



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

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SENSITIVE

MEMORANDUM

January 11, 2007

TO: The Commission

THROUGH: Patrina M. Clark *mc*
Staff Director

FROM: Deborah Kant *DK*
Director, ADR Office

BY: Lynn M. Fraser *LF*
Assistant Director, ADR Office

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

On October 31, 2006, the ADR Office received MUR 5763 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 361

Source No. MUR 5763

Respondents:

Marty Schwimmer Congressional Campaign
Marty Schwimmer

Respondents' Rep.:

Marty Schwimmer

Complainant:

Roth for Congress

Committee Name:

Marty Schwimmer Congressional Campaign

Date Complaint Filed: 6/1/06

Committee Type: Authorized

Date Forwarded to ADRO: 10/31/06

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

Election - Won/Lost: Primary, Lost

Election Cycle: 2006

ADR 361 (MUR 5763)

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Summary of Complaint: Complainant alleged that Marty Schwimmer Congressional Campaign and Marty Schwimmer, Treasurer ("Respondents" or the "Committee") failed to disclose financial activity prior to the Primary Election scheduled for June 6, 2006 in California, although it appeared to the Complainant that Respondents may have spent as much as \$50,000. The complaint specifies that as of one week prior to the Primary Election, no reports had been filed with the FEC, and additionally, the Committee failed to file electronically and failed to file 48-Hour Notices for last minute contributions. The complaint also refers to a complaint filed by another individual (ADR 348/MUR 5756) with similar allegations of the Committee's nondisclosure of financial activity, and requests that the instant matter incorporate those allegations.

Respondents' Reply: Respondents contend that the 2006 12 Day Pre-Primary Report was timely filed with the FEC on May 24, 2006, and thus the allegation has no merit. In addition, Respondents contend that the \$50,000 threshold was never reached, and thus the Committee was not required to file electronically, and that there were no contributions requiring 48-Hour Notices to be filed with the Commission.

RECOMMENDATION:

1. Dismiss ADR 361 (MUR 5763), and close the file.
2. Approve the appropriate letters.