



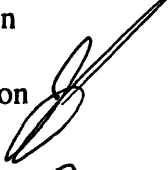
Federal Election Commission
Washington, DC 20463


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2005 APR 21 A 10:40

MEMORANDUM

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

SENSITIVE

On March 28, 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 249/RR 05L-05, is appropriate for ADR and recommend that it be assigned to the ADR Office.

ADR 249/RR 05L-05: The Freshmen PAC filed an amended 2004 July Quarterly Report on August 20, 2004. The amended report disclosed additional disbursements totaling \$213,423.91, a ninety-six percent (96%) increase. The original 2004 July Quarterly Report, filed on July 15, 2004, disclosed \$220,065.18 in disbursements for Other Federal Operating Expenditures. The amended report disclosed \$433,489.09 for the same category of disbursements. The Committee responded to the RFAI that two disbursements dated in June did not clear with their bank until after June 30, 2004, and thus were omitted from the 2004 July Quarterly Report in error.

Attached for the Commission's review is the *ADR Case Analysis Report* on ADR 249, along with copies of the EPS Rating and ADR Rating reports. 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 249/RR 05L-05 be assigned to the ADR Office for processing.

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ADR CASE ANALYSIS REPORT

ADR Case: 249

Respondents:
Freshmen PAC
David Metzner, Treasurer

RAD Referral: 05L-05

Respondents' Rep.: Clea Mitchell, Esq.

Date Forwarded to ADRO: 3/28/05

Committee Type: Qualified Non-Party

Date Reviewed by ADRO: 4/1/05

Committee Name: Freshmen PAC

District & State: N/A

Election Cycle: 2004

Summary of Referral: The Freshmen PAC and David Metzner, Treasurer ("Respondents" or the "Committee") filed an amended 2004 July Quarterly Report on August 20, 2004. The amended report disclosed additional disbursements totaling \$213,423.91, a ninety-six percent (96%) increase. The original 2004 July Quarterly Report, filed on July 15, 2004, disclosed \$220,065.18 in disbursements for Other Federal Operating Expenditures. The amended report disclosed \$433,489.09 for the same category of disbursements.

Alleged Violations: 2 U.S.C. § 434(b)(4)(A), 11 C.F.R. § 104.3(b)

Respondents' Reply to RAD: In response to the RFAI, Respondents filed a miscellaneous electronic submission on November 4, 2004, in which they stated:

After the July quarterly reporting period ended on June 30, 2004, and after the July quarterly report had been prepared and filed, we determined that there were two disbursements that had been made during the reporting period but which had not cleared the bank by June 30, 2004 (the next reporting period). When it was determined that these disbursements, totaling \$213,423.91, were in fact made during the July quarterly reporting period, the July quarterly report was amended to include these disbursements. Subsequently, Freshmen PAC adjusted its procedures, including moving to a monthly reporting status in order to better capture and report information in a more timely manner.

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Then, on November 22, 2004, the Committee filed an additional electronic response that stated, in part:

During the process of reviewing the July bank statement and canceled checks for purposes of preparing the July monthly report, it was discovered that two checks paid in July were dated in June. Upon reviewing the dates of the checks, the July Quarterly Report was amended to reflect the disbursements as having been made in June, even although the amounts were not actually paid until July. The Committee determined that to be most accurate, the disbursements should be reported as having been made during the second quarter. Since the amendment to the July Quarterly report was filed, the Committee has revised its operating procedures to ensure that all outstanding disbursements are promptly forwarded to the compliance vendor in order that those can be reported in the month in which the disbursements are made. In addition, as mentioned previously, the Committee moved its reporting schedule from quarterly to monthly, thus enabling all activity to be disclosed in a timely and accurate manner. Please know that Freshmen PAC takes great care to ensure that all reporting requirements are met and has been proactive in retaining qualified professional vendors to assist with all compliance responsibilities of the Committee. Essentially, Freshmen PAC changed virtually overnight from a relatively small and inactive entity to one with a very active fundraising and donor component, with a commensurate increase in reporting complexities. The transition required changes in operating procedures and enhanced levels of professionalism, which the Committee took immediate and voluntary steps to ensure.

Analysis: The statute and regulations are clear and specific on the timely reporting of all disbursements. Contrary to Respondents' contention, the change in Respondents' status as a small inactive PAC to a major player in political financial matters does not negate the requirement for complete and timely disclosure.

Issues:

- Timely reporting of disbursements 2 U.S.C. § 434(b)(4)(A), 11 C.F.R. § 104.3(b)

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 249/RR 05L-05
Memorandum from the Director, ADR Office
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.

FROM THE OFFICE OF THE SECRETARY OF THE COMMISSION

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