

# KAUFMAN DOWNING LLP

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OFFICE OF GENERAL  
COUNSEL

2006 JUN -1 A 10:00

May 31, 2006

Direct (213) 452-6550

## VIA FACSIMILE & FEDERAL EXPRESS

Lawrence H. Norton, Esq.  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

**Re: Complaint Against Martin Schwimmer and  
The Marty Schwimmer Congressional Campaign  
Treasurer: Martin Schwimmer**

Dear Mr. Norton:

We write on behalf of our client, David Roth, Democratic candidate for the 45<sup>th</sup> Congressional District, to formally lodge this complaint pursuant to 2 U.S.C. § 437g(a)(1) against Martin Larry Schwimmer, also a Democratic candidate for the 45<sup>th</sup> Congressional District, and his authorized committee, the Marty Schwimmer Congressional Campaign (ID No. C00423566), for their failure to comply with the filing and disclosure requirements under the Federal Election Campaign Act. As of today, less than one week before the June 6, 2006 primary election, Mr. Schwimmer has failed to disclose *any* campaign contributions or expenditures to the Federal Election Commission despite distributing numerous mail pieces and publishing newspaper advertisements that are attributed to his campaign. Mr. Schwimmer's inexcusable conduct, at this critical stage in the election cycle, has deprived the public, the press, and other candidates of crucial information.

We recently received a copy of the FEC complaint filed against Mr. Schwimmer by Timothy O'Bayley (see attached) that describes a number of serious campaign finance reporting violations by Mr. Schwimmer and his campaign committee. Mr. O'Bayley's complaint identified two large expenditures during the week of May 15, 2006 – a large *four-full page* newspaper advertisement published in the *Press Enterprise* and a widely distributed mailer – expenditures that have not been reported, as required by law. Based on information and belief, we believe these allegations to be true and by reference incorporate them into this complaint.

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Notwithstanding the reporting violations identified in Mr. O'Bayley's complaint, Mr. Schwimmer has continued to flaunt FEC reporting requirements by making additional large unreported expenditures. The May 31, 2006 edition of the *Desert Sun* ("Mystery money fuels bid for votes") (see attached), reveals that Mr. Schwimmer is currently in the process of sending his *third* mailer in the last three weeks. The *Desert Sun* reports that this latest mailer will reach 90,000 voters. Despite these massive expenditures which, at a minimum, include three mailers, a four page newspaper advertisement, and a website, Mr. Schwimmer has steadfastly refused to comply with federal law. As of today, the FEC's website indicates that he has not filed any reports.

Our estimates indicate that these expenditures, individually or together, exceed the threshold limits that trigger electronic filing requirements. We are informed and believe that Mr. Schwimmer's latest mailing to 90,000 voters would alone cost in excess of \$50,000.00, the threshold for filing all reports and statements electronically. See 11 C.F.R. § 104.18(a)(2). The public is left without recourse to determine the sources of Mr. Schwimmer's support, or whether he is engaging in prohibited coordinated communications or receiving prohibited contributions. Mr. Schwimmer has not filed any electronic reports with the FEC.

Additionally, during the last weeks of an election campaign cycle, compliance with reporting requirements is even more critical. Here too, Mr. Schwimmer has apparently ignored reporting requirements and has failed to file any 48-hour reports for last-minute contributions of \$1,000 or more received since May 18, 2006. See 11 C.F.R. § 104.5(f).

Mr. Schwimmer's callous disregard for federal campaign finance laws is evidenced by statements made to the press in response to issues raised about his lack of disclosure. The *Desert Sun* quotes him as stating the following: "I'm not comfortable releasing individual contributors' names until the FEC approves my report and puts them on line." The article also quotes Schwimmer as stating: "Roth is being petty. I can't imagine what his motivation is . . . ." Contrary to Mr. Schwimmer's dismissive assertions, timely and accurate compliance with campaign finance requirements is not petty – it is the law. Mr. Roth is motivated solely to ensure that *everyone* is on a level playing field and that no one – including Mr. Schwimmer – ignores rules that were enacted to protect the integrity of the electoral process.

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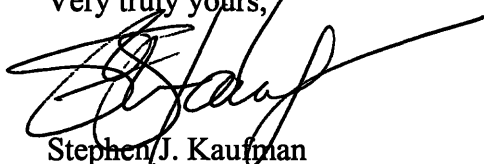
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In sum, Mr. Schwimmer apparently has 1) failed to file pre-primary reports; 2) failed to file reports electronically; and 3) failed to file 48-hour notices. We urge the Federal Election Commission to take immediate action to address these serious violations.

Very truly yours,



Stephen J. Kaufman

SJK:jd

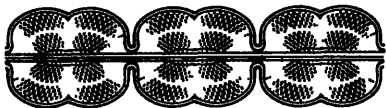
Enclosures

[NOTARY PUBLIC ACKNOWLEDGMENT]

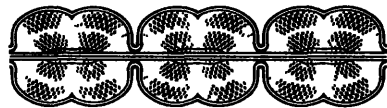
SEE ATTACHED CERTIFICATE

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# CALIFORNIA



## ALL-PURPOSE



### ACKNOWLEDGEMENT

STATE OF CALIFORNIA )

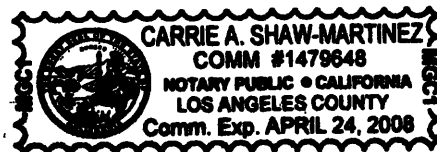
COUNTY OF LOS ANGELES )

On 5-31-06 before me, CARRIE A. SHAW-MARTINEZ, NOTARY PUBLIC  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared, STEPHEN JAY KAUFMAN  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)  
whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/  
~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(ies), and that by his/~~her~~/~~their~~  
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,  
executed the instrument.

WITNESS my hand and official seal.

Carrie A. Shaw-Martinez (SEAL)  
NOTARY PUBLIC SIGNATURE



### OPTIONAL INFORMATION



TITLE OR TYPE OF DOCUMENT FEC COMPLAINT

DATE OF DOCUMENT 5-31-06 NUMBER OF PAGES 3, PLUS CERT.

SIGNER(S) OTHER THAN NAMED ABOVE NONE

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