

IN THE SUPREME COURT OF THE CHEROKEE NATION

MICHAEL MOORE,
A Cherokee citizen

Petitioner,

v.

CHEROKEE NATION
ELECTION COMMISSION,

Respondent.

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Case No. SC 2019-08

FILED

MAY 24 2019

CHEROKEE NATION
SUPREME COURT

KB

1:35 pm

BRIEF IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS

Petitioner, Michael Moore (“Moore”) a Cherokee Nation citizens and submits this brief in support of his Petition for Writ of Mandamus ordering the Election Commission (“Commission”), to set his complaints filed with Commission for expedited hearing. The Cherokee Nation Constitution Article VIII Section 4¹ provides this Court jurisdiction and authority to issue a mandamus to the Commission.

Moore has filed his complaints with the Commission on May 14, 2019 and May 16, 2019 and the Commission has failed to respond or set the Complaints for hearing.

The Complaints set out that as of date, Chuck Hoskin for Principal Chief and Bryan Warner for Deputy Chief (“Hoskin-Warner”) have illegal and unlawfully accepted almost \$600,000 of campaign in-kind contributions by Cherokee Future LLC for their campaigns.

¹ Article XIII, Section 4.

In support of its original and appellate jurisdiction, the Supreme Court shall have power to issue, hear and determine writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition and such other remedial writs as may be provided by law and may exercise such other jurisdiction as may be conferred by statute. The appellate jurisdiction of the Supreme Court shall extend to all cases at law and in equity arising under the laws or Constitution of the Cherokee Nation.

ARGUMENT

A. Acceptance of illegal contributions.²

The Cherokee Nation's election laws prohibit candidates from accepting campaign contributions from any corporation or other legal entity. See 26 CNCA §43(A). A campaign contribution is defined as, a contribution in money or goods or services to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office or on behalf of ballot measure." 26 CNCA §41(A). Similarly, a campaign expenditure is defined as, "an expenditure of money or services incurred by any person in connection with a campaign for elective office or on behalf of a ballot measure." 26 CNCA §41(B). By definition, if a campaign contribution is given in the form of a good or a service, it is considered an in-kind contribution. See 26 CNCA §41(F). In any event, any and all campaign contributions, campaign expenditures, and in-kind contributions must be reported to the Cherokee Nation Election Commission. See 26 CNCA §47 et al.

A corporation or company is prohibited from making donations to a campaign. It cannot make monetary contributions and it cannot provide in-kind contributions to a campaign. Under 26 CNCA §44(G), candidates and their financial agents may not knowingly accept a campaign contribution from a legal entity, or even solicit campaign contributions from a legal entity. Pursuant to 26 CNCA §48(A), a candidate who violates any requirement or prohibition of Sections 43 and 44 of the election code is guilty of a crime and subject to disqualification by the Election Commission.

² This section is taken verbatim from the Brief of the Office of the Attorney General in In Re: Disqualification of David Walkingstick as Candidate for Principal Chief, SC 2091-07.

B. Hoskin-Warner have accepted almost \$600,000 of in-kind contributions from Cherokee Future LLC.

The financial disclosure reports of Hoskin-Warner show massive illegal in-kind contributions by Cherokee Future LLC (“Cherokee Future”). Initially, Hoskin-Warner financial disclosure reports showed that the campaign paid as miscellaneous campaign expenditures \$574,016.42 to Cherokee Future owned by Chuck Hoskin Sr., who is Chuck Hoskin Jr.’s father. Of that amount, \$375,000 is noted as “consultant fees.” In response to a citizen complaint about Hoskin-Warner’s financial reports not complying with the Election Code, the Attorney General sent Hoskin-Warner a letter to itemize their expenditures for the period ending March 31, 2019. These expenditures were made by Cherokee Future as a “contribution in money or goods or services to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for elective office.” *See* 26 CNCA §41 (B).

There is no question that the Hoskin-Warner’s revised financial reports show the Cherokee Future expenditures were made in connection with the Hoskin-Warner campaign. Of the \$254,390 of Hoskin-Warner revised financial disclosure reports, \$245,956 was reported as expenditures made by Cherokee Future for the Hoskin-Warner campaign. *See* Exhibit “A,” Hoskin and Warner revised financial reports. These reports were certified as true and correct; therefore there is no question that Hoskin-Warner campaign accepted the in-kind contributions listed as expenditures by Cherokee Future on their revised financial reports. Nine-four (94) percent of the Hoskin campaign and ninety-nine (99) percent of the Warner campaign was in-kind donations by Cherokee Future accepted by the Hoskin-Warner campaign. This in-kind contributions violated 26 CNCA §§ 43 (C) and 44 (G).

Both Hoskin-Warner campaign and Cherokee Future acknowledged in press statements that Hoskin-Warner campaign authorized Cherokee Future’s expenditures in connection with the

campaign. The Hoskin-Warner campaign also violated 26 CNCA § 44(G) prohibition that no candidate or financial agent shall knowingly make or authorize third party political expenditures.

CONCLUSION

Therefore the Court should order the Commission to set a hearing to disqualify Chuck Hoskin and Bryan Warner as candidates for office.

Respectfully submitted this 23rd day of May 2019.



Michael Moore
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<http://www.usbengoshi.com>
michael@usbengoshi.com

Certificate of Delivery

I, Michael Moore, do hereby certify that on the 22^{3rd} day of May, 2019, I emailed or hand-delivered a true and complete copy of the foregoing document to the persons listed below:



Michael Moore

Harvey L. Chaffin
215 W. Shawnee
Tahlequah, OK 74464
hlchaffin@greencountryabstract.com
Attorney for Election Commission



CHEROKEE NATION ELECTION COMMISSION

Ph: 918-458-5899 TF: 800.353.2895 F: 918.458.6101

FINANCIAL DISCLOSURE REPORT
CAMPAIGN SUMMARY

SUMMARY OF CAMPAIGN OPERATIONS

☐ Monthly☒ Revised☐ Final

"Each candidate shall deliver a complete monthly financial disclosure report to the Election Commission Office beginning with a report for the month that the candidate filed for office. The report shall comprise of the entire previous month, beginning on the first day of the month and ending on the last. The report shall be due by the 15th of the following month." Legislative Act 12-16 § 46B

Name of Candidate: Chuck Hoskin, Jr.	Month Reporting: March 1, 2019 to March 31, 2019 (Example: January 1, 2019 to January 31, 2019. Due by or before February 15th, 2019)	
Address: 3233 S Muskogee Ave Tahlequah, OK 74464	Phone: 918-871-4777	Email: info@hoskinwarner.com
Name of Financial Agent(s): Davis Manoushagian Jennifer Daniels	Email of Financial Agent(s): davis@hoskinwarner.com jennifer@hoskinwarner.com	

BEGINNING CAMPAIGN BALANCE:		Carry-Over from last month	\$	317,495.25
CAMPAIGN INCOME				
Contributions	Total1	\$	189,140.00	
Fundraising	Total2		n/a	
Miscellaneous	Total3		n/a	
TRANSFERS TO CAMPAIGN FUNDS				
Loans from Candidate	Total12		n/a	
Loans from Others	Total13		n/a	
TOTAL MONETARY CAMPAIGN REVENUE (if none, enter \$0):		\$	189,140.00	
CAMPAIGN EXPENDITURES				
Advertisements-TV/Radio/Newspaper/Social Media	Total4	\$	4,124.24	
Printing-Signs/Banners/Mailers/Shirts	Total5	\$	39,877.49	
Compensation-Staff	Total6	\$	59,746.67	
Office Expenses-Office Supplies/Rent/Utilities/Postage/Phone/Bank Fees	Total7	\$	7,323.64	
Travel	Total8	\$	3,662.27	
Food	Total9	\$	1,513.61	
Miscellaneous	Total10	\$	28,524.06	
TOTAL:		\$	144,771.98	
TRANSFERS FROM CAMPAIGN FUNDS				
Repayment of Loans	Total14			
TOTAL CAMPAIGN EXPENDITURES (if none, enter \$0):		\$	144,771.98	

*(Carry this amount to next month. Does not include In-Kind)

CARRY-OVER CAMPAIGN BALANCE: \$361,863.27

In-Kind Contributions11 (if none, enter \$0): \$7,176.68

**(Not included in Total Monetary Campaign Revenue or Carry-Over Campaign Balance)

***Includes In-Kind

TOTAL CAMPAIGN REVENUE: \$196,316.68

Email: election-commission@cherokee.org

PO Box 1188, Tahlequah, OK 74465-1188

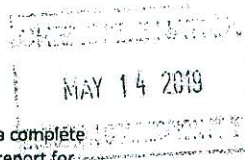
Website: www.cherokee.org/elections.aspx

**CHEROKEE NATION ELECTION COMMISSION**

Ph: 918-458-5899 TF: 800.353.2895 F: 918.458.6101

FINANCIAL DISCLOSURE REPORT
Signature AuthorizationI certify this March ^{revised} ~~(month)~~ financial disclosure report is valid and correct
(Month)

to the best of my knowledge and belief with a total of _____ pages.

**§ 46. Financial Disclosure Report**

B. Time of Filing Monthly Report; Late Filing, Failure to File. Each Candidate shall deliver a complete monthly Financial Disclosure Report to the Election Commission Office beginning with a report for the month that the Candidate filed for office. The report shall comprise of the entire previous month, beginning on the first day of the month and ending on the last. The report shall be due on the 15th day of the following month. In the event that the Election Commission has not received a monthly report by the 15th day of the month in which it was due, the Election Commission shall impose a fine in the amount of \$100 on the Candidate and shall send a notice of the failure to meet the deadline and notice of the fine to the Candidate by certified mail return receipt requested. Unless the Candidate can show extenuating circumstances for his or her failure to file a report or the filing of an incomplete report by the 15th day of the month following the month in which it was due; failure to meet the deadline for any two monthly reports; or failure to pay a fine by the date of election, the Candidate shall be disqualified from the election by the Election Commission after notice and hearing. Said disqualification may be appealed to the Cherokee Nation Supreme Court. The Election Commission shall expedite all such proceedings.

§ 47. Financial Disclosure Report - Contents

E. Certification: Criminal Sanctions for Misrepresentation. Each Financial Disclosure Report shall be certified by the Candidate or his or her Financial Agents. A Candidate or a Candidate's Financial Agent who certifies a report and therein knowingly fails to fully disclose the information required in this Section as to any gift, promise, treat, reward, favor, or anything of value given or expended, is guilty of a crime. If a person is convicted of a criminal violation under this subsection, then he or she shall not hold the office and shall be barred for a period of five (5) years from holding any elective office of the Cherokee Nation. Where any person who has received the highest number of votes for any office is disqualified from holding said office, a Special Election shall be held to elect another person to hold such office. If the Candidate has been elected and sworn into office, such conviction may be grounds for removal under Article XI of the Cherokee Constitution.

Print Candidate/Agent Name: Davis Manoushagian Date: 5/14/19Signature of Candidate/Agent Name: [Signature] Date: 5/14/19**Notes:**

Hoskin Expenditures

Date	Amount	Purpose	Name	Address	City	State	Zip	Category
3/1/19	\$200.00	Advertising	Regina Pickard	123 Songbird Dr	Tahlequah	OK	74464-6232	Advertising
3/18/19	\$49.99	Advertising	Facebook	1 Hacker Way	Menlo Park	CA	94025-1456	Advertising
3/11/19	\$100.00	Benefit Sponsorship	Mark Pritchett	PO Box 676	Stilwell	OK	74960-0676	Advertising
3/1/19	\$150.00	Strawberry Fest Sponsorship	Stilwell Kiwanis Club	PO Box 1312	Stilwell	OK	74960-1312	Advertising
3/27/19	\$306.00	Radio Advertising	Lakes Country 102.1	5686 S Muskogee Ave	Tahlequah	OK	74464-5487	Advertising
3/27/19	\$120.00	Event Sponsorship	Indian Women's Pocahontas Club	PO Box 3252	Claremore	OK	74018-3252	Advertising
3/15/19	\$250.00	Sponsorship	John Colburn Memorial Rodeo	17508 W Abby Ln	Tahlequah	OK	74464-8203	Advertising
3/25/19	\$842.56	Website, graphic design, social media advertising, telecommunications	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Advertising
3/15/19	\$2,105.69	Website, graphic design, social media advertising, telecommunications	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Advertising
	\$4,124.24	Subtotal						
3/25/19	\$8,149.73	Polling/Research	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Misc
3/15/19	\$20,374.33	Polling/Research	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Misc
	\$28,524.06	Subtotal						
3/4/19	\$1,341.24	Credit Card Processing Fees	Direct Connect	3901 Centerview Dr	Ste W Chantilly	VA	20151-3229	Office Expenses
3/11/19	\$2.00	Bank Processing Fee	Bank of Cherokee County	PO Box 660	Park Hill	OK	74451-0660	Office Expenses
3/1/19	\$300.00	Rent	Anita Lankford	1612 S Keeler Ave	Bartlesville	OK	74003-5724	Office Expenses
3/1/19	\$310.00	Rent	Strategy Center	6105 Nowata Rd	Bartlesville	OK	74006-6010	Office Expenses
3/25/19	\$1,534.40	Phones, rent, bank processing fees, copier rent, insurance, office supplies, office upkeep	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Office Expenses
3/15/19	\$3,836.00	Phones, rent, bank processing fees, copier rent, insurance, office supplies, office upkeep	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Office Expenses
	\$7,323.64	Subtotal						
3/21/19	\$1,642.74	T-Shirts	Dreamcatcher Sports	16 W. South Street	Tahlequah	OK	74464	Printing
3/25/19	\$10,924.21	Mailers, literature, signs	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Printing
3/15/19	\$27,310.53	Mailers, literature, signs	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Printing
	\$39,877.49	Subtotal						
3/25/19	\$17,070.48	Payroll for field organizers, regional organizers, consultants, manager, staff	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Compensation
3/15/19	\$42,676.19	Payroll for field organizers, regional organizers, consultants, manager, staff	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Compensation
	\$59,746.67	Subtotal						

MAY 14 2019

3/25/19	\$1,046.36	Staff mileage reimbursement, vehicle rental, hotels	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Travel
3/15/19	\$2,615.91	Staff mileage reimbursement, vehicle rental, hotels	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Travel
	\$3,662.27	Subtotal						
3/25/19	\$432.66	Food for events	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Travel
3/15/19	\$1,080.95	Food for events	Cherokee Future, LLC	339 N Adair St	Vinita	OK	74301-2803	Travel
	\$1,513.61	Subtotal						
	\$144,771.98							





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FINANCIAL DISCLOSURE REPORT CAMPAIGN SUMMARY

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☐ Monthly

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Name of Candidate: Bryan Warner		Month Reporting: March 1, 2019 to March 31, 2019 (Example: January 1, 2019 to January 31, 2019. Due by or before February 15th, 2019)	
Address: 3233 S Muskogee Ave Tahlequah, OK 74464		Phone: 918-871-4777	Email: info@hoskinwarner.com
Name of Financial Agent(s): Davis Mausshagen Jennifer Daniels		Email of Financial Agent(s): davis@hoskinwarner.com jennifer@hoskinwarner.com	

BEGINNING CAMPAIGN BALANCE:		Carry-Over from last month	\$ 107,155.36
CAMPAIGN INCOME			
Contributions	Total1	\$	105,995.00
Fundraising	Total2		n/a
Miscellaneous	Total3		n/a
TRANSFERS TO CAMPAIGN FUNDS			
Loans from Candidate	Total12		n/a
Loans from Others	Total13		n/a
TOTAL MONETARY CAMPAIGN REVENUE (if none, enter \$0):		\$	105,995.00
CAMPAIGN EXPENDITURES			
Advertisements-TV/Radio/Newspaper/Social Media	Total4	\$	2,263.61
Printing-Signs/Banners/Mailers/Shirts	Total5	\$	29,358.82
Compensation-Staff	Total6	\$	45,876.90
Office Expenses-Office Supplies/Rent/Utilities/Postage/Phone/Bank Fees	Total7	\$	6,018.22
Travel	Total8	\$	2,812.10
Food	Total9	\$	1,162.02
Miscellaneous	Total10	\$	21,902.84
	TOTAL:	\$	109,394.51
TRANSFERS FROM CAMPAIGN FUNDS			
Repayment of Loans	Total14		
TOTAL CAMPAIGN EXPENDITURES (if none, enter \$0):		\$	109,394.52

*(Carry this amount to next month. Does not include In-Kind)

CARRY-OVER CAMPAIGN BALANCE: \$103,755.84

In-Kind Contributions11 (if none, enter \$0): \$ 4,846.69

** (Not included in Total Monetary Campaign Revenue or Carry-Over Campaign Balance)

TOTAL CAMPAIGN REVENUE: \$110,841.69

*** (Includes In-Kind)



CHEROKEE NATION ELECTION COMMISSION

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FINANCIAL DISCLOSURE REPORT

Signature Authorization

I certify this March (revised) financial disclosure report is valid and correct
(Month)

to the best of my knowledge and belief with a total of _____ pages.

§ 46. Financial Disclosure Report

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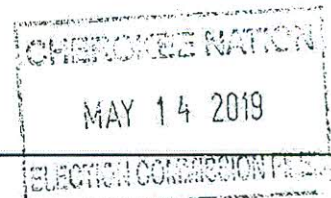
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Print Candidate/Agent Name: Davis Manoushagian Date: 5-13-17

Signature of Candidate/Agent Name: _____ Date: _____

Notes:



Warner Expenditures

Date	Amount	Purpose	Name	Address	#	City	State	Zip	Category
3/7/19	\$400.00	Rent	Larry Crowe Investments	779 HC 68	# 779	Vian	OK	74962-9128	Office Expenses
3/21/19	\$59.30	Office Internet	Diamondnet	115 E Chotaw Ave		Sallisaw	OK	74955-4629	Office Expenses
3/4/19	\$860.22	Credit Card Processing Fees	Direct Connect	3901 Centerview Dr	Ste W	Chantilly	VA	20151-3229	Office Expenses
3/5/19	\$575.00	Rent	TGRP	458005 East 1020 Road		Vian	OK	74962	Office Expenses
		Phones, rent, bank processing fees, copier rent, insurance, office supplies, office upkeep	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Office Expenses
3/12/19	\$287.70								
		Phones, rent, bank processing fees, copier rent, insurance, office supplies, office upkeep	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Office Expenses
3/26/19	\$2,301.60								
		Phones, rent, bank processing fees, copier rent, insurance, office supplies, office upkeep	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Office Expenses
3/18/19	\$1,534.40								
		Phones, rent, bank processing fees, copier rent, insurance, office supplies, office upkeep	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Office Expenses
	\$6,018.22	Subtotal							
		Website, graphic design, social media advertising, telecommunications	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Advertisements
3/12/19	\$157.93								
		Website, graphic design, social media advertising, telecommunications	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Advertisements
3/26/19	\$1,263.41								
		Website, graphic design, social media advertising, telecommunications	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Advertisements
3/18/19	\$842.28								
		Website, graphic design, social media advertising, telecommunications	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Advertisements
	\$2,263.61	Subtotal							
		Payroll for field organizers, regional organizers, consultants, manager, staff	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Compensation
3/12/19	\$3,200.71								
		Payroll for field organizers, regional organizers, consultants, manager, staff	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Compensation
3/26/19	\$25,605.71								
		Payroll for field organizers, regional organizers, consultants, manager, staff	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Compensation
3/18/19	\$17,070.48								
		Payroll for field organizers, regional organizers, consultants, manager, staff	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Compensation
	\$45,876.90	Subtotal							
3/12/19	\$81.07	Food for events	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Food
3/26/19	\$648.57	Food for events	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Food
3/18/19	\$432.38	Food for events	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Food
	\$1,162.02	Subtotal							
3/12/19	\$1,528.51	Polling/Research	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Misc
3/26/19	\$12,224.60	Polling/Research	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Misc
3/18/19	\$8,149.73	Polling/Research	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Misc
	\$21,902.84	Subtotal							
3/12/19	\$2,048.29	Mallers, literature, signs	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Printing
3/26/19	\$16,386.32	Mallers, literature, signs	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Printing
3/18/19	\$10,924.21	Mallers, literature, signs	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Printing
	\$29,358.82	Subtotal							
		Staff mileage reimbursement, vehicle rental, hotels	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Travel
3/12/19	\$196.19								
		Staff mileage reimbursement, vehicle rental, hotels	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Travel
3/26/19	\$1,569.55								
		Staff mileage reimbursement, vehicle rental, hotels	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Travel
3/18/19	\$1,046.36								
		Staff mileage reimbursement, vehicle rental, hotels	Cherokee Future, LLC	339 N Adair St		Vinita	OK	74301-2803	Travel
	\$2,812.10	Subtotal							

