



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

Case Number: ADR 157  
Source: MUR 5397  
Case Name: Charlie Dent for Congress

### NEGOTIATED SETTLEMENT

This matter was initiated by a signed, sworn and notarized complaint filed by Jim Logue. 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 Donald F. McGahn, II, Esq. on behalf of Charlie Dent for Congress and Jeff Berdahl, Treasurer (the "Respondents" or the "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:

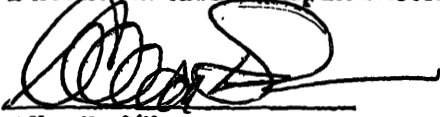
1. The Commission has entered into this agreement as part of its responsibility for administering the Federal Election Campaign Act and in an effort to promote compliance of the FECA on the part of the Respondents. The Commission's use of ADR procedures is authorized in "The Administrative Dispute Resolution 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 several disbursements on their July 2003 Quarterly Report including expenditures for mailing lists, printing, mail house services, post office box rental, telephone, computer and office equipment, office rent, consulting services, catering/fund raising and travel to the Washington D.C.
4. An authorized committee of a candidate for Federal office shall report the total amount of disbursements made during the reporting period and, except for itemized and unitemized breakdowns, during the election cycle, for the following categories: operating expenditures, including itemized operating expenditures, unitemized operating expenditures, and total operating expenditures. 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.3(b)(2).
5. Each authorized committee shall report the full name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the election cycle is made by the reporting authorized committee to meet the authorized committee's operating expenses, together with the date, amount and purpose of each expenditure. 2 U.S.C. § 434(b)(5) and 11 C.F.R. § 104.3(b)(4)(i).

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6. Payments made solely for the purpose of determining whether an individual should become a candidate are not expenditures. Examples of activities permissible under this exemption if they are conducted to determine whether an individual should become a candidate include, but are not limited to, conducting a poll, telephone calls and travel. If the individual subsequently becomes a candidate, the payments made are subject to the reporting requirements of the Act. Such expenditures must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the payments were made. 11 C.F.R. §100.131(a).
  7. Respondents contend that the alleged omissions are without merit. Respondents addressed each contention noting: expenditures for printing, mailing and related services were reported on the Committee's third quarter report under payment to a communications consultant; expenditures for post office box rental was noted on the Committee's third quarter report; expenditures for telephone and fund-raising services were provided by a consultant, listed on the Committee's second quarter report or as a reimbursed expense paid to staff and noted on the Committee's third quarter report; computer and related office services were provided by a staff member who, according to Respondents, volunteered his services; office facilities were provided, according to Respondents, in the home of the candidate; expenditures for consulting services were recorded on the Committee's third quarter report; and food for a fund raising meeting was provided, again according to Respondents, by the candidate. Respondents contend that travel to Washington D.C. was part of the candidate's expenditures while testing-the-water.
  8. Many of the allegations listed in the complaint fail to identify specific violations of the Act or regulations. However, Respondents acknowledge some reporting of expenditures was incomplete and that the listing of the Committee's testing-the-water expenditures was not recorded on Respondents' first report filed with the Commission as instructed by the regulations. Respondents, in an effort to resolve this matter, agree to amend and in the interim have amended their second and third quarter 2003 reports to correct omissions in the Committees' initial reports. In addition, Respondents agree to 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.
  9. 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.
  10. 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 and/or forward any outstanding civil penalty to the US Treasury for collection.
  11. This agreement will become effective on the date signed by all the parties and approved by the Commission. Respondents shall comply with the terms of this settlement within thirty (30) days of the effective date of this agreement.
  12. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 157/MUR 5397 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:

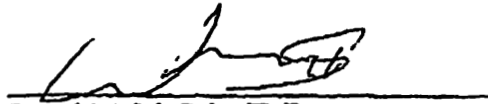
Allan D. Silberman,  
Director, Alternative Dispute Resolution



Allan D. Silberman

11-4-04

FOR THE RESPONDENTS:



Donald F. McGahn II, Esq.  
for Charlie Dent for Congress

10-20-04

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