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October 4, 2005

**VIA FACSIMILE**  
**VIA OVERNIGHT MAIL**

Jeff Jordan  
Supervisory Attorney  
Complaints Examination and Legal Administration  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 5678

Dear Mr. Jordan:

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2005 OCT -6 A 11:47

This letter is in response to your correspondence, received September 6, 2005, and shall constitute the formal response of Harold Newman (hereinafter "Newman"), and Newman Signs, Inc., to MUR 5678.

Renee Pfenning (hereinafter "Pfenning") has filed a complaint with the Commission alleging that 1) Newman Signs, Inc. charged the Liffrig for Senate campaign less than the fair market value for outdoor advertising, resulting in an illegal, in-kind corporate contribution from Newman Signs, Inc. and 2) Harold Newman made an excessive contribution to the Liffrig for Senate campaign as the result of a separate contribution made to BULLY! PAC, a North Dakota federal political action committee supporting Liffrig for Senate in the 2004 United States Senate election.

**I. Allegation of Illegal Corporate Contribution**

In the complaint filed by Pfenning, complainant mistakenly relies on Dorgan for Senate reporting information to reach a conclusion that Newman Signs undercharged the Liffrig for Senate campaign for provisions of sign services and therefore, necessarily made an improper in-kind contribution. Specifically, Pfenning points to differences in the amount that the opposing North Dakota United States Senate campaign, Dorgan for Senate, paid for campaign signs disclosed in Dorgan for Senate FEC reports and the amount that Liffrig for Senate paid for its signs. Pfenning alleges that the comparison demonstrates that Liffrig for Senate paid a lesser amount for signs than Dorgan for Senate paid and therefore, Liffrig for Senate's sign vendor, Newman Signs, Inc. must have charged the campaign less than fair market value.

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Pfenning is both mistaken in her comparison of the transactions and inaccurate in her assessment of charges. She alleges that the average sign cost for the Liffriq for Senate campaign was \$444 per outdoor sign, per month, in contrast to the much more expensive Dorgan for Senate expenditures which averaged \$1,250 per sign, per month.

Pfenning's rationale for assessing the difference thereafter, concluding it was evidence of some less than fair market assessment of cost on behalf of Newman Signs, Inc. assumes the same category and quality of signs were purchased by both campaigns. An evaluation of the purchases set forth below proves that such a characterization is mistaken and that the allegation is patently false.

An evaluation of the purchases of the Liffriq for Senate campaign demonstrate that Liffriq for Senate purchased a state-wide paper poster program from Newman Signs. The rates charged by the Newman Signs, Inc. sales representative were entirely consistent with Newman Signs, Inc.'s ordinary pricing schedule. In addition, the rate charged for the 10'5" x 22'8" paper signs did not include production charges.

In contrast, the Dorgan for Senate campaign purchased a vinyl sign program. Dorgan for Senate did not purchase any paper posters during the campaign and instead purchased eight (8) 14' x 48' vinyl billboards for two (2) months in each location. The Dorgan for Senate Campaign paid \$1,250 per month, per location. Also, unlike the Liffriq for Senate charges cited by Pfenning, the production cost was included in the amounts cited by Pfenning that the Dorgan for Senate campaign paid.

In short, it appears that nothing is consistent in the sign programs of the Dorgan for Senate campaign and the Liffriq for Senate campaign and any effort to characterize them similarly is improper.

## II. Allegation of improper BULLY! PAC contribution

In her complaint, Pfenning alleges that Harold Newman made an excessive contribution to the Liffriq for Senate campaign as the result of a separate contribution made to BULLY! PAC, a North Dakota federal political action committee supporting Liffriq for Senate in the 2004 United States Senate election. Pfenning alleges that Newman's contribution to another federal pac that later made an in-kind contribution to the Liffriq for Senate campaign to pay for outstanding expenses was an improper earmarked contribution.

In fact, Harold Newman is a Republican who both supported Liffriq for Senate and wished to support BULLY! PAC. The fact that his contribution was made to a political action committee that later made a in-kind contribution for services that were provided by a separate company affiliated with Mr. Newman should not be assumed to impute such a contribution to Mr. Newman.

At no time did Mr. Newman direct BULLY! PAC to give to the Liffriq for Senate campaign. Any decision by BULLY! PAC to support the Liffriq for Senate campaign

was made entirely independent from any instruction or decision to support the Liffbrig for Senate campaign made by Mr. Newman.

Conclusion

Newman Signs, Inc. and Harold Newman each assert that the aforementioned allegations made by complainant are meritless and the parties respectfully request that the Commission conclude this matter with respect to Newman Signs, Inc. and Harold Newman.

Thank you very much for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Holtzman Vogel", with a stylized, cursive script.

Jill Holtzman Vogel

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