



Federal Election Commission
Washington, DC 20463

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MEMORANDUM

SENSITIVE

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: Recommendation to Close the File on ADR 195
DATE: October 19, 2004

On September 27, 2004, the ADR Office ("ADRO") received this matter from OGC/CELA to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 195 is inappropriate for ADR and recommend that the case be closed. Following the procedures approved by the Commission on March 3, 2003, this matter will be closed by ADRO if the Commission approves the recommendation in this memorandum. The Office of General Counsel ("OGC") concurs in the description of this matter and also concurs that it will not be returned to OGC for further action.

ADR 195/MUR 5476: The New York Attorney General's Office ("NYAG"), Charities Bureau referred this matter to the Commission for possible FECA violations. NYAG's review of the Harold and Marian Coleman Charitable Foundation, Inc. (the "Foundation"), disclosed the Foundation made donations during the fiscal years ending 1998-2003 to various organizations thought to be political committees registered with the FEC.

Respondent Carol Kaufman, Director/President of the Foundation, contends that it was never her intent to send donations prohibited under the law. She contributed to various organizations and received a "no goods or services letter." Virtually all of the organizations she contributed to, as outlined in the complaint, are either not political committees as defined in the FECA, or the Foundation contributed to the non-federal account of the committee as confirmed by counsel for those organizations. Counsel for the party committees contend the contributions were not prohibited as they were prior to BCRA. Three of the five political committees that received prohibited contributions from the Foundation stated they refunded the contribution(s) as soon as they were made aware

ADR CASE ANALYSIS REPORT

ADR Case: 195

Respondents:

Coleman Charitable Foundation

Carol Kaufman, President

* 26 additional Respondents

See list attached

MUR: 5476

OGC Case Open Date: 07/06/05

Respondents' Rep.: Carol Kaufman

* See list attached

Date Forwarded to ADRO: 09/27/2004

Committee Name: * See list attached

Date Reviewed by ADRO: 10/01/04

Committee Type: Various

District #/or State: N/A

Election - Won/Lost: N/A

Election Cycle: N/A

Referring Official: William Josephson, Assistant Attorney General-in-Charge, State of New York, Charities Bureau

Summary of Referral: The New York Attorney General's Office ("NYAG"), Charities Bureau, in the process of overseeing charitable entities in New York, referred this matter to the Commission for possible FECA violations. NYAG's review of the Harold and Marian Coleman Charitable Foundation, Inc. (the "Foundation"), a New York not-for-profit corporation registered with the Internal Revenue Service as a 501(c)(3) charitable organization, disclosed the Foundation made donations during the fiscal years 1998-2003 to various organizations thought to be political committees registered with the FEC.

Violations Alleged: 2 U.S.C. § 441b(a), 11 C.F.R. § 114.2(a)

Respondents' Reply: Respondent Carol Kaufman, Director/President of the Foundation, contends that it was never her intent to send donations prohibited under the law. Upon the death of relatives, she became the unpaid Director of the Foundation, and the only guidance she was provided was to contribute to any organization she wished, as long as she received a "no goods or services letter." Virtually all of the organizations she contributed to, as outlined in the complaint, are either not-for-profit organizations, not political committees as defined in the FECA, or the Foundation contributed to the non-federal account of the committee as confirmed by counsel for those organizations. Counsel for the party committees named in the complaint contend the

contributions were prior to BCRA, and the contributions were not prohibited. Three of the five political committees that received prohibited contributions from the Foundation stated they refunded the contribution(s) as soon as they were made aware of the corporate connection. The fourth committee terminated in February 2004 and the fifth committee did not file a response.

Issues:

- Corporate contributions 2 U.S.C. § 441b(a), 11 C.F.R. § 114.2(a)

Analysis: The statute and regulations are quite clear that corporations are prohibited from making contributions in connection with any election for federal office, and there are numerous matters resolving such violations resolved by the Office of General Counsel and the Alternative Dispute Resolution Office. The fifty-two (52) contributions made by the Foundation from fiscal year 1998 through fiscal year 2003 totaled \$12,975, for an average contribution of \$250. Of the organizations referred, five were committees prohibited from accepting contributions from corporations. The total of the nine (9) contributions made to these committees aggregated \$1,750, for an average of \$194 per contribution. Of these five committees, the average contribution per committee was \$350. The committees stated they refunded the contributions to the Foundation when they were made aware of the illegality of the contributions. Given the staleness for most of the contributions and *de minimis* nature of the contributions, the ADR Office recommends that the Commission not devote further resources to the matter and close the file.

ADR Director's Recommendation: DISMISS

TABLE OF RESPONDENTS – ADR 195

Name	Counsel/Representative	Amount of Donation(s)	Date of Donation(s)
Harold & Marian Coleman Charitable Foundation, Inc. & Carol Kaufman, President	Carol Kaufman, President	\$12,975	10/1/1997 through 9/30/2003
NARAL Pro-Choice America PAC & John Botts, Treasurer	Cassandra Lentchner, Esq., Perkins Coie	None (may have given to 501(c)(3) organization, but did not give to political committee)	N/A
National Committee for an Effective Congress & James Byron, Treasurer	Ezra Reese, Esq., Perkins Coie	\$200 \$250 \$600 \$100	Fye 9/30/1998 Fye 9/30/1999 Fye 9/30/2000 Fye 9/30/2002
Emily's List & Joseph Solmonese, Treasurer	Ezra Reese, Esq., Perkins Coie	Only donated to non-federal fund under 11 CFR § 102.5	N/A
DCCC & James Bonham, Treasurer	Brian Svoboda, Esq., Perkins Coie	Only donated to non-federal fund under 11 CFR § 102.5	N/A
Democratic Victory Fund	*		
NOW PAC & Terry O'Neill, Treasurer	Terry O'Neill	None (may have given to 501(c)(3) organizations, but did not give to political committee)	N/A
America Women Vote	Ezra Reese, Esq., Perkins Coie	Part of Emily's List – same response	N/A
DNC Services Corp (DNC) & Andrew Tobias, Treasurer	Sabine Romero, DNC Chief Counsel	No FECA violation – 2 donations pre BCRA	N/A
DSCC & David Rudd, Treasurer		\$700	Fye 9/30/02
Friends of Senator Carl Levin & Robert Naftaly, Treasurer	Tina Stoll, Assistant Treasurer	\$100	2002 - refunded
Jean A. Carnahan PAC & Thomas Carnahan, Treasurer	Thomas Carnahan	\$100	Fye 9/30/2002 - refunded
Brady Campaign to Prevent Gun Violence-Voter Education Fund & Mark Ingram, Treasurer	Mark Ingram	\$100	Fye 9/30/02
DNCC	Unknown – does not seem to be the correct acronym	\$100	Fye 9/30/01
Friends of Max Cleland & Harry Stephens, Treasurer (Terminated Committee)	Harry Stephens	\$100 \$100	Fye 9/30/01 Fye 9/30/02