



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

**MAY 28 2015**

**By Hand Delivery**  
Scott E. Thomas

Washington, DC 20006-5403

RE: MUR 6850  
John Swallow

Dear Mr. Thomas:

Based on a complaint filed with the Federal Election Commission on June 30, 2014, the Commission, on November 18, 2014, found that there was reason to believe your client violated 52 U.S.C. § 30122, and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that knowing and willful violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief that you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 30 days. Enclosed is an agreement to toll the statute of limitations if you would like to request an extension.

You may also request additional information gathered by the Commission in the course of its investigation in this matter. *See Agency Procedure for Disclosure of Documents and Information in the Enforcement Process*, 76 Fed. Reg. 34986 (June 15, 2011). To expedite this

matter, we have attached all non-public documents on which our analysis relies, including a computer disc containing audio recordings of five interviews that the Brief cites.

In addition, you may also request an oral hearing before the Commission. *See* "Procedural Rules for Probable Cause Hearings," 72 Fed. Reg. 64919 (Nov. 19, 2007). Hearings are voluntary, and no adverse inference will be drawn by the Commission based on a respondent's decision not to request such a hearing. Any request for a hearing must be submitted along with your reply brief and must state with specificity why the hearing is being requested and what issues the respondent expects to address. The Commission will notify you within 30 days of your request for a hearing as to whether or not the request has been granted.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Michael Columbo, the attorney assigned to this matter, at (202) 694-1341.

Sincerely,

A handwritten signature in blue ink, appearing to read "LJ Stevenson", with a long horizontal flourish extending to the right.

Lisa J. Stevenson  
Deputy General Counsel - Law

Enclosure

Brief with attachments

Computer disc containing audio recording

Tolling agreement

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )

4 )  
5 John Swallow ) MUR 6850  
6 )  
7 )

8 **GENERAL COUNSEL'S BRIEF**

9  
10 **I. STATEMENT OF THE CASE**

11 This matter was generated by a complaint filed with the Federal Election Commission by  
12 The Alliance for a Better Utah and Maryann Martindale, alleging that former Utah Attorney  
13 General John Swallow violated the Federal Election Campaign Act of 1971, as amended (the  
14 "Act").<sup>1</sup> The Complaint alleged that Swallow directed Utah businessman Jeremy Johnson to  
15 make contributions in the names of others totaling approximately \$50,000 to Friends of Mike  
16 Lee ("Lee Committee"), the principal campaign committee of Sen. (then-candidate) Mike Lee.  
17 Compl. at 2. On November 18, 2014, the Commission found reason to believe that Swallow  
18 violated 52 U.S.C. § 30122 and initiated an investigation.<sup>2</sup>

19 Based on our analysis of the facts described below, including: (1) Johnson's statements  
20 that Swallow instigated two conduit contribution schemes by directing him to make  
21 approximately \$150,000 in reimbursed contributions to the Senate campaign committees of Mark  
22 Shurtleff and Mike Lee; (2) a summary of e-mails in which Swallow instructed Johnson to  
23 contribute to Shurtleff's campaign by reimbursing straw donors; (3) e-mails in which Swallow  
24 alerted Johnson to four bounced contribution checks from straw donors; (4) information that  
25 Swallow initiated the schemes so that Johnson could contribute in excess of the individual limit;  
26 (5) information that Swallow destroyed a large quantity of electronic data from the relevant

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<sup>1</sup> On September 1, 2014, the Act was transferred from Title 2 to new Title 52 of the United States Code.

<sup>2</sup> Commission Certification ¶ 2(b), MUR 6850 (John Swallow) (Nov. 20, 2014).

1 period possibly to conceal the schemes; (6) Swallow's pattern of obscuring the sources of  
2 campaign contributions; and (7) adverse inferences drawn from Swallow's assertion of his Fifth  
3 Amendment privilege against self-incrimination in response to particularized questions and  
4 document requests in the Commission's subpoena issued to Swallow in this matter, this Office is  
5 prepared to recommend that the Commission find probable cause to believe that Swallow  
6 knowingly and willfully violated 52 U.S.C. § 30122.

## 7 **II. ANALYSIS**

### 8 **A. Statement of Facts**

#### 9 **1. Background**

10 John Swallow is a Utah lawyer who unsuccessfully ran for Congress in 2002 and 2004,  
11 served as a chief deputy under former Utah Attorney General Mark Shurtleff, worked as a key  
12 fundraising advisor for Shurtleff's 2008 attorney general and 2009 Senate campaigns, and  
13 coordinated fundraising efforts for Mike Lee's 2010 Senate campaign.<sup>3</sup> Swallow also served as  
14 Utah Attorney General from January 2013 until his resignation in November 2013 in the midst of  
15 an investigation by the Utah House of Representatives into allegations that he participated in a  
16 conspiracy to pay a Senator to terminate the federal investigation of an associate, accepted  
17 impermissible gifts, violated state campaign finance disclosure laws, participated in a conspiracy  
18 to extort funds from an individual targeted for prosecution, and made promises of favorable  
19 treatment from the Utah Attorney General's Office to companies and individuals in the

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<sup>3</sup> See Utah House of Representatives, Rpt. of the Special Investigative Comm. at 62, 49, 45-46, 55 (Mar. 11, 2014) ("Investigative Committee Report"), [http://le.utah.gov/investigative/final\\_report\\_simple.pdf](http://le.utah.gov/investigative/final_report_simple.pdf); Aff. of Dan Hauser ¶ 3 (Aug. 14, 2014) ("Hauser Aff.") (Attached here as Attachment 2).

1 telemarketing and personal wealth building industries in exchange for campaign contributions.<sup>4</sup>

2 Shurtleff and Swallow were criminally charged in state court with 10 counts, including receiving  
3 bribes, witness tampering, and evidence tampering, related to their service in the Utah Attorney  
4 General's Office and are awaiting trial.<sup>5</sup>

5 Jeremy Johnson is a Utah businessman who, before the events described here, contributed  
6 \$50,000 to Shurtleff's 2008 attorney general campaign and garnered recognition as a "major  
7 contributor."<sup>6</sup> His contribution was the product of exceptional fundraising efforts by Swallow,  
8 who saw political opportunity in Johnson's wealth and business connections.<sup>7</sup> As discussed  
9 below, Swallow would later direct Johnson to make federal campaign contributions in the names  
10 of others to the Senate campaigns of Mark Shurtleff and Mike Lee.<sup>8</sup>

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<sup>4</sup> Investigative Committee Report at 19-21. The Special Investigative Committee of the Utah House of Representatives made several findings with respect to Swallow, including: (1) that he gave Utah businessman Jeremy Johnson "extraordinary access" to the Utah Attorney General's Office in return for personal benefits and political favors; (2) that he made a secret promise to support the payday lending industry in exchange for campaign support; (3) that he masked political contributions from the payday lending industry "through a network of political entities and hidden contributors"; and (4) that he undermined the state's efforts to prosecute a lawsuit against a bank in order to benefit a campaign contributor. Investigative Committee Report at 5-12.

<sup>5</sup> Information, *State v. Shurtleff*, No. 141907720 (Utah 3rd Dist. Ct. July 15, 2014).

<sup>6</sup> Investigative Committee Report at 45-46. Johnson was the owner of iWorks, an Internet marketing company. Following customer complaints that iWorks charged them without authorization, the Federal Trade Commission ("FTC") investigated iWorks and, on December 21, 2010, filed suit against Johnson, his businesses, and his associates in federal district court in Nevada. Complaint, *FTC v. Johnson*, No. 2:10-2203 (D. Nev. Dec. 21, 2010). On January 13, 2011, the Court granted the FTC's request for a temporary restraining order, froze Johnson's assets, and placed them under the control of a court-appointed receiver. A preliminary injunction followed on February 10, 2011. Johnson was subsequently indicted on criminal charges in federal district court in Utah based on iWorks' business practices and is currently awaiting trial. See Superseding Indictment, *United States v. Johnson*, No. 2:11-00501 (D. Utah Mar. 6, 2013).

<sup>7</sup> Investigative Committee Report at 45-46. In sworn testimony, Swallow said that he flew to Santa Monica, California to meet Johnson in order to "get to know him for purposes of helping Mark Shurtleff raise money for his campaign and also for the rainmaking opportunities for me as a lawyer." *Id.* In the opinion of the Utah House Special Investigative Committee, "Swallow . . . set out to make Mr. Johnson an ally to the Shurtleff-Swallow political machine." *Id.* at 46.

<sup>8</sup> See discussion *infra* Parts II.A.2-.3.

2. Reimbursed Contributions to Shurtleff's 2009 Senate Campaign

The record evidence establishes that Swallow and Johnson participated in a scheme to reimburse approximately \$100,000 in contributions to Shurtleff's 2009 Senate campaign. The available information includes Johnson's statements to state and federal law enforcement officers that Swallow directed him to make contributions using straw donors and an official memorandum written by investigators describing e-mails in which Swallow instructed Johnson to make contributions by giving money to other people to donate.<sup>9</sup>

Utah state law enforcement officers, conducting an investigation into corruption allegations, interviewed Johnson on August 14, 2013. According to the official summary of that interview:

[Johnson said] . . . he supplied money for someone else to donate to Mark Shurtleff and Mike Lee's campaigns. [Johnson] said John Swallow approached him with that plan . . . Swallow said they needed a certain amount of money. [Johnson] said he asked him who to make [his check] out to, and Swallow said the most they could donate was \$2,500 . . . Swallow said that most people cannot do that, referring to the amount of money. [Johnson] said the solution was that he put up the money when he could.<sup>10</sup>

<sup>9</sup> Mark Shurtleff abandoned his Senate campaign on November 4, 2009. Swallow's violations, if any, in connection with Shurtleff's 2009 Senate campaign are beyond the five-year statute of limitations applicable to the Act. See 28 U.S.C. § 2462. Nonetheless, this evidence provides relevant background information concerning Swallow's scheme in connection with Lee's 2010 Senate campaign, which remains within the statute of limitations.

<sup>10</sup> Scott Nesbitt Supplemental Report at 8 (Sept. 16, 2013) (Attached here as Attachment 3). This summary is consistent with additional recorded statements Johnson has made to law enforcement investigators concerning his dealings with Swallow in connection with conduit contributions to Shurtleff's campaign. See Recording B0397 at 45:00 (Johnson stated that when Swallow asked him to give \$100,000 to Shurtleff's Senate campaign, Johnson told him "Yeah fine, I'll give you a check," but Swallow said "the most it can be [is] \$2,500 from different people."); *id.* at 45:20 (Johnson stated that he told Swallow, "I don't know that many people who can write out \$2,500 checks," and Swallow answered, "[Y]ou can give them a gift and they could donate that if they want."); *id.* at 49:00 (Johnson stated that "Swallow was careful to word it how he did . . . he didn't say 'go give the people money and then have them write checks . . . to the campaign.' [Swallow said] 'you can give them a gift and if they want to donate that, then that's the way we can get the money.'" Johnson stated that he "understood [it to mean] the same thing," and that, "it was one of those shifty things that [Swallow] did . . . by that point that I really expected from Swallow.").

We note, as a matter of law, that making a contribution in the name of another in violation of 52 U.S.C. § 30122 includes making an unconditional gift to a person to be used to make a contribution to a candidate. See

Johnson stated that, at Swallow's request and by his instructions, he contributed approximately \$100,000 to Shurtleff's campaign in the names of others.<sup>11</sup> Johnson represented that he previously wrote a single \$50,000 check for Shurtleff's attorney general campaign after Swallow solicited a contribution in that race, but Swallow told him that, for Shurtleff's Senate campaign, the money would have to be divided among different people because of an individual limit.<sup>12</sup>

Swallow and Johnson apparently discussed the scheme in e-mails, but we were unable to obtain them during our investigation. As detailed below, Swallow asserted his Fifth Amendment privilege against self-incrimination in connection with a Subpoena to Produce Documents and, further, he destroyed a large amount of electronic data from this period to thwart an official investigation into his conduct.<sup>13</sup> Nonetheless, we have information concerning the content of some of the relevant e-mails between Swallow and Johnson. Investigators for the Utah House

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*United States v. Whittemore*, 776 F.3d 1074, 1078-80 (9th Cir. 2015) (holding that an unconditional gift theory is not a defense to 52 U.S.C. § 30122 because the "key issue . . . is the source of the funds, regardless of the status of the funds under state property law at the time of the donation" (citing *United States v. O'Donnell*, 608 F.3d 546, 550 (9th Cir. 2010))). Indeed, Johnson explained that he understood Swallow's idea to give monetary "gifts" to the straw donors to be the same thing as reimbursing their contributions. *See* Recording B0397 at 49:00.

An individual contribution limit of \$2,400 was in effect for the 2010 election cycle whereas Johnson's recollection of the limit, approximately three years after the fact, varies between \$2,400 and \$2,500 across multiple interviews with law enforcement investigators. However, we believe that Johnson was aware of the \$2,400 limit at the time of the conduit contribution schemes since his own contributions and those of his straw donors were \$2,400. *See* Friends for Shurtleff 2009 July Quarterly Rpt. at 14 (July 9, 2009) (Johnson's \$2,400 contribution); Friends of Mike Lee Amended 2010 July Quarterly Rpt. at 58 (Aug. 11, 2011) (Johnson's \$2,400 contribution); *see also* discussion *infra* Part II.A.4 (discussing the \$2,400 contributions of Johnson's straw donors).

<sup>11</sup> When asked how many straw donors he used to contribute to Shurtleff, Johnson answered: "Hundred grand worth. I don't know how many of them were ones I gave money to. I would have to look at them, I could look at them and say I gave them the money." Recording B0375 at 33:00.

<sup>12</sup> *See* Recording B0397 at 45:00 ("... that's when all these limits starting coming into place, because before that it was just like 'write a check'"); *see also* Investigative Committee Report at 45-46 (explaining how Swallow solicited a \$50,000 contribution from Johnson for Shurtleff's attorney general campaign).

<sup>13</sup> *See* discussion *infra* Part II.C.

1 Special Investigative Committee interviewed Johnson's personal assistant, Karen Beck-Redd, in  
 2 November and December 2013.<sup>14</sup> During that interview they reviewed several e-mails in Beck-  
 3 Redd's possession, including "[e-]mails of miscellaneous dates from Swallow to Johnson telling  
 4 Johnson to make donations by giving money to other people to donate."<sup>15</sup>

5 As to the reliability of the investigators' memorandum, Lindquist and Casper were tasked  
 6 with conducting an official investigative proceeding into Swallow's alleged activities by a  
 7 committee of the state legislature and they examined the e-mails themselves; consequently, there  
 8 is a fair basis to accept its accuracy.<sup>16</sup> Moreover, in a recorded interview of Beck-Redd in  
 9 January 2014 with law enforcement agents that Lindquist attended, Beck-Redd and Lindquist  
 10 again affirmed that the e-mails contained Swallow's instructions that Johnson contribute to  
 11 Shurtleff's campaign by giving money to others to donate.<sup>17</sup> Further, when Beck-Redd and

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<sup>14</sup> See Memorandum from Pamela Lindquist and Richard H. Casper, Utah investigators, to Steven Reich, lead counsel (Dec. 10, 2013) ("Lindquist Memo") (Attached here as Attachment 4).

<sup>15</sup> *Id.* at 2.

<sup>16</sup> The e-mails described by Lindquist and Casper appear to be distinct from e-mails sent on June 21 in which Swallow informed Johnson that four contribution checks from straw donors to the Lee Committee had bounced. See Investigative Committee Report, App. III, Ex. 22 [p. 918] ("June 21 E-mails") (Attached here as Attachment 5); discussion *supra* Part II.A.3. First, the memorandum specifically describes e-mails from "miscellaneous dates," not a single day. Second, the memorandum describes Swallow's direction that Johnson give money to other people to donate. The June 21 E-mails, in contrast, discuss contributions that had already been made or attempted to be made. Third, when Lindquist and Beck-Redd were contacted by this Office during our investigation, they both recalled the e-mails referenced in the memorandum but neither directed us to the June 21 E-mails despite the fact that they are well documented in the public record and have appeared in news reports. See, e.g., Lisa Riley Roche, *Sen. Mike Lee Doing 'Due Diligence' On Illegal Donation Claims*, DESERET NEWS (Aug. 13, 2014); Robert Gehrke, *Complaint to Target Alleged Laundered Donations to Mike Lee*, THE SALT LAKE TRIBUNE (June 6, 2014). Lindquist should be especially familiar with the June 21 E-mails and their location in the public record since they are listed as Exhibit 22 of the final report published by the Utah House Special Investigative Committee for which she served as an investigator. See Investigative Committee Report at 55.

<sup>17</sup> See Recording B0389 at 1:19:20 (Beck-Redd said, "[Swallow] didn't say it to me, but I remember him telling Jeremy . . . I've even read some e-mails."); *id.* at 1:19:45 (Lindquist said, "There were some e-mails about . . . that we were trying to get, I think we ran out of time, but you referred to an email where [Swallow] had said, 'Hey you can get around,' because Jeremy had given his maximum, so he's like, 'you can give money to other people,'" to which Beck-Redd responded, "Oh yeah."). Beck-Redd could not initially recall the specific campaign that was the subject of the e-mails but remembered that Swallow stated the maximum a person could contribute was

Lindquist were contacted by this Office during our investigation, they both recalled the e-mails and did not dispute the memorandum's description of their content. Additionally, Johnson stated during a recorded interview with law enforcement officers that Swallow's instructions to him to reimburse contributions were made during phone calls and by e-mail, also consistent with the memorandum.<sup>18</sup> Furthermore, Swallow asserted his Fifth Amendment privilege against self-incrimination to a question asking him to describe, *inter alia*, e-mails to accomplish Johnson's making of contributions in the names of others.<sup>19</sup> For all these reasons, there is ample basis to conclude that the memorandum accurately described e-mails in which Swallow "tell[s] Johnson to make donations by giving money to other people to donate."<sup>20</sup>

### 3. Reimbursed Contributions to the Lee Committee

The record evidence also establishes that Swallow and Johnson participated in a scheme to reimburse contributions to the Lee Committee. Johnson stated in his recorded interviews with law enforcement officers that, after Shurtleff ended his campaign, Swallow asked him to reimburse approximately \$50,000 in contributions to Mike Lee's Senate campaign. Having just reimbursed \$100,000 in contributions to the Shurtleff Senate campaign, Johnson said that he was initially hesitant:

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\$2,500. *Id.* at 1:20:10 ("It was like \$2,500 . . . I have no clue why I know that number."). One of the interviewing agents refreshed her memory and she remembered that the e-mails referred to Shurtleff's 2009 Senate campaign. *Id.* at 1:20:30. Since there are no contribution limits in Utah, it is unlikely that Beck-Redd would have confused Shurtleff's Senate and attorney general campaigns. *See Utah Code § 20A 11-101 et seq.*

<sup>18</sup> Johnson stated that Swallow gave his directions regarding the reimbursed contributions in "multiple different ways" including by e-mail. Recording B0375 at 28:40. Moreover, since Johnson did not participate in interviews with the Utah House Special Investigative Committee, there is no concern that the description was influenced by claims Lindquist or Casper had known Johnson to make. *See Investigative Committee Report* at 34.

<sup>19</sup> *See discussion infra* Part II.C.

<sup>20</sup> Lindquist Memo at 2.

1           The problem . . . with the Lee thing is that they just squeezed me to death  
2           on Shurtleff. So I did probably, I know I did a hundred [thousand dollars]  
3           plus on Shurtleff's [Senate campaign]. Then they come to me and they're  
4           like, "okay, Shurtleff is done. Will you get money for Lee?" And I'm  
5           like, "Oh my God are you kidding me?"<sup>21</sup>

6  
7           Johnson stated that he agreed to make the reimbursed contributions, but only after  
8           Swallow exploited his fear that federal authorities would pursue his online poker processing  
9           businesses in Utah.<sup>22</sup> According to Johnson, Swallow suggested that supporting Lee's candidacy  
10          would further Johnson's business interests, which included companies that received  
11          approximately \$180 million in revenues between November 2009 and December 2010 to process  
12          financial transactions for online poker games.<sup>23</sup> Johnson explained how Swallow pitched the  
13          idea that if Johnson helped to get Lee elected, Lee would appoint Utah's next U.S. Attorney who,  
14          in turn, may be in a position to protect Utah's online poker businesses from prosecutions by  
15          other U.S. Attorneys:

16          Swallow said . . . "let me explain to you why it is important that we raise  
17          this money and make Mike Lee our guy. He is going to be . . . we need  
18          him because he is going to be choosing the next U.S. Attorney and you  
19          gotta have him in your corner and you gotta have the U.S. Attorney in  
20          your corner especially while you are processing poker in this district. And  
21          that way if there's problems that come up, you know, you've already got a  
22          friend there that will combat that" . . . . And the poker guys, their arch  
23          nemesis is a guy named Arlo Brown who is the AUSA in New York.  
24          [Brown] keeps seizing their money, so they loved all this stuff that  
25          Swallow was saying. . . .<sup>24</sup>

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<sup>21</sup> Recording B0375 at 17:45-18:04; Recording B0397 at 51:20 (Johnson said, "I just got done doing this for Shurtleff and now you want me to get it for a new guy?").

<sup>22</sup> See Recording B0397 at 51:20 (Johnson said that Swallow had to "talk [him] into it for like a half hour.").

<sup>23</sup> See discussion *infra* Part II.A.3; Rpt. of Receiver's Financial Reconstruction at 31-32, *FTC v. Johnson*, No. 2:10-2203 (D. Nev. Jan. 31, 2012) ("Receiver's Report").

<sup>24</sup> Recording B0375 at 19:40 – 20:26. At the time Johnson reimbursed contributions to the Lee Committee in June 2010, the United States Attorney's Office in the Southern District of New York had been seizing assets of online poker companies, including companies like Johnson's that processed their transactions. See Frederic

Johnson further stated that:

One of their strategies . . . one of the things Swallow was saying in getting money for Lee is you know he says "Look, if there's a problem with your [online poker payment] processing [business], even if the U.S. Attorney from New York wants to bring an action and seize their money in Utah, he is going to have to have the cooperation of the U.S. Attorney's office in Utah. So it is important that you have a guy there that knows you and understands your business and is on your side because if he says I don't want to mess with it, that really rains on Arlo's parade and makes it really hard for him to come in and cause mischief." . . . And so the poker people were in heaven over that idea and they wanted to do anything Swallow suggested to help make that happen . . . and that is why they were like "Jeremy this is why you gotta bring in Mike Lee and why you got to bring him in early, if he has a strong showing in the beginning, it helps attract money later on. We won't bother you for money." So I was like, "Okay." So I got people to give him money, and most of them I had to end up giving them money to give the money [for Lee].<sup>25</sup>

Johnson estimated that he reimbursed approximately \$50,000 in contributions to Lee's campaign.<sup>26</sup> Johnson explained that he approached family, friends, employees, and business associates and promised to reimburse their contribution if they would donate to Lee's campaign.<sup>27</sup>

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Frommer, *Group Says Online Poker Winnings Are Frozen*, AP (June 9, 2009) (summarizing efforts of the federal government in 2009 to seize poker processing entities' accounts and the industry's reaction).

<sup>25</sup> *Id.* at 27:20-35:45; *see id.* at 37:50, 44:45, 51:45; Recording B0397 at 44:00, 51:25. In his first recorded interview, Johnson suggested that the funds that he contributed to the Lee Committee were not his own, but rather the funds of others in the poker industry. *See* Recording B0375 at 28:53 ("[I]t was all the poker money, so it wasn't even my money I was giving them. I was just giving them money from the poker people.").

<sup>26</sup> Johnson stated in one interview: "I went through Lee's [list of disclosed contributions] yesterday and I picked out a lot of them . . . I am guessing about 50 grand worth. . . . You can get them online. . . . I figured out it looked about 50 grand worth, but there were a bunch I was wondering that maybe, maybe not." Recording B0375 at 33:25. Johnson has provided alternative explanations regarding the sources of funds used to pay his straw donors including that he paid them with cash and that he routed funds to conduits through online poker accounts. *See* Recording B0397 at 58:00 (Johnson stating that he reimbursed contributions with cash); Matthew Mosk, *et al.*, *Utah Officials Call on Feds to Investigate Senators Reid, Lee*, ABC NEWS (Mar. 13, 2014) (Johnson stating that straw donors were reimbursed from poker accounts).

<sup>27</sup> *See* Recording B0397 at 47:25; *see also* Recording B0375 at 31:00 ("I just said 'Hey would you donate to Mike Lee? I'll get you the money.'"); *id.* at 34:30 ("So I am going to like in some cases the same people I had

1 In addition, Johnson stated that the Lee Committee sometimes deposited straw donors'  
 2 contribution checks before they deposited their reimbursements, which in some cases caused the  
 3 checks to bounce:

4 Now sometimes . . . I would be like, "Hey . . . can you write me a check  
 5 for \$2,400 to Mike Lee and I'll get you the money?" And then because  
 6 there was just so much pressure to get these checks. So I would get the  
 7 check and I wouldn't get the money fast enough and then they would  
 8 hurry up and cash the check and it would bounce. That happened all the  
 9 time. I'm like "Geez can you guys just give me a few days to breathe?"  
 10 'Cause I got to go out and figure it out, get the cash and get it from  
 11 somebody.<sup>28</sup>

12  
 13 As explained in detail below, Johnson's statement regarding the bounced checks is corroborated  
 14 by information the Lee Committee provided and evidence obtained during our investigation,  
 15 including e-mails between Swallow and Johnson.<sup>29</sup> The available information establishes

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already hammered to donate to Shurtleff, and I'm like can you donate to Lee and I'll give you the money?"). Johnson identified several conduits by name or relation including Todd Vowell, Jason Vowell, C.J. Wade, Duane Fielding, and Johnson's parents (Kerry and Barbara Johnson). Recording D0418 at 37:05. There is information to confirm that each made contributions of \$2,400 to the Lee Committee. *See* Attach. 6 (contribution checks); *see generally* Friends of Mike Lee Amended 2010 July Quarterly Rpt. (Aug. 19, 2011) (reported contributions). Another individual Johnson named, Terrason Spinks, made \$7,200 in contributions to Shurtleff's 2009 campaign but did not contribute to the Lee Committee. *See* Recording B0397 at 47:25; Friends for Shurtleff, Inc. 2009 July Quarterly Rpt. at 17- 18 (Jul. 21, 2009) (contributions for primary, convention, and general elections). Johnson stated that there were no fictitious conduits. Recording B0375 at 32:25.

In short responses to the Commission's Order to Submit Written Answers and a Subpoena to Produce Documents, Johnson's parents claimed that they used personal funds for their contributions and were not reimbursed. *See* Attach. 7. In contrast to their motive to protect their son, we have identified no facts that suggest a motive for Johnson to fabricate his claim that he reimbursed his parents' contributions, a statement against their interest and his own. Moreover, additional evidence suggests that Kerry and Barbara Johnson previously helped Johnson conceal his financial transactions by allowing their names to be used instead of his. *See* Receiver Report at 17; *see also* Receiver Report at 73, Tab 101.

<sup>28</sup> Recording B0375 at 32:30.

<sup>29</sup> In response to public reports of the same allegations in this matter, the Lee Committee attempted to identify the straw donors. It focused on deposits that were close in time and location to Johnson's personal contribution of \$2,400, which was included in a deposit to the Lee Committee's account at the Zion Bank branch in St. George, Utah. That deposit, made by a committee volunteer, included contributions from 17 individuals. The Lee Committee sent certified letters to 15 of those donors asking that they each sign and return a certification affirming that they had made their contributions from personal funds. *See* Mike McCauley Aff. ¶¶ 7-14, Ex. A (Attached here as Attachment 8). None of the donors replied to the Lee Committee. *See id.* ¶ 15. One donor, Savannah Jones,

Swallow's knowledge that Johnson was associated with four straw donors and, further, that Swallow knew that Johnson could cause their checks to be re-submitted with sufficient funds. Additionally, the evidence traces the path of funds Johnson used to reimburse six of the straw donors, including four Swallow identified in his e-mail to Johnson.

On June 14, 2010, one of the companies operated by Johnson's associates for his benefit, Triple 7, issued a check to Sole Group for \$14,400 — the exact amount needed to fund six contributions for \$2,400.<sup>30</sup> The same day, Sole Group issued six checks for \$2,400 to Arvin Black, Atia Black, Matthew Black, Savannah Jones, Kyle Boyer, and Tiffany Boyer.<sup>31</sup> Each of

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called the Lee Committee and explained that her employer — “Mr. Black” — asked her to make a reimbursed contribution. *Id.* ¶ 17.

<sup>30</sup> See Attach. 9 (check). Triple 7 was nominally owned or controlled by Todd and Jason Vowell, both of whom the Receiver in Johnson's FTC case identified as nominal owners of numerous corporations operated for Johnson's benefit as part of his business schemes and through which Johnson routed millions of dollars. Receiver's Report at 4, 6-11, 29, 37. Johnson stated that Todd Vowell helped him find straw donors for the conduit contribution schemes. Recording B0397 at 59:45. In addition, according to the Receiver in Johnson's FTC case, millions of dollars that originated with Johnson passed through Sole Group, LLC. Receiver's Report at 12-15, 41, 50-57, Tab 72 at 3.

Sole Group, LLC was owned by Arvin Lee Black, II, who is currently incarcerated after pleading guilty in 2014 to wire fraud and money laundering for using the company to defraud customers in a Ponzi scheme masquerading as a day trading operation. Executed Judgment, *United States v. Black*, 13-cr-00836 (D. Utah July 31, 2014); Statement in Advance of Plea, *United States v. Black*, 13-cr-00836 (D. Utah Jan. 10, 2014). According to the Receiver in Johnson's FTC case, millions of dollars that originated with Johnson, including \$250,000 transmitted from Johnson's father, Kerry Johnson, passed through Black and his company, Sole Group, LLC. Receiver's Report at 12-15, 41, 50-57, Tab 72 at 3.

<sup>31</sup> See Attach. 10 (six sequential checks). Atia Black responded to the Commission's Order and Subpoena by producing the June 14, 2010, check from Sole Group to her for \$2,400 and stating: “Yes, I received a check from my husband's company, as I always did to pay my bills and make any purchases. As far as I am aware the funds were not from any other person. I was not and am not aware of this being unlawful in any way.” Atia Black Subpoena Resp. at 1 (Attached here as Attachment 12).

Savannah Jones responded to the Commission's Order and Subpoena and by stating, “My former employer, Lee Black, asked me to write a check to Mike Lee for \$2400 to be paid as a contribution. I did not use my own personal funds. . . . [Black] provided me with [a] reimbursement for the contribution . . . in the form of a check. . . . [M]y former employer instructed me to write [a Sole Group, LLC] check to myself. . . . The reimbursement was deposited into my account on June 15, 2010.” Jones Subpoena Resp. at 1 (Attached here as Attachment 12); see also note 29 (describing Jones' call to the Lee Committee explaining the same).

these persons then made \$2,400 contributions to the Lee Committee within the next few days.<sup>32</sup> However, the contribution checks from Arvin Black, Atia Black, Matthew Black, and Savannah Jones bounced due to non-sufficient funds.<sup>33</sup>

On June 21, 2010 — five days after the Lee Committee reported that the four checks had bounced, and the day before the primary election in which Lee would be nominated — Swallow wrote to Johnson: “[w]e are working hard and tomorrow is the big day” and “4 [o]f those checks bounced. I’ll forward you the names.”<sup>34</sup> In reply, Johnson wrote “I am really sorry about the checks. I will get it fixed ASAP! Let me know whos [sic] bounced. I was in a mad rush to get those so maybe I pushed a few people too hard.”<sup>35</sup> The next day, the Lee Committee received a series of re-submitted \$2,400 contribution checks from Atia Black, Matthew Black, and Savannah Jones.<sup>36</sup>

**B. Swallow’s Knowledge of Campaign Finance and His Pattern of Concealing the Sources of Contributions Establish His Motive and Intent**

There is evidence that Swallow understood campaign finance rules regarding disclosure and contribution limits, and that Swallow’s instructions to Johnson to reimburse contributions to

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<sup>32</sup> See Attach. 11 (contribution checks).

<sup>33</sup> See Friends of Mike Lee Amended 2010 July Quarterly Rpt. at 121-23 (Aug. 19, 2011). The report disclosed the failure of Arvin Black’s check on June 15, 2010, and included like entries denoting the failure of checks from Savannah Jones, Atia Black and Matthew Black on June 16, 2010. Friends of Mike Lee Amended July 2010 Quarterly Rpt. at 122-23 (Aug. 19, 2011). The report disclosed only one additional contribution check with non-sufficient funds from an individual for whom we have not found a connection to Johnson and whose contribution differs in amount, timing, and location from the straw donors. *Id.*

<sup>34</sup> June 21 E-mails at 1. In his Response, Swallow stated that he was unaware if Johnson reimbursed the contributions made by these donors and argued that there is no such indication from the e-mails’ content. Resp. at 1.

<sup>35</sup> *Id.*

<sup>36</sup> See Friends of Mike Lee Amended July 2010 Quarterly Rpt. at 15, 61 (Aug. 19, 2011). Matthew Black’s re-submitted contribution check also appears to have bounced. See Friends of Mike Lee Amended July 2010 Quarterly Rpt. at 122 (Aug. 19, 2011).

1 the Shurtleff and Lee campaigns were part of a pattern of circumventing those rules. This is in  
2 fact the second Commission enforcement matter in which Swallow has been accused of making  
3 contributions in the names of others. In a matter under review arising out of his 2002  
4 Congressional campaign, Swallow's campaign was alleged, *inter alia*, to have received  
5 contributions "made in the name of children in order to mislead and circumvent individual  
6 contribution limits."<sup>37</sup> Accordingly, Swallow was fully aware of the Act's limits, disclosure  
7 requirements, and prohibition against making contributions in the names of others.

8 Swallow's understanding of campaign finance regulations and his motive, intent, and  
9 knowledge of methods to evade them are further established by his actions during his 2012  
10 campaign for attorney general. In that campaign, Swallow built a "network of political entities  
11 and hidden contributors" to secretly raise \$452,000 from the payday lending industry for his  
12 campaign.<sup>38</sup> He directed donors from the industry to contribute to one of two political action  
13 committees ("PACs") that did not bear his name but were created for his benefit.<sup>39</sup> And, since  
14 Utah law requires PACs to disclose their donors, Swallow and an associate created a string of  
15 not-for-profit and tax-exempt entities to launder contributions made to the PACs and secretly  
16 direct their spending.<sup>40</sup> The Utah House Special Investigative Committee observed that

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<sup>37</sup> Compl. at 1, MUR 5333 (John Swallow for Congress, Inc.) (Nov. 5, 2002). The Commission found reason to believe that Swallow violated the Act by receiving an excessive contribution from a domestic limited partnership in which the matriarch and patriarch of the family were general partners and their seven daughters and sons were limited partners. Factual & Legal Analysis at 2-5 (Dec. 21, 2005), MUR 5333 (John Swallow for Congress, Inc.). The Commission ultimately closed the case against Swallow after a witness provided deposition testimony that varied in some respects compared to his unsworn statements. *See* Fifth Gen. Counsel's Rpt. at 3, MUR 5333 (John Swallow for Congress, Inc.); *see also* Letter to Robert R. Sparks, Jr., counsel for John Swallow (Oct. 20, 2006).

<sup>38</sup> Investigative Committee Report at 8.

<sup>39</sup> *Id.* at 76-77.

<sup>40</sup> *Id.* at 8, 81-83. The Utah House Special Investigative Committee found that Swallow used these funds "on negative and even misleading campaign maneuvers while allowing Mr. Swallow to deny involvement in such

1 “[m]oney was passed through daisy-chains of opaque entities, with the result that campaign goals  
 2 were accomplished without anyone being able to trace who funded the campaign.”<sup>41</sup> In addition,  
 3 Swallow’s campaign concealed the contributions of two donors on whose behalf Swallow  
 4 intervened in a lawsuit while acting in his official capacity.<sup>42</sup> As part of the effort to secrete the  
 5 contributions, Swallow’s campaign “engineer[ed] the submission” of false campaign finance  
 6 reports to the Office of the Lieutenant Governor and accepted a contribution from one of the  
 7 donors at a fundraising event that was made in the name of another.<sup>43</sup> This information  
 8 establishes that Swallow was generally familiar with campaign finance disclosure requirements  
 9 and well-versed in the means by which such requirements could be circumvented to conceal the  
 10 true identity of donors through the use of intermediaries.<sup>44</sup>

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controversial tactics and with little risk that anyone could prove the actual connection to him.” Investigative Committee Report at 8.

<sup>41</sup> *Id.* at 81-82.

<sup>42</sup> Swallow suggested to Bank of America that the Utah Attorney General’s Office would drop its affirmative lawsuit against the bank on behalf of Utah citizens in exchange for the bank agreeing to settle a lawsuit involving the donors. *Id.* at 11.

<sup>43</sup> *Id.* at 11-12, 110-11. Regarding the reimbursed contribution to Swallow’s campaign made at a fundraising event, a campaign staffer explained that its purpose was so that the donor would not be publicly disclosed as a contributor and, from the public’s perspective, “it was like he was not even there.” *Id.* at 110.

<sup>44</sup> Although Swallow’s 2012 attorney general campaign occurred shortly after the conduit contributions schemes in connection with the Shurtleff campaign in 2009 and the Lee campaign in 2010, these acts are relevant to understand Swallow’s knowledge and conduct during the general time period and would likely be admissible at trial as evidence of intent. *See United States v. Bergrin*, 682 F.3d 261, 281 n.25 (3d Cir. 2012) (explaining that Rule 404(b) of the Federal Rules of Evidence does not distinguish between prior or subsequent bad acts, and observing that “light can be shed on motive, intent, and the other issues listed in Rule 404(b)(2) as much by subsequent course of behavior as it can by a prior one”); *United States v. McGilberry*, 620 F.3d 880, 886 (8th Cir. 2010) (explaining that under Rule 404(b) there is no distinction between prior and subsequent bad acts); *United States v. Rutkoske*, 506 F.3d 170, 177 (2d Cir. 2007) (same); *United States v. Mohr*, 318 F.3d 613, 617 (4th Cir. 2003) (same); *United States v. Jernigan*, 341 F.3d 1273, 1283 (11th Cir. 2003) (same).

**C. Swallow's Unwillingness to Produce Relevant Information and His  
 Destruction of Potentially Relevant Documents**

Swallow indicated to the Commission that he is unwilling to produce documents pertaining to the allegations in this matter and asserted his Fifth Amendment privilege against self-incrimination with respect to our Deposition Subpoena, Subpoena to Produce Documents, and Order to Submit Written Answers.<sup>45</sup>

Among the questions to which Swallow invoked the privilege were several that directly inquired as to whether he initiated, instigated, and participated in a conduit contribution scheme. For example, Swallow was asked: "Did you ask, direct, suggest, or imply that Johnson should make his contribution in the names of others by, for example, funding or reimbursing other persons' contributions, to avoid the Act's contribution limits, or for any other reason?"<sup>46</sup> Swallow was also asked whether he "ever became aware" of Johnson's reimbursed contributions to the Lee Committee, and to describe any discussions with Johnson – including by e-mail – to accomplish the scheme.<sup>47</sup> In addition, Swallow was asked about the June 21 E-mails and what he expected Johnson would do to "fix" the bounced checks.<sup>48</sup> The Commission should draw adverse inferences from Swallow's assertion of the privilege with respect to these questions and

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<sup>45</sup> See Swallow Aff. (April 13, 2015) (Attached here as Attachment 14). On December 22, 2014, the Commission sent Swallow the Deposition Subpoena, Subpoena to Produce Documents, and Order to Submit Written Answers. Swallow was required to submit, *inter alia*, all e-mails related to Shurtleff and Lee campaign contributions or reimbursements, and answer questions regarding his efforts to raise money for the Lee Committee and his knowledge of contributions related to Johnson.

<sup>46</sup> *Id.* ¶ 2(h).

<sup>47</sup> *Id.* ¶ 5, 7(c).

<sup>48</sup> *Id.* ¶ 2(h).

1 all others, especially since the record evidence adequately corroborates such adverse  
2 inferences.<sup>49</sup>

3 Furthermore, Swallow may have destroyed potentially relevant e-mails during an  
4 extensive data purge he carried out in 2012 as part of what the Utah House Special Investigative  
5 Committee characterized as an “intentional[] endeavor[] to obstruct inquiry into his conduct.”<sup>50</sup>  
6 The devices and data eliminated by Swallow include, *inter alia*, a large quantity of his 2010 e-  
7 mail from servers maintained by the Utah Attorney General’s Office, a large quantity of his pre-  
8 June 2012 personal e-mail, all data on two of his officially-issued computers, an external hard  
9 drive containing copies of data on two officially-issued computers, a hard drive on his personal  
10 home computer, and the loss of a campaign-purchased iPad.<sup>51</sup> Any e-mails Swallow may have  
11 sent or received in connection with contributions to Shurtleff’s 2009 campaign or Lee’s 2010  
12 campaign would fall into the general time frame of the destroyed data. This includes the e-mails,  
13 viewed and described by two investigators working for the Utah House Special Investigative  
14 Committee, in which Swallow instructed Johnson to make contributions by giving money to  
15 other people to donate.<sup>52</sup>

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<sup>49</sup> See *Baxter v. Palmigiano*, 425 U.S. 308, 316 (1976).

<sup>50</sup> Investigative Committee Report at 3, 156-81.

<sup>51</sup> *Id.* at 156.

<sup>52</sup> See discussion *supra* Part II.A.2.

**D. There is Probable Cause to Believe that Swallow Instigated and Significantly Participated in a Conduit Contribution Scheme**

The Act provides that no person “shall make a contribution in the name of another person.”<sup>53</sup> This prohibition extends to knowingly helping or assisting any person in making a contribution in the name of another.<sup>54</sup> The Commission has explained that “knowingly helping or assisting” a false-name contribution reaches conduct of “those who initiate or instigate or have some significant participation in a plan or scheme to make a contribution in the name of another.”<sup>55</sup>

The record evidence in this matter demonstrates that there is probable cause to believe that Swallow made contributions in the names of others to the Lee Committee by instigating and significantly participating in a conduit contribution scheme carried out by Johnson. During multiple interviews with state and federal law enforcement officers, Johnson explained how Swallow instructed him to reimburse approximately \$150,000 in contributions to the Senate campaigns of Mark Shurtleff and Mike Lee over the course of the 2010 election cycle, including \$50,000 in contributions to the Lee Committee that remain within the statute of limitations. These statements are corroborated by additional evidence we obtained during our investigation and are supported by adverse inferences the Commission may draw from Swallow’s assertion of the Fifth Amendment privilege against self-incrimination to all of the particularized questions and the document request presented in the subpoena that the Commission issued to him in this matter.

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<sup>53</sup> 52 U.S.C. § 30122.

<sup>54</sup> 11 C.F.R. § 110.4(b)(ii), (iii).

<sup>55</sup> Explanation & Justification for 11 C.F.R. § 110.4, 54 Fed. Reg. 34,098, 34,105 (Aug. 17, 1989).

1 According to Johnson's recorded statements, Swallow asked Johnson to contribute  
2 \$100,000 to Shurtleff's 2009 Senate campaign. Johnson stated that Swallow devised a plan  
3 whereby Johnson would gift money to others who would make contributions in their own names.  
4 After Shurtleff ended his campaign, Swallow asked Johnson to carry out a second conduit  
5 contribution scheme in support of Lee's 2010 Senate campaign. Johnson stated that he was  
6 reluctant after having just contributed \$100,000 through others to Shurtleff's abandoned  
7 campaign, but that he agreed after Swallow presented the idea of raising money for Lee's  
8 campaign as a way to protect Johnson's lucrative poker-related businesses from federal  
9 prosecution if Lee won the election. Johnson acknowledged that he reimbursed approximately  
10 \$50,000 in contributions to the Lee Committee and offered information regarding the straw  
11 donors.

12 Our investigation revealed that Swallow e-mailed Johnson with specific instructions to  
13 make contributions to Shurtleff's campaign by gifting money to others. Although we were  
14 unable to obtain the e-mails, investigators who viewed them described their contents in an  
15 official memorandum as "Swallow telling Johnson to make donations by giving money to other  
16 people to donate."<sup>56</sup> Two sources verified the existence and content of the e-mails just weeks  
17 after they viewed them and did so again when contacted by this Office. Further, Johnson's  
18 description of his communications with Swallow support the memorandum's description of the  
19 e-mails' content.

20 We obtained e-mails, sent after the scheme in connection with Lee's campaign had been  
21 set in motion, in which Swallow alerted Johnson that checks from four straw donors had bounced

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<sup>56</sup> Lindquist Memo at 2.

1 and reminded Johnson that “tomorrow is the big day,” referring to Lee’s primary election.<sup>57</sup>  
2 Johnson pledged to immediately fix the bounced checks and, the next day, the Lee Committee  
3 received renewed contributions from three of the straw donors: Atia Black, Matthew Black, and  
4 Savannah Jones. Based on the available information, it appears Swallow knew that these donors  
5 were associated with Johnson and that Johnson was in a position to quickly cause their checks to  
6 be resubmitted with sufficient funds — consistent with knowledge that the contributions were  
7 truly Johnson’s but made in the names of others.

8 In assessing the evidence, the Commission should consider Swallow’s unwillingness to  
9 comply with the Commission’s subpoenas. As detailed above, there is reason to believe that  
10 Swallow is either in possession of relevant e-mails or has destroyed them in an effort to thwart  
11 official investigation into his conduct. Swallow deleted a large volume of electronic data from  
12 the relevant time period including official email servers, personal email, hard drives, and  
13 computers. Additionally, the Commission should draw adverse inferences with respect to each  
14 of the questions in our subpoenas to which Swallow has asserted his Fifth Amendment privilege  
15 against self-incrimination, particularly those which asked Swallow whether he instigated or  
16 participated in the conduit contribution scheme carried out by Johnson.

17 As to any potential bias Johnson may have had against Swallow, there is ample reason to  
18 regard Johnson’s admissions as credible.<sup>58</sup> First and foremost, Johnson’s statements implicated

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<sup>57</sup> June 21 E-mails at 1.

<sup>58</sup> In our review of Johnson’s statements and the documented history between Johnson and Swallow, we have identified the following sources of potential bias:

First, in the fall of 2010, when the FTC was investigating iWorks, Swallow referred Johnson to Richard Rawle, owner of a payday lending chain with lobbyist connections, and he facilitated a \$250,000 payment for lobbying services with \$23,500 allegedly paid to Swallow. Investigative Committee Report at 12. In 2012, Johnson approached Swallow seeking a refund because the payment had not succeeded in blocking the FTC lawsuit. *Id.* Johnson threatened to reveal that the payment was actually a bribe for a Senator and that Swallow had been paid to

1 himself as well as Swallow. Second, Johnson made an attempt to provide Swallow with  
 2 immunity from federal prosecution as part of a plea deal in connection with Johnson's federal  
 3 criminal trial arising out of the FTC investigation.<sup>59</sup> Johnson's effort to protect Swallow post-  
 4 dates the sources of his potential bias against Swallow. Third, Johnson's motivation for  
 5 cooperating with law enforcement and offering his statements were based on a desire to  
 6 implicate Brent Ward, the federal prosecutor in Johnson's criminal matter, in public corruption  
 7 charges and wholly unrelated to Swallow.<sup>60</sup> Fourth, in the context of offering his admissions  
 8 during the recorded interviews with law enforcement, Johnson exhibited discomfort with the  
 9 possibility of implicating Swallow in a punishable crime and made it clear that it was not his

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provide Johnson with a favorable interpretation of Utah law regarding his online poker transaction business. *Id.* at 13; *see also* Recording B0397 at 1:20:05 ("[Swallow] told me this was gonna fix everything. When that didn't happen I was pissed.").

Second, in June 2011, Johnson was arrested in connection with the criminal investigation of iWorks. Johnson stated that he was suspicious that Swallow was behind his arrest in retaliation for the pressure Johnson put on him to provide a refund for the aforementioned \$250,000 lobbying payment. Also, Johnson stated that he believed that Swallow may have made a deal with the federal prosecutor to have Johnson arrested either to keep him out of the public eye during Swallow's campaign for attorney general or so that Johnson would be beholden to Swallow for helping arrange his release while staving off additional charges. *See* Recording B0397 at 1:29:00; 1:32:50. Johnson claimed that he was ultimately released due to his clamoring for a speedy trial and without Swallow's assistance. *Id.* at 01:34:00.

<sup>59</sup> In January 2013, Johnson attempted to negotiate a plea deal with federal prosecutors that would have guaranteed immunity for a list of Johnson's associates that included Swallow. *See* Investigative Committee Report at 127 n.87. Johnson claimed there was no agreement between him and Swallow, but that he independently decided to put Swallow's name on the list. *See* Recording 0001 at 1:11:00.

<sup>60</sup> *See* Recording D0418 at 54:30 ("I didn't even want to talk to you guys . . . I got conned into this by [his attorney] Ron [Yengich] by saying you guys might do something about Ward."); *id.* at 55:30 ("And so I'm angry, and I'm gonna do anything in my power, everything . . . to make sure that, number one, [Ward] never does this to someone again and, number two, my friends are out of this somehow . . . That's my motivation, that's my goal, that's my everyday thing."); *id.* at 1:12:20 ("John Swallow tried to rip me off and steal money from me, and he's [sic] a list of about a thousand people who have done the same thing. And [compared to the actions of Brent Ward] it's a whole different animal than harming and you know arresting my friends and ruining their lives and threatening my mom and my wife.").

Once Johnson came to the realization that the law enforcement officers conducting the interview could not guarantee Ward's prosecution, Johnson decided to end his cooperation. *See id.* at 1:32:30 ("You guys understand where I'm at here and I made it clear. The answer's no, I'm not willing to . . . I don't understand how it's gonna solve the problem I'm trying to solve and not hurt more people.").

1 intent to do. Johnson stated, "I'm not motivated to hurt John Swallow, I don't want to see him  
 2 . . . get hurt. I think he's a good guy, I think he broke the law and he probably did. And he  
 3 makes mistakes like I do, and everyone does and maybe even you guys do."<sup>61</sup> Fifth, Johnson's  
 4 description of the reimbursed contribution scheme and Swallow's motive for convincing Johnson  
 5 to help raise money for the Lee Committee closely resemble the well-documented pattern in  
 6 which Swallow would offer political access in exchange for Johnson's financial resources, and  
 7 the methods by which Swallow would conceal the true sources of political contributions.<sup>62</sup> And,  
 8 finally, Johnson's statements that Swallow instigated and participated in the conduit contribution  
 9 scheme are corroborated by the e-mails described by investigators working for the Utah House  
 10 Special Investigative Committee and the June 21 E-mails in which Swallow alerted Johnson that  
 11 some of their straw donors' checks had bounced.

12 Consequently, there is probable cause to believe that John Swallow violated 52 U.S.C.  
 13 § 30122.

14 **F. There is Probable Cause to Believe that Swallow Acted Knowingly and**  
 15 **Willfully**

16 The Act prescribes additional monetary penalties for violations that are knowing and  
 17 willful.<sup>63</sup> A violation of the Act is knowing and willful if the "acts were committed with full

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<sup>61</sup> Recording D0418 at 57:10.

<sup>62</sup> See Investigative Committee Report at 6 (explaining that the relationship between Swallow and Johnson "was based on Mr. Swallow's taste for Mr. Johnson's money and Mr. Johnson's desire for the kind of access that would benefit his business interests"); *id.* at 4 ("Mr. Swallow provided his friend and political ally Jeremy Johnson unique access to the Office and a favorable legal opinion regarding the permissibility of processing money derived from online poker gambling, all while the wealthy Mr. Johnson shared the benefits of his luxurious lifestyle with Mr. Swallow."); see also discussion *supra* Part II.B.

<sup>63</sup> 52 U.S.C. §§ 30109(a)(5)(B), 30109(d).

1 knowledge of all the relevant facts and a recognition that the action is prohibited by law.”<sup>64</sup> This  
 2 does not require proving knowledge of the specific statute or regulation the respondent allegedly  
 3 violated.<sup>65</sup> Instead, it is sufficient to demonstrate that a respondent “acted voluntarily and was  
 4 aware that his conduct was unlawful.”<sup>66</sup> This may be shown by circumstantial evidence from  
 5 which the respondents’ unlawful intent reasonably may be inferred.<sup>67</sup> For example, a person’s  
 6 awareness that an action is prohibited may be inferred from “the [person’s] elaborate scheme for  
 7 disguising . . . political contributions.”<sup>68</sup>

8 The record evidence demonstrates that Swallow knowingly and willfully made  
 9 contributions in the names of others to the Lee Committee in violation of the Act by instigating  
 10 and significantly participating in the conduit contribution scheme carried out by Johnson.  
 11 Johnson stated that he offered to write a check for the full amount requested such as he did when  
 12 Swallow solicited on behalf of Shurtleff’s attorney general campaign, but Swallow told him that  
 13 for Shurtleff’s Senate campaign, the money would have to come from multiple people because  
 14 there was an individual limit. Rather than solicit a single, large contribution from Johnson,  
 15 Swallow devised a scheme whereby Johnson would conceal a large contribution by reimbursing

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<sup>64</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

<sup>65</sup> *United States v. Danielczyk*, 917 F.Supp.2d 573 (E.D. Va. 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

<sup>66</sup> *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

<sup>67</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>68</sup> *Id.* at 214-15. As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Hopkins*, 916 F.2d at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

1 donations made by others. Swallow exhibited an understanding of federal campaign finance  
2 laws when he rejected Johnson's offer of a single payment and instructed him to pass money  
3 through conduits in amounts that matched the individual contribution limit. Regarding  
4 contributions to the Lee Committee, Swallow spent nearly a half hour trying to convince Johnson  
5 to make a series of reimbursed contributions.

6 Furthermore, Swallow was keenly aware that reimbursed contributions violate the Act  
7 and the Commission's regulations even if they are ostensibly reimbursed by a gift. During a  
8 deposition with the Commission in connection with a matter under review arising out of his 2002  
9 Congressional campaign, Swallow exhibited familiarity with the federal contribution limits and  
10 the prohibition against contributions in the name of another. He described the prohibition, in his  
11 own words, as meaning that "money ha[s] to come from people who ha[ve] their own money and  
12 they ha[ve] to know what they [a]re doing."<sup>69</sup> Swallow also stated that he knew to warn  
13 prospective donors "that the money [has] to come from personal funds, from accounts owned by  
14 each individual."<sup>70</sup> Moreover, in the course of that matter, the Commission provided Swallow  
15 with legal analyses that adequately explained the relevant provisions of the Act that are at issue  
16 in this matter.<sup>71</sup>

17 In addition, the Commission should draw an adverse inference from Swallow's assertion  
18 of the Fifth Amendment privilege against self-incrimination to a question regarding his

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<sup>69</sup> Swallow Dep. at 21:1-:12; 22:6-:14 (Feb. 28, 2006) (Attached here as Attachment 15).

<sup>70</sup> *Id.* at 22:18-23:2.

<sup>71</sup> *See, e.g.*, Factual & Legal Analysis at 8-9, MUR 5333 (John Swallow for Congress, Inc.) (Aug. 16, 2004) (stating the Act's prohibition of contributions made in the name of another); Conciliation Agreement ¶ IV.10, MUR 5333 (John Swallow for Congress, Inc.) (Mar. 8, 2007) (stating the Act's individual contribution limit).

1 awareness of the prohibition against contributions made in the name of another.<sup>72</sup> The  
2 Commission should also note that the Act only provides criminal sanctions against “[a]ny person  
3 who *knowingly and willfully* commits a violation.”<sup>73</sup> Therefore, a respondent may only assert the  
4 Fifth Amendment privilege against self-incrimination to questions that would illicit testimony of  
5 knowing and willful conduct. In this matter, Swallow asserted the privilege to all questions  
6 regarding his involvement with reimbursed contributions made to the Lee Committee.

7 For these reasons, we conclude that there is probable cause to believe that Swallow’s  
8 violations were knowing and willful.

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<sup>72</sup> See Swallow Aff. at 4 (Apr. 13, 2015) (Attached here as Attachment 14) (asking whether, at the time he solicited Johnson to make a contribution to the Lee Committee, Swallow was “aware that it is unlawful for any person to make contributions to a political committee in the name of another[.]”).

<sup>73</sup> 52 U.S.C. § 30109(d) (emphasis added).

1   **III.   CONCLUSION**

2           Based on the foregoing, the Office of General Counsel is prepared to recommend that  
3   there is probable cause to believe that John Swallow knowingly and willfully violated 52 U.S.C.  
4   § 30122.

5  
6   May 28, 2015  
7   Date

  
\_\_\_\_\_  
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Deputy General Counsel — Law

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26   Attorney  
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# **ATTACHMENT 2**

## IN AND BEFORE THE FEDERAL ELECTION COMMISSION

State of Utah  
County of

**AFFIDAVIT OF DAN HAUSER**

I, Dan Hauser, a resident of the State of Utah and being of lawful age, do hereby affirm and state:

1. I served as Deputy Campaign Manager and Finance Director of Friends of Mike Lee, the campaign committee to elect Mike Lee to the U.S. Senate in 2010.
2. In my capacity as Deputy Campaign Manager and Finance Director, I was responsible for developing and implementing the plans and activities in support of Mike Lee's candidacy for the US Senate, which included fundraising.
3. In June of 2010, the Committee received information from the Republican Deputy Attorney General John Swallow that an individual named Jeremy Johnson was interested in helping raise money for the Mike Lee campaign.
4. Neither Mike Lee nor the campaign manager nor I were familiar with Jeremy Johnson, having not met or dealt with him previously.
5. We were advised that Mr. Johnson was a supporter of the Attorney General Mark Shurtleff and had raised funds for him when he was a candidate for AG and then later as a Senate candidate.
6. I conducted independent research about Jeremy Johnson before we agreed to allow Mr. Johnson to raise money for the Mike Lee campaign as we were careful about who became involved in the fundraising for the campaign.
7. My research into publicly available information about Jeremy Johnson revealed that he was a successful businessman in southern Utah who had been in the public eye for his humanitarian work on behalf of the earthquake victims in Haiti and his efforts to rescue 'lost boys' from Mormon sects in Southern Utah where they were essentially being held captive.
8. Mr. Johnson, from the public reports, was a generous humanitarian who had spent large amounts of his own money on charitable causes.
9. After vetting Mr. Johnson as best we could, we agreed to accept Mr. Johnson's offer of assistance to the campaign in the form of raising funds.

10. Friends of Mike Lee received a number of checks from donors in Southern Utah in June, 2010 and we were advised that these were the contributions solicited by Mr. Johnson.
11. To my knowledge, Mr. Johnson was not involved further in the Mike Lee campaign in 2010 or subsequent to the 2010 General Election.
12. I have read news reports of Mr. Johnson's claim that he reimbursed donors to various candidates' campaigns, including Mike Lee's, but until those news reports, I had no reason to ever believe or suspect that the contributions solicited by Mr. Johnson for the Mike Lee 2010 campaign were anything but completely above-board and fully compliant with the FEC regulations.
13. I have assisted the treasurer of Friends of Mike Lee in trying to reconstruct to the best of my knowledge the list of donors who may have been part of the group whose contributions were solicited by Mr. Johnson.
14. I have no knowledge that any of the donors to the Mike Lee 2010 campaign were reimbursed for their contributions and, if I had suspected or known of such conduct, those contributions would have been rejected or returned immediately.
15. Our campaign staff of Friends of Mike Lee and the Senate staff have been instructed by all times by then-candidate and now-Senator Mike Lee to adhere to the highest standards of integrity and to be diligent about following the letter and the spirit of the law.
16. I can attest that that was the standard practice at all times during the 2010 campaign to elect Sen. Mike Lee and if anyone broke the law, that was absolutely their own doing and was not known to or sanctioned by the Lee campaign.

I understand that these statements are made under penalty of perjury and I swear and affirm that the statements contained herein are made of my personal knowledge and are true and correct to the best of my knowledge and belief.

Further Affiant Sayeth Not.

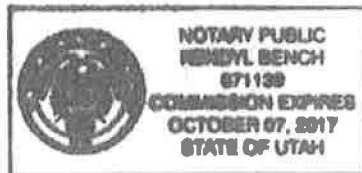
  
Dan Hauser

Before me this 19 day of August, 2014 appeared Dan Hauser who affirmed and stated under penalty of perjury that the above and foregoing is true and correct to the best of his knowledge and belief.

  
NOTARY PUBLIC

My Commission Expires: *October 7 2017*

SEAL



# **ATTACHMENT 3**

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

**Supplemental Report**

Created By: Nesbitt, Scott

Creation Date: 09/16/2013

Creation Time: 13:43

Reporting Investigator: S. Nesbitt

**INTERVIEW WITH JEREMY JOHNSON**

On 08-14-13, Jeremy Johnson was interviewed at the Davis County Attorney's Office in Farmington, Utah. I was present for the interview as well as Davis County Attorney Troy Rawlings, Davis County Attorney's Office Chief Investigator Craig Webb, Ron Yengich who was representing Jeremy Johnson, and Jeff Wright who was working as an investigator for Ron Yengich.

Jeremy said that he met Mark Shurtleff first. Jeremy said the "Lost Boys" were leaving Colorado City, and he took one in. Jeremy said it was a girl he took in, and more showed up. Jeremy said that was when the state was taking over the trust. Jeremy said there was chaos, and kids were leaving. Jeremy said Mark Shurtleff helped and lobbied the legislature.

Jeremy said that there were 14 kids, and money was received from the Atkinson grant to transition them. Jeremy said a house was needed for the kids. Jeremy said he purchased a house and paid for half of it. Jeremy said they paid for the other half. Jeremy said he did not know Mark Shurtleff or John Swallow before this. Jeremy said he had not made any significant donations in the past to politicians.

Jeremy said he met Mark Shurtleff face to face, and he was introduced to Mark Shurtleff by a foundation lady. Jeremy said he liked Mark Shurtleff. Jeremy said he met John Swallow after he donated money to Mark Shurtleff but before John Swallow was the Chief Deputy.

Jeremy said he has a "fair amount" of documentation regarding Mark Shurtleff and John Swallow. Jeremy said that documentation included recordings and emails. Jeremy said he liked John Swallow. Jeremy said the first meeting he had with John Swallow had to do with money. Jeremy said John Swallow said he was Mark Shurtleff's event or campaign manager.

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Report requested by SCOTT NESBITT

MUR 6850 03522

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

Jeremy said he received a telephone call from John Swallow, and John Swallow said something like that Mark Shurtleff wanted him (John Swallow) to call him (Jeremy). Jeremy said that any time John Swallow called him, he wanted something. Jeremy said he gave John Swallow money, and he did not remember what that money was for. Jeremy said that money could have been for the meth project or crimes against children. Jeremy said he would give \$50,000 or \$100,000, and payment would usually be in the form of a check. Jeremy said he would call the accountants and tell them to cut a check.

Jeremy said that Nathan (Crane) asked him to record people. Jeremy said he did not record people of his own accord. Jeremy said he had an employee that was taking data and selling it as a side company. Jeremy said that employee said he (Jeremy) had authorized that. Jeremy said he started recording things because of that situation. Jeremy said that the Iworks PBX recorded everything automatically.

Jeremy said he developed distrust for John Swallow after he got sued by the FTC. Jeremy said that all of the things John Swallow told him were not happening, and he got excuses. Jeremy said he had even possibly developed distrust for John Swallow even before that. Jeremy said John Swallow was concerned with enriching himself, and John Swallow was in it for himself.

Jeremy said that Mark Shurtleff was not the same but did receive perks from his (Mark Shurtleff's) relationship with him (Jeremy). Jeremy said that John Swallow portrayed himself as a front man for Mark Shurtleff and spoke for Mark Shurtleff. Jeremy said this was after Mark Shurtleff was the Attorney General.

Jeremy said that John Swallow told him that he was going to be the Chief Deputy before he became the Chief Deputy. Jeremy said that John Swallow saw him (Jeremy) as an opportunity to access resources and to accomplish goals. Jeremy said the resources included money, airplanes, and connections. Jeremy said these resources were to further John Swallow's political agendas and other things that were for the public good as well.

Jeremy said John Swallow knew what Iworks was doing, and John Swallow assured him that there would not be an FTC investigation. Jeremy said he has an email regarding this. Jeremy said he found out that the FTC was investigating Iworks. Jeremy said he didn't involve the Attorney General's Office.

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Report requested by SCOTT NESBITT


**Utah Department of Public Safety**

State Bureau of Investigation

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Salt Lake City, Utah 84116

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Jeremy said that Mark Shurtleff and John Swallow went step by step through the operation of Iworks and said nothing was wrong. Jeremy said he was showing the FTC documents, and the FTC made accusations. Jeremy said he showed the FTC documents, and nothing was good enough. Jeremy said the FTC was hell bent on making them pay a fine. Jeremy said that when Barack Obama became president, people thought there was a lot of free money. Jeremy said he saw an increase in sales.

Jeremy said that six months into it, he told John Swallow. Jeremy said John Swallow told him that he would talk to Mark Shurtleff, and they would meet with (Senator Bob) Bennett and (Senator Orrin) Hatch. Jeremy said that John Swallow set it up, and Mark Shurtleff went with him to meet with either or both of them. Jeremy said that Senator Bennett told him to threaten the FTC. Jeremy said that Senator Hatch told him he (Jeremy) was a good guy and would look into things to see if he had been treated unfairly.

Jeremy said that about one month later, John Swallow called him and asked him how things were going with Senator Hatch. Jeremy said he told John Swallow that he had not heard much. Jeremy said that John Swallow told him he was afraid of that. Jeremy said John Swallow told him how it works in Washington; the wheels needed to be greased. Jeremy said that John Swallow told him that he had a friend in Washington to get things done. Jeremy said that at some point, that friend was Senator Harry Reid. Jeremy said John Swallow told him it was going to be expensive, a couple of million dollars.

Jeremy said he told John Swallow that he did not have that amount of money, and John Swallow asked him how much money he could do. Jeremy said he told John Swallow he would talk to Scott (Leavitt). Jeremy said he was having financial trouble and had 300 employees in Utah. Jeremy explained that he was paying lawyers and for document production.

Jeremy said that John Swallow was not representing him with Iworks, and Iworks had its own lawyers. Jeremy said that John Swallow asked him if he could do \$600,000, and Jeremy said he told John Swallow he could do half of that. Jeremy said John Swallow said he thought that could work. Jeremy said he told John Swallow he could do the whole amount if his business was working.

Jeremy said John Swallow set up the meeting with (Richard) Rawle. Jeremy said he sent \$50,000 up front, and he said he was told to do that. Jeremy said that the meeting was in Richard Rawle's office in Orem, and present at the meeting were Nathan Crane, Richard Rawle, Brady Whittingham, and John Swallow. Jeremy said that Brady Whittingham is the brother of Coach Kyle Whittingham. Jeremy said that Brady just sat there in the meeting and played with his phone.

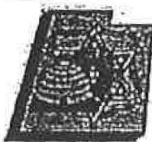
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Report requested by SCOTT NESBITT

Utah Case Management

CASE# 12DPS0570

Printed Date: 12-04-2014

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

Jeremy said there were two meetings with Richard Rawle, and John Swallow was at one of the two meetings. Jeremy said John Swallow said he was not there. Jeremy said John Swallow told him he (Jeremy) had taken someone else to the meeting. Jeremy said he did record the meeting that took place in Orem. Jeremy said he asked Brady, and Brady told him he didn't know if John Swallow was there.

Jeremy said that both meetings were recorded, and he has 500 recordings. Jeremy said he sent \$50,000 ahead of time, and they set up an entity for it. Jeremy said Richard Rawle had a guy named Cort Walker. Jeremy said the \$50,000 was paid either with a check or through a wire. Jeremy said he has emails, and the money was from the Iworks company account.

Jeremy said that Richard Rawle said that nobody does things for free. Jeremy said Richard Rawle said that when (President) Barack Obama was on the campaign trail, Barack Obama promised to put limits on payday lenders. Jeremy said Richard said that would be devastating to him. Jeremy said Richard asked him who would have the clout to go into Barack Obama's office to have him not make good on a campaign promise. Jeremy said that guy is Harry Reid.

Jeremy said that Richard was selling himself and said Harry Reid was not dumb. Jeremy said that Richard said he (Jeremy) needed to work with him (Richard). Jeremy said he gave \$200,000, and John Swallow knew he had given that money. Jeremy said he spoke with John Swallow. Jeremy said he told John Swallow that the \$200,000 he gave was supposed money he was going to pay attorneys with.

Jeremy said John Swallow told him to trust him that he will fix it so he would not need an attorney. Jeremy said he believed that John Swallow was trying to help them until he found out that John Swallow got a chunk of the money. Jeremy said he found out from Mark Shurtleff that John Swallow got gold out of the deal. Jeremy said he did not know what John Swallow did with the gold.

Jeremy said that Mark Shurtleff cornered him in a meeting and asked him about John Swallow. Jeremy said the meeting was regarding the guilty plea. Jeremy said he told Mark that he didn't want to say anything because he didn't want him (Mark Shurtleff) to have to act.

Jeremy said that Mark Shurtleff said that John Swallow is a friend and that their families are friends. Jeremy said Mark Shurtleff said that John Swallow had not received any money from the Richard Rawle deal. Jeremy said Mark Shurtleff said that John Swallow got some gold coins as a Christmas gift. Jeremy said Mark Shurtleff said things were already swirling.

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Report requested by SCOTT NESBITT

MUR 6850 03525

Case Management

CASE# 11DPS0570

Printed Date: 12/04/2014

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

Jeremy said someone called Mark Shurtleff and told Mark Shurtleff that he needed to help Jeremy. Jeremy said this occurred because of the guilty plea he was going to take. Jeremy said Jason Peterson was trying to do anything to stop it. Jeremy said Jason went to Mark Shurtleff, and Mark Shurtleff wanted to meet with him (Jeremy) also. Jeremy said they then had the above described meeting. Jeremy said he stayed away from Mark Shurtleff because he did not want them to get involved.

Jeremy said he was willing to go to prison to protect John Swallow and John Swallow's family. Jeremy said Mark Shurtleff told him not to do it. Jeremy said Mark Shurtleff specifically said that if John Swallow has broken the law, he himself would have to bring charges. Jeremy said Mark Shurtleff said that John Swallow was a dear friend and has endorsed him as Attorney General.

Jeremy said that Mark Shurtleff is just a person but is not saying that he is not flawed. Jeremy said there was no quid pro quo with Mark Shurtleff. Jeremy said Mark Shurtleff was different from John Swallow. Jeremy said he suspected that John Swallow was getting something out of it from the beginning because he was so adamant that he do it, referring to the Richard Rawle situation.

Jeremy said that without John Swallow, he wouldn't have given the money and wouldn't have had the connection. Jeremy said John Swallow convinced him that was what he needed to do. Jeremy said he was already having dealings with Harry Reid with the poker guys. Jeremy said that John Swallow was answering questions and convincing him to do it. Jeremy said he would "definitely not" have done it without that. Jeremy said it would be hard to say if he would have done it if Richard Rawle was saying it. Jeremy said the "Chief Deputy" was saying to do it.

Jeremy said that he wanted someone to go into the FTC and show them that what they were alleging wasn't true. Jeremy said he wasn't buying his way out of crimes. Jeremy said he wanted to show what John Swallow and Mark Shurtleff had already blessed. Jeremy said he was paying for an influential ear.

Jeremy said that John Swallow used his airplane to go to the guy's place in California. Jeremy said that John Swallow didn't pay for it. Jeremy said he paid for the fuel and fees for landing the airplane. Jeremy said that John Swallow and Mark Shurtleff both used his airplane, and they both had access to it. Jeremy said they would call and ask, and he told them to contact his pilot, Scott.

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Report requested by SCOTT NESBITT

MUR 6850 03526

Utah Case Management

CASE# 12DPS0570

Printed Date: 12/04/2014

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

Jeremy said that John Swallow and Mark Shurtleff went to New York twice to pick up a celebrity guy who was on the television show Law & Order for a campaign fundraiser for Mark Shurtleff. Jeremy said those were the most expensive trips. Jeremy said he wasn't told it was a campaign contribution, and he didn't believe it was a campaign contribution. Jeremy said there were "probably" plane logs, and he said he was sure he could locate them.

Jeremy said he was told that John Swallow was using his airplane. Jeremy said his (Jeremy's) relatives wanted to use his airplane, and John Swallow was put off by them being on the airplane. Jeremy said "Yeah, I'm sure I did" donate to John Swallow's campaign. Jeremy then said he actually didn't do so because his money was taken by then.

Jeremy said he didn't recognize the name Proper Role of Government. Jeremy said John Swallow would ask him for money for this or that, and Jeremy said the amount of \$50,000. Jeremy said John Swallow was using his airplane until it got taken away in December of 2010. Jeremy said John Swallow portrayed himself as Mark Shurtleff's main guy.

Jeremy said he spoke with Mark Shurtleff about meth cops and the predator thing. Jeremy said the little things were John Swallow. Jeremy said John Swallow had some product, and he wanted them to sell it. Jeremy said that product was possibly credit monitoring. Jeremy said there were a lot of things that John Swallow brought to him. Jeremy said the light bulb thing sounded familiar. Jeremy said John Swallow would sit down with him and ask him how he could make more money. Jeremy said he had a lot of conversations like that with people.

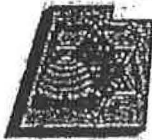
Jeremy said that at Iworks, they would only take things that would make \$10,000,000. Jeremy said they did take a couple of projects that didn't do that. Jeremy said that Mark Shurtleff got the use of his airplane and drove his (Jeremy's) Lamborghini for his (Mark Shurtleff's) birthday. Jeremy said Mark Shurtleff got things from him while he was the Attorney General. Jeremy said Mark Shurtleff stayed in their house in Saint George. Jeremy said that was the vacation house that was used for clients. Jeremy said there may be records of that.

Jeremy said he had a houseboat, a house in Santa Monica, California, a helicopter, and a house in Saint George. Jeremy said all of those things were available for use. Jeremy said he liked Mark Shurtleff. Jeremy said he thought it was a noble thing that Mark Shurtleff was a public servant and could have made more money in the private sector. Jeremy said Mark Shurtleff never offered anything.

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Report requested by SCOTT NESBITT

MUR 6850 03527



Utah Department of Public Safety  
 State Bureau of Investigation  
 5500 West Amelia Earhart Drive Building 100  
 Salt Lake City, Utah 84116  
 Office: 801-532-2168 Fax: 801-532-3769

Jeremy said the first money he gave to Mark Shurtleff was \$50,000 to his campaign at the behest of Rob Stahura. Jeremy said Mark Shurtleff said he appreciated the donation and hoped they could work together. Jeremy said Mark Shurtleff said that didn't mean he could break laws. Jeremy said he specifically remembered Rob Stahura pitching it as "fire insurance". Jeremy said he didn't get that from Mark Shurtleff.

Jeremy said Rob Stahura said their industry needs legal protection. Jeremy said the check was made out to Mark Shurtleff's campaign, and he didn't tell Mark Shurtleff what Rob Stahura had said. Jeremy said Rob Stahura knew the money would please Mark Shurtleff. Jeremy said John Swallow got trips, the use of his airplane, and the use of his houseboat. Jeremy said he possibly gave John Swallow some golf clubs that were worth \$100,000 or paid his credit card for him.

Jeremy said he gave a girl who couldn't eat \$100,000 for surgery. Jeremy said he allowed the use of his airplane for her family. Jeremy said John Swallow brow beat the insurance company into paying. Jeremy said John Swallow was in the Attorney General's Office at that time. Jeremy said he had asked John Swallow to help out with this.

Jeremy said that when he found out that the federal government was investigating John Swallow, he called him and warned him. Jeremy said he promised John Swallow he wouldn't cooperate. Jeremy said Nathan Crane gave him the proffer agreement to prosecute John Swallow. Jeremy said he assumed that Brent (Ward) was prosecuting. Jeremy said John Swallow said that he and Brent Ward had a meeting, and Brent agreed not to run against him if he hired him after becoming the Attorney General.

Jeremy said he gave Brent a list of people that he believed could have been prosecuted. Jeremy said Brent agreed to the list, and the language in the plea agreement covered John Swallow more than anyone else.

Jeremy said he was involved in the poker accounts of "Poker Stars" and "Full Tilt". Jeremy said those accounts were making \$100,000 a day. Jeremy said they were important. Jeremy said he had \$30,000,000 at a time, and he wanted to keep the their trust. Jeremy said it was lucrative for him and the bank. Jeremy said he got a call from Harry Reid's staff. Jeremy said he was told that Harry Reid wanted to take him to lunch and had heard about his thing in Haiti.

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Report requested by SCOTT NESBITT

Utah Case Management

CASE# 12DPS0570

Printed Date: 12-04-2014

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

Jeremy said Jeff was pounding him to meet with Harry Reid. Jeremy said they met at the Rio in Las Vegas, Nevada. Jeremy said the poker guys came. Jeremy said Harry Reid said he was behind in the election and needed his help. Jeremy said Harry Reid said that in the past he had been against online gambling and was willing to switch his position on poker and help get legislation passed, so they did not have to operate in the grey area. Jeremy said there are photographs of that meeting.

Jeremy said he was portrayed as a Mormon honest guy who was transparent. Jeremy said Harry Reid thanked him and left. Jeremy said he asked one of Ray Bitar's cronies how he convinced Harry Reid to go against his constituents, and that person said to just say that Harry Reid is getting something in his retirement.

Jeremy said John Swallow said it wasn't legal to play poker in Utah, but there was nothing wrong with processing it. Jeremy said there was a PAC called Poker Players Alliance. Jeremy said he was not aware of taking poker money and putting it into PACs. Jeremy said "Yes, I know Jason Powers." Jeremy said he knew Jason Powers "really well". Jeremy said he did not know who Seth Crossley, Renae Cowley, and Jessica Fawson were. Jeremy said he knew Jack Powers, and Jack Powers ran Mike Lee's finance.

Jeremy said his job was to go out and get money for campaigns. Jeremy said it happened that he supplied money for someone else to donate to Mark Shurtleff and Mike Lee's campaigns. Jeremy said John Swallow approached him with that plan. Jeremy said John Swallow said they needed a certain amount of money. Jeremy said he asked him who to make it out to, and John Swallow said the most they could donate was \$2,500.

Jeremy said John Swallow said that most people cannot do that, referring to the amount of money. Jeremy said John Swallow said he (Jeremy) could give a gift or a bonus, and the other's could donate. Jeremy said the solution was that he put up the money when he could. Jeremy said John Swallow came to him in behalf of the Mike Lee and Mark Shurtleff campaigns for donations. Jeremy said Jason Powers and Jack Powers wanted him to donate to Mike Lee. Jeremy said Ray Bitar came to him to donate to Harry Reid's campaign.

Jeremy said they asked for money in excess of what was allowed to donate. Jeremy said they would tell him how to do it. Jeremy said they were aware that the people were not going to give the money and that the money was really coming from him. Jeremy said they came to him more than once.

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Report requested by SCOTT NESBITT

MUR 6850 03529

Case Management

CASE# 12DPS0570

Printed Date: 12/04/2014

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

Jeremy said he had no specific knowledge of the \$200,000 to Jack Powers. Jeremy said he did not know Marc Jenson. Jeremy said he didn't believe Marc Jenson when Marc Jenson said that Mark Shurtleff wanted him to purchase his books. Jeremy said he offered to purchase a whole bunch of Mark Shurtleff's books, and Mark Shurtleff said that would be considered an improper gift.

The interview was recorded by Ron Yengich, and we agreed to his request not to record it ourselves. Ron Yengich agreed to provide a copy of the recording at some point.

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Report requested by SCOTT NESBITT

MUR 6850 03530

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

**Supplemental Report**

Created By: Nesbitt, Scott

Creation Date: 11/06/2013

Creation Time: 19:18

Reporting Investigator: S. Nesbitt

**ITEMS FROM ATTORNEY RONALD YENGICH**

On 10-30-13, Troy Rawlings and I went to the the law office of Ronald Yengich located at 175 East 400 South #400 in Salt Lake City. Ronald Yengich told us that he had his client, Jeremy Johnson's permission to allow us to have copies of anything in his case file with the exception of his (Ronald Yengich's) notes. I obtained electronic copies of all of the transcriptions of the depositions in the Federal Trade Commission case against Jeremy Johnson, copies of some court filings in the Federal Trade Commission case against Jeremy Johnson, copies of emails between Assistant United States Attorney Jared Bennett and Ronald Yengich regarding Jeremy Johnson, copies of emails between Assistant United States Attorney Jeannette Swent and Brent Ward, copies of emails between Jeremy Johnson and Brent Ward, copies of emails involving John Swallow and poker, copies of emails between John Swallow and Jeremy Johnson, an interview synopsis for John Young, and a statement from Karen Beck-Redd.

The statement from Karen Beck-Redd read in part "I am Jeremy Johnson's personal assistant. My duties for Jeremy included taking care of and scheduling some of his properties, vehicles, boats, helicopters and planes. I have been asked to state the time that I remember John Swallow or Mark Shurtleff using any of these items. The way it usually worked was.....Jeremy would send me a text message specifying what he needed..I wouldn't ask a lot of Questions so as far as details go, I would have to pull my old cell phones out, charge them up and go through them to find dates etc. Here are some of the times I can remember just off the top of my head... -I remember getting the houseboat all stocked up and ready for John Swallow and his family to use. (Terrance Jacob also helped with that) -I remember quite a few times I had to arrange a pilot and plane for them to use. Trips to and from SLC-SG, trips to Vegas, to daughters soccer games in Mesquite and back to Salt Lake City. -Numerous times Jeremy would ask me to leave a car at the airport because one of them would be flying in and needed a car to use. -I also recall a few times arranging for them to come and stay at his "Green House" (Its Jeremy's home on Main street that is the color green) Terrance Jacob also helped get properties ready...I am in the process of getting his phone number...I will forward it on as soon as I get it. He would also know some of this information. Karen Beck -Redd".

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Report requested by SCOTT NESBITT

MUR 6850 03531

Case Management

CASE# 12DPS0570

Printed Date: 12/04/2014

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

The interview synopsis for John Young read "John Young was introduced to Mark Shurtleff and John Swallow in 2009. John Young and Rob Stuhura were previous employees with MOA (Monitoring of America) and were aware that MOA (owned by Doug Gervink and Gary Hewitt) were not compliant and possibly involved in some inappropriate activity. John and Rob were being sued by Doug and Gary for \$ 175 million. Rob arranged a meeting with Shurtleff and Swallow to negotiate a deal that resulted in them being fined \$ 14,000.00. Following this their relationship Rob and John were introduced to Mark Jensen, who was working on the Mt. Holly."

The interview synopsis read "Rob Stuhura working with Shurtleff negotiated a Plea Bargain for Mark Jensen. Jensen relocated to Montage, CA. Young stated that he believed Jensen paid approximately \$200 K for the house and later purchased another for his spouse. Rob Stuhura notified John Young that they now "had to pay up" for their own job security. Young arranged for Tim Lawson to travel to California and meet with Mark Jensen. Young stated he provided Tim with \$ 2,500.00 on 4 (four) different occasions. Young stated that Lawson was to keep Jensen and Shurtleff's association. Young stated that Tim Lawson could help with the contact with the AG, and assist Swallow with fund raising."

The interview synopsis read "Rob Stuhura contacted Young and stated he needed \$ 10,000 for Swallow's campaign. This happened numerous times and for different amounts of cash. Young was told to contact Jeremy Johnson and Lawson for Swallow's campaign and raise funds. Young stated he was told by Rob to tell Jeremy that \$ 20,000.00 was for "Job Security and Fire Insurance". Young described Mark Jensen role as "Pimping" for Swallow and Shurtleff. Young stated it was very clear that if the individuals involved wanted to maintain the association and relationship with the AG (job security and fire insurance) Swallow was going to replace Shurtleff - they would have to contribute."

The interview synopsis read "Young stated two other individuals that could assist with providing information were Joe Johnson and Amy Wolf both of Tampa, FL. Young stated that Joe and Amy came in with \$ 10 million and Amy "leveraged" a houses package for approximately \$960 K. Young stated that Joe and Amy had a business (Get Motivated) and they wanted to purchase and merge with a company Wealth Rock. Wealth Rock's CEO was Aaron Osmond. Young stated that Osmond later became uncomfortable because funds began to disappear and he believed they were "stealing" money from investors. Young stated that he believes Amy will be very cooperative and will provide additional information. He also believes Joe will also cooperate."

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Report requested by SCOTT NESBITT

MUR 6850 03532

Case Management

CASE# 1EDPS0570

Printed Date: 12/04/2014

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

The interview synopsis read "Young stated that while he and Rob were being sued by Doug and Gary, he and Rob went to Swallow. Young stated they went to lunch and requested assistance with hiring a lawyer to help them. Young stated Swallow introduced them to "Stole-Reeves". Young indicated that a short time later Doug and Gary dropped the law suit. Young later was told that the AG had threatened Doug and Gary and that was the reason for dropping the law suit. Young stated that he recalled another instance when Rob came to him and again stated for their "Job Security" he needed to give Jensen another \$ 5,000. Young assumed that the request was generated by Swallow. John Young stated he would cooperate in any way he could."

The emails regarding poker were from Salt Lake Tribune reporter Tom Harvey, and they appeared to have been cut and pasted from actual emails. The email information read "From: Jeremyjohnson@elitedebit.com Rep: Utah Draft Opinion March 4, 2010 To: john.swallow1@me.com Previous message from "A. Jeff Ifrah jeff@ifrahlaw.com To: Jeremyjohnson@elitedebit.com and chad@elitedebit.com Please take a look at this. We would like you to deliver this to the Utah AG and request that he meet next week T-W or Th, with me and the Executive Director of the Poker Players Alliance (John Pappas) who he already knows."

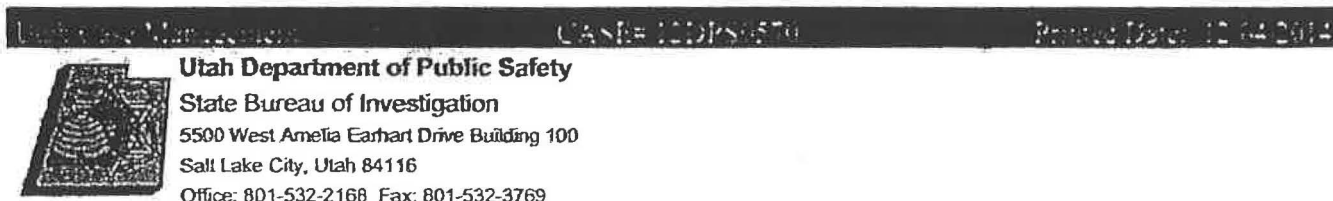
The email information read "March 8, 2010, JJ@eJitedebit.com To: john.swallow1@me.com Re: Utah draft opinion Any progress on his opinion? Do you think I can come up and meet with Mark about it next week? March 8, 2010 From: john.swallow1@me.com Mark and I met today and we discussed it and he read it like I did. Can I call you tomorrow and we can talk about it? Utah law is less lenient than federal law. But I have some ideas that should help. Let's talk tomorrow. john@theppa.org arranging a meeting with Shurtleff. SLC Tribune reporter inquiring why he meeting with AG. To jj Marc J. Zwillger; Jeff Ifrah, re: UT AG meeting 4-1-2010".

The email information read "April 1, 2010 From: Marc Zwillinger Marc@zwillgen.com To john@theppa.org Cc: Jeff Ifrah This was second message on one to Jeremy Johnson at jeremyjohnson@iworks.com April 2, 2010.... Discussion opinion on poker process ... AG and deputy warned an opinion might backfire 'because the public nature of the opinion might cause members of the legislature to demand a change in the law to make it more clar that poker was illegal'...points out church is opposed to poker... more include to try something less than formal opinion, like nonprosecution letter or statement. ... suggest amicus brief ... We also discuss how such a brief might be portrayed as consistent with Utah's view of federalism ..."

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Report requested by SCOTT NESBITT

MUR 6850 03533



The email information read "April 1, 2010 This is in an email exchange, the last of which is April 4, 2010, from Jeff Ifrah to Jeremy Johnson and Chad Elie At this point, I am trying to figure out how Mark can help you. Also, he totally loves you, talked about how you were the top businessman with the most integrity etc. From Jeremy Johnson to Ifrah Zwiner papers April 1, 2010 'Mark is a really great guy that will shoot straight with you.' 6/14/2010 Jeff Ifrah to Jeremy Johnson, cc Chad Elie attached letter. We would still very much like to have John Swallow consider signing this informal letter like the attached."

The email information read "From: Jeremyjohnson@elitedebit.com To: July 1, 2010, Forwarded message from Jeff Ifrah to Jeremy Johnson and Chad Elie Subject: FW: DJ latest Drafts You should share this with John Swallow and see whether his office will provide the amicus support promised in support of your position that online poker processing does not violate Utah law. July 4, 2010 From john.swallow1@me.com To: Jeremyjohnson@elitedebit.com Continues same day from Johnson to Swallow Subject: fw: Akin memo re DOJ The question here is is there a Utah law that prohibits the processing of Poker transactions for persons in other states and countries aside from Utah? We have decied that the law is unclear on if Poker is legal to play online if you are residing in Utah so we are blocking transactions from anyone in Utah but we still think it is legal to process the transactions for other states and countries. Let me know your thoughts. Jeremy July 5,2010 To: From: Jeremyjohnson@elitedebit.com Jeremy, I am not aware of any such law in Utah to prohibit what you are doing. I'll have one of our assistant Attorneys General look into it tomorrow. Let's talk tomorrow.

The emails between Jeremy Johnson and John Swallow read "From: John Swallow  
 > Date: Monday, August 9, 2010 8:51 PM To: Jeremy Johnson  
 <jeremyjohnson@elitedebit.com> Cc: Mark Shurtleff <mark@shurtleff.com>, Mike Lee  
 <mike@mikelee2010.com> Subject: Re: It looks like it will work. Any progress? I think we should plan on flying out in the morning on the 30th and returning sometime on the 1st of Sept. Thanks. John".

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Report requested by SCOTT NESBITT

Case Management

CASE# 12DPS0570

Printed Date: 12/04/2014

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Office: 801-532-2168 Fax: 801-532-3769

The emails between Jeremy Johnson and John Swallow read "On Mon, Aug 9, 2010 at 6:36 PM, Jeremy Johnson <jeremyjohnson@elitedebit.com> wrote: I got Karen working on it now ...What dates do you want? Jeremy On 8/9/10 5:28 PM, 'John Swallow' <[redacted]> wrote: I lost my phone here in Mexico. Let's coordinate via email. Thanks. John FW: Meeting with Check City and me On 2/15/10 11 :49 AM, 'John Swallow' <[redacted]> wrote: Jeremy: They also want to meet with us. My schedule is the X factor right now. Is there any way to get you up here on Friday for a few hours? If not, I might need some help to get down there since it's so busy with the session right now. They are going to be going down there to meet with your team next week--when do you usually leave for SM? When are you normally back? John".

Jeremy Johnson made the following comment regarding those emails "I don't think this trip ever happened but they wanted to take the jet to Alaska for a little junket with Mike Lee."

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Report requested by SCOTT NESBITT

MUR 6850 03535

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

On 06-27-14, Special Agent J. Isakson and I met with Jeremy Johnson at the office of Ronald Yengich in Salt Lake City. Pamela Lindquist and Ronald Yengich were present. Jeremy said that Jared Pierce was a copy cat, referring to the government grant business. Jeremy said that Jared Pierce had a houseboat on Lake Mead. Jeremy said he discussed Jared Pierce with John Swallow, and John Swallow said he was a friend of Jared Pierce and had known him for years.

Jeremy said that things with Jared Pierce got worse, and Jared Pierce told him that bad things were going to happen. Jeremy said that Jared Pierce told him to stop saying things about John Swallow.

Jeremy said that John Swallow told him that (Senator) Mike Lee remembers what he (Jeremy) did and is looking out for him (Jeremy).

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Report requested by SCOTT NESBITT

Utah Case Management

CASE# 12DPS0570

Printed Date: 12-04-2014

**Utah Department of Public Safety**

State Bureau of Investigation

5500 West Amelia Earhart Drive Building 100

Salt Lake City, Utah 84116

Office: 801-532-2168 Fax: 801-532-3769

**Supplemental Report**

Created By: Nesbitt, Scott

Creation Date: 08/19/2014

Creation Time: 13:32

Reporting Investigator: S. Nesbitt

**INFORMATION FROM JEREMY JOHNSON**

On 08-10-14, Jeremy Johnson sent me text messages with attachments asking me if I had heard about what was in the attachments. The attachments included a copy of a letter that was addressed to Kerry V. Johnson in Santa Clara, Utah, and the letter was from Mike McCauley the Treasurer for Friends of Mike Lee. The letter was regarding "Your contribution to Friends of Mike Lee in June 2010".

Part of the letter read "Recently, there have been news stories and allegations that certain individuals who helped raise money for Senator Lee's 2010 campaign may have reimbursed donors for their contributions to the campaign. This is not something that the Lee campaign or Senator Lee was aware of or in any way condoned. Senator Lee has asked me as treasurer of the campaign, to review all contributions received by the campaign during the time period in question - late June 2010 - and to contact each donor to confirm that the contribution was from the donor's own funds and that the donors were not reimbursed by any third party. If that is not the case, and if there were reimbursements, we need to know that information as well as for legal and reporting purposes. Our records reflect that you made a contribution of \$2,400 via check dated June 11, 2010."

The attachments included a copy of a check made out to "Friends of Mike Lee" for \$2,400. The check was dated 06-11-10, and the memo line read "Contribution". The account name on the check is "KERRY V. JOHNSON", and the check number is 1028.

The attachments included a form that read in part "Confirmation of Contribution to Friends of Mike Lee This is to confirm that my contribution to Friends of Mike Lee in June 2010 was from my personal funds and that I was not reimbursed by any third party for the contribution." The form had lines for a signature and a date.

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Report requested by SCOTT NESBITT

MUR 6850 03537

# **ATTACHMENT 4**

*Lindquist & Associates*PRIVILEGED AND CONFIDENTIALATTORNEY WORK PRODUCTMEMORANDUM

December 10, 2013

To: Steven Reich, Esq.

From: Pamela Lindquist  
Richard H. CasperRe: Utah Attorney General Matter: Interview of Karen Beck-Redd

This memorandum summarizes the highlights of an interview of Karen Beck-Redd, pursuant to your request and at your direction to assist you in rendering legal advice to our client, the Special Investigative Committee of the Utah House of Representatives. On November 29, and again on December 7, 2013 Utah investigators, Pamela Lindquist and Richard H. Casper of Lindquist & Associates interviewed Beck-Redd. The November 29 interview was done in St. George and led to the interview of Travis Marker. The December was done in Salt Lake City.

Background

After the interview with Beck-Redd on November 27, 2013, she called investigator Lindquist two times the next day (Thanksgiving). She said that there are a number of recordings of John Swallow taken by Jeremy Johnson which she has been trying to find. We set follow-up interviews to be done.

Texts

On December 7, we saw a digital image of the following text message from John Swallow to Jeremy Johnson phone number [REDACTED]:

March 16, 2011: "Call me on my state cell my state cell. [REDACTED]. Just don't know if anyone would be listening."

April 2011: "Jeremy, in my position I cannot me with you at the present time. Most sincerely, John Swallow

## Emails

The following is a summary of emails which Beck-Redd allowed us to read:

1. John Swallow [John.swallow@[REDACTED]] to Johnson August 27, 2009: Swallow said he was speaking with Rob Stahura and Paul Ewing about testing his "welcome calls."
2. From Swallow to Jeremy Johnson August 28, 2009: Swallow talking about an "UPSALE," that they (Rob Stahura) would be very interested if the price was between \$8-\$9.
3. From John Swallow, October 30, 2009 – [JohnS@[REDACTED]] About Sunfirst Bank. Swallow recommends attorneys George Sutton [Utah attorney with Jones, Waldo, Holbrook & McDonough; represents the Utah Bankers Association] and Paul Johnson to represent Johnson in a bank deal. Jeremy responds positively to the recommendation.
4. From Swallow to Johnson, February 23, 2010 – [john.swallow1@[REDACTED]] Swallow congratulates Johnson on the Haiti project. He then tells Johnson that "This is an inside deal, and I'm very close to them... we get the very best rates." (This email is trying to get Johnson tied into "cash for gold" business or payday loans with Rawle's people).
5. From Swallow to Johnson, June 21, 2010 – [johneswallow@[REDACTED]] About a proposed trip to Alaska with Senator Mike Lee, John Swallow and Mark Shurtleff (Trip never happened).
6. Emails of miscellaneous dates from Swallow to Johnson telling Johnson to make donations by giving money to other people to donate.
7. From Swallow to Johnson, July 5, 2010 [john.swallow1@[REDACTED]] - Swallow says: "I'll have someone look into it." (Online gambling legality).
8. From Swallow to Johnson, March 3, 2010 – [john.swallow1@[REDACTED]] Swallow tells Johnson that "golf and love are also games of chance."
9. From Swallow to Johnson, September 5, 2010 – [john.swallow1@[REDACTED]] Swallow setting up meeting with Johnson and Senator Orrin Hatch. (Johnson's notes say that the meeting was recorded).

Beck-Redd said that there is an email dated September 29, 2010, in which Swallow tells Johnson that he does not know the cost, but it probably won't be cheap, referring to the money for Richard Rawle's contact. She has found this since our meeting.

## JASON POWERS RECORDING

Beck-Redd allowed us to listen to a digital recording of a meeting took place in early January 2012, in Johnson's St. George home, with Johnson and Jason Powers. Johnson tells Powers that Johnson called Swallow on January 2, 2012 and told him that Scott Leavitt is threatening to sue again to recover the money he advanced for the Richard Rawle deal. In response, Swallow sent Powers to Jeremy's home in St. George for "damage control." [this was Power's terminology]. Johnson recorded this meeting on an Iphone, using the COJI app. Here are some excerpts from that recording.

As to Leavitt's potential lawsuit:

Johnson: It's just bad timing

Powers: It's very bad timing. Which is why I'm here to talk to you.

Later:

Powers: If it hits the news in any way...

Johnson: Ya, it's gonna be bad

Powers: Cuz Harvey's [Salt Lake Tribune Reporter] gonna be watching it. They're going to doing checks on different people like they always do. I mean they're always checking on Richard Rawle because the guy, his company files the most lawsuits in the state of Utah.

Johnson: Oh yeah, for payday loans, huh?

Powers: Maybe it gets lost in the shuffle but I doubt it.

Johnson: What a mess.

LATER:

Powers: Any other messages you want me to give John? You kind of understand the situation, the quieter we keep things for a little while...

Johnson: I understand it, believe me.

ON TRYING TO GET SCOTT LEAVITT NOT TO SUE:

Powers: It doesn't sound like your buddy wants to settle for twenty thousand.

Johnson: No, he's like hell no, I just lost my house, I live in an apartment in the ghetto with my family now, a house I paid for. He says the only reason I did that is because John told us this would fix everything.

Powers: John has a different story about that, what he tells me was that there were no guarantees. I wasn't there so I don't know.

#### Additional Recordings

Beck-Redd says that there are a few more recordings that are relevant to this matter of which Beck-Redd informed us.

Oct. 12, 2010 - Meeting of Richard Rawle, his people and Johnson laying out the lobbying deal and how it is all going to happen. This recording is on Johnson's hard drive located in California with the receiver.

The end of 2011 - Recording of Johnson, Swallow and Powers in a hotel in St. George. Beck-Redd characterizes this recording as follows: This is the first time Swallow saw Johnson in person after Johnson was out of jail. We understand that Swallow was doing damage control with Johnson, telling Johnson that he had David Barlow working on Johnson's case to get it resolved, to be patient and Barlow will make it go away. There is also talk about emails and covering up their paper trail. This conversation was recorded on an iPhone with the COJI app. Beck-Redd believes that the iPhone is now in Ron Yengich's possession.

Beck-Redd says that there is a recording on an LG Smartphone in which Johnson tells Swallow that he believes that the Feds are investigating Swallow. Curtis Rose has the phone. Beck-Redd says that Swallow tells Johnson that it is impossible because he has a deal with Brent Ward to not come after him, in exchange Swallow will endorse him for the AG at a later date. This recording should also be in Ron Yengich's possession, given to him by Nathan Crane when Yengich took over the case. This recording was initially given by Johnson to his public defender, Nathan Crane who loaded it onto his computer. According to notes we saw of Johnson's in Beck-Redd's possession. Crane wanted Brent Ward to pursue misconduct by the AG's office and Brent Ward refused.

# **ATTACHMENT 5**

**From:** john.swallow [REDACTED]  
**Sent:** Tuesday, June 22, 2010 6:21 AM  
**To:** dan@mikelee2010.com  
**Subject:** Fw: Letter

---

Sent from my Verizon Wireless BlackBerry

**From:** Jeremy Johnson <jeremyjohnson [REDACTED]>  
**Date:** Mon, 21 Jun 2010 22:16:35 -0700  
**To:** John Swallow <john.swallow [REDACTED]>  
**Subject:** Re: Letter

I can do tomorrow night or Wednesday am. I am really sorry about the checks. I will get it fixed ASAP! Let me know whos bounced. I was in a mad rush to get those so maybe I pushed a few people too hard.

Jeremy

On 6/21/10 3:25 PM, "John Swallow" <john.swallow [REDACTED]> wrote:

Tomorrow if you have time. Also I was told that 4 f those checks bounced. I'll forward you the names. We are working hard and tomorrow is the big day.

Sent from my Verizon Wireless BlackBerry

**From:** Jeremy Johnson <jeremyjohnson [REDACTED]>  
**Date:** Mon, 21 Jun 2010 14:49:38 -0700  
**To:** John Swallow <john.swallow [REDACTED]>  
**Subject:** Letter  
Do you have time for lunch this week? Let me know what day if so.

Jeremy

# **ATTACHMENT 6**

05/12/2010 12:38

435--628-7188

FEDEX OFFICE

5593

PAGE 03

MATTHEW E BLACK 08-08  
MAPLETON, UT 84054-3206

1031  
31-201/1740 241  
633706-23

Pay to the  
Order of

MIKE LEE

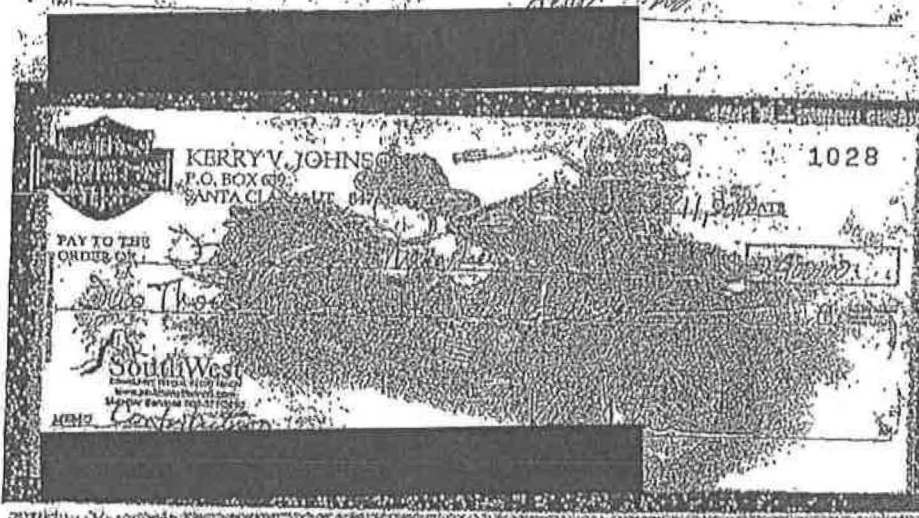
June 11, 2010

\$ 2400

TWENTY FOUR HUNDRED DOLLARS & NO/100



Wells Fargo Bank, N.A.  
Utah  
wellsfargo.com



KERRY V. JOHNSON 12-08  
BARBARA JOHNSON

31-201/1240  
81016213

253

SANTA CLARA, UT 84765

DATE 6/11/10

PAY TO  
THE ORDER OF

Friends of Mike Lee  
Two thousand four hundred & no/100

\$ 2,400.00

DOLLARS



THE VILLAGE BANK  
1001 N. East Street, Dept. 200 • St. George, UT 84770  
Pre (US) 800-420-7

MEMO

Barbara Johnson

06/12/2010 12:38

435--628-7188

FEDEX OFFICE 5593

PAGE 02

MIKELLE YATES 0697  
LIC. UT 158050314/2001  
ST. GEORGE, UT 84770

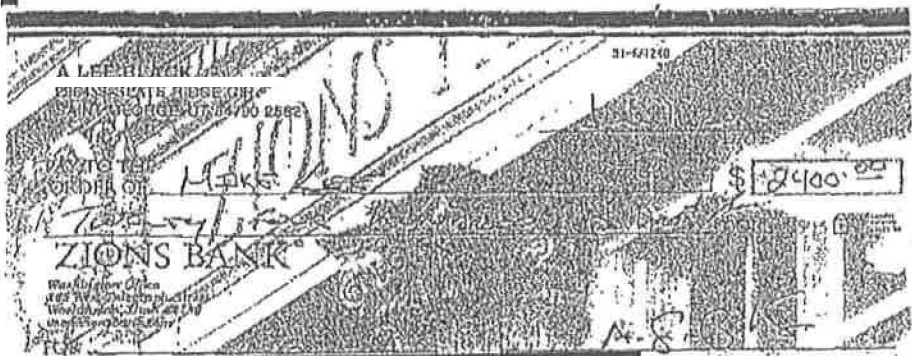
128

31-7855/3240

PAY TO THE ORDER OF Mike Lee \$ 2,400.00  
Two Thousand Four Hundred and 00/100 DOLLARS

FEDEX ROAD OFFICE  
MOUNTAIN AMERICA  
CREDIT UNION  
188 River Road • St. George, UT 84790  
FOR Donation

*Mikelle Yates*



Exempt/Order

SAVANNAH JONES 05-10  
ENTERPRISE, UT 84725

4118

31-6977/240 2860  
8768001712

6/14/10 Date

Pay to the Order of Mike Lee \$ 2,400.00  
Two thousand four hundred 00/100 Dollars



For

*allan*

06/12/2010 12:38

435--528-7188

FEDEX OFFICE

5593

PAGE 01

ATIA BLACK 09-00 515  
ST GEORGE, UT 84790 01-207/1840 287  
9130265320

DATE 10/10/10 DDE

PAY TO THE ORDER OF Mike Lee \$2400.<sup>00</sup>

two thousand four hundred <sup>no</sup> /100 DOLLARS

FOR [REDACTED]

WELLS FARGO BANK, N.A.  
Utah  
www.wellsfargo.com

*[Signature]*

TIFFANY BOYER 05/02 837  
ST GEORGE UT 84770 07-7781/8243  
40

DATE 10-11-10

PAY TO THE ORDER OF Mike Lee \$2400.<sup>00</sup>

twenty four hundred <sup>no</sup> /100 DOLLARS

AMERICA FIRST CREDIT UNION  
P.O. Box 9180  
Ogden, UT 84400  
www.americafirst.com

*[Signature]*

KYLE BOYER 08-03 207  
OGDEN, UT 84403 91-7751/8243  
10

DATE 10-11-10

PAY TO THE ORDER OF Mike Lee \$2400

twenty four hundred <sup>no</sup> /100 DOLLARS

AMERICA FIRST CREDIT UNION  
P.O. Box 9180  
Ogden, UT 84400  
www.americafirst.com

*[Signature]*

05/12/2010 12:39

435--62B-7188

FEDEX OFFICE

5593

PAGE 04

BRYCE PAYNE  
KRISTA PAYNE

9-97

6435

31-5/1240  
854

ST. GEORGE, UT 84770

PAY TO THE ORDER OF Friends of Wildlife

Twenty four hundred and 00/100 \$ 2400.00

ZIONS BANK  
St. George/South Canyon Office  
7830 West Sunset Boulevard  
St. George, Utah 84770  
www.zionsbank.com

COUGARS

FOR From Krista

DATE 6-11-10

BRYCE PAYNE  
KRISTA PAYNE

9-97

6436

31-5/1240  
854

ST. GEORGE, UT 84770

PAY TO THE ORDER OF Friends of Wildlife

Twenty four hundred and 00/100 \$ 2400.00

ZIONS BANK  
St. George/South Canyon Office  
7830 West Sunset Boulevard  
St. George, Utah 84770  
www.zionsbank.com

COUGARS

FOR From Bryce

DATE 6-11-10

STEPHEN W. WADE 01-03  
MARCIA C. WADE

07-50471243  
0123007015

231

ST. GEORGE, UTAH 84770

DATE JUNE 11, 10

PAY TO THE ORDER OF The Friends of Wildlife

Two thousand four hundred and 00/100 \$ 2400

SUNFLIST BANK  
140 E. St. George Blvd.  
St. George, Utah 84770  
24 hrs. Service (435) 875-8600  
www.sunfirstbank.com

COUGARS

FOR Marcia Wade

05/12/2010 12:38

435--528-7188

FEDEX OFFICE

5593

PAGE 05



CHRISTOPHER J WADE

08-08

113

ST GEORGE, UT 84770 8023

Pay to the  
Order of

ZIONS BANK

Order City / Providence Office  
2813 South Providence Center Union  
Order City, Utah 84729  
zionsbank.com

For

Amount Only

JEREMY JOHNSON		08-08	260
SHARLA JOHNSON			
ST GEORGE, UT 84770		6/11/10	Date
PAY TO THE ORDER OF		Mike Lee for Senate	\$2,400.00
Two thousand four hundred and no/100			
<b>DESERET FIRST</b> CREDIT UNION			
For			

MUR 6850 03570

06/12/2010 12:38

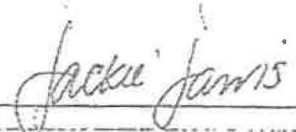
435-628-7188

FEDEx OFFICE

5593

PAGE 05

ZIONS BANK	CASHIER'S CHECK	1232966
SOUTH FIELDING		
	Date	June 11, 2010
	\$	\$2,400.00**
TWO THOUSAND FOUR HUNDRED and 00/100** US Dollars		
FRIENDS OF MIKE LEE**		
30-4491		

ZIONS BANK	CASHIER'S CHECK	1232967
SOUTH FIELDING		
	Date	June 11, 2010
	\$	\$2,400.00**
TWO THOUSAND FOUR HUNDRED and 00/100** US Dollars		
FRIENDS OF MIKE LEE**		
30-4492		

06/12/2010 12:38

435--628-7188

FEDEX OFFICE

5593

PAGE 07

ZION'S BANK  
 3000 Main St, East 9th St  
 SHARLA JOHNSON  
 President

CASHIER'S CHECK  
 1232954

Date June 11, 2010  
 \$ 2,500.00

Pay TO THE ORDER OF  
 SHARLA JOHNSON  
 FIVE HUNDRED AND 00/100 DOLLARS

034 420 0010

MICHAEL LEE FOR SENATE

MICHAEL LEE

P 2400  
 100  
 2500

# **ATTACHMENT 7**



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION

2015 JAN 20 PM 2:47

OFFICE OF GENERAL  
COUNSEL  
DEC 22 2014

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Barbara Johnson

Santa Clara, UT 84765

RE: MUR 6850

Dear Ms. Johnson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 of the United States Code. The Commission has issued the attached order subpoena which requires you to provide certain information and documents in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

There is a federal statute, 52 U.S.C. § 30109(a)(12) (formerly 2 U.S.C. § 437g(a)(12)), requiring all persons to keep confidential investigations conducted by the Federal Election Commission, except with the written consent of the person who is the subject of the investigation. This means that unless you have such written consent, you should not publicly disclose the existence of an ongoing Commission investigation or the fact that the Commission has contacted you in connection with this matter. This restriction, however, does not prevent you from discussing the underlying facts and circumstances with any person, including the subject of the investigation or their counsel.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. However, you are required to submit the information within 30 days of your receipt of this subpoena and order. All answers to questions must be submitted under oath.

If you have any questions, please contact me at (202) 694-1341.

Sincerely,

A handwritten signature in dark ink that reads "Michael Columbo Esq." with a stylized flourish at the end.

Michael Columbo  
Attorney

Enclosure  
Subpoena and Order

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)  
) MUR 6850  
)

SUBPOENA TO PRODUCE DOCUMENTS  
ORDER TO SUBMIT WRITTEN ANSWERS

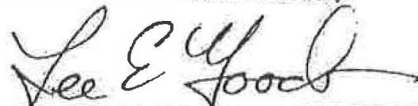
TO: Barbara Johnson

Pursuant to 52 U.S.C. § 30107(a)(1) and (3) (formerly 2 U.S.C. § 437d(a)(1) and (3)), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

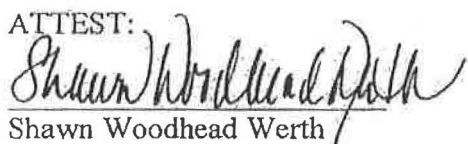
WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 19th day of December 2014.

On behalf of the Commission,



Lee Goodman  
Chair

ATTEST:



Shawn Woodhead Werth  
Secretary and Clerk of the Commission

Attachments

Questions and Document Request (3 pages)

MUR 6850  
Barbara Johnson  
Page 3

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these questions and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

### QUESTIONS AND DOCUMENT REQUEST

The Federal Election Commission is investigating an allegation that a person concealed his contributions to the Friends of Mike Lee committee ("Lee Committee") by funding a small set of contributions made by others in their names. According to a disclosure statement filed by the Lee Committee, it received a \$2,400 contribution from you on June 21, 2010, for the 2010 primary election. The contribution disclosed in your name was identified as one that was potentially funded by another person.

#### **I. QUESTIONS:**

Please submit answers to the following questions:

1. Was your contribution made with your own personal funds?

MUR 6850  
Barbara Johnson  
Page 4

2. Did anyone provide you with funds or anything of value, for example, an advance, bonus, gift, or reimbursement, for your contribution to the Lee Committee?

If so:

- a. What were you given?
- b. How was it provided to you?
- c. When was it provided to you?
- d. Who provided it?
- e. Who was the ultimate source of the funds, if not that person?
- f. What is your relationship with the person(s), if any, identified above?
- g. Describe the circumstances under which you were offered payment for the contribution and how it was accomplished, including all other persons involved, and any meetings, discussions, phone calls, emails, other communications, checks, payments, and funds exchanged.
- h. Who else knows about the reimbursement of your contribution?
- i. Identify any other persons whose contributions to the Lee Committee were reimbursed.
- i. What was the purpose of reimbursing your contribution to the Lee Committee?
- j. At the time you were reimbursed, were you aware that it is unlawful for a person to allow their name to be used for the making of a contribution by another person to a political committee?

**Required Oath or Affirmation:**

Please submit the following oath or affirmation with your answers to the above questions, followed by your signature: "I swear or affirm under penalty of law that that my answers to these questions are true."

*Barbara Johnson*

**II. DOCUMENT REQUEST:**

Please submit with your answers all documents related to any reimbursement of the contribution identified above, including but not limited to all letters, notes, emails, texts, or any communications related to the contribution or reimbursement as well as all bank statements, checks, deposit slips, or receipts showing the reimbursement of your contribution.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
2015 JAN 20 PM 2:47  
OFFICE OF GENERAL  
COUNSEL

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Kerry Johnson  
2489 Riverfront Drive  
Santa Clara, UT 84765

DEC 22 2014

RE: MUR 6850

Dear Mr. Johnson:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 of the United States Code. The Commission has issued the attached order subpoena which requires you to provide certain information and documents in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

There is a federal statute, 52 U.S.C. § 30109(a)(12) (formerly 2 U.S.C. § 437g(a)(12)), requiring all persons to keep confidential investigations conducted by the Federal Election Commission, except with the written consent of the person who is the subject of the investigation. This means that unless you have such written consent, you should not publicly disclose the existence of an ongoing Commission investigation or the fact that the Commission has contacted you in connection with this matter. This restriction, however, does not prevent you from discussing the underlying facts and circumstances with any person, including the subject of the investigation or their counsel.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. However, you are required to submit the information within 30 days of your receipt of this subpoena and order. All answers to questions must be submitted under oath.

If you have any questions, please contact me at (202) 694-1341.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael Columbo", followed by a stylized monogram or initials.

Michael Columbo  
Attorney

Enclosure  
Subpoena and Order

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)

)

MUR 6850

)

SUBPOENA TO PRODUCE DOCUMENTS  
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Kerry Johnson

Pursuant to 52 U.S.C. § 30107(a)(1) and (3) (formerly 2 U.S.C. § 437d(a)(1) and (3)), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

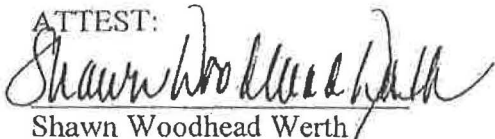
WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 19th day of December 2014.

On behalf of the Commission,



Lee Goodman  
Chair

ATTEST:



Shawn Woodhead Werth  
Secretary and Clerk of the Commission

Attachments

Questions and Document Request (3 pages)

### INSTRUCTIONS

In answering these written questions and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each question propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the written response.

If you cannot answer the following questions in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following questions and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

The following questions and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

### DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the person to whom these discovery requests are addressed, including your agents and attorneys.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these questions and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

### QUESTIONS AND DOCUMENT REQUEST

The Federal Election Commission is investigating an allegation that a person concealed his contributions to the Friends of Mike Lee committee ("Lee Committee") by funding a small set of contributions made by others in their names. According to a disclosure statement filed by the Lee Committee, it received a \$2,400 contribution from you on June 21, 2010, for the 2010 primary election. The contribution disclosed in your name was identified as one that was potentially funded by another person.

#### **I. QUESTIONS:**

Please submit answers to the following questions:

1. Was your contribution made with your own personal funds?

MUR 6850  
Kerry Johnson  
Page 4

2. Did anyone provide you with funds or anything of value, for example, an advance, bonus, gift, or reimbursement, for your contribution to the Lee Committee?

If so:

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- b. How was it provided to you?
- c. When was it provided to you?
- d. Who provided it?
- e. Who was the ultimate source of the funds, if not that person?
- f. What is your relationship with the person(s), if any, identified above?
- g. Describe the circumstances under which you were offered payment for the contribution and how it was accomplished, including all other persons involved, and any meetings, discussions, phone calls, emails, other communications, checks, payments, and funds exchanged.
- h. Who else knows about the reimbursement of your contribution?
- i. Identify any other persons whose contributions to the Lee Committee were reimbursed.
- i. What was the purpose of reimbursing your contribution to the Lee Committee?
- j. At the time you were reimbursed, were you aware that it is unlawful for a person to allow their name to be used for the making of a contribution by another person to a political committee?

**Required Oath or Affirmation:**

Please submit the following oath or affirmation with your answers to the above questions, followed by your signature: "I swear or affirm under penalty of law that that my answers to these questions are true."

 1-12-2015

**II. DOCUMENT REQUEST:**

Please submit with your answers all documents related to any reimbursement of the contribution identified above, including but not limited to all letters, notes, emails, texts, or any communications related to the contribution or reimbursement as well as all bank statements, checks, deposit slips, or receipts showing the reimbursement of your contribution.

# **ATTACHMENT 8**

## IN AND BEFORE THE FEDERAL ELECTION COMMISSION

State of Utah  
County of Salt Lake

## AFFIDAVIT OF MIKE MCCAULEY

The undersigned, Mike McCauley, a resident of the state of Utah and being of lawful age, does hereby affirm and state:

1. I am the treasurer of Friends of Mike Lee, the principal authorized committee of Mike Lee ("the Committee"), Republican member of the United States Senate from the State of Utah ("Sen. Lee").
2. I have served as Treasurer of the Committee since September 2012.
3. I was not the Committee treasurer during the 2010 election cycle but I have in my possession the books and records of the Committee since its inception, which includes the books and records for the 2010 election cycle.
4. I have read news reports in which Mr. Jeremy Johnson, an individual who is under criminal indictment in Utah ("Mr. Johnson"), supposedly claims to have reimbursed donors to the political campaigns of various Utah candidates, including his assertion that Sen. Lee's 2010 campaign was one in which he reimbursed one or more donors.
5. In order to ascertain whether such claims are true or false, I have worked with Mr. Dan Hauser and others who were involved in the 2010 campaign in an effort to reconstruct the facts regarding donors to the 2010 campaign, and the claims by Mr. Johnson of having reimbursed donors.
6. There is no evidence in the records of the campaign's bank accounts or other documents which would indicate in any manner that contributions were from a source other than the donor(s) on whose account the check(s) were drawn.
7. Because there is no documentary evidence of donor reimbursement, and there was no knowledge or suspicion among any of the 2010 Committee staff of donor reimbursement, we have constructed a potential method for inquiring into possible reimbursement(s).
8. The methodology we developed was to identify the deposit(s) that were close in proximity in time and geographical location to Mr. Johnson's personal contribution.
9. There was a deposit into the campaign's account on June 12, 2010, which included Mr. Johnson's personal contribution of \$2400, the maximum legal primary contribution during the 2010 election cycle.

10. The June 12, 2010 deposit was made into the campaign's account in the Zion Bank branch in St. George, UT.

11. Mr. Johnson was a resident of St. George, UT in 2010.

12. The June 12, 2010 deposit was made by a campaign volunteer and included contributions from seventeen individual donors.

13. Attached to this affidavit is a list of 15 donors whose contributions were included in that June 12, 2010 deposit, with two checks subsequently redeposited on June 22, 2010 that cleared the bank. See Exhibit A.

14. I personally sent certified letters to each of the donors whose contributions were part of the same deposit as Mr. Johnson's in June 2010, requesting that each donor sign and return a certification as to having made the contributions from his/her own personal funds. A copy of the letter and the certification form is attached hereto as Exhibit B.

15. As of this date, we are still awaiting receipt of the forms from the donors; no forms have been returned to the Committee at this time.

16. Four of the donor letters have been returned as having moved with no forwarding addresses.

17. In response to the letters I sent, one individual, Ms. Savannah Jones, telephoned me on August 16, 2014 and told me she had been working for a "Mr. Black" in 2010 and that he had asked her to write a check to the Lee campaign, and that he would reimburse her.

18. The 2010 Lee campaign received a check in the amount of \$2400 from Ms. Savannah Jones.

19. I told Ms. Jones that we would appreciate her sending information in writing about the transaction. I re-sent the letter and forms previously sent which her mother had received and signed for at the address the Committee has in its records.

20. To date, I have received nothing further from Ms. Jones.

21. There are no records, documents or evidence in the possession of the Committee that would suggest or indicate that any contribution to the Committee was from a source other than the donor recorded in the Committee's records and duly reported to the FEC. The telephone conversation with Ms. Jones is the first information about reimbursement of any contribution(s) that the Committee has received.

22. The Committee is prepared to disgorge the contribution from Ms. Jones to a payee as directed by the FEC.

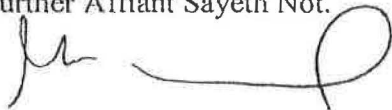
23. The Committee has made a good faith effort to validate from a select group of donors that their contributions were from their own funds. The Committee seeks the Commission's guidance as to further steps that should be taken, as there is no published guidance on this particular topic.

24. The Committee is not aware of any further actions or obligations that it can or should take to seek additional information or confirmation of source(s) of contributions.

25. The Committee makes every effort at all times to fully comply with the regulations of the Federal Election Commission regarding the solicitation, receipt, deposit and reporting of contributions.

I understand that these statements are made under penalty of perjury and I swear and affirm that the statements contained herein are made of my personal knowledge and are true and correct to the best of my knowledge and belief.

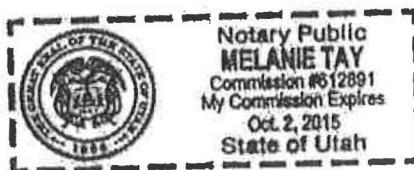
Further Affiant Sayeth Not.



Mike McCauley, Treasurer  
Friends of Mike Lee

Before me this 19th day of August, 2014 appeared Mike McCauley who affirmed and stated under penalty of perjury that the above and foregoing is true and correct to the best of his knowledge and belief.

NOTARY PUBLIC  
S E A L



My Commission Expires: 10/2/2015

# EXHIBIT A

## Contribution Entries

First	Last	Address	City	State	Zip	Employer	Occupation	Date of Receipt	Amount	Election to Date	FEC Transaction ID	FEC Page #	FEC Report	FEC Reference Contribution	Response
Atta	Black	2964 S. Slate Ridge Circle	St. George	UT		84790 Not provided	Not provided	6/22/2010	\$2,400	\$2,400	SA11AL29257	15/128	July 15, 2010 Amended	11020331406	certified mail receipt - no response
Kyle	Boyer	2548 Adams Ave	Ogden	UT	84403	Not provided	Not provided	6/12/2010	\$2,400	\$2,400	SA11AL28918	17/128	July 15, 2010 Amended	11020331408	No receipt No response
Thiffany	Boyer	133 West 200 North Apt 3	St. George	UT	84770	Not provided	Not provided	6/12/2010	\$2,400	\$2,400	SA11AL28917	17/128	July 15, 2010 Amended	11020331408	Letter returned for undeliverable address
Duane	Fielding	162 W. Shadow Point Dr	St. George	UT	84770	Not provided	Not provided	6/12/2010	\$2,400	\$2,400	SA11AL28925	36/128	July 15, 2010 Amended	11020331427	Letter returned for undeliverable address
Robin	Fielding	162 W. Shadow Point Dr	St. George	UT	84770	Homemaker	Homemaker	6/12/2010	\$2,400	\$2,400	SA11AL28924	37/128	July 15, 2010 Amended	11020331426	Letter returned for undeliverable address
Barbara	Johnson	2489 Riverfront Dr.	Santa Clara	UT	84765	Self	Entrepreneur	6/12/2010	\$2,400	\$2,400	SA11AL28912	57/128	July 15, 2010 Amended	11020331444	No receipt No response
Jeremy	Johnson	529 S. Woods View Circle	St. George	UT	84770	Works	President	6/12/2010	\$2,400	\$2,400	SA11AL28923	58/128	July 15, 2010 Amended	11020331449	No receipt No response
Kerry	Johnson	PO Box 639	St. George	UT	84765	Self	Entrepreneur	6/12/2010	\$2,400	\$2,400	SA11AL28911	59/128	July 15, 2010 Amended	11020331450	certified mail receipt - no response
Sharia	Johnson	529 South Woods View Cir	St. George	UT	84770	Homemaker	Homemaker	6/12/2010	\$2,500	\$2,400	SA11AL28926	59/128	July 15, 2010 Amended	11020331450	No receipt No response
Savannah	Jones	626 S. 150 E	Enterprise	UT	84723	Not provided	Not provided	6/22/2010	\$2,400	\$2,400	SA11AL29255	61/128	July 15, 2010 Amended	11020331452	certified mail receipt - no response
Bryce	Payne	1399 E. Bella Rosa Circle	St. George	UT	84790	Works	Management	6/12/2010	\$2,400	\$2,400	SA11AL28920	74/128	July 15, 2010 Amended	11020331465	certified mail receipt - no response
Krista	Payne	1399 E. Bella Rosa Circle	St. George	UT	84790	Not provided	Management	6/12/2010	\$2,400	\$2,400	SA11AL28919	74/128	July 15, 2010 Amended	11020331465	certified mail receipt - no response
Christopher	Wade	96 Shadow Point Dr	St. George	UT	84770	Not provided	Not provided	6/12/2010	\$2,400	\$2,400	SA11AL28922	93/128	July 15, 2010 Amended	11020331484	No receipt No response
Stephen	Wade	1439 Bloomington Drive	St. George	UT	84790	Stephen Wade Auto	Sales	6/12/2010	\$2,400	\$2,400	SA11AL28921	93/128	July 15, 2010 Amended	11020331484	certified mail receipt - no response
Mikelle	Yates	816 E. Vermillion Ave	St. George	UT	84770	Not provided	Not provided	6/12/2010	\$2,400	\$2,400	SA11AL28913	96/128	July 15, 2010 Amended	11020331489	Letter returned for undeliverable address

\* Contribution divided in two per report, \$2400 and 100. Two letters sent to confirm activity. Neither have received a certified receipt or a response

# **EXHIBIT B**



10 West Broadway  
Suite 500  
Salt Lake City, Utah 84101

Mikelle Yates

St. George, UT 84770

RE: Your contribution to Friends of Mike Lee in June 2010

Dear Mikelle Yates:

First, thank you for your past support of Sen. Mike Lee (R-UT) in his campaign for the United States Senate in the 2010 Utah Republican primary.

Recently, there have been news stories and allegations that certain individuals who helped raise money for Senator Lee's 2010 campaign may have reimbursed donors for their contributions to the campaign. This is not something that the Lee campaign or Senator Lee was aware of or in any way condoned.

Senator Lee has asked me, as treasurer of the campaign, to review all contributions received by the campaign during the time period in question - late June 2010 - and to contact each donor to confirm that the contribution was from the donor's own funds and that the donors were not reimbursed by any third party. If that is not the case, and if there were reimbursements, we need to know that information as well for legal and reporting purposes.

Our records reflect that you made a contribution of \$2,400 via check dated June 11, 2010.

Enclosed is a form and pre-addressed envelope directed to my attention. Please complete, sign and return the enclosed form as soon as possible. We have set a deadline of August 15, 2014 to receive the forms and process them.

We apologize for any inconvenience and very much appreciate your help in ensuring that we comply with all campaign laws.

Please contact me at (801) 706-4427 if you have any questions or feel free to send me an email to: [mike@mccauleyassociatespc.com](mailto:mike@mccauleyassociatespc.com)

Thank you very much for your prompt attention.

Sincerely,

A handwritten signature in black ink, appearing to be "Mike McCauley".

Mike McCauley  
Treasurer, Friends of Mike Lee

[www.mikeleeutah.com](http://www.mikeleeutah.com)

Not printed or mailed at government expense

Mikelle Yates

St. George, UT 84770

Confirmation of Contribution to Friends of Mike Lee

This is to confirm that my contribution to Friends of Mike Lee in June 2010 was from my personal funds and that I was not reimbursed by any third party for the contribution.

---

*Signature*

---

*Date*

MIKELLE YATES 0/87  
LIC. UT 1500000140001

ST. GEORGE, UT 64770

6/11/10

128

21-7955/3240

PAY TO THE ORDER OF Mike Lee

\$ 2,400.00

Two Thousand Four Hundred AND 00/100 DOLLARS

AMER ROAD OFFICE  
MOUNTAIN AMERICA  
CREDIT UNION  
123 River Road - St. George, UT 64770

FOR DONATION

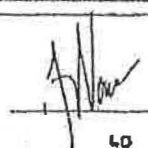
Mikelle Yates



McCauley & Associates P.C.  
10 West Broadway, Suite 500  
Salt Lake City, UT 84101

# **ATTACHMENT 9**

6/14/10 Check 5075 Amount 14,400.00

Triple Service, LP Operating Account 401 North 500 Street, Ste 900 Salt Lake City, UT 84177-7188 (435) 596-8827		5075
6/14/2010		
PAY TO THE ORDER OF	Solo Group, LLC	\$ 14,400.00
Fourteen Thousand Four Hundred and 00/100		
Solo Group, LLC		
		
40		

# **ATTACHMENT 10**

100

<https://oibservices.wellsfargo.com/OIB/ControllerServlet>

8/13/2012

MUR 6850 03737

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Site	Paid Date	Serial	Routing	Account	PC	Amount	Sequence #	Q1
VIEWPOINTE	20100616	1021			000080	2,400.00	8553874493	

**SOLE GROUP, LLC**  
230 N 1650 E STE B2  
ST GEORGE, UT 84790-2522

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
31-2277/240

1021

6/14/2010

PAY TO THE ORDER OF Kyle Boyer \$2,400.00

Two Thousand Four Hundred and 00/100 DOLLARS

Kyle Boyer  
3222 South 355 West  
Washington, UT 84780

MEMO

*Alfonso*  
AUTHORIZED SIGNATURE

⑈0000240000⑈

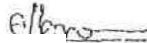
16 JUN 2010

*Kyle Boyer*



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Site	Paid Date	Serial	Routine	Account	PC	Amount	Sequence #	C1
VIEWPOINTE	20100615	1022			000060	2,400.00	8654867506	

<b>SOLE GROUP, LLC</b> 280 N 1660 E STE 82 ST GEORGE, UT 84790-2562		<b>WELLS FARGO BANK, N.A.</b> www.wellsfargo.com 31-38711210		1022
		6/14/2010		
PAY TO THE ORDER OF <u>Lee Black</u>		\$**2,400.00		
Two Thousand Four Hundred and 00/100		DOLLARS		
Lee Black 2964 South Slate Ridge Drive St. George, UT 84790				
MEMO		 AUTHORIZED SIGNATURE		

			
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Site	Paid Date	Serial	Routing	Account	PC	Amount	Sequence #	CI
VIEWPOINTE	20100616	1024			000060	2,400.00	8553874492	

<b>SOLE GROUP, LLC</b> 230 N 1680 E STE 62 ST GEORGE, UT 84700-2562		<b>WELLS FARGO BANK, N.A.</b> www.wellsfargo.com 31-8771240		1024
DATE: 6/14/2010				
PAY TO THE ORDER OF: Tiffany Boyer		\$2,400.00		
Two Thousand Four Hundred and 00/100				
DOLLARS				
MEMO:		AUTHORIZED SIGNATURE: <i>elbne</i>		
⑈0000240000⑈				

MICR LINE ⑈0000240000⑈	16 JUN 2010	1	1
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# **ATTACHMENT 11**

06/12/2010 12:30

435--628-7188

FEDEX OFFICE

5593

PAGE 02

MIKELLE YATES 0007  
U.C. UT 159058314/P001

128

ST. GEORGE, UT 84770

6/11/10

31-70553240

PAY TO THE ORDER OF

Mike Lee

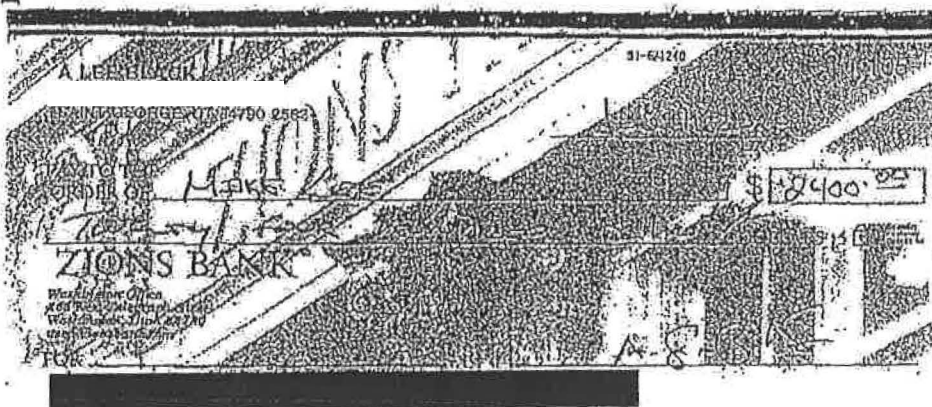
\$ 2,400.00

Two THOUSAND FOUR HUNDRED AND XX/100 DOLLARS

AVENUE ROAD OFFICE  
MOUNTAIN AMERICA  
CREDIT UNION  
123 AVENUE ROAD - ST. GEORGE, UT 84770

FOR DEPOSIT ONLY

Mikelle Yates



Unreadable

SAVANNAH JONES 0000  
ENTERPRISE, UT 84720

4110

31-2971240 2008  
6789001732

6/14/10

Date

Pay to the Order of

Mike Lee

\$ 2,400.00

Two THOUSAND FOUR HUNDRED AND 00/100 Dollars

WILLIAM J. JONES  
123 AVENUE ROAD - ST. GEORGE, UT 84770

For

Ellen

06/12/2010 12:38

435--628-7188

FEDEX OFFICE

5593

PAGE 03

MATTHEW E BLACK 08-09

MAPLETON, UT 84664-8208

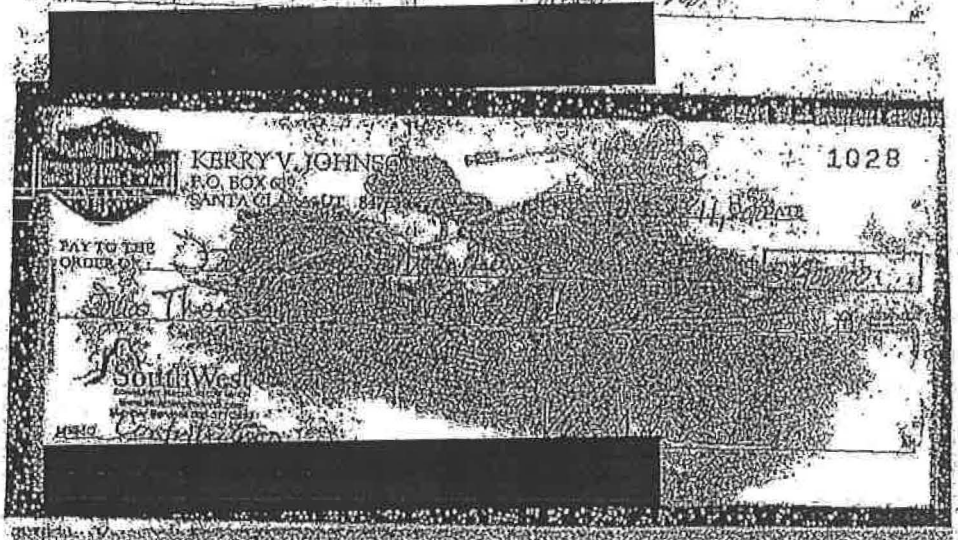
1031  
31-297/1240 281  
629976225

June 11, 2010

Pay to the Order of MIYE LEE

Twenty Four hundred Dollars \$ 2400

Wells Fargo Bank, N.A.  
Utah  
wellsfargo.com



KERRY V. JOHNSON 12-03  
BARBARA JOHNSON

SANTA CLARA, UT 84765

31-283/1243  
21316213

253

DATE 6/11/10

PAY TO THE ORDER OF Friends of Midway \$ 2,400.00  
Two thousand four hundred & no/100 DOLLARS

THE VILLAGE BANK  
1031 N. Dixie Blvd., Ste. 200 - St. George, UT 84770  
Ph: (435) 636-4200

MEMO

Barbara Johnson


MATTHEW E. BLACK 08-09  
 MAPLETON, UT 84664-3206

1002  
 31-297/1240 2839  
 6284705225

4/21/10 Date

Pay to the Order of Mike Lee \$ 2,400.

Two thousand four hundred dollars and no/100 Dollars ☒ Security Features: Green Ink, Microprint, Watermark, etc.

 With Fargo Bank, USA  
 wellfargo.com

For MT

⑆124002971⑆ [REDACTED] 01002

CREDITED TO THE ACCOUNT  
 OF THE WITHIN NAMED PAYEE  
 ZIONS BANK

124002971 06 23  
 ZIONS BANK, F.T. 17  
 801-974-8899  
 7551835760

Date: 06/22/10 Sequence Num: 51835760

Serial: Amount: \$2,400.00 Dep Seq#: 51835740

06/12/2010 12:38

435--628-7188

FEDEX OFFICE




5593

PAGE 01

ATIA BLACK 09-09 515  
ST GEORGE, UT 84790  
DATE 6/10/10  
PAY TO THE ORDER OF Mike Lee \$2400.00  
two thousand four hundred <sup>00</sup>/<sub>100</sub> DOLLARS  
Wells Fargo Bank, N.A.  
USA  
wfbank.com  
FOR [REDACTED]

TIFFANY BOYER 06/02 837  
ST GEORGE UT 84770  
DATE 6-11-10  
PAY TO THE ORDER OF Mike Lee \$2400.00  
twenty four hundred <sup>00</sup>/<sub>100</sub> DOLLARS  
AMERICA FIRST  
P.O. Box 9780  
OGDEN, UT 84400  
www.americafirst.com  
FOR [REDACTED]

KYLE BOYER 06-03 207  
OGDEN, UT 84403  
DATE 6-11-10  
PAY TO THE ORDER OF Mike Lee \$2400  
twenty four hundred <sup>00</sup>/<sub>100</sub> DOLLARS  
AMERICA FIRST  
P.O. Box 9780  
OGDEN, UT 84400  
www.americafirst.com  
FOR [REDACTED]

ATIA BLACK 09-09		516	
ST GEORGE, UT 84790		31-297/1240 2871 3139355320	
		6/21/2010 DATE	
PAY TO THE ORDER OF	Mike Lee	\$2,400.00	
Two thousand Four Hundred no/100		DOLLARS	<input type="checkbox"/> <small>Pay to the order of cash</small>
 Wells Fargo Bank, NA Utah wells.fargo.com			
FOR	 		

1124042954 2010/06/22 ZIONS BANK FAX 801-474-2399 7551535750		CREDITED TO THE ACCOUNT OF THE WITHIN NAILED PAYEE ZIONS BANK
---	--	---

Date:06/22/10 Sequence Num:51835750  Serial:- Amount:\$2,400.00 Dep Seq#:51835740

Site	Paid Date	Serial	Routing	PC	Amount	Sequence #	Ci
VIEWPOINTE	20100623	1118	12400297	000060	2,400.00	8156175168	


  

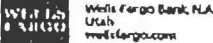
**SAVANNAH JONES** 05-08  
 ENTERPRISE, UT 84725

**1118**  
31-287/1240 2809  
6783601732

6/22/10 Date

Pay to the Order of Mike Lee \$ 2,400.00

Two thousand four hundred 00/100 Dollars 



For Phone




CREDITED TO THE ACCOUNT  
OF THE WITHIN NAMED PAYEE  
ZION'S BANK

12400297 05/23/2010  
ZION'S BANK FAX  
801-974-3344  
7551835770

The following pay items  
will be credited to the  
account of the payee  
on the date of payment  
to the payee's account  
on the date of payment  
to the payee's account  
on the date of payment  
to the payee's account

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# **ATTACHMENT 12**

ATIA BLACK 09-09		516	
ST GEORGE, UT 84700		31-297/1240 2871 3139365329	
		6/21/2010 DATE	
PAY TO THE ORDER OF <u>Mike Lee</u>		\$2,400.00	
<u>Two thousand four hundred</u> <sup>no/100</sup>		DOLLARS	
 Wells Fargo Bank, N.A. Utah wellsfargo.com		 Federal Reserve Bank Note	
FOR _____			
<div style="text-align: right;">           CREDITED TO THE ACCOUNT            OF THE WITHIN NAILED PAYEE            ZIONS BANK         </div> <div style="text-align: center;">           124092154 2310/06.22            ZIONS BANK, FKT            811-474-2800  <b>7551835750</b> </div>			

Date:06/22/10 Sequence Num:51835750

Serial:- Amount:\$2,400.00 Dep Seq#:51835740

<u>Routing</u>	<u>Sequence #</u>	<u>Paid Date</u>	<u>Amount</u>	<u>Account</u>	<u>Serial</u>	<u>Capture Source</u>
		06152010	\$2400.00		1020	00310297

<b>SOLE GROUP, LLC</b> 230 N 1000 E STE B2 ST GEORGE, UT 84790-2562		<b>WELLS FARGO BANK, N.A.</b> www.wellsfargo.com 81-207/1840		1020
		6/14/2010		
PAY TO THE ORDER OF: <u>Atia Black</u>		\$ <u>2,400.00</u>		
Two Thousand Four Hundred and 00/100*****		DOLLARS		
Atia Black 2984 S Slate Ridge Dr St George, UT 84790				
MEMO		<i>Atia Black</i> AUTHORIZED SIGNATURE		

# **ATTACHMENT 15**

1

## BEFORE THE FEDERAL ELECTION COMMISSION

- - - - -X  
 :  
 In re: :  
 : MUR 5333  
 JOHN SWALLOW :  
 :  
 - - - - -X

Tuesday, February 28, 2006  
 Washington, D.C.

The deposition of JOHN SWALLOW, called  
 for examination by counsel for the Federal Election  
 Commission in the above-entitled matter, pursuant  
 to notice, in the offices of the Federal Election  
 Commission, 999 E Street, N.W., Washington, D.C.,  
 convened at 10:37 a.m., before David A. Kasdan,  
 RDR-CRR, a notary public in and for the District of  
 Columbia, when were present on behalf of the  
 parties:

2

## APPEARANCES:

On behalf of the Federal Election Commission:

MARK ALLEN, ESQ.  
 ROGER A. HEARRON  
 CYNTHIA TOMPKINS, ESQ.  
 WANDA BROWN  
 Office of the General Counsel  
 Federal Election Commission  
 999 E Street, N.W.  
 Washington, D.C. 20463  
 (202) 694-1650  
 mallen@fec.gov

On behalf of the Witness:

MUR 6850 03793

ROBERT R. SPARKS, JR., ESQ.  
 Sparks & Craig, L.L.P.  
 Suite 360  
 6852 Elm Street  
 McLean, Virginia 22101  
 (703) 848-4700  
 rrsparks@sparkscraig.com

3

## C O N T E N T S

WITNESS	EXAMINATION BY COUNSEL FOR FEC	WITNESS
JOHN SWALLOW		
By Mr. Allen	4	--

## E X H I B I T S

SWALLOW DEPOSITION	MARKED
No. 1	4
No. 2	11
No. 3	44
No. 4	75
No. 5	77
	4

## 1 P R O C E E D I N G S

2 Whereupon,

3 JOHN SWALLOW

4 was called for examination by counsel for FEC and,  
 5 after having been duly sworn by the notary public,  
 6 was examined and testified as follows:

7 EXAMINATION BY COUNSEL FOR FEC

8 BY MR. ALLEN:

9 Q. Good morning.

10 A. Good morning.

17 A. No.

18 Q. Or any of the other Lichfields?

19 A. No.

20 Q. So, how did the subject of making  
21 contributions first come up?

22 A. Well, I think that, as I remember, it was  
20

1 obvious that I was there to solicit a contribution,  
2 and at some point one of us brought the subject  
3 up--I don't remember who it was. I remember  
4 thinking at the time that I felt good if I could  
5 have him give me \$500 for my campaign. As I walk  
6 into a fundraising meeting, I often ask myself what  
7 can I accomplish here?

8 So, those were some of the expectations of  
9 the meetings with the Lichfields.

10 Q. \$500?

11 A. Yes.

12 Q. So, what was the discussion? How did it  
13 proceed then from your initial expectation?

14 A. I think at some point he said something  
15 like, when I said I would like to ask you for \$500,  
16 he said, well, I think we could do more than that,  
17 and I said how much can you do, are you willing to  
18 do, and he said something like, well, what are the  
19 limits?

20 So, the discussion just went from there.

21 Q. Did you then proceed to tell him what the  
22 limits were?

21

1 A. Yeah, I believe--again, I don't remember  
2 him saying specifically, and me saying  
3 specifically, but I told him that the limits were  
4 \$3000, \$1000 per cycle.

5 And there was a little question in my mind  
6 whether we could really do \$3000 per cycle--per  
7 cycle, per election. What I'm trying to say is in  
8 Utah you have three cycles. You have convention, a  
9 primary, and a general election, so I told him the  
10 limits were \$1000 for each of those three cycles  
11 for a total of \$3000--that's the gist of what I  
12 told him--per person.

13 Q. So, did you discuss with Mr. Lichfield who  
14 would be making those contributions?

15 A. Well, at some point in the conversation,  
16 he mentioned, and he did a little counting on his  
17 fingers or something, but he said something like he  
18 and his wife would be willing to give me both two  
19 or \$3000, and other of his family members he  
20 thought would be willing to contribute \$3000  
21 apiece, so that's kind of how that went.

22 Q. Did he identify which family members?

22

1 A. At that time, I'm not sure. He gave me a

2 list of names, rattled off ten names, but he had  
3 ten people that he thought could contribute to my  
4 campaign individually, including his wife and his  
5 children.

6           I emphasized to him that the money had to  
7 come from people who had their own money and they  
8 had to know what they were doing, so, for example,  
9 when we talked about his daughter, who is very  
10 young, I told him that I think she wasn't old  
11 enough to make the decision as to how best to use  
12 her personal funds, so I indicated, and I think he  
13 even said this, that I wouldn't take money from  
14 her.

15       Q.   What prompted you to raise those issues,  
16 issues of being their own money and knowing what  
17 they were doing?

18       A.   Bob didn't come across to me that he was  
19 someone who had done a lot of contributing on a  
20 Federal level. It came up could I write a check  
21 out to my company or is there some constraints for  
22 Federal elections and I explained very carefully

23

1 that the money had to come from personal funds,  
2 from accounts owned by each individual.

3       Q.   Did he describe what his company was when  
4 you said that?

5       A.   No, he didn't. I don't recall talking

6 about what his company was.

7 Q. Did you discuss contributions with the  
8 other Lichfields who were present?

9 A. Certainly I did with Mrs. Lichfield.

10 Q. And then with Reagan?

11 A. You know, I don't remember. I vaguely  
12 remember that he may have mentioned--I met  
13 Reagan--that, you know, the family, he would like  
14 to suggest that he would support me as a candidate  
15 for Congress, but I don't--I can't say that I  
16 actually heard him say that to Reagan or Reagan say  
17 that he wanted to give me a contribution.

18 Q. Was there any discussion regarding whether  
19 Reagan had his own money, what he was doing in  
20 terms of making a contribution?

21 A. I don't remember.

22 Q. Did you make a distinction between the

24

1 six-year-old and Reagan who seemed about 12?

2 A. You know, in my mind I did. I did with  
3 Bob, and in my mind there was a difference, a  
4 judgment call for me. I felt Reagan was old enough  
5 to make a decision to know what the dollar was. I  
6 didn't feel like the youngest girl was old enough  
7 to make that decision. I had young daughters  
8 myself, and I just thought she was obviously too  
9 young to consent.

10           So, I basically told Bob that I thought  
11 she was too young.

12       Q.    So, she was too young.  Reagan, by  
13 contrast, was old enough to consent?

14       A.    That's the decision that I made, and Bob,  
15 Mr. Lichfield, made.

16           It was important to me that the  
17 individuals knew and understood what they were  
18 doing to contribute to my candidacy for Congress.  
19 And whether or not legally that was important, to  
20 me ethically it was.

21       Q.    Did you tell me how much each Lichfield  
22 was going to contribute?

25

1       A.    I think what Bob mentioned at the time was  
2 \$3000 per individual.

3       Q.    And I think you told me that ten  
4 individuals--

5       A.    Yeah, the number ten is what he mentioned  
6 that morning in the meeting with me.

7       Q.    And those ten were all family members?

8       A.    He indicated they were all family members.

9 I mean, maybe it might have been grandparents or  
10 parents or children, I don't recall.  But he  
11 mentioned that they were all related to him.

12           And I was really excited about it.  I  
13 walked into a meeting expecting maybe, if I'm