



RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

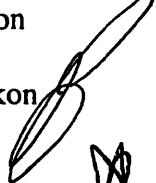
2005 APR 29 7 3: 46


Federal Election Commission
Washington, DC 20463


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 29, 2005

On March 10, 2005, the ADR Office received from RAD the following case to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, ADR 244/RR 05L-08, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 244/RR 05L-08: A review of disclosure reports by the Reports Analysis Division ("RAD") revealed that the Amalgamated Transit Union – COPE and Oscar Owens, Treasurer ("Respondents" or the "Committee") failed to timely file one (1) 48-Hour Notice for two (2) independent expenditures totaling \$42,245.26. Respondents made expenditures on September 3, 2004 in the amount of \$8,363.46, and on September 27 in the amount of \$33,881.80. Respondents reported these expenditures on their October Monthly Report filed October 16, 2004. These expenditures aggregated in excess of \$10,000 in the calendar year during the period prior to and including the 20th day before the 2004 General Election. Respondents contend that they were reporting the independent expenditures using the date that the Committee received final bills from its vendors rather than the date the independent expenditures were publicly disseminated. Respondents filed the 48-Hour Notice of Independent Expenditure for the expenditures in question on December 22, 2004.

25190261440

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 244**, 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.

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.

ADR Director's Recommendation: We recommend that **ADR 244/RR 05L-08** be assigned to the ADR Office for processing.

25190261441

ADR CASE ANALYSIS REPORT

ADR Case: 244

Respondents:
Amalgamated Transit Union-COPE
Oscar Owens, Treasurer

RAD Referral: 05L-08

Respondents' Rep.: Oscar Owens

Date Forwarded to ADRO: 3/10/05

Committee Type: Unauthorized

Date Reviewed by ADRO: 3/30/05

Committee Name: Amalgamated Transit Union-COPE

District & State: N/A

Election Cycle: 2004

Summary of Referral: A review of disclosure reports by the Reports Analysis Division ("RAD") revealed that the Amalgamated Transit Union – COPE and Oscar Owens, Treasurer ("Respondents" or the "Committee") failed to timely file one (1) 48-Hour Notice for two (2) independent expenditures totaling \$42,245.26. Respondents made expenditures on September 3, 2004 in the amount of \$8,363.46, and on September 27 in the amount of \$33,881.80. Respondents reported these expenditures on their October Monthly Report filed October 16, 2004. These expenditures aggregated in excess of \$10,000 in the calendar year during the period prior to and including the 20th day before the 2004 General Election.

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

Respondents' Reply to RAD: Respondents contend that they were reporting the independent expenditures using the date that the Committee received final bills from its vendors rather than the date the independent expenditures were publicly disseminated. Respondents filed the 48-Hour Notice of Independent Expenditure for the expenditures in question on December 22, 2004.

Analysis: The statute and regulations state that independent expenditures that aggregate \$10,000 or more with respect to a given election any time during the calendar year up to and including the 20th day before an election must be disclosed in a report to the Commission describing the expenditures within 48 hours. The regulations go on to state that the committee must ensure that the Commission receives these reports by 11:59 p.m. Eastern Time on the second day following the date on which a communication that constitutes an independent expenditure is publicly distributed or otherwise publicly disseminated. In this matter, Respondents were informed of the specifics required for filing reports that included the details of what triggers the filing of 48-Hour and 24-Hour Notices in a Report Notice sent to them on August 27, 2004.

25190261442

Issues:

- 48-Hour Notices on Independent Expenditures 2 U.S.C. §§ 434(b)(6)(B)(iii), 434(g)(2), 11 C.F.R. § 104.4(b)(2)

Related FEC Experience/Guidance: The committee received a Report Notice on the specifics required for filing reports that included the details of what triggers the filing requirement of 48-Hour and 24-Hour Notices. In addition to the information being available in the statute and regulations, it is also available on the Commission web-site.

ADR Director's Recommendation: Assign to ADRO

25190261443

Sellerman



FEDERAL ELECTION COMMISSION
Washington, DC 20463

SENSITIVE

DATE & TIME OF TRANSMITTAL: Monday, May 02, 2005 11:00

BALLOT DEADLINE: Thursday, May 05, 2005 4:00

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

SUBJECT: **Case for ADR Activation ADR 244/RR 05L-08
Memorandum from the Director, ADR Office
dated April 29, 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.

FROM THE OFFICE OF THE SECRETARY OF THE COMMISSION

25190261444