



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 9, 2011

MEMORANDUM

To: Christopher Hughey
Acting General Counsel

Through: Alec Palmer
Acting Staff Director *AP*

From: Patricia Carmona *PC*
Chief Compliance Officer

AUDIT REFERRAL # 11-02

Joseph F. Stoltz
Assistant Staff Director
Audit Division

Thomas Hintermister,
Deputy Assistant Staff
Director for Public Financing
Digitally signed by Thomas Hintermister, Deputy
Assistant Staff Director for Public Financing
DN: cn=Thomas Hintermister, Deputy Assistant
Staff Director for Public Financing, o=Federal
Election Commission, ou=Public Financing, email=thintermister@fec.gov, c=US
Date: 2011.06.08 16:09:22 -0400

Alex R. Boniewicz
Audit Manager

Alex R
Boniewicz
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DN: cn=Alex R Boniewicz,
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ou=Audit Division,
email=alexboniewicz@fec.gov,
c=US
Date: 2011.06.08 14:15:51 -0400

By: Jim Miller
Lead Auditor

Jim Miller
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Date: 2011.06.08 14:21:05 -0400

Subject: Kansas Republican Party (A08-02) - Referral Matters

On May 26, 2011, the Commission approved the final audit report on the Kansas Republican Party. The final audit report includes the following matters that are referable:

Finding 1 - Misstatement of Financial Activity (Receipts only for 2007 and both Receipts and Disbursements for 2008)

Finding 2 - Receipt of a Prohibited Contribution.

All work papers and related documentation are available for review in the Audit Division. Should you have any questions regarding these matters, please contact Jim Miller or Alex Boniewicz at 694-1200.

Attachments: Finding 1 – Misstatement of Financial Activity
Finding 2 – Receipt of a Prohibited Contribution

cc: Lorenzo Holloway

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Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of KRP's reported figures with bank records indicated a misstatement of receipts, disbursements and cash on hand in both 2007 and 2008. For 2007, KRP overstated beginning cash on hand by \$4,628, overstated receipts by \$11,885, understated disbursements by \$11,370 and overstated ending cash-on-hand by \$27,883. In 2008, excluding KRP's National Convention account (See Additional Issue 1. below), KRP overstated receipts by \$137,625, disbursements by \$71,812 and the ending cash on hand by \$93,696. In response to the Interim Audit Report, KRP amended its reports to materially correct the misstatements presented in that report. The Commission approved this finding.

Legal Standard

Contents of Reports. Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the calendar year;
- The total amount of disbursements for the reporting period and for the calendar year; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

Facts and Analysis

A. Facts

The Audit staff reconciled reported activity to bank records for calendar years 2007 and 2008. The following charts outline the discrepancies for the beginning cash balances, receipts, disbursements and ending cash balances for each year. Succeeding paragraphs address the reasons for the misstatements.

2007 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2007	\$19,054	\$14,426	\$4,628 Overstated
Receipts	\$184,566	\$172,681	\$11,885 Overstated
Disbursements	\$172,457	\$183,827	\$11,370 Understated
Ending Cash Balance @ December 31, 2007	\$31,163	\$3,280	\$27,883 Overstated

The beginning cash on hand was overstated by \$4,628 and is unexplained, but likely resulted from prior period discrepancies.

The overstatement of receipts was the result of the following:

- Contribution amount incorrectly reported (see details below) \$ 8,220

• Non-federal caucus receipts reported in error	(25,000)
• Transfer of funds from non-federal account not reported	2,599
• Unexplained difference	2,296
Net Overstatement of receipts	<u>\$ (11,885)</u>

The understatement of disbursements was the result of the following:

• Transfer to non-federal account not reported (see details below)	\$ 8,220
• Disbursements not reported	3,150
Understatement of disbursements	<u>\$ 11,370</u>

KRP received a \$15,000 contribution from an individual and deposited the funds to its federal account on October 24, 2007. KRP reported the amount of this contribution as \$6,780, which represented the \$10,000 contribution limit for individuals less \$3,220, the amount of contributions already received from the individual prior to October 24, 2007, thus understating receipts by \$8,220 (\$15,000-\$6,780). In addition, KRP transferred \$8,220, the excess portion of the contribution, from its federal account to its non-federal account on October 25, 2007, but did not include the disbursement on its November 2007 monthly report.

The \$27,883 overstatement of the closing cash on hand was the result of the misstatements described above.

In 2008, KRP partially disclosed activity from its National Convention account. The Audit staff included all activity from this account in deriving the misstatement presented in the Interim Audit Report. Nearly all receipts and expenditures of this account related to attendance at the Republican National Convention. The Commission did not approve by the required four votes the Audit Staff recommendation that the National Convention account was a Federal account and required disclosure (See Additional Issue 1. below). As a result, the Audit staff has excluded all activity from this account and revised the presentation of the misstatements of financial activity for 2008 in the chart and explanations of differences below.

2008 Committee Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2008	\$31,163	\$3,280	\$27,883 Overstated
Receipts	\$495,005	\$357,380	\$137,625 Overstated
Disbursements	\$427,635	\$355,823	\$71,812 Overstated
Ending Cash Balance @ December 31, 2008	\$98,533	\$4,837	\$93,696 Overstated

The overstatement of receipts resulted from the following:

• Reported receipts deposited into National Convention account	\$ (173,636)
• Refund received from Paychex but not reported	2,846

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• Receipts deposited into various federal accounts not reported	25,822
• Permissible cash deposit for sale of yard signs but not reported	13,236
• Reported non-federal caucus receipts in error	(10,000)
• Transfers from the non-federal account but not reported	5,236
• Unexplained difference	(1,129)
Net Overstatement of receipts	<u>\$ (137,625)</u>

The overstatement of disbursements resulted from the following:

• Transfers to the non-federal account not reported	\$ 3,400
• Reported disbursements from the National Convention account	(132,708)
• Disbursements reported not supported by a check or debit	(10,285)
• Other disbursements not reported	67,781
Net Overstatement of disbursements	<u>\$ (71,812)</u>

The \$93,696 overstatement of the closing cash on hand was the result of the misstatements described above.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff discussed the misstatements for 2007 and 2008 with a KRP representative during the exit conference and provided copies of relevant workpapers. The KRP representative stated that corrective amended reports would be filed.

The Audit staff recommended that KRP amend its reports to correct the misstatements for 2007 and 2008. It was also recommended that KRP amend its most recently filed report to correct the cash balance with an explanation that the change resulted from a prior-period audit adjustment and that KRP reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may impact the adjustment recommended by the Audit staff.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, KRP amended its reports correcting the misreporting.

D. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged that KRP amended its reports to materially correct the misstatements presented in the Interim Audit Report.

Commission Conclusion

On March 3, 2011, the Commission considered the Audit Division Recommendation Memorandum in which the Audit Division recommended that the Commission adopt a finding that KRP misstated its financial activity for both 2007 and 2008, including the National Convention account.

The Commission approved the Audit Staff recommendation with the exception of the National Convention account, but concluded that KRP is not required to take any additional corrective action with respect to the amended reports it filed. (See Additional Issue 1. below)

Finding 2. Receipt of a Prohibited Contribution

Summary

During audit fieldwork, a review of contributions received by KRP identified a contribution of \$10,000 that appeared to be from a prohibited source. In response to the Interim Audit Report, KRP indicated it had transferred sufficient funds from its federal to its non-federal account to resolve this contribution. The Commission approved this finding.

Legal Standard

A. Definition of Limited Liability Company. A limited liability company (LLC) is a business entity that is recognized as an LLC under the laws of the state in which it was established. 11 CFR §110.1(g)(1).

B. Application of Limits and Prohibitions to LLC Contributions. A contribution from an LLC is subject to contribution limits and prohibitions, depending on several factors as explained below:

1. LLC as Partnership. The contribution is considered to be from a partnership if the LLC chooses to be treated as a partnership under Internal Revenue Service (IRS) tax rules or if it makes no choice about its tax status. A contribution by a partnership is attributed to each partner by his or her share of the partnership profits. 11 CFR §110.1 (e)(1) and (g)(2).
2. LLC as Corporation. The contribution is considered a corporate contribution—and is barred under the Act—if the LLC chooses to be treated as a corporation under IRS rules, or if its shares are traded publicly. 11 CFR §110.1(g)(3).
3. LLC with Single Member. The contribution is considered a contribution from a single individual if the LLC is a single-member LLC that has not chosen to be treated as a corporation under IRS rules. 11 CFR §110.1(g)(4).

C. Limited Liability Company's Responsibility to Notify Recipient Committee. At the time it makes a contribution, an LLC must notify the recipient committee:

- That it is eligible to make the contribution; and
- In the case of an LLC that considers itself a partnership (for tax purposes), how the contribution should be attributed among the LLC's members. 11 CFR §110.1(g)(5).

D. Questionable Contributions. If a committee receives a contribution that appears to be prohibited (a questionable contribution), it must follow the procedures below:

1. Within 10 days after the treasurer receives the questionable contribution, the committee must either:
 - Return the contribution to the contributor without depositing it; or
 - Deposit the contribution (and follow the steps below). 11 CFR §103.3(b)(1).
2. If the committee deposits the questionable contribution, it may not spend the funds and must be prepared to refund them. It must therefore maintain sufficient funds to make the refunds or establish a separate account in a campaign depository for possibly illegal contributions. 11 CFR §103.3(b)(4).

3. The committee must keep a written record explaining why the contribution may be prohibited and include this information when reporting the receipt of the contribution. 11 CFR §103.3(b)(5).
4. Within 30 days of the treasurer's receipt of the questionable contribution, the committee must make at least one written or oral request for evidence that the contribution is legal. Evidence of legality includes, for example, a written statement from the contributor explaining why the contribution is legal or an oral explanation that is recorded by the committee in a memorandum. 11 CFR §103.3(b)(1).
5. Within these 30 days, the committee must either:
 - Confirm the legality of the contribution; or
 - Refund the contribution to the contributor and note the refund on the report covering the period in which the refund was made. 11 CFR §103.3(b)(1).

Facts and Analysis

A. Facts

The Audit staff reviewed contributions received by KRP and identified one contribution (\$10,000) that was determined to be from a limited liability company, which may choose a corporate tax filing status. As such, the limited liability company was required to affirm to KRP that it was eligible to make the contribution based on its tax filing status being other than corporate. Records provided by KRP did not contain any such affirmations or any follow-up by KRP to verify eligibility.

B. Interim Audit Report & Audit Division Recommendation

The Audit staff presented this matter to a KRP representative during the exit conference. The KRP representative stated that a letter requesting the tax filing status would be sent to the limited liability company and that KRP would refund the contribution if it was prohibited.

In the Interim Audit Report, the Audit staff recommended that KRP provide documentation establishing the tax filing status of the limited liability company. Absent such evidence, it was recommended that KRP refund the \$10,000 to the contributor or transfer the funds to a non-federal account and provide documentation of such refund (i.e., copy of the negotiated refund check, front and back) or transfer. If funds were not available, then the refund or transfer should have been disclosed on Schedule D (Debts and Obligations) until funds became available to make the refund or transfer.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report, KRP acknowledged that this contribution was received from a company taxed as a corporation and deposited into its Federal account rather than its non-federal account. KRP transferred sufficient funds on January 25, 2010, from its federal account to its non-federal to resolve this contribution.

D. Draft Final Audit Report

In the Draft Final Audit Report, the Audit staff acknowledged KRP's transfer of funds to resolve the prohibited contribution.

Commission Conclusion

On March 3, 2011, the Commission considered the Audit Division Recommendation Memorandum in which the Audit Division recommended that the Commission adopt a finding that KRP had received prohibited contributions.

The Commission approved the Audit Division recommendation with respect to this \$10,000 prohibited contribution. (See Additional Issue 2. below)

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 15, 2011

MEMORANDUM

TO: Lyn Fraiser
Alternate Dispute Resolution Office

FROM: Leroy C. Rhinehart *LR*
Complaints Examination Legal Administration

SUBJECT: Transferred Case

The following enforcement case is being permanently transferred to the Alternative Dispute Resolution Office, effective August 15, 2011.

AR 11 - 02

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SECRET

2011 AUG 17 P 3: 33

SENSITIVE

MEMORANDUM

August 17, 2011

TO: The Commission

THROUGH: Alec Palmer *AP*
Acting Staff Director

FROM: Patricia Carmona *PC for PC*
Chief Compliance Officer

Lynn M. Fraser *LMF/KR*
Director, ADR Office

BY: Krista J. Roche *KR*
Assistant Director, ADR Office

SUBJECT: ADR 585 Kansas Republican Party and T.C. Anderson, Treasurer
Informational Memo on Assignment

The Office of General Counsel (OGC) referred AR 11L-02 on August 15, 2011, and the ADR Office designated the referral as ADR 585. We include a summary and discussion of the referral for your information. We anticipate initiating communication with Respondents in ADR 585 on August 22, 2011. Please contact Krista Roche if you have any questions, comments or concerns before then.

Summary of Case: OGC referred the Kansas Republican Party and T.C. Anderson, Treasurer (Respondents or the Committee) for violations occurring during the 2007-2008 election cycle, specifically Findings 1 and 2 of the Final Audit Report approved on May 26, 2011. Finding 1 concludes that the Committee overstated beginning cash on hand by \$4,628, overstated receipts by \$11,885, understated disbursements by \$11,370, and overstated ending cash on hand by \$27,883 in 2007, and, in 2008, overstated receipts by \$137,625, disbursements by \$71,812, and ending cash on hand by \$93,696. Finding 2 concludes that the Committee received a prohibited contribution in the amount of \$10,000 from a limited liability company that elected to be treated as a corporation for taxation purposes.

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 30, 2011

T.C. Anderson, Treasurer
Kansas Republican Party
P.O. Box 4157
Topeka, KS 66604

Re: ADR 585 (AR 11-02)
Respondents

Dear Mr. Anderson:

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 Office of General Counsel (OGC) was based on a review of reports filed by the Kansas Republican Party 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 the Kansas Republican Party and T.C. Anderson, 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 concludes 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:

OGC referred the Kansas Republican Party and T.C. Anderson, Treasurer (Respondents or the Committee) for violations occurring during the 2007-2008 election cycle, specifically Findings 1 and 2 of the Final Audit Report approved on May 26, 2011. Finding 1 concludes that the Committee overstated beginning cash on hand by \$4,628, overstated receipts by \$11,885, understated disbursements by \$11,370, and overstated

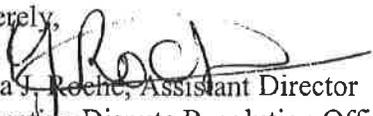
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ending cash on hand by \$27,883 in 2007, and, in 2008, overstated receipts by \$137,625, disbursements by \$71,812, and ending cash on hand by \$93,696. Finding 2 concludes that the Committee received a prohibited contribution in the amount of \$10,000 from a limited liability company that elected to be treated as a corporation for taxation purposes.

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 of receipt 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 583**. 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, Assistant Director
Alternative Dispute Resolution Office
202-694-1661

Enclosures: ADR Frequently Asked Questions
Commitment to Submit Matter to ADR
Designation of Representative/Counsel

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COMMITMENT TO SUBMIT TO ADR

ADR # 583

I confirm that I read the material describing the Federal Election Commission's (FEC) Alternative Dispute Resolution (ADR) program and request that my case be considered for this program. I agree to the following conditions:

1. To engage in the FEC's ADR process;
2. To participate in good faith in negotiations to resolve the case, and, if unsuccessful, to engage in mediation with the aim of achieving a mutually acceptable resolution; and
3. All parties and their representatives or counsel agree that all proceedings during negotiations to resolve the matter, including any statements made or documents prepared by any party, attorney or representative, may not be disclosed for any purpose; and
4. To toll the statute of limitations for any civil enforcement action that the FEC might bring in my case pursuant to 2 U.S.C. § 437g(a)(6) for the same number of days my case is being processed in the Commission's ADR Program.
5. To designate the representative named below to receive all communications from the FEC on behalf of Respondents in this case and to authorize the named representative to participate in the FEC's ADR program on behalf of Respondents, including negotiating on behalf of Respondents with the full authority to make and/or accept settlement offers and legally bind Respondents upon the execution of a written agreement formalizing the settlement of this case.

NAME OF RESPONDENT:

ADDRESS:

TELEPHONE:

EMAIL ADDRESS:

KANSAS REPUBLICAN PARTY / T.C. ANDERSON
PO BOX 4157
TOPEKA, KS 66604
785-249-0810
TCANDERSON@BROWNBACK.COM

STATEMENT OF DESIGNATION OF REPRESENTATIVE/COUNSEL

NAME OF REPRESENTATIVE/COUNSEL:

FIRM NAME:

ADDRESS:

TELEPHONE:

EMAIL ADDRESS:

Clayton Barker - Exec Dir + GC
Kansas Republican Party
PO Box 4157
Topeka, KS 66604
913-558-6323 / clayton@ksgop.org

9/2/2011

DATE

T.C. Anderson
 SIGNATURE OF RESPONDENT

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

2012 FEB 3 2 07 PM
SENSITIVE

MEMORANDUM

February 3, 2012

TO: The Commission

THROUGH: Alec Palmer *AP*
Staff Director

FROM: Patricia Carmona *PC*
Chief Compliance Officer

Lynn M. Fraser *LMF*
Director, ADR Office

BY: Krista J. Roche *KJR*
Assistant Director, ADR Office

SUBJECT: ADR 585 Kansas Republican Party and T.C. Andersen, Treasurer.
Recommendation to Approve Settlement Agreement

RESOLUTION TERMS: Designate a compliance specialist; draft and certify implementation of internal control procedures consistent with the Commission's Best Practices for Committee Management (2009 update); file an annual certification of Committee's audit of reports and banking records for calendar years 2011; and pay a civil penalty of \$6,500.

Attached for your review is a signed negotiated ADR Settlement Agreement pertaining to **ADR 585 (AR 11-02)**. The ADR Office received this referral on August 15, 2011.

SUMMARY: The Audit Division referred the Kansas Republican Party and T.C. Andersen, Treasurer, (Respondents or the Committee) for misstatements of financial activity and receipt of a prohibited contribution uncovered by an audit of 2007-2008 election cycle, specifically Findings 1 and 2 of the Final Audit Report approved on May 26, 2011. Finding 1 concludes that the Committee misstated financial activity during 2007 and 2008. Finding 2 concludes that the Committee

Recommendation to Approve
Settlement Agreement
ADR 585 (AR 11-02)
Page 1

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received a prohibited contribution from a limited liability company that elected to be treated as a corporation for taxation purposes.

In response to the Interim Audit Report, the Committee amended its reports correcting the misreporting described in Finding 1. With regard to Finding 2, the Committee acknowledged that it errantly deposited this contribution from a limited liability company treated as a corporation for taxation purposes to its federal account rather than its nonfederal account. The contribution was transferred to the nonfederal account in order to resolve the issue.

RECOMMENDATIONS:

1. Approve the attached settlement agreement of the Kansas Republican Party and T.C. Andersen, Treasurer.
2. Approve the appropriate letters.
3. Close the file on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Kansas Republican Party and T.C.) ADR 585
Andersen, Treasurer (AR 11-02))

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on February 16, 2012, the Commission decided by a vote of 6-0 to take the following to take the following actions in ADR 585 (AR 11-02):

1. Approve the settlement agreement of the Kansas Republican Party and T.C. Andersen, Treasurer, as recommended in the Memorandum from the Chief Compliance Officer and the Director, ADR Office dated February 3, 2012.
2. Approve the appropriate letters
3. Close the file on this matter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub vote affirmatively for the decision.

Attest:

February 16, 2012
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 22, 2012

Clayton Barker
Kansas Republican Party
P.O. Box 4157
Topeka, KS 4157

Re: ADR 585
Kansas Republican Party and T.C. Andersen, Treasurer

Dear Mr. Barker:

Enclosed is the signed copy of the Negotiated Settlement resolving the referral initiated on June 9, 2011, by the Federal Election Commission ("FEC/Commission") involving the above-shown Respondents. The Negotiated Settlement was approved by the Commission on **February 16, 2012** – the effective date of the agreement.

Note the specific time frames for compliance in paragraph 6 of the agreement. **Please forward to this office, a statement confirming Respondent's compliance with the terms listed in the aforementioned agreement.** The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 6, and contain the ADR caption and case number. **The civil penalty payment should be sent to the attention of the Accounting/Finance Office of the FEC. The civil penalty under the agreement is due on or before May 16, 2012. Please put the ADR case number on the civil penalty check as well, to ensure crediting to the correct case.**

As you are aware, the Negotiated Settlement will be made part of the record that is released to the public. The Commission will also place on the record copies of the complaint/referral, correspondence exchanged between your office and this office prior to our negotiations, and reports prepared for the Commission by this office to assist in its consideration of this matter. The Commission is obliged by Federal statute to place on the public record documents in closed enforcement and alternative dispute resolution cases; accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

This agreement resolves the matter that was initiated by the Commission pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities regarding violations of federal election campaign laws. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

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Sincerely,



Krista J. Roche

Assistant Director

Alternative Dispute Resolution Office

Enc: Negotiated Settlement

cc: Gwendolyn Holmes, Finance and Accounting Office

12190292464



**Federal Election Commission
Washington, DC 20463**

Case Number: ADR 585
Source: AR 11-02
Case Name: Kansas Republican Party

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission (Commission) pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. Following review of the matter, and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended, (FECA) and resolve this matter, the Federal Election Commission (Commission) entered into negotiations with Clayton Barker representing the Kansas Republican Party and T.C. Andersen, in his official capacity as Treasurer (the Committee or Respondents). It is understood that this agreement will have no precedential value relative to any other matters coming before the Commission.

Negotiations between the Commission and Respondents addressed the issues raised in this referral. The parties agree to resolve the matter according to the following terms:

1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondents. The Commission's use of alternative dispute resolution procedures (ADR) is guided by "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 2 U.S.C. § 437g.
2. Respondents voluntarily enter into this agreement with the Commission.
3. Respondents were referred to the ADR Office for violations occurring during the 2007-2008 election cycle, specifically Findings 1 and 2 of the Final Audit Report approved on May 26, 2011. Finding 1 concludes that the Committee overstated beginning cash on hand by \$4,628, overstated receipts by \$11,885, understated disbursements by \$11,370, and overstated ending cash on hand by \$27,883 in 2007, and, in 2008, overstated receipts by \$137,625, disbursements by \$71,812, and ending cash on hand by \$93,696. Finding 2 concludes that the Committee received a prohibited contribution in the amount of \$10,000 from a limited liability company that elected to be treated as a corporation for taxation purposes.
4. Treasurers of political committees are required to report, in the manner and time set forth, all financial activity in accordance with the FECA. 2 U.S.C. § 434(a)(1)-(2), 11 C.F.R. §§ 104.1, 104.5, 104.18. Limited liability companies that elect to be treated as a corporation for taxation purposes shall be considered a corporation and thus

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prohibited from making contributions in connection with federal elections. 11 C.F.R. § 110.1(g)(3). No candidate or political committee shall knowingly accept any contributions prohibited by the FECA. 2 U.S. C. §441a(f), 11 C.F.R. § 114.2(d).

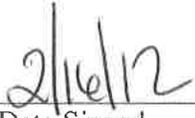
5. In response to the Interim Audit Report, the Committee amended its reports correcting the misreporting described in Finding 1. With regard to Finding 2, the Committee acknowledged that it errantly deposited this contribution from a limited liability company treated as a corporation for taxation purposes to its federal account rather than its nonfederal account. The contribution was transferred to the nonfederal account in order to resolve the issue.
6. Respondents, in an effort to avoid similar errors in the future, agree to: (a) designate a compliance specialist within thirty (30) days of the effective date of this agreement; (b) draft and certify implementation of internal control procedures consistent with the Commission's Best Practices for Committee Management (2009 update) within thirty (30) days of the effective date of this agreement; (c) file an annual certification of Committee's audit of reports and banking records for calendar years 2011 and 2012 by May 15, 2012 for calendar year 2011 and by May 15, 2013 for calendar year 2012; and (d) pay a civil penalty of \$6,500 within ninety (90) days of the effective date of this agreement.
7. Respondents agree that all information provided to resolve this matter is true and accurate to the best of their knowledge and that they sign this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.
8. The parties agree that if Respondents fail to comply with the terms of this settlement, the Commission may submit any unpaid civil penalty to the U.S. Treasury for collection or undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.
9. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the terms of this agreement as set out in paragraph 5 above, and shall certify compliance with the above settlement terms in writing to the Alternative Dispute Resolution Office on or before the date each term becomes due.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 585 (11-02), and resolves those issues identified in paragraph 3 above. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.

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FOR THE COMMISSION:

Krista J. Roche, Assistant Director
Alternative Dispute Resolution Office



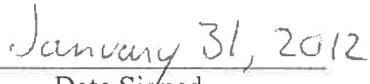


Date Signed

FOR THE RESPONDENTS:



Clayton Barker
Representing the Kansas Republican Party
and T.C. Andersen, Treasurer



Date Signed

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