

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 31, 2006

The Honorable Haley Barbour
Governor, State of Mississippi
15th Floor, Woolfolk Building
501 North West Street
Jackson, Mississippi 39201

Via Hand Delivery

Dear Governor Barbour:

Our office was recently contacted by a private citizen questioning your use of a blind trust while serving as Governor. We were also made aware of an editorial appearing in the Greenwood Commonwealth, dated July 23, 2006, questioning your use of a blind trust and the lack of disclosures relating thereto.

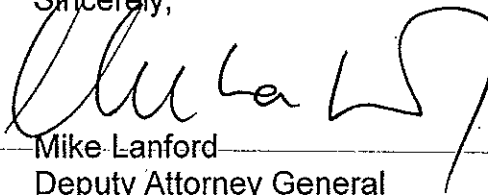
As you are aware, Mississippi law prohibits public officials from using their offices to obtain pecuniary benefit for themselves and their relatives and prohibits such officials from having interests, directly or indirectly, in certain public contracts. Mississippi law makes no provision for the use of a blind trust to engage in activities or to have interests in contracts which are otherwise prohibited by law.

It is our opinion that a public official is not exempt from these constitutional and statutory prohibitions by having placed assets in a blind trust. Similarly, it is our opinion that the reporting requirements contained in Section 25-4-1 et seq., of the Mississippi Code of 1972, Annotated, are not satisfied by merely disclosing the existence of a blind trust. Any interest in a business or corporation required to be disclosed by these sections must be properly reported, whether held directly or through a blind trust. Consequently, we strongly recommend that you supplement any Statements of Economic Interest, which have previously been filed with the Mississippi Ethics Commission and which disclosed the existence of the blind trust, to disclose all assets contained in the trust which Section 25-4-27 requires to be disclosed.

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Please contact me if you have questions or wish to discuss this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Lanford". The signature is fluid and cursive, with a large loop at the end of the last name.

Mike Lanford
Deputy Attorney General

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

November 21, 2006

Governor Haley Barbour
Post Office Box 139
Jackson, Mississippi 39205

Re: Compliance with State Conflict of Interest Laws

Dear Governor Barbour:

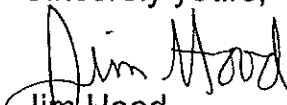
I have enclosed a copy of a letter sent to you by our office on August 31, 2006, and an Ethics Commission manual defining a "business" to include a "trust". In order for us to quietly avoid future civil or criminal litigation, I respectfully urge you to fully comply with the Ethics laws by filing amended statements of economic interest, or by having your trustee do so on your behalf.

The instructions in said manual require you to report ownership of any subsidiaries of any business you own. "Business" is defined to include a "trust." A "subsidiary business or corporation" is defined to include "any business, partnership or corporation that is owned in part, or in the whole, by another business." See page 5, F and examples.

As we advised you over two months ago, our career assistant attorney general in charge of ethics and the entire opinions committee are unanimous that your recent filings are insufficient to comply with the law. I would much rather us spend our time conducting the duties of our offices that the People elected us to do, rather than in litigation. I respectfully request a written response within ten days of today's date.

If you need additional information, please call me.

Sincerely yours,


Jim Hood
Attorney General

BRUNINI

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Jackson, Mississippi 39201
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Jackson, Mississippi 39205

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December 8, 2006

HAND DELIVER

James M. Hood, III
Office of the Attorney General
P. O. Box 220
Jackson, Mississippi

Dear General Hood:

Governor Barbour has asked that I provide a response to your recent communications with him and members of his staff. You will recall that Mike Langford wrote Governor Barbour on your behalf on August 31st of this year. Therein, simply stated, your office took the position that the disclosure requirements of Section 25-4-1, et seq. "were not satisfied by merely disclosing the existence of a blind trust" and that all economic interests held by the trust must be disclosed.

You personally wrote the Governor a follow-up letter on November 21st adding somewhat to your comments and raising the threat of litigation. You requested a response within ten days of that letter, but agreed to extend that deadline until Friday, December 8th to allow us time to meet with the Governor. The Governor leads a very busy life and has a tremendously hectic schedule. He dedicates enormous energy and time to the benefit of the State, and opportunities to attend to personal matters are hard to come by.

With all due respect to you and the members of your team who have examined this issue, we remain in fundamental disagreement. I was the principal author of the blind trust instrument, with assistance from Jimmy O'Mara, at Phelps, who was asked by the Trustee to review its form. During the course of its creation, a wholly voluntary act by the Governor, we reviewed various opinions of the Ethics Commission, federal blind trust forms and related literature. As a result of that process, we drafted the Trust Agreement in a way that we believe satisfied all of the elements necessary to conform to our ethics statutes. And, as you will recall, there was universal approval by the public and media of this approach. A copy of the *Clarion Ledger* editorial is attached.

Because we believe the Trust Agreement was prepared properly, we are strongly of the opinion that it is not only effective for the purpose for which it was intended, but that its use is consistent with sound public policy and in the public interest. Blind trusts are clearly recognized as an excellent way to encourage successful people to enter public service and to promote the public's confidence in the system. Its use certainly does no violence to our State's ethics laws. To accede to your request that we disclose the Trust assets renders the blind trust premise completely meaningless and is essentially an agreement to revoke the Trust, which we are unwilling to do based solely on your opinion.

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Despite our disagreement with your position, and without regard to any threat of litigation, the Governor believes an appropriate course of action would be to submit the matter to the Ethics Commission for its review. If the Commission decides that the laws of the State of Mississippi require that the assets held by the Trust be disclosed on its Statement of Economic Interest form, the Governor, of course, will abide by that decision.

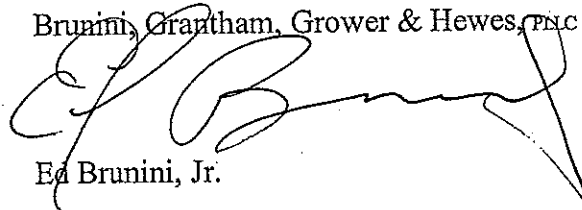
By copy of this letter to its Chairman, Ben Stone, and to its Executive Director, Tom Hood, your brother, I advise of our intention in this regard. As I understand the process, a written request for an opinion must be filed with the Commission accompanied by appropriate detail, which would include copies of your letters and the Trust instrument, as well as any other material helpful to this review. We are committed to submission of the written request this month.

As you are probably aware, requests can come from anyone required to file a disclosure form. I also assume you would have the prerogative as attorney General to generate an opinion request. In that regard, we invite you to join with Governor Barbour in making this request. If you accept the invitation, I will take the burden of preparing a draft and will forward it to you for your comments, to the end that the request would be signed jointly by you and the Governor.

Thank you for your willingness to grant us the extra time to provide this response. We await your reply to the Governor's invitation.

Sincerely,

Brunini, Grantham, Grower & Hewes, P.L.C.



Ed Brunini, Jr.

ELB/cu

Enclosure

cc: Governor Haley Barbour

Ben Stone

Tom Hood

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

December 27, 2006

Honorable Haley Barbour
Governor of Mississippi
15th Floor Woolfolk Building
Jackson, MS 39201
VIA HAND DELIVERY

Dear Governor:

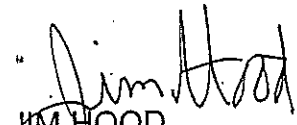
This letter is in response to Mr. Brunini's letter of December 8, 2006, which I understand was written at your request. I remain of the opinion that the law requires full disclosure of financial interests held by public officials, including the Governor, and that the mere reporting of the existence of a "blind trust" does not satisfy those requirements. I believe that an opinion from the Mississippi Ethics Commission ("Commission") on this issue is unnecessary, since the Commission's instructions for reporting financial interests require the reporting of subsidiary business interests and this position has been consistent for years. Nevertheless, while I will not participate with you in submitting an opinion request to the Commission, I will not object to same as long as the request fairly presents the facts necessary for a response and it meets the following conditions.

First, as agreed in your letter, the request should be made this month. This matter needs to be addressed immediately so that the Legislature will have the opportunity to consider it during the 2007 Regular Session, if it determines that there is a need to do so. I am not ruling out judicial action, if necessary. Second, this issue involves a matter of great public interest and the public should be aware of your position and the position of the Commission, once it issues an opinion. Therefore, I am requesting that you waive confidentiality relating to your request and the Commission's response. Third, as a matter of maintaining the public's confidence in any opinion issued by the Commission, you should request your appointees to the Commission to recuse themselves from any consideration of your opinion request. I think you will agree that you place the Commission in an impossible position of attempting to maintain the appearance of impartiality, if your appointees participate in the consideration of an issue so closely related to your interests. Their participation would certainly cause the public to question the correctness and validity of any opinion issued.

Honorable Haley Barbour
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I hope that you understand that the resolution of this issue will not only affect the reporting of your financial interests. It may very well affect the reporting, or lack thereof, of all public officials in Mississippi for many years to come. To that end, I sincerely hope that you reconsider your position and lead by example by supplementing your reports without being directed to do so.

Sincerely yours,


JIM HOOD
ATTORNEY GENERAL

JMH/dmj

cc: Ed Brunini, Jr.
Members of the Mississippi
Ethics Commission