



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Case Number: ADR 130
Source: MUR 5312
Case Name: Washtenaw County
Democratic Party

NEGOTIATED SETTLEMENT

This matter was initiated by a signed, sworn and notarized complaint filed by Rusty Hills on behalf of the Michigan Republican State Committee. 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" or "the Act"), and to resolve this matter, the Federal Election Commission ("the Commission") entered into negotiations with Robert B. June, Esq. representing Washtenaw County Democratic Party ("WCDP") and Barbara Ryan Fuller, Treasurer ("the 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 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 with 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 spent more than \$1,000 in contributions and expenditures in connection with federal elections thereby incurring an obligation to register as a political committee with the Commission. Specifically, the complaint contends that Respondents on April 17, 2000 contributed \$500 each to the Rivers for Congress and the Byrum for Congress committees. In addition, the complainant alleges Respondents made expenditures, during calendar 2000, totaling \$3,667 on behalf of Gore/Lieberman, Byrum for Congress, Rivers for Congress and Stabenow for U.S. Senate. The complainant also contends Respondents spent \$2,000 in August 2000 on campaign office rent that benefited the entire Democratic ticket and \$8,295 in November 2000 for various campaign related activities, including literature drops, poll workers, and get-out-the-vote efforts that benefited federal candidates.

4. Washtenaw County Democratic Party ("WCDP"), an unregistered local (MI) party committee, acknowledged making \$500 contributions both to the Rivers for Congress and Byrum for Congress committees. Respondents contend that the referenced \$3,667 expenditures included contributions of \$1,667 for purchased goods and services allocated on behalf of the named candidates, which they argued, were exempt party activities and need not be reported. They contend that the remaining balance of \$2,000 were allowable direct contributions to the named campaign committees of which \$1,000 was made to the Stabenow committee in 1999. The expenditure for office rent Respondents contend was an exempt administrative expense. Respondents also argued that the \$8,295 expenditures for literature drops, poll watchers and get-out-the-vote activities were exempt from the definitions of contributions.
5. A local committee of a political party is a political committee [and incurs an obligation to register] if it *inter alia* makes payments exempted from the definition of contribution or expenditure as defined in 2 U.S.C. § 431(8) and (9) aggregating in excess of \$5,000 during a calendar year or makes contributions or expenditures aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(C) and 11 C.F.R. § 100.5(c).
6. Each authorized campaign committee shall file a statement of organization no later than 10 days after designation pursuant to 2 U.S.C. § 432(e)(1). Each separate segregated fund established under the provisions of 2 U.S.C. § 441b(b) shall file a statement of organization no later than 10 days after establishment. All other committees shall file a statement of organization within 10 days after becoming a political committee within the meaning of 2 U.S.C. § 431(4). 2 U.S.C. § 433(a) and 11 C.F.R. § 102.1(d).
7. Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report. 2 U.S.C. § 434(a)(1) and 11 C.F.R. § 104.1(a).
8. Party committees that make disbursements in connection with federal and nonfederal elections shall make those disbursements entirely from funds subject to the prohibitions and limitations of the Act or from accounts established pursuant to 11 C.F.R. §102.5. 11 C.F.R. § 106.5(a)(1).
9. Committees that make disbursements in connection with federal and non-federal elections shall allocate expenses according to [the provisions of 11 C.F.R. § 106.5] for the following categories of activity: (i) administrative expenses including, rent, utilities, office supplies and salaries, except for such expenses directly attributable to a clearly identified candidate; (iii) state and local party activities exempt from the definitions of contribution and expenditures [under provisions of the Act] including the production and distribution of slate cards and sample ballots, campaign materials distributed by volunteers, and voter registration and get-out-the-vote drives on behalf of the party's presidential and vice-presidential nominees where such activities are conducted with non-federal election activities. 11 C.F.R. §§ 106.5(a)(2)(i) and (iii).
10. All state and local party committees ... shall allocate their administrative expenses and costs of generic voter drives ... according to the ballot composition method described in paragraphs (d)(i) and (ii) of 11 C.F.R. 11 C.F.R. § 106.5(d)(1). 11 C.F.R. §106.5(d)(1)

11. Payments made by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, etc.) used by such committees in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution provided that the conditions listed in the section are met. 11 C.F.R. § 100.7(b)(15) and 2 U.S.C. § 431(8)(x) The former include: (i) that such payment is not for cost incurred in connection with any broadcast, newspaper, direct mail, etc. or similar type of general public communication or political advertising; and (iv) that the materials be distributed by volunteers and not by commercial or for-profit operations 11 C.F.R. §§ 100.7(b)(15)(i) and (iv).
12. Payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice Presidential nominee(s) of that party, is not a contribution to such candidate(s) provided that the following conditions are met, *inter alia*: (iv) For purpose of [this section], if such activities include references to any candidate(s) for the House or Senate, the costs of such activities which are allocable to that candidate(s) shall be a contribution to such candidate(s) unless the mention of such candidate(s) is merely incidental to the overall activity; and (vi) If made by a political committee, such payments for voter registration and get-out-the-vote activities shall be reported by that committee as disbursements in accordance with 11 C.F.R. §104.3, but such payments need not be allocated to specific candidates in committee reports except as provided in 11 C.F.R. § 100.7 (b)(17) (iv). 11 C.F.R. § 100.7(b)(17) (iv) and (vi).
13. Respondents acknowledge that the purchase of the subject goods and services, including tabloid inserts for newspapers, were distributed through public political advertising in contravention with the aforementioned regulations. Respondents further acknowledge that, with regard to the "exempt administrative expense" of office rent, they misunderstood the need to allocate that expense in accord with Commission's regulations. They also acknowledge that the materials distributed as part of WCDP's get-out-the-vote effort were not distributed by volunteers which otherwise would have qualified as exempt party activities.
14. Respondents acknowledge the aforementioned violations of the FECA. In order to resolve this matter and avoid similar errors in the future, Respondent agree to: 1) file the appropriate forms with the FEC in order to register with the Commission; 2) establish and maintain a resource file on the FECA to provide guidance for the future; 3) send an appropriate representative to attend, within twelve months of the effective date of this agreement, a FEC seminar on federal election campaign reporting requirements; and 4) pay a civil penalty of \$750.
15. The parties agree that if the Respondents fail 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.
16. This agreement will become effective on the date signed by all the parties and approved by the Commission.

17. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 130/MUR 5312 and effectively resolves this matter. No other statement, promise or agreement, either written or oral, made by either party, not included in herein, shall be enforceable.

FOR THE COMMISSION:

Allan D. Silberman,
Director Alternative Dispute Resolution Office



Allan D. Silberman

February 6, 2004
Date

FOR THE RESPONDENTS:



Robert B. June, Esq., on behalf of
Washtenaw County Democratic Party
and Barbara Ryan Fuller, Treasurer

January 26, 2004
Date