

REPORT ON THE INVESTIGATION OF ATTORNEY GENERAL JOHN E. SWALLOW

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For Public Disclosure

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I. SUMMARY

In his 2012 Candidate Financial Disclosure or Conflict of Interest forms, John Swallow failed to disclose several entities from which he had received more than \$5,000 in income during the previous year or for which he filled roles reasonably construed as owner, officer, or formal advisor. This non-disclosure was planned and deliberate and was executed in two separate filings, one on March 9, 2012 and the second on March 15, 2012. At the time, Swallow was the Chief Civil Deputy Attorney General and a candidate for the Utah State Attorney General, yet he did not read or analyze the governing disclosure statutes to inform himself about what financial or conflict of interest disclosures were required. Instead, Swallow consulted with an estate planning lawyer who had no experience in election law and who also had not read or analyzed the governing disclosure statutes. Together, they relied on nuances from the law of estate tax and creditor protection to determine what was legally required by the Election Code for Swallow's Candidate Financial Disclosure or Conflict of Interest forms. Despite these and other justifications Swallow has offered for his non-disclosure, the evidence developed through this investigation, most of which Swallow has admitted, is sufficient to establish probable cause that Swallow violated the finance disclosure and conflict of interest provisions of Utah Code Annotated section 76-8-109(4)(b) in at least the following ways:

- Within one year prior to filing his Financial Disclosure or Conflict of Interest forms, Swallow received \$17,000 by way of a series of deposits onto a prepaid Netspend debit card, which Check City and/or Softwise purchased and funded for Swallow. Swallow even acknowledged receiving this income on his personal

income tax returns, albeit late and incompletely. The Court reasonably could find this constitutes income to Swallow from Check City and/or Softwise, which should have been disclosed.

- Within one year prior to filing his Financial Disclosure or Conflict of Interest forms, Swallow wrote two checks on behalf of P-Solutions to his wife, Suzanne, for \$5,917 and \$13,200, respectively, and Suzanne immediately deposited the funds into the John and Suzanne Swallow joint checking account where the money was used for joint taxes, IRA contributions, and joint household and family expenses. The Court reasonably could find this constitutes income to Swallow from P-Solutions, which should have been disclosed.
- Swallow was the sole manager, sole service provider, and sole person involved in any business conducted by SSV Management or P-Solutions. He maintained the check books and ledgers of both companies, wrote checks, and made financial decisions with regard to the funds in each account. The Court reasonably could find Swallow's exclusive role in managing and operating these companies qualifies him as an owner, officer, or formal advisor of SSV Management and P-Solutions, which should have been disclosed.
- Within one year prior to filing Swallow's Financial Disclosure or Conflict of Interest forms, Guidant Strategies paid income of \$7,000 to P-Solutions at Swallow's direction. The money had been earned by personal consulting services

Swallow provided for Guidant in or before 2009, and sometime in late 2010, after he had formed P-Solutions, Swallow orally assigned the payment from himself personally to himself as manager for P-Solutions. Swallow personally paid income taxes on the \$7,000. The Court reasonably could find this constitutes income to Swallow from Guidant, which should have been disclosed.

- Within one year prior to filing his Financial Disclosure or Conflict of Interest forms, Swallow performed personal consulting services for Richard Rawle and Chaparral Limestone and Cement Company. RMR Consulting paid \$15,000 for those services. Swallow directed that the check be written to P-Solutions rather than to himself. The money was used for Swallow's personal household expenses and Swallow paid personal income taxes for the \$15,000 received. The Court reasonably could find this constitutes income to Swallow from RMR Consulting/Rawle/Chaparral, which should have been disclosed.
- Swallow's consulting services for Richard Rawle and Chaparral began in approximately August 2010 and continued through at least June 2012. Swallow and Rawle had an agreement that Swallow would receive an equity participation in the Chaparral project upon certain conditions. Swallow also was paid an hourly rate and directed the payment to be made to P-Solutions. The Court reasonably could find that Swallow's consulting services constitute a formal advisory relationship, which should have been disclosed.

Swallow's explanations for these acts and omissions, when considered in light of internal inconsistencies and conflicting evidence, raise numerous questions of credibility that should be assessed by a finder of fact when applying the applicable law. Whether these and other facts constitute a violation of any of the relevant Utah statutes, including Utah Code Annotated ("UCA") §76-8-109, which governs Candidate Financial Disclosure or Conflict of Interest forms, further will depend on how liberally or narrowly the Court construes the relevant statutes. If the Court construes the statutes liberally to carry out the intent of the Election Code (as directed by UCA §20A-1-401(1)) and looks to the practical realities of Swallow's conduct, it reasonably should find him to be in violation of law.

Pursuant to UCA section 20A-1-703, special counsel to the Lieutenant Governor in this investigation find that "sufficient evidence is obtainable to show that there is probable cause to believe that a violation has occurred." Therefore, special counsel should commence additional proceedings under sections 20A-1-703(3) and (4).

II. SCOPE OF INVESTIGATION

We investigated each of the claims stated in the petition filed with the Lieutenant Governor's office to determine whether "sufficient evidence is obtainable to show that there is probable cause to believe that a violation has occurred." UCA § 20A-1-703(3). We were asked to follow up on all of petitioners' claims, even though the Lieutenant Governor previously had declined to pursue several of them. Although we did not pursue an investigation of any other claims specifically, we were open to doing so if evidence arose during our investigation. We also were cognizant of several other investigations into Swallow's conduct and attempted to

avoid duplication.

We began by giving petitioners' counsel and Swallow's counsel an invitation to provide any information they wanted or to make suggestions about the scope of the investigation, what documents to obtain, and what witnesses to interview. Neither provided anything beyond what they previously had provided to the Lieutenant Governor.

We issued documents subpoenas and received documents from the following: John Swallow; Suzanne Swallow; The Super Seven Trust, through trustee Lauren Swallow Reed; SSV Management LLC; I-Aware Products LLC; P-Solutions LLC; The estate of Richard Rawle; Allen Young; Jason Powers; Jeremy Johnson; Lee McCullough; Mountain America Credit Union; Zion's Bank; Netspend; KUTV; Sumsion & Crandall.

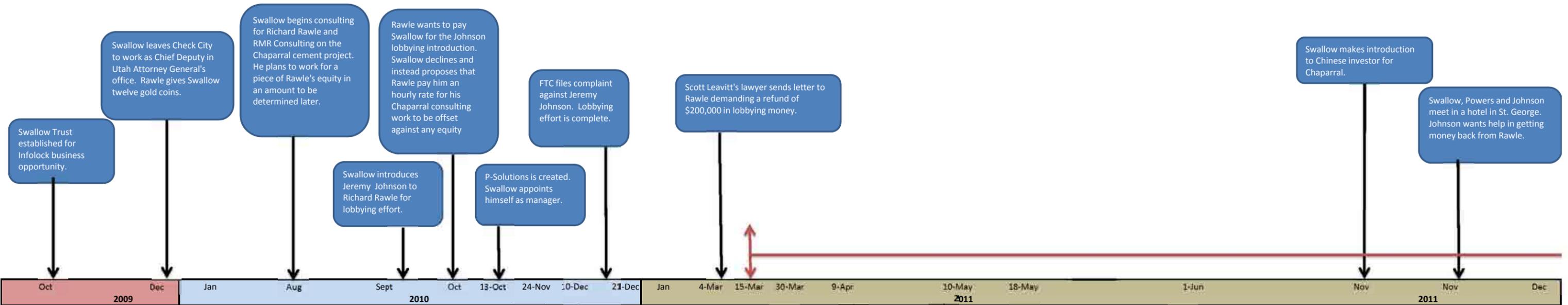
We conducted witness interviews of the following individuals: Allen Young (with participation from Tyler Young); Jason Powers; Cort Walker; Greg Callister; Lee McCullough; Thom Roberts; Grant Sumsion; Jessica Fawson; Mark Shurtleff; William Rothbard.

We took sworn testimony from the following witnesses: John Swallow; Lee McCullough; and Cort Walker.

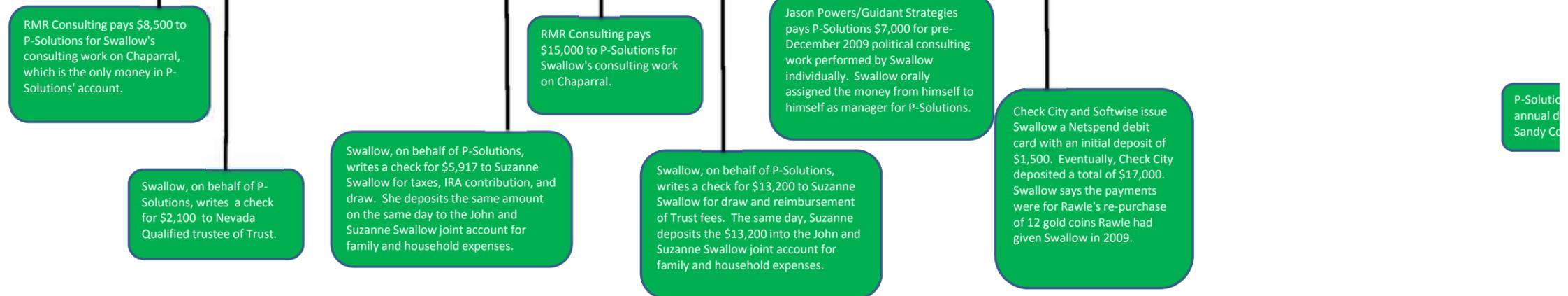
The following discovery requests remain outstanding as of the date of this report: Sworn statements from Thom Roberts, Jessica Fawson, Jason Powers and Mark Shurtleff; deposition testimony from Suzanne Swallow; and documents from John Swallow and Jeremy Johnson.

Timeline of Business Acti

Business Transactions

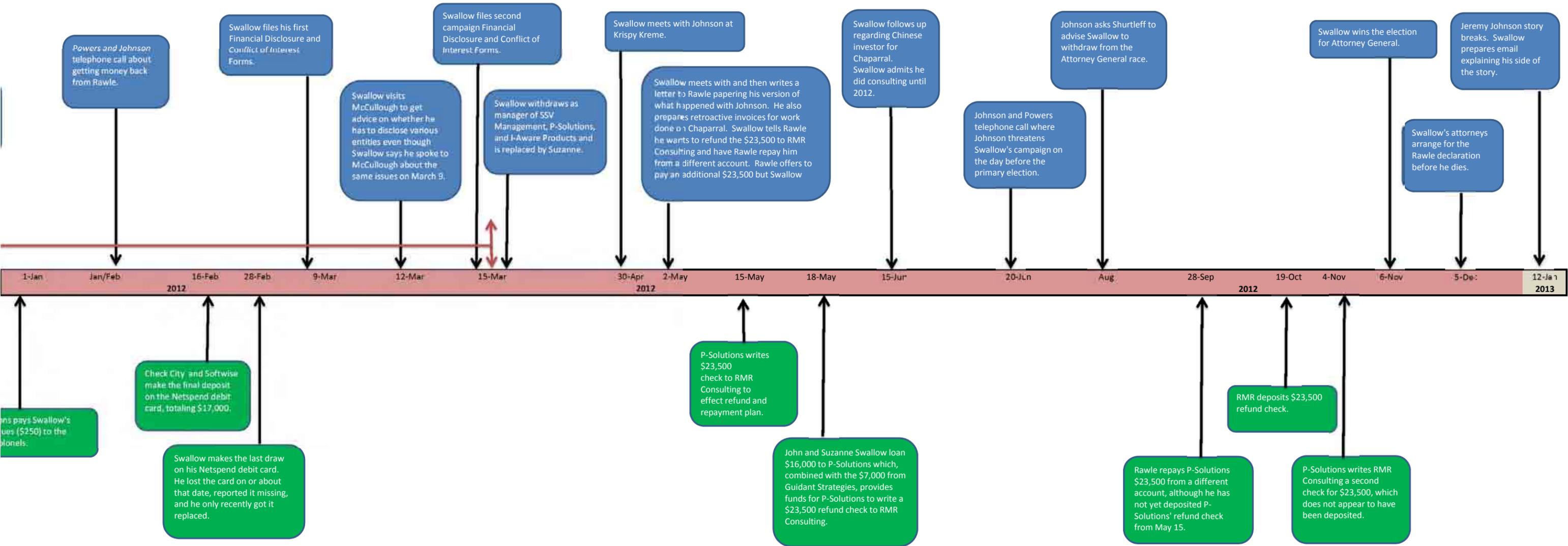


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Activities and Money Transfers



IV. FACTUAL FINDINGS

A. Swallow's Relationship with Richard Rawle

Swallow had a long-standing and close working relationship with Richard Rawle and his companies (Tosh, Inc., Check City, and Softwise) for several years. Immediately before joining the Attorney General's office as Chief Deputy in December 2009, Swallow worked as general counsel to Rawle's company, Check City. Rawle was a good friend, political ally, and benefactor to Swallow. [Swallow Depo. at 75-76.]

During the investigation, it was apparent that Swallow and his lawyers were coordinating and collaborating to some degree with Cort Walker and the Rawle family lawyer. Indeed, in preparation of the Rawle declaration in December 2012, the Rawle's lawyer asserted that Swallow's lawyer was providing legal advice to both Rawle and Swallow. Thus, they have asserted the attorney-client privilege as a basis for not providing documents transmitted among the joint clients (Swallow and Rawle) and the two attorneys. Walker testified that Swallow's lawyer was "helping" in connection with the preparation of the Rawle declaration in December 2012. [Exhibit A; Walker Depo. at 74.]

Before Swallow left Check City, Rawle gave him 12 one-ounce gold coins. Swallow testified that Cort Walker suggested in 2011 that Swallow sell the gold coins back to Rawle, and Rawle agreed. Swallow said he sold the coins to Rawle between June 1, 2011 and February 16, 2012 for an agreed-upon price of \$1,300 each. Swallow testified he sold the coins to Rawle in three or four groups. Instead of writing a check or paying cash in exchange for the coins, Rawle and Swallow agreed that Rawle would open a Netspend pre-paid debit card account in Swallow's

name and then make deposits over time when Swallow sold back the coins. [Swallow Depo. at 51-53.] The deposits were made by Check City and Softwise. [Exhibit B.]

Contrary to Swallow's testimony, Walker testified that he was not aware of Rawle ever giving Swallow gold coins. On one occasion, Rawle did tell Walker that Swallow was going to sell some gold coins and that Swallow wanted the proceeds from those sales loaded onto a prepaid debit card. That was the only time Walker knew of Rawle buying gold coins from anyone and loading the purchase price onto a prepaid debit card. Walker did load money onto Swallow's card on a number of occasions, upon the instruction of Rawle, and in amounts determined by Rawle. Walker loaded the money, but did not associate the timing or amounts loaded with any particular events or circumstances. [Walker Depo. at 40-46.]

Selling 12 coins at \$1,300 each should have yielded Swallow total income of \$15,600, which is the amount Swallow reported on his 2012 tax returns. However, the total amount of income actually received by Swallow on his Netspend debit card was \$17,000, all of which had been deposited before Swallow lost his card on or about February 25, 2012. [Exhibit B.]

Even though \$13,500 of the total \$17,000 had been paid to Swallow during 2011, Swallow did not identify any income on his tax returns until tax year 2012 (which were prepared in 2013), and even then he accounted for only \$15,600 (the agreed-upon amount received) instead of \$17,000 (the actual amount received). Swallow's tax returns further reflect capital gains treatment, in which he used \$10,800 to compute his basis. [Exhibit C at JS000887.] He obtained this number through conversations with Rawle, who gave Swallow "a rough estimate he

thought [the basis] would be.” [Swallow Depo. at 213.] Other than Swallow’s testimony, there are no written records or corroborating testimony regarding an agreed-upon price of \$1,300 per coin or the basis of \$800 per coin or \$10,800 for 12 coins.

When asked if he correlated the total amount paid (\$17,000) to the amount put on his tax returns (\$15,600), Swallow testified:

Well, you know, the problem is that I lost my debit card in spring of 2011, and I knew there was a little money left on that card, and like I told you before, I was locked out. I couldn’t get the information about my account because I was locked out of my account, and so I thought that I might have gotten paid – I might have gotten more than the value of the coins, and that’s still in the debit account, so my intention was if it was more than the [\$15,600], that I would refund that to the company, which I haven’t done yet. . . . My intent was to correlate the payment for the coins to the actual coins that I was selling. . . . I think that was what I intended to sell the coins for, \$1,300 a coin, which would total [\$15,600], so there was a difference between the [\$15,600] and I think the total amount they put in that account, which I think ended up being \$17,000 instead of [\$15,600]. There was about a \$1,400 difference. So I am just simply waiting to access that account again to get that money back to them and to pay them back the extra money that had been put in that account which I didn’t spend.

[Swallow Depo. at 216-217.]

There is no explanation for why Rawle would have paid Swallow more than the agreed upon \$1,300 per coin. Nor is there any correlation in the amounts or times of Netspend deposits and the sale of any coins. There is no documentation for any of the sales transactions. It also should be noted that when we subpoenaed Netspend for documents, Netspend responded in less than one week. The Netspend records also indicate that Swallow, or someone using his account,

logged into his Netspend account on the date he reported his card missing in February 2012 and also in March and May 2012. [Exhibit D.]

B. Organization of the Swallow Super Seven Trust

In the fall of 2009, Swallow hired estate planning attorney Lee McCullough to form a family trust for him. McCullough formed a trust designed for individuals with a business opportunity of high worth, in the range of several millions of dollars. Swallow wanted this kind of trust because he had what he believed would be a significant business opportunity and wanted to obtain protection of the proceeds within the trust structure as he understood other people (including Richard Rawle) had done. [Swallow Depo. at 98-99.] The business opportunity was Infolock, which was a technology that scrubbed electronic information from cell phones when lost. [Swallow Depo. at 102.]

The Super Seven Trust (“Swallow Trust” or “Trust”) was established under Nevada law with two trustees. Michael Cahill, a Nevada lawyer, was designated a “qualified” trustee, which was required by Nevada law to obtain the protections intended. His main task was to keep Trust books and records, although no bank account ever was established for the Trust. Swallow’s oldest daughter, Lauren, was designated as the “investment” trustee. In order for any money to be distributed from the Trust to beneficiaries, section 2.1 of the Trust required that the investment trustee exercise her independent judgment concerning the distribution, and then give 30 days’ written notice to the Trust Protector (Lee McCullough) to allow him to object. [Exhibit E.] This Trust procedure also was not followed with respect to any distributions from entities within the Trust. [Swallow Depo. at 114.]

At the time of formation in 2009, the Trust was the owner of a holding company, SSV Management LLC, which in turn owned I-Aware Products. [Exhibit F.] The sole asset of I-Aware was Swallow's 50% interest in Infolock, which he assigned to the Trust. There are no assignment documents. In 2012, McCullough formed another company for Swallow, P-Solutions, which was established to be owned by SSV Management.

C. Swallow's Relationship with Jeremy Johnson and Assistance in the Lobbying Effort

Swallow met Jeremy Johnson in the early 2000's. Over time, they became friends until the Krispy Kreme meeting, at which point Swallow believes the relationship changed. [Swallow Depo. at 223-24; 270.]

In the fall of 2010, Swallow introduced Johnson to Rawle for the purpose of raising money to help Johnson in an ongoing federal investigation in Nevada, and in particular to try to prevent or forestall a complaint being filed against Johnson. We refer to this as the "lobbying effort." Swallow testified that it was his idea to introduce Johnson to Rawle because of Rawle's general contacts, but he did not specifically have in mind any effort to lobby Harry Reid. Swallow said that the Reid connection was Rawle's idea. [Swallow Depo. at 229-231.]

Although Swallow testified that he was not substantively involved in the lobbying effort other than to make the introduction to Rawle and send an email to Johnson as a "friend" outlining how he would approach the lobbying based on his own lobbying experience, it is apparent that he was involved in the lobbying effort until as late as December 10, 2010, which was less than two weeks before the FTC complaint was filed. [Swallow Depo. at 233-234;

Exhibits G, H.]

D. Swallow's Work on Chaparral

During 2009, Rawle began discussing with Swallow a project he was working on in Nevada involving the effort to develop a cement plant, which later became known as the Chaparral Limestone and Cement Company ("Chaparral"). In approximately August 2010, those discussions turned into a request by Rawle that Swallow perform consulting work on the Chaparral project. [Swallow Depo. at 57-59.]

Swallow's consulting work on the Chaparral project began in August 2010 and continued through at least 2012. When asked to identify the time frame in which he worked on the Chaparral project in terms of a beginning date and an end date, Swallow testified that "[t]he end's a little blurred. The beginning was, like I said, the fall of 2010. The end would have been . . . as late as August or September or October, maybe November of 2011." [Swallow Depo. at 86.] When confronted with emails as late as June 2012, Swallow retreated: "[w]ell, like I said to you or you said to me, it was kind of a blurry line about how long the work went, and so I would assume that I was stilling working with Richard on this at this point in time." [Swallow Depo. at 88, 94-95; Exhibits I, J.]

The work Swallow performed on the Chaparral project was described in two invoices he created not in 2010 and 2011 when he did most of the work, but retroactively in 2012. [Exhibit K; Swallow Depo. at 69.] As described in these retrospective invoices, Swallow's work concerned efforts to develop a possible business relationship with the Moapa Indian Tribe in

Southern Nevada. Swallow attended meetings and made introductions to two other lawyers, David Colvin and Dennis Ickes, both of whom purported to have relationships with the Tribe.

There is no documentation regarding the terms of Swallow's consulting engagement, including specifics about the engagement or payment terms. However, Swallow testified that he believed he would receive part of Rawle's equity should the project become successful. He did not know what percentage of equity that would be, but he believed Rawle would be generous with him, as Rawle always was. [Swallow Depo. at 60-61.]

Swallow's understanding of the payment plan for his Chaparral work changed when Rawle suggested in the fall of 2010 that he wanted to pay Swallow for the Johnson introduction. Swallow testified that he refused to accept money for the introduction because he felt that would be improper given his friendship with Johnson. Swallow testified he "felt like [he] owed more to Jeremy than to accept money for encouraging him to spend money with Richard Rawle." [Swallow Depo. at 64.] Instead, after thinking about it for a few days, Swallow proposed that Rawle simply pay Swallow's newly-established company, P-Solutions, an hourly rate for his work on Chaparral and eventually subtract the hourly amount paid from any equity Swallow might later receive. [Swallow Depo. at 63, 65.] Without providing any invoices or summary of his time, Swallow asked Rawle to pay him \$15,000 in April 2011. [Exhibit K at JS000067.] Swallow also testified he had asked for and received \$8,500 several months earlier in November 2010. [Swallow Depo. at 75-77.]

E. Swallow Managed SSV Management and P-Solutions

All of the entities owned by the Swallow Trust, in particular SSV Management and P-Solutions, were operated and controlled solely by Swallow. He was the sole manager, the sole employee, and the only person who ever provided services for any of those companies. He likened his role in P-Solutions to working in a law firm, where an attorney personally performs services, but he does so on behalf of the firm. Unlike a law firm, however, Swallow did not have any agreement with P-Solutions describing the terms of his employment, his rights and obligations regarding the services provided, or any method of being compensated by the company for services he performed on its behalf. [Swallow Depo. at 119, 143, 144, 82.]

One of the services Swallow performed for SSV Management and P-Solutions was managing the finances and maintaining the checkbooks and account ledgers, although there was relatively little money earned, received, or transferred. Swallow testified that he sometimes consulted with his wife, as beneficiary of the Trust and later as manager of the companies, when making financial decisions for the companies. [Swallow Depo. at 119, 123, 128; Exhibits L, M.] But he did not consult with the investment trustee or the Trust Protector when making those financial decisions. [Swallow Depo. at 114.] Swallow continued to write the checks and keep the ledgers of the companies even after he withdrew as manager and was replaced by his wife. This was true even though his wife managed the family finances, kept the household accounts, and maintained their joint checkbooks. [Swallow Depo. at 124.]

Swallow withdrew as manager of SSV Management and P-Solutions in March 2012. According to records of the Division of Corporations & Commercial Code, the withdrawal took place on March 15, 2013, the same day he filed his second Financial Disclosure or Conflict of Interest form. [Exhibits N, O.] However, in his deposition Swallow was adamant that the date of his withdrawal as manager was on March 8 or 9, 2012, before he filed his first form on March 9. He testified that “my intent and my belief at the time I filed [the forms] was that I had resigned already as the manager of P-Solutions and SSV and I-Aware, the three companies. . . . I informed my lawyer that I was resigning and asked him to make the change immediately. . . . [A]s far as I was concerned, it was effective upon my communication to my lawyer.” [Swallow Depo. at 135-138.] “I know I discussed it with Lee McCullough, and I resigned as manager of SSV Management, and I indicated to him that Suzanne would accept the appointment as manager of SSV Management.” [Swallow Depo. at 122; 292-297.]

Concerning the reasons for withdrawal as manager, Swallow testified that “a desire to prevent any investigation into P-Solutions or Chaparral or Richard Rawle” wasn’t even a factor in his disclosure analysis. [Swallow Depo. at 325.] Rather, he testified that he withdrew as manager, and therefore did not disclose these entities, because “[m]y plans as Attorney General are not to be involved in outside businesses. That was what I intended to make clear when I filed, and that’s certainly been the case since then, and my plan is to have it be the same through the time I serve. . . . It was more about send a message to the public that I was done with these things, it’s on the record that I was involved in these things and I’m just moving on. I want to be the Attorney General a hundred percent of my time for the public if I won. That was my

thinking at the time.” [Swallow Depo. at 133, 305.]

In contrast to Swallow’s explanation about sending a message to voters, McCullough testified that Swallow never mentioned such an objective to him. [McCullough Depo. at 62-63.] McCullough explained the purpose for Swallow’s withdrawal as manager of P-Solutions and SSV Management as follows:

[H]e told me and I agreed that if he was a director of any other business out there and didn’t want it to come up in his campaign, it would be entirely appropriate for him to resign prior to sending in his election application and so he didn’t have to deal with that in the campaign, and I see this the same way. It’s cleaner and easier to not bring in a bunch of things that people could try to poke holes at or make an issue of, and I agreed with that. I just thought it would be cleaner to not have to bring it up.

[McCullough Depo. at 53-54.] Moreover, Swallow testified that he thought the disclosure about directors or formal advisors was intended to be a declaration about what he intended to do in the future as opposed to his past and present activities. [Swallow Depo. at 302.] This is contradicted by the plain language of the statute, which says nothing about future intentions but uses the present tense “*serves* on the board of directors or in any other type of formal advisory capacity.” Finally, Swallow may well have wanted to send a message to voters that he would not have outside business interests if elected as Attorney General. But attempting to send that message by omitting required disclosures about his former and continuing business relationships with the likes of P-Solutions, SSV Management, and Chaparral was misleading because voters reasonably may infer the opposite if the disclosures had been made.

F. Payments to and Transfers from P-Solutions

On November 26, 2010, RMR Consulting paid P-Solutions \$8,500 for Swallow's work on the Chaparral project. [Exhibit R.] On December 10, 2010, \$2,100 of that money was paid directly by P-Solutions to Michael Cahill, the qualified trustee on the Swallow Trust, for trustee fees. Swallow wrote the check for P-Solutions. [Exhibit M.] P-Solutions made the payment because the Trust had no bank account. On March 30, 2011, P-Solutions, with a check also written by Swallow, paid most of the remainder of the \$8,500 RMR payment, \$5,917, to Suzanne Swallow for "Taxes & Sep IRA contribution." [Exhibit M.] The taxes were joint taxes for Swallow and Suzanne. [Swallow Depo. at 149-151.] Swallow testified that he and Suzanne both have IRA's and that he does not remember whose IRA received the funds. [Swallow Depo. at 149-151.] Upon receiving the \$5,917 transfer, Suzanne deposited the same amount on the same day into the John and Suzanne Swallow joint account. [Exhibits Q.]

On April 12, 2011 RMR Consulting paid P-Solutions \$15,000 for Swallow's work on the Chaparral project. [Exhibits P, R, S.] On May 10, 2011, P-Solutions, with a check written by Swallow, paid \$13,200 of that money to Suzanne Swallow for a "draw" and reimbursement of trustee fees. [Exhibit M.] On the same day, Suzanne deposited the same amount in the John and Suzanne Swallow joint account. [Exhibit T.] Swallow testified that Suzanne used this money to buy new kitchen appliances for their home. [Swallow Depo. at 151-153.]

On May 18, 2011, Guidant Strategies, owned by Jason Powers, paid P-Solutions \$7,000. [Exhibit S.] Swallow testified that this money was a portion of approximately \$25,000 Guidant owed him personally for campaign consulting work Swallow had done for Guidant before

December 2009 when Swallow first went to work at the Attorney General's office (which was before P-Solutions had been formed). [Swallow Depo. at 145.] Swallow performed that work personally and considered the receivables to be his own. He further assigned these receivables to P-Solutions in December 2010. [Swallow Depo. at 145.] The assignment occurred in a December 2010 meeting with Jason Powers: "we talked about the receivable that his company owed me, and I said I'm going to assign that and hereby assign that to P-Solutions." [Swallow Depo. at 145-147.] There was no documentation assigning the receivable, but Swallow said he "did a verbal or oral assignment" from himself "[a]s an individual" "to an entity held by, owned by my family's trust" in which he was the only person performing services. [Swallow Depo. at 147.] Essentially, this was an oral assignment from himself to himself.

The \$7,000 remained in the P-Solutions account until May 2012. At that time, the \$7,000 was added to approximately \$500 that also remained in the P-Solutions account plus a combined \$16,000 Swallow and his wife loaned to P-Solutions, totaling \$23,500. On May 15, 2012, Swallow wrote a check on the P-Solutions account for \$23,500 to refund the amount RMR Consulting previously had paid to P-Solutions for Swallow's consulting work on the Chaparral project. [Exhibit M.] Eventually, RMR Consulting cashed the \$23,500 check and Rawle repaid P-Solutions the same amount from a non-RMR account. Upon that repayment, Swallow, on behalf of P-Solutions, wrote a \$16,000 check to Suzanne or John Swallow to reimburse them for the loan, and a \$7,000 check to SSV Management. SSV Management then used that \$7,000 – which can be traced to the \$7,000 from Guidant Strategies in May 2011 – to make two distributions to Suzanne Swallow of \$1,000 and \$2,566, respectively, and one payment to the

Nevada qualified trustee of \$750. Swallow wrote those checks as well. [Exhibit U.] The balance remains in the SSV account.

G. Johnson Enlists Swallow's Help to Obtain a Refund of the Lobbying Fee from Rawle

On November 2, 2010, Johnson wired \$50,000 to RMR Consulting for the lobbying effort. [Exhibit R.] Scott Leavitt, one of Johnson's key employees who also was under investigation by the FTC, paid an additional \$200,000 into the RMR account on December 2, 2010. [Exhibit R.] The purpose of the lobbying effort was to prevent or forestall the filing of an FTC complaint. Despite any lobbying efforts, on December 21, 2010 the FTC filed a complaint against Johnson and his company, iWorks, as well as Leavitt. Due to the filing of the complaint, Johnson and Leavitt believed their money had been for naught and should be refunded by Rawle.

On March 4, 2011, a lawyer representing Leavitt wrote to Rawle demanding a refund of Leavitt's money. [Exhibit V.] Swallow talked to the lawyer at some point, but cannot remember exactly when. Swallow reported the conversation to Rawle. [Swallow Depo. at 252-254.] In late 2011, most likely on or about November 19, 2011, Swallow and Powers met with Johnson in a St. George hotel. [Swallow Depo. at 257.] Johnson had called Swallow and made a request for an urgent meeting. [Swallow Depo. at 258.] Johnson explained that he had not gotten what he wanted out of the lobbying effort, that Leavitt had been involved in financing that effort, that he was angry and wanted "to get things resolved with Richard Rawle." [Swallow Depo at 258-59.] Swallow assumed Johnson wanted him to intervene with Rawle to try to get Leavitt's money back. Swallow agreed to speak to Rawle about it, and then did so. [Swallow Depo. at 260.]

On April 30, 2012, Swallow met Johnson at the Krispy Kreme shop in Orem. During the course of that meeting, which was recorded and since has been transcribed, Swallow testified he felt threatened “[t]hat [Johnson] would create a lie, an alternative reality, that he would publish it before the primary, and I’m experienced. I’ve seen campaigns before, and I kind of envisioned the possibility of what happened to me actually in January of 2013, that he could create a lie. I mean, he’s talking here about bribes” [Swallow Depo. at 265.] Swallow also noted the additional threat that “the press will be all over it, you’ll be on TV, you’ll be on radio, you’ll be everywhere, no one will touch you, you’ll be a pariah, and I took that as more than a veiled threat of what he was willing to do to me to put pressure on Richard to resolve things with them.” [Swallow Depo. at 266-267.] Perceiving these threats, Swallow testified: “I spent the whole meeting trying to figure out where he was going and trying to connect dots to see if he was telling me the truth, and by the time I’m halfway through this meeting I’m thinking he’s setting me up, he’s trying to make me nervous, he’s trying to scare me, and I’m just trying to hang on through the meeting and not make him upset enough that was going to storm out of there and do something terrible to me and make up something.” [Swallow Depo. at 268-269.] Expressing how seriously Swallow took these threats, he testified that “to say I wasn’t taking it seriously is not to read the transcript. I was concerned. He had me scared to death. He’d become a monster about what he’d be willing to do, . . . and I understood campaigning well enough to know that in a couple weeks that could be very hard to recover from in just a short period of time.” [Swallow Depo. at 271.]

After the Krispy Kreme meeting on April 30, 2012, Swallow took several actions. He had a telephone conversation with Rawle and encouraged him to hire a lawyer and try to reach a resolution with Johnson. [Swallow Depo. at 275.] He wrote a letter to Rawle “to create a record of a recent conversation you and I had relative to a recent conversation with Jeremy Johnson.” [Exhibit W.] He retroactively prepared invoices for his consulting work on the Chaparral project. [Exhibit K.] He and his wife made loans to P-Solutions so P-Solutions would have enough money to refund the \$23,500 it had received from RMR Consulting in November 2010 and April 2011. In turn, he arranged for Rawle to repay P-Solutions \$23,500 from a non-RMR account. [Exhibits M, X.]

When asked what these retroactive actions were intended to accomplish, Swallow testified: “What I was interested in was making sure that I was not benefitting from an introduction that I’d made to Richard on behalf of Jeremy Johnson and that, you know, I discussed it with my lawyer, and we both agreed that legally it didn’t make much of a difference, but optically it would be better if I returned that money and that there would be really no way someone could say that the money I had retained, that P-Solutions had retained, had somehow come from a transaction between Richard Rawle and Jeremy Johnson.” [Swallow Depo. at 279.] Swallow continued: “the optics of the allegation that I had been involved in a bribery involving a senator was something that would be very hard to overcome, and so this was my attempt to document and ask a question and then do what I could to at least be able to say, well, if I don’t – if I didn’t know about it, certainly when I found out about it I tried to make it right, and that’s really what that whole thing was about was trying to make it right, optically at least.” [Swallow

Depo. at 279-280.]

When asked if the intended audience for these post-Krispy Kreme actions was the voting public, Swallow testified: “I wouldn’t say it was just the voting public. I think it was anybody who could be interested at some point in time, including the court, including anybody.”

[Swallow Depo. at 281.]

In December 2012, Richard Rawle signed a declaration concerning the events surrounding the lobbying effort and Jeremy Johnson. When asked how the declaration was prepared, Swallow testified: “Well, Richard was really getting sick and taking a downturn, and I believe I prepared some notes that I gave to my lawyer, and I believe he prepared a draft, and I believe it was sent over to Cort Walker. Cort Walker revised it extensively, I believe, and finalized it and then presented it to Richard through his attorney and reviewed it with him.”

[Swallow Depo. at 282-283.] Contrary to this testimony, Swallow sat for a KUTV television interview in January 2013 in which he said: “Facing his maker, [Rawle] had his people prepare an affidavit for him, which he reviewed, changed, modified and signed, and it said this [alleged scheme] didn’t happen.” Upon hearing this statement, Cort Walker wrote an email to his lawyer stating: “I believe the first time we saw this affidavit, it came from Rod Snow [Swallow’s lawyer] who probably co-wrote it with Swallow. I cannot backup Swallow’s statement.” [Exhibit Y.] Walker further testified that the only changes Rawle made to the declaration prepared by Swallow’s lawyer were non-substantive, grammatical corrections, not “extensive” revisions as Swallow testified. [Walker Depo. at 76-77.]

H. Swallow's Financial Disclosure and Conflict of Interest Forms

On March 9, 2012, Swallow filed the first of two Candidate Financial Disclosure or Conflict of Interest forms. [Exhibits Z and AA.] He testified that he and campaign manager Jessica Fawson went to the Lieutenant Governor's office to fill out the forms. Swallow said he asked the attendant, whom he believes was Mark Thomas, if he could file an incomplete form on March 9 and then file an updated form on March 12. Swallow was told that he could. According to Swallow, his campaign staff wanted him to do so to get a jump on other candidates by filing his form and paying his fee early. [Swallow Depo. at 292-297.] Mark Thomas does not recall speaking to Swallow at that time.

During the March 9 visit to the Lieutenant Governor's office, Swallow had a question about the form and stepped outside to have a telephone conversation with his trust and estate lawyer, Lee McCullough. According to Swallow, the call lasted approximately 15-20 minutes. Based on this call with his lawyer, Swallow did not disclose P-Solutions, SSV Management, Guidant Strategies, Richard Rawle, RMR Consulting, Chaparral, Check City, or Softwise. Also as a result of the call, Swallow instructed his lawyer to withdraw him as manager of SSV Management, P-Solutions, and I-Aware Products and to replace him with his wife. [Swallow Depo. at 292-308.]

There is substantial discrepancy about the existence, length, and content of the phone call Swallow contends occurred on March 9. Swallow himself did not mention such a call during the first day of his deposition. During the second day, which occurred approximately 10 days after the first, Swallow said he had both a phone call on March 9 that lasted 15-20 minutes, and a

personal meeting between March 9 and 15. [Swallow Depo. at 188.] Swallow said that, during the phone call, he and McCullough thoroughly discussed the disclosure form, the sources of various payments, and his withdrawal as manager of SSV Management and P-Solutions. [Swallow Depo. at 299-302.] McCullough did not remember a telephone conversation at all, but merely recalled Swallow meeting in McCullough's office for less than 30 minutes. [McCullough Depo. at 37-39.] Moreover, McCullough wrote two letters on Swallow's behalf, with review and comment by Swallow and Swallow's lawyer, in response to the petitioner's allegations of campaign disclosure violations. The letters are dated April 9 and May 1, 2013 and make no reference to a phone call, though they do describe a meeting. [Exhibits BB and CC.] Also, in Swallow's own written response to petitioner's allegations, dated April 9, 2013, Swallow's lawyer describes a meeting with McCullough, but makes no reference to a phone call.

Swallow testified that, between March 9 and March 15, he made a visit to McCullough's office with the Financial Disclosure or Conflict of Interest form in hand to discuss the same issues they had discussed by phone. They reached the same conclusion. When asked why he felt he needed to make the visit to McCullough's office in Provo when he already had been satisfied with the answers regarding non-disclosure during his March 9 telephone conversation, Swallow testified, "[a]s I sit here today, I can't recall what it was. Maybe I just wanted to be very careful." [Swallow Depo. at 307.]

Swallow also testified he consulted with Assistant Attorney General Thom Roberts between March 9 and 15, 2012 concerning his Financial Disclosure or Conflict of Interest form. Referring to his conversation with Roberts, Swallow testified:

I met with, I think, the preeminent election lawyer in the State who represents the elections office, and I think it was on the phone, but I described to him what I'd done, what I had and the advice I'd got from Lee McCullough, and the first thing he said to me was this sounds a little funny, let me look into it. Then he called me back or came back to me a few days later or a little while later and he said you know what, John, you're right. It says income to the filer. That's a reasonable position to take.

[Swallow Depo. at 305.] Swallow then testified that he was sure this conversation with Roberts occurred in 2012 as opposed to 2013. [Swallow Depo. at 307.] Explaining why he was sure of the 2012 date, Swallow said that “a few months ago he reminded me of our conversation That's what he said to me just a few months ago, maybe a month ago, and that reminded me of the fact that we had talked and that he'd given me that advice before I filed my final version of this [form].” [Swallow Depo. at 308.]

Contrary to Swallow's testimony, Roberts' only clear recollection of a conversation with Swallow was in January 2013, after the story about Jeremy Johnson first broke in the news. In fact, Roberts wrote notes of his research and analysis on the back of a memorandum he received on January 15, 2013. Roberts allows the possibility that he might have spoken with Swallow sooner, but that would not explain why he would conduct a second investigation, including research and note-taking, in January 2013. [Roberts Statement at 4 (unsigned).] Again, Swallow did not mention this meeting with Roberts in his April 2013 response to the petitioner's

allegations. [Exhibits DD, EE.]

On March 15, 2012, Swallow filed his second Financial Disclosure or Conflict of Interest form without disclosing P-Solutions, SSV Management, Guidant Strategies, Richard Rawle, RMR Consulting, Chaparral, Check City, or Softwise. With respect to his non-disclosure of these entities, Swallow maintained that he did so relying on the advice of Lee McCullough and Thom Roberts.

I. Swallow's Cooperation, Attitude, and Credibility

Swallow's cooperation in the investigation was inconsistent. He did provide documents and testimony as reasonably expected. However, primarily through his attorneys he made several attempts to control or influence the course of our investigation. This started with his attorney's demand for a protective order over documents they produced, even though there was no basis for a protective order other than Swallow's desire to keep documents relevant to the investigation from public disclosure. We acceded to the protective order just so we could get the documents without incurring the time and expense of making a motion to compel. Also, his lawyers attempted to involve themselves in our investigation to the extent of actually participating in the interviews and depositions. We refused this request, and they let it pass. In addition, many requests for documents went unanswered, and Swallow has yet to produce a significant amount of documents, e-mails, and text messages due to purported difficulties in retrieving the documents and information from Swallow's various electronic devices and his iCloud account.

Most significantly, we learned that Swallow and his lawyers attempted to alter the summaries of our interviews with witnesses by adding and subtracting language from witness statements we prepared and asked the witnesses to review, modify, and sign. In particular, they received a copy of a declaration prepared for Lee McCullough based on multiple meetings and telephone calls we had with him. They then added and subtracted language and McCullough then asked that we adopt their statements. Believing this compromised the integrity of our investigation, we felt it was necessary to take McCullough's deposition to make sure the factual record was accurate and not the result of advocacy. For the same reason, we also deposed Cort Walker after his attorney said they had operated under a joint interest agreement with Swallow's lawyer. Comparing McCullough's testimony during the initial interviews we had with him before he spoke with Swallow and his lawyer, it was clear that McCullough's later deposition testimony had been influenced by those conversations.

Perhaps the most significant lack of cooperation was the apparent document destruction that has been well-publicized in the press. Swallow was unable to produce an apparently massive amount of information because of a coincidence of lost or misplaced computer information, hard drive crashes, and issuance of new phones. At this point, many documents still are outstanding, as is a subpoena for Suzanne Swallow, whose deposition we continued due to a stated health issue. Despite multiple requests, Swallow and his lawyers have not produced her for deposition at the date of this report.

When we met him, Swallow appeared genuine and cooperative. He participated in two depositions lasting approximately four hours each. He was professional, courteous, and articulate. He was well prepared and had explanations for almost all of the difficult areas of inquiry. A reasonable finder of fact could find his testimony convincing.

There are numerous inconsistencies between Swallow's testimony and other evidence, as well as apparent implausible explanations that raise questions and suspicions about his credibility. We have noted many of these throughout the fact statement, above.

V. APPLICABLE STATUTES AND RULES OF STATUTORY CONSTRUCTION

To determine whether Swallow violated the financial disclosure or conflict of interest laws will require a court to apply the above facts to the Election Code, which is contained in Title 20A of the UCA. Various sections within Title 20A, as well as sections incorporated by Title 20A, are relevant to this investigation. For example, section 20A-9-201(3)(a)(v) provides that “[b]efore accepting a declaration of candidacy for the office of . . . attorney general . . . , the filing officer shall ensure . . . that the person filing the declaration of candidacy also files the financial disclosure required by Section 20A-11-1603.” Section 20A-11-1603, in turn, provides that candidates for state constitutional office, such as the attorney general, “shall file a financial disclosure with the filing officer at the time of filing a declaration of candidacy” and that “[t]he financial disclosure form shall contain the same requirements and shall be in the same format as the financial disclosure form described in Section 76-8-109.” Thus, section 76-8-109, a provision of the Utah Criminal Code entitled “Failure to disclose conflict of interest,” is incorporated into the Election Code by reference and specifies the financial disclosures

candidates for attorney general are required to make.

Subsections (4)(b)(i)-(xiv) of section 76-8-109 list the various points of information that must be disclosed. The points pertinent to this investigation include the following:

(ii) the filer's primary employer;

(iv) each entity in which the filer is an owner or an officer;

(v) each entity that has paid \$5,000 or more in income to the filer within the one-year period ending immediately before the date of the disclosure form;

(vii) each entity not listed above in which the filer serves on the board of directors or in any other type of formal advisory capacity;

(x) a brief description of the employment and occupation of the filer's spouse.

In addition, both the existence and absence of defined terms in section 76-8-109 are important to consider. The key defined term is for income. "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise." By contrast, terms like owner, officer, any other type of formal advisory capacity, employment, and occupation are not defined.

The Utah Supreme Court has stated the appropriate guidelines for interpreting statutes. The court’s “primary objective is to ascertain the intent of the legislature.” Penunuri v. Sundance Partners, Ltd., 2013 UT 22, 301 P.3d 984, 988-89. Because “[t]he best evidence of the legislature's intent is the plain language of the statute itself,” courts look there first. Id. Thus, the court should “presume that the legislature used each word advisedly and read each term according to its ordinary and accepted meaning.” Id. “Additionally,” the court should “presume[] that the expression of one [term] should be interpreted as the exclusion of another,” and the court “therefore [should] seek to give effect to omissions in statutory language by presuming all omissions to be purposeful.” Id. Significantly, however, the court must not view individual words and subsections in isolation; instead, proper statutory interpretation “requires that each part or section be construed in connection with every other part or section so as to produce a harmonious whole.” Id. Thus, the court should “interpret [] statutes to give meaning to all parts, and avoid[] rendering portions of the statute superfluous.” Id.

Finally, the provisions of Title 20A must be construed liberally, not strictly: “[c]ourts and election officers shall construe the provisions of this title liberally to carry out the intent of this title.” §20A-1-401(1). The reasonable intent of the disclosure statute is to provide voters with information about the candidate’s outside business interests, sources of income, and potential conflicts of interest that may reflect upon his qualification for office or what his preferences might be once he is elected. By contrast, there is nothing to suggest that the intent of the statute is to protect the financial privacy of a candidate or to protect a candidate’s assets held in a family trust from estate taxes or creditors.

VI. ANALYSIS

A. Check City and Softwise

Swallow reasonably should have disclosed Check City and Softwise under section 76-8-109(4)(b)(v) for paying him income of \$17,000 between June 2011 and February 2012 via a series of deposits on a prepaid Netspend debit card. [Exhibit B.] Swallow used the card for personal expenses and reported the income on his tax returns, albeit late and with discrepancies between what he received and what he reported. He has offered no reason why this was not income to the filer under subsection (4)(b)(v). Accordingly, there is sufficient evidence to show probable cause that he violated subsection (4)(b)(v) by failing to disclose Check City and/or Softwise as the entity that paid this income to Swallow, the filer.

B. P-Solutions LLC

Swallow reasonably should have disclosed P-Solutions under one or more of the categories in section 76-9-109(4). First, Swallow received more than \$5,000 in income from P-Solutions in the year prior to his financial disclosure, and therefore was required to disclose P-Solutions under section (4)(b)(v). On behalf of P-Solutions, Swallow wrote two checks to Suzanne Swallow, who then deposited the money into the John and Suzanne Swallow joint checking account. The money then was used for family and household expenses. On March 30, 2011, within the one-year prior to the filing of Swallow's Financial Disclosure and Conflict of Interest forms, P-Solutions paid \$5,917 to Suzanne Swallow, with a memo handwritten by Swallow indicating the payment was for "taxes & Sep IRA contribution." [Exhibit M.] The same amount was deposited into the Swallow joint account on the next day, March 31, 2011 and

“used for taxes.” [Exhibit Q at JS000517.] Similarly, on May 10, 2011, P-Solutions paid Suzanne Swallow \$13,200 for a draw and reimbursement of trustee fees. [Exhibit M.] The same amount was deposited into the John and Suzanne Swallow joint account on the same day and was used for joint family and household expenses. [Exhibit T at JS000531.]

Swallow contends these payments from P-Solutions were made to his wife, not to himself, and therefore no disclosure was required. Subsection (4)(b)(v) requires disclosure of “income to the filer,” and the finder of fact will have to determine whether the payments qualify. The facts and the definition of income indicate the payments do qualify. Regardless of whether Swallow wrote the P-Solutions checks to his wife rather than to himself or to both of them jointly, the money was deposited immediately into their joint account and used for their joint taxes and other joint household or family expenses. Income, as defined by section 76-8-109, includes “any payment made to an individual,” in this case Swallow, for the individual’s “gain, regardless of source” and however “denominated.” Swallow benefitted or gained from the income in the exact same way he and his family benefitted or gained from his other income, such as his paychecks from the State of Utah.

Second, Swallow acted as an owner, officer, board member, and/or formal advisor of P-Solutions – as those terms are commonly used and understood – from its formation in late 2010 through at least 2012. P-Solutions was formed to provide consulting services on the Chaparral project in specific and potential unidentified future projects in general. Swallow himself was the only person available to and capable of performing the consulting services. He in fact did

perform consulting services on the Chaparral project and he directed payment for his services to be made to P-Solutions rather than to himself. He kept the checkbook and ledger and made financial decisions for P-Solutions even after he was removed as manager and even though his wife, who replaced him as manager, kept the checkbook and ledger for the family finances. He personally paid income taxes on the money received by P-Solutions from RMR Consulting and from Guidant Strategies. And, of course, he was the sole manager of P-Solutions until the very day of his second Financial Disclosure or Conflict of Interest form. Even after withdrawal, he continued to perform the same functions in the same way. While the terms owner, officer, board member, and formal advisor are not defined, Swallow's extensive, indeed exclusive, role in the company qualifies him as such under subsection (4)(b)(iv) or (vii). P-Solutions, in any practical sense, was merely a shell for Swallow himself.

Third, when substituted in place of Swallow as manager on March 15, 2012, Suzanne Swallow became the sole manager of P-Solutions and theoretically responsible for all of its activities, including the management of its finances and bank account. Although Swallow does not appear to have relinquished any control of P-Solutions to his wife as the new manager, to the extent she in fact was the manager of the company she reasonably should be construed as having employment or occupation with that company. Thus, to the extent P-Solutions was not disclosed otherwise, it reasonably should have been disclosed as employment or occupation by Suzanne Swallow in response to subsection (4)(b)(x).

Swallow will contend he was not required to disclose P-Solutions because he was not technically or officially designated as an owner, officer, or board member. He will argue that he was not a “formal” advisor, but rather only an informal advisor. He also will contend that even if he had been a formal advisor at some point, he was no longer because P-Solutions had no ongoing business activity after March 2012. Finally, he will contend that his wife did not earn income from P-Solutions and therefore could not have been an employee. Construing the statute liberally, however, and viewing the evidence pragmatically, these arguments do not negate the very strong inferences that Swallow owned, operated, and/or formally advised P-Solutions and derived economic gain from it. Accordingly, there is sufficient evidence that has been obtained to show probable cause to believe that Swallow violated subsections (4)(b)(iv), (v), (vii) and/or (x) by failing to disclose P-Solutions on his Financial Disclosure or Conflict of Interest forms.

C. SSV Management

Swallow reasonably should have disclosed SSV Management for the same reasons he should have disclosed P-Solutions. He was identically situated with SSV Management as the sole manager until March 15, 2012, and he was the only person performing any functions for SSV Management, including managing and controlling the SSV Management bank accounts, check books, and ledgers even after his withdrawal as manager. Thus, Swallow was an owner, officer, board member, or formal advisor of SSV Management under subsection (4)(b)(iv) or (vii), as those terms are commonly understood.

Similarly, Swallow received income, as that term is defined, from SSV Management. Again, this occurred in the same way as P-Solutions. However, SSV Management did not

receive this income until September 2012, after the disclosure form was submitted, so Swallow was not required to disclose it under subsection (4)(b)(v). The manner in which the money was used for family and household expenses, however, demonstrates Swallow's ownership and control over it.

Like P-Solutions, Swallow's wife also replaced him as manager of SSV Management, and thus SSV Management should have been disclosed as her employment or occupation under subsection (4)(b)(x).

Accordingly, there is sufficient evidence that has been obtained to show probable cause to believe that Swallow violated subsections (4)(b)(iv), (vii) and/or (x) by failing to disclose SSV Management on his Financial Disclosure and Conflict of Interest forms.

D. Guidant Strategies

Swallow reasonably should have disclosed Guidant Strategies under subsection (4)(b)(v). In May 2011, within the year prior to the filing of Swallow's Financial Disclosure or Conflict of Interest forms, P-Solutions received \$7,000 from Jason Powers or his company, Guidant Strategies. As with the two P-Solutions checks discussed in subsection A, above, this \$7,000 reasonably qualified as income to Swallow.

First, the \$7,000 was money Swallow personally earned for consulting services he provided to Guidant Strategies in or before 2009. Swallow carried a receivable for these earnings and arranged for Guidant to pay it in May 2011. While Swallow asked Guidant to make the check payable to P-Solutions, it qualifies as "income to the filer" within the definition of

income in section 76-8-109. Again, income includes “earnings” or any payment “for gain,” however denominated.

Second, Swallow personally paid income taxes on the \$7,000. In fact, he amended his returns for 2011 specifically because he had omitted the \$7,000 from Guidant Strategies on his first filing. There is perhaps no better indication that the income was to Swallow if he paid taxes on it.

Third, the purported assignment of the receivable is suspect. There are no documents Swallow prepared to assign his personal receivable to P-Solutions, nor is there any consideration for the assignment. The assignment occurred by Swallow orally saying to himself that he was assigning the receivable to himself as the manager of P-Solutions. Thus, the assignment reasonably should be considered a sham.

Fourth, the money was used for Swallow’s personal purposes. It was part of the \$23,500 Swallow repaid to RMR in May 2012 in an attempt to disassociate himself from the Johnson lobbying effort. Once Rawle repaid the \$23,500 to P-Solutions on September 28, 2012, P-Solutions paid \$7,000 to SSV Management on the same day. SSV Management, with checks signed and written by Swallow, then paid part of that \$7,000 to Suzanne Swallow, which was used for family and household expenses. Additional portions of the \$7,000 were used to pay the fee to the Nevada Qualified trustee of the Swallow Trust, which did not have a bank account of its own.

This \$7,000 reasonably qualifies as income to Swallow under the broad definition of income. Accordingly, we conclude that sufficient evidence has been obtained to show probable cause to believe that Swallow violated subsection (4)(b)(v) by failing to disclose Jason Powers/Guidant Strategies on his Financial Disclosure or Conflict of Interest forms.

E. RMR Consulting/Richard Rawle/Chaparral

Swallow reasonably should have disclosed some combination of RMR Consulting/Richard Rawle/Chaparral Limestone and Cement Company on his disclosure forms under subsections (4)(b)(v) or (vii). Swallow performed what he described as consulting work for Richard Rawle and the Chaparral Cement project. At Swallow's direction, Rawle, through RMR Consulting, paid P-Solutions for Swallow's consulting services in two checks totaling \$23,500. One of RMR's checks to P-Solutions for \$15,000 was written on April 8, 2011, within the one-year period prior to Swallow's Financial Disclosure and Conflict of Interest forms. Rawle paid the money to P-Solutions rather than Swallow personally because Swallow asked him to do so. Swallow did not disclose RMR, Rawle, or Chaparral on his disclosure forms because the check was written to P-Solutions, not himself personally, and therefore Swallow did not believe it was "income to the filer." Notwithstanding these contentions, there are several factors indicating some combination of RMR, Rawle, and Chaparral should have been disclosed.

First, like the money P-Solutions received from Guidant Strategies, Swallow personally paid income taxes on the payments from RMR. If the income is taxable to Swallow personally even though the check was written to an entity held by his grantor trust, it reasonably should be treated as his income for financial disclosure and conflict of interest purposes.

Second, even though the check was made to P-Solutions, that does not mean the money cannot be income to the filer. As explained above, income is defined very broadly to include earnings, gain, and any payments regardless of source and however denominated. The term “earnings” is significant in this case because it was Swallow personally who generated the earnings. Similarly, the term “gain” is significant because an individual may gain by income or earnings even indirectly. In this case, Swallow experienced gain simply because \$13,200 of the \$15,000 paid for his consulting services was paid to his wife and immediately transferred to his joint account and used to defray his joint family and household expenses, including his personal income taxes, IRA contributions, and dues for his membership in a charitable organization. Indeed, even if the money had remained in P-Solutions or otherwise as an asset of the Trust, Swallow still would have gained by his earnings because they would have benefitted his dependents and heirs. Based upon the manner in which the money was earned and used, the fact that the check was written initially to P-Solutions is not determinative and, indeed, is outweighed by evidence demonstrating that he personally earned, received, and used the money.

Third, as the only individual performing the consulting services, Swallow reasonably should be considered a formal advisor of Rawle and his entities before and after filing the financial disclosure forms in March 2012. While the phrase “any other type of formal advisor” is not defined, its use within the statute is intentionally broad, and distinct from the specific corporate position of a member of the board of directors. A formal advisor reasonably should include consultants, independent contractors, professional advisors like lawyers and accountants, and employees. Here, Swallow was a consultant by his own designation. He performed

services, prepared invoices, and received payment for his work. This reasonably qualifies as a formal advisor.

Swallow suggests that any formal advisory relationship he had with RMR, Rawle, or Chaparral ended before his Financial Disclosure and Conflict of Interest forms were due and therefore he was not required to disclose them. The statute uses the present tense “serves,” but does not place timing parameters on the beginning and end of the advisory relationship. Swallow’s testimony that the statute contemplates declarations of future intended relationships, as opposed to past or existing ones, is not supported by the language and defeats the objective of disclosure of information that voters can use to evaluate the candidates. Regardless, the timing is moot because the evidence demonstrates that Swallow’s advisory services to RMR, Rawle, and the Chaparral project continued up to and even after his Financial Disclosure and Conflict of Interest forms in March 2012. Swallow admitted the end of his consulting relationship was “blurred” and that he assumed in continued into June of 2012. [Swallow Depo. at 88, 94-95; Exhibits I, J.] Swallow further argues that subsection (4)(b)(vii) is a prospective disclosure about what positions the candidate intends to fill in the future. [Swallow Depo. at 302.] That is belied by the statute, which uses the present tense “serves.”

The \$15,000 check P-Solutions received from RMR reasonably qualifies as income to Swallow under the broad definition of income and the circumstances described above. Accordingly, sufficient evidence has been obtained to show probable cause to believe that Swallow violated subsections (4)(b)(v) and (vii) by failing to disclose RMR Consulting/Richard

Rawle/Chaparral on his Financial Disclosure or Conflict of Interest forms.

VII. CONCLUSION

Through this investigation, we have obtained sufficient evidence to establish probable cause to believe that Swallow violated one or more provisions of section 76-8-109(4)(b).

Check City and Softwise reasonably should have been disclosed under subsection (4)(b)(v) as providing more than \$5,000 in income to Swallow within the year before his filing.

P-Solutions reasonably should have been disclosed under subsections (4)(b)(iv), (v), (vii) and/or (x) as providing more than \$5,000 in income to Swallow within the year before his filing, because he reasonably can be construed as acting as an officer, director, or formal advisor to P-Solutions, and because P-Solutions reasonably can be considered his wife's employment or occupation given her position as the sole manager after March 15, 2012.

SSV Management reasonably should have been disclosed under subsections (4)(b)(iv), (vii), or (x) because Swallow reasonably can be construed as acting as an officer, director, or formal advisor to SSV Management and because SSV Management reasonably can be considered his wife's employment or occupation given her position as the sole manager after March 15, 2012.

Guidant Strategies reasonably should have been disclosed under subsection (4)(b)(v) as providing more than \$5,000 in income to Swallow within the year before his filing.

RMR Consulting/Richard Rawle/Chaparral Limestone & Cement Company reasonably should have been disclosed under subsections (4)(b)(v) and (vii) as providing more than \$5,000 in income to Swallow within the year before his filing and because Swallow reasonably can be construed as acting as an officer, director, or formal advisor to these entities.

Accordingly, we recommend the Lieutenant Governor follow the procedures of UCA section 20A-1-703(3)(b) by granting leave to bring the proceeding, and directing special counsel to conduct the proceeding, in accordance with sections 20A-1-703 and 704.

DATED this 20th day of November, 2013.

SNELL & WILMER L.L.P.



Matthew L. Lalli
Stewart O. Peay
Jeremy J. Stewart
Special Counsel

A

Lalli, Matthew

Subject: FW: [IWOV-iDocs.FID779777]

From: Allen K. Young [<mailto:allenkyoung@qwestoffice.net>]
Sent: Friday, November 01, 2013 11:43 AM
To: Peay, Stewart
Cc: salba@scmlaw.com
Subject: FW: [IWOV-iDocs.FID779777]

Stewart:

Sam Albas email is self explanatory. The Rawles considered Rod was providing legal advice to them at the time of the emails. I will be happy to talk to you further. Allen

From: Sam Alba [<mailto:sa@scmlaw.com>]
Sent: Friday, November 01, 2013 7:52 AM
To: 'allenkyoung@qwestoffice.net'; Cort Walker; Tracy Rawle; Todd Rawle
Cc: Nathanael Mitchell
Subject: [IWOV-iDocs.FID779777]

Allen:

After speaking with Cort Walker about Rod Snow's involvement in obtaining Richard's declaration in December, 2012, it is his understanding that Rod was indeed providing legal advice to Rawle's. I was retained shortly thereafter and Rod and I have had a joint defense agreement since then. The documents at issue are considered privileged by my clients and we wish that you continue to assert it on their behalf. If you have any further questions do not hesitate to call.

Sam

Sam Alba
Lawyer

SNOW, CHRISTENSEN & MARTINEAU

10 Exchange Place, Eleventh Floor | Salt Lake City, Utah 84111
Phone: (801) 322-9234 | Fax: (801) 363-0400
sa@scmlaw.com | [Vcard](vcard) | www.scmlaw.com

The information contained in this e-mail and any attachments are confidential and solely for the use of the intended recipient. If the intended recipient is our client, then this information is also privileged attorney-client communication. Unauthorized use or disclosure of this information is prohibited. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by e-mail or calling (801) 521-9000, so that our address record can be corrected. Thank you.

B



Account History: [REDACTED]

EXHIBIT 33
 WIT: Swallow
 DATE: 10-25-13
 CINCourt, LLC

Transaction Date	Transaction	Credit	Debit	Balance
6/1/11 2:58 PM	CREDIT Deposit @ Check City	\$14.95	\$0.00	\$14.95
6/1/11 2:58 PM	DEBIT 4.96 Order Debit Card	\$0.00	\$4.95	\$10.00
6/1/11 6:32 PM	CREDIT Deposit @ Softwise	\$1,500.00	\$0.00	\$1,510.00
6/1/11 7:24 PM	DEBIT \$69.95 Generic Account Subscription Fee	\$0.00	\$69.95	\$1,440.05
6/2/11 7:55 PM	DEBIT PIN \$213.69 SPORTS AUTHORITY 10200 S STATE STREET SANDY UTUS	\$0.00	\$213.69	\$1,226.36
6/2/11 9:54 PM	DEBIT SIG \$73.43 CHEVRON 00203195 DRAPER UTUS	\$0.00	\$73.43	\$1,152.93
6/4/11 8:57 PM	DEBIT SIG \$40.35 CHEVRON 00072991 PARK CITY UTUS	\$0.00	\$40.35	\$1,112.58
6/6/11 5:43 AM	DEBIT SIG \$37.63 BUDGET RENT-A-CAR MARIETTA GAUS	\$0.00	\$37.63	\$1,074.95
6/7/11 5:38 AM	DEBIT SIG \$78.06 CLARION SUITES SAINT GEORGE UTUS	\$0.00	\$78.06	\$996.89
6/7/11 10:41 AM	DEBIT SIG \$49.32 EXXONMOBIL 5720 W HWY 22 WILSON WYUS	\$0.00	\$49.32	\$947.57
6/9/11 11:53 AM	DEBIT SIG \$33.11 TGI FRIDAY'S #1936 ATLANTA GAUS	\$0.00	\$33.11	\$914.46
6/9/11 9:29 PM	DEBIT SIG \$8.50 DELTA ONBOARD ATLANTA GAUS	\$0.00	\$8.50	\$905.96
6/10/11 9:21 PM	DEBIT SIG \$57.14 CHEVRON 00212098 SANDY UTUS	\$0.00	\$57.14	\$848.82
6/11/11 5:42 AM	DEBIT SIG \$14.28 MARRIOTT 33707 F&B CHICAGO ILUS	\$0.00	\$14.28	\$834.54
6/11/11 5:42 AM	DEBIT SIG \$23.90 MARRIOTT 33707 F&B CHICAGO ILUS	\$0.00	\$23.90	\$810.64
6/11/11 5:42 AM	DEBIT SIG \$40.20 MARRIOTT 33707 O'HARE CHICAGO ILUS	\$0.00	\$40.20	\$770.44
6/13/11 5:32 AM	DEBIT SIG \$25.00 KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$745.44
6/20/11 8:53 PM	DEBIT SIG \$9.00 MULLIGAN'S SOUTH JORDAN UTUS	\$0.00	\$9.00	\$736.44
6/23/11 10:58 PM	DEBIT SIG \$22.18 HILTON HOTEL THE DRAKE CHICAGO ILUS	\$0.00	\$22.18	\$714.28
6/24/11 5:32 AM	DEBIT SIG \$66.99 CHEVRON 00207282 WEST VALLEY CUTUS	\$0.00	\$66.99	\$647.29
6/27/11 5:21 AM	DEBIT SIG \$6.40 CHOCOLATE COTTAGE LLC SANDY UTUS	\$0.00	\$6.40	\$640.89
6/27/11 6:21 PM	CREDIT Deposit @ Check City	\$1,900.00	\$0.00	\$2,540.89
6/27/11 7:28 PM	DEBIT PIN \$74.66 SOU THE HOME DEPOT 862233 135 EAST 11400 SOUTH SANDY UTUS	\$0.00	\$74.66	\$2,466.23
6/28/11 6:33 AM	DEBIT SIG \$248.86 INTERCONTINENTAL KC AT KANSAS CITY MOUS	\$0.00	\$248.96	\$2,217.27
6/29/11 6:01 AM	DEBIT SIG \$61.89 MARKET STREET OYSTER BASALT LAKE CITUTUS	\$0.00	\$61.89	\$2,155.38
6/30/11 5:44 AM	DEBIT SIG \$1.94 CHEVRON 00073054 SALT LAKE CITUTUS	\$0.00	\$1.94	\$2,153.44
6/30/11 5:44 AM	DEBIT SIG \$70.88 CHEVRON 00073054 SALT LAKE CITUTUS	\$0.00	\$70.88	\$2,082.56
6/30/11 12:43 PM	DEBIT SIG \$19.15 MIMIS CAFE 65 SANDY UTUS	\$0.00	\$19.15	\$2,063.41
6/30/11 10:14 PM	DEBIT SIG \$36.28 CHILI'S GRI46600014662 CENTERVILLE UTUS	\$0.00	\$36.28	\$2,027.13
7/1/11 1:10 PM	DEBIT SIG \$26.52 MIMIS CAFE 65 SANDY UTUS	\$0.00	\$26.52	\$2,000.61
7/4/11 11:35 AM	DEBIT SIG \$26.00 KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$26.00	\$1,974.61
7/4/11 9:17 PM	DEBIT SIG \$16.05 FRED MEYER 8181 OLD GLACIER HWY. JUNEAU AKUS	\$0.00	\$16.05	\$1,958.56
7/6/11 5:03 AM	DEBIT SIG \$125.39 AVIS RENT A CAR #6 JUNEAU AKUS	\$0.00	\$125.39	\$1,833.17
7/6/11 5:03 AM	CREDIT \$125.39 AVIS RENT A CAR #6 JUNEAU AKUS AC16849B1297C29F000001304BA93AC002E9	\$125.39	\$0.00	\$1,958.56
7/25/11 5:41 AM	DEBIT SIG \$25.00 KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,933.56
7/25/11 1:39 PM	DEBIT PIN \$72.02 IFA DRAPER STORE 1071 E. PIONEER ROAD DRAPER UTUS	\$0.00	\$72.02	\$1,861.54
7/28/11 1:51 PM	DEBIT PIN \$47.65 HOLIDAY OIL #07 293 E 12300 S DRAPER UTUS	\$0.00	\$47.65	\$1,813.89
7/29/11 6:38 AM	DEBIT SIG \$49.94 CHEVRON 00071320 SANDY (SANDY UTUS	\$0.00	\$49.94	\$1,763.95
7/29/11 4:46 PM	DEBIT PIN \$51.99 SHELL Service Station SHELL SANDY UTUS	\$0.00	\$51.99	\$1,711.96
7/29/11 5:47 PM	DEBIT PIN \$27.77 JIFFY LUBE #2007 10620 S 700 E SANDY UTUS	\$0.00	\$27.77	\$1,684.19
7/30/11 9:23 AM	DEBIT PIN \$7.20 REAMS #9 10650 S 700 EAST SANDY UTUS	\$0.00	\$7.20	\$1,676.99
8/1/11 6:02 PM	DEBIT PIN \$6.20 USPS 4921080120 DRAPER UTUS	\$0.00	\$6.20	\$1,670.79
8/2/11 12:22 PM	DEBIT SIG \$57.11 MAGLEBY'S AT MARRI-PROVO UTUS	\$0.00	\$57.11	\$1,613.68
8/3/11 8:40 PM	DEBIT PIN \$54.57 SHELL Service Station SHELL SANDY UTUS	\$0.00	\$54.57	\$1,559.11
8/4/11 9:28 PM	DEBIT SIG \$49.09 P.F. CHANG'S #6000 SALT LAKE CTYUTUS	\$0.00	\$49.09	\$1,510.02
8/6/11 6:33 AM	DEBIT SIG \$63.74 CHEVRON 00205734 HANKSVILLE UTUS	\$0.00	\$63.74	\$1,446.28
8/6/11 8:53 PM	DEBIT SIG \$12.82 SUBWAY 03470390 CANKLE DALE UTUS	\$0.00	\$12.82	\$1,433.46
8/7/11 4:28 AM	DEBIT SIG \$20.68 STAN'S BURGER SHAC HANKSVILLE UTUS	\$0.00	\$20.68	\$1,412.80
8/7/11 11:16 AM	DEBIT SIG \$34.82 GILLEY'S INC. #3 FERRO UTUS	\$0.00	\$34.82	\$1,378.18
8/10/11 5:17 AM	DEBIT SIG \$68.50 CHEVRON 00301989 DRAPER UTUS	\$0.00	\$68.50	\$1,310.68
8/12/11 5:25 AM	DEBIT SIG \$22.26 JEM'S RESTAURANT SALT LAKE CITUTUS	\$0.00	\$22.26	\$1,288.42
8/13/11 11:48 AM	DEBIT SIG \$22.29 MIMIS CAFE 65 SANDY UTUS	\$0.00	\$22.29	\$1,266.13
8/16/11 5:11 AM	DEBIT SIG \$6.46 KNEADERS 8018387700 DRAPER UTUS	\$0.00	\$6.46	\$1,260.67
8/15/11 5:11 AM	DEBIT SIG \$25.00 KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,235.67

*All Times Listed are CST



Account History XXXXXXXXXX

Transaction Date	Transaction	Credit	Debit	Balance
8/16/11 2:08 PM	CREDIT Credit: Cash Load at Softwise Attn: Danny Barney 2474 N. University Ave PROVO,UT 84604	\$1,600.00	\$0.00	\$2,735.67
8/19/11 12:08 PM	DEBIT SIG MAVERIK CNTRY STRE 304 DRAPER UTUS	\$0.00	\$68.49	\$2,667.18
8/19/11 9:53 PM	DEBIT PIN FLYING J #774 90 SOUTH STONE ROAD SNOWVILLE UTUS	\$0.00	\$61.97	\$2,605.21
8/20/11 8:49 PM	DEBIT SIG APPLEBEES 928601410026 TWIN FALLS IDUS	\$0.00	\$50.00	\$2,555.21
8/21/11 11:03 AM	DEBIT SIG PAPA MURPHY'S UT034 DRAPER UTUS	\$0.00	\$26.17	\$2,529.04
8/24/11 4:56 AM	DEBIT SIG CHEVRON 00072991 PARK CITY UTUS	\$0.00	\$66.31	\$2,462.73
8/24/11 11:13 AM	DEBIT SIG MIMIS CAFE 65 SANDY UTUS	\$0.00	\$24.36	\$2,438.37
8/24/11 8:42 PM	DEBIT SIG SUBWAY 00011320 SALT LAKE CITUTUS	\$0.00	\$12.34	\$2,426.03
8/25/11 11:43 AM	DEBIT SIG THAIFOON TASTE OF SALT LAKE CITUTUS	\$0.00	\$19.37	\$2,406.66
8/25/11 9:00 PM	DEBIT SIG SOUTH VALLEY CHIROPAC DRAPER UTUS	\$0.00	\$25.00	\$2,381.66
8/26/11 6:06 PM	DEBIT PIN BINGHAM CYCLERY 10510 SO 1300 E. SANDY UTUS	\$0.00	\$18.15	\$2,363.51
8/27/11 12:28 PM	DEBIT SIG MRS FIELDS COOKIES SANDY UTUS	\$0.00	\$5.00	\$2,357.71
8/27/11 12:28 PM	DEBIT SIG FAZOLI'S #5225 DRAPER UTUS	\$0.00	\$18.52	\$2,339.19
8/27/11 9:02 PM	DEBIT SIG THE OLIVE GARD00017814 AMERICAN FORKUTUS	\$0.00	\$30.85	\$2,308.33
8/29/11 12:13 AM	DEBIT SIG SOUTH VALLEY CHIROPAC DRAPER UTUS	\$0.00	\$25.00	\$2,283.33
8/29/11 6:43 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$66.07	\$2,217.26
8/31/11 5:09 AM	DEBIT SIG EM'S RESTAURANT SALT LAKE CITUTUS	\$0.00	\$21.26	\$2,196.00
9/2/11 12:55 PM	DEBIT SIG BAMBARA RESTAURANT SLTSLAKE CITUTUS	\$0.00	\$48.83	\$2,147.17
9/2/11 10:35 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$65.09	\$2,082.08
9/2/11 11:19 PM	DEBIT SIG AMPCO PARKING 222 BUILDSALT LAKE CITUTUS	\$0.00	\$2.00	\$2,080.08
9/3/11 12:13 PM	DEBIT SIG MRS FIELDS COOKIES SANDY UTUS	\$0.00	\$5.00	\$2,074.28
9/4/11 4:29 AM	DEBIT SIG LAMBS GRILL SALT LAKE CITUTUS	\$0.00	\$14.40	\$2,059.88
9/5/11 11:23 AM	DEBIT SIG KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$2,034.88
9/6/11 4:39 PM	DEBIT PIN COMMON CENTS #262 12276 SOUTH STATE STREEDRAPER UTUS	\$0.00	\$66.55	\$1,978.33
9/8/11 5:03 AM	DEBIT SIG LA FUENTE TOOELE TOOELE UTUS	\$0.00	\$20.01	\$1,958.32
9/8/11 11:52 AM	DEBIT PIN CNS RITE AID CORP. 031254 PO BOX 681268 PARK CITY UTUS	\$0.00	\$52.65	\$1,905.67
9/9/11 2:50 PM	DEBIT SIG VZWRLSS IVRDEBIT VISW FOLSOM CAUS	\$0.00	\$342.59	\$1,563.08
9/10/11 5:29 AM	DEBIT SIG FAST STOP 211 MOUNTAIN GREEUTUS	\$0.00	\$47.14	\$1,515.94
9/10/11 8:28 PM	DEBIT SIG CARINO'S ITALIAN WEST JORDAN UTUS	\$0.00	\$24.39	\$1,491.55
9/11/11 10:49 PM	DEBIT SIG AMI 801-6552595 UTUS	\$0.00	\$566.86	\$924.69
9/13/11 1:15 PM	DEBIT PIN WALGREENS SWC OF NEW MONTGOMERY SAN FRANCISCOCAUS	\$0.00	\$24.87	\$899.82
9/14/11 8:44 PM	DEBIT SIG FIREWOOD CAFE OAKLAND OAKLAND CAUS	\$0.00	\$4.35	\$895.47
9/14/11 8:44 PM	DEBIT SIG QTAEZ AT AIRPORT LLC OAKLAND CAUS	\$0.00	\$10.06	\$885.41
9/14/11 8:44 PM	DEBIT SIG CALIFORNIA PIZZA 254 SAN FRANCISCOCAUS	\$0.00	\$11.03	\$874.38
9/14/11 8:44 PM	DEBIT SIG CALIFORNIA PIZZA 254 SAN FRANCISCOCAUS	\$0.00	\$21.13	\$853.25
9/15/11 5:13 AM	DEBIT SIG AT&T PARK CONCESS SAN FRANCISCOCAUS	\$0.00	\$13.25	\$840.00
9/15/11 5:13 AM	DEBIT SIG EM'S RESTAURANT SALT LAKE CITUTUS	\$0.00	\$13.63	\$826.37
9/15/11 5:13 AM	DEBIT SIG ST REGIS SAN FRANCISCO SAN FRANCISCOCAUS	\$0.00	\$403.52	\$422.85
9/15/11 9:58 AM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$66.24	\$356.61
9/16/11 9:14 PM	DEBIT SIG UT BUS RENEWAL WEB 801-530-6431 UTUS	\$0.00	\$15.00	\$341.61
9/16/11 9:14 PM	DEBIT SIG UT BUS RENEWAL WEB 801-530-6431 UTUS	\$0.00	\$15.00	\$326.61
9/17/11 1:05 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$4.00	\$322.61
9/17/11 1:59 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$3.90	\$318.71
9/18/11 11:11 AM	DEBIT SIG PAPA MURPHY'S UT034 DRAPER UTUS	\$0.00	\$21.35	\$297.36
9/19/11 5:40 PM	DEBIT PIN FLYING J #743 1597 S MAIN ST NEPHI UTUS	\$0.00	\$58.83	\$238.53
9/20/11 11:19 AM	DEBIT SIG GO GUNG HO LLC 801-4003779 UTUS	\$0.00	\$31.40	\$207.13
9/20/11 10:56 PM	DEBIT SIG TEXACO 00304819 ST. GEORGE UTUS	\$0.00	\$39.13	\$168.00
9/21/11 5:05 AM	DEBIT SIG SUPERSONIC SANDY SANDY UTUS	\$0.00	\$9.50	\$158.50
9/21/11 11:18 AM	DEBIT SIG PLAYERS SPORTS GRILL SAINT GEORGE UTUS	\$0.00	\$34.94	\$123.56
9/23/11 10:48 AM	CREDIT Credit: Cash Load at Softwise Attn: Danny Barney 2474 N. University Ave PROVO,UT 84604	\$1,500.00	\$0.00	\$1,623.56
9/23/11 11:55 AM	DEBIT SIG MIMIS CAFE 65 SANDY UTUS	\$0.00	\$20.05	\$1,603.51
9/23/11 9:14 PM	DEBIT SIG CHEVRON 00204564 LEHI UTUS	\$0.00	\$72.14	\$1,531.37
9/26/11 12:09 AM	DEBIT SIG PIER 49 PIZZA - DRAPER DRAPER UTUS	\$0.00	\$5.46	\$1,524.91
9/28/11 5:33 AM	DEBIT SIG MARKET STREET OYSTER BASALT LAKE CITUTUS	\$0.00	\$53.35	\$1,471.56

*All Times Listed are CST



Account History [REDACTED]

Transaction Date	Transaction	Credit	Debit	Balance
9/28/11 9:10 PM	DEBIT SIG BRAZA GRILL MURRAY UTUS	\$0.00	\$35.11	\$1,438.45
9/29/11 12:25 PM	DEBIT SIG CIRCLEK6609 AS10081719 SANDY UTUS	\$0.00	\$5.74	\$1,430.71
9/29/11 12:26 PM	DEBIT SIG CIRCLEK6609 AS10081719 SANDY UTUS	\$0.00	\$70.58	\$1,360.13
9/30/11 5:48 AM	DEBIT SIG FAIRFIELD INN & SUITE SST. GEORGE UTUS	\$0.00	\$265.38	\$1,094.75
10/1/11 5:51 AM	DEBIT SIG KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,069.75
10/1/11 5:51 AM	DEBIT SIG KELLIE&CO8012553223 WEST JORDAN UTUS	\$0.00	\$58.76	\$1,010.99
10/1/11 9:30 PM	DEBIT PIN FRESH MARKET DRAPER 1212 DRAPER PARKWAY DRAPER UTUS	\$0.00	\$29.43	\$981.56
10/4/11 9:00 PM	DEBIT SIG DELTA AIR 00623594352DELTA.COM CAUS	\$0.00	\$292.00	\$689.56
10/4/11 9:00 PM	DEBIT SIG BLUE LEMON HIGHLAND UTUS	\$0.00	\$16.14	\$673.42
10/5/11 10:50 AM	DEBIT PIN HOLIDAY OIL #08 606 W 5300 S MURRAY UTUS	\$0.00	\$68.81	\$604.61
10/6/11 11:32 AM	DEBIT SIG BATTERIES PLUS #35 SANDY UTUS	\$0.00	\$8.10	\$596.51
10/7/11 12:13 PM	DEBIT SIG AVIS CAR RENTAL MARIETTA GAUS	\$0.00	\$78.71	\$517.80
10/7/11 1:48 PM	CREDIT Credit: Cash Load at Softwise Attn: Danny Barney 2474 N. University Ave PROVO, UT 84604	\$1,500.00	\$0.00	\$2,017.80
10/9/11 10:43 PM	DEBIT SIG EXXONMOBIL 47634886 DRAPER UTUS	\$0.00	\$58.35	\$1,959.45
10/10/11 4:21 PM	DEBIT PIN SQJ THE HOME DEPOT 361871 136 EAST 11400 SOUTH SANDY UTUS	\$0.00	\$83.49	\$1,895.96
10/10/11 4:38 PM	DEBIT PIN SOU BEST BUY #497 732536 35 WAST 11400 SOUTH SANDY UTUS	\$0.00	\$96.15	\$1,799.81
10/10/11 5:27 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$81.63	\$1,718.18
10/10/11 6:56 PM	DEBIT PIN HARMONS - DRAPER 672 EAST 11400 SOUTH DRAPER UTUS	\$0.00	\$54.44	\$1,663.74
10/12/11 7:57 AM	DEBIT SIG MCNEILS AUTO CARE SANDY UTUS	\$0.00	\$35.85	\$1,627.89
10/12/11 2:28 PM	DEBIT PIN SMITH & ED 3936 N HWY 126 US NORTH OGDEN UTUS	\$0.00	\$217.93	\$1,409.96
10/14/11 9:56 PM	DEBIT SIG CHEVRON 00071320 SANDY (SANDY UTUS	\$0.00	\$63.29	\$1,346.67
10/17/11 12:38 AM	DEBIT SIG PIER 49 PIZZA - DRAPER DRAPER UTUS	\$0.00	\$13.92	\$1,332.75
10/20/11 10:37 AM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$63.94	\$1,268.81
10/20/11 9:04 PM	DEBIT SIG FARRS FRESH SANDY SANDY UTUS	\$0.00	\$7.93	\$1,260.88
10/21/11 11:59 AM	DEBIT PIN BOUNTIFUL RIDGE GO 2430 SOUTH BOUNTIF BOUNTIFUL UTUS	\$0.00	\$32.00	\$1,228.88
10/22/11 5:13 AM	DEBIT SIG KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,203.88
10/22/11 2:22 PM	DEBIT PIN SPORTS AUTHORI 10200 S STATE STREET SANDY UTUS	\$0.00	\$91.36	\$1,142.52
10/22/11 2:53 PM	DEBIT PIN BOUNTIFUL RIDGE GO 2430 SOUTH BOUNTIF BOUNTIFUL UTUS	\$0.00	\$32.00	\$1,110.52
10/22/11 8:44 PM	DEBIT SIG GOLDEN SPOON 801-816-1983 UTUS	\$0.00	\$2.78	\$1,107.74
10/23/11 10:49 PM	DEBIT SIG BOUNTIFUL RIDGE GOLF C BOUNTIFUL UTUS	\$0.00	\$11.10	\$1,096.64
10/23/11 10:49 PM	DEBIT SIG PIER 49 PIZZA - DRAPER DRAPER UTUS	\$0.00	\$17.09	\$1,079.55
10/25/11 11:21 AM	CREDIT Credit: Cash Load at Softwise Attn: Danny Barney 2474 N. University Ave PROVO, UT 84604	\$1,800.00	\$0.00	\$2,879.55
10/26/11 11:22 AM	DEBIT SIG LOS HERMANOS - PRO PROVO UTUS	\$0.00	\$32.75	\$2,846.80
10/26/11 11:22 AM	DEBIT SIG MAVERIK CNTRY STRE 331 SALT LAKE CITUTUS	\$0.00	\$72.71	\$2,774.09
10/26/11 11:22 AM	DEBIT SIG PIER 49 PIZZA - DRAPER DRAPER UTUS	\$0.00	\$7.46	\$2,766.63
10/27/11 11:31 PM	DEBIT SIG ON BROADWAY DELI SALT LAKE CITUTUS	\$0.00	\$7.55	\$2,759.08
10/29/11 9:13 PM	DEBIT SIG CAFE ZUPAS SOUTH JORDAN SOUTH JORDAN UTUS	\$0.00	\$48.50	\$2,710.58
10/30/11 4:22 AM	DEBIT SIG MARKET STREET GRILL RIVSOUTH JORDAN UTUS	\$0.00	\$14.39	\$2,696.19
11/1/11 11:50 AM	DEBIT SIG VERIZON WRLS IVR VW 800-9220204 CAUS	\$0.00	\$140.67	\$2,555.52
11/1/11 11:51 AM	DEBIT SIG GO QUNG HO LLC 801-4003779 UTUS	\$0.00	\$31.40	\$2,524.12
11/1/11 2:35 PM	CREDIT Credit: Cash Load at Softwise Attn: Danny Barney 2474 N. University Ave PROVO, UT 84604	\$1,800.00	\$0.00	\$4,324.12
11/2/11 12:06 PM	DEBIT SIG MIMIS CAFE 65 SANDY UTUS	\$0.00	\$17.92	\$4,306.20
11/3/11 12:24 PM	DEBIT SIG MAGLEBY'S AT MARRI PROVO UTUS	\$0.00	\$15.96	\$4,290.24
11/3/11 9:31 PM	DEBIT SIG CHEVRON 00071320 SANDY (SANDY UTUS	\$0.00	\$64.48	\$4,225.76
11/3/11 9:31 PM	DEBIT SIG DELTA AIR 00623621990DELTA.COM CAUS	\$0.00	\$732.80	\$3,492.96
11/4/11 5:25 AM	DEBIT SIG CHEVRON 00207391 PRICE UTUS	\$0.00	\$28.57	\$3,464.41
11/4/11 5:25 AM	DEBIT SIG 7-ELEVEN 33985 DRAPER UTUS	\$0.00	\$68.30	\$3,408.11
11/5/11 8:37 PM	DEBIT SIG EINSTEIN BROS BAGELS073SALT LAKE CITUTUS	\$0.00	\$2.75	\$3,405.36
11/6/11 10:50 PM	DEBIT SIG GOLDEN SPOON 801-816-1983 UTUS	\$0.00	\$6.41	\$3,398.95
11/6/11 10:50 PM	DEBIT SIG FARRS FRESH SANDY SANDY UTUS	\$0.00	\$20.99	\$3,377.96

*All Times Listed are CST



Account History [REDACTED]

Transaction Date	Transaction	Credit	Debit	Balance
11/7/11 11:48 AM	DEBIT SIG KELLIE&CO8012653223 WEST JORDAN UTUS	\$0.00	\$25.00	\$3,352.96
11/8/11 8:44 PM	DEBIT SIG NYC-TAXI LONG ISLAND NYUS	\$0.00	\$9.90	\$3,343.06
11/9/11 8:59 PM	DEBIT SIG T3 SBARRIOS FC 10433118 JAMAICA NYUS	\$0.00	\$7.61	\$3,335.45
11/9/11 8:59 PM	DEBIT SIG BALDUCCI'S T3 10434892 JAMAICA NYUS	\$0.00	\$16.40	\$3,319.05
11/10/11 5:23 AM	DEBIT SIG RADISSON MARTINIQUE BWYNEW YORK NYUS	\$0.00	\$45.34	\$3,273.71
11/12/11 10:40 AM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$56.03	\$3,217.68
11/13/11 10:49 PM	DEBIT SIG GOLDEN SPOON 801-B16-1983 UTUS	\$0.00	\$4.38	\$3,213.30
11/13/11 10:49 PM	DEBIT SIG PIER 49 PIZZA - DRAPER DRAPER UTUS	\$0.00	\$13.92	\$3,199.38
11/14/11 4:46 AM	DEBIT SIG UINTA GOLF SANDY SANDY UTUS	\$0.00	\$96.14	\$3,103.24
11/14/11 11:55 AM	DEBIT SIG KELLIE&CO8012653223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$3,078.24
11/14/11 8:42 PM	DEBIT SIG CALIFORNIA PIZ30553218 SALT LAKECITYUTUS	\$0.00	\$13.13	\$3,065.11
11/15/11 8:57 AM	DEBIT PIN NNT CELLULAR SALES 460617 329 WEST 41ST STREET MIAMI BEACH FLUS	\$0.00	\$320.89	\$2,744.12
11/15/11 8:50 PM	DEBIT SIG THE BREAKERS RETAIL SHOPALM BEACH FLUS	\$0.00	\$169.00	\$2,585.12
11/17/11 11:52 AM	DEBIT SIG BUDGET RENT-A-CAR WEST PALM BEAFLUS	\$0.00	\$927.72	\$2,257.40
11/17/11 9:30 PM	DEBIT SIG NICK & JOHNNIES PALM BEACH FLUS	\$0.00	\$52.48	\$2,204.94
11/19/11 5:23 AM	DEBIT SIG HERTZ RENT-A-CAR ST GEORGE UTUS	\$0.00	\$52.38	\$2,152.66
11/19/11 12:08 PM	DEBIT SIG BLACK BEAR-ST GEORGE ST GEORGE UTUS	\$0.00	\$77.02	\$2,075.64
11/19/11 6:13 PM	DEBIT PIN FIL.MART 1612 BLUELAKES N TWIN FALLS IDUS	\$0.00	\$40.74	\$2,034.80
11/19/11 9:48 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$34.86	\$2,000.14
11/23/11 12:01 PM	DEBIT SIG MIMIS CAFE 65 SANDY UTUS	\$0.00	\$24.44	\$1,975.70
11/23/11 8:48 PM	DEBIT PIN SMITHS.10905 S. 1300 E. SANDY UTUS	\$0.00	\$88.65	\$1,912.05
11/23/11 9:19 PM	DEBIT SIG CHEVRON 00357355 SALT LAKE CITUTUS	\$0.00	\$65.72	\$1,846.33
11/24/11 5:05 AM	DEBIT SIG KELLIE&CO8012653223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,821.33
11/24/11 5:05 AM	DEBIT SIG MODERN DISPLAY SALT LAKE CITUTUS	\$0.00	\$32.88	\$1,789.27
11/24/11 9:10 PM	DEBIT SIG FARRS FRESH SANDY SANDY UTUS	\$0.00	\$5.75	\$1,783.52
11/24/11 9:10 PM	DEBIT SIG SUBWAY 03009479 SALT LAKE CITUTUS	\$0.00	\$7.28	\$1,776.24
11/28/11 12:00 PM	DEBIT SIG PAPA MURPHY'S.UT034 DRAPER UTUS	\$0.00	\$21.26	\$1,754.98
11/28/11 5:17 AM	DEBIT SIG KNEADERS 8018387700 DRAPER UTUS	\$0.00	\$18.32	\$1,738.66
11/28/11 9:13 AM	DEBIT PIN CANYONVIEW CLEANER 1373 EAST 10600 SO SANDY UTUS	\$0.00	\$18.46	\$1,718.20
11/28/11 10:31 PM	DEBIT PIN SHELL Service Station SHELL CONVERSE TXUS	\$0.00	\$63.60	\$1,654.60
11/29/11 12:07 PM	DEBIT SIG LUPE TORTILLA MEXI KATY TXUS	\$0.00	\$44.83	\$1,609.77
11/29/11 5:21 PM	DEBIT PIN MACY'S 713 151 BOWIE ST SAN ANTONIO TXUS	\$0.00	\$43.25	\$1,568.52
11/29/11 9:14 PM	DEBIT SIG PARADISE SLC LLC Q02 SALT LAKE CITUTUS	\$0.00	\$13.61	\$1,552.91
11/30/11 5:24 AM	DEBIT SIG QUENTHER HOUSE RESTAURASAN ANTONIO TXUS	\$0.00	\$34.95	\$1,517.96
12/1/11 1:04 PM	DEBIT SIG ROSARIOS SAN ANTONIO TXUS	\$0.00	\$10.84	\$1,507.12
12/2/11 1:21 PM	DEBIT SIG GO GUNG HO LLC 801-4003779 UTUS	\$0.00	\$31.40	\$1,475.72
12/2/11 10:26 PM	DEBIT SIG FAMOUS FAMILIA PIZZA SAN ANTONIO TXUS	\$0.00	\$10.87	\$1,485.05
12/3/11 6:36 AM	DEBIT SIG CANYONVIEW CLEANER SANDY UTUS	\$0.00	\$15.14	\$1,449.91
12/3/11 4:41 PM	DEBIT PIN SOU BEST BUY #497 532048 35 WAST 11400 SOUTH SANDY UTUS	\$0.00	\$267.11	\$1,182.80
12/5/11 11:51 AM	DEBIT SIG KELLIE&CO8012653223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,157.80
12/7/11 5:45 AM	DEBIT SIG HARDY'S LAYTON UTUS	\$0.00	\$62.32	\$1,095.48
12/7/11 12:24 PM	DEBIT SIG VZWRLSS.IVRDEBIT VISW FOLSOM CAUS	\$0.00	\$286.34	\$809.14
12/7/11 3:02 PM	DEBIT PIN FLYING J #747 1460 N 1750 W SPRINGVILLE UTUS	\$0.00	\$54.83	\$754.31
12/8/11 8:19 PM	DEBIT SIG MARLEYS LINDON UTUS	\$0.00	\$21.91	\$732.40
12/9/11 4:59 AM	DEBIT SIG COWBOYS SMOKEHOUSE LLC PANGUITCH UTUS	\$0.00	\$66.89	\$665.51
12/9/11 4:59 AM	DEBIT SIG THE RANCHER DELTA UTUS	\$0.00	\$18.85	\$646.66
12/9/11 12:26 PM	DEBIT SIG MAVERICK COUNTRY STORE CEDAR CITY UTUS	\$0.00	\$40.39	\$606.27
12/9/11 12:26 PM	DEBIT SIG SAGE BRUSH GRILL MONROE UTUS	\$0.00	\$190.35	\$415.92
12/9/11 9:48 PM	DEBIT SIG MARKET GRILL CEDAR CITY UTUS	\$0.00	\$50.00	\$365.92
12/9/11 9:48 PM	DEBIT SIG CHEVRON 00071320 SANDY (SANDY UTUS	\$0.00	\$57.23	\$308.69
12/9/11 9:48 PM	DEBIT SIG MARKET GRILL CEDAR CITY UTUS	\$0.00	\$127.77	\$180.92
12/9/11 11:25 PM	DEBIT SIG TIMBERLINE RESTAURANT BEAVER UTUS	\$0.00	\$67.57	\$113.35
12/10/11 5:45 AM	DEBIT SIG HOME PLATE CAFE FAIRVIEW UTUS	\$0.00	\$20.55	\$92.80
12/11/11 4:28 AM	DEBIT SIG LAHACIENDA MEXICAN RESTDRAPER UTUS	\$0.00	\$29.39	\$63.41
12/11/11 11:21 AM	DEBIT SIG PAPA MURPHY'S UT034 DRAPER UTUS	\$0.00	\$17.10	\$46.31
12/13/11 5:17 AM	DEBIT SIG CIRCLEK6609 ASM SLC SANDY UTUS	\$0.00	\$28.64	\$17.67

*All Times Listed are CST



Account History: [REDACTED]

Transaction Date	Transaction	Credit	Debit	Balance
12/13/11 8:52 PM	DEBIT SIG BLUE LEMON HIGHLAND UTUS	\$0.00	\$19.67	(\$2.00)
12/15/11 3:02 PM	CREDIT Credit: Cash Load at Softwise Attn:: Danny Barney 2474 N. University Ave PROVO,UT 84604	\$2,000.00	\$0.00	\$1,998.00
12/16/11 11:14 PM	DEBIT PIN 7-ELEVEN 3720 EAST 7000 SOU SALT LAKE CITYUTUS	\$0.00	\$64.84	\$1,933.16
12/17/11 2:28 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$41.88	\$1,891.28
12/17/11 2:33 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$25.68	\$1,865.60
12/17/11 10:57 PM	DEBIT SIG PRECISION TIME #58 SANDY UTUS	\$0.00	\$197.68	\$1,667.92
12/21/11 11:57 AM	DEBIT SIG GO GUNG HO LLC 801-4003779 UTUS	\$0.00	\$31.40	\$1,636.52
12/23/11 12:47 PM	DEBIT SIG MAVERIK CNTRY STRE 304 DRAPER UTUS	\$0.00	\$47.27	\$1,589.25
12/24/11 5:35 AM	DEBIT SIG KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,564.25
12/24/11 3:31 PM	DEBIT PIN HARMONS - DRAPER 672 EAST 11400 SOUTH DRAPER UTUS	\$0.00	\$73.61	\$1,490.64
12/26/11 4:46 AM	DEBIT SIG SUPERSONIC SANDY SANDY UTUS	\$0.00	\$9.00	\$1,481.64
12/27/11 8:42 PM	DEBIT SIG CINEMARK THEATRES 1056 DRAPER UTUS	\$0.00	\$6.25	\$1,475.39
12/29/11 9:34 PM	DEBIT SIG LEE KAY 8019721326 8019721326 UTUS	\$0.00	\$17.00	\$1,458.39
12/29/11 11:00 PM	DEBIT SIG FARRS FRESH SANDY SANDY UTUS	\$0.00	\$16.05	\$1,442.34
1/4/12 8:04 PM	DEBIT SIG TGIF SOUTHTOWNE SANDY UTUS	\$0.00	\$51.39	\$1,390.95
1/5/12 10:25 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$59.35	\$1,331.60
1/7/12 8:45 PM	DEBIT SIG MIMIS CAFE 66 SANDY UTUS	\$0.00	\$20.66	\$1,310.94
1/8/12 11:18 AM	DEBIT SIG MARKET EXPRESS PRICE UTUS	\$0.00	\$1.02	\$1,309.92
1/8/12 11:18 AM	DEBIT SIG MARKET EXPRESS PRICE UTUS	\$0.00	\$48.99	\$1,260.93
1/9/12 5:09 AM	DEBIT SIG KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,235.93
1/9/12 10:00 AM	CREDIT Credit: Cash Load at Softwise Attn:: Danny Barney 2474 N. University Ave PROVO,UT 84604	\$2,000.00	\$0.00	\$3,235.93
1/9/12 5:12 PM	DEBIT PIN SOU BEST BUY #773 262281 309 E UNIVERSITY PKWY OREM UTUS	\$0.00	\$548.10	\$2,687.83
1/10/12 5:30 PM	DEBIT PIN HOLIDAY OIL #15 290 W CENTER STREET OREM UTUS	\$0.00	\$50.92	\$2,636.91
1/12/12 10:31 PM	DEBIT SIG ARBY'S #708 00007088 OGDEN UTUS	\$0.00	\$5.81	\$2,631.10
1/12/12 10:31 PM	DEBIT SIG CHILI'S GRI02700010272 AMERICAN FORKUTUS	\$0.00	\$72.52	\$2,558.58
1/13/12 9:48 PM	DEBIT SIG CHEVRON 00071320 SANDY (SANDY UTUS	\$0.00	\$52.60	\$2,505.98
1/13/12 11:32 PM	DEBIT SIG CHEVRON 00071320 SANDY (SANDY UTUS	\$0.00	\$41.36	\$2,464.62
1/16/12 10:12 AM	DEBIT PIN WAL Wal-Mart Super 752826 5206 WAL-SAMS S OGDEN UTUS	\$0.00	\$57.89	\$2,406.73
1/18/12 5:35 AM	DEBIT SIG SLOC CAPITOL DINING SALT LAKE CITYUTUS	\$0.00	\$5.39	\$2,401.34
1/20/12 4:15 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$34.23	\$2,367.11
1/21/12 5:57 AM	DEBIT SIG KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$40.00	\$2,327.11
1/21/12 9:07 AM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$54.83	\$2,272.28
1/21/12 7:16 PM	DEBIT PIN SMITHS 10305 S. 1300 E. SANDY UTUS	\$0.00	\$61.59	\$2,210.69
1/22/12 10:59 PM	DEBIT SIG PIER 49 PIZZA - DRAPER DRAPER UTUS	\$0.00	\$22.48	\$2,188.21
1/25/12 11:39 AM	DEBIT SIG LITTLE CAESARS 1632 401WEST VALLEY UTUS	\$0.00	\$32.38	\$2,155.83
1/27/12 1:57 PM	DEBIT SIG VZWRLESS IVRDEBIT VISW FOLSOM CAUS	\$0.00	\$141.60	\$2,014.23
1/27/12 10:48 PM	DEBIT SIG CHEVRON 00071320 SANDY (SANDY UTUS	\$0.00	\$53.37	\$1,960.86
1/28/12 1:28 PM	DEBIT SIG GO GUNG HO LLC 801-4003779 UTUS	\$0.00	\$32.01	\$1,928.85
1/28/12 9:37 PM	DEBIT SIG DIAMOND PARKING SERVICESALT LAKE CITYUTUS	\$0.00	\$1.50	\$1,927.35
1/31/12 10:24 PM	DEBIT SIG CHEVRON 00071320 SANDY (SANDY UTUS	\$0.00	\$60.58	\$1,866.77
1/31/12 10:24 PM	DEBIT SIG HILTON FOOD & BEVERAGE SALT LAKE CITYUTUS	\$0.00	\$40.36	\$1,826.41
1/31/12 11:55 PM	DEBIT PIN SHELL Service Station SHELL SANDY UTUS	\$0.00	\$47.11	\$1,779.30
2/2/12 6:08 AM	DEBIT SIG MARKET STREET GRILL RIVSOUTH JORDAN UTUS	\$0.00	\$104.44	\$1,674.86
2/3/12 4:58 PM	DEBIT SIG LITTLE AMERICA F&B SALT LAKE CI UTUS	\$0.00	\$39.11	\$1,635.75
2/4/12 5:56 AM	DEBIT SIG KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$1,610.75
2/8/12 12:48 PM	DEBIT SIG CAFE RIO SANDY SANDY UTUS	\$0.00	\$13.43	\$1,597.32
2/8/12 11:46 PM	DEBIT SIG FARRS FRESH SANDY SANDY UTUS	\$0.00	\$10.61	\$1,586.71
2/13/12 5:29 PM	DEBIT PIN HARMONS - DRAPER 672 EAST 11400 SOUTH DRAPER UTUS	\$0.00	\$99.79	\$1,486.92
2/14/12 10:18 PM	DEBIT SIG CHEVRON 00203195 DRAPER UTUS	\$0.00	\$54.38	\$1,432.54
2/16/12 11:06 AM	CREDIT Credit: Cash Load at Softwise Attn:: Danny Barney 2474 N. University Ave PROVO,UT 84604	\$1,500.00	\$0.00	\$2,932.54
2/18/12 1:05 AM	DEBIT SIG ION BROADWAY DELI SALT LAKE CITYUTUS	\$0.00	\$8.83	\$2,923.71
2/18/12 6:24 AM	DEBIT SIG NEIGHBORS MARKET NORTH SALT LAUTUS	\$0.00	\$31.42	\$2,892.29
2/19/12 11:09 PM	DEBIT SIG DICKEYS UT355 ST. GEORGE UTUS	\$0.00	\$10.99	\$2,881.30
2/20/12 12:52 PM	DEBIT SIG KELLIE&CO8012553223LN WEST JORDAN UTUS	\$0.00	\$25.00	\$2,856.30

*All Times Listed are CST



Account History : XXXXXXXXXX

Transaction Date	Transaction	Credit	Debit	Balance
2/20/12 12:52 PM	DEBIT SIG KELJE&CO8012553223 WEST JORDAN UTUS	\$0.00	\$69.45	\$2,789.38
2/21/12 12:33 PM	DEBIT SIG GO GUNG HO LLC 801-4003779 UTUS	\$0.00	\$82.01	\$2,757.37
2/23/12 5:41 AM	DEBIT SIG CIRCLEK6609 ASM SLC SANDY UTUS	\$0.00	\$31.21	\$2,726.16
2/24/12 6:04 AM	DEBIT SIG MARKET STREET GRILL RIVSOUTH JORDAN UTUS	\$0.00	\$9.46	\$2,716.70
2/25/12 1:51 PM	DEBIT SIG MAVERIK CNTRY STRE 331 SALT LAKE CITUTUS	\$0.00	\$55.92	\$2,660.78
5/25/12 5:34 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,654.83
6/25/12 5:13 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,648.88
7/25/12 5:34 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,642.93
8/25/12 5:35 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,636.98
9/25/12 8:03 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,631.03
10/25/12 5:35 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,625.08
11/25/12 6:06 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,619.13
12/25/12 5:45 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,613.18
1/25/13 6:18 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,607.23
2/25/13 7:56 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,601.28
3/25/13 6:50 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,595.33
4/25/13 7:55 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,589.38
5/25/13 7:28 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,583.43
6/25/13 7:43 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,577.48
7/25/13 7:07 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,571.53
8/25/13 8:03 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,565.58
9/25/13 8:14 AM	DEBIT Debit: Account Maintenance Fee	\$0.00	\$5.95	\$2,559.63
10/14/13 1:41 PM	DEBIT Additional Statement Mailing Fee	\$0.00	\$5.95	\$2,553.68

C

Exhibit C is being withheld
at this time because the Attorney General
has lodged a challenge to disclosure on
grounds of confidentiality

D



October 17, 2013

Debit Card Detail for Account : 1986808895

Card Information		Card Owner Information	
PAN	4039955747766451	Name	John Swallow
Brand	Check City Silver Meta Visa Perso	Contact	-
Purpose	Debit	Cash Number	[REDACTED]
Embossed	JOHN SWALLOW	Attached Date	
Activated	null	Card Mailed To	
Expiration	Mon Feb 29 23:59:59 CST 2016		350 N State St
Source			Apt 230
Order Status	Order Approved		SALT LAKE CITY UT 84114
Approved	Wed Feb 29 00:48:33 CST 2012	Stolen/Lost Information	
Requested	Tue Feb 28 11:13:18 CST 2012	<input checked="" type="checkbox"/> Date Stolen	2012-03-16 12:34:03.0
Shipped	Thu Mar 01 12:00:00 CST 2012	Stolen Note	Card returned as undeliverable.
Order Type	Forced	<input type="checkbox"/> Date Lost	
PPC Information			
Serial #	NA		
Currency	NA		
Value	NA		
GMP Messages		Audit Logs	
Log Date	Login Name	Action	Audit Note
Fri Mar 16 12:34:47 CDT 2012	gzamora	VwCard	View Card Screen
Fri Mar 16 12:34:47 CDT 2012	gzamora	L/S	Marked Card Stolen
Tue Feb 28 11:13:19 CST 2012	dherrera	DebitOrder	Ordered Debit Card of Type Check City Silver Meta Visa

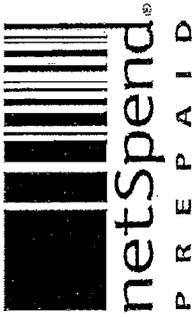
Close



Weblog and IVR Information for Account : [REDACTED]

Description	Log Time	IP Address or Phone Number	STR_Description	VAL_Description	STR_Value
CVC AUTHENTICATE	16-JUN-11 05:07:51.000000 PM	161.119.235.57		PAN	4039950000008643
LOGIN	16-JUN-11 05:07:59.000000 PM	161.119.235.57	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	AC15843B1297C29F0000013 04BA93AC002E9
SET USERNAME	16-JUN-11 05:09:17.000000 PM	161.119.235.57		PREVIOUS USERNAME	AC15843B1297C29F0000013 04BA93AC002EB
REGISTRATION	16-JUN-11 05:09:17.000000 PM	161.119.235.57			
SET PASSWORD	16-JUN-11 05:09:40.000000 PM	161.119.235.57			
LOGIN	15-JUL-11 11:21:12.000000 AM	97.117.42.211	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
TWO-FACTOR AUTHENTICATE	15-JUL-11 11:23:22.000000 AM	97.117.42.211			
LOGIN	15-JUL-11 10:33:43.000000 PM	97.117.42.211	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	16-JUL-11 07:23:17.000000 AM	97.117.42.211	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	16-JUL-11 07:24:12.000000 AM	97.117.42.211	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	AC15843B1297C29F0000013 04BA93AC002E9
TWO-FACTOR AUTHENTICATE	16-JUL-11 07:24:44.000000 AM	97.117.42.211			
ANSWERED SURVEY	16-JUL-11 07:27:27.000000 AM	97.117.42.211	SURVEY ID		
LOGIN	07-OCT-11 01:15:35.000000 PM	166.205.9.125	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	Johneswallow
LOGIN	07-OCT-11 01:18:19.000000 PM	166.205.9.125	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	AC15843B1297C29F0000013 04BA93AC002E9
LOGIN	07-OCT-11 01:19:28.000000 PM	166.205.9.125	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	AC15843B1297C29F0000013 04BA93AC002E9
LOGIN	14-DEC-11 03:00:00.000000 PM	161.119.235.50	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
TWO-FACTOR AUTHENTICATE	14-DEC-11 03:07:15.000000 PM	161.119.235.50			

*All times listed are CT



Weblog and IVR Information for Account : [REDACTED]

Description	Log Time	IP Address or Phone Number	STR_Description	VAL_Description	STR_Value
SET ADDRESS	14-DEC-11 03.08.04.000000 PM	161.119.235.50		PREVIOUS ADDRESS	John Swallow, 350 N State St Apt 200, , SALT LAKE CITY, UT, 84114, 801949-9450
LOGIN	14-DEC-11 03.10.10.000000 PM	161.119.235.50	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	AC15843B1297C29F0000013 04BA93ACC002E9
LOGIN	21-DEC-11 04.52.06.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.52.41.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.53.06.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.53.56.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.55.09.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.56.01.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.57.54.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.58.16.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.58.43.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.59.02.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.59.28.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 04.59.43.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.00.01.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow

*All times listed are CT



Weblog and IVR Information for Account : [REDACTED]

Description	Log Time	IP Address or Phone Number	STR_Description	VAL_Description	STR_Value
LOGIN	21-DEC-11 05.00.42.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.01.15.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.01.47.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.02.01.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.02.20.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.03.27.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.03.50.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.05.42.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.06.02.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.06.21.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.06.35.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.07.33.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.07.57.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.08.12.000000 PM	198.22.122.158	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.08.28.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05.08.38.000000 PM	198.22.122.123	PIN BASED = 1/ PWD BASED = 0	ID USED TO LOG IN	johneswallow

*All times listed are CT



Weblog and IVR information for Account : [REDACTED]

Description	Log Time	IP Address or Phone Number	STR_Description	VAL_Description	STR_Value
LOGIN	21-DEC-11 05:09:31.000000 PM	198.22.122.123	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05:10:05.000000 PM	198.22.122.123	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05:10:19.000000 PM	198.22.122.123	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	21-DEC-11 05:14:52.000000 PM	166.205.13.168	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	Johneswallow
LOGIN	27-FEB-12 07:30:58.000000 PM	97.117.55.252	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	27-FEB-12 10:53:59.000000 PM	97.117.55.252	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
TWO-FACTOR AUTHENTICATE	27-FEB-12 10:55:07.000000 PM	97.117.55.252			
LOGIN	28-FEB-12 10:53:01.000000 AM	161.119.235.50	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
TWO-FACTOR AUTHENTICATE	28-FEB-12 10:54:47.000000 AM	161.119.235.50			
TWO-FACTOR AUTHENTICATE	28-FEB-12 10:55:32.000000 AM	161.119.235.50			
LOGIN	21-MAR-12 05:55:36.000000 PM	97.117.51.215	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
TWO-FACTOR AUTHENTICATE	21-MAR-12 05:56:50.000000 PM	97.117.51.215			
LOGIN	02-MAY-12 02:40:17.000000 PM	65.130.156.15	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow
LOGIN	02-MAY-12 03:56:31.000000 PM	65.130.156.15	PIN BASED = 1 / PWD BASED = 0	ID USED TO LOG IN	johneswallow

*All times listed are CT

E

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F

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grounds of confidentiality

G

From: John Swallow [johneswallow@gmail.com]
Sent: Wednesday, September 29, 2010 5:39 PM
To: Richard Rawle
Subject: Re: Mtg with Harry Reid's contact

No this is civil, not criminal.

Sent from my Verizon Wireless BlackBerry

From: "Richard Rawle" <Richard@softwiseonline.com>
Date: Wed, 29 Sep 2010 17:24:00 -0600
To: John Swallow <johneswallow@gmail.com>
Subject: RE: Mtg with Harry Reid's contact

Is it Jeremy's understanding that charges are going to be filed against them ?

From: John Swallow [mailto:johneswallow@gmail.com]
Sent: Wednesday, September 29, 2010 4:31 PM
To: Jeremy Johnson
Subject: Mtg with Harry Reid's contact

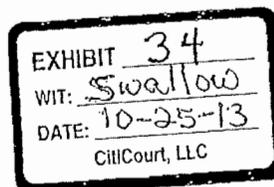
Jeremy:

I spoke with Richard Rawle about the contact information for Harry Reid's guy. Richard is travelling to LV tomorrow and will be able to contact this person, who he has a very good relationship with. He needs a brief narrative of what is going on and what you want to happen. I don't know the cost, but it probably won't be cheap. Also, I want to be sensitive to Richard's group. I'm not sure what they have invested in this person, however, they have been building capital for quite a while and this will be a serious withdrawal of that capital, but I am confident you can work that out between yourselves.

Here is the narrative I'd propose:

"Iworks is an internet sales company that sold various products over several years. They sold real products that benefitted their customers, they followed all the rules and they had well organized and effective customer service. Due to their large volume, they became a leader in the "negative option" space and, therefore, a target of the FTC. The FTC is conducting an investigation to determine whether Iworks violated federal law. The Iworks principals believe they can defend and prevail in litigation. However, they understand that when someone litigates against the FTC, they lose in the long run due to costs and publicity. Therefore, they would like to meet in good faith and show the investigators that they did follow the law and should be able to resolve things reasonably. However, the FTC investigators are not interested in meeting or seriously looking at the merits of the Iworks practices.

Iworks would like to sit down with Senator Reid and show him what they have done and see if the Senator would be willing to encourage the FTC investigators to take a close look at Iworks and sit down and really understand their practices and try to resolve this matter equitably and in good faith, before litigation is started.



Iworks met with Senator Hatch a few weeks ago, and he is willing to help, and we'd like for Sen Hatch and Sen Reid to work together on this if possible.

The Iworks team is willing to meet with the Senator at his convenience either in Washington or in Las Vegas. It is a St. George-based company."

Does this look ok?

John

H

From: John Swallow [johneswallow@gmail.com]
Sent: Friday, December 10, 2010 3:58 PM
To: Richard Rawle
Subject: Re: FTC Assistance

You get one shot. If someone has to have a heart attack, someone has to sacrifice. I would stratgically delay bc it gives you more time. Having said that we don't want to piss them off.

Jermys lawyers will know if it will but there needs to be a reason since they did it before.

Also if they are ready they could go forward and the team can clean-up. Which do you think is better?

Sent from my Verizon Wireless BlackBerry

From: "Richard Rawle" <Richard@softwiseonline.com>
Date: Fri, 10 Dec 2010 15:48:12 -0700
To: <johneswallow@gmail.com>
Subject: FW: FTC Assistance

From: bryce@iworks.com [mailto:bryce@iworks.com]
Sent: Friday, December 10, 2010 1:14 PM
To: jeremyjohnson@cpaupsell.com; Richard Rawle; bryce@iworks.com
Cc: Cort Walker; bpayne10@vzw.blackberry.net
Subject: RE: FTC Assistance

Well moving it is not nearly as important as keeping a good working relationship with them and getting them to be more objective with us.

From: Jeremy Johnson [mailto:jeremyjohnson@cpaupsell.com]
Sent: Friday, December 10, 2010 12:26 PM
To: Richard Rawle; Bryce Payne
Cc: Cort Walker; zz bpayne10@vzw.blackberry.net
Subject: Re: FTC Assistance

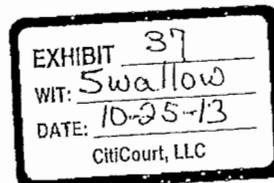
They are working on it but I don't give it much hope. I will let you know.

Jeremy

On 12/10/10 11:21 AM, "Richard Rawle" <Richard@softwiseonline.com> wrote:

Jeremy,

If you are not ready I think it more approprlate to have your Attorneys try to negotioate a delay. We don't however want to piss off the commissioners before we have a chance to work with them. How did they react to the last delay ?



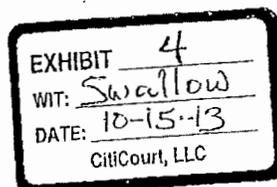
I

From: Richard Rawle
Sent: Monday, June 11, 2012 1:35 PM
To: John Swallow; jasoncpowers@gmail.com
Subject: Fwd: Executive Summary
Attachments: EXECUTIVE SUMMARY.doc; ATT5410785.htm

Jason, here is information on the cement project that John has been working with me on.

Sent from my iPhone

Begin forwarded message:



A small, dark, handwritten mark or signature located at the bottom right of the page.

J

From: Richard Rawle
Sent: Friday, June 15, 2012 9:10 PM
To: 'John Swallow'
Subject: RE: Cement Plant

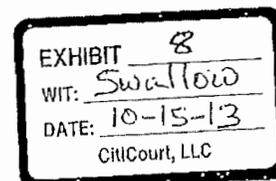
Thanks John.

From: John Swallow [<mailto:johneswallow@gmail.com>]
Sent: Fri 6/15/2012 6:13 PM
To: Richard Rawle
Subject: Cement Plant

Richard: I have found a contact in the Nevada Office of Economic Development in the mining division through an attorney friend of mine. Ill keep you posted.

Have a great weekend.

John



K

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at this time because the Attorney General
has lodged a challenge to disclosure on
grounds of confidentiality

L

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grounds of confidentiality

M

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N



State of Utah
DEPARTMENT OF COMMERCE
Division of Corporations & Commercial Code

Summary of Online Changes



Business Name: SSV MANAGEMENT LLC

Entity number: 7460750-0160

Date of Filing: 03/15/2012

PREVIOUS Registered Principals:

Name John E Swallow
Position Manager
Address 1263 E Bell View Circle
Sandy, UT 84094

Name John E Swallow
Position Registered Agent
Address 1263 E Bell View Circle
Sandy, UT 84094

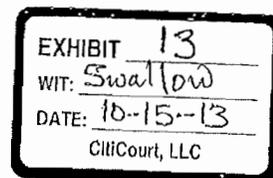
UPDATED Registered Principals:

Name SUZANNE SWALLOW
Position Registered Agent
Address 1263 E Bell View Circle
Sandy, UT 84094

Name SUZANNE SWALLOW
Position Manager
Address 1263 E Bell View Circle
Sandy, UT 84094

Suzanne Swallow 03/15/2012

Under GRAMA {63-2-201}, all registration information maintained by the Division is classified as public record. For confidentiality purposes, the business entity physical address may be provided rather than the residential or private address of any individual affiliated with the entity.



O



State of Utah
 DEPARTMENT OF COMMERCE
 Division of Corporations & Commercial Code

Summary of Online Changes



Business Name: P SOLUTIONS LLC

Entity number: 7810821-0160

Date of Filing: 03/15/2012

PREVIOUS Registered Principals:

Name John Swallow
 Position Manager
 Address 1263 E Bell View Cr
 Sandy, UT 84094

Name Lee McCullough
 Position Registered Agent
 Address 5255 N Edgewood Dr
 Provo, UT 84604

UPDATED Registered Principals:

Name SUZANNE SWALLOW
 Position Registered Agent
 Address 1263 E Bell View Circle
 Sandy, UT 84094

Name SUZANNE SWALLOW
 Position Manager
 Address 1263 E Bell View Cr
 Sandy, UT 84094

Suzanne Swallow 03/15/2012

Under GRAMA {63-2-201}, all registration information maintained by the Division is classified as public record. For confidentiality purposes, the business entity physical address may be provided rather than the residential or private address of any individual affiliated with the entity.

EXHIBIT 23
 WIT: Swallow
 DATE: 10-15-13
 CitiCourt, LLC

P

4/12/11 Check 105 Amount 15,000.00 4/12/11 Check 105 Amount 15,000.00

RMC CONSULTING, LLC
 105
 4/12/11
 P Solutions
 \$ 15,000.00
 4/12/11
 BONNEVILLE BANK
 1425 NORTH 900 WEST, P.O. BOX 400
 PROVO, UTAH 84603-0400

MOUNTAIN AMERICA CREDIT UNION
 SANDY 0000
 SANDY, UTAH
 TELLER: 0255 SEQUENCE # 3084720
 4/9/2011 10:48:04
 R/T:

EXHIBIT 27
 WIT: Swallow
 DATE: 10-15-13
 CHICourt, LLC

Q

Exhibit Q is being withheld
at this time because the Attorney General
has lodged a challenge to disclosure on
grounds of confidentiality

R

RMR Consulting, LLC					
Date	Deposit	Debit		Amount	Memo
11/01/10	Deposit			10000.00	
11/02/10	Wire		I Works	50000.00	
11/02/10		Incoming Wire Fee	Bonneville Bank	(12.50)	
11/09/10		Deluxe Check Check/Acc.	Bonneville Bank	(34.75)	
11/26/10		Check	P-Solutions	(8500.00)	
11/30/10		Service Charge	Bonneville Bank	(10.19)	
12/02/10	Wire		Scott Leavitt	200000.00	
12/02/10		Incoming Wire Fee	Bonneville Bank	(12.50)	
12/03/10		Wire	Lobbyist	(50020.00)	Brown
12/03/10		Wire	Lobbyist	(50020.00)	Rupli
12/31/10		Service Charge	Bonneville Bank	(16.11)	
02/07/11		Check	Hal Hansen	(5000.00)	
02/28/11		Service Charge	Bonneville Bank	(14.99)	
04/12/11		Check	P-Solutions	(15000.00)	
04/30/11		Service Charge	Bonneville Bank	(14.02)	
05/05/11		Check		(12000.00)	
05/31/11		Service Charge	Bonneville Bank	(12.98)	
07/12/11		Check	Grant Carter	(247.50)	
07/14/11		Check	Hal Hansen	(3000.00)	
07/15/11		Check	Springville City	(39.18)	
07/18/11		Check	Yard and Landscape	(715.00)	
07/29/11		Check	Pierce IP Law Group	(1500.00)	
07/31/11		Service Charge	Bonneville Bank	(12.48)	
08/01/11		Check	U.S. Mayan Painting	(3550.00)	
08/11/11		Check	Hal Hansen	(500.00)	
08/15/11		Check	Grant Carter	(240.00)	
08/22/11		Check	Hal Hansen	(3000.00)	
08/31/11		Service Charge	Bonneville Bank	(11.83)	
09/13/11		Check	Bear Services	(149.97)	Dumpster Rental
09/26/11		Check	Hal Hansen	(10000.00)	
09/30/11		Service Charge	Bonneville Bank	(11.29)	
10/18/11		Check	Hal Hansen	(17000.00)	
10/31/11		Service Charge	Bonneville Bank	(5.79)	
11/02/11		Check	Nielsen Heating and Co	(650.00)	Springville Rental Upkeep
11/08/11		Check	Hal Hansen	(8000.00)	
11/25/11		Check	Jordan Walker	(650.00)	Chapparel Website
11/25/11		Electronic Check	Utah County Payment	(4245.47)	
11/30/11		Service Charge	Bonneville Bank	(6.24)	
12/01/11		Check	Hal Hansen	(8000.00)	
12/07/11		Check	Pierce IP Law Group	(1885.12)	
12/14/11		Check	Hal Hansen	(5000.00)	
12/29/11		Check	Hal Hansen	(12000.00)	
12/31/11		Service Charge	Bonneville Bank	(6.23)	
01/31/12		Service Charge	Bonneville Bank	(5.96)	
02/01/12		Check	Hal Hansen	(4000.00)	
02/29/12		Service Charge	Bonneville Bank	(6.00)	
03/31/12		Service Charge	Bonneville Bank	(5.88)	
07/10/12		Check	Grant Sumsion	(5000.00)	Attorney Retainer-Leavitt Settlement
07/17/12		Check	Yard and Landscape	(457.00)	Springville Home
07/30/12		Check	Accent Window	(81.21)	Springville Home
07/31/12		Service Charge	Bonneville Bank	(6.31)	
08/09/12		Check	Grant Sumsion	(900.00)	Legal Fees RMR
08/13/12		Check	Yard and Landscape	(498.00)	
08/21/12		Check	Sumsion and Crandall	(900.00)	Legal Fees RMR
08/31/12		Service Charge	Bonneville Bank	(5.87)	
09/10/12		Check	Yard and Landscape	(480.00)	Springville Home
09/30/12		Service Charge	Bonneville Bank	(5.72)	
10/09/12		Check	Yard and Landscape	(377.00)	
10/19/12	Deposit		P-Solutions	23500.00	
10/31/12		Service Charge	Bonneville Bank	(5.51)	
11/13/12	Deposit		P-Solutions	23500.00	Check returned (other check already deposited)
11/20/12		Debit Memo	P-Solutions	(23512.00)	Returned Check- From P-Solutions
11/30/12		Service Charge	Bonneville Bank	(4.08)	
12/31/12		Service Charge	Bonneville Bank	(4.00)	

S

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T

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U

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grounds of confidentiality

V

LAW OFFICES OF WILLIAM I. ROTHBARD
1217 YALE STREET, SUITE 104
SANTA MONICA, CALIFORNIA 90404

TELEPHONE (310) 453-8713
TELEFAX (310) 453-8715
CELLULAR (310) 490-6646
E-MAIL BROTHBARD@ADELPHIA.NET

March 4, 2011

VIA EMAIL

Richard Rawle

Dear Mr. Rawle:

I represent defendant Scott Leavitt in the FTC action against Jeremy Johnson, iWorks, and other parties associated with iWorks, including my client. Mr. Leavitt advises me that he paid \$200,000 to you and/or your firm, RMR Consulting, on or about December 2, 2010, for services that he understood you and/or your firm represented you would be providing to attempt to "lobby" or otherwise persuade the Federal Trade Commission to settle rather than litigate its charges against iWorks and certain of its personnel, including Mr. Leavitt. The matter, as I presume you know, did not settle and is now in federal court in Nevada, and a preliminary injunction has been entered against all defendants.

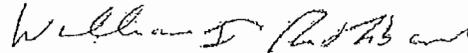
Mr. Leavitt is unaware of any engagement agreement with you or your firm covering services you and/or your firm represented you would provide, of any services you or your firm actually provided, of any accounting of the \$200,000 he paid to you and/or your firm, or of the status and whereabouts of those funds.

Mr. Leavitt therefore requests that you provide a written accounting of the \$200,000 he paid you, including an itemized description of any services you or your firm provided in exchange for such payment, and the current balance of the account in which those funds were deposited.

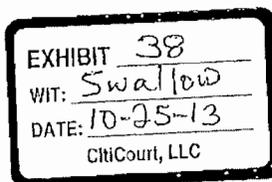
Please address the accounting to my attention within the next 7 days.

Thank you in advance for your cooperation with this request. If you have any questions, please do not hesitate to contact me.

Sincerely,



William I. Rothbard, Esq.
Counsel to Scott Leavitt



SCM00599



W

From the Desk of John Swallow

May 2, 2012

Mr. Richard Rawle
2474 North University Avenue
Provo, UT 84604

Re: Recent Conversation

Richard:

The purpose of this letter is to create a record of a recent conversation you and I had relative to a recent conversation I had with Jeremy Johnson.

As I mentioned, a few days ago, I had a conversation with Mr. Johnson. He and I had not spoken in many months and he called me out of the blue and asked to meet and said it was urgent. I met with him fairly briefly and he said that someone was asking questions about the arrangement between you and him relative to his FTC matter. I really don't have any way of knowing if someone is really asking questions, or if this is simply Mr. Johnson's way of resolving any issues he might have with you.

Specifically, he asked me if I had received any money from the arrangement between you and him. I told him no, that I had not. Then he mentioned the name of an entity called RMR, or RMR Consulting or something to that effect and asked if I had received money from that entity.

I told him that I did not think I had, but that I would check.

When you and I met, you indicated that you had paid me from that entity for my Nevada cement project work done on behalf of P-Solutions in 2010 and 2011.

As I indicated to you in our meeting, I do not know anything about RMR or RMR Consulting. I don't know when it was created, what it does, or how it is funded. And I don't know any of the details of your arrangement with Mr. Johnson beyond the fact that I've been told money was paid at some point and you were working on his situation but you could not guarantee results. I understand that he engaged you fairly late in the process and that the complaint was filed shortly after you were engaged. Due to my position in the State, I felt it best not to be involved from the moment the complaint was filed.

Richard, as I mentioned, I invoiced you personally for the Cement project work sometime in October, 2010 for work I'd performed on behalf of Project Solutions in the preceding months. I don't recall even thinking about where the payment came

EXHIBIT	40
WIT:	Swallow
DATE:	10-25-13
CitiCourt, LLC	

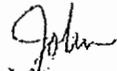
JS000069

from. As I look through my records, I invoiced you again in April, 2011 (you personally and Chaparral) for project work done during the latter part of December, 2010 through early April, 2011. Again, I don't recall thinking about where the payment came from.

I now want to ask again that if P-Solutions received any funds related to your work for Mr. Johnson, even if you considered it earned and your personal funds at the time.

If you discover that any money paid to P-Solutions came from monies paid through him, all I can do at this point is refund the money directly to RMR and you can take care of the invoices through another source. Alternatively, you could refund that amount directly to RMR. What you do at that point is not my concern. So, please let me know as soon as possible the source of the funds so I can address the issue. I'd like to have it resolved in the next few days.

Thanks Richard.


John

JS000070

X

Exhibit X is being withheld
at this time because the Attorney General
has lodged a challenge to disclosure on
grounds of confidentiality

Y

From: Cort Walker [mailto:CortW@softw[seonline.com]
Sent: Tuesday, January 15, 2013 8:12 PM
To: Sam Alba
Cc: Tracy Rawle; Todd Rawle; Greg Callister (GregC@checkcity.com)
Subject: Latest SL Trib article

Sam;

This latest article in the Tribune is beyond pathetic. Whatever shred of respect I could have for the these reporters is gone. I will not speak to these clowns, ever.

<http://www.sitrib.com/sitrib/news/55636832-78/rawle-swallow-johnson-declaration.html.csp?page=1>

However, that issue can be discussed later. One statement John Swallow made on air to KTVU news and is incorrect is the following statement:

"Facing his maker, [Rawle] had his people prepare an affidavit for him, which he reviewed, changed, modified and signed," Swallow told KUTV News, "and it said this [alleged scheme] didn't happen."

I believe the first time we saw this affidavit, it came from Rod Snow who probably co-wrote it with Swallow. I cannot backup Swallow's statement.

EXHIBIT	51
WIT:	Walker
DATE:	11-11-13
CitiCourt, LLC	

RR00012

Z

2012
STATE CONSTITUTIONAL OFFICE
DECLARATION OF CANDIDACY

of

JOHN SWALLOW

(Print name exactly as it is to be printed on the official ballot. No amendments or modifications after March 15, 2012)

for the office of Utah Attorney General

STATE OF UTAH

County of Salt Lake } ss.

I, John Swallow, declare my intention of becoming a candidate for the office of Attorney General as a candidate for the Republican party. I do solemnly swear that I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at 1263 East Bell View Circle in the City of or Town of, Sandy, Utah, Zip Code 84094, Phone No. 801 572-8701; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is P.O. Box 901843, Sandy, UT 84090

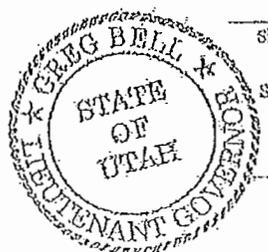
johneswallow@gmail.com
E-mail address

www.johnswallow.com
Website

John Swallow
Signature of Candidate (Must be signed in the presence of the filing officer)

Subscribed and sworn to before me this 3/9/2012
(month/day/year)

M. J. [Signature]
Officer qualified to administer oaths



Received

MAR - 9 2012

Greg Bell
Lieutenant

EXHIBIT 43
WIT: Swallow
DATE: 10-25-13
CitiCourt, LLC

(Seal)

Lieutenant Governor Mar 2012

(Date Received)

QUALIFICATION FOR CANDIDATE FILING DECLARATION

(Utah Code Section 20A-9-201)

Please initial:

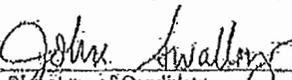
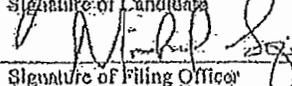
The filing officer read the constitutional and statutory requirements as listed below to me, and I meet those qualifications.

I understand that my name will appear on the ballot as it is printed on this declaration of candidacy, and that I may not make any amendments or modifications after March 15, 2012.

I have received a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and its applicable deadline.

I have received a copy of the pledge of fair campaign practices, and I understand that signing this pledge is voluntary.

I agree to file all campaign financial disclosure reports and I understand that failure to do so may result in my disqualification as a candidate for this office, removal of my name from the ballot, possible fines and/or criminal penalties.

 _____ Signature of Candidate	<u>9 March 2012</u> _____ Date
 _____ Signature of Filing Officer	<u>3/9/2012</u> _____ Date

QUALIFICATIONS

Before the filing officer accepts any declaration of candidacy, the filing officer shall read to the candidate the constitutional and statutory requirements for candidacy, and the candidate shall state whether he/she fulfills the requirements. If the candidate indicates that he/she does not qualify, the filing officer shall decline his/her declaration of candidacy. (Utah Code Section 20A-9-201, 202)

GOVERNOR and LIEUTENANT GOVERNOR

Utah Constitution, Article VII, Section 3

- Utah resident citizen for 5 years
- At least 30 years old at the time of election
- Qualified voter*
- Never convicted of a felony**
- Governor - Pay filing fee of \$536.00
- Lieutenant Governor - Pay filing fee of \$809.20

ATTORNEY GENERAL, STATE AUDITOR and STATE TREASURER

Utah Constitution, Article VII, Section 3

- Utah resident citizen for 5 years
- At least 25 years old at the time of election
- Qualified voter*
- All - Never convicted of a felony**
- Pay filing fee of \$509.20
- Attorney General - Admitted to practice before the Supreme Court of Utah, and in good standing at the time

* A qualified voter (1) is a citizen of the United States; (2) is a resident of Utah; (3) will, on the date of that election, be at least 18 years old and have been a resident of Utah for 30 days immediately before that election; (4) and has registered to vote.

** A person convicted of a felony loses the right to hold office until (1) all felony convictions have been expunged, OR (2) ten years have passed since the most recent felony conviction AND the person has paid all court-ordered restitution and fines AND the person has completed probation, been granted parole, or completed the term of incarceration associated with the felony.

2012
CANDIDATE FINANCIAL DISCLOSURE OR
CONFLICT OF INTEREST

for

John Swallow

(Print name)

for the office of Attorney General District _____

Primary employer name	State of Utah
Primary employer address	350 No. State Street, No. 230, SLC, UT 84114
Brief description of employment	Managing Attorney Attorney General's Office (civil)
Occupation and job title, if applicable	Chief Deputy Attorney General
Name of entity owned	Swallow & Associates, L.C.
Brief description of the type of business or activity conducted by the entity owned	None at present
Filer's position in the entity	Co-Member + Co-Manager
Name of each entity that has paid \$5,000 or more in income to the filer within the one-year period ending immediately before the date of the disclosure form	None
Brief description of the type of business or activity conducted by the entity described in the previous section	N/A
Name of entity in which the filer holds any stocks or bonds having a fair market value of \$5,000 or more as of the date of this form, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds	North American Palladium, Stillwater Mining Co.

*"Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, whether established primarily for the purpose of gain or economic profit or not.

Brief description of the type of business or activity conducted by the entity described in the previous section <p style="text-align: center;">Mining</p>
Name of organization or entity for which the filer serves on the board of directors or in any other type of formal advisory capacity
Brief description of the type of business or activity conducted by the entity described in the previous section
Type of position held by the filer within the organization or entity described in the two previous sections
(Optional) Real property in which the filer holds an ownership or other financial interest that the filer believes may constitute a conflict of interest
Description of the real property named in the previous section
Description of the type of interest held by the filer in the property described in the two previous sections
Name of filer's spouse and any other adult residing in the filer's household that is not related by blood or marriage, as applicable <p style="text-align: center;">Suzanne Swallow</p>
Brief description of employment of the filer's spouse and any other adult residing in the filer's household that is not related by blood or marriage, as applicable <p style="text-align: center;">N/A</p>
Occupation of filer's spouse and any other adult residing in the filer's household that is not related by blood or marriage, as applicable <p style="text-align: center;">House wife</p>
(Optional) Description of any other matter or interest that the filer believes may constitute a conflict of interest

I believe this form is true and accurate to the best of my knowledge.

John Swallow
(Signature of filer)

9 March 2012
(Date)



2012
STATE OF UTAH

PLEDGE OF
FAIR CAMPAIGN PRACTICES
(UCA § 20A-9-206)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of Utah has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their right to a free election, and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

I SHALL conduct my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing, without fear or favor, the record and policies of my opponents that I believe merit criticism.

I SHALL NOT use nor shall I permit the use of scurrilous attacks on any candidate or the candidate's immediate family. I shall not participate in or nor shall I permit the use of defamation, libel, or slander against any candidate or the candidate's immediate family. I shall not participate in nor shall I permit the use of any other criticism of any candidate or the candidate's immediate family that I do not believe to be truthful, provable, and relevant to my campaign.

I SHALL NOT use nor shall I permit the use of any practice that tends to corrupt or undermine our American system of free elections, or that hinders or prevents the free expression of the will of the voters, including practices intended to hinder or prevent any eligible person from registering to vote or voting.

I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees or volunteers.

I SHALL immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods in violation of the letter or spirit of this pledge. I shall accept responsibility to take firm action against any subordinate who violates any provision of this pledge or the laws governing elections.

I SHALL defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of Utah, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Name: John Swallow Office: Attorney General

Signature: John Swallow Date: 9 March 2012

*This is a voluntary pledge. Candidates are not required to sign this pledge of fair campaign practices.

*This document is considered a public record and will be retained for public inspection until 30 days following the election.

AA

2012
STATE CONSTITUTIONAL OFFICE
DECLARATION OF CANDIDACY

of
JOHN SWALLOW
(Print name exactly as it is to be printed on the official ballot. No abbreviations or modifications after March 16, 2012)

for the office of Utah Attorney General

STATE OF UTAH

County of Salt Lake

I, John Swallow, declare my intention of becoming a candidate for the office of Attorney General as a candidate for the Republican party. I do solemnly swear that I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at 1263 East Bell View Circle in the City of or Town of Sandy, Utah, Zip Code 84094, Phone No. 801 572-8281; I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is P.O. Box 901843, Sandy, UT 84090

johnswallow@gmail.com
E-mail address

www.johnswallow.com
Website



John Swallow
Signature of Candidate (Must be signed in the presence of the filing officer)

Subscribed and sworn to before me this 3/9/2012
(month/day/year)

M. J. [Signature]
(Officer qualified to administer oaths)

Received

MAR - 9 2012

Greg Hall
Lieutenant

(Seal)

Lieutenant Governor Mar 2012

(Date Received)

EXHIBIT 44
WIT: Swallow
DATE: 10-25-13
CitiCourt, LLC

QUALIFICATION FOR CANDIDATE FILING DECLARATION

(Utah Code Section 20A-9-201)

Please Initials

JK The filing officer read the constitutional and statutory requirements as listed below to me, and I meet those qualifications.

JK I understand that my name will appear on the ballot as it is printed on this declaration of candidacy, and that I may not make any amendments or modifications after March 15, 2012.

JK I have received a copy of Section 20A-7-201 regarding the Statewide Electronic Voter Information Website Program and its applicable deadline.

JK I have received a copy of the pledge of fair campaign practices, and I understand that signing this pledge is voluntary.

JK I agree to file all campaign financial disclosure reports and I understand that failure to do so may result in my disqualification as a candidate for this office, removal of my name from the ballot, possible fines and/or criminal penalties.

John Swallow

Signature of Candidate

W. P. [Signature]

Signature of Filing Officer

9 March 2012

Date

3/9/2012

Date

QUALIFICATIONS

Before the filing officer accepts any declaration of candidacy, the filing officer shall read to the candidate the constitutional and statutory requirements for candidacy, and the candidate shall state whether he/she fulfills the requirements. If the candidate indicates that he/she does not qualify, the filing officer shall decline his/her declaration of candidacy. (Utah Code Section 20A-9-201, 202)

GOVERNOR and LIEUTENANT GOVERNOR

Utah Constitution, Article VII, Section 3

- " Utah resident citizen for 5 years
- " At least 30 years old at the time of election
- " Qualified voter*
- " Never convicted of a felony**
- " Governor - Pay filing fee of \$536.00
- " Lieutenant Governor - Pay filing fee of \$509.20

ATTORNEY GENERAL, STATE AUDITOR and STATE TREASURER

Utah Constitution, Article VII, Section 1

- " Utah resident citizen for 9 years
- " At least 25 years old at the time of election
- " Qualified voter*
- " All - Never convicted of a felony**
- " Pay filing fee of \$609.20
- " Attorney General - Admitted to practice before the Supreme Court of Utah, and in good standing at the bar

* A qualified voter (1) is a citizen of the United States; (2) is a resident of Utah; (3) will, on the date of that election be at least 18 years old and have been a resident of Utah for 30 days immediately before that election; (4) and has registered to vote.

** A person convicted of a felony loses the right to hold office until (1) all felony convictions have been expunged, OR (2) ten years have passed since the most recent felony conviction AND the person has paid all court-ordered restitution and fines AND the person has completed probation, been granted parole, or completed the term of incarceration associated with the felony.

2012
CANDIDATE FINANCIAL DISCLOSURE OR
CONFLICT OF INTEREST

for

JOHN E. SWALLOW

(Print name)

for the office of Utah Attorney Gen. District

Primary employer name	State of Utah Office of Attorney General
Primary employer address	350 North State Street, Ste 230, SLU, UT 84114
Brief description of employment	State Attorney
Occupation and job title, if applicable	Chief Deputy Attorney General
Name of entity owned	
Brief description of the type of business or activity conducted by the entity owned	
Filer's position in the entity	
Name of each entity that has paid \$5,000 or more in income to the filer within the one-year period ending immediately before the date of the disclosure form	None besides State of Utah
Brief description of the type of business or activity conducted by the entity described in the previous section	N/A
Name of entity in which the filer holds any stocks or bonds having a fair market value of \$5,000 or more as of the date of this form, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds	North American Palladium Ltd; Still Water Mining Company

*"Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, whether established primarily for the purpose of gain or economic profit or not.

Brief description of the type of business or activity conducted by the entity described in the previous section	Mining
Name of organization or entity for which the filer serves on the board of directors or in any other type of formal advisory capacity	Friends of John Swallow, Inc; Swallow + Associates, LLC Team a Leader Foundation
Brief description of the type of business or activity conducted by the entity described in the previous section	Political for F&J's; Primarily, legal for STA, LLC -- I am a leader on Profit Education Foundation
Type of position held by the filer within the organization or entity described in the two previous sections	Director for F&J's; Manager/Member for STA LLC Director, Team a Leader Foundation
(Optional) Real property in which the filer holds an ownership or other financial interest that the filer believes may constitute a conflict of interest	None
Description of the real property owned in the previous section	N/A
Description of the type of interest held by the filer in the property described in the two previous sections	N/A
Name of filer's spouse and any other adult residing in the filer's household that is not related by blood or marriage, as applicable	Suzanne M. Swallow
Brief description of employment of the filer's spouse and any other adult residing in the filer's household that is not related by blood or marriage, as applicable	None
Occupation of filer's spouse and any other adult residing in the filer's household that is not related by blood or marriage, as applicable	None
(Optional) Description of any other matter or interest that the filer believes may constitute a conflict of interest	None

I believe this form is true and accurate to the best of my knowledge.

John E. Swallow
(Signature of filer)

3-15-2012
(Date)



2012
STATE OF UTAH

PLEDGE OF
FAIR CAMPAIGN PRACTICES
(UCA § 20A-9-206)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of Utah has a moral obligation to observe and uphold. In order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their right to a free election, and that the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

I SHALL conduct my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing, without fear or favor, the record and policies of my opponents that I believe merit criticism.

I SHALL NOT use nor shall I permit the use of scurrilous attacks on my candidate or the candidate's immediate family. I shall not participate in or nor shall I permit the use of defamation, libel, or slander against any candidate or the candidate's immediate family. I shall not participate in nor shall I permit the use of any other criticism of any candidate or the candidate's immediate family that I do not believe to be truthful, provable, and relevant to my campaign.

I SHALL NOT use nor shall I permit the use of any practice that tends to corrupt or undermine our American system of free elections, or that blunders or prevents the free expression of the will of the voters, including practices intended to hinder or prevent any eligible person from registering to vote or voting.

I SHALL NOT receive election help or campaign contributions for myself or for any other candidate from my employees or volunteers.

I SHALL immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of an opponent, to methods in violation of the letter or spirit of this pledge. I shall accept responsibility to take firm action against my subordinate who violates any provision of this pledge or the laws governing elections.

I SHALL defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of Utah, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Name: John Swallow Office: Attorney General

Signature: John Swallow Date: 9 March 2012

*This is a voluntary pledge. Candidates are not required to sign this pledge of fair campaign practices.

*This document is considered a public record and will be retained for public inspection until 30 days following the election.

BB

April 9, 2013

John E. Swallow
UTAH ATTORNEY GENERAL'S OFFICE
350 North State Street, Suite 230
PO Box 142320
Salt Lake City, Utah 84114-2320

RE: 2012 Candidate Financial Disclosure

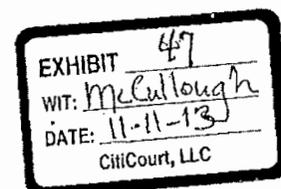
Dear John:

The purpose of this letter is to state my professional opinion about your 2012 Candidate Financial Disclosure.

I am an attorney practicing exclusively in the area of estate planning. In September of 2009, in part due to the untimely death of your father and certain business opportunities you were considering, I helped your family create various trusts and limited liability companies for estate planning purposes. One of these was an irrevocable or blind trust dated September 15, 2009. You are the grantor and settlor of the trust and your wife and children are the beneficiaries. The trustee is Lauren M. Reed. The Trust owns 100% of SSV Management LLC, and that LLC owns 100% of two other LLCs called I-Aware Products Enterprises LLC and P Solutions LLC. The purpose of this structure is to remove future business opportunities from your taxable estate. This is a very common tax planning strategy that I have implemented for hundreds of clients.

In March of 2012, you met with me and asked for my assistance in preparing your 2012 Candidate Financial Disclosures. I told you that you had never had any legal or beneficial ownership in the Trust or any of the LLCs owned by the Trust. You confirmed that you have never received compensation from any of these entities. In addition, you were not a member of the board of directors and you were not serving in any formal advisory capacity for any of these entities, except that I listed you as a manager of P Solutions LLC and the other LLCs owned by the Trust. I confirmed that if you resigned as a manager of the LLCs before submitting your final disclosure form, that the 2012 Candidate Financial Disclosure form did not require disclosure of these entities. On or before March 15, 2012, you resigned as manager of the Trust owned entities and I replaced you with your wife Suzanne as the manager of the entities.

The 2012 Candidate Disclosure Form also asks you to disclose your wife's employment. I told you that if she has not received compensation in exchange for her role as manager of the entities, which for many months prior to that time and since then



have not received any income and have not been active, and if she did not receive a W-2 or 1099 from an employer, I did not think she met the definition of being "employed." Your response on the 2012 Candidate Disclosure Form was that she was not employed, which is accurate.

You have informed me a petition have been filed alleging that your 2012 Candidate Financial Disclosures were incorrect because you failed to disclose the trust and the LLCs owned by the trust. Once again, we reviewed the 2012 Candidate Financial Disclosure form together. I also reviewed the checkbooks for the entities in question to be sure you had received no payments from any of these entities. I also note that UCA Section 76-8-109, which provides the form for the disclosure, also indicates that filers do not need to disclose stocks owned by a blind trust.

In my opinion, you had no obligation to include the trust or any of the LLCs owned by the trust on your 2012 Candidate Financial Disclosure form because you had no ownership in these entities, you never received any compensation from these entities, you did not serve as a director, trustee or in any formal advisory capacity, at the time of the filing deadline, and your wife was never a trustee or an employee of any of these entities.

Please let me know if I can be of further assistance.

Sincerely,

Lee S. McCullough, III
Attorney at Law

CC

May 1, 2013

Lieutenant Governor Greg Bell
Mark Thomas, Chief Deputy/Director of Elections
Utah State Capitol Complex
Suite 220
P.O. Box 142325
Salt Lake City, Utah 84114-2325

RE: 2012 Candidate Financial Disclosure

Dear Sirs:

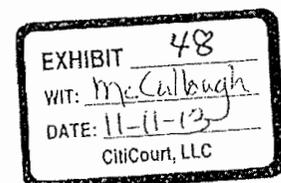
The purpose of this letter is to explain the estate plan that I created for John Swallow and how it relates to the 2012 Candidate Financial Disclosure form completed by John in March of 2012.

I am a Utah attorney practicing exclusively in the area of estate planning. One of the tools that I recommend most often is an irrevocable grantor trust. This type of trust allows a client to give away assets or business opportunities to be held for the benefit of his spouse and children so that they are not subject to the estate tax.

In September of 2009, John Swallow had some business opportunities that appeared to have considerable value. One of my other clients referred Mr. Swallow to me, recommending that Mr. Swallow create an irrevocable grantor trust in order to remove this business opportunity from his taxable estate. I helped Mr. Swallow create an irrevocable grantor trust which then created three limited liability companies called SSV Management LLC, I-Aware Products Enterprises LLC and P Solutions LLC. Mr. Swallow planned to give business opportunities to these LLCs (which were owned by the trust) in order to remove the business opportunities from his taxable estate.

The structure described above is a very common estate planning structure that I have created for hundreds of clients. There is nothing deceptive, unethical or illegal about an irrevocable grantor trust. These trusts have been approved and upheld in many instances by the Internal Revenue Service and by the courts. Because the grantor is not a trustee or beneficiary, the grantor has no legal or beneficial ownership in the trust and he has no right to the income or assets of the trust or its subsidiaries. If the grantor dies, the assets of the trust are not included in his taxable estate because the grantor has no ownership in the trust and no right to receive any benefits from the trust. If the grantor files for bankruptcy, the assets of the trust are not included in his bankruptcy estate.

(09377805-1)



because the grantor has no legal ownership in the trust and no right to receive any benefits from the trust.

An irrevocable grantor trust is a successful tool because the appreciation that occurs in the trust or in the entities owned by the trust is not included in the grantor's taxable estate. It is very common for a grantor to assign business opportunities to entities owned by an irrevocable grantor trust and to provide services on behalf of such entities in order to transfer value outside of his taxable estate. In addition, the income tax laws allow a grantor to pay the income taxes on the income earned by the trust even though he has no right to the income. In Revenue Ruling 85-13, the IRS ruled that the payment of income taxes by the grantor on behalf of an irrevocable grantor trust is not a taxable gift by the grantor even though it has the same economic effect as if the grantor had given the taxable amount to the trust. This allows the grantor to transfer an even greater amount to his spouse and children without gift or estate taxes.

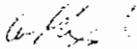
In March of 2012, I met with John Swallow to discuss the effect of the trust and related entities on his 2012 Candidate Financial Disclosures. I told him that he had no ownership in the trust or the LLCs owned by the trust and he was not entitled to the income owned by those entities. He was listed as the manager of P Solutions LLC and SSV Management LLC, but those companies were not operational and there were no plans for them to become active businesses.

I advised John that if he resigned as manager of the two companies, he would not have to include them on his 2012 Candidate Financial Disclosure form. Before John filed his Candidate Financial form on March 9, 2012, he told me that he resigned as manager of the two entities Disclosure and directed me to prepare and file his resignations with the State. My office did that in the normal course of business. State corporate records show that change on March 15, 2012, but John actually resigned on or before his first Candidate Financial form was filed on March 9, 2012.

In my opinion, John Swallow had no obligation to include the trust or any of the LLCs owned by the trust on his 2012 Candidate Financial Disclosure form because (1) he had no ownership in these entities, (2) he never received any income or compensation from these entities, and (3) he was not serving as a manager, director, trustee or in any formal advisory capacity at the time of the filing deadline.

Please let me know of any questions.

Sincerely,



Lee S. McCullough, III

DD

Title 20A -Chapter 11 - which is entitled "Campaign and Financial Reporting Requirements." Under Chapter 11, the normal process when a financial disclosure issue exists, even when it involves an important omission, is to allow the candidate 14 days following a request from the Lieutenant Governor, to correct the problem, before the omission becomes a violation. (See UCA §§20A-11-206 , 403, 703, 1305 and 1503). This is the case even when the financial disclosure error involves a candidate for elective office and is made just prior to an election and could have made a difference in the election. Assuming the truth of the disclosure allegations, which is contested, the opportunity to amend is the remedy that should be applied in this case.²

The purpose of this letter is to provide both factual and legal support for our position that Attorney General Swallow's disclosures, filed with and published by the Lieutenant Governor's office, were filed in good faith, were true and accurate to the best of his understanding and belief and were adequate under the requirements of the financial disclosure statutes, Utah Code Ann. §20A-11-1603 and §76-8-109. The Attorney General is willing to provide any additional information that might be requested. For the foregoing reasons, and based upon the following facts, we believe no further investigation is needed.

FACTUAL BACKGROUND

Mr. and Mrs. Swallow established an estate plan for their family shortly following the untimely death of Mr. Swallow's father in 2009. The estate plan was put in place in September 2009, which was months before Mr. Swallow joined the Attorney General's Office, and years before he decided to run for Attorney General. It was devised by Lee McCullough III, a highly respected estate planning attorney with years of experience in taxation and financial matters. In the letter from Mr. McCullough attached as Exhibit A, he explains that the purpose of the plan was to remove future business opportunities from Mr. Swallow's estate. He further explains this type of estate plan "is a very common tax planning strategy that I have implemented for hundreds of clients."

As a key component of the estate plan, an irrevocable (or blind) family trust and a limited liability company, SSV Management LLC, which was wholly owned by the trust, were created. SSV owned 100% of another limited liability company, I-Aware Products Enterprises LLC, which has been inactive for more than 30 months. Mrs. Swallow and the Swallow children were the beneficiaries of the trust, and the family's oldest child, a married daughter working out-of-state as an engineer for a major oil company, was an appointed trustee. Mr. Swallow was never a trustee of the trust or a trust beneficiary.

In 2010, at the time Mr. Swallow was preparing to provide consulting services for RMR Consulting, LLC, a company owned by Richard Rawle, on a limestone and cement project in

² The Petitioner's own Attorney, Mr. Irvine successfully requested the same treatment when in 2010 one of his clients, Mr. Kim Burningham who was a candidate for state office, filed a materially false candidate disclosure form and was allowed by your office to correct the filing under the statute.

Nevada, Mr. McCullough formed P Solutions, LLC, which is also wholly owned and controlled by SSV. Payments for the Nevada consulting services were made to P Solutions. *See* Declaration of Richard Rawle, attached as Exhibit B. At no time did Mr. Swallow receive any income, distributions or payment for services from P Solutions, nor was Mr. Swallow compensated directly by Mr. Rawle for consulting work. All distributions from P Solutions funds were made to Mrs. Swallow, a beneficial interest holder of the trust, as a distribution of trust profits.

As described in Exhibit A, Mr. Swallow met with Mr. McCullough in March of 2012 for assistance in preparing Mr. Swallow's 2012 Candidate Financial Disclosures. Mr. McCullough confirmed that Mr. Swallow had never received compensation from the companies owned by the trust and advised Mr. Swallow that he never had any legal or ownership interest in the trust or the companies owned by the trust and that he was never a board member or formal advisor of any of the trust-owned companies, except that he had served as manager of P Solutions. Mr. McCullough told Mr. Swallow that so long as he resigned as a manager of P Solutions before the filing deadline, he would not have to disclose any of the entities. Because P Solutions was no longer conducting any business activities and there was no reason for Mr. Swallow to continue as manager, he did resign before the deadline. McCullough also advised Mr. Swallow that disclosures about Mrs. Swallow's role as an unpaid manager for various LLCs that had little or no activity were not required.

In summary, Mr. McCullough concluded that Mr. Swallow "had no obligation to include the trust or any of the LLCs owned by the trust on [his] 2012 Candidate Financial Disclosure Form because [he] had no ownership in these entities, [he] never received any compensation from the entities, [h]e did not serve as a director, trustee or in any formal advisory capacity[at the time of the filing deadlines], and [his] wife was not an employee of any of these entities." Based on that legal advice, Mr. Swallow believed, and reasonably so, that he was providing the information required by financial disclosure laws. The form signed by Mr. Swallow states: "I believe this form is true and accurate to the best of my knowledge." That is what Mr. Swallow believed at the time he signed the disclosures, and his belief was confirmed by the advice of competent counsel as to how to complete the form.

FACTUAL RESPONSES TO INDIVIDUAL COUNTS OF THE PETITION

Counts One and Three

The Petition alleges in Count One and Count Three that Mr. Swallow violated the candidate financial disclosure requirements of Utah Code Ann. §§ 20A-11-1603 and 76-8-109 (4)(b)(iv) by failing to disclose that he was vice-president and a director of Timberline Drilling, Incorporated (Count One) and a trustee of a The Vital Ground Foundation, Inc. (Count 3). Even a cursory examination of the public records demonstrates that Attorney General Swallow has never been associated with either of these entities. The public records reveal that John A. Swallow is the Vice-President of Timberline Drilling, Incorporated, but the Attorney General is John Edward Swallow. A much older person named John E. Swallow is involved in Vital

Ground Foundation, Inc.; however, that John Swallow is a professional wildlife photographer who lives in California. These Counts must be dismissed summarily.

Count Two

The Petition alleges in Count Two that Mr. Swallow violated the candidate financial disclosure requirements of Utah Code Ann. §§ 20A-11-1603 and 76-8-109 (4)(b)(iv) by failing to disclose an ownership or management interest in Swallow & Associates on page 1 of his March 15, 2012 amended disclosure form although he did disclose such interest on page 1 of the March 9, 2012 form he originally filed. His management and ownership interest and the nature of the corporation's business, however, were fully disclosed on page 2 of the March 15 amended form. The information was inadvertently omitted on page one. That oversight was not intentional and is not grounds for requesting an amendment. Attorney General Swallow, however, is willing to amend that filing to include all such information on page 1 as well as page 2, if requested.

Count Four

With respect to Count Four, Mr. Swallow did not believe at the time of filing that he was still associated with Mr. Shurtleff's long since abandoned Senate exploration committee, Mark Shurtleff, Inc. or that it still existed. He had requested a member of his campaign staff to remove him from Mark Shurtleff, Inc. Apparently, that did not happen. He never received compensation for serving in that capacity and the entity had not been active since the fall of 2009, well before the financial disclosure form was filed. Mr. Swallow is willing to amend his filing, but it would appear unnecessary as that entity was dissolved in June 2012.

Count Five

Count Five alleges that that Mr. Swallow violated the candidate financial disclosure requirements of Utah Code Ann. §§ 20A-11-1603 and §76-8-109 (4)(b)(iv) by failing to disclose that he was an owner or officer of P Solutions LLC and SSV Management LLC. Mr. Swallow never had an ownership interest in either of these entities. As discussed above, SSV was owned by the trust which owned 100% of P Solutions. The trust was not owned, controlled or managed by Mr. Swallow. While Mr. Swallow had been a manager of the entities (both of which, as discussed above, were dormant and were not engaged in any business) when he made his initial disclosures on March 9, 2012, he was not an officer of the entities. Thus, disclosure was not required under Utah Code Ann. §76-8-109 which requires disclosure of entities in which the candidate is an owner or officer. Further, when he made his final filing on March 15, 2012, he was no longer a manager of either entity. He resigned at the time he made his candidate financial disclosures because he did not intend to be involved with the entities and had no business plans for the entities in the future.

The petition alleges that the transfer of the role of manager of the companies to Mrs. Swallow was a sham transaction intended to conceal Mr. Swallow's relationship to the companies. There is simply no basis for this allegation. Mr. Swallow's role as the initial manager of the two companies was publicly disclosed inasmuch as he was listed on public filings

with the Utah Department of Commerce as a manager of the two entities. Even today, a simple online search under his name reveals these positions. If Mr. Swallow had intended to hide his involvement with these companies, he would never have accepted an appointment as the initial manager of the entities and reported the positions on public filings. Neither of the entities had been engaged in any business for a number of months and no future business activities were contemplated. Mr. Swallow had no plans to be involved with these companies at any level during the time he served as Attorney General so he resigned as manager at the same time he filed his campaign financial disclosures. That is consistent with what Mr. Swallow had done regarding other activities with which he had been engaged prior to his candidacy, including his resignation as a member of the Board of Directors for the Days of 47, Inc. and as a member of the Board of Trustees for the Lighted Candle Society.

The allegation that payments to P Solutions were "rerouted" is likewise without basis. The Rawle declaration clearly states that money originally paid to P Solutions, LLC was refunded and replaced from a different payor. It was not new or additional income. Moreover, this event occurred subsequent to the candidate filings, therefore it is completely irrelevant to a discussion on candidate disclosures.³ The circumstances and purposes for the refund are stated in the Rawle declaration and the fact that it is known at all is because Mr. Swallow made the declaration public by providing it to the media.

Count Six

Count Six alleges that that Mr. Swallow violated the candidate financial disclosure requirements of Utah Code Ann. §§ 20A-11-1603 and §76-8-109(4)(b)(iv) by failing to disclose that he was a settlor and/or trustee of a trust for his children. As stated in the letter from Mr. McCullough, while Mr. Swallow was the settlor of the trust, meaning he created it, Mr. Swallow had no ownership or beneficial interest in the trust and was never a trustee. Utah Code Ann. §76-8-109 requires disclosure of entities in which a candidate is an owner or officer, but it does not require disclosure that a candidate was a settlor, i.e., creator, of a trust.

Count Seven

Count Seven alleges that that Mr. Swallow violated the candidate financial disclosure requirements of Utah Code Ann. §§ 20A-11-1603 and §76-8-109(4)(b)(v) by failing to disclose entities from which he, as the filer of the disclosures, received more than \$5000 in the year before filing of the financial disclosure form. Mr. Swallow did not receive any such payments during that period. RMR Consulting did pay P Solutions (which was owned by the trust, not Mr. Swallow) \$15,000 during that period. That payment was income to the trust, and disbursements made to family members were made as distributions of profits to the trust beneficiaries. Mr. Swallow was not a beneficiary of the trust and no payments were made to Mr. Swallow by either the trust or P Solutions. With respect to Swallow & Associates, L.C., no income has been earned by that entity since late 2009 and no income has been paid from that

³ The Rawle Declaration states that P Solutions returned the payment from RMR consulting, LLC, which was the recipient of funds related to Jeremy Johnson. P Solutions asked for payment from an account that did not hold funds from Mr. Johnson or his companies.

entity since early 2010, well outside the 12 month window for disclosure of payments, which window commenced in March 2011.

Count Eight

Count Eight alleges that that Mr. Swallow violated the candidate financial disclosure requirements of Utah Code Ann. §§ 20A-11-1603 and §76-8-109(4)(b)(vii) by failing to disclose that he served in a formal advisory role for Richard Rawle, RMR Consulting LLC or Chaparral Limestone & Cement Co LLC during the relevant statutory period. While Mr. Swallow did provide some consulting work for a cement and limestone project at the request of Mr. Rawle, he never served in a formal advisory capacity as that term is used in §76-8-109(4)(b)(vii) of the Utah Code. Further, at the time the financial disclosure form was filed, Mr. Swallow was no longer providing any consulting services. Although §76-8-109(4)(b)(v) requires disclosure of payments in excess of \$5000 made during the preceding year, §76-8-109(4)(b)(vii) requires only disclosure of formal advisory roles at the time of filing of the disclosure statement. Thus, even if Mr. Swallow had acted in a formal advisory role to Mr. Rawle and related entities in the past (which he did not), no disclosure would have been required because he was not acting as a formal advisor at the time of the filing of the disclosure statement.

Count Nine

Count Nine alleges that that Mr. Swallow violated the candidate financial disclosure requirements of Utah Code Ann. §§ 20A-11-1603 and §76-8-109(4)(b)(xi) by failing to disclose that his wife was a manager of the companies discussed above. That subsection, however, only requires a brief description of the employment and occupation of the spouse of the candidate. As discussed in Mr. McCullough's letter, Mrs. Swallow received no W-2s or 1099s and was not an employee of any entity. In fact, Mrs. Swallow has not been employed since 1987. She has never received any income for her services as manager of any of the trust entities, and no income has been paid to any trust entity since months before she became the manager of any such entity. Again, these entities are dormant and have been for nearly two years. She had no employment; therefore, none was disclosed.

Count Ten

Count Ten alleges that Mr. Swallow knowingly made and caused to be published false statements intended to affect voting at a convention, primary or election in violation of Utah Code Ann. §20A-11-1103. For the reasons stated above, Mr. Swallow did not knowingly make or cause to be published any false statements intended to affect his election. As discussed above, in making his disclosures, Mr. Swallow acted in good faith, believing all his disclosures were complete and accurate. In fact, there is strong evidence to indicate that Mr. Swallow was careful in making his disclosures and for that reason, he asked for, received and followed the advice of the attorney who created the entities at issue before he filed his financial disclosure form. To the extent any modifications are required, Mr. Swallow will fully cooperate in making such modifications.

Count Eleven

Count Eleven alleges on information and belief that Mr. Swallow used his office as Chief Deputy Attorney General to make expenditures of public funds for political purposes or to influence a ballot proposition by conducting election campaign activities during business hours at his state office and by using state resources to pay for campaign expenses in violation of Utah Code Ann. §20A-11-1203(1). The Petition does not present any evidence to support these allegations. Simply put, the Petitioners have no information that these allegations are true or that there is any reason they should be investigated. Further, Mr. Swallow denies any such wrongdoing.

Count Twelve

Count 12 alleges that Mr. Swallow used campaign contributions for his personal use in violation of Utah Code Ann. §20A-11-104 by paying his firm to pursue a defamation case on behalf of Mr. Swallow shortly before the primary election. This is simply not true. No funds have been expended by Mr. Swallow or his campaign fund for any such purpose. The press did quote Mr. Swallow as saying he was pursuing a defamation case, but Mr. Swallow either misunderstood the question or was misquoted. The only legal services involving defamation provided to Mr. Swallow related to a lawsuit for defamation filed by his opponent in the Attorney General race, Sean Reyes. Petitioners further posit that a "general perusal of Swallow's campaign finance reports...reveals other expense items which may represent the disbursement of campaign funds for personal use." There is no description of these expenditures or explanation of why they may have been made for personal use. Again, this rank speculation does not amount to information that there has been a violation of the Election Code which would warrant investigation by a Special Prosecutor.

LEGAL ANALYSIS

1. Inaccuracies in campaign disclosures are subject to the remedies found in Chapter 11 of Title 20A governing campaign finance issues, not the remedies found in Utah Code Ann. §20A-1-703 and 704 governing Election Offenses.

Petitioners allege that the failure to disclose certain relationships or payments under Utah Code Ann. §§ 20A-11-1603 triggers removal of the state officer under Utah Code §§ 20A-1-703 and 704. Campaign finance disclosure issues, however, are not governed by these sections, but instead by Chapter 11 of Title 20A, entitled "Campaign and Finance and Reporting." That chapter requires candidates for state office to file certain financial reports, and a failure to do so results in removal of the candidate's name from the ballot. See §§ 20A-11-206, 403 and 1305. Under the same statutes, when a report is filed with the Lieutenant Governor, the Lieutenant Governor is directed to review the report and if he finds that the report does not conform to the law or he receives a complaint alleging the falsity of the report, the Lieutenant Governor is directed to send written notice to the candidate within five days and ask for correction. *Id.* The candidate must then correct the report within 14 days.

There is no provision of removal of the candidate's name from the ballot or removal from office after election for inadequacies in financial disclosure in Chapter 11, Part 16 of the Election Code governing candidate financial reporting. Sections 20A-11-1601 to 1603 govern the candidate financial disclosures that are at issue in this case. This Part of the Utah Code does not specifically address the remedial action the Lieutenant Governor should take when there are errors in candidate financial disclosures, but it is reasonable to assume the legislature intended the same remedies that appear throughout Chapter 11 governing financial reporting.

In any event, it is certain that error in campaign disclosures does not trigger the removal provisions of §§20A-1-703 and 704. Part 6 of Chapter 1 of the Election Code §§601-608 defines Election Offenses as the following:

- § 20A-1-601. Bribery in elections--Paying for votes
- § 20A-1-602. Receiving bribes – receiving payment for votes
- § 20A-1-603. Fraud, interference, disturbance – tampering with ballots or records
- § 20A-1-604. Destroying instruction cards, sample ballots or election paraphernalia
- § 20A-1-605. Mutilating certificate of nomination – forging declination or resignation
- § 20A-1-606. Wagring on elections
- § 20A-1-607. Inducing attendance at polls –payment of workers
- § 20A-1-608. Promises of appointment to office forbidden

The offenses defined in Part 6 are all serious offenses which directly affect the integrity of the election and involve intentionally wrongful conduct. None of the allegations concerning Mr. Swallow's financial disclosures involve conduct defined as an Election Offense.

The next Part of Section 1 of the Election Code is "Part 7 – Prosecuting and Adjudicating Election Offenses." This is the Part in which §§ 20A-1-703 and 704 appear. The structure of the statute means that the violations of the Election Code providing a basis for removal from office in Part 7 are the Election Offenses defined in Part 6, not errors in the financial disclosures required under §20A-11-1603. These errors are never defined as a violation or offense, and the only penalties that apply are those under Chapter 11. This statutory scheme makes sense because it is reasonable to remove an elected official for the serious conduct defined as Election Offenses, but unreasonable to remove an official for errors on a financial disclosure form, especially when an official acted in good faith in making disclosures as did Mr. Swallow.

As discussed in Footnote 2, it has been the practice of the Lieutenant Governor's office to follow the statutory scheme of Chapter 11 and notify candidates and officers of errors in financial disclosures and allow them to amend. This is the appropriate course should the Lieutenant Governor's office believe there were errors in Mr. Swallow's filings. The Petition, therefore, should be dismissed.

Further, Article VI of the Utah Constitution establishes impeachment by the legislature as the sole method of removing state officers. A construction of §§20A-1-703 and 704 to allow removal of state officers for violations of the Election Code by judicial proceeding conflicts with Constitution Article VI. It is unlikely that the legislature when it enacted 703 and 704 intended to create an unconstitutional remedy. It is far more likely that the legislature intended for financial disclosure errors to be handled remedially by the Lieutenant Governor as provided in Chapter 11 of the Election Code.

2. **The remedy for personal use of campaign funds is governed by Chapter 11 of the Elections Code, §20A-11-104, not §§20A-1-703 and 704.**

Other than attorney fees for a defamation action, the Petition has not identified any campaign funds used for personal expenditures. The Attorney General was entitled to use campaign funds for legal work involving the defamation lawsuit filed by his primary opponent Sean Reyes during the campaign. Under §20A-11-104(g)(iv), a payment for services provided by an attorney "if made in connection with the candidacy for public office or an activity or duty of an officeholder" is not a personal use expenditure. Even if there were a "personal use expenditure," the remedy is not removal under §§20A-1-703 and 704, but instead it is the remedy provided in §20A-11-104(3). That subsection provides that the Lieutenant Governor can conduct an informal adjudicative proceeding to determine if there was a personal use expenditure and, if so, require the candidate or officeholder to remit a penalty up to 50% of the personal use expenditure and repay the full amount of the expenditure to the campaign account from which it was disbursed. As in the case of campaign finance disclosures, the legislature's intent was that personal use expenditures were to be handled by remedial action of the Lieutenant Governor, not removal from office. In summary, the procedure and remedies under Chapter 11 of the Election Code were triggered by the filing of the Petition, not the procedure and remedies under Chapter 1, §§20A-1-703 and 704, which are limited to Election Offenses and do not cover campaign disclosure inadequacies or the use of campaign funds.

CONCLUSION

For the forgoing reasons, we ask that the Petition be dismissed without appointment of a Special Prosecutor.

CLYDE SNOW & SESSIONS



Rodney G. Snow



Jennifer A. James

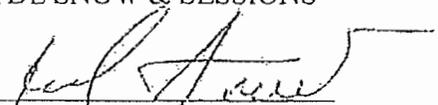
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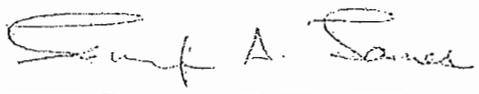
determine whether there has been a violation....” ELECTION OFFENSE AMENDMENTS, 2013 Utah Laws S.B. 289 (West’s No. 170). Thus, being fully aware of the issues presented by this Petition against the Attorney General and knowing that Lieutenant Governor Bell would make the decision as to whether or not special counsel should be appointed, the legislature chose not to make any changes to the statute regarding the Lieutenant Governor’s role in determining in the first instance whether special counsel should be appointed. This demonstrates that the legislature had confidence that the Lieutenant Governor is impartial and capable of making a neutral decision in this and other similar situations.

Finally, we also want to point out that the decisions and interpretations of executive departments concerning the laws that are under their administration are to be given special deference. According to the Supreme Court, “[w]e have long recognized that considerable weight should be accorded to an executive department’s construction of a statutory scheme it is entrusted to administer [footnote omitted] and the principle of deference to administrative interpretations.” *Chewron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 844-45, (1984). Here, the Lieutenant Governor’s office has been entrusted with administration of the Utah Elections Code, and its interpretations of how campaign disclosure statutes should be administered; i.e., allowing the candidate or officer to amend rather than pursuing removal, are entitled to special deference.

We would be happy to answer any questions you may have. Thank you for your consideration.

CLYDE SNOW & SESSIONS



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