




FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 15, 2004

**MEMORANDUM**

TO: The Commission

THROUGH: James A. Pehrkon  
Staff Director

FROM: Allan D. Silberman   
Director, ADR Office

SUBJ: Case for ADR Activation

On October 29, 2004 the ADR Office received from OGC/CELA MUR 5483 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 209**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

**ADR 209/MUR 5483:** Complainant alleges that Respondents, i.e., Bruderly for Congress and Virginia Seacrist, Treasurer, filed a false and misleading report with the Commission when it submitted its April 2004 Quarterly report. The subject report, which according to Respondents was filed five days late, lists 0 receipts and 0 expenditures for the first three months of the year. In a supplemental submission, Complainant argues Respondents erroneously listed on the July 2004 Quarterly report contributions for the Quarter of \$16,600.59 and total contributions for the election cycle of \$81,939.00. This was after reporting total contributions for the election cycle of \$26,076.41 on the first quarterly report for 2004. The complaint further contends that Respondents listed on the April 2004 Quarterly report \$44,331.26 in total disbursements for the election cycle and \$16,562.81 for disbursements for the quarter on the July 2004 Quarter report. This was after Respondents had reported 0 total disbursements for first quarter of 2004. The complainant points out that the latter listing represents a reduction in total disbursements for the quarter of \$27,768.45. The complainant also notes that Respondents second quarter 2004 report listed total disbursements of \$16,562.81 for the quarter as well as for the election cycle although the previous quarterly report listed total disbursements of \$44,331.26. Respondents contend that they filed as accurately and as quickly as possible and are unable to explain the discrepancies between the information reported and that which forms the basis of the complaint.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 209** along with a copy of the EPS 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.

25-19-026-0331

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 209/MUR 5483 be assigned to ADR Office for processing.

25-19-026-0332

## ADR CASE ANALYSIS REPORT

ADR Case: 209

Respondents: Bruderly for Congress  
Virginia Seacrist, Treasurer

MUR: 5483

Respondents' Rep: Virginia Seacrist

OGC Case Open Date: 7-20-04

Committee Type: Authorized Campaign

Date Forwarded to ADRO: 10-29-04

Committee's Name: Bruderly for Congress

Date Reviewed by ADRO: 11-9-04

District #/or State: FL 6<sup>th</sup> C.D.

Tier Level: 4

Election Won/Lost: - Lost

EPS Rating: 16

Election Cycle: 2004

ADR Rating: 40

Complainant: George C. Shuman

**Summary of Complaint:** Complainant alleges that Respondents filed a false and misleading report with the Commission when it submitted its April 2004 Quarterly report. The subject report, which according to Respondents was filed five days late, lists 0 receipts and 0 expenditures for the first three months of the year. Complainant alleges that during the those months Respondents campaigned throughout the District, maintained a website and collected over 5,000 petitions for which he was required to pay a fee for each one submitted to the county.

In a supplemental submission, Complainant argues Respondents erroneously listed on the July 2004 Quarterly report contributions for the Quarter of \$16,600.59 and total contributions for the election cycle of \$81,939.00. This was after reporting total contributions for the election cycle of \$26,076.41 on the first quarterly report for 2004.

The complaint further contends that Respondents listed on the April 2004 Quarterly report \$44,331.26 in total disbursements for the election cycle and \$16,562.81 for disbursements for the quarter on the July 2004 Quarter report. This was after Respondents had reported 0 total disbursements for first quarter of 2004. The complainant points out that the latter listing represents a reduction in total disbursements for the quarter of \$27,768.45.

The complainant also notes that Respondents second quarter 2004 report listed total disbursements of \$16,562.81 for the quarter as well as for the election cycle although the previous quarterly report listed total disbursements of \$44,331.26.

**Alleged Violations:** 2 U.S.C. §§ 434(b) and 434(a)(2)(iii) and 11 C.F.R. §§ 104.5 and 104.14(d)

**Respondents' Replies:** Respondents acknowledge filing their 2004 April Quarterly report late, which they contend was due to problems they encountered with the FEC's software. Respondents disclosed receipts of \$4,755 and expenditures of \$4,655.81 on their amended April Quarterly Report, which was submitted approximately six months after the subject April Quarterly report was filed. Respondents contend that they filed as "accurately and as quickly as possible" and observe that they "cannot explain the discrepancy between the data filed and information that form the basis of the complaint".

25.19.026.0333

**Analysis:** The statute at § 434(a) sets forth the obligations of treasurers of committees to file reports of receipts and disbursements in accordance with the provisions of the Act and §§ 434(b)(2) and (4) spells out the required contents of those reports including listing the total amount of all receipts and disbursements. Respondents, in replying to the complaint, failed to clarify or explain the source of the data listed on the subject April Quarterly report. Instead, Respondents referred to the disbursements listed on their amended April Quarterly report, noted the effort made with Commission staff to resolve the late reporting problem and concluded that they could not explain the discrepancy between the data filed with the Commission and information that was the source of the complaint. Respondents not only failed to reply to the claim that they filed "false and misleading reports" but also omitted any explanation of how the erroneous data found its way into the Committee's reports.

**Issues:**

- Reporting requirements, 2 U.S.C. §§ 434(a)(1) and (a)(2)(iii) and 11 C.F.R. §§ 104.5(a) and 104.14(d)
- Contents of reports, 2 U.S.C. § 434(b) and 11 C.F.R. §§ 104.3(a) and (b)

**Related FEC Experience:** A committee's reporting requirements are set out in the Commission's campaign guides for Congressional candidates and their committees. In addition, the regulations at 11 C.F.R. § 104.1(d) note the responsibility of treasurers for the accuracy of the information contained in the reports filed with the Commission. The requirements are enforced through numerous MUR and ADR settlements and enforcement activities of RAD, which reiterate the obligations of committees to accurately report all their disbursements.

**Potential Terms of Settlement:** Respondents' problems in accurately reporting their disbursements may in part be addressed by hiring competent accountant services to manage their reporting obligations. In addition, attendance at a FEC seminar to explain the committee's reporting requirements may be appropriate. Finally, the Adm. Fine program provides guidance on the level of civil penalty that is fitting for Respondents' late filing of the 2004 April Quarterly Report.

**Recommendation: Assign to ADRO**

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