



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Case Number: ADR 167

Source: AD 03-18

Case Name: Tim Johnson for
South Dakota, Inc

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission ("the Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. 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 Commission entered into negotiations with Marc Elias, Esq. representing the Tim Johnson for South Dakota, Inc. ("TJFSD" or the "Committee") and Berniece Mayer, Treasurer (collectively "the Respondents"). It is understood that this agreement will have no precedential value relative to any other matters coming before the Commission.

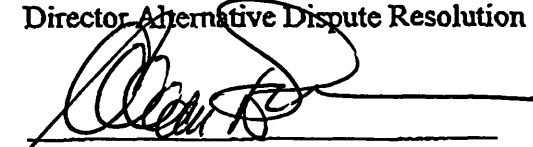
Negotiations between the Commission and the Respondents have addressed all the issues raised in this matter. The parties have agreed to resolve the matter according to the following terms:

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. An audit of TJFSD, covering the period from January 1, 2001 through December 31, 2002, disclosed discrepancies in TJFSD's reported cash on hand, receipts and disbursements when compared to the activity reported on its bank records. Specifically, Audit was unable to determine the cause of \$11,171 understatement of cash on hand or the \$22,333 overstatement of receipts for 2001. In addition, the audit disclosed an understatement of disbursements, which resulted primarily from the failure to report disbursements totaling \$58,086. Finally, an overstatement of the closing cash on hand balance was disclosed which resulted from the misstatements regarding date of deposit versus date of receipt described above.
4. Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of 2 U.S.C. § 434(a)(1). Each report shall disclose the amount of cash on hand at the beginning of the reporting period, the total amount of all receipts for the reporting period and election cycle, and the total amount of all disbursements for the reporting period and the election cycle. 2 U.S.C. §§ 434(b)(1), (2) and (4) and 11 C.F.R. §§ 104.3(a), (a)(1), (a)(3), and 104.3(b).

5. In response to the audit, Respondents amended their reports correcting the misstatements pertaining to the Committee's cash on hand, receipts and disbursements listed in the reports that were the subject of aforementioned audit.
- 6 In an effort to resolve these matters and avoid similar problems in the future, Respondents agree to: 1) reconcile on a regular basis the Committee's reported activity to relevant bank records; 2) submit separately, immediately following the effective date of this agreement, two quarterly reports of the Committee's financial activity, with accompanying work papers showing the reconciliation noted above, for review by the Audit staff; and 3) select a Committee staff representative to attend, within twelve months of the effective date of this agreement a FEC seminar of Federal election campaign reporting requirements.
- 7 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.
8. 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.
9. This agreement will become effective on the date signed by all the parties and approved by the Commission.
13. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 167/AR 03-18 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

10/28/04
Date

FOR THE RESPONDENTS:



Marc Elias, Esq. for Tim Johnson for
South Dakota, Inc.

10/18/04
Date