

# Yarmuth!

## CONGRESS

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January 17, 2007

Ms. Lynn M. Fraser  
Assistant Director  
Federal Election Commission  
Alternative Dispute Resolution Program  
Washington, DC 20463

Re: MUR 5771

Dear Ms. Fraser:

On behalf of Yarmuth for Congress and in response to your fax of January 8, 2007, please accept this delayed response from Yarmuth for Congress to the complaint of alleged minor violations filed by Ted Jackson, the campaign chairman of Anne Northup's campaign committee. Below are the facts in support of the campaign's request that the FEC dismiss the complaint against Yarmuth for Congress:

The Complainant erroneously attacks the disclaimers contained in two radio communications aired by Yarmuth for Congress during the 2006 primary election for Kentucky's Third Congressional District. One communication featured the voice of former congressional candidate Eleanor Jordon expressing her support for John Yarmuth and asking listeners to vote for Mr. Yarmuth. The other communication utilized the voice of former Kentucky State Senator Georgia Powers expressing support of and soliciting votes for Mr. Yarmuth. Both radio communications contained the following audio disclaimer by John Yarmuth concluding the radio communication: "I'm John Yarmuth and I approved and paid for this message because I'll stand up to George W. Bush."

The radio communications complied with the "specifications for all disclaimers" detailed in 11 CFR 110.11(c)(1) and the specific requirements for radio communications set forth in 11 CFR 110.11(c)(3). The candidate clearly and conspicuously identified himself, authorized the message, and notified the listening audience that he paid for the communication.

The disclaimer also satisfied the "general content requirements" of 11 CFR 110.11(b)(1) as it identified the responsible candidate who paid for the communication.

Paid for by Yarmuth for Congress



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While the disclaimer included poorly worded language that the candidate rather than the campaign committee paid for the communication, the public was neither misinformed nor confused about who was responsible for payment of the communication. This was an unintentional misstatement that should not constitute a violation.

The allegation that the Georgia Powers radio communication did not contain required "paid for" language when it aired on WMJM 101.3 FM is simply not true. As stated above, the disclaimer contained the clear and conspicuous statement: "I'm John Yarmuth and I approved and paid for this message because I'll stand up to George W. Bush."

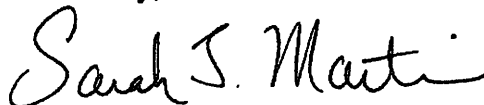
The Complainant also references the posting of a Georgia Powers radio communication on the [www.yarmuthforcongress.com](http://www.yarmuthforcongress.com) website. From April of 2006 until this complaint was received, the Yarmuth for Congress website allowed Internet visitors to download and listen to the Georgia Powers audio communication. The website contained a disclaimer on each page that complied with 11 CFR 110.11 disclosure requirements for Internet website communications, including the page that allowed Internet visitors to click on a Georgia Powers audio communication. A separate and additional disclaimer on the Georgia Powers audio communication was not required because the website clearly informed Internet visitors that Yarmuth for Congress had paid for the contents of the website. Therefore, Yarmuth for Congress did not violate FEC disclosure requirements by posting a Georgia Powers audio communication on its website.

It should be noted, however, that the communication was removed from the website upon receipt of the complaint in July of 2006 in an effort to avoid any further potential FEC violation.

The disclaimer at issue in the complaint did not create public uncertainty about who approved and paid for the radio communications. The candidate and his committee evidenced no intent to mislead or confuse voters or to circumvent the law.

It is respectfully requested that the complaint be dismissed and that no action be taken against Yarmuth for Congress.

Sincerely,



Sarah J. Martin  
Treasurer

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