



Federal Election Commission
Washington, DC 20463

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

May 17, 2004

William J. Hardacker, Staff Legal Counsel
Shakopee Mdewakanton Sioux Community
2330 Sioux Trail NW
Prior Lake, MN 55372

Re: ADR 165 (MUR 5399)

Dear Mr. Hardacker:

On December 23, 2003, the Federal Election Commission ("Commission") received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Respondents, Leonard Prescott, Gutknecht for US Congress and David Byer, Treasurer. In its memorandum to the Commission, dated May 5, 2004, this office stated:

ADR 165/MUR 5399: The complaint states that an amended Post-General Report filed by Respondents Gutknecht for Congress and David Byer, Treasurer ("Respondents Gutknecht") on March 31, 2003 discloses a contribution of \$1000 from Respondent Prescott to Respondents Gutknecht. Complainant alleges that the report discloses that Respondent Prescott is a lobbyist for the Mystic Lake Casino. However, Mystic Lake Casino is owned and operated by the Complainant, and while Respondent Prescott is a member of the Shakopee Mdewakanton Sioux Community, he is not employed by the tribal community in any capacity.

Respondents contend that the committee staff made an error due to an inability to exactly define Respondent Prescott's occupation. While he is not employed by the Shakopee Mdewakanton Sioux Community, it is reportedly the primary source of his income as a tribal member. Respondents Gutknecht further contend that Respondent Prescott did not tell the committee that he was a lobbyist for, or employed by, Mystic Lake Casino. Respondents Gutknecht filed another amended 30 Day Post Election Report on January 28, 2004 correcting the information about Respondent Prescott.

204-291-2507

Respondent Prescott contends that he made the contribution, but at no time did he portray himself as employed by, or a lobbyist for, Mystic Lake Casino. He did inform the committee that he was a member of the Shakopee Mdewakanton Sioux Community

Accordingly, the Commission closed its file in this matter on May 11, 2004.

The FEC is obligated by federal regulations to make a finding to terminate its proceedings public, as well as the basis therefore. 11 C.F.R. § 111.20(b). In addition, as of January 1, 2004, the Commission will also place on the record copies of the complaint, correspondence exchanged between Respondents and this office, and reports prepared for the Commission by this office to assist in its consideration of this matter. Accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lynn M. Fraser
Assistant Director, ADR Office