



Federal Election Commission
Washington, DC 20463

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

December 10, 2004

Nick A. Congemi, Chief of Police
20 Normandy Drive
Kenner, LA 70065

Re: ADR 208 (MUR 5531)

Dear Chief Congemi:

On September 13, 2004, the Federal Election Commission ("Commission") received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Respondent, Philip L. Capitano. In its memorandum to the Commission, 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 The Complainant subsequently requested that his complaint be withdrawn.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.

FEDERAL ELECTION COMMISSION, ALTERNATIVE DISPUTE RESOLUTION OFFICE
999 E STREET N.W., WASHINGTON, DC 20463
TELEPHONE: 202.694.1670 FAX: 202.219.0613

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lynn M. Fraser
Assistant Director, ADR Office