




FEDERAL ELECTION COMMISSION  
Washington, DC 20463

January 20, 2004

**MEMORANDUM**

TO: The Commission

THROUGH: James A. Pehrkon  
Staff Director

FROM: Allan D. Silberman   
Director, ADR Office

SUBJ: Case for ADR Activation

On January 5, 2004 the ADR Office (ADRO) received from RAD 04-01 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 153**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

**ADR 153/RAD 04-01:** Respondents, Richard Pombo for Congress and Randall C. Pombo, Treasurer, revealed a previously unreported increase of 84% (or \$117,069) in total receipts over the amount listed on their 2<sup>nd</sup> Quarter report when they responded to an RFAI to clarify a discrepancy between the beginning and ending cash balance reported respectively on their April and July 2003 Quarterly reports. A subsequent RFAI requesting an explanation regarding the absence of the additional activity from the Respondent's July Quarterly report was not answered. In reply to a later RAD phone inquiry, Respondents indicated that the failure to report the additional activity was due to problems with their software. Respondents have failed to follow through on a commitment to provide the additional information requested on the RFAI.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 153** along with a copy of the RAD referral and ADR Rating Sheet. The *Case Analysis Report* includes an analysis of the case and a description of the issues that the 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 153/RAD 04-01** be assigned to ADR Office for processing

## ADR CASE ANALYSIS REPORT

ADR Case: # 153

Respondents: Richard Pombo for Congress  
Randall C. Pombo, Treasurer

RAD Referral: 04-01

Date Forwarded to ADRO: 1-5-04

Respondent's Rep: Randall C. Pombo

Date Reviewed by ADRO: 1-9-04

Committee Types: Authorized Committee

Election Cycle: 2004

Committees' Names: Richard Pombo for Congress

District #/or State: CA 11<sup>th</sup> C.D.

EPS Rating: N/A

Election – Won/Lost: Won

**Summary of Referral:** The referral from RAD advises that Respondents' July 2003 Quarterly Report, received on 7/16/03, listed total receipts of \$138,491. Respondents were requested to clarify a discrepancy between the beginning and ending cash balance reported respectively on the April Quarterly and July Quarterly reports and to complete a Form 3Z-1. Respondents replied adequately to the RFAI, filing an amended Quarterly report on 9/12/03. However, they also reported total receipts of \$255,560 – an 84.5% (or \$117,069) increase over the amount listed on the original July report. A subsequent RFAI, referencing the amended July Quarterly report, requested clarification and an explanation regarding why the additional activity was not listed on the earlier Quarterly report.

**Alleged Violations:** 2 U.S.C. §§ 434(b)(2) and 434(b)(3) and 11 C.F.R. §104.3.

**Respondents' Replies:** Respondents did not respond to the latest RFAI sent on 9/23/03 but subsequently reported, in reply to RAD's phone inquiry on 11/19/03, that the failure to report the additional activities was due to problems with the software. Respondents committed, during the phone discussion, to providing the requested additional information, however, there has been no further response or further communication from Respondents.

### Issues:

- Reporting requirements, 2 U.S.C. §§434(a)(1) and (2)
- Contents of reports, 2. U.S.C. § 434(b) and 11 C.F.R. §§ 104.3(a), and (b)

**Related FEC Experience/Guidance:** There are a number of AOs dealing with a committee's reporting obligation, however, all deal with specific reporting issues, i.e., "Cash-on-Hand" or "Disbursements", etc., rather than the general issue of a committee's responsibility to report receipts

