, said the attorney general doesn't believe there were any violations.

Sisneros said King told him that he (King) was authorized as the candidate to file the reports, but Sisneros said he couldn't provide a legal citation for that authority.

As for why Malott's signature continued to appear on reports, Sisneros said King probably called up forms with Malott's signature, filled them out, then hit "send."

The FEC's website says a report filed over the Internet requires a password, and that the treasurer's signature is needed to obtain a password.

The FEC can impose administrative fines for violations of federal election laws.

### **Alleged conflict**

Malott is a defendant in two lawsuits filed in 2008 and 2009 by Frank Foy, former chief investment officer for the Educational Retirement Board.

The Foy lawsuits, which allege pay-to-play schemes at the ERB and the State Investment Council, were brought under the New Mexico Fraud Against Taxpayers Act. Under the act, King had the option of taking over the lawsuits or allowing Foy to proceed on behalf of the state.

The AG chose to let Foy proceed but now wants to take over the allegations of corruption at the State Investment Council. The AG and a private law firm hired by the SIC have partnered on two new lawsuits seeking damages from more than a dozen people.

Foy is opposing King's attempt to take over part of the Foy lawsuits, and Foy attorney Victor Marshall has alleged King has multiple conflicts of interest, including Malott's work as treasurer of King for Congress. The attorney general has denied any conflicts.

Because the AG's new lawsuits deal with the State Investment Council and not with investments by the Educational Retirement Board, Malott isn't a defendant. However, some of the defendants in the AG lawsuits are accused by Foy of conspiring with Malott on ERB investment deals. Malott has denied any wrongdoing.

### **No involvement**

Malott, in a written statement to the Journal, said he left King for Congress when King said he no longer needed Malott's assistance in filing the FEC reports. He added:

"After that, I did not work on the King for Congress campaign reports, nor did I review any reports that were filed with the Federal Election Commission.

"Other than a small political contribution, I had no other involvement in any of Mr. King's subsequent political activities.

"I did not know until recently that the campaign had continued to use my electronic signature on filings with the Federal Election Commission after my January 2005 resignation."

Malott made a \$100 contribution in 2006 to King's first campaign for attorney general.

King appears to have been the only contributor to King for Congress after the election, and the committee paid off the bank loan in late 2008. The committee was terminated in April 2010 after King essentially agreed to forgive about \$80,000 in loans that he had made to the campaign.

UpFront is a daily front-page news and opinion column. Comment directly to Thom Cole at [tc@abqjournal.com](mailto:tc@abqjournal.com) or 505-992-6280 in Santa Fe. Go to [www.abqjournal.com/letters/new](http://www.abqjournal.com/letters/new) to submit a letter to the editor.

— This article appeared on page A1 of the Albuquerque Journal

**Reprint story**

## Exhibit A

-- Email the reporter at [cole@abcjournal.com](mailto:cole@abcjournal.com) Call the reporter at 505-992-6280

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Exhibit A

## Exhibit C



## FEDERAL ELECTION COMMISSION

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## Reports Image Index for Committee ID: C00393702

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## KING FOR CONGRESS

PO BOX 40  
MORIARTY, NM 87035


Treasurer Name: BRUCE MALOTT  
 Committee Designation: P (PRINCIPAL CAMPAIGN COMMITTEE OF A CANDIDATE)  
 Committee Type: H (HOUSE)  
 Candidate State: NM (New Mexico)

CANDIDATE:  
KING, GARY KENNETH ID: H4NM02056

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Year 2010							
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TERMINATION REPORT		04/15/2010	04/01/2010	04/15/2010	10	10030294141	PDF

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JULY QUARTERLY		07/15/2009	07/01/2009	07/15/2009	10	10030294141	PDF
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STATEMENT OF WORK		03/27/2007	03/27/2007	03/27/2007	5	27039412952	PDF
STATEMENT OF WORK		03/27/2007	03/27/2007	03/27/2007	5	27039412952	PDF
STATEMENT OF WORK		03/27/2007	03/27/2007	03/27/2007	5	27039412952	PDF
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STATEMENT OF WORK	AMEND	03/27/2005	03/27/2005	03/27/2005	5	25038921436	PDF
STATEMENT OF WORK		03/27/2005	03/27/2005	03/27/2005	5	25038921436	PDF
STATEMENT OF WORK	AMEND	03/27/2005	03/27/2005	03/27/2005	5	25038921436	PDF
STATEMENT OF WORK		03/27/2005	03/27/2005	03/27/2005	5	25038921436	PDF
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JULY QUARTERLY	AMEND	09/08/2004	05/13/2004	06/30/2004	111	24971427734	PDF
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