

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 )  
5 MUR 7259 ) CASE CLOSURE UNDER THE  
6 Mark E. Harris ) ENFORCEMENT PRIORITY  
7 Mark Harris for Congress and ) SYSTEM  
8 Robert D. Lyerly, Jr. as treasurer )  
9

10  
11 **GENERAL COUNSEL'S REPORT**

12 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a  
13 basis to allocate its resources and decide which matters to pursue. These criteria include, without  
14 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into  
15 account both the type of activity and the amount in violation; (2) the apparent impact the alleged  
16 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the  
17 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as  
18 amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing  
19 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial  
20 discretion to dismiss cases under certain circumstances, or to find no reason to believe that the Act  
21 was violated. The Office of General Counsel has scored MUR 7259 as a low-rated matter and has  
22 determined that it should not be referred to the Alternative Dispute Resolution Office.<sup>1</sup>

23 The Complaint alleges that Mark E. Harris, 2018 candidate for North Carolina's Ninth  
24 Congressional district, failed to timely register with the Commission as a candidate.<sup>2</sup> According to  
25 the Complaint, Harris became a candidate on or about June 11, 2017 and, therefore, should have

<sup>1</sup> The EPS rating information is as follows:  
Jul. 31, 2017.

Complaint filed: June 29, 2017. Response filed:

<sup>2</sup> Compl. at 1 (June 29, 2017). The candidate's registered committee, Mark Harris for Congress, and Robert D. Lyerly, Jr. in his official capacity as treasurer, was also notified of the complaint.

1 registered with the Commission within 15 days, that is, by June 26, 2017.<sup>3</sup> The Complaint includes  
2 several news articles and the transcript of a radio interview in support of the allegation, and  
3 speculates that because Harris “did not clarify he is not a candidate,” hired a political consultant, and  
4 sought financial support from political supporters, he likely raised or spent over \$5,000, the threshold  
5 for candidacy under the Act.<sup>4</sup>

6 Harris states that the cited articles show that he was simply considering a run, he had not  
7 hired a political consultant, and he had not raised or spent in excess of \$5,000.<sup>5</sup> Further, Harris  
8 maintains that he timely registered with the Commission as a candidate on July 5, 2017, after he  
9 determined he would run for Congress.<sup>6</sup>

10 Within fifteen days of becoming a candidate,<sup>7</sup> the candidate must designate a principal  
11 campaign committee by filing a Statement of Candidacy.<sup>8</sup> The principal campaign committee must  
12 then file a Statement of Organization no later than ten days after designation by the candidate.<sup>9</sup>

13 The Complaint offers no information that Harris might have passed the financial threshold for  
14 candidacy, and Harris specifically denies he registered untimely. Further, Harris’s authorized

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 2. *See also* Compl. Exhibits 1-5. For example, in an article by the Charlotte Observer, Harris is quoted as saying he was leaving his church as he “continue[d] to look at undertaking a campaign.” *See* Jane Wester and Tim Funk, *First Baptist’s Mark Harris to Step Aside as he Considers Another Bid for Congress*, CHARLOTTEOBSERVER.COM, July 17, 2017 at <http://www.charlotteobserver.com/news/local/article155588049.html>. Harris also states in a WBT Radio interview that he was “under...uh...taking a look at undertaking a campaign.” But Harris also stated in that interview, that “there’s a lot of swamp draining that needs to be done and I think there needs to be a voice that can be a leader and can speak into the issues of the day and I believe that I’m to be that man” and “Beth [Harris’s wife] and I had determined sometime back that if I ever felt led to make a move and make a decision towards running that we would step aside as leaders at First Baptist.” Bo Thompson, WBT’s Morning News, June 12, 2017, available at <http://www.wbt.com/blogs/wbts-morning-news/pastor-mark-harris-running-congress>.

<sup>5</sup> Resp. at 1 (July 17, 2017).

<sup>6</sup> *Id.* *See also* FEC Form 2, *Statement of Candidacy*, available at [http://docquery.fec.gov/cgi-bin/fecimg?\\_201707059066468894+0](http://docquery.fec.gov/cgi-bin/fecimg?_201707059066468894+0) (July 5, 2017).

<sup>7</sup> 52 U.S.C. § 30101(2); 11 C.F.R. § 100.3.

<sup>8</sup> 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a).

<sup>9</sup> 52 U.S.C. § 30103(a); 11 C.F.R. § 102.1(a).

1 committee, Mark Harris for Congress, filed its 2017 October Quarterly report on October 13, 2017,  
2 and disclosed no financial activity prior to Harris's July 5, 2017, Statement of Candidacy.<sup>10</sup>  
3 Therefore, we recommend that the Commission find no reason to believe that Mark E. Harris  
4 violated 52 U.S.C. § 30101(2) by failing to timely file a Statement of Candidacy with the  
5 Commission, and find no reason to believe that Mark Harris for Congress and Robert D. Lyerly, Jr.  
6 in his official capacity as treasurer violated 52 U.S.C. § 30103(a).

7 **RECOMMENDATIONS**

- 8 1. Find no reason to believe that Mark E. Harris violated 52 U.S.C. § 30101(2);  
9  
10 2. Find no reason to believe that Mark Harris for Congress and Robert D. Lyerly, Jr. in his  
11 official capacity as treasurer violated 52 U.S.C. § 30103(a);  
12  
13 3. Approve the Factual and Legal Analysis;  
14  
15 4. Approve the appropriate letters; and

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<sup>10</sup> FEC Form 3, *Reports of Receipts and Disbursements*, at <http://docquery.fec.gov/cgi-bin/forms/C00649236/1186317/> (filed Oct. 13, 2017).

5. Close the file as to all Respondents.

Lisa J. Stevenson  
Acting General Counsel

Kathleen M. Guith  
Associate General Counsel

10.31.17  
Date

BY: Stephen Gura  
Stephen Gura  
Deputy Associate General Counsel

Jeff S. Jordan by SG  
Jeff S. Jordan  
Assistant General Counsel

Wanda Brown  
Wanda D. Brown  
Attorney

Attachment:  
Factual and Legal Analysis

CONFIDENTIAL

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

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2  
3 RESPONDENTS: Mark E. Harris MUR 7259  
4 Mark Harris for Congress and  
5 Robert D. Lyerly, Jr. as treasurer  
6

7 **I. INTRODUCTION**

8 This matter was generated by a Complaint alleging that Mark E. Harris violated the  
9 Federal Election Campaign Act of 1971, as amended (the "Act"), by failing to timely register  
10 with the Federal Election Commission (the "Commission") as a candidate. The Commission  
11 finds no reason to believe that Mark E. Harris violated 52 U.S.C. § 30101(2) by failing to timely  
12 file a Statement of Candidacy with the Commission, and no reason to believe that Mark Harris  
13 for Congress and Robert D. Lyerly, Jr. in his official capacity as treasurer violated 52 U.S.C.  
14 § 30103(a).

15 **II. FACTUAL AND LEGAL ANALYSIS**

16 The Complaint alleges that Mark E. Harris, 2018 candidate for North Carolina's Ninth  
17 Congressional district, failed to timely register with the Commission as a candidate.<sup>1</sup> According  
18 to the Complaint, Harris became a candidate on or about June 11, 2017 and, therefore, should  
19 have registered with the Commission within 15 days, that is, by June 26, 2017.<sup>2</sup> The Complaint  
20 includes several news articles and the transcript of a radio interview in support of the allegation,  
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<sup>2</sup> *Id.*

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2 \$5,000, the threshold for candidacy under the Act.<sup>3</sup>

3 Harris states that the cited articles show that he was simply considering a run, he had not  
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7 Within fifteen days of becoming a candidate,<sup>6</sup> the candidate must designate a principal  
8 campaign committee by filing a Statement of Candidacy.<sup>7</sup> The principal campaign committee  
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10 candidate.<sup>8</sup>

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12 threshold for candidacy, and Harris specifically denies he registered untimely. Further, Harris's  
13 authorized committee, Mark Harris for Congress, filed its 2017 October Quarterly report on

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<sup>3</sup> *Id.* at 2. See also Compl. Exhibits 1-5. For example, in an article by the Charlotte Observer, Harris is quoted as saying he was leaving his church as he "continue[d] to look at undertaking a campaign." See Jane Wester and Tim Funk, *First Baptist's Mark Harris to Step Aside as he Considers Another Bid for Congress*, CHARLOTTEOBSERVER.COM, July 17, 2017 at <http://www.charlotteobserver.com/news/local/article155588049.html>. Harris also states in a WBT Radio interview that he was "under...uh...taking a look at undertaking a campaign." But Harris also stated in that interview, that "there's a lot of swamp draining that needs to be done and I think there needs to be a voice that can be a leader and can speak into the issues of the day and I believe that I'm to be that man" and "Beth [Harris's wife] and I had determined sometime back that if I ever felt led to make a move and make a decision towards running that we would step aside as leaders at First Baptist." Bo Thompson, *WBT's Morning News*, June 12, 2017, available at <http://www.wbt.com/blogs/wbts-morning-news/pastor-mark-harris-running-congress>.

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2 Candidacy.<sup>9</sup> Therefore, the Commission finds no reason to believe that Mark E. Harris and  
3 Mark Harris for Congress and Robert D. Lyerly, Jr. in his official capacity as treasurer violated  
4 52 U.S.C. § 30101(2) by failing to timely file a Statement of Candidacy with the Commission,  
5 and finds no reason to believe that Mark Harris for Congress and Robert D. Lyerly, Jr. in his  
6 official capacity as treasurer violated 52 U.S.C. § 30103(a).

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<sup>9</sup> FEC Form 3, *Reports of Receipts and Disbursements*, at <http://docquery.fec.gov/cgi-bin/forms/C00649236/1186317/> (filed Oct. 13, 2017).