



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 4 2008

Paul E. Sullivan, Esq.
Sullivan & Associates, PLLC
601 Pennsylvania Avenue N.W.
Suite 900
Washington, D.C. 20004

RE: MUR 5979
Oberweis for Congress

Dear Mr. Sullivan:

On March 10, 2008, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on July 31, 2008, voted to dismiss this matter. The Factual and Legal Analyses, which more fully explains the Commission's decision, are enclosed for your information.

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).

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

Sincerely,


Sidney Rocke
Assistant General Counsel

Enclosures
Factual and Legal Analyses
cc: James Oberweis

Batavia, IL 60510

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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

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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.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: James Oberweis

MUR 5979

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