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FEC
ALTERNATIVE DISPUTE
RESOLUTION OFFICE

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

2005 MAY 19 P 4:13

May 19, 2005

MEMORANDUM

TO: ALLAN D. SILBERMAN
DIRECTOR, ALTERNATIVE DISPUTE RESOLUTION

THROUGH: JAMES A. PEHRKON
STAFF DIRECTOR
BS
ROBERT J. COSTA
DEPUTY STAFF DIRECTOR
JK

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

SUBJECT: ADR REFERRAL OF AMERICAN COLLEGE OF CARDIOLOGY
POLITICAL ACTION COMMITTEE

American College of Cardiology Political Action Committee ("the Committee") is being referred to the Office of Alternative Dispute Resolution (ADR) for failure to file one (1) 48-Hour Notice totaling \$25,250 to support the independent expenditure disclosed on the 2004 12 Day Pre-General Report for the 2003-2004 election cycle. 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 web site.

If you have any questions regarding this referral, please contact Jodi Winship at 694-1136.

Attachments

REPORTS ANALYSIS REFERRAL
TO
OFFICE OF ALTERNATIVE DISPUTE RESOLUTION

DATE: May 00, 2005

ANALYST: Jodi Winship

25190263154

I. COMMITTEE: American College of Cardiology Political Action Committee (C00375360)
Michael A. Votaw, Treasurer
9111 Old Georgetown Road
Bethesda, MD 20814

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

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to File 48-Hour Notice)

American College of Cardiology Political Action Committee ("the Committee") failed to file one (1) 48-Hour Notice for an independent expenditure totaling \$25,250 which was made in the 2004 calendar year during the period prior to and including the 20th day before the 2004 General Election.

A Prior Notice listing the official filing dates for monthly filers was sent to the Committee on August 27, 2004. The notice included a section titled *48- and 24-Hour Reports on Independent Expenditures*. This section read as follows: "Any PAC or Party Committee that makes independent expenditures in connection with an election may also have to file 48-hour or 24-hour reports. The 48-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$10,000 or more between January 1st and the 20th day before the election. The 24-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the day of the election. These reports are *not* required when a Party Committee or PAC makes a contribution directly to a candidate." (Attachment 2)

On October 22, 2004, the Committee filed a 2004 12 Day Pre-General Report which included a Schedule E disclosing one (1) independent expenditure totaling \$25,250 made on behalf of one (1) federal candidate, which required that a 48-Hour Notice be filed with the Commission (Image 24962697400).

On December 8, 2004, a Request for Additional Information ("RFAI") was sent to the Committee referencing the 2004 12 Day Pre-General Report (Image 24038661530). The RFAI noted that the Committee may have failed to file the required 48-Hour Notice regarding independent expenditures in support of a federal candidate. In addition, the RFAI stated that, although the Commission may take further action, the Committee's prompt response concerning the matter would be taken into consideration.

On January 7, 2005, Mike Votaw, the Committee's treasurer, called the Reports Analysis Division ("RAD") analyst regarding the RFAI referencing the 2004 12 Day Pre-General Report. He stated that the Committee was taking the appropriate action to comply with the RFAI. He further advised the RAD analyst that the 48-Hour Notice had been filed that day. The RAD analyst explained that the Commission could take further action regarding the late notice. Mr. Votaw said that he understood and he did not realize the 48-Hour Notice had to be filed. He told the RAD analyst that he wished to provide an explanation for the oversight. The RAD analyst recommended that he submit a miscellaneous text document so that his response would be on the public record. Mr. Votaw responded that he would submit the response (Attachment 3).

On January 7, 2005, the Committee filed one (1) 48-Hour Notice for the independent expenditure totaling \$25,250 made in support of one (1) federal candidate on October 13, 2004. The Notice included additional text to provide a reason for the late filing. The response stated that "It was our understanding at the time the independent expenditure was made that the FEC's regulations did not require additional disclosure since the expenditure was made more than 20 days before the general election. It has since come to our attention that for such expenditures made more than 20 days before an election a 48-hour notice is now required." (Image 25980098136)

On January 14, 2005, the RAD analyst called the Committee's Treasurer, Mr. Votaw, and left a message on his voice mail. The RAD analyst stated that the failure to file the 48-Hour Notice for the Independent Expenditure reported on the 2004 12 Day Pre-General Report was referable to the Office of Alternative Dispute Resolution ("ADR"). The RAD analyst stated that any further explanation by the Committee needed to be filed within one (1) week and to call with questions (Attachment 4).

On January 18, 2005, Dana Birdson, a representative of the Committee, called to inform the RAD analyst that an explanation for the late 48-Hour Notice had been attached to the 48-Hour Notice filed on January 7, 2005. The RAD analyst confirmed that the statement was included as a second page to the 48-Hour Notice. Ms. Birdson further highlighted that their failure to timely file the 48-Hour Notice was a legitimate mistake and that they were unknowingly relying on an out-dated Campaign Guide for reporting information. The RAD analyst explained that the issue would be referred to ADR and

that the Committee's [REDACTED]lanation would also be forwarded to [REDACTED]DR for consideration (Attachment 5).

To this date, no additional information has been provided by the Committee regarding this matter.

25190263156

AMERICAN COLLEGE OF CARDIOLOGY POLITICAL ACTION COMMITTEE
Votaw, Michael A. Mr.
9111 Old Georgetown Road
FILING FREQUENCY: MONTHLYTHIRD-PARTY QUALIFIED
MD 20814

ID #C00375360

FORM TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY	
1		A		9/22/2003	4	23991975122							
MS		M		2/14/2003	2	23037984533							
MS		N		3/14/2003	2	23038012714							
MS		T		3/19/2003	1	23990558097							
MS		O		4/04/2003	2	23038031600							
RQ		12G		12/08/2004	4	24038661530	10/01/2004 10/13/2004						
RQ		30G		1/05/2005	3	25038682316	10/14/2004 11/22/2004						
3		M2	N	P	2/20/2003	13	23990433077	1/01/2003 1/31/2003	48719	13880	696-	63296	0
3		M3	N	P	3/13/2003	15	23990524758	2/01/2003 2/28/2003	63296	8950	15011	57234	0
3		M3	A	P	3/14/2003	15	23990527215	2/01/2003 2/28/2003	63296	8950	15011	57234	0
3		M4	N	P	4/18/2003	11	23990779343	3/01/2003 3/31/2003	57234	1250	23470	35014	0
3		M5	N	P	5/19/2003	15	23990947419	4/01/2003 4/30/2003	35014	17450	123	52340	0
3		M6	N	P	6/12/2003	10	23991071607	5/01/2003 5/31/2003	52340	1300	21633	32006	0
3		M7	N	P	7/14/2003	12	23991333205	6/01/2003 6/30/2003	32006	2050	17503	16553	0
3		M8	N	P	8/20/2003	12	23991775384	7/01/2003 7/31/2003	16553	9278	329	25502	0
3		M9	N	P	9/12/2003	15	23991918003	8/01/2003 8/31/2003	25502	9944	16261	19186	0
3		M10	N	P	10/15/2003	21	23992064996	9/01/2003 9/30/2003	19186	7628	15607	11207	0
3		M11	N	P	11/13/2003	19	23992263484	10/01/2003 10/31/2003	11207	9481	4676	16011	0
3		M12	N	P	12/18/2003	17	23992503200	11/01/2003 11/30/2003	16011	10393	107	26297	0
3		YE	N	P	1/30/2004	14	24990284361	12/01/2003 12/31/2003	26297	5049	86	31261	0
3		M2	N	P	2/23/2004	9	24990653610	1/01/2004 1/31/2004	31261	8249	95	39415	0

AMERICAN COLLEGE OF CARDIOLOGY POLITICAL ACTION COMMITTEE
Votaw, Michael A. Mr.
9111 Old Georgetown Road
FILING FREQUENCY: MONTHLYNON-PARTY QUALIFIED
MD 20814

ID #C00375360

FORM	TYPE	RPT	TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
3	M3	N	P	3/19/2004	12	24990801615	2/01/2004	2/29/2004	39415	7414	6808	40021	0	
3	M4	N	P	4/16/2004	19	24991078913	3/01/2004	3/31/2004	40021	12218	7665	44573	0	
3	M5	N	P	5/20/2004	18	24971240448	4/01/2004	4/30/2004	44573	14648	1129	58092	0	
3	M6	N	P	6/18/2004	16	24961656278	5/01/2004	5/31/2004	58092	8229	1175	65146	0	
3	M7	N	P	7/21/2004	18	24961973346	6/01/2004	6/30/2004	65146	5137	53925	16358	0	
3	M8	N	P	8/19/2004	19	24971382014	7/01/2004	7/31/2004	16358	9698	17391	8664	0	
3	M9	N	P	9/20/2004	17	24991232469	8/01/2004	8/31/2004	8664	4933	4826	8771	0	
3	M10	N	P	10/20/2004	36	24991256145	9/01/2004	9/30/2004	8771	34652	21776	21646	0	
3	12G	N	P	10/22/2004	23	24962697378	10/01/2004	10/13/2004	21646	43490	25612	39523	0	
3	30G	N	P	12/02/2004	15	24991403013	10/14/2004	11/22/2004	40523	10122	3114	47531	0	
3	30G	A	P	2/04/2005	21	25970146749	10/14/2004	11/22/2004	39523	13207	3116	49614	0	
3	YE	N	P	1/31/2005	25	25980386183	11/23/2004	12/31/2004	49614	8772	5154	53232	0	
TOTAL													267300	262782

American College of Cardiology Political Action Committee (C00375360)
Independent Expenditure Overview

Name of Payee	Amount of Expenditure	2004 Report and Date of Expenditure (Schedule E)	Candidate Supported	48 Hour Notice Needed and Date 48 Hour Notice Filed	State and Date of Election in Which Disseminated
Todd & Castellanos	\$25,250.00	12 Day Pre-General – October 13, 2004	Lisa Murkowski	Yes – Filed on January 7, 2005	Alaska – General Election (11/02/2004)

Communication Log

Date/Time: 01/07/2005 02:59 PM

ID: C00375360 Name: American College of Cardiology Political Action Commit

Phone: (301) 493-2301 EMail Address:

Candidate:

Type: Phone Call

Contact: Mike Votaw

Title: Treasurer

Communications Category Type: RFAI

Summary: Mike was calling in response to an RFAI the committee received. He thought that someone else from the committee had previously called but, as treasurer, he wanted to personally call to make sure the correct action was being taken to comply with the letter. I told him I didn't have any record of previous conversations with the committee this year, but that it was good that he called. The committee had failed to file a 48 hour notice. He said that they had uploaded the notice today. I told him it was good that he did that but that there may be action taken regardless because it is so late and after the election. He said he understood. He explained that these activities are new to the committee and they did not realize it had to be filed. He told me he wanted to provide an explanation for the error so I told him he should submit a misc. text so that his response could be on the public record. He said he would do that.

Additional Remarks:

Analyst: Jodi Winship Branch: Party/Non-Party

AF#:

Communication Log

Date/Time: 01/14/2005 10:10 AM

ID: C00375360 Name: American College of Cardiology Political Action Commit

Phone: (301) 493-2301 EMail Address:

Candidate:

Type: Phone Call

Contact: Mike Votaw

Title: Treasurer

Communications Category Type: RFAI

Summary: I left a message on his voice mail to let him know that we had received the 48 hour notice for the independent expenditure reported on the 12 Day Pre-General Report, but since it was so late, the issue was referable to ADR. I told him if he'd like to send in an explanation regarding the late notice, we would need it by next Friday. I told him to call me if he had any questions.

Additional Remarks:

Analyst: Jodi Winship Branch: Party/Non-Party

AF#:

Communication Log

Date/Time: 01/18/2005 03:00 PM

ID: C00375360 Name: American College of Cardiology Political Action Commit

Phone: (301) 493-2301 EMail Address:

Candidate:

Type: Phone Call

Contact: Dana Birdson

Title:

Communications Category Type: RFAI

Summary: Dana called to tell me that they had included an explanation as to why the 48 hour notice was late on the actual 48 hour notice they had submitted. I looked up the notice and was able to locate the explanation. She told me it was a legitimate mistake because she was relying on a campaign guide that she didn't realize was outdated. I told her that the issue was going to be referred to ADR and they would contact her if it was going to be pursued further. I told her that the explanation she provided would be forwarded to ADR for their consideration.

Additional Remarks:

Analyst: Jodi Winship Branch: Party/Non-Party

AF#: