

RECEIVED  
FEDERAL ELECTION  
COMMISSION

File No. 20170417WHP

16 April 2017

Mr. Kerry D. Bowers

APR 21 AM 10:32

Henderson NV 89002-0522

Office of the General Counsel  
Federal Election Commission  
999 E Street N.W.  
Washington DC 20463

OFFICE OF GENERAL  
COUNSEL

MUR # 7239

Greetings,

The purpose of this letter is to serve as the instrument through which a complaint is filed by Mr. Kerry D. Bowers (complainant) alleging that The Washington Post© (respondent) through a news report (Exhibit A) authored by Philip Bump (co-respondent) did, on 22 March 2015, violate 11 CFR 1 § 100.73 (b). That clause reads, *"That is a part of a general pattern of campaign-related news accounts that give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution."*

It is alleged by the complainant that the respondents made a contribution to the campaign of Republican presidential-candidate Senator Ted Cruz when the respondents wrote and published factually incorrect information in the subject article, information for which there was both government and private sources readily available to the respondents that provided factual information contrary to the report. The statement in the news report alleged as a contribution was as follows, *"On Monday, Sen. Ted Cruz (R-Texas) is expected to become the first legitimate candidate to officially enter the Republican primary field for 2016."*

For perspective, the complainant in this matter announced his campaign as a Republican candidate for the 2016 presidential race in a publicly-released YouTube © video on 13 Sept 2013 (Exhibit B), 17 months before Senator Cruz's 23 March 2015 candidacy announcement. On 23 February 2014 and 5 March 2014, the Las Vegas Sun © newspaper printed a general news story about the complainant's candidacy for president in the 2016 race (Exhibits C and D). On 28 April 2014, and after having completed the Combined Federal Regulations (CFR) requisites for registration as a federal candidate, the complainant was registered by the Federal Election Commission (FEC) as a Republican presidential candidate becoming, chronologically, the 29th Republican to do so and 11 months ahead of Senator Cruz's announcement (Exhibit E). The complainant was also the only Republican presidential candidate to exhibit a presidential campaign at the 2014 Republican Leadership Conference held in New Orleans, LA, from 29 May to 31 May 2014, over 9 months ahead of Senator Cruz's announcement (Exhibit F). The complainant further alleges that consequential to a campaign begun well ahead of Senator Cruz's; one inclusive of radio, web streaming, news-media announcements, and personal appearances over a breadth of the United States ranging from Washington State to Florida; an inquiry using an internet

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search on or before the date of the respondents' publication would have revealed information contrary to that reported by the respondents.

Senator Cruz was, in fact, the 56th Republican candidate (Exhibit E) to become a "legitimate candidate" and "officially enter the Republican primary field for 2016" as evidenced with his coinciding announcement and registration with the FEC for the 2016 presidential campaign, a registration following the announcement and federal confirmation of 55 other Republican candidates of unchallenged and equal legal (legitimate) standing for the office at that point in the campaign season. Given the FEC-registration date for Senator Cruz, and the fact that no States at that point were registering candidates for their respective primary or caucus, then the statement, *"On Monday, Sen. Ted Cruz (R-Texas) is expected to become the first legitimate candidate to officially enter the Republican primary field for 2016."* is a fabricated statement as supported by a preponderance of evidence to the contrary.

Specifically, the complainant alleges the respondents were in violation of the three distinctive parts of the subject CFR clause as follows. First, the statement is a "contribution" in consequence to it being fabricated through the efforts of the respondents and in such manner as to favorably elevate the status of a single candidate. Second, the fabrication was not necessary to describing the candidate's entry into the campaign, thus exceeding the CFR provision for *"a general pattern of campaign-related news."* And third, all opposing Republican candidates; 55 registered with the FEC on the date that Senator Cruz made his announcement ; were denied *"equal coverage in the circulation or listening area."* Such coverage, in the opinion of the complainant, did not require each candidate to be named, only an acknowledgement that there were 55 other Republican candidates.

It is further alleged by the complainant that the respondents caused political and financial injury to the complainant and other Republican presidential candidates registered with the FEC prior to the date Senator Cruz announced his candidacy. Political injury occurred when a reputable news source, the respondent, in effect reported there are no other Republican candidates and with the reasonable expectation the respondent's readers would believe that to be true. Additional injury alleged by the complainant occurred when readers, previously aware of one or more other Republican presidential candidates, may have come to believe that (1) the other candidates are no longer in the race, or (2) they have previously undisclosed matters that exempted them from consideration as a "legitimate" or "officially-entered" candidate by the respondents.

It is the opinion of the complainant, too, that fabricated and injurious statements made by a widely-circulated and reputable news source, such as that of the respondent, requires some immeasurable reintroduction of the injured candidate, or candidates, to a public misled in consequence to the fabricated story. This, being so, then the complainant alleges it is reasonable to believe that such fabricated contributions impact the injured candidates future receipt of campaign contributions, future invitations to public campaign events, and exclusion from future polling. All these political setbacks, in the opinion of the complainant, translate to additional expenditures to recapture ground lost to a fabricated story. How much ground is lost and how much money is actually expended to recapture a candidate's status held prior to the alleged violation is impossible to quantify. But, in the opinion of the

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complainant, it is a reasonable expectation that there has to be injury and that injury is both political and financial.

It is also alleged by the complainant that injury imparted by fabricated information extends beyond the unreported candidates and to the whole of the American people. Why? Because, in the opinion of the complainant, the people are directed away from a candidate (or candidates) that may potentially serve to the people's best interest, while being steered by the respondents to a candidate that may not serve as well to their interests. If such were the case, and it actually may be the consequence today, then the people, in the opinion of the complainant, will incur both political and financial injury in consequence to the respondent's fabricated and misleading reporting.

In conclusion, it is alleged by the complainant that the respondents did, through their own efforts of construction, fabricate an article that contained false and misleading information that contributed to the benefit of a single candidate. The complainant further alleges that information was publicly available to the respondents that a reasonable search would have revealed as evidence to the contrary of that stated by the respondents. And last, the alleged contribution, though impossible to quantify, but with reasonable expectation, did injure the complainant, other unreported Republican presidential candidates and, potentially, the whole of the American people, both politically and financially.

  
Kerry D. Bowers, Complainant

Date 11 April 2017

6 Exhibits Attached:

1. Exhibit A, Respondent's Article
2. Exhibit B, YouTube Video Page
3. Exhibit C, Sunday Magazine Article
4. Exhibit D, LV Sun Article
5. Exhibit E, FEC Registration List
6. Exhibit F, Republican Leadership Conference Receipt and Picture

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Nevada

CLARK County

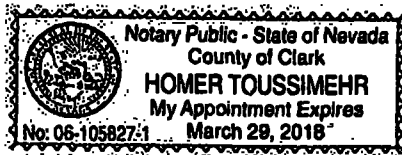
I, HOMER TOUSSIMEHR, a Notary Public for said County and

State, do hereby certify that KERRY DALE BOWERS, a resident at

HENDERSON, NEVADA, USA

did personally appeared before me this day and, under penalty of perjury, signed and sworn to before me the due execution of the foregoing instrument.

Witness my hand and official seal, this the 17th day of April, 20 17.



Notary Public

My commission expires 03-29-2018, 2018 (20)

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# EXHIBIT A

The following, submitted as Exhibit 'A', is an internet screen-shot of the 22 March 2015 The Washington Post.com news opinion dated 22 March 2015 authored by James M. Lindsay. The same report can be viewed at:

[https://www.washingtonpost.com/news/the-fix/wp/2015/03/22/ted-cruz-is-starting-with-less-support-than-anyone-since-bill-clinton/?utm\\_term=.8eafa793ee56](https://www.washingtonpost.com/news/the-fix/wp/2015/03/22/ted-cruz-is-starting-with-less-support-than-anyone-since-bill-clinton/?utm_term=.8eafa793ee56) .

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## The Washington Post

The Fix

# Ted Cruz is starting with less prior-year support than anyone since Bill Clinton

By Philip Bump March 22, 2015

On Monday, Sen. Ted Cruz (R-Texas) is expected to become the first legitimate candidate to officially enter the Republican primary field for 2016. If he manages to gain his party's nomination, he'll have started with weaker prior-year poll numbers than anyone since 2000. With weaker numbers, in fact, than anyone since Bill Clinton.

The only recent party nominee who saw numbers as low as Cruz's -- whose highest Real Clear Polling polling average so far in 2015 has been 5.5 percent -- is John Kerry, in 2003. Since Real Clear Politics doesn't have available averages for 2004, we're somewhat comparing apples and applesauce. But Kerry's percentage of support in NBC/Wall Street Journal polls is the only figure since 2000 to be near Cruz's.

Part of the reason that Kerry and Cruz's numbers dipped so low, of course, is that each was participating in a fairly crowded field. There are a nearly uncountable number of Republicans who've stated interest in running this year; the 2004 Democratic field was smaller but still large. The more candidates, the more they divvy up the pie of voters -- and the smaller everyone's slice.

What's important to note about Kerry, though, is that he started the year in much, much stronger position. If you look at Kerry's 2003, it's a slow slide down toward Cruz numbers as former Vermont governor Howard Dean surged. Kerry's having started at the top helps explain his sudden spike back to the leading

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position in early 2004: He was always seen as someone voters could support. Cruz doesn't have that same luxury.

In 2011, FiveThirtyEight's Nate Silver did a nice recap of the history of presidential primary polling -- a history which is not as lengthy or robust as you might think. He first articulated how generally reliable Republican prior-year primary polling had been since 1976, with averages of prior-year polls identifying the front-runners as Ford, Reagan, Bush, Dole, Bush and ... Giuliani, with McCain in a close second.

On the Democratic side, though, Silver found that it has been much more loosey-goosey. The example that Cruz will almost certainly want to latch onto is Bill Clinton's run-up to 1992. During the first six months of the prior year, Clinton average a tiny 1.7 percent in the polls. He didn't announce until October 1991; during the second half of the year he averaged 8.3 percent, which was on par with other leading candidates, once Silver adjusted for name recognition. That's a question in Cruz's case, too. In a Quinnipiac poll from earlier this month, nearly half of voters said they hadn't heard enough about Cruz to make up their minds.

Cruz will point to that fact as he makes the case for his candidacy, as he will remind people of his come-from-behind win in Texas' Republican Senate primary as an example of his campaigning prowess. But he may also want to get used to the inevitable awkwardness of comparing himself to someone named Clinton.

*Poll sources: Dem 00, GOP 00, Dem 04, Dem 08, GOP 08, GOP 12, Dem 16 and GOP 16.*

Philip Bump is a correspondent for The Post based in New York City. Follow @pbump

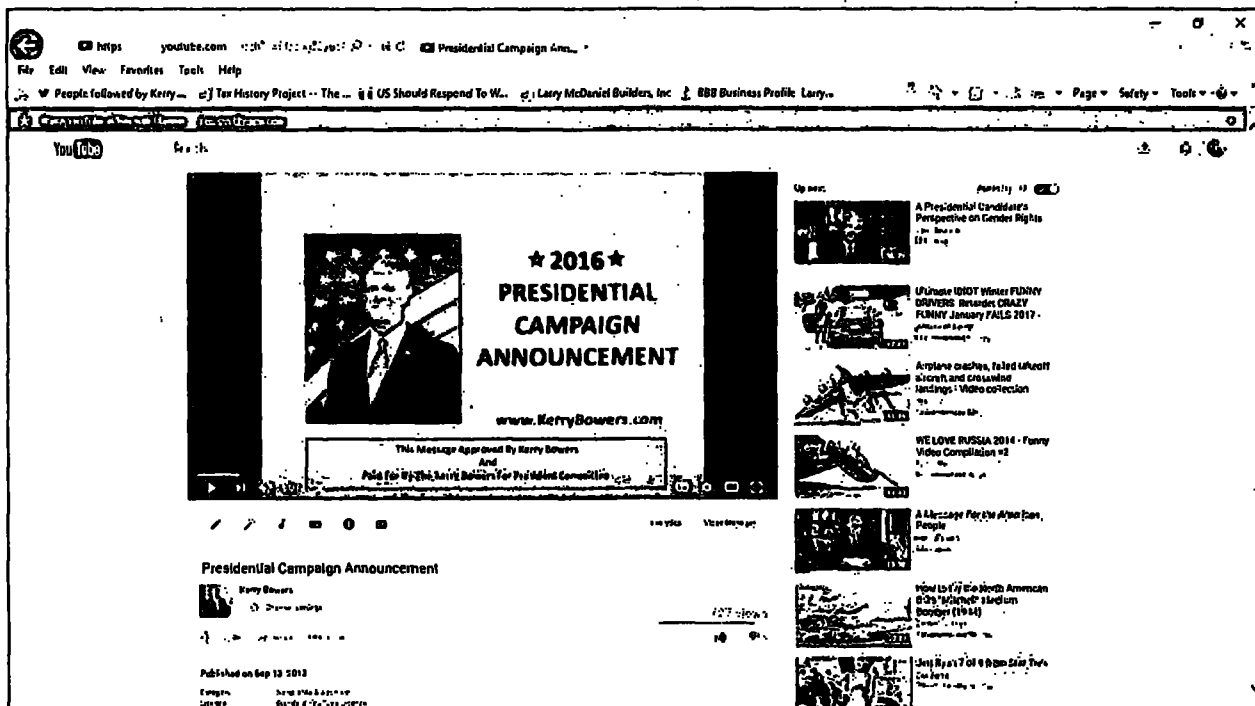
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# EXHIBIT B

The following graphic, submitted as Exhibit 'B', is a screenshot of the publicly-accessible YouTube® page reflecting the complainant's announcement on 13 September 2013 his candidacy for the Office of President of the United States. The page can be accessed via the internet at: <https://www.youtube.com/watch?v=MzcWj22uu5M>.



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# EXHIBIT C

The following graphic, submitted as Exhibit 'C', is a copy of the Las Vegas Sun, Sunday Magazine published 23 February 2014 and reflecting a general news article about the complainant's 2016 presidential campaign.

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**WE WANT TO HEAR FROM YOU**  
Send your political information to news@thesunday.com

**POLITICS**



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**GOVERNOR**

*You must:*  
Pay a \$300 filing fee.

Be at least 25 at the time of the election.

Not have changed major political party affiliation after Dec. 30 of the year preceding the election.

Not have been convicted of treason or a felony in any state.

Not have been ruled mentally incompetent.

Be citizen resident of Nevada for at least two years directly preceding the election.

File numerous documents with the Nevada Secretary of State's Office.

**STATE SENATE OR ASSEMBLY**

*You must:*  
Pay a filing fee of \$100

Be at least 21 by Election Day.

Be a citizen resident of Nevada for at least one year directly preceding the election.

Reside in the district to which the office pertains for at least the 30 days immediately before the close of candidate filing.

Not be convicted of embezzlement, bribery or misuse of public funds.

**PRESIDENT**

*You must:*  
Be natural-born U.S. citizen.

Be at least 35 years old.

Be a permanent resident of the United States for at least 14 years.

Be thick-skinned. OK, we just trust that in there.

**U.S. HOUSE**

*You must:*  
Be at least 25 years old

Be a citizen for at least seven years.

Live in the state you want to represent.

**U.S. SENATE**

*You must:*  
Be at least 30 years old.

Be a citizen for at least nine years.

Live in the state you want to represent.

**AND...**

To run for House of Representatives, Senate or president, it seems it's all about money: You must register with the Federal Election Commission once you, or someone on your behalf, receives contributions or makes expenditures in excess of \$5,000. Within 15 days of reaching that threshold, you must file a statement of candidacy authorizing a principal campaign committee to raise and spend



**Running for president, really?**

*Henderson veteran 'picking up the flag'*

**BY TOM GORMAN**  
STAFF WRITER

➔ This is how easy it is to launch a campaign for public office: Kerry Bowers, a Henderson retiree after 30 years in the Air Force, has never before sought election to anything.

Now he wants to be president.

You can mock him all you wish, but Dwight D. Eisenhower and Ulysses S. Grant each got elected



**BOWERS**

president in his first try for public office — although, unlike Bowers, they enjoyed public profiles.

But Bowers, 59, exudes an unmistakable military bearing, a keen focus and the ability to take heat. During Desert Storm, Bowers sat in the back seat of an F-4g Wild Weasel, baiting Iraqi ground missiles to zero in on his aircraft so he could target them with his own missiles. He won each duel.

Bowers, a Republican constitutionalist, believes that if enough people friend him on Facebook, share his tweets and spread the word of his home page (kerrybowers.com), his candidacy might spread like some political wildfire. (That said, more than 400 people with all the benefits of the Internet officially ran for president in 2012, and only a tiny

**EXHIBIT D**

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The following graphic, submitted as Exhibit 'D', is a copy of the Las Vegas Sun newspaper article published 5 March 2014 reflecting a general news story about the complainant's 2016 presidential campaign.

Goldsmith, 57, will enter the state prison system for a stretch of two host of charges following a 2008 brawl at a downtown wedding chapel

Even for Las Vegas, a city known for the unscripted, the event stand out: a fundraiser by one tough guy for another tough guy of a different stripe.

Citro had circulated an event flier using his own brand of streetwise humor: "Our pal, Pee-wee, and his son Brad will be leaving soon on a 'Government Sponsored Vacation.' With your help, they will be able to keep their lives in order at home." Any donations, he said, "will make sure Pee-wee and Brad know who their friends are."

Citro is a former boxer who's still sturdy as a fire hydrant. As emcee, he cruised the ballroom in a tuxedo, microphone in hand, extolling the guest of honor, whose nickname is a cartoonish misnomer.

Pee-wee (everyone calls Goldsmith that, so we will, too) stands 6 foot 8 and weighs 400 pounds. He wears size 16 shoes and his hands are ham hocks. His body is covered with tattoos of skulls and cherubs. A loner who has made a living off his mammoth body, he's a bouncer, hawler and bodyguard who calls people "bro."

Dressed in black, a gold necklace hanging from his neck, Pee-wee towered over a crowd of 150 people that mixed tough guys in fedoras, strong cologne and tailored suits with bikers in skullcaps, handlunas and wallet chains - one taking to the dance floor with a large knife handle sticking ominously from his back pocket. Table signs [See Going away, Page 4]

in a new UNLV stadium. It is also conducting between 20 and 30 telephone interviews with key community leaders, from agents to tourism officials, about the potential need.

In addition, CSL International plans to talk with several event promoters to see how many events could relocate to Las Vegas as a result of a new UNLV stadium.

The surveys are expected to be completed in a month.

During a two-hour presentation on Thursday, CSL International president Bill Rhoda went over various stadium models, from smaller collegiate stadiums, like the one at the University of North Texas, to major professional stadiums, like MetLife Stadium in New Jersey.

The proposed UNLV stadium must be a hybrid of the two types of stadiums, Snyder said. An on-campus stadium must accommodate football games but also cater to major events that could benefit the resort community and the Southern Nevada economy. [See Facility, Page 4]

POLITICS

Cooking an election campaign from scratch

Henderson veteran: 'How can I expect change if I'm not the one picking up the flag?'

By Tom Gorman  
This story first appeared in the Feb. 23 issue of The Sunday

This is how easy it is to launch a campaign for public office: Kerry Bowers, a Henderson retiree after 30 years in the Air Force, has never sought election to anything.

Now he wants to be elected president of the United States.

You can chortle and mock him all you wish, but it's not like a first-time office-seeker hasn't won the presidency before. Dwight D. Eisenhower's first elective office landed him in the White House, and nearly a century earlier, Ulysses S. Grant also got elected president in his first try for public office. For sure, they enjoyed public profiles; by comparison, a relatively minuscule number of people know Bowers.

But Bowers, 59, exudes an unmistakable military bearing,



Kerry Bowers and his wife Deb confer on his website, kerrybowers.com, which sets out Bowers' platform for a run at the presidency.

a keen focus and the ability to take heat. During Desert Storm, Bowers sat in the back seat of an F-4G Wild Weasel,

balting Iraqi ground missiles to zero in on his aircraft so he could target them with his own missiles. He won each duel.

He retired in 2006 and, as he puts it, heard a calling to seek the office of commander in chief. He's a Republican constitutionalist.

Bowers has campaign tools that Eisenhower and Grant could never have conjured, and which will give him access to free messaging from coast to coast: Facebook, Twitter and an Internet home page (kerrybowers.com) filled with messages, letters and videos. If enough people share his Facebook profile and his tweets and spread the word of his home page, he thinks his candidacy might spread like some political wildfire. (Reality check: More than 400 people with all the benefits of the Internet officially ran for president in 2012, and only a tiny fraction got traction.)

"We're averaging more than 500 visits a day and it's growing." [See Campaign, Page 5]

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# EXHIBIT E

The following spreadsheet, submitted as Exhibit 'E', is compiled directly from the Federal Election Committee's listing of Republican, Form 2 filers for the 2016 Presidential Election Year through the date of Senator Cruz's announcement.

Republican Registrants Only

1	P60004777	<u>LAROSE, JOSUE</u>	12/12/2008
2	P60004785	<u>COLE, BRIAN ARI DR</u>	8/14/2009
3	P60003175	<u>KALEMKARIAN, TIMOTHY CHARLES</u>	2/3/2011
4	P20002929	<u>DAY, TIMOTHY TERRELL</u>	6/11/2012
5	P20000089	<u>FELLURE, LOWELL JACKSON</u>	10/29/2012
6	P60004819	<u>KINLAW, MICHAEL WAYNE</u>	11/13/2012
7	P60004827	<u>MIMS, TIFFANI EL DAWN</u>	11/27/2012
8	P60004835	<u>KELLER, MARC ALEXANDER PAUL</u>	1/24/2013
9	P20003216	<u>STAGG, SILVIA</u>	3/13/2013
10	P00003756	<u>MARTISKO, MIKE BENJAMIN</u>	3/22/2013
11	P20002986	<u>GRISKIE, CHRISTIN NOEL</u>	4/29/2013
12	P60004884	<u>STEVENS, SHERLENE D</u>	5/29/2013
13	P60004892	<u>TOMLINSON, DWAYNE ALAN</u>	6/3/2013
14	P20002309	<u>DRAKE, PATRICK ANTHONY</u>	8/21/2013
15	P60004934	<u>CROTZER, EZEKIEL GEORGE</u>	8/24/2013
16	P60004942	<u>RUSSELL, BRIAN PATRICK KETTERER</u>	9/3/2013
17	P60004975	<u>DIGGS, MICHAEL WAYNE</u>	9/9/2013
18	P20002861	<u>HUNT, EUGENE ROSELL JR</u>	10/17/2013
19	P60005089	<u>LEONARD, JERRY L</u>	10/31/2013
20	P60005121	<u>ALLEN-REESE, POGO MOCHELLO</u>	1/21/2014
21	P20004446	<u>JULIUS, TYRONE</u>	2/18/2014
22	P60005162	<u>DEBOW, PAUL W MR</u>	2/20/2014
23	P60005170	<u>SCHIESS, JOHN THEODORE</u>	2/21/2014
24	P20002499	<u>DUMMETT, JOHN ALBERT JR</u>	3/10/2014
25	P80003957	<u>BAILEY, GEORGE BRENT JR</u>	3/19/2014
26	P60005253	<u>LOWER, BARTHOLOMEW JAMES</u>	4/2/2014
27	P60005261	<u>JUSTICE, BRENDA DAWN</u>	4/15/2014
28	P80003239	<u>SAVIOR, OLE</u>	4/15/2014
29	P60005279	<u>BOWERS, KERRY DALE</u>	4/28/2014
30	P60002458	<u>JEWELL, ROGER</u>	4/29/2014
31	P60005303	<u>FOX, CHERUNDA LYNN</u>	5/15/2014
32	P40000820	<u>MCDOWELL, EDDIE</u>	5/30/2014
33	P40003584	<u>CAVANAGH, ERIC SCOTT</u>	6/2/2014
34	P60005345	<u>SHERMAN, JEFFERSON WOODSON</u>	6/10/2014
35	P60002771	<u>BROWN, SAMMY MUREL</u>	6/30/2014
36	P00003814	<u>MALONE, JOAN</u>	7/31/2014
37	P60005410	<u>MARKOVICH, BARBARA MAE ADAMS</u>	8/2/2014
38	P20002838	<u>HILL, CHRISTOPHER V</u>	8/28/2014
39	P60005451	<u>COLE, SCOTT MICHAEL</u>	9/10/2014
40	P60005501	<u>CHRISTENSEN, DALE H</u>	10/8/2014
41	P60005592	<u>ANDREWS, CHARLES PERRY III</u>	11/10/2014
42	P60005626	<u>PETYO, MICHAEL EDWARD</u>	12/9/2014
43	P60005691	<u>OLEWINE, SCOT GRANT</u>	12/31/2014
44	P00004861	<u>BICKELMEYER, MICHAEL</u>	1/1/2015
45	P60005709	<u>DUCKWALD, WANDA GAYLE</u>	1/9/2015
46	P20004289	<u>HAYDEN, JAMES A</u>	1/23/2015
47	P20002051	<u>RUNDBERG, JIM L</u>	2/2/2015
48	P60005923	<u>BRUCATO, GEORGE JAMES</u>	2/27/2015
49	P60005857	<u>HYDE, JUSTIN NICHOLAS MR.</u>	2/27/2015
50	P60005972	<u>EVERSON, MARK</u>	3/10/2015
51	P60006004	<u>LAUREL-SMITH, ABBEY SAMUEL MR</u>	3/11/2015
52	P60005998	<u>LAUREL-SMITH, ABBEY SAMUEL MR</u>	3/11/2015
53	P60006012	<u>MITCHELL, JAMES CREIGHTON MR JR</u>	3/11/2015
54	P20003653	<u>STORY, RICKEY JOE</u>	3/11/2015
55	P60006053	<u>ANDERSON, JOSEPH EDWARD DR. JR.</u>	3/17/2015
56	P60006111	<u>CRUZ, RAFAEL EDWARD "TED"</u>	3/23/2015

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# EXHIBIT F

The following receipt and accompanying picture (next page), submitted as Exhibit 'F', are copies of (1) the receipt for the 2014 Republican Leadership Conference (RLC) held in New Orleans, LA, 29-31 May 2014, and (2) a picture of FEC-registered Republican presidential candidate Kerry D. Bowers and his wife, Deb, at their presidential-campaign exhibit booth in the main exhibit hall at the subject RLC event.

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*Please print and bring with you to the event*

## Republican Leadership Conference



300340447


Thursday, May 29, 2014 at 2:30 PM - Saturday, May 31, 2014 at 4:30 PM (CDT)

Hilton New Orleans Riverside  
2 Poydras Street  
New Orleans, LA 70140


Paid with Check

Order #300340447. Created by Kerry Bowers on May 28, 2014 11:24 AM

#4 VIP Registration \$499.00

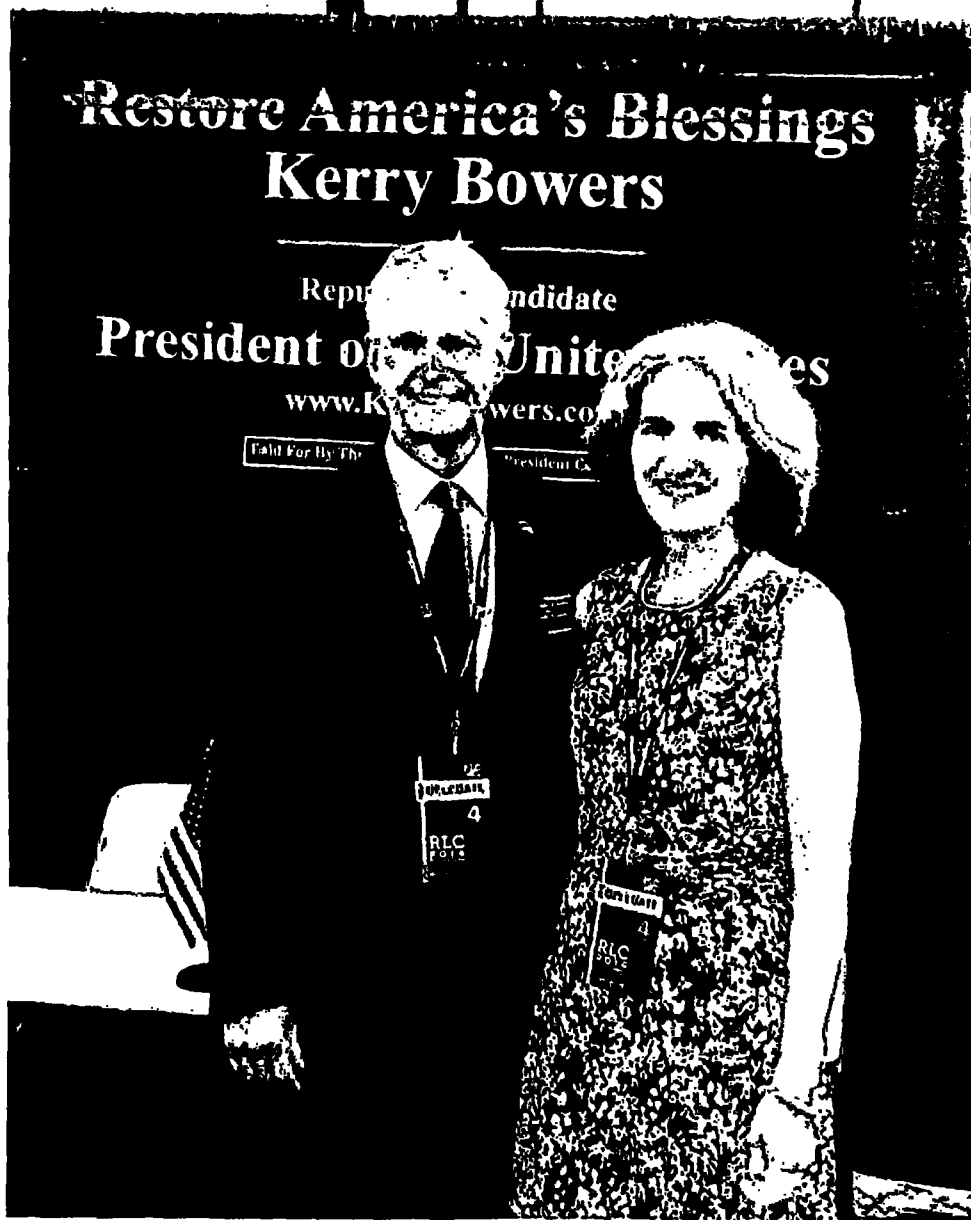


Please print and bring this registration summary to the event entrance.

  
300340447379735907001

**Do you organize events?**  
Scan QR code or visit [www.event114.com](http://www.event114.com)

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Kerry and Deb Bowers at the 2014 Republican Leadership Conference  
New Orleans, LA