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September 28, 2001

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

Re: MUR 5225

Dear Mr. Norton:

On behalf of Senator Hillary Rodham Clinton, Hillary Rodham Clinton for U.S. Senate Committee, Inc., President William Jefferson Clinton, and William J. Cunningham, III, as treasurer, (the "Respondents") this letter serves as the response to the complaint filed by Judicial Watch on behalf of Peter F. Paul (the "Complainant") referenced as MUR 5225.

This complaint does not provide a basis for finding a reason to belief that a violation of the Federal Election Campaign Act of 1971, as amended, (the "Act") has occurred. The complaint is confusing and hard to understand. While it alleges that Complainant made contributions to the Hillary Rodham Clinton for U.S. Senate Committee, it concedes that the event that he allegedly paid for was a New York Senate 2000 fundraiser. Quite simply, the Complainant fails to set forth a single piece of evidence to support the wild assertion that he spent "\$1.9 million of his own personal funds" to make "cash and in-kind direct contributions" to the Hillary Rodham Clinton for U.S. Senate Committee. For the reasons set forth below, Respondents respectfully request that the Commission promptly dismiss this complaint and close this matter as it pertains to them.

INTRODUCTION

In July 2000, the Complainant was known as a prominent businessman in California. He co-founded Stan Lee Media, Inc., an Internet company associated with Mr. Stan Lee, the creator of comic book heroes Spiderman and the Incredible Hulk. Complainant assisted with a fund raising event to benefit New York Senate 2000, a joint fundraising committee whose participants included the Democratic Senatorial Campaign Committee and the Hillary Rodham Clinton for U.S. Senate Committee. On August 12, 2000, the joint fundraising event was held during the Democratic National Convention in Los Angeles to benefit New York Senate 2000.

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The joint fundraising committee raised approximately \$1 million in direct contributions in connection with this event and reported event costs of more than \$500,000, including in-kind contributions. The 50% ratio of event expenses to funds raised is extremely high, well beyond the usual and customary amount associated with events designed to raise funds for a political campaign. Complainant wildly claims that he spent \$1.9 million on this event – or almost \$1 million more than the amount raised at the "fund-raiser"!

The joint fundraising committee properly reported receiving \$366,564.69 in non-federal in-kind contributions from Stan Lee Media to cover costs associated with the fundraiser. The Stan Lee Media in-kind contribution included a \$200,000 payment by them to Black Ink Productions, the event producer, to pay for costs associated with the event.¹ The joint fundraising committee also made a direct payment of \$100,000 to Black Ink Productions for event costs that was properly reported. In total, New York Senate 2000 reported August 12 event costs of \$519,077.39 (\$401,419 non-federal in-kind contributions received and \$117,658 in direct expenditures made by the committee). The event raised approximately \$1,473,434 (including the \$401,419 non-federal in-kind contributions) with a net of \$1,072,015 in direct contributions. In light of the amount raised and the event costs reported by the joint fundraising committee (including \$300,000 in payments to Black Ink Productions) there was no reason to believe that the Complainant spent \$1, let alone "1.9 million of his own personal funds," to pay for this event. Interestingly, Complainant failed to provide the Commission with a single personal check or bank statement to support his claim that he "personally financed the entire event."

Unbeknownst to Respondents, and apparently Stan Lee Media, Complainant was allegedly a mastermind involved in securities fraud, bank fraud, and mail fraud schemes throughout 2000 that cost investors more than \$25 million and culminated with a bankruptcy petition filed by Stan Lee Media. On June 12, 2001, the U.S. Attorney for the Eastern District of New York announced the unsealing of an indictment charging Complainant and others with two felony counts of securities fraud and conspiracy. According to the indictment, Complainant participated in a scheme to manipulate the stock price of Stan Lee Media that resulted in losses in excess of \$25 million by individual investors and financial institutions. During early 2000, Stan Lee Media's stock was traded at more than \$20 per share. By late November 2000, the share price plunged to less than \$1 per share and the company subsequently fired most of its staff and filed for bankruptcy protection.

In a letter dated July 16, 2001 addressed to Senator Clinton, Complainant, alleging that he was motivated by his "conscience and sense of fair play," demanded that her campaign committee "return the contributions [he] made."² He purportedly attached a copy of his Judicial Watch prepared complaint to the demand letter. Not surprisingly, Mr. Paul failed to provide his return address in the communication.

¹ In his July 26, 2001 letter to Senator Clinton, Complainant confirmed that Mr. Gary Smith, not Complainant, owned Black Ink Productions. See Complaint Exhibit 5.

² See Complaint Exhibit 5

On July 26, 2001, the U.S. District Court in Los Angeles unsealed a federal criminal complaint that charged Complainant with one count of bank fraud and one count of mail fraud. According to the criminal complaint, Complainant participated in a scheme to defraud Stan Lee Media out of approximately \$1.3 million.

When Judicial Watch filed this complaint on July 13, 2001, Complainant was a fugitive hiding from prosecution on these charges in South America. He apparently even signed the complaint before a notary in Sao Paolo, Brazil.

Judicial Watch is known to abuse the Federal Election Commission's complaint process by making "purely speculative charges."³ Now they have resorted to using an international fugitive facing separate criminal fraud charges in New York and Los Angeles as their weapon of choice to attack Respondents in this matter before the Commission.

DISCUSSION

A. The FEC should apply the fugitive disentitlement doctrine to prevent abuse of its civil enforcement process.

Complainant fled the country and is presently identified as a fugitive in U.S. District Court for the Eastern District of New York criminal proceedings.⁴ The complaint filed by Judicial Watch indicates that Mr. Paul was hiding in or near Sao Paolo, Brazil when he apparently signed it before a notary.⁵ The U.S. Attorney for the Eastern District of New York stated that the "government will seek the extradition of Peter Paul, who is believed to be living in Brazil."⁶

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."⁷ The Supreme Court established that the doctrine is not jurisdictional; it rests upon principles of

³ David M. Mason, Karl J. Sandstrom, Bradley A. Smith, Scott E. Thomas, Statement of Reasons, MUR 4960 (Dec. 21, 2000).

⁴ See Certified copy of Criminal Cause for Arraignment, United States v. Paul et al., filed as of July 2, 2001 (Exhibit A, attached).

⁵ See Complaint at 5. We have no way of knowing whether this notarization was bona fide. This raises the question of whether the complaint was properly sworn to pursuant to 2 U.S.C. §437g(a)(1).

⁶ See Press Release, "Co-Founder of Stan Lee Media, Wall Street Analyst, and Others Charged with Stock Manipulation – Loss to Investors Exceeds \$25 Million," June 12, 2001 (Exhibit B, attached).

⁷ Prevot v. Prevot, 59 F.3d 556, 562 (6th Cir. 1995)

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equity.⁸ Specifically, a fugitive's escape "'disentitles' him 'to call upon the resources of the Court for determination of his claims.'"⁹

The fugitive disentitlement doctrine was originally applied to deny access to the courts in criminal appeals. It is now well established that the doctrine "applies to federal trial courts in civil cases as well as to appellate courts."¹⁰ The right of an administrative agency to refuse to hear a complaint filed by a fugitive has not been specifically addressed, however, the courts have declined to entertain claims brought by a fugitive challenging administrative action.¹¹ The D.C. Court of Appeals upheld the district court's refusal to entertain a Freedom of Information Act 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.¹²

Since Complainant is a fugitive, the Commission would be unable to subpoena documents from him, depose him, or otherwise take any investigative action related to him. Complainant's personal financial records would be important if any of the allegations were true. Yet, Complainant failed to include any of them in the documents that he produced with the Complaint. Had he in fact any documentation of his claims, surely he would have attached it. His failure to provide the personal financial records and the Commission's inability to obtain them through its routine investigative powers unfairly places Respondents in the position of having to defend themselves against his claims regarding which Respondents have no information and the Commission would be unable to verify.

The Commission should not allow Complainant to use the Federal Election Commission to pursue his administrative complaint against Respondents while he remains a fugitive from the U.S. District Courts in New York and Los Angeles.

⁸ 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 (1st Cir. 1992).

⁹ Degen v. United States, 517 U.S. 820, 824 (1996), citing Molinaro v. New Jersey, 396 U.S. 365, 366 (1970).

¹⁰ Prevot, supra, 59 F.3d at 564. See Sarlund v. Anderson, 205 F.3d 973 (7th Cir. 2000) (§1983 civil rights action should have been dismissed under fugitive disentitlement doctrine), Conforte v. Commissioner, 692 F.2d 587 (9th Cir. 1992) (dismissing appeal of civil tax assessment), Schuster v. United States, 765 F.2d 1047 (11th Cir. 1985) (affirming dismissal of petition by fugitive for review of tax assessment).

¹¹ See Doyle v. US Dept. of Justice, 668 F.2d 1365 (D.C. Cir. 1981) (per curium).

¹² Id. at 1365-66.

- B. The Commission should dismiss the Complaint because it fails to meet the "reason to believe" threshold.

The Commission has the power to investigate alleged violations of the Act only where there is "reason to believe" that a violation has been, or is about to be, committed.¹³ The Commission may find "reason to believe" only if the complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the Act. Complaints based upon personal knowledge must be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.¹⁴

1. The documentation provided by the Complainant does not support the allegation in his complaint that he "personally financed the entire event."

In this matter, Complainant specifically alleges that he contributed "\$1.9 million of his own personal funds" to make "cash and in-kind direct contributions" to the Hillary Rodham Clinton for U.S. Senate Committee. He further states that he "personally financed the entire [August 12, 2000] event." The so-called evidence cited by Complainant, however, directly contradicts his claim. Complainant provided numerous check copies drawn on at least six different corporate accounts that purportedly were used to pay for costs associated with the August 12 event.¹⁵ None were drawn on a personal account.

His assertion that he personally paid event expenses must also be reviewed in the context of the federal criminal charges against him. Complainant allegedly embezzled funds from some of these entities. It may even be that some of these checks were part of that embezzlement scheme. Certainly his complaint demonstrates that he confuses his personal funds with corporate funds – even corporations that are not owned by him, such as Black Ink Productions!

In short, Complainant failed to include a single document to support his claim that he used \$1.9 million (or even \$1) of his personal funds to pay for the entire event. Such outrageous charges, especially when accompanied by direct refutation supplied by Complainant, do not form an adequate basis to find reason to believe that a violation of the Act has occurred.

¹³ 2 U.S.C. §437g(a)(2).

¹⁴ 11 C.F.R. §111.4(d)(4).

¹⁵ The documentation provided by Complainant includes checks made payable to cash totaling more than \$100,000; a payment of more than \$70,000 to a payroll service company, payments to Mr. Steve Gordon (a Stan Lee Media corporate officer and Complainant's alleged co-conspirator in the federal criminal cases); payments to American Express but no statement identifying the charges; payments to Pier 1 Imports with receipts dated August 23 and September 6, 2000 – weeks after the event – for chair covers; and, copies of checks signed but with the payee line left blank. It is not clear that all of the corporate checks submitted with the Complaint were even negotiated since only the front side was produced and pages from bank statements were not submitted. Moreover, Complainant provided no evidence that these corporate checks were actually used to pay for August 12 event costs.

Complainant failed to provide any evidence upon which one could reasonably conclude that he personally paid for the August 12 event (as opposed to merely saying that he did). Thus his complaint does not provide reason to believe that any violation occurred.

2. Complainant failed to provide any documentation available to him to support the fact alleged in his complaint that the Hillary Rodham Clinton for U.S. Senate Committee failed to properly report the \$1.9 million he allegedly contributed to the committee.

Complainant specifically alleges that he made contributions of \$1.9 million, both cash and in-kind, to the Hillary Rodham Clinton for U.S. Senate Committee and that the committee "improperly and/or inaccurately reported" the contributions. The evidence cited by Complainant, however, directly contradicts his claim. The August 12, 2000 event was a joint fundraiser held by New York Senate 2000, it was not a Hillary Rodham Clinton for U.S. Senate Committee event. Any payments for costs associated with the event made by third parties would be in-kind contributions to the joint fundraising committee. Complainant alleges, without any evidence supporting his claim, that he "personally financed the entire event." His contribution then, if it were actually made, would have been an in-kind contribution to the joint fundraising committee – not the Hillary Rodham Clinton for U.S. Senate Committee. Neither Senator Clinton, nor her campaign committee were responsible for reporting contributions made to New York Senate 2000. And New York Senate 2000 would not be responsible for reporting contributions from Complainant that were not made.

Complainant failed to provide any evidence upon which one could reasonably conclude that he made a \$1.9 million contribution to the Hillary Rodham Clinton for U.S. Senate Committee or that her committee improperly reported receipt of the non-existent contribution. Thus, there is no reason to believe that a violation occurred.

3. Complainant failed to provide any basis for a finding against President William Jefferson Clinton

Complainant claims that when he allegedly made a \$1.9 million contribution to a joint fundraising committee that this somehow resulted in a violation by President Clinton. President Clinton was not a candidate in 2000. He was simply an attendee at a joint fundraising event. Complainant failed to provide any evidence upon which one could reasonably conclude that President Clinton violated any provision of the Act. Thus, there is no reason to believe that a violation occurred.

4. Complainant failed to provide any basis for a finding against Senator Hillary Rodham Clinton

Complainant claims that when he allegedly made a \$1.9 million contribution to a joint fundraising committee that this somehow resulted in a violation by Senator Hillary Rodham Clinton. While her campaign committee was a participant in the joint fundraising event, Complainant failed to provide any evidence upon which one could reasonably conclude that she violated any provision of the Act. Thus, there is no reason to believe that a violation occurred.

CONCLUSION

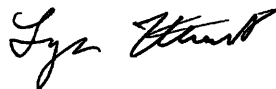
Complainant is apparently seeking reimbursements for \$1.9 million in contributions that he did not make. While pursuing this claim through the Federal Election Commission he is hiding in South America from federal criminal charges involving stock schemes, bank fraud, and mail fraud that apparently drove Stan Lee Media out of business. Judicial Watch, whose credibility has previously been questioned by the Commission, has taken up his cause.

The Commission should not allow this abuse of the process to continue. The fugitive disentitlement doctrine should be applied to prevent the Complainant from using the Commission to pursue his administrative claim against Respondents while hiding in South America from the U.S. District Courts in New York and Los Angeles.

Moreover, Complainant failed to meet the "reason to believe" threshold necessary to continue this charade. Not a single document or shred of evidence supporting the claim that Complainant personally contributed \$1.9 million to the Hillary Rodham Clinton for U.S. Senate Committee or that her campaign committee improperly reported his alleged contribution. Based on the evidence and documents provided by Complainant there is no reason to believe that a violation occurred. Accordingly, the Commission should promptly close this matter as it pertains to Respondents.

Finally, the expenditures and in-kind contributions reported by the joint fundraising committee appeared in every respect to be complete, and, indeed, suggested that the event cost more than it should. It is simply not credible that an event that raised \$1 million cost in excess of \$2 million as Complainant alleges.

Respectfully submitted,



Lyn Utrecht
James Lamb
Counsel to Senator Hillary Rodham Clinton;
Hillary Rodham Clinton for U.S. Senate Committee,
Inc.; William J. Cunningham, III; and, President
William Jefferson Clinton

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EXHIBIT A

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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 2001
ROBERT C. HEINEMANN	
BY	<i>J. Rodas</i> CLERK
	DEPUTY CLERK

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EXHIBIT B

26044130350



JOHN S. GORDON

United States Attorney
Central District of California

Thom Mrozek, Public Affairs Officer
(213) 894-6947
thom.mrozek@usdoj.gov

August 3, 2001

CO-FOUNDER OF STAN LEE MEDIA ARRESTED TODAY IN BRAZIL; COMPLAINT CHARGES HIM WITH BANK FRAUD, MAIL FRAUD

Peter F. Paul, a co-founder of Stan Lee Media, Inc., was arrested today in the Sao Paulo, Brazil airport and is being detained by Brazilian authorities pending extradition proceedings to the United States. Paul was arrested pursuant to charges brought by federal authorities in Los Angeles and New York.

A federal criminal complaint filed in United States District Court in Los Angeles was unsealed on July 26. The complaint charges Paul and Stephen M. Gordon, a former senior executive of Stan Lee Media, each with one count of bank fraud and one count of mail fraud. Paul, 52, is a resident of Calabasas who has been sought by federal authorities since he was charged in New York in June 2001 with securities fraud and conspiracy to commit securities fraud. Gordon, 50, of Sherman Oaks, California was also charged in New York with the same offenses.

In relation to the case filed in Los Angeles, Gordon made his first court appearance on July 26, at which time a United States Magistrate Judge set bond at \$300,000. A preliminary hearing in this case is scheduled for August 15, and an arraignment is scheduled for August 20.

As alleged in the Los Angeles complaint, Paul and Gordon engaged in a scheme to defraud Stan Lee Media and a branch of US Bank out of approximately \$1.3 million.

Stan Lee Media was an Internet company co-founded by comic book icon Stan Lee and Paul. Stock in Stan Lee Media was traded on the Nasdaq stock exchange until it was delisted in May of 2001. Paul was the company's CEO until June 2000, but he continued to make executive decisions after another CEO was brought in. Gordon was executive vice president for operations and acted as the company's chief operating officer with control over the company's bank accounts.

During early 2000, Stan Lee Media's stock was being traded at more than \$20 per share. In late November and December of 2000, the share price of SLM's stock plunged, and SLM subsequently fired most of its staff and filed for bankruptcy protection.

According to the complaint, in early November 2000, Gordon, acting as the chief operating officer of Stan Lee Media, deposited a series of insufficient funds checks into two Stan Lee Media business checking accounts at a US Bank branch in Encino, California. The bad checks were written on bank accounts controlled by Paul and Gordon. Because of Stan Lee Media's good credit standing, US Bank immediately issued cashier's checks payable to the other businesses controlled by Paul and Gordon. As a result of this scheme, Gordon, with Paul's assistance, caused US Bank and/or Stan Lee Media to suffer losses of more than \$1 million.

Bank fraud carries a maximum possible penalty of 30 years in federal prison, while mail fraud carries a potential penalty of five years in prison.

A criminal complaint contains allegations that a defendant has committed a crime. Every defendant is presumed innocent until and unless proven guilty beyond a reasonable doubt.

In addition to the charges filed in Los Angeles, Paul, Gordon and others face charges in the Eastern District of New York arising out of an alleged scheme to manipulate the price of Stan Lee Media stock.

This case is the product of an ongoing investigation by the Federal Bureau of Investigation.

Release No. 01-119

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