

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: Jack Roeser

MUR: 5568

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8 **I. INTRODUCTION**

9 This matter concerns allegations that Jack Roeser violated various provisions of
10 the Federal Election Campaign Act of 1971, as amended (“the Act”). The complaint
11 alleges, *inter alia*, that Jack Roeser violated the Act by making excessive contributions to
12 Empower Illinois (“EI”) and Empower Illinois Media Fund (“EIMF”), entities organized
13 under Section 527 of the Internal Revenue Code.

14 Based on the available information, the Commission finds that: 1) the allegation
15 that Jack Roeser made an excessive contribution to EIMF should be dismissed as a matter
16 of prosecutorial discretion; and 2) there is no reason to believe that Jack Roeser violated
17 the Act by making an excessive contribution to EI.

18 **II. FACTUAL & LEGAL ANALYSIS**

19 Jack Roeser is the chairman and founder of Otto Engineering, Inc., and President
20 of the Family Taxpayers Network, an Illinois state political committee. Roeser gave
21 \$10,000 to EI and \$30,000 to EIMF on August 23, 2004. Because EIMF is a political
22 committee under 2 U.S.C. § 431(4)(a), Roeser’s contribution exceeded the \$5,000
23 contribution limit in 2 U.S.C. § 441a(a)(1). However, the Commission exercises its
24 prosecutorial discretion and dismisses the allegation that Roeser made an excessive
25 contribution to EIMF. *See Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

26 With respect to the funds that Roeser gave to EI, the Commission’s investigation
27 did not find sufficient evidence to establish that EI obtained contributions through

1 solicitations clearly indicating that the funds received would be targeted to the election or
2 defeat of a clearly identified federal candidate. *See FEC v. Survival Education Fund,*
3 *Inc.*, 65 F.3d 285 (2d Cir. 1995). In addition, EI did not spend funds on paid political
4 advertisements and limited its expenses to website development and maintenance and
5 administrative activities. Because there is insufficient evidence to establish that EI
6 triggered political committee status by receiving contributions under 2 U.S.C.
7 § 431(8)(A) or making expenditures under 2 U.S.C. § 431(9)(A), the Commission finds
8 no reason to believe that Jack Roeser violated 2 U.S.C. § 441a(a) by making an excessive
9 contribution to EI.

10 **III. CONCLUSION**

11 The Commission dismisses as a matter of prosecutorial discretion the allegation
12 that Jack Roeser violated 2 U.S.C. § 441a(a) by making an excessive contribution to
13 Empower Illinois Media Fund and finds no reason to believe that Jack Roeser violated 2
14 U.S.C. § 441a(a) by making an excessive contribution to Empower Illinois.