



FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 14, 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 5508 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 210, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 210/MUR 5508: Complainant alleges that Respondents Michael Jaliman for US House of Representatives and M. Kathryn Jaliman, Treasurer ("Respondents Jaliman") failed to register with the FEC after exceeding the \$5,000 threshold in expenditures. Complainant further contends that Respondents Jaliman accepted in-kind contributions from Innovation Consultants Inc. ("Respondent Innovation") when he mailed campaign literature soliciting support on the firm's corporate letterhead. In addition, Complainant argues that Respondent Innovation made illegal, in-kind corporate contributions when they permitted their letterhead to be used to solicit support for candidate Jaliman. Respondents Jaliman contend that Innovation Consultants is not a corporation but a sole proprietorship. Respondents Jaliman acknowledged that the letters cited in the complaint were sent out on the firm's stationery but to no more than a few hundred persons before the candidate declared his candidacy. Respondents Jaliman advises that Respondent Innovation was reimbursed for the mailing and stationery, which was listed on its Third Quarter 2004 report. Respondents Jaliman also contend that the campaign committee did not exceed the \$5,000 threshold until September 2004 more than a month after the complaint was filed.

Attached for the Commission's review is the *ADR Case Analysis Report* on ADR 210 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. 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 210/MUR 5508 be assigned to ADR Office for processing.

ADR CASE ANALYSIS REPORT

ADR Case: 210

Respondents: 1) M. Jaliman for US House of Reps.
M. Kathryn Jaliman, Treasurer
2) Innovation Consultants, Inc.
Michael Jaliman, Managing Dir.
3) Michael Jaliman

MUR: 5508

Respondents' Rep: Michael Jaliman for 1, 2 and 3

OGC Case Open Date: 8-4-04

Committee Type: Authorized

Date Forwarded to ADRO: 10-29-04

Committee's Name: M. Jaliman for US House of Rep

Date Reviewed by ADRO: 11-12-04

District #/or State: NY 19th C.D.

Tier Level: 3

Election Won/Lost: Lost

EPS Rating: 16

Election Cycle: 2004

ADR Rating: 35

Complainant: Michael J. Morey, Campaign Mgr for
Friends of Janine Selendy

Summary of Complaint: Complainant alleges that Respondent Michael Jaliman ("Respondents Jaliman") failed to register his candidacy with the FEC after exceeding the \$5,000 threshold in expenditures. Complainant further contends that Respondents Jaliman accepted in-kind contributions from Innovation Consultants Inc. ("Respondent Innovation") when he mailed campaign literature soliciting support on the firm's corporate letterhead. In addition, Complainant argues that Respondent Innovation made illegal, in-kind corporate contributions when they permitted their letterhead to be used to solicit support for candidate Jaliman.

Respondent's Replies: Respondents Jaliman contend that Innovation Consultants, described as a "personal consulting firm", is not a corporation but a sole proprietorship. Respondents Jaliman acknowledge that the letters cited in the complaint were sent out on the firm's stationery to no more than a few hundred persons but before the candidate had definitively decided to run, before he declared his candidacy and before he was on the primary ballot. Respondents Jaliman advises that Respondent Innovation was reimbursed for the mailing and stationery. Those expenditures subsequently were listed on its third quarter 2004 report filed with the Commission. Respondents Jaliman also contend that the campaign committee did not exceed the \$5,000 threshold until September 2004 more than a month after the complaint was filed. Respondents Jaliman argued that the expenditures cited in the complaint including the cost of mailing of campaign literature, estimated at less than \$1,000, and local travel costs and expenses while attending the Democratic National convention were modest.

Alleged Violations: 2 U.S.C. § 441b(a), 433(a) 434(a) and 11 C.F.R. §§ 104.13(a), 114.2(a), 102.1(a) and 104.1(a)

Analysis: Candidates are obliged to register with the Commission and file a statement of organization no later than 10 days after designation, selection and naming in writing a political committee to serve as the principal campaign. Such designation shall be made no later than 15 days after becoming a candidate, having first raised or expended \$5,000. While Respondents Jaliman's petition of candidacy filed with the State of New York is dated July 8, 2004, the Jaliman committee reportedly did not exceed the \$5,000 threshold until September weeks after the compliant was filed. Finally, there is no corporate listing for Innovation Consultants thus supporting Respondents Jaliman's contention that the firm is a sole proprietorship.

Issues:

- In-Kind contribution – 2 U.S.C. § 431(8)(A) and 11 C.F.R. § 104.13(a)
- Prohibited corporate contributions – 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(b)(1)
- Registration of political committees – 2 U.S.C. § 433(a) and 11 C.F.R. § 102.1(a)
- Failure to file reports – 2 U.S.C. § 434(a) and 11 C.F.R. § 104.1(a)

Related FEC Experience/Guidance: Records of Commission settlements are replete with examples of both OGC and ADRO agreements that address complaints dealing with a committee's failure to register, failure to file and issues relating to the \$5,000 threshold in expenditure or receipts obligating a committee to register with the Commission. Those terms of settlements usually involve payment of a civil penalty, work with Commission staff to correct committee reporting and/or attendance at a FEC seminar

Potential Terms of Settlement: If discussion with Respondents Jaliman confirms that the alleged violations are unfounded then the settlement agreement will contain text noting that the violations listed in the complaint are unsubstantiated. If found otherwise, terms of settlement may include attendance at a FEC seminar and/or a civil penalty.

Recommendation: Assign to ADRO