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JOHN R. WALLACE
RICHARD P. NORDAN
JOSEPH A. NEWSOM

April 29, 2010

Ms. Kimberly Westbrook Strach, Deputy Director
Campaign Finance
North Carolina State Board of Elections
506 North Harrington Street
Raleigh, North Carolina 27603

VIA HAND DELIVERY

Re: Air Travel Reported By the Bev Perdue Committee

Dear Kim:

I write in further response to your email of April 7, 2010 and your subsequent email of April 9, 2010 and with respect to subsequent developments. In those emails, you have requested the provision of the work papers of the Perdue Committee with respect to air travel and have further requested explanation for the reasons why all such records have not be produced.

Yesterday, I received an email from Mr. Bartlett requesting that I make myself and the records of the Committee available for further review by State Board of Elections staff. I agreed to that review and met with representatives of State Board staff for four or more hours. I have, however, asserted my concerns regarding the provision of work papers of the Committee which were prepared under my supervision. I continue to assert that position, but that is not and has not been my only concern.

Yesterday, I contacted Ms. Susan Nichols, to make clear that I have and have had concerns both with the respect to the request you have made for work papers of the Committee and with respect to your role in connection with this matter.

As you know, unverified letters were submitted by Mr. Fetzer in behalf of the Republican Party to the State Board of Elections on October 15, 2009 and on December 14, 2009. Thereafter, on February 4, 2010, the Committee received correspondence from you asking certain limited questions regarding air travel on private aircraft during the 2004 and 2008 campaigns. In your letter, you said "*It is my understanding that the only purpose of contacting you is to ensure the accuracy of reports on record with our office.*"

Nevertheless, on February 16, 2010, you advised Mr. Fetzer by letter that you had "*initiated an investigation into the accusations contained in your complaints.*" This was quite

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surprising to me in that you had said something quite different from that in your letter to the Perdue Committee less than two weeks earlier. You sent your letter to Mr. Fetzer before you even received our response, and your letter was received by Mr. Fetzer in time for him to use it as a prop in his press conference again attacking the Perdue Committee on February 17, 2010.

You contacted us again and, in early April, we met, and you conducted an interview of Sue Jackson, regarding her efforts to gather and complete the internal audit which resulted in the reporting of certain disbursements and the receipt of certain in-kind contributions in connection with air travel. We were pleased to provide you with that information from the Committee's audit efforts.

However, since that meeting, you have requested that we provide you with the complete work papers of the Committee in connection with its reported air travel. I have addressed that issue in a letter addressed to Mr. Bartlett, a copy of which I enclose.

I am concerned about and object to your investigation of or involvement with issues raised by the Republican Party because your husband serves as an elected officer of and as legal counsel, or "General Counsel," to the Republican Party. Though you and I have had a long, cordial, and professional relationship, and I do not wish to jeopardize our relationship, I believe that you need to recognize that you are not in a position to conduct an unbiased inquiry into issues raised by the Republican Party or on its behalf, nor would you be in a position to conduct an investigation initiated by the Democratic Party into the Republican Party.

In considering my position expressed in this letter, I have made reference to the Republican Party Plan of Organization. The plan of organization provides, with respect to the office of general counsel, that "*the general counsel shall advise the Executive Committee in all legal matters...*" (North Carolina Republican Party Plan of Organization, June 12, 2009, Article VI. C. 4. f.).

Kim, I do not believe that you can expect to be able to conduct an investigation initiated by the Republican Party as to which your husband has an obligation to advise the Republican Party, nor can you conduct an investigation initiated by the Democratic Party of the Republican Party as to which, again, your husband has a duty to advise the Republican Party.

I would respectfully request that, in your interest and in the interest of the State Board, you recuse yourself from this and similar matters so as not to cast doubt upon the product of your efforts or the Board's efforts.

I regret the need to make this request, but I was quite surprised to find that you had undertaken such an active role in a matter raised by the Republican Party. I would be pleased to discuss this further in person if you wish.

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April 29, 2010
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With best regards, I remain,

Sincerely,

WALLACE & NORDAN, LLP

John R. Wallace

Cc: Hon. Gary O. Bartlett, Executive Director
Susan Nichols, Esq.

JRW/mpp
Enclosure



Not sent

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GARY O. BARTLETT
Executive Director

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

April 29, 2010

John R. Wallace, Esq.
Wallace & Nordan, Attorneys at Law
P.O. Box 12065
Raleigh, NC 27605

Re: Air Travel Reported by the Bev Perdue Committee

Dear John,

In your letter this morning to Kim Strach, the State Board's Deputy Director of Campaign Finance, you expressed concerns about Ms. Strach's role in involving the preparation of the staff's report to the State Board in this matter. Your concerns were primarily triggered by the fact that Ms. Strach's husband is General Counsel to the North Carolina Republican Party. Upon receiving my appointment as Executive Director in 1993, Republicans immediately questioned my ability to carry out the duties of my position because of my previous involvement in Democratic campaigns and Democratic Party activity. I hope that my past performance has demonstrated fairness to all that are involved in political activity.

I am responding to your letter rather than Ms. Strach because as Executive Director I am responsible for the assignment of administrative duties to all staff, subject of course to the direction of the State Board. No employee could recuse himself or herself from performing an administrative duty without my concurrence. All employees of the State Board of Elections are expected to deal with the administrative duties of this office in a nonpartisan manner. Each employee signs a confidentiality agreement, an example of which is enclosed. I am aware of her husband's position and the role of General Counsel to the N.C. Republican Party, but I have seen no reason to excuse or limit her administrative duties to others.

The process of preparing reports for our constituents is carefully managed by me. If there appears to be any undue need, the process and its management is fully for that matter, I am confident that while you may perceive a conflict of interest, absent specific information of an actual conflict Kim Strach will continue to perform the duties of her position. Our work is almost completed and we expect to be able to deliver to the State Board our report in this matter soon.

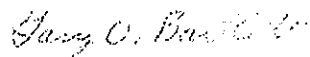
You specifically expressed concern by the use in the February 16th letter to Mr. Fetzer of "investigation" in referring to the accusations in this complaint. The intent of that letter was to indicate that the complaints would be investigated rather than the Bev Perdue Committee. As you are aware, the State Board has directed me to have staff conduct a review of all gubernatorial candidates' use of private air travel. As soon as I learned that in his press conference of February 17, Mr. Fetzer placed emphasis on this letter and that word, I acted to clarify as fully as I could what was meant in the letter of February 16,

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Because both the Republican and Democratic Parties and others have filed a number of complaints with this office, along with the normal demands of the upcoming primary, in order to complete the work of preparing reports on the complaints in the time frame expected by the State Board, additional staff members have been assigned to the task. Ms. Strach remains, however, an integral part of the staff's work.

Please feel free to contact me if you wish to discuss this matter further or ever have specific concerns about the impartiality of any member of the State Board's staff.

Sincerely,



Gary O. Bartlett

cc: Kim W. Strach
Susan Nichols, Esq.



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GARY O. BARTLETT
Executive Director

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May 6, 2010

John R. Wallace
Wallace & Nordan, Attorneys at Law
P.O. Box 12065
Raleigh, North Carolina 27605

Re: Air Travel Reported by the Bev Perdue Committee

Dear John,

I am responding to your letter dated April 29, 2010, in which you express concerns about my role in investigations initiated by the Republican Party or the Democratic Party based on the fact that my husband is General Counsel for the North Carolina Republican Party. Over the last nine years, we have had a long and cordial relationship in which we have worked together on numerous issues, many involving complaints filed by either the Republican or Democratic parties. In fact, since I have been at the State Board of Elections, I have worked with no outside attorney more than I have worked with you. At no point over the last nine years have you ever expressed any concern to me about my role in any investigation or the way I have handled any matter assigned to me.

I have worked my entire career at the State Board of Elections to establish a reputation for being impartial and nonpartisan. At no point during my career has anyone ever questioned my reputation for nonpartisanship and fairness, despite the numerous high profile matters on which I have worked. I have never nor would I ever compromise my reputation to benefit any candidate or political party. My husband was active in the Republican Party when I met him eight years ago and has continued to be active throughout our marriage. At no time has my husband ever asked or encouraged me to take any action that would benefit the Republican Party or harm the Democratic Party and I have never taken such action for those purposes. He in no way influences the manner in which I perform my responsibilities related to campaign finance investigations or recommendations made to Mr. Bartlett and the State Board.

Since you have expressed the opinion that based on my husband's role with the Republican Party, I cannot conduct an unbiased inquiry, I would remind you of my work on investigations resulting from complaints filed by the North Carolina Democratic Party involving both the Republican Governors Association and the Republican State Leadership Committee. The information I gathered in those investigations ultimately resulted in the Board and in the case of

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the Republican State Leadership Committee, the Executive Director, ordering fines and other actions against these Republican organizations.

As you know, I work at the direction of Executive Director, Gary Bartlett. I do not have the authority to resolve a complaint against a campaign committee without permission of Mr. Bartlett or the Board. Additionally, any action I take on any matter can be reversed by Mr. Bartlett or the Board. In investigating complaints or conducting inquiries, my role is to find the facts for the consideration of Mr. Bartlett and the Board. Neither you nor anyone else has accused me in this matter or any other matter of fabricating or ignoring facts to benefit any party, committee, or person. Accordingly, there is no conflict and no actual conflict is even possible given my position. Having said that, I will say to you unequivocally that if I ever believe I could not be unbiased or fair in conducting an inquiry or carrying out any other assigned responsibility of my job for any reason, I would ask Mr. Bartlett to remove me from all involvement. I strongly believe in the purpose of our campaign finance laws and would never do anything that would lead to a lack of or abuse of enforcement.

Given our working history, the timing of this allegation is very disturbing. It comes on the heels of my request for the opportunity to review and copy a notebook containing documents relevant to the specific question of whether anyone working with the Bev Perdue Committee willfully failed to initially disclose flights in a timely manner. As you recall, when I met with you and Sue Jackson to discuss the Bev Perdue Committee flights on April 1st, you brought this notebook and referred to items in the notebook when explaining your process for insuring all flights had been identified, disclosed and properly accounted for either by payment or in-kind contribution. At that same meeting, you allowed me to examine the total contents of that notebook but time limitations did not allow for a thorough review. At no time during that meeting did you assert that any document in that notebook was a privileged record. I assume you would not have allowed me to review the documents if you thought that were the case. Therefore, I stated to you before you left my office that I would like the opportunity to further review the contents of the notebook. You did not object to my request at that time. It was only after I made two additional attempts to review the notebook, that you advised that the Bev Perdue Committee declined my request for review. When I received on April 9th your email denying the request to review and copy the notebook, I asked you to provide the basis for declining the request. Until receiving the letter that I am now responding to, I did not receive any response providing that basis from you. Additionally, as you are aware, on April 28th, other members of the staff of the State Board of Elections visited your office for the purpose of reviewing and copying non-privileged records related to flights taken by the Bev Perdue Committee. None of the employees that visited your office work under my direction and in fact, one of the employees was the Deputy Director for Administration. Yet, you didn't allow these staff members, about whom you have asserted no conflict, to review or copy the notebook.

I am fully aware that you have made great efforts to insure that all flights by the Bev Perdue Committee have been properly reported and that proper accounting or payments have been made. I know this because you contacted me last year to notify me of your efforts on behalf of the Bev Perdue Committee and have contacted me on numerous occasions since that time seeking guidance on how to handle certain issues you have encountered with respect to air travel. You've been aware of my husband's position with the Republican Party and yet you sought and

relied on my guidance to properly amend reports and insure that proper payments were made for flights. Nevertheless, you now question my ability to conduct an unbiased inquiry into matters that I have already been addressing with you.

I will continue to carry out to the best of my abilities in a fair, professional and unbiased manner my responsibilities to conduct investigations or inquiries I am assigned, whether they involve the Republican or Democratic parties or any other party, candidate, person or committee. In this context, I look forward to continuing the professional relationship we have enjoyed.

Sincerely,

A handwritten signature in black ink that reads "Kim Strach". The signature is written in a cursive, slightly slanted style.

Kim Strach

cc: Gary Bartlett
Susan Nichols

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JOHN R. WALLACE
RICHARD P. JORDAN
JOSEPH A. NEWSOME

May 19, 2010

Ms. Kimberly Westbrook Strach, Deputy Director
Campaign Finance
North Carolina State Board of Elections
506 North Harrington Street
Raleigh, North Carolina 27603

Re: Air Travel Reported By the Bev Perdue Committee

Dear Kim:

I write in response to your letter of May 6, 2010. I don't want to prolong this discussion, but several points need to be addressed arising from your letter.

- 1) You have a conflict of interest. Your duty is to disclose the conflict and recuse yourself.
- 2) Contrary to your suggestion, the Perdue Committee has provided the Board with the requested campaign travel records and responded appropriately and fully to the Board's inquiry.

As to the first point, the existence of a conflict of interest can be identified objectively. A conflict does exist here, whether or not you are aware of that conflict or think you are able to rise above it. That is why rules are made to deal with conflicts. Persons finding themselves in conflict situations, by virtue of their compromised situation, cannot objectively identify the influences arising from the conflict; thus, avoidance of conflict rather than management of conflict, even with good intentions, is the appropriate course.

Although I had been aware of your husband's election as an official of the Republican Party earlier, I had not until this spring been in a situation requiring a response in behalf of a client to a complaint seeking investigation by your husband's client. Thus, this spring was the first time it became appropriate to raise the issue, and thus, I wrote my letter of April 29, 2010.

I did not wish to raise the issue. This was an issue which you should have raised with the Board earlier and acted upon so as to avoid this dilemma. The conflict is not one which can be managed and is, instead, one that must be addressed by your recusal from matters involving the Republican Party.

K. Strach
May 19, 2010
Page 2

You suggest in your letter that, because you work for Mr. Bartlett and the Board, "there is no conflict and no actual conflict is even possible." I respectfully disagree with this contention in that I know your position includes the exercise of substantial autonomy and discretion. That is particularly the case within the context of the investigatory work in which you are engaged.

Also, you note that we have a history of working well together. I agree. I also agree that we have worked well together with respect to the amendment of the Perdue Committee's reports. However, please note that these activities in which you have been involved as Deputy Director of Campaign Finance are routine matters, not matters initiated by your husband's client.

This brings me to the second point. Your letter suggests that the Perdue Committee declined your request to review the notebook containing its travel records. This is false. You personally reviewed the notebook at the Board's office for two hours, and since then we have provided to the Board all the records in the notebook with the exception of the work product that I have prepared as the Committee's attorney and by those working under my supervision. In other words, the Board is in possession of the campaign travel records it has requested.

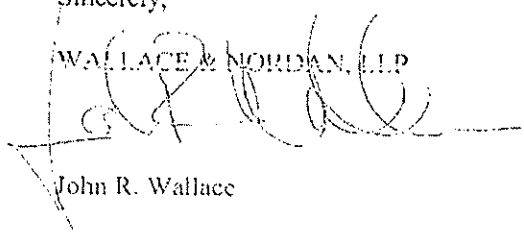
You also suggest in your letter that I have failed to provide the basis for my objection to the copying of attorney work product. That also is false. I responded to the Executive Director of the Board by letter of April 29, 2010 and addressed the work product issue directly. I have been advised by the Executive Director that the Board does not anticipate the need for the work product documents.

You, like every one of us when confronted with a conflict situation, should take steps to avoid a conflict of interest. In this instance, avoidance of conflict requires that you recuse yourself from investigations commenced by your husband's client or investigations conducted of your husband's client.

With best regards, I remain,

Sincerely,

WALLACE & NORDAN, LLP


John R. Wallace

JRW/mpp

cc: Hon. Gary O. Bartlett, Executive Director
Susan Nichols, Esq.



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GARY O. BARTLETT
Executive Director

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July 14, 2010

Mr. John Wallace
Wallace & Nordan LLP
3737 Glenwood Avenue
Raleigh, North Carolina 27612

VIA HAND DELIVERY

Re: Air Travel Reported By the Perdue Committee

Dear John:

I chose not to respond to your May 19, 2010, letter until after my work was complete with the gubernatorial candidate inquiry. Despite the fact that I do not consider my work to be complete, please consider this my response.

1. You have demonstrated through your prior conduct that you know I do not have a conflict. Accusing someone of having a conflict is serious. Surely you are not now suggesting that the fact of my marriage compromises my integrity.
2. The contention in your May 19, 2010, letter that the Board had been provided with the requested travel records is false. I did not receive the entire contents of the notebook of travel records I had requested in early April until June 2, 2010- well after your May 19, 2010 letter.

As you are aware, Tom Fetzer filed his complaint regarding undisclosed flights in October 2009. You were aware of the complaint at that time and had in fact sent a copy of it to me. You were on notice that Mr. Fetzer had filed the complaint yet you did not raise any issue regarding a conflict of interest with me.

Subsequent to the filing of the Fetzer complaint in October 2009, you continued to work with me and through me to resolve issues regarding flights of the Perdue Committee. Although my initial involvement with you regarding the Perdue Committee amendments was a matter not unlike many matters handled by me and other staff members in the Campaign Finance Division, after Mr. Fetzer filed his complaint about the flights that had been a substantive part of the Perdue amendments, you continued to contact me and did not raise any conflict of interest with me.

In February 2010, I sent you a letter notifying you that the Board was conducting an inquiry into the flights of all 2008 and 2004 gubernatorial candidates, including those of the Perdue Committee. You raised no conflict. Shortly thereafter, I requested from you a list of persons to interview regarding the complaint in March 2010. No conflict issues were raised by you. Then in March 2010, a letter was sent to Mr. Fetzer confirming that the Board was also investigating his complaint. You were aware of this letter and, again, you raised no conflict.

On April 1, 2010, I met with you and Sue Jackson regarding the Perdue Committee flights. You raised no conflict issue. Instead, you showed me a notebook containing hundreds of source documents regarding flights taken by the Perdue Committee. As you concede in your May 19 letter, you then allowed me to review the entire contents of that notebook. You then later (almost a month later) claimed that the contents of that notebook were privileged and that I had a conflict. If either one of those claims were true, why would you have not raised them at the time of the meeting? Are you saying now that you allowed someone you perceived to have a conflict of interest to review an entire notebook of allegedly privileged documents?

My review of the notebook at the time revealed dozens and dozens of documents that are directly relevant both to Fetzer's complaint and the Board's flight inquiry. Many of the documents I saw were documents generated at the time the flights were taken and could not possibly have been generated by you. Many of the documents I saw also contained names of individuals that appeared to have knowledge of flights relevant to the investigation/inquiry.

As any reasonable person might expect, due to the time constraints of that April 1 meeting, I soon followed up my review of that notebook with a request on April 7 for further review and the opportunity to copy the contents of the notebook. After receiving no immediate response, I followed up with you on April 9 and received a response from you on that day that the Perdue Committee declined my request to review and copy the contents of the notebook. On that same day, I asked you to provide an explanation for declining to provide information which is relevant and pertinent to the inquiry. On April 12, you sent me an email notifying me that you would respond as soon as you were able to do so. On April 28, Mr. Bartlett requested that you provide staff access to non-privileged documents. You did not provide access to the contents of the notebook for flights that had not been timely disclosed. Instead, you sent a letter to Mr. Bartlett on April 29 indicating that the records that had been requested were work product and not subject to disclosure. On this same day, you for the first time raise the conflict issue with me--- just three weeks after my April 7 request to review and copy the notebook, which was denied, and, nearly six months after Mr. Fetzer filed his complaint.

On April 28, you turned over multiple files for flights that had previously been timely disclosed. Yet, based on your "work product" contention no documentation for flights which were the subject of the Board's inquiry were provided. I then responded to your letter raising the conflict issue on May 6. It was only after I sent my letter that you finally produced documents that were the subject of the Board's inquiry. Yet, even those records were not complete.

It was not until approximately 4:00 pm on June 2 that additional documents were delivered--- documents that had been repeatedly requested but not previously produced. I reviewed these documents provided on June 2 and confirmed that source documents for several flights were

being provided for the first time. These additional documents were documents clearly created at or around the time of the flight and therefore cannot possibly be considered your "work product."

You have never blocked my access to relevant documents in past investigations. You have never claimed that source documents created by a campaign were privileged just because the documents happened to be in your possession. The information requested of the Perdue Committee---documents relevant to the flights taken by the Committee---has not differed from any information requested from any other committee.

You only raised my alleged conflict after you voluntarily allowed me to review documents you later claimed were privileged. If these documents were truly privileged, then you obviously waived any privilege on behalf of your client.

I have always thought you understood my devotion to the mission of the Board to equally and fairly ensure campaign finance compliance. I have never and would never compromise that mission or my integrity for anyone's agenda.

Sincerely,

A handwritten signature in cursive script that reads "Kim Strach". The signature is written in black ink and is positioned above the printed name.

Kim Strach