



FEDERAL ELECTION COMMISSION
COMMUNICATIONS SECTION
SECRETARIAT

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Federal Election Commission
Washington, DC 20463

SENSITIVE

MEMORANDUM

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: Case for ADR Activation

DATE: November 8, 2004

On October 25, 2004 the ADR Office received from OGC/CELA the following case to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 204/AR 04-08**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 204/AR 04-08: An audit of the 2002 election cycle financial records referred three findings for resolution: 1) that the Volunteer PAC and Dawn Perkerson, Treasurer ("Respondents" or "Committee") failed to report earmarked contributions; 2) Respondents over funded federal election activity from a non-federal account due to an incorrect allocation ratio; and 3) failed to adequately disclose contributions made to federal candidates. In response to the interim audit, the Committee filed amended reports disclosing the receipt of the earmarked contributions on Schedules A and the transfer of the earmarked contributions to the candidates on Schedules B. Respondents reimbursed the non-federal account \$166,047 to correct the over-funding and itemized its allocable activity in memo entries on Schedules H4 to correct the disclosure of expenditures. In addition, the Committee filed amended disclosure reports with additional information on the seventy-four contributions that lacked sufficient information.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 204**, along with copies of the EPS Rating and ADR Rating reports. The *ADR Case*

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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 *ADR Case Analysis 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.

ADR Director's Recommendation: We recommend that **ADR 204/AR 04-08** be assigned to the ADR Office for processing.

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ADR CASE ANALYSIS REPORT

ADR Case: 204

Respondents:
Volunteer PAC
Dawn Perkerson, Treasurer

Audit Referral: 04-08

Date Audit Approved: 09/21/2004

Respondents' Rep.: Dawn Perkerson

Date Forwarded to ADRO: 10/25/04

Committee Type: Unauthorized

Date Reviewed by ADRO: 11/01/04

Committee Name: Volunteer PAC

District & State: N/A

Election Cycle: 2004

Summary of Referral: An audit of the financial documents for the Volunteer PAC for the 2002 election cycle found that there was a failure to report earmarked contributions, over funding of federal election activity from a non-federal account, and inadequate disclosure of contributions to federal candidates. In the first finding, the audit revealed that Volunteer PAC and Dawn Perkerson, Treasurer ("Respondents" or "Committee") collected thirteen (13) groups of contributions totaling \$183,000 for twelve Republican Senate candidates and transferred these funds directly to the candidates. Respondents did not report the receipt of these funds nor the transfer of these contributions. On the second finding, the audit of expenditures disclosed that the non-federal account had over-funded its share of allocable expenses by \$166,047. Respondents used an allocation ratio of 71% when it should have been only 15%. The third finding was that the Committee failed to adequately disclose seventy-four (74) contributions totaling \$281,000 to federal candidates.

Alleged Violations: 2 U.S.C. §§ 441a(a)(8), 434(b)(6)(B), 11 C.F.R. §§ 102.5, 104.3(b)(3)(v), 104.10(b)(4), 106.6(b) and (c), 110.6(c)

Respondents' Reply to Audit: In response to the interim audit, the Committee filed amended reports disclosing the receipt of the earmarked contributions on Schedules A and the transfer of the earmarked contributions to the candidates on Schedules B. Respondents reimbursed the non-federal account \$166,047 to correct the over-funding and itemized its allocable activity in memo entries on Schedules H4 to correct the disclosure of expenditures. In addition, the Committee filed amended disclosure reports

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with additional information on the seventy-four contributions which corrected the disclosure omissions.

Analysis: Respondents, when acting as a conduit, are required to disclose detailed information about earmarked contributions, specifically when the contribution was received and when it was transferred to the designated candidate. As the Committee forwarded each contribution without depositing it first, the information must be reported as memo entries on Schedules A and Schedules B.

If the Committee financed political activity in connection with both federal and non-federal elections, they must have two accounts and allocate shared expenses between the two accounts. A political committee that allocates federal/non-federal expenses must report each disbursement it makes from its federal account to pay for a shared federal/non-federal expense on Schedule H4. Nonconnected committees shall allocate administrative expenses and costs of generic voter drives based on the ratio of federal expenditures to total federal and non-federal expenditures. The federal and non-federal expenditures used in this calculation are limited to expenditures made in direct support of candidates. Respondents neither paid all allocable expenses from the federal account or an allocation account, nor used the correct allocation ratio. The Committee informed the Audit staff they based their ratio on the ratio used by The Republican Party of Tennessee; but failed to disclose this ratio on Schedule H1 as required. Respondents used a 29% federal and 71% non-federal ratio, whereas the correct ratio should have been 85% federal and 15% non-federal.

When making contributions to federal candidates, the Committee is required to disclose the amount of the contribution, the date when the contribution was made, the candidate's name and address, the office sought including state and Congressional district if applicable, and the election designation. Respondents failed to adequately identify seventy-four contributions (62%) of disbursements made to candidates and other political committees.

Issues:

- Failure to report earmarked contributions 2 U.S.C. § 441a(a)(8), 11 C.F.R. § 110.6(c)
- Non-federal funding of federal activity 11 C.F.R. §§ 102.5, 104.10(b)(4), 106.6(b) and (c)
- Inadequate disclosure of contributions to federal candidates 2 U.S.C. § 434(b)(6)(B), 11 C.F.R. § 104.3(b)(3)(v)

Related FEC Experience/Guidance: There are numerous cases and AOs dealing with the three issues raised in this audit referral, namely a failure to report earmarked contributions, allocation of joint expenses (the non-federal funding of federal activity), and inadequate disclosure of contributions to federal candidates. The Commission also has a variety of brochures and information available in print and on the FEC website to

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inform and educate the public.)

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ADR Director's Recommendation: Assign to ADRO

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