




FEDERAL ELECTION COMMISSION
Washington, DC 20463

October 21, 2004

MEMORANDUM

TO: The Commission

THROUGH. James A. Pehrkon
Staff Director

FROM: Allan D. Silberman 
Director, ADR Office

SUBJ: Case for Activation -- **ADR 201**

On September 30, 2004, the ADR Office (ADRO) received from OGC/CELA MUR 5470 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 201**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 201/MUR 5470: Complainant alleges that Respondents, Jim Feldkamp for Congress, James Lee Feldkamp and Ronald D. Calkins, Treasurer ("Respondent CDPAC"), failed to report within 48 hours of receipt contributions of \$1,000 or more made less than 20 days prior to but more than 48 hours before the Primary election in which the candidate was competing. Respondents filed a 48-hour report on May 14, 2004 for the Primary election that was conducted on May 18, 2004. The aforementioned report failed to include nine contributions that totaled \$13,500. Respondents contend that the failure to timely report the nine contributions was due to their lack of experience and misunderstanding of the requirements of the law.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 201** 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 the ADR Office 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.

ADR Director's Recommendation: We recommend that **ADR 201/MUR 5470** be assigned to the ADR Office for processing.

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ADR CASE ANALYSIS REPORT

ADR Case # 201

Respondents: James Lee Feldkamp
Jim Feldkamp for Congress
Ronald D. Calkins, Treasurer

MUR: 5470

Respondents' Rep: Bruce Harvie

OGC Case Open Date: 6-28-04

Committee Type: Principal Campaign Comm.

Date Forwarded to ADRO: 9-30-04

Committee's Name: Jim Feldkamp for Congress

Date Reviewed by ADRO: 10-18-04

District #/or State: 4th C.D. - Oregon

Tier Level: 4

Election – Won/Lost. Won

EPS Rating: 17

Election Cycle: 2004

ADR Rating: 73

Complainant: Neel Pender, Executive Director
Democratic Party of Oregon

Summary of Complaint: Complainant alleges that Respondents failed to report within the required period contributions of \$1,000 or more made less than 20 days prior to but more than 48 hours before the election. Respondents filed a 48-hour report on May 14, 2004 for the Primary election that was held on May 18, 2004. Eight contributions were accurately reported but nine others were not. The nine contributions, each of which was for more than \$1,000, totaled \$13,500.

Alleged Violations: 2 U.S.C. § 434(a)(6)(A) and 11 C.F.R. § 104.5(f)

Respondents' Replies: Respondents contend that the failure to timely report the subject contributions was due to the inadvertent posting of contributions to another campaign office, which held the checks until a batch could be forwarded to the main campaign office. Respondents also claim that the failure to report the subject contributions for the primary election within 48-hours of receipt was due to the lack of experience and misunderstanding of the law on the part of campaign officials. Respondents also advised that since the violation was brought to their attention, they have hired a professional treasurer to ensure that similar mistakes are not made in the future.

Analysis: Respondents' reporting errors are due to a misunderstanding of the requirements of the Act and their acknowledged inexperience regarding the prerequisites of the statute and regulations. Respondents' reply characterized members of the Campaign Committee as "novices" in federal election law further highlighting their unfamiliarity with their FECA responsibilities. The 48-hour report that Respondents did file listing a total of 17 contributions attests to their confusion and failure to follow the guidance which calls for contributions of \$1,000 or more received after the 20th day but more than 48 hours before 12:01 a.m. of the day of the election to be brought to the attention of the Commission within 48 hours of receipt.

Issues: 48-hour reporting requirement -- 2 U.S.C. § 434(a)(6)(A) and 11 C.F.R. § 104.5(f)

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Related FEC Experience/Guidance: The Commission's guidance regarding the obligation of campaign committees to report last minute contributions is noted in Record articles and AOs. The AO most on point being AO 1988-32 which advised that committees must report each contribution of \$1,000 or more received after the 20th day but before the 2nd day before its primary in a special notice. The notice must be in writing and reach the appropriate offices within 48 hours after receipt of the contribution by the committee. The Administrative Fines regulations at 11 C.F.R. § 111.44 provides guidance in addressing the civil penalty aspect of this matter.

Potential Terms of Settlement: Terms of settlement may include attendance at an FEC seminar for campaign committees and/or a civil penalty.

Recommendation: Assign to ADRO

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