

**IN THE
OHIO ELECTIONS COMMISSION**

Clifford O. Arnebeck, Jr., Esq.
1021 E. Broad St.
Columbus, OH 43205

Case No.

Exhibit:

Complainant,

v.

Partnership for Ohio's Future
230 East Town St.
P.O. Box 15159
Columbus, Ohio 43215-0159

Respondent.

AFFIDAVIT AND COMPLAINT

STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

I, Clifford Arnebeck, having been duly cautioned and sworn, state as follows based upon personal knowledge:

1. This is a two count complaint against The Partnership for Ohio's Future an affiliate of the Ohio Chamber of Commerce that replaced Citizens for a Strong Ohio against whom I litigated between 2000 and 2005.
2. The first count is that the expenditures of The Partnership for Ohio's Future are not truly independent but rather had been coordinated with the Republican candidates, their agents, committees, parties and their *de facto* coordinated national campaign being directed by Karl Rove. As such the expenditures of the Partnership for Ohio's Future constitute in-kind contributions which are properly subject to the limitations prescribed by Ohio law for political contributions.
3. The second is for the false statement contained in the advertisements of the Partnership for

Ohio's Future: "not authorized by a candidate or candidate committee." This statement is false and is made with either knowledge of the falsity of the statement or with reckless disregard as to the falsity of the statement, all for the purpose of influencing a candidate election.

5. Some background information is necessary in regard to this complaint. That background is part of the basis for my personal knowledge of the matters addressed. The broader context of this matter as laid out below also provides evidence of the coordination between the donors and the candidates and their campaigns which supports a finding of probable cause as to both counts of the complaint.

6. During the 2000, 2002 and 2004 election cycles I represented The Alliance for Democracy and American Friends Service Committee of Northeast Ohio in complaints before the Ohio Elections Commission concerning the elections to The Supreme Court of Ohio against Citizens for a Strong Ohio and Informed Citizens of Ohio, organizations functioning as extensions of the Ohio Chamber of Commerce.

7. During the 2004 election cycle I also represented individual voters and The Alliance for Democracy in challenges to the presidential election and the chief justice election before the Ohio Supreme Court and, in the case of the presidential election, continued to pursue that matter in United States District Court in Columbus. I also represented the NAACP National Voter Fund in defending it against a Republican racketeering claim under the Ohio corrupt practices act against the NAACP and other voter registration groups in a case that was brought in Wood County, Ohio.

8. In 2006 I filed suit in United States District Court in behalf of various civil rights groups and a youth organization in regard to an ongoing conspiracy by Ohio Secretary of State Kenneth Blackwell and others to deprive blacks and young voters of voting rights and to manipulate vote counts to their disadvantage.

9. In 2007 I issued document hold notices to the Ohio Chamber of Commerce in connection with the contemplated state RICO claim under the Ohio Corrupt Practices Act in connection with corrupting elections in Ohio with corporate money.

10. In 2008, specifically July 17, 2008, I issued further document hold notices to the United States Chamber of Commerce and to the United States Department of Justice in regard to documents and in regard to e-mails of Karl Rove that originated out of the White House. This was also in connection with the contemplated state RICO claim in which we identified Karl Rove as the principal perpetrator in an Ohio racketeering conspiracy. We also identified Rove's computer guru Michael Connell as the key witness in regard to the full scope of this activity. The document hold notices were accompanied by a news conference calculated to bring these activities to the public attention.

11. Within days of this news conference, an anonymous tip, deemed credible by our cyber security expert who was both a friend and political and professional colleague of Mike Connell, was

delivered to me to the effect that Karl Rove had threatened witness Michael Connell. The nature of the reported threat was to induce Michael Connell to "take the fall" for the theft of the 2004 presidential election. Michael Connell had a contract with Kenneth Blackwell to set up the website in the Secretary of State's office and handle various aspects of the state computer system for tabulation of votes in both the 2004 and 2006 election cycles. Mike Connell brought SmartTech, the company that hosted a broad spectrum of Republican websites including the presidential campaign website for George W. Bush in 2004, the Republican National Committee, into the Ohio Secretary of State's office. Connell and SmartTech were also involved with other third party groups holding themselves out as independent from the Republican Party and the Republican campaign, including but not limited to Swift boat Veterans for Truth.

12. I advised law enforcement authorities, investigative press corps, and federal court chambers of the reported credible threat against the key witness that we had identified.

13. I proceeded to seek and obtain a court order requiring Michael Connell's attendance in federal court in Cleveland for the argument of his motion to quash the subpoena which we had served upon him. The court ordered the deposition to go forward on the day preceding the 2008 election. I deposed him as ordered by the court. In his deposition it was clear that Michael Connell had no intention of taking the fall for the theft of the 2004 presidential election. Furthermore, when pressed with appropriate follow-up questions, Michael Connell appeared to be a person who would not lie under oath.

14. On December 19, 2008 Michael Connell died in a plane crash returning from Washington, DC to his home Akron Canton Airport.

15. The anonymous tipster had identified Enterprise Alabama as the center of Rove's election stealing operation. In September 2008 I contacted intelligence investigative reporter Wayne Madsen for information about Enterprise, Alabama. He directed me to John Caylor, an investigative reporter for Enterprise. I talked to Caylor on September 10, 2008 and he related a variety of stories about organized crime activity in Enterprise.

16. On March 4, 2009 I was contacted by a retired Florida police officer named Doc Tomkiel urging me to protect John Caylor who was then in Washington, DC seeking witness protection status of the Department of Justice. I contacted Caylor and agreed to take his dying declaration, as, among other things, a protective mechanism.

17. I briefed a federal magistrate judge in a pending case in federal court and three attorneys from the Ohio Attorney General's office in regard to John Caylor's testimony. Caylor spent some 30 years studying the criminal racketeering enterprise named The Enterprise after Enterprise, Alabama. I made Caylor's testimony available to the FBI. I also filed with the federal court a notice of this submission of Caylor's dying declaration under seal.

18. In September 2009 letter was mailed to the Federal Bureau of Investigation in Cleveland by a

person using the pseudonym of Mark Felt. With this letter was enclosed what purported to be an operations report on the termination of Michael Connell as a national security threat. The letter indicated that six copies had been sent out, and one of those copies was sent to me. I have attached a copy of that letter.

19. In the earlier part of 2010 I received a letter from Brad Smith as the election attorney for the Ohio Chamber of Commerce in regard to the possible termination of the document hold notice to the Ohio Chamber of Commerce in view of the Citizens United States Supreme Court decision in January of 2010.

20. I indicated to Brad Smith that we were proceeding to organize a private action under the state RICO statute in the event that the State of Ohio and the U.S. Justice Department did not agree to take up the task to hold accountable Karl Rove and Tom Donahue with respect to an election corruption enterprise that we believe began in 2000, in which Donahue committed funds to Rove and Rove committed government deregulation and everything else that business wanted in the course of a George W. Bush administration. This election corruption enterprise had both a state prong focusing upon creation of "business friendly" state supreme courts and a federal component focusing upon controlling the presidency and the United States Senate to assure appointment of "business friendly" Supreme Court justices.

21. I have a confidential source who personally witnessed Karl Rove and Tom Donohue coordinating their activities to determine the outcome of a state Supreme Court election.

22. The importance of Michael Connell's demise is that he was a non-criminal professional actor who had been the architect of the computer aspects of this corrupt enterprise who, when pressed, would tie together the full spectrum of this enterprise as the activities of a single enterprise and as a coordinated pattern of activity directed by Rove. Attached is Bob Fittrakis' article in the Free Press on Michael Connell as Rove's computer guru.

23. In the current election cycle the election corruption enterprise of Rove and Donahue is being manifested through the influx of billionaire/global corporate money where the actual source of the funding and speech is concealed. It is also being spread across the full spectrum of campaigns that will determine not just the composition of Congress for the next two years but also the composition of state apportionment boards that will draw the lines that will determine the partisan mix of state legislatures and state congressional delegations for the next 10 years as well as the state courts and possibly the U.S. Senate with the effect of further curtailing the ability of the Democratic President to secure confirmations to the U.S. Supreme Court and other high offices of his choices for those offices. It is also being spent exercise partisan control over the Ohio Supreme Court.

24. Karl Rove has admitted as recently as in his interview with Bob Schieffer on CBS's Face the Nation on Sunday, October 24, 2010, that he is asking for the money. What he does not say but is clear from the background is that he is doing so as an agent for the full spectrum Republican national campaign to maximize their influence and control of governments for the next 10 years.

See NPR report of October 27, 2010 and New York Times "Pro -G.O.P. Groups Prepare for Big Push at End of Races" and New York Times "Large corporate donations help U.S. Chamber of Commerce influence politics: Analysis."

25. Thomas Donahue as head of the United States Chamber of Commerce has been quite outspoken and proud of his accomplishments in delivering vast sums of money to Karl Rove and to Karl Rove's operations often through nonprofit corporate entities the names of which conceal the identity and character of the actual contributors.

26. As reported in the Wall Street Journal by Jim VandeHei on September 11, 2001, VandeHei was able to obtain four one million-dollar checks that had been given to the United States Chamber of Commerce for use in their campaign to influence state Supreme Court elections. The four companies identified were Wal-Mart Stores Inc., DaimlerChrysler AG, Home Depot Inc. and the American Council of Life Insurers. The 2005 final hearing before the Ohio Elections Commission on the complaint of the Alliance for Democracy against Citizens for Strong Ohio and the Ohio Chamber of Commerce, Chip McConville, the designated witness for the Ohio Chamber and Citizens for Strong Ohio admitted that the United States Chamber of Commerce had spent \$3 million in their expenditures to influence the O'Donnell/Resnick Supreme Court race. Inasmuch as Ohio and Mississippi were the primary target states for the US chamber in the 2000 election cycle and expenditures in Mississippi were reported as being approximately \$1 million it would appear that one fourth of the US chamber's expenditure in the Ohio campaign was from a foreign corporation. In a meeting I had with Lloyd Mahaffey of the United Auto Workers he told me that when representatives of Daimler Chrysler were confronted by the union concerning their expenditures to influence the Ohio Supreme Court race in 2000 as reported by the Wall Street Journal, their representatives assured Mahaffey that the decision to make that contribution was made in Germany.

27. The manifestation of this that is within the jurisdiction of the Ohio Elections Commission is in the secret corporate money being infused into two of the Ohio Supreme Court elections in an amount and in a way which will determine the outcome of those elections unless the public is informed before the election of the probable fact that these are illegal in-kind contributions to these campaigns, in violation of R.C. 3517.102, R.C. 3517.105 and R.C. 3599.03. If the corrupt nature of this coordinated rather than independent expenditure of funds is not exposed, the court will in all probability return to a one party Republican monopoly of the Ohio Supreme Court.

28. It should be noted that Supreme Court Justice Paul Pfeiffer, while a Republican, vigorously condemned the Chamber attack on Justice Resnick in the 2000 election cycle, and has been a consistent outspoken critic of the corporate spending to influence the state Supreme Court elections. Furthermore, in universal acknowledgment of his independence and integrity as a jurist Republican Party spokesmen such as former Governor Taft had expressed displeasure and disinterest in supporting the candidacy of Paul Pfeiffer even though he was seeking reelection as the Republican candidate on the Ohio Supreme Court. And, the Democratic Party has not nominated a candidate to oppose Senator Pfeiffer's reelection in either the 2004 or 2010 election

cycles. Other than another Republican justice, Justice Douglas, who served on the court through 2002 the other Republican justices have not rejected or criticized the expenditure of corporate money to support Republican only judicial candidates deemed "business friendly" by the United States and Ohio Chamber of Commerce.

29. On June 1, 2001, I was confidentially informed by a member of our joint Alliance for Democracy/Common Cause/Ohio litigation team against the Ohio Chamber of Commerce and United States Chamber of Commerce in connection with their attack upon Justice Resnick in the 2000 election cycle that a reliable confidential informant had reported that there had been a series of meetings during 2000 among the leaders of the various branches of Ohio government, including the chief justice, Moyer and Governor Bob Taft in which there had been a consensus that something had to be done about justice Resnick and the "gang of four" on the Ohio Supreme Court. Furthermore, I was advised that there had been a meeting of Chief Justice Tom Moyer and Republican candidate Terrence O'Donnell, the challenger to Democratic Justice Alice Robie Resnick with Andy Doehrel the president of the Ohio Chamber of Commerce.

30. The current beneficiary of this advertising, Maureen O'Connor, served as Lieutenant governor at the time Governor Taft was actively soliciting funds for Citizens for a Strong Ohio. Though a lawyer, like Governor Taft, Maureen O'Connor did not speak out in opposition to the Chamber's attack ads against justice Resnick as Reginald Jackson, in his capacity as President of the Ohio State Bar Association, called upon all lawyers and judges to do. Furthermore, Maureen O'Connor advertised on her 2008 website the fact that she had spoken to the AIG Corporation. AIG and the Starr Foundation were headed at the time by Hank Greenberg who contributed in excess of \$17 million to the United States Chamber of Commerce Institute for Legal Reform, out of which the Chamber's advertising to influence state Supreme Court elections was funded.

31. In the current advertising by the Partnership for Ohio's Future the ad states that it is not authorized by a candidate or candidate's committee. The statement is false and is being made with knowledge or reckless disregard of its falsity for the purpose of influencing a candidate election, in violation of Ohio Revised Code 3517.21(B)(10). The ads are plain and simply campaign ads in support of the candidacies of Republican candidates O'Connor and Lanzinger--together or separately. The varying expenditure level appears to be based upon polling data indicating how much advertising is needed to ensure the victory of each of those candidates in the current cycle. The funding and the advertising are authorized by the candidates in every sense other than formally and officially, in violation of R.C. 3517.102 and R.C. 3517.20.

32. Consistent with the national strategy of Rove and Donahue The Partnership for Ohio's Future has reneged on the Ohio Chamber's commitment made after the 2000 election to disclose the name names of donors to what they claimed to be there independent expenditures for issue advertising.

33. A finding of probable cause to believe that this secret money is an in-kind contribution to these campaigns will alert the public to the nature of the source of this money before the election.

34. Further, a finding of probable cause will enable private parties seeking to uphold the integrity of the election process to conduct discovery to prove their case which under the Ohio racketeering statute must be done as a prerequisite to an assertion of criminal liability on the part of Partnership for Ohio's Future for making illegal expenditures to influence a candidate election in coordination with, rather than independently of the candidates for the election.

W H E R E F O R E ,
plaintiff respectfully requests that respondents be found in violation of Ohio revised code sections 3517.102, 3517.105, 3599.03, 3517.21(B)(10) and 3517.20 and that may be appropriately sanctioned.

FURTHER AFFIANT SAYETH NAUGHT

Clifford O. Arnebeck, Jr. (0033391)

Sworn to and subscribed before me this 28th day October 2010.

Notary Public