




FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 30, 2003

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman 
Director, ADR Office

SUBJ: Case for ADR Activation

On September 12, 2003 the ADR Office received from OGC MUR 5323 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 140**, 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 (CAR)* on **ADR 140** along with copies of the EPS Rating and ADR Rating reports. The CAR 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 CAR has been reviewed by OGC, which concurs in the description of the case.

ADR 140/MUR 5323: The complaint alleges that Respondents failed to include a disclaimer on a highway sign promoting Rehberg for Congress. The complaint is similar to an earlier one (MUR 5124) filed by the same complainant against the same Respondents. Respondents acknowledged that the highway sign lacked the required disclaimer, which they attributed to a volunteer selecting the sign from the wrong stack. The earlier case was concluded with a RTB finding and the sending of a letter of admonishment.

Recommendation: We recommend that **ADR 140/MUR 5323** be assigned to ADR Office for processing

ADR CASE ANALYSIS REPORT

ADR Case # 140

Respondents: Rehberg for Congress
Lorna Kuney, Treasurer

MUR: 5323

Respondents' Rep: Lorna Kuney

Committee Types: Candidate Authorized Comm.

OGC Case Open Date: 10-24-02

Committees' Name: Rehberg for Congress

Date Forwarded to ADRO: 9-12-03

Date Reviewed ADRO: 9-22-03

District #/or State: MT, At Large C.D.

Election Cycle: 2002

Complainant: Phillip A. Miller

Summary of Complaint: Complaint alleges that the Rehberg for Congress Committee failed to include a disclaimer indicating the identity of the person/s who paid for and authorized a highway sign promoting the Respondent's candidacy. The complainant filed a similar complaint (MUR 5124) in October 2000 against the same Respondent. In the latter matter, the Commission on January 11, 2002 found RTB, took no further action, sent an admonishment letter and closed the file.

Alleged Violations: 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a)(1)(i).

Respondents' Replies: Respondents acknowledged that the subject highway sign lacked the required disclaimer, which they attributed to a campaign volunteer who took a sign from a stack of signs without a disclaimer. Respondents claim that they distributed nearly 1,000 highway signs and over 5,000 yard signs and that the subject complaint was the only "oversight brought to the Committee's attention."

Analysis: In MUR 5124, the complainant contended that two highway signs promoting the Respondent lacked the required disclaimers. Respondents acknowledged that the signs did not originally bear a disclaimer but asserted that before each sign was installed disclaimers were affixed to the signs. In that case (i.e., MUR 5124), Respondents speculated that unauthorized third parties removed the disclaimer statement on one sign.

Citing a related case, i.e., MUR 4920, the Commission noted the Respondents' obligation to replace the removed disclaimer effective not later than when they received notice of the problem. Noting that the Respondents did not claim that they corrected either or both of the subject signs after receiving the complaint, the Commission found reason to believe that Respondents violated 2 U.S.C. § 441d(a).

Issues: Placement of disclaimer – 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a)(1)(i)

Related FEC Experience/Guidance: Two MURs, i.e., 5124 and 4920, provide guidance for the resolution of the subject case.

Potential Terms of Settlement: 1

Recommendation: Assign to ADR X