

Fishman For Congress

Common sense requires common people

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11/28/2012
Beverly, MA

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

MUR # 6703

OFFICE OF GENERAL
COUNSEL

2012 DEC -5 PM 1:40

FEDERAL ELECTION
COMMISSION

To whom it may concern. This is an amended complaint, filed after receiving a notice from Ruth Heilizer that my previous complaint was not legally sufficient because the notary did not represent that the swearing had occurred. I have included with this complaint a copy of the letter I received from Ms. Heilizer. You should have my previous complaint on file, but this complaint supersedes it.

WCVB, Channel 5 in Boston hosted a debate on 10/24/2012 that I believe to be in violation of 11 CFR 110.13 - The section of the Code of Federal Regulations covering Candidate debates.

I received this email from WCVB on 10/11/12 at 3:43pm

Dear 6th Congressional Candidates:

On Thursday, October 25th at 10 AM WCVB's "On The Record" will host a half hour debate for the 6th Congressional District.

Here are the criteria for participation. A candidate must fulfill all these requirements to participate.

- *Campaign Staff of at least three*
- *Daily campaign schedule*
- *Regular communication with news media*
- *Campaign contributions of at least \$50,000.*
- *Showing of at least 10% in two of the latest independent polls*

NewsCenter 5's Ed Harding and Janet Wu will moderate the debate. Candidates will have up to a minute to answer questions. Rebuttal time will be at the discretion of the moderator. There are no opening or closing statements. There will be an opportunity for candidates to ask one question of

each other.

Candidates are asked to arrive at 9:45 AM. Our studio is at 5 TV Place, Needham.

We do not provide make up. If you are bringing your own make up artist, please let me know in advance so I can reserve a room.

Yours truly:

Rosemary Lappin
rlappin@hearst.com

In section C of CFR 110.13 it says :

For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate

I do not believe that two weeks notice constitutes pre-established criteria and the requirements seem tailor made to exclude my campaign, which makes them not objective.

At the time of WCVB's letter, there had not been two independent polls indicating my support at less than 10%, so the criteria was impossible to achieve. At that date there had not been two polls indicating my support was less than 10%. Internal polling indicated my support level was over 10%. There were polls that excluded me as an option, but those are not an indication of my support or lack of support, since every poll that excluded me showed well over 30% of the voters undecided.

The \$50,000 donation requirement seems self-serving, and not objective. I appreciate that WCVB charges a great deal for advertizing and is concerned that candidates who have not raised \$50,000 cannot afford to buy ads from them. My campaign is not less legitimate for not reaching their arbitrary criteria however. There is no evidence that \$50,000 is a number that indicates a competitive campaign. I was a candidate in the eyes of the FEC having raised and spent over \$5000 as of the date of the debate, and have filed campaign finance disclosures. My FEC Candidate ID is H2MA06078

With modern citizen based journalism, Social Media and Youtube, the opinion that a campaign MUST raise cash above and beyond the FEC's requirements for official candidacy status is not objective. Well prior to WCVB creating their debate criteria, I was on public record saying that I wanted to run a campaign based more on volunteers spending their

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money directly than on the campaign collecting money in a central account. Statements of my intent to refuse all corporate donations are also well document in the press long before WCVB created this financial requirement, which seems designed to explicitly exclude my campaign. This made it particularly easy for them to pick a criteria my campaign had announced it was unwilling to meet.

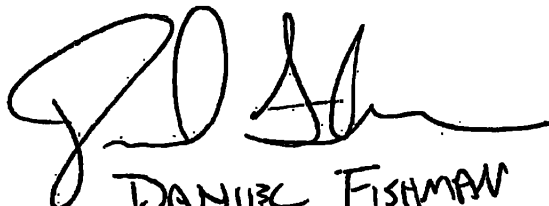
It should be pointed out that had I wished to, I could have contributed \$50,000 to my campaign, but I saw that as a betrayal of the principles I was running on.

Finally, the "regular communication" with the news media is such a vague description that it lends itself to being used in a discriminatory manner. My campaign issued regular press releases, sat down with editors of the major papers of my district, and conducted numerous televised interviews. I also participated in a televised debate with Republican Richard Tisei on the local Fox affiliate (Fox 25) prior to the WCVB debate, and in a debate with Congressman John Tierney at the Mass Senior Action council. I also participated 3 debates with both candidates, each attended by hundreds of people.

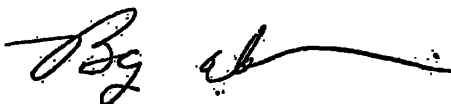
Although the debate is now passed, I envision this being an issue in my 2014 campaign and am seeking redress to prevent future harm, and the FEC can grant me relief.


I think this case is very similar to **La Botz vs. the FEC** and would ask the FEC bear it in mind when reviewing this complaint.

Complainant: Daniel Fishman, 36 Colgate Rd, Beverly MA
Respondent: WCVB-TV 5 TV Place Needham, Massachusetts 02494


DANIEL FISHMAN
12/4/12

Subscribed and sworn to before me on this 4th day of
December, 2012



 BARRY DiBURRO
Notary Public
Commonwealth of Massachusetts
My Commission Expires
November 29, 2014

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