



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

Case Number ADR 119  
Source MUR 5325  
Case Name Mark Kennedy '02

### **NEGOTIATED SETTLEMENT**

This matter was initiated by a signed, sworn and notarized complaint filed by Al Patton. Following a review of the record and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended ("the FECA"), and to resolve this matter, the Federal Election Commission (the "Commission") entered into negotiations with Jan W. Baran, Esq. on behalf of Mark Kennedy '02 and James Loizeaux, Treasurer (the "Respondents" or "Committee"). 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 the Respondents have addressed all the issues raised in this matter. The parties have agreed to resolve the matter according to the following terms:

1. The Commission has entered into this agreement as part of its responsibility for administering the Federal Election Campaign Act and in an effort to promote compliance of the FECA on the part of the Respondents. The Commission's use of ADR procedures 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. The Respondents have voluntarily entered into this agreement with the Commission.
3. The complaint alleges that Respondents failed to report thirteen contributions received within twenty days and more than forty-eight hours before the Minnesota primary election on September 10, 2002. The contributions, all for a \$1,000 or more, totaled \$19,500. Citing the "48 hour rule" complainant argued that Respondents were required to report the subject contributions within the specified reporting period.
4. Respondents, the authorized committee of Mark Kennedy and its treasurer, acknowledged receipt of the thirteen contributions, the errors in reporting, and explained that the referenced contributions were mistakenly reported as received on the date listed on the checks rather than the date of receipt. Respondents advised that they became aware of the problem after receipt of a press release advising of the Committee's failure to comply with the 48-hour notification rule. Thereafter, Respondents amended their third quarter report, noting the date of receipt of the aforementioned checks.
5. If any contribution of \$1,000 or more is received by any authorized committee of a candidate after the 20<sup>th</sup> day, but more than 48 hours, before 12.01 a.m. of the day of the

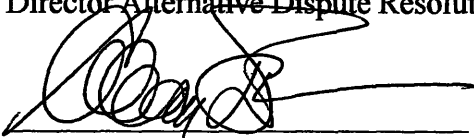
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election, the principal campaign committee of that candidate shall notify the Commission within 48 hours of receipt of the contribution. The notification shall be in writing and include the name of the candidate and office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions on the post-election report. 2.U.S.C. § 434(a)(6)(A) and 11 C.F.R. § 104.5(f).

6. A review of Respondents' amended report, filed on November 15, 2002, lists the thirteen referenced contributions with revised dates of receipt. Each of the thirteen contributions was received either after the election or within 48 hours of the September 10<sup>th</sup> election. The aforementioned amended report confirms that, though previously inaccurately reported, the referenced thirteen contributions were not subject to the 48-hour notification rule. Based on the foregoing review, the ADR Office concludes that the alleged violation of the FECA cited in the complaint is unsubstantiated. The Commission concurs by dismissing the matter.
7. This agreement will become effective on the date signed by all the parties and approved by the Commission.
8. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 119/MUR 5324 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



Allan D. Silberman

July 30, 2003  
Date

FOR THE RESPONDENTS:



Jan W. Baran, Esq. representing  
Mark Kennedy '02 Committee  
and James Loizeaux, Treasurer

7/22/03  
Date

23.19.025.2204