




FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 7, 2003

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman 
Director, ADR Office

SUBJ: Case for ADR Activation

On June 6, 2003 the ADR Office received from OGC MUR 5312 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 130**, is appropriate for ADR and recommend that it be assigned to the ADR Office

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 130**. The Report includes an analysis of the case and a description of the issues that the ADR Office anticipates addressing if the case is assigned to ADR. In addition, the Report has been reviewed by OGC, which concurs in the description of the case.

ADR 130/MUR 5312: The complaint alleges that the Washtenaw County Democratic Party (WCDP) should have registered when it expended \$3,667 during calendar year 2000 on behalf of Gore/Lieberman, Byrum for Congress, Rivers for Congress and Stabenow for U.S. Senate. The Party also is alleged to have spent \$2,000 for campaign office rent and \$8,295 for various campaign related GOTV activities. Respondent WCDP, an unregistered local party committee, acknowledged the expenditures, which it argued were in part "exempt federal expenditures" that need not be reported. Respondents Byrum for Congress and Rivers for Congress both acknowledged receiving and reporting the subject contributions. Respondent Stabenow argued that they had no reason to know of the disbursement until the complaint was received and contend, as did the latter three respondents, that the matter should be dismissed.

Recommendation: We recommend that **ADR 130/MUR 5312** be assigned to ADR Office for processing

ADR CASE ANALYSIS REPORT

ADR Case: # 130

MUR: 5312

Respondents: Washtenaw Co. Dem. Party
Barbara Ryan Fuller, Treasurer
Byrum for Congress
Hilda Patricia Curran, Treasurer
Rivers for Congress
Stabenow for U.S. Senate
Angela M. Autera, Treasurer
Gore/Lieberman, Inc.
Jose Villarreal, Treasurer

Respondent's Rep: Barbara Ryan Fuller
Marc E. Elias, Esq.
Eric F. Kleinfeld, Esq.
Mary Kay Scullion, Esq.

Committee Type: Local party committee

OGC Case Open Date: 9-27-02

Committee Name: Washtenaw Co. Dem. Party

Date Forwarded to ADRO: 6-6-03

District #/or State: N.A.

Date Reviewed by ADRO: 6-19-03

Election – Won/Lost: N.A.

Election Cycle: 2000

Complainant: Rusty Hills

Summary of Complaint: The complaint, filed on behalf of Michigan Republican State Committee, alleges that the Washtenaw County Democratic Party (WCDP) should have registered when it expended more than \$1,000 "in connection with federal elections" during calendar year 2000. The Party is charged specifically with expending \$3,667 on behalf of Gore/Lieberman, Byrum for Congress, Rivers for Congress and Stabenow for U.S. Senate, as well as making direct contributions of \$500 each to Byrum for Congress and Rivers for Congress. The Party also is alleged to have spent \$2,000 for "campaign office rent" to benefit the entire Democratic ticket" and \$8,295 for various campaign related activities, including literature drops, poll watchers and get-out-the-vote efforts, and materials that "benefited federal candidates".

Alleged Violations: 2 U.S.C. §§ 431(4) and 433(a) and 11 C.F.R. §§ 102.1(d) and 100.5(c)

Respondents' Replies: Respondent WCDP, an unregistered local (MI) party committee, reported that the \$3,667 expenditures, cited in its finance reports filed with the Michigan Department of State, were, in part, "exempt federal expenditures", that the office rent was an administrative expense exempt from the definition of contribution and expenditure that need not be reported and that the \$8,295 also was exempt from reporting. These disbursements were listed as "exempt federal expenditures" in WCDP's report filed with the State and did not constitute, WCDP argued, contributions or expenditures under the Act. Respondent Byrum for Congress acknowledged receiving and reporting a \$500 contribution

from the WCDP and requested that no further action be taken against it. Respondent Rivers for Congress acknowledged receiving the \$500 contribution and requested that the Commission dismiss the matter and close the file as pertains to River for Congress. Respondent Stabenow for U S. Senate argued that they did not know about the disbursements until the complaint was received and had no reason to know of them. They further argued that there is no cause to believe that they committed any violation of the Act and assert that the complaint be dismissed. Respondent Gore/Lieberman, Inc. stated that there is nothing to implicate them in any wrongdoing and argue that the matter be dismissed.

Analysis: The Regulations exempt certain contributions and expenditures by state and local party committees, though benefiting federal candidates, from the definition of contribution or expenditure. The purchase of certain campaign materials (such as pins, bumper stickers, handbills, brochures, posters, etc.) in support of party candidates are not considered "contributions". Likewise, payment for the cost of voter registration and get-out-the-vote activities for the presidential and vice presidential nominees of the party are excluded from the definition of "expenditure". If certain specified conditions are met, there is no limit on the amount of funds such committees can contribute or expend on such activities. If the cost of these exempt expenditures do not exceed, in the aggregate, \$5,000 WCDP would not be obliged to register as a political committee.

Issues: Definition of contributions and expenditures relative to political committees to report obligation. 2 U.S.C §§ 431(8)(B)(x) and (xii) and 11 C.F.R. §§ 100.7(b)(15) and (17). Definition of political committees 2 U.S.C. § 431(4)(C) and 11 C.F.R. § 100.5(c). Registration and reporting requirement of political committees. 2 U.S.C. §§ 433 and 434(a)(1). 11 C.F.R. §§102.1 and 104.1(a)

Related FEC Experience/Guidance: Relevant guidance is provided in AO 1980-87, which notes that exempt activities by political committees do not cause a party committee to become a political committee under the terms of the Act if those costs do not exceed in the aggregate \$5,000 in a calendar year.

Recommendation: Assign to ADR