

BEFORE THE OHIO ELECTIONS COMMISSION

Thomas W. Blumer

v.

Bob McEwen

McEwen for Congress
P.O. Box 44009
Cincinnati, OH, 45244-0009

(believed to be the Cincinnati address of Mr. McEwen)
7382 Ridgpoint Dr., Ste. 7
Cincinnati, OH 45230

(last known and believed to be primary
residential address of Mr. McEwen)
10935 Rice Field Pl.
Fairfax Station, VA 22039

COMPLAINT

Thomas W. Blumer files this Complaint under Revised Code Section 3517.153 and states the following. I have attached an affidavit of personal knowledge to support this complaint.

SITUATION:

Bob McEwen is a current a candidate for the United States House of Representatives from Ohio's Second Congressional District. The primary election for that district will be held on May 2, 2006.

FIRST ITEM OF COMPLAINT: Mr. McEwen is violating Ohio Election Law by referring to himself as "Congressman McEwen" in various items that are present on his campaign web site, and in other venues.

1. Since the formal announcement of his candidacy on January 18, 2006, and since he filed the required forms to become a candidate on or about February 14, 2006, Candidate McEwen has held himself out to be a Congressman in the following instances:
 - (a.) He has allowed himself to be referred to as "Congressman McEwen" at his web site's Endorsements Page (Attached at Affidavit Exhibits A-1 through A-11).
 - (b.) He has allowed audio and video files of radio and television ads from his 2005

campaign, all of which aired repeatedly on local stations during May and/or June of 2005, to remain on his 2006 campaign web site, specifically:

- (1) A radio advertisement that twice refers to Candidate McEwen as “Congressman Bob McEwen” (transcript attached at Affidavit Exhibit B);
 - (2) A second radio advertisement that refers to Candidate McEwen as “Congressman Bob McEwen” (transcript attached at Affidavit Exhibit C);
 - (3) A television advertisement in which the words “Congressman Bob McEwen” appear twice (transcript attached at Affidavit Exhibit D);
- (c.) He has continued to allow himself to be referred to as “Congressman McEwen” at his biography page at Advantage Associates, Inc., the lobbying firm he either currently is, or up until very recently was, employed by (Attached at Affidavit Exhibit E). That web page refers to him as “Congressman Bob McEwen” two times and as “Congressman McEwen” seven times. Although the Internet domain of the lobbying firm has changed, and although there is no direct access to Mr. McEwen’s biography page from the new domain, it nevertheless remains the case that any Internet user who has saved or bookmarked the link to Mr. McEwen’s biography page will still, to this day, be able to access it.
- (d.) He has allowed himself to be referred to as “Congressman McEwen” at three different web pages relating to the Computer and Enterprise Investigations Conference that will take place on May 3-6, 2006 (Attached at Affidavit Exhibits F-1 through F-3), and at which he is scheduled to be a speaker.
- (e.) He has done all of the things described in Items (a.) through (d.), in spite of two clear promises not to do so stated on his behalf by his lawyer, Charles R. Saxbe, at the Probable Cause Hearing for Case No. 2005E-087 before The Ohio Elections Commission on January 11, 2006, specifically:
- First, at Page 21, Lines 16 through 24 of the Hearing Transcript, where Mr. Saxbe stated that “the understanding and agreement we entered into with Mr. Murphy in June with respect to conduct by Mr. McEwen as a candidate is still binding on Mr. McEwen, as far as he’s concerned; that there will not be any confusion with respect to his being a congressman, and that there will be clarity that he was a former congressman” (the “Mr. Murphy in June” reference is to the person who brought and then, based on this promise, withdrew Case No. 2005E-015 before The Commission in June 2005)
 - Second, at Page 22, Lines 6 through 10 of the Hearing Transcript, where Mr. Saxbe makes a personal representation to the Commission members at the Hearing, telling those present: “I’m just making that representation, that going forward, the concerns that Mr. Blumer appears to have about the McEwen campaign using the title are not going to be fulfilled.”
2. Candidate McEwen is not serving in Congress, and in fact has not served in Congress since January 1993.

3. These instances where Candidate McEwen is referred to as “Congressman” violate Ohio Revised Code Section 3517.21(B)(1), prohibiting candidates from “us[ing] the title of an office not currently held by a candidate in a manner that implies that the candidate does currently hold the office.”
4. As long as Candidate McEwen allows the misuse the title of “Congressman” as he has been doing, it has the potential to affect the outcome of the election.
5. While the venues noted in Items 1(c) and 1(d) above might ordinarily be outside the jurisdiction of the Commission, Candidate McEwen’s continuing to hold himself out to be a Congressman in those venues, in the wake of Enforcement Case No. 2005E-087 that is currently under review by the Commission, and which is the subject of a Full Committee hearing on March 16, 2006, serve to further reinforce the notion that Candidate McEwen intends to disregard, and continue to defy, the clear requirements of Ohio Revised Code section 3517.21. Items 1(c) and 1(d) also run against the promise made by Mr. Saxbe to Mr. Murphy (the first of the two from the Probable Cause Hearing transcript) in Item 1(e) above, as the promise described is a general promise and not one made solely for the purpose of political campaigns.

SECOND ITEM OF COMPLAINT: Candidate McEwen’s biography at his campaign’s web site misrepresents his experience in appearing on various television news and discussion programs.

1. The biography makes the following statement (Attached at Affidavit Exhibit G):

Mr. McEwen appears frequently on such network programming as CNN's Crossfire, The Today Show, Good Morning America, and Larry King Live.
2. The statement’s use of the present tense (“appears frequently”) is intended to convey that such appearances have occurred not only frequently, but also recently.
3. Based on discussions and/or e-mail communications with officials at CNN (which carries “Larry King Live” and formerly carried “Crossfire”) and ABC (which carries “Good Morning America”), Candidate McEwen has not appeared on any of the three just-mentioned television shows as a guest since 1993. To the best of my knowledge and belief, Candidate McEwen has not appeared on “The Today Show” since 1993. If Candidate McEwen has appeared on any of the four television shows mentioned in this paragraph since 1993, those appearances have been extremely rare and could not reasonably be characterized as “frequent” (as the statement’s use of present tense clearly communicates).
4. This biographical statement violates Ohio Revised Code Section 3517.21(B)(10), which says that a candidate cannot “Post, publish, circulate, distribute, or otherwise disseminate a false statement regarding a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not.”

5. By falsely claiming that he frequently appears, and has recently appeared, on the television shows identified above, and implying a degree of expertise in current affairs that such appearances would indicate if those appearances were indeed frequent and recent, Candidate McEwen is attempting to promote his own election.

THIRD ITEM OF COMPLAINT: Candidate McEwen's biography at his campaign's web site incorrectly identifies an historical event in which he was a participant.

1. Candidate McEwen's campaign web site's home page (Attached at Affidavit Exhibit H-1) states that "Info on the Democrat Bank Scandal can be found [HERE](#)." That statement hyperlinks to another campaign site web page (Attached at Affidavit Exhibit H-2) whose title bar refers to the "Democratic Bank Scandal."
2. Those two pages refer to an event that has been referred to by a different name by historians, reference books, and journalists. That name is either "The House Bank Scandal" or "The House Banking Scandal."
(Attached are the following Affidavit Exhibits:
 - H-3, the first page of a Wikipedia.org encyclopedia entry for "House Banking Scandal";
 - H-4, the results of a Google search on "house banking scandal" [in quotes, so that all words must be found to occur consecutively], indicating that there are 13,600 web pages containing this term;
 - H-5, the results of a Google search on "house bank scandal" [in quotes, so that all words must be found to occur consecutively], indicating that there are 9,780 web pages containing this term;
 - H-6, the results of a Google search on "democratic banking scandal" [in quotes, so that all words must be found to occur consecutively], indicating that there is one (1) web page containing this term, the home page of Candidate McEwen's campaign web site;
 - H-7, the results of a Google search on "democrat bank scandal" [in quotes, so that all words must be found to occur consecutively], indicating that there are four web pages containing this term, with three of those pages are from pages at Candidate McEwen's web site;
 - H-8, the one remaining listing from Exhibit H-7, which is a reference to a Congressional Record entry by Republican Congressman Tom Delay, who was not then, and is not now, a historian, the author of a reference book, or a journalist).
3. By referring to the event as "The Democrat Bank Scandal" and "Democratic Bank Scandal," Candidate McEwen is attempting to indicate to web site visitors that those involved in what is properly called "The House Banking Scandal" or "The House Bank Scandal" were members of one party, The Democrat Party, while it is a historical fact that members of both the Democrat and Republican parties were involved in that scandal.

4. By referring to the event as “The Democrat Bank Scandal” at his campaign web site’s home page, Candidate McEwen (who was a member of the Republican Party at the time, as he is today) is attempting to indicate to readers at his web site’s home page that he must by inference have had no involvement in what is properly called “The House Banking Scandal” or “The House Bank Scandal,” even though his involvement in the scandal is a matter of historical record.
5. By referring to the event as “The Democratic Bank Scandal” in the title bar of the web page that reads “September 18, 1992: Bob McEwen Cleared in House Bank Investigation; View the Letter of Exoneration [HERE](#),” Candidate McEwen is attempting to indicate to readers at that page that he must by inference have had no involvement in what is properly called “The House Banking Scandal” or “The House Bank Scandal,” even though his involvement in the scandal is a matter of historical record.
6. Candidate McEwen’s use of the appellation “Democrat Bank Scandal” and “Democratic Bank Scandal” to identify what historians, reference books, and journalists call “The House Bank Scandal” or “The House Banking Scandal” are each false statements.
7. Those false statements violate Ohio Revised Code Section 3517.21(B)(10), which says that a candidate cannot “Post, publish, circulate, distribute, or otherwise disseminate a false statement regarding a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not.”
8. By falsely naming what historians and reference books call “The House Bank Scandal” or “The House Banking Scandal,” Candidate McEwen is attempting to deflect attention from and/or indicate nonparticipation in a historical event in which he was indeed a participant, and is thereby attempting to promote his own election.

FOURTH ITEM OF COMPLAINT: Candidate McEwen has claimed at least one endorsement that he had not secured. Additionally, endorsements that he claimed in the early stages of his campaign are no longer present, indicating that Mr. McEwen represented claimed to have 2006 primary campaign endorsements from certain parties when he in fact had not yet, or has not ever, secured them.

1. A document that looks at endorsement discrepancies (Attached at Affidavit Exhibit I-1), when reviewed in conjunction with pictures of the Endorsements page at Candidate McEwen’s web site as of various dates in January and February (Attached at Affidavit Exhibits I-2, I-4, I-5, I-6, and I-7), plus a new items from that time period (Affidavit Exhibit I-3), shows that Candidate McEwen’s Endorsements Page has contained four different types of discrepancies:
 - A. **One Endorsement secured by another candidate** – On the Endorsements page at his campaign web site on January 18, Candidate McEwen claimed the endorsement of John Willke. That endorsement remained on the campaign web site’s Endorsements page from January 18, 2006, the date he

officially declared his candidacy, until several days after January 24, 2006 (Affidavit Exhibit I-2), the day Mr. Willke publicly endorsed Congresswoman Jean Schmidt for re-election in the 2nd District Republican Congressional Primary (Politics Extra Blog entry is at Affidavit Exhibit I-3; the Endorsements Page as of February 11 (Affidavit Exhibit I-4) shows that Mr. Willke's name was not present there on that date). All of this indicates that Candidate McEwen had not secured, and therefore did not have the right to claim, the 2006 Primary endorsement of John Willke from January 18, 2006, the date he officially declared his candidacy, until several days after January 24, 2006.

- B. Four Endorsements that were removed sometime between February 20 and February 22** – On the Endorsements page at his campaign web site on January 18, Candidate McEwen claimed the endorsements of Phil & Vickie Burress, Paul Weyrich, Theresa Fleming, and Brad Mattes. Those endorsements remained on the campaign web site's Endorsements page from January 18, 2006, the date he officially declared his candidacy, until at least February 20, 2006 (Affidavit Exhibit I-5). The names of the Burresses, Mr. Weyrich, Ms. Fleming, and Mr. Mattes were not present on the campaign site's February 22 Endorsements page (Affidavit Exhibit I-6), and have not reappeared since. All of this indicates that Candidate McEwen had not secured, and therefore did not have the right to claim, the 2006 Primary endorsements of the Burresses, Mr. Weyrich, Ms. Fleming, and Mr. Mattes, from January 18, 2006, the date he officially declared his candidacy, until sometime between February 20 and 22, 2006.
- C. One Endorsement that was removed sometime between February 22 and February 28** – On the Endorsements page at his campaign web site on January 18, Candidate McEwen claimed the endorsement of Anthony Munoz. That endorsement remained on the campaign web site's Endorsements page from January 18, 2006, the date he officially declared his candidacy, until at least February 22 (Affidavit Exhibit I-6). Mr. Munoz's name was not present on the campaign site's February 28 Endorsements page (Affidavit Exhibit I-7), and has not reappeared since. All of this, plus a personal conversation I had on March 15, 2006 with Mr. Munoz's personal secretary, indicate that Candidate McEwen never secured, and therefore never had the right to claim, the 2006 Primary endorsement of Mr. Munoz since he declared his candidacy on January 18, 2006.
- D. Three Endorsements that were removed sometime between February 20 and February 22, and reappeared sometime between February 22 and 28** – On the Endorsements page at his campaign web site on January 18, Candidate McEwen claimed the endorsements of Tony Perkins, Ed Meese, and Don Wildmon. Those endorsements remained on the campaign web site's Endorsements page from January 18, 2006, the date he officially declared his candidacy, until at least February 20 (Affidavit Exhibit I-5). The names of Mr. Perkins, Mr. Meese, and Mr. Wildmon were not present on the campaign site's Endorsements page on February 22 (Affidavit Exhibit I-6). The names of Mr. Perkins, Mr. Meese, and Mr. Wildmon were present on the

campaign site's February 28 Endorsements page (Affidavit Exhibit I-7), and have remained there since. All of this indicates that Candidate McEwen had not secured, and therefore did not have the right to claim, the 2006 Primary endorsements of Mr. Perkins, Mr. Meese, and Mr. Wildmon, from January 18, 2006, the date he officially declared his candidacy, until sometime between February 22 and 28, 2006.

2. The four respective endorsement-related discrepancies described above show that Candidate McEwen has falsely claimed the endorsements of the various parties identified during the respective time periods described.
3. These false statements relating to endorsements violate Ohio Revised Code Section 3517.21(B)(8), which says that a candidate cannot "falsely state the endorsement of or opposition to a candidate by a person or publication."
4. By making these false statements relating to endorsements, Candidate McEwen is attempting to promote his own election.

Wherefore, Thomas W. Blumer requests that the Commission conduct a hearing and issue a finding that Candidate McEwen has violated Revised Code Section 3517.21 on multiple occasions and in multiple ways during the 2006 Second District Congressional Primary, and to issue a public reprimand.

Mr. Blumer further requests the Commission impose appropriate legal sanctions for such violations, including referral to the appropriate county prosecuting attorney under Ohio Administrative Code Section 3517-14-1(C).

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