




FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 4, 2004

**MEMORANDUM**

TO: The Commission

THROUGH: James A. Pehrkon  
Staff Director

FROM: Allan D. Silberman   
Director, ADR Office

SUBJ: Case for ADR Activation

On August 25, 2004, the ADR Office received from OGC/CELA a referral to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 205**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

**ADR 205/RAD 04L-10:** RAD determined that Respondents – i.e., Oakland County Democratic Party and Richard Wallace, Treasurer – disclosed additional disbursements that in the aggregate equal \$165,581.67 on their 2003 Mid Year Report and \$116,694.76 on the 2003 Year End Report. The aforementioned amounts represent an increase of 46.3% over disbursements reported on the initial 2003 Mid Year Report and an increase of 29.2% over disbursements reported on the initial 2003 Year End Report. Respondents, in replying to two RFAIs, first explained that the additional disclosure was prompted by a letter from the FEC noting the lack of administrative expenses listed on the initial Mid Year Report and subsequently advised that they later learned that a number of transactions were “erroneously omitted or incorrectly reported ...” In response to another RFAI sent in regard to the 2003 Year End Report, Respondents advised that the additional disclosure resulted from a review of their original report, which revealed errors. Two days after discovering the errors, Respondents filed an amended report with the Commission with the omitted transactions.

Attached for the Commission’s review is the *ADR Case Analysis Report* on **ADR 205** along with a copy 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 (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 205/RAD 04L-10** be assigned to ADR Office for processing.

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## ADR CASE ANALYSIS REPORT

ADR Case: # 205

Respondents: Oakland Co. Democratic Party

RAD: # 04L-10

Richard Wallace, Treasurer

Date Forwarded to ADRO: 10-25-04

Respondent's Rep: Richard Wallace

Date Reviewed by ADRO: 11-2-04

Committee Type: Political Committee

Election Cycle: 2004

Committee Name: Oakland Co. Dem. Party

Tier Level: 3

District #/or State: N/A.

EPS Rating: 13

Election - N/A

ADS Rating: 36

Complainant: RAD Referral

**Summary of Referral:** RAD determined that Respondents disclosed additional disbursements that in the aggregate equal \$165,581.67 on their 2003 Mid Year Report and \$116,694.76 on the 2003 Year End Report. The aforementioned amounts represent an increase of 46.3% over disbursements reported on the initial 2003 Mid Year Report and an increase of 29.2% over disbursements reported on the initial 2003 Year End Report.

Respondents original 2003 Mid Year Report, filed on 7/31/03, disclosed \$357,004 in disbursements for other federal operating expenses (listed on Line 21(b)) and no disbursements for transfers to affiliated committees (listed on Line 22). An amended 2003 Mid Year Report filed on 10/31/03 disclosed \$406,789.56 in disbursements for expenditures listed on Line 21(b) and \$275 for disbursements listed on Line 22 amounting to totaled additional disbursements of \$50,060.56. On May 30, 2004 Respondents filed another amended 2003 Mid Year Report which disclosed \$493,985.67 in disbursements for expenditures listed on Line 21(b) and \$28,600 in disbursements for expenditures listed on Line 22. The total additional disbursements over what was listed on the previously amended amounted to \$115,521.11.

Respondents 2003 Year End Report, filed on 1/31/04, disclosed disbursements of \$373,265.48 listed on Line 21(b). Respondents subsequently filed an amended 2003 Year End Report on 2/3/04, which disclosed \$489,960.24 in disbursements for expenditures listed on Line 21(b) representing \$116,694.76 in additional disbursements.

**Respondents' Reply:** In reply to two RFAs sent regarding the 2003 Mid Year Report, Respondents initially explained that the additional disclosure was prompted by a letter from the FEC noting the lack of administrative expenses listed on the initial Mid Year Report. They explained that they had "believed that all expenses had been properly disclosed." A reply to a later RFA, Respondents reported that following a review of their 2003 financial records they learned that a number of transactions were "erroneously omitted or incorrectly reported on two 2003 reports." Once detected, Respondents advised that they filed corrected reports with the Commission. In response to

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an RFAI sent regarding the Year End Report, Respondents advised that the additional disclosure resulted from a review of their original report, which revealed errors. Two days after discovering the errors, Respondents filed an amended report with the Commission with the omitted transactions.

**Alleged Violations:** 2 U.S.C. §§ 434(b)(4)(A) and (C) and 11 C.F.R. §§104.3(b)(1)(i)(C) and 104.3(b)(1)(ii)

- **Analysis:** The issues in this case relate to Respondents' failure to report additional disbursements. Treasurer's of campaign committees are obliged to report the total amount of expenditures made to meet the candidate's operating expenses and transfers to affiliated committees among other expenditures reported. Two RFAIs requested clarification for additional disbursements listed on Mid Year Reports that were subsequently modified by two amended reports. A later RFAI relating to the Year End Report also questioned additional disbursements that were reported on an amended report that disclosed a 29.2% increase over the amount listed on the initially Year End Report. The problem throughout all reports appeared to be Respondents' inability to correctly record and report its disbursements. Respondents reply to the RFAIs that speak of "erroneously omitted transactions" or others that were "incorrectly reported".

**Issues:**

- Reporting of disbursements 2 U.S.C. §§ 434(b)(4)(A) and (C) and 11 C.F.R. §§ 104.3(b)(1)(i)(C) and 104.3(b)(1)(ii)

**Related FEC Experience/Guidance:** RAD's analysis of Respondents' responsibility to report disbursements is explicit as is the guidance provided in the Commission's publications for authorized committees, which has been reiterated in numerous MUR and ADR settlements.

**Potential Terms of Settlement:** Negotiations with Respondents will focus on correcting the Committee's reporting and their obligation to provide accurate and complete information in reports filed with the Commission. Attendance at an FEC seminar for campaign committees and/or a civil penalty also may be in order.

**Recommendation: Assign to ADR**

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