

BEFORE THE FEDERAL ELECTION COMMISSION

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v.

MUR No. 7354OFFICE OF
GENERAL COUNSEL
2018 MAR 27 AM 7:30

REMEMBER MISSISSIPPI
Tommy Barnett, Treasurer
PO Box 4142
Biloxi, MS 39535

FRIENDS OF CHRIS MCDANIEL
Richard Conrad, Treasurer
PO Box 491
Laurel, MS 39441

COMPLAINT

1. This complaint is filed pursuant to 52 U.S.C. § 30109(a)(1) and is based on information and belief that Remember Mississippi (ID: C00641423) and Friends of Chris McDaniel (ID: C00550657) have violated the Federal Election Campaign Act ("FECA"), 52 U.S.C. § 30101, *et seq.*
2. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [FECA] . . . [t]he Commission *shall* make an investigation of such alleged violation" 52 U.S.C. § 30109(a)(2) (emphasis added); *see also* 11 C.F.R. § 111.4(a).

3. Remember Mississippi, a super PAC established by Chris McDaniel's assistant and which he financed by obtaining \$1 million in contributions from Robert Mercer and Richard Uihlein, violated federal law by organizing and funding three campaign events for McDaniel in March 2018 that constituted unreported and excessive in-kind contributions. Because Remember Mississippi made contributions to a candidate, its self-certification as an independent expenditure-only super PAC was false and invalid. McDaniel's campaign also violated the law by accepting and failing to report the excessive contributions. Moreover, as a committee established, financed, maintained, and controlled by McDaniel, Remember Mississippi has accepted excessive and unlawful contributions. Finally, McDaniel failed to timely register his federal candidacy.
4. Campaign Legal Center ("CLC") is a nonpartisan, nonprofit 501(c)(3) organization whose mission is to protect and strengthen the U.S. democratic process through litigation and other legal advocacy. CLC participates in judicial and administrative matters throughout the nation regarding campaign finance, voting rights, redistricting, and government ethics issues.

FACTS

5. Remember Mississippi is an independent expenditure-only political action committee (i.e., a "super PAC") that is exclusively focused on electing Chris McDaniel to the U.S. Senate. McDaniel is a candidate for the Republican nomination for U.S. Senate in Mississippi in 2018, and Friends of Chris McDaniel is his principal campaign committee.
6. Remember Mississippi filed a Statement of Organization with the Commission on May 24, 2017, and listed its treasurer as Susan Perkins.¹ Perkins is McDaniel's assistant at his law

¹ Remember Mississippi, Statement of Organization (original), FEC Form 1, at 1 (filed May 24, 2017), <http://docquery.fec.gov/pdf/873/201705249055149873/201705249055149873.pdf>

firm² and also listed as the point of contact for McDaniel's state campaign committee, which is also called Friends of Chris McDaniel.³ Perkins has also managed McDaniel's campaign Facebook page.⁴

7. On July 31, 2017, Remember Mississippi filed a mid-year report disclosing a \$50,000 contribution from Robert Mercer and reporting no other activity.⁵
8. On September 22, 2017, the Mississippi politics blog *Y'all Politics* identified that:

The treasurer for the super PAC on the registration documents is Susan Perkins. Susan [works] part time out of the Hortman Harlow law firm, at which McDaniel is a partner. She also appears to have (or at least have had) free reign over Chris's personal Facebook page. Ms. Perkins also serves as the contact for his state campaign account. The address listed for the super PAC is listed at her residence.

. . . .

Ms. Perkins, when reached at the Hortman Harlow law firm, referred me to former State Senator Melanie Sojourner as the person most involved with the super PAC. Sojourner served as campaign manager for McDaniel in 2014 and subsequently lost her state Senate seat. When reached, Sojourner stated that there will be a more formal roll out of the super PAC and its governance in the coming weeks.⁶

² See, e.g., Geoff Pender, *McDaniel 'At Peace' With Run for Higher Office, Won't Say Which One Yet*, THE CLARION LEDGER (Nov. 13, 2017), <https://www.clarionledger.com/story/news/politics/2017/11/13/chris-mcdaniel-bannon-roger-wicker-trump-senate-gop-primary/859571001/> ("One wealthy anti-establishment GOP financier, the Robert Mercer family, recently donated \$50,000 to a new "Remember Mississippi" super PAC set up by Susan Perkins, an assistant at McDaniel's law firm in Laurel."); Geoff Pender, *Will McDaniel Join Bannon's 'War on GOP'?*, THE CLARION LEDGER (Oct. 9, 2017), <https://www.clarionledger.com/story/opinion/columnists/2017/09/24/chris-mcdaniel-bannons-war-gop/694116001/> ("Already, the *Washington Post* reported, the Mercer family has started donating some money to challenger candidate PACs, including \$50,000 recently to the new Remember Mississippi, a super PAC set up by an assistant at McDaniel's law firm in Laurel."); see also Susie Perkins, *Started New Job at Hortman Harlow*, FACEBOOK (Oct. 22, 2015), https://www.facebook.com/permalink.php?story_fbid=125567364868804&id=100022466242139.

³ See, e.g., Chris McDaniel, Candidate Report of Receipts and Disbursements: 2016 Annual Report (received by Mississippi Secretary of State Jan. 31, 2017), <http://bit.ly/2FKaCjv>; Chris McDaniel, Candidate Report of Receipts and Disbursements: 2017 Annual Report (received by Mississippi Secretary of State Jan. 31, 2018), <http://bit.ly/2tGleuQ>

⁴ Senator Chris McDaniel, *This is Susie Perkins*, FACEBOOK (Mar. 17, 2017), <https://www.facebook.com/senatormcdaniel/posts/1410127539051130>

⁵ Remember Mississippi, Mid-Year Report 2017, FEC Form 3X, at 6 (filed Jul. 31, 2017), <http://docquery.fec.gov/pdf/020/201707319069909020/201707319069909020.pdf>.

⁶ Alan Lange, *Super PAC Over Yonder, the First Flub of a Campaign for US Senate That May Not Ever Be*, Y'ALL POLITICS (Sept. 22, 2017), <http://yallpolitics.com/index.php/yp/post/47907>.

9. On September 26, 2017, McDaniel told the *Washington Post* that “I was with [Steve] Bannon last night, talking it through, and what’s happened in Alabama increases the likelihood that I jump in” to the Mississippi U.S. Senate race.⁷ The *Post* also reported:

The Mercer family — Bannon’s billionaire backers — have been in touch with [potential U.S. Senate candidates in other states] as well and McDaniel said they have encouraged him to run.

When asked about rumors that the Mercers and other donors have pledged more than \$1 million to McDaniel, he replied, “It may be more.”⁸

10. On September 27, 2017, *Mississippi Today* reported that “State Sen. Chris McDaniel is inching closer to a 2018 bid against U.S. Sen. Roger Wicker, spurred on in part by meetings this week with former White House chief strategist Steve Bannon”:

Further laying the groundwork for a potential McDaniel 2018 bid is a group of donors, led by the billionaire Mercer family, who are close political allies with Bannon. McDaniel said on Tuesday that at least \$1 million has been pledged to fund a Wicker challenger in Mississippi.

Robert Mercer dropped a first check in a McDaniel-tied super PAC, as chronicled in a Y’all Politics report earlier this month.

“I’ve known the Mercers since 2013, and we’ve talked a good deal about 2018,” McDaniel said.

Noting that the GOP establishment has “always been able to use money to crush opposition,” McDaniel suggested that “because of our ability to contact voters in different ways, it’s more difficult for them to take that route.”⁹

11. On October 9, 2017, *The Clarion Ledger* reported that:

McDaniel said he has met with Bannon multiple times recently.

“I consider Steve to be a friend of mine, and I do follow his advice,” McDaniel said. “Steve was instrumental to Donald Trump being elected to the presidency, and even

⁷ Robert Costa, *After Alabama, GOP Anti-Establishment Wing Declares All-Out War in 2018*, WASH. POST (Sept. 26, 2017), https://www.washingtonpost.com/politics/after-alabama-anti-establishment-wing-declares-all-out-war-in-2018/2017/09/26/96d1f54a-a2d0-11e7-b14f-f41773cd5a14_story.html?utm_term=.3c6978e58c7d.

⁸ *Id.*

⁹ Adam Ganucheau, *Bannon Pushed Chris McDaniel Closer to Sen. Wicker Challenge*, MISSISSIPPI TODAY (Sept. 27, 2017), <https://mississippitoday.org/2017/09/27/bannon-pushes-chris-mcdaniel-closer-sen-wicker-challenge/>.

now he is seeking to promote Donald Trump and conservative policies and it's people like Roger Wicker and Mitch McConnell standing in the way."

McDaniel on Friday boldly opined that "whichever race we decide to enter, financing won't be an issue." As for large national conservative groups that could pump millions into a Senate race, McDaniel said he's talked with several and, "these groups are absolutely interested."

McDaniel said he will be weighing many variables in considering a run, "but financial concerns aren't one of those variables."¹⁰

12. On October 17, 2017, Remember Mississippi filed an amended statement of organization listing new contact information and a new treasurer, Tommy Barnett.¹¹

13. On November 13, 2017, *The Clarion Ledger* reported:

McDaniel does not appear to have created a federal campaign committee or raised money yet for a federal race, although Bannon has reportedly been talking with campaign financiers on his behalf. One wealthy anti-establishment GOP financier, the Robert Mercer family, recently donated \$50,000 to a new "Remember Mississippi" super PAC set up by Susan Perkins, an assistant at McDaniel's law firm in Laurel.¹²

14. On December 27, 2017, the *Washington Post* reported that Remember Mississippi had publicly disclosed only one \$50,000 contribution, but that "Dan Eberhart, a wealthy oil industry executive, said Wednesday that he gave \$25,000 to Remember Mississippi in November. He said he has been meeting with McDaniel and plans on 'heavily backing him.'"¹³

¹⁰ Geoff Pender, *Will McDaniel Join Bannon's 'War on GOP'?*, THE CLARION LEDGER (Oct. 9, 2017), <https://www.clarionledger.com/story/opinion/columnists/2017/09/24/chris-mcdaniel-bannons-war-gop/694116001/>.

¹¹ Remember Mississippi, *Statement of Organization (amended)*, FEC Form 1, at 1 (filed May 24, 2017), <http://docquery.fec.gov/pdf/951/201710179075786951/201710179075786951.pdf>.

¹² Pender, *supra* note 2.

¹³ Sean Sullivan & Michael Scherer, *GOP Intraparty Clash Poised to Shape U.S. Senate Contest in Mississippi*, WASH. POST (Dec. 27, 2017), https://www.washingtonpost.com/powerpost/gop-intraparty-clash-poised-to-shape-us-senate-contest-in-mississippi/2017/12/26/3cd5e63e-e71b-11e7-a65d-1ac0fd7f097e_story.html?utm_term=.ea7ac328144b. Additionally, on March 20, 2018, Remember Mississippi issued a statement that included a quote from Eberhart, whom the statement described as "CEO of Canary, LLC and donor to Remember Mississippi," and who was quoted as confirming that "I'm backing McDaniel." Remember Mississippi, *Remember Mississippi PAC on Bryant's choice: 'Another Dem enters the race, Remember Mississippi (Mar. 20, 2018)*, <https://www.remembermississippi.org/remember-mississippi-pac-on-bryants-choice-another-dem-enters-the-race/>.

15. On January 31, 2018, Remember Mississippi filed a year-end report disclosing an additional \$1.05 million in contributions, including another \$450,000 from Mercer and \$500,000 from Richard Uihlein.¹⁴ (Dan Eberhart's name did not appear on the report, but the company he leads, Canary Wellhead Equipment Inc., gave \$25,000 in November 2017.¹⁵) It also reported an estimated \$247,657 in disbursements, which primarily comprised spending on political, media, and finance consulting.¹⁶
16. On February 26, 2018, *Mississippi Today* published an interview with McDaniel, where he was asked, "It was announced you hit the one million dollar mark with the Super PAC. What's that like?"¹⁷ McDaniel responded:

Incredibly blessed. To sit here and think that after all we've gone through, that I would sit here as an unannounced candidate and already have a PAC out there backing me with \$1.4 raised is pretty impressive. It goes to show that the sky's the limit. Goodness, what could that PAC raise if I actually announced for something? That's normally when the donations open up, post announcement.

The best thing about it is the donors that have come into this fight are the donors that supported Donald Trump. I mean, the Mercers were Donald Trump's base. They helped him acquire the presidency. Richard Uihlein helped him acquire the presidency. So these are Trump donors, traditionally conservative donors, and I'm just very thankful they're on my side. And, uh, I anticipate they're willing to engage and they're more than happy to see good legislation passed.

And you know what's cool about them? I've known the Mercers, for example, since 2013. I knew the Mercers before I knew Steve Bannon. You heard all that talk about the Mercers maybe backing out, but I knew the Mercers before I knew Steve Bannon. They're gonna be with me because they're my friends and they believe in the things that I believe in.¹⁸

¹⁴ Remember Mississippi, Year End Report 2017, FEC Form 3X, at 2, 7, 9 (filed Jan. 31, 2017), <http://docquery.fec.gov/pdf/904/201801319091180904/201801319091180904.pdf>.

¹⁵ *Id.* at 6.

¹⁶ *Id.* at 4, 10-21.

¹⁷ Adam Ganucheau, *Q&A: McDaniel on Roger Wicker, Donald Trump, Steve Bannon*, MISSISSIPPI TODAY (Feb. 26, 2018), <https://mississippitoday.org/2018/02/26/qa-mcdaniel-roger-wicker-donald-trump-steve-bannon/>.

¹⁸ *Id.*

17. On February 27, 2018, Remember Mississippi made \$64,316 in independent expenditures in support of McDaniel, with the purpose described as “printing-signs” and “graphic design/printing.”¹⁹
18. On February 28, 2018, McDaniel announced his candidacy for U.S. Senate.²⁰
19. On March 1, 2018, Remember Mississippi made \$184,612 in independent expenditures in support of McDaniel, for purposes such as “media production,” “media,” “video production,” and “graphic design.”²¹ That same day, Remember Mississippi filed its first 24/48 Hour Report of Independent Expenditures disclosing that it had made a total of \$231,585 in independent expenditures in support of McDaniel, including \$1,050 in independent expenditures before Feb. 15, 2018.²²
20. On March 5, McDaniel filed a statement of candidacy, and designated Friends of Chris McDaniel as his principal campaign committee.²³
21. On Friday, March 9, Remember Mississippi held an event entitled “Fish Fry With Special Guest Chris McDaniel, candidate for U.S. Senate”²⁴ at an American Legion hall in Tupelo, Mississippi. Remember Mississippi advertised this as a free event with a free meal.²⁵ The Facebook and Eventbrite invitations to the event prominently featured McDaniel’s name and

¹⁹ Remember Mississippi, 24/48 Hour Report of Independent Expenditures, FEC Schedule E, at 1, 4, 9 (filed Mar. 1, 2018), <http://docquery.fec.gov/pdf/397/201803019095642397/201803019095642397.pdf>.

²⁰ Adam Ganuchau, *It's On: Chris McDaniel Will Challenge Roger Wicker*, MISSISSIPPI TODAY (Feb. 28, 2018), <https://mississippitoday.org/2018/02/28/chris-mcdaniel-will-challenge-roger-wicker/>.

²¹ Remember Mississippi, 24/48 Hour Report of Independent Expenditures, FEC Schedule E (filed Mar. 1, 2018), <http://docquery.fec.gov/pdf/397/201803019095642397/201803019095642397.pdf>.

²² *Id.*

²³ Chris McDaniel, Statement of Candidacy, FEC Form 2 (received by Secretary of the Senate Mar. 8, 2018), <http://docquery.fec.gov/pdf/885/201803080200173885/201803080200173885.pdf>.

²⁴ Remember Mississippi, *Please join us for a Fish Fry Dinner with Special Guest Chris McDaniel*, FACEBOOK (Mar. 2, 2018), <https://www.facebook.com/remembermiss18/photos/a.1998413903760134.1073741828.1951320731802785/2037888319812692/?type=1&theater> (Attached as Exhibit A).

²⁵ *Id.*; see also Remember Mississippi PAC, *Tupelo Fish Fry Dinner with Special Guest Chris McDaniel*, EVENTBRITE (Mar. 9, 2018), <https://www.eventbrite.com/e/tupelo-fish-fry-dinner-with-special-guest-chris-mcdaniel-tickets-43738477965?aff=erelpanelorg#>.

image.²⁶ McDaniel promoted the Tupelo event on his campaign Facebook page, with a post that read “If you are near Tupelo, please come see us tonight at the Tupelo American Legion for a fish fry!”²⁷ McDaniel’s Facebook page also responded to questions about the event and emphasized that no tickets were required.²⁸ Shortly after the event, McDaniel added three photos from the event to his Facebook page, with a caption “PACKED HOUSE tonight in Tupelo!!!!”²⁹ Later that evening, McDaniel added four additional photos from the event, with the caption “Tonight was absolutely incredible. Thank you, Tupelo.”³⁰ The photos showed the backdrop of the event included the text “McDaniel U.S. Senate 2018” in large font, and the Remember Mississippi name in smaller text.³¹ A *Big League Politics* article about the Tupelo event indicates that McDaniel’s speech was focused on promoting his candidacy and criticizing his opponent, Sen. Roger Wicker.³²

22. The next day, on Saturday, March 10, Remember Mississippi held another “Fish Fry With Special Guest Chris McDaniel, candidate for U.S. Senate” event in Ellisville, Mississippi. The Facebook and Eventbrite invitations to the event were nearly identical to the Tupelo

²⁶ *Id.*

²⁷ Senator Chris McDaniel, *If you are near Tupelo*, FACEBOOK (Mar. 9, 2018), <https://www.facebook.com/senatormcdaniel/posts/1767335389997008> (Attached as Exhibit B). The “Senator Chris Daniel” Facebook page (<https://www.facebook.com/senatormcdaniel/>), which has over 202,000 followers and is verified by Facebook with a blue checkmark, appears to be the primary page McDaniel uses to promote his U.S. Senate candidacy; for example, the profile picture features the “Chris McDaniel, United States Senate” campaign logo, the pinned post and “about” section link to McDaniel’s U.S. Senate campaign website, and multiple posts reference McDaniel’s U.S. senate candidacy. A separate “Chris McDaniel for U.S. Senate” Facebook page (<https://www.facebook.com/ChrisMcDanielForUSSenate/>) features the same profile picture and similar posts, but only has 34,000 followers and is less active.

²⁸ *Id.*

²⁹ Senator Chris McDaniel, *PACKED HOUSE tonight in Tupelo!!!!*, FACEBOOK (Mar. 9, 2018), <https://www.facebook.com/senatormcdaniel/posts/1767719176625296>

³⁰ Senator Chris McDaniel, *Tonight was absolutely incredible*, FACEBOOK (Mar. 9, 2018), <https://www.facebook.com/senatormcdaniel/posts/1767874916609722> (Attached as Exhibit C).

³¹ *Id.*

³² Patrick Howley, *Chris McDaniel: ‘Mitch McConnell Has Failed This Country,’* BIG LEAGUE POLITICS (Mar. 9, 2018), <https://bigleaguepolitics.com/chris-mcdaniel-mitch-mcconnell-failed-country/>.

event and prominently featured McDaniel's name and image.³³ McDaniel shared the Eventbrite invitation to the event on his campaign Facebook page with a post that stated "Coming home tonight! Please join us for a fish fry in Ellisville. Tickets are not required. Please bring your friends and family!"³⁴ McDaniel livestreamed the event on his Facebook page with a post titled "WATCH LIVE: We're back home in Ellisville!"³⁵ The video of the event shows that it exclusively focused on supporting McDaniel's U.S. Senate candidacy and attacking his primary opponent, Sen. Roger Wicker.³⁶ This included a speech by McDaniel himself in which he promoted his candidacy and criticized Wicker.³⁷ After the Ellisville fish fry event, McDaniel's Facebook page posted seven photos of the event.³⁸ The photos showed the same backdrop with the text "McDaniel U.S. Senate 2018" in large font, and the Remember Mississippi name and logo in smaller text.³⁹ Photos from Remember

³³ Remember Mississippi, *Please help us spread the word around Jones County*, FACEBOOK (Mar. 3, 2018), <https://www.facebook.com/remembermiss18/posts/2038267243108133> (Attached as Exhibit D); *see also* Remember Mississippi PAC, *Fish Fry Dinner with Special Guest Chris McDaniel (Jones County)*, EVENTBRITE (Mar. 10, 2018), <https://www.eventbrite.com/e/fish-fry-dinner-with-special-guest-chris-mcdaniel-jones-county-tickets-43462750256?aff=rmfb#>.

³⁴ Senator Chris McDaniel, *Coming home tonight!*, FACEBOOK (Mar. 10, 2018), <https://www.facebook.com/senatormcdaniel/posts/1768395303224350> (Attached as Exhibit E). The image associated with the Remember Mississippi post included the disclaimer language "Paid for by Remember Mississippi Inc. Not authorized by any candidate or candidate's committee."

³⁵ Senator Chris McDaniel, *WATCH LIVE: We're back home in Ellisville!*, FACEBOOK (Mar. 10, 2018), <https://www.facebook.com/senatormcdaniel/videos/1768821409848406/> (Attached as Exhibit F on the enclosed disc).

³⁶ For example, the Remember Mississippi representative who introduced McDaniel before the candidate spoke said the following: "Chris McDaniel will do what he says he is gonna do when he goes to Washington. So I hope, when you leave here today, after you hear Chris speak, that you will go out and get your neighbors, you'll get your friends, you'll get your coworkers, you'll get your family, you'll make sure they are registered to vote, you'll make sure that they've got yard signs, that they know how to contribute to the campaign. You'll do all the work--it's gonna take all of us to get him elected. It's not just gonna happen, we're gonna have to work for it. But at this time, it's time to hear from the man himself. Chris McDaniel, as I said, is a man of principle and courage. With your help, and your hard work, he's gonna be the next United States Senator from the state of Mississippi. Chris McDaniel." *See id.* at 3:46. McDaniel spoke for approximately 30 minutes at the event.

³⁷ For example, McDaniel told the audience, "This race is a referendum on Mitch McConnell's failed leadership. Roger Wicker is on Mitch McConnell's leadership team, did you know that?" *Id.* at 23:34. A few seconds later, he told them, "You want more of the same, you've got your Senator. He's serving right now. You wanna change D.C., you wanna drain the swamp, I'm your guy." *Id.* at 24:07.

³⁸ Senator Chris McDaniel, *I had the privilege of speaking*, FACEBOOK (Mar. 10, 2018), <https://www.facebook.com/senatormcdaniel/posts/1768901433173737> (Attached as Exhibit G).

³⁹ *Id.*

Mississippi's Facebook page show that attendees were handed "McDaniel U.S. Senate 2018" signs.⁴⁰

23. On the morning of Sunday, March 11, McDaniel's Facebook page posted a picture of the "Chris McDaniel, United States Senate" bus under the caption "On the road to victory, come join us!"⁴¹
24. That same day, March 11, Remember Mississippi held yet another event featuring McDaniel, this time at a church in Gulfport, Mississippi. The image advertising the event was nearly identical to the Tupelo and Ellisville events, and featured a large photo of McDaniel and his name.⁴² The Facebook and Eventbrite pages for the Gulfport church event did not reference "Chris McDaniel, candidate for US Senate," but instead "State Senator Chris McDaniel."⁴³ McDaniel livestreamed a video of the event on his Facebook page, under the caption "We're at Faith Baptist Church in Gulfport!"⁴⁴ The video showed the same backdrop as the other events, with "McDaniel U.S. Senate 2018" in large font, and the Remember Mississippi name in smaller text.⁴⁵ As at the Ellisville event, in the part of the Gulfport event shown in

⁴⁰ Remember Mississippi, *Senator Chris McDaniel firing up the crowd*, FACEBOOK (Mar. 10, 2018), <https://www.facebook.com/remembermiss18/photos/a.2038171116451079.1073741829.1951320731802785/2042056759395848/?type=3&theater> (Attached as Exhibit H).

⁴¹ Senator Chris McDaniel, *On the road to victory!*, FACEBOOK (Mar. 11, 2018), <https://www.facebook.com/senatormcdaniel/photos/a.688541617876396.1073741826.191245027606060/1769365333127347/?type=3> (Attached as Exhibit I).

⁴² Remember Mississippi, *Please join us for a special lunch*, FACEBOOK (Mar. 6, 2018), <https://www.facebook.com/remembermiss18/photos/a.1998413903760134.1073741828.1951320731802785/2039787416289449/?type=3> (Attached as Exhibit J).

⁴³ *Id.*; see also Remember Mississippi PAC, *Sunday Lunch with Special Guest Chris McDaniel*, EVENTBRITE (Mar. 11, 2018), <https://www.eventbrite.com/e/sunday-lunch-with-special-guest-chris-mcdaniel-tickets-43659018299#>.

⁴⁴ Senator Chris McDaniel, *We're at Faith Baptist Church in Gulfport!*, FACEBOOK (Mar. 11, 2018), <https://www.facebook.com/senatormcdaniel/videos/1769638453100035/> (Attached as Exhibit K on the enclosed disc).

⁴⁵ *Id.*

the Facebook video, McDaniel repeatedly attacked Wicker⁴⁶ and promoted his own candidacy.⁴⁷

25. On March 14, McDaniel announced that, rather than challenging Wicker in the Republican primary, he would instead run as a candidate in the special election to fill the seat of retiring U.S. Senator Thad Cochran.⁴⁸ Remember Mississippi quickly put out a press release titled, “McDaniel to take back stolen seat in November!” and shared it to their Facebook page,⁴⁹ which was shared 16 minutes later by the Senator Chris McDaniel Facebook page under the caption “Join us!”⁵⁰

SUMMARY OF THE LAW

26. Federal law limits to \$2,700 the amount of a contribution that a candidate or her authorized campaign committee may accept from an individual donor. 52 U.S.C § 30116(a)(1). FECA also prohibits a corporation or labor union from making a contribution to a federal candidate. 52 U.S.C. § 30118(a).
27. Generally, contributions from a person to political committees other than candidate and party committees may not exceed, in the aggregate, \$5,000 per calendar year, 52 U.S.C. §

⁴⁶ For example, McDaniel told the audience, “They’ve forgotten who they are. They’ve forgotten who we are. If they are disconnected, and they are, and if they have forgotten, and they have, it’s because of men like Roger Wicker who have failed to stand for you in your time of need.” *Id.* at 7:25. A few minutes later, he said, “Roger Wicker right now, with the Conservative Review, has a score of 30. That puts him in the lower sixth among Republicans in the Senate.” *Id.* at 11:51.

⁴⁷ For example, McDaniel told the audience, “If you want a conservative in Washington, I’m your candidate.” *Id.* at 15:03. Later, he told them that “If you like Mitch McConnell, you’ve got your Senator there right now. You wanna see a change? I’m your guy.” *Id.* at 17:10. Then, at the end of the video, he said “I need you to push back for me. Look, don’t believe the smears. You have questions? I’m available,” *id.* at 22:25, “I need your prayers. I need your support,” *id.* at 23:13, and “When they tell you we can’t win—that’s what they said to Trump,” *id.* at 24:30.

⁴⁸ Eric Bradner, *Conservative firebrand McDaniel switches Mississippi Senate races*, CNN (Mar. 14, 2018), <https://www.cnn.com/2018/03/14/politics/chris-mcdaniel-mississippi-senate/index.html>.

⁴⁹ Remember Mississippi, *Chris McDaniel has announced*, FACEBOOK (Mar. 14, 2018), <https://www.facebook.com/remembermiss18/posts/2044031252531732>.

⁵⁰ Senator Chris McDaniel, *Join us!*, FACEBOOK (Mar. 14, 2018), <https://www.facebook.com/senatormcdaniel/posts/1773128652751015> (Attached as Exhibit L).

30116(a)(1)(C), and candidates cannot accept contributions from a non-multicandidate political committee in excess of \$2,700, *id.* § 30116(a)(1).

28. A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i); *see also* 11 C.F.R. §§ 100.52(a), 114.1(a)(1). “Anything of value” includes all in-kind contributions. 11 C.F.R. § 100.52(d)(1). An in-kind contribution includes the provision without charge (or at less than the usual and normal charge) of any goods or services, including, but not limited to, “facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists.” *Id.*
29. An “expenditure” includes “any purchase, payment . . . or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(9)(A).
30. Any expenditure made in coordination with a candidate—i.e., “in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents”—is an in-kind contribution to the candidate. 52 U.S.C. § 30116(a)(7)(B)(i), 11 C.F.R. § 109.20.
31. In several advisory opinions, the Commission has considered whether activities or events organized by third parties and involving the participation of a federal candidate are campaign-related; if the activity or event is campaign related, then disbursements related to it result in a contribution to the participating candidate. As the Commission has noted, “financing such activities will result in a contribution to or expenditure on behalf of a candidate if the activities involve (i) the solicitation, making or acceptance of contributions to the candidate’s campaign, or (ii) communications expressly advocating the nomination,

election or defeat of any candidate.” Advisory Opinion 1996-11 (National Right to Life Committee) at 4;⁵¹ Advisory Opinion 1994-15 (Byrne) at 2;⁵² *see also* Advisory Opinion 1992-37 (Terry);⁵³ Advisory Opinion 1992-6 (New York Speakers Bureau);⁵⁴ Advisory Opinion 1988-27 (Medivision).⁵⁵ As the Commission noted in reaching its conclusion in Advisory Opinion 1996-11, the public funding regulations for presidential candidates rely upon similar factors in determining if an event is campaign-related: “Campaign activity includes soliciting, making, or accepting contributions, and expressly advocating the election or defeat of the candidate. Other factors, including the setting, timing and statements or expressions of the purpose of an event, and the substance of the remarks or speech made, will also be considered in determining whether a stop is campaign related.” 11 C.F.R. §§ 9004.7(b)(2), 9034.7(b)(2). A third party’s payment for a campaign event is a contribution to the candidate because it relieves the participating candidate of costs the candidate might otherwise incur. *See, e.g.*, Advisory Opinion 2015-07 (Hillary for America) at 2 (“[R]eimbursement [of event expenses] would constitute an in-kind contribution because it would relieve the committee of an expense that it would otherwise incur.” (citing Advisory Opinion 2007-22 (Hurysz))).

32. In Advisory Opinion 1996-11, the Commission determined that an entity’s payments for candidates’ travel fees to speak at a pro-life convention organized by the entity would not be a contribution, provided that (1) all communications at the event by the entity and its agents, and the candidates and their agents, do not expressly advocate the nomination, election, or

⁵¹ Available at <https://www.fec.gov/files/legal/aos/1996-11/1996-11.pdf>.

⁵² Available at <https://www.fec.gov/files/legal/aos/1994-15/1994-15.pdf>.

⁵³ Available at <https://www.fec.gov/files/legal/aos/1992-37/1992-37.pdf>.

⁵⁴ Available at <https://www.fec.gov/files/legal/aos/1992-06/1992-06.pdf>.

⁵⁵ The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is “campaign-related.” Advisory Opinions 1994-15, 1992-37, 1992-6, 1988-27.

defeat of any candidate; (2) “anyone introducing the speakers may not discuss the candidacy except to briefly note the fact that the speaker is a candidate”; and (3) there are no solicitations of contributions to the candidates’ campaigns or distribution of campaign materials. Advisory Opinion 1996-11 at 5-6.

33. In Advisory Opinion 1992-6, the Commission considered a candidate’s appearance at a university event that “contain[ed] no mention of [the candidate’s] candidacy, no mention of any other candidates, and ‘no requests for campaign contributions or support,’” and which the campaign did not promote, and concluded that the university’s payment of an honorarium and travel costs would not constitute a contribution or expenditure. However, the Commission emphasized that any reference to the speaker’s campaign, or to qualifications of other candidates, would change the character of the appearance to one that is for the purpose of influencing a federal election.⁵⁶
34. As such, if an event organized and funded by a third party and featuring a candidate is a campaign event, the costs are an in-kind contribution to the candidate. Although Commission regulations allow a candidate to appear at a non-Federal fundraising event, 11 CFR § 300.64, and the Commission has allowed candidates to solicit contributions for super PACs within federal limits, *see* Advisory Opinion 2011-12 (Majority PAC and House Majority PAC), the costs of such an event would still be in-kind contributions if the event were a campaign event.
35. Any entity “acting on behalf of” a candidate or “directly or indirectly established, financed, maintained or controlled by” a candidate is prohibited from soliciting, receiving, directing, transferring, or spending funds in connection with a federal election that do not comply with

⁵⁶
Id.

the limitations, prohibitions, and reporting requirements of FECA, i.e., soft money. 52 U.S.C.

§ 30125(e)(1). This section states:

A candidate . . . , agent of a candidate . . . , or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates . . . , shall not —

(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office . . . unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act

52 U.S.C. § 30125(e)(1).

36. Commission regulations similarly prohibit any candidate or entity “directly or indirectly established, financed, maintained or controlled by” a candidate from raising or spending soft money. 11 C.F.R. §§ 300.60, 300.61. Whether an entity is directly or indirectly established, financed, maintained, or controlled by a candidate depends on “the context of the overall relationship” between the candidate and the entity, 11 C.F.R. § 300.2(c), which “include, but are not limited to” certain factors listed in the regulation. *Id.* § 300.2(c)(2). Thus, in determining whether an entity is directly or indirectly established, financed, maintained or controlled by a sponsor, the Commission applies a functional facts-and-circumstances test that reviews the “overall relationship” between the sponsor and the entity.
37. FECA defines “candidate” to mean “an individual who seeks nomination for election, or election, to Federal office,” and for purposes of the statutory definition, an individual is deemed to seek nomination for election, or election “if such individual has received contributions aggregating in excess of \$5,000 or has made expenditures aggregating in excess of \$5,000” or “*given his or her consent* to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such

contributions aggregating in excess of \$5,000.” 52 U.S.C. § 30101(2) (emphasis added); *see also* 11 C.F.R. § 100.3(a).

38. Accordingly, “an individual is deemed a ‘candidate’ . . . if he or she receives contributions or makes expenditures in excess of \$5,000 or gives consent to another person” to do so on his or her behalf. *See* Payments Received for Testing the Waters Activities, 50 Fed. Reg. 9992–93 (Mar. 13, 1985) (Final Rules and Explanation and Justification).

CAUSES OF ACTION

I. Remember Mississippi Has Illegally Made Excessive, Corporate, and Unreported In-Kind Contributions to Friends of Chris McDaniel

39. Remember Mississippi made illegal, excessive, and unreported in-kind contributions to Friends of Chris McDaniel by financing at least three campaign events.
40. A “contribution” includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 52 U.S.C. § 30101(8)(A)(i); *see also* 11 C.F.R. §§ 100.52(a), 114.1(a)(1). “Anything of value” includes all in-kind contributions. 11 C.F.R. § 100.52(d)(1). An in-kind contribution includes the provision without charge of any goods or services.” *Id.* Any expenditure made in coordination with a candidate—i.e., “in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents”—is an in-kind contribution to the candidate. 52 U.S.C. 30116(a)(7)(B)(i); 11 C.F.R. § 109.20.
41. Costs associated with an event organized and funded by a third party, and which involve the participation of a federal candidate, are contributions to the candidate if the event is a campaign event. In several advisory opinions, the Commission has determined that an event is a campaign event if, among other things, it involves the solicitation of contributions to the

candidate's campaign, or if communications at the event expressly advocate the nomination, election, or defeat of the candidate or her opponent.⁵⁷ Other relevant factors include whether the candidate was invited to the event in their capacity as a legislator or policy expert (rather than a candidate),⁵⁸ and whether the candidate's campaign promoted the event.⁵⁹ If the activity or event is a campaign event, then disbursements related to it result in a contribution to the participating candidate.

42. Between March 9 and March 11, 2018, Remember Mississippi organized and paid for three campaign events that were exclusively devoted to supporting McDaniel's candidacy; the events were free, provided attendees with food, and expressly advocated for McDaniel's election. At least one of the events also solicited contributions to his campaign.
43. On Friday, March 9, Remember Mississippi held an event it described as a "Fish Fry With Special Guest Chris McDaniel, candidate for U.S. Senate" in Tupelo, Mississippi.⁶⁰ The Facebook and Eventbrite invitations to the event prominently featured McDaniel's name and image.⁶¹

⁵⁷ See *supra* ¶ 31.

⁵⁸ Advisory Opinion 1996-11 at 5 ("The invitations to the speakers are not based on their status as candidates, but rather are based on their roles as legislators who have had an impact upon current statutes and future legislation of interest to those attending the convention"); Advisory Opinion 1992-06 at 2-3 (noting the candidate's appearance and invitation may "reflect his career as a recent state legislator and a speaker who, in prior speeches to college and university audiences, has expounded his ideas regarding the impact of current statutes and future legislation").

⁵⁹ Advisory Opinion 1992-06, at 3 ("[The candidate] and his campaign personnel will not do any advance advertising or promotion in conjunction with the lecture and will not hold or participate in any press conference either before or after the event").

⁶⁰ Remember Mississippi, *Please join us for a Fish Fry Dinner with Special Guest Chris McDaniel, candidate for U.S. Senate*, *supra* note 25 (Attached as Exhibit A); see also Remember Mississippi PAC, *Tupelo Fish Fry Dinner with Special Guest Chris McDaniel*, *supra* note 26.

⁶¹ *Id.*

44. Photos from the March 9 event show that the backdrop included the text “McDaniel U.S. Senate 2018” in large font, and the Remember Mississippi name in smaller text.⁶² Other photos indicate that stickers promoting McDaniel’s candidacy were also distributed.⁶³
45. Reports from the March 9 event indicate that McDaniel’s speech focused on attacking his primary opponent and promoting his own candidacy; for example, McDaniel said, “When Donald Trump told us he was going to drain the swamp, I took him seriously. So when I’m elected, I’m going there to drain the swamp.”⁶⁴
46. McDaniel promoted the March 9 event on his campaign Facebook page, with a post that read “If you are near Tupelo, please come see us tonight at the Tupelo American Legion for a fish fry!”⁶⁵ McDaniel’s Facebook page also responded to questions about the event and emphasized that no tickets were required.
47. On March 10, Remember Mississippi held another “Fish Fry With Special Guest Chris McDaniel, candidate for U.S. Senate” event in Ellisville, Mississippi.⁶⁶ McDaniel livestreamed the March 10 event on his campaign Facebook page with a post titled “WATCH LIVE: We’re back home in Ellisville!”⁶⁷

⁶² Senator Chris McDaniel, *Tonight was absolutely incredible*, *supra* note 31 (Attached as Exhibit C).

⁶³ Senator Chris McDaniel, *PACKED HOUSE tonight in Tupelo!!!!*, *supra* note 30.

⁶⁴ Patrick Howley, *Chris McDaniel: ‘Mitch McConnell Has Failed This Country,’* BIG LEAGUE POLITICS (Mar. 9, 2018), <https://bigleaguepolitics.com/chris-mcdaniel-mitch-mcconnell-failed-country/>.

⁶⁵ Senator Chris McDaniel, *If you are near Tupelo*, *supra* note 28 (Attached as Exhibit B). The “Senator Chris Daniel” Facebook page (<https://www.facebook.com/senatormcdaniel/>), which has over 202,000 followers, appears to be the primary page McDaniel uses to promote his U.S. Senate candidacy; for example, the profile picture features the “Chris McDaniel, United States Senate” campaign logo, the pinned post and “about” section link to McDaniel’s U.S. Senate campaign website, and multiple posts reference McDaniels’ U.S. senate candidacy. A separate “Chris McDaniel for U.S. Senate” Facebook page (<https://www.facebook.com/ChrisMcDanielForUSSenate/>) features the same profile picture and similar posts, but only has 34,000 followers and is less active.

⁶⁶ Remember Mississippi, *Please help us spread the word around Jones County*, *supra* note 34 (Attached as Exhibit D); *see also* Remember Mississippi PAC, *Fish Fry Dinner with Special Guest Chris McDaniel (Jones County)*, *supra* note 34.

⁶⁷ Senator Chris McDaniel, *WATCH LIVE: We’re back home in Ellisville!*, *supra* note 36 (Attached as Exhibit F on the enclosed disc).

48. The video of the March 10 event shows that it was focused on supporting McDaniel's U.S. Senate candidacy, and attacking his primary opponent, Sen. Roger Wicker. McDaniel told the audience, "This race is a referendum on Mitch McConnell's failed leadership. Roger Wicker is on Mitch McConnell's leadership team, did you know that?"⁶⁸ A few seconds later, he told them, "You want more of the same, you've got your Senator. He's serving right now. You wanna change D.C., you wanna drain the swamp, I'm your guy."⁶⁹ For example, according to the video, the Remember Mississippi representative who introduced McDaniel solicited contributions for McDaniel's campaign and expressly advocated for his election:

Chris McDaniel will do what he says he is gonna do when he goes to Washington. So I hope, when you leave here today, after you hear Chris speak, that you will go out and get your neighbors, you'll get your friends, you'll get your coworkers, you'll get your family, you'll make sure they are registered to vote, you'll make sure that they've got yard signs, that they know how to contribute to the campaign. You'll do all the work--it's gonna take all of us to get him elected. It's not just gonna happen, we're gonna have to work for it.

But at this time, its time to hear from the man himself. Chris McDaniel, as I said, is a man of principle and courage. With your help, and your hard work, he's gonna be the next United States Senator from the state of Mississippi. Chris McDaniel.⁷⁰

49. The March 10 event ended with a Remember Mississippi representative urging attendees to take home McDaniel yard signs and campaign paraphernalia.⁷¹ Photos showed that McDaniel and other speakers presented in front of the same backdrop, with the text "McDaniel U.S. Senate 2018" in large font.⁷² Photos also show that attendees were handed "McDaniel U.S. Senate 2018" signs.⁷³

⁶⁸ *Id.* at 23:34.

⁶⁹ *Id.* at 24:07.

⁷⁰ *Id.* at 3:46.

⁷¹ "Everyone, thank you for coming. We have signs, we have placards, we have it all, and we want you to push the message. Without you, he cannot win," the representative said, pointing at McDaniel. *Id.* at 38:39.

⁷² Remember Mississippi, *Senator Chris McDaniel firing up the crowd*, *supra* note 41 (Attached as Exhibit H).

⁷³ *Id.*

50. McDaniel shared the Eventbrite invitation to the March 10 event on his campaign Facebook page with a post that stated “Coming home tonight! Please join us for a fish fry in Ellisville. Tickets are not required. Please bring your friends and family!”⁷⁴
51. On March 11, Remember Mississippi held another event featuring McDaniel, this time at a church in Gulfport, Mississippi. The image advertising the event, like the Tupelo and Ellisville events, featured a large photo of McDaniel and his name.⁷⁵
52. McDaniel livestreamed a video of the event on his campaign Facebook page, under the caption “We’re at Faith Baptist Church in Gulfport!”⁷⁶ The video showed the same backdrop as the other events, with “McDaniel U.S. Senate 2018” in large font, and the Remember Mississippi name in smaller text.⁷⁷
53. The video also shows that McDaniel’s speech was focused on promoting his election and attacking his primary opponent.⁷⁸ McDaniel told the audience, “If you want a conservative in Washington, I’m your candidate.”⁷⁹ Later, he told them that “If you like Mitch McConnell, you’ve got your Senator there right now. You wanna see a change? I’m your guy.”⁸⁰ Then, at the end of the video, he said “I need you to push back for me. Look, don’t believe the smears,”⁸¹ “I need your prayers. I need your support,”⁸² and “When they tell you we can’t win—that’s what they said to Trump.”⁸³

⁷⁴ Senator Chris McDaniel, *Coming home tonight!*, *supra* note 35 (Attached as Exhibit E).

⁷⁵ Remember Mississippi, *Please join us for a special lunch*, *supra* note 43 (Attached as Exhibit J); *see also* Remember Mississippi PAC, *Sunday Lunch with Special Guest Chris McDaniel*, *supra* note 43.

⁷⁶ Senator Chris McDaniel, *We’re at Faith Baptist Church in Gulfport!*, *supra* note 45 (Attached as Exhibit K on the enclosed disc).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* at 15:03.

⁸⁰ *Id.* at 17:10.

⁸¹ *Id.* at 22:25.

⁸² *Id.* at 23:13.

⁸³ *Id.* at 24:30.

54. An event organized and paid for by a third party is a campaign event if communications at the event expressly advocate the election or defeat of any candidate, or solicit contributions to the candidate's campaign.⁸⁴ All three of the events:
- i. Consisted of speakers presenting in front of a backdrop that read "McDaniel U.S. Senate 2018;"
 - ii. Involved speeches repeatedly referencing McDaniel's candidacy and expressly advocating for McDaniel's election (and for the defeat of his then-primary opponent, Roger Wicker); and
 - iii. Involved the distribution of campaign paraphernalia expressly advocating for McDaniel's election, such as yard signs and stickers.
55. Two of the three events were advertised with reference to McDaniel as a U.S. Senate candidate.⁸⁵
56. At least one of the events solicited contributions to McDaniel's campaign.⁸⁶
57. Other relevant factors in determining whether an event is a campaign event include whether the candidate's campaign promoted the event.⁸⁷ Here, McDaniel's campaign Facebook page repeatedly promoted the three events, and livestreamed two of the events.

⁸⁴ See, e.g., Advisory Opinion 1996-11 (National Right to Life Committee); Advisory Opinion 1994-15 (Byrne); Advisory Opinion 1992-6 (New York Speakers Bureau); see also 11 C.F.R. §§ 9004.7(b)(2), 9034.7(b)(2).

⁸⁵ Remember Mississippi, *Please join us for a Fish Fry Dinner with Special Guest Chris McDaniel*, *supra* note 25 (Attached as Exhibit A); Remember Mississippi, *Please help us spread the word around Jones County*, *supra* note 34 (Attached as Exhibit D).

⁸⁶ Senator Chris McDaniel, *WATCH LIVE: We're back home in Ellisville!*, *supra* note 36, at 3:46 (Attached as Exhibit F on the enclosed disc).

⁸⁷ Advisory Opinion 1992-06, at 3 ("[The candidate] and his campaign personnel will not do any advance advertising or promotion in conjunction with the lecture and will not hold or participate in any press conference either before or after the event.").

58. Another factor is whether the candidate was invited to the event in their capacity as a legislator or policy expert, rather than as a candidate.⁸⁸ The Remember Mississippi promotional materials for two of the three events described him as a U.S. Senate candidate, and the speeches were not focused on state legislative business or policy matters. Nor were the events focused on fundraising for Remember Mississippi; although Commission regulations allow a candidate to appear at a non-Federal fundraising event, 11 CFR § 300.64, and the Commission has allowed candidates to solicit contributions for super PACs within federal limits, *see* Advisory Opinion 2011-12 (Majority PAC and House Majority PAC), both Remember Mississippi and McDaniel repeatedly stressed that the events and meals were free, and that tickets were not required. The Eventbrite pages offered individuals the opportunity to voluntarily make a contribution of \$25, but emphasized that no contribution was necessary, nor was the making of a contribution even encouraged. In any event, even if funds had been solicited at the events, the evidence described above makes clear that these were campaign events. The context makes clear that the primary purpose of the events was not to benefit Remember Mississippi, or to discuss broader policy issues (like the pro-life convention in Advisory Opinion 1996-11 or the affirmative action lecture in Advisory Opinion 1992-06), but instead to promote McDaniel's candidacy.
59. The foregoing facts demonstrate that the three Remember Mississippi events were campaign events in support of McDaniel's U.S. Senate candidacy.

⁸⁸ Advisory Opinion 1996-11, at 5 ("The invitations to the speakers are not based on their status as candidates, but rather are based on their roles as legislators who have had an impact upon current statutes and future legislation of interest to those attending the convention"); Advisory Opinion 1992-06 at 2-3 (noting the candidate's appearance and invitation may "reflect his career as a recent state legislator and a speaker who, in prior speeches to college and university audiences, has expounded his ideas regarding the impact of current statutes and future legislation").

60. A third party's payment for the costs of a campaign event is a contribution to the candidate because it relieves the participating candidate of costs the candidate's committee might otherwise incur.⁸⁹ As a result, Remember Mississippi's disbursements for event space rental, meals for hundreds of attendees, event promotion, and staffing constitute in-kind contributions to Friends of Chris McDaniel, and are subject to FECA's contribution limits and reporting requirements.

61. Therefore, there is reason to believe that Remember Mississippi has made in-kind contributions to Friends of Chris McDaniel, in excess of FECA's \$2,700 limit on contributions by a non-multicandidate political committee to a candidate, 52 U.S.C. § 30116(a)(1), in violation of FECA's prohibition on contributions to a candidate using corporate funds, 52 U.S.C. § 30118(a), (b)(2), and in violation of FECA's reporting requirements. 52 U.S.C. § 30104(b).

II. Remember Mississippi Lost Its "Super PAC" Status When It Made In-Kind Contributions

62. The in-kind contributions described in Count I violated Remember Mississippi's sworn statements to the Commission that it would raise funds in unlimited amounts under the condition that it would only make independent expenditures and would not make contributions to a candidate committee.

63. As such (if the Commission does not find that Remember Mississippi is a committee established, financed, maintained, or controlled by McDaniel and subject to the soft money limits at 52 U.S.C § 30116(e), see *infra* Count V), Remember Mississippi ceased to be an independent expenditure-only political committee on March 9, 2018, when it made an in-kind contribution to Friends of Chris McDaniel, and from that date forward may no longer

⁸⁹ See, e.g., Advisory Opinion 2015-07 19 (Hillary for America) at 2.

accept contributions in unlimited amounts, and may only raise and spend funds within FECA's hard money limits, and must refund all previously raised corporate and excessive contributions so as not to unlawfully spend nonfederal funds.

III. Friends of Chris McDaniel Has Failed to Report Contributions Received from Remember Mississippi

64. Federal law requires candidates to report and disclose contributions, including in-kind contributions, received from political committees. *See* 52 U.S.C. § 30104(b).
65. For the reasons stated above, there is reason to believe Friends of Chris McDaniel received in-kind contributions from Remember Mississippi, yet failed to report those contributions, in violation of FECA's reporting requirements, 52 U.S.C. § 30104(b)(2)(D), (3)(B).

IV. Friends of Chris McDaniel Has Accepted In-Kind Contributions in Excess of Federal Limits

66. Federal law limits to \$2,700 the size of a contribution that a candidate or his authorized campaign committee can accept from a non-multicandidate political committee like Remember Mississippi. 52 U.S.C § 30116(a)(1).
67. For the reasons stated above, there is reason to believe Friends of Chris McDaniel received in-kind contributions from Remember Mississippi in excess of FECA's \$2,700 limit, 52 U.S.C. § 30116(a)(1).

V. Remember Mississippi Was Established, Financed, Maintained or Controlled by McDaniel and Violated Section 30125(e) by Receiving and Spending Soft Money

68. Remember Mississippi is an entity established, financed, maintained, or controlled by Chris McDaniel within the meaning of section 30125(e), and therefore subject to FECA's prohibition on receiving or spending contributions that do not comply with federal contribution limits and source prohibitions.

69. McDaniel, “directly or through [his] agent, had an active or significant role in the formation of” Remember Mississippi, because his agent Susan Perkins, McDaniel’s law firm assistant and campaign aide,⁹⁰ organized the group. 11 C.F.R. § 300.2(c)(2)(ix).
70. McDaniel additionally “cause[d] or arrange[d] for funds in a significant amount” to be provided to the super PAC. 11 C.F.R. § 300.2(c)(2)(viii). In September 2017, McDaniel acknowledged publicly that “the Mercers and other donors have pledged more than \$1 million” to support his candidacy⁹¹ and emphasized that “I’ve known the Mercers since 2013, and we’ve talked a good deal about 2018;”⁹² it was later revealed that Robert Mercer and Richard Uihlein together gave this \$1 million to Remember Mississippi. An article from November 2017 indicated that “Bannon has reportedly been talking with campaign financiers on [McDaniel’s] behalf.”⁹³ A December 2017 article reported that “Dan Eberhart, a wealthy oil industry executive” had “been meeting with McDaniel and plans on ‘heavily backing him,’” including through a \$25,000 contribution to Remember Mississippi that was not publicly disclosed until a month later.⁹⁴ Finally, in a February 2018 interview, McDaniel said that Remember Mississippi had raised \$1.4 million, even though the super PAC had only publicly reported raising \$1.1 million, suggesting McDaniel was sufficiently involved in Remember Mississippi’s fundraising to be aware of an additional \$300,000 in funding that the entity has obtained but not yet reported.

⁹⁰ As noted above, Perkins is the contact for McDaniel’s state campaign committee, and has managed his campaign Facebook page.

⁹¹ Costa, *supra* note 7.

⁹² Ganucheau, *supra* note 9.

⁹³ Pender, *supra* note 2.

⁹⁴ Sullivan & Scherer, *supra* note 14. At the time of the article, Remember Mississippi had publicly disclosed only one \$50,000 contribution; according to the committee’s next report, Eberhart’s \$25,000 contribution came from Canary Wellhead Equipment Inc., the company for which Eberhart is CEO.

71. The determination of whether an entity is “directly or indirectly” established, financed, maintained, or controlled by a candidate is determined “in the context of the overall relationship between” the candidate and the entity. 11 C.F.R. § 300.2(c)(2). The “overall context” shows that McDaniel established Remember Mississippi through his agent; that McDaniel financed Remember Mississippi by causing or arranging funding for the group through a series of meetings and conversations with major donors; and additionally, that between March 9 and 11, 2018 McDaniel held a series of events with Remember Mississippi suggesting an ongoing relationship.
72. This context demonstrates that Remember Mississippi is an entity “directly or indirectly established, financed, maintained or controlled by or acting on behalf of” McDaniel. Remember Mississippi is therefore subject to FECA’s \$5,000 per year individual contribution limit and soft money prohibitions.
73. Thus, there is reason to believe that Remember Mississippi has violated section 30125(e) by receiving and spending contributions that do not comply with federal contribution limits and source prohibitions.

VI. McDaniel and Friends of Chris McDaniel Failed to Timely Report 2018 Candidacy

74. Finally, there is reason to believe that McDaniel became a “candidate” under FECA as far back as June 2017, yet he and his campaign committee, Friends of Chris McDaniel, failed to comply with the candidate registration and reporting requirements established by 52 U.S.C. §§ 30102(e)(1), 30103 and 30104.
75. A person becomes a candidate if he or she seeks nomination for an election, and has received contributions or made expenditures in excess of \$5,000 or “*given his or her consent to another person to receive contributions or make expenditures on behalf of such individual*”

and that other person raises or spends \$5,000. 52 U.S.C. § 30101(2) (emphasis added); *see also* 11 C.F.R. § 100.3(a); *see also* Advisory Opinion 1985-40 (Republican Majority Fund et al.) at 9-10 (concluding that “steering committees” organized by individual’s “political associates and representatives” could trigger candidacy status for individual “if the steering committees engage in activities on behalf of [the individual’s] candidacy”).

76. On May 24, 2017, McDaniel’s agent formed Remember Mississippi, and McDaniel explicitly or implicitly gave consent to the group to raise funds on his behalf; as a result, McDaniel became a candidate as early as June 28, 2017, when Robert Mercer contributed \$50,000 to Remember Mississippi,⁹⁵ followed by an additional \$450,000 a month later, on July 27, 2017.⁹⁶ McDaniel certainly became a candidate by September 2017, when McDaniel confirmed that the Mercers had encouraged him to run and pledged more than \$1 million to support his candidacy (and emphasized that “it may be more”),⁹⁷ and declared “I’ve known the Mercers since 2013, and we’ve talked a good deal about 2018.”⁹⁸ It was beyond dispute that McDaniel was a candidate by the end of 2017, amidst reports that “Bannon has reportedly been talking with campaign financiers on his behalf,”⁹⁹ and that a \$25,000 donor to Remember Mississippi said “he has been meeting with McDaniel and plans on ‘heavily backing him.’”¹⁰⁰

⁹⁵ Remember Mississippi, Mid-Year Report 2017, FEC Form 3X, at 1 (filed Jul. 31, 2017), <http://docquery.fec.gov/pdf/020/201707319069909020/201707319069909020.pdf>.

⁹⁶ Remember Mississippi, Year End Report 2017, FEC Form 3X, at 1 (filed Jan. 31, 2017), <http://docquery.fec.gov/pdf/904/201801319091180904/201801319091180904.pdf>.

⁹⁷ Costa, *supra* note 7.

⁹⁸ Ganucheau, *supra* note 9. McDaniel also emphasized that the GOP establishment has “always been able to use money to crush opposition,” and suggested that “because of our ability to contact voters in different ways, it’s more difficult for them to take that route.” *Id.*

⁹⁹ Pender, *supra* note 2.

¹⁰⁰ Sullivan & Scherer, *supra* note 14.

77. The limited “testing the waters” exception to “candidate” status is “not applicable to individuals who have decided to become candidates[,]” nor “for activities relevant to conducting a campaign.” 11 C.F.R. § 100.72(b) (emphasis added); *see also id.* § 100.131(b). Examples of activities that indicate that an individual has decided to become a candidate include raising “funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to *amass campaign funds that would be spent after he or she becomes a candidate*” and making written or oral statements that refer to him or her as a candidate for a particular office.” 11 C.F.R. § 100.72(b) (emphasis added).
78. There is reason to believe that McDaniel decided to become a candidate as early as June 2017, when the super PAC formed by his agent raised “funds in excess of what could reasonably be expected to be used for exploratory activities” in a manner “designed to amass campaign funds that would be spent after he or she becomes a candidate,” rendering inapplicable the “testing the waters” exception to “candidate” status established by 11 C.F.R. §§ 100.72(b) and 100.131(b).
79. Within fifteen days of becoming a candidate, the candidate must file a statement of candidacy and designate a campaign committee, 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a), and the campaign committee must file a statement of organization with the Commission no later than 10 days after such designation, 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

80. Despite having become a candidate as a matter of law as early as June 2017, McDaniel failed to file a statement of candidacy and designate a campaign committee within fifteen days, and instead waited to do so until February 28, 2018.¹⁰¹
81. Therefore, there is reason to believe that McDaniel violated 52 U.S.C. § 30102(e)(1) by failing to timely file a statement with the Commission within 15 days of becoming a candidate, and Friends of Chris McDaniel additionally violated 52 U.S.C. § 30103(a) by failing to timely file a statement of organization with the Commission.

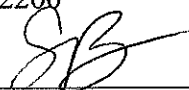
PRAYER FOR RELIEF

82. Wherefore, the Commission should find reason to believe that Remember Mississippi, Friends of Chris McDaniel, and Chris McDaniel have violated 52 U.S.C. § 30101 *et seq.*, and conduct an immediate investigation under 52 U.S.C. § 30109(a)(2).
83. Further, the Commission should seek appropriate sanctions for any and all violations, including civil penalties sufficient to deter future violations and an injunction prohibiting the respondents from any and all violations in the future, and should seek such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

Respectfully submitted,



Campaign Legal Center, by
Brendan M. Fischer
1411 K Street, NW, Suite 1400
Washington, DC 20005
(202) 736-2200



¹⁰¹ Chris McDaniel, Statement of Candidacy, FEC Form 2 (received by Secretary of the Senate Mar. 8, 2018), <http://docquery.fec.gov/pdf/885/201803080200173885/201803080200173885.pdf>.

Sandhya Bathija
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Brendan M. Fischer
Campaign Legal Center
1411 K Street, NW, Suite 1400
Washington, DC 20002
Counsel to the Campaign Legal Center,
Sandhya Bathija

March 26, 2018

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

For Complainant Sandhya Bathija



Sandhya Bathija


Sworn to and subscribed before me this 16 day of March 2018.



Notary Public

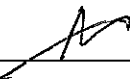


For Complainant Campaign Legal Center



Brendan M. Fischer

Sworn to and subscribed before me this 16 day of March 2018.



Notary Public

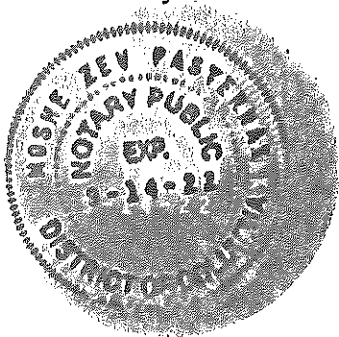


EXHIBIT A

Remember Mississippi, *Please join us for a Fish Fry Dinner with Special Guest Chris McDaniel*, FACEBOOK (Mar. 2, 2018),
<https://www.facebook.com/rememblemis18/photos/a.1998413903760134.1073741828.1951320731802785/2037888319812692/?type=1&theater>.



Remember Mississippi

March 2 at 8:01pm · 🌐

Please join us for a Fish Fry Dinner with Special Guest Chris McDaniel, candidate for US Senate, on Friday, March 9, 2018, from 6:30PM to 8:00PM. We'll have a fun evening with good food and a great discussion about our country's future!

When: Friday, March 9 from 6:30-8PM

Where: American Legion Post #49 | 1875 Legion Lake Rd, Tupelo

Cost: FREE

To RSVP to this FREE event, please click here: <http://tiny.cc/oq2iry>



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EXHIBIT B

Senator Chris McDaniel, *If you are near Tupelo*, FACEBOOK (Mar. 9, 2018),
<https://www.facebook.com/senatormcdaniel/posts/1767335389997008>.



Senator Chris McDaniel

March 9 at 11:46am · 🌐

If you are near Tupelo, please come see us tonight at the Tupelo American Legion for a fish fry! 6:30 pm @ 1875 Legion Lake Rd.



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Kristin Marie Warren Well for those that are coming but dont already have tickets i received an email today with my tickets and they are having an no bag policy and a no weapon policy due to safety. I get wanting to be safe but i dont appreciate being told what i can and cannot bring especially when Senator McDaniel is a 2nd amendment supporter

Like · Reply · 1w



Senator Chris McDaniel I'm not aware of the limitation. Please come by. Bring friends.

Like · Reply · 1w



↳ View more replies



Chrissy Bridges What about if you have two tickets and one can't make it because they are sick? The tickets o. My phone have our names on them. Can I bring someone else even though that ticket has my sister's name on it?

Like · Reply · 1w



Senator Chris McDaniel Yes. Bring anyone. All are welcome.

Like · Reply · 1w



↳ View more replies



Diane Brownstein Are you going to come to the Columbus or Starkville area soon!

Like · Reply · 1w



Senator Chris McDaniel Yes. Trying to figure it out.

Like · Reply · 1w



Deborah Odom I WILL BE THERE...what about ones that do not have a ticket?

Like · Reply · 1w



Senator Chris McDaniel Bring them. No tickets required.

Like · Reply · 1w



↳ View more replies

EXHIBIT C

Senator Chris McDaniel, *Tonight was absolutely incredible*, FACEBOOK (Mar. 9, 2018), <https://www.facebook.com/senatormcdaniel/posts/1767874916609722>.



Senator Chris McDaniel added 4 new photos.

March 9 at 11:31pm · 🌐

Tonight was absolutely incredible.

Thank you, Tupelo.



👍 Like

💬 Comment

➦ Share

👍❤️😄 274

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12 Comments



EXHIBIT D

Remember Mississippi, *Please help us spread the word around Jones County*, FACEBOOK (Mar. 3, 2018), <https://www.facebook.com/remembermiss18/posts/2038267243108133>



Remember Mississippi

March 3 at 12:23pm · 🌟

Please help us spread the word around Jones County. It's gonna be a great evening!



Fish Fry Dinner with Special Guest Chris McDaniel (Jones County)

Please join us for a Fish Fry Dinner with Special Guest Chris McDaniel, candidate for US Senate, on Saturday, March 10, 2018 from 6:30PM to 8:30PM. We'll...

EVENTBRITE.COM



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EXHIBIT E

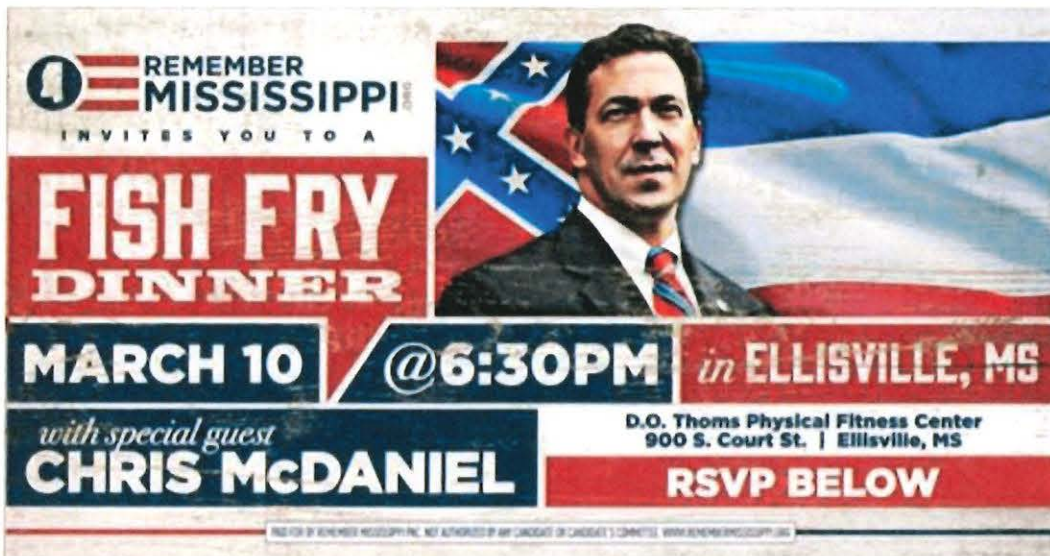
Senator Chris McDaniel, *Coming home tonight!*, FACEBOOK (Mar. 10, 2018), <https://www.facebook.com/senatormcdaniel/posts/1768395303224350>.



Senator Chris McDaniel

March 10 at 11:05am · 🌐

Coming home tonight! Please join us for a fish fry in Ellisville. Tickets are not required. Please bring your friends and family!



Fish Fry Dinner with Special Guest Chris McDaniel (Jones County)

Please join us for a Fish Fry Dinner with Special Guest Chris McDaniel, candidate for US Senate, on Saturday, March 10, 2018 from 6:30PM to 8:30PM. We'll...

EVENTBRITE.COM



Like



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Top Comments ▼

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10 Comments

EXHIBIT F

Senator Chris McDaniel, *WATCH LIVE: We're back home in Ellisville!*, FACEBOOK
(Mar. 10, 2018),

<https://www.facebook.com/senatormcdaniel/videos/1768821409848406/>.

SEE ENCLOSED CD FOR FULL VIDEO

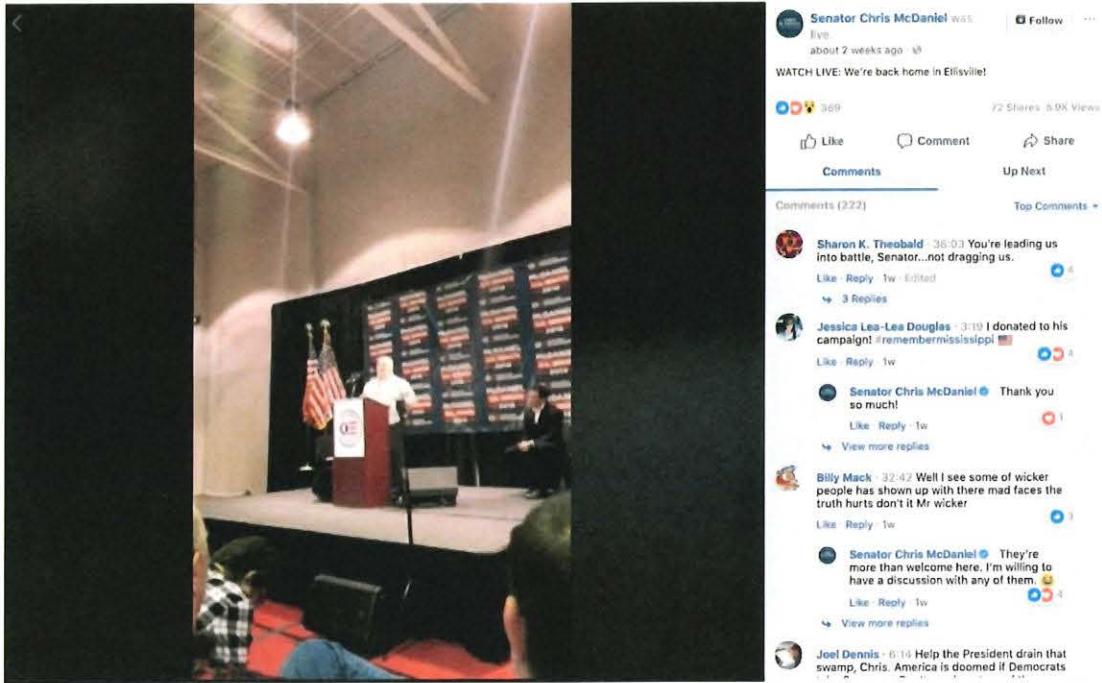


EXHIBIT G

Senator Chris McDaniel, *I had the privilege of speaking*, FACEBOOK (Mar. 10, 2018), <https://www.facebook.com/senatormcdaniel/posts/1768901433173737>.



Senator Chris McDaniel added 7 new photos.

March 10 at 9:51pm · 🌐

I had the privilege of speaking about ten feet away from my daddy's old office tonight in Ellisville.

I love all of you. Thank you.



👍 Like

💬 Comment

➦ Share

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EXHIBIT H

Remember Mississippi, *Senator Chris McDaniel firing up the crowd*, FACEBOOK (Mar. 10, 2018),

<https://www.facebook.com/rememmiss18/photos/a.2038171116451079.1073741829.1951320731802785/2042056759395848/?type=3&theater>.



Remember Mississippi

March 10 at 9:16pm · 🌟

Senator Chris McDaniel firing up the crowd in Ellisville about the need to drain the swamp in 2018! #remembermississippi



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EXHIBIT I

Senator Chris McDaniel, *On the road to victory!*, Facebook (Mar. 11, 2018),
<https://www.facebook.com/senatormcdaniel/photos/a.688541617876396.1073741826.191245027606060/1769365333127347/?type=3>.



Senator Chris McDaniel

March 11 at 10:06am · 🌐

On the road to victory! Come join us!



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EXHIBIT J

Remember Mississippi, *Please join us for a special lunch*, FACEBOOK (Mar. 6, 2018), <https://www.facebook.com/remembermiss18/photos/a.1998413903760134.1073741828.1951320731802785/2039787416289449/?type=3>.



Remember Mississippi

March 6 at 4:57pm · 🌟

Please join us for a special lunch for pastors and parishioners at Faith Baptist Church in Gulfport, Mississippi on Sunday, March 11 from 1-3PM. The lunch will include hamburgers and hot dogs. State Senator Chris McDaniel will be the featured guest speaker.

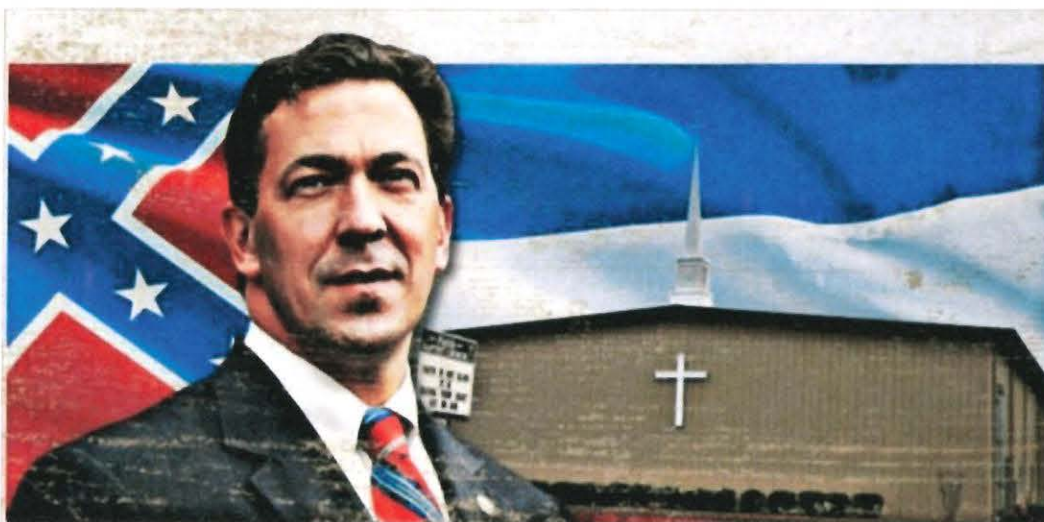
When: Sunday, March 11 from 1-3PM

Where: Faith Baptist Church | 8467 Canal Road, Gulfport

Cost: FREE

To RSVP to this FREE event, please click here:

<http://tiny.cc/0qbmry>



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EXHIBIT K

Senator Chris McDaniel, *We're at Faith Baptist Church in Gulfport!*, FACEBOOK (Mar. 11, 2018), <https://www.facebook.com/senatormcdaniel/videos/1769638453100035/>.

SEE ENCLOSED CD FOR FULL VIDEO



Senator Chris McDaniel was live
about a week ago · 🌐

We're at Faith Baptist Church in Gulfport!

👍❤️👏 298 61 Shares · 4.5K Views

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Comments Up Next

Comments (92) Top Comments ▾

Willard Ronald Sims · 29:31 I'm proud to be a deplorable! 👍 6
Like · Reply · 1w

Paw Paw Tommy · I am to. 👍 2
Like · Reply · 1w

Paige Parker · 0:00 Great event today, Senator!!!! I took a picture, but seems now I can't find it 😊 maybe next time! 👍 1
Like · Reply · 1w
🔗 View 1 more reply

Paw Paw Tommy · Sorry I'll have to send it the way I usually send pictures. Just a few minutes. 👍 1
Like · Reply · 1w

EXHIBIT L

Senator Chris McDaniel, *Join us!*, FACEBOOK (Mar. 14, 2018),
<https://www.facebook.com/senatormcdaniel/posts/1773128652751015>.



Senator Chris McDaniel

March 14 at 7:02pm · 🌐

Join us!



McDaniel to take back stolen senate seat in November!

"We are thrilled that Mississippi's true conservative and anti-establishment candidate has decided to run for the seat in November. This is a once in a generation opportunity for the people to have their say rather than accept the...

REMEMBERMISSISSIPPI.ORG



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