FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

AUG 4 2008

Democratic Congressional Campaign Committee
Brian Wolff, Executive Director
430 South Capitol Street S.E.
Washington, D.C. 20003

RE: MUR 5979
Oberweis for Congress

Dear Mr. Wolff:

This is in reference to the complaint the Democratic Congressional Campaign Committee filed with the Federal Election Commission on March 4, 2008, alleging violations of certain sections of the Federal Campaign Act of 1971, as amended ("the Act"). Based on that complaint and information supplied by the Respondents, the Commission voted to dismiss this matter and close the file on July 31, 2008. The Factual and Legal Analyses explaining the Commission's decision are enclosed.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Thomasenia P. Duncan
General Counsel

BY: Sidney Rocke
Assistant General Counsel

Enclosures

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Oberweis for Congress and Sharon Martin
in her official capacity as treasurer MUR 5979

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission ("Commission") by the Democratic Congressional Campaign Committee pursuant to 2 U.S.C. § 437g(a)(1).

In accordance with the Millionaires' Amendment of the Bipartisan Campaign Finance Reform Act, whenever a candidate for the United States House of Representatives makes or obligated to make an aggregate amount of expenditures from personal funds in excess of $350,000 in connection with any election, the candidate or his authorized committee must notify the Commission, along with each opposing candidate in the same election, by filing a Form 10 with the Commission within twenty-four hours after exceeding the threshold. 2 U.S.C. § 441a-1(b)(1)(C); 11 C.F.R. § 400.21(b).[1]

The Committee, in response, argues that the plain reading of the statute and regulations tie the notification requirements to an "election" and not an "election cycle," such that the Millionaires' Amendment triggers when a candidate makes expenditures from personal funds in excess of $350,000 in connection with any "election" and the

[1] For each additional expenditure of $10,000 or more, the candidate is required to notify the Commission and each candidate in the same election, and the national party of each such candidate in a Form 10 filing within twenty-four hours of the time such expenditure is made. 2 U.S.C. § 441a-1(b)(1)(F); 11 C.F.R. § 400.22(b).

special general and general elections by definition are separate "elections." *See* Response at 6. *See also* 2 U.S.C. § 441a-1(b)(1(C). The Committee also argues that it exercised due diligence in seeking advice from the Reports Analysis Division ("RAD") to its detriment. *Id.* Therefore, it asserts that the Commission should be estopped from proceeding against it in this matter since it followed the advice provided by RAD. *Id.*

On June 26, 2008, the U.S. Supreme Court ruled that the Millionaires' Amendment and its related reporting requirements are unconstitutional. *Davis v. FEC,* 128 S. Ct. 2759 (2008). The statutory provisions pertaining to the Millionaires' Amendment were voided by *Davis.* Accordingly, we dismiss the complaint and close the file in this matter.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: James Oberweis MUR 5979

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