On May 30, 2007, the Commission unanimously voted to find no reason to believe that the respondent violated any provision of the Federal Election Campaign Act or Commission regulations. In so doing, the Commission rejected the recommendation from the Office of General Counsel to dismiss MUR 5855 on the basis of prosecutorial discretion as outlined in Heckler v. Chaney, 470 U.S. 821 (1985). The Commission preferred to make a dispositive finding that no violation occurred rather than dismiss without reaching a legal conclusion.

The complainant alleged that the National Education Association Fund for Children and Public Education ("NEA Fund") violated the Act by failing to report within 48 hours its independent expenditures for television advertisements that were critical of Rep. J.D. Hayworth. However, the complaint was filed roughly twelve hours before the
NEA Fund's report was due to be filed with the Commission. In fact, respondent did file timely its necessary 48 Hour report. Hence, no violation occurred.

Date

6/19/07
Robert D. Lenhard
Chairman

6/20/07
David M. Mason
Vice Chairman

June 19, 2007
Hans A. von Spakovsky
Commissioner

6/19/07
Steven T. Walther
Commissioner

6/19/07
Ellen L. Weintraub
Commissioner