

NINETEENTH JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

LOUISIANA DEMOCRATS, ET AL.

NO. 603,810

VERSUS

DIVISION "E"

THE LOUISIANA BOARD OF ETHICS, ET AL.

FILED: \_\_\_\_\_ DEPUTY CLERK

TO BE FILED UNDER SEAL <sup>1</sup>

MEMORANDUM IN SUPPORT OF MOTION TO STAY PROCEEDINGS WITH REQUEST FOR EXPEDITED CONSIDERATION

NOW INTO COURT, through undersigned counsel, come Plaintiffs, Cynthia Fayard, Galeforce, L.L.C., and Ski Forever, L.L.C., who respectfully move this Honorable Court to stay these proceedings pending the outcome of their application for supervisory appellate review of the Court's November 10, 2011 ruling. Upon information and belief, these Plaintiffs have produced all relevant, discoverable information in their possession, and are currently preparing, with the assistance of counsel responses to each line item in the subpoenas individually. Furthermore, other information which may be responsive to the administrative subpoenas is currently in the custody and control of the Plaintiffs' financial institutions, and thus, as a practical matter, because Cynthia Fayard is out of the country, cannot be obtained and produced within the delay ordered by this Court.

Louisiana law is clear that courts have broad discretion in deciding whether to grant a motion to stay. See Green v. Champion Ins. Co., 577 So. 2d 249, 262 (La. App. 1st Cir. 1991). In exercising this discretion, "four factors should be considered by the court in determining whether or not adequate grounds exist for the granting of a stay order: (1) Has the petitioner made a strong showing that he is likely to prevail on the merits?; (2) Has the petitioner shown that without such relief, he will sustain irreparable injury?; (3) Would the issuance of the stay order

<sup>1</sup> On October 26, 2011, Judge William Morvant signed an Order permitting the pleadings and exhibits filed by The Louisiana Board of Ethics in this matter to be filed under seal. Logically, that Order extends to the pleadings and exhibits filed by Plaintiffs in this matter.



EBR969728

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PARISH OF EAST BATON ROUGE

substantially harm other parties interested in the proceedings?; [and] (4) Where does the public interest lie?" *Matter of Rubicon Inc.*, 543 So. 2d 63, 64 (La. App. 1st Cir. 1989).

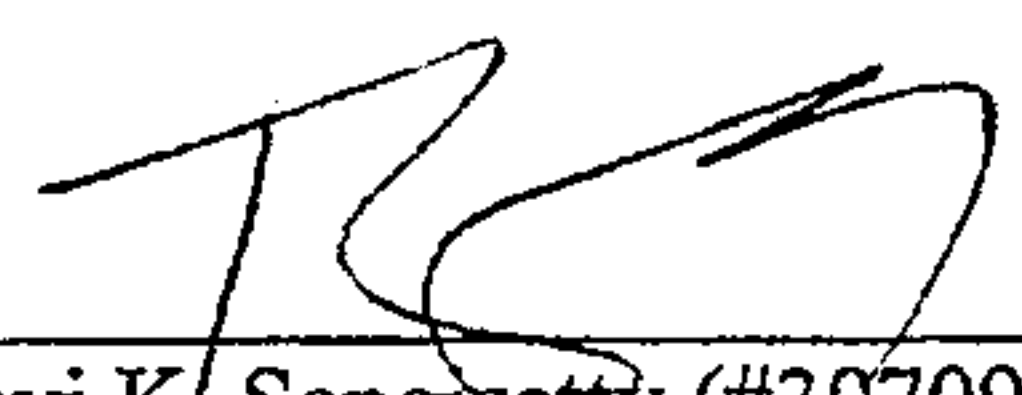
In this case, the Plaintiffs respectfully represent that all of those factors weigh heavily in favor of this Court granting their Motion to Stay, and, critically, Plaintiffs are producing, *via* sworn affidavits, all pertinent transactions in individualized, verified pleadings, as ordered by the Court. However, if forced to produce sensitive financial information in response to requests that may be found improper and/or beyond the scope of permissible discovery by an appellate court, the Plaintiffs will undoubtedly sustain irreparable harm and prejudice. Further, the Defendants can show no reason why their interests would be "*substantially* harm[ed]" by the requested relief. The Plaintiffs intend to ask the appellate court for expedited consideration, such that the stay would not unduly interrupt the Board's proceedings. Lastly, the public interest surely favors protecting against unnecessary intrusion into the private financial affairs of the Plaintiffs in the event the scope of the subpoena requests are subsequently found to be improper.

Finally, because of the Court's impending deadline to respond to the subpoenas, the Plaintiffs move for expedited consideration on their Motion to Stay. If Plaintiffs are forced to disclose the requested documents, and the subpoenas are later found to be improper by the court of appeal, the Plaintiffs' substantial privacy interests will have been invaded which, as a practical matter, cannot later be cured. Consequently, it is in the interest of all parties and this Court to determine, on an expedited basis, whether a stay should be granted, pending appellate review of the Court's November 10, 2011 rulings.

Plaintiffs pray that this Honorable Court grant their Motion to Stay Proceedings with Request for Expedited Consideration. As the attached internet article suggests, these proceedings are no longer confidential and Plaintiffs could thus suffer irreparable harm and prejudice if a Stay is not granted.

Respectfully submitted:

**SANGISETTY & SAMUELS, L.L.C.**



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Counsel for Plaintiffs, Cynthia Fayard,  
Galeforce, L.L.C., Ski Forever, L.L.C.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing has been served on all parties through their counsel of record by hand delivery, facsimile transmission, and/or by depositing same in the United States Mail, properly addressed and postage prepaid, this 16 day of November, 2011.



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RAVI K. SANGISETTY



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## The failed Caroline Fayard Lite Gov campaign could cost Calhoun greatly: A follow the campaign cash update

November 15, 2011

tags: [BP Oil Spill Consolidated Litigation](#), [Calvin "Calhoun" Fayard](#), [Campaign Finance](#), [Caroline Fayard](#), [Judge Richard T Haik Jr](#), [Judge Stanwood Duval](#), [Louisiana Ethics Board](#)  
by sop81\_1

Folks, last year during the special election campaign for Louisiana Lite Gov, Scott McKay at the hard line GOP resource The Hayride did some great blogging on the money behind Caroline Fayard's candidacy. Ms Fayard is the daughter of Calvin "Calhoun" Fayard, a class action lawyer that was affiliated with the old Castano group of lawyers led by the late Wendell Gauthier in the tobacco and aborted gun litigation. He was nicked named Calhoun in honor of the shyster lawyer on the old Amos 'n Andy show and certainly as crafty as he prospered after Gauthier passing. Politically connected he is currently on the Plaintiff's steering committee in the BP litigation, where he stands to make another fortune. For those of you keeping track of which mansion on St Chas is involved on the back-end in an ostentatious show of accumulated wealth the Fayard's are proud owners of the Wedding Cake House where luminaries such as Bill and Hillary Clinton have often stayed while in town. While he donated heavily to the McCain Campaign in 2008 Calhoun has been a huge donor to the democrats through time which explains the connection to the Clinton's as well as why Michelle Obama stayed elsewhere during her visit to the city a couple of weeks ago.

With that said I'll add that the state enforcement agency for campaign cash is the Louisiana Ethics Board, the same folks that have an open file on Aaron Broussard's shithouse dealings as Parish President. In Louisiana, secrecy involving proceedings at the ODC and Ethics Board are mandated by statute which is why that the story has not been further updated recently save for an article in early September by the Advocate which outlined a court proceeding in the 19th JDC initiated by Fayard against the Ethic Board where Team Fayard tried to halt the Ethic investigation. Joe Gyan's story described in detail the conduits which Calhoun used to funnel money to his daughter's campaign and broke some new ground in the process. The implications of the ruling do not show up

Follow

in that otherwise very good story folks as we might have witnessed the first cracks in Team Fayard's legendary political influence but there is another implication that is also very important.

Linked above is the best real-time internet reporting on this topic and I also had a helpful reader prepare a synopsis that is worth having here on Slabbed as we have obtained the Ethics Board target letters, which were originally filed under seal in the 19th JDC:

In November 2010 and March 2011, complaints were filed with the Louisiana Board of Ethics alleging violations of the Louisiana Campaign Finance Disclosure Act by the DEMOPAC and the Committee to Elect Caroline Fayard, LLC. Essentially, one of the complaints alleges donations were made to the DEMOPAC by family and friends of Caroline Fayard and allegedly earmarked to cover media buys made by the DEMOPAC on behalf of Caroline Fayard during her unsuccessful attempt to be elected Lieutenant Governor.

At its June 16, 2011 meeting, the Board voted to instruct its staff to conduct a confidential investigation into possible violations of the Campaign Finance Disclosure Act by several members of the Calvin C. Fayard, Jr. family, including his current and former wives, and his adult children. Also being investigated are several Fayard LLCs.

The Board then issued subpoenas and subpoenas duces tecum to the Fayard entities and the DEMOPAC. Counsel for the Board was professional enough to agree to extending the deadline for responding to the subpoenas.

On August 1, 2011, the DEMOPAC and the Fayard entities repaid the professional courtesy of the Board's attorney not by producing the subpoenaed documents, but by filing some sort of petition for declaratory judgment and temporary and permanent restraining orders in the 19th JDC in Baton Rouge. All the pleadings filed by the DEMOPAC and the Fayard entities were filed under seal so as to protect Caroline Fayard's chances at running for Secretary of State in this year's election.

The court held a hearing on August 31 where it promptly denied the preliminary injunction seeking to prevent the subpoenas from being enforced. Everything except the actual subpoenas was unsealed and opened to the public, including the votes of the Board and the target letters sent to those being investigated.

Up until this "sealed litigation strategy" failed, the whole matter was a confidential investigation and even the identities of those being investigated were unknown.

When the day finally came for the Fayard entities to produce the subpoenaed documents, they obviously did not respond completely. The Board filed a motion to compel the production of the documents with the court, but asked that these pleadings be sealed.

DEMOPAC and the Fayard entities filed their sealed responses.

Last Thursday, Judge Morvant granted the Board's motion and has ordered the production in 15 days of the documents and records subpoenaed from all the Fayard entities. The hearing in the court room, as well as the actual pleadings, were closed and sealed. The minutes of the court's decisions are posted in computer case file at the clerk's offices.

My gut tells me the documents and records being subpoenaed are the financial and income records for each of the individuals and LLCs. Many of the Fayard entities each donated no less than Follow



\$90,000 to the DEMOPAC last year and the Board likely wants to follow the money back to its source.

The Fayard entities obviously filed a motion for a protective order and exceptions in response to the motion to compel. The court denied the protective order and overruled the exceptions.

Appearing on behalf of the Fayard entities as a whole were Grey Sexton and Jennifer Jackson. Also appearing only on behalf of Calvin C. Fayard, Jr. was Paul Mogin from Williams & Connolly of Washington, DC. That's a lot of money for a discovery hearing. Unsuccessful congressional candidate Ravi Sangisetty from the Duval firm in Houma appeared on behalf of Cindy Fayard and a couple of the Fayard LLCs.

The DEMOPAC also filed some sort of sealed pleading in response to the Board's motion to compel. The court ruled the DEMOPAC had no standing in the motions and refused to allow Mary Olive Pierson to make any oral argument on its behalf. The minutes say she asked for a stay of the proceedings while she applied for a writ. Obviously recognizing the delay tactic for what it was, the court refused to stay the hearing, but gave her 10 days to apply for a writ.

Barring divine intervention, the Ethics Board has a court judgment ordering the production of the subpoenaed materials, and is within reach of the inner workings of the Fayard campaign money machine.

Calhoun must be working furiously to reach a Consent Opinion that allows him, his wives, and his children to keep practicing law. **The penalties or fines won't be an issue. He's way up the pay scale on the BP Litigation committee.**

The topic of funneling campaign contributions through straw men has appeared on these pages in reference to Team River Birch funding Bobby Jindal's first campaign for Gov. The documents clearly indicate Team Fayard has lots to be worried about here but I'd submit so do the little people impacted by the BP Oil Spill that have a shyster lawyer that disregards the law to suit his personal goals representing them. The stories about Fayard purchasing State court judge are littered in comments in these pages as have been certain Federal Judges in Haik and Duval. We see Judge Duval's old law firm involved in this ethic problem today in fact lawyering for Team Fayard. And lest we forget it was Judge Duval that presided over the attempted looting of the now rejected Levee Board settlement in the Canal Breaches litigation, another case where Calhoun is dipping his beak. Against that backdrop it is little wonder I am hearing things from courtroom observers in the Oil spill litigation that the Plaintiff's Committee is "inept" "incompetent" etc. My own opinion is they are doing what they've always done folks: Look out for Number 1.

I have 2 docs following, one the Ethics Board Target letters and the other is Fayard's nonsensical legal pleading trying to shut the Ethics Board Investigation down. For you partisan political freaks out there Fayard is the democratic version of our own Magnum as the stench associated with the back room double-dealing emanating from certain St Charles Avenue mansions grows stronger. ~ sop

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Disclosure of any information contained herein or in connection herewith is a criminal misdemeanor pursuant to LSA R.S. 42:1141E(11) (12)

**CERTIFICATE OF VOTE AND EXPLANATION**

Docket No. 2011-140

The Louisiana Board of Ethics, at its June 16, 2011 meeting, by a two-thirds vote of its membership, instructed the staff to conduct a confidential investigation into the following matter:

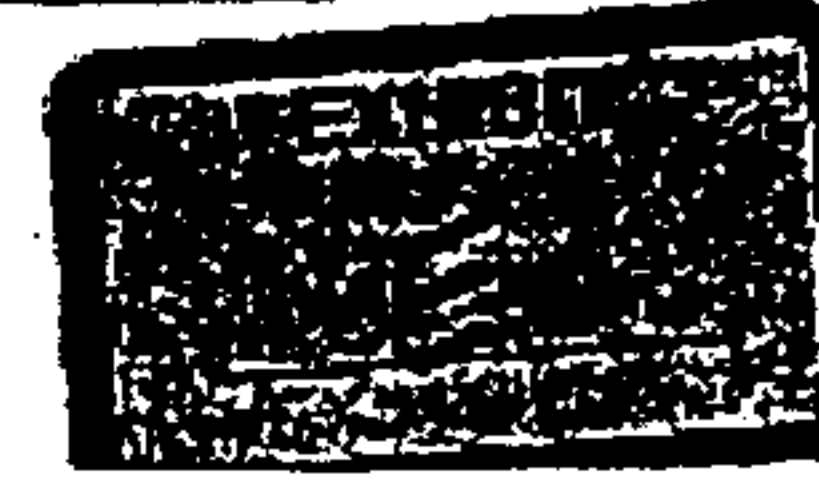
That Frank Dudenhefer may have violated Section 1505.2A of the Campaign Finance Disclosure Act [LSA-R.S. 18:1505.2A] by making a contribution through or in the name of another in connection with his contributions to the DEMOPAC which were used to support Caroline Fayard, a candidate for Lieutenant Governor in the October 2, 2010 election.

The Board members voted as follows:

| MEMBER                   | FOR                                 | AGAINST                  | ABSENT                   | ABSTAINED                |
|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Terry D. Beckhaus        | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Julia E. Blewer          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rev. Galt Bowrtian       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gary G. Hynsel           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Jean M. Ingrassia        | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dr. Louis W. Leggio      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dr. Cedric Lowrey        | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Blake M. Monroe          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Scott Schneider          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Frank Simoneaux          | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| David Grove Stafford Jr. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

This will certify that the above is a true and correct copy of the vote taken at the June 16, 2011 meeting of the Louisiana Board of Ethics.

*[Signature]*  
Secretary



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DOCKET NO. 603,810

SECTION

LOUISIANA DEMOCRATS  
/W/a DEMOPAC, ET AL

19TH JUDICIAL DISTRICT COURT

SEC. 23

VERSUS

PARISH OF EAST BATON ROUGE

THE LOUISIANA BOARD  
OF ETHICS, ET AL

STATE OF LOUISIANA

**TO BE FILED UNDER SEAL**

**PETITIONERS' MEMORANDUM IN SUPPORT OF  
RULE FOR PRELIMINARY INJUNCTION**

**MAY IT PLEASE THE COURT:**

This Memorandum is submitted in support of the companion Rule for Preliminary Injunction filed on behalf of Louisiana Democrats /W/a DEMOPAC; Galeforce, LLC; Imperial Properties, LLC; Ski Forever, LLC; Williston Oil & Gas Properties, LLC; Robert Maurin; Frank Dudenhefer, Jr.; Frances E. Grey; Blayne Honeycutt; Valerie Honeycutt; Fayard & Honeycutt; Cynthia Fayard; Chayrin Fayard; Calvin C. Fayard, III; Committee to Elect Caroline Fayard, LLC; Caroline Fayard; and Calvin C. Fayard, Jr. (collectively, Petitioners).

**I. Background Facts**

Caroline Fayard (Caroline) was a candidate for Lieutenant Governor in the October 2, 2010 primary election. She was unsuccessful in defeating her opponent in the November 2, 2010 general election. In November 2010 and March 2011, complaints were filed with The Louisiana Board of Ethics (Ethics Board) alleging violations of the Campaign Finance Disclosure Act (CFDA) by Louisiana Democrats /W/a DEMOPAC and the Committee to Elect Caroline Fayard, LLC. Those complaints resulted in the Members of the Ethics Board voting to conduct investigations of several persons and legal entities for alleged violations of the CFDA.

**II. Summary of Argument**

This proceeding presents important issues of public law that have been placed into controversy as a result of ambiguous legislative changes enacted by the Legislature in 2008 relative to the power and authority of the Ethics Board. Those changes transferred from the Ethics Board to the newly created Ethics Adjudicatory Board (EAB) the power and authority to adjudicate any provisions of law under the jurisdiction of the Ethics Board. Arguably, the 2008 legislative changes removed the Ethics Board's adjudicatory power over the Louisiana Code of

REC'D C.P.  
AUG 04 2011

EBR836600

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1.



[Sock Puppet](#) [permalink](#)  
November 15, 2011 9:56 am

Gray Sexton, the ethics king. Here's a smattering.

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2.



[Not At All Surprised](#) [permalink](#)  
November 15, 2011 10:46 am

Great story, Sop. You are a gifted blogger.

So many fertile issues to discuss, but so little time this morning that I'll have to make a few now and more later.

On the issue of the subpoenas and related investigation, the Ethics Board is represented by Aaron Brooks, who is a former assistant DA in the 19th JDC, and Kathleen Allen, the Administrator of the Ethics Board. The Board is also represented by the Baton Rouge firm of Taylor Porter in the declaratory judgment proceeding.

The Fayard and DEMOPAC declaratory judgment action allegedly presents constitutional challenges to the manner in which the Ethics Board is purporting to exercise jurisdiction over them. They served Louisiana AG Buddy Caldwell who I think is supposed to defend the State because the matter makes a constitutional challenge.

Maybe somebody needs to discuss the potential conflicts that might be caused by the maximum campaign contributions made to Caldwell by some of these same Fayard entities immediately after Foti lost the primary in the 2008 election. The issue and urgency then was those Katrina Litigation "contracts" discussed on Slabbed a while back. Those illegal contracts were originally given by Foti to Fayard and certain other plaintiff lawyers allowing them to represent

Follow

the interests of the state of Louisiana in civil litigation against the insurance companies and the Corps of Engineers.

Although Caldwell did the smart thing by dismissing all those private counsel and relacing them with State attorneys, the fact remains he did not do so until the court forced his hand.

According to news reports, somebody on the Fayard side of the "v" has already told the press that this ethics investigation is a political vendetta. Who? What? Why?

Although Caldwell has since switched from Democrat to Republican, I don't think he has an ax to grind against the Fayards or DEMOPAC?

It's not Bobby Jindal.

8 days after the court denied her preliminary injunction, Caroline announced she was not going to seek statewide elected office in 2011. 8 days after that, Calvin and his oldest daughter, Chalyn, were attending a Bobby Jindal speech.

In 2010, Trey Fayard was appointed by Bobby Jindal to the Louisiana Board of Private Investigator Examiners where he is currently listed as a Hearing Officer and Personnel Chairman. In 2009, being the staunch Louisiana Democrats they are, Calvin Fayard, the law firm of Fayard & Honeycutt, and Frances Fayard made substantial contributions to Republican Governor Bobby Jindal.

Maybe it's the Obamas! Cindy Fayard did make a \$28,500 contribution to McCain-Palin Victory, and a \$28,500 contribution to the Republican National Committee immediately after Hillary Clinton lost the nomination to Barack Obama.

I don't believe it's a political vendetta. Calvin has finally been caught red-handed at something he's been doing for many years. The names of the Fayard kids show up as campaign contributors to national and state candidates since they were barely teenagers. They gave big money, too.

It's simply justice and the system working. It's ironic that each of the Fayards involved in this scandalous affair, save one, are all attorneys.



3.

Sock Puppet [permalink](#)

November 15, 2011 11:03 am

This routine has been going on for many years. Pick a few of these firms and burrow down into political contributions and you will find associate lawyers contributing the maximum when they damn well could not afford it. I think there will even be instances of secretaries making significant campaign contributions.

NAAS, how does Dudenhefer play into this? Can't he and Cummings afford to make their own contributions?

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4.

Not At All Surprised [permalink](#)  
November 15, 2011 11:35 am

Sock:

I'm about to hit the road, but will be back this evening to answer your question about Dudenhefer, as well as provide details about a complaint made to, and rejected by, Letten about Fayard's federal contributions, including some made to Mary Landrieu.



5.

Not At All Surprised [permalink](#)  
November 15, 2011 9:59 pm

Sock:

Got back later than I thought, but, I want to at least answer your question tonight.

Although I don't know his personal financial situation, Dudenhefer certainly appears to be a man of means.

You already know he and Calvin are tight for many years – Bacchus brothers; working cases together; almost identical campaign contributions to virtually identical candidates for national office; and, even jumping ship on Obama with Frank also donating \$28,500 to the Republican National Committee in 2008.

It's my opinion Dudenhefer was targeted by the Ethics Board because of the timing of his donations – he and other Fayard entities made donations that, when added together, practically equaled the amount of money the DEMOPAC subsequently spent on media buys for Caroline Fayard.

Did Calvin provide or promise to reimburse any of the almost-\$55,000 donated by Dudenhefer and his law firm to the DEMOPAC? I don't know the answer to that question.

But, I can speculate on a few ways how that might be accomplished if 2 or more people had a mind to do it:

(1) They could simply swap checks before or after the election. I would bet that some people INSIST on being paid before they make the donation.

(2) If the players are attorneys, the contributions could be creatively billed as expenses or time in a legal matter, like the jury consultant fees in Scruggs, or slipped into billing on a class action settlement.

(3) A loan from a bank could be arranged for an attorney donor, and the loan paid back over time while billing the payments as a case expense on a case you "know" is going to pay.

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(4) An LLC could establish a line of credit with a bank by pledging assets, including cash, as collateral. The donor could then be privately appointed by the Manager of the LLC as an "agent of the LLC" who can borrow money in the name of the LLC. The loaned donation funds could ultimately be repaid out of the assets of the LLC, or some other transaction between the bank and the Manager of the LLC.

I'm sure there are better ways known by those who've managed the "straw donor" thing as part of their job for a few elections.


Judging from the partial description of the subpoenaed records given on page 10 of the pleading above, I'd say the Louisiana Board of Ethics certainly thinks your question is plausible and needs to be answered by several Fayard entities.

Tomorrow – Letten, the ODC, and the Honeycutts.

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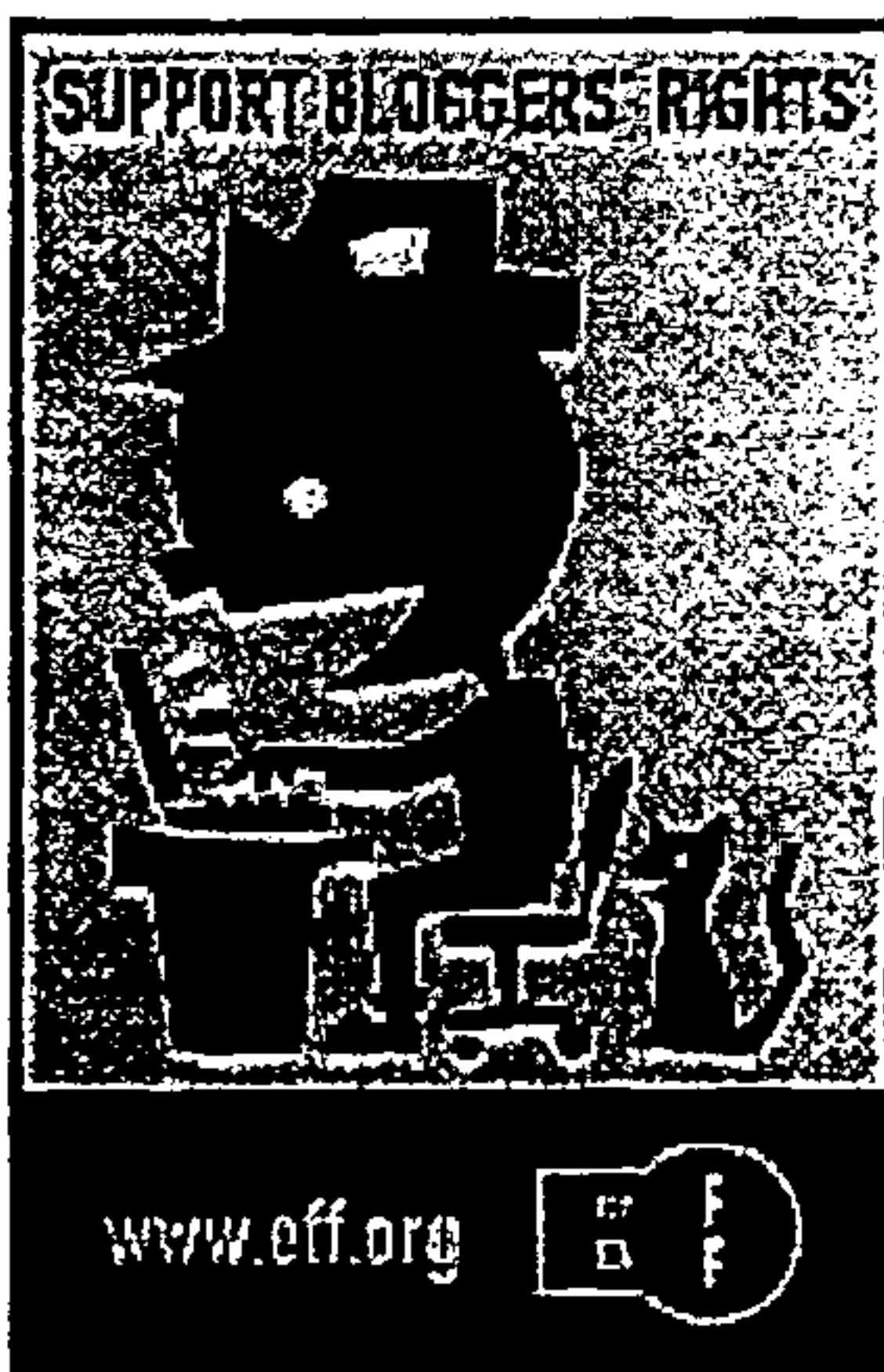


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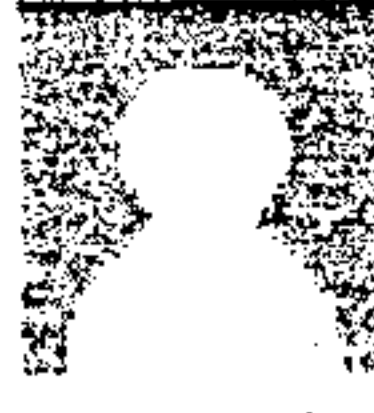

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