



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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June 23, 2004

MEMORANDUM

SENSITIVE

TO: The Commission
THROUGH James A Pehrkon
Staff Director
FROM Allan D. Silberman
Director, ADR Office
SUBJ Case for ADR Activation

On June 8, 2004, the ADR Office received from RAD a referral to review and determine its appropriateness for ADR processing Based on that review, we determined that the case, **ADR 176**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 176/RAD 04L-06: RAD determined that Respondents – 1 e., the Committee to Elect John Barker and Alicja Barker, Treasurer – failed to provide supporting schedules for \$53,000 for loans and operating expenditures for the 2004 election cycle On February 17, 2004 Respondents filed a 12-Day Pre-Primary Report disclosing loans totaling \$25,000 and operating expenditures of \$28,000 The Report, however, omitted supporting schedules A, B and C. An RFAI, dated March 23, 2004, advised Respondents of the need to identify each person, who made a loan and to list the source and terms of the loans. In addition, the RFAI noted the need to disclose expenditures to persons in the aggregate in excess of \$200 or explain why Schedule B was not included in the aforementioned Report. Respondents did not reply to the RFAI. RAD reported that as of May 26, 2004 there has been no further communication from Respondents regarding this matter.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 176** along with a copy of the ADR Rating Sheet 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.

If the Commission concurs in the recommendation to assign the matter to ADRO, the above case description will be provided to Respondents as part of ADRO's notification package sent to Respondents.

Recommendation: We recommend that **ADR 176/RAD 04L-06** be assigned to ADR Office for processing.

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ADR CASE ANALYSIS REPORT

ADR Case # 176

Respondents. Committee to Elect John Barker

RAD: # 04L-06

Alicja Barker, Treasurer

Case Open Date 5-26-04

Respondent's Rep Alicja Barker

Date Forwarded to ADRO 6-8-04

Committee Type: Authorized Committee

Date Reviewed by ADRO 6-16-04

Committee Name Committee to Elect J Barker

Election Cycle: 2004

District #/or State: 45th C.D. -- CA

Election -- Won/Lost. Lost

Complainant. RAD Referral

Summary of Referral: RAD determined that Respondents failed to provide supporting schedules for \$53,000 for loans and operating expenditures during the 2004 election cycle. On February 17, 2004, Respondents filed a Twelve Day Pre-Primary Report disclosing loans totaling \$25,000. In addition, Respondents also disclosed operating expenditures of \$28,000. However, the aforementioned Report omitted the supporting Schedules A and C pertaining to the \$25,000 loans and Schedule B pertaining to the \$28,000 expenditures. An RFAI, dated March 23, 2004, referenced the missing schedules and advised Respondents of the need to identify each person who made a loan as well as the source of the funds and terms of the loans. The RFAI also noted the need to either disclose expenditures to persons in the aggregate in excess of \$200 or explain why Schedule B was not included with the Twelve Day Pre-Primary Report.

Respondents' Reply: Respondents did not reply to the RFAI. A subsequent conversation on May 6, 2004 with the candidate regarding the requirement to amend the Committee's report was not productive.

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

Issues:

- Requirement to itemize receipts/loans - 2 U.S.C. § 434(b)(3)(E) and 11 C.F.R. § 104.3(a)(4)(iv)
- Requirement to report disbursements - 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.3(b)(4)(i)
- Requirement to report loans - 2 U.S.C. § 434(b)(2)(G) and (H) and 11 C.F.R. § 104.3(d)

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Analysis: The issues in this case all relate to Respondents' inability or refusal to follow instructions provided in the RFAI. The RFAI explicitly specified the additional information that needed to be provided to complete the data listed on the Detailed Summary Page of the Twelve Day Pre-Primary Report filed by Respondents. There can be little misunderstanding of what was required of Respondents to comply with the requirements of the FECA.

[Redacted area]

Recommendation: Assign to ADR

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