



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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June 23, 2005

**MEMORANDUM**

**SENSITIVE**

TO: The Commission

THROUGH: James A. Pehrkon  
Staff Director

FROM: Allan D. Silberman  
Director

SUBJECT: ADR 261 – Mike Thompson for Congress and Tom Hannigan, Treasurer  
Recommendation to Assign Case

On June 10, 20005, the ADR Office received from OGC/CELA RAD 05L-07 to review and determine its appropriateness for ADR processing. Based on that review, we determined that the case, **ADR 261**, is appropriate for ADR and recommend that it be assigned to the ADR Office.

**Summary:** The Reports Analysis Division ("RAD") determined that Respondents failed to report a 49.19% increase -- or \$65,115 -- in disbursements on the Committee's Third Quarter 2004 Report. The Committee's initial report filed on 10/15/04, for the period from 7/1/04 to 9/30/04 disclosed \$132,361.05 in operating expenses. An amended Third Quarter Report, dated 10/20/04 disclosed disbursements of \$197,476.05 -- an increase of \$65,115. Respondents explained in a subsequent amended report that the omission of \$65,115 was due to a failure to include expenditure for media buy, made on 9/30/04, in the Committee's initial Third Quarter Report. Respondents' asserted that the media buy expenditure was inadvertently omitted from their original report.

Attached for the Commission's review is the *ADR Case Analysis Report* on **ADR 261** 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 261/RR 05L-07** to the ADR Office.

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## ADR CASE ANALYSIS REPORT

ADR Case: 261

Respondents: Mike Thompson for Congress  
Tom Hannigan, Treasurer

RAD: 05L-07

Respondents Rep: Tom Hannigan

Date Forwarded to ADRO: 6-10-05

Committee Type: Authorized

Date Reviewed by ADRO: 6-17-05

Committee Name: M. Thompson for Congress

Election Cycle: 2004

District #/or State: 1<sup>st</sup> C.D. -- CA

Tier Level: 3

Election: Won

EPS Rating: 23

Complainant: RAD Referral

ADR Rating: 66

**Summary of Referral:** RAD determined that Respondents failed to report a 49.19% increase -- or \$65,115 -- in disbursements on the Committee's Third Quarter 2004 Report. The Committee's initial report filed on 10/15/04, for the period from 7/1/04 to 9/30/04 disclosed \$132,361.05 in operating expenses. An amended Third Quarter Report, dated 10/20/04 disclosed disbursements of \$197,476.05 -- an increase of \$65,115.

**Respondents' Reply:** Respondents eventually explained in a subsequent amended report that the omission of \$65,115 was due to a failure to include an expenditure for media buy, made on 9/30/04, in the Committee's initial Third Quarter Report. Respondents' asserted that the media buy expenditure was inadvertently omitted from their original report.

**Analysis:** Committees are obliged to report the total amount of all disbursements for the reporting period. The Committee, an experienced filer with a long reporting history, apparently overlooked the additional expenditure for media buy which lead to the items omission from the Third Quarter Report. The omission may be due to the fact that the expenditure occurred on the last day of the reporting period.

**Issue:**

- Reporting of Disbursements, 2 U.S.C. §§ 434(b)(4)(A) and (5)(A) and 11 C.F.R. §§ 104.3(b)(2)(i) and 104.3(b)(4)

**Related FEC Experience/Guidance:** RAD's analysis of Respondents' responsibility to report is explicit, as is the guidance provided in the Commission's publications regarding a committee's obligation to report their receipts and disbursements.

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**Potential Terms of Settlement:** Terms of settlement may include payment of a civil penalty and attendance at a FEC seminar for political committee

**Recommendation: Assign to ADR**

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## ADR Office (ADRO) Case Selection Criteria for Assigning Cases to ADR Processes

In order for cases to be considered by the ADR Office, respondents will need to first indicate their desire to submit their case to ADR. Cases reviewed by the Office will be evaluated according to the following factors, which will identify cases that are considered appropriate for ADR and prioritize them for processing

MUR # ADR 261

	No/False	Yes/True
1. Some remedial action has been taken by Respondent to correct violation (score: 0 or 5)	0	5
• Respondent conveys desire to comply with law and accept responsibility for actions		
2. Respondent is inexperienced (score: 0 or 5)	0	5
• Respondent lacks knowledge in campaign finance matters		
3. Amount of money at issue is limited (Below 10,000 (5), up to 50,000 (3), above 50,000 (1))	5	3
• Amount of money at issue is amenable to alternative resolution		1
4. Case involves a single, identified issue (score: 0 or 5)	0	5
• Preference will be given to single as a opposed multi-issue case		
5. Genuine <i>sua sponte</i> submission (score: 0 or 5)	0	5
• Case submission is complete and lacks any gaps or discrepancies		
6. "Accepted" allegation of FECA violation (score: 0 or 5)	0	5
• Respondent admits or does not contest that a violation has occurred		
7. Respondent has already "paid" for the same conduct at issue in complaint (score: 0 or 5)	0	5
• Respondent has been assessed criminal or civil penalties for the conduct in question		
8. Principal respondents have already filed complete and forthcoming response (score: 0 or 5)	0	5
• Respondent has filed complete and forthcoming response to complaint		
9. Violation appears not to have altered election outcome (score: 0 or 5)	0	5
• Activity not conducted at critical time or significant in terms of overall campaign		
10. Material facts are reasonably clearly known and identified (score 0 or 5)	0	5
• Case lacks need for extensive fact-finding		
11. Feasibility of reaching a voluntary resolution (score: 0 or 15)	0	15
• Respondent's affirmative reply to letter conveys interest in voluntary resolution of case		
12. Appropriate number of respondents (score: 0 or 5)	0	5
• Appropriate number of respondents identified in case file		
13. Commission interest in case (score: 0 or 10)	0	10
• Commissioners have indicated interest in case (10) otherwise score "0"		
14. Timely case (score 0 to 10)	0	10
• Case is current, i.e. within 2 years of event (10) or beyond 2 years (0)		
15. Worthy ADR action (score: 0 to 10)	0	5
• EPS rating above 20 (10), between 19 and 0 (5) and below (score 0)		10

Maximum point total: 100.

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