




FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 25, 2004

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman 
Director, ADR Office

SUBJ: Case for ADR Activation

On April 30, 2004, the ADR Office received from Audit a referral to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 167**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 167/AR 03-18: The Audit staff determined that Respondents – i.e., Tim Johnson for South Dakota, Inc. and Berniece Mayer, Treasurer – misstated cash-on-hand and disbursements on its disclosure reports for calendar year 2001, violations of 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3. The Audit staff also identified other errors, which Respondents were unable to explain, relating to discrepancies between the Committee's reported activity and its bank records.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 167** along with a copy of the Audit referral and ADR Rating Sheets. The *Case Analysis Report* includes an analysis of the case and a description of the issues that the ADR Office (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 167/AR 03-18** be assigned to ADR Office for processing.

24-19-025-4208

ADR CASE ANALYSIS REPORT

ADR Case: # 167

Respondents: Tim Johnson for S.D., Inc.

AR 03-18

Berniece Mayer, Treasurer

Case Open Date: 4-19-04

Respondent's Rep: Chad M. Schuldt

Date Forwarded to ADRO: 4-30-04

Committee Type: Authorized

Date Reviewed by ADRO: 5-12-04

Committee Name: Tim Johnson for S.D., Inc.

Election Cycle: 2002

District #/or State: Senate – South Dakota

Election – Won/Lost: Won

Complainant: Audit Referral

Summary of Referral: Audit determined that Respondents misstated cash-on-hand and disbursements on its disclosure reports for calendar 2001.

Respondents' Reply: In response to the audit, Respondents filed amended reports correcting misstatements. Reported receipts were materially correct over the two years.

Alleged Violations: 2 U.S.C. §§ 434(b)(1), (2) and (4) and 11 C.F.R. §§ 104.3(a) and (b)

Issues:

- Disclosure of amount of cash-on-hand – 2 U.S.C. § 434(b)(1) and 11 C.F.R. §104.3(a)
- Disclosure of total receipts of reporting period – 2 U.S.C. § 434(b)(2) and 11 C.F.R. § 104.3(a)
- Disclosure of disbursements for reporting period – 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.3(b)

Analysis: The issues in this case center on Respondents misstatements of disbursements and cash-on-hand for calendar year 2001. The Audit staff also identified other errors relating to discrepancies between the Committee's reported activity and its bank records for 2001, which Respondents were unable to explain. The Audit staff was unable to determine the cause of the \$11,171 understatement listed for beginning cash-on-hand or the \$22,333 overstatement of receipts for 2001. The understatement of disbursements resulted primarily from the failure to report disbursements totaling \$58,086. Although no specific reason was identified for some disbursements not being reported, the Audit staff determined that 53% of the unreported amount (\$30,955), occurred during the 4th quarter of 2001. Finally, as a result of the misstatements described above, closing cash-on-hand was overstated by \$69,524. The Audit staff met with the Committee's representatives and provided them with copies of schedules detailing the disbursements that had not been reported.

24-19-025-4209

24.19.025.4210

Recommendation: Assign to ADR