



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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SENSITIVE

MEMORANDUM

December 20, 2018

TO: The Commission

THROUGH: Alec Palmer *AP by MAA*  
Staff Director

FROM: Patricia C. Orrock *PCO*  
Chief Compliance Officer

Krista J. Roche *KJR*  
Director, ADR Office

SUBJECT: ADR 858 Independence USA PAC and Howard Wolfson,  
Treasurer, Recommendation to Approve Negotiated  
Settlement

RESOLUTION TERMS: Pay a civil penalty of \$4,000.

Attached for your review is a signed Negotiated Settlement pertaining to ADR 858 (RAD 17L-47). The ADR Office received this referral on December 11, 2017.

**SUMMARY:** RAD referred Independence USA PAC and Howard Wolfson, Treasurer (Respondents or the Committee) for failing to disclose all financial activity on their 2016 July Monthly Report, originally filed on July 20, 2016. On August 25, 2016, the Committee filed an Amended 2016 July Monthly Report including \$118,000 in additional in-kind contributions.

The Committee filed a Miscellaneous Electronic Submission (Form 99) on April 21, 2017 indicating that "...the Committee amended its July 2016 monthly report to reflect in-kind receipts of polling results, \$78,000 of which was separately disclosed in a 48-hour independent expenditure report that was timely filed in August 2016 and \$40,000 of which related to an ad the Committee never aired."

In a settlement approved by the Commission on April 5, 2017 (ADR 810), Respondents agreed to take remedial steps to ensure the timely reporting of in-kind contributions, which included having a representative attend a Commission webinar for nonconnected committees on December 6, 2017. The monthly report

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that is the subject of this referral was filed prior to the referral of ADR 810, and the two referrals involve the same issue and arose within the same election cycle. According to the Committee, the remedial measures from the prior ADR matter have been effective, and since the Reports Analysis Division issued its May 2016 Request for Additional Information that led to ADR 810, the Committee has timely reported all contributions.

**RECOMMENDATIONS:**

1. Approve the attached negotiated settlement of Independence USA PAC and Howard Wolfson, Treasurer.
2. Approve the appropriate letters.
3. Close the file on this matter.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 3, 2018

Howard Wolfson, Treasurer  
Independence USA PAC  
PO Box 1510  
New York, NY 10150

Re: ADR 858 (RAD 17L-47)  
Independence USA PAC and Howard Wolfson, Treasurer

Dear Howard Wolfson:

The Federal Election Commission (FEC or Commission) referred a compliance issue to the FEC's Alternative Dispute Resolution Office (ADR Office) for processing. The referral by the Reports Analysis Division was based on a review of reports filed by Independence USA PAC which reflect a possible failure to comply with the Federal Election Campaign Act of 1971, as amended.

The FEC established the ADR Program to provide an informal means for resolving matters that come before the Commission and to facilitate negotiations directly with Independence USA PAC and Howard Wolfson, Treasurer (Respondents or the Committee). The ADR Program provides Respondents with an opportunity to negotiate settlement of a matter that is mutually agreeable. The negotiations occur prior to any Commission consideration of whether there is reason to believe a violation has occurred. If negotiations are successful, the resulting settlement would conclude the matter.

The Commission, in referring the matter to the ADR Office, determined that the case is eligible for processing in the ADR program. If Respondents decide to participate in the ADR Program, you must: 1) indicate in writing a willingness to have your case submitted for ADR processing; 2) agree to participate in the bilateral interest based negotiations; and 3) waive the statute of limitations while the matter is being processed under the FEC's ADR program.

The issues referred to the ADRO, and the focus of our subsequent negotiations are summarized as follows:

RAD referred Independence USA PAC and Howard Wolfson, Treasurer (Respondents or the Committee) for failing to disclose all financial activity on its 2016 July Monthly Report, originally filed on July 20, 2016. On August 25, 2016, the Committee filed an Amended 2016 July Monthly Report including \$118,000 in additional in-kind contributions.

The Committee filed a Miscellaneous Electronic Submission (Form 99) on April 21, 2017 indicating that "Per guidance from the Commission's Reports Analysis Division, the Committee amended its July 2016 monthly report to reflect in-kind receipts of polling results, \$78,000 of which was separately disclosed in a 48-hour independent expenditure report that was timely filed in August 2016 and \$40,000 of which related to an ad the Committee never aired."

If after reviewing this letter and the enclosed ADR Frequently Asked Questions, which describe the ADR program, Respondent(s) would like to participate in ADR processing, you need to affirmatively indicate that on the enclosed Commitment to Submit Matter to ADR form. **Failure to respond affirmatively within fifteen (15) business days from the date of this letter will be taken as a notice of disinterest in the program and your case will be dropped from further consideration for ADR.** In that event, your case will be sent to the FEC's Office of General Counsel for further processing, and the likelihood that the Committee will be audited during the next election cycle will increase.

This matter has been designated as **ADR 858**. Please refer to this number in future correspondence with the FEC. If you have questions about the ADR Program, please contact the ADRO at my direct dial as indicated below

Sincerely,

*Krista J. Roche*

Krista J. Roche  
Acting Director  
Alternative Dispute Resolution Office