

IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT

BRETT LORENZO FAVRE

PLAINTIFF

VS.

CIVIL ACTION NO. 23-cv-00095-DHG

SHADRACK TUCKER WHITE

DEFENDANT

THE STATE AUDITOR’S ITEMIZATION OF UNDISPUTED FACTS

The State Auditor Shad White (“State Auditor,” “White” or “Movant”), in his official capacity, pursuant Uniform Civil Rules of Circuit and County Court 4.02(2) submits this itemization of the facts relied upon and not genuinely disputed for the sole purpose¹ of the Motion for Partial Summary Judgment.

ITEMIZATION OF UNDISPUTED FACTS

The Undisputed Facts establish the following:

1. The complaint contained the following paragraphs:

19. On September 15, 2022, during an interview with CNN’s Kate Bolduan, White falsely accused Favre of serious crimes, stating:

- “[W]e know that Mr. Favre not only knew that he was receiving money from this non-profit which was funded by taxpayer dollars. We know that the funding for that was a sham, and we know that he knows that too.”

21. Two weeks later, on September 29, 2022, White, in an interview on the ESPN Daily Podcast listened to by approximately seventy thousand people on Apple Podcasts, repeated these false claims, stating that:

- “[Favre] knew that the money was flowing through a nonprofit which was designed to serve poor folks, designed to serve a public interest.”

¹ See note 2 below.

22. White, during an interview published online by the Christian news outlet, *WORLD*, accused Favre of:

- “[S]teal[ing] taxpayer funds and commit[ting] white-collar fraud.”

2. Brett Favre wrote the following text messages on or about the dates indicated:

2017-07-31 06:18:37

I can have my my cpa talk with you and get a better understanding of this and go from there. Maybe the university will figure out some things as well. As long as we can use the money any way we choose somehow. Will the public perception be that I became a spokesperson for various state funded shelters,schools,homes etc..... and was compensated with state money? Or can we keep this confidential

2020-05-13 16:48:43

Is the money I was paid 100% legal for the radio commercials?

3. The plaintiff provided the following responses to Requests For Admissions:

REQUEST NO. 44: Please admit that on July 31, 2017, Brett Favre sent a text message to Nancy New that asked “would this also solve the brick and mortar issue?”

RESPONSE TO REQUEST NO. 44: Favre objects to the Request because the quote contained in the Request is only a partial quote. Subject to this objection, Favre admits to exchanging text messages with a phone number he associates with Nancy New on or about July 31, 2017 concerning

the subject matter of the partial quote in the Request. Favre cannot truthfully admit or deny whether Nancy New received the text at issue.

REQUEST NO. 47: Please admit that on July 31, 2017, Brett Favre sent a text message to Nancy New that stated in part “Will the public perception be that I became a spokesperson for various state funded shelters, schools, homes etc.”

RESPONSE TO REQUEST NO. 47: Favre objects to the Request, as the quote contained in the Request is only a partial quote. Subject to this objection, Favre admits to exchanging text messages with a phone number he associates with Nancy New on or about July 31, 2017 concerning the subject matter of the partial quote in the Request. Favre cannot truthfully admit or deny whether Nancy New received the text at issue.

REQUEST NO. 53: Please admit that on July 31, 2017, Brett Favre sent a text message to Nancy New that expressed his concern that he would be perceived as being compensated “with state money.”

RESPONSE TO REQUEST NO. 53: Favre objects to the Request because the quote contained in the Request is only a partial quote. Subject to this objection, Favre admits to exchanging text messages with a phone number he associates with Nancy New on or about July 31, 2017 concerning the subject matter of the partial quote in the Request. Favre cannot truthfully admit or deny whether Nancy New received the text at issue.

REQUEST NO. 74: Please admit that the interview published online by the Christian news outlet, WORLD, as referenced in the complaint does not contain a sentence in which both the name of Brett Favre and “stealing taxpayer funds” appear.

RESPONSE TO REQUEST NO. 74: Admitted.

REQUEST NO. 75: Please admit that the interview published online by the Christian news outlet, WORLD, as referenced in the complaint does not contain a sentence in which both the name of Brett Favre and the phrase “commit[ting] white-collar fraud” appear.

RESPONSE TO REQUEST NO. 75: Admitted.

REQUEST NO. 76: Please admit that the interview published online by the Christian news outlet, WORLD, as referenced in the complaint does not contain a sentence in which both the phrase “Hall of Fame quarterback” and the phrase “stealing taxpayer funds” appear.

RESPONSE TO REQUEST NO. 76: Admitted.

REQUEST NO. 77: Please admit that the interview published online by the Christian news outlet, WORLD, as referenced in the complaint does not contain a sentence in which both the phrase “Hall of Fame quarterback” and the phrase “commit[ting] white-collar fraud” appear.

RESPONSE TO REQUEST NO. 77: Admitted.

REQUEST NO. 79: Please admit that the interview published online by the Christian news outlet, WORLD, as referenced in the complaint contains the following three (3) sentences in sequence: “People don’t make it to a position where they can steal taxpayer funds and commit white-collar fraud by being a nobody. So you have to be prepared to go after anybody, regardless of who they are. So he has—full throttle. Since taking office four years ago, White has thrown into the spotlight sticky-fingered school superintendents, sheriffs, election commissioners, mayors, police chiefs, college deans, and county supervisors.”

RESPONSE TO REQUEST NO. 79: Favre objects to the Request because the quotes contained in the Request are only partial quotes. Subject to this objection, Favre admits that the interview published online by the Christian news outlet, WORLD, as referenced in the complaint contains the partial quotes set forth in this Request.

REQUEST NO. 80: Please admit that Brett Favre has never held any of the following positions: a school superintendent, a sheriff, an election commissioner, a mayor, a police chief, a college dean, or a county supervisor.

RESPONSE TO REQUEST NO. 80: Favre objects to this Request because it does not seek information relevant to any claim or defense in this action and is not reasonably calculated to lead to the discovery of admissible evidence, is overly broad, and harassing. Favre further objects to this Request to the extent it calls for a legal conclusion. Favre further objects to this Request because it is vague and ambiguous and lacks sufficient specificity. Subject to the foregoing objections, admitted.

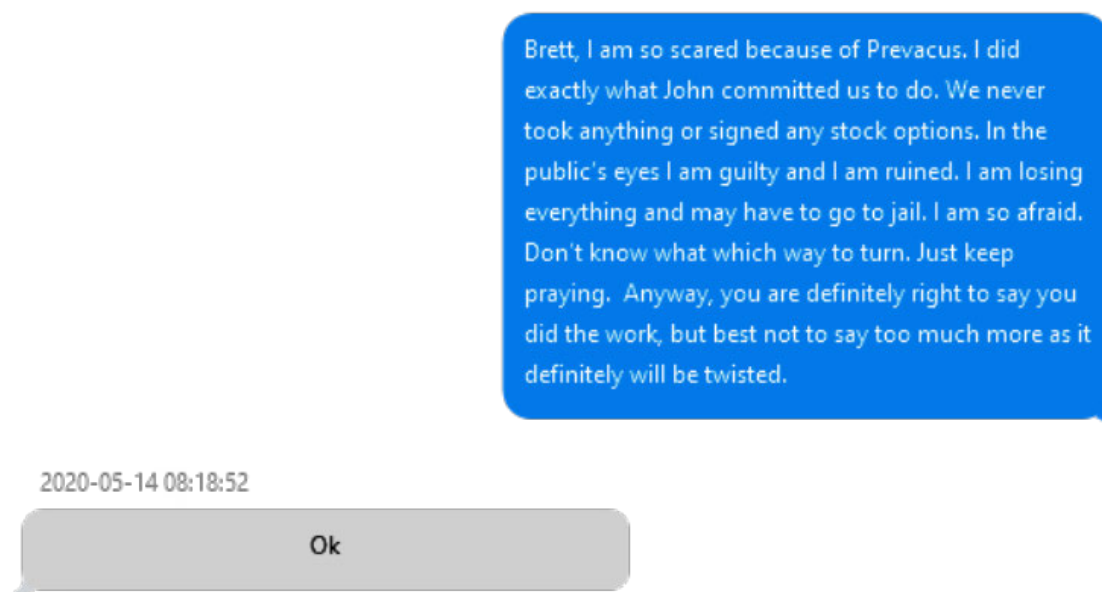
REQUEST NO. 81: Admit that the use of the word “people” in speech or writing is not always a reference to Brett Favre.

RESPONSE TO REQUEST NO. 81: Favre objects to this Request because it does not seek information relevant to any claim or defense in this action and is not reasonably calculated to lead to the discovery of admissible evidence, is overly broad, and harassing. Favre further objects to this Request to the extent it calls for a legal conclusion. Favre further objects to this Request because it is vague and ambiguous and lacks sufficient specificity. Subject to the foregoing objections, admitted.

REQUEST NO. 82: Please admit that between July 2017 and the present date that Brett Favre has not held an elected or appointed government position.

RESPONSE TO REQUEST NO. 82: Favre objects to this Request because it does not seek information relevant to any claim or defense in this action and is not reasonably calculated to lead to the discovery of admissible evidence, is overly broad, and harassing. Favre further objects to this Request to the extent it calls for a legal conclusion. Favre further objects to this Request because it is vague and ambiguous and lacks sufficient specificity. Subject to the foregoing objections, admitted.

4. On or about May 14, 2020, Brett Favre read the text message below and wrote the response “ok.”



5. On April 30, 2020, the Auditor's Office released a public report which concerned, in part, Favre, a non-profit named Mississippi Community Education Center (“MCEC”), the federal Temporary Assistance for Needy Families (“TANF”) program and

a \$1.1 million transaction. (MEC #78 p. 3 — Favre Statement of “Facts”)

4. Favre has stated that “After I found out the money I was paid for fundraising radio spots came from federal welfare funds, I returned all of it.”

5. Favre agreed to repay those funds: through Favre Enterprises, Favre submitted a payment of \$500,000 within days of the report (on May 7, 2020).

6. A letter dated October 12, 2021, signed by the State Auditor and addressed to Favre Enterprises, Inc., Brett Favre and Robert L. Culumber provided the following information to Brett Favre:

Investigative audits which support this demand were completed by the Financial and Compliance Audit Division of the Mississippi Office of the State Auditor in its Single Audit and a forensic audit conducted on behalf of the Mississippi Department of Human Services. Both audits are available to view on the www.osa.ms.gov.

The sum demanded represents illegal expenditures of public funds made to you or to entities or combines for which you are legally obligated to pay and/or the unlawful dispositions of public property, including public funds, made with you or with entities or combines for which you are legally responsible to pay. These illegal expenditures and unlawful dispositions were made when you knew or had reason to know through the exercise of reasonable diligence that the expenditures were illegal and/or the dispositions were unlawful.

Uniform Civil Rules of Circuit and County Court 4.02(2) requires the Respondent Brett Favre to indicate either agreement or specific reasons for disagreement that such facts are undisputed and material.²

Dated: April 2, 2024.

² The State Auditor has claims and defense which may not lend themselves to resolution by summary proceedings or while potentially resolvable by summary proceedings do not have the stream-lined features of the claims and defenses asserted herein. All claims and defenses not asserted herein are therefore reserved and not waived. Additional Motions for partial Summary Judgment are expected to be filed. Likewise, the State Auditor reserves the right to contest and dispute facts set forth herein in pursuit of other motions or at any hearing on other motions or matter or at trial.

Respectfully submitted,

STATE AUDITOR SHAD WHITE
IN HIS OFFICIAL CAPACITY

BY: s/ James A. Bobo
James A. Bobo, MSB NO. 3604
Counsel

Mississippi Office of the State Auditor
Post Office Box 956
Jackson, Mississippi 39205
Cellphone: (601) 383-4755
Facsimile: (601) 576-2686
e-mail: james.bobo@osa.ms.gov

Mary Ford
Ms. Bar No. 104040
MS Office of The State Auditor
Post Office Box 956
Jackson, Mississippi 39205
Telephone: (601) 576-2739
Facsimile: (601) 576-2686
Email: mary.ford@osa.ms.gov

Counsel For The State Auditor Shad White

JOINDER

I, Shad White, join in, adopt and assert, this Response to the Motion to Dismiss, in all of my capacities both personal and official.

Dated: April 2, 2024.

s/ Shad White
Shad White

CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2024, I electronically filed the foregoing pleading with the Clerk of the Court using the MEC system, which sent notification to all counsel of record.

s/ James A. Bobo
James A. Bobo

7.

8.

9.

10.e foregoing objections, admitted.

REQUEST NO. 82: Please admit that between July 2017 and the present date that Brett Favre has not held an elected or appointed government position.

RESPONSE TO REQUEST NO. 82: Favre objects to this Request because it does not seek information relevant to any claim or defense in this action and is not reasonably calculated to lead to the discovery of admissible evidence, is overly broad, and harassing. Favre further objects to this Request to the extent it calls for a legal conclusion. Favre further objects to this Request because it is vague and ambiguous and lacks sufficient specificity. Subject to the foregoing objections, admitted.

Uniform Civil Rules of Circuit and County Court 4.02(2) requires the Respondent Brett Favre to indicate either agreement or specific reasons for disagreement that such

facts are undisputed and material.³

Dated: March 27, 2024.

Respectfully submitted,

STATE AUDITOR SHAD WHITE
IN HIS OFFICIAL CAPACITY

BY: s/ James A. Bobo
James A. Bobo, MSB NO. 3604
Counsel

Mississippi Office of the State Auditor
Post Office Box 956
Jackson, Mississippi 39205
Cellphone: (601) 383-4755
Facsimile: (601) 576-2686
e-mail: james.bobo@osa.ms.gov

Mary Ford
Ms. Bar No. 104040
MS Office of The State Auditor
Post Office Box 956
Jackson, Mississippi 39205
Telephone: (601) 576-2739
Facsimile: (601) 576-2686
Email: mary.ford@osa.ms.gov

Counsel For The State Auditor Shad White

³ The State Auditor has claims and defense which may not lend themselves to resolution by summary proceedings or while potentially resolvable by summary proceedings do not have the streamed-lined features of the claims and defenses asserted herein. All claims and defenses not asserted herein are therefore reserved and not waived. Additional Motions for partial Summary Judgment are expected to be filed. Likewise, the State Auditor reserves the right to contest and dispute facts set forth herein in pursuit of other motions or at any hearing on other motions or matter or at trial.

JOINDER

I, Shad White, join in, adopt and assert, this Response to the Motion to Dismiss, in all of my capacities both personal and official.

Dated: March 27, 2024.

s/ Shad White
Shad White

CERTIFICATE OF SERVICE

I hereby certify that on March 27, 2024, I electronically filed the foregoing pleading with the Clerk of the Court using the MEC system, which sent notification to all counsel of record.

s/ James A. Bobo
James A. Bobo