



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: February 17, 2004

On January 30, 2004, the ADR Office received from CELA the following case to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 155/AR 04-01, Stephanie Tubbs Jones for US Congress and Saundra Berry, Treasurer, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 155/AR 04-01: The Audit staff identified charges made from January 2001 through August 2002, totaling \$9,556, on the American Express card of the authorized committee, Stephanie Tubbs Jones for US Congress. Most of these charges, which appear to be travel related expenses that were incurred by the candidate and her spouse, may have been for the candidate's personal use. The candidate reimbursed the committee for \$2,722 of the \$9,556 before the notification of the audit, although the reimbursement was not made within the 30 day time period allowed by the regulations. Charges of \$6,834 of possible reimbursable "personal use" charges remained. The candidate reimbursed her committee the full \$6,834, with the understanding that for those amounts she can demonstrate are permissible uses of campaign funds, the candidate will seek a refund from the committee

Attached for the Commission's review is the ADR Case Analysis Report (CAR) on ADR 155, along with copies of the EPS II Rating and ADR Rating reports. 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 155/AR 04-01 be assigned to the ADR Office for processing

ADR CASE ANALYSIS REPORT

ADR Case: 155

Respondents:

Stephanie Tubbs Jones for US Congress
Saundra Berry, Treasurer

Audit Referral: 04-01

Respondent's Rep.:

Saundra Berry, Treasurer

Date Audit Report Approved:

01/07/2004

Committee Type:

Authorized

Date Forwarded to ADRO: 01/30/2004

Committee Name:

Stephanie Tubbs Jones for US Congress

Date Reviewed by ADRO: 02/02/04

District & State: OH/11 C.D.

Election Cycle: 2002

Election - Won/Lost: Won

Summary of Referral: The Audit staff identified charges made on Respondents' American Express card from January 2001 through August 2002, totaling \$9,556, which may have been for the candidate's personal use. Most of the charges appear to be travel related expenses that were incurred by the candidate and her spouse. The candidate reimbursed the committee for \$2,722 of the \$9,556 before the notification of the audit, although the reimbursement was not made within the 30 day time period allowed by the regulations. Charges of \$6,834 of possible reimbursable "personal use" charges remained.

Alleged Violations: 2 U.S.C. § 439a(b)(1), 11 C.F.R. § 113.1(g)(1), 113.2(d)

Respondent's Reply to Audit: In response to the interim audit, the candidate provided documentation to show that \$1,910 of the \$6,834 in reimbursed charges was campaign or officeholder related. The Audit staff determined that documentation for \$1,245 of the \$1,910 was evidence of campaign or officeholder expenses. Nevertheless, the candidate reimbursed her committee the full \$6,834, with the understanding that for those amounts she can demonstrate are permissible uses of campaign funds, the candidate will seek a refund from the committee.

Analysis: The relevant section of the Act in effect at the time prohibited the conversion of any contributions that are in excess of any amount necessary to defray her [campaign]

expenditures "to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office." The regulations defined personal use and provided examples. Although the candidate contended that some of the charges were for legitimate expenses of her candidacy or Federal office, she provided no additional documentation to corroborate her contention. Campaign funds may only be used to pay expenses of a trip that relate to the campaign or officeholder duties. The campaign funds may not be used to pay for those portions of a trip that consist of personal activity. If campaign funds are used to pay for personal activities on a trip that combines personal activities and campaign activities, the campaign is to be reimbursed within thirty (30) days. While the candidate reimbursed her campaign committee for some personal expenses, as well as some expenses which could not be substantiated as permissible, the reimbursements were untimely. The audit uncovered contributions which were converted for personal use and not reimbursed timely, permissible expenditures, as well as expenditures of campaign funds which had no documentation to support Respondents' contention the charge was permissible.

Issue:

- campaign funds converted to personal use 2 U.S.C. § 439a(b)(1), 11 C.F.R. §§ 113.1(g)(1), 113.2(d)

ADR Recommendation: Assign to ADR