




FEDERAL ELECTION COMMISSION
Washington, DC 20463

January 14, 2003

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman 
Director, ADR Office

SUBJ: Case for ADR Activation

On December 12, 2003 the ADR Office received from RAD 03L-05 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 150**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 150/RAD 03L-05: Respondents, Citizens Committee for Gilman for Congress, received 142 excessive contributions from 102 individuals and 5 political committees totaling \$78,469. The contributions were designated for the 2002 General Election in which the candidate did not participate. The candidate withdrew on July 2, 2002 prior to the Primary Election. The Committee failed to disclose the refund or redesignation of any of the subject contributions, in violation of 11 C.F.R. §110.1(b)(3). The Committee appears to have spent the contributions designated for the 2002 General Election. Respondents argued that they had refunded all remaining campaign funds, amended their reports appropriately and had no funds left in its accounts to make refunds. The Committee disclosed on an amended Quarterly report primary debt of \$84,428 and in May 2003 the Committee filed a termination report.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 150** along with copies of the EPS Rating and ADR Rating Sheets. The *Case Analysis Report* includes an analysis of the case and a description of the issues that the ADR Office (ADRO) anticipates addressing if the case is assigned to ADR. In addition, the Report has been reviewed by OGC, which concurs in the description of the case.

Recommendation: We recommend that **ADR 150/RAD 03L-05** be assigned to ADR Office for processing

ADR CASE ANALYSIS REPORT

ADR Case: # 150

Respondents. Citizens Committee for Gilman
for Congress
Murray M. Rosen, Treasurer

RAD Referral: 03L-05

RAD Case Open Date: 10-3-03

Respondent's Rep: Don McGahn, Esq.

Date Forwarded to ADRO: 12-12-03

Committee Type: Authorized Committee

Date Reviewed by ADRO: 1-6-04

Committee's Name: Citizens Comm. for Gilman

District #/or State: NY 20th C.D.

Election – Won/Lost: Withdrew Prior to Primary

Election Cycle: 2002

Summary of Referral: The Respondents received 142 excessive contributions from 102 individuals and 5 political committees totaling \$78,469. The subject contributions were designated for the 2002 General Elections in which the candidate did not participate. The candidate withdrew on July 2, 2002 prior to the Primary election. The Committee failed to disclose the refund or re-designation of any of the subject contributions. In addition, the Committee appears to have spent the contributions designated for the 2002 General Election. On May 7, 2003, the Committee filed a termination report but was advised on May 16, 2003 that they would be unable to terminate due to unresolved issues on previous reports.

Alleged Violations: 2 U.S.C. § 441(a) and 11 C.F.R. §110.1(b)(3).

Respondents' Replies: Respondents, in replying to numerous RFAs that reference the 2001 Mid-Year and Year End Reports and the 2002 April and July Quarterly Reports, argued that they had responded to the Commission's request, provided the requested information including noting primary election debt, re-designation of contributions and copies of refund checks. Respondents further argued that they had refunded all remaining campaign funds and amended their reports appropriately. They noted that the Committee had closed its offices, had no funds in its accounts with which to make refunds and "effectively closed the books on Citizens for Gilman..."

Analysis: Having withdrawn from the election, Respondents were required to refund, re-designate or reattribute the contributions that exceed the Committee's net outstanding debt. The Committee disclosed on an amended October Quarterly report, filed on 4/11/03, primary debt of \$84,428. The regulations, i.e., 11 C.F.R. § 110.1(b)(3)(i), are explicit regarding the Committees obligation to refund or re-designate the contributions within sixty days of the candidate's withdrawal. Numerous RFAs reminded the Committee of its obligation and noted that their responses were inadequate because they did not address all the contributions designated for the 2002 General Election.

