

REMCHO, JOHANSEN & PURCELL, LLP
ATTORNEYS AT LAW

201 DOLORES AVENUE
SAN LEANDRO, CA 94577
PHONE: (510) 346-6200
FAX: (510) 346-6201
EMAIL: aw@rjp.com
WEBSITE: www.rjp.com

SACRAMENTO PHONE: (916) 264-1818

Robin B. Johansen
James C. Harrison
Thomas A. Willis
Karen Getman
Margaret R. Prinzing
Andrew Harris Werbrock
Harry A. Berezin
Juan Carlos Ibarra

Joseph Remcho (1944-2003)
Kathleen J. Purcell (Ret.)

February 2, 2016

VIA FEDERAL EXPRESS

Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20436

Re: MUR 6990

Dear Mr. Jordan:

We are counsel to Ami Bera for Congress ("the Committee"), the principal campaign committee of Representative Ami Bera, and Jennifer May, in her official capacity as Treasurer (collectively, "Respondents"). We write in response to the complaint filed by Douglas Head on November 25, 2015 ("the Complaint"). Because the Complaint fails to allege any violation of the Federal Election Campaign Act or Commission rules, it must be promptly dismissed.

"The Commission may find 'reason to believe' only if a complaint sets forth sufficient specific facts, which, if proven true, would constitute a violation of the [Act]." Statement of Reasons, Commissioners Mason, Sandstrom, Smith & Thomas, MUR 4950 (Dec. 21, 2000); *see* 11 C.F.R. § 111.4(d). Moreover, "[u]nwarranted legal conclusions from asserted facts . . . or mere speculation . . . will not be accepted as true." *Id.*; *see* Statement of Reasons, Commissioners Mason, Sandstrom, McDonald, Smith, Thomas & Wold, MUR 5141 (Apr. 17, 2002).

Under this standard, the Complaint must be dismissed. It alleges that Respondents accepted a contribution made "in the name of another" when Representative Patrick Murphy's mother made a contribution to the Committee and, subsequently, Representative Bera's father "reimbursed" that contribution by making a contribution to Representative Murphy's campaign committee. But, other than the fact that Mr. Bera and Mrs. Murphy each made contributions to the campaigns of the other's son, the Complaint provides no specific facts to show that there was a "scheme" between the donors, as it asserts.

Moreover, under established Commission precedent, even if the Complaint's narrative is taken at face value, the course of conduct it imagines would not violate the Act. In MUR 4783, the Commission addressed a *sua sponte* submission by Peter Cloeren that alleged an arrangement similar to that alleged by the Complaint. According to his submission, Cloeren, who had previously donated the maximum to the congressional campaign of Brian Babin, agreed to make contributions to the campaigns of then-Senator Strom Thurmond and then-Congressman Steven Gill, with the understanding that those federal candidates would raise equivalent amounts from their donors for Babin. First General Counsel's Report, MUR 4783, at 29-31 (June 16, 1999). Though the federal candidates denied having such an arrangement, the Commission found that, even if that arrangement existed, it would not violate the Act. The Office of General Counsel reasoned that the contributions were not made in the name of another because Cloeren did not reimburse the other contributors for their contributions to the Babin committee, and Cloeren was not reimbursed for making his contributions to the Thurmond and Gill committees. *See id.* at 31. Instead, each donor made his or her contributions from their own personal funds.

The Commission reached a similar conclusion in Advisory Opinion 1996-33. There, a state legislator running for Congress proposed to contribute surplus state campaign funds to the campaigns of several fellow state legislators, with the understanding that the legislators would contribute a roughly equivalent amount from their campaigns to the federal committee. The Commission concluded that the proposed exchange would be an impermissible transfer from the requestor's state committee to the federal committee. However, the Commission found that it would *not* violate the Act if the state legislators made contributions to the federal committee from their personal funds because those contributions "would not have originated with their committees, which would have received funds from [the requestor's] [s]tate committee." Advisory Opinion 1996-33. Thus, the Commission found that it does not violate the Act when one donor makes a contribution to one committee with the express understanding that a second donor will make a contribution to a second committee, so long as each donor makes the contribution with his or her own personal funds.

Here, the Complaint presents no allegation that Mr. Bera and Mrs. Murphy made their contributions from anything other than their own personal funds. Thus, even accepting the Complaint's narrative at face value, it presents no violation of the Act or Commission rules. The Commission should promptly find that there is no reason to believe that Respondents violated the Act, and close the file.

Sincerely,



Thomas A. Willis
Andrew Harris Werbrock
Counsel to Ami Bera for Congress



FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL
Please use one form for each Respondent/Entity/Treasurer
FAX (202) 219-3923

MUR # 6990

NAME OF COUNSEL: Thomas A. Willis and Andrew Werbrock

FIRM: Remcho, Johansen & Purcell, LLP

ADDRESS: 201 Dolores Avenue

San Leandro, CA 94577

TELEPHONE- OFFICE (510) 346-6200

FAX (510) 346-6201 Web Address www.rjp.com

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.

02 / 02 / 2016

Date

Jennifer May
Respondent/Agent -Signature

Treasurer
Title(Treasurer/Candidate/Owner)

RESPONDENT: Ami Bera for Congress and Jennifer May
(Committee Name, Company Name, or Individual Named in Notification Letter)

MAILING ADDRESS: P.O. Box 582496
(Please Print)

Elk Grove, CA 95758

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