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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463


September 16, 2005

MEMORANDUM

TO: ALLAN D. SILBERMAN
DIRECTOR
ALTERNATIVE DISPUTE RESOLUTION

THROUGH: JAMES A. PEHRKON 
STAFF DIRECTOR

ROBERT J. COSTA 
DEPUTY STAFF DIRECTOR

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

SUBJECT: REFERRAL OF THE HARRIS COUNTY REPUBLICAN PARTY

The Harris County Republican Party ("the Committee") is being referred to the Office of Alternative Dispute Resolution ("ADR") for disclosing a total of \$88,493.49 in disbursements during the 2004 30-Day Post General reporting period but failing to disclose adequate payments for administrative expenses.

If you have any questions regarding this referral, please contact William Wiquist at 694-1394.

Attachments

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REPORTS ANALYSIS REFERRAL

TO

OFFICE OF ALTERNATIVE DISPUTE RESOLUTION

DATE: September 16, 2005

ANALYST: William Wiquist

- I. COMMITTEE: Harris County Republican Party
Larry M. Hicks, Treasurer
(C00326835)
3311 Richmond Ave., Suite 218
Houston, TX 77098
- II. RELEVANT STATUTE: 2 U.S.C. §434(b)(4)(A)
2 U.S.C. §441a(f)
11 CFR §106.7
- III. BACKGROUND:

Allocated Federal and Non-Federal Activity (Failure to Disclose Adequate Payments for Administrative Expenses)

On December 2, 2004, the Harris County Republican Party (“the Committee”) filed a 2004 30-Day Post General Report covering the period from October 14, 2004 through November 22, 2004. The report disclosed \$88,493.49 in disbursements, but failed to disclose any payments for administrative expenses¹ (Image 24981534243).

On March 25, 2005, a Request for Additional Information (“RFAI”) was sent to the Committee referencing the 2004 30-Day Post General Report. The RFAI noted that the Committee failed to disclose any payments for administrative expenses on its 12 Day Pre-General and 30 Day Post-General Reports. The RFAI explained that administrative expenses are payments made for the purpose of operating a political committee including, but not limited to, rent, utilities, salaries, telephone service, office equipment and

¹ Please note that the 2005 Mid-Year Report filed by the Committee on July 30, 2005 discloses payments for allocable administrative expenses on Schedule H4 (including rent), indicating that the Committee has changed its procedures to comply with the allocation regulations (Image 25970859894).

supplies. Additionally, the RFAI highlighted that each state, district or local party committee utilizing separate federal and non-federal accounts is required to allocate any administrative expenses (excluding salary) between the accounts according to a fixed percentage. The RFAI requested clarification regarding the Committee's administrative expenses and/or an amendment to the report(s) to disclose these expenses. (Image 25038763068)

On May 3, 2005, the Reports Analysis Division ("RAD") analyst called the Committee and left a message for Larry M. Hicks, the Committee's treasurer, with Lonnie McBee, the Committee's political director. The Analyst advised Mr. McBee that a response had not been filed concerning the RFAI referencing the 2004 30-Day Post General Report and that all the issues addressed in the RFAI were referable to either the Commission's Office of General Counsel or Office of Alternative Dispute Resolution. The Analyst stated that an adequate response was due within a week and also asked that Mr. Hicks call him to discuss this matter (Attachment 2).

On May 16, 2005, the Analyst called the Committee and left another message with Mr. McBee, requesting that the treasurer, Mr. Hicks, call to discuss the Committee's pending referral (Attachment 3).

On May 17, 2005, Mr. Hicks called the RAD analyst. The Analyst advised Mr. Hicks that the Commission required clarification of the Committee's lack of administrative expenses on the Committee's 2004 30-Day Post General Report. The Analyst explained that any employee who spends more than 25 percent of their time on activities in connection with a federal election must be paid out of the federal account with funds entirely permissible under the Act. The treasurer explained that all employees had been paid with entirely non-federal funds but that he was unsure how much of their time had been spent on federal activities. The Analyst suggested the treasurer determine if any of these employees exceeded the 25 percent threshold and clarify this in an amended report (Attachment 4).

On May 18, 2005, Mr. Hicks called the RAD analyst regarding the requested amendments. The Analyst advised Mr. Hicks to clarify, for the public record, how the Committee had paid their administrative expenses. The Analyst further explained that administrative expenses, such as rent, must be paid entirely out of the Committee's federal account; but that the Committee's non-federal account could transfer-in its share of the expenses no more than ten (10) days before or sixty (60) days after the federal account makes the payment (Attachment 5).

On May 18, 2005, the Committee filed an Amended 30-Day Post General Report. The report disclosed \$88,493.49 in disbursements, but still failed to disclose adequate payments for administrative expenses (Image 25990884457). The report disclosed \$4,720.44 in disbursements for "Telephone Service" on Schedule B, supporting Line 30(b) (Federal Election Activity paid Entirely with Federal Funds) of the Detailed Summary Page (Image 25990884469). Additionally, the report included a memo text

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stating, "No paid staff member spent more than 25% of his or her time on federal activities" (Image 25990884470).

On May 20, 2005, the RAD analyst called the Committee and left a message for Mr. Hicks. The Analyst explained that the Committee's Amended 30-Day Post General Report did not provide clarification on the lack of payment for rent and that this issue may be referred to the Office of Alternative Dispute Resolution (Attachment 6).

On May 23, 2005, Mr. Hicks returned the RAD analyst's call. The Analyst asked if the Committee had a primary office for which they paid rent. The treasurer acknowledged that they do pay rent and stated the rent was paid out of the Committee's "corporate account", in compliance with state law. The Analyst explained that the Committee's non-federal account could reimburse the federal account for its share of an administrative expense, however, those expenses must be paid entirely out of the federal account and must be disclosed on the Committee's report(s). The Analyst further clarified that the Committee's federal account would owe its non-federal account a minimum of 28% of the total amount paid in administrative expenses throughout the 2003-2004 election cycle (Attachment 7).

On June 3, 2005, Mr. Hicks called the RAD analyst. The Analyst advised him to begin disclosing a debt owed to the Committee's non-federal account for the federal share of administrative payments impermissibly paid directly out of the non-federal account. Additionally, the Analyst directed Mr. Hicks to disclose as memo entries on Schedule H4 supporting Line 21(a) (Shared federal/non-federal operating expenses) of the Detailed Summary Page, the federal share of the allocable administrative expenses, which should have been paid out of the federal account. The treasurer asked if they could use corporate funds to pay the federal share of these expenses. The Analyst advised him that payment from corporate funds is not permitted (Attachment 8).

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

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