



FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, DC 20463

Case Number: ADR 162
Source: MUR 5412
Case Name: Carol Moseley Braun
for President

NEGOTIATED SETTLEMENT

This matter was initiated by a signed, sworn and notarized complaint filed by Vasyl Markus, Jr. Following a review of the matter 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 James Lamb, Esq. on behalf of Carol Moseley Braun for President and Moti Agarwal, 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 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. Respondents have voluntarily entered into this agreement with the Commission.
3. The complaint alleges that Respondents failed to list on its 2003 Year End Report a debt owed the Complainant. Complainant asserts that Respondents owe him for consulting services provided in October and November 2003 – services which according to the Complainant required semi-monthly payments of \$1,750. The aforementioned services were terminated on November 6, 2003 leaving a balance due, according to Complainant, of \$2,450 for the last half of October and the first six days of November. A payment of \$500 from Respondents on December 29, 2003 left a balance due, according to the Complainant of \$1,950.
4. Respondents contend there is no debt owed Complainant, therefore, none to be reported. Respondents argue that Complainant's invoice failed to provide any evidence to support his claim or documentation to substantiate a commitment to pay additional fees.
5. Treasurers of political committees are obliged to file reports of receipts and disbursements in accordance with the provisions of the statute. 2 U.S.C. § 434(a). Treasurers also are required to report the amount and nature of outstanding debts and obligations owed by or to such political committees; and where such debts and obligations are settled for less than the reported amount or value, a statement as to the

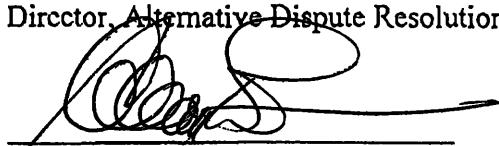
circumstances and conditions under which such debts or obligations were extinguished and the consideration therefore. 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.3(d).

6. Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. 11 C.F.R. § 104.11. Political committees must report disputed debts in accordance with 11 C.F.R. § 104.3(d). A political committee shall report a disputed debt in accordance with 11 C.F.R. §§ 104.3(d) and 104.11 if the creditor has provided something of value to the political committee. Until the dispute is resolved, the political committee shall disclose on the appropriate reports any amounts paid to the creditor, any amount the political committee admits it owes and the amount the creditor claims is owed. The political committee may also note on the appropriate reports that the disclosure of the disputed debt does not constitute an admission of liability or a waiver of any claims the political committee may have against the creditor. 11 C.F.R. § 116.10(a).
7. The regulations define a disputed debt as an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee. 11 C.F.R. § 116.1(d).
8. Respondents contend there is a bona fide disagreement whether there is a debt owed Complainant particularly given the lack of evidence to support the aforementioned claim. Nevertheless, there is precedent regarding Respondents' obligation to report a claim that is in dispute. Advisory Opinion 1976-85 notes that although a debt is disputed, the amount is still reported as a debt and can be accompanied by a caveat that the amount is disputed.
9. Respondents agree that if the Complainant provides sufficient evidence to support his claim they are prepared to amend the reports filed with the Commission listing the claim as a bona fide debt. In the interim, Respondents agree to comply with the provisions of 11 C.F.R. § 116.10(a) and file an amended 2003 Year End Report with the Commission listing the amount in dispute. Respondents agree to note the amount of the disputed debt on the next appropriate monthly report, i.e., November 2004, and will continue to list the disputed debt on subsequent reports until the debt is resolved or the Committee is terminated.
10. 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.
11. The parties agree that if Respondents fail to comply with the terms of this settlement, the Commission may undertake civil action in the U.S. District for the District of Columbia to secure compliance.
12. 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 the agreement.

13. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 162/MUR 5412 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

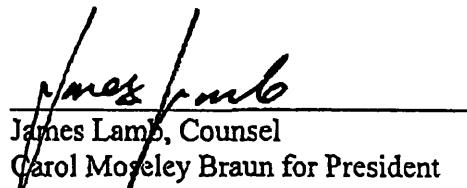


Allan D. Silberman



Date

FOR THE RESPONDENT:



James Lamb, Counsel
Carol Moseley Braun for President



Date