



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

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SENSITIVE

MEMORANDUM

July 20, 2007

TO: The Commission

THROUGH: Patrina M. Clark *JG*
Staff Director *pme*

FROM: John D. Gibson *JG*
Acting Chief Compliance Officer

Deborah Ruth Kant *DK*
Director, ADR Office

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

SUBJECT: ADR 404 Musgrave for Congress and Brent Eskew, Treasurer
Recommendation to Dismiss

On June 20, 2007, the ADR Office received MUR 5901 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 404

Source No. MUR 5901

Respondents:
Musgrave for Congress
Brent Eskew, Treasurer

Respondents' Rep.:
Barry Arrington, Esq.

Complainant:
Citizens for Responsibility and Ethics in
Washington

Committee Name:
Musgrave for Congress

Date Complaint Filed: 2/15/07

Committee Type: Authorized

Date Forwarded to ADRO: 6/20/07

District #/or State: CO, 4th C.D.

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Election – Won/Lost: General - Won

Election Cycle: 2006

Summary and Analysis of Case: The FECA requires that a committee disclose the identification of all individuals who contribute in excess of \$200 in an election cycle. Identification is defined as the full name, complete mailing address, occupation and name of employer. If unable to provide the identification of contributors, a committee must demonstrate that “best efforts” have been used to obtain the information. To establish “best efforts,” a committee must provide the Commission with a detailed description of the three part process for requesting the information pursuant to 11 C.F.R. § 104.7(b)

In addition, the FECA requires that if any contribution of \$1,000 or more is received by any authorized committee of a candidate after the 20th day, but more than 48 Hours, before 12.01 am of the day of the election, the principal campaign committee of that candidate shall notify the Commission, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be filed in accordance with 11 C.F.R. § 100.19. The notification shall be in addition to the reporting of these contributions on the post election report.

The complaint is based on requests for additional information (RFAs) that the Reports Analysis Division (RAD) sent to Musgrave for Congress and Brent Askew, Treasurer (“Respondents” or the “Committee”) about potential deficiencies in their 2006 July Quarterly Report, 2006 October Quarterly Report, 2006 12 Day Pre-General Report, and 2006 30 Day Post General Report. The RFAs sent by RAD inquired about adequate identification of contributors, and explained what was required of a committee to demonstrate “best efforts.” In addition, the complaint alleges that two of the RFAs noted that Respondents may have failed to file required 48 Hour Notices for five (5) contributions disclosed on the 2006 October Quarterly Report, and one (1) contribution disclosed on the 30 Day Post General Report. The ADR Office notes that the second RFA actually requested clarification about five (5) contributions also, but the complaint only references one (1).

In response to the RFAs, as well as the complaint, Respondents provided a detailed description of the Committee’s “best efforts” to obtain contributor identification, as instructed to do in the RFAs. In responding to the inquiries about the omission of ten (10) 48 Hour Notices, Respondents contend that they did fail to file five (5) Notices, as the contributions were overlooked in error. In explanation about the other contributions, Respondents stated that more than one contribution had the incorrect receipt date on the 2006 October Quarterly Report, one contribution was actually made payable to another committee, but mistakenly logged into the Committee’s list of contributions (the error was caught and the check was forwarded to the correct committee), and two of the contributions did have 48 Hour Notices filed, but one contribution was reported twice in error (with only one 48 Hour Notice) and one had an incorrect date of receipt. Respondents asserted that new procedures are being implemented to increase efficiency and accuracy in reporting to the Commission.

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RECOMMENDATION:

- 1. Dismiss ADR 404 (MUR 5901), and close the file.**
- 2. Approve the appropriate letters.**

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