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July 31, 2002

VIA FACSIMILE AND UNITED STATES MAIL

Mr. Jeff S. Jordan, Supervising Attorney
Central Enforcement Docket
Federal Election Commissions
Washington, D. C. 20463

Re: Private Complaint; MUR 5276

Dear Mr. Jordan:

Receipt of your letter of June 25, 2002 advising of a Federal Election Commission complaint filed by Ms. Valerie M. Martin of Lisle, IL against my client, Mr. Jack Machek is acknowledged. I likewise acknowledge receipt of copy of Ms. Martin's complaint, a list of procedures for handling the complaint and a Designation of Counsel Statement.

Mr. Machek is currently running as a Democratic candidate for a vacancy in the Federal Congress, more specifically the vacancy representing the 18th Congressional District of Pennsylvania. Following a through review of the complaint and its allegations, I find the predicate of Ms. Martin's claims is her belief that Mr. Machek violated provisions of the Federal Election Campaign Act of 1971 by failing to abide by the mandatory electronic report filing requirements in the last two Quarterly Financial Reports of the present election cycle. Her claim assumes that Mr. Machek's campaign committee has, or by the end of the current election cycle expects to have, collected or dispersed more than \$50,000.00 of campaign *contributions* or *expenditures*. The alleged violation specifically presumes that the two reports above mentioned should have been filed electronically. Electronic filing of campaign financing reports became mandatory with the passage of Public Law 106-58, which required the reporting periods commencing on or after January 1, 2001, when any person required to file a campaign finance report with the Federal Election Commission do so electronically if, during that election cycle the candidate receives (or expects to do so) *contributions* or makes *expenditures* in excess of \$50,000.00, referred to under the facts of the instant case as the *threshold amount*, in a calendar year 11 CFR 104 et. seq.

To begin the deconstruction of Ms. Martin's allegations, isolate the charges. A close look at the complaint filed against my client reveals that Ms. Martin's theory of the case cannot prevail in the instant matter. Ms. Martin's conclusion that my client reached the *threshold amount* in the current election cycle is patently incorrect. The origin of this unwarranted conclusion is that in

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her threshold calculations she erroneously consolidated the current election cycle with the one just before it. During the prior cycle, Mr. Machek unsuccessfully ran for a Congressional seat and failed to achieve it. In doing so, he personally loaned his campaign committee \$50,000.00. This money was completely depleted for expenses during the first cycle.

As Mr. Machek organized a second campaign committee and entered the present election cycle seeking the 18th District Congressional seat, he listed the unpaid loan from the first election attempt as an outstanding campaign expense, however no funds remain from the loan. It is merely an unpaid campaign expense. The expense has been carefully and continuously reported, albeit not electronically since receipts for the current Congressional race derive from contributions to the current campaign committee which do not, and will not, approach the \$50,000.00 threshold for mandatory electronic report filing.

The rules state: "**Other Considerations.** When a committee calculates whether it has exceeded, or expects to exceed, the \$50,000.00 threshold, it should keep in mind the following: The calculation is based on either making \$50,000.00 in expenditures or receiving \$50,000.00 in contributions during the calendar year, it is not based on a combination of expenditures and contributions. *Nonfederal funds are excluded from the calculation. ***Cash on hand and outstanding debt at the beginning of the calendar year are excluded from the calculation.**" FEC Electronic Filing Brochure p.2 (emphasis added).

Under no conceivable and reasonable interpretation of the facts and law in this matter will total contributions, total expenditures or total contributions and expenditures of Mr. Machek's campaign committee approach the \$50,000.00 threshold requiring mandatory electronic campaign finance reporting. It is patently clear that the allegations made against my client in her complaint are frivolous, unsupportable by any reasonable interpretation of the law and facts of the matter and should be immediately dismissed with prejudice.

Respectfully submitted,


William G. Joseph, Esquire
Counsel for Jack Machek

STATEMENT OF DESIGNATION OF COUNSEL

Please use one form for each respondent

MUR 5276NAME OF COUNSEL: William G. Joseph, Esq.FIRM: Atty. and Counsellor at LawADDRESS: 636 Pennridge RoadChatham VillagePittsburgh, PA 15211-1420TELEPHONE: 412 381 4882FAX: 412 381 4882

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

JACK MACHEK

Print Name

7/29/02

Date

Jack M Mach

Signature

Title

RESPONDENT'S NAME: _____

ADDRESS: _____

TELEPHONE: HOME _____

BUSINESS() _____

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