

IN THE DISTRICT COURT OF LOGAN COUNTY
STATE OF OKLAHOMA

LOGAN COUNTY CLERK
JULIA WOODRUFF
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RENE ANNA DEER
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BY _____ DEPUTY

GARY JONES,)
)
Plaintiff,)
)
vs.)
)
STEVE PHIPPS; LARRY WITT;)
EDDIE HARPER, as Guardian of the)
Estate of EUGENE E. STIPE, also)
known as Gene Stipe, an incapacitated)
person; EUGENE E. STIPE,)
Individually; TIM ARBAUGH; JEFF)
McMAHAN; LORI McMAHAN;)
RANDY DITTMAN; CLIFTON)
SCOTT; PHIPPS ENTERPRISES,)
INC.; RY-SON OIL CORPORATION;)
and CORPORATE FINANCING)
GROUP, INC.,)
)
Defendants.)

Case No. CJ-2009-353



PETITION

Plaintiff Gary Jones for his causes of action against Defendants Steve Phipps, Larry Witt, Eddie Harper, as Guardian of the Estate of Eugene E. Stipe, also known as Gene Stipe, an incapacitated person, Eugene E. Stipe, Individually, Tim Arbaugh, Jeff McMahan, Lori McMahan, Randy Dittman, Clifton Scott, Phipps Enterprises, Inc., Ry-Son Oil Corporation, and Corporate Financing Group, Inc., alleges and states:

The Parties

1. At all times herein mentioned, Plaintiff was and now is a resident of Comanche County, Oklahoma.

2. At all times herein mentioned, Defendant Tim Arbaugh (“Arbaugh”) was and now is a resident of Logan County, State of Oklahoma.

3. At all times herein mentioned, Defendant Steve Phipps (“Phipps”) was and now is a resident of Pittsburg County, State of Oklahoma.

4. At all times herein mentioned, Defendant Larry Witt (“Witt”) was a resident of Payne County, State of Oklahoma, and now is a resident of Oklahoma County, State of Oklahoma.

5. At all times herein mentioned, Defendant Eddie Harper (“Harper/Stipe”), was and now is a resident of Pittsburg County, State of Oklahoma, and the Guardian of the Estate of Eugene E. Stipe, also known as Gene Stipe, an incapacitated person, who also was at all relevant times and now is a resident of Pittsburg County, State of Oklahoma.

6. At all times herein mentioned, Defendant Eugene E. Stipe, also known as Gene Stipe (“Gene Stipe”), was and now is a resident of Pittsburg County, State of Oklahoma.

7. At all times herein mentioned Defendant Jeff McMahan (“Jeff”) was and now is a resident of Pottawatomie County, State of Oklahoma, and is currently incarcerated in the Federal Bureau of Prisons’ facility in the State of Tennessee.

8. At all times herein mentioned Defendant Lori McMahan (“Lori”) was and now is a resident of Pottawatomie County, State of Oklahoma, and is currently incarcerated in the Federal Bureau of Prisons’ facility in the State of Texas.

9. At all times herein mentioned, Defendant Randy Dittman (“Randy”) was and now is a resident of Tulsa County, State of Oklahoma.

10. At all times herein mentioned, Defendant Clifton Scott (“Scott”) was and now is a resident of Pottawatomie County, State of Oklahoma.

11. At all times herein mentioned, Defendant Phipps Enterprises, Inc. (“Phipps Enterprises”) was and now is an Oklahoma for-profit business corporation.

12. At all times herein mentioned, Defendant Ry-Son Oil Corporation (“Ry-Son”) was and now is an Oklahoma for-profit business corporation.

13. At all times herein mentioned, Defendant Corporate Financing Group, Inc. (“Corporate Financing”) was and now is an Oklahoma for-profit business corporation.

Jurisdiction and Venue

14. The Court has jurisdiction over the parties and the subject matter of this action, and venue is proper in this Court.

Fact Allegations

15. At all relevant times herein mentioned, Plaintiff was and now is a certified public accountant and a registered member of the Republican Party.

16. As a result of Plaintiff’s desire to serve the State of Oklahoma as its Auditor and Inspector in a professional and honorable manner, Plaintiff made the decision to run for the Office of State Auditor and Inspector.

17. On or about July 2002, Plaintiff officially entered the race for the Office of State Auditor and Inspector and made the necessary commitment of time and resources to be a viable candidate for that statewide office.

18. As a result of Plaintiff’s efforts, he became the Republican candidate for that

office in the general election that was to be held November 5, 2002.

19. Plaintiff's Democratic opponent for that office was Defendant Jeff McMahan ("Defendant Jeff") and Plaintiff campaigned against Defendant Jeff for the Office of State Auditor and Inspector during the year 2002.

20. On or about 1984, legislation was enacted that authorized the State Auditor and Inspector to permit and license abstract companies that conduct business in the State of Oklahoma. That legislation was set forth in 74 O.S. §§ 227.11 et seq.

21. The enactment of the aforesaid legislation vesting the licensing and permit power in the Office of the State Auditor and Inspector resulted in the holder of that office, Defendant Scott, limiting competition among abstractors, creating anti-competitive practices, and increasing prices to consumers involved in real estate transactions.

22. Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, and the Corporate Defendants were at all relevant times herein mentioned engaged in the abstract business in various counties in the State of Oklahoma and benefitted financially from the limitation of competition among abstractors. Hereinafter, Defendants Phipps Enterprises, Ry-Son and Corporate Financing shall be referred to as the "Corporate Defendants".

23. For approximately twenty (20) years, Defendant Scott was the holder of the office of State Auditor and Inspector as a result of being elected by the voters to that position.

24. Beginning during the time that Scott held the Office of State Auditor and Inspector, Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Dittman, and the Corporate Defendants conceived a plan and scheme to limit their competition in the abstract business

by influencing the State Auditor and Inspector to deny permits and licenses to their competitors, and Defendant Scott aided and abetted those Defendants by denying permits and licenses to all of their potential competitors during the years he was State Auditor and Inspector, *i.e.*, from 1982 to 2002.

25. While Defendant Scott was Oklahoma's State Auditor and Inspector, no new permits or licenses to conduct abstract business were granted as a result of approval being given by the Office of State Auditor and Inspector.

26. Plaintiff made the decision to seek the Office of State Auditor and Inspector in 2002 following Defendant Scott's announcement that he was not seeking re-election to that office, and Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Dittman, Scott and the Corporate Defendants made the decision to support the candidacy of Defendant Jeff.

27. Defendants Phipps, Witt, Harper/Stipe, Gene Stipe, Arbaugh and the Corporate Defendants were anxious and desirous of retaining the monopolistic policies of the State Auditor and Inspector, Defendant Scott, to exclude competitors in the abstract business by denying permits to and licensing of potential competitors.

28. These Defendants realized that Plaintiff in 2002 was conducting a vigorous campaign as Defendant Jeff's opponent in the general election for the Office of State Auditor and Inspector, and Defendant Jeff's own internal poll determined that Defendant Jeff was behind and likely to lose the election to Plaintiff.

29. When Plaintiff entered the race for the Office of State Auditor and Inspector in 2002, Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh, Dittman, Scott and

the Corporate Defendants conspired to defeat Plaintiff and to ensure Defendant Jeff's election to the Office of State Auditor and Inspector because these Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh, Dittman and the Corporate Defendants believed that Defendant Jeff would continue the practice of the former Democratic State Auditor and Inspector, Defendant Scott, and deny abstract permits and licenses to potential competitors and thereby limit competition where these Defendants conducted their abstract businesses.

30. Without just cause, and with the malicious intent to defeat Plaintiff and elect Defendant Jeff, Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh, Dittman, Scott and the Corporate Defendants conspired together to violate the State's election contribution laws set forth in 21 O.S. § 187.1 that, *inter alia*, prohibited any person or family from contributing more than Five Thousand Dollars (\$5,000.00) in any calendar year to a candidate for state office, and further prohibited any candidate from knowingly accepting contributions in excess of \$5,000.00 from any person or family.

31. In pursuit of their conspiracy to help elect Defendant Jeff as State Auditor and Inspector, Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh, Dittman, Scott and the Corporate Defendants utilized a scheme of straw donors to contribute monies to Defendant Jeff in violation of 21 O.S. § 187.1 whereby in actuality Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Dittman, Scott and the Corporate Defendants provided the funds to donate to Defendant Jeff's campaign in the names of these straw or bogus donors.

32. As a result of the unlawful conspiracy and in its pursuit, Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh and the Corporate Defendants secured individuals

as straw donors who collectively contributed in excess of One Hundred Fifty-Seven Thousand Dollars (\$157,000.00) to Defendant Jeff's campaign for his election to the Office of State Auditor and Inspector and to defeat Plaintiff in the general election.

33. In further pursuit of their scheme and conspiracy during the 2002 election campaign, when Defendants exhausted their potential straw donors, Defendants Phipps and Arbaugh arranged a meeting with Defendants Jeff and Lori at a restaurant in Shawnee, Oklahoma, and at that meeting, Defendant Phipps delivered to Defendant Lori the sum of Ten Thousand Dollars (\$10,000.00) cash for Defendant Jeff's 2002 campaign which said donation was in violation of the State's election contribution laws.

34. By reason of these events and the corruption and conspiracy of Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh, the McMahans, Dittman, Scott and the Corporate Defendants, Defendant Jeff's election campaign was well-funded and enabled Defendant Jeff to have at least \$157,000.00 in ill-gotten and illegal donations to help defeat Plaintiff in the November 2002 general election.

35. Without any knowledge of the Defendants' conspiracy and scheme, Plaintiff relied on and utilized the accuracy and integrity of the information that Defendant Jeff submitted to the State Ethics Commission in formulating his campaign strategies and spending moneys and that he borrowed and raised during the 2002 campaign for the Office of State Auditor and Inspector.

36. Defendant Jeff defeated Plaintiff in the November 2002 general election by approximately 28,000 votes out of a total of approximately 1 million votes that were cast.

37. Subsequently, when the United States government following a lengthy investigation prosecuted Defendants Phipps, Jeff and Lori, Defendant Phipps testified under oath in the trial conducted in the United States District Court for the Eastern District of Oklahoma, Case No. CR-08-12-JHP, that he and others cheated Plaintiff out of the 2002 election. His precise testimony given on June 3, 2008 was:

... because this Defendant's opponent was complaining that he was being cheated out of the election. (*referring to Defendant Jeff and the opponent as Plaintiff*)

A. Yes Sir.

Q. And he was right, wasn't he?

A. Yes, Sir.

A copy of pages 51 and 52 of the trial transcript are attached hereto as Exhibit "1" and incorporated by reference herein.

38. During Defendant Jeff's first term as Oklahoma's State Auditor and Inspector, there was only one permit and license granted to persons seeking to engage in the abstract business, and that one person approved was one of Defendant Jeff's large campaign contributors.

39. Without any knowledge of the conspiracy and scheme of Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh, Dittman, Scott and the Corporate Defendants, Plaintiff made the decision to run for the Office of State Auditor and Inspector in 2006 as a result of the strong support that he had received during the 2002 election campaign for that position.

40. At the time Plaintiff made the decision to seek the Office of State Auditor and

Inspector, Plaintiff did not know of these Defendants' scheme and conspiracy to keep Defendant Jeff in the Office of State Auditor and Inspector by utilizing illegal campaign tactics, *i.e.*, straw donors and gifts in violation of this State's election contribution laws.

41. Plaintiff spent his time, energy and resources during the 2006 election campaign and process and was once again defeated by Defendant Jeff for the Office of State Auditor and Inspector. During that election campaign, Defendant Jeff was illegally benefitted again by financial contributions made by these Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh, Dittman, Scott and the Corporate Defendants using the scheme of straw donors.

42. Defendant Jeff defeated Plaintiff in the November 2006 General Election by approximately 30,500 votes out of a total of approximately 908,000 votes cast.

43. In the 2006 General Election, Defendant Jeff had secured illegal donations made to help defeat Plaintiff and keep Defendant Jeff in the Office of State Auditor and Inspector in order to aid and abet the conspiracy and scheme of Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Arbaugh, Dittman, Scott and the Corporate Defendants.

44. As a result of the abstract business regulatory abuses by the Office of State Auditor and Inspector and the criminal prosecution of Defendants Jeff, Lori and Phipps, the Oklahoma Abstractors Board was created in 2008 and Defendant Dittman was appointed by the Governor to serve on that Board.

45. When it later became known during the prosecution of Defendants Jeff and Lori in 2008 that Defendant Dittman was engaged in the conspiracy and scheme to channel

moneys illegally into Defendant's Jeff 2006 campaign, Defendant Dittman resigned from that Board.

46. Plaintiff is informed and believes and thereon alleges that sometime after 2006, Defendant Harper/Stipe became the guardian of the Estate of Eugene E. Stipe, an incapacitated person, and that Defendant Stipe became incapacitated subsequent to the 2006 General Election.

47. Plaintiff further alleges that at all relevant times during the 2002 and 2006 election years, Defendant Stipe was mentally competent and a witting participant in the plan and scheme to limit competition in the abstract business as hereinabove alleged.

48. Plaintiff is informed and believes and thereon alleges that Defendants Phipps Enterprise and Corporate Financing were at all relevant times holding companies for stock owned in abstract companies that Defendants Phipps, Harper/Stipe, Gene Stipe and Witt owned and/or controlled.

49. Plaintiff is informed and believes and thereon alleges that Defendant Ry-Son was at all relevant times owned and/or controlled by Defendant Witt.

50. Plaintiff is further informed and believes and thereon alleges that Defendant Corporate Financing was at all relevant times owned and/or controlled by Defendants Phipps/Harper/Stipe and Witt.

51. Plaintiff is further informed and believes and thereon alleges that Defendants Phipps, Harper/Stipe, Gene Stipe and Witt utilized the Defendants Corporate as holding companies for abstract business entities that those Defendants owned and/or controlled, and

at all relevant times, used those Corporate Defendants to further their conspiracy and scheme to stifle abstract business competition and to elect Defendant Jeff to the Office of State Auditor and Inspector.

FIRST CLAIM – FOR FRAUD

52. Plaintiff incorporates by reference Paragraphs 1 through 52 as though set forth in full herein.

53. Defendants Witt, Phipps, Harper/Stipe and Gene Stipe represented to the State of Oklahoma Ethics Commission and thereby to the people of the State of Oklahoma including Plaintiff that they made no contribution to Defendant Jeff in any calendar year of a sum in excess of Five Thousand Dollars (\$5,000.00), and Defendant Jeff represented that he had not knowingly accepted contributions in excess of \$5,000.00 from any one person or family in the calendar year 2002.

54. The representations described herein were false when made by these Defendants and Defendants knew they were false and designed to carry-out their scheme and conspiracy to cause Defendant Jeff to be elected State Auditor and Inspector, to defeat Plaintiff's bid to be elected to that office, to violate the campaign contribution laws, and to enjoy personally and through the Corporate Defendants the financial benefits of limiting those persons who could compete against them in the abstract business.

55. Defendants Witt, Phipps, Harper/Stipe and Gene Stipe made these described representations for the intent and purpose of defrauding Plaintiff and gaining an illegal, unfair and unethical election advantage for Defendant Jeff.

56. Plaintiff in reliance on the false and fraudulent representations made to the State Ethics Commission did not challenge those contributions made by Defendants' straw donors before the election was conducted in November 2002 because although he suspected that these Defendants engaged in the election improprieties, he did not know or have proof of the unlawful and illegal conspiracy scheme and representations of these Defendants to and until on or about June 4, 2008.

57. As a direct and proximate result of the malicious, intentional, conspiratorial, and illegal conduct of Defendants, and each of them, Plaintiff spent over Two Hundred and Fifty Thousand Dollars (\$250,000.00) in the election campaign and incurred debt to finance his campaign, all to his damage in a sum in excess of Ten Thousand Dollars (\$10,000.00).

58. The acts of the Defendants, and each of them, were willful, intentional and malicious, and Plaintiff further seeks punitive and exemplary damages to punish Defendants and to set an example for others to not engage in similar or like opprobrious misconduct.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, jointly and severally, as follows:

- (1) For actual damages in a sum in excess of \$10,000.00, and in accordance with the proof at the time of trial;
- (2) For punitive and exemplary damages in an amount as determined by the jury at the time of trial;
- (3) For interest thereon as provided by law;
- (4) For his costs; and,

(5) For such other and further relief as the Court deems just and proper.

SECOND CLAIM – FOR INTENTIONAL INTERFERENCE
WITH A PROSPECTIVE BUSINESS ADVANTAGE

60. Plaintiff incorporates by reference Paragraphs 1 through 59 as though set forth in full herein.

61. Because of Plaintiff's education, experience as a certified public accountant, experience as an elected county commissioner, campaign work ethic, and name identity, Plaintiff had a reasonable expectation of being elected as this State's Auditor and Inspector in a fairly-conducted political campaign.

62. Defendants, and each of them, interfered with Plaintiff's election opportunity to become State Auditor and Inspector and as Defendant Phipps testified under oath as set forth hereinabove, Plaintiff was cheated out of the office.

63. The interference by these Defendants, and each of them, was malicious and wrongful, and their interference was neither justified, privileged nor excusable.

64. The damage Plaintiff has complained of hereinabove was proximately sustained as a result of Defendants' interference.

65. The acts of the Defendants, and each of them, were willful, intentional and malicious, and Plaintiff further seeks punitive and exemplary damages to punish Defendants and to set an example for others to not engage in similar or like opprobrious misconduct.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, jointly and severally, as follows:

- (1) For actual damages in a sum in excess of \$10,000.00, and in accordance with the proof at the time of trial;
- (2) For punitive and exemplary damages in an amount as determined by the jury at the time of trial;
- (3) For interest thereon as provided by law;
- (4) For his costs; and,
- (5) For such other and further relief as the Court deems just and proper.

THIRD CLAIM – INTENTIONAL INFLICTION OF MENTAL
ANGUISH AND EMOTIONAL DISTRESS

66. Plaintiff incorporates by reference Paragraphs 1 through 65 as though set forth in full herein.

67. The conduct engaged in by Defendants was so outrageous in character and so extreme in degree as to go beyond the bounds of decency and cannot be tolerated in a civilized society that honors and promotes fair elections.

68. As a direct and proximate result of these Defendants' intentional acts as set forth hereinabove, Plaintiff has suffered mental anguish and emotional distress and lost the enjoyment of life, all to his damage in a sum in excess of Ten Thousand Dollars (\$10,000.00).

69. The acts of the Defendants, and each of them, were willful, intentional and malicious, and Plaintiff further seeks punitive and exemplary damages to punish Defendants and to set an example for others to not engage in similar or like opprobrious misconduct.

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, jointly and severally, as follows:

- (1) For actual damages in a sum in excess of \$10,000.00, and in accordance with the proof at the time of trial;
- (2) For punitive and exemplary damages in an amount as determined by the jury at the time of trial;
- (3) For interest thereon as provided by law;
- (4) For his costs; and,
- (5) For such other and further relief as the Court deems just and proper.

FOURTH CLAIM – VIOLATION OF THE RACKETEER
INFLUENCED AND CORRUPT ORGANIZATIONS ACT (“RICO”)

70. Plaintiff incorporates by reference Paragraphs 1 through 69 as though set forth in full herein.

71. Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Scott and Arbaugh were at all relevant times an “enterprise” as that term is defined in 18 U.S.C. § 1961, engaged in interstate commerce, and carried on activities that affect interstate commerce. Such activities in and affecting interstate commerce include, among other things, the sale of abstract services that have moved in interstate commerce.

72. Sometime prior to January 2002, Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Scott and Arbaugh devised a scheme and artifice to deprive Plaintiff of a fair opportunity to be elected to the Office of State Auditor and Inspector by the utilization of

straw donors and illegal contributions to Plaintiff's opponent, Defendant Jeff, as they had in elections before Plaintiff ran for that office by mailing straw donor contributions to Defendant Scott in order to monopolize and eliminate competition in the abstract industry.

73. Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Scott and Arbaugh for the purpose of executing their scheme and artifice to deprive Plaintiff of a fair election process in the 2002 and 2006 statewide elections for the Office of State Auditor and Inspector, used and caused to be used the mails of the United States. Such use of the United States mail for purposes of effectuating the scheme to deprive Plaintiff of fair election processes included, without limitation, the following:

- (a) the mailing of invitations to attend political rallies for Defendant Jeff as they had done for Scott in the past; and,
- (b) the mailing of documents to the State Ethics Commission reporting the false contributions made to Defendant Jeff as they had done for Scott previously.

74. Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Scott and Arbaugh for the purpose of executing their scheme to defraud Plaintiff of fair election processes, transmitted and caused to be transmitted communications by means of wire in interstate commerce. Such interstate commerce by wire included, without limitation, telephone calls between these Defendants and straw donors.

75. Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Scott and Arbaugh starting on or about January 2002, engaged in a pattern of racketeering in violation of 21 O.S. § 187.1

et seq. that continued throughout the 2006 General Election for the Office of State Auditor and Inspector in a concerted and conspiratorial effort to limit the competition among abstractors and to increase the profits they derived from their own abstract companies by keeping prices to the consumers of abstract services high and anti-competitive.

76. The conspiratorial conduct and scheme of these Defendants commenced in the 1980's when Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Scott and Arbaugh supported Scott's candidacy for the Office of State Auditor and Inspector and on each occasion thereafter that Scott sought re-election to the Office of State Auditor and Inspector, and it continued thereafter on each of the two (2) occasions that Plaintiff ran against Defendant Jeff in the General Elections of 2002 and 2006.

77. The misconduct of Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Scott and Arbaugh in conspiring and scheming to violate Oklahoma's election campaign laws as set forth in 21 O.S. § 187.1 et seq. amounted to a long-standing and pervasive pattern of racketeering activities that Defendants utilized in the process to elect and keep Defendant Scott as State Auditor and Inspector and to replace Defendant Scott with Defendant Jeff in 2002 and to re-elect Defendant Jeff in 2006 after Defendant Scott had made the decision not to seek re-election in 2002.

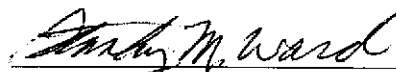
78. The use of the United States mails for the purpose of effectuating the above-mentioned scheme to defraud Plaintiff in the election processes, which occurred on two (2) occasions in the past ten (10) years, or the transmission of interstate communications by wire or telephone to effectuate the scheme, which occurred on more than one occasion,

constitutes, for the purpose of this action, a pattern of racketeering activity in violation of 18 U.S.C. § 1962, for which treble damages, costs of suit and attorney fees may be sought under 18 U.S.C. § 1964(c).

WHEREFORE, Plaintiff prays for judgment against Defendants Witt, Phipps, Harper/Stipe, Gene Stipe, Scott and Arbaugh, and each of them, jointly and severally, as follows:

- (1) For general damages in a sum in excess of Ten Thousand Dollars (\$10,000.00), and as determined by the jury at the time of trial;
- (2) That the damages awarded by the jury be trebled;
- (3) For interest thereon as provided by law;
- (4) For costs of suit;
- (5) For a reasonable attorney's fee as determined at the time of trial; and,
- (6) For such other and further relief as the Court deems just and proper.

WARD & GLASS, L.L.P.



Stanley M. Ward, OBA#9351
Woodrow K. Glass, OBA#15690
Scott F. Brockman, OBA#19416
Scott K. Thomas, OBA#21842
Zachary K. Bradt, OBA#22073
1821 E. Imhoff Road
Norman, Oklahoma 73071
(405) 360-9700
(405) 360-7902 (fax)
ATTORNEYS FOR PLAINTIFFS

ATTORNEYS' LIEN CLAIMED

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)

Plaintiff,)

-vs-)

JEFF MCMAHAN and LORI MCMAHAN,)

Defendants.)

COPY

No. CR-08-12-JHP

VOLUME II

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

TESTIMONY OF STEVEN PHIPPS

BEFORE THE HONORABLE JAMES H. PAYNE
UNITED STATES DISTRICT JUDGE

JUNE 3, 2008

EXHIBIT

tabbies

1

A P P E A R A N C E S

Gay Guthrie and Ryan Roberts, Assistant U.S. Attorneys, 1200 West Okmulgee, Muskogee, Oklahoma, 74401, attorneys on behalf of the Plaintiff;

Kevin E. Krahl, Attorney at Law, Fuller, Tubb, Bickford & Krahl, 201 Robert S. Kerr, Suite 1000, Oklahoma City, Oklahoma, 73102, attorney on behalf of the Defendant Lori McMahan;

Rand C. Eddy, Attorney at Law, Eddy Law Firm, 228 Robert S. Kerr, Suite 220, Oklahoma City, Oklahoma, 73102, attorney on behalf of the Defendant Jeff McMahan.

REPORTED BY:

BRIAN P. NEIL, CSR-RPR, RMR, CRR
United States Court Reporter

1 relatives that we could provide with money who in
2 return would donate to the campaign. The money would
3 come out of Phipps Enterprises either directly as a
4 check to those individuals and be marked for some
5 other purpose. For instance, we may have contributed
6 through an attorney and marked it "attorney fees,"
7 when, in fact, it was really a contribution. We would
8 have paid an accountant for additional accounting when
9 it was really not accounting but a contribution.

10 The employees were given bonus checks which
11 they turned around and wrote checks into the campaign.
12 If it was a small amount, they were given cash and
13 told to use it for their daily expenses and make a
14 contribution out of their checking account.

15 In some instances, we paid for different
16 things. Late in the campaign, it became very hard to
17 raise money after the primary in the general race
18 because the opponent, Mr. Jones, was making
19 accusations that there were a lot of straw
20 contributors and at that point we went to cash
21 infusions into the campaign.

22 Q. So the public was being aware because -- made
23 aware that there's at least an allegation that there
24 were these shenanigans going on because this
25 defendant's opponent was complaining that he was being

1 cheated out of the election?

2 A. Yes, sir.

3 Q. And he was right, wasn't he?

4 A. Yes, sir.

5 Q. Take a look at Exhibit 137. Let's compare
6 that briefly with Exhibit 39, if you would.

7 What is 137?

8 A. 137 is an excerpt of a breakdown which
9 probably occurred after we had had some time periods.
10 So it would have been a sheet that was produced out of
11 the original document to be given to Jeff so he would
12 know where the fundraisers were and what calls he
13 might make and where he would need to show up at the
14 fundraisers.

15 Q. And was this document given to Mr. McMahan?

16 A. Yes, sir.

17 MR. GUTHRIE: Move for the admission of
18 137.

19 MR. EDDY: Your Honor, I'm going to
20 object to this document to the extent it has
21 handwriting on it that I don't think has been
22 identified.

23 THE COURT: Defendant Lori McMahan, any
24 objection?

25 MR. KRAHL: Your Honor, I don't have any