



FEDERAL ELECTION
COMMISSION
SECRETARIAT

2004 NOV 23 A 10: 06

Federal Election Commission
Washington, DC 20463

MEMORANDUM

SENSITIVE

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: Case for ADR Activation

DATE: November 22, 2004

On September 30, 2004, the ADR Office received from OGC/CELA the following case to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 197/MUR 5434, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 197/MUR 5434: The complaint alleges that LeSueur for Congress and Edie D. Ingrum, Treasurer (collectively "Respondents") began running television advertisements on or about January 7, 2004 in the Jackson, Mississippi metropolitan viewing area without stating who authorized and paid for the advertisements. The Complainant contends Respondents violated the FECA because they failed to comply with revisions in the FECA effective November 2002 regarding disclaimers on advertisements advocating the election or defeat of a clearly identified candidate. Specifically, televised communications authorized by the candidate, in addition to indicating who paid for the communication, require that there is an audio statement by the candidate that identifies the candidate and states that the candidate approved the communication. The statement must be conveyed by an unobscured, full-screen view of the candidate making the statement or the candidate, in a voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate, and shall also appear in writing at the end of the communication in a clearly readable manner for a period of at least four (4) seconds.

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In reply to the complaint, Respondents thanked the Commission for pointing out the new requirements for disclaimers in radio and television communications authorized by the candidate. Respondents stated that all future public communications would have the required disclaimer.

Attached for the Commission's review is the *ADR Case Analysis Report* on ADR 197, along with copies of the EPS Rating and ADR Rating reports. The *ADR Case Analysis 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 *ADR Case Analysis Report* has been reviewed by OGC, which concurs in the description of the case.

ADR Director's Recommendation: We recommend that ADR 197/MUR 5434 be assigned to the ADR Office for processing.

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ADR CASE ANALYSIS REPORT

ADR Case: 197

Respondents:

LeSueur for Congress 04
Edie D. Ingram, Treasurer

MUR: 5434

Respondents' Rep.: Edie D. Ingram

OGC Case Open Date: 3/15/04

Committee Name: LeSueur for Congress 04

Date Forwarded to ADRO: 9/30/04

Committee Type: Authorized

Date Reviewed by ADRO: 10/18/04

District #/or State: MS 2nd C.D.

Election - Won/Lost: Won Primary

Election Cycle: 2004

Complainant: Hon. Bennie Thompson

Summary of Complaint: The complaint alleges that LeSueur for Congress and Edie D. Ingram, Treasurer (collectively "Respondents") began running television ads on or about January 7, 2004 in the Jackson metropolitan viewing area without the proper disclaimer. The complaint specifically alleges these advertisements violate the FECA because they did not contain an oral disclaimer spoken by the candidate as required for television or radio advertisements.

Violations Alleged: 2 U.S.C. § 441d(d)(1)(B), 11 C.F.R. § 110.11(c)(3)

Respondent's Reply: Respondents stated that in the future all television advertisements will contain the proper disclaimer as required by the new requirements for radio and television communications.

Issues:

- Disclaimers for television advertisements 2 U.S.C. § 441d(d)(1)(B), 11 C.F.R. § 110.11(c)(3)

Related FEC Experience/Guidance: The ADRO was unable to locate any AOs or resolved enforcement matters that deal specifically with the new requirements that disclaimers on television advertisements have the disclaimer in the candidate's own voice.

Analysis: The statutory language is quite detailed on this new requirement for disclaimers on radio and television campaign advertisements. When combined with the regulations relevant to the issue, the requirements for a candidate's advertisements on television are clear. The

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Respondents do not dispute that their television advertisements failed to carry the oral disclaimer in the candidate's voice. They did state that future television advertisements would carry the proper disclaimer as required.

ADR Director's Recommendation: Assign to ADRO

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