



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

DEC 19 2007

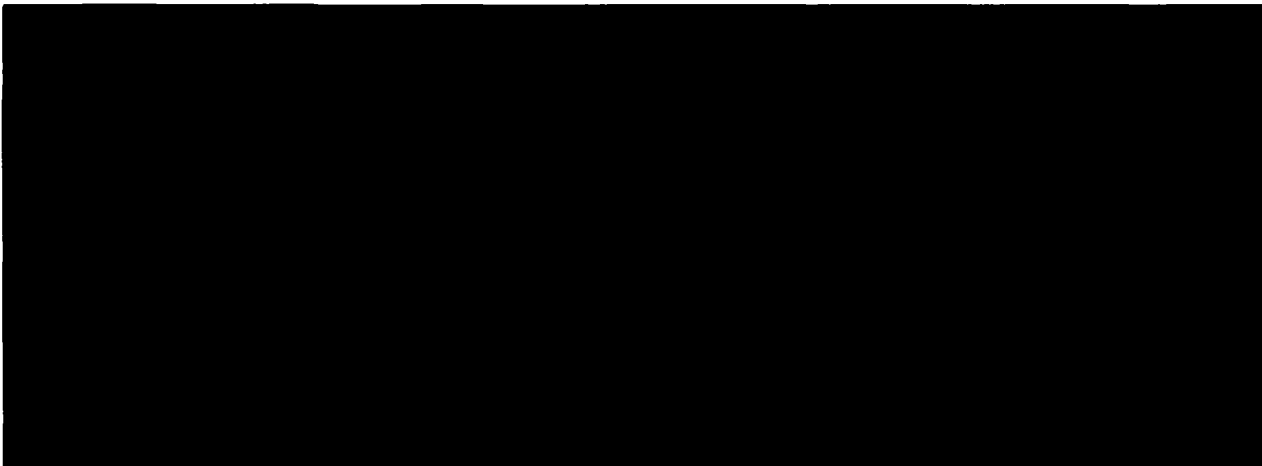
**Ms Sarah J Martin, Treasurer
Yarmuth for Congress
1819 Brownsboro Rd , Suite 100
Louisville, KY 40206**

RE MUR 5956

Dear Ms Martin

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that Yarmuth for Congress (the "Committee") and you, in your official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act") On November 27, 2007, the Commission found reason to believe that the Committee and you, in your official capacity as treasurer, violated 2 U S C § 441a-1(b)(1)(C), a provision of the Act Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter See 18 U S C § 1519 In the meantime, this matter will remain confidential in accordance with 2 U S C §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public



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If you or the Committee intends to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel forms stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission

We look forward to your response

Sincerely,



David M. Mason
Vice Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Forms

cc John A Yarmuth

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3
4 **RESPONDENTS** John A Yarmuth MUR: 5956
5 Yarmuth for Congress
6 and Sarah J Martin, in her
7 official capacity as treasurer
8
9

10 **I. BACKGROUND**

11 This matter was generated based on information ascertained by the Federal
12 Election Commission ("the Commission") in the normal course of carrying out its
13 supervisory responsibilities See 2 U S C § 437g(a)(2) Based on available information,
14 there is reason to believe that John A Yarmuth and Yarmuth for Congress and Sarah J
15 Martin, in her official capacity as treasurer (the "Committee"), violated 2 U S C § 441a-
16 1(b)(1)(C) by failing to timely file an FEC Form 10 (24-Hour Notice of Expenditure from
17 Candidate's Personal Funds) with the Commission within twenty-four hours after making
18 aggregate expenditures from personal funds that exceeded the \$350,000 reporting
19 threshold for House candidates, in violation of the "Millionaire's Amendment" to the
20 Bipartisan Campaign Reform Act of 2002

21 **II. FACTUAL AND LEGAL ANALYSIS**

22 John A Yarmuth (the "Candidate"), a candidate in the 2006 General Election for
23 Kentucky's Third (3rd) Congressional District, declared his candidacy by filing FEC

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1 Form 2 (Statement of Candidacy) with the Commission on February 9, 2006¹ The
2 Candidate's FEC Form 2 designated Yarmuth for Congress as his principal campaign
3 committee and indicated that he did not intend to expend personal funds for the general
4 election

5 Despite the Candidate's declaration that he would not expend personal funds for
6 the general election, on July 15, 2006, the Committee filed its 2006 July Quarterly Report
7 and disclosed the receipt of two loans totaling \$200,000 from the Candidate Both loans
8 were made on June 29, 2006 and designated for the 2006 General Election On October
9 15, 2006, the Committee filed its 2006 October Quarterly Report and disclosed another
10 \$190,000 loan to the Committee from the Candidate The loan, dated September 29,
11 2006, brought the total expenditures from the Candidate's personal funds for the 2006
12 General Election to \$390,000, thereby exceeding the threshold amount of expenditures
13 from personal funds, \$350,000 for House Candidates that would trigger special reporting
14 requirements See 11 C F R §§ 400 9 and 400 21 On October 18, 2006, the Committee
15 filed FEC Form 10 (24-Hour Notice of Expenditure From Candidate's Personal Funds)
16 notifying the Commission of the loan

17 On February 1, 2007, RAD sent a Request For Additional Information ("RFAI")
18 to the Committee, referencing the FEC Form 10 and noting that it had been filed outside
19 the required time period The Committee's response to the RFAI stated "the campaign
20 misunderstood the filing notification requirements in the newly enacted Millionaires [sic]

¹ Within fifteen days of becoming a candidate for the U S House of Representatives, candidates are required to file a declaration of intent with the Commission and with each opposing candidate indicating whether the candidate intends to expend personal funds in excess of the \$350,000 threshold See 2 U S C § 441a-1(b)(1)(B), 11 C F R §§ 400 20 and 400 9 Declarations of intent for House candidates must be noted on the Statement of Candidacy (FEC Form 2) See 11 C F R § 400 20(b)(2)

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1 Amendment and thereby untimely filed its FEC Form 10 regarding loans candidate John
2 Yarmuth made to the campaign" and claimed that it believed that FEC Form 10 was to be
3 filed after triggering the contribution limit as opposed to triggering the threshold amount
4 The Committee also asserted that the expenditures did not "negatively affect Mr
5 Yarmuth's opposing candidate "

6 **B. Legal Analysis**

7 When a candidate for the United States House of Representatives "makes or
8 obligates to make an aggregate amount of expenditures from personal funds in excess of
9 \$350,000 in connection with any election," the candidate or his authorized committee
10 must notify the Commission by filing an FEC Form 10 (Twenty-Four Hour Notice of
11 Expenditure From Candidate's Personal Funds) with the Commission within twenty-four
12 hours after exceeding the threshold 2 U S C § 441a-1(b)(1)(C), 11 C F R § 400 21(b) 2
13 Although FEC Form 10 is signed and filed by the committee treasurer, under the
14 Commission's regulations candidates are responsible for ensuring that FEC Form 10 is
15 timely filed by the campaign's committee 11 C F R § 400 25 The notification must
16 also be provided to each candidate in the same election, and the national party of each
17 such candidate within the same twenty-four hour time period 3 2 U S C § 441a-
18 1(b)(1)(F), 11 C F R § 400 21(b) See also 11 C F R § 400 24(b) The required

2 An expenditure from personal funds includes direct contributions, an expenditure made by a candidate using personal funds, loans made by a candidate using personal funds, or a loan secured using such funds to the candidate's authorized committee 2 U S C § 441a-1(b)(1)(A)

3 Candidates are entitled to higher limits when the "opposition personal funds amount" exceeds \$350,000 See 2 U S C § 441a-1(a)(1), 11 C F R § 400 9 A candidate's personal expenditures could entitle his opponents to an increase in contribution limits under 2 U S C § 441a(a)(1)(A) and a waiver of limits on coordinated party expenditures under 2 U S C § 441a(d) See 2 U S C § 441a-1(a)(1), 11 C F R § 400 41

1 notifications must include the date and amount of each expenditure from personal funds
2 and the aggregate amount expended in the same election cycle as of the date of the
3 filing ⁴ 11 C F R § 400 23

4 The Candidate exceeded the \$350,000 threshold with the September 29, 2006
5 loan in the amount of \$190,000 The Committee was then obligated to file an FEC Form
6 10 with the Commission within twenty-four hours of that expenditure disclosing the
7 entire amount of expenditures the Candidate made from his personal funds up to that
8 point Moreover, the Committee was obligated to notify the Candidate's opponent and
9 respective national party with a copy of the FEC Form 10 filed with the Commission
10 The Candidate and the Committee filed the required notification eighteen days outside of
11 the required twenty-four hour period Accordingly, there is reason to believe that
12 Yarmuth for Congress and Sarah J Martin, in her official capacity as treasurer, and John
13 A Yarmuth violated 2 U S C § 441a-1(b)(1)(C)

⁴ An election cycle runs from the date after the most recent election for the specific office to the date of the next election for that office See 11 C F R § 400 2(a)

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