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June 3, 2004

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Margaret Toalson
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 5262

Dear Ms. Toalson.

This is the response of the Tim Ryan for Congress Committee, Michael Fraioli, as treasurer ("Respondents"), to the Federal Election Commission ("FEC") notification of a finding of Reason to Believe in the above-referenced matter under review. This is also to request pre-probable cause conciliation in this matter.

This is a simple case that the Respondents would like to resolve as quickly as possible. It involved what is a fairly common error for new campaigns – the misunderstanding that a personal loan taken out by the candidate is subject to FEC rules and regulations. There has been no attempt by the campaign to deny the fact that this mistake was made. Rather, the campaign stepped up and attempted to correct the situation as quickly as possible once it learned that the loan in question was not in compliance with the federal rules. Given that the campaign is not attempting to dispute the FEC's findings in this case, it should be a case that can be resolved quickly.

In order to do so, we would like to correct what appear to be some misunderstandings in the General Counsel's Factual and Legal Analysis ("FLA")

- The FLA appears to emphasize the fact that the loan was entered into only 40 days before the primary election in which Congressman Ryan was running. This fails to take into consideration, that Congressman Ryan had filed his Statement of Candidacy only 38 days before the loan was issued. When Mr. Ryan became a candidate, he had only 78 days – barely 2 ½ months – to demonstrate to the 17th Congressional District why he should be nominated over several other candidates vying for the same seat. It is not at all unreasonable that he would have sought to borrow funds to "jump start" his campaign.

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- The FLA also points out that the loan made up over 75% of the campaign's total receipts on the April Quarterly Report. The FLA, however, does not note that the loan was taken out on March 28, 2002, 3 days before the March 31 close of books for this report. Leaving out the loan proceeds, the campaign had contributions in the first quarter totaling slightly more than \$15,000, with expenses of \$12,053.

On the Pre-Primary Report (covering April 1-17), again, leaving aside the loan proceeds, the campaign showed aggregate year-to-date receipts of \$30,606 against aggregate year-to-date disbursements of \$45,340. One way to look at this is that less than \$15,000 of the loan proceeds were used during this period before the primary – leaving a very different impression than the 75% figure cited by the FLA.

On the next report (covering 4/18-6/30), the campaign showed aggregate receipts without the loan proceeds of \$167,660. (Disbursements for the period were \$62,558.76, not including the full loan repayment of \$25,350.) This substantial increase in contributions would appear to fully justify the reasoning behind the borrowing, to provide adequate funds to ensure name recognition and education for the voters.

- The FLA does not seem to acknowledge the fact that the campaign, upon discovering the error involving the loan, took steps to correct the situation. Beginning on May 31, the campaign made a series of payments to the bank, culminating in the final payment in full of the loan on June 28, three months before the September 28 due date for the loan.
- Congressman Ryan has never denied that he assured both Mr. Rossi and the bank that he believed the loan transaction was legal. There is a very simple explanation for that: he believed the loan was legal. This fact is confirmed in the sworn statement by the Congressman attached to this response.
- The FLA cites some confusion in press reports and other statements in the Commission's possession over whether the Congressman spoke to the FEC about the loan. The sworn statement also clarifies this issue: The Congressman never spoke directly to the FEC on this matter. Rather, he obtained information from his then-campaign treasurer about her conversations with the Reports Analysis Division at the FEC. It is on this information that he based his belief that the loan was lawful.

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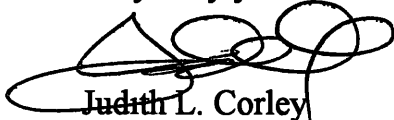
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- Attached to this complaint is also a sworn statement from the then-campaign treasurer. She makes clear that she was new to federal campaigns, and the rules and regulations that govern them. As is implied in footnote 4 of the FLA, she was not sure what questions to ask, in order to receive a complete answer. She does not recall her exact conversation with the Reports Analysis Division, and so cannot say whether she asked and received information on whether a guarantee to a loan was a contribution. Her statement makes clear that whether or not she discussed the matter with the Reports Analyst, she did believe that a loan guarantee was legal and she relayed that belief to Congressman Ryan. It also explains why she made the press statement regarding guarantees that is referred to in the FLA.

The evidence here shows that this case should not require a great deal of effort to resolve: a new campaign misunderstood the candidate loan rules, not an uncommon occurrence. Here, however, the then-treasurer made a good faith effort to comply with the rules, and when it was discovered that an error had been made, the campaign took corrective actions. For these reasons, the Respondents request pre-probable cause conciliation, with a view toward resolving this case promptly.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,



Judith L. Corley
Counsel to Respondents

enclosures

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 5262

AFFIDAVIT OF JULIE STITZEL

RECEIVED
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OFFICE OF GENERAL
COUNSEL

2004 JUN - 8 A 10: 54

I, JULIE STITZEL, hereby state as follows:

1. I have personal knowledge of the facts set forth herein and if called to testify in this matter, I would testify as set forth herein.

2. I was treasurer of the Tim Ryan for Congress Committee ("the Committee") during the 2002 election. I had never worked on a federal campaign before this time.

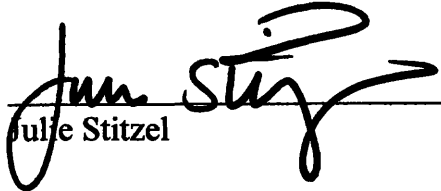
3. The Committee needed money to compete effectively in the primary campaign, and the possibility of taking out a loan was discussed.

4. At some point in March 2002, I called the 800 Line at the Federal Election Commission and spoke to someone in the Reports Analysis Division. I do not remember the name of the person to whom I spoke. I asked questions about the legality of a campaign taking out a loan. Because I was so new to the federal campaign laws, I was not entirely sure what questions I needed to ask. I do not recall my exact conversation with the Reports Analyst, or what questions I posed. I cannot say for sure whether there was any discussion about guarantees to a loan.

5. Regardless of what specific questions I discussed with the Reports Analyst, I believed that a loan could be guaranteed without any issue under the federal campaign laws.

6. I relayed this information to Congressman Ryan and others involved with the campaign.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this _____ day of _____, 2004.


Julie Stitzel

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 5262

AFFIDAVIT OF CONGRESSMAN TIM RYAN

I, TIM RYAN, hereby state as follows:

1. I have personal knowledge of the facts set forth herein and if called to testify in this matter, I would testify as set forth herein.
2. I ran successfully for Congress in the 17th District of Ohio in 2002.
3. Although I was a state legislator before running for Congress, I was not well known in the entire 17th Congressional District. Like many new candidates, I decided to take out a loan to maximize my resources to educate the voters on my positions on the issues.
4. My then-campaign treasurer contacted the Federal Election Commission to ask about the legality of such a loan. I personally never spoke to anyone at the FEC about this matter.
5. Based on the information of my Treasurer, I approached Second National Bank regarding a personal loan. Because I had little collateral, the bank said I would need a guarantor in order to take out a personal loan for \$50,000. I then approached Dennis Rossi, a personal friend of mine and former coach, about co-signing the loan for me.

6. Both the officials at the bank and Mr. Rossi asked me about the legality of the loan. Based on my belief at the time, I assured them that it was my understanding that the loan was legal. Although I understand now that my understanding was incorrect, I believed at the time that the loan and the guarantee were legal under the federal campaign laws.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 1 day of June, 2004.

Tim Ryan
Congressman Tim Ryan