



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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March 14, 2003 2003 MAR 17 P 3:53

MEMORANDUM

TO: The Commission

THROUGH: James A Pehrkon  
Staff Director

FROM: Allan D. Silberman  
Director, ADR Office

**SUBJECT:** Recommendation to Close the File on ADR 073

**SENSITIVE**

In accordance with the revisions to ADR program procedures approved by the Commission on March 3, 2003, ADR 073/MUR 5253 is attached for the Commission's review. The case was forwarded to the ADR Office by OGC on May 24, 2002 to review and determine its appropriateness for ADR processing. The case was assigned by the Commission to the ADR Office (ADRO) on August 27, 2002.

Following the new ADR procedures referenced above, this matter will be closed by ADRO if the Commission approves the recommendation in this memorandum. The Office of General Counsel (OGC) concurs that this matter will not be returned to OGC for further action.

The Respondents, Ron Kirk and Ron Kirk for Senate Committee, did not accept the ADR option after being advised of the Commission's action assigning the matter to ADRO. Counsel for respondents argued that the complaint was wrong on both the law and facts and should be dismissed. Respondents remained unresponsive to suggestions that the ADR program provided an opportunity to quickly conclude the matter and if appropriate permit the Commission to dismiss the case if it found the charges unsubstantiated.

**ADR 073/MUR 5253:** The complainant charged the Respondents with soliciting unlawful contributions for the primary run-off election after the initial primary. The complaint also made reference to press reports of the Committee's lack of debt and charged the Committee with soliciting illegal contributions to a breakfast fundraiser after the primary election. Respondents noted the Committee's debt listed on reports filed with the Commission. They argued that the solicitation cited in the complaint was specifically intended for the run-off election adding that none of the funds from the referenced event were attributed to the primary election or debt retirement.

Attached for the Commission's information is the *ADR Case Review and Evaluation* on ADR 073 along with the EPS Rating and ADR Evaluation sheets.

**Recommendation:** We recommend that ADR 073/MUR 5253 be closed and the appropriate letter sent.