



FEDERAL ELECTION COMMISSION

Washington, DC 20463

**Kelly Lawler, Treasurer
Mattie Fein for Congress
P.O. Box 2006
Redondo Beach, CA 20278**

MAR 18 2011

RE: MUR 6388

Dear Ms. Lawler:

On October 8, 2010, the Federal Election Commission notified you, in your official capacity as treasurer of Mattie Fein for Congress, of a complaint alleging a violation of 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. On March 17, 2011, the Commission found, on the basis of the information in the complaint, and information provided by Mattie Fein, that there is no reason to believe that Mattie Fein for Congress and you, in your official capacity as treasurer, violated 2 U.S.C. § 441a(f). 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 Jack Gould, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Allen", is positioned below the word "Sincerely,".

**Mark Allen
Assistant General Counsel**

**Enclosure
Factual and Legal Analysis**

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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6 In the Matter of)
7) MUR 6388
8 Mattie Fein for Congress and)
9 Kelly Lawler, in her official capacity as treasurer)
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11 **I. GENERATION OF MATTER**

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13 This matter was generated by a complaint filed with the Federal Election
14 Commission by Michael Chernus. *See* 2 U.S.C. § 437g(a)(1).

15 **II. INTRODUCTION**

16 Complainant alleges that Mattie Fein, a candidate for the U.S. House of
17 Representatives from California's 36th Congressional District, may have not had the
18 personal funds necessary to contribute and loan \$108,222 to her principal campaign
19 committee, Mattie Fein for Congress ("Committee") during the 2010 election cycle.
20 Complainant bases his allegation on Ms. Fein's financial disclosure statement filed with
21 the U.S. House of Representatives, which does not reflect sufficient personal assets and
22 income to support her contributions and loans to the Committee.

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24 **III. FACTUAL BACKGROUND**

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26 Ms. Fein's financial disclosure statement indicates that during 2009 she received a
27 \$3,000 honorarium from The Litchfield Group, Inc. and income from a marital separation
28 agreement in the range of \$15,001-\$50,000. For 2010, Ms. Fein again disclosed income
29 from a marital separation agreement in the range of \$15,001-\$50,000. In her sworn
30 response to the complaint, Ms. Fein averred that pursuant to her separation agreement
31 with Bruce Fein, she received \$20,000 per month and that she "inadvertently checked an

erroneous box" on her financial disclosure form. According to Ms. Fein, "the 'correct box' . . . should have indicated receipt of between \$100,000-\$1,000,000 from the separation agreement during 2009 and 2010." Ms. Fein's former husband, Bruce Fein, corroborated her statement in a sworn affidavit: "During 2009 and 2010, I paid Mattie Fein \$20,000 per month pursuant to a separation agreement."

IV. LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("Act"), provides that no person shall make contributions to any candidate and his authorized political committee with respect to any election for Federal office which in the aggregate, exceeded \$2,400 in the 2010 election cycle. 2 U.S.C. § 441a(a)(1)(A). In addition, the Act provides that no candidate, officer, or employee of a political committee shall knowingly accept any contribution that exceeds the contribution limits. 2 U.S.C. § 441a(f).

Commission regulations provide that candidates for Federal office may make unlimited expenditures from personal funds, including contributions to the candidate's principal campaign committee. *See* 11 C.F.R. § 110.10; Advisory Opinion 1984-60 (W. Patrick Mulloy). The Act defines "personal funds" as, *inter alia*, "income received during the current election cycle of the candidate" 2 U.S.C. § 431(26)(B); *see also* 11 C.F.R. § 100.33(b). Spousal support is treated as income for tax purposes. *See* 26 U.S.C. § 71; I.R.C. § 71. Mattie Fein received regular spousal support payments from her former husband pursuant to a formal separation agreement, and therefore, it is appropriate to treat those payments as "personal funds" under the Act.

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1 Based on the sworn statements made by Mattie and Bruce Fein, it appears that
2 Ms. Fein had income totaling \$483,000 (\$20,000 x 24 months + \$3,000 honorarium)
3 during the 2010 election cycle. Thus, Ms. Fein had sufficient income to cover the
4 \$108,222 in contributions and loans she gave to the Committee. Moreover, Complainant
5 does not provide any information about another source of funds that may have been used
6 to make the contributions and loans. Rather, the allegation seems to rest solely on the
7 observation that Ms. Fein's financial disclosure statement did not reveal enough personal
8 assets and income to fund the contributions and loans.

9 Therefore, there is no reason to believe that Mattie Fein for Congress and
10 Kelly Lawler, in her official capacity as treasurer, violated 2 U.S.C. § 441a(f).

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