



Federal Election Commission
Washington, DC 20463

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COMMISSION
SECRETARIAT

2005 APR 21 A 10:40

MEMORANDUM

SENSITIVE

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman
Director, ADR Office

BY: Lynn M. Fraser
Assistant Director, ADR Office

SUBJECT: Case for ADR Activation

DATE: April 19, 2005

On February 4, 2005, the ADR Office received from OGC/CELA the following case to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 241/Audit 03-17, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 241/Audit 03-17: An audit of the 2002 campaign records of Kevin Kelley for Congress and Karen Potter White, Treasurer ("Respondents" or the "Committee") revealed that a credit card held in the name of Connie S. McNealy, the Candidate's wife, was used to make campaign related expenditures totaling \$59,812. These charges exceed the contribution limitation by \$57,812. Respondents complied with the recommendation in the interim audit and paid the spouse's credit.

Attached for the Commission's review is the *ADR Case Analysis Report* on ADR 241, along with a copy of the ADR rating report. The *ADR Case Analysis Report* includes an analysis of the case and a description of the issues that the ADR Office anticipates addressing if the case is assigned to ADR. In addition, the *ADR Case Analysis Report* has been reviewed by OGC, which concurs in the description of the case.

ADR Director's Recommendation: We recommend that ADR 241/Audit 03-17 be assigned to the ADR Office for processing.

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ADR CASE ANALYSIS REPORT

ADR Case: 241

Audit Referral: A03-17

Date Audit Approved: 1/21/05

Date Forwarded to ADRO: 2/4/05

Date Reviewed by ADRO: 2/23/05

Respondents:

Kevin Kelley for Congress

Karen Potter White, Treasurer

Respondents' Rep.: Karen Potter White

Committee Type: Authorized

Committee Name: Kevin Kelley for Congress

District & State: MI 11th C.D.

Election Cycle: 2002

Summary of Referral: In an audit of campaign records of Kevin Kelley for Congress and Karen Potter White, Treasurer ("Respondents" or the "Committee") it was revealed that a credit card held in the name of Connie S. McNealy, the Candidate's wife, was used to make campaign related expenditures totaling \$59,812. These charges exceed the contribution limitation by \$57,812.

Alleged Violations: 2 U.S.C. §§ 441a(a)(1)(A), 441a(f), 11 C.F.R. §§ 110.1(a)-(b), 110.9(a) (2002)

Respondents' Reply to Audit: In response to the interim audit recommendation, Respondents verified that the amount owed to the spouse's credit card account was paid, albeit untimely.

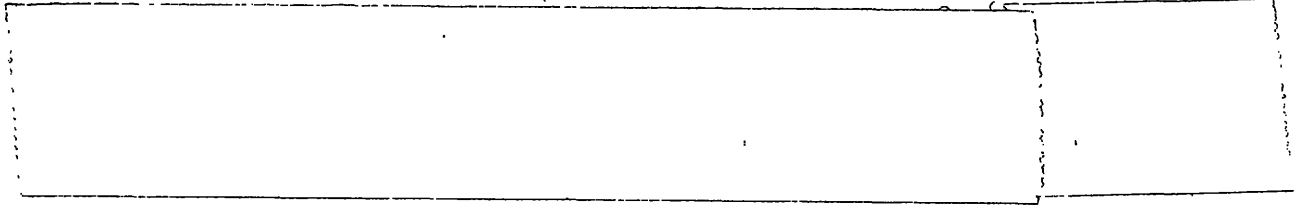
Analysis: During the audit, one of the reported debts and obligations was a debt owed to Donnie S. McNealy, the candidate's wife. The purpose disclosed to the Audit Staff was "campaign credit card balance." For the period October 6, 2002 through January 24, 2003, Ms. McNealy used her personal credit card to make \$59,812 in campaign related expenditures. The expenditures were made for the general election resulting in an excessive contribution of \$57,812. Under the statute in effect at the time, the candidate's wife could make a \$1,000 contribution per election. In addition, the candidate's spouse can spend \$1,000 for voluntarily unreimbursed campaign travel expenses without making a contribution pursuant to C.F.R. § 100.79.

The Audit staff concluded that the Respondents resolved the excessive contributions of \$57,812, but were untimely in doing so.

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Issues:

- Excessive contribution 2 U.S.C. §§ 441a(a)(1)(A), 441a(f), 11 C.F.R. §§ 110.1(a)-(b), 110.9(a) (2002)



ADR Director's Recommendation: Assign to ADRO

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Silberman



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

DATE & TIME OF TRANSMITTAL: Thursday, April 21, 2005 4:00

BALLOT DEADLINE: Tuesday, April 26, 2005 4:00

COMMISSIONER: MASON, McDONALD, SMITH, THOMAS, TONER, WEINTRAUB

SUBJECT: **Case for ADR Activation ADR 241/Audit 03-17
Memorandum from The Director, ADR dated
April 19, 2005.**

- () I approve the recommendation(s)
- () I object to the recommendation(s)
- () I am recused from voting

COMMENTS: _____

DATE: _____

SIGNATURE: _____

A definite vote is required. All ballots must be signed and dated. Please return ONLY THE BALLOT to the Commission Secretary. Please return ballot no later than date and time shown above.

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