

RECEIVED
FEDERAL ELECTION
COMMISSION

SALTZMAN & EVINCH, P.C.
ATTORNEYS AT LAW

2011 OCT -3 PM 2: 52

METROPOLITAN SQUARE
655 15TH STREET, NW,
F STREET LOBBY, SUITE 225
WASHINGTON, DC 20005-5701

TELEPHONE (202) 637-9877
FACSIMILE (202) 637-9876

OFFICE OF GENERAL
DAVID S. SALTZMAN
GONAY EVINCH (OVUNG)

DSALTZMAN@TURKLAW.NET
GEVINCH@TURKLAW.NET

WWW.TURKLAW.NET

September 26, 2011

Via Facsimile (202) 219-3923
and U.S. Mail

Office of General Counsel
Federal Election Commission
Attn: Jeff S. Jordan, Esq.
999 E. Street N.W.
Washington, D.C. 20463

RE: MUR 6469

Dear Mr. Jordan:

Respondent Turkish Coalition of America ("TCA") hereby responds to the Complaint filed by David Krikorian in the above-captioned matter under review.¹ TCA was not named as a Respondent by the complainant. But TCA was informed that the Federal Election Commission (the "FEC") considers it a subject of its investigation.²

¹ Undersigned counsel declares that this reply has been submitted within the fifteen-day timeframe measured from the date of the Complaint's receipt by TCA's President, G. Lincoln McCurdy at his home address.

² TCA respectfully requests that further mail to TCA or its officers be delivered to TCA's office at 1510 H Street, NW, Suite 900, Washington, DC 20005, with a copy sent to counsel signing herein.

TCA requests that the FEC take no action against it and provides the following arguments in support based on undisputed material facts and clear law.

TCA is a Massachusetts corporation, exempt from taxation under section 501(c)(3) of the Internal Revenue Code. It was founded to educate the general public about Turkey and Turkish Americans and to opine on critical issues to interested parties. The FEC investigation concerns legal services that were provided to U.S. Representative Jean Schmidt by the Turkish American Legal Defense Fund ("TALDF"), an arm of TCA. TALDF was established in part to pursue the rights of those who would suffer harassment or intimidation for expressing viewpoints sympathetic towards Turkish Americans or warm Turkey-U.S. relations. TALDF, like the ACLU or the NAACP Legal Defense and Education Fund, litigates to advance philosophical or ideological objectives.³

Rep. Schmidt sought TALDF's legal services *after* the November 4, 2008 election. Before then TALDF had no communication with Rep. Schmidt of any kind. Concomitantly, TALDF was entirely unaware of the Congresswoman's legal claims until after her 2008 re-election. TALDF agreed to represent Rep. Schmidt as an individual, and no discussions about representing her campaign committee were ever broached. It was a nominal complainant before the Ohio Elections Commission ("OEC") because of technical pleading rules. The Congresswoman was the sole real party in interest, and was the sole witness called by TALDF before the OEC.

³ Mr. Bruce Fein, a principal attorney in TALDF, joins in this submission.

I. FACTS

A. Complainant Krikorian's Pattern of Reckless or Malicious Accusations

Complainant David Krikorian is either the current or former managing member of Parody Productions, LLC, a Cincinnati based producer and distributor of novelty playing cards. In 2009, the Ohio Elections Commission voted to publicly reprimand him for malicious falsehoods he published about the Respondent Rep. Schmidt on the eve of the 2008 election. Exhibit 1, Exhibit 2, Exhibit 3. He is former Chairman of the Armenian National Committee of Ohio, a local branch of the Armenian National Committee of America ("ANCA"). Exhibit 4, pp 2-3. ANCA is the United States arm of the Armenian Revolutionary Federation, a foreign political party based in the Republic of Armenia and which also holds seats in the national assembly of Lebanon. *Id. See H. Sassounian, U.S. Embassy Releases Study On Armenian-Americans (Part II)*, available at: [http://armeniapedia.org/index.php?title=U.S._Embassy_Releases_Study_On_Armenian-Americans_\(Part_II\)](http://armeniapedia.org/index.php?title=U.S._Embassy_Releases_Study_On_Armenian-Americans_(Part_II)); Letter from Melanie Sloan, to Messrs. Holder, Shuler and Mms. Erickson and Miller, February 18, 2009, available at <http://www.citizensforethics.org/legal-filings/entry/crew-files-complaint-against-armenian-national-committee-of-america> (Among the attachments to Ms. Sloan's letter is a report in which Mr. Krikorian is listed as an ANCA-endorsed candidate for election in 2008).

TCA understands that Mr. Krikorian initially met Rep. Schmidt in her congressional offices prior to the 2008 election cycle. Exhibit 4, p. 4. Apparently, he

demanded her co-sponsorship of a resolution condemning the Government of Turkey and branding as "genocide" the deaths of Armenian civilians in the Ottoman Empire during the First World War. *Id.* When Schmidt declined and expressed a need to study the issue first before considering making such a grave accusation, Krikorian began screaming, calling her names, and threatening to ruin her politically. *Id.*

1. Mr. Krikorian's Candidacy for Congress 2007-08.

During the 2007-08 election cycle, Mr. Krikorian ran against Rep. Schmidt as an Independent and as a self-styled Reagan conservative. *Id.* On the eve of the 2008 general election, Krikorian publicly disseminated materials falsely accusing Schmidt of being a paid mouthpiece of the Republic of Turkey. Krikorian falsely accused Rep. Schmidt of taking money from the Turkish Government and from Turkish Government-sponsored political action committees ("PAC"s) to deny the alleged Armenian genocide. Krikorian also falsely maintained that this information was a matter of public record on the FEC's website. Exhibit 4, pp. 4-5.

Mr. Krikorian placed third in the three-way race, behind Rep. Schmidt and Ms. Wulsin.

2. The Ohio Elections Commission Rules that Krikorian Maliciously Lied About Rep. Schmidt.

Schmidt bravely held her ground and refused to be intimidated despite Mr. Krikorian's threats and despite her knowledge of the history of terrorism by certain self-styled Armenian groups in the United States. Exhibit 4, p. 5. Rep. Schmidt, who learned of TALDF from TCA's President, asked to meet with TALDF to seek its advice on

whether Mr. Krikorian's repugnant actions violated Ohio law governing intentional false statements published to influence the outcome of an election. No TALDF attorney was contacted by or met with Rep. Schmidt in this regard until weeks after the 2008 election.

On April 29, 2009, Rep. Schmidt filed a complaint against Mr. Krikorian before the Ohio Elections Commission for several counts of malicious false statements intended to influence the outcome of the 2008 election for the second congressional district of Ohio under Ohio Revised Code 3517.21(B)(10). Exhibit 3. Rep. Schmidt was represented by TALDF and local counsel in Columbus, Ohio. She alleged, among other things, that on the eve of balloting in November 2008, Mr. Krikorian distributed a flyer and an attached letter to voters in his district containing the following statements with factual connotations: (a) Jean Schmidt has taken \$30,000 in blood money from Turkish government sponsored political action committees to deny the slaughter of 1.5 million Armenian men, women and children by the Ottoman Turkish Government during World War I; (b) this information (Turkish government sponsored political action committees gave \$30,000 to Jean Schmidt or the Schmidt for Congress campaign committee) is public record and can be found on the FEC database at <http://www.FEC.gov>; and, (c) I ask the people of Ohio's Second District to ask themselves if our Representative should be taking money from a foreign government [Turkey] that is killing our soldiers. Exhibit 1, Exhibit 2, Exhibit 3.

On October 1, 2009, the Ohio Elections Commission ruled based on clear and convincing evidence that the three above-referenced allegations were published by Mr. Krikorian with knowledge of their falsity or with reckless disregard of whether they were

100-441011-1001
false or not. Exhibit 1, Exhibit 2. The commission determined that Mr. Krikorian had knowingly lied about Rep. Schmidt in his effort to defeat her congressional candidacy in violation of Ohio's election laws. *Id.*

3. Krikorian Unsuccessfully Appeals the Ohio Elections Commission Rulings Against Him in State Court.

Mr. Krikorian appealed the Ohio Elections Commission's decisions to the Ohio Court of Common Pleas in Franklin County. The appeals were dismissed, making the OEC's rulings final judgments. *See Jean Schmidt v. David Krikorian*, Case Nos. 09-CVF-11-11707, 09-CVF-11-11709. Rep. Schmidt was represented in the appeal in part by TALDF.

4. Krikorian Unsuccessfully Challenges the Constitutionality of the Ohio Elections Commission in Federal Court.

Mr. Krikorian also filed a lawsuit in the United States District Court for the Northern District of Ohio assailing the constitutionality of the Ohio Elections Commission and seeking a legal umbrella to repeat his lies against Schmidt. *Krikorian v. Ohio Elections Commission*, Case No. 1:10-cv-00103-SJD. The case was transferred to the United States District Court for the Southern District of Ohio, which dismissed Mr. Krikorian's Complaint. *Id.* He did not appeal the dismissal. *Id.* Rep. Schmidt filed a brief amicus curiae in support of the Ohio Elections Commission, represented again in part by TALDF.

5. Rep. Schmidt Sues for Defamation.

After the commencement of proceedings in the OEC, Mr. Krikorian continued to publish intentional false statements about Rep. Schmidt. To deter Mr. Krikorian's

chronic lies injuring her reputation, Rep. Schmidt was compelled to file suit in the Ohio Court of Common Pleas for defamation. The defamation Complaint pivoted on the findings made by the Ohio Elections Commission and Mr. Krikorian's 2009 republication of the same defamatory statements.⁴

6. Mr. Krikorian Insults a Democratic Rival During the 2009-10 Election Cycle, is Censured by His Own Party, and Loses in the Primary Election.

After the 2008 election, Mr. Krikorian became a member of the Democratic Party and entered the 2010 race for the seat held by Rep. Schmidt. Exhibit 4, p. 5.

During his 2010 primary campaign, Mr. Krikorian was censured by state and local leaders of his own party for making disparaging comments about the Asian-Indian name of his opponent, Mr. Yalamanchili. Exhibit 4, pp. 6-8. According to published reports, Krikorian pejoratively commented about Mr. Yalamanchili's ancestry before a veterans group in Clermont County.⁵ *Id.* The Chairmen of the Democratic Party chapters in Hamilton and Clermont counties reacted with a letter characterizing the remark as "at best insensitive and at worst ... racist." They proclaimed their agreement with the views of Republican Party candidate Schmidt:

[W]e have heard from several sources that you have made fun of Surya Yalamanchili's name. Now, for once, we find ourselves in agreement with the comments of Jean Schmidt in the comments she makes in the attached letter. Like you, Surya has put great energy into his campaign, and like you, he has won many friends along the way. It is deeply disturbing to us that you would use his name, which is obviously derived from his ethnic heritage, against him in a denigrating manner, especially given how strongly you value and celebrate your own heritage.

⁴ These defamatory statements were made when Rep. Schmidt was not a candidate for office.

⁵ He uttered words to the effect that anyone with a name like "Yalamanchili" was unelectable. *Id.*

Id.

When MSNBC's commentator Keith Olbermann named Mr. Krikorian "the worst person in the world" for this behavior on April 30, 2010, Mr. Krikorian resorted to his soundtrack that his detractors had been financially compromised.⁶ On May 4, 2010, Krikorian was defeated in the 2010 Democratic Primary by Surya Yalamanchili. Exhibit 4, p. 5.

B. The House Ethics Committee Report.

Mr. Krikorian's Complaint references a House Ethics Committee Report ("OCE Report"), but neglects the supplementary submission of TALDF, which is necessary for a full understanding. (FEC Compl. of David Krikorian, pp. 6-8).

⁶ Mr. Yalamanchili had been employed as a brand manager at Procter & Gamble, Inc. Mr. Krikorian had seen an ad paid for by Procter & Gamble, Inc. during Mr. Olbermann's *Countdown* show, and recklessly charged:

Keith Olbermann is a buffoon for not checking his sources, for not even bothering to check. But here's one thing I will state for the record: Last night's program was sponsored by Procter & Gamble's Oil of Olay brand, which is the exact brand that Surya Yalamanchili worked for. So how did they cover that story last night? Because I'm sure that Keith Olbermann is not reading the Cincinnati press. So our folks think that the Oil of Olay brand people – Procter and Gamble in particular – were advancing their former employee. And that's how it got in there. [...] I think [Olbermann] was reading from his script. So somehow that got put in there. And how did it get put in there? Well, look at the relationship between the story and the show's sponsor. I think it's pretty clear how it got in there.

Mr. Olbermann responded:

To flesh this out a bit: a) no advertiser "sponsors" the show. We have commercials, but b) I don't even see the ads on the show in the studio. We could be sponsored by Crosley Radio and I wouldn't know. And c) we checked – which evidently Mr. Krikorian didn't know – and we ran no Oil of Olay ads on Friday; none from Procter & Gamble. A caveat: local cable operators do get a few minutes an hour to sell. It's possible somewhere on Friday an Oil of Olay spot ran during Countdown in a given city. But those spots usually go to smaller advertisers, and even if they don't, we aren't told about them, would never know who they were, and get no money from them.

Mr. Olbermann later added: "OK, now I'm told by an online viewer that P&G ads popped up before the show content on-line."

TALDF's website clearly discloses that it is supported by TCA, even emphasizing that TALDF supporters should send checks to TCA.⁷ The Committee noted the transparent relationship between TALDF and TCA in its Feb. 26, 2010 Advisory Opinion. OCE Report, Exhibit 22 (describing TALDF as a "project of [TCA]"). This self-evident fact was also acknowledged in a May 27, 2011 letter to the Staff Director of the Committee. OCE Report, Appendix B. In context, the words "supported by" or "project of" would communicate to a layperson that TALDF is compensated by TCA for its legal work.

Like other legal defense funds (e.g. the ACLU or the NAACP Legal Defense and Education Fund, Inc.), TALDF litigates to advance ideological, philosophical, or political objectives. See www.taldf.org/rights.html. The United States Supreme Court has long held that the First Amendment protects such litigation. *NAACP v. Button*, 371 U.S. 415 (1963); *In re Primus*, 436 U.S. 412 (1978). Legal defense funds, including TALDF, are generally characterized by the provision of free legal services to clients. That does not mean legal defense fund lawyers are not paid. It means only that their sponsors or supporters, not their clients, pay them.

TALDF has never been asked by any of its clients to elaborate on the nature of its relationship with TCA. Exhibit 5. But if asked, it would surely respond fully. *Id.* TALDF has never been less than completely transparent. *Id.*

⁷ "The Turkish American Legal Defense Fund is supported by the Turkish Coalition of America ("TCA"), a public charitable, educational US organization which works to foster understanding of the Turkish American issues through public education..." (<http://www.taldf.org/support.html>)

During years of litigation and regular communications with Rep. Schmidt's office, at no time was TCA or TALDF asked whether or how TALDF was compensated by TCA for its legal work. *Id.* TALDF was not hiding anything, but it did not readily discern any interest from her or her office in understanding the exact details of its relationship with TCA. *Id.* Nor was TALDF ever instructed in the course of our representation to submit legal bills for payment. That omission did not raise a flag with TALDF because TALDF's practice is invariably to provide legal services free to clients. *Id.*

Rep. Schmidt's office communicated orally to TALDF in March 2009 that it had obtained permission from the House Ethics Committee to move forward with TALDF's representation and the contemplated litigation. *Id.* TALDF had previously informed Rep. Schmidt's office that TALDF would refrain from filing any Complaint with the Ohio Elections Commission until an Ethics Committee green light had been received by her. Neither TCA nor TALDF was informed that either Rep. Schmidt or an authorized legal defense fund was required to pay TALDF's bills. *Id.* And we only saw the Ethics Committee's February 26, 2010 Advisory Opinion—in which the committee described the requirements of a legal defense trust—briefly, and not until long after the commencement of the representation. *Id.* We were not permitted to retain a copy. *Id.*

Neither TCA nor its legal advocacy arm, TALDF, was ever requested by Rep. Schmidt to provide ethics advice, nor was any ethics concern raised with TCA or TALDF during the course of the representation. *Id.* TALDF reasonably relied on the Ethics Committee to guide Rep. Schmidt on this terrain as TALDF provided her legal services.

It scrupulously complied with all advice and direction provided by Rep. Schmidt or her office, *Id.*

II. ANALYSIS

TCA's provision of legal services to Rep. Schmidt falls outside the purview of the Act. The applicable section for corporations under the Federal Election Campaign Act (the "Act") is 2 U.S.C. § 441b. The law states that it is unlawful for "any corporation whatever...to make a *contribution...in connection with any election*" for federal office. (emphasis added). TCA has not violated 2 U.S.C. § 441b because (i) it has not made a "contribution" as defined by section 441b(b)(2), and (ii) even assuming that TCA had made a "contribution" as defined by the Act, it would not be prohibited under section 441b because it was not made "in connection with" the 2007-08 Congressional election.

A. TCA Did Not Make a "Contribution" as Defined by the Act Because TALDF's Legal Services Were Rendered to Rep. Schmidt Personally.

TCA's payment for Rep. Schmidt's legal representation by TALDF that commenced months after the 2007-08 election cycle concluded was not a "contribution" as defined by the Act. For purposes of the foregoing, 2 U.S.C. § 441b(b)(2) provides three definitions of a "contribution" by a corporation. It integrates the two definitions found in section 431(8)(A) of the Act: section 431(8)(A)(i) defines a "contribution" as "any gift...or anything of value made by any person *for the purpose of influencing an election* for Federal office;" and section 431(8)(A)(ii), which is the alleged basis of Mr. Krikorian's Complaint, defines a "contribution" as "the payment by any person of compensation for the personal services of another person which are rendered to a political

committee without charge for any purpose." Finally, section 441b(b)(2) reiterates, concerning corporations, that contributions include, "any direct or indirect payment ...or any services...to any candidate, campaign committee...*in connection with any [Federal] election.*" (emphasis added). Turning to each of the definitions, none applies to the facts of this case.

1. TCA Did Not Make a "Contribution" as Defined by Section 431(8)(A)(i).

First, under section 431(8)(A)(i), TCA did not give a "gift...or anything of value...*for the purpose of influencing an election for Federal office*" because at the time Rep. Schmidt sought representation by TALDF, the election cycle was over.⁸ Any post-election payment for legal services, therefore, could not have been done "for the purpose of influencing" the election. 2 U.S.C. §341(8)(A)(i).

2. TCA Did Not Make a "Contribution" as Defined by Section 431(8)(A)(ii).

Similarly, TCA did not make a post-election "contribution" as defined in section 431(8)(A)(ii). While TCA did compensate TALDF attorneys for their legal services, the statutory language is unambiguous: the services must be "rendered to a political committee." Therefore, to fall within the ambit of this definition, TCA's payment for TALDF's services must have been rendered to Rep. Schmidt's campaign committee, not to Rep. Schmidt herself.

⁸ According to 11 CFR 100.3(b), "[t]he election cycle shall end on the date on which the general election for the office or seat that the individual seeks is held."

As a factual matter, TALDF provided legal services to Rep. Schmidt as the real party in interest in all of the proceedings in which it supplied representation. And the only relevant case in which Rep. Schmidt's campaign committee was even a nominal party was the matter before the Ohio Elections Commission in 2009. Rep. Schmidt's campaign committee was not a party in the subsequent federal litigation initiated by Mr. Krikorian. Nor is it a party in Rep. Schmidt's ongoing defamation suit against Mr. Krikorian.

The campaign committee was named as a joint complainant with Rep. Schmidt before the Ohio Elections Commission upon the recommendation of Rep. Schmidt's local counsel in Ohio, not TCA, to satisfy a technical procedural matter. In commencing the proceedings at the Ohio Elections Commission TALDF consulted only with Rep. Schmidt. It had no communications with the campaign committee. TALDF had no agreement of any type to represent the campaign committee. During the course of the proceedings, TALDF took exclusive instructions on the conduct of the case from her only. And, Rep. Schmidt's sole witness before the Ohio Elections Commission was herself.⁹ To the extent that any services were provided to the committee, they were provided by Rep. Schmidt's local counsel in Ohio, not TALDF.

Therefore, Mr. Krikorian's invocation of Advisory Opinion 2006-02 is inapt. In that case, pro bono legal services to a campaign committee were proposed. In this matter,

⁹ In the Ohio Elections Commission proceedings Mr. Krikorian called one of Rep. Schmidt's fundraisers as a witness in his ultimately unsuccessful defense.

in sharp contrast, the real party in interest in all of TALDF's legal work was Rep. Schmidt as an individual, not her campaign committee.

The legal services TALDF provided Rep. Schmidt in 2009 before the Ohio Elections Commission, the Ohio Court of Common Pleas on appeal, and the United States District Courts for the Northern and Southern Districts of Ohio all were provided when she was not a candidate for federal office. A minor portion of TALDF's legal services were provided in 2010, and then only relating to Rep. Schmidt's defamation suit against Mr. Krikorian in the Ohio Court of Common Pleas, Clermont County..

In the Complaint, Mr. Krikorian states that 11 CFR 113.1(g)(6) requires a finding that TALDF's legal services to Schmidt were "contributions" within the statutory definition. (FEC Compl. of David Krikorian, pp. 16-17). Mr. Krikorian must have given the text a short read. The regulation states that:

payment of [a particular] expense by any person other than the candidate or the campaign committee shall be a contribution under subpart B of part 100 to the candidate unless the payment would have been made irrespective of the candidacy.

(emphasis added). This last sentence clarifies that TCA's payment of Rep. Schmidt's legal expenses is *personal*, and therefore not a contribution to the candidate—or by extension to the campaign committee—if it was made "irrespective of the candidacy." The facts incontrovertibly show that TCA's payments to TALDF were made irrespective of Rep. Schmidt's candidacy. As the Complaint concedes, TALDF attorneys discussed representation with Rep. Schmidt *after* the election. (Compl. at 4, citing deposition of

TALDF attorney Bruce Fein, pp 56-57).¹⁰ Also dispositive is the undisputed fact that TALDF provided legal services to Schmidt to advance its ideological and philosophical agenda of protecting from harassment or intimidation proponents of viewpoints sympathetic to Turkish Americans and warm Turkey-U.S. relations. In providing its legal services, TALDF never considered or discussed Schmidt's past or future campaign plans.

Mr. Krikorian argues that the lies he told about Rep. Schmidt that provoked TALDF's legal representation would not have been published if she had not been a candidate for federal office. (FEC Compl. of David Krikorian, pp. 8-13). According to Mr. Krikorian's logic, TALDF's legal services would not have been forthcoming but for Rep. Schmidt's candidacy. This argument is patently absurd. The term "irrespective" in the regulation plainly means that the motivation for providing the legal services was "other than" candidacy for federal office, for example, to enforce legal rights or to promote an ideological agenda. Indeed, 11 CFR 113.1(g)(6)(i), which Mr. Krikorian avoids, stipulates that a donation to a legal expense trust fund is not a contribution because the donation motivation is not candidacy for federal office but a desire to fund litigation. Similarly, the motivation for TALDF's legal services to Schmidt was to vindicate her legal rights and TALDF's philosophical or ideological goals irrespective of whether she was a candidate for federal office. Mr. Krikorian's Complaint does not challenge that motivation.

¹⁰ As stated by Complainant in his Complaint: "Fein revealed that shortly after the 2008 election, he, on behalf of TCA/TALDF, approached Schmidt with the offer of free legal services." (Compl. at 4).

Accordingly, Krikorian's reliance on Advisory Opinion 2000-08 is misplaced. (FEC Compl. of David Krikorian, pp. 13-14). There, a gift that was specifically motivated *because of* the recipient's present candidacy for federal office was held to be a contribution. In contrast, Krikorian's Complaint does not and could not plausibly allege that TALDF provided legal services to Schmidt because of her candidacy, which had concluded by the time TALDF's services were sought. Legal services were provided to vindicate her legal rights against character assassination or otherwise, and to promote TALDF's ideological objectives. TALDF's representation would have been provided, therefore, irrespective of whether Schmidt sought re-election in 2010.

Thus, the facts incontrovertibly show that this payment was made entirely irrespective of Schmidt's candidacy, principally because the purpose was to promote TALDF's ideological agenda of protecting from intimidation or harassment exponents of viewpoints sympathetic to Turkish Americans or warm U.S.-Turkey relations. In addition, Rep. Schmidt was not a candidate at the time she sought TALDF's services or when those were compensated. As the Complaint states, TALDF attorneys discussed representation with Rep. Schmidt *after* the election. (FEC Compl. of David Krikorian, p. 4, citing deposition of TALDF attorney Bruce Fein, pp 56-57).¹¹ And actual payment for TALDF's legal services came much later.

¹¹ As stated by complainant: "Fein revealed that shortly after the 2008 election, he, on behalf of TCA/TALDF, approached Schmidt with the offer of free legal services." (FEC Compl. of David Krikorian, p. 4).

3. TCA Did Not Make a "Contribution" as Defined by Section 441b(b)(2).

Moreover, the broader definition of "contribution" provided in section 441b(b)(2), is equally inapplicable: "any direct or indirect payment ...or any services...to any candidate [or] campaign committee...*in connection with* any [Federal] election." First the donation of legal services was not made to Rep. Schmidt as a "candidate" as defined by the Act: "an individual who seeks...election[] to federal office." 2 U.S.C. §431(2). Second, the services were rendered to Rep. Schmidt personally, and not to her campaign committee. Third, the definition provided here specifies that any donation must be given "in connection with any election" for Federal office. As further explained below, TCA's payment of TALDF attorneys was not made "in connection with" a federal election, and was therefore not prohibited by the Act.

Finally, though Mr. Krikorian's Complaint fails even to allege the purpose requirement of the definition that TALDF's legal services were for the purpose of aiding Rep. Schmidt's election to federal office. TCA reaffirms that TALDF provided legal services for the purpose of vindicating Rep. Schmidt's legal rights and advancing the philosophical or ideological objectives of TALDF.¹² Knowledge that the litigations on

¹² TALDF has an established history of representing individuals defamed for taking a position differing from the Armenian orthodoxy in the genocide controversy. It represented renowned professor Guenter Lewy against the Southern Poverty Law Center for precisely that reason in *Lewy v. Southern Poverty Law Center*, 723 F.Supp.2d 116 (D.D.C. 2010). It is currently representing a University of Minnesota student in the United States Court of Appeals for the Eighth Circuit who has challenged the university's publication of a blacklist of internet resources on the controversy under the First Amendment. TALDF filed an amicus curiae brief for the same reason in *Griswold v. Driscoll* before the United States Court of Appeals for the First Circuit. 616 F.3d 53 (2010). TALDF representation has never been predicated on

Rep. Schmidt's behalf might affect an election does not demonstrate a *purpose* to influence its outcome. See *Personnel Administrator of Massachusetts v. Feeney*, 442 U.S. 256, 279 (1979).

B. TCA's payment for Rep. Schmidt's legal services is not prohibited because it was not made "in connection with" her election.

Even if TCA's payment for legal services could be classified as a "contribution" under the Act, it would not be unlawful because it was not made "in connection with" Rep. Schmidt's election. While the Act's definition of "contribution" has an extensive reach, only those corporate contributions made "in connection with" the election are prohibited. 2 U.S.C. §441b(a).

In various advisory opinions, the FEC has evaluated the phrase "in connection with" in the post-election context. There are two recognized circumstances under which a post-election contribution is considered within the purview of the Act: (i) debt retirement and (ii) donations for the purpose of defraying the cost of legal representation in compliance actions by initiated by the FEC for conduct that occurred during the election. Advisory Opinions 1993-15 (concluding that donations were not contributions "if donated for purposes such as defending against violations of the Hatch Act, the Appropriations Act, or constitutional rights, or pursuing commercial litigation."), 1990-17, 1981-16.

candidacy for public office. As emphasized above, TALDF is a legal defense fund that litigates to advance philosophical or ideological objectives.

10047101110-1

In Advisory Opinion 2003-15, the FEC was asked to interpret the meaning of the phrase "in connection with any [Federal] election" with respect to the newly annexed section 441i(e)(1)(a) (Bipartisan Campaign Reform Act). To answer this question, the FEC, examined how the phrase had been interpreted under section 441b. The FEC determined that funds received for post-election litigation expenses are not "in connection with" an election under the Act, "provided they are raised and spent by an entity other than a political committee." (AO 2003-15, p. 3). As examples of donations that are not spent "in connection with the election" and by an entity other than a political committee, the FEC noted two examples: post-election litigation that challenges party rules (Advisory Opinions 1983-37 and 1982-35), or challenges state constitutional provisions that "impacted the elections in question" (Advisory Opinion 1983-30). In contrast, payment towards a campaign's debt-retirement and representation in audits and compliance actions by FEC are expenses of the political committee. The FEC ultimately concluded in Advisory Opinion 2003-15 that post-election donations by corporations used to defray the costs of litigating "the lawfulness of the conduct of the election" are not prohibited under §441b because they are not made "in connection with" the election. (p. 4).

Applied to the undisputed material facts, TCA's compensation of TALDF attorneys to defend Rep. Schmidt's reputation against Mr. Krikorian's defamatory statements made during the 2007-08 election cycle was not "in connection with" any federal election. The compensation was for TALDF litigation indistinguishable from challenges to the lawfulness of conduct during an election cycle, which the FEC has

advised is outside the definition of a campaign contribution under the Federal Election Campaign Act.

III. CONCLUSION

TALDF's representation of Rep. Schmidt in various fora stemmed from the same nucleus of operative facts, i.e., Mr. Krikorian's false and malicious accusation that Jean Schmitdt is a paid puppet of the Government of Turkey. TCA has not made an illegal contribution under section 441b. Section 431(8)(A)(ii) does not apply to TCA's payment's because they were neither rendered to nor were for the benefit of a political committee. Rather, the payment for legal services was a post-election donation to Rep. Schmidt, made irrespective of her candidacy. It is also a donation that Rep. Schmidt is pledged to repay. Even if the payments are considered a "contribution" within the meaning of the Act, it was not made "in connection with" Rep. Schmidt's election, as interpreted by the FEC in previous Advisory Opinions, and is thus not a violation.

Finally, TALDF submits that it reasonably relied on legal advice by Rep. Schmidt and her congressional office based on legal opinions of the House Ethics Committee and the FEC that TALDF's representation of the Congresswoman would be compliant with all applicable FEC laws and ethics rules. Exhibit 5. Mr. Krikorian's Complaint alleges an investigation into a possible violation of 2 U.S.C. 437g, which requires proof that the violation was "knowing" and "willful." At most, TALDF and TCA may have

unknowingly stumbled into a violation of the Act in relying in good faith on the advice regarding congressional ethics rules and the Act received from the office of Jean Schmidt, which had been advised by the House Ethics Committee and the FEC.

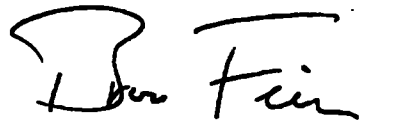
Accordingly, TCA respectfully requests that no further action be taken against TCA.

Respectfully submitted,



David Saltzman
Attorney for TCA

SALTZMAN & EVINCH, PC
655 15th Street, NW
Suite 225-F
Washington, D.C. 20005-5071
Tel. (202) 637-9877
Fax. (202) 637-9876
dsaltzman@turklaw.net



Bruce Fein
Attorney for TALDF

BRUCE FEIN & ASSOCIATES
1015 H. Street, NW
Suite 900
Washington, D.C. 20005
Tel: (703) 963-4968
Fax: (202) 370-1398
bruce@thelichfieldgroup.com

Exhibit 1



Ohio Elections Commission

21 West Broad Street, Suite 600

Columbus, Ohio 43215

614-466-3205

www.state.oh.us/elc

November 13, 2009

Charles Calvert
Chairman

John R. Mroczkowski
Vice-Chairman

Danielle R. Blue

Bryan Felmet

Harvey H. Shapiro

Larry Wolpert

Philip C. Richter
Executive Director

Per: (614) 722-9488

Case No. 2009E-003

Schmidt, et al. v. Krikorian

Page 1 of 3

BRUCE FEIN
BRUCE FEIN & ASSOCIATES, INC
1025 CONNECTICUT AVE.
WASHINGTON, DC 20036

Please be advised that on, 10/1/2009 after careful consideration of the evidence, the Ohio Elections Commission adopted the following finding(s) in the above referenced matter:

THE COMMISSION ALLOWED THE FOLLOWING STATEMENTS TO BE WITHDRAWN BY THE COMPLAINANT:

- 1.) "Representative Jean Schmidt has taken \$30,000 in blood money to deny the Genocide of Christian Armenians by Muslim Turks.
- 2.) I demand her [Jean Schmidt] immediate withdrawal from this race and her apology to the people of the United States of America for the crime she has committed against our American soldiers and humanity by denying the undisputed facts of the Armenian Genocide.
- 3.) ... Jean Schmidt's denial of the Armenian Genocide ...
- 4.) ... Jean Schmidt's insane denial of the Christian Armenian Genocide at the hands of the Muslim Ottoman Empire.
- 6.) The facts of the Armenian Genocide are universally accepted by nations around the world, prominent scholars and statesmen and 40 U.S. states including Ohio. The only deniers of this great tragedy which led to the Holocaust of the Jews by Nazi Germany are the Turkish Government and certain member of the United States Congress including Jean Schmidt.

THE COMMISSION FOUND NO VIOLATION OF R.C. §3517.21(B)(10) AS TO THE FOLLOWING STATEMENT AS IT RELATES TO THE REFERENCE IN THIS STATEMENT TO THE ASSERTION THAT "Turkish people gave \$30,000 TO Jean Schmidt and or to Schmidt for Congress campaign committee":

- 8.) This information is public record and can be found on the Federal Elections Commission database at <http://www.FEC.gov>.
(as this statement references facts that support the statements that Turkish people donated \$30,000.)



**AN ADMINISTRATIVE DISMISSAL WAS DECLARED AS TO
THE STATEMENT:**

7.) "Jean Schmidt has taken \$30,000 in blood money from Turkish government sponsored political action committees and Turkish people in 2008 in exchange for helping them to cover-up the mass murder of 1.5 million Christians."

**THE COMMISSION FOUND A VIOLATION OF R.C.
§3517.21(B)(10) BY CLEAR AND CONVINCING EVIDENCE
AS TO THE STATEMENT:**

5.) "Jean Schmidt has taken \$30,000 in blood money from Turkish government sponsored political action committees to deny the slaughter of 1.5 million Armenian men, women and children by the Ottoman Turkish Government during World War I."

**THE COMMISSION FOUND A VIOLATION OF R.C.
§3517.21(B)(10) BY CLEAR AND CONVINCING EVIDENCE AS
TO THE FOLLOWING STATEMENT AS IT RELATES TO THE
REFERENCE IN THIS STATEMENT TO THE ASSERTION THAT
"Turkish government sponsored political action committees gave
\$30,000 to Jean Schmidt and or to Schmidt for Congress campaign
committee":**

8.) This information is public record and can be found on the Federal Elections Commission database at <http://www.FEC.gov>.
(as this statement references facts that support the statements that Turkish government sponsored political action committees donated \$30,000.)

**AS A PENALTY FOR THE VIOLATIONS FOUND BY THE
COMMISSION IN THIS CASE, THE COMMISSION
DETERMINED THAT THERE WAS GOOD CAUSE PRESENT
NOT TO REFER THE MATTER FOR FURTHER PROSECUTION
BUT INSTEAD TO ISSUE A LETTER OF PUBLIC REPRIMAND.**

If the decision in this case involves the imposition of a specific fine amount, all fine and filing requirements must be complied with no later than 30 days after the date of this letter. Payment should be made payable and sent to the Ohio Elections Commission at the above address.

Case No. 2009E-003
Schmidt, et al. v. Krikorian
Page 3 of 3

If the disposition of this case involves a daily fine amount, you must contact the office in which you file your campaign finance reports and file the required report. In addition, you must file a notarized statement with the Commission in order to have the daily fine reconsidered. The filings and affidavit must be received within 30 days after the date of this letter. All properly notarized affidavits must include a statement above the notary public's signature that the document was sworn to and subscribed in the presence of the notary public and the date on which it was done.

If the decision in this case does not involve the imposition of a fine, there is no further action required of you by the Commission.

If the decision in this case is adverse to you, this case may be appealed pursuant to Ohio Revised Code §119. A Notice of Appeal must be filed in 15 days. The Notice must be filed with the Commission and also at the Clerk's office for the Franklin County Court of Common Pleas.

In all cases, please use the OEC Case No. listed at the top of this letter when corresponding with Commission. If you have any question, please feel free to contact the Commission staff at (614) 466-3205.

Very truly yours,
Philip C. Richter
Staff Attorney

Exhibit 2



Ohio Elections Commission
21 West Broad Street, Suite 600
Columbus, Ohio 43215
614-466-3205
www.state.oh.us/elc

November 13, 2009

Charles Culvert
Chairman

Case No. 2009E-012
Schmidt, et al. v. Krikorian

John R. Mroczkowski
Vice-Chairman

Danielle R. Blue

Bryan Fehmet

Harvey H. Shapiro

Larry Wolpert

Philip C. Richter
Executive Director

**BRUCE FEIN
BRUCE FEIN & ASSOCIATES, INC
1025 CONNECTICUT AVE.
WASHINGTON, DC 20036**

Please be advised that on, 10/1/2009 after careful consideration of the evidence, the Ohio Elections Commission adopted the following finding(s) in the above referenced matter:

**THE COMMISSION FOUND A VIOLATION OF R.C. §3517.21(B)(10) BY
CLEAR AND CONVINCING EVIDENCE AS TO THE STATEMENT:**

"I ask the people of Ohio's second congressional district to ask themselves if our Representative should be taking money from a foreign government that is killing our soldiers?"

AS A PENALTY FOR THE VIOLATION FOUND BY THE COMMISSION IN THIS CASE, THE COMMISSION DETERMINED THAT THERE WAS GOOD CAUSE PRESENT NOT TO REFER THE MATTER FOR FURTHER PROSECUTION BUT INSTEAD TO ISSUE A LETTER OF PUBLIC REPRIMAND.

If the decision in this case involves the imposition of a specific fine amount, all fine and filing requirements must be complied with no later than 30 days after the date of this letter. Payment should be made payable and sent to the Ohio Elections Commission at the above address.

If the disposition of this case involves a daily fine amount, you must contact the office in which you file your campaign finance reports and file the required report. In addition, you must file a notarized statement with the Commission in order to have the daily fine reconsidered. The filings and affidavit must be received within 30 days after the date of this letter. All properly notarized affidavits must include a statement above the notary public's signature that the document was sworn to and subscribed in the presence of the notary public and the date on which it was done.

If the decision in this case does not involve the imposition of a fine, there is no further action required of you by the Commission.

If the decision in this case is adverse to you, this case may be appealed pursuant to Ohio Revised Code §119. A Notice of Appeal must be filed in 15 days. The Notice must be filed with the Commission and also at the Clerk's office for the Franklin County Court of Common Pleas.

In all cases, please use the OEC Case No. listed at the top of this letter when corresponding with Commission. If you have any question, please feel free to contact the Commission staff at (614) 466-3205.

Very truly yours,
Philip C. Richter
Staff Attorney



Exhibit 3

COPY
CASE NO. 2009E-003

BEFORE THE OHIO ELE EXHIBIT: A

Jean Schmidt
Schmidt for Congress
8280 Montgomery Rd., Ste. 204
Cincinnati, OH 45236

RECEIVED

APR 29 2009

OHIO ELECTIONS COMMISSION

v.

Mr. David Krikorian

Cincinnati, OH 45243-2206

COMPLAINT

I, Jean Schmidt, file this Complaint under Ohio Revised Code Section 3517.153 and aver the following under oath:

- 1) I have represented the Second Congressional District of Ohio in the United States Congress since January 2007.
- 2) I campaigned for re-election in 2008.
- 3) David Krikorian, running as an Independent, was one of my opponents in the general election held on November 4, 2008.
- 4) Each of the false statements enumerated below were designed to promote his candidacy for Congress and to defeat my re-election bid.
- 5) I have never received a donation in order "to Deny the Genocide of Christian Armenians by Muslim Turks." I have never accepted anything of value in return for being influenced in the performance of an official act (including inaction), which would be a federal crime under 18 U.S.C. 201.
- 6) On his 2008 campaign website (<http://www.krikorianforcongress.com/genocide.php>) Mr. Krikorian asserted: "Representative Jean Schmidt has Taken \$30,000 in Blood Money to Deny the Genocide of Christian Armenians by Muslim Turks." Exhibit 1.
- 7) Mr. Krikorian's statement quoted in paragraph 6 above was intentionally falsely stated facts in at least two respects in violation of Ohio Revised Code Section 3517.21(A)(10).

8) I have never "denied" an Armenian genocide. My position as a Member of Congress has consistently been that the subject is not a fit question for Congress; and, that based on my knowledge of the historical record I cannot, at present, characterize the tragic events of 1915 in World War I as an Armenian "genocide," which has a very strict meaning. As a Member of Congress, I have never voted on an Armenian genocide resolution. I support the formation of an international independent commission of experts to resolve the matter definitively.

9) Mr. Krikorian's campaign website undermines his own false accusation. The website recounts a statement in my office on March 29, 2007, which does not deny genocide, but expresses agnosticism: "At this time [Jean Schmidt] does not have enough information to characterize these deaths as genocide especially when those responsible are long dead." The website also quotes from a statement made in my office on May 11, 2007, in which I do not deny genocide, but make a different point about the exacting standards of proof counseling hesitation before leaping to a conclusion: "The United Nations describes genocide as carrying out acts intended to 'destroy, in whole or in part, a national, ethnic, racial, or religious group.' In this instance, it was very difficult to know intent."

10) On November 2, 2008, Mr. Krikorian addressed a letter to, "My Supporters and the People of the Second Congressional District." It contains several knowingly false statements of fact in violation of Ohio Revised Code Section 3517.21(A)(10). Exhibit 2.

11) Paragraph 2 of the letter asserts: "I demand [Jean Schmidt's] immediate withdrawal from this race and her apology to the people of the United States of America for the crime she has committed against our American soldiers and humanity by denying the undisputed facts of the Armenian Genocide."

12) As elaborated in paragraphs 8 and 9 of this Complaint, I have not "denied" the Armenian Genocide. (In addition, the "facts" are not "undisputed." Reputable American scholars who question the appropriateness of the genocide label for the tragic events of 1915-1916 include famed Middle East expert Bernard Lewis of Princeton University, the late Stanford Shaw of U.C.L.A., Justin McCarthy of the University of Louisville, Guenter Lewy of the University of Massachusetts, Norman Itzkowitz of Princeton University, Brian G. Williams of the University of Massachusetts, David Fromkin of Boston University, Avigdor Levy of Brandeis University, Michael M. Gunter of Tennessee Tech, Pierre Oberling of Hunter College, the late Roderic Davison of George Washington University, Michael Radu of Foreign Policy Research Institute, and military historian Edward J. Erickson. Outside of the United States yet more scholars have endorsed a contra-genocide analysis of the history of the Ottoman Armenians, among them Gilles Veinstein of the College de France, Stefano Trinchese of the University of Chieti, Augusto Sinagra of the University of Roma-Sapienza, Norman Stone of Birkbeck University, and the historian Andrews Mango of the University of London).

13) Paragraph 3 of the November 2, 2008 letter repeats the false assertion that Jean Schmidt "deni[es]" the Armenian Genocide.

14) Paragraph 4 of the November 2, 2008 letter further repeats the false assertion that Jean Schmidt Insanely "deni[es]...the Christian Armenian Genocide at the hands of the Muslim Ottoman Empire." It also largely repeats the doubly-false statement in Krikorian's website for the reasons set forth in paragraphs 8 and 9 of this Complaint: "Jean Schmidt has taken \$30,000 in blood money from Turkish sponsored political action committees to deny the slaughter of 1.5 million Armenian men, women, and children by the Ottoman Turkish Government during World War I." In addition, the statement makes the false assertion that I received campaign contributions from "Turkish government sponsored" political action committees. No political action committee that donated to my campaign was "Turkish government sponsored." True copies of the affidavits of Lincoln McCurdy and Demir Karsan, Treasurer and President of Turkish Coalition USA PAC and Turkish American Heritage PAC, respectively, are attached as Exhibit 3.

15) Paragraph 7 of the November 2, 2008 letter again falsely accuses me of "den[ying]" the "Armenian genocide" for the reasons set forth in paragraphs 8 and 9 of this Complaint.

16) Paragraph 10 of the November 2, 2008 letter falsely asserts: "Jean Schmidt has taken \$30,000 in blood money from Turkish government sponsored political action committees and Turkish people in 2008 in exchange for helping them to cover-up the mass murder of 1.5 million Christians. This information is public record and can be found on the Federal Election Commission database at <http://www.FEC.gov>." Exhibit 4.

17) As set forth in paragraph 5 of this Complaint, I have never accepted a political contribution in return for being influenced in the performance of an official act (including inaction).

18) As set forth in paragraph 14, I did not receive any campaign contributions from political action committees "sponsored" by the Turkish government.

19) The website <http://www.FEC.gov> does not substantiate that political action committees that made contributions to me were sponsored by the Turkish government, nor does it identify campaign donors by ancestry. In other words, the website does not corroborate that "Turkish people" made donations to my 2008 congressional campaign.

20) It would be a crime under federal law for the Turkish government (or any foreign national) to fund a political action committee that made donations to a federal candidate seeking election to Congress, among other federal offices. 2 U.S.C. 437 g(d), 441e.

21) It would be a crime under federal law for "Turkish people" to make contributions to federal political campaigns for Congress, among other federal offices, if the donor were not an American citizen or permanent resident alien. 2 U.S.C 437 g(d), 441e(b).

22) Paragraph 14 of the November 2, 2008 letter repeats the false accusation that Jean Schmidt has "deni[ed]" the Armenian genocide for the reasons set forth in paragraphs 8 and 9 of this Complaint. Exhibit 2.

23) I debated Mr. Krikorian on three occasions during the 2008 campaign. In none of those debates did he assert that I had solicited or received \$30,000 from Turkish Americans, Turkish people, or Turkish political action committees for being influenced in the performance of my official duties as a Member of Congress regarding Armenian genocide resolutions.

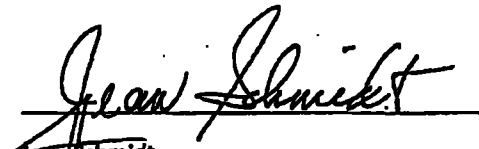
24) I have spoken to Mr. Krikorian face-to-face on 1 occasion in my congressional office. In that meeting he did not accuse me of receiving campaign contributions in return for being influenced in the performance of my official duties as a Member of Congress.

25) Neither Mr. Krikorian nor his agents ever inquired of me, my staff, or my campaign committee as to whether I had made any promises or commitments to being influenced in the performance of my official duties about the Armenian genocide resolution in return for campaign contributions from "Turkish people" or "Turkish government sponsored political action committees."

26) In Mr. Krikorian's email exchanges with Ben LaRocco of my staff, it was related to him that my knowledge of the facts and the currently available evidence had not convinced me of the Armenian genocide claim. Exhibit 5.

Wherefore, Jean Schmidt for Congress requests that the Commission conduct a hearing and issue a finding that David Krikorian violated Ohio Revised Code Section 3517.21(A)(10) during the 2008 general election campaign in the Second Congressional District of Ohio by knowingly making false statements of fact as set forth in this Complaint, to issue a public reprimand, and to grant such other relief that the Commission find just and equitable in the circumstances.

Further affiant sayeth not.


Jean Schmidt

District of Columbia
On this 2nd day of April, 2009
Jean Schmidt
personally appeared before me and acknowledged
that he/she executed the foregoing instrument.
Marguerita Louise Hardy Notary Public
Marguerita Louise Hardy
My commission expires October 31, 2011

Exhibit 4

IN THE COURT OF COMMON PLEAS
OF CLERMONT COUNTY, OHIO

JEAN SCHMIDT
Schmidt for Congress
8280 Montgomery Road, Suite 204
Cincinnati, Ohio 45236

Plaintiff,

v.

DAVID KRIKORIAN

Cincinnati, Ohio 45243-2206

and

KRIKORIAN FOR CONGRESS
CAMPAIGN COMMITTEE
215 Main Street
Milford, OH, 45150

Defendants.

JUDGE HADDAD

Case No. 2010 CUC 1217

2010 JUN -8 PM 1:31
BARBARA A. WIEDENSTADT
CLERK OF COURT
CLERMONT COUNTY, OH

FILED

COMPLAINT

Plaintiff Jean Schmidt hereby files her complaint against Defendants David Krikorian and the Krikorian for Congress campaign committee and alleges as follows:

NATURE OF THE CASE

1. The Complaint alleges causes of action for defamation and seeks compensatory and punitive damages. Defendants' defamatory statements accused Plaintiff, in various respects, of complicity in campaign finance crimes, bribery, perjury, or obstruction of justice. They were published with ill-will or spite towards Plaintiff and with knowledge of their falsity or with reckless disregard of whether they were false or not. Defendants are serial defamers in the political domain, which justifies a stiff deterrent in punitive damages to prevent chronic contamination of the electoral process.

JURISDICTION AND VENUE

2. The court enjoys subject matter jurisdiction over these tort actions under R.C. Chapter 2305.01. Venue is proper in Clermont County under Civil Rule 3(B)(3) and (6) because it is where Defendants conducted activity which gave rise to Plaintiff's claims for relief or where all or part of the claims for relief arose.

PARTIES

3. Plaintiff, Jean Schmidt, was a political trailblazer as the first woman to represent southern Ohio in the U.S. House of Representatives. She holds a B.A. in Political Science from the University of Cincinnati. Plaintiff Schmidt has dedicated over 35 years to laboring for the Clermont county Republican Party. Before entering national politics, Plaintiff served for eleven years as a township trustee and for five years in the Ohio House of Representatives. She has been a Member of Congress representing the second district of Ohio in the House of Representatives since she triumphed in a special election in 2005. Plaintiff Schmidt defeated Defendant Krikorian, then an independent, in the 2008 congressional election. She is a candidate again in 2010, seeking a fourth term in Congress. She is a member of the Republican Party.

4. Defendant, David Krikorian, is either the current or former managing member of Parody Productions, LLC, a Cincinnati based producer and distributor of novelty playing cards. In 2009, the Ohio Elections Commission voted to publicly reprimand Defendant Krikorian for malicious falsehoods he published about the Plaintiff on the eve of the 2008 election. He is a senior member and former Chairman of the Armenian National Committee of Ohio, a local branch of the Armenian National Committee of America (ANCA). It is the United States arm of the Armenian Revolutionary Federation, a foreign political party based in the Republic of

Armenia and which also holds seats in the national assembly of Lebanon. Krikorian currently resides at , Cincinnati, Ohio 45243.

5. During the Ohio Elections Commission hearings in 2009, Defendant David Krikorian acknowledged that he is responsible for the actions of the campaign committee entitled "Krikorian for Congress," a Co-Defendant in this case. During Defendant's 2010 campaign, "Krikorian for Congress" was headquartered at 215 Main Street, Milford, OH, 45150. Its treasurer is Nathan Bailey. Hereinafter, Defendant David Krikorian and Krikorian for Congress shall be referred to together as "the Defendant."

BACKGROUND

6. Most Americans of Armenian ancestry take pride in their heritage without disparaging those of other national or ethnic backgrounds. However, certain hate groups have usurped the terms "Armenian" and "Armenian American" in a way that is unrepresentative of the character of most Americans of Armenian ancestry. These self-styled Armenian American leaders and organizations have a long history of accusing any person who declines to endorse the thesis that the Ottoman Armenian tragedy during World War I constitutes the crime of genocide of being a paid dupe of the Government of Turkey or complicit in the alleged genocide itself.

7. Most Armenian Americans do not intimidate, harass, threaten, or resort to violence against persons, organizations, or countries that dispute the Armenian genocide thesis. Nothing in this Complaint is intended to malign or cast aspersion on Armenian Americans as a group or to attribute to them the conduct and character of the hate groups and terrorist organizations that have chosen to label themselves "Armenian" or "Armenian American".

8. Two prominent Armenian terrorist organizations, the Armenian Secret Army for the Liberation of Armenia ("ASALA") and the Justice Commandos of the Armenian Genocide

10047470110000

("JCAG"), the former still extant in Lebanon, were labeled by the FBI as the most dangerous terrorist organizations in the United States in the 1970s and 1980s. They have committed scores of terrorist acts on U.S. soil against Turkish officials, persons of Turkish descent, and persons whom they believed disputed their one-dimensional understanding of Turkish Armenian history. ASALA and JCAG are responsible for 16 killings in North America, including five Turkish diplomats, one law enforcement officer, and ten civilians. Even U.C.L.A. Professor Stanford Shaw's home was firebombed in retaliation for his academic research on the issue.

9. Other, less violent, hate groups and hate group adherents have used different types of intimidation tactics to achieve their goals, including character assassination.

10. The first time Defendant Krikorian met Plaintiff Schmidt was in Plaintiff's congressional offices, prior to the 2008 election cycle. Defendant Krikorian demanded that Plaintiff Schmidt become a co-sponsor of a resolution condemning the government of Turkey and branding as "genocide" the war crimes committed in the Ottoman Empire a century ago. When Plaintiff Schmidt declined to immediately become a sponsor of such a resolution and said she that she would need to study the issue first, Defendant Krikorian began screaming at her, calling her names, and threatening to ruin her politically. The interview ended soon thereafter.

11. During the 2008 election cycle, Defendant Krikorian ran against Schmidt and Democratic nominee Victoria Wulsin, as an Independent and as a self-styled Reagan conservative. He placed third in the contest.

12. On the eve of the 2008 general election, Defendants publicly disseminated materials accusing Plaintiff Schmidt of being a paid dupe, which she is not. These campaign materials falsely accused Plaintiff Schmidt of taking money from the Turkish Government and from Turkish Government political actions committees to deny the Armenian holocaust, and

falsely stated that this information was a matter of public record on the Federal Elections Commission's website.

13. Plaintiff Schmidt bravely held her ground and refused to be intimidated into co-sponsoring the anti-Turkey resolution despite Mr. Krikorian's threats and despite her knowledge of the history of terrorism by certain self-styled Armenian groups in the United States.

14. In October 2009, the Ohio Elections Commission found that Defendant Krikorian had lied about Plaintiff Schmidt and voted to issue three public reprimands to Defendant Krikorian for the malicious falsehoods that he published about Plaintiff Jean Schmidt on the eve of the 2008 election.

15. After the 2008 election, Defendant Krikorian became a member of the Democratic Party and entered the 2010 race for the seat held by Representative Schmidt. During his 2010 primary campaign, Defendant Krikorian was censured by state and local leaders of his own party for making disparaging comments about the Asian-Indian name of his opponent, Mr. Yalamanchili. On May 4, 2010, Defendant Krikorian was defeated in the 2010 Democratic Primary by Surya Yalamanchili.

STATEMENT OF FACTS

16. In 2009, Plaintiff filed two complaints against Defendant David Krikorian before the Ohio Elections Commission for several counts of malicious false statements about Plaintiff intended to influence the outcome of the 2008 election for the second congressional district of Ohio under Ohio Revised Code 3517.21(B)(10). On the eve of balloting in November 2008, Defendant distributed a flyer and an attached letter to voters in his district containing the following statements with factual connotations: (a) Jean Schmidt has taken \$30,000 in blood money from Turkish government sponsored political action committees to deny the slaughter of

1.5 million Arimenian men, women and children by the Ottoman Turkish Government during World War I (Schmidt v. Krikorian, OEC 2009E-003, 591-606); (b) This information (Turkish government sponsored political action committees gave \$30,000 to Jean Schmidt or the Schmidt for Congress campaign committee) is public record and can be found on the FEC database at <http://www.FEC.gov> (Schmidt v. Krikorian, OEC 2009E-003, 615-628); and, (c) I ask the people of Ohio's second district to ask themselves if our Representative should be taking money from a foreign government [Turkey] that is killing our soldiers (Schmidt v. Krikorian, OEC 2009E-012, 627-630).

17. On October 1, 2009, The Ohio Elections Commission ruled that the three allegations referred to above were false according to clear and convincing evidence; and, that Defendant Krikorian either knew they were false or acted with reckless disregard of whether they were false or not when he published them. (Schmidt v. Krikorian, OEC 2009E-003, 2009E-012, 606, 627, 630). The Ohio Elections Commission determined that Defendant Krikorian had knowingly lied about Plaintiff Schmidt in his effort to defeat her in the election, in violation of Ohio's election laws. The Ohio Elections Commission voted to issue letters of reprimand to Defendant Krikorian for making these false statements of fact as reflected in Exhibits 1 and 2 attached hereto.

18. Defendant Krikorian appealed the Ohio Election Commission's decision. The appeals were dismissed, making the OEC's rulings final judgments, which trigger the doctrines of res judicata and collateral estoppel.

19. The respective chairmen of the Democratic Party chapters in Hamilton and Clermont counties recently publicly condemned Defendant Krikorian's patent racial or ethnic bigotry. According to published reports, Krikorian pejoratively commented about Surya

1007470110001

Yalamanchili, his then opponent in the 2010 Democratic Primary campaign, before a veterans group in Clermont County. He uttered words to the effect that anyone with a name like that was unelectable. The two chairmen reacted with a letter characterizing the remark as "at best insensitive and at worst ... racist." They proclaimed their agreement with the views of Republican Party Plaintiff Schmidt: "[W]e have heard from several sources that you have made fun of Surya Yalamanchili's name. Now, for once, we find ourselves in agreement with the comments of Jean Schmidt in the comments she makes in the attached letter. Like you, Surya has put great energy into his campaign, and like you, he has won many friends along the way. It is deeply disturbing to us that you would use his name, which is obviously derived from his ethnic heritage, against him in a denigrating manner, especially given how strongly you value and celebrate your own heritage."

20. Plaintiff Schmidt earlier expressed her views on Defendant's sneering at Mr. Yalamanchili's name and ancestry in a separate letter to Defendant. She wrote: "The purpose of this letter is to give you fair warning that I will not stand by and allow you to use racism to smear your opponent's name as was reported to me by those attending a recent speech you gave. I was recently presented a report on a presentation you made to a veteran's group in Clermont County. Your remarks there were offensive to all who find even the hint of racism appalling. During your presentation you referred to your opponent repeatedly by dramatically and phonetically pronouncing his name. Poking fun at his heritage was appalling enough but your next comment was way over the line. You stated, according to those veterans present, 'Now do you really think a guy with a name like that has a chance at ever being elected?' Mr. Krikorian, I do not think that the residents of Ohio's Second Congressional District are racists. I am shocked by your behavior. Further, I will not allow your prejudice to go unanswered. You owe Mr. Yalamanchili

and the Indian-American community an apology. Though I doubt that one is forthcoming given your history. Please conduct yourself in a manner fitting the office you seek. Racism has no place in the debate, period. Please be assured that I will continue to speak up about such conduct should it continue. I know you are new to the Democratic Party but I would venture to guess that such behavior will be particularly offensive."

21. When MSNBC's liberal commentator Keith Olbermann named Defendant Krikorian "the worst person in the world" for this behavior on April 30, 2010, Defendant resorted to his soundtrack that his detractors are invariably financially compromised. Yalamanchili had been employed as a brand manager at Procter & Gamble, Inc. Krikorian had seen an ad paid for by Procter & Gamble, Inc. during Mr. Olbermann's *Countdown* show. Defendant instantly charged: "Keith Olbermann is a buffoon for not checking his sources, for not even bothering to check. But here's one thing I will state for the record: Last night's program was sponsored by Procter & Gamble's Oil of Olay brand, which is the exact brand that Surya Yalamanchili worked for. So how did they cover that story last night? Because I'm sure that Keith Olbermann is not reading the Cincinnati press. So our folks think that the Oil of Olay brand people – Procter and Gamble in particular – were advancing their former employee. And that's how it got in there. [...] I think [Olbermann] was reading from his script. So somehow that got put in there. And how did it get put in there? Well, look at the relationship between the story and the show's sponsor. I think it's pretty clear how it got in there."¹

22. Mr. Olbermann responded: "To flesh this out a bit: a) no advertiser "sponsors" the show. We have commercials, but b) I don't even see the ads on the show in the studio. We could be sponsored by Crosley Radio and I wouldn't know. And c) we checked - which

¹ Interview with John Wellington Ennis on <http://thinkprogress.org/2010/05/03/krikorian-conspiracy/>.

1604410110001

evidently Mr. Krikorian didn't know – and we ran no Oil of Olay ads on Friday; none from Procter & Gamble. A caveat: local cable operators do get a few minutes an hour to sell. It's possible somewhere on Friday an Oil of Olay spot ran during Countdown in a given city. But those spots usually go to smaller advertisers, and even if they don't, we aren't told about them, would never know who they were, and get no money from them." He later added: "OK, now I'm told by an online viewer that P&G ads popped up before the show content on-line."²

23. Defendant Krikorian has publicly declared his passion to promote United States and international acceptance of the thesis that "genocide of Christian Armenians by Muslim Turks" occurred in 1915. Defendant perceives any dissenter from his view as a morally bankrupt enemy. Each of the malicious defamatory false statements published by Defendant about Plaintiff and chronicled below were born of these twin motivations.

24. The criminal and defamatory accusations that Defendant Krikorian has serially leveled against Plaintiff Schmidt are part of a larger endeavor to resort to violence, accusations of crime, or intimidation against persons who challenge any part of their thesis. The endeavor is led in large measure by the Armenian National Committee of America ("ANCA"). Defendant Krikorian has recently served as the chairman of the ANCA's Ohio branch, where he remains a senior member.

25. ANCA's apologia for Armenian terrorism under the banner of the Genocide thesis finds its high water mark in former ANCA Chairman Mourad Topalian. In 1999, the United States indicted Topalian, then an Ohio resident, for terrorist-linked hate crimes. He allegedly possessed machine guns and stored more than 100 pounds of high explosives near a gasoline station adjacent to a day care center in Bedford, Ohio. His indictment connected him to four

² Available at <http://cincinnati.com/blogs/politics/2010/05/03/krikorian-named-worst-person/>.

terrorist attacks in the United States: the bombing of the Turkish Mission at the United Nations Plaza on October 12, 1980; the bombing at the Turkish Consulate in Beverly Hills on November 20, 1981; and, both the attempted bombing of the offices of the Honorary Turkish Consul General in Philadelphia and his assassination on October 22, 1982.³ The indictment also charged Topalian with training Armenian youths at a summer camp in the use of submachine guns and exploding booby traps, stealing munitions, and dispatching individuals to Beirut for training with international terrorists.

26. After Topalian pled guilty to several of the above charges, including those related to the storage of weapons and unstable explosives in Bedford, ANCA-Western Region laured him with a "Freedom Award" for his dedication to advancing the Armenian Cause.⁴ At the September 24, 2000 banquet in his honor, the master of ceremonies declared, "For more than three decades, Mourad Topalian has been one of the most active, visible, and consistent public advocates for the Armenian Cause. Against powerful opposition and at great personal sacrifice, he has advanced the cause of liberty and justice for the Armenian nation and championed the increased involvement of Armenian Americans in the American political process." Some ten weeks later, the late U.S. District Judge Ann Aldrich, N.D. Ohio, sentenced him to 37 months imprisonment.

27. Defendant Krikorian has tacitly defended or excused Mourad Topalian by his failure to speak out against him, just as silence by Muslim leaders in the United States after the attacks of 9/11 would indicate acquiescence or endorsement of the terrorist abomination. Defendant Krikorian has never voiced disapproval of Mourad Topalian or of

³ Available at <http://www.un.org/documents/ga/docs/55/a55931.pdf>.

⁴ Available at <http://www.arf.am/English/ARFNews/2000/200009.html>.

terrorism undertaken to bring publicity or avenge the alleged historical grievance of the Armenian people.

28. Defendant Krikorian served as chairman of ANCA's Ohio branch until his entry into politics and remains a senior ANCA member. ANCA published an effusive statement of political support for Defendant on May 6, 2010. Among other things, ANCA's press release stated:

Armenian American Congressional Candidate David Krikorian – a staunch advocate of first amendment speech and an outspoken opponent of genocide denial – garnered 38% of the Democratic primary vote in Ohio's second district – succumbing to baseless attacks by Republican incumbent Rep. Jean Schmidt and Democratic opponents, levied just days prior to the primary vote, reported the Armenian National Committee of America (ANCA.)

"David's commitment to running a positive, grassroots campaign reflecting the views and values of Ohio's 2nd Congressional district were met with incumbent Armenian Genocide denier – Rep. Jean Schmidt's false accusations and political scheming – designed to knock out her toughest Democratic opponent from the November general elections," said ANCA Eastern Region Chairman, Steve Mesrobian. "Local Democratic Party leaders followed Schmidt's disinformation campaign in lockstep and in the process did a grave disservice to Ohio 2nd district voters."

...

Rep. Schmidt, a perennial darling of the Turkish lobby for her opposition to Congressional legislation affirming the Armenian Genocide, has consistently targeted Krikorian – most notably bringing charges before the Ohio Election Commission in 2009 to cover up references to Turkish American campaign contributions ostensibly submitted in return for her denial of the Armenian Genocide. . . .⁵

29. Plaintiff Schmidt's prior complaints and the three public reprimands issued to Defendant Krikorian by the Ohio Elections Commission in the resolution of cases OEC 2009E-

⁵ Available at http://www.anca.org/press_releases/press_releases.php?prid=1870.

003 and OEC 2009E-012 were insufficient to deter his implacable campaign of defamation against Plaintiff.

190474201E10000

30. On July 2, 2009, Asbarez.com, the online version of the Asbarez newspaper, the self-described official publication of the Armenian Revolutionary Federation of the Western United Central Committee, published an interview with Defendant Krikorian in an article entitled, "Geragos to Represent David Krikorian Against Genocide Denier."⁶ The interviewer asked Defendant Krikorian about his accusations against Plaintiff Schmidt during the 2008 congressional campaign. Defendant Krikorian asserted as fact, among other things, that "She's [Jean Schmidt is] threatened by my campaign and is using the OEC [Ohio Elections Commission] to hide her positions and hide who's funding her campaigns." Defendant Krikorian also asserted as fact "Just like she [Jean Schmidt] voted to bailout Wall Street while accepting thousands of dollars from the banking industry, she continues to deny genocide while accepting money from Turkish interest PACs."

31. The statements referenced in paragraph 30 assert or imply the following acts of moral turpitude or crimes that can be proven true or false: (a) that Plaintiff has hidden and continues to hide the sources of her campaign funding in violation of the Federal Elections Campaign Act, 2 U.S.C. 434, 441e, 441f, 437g(d); (b) that Plaintiff has knowingly accepted money from a political action committee funded by Turkish nationals in violation of federal campaign finance laws, 2 U.S.C. 441e, 441f, 437g(d); and, (c) that Plaintiff has accepted bribes in the form of campaign contributions from Wall Street and Turkish interest PACs in exchange for official acts in violation of 18 U.S.C. 201(b)(2).

⁶ Available at <http://www.asbarez.com/66017/geragos-to-represent-david-krikorian-against-genocide-denier/>.

19044106100809

32. The statements referenced in paragraph 30, individually and taken in the context of the entire interview published by Asbarez.com on July 2, 2009, are defamatory because they falsely impute to the Plaintiff corruption, deceit and the commission of criminal offenses in a manner intended to ruin the reputation and esteem of Plaintiff professionally and personally. They were factual assertions published by Defendant with ill-will or spite towards Plaintiff, and with knowledge of their falsity or with a reckless disregard of whether they were false or not.

33. During the interview published on July 2, 2009, by Asbarez.com, Defendant Krikorian further declared: "I stand by everything my campaign did during the 2008 election."

34. By making the statement referenced in paragraph 33, Defendant Krikorian republished the factual assertions already deemed false and made with knowledge of their falsity or with reckless disregard of whether they were false or not by the Ohio Elections Commission in 2009 under Ohio Revised Code 3517.21(B)(10). The OEC concluded that the following three assertions were published by Defendant with knowledge of their falsity or with a reckless disregard for whether they were false or not by clear and convincing evidence: (a) Jean Schmidt has taken \$30,000 in blood money from Turkish government sponsored political action committees to deny the slaughter of 1.5 million Armenian men, women and children by the Ottoman Turkish Government during World War I (Schmidt v. Krikorian, OEC 2009E-003, 591-606); (b) This information (Turkish government sponsored political action committees gave \$30,000 to Jean Schmidt and/or to the Schmidt for Congress campaign committee) is public record and can be found on the FEC database at <http://www.FEC.gov> (Schmidt v. Krikorian, OEC 2009E-003, 615-628); and, (c) I ask the people of Ohio's second congressional district to ask themselves if our Representative should be taking money from a foreign government that is killing our soldiers (Schmidt v. Krikorian, OEC 2009E-012, 627-630). Krikorian's appeals of

the OEC's verdicts have been dismissed, and the verdicts are now final and definitive adjudications to be given collateral estoppel effect in this litigation regarding the falsity of the statements and their publication with knowledge of their falsity or with reckless disregard of whether they were false or not. See Exhibits 1 and 2 attached hereto.

35. The statement referenced in paragraph 33 is defamatory because it accuses Plaintiff Schmidt of violations of 2 U.S.C. 434, 441e, 441f, 437g(d), 5 U.S.C. 7342(h), and the Emoluments Clause of the United States Constitution, Article I, section 9, clause 8.

36. The allegations made by Defendant in 2008 were intended exclusively for voters in the second district of Ohio. The readership of Asbarez.com, however, is not confined to residents of a specific geographical location. By reiterating his three intentional lies about Plaintiff to the readers of Asbarez.com, Defendant effectively republished them before the entirety of the English-speaking world. The statement referenced in paragraph 33 independently damaged Plaintiff's reputation, and was understood by its readers to incorporate, among other things, the three intentional defamatory lies Krikorian had made about Schmidt adjudicated by the OEC in 2009.

37. During an August 27, 2009 interview published by The Armenian Reporter online newspaper in an article entitled "In congressional run, David Krikorian is banking on the people: Says he's 'underwhelmed' with Armenian-American support so far,"⁷ Defendant Krikorian spoke out again against Plaintiff Schmidt, making two more defamatory allegations that can be proven true or false with knowledge of their falsity or with reckless disregard of whether they were false or not and with ill-will or spite towards Plaintiff.

⁷ Available at <http://www.reporter.am/index.cfm?furl=/go/article/2009-09-15-in-congressional-run-david-krikorian-is-banking-on-the-people&pg=1>.

1004410110001

38. Defendant Krikorian said: "What I can't call [the funds Rep. Schmidt received from Turkish interests], some \$29,500, "blood money"? Of course it is "blood money"! You have got a representative who is taking money from a foreign lobby. Schmidt said in her deposition that she had no idea why she was the largest recipient of money from the Turkish lobby. Just think how stupid that sounds." Defendant Krikorian also asserted as fact that: "...the Turkish government is behind those contributions and it is my right to feel that way and it is my right to say so."

39. The statements referenced in paragraph 38 are defamatory because they accuse Plaintiff Schmidt of the following acts of moral turpitude or crime: (a) that Plaintiff accepted campaign funding from the Turkish government in criminal violation of 2 U.S.C. 441e, 437g(d); (b) that Plaintiff has hidden and continues to conceal the source of campaign contributions in criminal violation of the Federal Elections Campaign Act, 2 U.S.C. 434, 441f, 437g(d); (c) that Plaintiff is guilty of accepting money in exchange for an official act in criminal violation of 18 U.S.C. 201(b)(2), and (d) that Plaintiff is guilty of perjury under Ohio Revised Code section 2921.11.

40. The statements referenced in paragraph 38 impute to Plaintiff Schmidt corruption, fraud, and the commission of criminal acts in a manner intended to ruin the reputation and esteem of Plaintiff professionally and personally. They are factual assertions, published by Defendant with ill-will or spite towards Plaintiff and with knowledge of their falsity or with reckless disregard of whether they were false or not.

41. In his interview with The Armenian Reporter published on August 27, 2009, Defendant Krikorian also asserted as fact that: "... Schmidt is bought and paid for by the Turkish lobby and people don't like it when their representatives sell out like that."

42. In the statement referenced in paragraph 41, Defendant Krikorian accuses Plaintiff Schmidt of accepting money in exchange for official acts in violation of 18 U.S.C. 201(b)(2).

43. The statement referenced in paragraph 41 is defamatory because it imputes to Plaintiff Schmidt corruption and the commission of criminal acts in a manner intended to ruin the reputation and esteem of Plaintiff professionally and personally. It is a factual assertion, published with ill-will and spite towards Plaintiff and with knowledge of its falsity or with reckless disregard of whether it was false or not.

44. An interview with Defendant Krikorian published by The Armenian Mirror-Spectator on August 28, 2009⁸, contains two more defamatory statements. Defendant Krikorian asserted as fact, among other things, with regard to Schmidt's deposition under oath in the pending case of Schmidt v. Krikorian before the OEC, that "she (Plaintiff Schmidt) suggested that she had no idea that she was the leading recipient of Turkish lobby money in '08... She said that she never spoke of the Armenian Genocide resolution at any of the Turkish lobby fundraisers held on her behalf, which from my perspective is laughable... She's a liar, she's not credible. I think it's obvious that two weeks after receiving \$11,000 of Turkish lobby money she joins the Turkish caucus — and claims there's no quid pro quo. She's an embarrassment to the district and to the country."

45. The statements referenced in paragraph 44 contain the assertion that can be proven true or false that Plaintiff Schmidt accepted bribes and illegal campaign contributions from the Turkish government in violation of 18 U.S.C. 201(b)(2) and 2 U.S.C. 441e, 437g(d);

⁸ This is available at <http://www.mirrorspectator.com/?p=1710>.

with ill-will or spite towards Plaintiff and with knowledge of its falsity or a reckless disregard for whether it was true or false.

51. In a televised interview with Armenian-American activist Peter Mursulian (a partisan journalist for Horizon Armenian Television and Director of the ANCA-Western Region Board of Directors) in September of 2009⁹, Defendant Krikorian asserted as fact, among other things, the following: "I stand by the statements that I made, that my opponent in the last election, the current representative of Ohio's second congressional district, is a paid puppet of the Turkish government involved in their denial campaign to suppress the truth about the Armenian genocide."

52. The statement of fact that can be proven true or false referenced in paragraph 51 is that Plaintiff receives money from the Government of Turkey in exchange for official acts regarding the perennial Armenian genocide resolutions introduced in the U.S. Congress. The statement is defamatory because it accuses Plaintiff of bribery in violation of 18 U.S.C. 201(b)(2) and of illegal receipt of money from a foreign government in violation of the Emoluments Clause of the Constitution and 5 U.S.C. 7342(h).

53. The statement referenced in paragraph 51 was published by Defendant with ill-will or spite towards Plaintiff and with knowledge of its falsity or with reckless disregard of whether it was false or not.

54. The harm that the online publication of such a pernicious accusation can inflict upon the reputation of Plaintiff is both obvious and difficult to overcome. At present, over 11,000 viewers have accessed this video on Youtube.com alone. The video is nearly impossible to remove from circulation.

⁹ Available at <http://www.youtube.com/watch?v=En7HhLV4oIA&feature=related>.

55. Neither Defendant Krikorian nor any member of Krikorian for Congress had ever inquired of Plaintiff Schmidt, her staff, or her campaign committee as to the truth of Krikorian's accusations of criminality or otherwise. See paragraph 25 of the attached Exhibit 3.

56. Plaintiff Schmidt has never "denied" that the Ottoman Armenian tragedy during World War I might constitute the crime of genocide. Her position as a Member of Congress has consistently been that the subject is not a fit question for Congress; and, that based on her knowledge of the historical record she cannot, at present, characterize the tragic events of 1915 in World War I as an Armenian "genocide," which has a very strict legal meaning under the Genocide Convention of 1948 and the U.S. criminal code, 18 U.S.C. 1091. As a member of Congress, she has never voted on a resolution calling these historical events genocide. She supports the formation of an international independent commission of experts to resolve the matter definitively. See Exhibit 3, paragraph 8; Exhibit 4, page 1.

57. Plaintiff Schmidt has never accepted anything of value in return for the performance of an official act (or the choice not take an official action), which would be a federal crime under 18 U.S.C. 201(b)(2). See Exhibit 4, paragraphs 5 & 14; Exhibit 4, pages 1-3.

58. It would be a crime under federal law for the Turkish government (or any foreign national) to fund a political action committee that made donations to a federal candidate seeking election to Congress, among other federal offices. 2 U.S.C. 437 g(d), 441e.

59. It would be a crime under federal law for Turkish people to make contributions to federal political campaigns for Congress, among other federal offices, if the donor were not an American citizen or permanent resident alien. 2 U.S.C. 437 g(d), 441e(b).

60. The defamatory statements enumerated herein are individually and collectively ruinous to Plaintiff professionally, locally, nationally, and abroad. They have each proximately

caused Plaintiff general and special damages in the form of permanent and irreparable injury to her reputation.

61. As a direct and proximate result of the defamatory remarks published by Defendant Krikorian, many Ohio citizens were led to believe that Plaintiff Schmidt was guilty of criminally accepting campaign contributions from a foreign government, that she was guilty of bribery, perjury and obstruction of justice, and that her loyalty was to the Republic of Turkey in lieu of the United States. Plaintiff Schmidt's public image has been irreparably damaged.

62. As a direct and proximate result of the defamatory remarks published by Defendant referenced in this complaint, Plaintiff Schmidt is now disliked by many who feel as strongly about the genocide interpretation of Ottoman Armenian history as does Defendant Krikorian, as well as by those who now believe that she took money from instrumentalities of the Turkish government as a quid pro quo. Defendant's defamatory statements have proximately caused Plaintiff stress, emotional distress, and mental pain and suffering.

63. The statements referenced herein stigmatize the Plaintiff as being guilty of crimes of moral turpitude and disloyalty to the United States. They have diminished and will continue to diminish her opportunities to speak, to write, to publish, to be interviewed, and to influence public opinion and views on United States-Turkey relations and the history of Ottoman Armenians.

64. Defendants made the statements referenced herein with actual malice and wrongful and willful intent to harm the Plaintiff. The statements were made with reckless disregard for their truth or falsity or with knowledge of their falsity and with wanton and reckless disregard of the reputation and rights of the Plaintiff. Defendants lacked reasonable ground for

making the statements enumerated herein. Indeed, Defendants knew their statements were lies when they made them.

65. Plaintiff Schmidt is entitled to punitive damages in order to deter the use of intentionally false criminal accusations against candidates to mislead the electorate and to inhibit or confound full and fair debate about Ottoman Armenian history both in and out of Congress. The United States Supreme Court elaborated on the evils of intentional lies to the democratic process in *Garrison v. Louisiana*, 379 U.S. 64, 75 (1964):

Although honest utterance, even if inaccurate, may further the fruitful exercise of the right of free speech, it does not follow that the lie, knowingly and deliberately published about a public official, should enjoy a like immunity. At the time the First Amendment was adopted, as today, there were those unscrupulous enough and skillful enough to use the deliberate or reckless falsehood as an effective political tool to unseat the public servant or even topple an administration. Cf. Riesman, *Democracy and Defamation: Fair Game and Fair Comment I*, 42 Col. L. Rev. 1085, 1088-1111 (1942). That speech is used as a tool for political ends does not automatically bring it under the protective mantle of the Constitution. For the use of the known lie as a tool is at once at odds with the premises of democratic government and with the orderly manner in which economic, social, or political change is to be effected. Calculated falsehood falls into that class of utterances which "are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. . . ." *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572.

66. Krikorian's impenitence after receiving three reprimands from the OEC for intentional lies about Plaintiff is transparent. He has unsuccessfully brought suit in the United States District Court for the Southern District of Ohio seeking a legal sanctuary to continue to defame Plaintiff with intentional lies. *David Krikorian v. Ohio Elections Commission et al.*, Case No. 1:10-cv-00103, (attempting to argue that the First Amendment provides a blanket immunity for all speech during a political campaign). Punitive damages are imperative to deter

Defendant from continuing to harass, intimidate, and vex Plaintiff with knowing falsehoods to the detriment of Plaintiff, the democratic process and the voters of Ohio.

COUNT I – DEFAMATION PER SE

67. Plaintiff incorporates by reference into this count the preceding allegations of this complaint.

68. During the interview published on July 2, 2009, Defendant Krikorian asserted as fact: "She's (Jean Schmidt is) threatened by my campaign and is using the OEC to hide her positions and hide who's funding her campaigns."

69. It can be proven true or false whether Plaintiff has hidden the sources of her campaign contributions. Defendant's statement accuses Plaintiff of criminality in violation of the Federal Elections Campaign Act, 2 U.S.C. 434, 441f, 437g(d). The statement was published with ill-will or spite towards Plaintiff and with knowledge of its falsity or with a reckless disregard for whether it was false or not.

70. The publication of this statement caused general and special damages to the Plaintiff. Defendants knew, anticipated, foresaw, and intended that the statement would be read by persons throughout the United States and the world and would damage the reputation of the Plaintiff. The statement has adversely affected the Plaintiff's professional credibility, speaking, writing, interview, media, and fund-raising opportunities, causing Plaintiff Schmidt psychological trauma and suffering and monetary losses.

COUNT II – DEFAMATION PER SE

71. Plaintiff incorporates by reference into this count the preceding allegations of this complaint.

72. During the interview published on July 2, 2009, Defendant Krikorian asserted as fact: "Just like she (Jean Schmidt) voted to bailout Wall Street while accepting thousands of dollars from the banking industry, she (Jean Schmidt) continues to deny genocide while accepting money from Turkish interest PACs."

73. Defendant's statement accuses Plaintiff of knowingly accepting money from a political action committee funded by Turkish nationals in violation of federal campaign finance laws, 2 U.S.C. 441e(a)(1)(2); and, of accepting bribes in the form of campaign contributions from Wall Street and Turkish interest PACs in exchange for official acts in violation of 18 U.S.C. 201(b)(2).

74. This statement was published by Defendant with ill-will or spite towards Plaintiff and with knowledge of its falsity or with reckless disregard for whether it was false or not.

75. The publication of this statement caused general and special damages to the Plaintiff. Defendants knew, anticipated, foresaw, and intended that the statement would be read by persons throughout the United States and the world and would damage the reputation of the Plaintiff. The statement has adversely affected the Plaintiff's professional credibility, speaking, writing, interview, media, and fund-raising opportunities, causing Plaintiff Schmidt psychological trauma and suffering and monetary losses.

COUNT III – DEFAMATION PER SE

76. Plaintiff incorporates by reference into this count the preceding allegations of this complaint.

77. During the interview published on July 2, 2009, by Asbarez.com, Defendant Krikorian declared: "I stand by everything my campaign did during the 2008 election."

78. By making this statement, Defendant republished the factual assertions already deemed false and made with knowledge of their falsity or with reckless disregard of whether they were false or not by the Ohio Elections Commission in 2009 under Ohio Revised Code 3517.21(B)(10). The OEC concluded that the following three statements had factual connotations and were published by Defendant with knowledge of their falsity or with a reckless disregard for whether they were false or not by clear and convincing evidence: (a) Jean Schmidt has taken \$30,000 in blood money from Turkish government sponsored political action committees to deny the slaughter of 1.5 million Armenian men, women and children by the Ottoman Turkish Government during World War I (Schmidt v. Krikorian, OEC 2009E-003, 591-606); (b) This information (Turkish government sponsored political action committees gave \$30,000 to Jean Schmidt and/or to the Schmidt for Congress campaign committee) is public record and can be found on the FEC database at <http://www.FEC.gov> (Schmidt v. Krikorian, OEC 2009E-003, 615-628); and, (c) I ask the people of Ohio's second congressional district to ask themselves if our Representative should be taking money from a foreign government that is killing our soldiers (Schmidt v. Krikorian, OEC 2009E-012, 627-630). See the attached Exhibits 1 and 2.

79. Krikorian's appeals of the OEC's verdicts have been dismissed, and the verdicts are now final and definitive adjudications to be given collateral estoppel effect in this litigation as to the falsity of Defendant's allegations and their publication with malice.

80. The statement referenced in paragraph 77, in context, accuses Schmidt of taking money from a foreign government in violation of 5 U.S.C. 7342(h) and the Emoluments Clause of the U.S. Constitution, Article I, section 9, clause 8; of bribery in violation of 18 U.S.C. 201(b)(2); and, of receiving illegal campaign contributions in violation of 2 U.S.C. 441e,

437g(d). These accusations of crime against Plaintiff were published with ill-will or spite towards Plaintiff and with knowledge of their falsity or with reckless disregard of whether they were false or not.

81. The publication of the statements caused general and special damages to the Plaintiff. Defendants knew, anticipated, foresaw, and intended that the statements would be read by persons throughout the United States and the world and would damage the reputation of the Plaintiff. The statements have adversely affected the Plaintiff's professional credibility, speaking, writing, interview, media, and fund-raising opportunities, causing Plaintiff Schmidt psychological trauma and suffering and monetary losses.

COUNT IV – DEFAMATION PER SE

82. Plaintiff incorporates by reference into this count the preceding allegations of this complaint..

83. During an August 27, 2009 interview published by The Armenian Reporter in an article entitled "In congressional run, David Krikorian is banking on the people: Says he's 'underwhelmed' with Armenian-American support so far," Defendant Krikorian made the following statement with a defamatory factual assertion that could be proven true or false: "What, I can't call [the funds Rep. Schmidt received from Turkish interests], some \$29,500, 'blood money'? Of course it is 'blood money'! You have got a representative who is taking money from a foreign lobby. Schmidt said in her deposition that she had no idea why she was the largest recipient of money from the Turkish lobby. Just think how stupid that sounds." Defendant Krikorian also asserted as fact that: "...the Turkish government is behind those contributions and it is my right to feel that way and it is my right to say so."

84. The statements referenced in paragraph 83 are defamatory because they accuse Plaintiff Schmidt of the following acts of moral turpitude or crime: (a) that Plaintiff accepted campaign funding from the Turkish government in criminal violation of 2 U.S.C. 441e, 437g(d); (b) that Plaintiff has hidden and continues to conceal the source of campaign contributions in criminal violation of the Federal Elections Campaign Act, 2 U.S.C. 434, 441f, 437g(d); and, (c) that Plaintiff is guilty of accepting money in exchange for an official act in criminal violation of 18 U.S.C. 201(b)(2).

85. The statements referenced in paragraph 83 are defamatory because they impute to Plaintiff Schmidt corruption, fraud, and the commission of criminal acts in a manner intended to ruin the reputation and esteem of Plaintiff professionally and personally. They are factual assertions, published with ill-will or spite towards Plaintiff and with knowledge of their falsity or with reckless disregard of whether they were false or not. Defendant was placed on specific notice that these statements were false during the discovery processing eh OEC hearings held to resolve cases 2009E-003 and 2009E-012. See Exhibit 4 attached hereto.

86. The publication of the statements caused general and special damages to the Plaintiff. Defendants knew, anticipated, foresaw, and intended that the statements would be read by persons throughout the United States and the world and would damage the reputation of the Plaintiff. The statements have adversely affected the Plaintiff's professional credibility, speaking, writing, interview, media, and fund-raising opportunities, causing Plaintiff Schmidt psychological trauma and suffering and monetary losses.

COUNT V - DEFAMATION PER SE

87. Plaintiff incorporates by reference into this count the preceding allegations of this complaint.

88. During an August 27, 2009 interview published by The Armenian Reporter in an article entitled "In congressional run, David Krikorian is banking on the people: Says he's 'underwhelmed' with Armenian-American support so far," Defendant Krikorian asserted as fact: "... Schmidt is bought and paid for by the Turkish lobby and people don't like it when their representatives sell out like that."

89. Defendant Krikorian's statement accuses Plaintiff Schmidt of accepting money in exchange for official acts in violation of 18 U.S.C. 201(b)(2). It is defamatory because it imputes to Plaintiff Schmidt corruption and the commission of criminal acts in a manner intended to ruin the reputation and esteem of Plaintiff professionally and personally. The statement was published with ill-will or spite towards Plaintiff, and with knowledge of their falsity or with reckless disregard of whether they were false or not. Defendant was placed on specific notice that these statements were false during the discovery processing eh OEC hearings held to resolve cases 2009E-003 and 2009E-012. See Exhibit 4 attached hereto, pages 1-3.

90. The publication of this statement caused general and special damages to the Plaintiff. Defendants knew, anticipated, foresaw, and intended that the statement would be read by persons throughout the United States and the world and would damage the reputation of the Plaintiff. The statement has adversely affected the Plaintiff's professional credibility, speaking, writing, interview, media, and fund-raising opportunities, causing Plaintiff Schmidt psychological trauma and suffering and monetary losses.

COUNT VI - DEEFAMATION PER SE

91. Plaintiff incorporates by reference into this count the preceding allegations of this complaint.

92. In his August 28, 2009 interview with The Armenian Mirror-Spectator, Defendant Krikorian asserted as fact, among other things, that "She's (Plaintiff Schmidt is) a liar, she's not credible. I think it's obvious that two weeks after receiving \$11,000 of Turkish lobby money she joins the Turkish caucus — and claims there's no quid pro quo. She's an embarrassment to the district and to the country."

93. The statement contains the assertion that can be proven true or false that Plaintiff Schmidt accepted bribes and illegal campaign contributions from the Turkish government in violation of 18 U.S.C. 201(b)(2) and 2 U.S.C. 441e, 437g(d), and that she committed perjury and obstruction of justice in her deposition in *Schmidt v. Krikorian* in violation of Ohio Revised Code sections 2921.11 and 2921.32.

94. The statement referenced in paragraph 92 asserts or implies the following acts of moral turpitude or crimes: (a) that Plaintiff has intentionally concealed the source of campaign contributions in criminal violation of the Federal Elections Campaign Act, 2 U.S.C. 434, 441f, 437g(d); (b) that Plaintiff has accepted bribes, a criminal offense under 18 U.S.C. 201(b)(2); (c) that Schmidt perjured herself and obstructed justice in her deposition in *Schmidt v. Krikorian* in violation of Ohio Revised Code sections 2921.11 and 2921.32; and, (d) that due to Plaintiff's alleged criminality, Plaintiff is a shameful human being unfit for public office.

95. The statement referenced in paragraph 86 is defamatory because it imputes to Plaintiff Schmidt corruption, fraud, and the commission of criminal acts in a manner intended to ruin the reputation and esteem of Plaintiff professionally and personally. They are factual assertions, published by Defendant with ill-will or spite towards Plaintiff and with knowledge of their falsity or a reckless disregard for whether they were false or not. Defendant was placed on

specific notice that these statements were false during the discovery process in the OEC hearings held to resolve cases 2009E-003 and 2009E-012. See Exhibit 4 attached hereto, pages 1-3.

96. The publication of this statement caused general and special damages to the Plaintiff. Defendants knew, anticipated, foresaw, and intended that the statement would be read by persons throughout the United States and the world and would damage the reputation of the Plaintiff. The statement has adversely affected the Plaintiff's professional credibility, speaking, writing, interview, media, and fund-raising opportunities, causing Plaintiff Schmidt psychological trauma and suffering and monetary losses.

COUNT VII - DEEFAMATION PER SE

97. Plaintiff incorporates by reference into this count the preceding allegations of this complaint.

98. In his August 28, 2009 interview with The Armenian Mirror-Spectator, Defendant Krikorian asserted as fact, among other things, that "She (Plaintiff Schmidt) was basically programmed by the Turkish lobby for that sworn deposition and it's a shame to see a sitting congressional representative act in the way she acted yesterday."

99. The statement is defamatory because it accuses Plaintiff Schmidt of perjury and obstruction of justice in violation of the Ohio Revised Code sections 2921.11 and 2921.32 in a manner intended to ruin the reputation and esteem of Plaintiff professionally and personally.

100. The statement was published with ill-will or spite towards Plaintiff and with knowledge of its falsity or with reckless disregard of whether it was false or not. Defendant was placed on specific notice that these statements were false during the discovery process in the OEC hearings held to resolve cases 2009E-003 and 2009E-012. See Exhibit 4 attached hereto, page 5.

101. The publication of this statement caused general and special damages to the Plaintiff. Defendants knew, anticipated, foresaw, and intended that the statement would be read by persons throughout the United States and the world and would damage the reputation of the Plaintiff. The statement has adversely affected the Plaintiff's professional credibility, speaking, writing, interview, media, and fund-raising opportunities, causing Plaintiff Schmidt psychological trauma and suffering and monetary losses.

COUNT VIII – DEFAMATION PER SE

102. Plaintiff incorporates by reference into this count the preceding allegations of this complaint.

103. In an interview with Armenian-American activist Peter Mursulian in September of 2009, Defendant Krikorian stated the following: "I stand by the statements that I made, that my opponent in the last election, the current representative of Ohio's second congressional district, is a paid puppet of the Turkish government involved in their denial campaign to suppress the truth about the Armenian genocide."

104. The statement of fact that can be proven true or false is that Plaintiff receives money from the Government of Turkey in exchange for official acts regarding the perennial Armenian genocide resolutions introduced in the U.S. Congress. The statement is defamatory because it accuses Plaintiff of bribery in violation of 18 U.S.C. 201(b)(2) and of illegal receipt of money from a foreign government in violation of the Emoluments Clause of the Constitution and 5 U.S.C. 7342(h).

105. The statement was published by Defendant with ill-will or spite towards Plaintiff and with knowledge of its falsity or with reckless disregard of whether it was false or not. Defendant was placed on specific notice that these statements were false during the discovery


process in the OEC hearings held to resolve cases 2009E-003 and 2009E-012. See Exhibit 4 attached hereto.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, as follows:

- (a) Compensatory damages in the amount of \$500,000 on each Count;
- (b) Punitive damages in the amount of \$350,000 on each Count;
- (c) Pre-judgment and post-judgment interest on each Count; and,
- (d) Such other and further relief to which Plaintiff may be entitled.

Respectfully submitted,


Donald C. Brey (0021965)
CHESTER, WILLCOX & SAXBE LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
Telephone: (614) 221-4000
Facsimile: (614) 221-4012
Email: dbrey@cwslaw.com

Counsel for Plaintiff, Jean Schmidt

OF COUNSEL FOR PLAINTIFF:

Bruce Fein (DC Bar 446615)
1025 Connecticut Ave., NW
Suite 1000
Washington, D.C. 20036
Mobile: 703-963-4968
Office: 202-370-1399
Facsimile: 202-448-1664
Email: Bruce@thelichfieldgroup.com

David Saltzman (DC Bar 426201)
655 15th St. NW
Suite 225-F
Washington, D.C. 20005-5701
Office: 202-637-9877
Mobile: 202-550-2007
Facsimile: 202-637-9876
Email: dsaltzman@turklaw.net

4831-7709-6198, v. 3