

**Before the
Federal Election Commission
of the
United States of America**

MUR # 5703

To:
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Complainant:
Richard T. Cassidy

South Burlington, VT 05403

In the Matter of:
Martha T. Rainville
Martha T. Rainville Congressional Exploratory Committee

Williston, VT 05495

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COUNSEL

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Complaint

The complainant hereby files this complaint with the Federal Election Commission ("the Commission") in accordance with 2 U.S.C. §437g(a)(1). The complainant alleges that the Martha Rainville Congressional Exploratory Committee ("the Committee") is in violation of the Federal Election Campaign Act of 1971 ("the Act"), as amended, 2 U.S.C. §431.

The Act defines a candidate for Federal office in 2 U.S.C. §431(2). In 11 C.F.R. §§100.72 and 100.131, the Commission has crafted a "testing the waters" exemption to the Act's definition of a Federal candidate. In these clauses, the Commission has specified activities which fall outside of the bounds of the Act's definition of "candidate." These sections are intended to allow a potential candidate for Federal office to raise and spend funds "solely for the purpose of determining whether an individual should become a candidate" (emphasis added) (11 C.F.R. §100.72(a)). That is, the exemption was created in order to allow a potential candidate to assess public support for his or her candidacy. The Commission did not intend this exemption to be used by candidates as a shield against public scrutiny.

Further, the Commission has enumerated some specific activities which fall outside of the bounds of the "testing the waters" exemption. Title 11 of the Code of Federal Regulations states:

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This exemption does not apply to funds received for activities indicating that an individual has decided to become a candidate for a particular office or for activities relevant to conducting a campaign. Examples of activities that indicate that an individual has decided to become a candidate include, but are not limited to... The individual raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate. 11 C.F.R. §100.72(b)

It is under this unambiguous clause that I file this complaint against the Martha T. Rainville Congressional Exploratory Committee.

Since registering with the Commission in September 2005, the Committee has raised \$100,415.00 for General Rainville's campaign for the at-large Congressional district in Vermont.¹ Additionally, the Committee received contributions from two (2) contributors which were designated towards the candidate's General election campaign.²

This does not pass the within-reason criteria set forth by the Commission in its "testing the waters" exemption. No reasonable observer could claim that this large sum of money would be needed for the sole purpose of exploring the feasibility of becoming a candidate. It is clear that the Committee is in violation of the Act's "testing the waters" exemption to the definition of a candidate - this is both a violation of the letter and spirit of the exemption.

Rather than raise money to fund exploratory activities of the potential candidate, the Committee has sought to exploit the "testing the waters" exemption as a way to build a war chest for a campaign.

The establishment of a fundraising apparatus to stockpile funds clearly demonstrates General Rainville's intention to run. By continuing to claim to be "testing the waters," she is exploiting the Act's exemption, which was intended for basic exploration of a candidacy rather than as a means to build a war chest for an election less than one year away while avoiding basic discourse with the voters.

The Commission aims to engender a level playing field and to ensure open democracy. It is my belief that the Committee violated the Act in attempting to take advantage of the exemption. General Rainville has refused to answer questions reasonably asked of a candidate including her status with the military by using the exploratory committee designation as a shelter.

The American electorate has reasonably come to expect a great deal of dialogue with its political leaders. In defiance of this principle, the Committee has misused an exemption in the Act so as to amass funds for a candidacy for Federal office while

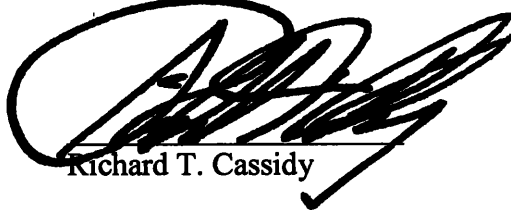
¹ 2005 Year End Report, p. 3

² 2005 Year End Report, pp. 38-39

avoiding the public scrutiny that comes along with such a candidacy. This is in gross violation of the Act's "testing the waters" exemption.

General Rainville is clearly a candidate for Federal office. She should not be allowed to shirk her obligation as a candidate by hiding behind the unjustified guise of "testing the waters." Uninhibited political discourse is necessary for the voters of Vermont to address their prospective political leaders and to have a full understanding of their choices in the forthcoming election.

Respectfully Submitted



Richard T. Cassidy

Subscribed and sworn before me this 2nd day of February 2006

State of Vermont

My Commission Expires: 2-10-07


Notary Public

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