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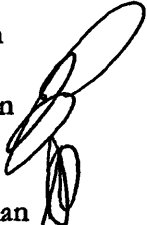
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Federal Election Commission
Washington, DC 20463


MEMORANDUM

SENSITIVE

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director 

FROM: Allan D. Silberman
Director, ADR Office

BY: Lynn M. Fraser 
Assistant Director, ADR Office

SUBJECT: Recommendation to Close the File on **ADR 147**

DATE: March 1, 2004

In accordance with the revisions to the ADR program procedures approved by the Commission on March 3, 2003, **ADR 147/MUR 5371** is attached for the Commission's review. The case was forwarded to the ADR Office (ADRO) by OGC on November 26, 2003 to review and determine its appropriateness for ADR processing. After a review of the file and the issues raised, the ADRO recommends that the case be closed and no further resources be expended on this matter. 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 in the description of this matter, and also concurs that it will not be returned to OGC for further action.

ADR 147/MUR 5371: Complainant alleges that Respondents repaid a \$10,000 loan to the candidate; which Complainant does not believe was ever made by the candidate. The reason that the Complainant does not believe a loan was ever made by the candidate is based upon two contributions of excess funds to the Democratic Congressional Campaign Committee (DCCC) in the amount of \$7,500 each several months after the alleged loan. Complainant also raises issues of alleged fraudulent payment of payroll taxes by Respondents for an employee of the Committee, and the purchase of two computers after the election was over.

Respondents reply that the loan made by the candidate and the repayment of the loan was disclosed on the Mid-Year 2001 report to the Commission. Respondents contend there is no link between the candidate's loan to the authorized campaign committee and Respondents' contributions of excess funds to the DCCC months after the loan was repaid.

Respondents also contend they used a payroll service to ensure that all required employee taxes were paid and reported all transactions to the Commission as required.

Attached for the Commission's review is the ADR *Case Analysis Report* (CAR) on ADR 147, along with copies of the EPS Rating and ADR Rating reports.

Recommendation: We recommend that ADR 147/MUR 5371 be closed and the appropriate letters sent.

11/11/11 10:11 AM

ADR CASE ANALYSIS REPORT

ADR Case: 147

MUR: 5371

Respondents:

Friends of Farr
Sidney Slade, Treasurer
Sam Farr

Respondent's Rep.: Thomas E. Gauthier, Esq.

Committee Type: Authorized

OGC Case Open Date: 6/23/03

Committee Name: Friends of Farr

Date Forwarded to ADRO: 11/26/03

District #/or State: CA CD 17

Date Reviewed by ADRO: 12/2/03

Election - Won/Lost: N/A

Election Cycle: 2002

Complainant: Mark Risley

Summary of Complaint: Complainant alleges that Respondents repaid a \$10,000 loan to the candidate, which Complainant does not believe was ever made by the candidate. The reason that the Complainant does not believe a loan was ever made by the candidate is based upon two contributions of excess funds to the Democratic Congressional Campaign Committee (DCCC) in the amount of \$7,500 each several months after the alleged loan. Other issues raised by the Complainant are the alleged fraudulent payment of payroll taxes by Respondents for an employee of the Committee, and the purchase of two computers after the election was over.

Violations Alleged: 2 U.S.C. §§ 434(b)(1)(G), 434(b)(4)(D), 439a, 11 C.F.R. §§ 104.3(a)(3)(vii)(B), 104.3(b)(2)(i), 104.3(b)(2)(iii)(A), 110.1(c)(3), 113.2(c)

Respondent's Reply: Respondents reply that the loan made by the candidate to the committee is allowed by the FECA. The receipt of the loan, as well as the repayment, were disclosed on the Mid-Year 2001 report to the Commission, lines 13A and 19A of the detailed summary page respectively. Respondents further reply that there is no link, nor is there any reason for there to be a link, between the candidate's loan to his authorized campaign committee and Respondents' contributions of excess funds to the DCCC months after the loan was repaid. Under the regulations in effect at the time, Respondents asserted they could contribute up to \$20,000 per calendar year or unlimited excess funds could be transferred to the DCCC.

As for the issue of payroll taxes, Respondents contend that the FECA does not preclude hiring campaign staff. If campaign employees are paid salaries, federal and state taxes must be paid on those salaries. In this case, Respondents used a payroll service to ensure that all required taxes were paid. Respondents reported all transactions to the Commission as required.

In response to the final issue raised by Complainant, Respondents state there was only one computer purchased, not two as suggested by Complainant. This purchase was for a volunteer to use in fund-raising activities for Respondents, and is an allowable purchase.

Analysis: A review of reports filed by Respondents in light of the relevant statute and regulations in effect at the time of the alleged violations, there do not seem to be any facts indicating Respondents violated the FECA.

Issues:

- Reporting receipt of loan from candidate 2 U.S.C. § 434(b)(1)(G), 11 C.F.R. § 104.3(a)(3)(vii)(B).
- Reporting repayment of loan from candidate 2 U.S.C. § 434(b)(4)(D), 11 C.F.R. § 104.3(b)(2)(iii)(A).
- Operating expenditures 11 C.F.R. § 104.3(b)(2)(i).
- Excess Funds 2 U.S.C. § 439a, 11 C.F.R. § 113.2(c).
- Contributions to political party committees 11 C.F.R. § 110.1(c)(3).

ADRO Recommendation: DISMISS

U.S. SEN. STAFF