



Federal Election Commission
Washington, DC 20463

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SENSITIVE

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman
Director, ADR Office

BY: Lynn M. Fraser
Assistant Director, ADR Office

SUBJECT: Recommendation to Close the File on ADR 231

DATE: February 10, 2004

On January 26, 2005, the ADR Office ("ADRO") received this matter from OGC/CELA to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 231 is inappropriate for ADR and recommend that the case be closed. Following the procedures approved by the Commission on March 3, 2003, this matter will be closed by ADRO if the Commission approves the recommendation in this memorandum. The Office of General Counsel ("OGC") concurs in the description of this matter and also concurs that it will not be returned to OGC for further action.

ADR 231/MUR 5500: Complainant alleges that he received a mailing from Walker for Congress ("Committee") that failed to have a disclaimer. The Committee contends the allegations are false and point to the disclaimer printed in the top left-hand corner of the mailer which states "Paid for by Walker for Congress, 201 S. Mechanic St., Jackson, MI 49201." The disclaimer, as described by the Committee is on the communication, however, not of the specifications required in the statute and regulations.

ADR Director's Recommendation: We recommend that the Commission take no further action on ADR 231/MUR 5500, that the file be closed and the appropriate letters sent.

ADR CASE ANALYSIS REPORT

ADR Case: 231

Respondents:
Walker for Congress
Pat Cox, Treasurer

MUR: 5500

OGC Case Open Date: 8/02/2004

Respondents' Rep.: Pat Cox

Date Forwarded to ADRO: 1/26/2005

Committee Name: Walker for Congress

Date Reviewed by ADRO: 2/8/05

Committee Type: Authorized

District #/or State: MI 7th C.D.

Election - Won/Lost: Lost Primary

Election Cycle: 2004

Complainant: Curtis Herman

Summary of Complaint: Complainant alleges that he received a mailing from Walker for Congress and Pat Cox, Treasurer ("Respondents" or the "Committee") that failed to have a disclaimer.

Violations Alleged: 2 U.S.C. § 441d, 11 C.F.R. § 110.11

Respondents' Reply: Respondents contend the allegations are false and point out the disclaimer printed in the top left-hand corner of the mailer which states "Paid for by Walker for Congress, 201 S. Mechanic St., Jackson, MI 49201." In addition, there was only one printing of this brochure.

Issues:

- Disclaimers on publications expressly advocating the election or defeat of a clearly identified candidate 2 U.S.C. §§ 441d(c)(1), 441d(c)(2), 441d(c)(3), 11 C.F.R. §§ 110.11(c)(2)(i), 110.11(c)(2)(ii), 110.11(c)(2)(iii)

Analysis: The statute and regulations clearly require disclaimers on campaign advertising to disclose who paid for the advertisement and if the candidate authorized the message. The section stating the law on printed political disclaimers changed in 2002 to add specifications as to size, color contrast and the requirement that the disclaimer be set apart in a box. Respondents' statement that the mailing had a disclaimer that said "Paid for by Walker for Congress, 201 S. Mechanic St., Jackson, MI 49201" is correct. The violation is, however, that the text is very small (appears to be approximately eight (8)-point), with virtually no contrast between the text of the disclaimer and the patterned background, and not contained within a box to set it apart. Although the mailer has the committee's address in several other places on the document, as well as its website address, the disclaimer does not comply with the specifications of the law. The violation is *di minimis*, and, therefore, the file should be closed with an admonishment and no further Commission resources expended.

ADR Director's Recommendation: DISMISS

25-19-026-025