



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

November 22, 2004

**MEMORANDUM**

TO: The Commission

THROUGH: James A. Pehrkon  
Staff Director

FROM: Allan D. Silberman  
Director, ADR Office

SUBJ. Case for ADR Activation

On November 5, 2004 the ADR Office received from RAD RR 04L-16 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 212**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

**ADR 212/RR 04L-16:** RAD determined that Respondents failed to timely file six 24-Hour Notices for independent expenditures totaling \$29,810 made after the 20<sup>th</sup> day but more than 24 hours before 12:01 a.m. of the day of the 2004 Democratic Presidential Primary Elections in California, Connecticut, Massachusetts, Nevada, New York and Wisconsin respectively.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 212** along with a copy of the ADR Rating Sheet. 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 212/RR 04L-16** be assigned to ADR Office for processing.

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## ADR CASE ANALYSIS REPORT

ADR Case: 212

Respondents: TRUTHANDHOPE.ORG

RR: 04L-16

Eugene Hedlund, Treasurer

Date Forwarded to ADRO: 11-5-04

Respondent's Rep: Gabe Sutton, Esq

Date Reviewed by ADRO: 11-16-04

Committee Type: Political Committee

Election Cycle: 2004

Committee Name: TRUTHAND HOPE.ORG

Tier Level: --

District #/or State: -- N/A

EPS Rating: --

Election: – N/A

ADS Rating: 48

Complainant: RAD Referral

**Summary of Referral:** RAD determined that Respondents failed to timely file six 24-Hour Notices for independent expenditures totaling \$29,810 made after the 20<sup>th</sup> day but more than 24 hours before 12:01 a.m. of the day of the 2004 Democratic Presidential Primary Elections in California, Connecticut, Massachusetts, Nevada, New York and Wisconsin respectively.

Respondents had initially disclosed on their March Monthly Report fifteen independent expenditures totaling \$96,011.23. Eleven of these fifteen expenditures, totaling \$68,705.23, required 24-Hour Notices. The Committee failed to timely file 24-Hour Notices for seven of these independent expenditures.

On April 20, 2004, the Committee, in response to a RFAI from the Commission, filed an amended March Monthly report, which changed the date of public dissemination for five of the independent expenditures. As a result of the date changes, two of the latter seven independent expenditures, totaling \$15,548, did not require 24-Hour Notices.

On May 24, 2004, the Committee filed another amended March Monthly report, which disclosed one additional, independent expenditure, totaling \$1,280. A 24-Hour Notice should have been but was not filed for the latter expenditure.

**Respondents' Reply:** In reply to voice mail messages left for them, Respondents were advised of the need to provide additional information as to why the 24-Hour Notices were filed late. A subsequent RFAI, sent on June 30, 2004, advised Respondents that they may have failed to timely file 24-Hour Notices of "last minute" independent expenditures. Respondents' reply to the June 30 RFAI advised that the independent expenditure totaling \$1,280 was "inadvertently omitted from the Committee's independent expenditure filing." The Committee, thereafter, noted that when the omission was identified they immediately amended their report. A subsequent voice mail requested that the Committee provide additional clarifying information regarding why the aforementioned expenditure was not timely reported. Respondents were advised that their failure to respond to the latter voice mail as well as earlier ones may result in the matter being referred to the ADR Office.

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**Alleged Violations:** 2 U.S.C. §§ 434(b)(6)(B)(iii) and (g)(1) and 11 C.F.R. § 104.4(c)

**Issues:**

- Reporting of independent expenditures by political committees – 2 U.S.C. § 434(b)(6)(B)(iii) and 11 C.F.R. § 104.4(a)
- 24-Hour Notice requirement re: reporting of independent expenditures – 2 U.S.C. § 434(g)(1) and 11 C.F.R. § 104.4(c)

**Analysis:** The issues in this case relate to Respondents' failure to report timely independent expenditures as required in the statute and regulations. A political committee is required to file reports with the Commission when it makes independent expenditures aggregating \$1,000 or more after the 20<sup>th</sup> day but more than 24 hours before the day of the election. The notice must be received by the Commission within 24 hours after the expenditure is made. The Committee responded inadequately to the two RFAIs and three voice mail messages that requested an explanation of why the 24 Hour Notices were filed late. Simultaneous notices that the Committee's failure to adequately respond to the Commission's notices and calls may result in the matter being referred to the ADR Office elicited a response first indicating they would "welcome participation in the ADR program" and a later notice advising the Commission of the new counsel who would be representing the Committee. None of the Committee's responses addressed the issue of why the required 24-hour notices were late.

**Related FEC Experience/Guidance:** RAD's referral provides the necessary analysis for proceeding with the Committee. Guidance on addressing the substantive matter is set forth in the Commission's publications and numerous MURs and ADR settlements including MUR 5277, MUR 5345 and ADR 186.

**Potential Terms of Settlement:** Negotiations with Respondents will focus on correcting the Committee's reporting and their obligation to provide accurate information in reports filed with the Commission. Potential terms of settlement may include attendance at an FEC seminar and a civil penalty.

**Recommendation: Assign to ADR**



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

04L-16  
November 5, 2004

**MEMORANDUM**

TO: ALLAN D. SILBERMAN  
DIRECTOR, ALTERNATIVE DISPUTE RESOLUTION

THROUGH: JAMES A. PEHRKON  
STAFF DIRECTOR

ROBERT J. COSTA  
DEPUTY STAFF DIRECTOR

FROM: JOHN D. GIBSON  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

SUBJECT: ADR REFERRAL OF TRUTHANDHOPE.ORG

TRUTHANDHOPE.ORG ("the Committee") failed to timely file six (6) 24-Hour Notices totaling \$29,810 to support the independent expenditures disclosed on the 2004 March Monthly Report and its corresponding amendments. In accordance with the 2003-2004 *RAD Review and Referral Procedures for Unauthorized Committees* (Standard 7), a review by your office is required.

Copies of any reports or letters either filed by the Committee, or sent by the Reports Analysis Division and referenced in this referral, are available for your review on the FEC Imaging System or the web site.

If you have any questions regarding this referral, please contact William Wiquist at 694-1394.

Attachments

## REPORTS ANALYSIS REFERRAL

DATE: November 5, 2004

ANALYST: William Wiquist

I. COMMITTEE: Eugene Hedlund, Treasurer  
C00396499  
TRUTHANDHOPE.ORG  
7978 Goldenstate Avenue  
Riverside, CA 92506

II. RELEVANT STATUTE: 2 U.S.C. §434(b)(6)(B)(iii) and (g)(1)  
11 CFR §104.4(c)

III. BACKGROUND:

Failure to Timely File 24-Hour Notices

TRUTHANDHOPE.ORG ("the Committee") failed to timely file six 24-Hour Notices for independent expenditures totaling \$29,810 made after the 20<sup>th</sup> day but more than 24 hours before 12:01 a.m. of the day of the 2004 Democratic Presidential Primary Elections in California, Connecticut, Massachusetts, Nevada, New York and Wisconsin respectively.

On March 19, 2004, the Committee filed a 2004 March Monthly Report which included a Schedule E disclosing fifteen independent expenditures totaling \$96,011.23 made on behalf of one federal candidate (Image # 24990830552). Of these independent expenditures, eleven totaling \$68,705.23 required a filed 24-Hour Notice. The Committee failed to timely file 24-Hour Notices for seven independent expenditures, totaling \$44,078, for the Democratic Presidential Primary Election in several states (Attachment 2).

On April 21, 2004, a Request for Additional Information ("RFAI") was sent to the Committee referencing the 2004 March Monthly Report (Image # 24038390798). The RFAI notes that the Committee may have failed to timely file one or more of the required 24-Hour Notices regarding "last minute" independent expenditures in support of a federal candidate. A chart was included with the RFAI identifying the seven independent expenditures, totaling \$44,078, for which 24-Hour Notices were filed late. In addition, the RFAI stated that, although the Commission may take further legal action, the Committee's "prompt response would be taken into consideration".

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On April 20, 2004, the Committee filed an Amended 2004 March Monthly Report (Image # 24991157735). In this report, the Committee amended its Schedule E to change the date of public dissemination for five of the independent expenditures cited in the RFAI. As a result of these date changes, two of the independent expenditures, totaling \$15,548, for the Democratic Presidential Primary Election in Maine and Washington, would not have required a 24-Hour Notice filing.

On May 24, 2004, the Committee again filed an Amended 2004 March Monthly Report (Image # 24961485099). Schedule E of this report disclosed one additional independent expenditure totaling \$1,280 made on the behalf of a federal candidate for the 2004 Democratic Presidential Caucus in Nevada (Image # 24961485099). Consequently, the 24-Hour Notice for this independent expenditure was also not timely filed (Image # 24961485077) (Attachment 3).

On June 4 2004, a Reports Analysis Division ("RAD") analyst called the committee and left a voicemail concerning the late notices. Specifically, the analyst highlighted that the failure to timely file 24-Hour Notices for independent expenditures was a matter which could be referred to the Office of Alternative Dispute Resolution ("ADR"). The analyst asked the committee to provide additional information on why the notices were filed late (Attachment 4).

On June 8, 2004, a RAD analyst again called the Committee and left a voicemail message. The analyst reiterated that the issue of late filed 24-Hour Notices for independent expenditures could be referred to the ADR office and that the committee should provide any additional information why the notices were filed late (Attachment 5).

On June 8, 2004, Janice Crum, the Committee's Custodian of Records, returned the RAD analyst's call and left a voicemail message. She stated that the Committee would welcome participation in the ADR program and that they hoped to settle the issues and move towards termination of the Committee (Attachment 5).

On June 30, 2004, a RFAI was sent to the Committee referencing the Amended 2004 March Monthly Report, received on May 24, 2004 (Image #24038433734). The RFAI noted that the Committee may have failed to timely file one or more of the required 24-Hour Notices regarding "last minute" independent expenditures in support of a federal candidate. A chart was included with the RFAI identifying the one independent expenditure, totaling \$1,280, for which a 24-Hour Notice was filed late. In addition, the RFAI stated that, although the Commission may take further legal action, the Committee's "prompt response will be taken into consideration".

On July 30, 2004, the Committee responded to the RFAI, dated June 30, 2004 with a miscellaneous electronic submission that stated, "This is a response to the Commission's Request for Additional Information regarding the committee's February 12, 2004 independent expenditures in Nevada in support of Howard Dean's presidential campaign. This expenditure was inadvertently omitted from the committee's independent expenditure filings. When the omission was identified, the committee immediately amended the report" (Image # 24962052898).

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On August 10, 200<sup>4</sup>, RAD analyst called the Committee and left a voicemail message informing the Committee that the issue of the late 24-Hour Notice for the independent expenditure disseminated in Nevada may be referred to the ADR office. The analyst asked that the Committee provide any additional clarifying information regarding why it was filed late (Attachment 6).

On September 13, 2004, Gabe Sutton, a lawyer assigned to the committee called and spoke with a RAD analyst. Mr. Sutton asked if any paperwork needed to be filed to show that he was now working on behalf of the committee. The analyst stated that RAD needed no specific paperwork but that ADR may require specific documentation. The analyst forwarded the call to the ADR office for further guidance (Attachment 7).

To this date, no further communications have been received by the Committee regarding this matter.

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## Attachment 2

Overview of Late Filed 24-Hour Notices  
2004 March Monthly Report

Name of Payee	Date Disseminated According to Schedule E	Date the 24-Hour Notice was Received by the Commission (Image #)	Independent Expenditure Amount	Candidate Supported	State Disseminated In - Election Date
Transire Rubiconem	2/5/2004	02/23/2004 (24990830772)	\$13,568	Howard Dean	Washington - 2/7/2004
Transire Rubiconem	2/6/2004	02/23/2004 (24990830772)	\$1,980	Howard Dean	Maine - 2/8/2004
Transire Rubiconem	2/12/2004	02/23/2004 (24961485318)	\$15,210	Howard Dean	Wisconsin - 2/17/04
Transire Rubiconem	2/25/2004	03/19/2004 (24961485320)	\$5,540	Howard Dean	California - 3/2/04
Transire Rubiconem	2/27/2004	03/02/2004 (24961485323)	\$2,104	Howard Dean	Massachusetts - 3/2/04
Transire Rubiconem	2/28/2004	03/02/2004 (24961485322)	\$1,760	Howard Dean	Connecticut - 3/2/04
Transire Rubiconem	2/28/2004	03/02/2004 (24961485323)	\$3,916	Howard Dean	New York - 3/2/04
Total Amount			\$44,078.00		

## Attachment 3

Overview of Late Filed 24-Hour Notices  
Amended 2004 March Monthly Report's

Name of Payee	Date Disseminated According to Schedule E	Date the 24-Hour Notice was Received by the Commission (Image #)	Amount	Candidate Supported	State Disseminated In - Election Date
Transire Rubiconem	2/12/2004	05/24/2004 (24961485318)	\$1,280	Howard Dean	Nevada - 2/14/2004
Transire Rubiconem	2/14/2004	02/23/2004 (24961485318)	\$15,210	Howard Dean	Wisconsin - 2/17/04
Transire Rubiconem	2/25/2004	03/19/2004 (24961485320)	\$5,540	Howard Dean	California - 3/2/04
Transire Rubiconem	2/28/2004	03/02/2004 (24961485322)	\$1,760	Howard Dean	Connecticut - 3/2/04
Transire Rubiconem	2/28/2004	03/02/2004 (24961485323)	\$2,104	Howard Dean	Massachusetts - 3/2/04
Transire Rubiconem	2/28/2004	03/02/2004 (24961485323)	\$3,916	Howard Dean	New York - 3/2/04
<b>Total</b>			<b>\$29,810.00</b>		