



Federal Election Commission
Washington, DC 20463

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COMMISSION

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 139**

DATE: October 30, 2003

In accordance with the revisions to the ADR program procedures approved by the Commission on March 3, 2003, **ADR 139/MUR 5269** is attached for the Commission's review. The case was forwarded to the ADR Office (ADRO) by OGC on September 12, 2003 to review and determine its appropriateness for ADR processing. Following the new ADR procedures referenced above, 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 139/MUR 5269: Complainant alleges that Respondents Emily's List and Ellen Malcolm, Treasurer made excessive in-kind contributions to Respondents Friends of Margaret Workman and Albert V. Mays, Jr., Treasurer by paying for television advertisements that were made "under the guise of an independent expenditure." Complainant argued that the complaint of coordination between Respondents is based on fundraising letters sent by Emily's List on behalf of Friends for Margaret Workman.

Respondents Friends of Margaret Workman, and Albert V. Mays, Jr., Treasurer contend that the campaign committee did not coordinate any advertisements with Emily's List and had no knowledge of the advertisements until they aired. Friends of Margaret Workman also contend that all contributions raised by Emily's List, or made by Emily's List, were reported.

Respondents Emily's List and Ellen Malcolm, Treasurer contend that the relevant ads were advocating on issues of "working people." They further argued that the ads contained no express advocacy and there was no in-kind contribution because there was no coordination.

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Attached for the Commission's review is the ADR *Case Analysis Report* (CAR) on **ADR 139**, along with copies of the EPS Rating and ADR Rating reports.

Recommendation: We recommend that **ADR 139/MUR 5269** be closed and the appropriate letters sent.

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