

PINNACLE LAW FIRM
A PROFESSIONAL LIMITED-LIABILITY COMPANY
212 CENTER ST., 11TH FLOOR
LITTLE ROCK, ARKANSAS 72201

Matthew D. Campbell
matt@pinnaclelawfirm.com

P: (501) 396-9246
F: (501) 421-0189

Specific Complaints & Detailed Facts and Actions

Specific Complaints:

- a. Lt. Gov. Mark Darr improperly spent campaign funds after his election in 2010 for purposes other than campaign-debt reduction, in violation of Ark. Code Ann. §§ 7-6-219 & 7-6-203(g)(3).
- b. Mr. Darr used his state-provided office, telephone, and credit cards to engage in campaign activities, in violation of Ark. Code Ann. § 7-1-103(a)(3).
- c. Mr. Darr certified several campaign contribution & expenditure reports as being “true, correct and complete,” when said reports contained obviously incorrect classification of expenditures, in violation of Ark. Code Ann. § 21-1-404(b).
- d. Mr. Darr paid for an airplane ticket with his state-issued credit card, then listed that same purchase as a campaign expenditure on his financial disclosures, in violation of Ark. Code Ann. §§ 7-6-207(b) & 21-1-404(b).
- e. Mr. Darr filed several campaign contribution & expenditure reports that did not comply with Ark. Code Ann. § 7-6-207(b), in violation of Ark. Code Ann. § 7-6-206.
- f. Mr. Darr improperly classified personal fuel purchases as “fundraisers” and “supplies” and charged them to his campaign, in violation of Ark. Code Ann. § 7-6-203(g)(1).
- g. Mr. Darr improperly accepted funds from a political action committee without indicating that donation on his contribution reports, in violation of Ark. Code Ann. § 7-6-207(b).
- h. Mr. Darr used campaign funds after his election for the purchase personal items, then treated those expenditures as repayment of a personal loan, which is not allowed under Ark. Code Ann. § 7-6-203(g)(3).

According to Lt. Gov. Mark Darr’s December 31, 2010 Final Campaign Contribution & Expenditure (CC&E) Report, he ended his campaign with \$115,766.57 in campaign debt, and he loaned himself \$170,310.00 during the campaign. Mr. Darr’s July 12, 2013 CC&E notes that subsequent repayment of the loan has reduced the outstanding balance to \$18,494.93.

Under Arkansas Code Annotated § 7-6-219, a candidate may hold fundraisers to retire campaign debt following the election. That section arguably allows for expenditures directly related to holding a debt-retirement fundraiser, but it does not provide for expenditures after an election for anything that is not necessary for a fundraiser. Yet, Mr. Darr’s April 12, 2011 CC&E lists the following expenditures:

- \$222.00 for “rental” from the Statehouse Convention Center on January 5, 2011.
- \$147.23 for a hotel room at the Hampton Inn in Little Rock on January 12, 2011.
- \$165.09 for a hotel room at the Doubletree in Memphis, TN, on January 31, 2011.
- \$2,000.00 for consulting from MVP, LLC, on January 4, 2011.
- \$197.20 for supplies from Target on February 9, 2011.
- \$422.80 for airline tickets from American Airlines on February 23, 2011.
- \$1,277.31 for hotel expenses from the Doubletree (location not specified) on February 16, 2011.
- \$800.00 for photography from Carmen Fedder on February 23, 2011.
- \$205.04 for flowers from Tipton & Hurst on March 16, 2011.
- \$160.00 for signs from Dale Wood on March 11, 2011.

Mr. Darr should be required to establish, with receipts and other tangible evidence, how rentals, hotel rooms and expenses, consulting, supplies, airline tickets, photography, flowers, and signs are directly related to debt-retirement fundraisers.

Furthermore, that CC&E lists four fundraisers, at least three of which appear to be nothing more than a personal dinner expense for Mr. Darr and possibly a few guests (\$343.35 at Anderson’s Cajun in Little Rock on January 10, 2011; \$200 at Cotham’s in Little Rock on January 24, 2011; and \$111.20 at Anderson’s Cajun on February 18, 2011). However, because no contributions to Mr. Darr’s campaign appear on any of those fundraiser dates, he should be required to establish, with receipts and affidavits of attendees, that fundraisers were actually held at those locations, on or near those dates, that would satisfy the requirements of section 7-6-219.

Mr. Darr’s July 12, 2011 CC&E lists the following expenditures at gas stations, classified by Mr. Darr as “fundraisers”:

- \$132.12 at 7T Kwik Stop in Ola, AR, on May 16, 2011.
- \$120.06 at Love’s Country Store in Ozark, AR, on June 7, 2011.
- \$109.21 at Pilot in Russellville, AR, on June 17, 2011.
- \$105.00 at Tobo’s 66 in Fayetteville, AR, on June 21, 2011.

Given the facial absurdity of calling a purchase at a gas station a “fundraiser,” Mr. Darr should be required, via receipts and other tangible evidence, to establish that these were proper fundraisers within the meaning of section 7-6-219. The impropriety of these purchases is bolstered by the fact that, from when he took office in January 2011 until early May 2011, Mr. Darr used his state-issued fuel card for \$1,342.92 in personal fuel purchases, for which he subsequently reimbursed the state on 6/1/11. *See* Exxon Mobil monthly invoices and cancelled checks from Mr. Darr to State of Arkansas, attached collectively as Exhibit 1. Mr. Darr’s “fundraisers” on the July 12, 2011 CC&E begin shortly after his last personal purchase of fuel on his state card, and those “fundraisers” occurred at some of the same gas stations as were found on the gas-card receipts. Mr. Darr also used his state-issued credit cards at some of these same gas stations to make personal fuel purchases in 2012, which his spokesperson acknowledged was in error, and for which he reimbursed the state on 6/6/2012, 7/1/2012, and 12. *See* U.S. Bank monthly invoices and cancelled checks from Mr. Darr to State of Arkansas, attached collectively as Exhibit 2.

Additionally, the July 12 CC&E lists more “fundraisers” that appear to be private dinners (\$101.24 at Sushi Café in Little Rock on April 1, 2011; \$100.10 at Loca Luna in Little Rock on May 24, 2011). Because no contributions to Mr. Darr appear on those dates, he should be required to establish that those expenditures were for legitimate fundraisers.

Mr. Darr’s October 12, 2011 CC&E lists the following expenditures, no of which is alleged to be in support of a debt-retirement fundraiser:

- \$100.14 for supplies at Wal-Mart in Rogers, AR, on July 5, 2011.
- \$256.91 for supplies at Sunstation in Little Rock on July 18, 2011.
- \$124.70 for supplies Jos. A. Bank in Little Rock on July 20, 2011.
- \$155.31 for food at Vince Young’s Steakhouse in Austin, TX, on July 26, 2011.
- \$100.98 for supplies at Prime Mart in Austin, TX, on July 27, 2011.
- \$123.86 for supplies at Wal-Mart in Little Rock on July 28, 2011.
- \$106.75 for supplies at Crackerbox in Lonoke, AR, on August 1, 2011.
- \$105.94 for supplies at Pilot in Russellville, AR, on August 2, 2011.
- \$111.72 for supplies at Love’s in Ozark, AR, on August 5, 2011.
- \$120.76 for supplies at Love’s in Ozark, AR, on August 9, 2011.
- \$113.04 for supplies at Pilot in Russellville, AR, on August 11, 2011.
- \$111.97 for supplies at Kum & Go in Springdale, AR, on August 29, 2011.
- \$111.08 for supplies at Pilot in Russellville, AR, on August 31, 2011.
- \$163.50 for supplies at Dillard’s in Rogers, AR, on September 6, 2011.
- \$123.84 for supplies at Kum & Go in Lowell, AR, on September 13, 2011.
- \$105.00 for supplies at Fastrip in Springdale, AR, on September 16, 2011.
- \$119.62 for supplies at Walker Bros. in Fayetteville, AR, on September 19, 2011.
- \$105.86 for supplies at Love’s in Ozark, AR, on September 26, 2011.
- \$106.60 for supplies at Kum & Go in Springdale, AR, on September 27, 2011.

Because all but one of the places listed above is a gas station, department store, or clothing store, Mr. Darr should be required to establish, by receipts and other tangible evidence, that the purchases for “supplies” were related to debt-retirement fundraising. Additionally, because the purchase for food at Vince Young’s Steakhouse does not appear to be related to any donations or fundraising, Mr. Darr should be required to establish that it was in fact a proper post-election expenditure.

That CC&E also lists an expenditure of \$1,500.00 for “fundraiser” to the University of Arkansas at Fayetteville. The University has confirmed that this purchase was actually for four season tickets to the games in Little Rock and Fayetteville for the 2011 season. *See* Payment Processing Screenshots from Univ. of Ark., attached collectively as Exhibit 3. Also, because it is unclear how a payment of \$248.33 to B&B Solutions in Mabelvale, AR, is a “fundraiser,” Mr. Darr should also be required to establish that the expenditure was proper.

Mr. Darr’s January 17, 2012 CC&E lists the following expenditures that appear to have nothing to do with debt-retirement fundraisers:

- \$160.18 for supplies at the Apple Store in Little Rock on October 5, 2011.
- \$106.37 for supplies at the Apple Store in Little Rock on October 5, 2011.
- \$106.99 for supplies at Kum & Go in Bentonville, AR, on October 12, 2011.
- \$127.37 for food at BJG Golden Palace in Beijing, China, on October 21, 2011.
- \$105.59 for supplies at Kum & Go in Springdale, AR, on October 26, 2011.
- \$176.55 for supplies at Belk in Rogers, AR, on October 31, 2011.
- \$269.30 for supplies at Walker Brothers in Fayetteville, AR, on November 15, 2011.
- \$195.56 for supplies at Dillard's in Fayetteville, AR, on November 15, 2011.
- \$105.28 for supplies at Kum & Go in Springdale, AR, on November 21, 2011.
- \$144.96 for supplies at Belk in Rogers, AR, on November 21, 2011.
- \$172.00 for supplies at Dillard's in Little Rock on December 1, 2011.
- \$146.50 for supplies at Justice in Rogers, AR, on December 8, 2011.
- \$202.00 for supplies at New York & Co. in Rogers, AR, on December 27, 2011.
- \$103.51 for supplies at Pilot in Benton, AR, on December 28, 2011.

Mr. Darr should be required to establish, by receipt and other tangible evidence, that these expenditures were proper.

While Mr. Darr filed an amended CC&E on January 24, 2012, that removed the purchases at the Apple Store, BJG Golden Palace, Belk, Walker Brothers, Dillard's, Justice, and New York & Co., and treated those purchases as part of Mr. Darr's loan repayment, Arkansas Code Annotated section 7-6-201(g)(3) allows the use of campaign funds for personal purchases to be treated as a loan (and, thereby offset the loan amount owed to Mr. Darr from his campaign) only when the purchases are made prior to the election and are made by a candidate who is then on a leave of absence from his regular employment. Because neither criteria is met here, Mr. Darr's use of the funds in that way was improper at the moment the purchases were made, and there is no statutory authority for allowing otherwise prohibited use of campaign funds to be treated as an offset against loan amounts.

Even if the offset of otherwise improper purchases is permitted against the amount due to Mr. Darr is allowable, all of the above information shows far more than the \$18,494.83 that Mr. Darr remains owed from the campaign. Any improper expenditures that could not be offset would be per se violations of the campaign-finance rules.

The January 17, 2011 CC&E (and the amended CC&E) also show "fundraiser" expenditures in the amount of \$1,775.00 to Lost Springs Country Club on October 11, 2011, and \$3,589.12 to Laurie Masterson on November 17, 2011. There are no contributions to Mr. Darr in the CC&E that are attributable to those expenditures, and Mr. Darr should therefore be required to establish that both were proper debt-retirement expenditures under the law.

In addition to the above-listed expenditures, Mr. Darr has violated campaign-finance and ethics rules in the following ways:

- All of the referenced CC&E reports contain many incomplete entries, where a campaign donor's Place of Business/Employer/Occupation is simply listed as "unk," despite the fact that many of the donors' are easily identifiable as State Representatives, State Senators,

consultants, and the like. Mr. Darr even listed a donation from Kiel & Goodson, PA, as “unk,” despite the two entries immediately above being Mr. Kiel and Mr. Goodson, both of whom are listed as attorneys in the CC&E. These facially incomplete CC&Es do not comport with Arkansas Code Annotated § 7-6-207(b), in violation of Ark. Code Ann. § 7-6-206.

- The airline tickets that appear on Mr. Darr’s April 12, 2011 CC&E were purchased with a state-issued credit card and should not be considered a proper debt-retirement expense or a proper campaign expenditure in general. *See* U.S. Bank March 2011 invoice, attached as Exhibit 4.
- Mr. Darr’s purchase of the Razorback tickets listed on his October 12, 2011 CC&E was made from his state-issued office, using his office address and proper title as contact information. Even if the purchase is allowable as debt-reduction, it is still a campaign activity, and such activities are prohibited from state offices and/or on state-issued equipment, making the purchase violative of Arkansas Code Annotated § 7-1-103(a)(3).
- Mr. Darr’s purchase of food at Vince Young’s Steakhouse in Austin and supplies at Prime Mart, listed as campaign expenditures, were made on a trip paid for in part with his state-issued credit card, in which he went to Austin to meet with Texas Gov. Rick Perry. *See* U.S. Bank August 2011 invoice, attached as Exhibit 5. There was no debt-retirement fundraiser involved, any benefit Mr. Darr might receive in future fundraising from the trip does not validate the otherwise inappropriate expenditure of campaign funds, and a trip that was truly for debt-reduction fundraising should not be underwritten by having the State of Arkansas pay for his hotel room in violation of Arkansas Code Annotated § 7-1-103(a)(3).
- Mr. Darr reserved a hotel room at the Embassy Suites in Little Rock in 2012, only to have the purpose for the reservation cancelled, and he had his PAC reimburse the State for that expense. *See* December 2012 Reimbursement by Strong Arkansas PAC, attached as Exhibit 6. If the purchase of the hotel room was for official business, as alleged, there would be no reason to reimburse the State; if it was for campaign-related business, the purchase of the room on a state-issued credit card violates Arkansas Code Annotated § 7-1-103(a)(3); and, if the reimbursement was made by a PAC, rather than Mr. Darr personally, the reimbursement should have been treated as a campaign contribution and noted on a future CC&E, which it was not.
- Mr. Darr signed the above-referenced CC&Es, verifying them as true and correct statements, under penalty of perjury. Where something as blatant as calling football tickets and gas station stops “fundraisers” is involved, swearing that the CC&Es are true and correct and in compliance with campaign-finance laws violates Arkansas Code Annotated § 21-1-404(b).
- Mr. Darr’s purchase of Razorback tickets should not fall within the ticketed-event exception for use of campaign funds, as it was made in a year in which he could not fundraise for future elections, thus any exposure for future fundraising that he might get from attending the games was irrelevant, and there are no debt-reduction donations from anyone that can be tied to attendance at those games.

It is worth noting that most of these apparent violations are over two years old, and Mr. Darr is only addressing them at this time because his improper spending has been brought to light.

This is not an instance where a candidate realized his own mistakes and attempted to correct them, and Mr. Darr should not be given a chance to “fix” these problems at this late date merely by filing amended CC&Es, when he demonstrated no interest in fixing them prior to other people having found out about them. Mr. Darr should be required to explain and justify all of the past expenditures and filings, and he should be disciplined by the Ethics Commission for any violations that are ultimately proven.