





Federal Election Commission  
Washington, DC 20463

**MEMORANDUM**

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: Case for ADR Activation

DATE: January 20, 2004

On December 17, 2003 the ADR Office received from RAD the following case to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 151/RAD 03-02, United Food & Commercial Workers, Active Ballot Club, is appropriate for ADR and recommend that it be assigned to the ADR Office.

**ADR 151/RAD 03-02:** RAD referred this matter as Respondents failed to file 24 Hour Notices for five (5) independent expenditures made just prior to the 2002 General Election totaling \$70,000. In August 2003, Respondents filed an amended 2002 30 Day Post General Report. This amended report included a Schedule E disclosing that the independent expenditures were made on behalf of five (5) candidates for federal office on October 25, 2002. Respondents contend the failure to file the five 24 Hour Notices was merely an oversight.

Attached for the Commission's review is the ADR Case Analysis Report (CAR) on ADR 151, along with a copy of the RAD Referral, and the ADR Rating report. The CAR includes an analysis of the case and a description of the issues that the ADR Office anticipates addressing once the case is assigned to ADR. In addition, the CAR has been reviewed by OGC, which concurs in the description of the case.

**Recommendation:** We recommend that ADR 151/RAD 03-02 be assigned to the ADR Office for processing.

## ADR CASE ANALYSIS REPORT

**ADR Case:** 151

**Respondents:**

United Food & Commercial Workers,  
Active Ballot Club  
Joseph T. Hansen, Treasurer

**RAD Referral:** 03-02

**Respondent's Rep.:**

Joseph T. Hansen, Treasurer

**Date Forwarded to ADRO:** 12/17/2003

**Committee Type:**

Non-Party Committee

**Date Reviewed by ADRO:** 12/24/2003

**Committee Name:**

United Food & Commercial Workers,  
Active Ballot Club

**District #/or State:** N/A

**EPS Rating:** N/A

**Election Cycle:** 2002

**Election - Won/Lost:** N/A

**Summary of Referral:** Respondents failed to file 24 Hour Notices for five (5) independent expenditures made prior to the 2002 General Election totaling \$70,000. An amended 2002 30 Day Post-General Report, filed August 22, 2003, included a Schedule E disclosing the \$70,000 as independent expenditures made on behalf of five (5) federal candidates. The amended report reflects that the expenditures were all made on October 25, 2002.

**Alleged Violations:** 2 U.S.C. §§ 434(b)(6)(B)(iii), 434(c)(2), 11 C.F.R. § 104.4

**Respondent's Reply to RAD:** Respondents stated that the failure to file 24-Hour Notices on the independent expenditures to Buying Time, Inc., a vendor, was an oversight.

**Analysis:** The relevant statute and regulations, in effect at the time of the alleged violation, required that any independent expenditures aggregating \$1,000 or more made after the 20<sup>th</sup> day, but more than 24 hours before 12:01 a.m. of the day of any election, be reported within 24 hours after such independent expenditure is made.

**Issues:**

- Failure to file 24-Hour Notices 2 U.S.C. §§ 434(b)(6)(B)(iii), 434(c)(2), and 11 C.F.R. § 104.4

**ADR Recommendation: Assign to ADRO**

## REPORTS ANALYSIS REFERRAL

DATE: December 11, 2003

ANALYST: Scott Walker

- I. COMMITTEE: Joseph T. Hansen, Treasurer  
(C00002766)  
United Food & Commercial Workers,  
Active Ballot Club  
1775 K Street, N.W.  
Washington, DC 20006
- II. RELEVANT STATUTE: 2 U.S.C. §§434(b)(6)(B)(iii) and (c)(2)  
11 CFR §104.4(c)
- III. BACKGROUND:

### Failure to File 24-Hour Notices

United Food & Commercial Workers, Active Ballot Club ("the Committee") failed to file five (5) 24-Hour Notices for independent expenditures totaling \$70,000, made after the 20<sup>th</sup> day but more than 24 hours before 12:01 a.m. of the day of the 2002 General Election.

Prior notice was sent to the Committee on September 30, 2002. The notice included a section titled *24 Hour Report on Independent Expenditures*. This section reads: "Any PAC or Party Committee that makes independent expenditures in connection with an election may also have to file a 24-hour report. This reporting requirement is triggered if the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the day of the election. This report is *not* required when a Party Committee or PAC makes a contribution directly to a candidate." (Attachment 1)

On August 22, 2003, the Committee filed an amended 2002 30 Day Post-General Report which included a Schedule E disclosing \$70,000 in independent expenditures made on behalf of five (5) federal candidates on October 25, 2002 (image # 23991802583).

On September 12, 2003, an Informational Notice ("IN") was sent to the Committee for the 2002 30 Day Post-General Report. The IN notes that the Committee

may have failed to file one or more of the required 24-Hour Notices for "last minute" independent expenditures in support of five (5) different federal candidates totaling \$70,000. Copies of the Schedule E from the amended 2002 30 Day Post-General Report were included with the IN. In addition, the IN states, "Although the Commission may take further legal action, the Committee's prompt response will be taken into consideration" (image # 23038201967).

On October 3, 2003, the Committee responded to the IN with an electronic letter which stated "In answer to your letter referenced above, please be advised that the failure to file the disbursements paid to Buying Time, Inc. as independent expenditures was an oversight on our part" (image # 23991999648).

On October 22, 2003, the Reports Analysis Division ("RAD") analyst called the Committee and left a voicemail message. The analyst informed the Committee that the issue of the omitted 24-Hour Notices for independent expenditures may be referred to the Office of General Counsel and that the Committee should provide any additional clarifying information regarding this omission (Attachment 2).

On October 22, 2003, Betty Roberts returned the RAD analyst's call and asked what the next step would be once the Committee is referred to the Office of General Counsel. The analyst informed Ms. Roberts that she would be contacted by the Office of General Counsel in the near future (Attachment 3).

To date, no further communications have been received from the Committee regarding this matter.