



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

FEDERAL ELECTION
COMMISSION
SECRETARIAT

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SENSITIVE

MEMORANDUM

October 10, 2006

TO: The Commission

THROUGH: Patrina M. Clark
Staff Director

FROM: Lynn M. Fraser, Acting Director
Alternative Dispute Resolution Office

SUBJECT: ADR 348 Marty Schwimmer Congressional Campaign and
Marty Schwimmer, Treasurer, Recommendation to Dismiss

On September 8, 2006, the ADR Office received MUR 5756 from the Office of General Counsel ("OGC") to review and determine its appropriateness for ADR processing. Based on that review, we recommend that it be closed. Following the procedures approved by the Commission on March 3, 2003, this matter will be closed by the ADR Office if the Commission approves the recommendation in this Memorandum. OGC concurs in the description of this matter, and that it not be returned to OGC for further action.

ADR Case: ADR 348

Source No.: MUR 5756

Respondents:
Marty Schwimmer Congressional
Campaign
Marty Schwimmer, Treasurer

Respondents' Rep.:
Marty Schwimmer

Complainant: Timothy O'Bayley

Committee Name: Marty Schwimmer
Congressional Campaign

Date Complaint Filed: 5/30/2006

Committee Type: Authorized

Date Forwarded to ADRO: 9/8/06

District #/or State: CA 45th C.D.

Election - Won/Lost: Lost Primary

Election Cycle: 2006

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Summary of Complaint: Complainant, Timothy O'Bayley, alleges that the Marty Schwimmer Congressional Campaign and Marty Schwimmer, Treasurer, ("Respondents" or the "Committee") failed to file a Pre-Election Report, and also distributed public communications without appropriate disclaimers and without the appropriate inquiries to contributors. Complainant alleges that Respondents failed to file a timely 2006 Pre-Primary Report. The complaint goes on to state the Primary election was scheduled for June 6, 2006, and thus, the first report should have been filed by May 25, 2006. The Complainant also alleges that Respondents may be utilizing unreported personal funds from the Candidate. The complaint goes on to allege that campaign communications distributed by Respondents do not contain a proper disclaimer, and that the Committee, when soliciting contributions on a website, did not request required information from contributors.

Respondents' Reply: Respondents contend that they did in fact file a timely 2006 Pre-Primary Report. The report was filed on May 24, 2006. As to the Committee's website and newspaper advertisement, Respondents argue that the allegations are too vague to respond to.

RECOMMENDATION:

- 1. Dismiss ADR 348 (MUR 5756), and close the file.**
- 2. Approve the appropriate letters.**

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