

IN THE OHIO ELECTIONS COMMISSION

RECEIVED

JUL 31 2009

OHIO ELECTIONS COMMISSION

JEAN SCHMIDT,

Complainant,

v.

DAVID KRIKORIAN,

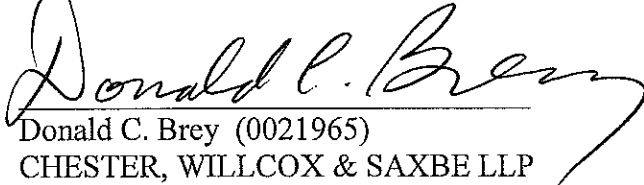
Respondent.

Case No. 2009E-003

**COMPLAINANT'S MOTION TO PERMIT
VOLUNTARY PARTIAL DISMISSAL**

Complainant moves, pursuant to OAC 3517-1-01(C) and Ohio Civil Rule 41(A)(2), for leave to voluntarily dismiss the allegations of the Complaint regarding the statements summarized as Statements 2, 3, 4 and 6 of the attached Staff Counsel's Summary.

Respectfully submitted,



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

Bruce Fein, Esq.
BRUCE FEIN & ASSOCIATES, INC.
1025 Connecticut Avenue, N.W., Suite 1000
Washington, D.C. 20036
Telephone: (703) 963-4968
Telefax: (202) 370-1398
e-mail: bruce@thelichfieldgroup.com

David Saltzman
SALTZMAN & EVINCH, PC
655 15th Street, N.W.
Suite 225-F

Washington, D.C. 20005
Telephone: (202) 637-9877
Telefax: (202) 637-9876
e-mail: dsaltzman@turklaw.net

Attorneys for Complainant, Jean Schmidt

MEMORANDUM IN SUPPORT

Complainant believes that the allegations regarding Respondent's statements that Complainant had denied the Armenian Genocide should be dismissed. Although those statements were and are false, the evidence produced at Respondent's deposition suggests that he may not have known that those statements were false at the time he made them.

As indicated in the Complaint herein, Complainant never "denied" an Armenian genocide, and never voted on an Armenian genocide resolution. She merely stated that based on her knowledge of the historical record, she could not, at present, characterize the tragic events of 1915 in World War I as Armenian "genocide", particularly given the very strict meaning of that term. However, in order to constitute a violation of R.C. 3517.21, Complainant would need to prove not only that Respondent made a false statement, but also that Respondent *knew* the statement was false at the time it was made or made the false statement with reckless disregard of its truth or falsity.

At his deposition earlier this month, Respondent identified two statements by third parties to the effect that Complainant "does not believe" that the events at issue constituted "genocide". These statements were not made by Complainant or by her campaign committee, but were made by political supporters of Complainant. Respondent indicated that he relied upon these statements in concluding that Complainant "denies" that the events at issue constituted "genocide".

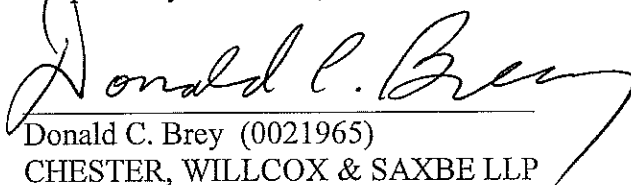
To the extent that the statements Respondent relied on can be so construed, the statements Respondent relied upon are also inaccurate. Even so, Complainant believes that, given this new information, the evidence will not support a finding by clear and convincing evidence that

Respondent knew in November 2008, that his statements about Complainant's view of the Armenian Genocide were false, or that he made those statements with reckless disregard of their truth or falsity. Thus, Complainant believes it is appropriate to voluntarily dismiss those claims.

Complainant believes that she will be able to prove that Respondent violated R.C. 3517.21 in making the remaining false statements alleged in the Complaint, which are summarized as Statements 1, 5, 7 and 8 of the attached Staff Counsel's Summary. Allowing this requested partial dismissal will permit the evidentiary hearing to focus on the remaining false statements without wasting the Commission's time on those allegations which Complainant now believes should be dismissed.

WHEREFORE, Complainant submits that her request for leave to voluntarily dismiss the allegations of the Complaint regarding the statements summarized as Statements 2, 3, 4 and 6 of the attached Staff Counsel's Summary should be granted.

Respectfully submitted,



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

Bruce Fein, Esq.
BRUCE FEIN & ASSOCIATES, INC.
1025 Connecticut Avenue, N.W., Suite 1000
Washington, D.C. 20036
Telephone: (703) 963-4968
Telefax: (202) 370-1398
e-mail: bruce@thelichfieldgroup.com

David Saltzman
SALTZMAN & EVINCH, PC

655 15th Street, N.W.
Suite 225-F
Washington, D.C. 20005
Telephone: (202) 637-9877
Telefax: (202) 637-9876
e-mail: dsaltzman@turklaw.net

Attorneys for Complainant, Jean Schmidt

CERTIFICATE OF SERVICE

A true copy of the forgoing was served by ordinary U.S. Mail, postage prepaid upon Christopher P. Finney, Counsel for Respondent, at FINNEY, STAGNARO, SABA & PATTERSON CO. L.P.A., 2623 Erie Avenue, Cincinnati, Ohio 45208, and, by e-mail, upon the following Counsel for Respondent, David Krikorian, this 31st day of July, 2009:

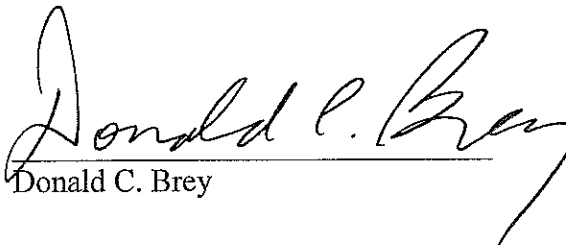
Christopher P. Finney, at cfinney@fssp-law.com

Joshua B. Bolinger, at jbolinger@fssp-law.com

Mark J. Geragos, at mark@geragos.com

Curt C. Hartman, at cfinney@fssp-law.com

Vicken S. Papazian, at vicksp@prodigy.net


Donald C. Brey

The complainant asserts that the respondent made false statements in the last campaign season on a campaign website, in campaign letter written to residents in the 2nd Congressional District and in verbal statements. The statements alleged to be false are as follows:

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.
5. Jean Schmidt has taken \$30,000 in blood money from Turkish government sponsored political action committees to deny the slaughter of 1.5 Armenian men, women and children by the Ottoman Turkish Government during World War I.
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.
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.
8. This information is public record and can be found on the