



FEDERAL ELECTION
COMMISSION
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2014 JUL 29 PM 4: 38

SENSITIVE

Federal Election Commission
Washington, DC 20463

MEMORANDUM

July 29, 2014

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia C. Orrock *PCO*
Chief Compliance Officer

Lynn M. Fraser *LMF/RR*
Director, ADR Office

BY: Krista J. Roche *KR*
Assistant Director, ADR Office

SUBJECT: ADR 703 America's Liberty Political Action Committee and Elizabeth Newberry, Treasurer, Recommendation to Dismiss

The Office of General Counsel (OGC) transferred RR 13L-21 for processing on March 10, 2014, and the ADR Office designated the referral ADR 703. Upon analysis, the ADR Office recommends the Commission dismiss the matter. We include a summary and discussion of the matter for your information.

Summary and Analysis of Case: The Reports Analysis Division referred America's Liberty Political Action Committee and Elizabeth Newberry, Treasurer (Respondents or the Committee) for failing to timely file one 24-Hour Report to support one independent expenditure totaling \$95,000 disclosed on the 2012 30 Day Post-General Report filed on December 5, 2012. On April 24, 2013, the Committee filed the 24-Hour Report to support this independent expenditure, which was disseminated on November 2, 2012 and disclosed on the 30 Day-Post General Report.

Respondents contend that upon review of the advertisement in question, the advertisement was not express advocacy, and therefore no 24-Hour Report was required. Respondents contend that in light of confusion surrounding the definition of express advocacy and in an abundance of caution, they reported the expenditure for the advertisement on Schedule E of their 2012 30 Day Post-General Report. When RAD

requested the Committee file a 24-Hour Report for the expenditure, the Committee contends that it acted in an abundance of caution and complied in an effort to cooperate with Commission staff. However, the Committee now contends that it over reported the expenditure, as the advertisement was not express advocacy.

In support of its contention that the advertisement is not express advocacy, the Committee submitted a transcript of the advertisement in which the narrator states:

“Radical Islamists stormed our embassy in Egypt, burned our flag and shouted death to America. And radical Islamists burned our embassy and killed our ambassador in Libya. But Claire McCaskill votes to send more tax payer money to Egypt and Libya. Claire McCaskill works with Barack Obama to send billions to countries where radicals storm our embassies, burn our flag and kill our diplomats. Claire McCaskill. Wrong priorities for America. Wrong priorities for Missouri. America’s Liberty PAC is responsible for the content of this advertisement.”

This matter should be dismissed because it does not appear, upon review, that this advertisement constitutes express advocacy under 11 C.F.R. § 100.22(a) and 11 C.F.R. § 100.22(b). Accordingly, the disbursement for the advertisement was not required to be reported as an independent expenditure. 2 U.S.C. § 431(17). Because a 24-Hour Report was not required, Respondents would not be in violation for failing to timely file the 24-Hour Report to support this expenditure. On this basis, the ADR Office recommends this matter be dismissed.

RECOMMENDATION:

1. Dismiss ADR 703 (RR-13L-21), and close the file.
2. Approve the appropriate letters.