



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 17, 2005

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silbermann 
Director ADR Office

SUBJECT: **ADR 286** – Magnum for Congress and Thomas Diehl, Treasurer
Recommendation to Assign Case

On July 29, 2005, the ADR Office received from the Reports Analysis Division RAD 05L-033 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 286**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

Summary: RAD determined that the Magnum for Congress Committee and Thomas Diehl, Treasurer (the "Respondents") amended their 2004 30-Day Post General Report disclosing additional receipts totaling \$126,394.39 over the amount disclosed on the original Report. The amended report disclosing total receipts of \$140,864.39 was the second amended report filed by Respondents. The first amended 30-Day Post General Report disclosed receipts of \$119,639.39. The original 2004 30-Day Post General Report filed by Respondents disclosed total receipts of \$14,470.00. Prior to filing the initial 30-Day Post General Report, Respondents advised RAD that they were having software problems and would be unable to file the Report on time. The following month, a RFAI was sent to Respondents requesting clarification on the increase in receipts not disclosed on the Committee's original filing. Respondents advised that the increase in activity not previously reported was due to "data base errors". Respondents also advised that a staff member had inadvertently deleted all entries made after October 14, 2004.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 286** along with a copy of the EPS and ADR Rating Sheets. 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:

1. Assign **ADR 286/RAD 05L-33** to the ADR Office.

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ADR CASE ANALYSIS REPORT

ADR Case: 286

Respondents: Magnum for Congress
Thomas Diehl, Treasurer

RAD: 05L-33

Respondents Rep: Thomas Diehl

Case Opened: 6-30-05

Committee Type: Authorized

Date Forwarded to ADRO: 7-29-05

Committee Name: Magnum for Congress

Date Reviewed by ADRO: 8-15-05

Election Cycle: 2004

District #/or State: WI 2nd C.D.

Election: Lost General

Summary of Referral: RAD determined that Respondents amended their 2004 30-Day Post General Report disclosing additional receipts totaling \$126,394.39 over the amount disclosed on the original 30-Day Post General Report. The amended report, filed on January 30, 2005 covering the period from October 14, 2004 through November 22, 2004, disclosing total receipts of \$140,864.39, was the second amended report filed by Respondents. The first amended 30-Day Post General Report, filed on January 3, 2005, disclosed receipts of \$119,639.39. The original 2004 30-Day Post General Report filed by Respondents on December 2, 2004 disclosed total receipts of \$14,470.00.

Respondents' Reply: Prior to filing the initial 30-Day Post General Report, Respondents advised RAD that they were having software problems and would be unable to file the Report on time. The following month, a RFAI was sent to Respondents requesting clarification on the substantial increase in receipts not disclosed on the Committee's original filing. Respondents advised that the increase in activity not previously reported was due to "data base errors" discovered after the due date of the 2004 30-Day Post General Report. Respondents also advised that a staff member had inadvertently deleted all entries made after October 14, 2004. There was no substantive response to a subsequent RFAI sent Respondents on April 28, 2005, requesting additional information regarding the increase in the Committee's financial activity. Later discussions with the Committee's Treasurer and Assistant Treasurer advised that the matter of increased activity would be referred to the Office of General Counsel.

Analysis: Committees are obliged to report the total amount of all receipts for the reporting period and election cycle. The Respondents also are required to report the total amount of receipts received during the reporting period and during the election cycle including total contributions and loans. 11 C.F.R. §§ 104.1 and 104.3(a)(3) and 2 U.S.C. § 434(b)(2). The 30 Day-Post General Report must be filed no later than 30 days after any general election in which the candidate seeks election. 11

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C.F.R. § 104.5(a)(2)(ii). The Committee, apparently aware of missing the filing deadline for the 30-Day Post General Report, attempted to address the problem by contacting RAD on December 2, 2004 and seeking its guidance. In spite of this effort, Respondents reply to two RFAs was inadequate and ultimately identified as “software complications”.

Issue:

- Reporting of Receipts, 2 U.S.C. § 434(b)(2) and 11 C.F.R. §§ 104.1, 104.3(a)(3) and 104.5(a)(2)(ii).

Recommendation: Assign to ADR

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