

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE

# 492

DATE FILMED 2/4/03

CAMERA NO. 1

CAMERAMAN SES



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2002 DEC 17 A 9:41

December 16, 2002

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: JAMES A. PEHRKON  
STAFF DIRECTOR

ALISON L. DOONE  
DEPUTY STAFF DIRECTOR

FROM: SHAWN WOODHEAD WERTH  
REVIEWING OFFICER  
OFFICE OF ADMINISTRATIVE REVIEW

SUBJECT: FINAL DETERMINATION RECOMMENDATION IN AF# 492 -  
NORM DICKS FOR CONGRESS COMMITTEE AND HERB  
SIMON, AS TREASURER (C00037606)

On November 2, 2001, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that the Norm Dicks for Congress Committee and Herb Simon, as Treasurer ("the respondents"), violated 2 U.S.C. § 434(a) for failing to file in a timely manner the 2001 Mid Year Report. Because it appeared that the respondents had filed the report on August 22, 2001, 22 days late, the Commission also made a preliminary determination on November 2, 2001 that the civil money penalty was \$5,900 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 28, 2002, the Commission received the respondents' written response and declarations ("challenge"). After reviewing the challenge and determining that an error was made in the issuance of the password which likely resulted in the late filing of the report, the Reviewing Officer's recommendation dated November 26, 2002 was forwarded to the Commission. A copy was simultaneously forwarded to the respondents. Because the respondents' challenge presented evidence that a factual error was made when the issuance of the electronic filing password was not processed timely in accordance with established procedures, the Reviewing Officer recommended that the Commission take no further action against the respondents with respect to 2 U.S.C. § 434(a) and close the file.

Within 10 days of transmittal of the recommendation, the respondents may file a written response with the Commission Secretary which may not raise any arguments not raised in the respondents' challenge or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received from the respondents.

**OAR Recommendations**

- (1) Take no further action in AF# 492 that the Norm Dicks for Congress Committee and Herb Simon, as Treasurer, with respect to 2 U.S.C. § 434(a) and close the file; and
- (2) Send the appropriate letter.

Staff Assigned: Jennifer H. Boyt



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

*Wes th*  
**SENSITIVE**

DATE & TIME OF TRANSMITTAL: Tuesday, December 17, 2002 11:00

BALLOT DEADLINE: Friday December 20, 2002 4:00

COMMISSIONER: MASON, McDONALD, SMITH, THOMAS, TONER, WEINTRAUB

SUBJECT: **Final Determination Recommendation in AF #492 –  
Norm Dicks For Congress Committee and Herb Simon,  
as treasurer (C00037606). Memorandum from The  
Reviewing Officer, Office of Administrative Review  
dated December 16, 2002.**

- ( ) I approve the recommendation(s)
- ( ) I object to the recommendation(s)
- ( ) I abstain from voting on the recommendation(s)
- ( ) I am recused from voting on the recommendation(s)
- ( ) I am not voting on this tally.

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.

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

FROM THE OFFICE OF THE SECRETARY OF THE COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Norm Dicks For Congress ) AF # 492  
Committee and Herb Simon, as )  
Treasurer (C00037606) )  
Final Determination. )

CERTIFICATION

I, Mary W. Dove, Secretary of the Federal Election Commission, do hereby certify that on December 20, 2002, the Commission decided by a vote of 6-0 to take the following actions in AF #492:

1. Take no further action that the Norm Dicks for Congress Committee and Herb Simon, as Treasurer, with respect to 2 U.S.C. §434(a) and close the file.
2. Send the appropriate letter, as recommended in the Reviewing Officer's Memorandum dated December 16, 2002.

Commissioners Mason, McDonald, Smith, Thomas, Toner and Weintraub voted affirmatively for the decision.

Attest:

December 23, 2002  
Date

Mary W. Dove  
Mary W. Dove  
Secretary of the Commission

Received in the Secretariat: Tues., Dec. 17, 2002 9:41 a.m.  
Circulated to the Commission: Tues., Dec. 17, 2002 11:00 a.m.  
Deadline for vote: Fri., Dec. 20, 2002 4:00 p.m.

vfv

THIS IS THE END OF ADMINISTRATIVE FINE CASE

# 492

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