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OFFICE OF GENERAL
COUNSEL

January 21, 2010

CONFIDENTIAL

Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Matter Under Review 6225

Dear Madam or Sir:

Introduction

This letter is in response to the complaint filed by Joseph E. Tesch against Friends for Shurtleff Inc., Shurtleff Joint Fund, PAC for Utah's Future, and Guidant Strategies.¹ Mr. Tesch relies on rank speculation to assert that Friends for Shurtleff Inc. received improperly funded support in the nature of polling, travel, "[laying] the groundwork for a campaign," and "field work," as Attorney General Shurtleff was testing the waters for a Senate campaign.² Showing a misunderstanding of the law, Tesch further claims that the joint fundraising arrangements carefully constructed by Friends for Shurtleff Inc., PAC for Utah's Future, and Shurtleff Joint Fund are somehow in violation of the McCain-Feingold provision at 2 U.S.C. § 441i(e) (requiring that a federal candidate, agent of such candidate, or an affiliated entity not solicit, receive, direct, transfer, or spend funds in connection with an election that would be federally impermissible). Last, he sets forth his unverified assumption that an array of Senate campaign expenses have either been kept from FEC-filed reports, improperly advanced by Guidant Strategies, or funded surreptitiously by PAC for Utah's Future.

As will be explained hereafter, all of the Complainant's charges are based on mere supposition, or facts that do not constitute any violation of the law. The Commission should find no reason to

¹ Although no complaint directed by the Office of General Counsel to Attorney General Shurtleff himself was ever received by him or his representatives, this letter will attempt to address certain claims asserted by the Complainant that could be deemed against the Attorney General. The hope is that the Commission will not mistakenly assume some allegation or issue needs to be explored for lack of a response on point.

² These phrases, "[laying] the groundwork for a campaign" and "field work," are amorphous in nature and do not reflect the specificity that the Commission needs to properly fulfill its role. See 11 C.F.R. § 111.4(d)(3) (complaint "should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction").

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believe that any violation occurred. Initiating an investigation to go over the expenses of committees associated with an active Attorney General to determine whether an item here or there could be said to relate more to a U.S. Senate campaign than to an Attorney General function, or relate more to some amorphous political goal than a purely non-election purpose, would be a poor application of Commission resources and very disruptive for the lives of many people who have moved on to other business. Friends for Shurtleff and Shurtleff Joint Fund have followed the FEC's rules on joint fundraising and McCain-Feingold constraints and have fully attempted to assure that no impermissible funds have been raised or spent. Guidant Strategies has operated in the normal course of business as a campaign consulting firm that handles a broad array of functions.

Factual Background and Application of Law

The Attorney General's campaign committee account. For several years Attorney General Shurtleff has been a significant figure on the Utah political scene. He was elected Attorney General in 2000, 2004, and 2008, and he has kept his attorney general campaign committee (Shurtleff 2008) operational primarily to pay for ongoing expenses related to his state officeholder duties.³ Under Utah law, there are no contribution prohibitions or limits on the receipts accepted by Shurtleff 2008.⁴

The expenses of Shurtleff 2008 include travel to various speaking events or meetings where he appears in his capacity as Attorney General, not as a candidate for state or federal office. They also include occasional expenses for signage, brochures, and trinkets bearing his name to

³ Utah law contemplates that an elected official maintain such an account to pay for this type of expense. Utah Code § 20A-11-201 requires that an officeholder's personal campaign committee deposit "public service assistance" (defined at § 20A-11-101(35) as resources provided to an officeholder "to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents") in one or more "separate campaign accounts in a financial institution." Another provision, § 20A-11-(4)(a), prevents a person who no longer is a candidate from expending funds in a campaign account where that would cause that person "to recognize the monies as taxable income under federal tax law." Expending funds in a campaign account for officeholder expenses does not cause the officeholder to recognize income where the expense would be allowable as a business expense deduction if incurred by the officeholder. See 26 U.S.C. § 527(e)(2); see also Kindell and Reilly, *Election Year Issues* (2002), pp. 397, 415-417, available at <http://www.irs.gov/pub/irs-tege/eotopic02.pdf>. The Commission will note from a review of the Shurtleff 2008 reports filed with the Utah Lt. Governor's Office (available at <http://gval.utah.gov/disclosures/>) that several donations were made in 2008 and 2009 to charitable organizations. Payments for such donations likewise are not treated as income to the officeholder (see 26 U.S.C. § 527(d)(2)) and are thus permissible under Utah law (as well as federal law).

⁴ Pollakoff and Dyer, *Lobbying, PACs, and Campaign Finance: 50 State Handbook* (West 2010), p. 1,439.

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facilitate identification and public awareness of his office when he appears at non-political events like parades or issue group events. None of these signs or trinkets have any reference other than the Attorney General's name and title. The brochures only describe particular matters on which the Attorney General has been working in his capacity as the State's top legal officer, and there is no reference to any candidacy or election. Copies of the materials just described are at Exhibit 1.

While the Attorney General has not made any plans regarding seeking re-election, he has never closed the door to doing so, and his Shurtleff 2008 campaign account legally can function to lay the groundwork for a re-election effort.⁵

The non-federal PAC. Attorney General Shurtleff also has been involved with a Utah-registered leadership PAC, PAC for Utah's Future ("the PAC"), since its inception about a year ago. As with Shurtleff 2008, there are no Utah limits or prohibitions applicable to the receipts of the PAC or contributions or transfers it makes to Utah campaign committees.⁶ While this PAC

⁵ The reality is that during the time that Attorney General Shurtleff was a federal candidate (May 20 through November 3, 2009), Shurtleff 2008 fundraising and spending related almost exclusively to his official functions as Attorney General. To the extent it theoretically could be said to be in connection with the Attorney General's own re-election, the law would permit the raising and spending of "soft money." See 2 U.S.C. § 441i(e)(2) (permitting nonfederal candidate to raise and spend soft money for own nonfederal election) and § 441i(f)(2) (permitting nonfederal candidate to issue soft money funded public communications promoting, supporting, attacking, or opposing own nonfederal candidacy or his/her opponents in such campaign even if candidate or opponent simultaneously is federal candidate). There were a few small contributions for nonfederal election purposes (5/27/09 \$1,000 Morgan Philpot for Vice Chair; 5/27/09 \$1,000 Craig Tischner; 5/27/09 \$1,500 Salt Lake County GOP; 6/20/09 \$250 John Huntinghouse), but these should be deemed *de minimis* or, alternatively, funded by federally permissible funds as a result of previous transfers from PAC for Utah's Future which consisted in part of permissible funds. See Shurtleff 2008 report and PAC for Utah's Future report covering 2009 activity, available at <https://gva1.utah.gov/disclosures/>. In the period starting the month before the relevant PAC transfer to Shurtleff 2008 (\$20,000 on 5/26/09) and ending on 6/20/09, the PAC received contributions totaling \$1,715 from individuals (Oakeys 4/17 \$300; Jokilks 4/21 \$200; Anderson 4/21 \$300; Zamirs 4/28 \$300; Diaz 4/28 \$50; Murphys 4/28 \$500; Goff 4/28 \$30; and Solis 4/28 \$35), \$600 from Zions Bank PAC, and \$5,500 from partnerships (Chapman Cutler 4/16 \$1,500; Ballard Spahr 5/8 \$1,500; and Dickstein Shapiro 6/12 \$2,500). The Commission should allow the campaign reasonable flexibility to treat the federally permissible receipts as those used to pay the few nonfederal election expenses. See Advisory Opinion 2007-26 (Ill. State Representative Aaron Schock) (nonfederal committee associated with federal candidate allowed to make contributions to party committees as long as reasonable accounting method would demonstrate sufficient federally permissible funds available to cover).

⁶ See n. 4.

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theoretically could have a broader focus, in actuality it has functioned almost exclusively to raise funds that end up being transferred to Shurtleff 2008 to pay for Attorney General Shurtleff's officeholder expenses. Occasionally, it has devoted resources to charitable organizations (e.g., 2/23/09 \$1,000 Utah Food Bank; 4/28/09 \$10,000 Univ. of Utah Crimson Club Football Program; 9/8/09 \$700 Days of '47).

As will be analyzed further, *infra*, there were a few contributions from corporate sources received by the PAC just after the Attorney General became a U.S. Senate candidate, but these represented contributions that were raised and spent for non-election purposes, as just described. Moreover, they were contributions that apparently were solicited *before* the Senate candidacy began. There were a few small-scale donations by the PAC just after candidacy to certain party committees in Utah, but these should be deemed *de minimis*, and there were sufficient permissible funds (hard dollars) raised to cover these outlays. As for the joint fundraising arrangement involving the PAC, it was a legitimate effort to raise funds for a separate account of the PAC that has not and will not generate any spending whatsoever by a federal candidate or affiliated group of soft money in connection with any election.

The polling expenses. The Attorney General began considering a run for either the Governorship or the U.S. Senate in February of 2009. (He actually decided to become a U.S. Senate candidate and made the related announcement on May 20, 2009.) In the February timeframe he engaged Guidant Strategies—a well-regarded, multi-dimensional, and experienced political consulting firm—to help with testing-the-waters polling to aid his decision on whether the Governor's race or the U.S. Senate race was his best option. This polling project involved surveying in February. The costs were properly allocated 50/50—half as testing the waters activity related to a potential Gubernatorial race and half as testing the waters activity related to a potential Senate race. Guidant Strategies sent a bill to the then-unregistered testing the waters committee for the potential Senate race on March 10, 2008.⁷ The value of this billed amount (\$10,500) was properly reflected as part of the debt owed to Guidant Strategies on the first campaign finance report filed by Friends for Shurtleff Inc. (covering the beginning of the Senate testing the waters phase through June 30, 2008).⁸ In sum, every effort was made to assure that

⁷ Cathy McKittrick, "GOP Races: One Stop Shopping," Salt Lake Tribune, July 19, 2008 (describing Guidant Strategies and the experience of its principal, Jason Powers).

⁸ A copy of Guidant Strategies' billing and payment history is attached as Exhibit 2.

⁹ A copy of page 24 of that report is attached as Exhibit 3. As the Commission knows, a committee formed by a person who is just testing the waters for a federal race does not trigger registration or reporting obligations unless and until he/she becomes a "candidate" pursuant to the statute and FEC regulations. 2 U.S.C. §§ 432(e)(1), 433(a); 11 C.F.R. §§ 101.1(a), 102.1(a). The definition of "candidate" depends on raising a certain amount of "contributions" or making a certain amount of "expenditures." 2 U.S.C. § 431(2); 11 C.F.R. § 100.3(a). Commission regulations clarify that raising and expending funds for "determining whether an individual should become a candidate" does not constitute the raising of "contributions" or making of "expenditures." 11 C.F.R. §§ 100.72, 100.131. Examples provided in the regulations include:

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the polling effort was handled according to the FEC rules, and there was no improper credit extension or obfuscation.

The travel costs. The Attorney General made an official trip to Washington in March to attend a meeting of the National Association of Attorneys General (NAAG). The air transportation, ground transportation, lodging, and meal costs were paid by the Attorney General's official State funds, except for the isolated meal costs paid for by NAAG at conference events. While there were a few brief side meetings arranged for the Attorney General to discuss a potential Senate candidacy with Republican party representatives or consultants, there were no expenses incurred relating to these meetings. They took place during breaks of the NAAG proceedings.

As the Commission is aware, its own guidance in this area since 2002 permits a candidate traveling to Washington for official business to use official resources for the trip's cost, and the Commission only requires that any incremental cost clearly attributable to campaign-related activity be paid for with permissible funds.¹⁰ Here there was no incremental campaign-related cost. Accordingly, all aspects of the Washington, DC trip were fully compliant with FEC rules.

The joint fundraising arrangement. Because the Attorney General had a history of raising funds successfully through an event known as the "Shurtleff Shotgun Blast," and because the PAC for Utah's Future with which he had been associated had a history of using funds on occasion for good deeds that didn't relate to elections, his advisors and his legal counsel helped craft a joint fundraising plan that simultaneously would benefit his Senate campaign and a separate non-election account set up at the PAC. The Complainant accurately quotes part of the invitation language explaining to donors how the joint fundraiser would operate. The full version follows:

"conducting a poll, telephone calls, and travel." *Id.* Once the Attorney General became a "candidate" on May 20, 2009, the obligation to register a committee emerged, and the first report due was properly filed on July 15, 2009, reflecting the amount owed Guidant Strategies for its services, including the poll at hand. The full amount so reported as owed to Guidant Strategies was paid on July 7, 2009, as reflected on the report of Friends for Shurtleff Inc. dated Oct. 15, 2009, p. 27. This occurred as soon as the latter committee raised sufficient funds.

¹⁰ FEC Advisory Opinion 2002-05 (Mayor Ann Hutchinson), regarding a mayor's travel to Washington for an official event, clarified application of the FEC's older travel expense allocation rules in conjunction with the newer personal use rules that clearly contemplated more flexibility in allocating travel expenses that entailed multiple purposes. The Commission held that the full cost of the airfare for getting to and from Washington could be considered an official expense payable from government sources, even though there was some pre-scheduled activity involving meetings with Democratic Party officials regarding her campaign and candidate training. The incremental costs for campaign-related activity on the trip could be paid with campaign funds or with personal funds of the official.

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Contributions are not tax deductible as charitable contributions. Shurtleff Joint Fund is a joint fundraising committee benefitting Friends for Shurtleff Inc. (principal campaign committee of Attorney General Shurtleff's senatorial campaign) and a non-election account of PAC for Utah's Future (a Utah registered committee). Contributions permissible for the senatorial committee will be attributed to the senatorial committee. (Individuals, sole proprietorships, partnerships, and LLCs treated as partnerships may contribute \$2,400 per election, and federal multicandidate PACs may contribute \$5,000 per election.) Other contribution amounts will be attributed to a separate account of PAC for Utah's Future and used for non-election purposes, such as occasional charitable donations, or other purposes permitted by law. Notwithstanding the allocation described, a contributor may designate a contribution for a particular participant, subject to legal allowances. Corporations, labor organizations, foreign nationals, and federal government contractors may not make contributions to the senatorial committee. If a contributor makes a contribution that would exceed the amount permissible for the senatorial committee, the allocation of the contribution will be adjusted. All contributors will receive notice of how their funds were allocated. Please note that federal law prohibits any contributor from being reimbursed by another person for a contribution.

In accordance with FEC regulations stating expressly that political committees (like Friends for Shurtleff Inc.) "may engage in joint fundraising with other political committees or with *unregistered committees or organizations*," a separate joint fundraising committee was formed to receive those funds it could permissibly receive.¹¹ This joint fundraising committee, Shurtleff Joint Fund, registered with the FEC on August 6, 2009.

Using the "Shurtleff Shogun Blast" promotion, the process entailed depositing in the Shurtleff Joint Fund any contributions from federally permissible sources so that amounts attributable to the per election limits could be retained for use by the Senate campaign. Any amount that could not be retained for the Senate campaign was to be transferred to the non-election account of PAC for Utah's Future. Any contributions from federally impermissible sources (like corporations) were to be deposited in the non-election account of PAC for Utah's Future.¹²

¹¹ 11 C.F.R. § 102.17(a)(1)(i); *see also* 11 C.F.R. § 102.17(a)(2).

¹² This corresponds with the FEC regulation at 11 C.F.R. § 102.17(c)(3)(i): "If one or more participants can lawfully accept contributions that are prohibited under the Act, the participant may either establish a second depository account for contributions received from prohibited sources or they may forward such contributions directly to the non-federal participants." The participants in the joint fundraising effort and the campaign's counsel created a written joint fundraising agreement pursuant to 11 C.F.R. § 102.17(c)(1) that laid out the planned process described in the invitation (quoted above). *See* Exhibit 4.

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As it turned out, only five checks totaling \$4,125 were deposited in Shurtleff Joint Fund, and these were fully attributed as contributions for the benefit of Friends for Shurtleff.¹³ The rest of the joint fundraising funds (12 checks totaling \$92,475) were attributed to PAC for Utah's Future, and those were deposited in the separate non-election account of that PAC.¹⁴

For expenses, the participants must ascertain what respective portion of the overall proceeds is attributable to Friends for Shurtleff Inc. and what portion is attributable to PAC for Utah's Future. The allocable expenses are to be paid so that, ultimately, only funds attributable to Friends for Shurtleff Inc. are used to pay the federal share of expenses.¹⁵ As it turned out, most of the funds raised for the event were attributable to the non-election account of PAC for Utah's Future (\$92,475 out of \$96,600), so there is very little federal expense relating to Friends for Shurtleff Inc.¹⁶ Shurtleff Joint Fund and the participating committees have been and will continue to be very careful to assure that no advances from prohibited sources were or will be made in the process of paying for the federal share of expenses associated with the joint fundraising effort. Vendors have been and will be paid using either federally permissible funds in Shurtleff Joint Fund, federally permissible funds in Friends for Shurtleff Inc., or a two-check approach whereby federally permissible funds are used to pay the federal share. In sum, the participants have been very careful to adhere to the requirements set forth by the FEC in its joint fundraising regulations.

Raising and spending joint fundraiser funds not in connection with any election. When planning the joint fundraising effort, Attorney General Shurtleff, Friends for Shurtleff Inc., and the other committees associated with the Attorney General were fully aware of the provision at 2 U.S.C. § 441i(e) that prevents a federal candidate, his agent, or an entity directly or indirectly established, financed, maintained, or controlled by him from raising soft money *in connection with either a federal or nonfederal election*. Anticipating that the "Shurtleff Shotgun Blast" would generate some potential support from corporations, the joint fundraising plan was

¹³ See bank statements for Account [redacted] attached as Exhibit 5.

¹⁴ See bank statements for Account [redacted] attached as Exhibit 6.

¹⁵ This is in accordance with 11 C.F.R. § 102.17(c)(7)(i)(A): "[T]he fundraising representative shall calculate each participant's share of expenses based on the percentage of the total receipts each participant had been allocated."

¹⁶ As can be seen from a review of the Shurtleff Joint Fund report covering the July-September timeframe, the joint fundraising committee reported all the receipts associated with the event. This corresponds with the FEC's regulation at 11 C.F.R. § 102.17(c)(8)(i): "The fundraising representative shall report all funds received in the reporting period in which they are received." The report for this period fully itemized the contributions received from prohibited sources that were placed in the separate non-election account of PAC for Utah's Future, rather than just reporting a total amount figure in memo entry format. (The regulation just cited goes on to require reporting of "the total amount of contributions received from prohibited sources during the reporting period, if any, as a memo entry.") The "over-reporting," if you will, will be corrected via an amendment of the report in question.

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structured carefully so that any soft money proceeds would be strictly segregated from any account that would be used for election activity. The solicitations are abundantly clear that no soft money proceeds are being solicited for any election purpose. As noted earlier, PAC for Utah's Future—though a political organization registered under Utah campaign finance laws—had supported non-election-related functions in the past, and it was logical to create a new separate account of the PAC that would be isolated for more non-election-related activity.

Indeed, that was done, and the proceeds from the joint fundraising event that were placed in the segregated non-election account have not been used for any election expense, according to the best available guidance from the FEC itself. For example, the largest expense reflected on the segregated non-election bank account statements (Exhibit 6) was for a \$20,000 transfer to PAC for Utah's Future to enable it to make charitable contributions to Utah Meth Project (\$5,000), USA-ALL (\$2,000), and Letters to Soldiers (\$1,000), and payments to cover Attorney General expenses related to official duties (about \$11,860).¹⁷ Other payments from the non-election account have been used to pay *its share* of the joint fundraising event expenses.

The FEC guidance, reflected most recently in the advisory opinion issued to Illinois State Representative Elizabeth Coulson (Advisory Opinion 2009-26), clarifies that the following factors determine whether an expense by a nonfederal political organization related to an officeholder is in connection with a *federal* election: (1) whether there is any solicitation of funds for a federal committee, (2) whether there is any express advocacy, and (3) whether any information generated will be provided to a federal committee. Clearly, none of those factors apply to the expenses made from the segregated non-election account of PAC for Utah's Future.

The same advisory opinion just cited, also clarified the factors the Commission will use to analyze whether the expenses of a political organization associated with a State officeholder/federal candidate are in connection with a *nonfederal* election: (1) whether there is any solicitation of donations to a nonfederal campaign, (2) whether there is any express advocacy involved, and (3) whether the expenses instead are tied to a State officeholder's duties and consistent with similar prior officeholder expenses. Again, there is nothing to suggest that any of these factors could lead to a conclusion that any expenses from the PAC's segregated non-election account are in connection with a nonfederal election.

The commitment made by all the participants in the joint fundraising effort—a commitment that will be kept—is to spend the funds in the segregated account only for charitable donations or for further expenses related to the Attorney General's duties as a holder of State office.

Post-candidacy raising and spending of other funds. Since the date of Attorney General Shurtleff's candidacy (May 20, 2009), there have been a few contributions received by PAC for

¹⁷ This can be tracked by examining the PAC for Utah's Future report for 2009, *available at* <https://gval.utah.gov/disclosure/>.

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Utah's Future and several disbursements made by the PAC.¹⁸ Only three of the contributions were from corporations (I Works 5/26, \$15,000; Nu Skin 6/3 \$2,500; and Reynolds America 7/20 \$1,500).¹⁹

The receipt of these funds was not a violation of 2 U.S.C. § 441i(e) because, as described earlier, during the Attorney General's candidacy, PAC for Utah's Future has used its resources almost exclusively to pay for the Attorney General's constituent service functions, i.e., expenses that relate to his duties as a holder of State office rather than any election function. Also, as noted at p. 5 *supra*, some PAC funds were used for a charitable donation that likewise has no connection with any election (9/8/09 \$700 Days of '47). Thus, the reality is that the funds accepted by the PAC after Attorney General Shurtleff's federal candidacy should not be deemed funds received in connection with a federal or nonfederal election. Further, the best recollection of campaign representatives is that the three donations from corporate sources were *solicited* before Attorney General Shurtleff made his decision to become a federal candidate.

With regard to any claim that a few small PAC disbursements going to local party groups should taint this analysis or be deemed spending in connection with nonfederal elections, the Commission should either treat this as a *de minimis* matter or adopt the approach taken in several advisory opinions whereby a committee is permitted to show through a reasonable method that any election-related activity is being funded with federally permissible funds.²⁰ Thus, for those minor disbursements going to party groups (Utah Republican Party 6/3 \$500 booth space; United Air 6/29 \$1,180 airfare for Young Republicans; Univ. of Utah College Republicans 7/1 \$75 donation; Southwest 7/13 \$425.20 Young Republican donation), it can be demonstrated that the PAC had recently raised sufficient permissible funds to cover the amounts of each of these disbursements.²¹

Role of Guidant Strategies. The Complainant makes an unfounded suggestion that Guidant Strategies somehow improperly assumed certain functions or improperly extended credit to Friends for Shurtleff Inc. In fact, Guidant Strategies—a firm that provides comprehensive campaign consulting services—extended credit in the ordinary course of its business and on

¹⁸ The January-December 2009 receipts and disbursements of PAC for Utah's Future can be viewed at <http://gval.utah.gov/disclosures/>.

¹⁹ *Id.*

²⁰ See Advisory Opinion 2007-26 (Ill. State Representative Aaron Schock) (nonfederal committee associated with federal candidate allowed to make contributions to party committees as long as reasonable accounting method would demonstrate sufficient federally permissible funds available to cover).

²¹ In the period starting the month before the first of these disbursements to party groups and ending on the date of the last of the disbursements (May 1 through July 13), the PAC received \$4,000 from partnerships (\$1,500 5/8 Ballard Spahr LLP; \$2,500 6/12 Dickstein Shapiro LLP). See PAC for Utah's Future 2009 report, available at <http://gval.utah.gov/disclosures/>.

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terms materially indistinguishable from those provided to other clients.²² As noted earlier, the initial polling services provided in February during the testing the waters phase were billed to the then-unregistered account on March 10. Similar billing practices were followed throughout the period for the broad array of services provided. Friends for Shurtleff has been providing prompt payment on the bills to the extent funds have been available.²³

There have been absolutely no improper extensions of credit, and the Friends for Shurtleff Inc. reports have fully disclosed the debts owed or payments made to Guidant Strategies. The insinuations of the Complainant should be disregarded as completely unfounded.

Conclusion

The foregoing demonstrates that the Commission should find no reason to believe any violation occurred. The unsupported and vague charges of the Complainant should be dismissed. Shurtleff campaign operatives were careful to properly pay for and report early polling and travel expenses, to create a separate joint fundraising account for handling non-election proceeds and allocating fundraising costs, to assure that no federally impermissible funds were raised or spent for election purposes, and to have the campaign consulting firm follow ordinary course of business practices. While the many technical aspects of complying with the FEC's joint fundraising and McCain-Feingold restrictions are daunting, Respondents successfully used their best efforts to assure such compliance. The Attorney General's run for federal office has ceased, and the FEC should close the file in this matter so all can move on to work that lies ahead.

Sincerely,



Scott R. Thomas
(202) 420-2601
thomasscott@dicksteinshapiro.com

ST/st

²² FEC regulations provide that an extension of credit is not a contribution if provided "in the ordinary course of the person's business" and under terms "substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation." 11 C.F.R. § 100.55.

²³ See Exhibit 2.

EXHIBIT 1

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In 1992, nine-year-old Amber Hegerman was kidnapped and brutally murdered in Arlington, Texas. Amber's death had such a profound impact on her community that it prompted law enforcement agencies and broadcasters to develop an innovative emergency alert plan to help recover abducted children.

The Utah Attorney General's Office, Utah Department of Public Safety, Utah Chiefs of Police Association, Utah Sheriff's Association and the Utah Broadcasters Association launched Utah's child abduction alert plan in April, 2002.

The Rachel Runyan Award was later created to honor citizens who help in the recovery of an abducted child. The award is named after Rachel Marie Runyan. The three-year-old girl was murdered in 1982 after she was kidnapped while playing with her brothers at a park in Sunset.



Does the AMBER Plan Work?

Tremendously! AMBER Plans have assisted in the recovery of more than 70 children in the United States. Utah was the ninth state to adopt a statewide AMBER Plan. Today nearly every state has a statewide child abduction alert plan.

The AMBER Plan not only helps to recover abducted children but also acts as a deterrent to this type of crime. It sends a strong message that crimes against children are intolerable and that law enforcement, broadcasters, and the public, working together, have the power to rescue abducted children and apprehend their predators.

Utah has an advisory committee to maintain the program's effectiveness. The committee establishes policies and procedures, provides training for law enforcement and broadcasters, reviews each activation to ensure accuracy, and promotes the program to the community.

For More Information

Utah Attorney General's Office
(801) 538-9600
www.attorneygeneral.utah.gov

Utah Bureau of Criminal Identification
(Utah Missing Persons Clearinghouse)
(801) 965-4446
www.bci.utah.gov

Utah Department of Public Safety
(801) 965-4461
(800) 222-0038
www.publicsafety.utah.gov

Utah Department of Transportation
(801) 965-4000
www.dot.utah.gov

Utah Broadcasters Association
(801) 486-9521
www.utahbroadcasters.com

Utah Chiefs of Police Association
www.utahchiefs.org

Utah Sheriff's Association
www.utahsheriffs.com

National Center for Missing and Exploited Children (NCMEC)
(800) THE-LOST (843-5678)
www.missingkids.com

This brochure was printed courtesy of



Utah
Broadcasters
Association



AMBER ALERT

Utah's Child Abduction Alert System

The AMBER Plan is a law enforcement tool that is used to locate a missing child as quickly as possible. It is a multi-media alert system that uses television, radio, and the Internet to disseminate information about a missing child. The plan is activated when a law enforcement agency receives a report of a missing child who is under the age of 17. The plan is designed to help law enforcement agencies locate the child as quickly as possible and to provide information to the public about the missing child.

The AMBER Plan is a law enforcement tool that is used to locate a missing child as quickly as possible. It is a multi-media alert system that uses television, radio, and the Internet to disseminate information about a missing child. The plan is activated when a law enforcement agency receives a report of a missing child who is under the age of 17. The plan is designed to help law enforcement agencies locate the child as quickly as possible and to provide information to the public about the missing child.

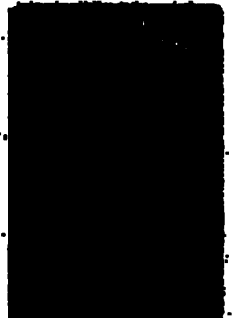
What You Can Do

The public plays an essential role in the success of the Amber Alert. The plan relies on citizens to help locate abducted children before it's too late.



Tune in to your local TV and radio stations for updated information about the abducted child or suspect. You can also call 511 or go to www.computerlink.utah.gov and click on "Alerts."

Be on the lookout for the child and suspect described in the alert message. The alert will include a telephone number so you can report sightings to that number as soon as possible. Call 911 if you are unsure of the number.



If you witness a child abduction, call 911 or your local law enforcement agency immediately. Be sure to note important information such as the physical characteristics of the child and suspect, the make and model of any vehicles involved (including license plate numbers if possible), and the precise location of the abduction.

AMBER Plan Guidelines

- ▶ The AMBER Plan is ONLY activated by law enforcement
- ▶ It is ONLY used for serious child abduction cases
- ▶ It should NOT be used for runaways or custody disputes unless the circumstance is life-threatening to the child

AMBER Plan Criteria

- ▶ Law enforcement believes a child has been abducted
- ▶ The child is 17 years of age or younger or is an individual with a proven mental or physical disability
- ▶ Law enforcement believes the victim is facing imminent danger, serious bodily injury or death
- ▶ Public information is available that could assist in the safe recovery of the victim or apprehension of a suspect

What happens when Utah's AMBER Plan is activated?

- The Emergency Alert System interrupts radio and TV programming for alerts
- Electronic highway and business signs post alerts and the suspect's vehicle information
- Highway advisory radio transmitters and the travel information phone line (511) provide information
- The Bureau of Criminal Identification sends more than 9,000 flyers with photos and details
- All Utah law enforcement agencies are notified
- Ports of Entry inform all of their officers
- The Utah Traveling Association contacts all of their agents in the field
- The public can receive alerts by e-mail, by pager or on any text messaging device
- The National Center for Missing and Exploited Children is contacted

Monitoring Your Child's Internet Activities

In addition to talking to your child about Internet safety, you can also review your child's Internet activities using some very simple steps.

Reviewing Internet History

You can find Web sites and pages viewed recently by using the History button available on your Internet browser.

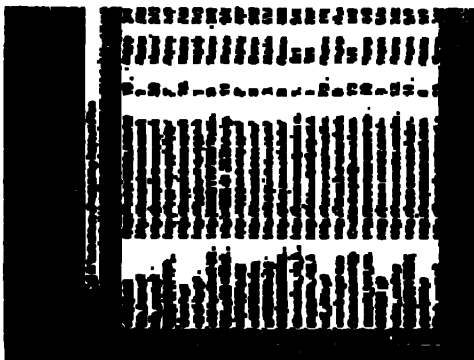
- Open the Internet browser.
- On the toolbar, click the History button.
- The History bar should appear, listing the Web addresses of the sites visited recently.



Reviewing Temporary Internet Files

When a user accesses a Web site, a temporary file containing the site address and any accompanying images is stored on the computer's hard drive. You can review these files and images by opening the Temporary Internet File folder.

- Double-click on the My Computer icon.
- Double-click on the C drive.
- Double-click on the Windows folder.
- Double-click on the Temporary Internet Files folder.



Files containing an image will typically have a .gif or .jpg file extension.

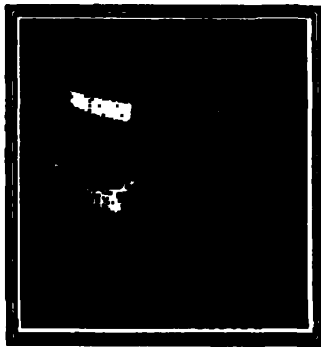


Thank Force Partners

Federal Bureau of Investigation
National Center for Missing and Exploited Children
Office of Juvenile Justice and Delinquency Prevention
Salt Lake City Police Department
Salt Lake County Sheriff's Office
United States Attorney's Office
United States Postal Service
Utah Attorney General's Office
Utah Department of Corrections
Utah Department of Public Safety



A Parent's Guide to Internet Safety



The Utah Attorney General's Office
226 State Capitol
Salt Lake City, UT 84114
(801) 368-0280 or (800) ASK-INFO
www.utah.gov/attgen/attgen.htm

Printed by the Office of Juvenile Justice and Delinquency Prevention

The Net

The Internet is a wonderful resource for children. It can be used for education and recreation, allowing them to explore new interests, keep up with their favorite hobbies, and communicate with friends.

But going online can also be very dangerous, and it is important that you learn as much as you can about the Internet to protect your child from harmful material and ensure his or her personal safety.

What Kids Encounter Online

A recent survey regarding Internet use among youth revealed the following:

10% of the youth surveyed had received an unwanted online request to engage in sexual activities or to provide intimate sexual information.

77% of those questioned were 14 or older.

60% of those reporting a sexual advance were female.

60% occurred while in a chat room; 34% came by instant message.

70% of incidents happened on a home computer.

In 10% of these incidents, the sender attempted to contact the youth in person.

20% of the youth surveyed had been exposed to unwanted online pornography.

Source: National Center for Missing & Exploited Children, Cyber Patrol Survey, 1999.



Chat Rooms

Chat rooms pose the biggest risk to teens. Several people can be in a chat room at once. You can never know who is in a chat room, or if someone is really who he or she claims to be.

Sometimes adults will pretend to be teens and go into teen chat rooms. They may ask questions that could make your child feel uncomfortable or ask for personal information, such as an address or phone number. They may even try to arrange to meet your child.



E-mail

E-mail can be a fun way to communicate with friends, but your child may also receive messages from companies or individuals you or they have never heard of. As with chat rooms, people are not always who they claim to be. E-mail messages may contain a false return address, and sometimes these messages try to entice a person to send out personal information or visit questionable Web sites.



Adult Sites

Many children will go into Web sites that you may consider to be inappropriate. Some of these Web sites have small data files called "cookies" on the computer's hard drive. These files can be used to track a visitor's actions in the site or to record information such as a person's name and e-mail address.



What Can Parents Do?

Talk with your child about online dangers, including sexual victimization.

Spend time online with your child exploring positive sites and teaching responsible use of the Internet.

Set limits with your child, determining when and how long to surf the Internet.

Protect your password, which should be required to go online, and enter it for your child each time the Internet is used.

Station computers with Internet access in the family areas of your residence—not in your child's bedroom.

Consider blocking software or filtering services offered by many service providers.

Always maintain access to your child's online account and regularly check his/her e-mail.

Never give a child your credit card number; enter the number for your child if he or she is making an online purchase.

Find out what computer safeguards are utilized by your child's school, public library, and at the homes of your child's friends—all places where your child could encounter an online predator.



Rules for Safe Surfing

Protect your family by establishing the following rules regarding Internet use:

- Never assume that someone you meet online is who he or she claims to be.
- Never arrange a face-to-face meeting with someone you've met online without taking special precautions, such as having a parent go along and meeting in a public place.
- Never post pictures of yourself on the Internet or e-mail them to people you do not personally know.
- Never give out identifying information, such as your name, home address, school name, or phone number.
- Never download pictures from an unknown source.
- Never respond to messages or bulletin board postings that are suggestive, obscene, belligerent, or harassing.
- Talk to a parent or other trusted adult about any information, images, or contact you encounter that makes you feel uncomfortable or seems inappropriate.

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SHURTLEFI

EXHIBIT 3

10044274944

SCHEDULE D (FEC Form 3)

DEBTS AND OBLIGATIONS

Excluded Loans

NAME OF COMMITTEE (in Full)
FRIENDS FOR SHURTLEIFF INC.

(Line appears
separately
for each
numbered line)

PAGE 34/34

FOR LINE NUMBER:
(check only one)

1
21.10

A. Full Name (Last, First, Middle Initial) of Debtor or Creditor
GUARDANT STRATEGIES

Nature of Debt (Payment):
CAMPAIGN DEBT, FUNDRAISING,
O. SURVEYS

Mailing Address 175 SOUTH WEST TEMPLE STE 600

City State ZIP Code
SALT LAKE CITY UT 84101

Outstanding Balance Beginning This Period

Transaction ID: 80104345

0.00

Amount Received This Period

Payment This Period

Outstanding Balance at Close of This Period

23131.00

0.00

23131.00

1) CREDITABLE This Period This Page (optional)

23131.00

2) TOTALS This Period (last page this line number only)

23131.00

3) TOTAL OUTSTANDING LOANS from Schedule C (last page only)

0.00

4) ADD 1) and 2) and carry forward to appropriate line of Summary Page (last page only)

23131.00

FRIENDS

FEC Schedule D (Form 3) (Revised 6/2010)

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