

**FOSTER,
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April 27, 2000

BY FEDERAL EXPRESS DELIVERY

General Counsel's Office
Federal Election Commission
999 E Street, NW
Washington D.C. 20463

Re: MUR 4984; Response of Jerry Spitler, Scott Spitler and Todd Spitler
(the "Spitlers")

Dear Sir/Madam:

We have reviewed the Complaint ("Complaint") filed by Andrew Nickelhoff, counsel to the Michigan Democratic Party, against various respondents. The Complaint makes two allegations, one regarding the alleged receipt of illegal corporate contributions, and the other regarding the alleged receipt of excessive contributions. Since the Complaint references the Spitlers only with respect to the alleged receipt of excessive contributions, this response will not address the allegation concerning the alleged receipt of illegal corporate contributions.

Our response is straightforward. The Complaint alleges that Rogers for Congress received \$2,742.16 in excessive contributions from the Spitlers. The circumstances surrounding this allegation relate to a fundraising event (the "Event") held by Rogers for Congress on November 13, 1999 at Lake Pointe Manor in Howell, Michigan. It is important to note that the Spitlers have held an annual event similar to the Event each year for the past several years. For these events from prior years, the invoices would be sent to the Spitlers, who would pay these invoices. Consequently, because the Spitlers were involved in organizing and planning the Event (like they had for the past several years), Lake Pointe Manor mistakenly assumed that the Spitlers, and not Rogers for Congress, should receive the invoices associated with the Event. While the Spitlers agreed to pay a portion of the catering expenses associated with the Event, the Spitlers ended up paying for all the expenses associated with the Event.¹ Significantly, once these circumstances were brought to the

¹Although the checks payable to Lake Pointe Manor bore the designation of Brighton Ford Mercury, Inc., these payments were actually made by Jerry Spitler. Brighton Ford Mercury, Inc. is a closely-held corporation, the sole shareholder of which is Jerry Spitler. Brighton Ford Mercury, Inc. is an "S" Corporation under the Internal Revenue Code, which means that Jerry Spitler personally pays all taxes attributable to the Brighton Ford Mercury, Inc. checking account. Because any payment from this account represents a reduction in the salary or bonus paid to Jerry Spitler, Jerry Spitler sometimes uses this account to pay personal expenses, such as the invoices associated with the Event. Therefore, the checks payable to Lake Pointe Manor were drawn on a corporate account which can either be classified as a non-repayable drawing account of Jerry Spitler (see Advisory Opinion 1980-6, Fed. Election

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attention of Rogers for Congress, Rogers for Congress paid Lake Pointe Manor in full for the invoices associated with the Event.² Hereafter, Lake Pointe Manor reimbursed the Spitlers in full.³ Therefore, any excessive contributions made by the Spitlers have been remedied by Rogers for Congress.

If the Federal Election Commission should have any additional questions or require any additional information in this matter, please contact the undersigned.

Sincerely,

FOSTER, SWIFT, COLLINS & SMITH, P.C.



Eric E. Doster

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Enclosures

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Camp. Fin. Guide (CCH), ¶ 5478 (April 9, 1980)) or analogized as a distribution of profits from a partnership (see 11 C.F.R. §110.1.(e)).

²See Attachment 1 to this letter for a copy of these checks payable to Lake Pointe Manor.

³See Attachment 2 to this letter for copies of the reimbursement checks from Lake Pointe Manor.

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