



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Joseph E. Sandler  
Stephen E. Hershkowitz  
Sandler, Reiff & Young, P.C.  
50 E Street, S.E.  
Suite 300  
Washington, DC 20003

MAY 12 2006

RE: MUR 5744  
Daniel W. Hynes  
Hynes for Senate and Jeffrey C. Wagner,  
in his official capacity as treasurer

Dear Messrs. Sandler and Hershkowitz:

On May 4, 2006, the Federal Election Commission found that there is reason to believe that your clients, Hynes for Senate and Jeffrey C. Wagner, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(i)(2)(B), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11-C.F.R. § 103.3(b)(2). Additionally, the Commission found that there is reason to believe that Daniel W. Hynes violated 2 U.S.C. § 441a(i)(2)(B). The Factual and Legal Analyses, which formed a basis for the Commission's findings, are attached for your information. Please note that respondents have an obligation to preserve all documents, records and materials relating to the Commission's investigation.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred.

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

If you have any questions, please contact Adam Schwartz, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner  
Chairman

Attachments

1. Daniel W. Hynes Factual and Legal Analysis
2. Hynes for Senate Factual and Legal Analysis
- 3.

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**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENT:** Daniel W. Hynes

**MUR:** 5744

**I. INTRODUCTION**

This matter was initiated by the Federal Election Commission pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. This matter concerns the acceptance of contributions under the increased limits of the so-called "Millionaire's Amendment" of the Bipartisan Campaign Reform Act after the self-financed candidate ceased to be a candidate.

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Background**

Daniel W. Hynes ran in the 2004 Democratic primary for the U.S. Senate from Illinois against Blair Hull, a multi-millionaire who spent \$29 million of his own money on his campaign. Hynes for Senate was Mr. Hynes's authorized committee. Based on Hull's campaign expenditures, the contribution limit for individuals increased to \$12,000 for the primary election under the "Millionaire's Amendment." *See* 2 U.S.C. § 441a(i)(1)(C)(iii). Both Mr. Hynes and Mr. Hull lost in the March 16, 2004, primary election, thus ending their candidacies. After the primary election, Hynes for Senate continued to solicit contributions from individuals under the increased individual contribution limit in place when Mr. Hull was a candidate. As a result of these efforts, Hynes for Senate raised \$110,320.20.

On November 2, 2004, the Commission's Reports Analysis Division sent Hynes for Senate the first of many Requests For Additional Information ("RFAs") requesting

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an explanation for accepting contributions that appeared to exceed the limits set forth in the Act. *See, e.g.*, RFAI dated Nov. 2, 2004. The RFAIs cited contributions from individuals made after the March 16, 2004, primary that exceeded the then-applicable \$2,000 individual contribution limit. The Committee responded by claiming that it “was permitted to continue to raise funds under the Millionaire’s Amendment subsequent to the primary date to retire debts incurred with that election.” Ltr. from M. Forde to K. Scindian dated Dec. 1, 2004, at 1. Thereafter, Hynes for Senate continued to accept contributions in excess of \$2,000 despite receiving additional RFAIs identifying the contributions as excessive.

**B. Analysis**

Under the Millionaire’s Amendment, once a self-financed candidate ceases to be a candidate, his or her opponents and their authorized committees shall not accept any contribution under the increased limit after the date on which the self-financed candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to the self-financed candidate. 2 U.S.C. § 441a(i)(2)(B). Hynes for Senate accepted \$110,320.20 in increased contributions pursuant to the Millionaire’s Amendment after Mr. Hull, the self-financed candidate, lost in the primary election.

**III. CONCLUSION**

Accordingly, there is reason to believe that Daniel W. Hynes violated 2 U.S.C. § 441a(i)(2)(B).

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# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

**RESPONDENT:** Hynes for Senate and **MUR: 5744**  
Jeffrey C. Wagner, in his official capacity as treasurer

### **I. INTRODUCTION**

This matter was initiated by the Federal Election Commission pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. This matter concerns: (1) the failure to report certain debts and obligations; (2) the acceptance of contributions under the increased limits of the so-called "Millionaire's Amendment" of the Bipartisan Campaign Reform Act after the self-financed candidate ceased to be a candidate; and (3) the failure to disgorge improper campaign contributions within 30 days of discovering that they came from a prohibited source.

### **II. FACTUAL AND LEGAL ANALYSIS**

#### **A. Background**

Daniel W. Hynes ran in the 2004 Democratic primary for the U.S. Senate from Illinois. Hynes for Senate was Mr. Hynes's authorized committee.

On December 2, 2004, Hynes for Senate amended its April 2004 Quarterly Report to include \$409,998.05 in debts and obligations. Hynes for Senate stated that the failure to include this amount in its original quarterly report was "erroneous" and an "oversight."

One of Mr. Hynes's primary opponents was Blair Hull, a multi-millionaire who spent \$29 million of his own money on his campaign. Based on Hull's campaign expenditures, the contribution limit for individuals increased to \$12,000 for the primary election under the "Millionaire's Amendment." See 2 U.S.C. § 441a(i)(1)(C)(iii). Both

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Mr. Hynes and Mr. Hull lost in the March 16, 2004, primary election, thus ending their candidacies. After the primary election, Hynes for Senate continued to solicit contributions from individuals under the increased individual contribution limit in place when Mr. Hull was a candidate. As a result of these efforts, the Hynes for Senate raised \$110,320.20.

On November 2, 2004, the Commission's Reports Analysis Division sent Hynes for Senate the first of many Requests For Additional Information ("RFAIs") requesting an explanation for accepting contributions that appeared to exceed the limits set forth in the Act. *See, e.g.*, RFAI dated Nov. 2, 2004. The RFAIs cited contributions from individuals made after the March 16, 2004, primary that exceeded the then-applicable \$2,000 individual contribution limit. The Committee responded by claiming that it "was permitted to continue to raise funds under the Millionaire's Amendment subsequent to the primary date to retire debts incurred with that election." Ltr. from M. Forde to K. Scindian dated Dec. 1, 2004, at 1. Thereafter, Hynes for Senate continued to accept contributions in excess of \$2,000 despite receiving additional RFAIs identifying the contributions as excessive.

In an unrelated matter, the Commission on February 8, 2005, notified Hynes for Senate that it had received \$71,000 in contributions made in the names of others and instructed the Committee to disgorge the funds to the U.S. Treasury within 30 days. *See* MUR 5405.

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**B. Analysis**

The Federal Election Campaign Act of 1971, as amended (the "Act") requires that political committees disclose debts and obligations in accordance with 2 U.S.C. § 434(b), including the total amount and nature of outstanding debts and obligations owed by or to the committee. *See* 2 U.S.C. § 434(b)(8). Hynes for Senate amended its April 2004 Quarterly Report, which reveals that it failed to disclose \$409,998.05 in debts and obligations.

Under the Millionaire's Amendment, once a self-financed candidate ceases to be a candidate, his or her opponents and their authorized committees shall not accept any contribution under the increased limit after the date on which the self-financed candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to the self-financed candidate. 2 U.S.C. § 441a(i)(2)(B). Hynes for Senate accepted \$110,320.20 in increased contributions pursuant to the Millionaire's Amendment after Mr. Hull, the self-financed candidate, lost in the primary election.

When the treasurer of a political committee deposits a contribution and later discovers that it came from a prohibited source based on new evidence not available to the political committee at the time of receipt and deposit, the treasurer shall refund the contribution within thirty days of the date on which the illegality was discovered. *See* 11 C.F.R. § 103.3(b)(2). Hynes for Senate did not disgorge the \$71,000 in contributions made in the names of others referenced by the Commission in its February 8, 2005, letter by March 10, 2005.

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**III. CONCLUSION**

Accordingly, there is reason to believe that Hynes for Senate and Jeffrey C. Wagner, in his official capacity as treasurer, violated 2 U.S.C. §§ 434(b) and 441a(i)(2)(B) and 11 C.F.R. § 103.3(b)(2).

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