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September 17, 2001

**By Hand**

Kim C. Stevenson  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 5225—David Rosen

Dear Ms. Stevenson:

This letter responds to the complaint filed in the above-referenced MUR, on behalf of respondent David Rosen.

For two reasons, the Commission should find no reason to believe that Rosen has violated the Federal Election Campaign Act of 1971 as amended (the "Act"), or the Commission's regulations, and should dismiss the complaint and close the file. First, the complainant, Peter Paul, is a fugitive from justice. He has been indicted by two federal grand juries and has escaped to Brazil to evade prosecution. The Commission should use its prosecutorial discretion to invoke the fugitive disentitlement doctrine and bar Paul from using this Commission to pursue his administrative claim.

Second, the complaint simply fails to set forth any evidence that Rosen has violated any provision of the Act or the Commission's regulations.

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

SEP 17 3 47 PM '01

**I. The Commission Should Invoke the Fugitive Disentitlement Doctrine**

On June 12, 2001, Paul was indicted in the U.S. District Court for the Eastern District of New York on two felony counts of securities fraud. (See Indictment, United States v. Paul et al., Crim. No. 0106363 (E.D.N.Y., June 12, 2001) attached as Exhibit 1 hereto; Press Release attached as Exhibit 2 hereto). Paul's own counsel has admitted that he is under federal indictment and is now in Brazil. (See Judicial Watch press release attached as Exhibit 3 hereto).

The official docket sheet of the U.S. District Court for the Eastern District of New York indicates that counsel for Paul's three co-defendants entered an appearance on July 2, 2001 but that Paul entered no appearance; the docket describes him simply as "FUGITIVE—NOT PRESENT." (See certified copy of Criminal Cause for Arraignment, United States v. Paul et al., filed July 2, 2001, attached as Exhibit 4 hereto).

When the case was called on that date, the three codefendants were arraigned and released on bail, but Paul was listed as "FUGITIVE—NOT PRESENT." (See Exhibit 4). The Calendar Entry for this proceeding recites the appearances of the other defendants, but states that "Def. 1 [Peter Paul] not present—Fugitive." (See Certified copy of the Criminal Docket for United States v. Paul et al., filed as of July 12, 2001, attached as Exhibit 5 hereto, at page 2). The United States Attorney for the Eastern District of New York has announced that "[t]he government will seek the extradition of PETER PAUL, who is believed to be living in Brazil." (Exhibit 2 hereto at 3).

Although, there have been news reports that Paul has been arrested in Brazil by local authorities, we are unaware of any information indicating that plaintiff has consented to extradition or has otherwise voluntarily agreed to return to the United States to face charges. In the meantime, Paul has been indicted a second time, in the U.S. District Court for the Central District of California.

The "fugitive disentitlement doctrine limits access to courts in the United States by a fugitive. . . . The doctrine is long-established in the federal and state courts, trial and appellate." Prevot v. Prevot, 59 F.3d 556, 562 (6<sup>th</sup> Cir. 1995). The doctrine is not jurisdictional; it rests upon principles of equity. E.g., United States v. Sharpe, 470 U.S. 675, 681 n.2 (1985); United Elec., Radio & Mach. Workers of America v. 163 Pleasant St. Corp., 960 F.2d 1080, 1098 (1<sup>st</sup> Cir. 1992). A party's escape "'disentitles' him 'to call upon the resources of the Court for determination of his claims.'" Degen v. United States, 517 U.S. 820, 824 (1996), citing Molinaro v. New Jersey, 396 U.S. 365, 366 (1970).

Although the doctrine was originally applied to deny fugitives resort to the courts in criminal appeals, see e.g., Molinaro, *supra*, it is well established that "[d]isentitlement applies to federal trial courts in civil cases as well as to appellate courts." Prevot, *supra*,

59 F.3d at 564. See, e.g., Sarlund v. Anderson, 205 F.3d 973 (7<sup>th</sup> Cir. 2000)(section 1983 civil rights action should have been dismissed under fugitive disentitlement doctrine); Conforte v. Commissioner, 692 F.2d 587 (9<sup>th</sup> Cir. 1992)(dismissing appeal of civil tax assessment); Schuster v. United States, 765 F.2d 1047 (11<sup>th</sup> Cir. 1985)(affirming dismissal of petition by fugitive for review of tax assessment).

While no court has specifically addressed the right of an administrative agency to refuse to hear a complaint filed by a fugitive, courts have declined, in certain circumstances, to entertain claims brought by a fugitive challenging administrative action. For example, in Doyle v. U.S. Dept. of Justice, 668 F.2d 1365 (D.C. Cir. 1981)(per curiam), cert. denied, 455 U.S. 1002 (1982), the court upheld the district court's refusal to entertain an FOIA suit brought by a fugitive:

Should [plaintiff] present himself for service of the sentence lawfully imposed upon him, he would have full access to an appropriate federal forum to enforce any legitimate federal claims he may have. So long as he evades federal authority, however, it is the general rule that he may not demand that a federal court service his complaint.

668 F.2d at 1365-66. See also, Brin v. Marsh, 596 F. Supp. 1007 (D.D.C. 1984)(fugitive not entitled to adjudication of his administrative claim against U.S. Army).

It is well-established that this Commission has prosecutorial discretion with respect to the use of its investigative resources. Democratic Congressional Campaign Committee v. FEC, 831 F.2d 1131 (D.C. Cir. 1987); see Heckler v. Chaney, 470 U.S. 821 (1985). In this case, the Commission should exercise its discretion not to devote its limited resources to pursuit of a complaint filed by an individual who has refused to face justice in the United States. Paul's fugitive status disentitles him to call upon the Commission to investigate his claim. For this reason alone, the complaint should be dismissed.

## **II. The Complaint Fails to Set Forth Facts Indicating Any Violation of the Act or Commission's Rules by Rosen**

In any event, the complaint filed by Judicial Watch, Inc. on behalf of Paul should be dismissed as to respondent Rosen because the complaint simply fails to allege any violation of the Act or the Commission's rules by Rosen. The complaint alleges, in essence, that Paul spent \$1.9 million of his personal funds on a fundraising event held in Los Angeles in August 2000, for New York Senate 2000 Committee ("NY Senate 2000"), a joint fundraising committee of the Democratic Senatorial Campaign Committee and Hillary Rodham Clinton for U.S. Senate Committee ("Clinton for Senate Committee"). The complaint further alleges that NY Senate 2000 and/or the Clinton for Senate Committee failed to report these in-kind contributions.

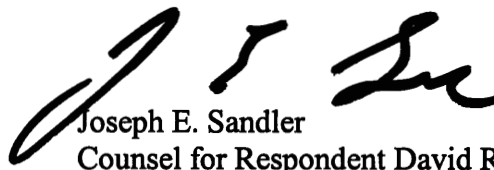
The FEC reports filed by NY Senate 2000 show that NY Senate 2000 received an in-kind contribution in the amount of \$ 366,564.69, from Stan Lee Media, consisting of a payment by Stan Lee Media in connection with the event. In addition, the FEC reports show that NY Senate 2000 paid \$100,000 directly to Black Ink Productions as well, for such production costs. It is Rosen's understanding that the in-kind contribution reported by NY Senate 2000 reflects precisely what NY Senate 2000 was told by Paul himself, both as to the source and amount of the contribution.

Rosen was not the treasurer of NY Senate 2000, or of the Clinton for Senate Committee, and was not directly responsible for recordkeeping or reporting for either committee. It is clear that in no event could Rosen have violated any of the provisions of the Act or the Commission's regulations cited in the complaint, i.e., 2 U.S.C. §434(b); 11 C.F.R. §104.3; 11 C.F.R. §110.9(a). There are no allegations in the complaint that even remotely implicate 11 C.F.R. §110.9(b), also cited in the complaint.

The complaint also specifically alleges that Paul complained to Rosen about the cost of the event; that Rosen told Paul not to discuss the costs of the fundraiser; that Rosen knew that Paul, rather than Stan Lee Media, was paying the production costs of the event; and that Rosen witnessed Paul writing checks for costs of the fundraiser. All of these allegations are patently false. In any event, none of them in any event would establish a violation by Rosen, personally, of any provision of the Act or the Commission's regulations.

For the foregoing reasons, the Commission should find no reason to believe that Rosen violated the Act or the Commission's regulations and, as to Rosen, should dismiss the complaint and close the file.

Respectfully submitted,



Joseph E. Sandler  
Counsel for Respondent David Rosen

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**EXHIBIT 1**

26044130295

EOC:KMB  
F.#2001R01036  
SLM.U01

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

PETER PAUL,  
STEPHEN M. GORDON,  
JEFFREY PITTSBURG and  
CHARLES KUSCHE,

Defendants.

UNSEALING ORDER

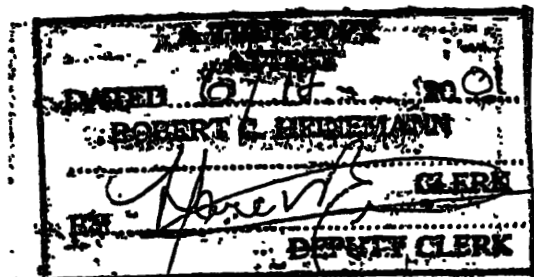
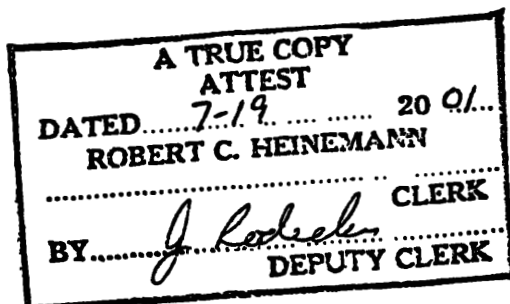
Cr. No. 01-636(LAW)

**CR 01 636**

Upon the application of ALAN VINEGRAD, United States Attorney of the Eastern District of New York, by Assistant United States Attorney Kenneth M. Breen, it is hereby ORDERED that the above-referenced indictment and arrest warrants be unsealed by the Clerk of Court.

Dated: Brooklyn, New York  
June 12, 2001

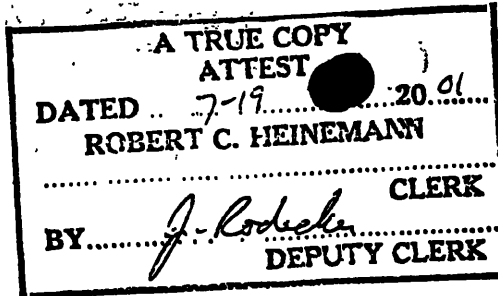
*C. K. Palle*  
United States Magistrate Judge  
Eastern District of New York



*Ep. 1*

EOC:KMB  
F.#2001R01036

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK



FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.  
\* JUN 19 2001 \*

UNITED STATES OF AMERICA

- against -

PETER PAUL,  
STEPHEN M. GORDON,  
JEFFREY PITTSBURG and  
CHARLES KUSCHE,

Defendants.

INDICTMENT  
BROOKLYN OFFICE

CR 01 03 73  
Cr. No. \_\_\_\_\_  
(T. 15, U.S.C.,  
§§ 78j(b) and 78ff;  
T. 18, U.S.C., §§ 371,  
2 and 3551 et seq.)

WEXLER, J.  
BOYLE, M.J.

THE GRAND JURY CHARGES:

At all times relevant to this Indictment, unless  
otherwise indicated;

INTRODUCTION

Stan Lee Media

1. Stan Lee Media, Inc. ("Stan Lee Media"), an Internet-based production and marketing company, was founded by the defendant PETER PAUL and Stan Lee. Prior to the formation of Stan Lee Media, Stan Lee had created characters such as Spiderman, the Incredible Hulk and the X-Men while working at Marvel Comics. Stan Lee Media was created to produce and promote new comic book characters and stories created by Stan Lee.

2. In or about August 1999, Stan Lee Media stock began to trade on the OTC Bulletin Board ("OTCBB"). The OTCBB was a quotation service that displayed real-time quotes, last

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sale prices and volume information in over-the-counter ("OTC") equity securities. An OTC equity security generally was any equity that was not listed or traded on a national securities exchange. In or about May 2000, Stan Lee Media stock began to trade on the NASDAQ National Market System ("NASDAQ").

3. Between August 1999 and December 1999, the common shares of Stan Lee Media traded for approximately \$5.00 to \$8.00 per share. Beginning in January 2000, the price of Stan Lee Media stock began to rise. On February 7, 2000, the stock reached a high day-end price of slightly over \$27.00 per share. Beginning in approximately March 2000, the price of Stan Lee Media stock began a steady decline. By December 13, 2000, the price of the stock was less than a \$1.00 per share. The stock has not traded since December 18, 2000, and Stan Lee Media filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code on February 16, 2001.

The Defendants

4. The defendant PETER PAUL was a co-founder of and consultant to Stan Lee Media.

5. The defendant STEPHEN M. GORDON was the Executive Vice President of Operations at Stan Lee Media.

6. The defendant JEFFREY PITTSBURG was an owner of, the president of, and an equity analyst at Pittsburg Institutional Inc. ("Pittsburg Institutional"), a company



incorporated in New York, which operated as an equity research firm and a broker-dealer of securities, and was registered with the United States Securities and Exchange Commission ("SEC") and the National Association of Securities Dealers, Inc. ("NASD"). As an equity research firm, Pittsburg Institutional published research reports regarding publically traded companies. Pittsburg Institutional's principal office was located at 11 Grace Avenue, Great Neck, New York 11021.

7. The defendant CHARLES KUSCHE was a stock promoter who did business as W.S.C.G. Holdings, L.L.C. in Darien, Connecticut.

COUNT ONE

(Conspiracy to Commit Securities Fraud)

8. The allegations contained in paragraphs 1 through 7 are realleged and incorporated herein.

9. In or about and between October 1998 though December 2000, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants PETER PAUL, STEPHEN M. GORDON, JEFFREY PITTSBURG and CHARLES KUSCHE, together with others, did knowingly and willfully conspire, directly and indirectly, to use and employ manipulative and deceptive devices and contrivances in violation of Rule 10b-5 of the Rules and Regulations of the SEC (Title 17, Code of Federal Regulations, Section 240.10b-5), in that the defendants, together with others, did knowingly and willfully conspire,

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directly and indirectly, to (1) employ devices, schemes, and artifices to defraud; (2) make untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (3) engaging in acts, practices, and courses of business which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of Stan Lee Media stock, and by use of the means and instrumentalities of interstate commerce and the mails, in violation of Title 15, United States Code, Sections 78j(b) and 78ff.

10. It was part of the conspiracy that in or about and between October 1998 and December 2000, both dates being approximate and inclusive, the defendants PETER PAUL, STEPHEN M. GORDON, JEFFREY PITTSBURG and CHARLES KUSCHE, together with others, devised, implemented and oversaw a fraudulent scheme to artificially inflate and maintain the price of Stan Lee Media stock and to profit from the sale of the stock at its artificially inflated and maintained price, as well as from other transactions involving Stan Lee Media stock.

11. It was further a part of the conspiracy that, beginning in or about August 1999, the defendants PETER PAUL, STEPHEN M. GORDON and JEFFREY PITTSBURG used accounts held in names other than their own (referred to herein as "nominee"

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accounts) in order to hide their control and ownership of Stan Lee Media stock and to manipulate and to disguise their manipulation of the price of the stock. PAUL, GORDON, PITTSBURG and others executed transactions in Stan Lee Media stock through, between and among the nominee accounts, which were held at Hill, Thompson, Magid & Co., Inc. ("Hill, Thompson"), Merrill Lynch & Co., Pittsburg Institutional and at other places. The nominee accounts were held in the following names, among others:

Celebrity Enterprises, Inc., Continental Entities, Inc., Cyberia, Inc., Eat Time Media, Inc., Excelsior Productions, Inc., Flashlight Productions, Inc., Global Brand Holding, Inc., Global Language Solutions, Inc., Hollywood Holdings, Inc., The Medici Group, L.L.C., Mondoenglish.com, Inc., 112 Interactive, Inc., Paraversal, Inc., P.F.P. Family Holdings, L.P., Unicorn Media Partners, Inc., and World Network, Inc.

12. It was further a part of the conspiracy that, beginning in or about April 2000, the defendants PETER PAUL, STEPHEN M. GORDON and JEFFREY PITTSBURG, together with others, artificially inflated and maintained the price of Stan Lee Media stock by falsely and fraudulently touting Stan Lee Media to the investing public. To that end, PAUL, GORDON, PITTSBURG and others made and caused to be made false and misleading statements in "research reports" published by PITTSBURG and in interviews with the news media by PAUL and PITTSBURG, including predictions

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of the future performance of Stan Lee Media and the future price of the stock that PAUL and PITTSBURG knew to be false at the time they were made. PAUL and GORDON paid PITTSBURG to issue such statements and PAUL, GORDON, PITTSBURG and others failed to disclose fully to the investing public that PAUL, GORDON and others paid PITTSBURG in cash and stock in exchange for his "research reports" and other touting of Stan Lee Media.

13. It was further a part of the conspiracy that, beginning in or about May 2000, the defendants PETER PAUL and STEPHEN M. GORDON used the technique of "borrowing on margin" to profit from their manipulation in a way that would maintain the artificially inflated price of Stan Lee Media stock. Knowing that selling too much of their stock at one time would cause the price of the stock to drop, PAUL and GORDON borrowed large sums of money from Merrill Lynch & Co. through the nominee accounts, using Stan Lee Media stock as collateral. This technique allowed PAUL and GORDON, effectively, to sell their stock to Merrill Lynch & Co., without negatively impacting the stock price.

14. It was further a part of the conspiracy that, beginning in or about November 2000, in order to sell large blocks of Stan Lee Media stock that they secretly owned and controlled in nominee accounts, the defendants PETER PAUL and STEPHEN M. GORDON, and others, made undisclosed payments to the defendants JEFFREY PITTSBURG and CHARLES KUSCHE, and others, who

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purchased and arranged for others to purchase the large blocks of stock. The secret payments, which were made in cash and stock, amounted to approximately 55% of the amount that was paid for the blocks of stock. By conducting the transactions in this manner, PAUL, GORDON, PITTSBURG, KUSCHE and others were able to disguise the fact that these large blocks of stock were effectively being sold for less than one-half of the prevailing market price for Stan Lee Media stock.

15. Beginning on or about November 29, 2000, the defendants PETER PAUL and STEPHEN M. GORDON, and others, stopped making the previously described payments to the defendants JEFFREY PITTSBURG and CHARLES KUSCHE, and others, which among other things caused its price to plummet, leaving the investing public with worthless stock and leaving Merrill Lynch & Co. with no valuable collateral to use to recover the approximately \$5 million that it had lent to PAUL, GORDON and others.

16. In furtherance of the conspiracy and to effect the objects there of, within the Eastern District of New York and elsewhere, the defendants named herein, together with others, did commit and cause to be committed the following overt acts, among others:

OVERT ACTS

a. On or about January 19, 1999, the defendants PETER PAUL and STEPHEN M. GORDON, and others, opened up an

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account in the name of Continental Entities, Inc. at Merrill Lynch & Co. (the "Continental Entities Account").

b. On or about July 23, 1999, the defendants PETER PAUL and STEPHEN M. GORDON, and others, opened up an account in the name of Hollywood Holdings, Inc. at Hill, Thompson (the "Hollywood Holdings Account").

c. On or about August 30, 1999, the defendants PETER PAUL and STEPHEN M. GORDON, and others, caused 5,000 shares of Stan Lee Media stock at a price of \$6.25 per share to be purchased in the Hollywood Holdings Account.

d. On or about April 20, 2000, the defendants PETER PAUL and STEPHEN M. GORDON, and others, caused 2,000 shares of Stan Lee Media stock at a price of \$10.00 per share to be purchased in the Hollywood Holdings Account.

e. On or about April 25, 2000, the defendant JEFFREY PITTSBURG, on behalf of Pittsburg Institutional, and the defendant PETER PAUL and STEPHEN M. GORDON, on behalf of Stan Lee Media, entered into a sham "advisory fee agreement," whereby PITTSBURG would be paid a \$20,000 retainer and \$8,000 per month in exchange for providing "financial services" to Stan Lee Media, which included the publishing of a "research report" on Stan Lee Media.

f. On or about April 28, 2000, when Stan Lee Media stock was trading at approximately \$13.00 per share, the

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defendant JEFFREY PITTSBURG issued a "research report," which contained a "strong buy" recommendation and set a \$75.00 per share price target.

g. On or about June 14, 2000, the defendants PETER PAUL, STEPHEN M. GORDON and JEFFREY PITTSBURG, and others, opened up an account in the name of Celebrity Enterprises, Inc. at Pittsburg Institutional (the "Celebrity Enterprises Account").

h. On or about June 16, 2000, the defendant JEFFREY PITTSBURG touted Stan Lee Media in an interview broadcast over the Internet through the website "on24.com."

i. On or about July 7, 2000, when Stan Lee Media stock was trading at approximately \$11.00 per share, the defendant JEFFREY PITTSBURG issued a second "research report," which maintained the "strong buy" recommendation and \$75.00 per share price target.

j. On or about July 11, 2000, the defendants PETER PAUL and STEPHEN M. GORDON, and others, caused 26,000 shares of Stan Lee Media stock at a price of \$11.125 per share to be purchased in the Hollywood Holdings Account.

k. On or about September 28, 2000, the defendants PETER PAUL and STEPHEN M. GORDON caused 100,000 shares of Stan Lee Media stock to be transferred from the Celebrity Enterprises Account to an account in the name of Pittsburg Institutional at Merrill Lynch & Co. The defendant JEFFREY PITTSBURG then caused

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90,000 of these shares to be transferred to an account held in his wife's name at Merrill Lynch & Co. ("PITTSBURG's wife's account").

l. On or about October 2, 2000, the defendant JEFFREY PITTSBURG touted Stan Lee Media in an interview broadcast over the Internet through the website "zacks.com."

m. On or about and between October 13, 2000 and November 22, 2000, the defendant JEFFREY PITTSBURG caused 35,000 shares of Stan Lee Media stock held in PITTSBURG's wife's account to be sold for approximately \$318,875.00.

n. On or about October 13, 2000, the defendants PETER PAUL and STEPHEN M. GORDON, and others, caused 10,000 shares of Stan Lee Media stock at a price of \$10.00 per share to be purchased in the Continental Entities Account.

o. On or about November 3, 2000, the defendants PETER PAUL, STEPHEN M. GORDON and JEFFREY PITTSBURG, and others, caused 47,750 shares of Stan Lee Media stock at a price of \$9.058 per share to be purchased in the Celebrity Enterprises Account.

p. On or about November 8, 2000, the defendants PETER PAUL, STEPHEN M. GORDON, JEFFREY PITTSBURG and CHARLES KUSCHE, and others, caused a 100,000 share block of Stan Lee Media stock to be sold from the Celebrity Enterprises Account at a price of \$7.798 per share.

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q. On or about November 13, 2000, the defendants PETER PAUL and STEPHEN M. GORDON caused \$101,379.00 to be wired from an account in the name of P.F.P. Family Holdings, L.P. at U.S. Bank of California in California to an account in the name of W.S.C.G. Holdings, L.L.C. at Chase Bank in Connecticut, that was controlled by the defendant CHARLES KUSCHE.

r. On or about November 15, 2000, the defendants PETER PAUL, STEPHEN M. GORDON, JEFFREY PITTSBURG and CHARLES KUSCHE, and others, caused a 100,000 share block of Stan Lee Media stock to be sold from the Celebrity Enterprises Account to Generation Capital Associates at a price of \$6.892 per share.

s. On or about November 16, 2000, the defendants PETER PAUL and STEPHEN M. GORDON caused \$27,294.40 to be wired from an account in the name of 112 Interactive, Inc. at U.S. Bank of California in California to an account controlled by an unindicted co-conspirator in the name of N.J.A., L.L.C. at First Union National Bank in Pennsylvania.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

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COUNT TWO  
(Securities Fraud)

17. The allegations contained in paragraphs 1 through 7 and 10 through 16 are realleged and incorporated as if fully set forth herein.

18. In or about, and between October 1998 and December 2000, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants PETER PAUL, STEPHEN M. GORDON, JEFFREY PITTSBURG and CHARLES KUSCHE, together with others, did knowingly and willfully, directly and indirectly, use and employ manipulative and deceptive devices and contrivances in violation of Rule 10b-5 of the Rules and Regulations of the SEC (Title 17, Code of Federal Regulations, Section 240.10b-5), in that the defendants and others did knowingly and willfully, directly and indirectly, (a) employ devices, schemes, and artifices to defraud; (b) make untrue statements of material fact and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engage in acts, practices, and courses of business which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of the

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stock of Stan Lee Media, and by use of means and instrumentalities of interstate commerce and the mails.

(Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Sections 2 and 3551 et seq.)

A TRUE BILL

  
\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
ALAN VINEGRAD  
UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

BY:   
\_\_\_\_\_  
ACTING UNITED STATES ATTORNEY  
PURSUANT TO 28 C.F.R. 0.131

26044130309

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No. -----

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

CRIMINAL Division

THE UNITED STATES OF AMERICA

vs.

PETER PAUL, et. al.,

Defendants.

INDICTMENT

Cr. No. \_\_\_\_\_  
(T. 15, U.S.C.,  
§§ 78j(b) and 78ff;  
T. 18, U.S.C., §§ 371,  
2 and 3551 et seq.)

A true bill.

*H. R. D.*

Foreman

Filed in open court this \_\_\_\_\_ day,

of \_\_\_\_\_ A.D. 19 \_\_\_\_\_

Clerk

Bail, \$ \_\_\_\_\_

KENNETH M. BREEN, A (718) 254-7578

**EXHIBIT 2**

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1130514097

**PRESS RELEASE****CO-FOUNDER OF STAN LEE MEDIA, WALL STREET ANALYST,  
AND OTHERS CHARGED WITH STOCK MANIPULATION - LOSS TO INVESTORS  
EXCEEDS \$25  
MILLION**

**ALAN VINEGRAD**, United States Attorney for the Eastern District of New York, **JAY SKIDMORE**, Postal Inspector-in-Charge, United States Postal Inspection Service, New York, and **BARRY W. MAWN**, Assistant Director-in-Charge of the Federal Bureau of Investigation in New York, today announced the unsealing of an indictment charging **PETER PAUL**, **STEPHEN M. GORDON**, **JEFFREY PITTSBURG** and **CHARLES KUSCHE** with manipulating the stock price of Stan Lee Media, Inc. ("Stan Lee Media"), a NASDAQ-traded Internet-based production and marketing company based in Encino, California. PAUL co-founded Stan Lee Media, along with comic book character creator, Stan Lee, who is not charged in the indictment. Prior to the formation of Stan Lee Media, Lee had created characters such as Spiderman, the Incredible Hulk and the X-Men, while working at Marvel Comics. Stan Lee Media was created to produce and promote new comic book characters and stories created by Lee.

Stan Lee Media's fraudulent scheme was orchestrated by PAUL, GORDON, who served as Stan Lee Media's Executive Vice President, PITTSBURG, a Wall Street analyst and owner of the broker-dealer/research firm Pittsburg Institutional, located on Long Island, and KUSCHE, a stock promoter from Darien, Connecticut, who did business as W.S.C.G. Holdings, L.L.C. These defendants are all charged with securities fraud, as well as conspiracy to commit securities fraud. This case is the result of a joint investigation conducted by the United States Attorney's Office, the Postal Inspection Service and the FBI.

The defendants are charged with using various means to inflate artificially and maintain the price of Stan Lee Media stock and to profit from the sale of the stock at its artificially inflated and maintained price, as well as from other transactions involving Stan Lee Media stock. Throughout the scheme, PAUL, GORDON and PITTSBURG manipulated the stock by making transactions through, between and among "nominee" accounts that were set up to hide their control and ownership of the stock, and to manipulate and to disguise their manipulation of the price of the stock.

As part of the scheme, PAUL and GORDON hired analyst PITTSBURG to tout Stan Lee Media to the investing public. To that end, they made false and misleading statements in "research reports" published by PITTSBURG and in interviews with the news media by PAUL and PITTSBURG, including predictions of the future performance of Stan Lee Media and the future price of the stock that PAUL and PITTSBURG knew to be false at the time they were made. PAUL and GORDON paid PITTSBURG to issue such statements and PAUL, GORDON, PITTSBURG and others failed to disclose fully to the investing public that PAUL, GORDON and others paid PITTSBURG in cash and stock in exchange for his "research reports" and other touting of Stan Lee Media.

Meanwhile, PAUL and GORDON, knowing that selling too much of their stock at one time would cause the price of the stock to drop, began borrowing large sums of money from Merrill Lynch & Co. through the nominee accounts, using Stan Lee Media stock as collateral. This technique allowed PAUL and GORDON, effectively, to sell their stock to Merrill Lynch & Co., without negatively impacting the stock price.

*Ph. 2*

Later, in order to sell large blocks of Stan Lee Media stock that they secretly owned and controlled in nominee accounts, PAUL and GORDON made undisclosed payments to PITTSBURG and KUSCHE, who purchased and arranged for others to purchase the stock. The secret payments, which were made in cash and stock, amounted to approximately 55% of the amount that was paid for the blocks of stock. By conducting the transactions in this manner, PAUL, GORDON, PITTSBURG, KUSCHE and others were able to disguise the fact that these blocks of stock were actually being sold for less than one-half of the prevailing market price.

Beginning on or about November 29, 2000, PAUL and GORDON stopped making the previously described payments to PITTSBURG and KUSCHE, which caused its price to plummet, leaving the investing public with worthless stock and leaving Merrill Lynch & Co. with no valuable collateral to use to recover the approximately \$5 million that it had lent to PAUL, GORDON and others. By December 13, 2000, the price of the stock was less than a \$1.00 per share. The stock has not traded since December 18, 2000, and Stan Lee Media filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code on February 16, 2001. Individual investors and financial institutions are estimated to have lost in excess of \$25 million as a result of the Stan Lee Media fraud scheme.

The charges against each defendant carry the following maximum sentences: as to the securities fraud count, 10 years imprisonment, 3 years of supervised release, a \$1,000,000 fine (or twice the gross gain or loss), and an order of restitution; as to the conspiracy count, 5 years imprisonment, 3 years of supervised release, a \$250,000 fine (or twice the gross gain or loss), and an order of restitution. (1)

In announcing the indictment, United States Attorney ALAN VINEGRAD stated: "The story underlying this case has no super-heros, nor is it in any way comical. Rather, it is an all-too-real and sad account of greedy securities fraud perpetrators and unwitting victims. The defendants - a corrupt co-founder, his partner, a stock promoter who struck secret kickback deals, and a Wall Street analyst willing to sell his recommendations for cash and stock - profited illegally at the expense of victim investors throughout the United States, both individual and institutional, who lost millions of dollars because of the defendants' fraudulent practices. This prosecution should send the strong and clear message that such market manipulations will not be tolerated. We will bring those responsible to justice and continue our efforts to protect the fundamental fairness of our nation's securities markets. I want to extend my deep appreciation to the Securities and Exchange Commission and the NASD Regulation's Criminal Prosecution Assistance Group, in addition to the FBI and the Postal Inspection Service, for their invaluable assistance. "

JAY SKIDMORE, Postal Inspector-in-Charge of the Postal Inspection Service, stated: "Today's arrests mark the successful conclusion of a significant mail fraud investigation involving a scheme to swindle the American public by the manipulation of stock prices. Today's law enforcement action sends a clear message that the Postal Inspection Service remains ever-vigilant in maintaining the integrity of the United States mails and protecting the nation's mail system from criminal misuse."

BARRY W. MAWN, Assistant Director-in-Charge of the Federal Bureau of Investigation in New York, stated: "Adjectives like 'fictional,' 'larger than life' and 'exaggerated' aptly describe not only the superhero comic book characters of Stan Lee Media, they also describe the fraudulent business practices such as the 'research reports,' the false statements to the media and the other means by which the defendants sought to inflate and maintain the price of Stan Lee Media stock. They manipulated the market, made illegal profits and thought they had gotten away with their scheme. When the final chapter is written in this investigation and prosecution, just as so often happens in comic book adventures, truth and justice will prevail."

The case is assigned to United States District Judge Leonard D. Weisler. This morning, STEPHEN M. GORDON was arrested in California, and CHARLES KUSCHE was arrested in Connecticut. JEFFREY PITTSBURG was previously arrested on these charges. The government will seek the extradition of PETER PAUL, who is believed to be living in Brazil.

The government's case is being prosecuted by Assistant United States Attorney Kenneth Breen.

**The Defendants:**

**PETER PAUL**

**DOB: 9/2/48**

**ADD: Brazil**

**STEPHEN M. GORDON**

**DOB: 10/26/50**

**ADD: 14246 Valley Vista Blvd.  
Sherman Oaks, CA 91604**

**JEFFREY PITTSBURG**

**DOB: 3/9/44**

**ADD: 4 Crystal Drive  
Great Neck, NY 11021**

**CHARLES KUSCHE**

**DOB: 5/10/54**

**ADD: 12 Fairfield Avenue  
Darien, CT 06820**

1. The charges contained in the indictment announced today are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

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6/12/2001

 Press Office  
 202-646-5172

## **BILL AND HILLARY CLINTON INVOLVED IN MASSIVE ELECTION FINANCE FRAUD**

**Judicial Watch Client, Peter Paul, Has Proof of \$2  
Million in Campaign Contributions Never  
Reported to FEC Concerning Hillary Clinton's  
Senate Campaign**

### **Mr. Paul Indicted Last Friday For Alleged Securities Violations**

(Washington, DC) Judicial Watch, the public interest law firm that investigates and prosecutes government abuse and corruption, has been representing Peter Paul, an international businessman who financed the "Hollywood Tribute to Bill Clinton" shortly before the Democratic National Convention last year on August 12, 2000. Mr. Paul made over \$2 million in direct and in kind campaign contributions to the Hillary Clinton's Senate campaign to finance the "Hollywood Tribute to Bill Clinton" - which served as a fundraiser for then First Lady Hillary Clinton. Importantly, Mr. Paul can document with actual checks the contributions to Hillary Clinton's campaign as well as personal "thank you" notes from Bill, Hillary and Chelsea Clinton. In addition, video and photos exist depicting the closeness of Mr. Paul and the Clintons and underscoring the Clintons' deep thanks for Mr. Paul's generosity, among other matters.

Witnesses to this latest Clinton scandal include a number of Hollywood stars, including but not limited to Barbra Streisand, Brad Pitt, John Travolta, Cher and others. In addition, former Philadelphia Mayor Ed Rendell and Democratic National Committee Chairman Terry McAuliffe are implicated. With regard to Rendell, he played a role in Mr. Paul's request for a Presidential pardon for two prior convictions, with Rendell asking for an additional \$150,000. Mr. Paul made the over \$2 million in contributions to Mrs. Clinton as part of a \$17 million deal to induce Bill Clinton to work with his business ventures after he left The White House.

Judicial Watch and Mr. Paul have been cooperating with U.S.

*Ex. 3*

Attorney's Offices in the Eastern District of New York, Southern District of New York, District of New Jersey and Central District of California. Last Friday, a sealed indictment was issued concerning Mr. Paul, who was alleged to have engaged in improper securities transactions.

"Mr. Paul has offered his full cooperation to the Justice Department in bringing the Clintons to justice," stated Judicial Watch Chairman and General Counsel Larry Klayman.

"Mr. Paul is currently conducting business in Brazil and most recently was interviewed by ABC News on camera for an upcoming "20/20" piece. He has also been cooperating with *The New York Times* and looks forward to the truth coming out to the American people," stated Judicial Watch President Tom Fitton.

###

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***Because no one is above the Law!***

**CRIMINAL CAUSE**  
**FOR ARRAIGNMENT**

BEFORE: WEXLER, J.

DATE: JULY 2, 2001

TIME: 11:00 A.M.

DOCKET #: CR 01-00636

TITLE:     USA

V.

PETER PAUL (FUG)  
STEPHEN M. GORDON (BAIL)  
JEFFREY PITTSBURG (BAIL)  
CHARLES KUSCHE (BAIL)

**APPEARANCES:**

GOV'T:

-

JAMES TATUM, AUSA for  
KENNETH BREEN, AUSA

DEFT PAUL

=

FUGITIVE - NOT PRESENT

DEFT GORDON

=

HARLAND BRAUN, ESO (RET.)  
by NICHOLAS M. DeFEIS, ESO

DEFT PITTSBURG

=

NICHOLAS M. DeFEIS, ESO (RET.)

DEFT KUSCHE

=

LEE GINSBERG, ESO (RET.)

COURT REPORTER:

=

PERRY AUERBACH

**CASE CALLED.**

**FIRST APPEARANCE OF DEFTS 3 & 4.**

**DEFTS 3, & 4 APPEAR WITH COUNSEL.**

**DEFT 1 IS NOT PRESENT - FUGITIVE.**

**DEFT 2 NOT PRESENT. COUNSEL ENTERS A NOT GUILTY PLEA FOR DEFT.**

**DEFTS ARRAIGNED.**

**DEFTS ENTER NOT GUILTY PLEA TO ALL COUNT(S) OF INDICTMENT.**

**BAIL CONTINUED FOR DEFTS 2, 3, & 4.**

**COURT DECLARED THIS CASE AS "COMPLEX CASE".**

**DEFT 3 & 4 WAIVED SPEEDY TRIAL UNDER T FROM 7/2/01 - 9/20/01.**

**DEFT GORDON TO EXECUTED WAIVER OF SPEEDY TRIAL**

**AND RETURN IT TO THE COURT.**

**CASE ADJOURNED TO SEPT 20, 2001 FOR STATUS CONFERENCE.**

A TRUE COPY	
ATTEST	
DATED	7-19 20.01
ROBERT C. HEINERMAN	
BY	<i>J. Rodush</i> CLERK
	DEPUTY CLERK

12-24

# U.S. District Court

New York Eastern (Islip)  
CRIMINAL DOCKET FOR CASE #: 2:01cr00636-1

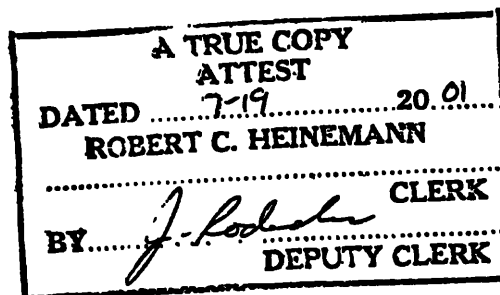
USA v. Paul, et al

Filed: 06/12/01

Case Assigned to:

Judge Leonard D. Wexler

* Parties *	* Attorneys *
<b>PETER PAUL</b> defendant	
<b>Pending Counts:</b>	<b>Disposition</b>
<b>18:371.F CONSPIRACY TO DEFRAUD</b> THE UNITED STATES defts. on or about and between October 1998 through December 2000, did knowingly and willfully conspire, directly and indirectly, to use and employ manipulative and deceptive devices and contrivances in violation of Rule 10b-5. (1)	
<b>15:78J.F MANIPULATIVE AND DECEPTIVE DEVICES</b> dfts. in or about and between October 1998 and December 2000, did knowingly and willfully, directly and indirectly, use and employ manipulative and deceptive devices and contrivances in violation of Rule 10b-5. (2)	
<b>Offense Level (opening): 4</b>	
<b>Terminated Counts:</b>	
<b>NONE</b>	
<b>Complaints:</b>	
<b>NONE</b>	
<b>U. S. Attorneys:</b>	
<b>Kenneth M. Breen, AUSA</b> [COR LD NTC] United States Attorney One Pierrepont Plaza Brooklyn, NY 11201 (718)54-07578	



# Docket Proceedings

Date	Doc #	Docket Entry
06/12/01	8	ORDER TO UNSEAL as to Peter Paul, Stephen M. Gordon, Jeffrey Pittsburg, Charles Kusche ( Signed by Magistrate Cheryl L. Pollak , on June 12, 2001) (mpe) [Entry date 06/14/01]
06/12/01	9	INDICTMENT as to Peter Paul (1) count(s) 1, 2, Stephen M. Gordon (2) count(s) 1, 2, Jeffrey Pittsburg (3) count(s) 1, 2, Charles Kusche (4) count(s) 1, 2 (mpe) [Entry date 06/14/01]
06/12/01	-	Magistrate E. Thomas Boyle has been selected by random selection to handle any matters that may be referred in this case. (mpe) [Entry date 06/21/01]
07/02/01	12	CALENDAR ENTRY as to Peter Paul, Stephen M. Gordon, Jeffrey Pittsburg, Charles Kusche ; Before Judge Leonard D. Wexler Civil cause for arraignment on date of 7/2/01 for Arraignment. First appearance of defts 3 & 4. Defts. 3 & 4 appear with Counsel. Deft. 1 not present - Fugitive. Deft. 2 not present. Counsel enters a not guilty plea for deft. Defts. arraigned. Defts enter not guilty plea to all counts of indictment. Bail continued for defts. 2,3 and 4. Court declared this case as a comlex case. Defts 3 & 4 waived speedy trial under T from 7/2/01-9/30/01. Deft. Gordon to execute waiver of speedy trial and return it to the court. Case adjourned to 9/20/01 for Status conference. Court Reporter/ESR Perry Auerbach, reset status conference for 9/20/01 for Peter Paul, for Stephen M. Gordon, for Jeffrey Pittsburg, for Charles Kusche before Judge Leonard D. Wexler (lm) [Entry date 07/11/01]
[END OF DOCKET: 2:01cr636-1]		