



### REPRESENTATIVE MICHELE BACHMANN

Representative Michele Bachmann (R-MN) is a four-term member of Congress, representing Minnesota's 6th district. Rep. Bachmann was a candidate for the Republican nomination for president in 2011 and 2012, and her ethics issues stem from: (1) misusing presidential campaign resources to support her book tour; (2) improperly paying presidential campaign staffers through her leadership political action committee; (3) her campaign's improper use of a stolen e-mail list; (4) refusing to pay campaign staffers unless they sign a confidentiality agreement; and (5) her presidential campaign's improper coordination with, and solicitation of contributions for, a super PAC.

#### Use of Campaign Resources to Promote Her Memoir

On June 27, 2011, Rep. Bachmann announced her candidacy for president in Waterloo, Iowa.<sup>1</sup> Her memoir, *Core of Conviction*, was published on November 21, 2011.<sup>2</sup> Days later, with her campaign for president still ongoing, Rep. Bachmann began a 10-day promotional book tour.<sup>3</sup> The tour started in Minnesota and included nine cities in Iowa and six cities in South Carolina.<sup>4</sup>

Top Bachmann for President staff members were deeply engaged in planning the book tour and coordinated with Rep. Bachmann's publisher, Penguin imprint Sentinel.<sup>5</sup> Allison McLean, the director of publicity for the publisher, told the Office of Congressional Ethics (OCE) that Rep. Bachmann's staff sought to make the book tour a "collaborative effort" with her presidential campaign.<sup>6</sup> Keith Nahigian, Bachmann for President's campaign manager, was the campaign's liaison to Penguin.<sup>7</sup> Eric Woolson, who was Bachmann for President's Iowa campaign manager, said Mr. Nahigian asked him to map out places to be visited during the book tour.<sup>8</sup> The request raised a red flag for Mr. Woolson, who said he worked on the book tour from his consulting firm office rather than campaign headquarters because he was concerned about

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<sup>1</sup> Jeff Zeleny, *Bachmann Opens Campaign as Expectations Grow*, *New York Times*, June 27, 2011.

<sup>2</sup> <http://www.amazon.com/exec/obidos/ASIN/1595230904>.

<sup>3</sup> Katie Humphrey, *Bachmann Opens Book Tour at MOA*, *Star Tribune*, November 25, 2011; Kevin Diaz, *Michele Bachmann Book Tour Faces New Questions*, *Star Tribune*, April 17, 2013.

<sup>4</sup> *Id.*; Jason Noble, *Michele Bachmann Will Take Book Tour Across Iowa Next Weekend*, *Des Moines Register*, November 19, 2011; Mark Zdechlik, *Bachmann Plans Weekend South Carolina Book Signing Barnstorm*, *Minnesota Public Radio*, November 29, 2011.

<sup>5</sup> Office of Congressional Ethics, 113th Congress, *Report*, Review No. 13-1274, May 31, 2013 (OCE Report), at 32, 37.

<sup>6</sup> *Id.*, Exhibit 43, Memorandum of Interview, Director of Publicity, Sentinel Publishing, April 24, 2013.

<sup>7</sup> *Id.*; *Id.*, Exhibit 17, Memorandum of Interview, Keith Nahigian, April 22, 2013.

<sup>8</sup> OCE Report, Exhibit 22, Memorandum of Interview, Former Iowa Campaign Manager Bachmann for President, March 29, 2013.

whether the work was appropriate, and was not sure who to invoice for the work because he did not think it was part of his duties as campaign manager.<sup>9</sup>

An e-mail with notes from a planning call between Mr. Nahigian and a Penguin employee shows Bachmann for President proposed cities in Iowa and South Carolina for the book tour to visit and wanted to “be in the lead for IA radio and media,” but would “collaborate on SC radio.”<sup>10</sup> The e-mail says that South Carolina “is a priority for MB” while Iowa is “not a priority for Team MB,” but a visit to Sioux City, Iowa was nonetheless considered “v. important” to the presidential campaign.<sup>11</sup> The political objectives behind the planned book tour stops in early primary states are underscored by a quote in the e-mail saying, “If we win IA and win SC, we’ll win the whole thing,” which investigators for OCE said had likely been said by a Bachmann for President staff member.<sup>12</sup>

Several top campaign staffers accompanied Rep. Bachmann to book tour appearances and promotional interviews, including Mr. Nahigian, press secretary Alice Stewart, and Tera Dahl, Rep. Bachmann’s personal assistant, according to campaign schedules.<sup>13</sup> Mr. Nahigian told OCE he traveled with Rep. Bachmann during the book tour because “the campaign never stops” and he needed to handle media questions about the campaign while continuing to advise Rep. Bachmann.<sup>14</sup> He said Ms. Stewart traveled with Rep. Bachmann during the book tour to ensure media inquiries at book events were handled appropriately.<sup>15</sup> Brett O’Donnell, a campaign adviser who also accompanied Rep. Bachmann at different points during the book tour, said he assisted with campaign-related media during the book tour, and though presidential campaign staff did not have formal responsibilities at book events, they would “pitch in” occasionally.<sup>16</sup>

Campaign e-mails suggest campaign staffers were involved in promoting the book tour as well as performing campaign functions at book signings. On November 21, 2011, Mr. Woolson sent an e-mail to Bachmann for President Iowa staff members with details about Iowa book events, encouraging them to share the information.<sup>17</sup> “We’d love to have tons of people turn out for MB’s events on Friday, Saturday and Sunday,” Mr. Woolson wrote.<sup>18</sup> In another e-mail, Mr. Woolson described one of the book tour events as a “disaster,” adding, “WE NEED BODIES AT THESE EVENTS TODAY AND TOMORROW!”<sup>19</sup> In response to Mr. Woolson’s e-mail, Guy Short, Bachmann for President’s national political director, proposed using the campaign’s e-mail list of Iowa supporters to increase attendance at a book event, asking “can we push people to these events through IA emails?”<sup>20</sup> Campaign consultant Rebecca Donatelli later replied that

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*, Exhibit 57, E-mail from Tiffany Liao to Sentinel Publicity Director Allison McLean, September 28, 2011.

<sup>11</sup> *Id.*

<sup>12</sup> OCE Report, Exhibit 57; *Id.* at 38.

<sup>13</sup> *Id.* at 34; *Id.*, Exhibit 44, Schedule for Congresswoman Michele Bachmann for President, Friday, November 25th, 2011.

<sup>14</sup> OCE Report, at 34-35.

<sup>15</sup> *Id.* at 35.

<sup>16</sup> *Id.*; *Id.*, Exhibit 18, Memorandum of Interview, Brett O’Donnell, April 19, 2013.

<sup>17</sup> OCE Report, at 35; *Id.*, Exhibit 50, E-mail from Eric Woolson to Bachmann for Iowa Staff, November 21, 2011.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 35; OCE Report, Exhibit 51, E-mail from Eric Woolson to Bachmann for Iowa Staff, November 25, 2011.

<sup>20</sup> *Id.* at 36; Lynn Bartels, Coloradan Guy Short Serves as Michele Bachmann’s National Director, *Denver Post*, November 3, 2011; OCE Report, Exhibit 56, E-mail from Guy Short to Rebecca Donatelli, November 25, 2011.

she had sent an e-mail to the campaign's entire Iowa list.<sup>21</sup> After much of the Iowa section of Rep. Bachmann's book tour was completed, Bachmann for President advance staff member Craig Handzlik sent an e-mail to Mr. Woolson and other staff members, thanking them "for helping out with the book tour events."<sup>22</sup> "I know there was some question about how much we were all allowed to actively promote the events. However, the second the IA campaign staff began helping out with these stops, the events were markedly improved," Mr. Handzlik wrote.<sup>23</sup>

Barb Heki, Bachmann for President's home school coalition director, attended two book signing events, bringing a Bachmann for President intern with her to one.<sup>24</sup> When Ms. Heki sent an e-mail to Mr. Woolson inquiring about what help would be needed at a book signing event, Mr. Woolson replied, "[h]anding out literature and signing up people."<sup>25</sup> Ms. Heki, who brought Bachmann for President campaign materials to the book signings, told OCE she had "definitely" attended the events in her role as a Bachmann for President staff member.<sup>26</sup> Ms. Heki also told OCE that Bachmann for President reimbursed her for mileage to attend the events, as well as for a meal for her and her husband.<sup>27</sup>

Some witnesses told OCE Rep. Bachmann appeared to expect the book events to also promote her campaign. Ms. McLean told OCE that Will Weisser, an associate publisher and marketing director at Penguin who traveled to some of the book events with Rep. Bachmann, told her campaign activity was occurring at book signing events.<sup>28</sup> According to Ms. McLean, Mr. Weisser said Rep. Bachmann would start book tour events by saying, "I'm Michelle [sic] Bachmann and I'm running for President."<sup>29</sup> In an e-mail after a book event, Ms. Heki wrote that "in the middle of the book signing" Rep. Bachmann "motioned" to her "to ask if we were doing signup sheets," adding that "Michele definitely was asking if we were getting people signed up."<sup>30</sup> Ms. Heki told OCE that Rep. Bachmann was happy to learn they had been signing people up as volunteers for Bachmann for President.<sup>31</sup> Rep. Bachmann, however, told OCE she had no knowledge of campaign staff signing up volunteers or distributing campaign literature at her book tour events and that she did not remember speaking to Ms. Heki about signup sheets.<sup>32</sup> Photographs from the book signing in West Des Moines, however, show Rep. Bachmann as well as Bachmann for President staff and volunteers handing out campaign signs and literature.<sup>33</sup> Rep. Bachmann was shown these photos during an interview with OCE, and said she did not recall the events depicted in the photos.<sup>34</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 37; *Id.*, Exhibit 51, E-mail from Craig Handzlik to Eric Woolson, November 27, 2011.

<sup>23</sup> OCE Report, Exhibit 51.

<sup>24</sup> *Id.* at 35; *Id.*, Exhibit 52, Memorandum of Interview, Former Home School Coalition Director, Bachmann for President, April 19, 2013.

<sup>25</sup> *Id.*, Exhibit 58, E-mail from Eric Woolson to Barb Heki, November 25, 2011.

<sup>26</sup> OCE Report, Exhibit 52.

<sup>27</sup> *Id.*; *Id.*, Exhibit 54.

<sup>28</sup> *Id.*, Exhibit 43.

<sup>29</sup> OCE Report, Exhibit 43.

<sup>30</sup> *Id.*, Exhibit 60, E-mail from Barb Heki to Drew Klein, November 26, 2011.

<sup>31</sup> *Id.*, Exhibit 52.

<sup>32</sup> *Id.*, Exhibit 1, Memorandum of Interview, Representative Michele Bachmann, April 24, 2013.

<sup>33</sup> OCE Report, at 40.

<sup>34</sup> *Id.*, Exhibit 1.

Rep. Bachmann told OCE that she and her staff asked the House Ethics Committee for guidance regarding the book tour “every step of the way.”<sup>35</sup> Patton Boggs lawyer William McGinley, who represents the Bachmann presidential campaign, said Rep. Bachmann’s publisher covered all expenses related to the book tour.<sup>36</sup> “Records show that the campaign was very careful to ensure that protocols were in place to keep the book tour and presidential campaign completely separate and distinct,” Mr. McGinley said, adding the campaign had “followed the FEC [Federal Election Commission] advisory opinions and acted appropriately.”<sup>37</sup> Mr. Nahigian told OCE he worked with Penguin in an effort to divide the expenses for the book tour in a “clean and easy” manner.<sup>38</sup> In a November 18, 2011 e-mail, Ms. McLean wrote, “[w]e’re splitting the expenses with the campaign since so many of them are crossover.”<sup>39</sup> In December 2011, a presidential campaign consultant invoiced Sentinel for \$5,798.97, apparently for two “email deployments” sent in November 2011.<sup>40</sup> The invoice is marked as paid.<sup>41</sup> In addition, the publisher arranged and paid for a bus, separate from the bus used by Rep. Bachmann’s presidential campaign, that was used to transport Rep. Bachmann during her book tour in Iowa and South Carolina.<sup>42</sup> Johnny Williams, the owner of an Alabama bus company who provided buses to Rep. Bachmann for both the campaign and the book tour, told the *Star Tribune* two separate buses were chartered and the campaign was careful about separating costs.<sup>43</sup>

### **Leadership PAC Payments to Presidential Campaign Staff**

On January 14, 2013, Peter Waldron, who was the national field coordinator of Rep. Bachmann’s presidential campaign, filed a complaint with the FEC, alleging, among other things, that money from Rep. Bachmann’s leadership political action committee (PAC) had been improperly used to pay some campaign staff members for work on the congresswoman’s presidential campaign.<sup>44</sup> Mr. Waldron also filed a complaint with OCE in February 2013.<sup>45</sup>

#### *Guy Short*

Mr. Waldron’s complaints allege Mr. Short, the Bachmann for President campaign, and Rep. Bachmann’s leadership PAC, called Many Individual Conservatives Helping Elect Leaders Everywhere PAC (MichelePAC), engaged in a scheme to use MichelePAC funds to pay Mr. Short for his work for the Bachmann for President campaign. This activity began in June 2011 and escalated during November and December 2011, when the Bachmann for President campaign was short of money.

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

<sup>36</sup> Diaz, *Star Tribune*, Apr. 17, 2013; <http://www.pattonboggs.com/professional/william-mcginley>.

<sup>37</sup> Diaz, *Star Tribune*, Apr. 17, 2013.

<sup>38</sup> OCE Report, Exhibit 17.

<sup>39</sup> *Id.* at 33; *Id.*, Exhibit 46, E-mail from Allison McLean to Jaclyn Levin, November 18, 2011.

<sup>40</sup> *Id.* at 34; OCE Report, Exhibit 49.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 33.

<sup>43</sup> Diaz, *Star Tribune*, Apr. 17, 2013.

<sup>44</sup> Complaint filed with the Federal Election Commission by Peter Waldron, January 14, 2013 (Waldron FEC Complaint); Kevin Diaz, *Ex-Bachmann Aide Alleges Campaign Finance Violations*, *Star Tribune*, January 16, 2013.

<sup>45</sup> Ben Jacobs, *Michele Bachmann Investigation Gets House Ethics Committee Extension*, *Daily Beast*, September 12, 2013.

In July 2010, Mr. Short established MichelePAC, began directing its operations, and later had MichelePAC retain his political consulting firm, C&M Strategies.<sup>46</sup> In June 2011, when Rep. Bachmann officially announced her candidacy for president, Bachmann for President entered into a fundraising contract with C&M Strategies covering the period of June 13 to December 31, 2011.<sup>47</sup>

Bachmann for President Deputy Campaign Manager David Polyansky, who negotiated the C&M Strategies contract, said he thought Mr. Short's firm should be paid between \$12,000 and \$15,000 per month.<sup>48</sup> Mr. Short, however, wanted \$20,000, according to Andy Parrish, Rep. Bachmann's then-congressional chief of staff.<sup>49</sup> Although Mr. Short eventually agreed to a monthly \$15,000 payment from Bachmann for President, Mr. Parrish said he believes Mr. Short obtained the \$20,000 per month he wanted by going directly to Rep. Bachmann, who agreed to have MichelePAC make up the difference by paying him the extra \$5,000 per month for his work on the presidential campaign.<sup>50</sup>

Separately, as discussed in detail below, Rep. Bachmann's campaign allegedly paid \$7,500 per month to its Iowa state chairman, Iowa State Senator Kent Sorenson.<sup>51</sup> In an apparent effort to hide those payments, they also were made through C&M Strategies.<sup>52</sup> As a result, the C&M Strategies contract with Bachmann for President provided for a \$22,500 monthly payment—\$15,000 for Mr. Short, and \$7,500 for Sen. Sorenson.<sup>53</sup> With MichelePAC paying C&M Strategies the additional \$5,000 per month Mr. Short wanted, C&M Strategies was to receive a total of \$27,500 each month.

Between June and October 2011, C&M Strategies invoiced Bachmann for President the \$22,500 per month agreed to in the contract, and invoiced MichelePAC \$5,000 per month.<sup>54</sup> The invoices and payments changed after October 2011, when Bachmann for President began to run

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<sup>46</sup> Bartels, *Denver Post*, Nov. 3, 2011; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 1, Statement of Organization, July 28, 2010; C&M Strategies, Inc., Articles of Incorporation for a Profit Corporation, Colorado Secretary of State, filed June 3, 2010; OCE Report, at 11, 14.

<sup>47</sup> *Id.* at 12; Zeleny, *New York Times*, June 27, 2011.

<sup>48</sup> OCE Report, at 13.

<sup>49</sup> *Id.*; Legistorm, Summary, Andy Parrish. In June 2011, Mr. Parrish took a full-time job with the Bachmann for President campaign. See Trip Gabriel, More Bachmann Staff Members Depart, *New York Times*, October 3, 2011.

<sup>50</sup> OCE Report, at 13. Mr. Parrish said he never spoke to either Rep. Bachmann or Mr. Short about the retainer, but said only Rep. Bachmann could have approved the arrangement. *Id.* at 13-14.

<sup>51</sup> *Id.* at 14.

<sup>52</sup> *Id.* at 27.

<sup>53</sup> OCE Report, at 14.

<sup>54</sup> *Id.* at 15. Bachmann for President and MichelePAC paid the invoices. See Bachmann for President, FEC Form 3, 2011, October Quarterly Report, Amended, October, 1, 2012; Bachmann for President, FEC Form 3, 2011 Year-End Report, January 31, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 August Monthly Report, Amended, April 20, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 September Monthly Report, Amended, April 20, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 October Monthly Report, Amended, April 20, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 November Monthly Report, Amended, April 20, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 December Monthly Report, Amended, April 20, 2012.

short of money.<sup>55</sup> C&M Strategies apparently did not send any invoices to Bachmann for President for either November 2011 or December 2011, and Mr. Short claimed he was working for the campaign as a volunteer during this period.<sup>56</sup> Mr. Short's firm, however, did send three invoices to MichelePAC in December 2011, totaling \$40,000—far more than the \$5,000 per month it had previously billed the leadership PAC—and MichelePAC paid them.<sup>57</sup> After Rep. Bachmann dropped out of the presidential race on January 4, 2012, MichelePAC did not pay C&M Strategies again until July 2012, when it reported a \$3,750 payment.<sup>58</sup>

While Mr. Short was being paid by MichelePAC between June and December 2011, it is unclear how much—if any—work he did for the leadership PAC. Mr. Parrish, who was employed by MichelePAC from October 2011 to February 2012, said he was not aware of any work Mr. Short or C&M Strategies performed for MichelePAC between June 2011 and December 2011.<sup>59</sup> Mr. Short became Bachmann for President's national political director in October 2011 and, according to several campaign staff members, was working full time for Rep. Bachmann's presidential campaign in December 2011.<sup>60</sup> For example, Bachmann for President's Iowa campaign manager, Mr. Woolson, said Mr. Short supervised campaign operations full time in December 2011 and the beginning of January 2012, often working 7 a.m. to 10 p.m.<sup>61</sup> In addition, MichelePAC raised less than \$5,000 during that time period.<sup>62</sup> OCE could not determine what services Mr. Short provided MichelePAC between June 2011 and December 2011 to justify his \$5,000 a month retainer because he did not cooperate with the investigation.<sup>63</sup>

Lawyers for both Bachmann for President and Mr. Short said the MichelePAC payments were for work unrelated to Rep. Bachmann's presidential campaign.<sup>64</sup> Mr. Short's attorney said his client's work for the PAC and the campaign were “completely separate,”<sup>65</sup> and sent a statement to OCE claiming, “[d]uring December 2011 and January 2012, Mr. Short was paid by

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<sup>55</sup> OCE Report, at 17.

<sup>56</sup> *Id.* at 17-18.

<sup>57</sup> *Id.* at 18.

<sup>58</sup> Rachel Weiner, Bachmann to Drop Out of Presidential Race: 'No Regrets,' *Washington Post*, January 4, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2012 August Monthly Report, August 20, 2012.

<sup>59</sup> OCE Report, at 19.

<sup>60</sup> *Id.* at 17, 20.

<sup>61</sup> *Id.*

<sup>62</sup> Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 August Monthly Report, Amended, April 20, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 September Monthly Report, Amended, April 20, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 October Monthly Report, Amended, April 20, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 November Monthly Report, Amended, April 20, 2012; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), FEC Form 3X, 2011 December Monthly Report, Amended, April 20, 2012.

<sup>63</sup> OCE Report, at 15.

<sup>64</sup> Kevin Diaz, Iowa Senator Is at Core of Michele Bachmann's Legal Dilemma, *Star Tribune*, April 30, 2013; Ex-Bachmann Aide Alleges Improper Payments in Iowa, *Associated Press*, January 18, 2013.

<sup>65</sup> Kevin Diaz, Bachmann's Troubles Rooted In Campaign Divisions, *Star Tribune*, April 22, 2013.

MichelePAC for a fundraising and research project, which was unrelated to his work for BFP.”<sup>66</sup> Rep. Bachmann told OCE she could not recall if there was a fundraising project for MichelePAC planned in December 2011 and did not remember approving any fundraising letters for the leadership PAC that month.<sup>67</sup> In addition, Mr. Nahigian said Mr. Short had approached him in December 2011 about turning his attention to MichelePAC because he had “nothing to do” on the presidential campaign, which Mr. Nahigian thought would be “great.”<sup>68</sup> Mr. Short sent Mr. Nahigian an e-mail on December 3, 2011 seeking approval for the text of a proposed fundraising solicitation for MichelePAC.<sup>69</sup> Mr. Nahigian, however, believes he ignored the e-mail and cannot recall Mr. Short sharing any other work on behalf of MichelePAC with him.<sup>70</sup> In March 2012, Mr. Short told Bachmann for President’s national finance chairman, James Pollack, that a “major fundraising initiative” aimed at raising money for candidate contributions in 2012 had been planned for MichelePAC in December 2011, but the project had been postponed until after Rep. Bachmann’s presidential campaign ended.<sup>71</sup>

According to Mr. Pollack, Rep. Bachmann was “surprised” and unhappy when she learned of the MichelePAC payments to Mr. Short, and she told him to handle it as he saw most fit.<sup>72</sup> After learning of the allegedly deferred fundraising project, Mr. Pollack said it was decided MichelePAC’s previous payments to Mr. Short would be applied toward compensating him for his 2012 work for the leadership PAC.<sup>73</sup>

It is also unclear how involved Rep. Bachmann was in the arrangements. Mr. Parrish said Rep. Bachmann “had a high level of involvement in the PAC’s affairs” and described her as a “micromanager” with regard to Bachmann for President’s operations, although Mr. Short “was responsible for approving the payment of invoices submitted to MICHELE PAC, including invoices submitted by his own firm.”<sup>74</sup> Mr. Parrish also said he spoke to Rep. Bachmann “multiple times” about the need to segregate the funds of her political committees, adding she was “very aware” of the rules governing the use of different committee funds.<sup>75</sup> As noted, Mr. Parrish believes Rep. Bachmann authorized MichelePAC to pay Mr. Short \$5,000 a month for his work on the presidential campaign. According to Rep. Bachmann, Mr. Short supervised his own work on the PAC and made decisions about his own compensation.<sup>76</sup> Rep. Bachmann, who said her only involvement with the running of the PAC was approving the text of fundraising letters and approving contributions to other candidates, also said she assumed Mr. Short approved all other disbursements made from the PAC.<sup>77</sup> After the OCE report was made public in September 2013, Mr. Short’s lawyer said Mr. Short “never had check-signing authority or operational control of MICHELE PAC or Bachmann for President” and Mr. Short always

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<sup>66</sup> OCE Report, Exhibit 21, Letter from Christopher DeLacy of Holland & Knight to Office of Congressional Ethics Staff Director and Chief Counsel Omar Ashmawy, April 24, 2013.

<sup>67</sup> *Id.* at 19.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 20.

<sup>70</sup> OCE Report, at 20.

<sup>71</sup> *Id.* at 22.

<sup>72</sup> *Id.* at 22-23.

<sup>73</sup> *Id.* at 23.

<sup>74</sup> OCE Report, Exhibit 5, Memorandum of Interview, Former Chief of Staff, March 28, 2013.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 11.

<sup>77</sup> *Id.*

“sought and received appropriate approvals for his activities including for invoices he submitted.”<sup>78</sup>

*Sen. Kent Sorenson*

MichelePAC also allegedly paid Sen. Sorenson for some of his work on the presidential campaign. The payments allegedly were made through C&M Strategies in an attempt to avoid Iowa Senate ethics rules barring state senators from accepting payments from PACs, which, according to the secretary of the Iowa Senate, historically have been interpreted to include payments by political campaigns other than a senator’s own campaign.<sup>79</sup>

According to an affidavit signed by Mr. Parrish, when he recruited Sen. Sorenson to support Rep. Bachmann’s presidential campaign in early 2011, Sen. Sorenson indicated he would like to be paid for his efforts.<sup>80</sup> Mr. Parrish then discussed with Mr. Short Sen. Sorenson’s desire to be paid, and ways to hire and pay him.<sup>81</sup> On March 8, 2011, for example, Mr. Short wrote to Mr. Parrish about Sen. Sorenson, saying “if we need to pay him from MPAC we can. He can be a consultant and give us strategic advice.”<sup>82</sup> After Sen. Sorenson told Mr. Parrish he could not be paid directly by Bachmann for President, they worked out an arrangement in which Sen. Sorenson was paid \$7,500 per month by C&M Strategies, Mr. Parrish asserted.<sup>83</sup>

Like Sen. Sorenson, the Bachmann campaign was aware of the Iowa Senate rules barring payments to state senators. In an October 2011 press release announcing its Iowa staff, the campaign described Sen. Sorensen as its “state chairman” and noted, “Sorenson is serving in a full-time role but state Senate rules preclude lawmakers from being paid by the campaign.”<sup>84</sup>

It is unclear whether Rep. Bachmann knew of the alleged payments to Sen. Sorenson. Mr. Parrish said he discussed the payment arrangement with Rep. Bachmann in mid-to-late April or early May 2011, and she told him to go ahead, as long as the plan was legal.<sup>85</sup> Mr. Waldron said he informed Rep. Bachmann and her husband, Marcus Bachmann, of his discomfort with some of the campaign’s “under-the-table payments” on December 18, 2011.<sup>86</sup> Rep. Bachmann, however, told OCE she did not know about any arrangement to pay Mr. Sorenson through C&M

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<sup>78</sup> Donovan Slack, Ethics Panel Report: ‘Substantial Reason to Believe’ Bachmann Campaign Violated Law, *St. Cloud Times*, September 11, 2013.

<sup>79</sup> Waldron FEC Complaint; Diaz, *Star Tribune*, Apr. 30, 2013; OCE Report, at 25, 27-28; Iowa Senate Code of Ethics, Rule 6; Jennifer Jacobs, Differing Interpretations: The Sorenson Ethics Case, *Des Moines Register*, July 21, 2013.

<sup>80</sup> OCE Report, at 26; *In re: Matter of Senator Kent Sorenson*, Affidavit of Andy Parrish, April 22, 2013 (Parrish Affidavit), available at <http://stmedia.startribune.com/documents/137361779-Parrish-Affidavit.pdf>.

<sup>81</sup> OCE Report, at 26.

<sup>82</sup> Parrish Affidavit, Exhibit A.

<sup>83</sup> OCE Report, at 27. Mr. Polyansky added that the Bachmann campaign’s lawyer signed off on the arrangement to pay Sen. Sorenson through C&M Strategies. *Id.* at 28; *Id.*, Exhibit 5.

<sup>84</sup> Press Release, Bachmann for President, Team Bachmann Appoints Woolson State Campaign Manager; Announces Iowa Campaign Staff, October 27, 2011.

<sup>85</sup> OCE Report, Exhibit 5.

<sup>86</sup> Cyndy Brucato, Peter Waldron, Bachmann Whistleblower, Describes a Campaign and Candidate in Distress, *MinnPost*, May 20, 2013.



Strategies and did not recall anyone telling her Mr. Sorenson wanted to be paid for working on the campaign.<sup>87</sup> She said she was not involved in making decisions about anyone's compensation, but added that to her knowledge, Sen. Sorenson was not compensated for his work for Bachmann for President.<sup>88</sup>

Sen. Sorenson declined to cooperate with the OCE investigation but has repeatedly publicly denied the allegations in Mr. Waldron's Iowa Senate ethics complaint, saying, "Even if I had been employed by C&M Strategies (which I was not) it would not have constituted a violation" of Iowa Senate ethics rules.<sup>89</sup> In May 2013, Sen. Sorenson sent a statement to the Iowa Senate Ethics Committee asserting he "was never paid directly or indirectly by Michelle PAC [sic] or the Bachmann Campaign."<sup>90</sup> Sen. Sorenson also sent the committee an affidavit from his lawyer, Cherie Johnson, claiming she had reviewed bank records provided to her by Sen. Sorenson covering the period from December 8, 2010 to December 7, 2011, and she did not find any deposits in Sen. Sorenson's account from Mr. Short or C&M Strategies.<sup>91</sup> OCE investigators, however, discovered Iowa corporate filings showing Sen. Sorenson had established Grassroots Strategy Inc. in 2010, listing himself as the company's sole incorporator and director.<sup>92</sup> Mr. Short's lawyer wrote to OCE, "As part of the services provided to Congresswoman Bachmann and her political committees in 2011, Mr. Short, through C&M, retained the consulting services of Mr. Sorenson, through Grassroots."<sup>93</sup>

Sen. Sorenson's denials were undermined further by the disclosure of e-mails and audio recordings related to his late December 2011 decision to switch his support to the presidential campaign of Rep. Ron Paul (R-TX).<sup>94</sup> At the time, Rep. Bachmann issued a statement saying Sen. Sorenson "personally told [her] he was offered a large sum of money to go to work for the Paul campaign."<sup>95</sup> Sen. Sorenson denied Rep. Bachmann's allegation, saying he "was never offered a nickel from the Ron Paul campaign."<sup>96</sup> E-mails and audio recordings released by The Iowa Republican blog and the Center for Responsive Politics, however, strongly suggest Sen. Sorenson accepted payments from Rep. Bachmann's campaign and was offered money to join

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<sup>87</sup> OCE Report, Exhibit 1.

<sup>88</sup> *Id.*

<sup>89</sup> William Petroski, Sorenson Calls Ethics Charges Stemming From Michele Bachman Campaign 'False,' 'Absurd', *Des Moines Register*, February 11, 2013; OCE Report, at 8.

<sup>90</sup> Letter from Iowa State Sen. Kent Sorenson to Secretary of the Senate Mike Marshall, May 1, 2013, *available at* <http://cdn.okhenderson.com/wp-content/uploads/2013/05/ResponsetoAllegations5-1-13.pdf>; <http://okhenderson.com/2013/05/01/sorenson-releases-response-decries-ethics-witch-hunt/>.

<sup>91</sup> Affidavit of Cherie L. Johnson, April 30, 2013, *available at* <http://cdn.okhenderson.com/wp-content/uploads/2013/05/Affidavit4.pdf>.

<sup>92</sup> OCE Report, Exhibit 40, Grassroots Strategy Inc. Corporate Filing, December 29, 2010.

<sup>93</sup> *Id.*, Exhibit 21.

<sup>94</sup> Jon Ward and Elise Foley, Michele Bachmann's Iowa Chairman Kent Sorenson Abandons Her for Ron Paul, *Huffington Post*, December 28, 2012; Craig Robinson, The Payoff – Details Revealed on Sorenson's Deal with Ron Paul, *The Iowa Republican*, August 6, 2013; Craig Robinson, In His Own Words Sorenson Confirms Payment for Ron Paul Endorsement, *The Iowa Republican*, August 7, 2013.

<sup>95</sup> Ward and Foley, *Huffington Post*, Dec. 28, 2012.

<sup>96</sup> Catalina Camia and Martha T. Moore, Polls Confirm Santorum's Rise as Bachmann Loses Another Aide, *USA Today*, December 29, 2011.

Rep. Paul's campaign.<sup>97</sup> A memo attached to an e-mail sent to Paul campaign manager John Tate by Aaron Dorr, the brother of Sen. Sorenson's legislative clerk, said Sen. Sorenson would need "to match his current salary of \$8,000 a month" if he joined the Paul campaign.<sup>98</sup> After the e-mails were released in August 2013, Sen. Sorenson said he was not "part of this conversation" and that he "didn't give anyone authority to have this discussion" about financial compensation for joining the Paul campaign.<sup>99</sup>

Sen. Sorenson's credibility also was undercut by the disclosure of an audio recording of a conversation that took place sometime between December 28, 2011 and January 3, 2012 with conservative activist Dennis Fusaro, in which Sen. Sorenson acknowledged Demetri Kesari, the Paul campaign's deputy national campaign manager, gave his wife a check at a dinner meeting while Sen. Sorenson was in the bathroom.<sup>100</sup> Sen. Sorenson's lawyer confirmed Mr. Kesari gave a check to Sen. Sorenson's wife, but said the check had never been cashed and was still in Sen. Sorenson's possession.<sup>101</sup> Sen. Sorenson said he misspoke when he denied being offered money, claiming it was because he was nervous while being interviewed on national TV.<sup>102</sup>

### **Theft of E-Mail List**

On July 30, 2012, Ms. Heki, the home school coalition director for Rep. Bachmann's Iowa campaign, filed a lawsuit against Rep. Bachmann, the congresswoman's presidential campaign, and several campaign staffers, including Sen. Sorenson, Mr. Nahigian, and Mr. Short.<sup>103</sup> Ms. Heki and her husband alleged the Bachmann campaign, specifically Sen. Sorenson, stole an e-mail database belonging to the Network of Iowa Christian Home Educators (NICHE) from Ms. Heki's private computer, and subsequently sent two messages to the e-mail list around November 10, 2011.<sup>104</sup> Mr. and Ms. Heki were NICHE board members at the time.<sup>105</sup> After the e-mails were sent, Ms. Heki was publicly identified as a potential source of the e-mail list for the Bachmann campaign.<sup>106</sup> The lawsuit said the Hekis lost their positions on the NICHE board as a result of the perception that Ms. Heki had improperly given Bachmann for

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<sup>97</sup> Robinson, *The Iowa Republican*, Aug. 6, 2013; Robinson, *The Iowa Republican*, Aug. 7, 2013; Russ Choma, Ron Paul Campaign Accused of Trying to Buy Iowa Endorsements, *Center for Responsive Politics' OpenSecrets Blog*, August 7, 2013.

<sup>98</sup> *Id.*; Robinson, *The Iowa Republican*, Aug. 6, 2013; Jennifer Jacobs, Emails Show Discussion About Ron Paul Campaign Paying Kent Sorenson, *Des Moines Register*, August 6, 2013.

<sup>99</sup> Jacobs, *Des Moines Register*, Aug. 6, 2013.

<sup>100</sup> *Id.*; Robinson, *The Iowa Republican*, Aug. 7, 2013; <http://www.youtube.com/watch?v=JLjQukwNG3M>.

<sup>101</sup> Jennifer Jacobs, Kent Sorenson to Face 2nd Ethics Complaint; Lawyer Calls It 'Gibberish', *Des Moines Register*, August 28, 2013.

<sup>102</sup> *Id.*

<sup>103</sup> Thomas Beaumont, Former Bachmann Aide Sues Campaign, Alleging Theft, *Associated Press*, July 30, 2012; *Barbara and Richard Heki v. Michele Bachmann, et al.*, No. 05771 LACL125753, Petition and Jury Demand (Iowa Dist. Ct. Polk County 2012), available at [http://images.politico.com/global/2012/07/120730\\_bachmann\\_files.pdf](http://images.politico.com/global/2012/07/120730_bachmann_files.pdf).

<sup>104</sup> *Id.* at 4.

<sup>105</sup> *Id.* at 3.

<sup>106</sup> Jason Noble, Updated: Michele Bachmann Misappropriated Home-School Group's E-mail List, *Des Moines Register*, December 1, 2011; Kevin Hall, Kevin's Korner: Cain Endorsement, Bachmann Loses Her NICHE, & the Hawkeye Stench, *The Iowa Republican*, December 4, 2011; Russell Goldman, Bachmann Campaign Under Fire for Breach of Iowans' Email Addresses, *ABC News*, December 1, 2011.

President access to the e-mail list.<sup>107</sup> The Hekis also claimed they had been cut off from “their professional, social, political, and spiritual lives” as a result of the e-mail list episode.<sup>108</sup>

In September 2012, Ms. Heki also filed a theft report regarding the e-mail list with the Urbandale Police Department.<sup>109</sup> A state senator matching Sen. Sorenson’s description was listed as a suspect in an Urbandale police report filed on September 11, 2012.<sup>110</sup> Sen. Sorenson’s attorney denied any wrongdoing by Sen. Sorenson and said he and his client were unaware of the criminal complaint.<sup>111</sup>

After the e-mails were sent to the home-schooling list, NICHE billed the Bachmann campaign for the “reasonable rental value” of the list in order to avoid violating federal laws restricting donations to political campaigns by section 501(c)(3) nonprofit organizations such as NICHE.<sup>112</sup> Mr. Nahigian of the Bachmann campaign said the e-mails had been “mistakenly sent” and the campaign would “pay the fair-market value of the use of the list.”<sup>113</sup> Bachmann for President reported paying NICHE \$2,000 for “list rental” on December 7, 2011.<sup>114</sup>

Ms. Heki claimed Rep. Bachmann privately acknowledged that Sen. Sorenson took the e-mail database, but because neither Rep. Bachmann nor other members of the presidential campaign publicly exonerated her, she filed her lawsuit.<sup>115</sup> Mr. Woolson said in a sworn affidavit that Sen. Sorenson told him, “[w]e took” the homeschool list.<sup>116</sup> A memo outlining Sen. Sorenson’s terms for defecting to the Paul campaign, leaked in August 2013, appeared to offer the NICHE list as a benefit Sen. Sorenson could offer the Paul campaign, stating, “[W]e are in possession of the list of the main Iowa home-school group here in Iowa [sic] allowing for targeted home-school mail.”<sup>117</sup>

On June 28 2013, lawyers for Ms. Heki filed legal papers to dismiss the case after settling with Rep. Bachmann.<sup>118</sup> The settlement terms were not made public.<sup>119</sup> An attorney for Sen. Sorenson said the settlement did not include any admission of wrongdoing by the state senator.<sup>120</sup>

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<sup>107</sup> *Barbara and Richard Heki v. Michele Bachmann, et al.*, Petition and Jury Demand, at 5.

<sup>108</sup> *Id.*

<sup>109</sup> Todd Richissin, Update: Former Bachmann Campaign Aide Files Police Report Accusing Ron Paul Backer, a State Senator, of Theft, *St. Michael Patch*, September 21, 2012.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> Noble, *Des Moines Register*, Dec. 1, 2011.

<sup>113</sup> *Id.*

<sup>114</sup> Bachmann for President, FEC Form 3, 2011 Year-End Report, January 31, 2012.

<sup>115</sup> Diaz, *Star Tribune*, Apr. 22, 2013.

<sup>116</sup> Waldron Iowa Senate Ethics Complaint, Exhibit 1, Affidavit of Eric Woolson, September 4, 2012.

<sup>117</sup> Choma, *Center for Responsive Politics’ OpenSecrets blog*, Aug. 7, 2013.

<sup>118</sup> Kevin Diaz, Rep. Michele Bachmann Settles Suit Over Iowa E-mail List, *Star Tribune*, June 28, 2013.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

## **Attempt to Silence Staffers**

In January 2013, Mr. Waldron claimed Bachmann for President had refused to pay him the remainder of the money owed to him unless he signed a confidentiality agreement, which he claimed would prevent him from discussing “unethical, illegal, or immoral activity” on the campaign.<sup>121</sup> According to Mr. Waldron, he and other staffers whom the campaign still owed money were told they could not speak about the campaign “without first speaking with Michele Bachmann’s attorneys.”<sup>122</sup> In an e-book published in August 2013, Mr. Waldron asserted the non-disclosure agreements given to Iowa staffers seeking back pay “came well after the work was performed, were never an original term or condition of employment and the signing of them [was] the only fast and ready way to be paid.”<sup>123</sup>

Two former Bachmann aides, however, told the *Star Tribune* that what Mr. Waldron and other staffers had been asked to sign was a standard campaign release agreement, which does not specifically mention illegal or unethical behavior.<sup>124</sup> One clause provides, however, that if compelled as a matter of law to disclose information considered confidential by the agreement, the signee must give the Bachmann campaign an opportunity to object to the disclosure.<sup>125</sup> Mr. Waldron said he believed it was wrong to ask a person actively involved in ongoing lawsuits and investigations to sign a nondisclosure agreement that would require him to “tell the Bachmann attorneys everything that I tell the lawyers in the lawsuit.”<sup>126</sup>

In August 2013, Mr. Waldron said Bachmann for President had paid the staff members the salary they were owed.<sup>127</sup>

## **Coordination with a Super PAC**

In his FEC complaint, Mr. Waldron alleged Bachmann for President coordinated advertising purchases and placements with the National Fiscal Conservative PAC (NFC PAC), a super PAC.<sup>128</sup> The president of NFC PAC, Bill Hemrick, was also the Tennessee finance director for Bachmann for President.<sup>129</sup> Mr. Waldron claimed he witnessed a conversation between Mr. O’Donnell, of Bachmann for President, and Mr. Hemrick in which “Mr. Hemrick sought Mr. O’Donnell’s advice with regard to media buys in the Des Moines market.”<sup>130</sup> Mr. O’Donnell allegedly “advised Mr. Hemrick of which radio and TV stations to buy time.”<sup>131</sup>

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<sup>121</sup> Kevin Diaz, Bachmann Aide Alleges Campaign Wants Him Silent, *Star Tribune*, January 12, 2013; Press Release, Peter Waldron, Michele Bachmann Refuses to Pay Iowa Presidential Staffers After 375 Days, January 10, 2013.

<sup>122</sup> Diaz, *Star Tribune*, Jan. 12, 2013.

<sup>123</sup> Peter Waldron and John Gilmore, Bachmannistan: Behind The Lines, Boat to Forever Productions (2013).

<sup>124</sup> Diaz, *Star Tribune*, Jan. 12, 2013.

<sup>125</sup> Waldron Iowa Senate Ethics Complaint, Exhibit 9, Release Agreement given to Peter Waldron, at 2.

<sup>126</sup> Brucato, *MinnPost*, May 20, 2013.

<sup>127</sup> Ben Jacobs, ‘Bachmannistan’ Writer: Bachmann’s Supporters Deserved an Explanation, *The Daily Beast*, August 28, 2013.

<sup>128</sup> Waldron FEC Complaint.

<sup>129</sup> Team Bachmann Announces Tennessee Finance Chairman, *Chattanooga*, July 21, 2011.

<sup>130</sup> Waldron FEC Complaint.

<sup>131</sup> *Id.*

According to Mr. Waldron, the conversation took place at the end of Rep. Bachmann's 99-county bus tour, which ended on December 28, 2011.<sup>132</sup> NFC PAC reported making two payments on January 3, 2012, totaling \$11,740 to Clear Channel, a media company that owns hundreds of radio stations.<sup>133</sup> On January 6, 2012, NFC PAC reported making two additional payments, totaling \$2,210, to Clear Channel.<sup>134</sup> According to Democracy in Action, a website that documents presidential elections, a radio ad supporting Rep. Bachmann and paid for by NFC PAC ran on AM 1040 WHO in Des Moines, Iowa on January 2 and 3, 2012.<sup>135</sup> Clear Channel owns AM 1040 WHO.<sup>136</sup>

Mr. Waldron also described coordination between Bachmann for President and an unnamed super PAC in his August 2013 e-book, writing Mr. Bachmann "was asked to call August Busch, a wealthy Republican donor, for a substantial contribution to a super PAC."<sup>137</sup> In an e-mail allegedly sent by Mr. Bachmann to Mr. Waldron, Mr. Bachmann described a phone call he made to a donor requesting a \$7,000 donation, which the donor agreed to make "thru the NFC super pac."<sup>138</sup> The funds were meant to support a pro-Bachmann mailing to evangelicals.<sup>139</sup> On December 28, 2011, August Busch III donated \$7,000 to NFC PAC.<sup>140</sup> Mr. Hemrick told the *New York Times* Mr. Waldron had contacted him asking for money for Bachmann for President, and in response, he advised Mr. Bachmann to call Mr. Busch about making a contribution.<sup>141</sup>

Mr. Bachmann played a significant role in Rep. Bachmann's presidential campaign. According to an e-mail attached to Mr. Parrish's affidavit, only Rep. Bachmann, Mr. Bachmann, and their eldest son, Lucas Bachmann, could approve staff choices for the campaign's national headquarters.<sup>142</sup> When describing his role in Rep. Bachmann's political career, Mr. Bachmann referred to himself as "her strategist."<sup>143</sup>

### **Status of Investigations**

After conducting an investigation into several of the allegations against Rep. Bachmann, OCE found substantial reason to believe Rep. Bachmann violated federal campaign finance laws

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<sup>132</sup> *Id.*; Press Release, Bachmann for President, Bachmann Kicks Off 99 County Tour in Iowa on Friday, Dec. 16, December 15, 2011; Bachmann Plans Push Through Iowa's 99 Counties, *Associated Press*, December 12, 2011.

<sup>133</sup> National Fiscal Conservative PAC, FEC Form 3X, 2012 April Quarterly Report, Amended, March 12, 2013.

<sup>134</sup> *Id.*

<sup>135</sup> <http://p2012.org/igads/igadsprimary.html>. Democracy In Action lists the ads as running in January 2011, which appears to be a typo since Rep. Bachmann did not enter the presidential race until June 2011. NFC PAC did not report the ad to the FEC.

<sup>136</sup> <http://www.whoradio.com/main.html>.

<sup>137</sup> Waldron and Gilmore, Bachmannistan: Behind The Lines.

<sup>138</sup> Trip Gabriel, New Inquiry for Bachmann on Her Presidential Race, *New York Times*, September 5, 2013; Kevin Diaz, Justice Department Subpoenas Records in Bachmann Investigation, *Star Tribune*, September 6, 2013.

<sup>139</sup> *Id.*

<sup>140</sup> National Fiscal Conservative PAC, FEC Form 3X, 2011 Year-End Report, Amended, March 11, 2013.

<sup>141</sup> Gabriel, *New York Times*, Sept. 5, 2013.

<sup>142</sup> Parrish Affidavit, Exhibit C. The e-mail says "[o]nly MB, MB, and LB can approve," which presumably refers to Michele Bachmann, Marcus Bachmann and Lucas Bachmann. See also Kevin Diaz, Brand Bachmann, *Star Tribune*, March 23, 2011.

<sup>143</sup> Diaz, *Star Tribune*, Mar. 23, 2011.

and House rules by using her PAC to support her presidential campaign, using campaign resources to promote her book, and improperly accepting an in-kind contribution from the book's publisher.<sup>144</sup> OCE referred Rep. Bachmann's case to the House Ethics Committee on June 13, 2013.<sup>145</sup> OCE recommended the House Ethics Committee dismiss the allegation that Rep. Bachmann failed to accurately disclose payments to Sen. Sorenson for serving as the Iowa chairman of her presidential campaign, instead voting to refer that matter to the FEC.<sup>146</sup> On September 11, 2013, the House Ethics Committee announced it was extending its review of the matters involving Rep. Bachmann.<sup>147</sup> There is no date by which the committee must act.

The FBI's public integrity section reportedly is investigating allegations of campaign finance violations by the Bachmann campaign.<sup>148</sup> The FBI is also said to be examining the Bachmann campaign's demand that former employees seeking withheld compensation sign nondisclosure agreements before being paid.<sup>149</sup> Several former Bachmann campaign staffers, including Mr. Parrish, have been interviewed by the FBI.<sup>150</sup> Mr. Waldron said the FBI agent he spoke to wanted to know "about the vendors for the Bachmann for President campaign, their financial arrangements, and who would know about them and sign off on them."<sup>151</sup> Lawyers for both Mr. Short and the Bachmann presidential campaign said in May 2013 they had not been contacted by the FBI.<sup>152</sup> The FEC also is investigating Mr. Waldron's complaint.<sup>153</sup>

In May 2013, the Iowa Senate Ethics Committee asked the Iowa Supreme Court to appoint a special investigator to examine the allegations against Sen. Sorenson.<sup>154</sup> On May 10, 2013, Iowa Supreme Court Chief Justice Mark Cady appointed attorney Mark Weinhardt to the position.<sup>155</sup> Mr. Weinhardt does not have a deadline to complete his investigation, but the secretary of the Iowa Senate has said any necessary hearings would have to be held before the end of October.<sup>156</sup> The Urbandale police investigation is ongoing.<sup>157</sup>

On August 27, 2013, the Department of Justice subpoenaed NFC PAC requesting all financial transactions and communications records involving MichelePAC, Bachmann for President, Mr. O'Donnell, Mr. Waldron, Mr. McGinley, Mr. Bachmann, Mr. Busch, and Bob

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<sup>144</sup> OCE Report, at 2.

<sup>145</sup> Press Release, House Committee on Ethics, Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Michele Bachmann, July 26, 2013.

<sup>146</sup> OCE Report, at 2.

<sup>147</sup> Press Release, House Committee on Ethics, Statement of the Chairman and Ranking Member of the Committee on Ethics Regarding Representative Michele Bachmann, September 11, 2013.

<sup>148</sup> Kevin Diaz, Bachmann Campaign Allegations Attract Attention of FBI, *Star Tribune*, May 19, 2013.

<sup>149</sup> Cyndy Brucato, FBI Joins Probe of Bachmann's Presidential Campaign, *MinnPost*, May 17, 2013.

<sup>150</sup> Diaz, *Star Tribune*, May 19, 2013.

<sup>151</sup> Waldron and Gilmore, Bachmannistan: Behind The Lines.

<sup>152</sup> Diaz, *Star Tribune*, May 19, 2013.

<sup>153</sup> *Id.*

<sup>154</sup> William Petroski, Iowa Senate Ethics Panel Asks Iowa Supreme Court to Appoint Investigator in Sorenson Case, *Des Moines Register*, May 1, 2013.

<sup>155</sup> William Petroski, Des Moines Lawyer Weinhardt Appointed to Investigate Sen. Sorenson Ethics Case, *Des Moines Register*, May 10, 2013.

<sup>156</sup> Jacobs, *Des Moines Register*, Aug. 28, 2013.

<sup>157</sup> Kevin Diaz, Whistleblower's Insider Tale From 'Bachmannistan' Revives the Feud, *Star Tribune*, August 28, 2013.

Heckman, who was a senior adviser to Rep. Bachmann's presidential campaign.<sup>158</sup> The subpoena also requested any communications records involving Rep. Bachmann.<sup>159</sup> According to the *New York Times*, the grand jury is investigating whether Bachmann for President staff members coordinated strategy with the super PAC.<sup>160</sup>

### **Legal Fees**

Since July 30, 2012, when Ms. Heki filed her lawsuit against Rep. Bachmann and her presidential campaign, Bachmann for President, Bachmann for Congress, and MichelePAC have reported spending \$312,739 on legal fees and services.<sup>161</sup> Bachmann for President reported paying \$95,000 to Patton Boggs LLP, including \$45,587 in debt repayment, and \$15,509 to Goodman & O'Brien PC, a Des Moines, Iowa law firm.<sup>162</sup> Bachmann for Congress reported paying \$141,001 to Patton Boggs and \$2,271 to Lester Cooper of Charlottesville, VA.<sup>163</sup> MichelePAC reported paying \$45,730 to Holland & Knight, \$731 to Patton Boggs, and \$12,500 to the Arrington Law Firm run by Barry Arrington, who also serves as the treasurer of MichelePAC.<sup>164</sup>

### **Potential Violations**

#### **Conversion of Campaign Funds to Personal Use – Statute**

The Federal Election Campaign Act (FECA) prohibits a candidate for federal office from using campaign funds to pay the personal obligations of the candidate. The Act states that “a contribution or donation . . . shall not be converted by any person to personal use.”<sup>165</sup> The Act further specifies that “a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office.”<sup>166</sup>

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<sup>158</sup> Subpoena to Testify Before a Grand Jury to National Fiscal Conservative PAC, August 27, 2013, *available at* <http://www.scribd.com/doc/165881551/Bachmann-Campaign-Grand-Jury-Subpoena>; Jennifer Jacobs, *9 Reasons the Bachmann Campaign Fizzled*, *Des Moines Register*, January 13, 2012.

<sup>159</sup> Subpoena to Testify Before a Grand Jury to National Fiscal Conservative PAC, August 27, 2013.

<sup>160</sup> Trip Gabriel, *New Inquiry for Bachmann on Her Presidential Race*, *New York Times*, September 5, 2013.

<sup>161</sup> Bachmann for President, *FEC Form 3, 2012 October Quarterly–2013 July Quarterly Reports*; Bachmann for Congress, *FEC Form 3, 2012 October Quarterly–2013 July Quarterly Reports*; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), *FEC Form 3X, 2012 August Monthly–2013 July Monthly Reports*.

<sup>162</sup> Bachmann for President, *FEC Form 3, 2012 October Quarterly–2013 July Quarterly Reports*; <http://goodmanobrienlaw.com/>.

<sup>163</sup> Bachmann for Congress, *FEC Form 3, 2012 October Quarterly–2013 July Quarterly Reports*.

<sup>164</sup> Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), *FEC Form 3X, 2012 August Monthly–2013 July Monthly Reports*; Many Individual Conservatives Helping Elect Leaders Everywhere (MichelePAC), *FEC Form 1 Statement of Organization*, February 3, 2011; <http://www.arringtonpc.com/deux.jsp?content=502&decider=barrington>.

<sup>165</sup> 2 U.S.C. § 439a(b)(1).

<sup>166</sup> 2 U.S.C. § 439a(b); *see also* 11 C.F.R. § 113.1(g)(1).

By using campaign funds to pay for her campaign staff members to organize and work on her book tour, Rep. Bachmann appears to have violated 2 U.S.C. § 439a(b) and 11 C.F.R. § 113.1(g)(1). Further, if Rep. Bachmann's conduct was knowing and willful, she may have violated criminal law.<sup>167</sup>

### **Conversion of Campaign Funds to Personal Use – House Rule**

House Rule 23 provides that a member of Congress “may not convert campaign funds to personal use in excess of an amount representing reimbursement for legitimate and verifiable campaign expenditures.”<sup>168</sup> Further, Rule 23, clause 6(a) requires each member to “keep his campaign funds separate from his personal funds.”<sup>169</sup> The rule also provides that all campaign funds must be used for “bona fide campaign or political purposes.”<sup>170</sup> The committee has warned members to keep in mind that each campaign outlay must not only be “legitimate,” but also “verifiable,” as such.<sup>171</sup> This requirement “**is separate from, and in addition to, whatever recordkeeping requirements are imposed by the Federal Election Commission . . .**”<sup>172</sup> The rules “generally preclude” personal use of “the services of paid campaign staff.”<sup>173</sup>

By using campaign funds to pay for her campaign staff members to organize and work on her book tour, Rep. Bachmann appears to have violated House Rule 23.

### **Corporate Contributions**

The FECA and FEC regulations both prohibit candidates from knowingly accepting contributions from corporations in connection with any federal election.<sup>174</sup> The FEC has held that a candidate could not hold a dual purpose event for fundraising and the promotion of a candidate's book because the publisher's payment of the cost of the event would constitute a prohibited corporate contribution by the publisher to the candidate.<sup>175</sup> Rep. Bachmann's publisher, Penguin, apparently paid for her book tour, but the promotional events largely took place in two early primary states, Iowa and South Carolina, and Rep. Bachmann's presidential campaign staff members helped organize the book tour and accompanied her on it. By using the book tour paid for by Penguin to promote her candidacy, Rep. Bachmann appears to have violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(d).

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<sup>167</sup> 2 U.S.C. § 437g(d)(1)(A)(i).

<sup>168</sup> Rule 23, cl. 6(b); House Comm. on Standards of Official Conduct, House Ethics Manual, at 163 (110th Cong., 2d Sess., 2008 ed.).

<sup>169</sup> *Id.*

<sup>170</sup> Rule 23, cl. 6(c); House Ethics Manual, at 163.

<sup>171</sup> *Id.*

<sup>172</sup> *Id.* at 165 (emphasis in original).

<sup>173</sup> *Id.* at 153.

<sup>174</sup> 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(d).

<sup>175</sup> Federal Election Commission, Advisory Opinion 1982-16 (April 5, 1982); *but see* Federal Election Commission, Advisory Opinion 2011-02 (February 17, 2011) (failing to approve a response as to whether a candidate could collect e-mail address of people attending the candidate's book signing and promotional events for the purpose of soliciting contributions in the future).



## **Excessive Contributions**

The FECA limits the amount of contributions a leadership PAC may donate to a candidate, and the amount a candidate can accept from a leadership PAC.<sup>176</sup> Under the rules, when leadership PAC funds are used for “costs that could and should otherwise be paid for by a candidate’s authorized committee,” they are in-kind contributions subject to this limit.<sup>177</sup> The contribution limit for Rep. Bachmann’s leadership PAC in 2011 and 2012 was \$2,500 per election, and any contribution over those limits was an illegal excessive contribution.<sup>178</sup> If, as it appears, she used her leadership PAC funds to pay Mr. Short and Sen. Sorenson for their activities on behalf of her presidential campaign, Rep. Bachmann likely both made and accepted excessive contributions.

The FECA and FEC regulations also treat communications coordinated between a candidate and a political committee, including a super PAC, as in-kind contributions to the candidate.<sup>179</sup> Under the regulations, a communication is coordinated if: (1) it is paid for by a person other than the candidate; (2) it satisfies one of the regulation’s content standards, including if it is a public communication that refers to a presidential candidate within 120 days of a caucus; and (3) it satisfies one of the regulation’s conduct standards, including if the candidate or her campaign committee is materially involved in decisions regarding the specific media outlet used for the communication.<sup>180</sup> If, as it appears, NFL PAC paid for radio ads in Des Moines that mentioned Rep. Bachmann by name just before the Iowa Republican presidential caucuses, and Mr. O’Donnell told Mr. Hemrick of NFL PAC on which Des Moines radio station to buy ad time, NFL PAC made an in-kind contribution to the campaign.<sup>181</sup> As NFL PAC paid \$13,950 to Clear Channel for the air time, it appears Rep. Bachmann accepted an excessive contribution from NFL PAC.

## **Improper Solicitation for a Super PAC**

The FECA and FEC regulations limit the amount of money a candidate, a federal officeholder, or the agent of a candidate or federal officeholder may solicit on behalf of a super PAC. Those individuals may not solicit funds in connection with a federal election “unless the funds are subject to the limitations, prohibitions, and reporting requirements” of the FECA.<sup>182</sup> Even though super PACs can accept unlimited contributions, because the FECA limits contributions to political committees to \$5,000, the FEC has ruled this provision means the individuals covered by the solicitation restrictions may not solicit contributions of more than \$5,000 for a super PAC.<sup>183</sup> By allowing Mr. Bachmann, an agent of her presidential campaign,

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<sup>176</sup> 2 U.S.C. §§ 441a(a)(1)(A), 441a(f).

<sup>177</sup> Federal Election Commission, Explanation and Justification for final rule regarding Leadership PACs, 68 Fed. Reg. 67013, 67017 (December 1, 2003).

<sup>178</sup> Federal Election Commission, *Contribution Limits 2011-12*, available at <http://www.fec.gov/pages/brochures/contriblimits.shtml>.

<sup>179</sup> 2 U.S.C. § 441a(a); 11 C.F.R. § 109.21(b).

<sup>180</sup> 11 C.F.R. §§ 109.21(a), (c)(4)(ii), (d)(2)(iv).

<sup>181</sup> The communication also satisfied several other content and conduct standards.

<sup>182</sup> 2 U.S.C. § 441i(e)(1)(A); 11 C.F.R. § 300.61.

<sup>183</sup> Federal Election Commission, AO 2011-12 (June 30, 2011).

to solicit a \$7,000 contribution for NFL PAC, Rep. Bachmann appears to have violated 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 300.61.

### **Conversion**

Under Iowa law, conversion is “the wrongful control or dominion over another’s property contrary to that person’s possessory right to the property.”<sup>184</sup> Sen. Sorenson may have been acting within the scope of his duties as the Iowa chairman of Rep. Bachmann’s presidential campaign when he took Ms. Heki’s NICHE e-mail list from her computer, allowing the campaign to make use of the list. By taking and using Ms. Heki’s e-mail list, Rep. Bachmann may have committed conversion.

### **Misappropriation of Trade Secrets**

Under Iowa law, it is a misappropriation of trade secrets to acquire a trade secret as a result of a confidential relationship, and use the trade secret without authorization.<sup>185</sup> Sen. Sorenson may have been acting within the scope of his duties as the Iowa chairman of Rep. Bachmann’s presidential campaign when he took Ms. Heki’s NICHE e-mail list from her computer, allowing the campaign to make use of the list. By taking and using Ms. Heki’s e-mail list without authorization, Rep. Bachmann may have misappropriated trade secrets.

### **Extortion**

Under Iowa law, extortion is committed when a person “[t]hreatens to wrongfully injury the property of another” “with the purpose of obtaining for oneself or another anything of value, tangible or intangible.”<sup>186</sup> By refusing to pay Mr. Waldron the remainder of the money owed to him unless he agreed to sign a confidentiality agreement—something clearly of value to her campaign—Rep. Bachmann may have committed extortion.

### **Conduct Not Reflecting Creditably on the House**

House Rule 23 requires all members of the House to conduct themselves “at all times in a manner that reflects creditably on the House.”<sup>187</sup> This ethics standard is considered to be “the most comprehensive provision” of the code.<sup>188</sup> When this section was first adopted, the Select Committee on Standards of Official Conduct noted it was included within the Code to deal with “flagrant” violations of the law that reflect on “Congress as a whole,” which might otherwise go unpunished.<sup>189</sup> This rule has been relied on by the committee in numerous prior cases in which

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<sup>184</sup> *Blackford v. Prairie Meadows Racetrack & Casino, Inc.*, 778 N.W.2d 184, 188 (Iowa 2010).

<sup>185</sup> *Kendall/Hunt Pub. Co. v. Rowe*, 424 N.W.2d 235, 245 (Iowa 1988).

<sup>186</sup> Iowa Code § 711.4(7).

<sup>187</sup> Rule 23, cl. 1.

<sup>188</sup> *House Ethics Manual*, at 12.

<sup>189</sup> House Comm. on Standards of Official Conduct, *Report Under the Authority of H. Res. 418*, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

the committee found unethical conduct including: the failure to report campaign contributions,<sup>190</sup> making false statements to the committee,<sup>191</sup> criminal convictions for bribery,<sup>192</sup> accepting illegal gratuities,<sup>193</sup> and accepting gifts from persons with interest in legislation in violation of the gift rule.<sup>194</sup>

By using presidential campaign funds to pay for her campaign staff to organize and work on her book tour, using the book tour paid for by her publisher to promote her candidacy, paying Mr. Short and Sen. Sorenson with leadership PAC funds for their work on her presidential campaign, accepting excessive contributions from NFL PAC, allowing Mr. Bachmann to improperly solicit contributions for NFL PAC, taking and using Ms. Heki's email list without permission, and refusing to pay Mr. Waldron the remainder of the money owed to him unless he signed a confidentiality agreement, Rep. Bachmann engaged in conduct that does not reflect creditably on the House.

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<sup>190</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative John J. McFall*, H. Rep. No. 95-1742, 95th Cong., 2d Sess. 2-3 (1978) (Count 1); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978).

<sup>191</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); H. Rep. No. 95-1743 (Counts 3-4).

<sup>192</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Michael J. Myers*, H. Rep. No. 96-1387, 96th Cong., 2d Sess. 2, 5 (1980); *see* 126 Cong. Rec. 28953-78 (Oct. 2, 1980) (debate and vote of expulsion); *In the Matter of Representative John W. Jenrette, Jr.*, H. Rep. No. 96-1537, 96th Cong., 2d Sess. 4 (1980) (member resigned); *In the Matter of Representative Raymond F. Lederer*, H. Rep. No. 97-110, 97th Cong., 1st Sess. 4, 16-17 (1981) (member resigned after Committee recommended expulsion). In another case, the Committee issued a Statement of Alleged Violation concerning bribery and perjury, but took no further action when the member resigned (*In the Matter of Representative Daniel J. Flood*, H. Rep. No. 96-856, 96th Cong., 2d Sess. 4-16, 125-126 (1980)).

<sup>193</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Mario Biaggi*, H. Rep. No. 100-506, 100th Cong., 2d Sess. 7, 9 (1988) (member resigned while expulsion resolution was pending).

<sup>194</sup> House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 96-930, 96th Cong. 2d Sess. 4-5 (1980); *see* 126 Cong. Rec. 13801-20 (June 10, 1980) (debate and vote of censure).