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Terry Keel
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April 4, 2008

The Honorable Ronald Earle, District Attorney
Travis County District Attorney's Office
Austin, Texas
VIA HAND DELIVERY

Re: Criminal Complaint, Election Code §255.004 and §255.005
Recusal and Appointment of Special Prosecutor

Dear Mr. Earle:

This is a complaint regarding criminal violations of the Texas Election Code by Austin political consultant Kelly Fero involving activities related to a website he controls, austinpoliticalreport.com. Attached is the affidavit of Terry Keel. The acts alleged constitute criminal violations of Texas Election Code sections 255.004 and 255.005.

The probable cause and relevant statutory citations are as follows:

Kelly Fero is an Austin-based political consultant. His consulting business maintains a website and on that site he lists clients, including "Rosemary Lehmberg for Travis Co. DA (TX)" and "Ronnie Earle for Travis Co. District Attorney (TX)" (www.ferohewitt.com/clients).

Fero posted politically-related news reports relating to the 2008 democratic primary run-off race for Travis County district attorney on a different website he anonymously controls, "austinpoliticalreport.com". Fero's method was an attempt to disguise the true source of the reports, which in fact were of his own making. The reports falsely alleged that Terry Keel was campaigning for Fero's client's opponent in the race for district attorney. The statements attributed to Terry Keel were untrue and the posting's content was fictitious. Mr. Keel has no affiliation with either of the democratic candidates for district attorney, he is not a democratic primary voter, and he does not support or oppose either candidate's candidacy.

The false content in the posting was subsequently referenced in Fero's client's political campaign communications and the reader of the campaign literature was led to believe that the content originated from sources unrelated to Fero's client's political campaign. In fact, the original publishing source for the reports was Fero, through his own site, "austinpoliticalreport.com". The scheme was effective because Fero's original report was

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picked up and widely disseminated over and over again by numerous other websites, individuals and news outlets.

The published false statements were disseminated through Fero's client's campaign material in electronic form through text messaging, e-mails and website postings and also in print form through direct mailings to Travis County households through the United States Postal Service from March 29, 2008 through and including April 4, 2008.

Fero's tactic of affiliating his client's opponent with a republican was apparently done in order to injure that candidate's campaign for district attorney among democratic primary voters who would, presumably, be offended if they believed the connection was true.

The fraudulent tactics employed in this instance constitute federal and state criminal offenses. Texas Election Code sections 255.004 and 255.005 specifically address the facts of this case. Please take note of the applicable sections of the code:

Sec. 255.004. TRUE SOURCE OF COMMUNICATION. (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source.

(b) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source.

(c) An offense under this section is a Class A misdemeanor.

Sec. 255.005. MISREPRESENTATION OF IDENTITY. (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person misrepresents the person's identity or, if acting or purporting to act as an agent, misrepresents the identity of the agent's principal, in political advertising or a campaign communication.

(b) An offense under this section is a Class A misdemeanor.

Sec. 251.001. DEFINITIONS. In this title:

"Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

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(A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(B) appears:

(i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or

(ii) on an Internet website.

"Campaign communication" means a written or oral communication relating to a campaign for nomination or election to public office or office of a political party or to a campaign on a measure.

The Texas Election Code criminal statutes would apply regardless of the truthfulness or untruthfulness of the communications. In this instance, the culpability for the criminal offense is underscored by the fact that the statements were indeed false and also because the publisher took extraordinary steps to launder the statements in efforts to shield his own identity as the actual source.

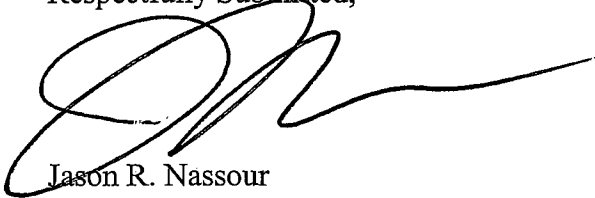
Mr. Keel is available to testify before the grand jury at any time. I trust that you would readily agree that the intake and consideration of this case is inappropriate under your purview or that of the Travis County Attorney and I therefore respectfully request that the administrative judge of our judicial district be notified of the need for a special prosecutor to be appointed. I would ask that, pursuant to the principles encompassed by the rules of professional responsibility, you and your office take no part, directly or indirectly, in the selection of that special prosecutor.

Because the offenses alleged in this instance fall within the subject matter encompassed by Texas Penal Code § 33A.06, in anticipation that a special prosecutor would opt for assistance from the Attorney General of Texas, I am as a matter of courtesy copying Mr. Abbott on this correspondence. I am also, as a matter of courtesy, copying the United States Attorney's Office.

I extend my thanks to you and I am grateful for your consideration and professionalism.

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Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jason R. Nassour". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Encl. Affidavit of Terry Keel

Cc: The Honorable Greg Abbott
Attorney General of Texas
Capitol Station
Austin, TX 78711

United States Attorney, Western District of Texas
Austin Division
816 Congress Ave Ste 1000
Austin, TX 78701

State of Texas §
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County of Travis §

AFFIDAVIT

Before me, the undersigned Notary Public, on this day personally appeared Terry Keel, who after being duly sworn on his oath, deposed and said:

“My name is Terry Keel. I am over the age of eighteen years and in all ways competent to make this affidavit. The facts contained herein are within my personal knowledge and true and correct.

“I was born in Austin, Texas on January 13, 1958. I am an attorney and I currently serve as the Parliamentarian for the Texas House of Representatives. I previously served as State Representative, District 47 (Austin), and prior to that as the Travis County Sheriff and prior to that as an Assistant District Attorney for Travis County.

“On April 1, 2008 I was alerted by a co-worker to a website, austinpoliticalreport.com, containing an article that purported to report statements by me. The article stated:

Former Travis County Sheriff and Republican State Representative Terry Keel says he's too busy trying to elect Democrat Mindy Montford in the DA runoff to bother with helping his own sister-in-law, Republican Donna Keel, in her race against Democratic state rep Valinda Bolton.

Keel, the hardline Republican who also held the seat his sister-in-law is running for before retiring and then becoming Republican House Speaker Tom Craddick's parliamentarian, told a group this weekend that the "number one priority right now is Mindy, not Donna."

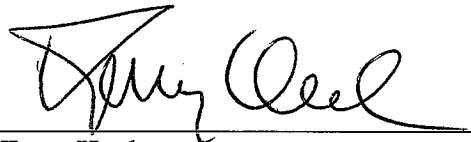
“The statements attributed to me are false. I did not make any such statements. I have also never attended any gathering or addressed any group on the referenced subjects at all. The report is fictitious. I know both of the candidates in the democratic primary runoff for district attorney, and I have not and will not support or oppose either candidate's candidacy.

“The website “austinpoliticalreport.com” describes itself as, “where you'll find the best buzz and most reliable rumors in the political capital of Texas and surrounding communities.” The website facilitates readers to sign-up for regular news alerts and also invites the reader to “spread the word” by clicking on a function that electronically sends to others information from the website. The website also invites comments and posts the comments from readers beneath the articles at the site. Upon close examination of the website, I discovered that it did not give the visitor any actual information about the identity of the website's author and the site furthermore blocked visitors from seeing the site's IP address.

"On April 1, 2008 my attorney sent to austinpoliticalreport.com, via their published e-mail address (info@austinpoliticalreport.com), a libel notice that the posting regarding me was false and he asked that it be removed and a retraction be inserted in its place. The website did not pull down the posting and indeed continued to facilitate the posting of comments related to the article.

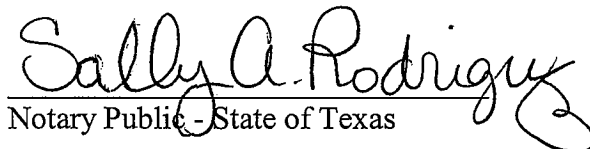
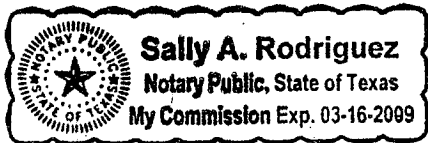
"I researched domain registration information on the worldwide web and identified the site as being administered through a company in Bryan Texas, GKG.NET, a website proxy service. On April 1, 2008, my attorney sent to GKG.NET a copy of the libel notice he had sent to austinpoliticalreport.com and on April 2, 2008, GKG.NET furnished to my attorney the identity of the underlying publisher of the website. His true identity was revealed by GKG.NET as: Kelly Fero, P. O. Box 9326, Austin, Texas 78766."

Further Affiant sayeth not.



Terry Keel

SWORN TO AND SUBSCRIBED BEFORE ME THIS 4th DAY OF APRIL, 2008.



Notary Public - State of Texas