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December 6, 2000

Mr. Jeffery S. Jordan  
Supervisory Attorney  
Central Enforcement Docket  
Federal Election Commission  
99 E Street, N.W.  
Washington, DC 20463

**RE: MUR 5140**

Dear Mr. Jordan:

I am in possession of a Complaint filed by an NRCC counsel, Donald F. McGahn, II against Flitter 2000 Committee, Thomas A. Monahan as Treasurer, and Erie County Democratic Party Committee. I serve as counsel to both Flitter 2000 Committee, Thomas A. Monahan as Treasurer and the Erie County Democratic Party Committee. This response is filed on behalf of all respondents.

Allow me to make reference to MUR 5076. In that action you will find appropriately filed Designation of Counsel forms indicating my representation of all parties. In the event that I need to re-file Designation of Counsel forms for MUR 5140, kindly let me know and I will re-file the same under this new matter number.

I believe the matters and things complained of in MUR 5140 are in fact the same matters and things complained of in MUR 5076. Specifically, both matters complain of the circumstances under which the Flitter 2000 Committee operated its campaign offices from the physical location of 900 State Street, the same being the executive offices of the Erie County Democratic Party Committee. In MUR 5076, the complaint from the NRCC was that no filing was made regarding the apparent in-kind contribution of rent. That was corrected through an amendment subsequently filed by the Flitter 2000 Committee. At that time, I directed the Flitter 2000 Committee that they could accept not more than \$1,000.00 of any in-kind contribution from the Erie County Democratic Party Committee in as much as the latter is not a federally qualified political action committee. Apparently, my direction to the Flitter 2000 Committee was unclear as it appears they continued to accept in-kind

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contributions from the Erie County Democratic Party Committee after such a time as that contribution reached the \$1,000.00 level. This was error on their part to do so.

Given that the Erie County Democratic Party Committee is not federally qualified, and can not subsequently become federally qualified after the fact, I have directed the Flitter 2000 Committee to reimburse the Erie County Democratic Party Committee all contributions in excess of \$1,000.00 for the calender year 2000. I have also directed the Committee to file an appropriate amendment with the FEC indicating a refund of the in-kind contribution in excess of \$1,000.00 and an expenditure for rents in the same amount. These actions, when completed, will bring all parties into compliance with FEC requirements.

This omission was clearly unintentional and innocent in that the Flitter 2000 Committee has never sought to conceal the nature of its in-kind contributions. I understand that this error was due, at least in part, to Flitter 2000 Committee Treasurer's misunderstanding of contribution limits, given that the Party's ability to give in-kind contribution runs on a calender year, whereas, an individual's ability to give a contribution is measured by the election cycle. As such, the Flitter 2000 Committee Treasurer erroneously concluded that a total of \$2,000.00 (\$1,000.00 primary and \$1,000.00 general) could be accepted. Again, a harmless error.


Neither the Party, the Flitter 2000 Committee, or Mr. Monahan acted intentionally in committing this violation of FEC regulation. The mistake was simply a misunderstanding of calender year versus election cycle.

The Respondents herein believe, given the timely filing of amendment, that this matter is now resolved. The Respondents contend that any error or omission was unintentional and harmless. Accordingly, Respondents request that no action be taken against them and further that this matter does not warrant the additional use of commission resources.

Should you have any questions, comments or concerns, please contact me directly.

Respectfully submitted,

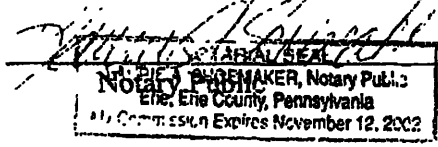
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By   
Kevin L. Colosimo

KLC/jln

cc: Marc A. Flitter, M.D.  
Thomas A. Monahan, CPA  
Pasqualino S. Cappabianca  
Donald F. McGahn, II, Esq.

Sworn to and subscribed before me  
this 6th day of December, 2000.

  
James J. PUGHMAKER, Notary Public  
Erie, Erie County, Pennsylvania  
My Commission Expires November 12, 2002