Federal Election Commission
Washington, DC 20463

Case Number: ADR 065
Source: RR 00L-01
Case Name: Massachusetts Republican State Congressional Committee

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 Jonathan R. Fletcher, representing the Massachusetts Republican State Congressional Committee ("respondent"). 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 respondent 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 respondent. The Commission's use of alternative dispute resolution procedures (ADR) is authorized in "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 2 U.S.C. § 437g.

2. Respondent voluntarily enters into this agreement with the Commission.

3. Respondent received apparent excessive transfers of funds totaling $70,151.53 from its non-federal account in 1998. This amount was in excess of the non-federal account's share of allocable activity disclosed by the Committee in reports filed with the Commission.

4. Organizations, including a party committee, which finance political activity in connection with both federal and non-federal elections shall establish a separate federal account in a depository in accordance with the regulations. 11 C.F.R. § 102.5(a)(1). Such account shall be treated as a separate federal political committee, which shall comply with the requirements of the FECA. Only funds subject to the prohibitions and

limitations of the Act shall be deposited in such federal account, and all disbursements, contributions expenditures and transfers by a committee in connection with any federal election shall be made from its federal account. No transfers may be made to such federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-federal elections, except as provided in 11 C.F.R. § 106.5(g). 11 C.F.R. § 102.5(a)(1). In addition, transfers to the federal account from a committee's non-federal account for amounts greater than the non-federal share of allocable activity is prohibited. 11 C.F.R. § 102.6(a)(1)(iii).

5. The regulations provide that if a committee, through joint activities, collects or expends federal and non-federal funds, it shall allocate the costs or receipts of those activities or communications, based on a ratio of the proportion of time and space devoted to the federal activity or communication devoted to federal candidates, as compared to entire cost or total receipts. 11 C.F.R. § 106.5(a)(2). The regulations also state that a political committee that pays allocable expenses in accordance with 11 C.F.R. § 106.5(g) shall also report each disbursement from its federal account or its separate allocation account in payment for joint federal and non-federal expense or activity, with itemization as described in 11 C.F.R. §§ 106.5(a)(2) or 106.6(b). 11 C.F.R. §104.10(b)(4).

6. Respondent acknowledges that a violation of the FECA occurred due to a variety of reporting errors, including the use of an incorrect allocation ratio on eight (8) occasions, resulting in excessive non-federal transfers being received in their federal account. Respondent stated that an amended 1998 30 Day Post-General Report was filed correcting these errors. In addition, Respondent reported the total amount of the excessive transfer as a debt to the non-federal account on the 1999 Mid-Year Report, and payments are being made to reduce that debt.

7. Respondent, in an effort to avoid similar errors in the future, agrees to: (a) appoint a FEC Compliance Officer; (b) have the Compliance Officer attend a FEC sponsored seminar; (c) develop a FEC Compliance Manual, and, (d) pay a civil penalty of ten thousand dollars ($10,000.00.).

8. The parties agree that if Respondent fails to comply with the terms of this settlement, the Commission may 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. Respondent shall comply with term (d) of this agreement within thirty (30) days from the effective date of

this agreement. The balance of the terms of the settlement shall be complied with within one year from the effective date of this agreement.

10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 065 (RR 00L-01), and effectively resolves this matter. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.

FOR THE COMMISSION:

Allan D. Silberman, Director
Alternative Dispute Resolution Office

By: ______________________________ 5-13-02
Lynn M. Fraser, Assistant Director
Alternative Dispute Resolution Office

Date Signed

FOR THE RESPONDENT:

______________________________ 5-1-2002
Jonathan Fletcher, Executive Director
Representing the Massachusetts Republican
State Congressional Committee

Date Signed