



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

DEC 10 2010

Mr. Bryan Javor  
440 Westwood Ct., Suite A  
Crystal Lake, IL 60014

RE: MUR 6292

Dear Mr. Javor:

On May 20, 2010, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On December 1, 2010, the Commission found, on the basis of the information in the complaint, information provided by you, and information provided by others, there is no reason to believe you violated 2 U.S.C. § 441a(a)(1)(A). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Dawn M. Odrowski, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Q. Luckett".

Roy Q. Luckett  
Acting Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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6 **RESPONDENT: Bryan Javor**

**MUR: 6292**

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9 **I. INTRODUCTION**

10 This matter was generated by a complaint filed with the Federal Election Commission by  
11 Richard M. Cape, alleging that Bryan Javor violated the Federal Election Campaign Act of 1971,  
12 as amended ("the Act").

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 **A. Background**

15 The complaint alleges that Joe Walsh for Congress Committee ("JWCC") failed to pay  
16 for or disclose automated phone calls and a poll conducted by Bryan Javor. If the services  
17 provided by Javor constituted an in-kind contribution and exceeded the \$2,400 per election  
18 contribution limit, Javor may have violated the Act. Javor appears to have provided at least  
19 some of the services to JWCC through a start-up company called ReachFly.<sup>1</sup> See *YR Spotlight*  
20 *on Bryan Javor, Outgoing Chairman*, McHenry County Blog, March 14, 2010, available at  
21 <http://mchenrycountyblog.com/2010/03/14/yr-spotlight-on-bryan-javor-outgoing-chairman/>. The  
22 complaint maintains that Javor conducted auto-calls directly for JWCC on February 1, 2010, and  
23 conducted a poll for a Walsh primary opponent, Christopher Geissler, and gave the results of that  
24 poll to JWCC before giving them to Geissler. Emails attached to the complaint confirm Javor  
25 conducted phone calls on February 1, 2010, and that he was to conduct a poll on  
26 January 25 or 26, 2010. Complaint at 10-11.

<sup>1</sup> ReachFly registered as an LLC in Illinois on March 15, 2010.

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JWCC does not dispute that it engaged Javor's company, ReachFly, to perform auto calls in the days leading up to the primary. It maintains that ReachFly subsequently issued an invoice to JWCC and that its payment of the invoice would be reported in the 2010 July Quarterly Report.

With respect to polling, JWCC states that the allegation that it received a poll conducted by Javor for one of Walsh's opponents is simply not true. It represents that it engaged ReachFly on January 26, 2010, to conduct a limited poll to test name recognition and geographic areas of strength and weakness to permit it to more effectively target its efforts in the closing days of the primary campaign. JWCC again maintains that ReachFly did not issue an invoice for the poll during the 2010 April Quarterly reporting period but did so subsequently and that it would report expenditures for these services in the 2010 July Quarterly Report.

Bryan Javor makes no mention in his brief email response of invoices to, or payments from, JWCC for auto-calls or a poll. Rather, he states that "[a]ny and all contributions made by me to the Joe Walsh Campaign are the sole responsibility of the campaign to report in a timely and proper manner." Javor Response at 2. He denies, however, that he "slipped" poll results to another candidate, calling the allegation "patently false and defamatory" and contrary to his business practices. *Id.*

Christopher Geissler, the Walsh primary opponent whose poll results were allegedly given to JWCC, states that he has no knowledge of who provided services to Walsh but is interested in how phone survey information compiled by a consulting firm engaged by his campaign committee was furnished to an opponent.

JWCC has now amended its 2010 April Quarterly Report to reflect a January 26, 2010, \$550 in-kind contribution from Javor for "in-kind auto calls" and a \$1,081.27 debt owed to

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1 ReachFly for "tech assistance and phone calls." It also disclosed three disbursements to  
2 ReachFly in the 2010 July Quarterly Report, all for "technology consulting": \$1,334, \$1,500 and  
3 \$1,250 on May 1, May 21, and June 1, 2010, respectively.

4 JWCC appears to have reported the auto-calls and limited poll conducted by Javor and  
5 ReachFly in its amended 2010 April Quarterly Report as an in-kind contribution and debt rather  
6 than in its 2010 July Quarterly Report, presumably because the underlying services were  
7 provided in the week leading up to the February 2, 2010, a period covered by the 2010 April  
8 Quarterly Report. The three disbursements to ReachFly disclosed in the 2010 July Quarterly  
9 Report appear to relate to services Javor provided at a later time since their purpose is listed as  
10 "technology and consulting" rather than auto calls or phone calls.

11 **B. Analysis**

12 The Act provides that a person may not make contributions that aggregate in excess of  
13 the statutory limitation with respect to any election for Federal office. 2 U.S.C. § 441a(a)(1)(A).  
14 In the 2010 election cycle, the individual contribution limit is \$2,400. Javor's reported \$550 in-  
15 kind contribution to JWCC in the form of auto calls did not exceed the contribution limit of  
16 \$2,400, and JWCC has reported as a debt the other services Javor provided through ReachFly on  
17 or before the February 2, 2010 primary election. Accordingly, the Commission has determined  
18 to find no reason to believe that Bryan Javor violated 2 U.S.C. § 441a(a)(1)(A).

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