




FEDERAL ELECTION COMMISSION  
Washington, DC 20463

June 10, 2004

**MEMORANDUM**

TO: The Commission

THROUGH: James A. Pehrkon  
Staff Director

FROM: Allan D. Silberman,   
Director, ADR Office

SUBJ: Case for ADR Activation

On March 25, 2004, the ADR Office received from OGC a complaint to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 170**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

**ADR 170/MUR 5436:** The complaint contends that Respondents – Risley for Congress, Mark Risley and Jan Risley, Treasurer – failed to file the pre-primary report due twelve days prior to the election, a violation of 2 U.S.C. § 434(a)(2)(A). In addition, the complaint alleges that advertisements in the local press did not carry the required disclaimer – a violation of 2 U.S.C. § 441(d) -- and that Respondents failed to file reports of their receipts and disbursements and 48 hour Notices, violations of 2 U.S.C. §§ 434(a)(1) and 434(a)(6). Respondents contend that the pre-primary report was filed on time and that after working with RAD they corrected and subsequently filed the corrected report. Respondents failed to respond to the other two matters.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 170** along with copies of the EPS Rating and ADR Rating Sheets. The *Case Analysis Report* includes an analysis of the case and a description of the issues that the ADR Office (ADRO) 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.

**Recommendation:** We recommend that **ADR 170/MUR 5436** be assigned to ADR Office for processing.

## ADR CASE ANALYSIS REPORT

ADR Case # 170

MUR: 5436

OGC Case Open Date: 3-16-04

Date Forwarded to ADRO: 5-25-04

Date Reviewed by ADRO: 6-4-04

Respondents: Risley for Congress

Mark Risley

Jan Risley, Treasurer

Respondents Rep: Jan Risley

Committee Type: Authorized

Committees' Name: Risley for Congress

District #/or State: 17<sup>th</sup> C.D. CA

Election Cycle: 2004

Complainant: Martha Norton

**Summary of Matter:** Complainant contends that Respondents failed to file the required pre-primary report due twelve days prior to the election, covering activity through the 20<sup>th</sup> day before the election. The California primary election, in which the Respondent was seeking election, was March 2, 2004. The subject report was due on or before February 19, 2004. At the time of the filing of the complaint Respondents had not yet filed the subject report. The complaint also alleges that advertisements in the local press did not carry the required disclaimers. In addition, the complaint argues that Respondents failed to file reports of their receipts and disbursements and the required 48 hour Notices.

**Respondents' Reply:** Respondents contend that the Pre-Primary report was filed on time. (The pre-primary report was filed on 3/9/04 and amended on 3/24/04.) Working with the RAD analyst, Respondents stated that they corrected and subsequently filed the corrected report. Respondents, however, failed to respond to the two other charges, i.e., the lack of a disclaimer and failure to file 48-hour reports.

**Alleged Violations:** 2 U.S.C. §§ 434(a)(1), 434(a)(2), 434(a)(6), 441d(a) and 11 C.F.R. §§ 104.1(a), 104.5(f), and 110.11.

**Issues:**

- Failure to file pre-primary reports – 2 U.S.C. § 434(a)(2)(A) and 11 C.F.R. § 104.5(a)(2)(i).
- Failure to file reports of receipt and disbursements – 2 U.S.C. § 434(a)(1) and 11 C.F.R. § 104.1(a)
- Failure to file 48 Hour Notices – 2 U.S.C. § 434(a)(6) and 11 C.F.R. § 104.5(f)
- Lack of disclaimers on advertisements – 2 U.S.C. § 441(d) and 11 C.F.R. § 110.11

**Analysis:** The instructions for filing the pre-primary report and another of expenditures and receipts are explicit, as are the instructions regarding the filing of the 48-hour notices. Similar instructions are provided to guide committees in addressing the disclaimer requirement. Respondents' incomplete reply to the complaint and their misunderstanding of the requirement to file reports timely speaks of their inexperience in meeting the requirements of the Commission and FECA, as well as their failure to appreciate a treasurer's responsibility for filing reports.

**Related FEC Experience/Guidance:** The Commission's campaign guides along with numerous MUR's address the responsibilities of campaign committees to file reports including the pre-primary and 48 Hour Notice requirements. The instructions include notice that contributions of \$1,000 or more received less than twenty days but more than forty-eight hours before the election must be reported within 48 hour of receipt of the contribution. In addition, similar explicit instructions are provided to guide committees in preparing and placing disclaimers on campaign related advertising advocating the Respondent's election.

**Recommendation:** Assign to ADR X