




FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 14, 2004

MEMORANDUM

TO: The Commission

THROUGH James A. Pehrkon
Staff Director

FROM: Allan D. Silberman 
Director, ADR Office

SUBJ: Case for ADR Activation

On March 26, 2004 the ADR Office (ADRO) received from OGC/CELA the following case to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 162/MUR 5412**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 162/MUR 5412: The complaint alleges that the Respondents, Carol Moseley Braun for President and Moti Agarwal, Treasurer, failed to report on its 2003 Year End Report a debt owed for consulting services performed in October and November 2003. The Complainant, a former consultant to the Braun Committee, contends that the Respondents should have reported a debt of \$1950 representing the balance due for services rendered. Respondents argue that there is no debt owed the Complainant and therefore, no need to report one. They acknowledged paying the Complainant \$13,750 for services rendered. However, they contend that the Complainant did not provide any evidence to support his claim. Respondents note that they are in the process of reviewing the Complainant's records and indicate they are prepared to amend their report if some evidence or support for the claim is found or provided.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 162** 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 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 162/MUR 5412** be assigned to ADR Office for processing

ADR CASE ANALYSIS REPORT

ADR Case # 162

Respondents: Carol Moseley Braun for President

MUR: 5412

Moti Agarwal, Treasurer

OGC Case Open Date: 2-18-04

Respondents Rep: Lynn Utrecht, Esq

Date Forwarded to ADRO: 3-26-04

Committee Type: Authorized

Date Reviewed by ADRO: 4-8-04

Committees' Name: Carol M Braun for President

District #/or State: N/A

Election Cycle: 2004

Complainant: Vasyi Markus, Jr.

Summary of Matter: Complainant, a former consultant to the Carol Moseley Braun for President committee, contends that Respondents failed to report a debt owed to him on its 2003 Year End report. Complainant contends he performed consulting services in October and November 2003 for the Respondents that required payment of \$1,750 on the first and fifteenth of each month. On November 6, 2003, Respondents advised the Complainant that his services were being terminated. Complainant, thereafter, sent an invoice to the Committee for \$2,450 for services from 10/16/03 to 11/6/03. On 12/29/03, the Committee forwarded \$500 as partial payment for past services. Complainant alleges that Respondents' should have reported the balance due of \$ 1,950 as a debt on its 2003 Year End report.

Respondents' Reply: Respondents contend that there is no debt owed Complainant, therefore, no need to report a debt on its 2003 Year End report. Respondents acknowledged paying Complainant \$13,750 for services provided. Respondents argue that the Complainant's invoice for \$1,950 did not provide any evidence to support his request for the additional payment and argue that no additional funds are owed Complainant. Respondents note that they are in the process of reviewing their records with the Complainant and assert that if support for his claim is found or he can provide some evidence for his claim they are ready to "amend their report accordingly".

Alleged Violations: 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3(d), 104.11 and 116.10(a)

without admitting liability, is obliged to report the amount the creditor claims "until the debt is resolved". The issue to be addressed in the settlement negotiations is whether the Complainant provided the Respondents with "anything of value" and whether settlement can be obtained without such an accord.

Issues: Reporting debt and obligations – 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3(d) and 116.10(a).

Related FEC Experience/Guidance Two AO's provided guidance that is applicable to this matter. AO 1976-85 advised that although a debt is disputed the disputed amount is still reportable as a debt and can be accompanied by a caveat stating that the amount is in dispute and is being contested. AO 1979-23 advised that for complete and meaningful disclosure, the Commission will not waive its regulations which require all activity regarding a debt to appear on Schedule C.

Recommendation: Assign to ADR ☒ X