



**Federal Election Commission  
Washington, DC 20463**

December 10, 2004

Michael G. Gaffney, Esq.  
631 St. Charles Avenue  
New Orleans, LA 70130

Re: ADR 208 (MUR 5531)

Dear Mr. Gaffney:

On September 20, 2004, the Federal Election Commission ("Commission") notified Philip L. Capitano, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with the notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Respondent. In the memo to the Commission with the recommendation to close the file, dated December 1, 2004, this office stated:

The complaint alleges that Philip Capitano ("Respondent"), Republican candidate for Mayor of the City of Kenner, Louisiana, funded two communications that expressly advocate the election of federal candidates but failed to report independent expenditures to the FEC as required. The mailings failed to display adequate information about who authorized and/or paid for the advertisements. The Complainant subsequently requested that his complaint be withdrawn. Respondent contends that his intent was promoting his own election to Mayor of Kenner and did not intend to promote federal candidates.

Accordingly, the Commission closed its file in this matter on December 8, 2004.

The FEC is obligated by federal regulations to make a finding to terminate its proceedings public, as well as the basis therefore. 11 C.F.R. § 111.20(b). In addition, the Commission will also place on the record copies of the complaint, correspondence exchanged between Respondent and this office, and reports prepared for the Commission by this office to assist in its consideration of this matter. Accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

If you have any questions regarding this matter please be in touch. My telephone number is 202-694-1665.

Sincerely,

Lynn M. Fraser  
Assistant Director, ADR Office