

**FEDERAL ELECTION COMMISSION**  
999 E Street, N.W.  
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION  
2016 AUG 25 PM 3:12

**FIRST GENERAL COUNSEL'S REPORT**

**CELA**

MUR 6954

DATE COMPLAINT FILED: August 10, 2015

DATE OF LAST RESPONSE: September 28, 2015

DATE ACTIVATED: June 14, 2016

EXPIRATION OF SOL: July 22, 2020

ELECTION CYCLE: 2016

**COMPLAINANT:**

American Democracy Legal Fund

**RESPONDENTS:**

James S. Gilmore

Gilmore for America, LLC and Karen F. Marcus  
in her official capacity as treasurer

**RELEVANT STATUTES  
AND REGULATIONS:**

52 U.S.C. § 30102(e)(1)

52 U.S.C. § 30103(a)

52 U.S.C. § 30104(b)

11 C.F.R. § 101.1(a)

11 C.F.R. § 102.1

**INTERNAL REPORTS CHECKED:**

Disclosure Reports

**FEDERAL AGENCIES CHECKED:**

None

**I. INTRODUCTION**

The Complaint in this matter alleges that James S. Gilmore, a former governor of Virginia, failed to timely file a declaration of candidacy for the 2016 Republican presidential nomination, in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). For the reasons set forth below, we recommend that the Commission find no reason to believe that Respondents violated the Act and close the file.

II. FACTUAL AND LEGAL ANALYSIS

James S. Gilmore, former governor of Virginia, filed a Statement of Candidacy with the Commission on July 29, 2015, for the Republican nomination in the 2016 presidential election. Gilmore's principal campaign committee, Gilmore for America, LLC (the "Committee") filed a Statement of Organization with the Commission on August 4, 2015. Gilmore withdrew his candidacy on February 12, 2016.<sup>1</sup>

The Complaint alleges that Gilmore became a candidate on July 7, 2015, based on his statements to the press, and therefore failed to timely file his Statement of Candidacy.<sup>2</sup> In response, Gilmore and the Committee assert that Gilmore became a candidate on July 17, 2015, and that Gilmore and the Committee made all required filings in a timely manner.<sup>3</sup>

Under the Act, a "candidate" is an individual who seeks nomination for election, or election, to Federal office; an individual shall be deemed to seek nomination for election, or election, if such individual has received contributions or made expenditures in excess of \$5,000.<sup>4</sup> Upon becoming a candidate, an individual has fifteen days to file a Statement of Candidacy (FEC Form 2), and on that form, designate a political committee that will serve as the candidate's principal campaign committee.<sup>5</sup> The principal campaign committee then has ten days to file a Statement of Organization (FEC Form 1).<sup>6</sup>

<sup>1</sup> See Gregory Krieg, *Jim Gilmore Leaves Presidential Race*, CNN (Feb. 12, 2016), <http://www.cnn.com/2016/02/12/politics/jim-gilmore-republican-2016/>.

<sup>2</sup> Compl. at 1.

<sup>3</sup> Resp. at 2.

<sup>4</sup> 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a).

<sup>5</sup> 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

<sup>6</sup> 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1.

1 The Complaint argues that Gilmore became a candidate prior to July 14, 2015, rendering  
2 the July 29, 2015 Statement of Candidacy untimely filed. In making this argument, the  
3 Complaint relies on statements that Gilmore reportedly made to newspapers and in public  
4 appearances starting on July 7, 2015, stating that he intended to run for president and planned to  
5 make a formal announcement of his candidacy during the first week of August 2015.<sup>7</sup> The  
6 available information, however, indicates that Gilmore had not met the \$5,000 candidacy  
7 threshold prior to July 29, 2015. Specifically, the first disclosure report filed by the Committee  
8 indicates that the Committee neither received contributions nor made expenditures exceeding  
9 \$5,000 before July 29, 2015, the date on which Gilmore filed his Statement of Candidacy.<sup>8</sup>  
10 Furthermore, the Complaint does not allege, and the available information does not suggest, that  
11 Gilmore or the Committee in fact received contributions or made expenditures in excess of  
12 \$5,000 prior to July 29, 2015. It appears, therefore, that Gilmore did not become a candidate  
13 under the Act prior to this date.<sup>9</sup>

14 Accordingly, we recommend that the Commission find no reason to believe that Gilmore  
15 violated 52 U.S.C. § 30102(e)(1) for failing to timely register as a candidate, find no reason to  
16 believe that Gilmore for America and Karen F. Marcus in her official capacity as treasurer

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<sup>7</sup> Compl. at 1 (citing Andrew Cain, *Gilmore Says He Will Run for President*, THE RICHMOND TIMES (July 7, 2015), [http://www.richmond.com/news/virginia/government-politics/article\\_30b836ff-1768-5bcb-9681-f942acfb711f.html](http://www.richmond.com/news/virginia/government-politics/article_30b836ff-1768-5bcb-9681-f942acfb711f.html), and Nick Gass, *Jim Gilmore Adds to Ever-Expanding 2016 GOP Field*, POLITICO (July 8, 2015), <http://www.politico.com/story/2015/07/jim-gilmore-2016-presidential-race-119838>).

<sup>8</sup> See Gilmore for America, LLC, 2016 October Quarterly Report (disclosing that the Committee received contributions of at least \$5,000 on July 29, 2015, and that it made over \$5,000 in disbursements subsequent to this date).

<sup>9</sup> See Factual & Legal Analysis at 7, MUR 6819 (Krulick for Congress) (finding no reason to believe that Respondent had become a candidate where Respondent did not meet \$5,000 candidacy threshold until the date he filed a Statement of Candidacy, despite Respondent's alleged statements prior to this date indicating that he had decided to become a candidate).

violated 52 U.S.C. §§ 30103(a) and 30104(b) for failing to timely register and report as a principal campaign committee, and close the file.

**III. RECOMMENDATIONS**

1. Find no reason to believe that James S. Gilmore violated 52 U.S.C. § 30102(e)(1).
2. Find no reason to believe that Gilmore for America and Karen F. Marcus in her official capacity as treasurer violated 52 U.S.C. §§ 30103(a) and 30104(b).
3. Approve the attached Factual and Legal Analysis.
4. Approve the appropriate letters.
5. Close the file.

8-25-16  
Date

Kathleen Guith  
Kathleen Guith  
Acting Associate General Counsel  
for Enforcement

Lynn Tran  
Lynn Y. Tran  
Assistant General Counsel

Tanya Senanayake  
Tanya Senanayake  
Attorney

Attachment  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 **RESPONDENT:** James S. Gilmore MUR: 6954  
6 Gilmore for America LLC and Karen F. Marcus  
7 in her official capacity as treasurer  
8

9 **I. INTRODUCTION**

10 The Complaint in this matter alleges that James S. Gilmore, a former governor of Virginia,  
11 failed to timely file a declaration of candidacy for the 2016 Republican presidential nomination, in  
12 violation of the Federal Election Campaign Act of 1971, as amended (the "Act"). For the reasons set  
13 forth below, the Commission finds no reason to believe that Respondents violated the Act.

14 **II. FACTUAL AND LEGAL ANALYSIS**

15 James S. Gilmore, former governor of Virginia, filed a Statement of Candidacy with the  
16 Commission on July 29, 2015, for the Republican nomination in the 2016 presidential election.  
17 Gilmore's principal campaign committee, Gilmore for America, LLC (the "Committee") filed a  
18 Statement of Organization with the Commission on August 4, 2015. Gilmore withdrew his  
19 candidacy on February 12, 2016.<sup>1</sup>

20 The Complaint alleges that Gilmore became a candidate on July 7, 2015, based on his  
21 statements to the press, and therefore failed to timely file his Statement of Candidacy.<sup>2</sup> In  
22 response, Gilmore and the Committee assert that Gilmore became a candidate on July 17, 2015,  
23 and that Gilmore and the Committee made all required filings in a timely manner.<sup>3</sup>

<sup>1</sup> See Gregory Krieg, *Jim Gilmore Leaves Presidential Race*, CNN (Feb. 12, 2016), <http://www.cnn.com/2016/02/12/politics/jim-gilmore-republican-2016/>.

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6 candidate's principal campaign committee.<sup>5</sup> The principal campaign committee then has ten  
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14 threshold prior to July 29, 2015. Specifically, the first disclosure report filed by the Committee  
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16 \$5,000 before July 29, 2015, the date on which Gilmore filed his Statement of Candidacy.<sup>8</sup>

<sup>4</sup> 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3(a).

<sup>5</sup> 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

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<sup>7</sup> Compl. at 1 (citing Andrew Cain, *Gilmore Says He Will Run for President*, THE RICHMOND TIMES (July 7, 2015), [http://www.richmond.com/news/virginia/government-politics/article\\_30b836ff-1768-5bcb-9681-f942acfb711f.html](http://www.richmond.com/news/virginia/government-politics/article_30b836ff-1768-5bcb-9681-f942acfb711f.html), and Nick Gass, *Jim Gilmore Adds to Ever-Expanding 2016 GOP Field*, POLITICO (July 8, 2015), <http://www.politico.com/story/2015/07/jim-gilmore-2016-presidential-race-119838>).

<sup>8</sup> See Gilmore for America, LLC, 2016 October Quarterly Report (disclosing that the Committee received contributions of at least \$5,000 on July 29, 2015, and that it made over \$5,000 in disbursements subsequent to this date).

1 Furthermore, the Complaint does not allege, and the available information does not suggest, that  
2 Gilmore or the Committee in fact received contributions or made expenditures in excess of  
3 \$5,000 prior to July 29, 2015. It appears, therefore, that Gilmore did not become a candidate  
4 under the Act prior to this date.<sup>9</sup>

5 Accordingly, the Commission finds no reason to believe that Gilmore violated 52 U.S.C.  
6 § 30102(e)(1) for failing to timely register as a candidate, or that Gilmore for America and Karen  
7 F. Marcus in her official capacity as treasurer violated 52 U.S.C. §§ 30103(a) and 30104(b) for  
8 failing to timely register and report as a principal campaign committee.

<sup>9</sup> See Factual & Legal Analysis at 7, MUR 6819 (Krulick for Congress) (finding no reason to believe that Respondent had become a candidate where Respondent did not meet \$5,000 candidacy threshold until the date he filed a Statement of Candidacy, despite Respondent's alleged statements prior to this date indicating that he had decided to become a candidate).