

Silberman



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

DATE & TIME OF TRANSMITTAL: Wednesday, July 06, 2005 11:00

BALLOT DEADLINE: Thursday, July 14, 2005 4:00

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

SUBJECT: **ADR 271/MUR 5649 – Taff for Congress and Kimberly S. Stewart, Treasurer. Recommendation to Assign Case Memorandum from the Director, ADR Office dated July 1, 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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THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

FEDERAL ELECTION COMMISSION
SECRETARIAT

2005 JUL -6 A 9:55

MEMORANDUM

July 1, 2005

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: ADR 271 Taff for Congress and Kimberly S. Stewart, Treasurer
Recommendation to Assign Case

SENSITIVE

On June 17, 2005, the ADR Office received MUR 5649 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case is appropriate for ADR and recommend that it be assigned to the ADR Office.

SUMMARY: The complaint alleges that Taff for Congress and Kimberly L. Stewart, Treasurer ("Respondents") paid for a telephone bank during the last days before the Republican Primary Election in the Third Congressional District in Kansas that did not disclose to the recipients of the message who paid for the call. Respondents acknowledge that they failed to indicate in the recorded message who paid for the automated telephone calls.

Attached for the Commission's review is the ADR Case Analysis Report, 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 the Office of General Counsel, which concurs in the description of the case.

RECOMMENDATION:

1. Assign ADR 271/MUR 5649 to the ADR Office.

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ADR CASE ANALYSIS REPORT

ADR Case: 271

MUR: 5649

OGC Case Open Date: 02/18/05

Date Forwarded to ADRO: 6/17/05

Date Reviewed by ADRO: 6/24/05

Respondents:

Taff for Congress

Kimberly L. Stewart, Treasurer

Respondents' Rep.: Kimberly L. Stewart

Committee Name: Taff for Congress

Committee Type: Authorized

District #/or State: 3rd C.D. KA

Election - Won/Lost: Primary/Lost

Election Cycle: 2004

Complainant: Charlyne Rothman

Summary of Complaint: The complaint alleges that Taff for Congress and Kimberly L. Stewart, Treasurer ("Respondents" or the "Committee") paid for a telephone bank during the last days before the Republican Primary Election in the Third Congressional District in Kansas that did not disclose to the recipients of the message who paid for the call. The Complainant alleges that on or about August 2, 2004, recorded messages informed voters in the Third District that President Bush did not endorse the candidacy of Kris Kobach for Congress, and that Kris Kobach did not support President Bush's policies. The complaint included a copy of a newspaper article in which a reporter, quoting a "spokesman," stated that President Bush was not endorsing anyone. The article goes on to state that Respondents' campaign manager acknowledge the mistake of not disclosing who paid for the recorded advertisement.

Respondents' Reply: Respondents acknowledge that they failed to indicate in the recorded message who paid for the automated telephone calls. They contend, however, that they called the Commission numerous times, without indicating what division they spoke with, regarding the "new rules" in an attempt to comply with the statute and regulations. They argued they did not receive clear answers to their questions. In addition, Respondents contend that it was their understanding after speaking with other campaigns, consultants, and national party representatives, that other campaign committees were not putting a "paid for" disclaimer on their automated phone calls.

Issues:

- Disclosure on political advertising 2 U.S.C. § 441d(a), 11 C.F.R. § 110.11(a)(1)

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Recommendation:
Assign to ADRO