



FEDERAL ELECTION COMMISSION
Washington, DC 20463

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January 31, 2005

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D Silberman
Director, ADR Office

SUBJ: Case for ADR Activation

SENSITIVE

On January 21, 2005 the ADR Office received from RAD 04L-11 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 226**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 226: RAD determined that the Nebraska Republican Federal Campaign Committee and Demarus Carlson, Treasurer (the "Respondents") failed to disclose all its financial activity on its 2003 Mid Year Report. Specifically, Respondents' 2003 Mid Year Report filed on 7/31/03, disclosed \$15,725.03 in disbursements for Federal Share of Shared Federal/Non-Federal Activity, \$47,174.60 for Non-Federal Share of Shared Federal/Non-Federal Activity, \$0 for Other Federal Operating Expenditures and \$0 for Other Disbursements. On 5/14/04, Respondents filed an amended 2003 Mid Year Report, which disclosed \$16,439.71 in disbursements for Federal Share of Shared Federal/Non-Federal Activity, \$42,273.22 for Non-Federal Share of Shared Federal/Non-Federal Activity, \$41,123.35 for Other Federal Operating Expenditures and \$63,875.45 for Other Disbursements. On 6/23/04, a Request for Additional Information (RFAI) requested clarification regarding the total additional disbursements totaling \$100,811.10 that had not been disclosed on the Committee's original 2003 Mid Year Report. Respondents' reply to the RFAI advised that errors in their 2003 Mid Year Report were due to staff turnover and software problems, which caused several disbursements to be omitted on the Committee's original Mid Year Report.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 226** 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 226/RAD 04L-11** be assigned to ADR Office for processing.

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ADR CASE ANALYSIS REPORT

ADR Case: # 226

Respondents: NB Rep. Federal Camp. Comm.

RAD: # 04L-11

Demarus Carlson, Treasurer

Date Forwarded to ADRO: 1-21-05

Respondent's Rep: Demarus Carlson

Date Reviewed by ADRO: 1-26-05

Committee Type: State Party

Election Cycle: 2004

Committee Name: NB Rep. Fed. Camp. Comm

Tier Level: N/A

District #/or State: Nebraska

EPS Rating: N/A

Election - N/A

ADS Rating: 46

Complainant: RAD Referral

Summary of Referral: RAD determined that Respondents failed to disclose all its financial activity on its 2003 Mid Year Report. Specifically, Respondents' 2003 Mid Year Report filed on 7/31/03, disclosed \$15,725.03 in disbursements for Federal Share of Shared Federal/Non-Federal Activity, \$47,174.60 for Non-Federal Share of Shared Federal/Non-Federal Activity, \$0 for Other Federal Operating Expenditures and \$0 for Other Disbursements. On 5/14/04, Respondents filed an amended 2003 Mid Year Report, which disclosed \$16,439.71 in disbursements for Federal Share of Shared Federal/Non-Federal Activity, \$42,273.22 for Non-Federal Share of Shared Federal/Non-Federal Activity, \$41,123.35 for Other Federal Operating Expenditures and \$63,875.45 for Other Disbursements. On 6/23/04, a Request for Additional Information (RAI) requested clarification regarding the total additional disbursements totaling \$100,811.10 that had not been disclosed on the Committee's original 2003 Mid Year Report.

Respondents' Reply: Respondents' reply to the RAI advised that errors in their 2003 Mid Year Report were due to staff turnover and software problems, which caused several disbursements to be omitted on the Committee's original Mid Year Report.

Alleged Violations: 2 U.S.C. §§ 434(b)(4)(A) and (H)(v) and 11 C.F.R. §§104.3(b)(1)(i)(A), 104.3(b)(1)(i)(B), 104.3(b)(1)(ix)(A), and 104.3(b)(1)(ix)(B) and 104.17(b)(3)(i)

Analysis: The issues in this case relate to Respondents' failure to report additional disbursements totaling \$100,811.10 on the Committee's 2003 Mid Year Report. Committees are obliged to report all disbursements made to meet a committee's operating expenses including itemized and unitemized operating expenditures, any other disbursements and allocated disbursements for certain allocable activity that is not Federal election activity. Respondents reportedly uncovered the reporting errors and omissions on their 2003 Mid Year Report. Once identified, Respondents subsequently filed an amended corrected 2003 Mid Year Report.

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Issues:

- Reporting of disbursements 2 U.S.C. §§ 434(b)(4)(A) and (H)(v) and 11 C.F.R. §§ 104.3(b)(1)(i)(A), (B) and (b)(1)(ix)(A) and (B)
- Reporting allocable expenses 11 C.F.R. § 104.17(b)(3)(i)

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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