



Federal Election Commission
Washington, DC 20463

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 206**

DATE: December 20, 2004

On October 29, 2004, the ADR Office ("ADRO") received this matter from OGC/CELA to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 206** is inappropriate for ADR and recommend that the case be closed. Following the procedures approved by the Commission on March 3, 2003, 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 206/MUR 5462: The complaint alleges that candidate Steven Fulop failed to file his Statement of Candidacy designating a principal campaign committee within fifteen (15) days of receiving or disbursing \$5,000 as required by statute. In addition, the complaint alleges that the Reform Democratic Organization of Jersey City made in-kind contributions to Fulop that were not reported as required. Candidate Fulop contends that he did, in fact, file the Statement of Candidacy designating Steven Fulop for Congress, Inc. as his principal campaign committee and Dave Lankelevich as Treasurer within the time mandated by the FECA, after meeting the threshold of \$5,000 in contributions or expenditures on May 20, 2004. He further contends that he filed the Statement of Organization at the same time. The Reform Democratic Organization of Jersey City stated that it made no in-kind contributions to Fulop as the signs posted stated to support "the Cunningham Team" or "the Column B Democratic Team" which was comprised of over 400 candidates for a variety of offices.

Attached for the Commission's review is the ADR *Case Analysis Report* (CAR) on **ADR 206**, along with copies of the EPS Rating and ADR Rating reports.

ADR Director's Recommendation: We recommend that the Commission take no further action on **ADR 206/MUR 5462**, that the file be closed and the appropriate letters sent

ADR CASE ANALYSIS REPORT

ADR Case: 206

MUR: 5462

OGC Case Open Date: 6/7/04

Date Forwarded to ADRO: 10/29/04

Date Reviewed by ADRO: 11/15/04

Respondents:

1. Steven Fulop For Congress, Inc.
Dave Lankelevich, Treasurer
2. Reform Democratic Committee
Edward Santiago, Treasurer

Respondents' Reps.:

1. Steven R. Newmark, Esq.
2. Elnardo J. Webster II, Esq.

Committee Name:

1. Steven Fulop For Congress, Inc.
2. Reform Democratic Committee

Committee Type:

1. Authorized
2. County Political Committee

District #/or State:

1. NJ 13th C.D.
2. Hudson County, NJ

Election - Won/Lost:

1. Lost
2. N/A

Election Cycle: 2004

Complainant: Nicholas Chiaravalloti

Summary of Complaint: Complainant alleges that candidate Steven Fulop failed to file a Statement of Candidacy with the Commission designating his principal campaign committee within fifteen days of receiving or disbursing \$5,000 as required by the FECA. Complainant argues that long before Steven Fulop For Congress, Inc. and Dave Lankelevich, Treasurer ("Fulop Respondents") were registered with the FEC, the candidate participated in press conferences about his candidacy. In support of the allegations, the Complainant attaches an April 13, 2004 news article discussing the ticket of candidates fielded by the Respondent Reform Democratic Organization of Jersey City ("RDOJC") that included Steven Fulop, and pictures reflecting people wearing t-shirts in support of the Fulop candidacy taken at an early political event. In addition, the complaint alleges that Fulop Respondents said in a June press conference that he raised \$50,000. The complaint also argues that the RDOJC made unreported in-kind contributions to the Fulop Respondents because they printed and posted signs that encouraged the public to "Vote for the Reform Democratic Committee Candidates."

Violations Alleged: 2 U.S.C. §§ 432(e)(1), 433(a), 434(a)(1) and 11 C.F.R. §§ 101.1, 102.1, 102.12, 104.3(a)

Respondents' Reply: The Fulop Respondents contend that they did not meet the threshold of \$5,000 in contributions or expenditures until May 20, 2004, and thus were not required to file as a candidate until that time. They further contend that a Statement of Candidacy and the Statement of Organization were posted certified mail on June 3, 2004. In response to the press conference reported on June 4, 2004, candidate Fulop contended he said he "hoped" to raise \$50,000, and not that he had raised \$50,000.

The RDOJC contends that they never printed or distributed signs in support of the Fulop Respondents. They state that the signs paid for by the RDOJC specifically state to support "the Cunningham Team" or "the Column B Democratic Team" which comprised over 400 candidates running for everything from local office to federal office.

Issues:

- Filing designation of principal campaign committee 2 U.S.C. § 432(e)(1), 11 C.F.R. §§ 101.1, 102.12
- Filing Statement of Organization 2 U.S.C. § 433(a), 11 C.F.R. § 102.1
- Reporting contributions 2 U.S.C. § 434(a)(1), 11 C.F.R. 104.3(a)

Analysis: The statute is quite clear on the time-line for filing the designation of political committee and statement of organization. The implementing regulations provide definitions, forms the committees must use to file, and the threshold amounts that trigger filing requirements. The statute and regulations are also clear on the timing and information required for other reports. In this case, there is no evidence that the Fulop Respondents received contributions or made disbursements in excess of the \$5,000 threshold prior to May 20, 2004. Thus the filing of the statement of candidacy with the designation of the primary political committee and statement of organization by certified mail on June 3, 2004 was timely. The media report of June 4, 2004 is not evidence that the candidate said he *raised* \$50,000, or that the Fulop Respondents violated the FECA. A copy of the news article is only indicative of what the reporter thought he heard during a press conference.

In reviewing the posters/campaign signs paid for by the RDOJC, there is no indication the signs provided an in-kind contribution to the Fulop Respondents. The pictures of the campaign signs say "Elect the Column B Democratic Team and Vote for Reform Democratic Committee Candidates." There is no mention of Fulop on the signs. Section 100.80 of the implementing regulations state that the payment by a state or local committee of the costs of a slate card or sample ballot is not a contribution. The RDOJC indicates there were approximately 400 local, regional, county, state and federal candidates on the Column B Democratic Team listed on the ballot.

ADR Director's Recommendation: DISMISS



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SENSITIVE

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