



Federal Election Commission
Washington, DC 20463

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2005 APR 15 A 10:39

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: Case for ADR Activation

DATE: April 13, 2005

SENSITIVE

On February 3, 2005 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 240/MUR 5608, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 240/MUR 5608: The complaint alleges that Respondents LeSueur for Congress and Edie Ingram, Treasurer (the "Committee") had at least two billboards along highways near Greenville, Mississippi that did not have disclaimers on them as required by the FECA. The Committee replied that they contracted with Lamar Outdoor Advertising and Lamar Advertising ("Lamar Respondents") for the billboards, and it was their oversight and not the Committee's. The Lamar Respondents contend that the Committee approved the final art product and never referred to the need for a disclaimer, however, once it was brought to the Lamar Respondents' attention, a disclaimer was added to the billboards.

Attached for the Commission's review is the *ADR Case Analysis Report* on ADR 240, 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 240/MUR 5608 be assigned to the ADR Office for processing.

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ADR CASE ANALYSIS REPORT

ADR Case: 240

MUR: 5608

OGC Case Open Date:

Date Forwarded to ADRO: 2/3/05

Date Reviewed by ADRO: 2/14/05

Respondents:

1. LeSueur for Congress 04
1. Edie Ingram, Treasurer
2. Lamar Outdoor Advertising
2. Lamar Advertising Company

Respondents' Rep.:

1. Clinton LeSueur
2. Dennis W. Miller, Esq.

Committee Name: LeSueur for Congress 04

Committee Type: Authorized

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

Election - Won/Lost: General-Lost

Election Cycle: 2004

Complainant: Hon Bennie Thompson

Summary of Complaint: The Complainant alleges that LeSueur for Congress'04 and Edie Ingram, Treasurer ("LeSueur Respondents" or "the Committee") had at least two billboards along highways in the vicinity of Greenville, Mississippi that did not have disclaimers on them.

Violations Alleged: 2 U.S.C. § 441d(a)(1), 11 C.F.R. § 110.11(a)(1)-(2).

Respondents' Reply: The LeSueur Respondents contend that they contracted with Lamar Outdoor Advertising and Lamar Advertising Company (the "Lamar Respondents") for the billboards, and it was merely an oversight by the Lamar Respondents. The Lamar Respondents contend that the Committee provided the communication information and approved the final art product before the contract was paid and the billboards placed. The Lamar Respondents further contend that although the LeSueur Respondents never referred to the need for a disclaimer, the required disclaimer was added by the Lamar Respondents as soon as it was brought to their attention by the Complainant's counsel.

Issues:

- Disclaimers 2 U.S.C. § 441d(a)(1), 11 C.F.R. § 110.11(a)(1)-(2)

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Related FEC Experience/Guidance: The OGC and the ADRO have resolved many matters involving required disclaimers on public communications. In addition, numerous AOs have provided clarification as to the requirements of the FECA.

Analysis: The statute and implementing regulations require that whenever a disbursement is made for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate the communication must clearly state who paid for, and authorized the communication. In a review of the photographs of the billboards in question, as well as the responses and affidavits provided by the LeSueur Respondents and the Lamar Respondents, the billboards, as originally placed, did not have the disclaimers as required by the statute and regulations.

ADR Director's Recommendation: Assign to ADRO

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

Silberman

SENSITIVE

DATE & TIME OF TRANSMITTAL: Friday, April 15, 2005 12:00

BALLOT DEADLINE: Wednesday, April 20, 2005 4:00

COMMISSIONER: MASON, McDONALD, SMITH, THOMAS, TONER, WEINTRAUB

SUBJECT: **Case for ADR Activation ADR 240/MUR 5608
Memorandum from the Director, ADR Office
dated April 13, 2005.**

() I approve the recommendation(s)

() I object to the recommendation(s)

() I am recused from voting.

COMMENTS: _____

DATE: _____

SIGNATURE: _____

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the Commission Secretary. Please return ballot no later than date and time shown above.

FROM THE OFFICE OF THE SECRETARY OF THE COMMISSION

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