



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

2018 MAY 22 AM 10:03

**SENSITIVE**

**MEMORANDUM**

May 22, 2018

TO: The Commission

THROUGH: Alec Palmer *AP*  
Staff Director

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

Krista J. Roche *KJR*  
Director, ADR Office

SUBJECT: ADR 861 AM Racing LLC  
Recommendation to Dismiss

The Reports Analysis Division (RAD) referred RAD 17L-30, and upon receiving this referral from the Office of General Counsel, the ADR Office designated the matter as ADR 861. The ADR Office recommends the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985). We include a summary and discussion of the matter for your information.

**Summary and Analysis of Case:** RAD referred AM Racing LLC (Respondent) for failing to timely file one (1) 24-Hour Report to support one (1) independent expenditure totaling \$77,082.00 disclosed in the 2016 Year-End Report. On October 20, 2016, Respondent filed a 24-Hour Report disclosing \$77,082.00 in total independent expenditures by both fax and e-mail, but did not include a Schedule 5-E to support the amount disclosed.

Respondent contends there was no intent to violate the FECA, and that it believed a Form 5 was filed in accordance with the instructions provided by the FEC. The Respondent, a racing team, used its own resources to mark a vehicle used in a race held on October 22, 2016. Respondent indicates that the team did not receive any funds from contributors or make any payments to outside vendors in order to make this communication. The expenditure was reported in the media on October 6, 2016, including language indicating that the ad was paid for by AM Racing.<sup>1</sup> The

<sup>1</sup> <https://www.speedwaydigest.com/index.php/news/camping-world-truck-series-news/34296-austin-wayne-self-am-racing-talladega-bound-with-trump>

Form 5 filed by Respondent was published on the FEC's website on October 21, 2016, listed as both a 24-Hour Report and a Miscellaneous Document (Form 99).<sup>2</sup>

Due to Respondent's inexperience with filing, the attempt to properly disclose the expenditure, and the availability of the information surrounding the expenditure to the public, the ADR Office recommends the Commission exercise prosecutorial discretion and dismiss the matter. *Heckler v. Chaney* 470 U.S. 821 (1985).

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<sup>2</sup> Both the e-mailed and the faxed versions of this October 20, 2016, filing now appear as Miscellaneous Documents. Only the complete 24-Hour Report, filed on December 1, 2016, currently appears as a 24-Hour Report on the website.

**RECOMMENDATIONS:**

1. Dismiss ADR 861(RAD 17L-30).
2. Approve the appropriate letters.