

27190272194

The Marty Schwimmer Congressional Campaign  
54810 Avenida Juarez  
La Quinta, CA 92253

July 9, 2006

1 2006 JUL 18 A 9:48  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL

General Counsel's Office  
Federal Election Commission  
Washington, DC 20463

Re: MUR 5763

Dear General Counsel's Office:

Thank you for your letter dated June 27, 2006, informing me of a complaint alleging that The Marty Schwimmer Congressional Campaign may have violated the Act. The complaint is filed on behalf of David Roth, my former opponent in the June 6<sup>th</sup> democratic primary for the House of Representatives, 45<sup>th</sup> California District, by his attorney. A few weeks ago a complaint was similarly filed (MUR 5756) by Timothy O'Bayley, a political consultant employed by Roth himself (see pages 31 and 32 of Roth's April FEC Form 3 filing, attached.) The fact that Roth now cites O'Bayley's complaint as an independent source of information and belief to support his complaint is misleading.

Roth also refers to a May 31, 2006, column in *The Desert Sun* newspaper as a source of information and belief – which is also misleading, since the article was based on statements generated by Roth's own campaign. Indeed, when *The Desert Sun* learned the truth, it later published articles on June 4<sup>th</sup> stating that there was no proof of Roth's allegations and on June 18 characterizing Roth's false allegations as a "smear" (see attachments).

The complaints in both cases are baseless, and I ask that they be closed. In the interest of staving off further baseless complaints, I will alternatively address the points raised:

Failure to File Pre-Election Report: My Pre-Election Report was filed May 24, 2006, according to the FEC website (attached). This claim has no merit and the complaint should be dismissed.

Failure to file electronically: The \$50,000 threshold necessitating electronic filing was never reached, so the report was not required to be filed electronically. (My expenditures and receipts will each total approximately \$40,000, including those after June 30, 2006, which are not yet reportable but will be reported in my next FEC Form 3 filing).

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The Commission properly accepted the written filing. Therefore, this claim has no merit and the complaint should be dismissed.

Failure to file 48 hour notices. No contributions were received which would trigger 48 hour notice filings. In fact, the total contributions received between 5/18 and the election totaled \$1240.00. Therefore, this claim has no merit and the complaint should be dismissed.

Like O'Bayley, Roth filed his complaint only so that the filing could be reported in *The Desert Sun* newspaper shortly before the June 6<sup>th</sup> election, as a campaign tactic. (Roth apparently attempted to file his complaint June 1<sup>st</sup>, but the complaint was returned because it failed to meet the Commission's procedural requirements.) I can conceive of no good reason why Roth refiled it, however, given that the primary is over, he won, and the truth has since been made public and published in *The Desert Sun*. It would appear that Roth has filed his complaint knowingly without merit, perhaps maliciously or for the purpose of harassment, and I ask that the Commission admonish Mr. Roth and sanction his attorney accordingly.

There never has been any "information or belief" that I have violated FEC regulations. Notably, Roth disingenuously challenges the advertising costs of my 4 page newspaper insert in *The Press-Enterprise* and color postcards, even though actual cost information on similar items is readily available from vendors. The actual cost of the insert was \$5262.16, which has not yet been reported on FEC Form 3 because it was not disbursed by June 30<sup>th</sup>, but it is irresponsible of Roth to complain about the cost of the insert when he knows the identity of the publisher and one phone call to *The Press-Enterprise* for an estimate would answer the question. Most importantly, it is simply not believable that Roth filed this complaint in good faith on June 20, 2006, weeks after my pre-election report had been filed with the Commission. Any legitimate concerns could have been laid to rest just by reading the report.

No basis for complaint has been stated, and I request that this file along with MUR 5756 be closed.

Sincerely,



Marty Schwimmer



home blog in the news about media

English

June 29, 2006

**FOR IMMEDIATE RELEASE**

Contact: O'Bayley Communications - Tim O'Bayley, 760/409-9838 • [tim@obayley.net](mailto:tim@obayley.net)  
or Roth for Congress – Roger Tansey, 760/766-1440 • [info@rothforcongress.org](mailto:info@rothforcongress.org)

**BONO VOTES AGAINST CHILD SAFETY**

**Votes to Gut Child Safety Locks on Guns  
While Taking \$\$\$ from the NRA.**

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June 19, 2006

**FOR IMMEDIATE RELEASE**

Contact: O'Bayley Communications - Tim O'Bayley, 760/409-9838 • [tim@obayley.net](mailto:tim@obayley.net)  
or Roth for Congress – Roger Tansey, 760/766-1440 • [info@rothforcongress.org](mailto:info@rothforcongress.org)

**ROTH ACCEPTS DEBATE CHALLENGE!  
Agrees to Desert Sun Challenge to Debate and  
Run A Clean Campaign**

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**DID YOU KNOW? Mary Bono is on the record advocating for the privatization of Social Security.**

• © David Roth For Congress Federal ID #C00412874 Paid for by David Roth For Congress Design by Berlin Technologies [Privacy Policy](#)



**EVENT:**

Meet David Roth & Congresswoman W Saturday, July 8, 5:

Independence Day Tuesday, July 4th

Pastors Conference Monday, July 3rd, 8

[View All Events](#)

Press Enterprise En  
For Primary!  
Bono Dons Her Flip  
Runs  
Cuts to Health & Hu  
Tax Cuts for Million

**DID YOU KNOW? Mary**

26930200245

**SCHEDULE B (FEC Form 3 )**  
**ITEMIZED DISBURSEMENTS**

**Use separate schedule(s)  
for each category of the  
Detailed Summary Page**

**FOR LINE NUMBER**  
(check only one)

PAGE 31 / 46

17  18  19a  19b  
 20a  20b  20c  21

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**NAME OF COMMITTEE (in Full)**

Roth for Congress

<p><b>A</b> Full Name (Last, First, Middle Initial) Kaufman Downing LLP</p> <p>Mailing Address 777 S Figueroa St., Ste 4050</p> <p>City Los Angeles State CA Zip Code 90017</p> <p>Purpose of Disbursement Legal &amp; Treasury Fees</p> <p>Candidate Name</p> <table border="1"> <tr> <td>Office Sought</td> <td>House Senate President</td> <td>Disbursement For <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) □</td> <td>Category/ Type</td> </tr> <tr> <td>State</td> <td>District</td> <td colspan="2"></td> </tr> </table>				Office Sought	House Senate President	Disbursement For <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) □	Category/ Type	State	District			<p>Transaction ID. D237 Date of Disbursement D4 03 2006</p> <p>Amount of Each Disbursement this Period 1500.00</p> <p>Refund or Disposal of Excess Contributions Required Under 11 CFR 400.53</p>
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State	District											
<p><b>B</b> Full Name (Last, First, Middle Initial) Nationwide Printing Services, Inc</p> <p>Mailing Address 15421 Redhill Avenue, Suite B</p> <p>City Tustin State CA Zip Code 92780</p> <p>Purpose of Disbursement Printing Services</p> <p>Candidate Name</p> <table border="1"> <tr> <td>Office Sought</td> <td>House Senate President</td> <td>Disbursement For <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) □</td> <td>Category/ Type</td> </tr> <tr> <td>State</td> <td>District</td> <td colspan="2"></td> </tr> </table>				Office Sought	House Senate President	Disbursement For <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) □	Category/ Type	State	District			<p>Transaction ID. D238 Date of Disbursement D4 24 2006</p> <p>Amount of Each Disbursement this Period 387.90</p> <p>Refund or Disposal of Excess Contributions Required Under 11 CFR 400.53</p>
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State	District											
<p><b>C</b> Full Name (Last, First, Middle Initial) O'Beiley Communications</p> <p>Mailing Address PO Box 1316</p> <p>City Palm Springs State CA Zip Code 92263</p> <p>Purpose of Disbursement Political Consulting Fees</p> <p>Candidate Name</p> <table border="1"> <tr> <td>Office Sought.</td> <td>House Senate President</td> <td>Disbursement For <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) □</td> <td>Category/ Type</td> </tr> <tr> <td>State</td> <td>District</td> <td colspan="2"></td> </tr> </table>				Office Sought.	House Senate President	Disbursement For <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) □	Category/ Type	State	District			<p>Transaction ID. D240 Date of Disbursement D4 03 2006</p> <p>Amount of Each Disbursement this Period 980.00</p> <p>Refund or Disposal of Excess Contributions Required Under 11 CFR 400.53</p>
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<p><b>SUBTOTAL</b> of Disbursements This Page (optional) ► 2847.90</p> <p><b>TOTAL</b> This Period (last page this line number only) ►</p>												

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## No proof of 'stealth' bid in primary

**Cindy Uken**  
The Desert Sun  
June 4, 2006

The Federal Elections Commission has received - and posted on its Web site - Marty Schwimmer's finance disclosures

It mirrors what Schwimmer last week said he filed

Schwimmer has loaned himself \$25,000, according to the FEC, and has received the balance of his campaign finances from the legal community, which is exactly what Schwimmer said

The report punches a hole in David M Roth's theory

In a letter to friends and supporters on Thursday, Roth, who is challenging Schwimmer in the Democratic primary for the 45th Congressional District seat, asked for money to "blunt the stealth campaign of a Republican-backed shill candidate who has used huge secret sources of funds (in violation of Federal Election law) to try to splinter the Democratic base out here."

However, the majority of contributors listed on Schwimmer's disclosure report are Democrats, none are identified as Republicans

Roth has no proof that Republicans are supporting Schwimmer. Because the FEC had not received Schwimmer's campaign disclosure report, even though Schwimmer mailed it on time, Roth said he could only "speculate" about where his opponent was getting the money

Though the reports are in, and there is no proof of GOP contributions, Roth still has questions

"In the absence of the full legal disclosures required by Federal Law by a candidate with no visible support from the Democratic Party nor local Democratic leaders or officials, we are all forced to speculate about his sources of support, especially when one of his campaign advisers freely bragged that he was a Republican to a member of my staff," Roth said. "His incomplete, hand-written filing does little to answer these and other important questions - so we all are still left to speculate. The issues at play here are pretty simple - this is all about upholding federal campaign law so that the people can make an informed choice as to the best person for the job."

Gary Bosworth, Riverside County Democratic Party vice-chair and ardent supporter of Roth's campaign, said "I wish David Roth had been more careful about checking the full facts of the situation before making his well-intentioned accusations. On a positive note, this shows the passion that David Roth has in wanting to serve the 45th district well."

Some of Schwimmer's larger donations include \$500, Gaylord Stewart, Indio, attorney, \$500, Joe Rhea, Palm Springs, attorney, \$1,000, Mark Sullivan, Palm Springs, attorney, \$1,000, Michael DeFrank, Palm Springs, attorney, \$300, Ramon Lopez, La Quinta, Riverside County investigator

Roth also questions some of Schwimmer's expenditures that don't appear on his disclosure forms. Last month, Schwimmer ran a four-page advertising supplement in a regional newspaper and the expense isn't on the most recent disclosure form

"In the absence of disclosure all individuals, myself included, are left only to speculate," Roth said

Bosworth called the absence of the ad expense on the FEC report a "glaring omission."

Schwimmer said he has nothing to hide and is "completely" in compliance with FEC regulations. Schwimmer said he paid for the ad, which cost about \$6,000, with a VISA card and said he does not have to list that as an expense on FEC reports until the money is actually dispersed

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## A challenge to Bono, Roth: Pledge to run clean campaign

Candidates should agree to public debate

The Desert Sun  
June 18, 2006

Mary Bono and David Roth should pledge to run clean campaigns

Based on our experiences, Bono and Roth both are honest and well-meaning individuals. But we've seen a couple of questionable comments coming from both campaigns in their run for the 45th Congressional District seat.

For example, Roth's supporters claimed Marty Schwimmer was a Republican shill. While questioning Schwimmer's wisdom in not readily releasing his donors' names certainly is valid, suggesting he's fronted by the Bono campaign or the GOP certainly is a smear. At the same time, Bono said she expects a "dirty campaign" but offered no evidence of why she suspected this would be the case.

We hope as the campaign unfolds that these will be but aberrations. They certainly are not in character with the David Roth and Mary Bono we've come to know.

Roth, Bono and their supporters should know that residents of the 45th Congressional District would be best served by an above-board campaign. Indeed, we urge that both candidates pledge to

**Focus on issues** - We want to hear candidates' positions on issues and their solutions to them. They should talk about what they have each accomplished and done. They should give voters a sense of how they would use their post in Congress to make the valley, California and the United States an even better place to live. There shouldn't be any personal attacks.

**Debate one another** - District voters want to see how candidates think on their feet and get a sense of which principles and stances underlie their thinking. A public debate is a good forum for voters to attain this information. Given this, we challenge Roth and Bono to agree to a time and date for a public debate, hosted by The Desert Sun.

**Discuss facts** - Candidates should build the case for their positions through logical reasoning and specific examples. Candidates and their supporters shouldn't fall into the trap of making innuendo or allegations based on speculation.

### THE ISSUE

The race between David Roth and Mary Bono for the 45th Congressional District is under

### WE SUGGEST

Both candidates should pledge to run a clean campaign.

### WHAT DO YOU THINK?

What issues do you want the candidates to discuss? Send comments via the Web at [www.thedesertsun.com/letter](http://www.thedesertsun.com/letter).

### MEET THE CANDIDATE

Read David Roth's and Mary Bono's campaign platforms and their bios at [www.thedesertsun.com/election](http://www.thedesertsun.com/election).

### MORE EDITORIALS

- Our Voice for June 17
- Senators need to deliver transportation funding
- Hot air in this desert debate won't help valley's homeless
- How can we best meet our growing public safety needs?

### YOUR VOICE

Have something to say about this? Join the conversation in Talk Day.

Avoid platitudes - We know both candidates want to reach across party lines, that they want to serve the valley that they're for our kids and troops overseas. What voters really want to know is how they specifically will reach across party lines, how they specifically will go about serving the valley, how they specifically will improve education and child welfare, how they specifically will go about ensuring our troops can best do their job.

Remain honest - Voters should be able to rationally decide if a candidate's facts support his or her position. That only can be done when candidates represent their evidence honestly and avoid rhetoric. Playing on people's fears amounts to intimidation.

Many Americans say they're disengaged from politics in part because of ever-increasing mudslinging during elections. Bono and Roth have an opportunity to turn this contest into a national model of how to conduct a campaign with decorum and dignity. We call upon both candidates to run a clean campaign and to publicly disavow those supporters and political action committees that step over the line.

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Committee ID: C00423566

**MARTY SCHWIMMER CONGRESSIONAL CAMPAIGN; THE**54810 AVENIDA JUAREZ  
LA QUINTA, CA 92253

Treasurer Name: MARTY SCHWIMMER  
Committee Designation: P (PRINCIPAL CAMPAIGN COMMITTEE OF A CANDIDATE)  
Committee Type: H (HOUSE)  
Candidate State: CA (California)

**CANDIDATE:**  
**SCHWIMMER, MARTIN LARRY** ID: H6CA45092

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