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# McKenna Long & Aldridge<sup>LLP</sup>

Attorneys at Law

1900 K Street, NW • Washington, DC 20006-1108  
Tel: 202.496.7500 • Fax: 202.496.7756  
www.mckennalong.com

New York  
Philadelphia  
Sacramento  
San Diego  
San Francisco  
Washington, D.C.

CHARLES R SPIES

*Rec'd OGC  
JUN 10 2009  
10:15*

EMAIL ADDRESS

June 8, 2009

**VIA HAND DELIVERY**

Jeff S. Jordan, Esq.  
Supervisory Attorney  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

**Re: MUR 6190 / Respondent Norman Byrne**

Dear Mr. Jordan:

On behalf of Norman Byrne, this letter is submitted in response to the Complaint filed by David Bearden ("Complainant"), alleging violations of the Federal Election Campaign Act (the "Act") and now labeled MUR 6190. For the reasons set forth below, the allegations in the Complaint are baseless and retaliatory, and the Commission should decline to take further action and close this matter.

Mr. Byrne has a proud history of political and civic participation in elections and charitable causes at all levels. Unfortunately, this Complaint was filed by his estranged son-in-law David Bearden ("Complainant") against Mr. Byrne's daughter (and Complainant's wife), Kelly (with whom Complainant is in the midst of contentious divorce proceedings), and most of her family, including her father (this Respondent) and her three siblings. No evidence has been provided that supports Complainant's reckless - and false - charges, and he should not be permitted to abuse the Commission's complaint process to further his mean-spirited personal agenda in a divorce proceeding. Every person who could potentially have first-hand knowledge of the supposed conduct that Complainant alleges has provided a sworn affidavit disputing his charges and, considering the context in which they have been raised, the charges should not be taken seriously.

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### **Factual Background**

Mr. Byrne is a successful businessman in West Michigan who has a long history of supporting political campaigns that he believes in. See Complaint at Exhibit D; Affidavit at #2. He has instilled the values of civic participation in his family and is proud that his grown children are now also active participants in the political process. See Affidavit at #3. He has never reimbursed, directly or indirectly, a political contribution by any individual or entity. See Affidavit at #5. And, directly to the point, he has never reimbursed a political contribution to the McCain for President campaign by a family member of his or by an officer or employee of any company with which he is affiliated, including but not limited to employees \ officers of Byrne Industrial Specialists Inc. See Affidavit at #6.

Mr. Byrne's daughter, Kelly (Bearden), has filed for divorce against her estranged husband, David Bearden (the Complainant). In apparent response to recent legal allegations against, and investigations of, Complainant in the course of his contentious divorce proceedings, he has retaliated by lodging vague - and false - claims of campaign contribution reimbursements in this Complaint to the Commission. See Complaint.

### **Legal Analysis**

The Complaint alleges, without any factual support, that Respondent Mr. Byrne violated the Act by reimbursing contributions to the McCain for President campaign made by his children, Kelly Bearden, Daniel Byrne, Molly Nowak and Katherine Scudder. Mr. Byrne, however, has provided a sworn affidavit responding to - and flatly denying - this allegation. In addition, each of individuals who allegedly had their contributions reimbursed has provided (accompanying their own response to this Complaint) a sworn affidavit that flatly and comprehensively disputes the Complainant's allegations that their political contributions were reimbursed, or that they have committed any sort of violation of the Act or Commission Regulations.

Although the disgruntled Complainant alleges what would be a serious violation of 2 U.S.C. § 441(f) and 11 C.F.R. 110.4(b)(2007), the allegation is not credible and should not be treated as such by the Commission. Complainant does not claim to have first-hand knowledge of any violations of the Act, instead he asserts vague third-hand knowledge. In fact, all parties who would have first-hand knowledge if the alleged contribution reimbursements had taken place have, in sworn affidavits, fully disputed Complainant's allegations. This lack of first-hand knowledge or evidence, when combined with Complainant's malicious and retaliatory motivations, mean that his allegations should be afforded no weight at all by the Commission.

Jeff S. Jordan, Esq.  
June 8, 2009  
Page 3

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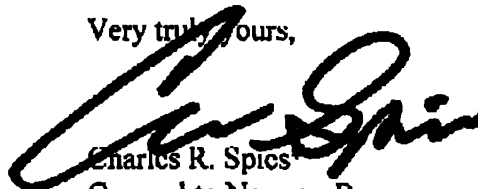
In addition, a complaint filed with the Commission should be accompanied by documentation supporting the facts alleged, *See* 11 C.F.R. § 111.4 (d)(4), and in this case there is no relevant evidence or documentation supporting the allegations. The documentation provided by Complainant that allegedly "evidences illegal conduct," Complaint at 3, is in fact just a listing of contributions made by members of the Byrne family. The fact that contributions from several Byrne family members were made "on the same exact day," *Id.*, [emphasis in original], is evidence only of the fact that family members attended the same fundraising events and turned in contributions at the same time. That information is superfluous to the allegation that such contributions were reimbursed and not sufficient to meet the standard of 11 C.F.R. § 111.4 (d)(4).

### Conclusion

The Complaint fails to present any reason to believe that Norman Byrne committed any violation of the Act or Commission Regulations. The clear purpose of this Complaint is retaliatory harassment of the family of a party to contentious divorce proceedings, and consequently this Complaint is an obvious and flagrant misuse of the Commission's complaint process. The Commission should not tolerate such abuse of the Commission's valuable time and resources, and Mr. Byrne therefore respectfully request that the Commission dismiss this Complaint and take no further action.

Thank you for your consideration in this matter.

Very truly yours,



Charles R. Spics  
Counsel to Norman Byrne

\*Admitted only in Virginia  
Supervision by Stefan Passantino  
a member of the DC Bar.

Enclosures: \_\_\_\_\_ Designations of Counsel

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Atlanta  
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Philadelphia  
San Diego  
San Francisco  
Washington, DC

CHARLES R. SPIES

EMAIL ADDRESS

VIA FACSIMILE (202) 219-3923

**BEFORE THE FEDERAL ELECTION COMMISSION  
STATEMENT OF DESIGNATION OF COUNSEL**

**MUR # 6190**

**Name of Counsel:** Charles R. Spies  
McKenna Long & Aldridge LLP  
1900 K Street, NW  
Washington, DC 20006

**Telephone:** \_\_\_\_\_  
**Fax:** (202) 496-7756

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

5/26/09  
Date

Norman Byrne  
Respondent/Client Signature

\_\_\_\_\_  
Title

**Respondent/Client:** Mr. Norman Byrne  
\_\_\_\_\_  
Ada, MI 49301

**Telephone - Home:**

**Business:**

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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