

Federal Election Commission
Office of the General Council
Attn: Peter Reynolds
999 E Street NW
Washington, D. C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION

2016 MAY 25 PM 1:18

RE: MUR 7053
Spanky LLC

May 20, 2016

Dear Mr. Reynolds,

OFFICE OF GENERAL
COUNSEL
MUR # 7053

I am in receipt of a letter from the FEC regarding MUR 7053 and a potential decision that Spanky LLC violated a provision of the Federal Election Campaign Act of 1971. While there is no typed date on your letter, there is a stamped date of May 11, 2016. I am assuming that this is the date of your letter.

On behalf of Spanky LLC, I am submitting factual and legal materials that are relevant to the Commission's consideration of this matter. While there have been no statements made under oath; information has been submitted from various persons involved in this situation with copies of original documents as back up.

Facts and Assumptions are addressed in order of appearance in the letter received May 16, 2016.

Facts Stated by the FEC

1. Violation of 52 USC § 30116 (a)
 - a. Spanky, LLC's Corporate structure is in question. The FEC quoted a *Seattle Times* article of August 1, 2012 by Mike Baker. The referenced article spends more time on the celebrity of Mr. Loftus's wife than facts.
 - b. Spanky, LLC is a Limited Liability Company in the State of California.
 - i. Formed for the specific purpose of loaning funds to various real estate and other investments as deemed appropriate by its management.
 - ii. Corporate Papers (included with this response) demonstrate the structure of the corporation. California Articles of Organization enclosed.
 - iii. Tax forms included show Spanky LLC is a Limited Liability Company with NO partnership distribution of any kind.
 - iv. List of loans made to other entities by Spanky LLC in the course of normal business.
2. FEC states that on July 5, 2012 the Flemming Committee made a \$150,000 disbursement to Spanky which it reported as repayment on the *March 7, 2012 loan of \$100,700*.
 - a. This is incorrect: the disbursement was for \$100,000 of the first loan, leaving a balance of \$700 from the first loan which was made March 7, 2012 via wire transfer.
 - b. The additional \$50,000 from this disbursement was toward the balance of \$100,000 and \$700 from the 1st loan made on June 29, 2012 via wire transfer, leaving a balance owed to Spanky of \$50,700 from the Committee. This amount, by contract, was due paid in full plus interest December 31, 2012.
 - c. Copies of "promissory note" for each loan demonstrating normal business practices with interest and due date are with this letter.
3. The Commission letter states that a series of requests to the Flemming for Congress Committee were sent regarding status of Spanky LLC structure. No one associated with Spanky LLC, nor anyone

associated with its management has knowledge of what was said by the Flemming Campaign to the FEC.

4. On page 3 of 5, your footnote #14 references entities that may make loans to Campaigns. At the time of the request for the initial loan, Spanky LLC did not hire an Attorney experienced with the nuances of the FEC, rather referenced the Federal Elections Commission Candidate Guide of 2011.
- a. Reference: *Congressional Candidates and Committees August 2011 Federal Election Commission Campaign Guide*; page 36 #2 Brokerage Loans and Other Lines of Credit Obtained by Candidate:

Both Schedule C-1 and Schedule C-P-1 (for Presidential candidates) include a statement to be signed by an officer of the lending institution certifying that the information provided by the committee is accurate and that the terms and conditions of the loan comply with FEC rules.

• is subject to a definite repayment schedule.

100.82(d).

An overdraft that does not meet the above conditions is a prohibited contribution. 114.2. Note that if the overdraft protection is based on a line of credit extended by the bank, draws on that line of credit must be disclosed on Schedule C-1, as discussed above.

2. Brokerage Loans and Other Lines of Credit Obtained by Candidate

Candidates may use funds derived from an advance on their brokerage account, credit card account or other line of credit to finance their campaigns, if the extension of credit is:

- In accordance with applicable law;
- Under commercially reasonable terms; and
- Made by persons who make such loans in the normal course of their business.

100.82(a)

The candidate's authorized committee has the option of repaying loans derived from a candidate's brokerage account or other line of

4. Investment Income

Interest earned on investments, such as interest earned on invested funds and dividends earned on securities, are not considered contributions. Such funds, however, must be transferred back into the main campaign depository before being disbursed by the campaign. Additionally, tax laws apply. If a committee receives interest from a bank it must list that bank on the committee's Form 1. See 103.3(a); AOs 1999-09, 1997-06, 1986-18 and 1980-39, as well as Appendix G, "Compliance with Other Laws."

- b. Referencing The Olympian News Paper article by Brad Shannon, Published August 1, 2012: Please note that Paul Ryan, Attorney in Washington D. C. stated that the loan from Spanky LLC to Flemming for Congress appeared to be legal.

From BRAD SHANNON | Staff writer • Published August 01, 2012 Modified July 31, 2012
BRAD SHANNON The Olympian

Paul Ryan, senior counsel to the nonpartisan Campaign Legal Center in Washington, D.C., said the loan "could be allowed, depending on the details of the loan."

He said the FEC has two provisions – one explicitly dealing with bank loans and the other dealing with brokerage loans and lines of credit to candidates.

"It is that (latter) regulation that permits loans to candidates by almost any entity provided they meet two conditions," Ryan said, basing his opinion on the plain language of the rules. "There is nothing in the rule requiring the lender to be as formal as a brokerage."

The two conditions for loans are that they be made on commercially reasonable terms and be made in the normal course of the lender's business, two conditions Flemming's campaign says are met. Ryan said he was not expert enough to say if an 8 percent rate on an unsecured loan was reasonable.

- 170474-150841
- c. Page 4 of 5 of the Commission's letter does not take in to consideration the Candidate Guide published by the Federal Elections Commission regarding "loans". Referencing the guide as stated prior to this paragraph, the loans that Spanky LLC created used normal business practice guidelines, interest rate and date due. Spanky LLC is NOT taxed as a partnership as demonstrated by the Tax Return Provided with this letter, therefore may make a loan to a candidate.
 5. Page 5 of 5 of the Commission's letter references time line payback as being excessive and out of compliance.
 - a. Spanky LLC contends that the 60 day window for repayment the Commission's letter references becomes a non-issue with the loan(s) in question originating with an entity that was permitted to make these loans.
 - b. Spanky LLC should not be penalized for having to go to excessive lengths to collect the repayment of the \$50,700 plus interest for the 2nd loan; hiring 2 attorney's with several demand letters to Stanley Flemming and the Campaign.
 - c. Stanley Flemming was advised multiple times by his Campaign Consultant that the loan had to be repaid as stated in the loan papers. Spanky LLC made demand for payment notices, hired 2 attorney's to collect the past due amount from Flemming for Congress/Stanley Flemming.

Timeline for demands of repayment of loans:

March 7, 2012	Loan #1 \$100,700 wire transferred to Key Bank Account 8160 Flemming for Congress
June 29, 2012	Loan #2 \$100,000 wire transferred to Key Bank Account 8160 Flemming for Congress
July 5, 2012	Wire Transfer of \$150,000 to Spanky LLC Payback of \$100,000 Loan #1 Balance of \$700 Payback of \$50,000 Loan #2 Balance of \$50,000
February 22, 2013	David Loftus & Stanley Flemming met at Harvester Restaurant, Gig Harbor, WA Mr. Flemming would not discuss loan payment
April 8, 2013	David Loftus, Stanley Flemming, Martha Flemming, Carol Cain (Campaign Consultant) Anthony's Restaurant Bremerton WA would not discuss payment of balance of loan
April 19, 2013	Campaign Dinner for fund raiser Meeting of David Loftus, Stanley Flemming, Martha Flemming, Campaign Consultant Carol Cain and Steve Cain after fund raiser – determined no 2 nd campaign – Flemming would not discuss payment of the balance of the loan at this time even though it was past due
April 29, 2013	Stanley Flemming, Carol Cain Clocktower Coffee Shop, Tacoma WA – discussed closing campaign and loan repayment. There was no commitment from Flemming to payback At this time Carol Cain was no longer Campaign Consultant.
June 4, 2013	David Loftus, Carol Cain, Stan Flemming Gig Harbor WA – met for purpose of loan payback discussion. Flemming wanted a modification to his name only and for Loftus to "forgive" the loan balance. Cain did not think this legal. Loftus submitted to Flemming a demand letter – Flemming did not take letter with him said he had an attorney looking in to matter
June 9, 2013	David Loftus, Carol Cain, Heather Sidwell Morris – telephone conference regarding loan collection/FEC rules.
June 20, 2013	Stanley Flemming met with Carol Cain turn over keys & materials to Flemming. At that time Cain told Flemming he had to pay back the loan. Flemming told Cain he had it all worked out with David Loftus. Loftus was unaware of any agreement.
June 28, 2013	Heather Sidwell Morris, P. A. sent demand letter to Stanley Flemming.
July 8, 2013	Stanley Flemming responded to Ms. Morris with an email that he would have a payment plan by July 11, 2013. Ms. Morris informed him a payment plan would not be accepted.
July 17, 2013	30 collection notice sent to Stanley Flemming by Richard Seward, Attn for Spanky LLC and David Loftus
August 30, 2013	Richard Seward received a certified check from Stanley Flemming for \$60,000 which completed the payback of the balance of the loan with interest.

6. Letter from HSM Law Offices to Stanley Flemming dated June 28, 2013 regarding repayment of loans by Spanky LLC.

- i. Referenced legal status of CFR § 100.83(a) states that Spanky LLC made the loans within the parameters of CFR § 100.83 (a) (2)

11 CFR 100.83 - Brokerage loans and lines of credit to candidates.

CFR eCFR Authorities (U.S. Code)

§ 100.83 Brokerage loans and lines of credit to candidates.

225. 02a1

(a) *General provisions.* Any loan of money, interest on an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to a candidate, including an overdraft made on a personal checking or savings account of a candidate, provided that:

(1) Such loan is made in accordance with applicable law and under commercially reasonable terms; and

(2) The person making such loan makes loans derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

1 Conclusions: Spanky LLC made two loans to Flemming for Congress, Stanley Flemming for purposes of a Congressional
7 Campaign for Mr. Flemming 2012. Loans were created, with normal business practices with an 8% interest rate, terms
0 of repayment and penalties if not repaid, from a Limited Liability Corporation, not taxed as a partnership from the State
4 of California. The purpose of the two loans was for a line of credit for needed uses for the Campaign.
4

1 No one at Spanky LLC had any input or was directly involved in managing the Flemming for Congress Campaign. Careful
5 consideration was taken as to the conditions that were researched within election laws for this type of a loan.

2 Spanky LLC is asking that the Commission reverse its findings and instead finds that Spanky LLC *did* conform to Federal
Elections Laws and did not violate "contribution" limits within guidelines from the Federal Elections Commission
Candidate Guide 2011 for the 2012 campaign season. Spanky LLC, with good faith made 2 loans to the Flemming for
Congress Campaign with normal business practices, contractual terms that were standard within the "loan" industry at
the time and terms of repayment. These loans were to be used as a "line of credit" for the Campaign. When Mr.
Flemming refused repayment on the balance owed, Spanky LLC again used standard business practices, hiring two
attorney's to collect said loan balance due and did not "forgive" the loan.

As representative for Spanky LLC, I am asking that the Commission makes a decision in favor of Spanky LLC NOT violating
Campaign Finance Laws and instead complied within the Campaign Guidelines provided to Candidates and their
Committees.

Regards,

David Loftus

Spanky LLC

800 N Whittier Drive

Beverly Hills, California 90210

Attach: State of California Articles of Incorporation

Limited Liability Company IRS Tax Returns for year 2012

Loan Contracts from Spanky LLC to Flemming for Congress/Stamley Flemming

Demand Letter from David Loftus to Flemming for Congress

Demand Letter from Law Office of Heather Sidwell Morris

Demand Letter from Richard Seward, PC

List of Loans made Spanky LLC for the year 2012



State of California
Secretary of State

Limited Liability Company
Articles of Organization

LLC-1

File #

201204510204

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

FEB 18 2012

A \$70.00 filing fee must accompany this form.

Important - Read Instructions before completing this form.

This Space For Filing Use Only

Entity Name (End the name with the words "Limited Liability Company," or the abbreviations "LLC" or "L.L.C." The words "Limited" and "Company" may be abbreviated to "Ltd." and "Co.," respectively.)

1. NAME OF LIMITED LIABILITY COMPANY

SPANKY LLC

Purpose (The following statement is required by statute and should not be altered.)

2. THE PURPOSE OF THE LIMITED LIABILITY COMPANY IS TO ENGAGE IN ANY LAWFUL ACT OR ACTIVITY FOR WHICH A LIMITED LIABILITY COMPANY MAY BE ORGANIZED UNDER THE BEVERLY-KILLEA LIMITED LIABILITY COMPANY ACT.

Initial Agent for Service of Process (If the agent is an individual, the agent must reside in California and both Items 3 and 4 must be completed. If the agent is a corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 3 must be completed (leave Item 4 blank).)

3. NAME OF INITIAL AGENT FOR SERVICE OF PROCESS

SHERRY HACKETT

4. IF AN INDIVIDUAL, ADDRESS OF INITIAL AGENT FOR SERVICE OF PROCESS IN CALIFORNIA **CITY** **STATE** **ZIP CODE**

800 NORTH WHITTIER DRIVE

BEVERLY HILLS CA 90210

Management (Check only one)

5. THE LIMITED LIABILITY COMPANY WILL BE MANAGED BY:

☐

ONE MANAGER

☒

MORE THAN ONE MANAGER

☐

ALL LIMITED LIABILITY COMPANY MEMBER(S)

Additional Information

6. ADDITIONAL INFORMATION SET FORTH ON THE ATTACHED PAGES, IF ANY, IS INCORPORATED HEREIN BY THIS REFERENCE AND MADE A PART OF THIS CERTIFICATE.

Execution

7. I DECLARE I AM THE PERSON WHO EXECUTED THIS INSTRUMENT, WHICH EXECUTION IS MY ACT AND DEED.

02/10/2012

DATE

SIGNATURE OF ORGANIZER

JOE WISHCAMPER

TYPE OR PRINT NAME OF ORGANIZER

TAXABLE YEAR

2012

Limited Liability Company Return of Income

229861 12-19-12
CALIFORNIA FORM

568

For calendar year 2012 or fiscal year beginning month **FEB** day **13** year 2012, and ending month **DEC** day **31** year **2012**

Limited liability company name (type or print)

SPANKY LLC

DBA

Address (suite, room, PO Box, and PMB no.)

800 N WHITTIER DR

City

BEVERLY HILLS

State

CA

ZIP Code

90210

E Check accounting method

(1) ☐ Cash (2) ☒ Accrual(3) ☐ Other (attach explanation)

F Date business started in CA

02/13/2012

G Enter total assets at end of year. See instructions.

\$

H Check the applicable box

(1) ☒ Initial return (2) ☐ FINAL RETURN
(3) ☐ Amended return

A CA Secretary of State (SOS) file number

201204510204

B FEIN

C Principal business activity name (same as federal)

D Principal product or service (same as federal)

I Principal business activity code (same as federal)

Whole dollars only

Complete Schedule IW, LLC Income Worksheet (on Side 6) first to determine Line 1.

1 Total income from Schedule IW, Limited Liability Company Income Worksheet. See instructions

2 Limited Liability Company fee. See instructions

3 2012 annual Limited Liability Company tax. See instructions

4 Nonconsenting nonresident members' tax liability from Schedule T (Side 3)

5 Total tax and fee. Add line 2, line 3, and line 4

6 Amount paid with form FTB 3537 and 2012 form FTB 3522 and form FTB 3536 SEE STATEMENT 1

7 Overpayment from prior year allowed as a credit

8 Withholding (Form 592-B and/or 593)

9 Total payments. Add line 6, line 7, and line 8

10 Tax and fee due. If line 5 is more than line 9, subtract line 9 from line 5

11 Overpayment. If line 9 is more than line 5, subtract line 5 from line 9

12 Amount of line 11 to be credited to 2013 tax or fee

13 Use Tax. See instructions

14 Refund. If the total of line 12 and line 13 is less than line 11; subtract the total from line 11

15 Penalties and Interest. See instructions

16 Total amount due. Add line 10, line 12, line 13, and line 15, then subtract line 11 from the result

1 0.00

2 0.00

3 800.00

4 00

5 800.00

6 800.00

7 00

8 00

9 800.00

10 00

11 00

12 00

13 00

14 0.00

15 0.00

16 0.00

Single Member LLC Information and Consent - Complete only if the LLC is disregarded.

Federal TIN/SSN

Sole Owner's name (as shown on owner's return)

SHERRY HACKETT IRA

FEIN/CA Corp no./CA SOS file no.

Street Address

800 N WHITTIER DR

City, State, and ZIP Code

BEVERLY HILLS, CA 90210

Member's Consent Statement: I consent to the jurisdiction of the State of California to tax my LLC income and agree to file returns and pay tax as may be required by the Franchise Tax Board.

Signature

Date

Title

Return filed with the FTB by the Owner

(1) Form 540 (2) Form 541

(3) Form 100 (4) Form 100S

(5) Form 665 (6) Form 568

(7) Form 568

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer

Sherry Hackett

Date

9/15/13

Telephone

's email address (optional)

Paid

Preparer's Use Only

Paid preparer's signature

LC. Leavitt

Date

9/14/13

Check if self-employed

PTIN

P00883244

Firm's name (or yours, if self-employed)

EDWARD WHITE & CO., LLP
21700 OXNARD STREET, STE. 400
and address WOODLAND HILLS, CA 91367

FEIN

95-3121227

Telephone

818-716-1120

May the FTB discuss this return with the preparer shown above (see instructions)?

(X) Yes ☐ No

Schedule IW Limited Liability Company (LLC) Income Worksheet

Enter your California income amounts on the worksheet. All amounts entered must be assigned for California law differences. Use only amounts that are from sources derived from or attributable to California when completing lines 1-17 of this worksheet. If your business is both within and outside of California, see Schedule IW instructions to assign the correct amounts to California. If the LLC is wholly within California, the total income amount is assigned to California and is entered beginning with line 1a. If the single-member LLC (SMLLC) does not meet the 3 million criteria for filing Schedule B (568) and Schedule K (568), the SMLLC is still required to complete Schedule IW. Disregarded entities that do not meet the filing requirements to complete Schedule B or Schedule K should prepare Schedule IW by entering the California amounts attributable to the disregarded entity from the member's federal Schedule B, C, E, F (Form 1040), or additional schedules associated with other activities. Do not enter amounts on this worksheet that have already been reported by another LLC to determine its fee. See instructions on page 13 of the Form 568 Booklet for more information on how to complete Schedule IW.

1	a	Total California income from Form 568, Schedule B, line 3. See instructions	1a	00	
	b	Enter the California cost of goods sold from Form 568, Schedule B, line 2 and from federal Schedule F (Form 1040) (plus California adjustments) associated with the receipts assigned to California on line 1a	1b	00	
2	a	Gross California income of disregarded entities not included in lines 1 and 8 through 16	2a	00	
	b	Enter the cost of goods sold of disregarded entities associated with the receipts assigned to California on line 2a	2b	00	
3	a	LLC's distributive share of ordinary income from pass-through entities	3a	00	
	b	Enter the LLC's distributive share of cost of goods sold from other pass-through entities associated with the receipt assigned to California on line 3a (see Schedule K-1s (565), Table 3, line 1a)	3b	00	
	c	Enter the LLC's distributive share of deductions from other pass-through entities associated with the receipt assigned to California on line 3a (see Schedule K-1s (565), Table 3, line 1b)	3c	00	
4		Add gross farm income from federal Schedule F (Form 1040). Use California amounts	4	00	
5		Enter the total of other income (not loss) from Form 568, Schedule B, line 10	5	00	
6		Enter the ordinary gains (not losses) and the recapture income from California Schedule D-1, Part II, line 17	6	00	
7		Add line 1a through line 6	7	00	
8		California rental real estate			
	a	Enter the total gross rents from federal Form 8825, line 18a	8a	00	
	b	Enter the total gross rents from all Schedule K-1s (565), Table 3, line 2	8b	00	
	c	Add line 8a and line 8b	8c	00	
9		Other California rentals.			
	a	Enter the amount from Schedule K (568), line 3a	9a	00	
	b	Enter the amount from all Schedule K-1s (565), Table 3, line 3	9b	00	
	c	Add lines 9a and 9b	9c	00	
10		California interest. Enter the amount from Form 568, Schedule K, line 5	10	00	
11		California dividends. Enter the amount from Form 568, Schedule K, line 6	11	00	
12		California royalties. Enter the amount from Form 568, Schedule K, line 7	12	00	
13		California capital gains. Enter the capital gains (not losses) included in Schedule D (568)	13	00	
14		California 1231 gains. Enter the amount of total gains (not losses) from Form 568, Schedule K, line 10a	14	00	
15		Other California portfolio income (not loss). Enter the amount from Form 568, Schedule K, line 11a	15	00	
16		Other California income (not loss) not included in line 5. Enter the amount from Form 568, Schedule K, line 11b	16	00	
17		Total California income. Add lines 7, 8c, 9c, 10, 11, 12, 13, 14, 15, and 16. Line 17 may not be a negative number. Enter here and on Form 568, Side 1, Line 1. If less than zero enter -0-	17	00	

LOAN AGREEMENT

THIS AGREEMENT is made and entered into as of June 26, 2012 by and between Spanky, LLC, a California limited liability company ("Spanky" or "Lender"), on the one hand, and Flemming for Congress, a federally-registered election committee operating under EIN 30-0710264 ("Committee") and Stanley L. K. Flemming, the election candidate in question ("Candidate"), on the other (each a "Payor" and collectively, "Payors").

1. Committee holds a bank account at Key Bank in the state of Washington under account no. 472611018160 at ABA/Routing No. 125000574, pursuant to which the sole signatory is Candidate (the "Account").

2. David Loftus ("Loftus"), an individual, is an authorized agent and member of Spanky, entitled to act fully on its behalf.

3. Spanky agrees to loan Payors (the "Loan") the sum of \$100,000 (the "Loan Proceeds") under the following terms and conditions, and Payors agree to repay the Loan as provided hereinafter:

3.1 Spanky shall wire the Loan Proceeds to the Account as soon as possible after receiving a signed copy of this Agreement and the attached Promissory Note.

3.2 At any time, upon request of Loftus, Payors shall act to add Loftus as a required signatory on any and all withdrawals from the Account relating to the Loan Proceeds.

3.3 Repayment of the Loan shall be documented by the attached Promissory Note.

3.4 If Loan is repaid prior to due date, there is no prepayment penalty due.

4. General Provisions.

4.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

4.2 Attorney's Fees. In the event any dispute arises between any of the parties hereto to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to recover from the other party all reasonable costs, expenses, attorney's fees and costs actually incurred relating to or arising from such action.

4.3 Modification. This Agreement may be modified only by a contract in writing executed by the party(ies) to this Agreement against whom enforcement of such modification is sought.

4.4 Notices. Notices under this agreement shall be deemed effective upon receipt, if delivered by messenger, facsimile or overnight courier, and if by regular US mail, on the 3rd day following deposit in the US mail, postage prepaid, or via e-mail if no rejection notice is received within 6 hours of sending. All notices shall be sent as follows:

If to Spanky:

Spanky LLC
800 N. Whittier Drive
Beverly Hills, CA 90210

If to Committee

Flemming for Congress
7619 Chambers Creek Dr W
University Place, WA 98467

If to Candidate:

Stanley L. K. Flemming
7615 Chambers Creek Drive W
University Place, WA 98467

170344-1400-0

4.5 Prior Understanding. This Agreement contains the entire agreement between the parties to this Agreement with respect to the subject matter of this Agreement, is intended as a final expression of such parties' agreement, is intended as a complete and exclusive statement of the terms of such agreement, and supersedes all negotiations, stipulations, understandings, agreements, representations and warranties, if any, with respect to such subject matter, which precede the execution of this Agreement.

4.6 Successors-in-Interest and Assigns. Subject to any restriction on transferability contained in this Agreement, this Agreement shall be binding upon and shall inure to the benefit of the successors-in-interest and permitted assigns of each party to this Agreement. Nothing in this Paragraph shall create any rights enforceable by any person not a party to this Agreement, except for the rights of the successors-in-interest and assigns of each party to this Agreement, unless such rights are expressly granted in this Agreement to other specifically identified persons.

4.7 Effectiveness. This Agreement shall become effective as of the date executed by both parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

Spanky, LLC

Flemming for Congress

By: _____

By: 

Name: _____

Name: Stanley L.K. Flemming

Title: _____

Title: Candidate


Stanley L. K. Flemming

PROMISSORY NOTE

Amount: \$100,000

Date: June 26, 2012

1. For value received Flemming for Congress, a federally-registered election committee operating under EIN 30-0710264 ("Committee") and Stanley L. K. Flemming, the election candidate in question ("Candidate"), jointly and severally (collectively, "Payor") shall pay to Spanky, LLC, a California limited liability company ("Holder") at such place or places or to such other party or parties as Holder may from time to time designate, the principal sum of One Hundred Thousand Dollars (\$100,000.00) (the "Loan"), payable in cash as set forth below.
2. The Loan will bear interest per annum at a rate of eight percent (8%) per annum, accruing from the date the Loan is funded.
3. The principal amount of the Loan and all accrued interest shall be paid in full no later than December 31, 2012.
4. This Note may be prepaid, in whole or in part, at any time, without penalty. Interest will be included if prepaid after 30 days from date of wire transfer deposit.
5. This Note is unsecured, but subject to the terms of the Loan Agreement to which this Note is attached, and incorporated herein by this reference.
6. The occurrence of any one of more of the following shall constitute an event of default hereunder (the "Event of Default"):
 - 6.1 Payor shall fail to pay any amount due under this Note within fifteen (15) days after the due date thereof;
 - 6.2 Payor shall be adjudicated a bankrupt or make an assignment for the benefit of creditors, or bankruptcy, insolvency, reorganization, arrangement, debt adjustment, receivership, liquidation or dissolution proceedings shall be instituted by or against it and, if instituted adversely, Payor consents to the same or admits in writing the material allegations thereof or said proceedings shall remain undismissed for ninety (90) days.
7. If any Event of Default occurs and is continuing, and if Holder so elects, notice of election being expressly waived, the principal and all accrued interest remaining unpaid shall at once become due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by Payor.
8. Payor expressly waives any diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note and all other notices of any kind, except as otherwise provided herein, and expressly agrees that this Note, or any payment hereunder, may be extended from time to time without in any way affecting the liability of Payor.
9. This Note has been executed and delivered in the State of California and is to be governed by and construed and interpreted in accordance with the laws thereof.
10. No single or partial exercise of any power hereunder shall preclude other or further exercise thereof or the exercise of any other power. No delay or omission on the part of Holder in exercising any right hereunder or other agreement shall operate as a waiver of such right or of any other right under this Note. The release of any party liable under this Note shall not operate to release any other party liable hereon.
11. Any provision of this Note that is declared invalid, illegal or unenforceable in any jurisdiction shall not affect in any way the remaining provisions hereof in such jurisdiction or render that or any other provision of this Note invalid, illegal or unenforceable in any other jurisdiction.

Flemming for Congress

By:

Stanley L. K. Flemming

Title: Candidate

1970-1971

**NOTICE OF DEFAULT AND DEMAND ON
PROMISSORY NOTE**

June 28, 2013

Flemming for Congress
7619 Chambers Creek Dr W
University Place, WA 98467

Stanley L. K. Flemming
7619 Chambers Creek Drive W
University Place, WA 98467

RE: Default on Promissory Note due December 31, 2012

Dear Mr. Flemming:

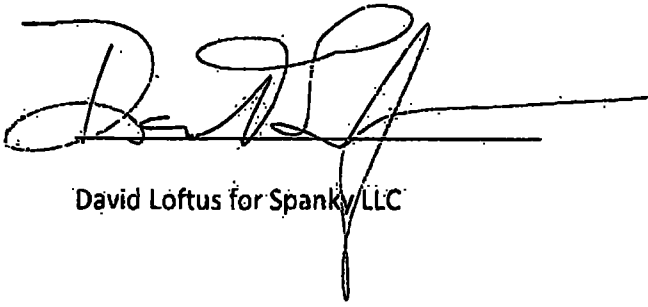
This letter will serve as formal notice that you are in default under the terms of the promissory note dated June 26, 2012, for failure to make payments due thereunder on December 31, 2012.

The promissory note was executed in the amount of \$100,000 plus 8% interest per annum, accruing from the date the loan was funded (June 29, 2012). On July 5, 2012, \$50,000 of the promissory note was paid to Spanky LLC, leaving a balance of \$50,000 due and payable on December 31, 2012.

Whereas \$50,000 was prepaid within 30 days of the note, interest accrues on the amount past due from the date of loan: \$50,000 at 8% per annum from June 29, 2012, to present.

Flemming for Congress and Stanley L. K. Flemming are the makers of this note and are now in default of the \$50,000 payment that was due December 31, 2012.

Demand is hereby made upon you for payment of the full amount due. If payment is not received by Spanky LLC, David Loftus as Executor, within ten (10) days of this notice, we will proceed to enforce our rights under the promissory note for collection of the entire balance due, interest due and attorney's fees caused by this default.



David Loftus for Spanky LLC

17074441-1600001



Law Offices of Heather Sidwell Morris, P.A.

June 28, 2013

VIA ELECTRONIC MAIL AND POSTAL DELIVERY

Stanley L. K. Flemming
7619 Chambers Creek Drive W
University Place, WA 98467

RE: 2012 Loans to Stanley L.K. Flemming and Flemming for Congress

Dear Mr. Flemming:

I represent Spanky, LLC in connection with federal campaign finance matters, and write to you regarding the loans made by Spanky, LLC to you and your authorized political committee in 2012.

Pursuant to 11 CFR § 100.83(a), Spanky, LLC executed two loans to you and your authorized political committee, Flemming for Congress, in connection with your 2012 bid for Washington's 10th District congressional seat. The first loan agreement and promissory note was executed on March 6, 2012, in the amount of \$100,700 with an 8% interest rate per annum. The loan was due December 31, 2012. The second loan agreement and promissory note was executed on June 26, 2012, in the amount of \$100,000 with an 8% interest rate per annum. This loan was also due December 31, 2012.

On July 5, 2012, the Flemming for Congress committee made a payment of \$150,000, leaving more than \$50,000 plus accruing interest remaining unpaid. There have been no additional payments made to date, and despite numerous attempts to renegotiate a payment schedule for the remaining past-due balance, my client has not received a commitment from you or your authorized political committee. The remaining balance on the loaned funds is now seven (7) months overdue, and interest continues to accrue.

As I am sure you are aware, to the extent that there is an outstanding balance on a loan, it may be considered a prohibited contribution under federal campaign finance regulations. See 11 CFR § 100.52(b)(2). Further, while federal regulations permit authorized political committees to settle certain types of debts for less than the original amount, bank loans and lines of credit to political committees are not subject to such debt settlement or forgiveness. See 11 CFR § 116.7(b); see *Explanation & Justification: Debts Owed by Candidates and Political Committees*, 55 Fed. Reg. 26378, 26384 (June 27, 1990); *Explanation & Justification: Loans from Lending Institutions to Candidates and Political Committees*, 56 Fed. Reg. 67118, 67121 (Dec. 27, 1991).

P.O. Box 173207 | Tampa, FL 33672
202-680-8833 | www.hsmcounsel.com

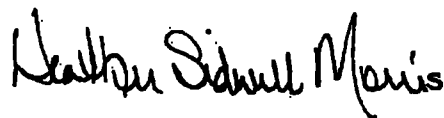
At no time and under no circumstances did Spanky, LLC intend to make a political contribution to the Flemming for Congress political committee. Indeed, Spanky, LLC acted in good faith to execute a loan agreement and promissory note that in all respects complied with the tenets of federal regulations and fully expects the remaining balance on the loaned funds to be paid in full. That said, my client cannot help but be concerned about the implications of the remaining past-due balance of the loaned funds to the extent that it may be considered a contribution.

Attached to this letter is a Notice of Default and Demand on Promissory Note ("Notice and Demand") officially notifying you that you are in default of your loan obligations to Spanky, LLC. The Notice and Demand demands payment of all past-due amounts within ten (10) days. The 10-day window expires **Monday, July 8, 2013**. At that time, if you and your committee have not responded to the Notice and Demand, Spanky, LLC will be forced to pursue all legal remedies available to it.

It is imperative that you and your committee respond to the Notice and Demand immediately in order to close this matter and avoid any potentially negative ramifications, including possible enforcement actions by the FEC.

Please contact me at (202) 680-8833 or heather@hsmcounsel.com to discuss this matter further. Thank you for your attention, and I look forward to your immediate response.

Sincerely,



Heather Sidwell Morris

cc: David Loftus (Spanky, LLC)

Attachment

1001 4th Ave Plaza, Ste 3200
Seattle, WA 98154
(206) 684-9369

Law Offices of Richard D. Seward, PC

Attorneys at Law

Remit to Port Orchard Office

6610 Gleneagle Ave SW
Port Orchard, WA 98367
(360) 876-6425

July 17, 2013

Mr. Stan L. K. Flemming
7619 Chambers Creek Road West
University Place, WA 98467


Re: 2012 Loans to Stanley L.K. Flemming and Flemming for Congress

Dear Mr. Flemming:

David Loftus, on behalf of Spanky, LLC ("Spanky"), has directed us to write to you concerning an unpaid obligation on a promissory note. This letter pertains to collection of a debt and any information provided herein or obtained from you will be used for that purpose. We are acting as a debt collector for Spanky. Currently, you have an outstanding balance of \$55,583.56 with accrued interest through July 31, 2013. This balance does not include the attorney fees that have been incurred by Spanky to date. We will assume the amount stated is correct unless you notify me within 30 days after receiving this letter that you dispute the validity of this debt or any portion thereof. If you dispute the debt, or any portion thereof, in writing within 30 days of receiving this letter, we will obtain verification of the debt and mail you a copy of such verification.

Spanky is entitled to initiate a lawsuit against you to collect validated delinquent amounts. Should such an action be necessary, you will also be liable for interest and costs of collection, including additional attorney fees. However, whether or not litigation is initiated, until this matter is resolved the actual attorney fees and costs incurred in collecting this debt will be charged to your account and added to your unpaid balance on a monthly basis. This means that the sooner the validated delinquent balance is paid, the less additional sums you will have to pay in attorney fees and costs.

Unless we hear from you disputing the validity of the debt, or any portion thereof, within 30 days after receipt of this letter, please send me a check made payable to Spanky, LLC in the amount stated above. Your account will also be assessed a minimum legal charge of \$5,273.95 for any validated delinquent amount. If this matter is not otherwise resolved after verification of the debt or by payment, Spanky reserves its right to bring a lawsuit against you.


Richard D. Seward
WSBA #21628

CC: Spanky, LLC

Loans Made by Spanky LLC

Fiscal Year 2012

<u>Entity</u>	<u>Commitment Date</u>	<u>Funding Date</u>	<u>Amount</u>
Ofsink	February	03/02/2012	100,000.00
Flemming	February	03/07/2012	100,700.00
My Health Pass, LLC	February	03/23/2012	100,000.00
Options Media	February	04/05/2012	95,000.00
RHL Group		05/17/2012	20,000.00
Flemming		06/29/2012	100,000.00
My Medical Record, Inc	May	07/02/2012	20,000.00
Keith St. Clair		07/09/2012	5,000.00
Granite State Capital	June	07/09/2012	60,000.00
Granite State Capital	June	07/12/2012	60,000.00
Granite State Capital	June	07/20/2012	60,771.42
Keith St Clair		07/24/2012	6,000.00
Keith St Clair		09/18/2012	3,500.00

UNCLASSIFIED

PROMISSORY NOTE

Amount: \$100,700

Date: March 6, 2012

1. For value received Flemming for Congress, a federally-registered election committee operating under EIN 30-0710264 ("Committee") and Stanley L. K. Flemming, the election candidate in question ("Candidate"), jointly and severally (collectively, "Payor") shall pay to Spanky, LLC, a California limited liability company ("Holder") at such place or places or to such other party or parties as Holder may from time to time designate, the principal sum of One Hundred Thousand Seven Hundred Dollars (\$100,700.00) (the "Loan"), payable in cash as set forth below.

2. The Loan will bear interest per annum at a rate of eight percent (8%) per annum, accruing from the date the Loan is funded.

3. The principal amount of the Loan and all accrued interest shall be paid in full no later than December 31, 2012.

4. This Note may be prepaid, in whole or in part, at any time, without penalty.

5. This Note is unsecured, but subject to the terms of the Loan Agreement to which this Note is attached, and incorporated herein by this reference,

6. The occurrence of any one of more of the following shall constitute an event of default hereunder (the "Event of Default"):

6.1 Payor shall fail to pay any amount due under this Note within fifteen (15) days after the due date thereof;

6.2 Payor shall be adjudicated a bankrupt or make an assignment for the benefit of creditors, or bankruptcy, insolvency, reorganization, arrangement, debt adjustment, receivership, liquidation or dissolution proceedings shall be instituted by or against it and, if instituted adversely, Payor consents to the same or admits in writing the material allegations thereof or said proceedings shall remain undismissed for ninety (90) days.

7. If any Event of Default occurs and is continuing, and if Holder so elects, notice of election being expressly waived, the principal and all accrued interest remaining unpaid shall at once become due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by Payor.

8. Payor expressly waives any diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Note and all other notices of any kind, except as otherwise provided herein, and expressly agrees that this Note, or any payment hereunder, may be extended from time to time without in any way affecting the liability of Payor.

9. This Note has been executed and delivered in the State of California and is to be governed by and construed and interpreted in accordance with the laws thereof.

10. No single or partial exercise of any power hereunder shall preclude other or further exercise thereof or the exercise of any other power. No delay or omission on the part of Holder in exercising any right hereunder or other agreement shall operate as a waiver of such right or of any other right under this Note. The release of any party liable under this Note shall not operate to release any other party liable hereon.

11. Any provision of this Note that is declared invalid, illegal or unenforceable in any jurisdiction shall not affect in any way the remaining provisions hereof in such jurisdiction or render that or any other provision of this Note invalid, illegal or unenforceable in any other jurisdiction.

Executed and delivered by the undersigned as of March 7, 2011.

Flemming for Congress

By: 

Name: Stanley L. K. Fleming

Title: Candidate


Stanley L. K. Fleming

LOAN AGREEMENT

THIS AGREEMENT is made and entered into as of March 6, 2012 by and between Spanky, LLC, a California limited liability company ("Spanky" or "Lender"), on the one hand, and Flemming for Congress, a federally-registered election committee operating under EIN 30-0710264 ("Committee") and Stanley L. K. Flemming, the election candidate in question ("Candidate"), on the other (each a "Payor" and collectively, "Payors").

1. Committee holds a bank account at Key Bank in the state of Washington under account no. 472611018160 at ABA/Routing No. 125000574, pursuant to which the sole signatory is Candidate (the "Account").

2. David Loftus ("Loftus"), an individual, is an authorized agent and member of Spanky, entitled to act fully on its behalf.

3. Spanky agrees to loan Payors (the "Loan") the sum of \$100,700 (the "Loan Proceeds") under the following terms and conditions, and Payors agree to repay the Loan as provided hereinafter:

3.1 Spanky shall wire the Loan Proceeds to the Account as soon as possible after receiving a signed copy of this Agreement and the attached Promissory Note.

3.2 At any time, upon request of Loftus, Payors shall act to add Loftus as a required signatory on any and all withdrawals from the Account relating to the Loan Proceeds.

3.3 Upon receipt of the Loan Proceeds, Payors shall therefrom immediately remit the sum of \$700.00 to attorney Mark S. Dodge by sending a check payable to him to 21039 Mendenhall Court, Topanga, CA 90290, but the balance, \$100,000, shall remain intact fully and held in the Account until the Loan is repaid.

3.4 Repayment of the Loan shall be documented by the attached Promissory Note.

4. General Provisions.

4.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

4.2 Attorney's Fees. In the event any dispute arises between any of the parties hereto to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to recover from the other party all reasonable costs, expenses, attorney's fees and costs actually incurred relating to or arising from such action.

4.3 Modification. This Agreement may be modified only by a contract in writing executed by the party(ies) to this Agreement against whom enforcement of such modification is sought.

4.4 Notices. Notices under this agreement shall be deemed effective upon receipt, if delivered by messenger, facsimile or overnight courier, and if by regular US mail, on the 3rd day following deposit in the US mail, postage prepaid, or via e-mail if no rejection notice is received within 6 hours of sending.. All notices shall be sent as follows:

If to Spanky:

Spanky LLC
800 N. Whittier Drive
Beverly Hills, CA 90210

If to Committee

Flemming for Congress
7619 Chambers Creek Dr W
University Place, WA 98467

If to Candidate:

Stanley L. K. Flemming
7619 Chambers Creek Drive W
University Place, WA 98467

4.5 Prior Understanding. This Agreement contains the entire agreement between the parties to this Agreement with respect to the subject matter of this Agreement, is intended as a final expression of such parties' agreement, is intended as a complete and exclusive statement of the terms of such agreement, and supersedes all negotiations, stipulations, understandings, agreements, representations and warranties, if any, with respect to such subject matter, which precede the execution of this Agreement.


4.6 Successors-in-Interest and Assigns. Subject to any restriction on transferability contained in this Agreement, this Agreement shall be binding upon and shall inure to the benefit of the successors-in-interest and permitted assigns of each party to this Agreement. Nothing in this Paragraph shall create any rights enforceable by any person not a party to this Agreement, except for the rights of the successors-in-interest and assigns of each party to this Agreement, unless such rights are expressly granted in this Agreement to other specifically identified persons.

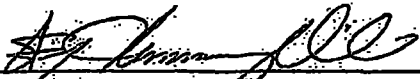
4.7 Effectiveness. This Agreement shall become effective as of the date executed by both parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

Spanky, LLC

Flemming for Congress

By: 


By: 

Name: DAVID LOFTOS

Name: Sam Fleming

Title: MANAGER

Title: CANDIDATE


Stanley L. K. Flemming