

LAW OFFICES
HONIGMAN MILLER SCHWARTZ AND COHN
222 NORTH WASHINGTON SQUARE
SUITE 400
LANSING, MICHIGAN 48933-1800
FAX (517) 484-8286

JOHN D. PIRICH
TELEPHONE: (517) 377-0712
E-MAIL: jdp@honigman.com
WEB SITE: http://law.honigman.com

DETROIT, MICHIGAN

September 24, 1998

VIA FEDERAL EXPRESS

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket
Federal Election Commission
Washington, DC 20463

Re: *MUR 4800, Ted Gatzaros*

Dear Mr. Turley:

I write in response to your letter to Mr. Gatzaros dated September 1, 1998 and the letter from Alva E. Smith, Paralegal, Central Enforcement Docket, dated September 21, 1998, granting an extension to respond. Copies of the letters are enclosed.

The complaint against Mr. Gatzaros alleges that he has exceeded the individual contribution limitations for the 1992 primary and general elections. The complaint shows on its face that no such violation occurred. Therefore, the complaint against Mr. Gatzaros clearly should be dismissed.

Under 2 U.S.C. § 441a(a)(1)(A), individual contributions to candidates are permitted in amounts up to \$1,000 for each election:

(1) No person shall make contributions--

(A) To any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000;

That the \$1,000 contribution limit applies to each election separately is again expressly emphasized in § 441a(a)(6), which states:

(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election,

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except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.


The complaint alleges that Mr. Gatzaros made a \$1,000 contribution to the campaign of Representative Nick Smith for the 1992 *primary* election on 4/22/92. The complaint then alleges that Mr. Gatzaros made a \$500 to the Smith campaign for the *general* election on 9/26/93. On its face, this allegation of two different contributions, each of \$1,000 or less, for two different elections does not violate the applicable statute. The 4/22/92 contribution clearly applied to the 1992 primary election and the 9/26/93 contribution did not. See 11 C.F.R. 110.1(b)(2) (directing that the two contributions should be applied to two different elections); 11 C.F.R. 110.1(b)(5)(i) (providing for redesignation of contributions to avoid violation on limits to individual elections). That was Mr. Gatzaros' intent. Because the two contributions apply to two different elections, there is no basis for the complaint.

Finally, in the event that the foregoing does not adequately dispose of the complaint, Mr. Gatzaros does not waive the statute of limitations defense provided for in 2 U.S.C. § 455, which would apply to the 1998 complaint's groundless allegations of a Federal Election Campaign Act violation in 1992 or 1993.

Please feel free to contact me with any questions or comments you may have regarding the foregoing. Also, please notify me promptly of your decision in this matter.

Yours truly,

HONIGMAN MILLER SCHWARTZ AND COHN

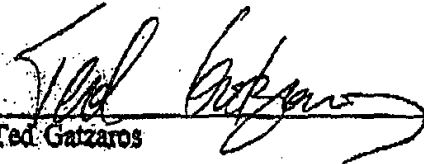
By: 
John D. Pirich

JDP:mls


cc: Ted Gatzaros
Alva E. Smith

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I, Ted Gatzaros, having been first duly sworn, have read the foregoing and attest to the truth of the factual statements therein.


Ted Gatzaros

Subscribed and sworn to before me this 23rd day of September, 1998.


MARIE T. RACINE Notary Public
Wayne County, Michigan
My commission expires: 9-26-98

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